

**MINUTES OF THE  
MOULTON NIGUEL WATER DISTRICT  
FINANCE & INFORMATION TECHNOLOGY  
BOARD OF DIRECTORS' MEETING**

**APRIL 20, 2011**

The regular meeting of the Finance & Information Technology Board of Directors was held at the District office, 27500 La Paz Road, Laguna Niguel, California, at 9:00 a.m. on Wednesday, April 20, 2011. There were present and participating:

**DIRECTORS**

BRIAN PROBOLSKY	Chairman
SCOTT COLTON	Director
RICHARD S. FIORE	Director
DON FROELICH	Vice President
GARY R. KURTZ	Director
LARRY R. LIZOTTE	Director
LARRY MCKENNEY	President

Also present and participating were:

**STAFF MEMBERS**

ROBERT C. GUMERMAN	General Manager
MATT COLLINGS	Director of Engineering & Operations
CHARLES J. ROY	Director of Customer Service
PAT GIANNONE	Bowie, Arneson, Wiles & Giannone
JANE NGUYEN	MNWD
NANCY DESAI	MNWD
LESLIE GRAY	Board Secretary
KARREN MADDOX	MNWD
AMBER CUTLER	MNWD
KELLY WINSOR	MNWD
ROBYN EPPSTEIN	MNWD
FRANI BAILEY	MNWD

**DISTRICT CONSULTANTS**

TOM ASH	Hydro Point
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Absent was:

DAVID D. CAIN	Director of Finance/Treasurer
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Chairman Brian Probolsky called the meeting to order and Frani Bailey recorded the minutes thereof.

APPROVAL OF MINUTES OF MARCH 16, 2011 FINANCE & INFORMATION

TECHNOLOGY BOARD OF DIRECTORS MEETING

Chairman Probolsky requested approval of the minutes of the March 16, 2011 Finance & Information Technology Board of Directors meeting.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR MCKENNEY AND SECONDED BY DIRECTOR KURTZ, THE MINUTES OF THE MARCH 16, 2011 FINANCE & INFORMATION TECHNOLOGY BOARD OF DIRECTORS MEETING WERE UNANIMOUSLY APPROVED AS PRESENTED.

PUBLIC COMMENTS

Chairman Probolsky opened the Public Comments portion of the meeting. Hearing no public comments he closed the Public Comments portion of the meeting.

DISCUSSION ITEMS

Deferred Compensation Plan Rate Calculation

Ms. Nancy Desai directed the Board's attention to the Investment Activity Summary for March 2011, which is attached to the Portfolio Summary prepared by Chandler Asset Management. She reported that the Portfolio Summary will make it easier for the Board to trace what the deferred compensation rate is each month.

Ms. Desai reported that there is \$5.2 million in LAIF that staff intends to move into the investment portfolio. She reported that the total investment portfolio for March is \$121 million, a \$5 million increase from last year, which can be attributed primarily to the reimbursement from the Water Supply Reliability bond issuance. Ms. Desai reported that the 2010 COPS Trust Reserves decreased by approximately \$7.7 million as a result of the 1993 COPS refunding and reissuance of the 2010 COPS. She reported that there was a payment due in March and there is one more outstanding payment in the amount of \$1.6 million due in September, after which the 1993 COPS will be gone.

Ms. Desai reported that Ms. Karren Maddox, who reconciles the investment portfolio each month, would explain to the Board how the interest rate on the deferred compensation is calculated. Ms. Maddox directed the Board's attention to the box at the bottom of the first page

of the Investment Activity Summary and explained that the methodology the District has been using since July 2009 to calculate the rate for the deferred compensation program is to use the year-to-maturity purchase yield. She explained that she first calculates the annual earnings on the portfolio at yield-to-maturity, adds the earnings from the LAIF and the cash, and then subtracts the annualized fiscal year estimated Chandler fees and adds or subtracts the realized gains or losses to determine the annual earnings. This is divided by the cost value to determine the interest rate for the deferred compensation program. A discussion ensued and Ms. Maddox answered the Board members' questions.

