

May 11, 2009

A regular meeting of the Board of Directors of the Novato Sanitary District was held at 4:30 p.m., Monday, May 11, 2009, at the District Office, 500 Davidson Street, Novato.

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

BOARD MEMBERS ABSENT: Member Arthur T. Knutson.

STAFF PRESENT: Manager-Engineer-Secretary Beverly B. James, Deputy Manager Engineer Sandeep Karkal, Administrative Secretary Julie Borda, Administrative Services Manager June Penn Brown and District Counsel Kent Alm.

ALSO PRESENT: Angel Medina, NSD employee
John Quinley, Sustainable Novato, Novato resident
J. Dietrich Stroeh, Owner: CSW Stuber Stroeh
Dean B. Heffelfinger, NSD employee, Novato resident
Dean L. Heffelfinger, Novato resident
Jo Heffelfinger, Novato resident
Art Ribbel, Novato resident
Pat Ribbel, Novato resident
Dennis Welsh, former NSD employee, Novato resident
Pam Welsh, Novato resident
Suzanne Brown Crow, Novato resident
Barbara Nota, Novato Resident
Tony Silva, NSD employee, Novato resident

PLEDGE OF ALLEGIANCE:

AGENDA APPROVAL: The Manager stated there was a change to the mailed agenda: it became necessary to place an Urgency Item on the agenda: *Request Approval and Authorization of District to execute the Memorandum of Agreement (MOA) with Teamsters Local 315*. She requested this Urgency Item be placed immediately following the Consent Calendar. She stated this item had become available earlier on this day (May 11th) and was not available when the Board packets were prepared (May 8th).

*On motion of Member Quesada, seconded by Member Long, and carried unanimously by those members present, the agenda item: **Request Approval and Authorization of District to execute the Memorandum of Agreement (MOA) with Teamsters Local 315** was placed on the Agenda immediately following the Consent Calendar items.*

The Manager stated that Item 7a. should read: *Consider waiver of District policy to allow sewerage of a parcel more than one property removed from the public sewer: **Scott Property.***

On motion of Member Quesada, seconded by Member Fritz, and carried unanimously by those members present, Agenda Item 7a. was revised to read: Consider waiver of District policy to allow sewerage of a parcel more than one property removed from the public sewer: Scott Property.

PUBLIC COMMENT: None.

BOARD MEMBER REPORTS:

President Di Giorgio discussed his attendance at the Spring CASA conference held on April 30th through May 2nd in Napa. He stated there are a growing number of Legislative items dealing with sanitary district issues and is glad that CASA is keeping everyone informed on these issues. In addition, he briefly discussed a recycled water mandate and the numerous changes that are taking place in the waste water industry. He stated his concern for the aging laterals in Marin County and the breaches that may take place which then cause sewage spills. He noted that the District is beginning an extensive public outreach program to raise awareness.

Member Quesada expressed his concern for the H1N1 (Swine Flu) epidemic and discussed aspects of the illness.

REVIEW OF MINUTES:

Consider approval of minutes of the April 27th Regular Board meeting: The Manager noted that the minutes inaccurately reported Deputy Manager-Engineer Sandeep Karkal was present, when he was absent. She requested the minutes be amended to reflect his absence.

On motion of Member Quesada, seconded by Member Long, and carried unanimously by those members present, the minutes of the April 27th regular Board meeting were approved as amended.

CONSENT CALENDAR: *On motion of Member Quesada, seconded by Member Long, and carried unanimously by those members present, the following consent calendar items were approved:*

- a. Receive Quarterly Revenue and Expenditure Report for Quarter ended March, 2009.
- b. Authorize the Manager-Engineer to issue a Class I Non-Domestic permit for up to 25,000 gallons to Via Service Station at 7474 Redwood Boulevard.
- c. Approval of regular disbursements in the amount of \$354,338.72, upgrade project disbursements in the amount of \$1,470,969.65 and ratification of April 2009 payroll and payroll related disbursements in the amount of \$312,257.37.

URGENCY ITEM:

REQUEST APPROVAL AND AUTHORIZATION OF DISTRICT TO EXECUTE THE MEMORANDUM OF AGREEMENT (MOA) WITH TEAMSTERS LOCAL 315:

The Manager stated that the Memorandum of Agreement as provided by Teamsters Local 315 was received via fax at the District office at approximately 1 p.m. She read much of the document to the Board, pointing out that the MOA stated “The Vendor shall not have the right to involuntarily lay off any transferred Employee for a period of three (3) years after the Date of Transition and then only if consistent with the terms of the collective bargaining agreement in effect at the time.” She stated the document, MEMORANDUM OF AGREEMENT, dated May 11, 2009, is a public document and is available upon request.

She stated the reason for bringing this item before the Board as an Urgency Item was to allow the Board to approve the document’s inclusion in the Request for Proposals which will go out to the three selected private contract operators. She stated this document sets the minimum standards the Vendor would have to comply with and means the Vendors will be able to more completely supply accurate cost information. The Manager noted a change in Section 6, sentence 2 to read: “The Vendor shall not terminate the employment of any transferred employee within the **three** year period unless:...”.

District Attorney Kent Alm discussed the issue with the Board.

District employee and Novato resident Tony Silva addressed the Board and questioned the employment period as outlined in the MOA. He wondered why the employees were only given a three year period when the District expects the Contract Operators to be engaged for at least five years. Member Long stated that the employment period as outlined in the MOA is consistent with the discussions from the Personnel Committee. He stated he does not see any reason to hesitate.

Member Quesada stated he feels the Board should consider the MOA for one to two weeks and take it before the Personnel Committee.

District Counsel Kent Alm clarified the immediate actions needed regarding the Teamsters MOA. He stated that it appears some of the employees are not familiar with the MOA and were not knowledgeable about the document’s specifics. He reiterated the importance that the District include this MOA in the Request for Proposals (RFP) which have already gone out to the three contract operators. The Manager stated that the RFP’s are due at the District on June 19th and if the MOA is not included, it will leave a big block of costs undefined in an agreement which requires complex preparation.

President Di Giorgio commented on the Teamsters Local 315 bargaining representative noting the communication between the bargaining representative and the District appears to be disconnected. He stated the communication should be an open door. He urged the Board to accept the agreement and move forward with its execution.

On motion of Member Long, seconded by Member Fritz and carried unanimously by those members present, the Board approved and authorized the District to execute the Memorandum of Agreement (MOA) with Teamsters Local 315.

REQUEST FOR WAIVER OF DISTRICT POLICY RELATIVE TO PRIVATE FORCE LINE

Consider waiver of District policy to allow sewerage of a parcel more than one property removed from the public sewer: Scott Property. Dietrich Stroeh of CSW Stuber-Stroeh gave an overview of the unreliable septic system at the Scott property. He stated the resident wishes to connect to the District's sanitary sewer line; however, the routing of the private force line will result in an excessively long private force line of approximately 1,065 feet. He stated the pipe would be three inches in diameter and would require periodic maintenance as so stated in one of the special conditions as part of the District's agreement to the proposal.

The Manager discussed the three special conditions which would be included as part of the Board waiver and stated that these conditions would be a deed issue that would carry with the property if and when the property changed owners. She stated the waiver is necessary because the force main is going through two additional properties not owned by the owner of the Scott Property. The Board discussed the details of the agreement.

On motion of Member Fritz, seconded by Member Long, and carried unanimously by those members present, the Board accepted a waiver of District policy to allow sewerage of the Scott Property.

JOINT SAFETY PROGRAM:

Consider approval of 2009-10 budget. The Manager explained that the District has participated in the Joint Safety Program for the last 13 years. She discussed Du-All Safety's participation in reviewing the Joint Safety Program and stated the total budget for this program is \$95,974.17. She stated that Central Marin will approve the contract with Du-All Safety. At this time, the District is only approving the budget.

Member Long stated he would like to have an in-depth discussion to address the safety issues at the newly constructed NSD facility.

On motion of Member Long, seconded by Member Fritz, and carried unanimously by those members present, the Board approved the Joint Safety Program 2009-10 budget of \$95,974.17.

WASTEWATER FACILITY UPGRADE PROJECT 72609:

Authorize Manager-Engineer to enter into a contract amendment with HDR Engineering Inc. to review report titled "Novato Sanitary District Staff and Operations Assessment for New Facility Startup, Transition, and Operation".

Authorize Manager-Engineer to enter into a contract with EMA to review report titled "Novato Sanitary District Staff and Operations Assessment for New Facility Startup, Transition, and Operation".

The Manager stated that the Ad-Hoc Personnel Committee had met and came to the decision to have two independent firms review the Eisenhardt Report, particularly the areas pertaining to the reporting of the costs for Consultants. (The District and the Board have been discussing the option of hiring consultants to train District employees on the operation of the new equipment at the completion of the treatment plant upgrade construction or to hire a private contract operator.)

The Manager stated that each request would be under \$10,000 and would consist of a peer review focusing on the cost comparisons for consultants versus a private contract operator. She stated there has been strong public comment requesting this review. She noted that both firms will be asked to work independently and will present their reports individually to the Board upon their completion.

President Di Giorgio opened the meeting for public comment.

Dean L. Heffelfinger, Novato resident, asked if HDR Engineering Inc. and EMA will be making their reports public when they are completed. He stated his agreement with the recommendation and noted it was John Quinley who had sent the request for an independent review panel.

Susan Brown Crow, 23 year Novato resident discussed research she had conducted with other districts who have gone to private contract operators. She stated that if the contract operators would be bringing in expert consultants to assist them, why could the District not hire those same consultants on their own. She also questioned why the Board had not brought to the public the issue of the necessity of contract operators earlier, knowing the depth of training which would be needed for the new equipment.

There being no further public discussion to come before the Board, President Di Giorgio closed Public Comment.

On motion of Member Fritz, seconded by Member Long, and carried unanimously by those members present, the Board authorized the Manager-Engineer to enter into a contract with HDR Engineering Inc. and EMA to review the Eisenhardt Report titled: "Novato Sanitary District Staff and Operations Assessment for New Facility Startup, Transition, and Operation" to determine the cost effectiveness of consultants.

STAFF REPORTS:

Status of Internet banking fraud activities. The Manager informed the Board that between April 16th and 20th, two District accounts with Bank of Marin were compromised. The original amount lost was \$514,547.45. She noted that Administrative Services Manager

June Brown blocked a third attempt at a fraudulent transfer from the Bank of Marin. She stated that the bank, as of this date, had recovered \$149,385.47 from the fraudulent sources. In addition, the Bank will assume the loss for an additional \$170,756.91. To date, the amount of un-recovered loss is \$194,405.07. She stated the matter remains under investigation and she is reasonably sure the District will recover most of the money. She stated the matter has been referred to the FBI.

She explained that the District carries Fraud Insurance in an amount of \$100,000 per occurrence and Administrative Services Manager June Brown is working with our insurance carrier, CSRMA, to expedite the claim.

President Di Giorgio commended June Brown for her diligent work in this matter. The Manager discussed areas in which the District has made changes to ensure security and prevent future breaches.

Bel Marin Keys Pump Station Project accident report: The Manager reported on an accident at our Bel Marin Keys Pump Station #6 which is currently under construction by the District's sub-contractor, JMB Construction. She relayed the details of a worker employed by JMB Construction who was tragically killed on April 28th. She stated that at this time, his death appears to be caused by an electrocution and that OSHA is currently investigating the incident. She expressed her concern and regret for the families and co-workers touched by this tragic accident.

H1N1 Flue epidemic update. The Manager stated that Marin County Health and Human Services has set up a command station and continues to monitor the H1N1 virus. Our insurance carrier, CSRMA, has given the District recommendations on how to handle a pandemic should this illness spread to that degree. She stated that the public tour of the treatment plant facility scheduled for May 9th has been postponed and that it will be rescheduled at a later date.

North Bay Water Reuse Authority (NBWRA) Environmental Impact Report (EIR). The Manager gave a brief announcement that the NBWRA's EIR has been released and copies are available at the District for public review. She stated there will be a meeting on this issue at the Margaret Todd Retirement Center on June 9th from 6 to 7:30 p.m. She suggested if anyone was interested they should go to the NBWRA website, www.nbwra.org to see a listing of meetings and announcements.

LEGAL COUNSEL'S REPORT:

Accept Rich Luthy's report on internal investigation of reported 2007 Treatment Plant incidents. District Counsel Kent Alm reviewed the background of the reported allegations claiming a digester cleaning operation in March 2007 caused a plant upset and poor effluent quality. In addition, he discussed allegations which claimed a second series of incidents in October of 2007 where electrical malfunctions reportedly led to tank overflows and spills into the environment that were not reported to the Regional Board.

Mr. Alm reviewed with the Board a report prepared by Luthy Consulting, Inc. which discussed these two incidents. The report concluded there was no evidence to corroborate the allegations. Mr. Alm stated he will provide this report to River Watch and to Bay Keepers.

On motion of Member Fritz, seconded by Member Quesada, and carried unanimously by those members present, the Board accepted the report "Investigation of Operational Issues at Novato Sanitary District Wastewater Treatment Plant, April 2009" as prepared by Luthy Consulting, Inc.

MANAGER'S ANNOUNCEMENTS:

The Manager discussed her participation in the Spring CASA Conference which was held in Napa from April 30th through May 2nd.

The Manager noted the upcoming May 19th Special Election and discussed the measures which may have to be taken if Proposition 1A is suspended. She said it appears local property taxes may be diverted to the State to assist with the budget shortfall.

At 6:17 p.m. President Di Giorgio called for a five minute break.

The Board meeting reconvened at 6:25 p.m.

CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL – POTENTIAL LITIGATION:

At 6:26 p.m. President Di Giorgio announced the Board would meet in Closed Session to discuss the item on the Closed Session Agenda: Decision to initiate litigation pursuant to Subsection © of Government Code Section 54956.9: One case.

At 7:02 p.m. President Di Giorgio reconvened the Board meeting.

There was no reportable action.

ADJOURNMENT: There being no further business to come before the Board, President Di Giorgio adjourned the meeting at 7:03 p.m.

Respectfully submitted,

Beverly B. James
Secretary

Julie Borda, Recording