

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

Wednesday, April 14, 2010  
6:45 p.m.

2960 Kerner Blvd.  
San Rafael, CA

Members Present    Patrick Guasco, President  
                              Marcia Johnson, Secretary  
                              Sue Brown (7:04 p.m.)  
                              Steven Vanni  
                              Peter Sullivan (6:56 p.m.)

Members Absent:    None

Staff Present:        Brett Richards, General Manager  
                              Bridget Wilson, Business Manager  
                              Randell Ishii, District Engineer  
                              Dennis Gavallos, Program Coordinator  
                              Susanne Brown, District Counsel  
                              ADSI Security Guard

Public Present:      There were no names on the sign-in sheet. However, there was one (1) member of the public present.

**Item #1-ORDER**    The meeting was called to order by President Guasco at 6:47 p.m. President Guasco then led the Pledge of Allegiance. Roll call was taken and a quorum was present.

President Guasco read aloud Resolution No. 09-1339, the Board's policy on Board meeting decorum, which was posted at every Board meeting. This policy includes a maximum time of three minutes per comment from the public.

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

**Item #3-OPEN TIME FOR COMMENTS FROM THE PUBLIC**    There were no comments from the public.

**Item #4- CONSIDERATION OF ADOPTION OF RESOLUTION NO. 10-1374 AND ADOPTING THE INITIAL STUDY / MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PLAN AND APPROVING THE KENTFIELD FORCE MAIN REPLACEMENT PROJECT IN ITS ENTIRETY (SCH NO. 2010012039)** General Manager Richards read the following comments into the record.

The District's consultants responded to the substantive comments received during the public comment period and recommended additional mitigation measures and modifications to the IS/MND (Initial Study and Mitigated Negative Declaration). Those mitigations are set forth in the response to public comments document which is attached to and incorporated as part of the IS/MND. The District will incorporate the mitigation measures and modifications set forth in the response to public comments as part of the design of the project, including plans and specifications. None of the

additional mitigation measures and/or modifications triggers the need to recirculation the IS/MND.

Mr. Richards said that the important question was, why did we hold a special meeting for this? Did we have to? Operationally, staff felt it was important and Mr. Richards wanted to be certain it was on the record. This was part of the project the District will be focusing on next year, but we'll be doing a little bit of preliminary work this year. Because the berm is in a strata called state lands, we have to finish this and then the state gets 180 days to take it, and they usually do, before we would then be able to access that portion of the berm where we're doing some injection. So we felt that time was of the essence and there were a few concerns raised with respect to public feedback.

If the Board decides to accept this, that does *not* close the public's opportunity to address it. The public's opportunity will stay open for 30 days. The time and location were noticed in the paper. There was a 30-day window already from sometime in the middle of January to sometime in the middle of February. The responses were now published and people still have 30 days if they have concerns. If those answers don't make the Board feel okay tonight, we can bring it back next week at the regular Board meeting.

In response to a question from Director Johnson regarding clarification of the public comment period, District Counsel Brown said that the public comment period ended February 19, 2010. That's not to say that members of the public still wouldn't come forward and bring admissions, but they are addressed in the EIR (Environmental Impact Report) and the consultants would be able to respond to those public comments at this time or at another meeting if you decide to continue. But the period to which Director Johnson was referring was the 30 days in which the public has to file a challenge to the Board's decision after filing a Notice of the Determination. The Notice of Determination sets a 30-day time clock. The resolution before the Board tonight would authorize the filing of a Notice of Determination.

Director Johnson wanted to know if there was anything that might happen during the 30-day challenge period that could stop the forward action. For example, something we overlooked or a legal challenge or something that's more of a paperwork thing. Charlie Joyce of Brown and Caldwell said that if someone wishes to file a challenge, they state their reason for it. But it can really be the full breath of what Director Johnson just described. Typically, it would be if they felt something really egregious was left out of the evaluation or analysis. We've worked very closely with many counties, agencies, school districts, state commissions etc. to formulate what's in the initial study as well as in the responses. Everything we revealed was right in line with the CEQA (California Environmental Quality Act) requirements.

Director Sullivan arrived at 6:56 p.m.