#### Review Financial Statements for the Period Ended March 31, 2011

Ms. Desai reviewed the Budget Comparison for the nine months ending March 31, 2011. She reported that the District is quite a bit under budget; however, during the last quarter that number will change. Director Lizotte commented that he would like to see the original adopted budget reflected on the Budget Comparison. A lengthy discussion ensued and Chairman Probolsky asked Ms. Desai to add the original adopted budget to the Budget Comparison. Director Colton asked if overtime is monitored and Dr. Gumerman reported that he allocates the overtime by division and monitors it quarterly. He explained that Line Item 24 on the budget shows what the overtime is. Director Colton requested more information on the overtime and Ms. Desai reported she would provide the Board with a quarterly report.

Ms. Desai reviewed the Comparative Income Statement for the year-to-date ending March 31, 2011. She reported that there is nothing out of the ordinary to report and offered to answer the Board's questions. There were none.

Ms. Desai reviewed the Comparative Statement of Net Assets for March 31, 2011. She commented that there is nothing significant to report.

Ms. Desai reviewed the Budget vs. Actual Report for the nine-month period ending March 31, 2011. She reported there have been no significant changes in any category and reported that the District will be receiving a large amount of property tax income in April.

Ms. Desai reviewed the Summary of Disbursements for the month of March 2011, which staff will ask the Board to receive and file at the Board meeting on Thursday. Chairman Probolsky asked when the bids for water meters are sent out and Mr. Roy reported that bids are

requested on an annual basis. Chairman Probolsky asked for a copy of the bids the District received and Mr. Roy reported he would provide the information to Chairman Probolsky.

#### Discussion of Proposed Water Budget Based Rate Structure (WBBRS)

Mr. Roy reported that this item was added to the agenda at the request of the Board in case any members of the public wanted to ask questions or comment on the WBBRS.

#### Water Budget Based Rate Structure (WBBRS) Resolution of Adoption

Mr. Roy reported that he and Ms. Giannone prepared the Resolution of Adoption for the WBBRS. President McKenney commented that the title and several other sections of the draft Resolution contain the phrase “Water Budget Based Rate Structure and resulting service rate increases.” He commented that he expects that this is very confusing to the public and asked for staff’s explanation of this as compared to the goal of overall revenue neutrality. Dr. Gumerman explained that all customers will see an increase in some component of their rate structure, but not necessarily in the bottom line bill. Director Fiore commented that his concern is that the District would not have the opportunity to explain the methodology and homeowners would think that the District has not fairly represented what it is doing. A discussion ensued and the Directors provided Ms. Giannone and staff with their comments as to how the resolution could be revised to clarify their concerns. Ms. Giannone reported that she would provide the Board with a red-lined copy of the resolution at the Board meeting tomorrow night.

A discussion ensued regarding the timing of implementing the WBBRS and Director Lizotte suggested delaying the implementation of the WBBRS until the customers have had time to absorb the 16.2% rate increase in June and the news from the Governor that the drought is over. President McKenney commented that at least one customer encouraged the Board not to delay implementing the WBBRS because it would save her HOA a substantial amount of money this summer. He commented that the matter is on the table and the Board is poised to do it. Director Froelich commented that he would prefer to see the WBBRS implemented in the fall and have staff send out shadow bills in the summer so customers could see how the rate structure would impact them and have an opportunity to address the matter. He commented that there needs to be some distance between the implementation of the rate increase and the implementation of the WBBRS. Dr. Gumerman reported that Mr. Tom Ash, the District’s consultant, told staff that shadow bills were confusing to the customer and created more

problems than they solved, so staff decided to do internal audits instead. Further discussion ensued. Director Kurtz commented that he would support approving the WBBRS tomorrow night and implementing it in July and Director Colton concurred.

