

February 22, 2010

A regular meeting of the Board of Directors of the Novato Sanitary District was held at 6:30 p.m., Monday, February 22, 2010, preceded by a closed session beginning at 5:00 p.m. at the District offices, 500 Davidson Street, Novato.

At 5:08 p.m. President Di Giorgio announced the Board would meet in closed session to discuss the following matters on the Closed Session Agenda:

CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL – EXPOSURE TO LITIGATION – ONE POTENTIAL CASE.

Significant exposure to litigation pursuant to Subsection (b) of Government Code Section 54956.9, California Healthy Communities Network, Ballot Question.

CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION.

Existing litigation pursuant to Subsection (a) of Government Code Section 54956.9, Suzan Sharpley, Robert Abeling vs William Long, Novato Sanitary District, Elaine Ginnold, Marin County Registrar of Voters.

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

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

The closed Session ended at 5:57 p.m.

Open session began at 6:30 p.m.

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

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

ALSO PRESENT: Tom Pierce, Novato resident
Deanna Pierce, Novato resident
Bill Scott, Novato resident
Brant Miller, Novato resident
Phil Tucker, CA Healthy Communities Network
Leon Colkins, Novato resident
Suzanne Crow, Novato resident

John Bailey, Project Manager, Veolia Water

PLEDGE OF ALLEGIANCE:

AGENDA APPROVAL:

The Manager requested the agenda be amended as follows: move agenda Item 9: Referendum on Contract Service Agreement, to directly follow agenda Item 7: Consent Calendar.

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

REPORT FROM CLOSED SESSION, SESSION 1:

District Counsel Kent Alm stated that the Board discussed a letter received from Shute, Mihaly and Weinberger with regard to wording on the Resolution. He reported no action was taken.

REPORT FROM CLOSED SESSION, SESSION 2:

District Counsel Kent Alm stated that an update on the Election Hearing was discussed. He reported no action was taken as the matter has not been concluded.

PUBLIC COMMENT:

Norm Stone, Novato resident, discussed the Revised Final Budget for Fiscal Year 2009-10 and commented that the attorneys' fees were very high.

President Di Giorgio stated that the elevated attorneys' fees are due to pending litigation at the Sanitary District.

Member Welsh commented on the District's CSRMA liability insurance policy which offers reimbursement for employee legal defense costs up to \$500,000. He noted that the District's legal costs are reaching the allowable limit for reimbursement and pointed out that the attorney fees must then be paid in full by the District.

Bill Scott, Novato resident, remarked on the District's policy of sharing employees through the Mutual Aid Agreement with North Marin Water District. He stated it would be a better idea to share sanitation district employees with another agency, such as Central Marin Sanitation Agency.

President Di Giorgio and the Manager discussed the Mutual Aid Agreement noting that North Marin Water District utilizes materials and equipment that are common to both entities.

Tom Pierce, Novato resident, questioned the method of certifying reports within the Sanitary District. He questioned why a District monthly report was not turned in on time which he felt triggered the EPA visit in May of 2009 and contributed to the pending EPA investigation. He referenced news stories that discussed an unreported release of waste into the Bay and questioned why this release was not reported to the appropriate entities.

District Counsel Kent Alm stated he was unaware of any allegations concerning untimely reports.

Suzanne Crow, Novato resident, discussed the District's legal fees and asked for clarification of the three contracts with Veolia.

District Counsel Kent Alm and the Manager clarified the contracts in question: 1) the Five-Year Contract which was subsequently referended; 2) an initial contract prior to the Five-Year contract agreed to on August 6th and subsequently amended on September 14th to train Veolia staff for the District's operations; and 3) the current Consulting Agreement.

BOARD MEMBER REPORTS: None.

REVIEW OF MINUTES:

Consider approval of minutes of the December 14th and December 28th, 2009 Board meeting.

On motion of Member Long, seconded by Member Fritz and carried unanimously, the December 14th and December 28th, 2009 Board meeting minutes were approved.

CONSENT CALENDAR:

Member Quesada requested Items (a) and (c) be pulled from the Consent Calendar and be approved separately.

a) Adopt a Resolution providing relief on pH limits for Optical Metals Services facility and setting the revised pH limits. The Manager explained that it is not unusual for pH limits to be changed and the District has approved these changes for other facilities. She stated there is no potential for adverse impacts on the District's pipes or equipment from the change and recommended the Board approve granting the requested relief.

On motion of Member Quesada, seconded by Member Fritz, and carried unanimously, the Board adopted Resolution No. 3021: A Resolution Approving Relief on pH Limits, and Setting Revised pH Limits for Optical Metal Services, 92 Hamilton Drive, Suite G, Novato.

c) Approval of disbursements. The Manager outlined the disbursements.

On motion of Member Fritz, seconded by Member Long and carried unanimously, the following disbursements were approved: regular disbursements in the amount of \$439,013.68 and project account disbursements in the amount of \$116,976.70.

Vienna Pierce, requested the District provide copies of the disbursements at each Board meeting. She also requested all Board meeting materials be provided to the public at the Novato Public Library.

Member Welsh requested additional copies of the full Board packet be made available at each Board meeting for any individual who would like a copy.

b) Approval of Board meeting schedule as follows: March 8th and 22nd, April 12th and 26th, May 10th and 24th.

On motion of Member Quesada, seconded by Member Long and carried unanimously, the Board meeting schedule was approved as follows: March 8th and 22nd, April 12th and 26th, May 10th and 24th.

REFERENDUM ON CONTRACT SERVICE AGREEMENT:

Consider approval of a Resolution requesting the Board of Supervisors of the County of Marin to conduct said election; authorizing the District Manager-Engineer to carry out all the necessary procedures for said election; and submitting to the voters a referendum measure to repeal a contract service agreement.

The Manager discussed the Resolution language as presented to the Board. She pointed out two corrections which were made in the previous Resolution, but dropped from this copy: paragraph 5 (g): to prepare a written argument **against** the proposed measure... (and) In the event that an argument is filed **in favor** of the measure...

Member Quesada made a motion to approve the Resolution as amended. The motion died for lack of a second.

Member Long proposed the ballot language change to delete the words **approval of the** and change the last word to **cancelled**. Member Welsh discussed Member Long's changes and suggested the resolution clearly state "yes to the contract" or "no to the contract". He stated that the proposed ballot language appeared to be confusing.

President Di Giorgio suggested the Board wait until the March 8th Board meeting to allow more input from the public before making a decision on the final wording for the ballot language.

District Counsel Kent Alm stated that the Referendum ballot language must be approved at the March 8th regular Board meeting and be submitted to the Marin County Board of Supervisors by March 12th.

Member Fritz agreed with Member Long's wording changes. The Board discussed the proposed ballot language.

President Di Giorgio opened this item for public comment.

Bill Scott, Novato resident, discussed the ballot language and stated the language being proposed was confusing.

Phil Tucker, CA Healthy Communities Network, referenced a letter from Shute, Mihaly and Weinberger which was presented to the Board. He noted that this letter suggested appropriate and specific language to be used for the ballot language and stated that Shute, Mihaly and Weinberger would defend their position if the District did not adopt the correct language.

Norm Stone, Novato resident, discussed the ballot language.

President Di Giorgio closed public comment. He requested the Board continue this agenda item to an adjourned Board meeting on March 1, 2010.

On motion of Member Quesada, seconded by Member Fritz and carried unanimously, the Board adjourned the regularly scheduled meeting to Monday, March 1st, 2010 at 6:30 p.m. with only the following agenda item: REFERENDUM ON CONTRACT SERVICE AGREEMENT: Consider approval of a Resolution requesting the Board of Supervisors of the County of Marin to conduct said election; authorizing the District Manager-Engineer to carry out all the necessary procedures for said election; and submitting to the voters a referendum measure to repeal a contract service agreement.

District Counsel Kent Alm discussed the procedure and critical dates for submission of the ballot language to the Board of Supervisors.

Member Long discussed the threatened legal action by the CA Healthy Communities Network. He stated he feels this organization is harassing the Novato community.

Phil Tucker, CA Healthy Communities Network, stated his organization was invited to participate by the Novato community.

COLLECTION SYSTEM IMPROVEMENT PROJECT 72706:

Review bids received and award contract to the lowest, responsive, responsible bidder for replacing the sewage force mains in Bel Marin Keys. The Manager reported that eight bids were received on February 4th, ranging from \$598,285.00 to \$1,075,968.00.

She reported that Team Ghilotti of Petaluma submitted the lowest responsive bid of \$598,285. She discussed the FY09-10 budget allocation for Collection System Improvements and recommended the Board award this project to Team Ghilotti. She discussed the details of the construction with the Board.

On motion of Member Fritz, seconded by Member Long and carried unanimously, the Board awarded the Bel Marin Keys Force Main Replacement Project of the Collection System Improvements to Team Ghilotti with a bid of \$598,285.

Consider approval of a contract amendment with Nute Engineering for design and extension to the Center Road sewer. The Manager explained that the construction project, Center Road/Wilson Avenue, is nearing completion and that the final connection was completed on January 15th. She stated that on January 20th, a substantial amount of rainfall occurred which caused a surcharge and overflow at the intersection of Western Ave. and Center Rd. due to an undersized sewer main. The Manager noted that because the new sewer is installed up to Rica Vista, the pipe grade and size in the surcharged area can be corrected to prevent future overflows. She stated that staff had requested and received a proposal from Nute Engineering to design the next segment of sewer replacement in the following amounts: design engineering services for \$38,000 and construction review services for \$19,000. The Manager recommended amending the current Agreement with Nute Engineering.

The Board discussed the details of the project with the Manager.

On motion of Member Fritz, seconded by Member Quesada and carried unanimously, the Board approved a contract amendment in the amount of \$57,000 with Nute Engineering on a time and materials basis.

ADMINISTRATIVE:

Review quarterly investment report. The Manager reviewed in detail the Novato Sanitary District's Quarterly Investment Report – For Quarter Ended December 2009. She discussed the Local Agency Investment Fund (LAIF) Performance Report and the State of California Pooled Money Investment Account Market Valuation dated 12/31/2009.

The Board discussed the details of the report with the Manager.

Review quarterly revenue and expenditure report. The Manager reviewed in detail the District's Revenue and Expenditure Report for the Quarter Ended December 2009. The Manager noted that with 50% of the year completed, the overall operating revenue is at 50% and the overall operating expenditures are at 52.2%.

President Di Giorgio stated that due to the uncertainty of the implementation of the operating contract with Veolia Water, the budget numbers are tentative.

The Manager discussed the details of the report with the Board.

Presentation of revised 2009-10 annual District budget. The Manager discussed the primary changes in the budget, explaining in detail the legal fee expenditures. She discussed with the Board the additional budget expenditures noting that the treatment facility was budgeted for conversion to Veolia Water in October.

At 8:15 p.m. President Di Giorgio announced the Board would adjourn for a five minute break.

At 8:25 p.m. President Di Giorgio resumed the Board meeting.

STAFF REPORTS:

Wastewater Operations Committee report. The Manager introduced John Bailey, Project Manager, Veolia Water. Mr. Bailey reviewed the Veolia Water Operations Report-January 2010 and discussed the nine violations which were reported during the month. He commended the Operations and Maintenance staff for their efforts during the 14 days in January when blending occurred.

Member Long suggested that future Wastewater Operations Committee reports be placed near the beginning of the Agenda.

Vienna Pierce, Novato resident, questioned the District's Laboratory Database Management System. She questioned the software system currently in place.

The Manager and John Bailey discussed the software that is being utilized by Veolia Water as well as District lab personnel.

MANAGER'S ANNOUNCEMENTS:

A Solid Waste Committee Meeting is being held at the District office on March 1st at 4 p.m. Board Members Di Giorgio and Long are Committee members.

The Manager noted she will be making a presentation titled *Energy and the Environment* at the CA Foundation on the Environment and the Economy roundtable conference on March 4th and 5th.

On Motion of Member Quesada, seconded by Member Long and carried unanimously, the Board

ADJOURNMENT: There being no further business to come before the Board, President Di Giorgio adjourned the Board meeting of February 22, 2010 at 8:56 p.m. to March 1, 2010 at 6:30 p.m. to continue item 9a: Consider approval of a Resolution requesting the Board of Supervisors of the County of Marin to conduct said election; authorizing the

February 22, 2010

Page 8

District Manager-Engineer to carry out all the necessary procedures for said election;
and submitting to the voters a referendum measure to repeal a contract service.

Respectfully submitted,

Beverly B. James
Secretary

Julie Borda, Recording