

March 22, 2010

A regular meeting of the Board of Directors of the Novato Sanitary District was held at 6:30 p.m., Monday, March 22, 2010, at the District Office, 500 Davidson Street, Novato.

BOARD MEMBERS PRESENT: President Michael Di Giorgio, Members James D. Fritz, William C. Long, George C. Quesada and Dennis Welsh.

BOARD MEMBERS ABSENT: None.

STAFF PRESENT: Manager-Engineer-Secretary Beverly B. James, Administrative Secretary Julie Borda and District Counsel Kent Alm.

ALSO PRESENT: Aaron Winer, District Manager, Northern CA, Veolia Water
Jim Good, General Manager, Veolia Water
John Bailey, Project Manager, Veolia Water
Steve McCaffrey, Director of Governmental Affairs, Novato Disposal
Delyn Kies, Novato resident
Brant Miller, Novato resident
Phil Tucker, CA Healthy Communities Network, Martinez
Dennis Fishwick, Novato resident

PLEDGE OF ALLEGIANCE:

AGENDA APPROVAL: The Manager noted that the Agenda the Board received had item 10 (b) omitted, *Consider approval of an amendment to Agreement for Emergency Consulting Services*. However, she confirmed that the correct Agenda (with the inclusion of item 10 (b)) was posted to the website and at the front gate within the 72 hour time frame. The Manager also requested item 11 (b) be moved to immediately follow agenda item 10 (a).

On motion of Member Quesada, seconded by Member Fritz, and carried unanimously, the agenda was approved as modified.

PUBLIC COMMENT: None.

BOARD MEMBER REPORTS:

Member Fritz reported that he toured the treatment facility with Member Long and Manager-Engineer Beverly James. Mr. Fritz stated that he took photographs of the facility to capture the construction progress.

REVIEW OF MINUTES:

Consider approval of minutes of the January 11th and 25th, 2010 meetings.

On motion of Member Quesada, seconded by Member Long, and carried unanimously, the minutes of the January 11th and 25th, 2010 Board meetings were approved.

CONSENT CALENDAR:

On motion of Member Long, seconded by Member Fritz and carried unanimously, the following Consent Calendar items were approved:

- a. Approval of payment to the County of Marin in the amount of \$26,000 for encroachment permit fees.
- b. Approval of regular disbursements in the amount of \$464,980.65, project account disbursements in the amount of \$777,217.10, ratification of January payroll and payroll related expenses in the amount of \$154,990.26 and ratification of February payroll and payroll related expenses in the amount of \$138,614.75.

SOLID WASTE:

- Receive report on Pilot Food Waste Composting program: The Manager introduced Steve McCaffrey of Novato Disposal. Mr. McCaffrey discussed the Pilot Food Waste Composting program being implemented by Novato Disposal. He reported on modifications to the Redwood Landfill permit and stated the landfill was now able to accept compostable food waste. He outlined the school food waste program that is in place at the Novato public schools and noted that Novato Disposal will be implementing a pilot food waste composting program to some Novato residents. Mr. McCaffrey stated he will give an update on this pilot program at an April Board meeting. He clarified that compost is not used for alternate daily cover at the Redwood landfill.

Member Long commended Mr. McCaffrey and Novato Disposal for their ground-breaking efforts toward recycling and food waste composting.

ELECTION CONTEST:

- Report on election contest: The Manager stated that a copy of the court ordered final order and judgment were included in the Board packets. She noted that the estimated legal fees and costs to date were \$117,895 and that expenses may total \$125,000.

District Counsel Kent Alm stated that the two documents, Proposed Findings of Fact and Conclusion of Law After Trial by Court Pursuant to Elections Code Section 16603 and Proposed Judgment Denying Election Contest, are essentially transcripts of what was stated by Judge Verna Adams. He stated that for this reason he was certain these documents would be signed by Judge Adams or signed with only minor modifications.

Member Long discussed the legal fees being imposed on the District in regards to the election challenge, commenting that the Novato rate payers should be aware of the costs associated with the challenge. Member Long thanked the Board members for their support and expressed his disappointment with the County of Marin for not participating in the defense costs.

Member Welsh commented that the established legal and democratic process is the correct way for Novato residents to proceed if they feel their opinions are not being heard by the District Board.

Member Quesada commented he felt disappointed that the election system did not work properly to ensure all District voters were able to cast ballots for the Novato Sanitary District Board members.

President Di Giorgio agreed with the comments of Members Long and Quesada.

ADMINISTRATIVE:

- Consider adoption of revised 2009-10 annual District budget. The Manager noted that the budget provided for the Board's consideration is the same budget that was provided at the March 8th Board meeting.

President Di Giorgio discussed the budget pointing out the three major issues affecting the Revised Budget: 1) Transition of the treatment facilities from contract operation back to District operation; 2) Increased legal fees due to several measures and challenges; 3) Election expenses.

The Board and District Counsel discussed the issue of the disenfranchised parcels who received incorrect ballots in the November 2009 Board election. The Manager discussed the on-going efforts by the District to ensure that all parcels which are part of the District will receive correct ballots in all future elections.

District Counsel Kent Alm discussed the parcels which receive service from the District. He discussed with Member Quesada the unlikely possibility of bringing a lawsuit against any County or State agency due to the voting error.

The Manager discussed the operating budget details. Member Long pointed out the extraordinary legal fees and hopes the costs do not repeat in the next fiscal year. He stated he hopes the Novato residents are aware of the costs.

On motion of Member Fritz, seconded by Member Long and carried unanimously, the revised 2009-10 District budget was adopted.

- Consider approval of budget adoption schedule for 2010-11 fiscal year. The Manager pointed out that typically the District adopts their budget schedule for the 2010-11 fiscal

year at the second board meeting in March. She noted that Bartle Wells has been contracted to prepare a Revenue Program Analysis which will examine five year projected revenues and expenses. She stated this program is a key piece to determine if the District will need to raise annual sewer service charges in the upcoming fiscal year. She noted that the schedule under discussion allows the District to meet Proposition 218 Notice requirements. She stated that if there is a possibility of a rate increase, a Public Hearing will be held at the Board Meeting on July 26th.

On motion of Member Quesada, seconded by Member Long and passed unanimously, the Novato Sanitary District "Schedule for Approval of 2010-11 Preliminary and Final Budget, Appropriations Limit, and Sewer Service Charges" was approved.

- Consider approval of Policy 5060 on minutes. The Manager discussed the District policy titled "Minutes of Board Meetings", Policy Number: 5060 and the District's current policy of minute record keeping. The Board discussed the policy in detail with District Counsel and made the following changes:

5060.1 The Secretary of the Board of Directors shall keep minutes of all regular and special meetings of the Board **and once these minutes are approved, these minutes shall be the official record of the meeting.**

5060.1.1 **Draft** copies of a meeting's **draft** minutes....

5060.1.2 If an **audio or video** tape recording of regular and special meetings of the Board of Directors is made, the **media** upon which the recording is stored shall be kept in a secure location for a minimum of **60 days or until meeting minutes are formally adopted, whichever is later. Audio or video** recordings...

Member Welsh stated he feels the audio recordings of the Board minutes should be kept for a one year minimum.

President Di Giorgio opened this item for public comment.

Brant Miller, Novato resident, commented that another agency places their audio minute recordings on their webpage after Board approval. He suggested Novato Sanitary District do the same.

Dennis Fishwick, Novato resident, suggested the District keep the audio minutes for sixty days and then send them to the Novato Library to be made available to the public.

Suzanne Brown Crow, Novato resident, feels the public has a right to hear the meetings. She agrees that the audio minutes should be available on-line and at the Novato library.

On motion of Member Quesada, seconded by Member Long and carried with the following vote, District Policy No. 5060: Minutes of Board Meetings, was approved as amended. Ayes: Fritz, Long, Quesada and Di Giorgio. Noes: Welsh.

WASTEWATER OPERATIONS:

- Wastewater Operations Committee report. The Manager introduced John Bailey, Project Manager, Veolia Water. Mr. Bailey gave an overview of the Wastewater Operations Committee Report dated February 2010. He discussed and reviewed with the Board the February violations and stated heavy rains were a factor in contributing to these violations. He discussed training sessions Veolia Water is conducting: Safety & Regulatory Training and Skills & Technical Training. He reviewed the operations and maintenance status noting that Process Test #3 is scheduled for April 12th which will bring most of the new operating equipment on-line.

Member Quesada questioned the minimum penalty for the February violations. District Counsel stated the minimum fine is typically \$3,000 per violation but that the final determination will not be known immediately.

Member Long complimented Mr. Bailey on his comprehensive reports.

The Manager discussed the Collection System Summary Report for 2009 and stated she hopes to bring a report before the Board monthly.

- ISO 14001: Environmental Management System training. The Manager gave a PowerPoint presentation on the ISO 14001: Environmental Management System (EMS). She gave an overview of the system and why the District should implement an EMS. She discussed the steps to initial certification and the District's initial commitment costs and staff-hour requirements. She discussed the required ongoing commitment with this EMS program and outlined a recommended approach. She recommended the Board direct staff to negotiate a contract with Veolia Water as consultant to assist in implementation of an EMS. She discussed the scope of activities the consultant would perform.

- Consider approval of an amendment to Agreement for Emergency Consulting Services. The Manager outlined for the Board the request to amend the Agreement for Emergency Consulting Services with Veolia Water to include the implementation of an ISO 14001 Environmental Management System.

Board Member Fritz questioned what benefits the District would receive if they implemented this EMS program. The Manager stated that if the District became ISO certified, it would carry some regulatory weight and would be a training opportunity for both management and staff.

Member Long stated he felt the EMS program appeared to be a good fit for the District. He felt if better environmental controls were implemented, the District could save money by reducing violations and the subsequent mandated fines.

President Di Giorgio stated he feels the District should move forward and outlined why Veolia should implement an ISO 14001 Environmental Management System.

Jim Good, Veolia Water, stated Veolia would be pleased to contract with the District to put an ISO 14001 EMS in place. He also discussed the benefits of putting this program into place.

The Manager requested the Board approve a contract with Veolia Water to implement an ISO 14001 Environmental Management System program on a time and materials basis not to exceed \$100,000.

Member Welsh questioned how the audit process would work and stated he felt the EMS program was only a "feel good" program and did not believe it was necessary to implement. He stated he did not see a definite benefit of the program.

District Counsel Kent Alm responded to Member Welsh and clarified that the District would seek to implement the program's audited approach as opposed to the non-audited approach. He stated this approach would bring an outside auditor/consultant to the District to highlight areas where improvements could be made in operations and environmental compliance.

Member Fritz stated he feels the District currently has their hands full and does not believe this is the right time to take on the responsibility of implementing a new program.

Member Welsh stated he felt the program was much too costly for what the proposed benefits would be to the District.

Member Long stated that the law firm of Barg, Coffin, Lewis and Trapp strongly recommended the District implement an environmental management system, but not necessarily the ISO 14001. Member Long suggested the ISO14001 may be too cumbersome for a District of this size and requested the Environmental Protection Agency documentation for EMS implementation for our District.

President Di Giorgio requested the Board seek a scoping study to determine the costs of fully implementing an ISO 14001 EMS program.

Jim Good stated a scoping study could be prepared by Veolia for approximately \$5,000 to \$10,000.

President Di Giorgio opened this item for public comment.

Suzanne Brown Crow, stated this item was not on the agenda and therefore was not appropriate to move forward with a motion. She stated management should have Standard Operating Procedures in place and not need an ISO 14001 EMS Program.

Dennis Fishwick agreed with the previous speaker and suggested Veolia Water should perform these services at no charge.

Member Welsh and District Counsel Kent Alm discussed the legal requirement for public speakers to give their name and address. Mr. Alm pointed out that public speakers were not bound in any way to give their name or address prior to addressing the Board. Member Welsh requested the board's request for public speakers to give their address be discontinued.

Phil Tucker stated the ISO 14001 EMS program is helpful in some areas but is not a requirement. He requests the District not adopt any contract with Veolia Water. He suggested that if Veolia were to win the referendum vote in June, their company should have enough expertise to implement an EMS program as part of the standard contract. He requests the EMS be considered in an open bidding environment.

Brant Miller recommended completion of the scoping program and believes it should be precisely focused.

On motion of Member Quesada, seconded by Member Long and carried unanimously, the Board directed Staff to negotiate with Veolia Water for a proposal for final consideration concerning the ISO 14001 Environmental Management System training and a separate proposal in regards to the Standard Operation Procedures and bring this information before the Board at their next Board meeting on April 12, 2010.

REPORTS:

- North Bay Water Reuse Authority (NBWRA). The Manager discussed the NBWRA Board Committee meeting on March 15th. At this meeting, the Committee discussed budget updates and the EIR/EIS updates.

President Di Giorgio declared a 10 minute break at 9:07 p.m. At 9:17 p.m., President Di Giorgio reconvened the Board meeting.

- NPDES Tentative Order. The Manager gave a PowerPoint presentation regarding the NPDES Tentative Order. She discussed the schedule time-line, the need for a Cease and Desist Order and the key proposed changes to the Permit.

MANAGER'S REPORT:

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- The North Bay Watershed Bi-Annual Conference is on April 9th in Petaluma. The conference is titled "Greening our Water Infrastructure" and will host California State Assembly Member Jared Huffman, and State Water Resources Control Board, Vice Chair, Frances Spivy-Weber.

ADJOURNMENT: There being no further business to come before the Board, President Di Giorgio adjourned the meeting at 9:35 p.m.

Respectfully submitted,

Beverly B. James
Secretary

Julie Borda, Recording