

**MINUTES OF THE REGULAR MEETING  
OF THE BOARD OF DIRECTORS OF THE  
MOULTON NIGUEL WATER DISTRICT**

**FEBRUARY 17, 2011**

A Regular Meeting of the Board of Directors of the Moulton Niguel Water District was held at the District office, 27500 La Paz Road, Laguna Niguel, California, at 5:30 p.m. on Thursday, February 17, 2011. There were present and participating:

**DIRECTORS**

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

Also present and participating were:

**STAFF MEMBERS, LEGAL COUNSEL**

ROBERT C. GUMERMAN	General Manager
DAVID D. CAIN	Director of Finance/Treasurer
CHARLES J. ROY	Director of Customer Service
MATT COLLINGS	Director of Engineering & Operations
PAT GIANNONE	Bowie, Arneson, Wiles & Giannone
LESLIE GRAY	MNWD
KELLY WINSOR	MNWD
ROBYN EPPSTEIN	MNWD
NOLAN KING	MNWD
FRANI BAILEY	MNWD

**PUBLIC MEMBERS**

SUSAN HINMAN	MWDOC Director
RON LANGER	Resident
KAREN LANGER	Resident

Absent was:

RICHARD S. FIORE	Director
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President Larry McKenney presided and Frani Bailey recorded the minutes of the meeting. President McKenney led the Pledge of Allegiance. He acknowledged the members of the audience and thanked them for attending the meeting.

## **ACTION ITEMS**

### **CONSENT CALENDAR ITEMS**

- **The Board approved Consent Calendar Items 13 through 19 as presented.**

### **ENGINEERING & OPERATIONS MATTERS**

#### **Upper Salada Oxygen Generation System Replacement – Design-Build Contract Award**

- **The Board awarded the Design-Build contract for the Upper Salada Oxygen System Replacement to S.S. Mechanical for an amount of \$277,643 and approved an expense authorization in the amount of \$310,000 to be financed from Fund 7, Replacement & Refurbishment Fund.**
- **President McKenney requested that Dr. Gumerman look into whether it would be feasible for the District to develop a “buy local” preference that is broader and report to the Board his findings and whether he will be formulating some kind of recommendation for the future.**

### **LEGAL MATTERS**

#### **Approval of Updated Bylaws to Confirm with Current Law and Procedure**

- **The Board adopted Resolution No. 11-03 approving the updated bylaws.**

#### **Appointing Resolutions for ISDOC, SAC, and SOCWA Representatives**

- **The Board adopted Resolutions Nos. 11-04, 11-05, and 11-06 officially appointing ISDOC, SAC, and SOCWA representatives.**

### **LATE ITEMS**

#### **FEMA Resolution**

- **The Board added the FEMA Resolution to the Agenda as a Late Item and adopted Resolution No. 11-07 entitled “Designation of Applicant’s Agent Resolution for Non-state Agencies.”**

APPROVAL OF MINUTES OF BOARD OF DIRECTORS MEETING OF  
JANUARY 20, 2011

President McKenney called for a motion to approve the minutes of the Board of Directors meeting of January 20, 2011.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR FROELICH, THE BOARD OF DIRECTORS UNANIMOUSLY APPROVED THE MINUTES OF THE BOARD OF DIRECTORS MEETING OF JANUARY 20, 2011 AS PRESENTED.

PUBLIC COMMENTS

President McKenney opened the Public Comments portion of the meeting and invited Mrs. Susan Hinman to address the Board. Mrs. Hinman reported that Ms. Joan Finnegan was reelected as President of the MWDOC Board and Mr. Jeff Allman was elected as Vice President. She reported that the Board also approved the new commission and committee assignments.

Mrs. Hinman reported that the Board approved a Coordinated Operating Water Storage Exchange and Delivery Agreement between IRWD, MWD, and MWDOC that will make arrangements for 50,000 acre-feet of storage in Kern County. She reported that the MWDOC Board approved some change orders on the South Orange Coastal Desalination Project and elaborated on them. Mrs. Hinman reported that MWDOC's staff is in the process of taking the agreement between the South County agencies and MWDOC to the member agencies for approval. She reported that there will be a tour of the South Orange Coastal Desalination Facility on Friday from 10:00 a.m. to 12:00 p.m. and 2:00 p.m. to 4:00 p.m.

Director Lizotte asked whatever happened to the Cadiz Project and a discussion ensued. President McKenney commented that there are several similar projects in the works and it would be interesting as a part of an Engineering & Operations Board meeting to have a presentation on the major groundwater storage projects that MET has entered into and is considering.

President McKenney thanked Mrs. Hinman for her report and invited Ms. Donna Longstreet to address the Board. Ms. Longstreet reported that almost everyone on her street has experienced broken pipes and asked if the District could reduce the amount of chemicals in the water. She expressed concern that with the implementation of the Water Budget Based Rate Structure (WBBRS) she would be penalized if she experienced a pipe break in her home. President McKenney explained that the District does not normally take responsibility for pipes breaking in a customer's home. He commented that if there is an issue with abnormal chemical corrosion to pipes in her neighborhood District staff could look into it and see whether the District has experienced breaks in its pipes in that area. President McKenney explained that the Water Budget Based Rate Structure the District is considering contains a mechanism where a customer could report a pipe break and staff would adjust the bill accordingly. Director Froelich explained that the District does not add any chemicals to the water it receives from MET. President McKenney thanked Ms. Longstreet for her comments.

President McKenney asked if there were any further public comments on a topic other than the WBBRS. Hearing none, he closed the Public Comments portion of the meeting.

#### DISCUSSION OF PROPOSED WATER BUDGET BASED RATE STRUCTURE (WBBRS)

President McKenney asked if there were any public comments regarding the WBBRS. There were none.

#### PRESIDENT'S REPORT

President McKenney reported in order to improve the Board's awareness of what is happening with the agencies surrounding us and assure that the District has good communication with them, he would like the Board members to act as informal liaisons to the different districts and cities in or adjoining the District's service area. He commented that the liaisons would keep up-to-date with the agencies and cities and report to the Board if there is something they are doing that the Board should be aware of. President McKenney commented that the liaisons could attend the meetings if they want

to, which would let the agencies and cities know who the District's liaison is if they wanted to convey information to the Board. He reported that he is working on his list and would circulate it to the Board for comments.

Director Probolsky arrived at 5:50 p.m.

#### BOARD/COMMITTEE OR OTHER REPORTS

President McKenney inquired if any members of the Board had any Committee or other Reports. Director Froelich reported that he attended a meeting of the Joint Planning Committee of the MWDOC Board of Directors and the Orange County Water District Board of Directors. He gave the Board a synopsis of the meeting and a discussion ensued.

Director Probolsky reported that he attended the ISDOC meeting at which the LAFCO representatives were elected. He commented that the tactics employed by MWDOC during the voting were somewhat disturbing and highlighted the north-south issues. Director Probolsky reported that after three votes Charley Wilson was elected. President McKenney commented that he appreciates Director Probolsky attending the meeting and voting on the District's behalf.

President McKenney reported that he attended a meeting of the San Juan Basin Authority (SJBA) last week. He reported that the SJBA continues to work well under its new governance with the staffing being provided by SMWD and the City of San Juan Capistrano. President McKenney reported that the major project is the Groundwater Management Plan that is in process. He reported that he has been pushing the SJBA Board to have a discussion about governance and the future of the SJBA and a workshop will be agendized to talk about this.

President McKenney reported that he attended the WACO meeting at which a presentation on global climate change was presented.

Director Lizotte reported that Director Fiore attended the SOCWA meeting in his absence and Dr. Gumerman would report on the meeting. Dr. Gumerman reported that on February 10, 2011 a Special SOCWA Board Meeting was held to discuss the IRWD biosolids issue. He reported that SOCWA has hired Dudek & Associates to assist staff with the negotiations and terms of the contract, and Mr. Tom Rosales and Ms. Pat

Giannone are negotiating with IRWD on SOCWA's behalf. He reported they are working on an issue to determine whether SOCWA would actually own capacity or a capacity right in the project, and IRWD is insisting that it be a capacity right. Dr. Gumerman reported that he thinks this would be OK as there is a 50-year term to the agreement. He reported that the agreement will be ready for all of the member agencies to ratify in mid-April.

#### GENERAL MANAGER'S REPORT

##### ACWA/JPIA Claim Experience Relative to Other Agencies

Dr. Gumerman reported that several months ago Director Kurtz reported on the ACWA/JPIA conference and a discussion ensued as to how the District's claims compare to the claims of other agencies. He commented that what is important is not necessarily how the District compares, but what the factors are that influence what the District's premiums are. Dr. Gumerman reported that the District is in three different pool programs; liability, property, and workers' compensation. He explained that what is important is how all of the agencies in the pool do and how the District does relative to those agencies.

