

MINUTES OF A REGULAR MEETING
OF THE BOARD OF DIRECTORS OF THE
OLIVENHAIN MUNICIPAL WATER DISTRICT

November 18, 2009

A regular meeting of the Board of Directors of the Olivenhain Municipal Water District was held on Wednesday, November 18, 2009 at the District office, 1966 Olivenhain Road, Encinitas, California.

President Sprague called the meeting to order at 4:00 P.M. Following the Pledge of Allegiance, the Assistant Secretary called the roll. Directors present were Krauss, Muir, Sprague, Topolovac, and Varty.

President Sprague declared a quorum present and ordered the meeting to proceed. In attendance were Kimberly Thorner, General Manager; Wes Peltzer, General Counsel; Tom Kennedy, Operations Manager; George Briest, Engineering Manager; Rainy Selamat, Finance Manager; Tom Wood, Human Resources Manager; and Naomi Sabino, Executive Secretary.

Also in attendance were District employees Joseph Randall - Management Analyst Supervisor, Jennifer Joslin - Human Resources Analyst, Mike Keller - Systems Operator I, Nancy Morrison - Customer Service Representative II, Dan Gomez - Utility III, Lorrie Smith - Accountant I, Cathleen Hudson - Accountant I, Debbie Perez - Customer Service Rep. I, Sonja Holtman - Department Assistant, and Karen Mortensen - Accounting Supervisor.

5. ADOPTION OF AGENDA

Director Muir moved to adopt the agenda as recommended, seconded by Director Topolovac and carried.

6. PERSONAL APPEARANCES AND PUBLIC COMMENTS

District customers and employees were present for agenda item number 7.

7. PRESENTATION OF AWARDS AND HONORABLE MENTIONS

- * Mike Keller - 5 year service anniversary
- * Dan Gomez - 5 year service anniversary
- * Nancy Morrison - 20 year service anniversary

The honorees were individually introduced then congratulated by the Board and all those present.

NOTE: The meeting was in Closed Session
between 4:08 P.M. and 5:30 P.M.

8. CLOSED SESSION

- A) CONSIDER FILLING INSPECTION SUPERVISOR POSITION [PURSUANT TO GOVERNMENT CODE SECTION 54957(b)]

B) RECEIVE ANNUAL PERFORMANCE REVIEW PACKET FOR THE GENERAL MANAGER'S REVIEW

OPEN SESSION

President Sprague stated that the General Manager received her review in Closed Session and that a summary of the Board's actions on her review and compensation would be placed in her personnel file. The General Manager was also authorized to fill the Inspection Supervisor position.

NOTE: Director Muir exited the meeting at 5:30 P.M.
President Sprague declared the Board still had a quorum

Following Closed Session, the meeting was joined by District customers C.R. George, Bruce Ferguson, and Jill Litschewski; District consultant Dan Smith – Consulting Engineer, AECOM; and District employees Jeff Anderson – Park Supervisor, George Mileon - Systems Administrator, and Karen Ogawa – Engineering Project Supervisor.

Park Supervisor Anderson welcomed the winners of the Fourth Annual Photo Contest and reported that select photos will be on display at the Elfin Forest Interpretive Center Honoring Susan J. Varty beginning January 2010 through March 2010.

President Sprague announced the names of the winners and categories as follows:

1 st Place – Youth Division	C.R. George
1 st Place – Scenic View	Shay Blechynden
2 nd Place – Scenic View	Bruce Ferguson
1 st Place - Water Scenery	Bruce Ferguson
2 nd Place - Water Scenery	Bruce Ferguson
1 st Place – Black and White	Jill Litschewski
2 nd Place – Black & White	Rosie Karel
1 st Place – Plants & Animals, Best in Show	Jill Litschewski
2 nd Place – Plants & Animals	Jill Litschewski
1 st Place – Employee Category	George Mileon
2 nd Place – Employee Category	George Mileon
3 rd Place – Employee Category	Karen Ogawa

9. CONSIDER APPROVAL OF THE MINUTES OF THE OCTOBER 28, 2009 REGULAR BOARD OF DIRECTORS MEETING

Director Topolovac requested that the Minutes be revised to reflect his No vote on the Closed Session landscaping contract discussion from the October 28, 2009 meeting.

President Sprague moved to approve the Minutes of the October 28, 2009 Board of Directors meeting pending the stated corrections, seconded by Director Krauss and carried with Director Muir absent.

10. CONSENT CALENDAR

C-a CONSIDER ADOPTION OF A MOTION APPROVING THE PAYMENT OF LISTED WARRANTS FROM THE DISTRICT'S REVOLVING AND REGULAR ACCOUNTS; LISTED TRANSFERS OF FUNDS; REIMBURSEMENT OF EXPENSES TO BOARD MEMBERS AND STAFF; AND MONTHLY INVESTMENT REPORT

C-b CONSIDER ADOPTION OF A RESOLUTION OF THE BOARD OF DIRECTORS OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT DESIGNATING DEPOSITORIES AND AUTHORIZING INVESTMENTS FOR THE MONEY OF THE DISTRICT AND DESIGNATING THE SIGNATORIES FOR THE MANAGEMENT OF THE DISTRICT DEPOSITS AND RESCINDING RESOLUTION 2009-25

C-c CONSIDER ACCEPTANCE OF THE 4S RANCH NEIGHBORHOOD 3, UNIT 2 PROJECT INTO THE DISTRICT'S SYSTEM AND ORDER THAT A NOTICE OF COMPLETION BE FILED

C-d CONSIDER ACCEPTANCE OF THE 4S RANCH COMMONS RESIDENTIAL AND COMMERCIAL PROJECT INTO THE DISTRICT'S SYSTEM AND ORDER THAT A NOTICE OF COMPLETION BE FILED

C-e CONSIDER ACCEPTANCE OF THE CHURCH OF THE NATIVITY WATERLINE EXTENSION PROJECT INTO THE DISTRICT'S SYSTEM AND ORDER THAT A NOTICE OF COMPLETION BE FILED

C-f CONSIDER QUITCLAIM OF AN EASEMENT FOR A PIPELINE RELOCATED DURING CONSTRUCTION TO THE CHURCH OF THE NATIVITY AND ORDER THAT THE QUITCLAIM BE FILED

C-g CONSIDER ADOPTION OF A MOTION APPROVING THE DISTRICT'S "UNAUDITED" CONSOLIDATED BALANCE SHEET, INCOME STATEMENT, CASH FLOW STATEMENT, BUDGET SUMMARY WITH NOTES EXPLAINING SIGNIFICANT VARIANCES, AND CONSTRUCTION IN PROGRESS REPORT

C-h CONSIDER ADOPTION OF A RESOLUTION OF THE BOARD OF DIRECTORS OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT HONORING C. WAYNE ALEXANDER FOR 32 YEARS OF SERVICE TO THE DISTRICT

Director Topolovac moved to approve the Consent Calendar, seconded by Director Krauss and carried with Director Muir absent.

11. CONSIDER THE NATIONAL WATER RESOURCES ASSOCIATION (NWRA) CALIFORNIA CAUCUS BALLOT

General Manager Thorner made the recommendation to nominate three individuals with whom she is familiar. She stated that only three nominations are required; however, the Board could choose to nominate up to five individuals if they prefer.

Director Topolovac moved to accept Staff's recommendation, seconded by Director Krauss and carried with Director Muir absent.

12. CONSIDER DESIGNATION OF DELEGATE FOR UPCOMING ASSOCIATION OF CALIFORNIA WATER AGENCIES (ACWA) OFFICER ELECTIONS AT THE FALL CONFERENCE

General Manager Thorner stated that Director Topolovac would be attending the ACWA Fall Conference; therefore, Staff recommended nominating Director Topolovac as the District's delegate.

Director Krauss moved to approve Staff's recommendation, seconded by Director Varty and carried with Director Muir absent.

13. CONSIDER AN UPDATE AND AMENDMENT TO THE RULES AND REGULATIONS FOR USE OF SANITATION DISTRICT SEWERAGE FACILITIES IN COMPLIANCE WITH THE CALIFORNIA STATE WATER RESOURCES CONTROL BOARD ORDER NO. 2006-003-DWQ

Staff recommended approval of the update and amendment with the inclusion of General Counsel Peltzer's modifications which were distributed to the Board.

Director Krauss moved to approve the revised Rules and Regulations, seconded by Director Varty and carried with Director Muir absent.

General Manager Thorner suggested that the Public Hearing, agenda item #20, could be considered out of order so that those present for the hearing would not need to remain for the entire Board Meeting. The Board was in agreement.

20. PUBLIC HEARING TO CONSIDER THE OLIVENHAIN MUNICIPAL WATER DISTRICT'S POTABLE WATER CAPACITY FEES FOR CY 2010 (5:30 P.M.)

President Sprague announced that this is the time and place for a Public Hearing to consider the District's potable water capacity fees for calendar year 2010 within zones of benefit for new connections.

General Manager Thorner stated that the Notice of Public Hearing was published in the North County Times on Sunday, November 8, 2009 and Friday, November 13, 2009. In addition, notice of the proposed increases was sent to the Building Industries Association (BIA). The BIA responded via e-mail, a hard copy of which was provided to the Board prior to the Public Hearing, followed by a second communication via letter from the BIA which was received on the afternoon of November 18, 2009. General Manager Thorner confirmed that a copy of the latter was distributed to each Board member at the start of Open Session and that it is included in the record of public comment.

General Counsel Peltzer recommended that the record should reflect that no one from the public appeared for the Hearing. General Manager Thorner stated that the opportunity for written public comment will not conclude with tonight's Public Hearing, nor will the Board be asked to approve any capacity fees until further discussion occurs at the December 9 Board Meeting. However, the opportunity for oral public comment concludes with tonight's Public

Hearing.

President Sprague announced the Public Hearing as now closed and reconvened the meeting of the Board of Directors, beginning with agenda item #14.

14. CONSIDER ANNUAL OBJECTIVES AND TIGER TEAM QUARTERLY REPORT

Director Krauss asked if a different term could be used when referring to “Water Loss.” Operations Manager Kennedy suggested “Non-Revenue Water”; Finance Manager Selamat also recommended “Unbilled Water,” referring to water which has already consumed but not yet billed to customers due to the billing cycle.

Director Topolovac inquired about a reference on page 5 of the report which states that Rancho Santa Fe Farms Country Club is complete but that the District is still dealing with “some issues.” Engineering Manager Briest explained that he is presently assisting the Country Club in communicating to the homeowners association that the water being utilized is not gray water but highly treated recycled water.

Director Topolovac asked if it was worthwhile to pursue VOCAL since it will now consist of informal group discussions. General Manager Thorner explained that the Water Agencies Association (WAA) is looking to potentially merge with the Council of Water Utilities (COWU) to form a 501(c)(6) where legislative issues could be discussed and that formalizing VOCAL in the future could be reconsidered in 2010.

Director Topolovac stated that a donation of shelves had been made by Books and Beyond to the Water Treatment Plant and that the donation should be reflected in the Tiger Team report. General Manager Thorner agreed that Staff would add a reference to this donation.

No Board action was required.

15. CONSIDER APPROVAL OF A PROFESSIONAL SERVICES CONTRACT WITH EXECUTIVE LANDSCAPE IN THE AMOUNT OF \$39,276 PER YEAR FOR THREE YEARS AND AUTHORIZE GENERAL MANAGER TO SIGN ON BEHALF OF THE DISTRICT

General Counsel Peltzer suggested that the District revise the contract to lock in the terms with Executive Landscape without the termination rights during the three-years. Pending Executive Landscape’s willingness to accept this change, Staff would amend its recommendation to include the General Counsel’s recommendation.

Director Topolovac moved to approve the contract in the amount of \$39,276 per year with the change to the three-year termination rights and additional revisions submitted by General Counsel Peltzer, seconded by Director Krauss and carried with Director Muir absent.

16. INFORMATIONAL REPORTS

A. President’s Report

President Sprague reported that an excellent Facilities Committee meeting was held in November which included a brief discussion of Closed Session items as well as grading of the Building J site. Director Krauss stated that Operations Manager Kennedy was meeting the

objective of the System Reliability Index and that the system had been tailored to identify, with substantial detail, the cause of some failures as well as trends. President Sprague added that the number of unplanned outages is insignificant which is indicative of the system's value.

B. General Manager's Report

General Manager Thorner stated that the kickoff meeting for the brackish desalination study had taken place. With regard to Poseidon Resources/Carlsbad desalination, the next phase of the process will focus intensely on developing water exchange agreements with SDCWA whereby desalinated water flows through the aqueduct to the District.

Director Topolovac commended General Manager Thorner and the team for the excellent work done on the Lake Hodges agreement, the testimony at Metropolitan on the desalination project, and many other issues Staff has tackled in recent months.

C. Consulting Engineer's Report

Mr. Smith stated that three initiatives were pursued during the month: the vacation of easements in the Rancho Santa Fe Lakes development, preparation of plats and legal documentation for an encroachment permit to the City of Carlsbad for a portion of land on Olivenhain Road, and continued work on specification comparisons with other agencies.

D. General Counsel's Report

General Counsel Peltzer reported that a new contract with Poseidon Resources is being reviewed and that some financing issues need to be worked through. He further stated that Gregory Canyon has not yet paid the judgment; payment is now expected on Friday, November 20 based on their last communication.

On a separate matter, the Board was advised that a very important new statute has taken effect regarding emergency services. There is immunity to anyone who provides medical or non-medical care during an emergency; however, anyone who assists another in providing emergency medical or non-medical care is granted only partial immunity since they may be sued if a court deems the care to be grossly negligent.

E. San Diego County Water Authority Report

There was no meeting scheduled for November.

F. Metropolitan Water District Report

General Manager Thorner stated that report had already been provided.

G. IRWMP Committee Report

General Manager Thorner stated there was no IRWMP Committee meeting in November.

H. Twelve Month Calendar / Other Meetings/Reports

OMWD Safety Committee (October 29)

Director Krauss and Topolovac attended. Director Krauss reported that there was a good example of a confined space exercise; a crane was used to lower people into a confined space when replacing a pump at the DCMWTP. There was also discussion regarding an employee backing into a tree at a job site and the significance of placing cones around the vehicle while working. Both directors continue to be very impressed with the safety training provided by the District.

Finance Committee Meeting (November 2)

Directors Muir and Varty attended this meeting. Director Varty and Finance Manager Selamat stated that some investment changes were being made; Certificates of Deposit will be combined to get a better rate.

Facilities Committee Meeting (November 4)

Directors Krauss and Sprague provided their report earlier in the meeting.

Leucadia Wastewater District Office Grand Opening (November 6)

Director Sprague stated that the facility is beautiful and the event was well attended.

San Diego North Economic Development Council Board Meeting (November 12)

Director Muir and General Manager Thorner attended and heard a presentation from the City Manager of San Marcos, representing the City Managers' League about the potential for change to CalPERS, having the two tiers of retirement, and a discussion regarding firefighter and police officer benefits.

COWU Breakfast (November 17)

Director Krauss reported on the presentation regarding the rainfall effects of El Niño and La Niña. He learned that normal rainfall in San Diego is 10.37" per year. Reference was also made to a weather phenomenon named the Madden Julian Oscillation (MJO).

I. Legislative Report

General Manager Thorner stated that the District could expect to be asked by customers where the Board stands on the recent passed water bill. The bill states that a new conservancy would be formed to study the Delta; however, it does not pay for the peripheral canal. Metropolitan Water District will still be expected to pay \$2.5 billion. She further stated that, if the water bond does not pass, all the regulations will remain in place without any funding to support it. Since the water bond will not fix the Delta, General Manager Thorner asked the Board if it wishes to support the bill, remain silent, or oppose it.

Director Topolovac stated that he was opposed to the \$11 billion bill since it does not solve the problems. The lack of a peripheral canal and the lack of storage are the primary drawbacks. Director Krauss agreed with Director Topolovac that the bill does not do the job;

Directors Sprague and Varty also do not favor the bill.

The directors unanimously agreed that Director Muir and General Manager Thorner's recent editorial accurately reflects the Board's position.

J. LAFCO Advisory Committee

General Manager Thorner stated that a report would be available after November 20.

17. CORRESPONDENCE

All correspondence was provided to the Board in advance of the meeting.

18. AUTHORIZATION TO ATTEND UPCOMING MEETINGS /CONFERENCES / SEMINARS

General Manager Thorner stated she was not aware of any meetings requiring authorization to attend.

19. FUTURE AGENDA ITEMS

There were no future agenda items to discuss.

21. CONSIDER PUBLIC COMMENTS

There was no one present to comment.

22. ADJOURNMENT

President Sprague adjourned the meeting at 6:56 P.M.

Edmund K. Sprague, President
Board of Directors
Olivenhain Municipal Water District

ATTEST:

Jacob J. Krauss, Secretary
Board of Directors
Olivenhain Municipal Water District