

**MINUTES OF THE  
BOARD OF DIRECTORS MEETING OF THE  
OTAY WATER DISTRICT  
June 7, 2017**

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

2. ROLL CALL

Directors Present: Croucher, Gastelum, 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 Administration Adolfo Segura, Chief of Operations Pedro Porras, 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 Thompson and carried with the following vote:

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

to approve the agenda.

5. 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. Fayaz Nawabi indicated that he is with the Trustee Advisory Council for the San Diego Community College District. He stated that the committee that will handle the recall of Director Gastelum is anticipated to be chartered by the end of the week. He indicated that the chair of the Committee will be Reverend Jason Prater and stated that he was looking forward to recalling Director Gastelum in the next couple months.

6. PRESENTATION ON THE SAN DIEGO COUNTY WATER AUTHORITY vs. METROPOLITAN WATER DISTRICT LAWSUIT

Ms. Meena Westford, Special Projects Manager for the Metropolitan Water District (MWD), presented on achievements that San Diego County Water Authority (CWA) and her agency have accomplished together and updates on some of the most important water challenges that our agencies are facing. She reviewed MWD's background as a regional water wholesaler with 26 member agencies and governed by 38 board members. MWD provides services to six (6) counties covering 5200 square miles. She reviewed their water supply and storage strategy and presented MWD's viewpoint on information concerning the lawsuit between CWA and MWD (see attached presentation). There were questions from the members of the board and Ms. Westford responded to the inquiries.

Director Thompson indicated that he did not agree with many of the things that Ms. Westford indicated was misinformation concerning CWA's lawsuit with MWD. He stated that he felt there are significant issues with our whole system of governance with MWD in general. He indicated the fact there is litigation between the two agencies is an example of that. He stated he hoped Ms. Westford's statement that MWD wanted the agencies to work together will become a reality as opposed to the current situation where we have to fight out issues. He thanked her for coming to the District's meeting as he agrees that we need to keep the dialogue between the agencies open.

Ms. Maureen Stapleton, General Manager of the CWA, reviewed CWA's background and its strategy to diversify supplies to increase water supply reliability to assure that the County of San Diego would be able to sustain water deliveries even through drought. She stated by 2016, following the drought in 1991, CWA was able to diversify its supplies to where less than half of its water supply was coming from MWD (41% in 2016 versus 95% in 1991). She stated that it is expected that the County of San Diego will diversify its supplies further and by 2035 only 13% of its water supplies will come from MWD.

She also reviewed the historical rainfall in California and indicated that 2017 was a record rainfall year which allowed Governor Brown to rescind his January 2014 "Drought State of Emergency" and eliminated the mandatory conservation for all counties except for four. She noted that during the mandated conservation, the County of San Diego was able to disregard the conservation requirement due to the County's diversification of its water supplies. Ms Stapleton then reviewed the issues in their lawsuit with MWD (see attached presentation). She noted that MWD has overcharged San Diego County for water deliveries (please reference slide 26 of the presentation noting the overcharges to all 24 CWA member agencies) and the impact to the Otay Water District's ratepayers alone is an overcharge of \$18.9 million from 2011 to 2014 and \$38.1 million from 2011 to 2018. She stated these monies are coming out of the Otay Water District's ratepayers' pocket and subsidizing MWD's water sales to their other 25 member agencies.

Ms. Stapleton also reviewed MWD's financial practices and its impacts to Southern California ratepayers and their continued practice of overcharging their

member agencies. She stated that MWD is a critical water agency for California and our region needs a financially sound organization for the long run. She stated that CWA wishes to engage public officials and opinion leaders to ask questions about MWD's practices:

- Why are they draining their reserves?
- Why are they borrowing nearly one billion dollars unexpectedly and unplanned?
- Why have they not done a long range financing plan?
- Why are they buying property without doing appraisals?

CWA is putting these issues in the spotlight so that solutions can be found. CWA wishes to resolve its dispute with MWD and wants a sustainable MWD. They are requesting that Otay Water District support its efforts as it means billions of dollars to California ratepayers.

Director Croucher suggested that the District consider adopting a resolution showing its support of CWA's lawsuit. The Board had comments and asked questions. Ms. Stapleton responded to the inquiries.

The board recessed at 5:20 p.m. and reconvened 5:31 p.m.

#### 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 Smith, seconded by Director Thompson and carried with the following vote:

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

to approve the following consent calendar items:

- a) AWARD TWO (2) PROFESSIONAL AS-NEEDED CORROSION ENGINEERING SERVICES CONTRACTS WITH RFYEAGER ENGINEERING, LLC AND CORRPRO COMPANIES, INC., AN AGEION COMPANY, EACH IN AN AMOUNT NOT-TO-EXCEED \$577,276 FOR FISCAL YEARS 2018 AND 2019 [ENDING JUNE 30, 2019]
- b) AWARD TWO (2) PROFESSIONAL AS-NEEDED HYDRAULIC MODELING SERVICES CONTRACTS WITH WATER SYSTEMS CONSULTING, INC. AND HAZEN AND SAWYER, EACH IN AN

AMOUNT NOT-TO-EXCEED \$175,000 FOR FISCAL YEARS 2018 AND 2019 [ENDING JUNE 30, 2019]

- c) ADOPT RESOLUTION NO. 4334 TO CONTINUE WATER AND SEWER AVAILABILITY CHARGES FOR THE DISTRICT'S CUSTOMERS FOR FISCAL YEAR 2017-2018 TO BE COLLECTED THROUGH PROPERTY TAX BILLS
- d) ADOPT RESOLUTION NO. 4335 TO ESTABLISH THE TAX RATE FOR IMPROVEMENT DISTRICT NO. 27 AT \$0.004 FOR FISCAL YEAR 2017-2018
- e) APPROVE THE ADDENDUM TO THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE OTAY MESA CONVEYANCE AND DISINFECTION SYSTEM PROJECT

### ACTION ITEMS

#### 8. FINANCE AND ADMINISTRATION

- a) APPROVE A SECOND AMENDMENT TO THE JOINT POWERS AGENCY WATER CONSERVATION GARDEN OPERATION AGREEMENT TO EXTEND THE EXPIRATION DATE AND THE FUNDING AGREEMENT IN THE AMOUNT OF \$96,450 FOR AN ADDITIONAL 12 MONTHS FROM JUNE 30, 2017 TO JUNE 30, 2018

Communications Officer Tenille Otero indicated that staff is requesting that the Board approve the second amendment to the Joint Powers Agency Water Conservation Garden Operation Agreement. Please reference the Committee Action notes attached to staff's report (Attachment A) for the details of Ms. Otero's report.

The board members made comments supporting the Water Conservation Garden (WCG). Director Gastelum indicated he was not aware of the existence of the WCG. He stated, as a condo owner, he does not receive a water bill from the Otay Water District directly and, thus, does not receive the District's customer newsletter. He suggested that the District publish information about the WCG in all the different developments Homeowners Association newsletters as it would be a good way to publicize the WCG and their events to both single residential and multi-residential homeowners.

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

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

to approve staffs' recommendation.

- b) APPROVE THE WATER SYSTEM FEES FROM JULY 1, 2016 THROUGH JUNE 30, 2017 AND AMEND THE DISTRICT'S PURCHASING MANUAL SECTION 7.2.8.a TO ADD "REGULATORY FEES" TO STREAMLINE THE DISTRICT'S PROCUREMENT OF GOODS AND SERVICES

Chief of Water Operations Pedro Porrás indicated that staff is requesting that the board authorize payment of the water system fee to the State Water Resources Control Board which currently exceeds the General Manager's authorization level and amend the District's Purchasing Manual to add "Regulatory Fees" in Section 7.2.8, Board Authorized Purchases Exceeding the General Manager's Authority. Please reference the Committee Action notes attached to staff's report (Attachment A) for the details of Mr. Porrás' report.

There was discussion by the board of the State Water Resources Control Board's rationale for increasing their water system fee by 510%. Following the discussion a motion was made by Director Thompson, seconded by Director Croucher and carried with the following vote:

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

to approve staff's recommendation and to delegate to the Board President the forwarding of a letter to the State Water Resources Control Board making them aware of the District's concerns with regard to their 510% water system fee increase.

- c) ADOPT ORDINANCE NO. 563 AMENDING SECTION 9, ANNEXATIONS AND DETACHMENTS; SECTION 28 CONNECTION FEES AND CHARGES FOR POTABLE OR RECYCLED WATER SERVICE; SECTION 53, CONDITIONS FOR SEWER SERVICE; AND APPENDIX A OF THE CODE OF ORDINANCES TO ADJUST THE DISTRICT'S WATER CAPACITY FEE, NEW WATER SUPPLY FEE, AND ANNEXATION FEE; CREATE A SEWER CAPACITY FEE AND MODIFY THE SEWER ANNEXATION FEE, WITH ALL CHANGES TO BE EFFECTIVE JUNE 7, 2017

Finance Manager Kevin Koeppen requested that the Board adopt Ordinance No. 563 amending Section 9.04.B and 9.04.C.4, Annexations and Detachments; Sections 28.01.A and 28.01.B, Connection Fees and charges for Potable or Recycled Water Service; Section 53.03.A.1, conditions for Sewer Service; and Appendix A of the Code of Ordinances which will update five (5) water fee charges as noted in staffs' report. Mr. Tom Gould, HDR Engineering, Inc. was in

attendance of the meeting to present on the findings of the District's Rate Study. Please reference the Committee Action notes attached to staff's report (Attachment A) for the details of Mssrs. Koeppen and Gould's reports.

The board asked questions and staff and Mr. Gould responded to the board's inquiries.

Mr. Curt Smith of the HomeFed Corporation indicated that his organization owns quite a bit of real estate in Otay Ranch and they currently have several developments that will provide for approximately 13,000 dwelling units plus other land uses. It is expected that these units will be built over the next 20 years. He stated that HomeFed Corporation is in support of the meter fee reduction and that he was in attendance of today's meeting to discuss the larger homes in their developments. He indicated that the fixture count in these homes are a little beyond the Otay Water District's threshold for a ¾" meter and, thus, require a 1" meter. Mr. Smith asked if the District could work with his organization and other developers (the industry) on ways to handle these increments without having to move to a 1" meter as the cost difference between a ¾" and 1" meter is so great.

General Manager Watton explained that the capacity fee is different than the calculation of the meter size based on fixture count. He stated that staff would work and discuss this issue with HomeFed Corporation.

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

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

to approve staffs' recommendation.

## 9. BOARD

- a) ADOPT RESOLUTION NO. 4337 OF THE BOARD OF DIRECTORS OF THE OTAY WATER DISTRICT SUPPORTING EFFORTS TO KEEP THE TIJUANA RIVER NATIONAL ESTUARINE RESEARCH RESERVE OPEN

In response to an inquiry from Director Smith, Director Thompson clarified that the funding referenced in the resolution is funding from the Federal government. The resolution is supporting the continuing of Federal funding for the Tijuana River National Estuarine Research Reserve.

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

Ayes: Directors Croucher, Robak, Smith and Thompson

Noes: Director Gastelum  
Abstain: None  
Absent: None

to adopt Resolution No. 4337 supporting efforts to keep the Tijuana River National Estuarine Research Reserve open.

b) DISCUSSION OF 2017 BOARD MEETING CALENDAR

There were no changes to the board meeting calendar.

INFORMATIONAL ITEMS

10. THIS ITEM IS PROVIDED TO THE BOARD FOR INFORMATIONAL PURPOSES ONLY. NO ACTION IS REQUIRED ON THE FOLLOWING AGENDA ITEM.

a) THIRD QUARTER UPDATE ON THE FISCAL YEAR 2017 CAPITAL IMPROVEMENT PROGRAM

Engineering Manager Dan Martin provided an update on the District's third quarter of FY 2017 Capital Improvement Program. He indicated that the FY 2017 budget is divided into 90 projects totaling \$11.8 million. The overall expenditures through the third quarter is \$7.3 million which is approximately 62% of the FY 2017 budget. Please reference the Committee Action notes attached to staff's report (Attachment A) for the details of Mr. Martin's report.

The board asked questions and staff responded to the board's inquiries.

REPORTS

11. GENERAL MANAGER'S REPORT

General Manager's Report

General Manager Watton presented information from his report which included an update on Cal-Card rebate, SDRMA credit incentive program, 2017 Top Tech Executive Awards, State Route 94 Campo Road at Melody Road project, school lead testing program, conservation and water purchases. The board had comments and questions concerning a few items in the General Manager's report and staff responded to the inquiries and comments.

CWA Report

Director Smith reported that CWA is moving water around in their aqueducts in the north to combat bad water quality. He also noted that CWA's reservoirs are filled so they can provide emergency storage for up to six (6) months. He indicated in an effort to maximize storage, as the State has a large issue with

storage capacity, CWA has discussed with MWD the possibility of moving water from northern California to southern California to store the water in all the various agencies' reservoirs. MWD declined the offer as they felt it was too hard. He indicated that it is possible that the State could get involved. He lastly shared that CWA is presenting its proposed budget for FY 2018 and they indicated that they will be absorbing some of their cost increases to keep their rate increase to 3.7% for the upcoming fiscal year and is expected the rate increase will be from 3% to 5% in the following fiscal year.

Director Croucher added that CWA will continue with the outreach to Sacramento and Washington DC in an effort to push this shared storage idea forward in a positive direction and that he will be traveling to Washington, DC with CWA representatives. They will be meeting with the Bureau of Reclamation and the Army Corp of Engineers to review the plans for water storage for both Los Angeles and San Diego Counties. He also commented on MWD's budget and their rebate program. He lastly shared that he, along with other officers of CWA, attended the ACWA conference in May and CWA won the Clair A. Hill Water Agency Award of Excellence for their Desalination Project. Along with this award, a \$5000 scholarship will be awarded to a qualified undergraduate student in San Diego that can be applied to his/her tuition and fees for the upcoming academic year.

## 12. DIRECTORS' REPORTS/REQUESTS

Director Smith reported that he attended the District's regular board meeting, Engineering Operations and Water Resources Committee meeting, Budget Workshop/Special Board meeting, Ad Hoc City of San Diego Matters Committee and the Desalination Project Committee meeting in May. He stated the Desalination Project Committee reviewed an analysis of the project's viability based on different assumptions that were input into a spreadsheet. The assumptions could be changed in the spreadsheet to see how they impact the projects feasibility. He noted that a contract still needs to be negotiated, but the spreadsheet allows the District to determine the range that would make the project viable.

Director Gastelum indicated that he attended the ACWA Conference in May and the Joint Powers Insurance Authority (JPIA) made a presentation that seemed to provide a "win win" situation for the agency, employees and its ratepayers. He stated that he would like to have the JPIA contact the District to share the information.

## 13. PRESIDENT'S REPORT

President Robak reported on meetings he attended during the month of May 2017 (his report is attached). He shared that he met with the lease owners of the Salt Creek Golf Course and the District's committee will be meeting to discuss the status of negotiations with the lease owners. He also shared that General Manager Watton and he met with San Diego County Supervisor Dianne Jacob



regarding potential opportunities to share efforts on sewer services and the County indicated that they had no interest at this time.

14. CLOSED SESSION

The board recessed to closed session at 7:23 p.m. to discuss the following matters:

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

OTAY WATER DISTRICT v. CITY OF SAN DIEGO; CASE NO. 37-2017-00019348-CU-WM-CTL

The board reconvened at 7:46 p.m. and General Counsel 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 Robak adjourned the meeting at 7:46 p.m.

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President

ATTEST:

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District Secretary

**President's Report  
Mark Robak  
June 7, 2017  
Board Meeting**

<b>#</b>	<b>Date</b>	<b>Meeting</b>	<b>Purpose</b>
1	2-May	Water Conservation Garden	Ad Hoc Governance Committee
2	3-May	OWD Regular Board Meeting	Monthly board meeting
3	4-May	Metro JPA Meeting	Monthly commission meeting
4	4-5 May	P3 Water Summit	Discussion of Private Public Partnerships
5	12-May	Meeting with Salt Creek Golf Course ownership	Discuss ownership concerns
6	15-May	Committee Agenda Briefing	Met with General Manager Watton to review items that will be presented at the May committee meetings.
7	17-May	Finance, Administration and Communications Committee	Reviewed items that will be presented at the June board meeting.
8	18-May	12th Annual Kiwanis Safety Officer Appreciation Scholarship Dinner	Represent District at the Event
9	22-May	Water Conservation Garden	Ad Hoc Governance Committee
10	23-May	Desalination Project Committee	Reviewed items that will be presented at the June board meeting.
11	25-May	San Diego County Taxpayers Association	Golden Watchdog & Fleece Annual Dinner

12	24-May	OWD Special Board Meeting/Budget Workshop	Discussed proposed budget for FY 2018
13	26-May	Interview on KUSI TV	Discuss Desalination Project/Presidential Permit
14	30-May	Interview with La Prensa reporter	Discuss Desalination Project/Presidential Permit
15	31-May	Interview with Newsweek reporter	Discuss Desalination Project/Presidential Permit
16	31-May	Interview with Union Tribune Reporter	Discuss City of San Diego lawsuit