

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

MARCH 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, March 17, 2011. There were present and participating:

DIRECTORS

LARRY MCKENNEY	President
SCOTT COLTON	Director
RICHARD S. FIORE	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
KELLY WINSOR	MNWD
AMBER CUTLER	MNWD
ROBYN EPPSTEIN	MNWD
FRANI BAILEY	MNWD

PUBLIC MEMBERS

RON LANGER	Resident
KAREN LANGER	Resident

Absent was:

There were no absences.

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

DISCUSSION OF PROPOSED WATER BUDGET BASED RATE STRUCTURE (WBBRS)

- President McKenney directed the staff to put the revised rate calculator back on the website.

CONSENT CALENDAR ITEMS

- The Board approved Consent Calendar Items 11 through 17 as presented.

Item 17 - 5B-1 Reservoir Refurbishment, Contract 2010.120 – Construction Contract Reimbursement

- The Board authorized staff to reimburse South Coast Water District for the District's share of the refurbishment contract per the Agreement for the 5B-1 Reservoir for an amount not-to-exceed \$105,000, to be financed from Fund 7, Replacement and Refurbishment Fund.

ENGINEERING & OPERATIONS MATTERS

Easement Pipeline Rehabilitation Project, Contract 2010.023 – Design Contract Award

- The Board awarded the engineering services contract for the Easement Pipeline Rehabilitation Project to TetraTech for an amount not-to-exceed \$82,700 and approved an expense authorization in the amount of \$105,000, to be financed from Fund 7, Replacement & Refurbishment Fund.

Moulton Ranch III Recycled Water Pipeline, Contract 2010.016 – Construction

Contract Award

- **The Board awarded the contract for the Moulton Ranch III Recycled Water Pipeline to Doty Bros. Equipment for an amount of \$630,000, increased the project budget from \$750,000 to \$800,000, and increased the project expense authorization from \$50,000 to \$800,000, to be financed from Fund 12, Water Supply Reliability Fund.**

LEGAL MATTERS

Approval of Agreement for Participation in MWDOC's Turf Removal Program

- **The Board approved the agreement for participation in MWDOC's Turf Removal Program and authorized the General Manager to execute the agreement.**

Claim of Wise, Property Damage to Automobile Windscreen

- **The Board rejected the claim of Wise and authorized staff to send a Notice of Rejection on an ACWA/JPIA approved form.**

APPROVAL OF MINUTES OF BOARD OF DIRECTORS MEETING (CLOSED SESSION) OF JANUARY 20, 2011

President McKenney called for a motion to approve the minutes of the Board of Directors meeting (Closed Session) of January 20, 2011. He asked if there were any comments on the minutes and there were none.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR FIORE AND SECONDED BY DIRECTOR COLTON, THE BOARD OF DIRECTORS UNANIMOUSLY APPROVED THE MINUTES OF THE BOARD OF DIRECTORS MEETING (CLOSED SESSION) OF JANUARY 20, 2011 AS PRESENTED.

APPROVAL OF MINUTES OF BOARD OF DIRECTORS MEETING OF FEBRUARY 17, 2011

President McKenney called for a motion to approve the minutes of the Board of Directors meeting of February 17, 2011. He asked if there were any comments on the minutes and there were none.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR FROELICH AND SECONDED BY DIRECTOR KURTZ , THE BOARD OF DIRECTORS APPROVED THE MINUTES OF THE BOARD OF DIRECTORS MEETING OF FEBRUARY 17, 2011 AS PRESENTED AS FOLLOWS: AYES: DIRECTORS KURTZ, LIZOTTE, FROELICH, MCKENNEY, AND COLTON; NOES: NONE; ABSTAIN: DIRECTOR FIORE.

APPROVAL OF MINUTES OF SPECIAL BOARD OF DIRECTORS MEETING
(PUBLIC HEARING) DATED FEBRUARY 23, 2011

President McKenney commented that the intention is for the Board to approve the minutes of the February 23, 2011 Public Hearing in the form of a transcript. He asked if there were any comments on the minutes. The Directors made comments and corrections to the minutes and Ms. Bailey recorded them in the transcript for the record. President McKenney commented that he mentioned at the Public Hearing that the minutes of the February 23, 2011 Public Hearing would be available on the website and has since learned that this is not the case. He commented that these minute should probably be put on the website and asked staff to do so.

President McKenney asked when the minutes of the March 9, 2011 Community Relations/P&S Board meeting would be available for Board approval. Dr. Gumerman reported that the next Personnel & Salary Board meeting is scheduled for May 11, 2011; however, the minutes could be approved at any Board meeting. President McKenney commented that it would be most informative for the customers to post the minutes of the Public Hearing of February 23, 2011 and the minutes of the Community Relations/P&S Board meeting on the website and asked that staff get the minutes out as soon as possible.

President McKenney called for a motion to approve the minutes of the Special Board of Directors meeting (Public Hearing) of February 23, 2011.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR FIORE, THE BOARD OF DIRECTORS UNANIMOUSLY APPROVED THE MINUTES OF THE SPECIAL BOARD OF DIRECTORS MEETING (PUBLIC HEARING) OF FEBRUARY 23, 2011 AS CORRECTED.

PUBLIC COMMENTS

President McKenney opened the Public Comments portion of the meeting and asked if there were any comments on general matters not on the agenda. Hearing no comments, he closed the Public Comments portion of the meeting.

DISCUSSION OF PROPOSED WATER BUDGET BASED RATE STRUCTURE (WBBRS)

President McKenney reported that public comments would also be heard on Agenda Item 5, the discussion of the proposed Water Budget Based Rate Structure (WBBRS). He asked if there were any public comments regarding the WBBRS.

A resident commented that he received a letter from the District explaining the WBBRS and has not yet reviewed it, and has no questions at this time. He asked if the Board would continue the discussion at a later time. President McKenney explained that the Public Hearing was held on February 23, 2011, at which time the Board advised that it would calendar the matter to consider whether to approve the new rate structure at the April Board meeting. He commented that the WBBRS has been agendaized at several committee meetings and at tonight's meeting, and will be agendaized at the committee meetings prior to the April Board meeting to allow public comment on the WBBRS so that the Board can address particular questions. The resident asked what other alternative rate structures had been investigated other than the present method and the WBBRS and President McKenney answered his question.

Dr. Gumerman commented that the revised rate calculator was sent to the Board members for review via email yesterday and asked if there were any comments on it prior to staff putting it back on the website. Director Fiore commented that he would like Mr. Roy to indicate how the rate calculator was revised, what would be accomplished by the revisions, and how the customers will be using it. Mr. Roy explained that the web calculator now uses the actual rates that will be in effect as of June 2011, which include the last of the 16.2% rate increases. He explained that the WBBRS is used for the July calculations and noted that on the sample bill given to the Board the difference was \$.24 going by the June bill and continuing with the current rate structure or changing to the

WBBRS. Mr. Roy reported that the website has more information encouraging the customers to call the District if they have questions about the measurement of their property or the number of people in their home. He explained how the customers access the rate calculator from the website using their account number. Mr. Roy reported that staff has measured approximately 77% of the parcels within the District and should be finished by the April Board meeting.

Director Lizotte commented that he understood that the web calculator would show a bill with the 16.2% increase and without the 16.2% increase and Dr. Gumerman explained that the rate calculator originally did this and the Board asked staff to change it to show what the bill would be with the 16.2% increase effective June 1, 2011 as compared to the rate structure after July 1, 2011. Further discussion ensued and Mr. Roy answered the Board members' questions.

President McKenney asked if the Board would like to direct staff to put the rate calculator back on the website and the Board concurred with his suggestion. President McKenney directed staff to put the rate calculator back on the website. A resident asked if the graph indicates what the District pays for water and Mr. Roy reported it does not. President McKenney commented that the cost of water is the biggest component of the District's budget. He commented that adding it to the graph would make it cumbersome; however, there are other places it could be presented on the website. Ms. Desai reported that the Fiscal Year 2010 CAFR contains a supplementary section with the budget comparison that shows the actual amount of water purchases. Mr. David Cain reported there is also a Cost of Service Study that could be made available to anyone who would like it. Further discussion ensued.

PRESIDENT'S REPORT

President McKenney reported that he previously handed out agency liaison suggestions to the Board and is still waiting to see if anyone has any concerns. If not, he would like the liaisons to stay informed about the agencies for which they act as liaison and report to the Board about anything of interest. He commented that he would like the

agencies to know that the liaisons are available to them if they have things they would like to communicate to the District.

BOARD/COMMITTEE OR OTHER REPORTS

President McKenney inquired if any members of the Board had any Committee or other Reports. He reported that the San Juan Basin Authority (SJBA) met this month to discuss the way in which the financial statements were structured, which has a lot to do with how the SJBA has historically become what it is. President McKenney reported that neither he nor Vice President Probolsky were able to attend the meeting; however, Mr. Matt Collings attended and gave them the information.

Director Froelich reported that he and Dr. Gumerman attended a meeting of the South Orange County Chamber of Commerce sponsored by the cities of South Orange County and hosted by San Diego Gas & Electric. He commented that SDG&E reviewed the installation of smart meters and the smart grid system and provided information on emergency response activities and planning efforts.

Director Probolsky arrived at 6:05 p.m.

Director Froelich reported that as the District's Alternate Member of SOCWA he attended a meeting of the SOCWA Engineering Committee. Director Kurtz reported that on March 23, 2011 there will be a meeting of the agencies involved in the desalination project in Dana Point, and two workshops will be held in March and April.

President McKenney reported that he met last week with several of the District's neighbors including representatives from the City of San Juan Capistrano (CSJC), who are partners with the District in a number of endeavors including the SJBA. He commented that the City Manager and the Finance Manager of CSJC are leaving at the end of the month and the City staff is interviewing candidates for City Manager.

GENERAL MANAGER'S REPORT

SOUTH ORANGE COUNTY WASTEWATER AUTHORITY (SOCWA)

Biosolids Update

Dr. Gumerman reported that IRWD is planning to construct a biosolids project and has invited SOCWA to participate. He reported that SOCWA's staff has been

working with IRWD on the terms and conditions and it is expected that they will be completed within the next two weeks. Dr. Gumerman reported that there are two agreements that ultimately must be executed. One is an agreement between SOCWA and IRWD that would include all of the terms and conditions, and the second is a Project Committee No. 25 Agreement that will have to be approved by the SOCWA Board and the Board of the Member Agencies of Project Committee No. 25. He reported that in mid-April to late April SOCWA will hold a special Board meeting to discuss approval of the IRWD/SOCWA Agreement and the Project Committee No. 25 Agreement, after which the Member Agencies would be expected to approve the Project Committee Agreement in May.

SOCWA Petition to the State Water Resources Control Board

Dr. Gumerman reported that the petition relates to the brine discharges from SOCWA's groundwater recovery plant. He reported that South Coast Water District's (SCWD's) normal discharge is through the Chiquita Land Outfall and the NPDES permit requires that sampling be done not with all of the blended discharges as they reach the ocean, but rather at each individual plant. Dr. Gumerman reported that the SCWD plant exceeded the total suspended solids and was fined \$208,000 and SCWD submitted a petition to the State Water Resources Control Board for review, and he sent a letter on behalf of MNWD supporting the petition. He reported that on March 4, 21011 the State Water Resources Control Board denied SCWD's petition and commented that it would consider revising the ocean plan in the future to allow discharges such as those SOCWA makes. Dr. Gumerman reported that SCWD's staff is considering its options and intends to have a special Board meeting later this month to discuss with the Member Agencies what the options are.

President McKenney commented that amending the ocean plan would not resolve the problem because SOCWA is complying with the ocean plan; the problem is the discharge end from the outfall pipe from the plant. Ms. Pat Giannone commented that the State Water Resources Control Board is taking a global view that the problem is a bigger problem, not just for SOCWA and SCWD desalination. Dr. Gumerman commented that

part of the basis for the petition was that the standards that the San Diego Regional Water Quality Control Board applied were not uniform throughout the State of California and that the State Water Resources Control Board is promoting development of local resources and recycled water supplies. Further discussion ensued.

Upper Chiquita Reservoir Tour – Friday, March 18, 2011

Dr. Gumerman reported that those going on the tour of the Upper Chiquita Reservoir will meet in the Board Room at 9:30 a.m. and then proceed to the site. President McKenney reported that he would not be attending the tour and that Director Froelich would chair the meeting. Dr. Gumerman reported that after the tour a quorum of Board members would have to return to the District to adjourn the meeting.

Water Supply Allocation/Usage Update

Dr. Gumerman reported that the District is 12.4% below its MWDOC allocation for this period, and the water supply to the customers is 6% below last year.

