MWPA BOARD OF DIRECTORS AGENDA

Thursday August 20, 2020
3:00 pm

https://zoom.us/j/99012063571
Webinar ID: 990 1206 3571
Phone 929-205-6099

For those joining by phone use: *9 to “raise your hand” and *6 to mute/unmute

ATTENTION: This will be a virtual meeting of the Board of Directors of the Marin Wildfire Prevention Authority pursuant to Executive Order N-29-20 issued by the Governor of the State of California. There will not be a public location for participating in this meeting, but any interested member of the public can participate telephonically by utilizing the dial-in information printed on this agenda. If any member of the public has a request for a reasonable modification or accommodation for accessing this meeting due to a disability, they should contact Jason Weber at jweber@marincounty.org

1. Call to order.

2. Roll Call
   - David Kimball
   - Sashi McEntee
   - Gary Phillips
   - Gabe Paulson
   - Dennis Rodoni
   - Kathryn
   - Donohue
   - Steve
   - Gerbsman Leah
   - Green Leighton
   - Hills Bruce
   - Goines Tom
   - Finn Cathryn
   - Hilliard
   - Mark White
   - Bob Ravasio
   - Barbara
   - Coler Julie
   - McMillan
   - Steve Burdo

AGENDAS & STAFF REPORTS ON-LINE www.marinwildfire.org
3. Agenda Adjustments.

4. Open time for public expression. The public is welcome to address the Board of Directors at this time on matters not on the agenda that are within the jurisdiction of the Board. Please be advised that pursuant to Government Code Section 54954.2, the Board is not permitted to discuss or take action on any matter not on the agenda. Comments may be no longer than three minutes and should be respectful to the community. Please silence your cell phones during the meeting / mute your microphone when not reporting out.


6. Consent Calendar.

   The opportunity for public comment on consent agenda items will occur prior to the Board’s discussion of the consent agenda. The Committee may approve the entire consent agenda with one action. In the alternative, items on the consent agenda may be removed by any Committee or staff member, for separate discussion and vote.

   a. Approve July 16, 2020 MWPA Board of Directors meeting minutes.

      6a-MWPA Board Meeting Minutes 7.16.20

   b. Consider Approval of an Agreement for Interim Executive Officer professional services.

      6b-MWPA Interim Exec Officer Staff Rpt 8.20.20

   c. Consider Approval of Agreements with Colantuono, Highsmith & Whatley and Burke, Williams & Sorensen for specialized legal services.

      6c-MWPA Specialized Legal Services Staff Rpt 8.20.20

      6c,1-MWPA Colantuono LSA

      6c,2-MWPA Burke Williams Sorensen LSA

   d. Consider Adoption of Resolution No. 20-06 Ratifying the Calculation Method used for the MWPA Special Parcel Tax

      6d-MWPA Ratify Calc Method for Special Tax Staff Rpt 8.20.20

      6d,1-Res No. 20-06 Ratifying Calc Method for Special Tax 8.20.20

      6d,2-MWPA Given Email Property Tax Characteristics Attached or Detached Garage Square Footage

   AGENDAS & STAFF REPORTS ON-LINE www.marinwildfire.org
e. Authorize President to Consent to Concurrent Representation by Epstein + Holtzapple among the MWPA, the City of San Rafael and the Town of San Anselmo

   *6e-MWPA Concurrent Legal Consent Staff Rpt 8.20.20*

   *6e,1-MWPA San Anselmo Consent to Joint Representation*

   *6e,2-MWPA San Rafael Consent to Joint Representation*


   *6f-MWPA Financial & Admin Support Update Staff Rt 8.20.20*

   *6f,1-MWPA FY 21 Budget Report*

   *6f,2-MWPA Balance Sheet to August 17, 2020*

   *6f,3-MWPA Expense Detail*

*Recommendation: That the Board of Directors approve the Consent Calendar.*

7. Old Business.
   
   Consider Adoption of MWPA ByLaws.

   *7-MWPA ByLaws Staff Rpt 8.20.20*

   *7,1-MWPA Bylaws 8.20.20*

   *Recommendation: That the Board of Directors adopt the MWPA ByLaws, and request nominations from the members of the Board of Directors to serve on the Executive Committee and the Finance Committee, with appointments expected in September 2020.*

   
   None.

9. Committee Reports.
   
   a. Operations Committee Update – Verbal Report
   
   b. FIRESafe Marin Program of Work and Projects Update – Verbal Report

10. Information Items.

11. Board Members Request Future Agenda Items

12. Adjourn.
In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the MWPA at 415-539-MWPA (6972). Notification at least 48 hours prior to the meeting will enable the Agency to make reasonable accommodation to help insure accessibility to this meeting.

Any writings or documents provided to a majority of the Board of Directors regarding any item on this agenda after the distribution of the original packet will be made available for public inspection at 33 Castlerock Ave. Woodacre CA 94973 *note as of 4/30/20 offices are closed to the public documents will be made available upon request and will be available online at www.marinwildfire.org

Notice is hereby given that the Board of Directors may discuss and/or take action on any or all of the items listed on this agenda. If any of these matters above are challenged in Court, you may be limited to raising only those issues you or someone else raised at any public hearing described on this agenda, or in written correspondence delivered at, or prior to, this Council meeting. Judicial review of an administrative decision of the Board of Directors must be filed with the Court not later than the 90th day following the date of the Board meeting decision (Code of Civil Procedure Section 1094.6)

I certify that this agenda was posted on the Public Notice Bulletin Board on or before Monday, August 17, 2020 at 3:00 pm.

______________________________
Jean A Bonander, Interim Executive Officer
THE MARIN WILDFIRE PREVENTION AUTHORITY
BOARD OF DIRECTORS MEETING
3:00 p.m.
Thursday, July 16, 2020
Via teleconference due to Coronavirus (COVID-19)

MINUTES

1. Call to Order. President Goines called the meeting to order at 3:00 p.m.

2. Roll Call and Introductions.

   Directors In Attendance: Steve Burdo (San Anselmo), Barbara Coler (Fairfax), Kathryn
   Donohue (Inverness), Tom Finn (Sleepy Hollow Fire), Steve Gerbsman (Kentfield Fire),
   Bruce Goines (Novato Fire), Leah Green (Marinwood), Cathryn Hilliard (Southern Marin
   Fire), Leighton Hills (Muir Beach), David Kimball (Bolinas Fire District), Sashi McEntee (Mill
   Valley), Julie McMillan (Ross), Gabe Paulson (Larkspur), Gary Phillips (San Rafael), Bob
   Ravasio (Corte Madera), Dennis Rodoni (County of Marin), Mark White (Stinson Beach),

   Staff in Attendance: Chief Jason Weber (Marin County Fire)

   Chief Weber stated Mr. Kevin Yeager was behind the scenes running the Video
   Conference meeting. The public will have an opportunity to address the Board by using the
   “raise your hand” function.

3. Agenda Adjustment.

   There were no adjustments to the agenda.

4. Open Time for Public Expression.

   Ms. Terri Thomas, representing the Fire and Environment Resiliency Network (FERN),
   discussed an incident that occurred on Ring Mountain that included accidental mowing of a
   plant that is on the threatened species list. She applauded the authority’s attempt to blend
   fire and environmental protection. She stated that MWPA will need to proceed carefully
   and to provide maps of high ecological value to staff.

5. Executive Officer’s Report.

   Chief Weber updated the Board on the status of the various subcommittees. He stated that
   he has asked Ms. Jean Bonander, former Executive Officer of the Marin
   Telecommunications Agency (MTA), to assist the Citizens’ Oversight Committee (COC)
   Subcommittee in establishing and opening up the application process. The Subcommittee
   will submit the recommendations to the Board. He hopes to have the committee up and
running by September. The By-Laws Committee is reviewing the draft by-laws with a goal of getting the document to the Board as soon as possible. He stated he, along with Operations Committee member Schwarz, is working as “staff” to keep things moving forward.

Director Coler asked when the COC applications would be posted on the Website. Chief Weber stated probably within the next two weeks.

6. Consent Calendar.

a. Approval of minutes from June 18, 2020 MWPA Board of Directors meeting

M/S, Hilliard/McEntee, to approve the June 18, 2020 MWPA Board of Directors meeting minutes as corrected.

Ayes: 17 of 17, 100% of population (through a roll call vote)

7. Old Business.

a. Executive Officer recruitment

Operations Committee (OPS) member Pomi presented a report. Nelson Staffing received eighty-one applications during the filing period. The goal of casting a wide net was achieved. Nelson Staffing reviewed all the applications and scheduled twenty-minute interviews with twenty-four applicants who met the desired qualifications. Nelson Staffing then scheduled an additional forty-five minute interview follow up with eleven of the twenty-four candidates based on qualifications, experience, education, and understanding of the MWPA’s mission.

Nelson Staffing then provided a recommendation of the top ten candidates. On Tuesday, July 7, 2020, the Board subcommittee and the OPS subcommittee met with Nelson Staffing and reviewed all eighty-one candidates and the top ten candidates. The group unanimously recommended five of the highly qualified candidates to move on to an interview process. This interview panel will consist of the MWPA Board President, Vice-President, a Board member at large, an OPS Committee member, a Technical Advisory Committee member, and a member of the public. The five geographic regions will be evenly represented. Interviews will be scheduled in the near future. The final selection will be made by the Board at the August meeting.

President Goines opened the meeting to public comments.

There were no comments.

President Goines closed the meeting to public comments.

There were no comments or questions from the Board.
b. Citizens’ Oversight Committee

Chief Weber noted comments were made about this item during the Executive Officer’s Report. He reiterated the hiring of Ms. Bonander and the goal of bringing the candidates to the Board in August. The COC committee will consist of nine members, five of whom will represent the geographic areas, one from a non-partisan civic affiliation, one from the environmental community, one from the Fire Safe community, and one from a tax advocacy organization. The goal is to have the committee on board by September 1, 2020.

President Goines opened the meeting to public comments.

There were no comments.

President Goines closed the meeting to public comments.

There were no comments or questions from the Board.

8. New Business

a. Proposal to provide Legal Services to the Marin Wildfire Prevention Authority

Chief Weber presented the report. The authority will need legal assistance and he thanked Mr. Steven Raab, County Counsel, for his assistance. Staff received three proposals to provide legal services including Marin County Counsel, Epstein and Holtzapple, and Burke, Williams, and Sorenson.

Mr. Brian Washington, Marin County Counsel, and Mr. Brendon Halter, Deputy County Counsel, gave a presentation. Mr. Washington stated there were twenty-three staff members in his office. He discussed the backgrounds and experiences of the various attorneys and noted they represent a wide array of legal practice areas. Their offices also represent a number of special districts. The County Counsel bills for services at $241 per hour. Mr. Halter stated they have experience with administrative litigation matters, appearing before administrative boards, statutory compliance, transactional work, public governance. The County Counsel’s office does everything in-house.

Director Gerbsman asked if the authority would be paying for the attorney and the partner-in-charge on any given matter. Mr. Washington stated they would pay for whoever they are using.

Director Finn stated the Sleepy Hollow Fire Protection District uses County Counsel as legal counsel and he asked if this possible conflict could be resolved by a waiver if an MWPA project touches upon a Sleepy Hollow interest. Mr. Washington stated “yes” but they would also create an “ethical wall” between attorneys.

Director Phillips asked what type of legal services the Board will need and what the annual cost might be. Mr. Washington stated since the MWPA will be doing a lot of
projects expertise will be needed in contracting, CEQA compliance, employment law issues, and Brown Act compliance. He would need to talk to the authority’s staff about the annual cost, but he would guess it will be between $15,000 and $30,000 depending on the level of activity.

President Goines thanked Mr. Washington and Mr. Halter for their presentation

Ms. Megan Acevedo, representing Epstein and Holtzapple, gave a presentation and stated she would be the point person if selected. She gave a PowerPoint presentation. She briefly discussed the history of the firm and her background. There are ten attorneys in the firm, three of whom contract as City Attorneys in Marin County. The office is based in San Rafael and primarily represents Marin County entities. She frequently deals with CEQA matters, election issues including tax measures, and emergency response issues.

Director McEntee noted the firm was small and she asked Ms. Acevedo if she was confident CEQA issues could be handled in-house or if the Board would need to get additional legal support. Ms. Acevedo stated she feels very confident in her experience handling CEQA issues. There are people in her firm who handle litigation exclusively. They would, however, reach out to outside counsel who may be more familiar with a particular issue.

Director Rodoni noted their rate is $240 per hour and asked when the special rate of $300 per hour would be applied. Ms. Acevedo stated that would be for litigation of matters that go beyond the expected scope of work of attending meetings and hearings and preparing for meetings.

Director Paulson asked Ms. Acevedo to further discuss her experience with public contracting and employment law and what matters she thought she might be addressing and how long that would take. Ms. Acevedo stated she has not done a lot of employment law and it is not her area of expertise. Once the Executive Director is hired, she figured her work would take about ten hours per month.

Director Berdo asked Ms. Acevedo what distinguishes her firm from the others. Ms. Acevedo stated her firm is extremely invested in its clients and its priority is responsiveness.

President Goines thanked Ms. Acevedo for her presentation.

Ms. Samantha Zutler, representing Burke, Williams, and Sorenson, gave a presentation and stated she started her practice as a labor employment lawyer representing Public Safety personnel. She has been a City Attorney for several years. There are one hundred lawyers in the firm, with ten offices, representing over two hundred agencies. The firm focuses on public law. She brought up the issue of “double billing” and stated they try to be efficient with their time. She would be the General Counsel. Ms. Erica Vega stated she is also a City Attorney and would handle the CEQA issues.
Director Paulson asked which agencies in Marin County the firm works with. Ms. Zutler stated they represent the Town of Tiburon, the Town of Ross, the City of San Rafael, and do special counsel work with various other Marin cities. They are familiar with Marin County issues.

Director McEntee stated CEQA laws are somewhat vague and difficult to comply with proactively and she asked what advice they would give the Board to make sure they are following best practices. Ms. Vega stated for projects where they are the lead agency, they need to do an early and thorough assessment to determine the strength of the evidence and whether or not a Negative Declaration will be supportable. She noted the standard of review on a challenge is favorable towards the petitioner and not the public agency. When taking the role of a responsible agency she also suggests early involvement in monitoring.

Director Rodoni asked Ms. Zutler to discuss travel time and costs. Ms Zutler stated there would not be any travel costs as her firm does not bill for travel.

Director Gerbsman asked what the authority should budget for the first year. Ms. Zutler stated that is difficult to say. The first few months could include thirty to forty hours per month with a drop off after that.

Director Coler referred to the CEQA issue and stated the authority will not be undertaking development projects. She noted the authority would often be the responsible agency and not the lead agency. Ms. Vega stated her experience with development in the inland areas involved clearing of habitats and possible impacts to species. The skills developed being a CEQA practitioner working on private development projects is translatable. Ms Zutler stated the firm has a robust land use practice in Northern California.

President Goines thanked Ms. Zutler and Ms. Vega for their presentation.

President Goines opened the meeting to public comments.

There were no comments.

President Goines closed the meeting to public comments.

Director McEntee stated she liked the comment made by Ms. Zutler about ramp up costs and is inclined to go with a full-service firm that has the in-house expertise. She acknowledged the ethical fire walls that County Counsel would have. All three firms are excellent.

Director Coler stated she likes the idea of using the services of County Counsel. A smaller firm might not be able to help the authority with human resources issues. Her second choice would be Ms. Zutler’s firm.
Director Hilliard stated she was very impressed with Ms. Vega’s resume as she has experience dealing with controversy. Her preference would be Burke, Williamson, Sorenson, then County Counsel, and then Epstein and Holtzapple.

Director Phillips wondered if this selection was premature since the Executive Director would be working closely with legal counsel and perhaps should be a part of this decision. President Goines stated they are hoping to conduct interviews next week and make recommendations to the Board. They hope to get the position filled by early September.

Director Burdo stated these are three qualified firms. He has experience with the firm of Epstein and Holtzapple and thought there would be a benefit to hiring a smaller firm in terms of responsiveness. He would vote for Epstein and Holtzapple.

Director Rodoni noted the potential budget impact of five hours a month would equate to $18,000 per year. He stated he works with County Counsel every day. They would get better service from a local firm. His vote would be for County Counsel and then Epstein and Holtzapple.

Director Ravasio agreed with Director Rodoni and would lean towards hiring County Counsel. He stated that being able to work effectively in Marin County will be important.

Director Gerbsman stated he would vote to retain the services of Ms. Zutler’s firm. He is concerned about the County’s “firewall” and wants independent counsel to provide guidance.

Director McMillan stated the firm of Burke, Williams, and Sorenson has a deep bench of experience. Ms. Acevedo’s presentation was outstanding. She reviewed all the authority’s documents and her focus is on transparency and collaboration. She suggested recommending the top two firms to the Executive Director.

Director Hills stated his entity recently hired Epstein Holtz for a special project and found the firm’s expertise very helpful. They are experienced and responsive.

Director Rodoni noted the authority would need a law firm to negotiate the contract with the Executive Director. He would like to move forward today. Director McEntee agreed.

Director Gerbsman stated the law firm would report to the Board of Directors and suggested that the Board should make this decision today.

Director Phillips stated he would go along with moving forward today and would put a pitch in for the firm of Epstein and Holtzapple.

Director White stated these were three excellent firms, but he is leaning in favor of County Counsel. He would like to move forward tonight.
Director Finn stated he is familiar with all three firms. He noted he would abstain from any vote involving Epstein and Holtzapple since he is represented by the firm in a personal capacity. He would like the autonomy of having a private, young, and smaller firm.

President Goines opened the meeting to public comments.

Ms. Pamela Meigs stated a larger firm would increase costs. She supported the hiring of County Counsel.

President Goines closed the meeting to public comments.

President Goines stated the consensus was to move forward today.

Director Gerbsman stated he would like some indemnification regarding the “firewall” if they decide to hire County Counsel. He was concerned about potential conflicts of interest.

Chief Weber suggested a straw poll and called the roll:
Kimball- Epstein and Holtzapple;
McEntee- Burke, Williams, Sorenson;
Phillips- Epstein and Holtzapple;
Paulson- County Counsel;
Rodoni- County Counsel;
Gerbsman- Epstein and Holtzapple;
Green- County Counsel;
Hills- Epstein and Holtzapple;
Goines- Burke, Williams, Sorenson;
Finn- abstain;
Hilliard- Burke, Williams, Sorenson;
White- County Counsel;
Ravasio- County Counsel;
Coler- County Counsel;
McMillan- Epstein and Holtzapple;
Burdo- Epstein and Holtzapple.

Director Finn stated he is represented by Mr. Holtzapple in a trust matter, but he does not believe there is a conflict of interest. He would be willing to cast a vote.

M/S, Coler/Paulson, to eliminate the firm of Burke, Williams, and Sorenson and take another straw poll.

Ayes: 17 of 17, 100% of population (through a roll call vote).

Chief Weber called the roll for a second straw vote.
M/S, Rodoni/Burdo, to hire Epstein and Holtzapple for legal services with the same firewall protections implemented by the County of Marin.

Ayes: 16 of 16, 100% of population (through a roll call vote)

b. Agreement with Southern Marin Fire District to provide financial, administrative services and office space to the Authority

Chief Weber presented a report and displayed a more defined scope of work agreement as requested by Director Coler.

OPS Committee member Tubbs stated the OPS Finance Subcommittee looked at MERA as a model in terms of the scope of the work. The first year will be time intensive since they will need to set up the accounting system, open up accounts, etc. Built into the proposal are the estimated costs with no profits.

Director Finn asked what protections would be in place to ensure security in the event of a breach. OPS Committee member Tubbs stated he has not had a discussion with the District’s Finance Director, but they do host financial information on a server and remotely. He would envision taking the same security precautions for the JPA. Director Finn would like the agreement to include a description of those obligations. In the event of a termination of the agreement all the information shall remain accessible to the JPA post-termination. OPS Committee member Tubbs stated he would follow-up on that request.

Director McEntee stated the proposal was for $101,000, for a maximum of 1,005 hours between the three professionals, which would equate to $100 per hour. That seemed like a lot. She asked if this would include the preparation of a Comprehensive Annual Financial Report (CAFR) that would be presented to the auditors and the public. OPS
Committee member Tubbs discussed the hourly rate of the individuals who would be working on the JPA finances. They did not build the CAFR into the estimate or the cost of an independent audit. The support work for the audit is included. Director McEntee asked if the auditor would prepare the CAFR. OPS Committee member Tubbs stated there has been no stipulation that a CAFR would be required. The audit is statutorily required and the CAFR is not.

Director McEntee asked if the current JPA attorney was fine with the insurance liability coverage requirements. OPS Committee member Tubbs stated both the JPA and the District attorneys approved the requirements.

Director Gerbsman stated the Executive Director would not start until September and he asked when they could begin to work on a “bottoms-up, go forward” forecast. It is important for the Board to know where the money is being spent and what the projections are. OPS Committee member Tubbs stated it is important to get the infrastructure set up so the Board has a clear picture of the finances. The accounting and reporting systems need to be on track before the Executive Director is on board.

Director Coler stated the agreement includes a payment of $101,000 to the provider regardless of whether they use fewer hours or personnel. There is no “maximum, not to exceed” provision other than the office space. She requested a rate sheet for all people who are included in the billing. They should not get billed for the full amount if it is not used. OPS Committee member Tubbs stated the number that is proposed in the contract represents a “maximum, not to exceed” figure. They are not opposed to the suggested tracking of time and would be willing to make good faith estimates. He hoped it would not be an onerous task for staff. Director Coler stated it should not be that daunting and could be done on an Excel spreadsheet.

Director Finn asked if the Executive Director would have the ability to log in and track financial matters. OPS Committee member Tubbs stated the Executive Director would be working in the same building as the Finance Manager. He would follow up on whether or not the Executive Director could do this tracking remotely.

President Goines opened the meeting to public comments.

There were no comments.

President Goines closed the meeting to public comments.

Director McEntee referred to Section 2.02, Fees, and stated she would like to delete the “annual renewal” clause since they do not know what they will be doing over the next year or what their needs will be. She supported the proposal from Southern Marin Fire.

Director Finn asked Director McEntee if she thought the amount should be reviewed annually independent of the roll-over of the agreement.
Director McEntee stated they should review how they are doing it since they will know more in a year. Director Finn stated Section 1.03 requires that they make a decision after six, and not twelve months, or it will roll-over for another year. Director McEntee reiterated she did not want to commit to an evergreen contract.

Director Coler suggested the following wording: “The term may be extended on an annual basis”. Director McEntee stated she liked that suggestion. She suggested a provision that provides for three months written notice.

Director Burdo stated review of any entity providing services was the Board’s job and they could shorten the length of notice. He did not read this as an evergreen provision. He could support the language as is.

Director McEntee asked about the preparation of a CAFR.

Director Rodoni stated it was a good idea, but they could wait until they get the Citizens’ Oversight Committee in place. They could make this decision at a later time. Director Phillips agreed.

Director Gerbsman stated they should modify the six-month time period to three months which is not unreasonable.

Director Hilliard asked the Board to keep in mind, for the first year, what it takes to do a startup.

M/s, Phillips/Burdo, to approve the agreement with Southern Marin Fire District to provide financial, administrative services and office space to the Authority, with an adjustment from six months to three months, an understanding that the data is owned by MWPA and accessible after termination of the contract, that the figure of $101,000 represents a “not to exceed” number, and delaying a decision on the CAFR.

Ayes: 15 of 16, 89.3% of population (through a roll call vote)
Abstain: Hilliard

The Board took a 5-minute break at 5:30 p.m.

c. Resolution No. 20-04 election of Treasurer

Chair Goines presented a report. He noted the Finance Director for the Southern Marin Fire District has agreed to accept this responsibility.

President Goines opened the meeting to public comments.

There were no comments.

President Goines closed the meeting to public comments.
M/S, Rodoni/Kimball, to adopt Resolution No. 20-04 and elect the Finance Director for the Southern Marin Fire District as the MWPA Treasurer.

Ayes: 15 of 16, 89.3% of population (through a roll call vote)
Abstain: Hilliard

d. Resolution No. 20-05 authorizing Board President to enter into agreement with Marin County Department of Finance for bridge funding from Marin County Pool

Chief Weber presented a report. The Finance Committee has looked at potential cash flow issues as they arise. He noted agencies have expressed a willingness to carry funding for the local projects proposed in the Work Plan. This would allow the MWPA to borrow the least amount of money possible. The resolution specifies an “up to” $4 million figure with a maximum of $48,000 interest incurred.

Director McEntee stated she would like to see more detail on how this money will be used. She asked who would decide on how much to borrow, etc. Chief Weber stated the budget was approved and some of those projects are underway, including Chipper Days. The chipper costs are averaging about $40,000 per week and are moving rapidly. MWPA’s intent is to do a one-time, up-front loan of $1 million and work on half-million dollar increments after that. The intention is to borrow the least amount possible. Director McEntee asked how much was pass through. Chief Weber stated 20% was the pass through.

