

**MINUTES OF THE
BOARD OF DIRECTORS MEETING
OTAY WATER DISTRICT
October 4, 2006**

1. The meeting was called to order by President Bonilla at 3:30 p.m.

2. ROLL CALL

Directors Present: Bonilla, Breitfelder, Croucher, Lopez and Robak (arrived at 3:34 p.m.)

Staff Present: General Manager Mark Watton, Asst. GM Administration and Finance German Alvarez, Asst. GM Engineering and Water Operations Manny Magana, General Counsel Yuri Calderon, Chief of Information Technology Geoff Stevens, Chief Financial Officer Joe Beachem, Chief of Operations Pedro Porras, Chief of Engineering Rod Posada, Chief of Administration Rom Sarno, District Secretary Susan Cruz and others per attached list.

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF AGENDA

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

Ayes:	Directors Bonilla, Breitfelder, Croucher and Lopez
Noes:	None
Abstain:	None
Absent:	Director Robak

to approve the agenda.

5. APPROVAL OF MINUTES OF THE BOARD MEETINGS OF AUGUST 2, 2006 AND AUGUST 7, 2006

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

Ayes:	Directors Bonilla, Breitfelder, Croucher and Lopez
Noes:	None
Abstain:	None
Absent:	Director Robak

to approve the minutes of the board meetings of August 2 and August 7, 2006.

6. 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.

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 Lopez, seconded by Director Breitfelder and carried with the following vote:

Ayes:	Directors Bonilla, Breitfelder, Croucher and Lopez
Noes:	None
Abstain:	None
Absent:	Director Robak

to approve the following consent calendar items.

- a) APPROVE A PROFESSIONAL SERVICES CONTRACT WITH INFRASTRUCTURE ENGINEERING CORPORATION IN THE AMOUNT OF \$1,333,808 TO PROVIDE PROFESSIONAL ENVIRONMENTAL, GEOTECHNICAL, AND ENGINEERING DESIGN SERVICES FOR THE 36-INCH PIPELINE, SDCWA OTAY FCF NO. 14 TO THE REGULATORY SITE PROJECT
- b) APPROVE A CONTRACT WITH HARRELL & COMPANY ADVISORS, LLC TO SERVE AS THE FINANCIAL ADVISOR FOR A DEBT ISSUANCE OF APPROXIMATELY \$30 MILLION IN CERTIFICATES OF PARTICIPATION IN SPRING 2007

INFORMATION / ACTION ITEMS

8. BOARD

- a) DISCUSSION OF 2006 BOARD MEETING CALENDAR

There were no changes to the board calendar.

- b) ADOPT RESOLUTION NO. 4089 APPROVING AMENDMENTS TO BOARD OF DIRECTOR'S POLICY 8, DIRECTORS COMPENSATION, REIMBURSEMENT OF EXPENSES AND GROUP INSURANCE BENEFITS

General Counsel Yuri Calderon indicated that he had prepared an Executive Summary of the committee's actions taken at the Ad Hoc Policy 8 Committee held on September 29, 2006. He stated that a copy of the Executive Summary has been distributed to each board member and one of the issues that has surfaced following the Ad Hoc Policy 8 Committee meeting are procedural issues which require addressing.

Director Croucher indicated that the Ad Hoc Policy 8 Committee has tried to include all suggestions discussed at the Board of Directors Workshop held on September 25, 2006. He indicated that an issue came up with regard to how to include the cost of living per-diem increase of 3% (or \$3.00). He stated that the increase would require a public hearing which could not be prepared prior to today's meeting. He stated that upon further review, the committee decided that it would not pursue the increase at this time and if the board wished to discuss it further, that it be discussed at today's meeting or the next scheduled board retreat.

President Bonilla inquired if all member of the board received General Counsel's Executive Summary and had an opportunity to review the information. It was indicated that the members did not. As all Directors did not have the opportunity to review the information, President Bonilla suggested that the item be tabled for discussion at the end of the meeting to allow time for each director to review the suggested amendments to Policy 8 prior to the board voting. The board concurred.

REPORTS

9. GENERAL MANAGER'S REPORT

General Manager Watton indicated that there was discussion at the Engineering and Operations Committee held on September 22, 2006 concerning the District's ranking within the County and State with regard to recycled water use. He stated that the City of San Diego and the City of Carlsbad rank first and second as the largest users of recycled water and Otay ranked third. He indicated once the 30" recycled pipeline is on-line with the City of San Diego, Otay will move up to the second largest user of recycled water. He indicated that staff would present at the next meeting the rankings within the Metropolitan Water District's service area. He stated he felt that Otay would rank among the top five or six recycled water users within the MET service area.

He noted that the District received a Property and Liability Safety Award for Excellence in FY 2006. He stated that Director Croucher attended the award ceremony with the District's safety officer, Dave Burpeau, who accepted the award on the District's behalf. He stated that the award was a reflection of the work of every employee of the District, with Mr. Burpeau's lead, who has taken safety at the District very seriously. He also noted that the District has saved approximately \$90,000 in premium costs through a rebate from Special District

Risk Management Authority through credits earned by Directors and staff taking training and by the District earning the safety award.

Director Croucher indicated that it was an honor to be able to attend the award ceremony. He stated that they originally had invited a board member to attend, however, he felt that a staff member should receive the District's award. He stated that Mr. Burpeau has worked hard to earn such recognition and it was appropriate for him to receive the award on the District's behalf. He indicated that this was the second award that Otay has received and it is recognized that the District has taken a leadership role not only within the County, but statewide for its work in this area. He congratulated staff.

General Manager Watton also shared that the Integrated Voice Response System is on-line and staff is exploring ways in which the new system can be better utilized. He indicated that it has already positively impacted customer service and it is felt that the District would continue to enhance efficiency with the new IVR system once it starts allowing customers to request account information and pay their bills via credit card through the system.

He indicated that the six mobile computers for the field staff have been deployed and it is expected 20 more will be deployed later in the week. He stated the operations staff is very excited to receive the new computers and the efficiencies they will provide.

He noted that the District received eleven new improvement plans from developers for potable/recycled plan checks. He indicated that meter sells are down from the peak, but they are still fairly strong. He indicated that this is very similar to past real estate downturns where developers continue to build, though house sales and prices are dropping, anticipating that sales will pick-up again in approximately three years. District staff is, thus, still busy with developer plans and subdivision development issues.

General Manager Watton indicated that staff received the Proposition 50 monies from the State Water Resources Control Board in the amount of \$2.48 million. He indicated that the District expects the balance of the \$4 million grant in approximately four months.

He stated that the District has been officially notified by the County to provide the SB 221 and SB 610 water supply study for the Otay Ranch resort parcel. He stated that the studies are expected to be presented to the board at the December 2006 board meeting.

He lastly shared that the proposed improvements to the Salt Creek Golf Course will not be pursued until after the first of the New Year. He stated Synergy is still moving forward with their plans, but the District will not hear from them until after the first of the year. He stated that he wished to make the board aware that there would be no new information to share until after that time.

Director Robak inquired if the Splash Lab program was targeted only to elementary school students and if solicitations forwarded to schools concerning the program include information that the District would subsidize the cost of the Splash Lab. General Manager Watton indicated that he believed the program is targeted to elementary school students only (1st to 5th grades) and he believes the literature indicates that the District subsidizes the cost. Director Croucher indicated that currently the District provides half the cost and the school's PTA provides the other half. He indicated that they are working on possibly having CWA provide the other half of the cost. Director Robak asked if an update on this item can be scheduled for a future meeting.

Director Robak also indicated that with regard to the report on the Financial Advisor, committee suggested that staff develop conflict of interest language that would be utilized in all consultant agreements. He inquired if this language had been developed. General Manager Watton indicated that it had and was included in the Financial Advisor contract. He stated that it is and will be utilized in all future contracts.

Director Robak inquired with regard to the Portfolio Summary, if staff could include a graphical representation that shows how the District's monies are invested, if it meets identified targets and how it relates to the District's strategies concerning percentage targets. He stated that it would help to quickly understand the district's portfolio status. General Manager Watton indicated that it certainly could be done.

10. SAN DIEGO COUNTY WATER AUTHORITY UPDATE

Director Croucher indicated that the main topic of discussion at CWA are issues related to general managers or officers of member agencies serving on CWA's board. He stated that the officers and one board member of CWA moved forward with a request to ask the CWA general manager for an opinion on the issue. He stated that CWA's board was displeased that the matter was not presented to the full board. He indicated the board felt that this was not an issue that needed to be pushed through and CWA's board had, in fact, requested that the issue not be referred to the Attorney General. He indicated that policy was not followed in this matter by the authority and the board indicated its displeasure.

He indicated that CWA has decided to extend its contract with Carpie and Clay for two years to continue work with CWA as its legislative advocate. He indicated that the CWA board felt that the contract should be placed out to bid because it is over a \$1 million contract and has been in place for 22 years. He stated that after the two years, the service contract will be placed out to bid via a Request for Proposals (RFP).

He stated the CWA board also discussed desalination projects in closed session and reclaimed water. He indicated that it was requested that a report be prepared to determine how much new water resources Otay has provided with

regard to its utilization of reclaimed water in the southern portion of the county for irrigation. He stated that Otay's contributions are being recognized for conserving water through the use of reclaimed water.

He shared that Mr. George Loveland will be leaving the CWA board, but will remain the MWD representative for up to 90 days. He lastly noted that CWA was reviewing all its upcoming CIP contracts and will determine the correct estimates for steel, concrete, etc. He stated the thought was to re-evaluate all estimates prior to going through the bid process and adjusting at that time. He stated that it is good news to move forward with the review, however, CWA will now need to prioritize which projects will move forward and which will be postponed as costs will be significantly greater.

General Manager Watton provided background on the impetus for discussions concerning general manager's serving on CWA's board. He stated that they also discussed issues concerning general manager's being appointed as officers on CWA's board as he was being nominated for the secretary position. He stated that it was noted that the last two CWA vice chairs and secretaries were general managers, city managers or assistant city managers. Otay's General Counsel also had prepared an opinion on the suitability of general managers serving on CWA's board and the possible conflict of interest. General Counsel's opinion indicated that a General Manager's duties and obligations to their agency did not differ from a Director's duties and obligations to his agency. Copies were shared with sister agencies. He indicated that he felt the Attorney General's opinion would allow general managers to serve on a county boards.

Director Croucher noted that the only nominee for CWA chair was Ms. Fern Steiner and it is expected that Mr. Bud Lewis would be elected vice chair and General Manager Watton would be elected secretary.

11. DIRECTORS' REPORTS/REQUESTS

Director Breitfelder indicated he attended the Council of Water Utilities (COWU) meeting where Senator Denise Ducheny was the guest speaker. He stated beyond the normal update on water issues, Senator Ducheny spoke on term limits and indicated that we were very quickly approaching a time when term limits will start taking affect. She stated that those who served as assembly members for six years and are now senators, will soon be closing out eight years of senate service and will be rotating out. He stated that we will soon be in a situation where there is very little institutional memory. She also made positive, but tentative, comments regarding Proposition 84. Director Breitfelder indicated not long after hearing Senator Ducheny's presentation to the COWU, he had run into her district manager and her only question was if Otay's board had taken a position on Proposition 84. He stated that she was very intrigued by some of the discussions Otay's board has had on the initiative.

He shared that CWA recently sponsored the Conservation Summit. He thanked Director Robak and General Manager Watton for attending. He stated that a

representative from the California Landscaping Association (CLA) had presented at the summit and he shared CLA's experience in trying to approach conservation at the State level and their trying to get legislation passed as quickly and aggressively. He indicated that it was not successful. In contrast, CWA approached the same situation in a collaborative fashion which resulted in legislation passing and the creation of the Conservation Summit. He stated that he was very pleased with the Break-Out Sessions as they all insisted in being involved in the legislative process on an ongoing basis as opposed to just at the end. He indicated that the BIA showed a very flexible and constructive attitude and volunteered to take it upon themselves to spearhead the summit efforts in some respects. He stated that there was what he would call a false choice presented in a key breakout session which caught his attention. He indicated that they presented an either/or approach which elicited debates between what they referred to as standardized language and a flexible aggressive approach on conservation. He stated that he felt there was no inherent contradiction between having an "ends" oriented ordinance and having one that is very aggressive.

Director Robak indicated that the Water Conservation Garden held an opening for a new exhibit, Children's' Discovery Trail, a couple weeks ago. He stated that the Union-Tribune ran a substantial article with color photos of the event. He indicated that he was pleased as it provides publicity throughout the County of things that are happening at the Garden. This helps make it a County-wide resource which is the reason CWA is involved. He also shared that he toured the recycled water pump station and reservoir with General Manager Watton and staff to view the progress of the project. He indicated with regard to the Water Conservation Summit, the General Manager of the Las Vegas Valley Water District spoke and the message she was trying to share, which he felt San Diego County needs to take to heart, is not to wait for a water emergency and the need to push water rationing, but to do what we need now to conserve/save water. Her message was to take appropriate steps now to make conservation a higher priority rather than when it is essential because of a shortage. He indicated that it would take some time to see what programs are developed due to the summit, but he felt that the message was loud and clear and if we take it to heart it would really make a difference in the long run for the County.

General Manager Watton noted that the District's Water Conservation Manager had served on the steering committee of the Summit and he wished to thank him for the time he worked on the Summit.

12. PRESIDENT'S REPORT / REQUESTS

President Bonilla indicated that he attended two meetings in the month of September. He indicated that he met with General Manager Watton on September 20, 2006 to discuss agenda items for the committee meetings scheduled in September and he also met with General Manager Watton and General Counsel Calderon to discuss the board meeting agenda for today's meeting on September 27, 2006.

RECESS TO CLOSED SESSION

13. The board recessed to closed session at 4:05 p.m. to discuss the following matters.

a) CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION
[GOVERNMENT CODE §54956.9(a)]

- i. HARRON v. OTAY WATER DISTRICT
- ii. SOUTHWEST ENGINEERING, INC. v. OTAY WATER DISTRICT

RETURN TO OPEN SESSION

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

The board reconvened at 4:50 p.m. and General Counsel Calderon indicated that no reportable actions were taken in closed session. General Counsel Calderon indicated that he would need a motion from the board to retain the services of Procopio, Hargraves, and Savage, LLP to follow an attorney who has left Foley & Lardner, LLP to continue with his representation in the Harron matter with his new firm Procopio, Hargraves, and Savage, LLP.

A motion was made by Director Breitfelder, seconded by Director Lopez and carried with the following vote:

Ayes:	Directors Breitfelder, Croucher, Lopez and Robak
Noes:	None
Abstain:	Director Bonilla
Absent:	None

to retain the services of Procopio, Hargraves, and Savage, LLP in the Harron matter.

15. ADOPT RESOLUTION NO. 4089 APPROVING AMENDMENTS TO BOARD OF DIRECTOR'S POLICY 8, DIRECTORS COMPENSATION, REIMBURSEMENT OF EXPENSES AND GROUP INSURANCE BENEFITS

President Bonilla indicated that all Directors had an opportunity to review the information on Policy 8 and he would like to move to the vote on this item directly unless other members wished to discuss. The board concurred.

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

Ayes:	Directors Bonilla, Breitfelder, Croucher, Lopez and Robak
Noes:	None
Abstain:	None

Absent: None

to adopt Resolution No. 4089 approving amendments to Board of Director's Policy 8.

16. ADJOURNMENT

With no further business to come before the Board, President Bonilla adjourned the meeting at 4:53 p.m.

President

ATTEST:

Secretary