

Minutes of Wednesday, June 6, 2018
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 9:33 a.m. on Wednesday, June 6, 2018. 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 Slater, Division 5

Staff

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

Others

See attached sign-in sheet.

Closed Session

The board adjourned into closed session to confer with legal counsel on the following four items:

1. 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)).
2. Government Claims Act recovery of delinquent assessments, penalties, and interest against California Department of Fish and Wildlife (Gov. Code 54956.9(d)(1),(4))
3. Litigation regarding WaterFix 2081 ESA permit. (Gov. Code 54956.9(d)(1)).
4. Litigation regarding WaterFix Environmental Impact Report under CEQA. (Gov. Code 54956.9(d)(1)).

The board reconvened in open session at 10:04 a.m. and Chairman Mello announced that the board of directors directed counsel to send a letter to the State Water Resources Control Board asserting DWR/CVP need to file a petition for change of diversion to evaluate impacts to other legal water users for the Yolo Bypass Salmonid Habitat Restoration and Fish Passage Project which proposes lowering (notching) a portion of the weir and installing a gate to be operated by CVP or SWP in order to divert up to 12,000 cfs of water into the Yolo Bypass.

Approval of the Minutes

No additions or corrections were made to the April 4, 2018 minutes.

MOTION by Director Mahoney to approve the April 4, 2018 minutes as presented. Seconded by Director van Loben Sels and unanimously approved by a voice vote. (AYES: Mello, Kuechler, van Loben Sels, and Mahoney)

Appoint Division 5 Director

Chairman Mello announced the NDWA received one application from Thomas Slater to fill the Division 5 vacancy created by the resignation of Thomas Hester. Melinda stated the application is complete and the

candidate meets the qualifications specified in the Agency's governing statutes.

MOTION by Director Kuechler to approve Resolution Number 2018-01 appointing Thomas Slater to fill the Division 5 Director vacancy. Seconded by Director van Loben Sels and unanimously approved via roll-call vote. (AYES: Mahoney, Mello, van Loben Sels, Kuechler)

Cindy Tiffany administered the Oath of Office to newly appointed Director Tom Slater.

Appoint Treasurer/Secretary

Melinda announced that with the resignation of Tom Hester the Board of Directors would need to appoint a new Treasurer/Secretary.

MOTION by Director Mahoney to nominate Tom Slater as the new Treasurer/Secretary and to add him as a signatory on the Bank of Rio Vista accounts and to remove Tom Hester's signatory status. Seconded by Director van Loben Sels and unanimously approved by voice vote. (AYES: Mello, Kuechler, van Loben Sels, Mahoney, and Slater)

The Board directed the Manager to update who is authorized to sign checks and other bank documents for the NDWA bank account at Rio Vista Bank, Walnut Grove Branch, specifically directing the removal of Tom Hester and the addition of Tom Slater as a signatory on the account.

Engineering Report

MBK distributed water quality graphs, noting salinity levels are currently well within the Contract criteria at all NDWA monitoring locations.

Melinda asked if recent Term 91 notices by the State Water Resources Control Board was an indicator of drought and the subsequent issuance of water diversion curtailments by the water board. Gary explained the Term 91 only affected junior water right holders and that it is fairly typical for notices to be sent out every year, so this is not an indicator of future curtailment notices.

Legal Report

Kevin O'Brien reported that the Waterfix CEQA and 2081 permit lawsuits are still preparing the administrative record. NDWA will pay approximately \$7,000 for the preparation of each record for a total of \$14,000.

The water board hearing officers issued an order cancelling all WaterFix hearing dates through June 29th when NDWA will be presenting rebuttal evidence in Part 2 of the hearings. The delay is to allow DWR time to finish and release a Supplemental EIR analyzing recent project design changes.

Manager Report

Melinda reported she does not have anything to report on Groundwater Sustainability Agency (agenda item 8A) because it was included per the request of a landowner. Landowner not in attendance, so no discussion occurred.

A Manager's Report was provided describing both Agency activities and various issues and planning efforts in the Delta occurring in April and May. The BOD commented that these reports are very useful in keeping them better informed.

Director van Loben Sels asked if the SWP Contract negotiations would change how the Delta Water Rate is calculated and whether that could affect future payments under the 1981 Contract. Gary Kienlen said this is

something to look at, but does not believe those contract charges are anything to worry about right now since any potential revision of the Contract payment section (Article 9) does not occur until 2021. Melinda pointed out that according to a letter by San Diego County Water Authority the proposed SWP contract amendments would charge the WaterFix costs as transportation rather than a supply-related charge which could affect NDWA payments if this changes how the Delta Water Rate is calculated. She also reported that the SWP contract negotiations seem to be nearing completion because DWR Director Karla Nemeth sent a letter to the Legislature requesting a legislative hearing in accordance with Water Code §147.5, which is mandatory prior to finalizing financing or progressing towards construction.

Legislative Report

Melinda reported on AB 3045 (Gallagher) which originally proposed moving the Division of Dam Safety out of DWR to create independent oversight and remove conflict of interest from same agency being responsible for both operation and enforcement of maintenance. The bill was amended to instead remove the operation of the entire State Water Project from DWR and establish an independent commission under the Natural Resources Agency to oversee operations. The NDWA 1981 Contract is with DWR and includes obligation for DWR to operate the SWP in a way that maintains the water quality criteria, therefore transferring operational responsibility to another entity may create contractual issues. AB 3045 was held on the Appropriations Suspense File, so will not move forward.

In Congress, language was inserted into the appropriations bill in May that would exempt the WaterFix project from judicial review, which would ban the lawsuits already filed by NDWA and other parties.

Delta Activities Report

SWRCB/Delta Watermaster

As a follow-up to a May 1st email sent by John Collins regarding Delta landowners that failed to submit an annual Diversion and Use Report, he informed the Board there is only one delinquent filer due to incorrect contact information, so unlikely to see any fines and penalties issued. Director van Loben Sels offered to provide the correct contact information for the landowner. John reminded every that July 2nd is the deadline for filing water rights statements or licenses, with no grace period, therefore fines will start right away.

Delta Habitat

The South Sacramento and Yolo Final HCPs/EIRs have been released for public review and comment. More information is provided in the May Manager's Report.

Delta Conservancy Activities

A public meeting was held the night before in Walnut Grove on the Central Delta Corridor Strategy, conservation plan for the restoration of Delta lands, up to 50,000 acres, from Sherman Island to the Consumnes Preserve. Melinda did not attend, but said more information about this planning effort is available in the May Manager's Report.

Delta Protection Commission Activities

After two years of drafting, the Commission voted at their May meeting to deliver the Levee Financing Feasibility Study prepared by a consult to DWR with a letter inserted expressing some additional views of the Commission.

Delta Stewardship Council Activities

The Council approved adoption of three sets of amendments to the Delta Plan: 1) water conveyance and storage; 2) performance measures; and 3) Delta Levee Investment Strategy. A coalition of environmental groups subsequently filed a lawsuit challenging the water conveyance and storage amendments.

Financial Reports

Cindy reviewed the financial statements for the current fiscal year, including county revenues for second half of property assessment, except for Yolo County that she expects to receive before the end of June.

Melinda presented Resolution 2018-04, to update the Agency's policies guiding the collection of delinquent assessments. The revisions include deletion of the \$1,000 threshold for collection, establishment of separate procedures for government-owned versus privately-owned lands, and addition of clear, non-discretionary steps for Agency staff and counsel to follow in seeking collection of delinquent, direct-billed assessments before following through with a tax delinquency sale required by section 5.18 of the Agency Act.

MOTION by Director Mahoney to approve Resolution 2018-04. Seconded by Director van Loben Sels (AYES: Mello, Kuechler, van Loben Sels, Mahoney, Slater).

Approval of Annual Budget

Cindy presented the proposed fiscal year 2018-19 NDWA budget, including a document disclosing employee compensation as required by CalPERS. Director Mahoney commented that the Proposed Income under Yolo County Assessments looks high. Cindy acknowledged that the proposed income may be in error because might include their late payment of \$130,000 from last year, but she would need to confirm the actual amount. She reminded the Board that they will approve the expenses first when they adopt the annual budget, but the actual revenues collected in each county would be determined once they subsequently adopt the property assessment rates for fiscal year 2018-19 necessary to cover projected expenses and reserves. After discussing anticipated engineering expenses, the Board altered the amounts in the engineering categories, bringing the total annual projected expenditures to \$1,179,489.

MOTION by Director Mahoney to approve the proposed \$1,179,489 FY 2018-19 Budget as presented with changes to funding categories directed in the engineering section. Seconded by Director van Loben Sels and approved by a roll call vote. (AYES: Mello, van Loben Sels, Kuechler, Mahoney, Slater)

Adoption of the 2018-19 Assessment Rate

Cindy Tiffany presented the Contract Payment Projection spreadsheet showing annual fluctuations in the reserves through year 2050, with reserves starting to decline in 2024 and in the negative in 2029 at current projected expenditure rates. In accordance with Agency assessment policies, the maximum amount the assessment rates can be increased is either 3% or the Consumer Price Index, whichever is higher. The Directors agreed to increase all assessment rate categories to the maximum allowed, including the minimum per parcel rate.

MOTION by Director Kuechler to adopt Resolution 2018-02 authorizing the increase of annual assessment rates to the maximum allowed 3% or CPI, whichever is greater, once the CPI is released. Seconded by Director van Loben Sels and approved by a roll call vote. (AYES: Mello, Kuechler, van Loben Sels, Mahoney, Slater)

MOTION by Director Kuechler to approve Yolo County Resolution #2018-03 governing the county's collection of NDWA assessments. Seconded by Director Mahoney and approved by a roll call vote. (AYES: Mello, Kuechler, van Loben Sels, Mahoney, Slater)

Adjournment

Chairman Mello adjourned the meeting at 11:43 a.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager