

OCEANO COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTORS MEETING MINUTES
October 28, 2009

Wednesday

Oceano

The Meeting was called to order by VP Hill at 6:30 p.m.

1. Roll Call

Present: Vice President Hill, Director Dahl, Director Dean, Director Lucey

Absent: President Mann

Staff Present: Raffaele F. Montemurro, Board Secretary/General Manager;
Gina A. Davis, Deputy Board Secretary/Administrative Assistant;
Philip T. Davis, Utility Operations Supervisor; Mike Hubert, Fire Chief;
Ryan Fothergill, District Legal Counsel; John Wallace, District Consulting
Engineer

2. Flag Salute

VP Hill led the flag salute.

3. Public Comment *

None.

4. Board Member Items/Discussion *

Director Lucey stated there has been a divided Board and there is no denying it. She states she has had no access to District's bank account since she has been on the Board and is expected every month to approve the warrants by a check and warrant number. She believes the signing of the warrants process is flawed and the Consideration of Warrants on the agenda should be moved up to the front of the agenda. She stated that our financial tracking system is outdated and recommends that something be done.

5. Review and Approval of Minutes

a. September 23, 2009

VP Hill stated Page 7, Item 9 d, Interim Funding for the Period September 24 through October 15, 2009, while Budget for 2009-10 is in Progress had 2 No votes which were VP Hill and Director Lucey. The sentence, "**The Board directed staff to pay warrants for period September 24, 2009 through October 15, 2009, 3,2.**" needs to be changed to "The Board directed staff to approve Interim Funding for the Period September 24 through October 15, 2009, while Budget for 2009-10 is in Progress," and was approved with a 3-2 vote, with VP Hill and Dir Lucey voting no.

VP Hill stated on Page 9, Item 14. the minutes did not reflect that VP Hill and Director Lucey voted no. The count **3, 2** needs read 3-2, with VP Hill & Director Lucey voting no.

b. September 30, 2009 (Special)

VP Hill stated on Page 3 that the actual proposal was to eliminate the Administrative Assistant and Office Manager positions, not eliminating \$100,000 through cutting staff by closing the office one to two days a week.

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c. October 14, 2009

VP Hill referred to Page 5, and asked AA Davis if the actual restricted reserves through 2008 and projected estimates through June 30, 2009 would be available at this meeting. AA Davis responded they would not.

After a request for public comment, none being given, upon motion by Director Dean and second by VP Hill, the Board approved the minutes as corrected above for September 23, 2009, September 30, 2009 (Special), October 14, 2009, on a vote of 4-0 with President Mann absent.

6. Reports*

a. September, 2009 Report for the Administration Department

AA Davis presented the report. The Board directed it be received and file.

b. September, 2009 Report for the Utility Departments

UOS Davis presented the report. The Board directed it be received and file.

7. Fire Items

a. None.

8. Utility Items

a. Cleaning and Inspection of District Sewer and Water Lines

Continual Disclosure of the Emergency Declared by the Board of Directors Concerning the Cleaning and Inspection of the District Sewer and Water Mains.

Therefore, after a request for public comment, (none being given), upon motion by Director Dean, second by Director Dahl, and on the following roll call, to wit:

AYES: Director Dean, Director Dahl, Director Lucey, VP Hill.

NOES: None

ABSENT: President Mann

ABSTAIN: None

The Board approved the Continuance of the Declaration of Emergency, on a vote of 4-0 with President Mann absent.

b. Presentation by Courtney Howard, PE, Water Resources Engineer, SLO County Public Works Department *

PE Howard gave a slide presentation titled, "State Water and County Planning and Water Management Efforts"

Director Dean asked if the drought buffer is prepared yearly, reported to the County, and how many years are contracted. PE Howard stated it is a permanent contract, and the drought buffer may be increased but not decreased.

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Director Lucey asked who subcontracts with the County for State Water. PE Howard stated the City of Pismo Beach will enroll in the Drought Buffer Program, Shandon has no turnout, and Avila Beach is currently the only one not enrolled.

VP Hill stated the County has only done the level measurement to date on the wells and has not done quality measurements. He asked, if the County would be able to deduce the condition of the salt water intrusion by monitoring the levels. PE Howard stated the well levels and their level above or below sea water can help support or not support the quality measurements you are seeing in the basin. VP Hill proposed corroborating data.

PE Howard stated there are grant eligibility opportunities associated with Integrated Regional Water Management Plan (IRWM Plan). She mentioned the Prop 84 is directly related to IRWM Program.

Director Dean asked what are the current kinds of projects being looked at for the Program and if OCSD can participate. PE Howard stated the more integrated the benefits of the projects and if they address quality, supply, and flood control, then, the more competitive they are and inter-agency cooperation makes a better project for eligibility purposes.

VP Hill asked if the sentry wells were transferred to the County from the Department of Water Resources (DWR) and would the County continue to monitor the water levels while the Northern Cities would monitor quality as part of the court settlement for the Ground Water litigation. PE Howard stated she was not sure.

Nina Grabiell, Oceano, stated there is no carbon in water and referenced the Carbon Tax. Ms. Grabiell and Director Dahl stated they would like to know the fluoride content in the water.

c. Sewer Rehabilitation Project *

DCE Wallace reported the County finally received the Agreement from the State and the County has executed and sent it back. Once the Agreement is received, Wallace Group will be able to release the last 3 segments to Baker Construction. The deadline has been extended from December 31, 2009 to the end of March 2010.

d. Water Supply Update *

DCE Wallace presented a staff report regarding OCSD Water Supply Issues Northern Cities Groundwater Basin.

VP Hill asked when do we incur wheeling costs. DCE Wallace answered, anytime you put water through the pipe, whether it be drought buffer or allocation water, we will pay the wheeling cost of \$25 per acre foot. DCE Wallace stated that the drought buffer water is \$100 AFY which incorporates the \$25 for wheeling.

PE Howard and DCE Wallace stated there are fixed and variable costs. VP Hill stated if OCSD had 20 acre feet (AF) and only 10 AF were delivered, then the District will pay 20 AF x \$75 and 10 AF x \$25 for wheeling.

Director Lucey asked if there is a draw-down in any particular order. DCE Wallace answered that the District is paying full cost for its State and Lopez water no matter how

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much we use, stating we need to draw from State and Lopez first. Director Lucey asked if OCSD has the capability to receive all the water it purchases. DCE Wallace states that currently USO Davis and The City of Arroyo Grande have been conducting flow tests at the Brisco Turnout. DCE Wallace answered that OCSD may be able to get its full entitlement.

Director Dahl and DCE Wallace agreed that in order to obtain an accurate reading, the wells need to be maintained and pumped on a regular basis.

DCE Wallace stated the sea water intrusion wedge between the saltwater and fresh water interface is very discreet; not a big zone and it was misrepresented in the drawing size. The zone is very compact and that is where we see a large jump in the chlorides because of the combining of the different heaviness of the two waters.

Director Lucey asked if the recommendations would change, after determining whether the Brisco Turnout can pump to capacity. DCE Wallace stated that OCSD's groundwater wells needed to be pumped periodically for sampling required by State and for maintenance. He stated the goal is to use water from the various sources for the least amount of cost.

VP Hill asked on behalf of Rick Searcy, Oceano, about injecting lagoon water into the groundwater basis as a buffer opposed to, or in conjunction with, recycled water. DCE Wallace stated there are environmental issues and the lagoon water would need to be treated similar to recycled waste water because of the wildlife which inhabits and contaminates the water.

e. Water and Sewer Rate Study

Steve Tanaka, Wallace Group, reported they are working with District Staff to extract accounting data in a format suitable for Clayton Tuckfield. VP Hill asked if all the information been supplied by District Staff. Mr. Tanaka stated the issue is getting the data into a suitable format. Mr. Tanaka stated Clayton Tuckfield will take up to 3 months for preliminary findings, and then will present the findings to the District.

The Board directed staff to receive and file all reports; to coordinate with other agencies in the Northern Cites Groundwater Basin to develop a coordinated plan to diminish groundwater pumping, and facilitate the use of alternate supplies; and return to the Board to report in more detail the cost of alternate supplies and arrangements with others to share the cost of this program.

GM Montemurro reported attending the Gentlemen's Agreement with DCE Wallace. GM Montemurro, DCE Wallace, and UOS Davis will attend the next meeting in November.

f. Review of Current Tracts and Developments Projects and Staff Recommendations

- (1) WEISS: Add 13' wall to make bedroom on Laguna (W/S and F/S letters)
- (2) MORNINGSTAR: SFR on Beach Street (W/S and F/S letters)
- (3) PETYKO: Mixed Use on Railroad Ave (W/S and Fee letters)

Director Dean asked what the radius is of a Cobra Head street light. Director Lucey answered about 15 feet. AA Davis stated it has been about 15 years since the last night street light survey.

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Carol Hensen, Halcyon Mobile Home Park, suggests neighbors rally together to pay for additional street lighting instead of the District taking on the cost.

Director Dean requested that staff include the street lighting survey and a discussion at the next scheduled Board Meeting.

The Board approved the 3 projects.

- g. First Reading Update Ordinance Fees for New Water Meters and Sewer Connections *
Director Lucey and VP Hill proposed modifying OCSD Ordinance 2006-01 by increasing the old \$500 sewer connection fees to \$1650 which will include the inspection fee. VP Hill itemized the various proposed changes for connection fees and stated DCE Wallace confirmed that Clayton Tuckfield will include in the water and sewer rate studies consideration of all various incidental charges, not just water & sewer connection fees.

Director Dean stated all new homes are required to have 1 inch meters due to the requirement that sprinklers be installed.

GM Montemurro stated the Committee looked at items that have been on the books since 1984.

DLC Fothergill stated the Board needed to have written findings from the Water and Sewer Committee to have a coherent understanding for preparing the amendment of the Ordinance prior to the first reading. VP Hill stated that the information provided tonight will be considered a report out of the Water and Sewer Committee.

Director Lucey stated she would like to see the Ordinance done in-house as a Board activity. Director Dahl stated he would like to see how the fees are broken down.

VP Hill tabled this item.

9. Administrative Items

- a. Status Report on 2007-2008 Audit

GM Montemurro reported he has delivered the final items to complete audit. VP Hill stated he has contacted auditor and there have been 3 transmissions of paperwork

VP Hill stated there were a number of red flags for fraud that showed up in one of the California Special District Association magazines and he then compared the report to past audits and noted that there were 7 out of 9 red flags here in the District, He stated one red flag being the non-reconciling of bank statements for several years.

Nina Grabiell asked what is the policy and procedure for staff to respond to the Board.

Director Lucey asked to move item 14, Consideration of Warrants, to 9c and the Board concurred.

- b. Resolution Regarding: Loan Securitization

GM Montemurro stated this item is on the agenda to approve the Form of and Authorizing the Execution and Delivery of, a Purchase and Sale Agreement and Related Documents with Respect to the Sale of the Seller's Proposition 1A Receivable from the State; and

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Directing and Authorizing Certain Other Actions in Connection Therewith. He reported the paperwork has been signed by President Mann and himself after being reviewed by District Legal Counsel and it has been sent certified returned receipt requested. Once the process is completed, the District should receive \$68,666, based on our property tax revenue for last year. The deadline for Prop 1A is November 6th, 2009.

VP Hill stated items to be resolved are the California Statewide Communities Development Authorities Revenue Bonds, State of California Prop 1A Receivables Program Series 2009, and Resolution 2009-15. DLC stated this is a lengthy resolution and suggested reading the Resolution by title only.

Therefore, after a request for public comment, (none being given), upon motion by Director Dean, second by Director Dahl, and on the following roll call, to wit:

AYES: Director Dean, Director Dahl, Director Lucey, VP Hill

NOES: None

ABSENT: President Mann

ABSTAIN: None

The Board approved Resolution No. 2009-15, A RESOLUTION APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE SALE OF THE SELLER'S PROPOSITION 1A RECEIVABLE FROM THE STATE; AND DIRECTING AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH, on a vote of 4-0, with President Mann absent.

14. Consideration of Warrants

Director Lucey asked regarding Page 2, Payee: United Staffing Associates, Check # 49851 is the check number or invoice number listed under check numbers. AA Davis responded, the check number is not the control number nor is it an invoice number.

VP Hill stated he has taken time to generate a spreadsheet over the last year because it was unintelligible what the check numbers were. The check number is at the bottom of the check and nowhere in our warrants do you see the control number that comes back on the bank statement. Instead, we have this number that appears on the check that is not the bank magnetic number which is used by clearing houses and the bank. He stated that the check number series are random which makes it almost impossible to audit. He went through the exercise of creating a spreadsheet of putting bank control numbers with the District check numbers. He stated that the warrants look reasonable, provided we have an invoice to accompany all warrants. VP Hill is prepared to approve these warrants this evening; however, this is the last time he will vote for a warrants summary that has a number reporting to be a check number. He would like to see the bank control number which is the magnetically written clearing house number that appears on every check and does not want to see any series numbers, District numbers, or file numbers. He suggests using numbers in chronological order. He stated that another red flag for fraud is that the District does not balance the check book. He has brought it the attention of District Legal

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Counsel, the auditor, and states this is unacceptable. He stated he is in the process of preparing a similar spreadsheet for current fiscal year and will be giving to the auditor.

Director Lucey stated check numbers on the warrants summary have no value. She holds leadership responsible; if the District has a Board President, who cannot read a ledger or a check, OCSO does not have much of a leader. She states she will never again approve warrants unless there are changes because it is misleading and she cannot find value in a check number, adding that she does not hold one individual responsible.

VP Hill stated that we are required by law to pay employees and approving the warrants is meeting the District's legal obligations; however, this is the last time he will approve warrants in current format. He insisted that warrant correspond with the invoice and he will be recording the actual check numbers that correspond.

Nina Gabriel asked the Board to ask staff for explanation of where do the check numbers come from and to clarify what is going on. She stated people have been in the office for a long time and where is the accountability. She addressed the purchase of a safe from Staples and how has the District operated without a safe for years, and the safety of the rate-payers' money. She stated we have cash that is able to be lifted, checks numbers that do not match real checks, answers are not being given, audits are behind, budgets are behind schedule, and she felt it was too much opportunity for embezzlement and fraud. She suggested there be an investigation.

Director Dean asked if anyone spoken with staff. VP Hill stated no, he is sick to death of going over it. Director Lucey stated she was in the office today and spoke with AA Davis and GM Montemurro and asked why these are immaterial to each other. She suggests cross referencing and saw checks that Director Dahl had signed that were not the right amount and one check with one signature. She states that everyone has a part responsibility in this system.

VP Hill suggested the Board adopt using the bank number and not some fictitious number that is randomly generated.

GM Montemurro stated after hearing the concerns of Director Lucey, he will identify the number to match the number on the lower left part of the check and that will help the person signing match it up. Director Lucey agreed with GM Montemurro.

Therefore, after a request for public comment, (none being given), upon motion by Director Lucey, second by Director Dean, and on the following roll call, to wit:

AYES: Director Lucey, Director Dean, Director Dahl, VP Hill

NOES: None

ABSENT: President Mann

ABSTAIN: None

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The Board approved the expenditures as shown on the Warrant Register Summary in the amount of \$92,639.63 with a notation that the check numbers given are District assigned check numbers and not the actual bank control numbers on a vote of 4-0, with President Mann absent.

A motion was made by Director Dean, second by Director Dahl, to continue the meeting until 10:30. The motion failed on a vote of 2-2, with President Mann absent.

VP Hill adjourned meeting 10:00 PM.

The following items were not addressed:

- c. Old Business – No Status Change/No Report *
 - (1) Drainage Issues
 - (2) Review of Codification Sections
 - (3) 2009-10 District Goals

9. Administrative Items (Continued)

- d. New Business
 - (1) Board Meeting Schedule for November and December, 2009 *

10. Reports of District Representatives *

This item gives the President and Board Members the opportunity to present reports to other members regarding committees, commissions, boards, or special projects on which they may be participating.

a. PRESIDENT BARBARA MANN

- (1) SSLOCSD 10 07 2009
- (2) Fire Committee None
- (3) Finance Committee 10 22 2009
- (4) Other

b. VICE PRESIDENT JIM HILL

- (1) SSLOCSD 10 21 2009
- (2) Water & Sewer: Fees & Charges 10 19 2009
- (3) Finance 10 22 2009
- (4) Other

c. DIRECTOR VERN DAHL

- (1) OAC 10 19 2009
- (2) Ad Hoc: Fees and Charges 10 20 2009
- (3) Other

d. DIRECTOR PAMELA DEAN

- (1) Fire Oversight Committee None
- (2) Fire Committee None
- (3) Ad Hoc: Fees and Charges 10 20 2009
- (4) Other

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- e. **DIRECTOR MARY LUCEY**
 - (1) Water & Sewer: Fees & Charges 10 19 2009
 - (2) Other

11. **ADJOURN TO CLOSED SESSION**

The Board will adjourn to closed session to consider the following item:

- a. **CONFERENCE WITH LEGAL COUNSEL – POTENTIAL LITIGATION ***
CLOSED SESSION – A closed session pursuant to Government Code Section 54956.9(b) to meet with agency's legal counsel concerning pending litigation. (Santa Maria Groundwater Litigation, Santa Clara County, Lead Case # CV 770214)

RETURN TO OPEN SESSION

- 12. **General Manager Items/Discussion ***
 - a. Halcyon Mobile Homes
 - b. Update on A/P position
- 13. **Board Member Discussion ***
- 15. **Public Comment ***
- 16. **Written Communications**

Raffaele F. Montemurro, Board Secretary