Director Gerbsman stated they approved a “big picture” budget and $1 million should cover them through October 2020. He would like to know the “bottoms-up” numbers before MWPA borrows more than the initial $1 million. Director McEntee agreed.

Director Hilliard stated the budget was approved with delineated projects and she asked if the Finance Committee could submit the detailed information requested by Director Gerbsman.

Director Gerbsman stated he would like to know what is spent on a monthly basis. He supported borrowing the initial $1 million and further borrowing should be approved by the Board.

Director Rodoni agreed that the Finance Committee could work on a cash flow report for the next several months.

Director Phillips was in favor of adopting the resolution as the MWPA needs to move forward.

President Goines opened the meeting to public comments.

There were no comments.
President Goines closed the meeting to public comments.

M/S Phillips/Hilliard, to adopt Resolution No. 20-05 authorizing the Board President to enter into an agreement with the Marin County Department of Finance for bridge funding from Marin County Pool in the amount of $4 million.

Ayes: 15 of 15, 100% of population (through a roll call vote)

Director McEntee asked President Goines if the Finance Committee would follow up with cash flow projections. President Goines stated “yes”.

e. California Environmental Quality Act (CEQA) Overview and MWPA’s commitment to Ecologically Sound Practices.

President Goines presented the report. The JPA received a letter from the Fire and Environment Resiliency Network (FERN) expressing concerns about the project approval process and asking for the commitment to Ecologically Sound Practices (ESP). He, along with Chief Weber, met with representatives of FERN with the intention of facilitating communication between the environmental community and the JPA. He clarified policies regarding environmental practices and compliance and he and Chief Weber identified actions that would resolve the issues. They made significant progress.

Chief Weber noted that the member agencies need to understand the legal obligation to CEQA. This is a reminder that projects in the Work Plan need to go through environmental compliance. The Marin Conservation League will be holding a seminar with land management agencies focusing on the CEQA process.

President Goines opened the meeting to public comments.

There were no comments.

President Goines closed the meeting to public comments.

There were no questions or comments from the Board.

9. Committee Reports.

a. MWPA Board of Directors By-laws Committee

Director Finn reported he submitted a draft of possible By-laws to Chief Weber. The draft was supplemented with some boilerplate provisions from other JPAs and circulated to the members of the By-Laws Subcommittee for review and comment.

President Goines opened the meeting to public comments.
There were no comments.

President Goines closed the meeting to public comments.

There were no questions or comments from the Board.

10. Financial Reports.

There were no reports.

11. Informational Items.

a. Update from FIREsafe Marin on program of work

OPS Committee member Shortall gave an update on the progress being made by FIREsafe. The Board approved nineteen projects for FIREsafe Marin, and Mr. Shortall reported they are making very good progress. FIREsafe Marin plans to do a monthly Webinar, with the first one being held on July 28, 2020 at 6:00 p.m. He noted the Board was sent a copy of the FIREsafe Newsletter. The biggest program is Chipper Day and they started in the Town of Ross on July 6, 2020.

President Goines thanked OPS Committee member Shortall for the great work they are doing!

President Goines opened the meeting to public comments.

There were no comments.

President Goines closed the meeting to public comments.

12. Board Members Request Future Agenda Items.

Director McEntee stated she would like the issue of preparation of a CAFR placed on a future agenda.

Director McMillan asked if the standing Board meeting date was the third Thursday of the month at 3:00 p.m. President Goines stated “yes”.


President Goines adjourned the meeting at 5:55 p.m. The next regular meeting would be held on Thursday, August 20 at 3:00 p.m.

Respectfully submitted,
Toni DeFrancis,
Recording Secretary
To: Marin Wildfire Prevention Authority Board of Directors
From: Jean A Bonander, Interim Executive Officer
Subject: Interim Executive Officer Agreement

RECOMMENDATION:

Authorize President Bruce Goines to sign a Professional Services Agreement between Jean A Bonander, and independent contractor on behalf of the Marin Wildfire Prevention Authority (MWPA).

BACKGROUND:

At its meeting of July 16, 2020, MWPA President Goines announced that the former MTA Executive Officer Jean Bonander had agreed to assist with formative efforts for the Citizens’ Oversight Committee.

Shortly thereafter, President Goines asked Ms. Bonander that, in addition to the COC assignment, if she would be available to assist on a half time, e.g., average of 20 hours per week with policy, administrative and financial duties for several weeks and prior to hiring a full time Executive Officer.

On July 17, 2020 Ms. Bonander agreed to help and immediately began working with the President Goines, Vice President Rodoni, Legal Counsel Acevedo and Chief Weber on the Interim Executive Officer duties as well as the COC assignment. She will be coordinating the MWPA’s various projects, contracts, agreements and committee work and is committed to work on this schedule as needed through October 31, 2020.

Jean was City Manager/Town Administrator in Larkspur and San Anselmo in California between 1989 – 2009 and also worked with the cities of Mountain View and Palo Alto.

From 2018 to 2020, she served as Executive Officer of the Marin Telecommunications Agency, a 10 member JPA that managed cable and telecom issues until its dissolution on June 30, 2020. Jean also serves as the part time Executive Director for the California Street Light Association (CALSLA), which represents local governments at the California Public Utilities Commission (CPUC) on street light infrastructure and traffic signal rates, tariffs and service issues.
For the past 10 years, Jean has consulted with local governments in California, Washington and Illinois, conducting key executive evaluations, strategic/foresight facilitations and reorganization/succession planning processes. As the appointed public member, she currently Chairs the advisory Marin County Treasury Investment Oversight Committee, which reviews investment policy and audits for the capital and operational reserves for multiple public agencies.

Jean will enter into a not to exceed Professional Services Contract for up to $50,000, using the County of Marin template, as soon as feasible.

FISCAL IMPACT:

As indicated above, Ms. Bonander will enter into a not to exceed agreement with the MWPA for $50,000.

ENVIRONMENTAL REVIEW:

The Board’s authorization to enter into this agreement is not a “project” under the California Environmental Quality Act, because it does not involve an activity which has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Pub. Res. Code § 21065).

Respectfully submitted,

Jean A Bonander
Interim Executive Officer
To: Marin Wildfire Prevention Authority Board of Directors

From: Megan Holt Acevedo, General Counsel

Subject: Agreements for Specialized Legal Services

RECOMMENDATION:

Authorize President Goines to execute the attached agreements for specialized legal services:

1. Colantuono, Highsmith and Whatley, for advice related to the Marin Wildfire Prevention Authority (MWPA) Parcel Tax; and
2. Burke, Williams, and Sorensen for advice related to labor and employment, litigation, and special advice upon request.

BACKGROUND:

Following passage of Measure C, MWPA quickly established its Board of Directors and adopted the 2020 Work Plan. At the same time, the organizational underpinning to the MWPA has been recently taking shape, with an Executive Officer recruitment, an agreement with Southern Marin Fire to provide office space, administrative and financial support for the Authority, and retention of Epstein + Holtzapple for General Counsel services.

At this formative time, MWPA has an additional need for specialized legal services. Specifically, the Authority must work with the County to assess the parcel tax adopted by Measure C. The mechanics of collecting the tax raise legal questions that require specific expertise with the legal requirements surrounding the Authority’s taxing power. Michael Colantuono is California’s leading expert on the law of local government revenues, and he has decades of experience advising public agencies about public finance. More information about Mr. Colantuono is available at https://chwlaw.us/attorneys/michael-g-colantuono/. Epstein + Holtzapple’s public entity clients have sought Mr. Colantuono’s input on a range of legal questions and we highly recommend MWPA enlist his expertise on issues related to the Authority’s parcel tax. Colantuono, Highsmith and Whatley’s retainer agreement is attached for the Board’s consideration (Attachment 1).

Additionally, the Authority will need an attorney with specific labor and employment expertise as it negotiates the Executive Officer agreement and considers contracting with workers to carry out projects. As explained during the July 16 presentation from Epstein + Holtzapple, we typically assist our public clients in retaining outside counsel for labor and employment issues.
Samantha Zutler has extensive labor law expertise and the Board is familiar with her from her presentation at its July 16 meeting. More information about Ms. Zutler is available at https://www.bwslaw.com/meet-our-people/samantha-w-zutler/ Our clients have worked successfully with Ms. Zutler and Burke, Williams and Sorensen in the past and we highly recommend retaining the firm to offer advice on labor and employment issues, as well as litigation and special advice upon request. Burke, Williams and Sorensen’s retainer agreement is attached for your consideration (Attachment 2).

Epstein + Holtzapple will assist the MWPA in its communications with outside counsel and in facilitating the legal services to be performed.

**FISCAL IMPACT:**

The attached agreements do not require payment of a retainer by either firm and instead provide hourly billing rates for their attorneys. Colantuono, Highsmith & Whatley will charge MWPA $350/hour for Mr. Colantuono. Burke, Williams & Sorensen charges an hourly rate of $345/hour for Ms. Zutler and other partners in the firm.

**ENVIRONMENTAL IMPACT:**

Entering into the attached agreements for specialized legal services is not a “project” under the California Environmental Quality Act, because it does not involve an activity which has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Pub. Res. Code § 21065).

Respectfully submitted,

Megan Holt Acevedo  
General Counsel

Attachments:  
1. Colantuono, Highsmith & Whatley agreement  
2. Burke, Williams & Sorensen agreement
August 7, 2020

VIA ELECTRONIC MAIL

Megan Holt Acevedo, General Counsel
Marin Wildfire Prevention Authority
c/o Epstein Holtzapple, LLP
369-B 3rd Street #182
San Rafael, CA 94901-3581

Re: Representation of Marin Wildfire Prevention Authority re Special Parcel Tax

Dear Megan:

As you asked, I write to propose the terms under which we agree to represent Marin Wildfire Prevention Authority ("Authority" or "you") regarding the interpretation and implementation of the Authority's special parcel tax. This will be our sole project for you; if we can assist you on other matters, please let me know. Colantuono, Highsmith & Whatley, PC and all of its professionals are very pleased to have the opportunity to represent you in this matter.

This letter sets forth the basis upon which our firm will provide legal services to you and bill you for services and costs. The firm maintains a conflict of interest index which lists all clients of our firm and matters in which we represent them. We will not represent any party with an interest that may be adverse to an indexed person without first determining if a professional conflict of interest would arise. We propose to index the following with respect to this matter:

Client-Affiliated Parties:
Marin Wildfire Prevention Authority

Adverse Parties:
None.
Please let me know if any of these names are incorrect or if there are other parties with an interest in this matter that we should list such as, for example, any party which might challenge the parcel tax. Unless we hear from you to the contrary, we will assume that the above listing is accurate and complete.

We have reviewed our files and our conflicts index and have no other client relationships which would interfere with our ability to represent you in this matter. As you know, we represent the Marin Municipal Water District and cities in Marin County in litigation and other special counsel matters. We are not aware of any adversity between the Authority and these clients that would require consent to our assisting the Authority on its parcel tax. If you are aware of any such adversity, please let me know so I can further consider the possibility of conflicts of interest.

As we have discussed, the nature of the matter makes it impossible for us to precisely estimate the fees you may incur. You will receive monthly statements informing you of the fees and costs incurred during the prior month. We will, of course, do our best to represent you efficiently and without undue expense.

Please make payments payable to Colantuono, Highsmith & Whatley, PC directly to our Grass Valley office at:

Colantuono, Highsmith & Whatley, PC
420 Sierra College Drive, Suite 140
Grass Valley, CA 95945-5091

Our federal employer identification number is 75-3031545.

I will have primary responsibility for your representation, and the firm will use other attorneys and legal assistants in the best exercise of our professional judgment. If you have questions, concerns or criticisms at any time, please contact me at once. Naturally, we expect you to keep us reasonably informed of all significant developments regarding this representation.

We review all statements before they are issued to ensure the amount charged is appropriate. The statement for fees is simply the product of the hours worked multiplied by the hourly rates for the attorneys and legal assistants who did the work.
Our hourly rates are based upon the experience, reputation and ability of the lawyer or legal assistant performing the services, and for 2020 range between $220 and $525 per hour for attorneys’ time, and between $125 and $170 for the time of paralegals and legal assistants. As a courtesy to you, however, we agree to cap our rates at $350 per hour for advisory work and at $375 per hour for litigation services, should they be required. Our rate structure in general and the rates of particular lawyers may be increased from time to time, and are usually adjusted as of the beginning of each calendar year. However, we will not lift the $350 and $375 hourly rate caps without first discussing with you our need to do so.

It may be necessary to bill you for items such as, but not limited to, authorized travel, long distance telephone calls, filing fees, photocopying, computerized legal research outside the scope of our Westlaw contract and the like. These items are separately itemized on our statement as “disbursements.” These amounts will be billed in addition to our fees.

We will send you monthly statements, and expect payment within 15 days of the billing date. If payment is not received within 30 days of the billing date, we reserve the right to charge interest on the unpaid balance at the rate of 1% per month and to terminate our representation.

We rarely have disputes with clients over our fees. Nevertheless, you should be aware that you are entitled to require that any fee dispute be resolved by binding arbitration in Los Angeles or Nevada Counties pursuant to the arbitration rules for legal fee disputes of the respective County Bar Association. We agree that all disputes between us regarding the services rendered or fees charged not resolved via County Bar fee arbitration will be submitted to binding arbitration in Alameda County to be conducted by ADR Services, Inc. in accordance with its commercial arbitration rules. YOU SHOULD REVIEW THIS PARAGRAPH CAREFULLY AND, IF YOU WISH, SEEK INDEPENDENT LEGAL COUNSEL REGARDING IT, AS YOU AND WE ARE AGREEING TO FOREGO SIGNIFICANT RIGHTS IN THE EVENT OF A DISPUTE BETWEEN US, INCLUDING THE RIGHT TO A JURY TRIAL.

You have the right to terminate our representation at any time. We have the same right, subject to an obligation to give you reasonable notice to arrange alternative representation. In either circumstance, you agree to secure new counsel to represent you
as quickly as possible and to cooperate fully in the substitution of the new counsel as
counsel of record in any litigation in which we may subsequently agree to represent the
Authority. Notwithstanding the termination of our representation, you will remain
obligated to pay to us all fees and costs incurred previously.

You agree that we may, in our discretion, maintain all or part of your client file in
electronic format. The firm may store part or all of your documents using secure cloud
storage services. If so, the firm will apply all reasonable methods to maintain the
confidentiality of your files, just as it does for your non-digital information. Your data
will be password protected and encrypted using currently available technology. Clients
requiring information from their files may obtain that information only by written
request to us.

You also agree that following termination of our attorney-client relationship, we
will not be required to maintain your client file for more than two years. If you ask us to
deliver your file to you, you agree that delivery of an electronic version, together with
any materials that cannot be saved electronically, satisfies our obligation to release all
your client papers and property to you. Two years after termination of our relationship,
and after reasonable notice, you agree that we will be free to destroy your client file,
including all electronic records. We may also discharge our obligation to maintain your
file before two years expire by mailing a copy to you at your address last known to us.
You agree that "reasonable notice" means our mailing a notice of our intent to destroy
your client file to you at that address.

I apologize for the formality of this letter, but we are required by California law to
provide this information to you in writing. We are also required to inform you that we
currently maintain professional liability insurance coverage.

Please review the foregoing and, if it meets with your approval, execute it and
return it to me. If you have any questions, please feel free to call me at the direct-dial
number above.
Thank you for the opportunity to represent you!

Very truly yours,

Michael G. Colantuono

MGC:mgc

On behalf of Marin Wildfire Prevention Authority, I agree to retain Colantuono, Highsmith & Whatley, PC to provide legal services as set forth above.

_________________________________________   Date:__________________________, 2020

Signature

By:_____________________________________

Title:___________________________________
August 3, 2020

Bruce Goines
President, Board of Directors
Marin Wildfire Prevention Authority

Re: Retainer Agreement for Legal Services

Dear Board President Goines,

We are pleased to represent the Marin Wildfire Prevention Authority ("MWPA") with respect to the matters described in this Agreement. The following sets forth the terms pursuant to which BURKE, WILLIAMS & SORENSEN, LLP ("Burke") and the Marin Wildfire Prevention Authority ("Client") agree that Burke will provide legal services to Client. The hallmark of any productive professional relationship is effective communication, and we would invite you to contact us at any time during or after our representation with regard to any questions you may have associated with our representation or the matters described herein.

1. CONDITIONS. This Agreement will not take effect, and Burke will have no obligation to provide legal services, until Client returns a signed copy of this Agreement and pays the deposit called for under Paragraph 5.

2. SCOPE OF SERVICES. Client hires Burke to provide legal services in the matters set forth in Attachment “A” to this Agreement. No representation outside of the matters set forth in Attachment “A” to this Agreement shall be provided by Burke to Client. No representation of any directors, officers, employees, shareholders, or any other persons or entities affiliated with Client shall be provided unless such representation is expressly included in Attachment “A” to this Agreement. Burke will provide those legal services reasonably required to represent Client. Burke will take reasonable steps to keep Client informed of progress and to respond to Client’s inquiries.

3. CLIENT’S DUTIES. Client agrees to be truthful with Burke, to cooperate, to keep Burke informed of any information or developments which may come to Client’s attention, to abide by this Agreement, to pay Burke’s bills on time, and to keep Burke
advised of Client’s address, telephone number, and whereabouts. Client will assist Burke in providing necessary information and documents and will appear when necessary at legal proceedings.

4. **CONFLICTS OF INTEREST.** Before accepting representation of Client, Burke has undertaken reasonable and customary efforts to determine whether there are any potential conflicts of interest or adversity of positions between Client and any other person or entity that would bar Burke from representing Client in general or in any of the specific matters listed in Attachment “A”. Burke has reviewed this issue in accordance with the Rules of Professional Conduct adopted in California. Burke believes that those rules, rather than the rules of any other jurisdiction, are applicable to Client’s representation. Client’s execution and return of the enclosed copy of this letter represents an express agreement to the applicability of the Rules of Professional Conduct adopted in California to any and all representation arising under this Agreement.

5. **DISCLOSURE.** Pursuant to the requirements of California Business & Professions Code Section 6148, Burke hereby discloses that it maintains professional errors and omissions insurance.

6. **LEGAL FEES AND BILLING PRACTICES.** Client agrees to pay by the hour at Burke’s prevailing rates for all time spent on Client’s matter by Burke’s legal personnel. Current hourly rates for legal personnel are set forth in Attachment “B” to this Agreement.

Burke’s rates are subject to change on 30 days’ written notice to Client. Rates shall automatically increase annually on January 1 of each year as set forth in Attachment “B” to this Agreement. If Client declines to pay increased rates, Burke will have the right to withdraw as attorney for Client.

The time charged will include the time Burke spends on telephone calls relating to Client’s matter, including calls with Client, witnesses, opposing counsel or court personnel. The legal personnel assigned to Client’s matter may confer among themselves about the matter, as required and appropriate. When they do confer, each person will charge for the time expended, as long as the work done is reasonably necessary and not duplicative. Likewise, if more than one of the legal personnel attends a meeting, court hearing or other proceeding, each will charge for the time spent. Burke will charge for waiting time in court and elsewhere and for travel time, both local and out-of-town.
7. COSTS AND OTHER CHARGES.

Burke will incur various costs and expenses in performing legal services under this Agreement. Client agrees to pay for all costs, disbursements and expenses in addition to the hourly fees. The costs and expenses commonly include: service of process charges, filing fees, court and deposition reporters’ fees, jury fees, notary fees, deposition costs, long distance telephone charges, messenger and other delivery fees, postage, photocopying and other reproduction costs, travel costs including parking, mileage, transportation, meals and hotel costs, investigation expenses, consultants’ fees, expert witness, professional, mediator, arbitrator and/or special master fees, unavoidable administrative staff and secretarial overtime, and other similar items. Except for the items listed below, all costs and expenses will be charged at Burke’s cost.

In-office photocopying/page: $ .20
In-office color photocopying/page $ 1.00
Facsimile charges/page: $ 1.00
Mileage/mile: $ .54 (per IRS notices)

Out-of-town travel. Client agrees to pay transportation, meals, lodging and all other costs of any necessary out-of-town travel by Burke’s personnel. Client will also be charged the hourly rates for the time legal personnel spend traveling.

Experts, Consultants and Investigators. To aid in the preparation or presentation of Client’s case, it may become necessary to hire expert witnesses, consultants, investigators, and outsourced support services. Client agrees to pay such fees and charges. Burke will select any expert witnesses, consultants, investigators or support services to be hired, and Client will be informed of persons chosen and their charges.

Additionally, Client understands that if the matter proceeds to court action or arbitration, Client may be required to pay fees and/or costs to other parties in the action. Any such payment will be entirely the responsibility of Client.

8. BILLING STATEMENTS. Burke will send Client periodic statements for fees and costs incurred. Each statement will be payable within 30 days of its mailing date. Client may request a statement at intervals of less than 30 days. If Client so requests, Burke will provide one within 10 days. The statements shall include the amount, rate, basis of calculation or other method of determination of the fees and costs, which costs will be clearly identified by item and amount.
9. **INTEREST CHARGES.** If a billing statement is not paid by its due date, interest will be charged on the principal balance (fees, costs, and disbursements) shown on the statement. Interest will be calculated by multiplying the unpaid balance by the periodic rate of .833% per month (TEN PERCENT [10%] ANNUAL PERCENTAGE RATE). The unpaid balance will bear interest from the date of the invoice until paid.

10. **LIEN.** Client hereby grants Burke a lien on any and all claims or causes of action that are the subject of the representation under this Agreement. The lien will be for any sums owing to Burke at the conclusion of services performed. The lien will attach to any recovery Client may obtain, whether by arbitration award, judgment, settlement or otherwise. The effect of such a lien is that Burke may be able to compel payment of fees and costs from any such funds recovered on behalf of Client even if Burke has been discharged before the end of the case. Because a lien may affect Client’s property rights, Client may seek the advice of an independent lawyer of Client’s choice before agreeing to such a lien. By initialing this paragraph, Client represents and agrees that Client has had a reasonable opportunity to consult such an independent lawyer and—whether or not Client has chosen to consult such an independent lawyer—Client agrees that Burke will have a lien as specified above.

________(Client Initial Here) ______(Burke Initial Here)

11. **DISCHARGE AND WITHDRAWAL.** Client may discharge Burke at any time. Burke may withdraw with Client’s consent or for good cause. Good cause includes Client’s breach of this Agreement, refusal to cooperate or to follow Burke’s advice on a material matter or any fact or circumstance that would render Burke’s continuing representation unlawful or unethical. When Burke’s services conclude, all unpaid charges will immediately become due and payable. After services conclude, Burke will, upon Client’s request, deliver Client’s file, and property in Burke’s possession unless subject to the lien provided in Paragraph 11 above, whether or not Client has paid for all services.

12. **DOCUMENT RETENTION POLICY.** Client is entitled upon written request to any files in Burke’s possession relating to the legal services performed by Burke for Client, excluding Burke’s internal accounting records and other documents not reasonably necessary to Client’s representation, subject to Burke’s right to make copies of any files withdrawn by Client. Once a matter is concluded, Burke will close the file, and Client will receive notice thereof. Client’s physical files may be sent to storage offsite, and thereafter there may be an administrative cost for retrieving them from storage. Thus, it is recommended that Client request the return of a file at the conclusion of a matter. Under Burke’s document retention policy, Burke normally
destroys files five (5) years after a matter is closed, unless other arrangements are made with Client.

All client-supplied materials and all attorney end product (referred to generally as "client material") are the property of Client. Attorney end product includes, for example, finalized contracts, pleadings, and trust documents. Attorney work product is the property of Burke. Attorney work product includes, for example, drafts, notes, internal memoranda and electronic files, and attorney representation and administration materials, including attorney-client correspondence and conflicts materials.

After the close of a matter, Burke will notify Client of any client materials that remain in Burke's possession. Client will be invited to retrieve these client materials within 45 days of notice, or Client may direct Burke to forward the client materials to Client, at Client's expense. If within 45 days of this notice Client fails to retrieve the client materials or request Burke to forward them, Client authorizes Burke to destroy the client materials.

After the 45-day period, Burke will, consistent with all applicable rules of professional conduct, use its discretion as to the retention or destruction of all attorney work product and any client materials that remain with Burke.

13. TECHNOLOGY. At its discretion, unless otherwise stated, Burke will employ technology to facilitate electronic discovery. This may include scanning of paper documents, culling of documents, converting electronically stored information into a format suitable for review, the usage of electronic review software, etc. Applicable associated costs, including electronic storage and transfer costs, will be billed to Client.

14. DISCLAIMER OF GUARANTEE AND ESTIMATES. Nothing in this Agreement and nothing in Burke’s statements to Client will be construed as a promise or guarantee about the outcome of the matter. Burke makes no such promises or guarantees. Burke’s comments about the outcome of the matter are expressions of opinion only. Any estimate of fees given by Burke shall not be a guarantee. Actual fees may vary from estimates given.

15. MEDIATION/ARBITRATION; WAIVER OF JURY TRIAL. If a dispute arises out of or relating to any aspect of this Agreement between Client and Burke, or the breach thereof, and if the dispute cannot be settled through negotiation, Burke and Client agree to discuss in good faith the use of mediation before resorting to arbitration, litigation, or any other dispute resolution procedure. Nothing herein shall limit or otherwise affect your right under Sections 6200-6206 of the California Business and
Profession Code to request arbitration of any fee dispute by an independent, impartial arbitrator or panel of arbitrators through a bar association program created solely to resolve fee disputes between lawyers and clients. However, should discussions, mediation or the non-binding arbitration provided through a local bar association program not resolve the dispute, the dispute shall be determined by binding arbitration before the American Arbitration Association under its then prevailing commercial arbitration rules, except that discovery may be taken in that arbitration pursuant to the California Code of Civil Procedure. The claims or controversies subject to this provision shall include, without limitation, any claim of professional negligence or malpractice. The arbitration shall be held in Los Angeles, California, unless we mutually select another venue, and judgment may be entered upon the arbitrator’s award by any court having jurisdiction. Should you refuse or neglect to appear or participate in the arbitration proceedings, the arbitrator is empowered to decide the claim or controversy in accordance with the evidence presented. You should realize that by accepting the arbitration provision, YOU WILL WAIVE YOUR RIGHT TO A JURY TRIAL AND THE RIGHT, EXCEPT UNDER LIMITED CIRCUMSTANCES, TO APPEAL THE ARBITRATOR’S DECISION.

_________ (Client Initial Here)   _____ (Burke Initial Here)

16. ATTORNEYS’ FEES CLAUSE. The prevailing party in any action or proceeding arising out of or to enforce any provision of this Agreement, with the exception of a fee arbitration or mediation under Business and Professions Code Sections 6200-6206, will be awarded reasonable attorneys’ fees and costs incurred in that action or proceeding, or in the enforcement of any judgment or award rendered.

17. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the parties. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties.

18. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY. If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and remain in effect.

19. MODIFICATION BY SUBSEQUENT AGREEMENT. This Agreement may be modified by subsequent agreement of the parties only by an instrument in writing signed by both of them, or an oral agreement only to the extent that the parties carry it out.
20. **EFFECTIVE DATE.** This Agreement will govern all legal services performed by Burke on behalf of Client commencing with the date Burke first performed services. The date at the beginning of this Agreement is for reference only. Even if this Agreement does not take effect, Client will be obligated to pay Burke the reasonable value of any services Burke may have performed for Client.

THE PARTIES HAVE READ AND UNDERSTOOD THE FOREGOING TERMS AND AGREE TO THEM AS OF THE DATE BURKE FIRST PROVIDED SERVICES. IF MORE THAN ONE CLIENT SIGNS BELOW, EACH AGREES TO BE LIABLE, JOINTLY AND SEVERALLY, FOR ALL OBLIGATIONS UNDER THIS AGREEMENT. CLIENT SHALL RECEIVE A FULLY EXECUTED DUPLICATE OF THIS AGREEMENT.

DATED:_________________  MARIN WILDFIRE PREVENTION AUTHORITY

By: _______________________

DATED:_________________  BURKE, WILLIAMS & SORENSEN, LLP

By: _______________________
John J. Welsh
Managing Partner

Enclosure: return copy
Burke’s services will include representation in matters as assigned by the: President of the Board of Directors, on behalf of the Board of Directors; General Counsel; and/or General Manager, including but not limited to Labor and Employment matters; litigation; and matters related to the interpretation and application of the California Environmental Quality Act.
Attachment “B”

Rates for Attorneys and other timekeepers through December 31, 2021.

<table>
<thead>
<tr>
<th>Rate</th>
<th>Position</th>
</tr>
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<tbody>
<tr>
<td>$345</td>
<td>Partners</td>
</tr>
<tr>
<td>$305</td>
<td>Associates</td>
</tr>
<tr>
<td>$225</td>
<td>Paralegals</td>
</tr>
</tbody>
</table>

Effective each January 1, the foregoing base rates shall be increased based on the U.S. Department of Labor Bureau of Labor Statistics Los Angeles-Riverside-Orange County Consumer Price Index-All Urban Consumers (“CPI-U”), using the CPI-U for each prior October as the base and the value to escalate the hourly rates in the ratio of the most recent October CPI-U value, rounded up to the nearest $5 increment.

The U.S. Dept. of Labor Bureau of Labor Statistics (BLS) website will be the source of the data utilized (if the URL is changed, the parties shall agree on the replacement web page to be as close as reasonably possible to the page detailed herein): http://data.bls.gov/PDQ/servlet/SurveyOutputServlet?data_tool=dropmap&series_id=CUURA421SA0,CUUSA421SA0
RECOMMENDATION:

That the Marin Wildfire Prevention Authority (MWPA) Board of Directors adopt the attached Resolution, which ratifies the MWPA Tax Roll Submission made on July 24, 2020 (Attachment 1).

BACKGROUND:

Each year, the MWPA must submit the basis for calculating the special parcel tax that was adopted as Measure C. The MWPA Tax Measure Ordinance defines “Parcel” to mean, “[t]he land and any improvements thereon…” (Ordinance No. 3716 § 2(B)). Accordingly, the Authority has discretion to impose the tax on all improvements on a parcel or to exclude certain structures from the square footage calculations. In addition, the Ordinance sets the maximum amount per square foot that may be charged at $.10, but the Board may adjust the parcel tax to be levied based on inflation or it may set a lower parcel tax rate for a given year. (Ordinance No. 3716 § 3). The Ordinance directs the Board to make this determination before the beginning of each fiscal year. (Id.)

In July 2020, NBS, a tax roll/financial consultant retained by MWPA, conducted an initial audit to provide the County with information needed to include the MWPA parcel tax on the tax roll. NBS determined through the audit that the original $19.3 million figure in the ballot measure did not include any garage square footage. NBS updated the calculation and found the levy for the first year would be $19.7 million. However, MWPA could choose to apply the levy to all structures on each parcel, which would result in a higher annual tax.

ANALYSIS:

The Authority was required to provide a calculation method to the County by July 24, 2020. The determination was made by President Goines, Operations Committee Chair Chief Jason Weber and Vice Chair Dan Schwarz to authorize NBS to deliver its calculations to the County using the
same method for calculating square footage that was used when the annual tax amount was calculated last Fall in preparation for the ballot. Accordingly, for the first year, the tax will not be imposed on any garage square footage.

Following submission of the calculation method, MWPA staff contacted NBS and the County of Marin’s Finance Director Roy Given in early August 2020 for additional information about how the attached and detached garage square footage is identified in the County’s database records, and if the information could be sufficiently extracted to be used to revise the first year calculations. It was determined that while garage square footage data exists, the data cannot separate attached and detached garage square footage for re-calculation of MWPA’s already-submitted tax roll. Mr. Given clarified the County’s position in an email dated August 7, 2020, which is attached (with Mr. Given’s permission) (Attachment 2).

Staff further notes that using an inadequate or inconsistent definition of the garage square footage could potentially create further discrepancies in the calculations. These challenges in interpreting and detailing property improvement data are a regular issue for California counties. Additionally, it is important to remember that the MWPA Tax Ordinance includes flexibility in that it permits the Board to determine how the tax calculation will be carried out each year. Therefore, the Board’s ratification of the first-year calculation method does not prevent the Board from using a different method in the future.

CONCLUSION:

On behalf of MWPA, and at the direction of the Board President, Chief Weber notified the County to use the tax calculation as submitted on July 24, 2020. The Board is being asked to ratify the July 24, 2020, determination.

FISCAL IMPACT:

This decision acknowledges that the tax roll submission will generate an estimated $19.7 million in revenue during the FY2020-2021.

ENVIRONMENTAL REVIEW:

The Board’s adoption of the attached resolution ratifying the July 24, 2020 tax roll submission is not a “project” under the California Environmental Quality Act, because it does not involve an activity which has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Pub. Res. Code § 21065).

Respectfully submitted,

Jean A Bonander
Interim Executive Officer
and

Megan Holt Acevedo
Legal Counsel

Attachments:
1. Resolution No. 20-06, Ratifying the MWPA Tax Roll Submission made on July 24, 2020
2. August 7, 2020 Email from County of Marin Finance Director Roy Given
RESOLUTION NO. 20-06
RESOLUTION OF THE BOARD OF DIRECTORS OF THE MARIN WILDFIRE PREVENTION AUTHORITY (MWPA) RATIFYING THE CALCULATION METHOD USED FOR THE MWPA SPECIAL PARCEL TAX

WHEREAS, in March 2020, 70.8% of voters in Marin Wildfire Prevention Authority (MWPA) jurisdictions approved Measure C and adopted Ordinance No. 3716 (Ordinance) to fund the MWPA; and

WHEREAS, the Ordinance provides that before the beginning of each fiscal year, the MWPA shall adjust the maximum parcel tax to be levied upon the parcels for the upcoming fiscal year; and

WHEREAS, the Ordinance further provides that the records of the Marin County Tax Collector each year shall provide the basis for determining the calculation of the special parcel tax applicable to each parcel, with such corrections as deemed necessary by the Board of Directors to reflect the actual use and improvement of any parcel; and

WHEREAS, the Marin County Tax Collector required the MWPA to provide a determination of the basis for the calculation of the special parcel tax by July 24, 2020; and

WHEREAS, the determination had to be made before a Board meeting could be convened; and

WHEREAS, on July 24, 2020, Chief Weber informed the MWPA tax roll consultant and the County that for the first year, MWPA would use the same method for calculating square footage that was used when the annual tax amount was calculated for the ballot measure, which excludes all garage square footage.

NOW THEREFORE, the Board of Directors of the Marin Wildfire Prevention Authority does hereby resolve as follow:

Section 1. Environmental Review.
The Board of Directors finds that adoption of this resolution ratifying a staff decision related to the calculation of the MWPA parcel tax is not a “project” under the California Environmental Quality Act, because it does not involve an activity which has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Pub. Res. Code § 21065).

Section 2. Ratification of Basis for Calculation of Special Parcel Tax.
The Board of Directors hereby ratifies the July 24, 2020, determination made by staff that for the first year, MWPA will use the same method for calculating square footage that was used when the annual tax amount was calculated for the ballot measure, which excludes all garage square footage.
The foregoing Resolution was adopted at the regular meeting of the Marin Wildfire Prevention Authority Board of Directors held on August, 20, 2020, by the following vote:

AYES: 
NOES: 
ABSENT: 
ABSTAIN:

______________________________
Bruce Goines, Board President

Attest: _______________________
Jean Bonander, Interim Executive Officer
Hi Jason and Jean,

To summarize, Marin County does have the square footage within the property tax database for attached and detached garages. In this case, the issue stems from the fact that the property tax database does not contain or identify whether the garage square footage provided is for an attached or detached garage.

As a reminder, the Department of Finance (DOF) provides property tax characteristics including garage square footage to Taxing Agencies to assist them with the implementation or administration of their parcel tax or special assessment. However, the property data provided reflects the best information that we have within the County’s property tax database and is used at the discretion of the district. As such, the information provided by the DOF contains a disclaimer reflecting this fact so it is imperative that the information be vetted by the taxing agency to ensure that the data meets the requirements of the tax or assessment of the agency. This point sometimes get lost in the discussion between the DOF and the tax agency during the implementation or administration of a tax or assessment.

Hope this helps. Let me know if you need anything else.

Sincerely,

Roy Given
Director of Finance

From: Weber, Jason <JWeber@marincounty.org>
Sent: Thursday, August 6, 2020 5:02 PM
To: Jean Bonander <jeanbonander@sbcglobal.net>; Dan Schwartz <dschwarz@cityoflarkspur.org>; Given, Roy <RGiven@marincounty.org>
Subject: email from Roy

Roy,
Thanks for speaking about the MWPA tax roll. Please summarize our discussion in an email to Interim Executive Officer Jean Bonander cc’d.

Jason
To: Marin Wildfire Prevention Authority Board of Directors  
From: Megan Holt Acevedo, General Counsel  
Subject: Consent to Concurrent Representation by Epstein + Holtzapple

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**RECOMMENDATION:**

Authorize President Bruce Goines to sign the attached Consent to Concurrent Representation forms on behalf of the Marin Wildfire Prevention Authority (MWPA).

**BACKGROUND:**

At its meeting of July 16, 2020, the MWPA Board of Directors selected Epstein + Holtzapple (E+H) to serve as its General Counsel. Two of the MWPA member agencies, the City of San Rafael and the Town of San Anselmo, are currently represented by E+H.

Under Rule 1.7 of the California Rules of Professional Conduct, a lawyer shall not, without informed written consent from each affected client, represent a client if there is a significant risk the lawyer’s representation of the client will be materially limited by the lawyer’s responsibilities to or relationships with another client. As specified in the Rule, concurrent representation is permitted only if:

1. the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
2. the representation is not prohibited by law; and
3. the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal. (Cal. Bar RPC, Rule 1.7(d)).

As reflected in the attached forms, Rob Epstein and I believe our representation of MWPA, San Rafael and San Anselmo, does not represent a significant risk to any of these entities. Rather, our firm believes that we will be able to provide competent and diligent representation to MWPA and our existing public agency clients. This concurrent representation is not prohibited by law. And the representation does not involve the assertion of a claim by one client against another.

Accordingly, we respectfully request the Board authorize President Goines to sign the attached concurrent consent forms. These forms will also be presented to the San Rafael City Council and the San Anselmo Town Council for consideration.
FISCAL IMPACT:
None.

ENVIRONMENTAL REVIEW:
The Board’s consent to concurrent representation is not a “project” under the California Environmental Quality Act, because it does not involve an activity which has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Pub. Res. Code § 21065).

Respectfully submitted,

Megan Holt Acevedo
General Counsel

Attachments:
1. Clients’ Consent to Concurrent Representation – Town of San Anselmo
2. Clients’ Consent to Concurrent Representation – City of San Rafael
Clients' Consent to Concurrent Representation

Epstein + Holtzapple LLP ("the Firm") has been requested to represent the Marin Wildfire Prevention Authority ("MWPA"). Megan Acevedo will be the primary attorney working for the MWPA. Ms. Acevedo also serves as Town Attorney for the Town of San Anselmo ("Town"). We are seeking your consent to this concurrent representation.

Under Rule 1.7 of the California Rules of Professional Conduct, a lawyer shall not, without informed written consent from each affected client, represent a client if there is a significant risk the lawyer's representation of the client will be materially limited by the lawyer's responsibilities to or relationships with another client. Pursuant to this rule, concurrent representation under such circumstances is permitted only if:

1. the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
2. the representation is not prohibited by law; and
3. the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal. (Cal. Bar RPC, Rule 1.7(d)).

The Firm believes that its concurrent representation of the Town and MWPA does not present such a "significant risk." Nevertheless, we note that the Firm believes that it will be able to provide competent and diligent representation to both the Town and MWPA. The Firm’s concurrent representation is permitted by law and does not involve the assertion of a claim by one client against the other in any proceeding before a tribunal.

We do not anticipate the Firm’s representation of MWPA to interfere with the work that the Firm does for the Town. Ms. Acevedo will continue to serve as the Town Attorney and work closely with Town staff and officials to offer advice on a broad range of legal issues that impact the Town, including land use, emergency response, open meeting laws, and public contracting.

We similarly do not anticipate the Firm’s representation of the Town to interfere with the work that the Firm will do for MWPA. MWPA is a newly formed joint powers authority made up of 17 member agencies from across Marin, including the Town. The Firm will serve as General Counsel for the MWPA and its Board of Directors. Ms. Acevedo will assist the Board and staff with legal issues related to government transparency, environmental compliance, and other questions that may arise as the Board develops and implements a comprehensive wildfire prevention and emergency preparedness plan for most of Marin County.

The Firm will ensure that each client’s confidential information will not be shared. Our firm is aware of no current conflicts of interest, though it is possible for a conflict could develop. If either client believes that they see a conflict of interest, or if either or both believe concurrent representation is no longer in your individual or joint interest, we ask that you notify the Firm.
If a conflict occurs, we will discuss the potential need for hiring outside counsel in relation to the conflict.

Please be aware that MWPA and the Town are invited to seek independent counsel at any time, regardless whether you decide to sign this consent form.

Dated: 8/4/20

EPSTEIN + HOLTZAPPE LLP

By: [Signature]

Robert J. Epstein
Partner

Client Consent

I have read and understand this consent to concurrent representation. I have had adequate opportunity to review it; and to decide if I need to discuss it with my own attorney. I consent to the concurrent representation on the conditions stated above.

Dated: __________________________

TOWN OF SAN ANSELMO

By: __________________________

Ford Greene
Mayor

Dated: __________________________

MARIN WILDFIRE PREVENTION AUTHORITY

By: __________________________

Bruce Goines
President, Board of Directors
Clients' Consent to Concurrent Representation

Epstein + Holtzapple LLP ("the Firm") has been requested to represent the Marin Wildfire Prevention Authority ("MWPA"). Megan Acevedo will be the primary attorney working for the MWPA.

Rob Epstein is a partner in the Firm. Mr. Epstein also serves as part-time City Attorney for the City of San Rafael ("the City"). We are seeking your consent to this concurrent representation.

Under Rule 1.7 of the California Rules of Professional Conduct, a lawyer shall not, without informed written consent from each affected client, represent a client if there is a significant risk the lawyer’s representation of the client will be materially limited by the lawyer’s responsibilities to or relationships with another client. Pursuant to this rule, concurrent representation under such circumstances is permitted only if:

1. the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
2. the representation is not prohibited by law; and
3. the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal. (Cal. Bar RPC, Rule 1.7(d)).

The Firm and Mr. Epstein believe that the Firm's representation of MWPA and Mr. Epstein's representation of the City do not present such a "significant risk." Nevertheless, we note that the Firm believes that it will be able to provide competent and diligent representation to MWPA, while Mr. Epstein believes that he will be able to continue to provide competent and diligent representation to the City. This concurrent representation is permitted by law and does not involve the assertion of a claim by one client against the other in any proceeding before a tribunal.

We do not anticipate the Firm's representation of MWPA to interfere with the work that Mr. Epstein does for the City. Mr. Epstein will continue to serve as City Attorney and work closely with City staff and officials to offer advice on a broad range of legal issues that impact the City, including land use, emergency response, open meeting laws, and public contracting.

We similarly do not anticipate Mr. Epstein's representation of the City to interfere with the work that the Firm will do for MWPA. MWPA is a newly formed joint powers authority made up of 17 member agencies from across Marin, including the City. The Firm will serve as General Counsel for the MWPA and its Board of Directors. Ms. Acevedo will assist the Board and staff with legal issues related to government transparency, environmental compliance, and other questions that may arise as the Board develops and implements a comprehensive wildfire prevention and emergency preparedness plan for most of Marin County.
The Firm and Mr. Epstein will ensure that each client’s confidential information will not be shared. The Firm and Mr. Epstein are aware of no current conflicts of interest, though it is possible that a conflict could develop. If either client believes that they see a conflict of interest, or if either or both believe concurrent representation is no longer in their individual or joint interest, we ask that you notify the Firm and Mr. Epstein. If a conflict occurs, we will discuss the potential need for hiring outside counsel in relation to the conflict.

Please be aware that MWPA and the City are invited to seek independent counsel at any time, regardless whether this consent form has been executed.

Dated: 8/14/20

EPSTEIN + HOLTZAPPLE LLP
By: __________________________
Robert F. Epstein
Partner

Client Consent

I have read and understand this consent to concurrent representation. I have had adequate opportunity to review it, and to decide whether to discuss it with separate counsel. I consent to the concurrent representation on the conditions stated above.

Dated: _________________________
CITY OF SAN RAFAEL

By: ___________________________
Gary Phillips
Mayor

Dated: _________________________
MARIN WILDFIRE PREVENTION AUTHORITY

By: ___________________________
Bruce Goines
President, Board of Directors
MARIN WILDFIRE PREVENTION AUTHORITY

For the Meeting August 20, 2020

To: Marin Wildfire Prevention Authority Board of Directors

From: Christian Tubbs, Fire Chief

Subject: Update on Financial and Administrative Support Services

____________________________________

RECOMMENDATION:

That the Marin Wildfire Prevention Authority (MWPA) Board accept the Staff Report and provide direction as need.

BACKGROUND:

At the July 16, 2020 MWPA Board of Directors Meeting, the Board approved a Finance and Administrative Support Services Agreement between the MWPA and the Southern Marin Fire Protection District, in the annual amount of $101,103.69. Additionally the MWPA annually provides the Southern Marin Fire Protection District an additional $7,041.00 for Office Space and phone and internet service. The office space is prorated based on when occupancy occurs.

The MWPA Board of Directors has also directed staff to ensure cybersecurity best practices are being followed and any identified gaps are brought to the attention of the Board if they have policy or financial implications.

DISCUSSION/ANALYSIS:

At the July 22, 2020 Southern Marin Fire Protection District Board of Directors Meeting, the Board of Directors approved executing the agreement between the MWPA and Southern Marin Fire Protection District. The agreement has been approved by both parties. This staff report provides a status update of work associated with this agreement.

The Executive Officer has not yet been hired and the interim Executive Officer does not need to use the designated office space at this time. Therefore the MWPA has not been billed for this element of the agreement.

Since the agreement was fully executed beginning July 22, 2020, the following financial services tasks have been completed:

1. Set up new Fund and Program with the County of Marin (for a checking account).
2. Established a federal employer identification number (FEIN).
3. Applied for an Employment Development Department account (for state payroll taxes).
4. Ordered and received MWPA checks and envelopes.
5. Signed up for a CalCard account (awaiting approval).
6. Started email accounts for the Finance Officer and EO (finance@marinwildfire.org & president@marinwildfire.org).
7. Solicited quotes for Independent Auditing Services from the Firms of R.J. Ricciardi, Inc., Badawi & Associates, and Terry Krieg, CPA.
8. Scheduled a meeting with Marin IT to review cybersecurity needs for MWPA and to ensure that proper systems and procedures are in place. Staff will report out at next month’s meeting.

In addition to the work completed by the Finance Officer, the MWPA Operations Finance Subcommittee has begun drafting financial policies for the MWPA. Currently the following drafts have been generated. Until these policies are adopted the MWPA, the Southern Marin Fire Protection District Finance Officer is operating under the Southern Marin Fire Protection District Financial Policies. The following draft policies have been generated:

1. Long-Term Financial Policy
2. Purchasing Policy
3. Credit Card Purchases Policy
4. Accounting, Auditing and Financial Reporting Policy
5. Internal Control Policy
6. Fund Transfer Policy
7. Grant Application and Approval Policy.

Next Steps Include:

1. Set up check signers for County account.  
   Note: Waiting for input re: who should sign. More signers are better.
2. Set up payroll account.  
   Note: Will set up soon with Wells Fargo.
3. Start ADP.  
   Note: Will set up soon
4. Director Gerbsman requested specific financial reporting details. Chief Tubbs is currently working with the Finance Manager to address this request.
5. Review and approval of MWPA Finance Policies.

CONCLUSION(S):

Financial System and Reporting

There are multiple procedures that must be completed when initiating a new government entity. These procedures are specified through regulation and best industry practices such as recommended by the Government Finance Officers Association (GFOA). The Finance Manager of the Southern Marin Fire Protection District has been systematically working through all these
required procedures and steps to ensure full compliance and best industry practice. There are only a few steps left before the MWPA has the ability to receive and disburse approved budget items, specifically submitting authorized signers to the bank and receiving funds from the County.

Financial Policies

Staff recognizes the critical nature of adopting financial policies, which have been reviewed and approved by the Board of Directors, as part of sound financial practices. Recognizing that the MWPA will soon be collecting and disbursing taxpayer monies and the need of the Board of Directors to have oversight into the collection and disbursement following adopted policy and procedures, Staff has initiated the development of financial policy and procedure for the Board’s consideration.

Staff also believes that there are additional policies and procedures that will need to be addressed and it will be critical to have an established process for these policies to be proposed, drafted and reviewed prior to the full Board’s adoption. Staff would recommend the development of a Board Finance Committee.

Cybersecurity

Following best practices with respect to cybersecurity is a critical function for the Marin Wildfire Prevention Authority. The recent Marin Civil Grand Jury Report, as well as other authoritative sources, highlight the growing threats associated with our dependence on digital media and technology. Staff will be working with Marin IT in assessing the current MWPA financial system security systems and procedures to ensure best practices are being followed. Staff will develop a report on this assessment and provide to the Board of Directors. Any gaps that may be identified in the assessment that have cost or policy implications, will be brought forward to the Board of Directors.

Respectfully submitted,

Chris Tubbs
Chief, Southern Marin Fire District

Attachments: 1. MWPA Budget Summary YTD
2. MWPA Transaction Detail YTD
<table>
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<tr>
<th>Description</th>
<th>Jul '20 - Jun 21</th>
<th>Budget</th>
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<th>% of Budget</th>
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<tr>
<td>4000 · Measure C</td>
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<td>(19,325,698)</td>
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<td>(19,325,698)</td>
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<td>0%</td>
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<td>(150,000)</td>
<td>0%</td>
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<td>0%</td>
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<td><strong>Total Expenditures</strong></td>
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<td>(8,719,576)</td>
<td>(3%)</td>
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<td>Total Accounts Payable</td>
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<td>Total Current Liabilities</td>
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</tr>
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<td>Total Liabilities</td>
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<td>Net Income</td>
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<tr>
<td>Total Equity</td>
<td>229,158.68</td>
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<tr>
<td>TOTAL LIABILITIES &amp; EQUITY</td>
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# Marin Wildfire Prevention Authority

## Transaction Detail By Account

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<th>Num</th>
<th>Name</th>
<th>Memo</th>
<th>Amount</th>
</tr>
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<tbody>
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<td><strong>6250 · FSM Chipper Program</strong></td>
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</tr>
<tr>
<td>Bill</td>
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<td>54,833.21</td>
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<tr>
<td><strong>6600 · Services &amp; Supplies</strong></td>
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<tr>
<td>Bill</td>
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<td>County of Marin</td>
<td>Toni DeFrancis minutes 5/8/20</td>
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<td>County of Marin</td>
<td>Toni DeFrancis minutes 5/14/20</td>
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</tr>
<tr>
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<td>County of Marin</td>
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<td>County of Marin</td>
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<td><strong>6650 · Start Up Costs</strong></td>
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<td>Bill</td>
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<td>County of Marin</td>
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<td>tax roll prep &amp; audit</td>
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<td>out of county owners mailer</td>
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<td>Bill</td>
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<td>qcorp</td>
<td>County of Marin</td>
<td>qcorp: MWPA apparel</td>
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<td>Bill</td>
<td>07/17/2020</td>
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<td>Marin County Registrar of Voters</td>
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RECOMMENDATION:

That the Board of Directors adopt the MWPA ByLaws, and request nominations from the members of the Board of Directors to serve on the Executive Committee and the Finance Committee, with appointments expected in September 2020.

BACKGROUND:

Establishing the Authority’s ByLaws is one of the foundational actions of the Board of Directors. The Board established an Ad Hoc ByLaws Subcommittee comprised of Directors Burdo, Finn, Goines, Hilliard, McEntee and Phillips at its May 21, 2020 meeting. Since then, the subcommittee members reviewed a draft set of ByLaws prepared by Director Tom Finn and edited by Legal Counsel Megan Holt Acevedo. The Subcommittee members made comments, many of which were incorporated into the attached draft of the ByLaws.

The ByLaws represent a key basis for governing the Authority as it continues to establish itself, and then into the future. Some specific issues that the Board may wish to discuss in the ByLaws include:

- Executive Officer Spending Authority (page X, Section X)
- Authority Secretary
- Use of Robert’s Rules of Order or Rosenberg’s Rules of Order
- Executive Committee Alternate(s)

The ByLaws require the formation of an Executive Committee. Many authorities and agencies also appoint a Finance Committee. The Executive Committee will be comprised of Directors reflecting a geographic representation of the MWPA service area, and the President and Vice President of MWPA are proposed to be fixed members of the Executive Committee.
Composition of a Finance Committee is not specifically identified in this draft of the ByLaws, although at the direction of the Board, a Finance Committee can be incorporated. Staff recommends that the Board establish a Finance Committee with five (5) Board Members and two (2) Operations Committee members to review policies and procedures related to the Authority’s accounting and finance practices, and to assist the Board with budget and audit issues.

At this meeting, the Board is being asked to review the draft ByLaws, and subject to discussion and review, may approve the ByLaws as presented or amended, or may continue the discussion to the next available regular Board Meeting for adoption at a future time.

It is also appropriate at this time to request interest from its Directors in serving on the Executive Committee, and if approved as a Standing Committee, the Finance Committee. Directors interested in serving on the Executive Committee and/or the Finance Committee should notify the President and/or the Interim Executive Officer. Staff suggests that the Board make appointments to the Committees at its September 17, 2020 or October 15, 2020 Regular Meeting.

FISCAL IMPACT:
None known.

ENVIRONMENTAL REVIEW:

The Board’s approval of ByLaws is not a “project” under the California Environmental Quality Act, because it does not involve an activity which has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Pub. Res. Code § 21065).

Respectfully submitted,

Jean A Bonander
Interim Executive Officer

and

Megan Holt Acevedo
Legal Counsel

Attachment: Final Draft – MWPA By-Laws, dated August 17, 2020
FINAL DRAFT
BYLAWS
OF THE
MARIN WILDFIRE PREVENTION AUTHORITY

ARTICLE I
FORMATION

The County of Marin together with the cities of San Rafael, Mill Valley, and Larkspur; the towns of San Anselmo, Corte Madera, Fairfax, and Ross; the Fire Protection Districts of Southern Marin, Novato, Kentfield, Stinson Beach, Bolinas, and Sleepy Hollow, the Marinwood Community Services District, the Inverness Public Utility District, and Muir Beach Community Services District (each a “Local Agency Member”) entered into a Joint Powers Agreement as of April 2, 2020 (as subsequently amended from time to time, the “JPA Agreement”) in accordance with the Joint Exercise of Powers Act, Sections 6500 et seq. of the California Government Code, to form the Marin Wildfire Prevention Authority (the “MWPA”).

ARTICLE II
PURPOSES

MWPA was formed for the purposes of planning, financing, implementing, managing, owning, and operating a multi-jurisdictional and County-wide agency separate from the Local Agency Members to prevent and mitigate wildfires in Marin County. The goal of the MWPA is one of voluntary cooperation among Local Agency Members for the collective benefit of all Local Agency Members and residents of Marin County. It is the intent of all Local Agency Members that decisions of the Board should be made by consensus whenever possible.

ARTICLE III
ORGANIZATION

Section 1. Governance by Board of Directors. As established in Section 4 of the JPA Agreement, the MWPA shall be governed by a Board of Directors (the “Board”) composed of one (1) representative of each Local Agency Member. The governing body of each Local Agency Member shall appoint an official to serve as a Director of the Board and up to two (2) alternates to serve in the absence of the appointed regular Director. Each Director shall hold office from the first meeting of the Board following his or her appointment until a successor is selected by the governing body of the Local Agency Member. Directors shall be elected officials or hold elective office by virtue of appointment.

Section 2. Terms of Directors; Events Causing Vacancy. The governing body of the Local Agency Member may determine the term of appointment of the Director appointed by the
agency. A vacancy on the Board exists on the occurrence of any of the following: (a) death of any Director, (b) the removal, dismissal, or resignation of a Director from the position he or she held with the Local Agency Member at the time he or she became a Director, (c) the declaration by resolution of the Board of a vacancy of the office of a Director who has been declared of unsound mind by an order of court or convicted of a felony after having been appointed as a Director, or (d) written notice to the Executive Officer or Mayor from the appointing Local Agency Member stating that the designation of the Director or alternate has been revoked, with revocation to be effective upon receipt unless the notice specifies a later time.

Section 3. Board of Directors Powers and Duties. The powers and duties of the Board, subject to the limitations of applicable law, the JPA Agreement, and these Bylaws, shall include all of the powers of the Board provided in Section 4 of the JPA Agreement except as may be expressly delegated to others pursuant to the provisions of the JPA Agreement, these Bylaws, or at the direction of the Board. Such powers and duties shall be exercised by and through the Board. The Board shall be responsible for the administration, management, and conduct of the MWPA’s affairs including, but not limited to, the following:

(a) setting policies and goals for the MWPA;

(b) appointing, fixing the compensation of, supervising, and removing the Executive Officer and other MWPA staff;

(c) annually reviewing the proposed MWPA budget and Work Plan and adopting an annual budget and Work Plan;

(d) before the beginning of each fiscal year, adjusting the maximum parcel tax to be levied upon the parcels for the upcoming fiscal year, as provided in Section 3 of Marin County Board of Supervisors Ordinance No. 3716;

(e) administering the Work Plan, providing for the design, financing, constructing, and implementation of MWPA programs, and determining the use of tax revenues in conformance with the parameters established in the Work Plan;

(f) appointing Standing Committees including the Operations Committee (JPA Agreement Section 6), the Advisory/Technical Committee (JPA Agreement Section 7), and the Citizens’ Oversight Committee (JPA Agreement Section 8) and, if necessary or desirable, Ad Hoc Committees to study specific problems, programs, or other matters that the Board has approved for study;

(g) acting upon policy recommendations, including policy recommendations from committees;

(h) entering into contracts or change orders;
(i) leasing, acquiring, constructing, managing, maintaining, and operating any equipment, buildings, works, or improvements for use in conformance with the parameters established in the Work Plan;

(j) acquiring, holding, or disposing of equipment or personal property by any lawful means including, without limitation, gift, purchase, lease, lease purchase, or sale;

(k) applying for any appropriate grant or grants under any federal, state, or local programs for assistance in developing and/or implementing the Work Plan or any of MWPA programs;

(l) receiving grants, gifts, contributions, and donations of property, funds, services, and other forms of financial assistance from persons, firms, corporations, and any governmental entity, subject to applicable reporting and other limitations as set forth in Article VII, below;

(m) approving any and all indebtedness incurred by the MWPA within the limitations set forth in Section 5(e) of the JPA Agreement;

(n) approving the initiation of any litigation by the MWPA (not including the authorization of defense brought against the MWPA or the initiation of a cross-complaint),

(o) providing oversight of the implementation of the MWPA’s ongoing activities; and

(p) administering the MWPA in furtherance of all the above.

In connection with (f), above, the Board retains the ultimate legal authority to undertake any action that California law requires the full Board to approve and direct the Operations Committee and/or the Advisory/Technical Committee on a matter or to determine that a task otherwise delegated to the Operations Committee and/or the Advisory/Technical Committee shall be handled or reviewed by the full Board.

Section 4. Voting. As specified in Section 4(f) of the JPA Agreement, for all votes conducted by the Board, a proposed motion subject to vote passes when both of the following conditions are satisfied: (1) a majority of the Directors present vote in favor of a motion, and (2) the Directors present and voting in favor of a motion represent, in the aggregate, according to the then latest general census, over 50% of the population represented by the Member agencies present in the quorum.

Section 5. Reimbursement of Board Members. Board Members and members of Board Committees may receive reimbursement of expenses as may be determined by resolution of the Board to be just and reasonable.

ARTICLE IV
OFFICERS AND TERMS OF OFFICE

Section 1. Officers. The officers of the MWPA are the President and the Vice President of the Board, the Executive Officer, the Treasurer, and the Legal Counsel. All members of the Board are eligible to serve as President or Vice President of the Board. The Executive Officer, Treasurer, and Legal Counsel shall serve at the pleasure of the Board, subject to the rights by any officer under an employment contract, if any, with the Authority. Any number of offices may be held by the same person, except that the Treasurer shall not serve concurrently as the Executive Officer.

Section 2. Selection and Terms of Elected Officers. As provided in Section 4 (e) of the JPA Agreement, the President and Vice President are elected officers who shall be elected by the Board at the Board’s first meeting each fiscal year or as soon thereafter as is practical. The President and Vice President shall each serve one (1)-year terms, and may be re-elected by the Board and shall not be subject to term limits so long as they remain eligible.

(a) President. The duties of the President are to supervise the preparation of the agenda for Board meetings, preside over Board meetings, and undertake other duties required by the JPA Agreement, these Bylaws or as may be assigned by the Board. The President shall represent the Authority and execute any contracts and other legal instruments approved by the Board.

(b) Vice President. The Vice President shall perform the duties of President in the absence of the President.

(c) Secretary. The Secretary shall (i) in accordance with Section 4(d) of the JPA Agreement, keep or cause to be kept, at the principal executive office of the MWPA or such other place as the Board may direct, a book of minutes of all meetings and actions of the Board and the Committees of the MWPA, with the time and place of holding the meeting, whether Regular or Special, and, if Special, how authorized, the notice given, the names of those present and absent at such meetings and the proceedings of such meetings; and (ii) prepare, give, or cause to be given, notice of, and agendas for, all meetings of the Board and Committees of the MWPA. He or she shall have such other powers and performs such other duties as may be prescribed by the Board. As provided in Section 4 of these Bylaws, the MWPA Executive Officer shall serve as Secretary.

(d) Treasurer. As established by Section 12 of the JPA Agreement, the Treasurer of the Authority shall be the Treasurer of one of the Local Agency Members. The Treasurer shall perform the duties set forth in Section 12 of the JPA Agreement, including ensuring compliance with all requirements of Government Code Sections 6505, 6505.1, 6505.5, and 6505.6. The Treasurer shall be appointed by the Board on such terms as the Board and the Treasurer may agree and shall serve until a successor is appointed, but subject to review by the Board every two (2) fiscal years. If a vacancy occurs due to the Treasurer’s resignation or removal by a vote of the Board, then the Board shall appoint a replacement to serve as Treasurer on such terms as the Board and the Member agency may agree.
Section 3. Removal. The President and/or the Vice President shall be subject to removal at any time by a vote of the Board, subject to the voting conditions set forth in Section 4(f) of the JPA Agreement. The Treasurer shall be subject to removal by a vote of the Board subject to the terms of the agreement between the MWPA and the Member agency then serving as Treasurer.

Section 4. Executive Officer. The Board shall employ an individual as an Executive Officer who shall be the chief administrator of the MWPA, subject to the Board’s direction. The Executive Officer shall be responsible for the MWPA’s day-to-day operations, organization, and staff relations, preparation of the annual budget, supervising the activities of the Operations, Advisory/Technical, and Citizens’ Oversight Committees and such other committees as the Board may create, and serving as Secretary of the Board, purchasing agent, and custodian of records of the MWPA. In general, he or she shall perform all duties incident to the position of Executive Director and such other duties as may be required by these Bylaws or which may be assigned to him or her from time to time by the Board. The Executive Officer shall have expenditure authority, consistent with the adopted budget, of up to $25,000.00 and the authority to execute a change order to any existing MWPA agreement with any person, entity, or agency in an amount up to and including $10,000.00. The Executive Officer shall report all such expenditures and change orders approved to the Board at its next meeting. Subject to the authority of and as directed by the Board, the Executive Officer shall have the authority to appoint, direct, and remove all staff of the MWPA and to retain and supervise any consultants and contractors to the MWPA.

Section 5. Other Personnel. The Board shall have the power to retain such additional officers, agents, employees, consultants, and contractors as it deems necessary to attain the objectives of the MWPA. Such officers and employees may also be, but are not required to be, officers and employees of the individual Members. None of the officers, agents, or employees appointed by the Board shall be deemed, by reason of their employment by the Board, to be employed by any of the Members or, by reason of their employment by the Board, to be subject to any of the requirements of such Members.

Section 6. Status of Members' Officers and Employees. As provided in Government Code Section 6513, all of the privileges and immunities from liability and other benefits that apply to the activity of officers, agents, or employees of any of the Local Agency Members when performing their respective functions within the territorial limits of their respective Agencies shall apply to them while engaged in the performance of any of their actions and duties extraterritorially under this Agreement.

Section 7. Bonding Requirement. The Board shall designate the officers or persons having charge of, handling, or having access to any property of the MWPA who shall be required to file an official bond with the Board. The amount of any such bond shall be established by the Board. Should the existing bond or bonds of any such officer be extended to cover the obligations provided herein, such bond shall be the official bond required herein. The premiums on any such bonds attributable to the coverage required herein shall be appropriate expenses of the MWPA.

ARTICLE V
MEETINGS OF
BOARD OF DIRECTORS
AND
BOARD COMMITTEES

Section 1. Regular Meetings. Pursuant to Section 4(c) of the JPA Agreement, there shall be not fewer than two (2) Regular Meetings of the Board each calendar year, with such meetings to be held on or about the third Thursday of May and the third Thursday of July each year. To ensure maximum public participation, all Regular Meetings of the Board and Standing Committee meetings should be held during late afternoons or evenings on working days unless a change in such Regular Meeting date and time is approved by the President in writing. The location of Regular Meetings shall be determined by the President.

Section 2. Special Meetings. Special Meetings may be called by the President in consultation with the Executive Officer. The date, time, and location of Special Meetings shall be determined by the President. Both a Special and a Regular meeting may be held on the same day.

Section 3. Quorum. A majority of Board members shall constitute a quorum for the transaction of business of the MWPA and a majority of the quorum shall be necessary to approve any action of the Board subject to the voting conditions set forth in Section 4(f) of the JPA Agreement.

Section 4. Advisory/Technical Committee. The Advisory/Technical Committee established by Section 7 of the JPA Agreement is advisory to the Operations Committee and will meet two times each year, unless authorized by the President to hold additional meetings.

Section 5. Executive Committee. In addition to the Operations Committee, the Advisory/Technical Committee, and the Citizens’ Oversight Committee created by the JPA Agreement, an Executive Committee of the Board is hereby created as a Standing Committee. The Executive Committee shall consist of five (5) Board members whose membership shall represent a geographic balance, including at least one (1) representative each from the five (5) operational zones of the MWPA: Northern Marin, Central Marin, Ross Valley, Southern Marin, and West Marin, and one additional Board Member may be designated as an Alternate Executive Committee member as needed. The President and Vice Present shall be fixed members of the Executive Committee. Membership to the Executive Committee shall be as recommended by the President and approved by a majority of the Board. The President shall serve as Chair of the Executive Committee. The purpose of the Executive Committee is to advise the Board and plan Board activities. A quorum of the Executive Committee shall consist of three Executive Committee members. To the fullest extent possible, appointment of an alternate shall be made so as to maintain geographical balance on the Executive Committee. Any Board member serving on the Executive Committee for the purpose of obtaining a quorum are only temporary Executive Committee members for one meeting and do not constitute a regular Committee member for future meetings.
Section 6. Additional Board Committees. In addition to the Committees created by the JPA Agreement and these Bylaws, the Board may establish Standing and Ad Hoc Committees for the purpose of developing recommendations to the Board. Standing Committees may be appointed by a majority vote of the Board. Ad Hoc committees may be appointed by the President. Any Director is eligible for appointment to a Standing or Ad Hoc committee. In making recommendations for members of Standing and Ad Hoc committees, the President shall consider, and the Board’s assignments of Committee memberships shall reflect, to the extent possible, geographical balance and local representation. A quorum of a Standing or Ad Hoc committee shall be four (4) elected officials, unless otherwise provided by the Board. Actions may be taken by Standing and Ad Hoc committees by a majority of those Committee members present and qualified to vote. All Standing or Ad Hoc committees shall be chaired by a Board member.

(a) Standing Committees. All Standing Committees shall have a written statement of purpose. The President shall recommend, and the Board shall appoint, the members to any Standing Committee. Each Standing Committee shall by majority vote elect a Chair at its first meeting who shall serve at the pleasure of the Standing Committee. Members of Standing Committees shall be appointed for one (1) year terms, or until the Committee is dissolved, whichever occurs first. Committees shall meet on the call of their Chair or as otherwise provided herein and in compliance with applicable law. A Standing Committee may exercise such powers as may be delegated to it, except that a Committee may not: (a) take any final action on matters which, under the JPA Agreement, require approval by the Board; (b) amend or repeal the Bylaws or adopt new Bylaws; (c) amend or repeal any resolution of the Board; (d) appoint any other committees of the Board or the members of these committees; or (e) approve any transaction which would violate any law, including the Political Reform Act (commencing with Section 81000 of the California Government Code) and/or Section 1090 of the California Government Code. Meetings and actions of any Standing Committee shall be in compliance with the Brown Act. Minutes shall be kept of each meeting of any Committee and shall be filed with the MWPA records.

Section 7. Brown Act Compliance. All meetings of the Board and of Standing Committees shall be governed by the provisions of the Ralph M. Brown Act (California Government Code Sections 54950 et seq.). The official agenda for each such meeting shall be posted to the MWPA website and as required by law. Clerks of other Local Agency Members shall be provided a copy of the agenda and are encouraged to post the agenda at their official posting location so as to assure widespread notice of the meetings.

Section 8. Parliamentary Authority. Unless otherwise specified herein, Rosenberg’s Rules of Order shall govern the Conduct of MWPA Board meetings and the President's decision on any procedural question shall be final. No person shall address the Board at any meeting until he or she has first been recognized by the President.

Section 9. Minutes. Except with respect to closed sessions, the designee of the Executive Officer shall cause to be kept minutes of Regular and Special Meetings of the Board and any Standing Committee, and shall cause a copy of the minutes to be forwarded to each Board member for approval by the Board or the Standing Committee, where appropriate. All
minutes shall be archived in the principal office of the MWPA and shall be posted on the MWPA website.

**ARTICLE VI**

**RULES AND PROCEDURES**

Section 1. Annual Budget. On or before May 1 of each year, the Executive Officer shall present to the Board a proposed operating budget for the coming fiscal year, and the proposed budget shall comply with all requirements set forth in Section 9 of the JPA Agreement. This proposed budget shall be voted on by the Board at its Regular Meeting in May and shall be approved by a Board resolution. The Executive Officer and Board may approve expenditures throughout the year consistent with the approved budget. Grant funds received by the MWPA from any federal, state, or regional agency to pay for budgeted expenditures for which the MWPA has received all or a portion of said funds from tax revenues shall be used as determined by the Board.

Section 2. Member Organizational Changes. Any organizational change in a Member that would result in the transfer of a Member's fire suppression responsibility to a new or different public agency or that would otherwise impact its membership in the MWPA shall be submitted to the President not later than March 1 of each year. The President shall forward this notification to the Executive Officer for consideration in the preparation of the annual budget. Any organizational changes submitted by a Member after March 1 that would impact that Member's fire suppression responsibility or its membership in the MWPA shall be considered in the budget preparation of the following year.

Section 3. New or Successor Members. The governing body of any agency wishing to join the MWPA as a new or successor Member pursuant to Section 3(b) of the JPA Agreement, must submit a written request to the President. This request will be reviewed by the Executive Officer and a report shall be provided by the Executive Officer to the Board at its next Regular Meeting (or at a Special Meeting if circumstances warrant). The Board shall direct the Executive Officer to obtain appropriate information from the agency as to its needs in relation to the MWPA and, based on the formulae set forth in Sections 9 and 10 of the JPA Agreement, develop an estimate of the prospective tax revenues to be contributed to the MWPA by, and the prospective administrative costs to be incurred by the MWPA in connection with, the new or successor agency joining the MWPA. The Executive Officer shall then notify the agency the amount of those prospective tax revenues and costs and request that the governing board of the agency adopt a resolution formally requesting membership in the MWPA and agreeing to the terms of the JPA Agreement and any other terms deemed appropriate. Upon receipt of such a resolution from the agency, the Executive Officer shall place the request on the next Board agenda for consideration pursuant to Section 3(b) of the JPA Agreement. The Board shall have the authority to admit new Members to the MWPA at a public meeting at which the admission has been considered, and that meeting shall occur after not less than sixty (60) days' advance written notice to the existing Directors and Local Agency Members. The Board may set the terms and conditions for admitting new members (either individually or generally) that it deems appropriate.
Section 4. Amendments to JPA. As specified in Section 21 of the JPA Agreement, the Agreement can be amended at any time by mutual agreement of three-fourths (3/4) of the Board, as long as any amendment comports with the purpose of the voter approved measure. The JPA Agreement shall be amended by resolution and an affirmative vote of three-fourths (3/4) of the Board of Directors.

ARTICLE VII

CONFLICT OF INTEREST

The Board shall be subject to the conflict of interest rules set forth in the Political Reform Act (commencing with Section 81000 of the California Government Code) and Sections 1090 et seq. of the Government Code of the State of California, and the MWPA shall adopt a conflict of interest code as required and as provided by the implementing regulations of the Political Reform Act.

ARTICLE VIII

AMENDMENTS

These Bylaws may be amended only upon two-thirds (2/3) affirmative vote of all of the Directors with such proposed amendment having been noticed to members not less than thirty (30) days prior to the date of the meeting.

ARTICLE IX

MISCELLANEOUS

Section 1. Construction and Definitions. Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the California Civil Code will govern the construction of these Bylaws. Without limiting the generality of the foregoing, the term “person” includes both the MWPA and a natural person. Any capitalized term not defined in these Bylaws will have the meaning ascribed to it in the JPA Agreement.

Section 2. Partial Invalidity. If any one or more of the terms, provisions, or sections of these Bylaws shall to any extent be adjudged invalid, unenforceable, void, or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, and sections shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

Section 3. Interpretation of Sections That Are Based On Provisions From Other Statutes, Applicable Ordinances, or Codes. Sections of these Bylaws which are based upon or which paraphrase provisions of other statutes, ordinances, or codes have been included herein for reference purposes only. In the event of conflict between the provision of any such statute, ordinance, or code and these Bylaws, the provision of the statute, ordinance, or code shall in all
events control, and no section of these Bylaws shall change or modify any such statute, ordinance, or code.

Section 4. Interpretation of Sections That Are Based on Provisions from JPA Agreement or Ordinance No. 3716. In the event of a conflict between these Bylaws and the JPA Agreement or Board of Supervisors Ordinance No. 3716, the Ordinance and Agreement shall in all events control and no section of these Bylaws shall change or modify those instruments.

Section 5. Electronic Signatures. Unless otherwise required by law, the use of electronic, digital or facsimile signatures shall be authorized to conduct Board business.

ARTICLE X

EFFECTIVE DATE

These Bylaws shall take effect immediately upon their adoption by the Board.