

Claire McAuliffe, President
Corinne W. Wiley, Vice President
Catharine Benediktsson, Secretary

Casey A. Kawamoto, Director
V. William Brady, Director

**Sanitary District No. 5 of Marin County
Minutes of a Regular Board Meeting
at Sanitary District No. 5 of Marin County Meeting Room
2001 Paradise Drive, Tiburon, California
Monday, January 7, 2008 6:30 p.m.**

CALL TO ORDER by Vice President Kawamoto at 6:30 p.m.

ROLL CALL: Directors, present: Casey Kawamoto, Vice President
Catharine Benediktsson, Secretary
Claire McAuliffe
Corinne W. Wiley
V. William Brady

Directors, absent: none

Staff, present: Robert L. Lynch, District Manager
Patricia Sisco Koch, Administrative Assistant/Account Specialist

1. Election of Officers of the Board (Kawamoto/McAuliffe)

Motion (Wiley/Brady) to nominate Claire McAuliffe as the President of Sanitary District No. 5 Board of Directors for the 2008 term. Passed, all.

Consensus: The Governance Committee shall recommend to the Board of Directors the process of determining the officers in the future.

Motion (McAuliffe/Brady) to nominate Corinne Wiley as the Vice President of Sanitary District No. 5 Board of Directors for 2008 term. Passed, all.

Motion (McAuliffe/Kawamoto) to nominate Catharine Benediktsson as the Secretary of Sanitary District No. 5 Board of Directors for 2008 term. Passed, all.

2. Appointment of Committee Members (McAuliffe)(see attached recommendations for committee members by Dir. Kawamoto)

Motion (Benediktsson/Wiley) to change the Order of the Agenda by addressing Item 12 Consider Approval of Membership with North Bay Watershed Association for 2007-2008. Passed, all

12. Consider Approval of Membership with North Bay Watershed Association for 2007-2008 (Lynch)(see invoice for FY2007-08 dues dated 8/2/07)

Asst. Koch introduced from the audience Executive Director Harry Seraydarian of North Bay Watershed Association. Mgr. Lynch noted the decision to pay the dues for the 2007-2008 fiscal year was delayed since former SD#5 director Peter Hoyt Berg had health issues and he

was the standing committee member whose concern was with the fisheries. SD#5 former board president Fred Hannahs in November 2007 tabled the item to the new board at the January 2008 regular board meeting. Mr. Seraydarian outlined the history of the NBWA. He noted the dues for SD#5 were negotiated between the existing agencies of the association. The results were a decrease in dues from \$7,500 to \$4,500 for SD#5. Mgr. Lynch noted the dues were not budgeted in this fiscal year's finances and that the MOU states that if dues are not paid within 120 days NBWA would terminate the District's membership and notice the District by letter. The letter terminating membership was never received. Mr. Seraydarian noted, he had assumed the dues would be paid by the District. Before voting on the dues payment, Dir. Brady asked Mr. Seraydarian how would he explain the benefits of being a member of NBWA to taxpayers of this District. Mr. Seraydarian invited Dir. Brady to meet with him on that concern. Dir. Benediktsson noted there is a certain amount of money the District has to devote each year to an educational project addressing the State Water Resources Control Board's NPDES permit requirements and the District's participation in the NBWA meets a part of that requirement. Mgr. Lynch recommended paying the dues for this year. He noted a board member may attend NBWA's meetings regardless of paying dues but without voting rights.

Motion (Brady/Kawamoto) to pay the fiscal year 2007-08 dues to North Bay Watershed Association in the amount of \$4,500. Passed, all.

2. Appointment of Committee Members (McAuliffe) continued

President McAuliffe appointed the directors to the Standing Committees of the Board of Directors for the 2008 term as follows: Finance & Fiscal Oversight Committee (includes Budget Review Committee) Chairperson Corinne Wiley, Catharine Benediktsson, alternate Claire McAuliffe; Paradise Cove Committee Chairperson Corinne Wiley, V. William Brady, alternate Casey Kawamoto; Capital Improvement Committee Chairperson Claire McAuliffe, Casey Kawamoto, alternate Corinne Wiley; Governance Committee Chairperson Corinne Wiley, Claire McAuliffe, alternate Casey Kawamoto; North Bay Watershed Association Chairperson V. William Brady, alternate Casey Kawamoto; I.T. Technology Committee Chairperson V. William Brady, Catharine Benediktsson, alternate Claire McAuliffe.

PUBLIC OPEN TIME: None

DIRECTORS COMMENTS AND/OR AGENDA REQUESTS--None

CONSENT CALENDAR

3. Approval of December 3, 2007 Regular Board Meeting Minutes

Motion (Brady/McAuliffe) to approve the minutes of the regular board meeting of December 3, 2007, as presented. Passed, all.

4. Declaration of Surplus Property (see attached Schedule of Surplus Property 2007)

Mgr. Lynch noted number 3085 in the draft Policy Handbook outlines the procedure for declaring surplus property. Pres. McAuliffe asked what is financial impact of this declaration of surplus property? Asst. Koch stated it reduces the amount of the fixed assets of the District.

Motion (Benediktsson/Kawamoto) to declare as surplus property \$700,314.00. Passed, all.

5. Approval of Warrants for December 2007 (see attached warrants for December 2007)

Dir. Kawamoto asked why the dental insurance increased from last month? Asst. Koch noted that an employee was married last month and his wife and stepson were added to the policy. Sec. Benediktsson asked how the PG&E billing audit was coming along? Mgr. Lynch noted, since sending all the information to Dir. Marks' contact, nothing has been heard back from them. Dir. Benediktsson requested Mgr. Lynch to followup on the energy audit. Mgr. Lynch noted, that over the past four years, each year the cost for PG&E has been reduced. Mgr. Lynch requested a change warrant number 1704 description from "wells" to "radios." V.P. Wiley asked if the Belvedere alarm situation has been resolved? Mgr. Lynch responded, no because the District is waiting for the licensing.

Motion (Benediktsson/Wiley) to approve the warrants for December 2007 in the amount of \$202,898.52. Passed, all.

6. Receipt of Financial Reports for December 2007 (see attached December 2007 reports)
Asst. Koch noted that the county has just released the estimated figures for the fourth quarter interest ending fiscal year 2006-2007. This was done by the county so as to allow special districts to close the year end books for fiscal year 2006-07. The county will make adjustments to the fourth quarter interest and will be dated July 1, 2007. On January 4th the sewer fees and taxes from Tiburon were received, and the sewer fees from Belvedere. The reason for receiving the funds one month late was due to the county not setting up the electronic transfers for these monies to the District. All other funds have been transferred by the county to the District appropriately. The District should receive interest on all the monies held by the county to the date that the funds are transferred.

MANAGEMENT REPORT

7. Operations Report (O'Day)(see attached report from Sr. Opr. Tim O'Day)
a. Tiburon/Belvedere Compliance Report & Public Complaint Report December 2007
8. District Manager's Report (Lynch)(see attached Manager's Report items a-e)
a. California Special Districts Association Draft Policy Handbook
b. Paul Garbarini Letters dated November 16, 2007, Regarding Financial Issues and Installation of Backflow Check Valve Device
c. Positions of Senior Operator and Collection System Maintenance Worker Update
d. 2007 Sewer Rehabilitation CIPP Projects
e. Web Site Update

f. January 2008 Storm Report

Mgr. Lynch reported he put the staff on 24/7 since the District's insurance claim agent noticed the District of a huge storm coming to the area this weekend. On Cove Road the pumps were checked every hour. On Mar East Pump Stations 1,2,3, & 4 were lost due to power failures for 48 hours. Generators kept the pumps working. Paradise Cove was out 30 hours but the generator kept it working. Pump Station #6 at Bank of America lost the controller and touch screen which will cost \$3K. Mgr. Lynch noted that the rain was not a factor but the wind was a factor. Dir. Benediktsson asked how much did this storm cost the District? Mgr. Lynch reported about \$25K. No discharge violations occurred. Pres. McAuliffe congratulated staff.

NEW BUSINESS

9. Adopt Resolution 2008-01 "A Resolution Authorizing Investment of Monies in the Local Agency Investment Fund" and Approving the President, Secretary, and District Manager Signatures (Koch)(see attached Resolution 2008-01)

Asst. Koch noted that resolution currently on file at LAIF has to be updated by adding the new president as a signator.

Motion (Benediktsson/Kawamoto) to adopt Resolution 2008-01 "A Resolution Authorizing Investment of Monies in the Local Agency Investment Fund" and approving the President, Secretary, and District Manager signatures. Passed, all.

10. Call for Nominations-LAFCO Alternate Special District Member Term Ending May 2011 (Lynch)(see attached)

Mgr. Lynch noted this position was held by former director Kenneth Marks. The position of alternate representative from a special district cannot be held unless the person serves on a special district board.

Consensus: To nominate V.P. Connie Wiley to run for the position of alternate representative to the LAFCO Board.

11. Set Workshop for Board Orientation with Rauch Communications, Inc. (Lynch)(see attached report Board of Directors' Workshop dated 1/7/08)

Consensus: The Board agreed to the date of February 27th for the board orientation workshop starting at 8:00 a.m. and ending at 4:00 p.m.

Dir. Brady offered to set up the workshop at the Corinthian and all agreed.

13. Award Contract for Paradise Cove Treatment Plant Replacement (Lynch)(see attached bid results dated 12/28/07 from Kennedy/Jenks Consultants)

Sec. Benediktsson stressed the need for the Paradise Zone to be set up in order for that zone to pay its own way instead of borrowing from the Tiburon Zone. Once the money is spent from the Tiburon Zone, she states, it cannot be reimbursed once the Paradise Zone is put in place. Mgr. Lynch explained that the Paradise Cove Treatment Plant is in need of being replaced due to its age and potential to fail.

Motion (Benediktsson/Wiley) to award the bid for the replacement of the Paradise Cove Treatment Plant to Ashbrook Simon-Hartley Inc., in the amount of \$443,199. Passed, all.

14. 20 Main Street Vacancy Period and Building Demolition-Requesting a Sewer Fee Reimbursement and No Fee for Vacant Parcel (Koch)(see attached Zelinsky Property 20 Main Street report dated 1/7/08)

Motion (Benediktsson/Wiley) to reimburse the Zelinsky Properties sewer charges of \$3,211.78, due to the building being unsafe for occupancy since October 2005, only upon receipt of proof of payment. Passed, all.

UNFINISHED BUSINESS--None

COMMITTEE REPORTS--None

OTHER BUSINESS--None

CORRESPONDENCE

15. Letter from Paul Garbarini dated December 23, 2007, Subject: Sanitary Sewer Later Inspections (see attached)

INFORMATIONAL ITEMS (see attached)

16. California Association of Sanitation Agencies Letter dated December 20, 2007, Subject: Legislative Update Will They or Won't They?—"Borrow" Local Government Property Taxes
17. Legislative Alert dated December 21, 2007, Gov. Schwarzenegger Announces Special Session to Address Fiscal Emergency
18. California Sanitation Risk Management Authority Claims Status since 1997

ADJOURNMENT

Motion (Wiley/Benediktsson) to adjourn at 8:26 p.m. to a Regular Board Meeting February 4, 2008, at 6:30 p.m. at the Sanitary No. 5 District Meeting Room at 2001 Paradise Drive, Tiburon, California. Passed, all.

Approved:

Attest:

Claire McAuliffe
President, Board of Directors

Catharine Benediktsson
Secretary, Board of Directors

Claire Mc Auliffe, President
Corinne Wiley, Vice President
Catharine Benediktsson, Secretary

Casey A. Kawamoto, Director
V. William Brady, Director

**Sanitary District No. 5 of Marin County
Minutes of Regular Board Meeting
at Sanitary District No. 5 of Marin County Meeting Room
2001 Paradise Drive, Tiburon, California
Monday, February 4, 2008 at 6:30 p.m.**

CALL TO ORDER by President Mc Auliffe at 6:30 p.m.

ROLL CALL: Directors, present: Claire McAuliffe, President
Corinne W. Wiley, Vice President
Catharine Benediktsson, Secretary
Casey Kawamoto
V. William Brady

Directors, absent: none

Staff, present: Robert L. Lynch, District Manager

Attendance: Mark Jansheski
Becky Pringle

PUBLIC OPEN TIME: Mr. Mark Jansheski introduced himself to the new board as the contractor for the Paradise Sewer Line. The status, he stated, is that the asbuilts will be given to Mgr. Lynch soon. Mgr. Lynch reported that a letter has been sent to Mr. Janesheski noting that additional invoices need to be given to the District. Dietrich Stroeh's invoices are not detailed. A management fee is included. The invoices appear to be time and materials. Mr. Jansheski noted that the agreement with the District is an agreement to have a reimbursement agreement.

DIRECTORS COMMENTS AND/OR AGENDA REQUESTS: None.

CONSENT CALENDAR

1. Approval of January 7, 2008 Regular Board Meeting Minutes (see attached)
2. Approval of Warrants for January 2008 (see attached)
3. Receipt of Financial Reports for January 2008 (see attached)

Motion

MANAGEMENT REPORT

4. Operations Report (O'Day)
 - a. Tiburon/Belvedere Compliance Report & Public Complaint Report January 2008
5. District Manager's Report (Lynch)
 - a. California Special District Association Draft Policy Handbook
 - b. 2007 Sewer Rehabilitation CIPP Projects
 - c. January 2008 Storm Flows
 - d. I.T. Technology Discussion (verbal)

NEW BUSINESS

6. Authorization to Advertise Invitation to Bid for Construction of the Paradise Cove Wastewater Improvement Project (Lynch)
7. Authorization to Proceed with Finalizing the Initial Study and Mitigated Negative Declaration of Environmental Impact Report for the Paradise Cove Improvement Project (Lynch)

UNFINISHED BUSINESS--None

COMMITTEE REPORTS

8. Finance Committee Minutes of January 31, 2008 (Wiley/Benediktsson)
 - a. Authorization to Release Accountant David B. Bennett from Accounting Services Provided to the District
 - b. Authorization and Approval to Send Requests for Proposals for a New Auditor
 - c. Authorization to Pay Warrants as Submitted and Ratify Warrants at the Regular Board Meeting

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OTHER BUSINESS--None

CORRESPONDENCE

9. Letter from Paul Garbarini dated January 18, 2008, Subject: Financial Management
10. Letter from Marin Builders dated January 30, 2008, Subject: Paradise Sewer Extension Project

INFORMATIONAL ITEMS

11. Wall Street Journal dated November 30, 2007: Deteriorating Sewer Systems: A Dirty and Costly Secret

ADJOURNMENT The Board will be asked to adjourn the meeting to a Special Board Meeting Workshop February 27, 2008, at 8:00 a.m. at a location to be determined.

Approved:

Attest:

Claire Mc Auliffe
President, Board of Directors

Catharine Benediktsson
Secretary, Board of Directors

Claire Mc Auliffe, President
Corinne Wiley, Vice President
Catharine Benediktsson, Secretary

Casey A. Kawamoto, Director
V. William Brady, Director

**Sanitary District No. 5 of Marin County
Minutes of a Regular Board Meeting
at Sanitary District No. 5 of Marin County Meeting Room
2001 Paradise Drive, Tiburon, California
Monday, March 3, 2008 at 6:30 p.m.**

CALL TO ORDER at 6:30 p.m.

ROLL CALL Directors, present: Claire McAuliffe, President
Corinne W. Wiley, Vice President
Catharine Benediktsson, Secretary
Casey Kawamoto
V. William Brady

Directors, absent: none

Staff, present: Robert L. Lynch, District Manager
Mary K. Temple, Admin. Assistant (Temp.)

Consultant: Jessica Mills, Legal Counsel

Public: Deirdre McCrohan, The Ark
Chris Gill, Tiburon resident.

1. CLOSED SESSION—Conference with Legal Counsel Anticipated Litigation-Deciding to initiate litigation pursuant to California Government Code Section 54956.9c: Number of potential cases: One
No action taken.

PUBLIC OPEN TIME: None.

INTRODUCTION: Bob Introduced Tony Rubio to Board.

Tony is the new Wastewater Facilities Manager.

CONSENT CALENDAR

2. Approval of February 4, 2008 Regular Board Meeting Minutes-Action Item
3. Approval of February 27, 2008 Special Board Meeting Workshop Minutes-Action Item
4. Approval of Warrants for February 2008-Action Item

MANAGEMENT REPORT

5. District Manager's Report (Lynch)
 - a. Mgr. Lynch noted that a "Storm Watch" was initiated and that staff was onsite all weekend during storm activity. Mgr. Lynch noted that the crew "did a great job" despite the short time without power. Dir. Benediktsson discussed the emergency preparedness plan including a phone list or phone tree for contact with staff. Dir. Benediktsson also noted that Kathy, Belvedere Land Company, is the contact for information about

affordable housing for staff, enabling staff to live nearby the plant. The Manager will research how to get Sanitary 5 District employees on the list for such housing. The District believes that having employees live near the plant is important, especially in times of bad weather, emergencies and other such critical matters.

- b. Employee Benefit Package. Mgr. Lynch noted that while the District's cost to PERS is significant, SD5 has the same benefit package as other districts. Lynch also noted that SD5 must pay slightly higher wages to attract personnel to the plant location.
- c. Mgr. Lynch discussed the pending reissue of NPDES permit. Lynch also noted that some lower lying sewage lines (such as lines lower than Bay water) are in need of repair due to salt water intrusion issues. Dir. Benediktsson noted that SD5 is spending lots of money for testing and suggested that someone from SD5 should attend meetings with Regional Water Quality Board, and with Larry Walker and Assoc. (consultant). This will inform and enable the SD5 Board to be current with any issues regarding the NPDES permit.
- d. Mgr. Lynch discussed the issues with salt water and that the State sets the regulations. SD5 has always met its discharge permit requirements, and has not been fined. However, we are borderline.
- e. Mgr. Lynch discussed the cease and desist order and that no action is needed at this time.

Consensus: The Board requests a detail of costs for consultant services by the next regular meeting.
Consensus: The Board agrees that in order to get up to speed the members should review the reports from Larry Walker and Assoc. for the past year.

DIRECTORS COMMENTS AND/OR AGENDA REQUESTS: None.

NEW BUSINESS

- 6. Mgr. Lynch discussed the bids for the Paradise Cove Project and that the low bidder's sub-contractors had never performed direct bore under-water work as required for the project. Therefore, Mgr. Lynch recommended "Team Ghilotti" be awarded the contract for the project as their sub-contractors have the required experience.

Motion: Benediktsson/Wiley to approve authorization for Team Ghilotti to provide construction for Paradise Cove Project. Passed, all. Dir. Benediktsson noted that it would be good if the same crew did all the work for matters of consistency and continuity. Board discussion of the timeline for project? Mgr. Lynch noted that once the contract is awarded,

the project should take 120-180 days, and that the concrete slabs will be the first phase of work. Mgr. Lynch estimated that Paradise Cove should be operational within five months or by end of summer. Lynch noted that one of the issues with the project was the need to barge equipment from Mare Island to Paradise Cove.

COMMITTEE REPORTS

7. Wiley/Benediktsson reported on Finance Committee meetings of February 25 and February 29, 2008.

Action Item: Authorization for District Manager Lynch to send Requests for Proposals for new auditor. Committee members discussed the need to send out requests to five or six auditors. Committee members also discussed the need to review the proposal before it goes out to the auditors.

Committee members discussed the possibility of streamlined financial and quarterly reports to the Board of Directors. Members also noted the need to sit with Leslie quarterly during the reconciliation process. Dir. Wiley discussed the format for the Balance Sheets. The Finance Committee agreed to pilot the simplified reports for three months and revisit to assess. Committee discussed the Beach Road Lines and that the loan balance had been reduced. The committee also discussed the fact that the auditors will need to look at the chart of accounts. The committee discussed the different zones for SD5 and that Paradise Cove belonged with Tiburon, therefore two actual zones exist: Belvedere and Tiburon.

The Finance Committee thanks Leslie for simplifying the reports as this has improved the process for review.

Committee asked for clarification of account #9900.8: "Developer Contributions." Mgr. Lynch explained that this account was established to accommodate the category of possible developer donations, and that this budget item is carried over to each new budget.

Dir. Brady asked for clarity for account #801: "Advertising." Mgr. Lynch explained that #801 is for advertising: bids, legal announcements, personnel recruitment.

Consensus: For #840: "Misc." Board would like expenditure details.

Board discussed the possibility of 50% budget cut by Gov. Schwarzenegger, to Special Districts and the potential ramifications to SD5 such as rate increases. No action was taken. The Board discussed whether Special Districts have a legislative body or committee.

Agenda

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- Receipt of Financial Statements for February 2008.

8. Governance Committee Minutes of February 22, 2008 (McAuliffe/Wiley)

- Policy Handbook: Board discussed the number of pages in the handbook and suggested that it be sent to members in a PDF format for review rather than distribute a hard copy to each member.

Recommended changes to policies:

- Meetings will now be conducted according to formal Robert's Rules of Order. This changes the previous Board's desire to keep meetings informal.
- Pay advance provision will be deleted.
- Warrants should be signed in a timely manner; streamline the present process.

Board discussed the Family Medical Leave Catastrophic Donation Form, asking for clarification of process. Mgr. Lynch explained that employees can donate accrued paid leave. Lynch went on to explain that an employee donating time must retain forty hours for themselves, and that the "clock" starts again each year.

Consensus: Board requests an item be added to the agenda for the next regular meeting: provide status report of interest payment from the County of Marin.

9. Chair McAuliffe discussed the need for a Strategic Planning Committee. Dir. Wiley suggested that the Board set a half-day workshop with Bob Rausch. This workshop should be planned for 9-1 or 2pm and should include discussion of the District's mission, vision and values. (**AMENDMENT:** May 5, 2008 regular meeting: Strategic Planning-see Item 12, passed, all.)

10. Paradise Cove Committee (Wiley/Brady)—No meeting.

11. Capital Improvement Committee (McAuliffe/Kawamoto)—No Meeting

12. I.T. Technology Committee (Brady/Benediktsson)—No Meeting

Dir. Brady asked for clarification as to the purpose of the Paradise Cove Committee.

Board discussion included an explanation that the Paradise Cove Committee members are the point persons for the project and they report project progress to the Board of Directors. It was also discussed that the committee members should have institutional history. Mgr. Lynch explained that the flow of information is as follows: Paradise Cove Project: District Manager Lynch> Paradise Cove Committee Members> Board of Directors.

Motion: (Brady) Moved to Reconstitute the I.T. Committee. Motion tabled.

(**AMENDMENT:** May 5, 2008 regular meeting: The I.T. Committee will be an Ad Hoc committee; passed all)

ADJOURNMENT at 8:15 p.m. to adjourn the meeting to a regular Board Meeting of April 7, 2008, at 6:30 p.m. at the District Office located at 2001 Paradise Drive, Tiburon.

Claire McAuliffe, President
Corinne W. Wiley, Vice President

Catharine Benediktsson, Secretary
Casey Kawamoto, Director
V. William Brady, Director

**Sanitary District No. 5 of Marin County
Minutes of a Regular Board Meeting
at Sanitary District No. 5 of Marin County Meeting Room
2001 Paradise Drive, Tiburon, California
Monday, September 8, 2008 6:30 p.m.**

CALL TO ORDER by President McAuliffe at 6:30 p.m.

ROLL CALL: Directors, present: Claire McAuliffe, President
Corinne W. Wiley, Vice President
Catharine Benediktsson, Secretary
Casey Kawamoto
V. William Brady

Staff, present: Robert L. Lynch, District Manager
Samantha Miller, Office/Finance Manager

Others, present: Becky Pringle
Paul Garbarini

PUBLIC OPEN TIME: None

DIRECTORS COMMENTS AND/OR AGENDA REQUESTS:

Sec. Benediktsson shared newspaper articles with the Board about the Richardson Bay and Sausalito sewage spills and the resulting fines (see attached). The Board discussed District and Board member liability and insurance coverage. The Board requested a written report on the extent and limits of Directors Liability Insurance. This item will be on the October 6, 2008 Board meeting agenda.

CONSENT CALENDAR:

1. Approval of August 4, 2008 Regular Board Meeting Minutes (attached)
2. Approval of Warrants for August 2008, #2295 through 2369, in the amount of \$273,135.83 (attached)
3. Receipt of Financial Report for August 2008 (attached)

Mgr. Lynch informed the Board that he will meet with an independent accountant/auditor, Mr. David Perotti, on September 24, 2008. Mgr. Lynch would like to work with him on the zone breakout and percentages first, and then the District Reserve Policy. The Board agreed members of the Finance Committee should attend the meeting with Mr. Perotti on September 24th and should be notified of the time of the meeting. Pres. McAuliffe would like this item to be on the agenda every month until the zone breakout and Reserve Policy issues are resolved.

The Board expressed concern about the cost of the annual permits that the State requires the District to obtain each year.

Dir. Kawamoto asked for clarification for Warrant item #2339, dated 8/31/2008, "Leak Detection Pros." Mgr. Lynch explained that Leak Detection Pros, Inc. looks for leaks and then identifies the specific spot where spot repairs are needed. The District does not have the equipment to do such work, and it is more cost effective to use a service such as Leak Detection Pros.

Motion (Benediktsson/Wiley) to approve the August 4, 2008 Regular Board Meeting Minutes and the Warrants for August 2008. Passed, all.

The Board will not receive the Financial Reports for August 2008 until they are complete, pending the zone breakout work to be done with Mr. Perotti in the next month.

MANAGEMENT REPORT:

4. Operations Report (Rubio)
 - a. Tiburon/Belvedere Compliance Report & Public Complaint Report August 2008 (attached)

Mgr. Lynch noted the District's gas production has increased. In addition, we are now able to use the methane gas on the boiler. The methane gas had previously been too dirty to ignite the boiler and keep running, so we had to use natural gas. Our natural gas should go down because the methane production has gone up, which is a plus. Mgr. Lynch explained that when we complete the Digester Capital Improvement Project and we switch the sludge back over to the digester and add all our water and heat them back up, we will lose our gas production again for a month or two, and then we will be back up to normal again. The Digester Project is on schedule, estimated to be done mid-December 2008.

Mgr. Lynch reported there were no S.S.O.'s in August. There was only one odor complaint in August, which occurred during the dewatering of the digester.

Dir. Kawamoto asked if the sodium hydroxide use for August is a normal monthly amount. Mgr. Lynch explained that we are using more sodium hydroxide right now because that chemical is used on the foul air scrubber. The foul air scrubber cleans the air and eliminates odors. More chemicals are used when there are more odors to eliminate, which has occurred during the Digester Project.

Pres. McAuliffe requested that a percentage column be added to the Plant Performance Data Sheet (page 3 of the Operations Report), showing the percentages of monthly or annual averages. Pres. McAuliffe stressed the importance of having a frame of reference for these numbers so the Board understands what they mean. She thanked Mgr. Rubio for a great job educating the Board on these matters.

The Board would like more documentation to determine if the "Monday morning" brown foam located on the beach in front of Sec. Benediktsson's home is from effluent discharge from SASM or Sanitary District No. 5. The Board would also like to know when we test for BOD and TSS and how that fits into weekend traffic. Mgr. Lynch or Mgr. Rubio will respond at the

next Board meeting.

The Board questioned the spikes on the “Influent and Effluent Flows” graph. Mgr. Lynch explained the data.

Mr. Paul Garbarini noted that Belvedere’s Average Influent (listed on page 1 of the Operations Report) is only 32.5% during the month of August, but Belvedere is getting charged at a rate of 35%. Mgr. Lynch explained that the Average Influent is based on data from last year and it gets recalculated at the end of every fiscal year. Belvedere gets charged according to their usage during the previous year, which was 35%.

The Board questioned the spike in the 1130 Influent Total Suspended Solids on the “Influent and Effluent BOD & TSS” graph. Mgr. Lynch believes that is related to the digester cleaning.

5. District Manager’s Report (Lynch) (attached)
 - a. Status Report – Paradise Cove WWTP Improvement Project
 - b. Status Report of Digester Cleaning and Cover Replacement
 - c. District Manager will be attending the CALPERS OPED Trust Fund Workshop on September 16, 2008 in Walnut Creek, CA

Dir. Brady would like to attend the workshop with Mgr. Lynch.

- d. District Manager contacted Mr. David Perotti in regards to reviewing and making recommendations about how the District Reserve Policy was calculated and how the percent allocations are calculated for the three zones.

Mgr. Lynch would like to get the percent allocations done first, and then address the Reserve Policy. Mgr. Lynch should have an estimate of the time and cost of this work after meeting with Mr. Perotti on September 24, 2008.

- e. The District Manager has completed a benefits package survey of the Sanitary Agencies in Marin County and will be looking for direction from the Board of Directors in moving forward.

Mgr. Lynch informed the Board that negotiations cannot occur with the current employees until their agreement expires in 2010. The Board would like Mgr. Lynch to focus on future employees.

NEW BUSINESS:

6. Authorization and Approval for District Manager to execute an Agreement with Team Ghilotti Inc. for the Paradise Cove WWTP outfall pipe, by Credit outfall/Close Contract – Action Item (see attached Notes of Explanation)

The Board agreed that if the District does not receive a letter from the National Marin Fisheries Service regarding the permitting process by September 11, 2008, Pres. McAuliffe will start adding pressure again.

The Board would like there to be fail-to-complete clauses and penalties in future contracts. Mgr. Lynch informed the Board that the District already does that with the Public Works contracts, but not normally with consultants. The Board would also like progress reports by contract, including punch lists, status updates, and timelines.

Motion (Benediktsson/Brady) to authorize and approve the District Manager to close Contract "B" for the Paradise Cove WWTP outfall pipe and accept credit for the outfall pipe on September 22, 2008 if the permitting is delayed further. Passed, all.

7. Authorization and Approval for District Manager to Sign Offer to Participate in Expedited Payment Program Related to Violation of NPDES Permit – Main Treatment Facility (NPDES Permit No. R2-2002-0057, WDID No. 2 215021001) – Action Item (see attached Notes of Explanation)

Motion (Benediktsson/Brady) to authorize and approve the District Manager to sign the Acceptance of Conditional Resolution and Waiver of Right to Hearing and pay the fine to the State Water Resources Control Board in the amount of \$3,000. Passed, all.

8. Authorization and Approval for District Manager to Sign Offer to Participate in Expedited Payment Program Related to Violation of NPDES Permit of the Paradise Cove Treatment Facility (NPDES Permit No. R2-2006-0037, WDID No. 2 215021002) – Action Item (see attached Notes of Explanation)

Mgr. Lynch reported to the Board on information from Bay Area Clean Water Agencies about state-wide penalties. He noted that on July 28, 2008, the State Water Board issued 33 mandatory minimum penalties and sent letters to 158 violators, totaling \$474,000 in fines. In June 2008, the State Water Board identified over 700 unaddressed violations statewide, totaling \$21,000,000 in fines. Our region only accounted for 2%; the rest of the violations and fines were in Southern California. Sanitary District No. 5 received notices for two violations that occurred on August 1, 2001 and February 22, 2005. The proposed fines are \$3,000 each, totaling \$6,000.

Motion (Kawamoto/Benediktsson) to authorize and approve the District Manager to sign the Acceptance of Conditional Resolution and Waiver of Right to Hearing and pay the fine to the State Water Resources Control Board in the amount of \$3,000. Passed, all.

9. Set Date and Time for Public Hearing for Accepting the Paradise Drive Sewer Line Extension and Execute Repayment Agreement for the Paradise Drive Sewer Line Extension – Action Item (see attached Notes of Explanation)

Ms. Becky Pringle informed the Board that the Tiburon Town Hall Community Room is available on Wednesday, September 24, 2008, as well as the Tiburon Town Council Chambers on Monday, September 29, 2008.

Ms. Pringle noted that everyone who might be levied a fee according to the Repayment Agreement may need to receive a notice in the mail informing them of the Public Hearing. Mgr. Lynch said he will find out shortly from legal counsel if the District has to notify these people by mail. A Notice of Public Hearing will be published in *The Ark* and the *Marin Independent Journal* newspapers.

Mgr. Lynch noted he will work with Ms. Pringle to make some name and address changes to Exhibit "D" of the Repayment Agreement. The final copy will be ready for the Public Hearing. The Board would like the exhibits in the Repayment Agreement to be better marked. The map in Exhibit "A" needs to be replaced with a clearer map. A cleaner copy of the original May 7, 2007 Agreement needs to be included and specifically labeled as Exhibit "E."

The Board agreed the District needs documentation that the owners listed in Exhibit "B" of the Repayment Agreement have each paid \$10,000 for the Paradise Sewer Line Extension payback. The District will request copies of cleared checks from the owners listed in Exhibit "B."

Motion (Benediktsson/Wiley) to set the Public Hearing for Monday, September 29, 2008 at 6:30 p.m. at 1505 Tiburon Boulevard, Tiburon, California. Passed, all.

UNFINISHED BUSINESS: None

COMMITTEE REPORTS:

10. Governance Committee – Minutes of September 2, 2008 (attached)
11. Paradise Cove Committee – Minutes of September 2, 2008 (attached)
12. Capital Improvement Committee – Minutes of September 4, 2008 (attached)
13. Finance Committee – Minutes of September 3, 2008 (attached)

Sec. Benediktsson explained that the Finance Committee started to look at where the District could save money, but it is difficult to significantly reduce costs at this point since a large part of the expenses are labor costs, which must remain fixed until the current employee agreement expires in 2010. Mgr. Lynch explained that Mgr. Rubio will be investigating the potential for saving money by using Central Marin for lab testing. Research into other cost-saving efforts will be undertaken by Mgr. Lynch, with reports and recommendations to the Finance Committee to follow.

OTHER BUSINESS:

The Board requested that Board meeting agendas be posted to the District's website before the meeting occurs, and that approved committee and Board meeting minutes be uploaded to the District's website in a timely manner.

ENVIRONMENTAL: None

CORRESPONDENCE:

14. Allocation of Net LAFCO Operating Expense Per AB 2838

INFORMATIONAL ITEMS: None

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Regular Meeting of the Board of Directors
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ADJOURNMENT:

Motion (Wiley/Brady) to adjourn at 8:20 p.m. to a Regular Board Meeting on October 6, 2008 at 6:30 p.m. at the Sanitary No. 5 District Meeting Room at 2001 Paradise Drive, Tiburon, California. Passed, all.

Approved:

Attest:

Claire McAuliffe
President, Board of Directors

Catharine Benediktsson
Secretary, Board of Directors

Claire McAuliffe, President
Corinne W. Wiley, Vice President

Catharine Benediktsson, Secretary
Casey Kawamoto, Director
V. William Brady, Director

**Sanitary District No. 5 of Marin County
Minutes of a Regular Board Meeting
at Sanitary District No. 5 of Marin County Meeting Room
2001 Paradise Drive, Tiburon, California
Monday, October 6, 2008 6:30 p.m.**

CALL TO ORDER by President McAuliffe at 6:30 p.m.

ROLL CALL: Directors, present: Claire McAuliffe, President
Corinne W. Wiley, Vice President
Catharine Benediktsson, Secretary
Casey Kawamoto
V. William Brady (absent until 7:10pm)

Staff, present: Robert L. Lynch, District Manager
Samantha Miller, Office/Finance Manager
Tony Rubio, Facilities Manager

Consultants, present: Jack Govi, District Legal Counsel

Others, present: Paul Garbarini

PUBLIC OPEN TIME: None

DIRECTORS COMMENTS AND/OR AGENDA REQUESTS:

The Board requested to receive the Board packets on the Wednesday prior to the regular Board meetings, if possible. The Board also requested that the committee meetings be scheduled during the second week of the month, with the exception of the Finance committee, which needs to meet towards the end of the month.

CONSENT CALENDAR:

1. Approval of September 8, 2008 Regular Board Meeting Minutes (attached)
2. Approval of September 29, 2008 Special Board Meeting Minutes (attached)
3. Approval of Warrants for September 2008, #2370 through 2447, in the amount of \$181,908.34, voiding #2376 and 2388 (attached)
4. Receipt of Financial Reports for September 2008 (attached)

Dir. Kawamoto expressed concern about the retaining wall at Paradise Cove. He asked if Team Ghilotti will be doing the work to add three feet to the existing retaining wall. Mgr. Lynch confirmed this to be true. The Board questioned whether adding three feet will be sufficient. Mgr. Lynch explained that the retaining wall is currently about six feet high, and he believes adding three feet will be sufficient, especially considering the fact that a culvert will be put in behind the wall to divert the water, as well.

Sec. Benediktsson thanked Mgr. Miller for a wonderful job preparing the minutes; the Board considered them to be a big improvement. Sec. Benediktsson advised Mgr. Miller to be careful not to use acronyms that the public might not understand, since the minutes are public.

Motion (Benediktsson/Wiley) to approve the Consent Calendar. Passed, all, with Dir. Brady absent.

Pres. McAuliffe announced she would like to move the Closed Session item, as described on the agenda, to this time so the District's legal counsel would not have to remain for the entire meeting.

CLOSED SESSION – Anticipated Litigation at 6:41 p.m. (out of agenda order)

15. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Deciding to initiate litigation pursuant to California Government Code Section 54956.9(c):
Number of potential cases: One.

OPEN SESSION at 6:51 p.m.

Pres. McAuliffe announced there was no reportable action from the Closed Session.

MANAGEMENT REPORT:

5. Operations Report (Rubio)
 - a. Tiburon/Belvedere Compliance Report & Public Complaint Report September 2008 (attached)

Mgr. Rubio explained the changes he made to the Operations Report. He added the "Tiburon Belvedere Total" and "Drain Back Total" columns to the Monthly Flows Chart on page one, as well as the "Avg./Comparison" column to the Plant Performance Data Chart on page three.

Mgr. Rubio noted there were no permit violations for the month of September. The Average Influent for Tiburon was 0.341 MGD (million gallons per day), and the Average Influent for Belvedere was 0.185 MGD. These figures equate to 64.8% for Tiburon and 35.2% for Belvedere, which is very close to the percentage rates that are currently being charged to each zone.

Mgr. Rubio informed the Board that the District's new NPDES Permit went into effect on September 1, 2008 (Final Order R2-2008-0057, NPDES Permit No. CA0037753). With this new permit, the Regional Board will no longer require us to sample for Nickel, Silver, Zinc, or Lead since our samples of these four metals were under the legal limit during the entire length of our last permit.

Mgr. Rubio added that this new permit is a little more stringent in other regards and will involve more costs for the District. For example, we now have to test for influent cyanide (possible sources of cyanide are photographic finishers, analytical/medical laboratories, fabric dyers, and metal finishers). In addition, the new permit requires everyone to sample for dioxin. This costs \$1,600 per test, which must be done two times per year. Dioxins are created whenever paper products are processed by chlorine to make the paper whiter. Mgr. Rubio noted we can stop the selenium sampling after November, as long as we remain under the permit limit until then.

Mgr. Rubio explained that our chemical usage in the month of September experienced an increase of \$44.04 per million gallons, largely due to the need for more odor control. We had to use more chlorine in September because of the odor complaint we received in August.

The Board asked Mgr. Rubio whether the First Commander FEMA training he attended with Steve Driscoll in August was worthwhile. Mgr. Rubio confirmed they received very beneficial training, especially regarding how to take command during a huge disaster, as well as with smaller internal situations, such as sewer system overflows (SSOs).

There were no sewer system overflows or odor complaints in September.

Dir. Kawamoto asked how the recently installed screw press has affected the figures on the first page of the Operations Report. Mgr. Rubio explained that installing the screw press has affected the drain back total, almost cutting that figure in half. This is beneficial because we are now producing a much dryer product, so we do not have to spend as much money hauling the extra water away.

Mgr. Rubio reported that the District received a letter from the California Regional Water Quality Control Board (attached) informing us that our Mercury Watershed Permit had incorrectly classified our District as a “minor discharger,” while our new Waste Discharge Permit classifies us as a “major discharger.” Mgr. Rubio explained that this classification is determined by flow, as well as type of plant. The Board requested that Mgr. Rubio research more about how the classification between “minor discharger” and “major discharger” is determined, and to read the defining language himself. As a result of this corrected classification, we will now have to monitor for total mercury on a monthly basis, instead of on a quarterly basis, which will increase costs. Mgr. Rubio roughly estimated the increase in costs to be about \$1,000 per year.

The Board discussed possible reasons why Mondays always seem to be a high-flow day.

6. District Manager’s Report (Lynch) (attached)
 - a. Status Report of Paradise Cove WWTP Improvement Project – Verbal

Mgr. Lynch informed the Board he met with Team Ghilotti earlier that day. Team Ghilotti will start mobilizing on Wednesday, October 8th, and they will start putting in the outfall pipe (Part “B” of the Contract) on Monday, October 13th. The project is

going very well, progressing quickly and smoothly. Mgr. Lynch added that we might have to work 10 and 12 hour days out there to get it done on time, before winter.

Dir. Brady arrived to the Board Meeting at 7:10 p.m.

b. Status Report of Digester Cleaning and Cover Replacement – Verbal

Mgr. Lynch reported that the Digester is now completely put together, and it will take approximately one week to weld it up. Then it will have to be sandblasted, primed, and painted. Mgr. Lynch will get a new schedule from the engineer and the contractor when he meets with them on Tuesday morning, October 7th, at 7 a.m. It appears they are ahead of schedule. Mgr. Lynch expects the Digester Project to be completed by late November to early December.

c. Lab Sampling Results for Effluent Discharged into Raccoon Straits July 2008 and August 2008 – Board Request (attached)

Mgr. Lynch presented the spreadsheet showing the Lab Sampling Results for Effluent Discharged into Raccoon Straits July 2008 and August 2008. The dilution factor at the outfall pipe is 1400 to 1. Mgr. Lynch emphasized that our removal rates exceed regulatory requirements; we are removing a high percentage of effluent TSS (Total Suspended Solids) before releasing the effluent into Raccoon Straits. It does not appear that the “Monday morning” brown foam described by Sec. Benediktsson at the September 8, 2008 Board meeting is caused by Sanitary District No. 5’s effluent discharge. The Board requested to see SASM’s (Sewerage Agency of Southern Marin) lab sampling results for effluent discharged into Raccoon Straits, as well, to determine if the “Monday morning” brown foam comes from SASM’s effluent discharge.

d. Status Report of GASB 45 – Verbal

Mgr. Lynch explained to the Board that the GASB 45 provision requires us to measure and report our OPEB (other postemployment benefits) liabilities, such as post-retirement medical benefits. The GASB 45 provision applies to all government employers. Mgr. Lynch has submitted all the necessary documentation to Nick Franceschine, F.S.A., E.A. of North Bay Pensions (referred by PERS), who should have our GASB 45 actuarial study completed shortly.

Dir. Brady discussed with the Board what he learned during the CalPERS OPED Trust Fund Workshop on September 16, 2008. He explained that CalPERS gives us the opportunity to prefund future retiree health and OPEB costs by investing in the California Employers’ Retiree Benefit Trust (CERBT) Fund, which could save the District a lot of money over time. We would not need to prefund our entire obligation; we could choose to prefund a certain percentage of our future liability. In addition, the District could choose to stop paying into the trust fund at any time. However, the money cannot be taken out of the trust fund early. Mgr. Lynch noted that, at the Budget Workshop in 2006, the previous Board decided they did not want the District to invest

in this trust fund because they wanted the District to be able to get the money out early if it needed to. Mgr. Lynch also noted that, after the GASB 45 actuarial study is completed, we will know how much our future OPEB liabilities amount to.

The Board asked Mgr. Lynch if anything needs to be done to prevent liability issues. They would like to know if there is any education that the District's Public Entity Errors and Omissions Coverage policy expects the Directors to have, and if any specific Board member education will lower the District's insurance rate. Mgr. Lynch will respond at the next Board meeting.

The Board members expressed their expectation that the District should be responsible for making sure the District Trustees receive all the education they need (informing the Board members of the specific classes they need to take, and where and when the classes occur). Mgr. Lynch will look into the ethics training requirement, in particular, as it needs to be completed every two years. The Board suggested that the Town of Tiburon, the City of Belvedere, the Tiburon Fire Protection District, and Sanitary District No. 5 could have some training together, such as the ethics training that all four are required to take. Mgr. Lynch confirmed that he is not currently aware of anything else that should be attended to in order to prevent liability issues, but he will report back to the Board at the November 3, 2008 Board meeting.

NEW BUSINESS:

The Board agreed to move Item 7 to follow Item 10 on the Agenda, as it will require a more lengthy discussion.

8. Authorization and Approval for the District Manager to Execute a Contract with David Perotti for an Internal Audit of Fund Allocation for the Zone Breakout Contingent on the Finance Committee Recommendation – Action Item (see attached Notes of Explanation)

Mgr. Lynch met with Mr. David Perotti on October 1, 2008 to discuss the Internal Audit of Fund Allocation for the Zone Breakout. Mr. Perotti was not able to submit a proposal prior to this Board meeting, but he will submit the proposal to Mgr. Lynch shortly. This expense is expected to fall within the District Manager's \$15,000 spending authority.

Motion (Benediktsson/Wiley) to authorize and approve the District Manager to execute a contract with David Perotti of Perotti & Carrade for an Internal Audit of fund allocation for the zone breakout, contingent on the Finance Committee recommendation. Passed, all.

9. Authorization and Approval for the District Manager to Delay Execution of Contract with Pacific Liners Inc. for the 2008 Sewer Rehabilitation CIPP Project until Mid-March 2009 for an Amount Not to Exceed \$104,767.00 – Action Item (see attached Notes of Explanation)

Mgr. Lynch explained to the Board that he would like to delay execution of contract with Pacific Liners Inc. until March 2009, when the rainy season will be over. The District will

have received tax monies by then, as well. If the District were to start this CIPP Liner Project now and Pacific Liners Inc. finished it by December, they could want their payment before the District has received its tax monies, which could stretch the District thin. The bid will remain the same (\$104,767.00) if the execution of contract with Pacific Liners Inc. is delayed until March 2009.

Dir. Kawamoto asked if the District has an eventual goal to line all the laterals, as well. Mgr. Lynch informed the Board that the laterals are owned by the homeowners, not the District, so they are not the District's responsibility.

Motion (Wiley/Kawamoto) to authorize and approve the District Manager to delay execution of contract with Pacific Liners Inc. for the 2008 Sewer Rehabilitation CIPP Project until mid-March 2009 for an amount not to exceed \$104,767.00. Passed, all.

10. Board of Directors Liability Insurance (see attached letter from California Sanitation Risk Management Authority)

Mgr. Lynch presented the District's Public Entity Errors and Omissions Coverage policy to the Board, as requested. The Board asked Mgr. Lynch to double-check the wording of the policy to make sure it does not require the Directors to have taken certain classes, for example. The Board also asked Mgr. Lynch to find out what the Exclusions of the Memorandum of Coverage (MOC) are, and whether the MOC has been modified from 2006 to 2008 (since this letter from California Sanitation Risk Management Authority was dated March 10, 2006). In addition, the Board asked Mgr. Lynch to find out if the District's current coverage is a reasonable amount to have, and how Sanitary District No. 5's coverage compares to other districts' coverage. This item will be on the November 3, 2008 Board meeting agenda.

7. Authorization and Approval for the District Manager to Amend Billing of 2008-2009 Annual Non-Residential Sewer Service Charges and Send Amendment to the County of Marin for Revised Property Tax Bills – Action Item (see attached Notes of Explanation) (out of agenda order)

Mgr. Miller explained to the Board how the District incorrectly calculated its 2008-2009 annual non-residential sewer service charges, the options the District has to make the corrections, and the estimated financial consequences of this proposed amendment (see attached Notes of Explanation).

Mgr. Miller added that the District budgeted the 2008-2009 total sewer service charge revenue to be \$2,712,325.00, while the District only billed \$2,602,515.72, due to the mistakes made in the calculations. This difference between billed and budgeted sewer service charge revenue amounts to -\$109,809.28. If the non-residential sewer service charge amendments are sent to the County for revised property tax bills, it appears that this correction in the billing would increase the District's sewer service charge revenue by roughly \$98,543.00, accounting for almost the entire difference between the District's budgeted and billed sewer service charge revenue for 2008-2009.

The Board questioned how many commercial properties would be affected by this amendment. Mgr. Miller said that number is undetermined at this time; an estimate will be determined shortly. The Board asked if this miscalculation occurred during previous years, as well. It does not appear this mistake was made prior to the 2008-2009 fiscal year.

The Board discussed how the District will explain to the public the need for these amended sewer service charges; the commercial property owners receiving corrected bills will want an explanation from the District as to why their bills have changed. The Board agreed the District should mail a letter to the affected commercial property owners before they receive their amended property tax bills from the County of Marin. This letter should explain how the sewer service charges were originally calculated incorrectly due to a significant clerical error, and how the amended charges have been calculated. The letter should also invite the affected commercial property owners to make an appointment to come to the District's office to talk with us about the issue in person, if they would like. Pres. McAuliffe requested to work on the letter before it is mailed.

The Board discussed the option of not correcting the annual non-residential sewer service charge bills for 2008-2009, simply moving forward, and making sure an error like this does not occur in the future, with next year's billing. The Board emphasized the need for oversight on significant responsibilities such as sewer service charge billing. Mgr. Lynch needs to double-check everything.

Mr. Garbarini asked if the County of Marin will charge the District for amending our sewer service charges on the property tax bills. Mgr. Miller does not believe there is a charge, but she will confirm that with the County of Marin.

After discussing the options, the Board agreed the District should send a letter of explanation to the affected non-residential property owners, and correct the 2008-2009 annual non-residential sewer service charges. Mgr. Miller will continue to work on the non-residential sewer service charge corrections. This item will appear on the November 3, 2008 Board meeting agenda.

UNFINISHED BUSINESS: None

COMMITTEE REPORTS:

11. Governance Committee – Minutes of September 23, 2008 (attached)
12. Paradise Cove Committee – Minutes of September 25, 2008 (attached)
13. Capital Improvement Committee – Minutes of September 23, 2008 (attached)

Dir. Kawamoto asked for an update on the delivery status of the digester cover. Mgr. Lynch responded that it has been delivered, it will take about five days to weld, and he expects it to be done by Monday, October 13th, or sooner. The Digester Rehabilitation Project is ahead of schedule.

Dir. Kawamoto asked about the status of the permits from BCDC (San Francisco Bay Conservation and Development Commission). Mgr. Lynch informed the Board that the District now has all of its permits.

Pres. McAuliffe raised the question of who owns the water from our sewage treatment plant. This question is especially important to address as the District considers potential issues such as what to do with reclaimed water. The Board discussed the issue of water ownership and rights and asked Mgr. Lynch to research more about how other districts handle this issue. This item will appear on the November 3, 2008 Board meeting agenda.

