

Minutes of Wednesday, June 5, 2019
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, June 5, 2019. A quorum was determined at that time. Those present:

Directors

Steve Mello, Division 1
Justin van Loben Sels, Division 2
Jack Kuechler, Division 3
Ryan Mahoney, Division 4
Tom Slater, 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.

Closed Session

The board adjourned into closed session to confer with legal counsel on the following items:

- i. State Water Resources Control Board adjudicatory proceeding regarding Petition for Changes in Water Rights of the Department of Water Resources and U.S. Bureau of Reclamation for the California WaterFix Project (Gov. Code 54956.9(d)(1)).
- ii. Government Claims Act recovery of delinquent assessments, penalties, and interest against California Department of Fish and Wildlife and California Wildlife Conservation Board (Gov. Code 54956.9(d)(1),(4)) – (two cases)
- iii. Litigation regarding WaterFix 2081 ESA permit. (Gov. Code 54956.9(d)(1)).
- iv. Litigation regarding WaterFix Environmental Impact Report under CEQA. (Gov. Code 54956.9(d)(1)).
- v. Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9.

The board reconvened in open session at 11:09 a.m. and Chairman Mello announced that the board of directors approved a motion to dismiss the 2081 ESA permit lawsuit and the Water Fix CEQA lawsuit. The board also approved a motion authorizing legal counsel to file for recovery of attorney fees expended for the Water Fix CEQA case, but decided not to pursue recovery of attorney fees on the 2081 Incidental Take lawsuit against the CA Department of Fish and Wildlife. Chairman Mello announced the board of directors also voted to authorize outside legal counsel to file motion for intervention on pending litigation challenging the updated Coordinated Operations Agreement between DWR and the U.S. Bureau of Reclamation.

Approval of the Minutes

No additions or corrections were made to the February 6, 2019 minutes or the May 6, 2019 Special Board Meeting minutes.

MOTION by Director Slater to approve the February 6, 2019 regular board meeting minutes and the May 6, 2019 Special Board Meeting minutes as presented. Seconded by Director van Loben Sels and unanimously approved by a voice vote. (AYES: Mello, Kuechler, van Loben Sels, and Mahoney)

Water Use Measurement

Delta Watermaster Michael George described the importance of having Open ET software application to assist with the science of consumptive use. So far, he has received good responses from both the SWRCB and the Delta Stewardship Council regarding development of this database, however, he cannot guarantee that implementation will solve the SB 88 diversion measurement requirements. He will be pursuing approval for introducing legislation to allow use of this data as an alternative to installation of measurement devices on every diversion. He said South and Central Delta Water Agencies have already approved \$50,000 each for this project and encouraged NDWA to contribute the same, as it would be great to report back to the SWRCB that there is unanimous support from the Delta.

MOTION by Director van Loben Sels to approve the \$50,000 contribution to the EDF for Open ET development over a 2-year period (\$25,000 in each fiscal year). Seconded by Director Mello and approved by voice vote. (AYES: Mello, Slater, van Loben Sels NO: Mahoney and Kuechler)

Director Kuechler noted his NO vote was given because he preferred having additional information before making a final decision to fund.

Engineering Report

Gary Kienlen of MBK distributed water quality graphs, noting salinity levels are currently well within the Contract criteria at all NDWA monitoring locations.

Legal Report

Kevin O'Brien said the items reported out from closed session are the only legal matters.

Manager Report

Melinda reported she met with Natural Resources Agency Secretary Wade Crowfoot for CCVFCA, and also told him that NDWA was interested in renewing a revised MOU with DWR as part of the Voluntary Settlement Agreements that are being discussed for the Delta Water Quality Control Plan update. The Secretary subsequently added her to the invite list for settlement meetings and she attended the June Plenary Meeting. Kevin recommended the board create an ad hoc committee to look at non-flow alternatives being developed and the voluntary settlement option. Directors Mello and Slater volunteered to serve on the committee and Brian Busch of RD 2068 and Gary Kienlen of MBK also agreed to participate.

Director Election

Cindy reminded everyone that the election of directors is held every two years (odd years). In 2019, Divisions 2 and 4 are up for four-year term and the two-year remainder of Division 5 due to the appointment to fill vacancy in 2018. The election process includes approval of a resolution calling for the election, notification to the county elections office, and posting and publishing of election notice.

MOTION by Director Kuechler to approve Resolution 2019-01 calling for a General District Election in Division 2, 4, and 5. Motion seconded by Director Mahoney and approved by voice vote. (AYES: Kuechler, Mahoney, Mello, Slater, and van Loben Sels)

Delta Activities Report

Delta Habitat

Director Kuechler announced there is another landowner meeting on the Little Egbert Project on June 27th, but is by invitation only so landowners should contact him if interested in attending.

Delta Protection Commission

DPC Executive Director Erik Vink announced that President Trump signed legislation establishing the Sacramento-San Joaquin Delta National Heritage Area. The Commission will be responsible for developing and implementing a Heritage Area Management Plan. He also reported that the commission is updating its Land Use and Resource Management Plan (LURMP). Melinda stated that CCVFCA, reclamation districts, and county farm bureaus have concerns regarding the draft document released. These entities will be sending Commissioners a coalition letter expressing objections to the staff draft proposing to delete policies adopted in 2010.

Approval of Annual Budget

Cindy presented the proposed fiscal year 2019-20 NDWA budget with total annual projected expenditures of \$1,107,710 and a document disclosing employee compensation as required by CalPERS. The proposed budget includes funding approved earlier in two board motions: \$25,000 contribution to Open ET and \$50,000 for outside counsel to pursue possible litigation.

MOTION by Director Kuechler to approve the proposed \$1,107,710 FY 2019-20 Budget as presented with the increased legal expenses and contribution to Open ET. Seconded by Director Mahoney and approved by a roll call vote. (AYES: Mello, van Loben Sels, Kuechler, Mahoney, Slater)

Adoption of the 2019-20 Assessment Rate

In accordance with Agency assessment policies, the maximum amount the assessment rates can be increased is either 3% or the Consumer Price Index, whichever is higher. The Directors agreed to increase all assessment rate categories to the maximum allowed, including the minimum per parcel rate.

MOTION by Director Kuechler to adopt Resolution 2019-02 authorizing the increase of annual assessment rates to the maximum allowed, 3% or CPI, whichever is greater. Seconded by Director Mello and approved by a roll call vote. (AYES: Mello, Kuechler, van Loben Sels, Mahoney, Slater)

MOTION by Director Kuechler to approve Resolution 2019-03 governing Yolo County's collection of NDWA assessments. Seconded by Director Slater and approved by a roll call vote. (AYES: Mello, Kuechler, van Loben Sels, Mahoney, Slater)

Announcements

Reminder that Pre-1914 and Riparian water use reports are due June 30.

Adjournment

Chairman Mello adjourned the meeting at 12:17 p.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager