

Catharine Benediktsson, President  
Richard Snyder, Vice President  
Roy Fedotoff, Secretary

Maureen Johnson, Director  
Michael Lasky, Director

Item #1

**Sanitary District No. 5 of Marin County  
Minutes of a Regular Board Meeting  
at Tiburon Fire Protection District Meeting Room  
1679 Tiburon Blvd., Tiburon, California  
Tuesday, April 16, 2013, 6:30 p.m.**

**CALL TO ORDER** by Pres. Benediktsson at 6:30 p.m.

**ROLL CALL:**

Directors present:	Catharine Benediktsson, President Richard Snyder, Vice President Roy Fedotoff, Secretary Maureen Johnson Michael Lasky
Staff present:	Tony Rubio, Wastewater Facilities Manager Lynn Henriksen, Executive Assistant
Consultants present:	Riley Hurd, District Legal Counsel Karol Denniston, SchiffHardin LLP
Others present:	Edward Lynch, SFYC Steve DePetro, SFYC Rev. Rob Gieslmann, St. Stephen's Bob McCaskill, St. Stephen's Fani Hansen, Architect Deirdre McCrohan, <i>The Ark Newspaper</i>

**CALL TO ORDER and ROLL CALL: 6:30 p.m.**

**PUBLIC OPEN TIME:** Ms. Fani Hansen, AIA, requested a meeting with President Benediktsson regarding her client's property located at 2088 Paradise Drive, Tiburon, which is adjacent to District Pump Station No. 4. Ms. Hansen's company was hired to assist the owner of 2088 Paradise Drive in designing and preparing drawings for a new condominium structure at that location; therefore, she would like to discuss District access through her client's property to the pump station. Ms. Hansen will email the title report to Mr. Riley Hurd, attorney for the District, and Mr. Hurd will research the matter and the easement with Wastewater Facilities Manager, Tony Rubio.

**DIRECTORS' COMMENTS AND/OR AGENDA REQUESTS**

No comments or agenda requests were made by the Board.

## **CONSENT CALENDAR**

1. Approval of March 19, 2013, Regular Board Meeting Minutes (Henriksen) (attached)
2. Approval of All Warrants for March 2013, #5984 through #6071, in the amount of \$1,348,494.67, and Main Plant Rehabilitation Project Warrants for April 1-11, 2013, #6077, #6082, #6083, #6098 #6105, and #6113 in the amount of \$860,337.29 (Miller) (attached)
3. Receipt of Financial Reports for March 2013 (Miller) (attached)

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

Pres. Benediktsson moved Item No. 6, as described on the agenda, to this time.

## **NEW BUSINESS**

6. Presentation from, and possible direction, attorney Karol Denniston, Schiff Hardin LLP, Regarding CalPERS Issues having to do with employee contribution rate, side fund rate, and CalPERS buyout quote. (Benediktsson)

Pres. Benediktsson provided background regarding non-responsiveness on the part of CalPERS on several important actuarial issues for which the District has repeatedly requested information. V.P. Snyder mentioned attorney Karl Denniston's presentation may have been more appropriate for a closed session. Attorney Riley Hurd said a closed session was considered; however, the District's issues with CalPERS are information of which the public should be aware.

Attorney Denniston gave a brief history of the involvement her law firm, SchiffHardin LLP, has with municipal and special districts throughout California in regards to the significant problems they have with CalPERS. The problems encountered are systemic throughout the CalPERS organization, and, in many, cases, very similar to those the District has been experiencing for quite some time. SchiffHardin is putting together a group of CalPERS contracting agencies to combine forces and build ground to take a good look at common issues resulting from CalPERS not fulfilling their fiduciary responsibility to clients.

The Board and attorneys Hurd and Denniston discussed a range of CalPERS issues and the notion that CalPERS has complete discretion in how and when they respond to inquiries, and with no oversight. Attorney Hurd noted the District, in comparison to most SchiffHardin clients, is a tiny agency currently seeking resolve for immediate issues, and the escalation of the Districts needs may not be appropriate that this time. The Board agreed that, at the present time, attorney Denniston will help the District with specific issues that require immediate CalPERS response, for example, the actuarial information required to settle the issue with incomplete retirement payments to Robert Lynch, occurring over the past year.

Pres. Benediktsson moved Item No. 9, as described on the agenda, to this time.

## **UNFINISHED BUSINESS**

9. Consideration of Rescinding the Board Action Taken at the May 17, 2011, Regular Board Meeting, Which Allowed the Use of Private Water Meters for Commercial Facilities to Demonstrate the Volume of Discharge That Does Not Enter into the District's Collection System (Benediktsson) – Action (see attached Notes of Explanation)

The Board heard petitions and explanations from representatives of St. Stephen's Church, Rev. Rob Gieslmann and Mr. Bob McCaskell, and from Mr. Ed Lynch, San Francisco Yacht Club (SFYC), regarding the use of private water meters for water not processed by the treatment plant, such as that used solely for purposes of irrigation and/or boat wash. The Notes of Explanation reflecting the explanations were attached, once again, as reference to past communication between the District and SFYC regarding non compliance with District requests for detailed and timely usage data. Noncompliance has never been on issue with St. Stephen's; however, since both entities must be treated in like manner, the church was drawn into the matter.

Attorney Hurd reiterated this is a policy issue to be determined by the Board of Directors. The Board discussed whether or not to allow the continued use of private water meters, since this type meter can't be calibrated, and it has proved difficult, if not impossible, for the District to enforce the requirement to report water use, at least in the case of the SFYC. MMWD water meters, like those installed at Reed School, provide objective, measurable third-party data, which the District uses to deduct irrigation usage. The Board discussed giving the offending party another chance to properly report monthly private water meter usage to the District by following the rules set forth in a new resolution.

The Board agreed that since the SFYC was given a sewer fee credit for presumed boat wash usage for the 2011-2012 period, when they did not accurately report data usage to the District, and they were not credited in 2012-2013, they must pay the 2012-2013 sewer service charges on their Property Tax bill. (In all cases, commercial sewer service charges are computed according to usage data for the prior year.) Regarding the tax year 2013-2014 and the bill that will be generated for that period, it was deemed not possible to credit the SFYC for this period, since they have admittedly failed to supply the required monthly data; therefore, SFYC is liable for the 2013-2014 sewer service charges that will be sent out by the County of Marin this fall, as well as the 2012-2013 sewer service charges.

Motion (Johnson/Lasky) to continue the use of private meters provided the rules of a new resolution are followed explicitly. The resolution that will be drawn up is to include: absolute deadlines for data to be submitted to the District; the right of the District to physically check SFYC meter for data usage at their will; if resolution is not followed, each offending party will have to install an MMWD meter to accurately measure water usage that does not get processed by the District; any time a private meter fails, it must be replaced with an MMWD meter; at the sole discretion of the District, there will be no discount granted for private water meter data if noncompliance of any kind occurs during any stipulated billing period. Motion passed with

Catharine Benediktsson, Roy Fedotoff, Maureen Johnson, and Michael Lasky voting aye and Richard Snyder voting no.

Pres. Benediktsson moved Item No. 8, as described on the agenda, to this time.

## **NEW BUSINESS**

8. Consideration of Rescission or Amendment of Resolution No. 95-1, "A Resolution of Sanitary District No. 5 of Marin County Confirming and Memorializing an Understanding of Many Years that Sewer Service Charges Would not be Charged to the Town of Tiburon nor the Tiburon Fire Protection District in exchange for the Waiver of Inspection and Permit Fees by the Town and Fire District and Determining to Continue Such Practice." (Benediktsson) – Action (attached)

Pres. Benediktsson stated the Tiburon Fire Protection District (TFPD) has honored the agreement to waive inspection and permit fee charges; however, the Town of Tiburon has been charging the District encroachment, plumbing, and permit fees all along, which led to a full Board discussion regarding the ramifications of amendment or rescission of Resolution No. 95-1. Attorney Riley Hurd, District Legal Counsel, noting how the resolution was so poorly drafted, suggested amending Resolution No. 95-1 to clean up the prefatory language and, if directed by the Board, withdraw the Town of Tiburon from inclusion.

After discussion, the Board decided that the District should begin charging Tiburon all District fees and charges, and that TFPD should remain exempt from charges as TFPD does not charge the District. Counsel was directed to bring back a resolution reflecting this change and also reflecting the current state of the law in regards to the prefatory language.

Motion (Richard Snyder/Maureen Johnson) to amend Resolution No. 95-1, "A Resolution of Sanitary District No. 5 of Marin County Confirming and Memorializing an Understanding of Many Years that Sewer Service Charges Would not be Charged to the Town of Tiburon nor the Tiburon Fire Protection District in exchange for the Waiver of Inspection and Permit Fees by the Town and Fire District and Determining to Continue Such Practice." Passed, all present.

7. Consideration of Resolution No. 2013-05 by the Board of Directors of Sanitary District No. 5 of Marin County Proposing an Election be Held in Its Jurisdiction; Requesting the Board of Supervisors to Consolidate with Any Other Election Conducted on Said Date, and Requesting Election Services by the Marin County Elections Department (Benediktsson) – Action (attached)

Motion (Lasky/Snyder) to adopt Resolution No. 2013-05, "Proposing an Election be Held in Its, Requesting the Board of Supervisors to Consolidate with any Other Election Conducted on Said Date, and Requesting Election Services by the Registrar of voters." Passed, all present.

President Benediktsson took a moment to thank Attorney Riley Hurd, District Legal Counsel, for guidance and the good work he has performed for the District.

Pres. Benediktsson moved Item No. 5, as described on the agenda, to this time.

## MANAGEMENT REPORTS

### 5. Main Plant Rehabilitation Project Progress Report (Wing) (attached)

The Board did not request the presence of Mr. Doug Wing, Carollo Engineers, at tonight's meeting; his Progress Report for March 2013 was included in Board members' meeting packets for review prior to the meeting. The Board discussed salient points in Mr. Wing's report and that Auburn Constructor Inc. (ACI) is behind schedule by approximately three weeks due to the recirculation pumps being delayed by the manufacturer. Pres. Benediktsson said this move off the critical path is not a problem, yet, but it is an issue for concern. ACI may need to change course somewhat and proceed in other areas, as well as double up the crew when necessary to keep the project on track.

ACI has submitted 221 first and second submittals to date, and Carollo Engineers returned another 14 submittals in March. Change Order #19 was submitted to the District from approval, while not Work Change Directives were issued. Carollo provided on-site Construction Management/Resident Inspector for nine days in March.

### 4. District Management Summary Report and Operations/Maintenance Report (Simmons/Rubio) (attached)

Pres. Benediktsson asked Mgr. Rubio, in light of Mgr. Miller's and Mgr. Simmon's absence this evening, to report on the collection/maintenance items. Also, since Board members review the management reports prior to the Board meetings and many items have been discussed in committee, it would make sense for members to ask questions they may have in relation to items in particular categories, rather than have management read through the reports line-by-line.

The Board briefly discussed the administration office update, including flooring material, since Dir. Lasky suggested finished concrete flooring would be a functionally attractive surface. The Board decided to allow staff to decide, since this isn't a policy issue, although they reserve the right to weigh-in on the matter because the administration office also serves as the Boardroom.

Regarding Collection System Performance, the Board asked for clarification on SCADA communication with pump stations #13 and #14 on West Shore, Belvedere. Mgr. Rubio said these two pump stations are the only two in the District currently without communication capability back to the plant, so he is working with TESCO on an overall SCADA system plan to coincide with the Main Plant Rehabilitation Project. The Tiburon Mar East pump stations 1-4, are undergoing "Power Improvement," which means installing underground electrical

conduit to connect pump stations to the generators at pump stations one and three. Mgr. Rubio noted staff will be given “Tablets” with WiFi connectivity for improved communication in the plant.

The Board okayed the District’s usual annual donation of \$200.00 to the Tiburon Salmon Institute.

Mgr. Rubio reported on operations and maintenance; operations are at normal standards, with preventative maintenance tasks having been performed in all zones. The District successfully passed this month’s 96-hour flow through bioassay. Three category 1 sanitary sewer overflows (SSOs) occurred in February, one at 25 Main Street (private) and two in Belvedere. New SSO reporting requirements will be effective June, 2013, at which time, Mgr. Rubio will update the Board. No odor complaints were reported during this time period.

Dir. Lasky said that the odor of sewage has continued to be a problem at pump station #2 on San Rafael Avenue. Pres. Benediktsson asked why no FOG reports have been issued recently, to which, Mgr. Rubio replied that FOG reports happen on a semi-annual basis, and no work orders have been generated at this time.

Pres. Benediktsson noted that she and Mgr. Miller had a conversation about work priorities during the maximum of four hours per day she has been allowed to work during her emergency leave, to include the following: 1) training of Robin Dohrmann, Admin./Finance Specialist; 2) audit with Terry Krieg, CPA; and 3) PEMHCA, HRA, & PEPRA matters. The Board agrees with V.P. Snyder that a placeholder budget should be drafted for Board approval before the fiscal year ends, with plans to “amend it to reality” later after Mgr. Miller returns from leave.

## **COMMITTEE REPORTS**

10. Capital Improvement Program Committee (Fedotoff/Lasky)
11. Governance Committee (Benediktsson/Snyder)
12. Main Plant Rehabilitation Oversight Committee (Fedotoff/Lasky) (attached)
13. Finance & Fiscal Oversight Committee (Benediktsson/Snyder) – Minutes of the April 9, 2013, meetings were not kept due to the absence of a quorum for the meeting.
14. Communication Committee (Lasky/Snyder)
15. Personnel Committee (Snyder/Lasky)
16. Ad Hoc Point Tiburon Committee (Benediktsson/Snyder)

The Capital Improvement Program (CIP) Committee met on April 10, 2013.

The Governance Committees did not meet.

The reports of the Main Plant Rehabilitation (MPR) Committee meeting of April 9, 2013, were reviewed and discussed.

The Finance & Fiscal Oversight Committee convened; however, a quorum was not present.

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

**OTHER BUSINESS:** None

**ENVIRONMENTAL:** None

**CORRESPONDENCE:** None

**INFORMATIONAL ITEMS:**

17. Letter Dated March 13, 2013, from Lorena Haynes, 4 Paradise Cove Rd., Tiburon, CA, requesting a Two-Year Extension, from December 1, 2013, to Connect to District Sewer Service

This item was tabled to a future Board meeting.

18. CSDA Special District Board Member/Trustee Handbook

**ADJOURNMENT**

The Board adjourned at 9:23 p.m. to a Regular Board Meeting at 6:30 p.m. on May 21, 2013, at the Tiburon Fire Protection District Meeting Room at 1679 Tiburon, Blvd., Tiburon, California.

Approved:

Attest:

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Catharine Benediktsson  
President, Board of Directors

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Roy Fedotoff  
Secretary, Board of Directors