

Minutes of Wednesday, June 8, 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 9:32 a.m. on Wednesday, June 8, 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
Kenric Jameson, Division 4

Staff

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

Others

See attached sign-in sheet.

Absent

Tom Hester, Division 5

Approval of the Minutes

Director van Loben Sels requested an amendment to delete references to reports provide by Michael George, as he was not in attendance at the April 6th meeting.

MOTION by Director Mello to remove paragraph 2 on page 3 from the April 6, 2016 minutes, and approve as amended. Seconded by Director van Loben Sels, and unanimously approved by a voice vote. (AYES: Mello, van Loben Sels, Jameson. ABSENT: Kuechler, Hester)

DWR Special Claims Procedure

Geoff Shaw, Chief of the Project Water Contracts Branch gave an update of the current standing of the Special Claims Procedure put in place by DWR pursuant to the Emergency Drought provision in Article 4 of the 1981 Contract. He reported that eight claims were submitted which started a 90-day review period by their agriculture expert. If requested, the landowners will be provided the opportunity to meet in person with their agricultural expert. He answered several process questions posed by claimaints.

Engineering Report

Gary Kienlen distributed water quality graphs, noting salinity levels are currently within the Contract criteria. He reported reservoir releases have remained steady and MBK continues to have monthly phone conversations on water quality conditions with State Water Project operation staff.

Manager Report

Melinda Terry reported the amendments to the Agency's conflict of interest code have not been finalized with FPPC staff yet, but expects it to be done soon. Once language is finalized, then FPPC will need to conclude its process, including review by the Office of Administrative Law. She will be a speaker at the Lodi Wine Symposium on a water panel.

Director Kuechler provided a brief summary of the Agricultural Summit hosted by Solano County on May 27th to discuss representation of farmers on a Groundwater Sustainability Agency with the Solano sub-basin. Solano will be scheduling another Advisory Committee meeting in August. Yolo and San Joaquin sub-basins have

submitted boundary change requests to DWR.

Director van Loben Sels stated that RD 307 and other RD's working with Erik Ringelberg have signed an MOU formalizing their intent to form a Northern Delta Groundwater Sustainability Agency. They are working on forming a GSA by the June 2017 deadline, with a meeting sometime in August to discuss future actions and costs.

Legal Report

Kevin O'Brien provided an update on the status of the water rights hearings on the change of diversion petition for the Water Fix twin tunnels project. DWR has submitted their evidence, including the testimony of ten expert witnesses. The testimony is general and therefore lacks details regarding project description and does not include a water operations plan. He is currently preparing objections to DWR's evidence, which are due June 15th. The hearings will commence on July 26th with an opportunity for him and attorneys for other protestors to cross-examine DWR's expert witnesses. MBK modelers have closely analyzed the WaterFix modeling and believe the results underestimate impacts and injury to other water users due to unrealistic assumptions built into the model.

Financial Report

Cindy Tiffany reviewed the FY 2015-16 Financial Reports, noting that they do not reflect payment of all June bills. In response to a question last month, she reported that the \$70,000 difference in assessment revenues is a one-time deduction by Solano County for previous overpayments to NDWA on state and federal public lands for which the county does not collect any assessments. In August 2015, Solano informed NDWA there would be a one-time deduction of uncollected revenues over the last five years. NDWA will direct bill future assessments on these properties.

MOTION by Director van Loben Sels to accept the FY 2015-2016 Financial Reports as reported. Seconded by Director Jameson, and unanimously approved by a voice vote. (AYES: Mello, van Loben Sels, Kuechler, Jameson. ABSENT: Hester)

Cindy recommended the board approve a written request from the CA State Lands Commission (SLC) for NDWA to waive \$536.21 in interest charges due on delinquent assessments. She informed the board that SLC had already paid the full amount of overdue assessment and penalty amounts, and committed to paying all future annual assessments.

MOTION by Director Mello to waive interest charges in the amount of \$536.21 levied against the CA State Lands Commission. Seconded by Director Kuechler, and unanimously approved by a voice vote. (AYES: Mello, van Loben Sels, Kuechler, Jameson. ABSENT: Hester)

Approval of Budget

Cindy presented the proposed FY 2016-2017 budget, including a document disclosing employee compensation as required by PERS. New items are funding for creation of an official logo for NDWA and subscription to Maven's Notebook. Volunteers will be needed to help design the logo. Director Kuechler noted the high cost of ACWA membership, questioned whether the Agency should continue membership or request the CA Central Valley Flood Control Association to split the costs. Cindy explained that the Agency receives general liability insurance and health care benefits for staff through ACWA. After a brief discussion, the board agreed to continue discussing establishing maximum health care benefit policies and directed staff to investigate obtaining health care and liability insurance through other providers. Melinda commented that sharing ACWA membership costs would require an amendment to the agreement with CCVFCA. The directors revised the proposed budget to modify legal and engineering expenses, including elimination of funding for drought barrier negotiations. After all changes to individual budget items, the revised projected annual expenses were reduced

by \$20,000 to a new total of \$1,018,572.51.

