

MINUTES OF A REGULAR MEETING  
OF THE BOARD OF DIRECTORS OF THE  
OLIVENHAIN MUNICIPAL WATER DISTRICT

APRIL 18, 2012

A regular meeting of the Board of Directors of Olivenhain Municipal Water District was held on Wednesday, March 14, 2012 at the District office, 1966 Olivenhain Road, Encinitas, California.

Vice President Topolovac called the meeting to order at 4:00 P.M. Following the Pledge of Allegiance, the Assistant Secretary called the roll. Directors present were Guerin, Topolovac, Varty, and Watt. President Sprague was absent.

Vice President Topolovac declared a quorum present and ordered the meeting to proceed. In attendance were Kimberly Thorner, General Manager; Alfred Smith, General Counsel; Rainy Selamat, Finance Manager; Tom Wood, Human Resources Manager; George Briest, Engineering Manager; Tom Kennedy, Operations Manager; and Naomi Sabino, Executive Secretary.

Also in attendance were fluoride proponents Mike Koonce, Harriet Seldin, Eleanor Nadler, Gregory Barth, Howard Pollick, Marjorie Stocks, and Michael Yokoyama; Miss Samantha Hussey; and District employees Don Hussey – Operations Supervisor, Joseph Randall – Management Analyst Supervisor, Teresa Chase – Conservation/Education Coordinator, John Carnegie – Staff Analyst; Dave Smith – Water Treatment Facilities Supervisor, and Evan DeWindt – Water Treatment Plant Operator Level II.

5. ADOPTION OF AGENDA

Director Watt moved to adopt the agenda, seconded by Director Guerin and carried with President Sprague absent.

Vice President Topolovac stated that agenda item numbers 10 and 11 would be addressed after President Sprague's arrival.

6. PERSONAL APPEARANCES AND PUBLIC COMMENTS

Those in attendance were present for agenda item numbers 7 and 10.

7. PRESENTATION OF AWARDS AND HONORABLE MENTIONS

- \* Jack Davis - OMWD "Water in Science" Award Winner
- \* Dave Smith, Joel Holt, Tom Arellano, Pierre Dreher, Justin Casey, Evan DeWindt - 10th Anniversary of David C. McCollom Water Treatment Plant

Vice President Topolovac introduced Jack Davis, an eleventh grade student at High Tech High School in San Marcos, regarding his science fair project that was selected to receive the District's "Water in Science" award. Mr. Davis gave a brief description of what his project entailed and what inspired him to do his research. He was warmly congratulated by all in attendance and received a certificate and prize.

Vice President Topolovac further introduced the staff of the David C. McCollom Water Treatment Plant (DCMWTP). Operations Manager Kennedy accepted a plaque commemorating the plant's 10 year anniversary and introduced David Smith, Water Treatment Facilities Supervisor, who also thanked the board on behalf of the entire DCMWTP team. The team was thanked for its excellent, dedicated service on behalf of the District.

8. CONSIDER APPROVAL OF THE MINUTES OF THE MARCH 28, 2012 REGULAR BOARD OF DIRECTORS MEETING

Director Varty moved to approve the March 28, 2012 meeting Minutes, seconded by Director Watt and carried with President Sprague absent.

9. CONSENT CALENDAR

C-a CONSIDER ADOPTION OF A MOTION APPROVING THE PAYMENT OF LISTED WARRANTS FROM THE DISTRICT'S REVOLVING AND REGULAR ACCOUNTS; LISTED TRANSFERS OF FUNDS; REIMBURSEMENT OF EXPENSES TO BOARD MEMBERS AND STAFF; AND MONTHLY INVESTMENT REPORT

C-b CONSIDER ADOPTION OF A MOTION APPROVING THE DISTRICT'S "UNAUDITED" STATEMENT OF NET ASSETS, STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET ASSETS, CONSOLIDATED STATEMENT OF CASH FLOWS, CONSOLIDATED ACTUAL VS BUDGET SUMMARY WITH NOTES EXPLAINING SIGNIFICANT VARIANCES, AND CONSTRUCTION IN PROGRESS REPORT

C-c CONSIDER ACCEPTANCE OF THE MT. ISRAEL PIPELINE RELOCATION PROJECT (PK MECHANICAL SYSTEMS, INC.) INTO THE DISTRICT'S SYSTEM AND ORDER THAT A NOTICE OF COMPLETION BE FILED

C-d CONSIDER ACCEPTANCE OF THE HEADQUARTERS FACILITY BUILDING 'B' RENOVATION PROJECT INTO THE DISTRICT'S SYSTEM AND ORDER THAT A NOTICE OF COMPLETION BE FILED

C-e CONSIDER ACCEPTANCE OF THE CROSBY SWIM AND TENNIS VILLAS LOT 1 PIPELINE RELOCATION PROJECT INTO THE DISTRICT'S SYSTEM AND ORDER THAT A NOTICE OF COMPLETION BE FILED

C-f CONSIDER ACCEPTANCE OF THE CYMER INC. METER RELOCATION PROJECT INTO THE DISTRICT'S SYSTEM AND ORDER THAT A NOTICE OF COMPLETION BE FILED

C-g CONSIDER APPROVAL OF PRIVATE ENCROACHMENT PERMIT NO. 330 FOR 17594 TEAL STONE COURT (PULTE) AND ORDER THE PERMIT TO BE RECORDED

Director Watt commended Engineering Manager Briest for his informational and thorough board memorandum on the consent calendar, stating that any questions he may have had were anticipated and addressed in advance.

Director Guerin made a motion to accept the Consent Calendar as written, seconded by Director Varty and carried with President Sprague absent.

E-1. CONSIDER STATUS UPDATE OF EMERGENCY WORK ON THE UNIT AA PIPELINE PROJECT CONNECTION (FINAL)

Engineering Manager Briest briefed the board on the status of this emergency action item which was first introduced to the board and approved on March 28, 2012. He stated that the emergency work was completed without difficulty and in a timely fashion. No future status report will be forthcoming.

12. CONSIDER ADOPTION OF A RESOLUTION PROCLAIMING MAY 2012 AS WATER AWARENESS MONTH, MAY 6-12, 2012 AS NATIONAL DRINKING WATER WEEK, AND MAY 20-26, 2012 AS NATIONAL PUBLIC WORKS WEEK

Director Watt moved to approve Resolution 2012-10, seconded by Director Guerin and carried with President Sprague absent.

13. CONSIDER DISCUSSION REGARDING GENERAL LIABILITY, PROPERTY, AND AUTOMOBILE INSURANCE POLICIES FOR FISCAL YEAR 2013

Upon a request by Director Watt, General Counsel Smith provided input on the automobile liability coverage. Staff was instructed to proceed as recommended in the memorandum and bring this item back to the board in June for further consideration.

14. CONSIDER NOMINATING JO MACKENZIE FOR ELECTION TO THE CALIFORNIA SPECIAL DISTRICTS ASSOCIATION BOARD OF DIRECTORS

Director Watt moved to nominate Ms. MacKenzie for re-election to the CSDA board, seconded by Vice President Topolovac and carried with President Sprague absent.

15. CONSIDER AWARD OF A CONTRACT TO PK MECHANICAL SYSTEMS, INC (PK MECHANICAL) FOR THE CONSTRUCTION OF THE ELFIN FOREST LOOP PIPELINE AND GATY VALVE REPLACEMENT PROJECT IN THE AMOUNT OF \$400,000, AND AUTHORIZE THE GENERAL MANAGER TO SIGN ON BEHALF OF THE DISTRICT

Engineering Manager Briest explained that the Elfin Forest Loop Pipeline will make it possible to not have to take water from the aqueduct in this area and will create a loop system; a sorely needed valve replacement at the Gaty complex will also occur as part of this project.

Director Topolovac asked why PK Mechanical's bid was so low in comparison to all other bidders; Engineering Manager Briest replied that PK Mechanical owns specialized equipment and would not need to hire a subcontractor to excavate through the rock. Engineering Manager Briest stated that he feels confident about this contractor, adding that PK Mechanical has also provided an email and letter confirming the information contained in its bid documents.

Director Watt moved to award the contract to PK Mechanical Systems, Inc for the construction of the Elfin Forest Loop Pipeline and Gaty Valve Replacement project in the amount of \$400,000, seconded by Director Guerin and carried with President Sprague absent.

