

**MINUTES OF THE
BOARD OF DIRECTORS MEETING OF THE
OTAY WATER DISTRICT AND
OTAY SERVICE CORPORATION
February 7, 2007**

1. The meeting was called to order by President Croucher at 3:31 p.m.

2. ROLL CALL

Directors Present: Bonilla, Breitfelder, Croucher, Lopez and Robak

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 Engineering Rod Posada, Chief of Operations Pedro Porras, Chief of Administration Rom Sarno, District Secretary Susan Cruz and others per attached list.

3. PLEDGE OF ALLEGIANCE

4. 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.

5. APPROVAL OF AGENDA

President Croucher presented the agenda for approval with an amendment to pull item 5e, REJECT ATOMIC INVESTMENTS CLAIM. General Manager Watton indicated that the District is tolling the time requirements that the board must take action on this claim. The board must take action within 45 days of receiving a claim and that action would begin the statute of limitations for bringing any legal action in the matter. Because Atomic Investments' representative was not available to attend today's board meeting, they had signed an agreement to extend the time requirements for the board to take action to 75 days.

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

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

to approve the agenda with the amendment to pull item 5e, REJECT ATOMIC INVESTMENTS CLAIM.

CONSENT CALENDAR

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

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

to approve the following consent calendar items.

- a) APPROVE THE PURCHASE OF A 2008 MODEL YEAR STERLING 8500 TRUCK CAB AND CHASSIS FOR \$59,836.81 FROM TRANS-WEST FORD TRUCK SALES, INC
- b) APPROVE AN ENGAGEMENT LETTER WITH THE AUDITING FIRM OF TEAMAN, RAMIREZ & SMITH, INC. TO PROVIDE AUDIT SERVICES TO THE DISTRICT FOR THE FISCAL YEAR ENDING JUNE 30, 2007
- c) ADOPT RESOLUTION NO. 4093 OF THE BOARD OF DIRECTORS OF OTAY WATER DISTRICT FIXING TERMS AND CONDITIONS FOR THE ANNEXATION TO OTAY WATER DISTRICT IMPROVEMENT DISTRICT OF THOSE LANDS DESCRIBED AS "BRAZAN MOHEDIN SEWER ANNEXATION" (APN 498-340-37-00) AND ANNEXING SAID PROPERTY TO OTAY WATER DISTRICT IMPROVEMENT DISTRICT NO. 18
- d) APPROVE A REIMBURSEMENT TO BROOKFIELD SHEA OTAY, LLC FOR COMPLETED PROJECTS (CIP NOS. P2121, P2133, P2164, P2031, R2040 AND R2041) IN THE AMOUNT OF \$1,521,777.60
- e) ADOPT RESOLUTION NO. 4094 ADOPTING POLICY NO. 49 - SERVICE TO AFFORDABLE AND LOW INCOME HOUSEHOLDS
- f) APPROVE THE ENGAGEMENT LETTER WITH THE LAW FIRM OF WILSON PETTY KOSMO & TURNER FOR LEGAL REPRESENTATION IN THE HARRON v. OTAY WATER DISTRICT MATTER

INFORMATION / ACTION ITEMS

7. ADMINISTRATION AND FINANCE

- a) ADOPT RESOLUTION NO. 4095 APPROVING THE LEGAL DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE 2007 CERTIFICATES OF PARTICIPATION AND ESTABLISHING PARAMETERS FOR THE SALE THEROF

Chief Financial Officer Joe Beachem indicated that staff is presenting resolutions for the board's adoption to approve the bond documents and authorize the bond sale. He indicated that adoption of the resolutions would also approve the preliminary official statement and the solicitation of bids. He shared that both Standard and Poor's and Fitch have given the District a rating upgrade from "A+" to "AA-." He noted that this is a significant change and is a great accomplishment for the District. He stated that the rating represents the District's ability to meet its financial obligations. He noted that the rating is viewed as a general report card for the District and rating agencies are very credible and respected third parties whose whole purpose, which is acknowledged by the industry, is to rate companies. He indicated that a rating upgrade is very significant and validates the work the District is doing in strategic planning, financial modeling, its focus on diversifying its water supply (IRP), commitment to technology, etc. He stated that the District's ratepayers will benefit from this rating upgrade with \$1.5 million in interest savings for the next three bond issuances. He indicated that he is very proud of this accomplishment and wished to thank the board, management and employees for having the opportunity to be part of it and showcase what the District has been able to accomplish.

President Croucher indicated that he attended the meetings and provided a short presentation on behalf of the board. He stated he was honored to attend as president and was happy to observe the staff at its finest. He stated staff did a great job in presenting the work that they are accomplishing at the District. He commended staff on their teamwork and their good work.

