

**MINUTES OF THE
SPECIAL MEETING OF THE BOARD OF DIRECTORS
OTAY WATER DISTRICT
October 9, 2007**

1. The meeting was called to order by President Croucher at 9:36 a.m.

2. ROLL CALL

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

Directors Absent: None

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 Financial Officer Joe Beachem, Customer Service Manager Elaine Henderson, District Secretary Susan Cruz, Chris Frahm and Paul Bauer of Hatch and Parent, LLC, and others per attached list.

3. 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.

WORKSHOP

4. DISCUSSION OF DISTRICT PENALTY FEES

a) BILLING PENALTIES (HENDERSON)

Customer Service Manager Elaine Henderson indicated that the budget for penalties in Fiscal Year 2007 was approximately \$831,000 and in Fiscal Year 2008 staff budgeted over \$1 million in penalties. She indicated that staff was under budget in FY 2007 as penalties actually came in at \$925,000. She stated that the District has historically under budgeted for penalties, so staff changed its practice and for Fiscal Year 2008 began budgeting based on the actual data rather than the previously budgeted amount. Staff took the difference between the FY 2007 actuals and the budgeted total and doubled it (approximately \$189,500) to project the penalty revenues for FY 2008. She stated that the penalties are broken out into two categories:

- Late payment penalty charges (5% of total bills)
 - Such fees represent a little over 50% of potable penalty revenues

- Follow-up collection penalty charges (returned checks, meter locks, during business hours meter turn-on, after business hours meter turn on, etc.)
 - These fees represent the other half of the potable penalty revenues

She referenced page two of staffs' report which presents a chart showing the revenues collected in FY 2007 and the projected budget for FY 2008. She indicated that the late payment percentage increase of 7.2% was based on the rate increases approved by both the District and the City of Chula Vista of 5.4% and 5.5% respectively and the estimated growth of 1.8%. Together the increases total 7.2% (5.4% + 1.8%). The budget increase for follow-up collection penalty charges was increased 15.9% is based on historical information and the growing number of customers who require follow-up activities, which is higher than the District's growth rate, such as foreclosure customers. She noted that foreclosures have increased from approximately three (3) per month to approximately twenty (20) per month. Costs have also increased as the customer service department is now fully staffed (they have been understaffed for the past four year) and can spend more time handling collection issues, whereas, they did not have the manpower to do so in prior years. The increase also includes collection charge increases approved by the board for a few fees (returned check, business hours meter turn-on and after hours meter turn on).

There was discussion that if a customer has a history of always paying on time and had one late payment (within a year), there is provisions in the code that the late fee could be waived. If a customer is very behind in paying their water bill and have had their meter locked (meters are locked when a customer is three [3] months behind in paying their bill), customer service will work with the customer by trying to collect payment on at least one of the past due bills and making arrangements for payment on the other two delinquent bills. It was noted that if the customer cannot pay the full amount of one of the past due bills, customer service will still take a partial payment as long as the customer makes arrangements to make payment on the agreed upon due dates. If the customer does not meet the promised payment dates or refuses to call and talk to the District, then the customer's water service is interrupted.

There was a question as to what happens to over due bills to foreclosed properties. It was indicated that the District does utilize liens on properties when payments are very delinquent. Previously, when a home was sold, escrow would pay off the lien through the equity from the property. However, in current market conditions, there is no equity in the property and the bank has taken a large loss. Because of this, the banks are indicating that they do not have to clear the lien to sell the property. Though the lien was never satisfied, the District must still provide water service to the new property owner. This situation is new and has only occurred in the last month. It was requested that staff investigate whether a property can be transferred to a new owner by a bank without satisfying liens on the property.

It was inquired whether the District sells its bad debt. It was noted that the District utilizes two types of collection services. One service is paid a flat fee up front for each account that they collect (\$7.00 for each account) and a smaller percentage of our collection accounts are sold to a collection agency (5-10% of total accounts). These are accounts where the customer has already “skipped” (mail is being returned) and the District no longer has a good address for the customer. It was noted that the District wrote off approximately \$200,000 to \$300,000 in bad account debt last year and will collect approximately \$1 million in collection and late fees. The \$1 million covers the cost to follow-up with customers who are falling behind in their payments and the written off bad debt accounts.

It was discussed that door tags are necessary as the District must make every attempt to reach the customer and advise them that their water will be turned off if they do not make a payment. She stated that because many people are not home when calls are made and answering machines do not indicate who the resident is that is being reached, they are finding that they are making less and less contact by phone (penalty fee cost to customer of \$7.50) and must do more door hangars instead (penalty fee cost to customer of \$10). It was noted that the District is exploring using the auto-dialing system which is less expensive and calls can be made in the evenings when customers are home. The auto-dialing system would be less expensive overall, however, the District would incur additional cost in maintaining the customer database for current phone numbers and email addresses.

The board requested that staff review the customer’s payment history and work with those customers with a good payment record before elevating to more severe delinquent follow-up actions. It was noted that staff is currently having a Sr. Customer Service staff member review the customer’s account history during the lock process. Staff will make another effort to contact those customers with a good paying history prior to locking their meter. Staff is also looking at making some software upgrades that will look at the customer’s history (how long they have lived at the residence, paying history, etc.) and if the customer has a high rating, the customer would be provided additional time to make their payment. Staff is also exploring a possible upgrade to the billing software to automatically roll an overdue amount to the next billing cycle for good standing customers.

There was also discussion with regard to locked customer meters and if the District should notify other county agencies of this fact as there are concerns with the living conditions at the property when there is no running water. The board also inquired if there was anything else that the District can do, maybe restricting water flow (“life-line”) until the customer can catch-up with their payments. Staff will research this possibility.

It was requested that the billing section of the District’s website be updated with all penalty fees so that customers know what the fees are as they progress to the next level.

b) PROHIBITED ACTIVITIES, FINES AND PENALTIES

General Counsel Yuri Calderon indicated that this portion of the presentation will cover penalties for criminal/prohibitive activities. He indicated that approximately a year ago there were a couple of incidences of water and sewer theft. Fire hydrant caps had been stolen from within the District's service area and were being sold as scrap to recyclers because of the increase in metal prices. He indicated that the District's Code of Ordinances had not been developed over time to respond to these types of scenarios. As such, counsel reviewed the Code of Ordinances and noted those areas that discussed penalties, fines, theft, tampering and engaging in destructive activity. These items will be combined into one section of the code and will be more comprehensive. The new section will identify prohibitive activities as noted below and the actions that need to be taken when an individual is caught engaging in such activities (penalty, filing of criminal charges, etc.).

- Connecting or diverting service without following District procedures
- Damage, vandalism or threatening to damage any of the District's facilities
- Impairing the meter in any way that it is disabled, cannot be read or the reading is inaccurate
- Preventing District staff access to easements or its facilities
- Unauthorized connections
- Waste (such as causing leaks) or damaging District facilities
- Removing or destruction of District property

The State Statute provides for fines and allows the District discretion to recover costs that are associated with damage or illegal activity. Also, for those customers that do engage in these types of illegal activities, provisions will be provided in the code for the District to determine whether it wishes to cut service completely to the customer, especially with regard to developers. Developers have been caught connecting to fire hydrants and stealing water. The District would like to be able to penalize such activities heavily, which would include requiring developers to put a much larger deposit, pay a premium for water service, or a threat to cut water supplies to their development projects. It was noted that the code does provide for the filing of criminal charges (misdemeanor or felony). It was suggested that staff set-up an appointment with District Attorney Bonnie Dumanis to include the District's President, General Manager and General Counsel. General Manager Watton indicated what he was most concerned with prosecuting individuals for tampering with a public water system as it is a public safety issue.

General Counsel Calderon concluded that the penalty ordinance is very close to completion and a copy has been forwarded to the District Attorney's office so that they are aware of the enhancements the District is making to its penalty ordinance. The proposed ordinance has also been reviewed by all the departments of the District for feedback. The District's goal is to charge the highest penalty allowed by statute. It was suggested that the first penalty noted should be that the District will pursue criminal charges and/or other penalties in the finalized ordinance. The finalized ordinance should also be forwarded to the developers to remind them of the consequences for tampering with a public water system. There was a question as to what other water agencies were doing. Assistant General Manager German Alvarez indicated that there is cooperation with Helix Water District, Padre Dam

Municipal Water District and Sweetwater Authority concerning public awareness and it has been discussed that they also adopt similar ordinances.

The board suggested that an article be placed in the customer Pipeline Newsletter to request that customers report any suspicious hook-ups to fire hydrants, etc., to the District. By making customers aware, they can be the eyes and ears of the District.

5. DISCUSSION OF BOARD OF DIRECTORS POLICY 8, DIRECTORS COMPENSATION, REIMBURSEMENT OF EXPENSES AND GROUP INSURANCE BENEFITS

The board discussed the District's current per diem at length. It was noted that the per diem can be increased 5% per year and is limited to 5% from the "last increase." The board agreed to leave the per diem at \$100 per meeting and revisit the discussion at next year's board workshop.

There was also a discussion on travel meal reimbursement rates. It was noted that the reimbursement rates set in Board of Directors Policy 8 follows the staff travel meal reimbursement rates. The per diem is set at the State Statute rate. The rate has changed and staff plans to bring both Policy 8 and the employee travel policy to the board to adopt the new per diem rate set by the State.

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

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

to leave Policy 8 unchanged.

6. DISCUSSION OF BOARD GOVERNANCE

The board discussed at length the Ad Hoc Committee process. It was felt that there was a lack of communication from the Ad Hoc Committee on their findings before the Ad Hoc Committee's recommendation is presented to the full board. It was indicated that the Ad Hoc Committee is provided parameters by the board and it was felt by the Ad Hoc Committee members that, as long as the committee stayed within the parameters, then reporting to the full board was not necessary. Upon further discussion, it was requested that the Ad Hoc Committee provide a report periodically to the full board on the status of the issue they are tasked with overseeing. It was also suggested that the Ad Hoc Committee's authority and guidelines be defined and agreed upon during a board meeting and voted upon by the full board.

The board also discussed the standing committee process. It was felt that the committee process was working well as it allows the board to review items in detail

with staff before it is presented to the full board. The board was also happy with the notes summarizing the committee's discussion that is included as an attachment to staffs' report. It was noted that, in general, most items reviewed by committee is agendaized on the consent calendar. If a board member requires additional information, then the member has the ability to pull the item for further review.

The board indicated that they were supportive of the District encouraging staff to become more involved in leadership roles with various water related organizations and the community (i.e., ACWA, WaterReuse, Chula Vista Chamber of Commerce, Chula Vista Kiwanis, etc). It was discussed that the District is pretty well involved in water related organizations, but was not as involved in community organizations. It was noted that there was no need to change anything, but that the board wished staff to know that the board was supportive of such involvement.

7. WATER SOLUTIONS AND BAY DELTA UPDATE
8. REVIEW OF CURRENT BOARD POLICY ON CONTINGENCY PLANNING FOR DROUGHT MANAGEMENT AND DIRECTION FOR FUTURE

Due to time constraints, items 7 and 8 were pulled from the agenda. It was suggested that another meeting be calendared to discuss these items.

The board recessed at 12:11 p.m. and reconvened at 12:14 p.m.

9. FINANCIAL IMPACT OF WATER CUT-BACKS

Chief Financial Officer Beachem reviewed the impact to the District's budget of 10%, 20% and 30% water cutbacks. He stated that because the District is sound financially and revenues are diversified (water sales are only 50% of revenues), the impact to the District would not be dramatic. He stated that with a 30% cutback, the loss in revenue would be approximately \$18 million in water sales. Because the District is selling less water, its water purchases will also decrease by approximately \$15.8 million. Therefore, the total operating revenue loss that the District would need to make up is \$2.2 million. It is proposed that the loss would be made up with a proposed additional rate increase of 1.2% in 2009 and 1.4% in 2010. He stated that if things turn around and the District is back to selling 100% of projected water sales, then the District can decrease rates by 2.4% in 2011.

Chief Financial Officer Beachem indicated that the District also collects annexation and capacity fees. He indicated that meter sales in the past three months have been approximately half of what was budgeted. He indicated that it was projected that the District would collect approximately \$1.4 million in annexation fees this fiscal year, but will instead collect approximate \$700,000 if the meter sales trend continues. He stated to cover the \$700,000 budget shortfall, an additional 1% rate increase would be required in 2009.

He also noted that capacity fees have dropped 50% over the past three months which translates into a shortfall of \$33 million. Capacity fees are utilized to pay for the expansion of district facilities and, thus, the District will require an additional \$33

million in debt to finance facilities or impose an additional rate increase of 1.2% over five years starting in 2009. However, the District's Engineering Division is reviewing its capital projects and is looking at areas where they can push back the expansion of some facilities. The logic is, if expansion is not occurring, the District does not need to build expansion into its facilities. He stated that, of the District's 70 expansion projects, half are dual use, replacement or betterment, and staff must identify within the remaining 50% those projects that can be pushed back/delayed. If engineering can identify areas where the district can reduce construction of expansion facilities costs to 75% of what was budgeted over the six-year budget period, then the District will save \$33 million and the needed 1.2% rate increase over a five-year period will no longer be required. Chief Financial Officer Beachem noted that the District historically completes approximately 80% of budgeted capital expenditures and believes that 75% is certainly possible.

Chief Financial Officer Beachem indicated that over the six-year rate model, the overall impact of the cutbacks to rates would be a 7.6% increase in 2009 (versus previous projection of 5.4%); 6.5% increase in 2010 (versus previous projection of 5.4%); and as previously projected, 5.1% increases in 2011, 2012 and 2013. He stated because of the District's financial strength through sound financial management practices, the cutbacks do not affect the District's rates very dramatically.

General Manager Watton noted that CWA and MWD are projecting higher rate increases than previously projected and the new projections have not been included in the presented calculation as they are unknown at this time. The rate model is also predicated upon successful bond issues in 2009 and 2011 and water issues stabilizing (drought, Delta conveyance, etc.). He noted that more discussions would need to occur, not only to discuss rates, but water supply as well, if water issues do not stabilize. He also stated that staff may be proposing a water conservation surcharge during the next Proposition 218 noticing depending upon the status of water issues.

Director Bonilla left at 12:45 p.m.

The board recessed at 12:47 p.m. and reconvened at 1:05 p.m.

10. UPDATE ON SACRAMENTO AND METROPOLITAN WATER DISTRICT MATTERS (FRAHAM)

Ms. Chris Frahm and Mr. Paul Bauer of Hatch and Parent, LLC provided an update on State Legislation regarding water issues and MWD matters. There was an in depth discussion on 2008 water bonds, Proposition 84 and 1E bond implementation, the possibility of a modified "Peripheral Canal", and the need for local agencies to have Integrated Regional Water Resources Master Plans in order to qualify to receive bond monies.

It was discussed that the "Peripheral Canal" at this point will not be paid by bond money. However, there is no agreement on how the cost of the canal will be allocated. The Governor's recommendation regarding the repair of the Delta is

expected to be released at the end of November 2007. It is anticipated that the proposed canal will go around the Delta and will be different in size and occupy a different location. It is felt that the real cost for the proposed canal will be mainly in environmental protection as opposed to the cost to build the facilities.

It was noted that both the Governor's and the Democrats proposals will push to move away from transporting large amounts of water to the south and disperse it so that agencies are planning more at local levels and becoming less dependant on the Delta. The proposals, however, most likely will not agree on a dam project or how the facilities will be used or paid for.

It was further discussed that water planning will move toward the local level such as local projects for conservation and recycled water. It is felt that this is a positive shift. San Diego agencies are currently waiting to see what CWA and the City of San Diego are doing, but it is recommended that each agency also develop their own smaller Integrated Water Resources Master Plans for their service area. In future, it will be expected that there be more than one Regional Water Resources Master Plan within a local region.

President Croucher left at 2:10 p.m.

11. ADOPT POSITION OF SUPPORT IF AMENDED ON SBX2-2 (PERATA) AND SBX2-3 (COGDILL) [WATTON]

Two water bond measures are being proposed: SBX2-2 by Senate President Pro Tem Don Perata and SBX2-3 by Senator Dave Cogdill. Lawmakers have until October 16, 2007 to pass a bond proposal to place the measure on the February 2008 presidential primary ballot. It is skeptical though that a proposal can be negotiated in time.

It was indicated that the Governor is sponsoring the Cogdill bond measure which includes \$5.6 billion for the Delta dams (three northern California reservoirs) and totals approximately \$9.1 billion. It is felt, however, that neither bond addresses the priorities for a water bond. Perata's bond measure does not contain funds for delta conveyance, carryover surface storage, does not equitably address funding for groundwater and surface water storage projects, does not provide discrete funding for real water development projects and programs. Cogdill's proposed bond measure also does not contain funds for Delta conveyance, provides only limited opportunity to fund regional carryover surface storage, and does not equitably address funding for groundwater and surface water storage projects.

It was discussed that the District's would not support a water bond measure unless it includes the following:

1. Provides conveyance, improvements, and protection of the Delta.
2. Facilities be paid by the beneficiaries and public benefit should be quantified.

3. Retail water supply reliability needs (groundwater, desalination, conservation, recycled water, etc.) should have a priority in the bonds and the Integrated Regional Water Resources Planning.

It was discussed that the District will forward a letter with its president's signature to where it will be of most benefit.

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

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

to approve the above principles as the District's position for a water bond.

12. ADJOURNMENT

With no further business to come before the Board, Vice President Lopez adjourned the meeting in at 2:35 p.m.

President

ATTEST:

District Secretary