16. CONSIDER ANNUAL OBJECTIVES AND TIGER TEAM STATUS REPORT

This was an informational item only. Staff Analyst Carnegie answered questions on the board's behalf.

Vice President Topolovac stated that the board would proceed with discussing agenda item numbers 10 and 11.

10. CONSIDER BOARD DETERMINATION ON FIRST 5 FUNDING FOR FLUORIDE FACILITIES AT THE DAVID C. MCCOLLOM WATER TREATMENT PLANT

General Manager Thorner provided a brief summary of steps taken by the District since 2007 with respect to fluoridation and additional information that had been provided in the board packet per the board's request. She also said that any letters received by the District after the board packet's distribution had been provided to the board in hard copy. General Manager Thorner added that the California Dental Association Foundation had agreed to supply \$110,000, in addition to the amount being offered by First 5, for the construction of fluoride facilities. She stated that a total of \$1,012,000 was now available for the project, leaving \$450,384 that the board would need to appropriate from District funds if it chooses to proceed with this initiative. The four staff-proposed options included in the board packet were then summarized. Three options offered methods to fund the \$450,384 gap and additional operational costs, while the fourth option would reject moving forward with fluoridation at this time.

Vice President Topolovac invited those who had submitted speaker slips to address the board on the matter of fluoridation.

The following individuals indicated a desire to speak: Howard Pollick, Mike Koonce, Harriet Seldin, Gregory Barth, Eleanor Nadler.

Mike Koonce: Mr. Koonce of the San Diego County Dental Society stated that his main desire was to emphasize the importance of fluoride in the water system. He commented that the funding provided by First 5 and the California Dental Association Foundation “demonstrates the great, great importance we place on the value of water fluoridation. Having to add a few cents here and there to your residents’ water bills is such a small price to pay for the tremendous oral health benefit that will result through water fluoridation.” He thanked the board for allowing him to speak.

Eleanor Nadler: Ms. Nadler introduced herself as the Director of the San Diego Fluoridation Coalition and President of the San Diego County Dental Hygienists Society. She stated that, since 1996, her organization is responsible for leading the way to today’s “magnificent degree of water fluoridation throughout the county.” Ms. Nadler stated that approximately three-quarters of the county currently provides fluoridation, soon the entire South Bay area will be providing it, and she hopes that Olivenhain will soon be added to that fold.

Harriet Seldin: Ms. Seldin stated that she is a resident within the District, a dentist, a past member of the California Dental Board, and a past president of the San Diego County Dental Society. Ms. Seldin reiterated a comment made by Mr. Koonce on March 14, 2012, namely that the Centers for Disease Control considers water fluoridation one of the top 10 public health achievements of the twentieth century. She stated, “I would really like that to be in the community where I live.” She thanked the board for the opportunity to speak and “I hope that you are able to move forward for all of us.”

Howard Pollick: Mr. Pollick introduced himself as a Clinical Professor at the University of California San Francisco Dental School. He also chairs the California Dental Association Foundation Fluoridation Advisory Council and is a spokesperson for the American Dental Association on water fluoridation. Mr. Pollick stated that he had provided information in the board packet, explaining the difference between the Environmental Protection Agency (EPA) and Health & Human Services (HHS) recommendations. He added that he was present to answer any technical questions the board may have, and that he was pleased to be present for such a momentous decision that will affect the residents of the water district as well as future

generations.

Gregory Barth:

Mr. Gregory Barth introduced himself as a resident and bill payer within the District, a father of three children, an active member of the community. Mr. Barth is the Environmental Commissioner of the City of Encinitas and an agronomist. He stated that he believes it is time to “join the bandwagon and fluoridate our water.” In speaking with two dental professionals whom he considers experts, both said regarding fluoride, “It’s time to do it.” Mr. Barth added that “we also need to think of our maturing population” and stated that many reports “connect dental hygiene to heart and whole health hygiene.” Mr. Barth commended the District for doing “an amazing job” and that its “public outreach and education for water conservation is bar none,” adding that he knows that the District “can get this information out and help turn the tide of all the negative, outdated information” on fluoridation.

Vice President Topolovac inquired if anyone else wished to speak; the offer was declined.

