

**MINUTES OF THE
BOARD OF DIRECTORS MEETING OF THE
OTAY WATER DISTRICT
September 2, 2009**

1. The meeting was called to order by Vice President Lopez at 3:30 p.m.

2. ROLL CALL

Directors Present: Breitfelder, Bonilla, Lopez and Robak
Directors Absent: Croucher
Staff Present: General Manager Mark Watton, Asst. GM Administration and Finance German Alvarez, Asst. GM Engineering and Water Operations Manny Magana, General Counsel Yuri Calderon, Chief of Information Technology Geoff Stevens, Chief Financial Officer Joe Beachem, Chief of Engineering Rod Posada, Chief of Operations Pedro Porrás, Chief of Administration Rom Sarno, District Secretary Susan Cruz and others per attached list.

3. APPROVAL OF AGENDA

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

Ayes: Directors Breitfelder, Bonilla, Lopez and Robak
Noes: None
Abstain: None
Absent: Director Croucher

to approve the agenda.

4. PUBLIC PARTICIPATION – OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO SPEAK TO THE BOARD ON ANY SUBJECT MATTER WITHIN THE BOARD'S JURISDICTION BUT NOT AN ITEM ON TODAY'S AGENDA

No one wished to be heard.

CONSENT CALENDAR

5. ITEMS TO BE ACTED UPON WITHOUT DISCUSSION, UNLESS A REQUEST IS MADE BY A MEMBER OF THE BOARD OR THE PUBLIC TO DISCUSS A PARTICULAR ITEM:

Director Robak pulled item 6b, APPROVE AN AGREEMENT BETWEEN THE CITY OF CHULA VISTA AND OTAY WATER DISTRICT FOR JOINT PARTICIPATION TO PREPARE A WASTEWATER RECLAMATION FACILITY FEASIBILITY STUDY AND WHEREIN THE DISTRICT WILL PROVIDE THE CITY REIMBURSEMENT OF AN AMOUNT NOT-TO-EXCEED \$150,000 FOR THE COST OF THE STUDY, and item 6e, APPROVE IN CONCEPT THE

TRANSITION OF THE OPERATION OF THE WATER CONSERVATION GARDEN TO BECOME A NON-PROFIT 501(C)3 ENTITY AND AUTHORIZE SUPPLEMENTAL FUNDING OF \$7,750 IN FISCAL YEAR 2010 TO SUPPORT THE WATER CONSERVATION GARDEN'S TRANSITION TO A NON-PROFIT ORGANIZATION, for discussion.

A motion was made by Director Robak, seconded by Director Breitfelder and carried with the following vote:

Ayes:	Directors Lopez, Breitfelder, Bonilla and Robak
Noes:	None
Abstain:	None
Absent:	Director Croucher

to approve the following consent calendar items:

- a) APPROVE A TWELVE MONTH EXTENSION OF THE AGREEMENT WITH BOYLE ENGINEERING CORPORATION (NOW AECOM USA, INC.) FOR AS-NEEDED OFF-SITE POTABLE AND OFF-SITE RECYCLED WATER PLAN CHECKING SERVICES FOR DEVELOPER PROJECTS FOR AN AMOUNT NOT-TO-EXCEED \$150,000
- c) ANNUAL REVIEW OF INVESTMENT POLICY (POLICY NO. 27) AND DELEGATION OF AUTHORITY FOR ALL INVESTMENT RELATED ACTIVITIES TO THE CHIEF FINANCIAL OFFICER IN ACCORDANCE WITH GOVERNMENT CODE SECTION 53607
- d) APPROVE AMENDMENTS TO THE HUMAN RESOURCES DISCIPLINE POLICY; AND ADOPT RESOLUTION NO. 4146 TO REVISE BOARD OF DIRECTORS POLICIES 47, POLICY AGAINST DISCRIMINATION AND HARASSMENT AND COMPLAINT PROCEDURE; AND 24, RECRUITMENT, SELECTION, AND EMPLOYMENT POLICY
- f) CONSIDER DESIGNATING A REPRESENTATIVE AND ALTERNATE TO ATTEND THE BOARD OF DIRECTORS MEETING OF THE SOUTH COUNTY ECONOMIC DEVELOPMENT COUNCIL
- g) CONSIDER CASTING VOTES TO ELECT A CHAIR, VICE CHAIR AND FIVE (5) BOARD MEMBER REPRESENTATIVE TO THE ASSOCIATION OF CALIFORNIA WATER AGENCIES (ACWA) BOARD REPRESENTING REGION 10
- h) CONSIDER CASTING A VOTE TO ELECT A REPRESENTATIVE TO THE CALIFORNIA SPECIAL DISTRICTS ASSOCIATION (CSDA) BOARD OF DIRECTORS, REGION 6, SEAT A

Vice President Lopez presented items 6b and 6e for discussion:

- b) APPROVE AN AGREEMENT BETWEEN THE CITY OF CHULA VISTA AND OTAY WATER DISTRICT FOR JOINT PARTICIPATION TO

PREPARE A WASTEWATER RECLAMATION FACILITY FEASIBILITY STUDY AND WHEREIN THE DISTRICT WILL PROVIDE THE CITY REIMBURSEMENT OF AN AMOUNT NOT-TO-EXCEED \$150,000 FOR THE COST OF THE STUDY

Director Robak inquired about the basic concept and goal of the District's CIP R2093 Wastewater Reclamation Facility Feasibility Study. Staff indicated that the Study is a result of the City of Chula Vista's need for additional sewer treatment capacity in the future to accommodate population growth. It was indicated that the City of Chula Vista, Sweetwater Authority, and Otay Water District previously initiated a study that provided numbers, demands and supplies. Since then, the Sweetwater Authority has decided to no longer participate in the study. Staff indicated that the City and District will work jointly and cooperatively towards the completion of the Study, which is needed to determine if it is better to purchase sewer treatment capacity from Metropolitan Water District for approximately \$100 million or to construct a facility that would utilize Membrane Bioreactor (MBR) technology for \$70 million. The Study would also help answer questions such as what are the benefits of an additional sewer treatment facility, what is the strategic plan for distributing recycled water, and would the new facility be cost effective.

In response to a question from Director Robak, staff indicated that the total budget for CIP R2093 for the next six years is \$5 million which will go towards the plan and design of the proposed MBR sewer treatment facility.

Director Robak inquired about a statement in the committee notes within staffs' report regarding a potential improvement of the quality of recycled water for the South Bay area. Staff indicated that the District currently purchases recycled water from the City of San Diego's South Bay Water Reclamation Plant whose recycled water contains a significant amount of saline because of the nearby sea water. It is believed that the proposed MBR Facility would help lessen the saline level from South Bay Water Reclamation Plant.

A motion was made by Director Robak, seconded by Director Breitfelder and carried with the following vote:

Ayes:	Directors Lopez, Breitfelder, Bonilla and Robak
Noes:	None
Abstain:	None
Absent:	Director Croucher

to approve staffs' recommendation.

- e) APPROVE IN CONCEPT THE TRANSITION OF THE OPERATION OF THE WATER CONSERVATION GARDEN TO BECOME A NON-PROFIT 501(C)3 ENTITY AND AUTHORIZE SUPPLEMENTAL FUNDING OF

\$7,750 IN FISCAL YEAR 2010 TO SUPPORT THE WATER
CONSERVATION GARDEN'S TRANSITION TO A NON-PROFIT
ORGANIZATION

Director Robak stated that he would like to see the Water Conservation Garden become more self-sufficient, but at the same time he would like to temper what is being anticipated by the draft calendar/timeline proposed in staffs' report in transitioning the Garden to a non-profit 501(c)(3) entity. He indicated that he was involved when the Garden was establishing the *Friends of the Garden*, a non-profit 501(C)(3) entity, and from that experience, he believes the transition will be delayed because of the recession. He stated that he felt that the transition should move forward, but to keep in mind that it may take a while to complete.

A motion was made by Director Robak, seconded by Director Breitfelder and carried with the following vote:

Ayes:	Directors Lopez, Breitfelder, Bonilla and Robak
Noes:	None
Abstain:	None
Absent:	Director Croucher

to approve staffs' recommendation.

ACTION ITEMS

6. FINANCE AND ADMINISTRATION

- a) UPDATE REPORT ON DIRECTORS' EXPENSES FOR THE 4TH QUARTER OF FISCAL YEAR 2009

Finance Supervisor of Payroll and Accounts Payable Sean Prendergast provided a PowerPoint presentation providing a review of the Board of Directors' 4th Quarter expenses and per-diems for FY 2009. Per diem and expenses for the 4th quarter totaled \$6,846. He also provided each Board member's year-end expenditures for FY 2009 and their total together of \$39,986.59. He indicated that the Directors' expenses declined more than 60% from 1999 to 2009 and that the average expenses from 1999 to 2008 were \$53,083.

7. ENGINEERING AND WATER OPERATIONS

- a) ADOPT RESOLUTION NO. 4145 TO IMPLEMENT BOARD OF DIRECTORS POLICY 52, ADMINISTRATION OF RECYCLED WATER RETROFIT PROGRAM

Public Services Manager David Charles indicated that the *Retrofit Program* is included in the District's strategic plan to optimize the use of recycled water. It was noted that Section 26 of the District's Code of Ordinances states, "It is the policy of the District that recycled water shall be used within the jurisdiction wherever its use is financially and technically feasible, and consistent with legal requirements, preservation of public health, safety and welfare, and the

environment.” Public Services Manager Charles indicated that an opportunity arose to include the extension of the recycled water main in Otay Lakes Road/Telegraph Canyon Road to East “H” Street for future service to multi-family dwellings, Southwestern College and Bonita Vista High School. It was indicated that this extension will be incorporated into the retrofit program as a pilot project. Public Services Manager Charles stated that the pilot project would benefit the District as well as participating end users who would save 15% off their potable water/sewer bill. In addition, if drought conditions worsen, end users will not be required to pay associated sewer fees. Upon Board approval, staffs’ expectation is to enter into an agreement with three Homeowner Associations (HOA) and two educational institutions (Southwestern College and Bonita Vista High School) within the next several months.

Director Breitfelder inquired if representatives from the HOA were present. Public Services Manager Charles indicated that Mr. Tom Vereal from the Winding Walk HOA and Mr. Ted Ponce from Shea Homes were present to address their support of the pilot project. It was noted that one HOA managed by Mr. Vereal will see immediate savings of approximately \$5,000 a month upon connecting its irrigation to the recycled water system. This would save approximately 28 acre-feet of potable water per year.

General Manager Watton indicated that the City of Chula Vista is preparing to upgrade and widen its utility corridor on Otay Lakes Road, so staff is taking the opportunity to launch the District’s Recycled Water Retrofit Program’s pilot project. Staff is working with the City to coordinate construction projects at the same time to ensure time/cost efficiency and minimize impacts to the community. It was noted that the pilot project would give staff a chance to learn and make adjustments to the District’s program policies, procedures and reimbursement methodology to assure that future conversions are efficient.

Director Robak inquired if the District’s reimbursement methodology for its Recycled Water Retrofit Program was a combination of methodologies used by other agencies who have implemented similar programs. Staff stated no and indicated that the other agencies utilize low interest loans in their recycled water retrofit program’s reimbursement methodology. Staff stated that it would be easier for the District and participants of the program to use a straightforward 50/50 reimbursement methodology instead of dealing with banking administration and potential loan defaults.

Director Robak inquired if staff applied for grants to fund the District’s Recycled Water Retrofit Program. Staff indicated that they had and stated that a grant request was submitted to the Bureau of Reclamation, but it was not successful.

A motion was made by Director Robak, seconded by Director Breitfelder and carried with the following vote:

Ayes:	Directors Lopez, Breitfelder, Bonilla and Robak
Noes:	None
Abstain:	None
Absent:	Director Croucher

to approve staff's recommendation.

8. BOARD

a) DISCUSSION OF 2009 BOARD MEETING CALENDAR

Director Bonilla indicated that he is scheduled to be out-of-town on October 7, 2009 and would not be able to attend the Board meeting on that day.

REPORTS

9. GENERAL MANAGER'S REPORT

General Manager Watton indicated that attached to his report is legislation information related to the Bay Delta. He stated that two hearings on the Bay Delta are currently being convened, but are expected to be continued due to other priorities on the Legislature's agenda.

He stated that the Association of California Water Agencies (ACWA) and the Metropolitan Water District (MWD) are advocating for a fee base and/or per meter charge and the fees would go towards funding for fixing the Bay Delta. In the past, the Otay Water District has tried to resist these charges to avoid shifting the majority of costs to urban users. It is felt that costs should go towards primary users of the Delta facilities. It was stated that the Bay Delta will continue to have issues and that local water agencies should make an effort to diversify their water supplies by looking into alternatives such as desalination, ground-well and recycled water conversion.

He indicated the District closed escrow on several properties which were no longer required by the District on July 24, 2009. He stated that it was a benefit to remove the parcels from its inventory as it prevents potential liabilities and the responsibility of maintaining the property.

Director Lopez inquired if MET's rebate program was new or just a continuation of a previous program. Staff indicated that the program was new and that MET's board had approved an allocation of \$19 million for the new rebate program. The rebate program will not require reservations as previous programs.

General Manager Watton indicated letters were sent to schools within the District's service area to promote the Water Conservation Garden tours. Staff indicated that the letters were sent to school principals and interested teachers.

General Manager Watton further shared that PBS&J was awarded a contract to periodically review the District's capacity/annexation fees to ensure that the fees are up-to-date and in compliance of the AB 1600 requirements.

He indicated that a water sales report is prepared and refined daily by staff to assist the District in determining water sales. The report shows that customers

have cut back water use by approximately 14%, which exceeds the District's water conservation goals.

He stated the Otay WD (District), City of Chula Vista (City), and Sweetwater Authority (SWA) have agreed to seek federal funding for the following three key projects: 1) The Otay River Desalination Facility; 2) Regional Brine Conveyance Facility; and 3) Membrane Bioreactor Treatment Facility. In an effort to promote and advance the projects, the District agreed to split the travel expenses for Mr. Rick Alexander of SWA to meet with the congressional committee staff in Washington D.C.

SAN DIEGO COUNTY WATER AUTHORITY UPDATE:

It was indicated that General Manager Watton had attended a mediation on behalf of the District and Director Croucher was out of town during the CWA Board meeting. Mr. Mark Muir of Olivenhain MWD was designated by proxy to vote on behalf of the District at CWA's August 2009 meeting. General Manager Watton stated that the agenda was routine and did not have items requiring representation by Otay.

10. DIRECTORS' REPORTS/REQUESTS

Director Lopez announced the passing of Nora Jaeske who was President of the Friends of the Garden and an individual who was very actively involved with the Water Conservation Garden and other similar programs. The board held a moment of silence in Ms. Jaeske's honor. Director Robak stated that Ms. Jaeske was amazing and unbelievable when it came to the Garden and was a very caring person. He stated that her passing is a tremendous loss for the community and Water Conservation Garden and that her establishments will carry on. Director Breitfelder stated that Ms. Jaeske was a very good friend to the District and she will be missed.

It was noted that consent agenda item 6f was unanimously approved by the Board which designates Directors Breitfelder and Lopez as the District's representative and alternate, respectively, to attend the South County Economic Development Council Board of Directors meetings.

Director Robak indicated that he and Director Breitfelder attended a 1296-3 Reservoir tour and he was pleased with the project's quality of work and construction. He also noted that he reviewed the details of CWA's Value Engineering Study for the San Vicente Dam, a \$600 million dollar project funded by the twenty-four (24) members of CWA, and he stated that it was reassuring to know that CWA is taking the necessary steps to ensure that the San Vicente Dam will be completed in an efficient manner.

Director Breitfelder reported that he attended the Council of Water Utilities meeting and the Surfrider Foundation members attended and protested the Rosarito Beach Desalination Project. He noted that City of San Diego Councilmember Donna Frye is actively involved with the organization. He

commended Chief Financial Officer Beachem for his role in the higher than LAIF returns on the District's investments.

Director Lopez stated that the desalination project seems to be on the public's mind as comments were received from the public at the District's Special Board of Directors Meeting held on August 24, 2009. He indicated that the Board had responded that the District is working to move the proposed desalination project forward and hopes to bring it to fruition.

RECESS TO CLOSED SESSION

11. CLOSED SESSION

The board recessed to closed session at 4:20 p.m. to discuss the following items:

- a) CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION
[GOVERNMENT CODE §54956.9(a)]
 - (I) OTAY RIVER CONSTRUCTORS, ET. AL. V. SOUTHBAY EXPRESSWAY, ET. AL.; CASE NO. GIC 869386 (CONSOLIDATED)
 - (II) INFRASTRUCTURE ENGINEERING CORP. V. OTAY WATER DISTRICT, COUNTY OF SAN DIEGO, SUPERIOR COURT, CASE NO. 37-2008-00093876-CU-BC-CTL

RETURN TO OPEN SESSION

12. REPORT ON ANY ACTIONS TAKEN IN CLOSED SESSION. THE BOARD MAY ALSO TAKE ACTION ON ANY ITEMS POSTED IN CLOSED SESSION

The board reconvened at 4:50 p.m. General Counsel Calderon indicated that the board took no reportable actions in closed session.

13. ADJOURNMENT

With no further business to come before the Board, Vice President Lopez adjourned the meeting at 4:50 p.m.

President

ATTEST:

District Secretary