

**RECLAMATION DISTRICT NO. 1000
BOARD OF TRUSTEES
ACTION SUMMARY
Regular Meeting
Friday, September 10, 2010
1633 Garden Highway
Sacramento, CA 95833**

Trustees Present: Barandas, Christophel, Gilbert, Harris, Miller, Shiels, and Smith
Trustees Absent: None

Staff Attendance: General Manager Devereux, Secretary Figueroa, Superintendent Blickle and Attorney James Day

APPROVAL OF THE MINUTES

1A) Regular Meeting, August 6, 2010

Motion by Trustee Shiels to approve the minutes of the Regular Board meeting held August 6, 2010. The motion was seconded by Harris, duly put and carried.

ADMINISTRATIVE ITEMS

2A) TREASURER'S REPORT – August 2010

The Treasurer's Report for July 2010 is as follows:

County Treasurer- (O/M)	\$ 2,184,385.04
County Treasurer (OPEB)	\$ 916,840.00
O/M Fund – Checking	\$ 64,215.29
Designated Capital	\$ 933,758.68
LAIF (State Treas.)	\$ 698,216.92

Motion by Trustee Harris to approve the Treasurer's reports for August 2010 as presented. Seconded by Trustee Miller, duly put and carried.

2B) EXPENDITURE REPORTS– August 2010

The expenditures for the month of August 2010 were \$155,194.14. The expenditures from various funds are as follows:

Operation and Maintenance: \$155,914.14

Warrants 7331 & 7332 were issued in the amount of \$200,000.00

3) COMMITTEE REPORTS

A. SAFCA Representatives

Trustee's Shiels informed the Board the current work under contract on the Natomas Levee Improvement Project (NLIP) is progressing well. There are however potential delays due to utility relocations, primarily with AT&T and SMUD.

Trustee Smith noted this is a recurring problem year to year and holds up the contracts and costs money. Both Teichert and Nordic have been slowed down because of utility relocation issues.

Trustee Shiels stated the Post Authorization Change Report (PACR) is at the Corps Headquarter level for review by the Civil Review Board next month. Stein Buer and Rick Johnson from SAFCA will be there for the review process. The Corps believes they are on track to get the Chief's Report out at the end of the year. Congresswoman Matsui is working to get federal construction appropriations in the FY 2011 budget. SAFCA believes it is important to get the Corps under construction on the Natomas Levee Project next year. . The Corps of Engineer's Estimate for the NLIP is \$1.1 billion; however, SAFCA believes that estimate is over-inflated. The Corps of Engineers will award the next contract for the Joint Federal Project at Folsom Dam on December 20

B. Executive Committee

Trustee Christophel informed the Board the Executive Committee met to review the agenda and discussed the Natomas Water Company agreement scheduled for approval on the agenda this month.

C. Finance Committee

Trustee Gilbert informed the Board that the Finance Committee met with staff and the auditor and discussed the year end process and audit planning.

D. Natomas Mutual Water Company Meeting

General Manager Devereux informed the Board that District staff and NCMWC staff as well as two members of each board and counsel for each party met to discuss the remaining issues in the proposed agreement.

4A) Agreement with Natomas Mutual Water Company

General Manager Devereux presented the proposed agreement with the Natomas Central Mutual Water Company based on the discussion at the August 16 meeting between the parties which included several Board members and their respective counsels. Former District Engineer Jim Clifton assisted with preparing the exhibits and analyzing impacts should an agreement not be reached. He provided a brief historical overview of the relationship between the District and the NCMWC. He provided the Board an estimate of potential increased pumping costs should the District have to pump urban and agricultural runoff during the summer months rather than have the water be reused.

A lengthy discussion among the Board members was held regarding various points of the draft agreement. There was concern that no monetary remuneration for use of the canals would be considered a gift of public funds. District Counsel Jim Day stated there was no gift of public funds in the agreement; it is a cooperative agreement with a section specifically related to reviewing the agreement and costs at a later date with a committee of Board members from both the Water Company and Reclamation District No. 1000.

After much discussion, it was moved by Trustee Miller to approve the agreement as drafted. The motion was seconded by Trustee Shiels, duly put and carried by the following vote:

AYES: Barandas, Christophel, Harris, Miller, Shiels, Smith

OPPOSE: Gilbert

ABSTAIN: None

4B) Cooperative Agreement with Sacramento County – Elverta Road/Highway 99 Interchange Reconstruction – Cost Share Drainage Easement

General Manager Devereux informed the Board the District and Sacramento County have negotiated a cooperative agreement to relocate the District's drainage canals to accommodate the freeway interchange at Elverta Road and Highway 99. The District is requiring additional right of way to accommodate a flatter side slope than the canals currently have to address chronic erosion problems on the canals in the area and to provide better access for operations and maintenance. The County and the District have agreed to cost share in the additional acreage required to provide a 2.5 to 1 slope as opposed to the current slope configuration which is 2 to 1 or steeper in many areas. The estimated cost to the District for the additional right of way based on current appraised values is between \$40,000 and \$60,000.

After discussion it was moved by Trustee Harris to authorize the General Manager to execute the Cooperative and Cost Sharing Agreement with Sacramento County for the relocation of the District's facilities to accommodate the interchange at Elverta Road and Highway 99 in general conformance with the draft presented. The motion was seconded by Trustee Gilbert, duly put and carried.

4C) Purchase of Shell Oil Property along Elkhorn Blvd – Cost Share with SAFCA.

General Manager Devereux informed the Board SAFCA is acquiring an easement on assessor's parcel number 201-0270-048 owned by Shell Oil. The property owner has expressed a desire to sell the entire parcel to SAFCA. The parcel is located directly across the street from the District's current maintenance yard. With the new larger levee and new canals to be maintained by the District there will be an increase in operation and maintenance responsibilities and a need for more equipment and materials to maintain the District facilities. The Shell property would be in an ideal location for expansion of the District's maintenance yard and would provide additional storage area for flood control materials such as sand bags and large rock. The site is currently being farmed and the District could lease the property for farming until such time as it is needed. SAFCA is negotiating a total purchase price with the property owner below the appraised value. The range of cost to the District would be between \$75,000 and \$150,000 with a possible refund of a portion of these costs at a later date from the SAFCA NLIP funds. A final agreement will be brought to the Board at a later date. The purchase of the property was not included in the current 2010-2011 budget and would have to be funded from the District's reserve fund.

After discussion it was moved by Trustee Barandas to give conceptual approval of the proposed property acquisition with SAFCA. The motion was seconded by Trustee Miller, duly put and carried.

4D) Approve Purchase of Long Stick Excavator

General Manager Devereux stated that this item was discussed at the last meeting and staff was directed to research and report back to the Board. Staff has researched used equipment and compared the costs and availability of used equipment which would meet the needs of the District in the manner of the Long Stick Excavator currently leased from Pape Machinery. Staff has determined that similar used equipment is likely not available elsewhere, and certainly not at the price at which the referenced Long Stick Excavator can be purchased from Pape Machinery. Based on Pape's agreement to credit the District for three months of rental of this long stick excavator and the lack of availability of comparable used equipment elsewhere, staff believes it is in the best interest of the District and it's constituents to purchase the equipment offered by Pape. Counsel has advised that under California case law, "*where competitive proposals work an incongruity and are unavailing as affecting the final result, or where competitive proposals do not produce any advantage, or where it is practically impossible to obtain what is required and to observe such form, competitive bidding is not applicable*" [Graydon 104 Ca. App. 3d at 636].

It was moved by Trustee Harris that the Board of Trustees adopts the staff findings and, based on advice of counsel, authorizes the General Manager to negotiate the purchase of the Long Stick Excavator from Pape Machinery as outlined. The motion was seconded by Trustee Shiels, duly

put and carried.

5) GENERAL MANAGER'S REPORT

Because of the length of the meeting GM Devereux said he would not report on the following items unless the Board had any questions; except he did note the Legal Committee was to meet on September 24 to review the draft responses to the Sacramento County Grand Jury Report.

- A. Regional Flood Control Issues**
- B. Encroachment Permit Applications Endorsed**
- C. Update on NLIP.**
- D. Status of Agreement with SAFCA on NLIP Pump Station Mitigation**
- E. Update on FEAM reimbursement for 2006 Flood Emergency Response**
- F. Sacramento County Grand Jury Findings/Response – meeting with Legal Committee.**
- G. Update Garden Highway Encroachment Remediation**
- H. Status of Encroachment Enforcement Action at 2817 Garden Highway by CVFPB**

6.) District Counsel Report

Attorney Day informed the Board he and his staff have worked on the Natomas Mutual Water Company Agreement, and competitive bidding research and Attorney Client memo to Board regarding same.

7.)

Superintendent's Report

A copy of the activities of the field staff is included as a part of these minutes.

There being no further business to come before the Board, the meeting was adjourned.

President

Secretary