Director Johnson wanted to know if any legal challenge would be heard in a court or before this Board. Mr. Joyce said he believed that the action would start here in the District. The challenger would file a Notice of Determination with the county and then file a claim with the county to challenge. And then it would go back to the District. Director Johnson asked if there was a third party who decided that the challenge has validity or does the Board decide?

District Counsel Brown said you can certainly work with them and address whether or not the claim has validity, and you can work with the consultant to determine that. But if the challenge isn't resolved to their satisfaction after this, a court will decide.

Director Vanni wanted to know if this Item 4 and Item 5 were the same project and if so, Resolution No. 10-1374 applies to them both. Yes, replied Mr. Richards. But Item 4 specifically related to the berm work, even though we're not going to do a lot of berm work this year. That's part of Segment 2. However, we do want to get in and do the injection into the berm, which was pretty minor. But since it was in the state lands, it has that 180-day window. Mr. Richards clarified for Director Vanni that this was written as an option so if there's a problem with the state or a significant objection raised in the next 30-day window, we can option it out so it doesn't affect this year's work. But if there's no objection and the state responds in a timely manner, then this will be part of this year's work.

Director Vanni wanted to know if both the way we're going to do the job and the place where we're going to do the job will stay the same so that this was related to that work, and we're not changing the way we're approaching that particular part of the work. That's correct, replied Mr. Richards.

Mr. Richards commented that there were some last minute changes made to the fifth WHEREAS that do not substantially change the resolution or eliminate it or make it invalid. He handed out copies of the actual redlined version of the resolution and noted that corrected copies, but without the red lines, were being placed on the table for the public to view. Mr. Richards then read the corrected version of the fifth WHEREAS in Resolution No. 10-1374:

WHEREAS, the District received comments on the IS/MND and prepared comments based on such comments; those responses included additional mitigation measures and modifications to the IS/MND, which are set forth in the Response to Public Comments attached to the IS/MND and hereby incorporated into the IS/MND as a fully separate work therein.

District Counsel Brown clarified for Mr. Richards and Director Johnson that this was the only thing that had to be read for this item, and that the version of the resolution in the Board packet was made based on the version our office had sent. The revisions were made internally. So the only *true* redline portion is the redline portion that Mr. Richards just read.

After a brief discussion, M/S Johnson/Sullivan to adopt Resolution No. 10-1374, adopt the Initial Study / Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan and approve the Kentfield Force Main Replacement Project in its entirety (Sch No. 2010012039). Roll call vote: Ayes: Guasco, Johnson, Sullivan, Vanni; Noes: None; Absent: Brown; Abstain: None. The motion carried unanimously.

**Item #5-REJECT ALL BIDS FOR THE CIP NO. 1 – KENTFIELD FORCE MAIN REPLACEMENT PROJECT – SEGMENT 1, ADVERTISE AS A MODIFIED PROJECT CALLED “KENTFIELD FORCE MAIN REPLACEMENT PROJECT – SEGMENT 1A”, AND AUTHORIZE THE GENERAL MANAGER TO CALL FOR BIDS**

General Manager Richards reviewed the staff report and said that as staff was proceeding with this project, we realized there were some pretty stringent daily operating time constraints in the community of Larkspur and some other scheduling that needed to be done.

Director Brown arrived at 7:04 p.m.

As a result, we had some serious concerns about the end of the construction window in the fall. *The project has not changed at all.* However, by making these alterations we will have more control. We're dividing up the work the Board approved and staging it in these segments, and we've added the 30-inch gravity sewer trunkline bypass, which the District will use to bypass all of the wastewater. Mr. Richards was sure the dollars were the same. In sum, staff recommends that the Board accept the changes.

Charlie Joyce of Brown and Caldwell clarified for Director Johnson that the design aspects of the work will be in phases and the construction work will be in segments. But there were still two main chunks to the construction component of the project. He clarified for Director Sullivan that staff asked him to prepare a figure showing only what the components of Segment 1 were. He then explained the three components of work included in Segment 1A.

Director Vanni wanted to know what the difference was between Segment 1 and Segment 1A work. He also noted that the Board was being asked to disregard all of these bids because we're going in a different direction. Mr. Joyce said that it was repackaging the project overall. Originally we were going to replace all of the sanitary sewer force main along South Eliseo for its entire length and the local sanitary sewer between Bon Air and Corte Real. Segment 1A includes just the portion of the force main in Corte Real and the portion in South Eliseo. We moved what was in Segment 2, the berm ground stabilization and grout injection, up to Segment 1A to take advantage of the construction this year. We also had to include the CCTV inspections as part of the original Segment 1 because based on the resulting evaluation and condition assessment, we would know how to best move forward with rehabilitating the 30-inch line that was built back in the 1920s.

Director Vanni noted that Mr. Richards had mentioned staging. With his knowledge of construction, he knew that every time you stage it costs money. So if you're staging for South Eliseo and then next year we have to come back again and stage for another portion of South Eliseo, it costs money. The bigger the package, the bigger the job and the more saving there are. But when you start dissecting it and doing the work in segments, it costs more. In other words, when you stage something in construction, break it down and then come back next year and stage it again, there's a certain cost involved in that. You don't get as much bang for your buck. So when the General Manager said we'll be coming up with the same numbers, Director Vanni thought the numbers might be a little higher because we're breaking it up into segments and not doing one big job.

Mr. Joyce said that for Segment 2, we're looking to advertise and start construction in the spring of next year. That will be the remaining portion of South Eliseo. And then when the clapper rail blackout period ends in the beginning of September, we can continue across there and we always assumed there would be two contractor mobilizations.

Mr. Richards acknowledged that the 30-inch bypass represents extra money but he didn't know if those costs would be higher. But the CIPP (Cured-in-Place-Pipe) was actually restoring at least 2,000 feet of the bypass pipe. President Guasco thought it was prudent to do this.

In response to questions from Directors Johnson and Sullivan, Mr. Joyce explained the details surrounding the berm injection process and how it would benefit the community.

After a brief discussion, M/S Guasco/Sullivan to reject all bids for the CIP No. 1 – Kentfield Force Main Replacement Project – Segment 1, in accordance with Section 00100, Instructions to Bidders, Article 7, in the Bid Documents and Public Contracts Code Section 2005; and authorize the General Manager to advertise the Project as a modified project called “Kentfield Force Main Replacement Project – Segment 1A”; and authorize the General Manager to call for bids. The motion carried unanimously.

**Item #6-GENERAL MANAGER’S VERBAL REPORT** The General Manger had no verbal report.

**Item #7- BOARD OPEN TIME** Director Sullivan noted that there were several articles in the paper about streets being ripped up in San Anselmo and the water pipes being replaced. He wanted to know if the District was involved in that and had any bad pipes there. Director Vanni pointed out that water lines and sewer lines are separate and this had to do with water lines.

Director Johnson noted that the 25<sup>th</sup> Anniversary/Wet Weather Improvement Project Dedication at CMSA was going to be from 2:00 p.m. to 5:00 p.m. on July 15. Everyone like public and elected officials and so on was invited but not the public. She thought that the people who were actually paying for this massive construction project should also be invited.

Director Brown had a question regarding the newly inserted paragraph in bold that was at the top of the agenda under the heading of Board Meeting Decorum. This paragraph in bold read as follows: “Only items on the agenda will be discussed. Public may comment on an agenda item after it is discussed by the Board, for a maximum time of three minutes per comment. No Board action will be taken on comments.” She asked that the language be refined slightly. What we’re trying to convey, she said, was that all the items on the agenda *can* be discussed, instead of *will* be discussed. Specifically, she was referring to the second sentence in this paragraph in bold where we could say something slightly different. She had a hard time with the tone of that sentence. She would like to insert the following: “The Board president may have discretion to hold the comments to three minutes if deemed appropriate.” She felt there may be an opportunity for true discussion where three minutes would be limiting. She thought we don’t necessarily need to have a rule that says the maximum time a person can comment was three minutes. And the Board president should absolutely have discretion to hold the person to three minutes. So she requested agendizing a discussion of this matter. Director Brown asked District Counsel for feedback.

District Counsel Brown said that this was something Director Brown would like to have as a topic for discussion and she could agendize it.

**Item #13-CLOSED SESSION** The Board adjourned to Closed Session at 7:41 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.

The Board reconvened to Open Session at 8:15 p.m.

During Closed Session, direction was given to the General Manager to continue negotiations.

**Item #9-ADJOURN** The Board adjourned at 8:20 p.m.

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Marcia Johnson  
Secretary of the Board