Chief Financial Officer Beachem noted that the board's approval of the bond documents would be an approval in form only. As the District moves toward the sale, there will be additional changes, in particular, the interest rate will be decided and the amount of the annual maturities will be determined with the underwriters at the time of the sale. He stated if there are any substantial changes to the document that may change the bond market's view of the District's ability to repay its debt, that it is something that staff will need to know before the documents are approved.

Director Robak indicated that the Finance, Administration and Communications Committee reviewed this item at a committee meeting held on January 24, 2007. He stated that the committee did not have the benefit of reviewing the actual bond document nor was staff aware of what interest rate the District would receive. He stated that the committee felt very comfortable that staff, bond

counsel and bond advisor were assuring the paperwork was accurate and would be handled properly. He stated that he was happy to receive the news that the District received a rating upgrade and would save \$1.5 million in interest cost. It was noted that Vallecitos Water District was the only other retail water agency with a similar rating in the County.

Director Robak indicated he did have some comments on the bond documents. He noted that the zip code was incorrect and should be 91978. He inquired if the address for the insurance firm was left blank on page 44 because the District had not yet secured an insurance firm. Chief Financial Officer Beachem indicated that that was correct. Director Robak inquired when the District would select an insurance firm. Bond Advisor Suzanne Harrell indicated that the firm would be selected by Friday, February 9. Director Robak asked with regard to page 2 of the *Installment Purchase Agreement*, it indicates, "...the Installment payments or payments under which are on parity with, or subordinate to, the 2007 installment payments.....the 2004 Installment Purchase Agreement and the 1996 Installment Purchase Agreement"; would the agreement be "subordinate to" or "equal to." Bond Advisor Harrell indicated that it would be on "parity." Director Robak also inquired with regard to page 17 concerning prepayment, if staff could please reiterate the prepayment penalty. Bond Advisor Harrell indicated that there was a prepayment penalty if the District decided to payoff the bonds prior to their maturity date. She stated that there was a premium associated with doing so during the first ten years. Director Robak asked if it were typical to have a prepayment penalty. Bond Advisor Harrell indicated that the notice which is being prepared would have no premium and instead would have a ten-year lock-out. At the end of the ten years, the bonds can be paid at their par amount. It was noted, however, that a prepayment premium was typical. Director Robak indicated that the Finance, Administration and Communications Committee supported the bond issuance.

Bond Advisor Harrell indicated that she received very positive feedback from both rating agencies on the District's management team. She stated it was very apparent to the rating agencies that the District's staff shared the same vision and they were very impressed. She stated that she was very proud to be a part of the project and was happy of the outcome for the District. She indicated that the District had earned its rating upgrade.

Director Breitfelder thanked staff for keeping the board updated on the bond issuance process. He asked with regard to prepayment, what was the probability that the District would consider prepayment. Chief Financial Officer Beachem indicated that it was very unlikely. He stated staff did not expect to pay off the debt early, in addition, interest rates are at a historic low. Chief Financial Officer Beachem indicated that staff would only make that recommendation if it made sense financially to do so. Director Breitfelder noted how "blunt/pessimistic" the *Official Statement* was with regard to water supply. Bond Advisor Harrell indicated that the District must be sure that the information is disclosed in a way that the investor would have all the information he/she needs to make a decision.

The document should be looked at as an information document as opposed to a marketing document and it must provide all the facts. Director Breitfelder indicated he appreciated the bluntness. Chief Financial Officer Beachem indicated that the *Official Statement* is an important document and the board's responsibility for this document is substantial.

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

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

to adopt Resolution No. 4095 authorizing the execution and delivery of Revenue Certificates of Participation in principal amount not to exceed \$42,000,000 for the purpose of financing a portion of the District's 6-year Capital Improvement Program and authorizing the General Manager and Chief Financial Officer to execute documents in connection therewith.

8. RECESS OTAY WATER DISTRICT BOARD MEETING

President Croucher recessed the Otay Water District board meeting and convened a meeting of the Otay Service Corporation board at 3:53 p.m.

9. CONVENE OTAY SERVICE CORPORATION BOARD MEETING

- a) ADOPT RESOLUTION NO. 1005 APPROVING THE LEGAL DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE 2007 CERTIFICATES OF PARTICIPATION AND ESTABLISHING PARAMETERS FOR THE SALE THEROF (BEACHEM)

Chief Financial Officer Beachem indicated that the Otay Service Corporation serves as the financing conduit to accomplish Certificate of Participation sales. He indicated that staff is requesting that the Otay Service Corporation Board also approve the bond sale, documents and authorize staff to execute the bond documents and complete the sale.

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

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

to adopt Resolution No. 1005 authorizing the execution and delivery of Revenue Certificates of Participation in principal amount not to exceed \$42,000,000 for the purpose of financing a portion of the District's 6-year Capital Improvement Program and authorizing the General Manager and Chief Financial Officer to execute documents in connection therewith.

10. ADJOURN OTAY SERVICE CORPORATION BOARD MEETING

President Croucher adjourned the meeting of the Otay Service Corporation at 3:54 p.m.

11. RECONVENE OTAY WATER DISTRICT BOARD MEETING

President Croucher reconvened the Otay Water District Board meeting at 3:54 p.m.

12. BOARD

a) DISCUSSION OF 2005 AND 2006 BOARD MEETING CALENDAR

There were no changes to the board calendar as presented.

REPORTS

13. GENERAL MANAGER'S REPORT

a) UPDATE ON THE 30" RECYCLED WATER PIPELINE PROJECT (SEE ATTACHMENT "A")

General Manager Watton indicated that the 30" recycled pipeline project is on track and staff is expecting to begin receiving water from the city's South Bay Water Reclamation Plant in March. He indicated that Communications Officer Armando Buelna is verifying dates on the City of San Diego's Mayor's calendar for his availability for a dedication ceremony for this project in April 2007.

He indicated that the 640-1 & 2 reservoirs project is underway and is currently progressing well.

He also noted that staff had spent a lot of time preparing for the rating agency meetings. He stated that as shared earlier the presentation was well received and staff did an excellent job in presenting the accomplishments of the District.

General Manager Watton indicated that staff is also working on the projected rate changes for the next budget cycled. In order to comply with Proposition 218, staff is preparing to present the approval of the rate change in September 2007 following the presentation of the budget for the board's approval in May 2007.

He also shared that the District received two awards from the California Society of Municipal Finance Officers (CSMFO): The *Excellence in Budgeting Award* for both the operating and CIP budget submissions and *Excellence in Budgeting Award for Public Communications*.

General Manager Watton stated that the District is still receiving monies from the State Water Resources Control Board under the Proposition 50 Grant and has received \$3,104,150 of the \$4 million grant. He indicated that when the new recycled system begins taking water from the South Bay Water Reclamation Plant the District will be eligible to receive the remainder of the grant.

He noted with regard to the Title XVI program, staff has received approval for approximately \$16 million in funding and it is hoped that the District can collect at least \$12 million of the funding for current projects. He stated that there is a lot of competition for the money and the President's budget has not yet fully funded the Title XVI program and hope that congress can help us with moving the funding along.

He indicated that construction is on-going and while meter sales are down from a historic high, the District is still selling meters and continuing to do inspections. He indicated that developers are still laying infrastructure as they believe in approximately a year or eighteen months the housing market will turn and they wish to have infrastructure in place to take advantage of the turn in the market when it occurs.

General Manager Watton lastly noted that each month staff reports the change orders and purchase orders that are authorized under the General Manager's authority. He indicated that he wished to make note of it to assure that the board reviews the information.

b) SAN DIEGO COUNTY WATER AUTHORITY UPDATE

President Croucher noted that the leadership change at the County Water Authority (CWA) can certainly be felt: He indicated that Ms. Fern Steiner has been elected Chair; Mr. Bud Lewis was elected Vice-Chair; and Mark Watton, Secretary. He indicated that the CWA directors are becoming much more proactive and are providing additional leadership. He stated that desalination is being discussed as well as the Metropolitan Water District's (MWD) rates and the possibility that their rate increase will be much higher than anticipated. He stated that CWA's Committee recognized Otay's Chief Financial Officer Beachem with regard to his assistance to CWA in deciphering MWD's rate charts. He indicated that very few individuals are able to understand the rate charts and CWA wished to recognize Chief Financial Officer Beachem for his help in this area. He stated that it is very gratifying to have an Otay employee being recognized for their work and the assistance that they can provide to help challenge the rate increases.

General Manager Watton also noted that MWD's board is scheduled to meet next Tuesday, February 13, 2007. Staff will know more about the status of rates following this meeting. He noted that MWD is indicating that their increase is expected to be about 5% which falls within their original parameters, though at the higher end.

He stated with regard to the IID transfer and the lining of the all American Canal, CWA is making some progress in discussions with Mexico. It is not certain where things will go or end up, but it is hoped that we can reach an understanding with Mexico on these issues. He stated that the General Manager of CWA is the new biggest proponent in finding a solution to the issues surrounding these projects.

He noted that CWA will hold a special board meeting on February 8, 2007 and the board will be discussing their goals and objectives. He stated that he wished to propose that CWA develop a Strategic Plan similar to Otay's plan as he felt that though CWA has a work/business plan that is fairly well done, it doesn't link to the board or some of the board's goals.

14. DIRECTORS' REPORTS/REQUESTS

Director Breitfelder indicated that he attended the California Special District Association (CSDA). He noted that Mr. Mark Muir is the current president of CSDA and one of his high priority goals is to make other County elected officials understand Special District's role. He indicated that he felt that Mr. Muir would try to raise the profile of Special Districts throughout the community in a variety of ways. He also shared with regard to the Council of Water Utilities meeting that they discussed the electrical and gas lines running through the Delta and the economic and environmental impacts should the Delta levees fail. He also stated with regard to Governor Schwarzenegger's program, he felt that the Governor was thinking more in terms of greenhouse emissions and its affect on sea levels, snow pack and the impact it will make to future water supplies. He stated that his program starts to make more sense from this context. He lastly thanked staff for handling Mr. McGill's (a customer of the district's) situation so well. He indicated that staff was very positive and constructive and noted the errors that contributed to his situation. He stated that it was very clear that staff was taking steps to strengthen the system and he felt Mr. McGill's situation was a success story.

Director Lopez indicated that the Ad Hoc Negotiations Committee discussions were going very well and both he and President Croucher were very pleased with the direction of the discussions. He stated that it is hoped that the committee would have something to report to the board very soon.

Director Robak inquired if board members could be notified of staffs' meetings with planning groups within their divisions so that the member would have an opportunity to attend if they were available. He also indicated that he felt the employee luncheon went very well and it seemed that everyone enjoyed

themselves. He also asked staff to please introduce new employees to the board, especially high level personnel. He stated that as the District has many new employees, it would be nice to meet them as long as they were working the day of the board meeting. Director Robak also shared that he had an opportunity to attend the Metropolitan State Water Tour of the Bay Delta area. He indicated that it was very interesting to hear about all the issues surrounding the Bay Delta and the levees. He noted that the idea of the Peripheral Canal is being discussed again and it seems that it is very important that the canal be instituted should the levees fail. He inquired if CWA was also having discussions about the Peripheral Canal. General Manager Watton indicated that CWA was discussing the issue and there were more groups interested in the canal for different reasons. There are groups who do not wish to build dams and others that have environmental and water concerns and feel that the Peripheral Canal would help in these respects. He indicated that CWA is discussing it, however, where the discussions will lead is unknown at this point.

President Croucher indicated that directors received their committee assignments and it seems that the committees have met and are working as designated. He thanked the board members for their willingness to participate. He stated that he hoped that they received the involvement and assignments that they wanted. He noted if there are improvements that can be made, to please let him know. He stated that there was a request for an additional committee, but because it would involve the same two directors, he felt that it made sense to condense the two into one committee. He indicated that it also made it easier on staff to prepare for these meetings. He stated that he felt the meeting with the staff of elected officials went very well and received good attendance. He stated that he felt the presentations were very well put together and he had received thank you letters from several attendees including the City of Chula Vista. He thanked Vice-President Lopez for standing in on his behalf at the employee appreciation luncheon. He stated that he was unable to attend that luncheon as he had attended his brother-in-law's award ceremony where his brother-in-law received the Officer of the Year Award for the City of Carlsbad. He also shared that the Ad Hoc Negotiations Committee met several times and they expect that an update will be provided the full board in the next couple months. He noted that the committee has stayed within the parameters set by the board with regard to negotiations. President Croucher also commended staff for submitting grant requests early for Proposition 50 funding as this allowed the District to also participate in the second round. He stated that he has heard frustrations from other agencies that they could not participate in the second round because they missed participation in the first round.

RECESS TO CLOSED SESSION

15. CLOSED SESSION

The board recessed into closed session at 4:19 p.m. to discuss the following matters:

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

- (i) DONNA BARTLETT-MAY, et. al. v. OTAY WATER DISTRICT
- (ii) RDH CHEMICAL COMPANY v. OTAY WATER DISTRICT

RETURN TO OPEN SESSION

16. 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 4:19 p.m. General Counsel Calderon indicated that the Board took no reportable actions in closed session.

It was noted that the board did consider the RDH Chemical Company matter and a motion was made by Director Robak, seconded by Director Breitfelder and carried with the following vote:

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

to settle the RDH Chemical Company matter per discussions in closed session.

Direction was also given to General Counsel with regard to the Donna Bartlett-May, et. al. versus Otay Water District matter.

17. ADJOURNMENT

With no further business to come before the Board, President Croucher adjourned the meeting at 4:54 p.m.

President

ATTEST:

District Secretary