Dr. Gumerman reported that the liability program insures the District against third party claims for property damage or liability, such as easement line breaks. He reported that the premium for the liability program is slightly less than \$300,000 per year. Dr. Gumerman explained the experience modification, or "emod" factor that is applied to the liability and worker's compensation program and reported that the District's emod factor for the liability program is 1.25. He explained that the property program protects the District's property and covers all of the vehicles, buildings, and facilities with the exception of reservoirs and pipelines. Dr. Gumerman reported that the premium for the property program is \$83,000 per year.

Dr. Gumerman reported that the worker's compensation program covers injuries on the job to the District's employees, and the District's emod factor has been as low as .59, and is currently .71. He reported that over the last three years the worker's compensation premium has dropped from \$150,000 per year to \$117,000, and 70% to

75% of the refund the District received from ACWA/JPIA was based on the low emod factor for the worker's compensation program. A discussion ensued regarding the District's Illness & Injury Prevention Program and the training conducted by ACWA/JPIA in which the employees participate. Dr. Gumerman reported that overall the District spends almost \$500,000 a year for insurance, 60% of which is for the liability program.

#### Public Outreach Activities

Dr. Gumerman reported that he and Director McKenney spoke at the City of Aliso Viejo's Green Initiative Summit on conservation. He reported that he made a presentation on the District's recycled water program and how the WBBRS will help to promote efficiency. Dr. Gumerman reported that Directors Fiore and Colton, Mr. Roy, and he attended the Mission Viejo City Council meeting last Monday night and made a presentation on the WBBRS. He reported that last Monday he and Director Froelich met with Councilwoman Melody Cruz from the City of Laguna Hills and one of her constituents to discuss the WBBRS and answer their questions.

#### MWDOC – Status of Signatories to “Agreement between MWDOC and its Member Agencies on Budget, Activities, Charges, and other Issues”

Dr. Gumerman reported that Mrs. Hinman covered this issue in her report. He reported that all nine South County agencies have executed the agreement and MWDOC is in the process of taking the agreement to the North County cities. He commented that to the best of his knowledge the agreement has only been approved by the nine South County agencies.

#### Current Water Supply Allocation/Usage Update

Dr. Gumerman reported that the District is 13.7% below its MWDOC allocation for this period, and the water supply to the customers is 8.1% below last year. He reported that the various indices indicate that MET will probably have allocations again.

#### CONSENT ITEMS

President McKenney asked if there were any items on the Consent Calendar that the Directors would like to pull for further discussion and there were none.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR PROBOLSKY, THE BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY APPROVED CONSENT ITEMS 13 THROUGH 19 AS PRESENTED, WHICH ITEMS ARE INCORPORATED HEREIN BY THIS REFERENCE.

## DISCUSSION ITEMS

### ENGINEERING & OPERATIONS MATTERS

#### Upper Salada Oxygen Generation System Replacement – Design-Build Contract Award

Dr. Gumerman reported that as discussed at the Engineering & Operations Board meeting on Tuesday, the District has been experiencing difficulties with the existing oxygen generation system at the Upper Salada Lift Station that began approximately six months after going online. He explained that the difficulties have restricted staff from operating the existing system as efficiently as designed, yielding a higher hydrogen sulfide concentration from the Upper Salada Lift Station system.

Dr. Gumerman reported that staff requested a Design-Build Contract Proposal from S.S. Mechanical/Tetra Tech to replace the existing oxygen generation system with the same system installed at the Lower Salada Lift Station, which has been working very well. He commented that staff was waiting until July 1 to get more run time on the unit at the Lower Salada Lift Station; however, he and Mr. Matt Collings have had extensive discussions with the Station Maintenance Crew regarding any issues related to the technology at the Lower Salada Lift Station and the crew feels comfortable going ahead and modifying Upper Salada Lift Station.

Dr. Gumerman reported that staff recommends that the Board award the Design-Build Contract for the Upper Salada Oxygen System Replacement to S.S. Mechanical for an amount of \$277, 643 and approve an expense authorization in the amount of \$310,000 to be financed from Fund 7, Replacement & Refurbishment Fund.

Director Froelich commented that he feels it is critical that staff proceed with this project as soon as possible, and reported that he asked Mr. Collings to update the Board each month on the status of this project. Director Colton asked Mr. Collings what would be done with the old equipment. Mr. Collings reported staff will salvage the equipment

and determine how it can be used. Director Colton commented that he would like to see the District try to buy equipment made in the U.S.A. as much as possible. President McKenney asked if the District has any “buy local” preference for services or equipment. Mr. David Cain reported that the District’s policy regarding purchasing vehicles recommends that they be U.S. built vehicles. President McKenney asked Dr. Gumerman to determine whether it would be feasible for the District to develop a “buy local” preference that is broader and report to the Board his findings and whether he will be formulating some kind of recommendation for the future.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR COLTON, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY AWARDED THE DESIGN-BUILD CONTRACT FOR THE UPPER SALADA OXYGEN SYSTEM REPLACEMENT TO S.S. MECHANICAL FOR AN AMOUNT OF \$277,643 AND APPROVED AN EXPENSE AUTHORIZATION IN THE AMOUNT OF \$310,000, TO BE FINANCED FROM FUND 7, THE REPLACEMENT & REFURBISHMENT FUND.

