

**Sanitary District No. 5 of Marin County
Minutes of a Regular Board Meeting
at Tiburon Fire Protection District Meeting Room
1679 Tiburon Blvd., Tiburon, California
Tuesday, September 18, 2012, 7:00 p.m.**

CALL TO ORDER by Pres. Benediktsson at 7:00 p.m.

ROLL CALL:

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| Directors present: | Catharine Benediktsson, President William Teiser, Vice President Roy Fedotoff, Secretary Richard Snyder Michael Lasky |
| Staff present: | Samantha Miller, District Manager Tony Rubio, Wastewater Facilities Manager Lynn Henriksen, Administrative Assistant |
| Consultants present: | Riley Hurd, District Legal Counsel Doug Wing, Carollo Engineers |
| Others present: | Deirdre McCrohan, <i>The Ark Newspaper</i> |

PUBLIC OPEN TIME: No public comments were made.

Pres. Benediktsson moved Item No. 4, as described on the agenda, to this time so that Mr. Doug Wing, Carollo Engineers project manager, would feel free to leave the Board meeting prior to the Closed Session on tonight's agenda.

MANAGEMENT REPORTS

4. Main Plant Rehabilitation Project Progress Report (Wing)

Mr. Doug Wing, Carollo Engineers project manager for the Main Plant Rehabilitation (MPR) Project, provided the Board with an update on progress to date. His narrative included statistics regarding submittals, RFIs, design clarifications, change orders, and work change directives. At the behest of Dir. Snyder, Mr. Wing reviewed the Potential Change Order Log, included in tonight's Board packet as Main Plant Rehabilitation Oversight Committee Item No. 13, line by line, answering questions asked by the Board to clarify the potential changes to the MPR construction project. Approved and potential change orders now stand at \$115,880 for the MPR Project.

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At the request of the Board of Directors and Mgr. Miller, Carollo Engineers and Auburn Constructors Inc (ACI) are diligently striving to keep construction dust and noise to a minimum in an effort to mitigate disturbances to the neighbors in close proximity to the main plant. The safety of all people working on the MPR Project was also discussed. Mr. Wing said the construction safety programs have been reviewed, weekly safety meetings are an ongoing part of the schedule, and ACI's safety officer has expanded the focus on this topic as well. To ensure a clean jobsite, Pres. Benediktsson directed Mr. Wing to more closely monitor the tidiness of the plant during the rehabilitation process.

The next six weeks are a significant time in the project, especially in regards to the arrival of replacement equipment to ensure that construction continues to stay on schedule as we head into wet-weather season. Mr. Wing noted it is a tough procurement period for ACI to receive the high speed turbo blowers in a timely manner, although he believes the critical path is not in jeopardy. Both Mr. Wing and Carollo's inspector Mr. Mike DeLuna are spending more time at the main plant now that construction is moving forward at a more rapid pace, and they are completing daily reports at Mgr. Miller's direction. Mgr. Miller has also asked that Doug meet with her or have a conference call on a weekly basis for more detailed construction schedule updates.

Attorney Riley Hurd stated that the Board was entering into Closed Session to discuss the continued threat of enforcement by the Town of Tiburon in regards to the lack of building permits for the District's Main Plant Rehabilitation Project. Specifically, the Town continued to refuse to recognize the clear exception in Government Code Section 53091(d), which states that, "Building ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, treatment, or transmission of water, wastewater, or electrical energy by a local agency."

CLOSED SESSION at 7:22 p.m.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: 1 case

OPEN SESSION at 8:16 p.m.

Pres. Benediktsson announced that no reportable action was taken during Closed Session.

DIRECTORS' COMMENTS AND/OR AGENDA REQUESTS

No comments or agenda requests were made by the Board.

