

**Minutes of Wednesday, December 7, 2016**  
**North Delta Water Agency Board of Directors Meeting**  
14120 Grand Ave. (Walnut Grove Community Church), Walnut Grove

**Call to Order**

Chairman Mello called the board of directors meeting to order at 9:33 a.m. on Wednesday, December 7, 2016. A quorum was determined at that time. Those present:

Directors

Steve Mello, Division 1  
Topper van Loben Sels, Division 2  
Jack Kuechler, Division 3  
Tom Hester, Division 5

Staff

Melinda Terry, Manager  
Cindy Tiffany, Assistant Manager  
Kevin O'Brien, Downey Brand  
Gary Kienlen, MBK Engineers

Others

See attached sign-in sheet.

**Appoint Division 4 Director**

Chairman Mello announced that the board was authorized to fill the vacancy in Division 4 created by the resignation of Kenric Jameson. Manager Melinda Terry reported that only one application was received from an eligible candidate.

**MOTION by Chair Mello to approve Resolution Number 2016-02 appointing Ryan Mahoney to fill the Division 4 Director vacancy. Seconded by Director van Loben Sels. Motion was approved by a 4-0 roll-call vote. (AYES- Hester, Mello, van Loben Sels, Kuechler)**

**Oath of Office**

Assistant Manager Cindy Tiffany administered the Oath of Office to newly appointed Director Ryan Mahoney.

**Approval of the Minutes**

A typo at the bottom of page one in the minutes of the October 5, 2016 meeting was pointed out, recommending the removal of the word "she" in the last sentence.

**MOTION by Director Kuechler to approve the October 5, 2016 minutes as amended. Seconded by Director Mello, and unanimously approved by a voice vote. (AYES: Mello, van Loben Sels, Kuechler, and Hester. ABSTAIN: Mahoney)**

**Financial Report**

Cindy Tiffany presented the quarterly financial reports, pointing out the legal expenses are higher than budgeted with only \$30,000 remaining in the amount budgeted for engineering. The board directed Kevin O'Brien to provide an updated projection of anticipated legal expenses for participating in both the WaterFix diversion change petition and Delta Water Quality Control Plan hearing over the next six months.

**MOTION by Director van Loben Sels to accept the financial reports as presented. Seconded by Director Kuechler and unanimously approved by a voice vote. (AYES: Mello, van Loben Sels, Kuechler, Hester, and Mahoney)**

Cindy notified the board that she misunderstood a notice from the Sacramento County Assessor's Office

regarding exclusion of amounts less than \$10.00 on county property tax bills and inadvertently mailed \$9.00 assessment invoices to landowners. Soon after, she discovered the county had included the NDWA assessment on property bills, and is therefore in the process of returning checks to landowners with a letter explaining the billing error.

### **Engineering Report**

Gary Kienlen distributed water quality graphs, noting salinity levels are currently well within the Contract criteria at all NDWA monitoring locations. He reported that the Four River Index for 2016 was 17.4 million acre feet (sum of unimpaired river flow). Melinda pointed out this means the drought provision in the contract will not be triggered in 2017, so there will not be a claims process next year. Chairman Mello requested Gary report on the Four River Index every December.

### **Legal Report**

Kevin O'Brien reported that the Agency completed presentation of its case-in-chief to the SWRCB hearing officers on the WaterFix change of diversion petition and gave a summary of the testimony provided by NDWA's witnesses and cross-examination by DWR. The testimony phase of Part 1 is nearing completion and Part 2 will not begin until next spring after the Biological Opinions for the project have been released by USFWS and NMFS. The next step is submitting any rebuttal in February. Melinda noted the video of the North Delta region with Steve Mello's narration describing the towns, diversion intakes, sloughs, contract monitoring locations, agricultural crops and animated depiction of the WaterFix intake locations was very well received by the hearing officers.

In response to earlier discussion regarding legal expenses being over budget, Kevin acknowledged the costs associated with the WaterFix hearings have been higher than he originally estimated, but he believes we are past the worst of Part 1. Once the board provides direction in Closed Session on the level of engagement in Part 2, he will work with Gary on developing an estimate of projected costs over the next six months.

### **Manager Report**

She and Gary have made progress on their review of an extremely complicated reclassification request submitted by the City of West Sacramento. Because of the unique circumstances of portions of several parcels being submerged, she is discussing with Gary the ability of the Agency to prorate the assessment rates on some of the parcels, which would set a precedent.

### **Sustainable Groundwater Management Act**

Melinda briefed the board on a recent email from the Solano Basin regarding membership on its GSA and anticipated costs for agencies serving on the board. Solano plans to meet monthly through June 2017 in order to finalize formation of the GSA and development of a JPA or MOU. Erik Ringelberg said the biggest issue in the Solano Basin is figuring out how to ensure agriculture interests are represented on the GSA. He doesn't expect financial contributions in Solano to be an issue until June. Sacramento has no financial commitment in the foreseeable future, and Yolo already has financing.

The board discussed the staff time and costs if NDWA decided to serve on all four of the groundwater basins in its jurisdiction, and decided to continue monitoring each basin and make decisions regarding level of participation, including possibly serving on those boards once the basins were ready to form GSAs.

### **Delta Activities Report**

#### *SWRCB/Delta Watermaster*

Melinda reported the SWRCB recently released the Phase I San Joaquin River Flows and Southern Delta Water Quality report and is scheduled to start Phase II analysis of the Sacramento River flows and Northern water quality with a public hearing on December 15th in Stockton. At the end of the process the water board will be

revising the D-1641 standards, which may require adjudication of water rights in order to provide additional flows to maintain water quality.

Kevin O'Brien explained our current MOU with DWR in regards to D-1641. He acknowledged the update is a very important issue for all watershed users and will require significant participation by NDWA. Kevin and Gary will take the lead in ensuring NDWA's Contract and interests are represented during the Phase II process.

Melinda summarized her review of the updated Water Quality Enforcement regulation recently proposed by SWRCB. They appeared to primarily provide clarification of existing policies and therefore she did not recommend submitting comments. She also reported that the monthly diversion reporting required during the drought has been suspended as of October of 2016. The deadline for submitting water measurement data to the water board has been extended to January 31, 2017.

#### *Delta Habitat Projects*

Melinda submitted NDWA comments on both the CDFW's Delta Conservation Framework and the Delta Conservancy's Cash Slough Restoration Planning.

#### *Delta Protection Commission*

NDWA nominated Cindy Tiffany to participate in the Commission's Leadership Program. DPC Executive Director, Erik Vink, announced the deadline to submit applications has been extended to December 22nd.

#### **Public Comment**

Erik Ringelberg described his effort to develop an alternative water diversion measuring program for the Delta.

#### **Closed Session**

At 11:00 a.m. the board adjourned into closed session to confer with legal counsel on the NDWA protest of CA WaterFix petition for change of diversion. Upon reconvening in open session at 11:33 a.m., Chairman Mello announced there were no reportable actions taken during close session.

#### **Adjournment**

Chairman Mello adjourned the meeting at 11:34 a.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager