

Orange County Sanitation District

MINUTES BOARD MEETING MAY 22, 2002



**ADMINISTRATIVE OFFICES
10844 ELLIS AVENUE
FOUNTAIN VALLEY, CALIFORNIA 92708-7018**

ROLL CALL

A regular meeting of the Board of Directors of the Orange County Sanitation District was held on May 22, 2002, at 6:30 p.m., in the District's Administrative Offices. Following the Pledge of Allegiance and invocation the roll was called and the Secretary reported a quorum present as follows:

ACTIVE DIRECTORS

ALTERNATE DIRECTORS

| | | | |
|---|-------------------------------|---|---------------------|
| X | Norman Z. Eckenrode, Chair | | Constance Underhill |
| X | Shirley McCracken, Vice Chair | | Tom Daly |
| X | Mike Alvarez | | Mark A. Murphy |
| X | Steve Anderson | | Steve Simonian |
| X | Don Bankhead | | Jan Flory |
| X | Patricia Campbell | | John Larson |
| X | Brian Brady | | Darryl Miller |
| X | Debbie Cook | | Connie Boardman |
| X | Laurann Cook | | Larry Crandall |
| X | Brian Donahue | | David Shawver |
| X | James M. Ferryman | | Arlene Schafer |
| | John M. Gullixson | X | Michael Duvall |
| X | Alice B. Jempsa | | Arthur DeBolt |
| X | Tony Kawashima | | Tracy Worley |
| X | Beth Krom | | Greg Smith |
| X | Mark Leyes | | Bruce Broadwater |
| X | Pat McGuigan | | Alberta Christy |
| X | Roy Moore | | Marty Simonoff |
| X | Joy Neugebauer | | Grace Epperson |
| X | Russell Patterson | | Richard A. Freschi |
| X | Anna L. Piercy | | Tim Keenan |
| X | Tod Ridgeway | | Gary Adams |
| X | Jerry Sigler | | Jim Dow |
| A | Jim Silva | | Chuck Smith |
| X | Paul Walker | | Kenneth Blake |

STAFF MEMBERS PRESENT: Blake P. Anderson, General Manager; Penny Kyle, Board Secretary; Bob Ghirelli; Dave Ludwin; Greg Mathews; Patrick Miles; Lisa Murphy; Bob Ooten; Gary Streed; Lisa Tomko; Jan Collins; John Linder; Jeff Reed;

OTHERS PRESENT: Thomas L. Woodruff, General Counsel; Doug Johnson; Trung Minh Thai; Don Slaven; Linda Nicholes; Paul Maguera; Hoynh Hoa Thi Le; Kent Huynh; Rob Nelson; Roy Nakamora; Robert Caustin; Irwin Haydock; Lisa Rosen; Doug Korthof; Vangee Oberschlake; Bill Orton; Robin Rustan; Joey Racano; Jan Vandersloot; Don Schulz; John Earl; Stephanie Barga; Greg Jewell; Larry Porter; Lisa Rosen; Christie Peck; Don McGee; Allan Beek; Nancy

Donaven; Samuel Fuller; Richard Stuetzel; Bob Lockhart; R. Thatcher; Bill Everest; Frank Gifford; Rodolfo Salvador; G. VanDrie; Maria E. Wright; Terry E. Lane; Gary Brenner; Helen Cranz; Blandina Bryant; Gary Schultz

PUBLIC COMMENTS

Chair Eckenrode recognized Chris Townsend of Townsend Public Affairs who updated the Directors on the Groundwater Replenishment System project. He reported the project received funding of \$30,000,000 from the State Department of Water Resources, which is the single largest grant from their program. A public hearing was held the day before. A final decision will be made on June 10th. The project will face funding challenges by the Central West Basin as they did not receive any funding at all.

Chair Eckenrode reported that the remaining portion of public comments would be heard after closed session.

4. CONVENE IN CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 54957.6 and 54956.9: The Board convened in closed session at 6:50 p.m., pursuant to Government Code Sections 54957.6 and 54956.9, to discuss Agenda Item Nos. 4 (a)(1), (2) and (3). Confidential Minutes of the Closed Session held by the Board of Directors have been prepared in accordance with California Government Code Section 54957.2, and are maintained by the Board Secretary in the Official Book of Confidential Minutes of Board and Committee Closed Meetings. No reportable action was taken re Agenda Item Nos. 4(a)(1), (2) and (3).

RECONVENE IN REGULAR SESSION: At 8:12 p.m., the Board reconvened in regular session.

RESOLUTION OF COMMENDATION

MOVED, SECONDED AND DULY CARRIED: That the Board of Directors adopt a Resolution of Commendation expressing appreciation to outgoing Director Shawn Boyd for his contribution and dedication to public service upon his retirement from the District.

5. PUBLIC COMMENTS

The following persons spoke about ocean discharge issues and expressed their opposition to the waiver: Vangee Oberschlake; Bill Orton; Robin Rustan; Joey Racano; Jan Vandersloot; Don Schulz; John Earl; Linda Nicholes; Stephanie Barga; Greg Jewell; Larry Porter; Doug Korthof; Lisa Rosen; Christie Peck; Don McGee; Don Slaven; Allan Beek; Nancy Donaven; Samuel Fuller; Rob Nelson.

Public Comments made regarding proposed Ordinance No. 18 are reflected under Agenda Item No. 19.

REPORT OF THE CHAIR

Chair Eckenrode presented Gary Streed, Director of Finance, with two awards the District earned for financial reporting: (1) the Government Finance Officers Association Certificate of Achievement for Excellence in Financial Reporting for the Comprehensive Annual Financial Report, and (2) the Distinguished Budget Presentation award. The District has won both of these awards for the last several years.

It was then announced that a special Board meeting would be held on Wednesday, June 19th beginning at 6:00 p.m. This meeting is for a presentation on the technical, financial, regulatory and public participation elements of the treatment level decision. This meeting will complete the round of special meetings designed to provide the Board of Directors with an overview of all of the major issues related to the ocean discharge decision.

The Chair reviewed the June committee meetings, and reported that the OMTS Committee would not be participating in a tour at Plant 2. The Directors were reminded that the operating committees would not be meeting in July, but will resume with the regular schedule in August.

REPORT OF THE GENERAL MANAGER

The General Manager had no report.

REPORT OF THE GENERAL COUNSEL

General Counsel Thomas L. Woodruff reported on two items of litigation. The case entitled Tran v. Orange County Sanitation District had been settled for \$95,000. He also reported that property damage case in Newport Beach involving a District's contractor who installed new facilities has been settled for \$40,000. This case involved a home that suffered damages due to the contractor's pile driving which was approximately 12 feet away from the residence. The District and the contractor shared equally in the settlement costs.

Mr. Woodruff then reported that the Steering Committee is recommending that an item be added to the agenda which arose subsequent to the posting of the agenda and which requires action at this time.

MOVED, SECONDED AND DULY CARRIED: (1) Find that the matter arose subsequent to the posting of the Agenda, pursuant to authority of California Government Code Section 54954.2(b)(2); and (2) Add Item No. 23 to the Agenda, authorizing the General Manager to enter into purchase agreements for equipment and to bid, as necessary as an expedited procedure, for construction needed in connection to the Short-Term Outfall Bacteria Reduction Project, Job No. J-87, relative to an expedited procedure.

NOMINATIONS FOR CHAIR OF THE BOARD OF DIRECTORS

This being the annual meeting fixed by the Board at which nominations are to be made for the office of Chair of the Orange County Sanitation District, the Secretary declared the nominations open.

Directors Shirley McCracken and Brian Brady were then nominated as candidates for the office of Chair of the Orange County Sanitation District. It was pointed out that nominations would remain open until the regular June Board meeting. The Secretary reported that the election would be held on June 26, 2002 in accordance with the Board's Rules of Procedure for the Conduct of Business of the District. Nominations and elections of a Vice Chair will also be held at the regular June meeting.

APPROVAL OF MINUTES

The Chair ordered that the minutes of the regular meeting held March 27, 2002 be deemed approved, as mailed.

RATIFICATION OF PAYMENT OF CLAIMS

MOVED, SECONDED AND DULY CARRIED: Ratify payment of claims set forth on exhibits "A" and "B", attached hereto and made a part of these minutes.

| <u>ALL DISTRICTS</u> | <u>04/15/02</u> | <u>04/30/02</u> |
|----------------------|-----------------|-----------------|
| Totals | \$10,159,129.46 | \$4,912,991.68 |

Director Mark Leyes abstained.

CONSENT CALENDAR

10. a. MOVED, SECONDED AND DULY CARRIED: (1) Receive and file petition from Gene Sobel requesting annexation of 0.505 acres to the District in the vicinity of Via Vista Drive and Cooks Corner in an unincorporated area of Orange County; and (2) Adopt Resolution No. OCSD 02-08, authorizing initiation of proceedings to annex said territory to the District (Proposed Annexation No. OCSD-24 - Sobel Annexation).
- b. MOVED, SECONDED AND DULY CARRIED: Ratify Change Order No. 2 to Purchase Order No. 100535-0B, issued to OCB Reprographics for Specification No. 9900-05, for an additional amount of \$14,000, for a total amount not to exceed \$124,000, providing for additional copying services.
- c. MOVED, SECONDED AND DULY CARRIED: Receive and file Summons and Complaint, Pall Corporation v. Orange County Sanitation District, et al., Orange County Superior Court Case No. 02CC06622, and authorize General Counsel to appear and defend the interests of the District.

NON-CONSENT CALENDAR

12. DRAFT STEERING COMMITTEE MINUTES: A verbal report was presented by Director Eckenrode, Chair of the Steering Committee, re the May 22, 2002 meeting.

Committee Chair Eckenrode reported Directors Gullixson, Neugebauer, Piercy and Silva attended the CASA meeting held on May 1st-4th. The meeting covered a wide range of issues related to pending legislation and new environmental and employment laws. The Committee was given an update on the status of the Maddox Bill, which has been approved by the Assembly Appropriations Committee and is now before the full Assembly for consideration. A progress report was also provided on the Harman Bill which has moved successfully through the Assembly and has been referred to the Senate.

The Steering Committee directed Mr. Anderson to send a letter to SAWPA requiring early resolution of the \$3 million that SAWPA owes the District for work on the SARI Line relocation project. The Committee also directed staff to charge new connection charges consistent with the adopted fee schedules, but to allow time payments for large sums due. Staff was also asked to prepare a white paper discussing the pros and cons and summary of the logistics of placing a ballot measure regarding the ocean discharge question on the November ballot.

The Committee determined it would recommend to the full Board that Agenda Item No. 16(c) be referred back to the Joint Groundwater Replenishment System Cooperative Committee.

In preparation for the upcoming June 26th Board meeting, staff was to continue to assume a decision would be made at the meeting on the level of treatment, and staff was directed to provide an outline of the alternatives without a recommendation. It was also determined that the June 26th Board meeting would begin at 6:30 p.m., and immediately go into closed session. The meeting should reconvene into open session at 7:00 p.m.

The Chair then ordered the draft Steering Committee Minutes for the meeting held on April 24, 2002 to be filed.

13. **DRAFT OPERATIONS, MAINTENANCE AND TECHNICAL SERVICES COMMITTEE MINUTES:** A verbal report was presented by Director McGuigan, Chair of the Operations, Maintenance and Technical Services Committee, re the May 1, 2002 meeting. Director McGuigan reminded the members of the Committee that the meeting for June 5th would be held at Plant 1 at 5:00 p.m. The tour at Plant 2 had been cancelled.

The Chair then ordered the draft Operations, Maintenance and Technical Services Committee Minutes for the meeting held on May 1, 2002 to be filed.

- c. **MOVED, SECONDED AND DULY CARRIED:** Approve Amendment No. 6 to Agreement for Removal and Disposal/Reuse of District's Residual Solids with Synagro West, Inc. (formerly known as Pima Gro Systems, Inc.), providing for an extension of the contract for the period July 1, 2002 through June 30, 2005, with two additional one-year extensions, at the current all-weather cost of \$39.50 per wet ton of biosolids managed for an annual amount not to exceed \$2,054,000.

14. DRAFT PLANNING, DESIGN AND CONSTRUCTION COMMITTEE MINUTES: A verbal report was presented by Director Anderson, Chair of the Planning, Design and Construction Committee, re the May 2, 2002 meeting.

The Chair then ordered the draft Planning, Design and Construction Committee Minutes for the meeting held on May 2, 2002 to be filed.

- c. MOVED, SECONDED AND DULY CARRIED: (1) Ratify Change Order No. 7 to Chemical Facility Modifications, Job No. P1-46-2, and Chemical Flow Pacing for Primary Influent, Job No. J-53, with SS Mechanical Corporation, authorizing an addition of \$4,784 and a time extension of 28 calendar days, increasing the total contract amount to \$2,676,925; and (2) Accept Chemical Facility Modifications, Job No. P1-46-2, and Chemical Flow Pacing for Primary Influent, Job No. J-53, as complete, authorizing execution of the Notice of Completion and approving the Final Closeout Agreement.
- d. MOVED, SECONDED AND DULY CARRIED: Approve Addendum No. 2 to the Professional Services Agreement with Black & Veatch Corporation for Effluent Pump Station Annex, Job No. J-77, providing for additional design engineering services in the amount of \$229,600, for a total amount not to exceed \$3,711,523.

15. DRAFT FINANCE, ADMINISTRATION AND HUMAN RESOURCES COMMITTEE MINUTES: A verbal report was presented by Director Leyes, Vice Chair of the Finance, Administration and Human Resources Committee, re the May 8, 2002 meeting.

The Chair ordered the draft Finance, Administration and Human Resources Committee Minutes for the meeting held on May 8, 2002 to be filed.

- c. MOVED, SECONDED AND DULY CARRIED: Receive and file Treasurer's Report for the month of April 2002.
- d. MOVED, SECONDED AND DULY CARRIED: Receive and file the 2001-02 Third Quarter Financial Report for the period ending March 31, 2002.
- e. MOVED, SECONDED AND DULY CARRIED: Receive and file Quarterly Investment Management Program Report for the period January 1, 2002 through March 31, 2002.
- f. MOVED, SECONDED AND DULY CARRIED: Renew the District's Boiler & Machinery Insurance Program for the period May 15, 2002 to May 15, 2003, with CNA Insurance Company, in an amount not to exceed \$91,696.
- g. MOVED, SECONDED AND DULY CARRIED: Approve SAFETY-POL-104 and 106, as provided for in Resolution No. OCSD 02-5, regarding the District's Injury and Illness Prevention Program Policy.

- h. It was moved and seconded to consider adoption of Resolution No. OCSD 02-09, Amending Resolution No. OCSD 98-33, Amending Human Resources and Policies Procedures Manual, providing for (1) Change the title and pay range of current Engineering Contracts Administrator classification at pay range E7 (\$4,469 - \$6,324) to Principal Contracts Administrator at pay range E12 (\$5,708 - \$8,076); and (2) Create Employee Development Supervisor classification at pay range E11 (\$5,430 - \$7,683).

Directors were concerned with a possible conflict regarding the approval of the item and direction given in closed session earlier that evening. Directors entered into discussion on the need to be competitive in the market place. Lisa Tomko, Director of Human Resources, advised that the District generally hires employees at mid-point of a salary range. A substitute motion was then made to defer Item 15(h) until receipt of the final report. The substitute motion failed.

MOVED, SECONDED AND DULY CARRIED: Adopt Resolution No. OCSD 02-09, Amending Resolution No. OCSD 98-33, Amending Human Resources and Policies Procedures Manual, providing for (1) Change the title and pay range of current Engineering Contracts Administrator classification at pay range E7 (\$4,469 - \$6,324) to Principal Contracts Administrator at pay range E12 (\$5,708 - \$8,076); and (2) Create Employee Development Supervisor classification at pay range E11 (\$5,430 - \$7,683).

There were five no votes on this item.

- 16. DRAFT JOINT GROUNDWATER REPLENISHMENT SYSTEM COOPERATIVE COMMITTEE MINUTES: A verbal report was presented by Director Russ Patterson, representative on the Joint Groundwater Replenishment System Cooperative Committee, re the meeting held on May 13, 2002.

Director Patterson urged the Directors to read the minutes of May 13th regarding the discussion between Board members and the project. The Orange County Water District's new general manager has asked for a study asking questions that have already been answered previously.

Director Patterson also reported that the total amount of grants awarded to this project to date is \$91,234,556. The committee was also informed that Tom Dawes, the project manager of the project, would be retiring on May 24th.

The Chair ordered the Joint Groundwater Replenishment System Cooperative Committee Minutes for the meeting held on April 22, 2002 to be filed.

- c. Item removed.

- 17. MOVED, SECONDED AND DULY CARRIED: (1) Approve plans and specifications for Fiber Optics Extension at Plant No. 2, Job No. SP2000-61, on file at the office of the Board Secretary; (2) Approve Addendum No. 1 to the plans and specifications; (3) Receive and file bid tabulation and recommendation; and (4) Award a Construction

Contract to Manuel Bros., Inc. for Fiber Optics Extension at Plant No. 2, Job No. SP2000-61, for an amount not to exceed \$243,500.

18. **MOVED, SECONDED AND DULY CARRIED:** (1) Approve Addendum No. 1 to plans and specifications for Landscape and Irrigation at Plant No. 2, Job No. P2-84, on file at the office of the Board Secretary; (2) Receive and file bid tabulation and recommendation; and (3) Award a construction contract to Green Giant Landscape, Inc. for Landscape and Irrigation at Plant No. 2, Job No. P2-84, for an amount not to exceed \$400,426.

19. Consideration of the following actions relative to proposed Ordinance No. OCSD-18, An Ordinance of the Board of Directors of Orange County Sanitation District Adopting Sewer Service Charges; Adopting Capital Facilities Connection Charges; Establishing Miscellaneous Charges and Fees Relating to Industrial Dischargers, Source Control Permittees and Wastehaulers; and Repealing Ordinance No. OCSD-15:

a. General Counsel Thomas L. Woodruff gave a brief report on the proposed ordinance, which increases the sewer service fees effective July 1, 2002.

b. The Board Secretary reported that a total of 184 written comments had been received regarding the sewer service fee, of which 161 opposed the rate increase and 23 were in support of the rate increase.

MOVED, SECONDED AND DULY CARRIED: That the written comments be received and ordered filed.

c. **OPEN HEARING:** The Chair declared the hearing opened at 9:58 p.m. The Chair recognized the following persons who addressed the Board regarding the sewer service fee increase:

Richard Stuetzel, Villa Park, questioned why rates could not be based on occupancy rather than a flat rate for single families.

Bob Lockhart, Westminster, opposed the rate increase based on information he had obtained that multiple parcels throughout the District's jurisdiction have not been billed the sewer service charge for the last four years. He also identified some of the larger users of sewer service in the County, and claimed their assessments for the last four years were not commensurate with the usage.

Rich Thatcher, Newport Beach, questioned why a rate increase was needed. He was also confused with language in the notice and tax bill, references containing sewer charge, user rates and assessments.

Tom Woodruff, General Counsel, responded to Mr. Thatcher's questions. He explained that the language in the Ordinance is almost identical to language in the state law by which the District must adhere. He further explained that the county tax collector has chosen to use the word "assessment" on the tax bills.

He assured Mr. Thatcher the charge was not an assessment, and that sewer charge is the correct terminology.

Gary Streed, Director of Finance, stated the rate increase is required to fund additional costs, which are both operational and maintenance, as well as a portion of the capital improvement program.

Bill Orton, Seal Beach, urged the Board of Directors to not raise rates.

Randy Fuhrman, Huntington Beach, spoke in support of the rate increase.

Anita Bryant, Santa Ana, spoke against the rate increase and was concerned that senior citizens on a fixed income would not be able to afford increase.

Helen Cranz, Midway City, requested the District find another way to charge individuals and businesses for their fair share. She was concerned over multiple families living in one home paying the same rate as a two-person family pays.

