

**MINUTES OF THE  
BOARD OF DIRECTORS MEETING  
OTAY WATER DISTRICT  
December 6, 2006**

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

2. ROLL CALL

Directors Present: Bonilla, Breitfelder, Lopez and Robak

Directors Absent: Croucher (out-of-town and unable to attend the board meeting)

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 Operations Pedro Porras, Chief of Engineering Rod Posada, Chief of Administration Rom Sarno, District Secretary Susan Cruz and others per attached list.

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF AGENDA

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

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

to approve the agenda.

5. APPROVAL OF MINUTES OF THE BOARD MEETING OF OCTOBER 4, 2006

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

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

to approve the minutes of the board meeting of October 4, 2006.

6. 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

Mr. Leonard Tolvo of El Cajon indicated that he is an Otay WD customer and had spoken to a district employee about five or six months ago about his neighbor who he felt was wasting water by washing down her driveway, sidewalk and the street in front of her home at least twice a week. The Otay employee indicated that they would handle it, but his neighbor is continuing her practice of washing down her driveway, etc. He indicated he has not heard any feedback and is requesting that the District please follow-up on his request. General Manager Watton indicated that the District would look into the matter and if he could please leave his contact information with District Secretary Cruz, the District will contact him with the outcome in the matter.

Mr. Jim Clements of El Cajon indicated that he was a former employee of the Otay Water District and had recently retired with almost 18 years of service to the district. He stated that he is requesting that the current board make right of a situation that occurred six years ago when the District eliminated the jobs of five employees through a layoff. He stated that many of the current board members were not on the District's board during the time of the layoffs. He indicated that the matter has been ongoing for six years and has been costly to both the former employees and the district. He stated that he is requesting that the current board agree to go to settlement as soon as possible and resolve this matter quickly prior to it going to trial.

CONSENT CALENDAR

7. 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:

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

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

to approve the following consent calendar items.

- a) OVERVIEW OF THE DISTRICT'S MEDICAL PROGRAM AND FISCAL YEAR 2007 BUDGET
- b) APPROVE THE PURCHASE OF AN ADDITIONAL 17,000 RADIO-READ WATER METERS FROM MASTER METERS, INC. THROUGH FISCAL YEAR 2010 UNDER THE TERMS AND CONDITIONS CONTAINED IN THE 10-YEAR AGREEMENT APPROVED BY THE BOARD ON DECEMBER 7, 2005

- c) APPROVE CONTRACTS WITH THE FOLLOWING FIRMS FOR SERVICES RELATED TO THE PENDING BOND SALE: (BEACHEM) [10 minutes]
  - i) CONTRACT WITH THE FIRM OF GARCIA, CALDERON, RUIZ AND THE FIRM OF SIDLEY AUSTIN FOR CO-BOND COUSEL SERVICES FOR A COMBINED \$50,000 PLUS OUT-OF-POCKET EXPENSES NOT TO EXCEED \$1,000
  - ii) CONTRACT WITH THE FIRM OF STRADLING, YOCCA, CARLSON & RAUTH FOR DISCLOSURE COUNSEL SERVICES FOR \$22,500 PLUS OUT-OF-POCKET EXPENSES NOT TO EXCEED \$2,500
  - iii) CONTRACT WITH UNION BANK FOR TRUSTEE SERVICES FOR AN AMOUNT NOT TO EXCEED \$1,500 PLUS INCIDENTAL OUT-OF-POCKET EXPENSES
- d) AWARD A PROFESSIONAL SERVICES CONTRACT FOR AS-NEEDED GEOTECHNICAL SERVICES TO SOUTHERN CALIFORNIA SOIL AND TESTING, INC. FOR AN AMOUNT NOT TO EXCEED \$150,000 DURING FISCAL YEARS 2007 AND 2008
- e) PRESENTATION OF ANNUAL WATER CONSERVATION REPORTS FOR FISCAL YEARS 2005 AND 2006

INFORMATION / ACTION ITEMS

8. ENGINEERING AND WATER OPERATIONS

- a) UPDATE REPORT ON THE STATUS OF THE CAPITAL IMPROVEMENT PROJECTS (C.I.P.) FOR THE FIRST QUARTER OF FISCAL YEAR 2007

Engineering Manager Ron Ripperger stated that he wished to introduce a new district employee, Ms. Lisa Coburn-Boyd, Environmental Compliance Specialist, who started approximately two weeks ago. President Bonilla welcomed Ms. Coburn-Boyd to the District.

Engineering Manager Ron Ripperger then indicated that he would be providing an update on the CIP projects for the 1<sup>st</sup> Quarter of Fiscal Year 2007. He stated to keep up with the growth within the District's service area and to meet customers' expectations, district staff prepares a 6-year rolling CIP report that contains information about budget, allocation of funds, project costs, locations, descriptions, justification and schedules. He stated that the CIP is broken down into four categories consisting of 90 projects totaling \$36.6 million. The four categories are:

- |    |                     |                |
|----|---------------------|----------------|
| 1. | Capital Facilities  | \$26.7 million |
| 2. | Placement / Renewal | \$4.6 million  |

- |    |                         |               |
|----|-------------------------|---------------|
| 3. | Capital Purchases       | \$1.9 million |
| 4. | Developer Reimbursement | \$3.4 million |

He noted that overall expenditures for the 1<sup>st</sup> Quarter of FY07 totaled approximately \$9.2 million which is 100% of the forecast expenditures for the quarter. He presented a slide showing the expenditures to date which is approximately 25% of the total FY07 budget.

Engineering Manager Ripperger also presented a map showing the location and status of each CIP project and reviewed in detail the status of the flagship projects which included the Sweetwater Springs Agency Interconnection, the 944-1 & 2 Reservoirs and Paving, I-905 Utility Relocations, Seismic Vaults and R.W. Meter and Check Valve Vaults, 450-1 Reservoir & 680-1 Pump Station, 30" Recycled Water Pipeline Project, etc. He also reviewed the status of the consultant contracts for the various projects and the construction contracts. He noted that the district has achieved a -2% for change orders for construction contracts this fiscal year. He stated that the presentation also includes detailed information on the status of each project which he will not review during today's meeting, but the information has been included in the board meeting packet and members can review it at their convenience. He stated that Chief Financial Officer Joe Beachem will be presenting on the fiscal impact of the CIP.

Chief Financial Officer Beachem indicated that the board is aware that the District follows a very detailed budget process each year and sets funding targets for the CIP based on cash flow projections. He stated with the amount of large CIP projects occurring at this time and the high level of accomplishment in meeting expenditure projections at 100%, the District is exceeding its projections for required cash flow. It is expected that the District will again complete 100% of the budget next fiscal year and while this is a good news story, it presents a cash flow challenge for the District as it has projected an 80% funding level (based on historical levels). He indicated that due to the financial strength of the District, there are several ways that the District can deal with this funding challenge. He presented two options:

#### 1. Draw Down Reserves

- a. This is not the recommended path as it would not comply with the best practice set by the District's Reserve Policy which protects the District from various risks.
- b. Drawing down the reserves (funds) below the set target levels of the Reserve Policy will place the District in a situation in which it must raise rates in order to reimburse the funds.
- c. It will also be viewed negatively, especially, from a market perspective.
- d. The impact of drawing down the reserves is much greater than the alternate option of issuing additional debt.

#### 2. Issue Additional Debt

- a. This option would allow the District to comply with both its Financial and Debt Policies.
- b. The District is currently in the process of issuing debt and the District would be able to include an additional \$14.5 million to resolve the cash flow issue.
- c. The District's consultants (financial advisor, bond counsel and trustee) indicate that they would not increase their fees if the District decided to increase its planned debt issuance by \$14.5 million.
- d. The District will maintain all reserves at target levels throughout the rate model period.
- e. To support the increase in debt, staff is proposing that the District increase the last three years of the planned six year period rate increase to 5.1% from 3.9%. The original plan was to increase rates by 5.4% for three years and dropping the increase in the last three years to 3.9%. This would avoid a spike in rates and would allow recovery of the debt.
- f. The District will also be able to maintain the required debt coverage ratio of 120%, and by the end of the six-year period, the debt coverage ratio would climb back up to above the District's target of 150%.

Chief Financial Officer Beachem indicated that staff recommends option 2 to meet cash flow needs. General Manager Watton indicated that staff would be presenting the request to issue this debt at the February 2007 board meeting. He stated that staff wished to present this information so the board is aware of the issue.