Mgr. Lynch recently received some software that will help him with the Asset Condition Assessment Project. Pres. McAuliffe expressed interest in looking at the software, as well.

14. Finance Committee – Minutes of September 25, 2008 (attached)

Sec. Benediktsson shared with the Board the article she presented at the Finance Committee meeting: “California Supreme Court Changes Prop 218 Landscape – Assessments Will Be Harder to Enact,” published by the California Special District Association. As a result of a recent California Supreme Court decision, special districts will face new challenges when enacting special assessments. Special districts will now have to calculate the expected benefits to each property and the resulting special charges associated with these benefits. The engineer’s report is going to be much more extensive and costly, increasing the cost of any 218 process the District tries to do in the future. The Board would like a copy of this article posted to the District’s website.

In regards to the issue of amending the 2008-2009 non-residential sewer service charges, Pres. McAuliffe added that she would like to know what mistakes the other sanitary districts (namely Las Gallinas and Ross) have made recently with their billing of commercial sewer service charges.

Dir. Wiley suggested forming an outside committee/advisory board of retired accountants from the community, all volunteers, to review the District’s books every quarter. The Board would like to explore this possibility and will begin looking for retired accountants in Tiburon and Belvedere to contact about this idea.

OTHER BUSINESS: None

ENVIRONMENTAL: None

CORRESPONDENCE: None

INFORMATIONAL ITEMS:

16. California Association of Sanitary Agencies (CASA) Legislative Update – Governor Signs Budget

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The Board was very pleased to hear that the State will not be borrowing any money from local agencies this fiscal year.

ADJOURNMENT:

Motion (Wiley/Benediktsson) to adjourn at 8:06 p.m. to a Regular Board Meeting on November 3, 2008 at 6:30 p.m. at the Sanitary District No. 5 of Marin County Meeting Room at 2001 Paradise Drive, Tiburon, California. Passed, all.

Approved:

Attest:

Claire McAuliffe
President, Board of Directors

Catharine Benediktsson
Secretary, Board of Directors

Claire McAuliffe, President
Corinne W. Wiley, Vice President

Catharine Benediktsson, Secretary
Casey Kawamoto, Director
V. William Brady, Director

**Sanitary District No. 5 of Marin County
Minutes of a Regular Board Meeting
at Sanitary District No. 5 of Marin County Meeting Room
2001 Paradise Drive, Tiburon, California
Monday, November 3, 2008 6:30 p.m.**

CALL TO ORDER by President McAuliffe at 6:42 p.m.

ROLL CALL: Directors, present: Claire McAuliffe, President
Corinne W. Wiley, Vice President
Catharine Benediktsson, Secretary
Casey Kawamoto
V. William Brady

Staff, present: Robert L. Lynch, District Manager
Samantha Miller, Office/Finance Manager
Tony Rubio, Facilities Manager

Consultants, present: Jessica Mills, District Legal Counsel
Alison Neufeld, District Legal Counsel

Others, present: Fred Hannahs
Becky Pringle
Deirdre McCrohan, *The Ark Newspaper*

PUBLIC OPEN TIME: None

DIRECTORS COMMENTS AND/OR AGENDA REQUESTS:

Pres. McAuliffe announced she would like to move the Closed Session item, as described on the agenda, to this time so the District's legal counsel would not have to remain for the entire meeting.

6. CLOSED SESSION at 6:44 p.m. (out of agenda order)

- a. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Deciding to initiate litigation pursuant to California Government Code Section 54956.9(b) (1):
Number of potential cases: one.
- b. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to California Government Code Section 54956.9(c):
Number of potential cases: one.

OPEN SESSION at 7:45 p.m.

There was no reportable action from the Closed Session.

The Board moved Item 7 and Item 8 to follow the Closed Session.

NEW BUSINESS:

7. Consideration of Reorganization of the Administrative Sector pursuant to the Board of Directors' decision to restructure the District Financial accounting and auditing operations – Action Item. Recommended Action: Approve Reorganization of the Administrative Sector (see attached Notes of Explanation)

Motion (Brady/Wiley) to approve reorganization of the Administrative Sector pursuant to the Board of Directors' decision to restructure the District Financial accounting and auditing operations. Passed, all.

8. Request by District Manager to Purchase New Generator for Pump Station No. 3 in the Tiburon Zone. Recommended Action: Authorize Purchase (see attached Notes of Explanation)

The Capital Improvement Program Committee explained they talked about this item in depth at their meeting on October 23, 2008 and decided the best course of action would be to replace the generator at Pump Station No. 3. This expenditure exceeds the District Manager's \$25,000 spending authority of unbudgeted funds for emergency purposes. At the Capital Improvement Program Committee meeting on October 23, 2008, Pres. McAuliffe authorized and approved the District Manager to purchase a new standby generator for Pump Station No. 3 in the Tiburon Zone for an amount not to exceed \$35,000. The District Manager now requests authorization and approval from the Board of Directors.

Sec. Benediktsson commented that Mgr. Lynch's Notes of Explanation were very thorough. She added that she would like to include an amendment to the 2008-2009 Budget with this motion. Mgr. Lynch explained that other items in the 2008-2009 Budget need to be amended, as well, since the District now knows the State will not be borrowing any money from local agencies this fiscal year. The Board will wait to make these amendments to the Budget at a later date.

Dir. Brady pointed out a mistake in Section 4.1.2 of the Board Policy and Procedure Finance Management Plan, adopted August 5, 2002. The words "Sanitary District No. 5 of Marin County Financial Management Policy and Procedure" appear to have been inadvertently inserted in the middle of the paragraph. Mgr. Lynch took note of the correction that needs to be made.

Motion (Benediktsson/Wiley) to authorize and approve the District Manager to purchase a new standby generator for Pump Station No. 3 in the Tiburon Zone for an amount not to exceed \$35,000. Passed, all.

CONSENT CALENDAR:

1. Approval of October 6, 2008 Regular Board Meeting Minutes (attached)
2. Approval of Warrants for October 2008, #2448 through 2524, in the amount of \$276,163.05 (attached)
3. Receipt of Financial Reports for October 2008 (attached)

The Board noted for the record the Financial Reports are not divided up by zone, pending Mr. David Perotti's internal audit. Therefore, we do not know how much money is in each zone's account at this point. The Board is eagerly waiting for Mr. Perotti to finish his internal audit of fund allocation for the zone breakout.

Motion (Benediktsson/Wiley) to approve the Consent Calendar. Passed, all.

MANAGEMENT REPORT:

4. Operations Report (Rubio)
 - a. Tiburon/Belvedere Compliance Report & Public Complaint Report September 2008 (attached)

Mgr. Rubio explained that, from now on, all Operations Reports will be one month behind. Since the Board Meetings are held on the first Monday of the month and the Board requested to receive the Board packets on the Wednesday prior to the meeting, there is not enough time for staff to prepare an accurate Operations Report for the month ending immediately prior to the Board meeting. Therefore, this Operations Report is for the month of September 2008 and is basically the same as the report at the October 6, 2008 Board Meeting.

Dir. Kawamoto pointed out that temperature is measured in degrees Celsius on page four of the Operations Report, and degrees Fahrenheit on page five. He requested that the temperature measurements in the Operations Report stay consistent between degrees Celsius and degrees Fahrenheit.

Mgr. Rubio noted he included information regarding the major and minor discharge classifications at the end of the Operations Report. The District requested the Water Board to review its classification of Sanitary District No. 5 as a major discharger, and the Water Board responded that we must remain classified as a major discharger. There is nothing we can do about it since the Water Board defines a major discharger as having an "average daily discharge greater than 1 million gallons per day," and our plant discharges up to 2.3 million gallons per day in wet weather.

5. District Manager's Report (Lynch) (attached)

- a. Status Report of Paradise Cove WWTP Improvement Project (see attached Notes of Explanation)

Mgr. Lynch informed the Board that the new outfall pipe was installed on October 24, 2008 without any problems. We are currently using it off the old treatment plant, and the District anticipates being able to start using the new treatment facility in late November.

Mgr. Lynch noted there is a buoy in the water at the end of the outfall pipe. Sec. Benediktsson suggested putting buoys along the whole pipe so boat anchors do not hit the pipe. Mgr. Lynch explained that the outfall pipe was placed 30 feet below the bay floor, and only 10 feet of the outfall pipe is exposed at the end of the pipe, where the duck bill diffuser valve was installed. Therefore, we do not have to worry about boat anchors hitting the pipe.

Dir. Kawamoto asked about the maintenance schedule for cleaning the duck bill diffuser valve. Mgr. Lynch replied it will be done on a yearly basis.

- b. Status Report of Digester Cleaning and Cover Replacement (see attached Notes of Explanation)

Mgr. Lynch reported the digester cover is currently being sandblasted and primed. The cover will be put on next week for testing. An independent third-party coating consultant is here on a daily basis to inspect the work of the painting contractor. Dir. Kawamoto asked how much the coating consultant costs. Mgr. Lynch replied the cost is \$5,000.00, which he feels is very reasonable, and it lies within the District Manager's expenditure limit. The Digester Project is still on schedule to be completed by the end of November.

- c. Committee Meeting Schedule (see attached Notes of Explanation)

Mgr. Lynch informed the Board he would like to schedule the committee meetings during the second week of each month, with the exception of the Finance Committee, which should be held at the end of each month. Pres. McAuliffe suggested polling the Board members to find out the best dates and times for the committee meetings to be held. District staff will formulate a standing committee meeting schedule within the next week for the Board to review.

- d. Consideration of Holiday Function for Board and Staff (see attached Notes of Explanation)

The Board decided to have a Holiday recognition lunch for District staff and Board members at the San Francisco Yacht Club at the end of November or the beginning of December. Sec. Benediktsson asked whether this is something the District staff enjoys

going to, and Mgr. Lynch confirmed that it is. It has been an excellent way for District staff and Board members to get to know each other better. This function is paid for by the District.

The Board asked Mgr. Lynch if there were any other significant occurrences in the last month that he has not told the Board about yet. He replied that, on October 30, 2008, he switched the District maintenance and operations staff back to working five eight-hour shifts instead of four ten-hour shifts.

Mgr. Lynch added that when Mgr. Rubio attended the Weftec Conference on October 20 and 21, 2008, he was able to find the portable reuse water system (trailer-mounted), which the District is interested in. If we used a system like this, we would be able to simply back it in, hook up our pipes, and use it, without having to pay all the engineering costs. Mgr. Rubio discovered that this trailer-mounted system is located in Yountville. Mgr. Lynch and Mgr. Rubio will visit Yountville to take a look at the system on November 10, 2008.

UNFINISHED BUSINESS:

9. Authorization and Approval for District Manager to Amend the Commercial Sewer Service Charges and Send Amendment to the County of Marin for an Amended Property Tax Bill – Action Item

Pres. McAuliffe announced this item is not an action item, and it will be tabled until the next Board meeting, pending further research.

10. The District Manager Executed a Contract with David Perotti of Perotti & Carrade CPA's for the Internal Audit of Fund Allocation for the Zone Breakout and the Calculations Being Used for the Different Zones (see attached Notes of Explanation)

Mgr. Lynch reported that Mr. David Perotti should begin the internal audit of fund allocation for the zone breakout on Wednesday, November 5, 2008. Mr. Perotti estimated it should take about one month to complete. The audit will cost approximately \$12,000.00.

11. California Sanitation Risk Management Authority (CSRMA) Pooled Liability Program Public Entity Errors and Omissions Coverage (see attached Notes of Explanation)

Pres. McAuliffe explained that the Governance Committee requested that a CSRMA agent come in person to speak with the committee about the District's coverage. The committee would like the CSRMA agent to explain exactly what is and is not covered under the District's current policy (the exclusions, in particular), and be available to answer questions. Before the District renews its current policy, the Governance Committee is going to review the policy very carefully. Sec. Benediktsson commented that the District's coverage appears to be \$750,000 per occurrence, which seems too low, judging from her experience with previous comparable

positions.

COMMITTEE REPORTS:

12. Capital Improvement Program Committee – October 23, 2008 Meeting Minutes (attached)

Dir. Brady asked Mgr. Lynch for more information about the computer software program that was discussed at the Capital Improvement Program Committee meeting. Mgr. Lynch replied that Jason Dow at Central Marin Sanitation Agency built the software, and the Capital Improvement Program Committee hopes Mgr. Lynch will be able to use it in order to create a matrix that will incorporate all the capital improvement matters the District will face in the future. However, Central Marin Sanitation Agency is now finding the software to be very inadequate. There are no other sanitary districts in Marin County that are using anything similar, so Sanitary District No. 5 will need to research districts outside of Marin County for more ideas.

