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MINUTES OF THE
BOARD OF DIRECTORS REGULAR MEETING
OTAY WATER DISTRICT
June 20, 2001

1. The meeting was called to order by Designated Acting General Manager Griego at 3:30 p.m. in the District Boardroom, 2554 Sweetwater Springs Boulevard, Spring Valley, California.

DIRECTORS PRESENT: Bonilla, Cardenas, Inocentes, Lopez and Croucher

STAFF PRESENT: Designated Acting General Manager Griego
Chief of Engineering and Water Ops.
Gunstinson
Chief of Administrative Svcs. and Finance
Alvarez
Special Counsel Garcia
Special Counsel Leal
Assistant District Secretary Sanders
Others per attached list

2. Upon conclusion of the Pledge of Allegiance, Designated Acting General Manager Griego performed the swearing in of new Director for Division 3, Gary D. Croucher.

3. Designated Acting General Manager Griego presented the agenda for approval.

A motion was made by Director Cardenas, seconded by Director Inocentes and carried with the following vote:

Ayes: Directors Inocentes, Lopez, Bonilla, Cardenas, Croucher
Noes: None.

to approve the agenda pulling Item 8(c) for discussion from the consent calendar.

Approval
of
Agenda

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4. The minutes for the following meetings were submitted for Board approval: June 6, 2001, May 16, 2001, May 2, 2001, April 20, 2001, April 18, 2001, April 4, 2001 and Special Meeting of March 21, 2001.

Approval
of
Minutes

Director Cardenas stated that he will not approve the minutes for June 6, 2001, May 2, 2001, April 20, 2001 and April 4, 2001. He stated that he was not present.

Director Lopez stated that he was not present for the April 20, 2001 meeting. He will approve all the minutes except the minutes of April 20, 2001.

A motion was made by Director Lopez, seconded by Director Inocentes and carried with the following vote:

Ayes:	Directors Inocentes, Lopez, Bonilla and Cardenas
Noes:	None
Abstain	Croucher

to approve the minutes of the Board meetings for June 6, 2001, May 16, 2001, May 2, 2001, April 18, 2001, April 4, 2001 and Special Meeting of March 21, 2001 with the exception of April 20, 2001. The minutes of the April 20, 2001 meeting reflect that the meeting was not held due to a lack of quorum.

5. The demands list for June 20, 2001 were submitted for Board approval. Director Cardenas requested explanation for several checks listed on the demands list. He would like explanation of the purpose of check number 97571 made payable to Wise Consulting Services in the amount of \$2,131.00. Chief of Administrative Services and Finance German Alvarez stated the Wise Consulting Services is assisting staff with the customer service information system that is being developed. IT Manager Geoff Stevens stated that Wise Consulting Services is helping staff develop the proposal for the customer billing system. They were hired by a competitive bidding process.

Approval
of
Demands
Lists

1 Director Cardenas inquired about check number 97470 made payable to
2 William L. Jenkins for temporary services in the amount of \$5,390.00. He
3 stated it was his understanding that Mr. Jenkins would be hired as a permanent
4 employee. IT Manager Stevens stated that Mr. Jenkins is a candidate for the
5 senior level computer analyst vacancy but because of the confusion regarding
6 the hiring freeze, we haven't been able to bid the position.
7

8 Director Cardenas also asked about check number 97541 made payable
9 to San Diego County Taxpayers in the amount of \$200.00. Designated Acting
10 General Manager Griego stated that this was for an annual awards event
11 sponsored by the San Diego County Taxpayers Association that staff attended.
12

13 There was discussion and explanation regarding the *Duncan v. Otay*
14 case and the check issued to Daley & Heft. Chief of Engineering and Water
15 Operations Gunstinson explained that the case involves a dispute over EUDs in
16 the Singing Hills area.
17

18 Director Cardenas inquired about the check issued to Marston & Marston
19 for services performed. Designated Acting General Manager Griego responded
20 that Marston & Marston is preparing the Consumer Confidence Report, press
21 releases and handling other public relations matters for the District. Mr. Griego
22 stated that they are providing services requested and have taken on additional
23 public relations responsibilities in light of District lay-offs.
24

25 There was discussion regarding check number 97553 issued to Standard
26 & Poors. Accounting Manager Joe Beachem explained that this fee is an
27 annual charge to review the bonds.
28

29 A motion was made by Director Croucher, seconded by Director Lopez
and carried with the following vote:

1 Ayes: Directors Inocentes, Lopez, Bonilla, Cardenas, Croucher
2 Noes: None

3 to approve the demands list of June 20, 2001 as listed with Directors Inocentes
4 and Cardenas objecting to check number 97481 to Marston & Marston for
5 public relations services in the amount of \$12,871.33.

6 6. Designated Acting General Manager Griego asked if anyone in
7 the audience wished to be heard on any item. Mr. Paul O'Sullivan expressed
8 his opinion regarding the \$5 million rebate to all residential and non-residential
9 customers with 3/4" meters. He is a member of the Rio East Homeowners
10 Association, a group of 265 homeowners living in the Otay Water District,
11 Division 1. He feels this HOA is entitled to a rebate. They are all residential
12 customers with individually metered homes with 3/4" lines. He is asking for the
13 Board's support and he has spoken with President Bonilla and Designated
14 Acting General Manager Griego regarding agendizing this item.
15
16

17 Designated Acting General Manager responded that 3/4" meters were the
18 only ones to get the rebate. Mr. Griego stated that there is only one master
19 meter at the Rio East complex. Submeters were installed at the individual units.
20 Otay Water District bills the homeowners association at Rio East. The
21 homeowners association has a private company that reads the individual
22 submeters. The individual homeowners do not pay their water bill to Otay.
23
24

25 Mr. Griego also stated that there are other disputes concerning the
26 rebate and a report is being prepared by staff to bring back to the Board on
27 June 28th to disclose all of those disputes and ask the Board to give staff some
28 direction regarding the handling of the customers who did not get a rebate.
29

Director Croucher asked President Bonilla if these residents circumvent the

Public
Participa-
tion

1 system by having only one meter instead of individual meters. Mr. O'Sullivan
2 stated that when the buildings were built in 1970s, it was common that there
3 was only one meter. It was the burden of the homeowner to purchase their own
4 meter. The Board assured Mr. O'Sullivan that the rebate issues would be
5 agendized and addressed at the June 28, 2001 Special Board meeting.
6

7 Director Cardenas requested to speak as a ratepayer and not as a Board
8 member. He stated he is concerned that the Board meetings were moved from
9 6:00 p.m. to 3:30 p.m.

10 Mr. Cardenas stated that he is concerned that commercial ratepayers did
11 not receive a rebate.
12

13 There was discussion regarding past rebate practices and if all
14 ratepayers were included in the rebate. Director Lopez asked for clarification
15 and explanation on past rebates to be brought back at a future meeting.
16

17 7. Designated Acting General Manager Griego presented the
18 following items on the consent calendar for approval:

- 19 a) ADOPTION OF RESOLUTION 3921 OF THE BOARD OF
20 DIRECTORS OF OTAY WATER DISTRICT CANCELING THE
21 REGULAR BOARD MEETING SET FOR JULY 4, 2001 AND
22 SCHEDULING A REGULAR BOARD MEETING ON JULY 11,
23 2001
- 24 b) ADOPTION OF SERVICE RESOLUTIONS:
25 RESOLUTION NO. 3907 – SUZANNE CHAMBERS, 25 YEARS
26 RESOLUTION NO. 3908 – DAVID BURPEAU, 10 YEARS
27 RESOLUTION NO. 3911 – ROBERTO SALAZAR, 10 YEARS
28 RESOLUTION NO. 3914 – PATRICIA EGAN, 10 YEARS
29 RESOLUTION NO. 3915 – J. SEAN PRENDERGAST, 10 YEARS
RESOLUTION 3916 – MARC DAVIS, 10 YEARS
RESOLUTION 3917 – KRISTINA WHITE, 10 YEARS
- c) ADOPTION OF RESOLUTION NO. 3920 APPROVING A FIRST
AMENDMENT TO REIMBURSEMENT AGREEMENT WITH
RESPECT TO THE VARIABLE RATE DEMAND CERTIFICATES

Consent
Calendar

1 OF PARTICIPATION (ADMINISTRATIVE BUILDING PROJECT)
2 AND OTHER MATTERS PERTAINING THERETO

3 Director Cardenas requested that Item 8(c) be pulled from the consent
4 calendar for discussion. A motion was made by Director Inocentes, seconded
5 by Director Lopez and carried with the following vote:

6 Ayes: Directors Inocentes, Lopez, Bonilla, Cardenas, Croucher
7 Noes: None

8 to approve the consent calendar pulling Item 8(c) for discussion.

9 8. Designated Acting General Manager Griego stated that the next
10 item on the agenda to be addressed is Item 8(c) which was pulled from the
11 consent calendar regarding approval of a first amendment to reimbursement
12 agreement with respect to the Variable Rate Demand Certificates of
13 Participation (Administrative Building Project) and other matters pertaining
14 thereto. Director Cardenas inquired about the administrative fees attached to
15 the points that the District earns on the investment with the variable rate
16 demand certificates of participation. Accounting Manager Joe Beachem stated
17 that there are some fees but there has not been a fee increase for five years.
18 However, this year the bank has asked for a small increase. Director Cardenas
19 stated that the Finance Committee discussed the fact that the \$28 million debt
20 should be retired and it is his recommendation that this be carried out.

21
22
23
24 Director Inocentes stated that a fixed fee had been discussed because
25 the interest rates are low at this time. Mr. Beachem stated that entering into the
26 Letter of Credit does not prevent us from looking at those options. He also
27 stated that there is an urgency regarding this agreement and that the District
28 would go into default on the bonds or be required to immediately pay them off if
29

Variable
Rate
Demand
Certifi-
cates

1 this item is not approved. Director Inocentes stated that it might be
2 considerable savings to the District to refinance.

3 A motion was made by Director Inocentes, seconded by Director Lopez
4 and carried with the following vote:

5 Ayes: Directors Inocentes, Lopez, Bonilla, Croucher
6 Noes: Director Cardenas

7 to adopt Resolution No. 3920 approving a first amendment to reimbursement
8 agreement with respect to the variable rate demand certificates of participation
9 (administrative building project) and other matters pertaining thereto.
10

11 9. Designated Acting General Manager Griego indicated that the
12 next item on the agenda are action items from previous meetings that were
13 tabled by the Board. There was discussion regarding items that were tabled
14 from a previous Board meeting that were not listed on the current agenda.
15

16 Director Cardenas stated regarding Item 9(a)(i) Reorganization of the
17 Otay Water District Board, Special Counsel Garcia informed the Board that it is
18 not allowed to change the presidency at will, that it is a one year duration.
19

20 Special Counsel Garcia stated that the Water Code provides the term of
21 office for President is two years; that the elections occur on two year cycles.

22 The District's Code is different. It provides for elections each January. Section
23 1.03(B) of the Code provides the procedure that will be followed and the
24 procedure provides:
25

26 ...the proceedings for election of the President, which
27 shall be the first order of business after any newly-
elected directors have been seated.

28 This contemplates elections of a new Board after the election of new
29 Board members. It doesn't provide for the election of Board members during

Discuss-
ion of
Reorgani-
zation of
OWD
Board

1 the middle of the year or during the middle of a term. He stated that if the
2 Board wishes to provide for election of Board members in a middle of a term,
3 the procedure needs to be changed. There was additional discussion regarding
4 the procedure of election of officers for the Board. Special Counsel Leal stated
5 there is ambiguity in the Code. It states officers are elected for one year or until
6 their successors are elected. The Code does not provide for removal of the
7 President. The Board is compelled to keep the election structure for one year.
8

9 Special Counsel Garcia stated that the Board should notice a motion to
10 amend the Code of Ordinances for the reorganization of the Board.
11

12 There was discussion regarding resignation of the President reserving
13 the right to be renominated at a later time. Special Counsel Garcia stated that if
14 there was a resignation under the way the Code is currently written, the Vice
15 President would assume the duties of the President. Director Lopez stated the
16 intent of the Code is to create stability to the Board by electing officers once a
17 year.
18

19 Director Croucher stated that because there are legal issues surrounding
20 agenda items 9(i) through (iv), he will vote "no" on these items at this time. He
21 suggested that an item should be placed on a future agenda to address the
22 Code of Ordinances and what we need to do to change the Code first before
23 these issues are addressed.
24

25 A motion was made by Director Croucher, seconded by Director
26 Inocentes and carried with the following vote:
27

28 Ayes: Inocentes, Lopez, Bonilla, Cardenas, Croucher
29 Noes: None

1 that the Board reject Item 9(i) and bring back on the agenda at the next
2 Board meeting, a review of policies, procedures for the elections, the powers of
3 the President and the powers of the General Manager. Director Cardenas
4 stated that his "aye" vote is to be counted with the qualification that discussion
5 of reorganization of the Otay Water District Board can be brought back after the
6 Board reviews the Code of Ordinances at a future Board meeting.
7

8 10. Designated Acting General Manager Griego indicated that the
9 next item on the agenda is Item 9(ii) personnel matters regarding the Special
10 Counsel and the action was dismissal of Special Counsel Burke Williams &
11 Sorensen.
12

13 Director Cardenas made a motion to open up this item for discussion.
14 The motion was seconded by Director Inocentes. There was discussion
15 regarding invoices submitted by the law firm of Burke Williams & Sorensen
16 totalling \$124,000 for a period of three months from December 4, 2000 through
17 February 28, 2001. There was discussion regarding whether the matter is a
18 personnel matter and should be discussed in closed session.
19

20 Director Croucher stated that he does not feel the District needs two law
21 firms representing the District but at this time, until the Board becomes more
22 stable, both law firms should remain employed by the District.
23

24 A motion was made by Director Cardenas, seconded by Director
25 Inocentes and failed with the following vote:

26 Ayes: Directors Inocentes and Cardenas
27 Noes: Directors Lopez, Bonilla and Croucher

28 to dismiss Special Counsel Burke Williams & Sorensen.
29

1 11. Designated Acting General Manager Griego stated that the next
2 item on the agenda, Item 9(iii), Personnel Matters Regarding the Acting General
3 Manager, Dismissal of Acting General Manager. Director Inocentes asked for
4 clarificiation regarding if the discussion is to dismiss Acting General Manager
5 Mateo Camarillo. Director Bonilla confirmed the item is to discuss dismissal of
6 Acting General Manager Mateo Camarillo.
7

8 A motion was made by Director Cardenas, seconded by Director
9 Inocentes and failed with the following vote:

10 Ayes: Director Inocentes and Cardenas
11 Noes: Director Lopez, Bonilla and Croucher

12 to dismiss the Acting General Manager.

13
14 12. Designated Acting General Manager Griego indicated that the
15 next item is Item 9(iv) Personnel Matters Regarding the Appointment of an
16 Acting General Manager, Appointment of Jim Gunstinson as Interim General
17 Manager. There was no motion. Director Croucher stated that he would like to
18 see, as a future agenda item, appointment of a General Manager.
19

20 13. Designated Acting General Manager Griego indicated the next
21 item is Item 9(b) Election of LAFCO Special Districts Advisory Committee
22 Members and that the Board cast votes for one regular member of LAFCO (San
23 Diego Local Agency Formation Commission) and nine advisory members. He
24 stated that Mr. Bonilla is a nominee for the LAFCO Board. He has withdrawn
25 his nomination. Ronald Wootton from the Vista Fire Protection District is the
26 other candidate nominated as a regular member for the LAFCO Board.
27

28 A motion was made by Director Lopez, seconded by Director Inocentes
29 and carried with the following vote:

Election
of
LAFCO
Advisory
Commit-
tee
Members

1 Ayes: Director Inocentes, Lopez, Bonilla, Cardenas, Croucher
2 Noes: None.

3 to vote for Ronald Wootton as the regular member for LAFCO Board.

4 Designated Acting General Manager Griego also indicated that the next
5 action required for Item 9(b) is to vote for nine of the Special Districts Advisory
6 Committee Members.