CONSENT CALENDAR

1. Approval of August 28, 2012, Regular Board Meeting Minutes (Henriksen) (attached)
2. Approval of All Warrants for August 2012, #5531 through 5592, in the amount of \$424,847.04, and Main Plant Rehabilitation Project Warrants for September 2012, #5601, 5626, 5627, and 5628, in the amount of \$291,751.90 (Miller) (attached)
3. Receipt of Financial Reports for August 2012 (Miller) (attached)

Motion (Teiser/Snyder) to approve the Consent Calendar. Passed, all present.

MANAGEMENT REPORTS

5. District Management Summary Report (Miller) (attached)

Mgr. Miller reviewed the significant events of the past 30 days with the Board, including fiscal status and budgetary items, operating and capital expenses, personnel and human resource issues, business administration, education and safety training, as well as updates on capital improvement projects.

Mgr. Miller is preparing for the submission of the FY 2011-12 Special Districts Financial Transactions Report and the 2011 Government Compensation in California Report to the State Controller's Office. She has put in a request to the CalPERS chief actuary to investigate the District's high employer contribution rate. The chief actuary assured Mgr. Miller that he would get back to her on this matter, since the District, for no apparent reason, is paying a much higher rate than other districts with comparable CalPERS pension benefits are paying. A copy of the Personnel Policies and Procedures manual was delivered to each employee for review and comment; however, no requests were received from employees to meet and confer. It was noted that a Tiburon resident commended District employee, Mr. John Rosser, for retrieving the keys she accidentally dropped into a manhole. Mgr. Rubio reviewed collection system and treatment plant performance.

Mgr. Miller provided an update on capital improvement projects, namely the Main Plant Rehabilitation (MPR) Project, on issues apart from those reported by Mr. Doug Wing in his MPR progress report, Item No. 4 on the agenda. She reported that the building permit debacle instigated by the Town of Tiburon on our independent special district is very time consuming for management and proving a costly proposition, as attorney fees are mounting. This issue causes all members of the Board of Directors great concern, since the monetary cost will ultimately be borne by the sewer rate payers of Tiburon and Belvedere, when, in fact, the Town of Tiburon does not have jurisdiction over Sanitary District No. 5 of Marin County.

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The Wrench Turning Ceremony, spearheaded by Sec. Fedotoff, in celebration of the Main Plant Rehabilitation (MPR) Project has been tentatively set for November 1, 2012, at 2 p.m. More information will be provided as the event falls into place.

Mgr. Rubio reviewed the operations and maintenance report, and he explained that since the essential reporting data is not available to him in time to have the monthly report cover the previous calendar month, his report will cover the month prior to that, two months back. Therefore, the report in tonight's packet is a duplicate of the report included in the August 28, 2012, Board packet.

NEW BUSINESS

6. Consideration of Granting District Manager Authority to Approve Main Plant Rehabilitation Project Construction Contract Change Orders up to a Maximum of \$15,000.00 per Change Order, for an Aggregate Amount Not to Exceed \$175,000.00 (Fedotoff) – Action

Sec. Fedotoff reviewed the current policy in place, explaining the need for Mgr. Miller's aggregate spending authority for Main Plant Rehabilitation Project change orders to increase from \$50,000 to \$175,000. Potential and approved change orders for the project currently total \$115,880.

Motion (Fedotoff /Snyder) to grant the District Manager authority to approve Main Plant Rehabilitation Project construction contract change orders up to a maximum of \$15,000.00 per change order, for an aggregate amount not to exceed \$175,000.00. Passed, all present.

7. Consideration of Authorizing District Manager to Negotiate and Execute Professional Services Agreement with Dan Cortinovis to Provide Operations Assistance for the Main Wastewater Treatment Plant During the Main Plant Rehabilitation Project for an Amount Not to Exceed \$37,440.00 (Miller) – Action (see attached Notes of Explanation)

V. P. Teiser noted that the Main Plant Rehabilitation (MPR) Oversight Committee believes Mr. Dan Cortinovis has the background, expertise, and professionalism to provide needed operations assistance for the main treatment plant during the MPR Project. Mgr. Miller injected that it is her belief that the District would have needed to request these services of Mr. Cortinovis whether or not Mr. Robert Lynch was still on the job as the MPR Project Special Consultant.

Motion (Snyder/Lasky) to authorize the District Manager to negotiate and execute a Professional Services Agreement with Dan Cortinovis to Provide Operations Assistance for the Main Wastewater Treatment Plant during the Main Plant Rehabilitation Project for an amount not to exceed \$37,440.00. Passed, all present.

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8. Consideration of Adopting Resolution No. 2012-09: A Resolution of the Board of Directors of Sanitary District No. 5 of Marin County Adopting Personnel Policies and Procedures (Miller) – Action (attached)

Mgr. Miller noted that the Ad Hoc Labor Advisory Committee reviewed the Personnel Policies and Procedures drafted by Ms. Alison Neufeld, Liebert Cassidy Whitmore, and recommends adoption by the Board. Prior to Ms. Neufeld providing the Board with the final copy for consideration to adopt, a copy of it was given to each employee for review and comment; however, the Employees did not respond requesting to meet and confer.

Motion (Snyder/Teiser) to adopt Resolution No. 2012-09: A Resolution of the Board of Directors of Sanitary District No. 5 of Marin County Adopting Personnel Policies and Procedures. Passed, all present.

9. Consideration of Filling Upcoming District Board Vacancy by Either an Election or Board Appointment, and Authorizing District Staff to Implement the Chosen Method (Miller) – Action (attached)

Mgr. Miller explained that V.P. Teiser will be moving out of the District on October 11, 2012, and, therefore, must resign from his position on the SD5 Board.

Motion (Fedotoff/Snyder) to authorize District staff to take the necessary legal steps to fill the upcoming District Board vacancy by appointment, rather than by election. Passed, all present.

10. Consideration of Appointment Changes to Committees for the Remainder of 2012 (Benediktsson) – Action

Pres. Benediktsson moved Dir. Snyder from the position of alternate on the Finance & Fiscal Oversight Committee to standing member, with Sec. Fedotoff as alternate; Dir. Lasky from the position of alternate on the Main Plant Rehabilitation Committee to standing member, with Catharine Benediktsson as alternate.

UNFINISHED BUSINESS: None

COMMITTEE REPORTS

11. Capital Improvement Program Committee (Fedotoff/Lasky)
12. Governance Committee (Benediktsson/Snyder)
13. Main Plant Rehabilitation Oversight Committee (Fedotoff/Teiser) (attached)
14. Finance & Fiscal Oversight Committee (Benediktsson/Teiser) – Minutes of the September 12, 2012, meeting (attached)
15. Communication Committee (Lasky/Snyder)

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16. Personnel Committee (Snyder/Lasky)
17. Ad Hoc Point Tiburon Committee (Benediktsson/Snyder)
18. Ad Hoc Labor Advisory Committee (Snyder/Lasky)

The Capital Improvement Program (CIP) Committee did not meet, but will meet on October 4, 2012.

The Governance Committee did not meet.

V. P. Teiser reviewed the Main Plant Rehabilitation Action Item Log, and Mgr. Miller noted the Construction Scheduling Experts second monthly update is also attached to Item #13, and it is a good, informative report.

The Finance Committee reviewed the minutes of the September 12, 2012, meeting.

The Communications Committee, Personnel Committee, Ad Hoc Point Tiburon Committee, and Ad Hoc Labor Advisory Committee did not meet.

OTHER BUSINESS: None

ENVIRONMENTAL: None

CORRESPONDENCE: None

INFORMATIONAL ITEMS: None

ADJOURNMENT

The Board adjourned at 9:00 p.m. to a Regular Board Meeting on October 16, 2012, at the Tiburon Fire Protection District Meeting Room at 1679 Tiburon, Blvd., Tiburon, California.

Approved:

Attest:

Catharine Benediktsson
President, Board of Directors

Roy Fedotoff
Secretary, Board of Directors