Sec. Benediktsson expressed concern about whether our current capital plan includes the other 11 pump station generators that are around 25 years old and could fail at any time, each with a replacement cost of approximately \$35,000 to \$40,000. Mgr. Lynch explained that there is one other pump station he is worried about, in particular, as it is located right along the waterfront on Mar East Street in Tiburon. Being right next to the water can cause the engines and generators to fail more quickly. The rest of the pump stations are located more inland, so they will most likely last longer.

13. Governance Committee – October 23, 2008 Meeting Minutes (attached)

14. Paradise Cove Committee – October 23, 2008 Meeting Minutes (attached)

15. Finance & Fiscal Oversight Committee – October 28, 2008 Meeting Minutes (attached)

OTHER BUSINESS: None

ENVIRONMENTAL:

16. Lab Results for the Months of July & August 2008 for Sanitary District No. 5 and for Sewerage Agency of Southern Marin (SASM), as Requested by Board of Directors

Mgr. Lynch explained that he contacted Steve Donahue from SASM, and Mr. Donahue emailed him the lab results for July & August 2008 for SASM. Meanwhile, on October 29, 2008, Sanitary District No. 5 staff collected samples from SASM's effluent, and we are still waiting for the lab results. Mgr. Lynch expressed concern about SASM's July 2008 effluent lab result that says "invalid." Sec. Benediktsson was concerned about the 2,400 milligrams per liter of influent TSS (Total Suspended Solids) reported for Sanitary District No. 5 on Monday, July 14, 2008. Mgr. Lynch believes that occurred during the dewatering of the digester.

CORRESPONDENCE:

17. Letter Dated September 19, 2008 from Mr. Paul Garbarini

Mgr. Lynch explained that Leslie LaTorre wrote the responses in red to the points Mr. Garbarini made in his letter to the Board, dated September 19, 2008. This letter, with the responses, will be given to the auditor, Mr. Perotti, for his review. The Board expressed appreciation for Mrs. LaTorre's great responses. The Board also commented on the benefit of bringing people from the community in to submit suggestions like this, reinforcing the importance of being open minded and welcoming to the community for outside input. The Board thanks Mr. Garbarini for the amount of time he has invested and the work he has done.

INFORMATIONAL ITEMS:

18. California Association of Sanitary Agencies (CASA) – State Water Board Adopts Waste Discharge Permit Fee Increase

Pres. McAuliffe and V.P. Wiley expressed their appreciation for Mgr. Miller, thanking her very much for the outstanding minutes.

ADJOURNMENT:

Motion (Benediktsson/Wiley) to adjourn at 8:21 p.m. to a Regular Board Meeting on December 1, 2008 at 6:30 p.m. at the Sanitary District No. 5 of Marin County Meeting Room at 2001 Paradise Drive, Tiburon, California. Passed, all.

Approved:

Attest:

Claire McAuliffe
President, Board of Directors

Catharine Benediktsson
Secretary, Board of Directors

Claire McAuliffe, President
Corinne W. Wiley, Vice President

Catharine Benediktsson, Secretary
Casey Kawamoto, Director
V. William Brady, Director

**Sanitary District No. 5 of Marin County
Minutes of a Special Board Meeting
at Sanitary District No. 5 of Marin County Meeting Room
2001 Paradise Drive, Tiburon, California
Monday, November 17, 2008 9:30 a.m.**

CALL TO ORDER by President McAuliffe at 9:30 a.m.

ROLL CALL: Directors, present: Claire McAuliffe, President
Corinne W. Wiley, Vice President
Catharine Benediktsson, Secretary
V. William Brady

Directors, absent: Casey Kawamoto

Staff, present: Robert L. Lynch, District Manager
Samantha Miller, Office/Finance Manager

Others, present: Seth Cole, California Sanitation Risk Mgmt Authority
Nick Franceschine, North Bay Pensions

PUBLIC OPEN TIME: None

1. Presentation from Seth Cole of California Sanitation Management Authority (CSRMA) on the District's Current Insurance Policy (attached)

Mr. Seth Cole started his presentation with a brief overview of CSRMA. Pres. McAuliffe explained to Mr. Cole that the Board is mainly concerned about the exclusions of the current insurance policy, as well as the Directors' personal liability. Mr. Cole replied the District will not be able to find any broader coverage than that which CSRMA provides.

Pres. McAuliffe asked about the other districts in California that do not use CSRMA. Mr. Cole explained that some districts are "too large," so they buy excess insurance from the commercial service insurance market, and some other districts are very small and rural, so they seek alternative coverage, as well.

Dir. Brady asked about earthquake coverage. Mr. Cole replied that none of the CSRMA members buy earthquake coverage, since it is too cost prohibitive.

Mr. Cole reviewed with the Board the Policy Register for Sanitary District No. 5 (attached), explaining the various natures of insurance and the respective limits of liability and deductibles. For the General Liability and Automobile Liability category (which includes Employment Practices Liability and Public Entity Errors and Omissions), the limit of liability for the District is

\$15,750,000 per occurrence. This includes attorney's fees, provided the District uses an attorney from CSRMA's list of approved attorneys who follow their approved rate structure and rules. However, fines, penalties, and punitive damages are not covered under CSRMA's Memorandum of Coverage (MOC), as they are not insurable by law. Non-economic losses are not covered, either. Mr. Cole noted that CSRMA does not allow in-house legal representation, as it is a conflict of interest.

Sec. Benediktsson asked whether the District's current policy covers someone getting sick from sewage. Mr. Cole confirmed it does. He added that every time CSRMA has defended districts against these types of claims, no one has actually been successful in proving they got sick from sewage, with long-term effects.

Mr. Cole further explained that the General Liability coverage includes anything having to do with sewer overflows, including if someone gets injured during an on-site tour at the District. Employment Practices Liability coverage includes sexual harassment and wrongful termination.

The Board asked Mr. Cole what kind of claims he has seen that are related to Directors or managers, personally. Mr. Cole responded that he has never seen any such claim in 23 years, with CSRMA's over 40 members. He informed the Board that CSRMA mainly deals with claims regarding sewer backups (these account for over 80% of the claims), followed by automobile claims, and then employment practices liability claims. He added that rate payer suits are also seen, but rarely.

Mr. Cole moved on to outline the Exclusions of the MOC, focusing on Section VIII D of the MOC, which is specific to Public Entity Errors and Omissions. In regards to automobile liability coverage, he pointed out that, following California State law, the owner of the vehicle is financially responsible for the vehicle. If a Board member is driving his or her own vehicle for Board business, the Board member's own automobile insurance comes first.

With regards to Section VIII D, Exclusion #3, "Failure to refund taxes, fees or assessments," Mr. Cole clarified that CSRMA excludes coverage only if the District *refuses* to give a refund, when the request is legitimate.

Pres. McAuliffe asked whether the exclusions outlined in Section VIII D apply to every sanitary district covered by CSRMA. Mr. Cole confirmed that the exclusions are exactly the same for every district, and the only thing specific to each district is the two-page letter from CSRMA that comes before the MOC.

Mr. Cole explained that CSRMA does not try to get out of paying claims, like most other insurance companies do. CSRMA is a government entity, so it has no profit motive for getting out of claims, and it wants to cover as much as it can.

The Board expressed concern about the first exclusion listed under Section VIII A of the MOC: "The actual, alleged or threatened discharge, dispersal, release or escape of POLLUTANTS." Mr. Cole informed the Board that CSRMA includes a "give back of coverage" to the District in its definition of "POLLUTANTS" in Section III Y of the MOC. CSRMA does not consider raw

sewage to be a pollutant, which means they do cover sewer overflows. CSRMA also covers sudden and accidental releases of pollutants (i.e. chemicals from a chlorine tank), as long as they are not slow releases. The Board was pleased to learn that raw sewage is not considered to be a pollutant and, therefore, is not part of the MOC exclusions.

Pres. McAuliffe asked Mr. Cole whether the District is insured to the maximum level it can be insured with CSRMA. Mr. Cole replied there is only one agency that purchases \$10 million more of coverage than Sanitary District No. 5 has, but that is because they have a small dam and feel they have more exposure.

Sec. Benediktsson noted that her homeowners insurance requires her to purchase additional elected official liability coverage. Pres. McAuliffe added that she might be required to do that, as well, and she asked Mr. Cole whether CSRMA covers the Board members immediately, from the beginning, if someone files a claim against a Board member (except for the exclusions). Mr. Cole confirmed that to be true.

Mr. Cole added that CSRMA offers an additional bonus benefit to all members, included in their basic coverage. CSRMA will reimburse District employees and Board members, as well as their immediate family members, up to \$25,000 in the case of identity theft. The Board was pleased to hear this.

Sec. Benediktsson asked whether the District is covered if, for example, one of the District's pipes is leaking, there is a big storm, and damage is done to someone's property. Mr. Cole explained that CSRMA would, indeed, cover this type of claim.

Pres. McAuliffe closed the discussion with Mr. Cole by asking him whether he thinks the District's current coverage is adequate for the District. Mr. Cole affirmed the District has adequate coverage.

2. Presentation from Nick Franceschine of North Bay Pensions on the Report of GASB 45 Valuation of Retiree Health Benefits (attached)

Mr. Nick Franceschine began his presentation by explaining that the GASB 45 provision is a relatively new provision that requires all government employers to measure and report their other postemployment benefits (OPEB) liabilities, including post-retirement medical benefits. These accrued costs need to be kept on the books as a liability, and the employers can then decide whether they would like to fund these benefits now or not.

Mr. Franceschine highlighted the key points of the GASB 45 Valuation Report he prepared for the District (attached). He started by informing the Board that, as of July 1, 2008, the total actuarial present value of the District's OPEB liabilities for all current and former employees is \$2,072,000 at a 4.00% discount rate, and \$955,000 at a 7.75% discount rate. The 4.00% discount rate assumes the District invests its money on its own, and the 7.75% discount rate assumes the District invests in the CalPERS California Employers' Retiree Benefit Trust (CERBT) Fund.

Pres. McAuliffe asked Mr. Franceschine what his recommendation to the District is. He informed the Board that his job is only to provide this actuarial report, and not to give recommendations. District staff should give a recommendation to the Board.

Mr. Franceschine explained that, fundamentally, the District needs to decide between the “pay as you go” approach to paying for these OPEB liabilities, or prefunding the liabilities (by investing in the CalPERS CERBT Fund, for example). If the District decides to prefund its OPEB liabilities, then it would need to decide which actuarial funding method to use between the six different options laid out in the GASB 45 Valuation Report.

Mr. Franceschine noted that the Entry Age Normal and Projected Unit Credit methods are the two actuarial funding methods recommended by CalPERS. If the District chooses the Entry Age Normal funding method, the 2009-2010 annual OPEB cost to the District would be \$155,000 amortized over 30 years, or \$251,000 amortized over 10 years. If the District chooses the Projected Unit Credit funding method, the 2009-2010 annual OPEB cost to the District would be \$142,000 amortized over 30 years, or \$233,000 amortized over 10 years. This second method starts off less expensive than the first, but it eventually has higher annual costs in future years. Mr. Franceschine added that, in the long run, the District would save a lot of money if it decides to prefund its OPEB liabilities, rather than use the “pay as you go” approach.

Mr. Franceschine also discussed with the Board the option of no longer offering the same post-retirement medical benefits to future employees. Mgr. Lynch noted that if the District decides to do that, it will become a training ground for new employees who will learn what they can at our district, and then move on to another district with better post-retirement benefits. We need to stay consistent with what other districts offer in order to stay competitive in the job market and limit our employee turnover.

The Board continued to discuss other options for future employees that would save the District money, such as changing their retirement age to 60. The Board requested Mgr. Lynch to look into CalPERS 3.0 at 60. Mr. Franceschine informed the Board that all other districts in Marin have CalPERS 2.7 at 55 (which is what Sanitary District No. 5 has), and most cities in California have CalPERS 2.0 at 55. Sec. Benediktsson reminded the Board that any changes to the Employees’ MOU (Memorandum of Understanding), including changes for future employees, must be agreed to by the current employees. Mgr. Lynch will investigate other CalPERS retirement programs and alternative post-retirement medical benefits to consider for future employees.

The Board decided to cancel the December 1, 2008 Regular Board Meeting due to the Thanksgiving Holiday. The December 1, 2008 meeting is rescheduled to Monday, December 8, 2008 at 6:30 p.m.

ADJOURNMENT:

Motion (Benediktsson/Wiley) to adjourn at 11:25 a.m. to a Regular Board Meeting on December 8, 2008 at 6:30 p.m. at the Sanitary District No. 5 of Marin County Meeting Room at 2001 Paradise

Minutes
Special Meeting of the Board of Directors
November 17, 2008
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Drive, Tiburon, California. Passed, all.

