

**MINUTES OF THE  
BOARD OF DIRECTORS MEETING OF THE  
OTAY WATER DISTRICT  
January 7, 2009**

1. The meeting was called to order by President Croucher at 3:33 p.m.
2. OATH OF OFFICE CEREMONY

The Honorable Ron Roberts, Supervisor of the County of San Diego, presided over the District's Oath of Office Ceremony and swore in District Directors Jaime Bonilla, Jose Lopez and Mark Robak, who represent Divisions 2, 4 and 5 (respectively) of the District's service area.

Director Bonilla presented Supervisor Roberts a plaque on behalf of the District and thanked him for his outstanding dedication and tireless service to the people of San Diego County.

Director Lopez presented a plaque to Director Croucher on behalf of the District Board of Directors for his leadership and excellent service as president of the Otay Water District Board of Directors for the past year.

The meeting was recessed at 3:42 p.m. for a reception and reconvened at 3:55 p.m.

3. 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.

4. PLEDGE OF ALLEGIANCE
5. ELECTION OF BOARD PRESIDENT, VICE PRESIDENT AND TREASURER

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

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

to elect Director Croucher as President, Director Lopez as Vice President and Director Bonilla as Treasurer.

6. APPROVAL OF AGENDA

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.

7. 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.

8. RECESS OTAY WATER DISTRICT BOARD MEETING AND CONVENE A MEETING OF THE OTAY SERVICE CORPORATION

The Otay Water District board meeting was recessed at 3:59 p.m. and a meeting of the Otay Service Corporation board was convened.

9. ROLL CALL

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

10. ELECTION OF OFFICERS: PRESIDENT, VICE-PRESIDENT OR TREASURER

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

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

to elect Director Croucher as President, Director Lopez as Vice President and Director Bonilla as Treasurer.

11. APPOINTMENT OF OFFICERS: EXECUTIVE DIRECTOR, CHIEF FINANCIAL OFFICER AND SECRETARY

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 elect General Manager Watton as Executive Director, Joe Beachem as Chief Financial Officer and District Secretary Cruz as Secretary.

12. ADJOURN OTAY SERVICE CORPORATION BOARD MEETING AND RECONVENE THE OTAY WATER DISTRICT BOARD MEETING

President Croucher adjourned the Otay Service Corporation meeting at 4:00 p.m. and reconvened the Otay Water District board meeting.

13. APPROVAL OF MINUTES OF THE SPECIAL BOARD MEETING OF SEPTEMBER 18, 2008

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 minutes of the regular board meeting of September 3, 2008.

14. CUSTOMER GAN'S APPEAL

Chief of Administration Rom Sarno indicated that this item is an appeal by Mr. Rick Gans that the board reconsider the assessment of the \$5,000 fine imposed upon him (Mr. Gans) for tampering with and operating the District's water system without proper authorization. Chief of Administration Sarno noted that a copy of a letter dated December 30, 2008 from Mr. Gans was placed on the dias for the board which references the cost invoiced to Mr. Gans for repairs to the District's system of \$3,444.29. He indicated that the \$3,444.29 has been paid in full by Mr. Gans and the only outstanding issue is the \$5,000 fine. He indicated that staffs' recommendation is for the board to uphold the General Manger's decision to impose a \$5,000 fine for tampering with and operating the district's water system without proper authorization.

Mr. Gans indicated that he appreciated the opportunity to speak to the board on this matter. He stated that he wished that he and his wife were attending today's board meeting under different circumstances and that all he can do is provide his personal apology and acknowledge that he had made a bad mistake. He indicated that they have had a lot of personal family problems in their lives and

he felt that it had lead to some bad choices. He stated that he could not apologize enough for what he had done and that he had lost his job with California American where he worked for 30 years. He stated that they have lost a lot of finances to family and to this situation and all that he can do at this point is try to rebuild and move forward. Mr. Gans assured the District that he would never do anything like this again. He indicated that he did use the water very conservatively, however, he understands that this does not make it right and he is very sorry.

Director Bonilla indicated that this is a very difficult situation as the board has an obligation to its ratepayers. He stated that they understand that people make mistakes and that no one is perfect, including the persons sitting on this dais. He stated that when he first heard of the situation he was very offended given the fact that there are many people with many problems. Stealing resources from another is inexcusable. He indicated that the District does not like to set a precedent in excusing fines, especially with something that is always enforced by the District. He stated, however, the fact that Mr. Gans and his wife had come in person to appeal the fine and expressed genuine regret goes a long way with him and with the rest of the District. He has a lot of respect for those who admit to their mistakes and he asked that the board reconsider the fine. He asked General Counsel Calderon if there are any legal reasons that the fine could not be reconsidered.

General Counsel Calderon indicated that it is the board's responsibility to consider the appeal. It is not an appeal on the findings of the District's staff, it is an appeal of the imposition of a fine. The board can either uphold, reduce, or eliminate the fine.

Director Robak inquired if all costs related to water use, investigation, and repair the District's system have been paid for by Mr. and Mrs. Gans. Chief of Administration Sarno indicated that such costs have been paid. Director Robak indicated that he too appreciated Mr. and Mrs. Gans coming to the board meeting and admitting their mistake and taking accountability for their actions. He stated that he has empathy for his loss, particularly his livelihood and he is in concurrence that the board waive the fine.

Director Breitfelder indicated that he is touched and empathizes with the motivation behind the motion to waive the fine, but felt that the District would better serve the public interest if we don't let our personal sympathy trump the public's interest. He stated that he felt it would set a bad precedent and felt that the District should draw a hard line.

Director Lopez indicated that he concurs with Directors Bonilla and Robak. He stated that this is very tough. However, the fact that Mr. Gans has made good on his payment to the District for the damages he has caused, he concurs to waive the \$5,000 fine.

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

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

to accept the appeal with regard to the imposition of a the \$5,000 fine (waive the \$5,000 fine).

### CONSENT CALENDAR

15. 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 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 approve the following consent calendar items:

- a) APPROVE A TWENTY-FOUR (24) MONTH EXTENSION OF THE AGREEMENT WITH THE SOUTHERN CALIFORNIA SOILS AND TESTING FOR AS-NEEDED GEOTECHNICAL SERVICES
- b) AWARD A PROFESSIONAL ENVIRONMENTAL CONSULTING SERVICES CONTRACT FOR THE SAN MIGUEL HABITAT MANAGEMENT AREA AND ASSOCIATED MITIGATION PROJECTS FOR CALENDAR YEARS 2009, 2010 AND 2011 IN THE AMOUNT OF \$987,807
- c) APPROVE A FIVE YEAR CONTRACT WITH UNDERGROUND UTILITIES, INC. FOR CLEAN-OUT SERVICES OF 850 METER BOXES PER YEAR IN THE AMOUNT OF \$124,312.50, PLUS APPROPRIATE INCREASES TIED TO THE SAN DIEGO CONSUMER PRICE INDEX
- d) ADOPT RESOLUTION NO. 4132 AMENDING THE DISTRICT'S 401(a) PLAN TO INCLUDE MATCHING EMPLOYER CONTRIBUTIONS TO CERTAIN GROUPS AND APPROVE A SECOND AMENDMENT TO THE ADOPTION AGREEMENT TO IMPLEMENT THE EMPLOYEE CONTRIBUTION COMPONENT OF THE 401(a) PLAN AT A LATER DATE

16. BOARD

a) DISCUSSION OF 2009 BOARD MEETING CALENDAR

Director Breitfelder indicated that when he first was elected to the Otay Water District Board, the district held two board meetings a month (first and third Wednesday of the month) and it has since been trimmed to one meeting a month, the first Wednesday of each month. He indicated that he assumed that the first day of the month has been the easiest and most convenient for the majority. He felt, however, that the first week of the month tends to be the most busy and difficult week of the month. He indicated that he has heard lately that some members may agree with him that the first week may be a little inconvenient relative to the other weeks of the month. He suggested that the board consider changing the District board meetings to the third week of the month.

Director Robak indicated that he wasn't prepared to talk about changing the date of the meeting, but it has been on his mind to make the board meeting as accessible to the public as the District can. He indicated that he felt holding meetings later in the day would make District meetings more accessible.

Director Bonilla indicated that the District has in past, changed the meeting time to later in the day (5:00 p.m.) to make it more accessible to the public. He indicated that the district's staff would stay until 8:00 p.m. or 9:00 p.m. Closed session would then follow the meeting and by then the public had left the meeting. He indicated that it was found to be counter productive. He stated that he would be very reluctant to change the meeting day or time and feels that the first week of the month has been working. He also noted that the members of the board have also adjusted their personal calendars to work with the first week of every month and to change it would be a problem, especially for him.

Director Lopez indicated that he too recalls the late evenings for board meetings and he also has set his calendar for the first week of every month. He indicated that the board already has the flexibility to change the board meeting day as needed. He stated that the first Wednesday of every month has been working and he suggests that we leave the schedule as is.

Director Breitfelder indicated that as the first Wednesday seems most convenient for most directors, he withdraws his suggestion to change the meeting day.

Director Croucher indicated for the record that he also supports leaving the meeting schedule as is for consistency for the public. He indicated that he felt that once you start changing dates and taking everyone off their rhythm, they begin to forget the new meeting dates. He stated that he felt that it is good to keep it consistent for all involved.

INFORMATIONAL ITEMS

17. THESE ITEMS ARE PROVIDED TO THE BOARD FOR INFORMATIONAL PURPOSES ONLY. NO ACTION IS REQUIRED ON THE FOLLOWING AGENDA ITEMS.

President Croucher indicated that the following are informational items submitted by staff for the board's review. He asked if the board wished to hear a report on any of the informational items below. No requests were received.

- a) INFORMATIONAL REPORT ON THE 2007 AND 2008 ANNUAL WATER CONSERVATION BEST MANAGEMENT PRACTICE REPORT
- b) INFORMATIONAL REPORT ON THE PROPOSED REVISIONS TO THE CALIFORNIA URBAN WATER CONSERVATION COUNCIL'S MEMORANDUM OF UNDERSTANDING REGARDING URBAN WATER CONSERVATION IN CALIFORNIA

## REPORTS

### 18. GENERAL MANAGER'S REPORT

- a) SAN DIEGO COUNTY WATER AUTHORITY UPDATE

General Manager Watton indicated that the design for the 36-inch pipeline from Flow Control Facility (FCF) No. 14, one of the District's flagship projects, is concluding. He stated that it is expected that the project will be bid out shortly. He indicated that there are a few things that staff will be discussing with CWA now and into the future to assist with the project, one of which is the FCF. He stated that CWA has been helpful and accommodating with this project.

He noted that the District's annual employee recognition luncheon has been scheduled on January 21 at the Cottonwood Golf Club.

He stated that the board may have noticed that the District is renovating the landscaping around the Administrative Building in which plant material is being replaced with water efficient plants. He indicated that the renovation is about half complete and we should see the results of the renovation soon. He noted that the District's outlying facilities (pump stations, reservoirs, etc.) have also been reviewed and updated.

He noted that Water Conservation Manager William Granger attended the California Urban Water Council's meeting to vote on the revisions to the Best Management Practices (BMP's). The BMP's will become a key feature into the future and he wished to acknowledge Water Conservation Manager Granger and his staff on their work with the California Urban Water Council and having the District's input on the BMP's heard. The proposed revisions were passed at the meeting.

He also shared that the District's Information Technology Department has developed a rate calculator which is available on the District's website. It allows customers to calculate their water bill based on current usage with the rate increase and drought pricing. He stated that the District has been recognized for the rate calculator and it has become a more sophisticated tool since that

recognition was received. He noted that the District is one of few agencies who offers the bill calculator and at this level of sophistication. He indicated that first set of bills at the new rates was mailed this past Monday. Customer service is ready to answer questions with regard to the new rates.

General Manager Watton indicated that the number of meters sold by the District this past month is at an all time low. This is not only true for Otay, but for the County as a whole. He stated that staff has adjusted the District's budget, but the District is still a little under. The District is collecting about 71% of what was projected. He stated that the difference will not be so dramatic this time as staff had budgeted what they thought was very low. However, the District is still experiencing differences. Part of the reason is that Otay Mesa customers do not pay annexation fees, their fees are charged in a different way and it hits the budget differently.

Director Robak inquired if the Calavo Sewer Lift Station Project was completed or if its construction was extended beyond December 31, 2008. Chief of Engineering Posada indicated that the project was extended beyond December 31, 2008 as staff is negotiating a small change order with the contractor for the discovery of unknown utility lines. The time frame adjustment will be made part of the change order contract. It is expected that the project will be completed within the next month.

Director Robak inquired with regard to the recycled water that the District is taking from the South Bay Water Reclamation Plant (SBWRP) if it is take or pay. General Manager Watton confirmed that the District's contract is take or pay. This is the second winter that the District is taking water from the City of San Diego's SBWRP and it has been working out well. The take or pay is based on an annual average and the District has been taking more than the District's contracted take or pay. He indicated that staff will be providing closed session briefings to the District's committee and board on upcoming City matters.

San Diego County Water Authority Update:

President Croucher indicated that General Manager Watton was elected as Vice Chair to CWA's board of directors. General Manager Watton indicated that MWD is struggling with water supply issues and their budget. He indicated that CWA will be discussing revising their CIP in response to the MWD's proposed rate increases. He indicated, as discussed in the past, that the upcoming years will become tougher.

President Croucher also shared that he was appointed to CWA's committee on Bay Delta Programs.

## 19. DIRECTORS' REPORTS/REQUESTS

Director Breitfelder indicated that a representative from the Voice of San Diego presented at the Council of Water Utilities and he mentioned that he has received

a lot input from the public about what they see as a paradox. On the one hand they are hearing that we have a long term water shortage problem and on the other hand the County is poised to continue housing construction at substantial, if not, normal levels. He stated that we will probably hear more about this in future. The speaker also talked about the consumption of recycled water. Director Breitfelder also shared with regard to CSDA that Supervisor Greg Cox, Ms. Chris Frahm and former Senator Steve Peace presented on Special Districts as stewards of public funds and shared some comments about Sacramento.

Director Jamie Bonilla wished everyone a happy and healthy new year. He congratulated President Croucher on his reelection as President. He stated that he has lead the District well and has demonstrated conduct and character. He indicated that the board has been happy with the way he has represented the District and that he knows that staff is appreciative of him and comfortable with him leading the District in the next year through what will be very difficult times. He stated that he felt that the District will again be successful under his leadership.

Director Lopez indicated that he concurs with Director Bonilla. He stated that he was happy to hear that the District is preparing to respond to customers regarding the rates and the current water situation. He asked that President Croucher continue to keep the board abreast of issues and congratulated him on his reelection.

Director Robak thanked everyone who supported him in his election to the District's board. He stated that this will be a challenging year not just for this water district, but the country and state. He indicated that he spoke with Mr. Steve Peace in mid-November and he had indicated that he was at the State Budget Director's office in late October and the Director had shared with him that the state's cash position was projected to be \$17,500 in February. He stated that that puts everything in perspective. He indicated that we have our work ahead of us and this is going to be a very challenging year.

## 20. PRESIDENT'S REPORT

Director Croucher indicated that he wished to thank the members of the board for their confidence in him and that he appreciated the support they have provided him over the year. He stated that he felt that this was an amazing group of individuals at Otay and that this is a true team. He indicated that he felt that the District has been successful because the board and staff work together. He indicated that the upcoming few years will be a struggle and the toughest thing that the District will need to accomplish is to educate its customers that California is in a long term drought and the various water supplies issues related to the Bay Delta, Colorado River, etc. He stated that the District will continue to use its Strategic Plan to guide its operations and that one of the District's goals in the Strategic Plan was to become a leader in the industry. He indicated that we can look back and say that the District has become a leader in the industry. The awards the District has received for its operations and finance certainly support this.

21. ADJOURNMENT

With no further business to come before the Board, President Croucher adjourned the meeting at 4:40 p.m.

---

President

ATTEST:

---

District Secretary