

**MINUTES OF THE
BOARD OF DIRECTORS MEETING OF THE
OTAY WATER DISTRICT
February 5, 2014**

1. The meeting was called to order by President Lopez at 3:35 p.m.

2. ROLL CALL

Directors Present: Gonzalez, Lopez, Robak, and Thompson

Directors Absent: Croucher

Staff Present: General Manager Mark Watton, General Counsel Dan Shinoff, Asst. GM German Alvarez, Chief of Engineering Rod Posada, Chief Financial Officer Joe Beachem, Chief of Information Technology Geoff Stevens, Chief of Administration Rom Sarno, Chief of Operations Pedro Porras and District Secretary Susan Cruz and others per attached list.

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF AGENDA

A motion was made by Director Gonzalez, and seconded by Director Thompson and carried with the following vote:

Ayes: Directors Gonzalez, Lopez, Robak, and Thompson
Noes: None
Abstain: None
Absent: Director Croucher

to approve the agenda.

5. APPROVE THE MINUTES OF THE REGULAR MEETINGS OF NOVEMBER 6, 2013 AND JANUARY 7, 2014

A motion was made by Director Thompson, seconded by Director Gonzalez and carried with the following vote:

Ayes: Directors Gonzalez, Lopez, Robak, and Thompson
Noes: None
Abstain: None
Absent: Director Croucher

to approve the minutes of the regular meetings of November 6, 2013 and January 7, 2014.

6. PRESENTATION ON THE OTAY WATER DISTRICT RECEIVING THE DISTRICT OF DISTINCTION ACCREDITATION AND DISTRICT TRANSPARENCY CERTIFICATE OF EXCELLENCE FROM THE SPECIAL DISTRICT LEADERSHIP ASSOCIATION

Director Gonzalez indicated that he had the honor of receiving the District of Distinction Award and the District of Transparency Certificate of Excellence from the Special District Leadership Foundation (SDLF) on behalf of the District. The District of Distinction Award recognizes the District for demonstrating a strong commitment to practicing sound management, fiscal practices and operations. The District of Distinction Award was received for the District's sound practice of transparency which included posting on the District's website board meetings, agendas, etc. SDLF is an independent, non-profit organization formed to promote good governance and the best practices among California's special districts through certification, accreditation and other recognition programs. He stated that Otay is honored to receive this accreditation from a respected third party as it is affirmation from a third party of Otay's longstanding commitment to transparency and accountability.

President Lopez requested that the District's receipt of these awards also be announced at the next California Special District Association meeting.

7. 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

8. 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 7c, APPROVE A PROFESSIONAL AS-NEEDED SERVICES CONSULTING SERVICES CONTRACT WITH DR. MICHAEL WELCH IN AN AMOUNT NOT-TO-EXCEED \$100,000 FOR FISCAL YEARS 2014 THROUGH 2019, for discussion. Director Thompson pulled item 7e, APPROVE A RENEWAL TO THE "AGREEMENT FOR THE TEMPORARY EMERGENCY DELIVERY OF A PORTION OF THE MEXICAN TREATY WATERS," for discussion.

Upon a motion by Director Robak, seconded by Director Thompson and carried with the following vote:

Ayes: Directors Gonzalez, Lopez, Robak, and Thompson
Noes: None

Abstain: None
Absent: Director Croucher

to approve the following consent calendar items:

