

**MINUTES OF THE
BOARD OF DIRECTORS MEETING OF THE
OTAY WATER DISTRICT
June 5, 2013**

1. The meeting was called to order by President Lopez at 3:34 p.m.

2. ROLL CALL

Directors Present: Croucher, Gonzalez, Lopez, Robak, and Thompson

Directors Absent: None

Staff Present: General Manager Mark Watton, Attorney Richard Romero, Asst. GM German Alvarez, Chief Financial Officer Joe Beachem, Chief of Engineering Rod Posada, Chief of Information Technology Geoff Stevens, Chief of Administration Rom Sarno, Chief of Water 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 Croucher, seconded by Director Thompson and carried with the following vote:

Ayes: Directors Croucher, Gonzalez, Lopez, Robak, and Thompson

Noes: None

Abstain: None

Absent: None

to approve the agenda.

5. PRESENTATION OF TYLER TECHNOLOGIES AWARD

Customer Service Manager Alice Mendez-Schomer and Lead Business Systems Analyst Shamala Saripalli presented the award the District received from Tyler Technologies in April 2013. The Tyler Technologies Public Excellence Award recognizes the District for its successful integration of its financial applications. This is very unique in the industry and the District is very pleased to be recognized for this effort. Chief of Information Technology Geoff Stevens indicated that the District was selected from sixty (60) firms who had submitted an application from across the Country.

6. APPROVE THE MINUTES OF THE REGULAR MEETING OF MAY 1, 2013

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

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

to approve the minutes of the regular meeting of May 1, 2013.

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 Items 7g, APPROVE A TWO-YEAR AGREEMENT WITH BROWNSTEIN HYATT FARBER & SCHRECK IN AN AMOUNT NOT-TO-EXCEED \$35,000 ANNUALLY (\$70,000 TOTAL ENDING JUNE 30, 2015) FOR STATE AND FEDERAL LEGISLATIVE ISSUES ADVOCACY, and 7i, APPROVE A FIVE-YEAR AGREEMENT WITH INFOSEND TO PROVIDE BILL PRINT AND ELECTRONIC BILL PRESENTMENT SERVICES IN AN AMOUNT NOT-TO-EXCEED \$1,310,000 (\$262,000 ANNUALLY); AND WITH ELECTRONIC PAYMENT EXCHANGE TO PROVIDE PAYMENT TRANSACTION PROCESSING SERVICES IN AN AMOUNT NOT-TO-EXCEED \$735,000 (\$147,000 ANNUALLY), for discussion.

Director Thompson pulled Items 7b, APPROVE THE ISSUANCE OF A BLANKET PURCHASE ORDER TO KIRK PAVING IN AN AMOUNT NOT-TO-EXCEED \$175,000 FOR AS-NEEDED ASPHALT PAVING SERVICES FROM JULY 1, 2013 THROUGH JUNE 30, 2014, and 7c, UPDATE ON THE RECYCLED WATER RETROFIT PILOT PROGRAM AND APPROVE A WAIVER OF COSTS AND EXPENSES RELATED TO THE AGREEMENT FOR RECYCLED WATER RETROFIT BETWEEN THE DISTRICT AND THE ARISTATA HOMEOWNERS ASSOCIATION, for discussion.

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

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

to approve the following consent calendar items:

- a) APPROVE UTILITY AGREEMENTS NO. 33545, 33551, AND 33556 WITH CALTRANS FOR THE EAST PALOMAR UTILITY RELOCATIONS
- d) APPROVE CHANGE ORDER NO. 3 TO THE EXISTING CONTRACT WITH GARCIA JUAREZ CONSTRUCTION, INC. IN THE AMOUNT OF \$7,142 FOR THE CALAVO GARDENS SEWER REHABILITATION PROJECT
- e) APPROVE A FIVE-YEAR UNIFORM AGREEMENT [THREE-YEARS, WITH TWO (2) ONE-YEAR OPTIONS] WITH MISSION LINEN SUPPLY, INC. FOR UNIFORM, LAUNDRY, FLOOR MAT, AND TOWEL SERVICES IN AN AMOUNT NOT-TO-EXCEED \$165,000
- f) DECLARE IDENTIFIED VEHICLES AND EQUIPMENT AS SURPLUS TO THE DISTRICT'S NEEDS
- h) APPROVE AN AGREEMENT WITH NEW CINGULAR WIRELESS PCS, LLC, A DELAWARE LIMITED LIABILITY COMPANY FOR THE INSTALLATION OF A COMMUNICATIONS FACILITY AT THE 1296-1, 2, AND 3 RESERVOIRS SITE

President Lopez presented item 7b for discussion:

- b) APPROVE THE ISSUANCE OF A BLANKET PURCHASE ORDER TO KIRK PAVING IN AN AMOUNT NOT-TO-EXCEED \$175,000 FOR AS-NEEDED ASPHALT PAVING SERVICES FROM JULY 1, 2013 THROUGH JUNE 30, 2014

Director Thompson inquired how the weighting is determined in the scoring of the bids. Utility Services Manager Jose Martinez referenced Attachment B to staffs' report and indicated that the weighted scores are based on the frequency that the District requires a particular type of service performed (ie., Asphalt Paving 0" to 6", Satin Seal, etc.). Based on how often the District utilizes a particular service, a weighted value of 1 to 10 is assigned to the various services with 10 being the most often and 1 the least often.

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

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

to approve staffs' recommendation.

- c) UPDATE ON THE RECYCLED WATER RETROFIT PILOT PROGRAM AND APPROVE A WAIVER OF COSTS AND EXPENSES RELATED TO THE AGREEMENT FOR RECYCLED WATER RETROFIT BETWEEN THE DISTRICT AND THE ARISTATA HOMEOWNERS ASSOCIATION

Director Thompson inquired what occurred that made the District decide the Recycled Water Retrofit Program was not cost effective and the reason the District is waiving the costs associated with the program for Aristata Homeowners Association. General Manager Watton indicated that the pilot program was initiated to learn if converting multi-family dwelling units to utilize recycled water for irrigation purposes would be worthwhile. During the pilot program that the Homeowner's Association's (HOA) realized that the program was going to take a lot more money, work and effort than anticipated versus the water savings that the conversion would produce. He stated that in the middle of the pilot program, the recession hit and the members of Aristata HOA's board changed. The HOA's finances were strained because they were not receiving their monthly homeowners' fees due to vacant condo units. The HOA decided that they could no longer be part of the program due to the cost, etc. The District found through the pilot program that the cost and work to retrofit multi-family dwelling units to use recycled water for irrigation outweighed the benefits. It was indicated that due to the regulatory structure of the Health Department (annual required certifications, the shutdown tests, etc.) the 15% rate differential sometime saved the HOA a little money on water cost, but sometimes it did not. He indicated that it was found that the incentive to retrofit is not to reduce water cost, but was more to use our water resources wisely.

Director Thompson further inquired why it was more cost effective for the other HOA's in the pilot program versus the Aristata HOA. Engineering Manager Dan Martin indicated that when the District asked a couple of the remaining three (3) HOA's if they would participate again in the program, they had indicated that they were not sure that they would participate again. However, they indicated that, though, it is not cost effective, they will take their project to completion.

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

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

to approve staffs' recommendation.

- g) APPROVE A TWO-YEAR AGREEMENT WITH BROWNSTEIN HYATT FARBER & SCHRECK (BHFS) IN AN AMOUNT NOT-TO-EXCEED \$35,000 ANNUALLY (\$70,000 TOTAL ENDING JUNE 30, 2015) FOR STATE AND FEDERAL LEGISLATIVE ISSUES ADVOCACY

Director Robak indicated that the District has worked with BHF for many years and that the District has been pleased with the services that they have provided. He stated that in the past, the board was provided regular updates from the firm. He indicated that he understands that it gets busy, but he would like to see a regular update from the firm as was done in the past. General Manager Watton indicated that the firm has also provided services related to the Rosarito Desalination Project, however, they have not done much related to the project as it was suspended by the developer for some time. He indicated that the contract presented is separate from the Rosarito Desalination Project and is for State legislative representation only. He also indicated that staff would have the firm provide the board regular updates as was done in the past.

Director Robak also noted that the BHFS works with CWA. He stated one of the partners of BHFS is Mr. Scott Slater. He stated that Mr. Slater is the CEO of Cadiz, Inc. and inquired if this was not a conflict. General Manager Watton indicated that, at the present, it is not believed that there is a conflict. However, CWA and Otay WD are alert to this fact and are monitoring the situation. He indicated that the way the project is currently configured, they are selling water to public agencies who have indicated interest. If it continues this way, there would not be a conflict. If they decide to start providing subsidies or issues develop with MET or some other competition for public money occurs, that may be of interest to the Otay WD and a conflict could develop. He stated, however, as long as it is a private project with voluntary buyers, then it is not seen as an issue. General Manager Watton indicated that he has discussed this issue with BHFS and at CWA and all are alert to this this issue.

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

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

to approve staffs' recommendation.

President Lopez inquired how many other agencies BHFS represents. General Manager Watton indicated that they represent CWA and agencies in the Los Angeles area. He indicated that he would provide the board a list of the agencies they represent.

- i) APPROVE A FIVE-YEAR AGREEMENT WITH INFOSEND TO PROVIDE BILL PRINT AND ELECTRONIC BILL PRESENTMENT SERVICES IN AN AMOUNT NOT-TO-EXCEED \$1,310,000 (\$262,000 ANNUALLY); AND WITH ELECTRONIC PAYMENT EXCHANGE TO PROVIDE PAYMENT TRANSACTION PROCESSING SERVICES IN AN AMOUNT NOT-TO-EXCEED \$735,000 (\$147,000 ANNUALLY)

Director Robak requested a briefing on the proposed contract with Infosend. Customer Service Manager Andrea Carey indicated that staff is proposing a two year term contract with an option to renew every year for the next three (3) years. She stated this is a very important function for the District and staff would like a two-year fixed agreement to assure the services for two (2) years. It is quite a process to change vendors and the District did not want to get into a situation where it needs to switch vendors quickly. After the two-year term, if the District finds there is better pricing or the services provided is no longer what the District is looking for, then the District has the opportunity to look for an alternate vendor.

Director Robak inquired about Infosend and their relationship with EPX and Paymentus. Customer Service Manager Carey indicated EPX and Paymentus are the two (2) payment processing providers who Infosend contracts with. The District has selected EPX to provide the payment processing services. The EPX contract is dependent upon Infosend receiving the contract with the District. She stated that Infosend provides the front end services, such as, when a customer makes a payment via the District's website and the actual processing of the payment is handled by EPX. She indicated that they are two completely separate companies. She also indicated that Infosend is bonded/insured in response to another inquiry from Director Robak.

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

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

to approve staffs' recommendation.

ACTION ITEMS

9. BOARD

a) DISCUSSION OF 2013 BOARD MEETING CALENDAR

There were no changes to the board meeting calendar.

INFORMATIONAL ITEMS

10. THESE ITEMS ARE PROVIDED TO THE BOARD FOR INFORMATIONAL PURPOSES ONLY. NO ACTION IS REQUIRED ON THE FOLLOWING AGENDA ITEMS.

a) REPORT ON DIRECTORS' EXPENSES FOR THE 3RD QUARTER OF FISCAL YEAR 2013

The board waived presentation and recommended that the report be received and filed.

b) INFORMATIONAL REPORT ON THE 3rd QUARTER FISCAL YEAR 2013 CAPITAL IMPROVEMENT PROGRAM

Engineering Manager Dan Martin provided a report on the Third Quarter Fiscal Year 2013 Capital Improvement Program. Please reference the Committee Action notes (Attachment A) attached to staff's report for the details of his report.

President Lopez indicated that the Engineering, Operations and Water Resources Committee had commented on the 624-1 Reservoir Cover Replacement Project with regard to the additional scope of the project and the change order percentage. Engineering Manager Martin indicated that earlier in 2013, staff had identified a change to the scope of work for the existing contract as it was discovered that the reservoir's liner also required replacement. The original contract was for the replacement of the reservoir cover only. The committee felt that the change was not due to unforeseen conditions, but was due to a change in the 'scope' of the project; the adding of the replacement of the reservoir liner to the project scope. The committee felt that the additional cost should not be considered in the change order percentage.

Director Croucher indicated that as the additional work was beyond the scope of the original contract, the additional cost should not be included in the change order percentage as the cost was not due to unforeseen conditions. He stated that the original project could have been completed within budget, however, the District decided to add additional work to the project.

Director Robak inquired on the status of the Calavo Gardens Sewer Project. Engineering Manager Martin indicated that the project is substantially complete and, at this point, they are working on punch list items. It was indicated that the sewer system was originally installed in the early 1970's where it replaced septic systems. He stated that much of the rehabilitation work is to repair sags and gaps in the system and replace manholes. The general life expectancy of sewer systems is about 70 to 80 years.

REPORTS

11. GENERAL MANAGER'S REPORT

General Manager Mark Watton presented his report which included the District's Landscape Contest, Sea World's Aquatica Opening, Website Migration, Rosarito Desalination Project, water sales and District events.

General Manager Watton also provided copies of articles concerning the CWA vs. MWD lawsuit. He indicated that CWA had requested documents from MWD under the California Public Records Act (CPRA). Because MWD would not comply with the CPRA and provide copies of the documents requested, CWA filed another lawsuit against MWD requesting, through the court system, that

MWD comply with the CPRA and produce copies of the documents requested. It is felt, because of the second suit filed by CWA, MWD forwarded a request for records to CWA requesting a large number of documents. CWA asked, as part of the second lawsuit, that the court not require CWA to produce the documents requested by MWD as they are clearly not relevant to the first lawsuit. The judge has ruled in CWA's favor on both issues. General Manager Watton also noted with regard to the first lawsuit filed by CWA concerning MWD's rates, that the article indicated that:

“Under MWD's current rate scheme, water ratepayers in San Diego County will be overcharged for transportation services this year by \$57 million. By 2021, the overcharges could grow to more than \$217 million annually.”

He stated when you add these overcharges up over the years, it quickly adds up to billions of dollars. There is a great deal at stake in this lawsuit. He also noted that LADWP is starting to produce the documents requested by CWA under the CPRA and it is clear that CWA will receive a judgment for approximately \$500,000 for CWA's attorney fees to compel Los Angeles Department of Water and Power (LADWP) to produce the documents.

Director Croucher noted further that the additional documents received from LADWP through the ruling of the lawsuit were pertinent to the rate lawsuit. CWA would not have received these documents without filing the lawsuit. This the reason CWA was also awarded attorney fees.

General Manager Watton also shared that the court upheld the QSA Agreement in CWA's lawsuit regarding the QSA. The issue went to trial several years ago and the trial court found issues with some of the Environmental Documents and other matters that went to appeal. The appellate court overturned the trial court and remanded some matters back to the trial court. The trial court then upheld the QSA Agreement. CWA is receiving significant water deliveries via the Colorado River and having this water delivered at one of the highest priority is very significant. The State of California and the Federal Government having the entitlements on the river in order is very important.

Director Croucher indicated he wished to note that General Manager Watton was instrumental as a leader on the QSA lawsuit which is significant to our region. He also noted with regard to CWA's request under the CPRA that they received hundreds of documents. He stated as CWA receives rulings in their favor, it is getting very encouraging.

He also commented that in reading some of MWD's staff reports, they discuss what they will do with excess funds. Due to increase water sales, etc., they have more revenues this year than they anticipated. However, if you read further, the staff reports then discuss MWD's intent to raise rates.

He indicated that CWA launched their Watersmart Website and a special thank you was presented to the Otay WD as the District assisted with many of the

videos that are on the site. CWA also discussed that their pipeline connection to the Carlsbad Desalination Project will require realignment as it will cross a bridge. This will require additional piping and will cost an additional \$6 million.

He also shared that the Grand Jury reviewed CWA's decision making process with regard to water reliability and the findings of the review indicated that CWA is adequately handling this responsibility for the County. A copy of the findings will be shared with the board.

12. DIRECTORS' REPORTS/REQUESTS

Director Robak indicated that he had a discussion with General Manager Watton and Chief Financial Officer Beachem regarding the proposed rate increases. He stated once he took a look at the details, he had confidence that staff is doing all they can to keep rates as reasonable as possible. He stated he is happy to see how the District's rates compare to other local agencies.

13. PRESIDENT'S REPORT

President Lopez reported on meetings he attended during the month of May 2013 (a list of meetings he attended is attached).

14. ADJOURNMENT

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

President

ATTEST:

District Secretary

President's Report
June 5, 2013 Board Meeting

A) Meetings attended during the Month of May 2013:

1) **May 1: Attended the District's Regular Board Meeting**

2) **May 2: Attended a Special Meeting of the Metro Commission**

i. Orientation training and a tour of the Point Loma Treatment Plant was provided to members and alternates of the Commission (see attached copies of agendas).

3) **May 3: Attended the Abondigas Monthly Meeting sponsored by the Mendez Group.** General Manager Mark Watton was the guest speaker. Attendees: Director Thompson and Communications Officer Buelna.

4) **May 8: Attended Focus Group Meetings.** Discussed the Rosarito Desalination Project with District constituents to receive their comments and feedback on the project. Attendees: Director Thompson, General Manager Watton and Communications Officer Buelna.

5) **May 9: Met with City of Chula Councilmember Bensoussan.** Updated her on the Rosarito Desalination Project and other Otay matters. Attendees: Director Mitch Thompson, General Manager Mark Watton and Communications Officer Armando Buelna.

6) **May 10: Committee Agenda Briefing.** Met with General Manager Watton to review items that will be presented at the May Committee meetings.

7) **May 14: Attended the District's Special Board Meeting.** The Board discussed and approved the District's Fiscal Year 2014 Budget.

8) **May 15: Attended the District's Finance, Administration and Communications Committee.** Reviewed, discussed, and made recommendation on items that will be presented at the May Committee Meetings.

9) **May 16: Attended CSDA's Quarterly Meeting.** CSDA held their Annual Educational Grant Program where their Grant Recipients presented on their project and how it increased awareness of the role of Special Districts in local government. Attendees: Director Gonzalez and Communications Officer Buelna.

- 10) **May 17: At the invite of Mexico Congressman and former Otay Director, Jaime Bonilla, attended Mexico's Northern Border Committee meeting held in Tijuana, Mexico.**
Discussed the Rosarito Beach Desalination Project.
Attendees: Director Thompson, General Manager Watton and Attorney Richard Romero.
- 11) **May 29: Attended the Metro Commission Finance Committee Meeting.** Discussed the Commission's FY 2014 O&M and CIP Budget and various staff contracts. (See attached copy of agenda.)
- 12) **May 31: Board Agenda Briefing.** Met with General Manager Watton and General Counsel Dan Shinoff to review items that will be presented at the June Board Meeting.