



## OJAI VALLEY SANITARY DISTRICT

A Public Agency

1072 Tico Road, Ojai, California 93023

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### 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 June 26, 2006. The meeting was called to order by Chairman Curtis at 7:02 p.m., and roll call taken as follows:

<b>DIRECTORS PRESENT:</b>	Russ Baggerly Stan Greene Randy Burg William M. Stone William E. Lotts (arrived at 7:05 p.m.)
<b>DIRECTORS ABSENT:</b>	Peter M. Kaiser
<b>STAFF PRESENT:</b>	John K. Correa, General Manager Brenda Krout, Clerk of the Board Ronald E. Sheets, Operations Superintendent
<b>OTHERS PRESENT:</b>	Mark A. Zirbel, District Legal Counsel Dennis McNulty, District Legal Counsel

3. **Pledge of Allegiance**

Chairman Curtis led the pledge of allegiance.

### **OJAI VALLEY SANITARY DISTRICT FINANCING CORPORATION**

Chairman Curtis announced that the annual meeting of the Ojai Valley Sanitary District Financing Corporation would be held prior to proceeding with the regular meeting agenda. Chairman opened the Financing Corporation meeting at 7:04 p.m. The Financing Corporation meeting adjourned at 7:07 p.m. and the regular meeting continued.

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.)

Bill Allen addressed the Board stating that he was a property owner and resident in the Ventura Avenue area. Mr. Allen had several questions about the origin of the District, whether the District is a private business or government agency, what the purpose of the Finance Corporation is, where does the property owner's responsibility end with the lateral connection to the sewer, etc.

Mr. Correa explained that the District is a Special District formed under State regulations. Mr. Correa offered to answer all of Mr. Allen's questions if Mr. Allen would come into or call the District office.

Mr. P. Lee Gonzales addressed the Board stating he also lived in the Ventura Avenue area and basically had the same questions as Mr. Allen. Mr. Gonzales questioned why the District's name is Ojai Valley Sanitary District, stating that it would have been more appropriate for his neighborhood to connect to the City of Ventura. Mr. Gonzales also stated that he did not receive a refund check in 1997 when the District was refunding property owners in the Ventura Avenue area in connection with the a bond issue.

Staff explained the consolidation of the sanitary districts in 1985 to form the Ojai Valley Sanitary District to Mr. Gonzales. Mr. Gonzales was assured that staff will investigate the status of any refund due him and will contact him with the conclusion of the investigation.

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

None

**PUBLIC HEARINGS:**

7. **Ojai Valley Sanitary District Proposed Ordinance No. OVSD-52 Adopting Fees, Rates and Charges For Sewerage and Related Services**

Chairman Curtis asked Mrs. Krout to conduct the second reading, by title only, of Ordinance No. OVSD-51, Adopting Fees, Rates, and Charges for Sewerage and Related Services. Mrs. Krout conducted the second reading.

Chairman Curtis opened the public hearing for proposed Ordinance No. OVSD-52, at 7:18 p.m.

Mrs. Krout reported that one written communication regarding the proposed Ordinance had been received; this communication was a petition signed by numerous residents of the Mira Monte Mobile Home Park expressing opposition to the increase in rates.

Chairman Curtis asked for public comment.

Louise Angiuli, representing the Mira Monte Mobile Home Park, addressed the Board expressing her and her neighbors' opposition to an increase in rates and requested the Board consider establishing a senior rate.

Bill Allen, Ventura Avenue area resident, addressed the Board also requesting the establishment of a senior/disability rate.

Chairman Curtis closed the public hearing for proposed Ordinance No. OVSD-52 at 7:24 p.m.

Director Greene commented on the District's rate structure and the issues that limit the District's choice of structure. Director Greene stated he will ask staff to look for a method that would have the capability of identifying lower usage and charge accordingly.

Director Baggerly reviewed the process the Board has engaged in to aggressively review the best way to operator the District cost effectively, noting the Board has adopted a Strategic Plan and Operations Plan. Director Baggerly explained that regulations from the State govern the District's operations and increases operational costs. Director Baggerly noted that it is expected that the next operation permit to be issued to the District will have increased regulatory requirements.

**ACTION**

Upon motion of Director Lotts, seconded by Director Greene and passed by a majority 5 to 1 roll call vote, with Director Stone voting nay, Ordinance No. OVSD-52, Adopting Fees, Rates, and Charges for Sewerage and Related Services, was adopted; with new rates effective July 1, 2006.

8. **Sewer Service Charges For Collection on Tax Rolls for Fiscal Year 2006/07 – Hearing**

**ACTION**

Upon motion of Director Baggerly, seconded by Director Greene and duly passed Exhibit A, the report listing parcels with the final amounts to be collected for Fiscal Year (FY) 2006-2007 for reentry on the general tax roll for collection in FY 2006-2007 was adopted.

Chairman Curtis announced that a public hearing would be held for the new properties being added to the tax roll for the first time, Exhibit B.

Chairman Curtis opened the public hearing at 7:35 p.m., written report from staff was received. Mrs. Krout, Clerk of the Board, confirmed that no written communications had been received from the public.

Chairman Curtis asked for public comment.

George Galgas, resident of the Oak View area, addressed the Board expressing his surprise to hear that the charge for sewer service on his property tax bill was a special assessment, not a tax. Mr. Galgas expressed his opinion that most people do not realize this is not a tax. Mr. Galgas questioned how the District justifies charging in advance for a service, questioning if it is legal; Mr. Galgas noted that he realized that for a portion of the year he is receiving service prior to paying for it.

Mr. Correa explained the District's method of billing via the County Tax Roll and explained that this method was established by State legislation as a way for public agencies to save on billing costs.

Mr. Galgas stated he wants the record to show that he is challenging this billing method.

Chairman Curtis declared the public hearing closed at 7:42 p.m.

Director Greene commented on the savings afforded to the District by utilizing the County tax roll as a collection tool; Director Greene emphasized that this savings helps to keep the sewer service rates lower.

**ACTION**

Upon motion of Director Baggerly, seconded by Director Lotts and duly passed Exhibit B, the report listing parcels with the final amounts to be collected by FY 2006-2007 for initial entry on the general tax roll for collection in FY 2006-2007 was adopted; the Clerk of the Board was directed to file an attested copy of the adopted reports with the Ventura County Auditor-Controller with a statement endorsed over her signature that the reports have been adopted by your Board; and staff was directed to coordinate collection of sewer service charges on the general tax roll of Ventura County with the County Auditor-Controller, Assessor, and Tax Collector.

9. **District Financing Costs and Charges For Collection on Tax Rolls For Fiscal Year 2006/07**

**ACTION**

Upon motion of Director Stone, seconded by Director Burg and duly passed Exhibit A, the report listing parcels with the final amounts to be collected for Fiscal Year (FY) 2006-2007 for reentry on the general tax roll for collection in FY 2006-2007 was adopted.

Chairman Curtis announced that a public hearing would be held for the new properties being added to the tax roll for the first time, Exhibit B.

Chairman Curtis opened the public hearing at 7:47 p.m., written report from staff was received. Mrs. Krout, Clerk of the Board, confirmed that no written communications had been received from the public. There were no public comments received.

Chairman Curtis declared the public hearing closed at 7:49 p.m.

**ACTION**

Upon motion Director Greene, seconded by Director Lotts and duly passed Exhibit B, the report listing parcels with the debt installment payment amounts to be collected for Fiscal Year (FY) 2006-2007 for initial entry on the general tax roll for collection in FY 2006-2007 was adopted; the Clerk of the Board was directed to file an attested copy of the adopted report with the Ventura County Auditor-Controller with a statement endorsed over her signature that the reports have been adopted by your Board; and staff was directed to coordinate collection of the debt installment payments on the general tax roll of Ventura County with the County Auditor-Controller, Assessor, and Tax Collector.

**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 Baggerly, seconded by Director Burg and passed by unanimous roll call vote (with Directors Stone and Curtis abstaining from the vote on approval of the May 22, 2006 meeting due to their absence from this meeting) Item Nos. 10-12 on the consent calendar were approved as submitted.

10. **Approval of Minutes** - Regular Meeting May 22, 2006 and Special Meeting June 19, 2006. (a tape recording of each meeting is retained at the District Office for a minimum of 4 years)

11. **Hatfield Annexation ( OVSD-2006-03) – Resolution No. 2006-06**
- a. Find the Hatfield Annexation (OVSD 2006-03) to be Categorically Exempt in accordance with CEQA Section 15319 (a);
  - b. Direct Staff to file a Notice of Exemption in accordance with CEQA Section 15062; and
  - c. Adopt Resolution No.2006-06 initiating proceedings for the Hatfield Annexation (OVSD 2006-03).
12. **Approval of Checks and Warrants**
- Approve the checks and warrants for payment as submitted.

**ACTION ITEMS:**

13. **Collection of Delinquent Fees For 240 France Circle–APN 022-0-012-615 (Craig McDonald)**

Mr. Correa explained that a conversion of a barn to a single family residence on the property known as 240 France Circle, in the City of Ojai in 1998 without paying the required sewer connection related fees was discovered approximately one year ago. The property owner has refused to pay the fees and staff is recommending the placement of a lien against the property for the amount owed.

Craig McDonald, owner of 240 France Circle, addressed the Board. Mr. McDonald explained his history with this property noting that at the time he purchased the property in 1997 the sales contract stated the property was currently connected to the sewer system. Mr. McDonald stated that the City of Ojai never asked him to pay for a sewer connection fee during the conversion process. Mr. McDonald stated he does not feel he should pay these fees. Mr. McDonald stated he is prepared to fight this issue and sue the District if necessary; stating this is not a threat but a promise.

The Board discussed the history of this property and the District's responsibilities regarding the collection of fees with Mr. McDonald. Mr. McDonald continued to complain that he should not be responsible for the connection related fees.

**FAILED MOTION**

Director Lotts made a motion to direct staff to record a lien against Mr. McDonald's property by recording a certificate specifying the amount of unpaid charges. This motion failed for lack of a second.

Mr. McDonald stated he would not be opposed to paying the outstanding monthly sewer service fees because he agreed that he had the beneficial use of the sewer system since the time of the conversion of the barn.

Mr. McDonald expressed his opinion that the process the District has pursued in trying to collect these charges from him have slandered his named making him appear as a “dead beat” who doesn’t pay his bills.

Director Baggerly stated for the record that Craig McDonald is not a “dead beat” but has been caught by improper notification by the City of Ojai while obtaining building permits; this was compounded by the District not discovering the connection for many years.

### **FAILED MOTION**

Director Lotts made a motion, seconded by Director Baggerly directing staff to record a lien against Mr. McDonald’s property by recording a certificate specifying the amount of unpaid charges. This motion failed by a 2 to 4 roll call vote, with Directors Stone, Burg, Greene and Curtis voting nay.

### **ACTION**

Upon motion of Director Greene, seconded by Director Burg and passed by a majority 5 to 1 roll call vote, with Director Lotts voting nay, this agenda item will be continued to the August 28, 2006 meeting, with staff and District Legal Counsel directed to work with Mr. McDonald to work out an agreement acceptable to both sides of this issues and bring it back to the Board for consideration at the August meeting.

14. **Closed Session: Conference With Legal Counsel – Anticipated Litigation Government Code §54956.9 (b) – 1 case**

It was determined that a closed session was not necessary at this time.

15. **Parcels With Outstanding Costs and Charges For Collection On Tax Rolls For Fiscal Year 2006-2007 – Set Hearing**

### **ACTION**

Upon motion of Director Lotts, seconded by Director Burg and duly passed July 24, 2006 at 7:00 p.m. in the District boardroom was set as the time and place for a hearing to be held to review parcels to be added to the tax roll; Clerk of the Board was directed to notify by mail each person to whom any parcel listed on Exhibit A is assessed of (1) the District’s intent to have outstanding SDS related charges collected on the general tax rolls of Ventura County for FY 2006-2007, and (2) the time and place of the hearing for the proposed assessment report; and Clerk of the Board was directed to publish a notice of the report filing and the time and place of the hearing. Publication of the notice shall be once a week for two successive weeks with five intervening days.

16. **Closed Session: Conference With Legal Counsel – Anticipated Litigation**

**Government Code §54956.9 (b) – 3 cases**

It was determined that a closed session was not necessary at this time.

17. **Teen Challenge Annexation (OVSD-2006-02)-Resolution No. 2006-03 And Mainline Extension Contract No. 2006-06**

Mr. Correa reviewed the scope of this project and discussed the CEQA Review Committee's recommendation for the appropriate CEQA finding for this project.

**ACTION**

Upon motion of Director Greene, seconded by Director Lotts and passed by majority 5 to 1 roll call vote, with Director Baggerly voting nay, the Teen Challenge Annexation (OVSD 2006-02) was found to be Categorical Exempt in accordance with CEQA Section 15319 (a) & 15301(b) and Statutory Exempt in accordance with CEQA Section 15282(k); staff was directed to file a Notice of Exemption in accordance with CEQA Section 15062; and Resolution No. 2006-03 initiating proceedings for the Teen Challenge Annexation (OVSD 2006-02) was adopted; and the Chairman was authorized to execute Contract No. 2006-06, Agreement For Wastewater Collection And Treatment Services Between The Ojai Valley Sanitary District and Teen Challenge, to construct an approximately 820 feet extension of the District's mainline sewer in the Foster Park area.

Prior to the vote on the preceding action the following discussion was conducted:

Director Baggerly voiced his objection to the Statutory Exemption being used for this project; noting that he did not feel that Statutory Exemption applies to this project.

Mr. Zirbel explained that it is his opinion that the Statutory Exemption does include the District's facilities and does apply to this project.

Pat Baggerly, representing Environmental Coalition, addressed the Board stating that she supports Teen Challenge but she objects to the use of the Statutory Exemption for this project. Mrs. Baggerly emphasized that she does not think this is a correct application of CEQA's definition of Statutory Exemption. Mrs. Baggerly referenced the County of Ventura's Administrative Guidelines to CEQA which defines a pipeline as gas and oil lines, not sewer lines. Mrs. Baggerly requested the Board delete Statutory Exemption from this project.

The vote on the preceding action was taken at this point.

18. **Culbertson Annexation (OVSD-2006-04)-Resolution No. 2006-11 And Mainline Extension Contract No. 2006-07**

Mr. Correa reviewed the scope of this project noting it involves an approximately 30 foot mainline extension.

**ACTION**

Upon motion of Director Baggerly, seconded by Director Greene and passed by a unanimous roll call vote the Culbertson Annexation (OVSD 2006-04) was found to be Categorically Exempt in accordance with CEQA Section 15319 (a) and 15301(b); and Staff was directed to file a Notice of Exemption in accordance with CEQA Section 15062; and Resolution No.2006-11 initiating proceedings for the Culbertson Annexation (OVSD 2006-04) was adopted; and Chairman Curtis was authorized to execute Contract No. 2006-07, Agreement For Wastewater Collection And Treatment Services Between The Ojai Valley Sanitary District and John & Patricia Culbertson, to construct an approximately 30 feet extension of the mainline sewer in Cuyama Road, Ojai.

19. **Funding For CASA Legal Challenge of the State Water Resources Control Board's Final Order of the Vacaville Permit Appeal**

Request for a contribution to the California Association of Sanitation Agencies (CASA) to be used in support of the Vacaville Permit Appeal was discussed.

**ACTION**

Upon motion of Director Baggerly, seconded by Director Burg and passed by unanimous roll call vote a contribution of \$2,000 to the California Association of Sanitation Agencies (CASA) to be used in support of the Vacaville Permit Appeal was approved.

20. **California Regional Water Quality Control Board Complaint No. R4-2006-0029 For Mandatory Minimum Penalty Against Ojai Valley Sanitary District Wastewater Treatment Plant - Resolution**

Mr. Correa reviewed the status of negotiations with the California Regional Water Quality Control Board (CRWQCB) Staff regarding Complaint No. R4-2006-0029 reporting that a verbal assurance has been received from the CRWQCB Staff that the fine amount for this Complaint has been dropped to \$51,000. Mr. Correa noted that written confirmation of this reduction has not been received; however, staff is confident the fine will be \$51,000.

Director Baggerly voiced his concern about the District remaining exposed to 3<sup>rd</sup>-party lawsuits on the violations that it appears the CRWQCB Staff has agreed to waive a penalty on. Mr. Zirbel will investigate this issue to determine the District's exposure.

**ACTION**

Upon motion of Director Baggerly, seconded by Director Greene and passed by unanimous roll call vote the General Manager was authorized to execute a Waiver of the Right to a Hearing document (document to be drafted by District Legal Counsel) to resolve the RWQCB Complaint No. R4-2006-0029 and payment of \$18,000 to the State Water Pollution Cleanup and Abatement Account and payment of \$33,000 to the Santa Barbara Channelkeepers for the Ventura River Watershed Monitoring Program was authorized.

21. **Replacement of Emergency Transfer Switch Electrical Main Breaker – Treatment Plant**

Staff reviewed the circumstances surrounding the need to replace this switch. Staff reported that the actual replacement process went very well.

**ACTION**

Upon motion of Director Greene, seconded by Director Lotts and passed by unanimous roll call vote Budget Adjustment No. 2006-21, transferring \$57,170 from Treatment Plant Capital Replacement Reserve into Major Expenditures – Treatment Plant was adopted.

22. **Purchase of Replacement Treatment Plant Tractor & Rototiller**

The age and condition of the existing tractor & rototiller used at the plant were discussed.

**ACTION**

Upon motion of Director Baggerly, seconded by Director Greene and passed by unanimous roll call vote staff was authorized to purchase the New Holland tractor and rototiller combination from Staben Equipment Co. for a total cost of \$27,739.00, including tax & delivery; and Budget Adjustment No. 2006-22, transferring \$27,739.00 from Equipment Replacement Reserve into Major Expenditures – Treatment Plant was adopted.

23. **Cost of Living Salary Adjustment, Position & Fringe Benefits Authorization – Resolution No. 2006-10**

The request for a cost-of-living adjustment for salaries of all District employees was reviewed.

**ACTION**

Upon motion of Director Lotts, seconded by Director Baggerly and passed by unanimous roll call vote a 4.7 percent cost-of-living adjustment of salary ranges for all District employees, including the General Manager, was approved, effective July 2, 2006; and Resolution No. 2006-10, Adoption of the Ojai Valley Sanitary District Revised Salary & Position Authorization Schedule Effective July 2, 2006, was adopted.

24. **Resolution No. 2006-12 – Nomination For Alternate Member – LAFCO Independent Special District Member**

Director expressed his interest in being nominated for Independent Special District Alternate Member of LAFCO.

**ACTION**

Upon motion of Director Burg, seconded by Director Stone and passed by unanimous roll call vote Director Baggerly was nominated for the Independent Special District Alternate Member of LAFCO; and Resolution No. 2006-12 authorizing the nomination of the Director Baggerly was adopted; and staff was directed to submit a copy of the adopted Resolution and the executed nomination form to Ventura LAFCO prior to the deadline of Monday, August 7, 2006.

25. **California Special Districts Association – Board of Directors - Nominations For Seat A**

**ACTION**

Upon motion of Director Baggerly, seconded by Director Stone and duly passed Director Curtis was selected to be nominated as a candidate to run for election to Seat A of Region 5 on the CSDA Board of Directors; and staff was directed to complete the CSDA Nomination Form with the nominee's name and to return the form to the CSDA office prior to the deadline of August 11, 2006.

**CHAIRMAN CURTIS ANNOUNCED THAT AGENDA ITEM NOS. 27 – 32 WOULD BE ADDRESSED PRIOR TO THE CLOSED SESSION ITEM NO. 26**

27. **Water Recycling Study Grant to City of Ventura**

A letter from the State Water Resources Control Board (SWRCB) to the City of Ventura notifying the City that they will receive a grant from SWRCB to study the issues regarding the recycling of our plant effluent for use by the oilfields' recharge program was reviewed and discussed.

It was agreed that staff will be discussing the District's lease with the City of Ventura on the Treatment Plant property and make sure this factor is included in their study. Also it was agreed that all of the permits issued by various agencies for the operation of the District's treatment plant must also be considered in this study.

Staff will keep the Board posted on the progress of the City's study.

28. **Monthly Financial Reports**

Reviewed and filed.

A monthly investment report was distributed. This report will be included in the financial reports to the Board each month, except the four months a year when a quarterly investment report will be presented.

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

Reviewed and filed.

30. **Committee Reports**

Reviewed and filed.

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

Reviewed and filed.

32. **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

**BREAK**

Chairman Curtis adjourned the meeting to a brief break at 9:45 p.m.

Chairman Curtis re-convened the meeting at 9:55 p.m.

**BACK TO ITEM NO. 26**

26. **Closed Session: Public Employee Performance Evaluation Government Code §54957**

Title: General Manager annual evaluation.

Chairman Curtis announced that the Board would be holding a closed session pursuant to Government Code §54957, Public Employee Performance Evaluation, Title: General Manager – quarterly evaluation.

Chairman Curtis convened the Board to closed session at 9:56 p.m. Mr. Sheets, Mrs. Krout and District Legal Counsel left the meeting.

Chairman Curtis reconvened the meeting to opening session at 10:43 p.m. announcing that no action was taken during the closed session.

**INFORMATION ITEMS – FOR RECEIPT & FILE**

27. **Water Recycling Study Grant to City of Ventura**

Addressed earlier in agenda.

28. **Monthly Financial Reports**

Addressed earlier in agenda.

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

Addressed earlier in agenda.

30. **Committee Reports**

Addressed earlier in agenda.

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

Addressed earlier in agenda.

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

Addressed earlier in agenda.

- a. Public - (Public is requested to present completed speaker's card to Clerk of the Board)
- b. Board Members
- c. General Manager

33. **Adjournment**

Chairman Curtis adjourned the meeting at 10:44 p.m.

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John R. Burg, Secretary

**APPROVED:**

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Stan Greene, Vice-Chairman