- a) APPROVE A MESSAGE ON ALL PROPOSITION 218 NOTICES DIRECTING CUSTOMERS TO CONTACT THE DISTRICT'S CUSTOMER SERVICE DEPARTMENT FOR AN EXPLANATION IN SPANISH OF THE CONTENTS OF THE 218 NOTICE
- b) REAFFIRM RESOLUTION NOS. 4219 AND 4220 INITIATING THE PROCESS FOR THE EXCLUSION OF PARCELS WITHIN IMPROVEMENT DISTRICTS (IDs) 19 AND 25 AND ALSO AMEND THESE RESOLUTIONS TO REVISE THE DATE OF THE PUBLIC HEARING TO MARCH 5, 2014; CONCURRENT WITH THIS ACTION, THAT THE BOARD ALSO REAFFIRM THE RESOLUTIONS OF INTENTION, NOS. 4221 AND 4222, THAT ARE NECESSARY TO INITIATE THE PROCESS FOR THE ANNEXATION OF THE EXCLUDED PARCELS IN IDs 19 AND 25 INTO IDs 22 AND 20, RESPECTIVELY
- d) APPROVE CHANGE ORDER NO. 1 TO THE EXISTING CONTRACT WITH ADVANCED INDUSTRIAL SERVICES, INC. FOR A CREDIT IN THE AMOUNT OF <\$73,338.63> FOR THE 803-3 AND 832-2 RESERVOIRS INTERIOR/EXTERIOR COATINGS AND UPGRADES PROJECT

President Lopez presented item 7c for discussion:

- c) APPROVE A PROFESSIONAL AS-NEEDED SERVICES CONSULTING SERVICES CONTRACT WITH DR. MICHAEL WELCH IN AN AMOUNT NOT-TO-EXCEED \$100,000 FOR FISCAL YEARS 2014 THROUGH 2019

Director Robak inquired what Mr. Michael Welch will be doing for the District over the next several years. Engineering Manager Bob Kennedy indicated that Mr. Welch has been assisting the District over the past 30 years. He assisted the District with the permitting process for the Ralph W. Chapman Water Reclamation Plant and the Salt and Nutrient Study that was required by the Regional Water Quality Control Board. He is currently assisting the District on the Otay Mesa Conveyance and Disinfection System Project. Mr. Kennedy indicated that Mr. Welch has a wide range of knowledge and his expertise will be utilized for many District projects. Mr. Welch is considered a preeminent expert in the western States and he has just signed a new contract with the City of San Diego to assist them with their Indirect Potable Reuse Project. It was noted that many seek his expertise for water reuse projects and State Health Department related issues.

Upon a motion by Director Robak, seconded by Director Lopez and carried with the following vote:

Ayes: Directors Gonzalez, Lopez, Robak, and Thompson
Noes: None
Abstain: None
Absent: Director Croucher

to approve staffs' recommendation.

President Lopez presented item 7e for discussion:

- e) APPROVE A RENEWAL TO THE "AGREEMENT FOR THE TEMPORARY EMERGENCY DELIVERY OF A PORTION OF THE MEXICAN TREATY WATERS"

In response to an inquiry from Director Thompson, Chief of Operations Pedro Porrás confirmed that the District will not be building additional facilities. Mr. Porrás indicated in response to additional questions from Director Thompson that originally the agreement, signed in 1972, was with Mexico and that same agreement was in place through 1983. Mr. Porrás indicated that Mexico had paid for portions of pipelines which are now considered by the District to be an integral part of the water system. Mexico also paid for some pumping upgrades in 1972. The 1972 agreement clearly stated at the end of the agreement, facilities that were paid by Mexico should be dismantled and returned to Mexico. This did not happen and in 1983, an illegal connection was discovered to the pipe which was providing water to another location in Mexico. When the illegal connection was discovered the pipe was removed.

In 1989 Mexico was in dire need for water and the United States Government directed Metropolitan Water District (MWD) to provide Mexico a connection quickly. A meter was not used on the emergency connection to the 14" pipeline. The water use was estimated by the District and was paid for by Mexico. This also occurred in 1992. In 2001, Mexico decided they would like a more permanent connection due to the drought and their growing population. A connection was built by CWA and was paid for by Mexico. It was agreed that the connection would be owned by the Otay WD. Mr. Porrás indicated that, unfortunately, subsequent agreements always referred to the 1972 agreement, which caused confusion as to who owns the facilities. The new agreement clarifies that the Otay WD owns all the facilities, requires Mexico to provide a deposit should the facilities require major repairs, and if the connection is no longer required, that Mexico is liable to pay to remove the facilities that are no longer required. Mr. Porrás indicated that Finance Manager Kevin Koeppen also worked on the agreement.

Upon a motion by Director Thompson, seconded by Director Gonzalez and carried with the following vote:

Ayes: Directors Gonzalez, Lopez, Robak, and Thompson
Noes: None
Abstain: None
Absent: Director Croucher

to approve staffs' recommendation.

ACTION ITEMS

9. BOARD

a) DISCUSSION OF THE 2014 BOARD MEETING CALENDAR

Director Thompson indicated that he would not be able to attend the April 2, 2014 board meeting and requested an excused absence. President Lopez indicated that he would not be available to attend the March 5, 2014 board meeting. President Lopez inquired if the March meeting could be moved to the following week. District Secretary Susan Cruz indicated she would poll board members for their availability on Tuesday, March 11, 2014.

Upon a motion by President Lopez, seconded by Director Thompson and carried with the following vote:

Ayes: Directors Gonzalez, Lopez, Robak, and Thompson
Noes: None
Abstain: None
Absent: Director Croucher

to move the March board meeting to Tuesday, March 11, 2014.

REPORTS

10. GENERAL MANAGER'S REPORT

General Manager Watton presented information from his report that included the District's new membership with the East County Chaldean American Chamber of Commerce, the ESRI Fall Water/Wastewater Conference; that preparation for the District's FY 2015 Budget is underway, the Administration Building fire sprinkler replacement project, meter sales and potable water purchases.

Director Thompson inquired with regard to the *Fitch Ratings Review* on page four (4) of the General Manager's report the reason for the downgrade of the District's credit rating. Chief Financial Officer Joe Beachem indicated that each year the District budgets water sales and during the economic downturn water sales was dramatically lower than anticipated. For about four (4) years during the downturn, there was a steep decline in sales, so revenues were lower than budgeted which impacted the District's debt coverage ratio. The debt coverage

ratio would not rebound as the District projected. Consequently, Fitch downgraded the District's rating to AA- due to the District's debt coverage ratio. The other two rating agencies did not lower the District's credit rating of AA.

The District recommended not raising rates to increase the debt coverage ratio and would go out to the debt market instead. Mr. Beachem indicated that the District does not want to spike its rates and would prefer to have a smooth rate increase over the next few years. It is likely in two to three years the District's debt coverage ratio would increase and staff would expect the District's credit rating to be raised. Director Thompson indicated that he would like a discussion of the impact of the District's credit rating to water rates included at the next Budget workshop. It was noted that a drop from AA to AA- is not a significant change, but if the District dropped to a single A, then there would be a significant impact to the District's borrowing rate. It was also noted that if the District does not issue debt, then there is no impact.

SAN DIEGO COUNTY WATER AUTHORITY UPDATE

General Manager Watton indicated that CWA has been focused on board policies, rates and the Desalination Project. He indicated that Director Croucher has been appointed to CWA's Fiscal Sustainability Task Force (FSTF) and both he and Director Croucher have been advocating that CWA hold presenting the policy on rates for action by CWA's board until the board can see the actual rates and the impacts of the rates. He stated that the Otay WD's staff has reviewed the proposed policy and it is felt that it needs work and would not be positive for the District. He, Director Croucher and the District's staff have presented the District's review of the policy at various CWA meetings so they may share the information with the other local agencies. He indicated that they have requested at CWA's FSTF to delay the vote on the policy until the board members and their respective staffs have had an opportunity to review the policy and its impact to rates. There are some arguments against holding the vote on the policy and CWA is taking a more extreme view. He noted that the proposed policy would charge Otay WD with high fixed costs which are not wise or fair in the long run, particularly if there is a drought or reduced water sales. He felt that CWA does not have the same issues as retailers do, and that they need to understand all their member agencies' issues. He stated, in the policy, CWA would like to impose a reliability charge. That is, if member agencies do not purchase water because they have local supplies, CWA's policy provides for an insurance policy for providing standby resources should an agency's local supplies fail. This concept is correct, however, the board policy being proposed by CWA is more punitive and impacts the ability of the member agencies' to bring their local supply projects to fruition. The policy will be presented to CWA's board at their February meeting. The Otay WD CWA board representatives and staff have been working to delay the presentation of the policy to CWA's board until some of the issues can be discussed and worked out.

Director Thompson inquired if there were enough agencies that would have the same issues with the policy as Otay WD. General Manager Watton indicated

that it is more about cost allocation and what is fair as required by Proposition 26. Otay has been very clear that CWA needs to provide a Cost of Service Study which justifies the costs they are allocating to Otay WD as is required by Proposition 26. Otay is taking an aggressive stance to protect its ratepayers.

11. DIRECTORS' REPORTS/REQUESTS

Director Robak indicated that he attended the *State of the County Address* last week where San Diego County Supervisor Dianne Jacob was sworn in as the new Chair of the Board of Supervisors. He indicated that they have centralized their facilities and that their new facilities in Kearny Mesa are very nice. He also shared that he discussed with President Lopez a new way of doing the Board documents electronically. He had received information from a company, Board Docs, and had the opportunity to view a demonstration of the software. The software is very interactive and provides for hyperlinks and the ability to write notes on the electronic board documents. The system can be run from your tablet or computer. He stated that he had spoken with District Secretary Cruz about the software before the board meeting and suggested that it is something worth reviewing along with other options as well.

Director Robak also shared that the California State Governor declared a drought on January 17. He stated that the public may have a hard time reconciling the Governor's message and the fact that the San Diego region is not as impacted because the region has been preparing for drought through the construction of storage projects. He suggested that the District's message to the public should indicate, due to this preparation, the region will not require mandatory cutbacks at this time. He also commented with regard to CWA's rate setting policy that it clearly affects other districts to their detriment and he hopes that CWA's board takes their time to review the policy and forestall making a decision.

Director Thompson indicated that he had no comments and would defer to President Lopez to comment on the meeting of the District's Desalination Project Committee held on January 28, 2014.

Director Gonzalez indicated that he did not have anything to report, but stated that he had been reviewing some of the District's conservation programs and inquired if some of the programs were with MWD. General Manager Watton indicated that the District does have programs with MWD and they include the rebate programs and the residential surveys.

12. PRESIDENT'S REPORT

President Lopez reported on meetings he attended during the month of January 2014 (a list of meetings he attended is attached). He also shared that the District published an article in response to the State Governor declaring a drought that provided the District's perspective on the drought. He lastly shared that he would be attending MWD's board meeting on Monday, February 10, 2014 to protest their rate increase. He indicated that there has been concern on how they

calculate rates, especially the water transportation rates. He will be requesting, as a member agency of CWA, that MWD forego rate increases in 2015 and 2016. The request is based on the fact that MWD has collected revenues over the past two (2) years that is \$6 million more than what is needed to pay 100% of their (MWD's) budgeted costs and exceeds their maximum reserve target level by \$320 million.

a. CLOSED SESSION

The board recessed to closed session at 4:42 p.m. to discuss the following matter:

a) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
[GOVERNMENT CODE §54956.9]

1 CASE

The board reconvened at 4:58 p.m. and the District's General Counsel, Dan Shinoff, reported that the board voted four to zero in favor of entering into a settlement agreement with the County of San Diego. The board took no other reportable actions in closed session.

13. ADJOURNMENT

With no further business to come before the Board, President Lopez adjourned the meeting at 4:59 p.m.

President

ATTEST:

District Secretary

President's Report
February 5, 2014 Board Meeting

A) Meetings attended during the Month of January 2014:

- 1) **January 7: Attended the District's Regular Board Meeting**
- 2) **January 13: Committee Agenda Briefing.** Met with General Manager Watton to review items that will be presented at the January Committee meetings.
- 3) **January 22: Attended a meeting of the Finance, Administration and Communications Committee.** Reviewed, discussed, and made recommendation on items that will be presented at the February 2014 board meeting.
- 4) **January 28: Attended a meeting of the District's Desalination Project Committee.** Received an update on the status of the Desalination Project, the District's desalination conveyance system and the regulatory processes.