MOTION by Director Kuechler to revise the proposed FY 2016-2017 budget to eliminate drought barrier funding under legal and engineering expenses, augment engineering WaterFix costs by \$20,000, and augment legal services by \$10,000, for a total annual expense of \$1,018,572.51; and approve as amended. Seconded by Director Mello, and approved by a roll call vote. (AYES: Mello, van Loben Sels, Kuechler, Jameson. ABSENT: Hester)

Adoption of the 2016-2017 Assessment Rate

The board reviewed a handout estimating projected Contract payment increases through 2050, noting that expenses will eventually exceed revenues due to the maximum rate increase built-in the Contract that automatically increase payments to DWR by 5% a year. Directors discussed increasing the reserve in anticipation of higher Agency expenses and accelerating Contract payments, including a re-negotiation of annual payment required in 2021.

MOTION by Director Mello to increase the reserve from \$1 million to \$2 million by 2021. Seconded by Director Kuechler, and approved by a roll call vote. (AYES: Mello, van Loben Sels, Kuechler, Jameson. ABSENT: Hester)

Gary Kienlan presented the maximum assessment rates allowed according to Agency policy authorizing annual increases to 3% *or* Consumer Price Index, whichever is higher. He explained that if the base rate is increased by the higher 3%, then the base rate for FY 2016-17 would be \$3.46 per acre which would make the maximum per acre rate \$8.62. The minimum per parcel rate has not been raised since it was initially established in 2012, but the board has the right to apply cost of living adjustments reserved from prior years, and therefore can raise the minimum per parcel rate from \$8.00 to \$9.00. It is unclear whether the CPI increase can be applied to 2012, but he would work with staff to research whether that can be applied retroactively as well at some point in the future. Directors agreed increasing the rates to the maximum allowed (3%), including raising the minimum per parcel rate for the first time, was necessary to build the reserve to \$2 million by 2021.

MOTION by Director Kuechler to adopt Resolution 2016-01 authorizing an increase of annual assessment rates to the maximum allowed (3%), thereby setting the FY 2016-17 base rate at \$3.46 per acre and the minimum per parcel rate at \$9.00. Seconded by Director Mello, and approved by a roll call vote. (AYES: Mello, Kuechler, Jameson, van Loben Sels. ABSENT: Hester)

MOTION by Director Kuechler to approve the Yolo County resolution governing the collection of NDWA assessments by the county. Seconded by Director Mello, and approved by a roll call vote. (AYES: Mello, Kuechler, Jameson, van Loben Sels. ABSENT: Hester)

Delta Activities Report

Delta Watermaster Michael George confirmed the SWRCB had issued Term 91 curtailments and reported that the water rights complaint against the Byron Bethany and Westside Water Districts was dismissed by the SWRCB because the methodology used to determine availability of water in the system was not deemed adequate to justify the enforcement action. Because the dismissal undermines the water board's ability to curtail pre-1914 water rights in drought conditions, the Watermaster will be convening stakeholders next month to develop a new methodology that would become a regulation.

The Watermaster reported the consumptive use study is in its second year and has collected lots of good information. Responding to a question from Gary Kienlen, he said that the consumptive use reporting was not going to be used for the administration of water rights. Reminding everyone that water users are still required to comply with new water diversion measurement reporting requirements, he also acknowledged that Osha

Meserve is helping landowners to develop an alternative compliance plan which is allowed under the regulation.

Melinda reported that Metropolitan Water District is seeking to buy the Peterson Ranch properties in Solano County, but the Solano County Water Agency was also considering purchasing. She provided an update on legislative matters, including the status of legislation supported by NDWA. Assemblyman Frazier's omnibus Delta protection bill, AB 2583, failed passage in Water, Parks and Wildlife Committee, but AB 1713 by Assemblywoman Eggman requiring a vote of the people on WaterFix twin tunnels project passed. However, AB 1713 is on a slow track to nowhere, currently pending on the Appropriations Suspense File and officially opposed by the Brown Administration. State Legislators sent a letter requesting the SWRCB to expedite completion of the Delta Water Quality Control Plan update and intend to also request a State Audit of the WaterFix funding.

Andrew March, district staff for Congressman Garamendi, provided an update on recent hearings on drought legislation. Working with Senator Feinstein, Rep. Garamendi has sponsored a bill that includes \$1.3 billion for projects to reduce reliance on the Delta, and is intended to be an alternative the constant threat of Republican Leadership to insert more harmful water export amendments into other bills.

Closed Session

The board adjourned into closed session to confer with legal counsel on the State Water Resources Control Board adjudicatory proceeding regarding petition for changes in diversion points for the WaterFix twin tunnels project.

Upon reconvening in open session, Chairman Mello announced the board did not take any reportable actions in close session

Adjournment

Chairman Mello adjourned the meeting at 1:05 p.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager