



## OJAI VALLEY SANITARY DISTRICT

A Public Agency

1072 Tico Road, Ojai, California 93023  
(805) 646-5548 • FAX (805) 640-0842  
www.ojaisan.org

### MINUTES OF REGULAR MEETING OF BOARD OF DIRECTORS OJAI VALLEY SANITARY DISTRICT

The Regular Meeting of the Ojai Valley Sanitary District Board of Directors was held at the District Office, 1072 Tico Road on March 24, 2008. The meeting was called to order by Chairman Stone at 7:00 p.m., and roll call taken as follows:

**DIRECTORS PRESENT:** Russ Baggerly  
Randy Burg  
John R. Curtis  
William E. Lotts  
Peter M. Kaiser  
Stan Greene  
William M. Stone

**DIRECTORS ABSENT:** None

**STAFF PRESENT:** John K. Correa, General Manager  
Brenda Krout, Clerk of the Board  
Ronald E. Sheets, Operations Superintendent

**OTHERS PRESENT:** Mark Zirbel, District Legal Counsel

3. **Pledge of Allegiance**

Chairman Stone led the pledge of allegiance.

4. **Additions or amendments to the Agenda**

None

5. **Public Concerns** (items not on the agenda - three minute limit). This is an opportunity for members of the public to speak on items not on the agenda.

(The Ojai Valley Sanitary District Board of Directors encourages all interested parties to speak on any issue on this agenda in which they have an interest, or on any matter subject to the District's jurisdiction. It is the desire of the Board that its business be conducted in an orderly and efficient manner. All speakers are requested to fill out a Speaker's Card and submit it to the Clerk of the Board before the item is taken up for consideration. All speakers are requested to present their information to the Board as concisely as possible with a three (3) minute time limit. Allowing an individual to speak more than three minutes is at the discretion of the Chairman of the Board. Speakers are encouraged to refrain from restating previous testimony. No response will be given or action taken unless an emergency exists. Items requiring action will be referred to staff or placed on a subsequent agenda.)

Jeff Ketelsen, 700 W. Villanova Road, addressed the Board expressing his concern about the increase of sewer service rates over the 21 years that he has been a resident of mobile home parks in the Valley. Mr. Ketelsen stated many residences in the mobile home parks have complained to him about the increasing rates. Mr. Ketelsen explained that he is a part of a renewed movement in the Valley aimed at getting residences of the Valley more involved in attending local Board meetings.

Chairman Stone thanked Mr. Ketelsen for his comments.

6. **Board Concerns** (Items not on the agenda - three-minute limit)

Director Baggerly asked if the scope of work in the root control contract awarded at the February 25, 2008 meeting had been completed. Director Baggerly also questioned if the monitoring staff agreed to do prior to, during and after the root control application had been completed. Director Baggerly expressed his opinion that we can't just rely on the facts on the label of the root control chemical to determine its affect on emerging species in the river.

Mr. Sheets explained that the root control application will not begin until mid-April and staff is prepared to monitor the treatment plant's effluent and the receiving waters during and after the application.

Mr. Correa noted that he recently became aware of a paper written by a professor at the University of Davis about the study conducted on the root control chemical. Mr. Correa stated he is in the process of trying to obtain a copy of this paper.

Pat Baggerly, Environment Coalition, addressed the Board distributing a picture she had taken of a Steelhead trout in the Ventura River on March 21, 2008. Ms. Baggerly expressed her concern about the root control chemical being in the river while the Steelhead are migrating.

**CONSENT ITEMS:** - All consent items are considered in a single motion and voted on without discussion. Any item removed from the consent list at the request of a Board member or the public will be considered immediately following approval of the remaining consent items.

**ACTION**

Upon motion of Director Lotts, seconded by Director Curtis and passed by unanimous roll call vote Item Nos. 7 & 8 on the consent calendar were approved as submitted.

7. **Approval of Minutes** - Regular Meeting February 25 2008 (a tape recording of each meeting is retained at the District Office for a minimum of 4 years)

8. **Approval of Checks**

Approve the checks for payment as submitted.

**ACTION ITEMS:**

9. **Request to Use SDS Financing Program – Paz Property 8757 Ventura Avenue, Casitas Springs**

Staff explained that Ms. Paz's property at 8757 Ventura Avenue in Casitas Springs septic system has failed creating an emergency situation for her and her family. Staff explained that Ms. Paz is requesting the District finance the annexation and connection related fees so she can connect her property to the sewer system.

The Board asked District Legal Counsel for his recommendation. Mr. Zirbel stated that if the Board decides to make an exception to the suspension of the SDS Financing program for Ms. Paz, then he recommends the Board require Ms. Paz to supply the District with a current preliminary title report which would disclose to the District any existing liens on the property; if there are any significant liens then request the lien holder/s to subordinate to the lien the District would place on the property for its loan to Ms. Paz.

Mr. Correa expressed his opinion that he did not think an existing lien holder would be willing to subordinate to the District's loan. Mr. Correa pointed out that Ms. Paz's situation does not involve any new construction, it is an existing home and Ms. Paz has indicated that she has the means to perform the physical connection of her property to the sewer system but she is just asking for financing assistance with the fees. Mr. Correa noted that the District can legally finance the connection related fees.

Director Baggerly noted that Ms. Paz's situation is a public health and safety issue.

The Board discussed the possible ramifications of making an exception to the suspension of the SDS Financing program.

**ACTION**

Upon motion of Director Greene, seconded by Director Baggerly and passed by a majority 6 to 1 roll call vote, with Director Curtis voting nay, Ms. Paz's request to finance the cost of annexing her property at 8757 Ventura Avenue, Casitas Springs, APN 061-0-190-130, into the District boundaries and the connection related fees, for an approximate total of \$11,821.65 was granted.

Ms. Paz thanked the Board and left the meeting.

**CHAIRMAN STONE ANNOUNCED THAT ITEM NO. 14 WOULD BE ADDRESS NEXT.**

**14. OVSD Administrative Supplement to State CEQA Guidelines**

Mel Willis, consultant retained to provide consultant services for the development of the District's CEQA Administrative Supplement to State CEQA Guidelines, addressed the Board presenting the draft guidelines.

Mr. Willis reviewed the requirements in CEQA that require agencies to develop administrative guidelines, noting that the guidelines are an internal procedure for implementing CEQA for District activities.

Mr. Willis reviewed the CEQA exemptions comparing the statutory exemption to the categorical exemptions, noting there are exceptions to the categorical exemptions but there are not exceptions to the statutory exemption. Mr. Willis explained that it is his opinion that the statutory exemption that applies to District activities is the construction of a pipeline of less than one mile in length in a public right-of-way. Mr. Willis noted that a majority of the Board's CEQA Review Committee opposed including this statutory exemption in the guidelines. It was the opinion of the opposing Committee members that this exemption does not apply to sewer lines. Mr. Willis stated that he found a wide range of public agencies in the State, including CalTRANS, which apply this statutory exemption to sewer lines.

Mr. Willis strongly recommended including the statutory exemption in the District's CEQA Guidelines, stating it was his opinion that excluding this exemption would be a violation of the CEQA law.

Director Baggerly explained that he objects to using Mr. Willis' interpretation of the reference to pipelines in the statutory exemption to include sewer lines because he does not believe that was the intent of the legislation. Director Baggerly stated that he also believes that since sewer lines have surface facilities (the manholes) which also exclude them from the statutory exemption.

Mr. Willis responded stating he discussed his interpretation with leading CEQA attorneys in the State, including Ron Bass, who agreed with his interpretation. Director Greene stated he agreed with Mr. Willis' interpretation.

Pat Baggerly, Environmental Coalition, addressed the Board reading a letter from the Environmental Coalition objecting to the District applying the CEQA statutory exemption to sewer line construction. The letter outlined the Coalition's basis for this objection. Ms. Baggerly distributed copies of the letter to each Director.

The Board continued their review and discussion of the draft Administrative Supplement to the CEQA Guidelines.

Mr. Zirbel encouraged the Board to proceed with adoption of the Administrative Supplement, noting the Supplement is more critical for the District's use of the categorical exemptions than the statutory exemption.

### **ACTION**

Upon motion of Director Kaiser, seconded by Director Baggerly and passed by a majority 5 to 2 roll call vote, with Directors Lotts and Curtis voting nay, Staff was directed to contact the Governor's Office of Planning & Research to obtain a written interpretation of the definition of pipeline as used in the statutory exemption in the CEQA law. This interpretation is to be brought back to the Board prior to including or excluding the statutory exemption in the District's Administrative Supplement to the State CEQA Guidelines.

The Board reviewed the other sections of the draft Administrative Supplement.

### **ACTION**

Upon motion of Director Baggerly, seconded by Director Kaiser and passed by a majority 5 to 2 roll call vote, with Directors Curtis and Lotts voting nay, staff was directed to remove the second and third paragraphs from Section 4.1.2.5 of the presented Administrative Supplement to State CEQA Guidelines and Resolution No. 2008-03, Adopting the Administrative Supplement to The State CEQA Guidelines as amended was adopted.

10. **Contract No. 2008-02 – Boyle Engineering – Ventura Avenue Sewer Improvements Project Design**

The proposed contract was reviewed. Director Baggerly expressed his opinion that an environment document should be completed on this project prior to approving a final design contract.

Mr. Correa explained that the CEQA determination by the consultant is a mitigated negative declaration instead of an EIR as previously determined. Mr. Correa noted that the cost for development of the environmental document is included in this final design contract.

Hiring the environmental consultant separately from the design engineering firm versus including the cost in the final design contract with the design engineer hiring the environmental consultant was discussed. Mr. Zirbel recommended that in the future the District hire the consultant separately from the design engineer to avoid the appearance that the consultant is being controlled by the engineer. The Board agreed with Mr. Zirbel's recommendation.

The Board voiced a concern that the CEQA review of the project should be completed prior to the design work being completed; Mr. Correa assured the Board that the CEQA review would be completed first.

### **ACTION**

Upon motion of Director Curtis, seconded by Director Greene and passed by unanimous roll call vote the scope of work in Contract No. 2008-02 was directed to be changed to reference the CEQA document as a Negative Declaration instead of an EIR, and the Chairman was authorized to sign Contract No. 2008-02, Agreement For Design Engineering of Ventura Avenue Sewer Improvements between Ojai Valley Sanitary District and Boyle Engineering Corp., in an amount not to exceed \$379,061; and Budget Adjustment No. 2008-22, authorizing the transfer of \$379,061 from the Collection System Replacement Reserve into the Major Expenditures-Admin. account (No. 5950.13) to fund this contract was adopted.

The following discussion and comments from the public occurred prior to the vote on the preceding motion.

Pat Baggerly, Environmental Coalition, addressed the Board asking them why they have to approve the presented contract prior to having the CEQA review completed and asked why the Board could not postpone the approval of the contract until the CEQA review is complete and presented to the CEQA Review Committee. Ms. Baggerly expressed her opinion that if the Board approves the contract for the final design of the project without having a completed environmental document before them, their actions are contrary to CEQA.

Mr. Zirbel noted that he has seen the sequence of events happen both ways, CEQA document completed prior to awarding the final design contract and after the award.

Mr. Correa explained that the cost for the CEQA initial study was included in the preliminary design engineering contract; the cost for the negative declaration is included in the final design engineering contract and will be finished prior to work continuing on the final design work. Mr. Correa stated he did not think proceeding in this manner would create any problems. Mr. Zirbel agreed that proceeding in this manner is legally defensible.

### **VOTE**

The vote on the preceding motion was taken at this time.

11. **Contract No. 2008-03 – Larry Walker Associates – Development of Ventura River Nutrient TMDL – Budget Adjustment No. 2008-21**

Mr. Correa reviewed the proposed contract for a Stakeholder-led TMDL and discussed the rationale behind its development.

Director Baggerly stated that he initially supported a Stakeholder-led TMDL when he thought that other stakeholders would be sharing the cost of the study; however, the proposed contract shows the District responsible for the total cost; consequently, Director Baggerly stated he cannot support it. Director Baggerly referenced the 1999 Consent Degree directing the TMDL identification. Director Baggerly suggested the District wait for the Regional Water Quality Control Board (RWQCB) to complete the TMDL for the Ventura River and then the District can fight their results if necessary.

The value of whether the District should proceed with such a costly study on their own versus waiting for the RWQCB to complete the study was discussed and various options considered. Director Greene suggested a less costly preliminary study; Director Kaiser expressed his opinion that such a large cost should not be assumed when we are facing tight financial times.

Mr. Correa stated that he is concerned that if RWQCB completes the TMDL on the Ventura River their conclusions could result in the District's treatment plant being required to upgrade in order to meet new discharge limits; such an upgrade could cost the District from \$15 to 58 million.

Mr. Sheets explained that the reason staff is proposing this contract at this time stems from a recent call from the RWQCB requesting data and stating that they are moving ahead with the TMDL in this region. Mr. Sheets stated it is his concern that the RWQCB will be using only the data that is currently available because they have limited funds to dedicate to this study.

Mr. Sheets explained that the aim of the TMDL study proposed by staff is to identify other sources contributing to the algae growth in the Ventura River and to be able to show the RWQCB that the District's treatment plant is not the only contributor to the algae growth in the river.

Director Burg questioned if the other stakeholders have been identified. Mr. Correa stated they have been identified and staff has spoken to all of them asking for their cooperation in completing this study; all of them agreed to cooperate.

Director Kaiser suggested establishing a stakeholder relationship with the RWQCB regarding the TMDL issue instead of an adversarial relationship. Director Curtis supported this suggestion.

Director Stone expressed his opinion that more time should be taken to look more thoroughly at this issue and to talk to the other stakeholders asking them to share the cost; then bring this issue back to the Board next month.

Mr. Correa suggested that a less costly approach would be for the District to be a stakeholder in the RWQCB's TMDL study and then hire an attorney if we do not agree with the RWQCB's results.

Staff agreed to talk to the RWQCB and the other stakeholders about their part in this study and bring this issue back at the April 28, 2008 Board Meeting for further discussion.

12. Collection System Maintenance Management & CCTV Software Purchase – Budget Adjustment No. 2008-20

The need to replace the Collection System maintenance management software was discussed.

**ACTION**

Upon motion of Director Baggerly, seconded by Director Curtis and passed by a majority 5 to 2 roll call vote, with Directors Burg and Kaiser voting nay, staff was authorized to purchase the ICOMM3 and PicAxe software to replace the Collection System's current Maintenance Management Software program (Accela) and CCTV software (WinCan) for a cost not to exceed \$82,541; and Budget Adjustment No. 2008-20 transferring \$82,541 From the Equipment Reserve to the Collection System Major Expenditure account to provide funding for this purchase was adopted.

13. GASB 45 – Post-Employment Health Benefits

The post-employment health benefits actuarial report was reviewed and discussed.

**ACTION**

Upon motion of Director Burg, seconded by Director Kaiser and passed by unanimous roll call vote staff was directed to include in the budget for fiscal year 2008-09 the funding of Post-Employment Benefits at the minimal level of the Normal Cost of 7.3 percent of base payroll as identified in the February 2008 Actuarial Report depositing the funds into the CalPERS' Trust Fund; and staff was directed to annually evaluate, during the budgeting process each fiscal year, the availability of additional funds to contribute to the Trust Fund as an offset to the accrued unfunded liability; and staff was directed to take the necessary steps to initiate the District joining the CalPERS' Trust Fund.

14. OVSD Administrative Supplement to State CEQA Guidelines

**Addressed earlier in the agenda.**

**INFORMATION ITEMS – FOR RECEIPT & FILE**

15. **Monthly Financial Reports**

Received and filed.

16. **Monthly Investment Report**

Received and filed.

17. **Staff Reports - Operations, Administration and Management of the District**

Received and filed. Mr. Sheets distributed an updated flow graph.

18. **Committee Reports**

Received and filed.

19. **Oral Reports On Meetings, Seminars, or Conferences Attended**

None

20. **Items of Interest/Correspondence/Articles**

Received and filed.

21. **Discussion** (items not on the agenda - three-minute limit)

- a. Public - (Public is requested to present completed speaker's card to Clerk of the Board)

None

- b. Board Members

None

- c. General Manager

None

22. **Adjournment**

Chairman Stone adjourned the meeting at 11:04 p.m.

---

William E. Lotts, Secretary

**APPROVED:**

---

William M. Stone, Chairman