

## Minutes of Wednesday, June 1, 2022

### North Delta Water Agency Board of Directors Meeting

In-Person Meeting at 3050 Beacon Blvd Ste 203, West Sacramento, CA and via Teleconference

#### Call to Order

After some technical difficulties, Chairman Mello called the board of directors meeting to order at 9:44 a.m. on Wednesday, June 1, 2022. A quorum was determined at that time. Those present:

#### Directors

Steve Mello, Division 1  
Justin van Loben Sels, Division 2  
Jack Kuechler, Division 3  
Mark van Loben Sels, Division 4  
Tom Slater, Division 5

#### Staff

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

#### Others

Alex Wilson  
Bryan Busch  
Emma Fuzie  
Erik Vink

Lindsay Kammeier  
Lisa Crowley  
Mark Wilson  
916-747-4074

#### Closed Session

The board adjourned into closed session at 9:48 a.m. with legal counsel to discuss the following item:

- i. Litigation regarding WaterFix Environmental Impact Report under CEQA. (Gov. Code 54956.9(d)(1))

The board reconvened in open session at 10:00 a.m. and Chairman Mello announced there was no reportable action taken in Closed Session

#### Approval of the Minutes

No additions or corrections were made to the minutes for the regular board meeting held on May 4, 2022 or to the Special Board Meeting minutes from May 26, 2022.

**MOTION** by Director Kuechler to approve the regular May 4, 2022 and May 26, 2022 Special Board Meeting minutes as presented. Seconded by Director Slater and unanimously approved by a voice vote. (AYES: Mello, Kuechler, J. van Loben Sels, M. van Loben Sels and Slater)

#### Approval of Resolution

In order to continue holding remote meetings, the board needs to approve another resolution authorizing the extension of the Modified Brown Act to allow remote meetings during the COVID pandemic.

**MOTION** by Director Kuechler to approve Resolution No. 2022-004 to extend the ability to hold remote board meetings. Seconded by Director Slater and unanimously approved by voice vote. (AYES: Mello, Kuechler, J. van Loben Sels, M. van Loben Sels, and Slater.)

### **Approval of Annual Budget for Fiscal Year 2022-23**

Cindy presented the proposed fiscal year 2022-23 NDWA budget with total expenditures of \$1,174,286.26. Director Kuechler recommended one change to increase the proposed 3% cost of living raise to 6% for the salaries of Melinda Terry and Cindy Tiffany.

**MOTION** by Director Kuechler to modify the proposed FY 2022-23 budget to provide a 6% cost of living increase to the salaries of Melinda Terry and Cindy Tiffany instead of 3% due to inflation. Seconded by Director Mello and approved by a roll call vote. (AYES: Mello, Kuechler, J. van Loben Sels, M. van Loben Sels, Slater)

Cindy shared a document disclosing employee compensation as required by CalPERS. The above motion increases the Employee Compensation by \$3,290 in FY 2022-23. This increase brings the total budgeted expenses to \$1,178,102.66. There was no additional discussion on other expenses.

**MOTION** by Director Slater to accept the financial statements as presented and to approve the Fiscal Year 2022-23 budget, as modified, of \$1,174,286.26. Seconded by Director M. van Loben Sels and approved by a roll call vote. (AYES: Mello, Kuechler, J. van Loben Sels, M. van Loben Sels, Slater)

### **Adoption of the Fiscal Year 2022-23 Assessment Rate**

Cindy provided a document showing the projection of annual contract payments to DWR through year 2060. She pointed out that contract payments will exceed the assessment revenues by 2032. The current Board policy is to maintain \$2 million in reserve in order to keep up with these increases. The Agency's reserve is currently at \$2.5 million. The board expressed interest in reevaluating an adjustment to the reserve policy to make sure sufficient funds are available as annual contract payments increase over time. Kevin O'Brien recommended the board appoint an ad-hoc committee to conduct a financial review, including the costs of holding another prop 218 vote. Director Slater and Director Mello volunteered to be on the reserve policy ad-hoc committee. Melinda and Cindy will work with them and Anne Williams to schedule a meeting.

In accordance with Agency assessment policies, the maximum amount the assessment rates can be increased is either 3% or the annual change in Consumer Price Index, whichever is higher. The Directors confirmed commitment to reviewing the reserve policy with the ad-hoc committee, but also noted an increase in costs due to inflation. Cindy provided Anne's calculations on the current CPI. After discussion, the board agreed to increase all assessment rate categories to the maximum allowed, including the minimum per parcel rate.

**MOTION** by Director Mello to adopt resolution #2022-05 authorizing the increase of annual assessment rates for all categories to the maximum allowed, 3% or annual change in CPI, whichever is greater. Seconded by Director Kuechler and approved by a roll call vote. (AYES: Mello, Kuechler, J. van Loben Sels, M. van Loben Sels, Slater)

**MOTION** by Director Kuechler to approve Resolution #2022-06 governing the Yolo County's collection of NDWA assessments. Seconded by Director Slater and approved by a roll call vote. (AYES: Mello, Kuechler, J. van Loben Sels, M. van Loben Sels, Slater)

## **Engineering Report**

### *Water Quality and Hydrologic Conditions Update*

Anne provided a slide presentation on water quality conditions. Currently the 14-day mean has been within the NDWA Contract criteria at all seven monitoring locations, but the salinity level has been trending up at the Three Mile Slough and Rio Vista stations due to a higher tide cycle and the Delta Cross Channels being open during the Memorial Day weekend. Although the 14-day salinity level is within criteria, she noted the daily highs for salinity have been above the contract criteria, so farmers need to check daily and real-time levels before irrigating. Anne said she already notified DWR of the trending up of daily salinity levels and requested them to provide the Agency any changes in their operations or forecasted conditions to improve water quality, but has not received a response yet. The Bureau announced the Delta Cross Channels will be closed even on weekends until further notice, which may improve water quality.

### *Update on Contract Drought Emergency Provision (Art. 4(b))*

Anne reported that as of yesterday, the CVP and SWP projects are no longer storing water, which means the D-1641 Western Delta Ag salinity standard moves from Emmaton to Three Mile Slough, and triggers the last criteria in the Contract for the Article 4 Drought Emergency Provision in the Contract. Melinda recommended the Agency send a letter to DWR stating that conditions now exist in Article 4 requiring DWR to establish a Special Claims Process to compensate landowners. She also reported that John Leahigh, DWR, informed her that his staff has been working on the claims procedure.

## **Legal Report**

### *DWR Special Claims Process*

Kevin O'Brien agreed with Melinda's recommendation of sending notification letter to DWR and reported that in anticipation of Article 4 being triggered, he reached out to DWR legal counsel, Tripp Mizzell. They are scheduled to have a phone call tomorrow.

### *Water Quality Control Plan Update*

Kevin reminded the Board, the recently signed MOU to proceed with development of Voluntary Agreements, is intended to provide an alternative compliance plan to be in the updated Bay-Delta Plan environmental review document (SED). Melinda reminded Kevin of his commitment to brief the Board on the details of the recently executed MOU. He recommended the NDWA board discuss the potential benefits and detriments of the Agency being a part of the VAs. He said there is lots of state and federal money being allocated to this process and participants, but may not be available later. Kevin suggested having a staff/consultant meeting to develop a unified position prior to any presentation to the Board.

## **Manager Report**

### *Correspondence*

Melinda reported exchanged emails with Cindy Messer after recent meeting with DWR on compliance with Contract water quality criteria. In addition, Austin Cho has requested DWR to provide a draft barriers reimbursement agreement for NDWA to review and respond.

A bill is pending in the State Legislature, AB 1944, that proposes modification of the Brown Act to permanently allow public agencies to continue allowing virtual participation in meetings. It would require a quorum of the board to be present in one location accessible to the public.

## **Delta Activities Report**

### *SWRCB/Delta Watermaster*

Lindsay Kammeier, Delta Watermaster's Office, reported that Term-91 will be triggered shortly, which will be followed by curtailment of all licenses and Post-1914 water rights, but does not expect curtailment of Pre-1914 water rights. The current Temporary Urgency Change Order (TUCO) will expire at the end of June and no extension is expected.

Funding for the Delta Drought Response Plan was included in the Governors May Revise Budget. They are pushing for a September/October 2022 release date of a program for the 2023 water year.

The Delta Watermaster will be publishing a public document on the Friant complaint about allegations of illegal diversions in the Delta and explaining why no enforcement action will be taken.

Melinda noted that the SWRCB recently approved emergency conservation measures due to the drought, but does not expect them to affect NDWA water users.

### *Delta Habitat Projects*

The Delta Stewardship Council approved a revised certificate of consistency for the Lookout Slough Project, so it can proceed with construction.

### *Delta Conveyance Project*

A Draft Community Benefits Plan for the Delta Conveyance Plan (DCP) was released by DWR with an online information tool. Erik Vink reported that the town of Courtland is looking into potential projects for its community.

### *Delta Conservancy*

Lindsay reported that over 85 applications were submitted, but only 35 were accepted, covering 8,500 acres.

### *Delta Protection Commission*

Erik Vink reported the Commission is close to announcing his replacement as Executive Director. In addition, the DPC is working on providing the U.S. Army Corps impacts to historically and culturally significant properties pursuant to the Section 106 process. He expects the EIR for the DCP to be released in late summer.

### *Delta Stewardship Council*

Melinda continues to participate in DSC technical work groups to identify climate resiliency adaptations as part of Delta Adapts.

## **Public Comments**

No public comments received.

## **Adjournment**

Chairman Mello adjourned the meeting at 11:42 a.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager