

**SANITARY DISTRICT NO. 1 OF MARIN COUNTY
REGULAR BOARD MEETING MINUTES**

Wednesday, March 24, 2010
6:45 p.m.

School District Board Meeting Room
750 College Avenue
Kentfield, CA

Members Present Patrick Guasco, President
Marcia Johnson, Secretary
Sue Brown
Steven Vanni
Peter Sullivan

Members Absent: None

Staff Present: Brett Richards, General Manager
Randell Ishii, District Engineer
Dennis Gavallos, Program Coordinator
Kathy Delaney, Administrative Assistant
Michelle Kenyon, District Counsel
ADSI Security Guard

Public Present: The names reflected are those who signed in on the attendance sheet: Martin Lind; Pamela Meigs; John Carapet; Steve Moore; Tristan Bodle. However, there were four (4) additional members of the public present.

President Guasco read aloud Resolution No. 09-1339, the Board's policy on Board meeting decorum, which was adopted at the September 18, 2009 Board meeting at which all Board members were present.

Item #1-ORDER The meeting was called to order by President Guasco at 6:45 p.m. President Guasco then led the Pledge of Allegiance. Roll call was taken and a quorum was present.

Item #2-APPROVAL OF AGENDA M/S Brown/Sullivan to approve the Agenda as submitted. The motion carried unanimously.

Item #3-OPEN TIME FOR COMMENTS FROM THE PUBLIC Rick Holland of Fairfax commented about Resolution No. 09-1339.

General Manager Richards read into the record the following statement that he wrote. He said he felt uncomfortable doing this but felt it was necessary.

Dear Members of the Ross Valley Sanitary District Board of Directors,

I am Brett Richards, an RVSD rate-paying customer, and I'm also privileged to be your General Manager. I'm standing before you today to speak to a rash of deplorable, embarrassing acts proudly displayed before this board by Rick Leon Holland of Fairfax. In my 15 plus years of public sector service alone, which has included hundreds of municipal city council meetings, dozens of county board of supervisor meetings, and many special district board meetings, I've never been exposed to the kind of filthy, disrespectful, irreverent,

dishonest, sexually degrading comments and deplorable behavior as I've witnessed over the course of the past five to eight months from Mr. Holland. I've witnessed him speak in uninformed, misleading and dishonest ways; I've watched and heard him as he cursed using the most vile profanity in our language, including the F- word; and we all watched and listened as he argued with a District ratepayer that was speaking on issues of concern to her, as he proceeded to call her a "F...-ing B..-ch" twice. I've heard some of the most incredibly ignorant, dishonest untruths I've had the displeasure of hearing someone say publicly. In truth Mr. Holland, you should be ashamed of the way you acted.

All of this is deplorable in any culture, and the fact that someone in this great country feels that behavior of this type is acceptable, leads me to feel unsafe. Nonetheless, I've sat through the meetings where he has displayed this incredible disrespect, mostly quietly with a few exceptions, understanding that even those without social graces deserve some forum where they may say what they wish no matter how ignorant: until last month's Board meeting. It is time to draw a line in the sand and say that we will not accept this kind of behavior and abuse. During last month's meeting on February 17, 2010, during discussion of Item No. 7 asking your board to extend one of our temporary employee's assignment, Mr. Holland made the sexually degrading comment, "she blows," while opposing her continued employment. While it is easy for Rick to make sexually irreverent comments into the thin air, I wonder if Mr. Holland at least has the internal fortitude to re-state what he said face-to-face to Mrs. Kathy Delaney. Ladies and gentlemen, I'd like to introduce one of the most soft-spoken, genuinely kind humans I've ever met: Kathy! On behalf of the District, I sincerely apologize to you and your family for being the target of his calumny defamatory comments.

Members of the Board, this is just unacceptable. While I appreciate your Board's patience and willingness to allow some of the behavior we've seen from Mr. Holland, this has to stop here. I'm a ratepayer as well as your General Manager, and if someone such as Mr. Holland wishes to display his dissatisfaction with how great this District is performing, then I'll sit mostly quietly with you, and grit my teeth. But attacking my staff is off the table. Respectfully, members of the Board, while your patience is an honor other boards in close proximity would do well to imitate, if you allow Mr. Holland to attack staff and make sexually degrading comments, I won't. My threshold has been breached and my tolerance is gone. If Mr. Holland ever speaks like that to our staff again, I'm asking this Board to please direct our trusted security officer to remove Mr. Holland from our Board meeting. And I'd like to say that the difference between a beautiful and an ugly world are the people in it - I wonder what the six-year-old Ricky Leon Holland would say if he could come forward in time and speak to you now. Thank you.

A copy of Mr. Richard's statement is attached to these minutes.

Garril Page, 70 Fawn Drive, San Anselmo noted that there were several evenings in the past when speakers were instructed to speak within a limited time, so it's not a brand new thing. Nevertheless, she thought it would be a good idea to have a policy in this regard. Ms. Page also noted that as a member of the public who was on the receiving end of the F--- bombs from Mr. Holland, she certainly supports the Board policy on meeting decorum.

Item #4-CONSENT CALENDAR The Board reviewed the Consent Calendar:

- a) Accept Financial Statements – February 2010

- b) Adopt Resolution No. 10-1371 Approving the Settlement Agreement with Bourhis/Avins et al. and Landos et al.
- c) 370 Eliseo Sewer Replacement Project – Approve Contract Change Order No. 1 in the amount of \$3,967.50 to Allen Construction
- d) 370 Eliseo Sewer Replacement Project - Adopt Resolution No. 10-1372 Approving Final Acceptance and Authorizing General Manager to File Notice of Completion
- e) 370 Eliseo Sewer Replacement Project - Approve Final Payment to Allen Construction in the amount of \$18,917.50
- f) Healthy Waterways Study Results, Fall 2009
- g) Authorize Board Members' and Staff's attendance at the Special District & Local Government Institute's Advanced Studies Seminar, Indian Wells, CA

Director Brown requested that Item 4b be pulled from the Consent Calendar. Director Vanni requested that Item 4g be pulled. Rick Holland requested that Item 4a be pulled. Hannah May of Fairfax requested that Item 4f be pulled.

M/S Sullivan/Johnson to approve the Consent Calendar minus Items 4a, 4b, 4f and 4g. The motion carried unanimously.

Rick Holland of Fairfax commented on Item 4a.

Mr. Richards said it was worth noting that in conjunction with the good people at the *Ross Valley Reporter*, in particular the reporter Kelly Dunleavy (who does a very good job) and her co-workers, we spoke with them and provided them with a number of pieces of data that proved that at least five of the statements in the article were factually dishonest and incorrect. Mr. Richards said he believed that a retraction was printed today, and he thanked them greatly for their patience, their willingness to work with us, their willingness to review the facts of the case, and to actually be bold enough to make changes and correct the article. He clarified for Board members that the corrections involved, but were not limited to, the amount Board members were paid to attend meetings, the District's flag or banner, and the General Manager's contract in Closed Session.

Regarding Item 4b, Director Brown had a question about the report from the insurance company on the settlement agreement with the plaintiffs. She wanted to know if Peter Edrington was from the District's insurance company. District Counsel Kenyon said that Mr. Edrington was hired by CSRMA to represent the District in this action. In response to a second question from Director Brown, Mr. Richards clarified that this settlement involved an issue that occurred *years* ago and has been *long* in the works. Most of the work was done prior to Mr. Richard's arrival at the District; then there was a closed period with some private negotiations.

Director Brown said that she knew this was true because she has followed this. (She noted that this case stemmed from the December 2005 flood.) She observed that the report from the insurance company pointed out things that the District could have done but didn't do—and this was under the previous General Manger Mr. Hogue. She wanted to know what the difference was between 2005 and 2010 in how the District would be prepared to response to a flood of that magnitude.

Director Brown quoted an example from the top of page 3 of the report. “The District should have ensured that field testing had been completed and that the pump station was fully ready to operate.” She said she thought this was referring to the way we inspected the work of the contractor. On the bottom of page 2 the report states, “All of the cross-defendants stressed that the District had an inspector on site to observe final inspection. There was documentation that the final testing on the pumps while running...revealed the electrical sequencing problem that caused the failure) had been deferred and never done. The District should have ensured that field testing had been completed and that the pump station was fully ready to operate.” Director Brown said that her question wasn’t so much to point the finger at what we should have done—it obviously wasn’t done—but to ask what we would do today and what the standard operating procedure would be regarding testing and supervisors checking.

Mr. Richards said that the answer to that was very complex. The issue was whether or not the repairs or the improvements that were made were a maintenance repair or improvement, or a capital repair or improvement. For example, in the upcoming Kentfield Force Main work, which was a *capital* improvement, somebody *after the fact* could say that that District had an inspector on site. What that meant was that a member of the construction company will act as an inspector or the project manager will sub out and hire an inspector to walk and maintain inspections of the property, versus if a pump goes out and maintenance staff makes repairs and a District inspector looks at it. That’s going to be a District employee. Mr. Richards said he didn’t have enough information in front of him to know if Director Brown’s question was about a capital repair or a maintenance repair, and he can’t speak to what was done in 2005 or 2006.

Director Brown wanted to know if improvements have been made since 2005 involving staff and manuals and maintenance procedures. Mr. Richards said that the District has evolved a lot in five years, and in two years in particular. Moreover, he thought it was a little disingenuous for the report to state that the inspector never looked at it. Even though that’s in writing, Mr. Richards wasn’t willing to admit that.

District Counsel Kenyon pointed out that those were the *claims* that were being made. She said it’s important to understand that this report was based on *why* this settlement was a good settlement because those were the claims that were made. Director Sullivan observed that if the District accepts the settlement, we don’t accept *every* statement people made. Exactly, added Ms. Kenyon.

In conclusion, Mr. Richards said that today, as much as and to the extent that we’re capable, the District was prepared.

Rick Holland of Fairfax commented on the agenda item.

Director Johnson said she would like to keep comments on topics on the agenda.

Regarding Item 4f, Pamela Weigs said although she was a planning commissioner she was not speaking on behalf of the Planning Commission tonight. She had questions about the Healthy Waterways Study Results. Referring to page 12 of the staff report, she wanted to know about comparable studies regarding E. coli and whether they were new or had changed

since last year. She asked how often the study was done and what the cost of the study was. In comparable tests over the past few years, what does the curve look like, i.e. was it getting better or worse? What is the District's plan for future testing?

Mr. Richards said that with respect to answering questions about the science, we would have to bring in a specialist who could interpret the details of the E. coli data. He noted that this was the first time the Ross Valley has done testing and believed that we were the only one in the region doing it. This was part of the Consent Decree the District agreed to and fulfilled the final obligation under that Consent Decree. The tests at the six agreed upon testing locations cost approximately \$30,000. Per the Consent Decree it was a one-time test. But because of the success of the testing and the information we received, staff was going to be proposing to the Board at the budget in July that we do it twice a year, and have a dry weather and wet weather test every year from this point forward so we can trend-line what's happening in Corte Madera Creek.

Director Brown added that in 2005 the Friends of Corte Madera Creek were doing sample testing themselves because of their concern about E. coli and contamination of the creek. She was one of the volunteers to test the creek. During this time it was very challenging for them cost-wise, including expenses for labor and the laboratory and gathering the samples and so on. So when testing became part of the Consent Decree, the District engaged with Friends of Corte Madera Creek, who had already been very interested in what was happening in the creek, and partnered with them, and have been working with them all of this time in creating some kind of testing that was *reasonable* and not too expensive that the District really couldn't justify, but would be effective in determining whether or not it was our sewers that were polluting the creek. Before it was dogs or deer or whatever, but there was really no pinpointing or being sure that it wasn't our sewers leaking into the creek. And with this study and the work and the patient building we've done on it, we're actually able to discern that our pipes are not leaking, which was tremendously important both for me as a Board Director and for the public to know. It's really quite remarkable that we're here. For her personally, it spoke to people being willing to look at things and stay in the room with each other and come up with a solution.

Rick Holland of Fairfax commented on the Consent Decree.

Garril Page of San Anselmo said that it's true that she was the plaintiff and it's true that the Healthy Waterways Study was her baby and she insisted that it be in the Consent Decree. Many people argued against it but she said no. The reason she was so determined it should be there was because going back to 16 years ago, the area in the back of the Bacich School was flooded with contaminated water every year. It was tested. We knew it was flooded. The county did not post it. Children were playing in it and the mothers were outraged. She was furious. So it's a long time coming to see this water actually tested in an official way. The reason it has progressed was that the Ross Valley Sanitary District was now part of the testing. While the Friends did tremendous work in testing, there was no official pathway for them. There was no money in the EPA for them and there was no support from the county in testing because it was going to be bad news for them to have contaminated water because that was expensive. But the Healthy Waterways Study has now become more of a county-recognized thing and the EPA now has more money and something was finally being done about it. And because the District was coming in under the Consent Decree, we're going to

see more careful monitoring and better answers to what is going on and understanding why this water is contaminated. In short, *the Consent Decree is being fulfilled.*

Mr. Richards asked that the record reflect that Mr. Holland's comments were factually dishonest. The Consent Decree has been *exceeded* on every element and the Healthy Waterways Study was not something that was dropped, postponed or wasted. It was something that because of Friends of Corte Madera's history, there were a lot of very important environmental stakeholders that had input as to how they wanted it done. It took time to address the needs of all of the stakeholders. But we've exceeded all of the other points and have been in compliance for quite some time. Mr. Richards invited the public to come down to his office any time to see the factually correct documentation.

Regarding Item 4g, Director Vanni wanted to know where the request came from to authorize Board members' and staff's attendance at the Special District & Local Government Institute's Advanced Studies Seminar. He had nothing against the seminar but he just wondered who asked to have this put on the agenda. He noted that he had requested to have the CASA conference put on this agenda but it didn't make it on the agenda. If the Board doesn't want anybody to go to the CASA conference, we should be able to do that here and not have somebody making that decision when this agenda is being put together.

Director Johnson said that she wanted to go to this seminar and asked that it be put on the agenda. She had no idea when the CASA conference was and had no idea that Director Vanni had requested putting the CASA conference on tonight's agenda. Mr. Richards said that the reason this seminar was on the agenda and the CASA conference was not was because for about six months we've had some very strict deadlines for when things can be put into the Board packet, which was one of the reasons the quality of your Board packet has improved significantly over the last 18 months. This request was made weeks and weeks ago after Ms. Johnson attended another event. The request to put the CASA conference on this agenda was about two days late. Mr. Richards asked legal counsel if he should break the rules and put CASA on the agenda anyway and he was advised to be consistent. Therefore, CASA was not put on this agenda.

Director Vanni stated that the reason he was asking this question was because on the day he made the request, he was told that *that day* was the first day the agenda was going to be discussed. Mr. Richards said that that information was incorrect. Okay, replied Director Vanni. Then the agenda was *not* discussed that day? Mr. Richards noted that the agenda was discussed all month long and there were deadlines. Director Vanni also noted that he was unaware that there was an actual deadline date. It would be nice if we knew that or staff could have told him that he had missed the deadline instead of saying that we are in fact discussing it today. He thanked Mr. Richards for the information.

Rick Holland of Fairfax commented on CASA.

President Guasco said he knew that Mr. Holland was running for office and he appreciated that fact. However, he requested that Mr. Holland not use the time at the lectern for his personal rhetoric in running for office but instead talk directly to Item 4g.

Director Johnson noted that this was a new type of seminar that the Special District Institute was holding; it's more intensive. It's not like the series of three seminar series they've had in the past, which were excellent.

M/S Sullivan/Johnson to approve Items 4a, 4b, 4f and 4g of the Consent Calendar. The motion carried unanimously.

Item #5-CREATION OF ROSS VALLEY SANITARY DISTRICT PUBLIC AND TRANSPARENT CONSOLIDATION FORUM: TO INVESTIGATE WHETHER THE DISTRICT SHOULD REACH OUT BEYOND ITS CURRENT BOUNDARIES AND CONTINUE OUR 100 YEAR LEADERSHIP ADDING ADDITIONAL ADJACENT COMMUNITIES TO OUR DISTRICT THROUGH CONSOLIDATION

General Manager Richards reviewed the staff report and said that the issue of consolidation, as abused as it was by people in the community, was an important tool that can either be used well or abused. He has been shocked, disappointed and alarmed (to name only a few of the emotions he's experienced during his 18 months with District) at listening to the very few pundits, who seem to have interesting alliances and who were attempting to force the Ross Valley Sanitary District to consolidate other agencies or to be, in my opinion, a bailout platform for other agencies.

Regarding the February 8, 2010 letter from David Weinsoff, a councilmember in Fairfax, to President Guasco, Mr. Richards said the letter was riddled with factual inaccuracies. President Guasco wrote a lengthy response to Mr. Weinsoff on February 10, 2010 that addressed these inaccuracies. With this information as background, staff asked the Board for direction to spend more of its time on this and by May to figure out a way to honor the Board's wish to host a consolidation forum that meets objective and transparent criteria. Doing this would mean that less time would be spent on operations, maintenance, putting pipes and pumps in the ground, and doing the work of the District. Staff would invite the following individuals to the forum: people with a valid idea; certain and specific local and state representatives like Jared Huffman and Mark Leno or their designees; and members of the media such as perhaps Kelly Dunleavy from the *Ross Valley Reporter* or perhaps Rob Rogers from the *Marin IJ*.

Director Vanni said he had a question regarding his written request and Mr. Richards' follow-up telephone call to him. This has *nothing* to do with his written request and the follow-up phone call. Director Vanni said he wrote asking that this be put on the agenda but it's not quite what he had asked for. Mr. Richards stated that the problem was that it's cumbersome and confusing to staff when other members of the same political body try to subordinate other members of a political body's agenda. President Guasco was already on the record as having made his desires and requests known in writing, and President Guasco had already asked Mr. Richards to do what Director Vanni had followed up and asked him to do. So when Mr. Richards received Director Vanni's written request, he assumed that by his fulfilling President Guasco's request, it met Director Vanni's expectations.

Director Vanni wanted to know exactly what Mr. Richards meant by "subordinating" in the context of Board members. Mr. Richards gave the example of a teacher telling the class to work on chapter 5 of their math. Then 15 minutes later another teacher walks into the classroom and says to work on chapter 8 of their math. The students now have a dilemma. Do they work on chapter 8 or 15? Mr. Richards said that in his 15 plus years of experience on a board, if one board member has taken a public position about an issue, especially as detailed, thorough and comprehensive as President Guasco did, it's confusing to staff when

other Board members, who have *not* put something like that in writing, start asking for the same product, the same outcome. Furthermore, Director Vanni's request was one sentence—something like “would you please put something about Patrick's forum on the next agenda.” Mr. Richards said he had already been working on that for two weeks so he was already doing what Director Vanni had requested at President Guasco's prior request.

Director Vanni pointed out that there was a follow-up phone call actually asking him what he was requesting because Mr. Richards wasn't sure of it. Was there no reason to tell me that you were already working on that? You couldn't tell me, “You know what? We've already got this on the agenda.” You're waiting until now to make it look like I'm the teacher coming in later asking the class to do page 14 instead of page 8 when in fact I'm also asking them to do page 8. Director Vanni said he didn't understand why Mr. Richards was only *now* telling him that this was already on the agenda

There were two reasons, replied Mr. Richards. One, it was Director Vanni who brought it up, not himself. Two, Director Vanni's request was with a public information request for documents. Staff spent about three days trying to interpret what Director Vanni meant by that request and it was in the context of requesting separate items. But even though the requested items were separated out from the request regarding the agenda, it was in the context of a Freedom of Information Act request for documents Director Vanni wanted like the roofing report, the building sale report, a report we'd never heard of, and a phrase in a bullet point that we just couldn't understand what it meant.

Mr. Richards said he made a mistake and apologized.

President Guasco observed that he was looking at a report that speaks to what Director Vanni had asked for. He wanted to know if Director Vanni saw anything missing in that report. Director Vanni said it's not missing.

President Guasco said that he had no problem with his letter to Mr. Weinsoff and he appreciated Director Vanni's concerns.

Director Johnson said she welcomed the idea of this type of forum to hear input from other people, including the perspective of Ross Valley ratepayers.

Steve Shaiken of Fairfax said Mr. Weinsoff asked him to speak tonight on his behalf as an individual, not as a councilman. Mr. Shaiken said that Mr. Weinsoff was a very dedicated, well-respected and hard-working public official who was recently overwhelmingly re-elected. He was also an environmental lawyer with incredible experience in this area. So if he may have an opinion that differs from some Board members or staff, this should not result in any personal attacks on him. Mr. Weinsoff was one of the most ethical people Mr. Shaiken knew, as you Board members were, too.

Mr. Shaiken noted that the process for the forum that Mr. Richards suggested was transparent and fair and does exactly what we need, i.e. have people who know what they're talking about bring forward the facts. And the three issues identified in the staff report are the three important issues. The public, as opposed to the insiders, needs to be brought into the fold, and if this was done, eventually the public will make up their minds. He urged the Board to go forward with this forum as quickly as possible and bring the issues to the people in a fair and impartial way. Then the political process will take over. And ultimately it's going to be decided by hard evidence, i.e. the hard financial, engineering and labor data.

Rick Holland of Fairfax said that we've discussed this consolidation and it was great to hear a different perspective on this issue.

Director Sullivan observed that the federal government paid billions of dollars to have sewer districts all over the country rebuilt and repaired in the 1970s and 1980s because sewage was flowing into the rivers and waterways all across the country. And unfortunately, it still does in many areas. So the fact the federal government spent ninety percent of the money to build our Central Marin Sanitation Agency is not Mr. Holland's work and it's not the work of any particular individual. It was a large group of people working together because of the dirty waterways. Director Sullivan's second point was that it was hard for him to believe that Mr. Holland continues to advocate that Fairfax will spend its money fixing San Rafael's sewage system. That's basically what his argument is; it's a direct transfer of funds from the citizens of Fairfax to the sewer district of San Rafael.

Director Brown said she was very pleased that there will be a thoughtful, public, transparent and engaging discussion about this because for too long it's become a political thing that comes up at election times. And truly, the facts never really get down to it. She has spent several years researching consolidation and was very willing to explore it because she thought that if it was in the best interest of the ratepayer, then let's do it. She discovered a lot of facts and studies she hoped we'd be able to use to have a fine discussion and dialogue and come up with a consensus that the public can feel comfortable with. She did want to caution that labeling what will be already the deciding measures of consolidation being engineering, labor and safety are not necessarily all that it encompasses. She thought this was limited and that there were other factors to consider like services and responding to SSOs which were interesting and challenging and important to address rather than doing surface bullet points of three criteria. This was a dangerous road to go on and not really open it up. She cautioned that we realize that we've spent a lot of time on this issue on behalf of the ratepayers and she thought it was important that it not be limited even before it begins on what it is that the criteria that we're measuring is.

Director Johnson said that Director Brown was absolutely right. Director Johnson noted that when we were studying this it was incredibly complex and very challenging. And even for understanding the financial part, there are different kinds of money, different purposes for the money and different funds.

Director Brown observed that Ross Valley has the human capital of smart enough people who were engaged and very concerned about their environment, their democracy, their rates and the transparency. And they will put their arms around it and come up with it and be able to tell each other. And all of the city council members and all of the sustainability and environmental people will be able to stay in the room so that we come up what is really going to be something that we can stand up for. She hoped that we are thoughtful and respectful so that we can actually put it to the public and they can feel comfortable about it and be truly informed rather than spun. Director Johnson agreed and added that all too often it becomes a political football instead of the issue it needs to be.

After a lengthy discussion, M/S Johnson/Sullivan to approve this item as outlined in A through G in the Staff Report and direct staff to facilitate execution and completion. The motion carried unanimously.

Item #6-CONSIDERATION OF CHANGING THE BOARD'S REGULAR APRIL 21, 2010 MEETING TO APRIL 20, 2010 General Manager Richards reviewed the staff report and noted that the April 21 date was problematic for the Kentfield School District.

M/S Johnson/Vanni to change the regular April 21, 2010 Board meeting date to Tuesday, April 20, 2010 at the same time. The motion carried unanimously.

Item #7-RETAIN 'ALTERNATE A' GRAVITY SEWER REPLACEMENT TO CIP NO. 1 KENTFIELD FORCE MAIN REHABILITATION PROJECT – SEGMENT 1 General

Manager Richards reviewed the staff report, gave some brief background information and said this was a great opportunity for the District to replace this gravity sewer pipeline because it's always cheaper when the ground was being opened up as it was today for the Force Main rather than going back to do it in the future. He also clarified for Director Johnson the likely requirement for curb-to-curb paving and the cost estimate for Alternate A. President Guasco asked about the potential for this becoming a hazardous site and was told by Charlie Joyce from Brown & Caldwell that when this project was completed the site would be clean.

Director Vanni had a question about the five-year underground utility moratorium that the City of Larkspur would impose after the South Eliseo road was paved curb-to-curb. Most of the time when a city or town does something like that, they usually let everybody else know about it, like water and gas and anything else underground. If in fact Larkspur does impose the moratorium, how do we know that PG&E or MMWD in the same time frame wasn't thinking that they should also be replacing something in that area.

Mr. Richards said that was an excellent question and thanked Director Vanni for bringing it up. We've sent out mailers to thousands and thousands of businesses, homes and utilities in the neighborhood. Tomorrow will be the fourth public outreach meeting and for over two years we've been communicating with Larkspur about this project. Charlie Joyce from Brown & Caldwell said that there's been really close coordination with the engineering staff at MMWD and they know very specifically that the District was going to be there. PG&E also knows about this. He also noted that there's an AT&T line there.

Mr. Richards said that there were a number of interested stakeholders who did not like any of those other options. All of them removed their objections and in fact submitted letters of support to the District for this alignment.

After a brief discussion, M/S Johnson/Sullivan to approve the addition of 'Alternate A' Gravity Sewer Replacement into the Kentfield Force Main Rehabilitation Project – Segment 1. The motion carried unanimously.

Item #8-PRELIMINARY ENGINEERING AND ECONOMICS FOR DISTRICT IN-HOUSE PIPE BURSTING CREW FOR CAPITAL IMPROVEMENT PROJECTS General

Manager Richards reviewed the staff report and explained the various reasons why pipe bursting made sense to do here in the Ross Valley. Above all, it will facilitate putting significantly more pipe in the ground annually at roughly half the cost currently of an average mile of pipe. He was careful to explain that there are many different costs for a mile of pipe and gave examples. What's true for the District was that on average, and not factoring in the Kentfield Force Main, we spend about \$1.4M to put one mile of pipe in the ground using outside contractors. But because of the extremely small diameter of the pipes in Ross Valley and our crew's prior experience with pipe bursting projects, we have the ability to bring in in-house crews, as he mentioned on numerous previous occasions, and use the tried and true technology of pipe bursting to put more pipe in the ground annually. We can bring a crew in-house and put a small diameter mile of gravity sewer in the ground *and* replace significant lower laterals at the

same time for approximately \$700,000 for a mile of pipe. This was an incredible benefit to the District. And this does *not mean* that we'd stop contracting out specific or larger diameter work. Remember that this work is always on going and revolving in that when you put pipe in the ground today, in 40 or 50 years that pipe is the pipe we're currently talking about replacing today. Think of the permanent painters who continually work on the Golden Gate Bridge. When the District gets to the end, it will have to start over though actually it is a continuum.

President Guasco said he supported this out-of-the-box concept and noted there were a lot of lines in Ross Valley that could be replaced by trenchless applications and dedicated staff.

Directors Johnson and Mr. Richards briefly discussed prioritizing the work on this project, handling public outreach, and how this project would dovetail with the lateral grant program. Mr. Richards clarified for Director Sullivan how many miles of pipes would realistically be put in the ground annually, and noted that for the work the District does, we would be getting twice the footage for the same amount of money.

Director Vanni said that six months ago we talked about hiring 13 people but not *these people*. We hadn't been talking about pipe bursting back then. Director Vanni said that Mr. Richards had said that something was coming but he didn't mention pipe bursting. So we're talking here about four workers plus an engineer who's part head of the pipe bursting. That's five people on top of the 13, plus the equipment that we'd have to purchase. Where do we store the equipment? All of this starts to add up, and we know from looking at the numbers that retirement benefits become a huge, huge issue. He's concerned about this. Director Vanni also said he understands and was familiar with pipe bursting and thinks it's terrific. But not many districts do it in-house. While he acknowledged that staff had done their homework on this, he wondered if, since this involved a pretty large capital outlay for equipment and hiring these people, we shouldn't have somebody from the *outside* look at this and do a study and give us a presentation.

Director Brown asked Director Vanni what he thought a reasonable amount was for the couple of bucks he mentioned for the outside study. Director Vanni said he didn't know what it would cost. If it were a \$500,000 investment, for example, would \$2,000 or \$3,000 or even \$5,000 be too much? He didn't know exactly if that was what the outlay would be. But he thought that you could certainly do that study for no more that \$5,000 and probably \$2,000...although he wasn't positive.

Director Johnson asked Mr. Richards to address some of the questions raised by Director Vanni. But she would not like to micromanage and get into the details of whether or not there's enough office space, for example. She assumes the General Manager knows the answer to that. She also observed that she didn't personally need an outsider to validate what the General Manager was telling her about the costs or the projects.

Director Brown said she would like to address the questions Director Vanni brought up because it's important to address them if we're going to invest. She was interested in knowing about the impact on retirement and the overall savings. She thought it was reasonable for Board members to question things like office space and storage space for the equipment and it will impact the District. The largest issue for her involved Director Vanni's

question about the retirement because we need to balance these things. She asked Mr. Richards to address this.

Mr. Richards stated that retirement was an issue for most people and it was a portion of every employee's package. District costs, as a proportion to employee, are not skyrocketing. There *are* agencies that are having significant problems for reasons that Ross Valley was not facing. However, as noted several times in the past, the District's retirement burden was so low that our internal auditors came back and wanted to meet with the Business Manager and General Manger specifically to confirm that the numbers we gave them were correct. That's because our post-retirement benefits were so low by comparison that it looked odd on a spreadsheet. That's the reality today in this climate where many agencies were having severe problems. But we're dealing with retirement confidentially and we can't comment on it publicly because of union negotiations. In sum, as a proportion to employee and as a proportion to savings, retirement was marginally insignificant compared to half the cost of a mile of pipe.

Director Brown asked why other districts don't do pipe bursting. Mr. Richards said there were a number of reasons across the board and he couldn't even begin to address why many don't. But there were quite a few districts that do. Quite a few are afraid to take the risk. In addition, there may be board-related reasons because boards by nature have a very difficult time moving in forward directions typically. And frequently with county or city or special district boards there are so many political agendas that it's hard to get boards to make commitments like this. The RVSD Board, on the other hand, was unique and seems to be rather proactive with most things. Another factor to consider was that until recently pipe bursting was pretty specialized and so it was the kind of thing you'd hire out. But the technology was becoming much more common and while not cutting-edge, it was certainly forward thinking. Mr. Richards felt very confidant that the Board would see more and more districts beginning to do this as they realized the types of dollars they can save and see their aging infrastructure in need of replacement.

President Guasco suggested getting in touch with Central Contra Costa Sanitary District that has been doing pipe bursting for about 13 years.

Regarding a study, Mr. Richards said that if there's going to be any amount of turmoil around the issue, he wasn't asking any of his friends to put their position on the record. But if the Board wants to study it, then they should do that. He noted that he didn't think that \$5,000 would give the Board the study they wanted, but perhaps it would. He didn't know. We would have to do a RFP for the study and find out.

In response to a question from Director Johnson regarding a timeframe for starting the project, Mr. Richards said that he would like to have it up and running as soon as the District possibly, feasibly and realistically can while remaining accountable to the people who care about it. Maybe it will be this summer or possibly the fall. If we have to do a study, it will surely be next year.

Mr. Richards noted that Director Vanni was correct when he pointed out that these positions were not proposed with the previous positions. At the same time, it's not five *new* positions.

When you take into account the construction crew we previously discussed and do the math, it's actually 13 minus four and then plus five.

Director Vanni said that he was *not* trying to stop the progress on this project that he thought was a great idea. He asked if staff could bring to the Board a chart showing the costs that were mentioned, and could we talk to and get some information from someone who *has done this in-house* about what the real benefits could be.

Rick Holland of Fairfax commented on pipe bursting.

After a lengthy discussion, M/S Johnson/Sullivan to accept the presentation and direct staff to return with a plan to implement staffing and funding to include all possible costs to phase in one full-time trenchless pipe bursting crew. The motion carried unanimously.

The Board took a break from 8:52 p.m. to 9:09 p.m.

Item #9-PUBLIC OUTREACH PRESENTATION FOR CIP NO. 5 – WOODLAND/ COLLEGE/GOODHILL BY NUTE ENGINEERING* INFORMATION ONLY Steve Moore, an employee of Nute Engineering, showed an approximately 30 minute public outreach presentation that was being used in conjunction with the Woodland/College/Goodhill CIP, and he answered questions from Board members throughout his talk. Mr. Moore stated that he created this presentation with the following goals: 1) to give an honest basis for doing the job and explain why it was necessary; 2) to describe Nute's design and construction approach and the sense of the anticipated schedule; and 3) to communicate what the community will observe and go through as the job gets built.

Director Brown said she appreciated Mr. Moore's efforts in making the presentation community-friendly and the extra layers of research that went into it, and his communicating with the school district so that the District can actually go in there and not cause people hardship.

Rick Holland of Fairfax commented on the capital project.

Board members and staff thanked Mr. Moore for the presentation. No action was taken.

Item #10-AUTHORIZE GENERAL MANAGER TO SUBMIT A REQUEST FOR PROPOSALS FOR ANNUAL AUDIT AND FINANCIAL REPORTING SERVICES FOR FISCAL YEARS ENDING JUNE 30, 2010 AND JUNE 30, 2011 General Manager Richards reviewed the staff report and said he thought it was prudent to thank the current auditor VTD for their few years of service, and for the sake of transparency and accountability to move on to a new accounting firm for our future needs for probably three or four years before we change again after that.

After having spoken with District Counsel regarding doing the following, Mr. Richards asked the Board to amend the recommendation and include selecting an ad hoc committee that would oversee the selection and recommendation of the new firm to the Board.

M/S Sullivan/Johnson to authorize General Manager to submit a Request for Proposals for Annual Audit, Financial Reporting Services and CAFR Report Review for Fiscal Years ending June 30, 2009 and June 30, 2010; and to create an ad hoc audit committee to recommend a new company and review their first year of audited work. The motion carried unanimously.

Mr. Richards stated that the ad hoc audit committee will be a limited appointment. They will review the candidates from the RFP and make a recommendation to the Board that will come back to the Board for selection. The committee will also review the first year's audited financials which will usually take place somewhere between August and December, depending on the auditor's work load and the District's demand. Then the committee would be disbanded. For the second year of audited financials, we would either make or not make a new ad hoc audit committee, depending on the Board's desire.

M/S Guasco/Brown to appoint Directors Johnson and Sullivan to the ad hoc audit committee. The motion carried unanimously.

Item #11-CAPITAL IMPROVEMENT PROJECT STATUS UPDATE FOR FY 09/10

***INFORMATION ONLY** General Manager Richards recommended that Items 11 and 12 be rolled together because they are basically the same item, i.e. the same capital project. The only reason the District Engineer added a second item (Item 12) was because he felt there were some specific concerns raised about the work done in Larkspur.

Director Vanni noted that he was the Director referred to in the summary of the staff report for Item 12.

No action was taken.

Item #12-CAPITAL IMPROVEMENT PROJECTS WITH THE CITY OF LARKSPUR

***INFORMATION ONLY** This item was rolled together with Item 11.

Item #13-GENERAL MANAGER'S VERBAL REPORT There was no verbal report from the General Manager.

Item #14- BOARD OPEN TIME President Guasco said he would like to amend several statements made by Director Vanni that appeared in an article in the *Ross Valley Reporter*. Director Vanni said in the article that "The [General Manager's] raise had been approved in a Closed Session meeting which he hadn't been privy to, despite being an elected Board member." President Guasco said he would like to set the record straight. A Regular Board meeting was held on October 28, 2009 at 6:45 p.m. where one of the items was Mr. Richards' contract discussions. Item 15 was an open agenda item entitled "The General Manager's Annual Performance Review Ad Hoc Committee Recommendation for General Manager's Annual Review and Contract Amendment." Furthermore, Item 15 was a very open and transparent agenda and staff report that spoke to the General Manager's annual performance review and proposed contract amendment. Director Vanni did receive the Board packet for this meeting and he was absent at that meeting where all other Board members were present. So Director Vanni's statement regarding Closed Session discussions on the General Manager's contract was absolutely inaccurate.

Director Vanni commented.

President Guasco said that his statement referred to *percentages* and the history of spending regarding legal matters in the Ross Valley Sanitary District. Historically, two to three percent was the norm. Right now four percent of our budget was spent on legal. And the legal issues surrounding this District that we have to deal with have *everything* to do with prior administrations that ran this District before this reform Board was elected.

District Counsel Kenyon pointed out that the figure for legal fees includes no more than about \$286,000 for general District Counsel services, which is clearly within the realm of normal fees and much less than Central San. It does include litigation which the District has become involved in related to the District property at Larkspur Landing. So the majority of those legal fees were related to litigation and legal issues surrounding a particular dispute related to District property. She just wanted to make a distinction between District Counsel services and specialized litigation in property fees.

Director Vanni noted that there are some litigation fees *outside* of District property that were on-going at this time and have *nothing* to do with former administrations. That's correct, said Ms. Kenyon. But the majority of those figures come from legal fees associated with the property dispute. A dispute that you haven't been able to take care of over the past four years, replied Director Vanni. And this administration has also had four years.

Rick Holland of Fairfax commented on legal fees.

General Manager Richards stated that there was a legal issue that was a public issue and can be discussed publicly and he would like to comment on that in regards to Mr. Holland's statement. The District has been in a legal dispute with the City of Larkspur which *they* initiated against us which caused the District to have to spend legal fees. Here in Marin, their initial claim was upheld in the Marin courts. We then asked it to be taken to Alameda. The decision was rendered by the judge two days ago; it's a public published decision. The judge in Alameda said that Larkspur was disingenuous at best or at least willfully in violation of the stipulated judgment, and ruled *completely* in our favor and told them they have ten days to review our documents and approve the parking lot or they would face a \$1,000 a day fine for the way they handled it. So I'd say our legal counsel has done a pretty good job here recently. Thank you.

Item #13-CLOSED SESSION The Board adjourned to Closed Session at 10:16 p.m. for

- a) LABOR NEGOTIATIONS pursuant to Government Code Section 54957.6.
Agency Negotiator: Brett N. Richards; Employee Organizations: A.F.S.C.M.E., Felix Huerta; Unrepresented Employees: Mid-Management Group.
- b) CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION. Subdivision (a) of California Government Code Section 54956.9. Name of Case: CITY OF LARKSPUR, a public entity, Plaintiff, v. ROSS VALLEY SANITARY DISTRICT, a public entity, Defendants, Superior Court of California, County of Alameda, Case No. RG09477828.
- c) CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION. Subdivision (a) of California Government Code Section 54956.9. Name of Case: Ross Valley Sanitary District, a public entity, Plaintiff, v. TOWN OF CORTE MADERA, TRANSPORTATION AUTHORITY OF MARIN; PARIKH CONSULTANTS INC.; PITCHER DRILLING CO.; Defendants, SUPERIOR Court of CALIFORNIA, county of SANTA CLARA, Case No. 110CV165019.
- d) CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION.

Subdivision (a) of California Government Code Section 54956.9. Name of Case:
Campus ST. James Larkspur, vs. Sanitary District No. 1 of Marin County, Marin County
Superior Court Case No. CIV 094524.

The Board reconvened to Open Session at 10:50 p.m. Director Vanni was not present for the Closed Session.

No reportable action was taken during Closed Session

Item #16-ADJOURN The Board adjourned at 10:55 p.m.

Marcia Johnson
Secretary of the Board