

**MINUTES OF THE
BOARD OF DIRECTORS MEETING OF THE
OTAY WATER DISTRICT
January 3, 2018**

1. The meeting was called to order by President Robak at 3:33 p.m.

2. ROLL CALL

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

Staff Present: General Manager Mark Watton, General Counsel Daniel Shinoff, 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, Assistant Chief of Finance Kevin Koeppen, District Secretary Susan Cruz and others per attached list.

3. PLEDGE OF ALLEGIANCE

4. PRESENTATION OF RECOGNITION PLAQUE TO BOARD PRESIDENT

Vice President Smith presented a recognition plaque on behalf of the Board of Directors and staff to Board President Robak in recognition for his service to the District as President of the Board in 2017. He shared some noteworthy accomplishments which included:

- Implementation of the meter replacement program for AMR
- The completion of the Cost of Service Study which resulted in a 0% water rate increase making the Otay Water District the third lowest cost water agency in the County
- The successful completion of the Strategic Plan goals that included a financial audit where it was determined that the District's Other Post Employee Benefits fund (OPEB) is 83% funded

President Robak thanked Vice President Smith for his kind words and the board, general manager, general counsel and employees for their support over the past year.

5. ELECTION OF BOARD PRESIDENT

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

Ayes: Directors Croucher, Gastelum, Robak, Smith and Thompson

Noes: None
Abstain: None
Absent: None

to elect Director Smith as President.

6. ELECTION OF VICE PRESIDENT

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

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

to elect Director Thompson as Vice President.

7. ELECTION OF BOARD TREASURER

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

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

to elect Director Robak as Treasurer.

8. APPROVAL OF AGENDA

A motion was made by Director Robak, and 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 the agenda.

9. APPROVE THE MINUTES OF THE REGULAR BOARD MEETINGS OF SEPTEMBER 6, 2017 AND OCTOBER 4, 2017 AND SPECIAL BOARD MEETING OF SEPTEMBER 22, 2017

A motion was made by Director Robak, and 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 the minutes of the regular board meetings of September 6, 2017 and October 4, 2017 and special board meeting of September 22, 2017.

10. 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.

11. RECESS THE OTAY WATER DISTRICT BOARD MEETING AND CONVENE THE OTAY SERVICE CORPORATION BOARD MEETING

President Smith recessed the Otay Water District board meeting at 3:40 p.m. and convened the Otay Service Corporation board meeting.

12. ROLL CALL

Directors Present: Croucher, Gastelum, Robak, Smith and Thompson
Directors Absent: None

13. ELECTION OF OFFICERS

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 elect Director Smith as President, Director Thompson as Vice-President, and Director Robak as Treasurer.

14. APPOINTMENT OF OFFICERS

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

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

to appoint General Manager Mark Watton as Executive Director, Chief Financial Officer Joe Beachem as Chief Financial Officer, and District Secretary Susan Cruz as Secretary.

15. ADJOURN OTAY SERVICE CORPORATION BOARD MEETING AND CONVENE THE OTAY WATER DISTRICT FINANCING AUTHORITY BOARD MEETING

President Smith adjourned the Otay Service Corporation board meeting at 3:42p.m. and convened the Otay Water District Financing Authority board meeting.

16. ROLL CALL

Directors Present: Croucher, Gastelum, Robak, Smith and Thompson
Directors Absent: None

17. APPOINT OFFICERS OF THE OTAY WATER DISTRICT FINANCING AUTHORITY

A motion was made by Director Robak, 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 appoint Director Smith as President, Director Thompson as Vice President, General Manager Watton as Executive Director, Chief Financial Officer Beachem as Treasurer/Auditor, and District Secretary Cruz as Secretary.

18. ADJOURN OTAY WATER DISTRICT FINANCING AUTHORITY BOARD MEETING AND CONVENE THE OTAY WATER DISTRICT BOARD MEETING

President Thompson adjourned the Otay District Financing Authority board meeting at 3:43p.m. and reconvened the Otay Water District board meeting.

CONSENT CALENDAR

19. 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 21b, APPROVE THE JOINT POWERS AGENCY AMENDED AND RESTATED WATER CONSERVATION GARDEN OPERATION AGREEMENT THROUGH JUNE 30, 2023, for discussion.

A motion was made by Director Robak, seconded by President Smith 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) APPROVE THE ISSUANCE OF A PURCHASE ORDER TO SUNROAD AUTO LLC DBA KEARNY PEARSON FORD IN THE AMOUNT OF \$168,069.10 FOR THE PURCHASE OF FIVE (5) REPLACEMENT HALF-TON TRUCKS

- c) APPROVE A PROFESSIONAL AGREEMENT WITH AIRX UTILITY SURVEYORS, INC. FOR AS-NEEDED UTILITY LOCATING SERVICES IN AN AMOUNT NOT-TO-EXCEED \$500,000 FOR A PERIOD OF THREE (3) FISCAL YEARS (FY), FY 2018 THROUGH FY 2020 (ENDING JUNE 30, 2021)

President Smith presented item 21b for discussion:

- b) APPROVE THE JOINT POWERS AGENCY AMENDED AND RESTATED WATER CONSERVATION GARDEN OPERATION AGREEMENT THROUGH JUNE 30, 2023

Ms. Elyssa Robertson, Executive Director of the Water Conservation Garden (WCG), indicated that she is attending the District's board meeting today primarily to answer any questions the District's board might have regarding the new operation agreement. She thanked everyone that participated in the discussions of the agreement and stated that she feels that the proposed agreement meets the needs of all the JPA agencies. She indicated that the WCG is working very hard to become fiscally independent and they very much

appreciate their partnership with all the water agencies, and in particular, the Otay Water District.

In response to an inquiry from Director Gastelum, Ms. Robertson indicated that the WCG JPA members have requested a reduction in their annual dues to the WCG. She stated that the WCG is planning over the next five (5) years, to provide for a \$164,000 reduction in the JPA member dues to the WCG. This would reduce funding from the JPA members from approximately 48% of the WCG's operating budget to about 30% of its operating budget. The WCG was provided a gift of \$300,000 to start an endowment program and to show their commitment, the WCG will be placing 5% of its revenue into the endowment fund. She stated the faster the WCG can build the endowment fund, the faster the JPA member dues will can be reduced. She stated this is primarily how the WCG plans to become more independent.

The members of the board commended Ms. Roberts on the WCG's efforts to become fully funded. When the WCG was first opened it was fully funded by the JPA members and now the WCG is only 40% funded by the JPA members. The District's board indicated that they appreciate the WCG's staffs' work and that the Otay WD is supportive of the WCG. They thanked Ms. Roberts for all her and the staff's efforts.

Ms. Roberts thanked the Otay WD board for their support.

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

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

to approve the Joint Powers Agency amended and restated Water Conservation Garden Operation Agreement through June 30, 2023.

ACTION ITEMS

20. ENGINEERING AND OPERATIONS

- a) APPROVE THE WATER SUPPLY ASSESSMENT REPORT AND VERIFICATION DATED NOVEMBER 2017 FOR THE COUNTY OF SAN DIEGO OTAY RANCH VILLAGE 14 AND PLANNING AREA 16/19 PROJECT, AS REQUIRED BY SENATE BILLS 610 AND 221

Environmental Compliance Specialist Lisa Coburn-Boyd indicated that she would be presenting on the Water Supply Assessment and Verification Report (WSA&V

Report) for the County of San Diego's Otay Ranch Village 14 and Planning Area 16/19 Project. Please reference the Committee Action notes (Attachment A) attached to the staff report for the details of Ms. Coburn-Boyd's report.

President Smith noted that there is no unanticipated demand for this project (this project was included in the planning documents for water demand). He indicated that the City of San Diego is not allowing recycled water to be used at the project at this time as they are concerned that runoff from the development would enter the City of San Diego's Upper and Lower Reservoirs and increase nutrients and salinity. The Developer and Otay WD are pursuing the use of recycled water with the City of San Diego as this project would provide for additional recycled water use in the District's service area. He also indicated that the project provides for the potential for an alternative alignment for the North/South Interconnect Pipeline Project. He stated that staff is exploring the possibility of upsizing the pipeline serving the area, if feasible, and sharing the cost with the Developer.

Director Thompson also indicated that because of the District's current lawsuit with the City of San Diego, the District should be cognizant of all communications with the City.

The motion was made by Director Thompson, 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.

21. BOARD

- a) **ADOPT RESOLUTION NO. 4341 OF THE OTAY WATER DISTRICT BOARD OF DIRECTORS SUPPORTING MUNICIPAL WATER SYSTEMS THROUGH THE ELIMINATION OF THE PURCHASE AND USE OF BOTTLED WATER EXCEPT IN TIMES OF EMERGENCY WHEN MUNICIPAL WATER IS NOT AVAILABLE**

President Smith indicated that on the dias, for each member of the board, is a strike-thru copy of Resolution No. 4341 showing Director Thompson's proposed changes to the resolution. Director Thompson's changes propose "reducing" rather than banning the purchase of bottled water and changing the verbiage of when bottled water can be purchased by the District from, "in times of emergency," to, "when it is not practical to use Otay's municipal tap water" (please reference attached handout for the details of the proposed changes).

Director Robak indicated this came to his attention about ten (10) years ago when in 2008 the United States Conference of Mayors adopted a resolution urging cities to phase out government use of bottled water when feasible and promote the importance of municipal water. This included the cities of San Francisco, Washington D.C., etc. He stated the he felt that because the District provides tap water, we should support and stand behind our product. The District is the second largest water district in the County and should set an example. The resolution he has proposed is very similar, with some fine tuning, with those adopted by cities.

Directors Thompson, Croucher and Smith indicated that they are supportive of the resolution and felt that bottled water purchases should not be banned as there are times when its use is appropriate. The board suggested that they would leave it up to staff to decide when bottled water would be appropriate. Director Gastelum indicated that he supported the resolution as it is originally written.

Director Croucher made a motion to approve Resolution No. 4341 with Director Thompson's proposed changes. The motion was seconded by Director Thompson.

Director Thompson made an additional suggested change to page 2 of Resolution No. 4341 to add, "substantially," in front of the verbiage, "reduce the purchase and use of bottle water". Director Croucher accepted the additional suggested change by Director Thompson. The motion carried with the following vote

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

The board requested that staff explore updating the District's current drinking water fountain with a cooling hydration station that can be both a drinking fountain and filling station and purchasing a mobile station marked with the District's logo that can be brought to public events.

b) **DISCUSSION OF BOARD OF DIRECTORS POLICY 8, DIRECTORS COMPENSATION, REIMBURSEMENT OF EXPENSES AND GROUP INSURANCE BENEFITS**

President Smith indicated that at his request, General Counsel Shinoff has provided an opinion regarding per diem increases (a copy is on the dias for each member of the board). The opinion indicates the board can approve a one-time 5% increase to per diems once every 12 months. It was noted that the board

must vote each year to increase the per diem rate which cannot exceed 5% each year.

The board discussed that in 2004 the then sitting board had voted to reduce the Board of Directors per diem from \$145 to \$100 per meeting. The board inquired if it was possible to rescind a previous board's action.

General Counsel Shinoff reviewed current law and stated that Government Code Section 2202 states that the amount of the per diem rate increase cannot exceed the amount equal to 5% in each calendar year from the operative date of the last adjustment of the salary. The Attorney General's opinion indicates that nothing in the language of Section 36516 suggests that calculations are to be based upon salary amounts that were never received. General Counsel Shinoff indicated the District certainly has a unique situation and if there is a desire to visit this further, the District could reach out to the Attorney General's office for an opinion.

Director Thompson suggested referring the District's question to the Attorney General on whether the board could reestablish the original per diem amount of \$145 per day per meeting. The rationale for reestablishing the former rate is based on the fact that the District's per diem rate is one of the lowest in the County. He stated that he also felt it would provide for more public interest in running for a seat on the District's board.

The motion was made by President Smith, seconded by Director Robak and carried with the following vote:

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

to refer this item back to legal counsel to request an opinion from the Attorney General.

c) DISCUSSION OF BOARD OF DIRECTORS COMMITTEE APPOINTMENTS

The board discussed possible ways that committee appointments can be handled. Currently, the elected board President solicits feedback from each member on which committees they wish to serve on and the President makes the final determination on the appointments. Following the discussion, the board concurred to leave the committee appointments process as is and continue to have the board President make the committee and organizational appointments with the exception of the San Diego County Water Authority appointment.

President Smith made a motion to dissolve the Ad Hoc Optimization Committee. The motion was seconded by Director Thompson.

General Counsel Shinoff explained the difference between standing and ad hoc committee meetings; ad hoc committees are formed for a specific task or objective, and are dissolved after the completion of the task or achievement of the objective (for limited use and time).

Director Croucher suggested to President Smith that he not request that the board take action to dissolve the Ad Hoc Optimization Committee as it will require board action to establish the committee again if he felt it was required again in the future. He indicated that he believes that the Board President has full authority to establish or dissolve ad hoc committees as needed and he felt the District should continue with that practice.

President Smith rescinded his motion in response to Director Croucher's suggestion. Director Thompson inquired, in the District's Code of Ordinances, who has the power to create and dissolve committees. District Secretary Susan Cruz indicated that these powers are within Section 1 of the Code of Ordinances, "Duties of the President".

d) DISCUSSION OF THE 2016 BOARD MEETING CALENDAR

There were no changes to the board meeting calendar.

INFORMATIONAL ITEM

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

- a) UPDATE ON THE NON-CONFORMANCE ISSUE ASSOCIATED WITH THE 20-INCH RECYCLED WATER MAIN CONSTRUCTED AS PART OF THE OTAY RANCH VILLAGE 2 EAST, OTAY RANCH VILLAGE 2 HERITAGE ROAD, AND OTAY RANCH VILLAGE 2 NORTH DEVELOPER PROJECTS

The board received the staff report and waived presentation of this item.

- b) INFORMATIONAL UPDATE FOR THE ROSARITO DESALINATION PLANT AND THE OTAY MESA CONVEYANCE AND DISINFECTION SYSTEM PROJECTS

Engineering Manager Bob Kennedy indicated that he would be providing an update on the progress of the Rosarito Desalination Plant and the Otay Mesa Conveyance and Disinfection System Projects [please reference the Committee

Action notes (Attachment A) attached to the staff report for the details of Mr. Kennedy's report].

It was indicated that if the District were successful in negotiating an agreement for water from the Rosarito Desalination Plant, the agreement would be with the State of Baja California. However, Mexico's Federal Government would have to approve/permit the water to be moved to the United States. It was indicated that staff intends to complete the environmental documents and hold them until the project is ready to move forward. Staff will also review if monies are required for the next fiscal year. It was noted that the Presidential Permit has a five (5) year limit and the District could apply for an extension if needed.

Director Thompson requested if staff could provide a translation or summary (verbal or written) of the articles written in Spanish that were attached to the staff report. He also requested that staff continue to provide updates regarding Consolidated Water and what they are saying publicly to the investment community.

- c) PRESENT INFORMATION GATHERED AND PREPARED IN EVALUATING SEISMIC RISK STUDIES AND THE POTENTIAL RISKS FROM A SEISMIC EVENT

The board received the staff report and waived presentation of this item.

- d) FIRST QUARTER UPDATE ON THE FISCAL YEAR 2018 CAPITAL IMPROVEMENT PROGRAM

Engineering Manager Dan Martin provided an update on the 1st quarter of the District's Capital Improvement Program. Please reference the Committee Action notes (Attachment A) attached to the staff report for the details of Mr. Martin's report.

In response to an inquiry from Director Robak, Mr. Martin indicated that the contractor for the Campo Road Sewer Project is making slow progress through the intersection at the Rancho Towne Center, but they are ramping their construction up and we should see more progress on the project.

Mr. Martin indicated that he did not believe that the 850-2 reservoir was damaged during the fire. He stated that the District did have some facilities damaged in the fire and that we did receive insurance monies for the damages.

REPORTS

23. GENERAL MANAGER'S REPORT

General Manager Watton presented information from his report that included updates to the application and recruitment procedures, Cal-Card Program quarterly incentive, HAZWOP and confined space emergency response team, Cal/OSHA inspection of the treatment plant chlorine system, Campo Road sewer replacement project, Hillsdale Road potable water and sewer replacement, pure water project, Otay Ranch Village 3 project, SDG&E's new electricity peak usage hours, water conservation and sales.

24. SAN DIEGO COUNTY WATER AUTHORITY UPDATE

Director Croucher indicated that CWA did not hold a meeting in November and instead combined the November meeting with the December meeting. He stated that CWA's officers have been continuing to meet with the officers of MWD to work on enhancing their relationship. CWA also will be traveling to Sacramento with the San Diego Regional Chamber of Commerce and will be meeting with the California Secretary for Natural Resources, Mr. John Laird, and in February they will be going to Washington, D.C. with ACWA's legislative group.

President Smith reported that CWA has approved staff to negotiate with two firms to build a hydro storage plant at the San Vicente reservoir. He also indicated with regard to the outcome of the lawsuit with MWD that they (MWD) must remove a contract clause it used to disqualify San Diego County local water supply projects from receiving funding because the courts determined it was unconstitutional. He lastly shared that he was appointed to CWA's Audit Committee and one of the items they will be focused on for next year will be the direction the Board wishes to go in funding CalPERS.

25. DIRECTORS' REPORTS/REQUESTS

Director Robak indicated that the primary objective of government is to represent the ratepayers and he was proud that the District was able to not increase rates this year without sacrificing services to accomplish this. He noted that the District has not created any objectives on direct potable reuse and that he would like to think that we would get there one day. He also would have liked to see some progress on consolidations and though he wasn't successful with his resolutions for the past year, he is happy with what we have accomplished over the year.

Director Thompson indicated that he and President Smith attended a City of Chula Vista Interagency Task Force meeting and some of the items they discussed included the City's rate study, the drought and the Otay WD's leak detection program.

Director Gastelum indicated that over the past month he visited a couple of installations: City of San Diego's pure water project and Padre Dam's advanced water purification project. He stated he also attended ACWA's Region 9 & 10 conference.

26. PRESIDENT'S REPORT

President Smith indicated that over the past month he attended meetings of the District's Desalination Project Committee, Ad Hoc Employee Negotiations Committee, Engineering Operations and Water Resources Committee and the City of Chula Vista Interagency Task Force meeting that was mentioned by Director Thompson. He stated that his objective for the upcoming year is to meet the District's goal, "Dedicated to Community Service."

27. CLOSED SESSION

The board recessed to closed session at 5:54 p.m. to discuss the following matters:

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

TITLE: GENERAL COUNSEL

- b) CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION [GOVERNMENT CODE §54956.9]

MARK COZIAHR, ET AL. vs. OTAY WATER DISTRICT, SAN DIEGO COUNTY WATER AUTHORITY, ET AL.; CASE NO. 37-2015-00023413

- c) CONFERENCE WITH LABOR NEGOTIATORS [GOVERNMENT CODE §54957.6]

AGENCY DESIGNATED REPRESENTATIVES: BOARD AD HOC
COMMITTEE
MEMBERS

EMPLOYEE ORGANIZATION: OTAY WATER DISTRICT EMPLOYEES'
ASSOCIATION

AND

ALL REPRESENTED AND UNREPRESENTED PERSONNEL
INCLUDING MANAGEMENT AND CONFIDENTIAL EMPLOYEES

28. REPORT ON ANY ACTIONS TAKEN IN CLOSED SESSION. THE BOARD MAY ALSO TAKE ACTION ON ANY ITEMS POSTED IN CLOSED SESSION

The board reconvened from closed session at 7:29 p.m. and General Counsel Shinoff indicated that the board met in closed session and took no reportable actions.

29. ADJOURNMENT

With no further business to come before the Board, President Smith adjourned the meeting at 7:30 p.m.

President

ATTEST:

District Secretary