

**MINUTES OF THE  
BOARD OF DIRECTORS MEETING OF THE  
OTAY WATER DISTRICT  
May 4, 2016**

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

2. ROLL CALL

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

Staff Present: General Manager Mark Watton, General Counsel Daniel Shinoff, Asst. General Manager German Alvarez, Chief of Engineering Rod Posada, Chief Financial Officer Joe Beachem, Chief of Operations Pedro Porras, 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 Croucher, and seconded by Director Lopez 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 SPECIAL BOARD MEETING OF NOVEMBER 18, 2015 AND REGULAR BOARD MEETING OF MARCH 2, 2016

A motion was made by Director Smith, 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 minutes of the special board meeting of November 18, 2015 and regular board meeting of March 2, 2016.

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.

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:

President Thompson pulled items 7b, APPROVE A REIMBURSEMENT AGREEMENT WITH BALDWIN & SONS, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, FOR A PORTION OF THE CAPITAL IMPROVEMENT PROGRAM PROJECT RECPL – 20-INCH, 680 ZONE, VILLAGE 2 – HERITAGE/LA MEDIA, IN THE AMOUNT OF \$265,994.40, and Director Robak pulled 7f, ADOPT RESOLUTION NO. 4299 REVISING BOARD POLICY #05-A, RECORDS POLICY AND PROCEDURES – RECORDS RETENTION AND DESTRUCTION, INCLUDING MODIFYING THE POLICY TITLE TO, “#05-A RECORDS RETENTION AND DESTRUCTION,” for discussion.

A motion was made by Director Croucher, seconded by Director Smith 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 items:

- a) APPROVE AN AGREEMENT WITH KIRK PAVING IN AN AMOUNT NOT-TO-EXCEED \$200,000 FOR AS-NEEDED ASPHALT PAVING SERVICES FROM JULY 1, 2016 THROUGH JUNE 30, 2017
- c) ADOPT RESOLUTION NO. 4300 AMENDING POLICY NO. 6, THE ANNUAL CAPITAL IMPROVEMENT PROGRAM DEVELOPMENT, OF THE DISTRICT'S CODE OF ORDINANCES TO INCREASE THE EFFICIENCY OF THE CIP PROCESS FOR BOARD APPROVED PROJECTS
- d) ADOPT RESOLUTION NO. 4301 AMENDING POLICY NO. 27, THE INVESTMENT POLICY, OF THE DISTRICT'S CODE OF ORDINANCE AND RE-DELEGATING AUTHORITY FOR ALL INVESTMENT RELATED ACTIVITIES TO THE CHIEF FINANCIAL OFFICER, IN ACCORDANCE WITH GOVERNMENT CODE SECTION 53607

- e) APPROVE LIFTING THE TWO-DAY PER WEEK LIMIT ON OUTDOOR IRRIGATION EFFECTIVE IMMEDIATELY; ALL OTHER MANDATORY WATER CONSERVATION MEASURES UNDER THE LEVEL 2 DROUGHT ALERT WOULD REMAIN IN EFFECT

President Thompson presented item 7b for discussion:

- b) APPROVE A REIMBURSEMENT AGREEMENT WITH BALDWIN & SONS, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, FOR A PORTION OF THE CAPITAL IMPROVEMENT PROGRAM PROJECT RECPL – 20-INCH, 680 ZONE, VILLAGE 2 – HERITAGE/LA MEDIA, IN THE AMOUNT OF \$265,994.40

President Thompson inquired how this project fits in with the District’s existing infrastructure and what the long term plans were. Engineering Manager Dan Martin apologized that the location map is missing the existing facilities which is likely prompting this question. He stated that this project is in Village 2 and is a 2000 foot “gap piece” that will connect an existing 20” main on Santa Victoria Road to infrastructure in Heritage Road to Olympic Parkway. It will be part of the regional recycled system for this area of the District.

A motion was made by President Thompson, 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 staffs’ recommendation.

President Thompson presented item 7f for discussion:

- f) ADOPT RESOLUTION NO. 4299 REVISING BOARD POLICY #05-A, RECORDS POLICY AND PROCEDURES – RECORDS RETENTION AND DESTRUCTION, INCLUDING MODIFYING THE POLICY TITLE TO, “#05-A RECORDS RETENTION AND DESTRUCTION”

Director Robak indicated that he felt the publics’ interest would be best served by keeping records as long as possible and not necessarily what complies with the law. Information Technology Manager Michael Kerr indicated that most of the emails received by the District is transitory in nature, non-substantive communications (spam, personal junk email, etc.) and do not qualify as official records. He stated the emails that are business related and should be preserved, such as, contract and project discussions, etc. are kept and managed as part of the District’s records retention program. All emails that are spam, personal junk email, or non-substantive emails will be deleted when they reach

the 100 day threshold. General Counsel Shinoff added that in the absence of a policy, all such non-substantive emails would need to be kept forever.

President Thompson indicated that the District's Finance, Administration and Communications Committee reviewed this item and the committee felt that retaining the business related records and discarding non-substantive emails in a timely manner made sense to the committee and protects the ratepayers from costs associated with searching through thousands of non-substantive emails.

In response to an inquiry from Director Smith, staff indicated that substantive emails would be filed by employees in the relevant project files, etc. Those emails that are not filed would be deleted when they reach the 100 day threshold and staff would no longer have access to those emails.

A motion was made by Director Smith, 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 staffs' recommendation.

## ACTION ITEMS

### 8. BOARD

- a) ADOPT A POSITION OF SUPPORT ON ASSEMBLY BILL 2470 (GONZALEZ), RELATING TO THE PROVISION OF WATER SERVICE TO TRIBAL LANDS OUTSIDE OF A WATER DISTRICT'S SERVICE AREA

Communications Officer Armando Buelna indicated that staff is requesting that the board adopt a position of support on Assembly Bill 2470 (AB 2470). The bill was authored by Assemblywoman Lorena Gonzalez, its principal co-author is State Senator Joel Anderson, and the bill is also co-authored by all the local assembly representatives including Assemblymembers Toni Atkins, Brian Jones, Shirley Weber, as well as Senators Marty Block and Ben Hueso.

He indicated that AB 2470 only applies to Sycuan tribal lands and would authorize Sycuan to purchase water under the same conditions as other water customers from a contiguous water district if certain conditions are met. Sycuan would be required to make all required payments as if it were annexed into a water district's service area and would make payment a condition of service.

Sycuan is one of 18 federally recognized Tribal Nation Reservations in San Diego County. Nearly all of the tribal reservations in the state were never included within the boundaries of a neighboring water district.

Communications Officer Buelna stated that for years, Sycuan has been interested in securing imported water service. By working directly with the state, Sycuan is asking the state to recognize the unique government-to-government relationship that exists between the tribe and the state.

He indicated this matter was not contemplated when the board adopted the 2016 Legislative Program. Assembly Bill 2470 was heard in the Assembly Local Government Committee on April 21 and passed unanimously (8-0). It has been referred to the Assembly Appropriations Committee in which Assemblywoman Gonzalez is the chair. If approved by the Appropriations Committee, it will go to the full Assembly before June 3.

He stated that CWA, Otay, and Padre Dam have been actively working with the author's office to address issues and will continue to work closely with them as the bill makes its way through the legislature. It is anticipated that a sideletter agreement would be developed to address water service delivery between the water district and Sycuan.

General Manager Watton indicated a copy of a letter to the chair of the Sycuan Band of the Kumeyaay Tribe, Mr. Cody Martinez, is on the dias for each member of the Board. The letter solidifies the information in the legislation which indicates that the Tribe would pay all fees for water service as if they were a customer seeking service in the customary way. He indicated that the Tribe essentially had two objectives with this legislation:

1. They felt that they should not be required to go through the CEQA process as it infringes on their Sovereignty (they have their own EPA, chartered by the United States Federal Government).
2. They also felt that they should not have to go through the LAFCO process as the process also infringes on their Sovereignty.

He noted that MWD is taking a neutral position on the legislation and CWA is supporting the legislation.

In response to an inquiry from President Thompson, General Manager Watton indicated that the District's existing standby fee is by parcel and the District also utilizes a government rate for non-parcel customers. The government rate should suffice in this situation. He indicated that he did not know how CWA will handle the fees, however, they do plan on accessing the parcel fee in some form. The MWD did access another similar tribal customer. They had a calculation for the present value of the fees and the tribe paid the fees upfront and in perpetuity. President Thompson requested that staff review this item and assure that this fee collection does not get lost as it is a situation that is outside the District's normal fee structure.

Director Robak inquired of General Counsel that if he received campaign donations from Sycuan, would he need to recuse himself from voting on this issue. General Counsel Daniel Shinoff indicated that he did not need to recuse himself as he (Director Robak) would not benefit by voting to support Assembly Bill 2470.

A motion was made by Director Croucher, 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 staffs' recommendation.

b) DISCUSSION OF THE 2016 BOARD MEETING CALENDAR

Director Croucher indicated that he would be out-of-town on July 6, 2016 and would not be available to attend the July 6 board meeting. President Thompson indicated that he would be out-of-town on May 23, 2016 and would be unable to attend the special board meeting scheduled on that day. Directors Robak and Smith indicated that they would be out-of-town and would not be able to attend the June 1 board meeting.

There were no changes to the board meeting calendar.

REPORTS

9. GENERAL MANAGER'S REPORT

CWA Report

General Manager Watton indicated that CWA is continuing to provide comment on MWD's Urban Water Management Plan (UWMP), sharing their concern that MWD is developing a plan that would create more water supplies than the member agencies actually need. He indicated that MWD reviews all Southern California agencies' resource projects and provides credit for the acre foot (AF) that they develop. MWD is only providing a 20,000 AF credit for all Southern California agencies. He noted that If the City of San Diego moves their Pure Water Program forward, just a quarter of this project would provide the 20,000 AF. CWA feels that MWD's assumptions for their UWMP is not reasonable and could cause them to overbuild infrastructure, up to a million AF.

Director Croucher stepped off the dias at 4:18 p.m. and stepped back onto the dias at 4:19 p.m.

General Manager Watton indicated that he and Director Croucher are also closely monitoring the San Vicente Hydro Power Study as they do not feel that CWA should go into the power business, but instead, lease the use of the lake and the water to a power production company if the market place has interest.

He also reviewed the handouts which were on the dias for each member of the board. The first was information on the Greensview Drive main break and the declaration of an emergency to repair the break, a letter regarding the Salt Creek Golf Course alternative development options, a picture of CWA's member agency representatives who attended MWD's meeting on April 12, information on the Citizens Water Academy, an article in the Water Desalination Report regarding the Rosarito Beach Desalination Project bids, MWD's Water Supply Assessment Report, a *Wall Street Journal* Article regarding cities looking for new ways to meet demand for water supplies, the Otay WD's Standard & Poor's rating report, a CWA powerpoint presentation on MWD's history, and a summary of the Otay WD's recycled water use and payment history with the City of San Diego.

Director Croucher added, with regard to the Citizens Academy, that he would forward an electronic copy of the application to District Secretary Cruz and if Directors know anyone in the community who would have an interest in attending, it would be a very worthwhile program to participate in. He also indicated CWA received the medium sized agency *Resource Efficiency Award* from the Utilities Association. He shared that he attended, as a CWA board member, the Science Fair held in Balboa Park. He stated that it was very impressive to see the new generation's minds at work and the ideas they are developing for the future. He suggested that the District notify the board when the Science Fair is held again next year and that representatives from the District attend the event. He lastly shared that CWA has produced a video, sponsored by the Margaret Doe Charitable Trust, from the book, "To Quench a Thirst." He indicated that he would try to get a copy and have it shown at a future board meeting.

### General Manager's Report

General Manager Watton also presented information from his report. He reported on the District's employee picnic scheduled on July 16, recruitments and new hires, the budget workshop scheduled on May 23, the Comprehensive Annual Financial Report Award, the District's landscape contest winner, the refinancing of the 2007 Certificates of Participation, the Rosarito Beach Desalination Project, an update on the City of San Diego's Pure Water Project cost allocation, an update of the Inspection Division's status, testing for lead and copper in the District's water supply, the District's customers conservation level.

Director Croucher indicated that he would like to see the results of the lead testing in the water supply from the delivery point and at the end users point.

Director Smith inquired with regard to the Groundwater Basin Boundary Modification where the City of San Diego is looking into the boundary of their water rights, if we knew if it extends into the Otay Basin. Chief of Engineering Posada indicated that the groundwater basin boundary does not address rights. The purpose is to adjust the basin boundary to make it “Regional” and to include more stakeholders (in addition to the City of San Diego, the Sweetwater Authority, U.S. Navy, CalAm and Otay WD). It was noted that if the District did not participate in the group, then the District would need to prepare its own Basin Boundary Modification Management Program as required by the State’s Sustainable Groundwater Management Act (SGMA). This would be very costly and would also require input from all the stakeholders. General Manager Watton added that the District has a concern when it comes to Pueblo Rights as it pertains to the San Diego Formation Basin. It is not believed that Pueblo Rights extends into the San Diego Formation Basin 1000 feet down. Director Smith indicated that he brought this up because of the impact Pueblo Rights had on Sweetwater Authority’s brackish water treatment program and inquired what impact Pueblo rights would have to any diversification in groundwater that Otay WD may have interest in developing in the future. General Manager Watton indicated that Sweetwater Authority had settled their lawsuit with the City of San Diego and stated, with respect to the Otay WD, it is still an open question. Director Croucher indicated that he had some questions concerning this issue and asked if this item could be agendaized for closed session discussion sometime in the future.

10. DIRECTORS' REPORTS/REQUESTS

Director Smith indicated that besides the regular and special meetings he attends (board and committee meetings), he wished to share, along the same lines as the next generation, that the College of Engineering at San Diego State University has a design day every year where students are required to do a Capstone Project, which is a complete report on a specific item (generally a real project). One of the engineering student’s project was on the North City pipeline from the North City Reclamation Plant (pure water) to the reservoir. He indicated that the project also includes a complete preliminary design report, environmental impact report, pipeline alignment and the cost. He stated that agencies and consultants can become sponsors, engineers can become mentors to the students, etc. He suggested that this is another event that the District can look to sponsor in the future.

Director Lopez reported that he attended the District’s regular and special meetings (board and committee meetings), which included the Ad Hoc Salt Creek Golf Course Development Committee. He indicated that the committee wished to assure that the full board is updated on the discussions regarding the golf course and he felt the discussions have been excellent.

Director Robak indicated that a few years ago he had brought up the, “Yes to tap,” movement and in 2008, at the United States Conference of Mayors, that included the Mayors of the City of San Diego, San Francisco, etc., the city

mayors had committed to not have bottled water at their agencies with the exception of emergencies. He indicated that he would like the Otay WD to make this same commitment. He stated that he feels the District needs to set an example and show belief in its product.

11. PRESIDENT'S REPORT

President Thompson presented his report on meetings he attended during the month of April 2016. His report is attached. He also commended staff on the successful outcome of the refinancing of the 2007 Certificates of Participation. He suggested, because of the excellent interest rate the District received on the bond refinancing, he would like the District to consider extending the refinancing period to 30 years in similar cases in the future as any savings would help reduce costs to ratepayers.

12. CLOSED SESSION

The board recessed to closed session at 5:07 p.m. to discuss the following matter:

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

TITLE: GENERAL COUNSEL

The board reconvened at 5:55 p.m. and President Thompson reported that the board met in closed session and took no reportable actions.

13. ADJOURNMENT

With no further business to come before the Board, President Thompson adjourned the meeting at 5:55 p.m.

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President

ATTEST:

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District Secretary

**President's Report**  
**May 4, 2016 Board Meeting**

**A) Meetings attended during the Month of April 2016:**

- 1) **April 4: Attending the District's Special Board Meeting** for a workshop on the Actuarial Study.
- 2) **April 6: OWD Regular Board Meeting**
- 3) **April 7:**
  - a. **Attended the City of Chula Vista's First Friday Breakfast**
  - b. **Met with Halla Razak, City of SD Public Utilities Director,** for a meet and greet.
- 4) **April 11: Attended the City of Chula Vista Redevelopment Oversight Board Meeting**
- 5) **April 12: Attended MWD's Board Meeting** to speak during the Public Comments portion of the meeting to comment on their rates and request that they propose fair and lawful rates.
- 6) **April 15: Committee Agenda Briefing.** Met with General Manager Watton to review items that will be presented at the April committee meetings.
- 7) **April 19: Attended the Council of Water Utilities Meeting** where Executive Director Julia Richards of the San Diego River Conservancy presented.
- 8) **April 20: Attended the District's Finance, Administration and Communications Committee.** Reviewed, discussed, and made recommendation on items that will be presented at the May board meeting.
- 9) **April 22: Attended the Community Leaders Out at Sea Program** as a representative of the District.
- 10) **April 27: Attended the Desalination Project Committee Meeting.** Received an update on the desalination project.
- 11) **April 29: Board Agenda Briefing.** Met with Director Lopez, General Manager Watton and General Counsel Shinoff to review items that will be presented at the April board meeting.