

**THE COMMISSIONERS  
OF THE  
CENTRAL MARIN SANITATION AGENCY  
HELD A MEETING AT THE AGENCY OFFICE**

**Tuesday, July 14, 2009  
7:00 P.M.**

**CALL MEETING TO ORDER**

Chair Sinnott called the meeting to order at 7:01 p.m. A quorum was present.

Members Present:

Boro, Brown, Dupar, Johnson, Miller, and Sinnott

Members Absent:

None

Staff Present:

Jason Dow, General Manager; Mary Brown, Recording Secretary; Nathan Brennan, Treatment Plant Manager; Rob Cole, Environmental Services Manager; Ken Katen, Senior Engineer; Hank Jen, Finance Manager

Public Present:

Jack F. Govi, County Counsel's Office; Pat Guasco, RVSD, Peter Sullivan, RVSD, Rayanne Florence. There were no other names recorded on the sign-in sheet, however, there were several members of the public present.

**OPEN PERIOD**

There were no public comments.

**CONSENT CALENDAR**

Commissioner Johnson asked that Consent Calendar Items 4.a., Minutes of June 9, 2009, 4.i., Revised Financial Policies, 4.j. Outfall Crack Investigation Project Delivery Method, and 4.k. Wet Weather Improvement Project Electrical Contractor Substitution, be removed from the Consent Calendar for further discussion.

Commissioner Johnson asked that Consent Calendar Item 4.h., Cooperative Safety Program Improvement Contract be removed from the Consent Calendar for further discussion.

Action

M/s Miller/Dupar to approve the remaining items on the consent calendar:

- b. Treasurer's Report—Operating Account—June 2009
- c. Treasurer's Report—Revenue Bond—June 2009
- d. Schedule of Investments—June 2009
- e. Performance Metric Report—June 2009
- f. NPDES and Process Report—June 2009
- g. WWIP Report—June 2009

The motion carried unanimously.

4.a. Minutes of June 9, 2009: Commissioner Johnson referred to the discussion on the Adoption of the FY 09/10 Final Budget at the June meeting. She clarified that the Proposition 218 process does not directly apply to CMSA. Commissioner Johnson stated that she voted no on the budget because she objected to the 6.2% increase in the expense budget.

GM Dow clarified that CMSA coordinates its rate increase with the member agency's Prop 218 process.

Action

Dupar/Miller to direct staff to review the audio record of June 9 to verify Commissioner Johnson's statements. The minutes of June 9, 2009 are to come back for consideration of approval at the August Board meeting. The motion carried unanimously. {Subsequent to this action, staff reviewed the June 9 Board meeting tape on three occasions and could not confirm that Commissioner Johnson had given her reason for voting 'no' to approve the budget.}

4.h. Cooperative Safety Program Improvement Project: Commissioner Brown asked if there is a legal authority authorizing CMSA has to host the Cooperative Safety Program. GM Dow stated that the authority was provided at the discretion of the Board.

Action

Dupar/Miller to approve the Safety Program Improvement Contract with Du-All Safety, and authorize the general manager to execute the contract. The motion passed with the following vote:

Ayes: Boro, Dupar, Johnson, Miller, Sinnott  
Noes: Brown

Commissioner Brown stated that she voted no to approve the contract because she was not sure CMSA has the authority to host the program.

4.i Revised Financial Policies: Commissioner Johnson stated that the Board agreed to prioritize projects in the Capital Improvement Program and she did not see this agreement stated in the CIP section. She said she had difficulty reading the document because it was not a red-lined version with strike-outs.

GM Dow explained that all substantive changes to the policies are listed clearly in the staff report and are directly related to past Board actions.

Action

Dupar/Boro to approve the Agency's revised financial policies. The motion carried with the following vote:

Ayes: Boro, Dupar, Miller, Sinnott  
Noes: Johnson  
Abstentions: Brown

4.j. Outfall Crack Investigation Project Delivery Method:

Commissioner Johnson referred to the letter from legal counsel and pointed out that the wording used in the letter was "change order" while the staff report says "extra work order."

Commissioner Brown stated her concern about the "change order" term in the attorney's letter. GM Dow explained that exemption from public bidding does not rely on whether the attorney uses the words "change order" or "extra work order" but on whether the work is within the scope of the contractor's current contract work being performed on site, which it is.

Action

Miller/Dupar to authorize staff to negotiate and execute a not-to-exceed work order with Western Water Constructors to perform the outfall crack investigation field work. The motion carried with the following vote:

Ayes: Boro, Dupar, Miller, Sinnott

Noes: Johnson

Abstentions: Brown

Commissioner Dupar asked Commissioners Johnson and Brown to state their reasons for their votes. Commissioner Johnson stated that she sees inconsistencies in the term the attorney used and how it is referred to in the staff report.

Commissioner Brown stated that she was not comfortable with the attorney's language in the letter.

GM Dow stated that it would help staff if Board members provided concerns prior to the Board meeting so that staff can address issues to the Board members satisfaction.

4.k Wet Weather Improvement Project Electrical

Contractor Substitution: Commissioner Johnson asked whose responsibility it is to pay the employees who have not been paid, and asked if there were any written objections submitted to Harris & Associates. GM Dow confirmed that it is the contractor's responsibility to pay the employees and stated that there were no objections submitted as of the Board meeting {July 14, 2009}.

Commissioner Johnson stated that she would rather have the Board conduct the subcontractor substitution hearing.

GM Dow reviewed the options available to the Board if a hearing is required. He stated that he had conferred with CMSA's construction attorney, Bill McInerney, regarding

this issue and learned that generally a Board or Council delegates a hearing to staff.

Action

Dupar/Boro to authorize the Agency's Finance Manager to hold a hearing regarding Western Water Constructor's request to substitute electrical contractors, if Aspen Timco submits written objections by July 15, 2009. The motion carried with the following vote:

Ayes: Boro, Dupar, Miller, Sinnott

Noes: Johnson

Abstentions: Brown

Commissioner Brown stated she abstained because she was not comfortable not having a letter from Mr. McInerney stating his legal opinion.

Commissioner Boro asked GM Dow to obtain a letter from Mr. McInerney confirming that GM Dow and Mr. McInerney had actually talked about this issue and that Mr. McInerney's opinion is as GM Dow stated.

Commissioner Johnson stated that she voted no on this item because there are many complex legal issues and that there are unexpected things that could happen which creates a dangerous situation for the Board.

**NBWA LATERAL  
PROGRAM PUBLIC  
OUTREACH PRESENTATION**

GM Dow reviewed the staff report about the Marin Lateral Program and gave a PowerPoint presentation from the recent public education stakeholder meetings.

Public Comments:

Peter Sullivan, RVSD, spoke about the costs of replacing laterals within the RVSD service area, and about the Berkeley solar panel loan program where homeowners are loaned money and pay it back through property taxes. He suggested that this may be a model for the lateral program.

Pat Guasco, RVSD, stated that he hoped NBWA would address the issue of privately shared laterals.

Commissioner Boro commented on Mr. Sullivan's observations about Berkeley and stated that there may be federal funds available to do something similar.

This item was informational and there was no action taken.

**PROPOSED REVISIONS TO  
THE CMSA SEWER USE  
ORDINANCE**

GM Dow reviewed the staff report and explained in detail the revisions and schedule, and the steps to put the revised ordinance into effect.

Board members had various questions about the ordinance revisions, which were answered.

Public Comments:

Pat Guasco, RVSD, noted that CMSA has a website where the ordinance is posted. He suggested to the RVSD Board members interested in seeing the current ordinance that they look at it online.

Action

Johnson/Brown to approve the conceptual revisions to the Agency's Sewer Use Ordinance, and authorize the General Manager to prepare the draft ordinance. The motion carried unanimously.

**RESOLUTION 279:  
EMPLOYER PICKUP  
RESOLUTION FOR PRE-TAX  
PAYROLL DEDUCTION PLAN  
FOR SERVICE CREDIT  
PURCHASES**

GM Dow reviewed the staff report, and explained that CalPERS requires the Board to pass a resolution so that employees are placed in the correct group for the continued ability to purchase CalPERS service credits.

Boro/Johnson to approve and execute Resolution 279 to continue the administration of pre-tax payroll deduction for employee purchase of service credit with the California Public Employees' Retirement System (CalPERS). The motion carried unanimously.

**JUNE GRAND JURY  
REPORT**

GM Dow referred to the staff report and CMSA Counsel Jack F. Govi's recommendation that the Board create an ad hoc governance committee to prepare responses to the findings and recommendations delineated in that report.

The Board members discussed who would make up the ad hoc committee. Chair Sinnott asked if Commissioners Boro, Dupar, and Johnson were willing to serve on the committee.

Action

Boro/Brown to create an ad hoc committee comprised of Commissioners Boro, Dupar, and Johnson. The motion carried unanimously.

**ELECTION OF OFFICERS  
AND COMMITTEE  
APPOINTMENTS FOR  
FY 09/10**

GM Dow referred to the staff report and reviewed the various appointments and committees.

Action

Miller/Dupar to keep the current slate of officers for FY09/10 {Chair Sinnott, Vice Chair Boro, and Secretary Dupar}. The motion carried with the following vote:  
Ayes: Brown, Boro, Dupar, Johnson, Miller  
Noes: None  
Abstentions: Sinnott

Action

Miller/Boro to keep the current slate of Finance Committee members for FY09/10 {Dupar, Sinnott, and Johnson}. The motion carried with the following vote:  
Ayes: Brown, Boro, Dupar, Miller, Sinnott  
Noes: None  
Abstentions: Johnson

Action Boro/Brown to keep the current slate of Desalination Committee members { Boro, Sinnott, GM Dow} and to add Commissioner Johnson to the committee. The motion carried with the following vote:  
Ayes: Brown, Boro, Dupar, Miller, Sinnott  
Noes: None  
Abstentions: Johnson

Action Dupar/Miller to keep the current slate of Personnel Committee members {Chair, Vice-Chair, General Manager}. The motion carried unanimously.

Action Johnson/Brown to appoint Commissioner Dupar as the North Bay Watershed Association representative and to appoint Commissioner Sinnott as the alternate. The motion carried unanimously.

#### **ROSS VALLEY SANITARY DISTRICT'S RELOCATION REPORT**

Commissioner Sinnott referred to an email from the Ross Valley Sanitary District's Administrative Assistant stating that the relocation efforts are on schedule.

#### **NORTH BAY WATERSHED ASSOCIATION (NBWA) REPORT**

Chair Sinnott distributed a handout related to this item.

#### **VERBAL REPORT**

GM Dow referenced his handout and reviewed Agency business, including:

- The Outfall Cleaning Project permits have been received, and the project is going forward smoothly.
- A fixed natural gas price was secured.
- Diesel engines for the WWIP pump station have passed their factory testing.
- A contract is being prepared to replace a biotower distribution arm.
- Recent public outreach events have been very successful with nearly 3,000 people taking the environmental education quiz.
- CMSA finance staff participated in a CalPERS teleconference that reviewed CalPERS portfolio losses, and CMSA included CalPERS projected employer contribution increases in the 10-year financial forecast.

Commissioner Dupar referred to letters included in the Board information packet. He expressed his concerns about the tone of letters from RVSD's General Manager and asked the RVSD Board members to exercise control over the correspondence coming from RVSD.

Commissioner Boro stated that San Rafael Sanitation District had requested audio files of RVSD's April, May, and June Board meetings. Ross Valley Sanitation District informed SRSD that there were technical difficulties with their computer system and that they could not provide the files at this time. Commissioner Boro asked the RVSD Board members to make a copy of the files available. Commissioner Brown said she would be happy to.

Commissioner Boro asked GM Dow to bring a recap to the Board delineating the history and commitments made by CMSA to the Regional Board. He expressed his concern that RVSD's General Manager has missed several meetings in a row and that this may present a liability to CMSA.

Chair Sinnott shared that he read an article that El Nino may be returning and if so, that it could have an impact on CMSA's work. He also reported that the Larkspur City Council will be discussing the Grand Jury report at their meeting on July 15<sup>th</sup>.

**CLOSED SESSION**

The Commission convened in closed session at 9:14 p.m. per Government Code 54954.5 to discuss: Public Employee Performance Evaluation (CA Government Code §54957) -- Title: General Manager

**OPEN SESSION**

The Commission reconvened in open session at 9:46 p.m. and made the following motion:

Dupar/Boro to accept the General Manager's FY09/10 Workplan. The motion carried unanimously.


**DATE OF NEXT MEETING**

The next commission meeting is **TUESDAY, September 8, 2009** at 7:00 p.m.

**ADJOURN**

The meeting was adjourned at 9:47 p.m.

  
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Recording Secretary

  
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Secretary