Vice President Topolovac asked Mr. Pollick the following question: If the ideal amount of fluoride is not in the water, what are the alternate ways to put fluoride into one’s system? Dr. Pollick mentioned that the first step is to determine whether one is at high risk of tooth decay. If there is a high risk, using fluoridated toothpaste twice per day would be recommended. Young children under the age of 2 who are not at high risk of tooth decay may brush without a fluoride product. Those over the age of 6 who can spit can use an over-the-counter mouth rinse; alternatively, a dentist can prescribe a fluoridated toothpaste that has 5 times the concentration of regular fluoride toothpaste. Mr. Pollick stated that these alternatives can be quite expensive.

Mr. Pollick further mentioned that, since the Metropolitan Water District of Southern California (MWD) started to fluoridate, there has been a moratorium on dietary fluoride supplements to ensure that individuals, particularly children, are not receiving too much fluoride. Fluoride supplements are normally prescribed for children at high risk of tooth decay when there is suboptimal fluoride in the water; however, these supplements are expensive and are not always taken as prescribed. Mr. Pollick explained that, if a water system is not being fluoridated, that agency is only required to measure fluoride in the water once per year or less often; if a system is being fluoridated, that agency is required to monitor fluoride levels on a regular basis. General Manager Thorner confirmed that the raw water the District purchases from MWD is not fluoridated.

In reply to a separate inquiry, Mr. Pollick stated that there are some water supplies that have very high, naturally occurring levels of fluoride. He did not believe that this was the case in the District’s service area, with the possible exception of individual wells. The EPA controls naturally occurring substances in water, and they have set a standard for fluoride of .4 parts per million (ppm); the HHS’s proposal would be to fluoridate at .7 ppm.

Vice President Topolovac stated that an additional speaker slip had been submitted. He invited Mr. Yokoyama to speak.

Michael Yokoyama: Mr. Yokoyama recapped a number of statements he made at the March 14, 2012 board meeting but wished to add that those who will benefit the most from fluoridated water are children, those who cannot afford fluoride supplements, and those who cannot afford to drink bottled water as many individuals currently do. He also stated that MWD just raised water rates by 5%, “and we don’t get any better water for that.” He offered that an additional 1% increase in the District’s water rates while actually providing a benefit to everyone is reasonable. He thanked the board once again for the opportunity to speak.

NOTE: A brief recess was taken  
between 5:02 P.M. and 5:11 P.M.

NOTE: President Sprague entered the  
meeting at 5:07 P.M.

At President Sprague’s request, each director was asked to state his/her preliminary thoughts on the issue of fluoridation.

Director Watt stipulated that “fluoridation is good and that it is a public health benefit.” He realizes that it has been described as one of the ten best public health benefits that has ever happened in America. His question is one of policy, i.e.: What is the policy issue for the board? The policy issue is not whether or not fluoridation is good; in fact, if the full funding was provided for the first year capital and operating costs, by law the District would be required to fluoridate. Director Watt concluded that it comes down to a financial issue. Is this how the District should be spending its money or are there other areas where the money should be spent?

Director Varty noted that no one in opposition to fluoridation had attended the board meeting to speak. He added that the letter received from Rady’s Childrens Hospital in support of fluoridation was notable and “helped to sway him” in the direction of fluoridation. Director Varty also believes that the District’s ability, as a purveyor of water, to offer this public health benefit to its customers is important, rather than leaving individuals to obtain fluoridation through other means which they may or may not utilize. However, like Director Watt, he is concerned about the financial side as well.

Director Guerin stated that she has been very supportive of fluoridation from the beginning. The discussion regarding alternative ways to fluoridate and “getting 4 children to brush their teeth twice per day is interesting, but it’s not going to happen.” She believes that dentists are doing what they should do by encouraging fluoridation, and that fluoridation

supplements and options are not ideal, nor are they easy for parents. Director Guerin added that she considers herself to be fiscally conservative. When over \$1 million dollars is being directed toward one's organization, including the additional funds from the dental society, and it is clear that those funds will never be there again, she believes this is an opportunity for the District to do a good thing. She added that middle class families in the District would benefit from it. Director Guerin stated that she is definitely in favor of fluoridation and would like to work with the others on the board to "select the appropriate option and make it work."

Director Topolovac said he is absolutely in favor of fluoride in the water but agreed completely with Director Watt; the decision of whether or not to fluoridate is a policy issue and a financial issue. He added that rates are very important to the District's ratepayers, and that a 5% rate increase by MWD translates to a 7% increase to the District. An additional 1% would raise the rate increase to 8%; in 2013, the increase would be 9%. Director Topolovac stated that this is cause for concern, particularly when the majority of customers within the District would be utilizing the fluoridated water to irrigate their lawns. Considering that the funding being provided falls half a million short of the District's implementation costs, this becomes a very significant amount of money. Perhaps waiting approximately 4 years until the MWD lawsuit is settled and adding fluoride at that time would be more prudent. Director Topolovac concluded that he is not sure if fluoride is a luxury for the District at this point or a necessity; therefore, while he is "pro" on fluoride, he remains concerned about the cost.

President Sprague stated that, similar to Director Topolovac, he is very concerned about the financial impact as rates are a big concern to District customers. On the other hand, if the fluoridation facilities are not built now, he realizes that it will be more expensive to change the District's infrastructure in the future. He has also contemplated how fluoridation would impact the District's future retail water sales and its ability to sell to other agencies; he understands from staff that the impact does not appear to be huge at this time. President Sprague concluded that he feels the District should incorporate fluoride now based on lower costs to change the infrastructure at this time.

Director Topolovac commented that it was unclear to him whether there would be a cost savings by changing the infrastructure at this time. General Manager Thorner stated that there is no way to know with absolute certainty.

Director Watt said that he looked at the issue of fluoridation in a five-year timeframe. If the board chooses to move forward, raising rates and/or reallocating existing capital improvement funds would be needed in order to cover the fluoridation implementation costs. He stated that, due to the volatile nature of being a provider of water, the District's rate assumptions are just that – assumptions. Many costs are not totally under the District's control. Director Watt added that there is no way to determine what future changes MWD will make to its rates, adding that he is not interested in additional rate increases. Director Topolovac replied that MWD, as well as SDCWA, will continue to raise rates. Director Watt further said that, according to the its Master Plan, the District must invest \$3.1 million per year to maintain its existing infrastructure; fluoridation costs would reduce the District's funds that would otherwise be allocated to this



infrastructure maintenance.

Director Topolovac made a motion to vote No on options 2 and 3 in the board memo and to leave options 1 and 4 for discussion. The motion failed for lack of support.

President Sprague made a motion to move forward with fluoridation and vote Yes on option 1 in the board memo, seconded by Director Guerin. The motion failed for lack of support.

Director Guerin made a motion to move forward with fluoridation, vote Yes on option 2 in the board memo, approve no additional rate increase in 2012, and approve an additional rate increase in 2013 of 1.8% over the projected 7.5% rate increase, for a total 2013 projected increase of 9.3%, seconded by Director Varty. The motion carried, with President Sprague in favor and Directors Topolovac and Watt opposed.

President Sprague proceeded with agenda item number 11.

11. CONSIDER STAFF PROPOSED INCREASES TO OMWD POTABLE WATER CAPACITY FEES  
(Public Hearing on Capacity Fee Increases: May 2, 2012 – 5:00 p.m.)

General Manager Thorner introduced Michael McSweeney, the Senior Public Policy Advisor, from the Building Industry Association (BIA). She explained that revised calculations to support the recommended capacity fees had been included in the board packet. Finance Manager Selamat used a PowerPoint presentation to review this information and answer questions that had been posed by the board at the March 28, 2012 board meeting.

Mr. McSweeney addressed the board, stating that the District had “significantly raised” its capacity fees and that raising it an additional 4% in 2012 would be impactful. He said that homes being built today are 50% more efficient, therefore “there is less demand on the capacity of your system,” adding that this 50% efficiency is not addressed in the District’s capacity fee study. Mr. McSweeney further stated that the demand to build multiple units has dropped off significantly. On behalf of the BIA, Mr. McSweeney requested that rates remain unchanged for a year.

Director Watt asked what the impact on the District would be if BIA’s suggestion is accepted and any capacity fee increases are postponed for a year; he also asked what rates had been assumed in formulating the Long Range Financial Plan (LRFP). Finance Manager Selamat replied that Engineering News-Record (ENR) rates had been used in the LRFP. In reply to a question by Mr. McSweeney, Engineering Manager Briest stated that, from a percentage of equivalent dwelling units (EDUs) perspective, the District is one of the fastest growing in the county; therefore, delaying fees would certainly have an impact on the District. Finance Manager Selamat corroborated this by stating that the District “pulled in” more capacity fees last year.

Director Guerin stated that she is somewhat concerned about putting off an increase for one year. Director Watt replied that one-year delays normally do not work; it typically leads to larger increases in subsequent years due to not taking action sooner. President Sprague stated

that, at 87% current build-out, it appears the District has been underfunding itself for some time now where capacity fees are concerned. Consulting Engineer MacFarlane further added that the District has been hit with land use changes that could not have been foreseen at the time the capacity fee report was created.

Director Topolovac made a motion to have staff refine option 2 for presentation to the board at the May 2, 2012 board meeting, seconded by Director Watt, and carried with Director Guerin in favor and Directors Sprague and Varty opposed.

NOTE: A brief recess was taken  
between 6:25 P.M. and 6:27 P.M.

17. INFORMATIONAL REPORTS

A. President's Report

President Sprague did not have anything to report.

B. General Manager's Report

General Manager Thorner reported that progress was being made in the Lake Hodges water transfer discussions with SDCWA. She also recapped some changes that were underway in the management of the Unit AA construction and traffic flows.

C. Consulting Engineer's Report

A written report was distributed in hard copy and Consulting Engineer MacFarlane gave a brief verbal report.

D. General Counsel's Report

General Counsel Smith reported on a case concerning the EPA and whether or not it can revoke permits obtained by public agencies or private parties.

E. San Diego County Water Authority Report

Vice President Topolovac gave a verbal report. General Manager Thorner stated that a meeting on the desalination project will take place tomorrow.

F. Legislative Report

The report was included in the board packet.

G. LAFCO Advisory Committee Report

General Manager Thorner stated there was nothing to report.

H. Twelve Month Calendar/Other Meetings/Reports by Board Members Per AB 1234

**OMWD Employee Forum & Tour of 4S WRF (April 3)**

Directors Topolovac and Watt attended.

**MWD Board Meeting (April 10)**

Director Topolovac attended and provided his report earlier during the meeting.

**Water Education Foundation Central Valley Tour (April 11-13)**

Director Watt attended. He stated that he has a new respect for farmers, adding that in Central Valley water sales are measured by how many acres each agency irrigates.

**Earth Day Event (April 14)**

Director Varty participated in this event.

**Council of Water Utilities (COWU) Breakfast (April 17)**

Director Varty attended and heard a presentation on solar energy by Ms. Sophie Akins of Best Best & Krieger entitled, "SDG&E Phase 2 Rate Case."

18. CORRESPONDENCE

All correspondence was provided in advance of the meeting.

19. AUTHORIZATION TO ATTEND UPCOMING MEETINGS /CONFERENCES /SEMINARS

There were no meetings requiring authorization to attend.

20. FUTURE AGENDA ITEMS

There were no future agenda items to be added.

21. CONSIDER PUBLIC COMMENT

There were no public comments.

NOTE: The meeting was in Closed Session  
between 7:10 P.M. and 7:15 P.M.

22. CLOSED SESSION

- A) CONSIDER LITIGATION – PACIFIC TANK & CONSTRUCTION, INC. [PURSUANT TO GOVERNMENT CODE SECTION 54956.9(b)] • Additional Facts: Claim filed on September 16, 2011 for damages resulting from alleged negligent OMWD inspections at the 4S Ranch II Potable Water Storage Tank
- B) CONSIDER POTENTIAL LITIGATION – RICHARD GARWOOD v OMWD [PURSUANT TO GOVERNMENT CODE SECTION 54956.9(b)] • Additional Facts: Injury sustained by a subcontractor while working for Verizon at a cell site at the 4S-1 Reservoir (non-District related); Board did not grant leave on 12/14/11

OPEN SESSION

President Sprague stated that staff was instructed as to the Closed Session items.

23. ADJOURNMENT

President Sprague adjourned the meeting at 7:16 P.M.

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Edmund K. Sprague, President  
Board of Directors  
Olivenhain Municipal Water District

ATTEST:

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Gerald E. Varty, Secretary  
Board of Directors  
Olivenhain Municipal Water District