Bob Eden, Midway City, questioned the rate structure applied to large industrial users, and asked if and how the water was metered.

Gary Streed, Director of Finance, then explained the District's fee formula: (1) Residential rates are collected on the property tax bill; (2) There are approximately 20 rates for non-residential properties based on the type of business; and (3) A separate set of fees applies to about 400 users called permit users, due to the type or amount of discharge they have. This fee is billed directly to the company based on actual flow and strength of wastewater measured in BOD and solids.

- d. CLOSE HEARING: There being no further public comments, the Chair declared the hearing closed at 10:08 p.m.
- e. Director Leyes briefly commented on the process of development of more equitable fees over the last few years, which were based on very sound principles of science, engineering and finance. However, he was opposed to approval of the rate increase for those citizens in the former District 3 area.
- f.
 - 1. MOVED, SECONDED AND DULY CARRIED: Read Ordinance No. OCSD-18 by title only and waive reading of said entire ordinance.
 - 2. MOVED, SECONDED AND DULY CARRIED: Adopt Ordinance No. OCSD-18, An Ordinance of the Board of Directors of Orange County Sanitation District Adopting Sewer Service Charges; Adopting Capital Facilities Connection Charges; Establishing Miscellaneous Charges and Fees Relating to Industrial Dischargers, Source Control Permittees and Wastehaulers; and Repealing Ordinance No. OCSD-15.

Directors Don Bankhead and Mark Leyes opposed.

20. **MOVED, SECONDED AND DULY CARRIED:** Adopt Resolution No. OCSD 02-10, directing the County Tax Collector-Treasurer to include sanitary sewer service charges on the 2002-03 property tax bill.

21. **MOVED, SECONDED AND DULY CARRIED:** Receive and file written communication from the City of Seal Beach re appointment of Patricia Campbell for the May 22, 2002 meeting only.

22. Blake Anderson, General Manager, reported that at the April 24, 2002 meeting, the Directors had authorized him to exercise informal bidding procedures and sole source procedures for the award of contracts for the Ocean Outfall Bacteria Reduction Program, Job No. J-87, and also to purchase and award sole-source contracts for materials, equipment and services, as needed in an amount not to exceed \$600,000 and increase sole-source authorization limits for the General Manager to \$200,000 for this project only. Staff's original estimate was the disinfection of the discharge would start at the beginning of summer. However, the CEQA process will delay the disinfection process until Spring 2003.

In order to speed up the process, the Regional Water Quality Control Board (RWQCB) is considering modification to the District's discharge permit at their July board meeting. The modification would become a mandate, and the District would need to start the disinfection process immediately, which would allow the District to begin disinfection by mid-August.

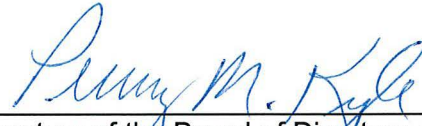
Mr. Anderson stated he would need the Board to invoke a portion of the emergency provisions to speed up the bidding procedures for contractors and procurement of equipment, with the review of the Chair of the Board of Directors.

Directors asked questions regarding overall cost of the project and if staff had a particular construction contractor in mind to negotiate a construction contract. It was estimated the total contract cost would be approximately \$4 million, and equipment would be about 1/3 of the total construction cost, and that Mr. Anderson was requesting emergency ability to negotiate with Margate Construction, who is currently on site for another project.

MOVED, SECONDED AND DULY CARRIED: (1) Authorize the General Manager, with oversight by the Chair and Vice Chair of the Planning, Design and Construction Committee, to enter into purchase agreements for equipment and to bid, as necessary as an expedited procedure, for construction needed in connection with the Short-Term Outfall Bacteria Reduction Project, Job No. J-87.

Director Debbie Cook opposed.

ADJOURNMENT: The Chair adjourned this meeting to a special meeting to be held on Wednesday, June 19, 2002 at 6:00 p.m. The Chair then declared the meeting adjourned at 10:33 p.m.



Secretary of the Board of Directors of
Orange County Sanitation District