Director Robak indicated that the Finance and Administration Committee reviewed this item in detail and the minutes from the committee meeting reflects the discussion which have been attached to the staff report. He stated that the committee supported staffs' recommendation. He indicated that he has had some time following the committee meeting to reflect on the information and thought about whether the District was collecting enough money from new development in terms of growth and if they were paying their fair share as he thought that it may be possible to avoid the need for a portion of the additional debt if the District was not collecting enough money from new developments. Chief Financial Officer Beachem indicated that staff has actually re-evaluated capacity fees twice over the past five years. He stated that staff goes through an evaluation process to assure that the developers are paying for expansion projects and staff had hired a firm both times to help the District evaluate the fees. He stated that he is confident that the District is collecting the appropriate amount based on the law to recuperate expansion costs. He stated that this particular issue is a timing issue and not one of greater expense. He stated that if it were an issue of increasing expenses, then the District would wish to consider re-evaluating the capacity fees.

Director Robak inquired if the money was for both Replacement/Rehabilitation and Expansion. Chief Financial Officer Beachem indicated that the debt is for Betterment, Replacement and Expansion (three categories). He stated that he would need to go back to review the rate model to see how the monies would be split among the categories.

General Manager Watton indicated that President Bonilla had asked a similar question and the board has been provided a history of the capacity fees which are adjusted quarterly per the Engineering News-Record (ENR) inflation index. He stated there was a large increase to the ENR last year and, thus, the District needed to re-price some of the CIP projects and also needed to increase the capacity fees. It was discussed that the fee was then, at some point, too low and the need for the additional debt could be attributed, in part, to this fact.

President Bonilla indicated that the District should establish a process where the CIP is reviewed and re-priced on a constant basis. This will help the board feel more comfortable.

Director Lopez indicated that the Engineering and Water Operations Committee also reviewed this item and the committee was interested in what projects were already moving forward, which were being reviewed and their current status. He indicated that the committee was especially interested in reclaimed water and if the City of San Diego was still on track on this project. General Manager Watton indicated that the City was still on track.

Director Breitfelder inquired why the District shouldn't use some of its reserves to fund the projects. He stated that it would cost the District less in interest by doing so. He asked how this would hurt the District's credit status. Chief Financial Officer Beachem indicated that it would hurt the District's credit as the District would be going against the reserve targets it has set in its Reserve Policy. He stated that having less debt would always be good, however, the question is what is the District compromising to accomplish less debt. The District would be compromising its reserve targets which is critical as it compromises the District's available cash.

Director Breitfelder inquired that by compromising our status by utilizing reserves, would the District then have higher interest rate costs in the future. Chief Financial Officer Beachem indicated that it would be difficult for him to determine when it would begin affecting the District or the likelihood that that it would occur. He noted, however, that the District had developed the six-year rate model wherein the CIP projects were funded through the reserves. This will bring the reserves down over the six year period to the target levels set within the District's policy. He stated that by the end of the six-year model, the reserves would be at their target levels and there would be no surplus reserves that could be utilized. If additional reserves were utilized it would bring the District down below its policy target levels.

- b) APPROVE A BUDGET INCREASE FOR THE 640-1 AND 640-2 RESERVOIRS PROJECT FROM \$27 MILLION TO \$29.5 MILLION AND AWARD A CONSTRUCTION CONTRACT TO PACIFIC HYDROTECH CORPORATION, INC. IN THE AMOUNT OF \$24,894,000 FOR THE CONSTRUCTION OF THE 640-1 AND 640-2 RESERVOIRS (RIPPERGER)

Engineering Manager Ron Ripperger presented a video which shows a computer generated image of the 640 reservoir site. He indicated that staff is requesting that the board approve an increase to the budget for the 640 Reservoirs Project

from \$27 million to \$29.5 million and award a construction contract to Pacific Hydrotech Corporation in the amount of \$24,894,000 for the construction of the 640 - 1 & 2 reservoirs.

He indicated that this is the largest construction project in the history of the District and it will be part of the East County Regional Treated Water Program. The reservoirs would enhance storage in the north district and will receive water from Flow Control Facility 14 via a new 36-inch pipeline that is currently in construction. He stated that the project would allow the deletion of four projects from the CIP that will offset costs. He noted that the environmental review has gone very well and has been presented to the Valle de Oro Community Planning Group.

He reviewed in detail the construction work which is broken down into four (4) components: (1) the preparation of the site (earthwork); (2) construction of the two 10 million gallon above ground reservoirs; (3) installation of 10,000 lineal feet of piping and; (4) demolition of the 520-1 reservoir.

Engineering Manager Ripperger indicated that staff consulted with a risk assessment firm, WRA & Associates, and a construction management firm, RBF, to review the plans and drawings and determine if there are any risks or items that might be improved prior to the project being bid. He indicated that the review resulted in a recommendation to increase the budget by \$1.1 million to provide allowance for a cost loaded schedule, possibility of the need to install sound barriers, disposal of regulated material, locating of unknown utilities, etc. He stated that staff felt that it was prudent to include the risk assessment recommendations within the budget costs and that the allowance would only be utilized if necessary.

He further shared that staff followed the normal bid process and had opened bids on November 9, 2006. He stated that the District received six (6) bids ranging from \$24.8 to \$35.5 million. The engineer's estimate was \$25.8 million. He noted that staff reviewed each bid in detail and selected Pacific Hydrotech Corp. as the lowest responsive bidder. He stated that their references have checked out.

Engineering Manager Ripperger noted that following the presentation of staff's report and recommendation to the Engineering & Water Operations and the Finance & Administration Committees, held on November 15 and 20 respectively, staff received two letters from SEMA Construction, Inc., the second lowest bidder, protesting the award of the construction contract to Pacific Hydrotech Corp. indicating that Pacific Hydrotech Corp. no longer employed the superintendent that was indicated in their bid to oversee the project. Mr. Kirk Harnes of Pacific Hydrotech Corp., who was in attendance of the board meeting, confirmed that Mr. Don McCann was still an employee of their firm. Engineering Manager Ripperger indicated that staff had forwarded two (2) letters to SEMA Construction, Inc. indicating that their claim was without merit.

He stated that staff is recommending an increase of the project budget from \$27 to \$29.5 million and presented a spreadsheet (copy attached) indicating the budget variance and reasons for the increase which included:

- An increase of \$1.1 million to cover possible risks as reviewed earlier;
- A 3% contingency for any changed conditions during construction;
- The addition of a Construction Management Contract; and
- The cost of additional labor for critical tie-ins and staff support of the Construction Manager

He noted that staff is anticipating that it would not spend the full contingency and monies for risk factors, however, staff wished to make the board aware of the possible full cost of the project which is estimated at \$29.5.

President Bonilla was concerned about the significant increase in the project budget and inquired why the consulting contract cost increased from \$900,000 to \$1.2 million. Engineering Manager Ripperger indicated that staff had based their original estimate of \$900,000 on prior projects (30-inch recycled pipeline, 450 Reservoir and 680 pump station). He indicated that following staffs' request for Construction Manager proposals, it was determined that the estimate should be increased to \$1.2 million.

Director Robak indicated that the Finance and Administration Committee discussed in detail the concern of a bidder regarding the difficulty in accurately bidding for the cost of grading the reservoir site as he felt there were a lot of unknowns. Chief of Engineering Rod Posada indicated that staff had issued five (5) addendums in response to questions concerning the grading. He indicated that following the award of a contract for a construction manager on the project, staff will work with the construction manager to value engineer the project further. It was indicated that all are aware that there is a potential that there could be more granite than anticipated and the Finance and Administration Committee felt assured that staff has done it due diligence as well as can be done to this point.

Director Robak inquired why two tanks are proposed for the site instead of one large tank and the reason why they were designed to be above ground tanks versus underground tanks. Engineering Manager Ripperger indicated that the tanks will be partially buried and staff is proposing two separate tanks as it would provide more flexibility for the District's operations staff. He stated that when the tanks require maintenance, it would allow the operations group to take one tank out of service for maintenance while still providing water service via the second tank. The other tank then can be taken down when maintenance is complete on the first tank. It was noted that the tanks would be pre-stressed concrete which require less maintenance, though they cost a little more, over the long term there will savings in maintenance cost.

President Bonilla inquired if staff had done a cost analysis of the cost difference between one large tank versus two smaller tanks. It was noted that staff had done a cost analysis with the assistance of Boyle Engineering prior to the design phase of the reservoirs. He noted that the cost analysis is well documented and showed that two reservoirs was more cost effective.

Director Robak noted with regard to hiring a construction manager for the project, why the District did not have construction management expertise in-house. President Bonilla also inquired if the District is subcontracting the construction management of the project out, why in-house construction labor cost was increasing from \$300,000 to \$921,803.56. Engineering Manager Ripperger indicated that this is a very large project and it will require a large effort from our operations staff to assist in many areas of the construction. This project will require the uncovering of many lineal feet of buried pipe and tie-ins which will require the oversight of operations staff 24/7. General Manager Watton further shared that he had asked the engineering staff to look at what the District's maximum exposure was as he wished the board to be aware of the maximum cost of the project to the District. He stated that when the "unknowns" are uncovered, staff will not need to request additional funds as such costs had been considered and included in the budget.

Director Breitfelder indicated that staff has a good history of budgeting for projects and generally projects come in under budget by amounts that are reasonable and show prudent budgeting throughout the process. He stated that they do realize that not all projects can come in at or below budget and that there are the "unknown" variables. He stated that he hoped staff did not feel that the board was unfairly scrutinizing the budget estimates. He stated that he did not want staff to be over conservative in budgeting for projects as it does not serve anyone's interest and staff did not need that additional pressure. He stated that by being ultra conservative, it could lead to distorted fiscal planning. He indicated that he wanted staff to know that they did not always need to portray the worst case scenario when estimating the cost of a project.

Engineering Manager Ripperger indicated that he did not wish to give the impression that the original estimate was bad, rather staff is estimating an additional \$2.5 million to provide allowance for the "unknowns."

Chief of Engineering Posada indicated with regard to the question concerning in-house construction management expertise, that the District did have construction expertise in-house. However, the size of this project would take the full time of the entire District's staff if it were to be managed in-house. He stated that construction management firms are only retained for projects of this magnitude. In-house staff (inspection and construction management) handle the bulk of the District's and developer projects. He stated that the District also receives the benefit of growing staff skills as they get an opportunity to work and see how firms, whose focus is construction management, accomplish the different tasks.

Director Robak asked if staff had evaluated the cost of handling the construction management component in-house, including possibly hiring another staff member for a couple years to handle such large projects, versus hiring a consultant firm. General Manager Watton indicated that he believed that staff could put together such an analysis prior to the next committee meeting. He stated that it might also be helpful if staff provided more detail of the specific duties of the construction manager.

President Bonilla indicated that he felt the board would be more comfortable if they had that analysis. Director Lopez indicated that he had concerns that the 3% contingency would be utilized because it was available. He stated that he felt that he got clarity from today's discussions, but he wished to share his concern.

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

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

to approve staffs' recommendation.

9. ADMINISTRATION AND FINANCE

a) PRESENTATION OF DIRECTOR'S FIRST QUARTER EXPENSES FOR FISCAL YEAR 2007 (PRENDERGAST)

Finance Supervisor Sean Prendergast indicated that Board of Directors Policy 8 requires that staff present the expenses and per diems for the board members on a quarterly basis. He indicated that this item was also reviewed by the Finance and Administration Committee at a meeting held on November 20, 2006. He presented slides showing in detail each director's expenses for the first quarter of fiscal year 2007 (July 1 to September 30, 2006) and total expenses for each. He indicated that the total board of director expenses and per diems for the first quarter was \$5,203.71 and staff projects that by fiscal year end expenses would be approximately \$20,810.

President Bonilla inquired how this figure compared with the last fiscal year. Finance Supervisor Sean Prendergast indicated that last fiscal year the total board of director's expenses was \$29,482.95.

b) REPORT ON THE BOND PROCESS INCLUDING THE PARTIES INVOLVED, THEIR FUNCTIONS AND THE SELECTION PROCESS (BEACHEM)

Chief Financial Officer Joe Beachem introduced Ms. Suzanne Harrell, the District's Financial Advisor, to provide a presentation on the bond financing process. Ms. Harrell indicated that this same presentation was provided the Finance and Administration Committee on November 20, 2006. She noted that in June 1993, the District had formed the Otay Service Corporation as a conduit for financing capital improvements as required by California State law and had approved in October 2006 the contract to engage a Financial Advisor for this bond financing and distributed a RFP for Bond Counsel, Disclosure Counsel and Trustee services. She indicated that the District has engaged Co-Bond Counsels Garcia Calderon & Ruiz and Sidley Austin; Disclosure Counsel Stradling, Yocca, Carlson & Rauth; and Trustee Services from Union Bank of California. Staff will also be requesting that the board approve a Reimbursement Resolution which

will allow CIP expenditures between October 6, 2006 thru the date of the COP issuance (approximately March 2007) to be allocated to the COP proceeds. She stated that this will allow the District to recover the expenditures through the bond proceeds.

She noted that a Public Hearing will be scheduled in January to formally approve the Rate Increases (adopted with the FY2007 budget) and request the board's approval of the Financing Plan, Debt Policy and Financing Documents. She reviewed those who would assist in the bond issuance and their roles:

- Bond Counsel:
  - Prepares legal documents (terms of repayment, pledge of revenues and provisions for additional debt)
  - Prepares closing certificates
  - Directions for transfer of funds at closing
  - Prepares tax certificate relating to provisions of the tax code that apply to the District's financing
- Disclosure Counsel:
  - Reviews official statement for conformance with legal documents
  - Provides opinion to the District and Underwriter that the Official Statement is adequate and accordance with securities and California state laws
  - Prepares Continuing Disclosure Agreement that outline the ongoing financial information that the District is required to distribute/disseminate to bondholders
- Financial Advisor:
  - Structures the repayment terms
  - Prepares official statement
  - Prepares rating agency presentation
  - Conducts competitive sale of COP's on District's behalf
- Trustee:
  - Administers payment of debt service (collects payments from District and transmit the payments to the bondholders)
- Bond Insurer:
  - Provides additional credit enhancement for the COP's (The District's current underlying rating is an "A+" and through the purchase of bond insurance, it will provide bondholders an additional level of credit enhancement by providing a "AAA" rating on the District's bond issuance.)
  - Insurance premiums are based on total debt service over the term of the COPs
  - The bond insurer is selected based on the lowest premium quote
- Underwriter:
  - Selected based on lowest bid at competitive sale
  - Purchases COPs from the District
  - Sells COPs to its Customers
  - Their fiduciary responsibility is to investors, not the District

Ms. Harrell indicated that the bond's will be offered through a competitive sale. The competitive sale is the preferred method per the District's Debt Policy unless

there is an overriding reason for a negotiated sale, such as, in times of volatile interest rates. She indicated that the documents (Official Statement) will be distributed electronically and the sale will be conducted through an internet bidding platform.

She reviewed the financing documents which included the following legal documents:

- Trust Agreement:
  - Contract between the District and bondholders (repayment terms and what will occur in the event of a default)
- Installment Purchase Agreement
  - Secures the District's obligation to make the debt service payments
  - The Rate Covenant within the Installment Purchase Agreement specifies how rates will be determined to the users of the facility financed by the bonds. There is a minimum and target rate covenant that the District would like to achieve that is specified within the agreement.
- Assignment Agreement
  - This agreement indicates that the District has assigned the right to the Trustee to collect the payments and transmit them to the bondholders
- Continuing Disclosure Agreement
  - The District's covenant to provide annual dissemination of on-going financial information to the bond market

She further reviewed the sale documents:

- Official Statement
  - Describes the security and pledge to repay the debt, risk factors that the bondholder might need to know to make an informed decision and the responsibility of board members. (A memo has been provided for the board with detailed information that the board can review prior to the official statement being distributed for their review in February 2007)
- Official Notice of Sale
  - Sets out competitive bid parameters
- Summary Notice of Sale
  - Published in financial newspapers to alert bidders of sale date of bonds

Ms. Harrell then reviewed the actions the board will be presented at the February 2007 meeting for the bond issuance. She stated that the board will be asked to consider approving a District Resolution that:

- Authorizes the GM/CFO to award the bond insurance to the lowest bidder
- Approves the form of the Trust Agreement, Installment Purchase Agreement and Preliminary Official Statement (the Preliminary Official Statement will not include the final interest rate and maturity schedule as it will not be known until the bonds are offered for sale)

- Authorizes the GM/CFO/Financial Advisor to distribute the Preliminary Official Statement and Official Notice of Sale
- Authorizes sale of the COPs in an amount not-to-exceed \$42 million, interest rate not-to exceed 6% and underwriter discount not-to-exceed 1.5%
- Authorizes officials to execute all documents necessary to complete the sale

She stated that the Otay Service Corporation board would also adopt a Resolution on February 7 to:

- Approve the form of the documents
- Authorize officials to execute all documents to finalize the sale

Ms. Harrell indicated that staff would be meeting with the rating agencies the week of January 22 to provide an update on what the District is currently doing and its accomplishments. The District expects to receive the bond insurance bids and the ratings from the rating agencies by February 9 and expect that the COPs would be offered for sale on February 21. It is anticipated that the funds from the COPs would be available on March 7, 2007.

Ms. Harrell indicated that the estimated overall cost of issuance will be a little lower than the District's last issuance in 2004. She indicated that there is a certain amount of fixed costs that do not increase regardless of the size of the bond issuance.

She reviewed the current interest rate market and indicated that during the summer, rates had spiked up, but have come down since. She indicated that as of December 1, 2006, the long-term rate have stayed steady since November. However, the short-term rate has decreased from 3.55% to 3.50%. She indicated that she believed that the timing of the sale is going to workout well for the District as interest rates were moving downward.

Chief Financial Officer Beachem indicated that within the District's six-year rate model, it is planned that the District would issue debt in Fiscal Years 2007 (March 2007), 2009 and 2011. He stated that the District plans to finance approximately 25% of its CIP through debt.

- c) ADOPT RESOLUTION NO. 4091 ALLOWING FOR THE REIMBURSEMENT OF CERTAIN EXPENDITURES FROM THE PROCEEDS OF THE CERTIFICATES OF PARTICIPATION (BEACHEM)

Chief Financial Officer Beachem indicated that when the District issues debt, it has a two-year period in which to spend the debt monies per IRS rules or it must pay arbitrage interest on the debt monies. That is, if the debt monies earn interest greater than the interest payments to borrow the monies, the spread (arbitrage) must be rebated back to the IRS. He indicated that the District can be exempted from the rebate rule if it meets a specific spending schedule of 25% each six months for two years. He indicated that the presented resolution would allow the District to apply any monies it spends on the debt issuance from up to

60 days prior to the adoption of the resolution through the day of the COPs issuance, against the spending schedule. The reimbursement agreement would aid the District in meeting the spending requirement and therefore exempt the COPs from the rebate requirement.

Director Robak indicated that the committee reviewed this item in detail and felt comfortable with the quality of the District's advisor and legal representation, in that, the District will be complying with legal requirements. As such, the committee supported staff's recommendation.

A motion was made by Vice-President Lopez, seconded by Director Robak and carried with the following vote:

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

to approve staffs' recommendation.

#### 10. BOARD INFORMATION / ACTION ITEMS

##### a) DISCUSSION OF 2007 BOARD MEETING CALENDAR

There were no changes to the 2007 calendar.

### REPORTS

#### 11. GENERAL MANAGER'S REPORT

##### a) SAN DIEGO COUNTY WATER AUTHORITY UPDATE

General Manager Watton indicated that CWA approved the San Diego 17 (SD17) connection with the City of San Diego. He noted that the Principles of Understanding (POU) for SD17 is scheduled to be presented to Otay's board in January 2007. He indicated that the City of San Diego has approved the POU administratively. He stated that CWA also approved Flow Control Facility No. 14 (FCF14) which will provide water to the District's new 30-inch pipeline and 640 Reservoirs discussed at today's meeting. He indicated that the 30-inch pipeline and 640 completes the large infrastructure improvements to be built in the eastern portion of the District. He also shared that CWA approved a changed to the recycled water subsidy from \$147 acre foot (AF) to \$200 AF which the District will receive and will further enhance the District's recycled water revenues and it will make recycled water more price competitive. He noted that CWA also elected officers at the last meeting. He indicated that Ms. Fern Steiner was elected chair, Mr. Bud Lewis was elected Vice Chair, he (General Manager Watton) was elected Secretary. He stated that in the next year, CWA will be repricing many of its Capital Improvement Projects which will have an impact on their rates. He indicated that the work in the next year is more critical than ever.

b) UPDATE ON THE 30" RECYCLED WATER PIPELINE PROJECT (SEE ATTACHMENT "A")

General Manager Watton indicated that the recycled water projects together represent approximately \$42 million in construction costs. He stated that Ortiz has completed their work on the pipeline and staff is finishing a walk-thru of their work on the pipeline. He indicated that Ortiz did a great job on this project. He also indicated that TC Construction is well along on the recycled reservoir and pump station. He stated that these projects are proceeding well and are on schedule. He indicated that this recycled project (pipeline, pump station and reservoir) is the largest project ever for the District at a cost of \$42 million.

He indicated that he had sent Directors a notice about an aqueduct shutdown. He stated that the shutdown ended December 5 and everything had gone well with the construction at Metropolitan Water District (MWD). He stated that Otay also did well during the shutdown and the interconnection agreements with the City of San Diego and Helix WD helped in that the District no longer needs to notify customers as the District can meet its customers' supply needs with the interconnections. He stated that operations staff does need to monitor the systems very closely during the shutdown and it can be very stressful for staff. He thanked the operations staff and everyone associated with the monitoring for their good work.

He shared that staff has received the preliminary draft of the compensation study from the compensation consultant and a meeting of the Ad Hoc Employee Negotiations Committee meeting has been scheduled on December 20, 2006 to share the results of the study. Following the committee meeting, the compensation study will be shared with the Employee Association.

General Manager Watton noted that the joint training facility between Otay and the San Miguel Fire Protection District (SMFPD) is progressing. He stated that the project is still preliminary, but the SMFPD is doing studies, some architectural review and planning of the proposed facilities.

He indicated that Valhalla High School is pursuing an aggressive program to complete the installation of their playing field artificial turf. He indicated that the project may take longer than the projected January 2007 completion date as there is some planning for the financing of the project that will need to be completed. He indicated that the project is expected to move forward, but will be completed sometime after January 2007.

He stated that meter sales are down from historical levels, but is on track with the current budget as the slowing of sales was anticipated. He stated that though the housing market has slowed, the larger developers are still processing maps and projects knowing that the market will inevitably come back. He stated that the Engineering Division is, thus, still very busy with design work, map processing, etc.

President Bonilla inquired what was the percentage slow down in meter sales. General Manager Watton indicated a little over 50%. He indicated that last year

the District processed approximately 2000 meters and this fiscal year it is expected that the District will process approximately 800.

General Manager Watton also noted that the State Water Resources Control Board has been continuing to make payment on the \$4 million grant they awarded the District. To date, the District has received approximately \$3 million of the grant.

He lastly stated that the South Bay Expressway had a budgeting issue as they had neglected to budget for meter fees of approximately \$200,000 required for the freeway project. He indicated the District has loaned South Bay Expressway the monies through a promissory note and they plan to complete payment of the fees and interest on the loan by the end of the month of December 2006. He indicated that the General Manager is authorized to extend such a loan, but must notify the board that a loan has been extended.

## 12. DIRECTORS' REPORTS / REQUESTS

Director Breitfelder commended Finance Manager Rita Bell on her good work in projecting meter sales for this fiscal year. He also shared that the Conservation Summit has produced a very concise white paper on the summit event. He stated that the summit has formed work groups and he has been appointed to the working group that will be drafting the model ordinance. He stated that there seems to be a growing division between those who wish a very minimalist approach and those who want more fundamental changes. He indicated that if the ordinance fell short of meeting the water conservation goals, he felt that it would not be easy to get another opportunity to quickly rework the ordinance. He lastly shared that CSDA elected officers at their last meeting and Director Croucher was elected Vice President and he (Director Breitfelder) was elected Treasurer.

President Bonilla apologized for missing the last meeting as he was out-of-town and, unfortunately, was unable to attend. He thanked Vice President Lopez for chairing the meeting on his behalf. He shared that he had met with Director Croucher on October 10, 2006 to discuss the District in general and that he had met with General Manager Watton on October 12, 2006 for a briefing on committee agenda items to be presented at the October committee meetings. President Bonilla indicated that he also met with Mr. Mike Powell, the Employee Association negotiator, and Mr. Larry Cass, the representative for the Employee Association. He indicated that they discussed the status of negotiations and that he hoped that negotiations could be completed in early or mid-2007 and that an extension to the agreement could be signed prior to its expiration in 2008. They also discussed District operations and they were very positive and supportive of the District's direction. He indicated on October 25, 2006 he met with General Manager Watton, General Counsel Calderon and Director Lopez for a briefing on the November 1, 2006 board meeting agenda. He indicated that he had asked Director Lopez to attend the meeting, as he was scheduled to be out of town and Director Lopez would be chairing the board meeting on his behalf. He also shared that he met with General Manager Watton and former director, Mr. Paul Lewis, on October 25, 2006. He indicated that they discussed Aqua Genesis'

Board of Directors and the company's desalination technology. He lastly noted that he had meet with General Manager Watton and General Counsel Calderon on November 15, 2006 for a briefing on committee agenda matters for discussion at the November committee meetings.

RECESS TO CLOSED SESSION

13. CLOSED SESSION

The board recessed to closed session at 5:46 p.m. to discuss the following items:

- a) CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION [GOVERNMENT CODE §54956.9(a)]
  - (i) DONNA BARTLETT-MAY, et. al. v. OTAY WATER DISTRICT
  - (ii) HARRON v. OTAY WATER DISTRICT
  - (iii) RDH CHEMICAL COMPANY v. OTAY WATER DISTRICT

RETURN TO OPEN SESSION

14. 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 6:25 p.m. and General Counsel Calderon stated that the board took one reportable action in closed session. He indicated that a motion was made by Director Lopez, seconded by President Bonilla, and carried with the following vote:

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

to approve the settlement agreement in the RDH Chemical Company v. Otay Water District matter.

15. ADJOURNMENT

With no further business to come before the Board, President Bonilla adjourned the meeting at 6:26 p.m.

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President

ATTEST:

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Secretary