

Orange County Sanitation District
MINUTES
BOARD MEETING
APRIL 27, 2005



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 April 27, 2005 at 7:00 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	Steve Anderson, Chair	Steve Simonian
X	James M. Ferryman, Vice Chair	Arlene Schafer
A	Don Bankhead	Leland Wilson
X	Carolyn Cavecche	Steve Ambriz
X	Alberta Christy	Mike Garcia
X	Larry Crandall	John Collins
X	Bill Dalton	Bruce Broadwater
X	Doug Davert	Tony Kawashima
X	Harry Dotson	David Shawver
X	Michael Duvall	Keri Lynn Wilson
X	Norman Eckenrode	Constance Underhill
X	Richard Freschi	Patricia Bortle
X	Jill Hardy	Debbie Cook
X	Sukhee Kang	Steven Choi
X	Phil Luebben	Lydia Sondhi
X	Patsy Marshall	Jim Dow
X	Darryl Miller	Douglas Reinhart
X	Roy Moore	John Beaman
A	Joy Neugebauer	Vivian Kirkpatrick-Pilger
X	Ken Parker	Catherine Driscoll
X	Tod Ridgeway	Don Webb
X	Harry Sidhu	Bob Hernandez
A	Jim Silva	Chuck Smith
X	Mark Waldman	Ralph Rodriguez
A	Paul Yost	Charles Antos

STAFF MEMBERS PRESENT: Carol Beekman; Bob Ghirelli; Dave Ludwin; Patrick Miles; Bob Ooten; Gary Streed; Lisa Tomko; Lilia Kovac; Penny Kyle, Board Secretary; Sonja Wassgren; Mike White, Mike Moore, Chris Pelletier; Deirdre Hunter; Paula Zeller; Anne Marie Feery

OTHERS PRESENT: Brad Hogin, General Counsel; Joe Forbath; Randy Fuhrman; Mike Markus, Pat McGuigan; John Laurenson, Jr.; Arlene Schafer

3. MOVED, SECONDED AND DULY CARRIED: Receive and file minute excerpts from the following re appointment of active and alternate Directors, as follows:

<u>City/Agency</u>	<u>Active Director</u>	<u>Alternate Director</u>
Irvine Ranch Water District	Darryl Miller	Douglas Reinhart

PUBLIC COMMENTS

Pat McGuigan addressed the Board of Directors in support of Agenda Item 12(e)(3). Ms. McGuigan served as a member of the Biosolids Advisory Committee that evaluated the biosolids proposals, and commended the skillful way that Sonja Wassgren, Principal Public Information Specialist, led the group; Jim Burror, Engineering Supervisor, provided technical support; and the facilitator, John Gavares.

Randy Fuhrman addressed the Board of Directors on Agenda Item 14(g), and requested the Directors to consider increasing the user rates to \$151 per year, an increase of approximately \$36, which would result in borrowing less to pay for the capital improvement program.

John Launson, President of ABT Haskell, informed the Directors that his company acknowledges that their proposal to process biosolids for OCS D was unfortunately submitted incomplete, and due to these incomplete areas, the proposal was considered non-responsive. He noted their process is highly efficient and requires only one-tenth of the energy usually needed for composting. Due to the company's long history of successfully processing biosolids efficiently in New York, they have received a letter of intent from San Bernardino Waste Water Plant, and are prepared to start building the facility. Mr. Launson requested the District to consider ABT as a solution to the District's biosolids placement problem in the future.

REPORT OF THE CHAIR

Chair Anderson reminded the Directors that nomination for the Board Chair position would be opened at the May 25, 2005 meeting, and elections scheduled for the June 22, 2005 meeting.

Chair Anderson then reported he and Director Ferryman attended the April 4-6 CASA meeting in Washington, D.C., and participated in panel discussions with key counsels and staff to the House and Senate Committees with jurisdiction over the Clean Water Act. They also met with Frank Cushing, Clerk and Staff Director for Chairman Jerry Lewis, and Christopher Minakowski, Legislative Assistant for Congressman Rohrabacher, to discuss the District's STAG funding request.

The CASA Spring Conference would take place April 28-30, and he was planning to attend along with Blake Anderson and Supervisor Jim Silva.

It was also noted that Blake Anderson and he were selected to receive the 2005 Annual Leadership Award by the Santa Ana Watershed Project Authority and Santa Ana Watershed Coalition.

The meeting schedule for the working committees was then reviewed for the month of May.

REPORT OF THE GENERAL MANAGER

Bob Ghirelli, Director of Technical Services reported for Blake Anderson, General Manager, who was attending Orange County Business Council's Leadership meeting in Sacramento addressing workforce development, infrastructure and housing issues, and issues concerning wastewater industry.

Chris Pelletier was recognized for 20 years of service to the District. Mr. Ghirelli presented him with a 20-year anniversary pin and a certificate for his outstanding service and dedication to the Orange County Sanitation District.

Mr. Ghirelli announced the appointment of Jim Herberg as Director of Operations and Maintenance as replacement for Bob Ooten upon his pending retirement. A search for Gary Streed's replacement has been launched and applications for the position will be taken through May 18th.

Mr. Ghirelli reported that staff scheduled a tour on May 6th for Directors to visit the proposed biosolids-to-char facility in Rialto, the Inland Empire Utilities Agency and the Los Angeles County Sanitation District composting facility in Rancho Cucamonga, as well as the IEUA/Milk Producers Council manure/biosolids composting demonstration site at the Red Star Facility in Chino.

Mr. Ghirelli also reported that the Electrical Workers Union is lobbying the Board to reject the subcontractor for the Headworks Replacement at Plant No. 2, Job No. P2-66 project which will be awarded at the May Board meeting. Dave Ludwin, Director of Engineering, reported that staff members are investigating the allegations made by the union representatives, and will report their findings to the Board in May after the investigation findings have been carefully considered.

Mike Markus, Assistant General Manager of the Orange County Water District, provided the Directors with an overview of the Groundwater Replenishment System project history and progress update. The presentation focused on the objectives to improve water quality, and provide a new sustainable water supply consisting of advanced water purification facilities, increase reliability and diversity, support an expanded barrier of existing groundwater wells, and reduce ocean discharges.

REPORT OF THE GENERAL COUNSEL

Brad Hogin, General Counsel, had no report.

APPROVAL OF MINUTES

The Chair ordered that the minutes of the regular meeting held March 23, 2005 be deemed approved.

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>03/15/05</u>	<u>03/31/05</u>
Totals	\$9,966,673.15	\$13,059,954.04

Director Luebber abstained from discussion and voting on Warrant Nos. 69549, 69589, 70189, 70277, and 70335. Director Crandall abstained from discussion and voting on Warrant No. 70166. Abstentions were pursuant to California Government Code Section 84308.

CONSENT CALENDAR

9. a. MOVED, SECONDED AND DULY CARRIED: (1) Receive and file petition from John McCreary requesting annexation of 1.22 acres to Orange County Sanitation District, in the vicinity of Meads Avenue and Orange Park Boulevard, in an unincorporated area of Orange County; and,

(2) Adopt Resolution No. OCSD 05-06, authorizing initiation of proceedings to annex said territory to OCSD (Proposed Annexation No. OCSD-49 – McCreary Annexation).
- b. MOVED, SECONDED AND DULY CARRIED: (1) Receive and file petitions requesting annexation of 2.876 acres to Orange County Sanitation District, in the vicinity of Randall Street and Clark Lane, in an unincorporated area of Orange County; and,

(2) Adopt Resolution No. OCSD 05-07, authorizing initiation of proceedings to annex said territory to OCSD (Proposed Annexation No. OCSD-50 – Sullivan Annexation).
- c. MOVED, SECONDED AND DULY CARRIED: Approve Utility Agreement No. 12-UT-856 with the State of California Department of Transportation (Caltrans) to adjust eleven sewer valve frames and covers, and 22 sewer manhole frames and covers on Pacific Coast Highway, from Old Newport Boulevard to Beach Boulevard within Orange County for an amount not to exceed \$12,100.
- d. MOVED, SECONDED AND DULY CARRIED: Approve an accommodation agreement with Irvine Ranch Water District (IRWD) to allow sewage flow from the City of Newport Beach to enter the IRWD system; and (2) Authorize a \$231,000 past sewage flow credit to IRWD, in a form approved by General Counsel.
- e. MOVED, SECONDED AND DULY CARRIED: Consideration of the following actions for Newport Trunk Sewer and Force Mains Replacement Project, Contract No. 5-58:

(1) Approve the Alternative 2C alignment as the Newport Trunk Sewer and Force Mains Replacement Project, as described in the Final EIR for the Newport Trunk Sewer and Force Mains Replacement Project, Contract No. 5-58, previously certified pursuant to Resolution OCSD 05-05;

(2) Authorize staff to file the Notice of Determination for the Project in accordance with the requirements of California Environmental Quality Act (CEQA) and the District's CEQA procedures; and,

(3) Authorize staff to proceed with implementation of the Newport Trunk Sewer and Force Mains Replacement Project, Contract No. 5-58.

COMMITTEE REPORTS AND RECOMMENDED ACTIONS

11. **STEERING COMMITTEE**: A verbal report was presented by Director Anderson, Chair of the Steering Committee, re the April 27, 2005 meeting.

Chair Anderson reported the Steering Committee was briefed on a matter regarding allegations about an electrical contractor on one of the Capital Improvement Projects. There was a brief discussion on the Jazz Semiconductor issue, and the GWRS-NWRI Research Center.

Consent Calendar

- a. **MOVED, SECONDED AND DULY CARRIED**: Order the Steering Committee Minutes for the meeting held on March 23, 2005 to be filed.

Non-Consent Calendar

No items considered.

12. **OPERATIONS, MAINTENANCE AND TECHNICAL SERVICES COMMITTEE (OMTS)**

OMTS Consent Calendar

- a. **MOVED, SECONDED AND DULY CARRIED**: Order draft Operations, Maintenance and Technical Services Committee Minutes for the meeting held on April 6, 2005, to be filed.
- b. **MOVED, SECONDED AND DULY CARRIED**: Adopt the revised State Office of Emergency Services Resolution with updated job titles for the purpose of obtaining Federal and/or State financial assistance.
- c. **MOVED, SECONDED AND DULY CARRIED**: Receive and file the Ocean Monitoring Program Annual Report for 2004.
- d. **MOVED, SECONDED AND DULY CARRIED**: Receive and file Compliance Summary for the 2004 Annual Report for Biosolids.

- e. **MOVED, SECONDED AND DULY CARRIED:** (1) Receive and file Biosolids Advisory Committee Final Report dated February 2005;

(2) Receive and file Biosolids Management Options White Paper dated March 16, 2005;

(3) Authorize the General Manager to negotiate final terms and conditions, in a form approved by General Counsel, for a contract with EnerTech Environmental, Inc. to manage biosolids at their facility in Rialto, California for a 10-year period, and to provide two five-year extensions at a maximum cost of \$69.40 per ton of biosolids, for an amount not to exceed \$5,500,000 per year, plus the agreed upon contract escalators, to be submitted to the OMTS and Board for final approval; and,

(4) Approve Amendment No. 1 to the Memorandum of Understanding with South Orange County Wastewater Authority (SOCWA), authorizing the General Manager to continue participation with for Phase II work including the on-going preliminary facility design, permitting, and community relations activities for the development of a composting facility at the Prima Deshecha Landfill in South Orange County, as managed by SOCWA, for an amount not to exceed \$150,000 and direct staff to report back to the OMTS Committee periodically on work progress.

Non-Consent Calendar

No items considered.

13. PLANNING, DESIGN AND CONSTRUCTION COMMITTEE (PDC)

PDC Consent Calendar

- a. **MOVED, SECONDED AND DULY CARRIED:** Order draft Planning, Design and Construction Committee Minutes for the meeting held on April 7, 2005 to be filed.
- b. **MOVED, SECONDED AND DULY CARRIED:** (1) Ratify Change Order No. 3 for the EOC Control Center and Central Lab Office Modifications, Job No. SP2001-08, with Akraa Construction Inc., authorizing an addition of \$10,320 and 59 calendar days, increasing the total contract amount to \$125,313.90, and,

(2) Accept EOC Control Center and Central Lab Office Modifications, Job No. SP2001-08, as complete, authorizing the Final Closeout Agreement.
- c. **MOVED, SECONDED AND DULY CARRIED:** (1) Ratify Change Order No. 1 to Removal of Underground Storage Tanks at Truck Wash, Plant No. 2, Job No. FE05-12, and Underground Storage Tank Remediation at Cen Gen Building, Plant No. 2, Job No. FE05-13, with JEM Industries, Inc., authorizing an additional \$16,004, and 22 calendar days, increasing the total contract amount to \$155,804; and,

(2) Accept Removal of Underground Storage Tanks at Truck Wash, Plant No. 2, Job No. FE05-12, and Underground Storage Tank Remediation at Cen Gen Building, Plant No. 2, Job No. FE05-13, as complete, authorizing the Final Closeout Agreement.

- d. MOVED, SECONDED AND DULY CARRIED: (1) Ratify Change Order No. 3 to Abandonment of Airbase Trunk Sewer – Watson Avenue , Contract No. 6-13-1, and College Avenue Pump Station Replacement Force Mains, Contract No. 7-23-1, with Mike Prlich and Sons, Inc., authorizing a credit of \$58,815, decreasing the total contract amount to \$2,530,871; and,

(2) Accept Abandonment of Airbase Trunk Sewer - Watson Avenue, Contract No. 6-13-1, and College Avenue Pump Station Replacement Force Mains, Contract No. 7-23-1, as complete, and approve the Final Closeout Agreement.

- e. MOVED, SECONDED AND DULY CARRIED: Ratify Change Order No. 19 to Primary Clarifiers 16-31 and Related Facilities, Job No. P1-37, with Margate Construction, authorizing an addition of \$116,710, increasing the total contract amount to \$71,523,137.

- f. MOVED, SECONDED AND DULY CARRIED: Ratify Change Order No. 3 to Gisler-Redhill Trunk Improvements, Reach "A", Contract No. 7-36; Orange Trunk Improvements, Contract No. 7-39; Gisler-Redhill/North Trunk Improvements, Contract No. 7-41; and City of Tustin Project Nos. 6106 and 6151, with ARB, Inc., authorizing an addition of \$571,975 and 20 calendar days, increasing the total contract amount to \$19,466,809.

- g. MOVED, SECONDED AND DULY CARRIED: (1) Ratify Change Order No. 1 for Tenant Improvements to Rebuild Shop at Plant No. 1, Job No. J-89 with Dalke and Sons Construction, Inc., authorizing an addition of \$16,011 and 80 calendar days, increasing the total contract amount to \$128,901; and,

(2) Accept Tenant Improvements to Rebuild Shop at Plant No. 1, Job No. J-89, as complete, and approve the Final Closeout Agreement.

- h. MOVED, SECONDED AND DULY CARRIED: (1) Approve a budget increase of \$1,237,054, increasing the total budget to \$6,677,533 and,

(2) Approve Amendment No. 4 to the Professional Services Agreement with Malcolm Pirnie, Inc. providing for additional engineering services for Air Quality Improvements, Job No. J-79, for an additional amount of \$1,237,054, increasing the total amount not to exceed \$3,067,601.

- i. MOVED, SECONDED AND DULY CARRIED: Approve Amendment No. 5 to the Professional Services Agreement with Tran Consulting Engineers for additional design engineering services for Sunflower Interceptor Manhole Rehabilitation, Contract No. 7-21, for an additional amount of \$66,087, increasing the total amount not to exceed \$1,202,784.

- j. **MOVED, SECONDED AND DULY CARRIED:** (1) Establish a budget for Realignment and Rehabilitation of the Big Canyon Offsite Trunk Sewer, Contract No. 5-61, in the amount of \$2,280,000;
- (2) Approve a reimbursement agreement with the City of Newport Beach for Realignment and Rehabilitation of the Big Canyon Offsite Trunk Sewer, Contract No. 5-61, in a form approved by General Counsel, for an estimated amount not to exceed \$2,000,000; and,
- (3) Authorize the General Manager to execute quitclaim deeds and purchase new easements with the Big Canyon Country Club, in a form approved by General Counsel, to satisfy right-of-way needs for the new sewer alignment.

PDC Non-Consent Calendar

No items considered.

14. FINANCE, ADMINISTRATION AND HUMAN RESOURCES COMMITTEE (FAHR)

FAHR Consent Calendar

- a. **MOVED, SECONDED AND DULY CARRIED:** Order draft Finance, Administration and Human Resources Committee Minutes for the meeting held on April 13, 2005 to be filed.
- b. **MOVED, SECONDED AND DULY CARRIED:** Receive and file Treasurer's Report for the month of March 2005.
- c. **MOVED, SECONDED AND DULY CARRIED:** Adopt Resolution No. OCSD 05-08, Adopting Policies and Procedures for the District's Records Management Program, Records Retention, and Destruction of Obsolete Records, and Repealing Resolution No. OCSD 04-07.
- d. **MOVED, SECONDED AND DULY CARRIED:** Authorize the General Manager to issue a purchase order contract to Dharma Consulting to provide continuing professional services to assist executive and senior staff with ongoing strategic planning, executive management team coaching and team development; and staff team building, for a monthly amount not to exceed \$15,000, for up to 12 months, for a total amount not to exceed \$180,000.
- e. **MOVED, SECONDED AND DULY CARRIED:** Approve new non-residential user fee codes for Laundromats and Nightclubs, and set the user fee rates equivalent to 1,800 percent and 200 percent of the Single-Family Residential Rate per 1,000 Square Feet, respectively; and adjust the user fee rate for Motels downward from 97 percent to 70 percent of the Single-Family Residence rate per 1,000 square feet.

- d. **MOVED, SECONDED AND DULY CARRIED:** Approve a consulting service agreement for External Financial Auditing Services, Specification No. CS-2005-217, with Conrad & Associates for a five-year period beginning with the audit of the financial statements for FY 2004-05, at the following maximum annual fees:

<u>FY Being Audited</u>	<u>FY of Auditing Services Contract</u>	<u>Maximum Annual Fees</u>
FY 2004-05	FY 2005-06	\$46,550
FY 2005-06	FY 2006-07	47,795
FY 2006-07	FY 2007-08	49,040
FY 2007-08	FY 2008-09	50,315
FY 2008-09	FY 2009-10	51,590

FAHR Non-Consent Calendar

- e. **MOVED, SECONDED AND DULY CARRIED:** Ordinance No. OCSD-26, An Ordinance of the Board of Directors of Orange County Sanitation District Establishing Sanitary Sewer Service Charges; Establishing Capital Facilities Capacity Charges; Adopting Miscellaneous Charges and Fees Relating to Industrial Charges, Source Control Permittees and Wastehaulers, and Repealing Ordinance No. OCSD-24:

Adopting Revised Table B re Property Use Classifications for Commercial or Industrial Users, and Revised Table E re Administrative Fees and Charges Relating to Permittees, and Reaffirming All Other Charges

Director Moore, FAHR Committee Chair, gave a brief report on last year's increase of \$15, and the proposed rate increase for 2005/06 of \$17 additional per year, bringing the annual user fee to \$132, an increase of approximately 15%.

Directors entered into discussion about the merits of an increase to \$151 per year, based on the maximum allowable per the public notice in 2003. A larger increase would limit the amount of borrowing needed to meet the requirements for an aggressive capital improvement program and to meet full secondary treatment needs by 2012. A comparison of rates nationwide showed that even with the larger increase, OCSD's rates would still be one of the lowest.

Chair Steve Anderson noted that he did not think the federal funds would be available in the amounts requested due to the costs incurred for the war in Iraq.

A motion was made and seconded to increase the user rates to \$151 for Fiscal Year 2005/06.

General Counsel Hogin clarified that the ordinance could be introduced for either the proposed rates or the higher, noticed rate of \$151.

- a. **MOVED, SECONDED AND DULY CARRIED:** Read Ordinance No. OCSD-26 by title only and waive reading of said entire ordinance.

In response to Directors' questions, Gary Streed, Director of Finance, clarified the rate increases adopted for the past two years, and the rates that were publicly noticed in 2003. He noted that the Board of Directors could increase the user rates to those rates contained in the public notice. At that time staff recommended approximately 20% rate increases for 5 years. The Board of Directors would not accept those increases and discussed alternatives between 10-20%. A 15% increase was then approved, and staff reset the budget according to the approved rate increases. Mr. Streed noted that staff supports implementing the higher rate increase of \$36 per year, which would eventually level user fee increases in the future by reducing the amount of borrowing.

General Counsel clarified that a simple majority could vote to introduce the proposed ordinance at the higher rates. However, the adoption of the ordinance the following month would require a two-thirds vote of the Board of Directors.

- b. **MOVED, SECONDED AND DULY CARRIED:** To modify the proposed Ordinance No. OCSD-26 to increase the user rate to the maximum allowable, which is \$151 per year; introduce Ordinance No. OCSD-26, and pass to second reading and public hearing on May 25, 2005.

Directors Cavecche; Christy; Crandall; Dalton; Dotson; Eckenrode; Kang; Marshall and Sidhu opposed.

15. GWR SYSTEM STEERING COMMITTEE (GWRSSC)

GWRSSC Consent Calendar

Director Duvall, Vice Chair of the GWR System Steering Committee, reported that at the meeting held on April 11th, they were advised of problems were encountered while digging a tunnel under the Santa Ana Freeway, and auguring equipment jamming into old construction materials that had been buried from previous projects, causing damage to equipment estimated at \$500,000 in repair costs.

- a. **MOVED, SECONDED AND DULY CARRIED:** Order Joint Groundwater Replenishment System Cooperative Committee Minutes for the meetings held on March 14, 2005 to be filed.

GWRSSC Non-Consent Calendar

No items considered.

NON-CONSENT CALENDAR

16. **MOVED, SECONDED AND DULY CARRIED:** Authorize the General Manager to negotiate and complete a transaction with Natsource LLC for the exchange of up to 130 lbs/day of District owned Oxides of Sulfur (SOx) Emission Reduction Credits for up to 130 lbs/day of Oxides of Nitrogen (NOx) Emission Reduction Credits; for a not to exceed cost of \$1,000 for filing the transaction with the SCAQMD.

17. **CONVENE IN CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.9 AND 54956.8:** The Board convened in closed session at 8:31 p.m. pursuant to Government Code Sections 56956.9 and 56956.9(b). 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. A report of action taken will be publicly reported at the time the approved action becomes final re Agenda Item 17(a)(2).

RECONVENE IN REGULAR SESSION: The Board reconvened in regular session at 9:26 p.m.

General Counsel reported to the public of the actions taken during closed session as follows:

Agenda Item No. 17(a)(1), the Directors agreed to approve an MOU, thereby settling all litigation with SAWPA;

Agenda Item 17(a)(3), General Counsel was directed to defend the District in the Andino, et al. v. Orange County Sanitation District, et al., Orange County Superior Court Case No. 05CC00054;

Agenda Item No. 17(a)(4), General Counsel was directed to refrain from seeking Supreme Court review re Orange County Sanitation District, et al., v. County of Kern, et al., Tulare County Superior Court Case No. 189564.

18. Director Miller requested a report summarizing the history of board deliberations on the rate increase.

ADJOURNMENT: The Chair declared the meeting adjourned at 9:30 p.m.

Penny M. Kyle
Secretary to the Board of Directors of
Orange County Sanitation District