

**MINUTES OF THE
BOARD OF DIRECTORS MEETING OF THE
OTAY WATER DISTRICT
March 2, 2016**

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

2. ROLL CALL

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

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

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF AGENDA

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

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

to approve the agenda.

5. APPROVE THE MINUTES OF THE BOARD MEETING OF AUGUST 13, 2015

A motion was made by Director Robak, seconded by Director Lopez to approve the minutes of the August 13, 2015 board meeting.

Director Thompson indicated that with regard to the last paragraph of page five (5) of the minutes he would like to suggest that the paragraph be changed to read:

The board thanked Mr. Calderon for his honesty. A motion was made to reduce the fine to \$500.

Director Robak accepted the amendment to his motion, and Director Lopez seconded and the motion carried with the following vote:

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

to approve the minutes of August 13, 2015 with Director Thompson's amendment.

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

No one wished to be heard.

7. LEGISLATIVE UPDATE

Ms. Chris Frahm of Brownstein, Hyatt, Farber and Schreck provided an update on legislative bills and matters that may impact the District. She also introduced Mr. Adrian LeCesne, newly hired by her firm, who graduated from Yale University and Harvard Law School.

Ms. Frahm provided a handout of the bills her firm is currently tracking for the District. She indicated that the County of San Diego's local projects, such as desalination and the City of San Diego's Pure Water Program, are receiving a lot of attention in Sacramento. She also indicated that there has not been much legislative focus on the Delta issues and that the focus has been on the administrative side, including the Emergency Drought Legislation and the Ground Water Management Act. She shared that there are some State Ballot initiatives that are of interest; 1) Association of California Water Agencies (ACWA) League of Cities is seeking funding for water projects for disadvantaged/low income communities, storm water projects and a resolution for tiered water rates, 2) the Initiative for Delta Twin Tunnels, and 3) the Water Bond which will not be back until about 2018.

In response to an inquiry from Director Robak, Ms. Frahm indicated that there are a couple Federal funding bills that are focused on drought and funding for disadvantaged communities. She did not know specifically what is pending, but would be happy to forward the information following the meeting.

Director Smith added that he did see information from the WaterReuse Association concerning funding that they are seeking from the Federal Government for research for water reuse projects, particularly for projects for indirect and direct potable reuse.

There was discussion that there has not been good solutions for issues related to disadvantaged communities and low income customers. These are real issues

and it is felt that the current legislation will not solve the concerns that it is intended to solve. These issues do need to be addressed and it is hoped that this will happen in the future.

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 Smith pulled items 7b, APPROVE A CONTRACT FOR FINANCIAL ADVISOR, BOND COUNSEL AND DISCLOSURE COUNSEL SERVICES FOR THE ADVANCED REFUNDING OF THE 2007 CERTIFICATES OF PARTICIPATION FOR AN AMOUNT NOT-TO-EXCEED \$52,500 FOR FINANCIAL ADVISOR SERVICES AND \$55,000 FOR COMBINED BOND COUNSEL AND DISCLOSURE COUNSEL SERVICES, for discussion.

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

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

to approve the following consent calendar item:

- a) NULLIFY THE AUTHORIZATION TO ISSUE A PURCHASE ORDER TO ORANGE COAST DODGE AND APPROVE THE ISSUANCE OF A PURCHASE ORDER TO MIRAMAR FORD IN THE AMOUNT OF \$116,002 FOR THE PURCHASE OF ONE (1) REPLACEMENT CLASS 4 UTILITY TRUCK

President Thompson presented item 7b for discussion:

- b) APPROVE A CONTRACT FOR FINANCIAL ADVISOR, BOND COUNSEL AND DISCLOSURE COUNSEL SERVICES FOR THE ADVANCED REFUNDING OF THE 2007 CERTIFICATES OF PARTICIPATION FOR AN AMOUNT NOT-TO-EXCEED \$52,500 FOR FINANCIAL ADVISOR SERVICES AND \$55,000 FOR COMBINED BOND COUNSEL AND DISCLOSURE COUNSEL SERVICES

General Manager Watton indicated in response to an inquiry from Director Smith, that the agreement for the Financial Advisor includes a boiler plate disclaimer proposed by the Municipal Securities Rulemaking Board (MSRB) that reminds the District of the inherent conflict of interest caused by a contingent fee arrangement (the Financial Advisor's compensation is dependent upon the

successful completion of the refinancing of the District's bonds). He stated that the disclaimer is intended to make the District aware of possible issues that could occur with a contingent fee. He noted that the District is not relying solely on the Financial Advisor and that there are many staff members overseeing the refinancing and the District would not be led astray. Director Thompson added that the conflict does not exist in this situation as this is a refinancing of an existing issuance. This issuance is already a set amount and the District is just trying to attain a lower interest rate on the debt. He also noted that contingent fees are customary and a standard operating procedure as it saves the public from paying for services that it did not receive.

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

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

to approve staffs' recommendation.

ACTION ITEMS

9. BOARD

a) DISCUSSION OF THE 2016 BOARD MEETING CALENDAR

There were no changes to the board meeting calendar.

INFORMATIONAL ITEM

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

a) REVIEW INFORMATION GATHERED AND PREPARED IN THE UPDATING OF THE INTEGRATED WATER RESOURCES PLAN (IRP) FOR IDENTIFYING AND EVALUATING CURRENT AND POTENTIAL WATER SUPPLIES FOR THE DISTRICT

Senior Civil Engineer Steve Beppler introduced Megan Brown, Corrollo Engineers, who is assisting staff in updating the District's Integrated Water Resources Plan (IRP) for FY 2015. He stated that staff is concluding the update and wished to receive the board's input on the IRP before it is finalized. He stated there has been a number of potential water resources that have been investigated and those that are determined viable have been included in the IRP. The Plan also reflects current water usage, which has been reduced due to the

State Governor's mandate to conserve water and an analysis of any water supply gap. Mr. Beppler stated staff will review the District's existing water resources, its supplies versus demands into the future, and options to expand supplies as needed. He reviewed the District's water supply sources for both potable and recycled (see slide number 7 in attached presentation to the staff report) and the capacity from each source. He noted that CWA has increased San Diego County's water supply reliability through diversification and today, only 30% of the County's water resources is imported from the Metropolitan Water District (MWD). In 1991 San Diego imported 95% of its water supply resources from MWD (see slide number 8 for the San Diego County's current supply resources which includes conservation, desalination, recycled water, transfer agreements, etc.).

Mr. Beppler indicated that water supply demand has dropped quite a bit since the development of the 2007 IRP due to conservation associated with drought. Water demand peaked at approximately 40,000 acre fee per year (AF/year) in 2006 and it is not expected that the District will rebound to the 2006 levels by 2050. Current demand is similar to the 1999 demand level of 32,000 AF/year. Staff projects, based on current demand levels, that there will not be a shortage in water supplies in the near future.

Ms. Brown reviewed the District's future water supply options, which included conservation, groundwater, imported potable water, indirect/direct potable reuse of local supplies, potable water treatment options, ocean desalination and recycled water for non-potable use.

In response to an inquiry from Director Smith, General Manager Watton indicated that the only water supply that the State Water Board provides CWA credit for is the Carlsbad desalination water. The credit for this water is distributed to each of CWA's member agencies.

In response to an inquiry from Director Robak, staff indicated that the District is currently researching the cost to convert the Ralph W. Chapman Water Recycling Facility to potable level treatment and the results of that study are still pending.

It was discussed that the District is not required to do an IRP, however, staff believes that it is good to prepare an IRP as it makes the District aware of its supply options and assures that water supplies can meet future growth requirements. It is a good planning document for the District. It is expected that the finalized IRP will be presented to the board for final adoption around June 2016.

REPORTS

11. GENERAL MANAGER'S REPORT

General Manager Watton presented information from his report. He reported on the District's emergency preparedness, disaster recovery for business continuity, Senate Bill 272, the Government Finance Officers Association Award for the District's budget, CWA's planned seven day treated water shutdown, APCD's inspection, and the District's conservation target.

He also indicated that he has provided handouts on the dias and the first is a powerpoint presentation from CWA on water supply conditions and drought response activities and a memo from the California Special District's Association calling for nominations for Seat B on their Board of Directors.

CWA Report

General Manager Watton indicated that much of the discussions at CWA has been on MWD's proposed rates and their water sales budget. MWD's water sales budget is at an all-time low which will impact rates. CWA is concerned that MWD would like to adjust their treatment rates, which would impact Otay as the District buys treated water. MWD has not taken an action on their rates, but they continue to propose rates that disadvantage CWA. CWA may need to file another lawsuit against MWD on their rates and may need to continue to file each year until the appellate court rules on the lawsuit CWA had won last year. He also shared that CWA hired a new General Counsel, Mr. Mark Hattam. Mr. Hattam is a very experienced lawyer who has handled water matters for CWA and, more extensively, for the Imperial Irrigation District. He indicated that he felt CWA will be very well served by Mr. Hattam.

Director Croucher indicated that CWA has also been focused on the El Niño storms and if the amount of rain and snow from the storms will be enough to end the drought. He noted in Sacramento the deadline for the introduction of new bills closed and 2000 new bills has been received by the legislature since January. This is in addition to the 1000 bills that were carried over from last year. He also shared that the Water Education Foundation will host an Executive Briefing on March 17, 2016 and suggested that this event may be something the President of the Board or his designee might consider attending. He indicated that the discussions will focus on the "new normal," climate change, water strategies and investing in the future. He stated that it sounds like it will be a worthwhile event.

12. DIRECTORS' REPORTS/REQUESTS

Director Robak indicated that the Union-Tribune has been publishing each of the CWA member agencies per capita water use almost on a monthly basis (based on the State report) and Otay WD's per capita water use in January 2016 was 54.4 gallons per person. He stated a recent article indicates, in comparison to January 2013, Otay WD is cumulatively above its conservation target of 20% and most of the agencies are still cumulatively meeting their targets, but there are some that are not. He inquired if the State has levied any penalties to those that

are not meeting their conservation target. General Manager Watton indicated that the only agency that has received a penalty notice, that he is aware of, is Rainbow MWD. Rainbow MWD forwarded a response to the penalty notice inquiring the legal authority the State Water Resources Control Board has to levy fines and the State Board withdrew the penalty. Director Robak also noted the invite to the Water Reliability Coalition's 3rd Annual Spring Reception scheduled on March 31. He stated that it is a worthwhile event to attend.

Director Croucher thanked staff for the tour of the Ralph W. Chapman Water Recycling Facility. He stated that the tour included a history of the facility and it was very worthwhile.

Director Smith reported, besides the regular meetings he attends (board and committee meetings), he and President Thompson met with Sweetwater Authority on February 2 to discuss common water projects and how our agencies could coordinate with the City of Chula Vista for future water projects through the Chula Vista Interagency Water Task Force. He noted that the next meeting of the Task Force is scheduled this month.

13. PRESIDENT'S REPORT

President Thompson indicated that he has submitted a written report for the meetings he has attended during the month of February 2016. His report is attached.

14. CLOSED SESSION

The board recessed to closed session at 5:23 p.m. to discuss the following matters:

- a) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9:

1 CASE

- b) PUBLIC EMPLOYEE PERFORMANCE EVALUATION: PERIODIC AND CUSTOMARY REVIEW IN DUE COURSE [GOVERNMENT CODE §54957.6]

TITLE: GENERAL COUNSEL

The board reconvened at 6:39 p.m. and General Counsel Dan Shinoff reported that the board met in closed session and took no reportable actions.

15. ADJOURNMENT

With no further business to come before the Board, President Thompson adjourned the meeting at 6:39 p.m.

President

ATTEST:

District Secretary

President's Report
March 2, 2016 Board Meeting

A) Meetings attended during the Month of February 2016:

- 1) **February 2: Met with Sweetwater Authority to discuss agenda matters for the March 7, 2016 Chula Vista Interagency Task Force Meeting.** Attendees: Director Smith and General Manager Watton
- 2) **February 3: OWD Regular Board Meeting**
- 3) **February 16: Attended the District's Finance, Administration and Communications Committee.** Reviewed, discussed, and made recommendation on items that will be presented at the March board meeting.
- 4) **February 17: Attended the Cross Border Environmental Forum held at CILA's offices in Imperial Beach.** Attendees: Director Lopez, General Manager Watton, Chief of Engineering Posada, Environmental Compliance Specialist Coburn-Boyd.
- 5) **February 25: Attended the State of the County Address.**
- 6) **February 26: Board Agenda Briefing.** Met with General Manager Watton, General Counsel Dan Shinoff, and Attorney Jeanne Blumenfeld to review items that will be presented at the March board meeting.