## LEGAL MATTERS

### Approval of Updated Bylaws to Conform with Current Law and Procedures

Ms. Pat Giannone reported that the California Water District Act sets forth terms for inclusion in the District Bylaws, including but not limited to qualifications of Directors, election of officers, Board compensation, and quorum requirements. She explained that many of the Bylaw terms are already set forth in, and required under, the Act. Ms. Giannone directed the Board’s attention to Attachment L-1 to the Agenda, the resolution for adoption of the Bylaws as updated and a copy of the proposed Bylaws with the recommended changes noted. A discussion ensued and Ms. Giannone answered the Board members’ questions regarding the revisions made to the Bylaws.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR FROELICH, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY ADOPTED RESOLUTION NO. 11-03 ENTITLED "RESOLUTION OF THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT APPROVING THE UPDATED BYLAWS."

Appointing Resolutions for Independent Special Districts of Orange County (ISDOC), Santiago Aqueduct Commission (SAC), and South Orange County Wastewater Authority (SOCWA) Representatives

President McKenney reported that this item is to adopt resolutions appointing some of the representatives to the different organizations including ISDOC, SAC, and SOCWA. He reported that the committee assignments were included in the Agenda package.

Ms. Giannone reported that ISDOC requires that the District's Presiding Officer/President be the designated representative for voting and other purposes in connection with ISDOC business. An Alternate is also designated to act in the absence of the Presiding Officer/President. She reported that SAC and SOCWA require Directors and Alternate Directors to serve on the Board of Directors of each of those respective joint powers authorities. Ms. Giannone directed the Board's attention to Attachments L-2, L-3, and L-4 to the Agenda, the appointing resolutions prepared by the Secretary with recommended appointments from President McKenney and the General Manager.

Ms. Giannone reported that in the ISDOC resolution there is some stray language in the "whereas" clauses which she will delete, and on the SOCWA resolution the first two clauses read as if SOCWA is just being formed. She recommended that the first "whereas" clause eliminate the references to AWMA, SERRA, and SOCWA and simply use SOCWA, and that the second recital clause be deleted. President McKenney concurred with Ms. Giannone's recommendations.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR LIZOTTE AND SECONDED BY DIRECTOR KURTZ, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY ADOPTED RESOLUTIONS NOS. 11-04, 11-05, AND 11-06 OFFICIALLY APPOINTING ISDOC, SAC, AND SOCWA REPRESENTATIVES.

LATE ITEMS

FEMA Resolution Authorizing Applicants to Submit Requests to FEMA

Ms. Giannone reported that a FEMA Resolution authorizing applicants to submit requests to FEMA needs to be added to the Agenda because staff just obtained the resolution at a meeting on February 16, 2011 and it must be filed with WEROC by February 23, 2011 and delivered to FEMA by February 24, 2011. President McKenney reported that this matter came to the attention of the Board after the Agenda was posted and requires urgent action. He reported he would entertain a motion to add the item to the Agenda.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR PROBOLSKY AND SECONDED BY DIRECTOR KURTZ, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY ADDED THE FEMA RESOLUTION ITEM TO THE AGENDA, FINDING THAT THE MATTER CAME TO THE ATTENTION OF THE BOARD AFTER THE AGENDA WAS POSTED AND REQUIRES URGENT ACTION.

Ms. Giannone distributed the resolution and explained that it authorizes three staff signatories to submit applications to FEMA. She explained that the resolution is evergreen and designates positions as opposed to individual names and noted that the problem staff encountered was that a resolution was on file but had specific names in it of people who are no longer employed with the District.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR MCKENNEY, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY ADOPTED RESOLUTION NO. 11-07 ENTITLED "DESIGNATION OF APPLICANT'S AGENT RESOLUTION FOR NON-STATE AGENCIES."

ADJOURNMENT

Thereafter, the regular meeting of the Board of Directors of the Moulton Niguel Water District was adjourned at 6:35 p.m.

Respectfully submitted,

Frani Bailey  
Recording Secretary