

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

September 14, 2022

A regular meeting of the Board of Directors of Olivenhain Municipal Water District was held on Wednesday, September 14, 2022, via video conference and in person.

President Watt called the meeting to order at 4:00 p.m. Following the Pledge of Allegiance, the Assistant Secretary called the roll. Directors present were Bruce-Lane, Guerin, Meyers, and Watt. Director Topolovac joined the meeting at 4:19 p.m. It was noted that the meeting was published via teleconference in accordance with Assembly Bill 361, which allows local or state legislative bodies to hold meetings via teleconference, makes meetings accessible electronically, and waives certain Brown Act provisions.

President Watt declared a quorum present and ordered the meeting to proceed. In attendance were Kimberly Thorner, General Manager; Joey Randall, Assistant General Manager; Jennifer Joslin, Human Resources Manager; John Carnegie, Customer Services Manager; Geoff Fulks, Operations Manager; Lindsey Stephenson, Engineering Manager; Brian Sodeman, Customer Service and Public Affairs Supervisor; Steve Weddle, Engineering Services Supervisor; Leo Mendez, Accounting Supervisor; Joe Jansen, Administrative Analyst; and Stephanie Kaufmann, Executive Secretary.

5. CONSIDER IMPLEMENTING ASSEMBLY BILL 361 THAT PROVIDES THE ABILITY TO MEET REMOTELY DUE TO THE GOVERNOR'S PROCLAIMED STATE OF EMERGENCY UNDER MODIFIED BROWN ACT REQUIREMENTS

Director Guerin moved to implement AB 361, seconded by Director Bruce-Lane, and approved by the following roll call vote:

AYES:	Directors Bruce-Lane, Guerin, Meyers, and Watt
NOES:	None
ABSTAIN:	None
ABSENT:	Director Topolovac

6. ADOPTION OF AGENDA

Director Bruce-Lane requested to add by four-fifths vote an agenda item to discuss the district's San Diego County Water Authority officer selection.

General Counsel Smith opined that an item can only be added by four-fifths vote if the information was not available to staff or the board until after the agenda was posted.

Director Bruce-Lane moved to add by four-fifths vote an agenda item to discuss the district's San Diego County Water Authority officer selection. Motion died for lack of a second.

Director Bruce-Lane indicated that she would state her comments under the board comments section of the agenda.

President Watt moved to adopt the agenda, seconded by Director Guerin, and approved by the following roll call vote:

AYES:	Directors Bruce-Lane, Guerin, Meyers, and Watt
NOES:	None
ABSTAIN:	None
ABSENT:	Director Topolovac

7. PERSONAL APPEARANCES AND PUBLIC COMMENTS

The board was notified of correspondence that was emailed and included in the board packet regarding agricultural water and the need for conservation.

8. PRESENTATION OF AWARDS AND HONORABLE MENTIONS

- *Jymy Briseno – WRF Operator Level III – GYO Promotion – July
- *Jymy Briseno – WRF Operator Level III – 5 Years – August
- *Andrea Scott – Engineering Technician III – New Hire – August
- *Dominic “Bruno” Brunozzi – Pump/Motor Technician II – 15 Years – September
- *Jennifer Joslin – Human Resources Manager – 15 Years – September
- * CSDA’S District of Transparency Certificate of Excellence
- * CSDA’s Special District Leadership Academy District of Distinction – Platinum Award
- * WateReuse California Awards for Excellence - Recycled Water Community Outreach Award
- * GFOA’s Certificate of Achievement for Excellence in Financial Reporting

The employees were congratulated on their years of service and promotions. The new employee was welcomed by the board. The awards were presented to the board.

Director Topolovac joined the meeting at 4:19 p.m.

9. CONSIDER APPROVAL OF THE MINUTES OF THE AUGUST 17, 2022, REGULAR BOARD OF DIRECTORS MEETING

Director Guerin moved to approve the minutes of the August 17, 2022, Regular Board of Directors meeting, seconded by Director Bruce-Lane, and approved by the following roll call vote:

AYES:	Directors Bruce-Lane, Guerin, Meyers, Topolovac, and Watt
NOES:	None
ABSTAIN:	None
ABSENT:	None

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 UPDATE ON THE COVID-19 EMERGENCY DECLARATION
- C-c CONSIDER ACCEPTANCE OF THE MAIN EXT. 257 – VIA RANCHO MICHELLE PROJECT (DEVELOPER) INTO OMWD’S SYSTEM AND ORDER A NOTICE OF COMPLETION FILED

President Watt moved to authorize the Consent Calendar, seconded by Director Meyers, and approved by the following roll call vote:

AYES:	Directors Bruce-Lane, Guerin, Meyers, Topolovac, and Watt
NOES:	None
ABSTAIN:	None
ABSENT:	None

11. CONSIDER WASTEWATER COLLECTION SYSTEM GROW-YOUR-OWN (GYO) PRESENTATION (INFORMATIONAL ITEM)

Water Reclamation Facility Operator III Briseno presented the informational report.

12. CONSIDER PRESENTATION ON ENTERPRISE ASSET MANAGEMENT WORK ORDER BACKLOG (INFORMATIONAL ITEM)

Operations Manager Fulks presented the informational report.

13. CONSIDER AN UPDATE ON RESULTS OF THE 2021 WATER LOSS AUDIT (INFORMATIONAL ITEM)

Administrative Analyst Jansen presented the informational report.

Item 15 was heard next on the agenda.

15. A. President’s Report

President Watt reported that he attended the Encinitas State of the City and the Carlsbad State of the City. He also provided an update from Elfin Forest Executive Committee Meeting and how the Goldenspotted Oak Borer Beetles are affecting the large oak trees at the reserve. The board will receive an update at a future board meeting. He also announced that OMWD’s Open House Event is Saturday, October 8 beginning at 10:30 a.m.

B. General Manager’s Report

General Manager Thorner reported that we can expect allocations from Metropolitan Water District in January. There was also a written report included in the board packet.

C. Consulting Engineer’s Report

There was no Consulting Engineer’s report this meeting.

D. General Counsel’s Report

General Counsel Smith provided a written report that was included in the board packet.

E. San Diego County Water Authority (SDCWA) Report

General Manager Thorner reported that the new SDCWA General Counsel, David Edwards, was selected. She also reported that they are working on modifications to the Carlsbad Desalination Plant intake with amendments to the Environmental Impact Report.

F. Legislative Report

The Legislative Report was included in the board packet. General Manager Thorner indicated that SB 1157 (Hertzberg), the urban water use objectives bill that mandates indoor water use at 42 gallons, per person, per day by 2035 passed.

G. Twelve Month Calendar/Other Meetings/Reports by Board Members Per AB 1234

Board Meeting Debrief (Aug 18)

President Watt debriefed with the General Manager.

CSDA Quarterly Dinner (Aug 18)

President Watt attended the dinner meeting.

Carlsbad State of the City (Aug 19)

President Watt attended the event.

AWWA Women in Water Event (Aug 30)

Director Bruce-Lane attended the event, but requested not to receive a per diem.

Conservation Committee Meeting (Aug 30)

Directors Guerin and Meyers attended the meeting.

Safety Committee Meeting (Aug 31)

Director Meyers attended the meeting.

EFRR Executive Committee Meeting (Sept 1)

Directors Bruce-Lane and Watt attended the meeting.

Encinitas State of the City (Sept 1)

Directors Bruce-Lane, Meyers, and Watt attended the event.

San Diego Botanic Garden Party (Sept 10)

Director Meyers attended the event, but requested not to receive a per diem.

Conference Call with the General Manager RE: Board Meeting (Sept 12)

Director Meyers had a call with the General Manager, but requested not to receive a per diem.

Conference Call with the General Manager RE: OMWD Board (Sept 12)

Director Bruce-Lane had a call with the General Manager, but requested not to receive a per diem.

Conference Call with the General Manager RE: Board Meeting Logistics (Sept 12)

President Watt had a call with the General Manager.

Item 14 was heard next on the agenda.

14. **PUBLIC HEARING TO CONSIDER THE OLIVENHAIN MUNICIPAL WATER DISTRICT'S WATER CAPACITY FEES FOR 2022 (5:30 P.M.)**

President Watt announced that this was the time and place for a Public Hearing to consider the Olivenhain Municipal Water District's water capacity fees for 2022.

General Manager Thorner stated that the district evaluates capacity fees on an annual basis to determine if appropriate funds are being collected to fund necessary capital expansion, replacement, and betterment projects. The proposed capacity fee adjustments are 3.8% for 2022, which is based on the Engineering News-Record Construction Cost Index.

There were not any members of the public in attendance who wished to speak, and there were no comments received from the public.

President Watt announced that the Public Hearing was closed and reconvened the meeting of the Board of Directors.

Item 15-H was heard next on the agenda.

15. H. Board Comments

Director Bruce-Lane requested the following comments be included in the record: "I think it's important for the San Diego County Water Authority current directors and future board members that will be elected in November to understand the background on the appointment of our General Manager to San Diego County Water Authority. This appointment happened on November 18, 2020. This was after my election and my swearing in date on December 2, 2020. At the time the board knew that I would be a new board member coming on to Olivenhain and having said that, I did not have a voice regarding our General Manager going on to the Water Authority. I'm under the understanding at that time that according to Director Watt, when asked, that there was no one interested in being on the San Diego Water Authority, even though there was an understanding that I was elected at that time, and I was a new person coming on board. We now have two new board members, myself and Director Meyers, and soon to be a third coming. Also, in background, I unseated Director Kephart and then Director Sprague left his seat after his election. Then, Director Guerin expressed her interest in resigning from that position on the Board of Directors on December 31, which now leads us here today. Our last board meeting was August 17, and then a San Diego County Water Authority board meeting happened on August 25 in which I did hear the live feed. I wanted to talk about the comments that were made with two directors and Chair that I know and highly respect, Director Hogan and Chair Croucher. During that meeting, Director Hogan recognized that member agencies can appoint managers as directors even though there may or may not be an apparent conflict of interest and there's no policy that prohibits it. He had a concern when it came to member agency members or managers serving as officers. I think with my comments this is about being a director and then moving into an officer. Based on his own experience being a general manager on the San Diego Water Authority, he offered his comments and concerns. The first concern he made was that it was a major time commitment. He expressed as a board officer, as Chair, that he attended approximately 180 meetings and numerous conference calls that didn't include travel time. The Water Authority management team already faces challenges with member

agency general managers serving as directors or officers adding additional burden because of having to potentially change their management style. Thirdly, officers are elected leaders and spokespersons for San Diego County Water Authority and set the agenda. If the officer is a paid general manager, it creates a potential for perception of conflict when representing Water Authority or member agencies in respective positions. He felt compelled to express his opinion regarding this issue. The comments that I want to have on record that I heard our General Manager, Kim, say, 'my board is aware of the nomination, and they sent me down here not only to participate, but to lead.' The word 'they' at the time, 'they' did not include myself, Director Bruce-Lane and Director Meyers because we were two new Board Members. Also, there's been no discussion on the time commitment that it would take to have that role as an officer. I feel that the San Diego Water Authority and fellow directors should know that and that essentially my voice or Directors Meyers' voice will not be heard on this matter prior to the election. As an elected official we have a fiduciary responsibility to our ratepayers here as Board Members. Our General Manager has a fiduciary duty to Olivenhain itself. I just learned through the San Diego Water Authority board meeting that General Manager Kim Thorner sits on six committees. I was unaware that that was the amount of how many committees she attends or sits on. I am not aware of any time commitment and how many hours that consumes away from Olivenhain. It feels like the tail is wagging the dog and that the usual roles are reversed at this time. We are elected officials and yet two of us here on the board, that Kim reports to, has had no vote or say in the matter. I have four questions that I want on record. The first one is why was there an urgency to appoint someone directly after the election but before I was sworn in? The second is why us, as board members, were not informed of a desire to run as an officer seat and how much of a time commitment would be away from the job as general manager of Olivenhain, and in addition, the transparency on the number of committees, being six, that our current General Manager sits on. As board members we have no idea how much time on paper or how much time is being spent away from Olivenhain. Number three, who is managing Olivenhain Municipal Water District when the General Manager was gone? It may seem a little rhetorical, but I would like to see that on record. Number four, why Director Meyers and I have had no voice when we are the elected board members to Olivenhain. I would like to move to put it on the next agenda to vote by our board members as to our General Manager taking the additional time to serve as an officer, not as a director but as an officer, which are two distinct differences in time commitments. Also, to put on the agenda to update the Administrative Code that we can at least have some transparency and log as to hours spent away, travel time spent away, so we will get an idea as a board what that looks like. Currently, going into this, we are blind to how much time commitment there is. Lastly, as a matter of record, I don't believe it states in the Administrative Code, but I believe that an appointed general manager or director can be removed even after they were appointed."

The motion died for lack of a second.

Director Guerin commented that the board meetings are regularly scheduled and that regular district business continues and is conducted whether there is an election or not. She commented that the timing of the comments by Director Bruce-Lane seemed political and that there were ample prior opportunities to discuss with the board anytime in the last two

years. From her experience as an officer at SDCWA, she also stated that the time commitment for each person is different, that the current state of OMWD is outstanding, and that the amount of time and experience the General Manager has in the water industry, makes her qualified to represent and advocate for Olivenhain on the Water Authority board and as an officer. Director Guerin also noted that a discussion on the Secretary position happened at the OMWD August 2022 board meeting under the SDCWA report.

Director Topolovac expressed his support for General Manager Thorner as the district's representative on the San Diego County Water Authority Board of Directors and is not interested in changing this decision.

President Watt stated that he supports a combination of general managers, appointees, and elected officials as Water Authority representatives. He commented that we do not hold up business like water rates, CIP projects, and appointments in the event that there are new board members, and that business must proceed. He supports General Manager Thorner as Olivenhain's representative at the Water Authority, that there has been no deterioration in the operation of the district over the last two years, and that she has been valuable as our representative.

Director Meyers commented that the timing of the issue can wait until a later date, not right before the election. He stated that there is a possibility that the board could look at all of the roles and appointments collectively next year with a new board if they believe it is appropriate.

16. CORRESPONDENCE

Correspondence was provided in the board packet.

17. AUTHORIZATION TO ATTEND UPCOMING MEETINGS / CONFERENCES / SEMINARS

There were no meetings requiring authorization to attend.

18. FUTURE AGENDA ITEMS

There were no future agenda items added.

19. CONSIDER PUBLIC COMMENTS

Division 3 resident, Daniel Hale, introduced himself to the board and expressed his interest in serving on the board in the future. He requested accounting information and staff is coordinating with him.

20. ADJOURNMENT

President Watt adjourned the meeting at 6:05 p.m.

Lawrence A. Watt, President
Board of Directors
Olivenhain Municipal Water District

ATTEST:

Kimberly A. Thorner, Assistant Secretary
Board of Directors
Olivenhain Municipal Water District