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 PROBOLSKY AND SECONDED BY DIRECTOR COLTON, THE BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY APPROVED CONSENT ITEMS 11 THROUGH 17 AS PRESENTED, WHICH ITEMS ARE INCORPORATED HEREIN BY THIS REFERENCE.

DISCUSSION ITEMS

ENGINEERING & OPERATIONS MATTERS

Easement Pipeline Rehabilitation Project, Contract No. 2010.023 – Design Contract Award

Dr. Gumerman reported that as discussed at the Engineering & Operations Board meeting on Monday, the District has been experiencing an increasing number of pipeline failures in residential easements within certain communities in Laguna Niguel. The areas of concern were constructed from about 1985 to 1995 in what was at that time unincorporated Orange County.

Dr. Gumerman reported that the project is located within the communities of Marina Hills, Niguel Ranch, and surrounding areas. He reported that during the timeframe in which the area was constructed the District stopped using asbestos cement pipe (ACP) and began using PVC C900 pipe and ductile iron pipe (DIP) in easements in unpaved areas. Dr. Gumerman reported that the installation of the DIP was not consistent, with many locations lacking even minimal corrosion protection; the pipes were installed with either bare pipe or poorly wrapped with polyethylene bags. The District began experiencing pipe failures in these residential easements during 2000, with increased frequency since 2005.

Dr. Gumerman reported that the District needs to retain a consultant to evaluate 41 easements and analyze solutions, which may include abandonment, relocation, or relining, and develop a three-year Capital Improvement Program to implement the recommendations. He reported that at the Engineering Board meeting on Monday the Board requested an idea of the cost based on staff's projections, which Mr. Collings would address.

Mr. Collings commented that he provided the Board with a revised staff report adding language in the table on the last page. He commented that staff had to make some assumptions with regard to cost based on historical experience of what the cost would be for abandoning, lining, or relocating an easement and the number of easements that might potentially be abandoned and/or relocated or lined. Mr. Collings reported that staff estimates the costs to be approximately \$3.4 million to \$4 million for a three-year program to rehabilitate the easement lines based on a prioritization provided in the contract that TetraTech would provide, should the Board approve the contract. He reported that the costs assume engineering services, permitting, construction services, restoration, etc. and staff feels that this is a fairly good planning estimate at this point.

Director Lizotte asked how many easement line breaks have occurred over the last five years and Mr. Collings reported that there have been seven or eight line breaks. Director Lizotte commented that spending \$3 million to \$4 million on the basis of seven or eight line breaks is excessive unless staff can say that the number of line breaks would

quadruple over the years. Dr. Gumerman commented that if the Board decides not to do this program the District will have to replace the majority of the easement lines out of necessity, and it is not a matter of if, but a matter of when this project is done. Mr. Collings explained the scope of work and commented that based on what staff has seen in the failures it is prudent at this time to at least develop a plan, and from the plan and the prioritization staff can look at the implementation.

A discussion ensued and Director Probolsky asked Ms. Giannone if the District is increasing its legal exposure if it has the report and does not do the project. Ms. Giannone commented that it is not; it is a risk management situation and staff is prioritizing where it might have bigger issues, and if anything on the report was critical staff would probably look at that more carefully.

Mr. Collings reported that staff recommends that the Board award the engineering services contract for the easement pipeline rehabilitation project to TetraTech for an amount not-to-exceed \$82,700 and approve an expense authorization in the amount of \$105,000, to be financed from Fund 7, Replacement and Refurbishment Fund.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR FROELICH, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY AWARDED THE ENGINEERING SERVICES CONTRACT FOR THE EASEMENT PIPELINE REHABILITATION PROJECT, CONTRACT 2010.023 TO TETRATECH, INC., FOR AN AMOUNT NOT-TO-EXCEED \$82,700 AND APPROVED AN EXPENSE AUTHORIZATION IN THE AMOUNT OF \$105,000, TO BE FINANCED FROM FUND 7, THE REPLACEMENT & REFURBISHMENT FUND.