Approved:

Attest:

Claire McAuliffe
President, Board of Directors

Catharine Benediktsson
Secretary, Board of Directors

Claire McAuliffe, President
Corinne W. Wiley, Vice President

Catharine Benediktsson, Secretary
Casey Kawamoto, Director
V. William Brady, Director

**Sanitary District No. 5 of Marin County
Minutes of a Regular Board Meeting
at Sanitary District No. 5 of Marin County Meeting Room
2001 Paradise Drive, Tiburon, California
Monday, December 8, 2008 6:30 p.m.
CLOSED SESSION 5:30 p.m.**

CALL TO ORDER by President McAuliffe at 5:30 p.m.

ROLL CALL: Directors present:

Claire McAuliffe, President
Corinne W. Wiley, Vice President
Catharine Benediktsson, Secretary
Casey Kawamoto
V. William Brady

Staff present:

Robert L. Lynch, District Manager
Samantha Miller, Office/Finance Manager

Consultants present:

Jessica Mills, District Legal Counsel

Others present (arrived 6:30 p.m.): Larry Gelb, Seafirth Estates Board

Becky Pringle
Jim Kautz
Dennis Doyle
Deirdre McCrohan, *The Ark Newspaper*
Barbara Kautz

CLOSED SESSION at 5:31 p.m.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to California Government Code Section 54956.9(b)(1):
Number of potential cases - one.

OPEN SESSION at 6:30 p.m.

No reportable action was taken during the Closed Session.

PUBLIC OPEN TIME:

Ms. Becky Pringle requested that the Board move Correspondence Items No. 18 and 19 to earlier in the meeting so members of the public would not have to wait until the end of the meeting to address

their concerns. Since Ms. Pringle was still waiting for Jim and Barbara Kautz to arrive, Pres. McAuliffe agreed to address Items No. 18 and 19 once Mr. and Mrs. Kautz arrived. Pres. McAuliffe thanked the members of the public for coming to the meeting.

DIRECTORS' COMMENTS AND/OR AGENDA REQUESTS:

Sec. Benediktsson explained that the District's clean water act permit requires the District to contribute \$5,000 each year to help educate people about clean water and environmental aspects of sewage. She suggested creating and handing out tide calendars as part of the District's educational outreach program this year, since our community is nautical. The District could put its information on the back of the tide calendars (including contact information, website, etc.), along with some educational information, such as "Don't flush drugs down the toilet." The Board agreed with Sec. Benediktsson that this would add a more personal touch to the District's educational outreach program, and the community would appreciate it.

Pres. McAuliffe proposed moving the District's Regular Board Meetings to the first Tuesday of every month, instead of the first Monday of every month. The Board agreed to move the January Regular Board Meeting to Tuesday, January 13th, 2009 at 6:30 p.m. Beginning in February 2009, the Regular Board Meetings will be held on the first Tuesday of every month at 6:30 p.m.

CONSENT CALENDAR:

1. Approval of November 3, 2008 Regular Board Meeting Minutes (attached)
2. Approval of November 17, 2008 Special Board Meeting Minutes (attached)
3. Approval of Warrants for November 2008, #2525 through 2597, in the amount of \$666,315.76 (attached)
4. Receipt of Financial Reports for November 2008 (attached)

Pres. McAuliffe thanked Mgr. Miller again for the wonderful minutes. They read well and provide a very good record of the District's meetings and business.

Motion (Benediktsson/Wiley) to approve the Consent Calendar. Passed, all.

MANAGEMENT REPORT:

5. Operations Report (Rubio)
 - a. Tiburon/Belvedere Compliance Report & Public Complaint Report October 2008 (attached)

Mgr. Lynch noted the District was in compliance with its NPDES permit for both treatment plants in the month of October 2008.

Mgr. Lynch explained that the problem of where to dispose of biosolids is becoming a nightmare for many sanitary districts. Sanitary District No. 5 is not currently faced with this

problem since Redwood Landfills is still accepting our biosolids, but it could become an issue for us in the future. Therefore, Mgr. Rubio has started doing research and getting involved in the Bay Area Regional Biosolids Project to start developing solutions for our future potential biosolids disposal problem. He is joining the Bay Area regional effort to maximize the resource value of biosolids, and he will be attending meetings to learn more about the issue and report back to the Board.

Pres. McAuliffe asked how much longer Mgr. Lynch expects Redwood Landfills to continue to accept the District's biosolids. Mgr. Lynch does not know for certain, but he expects it to be awhile. Mgr. Lynch further explained that, in order to change the biosolids into fertilizer, the District would have to pay an extra \$1,000 per month to bring it up to temperature to sterilize it. He added that the District produces about 280 tons of biosolids per year, which is not very much.

6. District Manager's Summary Report of November 2008 (Lynch) (attached)

Mgr. Lynch informed the Board that the digester cover met its pressure test limits. The painter should be coming tomorrow, December 9, 2008, to finish painting the cover. Then, the following week, we will flood the digester and get it up and running. Mgr. Lynch added that NCCI, Inc. has been very easy to work with, and the digester cover project has run smoothly.

The Board asked about the independent coating specialist's findings. Mgr. Lynch explained the specialist initially found the paint coat to be three to five mills short all the way around the digester cover, so we had to add another coat of paint to the entire cover. The Board agreed this independent coating specialist is well worth the cost.

The Board discussed future digester cover maintenance and prevention issues. Mgr. Lynch explained that, in the future, the District needs to clean the digester according to schedule, and not wait as long as we did this time. In six years, the District should clean the digester again and hire a painter to sandblast it and recoat the inside. The last cleaning with the other digester cover occurred in 1996. After this digester is back up in service, the District will take a look at the other digester cover.

Mgr. Lynch informed the Board that the Paradise Cove Treatment Plant Project is near completion. Ashbrook Simon-Hartley will arrive the week of January 5, 2009 to start up the new plant. Pres. McAuliffe asked what exactly Ashbrook Simon-Hartley will do. Mgr. Lynch explained they will come out and show the operators how the treatment facility is supposed to operate, since each treatment facility operates differently.

Sec. Benediktsson noted for the record that, as of today, December 8, 2008, Sanitary District No. 5 has spent \$1,443,227.86 on capital expenditures at the Paradise Cove Treatment Plant.

Dir. Kawamoto asked Mgr. Lynch about his visit to Yountville with Mgr. Rubio to see their portable, trailer-mounted reuse water system. Mgr. Lynch explained that the gentleman they spoke with could not give them all the answers they were looking for. They did discover, however, that Yountville does not have a permit for Title 22 water, and they have to do a lot of

modifications to make it Title 22 water. Dir. Kawamoto asked if that system is a feasible method, and Mgr. Lynch responded that it is not an adequate working method, and he does not want to use a system that is not even permitted. The Board would like Mgr. Lynch to continue to look into reclaiming the District's water. They would like him to keep investigating the different technology out there and report back to the Board at each Board meeting.

Pres. McAuliffe moved Correspondence Items No. 18 and 19, as described on the agenda, to this time for the members of the public to address.

CORRESPONDENCE:

18. Letter Dated November 24, 2008 from Dennis and Suzy Doyle, Barbara and Jim Kautz, and Becky Pringle (attached)
19. Letter Dated November 25, 2008 – December 2, 2008 from Seafirth Estates Company (attached)

The Board opened the discussion to the public.

Mrs. Barbara Kautz started by saying she is very sympathetic to the position the Board is in with Paradise Drive Sewer Extension LLC. This is not something the local government system is designed to deal with. These public agreements are usually written with the intent that the developer will be very eager to give the line over to the public, which is not the case here.

Mrs. Kautz then asked the Board what the current status of the Paradise Drive Sewer Line Extension is. She added that Mr. Mark Jansheski sent a letter to the Paradise Drive neighbors saying everyone can now hook up to his line, but the Paradise Drive neighbors would like verification from the District that they *cannot* hook up to the line until it is turned over to the District and becomes public.

Mr. Larry Gelb of Seafirth Estates asked the Board why the District would treat Mr. Jansheski's sewage, but no one else's. Ms. Pringle asked the Board why the District is maintaining Mr. Jansheski's sewer line.

Mgr. Lynch explained that the Paradise Drive Sewer Line Extension is currently considered to be Mr. Jansheski's private lateral, as the District has no definition or rule as to how long a private lateral can be. The District has only accepted maintenance of part of the line (from Seafirth Road to 3700 Paradise Drive) to help Mr. Jansheski since he has put so much money into building the line. However, the District has not actually performed any maintenance on the line, since there is nothing that needs to be done yet. Mgr. Lynch added that he will be sending a letter out next week to the Paradise Drive residents explaining exactly what their next steps should be in regards to the Paradise Drive Sewer Line Extension.

Ms. Pringle and Mr. Jim Kautz discussed the Paradise Drive neighbors' proposed back-up plan of putting their own sewer lines in. Mr. Kautz explained they have a bonafide contractor willing to do it for less than \$400,000, and it seems more economically feasible for them to ignore the "private lateral" already in the road and move forward, themselves.

Ms. Pringle noted that this is the third month of Closed Sessions during the Board Meetings. The public has been waiting a very long time, and they are ready to hook up to the line. Ms. Pringle asked the Board if this is an indefinite activity. Pres. McAuliffe replied it is not an indefinite activity, at all, but there have been many aspects to consider. She informed the public that the Paradise Drive Sewer Line Extension is a front and center issue for the Board, and the District is making progress and moving in a positive direction. Pres. McAuliffe added that the Paradise Drive Sewer Line Extension has not been the only subject of the Board's Closed Sessions over the past few months.

Mr. Dennis Doyle asked the Board what the Paradise Drive residents with failed septic tanks are supposed to do while this matter is getting resolved. Some residents are in desperate situations. Mgr. Lynch restated that he will send a letter out next week to the Paradise Drive residents directing them what to do next.

Mrs. Kautz expressed her appreciation for how much time the District has put into this matter, as well as the amount of money the District has spent on Paradise Cove.

Pres. McAuliffe said the Board understands what the Paradise Drive residents are going through, and the District is in the same situation together with the Paradise Drive residents. It is a very unfortunate situation with a person who is not abiding by his written contract.

Mr. Gelb agreed that Seafirth Estates is in the same unfortunate situation with Mr. Jansheski. He explained that when Seafirth Estates entered into their contract with Mr. Jansheski, they had their eyes wide open, and they wish the County had been more careful with their agreement with Mr. Jansheski.

Sec. Benediktsson asked if the District has a copy of the signed agreement between Seafirth Estates and Mr. Jansheski. Mgr. Lynch confirmed this to be true.

The Board thanked the members of the public for coming to the meeting and expressing their concerns. Pres. McAuliffe explained that the District is in a difficult situation, dealing with taxpayers' money, and the Board has an important fiduciary responsibility to the public that must be handled very carefully. People need to abide by the contracts they sign, and if they do not, the District will have to pursue other avenues.

NEW BUSINESS:

7. Election to Nominate One Board Member to the Marin County Local Agency Formation Commission – Action Item (see attached Notes of Explanation)

Mgr. Lynch explained the District has the option of nominating one of its Board members to serve on the Marin County Local Agency Formation Commission Board. The Board chose not to nominate anyone for the position.

8. Adoption of Resolution No. 2008-11: A Resolution by the Board of Directors of Sanitary District No. 5 of Marin County, California for CalPERS Employer Pick-Up. Staff Recommendation: Adopt (see attached Notes of Explanation)

The Board asked Mgr. Miller for clarification about Resolution No. 2008-11. Mgr. Miller explained that, if the District passes this resolution, CalPERS will allow employee contributions to CalPERS to continue being paid for, or “picked-up,” by the employer (the District). This pick-up allows the employee contribution amounts to be tax deferred until the member retires or separates from employment. If the District does not pass this resolution, the employee contribution amounts will be taxed now, instead of tax deferred. Passing this resolution is a formality required by CalPERS, and it will not change the District’s current practices.

Motion (Brady/Benediktsson) to adopt Resolution No. 2008-11: A Resolution by the Board of Directors of Sanitary District No. 5 of Marin County, California for CalPERS Employer Pick-Up. Passed, all.

9. Adoption of Resolution No. 2008-12: Amending Resolution No. 2007-06 Authorizing the District Manager and the Office/Finance Manager to Manage and Receive Information Regarding Bank of America Checking Account Numbers 10719-80210, 10719-40450, and 10712-80100. Staff Recommendation: Adopt (see attached Notes of Explanation)

The Board discussed Resolution No. 2008-12 and asked for clarification about who is currently authorized to move the District’s funds. Mgr. Lynch replied the President of the Board, the Secretary of the Board, and the District Manager are authorized to transfer money, but not the Office/Finance Manager. He further explained that Mgr. Miller tells him how much money to move, where, and when, and then he is the one who makes the transfer of funds. This keeps a separation of responsibilities.

Motion (Wiley/Benediktsson) to adopt Resolution No. 2008-12: Amending Resolution No. 2007-06 Authorizing the District Manager and the Office/Finance Manager to Manage and Receive Information Regarding Bank of America Checking Account Numbers 10719-80210, 10719-40450, and 10712-80100. Passed, all.

UNFINISHED BUSINESS:

10. Authorization and Approval for District Manager to Amend the Commercial Sewer Service Charges and Send Amendment to the County of Marin for an Amended Property Tax Bill

Pres. McAuliffe announced this item will be tabled until the next Board meeting.

11. Team Ghilotti Request for Compensation Due to Permit Delay – Action Item (see attached Notes of Explanation)

The Board members noted they distinctly remember Team Ghilotti saying in September 2008 they were fine with postponing Part “B,” but now Team Ghilotti is asking for more compensation due to the postponement.

Dir. Kawamoto asked what the cost was to add the extra three feet to the retaining wall at the Paradise Cove Treatment Plant. Mgr. Lynch will have to look up that figure. He added that the retaining wall is finished.

The Board discussed the extra costs Team Ghilotti claims they incurred due to permitting delays, totaling \$30,760. They questioned the charge for four weeks of “supervision,” at \$18,485. At this time, the Board only felt comfortable considering paying Team Ghilotti for the cost of the “increased bond carry” of \$500.

The Board agreed they will not consider compensating Team Ghilotti due to permit delay without seeing demonstrable costs. The Board needs additional information from Team Ghilotti and will address this item at the next Board meeting.

COMMITTEE REPORTS:

12. Capital Improvement Program Committee
13. Governance Committee
14. Paradise Cove Committee
15. Finance & Fiscal Oversight Committee

There were no committee meetings held in November. The Board requested to receive the 2009 Committee Meeting Schedule again, for review.

OTHER BUSINESS: None

ENVIRONMENTAL:

16. Lab Sampling Results for October 25, 2008 for Sewerage Agency of Southern Marin (SASM), as Requested by Board of Directors (attached)

Mgr. Lynch explained the October 25, 2008 lab sampling results for SASM. Their BOD (Biochemical Oxygen Demand) level was at 8.2 mg/L, and their TSS (Total Suspended Solids) level was at 11 mg/L. This means the water coming from SASM was good, at this moment in time. Mgr. Lynch added that it costs approximately \$75 to run an independent test like this to verify SASM’s results. The Board would like District staff to run independent lab tests like

this to double-check SASM's results on a quarterly basis, since SASM's effluent runs through Sanitary District No. 5's pipes.

17. District Staff – Ongoing Investigation of Reclaimed Water Use

Mgr. Lynch gave this update previously during Item No. 6, the District Manager's Summary Report of November 2008.

INFORMATIONAL ITEMS:

20. Ethics Training – December 17, 2008 from 9:30 a.m. – 11:30 a.m. Presented by Liebert Cassidy Whitmore at 153 Townsend Street, Suite 520, San Francisco, CA (Map Enclosed)

Pres. McAuliffe closed the meeting by wishing everyone a Merry Christmas and Happy Holidays.

ADJOURNMENT:

Motion (Benediktsson/Wiley) to adjourn at 7:37 p.m. to a Regular Board Meeting on January 13, 2009 at 6:30 p.m. at the Sanitary District No. 5 of Marin County Meeting Room at 2001 Paradise Drive, Tiburon, California. Passed, all.

Approved:

Attest:

Claire McAuliffe
President, Board of Directors

Catharine Benediktsson
Secretary, Board of Directors

Claire McAuliffe, President
Corinne W. Wiley, Vice President

Catharine Benediktsson, Secretary
Casey Kawamoto, Director
V. William Brady, Director

**Sanitary District No. 5 of Marin County
Minutes of a Special Board Meeting
at Sanitary District No. 5 of Marin County Meeting Room
2001 Paradise Drive, Tiburon, California
Thursday, December 11, 2008 9:00 a.m.**

CALL TO ORDER by President McAuliffe at 9:05 a.m.

ROLL CALL: Directors present: Claire McAuliffe, President
Corinne W. Wiley, Vice President
Catharine Benediktsson, Secretary
Casey Kawamoto
V. William Brady

Staff present: Robert L. Lynch, District Manager
Samantha Miller, Office/Finance Manager

Consultants present: Riley Hurd, District Legal Counsel

Others present: J. Dietrich Stroeh
Becky Pringle
Deirdre McCrohan, *The Ark Newspaper*
Dennis Doyle
Don Miller, Seafirth Estates Company

PUBLIC OPEN TIME: None

1. Adoption of Resolution No. 2008-13. A Resolution of the Board of Directors of Sanitary District No. 5 of Marin County Accepting the Paradise Drive Sewer Line Extension

Motion (Benediktsson/Wiley) to adopt Resolution No. 2008-13: A Resolution of the Board of Directors of Sanitary District No. 5 of Marin County Accepting the Paradise Drive Sewer Line Extension.

Pres. McAuliffe distributed copies of the agreement between Seafirth Estates Company and Paradise Drive Sewer Extension LLC (PDSE LLC), as members of the Board of Directors had previously requested. Pres. McAuliffe also distributed copies of a letter from PDSE LLC to Sanitary District No. 5 dated December 11, 2008. There was no discussion of these documents.

Pres. McAuliffe began the discussion of Resolution No. 2008-13 by reviewing some background information about the current situation with the Paradise Drive Sewer Line Extension. She explained that this is a unique scenario in which the contractor will not accept money for his work,

while the District is ready, willing, and able to pay PDSE LLC under the terms of the May 7, 2007 repayment agreement.

Pres. McAuliffe further explained that, historically, the annexation of the property in question here was granted based on the May 7, 2007 agreement between PDSE LLC and the District. Similarly, the encroachment permit granted by the County of Marin was based on this May 7, 2007 agreement. Neighbors at Seafirth Estates have taken significant financial actions based on this agreement, as well, and they, along with many other Paradise Drive homeowners, are relying on a resolution of this matter.

Pres. McAuliffe emphasized that Sanitary District No. 5 feels it is obligated to accept the Paradise Drive Sewer Line Extension, and it is ready to do its part to ensure the payment of \$550,000 to PDSE LLC.

Sec. Benediktsson added that, based on the May 7, 2007 agreement, Sanitary District No. 5 has expended close to \$1.5 million towards enlarging the Paradise Cove Treatment Plant so that Seafirth Estates and all the other Paradise Drive neighbors can use the Paradise Drive Sewer Line Extension. The District has extended very good faith to serve the public and uphold its part of the agreement with PDSE LLC.

Pres. McAuliffe opened the discussion for public comments.

Mr. Don Miller from Seafirth Estates said this resolution appears to address the issues Seafirth has outstanding at this point, although it is not clear to him how it will play out once this resolution is put into force. Mr. Miller added that, although the Seafirth Estates Board has not had a chance to meet and look at this resolution in detail yet, he could tentatively say Seafirth supports this resolution. He thinks the District should go forward with this approach and hopefully the contractor will come to the table so this matter can be resolved.

Mr. Miller asked the Board and Mr. Riley Hurd, the District's Legal Counsel, if they had any expectations as to how this matter will evolve. Mr. Hurd explained they cannot set an expectation because what is going to happen is in the control of a third party, not the District. The District has a fiduciary responsibility to its rate payers, including those at Seafirth, to provide public services. This is a very unique scenario in which the District has offered to pay in accordance with the agreement that was executed, but the person who is to accept that payment refuses to do so, leaving the public service in limbo. It leaves all of these homeowners, including those at Seafirth, without service. The annexation and the encroachment permit were premised upon and contingent upon the acceptance of this line. The District does not have a choice at this point. On May 7, 2007, an authorized representative of the District signed an agreement saying that if PDSE LLC builds this sewer line according to these specifications, the District will accept it. The District is contractually bound by this agreement, and the District is doing what it is legally obligated to do.

Mr. Miller asked if the District will have ownership of the Paradise Drive Sewer Line Extension once this resolution passes. Mr. Hurd confirmed this to be true, explaining that this meeting is the mechanism by which the District is taking ownership of the line. Mr. Miller asked what will

happen if there is a dispute in the future as to ownership of the line. Mr. Hurd explained that litigation could possibly ensue, but litigation is always an option with any action, at any time.

Ms. Becky Pringle asked whether everything else with the line will be put on hold if litigation does ensue. Mr. Hurd explained he cannot say at this time, as it depends on the form any litigation may take.

Dir. Brady introduced the question of how homeowners should proceed if they would like to hook up to the Paradise Drive Sewer Line Extension. Mgr. Lynch replied that, if the District takes ownership of this line, Seafirth will owe Mr. Mark Jansheski \$150,000 per their contract. Once Seafirth finishes building its pump station and it is connected to the Paradise Drive Sewer Line Extension, the District will charge connection fees, which vary, for each home.

Mgr. Lynch further explained that, for the rest of the residents along Paradise Drive, each homeowner who wants to connect to the Paradise Drive Sewer Line Extension will need to start by paying the District \$10,000 to connect to the line. The District will take the \$10,000 per home and put that money in a special account, to be untouched by the District, until the reimbursement agreement is resolved. The District will also charge each homeowner a normal connection fee, which the District will keep, itself, with its regular funds. Once the reimbursement agreement is put in place, the \$10,000 per home that is set aside will be put towards what is owed to PDSE LLC.

Mr. Dietrich Stroeh added that he thinks the matter will be resolved with PDSE LLC within 30 days. He said he has had a number of discussions with Mr. Jansheski about this matter over the past week, and he has urged Mr. Jansheski to sit down next week with Mgr. Lynch, their attorneys, and possibly Mr. Stroeh, himself, and come to a resolution of some sort, which can then be brought to the Board for discussion and, hopefully, approval. Mr. Stroeh said Mr. Jansheski was not willing to do this at first and wanted to continue addressing the issue through written letters, but he has now agreed to a face to face meeting. Mr. Stroeh explained to the Board he thinks this matter can be resolved if the Board will allow them, on a staff level, to meet with Mr. Jansheski and generate a resolution to bring to the Board.

Pres. McAuliffe closed the public hearing section of the meeting.

V.P. Wiley asserted that the District does not have any choice but to accept the Paradise Drive Sewer Line Extension. Mr. Jansheski has threatened to sue the District if it does take back the line, as well as if it does not. The Marin County Local Agency Formation Commission and the Marin County Public Works Department are wondering why Sanitary District No. 5 has not accepted the line yet, especially considering the conditions they set forth prior to granting the annexation and the encroachment permit. The District recognizes and appreciates all the time that members of the public have put into this matter, as well as everyone's patience. The District owes it to the public to accept the Paradise Drive Sewer Line Extension.

Dir. Kawamoto also expressed his opinion that the District has no choice but to abide by its contract with PDSE LLC, and the contractor has an obligation to accept the \$550,000 by the terms of his contract.

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Vote to adopt Resolution No. 2008-13: A Resolution of the Board of Directors of Sanitary District No. 5 of Marin County Accepting the Paradise Drive Sewer Line Extension. Passed, all.

ADJOURNMENT:

Motion (Benediktsson/Wiley) to adjourn at 9:26 a.m. to a Regular Board Meeting on January 13, 2009 at 6:30 p.m. at the Sanitary District No. 5 of Marin County Meeting Room at 2001 Paradise Drive, Tiburon, California. Passed, all.

Approved:

Attest:

Claire McAuliffe
President, Board of Directors

Catharine Benediktsson
Secretary, Board of Directors

Claire McAuliffe, President
Corinne W. Wiley, Vice President

Catharine Benediktsson, Secretary
Casey Kawamoto, Director
V. William Brady, Director

**Sanitary District No. 5 of Marin County
Minutes of a Special Board Meeting
at Sanitary District No. 5 of Marin County Meeting Room
2001 Paradise Drive, Tiburon, California
Monday, December 22, 2008 10:00 a.m.**

CALL TO ORDER by President McAuliffe at 10:00 a.m.

ROLL CALL: Directors present: Claire McAuliffe, President
Catharine Benediktsson, Secretary
Casey Kawamoto
V. William Brady

Directors absent: Corinne W. Wiley, Vice President

Staff present: Robert L. Lynch, District Manager
Samantha Miller, Office/Finance Manager

Consultants present: Gary Ragghianti, District Legal Counsel
Riley Hurd, District Legal Counsel

PUBLIC OPEN TIME: None

CLOSED SESSION at 10:01 a.m.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to California Government Code Section 54956.9 (b).
Number of potential cases: one.

OPEN SESSION at 11:00 a.m.

No reportable action was taken during the Closed Session.

ADJOURNMENT:

Motion (Brady/Kawamoto) to adjourn at 11:01 a.m. to a Regular Board Meeting on January 13, 2009 at 6:30 p.m. at the Sanitary District No. 5 of Marin County Meeting Room at 2001 Paradise Drive, Tiburon, California. Passed, all.

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Approved:

Attest:

Claire McAuliffe
President, Board of Directors

Catharine Benediktsson
Secretary, Board of Directors