

**MINUTES OF THE
BOARD OF DIRECTORS MEETING OF THE
OTAY WATER DISTRICT
May 13, 2009**

1. The meeting was called to order by President Croucher at 3:30 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.

1. SPECIAL ORDERS OF THE DAY

- a) PRESENTATION OF OTAY WATER DISTRICT'S 2009 SCHOLARSHIP AWARD

General Manager Watton presented the District's \$1,000 Scholarship Award to Ms. Natalie Hart, a student from Christian High School. Ms. Hart will pursue a degree in Kinesiology. She thanked the District for the support of her education through the scholarship.

- b) PRESENTATION OF THE 2009 OTAY PHOTO CONTEST AWARD

The District's first place winner of the Otay Photo Contest Award of \$200 was Mr. Travis Larkin a junior from Valhalla High School. Mr. Larkin was not in attendance to accept his award.

- c) PRESENTATION OF THE 2009 BEST IN SHOW PHOTO CONTEST AWARD

General Manager Watton presented the Best in Show Regional Photo Contest Award of \$400 to Mr. Jonathan Newman a senior from Bonita Vista High School. Mr. Newman thanked the District for providing the opportunity of the photo contest and for the award.

3. PRESENTATION REGARDING THE GLOBAL WATER BRIGADES

The Global Water Brigades presentation was pulled as Mr. Juan Guerreiro was unable to attend the meeting due to illness.

4. APPROVAL OF AGENDA

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

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

to approve the agenda.

5. APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JANUARY 7, 2009 AND FEBRUARY 4, 2009

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 meetings of January 7, 2009 and February 4, 2009.

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 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:

Director Robak requested that items 8a and 8b be pulled from the Consent Calendar.

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:

- c) DECLARE IDENTIFIED VEHICLES AND EQUIPMENT AS SURPLUS TO THE DISTRICT'S NEEDS
- d) APPROVE AMENDMENTS TO THE MARSTON+MARSTON, INC. CONTRACT FOR PUBLIC RELATIONS SERVICES TO EXPAND THE SCOPE OF SERVICES AND INCREASE THE NOT-TO-EXCEED VALUE TO \$75,000 FOR FISCAL YEAR 2009 (FY 2009) AND INCREASE THE TERM OF THE AGREEMENT THROUGH FY 2011 ON A YEAR-TO-YEAR BASIS, PROVIDED THE VALUE OF SUCH SERVICES DOES NOT EXCEED \$90,000 IN FY 2010 AND 2011

President Croucher presented consent calendar item 8a for discussion:

- a) APPROVE A PROFESSIONAL ENGINEERING SERVICES CONTRACT TO AECOM FOR THE MIDDLE SWEETWATER RIVER BASIN GROUNDWATER WELL PILOT PROJECT IN AN AMOUNT NOT-TO-EXCEED \$1,065,037

Engineering Manager Jim Peasley indicated that this item is a pilot well project within the Middle Sweetwater River Basin. He noted that the groundwater within the basin has been studied and documented since the 1990's. AECOM would be engaged to identify the feasibility of developing a groundwater resource production system within the basin and identify and assess any limitations or constraints.

Director Robak inquired if the water that will be extracted from this project is water that Jamul residents utilize to irrigate their landscapes. Engineering Manager Peasley indicated that that was correct. The quantity is estimated to be approximately 12.5% (1,000 AF) of the total consumption of the District customers within the basin as measured by water meters. He indicated staff felt confident that the well will be successful and this study will verify if the project is feasible.

Director Breitfelder inquired what would be the cost of the facilities for this project. Engineering Manager Peasley indicated that the demineralization facility cost is estimated at \$700,000. It was clarified that this is an Otay project and is not a joint study with the Sweetwater Authority. Otay is sharing the information with Sweetwater Authority to keep them apprised of the District's work within the Sweetwater Basin.

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 a professional engineering service contract to AECOM for the Middle Sweetwater River Basin groundwater well pilot project in an amount not-to-exceed \$1,065,037.

- b) APPROVE THE ISSUANCE OF FIVE (5) PURCHASE ORDERS TO VARIOUS VENDORS FOR HARDWARE COSTS OF A CISCO LAN SWITCH AND SERVICES; HARDWARE COSTS OF A HEWLETT-PACKARD EVA AND SERVICE MAINTENANCE; HARDWARE COSTS OF A HEWLETT-PACKARD C-CLASS ENCLOSURE, FOUR (4) BLADE SERVERS AND FIBERSWITCH; AND SERVICES TO DESIGN, IMPLEMENT, AND INSTALL A WIRELESS BROADBAND TO CONNECT THE REGULATORY SITE AND 30 MG RESERVOIR; AND FOR THE PURCHASE OF 35 RUGGEDIZED PANASONIC LAPTOP COMPUTERS FOR FIELD MOBILE STAFF; FOR A TOTAL COST OF \$469,677

Director Robak inquired the difference between a laptop and a tablet pc. Chief of Information Technology Geoff Stevens indicated that a stylus is used to substitute for the mouse and keyboard on a tablet pc. The tablet pc will also allow you to write notes in handwriting and draw on the screen. He indicated that the district bought tablet pc's approximately four (4) years ago and they are at the end of their life cycle. It was found, after use in the field, that the existing tablets do not fit the District's needs as they are not as tough as needed for field use. Staff beta tested the Panasonic ruggedized laptop models F-8 and CF-30 and felt that they fit the District's needs and they offered the best features and price. The notebook pc's will have Gobi (Verizon air cards) and Geographical Positioning Systems (GPS) and will not require that the District switch to new services.

A motion was made by Director Bonilla, 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 staffs' recommendation.

ACTION ITEMS

8. ENGINEERING AND WATER OPERATIONS

- a) APPROVE A PROFESSIONAL CONSULTING SERVICES CONTRACT TO ICF JONES & STOKES FOR THE OTAY MESA RECYCLED WATER SUPPLY LINK SYSTEM PIPELINES PROJECT IN AN AMOUNT NOT-TO-EXCEED \$213,087

Environmental Compliance Specialist Lisa Coburn-Boyd presented a map indicating the location of the three proposed recycled pipelines which will provide recycled water service to the Otay Mesa area. The three pipelines are identified as the Wueste Road Pipeline, the Alta Road Pipeline and the Airway/La Media Road Pipeline. The Wueste Road pipeline will connect into the Alta Road Pipeline and the Alta Road will connect to the Airway/La Media Road Pipeline. She stated that environmental compliance for the project is a necessary component of the planning and design phases and the project is approaching 30% design completion. She stated there are environmental issues that will need to be resolved before the District can move further. Those environmental issues include: traffic, construction noise impacting sensitive bird species (Gnat Catcher) in the biological habitat, impact to vernal pools and the Quino Checkerspot Butterfly Habitat.

She stated that an RFP was sent to 12 consulting firms for the provision of environmental review and compliance services for the construction of the three pipelines. Six proposals were received. She indicated that a panel of five (5) staff members reviewed the proposals and interviewed the three top firms. ICF Jones & Stokes received the highest rating.

Environmental Compliance Specialist Coburn-Boyd indicated that during the committee meeting an inconsistency was found in the *Fee Table* of the "Summary of Proposal Rankings by Panel Member" spreadsheet. The committee requested that staff verify the scores. Staff reviewed the scores and found that the scores reflected in the *Fee Table* were typographical errors. The scores for ICF Jones & Stokes should have been reflected as "21."
"

She stated that staff met with ICF Jones & Stokes to review the proposed scope of work and their fee was negotiated down to \$213,078. Staff is recommending that the board award the contract to ICF Jones & Stokes as the most qualified consultant. Staff feels that they have a clearer understanding of the compliance issues that would need to be resolved for the Pipelines Project and are more qualified to do the work.

President Croucher indicated that the Engineering, Operations and Water Resources reviewed this item and because it required information to be verified, the committee requested that the item be presented as an action item.

Director Robak inquired if the City of San Diego utilizes recycled water in the south. It was indicated that the City of San Diego does not currently have active

plans to serve recycled water in their southern service area. However, with the District's future connection to their South Bay Water Reclamation Facility, Otay would have the potential to provide recycled water to the city for their southern service area.

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

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

to approve staffs' recommendation.

9. ADMINISTRATIVE AND FINANCE

a) ADOPT RESOLUTION NO. 4134 TO IMPLEMENT AN IDENTITY THEFT RED FLAGS POLICY (CUDLIP)

Accounting Manager Jim Cudlip indicated that the FTC has issued a regulation (Red Flags Rules) that requires financial institutions and creditors to develop and implement an Identity Theft Prevention Program. He stated that the program should detect, prevent, and mitigate identity theft. He indicated that the FTC does not identify exactly how a policy must be written but indicates 28 things you can look for and examples of incidences labeled as "red flags." The District must also train its employees so that they could recognize "red flags" and respond appropriately.

Staff discussed the proposed Policy 51, Identity Theft and Red Flags Policy, with the District's auditor, financial consultant, the Government Finance Officers Association and worked closely with the District's Legal Counsel. They all agree that the proposed policy responds to the FTC regulation requirements. Staff is requesting that the Board adopt Resolution No. 4134 implementing the Identity Theft and Red Flags Policy, Policy 51.

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 staffs' recommendation.

b) DECLARATION AND IMPLEMENTATION OF A MODIFIED DROUGHT LEVEL 2, EFFECTIVE JULY 1, 2009, TO EXCLUDE WATERING SCHEDULES AND DROUGHT PRICING

Chief Financial Officer Joe Beachem indicated that MWD has taken action to implement Level II Allocations. MWD estimates that the 2010 water supply demand will be approximately 2.11 MAF with an estimated available supply for 2010 of 1.83 MAF (13% shortage). The reasons for the supply shortage are:

- The Colorado River is not providing any surplus water as it has in previous years.
- The State Water Project supplies are reduced due to recent pumping restrictions to protect the Delta smelt (regulatory drought).
- The State entered into its third consecutive year of drought.

Chief Financial Officer Beachem indicated that the State is moving away from the drought, but the prior two (2) years were drought years and the State is still feeling the impact of the lower than average rainfall. CWA has also implemented a Level II Drought Alert, allocations and penalty pricing should they not meet their MWD allocation. CWA will only invoke penalty pricing if the member agencies, as a whole, does not meet the MWD allocation.

It was noted that many of the CWA member agencies have or are recommending that their agencies declare a Level II Drought Alert effective July 1, 2009 and a few will stay at a Level I Alert. Some agencies will be implementing a modified Level II Alert wherein restrictions or drought pricing will not be invoked.

Chief Financial Officer Beachem explained CWA's water supply sources which include:

MWD Allocation	380,000 AF
Quantification Settlement Agmt.	155,000 AF
Spot Transfers	<u>16,000 AF</u>
	551,000 AF

Otay's share of CWA's supply is 39,832 AF (7.23%) and staff feels that the District can stay below its allocation as:

1. CWA was able to offset the 13% cutback from MWD down to an 8% cutback
2. Recycled water use within the District's service area has decreased Otay's dependence on CWA
3. Construction water use is down
4. Otay's customers' level of conservation

Chief Financial Officer Beachem indicated that it is felt that penalty pricing is not likely for Otay due to customer conservation and the additional recycled water

use within the District's service area. It was noted, however, that customers must continue to conserve so that Otay could continue to stay within its allocation. Staff is recommending that the District move forward to a Level II Alert, but not implement drought pricing and watering schedules. Staff has developed new water usage reports and will closely monitor water sales and could recommend implementing drought pricing and water schedules if needed.

General Manager Watton indicated that many agencies are deferring implementing Level II drought pricing although they declare a Level II Alert. He stated that the Finance, Administration and Communications Committee discussed that Otay is approximately 15% below its base (that is, CWA is 8% below their MWD allocation and Otay is 7.1% below its CWA allocation). As the numbers are good and Otay is in a good position, the committee felt that the District does not need to declare a Level II Alert at this time. The committee also indicated, as the District's financial condition is good, Otay should stay at a Level I Alert and continue to closely monitor water sales. The District could react when it is needed. It was noted that each agencies' situation is different and they are all working with their own data and needs.

Director Breitfelder indicated that he attended a meeting of the Conservation Action Committee which is attended by representatives from all agencies and it was presumed that all agencies would declare a Level II Drought Alert. Director Breitfelder indicated that, however, he felt that the agencies have one chance to get the public's attention and felt that if the District declared a Level II "Light," that it can reduce the seriousness of the message. He stated that he did not feel that the District should "cry wolf," so to speak.

Director Robak indicated that he understood the committee's recommendation, however, he felt that the State is in a very critical water situation and if the District has the capability of declaring a Level II Alert without the penalty pricing, he felt that it should go to a Level II Alert. He stated that he feels that the agencies should not send a mixed message.

President Croucher indicated that he felt that the District should continue to monitor water sales and if conservation continues, he felt that the District should not penalize its customers. He indicated that he is supportive of continuing to monitor sales and he thanked the District's customers for listening and reacting to the water shortage messages. He stated that he felt that the District should stay at a Level I Alert.

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

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

that the District stay at a Level I Drought Alert and continue to monitor water sales.

10. BOARD

a) DISCUSSION OF 2009 BOARD MEETING CALENDAR

There were no changes to the meeting calendar.

b) CONSIDERATION TO CAST VOTES FOR A REGULAR SPECIAL DISTRICT MEMBER AND ALTERNATE SPECIAL DISTRICT MEMBER ON THE LOCAL AREA FORMATION COMMISSION'S BOARD OF DIRECTORS

It was discussed that the District had nominated Mr. John Ingalls, Santa Fe Irrigation District, for the Regular Special District Member, and President Croucher for the Alternate Special District Member on LAFCO's commission and that the District's ballot would be cast for Mr. Ingalls and President Croucher.

Director Robak suggested that the District cast its vote for Mr. Chuck Muse, Helix Water District, for the Regular Special District Member as he represented a neighboring agency and he felt the District should support its neighbors.

President Croucher indicated the Mr. Ingalls has been the Alternate Special District Member on LAFCO's commission for five (5) years and it would be natural for him to move into the Regular Special District Member seat. He indicated that Mr. Ingalls and he (President Croucher) had decided to run as a slate and they both have received the support of LAFCO's nominating committee.

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

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

to cast the District's vote for John Ingalls, Santa Fe Irrigation District, for the Regular Special District Member; and President Croucher for the Alternate Special District Member on LAFCO's commission.

REPORTS

11. GENERAL MANAGER'S REPORT

SAN DIEGO COUNTY WATER AUTHORITY UPDATE:

General Manager Watton indicated that Governor Schwarzenegger plans to invoke Proposition 1A. He has made it clear that he plans to take city and local government taxes to cover the State budget shortfall. Should the State be successful in invoking Proposition 1A, there will be no penalties to the State if it does not pay the tax monies back. He stated that Otay will be able to work around and maintain the District's budget should the state take its property tax revenues.

He also reported that the Regional Quality Control Board voted to approve the permit for the Carlsbad desalination plant project. He indicated that they expect, however, that a lawsuit will be filed to rescind the San Diego Superior Court ruling on the California Coastal Commission's approval of the Coastal Development Permit for the Carlsbad Desalination Project (Project).

President Croucher shared that he had participated in the legislative roundtable discussion with Congressman Duncan Hunter to discuss water issues. He also shared that CWA board member Fern Steiner will be chairing the CWA Bay Delta Solutions Ad Hoc Committee and he will be serving as vice chair. He lastly noted that General Manager Watton spoke at the All American Canal Dedication Ceremony on behalf of CWA.

GENERAL MANAGER'S REPORT:

General Manager Watton indicated with regard to the District's 36-inch Pipeline Project that the District held a bid opening meeting on April 23, 2009 for the construction of the project. Staff will be presenting the results of the bid at the May Engineering, Operations and Water Resources Committee and the June Board meeting for action by the Board of Directors.

He shared that the summer Employee Recognition Luncheon is scheduled on July 16, 2009. Employees will be recognized for their achievements at the luncheon.

He stated that the District closed escrow on the parcel of land located adjacent to the Operations yard. Staff will present the improvement plans to the board when they have been developed.

General Manager Watton also reported that the District has closed the Northrop Grumman matter and will be "scrapping" the defective RAMAR/Badger AMR meters. The District attempted to dispose the meters through a sale to other water meter users as manual read meters, however, there was no interest. The meters were also offered to Mexico, however, they require liter read dials and could not utilize the meters. The District plans to dispose the meters to a scrap dealer and estimates the value of the meters to be between \$35,000 and \$50,000.

He indicated due to the success of the Water Conservation Rebate Programs, funding for the program is running out. Customers were informed to call back in the beginning of May and many customers were still unable to acquire vouchers for the rebate program. Staff has been encouraging MWD and CWA to provide additional funding for the rebate program and is looking at ways to make customers whole who are dependent on the rebates.

Staff implemented a new web-based system designed to track customer complaints and issues. The system is on-line and will allow staff to automate responses to customers and link customer complaints to their billing history.

General Manager Watton also shared that he received a letter from the City of Coronado's Fire Department wishing to thank and recognize Otay's Engineering Department staff members, Kevin Cameron and Bernardo Separa, for their help in producing area maps for the fire station.

12. DIRECTORS' REPORTS/REQUESTS

Director Robak indicated that he attended the WaterReuse Association meeting this morning and the San Diego Regional Water Quality Control Board presented on California State-wide Recycled Water Policy. He stated that they are focusing on developing policy to utilize recycled water in single family home landscapes.

Director Lopez indicated that he attended the Construction Management Association of American awards dinner where the District received two awards; Distinguished Honoree Award and for the 640 Reservoirs Project (for projects costing \$25+ million). He stated that the recognition shows the quality of the District's work and its staff.

Director Bonilla indicated that the board had discussed initiating an Ad Hoc Committee to review drought and rates and inquired if a committee had been initiated. President Croucher indicated that it was an oversight and he would follow-up. Director Bonilla also indicated that he appreciated the extra effort staff has made in putting together presentations and he wished staff to know that he thinks highly of their work.

Director Breitfelder indicated that the Water Agencies Association met in April to discuss the future of the Association. He stated that the officers felt that the decision of the Water Agencies Association's future should be made by the membership as opposed to the decision of the officers. He stated that the members in attendance voted to continue the Association meetings, but rather than meet four (4) times a year that the Association would meet twice yearly. He noted that President Croucher voted on behalf of the District.

13. PRESIDENT'S REPORT

President Croucher indicated that the Board Workshop held on April 28, 2009 to educate the board on the District's finances and budget was very informative and he felt it was one of the most rewarding workshops that the District has held and he wished to thank everyone, board and staff, who participated.

RECESS TO CLOSED SESSION

14. CLOSED SESSION

The board recessed to closed session at 4:45 p.m. to discuss the following matter:

- e) CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION
[GOVERNMENT CODE §54956.9(a)]
 - (l) MULTIPLE CASES RELATED TO THE FENTON BUSINESS CENTER AND FILED WITH THE SUPERIOR COURT OF THE COUNTY OF SAN DIEGO CONSOLIDATED UNDER CASE NO. 37-2007-00077024-CU-BC-SC

RETURN TO OPEN SESSION

15. 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 5:37 p.m. and General Counsel Calderon indicated that the board took no reportable actions in closed session.

16. ADJOURNMENT

With no further business to come before the Board, President Croucher adjourned the meeting at 5:37 p.m.

President

ATTEST:

District Secretary