

Minutes of Wednesday, April 5, 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 9:31 a.m. on Wednesday, April 5, 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
Tom Hester, Division 5

Staff

Melinda Terry, Manager
Cindy Tiffany, Assistant Manager
Kevin O'Brien, Downey Brand
Anne Kwedar, MBK Engineers

Others

See attached sign-in sheet.

Approval of the Minutes

Correction of minor typo on page 2 was made to the February 1, 2017 minutes.

MOTION by Director Hester to approve the February 1, 2017 minutes with correction. Seconded by Director Mello, and unanimously approved by a voice vote. (AYES: Mello, van Loben Sels, and Hester. ABSENT: Mahoney, Kuechler)

Annual Election and Appointment of Officers

Governing statutes require annual election of Chairman and Vice Chairman, and board also appoints Treasurer.

MOTION by Director van Loben Sels to nominate Director Mello as Chairman and Director Kuechler as Vice Chairman. Seconded by Director Hester, and unanimously approved by voice vote. (AYES: Mello, van Loben Sels, and Hester. ABSENT: Mahoney, Kuechler)

MOTION by Director Mello to appoint Director Hester as Treasurer. Seconded by Director van Loben Sels, and unanimously approved by voice vote. (AYES: Mello, van Loben Sels, and Hester. ABSENT: Mahoney, Kuechler)

Financial Report

Cindy Tiffany announced she has received the first installment of assessment payments from all counties, presented the Quarterly 2016-17 Financial Reports, and provided an update on the legal and engineering costs for the WaterFix petition hearings.

MOTION by Director van Loben Sels to accept the Quarterly Financial Reports for 2016-17 as presented. Seconded by Director Hester and unanimously approved by a voice vote. (AYES: Mello, van Loben Sels, and Hester. ABSENT: Mahoney, Kuechler)

Melinda provided a detailed report regarding an emerging legal situation due to the most recent invoice received from DWR for annual payment pursuant to the Contract. DWR's December 2016 letter advised NDWA that there is no authority in the Contract to provide a credit for property owned by the CA Dept. of Fish and Wildlife

(CDFW). She reminded the board that as settlement for prior lawsuit NDWA filed against CDFW for delinquent assessments, a MOU was executed between NDWA and DWR establishing a credit for any lands owned by CDFW. However, the MOU terminated in 2011 once NDWA landowners approved new rates in Prop. 218 election. Therefore, NDWA submitted the first installment of the Contract payment with a letter of protest. Kevin O'Brien committed to meeting with DWR legal counsel to discuss execution of a new MOU crediting payment of CDFW-owned land.

Manager Report

Melinda presented logo options developed by graphic designer. The directors narrowed the choices down to one logo. Cindy will request the designer to provide various versions of the selected layout based on showing different fonts and colors for the board to consider at next meeting.

Melinda reported on two recent communications from the Association of CA Water Agencies (ACWA). The ACWA JPIA has added cyber coverage to the 2016-17 general liability insurance policy and an email from ACWA Executive Director to all members requesting us to consider adopting a resolution providing direction to the SWRCB regarding the update of the Delta Water Quality Plan (D-1641). She will provide copies of the proposed resolution for the board's review, discussion and consideration at their next meeting.

The board requested Kevin O'Brien give a presentation at the next board meeting on the water quality plan update process, impacts to water rights, and relationship to NDWA 1981 Contract, including the 1998 MOU related to the prior D-1641 WQCP update. He recommended the Agency also invite: Marc Van Camp with MBK Engineers to give a presentation on the evaluation of risk from the water board's unimpaired flow proposal; David Guy with NCWA regarding potential of settlement agreements associated with update of D-1641; and Jim Watson to speak about the Sites Reservoir project. To accommodate all of the presentations, the board directed staff to schedule an additional board meeting on May 3, 2017 and invite the speakers discussed.

She also covered administrative issues related to annual assessment collection process, recent correspondence by NDWA, and expansion of the Public Records Act scope and jurisdiction. She and the Cindy recent met with MBK staff regarding a proposal they developed to streamline the annual update of the NDWA assessment roll by creating a custom database. This effort would require an initial investment to create the data base, so a formal proposal with estimated costs will be presented for the board's consideration when they adopt annual budget at the June meeting. She then informed the board about letter endorsing expertise of modeler at MBK and of a recent court ruling determining that the use of personal cell phone, text and emails for work is subject to release under the Public Records Act. The board directed staff to update the Agency's document retention policy to ensure it addresses issues decided in the court ruling.

Legal Report

Kevin O'Brien reported that the CA WaterFix hearing will resume on April 25th with the rebuttal phase, which includes: submitting additional NDWA testimony by MBK witnesses; cross-examining DWR witnesses on their rebuttal testimony; defending motions by DWR to dismiss Walter Bourez' and NDWA witness testimony, and a motion by NDWA for DWR to produce specific modeling information mentioned by the witnesses under prior cross-examination. Approval of the final WaterFix EIR/EIS by DWR and USBR may be delayed until late summer to allow federal fish agencies to revise Biological Opinions pursuant to recent peer review conducted by an Independent Science Panel that raises numerous concerns and recommendations.

Engineering Report

Anne Kwedar with MBK distributed water quality graphs, noting salinity levels are currently well within the Contract criteria at all NDWA monitoring locations. She reported recent snow survey was at 140% of normal.

Sustainable Groundwater Management Act

Melinda reported that both Yolo and Solano County have developed MOUs to formalize formation of Joint Power Authority (JPA's) defining agency participation in and governance of a Groundwater Sustainability Agency (GSA). Both JPAs appear to be similar in that they propose creating special committees for regions within the groundwater basin that can include non-voting members to be responsible for making recommendations to the GSA regarding management of groundwater. Agencies interested in serving as voting members and financially contributing to each GSA are requested to adopt resolutions approving their participation in the JPA by the end of May. The Northern Delta GSA being formed by Erik Ringleberg with Freshwater Trust is also proceeding with formation and has held all required public meetings. There was no vote by NDWA board to opt-in as a voting/paying member of any of the proposed GSAs.

Delta Activities Report

SWRCB/Delta Watermaster

Melinda announced Tam Doduc was reappointed and Joaquin Esquivel was appointed as new member of the SWRCB. She also distributed a spreadsheet from the Delta Watermaster showing list of water users that are delinquent in submitting their 2015 annual diversion report to SWRCB with a notice stating a \$1,000 fine for failure to file 2015 statement will become effective May 6, 2017, with additional \$500 per day penalty that violation continues. In regards to a separate water diversion report additionally required pursuant to SB 88, Anne from MBK provided an update on filing for extension of those water diversion measurements.

WaterFix Permitting

Metropolitan Water District of Southern California is anticipating having its board of directors vote on formally endorsing funding of CA WaterFix in the near future according to recent briefings by their staff.

Fremont Weir Modification EIR Notice

The USBR and DWR are proceeding with preparation of EIR/EIS for project to modify Fremont Weir to divert up to 6,000 cfs into the Yolo Bypass to benefit fish as one of the floodplain habitat restoration projects that would be credited under the SWP/CVP Biological Opinions for the continued operation of existing SWP/CVP export pumping facilities in the South Delta. The Agency recently received a letter from the USBR inviting NDWA to become a Cooperating Agency on this project, which entails executing a MOU. Melinda reminded the board that NDWA already signed a MOU to be a Cooperating Agency on the BDCP, which included the Fremont Weir project as Conservation Measure 2. She will provide copies of the new Cooperating Agency MOU to the board for their review, discussion and consideration at the next board meeting.

Delta Conservancy, Delta Protection Commission, and Delta Stewardship Council Activities

There will be a joint workshop on April 6th with Delta Conservancy and California Fish & Wildlife considering proposals for on Prop. 1 grant funding. DPC Executive Director Erik Vink described letter the Commission submitted to Legislature on expectations for the allocation of Prop. 1 funding for Delta levees and another letter to the Central Valley Flood Protection Board commenting on the 2017 update of the Central Valley Flood Protection Plan. Melinda provided brief summary of new conveyance policies proposed by the DSC for adoption into the Delta Plan and described the written comments she suggests the Agency submit. The board agreed with her approach.

Closed Session

The board did not adjourn into closed session.

Adjournment

Chairman Mello adjourned the meeting at 11:15 a.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager