MINUTES OF THE REGULAR BOARD MEETING

NOVEMBER 9, 2011, 7:00 P.M.

A regular meeting of the Board of Trustees of the San Mateo County Mosquito and Vector Control District was held on November 9, 2011 in the District Office at 1351 Rollins Road, Burlingame, California.

TRUSTEES PRESENT

Joseph Fil
Christine Fuller
Maria Martinucci
Barry Meinerth
Robert Riechel
Richard Tagg
Samuel Lerner
Jim Metz
John Curtis
Donelle O'Connor
Raymond Honan
Robert Maynard
Leon Nickolas
Betsey Schneider
Lawrence Peterson
Valentina Cogoni
Donna Rutherford
James Ridgeway

TRUSTEE ABSENT

Tim Frahm

OTHERS PRESENT

District Manager, Robert Gay
Finance Director, Rosendo Rodriguez
Laboratory Director, Dr. Chindi Peavey
Operations Director, James Counts
Accounting Technician, Mary Leong
Portor Goltz, District Counsel
Aimee Armsby, County Counsel

1. President Honan called the meeting to order at 7:00 p.m.

2. The Regular Meeting of the Board of Trustees was opened with the Pledge of Allegiance.

3. A roll call indicated that 18 Trustees were present, one was absent, and there is one vacancy in the Town of Colma. President Honan announced the meeting was being recorded. Trustee Barry Meinerth arrived at 7:10 p.m.
4. SPECIAL PRESENTATIONS

- **Trustee Election of Board Officers for Calendar Years 2012 and 2013.**
  Directed by Board Secretary, Valentina Cogoni. Board Secretary Valentina Cogoni and two trustees counted the ballots and reported the results following a short recess. The following Trustees were elected by the majority of ballots submitted:
  
  o President Trustee Samuel Lerner  
  o Vice President Trustee Donna Rutherford  
  o Secretary Trustee Leon Nickolas  
  o Assistant Secretary Trustee Barry Meinerth

**ACTION:** Motion was made by **Trustee James Ridgeway** and seconded by **Trustee Dick Tagg** to approve to approve the new Board Officers for Calendar Years 2012 and 2013. *Motion* passed unanimously.

5. PUBLIC COMMENTS AND ANNOUNCEMENTS.

- No public present.

6. BOARD MEMBER COMMENTS AND ANNOUNCEMENTS

- **Trustee Field Day** scheduled for December 14, 2011 at 0830.
  o Trustee Field Day is for all Trustees and members of the public to attend.
  o The Trustee Field Day is advertised in the local newspaper and on the District street side bulletin board.
  o Presentations will include:
    - Financial Presentation by Rosendo Rodriguez, Finance Director
    - District History, District Manager
    - Brown Act, Porter Goltz, attorney
    - Communications, Aimee Armsby, County Counsel
    - Trustee Time with Technicians

- Trustees attending the California Special District Association (CSDA) Annual Conference each provided a brief report on educational programs they attended.
  o **Trustee Ray Honan,** Board President, City of South San Francisco
  o **Trustee Jim Metz,** County-at-Large
  o **Trustee Donelle O’Connor,** City of Belmont
  o **Trustee Maria Martinucci,** City of Redwood City
  o **Trustee Barry Meinerth,** City of Burlingame

- **Trustee Ray Honan** attending an educational session at the CSDA Annual Conference brought back a question for Legal Counsel on the requirement of a resolution necessary to approve all Trustee travel. Manager Gay was directed to request from Legal Counsel an opinion on this potential requirement.
• **Trustee Lawrence Peterson** notified the Board this meeting will be his last Board Meeting. He is retiring from the District Board after 25 years of service. Trustee Peterson outlined how the District really changed over the last 25 years and how the Board Meetings were now very effective working meetings. The District has big responsibilities that we all take very serious.

7. AGENDA AMENDMENTS

• No amendments.

8. CONSENT CALENDAR

ACTION: No action needed.

9. BOARD COMMITTEE REPORTS

• **Environmental – Chairperson John Curtis**
  o No meeting was held prior to the Board Meeting.
  o A public relation plan will be developed for 2012.
  o Request all trustees contact their cities planning departments to request standing water locations be transmitted to the district office.
  o Trustee Riechel reviewed the Cedar Mills Development in the City of San Bruno and how they were going to redirect water to prevent the breeding of mosquitoes. The district would need access through gates with keys.
  o Trustee Joe Fil discussed the issue in the Town of Portola Valley with a pond that is being filled in. The district staff will investigate.

• **Financial – Chairperson Leon Nickolas**
  o Meeting will be scheduled to review the options for the audit of Fiscal Years 2010-11 and 2011-12.
  o Auditing firms will be researched and a request for proposal for auditors will be prepared by the Finance Committee at a January Committee meeting.

• **Policy Committee – Chairperson Robert Riechel**
  o The committee will schedule a meeting to review the District’s Property Disposal Policy and Fixed Assets and after reviewed they will be presented at the next Board Meeting.
  o Reference material for new Trustees was discussed and will be updated.
  o Manager Gay is requesting the Policy Committee considered starting a review of the Employee Manual.
  o Board Officer Job Description Policies were reviewed with a few minor edits.
ACTION: Motion was made by Trustee Leon Nickolas and seconded by Trustee Joe Fil to approve to approve policies 4040, 4050, 4060, and 4070. Motion passed unanimously.

- Strategic Planning Committee – Chairperson Joseph Fil
  - The committee held a meeting on October 25, 2011.
  - The committee is scheduling their next meeting for November 28, 2011.
  - The Strategic Plan’s financial revenues were reviewed. The remaining financial documents will be reviewed at a future meeting.
  - Trustee Robert Riechel asked for clarification if District committees are open to the public. Aimee Armsby, County Council stated all standing committees are open to the public and must follow the requirements of the Brown Act. Manager Gay outlined the standing committees notifications are posted for the public attendance on the street side District Bulletin Board.
  - Trustee Sam Lerner requested an opinion from Aimee Armsby, County Counsel on the closed session status of an Ad Hoc Negotiating Committee.
  - Aimee Armsby, County Counsel explained how every Board and Committee meeting must have a record of the meeting. The easiest way to document a record of the meeting is with minutes.

10. REGULAR AGENDA

- Portor Goltz, District Legal Counsel was directed by the Board of Trustees to provide a legal opinion on the involvement of staff at District Board and Committee Meetings. Counsel Goltz provided a written report that was reviewed and discussed in detail. In general, there is no statutory basis for establishing the staff’s role at a District Board or Committee Meeting. The norm is the staff members participate when called upon by the Manager to answer questions and employees do not sit at the Directors/Trustees table. Board members communicate with staff through the General Manager and staff communicates with the Board through the General Manager.

  - Trustee Sam Lerner commented that District Policies that are produced by the Board and enforced by the Board has a Code of Ethics outlined in Policy Number 4010. Trustee Lerner read from the Code of Ethics Policy 4010.1081, in seeking clarification on informational items, Trustees must direct their requests to the District Manager for information needed to supplement, upgrade, or enhance their knowledge. The District Manager may then request the information from specific staff members. The Trustees will not request information directly from staff. Trustee Lerner stated this may not be a legal issue but it is in our code of ethics.

- Portor Goltz, District Legal Counsel was directed to determine if the Board’s final action amending the budget and authorizing up to $18,000 to overhaul the
Airboat motor violate the Brown Act. The Board's action was a violation of the Brown Act because it did not meet the exceptions of Government Code Section 54954.2 (b) (1) or (b)(2). The Government Code Section 54960.1 allows the Board to "cure and correct" the violation. The complete this process to "cure and correct" the violation the Board must invalidate the previous final action. Counsel Goltz also noted it may also be that the action taken by the Board will not be considered "null and void" under the provisions of 54960.1 (d)(3) as the action taken gave rise to a contractual obligation upon which a party has in good faith detrimentally relied. Counsel Goltz stated he felt the Board was attempting to do the right thing from the beginning. That every Trustee present was trying to do good governance but the Brown Act is complex. The Board was also directed that they are unable to suspend State Law but may suspend Board Policies. So action recommended to correct the violation the following actions must be taken.

ACTION: Motion was made by Trustee Robert Riechel and seconded by Trustee Donna Rutherford to invalidate the action taken at October 12, 2011, Board Meeting regarding repair of the airboat motor. Trustee Ray Honan abstained from the vote because he was not at the meeting. Motion passed unanimously.

- **Trustee Joe Fil** requested information on with was the airboat motor being repaired and for how much? District Manager was not informed by James Counts on the information of repair of the airboat motor nor where the motor is located. District Manager requested James Counts explain to the Board where the motor is being repaired and for how much. James Counts stated the motor is in Pleasanton at HUR. James Counts stated to repair this motor may be about $17,000.00. James Counts stated there was more damage than expected.

- **Trustee Barry Meinerth** requested if getting three bids took place. Manager Gay said no. Trustee Meinerth asked if other companies were reviewed who could repair the airboat motor. Trustee Meinerth noted in Counsel Goltz document it was stated by James Counts there was only a single vendor that could be the work deemed necessary. Trustee Meinerth stated he was not at last month’s Board Meeting and was referencing Counsel Goltz documented that stated a quick check of Bay Area sources reveals many qualified firms were experienced to overhaul and repair the airboat motor. Trustee Meinerth wants it verified that other firms are experienced to overhaul and repair the airboat motor.

- **Trustee John Curtis** requested what is the scope of repair. James Counts stated the costs are under $18,000.00 to repair the airboat motor and reinstall the motor back into the airboat.

- **Trustee Sam Lerner** stated he had a discussion with James Counts on the airboat motor repair following the October Board Meeting. Trustee Lerner stated that James Counts said the Coastal Conservancy will provide $7,000 to help cover the cost of repairing the airboat motor and that the old heads from the motor could be
sold for $2,000. *Trustee Lerner requested the District Manager confirm with the Coastal Conservancy their financial support in repairing the airboat motor.*

- **Trustee Barry Meinerth** requested is their warranties available for this airboat motor repair. Trustee Meinerth stated we purchased the best airboat available and we should look for warranties that are available. Trustee Meinerth requested the District Manager look into warranty availability. District Manager will check with the Vector Control Joint Powers Agency on property insurance coverage of repair of the airboat motor for future catastrophic loss.

- **Trustee John Curtis** commented on the financial issue were HUR has already started work on the airboat motor and there is a need to pay for their work completed to date especially if the airboat motor is transferred to another repair shop to complete the repair of the airboat motor. Counsel Goltz stated the District does not know the commitment that was agreed to between James Counts and HUR. No documentation is available for this Board Meeting.

- **Trustee Sam Lerner** requested Counsel Goltz determine our legal obligation to HUR. Counsel Goltz stated we have no contract with HUR to view so it is difficult to determine liability but it is important to realize any work completed by HUR they are entitled to payment for work completed. The law states they get the value of the work completed. So yes, the District would be liable for any work completed. Trustee Lerner stated unfortunately we went through this when the airboat was originally purchased there was not a contract signed by our District Manager and Board President and now when the airboat motor was presented for repair to HUR there was not a signed contract between the District Manager and Board President and the repair company to initiate this work. So not only do we have a violation of the Brown Act we have a violation of our policy when it comes to contract negotiation.

**ACTION:** Motion was made by **Trustee Robert Riechel** and seconded by **Trustee Donna Rutherford** to authorize the airboat motor repair up to a maximum of $18,000.00. *Motion passed unanimously*

11. **FINANCIAL REPORTS**

- **Finance Director, Rosendo Rodriguez**
  - Provided a verbal and written report on the financials and the overview of the administrative programs.
  - **Trustee Robert Riechel** wanted to thank the Finance staff for their financial reports and their willingness to listen to the Boards requests for additional financial detail on various documents.
  - **Trustee Betsey Schneider** wants to know how much of the services account accounting and legal were and maybe it are would be better to
have it broken out. Trustee Schneider would like to know how much we have spent on legal fees for the last two fiscal years and maybe compare to other districts in the Coastal Region. Trustee Schneider would like clarification on our legal services. District Manager stated five of the Coastal Region Districts are dependent special districts and we would probably not be able to get information on their legal budgets since they would be tied directly to their County budgets. Trustee Schneider asked what is the structure with all of our attorneys? District Manager stated he goes to the Board President with a state of affairs that would require an opinion from a legal counsel. The Board President and the District Manager collaborate on finding the best legal counsel to help with that issue that would require an opinion from an attorney.

ACTION: Motion was made by Trustee Sam Lerner and seconded by Trustee Lawrence Peterson to approve the Financial Documents for July through September 2011. Motion passed unanimously.

12. DISTRICT MANAGER REPORT

- **Legislative.** Reviewed the current list of bills being monitored by our state agency. Discussion centered on bill - HR 872. The Governor Brown’s Twelve Point Pension Reform Plan was also discussed in detail and outlined in the Manager’s Report.
- **Mosquito and Vector Control Association of California (MVCAC).** The MVCAC Quarterly Meeting details were reviewed. It was noted the Presidency of Robert Gay will end in December and the accomplishments were outlined at the meeting. The National Pollutant Discharge Elimination System General Permit was discussed and the press release was reviewed. Issues around the West Point Fire District Decision by the Third Appellate District finding their engineer’s report failed to adequately support their benefit assessment was discussed. Our Board was informed the State Supreme Court is taking the lower court’s decision under review.
- **Vector Control Joint Powers Agency (VCJPA).** Updated information was provided on the liability and workers compensation programs. The upcoming 2012 Annual Meeting format was reviewed.
- **American Mosquito Control Association (AMCA).** Reviewed the trustee seniority list for attending the next Annual Conference February 26, 2012.
- **California Special District Association (CSDA).** Major accomplishments for Special Districts in 2011 were reviewed and the benefits of CSDA membership.
- The District Staff will be receiving Sexual Harassment Prevention Training from an attorney with the County Counsel’s Office.
- The 2012 Trustee District Committee Assignment request form was provided to all District Trustees.
- The San Mateo County Treasurer’s Office provided the Investment Policy Report.
- Reappointment Letters for Trustees: Jim Metz, Dick Tagg, Leon Nickolas were requested from their respective cities. Trustee Dick Tagg stated the Town of
Woodside has it on the agenda for December. Trustee Meinerth stated his appointment is up in March 2012 and will check on his appointment thinking it is just reassigned.

- **Rick Wycoff** was appointed for January 2012 from the City of Foster City.
- City of Hillsborough will need to make a new appointment for the retirement of Trustee Lawrence Peterson.
- City of Half Moon Bay will need to make a new appointment for the retirement of Trustee Tim Frahm.
- Trustee qualification list and reference materials for new trustees are now under review by the Policy Committee.
- Board Evaluation was provided as a consideration. Trustee Meinerth will review the process and will review this course he recently attended at the CSDA Conference.
- LAFCo budget information was provided. The Districts portion is $2,417.00
- New administrative and financial internal controls were listed and reviewed.
- Identify theft code program was reviewed.  
- The new Headquarter roof with pictures was provided and the warranty for 15 years was provided.
- Facility painting procedures were reviewed.
- The District’s Cooperative Agreement with the California Department of Public Health for 2012 was provided.
- **Trustee Robert Riechel** would like some more explanations on the pesticide use reports. District Manager asked Trustee Riechel to come in and discuss this with the Manager.
- **Trustee Sam Lerner** requested the District Manager explain to the Board what an ACH transfer is within the financial program. District Manager explained how ACH's are wire transfers, where funds are wired directly from the San Mateo County Treasury to a specified account with the use of a Token provided by the San Mateo County Treasurer's Office. The District Manager stated the District has a District Token to perform this function but the Finance Director and I have decided we are not performing ACH transfers. Trustee Lerner stated if we are not going to perform an ACH transfer we should get rid of the Token or if we are going to perform an ACH transfer there should be a Board member involved and authorizing the procedure.
- **Trustee Sam Lerner** acknowledges the excellent job the Board President Ray Honan has done over the last three years.

13. NEXT REGULAR SCHEDULED BOARD MEETING

**ACTION:** Motion was made by **Trustee Sam Lerner** and seconded by **Trustee Jim Metz** to approve the next meeting for January 11, 2012. Motion passed unanimously.

14. ADJOURNMENT

**ACTION:** Motion was made for adjournment by **Trustee Lawrence Peterson**.
There being no further business, the meeting was adjourned.

I certify the above minutes were approved as read or corrected at a meeting of the Board held on January 11, 2012.

** All reports that were provided to the trustees as the board meeting will be available upon request.

Approved:

[Signature]
District Manager

[Signature]
Board President

January 11, 2012

January 20, 2012