Water Conservation Program – Resolution to Eliminate Water Supply Response Level 2 – Water Alert Condition and to Revert to Conservation Level/12 Mandatory Water Conservation Rules – Prohibition Against Waste

Mr. Roy recommended that the Board approve the resolution to revert to Conservation Level/12 Mandatory Water Conservation Rules and President McKenney disagreed. He commented that the Governor has said the drought is over because there is substantial snow pack in the mountains and MET is under pressure to mitigate its ongoing rate increases and decided to remove water allocations; however, the District still has problems of having little local storage and being vulnerable to fluctuations in the management of the Delta, which will not be solved any time soon. President McKenney commented that the District has made progress on conservation but it is not where it should be to meet the 20 by 2020 requirements, and if the District sends a message to its customers that it is no longer promoting conservation it will lose all of the progress made. He commented that if the District approves an efficiency-based rate structure with an ongoing system of price signals to lock conservation in place we can move on; however, if the Board decides not to approve the WBBRS he would not support eliminating the Level 2 conservation level. A discussion ensued regarding the 20 by 2020 requirements.

Director Fiore asked what the difference is between Level 1 and Level 2 and Dr. Gumerman reported that the biggest difference is that in Level 2 the three-days per week watering schedule is imposed and golf courses are required to use recycled water on their greens. Director Fiore commented that if the Board were to adopt a resolution to go back to Level 1 it would eliminate the three-days per week watering and the requirement for golf courses to use recycled water but still establish a policy of water conservation, which would seem to be an option. Mr. Roy explained that even if the Board decides on Mandatory Conservation, the 12 step Best Management Practices regarding the time of the day when residents can water and the prohibition on watering hardscaped areas would still remain. Director Fiore commented that he agrees with President McKenney that it is important to make it clear that the District is still in a

conservation mode. Further discussion ensued and Director Kurtz commented that he supports changing the current status to the Best Practices Mandatory Water Conservation Rules.

Ms. Giannone clarified that the resolution staff is proposing does not involve ending Level 2 and going to Level 1 under the policy; it is changing to the 12 Mandatory Water Conservation Rules which are standing rules that do not require a WSR level declaration. Director Fiore suggested that if the WBBRS is adopted the resolution be changed to delete Level 2 and add a section that reflects that the mandatory conservation programs and the 12 steps are still in effect. Ms. Giannone reported that this language is in the resolution as part of the last section, and she could put it in a separate section if the Board prefers and would provide the Board with a red-lined copy of the resolution tomorrow night.

WBBRS Resolution to Approve Variance Terms and Procedures for Rules and Regulations for Water and Sewer Service

Mr. Roy reported that the Variance Procedures have been revised to allow staff to handle phone calls from customers regarding routine variances without requiring any additional information or forms from the customers. He reported that in cases where the District may request verification for the variance the District will not retain any records of the information provided by the customers. Dr. Gumerman commented that the biggest item the Board needs to address is the one-year sunset provision, i.e., whether the Board wants the customers to reapply for a variance every year based on the number of people. Chairman Probolsky commented that he does not like the sunset provision and would prefer a provision that gives the District broad authority to review variance requests at its discretion annually. Mr. Tom Ash explained that variances are a great communication tool and a positive thing for the customers because it allows them to have input into their own budget. He reported that the first year IRWD implemented the WBBRS approximately 10% of its customers requested variances. He suggested that the District provide the customers with the ability to update their information whenever something changes without a hard, fast rule as to how it should be done. A discussion ensued.

Chairman Probolsky asked if the Board members agreed that there should be no sunset provision in the Variance Procedure but that there should be a provision to allow the District to review variances and the Board members agreed. President McKenney commented that the Variance Procedure provides that in the event a variance is denied, the request form may be

resubmitted and reviewed by an Appeal Board. He asked if there should be more detail in the Variance Procedure as to how this procedure would work. Ms. Giannone commented that the Board could sort this out later or use an internal staff approach so that the appeals go to the Director of Customer Service or to the General Manager. She explained that the variance process under the Water Conservation steps went to the Board, which the Board may not want to do, and commented that the customers need to have an understanding of how the process works.

