

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

MAY 19, 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, May 19, 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
CHARLES J. ROY	Director of Customer Service
DAVID D. CAIN	Director of Finance/Treasurer
MATT COLLINGS	Director of Engineering & Operations
PAT GIANNONE	Bowie, Arneson, Wiles & Giannone
LESLIE GRAY	Board Secretary
KELLY WINSOR	MNWD
EVA PLAJZER	MNWD
MARK MOUNTFORD	MNWD
ROBYN EPPSTEIN	MNWD
PHIL LAWLER	MNWD
FRANI BAILEY	Recording Secretary

PUBLIC MEMBERS

KAREN LANGER	Resident
RON 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

BOARD/COMMITTEE REPORTS

- **President McKenney requested that a discussion of how Dr. Gumerman proposes to handle communications with the press be agendaized for the Community Relations Meeting.**

CONSENT CALENDAR ITEMS

- **The Board approved Consent Calendar Items 14 through 21 as presented.**

Item 13 – Receive and File Monthly Operational Status Reports

- **The Board approved Consent Calendar Item 13 as presented.**

ENGINEERING & OPERATIONS MATTERS

Wireless Network Implementation, Phase C, Contract 2006.038 – Design Contract Award

- **The Board awarded the contract for structural design of the wireless network implementation, Phase C, Contract 2006.038, to Arcon Structural Engineers in an amount not-to-exceed \$59,388, to be financed from Fund 7, Replacement & Refurbishment Fund.**

LEGAL MATTERS

Vote to Ratify Orange County Special District Selection Committee (OCS DSC)

Bylaws

- **The Board voted for ratification of the proposed OCS DSC Bylaws, authorized the Secretary to fill out the ballot in accordance with the Board vote, and authorized the Board President to sign the ballot.**

Motion to Adopt Water Supply Assessment for Laguna Niguel Gateway Project

- **The Board approved the Water Supply Assessment for the Laguna Niguel Gateway Specific Plan Update dated May 11, 2011.**

**South Coast Water District Proposed Sewer Service Usage Rate Component
Increase for Laguna Sur/Monarch Point Reorganization Area – 218 Notice**

- **The Board approved the 218 Notice and authorized staff to mail it to property owners listed on the assessment rolls in accordance with 218 requirements.**

MINUTE APPROVAL

**CLOSED SESSION OF THE SPECIAL MEETING OF THE BOARD OF DIRECTORS
DATED FEBRUARY 25, 2011**

President McKenney reported that there are three set of minutes to be approved, one of which is the Closed Session minutes of the Special Board Meeting of February 25, 2011. Director Fiore reported that he has a comment with regard to the Closed Session minutes and President McKenney reported that approval of those minutes would occur in the Closed Session.

President McKenney asked if any of the Directors had any comments with regard to the minutes of the Regular Board Meeting of April 21, 2011 or the Special Meeting of the Board of May 4, 2011. Hearing none, he reported that he would entertain a motion to approve both sets of minutes.

**APPROVAL OF MINUTES OF REGULAR BOARD OF DIRECTORS MEETING
DATED APRIL 21, 2011**

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR FIORE AND SECONDED BY DIRECTOR KURTZ, THE BOARD OF DIRECTORS UNANIMOUSLY APPROVED THE MINUTES OF THE REGULAR BOARD OF DIRECTORS MEETING OF APRIL 21, 2011 AS PRESENTED.

**APPROVAL OF MINUTES OF SPECIAL MEETING OF THE BOARD OF
DIRECTORS (ERP/IT WORKSHOP) DATED MAY 4, 2011**

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR FIORE AND SECONDED BY DIRECTOR KURTZ, THE BOARD OF DIRECTORS UNANIMOUSLY APPROVED THE MINUTES OF THE SPECIAL MEETING OF THE BOARD OF DIRECTORS (ERP/IT WORKSHOP) DATED MAY 4, 2011 AS PRESENTED.

PUBLIC COMMENTS

President McKenney opened the Public Comments portion of the meeting and invited Mr. Ron Langer to address the Board. Mr. Langer complimented the Board and staff on the Water Awareness Day and reported that it was much better than last year. President McKenney asked if there were any other public comments. Hearing none, he closed the Public Comments portion of the meeting.

PRESIDENT'S REPORT

President McKenney reported that he attended a WACO meeting this month at which the Executive Director of California Forward spoke about the task of reforming the ways in which the state governs itself, including state and local government. He reported that the next WACO meeting will focus on the views of the state contractors regarding what is going on with the Delta and the state water supply.

President McKenney reported that he attended the ACWA Conference in Sacramento. He reported that he attended the Region X meeting at which there were informative updates about some Federal issues that ACWA has formed subcommittees to address and discussion about a pending Ocean Plan update. President McKenney reported that he was brought on to the Region X Board to fill a vacancy, and the normal election cycle is coming up and ACWA is asking for nominations from agencies. He commented that if any of the other Directors are interested in being nominated to represent MNWD on the Board they should let him know. President McKenney reported that the matter will be agendized in June to nominate someone if the Board chooses to do so. He commented that he is interested in continuing to represent the District; however, if any of the other Directors are interested the Board can decide how to proceed.

President McKenney reported that the Orange County Water Summit is tomorrow and three of the Directors are attending. He reported that he and Director Fiore attended MWDOC's coordinating meeting on April 28, 2011, which was created as a result of the settlement agreement with the South County Agencies. President McKenney reported that his understanding was that the focus of the April meeting would be MWDOC's pending budget; however, the budget was not discussed. He reported that the meeting

was positively received by those in attendance and he feels that the meetings will become more effective in the future.

President McKenney reported that there have been many discussions over the last few weeks about discussions between OCWD and MWDOC exploring the possibility of merging the two agencies. He reported that MWDOC plans to have a discussion as to how it would proceed with an evaluation of a proposal to merge the two agencies at a meeting on June 8, 2011 at 5:00 p.m.

Director Probolsky arrived at 5:40 p.m.

BOARD/COMMITTEE OR OTHER REPORTS

President McKenney inquired if any members of the Board had any Committee or other Reports. Director Fiore reported that he attended Water Awareness Day and thought it was excellent. He complimented Mr. Roy, Ms. Eppstein, and staff for the excellent job they did in organizing all of the demonstrations and booths staffed by the MNWD employees. Director Fiore commented that several of the Directors attended Dr. Gumerman's presentation at the OCWA luncheon, where he talked about MNWD's Water Budget Based Rate Structure, and he did a great job.

Director Kurtz reported that he attended Water Awareness Day and was impressed with the demonstrations and booths staffed by the District employees.

Director Probolsky reported that he attended an interesting meeting in April with the lobbyists from Washington, D.C. regarding desalination. He reported that he attended the WACO meeting and the IRWD Finance Technical Meeting, at which IRWD's ERP project was discussed. Director Probolsky commented that there has been a lot of high profile water news lately regarding compensation, WBBRS, etc. He commented that it is important that the District consolidate its communication with the press and suggested that all communication with the press should go through the General Manager to be sure there is a unified message. President McKenney suggested that a discussion of how Dr. Gumerman proposes to do this be agendaized for the Community Relations Meeting and the Board concurred.

Director Froelich reported that he attended a meeting of the MWDOC-OCWD Planning Board of Directors in April at which the topic of MWD selling discount replenishment water was discussed. He reported that he also attended the ACWA Conference and attended the Personnel & Insurance Committee meeting.

GENERAL MANAGER'S REPORT

South Orange County Wastewater Authority (SOCWA)

IRWD Biosolids Update

Dr. Gumerman reported that as discussed at the Engineering Board meeting Monday, this is a proposed joint project with SOCWA and IRWD. He reported that on Tuesday the SOCWA Board approved the agreement with IRWD to move forward with the project. Dr. Gumerman reported that as he previously reported, SOCWA's Engineering Committee took the position that unless all of the member agencies want to participate, SOCWA should not proceed with the project. He reported that he told the SOCWA Board that he would not recommend to MNWD's Board that it endorse the project unless all of the member agencies were willing to participate, because the basic concept of melding the solids disposal costs would not be feasible if some of the agencies decided not participate in the project.

Dr. Gumerman reported that Santa Margarita Water District has a seemingly viable proposed project that is about four years in the future that is lower in cost than the IRWD project; however the disadvantage is that the technology has not been proven in the United States. Dr. Gumerman reported that he discussed with Mr. Schatz and Mr. Ferons what would happen if SOCWA participated with SMWD in a project at the Chiquita Plant and it did not work out and they indicated that SMWD has adequate land to build an IRWD-type project using the same technology if the other concept does not work out. He commented that he is beginning to wonder if the IRWD project, which would cost the District an additional \$330,000 per year, is the way to go and would have further information for the Board in June.

Update on WBBRS Implementation

Dr. Gumerman reported that he is meeting every week with Mr. Roy, Mr. Collings, and Mr. Cain until and after July 1, 2011 to review what is happening with the implementation of the WBBRS and how the staff can work together as a team to review the customers who would fall into Tiers 4 and 5 prior to July 1, 2011. He reported that Mr. Roy indicated that approximately 5% of the customers from the last three billing cycles were falling into Tiers 4 and 5.

Board of Directors' Handbook

Dr. Gumerman reported that the Directors received their Directors' Handbook. He encouraged the Directors to read through the Handbook and provide Ms. Gray with any comments. He commented the Handbook is intended to be a steep learning curve for new Directors and is also helpful for current Directors. Dr. Gumerman complimented Ms. Gray on the great job she did and thanked her for the hard work she put into the Handbook.

ACWA/JPIA and ACWA Conferences

Dr. Gumerman reported that he attended the ACWA/JPIA Directors' meeting and several workplace seminars as well as some of the financial seminars on pensions, benefits, the OPEB costs, and the WBBRS. He reported that he attended an excellent financial presentation by the Director of Finance at IRWD and a consultant on the top ten financial problems that special districts face, and obtained a copy of the presentation. He reported that if the Directors are interested he would send them the file and President McKenney suggested that Dr. Gumerman send it to the Directors as an information item and if there are particular things that should be highlighted they could be agendaized at the next Finance Board meeting.

California Utility Executive Managers Foundation (CUEMF) Board Meeting

Dr. Gumerman reported that on Tuesday he attended the Board of Directors meeting of the California Utility Executive Managers Foundation (CUEMF). He reported that the Foundation was created to be a forum for General Managers, Assistant General Managers, and Directors to teach each other how to be better at their jobs. Dr. Gumerman

commented that the meeting was very informative and the Foundation will be a big help to General Managers.

Orange County Water Association (OCWA) Presentation on MNWD's WBBRS Implementation

Dr. Gumerman reported that he made a presentation on the District's implementation of the WBBRS at the OCWA luncheon yesterday.

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 Director Probolsky requested that Item 13 be pulled.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR PROBOLSKY AND SECONDED BY DIRECTOR KURTZ, THE BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY APPROVED CONSENT ITEMS 14 THROUGH 21 AS PRESENTED, WHICH ITEMS ARE INCORPORATED HEREIN BY THIS REFERENCE.

Consent Calendar Item 13 – Monthly Operational Status Reports

Director Probolsky asked what the reason typically is for changing from a ¾" meter to a 1" meter. Mr. Roy reported that typically when a resident changes from a ¾" meter to a 1" meter it is for an estate property looking for a larger flow, from 30 gallons per minute to 45 gallons per minute. President McKenney asked if he is correct in assuming that of the 30 new 1" meters 18 were replacing ¾" meters and Mr. Roy reported that he is correct. Director Probolsky asked Mr. Roy to explain the difference between hand-held, touch-read, and radio-read meters. Mr. Roy explained the difference in how the three types of meters are read and answered Director Probolsky's questions. Further discussion ensued regarding Item 13 and Mr. Roy answered the Board's questions.

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

DISCUSSION ITEMS

ENGINEERING & OPERATIONS MATTERS

Wireless Network Implementation, Phase C, Contract 2006.038 – Design Contract Award

Dr. Gumerman reported that as discussed at the Engineering & Operations Board meeting on Monday staff issued a Request for Proposal for Structural Design Services to design footings and towers for the remaining wireless towers necessary to complete the District's wireless network.

Dr. Gumerman recommended that the Board award the contract for structural design services for the wireless network implementation, Phase C, to Arcon Structural Engineers, Inc, in an amount not-to-exceed \$59,388, 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 CONTRACT FOR STRUCTURAL DESIGN SERVICES FOR THE WIRELESS NETWORK IMPLEMENTATION, CONTRACT 2006.038, TO ARCON STRUCTURAL ENGINEERS FOR AN AMOUNT NOT-TO-EXCEED \$59,388, CONTINGENT UPON COMPLIANCE WITH THE CONTRACT DOCUMENTS, TO BE FINANCED FROM FUND 7, THE REPLACEMENT & REFURBISHMENT FUND.

LEGAL MATTERS

Vote to Ratify Orange County Special District Selection Committee (OCSDSC) Bylaws

President McKenney reported that there was a committee formed in the wake of the last election to decide how election procedures could work more smoothly and he is in favor of approving this matter. He noted that MWDOC posted as part of its agenda items a letter it sent to LAFCO recommending additional changes to the Bylaws and he believes MWDOC voted against this.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR PROBOLSKY AND SECONDED BY DIRECTOR KURTZ, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY VOTED FOR RATIFICATION OF THE PROPOSED OCSWSC BYLAWS, AUTHORIZED THE SECRETARY TO FILL OUT THE BALLOT IN ACCORDANCE WITH THE BOARD VOTE, AND AUTHORIZED THE BOARD PRESIDENT TO SIGN THE BALLOT.

Motion to Adopt Water Supply Assessment for Laguna Niguel Gateway Project

Ms. Giannone noted that as a matter of correction the title of this item uses the word "Resolution"; however, this item will be by a motion approval. She reported that all of the requisite findings required by the statute have to be in the WSA itself. Mr. Collings reported that pursuant to the discussion at the Engineering Board meeting the Executive Summary was revised to address the Board's concerns about specifying that the District's imported water supply is dependent upon MET meeting its needs.

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 WATER SUPPLY ASSESSMENT FOR THE LAGUNA NIGUEL GATEWAY SPECIFIC PLAN UPDATE DATED MAY 11, 2011.

South Coast Water District (SCWD) Proposed Sewer Service Usage Rate Component Increase for Laguna Sur/Monarch Point Reorganization Area – 218 Notice

President McKenney reported that this item was discussed at the Engineering Board meeting on Monday. He reported that this involves approving the Proposition 218 Notice to be sent, and that a Public Hearing would be held in the future. He reported that tonight the Board is considering sending out the Proposition 218 Notice.

Ms. Giannone reported that Mr. Roy distributed revised copies of the 218 Notice to the Board. Director Fiore questioned the hearing date of July 14, 2011, which is not the date of the Regular Board meeting for July, and asked if it would be necessary to hold a Special Board meeting for the Public Hearing. Ms. Giannone commented that she believes the Public Hearing would be held on the date of the July Board meeting and would verify if this is correct. President McKenney commented that assuming the Board

approves this tonight the direction would be to verify the date, and if possible the Board would like the date to be coincident with the date of one of the regular Board meetings.

President McKenney commented that some of the verbiage in the 218 Notice has nothing to do with the sewer rates and a discussion ensued. Ms. Giannone recommended that the Board approve the 218 Notice and authorize staff to mail it to property owners listed on the assessment rolls in accordance with 218 requirements.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR FROELICH, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY APPROVED THE 218 NOTICE AND AUTHORIZED STAFF TO MAIL IT TO PROPERTY OWNERS LISTED ON ASSESSMENT ROLLS IN ACCORDANCE WITH 218 REQUIREMENTS.

Closed Sessions Pursuant to Government Code Section 54956.9(b)(1) and Section 54956.9(c)

President McKenney reported that pursuant to Government Code Section 54956.9(b)(1), a Closed Session would be conducted to confer regarding the Claim of Shapell Industries, Inc., presented to the District on April 1, 2011, as amended, and the Claim of Glaser presented to the District on May 3, 2011 (new claim).

President McKenney reported that pursuant to Section 54956.9(b)(1), a Closed Session would be conducted to discuss significant exposure to litigation, and pursuant to Government Code Section 54956.9(c), a Closed Session would be conducted to discuss initiation of litigation.

The Board adjourned to Closed Session at 6:40 p.m.

The Closed Sessions were adjourned at 7:25 p.m. and the open session of the Board was reconvened. President McKenney reported that the Board approved the minutes of the Closed Session of February 25, 2011.

Ms. Giannone reported that with regard to the Closed Session regarding the Claim of Glaser, she has the following reportable action: The Board approved a motion to reject the Claim of Glaser and authorized staff to send a Notice of Rejection on the ACWA/JPIA approved form.

President McKenney requested that staff provide the Board with a one-page sheet regarding the tour of the Plant 3A ETM and Mr. Collings reported that he would do so.

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 7:27 p.m.

Respectfully submitted,

Frani Bailey
Recording Secretary