

Minutes of Wednesday, April 6, 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, April 6, 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
Tom Hester, Division 5

Staff

Melinda Terry, Manager
Cindy Tiffany, Assistant Manager
Rebecca Smith, Downey Brand
Gary Kienlen, MBK Engineers
Sarah Harper, MBK Engineers

Others

See attached sign-in sheet.

Absent

Kenric Jameson, Division 4

Welcome and Introductions

Chairman Steve Mello called the meeting to order at 9:32 a.m.

Closed Session

The board adjourned into closed session to confer with legal counsel in closed session for purposes of discussing the 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 associated with the CA WaterFix project. The board spoke with legal counsel in regards to Colleen Flannery's Conflict of Interest letter to the NDWA related to her working on the BDCP/WaterFix project on behalf of the Attorney General's office.

Upon reconvening in open session, Chairman Mello announced that the board took action directing the Manager to send a response letter consenting to former NDWA employee Colleen Flannery's working on CA WaterFix in her new position with the State of California.

Legal Report

Rebecca Smith reported on the current status of the WaterFix diversion change petition hearings. The State Water Resources Control Board has suspended the hearing until they review DWR's request for a 60 day extension and requests for dismissal of the petition and disqualification of hearing officers by other parties. The hearing officers are expected to make a ruling that provides a new schedule of when parties must submit their case in chief (evidence and testimony). NDWA legal counsel will continue preparing the Agency's case in chief.

Melinda Terry reviewed some of the specific assurances and mitigations provided in the recently announced Settlement Agreement between DWR and Contra Costa Water District (CCWD). Now that CCWD will no longer be participating in the petition hearings, she informed the board that NDWA's portion for shared common legal expenses among Downey Brand's Delta clients for their work on the WaterFix petition will increase from 20% to 25%.

Engineering Report

Gary Kienlen distributed water quality graphs, noting salinity levels are currently within the Contract criteria. The contract criteria for the year is based on the April Bulletin 118 which should be released any day. MBK will send NDWA staff new water quality plots for them to post on the Agency's website once they review Bulletin 118. He reported that MBK continues to have phone conversations with DWR operation Staff on a monthly basis. We are still under drought emergency orders and those are through September of 2016, but could be extended, however Emmaton compliance point required in Decision 1641 is not anticipated to be moved to the Three Mile Slough location this year.

Manager Report

Melinda Terry provided an update on the status of the DWR Special Claims Procedure, informing the board that there were initial problems due to DWR rejecting claims for being incomplete because they did not include certification by the NDWA that the property was located within Agency boundaries. She immediately contacted State Water Project staff that are responsible for processing the claims to resolve the issue, but landowners will have to re-send their claims into DWR.

She also reported that due to staff retirement at FPPC, the Conflict of Interest Code amendments approved by the board last year were never finalized by the Commission, but she is working with the new staff person on completing the revisions in accordance with FPPC's process. Cindy will be working with legal counsel to schedule a training course on August 31st to comply with FPPC requirements on ethics and sexual harassment for Directors and Managers.

The board agreed to move the June 1st Board Meeting to June 8th due to accommodate vacation schedules of staff. The June 8th meeting will include approval of budget and assessment rate for the fiscal year, including a review of the Agency's reserve amount and contract payments projected out for at least the next twenty years.

Melinda reported on recent Groundwater Basin activities. The Yolo Water Resource Association has submitted their request for boundary changes to DWR and held three public meetings discussing a proposal for forming zones within the basin to develop groundwater data and standards for each zone. They are trying to get the sub basin boundary changed to the limits of Yolo County, but are willing to make adjustments per local agency request such as RD 2068 wanting to be in the Solano sub-basin and coalition of Northern Delta reclamation districts that are considering forming their own Groundwater Sustainability Agency (GSA).

Sacramento County is not proposing any boundary changes so part of their boundaries will lie within the Solano Sub-basin, but Erik Ringelberg is still working towards establishing a North Delta GSA that would encompass RDs in multiple sub basins, but will require working on boundary changes in 2018/2019.

She briefed the board about her participation on an advisory committee created in the Solano Basin that includes all eligible GSA entities, and the discussion of recommendations for forming GSA submitted by the Solano County Farm Bureau that pointed out that 79% of the groundwater use in the basin is for farming. An Agricultural Workshop is scheduled for late May for farmers to provide input regarding their participation and representation on the GSA.

The facilitator for Solano has requested the advisory committee participants to respond to several questions intended to help guide development of GSA governance. What kind of governance structure would be acceptable for board to be comfortable with? What do we need? What would we be opposed to? The board agreed that including at least one voting Delta representative in the governance is a priority and that NDWA wants a voice at the table.

As a follow-up to a prior letter sent to DWR, Melinda informed the board that DWR declined NDWA's request for reimbursement for legal and engineering costs incurred working on the drought barrier agreement, which was previously paid by DWR when barrier was installed in 1976 drought.

Drought Report

Melinda reported that after initial presentation of case in chief and motions for dismissal by the defendants, the SWRCB indefinitely suspended water rights hearings regarding allegations that BBID/WSID illegally diverted project water in 2015.

Michael George, Delta Watermaster, informed the board that he has proposed the SWRCB convene a workshop to explore development of a rule to guide water availability in the Delta in regard to quantifying use and inflow during drought years. He would like to have the new rule which would require tracking all water use within the Delta in place by the next irrigation season. Although he did not anticipate such a rule limiting how much water could be used in the North Delta because of the contract, it probably would still require diverters to track use within NDWA. However, Central and South Delta could have less available water for diversion under such a rule.

Legislative Report

Melinda reported on federal and state legislative activities. On March 11th, the Senate Select Committee on the Sacramento-San Joaquin Delta held an informational hearing in San Francisco on the California WaterFix project. Both the invited panel speakers and the public mentioned among other issues the importance of having the State Water Resources Control Board complete the update of the Bay-Delta Water Quality Control Plan (WQCP) prior to approving a change in diversion for the WaterFix project.

The Agency has received requests from both Assemblymembers Susan Eggman and Jim Frazier to support their respective bills related to protecting the Delta. AB1713 (Eggman) would require a statewide vote be held for any project to build peripheral tunnels in the Delta and AB 2583 (Frazier) would amend the Delta Reform Act to require the Bay-Delta WQCP be completed prior to WaterFix construction as well as other protective measures. Neither bill contains language opposing the export of water from the Delta, therefore Melinda recommended the board support both bills.

MOTION by Director Kuechler for NDWA staff to write support letters for both AB 1713 and AB 2583. Seconded by Director Hester, and unanimously approved by a voice vote. (AYES: Mello, van Loben Sels, Hester, Kuechler ABSENT: Jameson)

Melinda informed the board about a recent meeting with Congressman Garamendi, per his request, in which he briefed her about his drought companion bill to Senator Feinstein's bill. There are water supply provisions in the bill requiring the DCC gates be open for longer periods of time which could result in salinity intrusion, but he is willing to request additional amendments to the bill regarding establishing criteria for gate closure based on setting flow thresholds that ensure contract criteria is met.

Approval of the Minutes

Chairman Mello pointed out that the March 2, 2016 minutes fail to mention that the board did not hold a closed session as stated on the agenda, so this should be mentioned in the minutes.

MOTION by Director Kuechler to approve an amended version of the March 2, 2016 minutes with the addition of a sentence stating that no closed session was held. Seconded by Director van Loben Sels, and unanimously approved by a voice vote. (AYES: Mello, van Loben Sels, Hester, Kuechler ABSENT: Jameson)

Financial Report

Cindy Tiffany reported on current costs for the WaterFix hearing petition and that they are currently within the Board approved budget amount.

She reported success in collecting approximately \$5,000 in delinquent assessments and presented two letters the Agency received that request the board to waive penalties and interest for late assessment payments. County of Sacramento has paid their assessment amount, but has requested the \$7.61 in interest and penalties be waived because they claim to not have received the invoice and were therefore unaware of the delinquent status. The California School Boards Association has paid their assessment amount, but is requesting the board waive the \$5.32 in interest in penalties because they did not receive the invoice due to a change of address.

MOTION by Director Kuechler to waive penalties and interest for the County of Sacramento and the California School Boards Association assessments pursuant to the letters they submitted. Seconded by Director Mello, and unanimously approved by a voice vote. (AYES: Mello, van Loben Sels, Hester, Kuechler ABSENT: Jameson)

Director Kuecher asked why the Financial Statements show the assessment revenues collected from Solano County was approximately \$70,000 less than last year. Cindy speculated that the difference is due to timing or maybe the increased number direct billings for minimum parcels we had to send out this year due to a change by the county, and committed to provide an answer at the next meeting.

Adjournment

Chairman Mello adjourned the meeting at 12:14 p.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager