

May 18, 2009

A special meeting of the Board of Directors of the Novato Sanitary District was held at 1:00 p.m., Monday, May 18, 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: Brent Ainsworth, Marin Independent Journal
Pam Welsh, Novato resident
Dennis Welsh, Novato resident
Art Ribbel, Novato resident
Pat Ribbel, Novato resident
Thomas Pierce, Novato resident
Franklin Inot, Independent Journal
Norman Stone, Novato resident

PLEDGE OF ALLEGIANCE:

AGENDA APPROVAL: The Manager stated there was a change to the mailed agenda: Member Arthur Knutson would not be attending the special board meeting via teleconference as was so stated on the agenda.

On motion of Member Quesada, seconded by Member Long, and carried unanimously by those members present, the agenda was approved as amended.

PUBLIC COMMENT: None.

ENVIRONMENTAL PROTECTION AGENCY ENFORCEMENT INVESTIGATION:

Consider authorizing payment for legal services per Government Code 995.8. District Counsel Kent Alm discussed the EPA enforcement investigation the District is currently undergoing. He stated that on May 14th, the EPA Criminal Investigation Division

executed a search warrant at the District office. He noted that at this time, the District has not been informed of the reason for the search warrant. He noted that Government

Code Section 995.8 provides that, under certain circumstances, a public entity may provide for the defense of criminal actions brought against employees. Mr. Alm discussed the District's insurance policy with California Sanitation Risk Management Authority (CSRMA) which covers defense of employees for criminal action or proceedings brought pursuant to State or Federal criminal statutes relating to environmental hazards or environmental exposures or the release or escape of pollutants. He stated that this policy provides a maximum coverage of \$250,000 per covered individual with a deductible of \$25,000 and an annual aggregate limit of \$500,000. CSRMA legal counsel has indicated that serving a search warrant constitutes sufficient cause to begin this coverage. He discussed those individuals who may be presumed as a target in the investigation and has contacted attorneys to represent them. The Manager stated that an additional attorney has been contacted for the benefit of any other employees should they also need legal representation as well.

The Manager pointed out that the \$25,000 deductible will be paid by the District on behalf of the employees if authorized by the Board.

Norman Stone, Novato resident, discussed Government Code 995.8 with District Counsel Kent Alm and the Board. Mr. Alm provided Mr. Stone with a copy of Government Code 995.8.

District Counsel Kent Alm noted that payment for representation is a discretionary decision to be made by the Board and that they may reverse this decision at any time. In addition, he noted the Board would be within their legal right to cease coverage for any individual if it is determined the individual acted in bad faith.

President Di Giorgio pointed out that he found it intriguing that the FBI became involved when an anonymous tip was made to the EPA but were not present to investigate when \$500,000 was electronically taken from the District's bank account.

Member Quesada stated he supports the District employees and feels it is appropriate for the District to represent them in this matter.

On motion of Member Fritz, seconded by Member Long and carried unanimously by those members present, the Board authorized payment for legal services as needed for Novato Sanitary District employees per Government Code 995.8.

CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL – EXPOSURE TO LITIGATION – ONE MATTER:

At 1:40 p.m. President Di Giorgio announced the Board would meet in Closed Session to discuss the item on the Closed Session Agenda: Significant exposure to litigation pursuant to Subsection (b) of Government Code Section 54956.9.

At 2:32 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 2:33 p.m.

Respectfully submitted,

Beverly B. James
Secretary

Julie Borda, Recording