



## OJAI VALLEY SANITARY DISTRICT

A Public Agency

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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 August 24, 2009. The meeting was called to order by Chairman Kaiser at 7:01 p.m. and roll call taken as follows:

<b>DIRECTORS PRESENT:</b>	Peter M. Kaiser John R. (Randy) Burg John R. (Jack) Curtis William E. Lotts Russ Baggerly George Galgas Stan Greene
<b>DIRECTORS ABSENT:</b>	None
<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 Zirbel, District Legal Counsel

3. **Pledge of Allegiance**

Chairman Kaiser led the pledge of allegiance.

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

Mr. Correa announced that there were no additions or amendments to the agenda.

Director Baggerly requested an item be added to the agenda to provide an opportunity for the Board to review and discuss the final 'Source Assessment Report: Nitrogen and Phosphorus in the Ventura River Watershed' completed by Larry Walker Associates prior to this report being forwarded to the Regional Water Quality Control Board (RWQCB) staff. Director Baggerly noted that pursuant to the Brown Act, a majority vote of the Board is necessary to add an item to the agenda.

District Legal Counsel, Mark Zirbel, clarified that the Brown Act requires that prior to adding an item to the agenda the Board must determine that there is an immediate need to take action and that the need came to the attention of the Board following the posting of the agenda.

Chairman Kaiser stated that the RWQCB staff has set a deadline of ASAP to receive this report; the completed report was received by the District after this agenda was posted.

### **MOTION**

Director Baggerly made a motion to place review of the final 'Source Assessment Report: Nitrogen and Phosphorus in the Ventura River Watershed' completed by Larry Walker Associates on the agenda.

Chairman Kaiser postponed the conclusion of this issue to after agenda Item No. 5.

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.

Several members of the Lower Arbolada Sewer Association (LASA) addressed the Board expressing their dissatisfaction with the manner in which the District's insurance appointed attorney (Special Counsel) is demanding indemnification and liability for defense costs from the LASA group in connection with a wrongful injury lawsuit filed by a workman on LASA's sewer installation project in 2006. The LASA members who spoke were: Tod Berryman, Neva Williams, Jim McEachen and Ken Lakes.

Mr. Berryman expressed his desire to see all of the LASA members released from the demand for indemnification and defense costs. Ms. Williams urged cooperation and hoped the issues would be resolved outside of court. Mr. McEachen read a statement reviewing the history of LASA's sewer installation project including the District's Special Counsel sending the LASA members threatening letters regarding liability for legal costs. Mr. Lakes voiced his plead for LASA members' relief of the onerous burden of indemnifying the District.

Mr. Zirbel advised the Board that the subject addressed by the speakers is not on the meeting agenda; consequently, the Brown Act prohibits the Board from addressing a subject that is not on the agenda. Mr. Zirbel advised the Board to receive the presented comments and allow him and staff to further investigate the situation. Mr. Zirbel also cautioned the Board and all present, that the litigation surrounding this whole issue is still on-going; consequently, this should not be discussed with the public until it has been vetted out by District staff, District Legal Counsel and the District's Special Counsel.

Mr. Zirbel urged the LASA members to follow the advice of their own attorneys and to have their attorneys work with the District's Special Counsel.

The public left the meeting.

**CHAIRMAN KAISER AJOURNED THE MEETING TO A RECESS AT 7:34 P.M.**

**CHAIRMAN KAISER RECONVENED THE MEETING AT 7:36 P.M.**

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

**MOTION**

Director Baggerly restated his motion to place review of the final 'Source Assessment Report: Nitrogen and Phosphorus in the Ventura River Watershed' completed by Larry Walker Associates on this meeting agenda.

Mr. Correa reported that the final report contains all corrections/revisions directed at the July Board meeting and those individually submitted from Directors and District Legal Counsel.

**RESCINDED MOTION**

Director Baggerly rescinded his motion.

Pat Baggerly, Environmental Coalition, addressed the Board stating that at the July meeting she had brought up the fact that cattle and horses should be included in the report. Ms. Baggerly expressed her dissatisfaction that the final report does not include cattle.

**PUBLIC HEARINGS:**

None

**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 Greene, seconded by Director Curtis and passed by majority roll call vote, with Director Burg abstaining from the vote on the August 3, 2009 meeting due to his absence from that meeting, Item Nos. 7 & 8 on the consent calendar were approved as submitted.

7. **Approval of Minutes** - Regular Meeting July 27, 2009 and Special Meeting August 3, 2009 (a recording of each meeting is retained at the District Office for a minimum of 4 years)
8. **Approval of Checks**

Approve the checks and warrants for payment as submitted.

**ACTION ITEMS:**

9. **Easement Maintenance – Concrete Driveway Repair**

The need for the easement repair was reviewed.

**MOTION**

Director Greene made a motion, seconded by Director Lotts to authorize the General Manager to sign the agreement with GN Concrete Construction to remove and replace 1,710 square feet of damaged concrete driveway in the District's easement off Rice Road for a cost not to exceed \$12,175.

Director Galgas expressed his opinion that the proposal received from GN Concrete did not outline the project thoroughly which could lead to disputes. Director Galgas noted that it appears that including rebar in the proposed repair to the driveway is repairing it to a higher level than the original driveway. Director Galgas stated he did not support repairing the driveway to a level above its original condition.

Mr. Sheets explained that the improvement to the driveway is intended to limit future damage that could be caused when the District trucks have to use the driveway. Mr. Sheets stated staff is confident that GN Concrete is reputable and will install the driveway to acceptable construction standards.

Director Galgas shared his opinion about the appropriate depth of the concrete, size of the rebar and the number of expansion joints in such an application.

Director Curtis suggested staff video tape the area after the repairs are completed to document the improved condition.

**PROPOSED AMENDMENT TO MOTION**

Director Greene proposed to amend his motion to direct staff to have GN Concrete change their proposal to include concrete at a depth of 4 ½ inches and to document that rebar and expansion joints will be installed per construction standards and to authorize staff to spend up to \$15,000 on this project with the amended proposal. The second of the motion, Director Lotts, did not support this amendment.

Director Lotts stated he supported staff obtaining a new proposal from the contractor clearly stating all elements of the project, prior to the Board making a decision on this repair.

**RESCINDED MOTION**

Directors Greene and Lotts agreed to rescind their motion.

Staff was directed to bring this item back to the Board with a more complete proposal.

10. **Biosolids Hauling and Processing – Contract No. 2009-20**

The need for this contract was reviewed.

**ACTION**

Upon motion of Director Baggerly, seconded by Director Curtis and passed by unanimous roll call vote the Chairman was authorized to sign Contract No.2009-20 for biosolids hauling and processing with McCarthy Family Farms, Inc. d.b.a. Liberty Composting, Inc.

11. **Root Control – Contract No. 2009-21 – Duke’s Sales & Service, Inc.**

The scope of work of this contract was reviewed.

**ACTION**

Upon motion of Director Baggerly, seconded by Director Greene and passed by unanimous roll call vote the Chairman was authorized to sign Contract No. 2009-21 Agreement For Root Control Services Between Ojai Valley Sanitary and Duke’s Root Control, Inc., in an amount not to exceed \$40,708; and staff was directed to perform laboratory tests at the appropriate time after the application of Diquat Dibromide; the samples for the tests were directed to be taken from the same locations (i.e. plant influent & effluent, etc.) as the samples used in the testing following the last time the Diquat application was performed; the results from these laboratory tests are to be brought back to the Board for further action as needed.

12. **NAS Server Replacement Purchase**

Jan Steenberg, District’s Information Technology Administrator, explained the need for replacing the existing NAS server, noting the fact that this server operates continuously (24/7) requiring it to be replaced approximately every three years.

**ACTION**

Upon motion of Director Baggerly, seconded by Director Curtis and passed by unanimous roll call vote the General Manager was authorized to purchase a Excel Meridian network attached storage unit for a cost of \$17,919; and Budget Adjustment No. 2010-04 transferring \$17,919 from the Equipment Replacement Reserve into the Major Expenditures-Office account to cover the cost of this purchase was adopted; and staff was directed to offer the used equipment to the Ojai Unified School District.

13. **Contract No. 2009-16 – Evaluate Regulatory & Flooding Issues On Property North of Treatment Plant**

Mr. Correa presented revised Contract No. 2009-16 (revision based on direction received at the July meeting) for the Board’s consideration. Mr. Correa noted that Bill O’Brien, Project Engineer from Hawks and Associates, was in attendance to answer questions.

The Board discussed the benefit of obtaining the information this contract will provide about the properties adjacent to the Treatment Plant.

Buz Bonsall, owner of the properties that are the subject of this study, addressed the Board responding to questions related to his property.

**ACTION**

Director Curtis made a motion, seconded by Director Lotts to authorize the Chairman to sign Contract No. 2009-16 between the District and Hawks and Assoc for consulting services, in an amount not to exceed \$9,800; and to adopt Budget Adjustment No. 2010-03 transferring \$9,800 from the Treatment Plant Expansion Reserve into the Major Expenditures-Office account to cover the cost of Contract No. 2009-16.

Pat Baggerly, Environmental Coalition, addressed the Board expressing her opinion that it is premature for the District to be spending money on just one property prior to conducting a CEQA review of a proposed purchase. Ms. Baggerly questioned why the Board would not consider imminent domain on the Brooks property south of the Treatment Plant, noting imminent domain of the Bonsall property north of the Treatment Plant was mentioned at a prior meeting. Ms. Baggerly also questioned if the District knows whether proper permits were received prior to fill material being placed on the Bonsall property following the 1969 flood.

Mr. Bonsall responded to Ms. Baggerly explaining that his family did not own the property in 1969 so he does not know about the permitting or the origin of the fill material.

**VOTE**

The vote on the preceding motion was taken at this time. The motion passed with a 4 to 3 roll call vote, with Directors Galgas, Greene and Baggerly voting nay.

It was agreed that a discussion about acquisition of other properties for satellite water reclamation plants would be postponed until a later date; no Special Meeting to discuss this issue was set at this time.

14. **California Special Districts Association – Board Elections**

**ACTION**

Upon motion of Director Baggerly, seconded by Director Galgas and duly passed John R. (Jack) Curtis was selected as the candidate on the CSDA ballot to vote for to fill Region 5's Seat A on the CSDA Board of Directors; and staff was directed to cast the ballot for Mr. Curtis and to return the ballot to the CSDA office prior to the deadline of September 16, 2009.

15. **Illegal Connection Ad Hoc Committee – Change to Standing Committee**

Changing the Illegal Connection Ad Hoc Committee to a Standing Committee was discussed. Mr. Zirbel reviewed the Government Code (Brown Act) addressing Ad Hoc and Standing Committees. Mr. Zirbel noted that Ad Hoc Committees generally cover a limited subject and are of limited duration.

Mr. Zirbel stated that the topic this Committee is tasked with will require a lengthy duration; consequently, he recommended this Committee be changed to a Standing Committee.

**ACTION**

Upon motion of Director Baggerly, seconded by Director Burg and duly passed, with District Greene voting nay, the Illegal Sewer Connections Committee should be changed to a Standing Committee; and staff was directed to revise the Bylaws to reflect the change in the Standing Committees and was directed to place the revised Bylaws on the September 28, 2009 meeting for adoption.

**CHAIRMAN KAISER ANNOUNCED THAT AGENDA ITEM NOS. 17 – 23 WOULD BE ADDRESSED PRIOR TO ITEM NO. 16, CLOSED SESSION**

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

Title: General Manager annual evaluation.

**INFORMATION ITEMS – FOR RECEIPT & FILE**

17. **Monthly Financial Reports**

Received and filed.

18. **Monthly Investment Report**

Received and filed.

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

Received and filed.

20. **Committee Reports**

Received and filed.

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

All the Directors attended the recent California Association of Sanitation Agencies (CASA) conference; reports of the topics covered during the conference were presented. Director Baggerly submitted a written report that was included in the Board Packet. Topics covered at the conference included a report from the CASA Committee that was formed to investigate how much support they could obtain to initiate State legislation to establish statewide requirements on sewer laterals at the point of sale; the work of this Committee has come to a standstill based on negative feedback from some CASA agencies and the realtor groups. Other topics discussed included the State Water Resources Control Board attempt to establish policy for all the Regional Boards to follow, instead of allowing each Regional Board to interpret rules; this is aimed at having consistent standards across the State. Also discussed was Safe Drugs Disposal Program and solar power as a cheap and renewable energy source.

The Directors also reported on their attendance at CSRMA's training held the day before the CASA conference began. The CSRMA training topic was titled 'Leadership Inside Out' which emphasized that leadership is not management, it is about people.

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

Received and filed.

23. **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

Mr. Correa passed around a sampling of a pipe product being used in the Ventura Avenue Improvement project for the Board's information.

**CHAIRMAN KAISER AJOURNED THE MEETING TO A RECESS AT 9:16 P.M.**

**CHAIRMAN KAISER RECONVENED THE MEETING AT 9:26 P.M.**

**BACK TO ITEM NO. 16**

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

Title: General Manager annual evaluation.

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

Chairman Kaiser convened the Board to closed session at 9:35 p.m. Mr. Sheets, Mrs. Krout, and District Legal Counsel left the meeting.

Chairman Kaiser reconvened the meeting to opening session at 10:06 p.m. announcing that no action was taken during the closed session.

24. **Adjournment**

Chairman Kaiser adjourned the meeting at 10:06 p.m.

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John R. (Randy) Burg, Secretary

**APPROVED:**

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Peter M. Kaiser, Chairman