Dr. Gumerman commented that he thinks there should be an Appeal Board made up of himself, the Director of Customer Service, and one Board member. President McKenney asked if the Board would like to leave the reference to the Appeal Board general and bring it back as a separate item so the Board can define the process. Chairman Probolsky commented that he thinks the Appeal Board should include a Board member or two and a discussion ensued. Ms. Giannone commented that for purposes of the Rules and Regulations the Board could leave the language regarding the Appeal Board general, but once the WBBRS is implemented the Board needs to have an understanding of how it would work so people would know that the procedure is approved. Chairman Probolsky asked how Ms. Giannone feels about having a member of the public on the Appeal Board and Ms. Giannone commented that she would not recommend this.

Further discussion ensued and Director Froelich commented that he thinks there needs to be Board involvement on the Appeal Board and President McKenney suggested that the Variance Procedure state that the variance request would be resubmitted and reviewed by an Appeal Board consisting of the Chairman of the Rate Committee, one other Board member, and the General Manager. The Board concurred with President McKenney's suggestion.

Further discussion ensued regarding the Variance Procedure and the Directors provided staff with their comments and suggestions as to the language in the Procedure and the names of the various rate tiers.

#### WBBRS Resolution to Establish Water Conservation Fund

Chairman Probolsky asked where the requirement to establish a Water Conservation Fund comes from and Ms. Giannone reported that Water Code Section 370 is the statutory authority that supports the WBBRS approach on rates. She explained that it is clear that revenue from the excess use tiers required for costs needs to be linked to some kind of conservation purpose. Ms. Giannone commented that this also stems from Proposition 218 and the idea of what the cost of

service is and what the District can charge relative to cost of service. She explained that the revenue from the penalty tiers is amounts in excess and needs to be linked to the purposes for which it was levied. Ms. Giannone reported that there is a lot of leeway for the use of the funds; however, the District needs to be able to segregate those amounts from the other revenue and stick with the broad conservation, water efficiency purposes.

Chairman Probolsky commented that he is amenable to establishing the Water Conservation Fund and segregating it and would like to do whatever necessary to maintain as broad language as possible to give the District all of the options available. Director Kurtz commented that he has some questions concerning the reference to rebates in the resolution establishing the Water Conservation Fund. Ms. Giannone commented that the rebates are included and inherent in Paragraphs B 1-4 in the resolution, and the rebate terms in Paragraphs D through H lay out the specifics if the Board directs that the money be spent on a rebate program. Chairman Probolsky suggested deleting Paragraphs D-H and President McKenney concurred. Ms. Giannone commented that for purposes of the resolution the Board could delete all of the specifics of the rebate program and decide later how it should be structured. Further discussion ensued regarding the language in the resolution and the Directors provided staff with their comments and suggested revisions.

Dr. Gumerman reported the penalty money is only from Tiers 4 and 5, not Tier 3; therefore, where the resolution and attachment refer to the inefficient, excessive, or wasteful tiers, the reference to the inefficient tier 3 should be removed. He explained that the money in Tier 3 goes into the 10-Year Cash Flow Forecast and a discussion ensued. Mr. Ash explained that one of the reasons for this is because the District's fixed cost service charge has always been low and has not recovered an appropriate amount of fixed cost, so the Tier 3 money must be used to ensure that the District can meet its financial obligations. He explained that Mr. Cain has a plan to increase the fixed costs over time and decrease the variable costs.

President McKenney commented that there is a lot of talk at the state and county levels about the real possibility that the District could lose its property tax allocation. He asked if staff is prepared to discuss with the Board what that might mean in terms of the budget and the rate model and Dr. Gumerman commented that staff is prepared. He commented that the next time the District does a Proposition 218 Notice it will also include the ability to automatically adjust

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the rates if the District gets a reallocation of the property tax revenue. President McKenney asked if the rate model is capable of changing the bottom line number for revenue and recalculate the tiers and Mr. Ash reported that the model has inputs for property taxes and all other inputs and outputs.

ADJOURNMENT

THEREAFTER, UPON A MOTION DULY MADE AND SECONDED, THE MEETING WAS ADJOURNED AT 11:25 A.M.

Respectfully submitted,

Frani Bailey  
Recording Secretary