7 A motion was made by Director Inocentes, seconded by Director
8 Croucher and carried with the following vote:

9 Ayes: Directors Inocentes, Lopez, Bonilla, Cardenas, Croucher
10 Noes: None.

11 to support the nine incumbents of the Special Districts Advisory
12 Committee Member which include Dan McMillan from Padre Dam Municipal
13 Water, Raymond Cruz from Vallecitos Water District, Barbara Barber from Helix
14 Water District, Tom Pocklington from Bonita Sunnyside Fire Protection District,
15 John Pastore from Rancho Santa Fe Community Services District, James
16 Wolniewicz from South Bay Irrigation District, Judy Hanson from Leucadia
17 County Water District, Darrell Jobes from East County Fire Protection District
18 and Kevin Eggleston from San Miguel Consolidated Fire Protection District

19 14. Designated Acting General Manager Griego indicated that the
20 next item to be addressed is Item 10(a) which is an item that was pulled by
21 Director Inocentes at the June 6, 2001 meeting regarding some warrants that
22 were paid. The list of the warrants are attached to the staff report.

23 Director Inocentes stated that the staff report merely itemizes the checks.
24 It does not offer clarification on the checks. Concerning check numbers 96572
25 and 96386 made payable to Juan D. Araiza, Director Inocentes inquired as to
26 what Mr. Araiza was doing for the District and how did he get a consultant

1 contract with a hiring freeze in place. Director Inocentes asked if the warrants
2 listed have been paid. Mr. Griego stated that the vendors have been paid.

3 There was discussion regarding staff hiring to fill the GIS position to
4 administer the GIS system. Mr. Griego stated that the person hired met the
5 requirements for the position which are highly technical. He stated that for the
6 District to complete the transaction to hire this person, we had to pay
7 immigration fees. Chief of Administrative Services and Finance German
8 Alvarez stated that the INS fees the District paid were to help with the process
9 and paperwork for the District to become the sponsoring employer in order to
10 complete the transaction. Director Croucher asked if there is money in the
11 budget for services such as INS fees. Designated Acting General Manager
12 stated that it is in the budget.

13 There was discussion regarding the public relations firm of Marston &
14 Marston and the length and amount of their contract.

15 There was discussion regarding the services and amount paid to PRM
16 Consulting for demographic and redistricting work. Mr. Griego stated that PRM
17 Consulting has stopped work for the District. They did perform some work for
18 Acting General Manager Camarillo regarding the Water Conservation Garden
19 and they also provided some initial demographics. He stated he will bring back
20 some detailed information to the Board regarding the work PRM Consulting has
21 performed.

22 A motion was made by Director Croucher, seconded by Director Lopez
23 and carried with the following vote:
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1 the District. He stated that if there is a hiring freeze, that the Board clear it up at
2 this time. Each time the General Manager has filled positions, he has brought it
3 to the Board. At the last Board meeting, there were nine (9) positions vacant
4 that were severely critical and needed to be filled. Five of the positions have
5 been filled. Currently, there are 25 positions that need to be filled. Director
6 Croucher stated that the Board will be discussing personnel issues in closed
7 session as well as the appointment of a General Manager and it is his
8 recommendation that these positions be held until that appointment is finalized.
9

10 A motion was made by Director Croucher, seconded by Director
11 Cardenas and carried with the following vote
12

13 Ayes: Directors Inocentes, Lopez, Bonilla, Cardenas, Croucher
14 Noes: None

15 to freeze filling District vacancies until after the appointment of a General
16 Manager.

17 17. Designated Acting General Manager Griego stated that the next
18 item on the agenda to be addressed is Item 10(d) discussion of renewal of the
19 District's property and liability insurance coverage. Mr. Griego stated that
20 Special Counsel Garcia has spoken with the District's insurance broker and he
21 will give a report on this matter.
22

23 Special Counsel Garcia stated that last year the Board entered into a 3-
24 year policy of insurance for general liability and included in that was an
25 employment practices liability policy as well as Directors' errors and omissions
26 insurance. The carrier has informed us that they are cancelling the policy on
27 the grounds of a material increase in risk to them. The agent informed him that
28 when the District was represented by Coregis Insurance, there were two claims
29

District's
Property
and
Liability
Insurance
Coverage

1 which were both six figure items that did not get included in the application for
2 the Kemper Insurance. They were concerned when those two claims appeared
3 after we resubmitted our application. In addition, there are two other claims that
4 the Board has already taken action on with respect to the Harron matter and
5 also with respect to the *Rodriguez v. Otay* matter where a claim was made.
6
7 The Harron claim was denied by the Board. In addition, the carrier is
8 concerned about litigation activity among Directors in the past few months.
9 Staff has responded to Kemper and Kemper will continue coverage for the
10 District on all items except for employer's liability and Directors' errors and
11 omissions. They have provided a substitute carrier, AIG, to provide coverage
12 for the District in those areas. The rate for the District's coverage on all areas
13 other than employer's liability and Directors' errors and omissions is \$159,000.
14 Last year, it was \$129,000. Kemper is justifying the increase on the grounds of
15 a raise in payroll and an additional \$1.7 million in assets to be covered and 14
16 additional cars the District purchased. With respect to the errors and omissions
17 and employment practice liability coverage, the rate for that is \$30,000 and the
18 District will have coverage in those areas with deductibles of \$50,000 per claim.
19 If a third party sues the District, it will be \$75,000 deductible. Kemper also
20 stated that if the District has a normal year, for the next eight months, they will
21 reinstate the coverage effect July 1, 2002. The action before the Board now is
22 to approve the new rate of \$159,000.

26 Special Counsel Garcia stated when the *Rodriguez v. Otay* case began,
27 Gary Park of his office gave notice to the carrier on behalf of the District. The
28 second issue is that Special Counsel Garcia was named in that lawsuit
29 individually. The retainer agreement the District has with Burke, Williams &

1 Sorensen provides that whenever Special Counsel Garcia carries out duties on
2 behalf of the District in his capacity as counsel for the District and somebody
3 sues, he is entitled to a defense.

4 A motion was made by Director Lopez, seconded by Director Bonilla and
5 carried with the following vote:
6

7 Ayes: Directors Inocentes, Lopez, Bonilla, Croucher
8 Noes: Director Cardenas

9 to approve the renewal of the District's property and liability insurance
10 coverage with Kemper Insurance in the amount of \$159,418 and the purchase
11 of Employment Practices Liability and Directors'/Officers coverage for \$31,000
12 from another insurance firm.

13
14 18. Designated Acting General Manager Griego indicated that the
15 next item on the agenda is Directors' Reports. There were no reports.

Director's
Reports

16 Director Croucher clarified that there is a vacant position for Otay on the
17 Metro Commission Board. Mr. Griego confirmed that Otay does have a
18 vacancy on the Metro Commission Board. Director Croucher asked if there are
19 any other commissions that Otay should have representation.
20

21 Director Lopez stated he welcomes the fresh breath and integrity
22 Director Croucher is bringing to this Board.

23 Director Inocentes also welcomed Director Croucher. He stated that he
24 went to the Metropolitan Water District meeting last week. MWD is in the
25 process of approving their budget. He will report again on June 28.
26

27 19. Designated Acting General Manager Griego indicated that the
28 Board will be convening into closed session to discuss the following item:
29

Closed
Session

a) PENDING LITIGATION – GOVERNMENT CODE §54956.9(b)(2)

- 1) OTAY WATER DISTRICT V. TREPTE
- 2) RODRIGUEZ V. OTAY

b) CONFERENCE WITH LABOR NEGOTIATOR – GOVERNMENT
CODE §54957 (LABOR RELATIONS NEGOTIATIONS)

The Board convened into closed session at 5:31 p.m.

20. The Board reconvened at 7:06 p.m. Special Counsel Bonifacio Garcia indicated that the Board gave direction to counsel on the *Otay v. Trepte* matter, no action was taken with respect to the *Rodriguez v. Otay* matter, no reportable action. In conference with labor negotiators, the Board gave direction to staff. No other reportable action was taken in closed session.

21. With no further business to come before the Board, President Bonilla adjourned the meeting at 7:07 p.m.

President

ATTEST:

District Secretary