Moulton Ranch III Recycled Water Pipeline, Contract 2010.016 – Construction Contract Award

Dr. Gumerman reported that this matter was discussed at the Engineering & Operations Board meeting on Monday and Mr. Collings provided the Board with a staff report. He reported that the District staff issued a Notice of Inviting Sealed Proposals (bids) for the construction of approximately 5,000 linear feet of 8-inch C-900 PVC pipe and 13 new 2-inch recycled water services to provide recycled water service to the

Moulton Ranch III Homeowners' Association (HOA). The HOA currently utilizes more than 55 acre-feet of potable water.

Dr. Gumerman reported that staff recommends that the Board award the contract to Doty Bros. Equipment in the amount of \$630,880, increase the project budget from \$750,000 to \$800,000, and increase the project expense authorization from \$50,000 to \$800,000, to be financed from Fund 12, Water Supply Reliability Fund.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR FROELICH, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY AWARDED THE CONTRACT FOR THE MOULTON RANCH III RECYCLED WATER PIPELINE, CONTRACT 2010.016 TO DOTY BROS. EQUIPMENT, LOWEST RESPONSIVE AND RESONSIBLE BIDDER, FOR AN AMOUNT OF \$630,880, INCREASED THE PROJECT BUDGET FROM \$750,000 TO \$800,000, AND INCREASED THE PROJECT EXPENSE AUTHORIZATION FROM \$50,000 TO \$800,000, TO BE FINANCED FROM FUND 12, WATER SUPPLY RELIABILTY FUND.

LEGAL MATTERS

Approval of Agreement for Participation in MWDOC's Turf Removal

Ms. Pat Giannone reported that included in the Agenda is the proposed final agreement between MNWD and MWDOC which provides for a turf removal program for residents and small commercial water users within the District's service area for as long as MWD funding is available. She explained that the District would provide pre and post inspection, and the guidelines and requirements are set forth in the agreement. Ms. Giannone reported there is a provision in the agreement to pay MWDOC's inspectors to provide the services; however, the District's Customer Service personnel will provide the inspection services for purposes of the applications. She reported that MWDOC has the final determination about whether the applicant has satisfied the criteria.

Director Probolsky asked what happens when a District customer wants to participate in the turf removal program and Mr. Roy explained the process. Dr. Gumerman commented that one of the issues regarding the rebate programs funded by MET is that the funds run out early, which is the case with the Turf Removal Program. He commented that under the WBBRS the revenue from Tiers 3-5 could be used to fund

programs such as this and not be dependent upon MET. Director Fiore commented that in Paragraph 7 of the agreement MWDOC and MNWD agree to indemnify each other against any liabilities resulting from the activities of one or the other. He asked if he is correct that MNWD's only activity is the inspection and Dr. Gumerman commented that it is. Ms. Giannone reported that the applicant is also required to issue an indemnity to MWDOC and MNWD.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR LIZOTTE AND SECONDED BY DIRECTOR KURTZ, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY APPROVED THE AGREEMENT FOR PARTICIPATION IN MWDOC TURF REMOVAL PROGRAM AND AUTHORIZED THE GENERAL MANAGER TO EXECUTE THE AGREEMENT.

Claim of Wise, Property Damage to Automobile Windscreen

Ms. Giannone reported that District staff reviewed and investigated a claim for \$500.00 in property damage to an automobile windscreen, allegedly from loose asphalt sprayed by another vehicle in the vicinity of work performed by a District contractor. She reported that the District referred the claimant to the contractor, who has denied liability on the basis that there is no way to determine that the debris was associated with the work.

Director Froelich commented that sometimes the principle of the situation gets too wrapped up in trying to cover the cost and Ms. Giannone explained that if the claimant were to pursue the claim in Small Claims Court the District would tender it to the contractor. She commented that staff does investigate the claims and if there is a reasonable basis that the District should pay them, it does. Ms. Giannone explained that there was no basis for any kind of determination to be made. She recommended that the Board reject the claim of Wise and authorize staff to send a Notice of Rejection on an ACWA/JPIA approved form.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR FROELICH, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY REJECTED THE CLAIM OF WISE AND AUTHORIZED STAFF TO SEND A NOTICE OF REJECTION ON AN ACWA/JPIA APPROVED FORM.

LATE ITEMS

There were no late items to come before the Board.

ADJOURNMENT

Thereafter, the regular meeting of the Board of Directors of the Moulton Niguel Water District was adjourned at 6:45 p.m.

Respectfully submitted,

Frani Bailey

Recording Secretary