

**Minutes of Wednesday, October 4, 2017**  
**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 9:35 a.m. on Wednesday, October 4, 2017. A quorum was determined at that time. Those present:

Directors

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

**Approval of the Minutes**

Kevin O'Brien requested modification of the end of sentence at the top of page 2 of the August 2, 2017 minutes regarding when CEQA court hearings will start. He will provide Cindy alternative language.

**MOTION** by Director Hester to approve the August 2, 2017 minutes as amended. Seconded by Director van Loben Sels, and unanimously approved by a voice vote. (AYES: Mello, van Loben Sels, Mahoney and Hester ABSENT: Kuechler)

**Fiscal Report**

Cindy informed the board that all four county assessment rolls have been completed. She will be working on mailing the direct billing invoices over the next couple of weeks. Cindy presented the current Financial Statements and answered questions on a few of the transactions.

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

**Engineering Report**

Gary Kienlen distributed water quality graphs, noting salinity levels are currently well within the Contract criteria at all NDWA monitoring locations. The state is currently releasing water from Oroville, and both Shasta and Folsom will need to release for flood control storage.

**Legal Report**

*WaterFix*

Kevin O'Brien reported that Westlands Water District voted against funding WaterFix because the project is not financially viable. Melinda Terry pointed out that Westlands wants the Bureau to expand the cost allocation to be spread among all federal water contractors in order to reduce their costs and the district could then change

their vote to support funding WaterFix. Some districts are considering scaling down to a smaller project, which would necessitate a new EIR.

Director Mello asked if there would be any actions based on report finding that the Bureau misused federal dollars. Kevin doubted there would be any ramifications at the state level, but Melinda noted that the Bureau said it would not be seeking reimbursements. Erik Vink, DPC Executive Director, announced that the State Auditor was scheduled to release a report this week regarding DWR expenditures on BDCP/WaterFix.

Kevin announced that Part2 of the WaterFix petition hearings would start in January of 2018. NDWA will need to turn in a Notice to Appear by October 13th and file its Case in Chief by November 30<sup>th</sup>. There will be a hearing on October 19<sup>th</sup> to discuss procedural issues.

#### *Contract Payment*

Kevin reported that DWR requested to extend the contract payment due date again from October 1st to November 15<sup>th</sup> to allow more time for CDFW and DWR to resolve verification of all parcels owned by CDFW. Kevin suggests we hold off on proceeding now with the lawsuit since we seem to be moving forward, and we still have until January to file.

#### **Manager Report**

##### *Director Elections*

Cindy reported that candidate packets were only submitted by incumbents for all four divisions, so there will be no need for an election because all four candidates are unopposed. The next step is to notify the County Board of Supervisors of the sole candidates and they will then vote to approve the incumbents to new terms as NDWA Directors.

##### *Delta Water Quality Plan Update*

Discussion of the Delta Flows Resolution was postponed until the next board meeting.

##### *Sites Reservoir*

Melinda reported that as a follow-up to prior presentation on Sites Reservoir, she had received a sample support letter from the Northern California Water Agency Executive Director, David Guy, for NDWA's consideration.

**MOTION** by Director Mahoney authorizing legal counsel and Manager to write a letter supporting the Sites Reservoir project. Seconded by Director van Loben Sels and approved by a voice vote. (AYES: Mello, Kuechler, van Loben Sels, Mahoney, Hester)

##### *Yolo Bypass Project*

The U.S. Bureau of Reclamation has approved NDWA as a cooperating agency on the Yolo Bypass project which will allow the Agency to review and comment on an Administrative Draft EIR that should be available soon. The board discussed EIR comments regarding impacts to farming and NDWA assessments. Melinda agreed they were all good points and more board discussion would occur once the administrative draft was released.

#### **Delta Activities Report**

##### *Delta Protection Commission*

Erik Vink reported that he and the consulting firm have reviewed and agree with most of the changes to the Delta levee funding study submitted by Delta flood control representatives Melinda, and will therefore be releasing a revised draft. He also announced that the Delta Leadership program will soon be asking for nominations and encouraged the Board to nominate candidates.

*Delta Stewardship Council*

Erik Vink reported that the next round of Delta Plan amendments the DSC is planning on proposing is to Chapter 4 on Ecosystem.

**Public Comment**

Mark Wilson informed the board that he was concerned about the draft Delta Conservation Framework report developed by the California Fish & Wildlife to guide ecosystem restoration.

**Closed Session**

The board adjourned into closed session to confer with legal counsel to discuss:

- a. 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));
- b. Government Claims Act recovery of delinquent assessments, penalties, and interest against California Department of Fish and Wildlife (Gov. Code 54956.9(d)(1),(4)); and
- c. Anticipated litigation pursuant Government Code section 54956.9(d)(4), one case.

The board reconvened in open session at 11:17 am and Chairman Mello announced that the board of directors authorized legal counsel to commence litigation against the California Department of Fish & Wildlife (CDFW) alleging that CDFW violated the California Endangered Species Act in granting a permit for the Cal WaterFix Project pursuant to Section 2081 of the California Fish & Game Code.

**Adjournment**

Chairman Mello adjourned the meeting at 11:18 a.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager