

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

NOVEMBER 17, 2021

A regular meeting of the Board of Directors of Olivenhain Municipal Water District was held on Wednesday, November 17, 2021 at the district office, 1966 Olivenhain Road, Encinitas, California in person and via video conference.

President Watt called the meeting to order at 4:01 p.m. Following the Pledge of Allegiance, the Assistant Secretary called the roll. Directors present were Bruce-Lane, Guerin, Meyers, Topolovac, and Watt. 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, make 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; Alfred Smith, General Counsel; Joey Randall, Assistant General Manager; Rainy Selamat, Finance Manager; Jason Hubbard, Engineering Manager; John Carnegie, Customer Services Manager; Jennifer Joslin, Human Resources Manager; Brian Sodeman, Customer Services and Public Affairs Supervisor; Steve Weddle, Engineering Services Supervisor; Leo Mendez, Accounting Supervisor; Brandon Barnick, Field Services Supervisor; Teresa Chase, Administrative Analyst; Stephanie Kaufmann, Executive Secretary; and Don MacFarlane, Consulting Engineer.

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

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

6. ADOPTION OF AGENDA

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

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

7. PERSONAL APPEARANCES AND PUBLIC COMMENTS

Steve Sheldon spoke in support of item 17, the Water Infrastructure Act of 2022.

8. PRESENTATION OF AWARDS AND HONORABLE MENTIONS

OMWD Awards Program Winners

- * Bee Rescue LLC – Business of the Year
- * San Diego Mountain Bike Association – Non-Profit of the Year
- * Donna Walker and Al Bates – Volunteer(s) of the Year
- * Simon Breen – Educator of the Year
- * Sylvia Lopez of JD Richardson Co., representing Stratford Fairbanks HOA – Customer of the Year – Commercial
- * Poway Unified School District – Customer of the Year–Recycled Water

Current Service Awards, Promotions and Honorable Mentions

- * Brian Keeler – Instrument Control Technician I – 5 years – November
- * Morgan Ferguson – Field Services Technician II – 5 years – November

President Watt and Administrative Analyst Chase presented the awards to the district’s awards program winners.

The employees were thanked and congratulated for their years of service.

9. CONSIDER APPROVAL OF THE MINUTES OF THE OCTOBER 13, 2021 REGULAR BOARD OF DIRECTORS MEETING AND FINANCING AUTHORITY JPA MEETING

Director Topolovac moved to approve the minutes of the October 13, 2021 Regular Board of Directors and Financing Authority JPA meeting minutes, seconded by Director Bruce-Lane and approved by the following roll call vote:

AYES:	Directors Bruce-Lane, Meyers, Topolovac, and Watt
NOES:	None
ABSTAIN:	Director Guerin
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; AND REIMBURSEMENT OF EXPENSES TO BOARD MEMBERS AND STAFF

- C-b CONSIDER DESIGNATION OF A DELEGATE FOR THE DECEMBER 1 ELECTION OF OFFICERS TO THE ASSOCIATION OF CALIFORNIA WATER AGENCIES BOARD OF DIRECTORS
- C-c CONSIDER APPROVAL OF PRIVATE ENCROACHMENT PERMIT NO. 415 FOR SURF CUP SPORTS PARK (SURF CUP SPORTS, LLC) AND ORDER THE PERMIT BE RECORDED
- C-d CONSIDER APPROVAL OF PRIVATE ENCROACHMENT PERMIT NO. 416 FOR 3312 DOVE HOLLOW ROAD (DIVINE DESIGNS GENERAL CONTRACTING, INC.) AND ORDER THE PERMIT BE RECORDED
- C-e CONSIDER ACCEPTANCE OF THE 3281 POPPY HILLS LANE FIRE HYDRANT INSTALL PROJECT (MUNSCH HOMES CORPORATION) INTO OMWD'S SYSTEM AND ORDER A NOTICE OF COMPLETION FILED
- C-f CONSIDER AWARD OF A CONTRACT WITH JENNETTE COMPANY, INC. IN THE AMOUNT OF \$471,800 FOR THE DAVID C. MCCOLLOM WATER TREATMENT PLANT PH CONTROL SYSTEM AND AUTHORIZE THE GENERAL MANAGER TO SIGN ON BEHALF OF THE DISTRICT

President Watt moved to authorize the Consent Calendar, seconded by Director Guerin 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 SETTING A TIME AND PLACE FOR THREE PUBLIC HEARINGS TO CONSIDER NEW DIRECTOR DIVISION BOUNDARIES (DECEMBER 15, 2021 AT 5:30 P.M., JANUARY 19, 2022 AT 5:30 P.M., AND FEBRUARY 16, 2022 AT 5:30 P.M.) AND PROVIDE DIRECTION TO STAFF AS TO THE DEVELOPMENT OF A MAPPING TOOL

President Watt moved to opt out of the deployment of a public mapping tool and to set the public hearings for December 15, 2021 at 5:30 p.m., January 19, 2022 at 5:30 p.m., and February 16, 2022 at 5:30 p.m. to receive public comments regarding new director division boundaries, seconded by Director Topolovac and approved by the following roll call vote:

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

12. CONSIDER ADOPTION OF AN ORDINANCE AMENDING OLIVENHAIN MUNICIPAL WATER DISTRICT'S ADMINISTRATIVE AND ETHICS CODE (Article 8—Water Rates & Charges and Article 9—Rules Relating to Customer Accounts)

Upon motion by Director Guerin and a second by Director Meyers, Ordinance 496 was adopted by the following roll call vote:

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

13. CONSIDER APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT WITH VALLEY CONSTRUCTION MANAGEMENT, INC. FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR THE 4S RANCH NEIGHBORHOOD 1 SEWER PUMP STATION REPLACEMENT PROJECT IN THE AMOUNT OF \$328,305 AND AUTHORIZE THE GENERAL MANAGER TO SIGN ON BEHALF OF OMWD

President Watt moved to approve a Professional Services Agreement with Valley Construction Management, Inc. for construction management and inspection services for the 4S Ranch Neighborhood 1 Sewer Pump Station Replacement Project in the amount of \$328,305 and authorize the General Manager to sign on behalf of OMWD, seconded by Director Topolovac and approved by the following roll call vote:

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

14. CONSIDER DISCUSSION AND APPROVAL OF A TREATMENT OPTION FOR THE SECOND RATE REFUND PAYMENT RECEIVED FOR OMWD'S SHARE OF SAN DIEGO COUNTY WATER AUTHORITY'S (SDCWA) AWARD OF DAMAGES FROM METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (MWD) LAWSUIT IN THE AMOUNT OF \$1,622,584.51

Director Guerin moved to approve the second rebate check for \$1.622 million be placed in the district's Water Rate Stabilization Fund to be used to extend OMWD's water rebate credit period to 6 years or until the funds are fully credited back to customers (whichever is sooner), utilizing the first and second SDCWA/MWD rebate payments to reduce the impact of increases on water rates and charges, seconded by President Watt and approved by the following roll call vote:

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

ABSENT: None

15. CONSIDER STAFF PRESENTATION ON THE PROPOSED OMWD POTABLE AND RECYCLED WATER RATES AND CHARGES FOR 2022 PASS-THROUGH INCREASES AND SDCWA/MWD RATE REFUND PAYMENTS AS A CREDIT ON OMWD CUSTOMERS' MONTHLY WATER BILLS (INFORMATIONAL ITEM)

Finance Manager Selamat presented the informational report. After discussion by the board, there was consensus to update the water bill language to “rate reimbursement credit.” OMWD customers will see the refunds as a 6.9 cents per unit of water used credit on monthly water bills through 2027 or until the funds are fully credited back to customers.

The refund resulted from lawsuits filed by San Diego County Water Authority in 2010 and 2018, challenging the legality of Metropolitan Water District of Southern California’s water rates and seeking payment for legal damages and interest and was approved in the previous item.

16. CONSIDER DIRECTION TO STAFF REGARDING THE REQUEST FOR QUOTATIONS FOR GENERAL LIABILITY, PROPERTY, AUTOMOBILE, EQUIPMENT, TERRORISM, EXCESS, AND CYBERSECURITY INSURANCE POLICIES FOR FISCAL YEAR 2023

Director Meyers requested to obtain quotes for Fiscal Year 2023 general liability, property, automobile, equipment, terrorism, excess, and cybersecurity insurance policies from risk-sharing pools along with soliciting quotes for increased limits of liability.

Director Guerin requested to bifurcate obtaining quotes from risk-sharing pools and soliciting quotes for increased limits of liability into two separate items. The board concurred.

Director Meyers moved to obtain quotes for Fiscal Year 2023 general liability, property, automobile, equipment, terrorism, excess, and cybersecurity insurance policies from risk-sharing pools, seconded by President Watt and failed by the following roll call vote:

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

President Watt moved to solicit quotes for increased limits of liability at \$15 million, \$20 million, \$35 million, and \$50 million, seconded by Director Topolovac and approved by the following roll call vote:

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

17. CONSIDER ESTABLISHING A POSITION ON THE WATER INFRASTRUCTURE ACT OF 2022

Director Bruce-Lane moved to adopt a position of support for the Water Infrastructure Act of 2022, seconded by Director Guerin and approved by the following roll call vote:

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

18. CONSIDER UPDATE ON THE COVID-19 EMERGENCY DECLARATION

General Manager Thorner presented the informational report. No board action was required.

19. INFORMATIONAL REPORTS

A. President's Report

President Watt reported that he attended the Nossaman cybersecurity training.

B. General Manager's Report

General Manager Thorner's report was included in the board packet.

C. Consulting Engineer's Report

Consulting Engineer MacFarlane's written report was distributed to the board.

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 Report

General Manager Thorner reported that Marty Miller and Lois Fong-Sakai were appointed as the MWD delegates replacing Mike Hogan and Jerry Butkiewicz. She also reported that the implementation of financial third-party reviews and financial reporting was approved by the board.

F. Legislative Report

The Legislative Report was included in the board packet.

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

Virtual Native Plant Workshop (Oct 14)

Director Meyers spoke at the workshop.

Conference Call with the General Manager RE: CWA Issues (Oct 18)

Director Guerin had a call with the General Manager.

SEJPA Water Campus Ribbon Cutting (Oct 19)

Directors Bruce-Lane and Watt attended the event.

Ad Hoc Insurance Committee Meeting - Pt.2 (Oct 25)

Directors Guerin and Meyers attended the committee meeting.

Safety Committee Meeting (Oct 27)

Director Meyers and Topolovac attended the committee meeting.

Conference Call with the General Manager (Oct 27)

Director Guerin had a call with the General Manager.

Meeting with the General Manager (Nov 2)

Director Topolovac met with the General Manager.

AD Hoc Conservation Committee Meeting (Nov 3)

Directors Guerin and Meyers attended the meeting.

Finance Committee Meeting (Nov 8)

Directors Guerin and Watt attended the meeting.

Personnel Committee Meeting (Nov 8)

Directors Bruce-Lane and Watt attended the meeting.

Conference Call with the General Manager RE: Review (Nov 9)

President Watt had a call with the General Manager.

Turning the Tide on Cybersecurity for the Water Sector Nossaman Virtual Training (Nov 16)

President Watt attended the training.

20. **CORRESPONDENCE**

Correspondence was provided in the board packet.

21. **AUTHORIZATION TO ATTEND UPCOMING MEETINGS / CONFERENCES / SEMINARS**

President Watt moved to approve Director Guerin and Director Bruce-Lane attending the January 20-21, 2022 California H2O Women Conference in Santa Barbara, CA, 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

22. **FUTURE AGENDA ITEMS**

No future agenda items were requested.

23. **CONSIDER PUBLIC COMMENTS**

There were no public comments.

NOTE: The meeting was in recess
from 6:56 p.m. to 7:09 p.m.

NOTE: The meeting was in closed session
from 7:09 p.m. to 8:26 p.m.

24. **CLOSED SESSION**

A) **CONSIDER CLAIM – HILLSIDE PATIO HOMES HOA [PURSUANT TO GOVERNMENT CODE SECTION 54956.9] • Additional Facts: Claim received on August 17, 2020. Claim rejected on September 9, 2020.**

- B) CONSIDER LITIGATION – LYNXT ENTERPRISES, LLC VS. PARS SORRENTO VALLEY SCIENCE PARK 1, LP [PURSUANT TO GOVERNMENT CODE SECTION 54956.9] • Additional Facts: OMWD was served a complaint as a nominal defendant.
- C) CONSIDER LITIGATION – OLIVENHAIN MUNICIPAL WATER DISTRICT VS. GEOMAT TESTING LABORATORIES, INC., ET AL. [PURSUANT TO GOVERNMENT CODE SECTION 54956.9]
- D) CONSIDER OMWD LABOR NEGOTIATIONS (Negotiation Team – General Manager, Kimberly Thorner; HR Manager, Jennifer Joslin) [PURSUANT TO GOVERNMENT CODE SECTION 54957.6] • Additional Facts: Update on Negotiations.
- E) CONSIDER GENERAL MANAGER REVIEW [PURSUANT TO GOVERNMENT CODE SECTION 54957] • Additional Facts: Receive packet; full review and compensation discussion to be held on November 17, 2021.

27. OPEN SESSION

CONSIDER GENERAL MANAGER’S (A) 2021 INCENTIVE AND (B) 2022 COMPENSATION

After discussion by the board, General Manager Thorner was awarded \$7,200 for goal incentive pay for calendar year 2021, payable in November 2021. General Manager Thorner will receive a base pay increase of 3% effective January 1, 2022.

Director Guerin moved to grant the aforementioned goal incentive pay and compensation as stated, seconded by Director Topolovac and carried unanimously by the following roll call vote:

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

It was noted that the 2022 goal incentive amount would be established after the Annual Objectives presentation in January 2022.

28. ADJOURNMENT

President Watt adjourned the meeting at 8:42 p.m.

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

ATTEST:

Robert F. Topolovac, Secretary
Board of Directors
Olivenhain Municipal Water District