

**THE REGULAR MEETING
OF THE
BOARD OF DIRECTORS
TRABUCO CANYON WATER DISTRICT
MARCH 21, 2012**

The Regular Meeting of the Board of Directors of the Trabuco Canyon Water District (TCWD) was called to order by President Mandich at 7:00 p.m. at Trabuco Canyon Water District's office located at 32003 Dove Canyon Drive, Trabuco Canyon, California. Teresa Teichman, Secretary to the Board of Directors, recorded and transcribed the minutes thereof.

DIRECTORS PRESENT

Ed Mandich, President
Jim Haselton, Vice President
Glenn Acosta, Director
Mike Safranski, Director

DIRECTORS ABSENT

Matt Disston, Director

STAFF PRESENT

Don Chadd, General Manager
Hector Ruiz, District Engineer
Teresa Teichman, Secretary to the Board of Directors
Michael Perea, Special Projects Manager

LEGAL COUNSEL PRESENT

Robert E. Anslow, District Legal Counsel
Melanie Poturica, Special Legal Counsel
Margot Nelson, Appellant Legal Counsel

PUBLIC PRESENT

There were several members of the public present.

PLEDGE OF ALLEGIANCE

President Mandich led the Board and staff in the pledge of allegiance.

VISITOR COMMENTS

There were no visitor comments.

ORAL COMMUNICATION

There were no oral comments.

DIRECTOR’S COMMENTS

President Mandich provided information from Director Disston announcing his resignation from TCWD Board of Directors, effective May 2, 2012. President Mandich also commented on the water level in Dove reservoir.

Vice President Haselton commented on the good fortune of the recent rain as it relates to the harvest of water.

Director Acosta provided a recap of the Santiago Aqueduct meeting he recently attended.

REPORT FROM THE GENERAL MANAGER

Mr. Don Chadd, General Manager, reviewed information provided to each Director which included Director Disston’s letter of resignation, monthly residential water consumption, membership acknowledgement from AWWA, information relating to ACWA/JPIA and the Health Benefit Authority, and lastly, the Director appointment to MWDOC’s Division 3.

Mr. Chadd stated there are no recaps or minutes this month for the Board to approve on the consent calendar. Information will be brought to the Board for approval at the time of the next Regular Board meeting on April 18, 2012.

ITEMS TOO LATE TO BE AGENDIZED

There were no items too late to be agendized.

CONSENT CALENDAR

President Mandich announced that all matters under the Consent Calendar would be approved by one motion unless a Board Member requests a separate action on a specific item.

ACTION CALENDAR

President Mandich stated that the General Manager and staff had reviewed all matters under the Action Calendar prior to the Board’s consideration.

MOTION: A motion was made by Director Acosta and seconded by Vice President Haselton to approve the Consent Calendar, Item Nos. 1A through 1C. The motion carried 4-0 with Director Disston absent.

FINANCIAL MATTERS

ITEM NO. 1D: RATIFICATION OF DIRECTORS’ FEES AND EXPENSES AND FUTURE MEETINGS AND ATTENDANCE ITEMS

Mr. Chadd stated the Directors’ attendance, fees, expenses, and future meeting schedule is normally provided within the consent calendar, however; due to unavoidable circumstances this month, the information is presented in each Directors Red Folder for review and approval. Director Acosta noted he was unable to attend two scheduled events.

MOTION: A motion was made by Director Acosta and seconded by Director Safranski to approve Item 1D, including the changes noted by Director Acosta. The motion carried 4-0 with Director Disston absent.

ADMINISTRATIVE MATTERS

ITEM NO. 1E: DISCUSSION REGARDING THE GENERAL MANAGER'S SALARY AND COMPENSATION

Mrs. Teichman, Secretary to the Board of Directors, distributed an e-mail correspondence to each Board member, per the request of a customer. Mr. Chadd spoke to this item advising the Board this matter is continued from February's Regular Board meeting, at which time the Board discussed the General Manager's (GM) annual performance evaluation in closed session. Mr. Chadd stated that he makes no recommendation as it relates to salary and turned discussion over to the Board.

Director Acosta stated he is of the opinion the GM has provided good stewardship for this district as it relates to projects and community relations. Director Acosta discussed recent rate increases to district customers and stated he is sensitive to these hard economic times and recommends holding the GM's salary where it is at and offering other forms of recognition such as additional vacation time.

Director Safranski stated he agrees with Director Acosta's assessment of the GM's performance and stated there never is a good time to raise rates. Director Safranski commented that the GM's insight and focus has guided this District and he asked Mr. Chadd if he has any expectations relating to compensation. Mr. Chadd replied he has no expectations and feels he is fairly compensated. Mr. Chadd suggested the possibly of additional vacation time for the Board's consideration. President Mandich asked Mr. Chadd how much annual vacation he currently receives. Mr. Chadd replied four weeks.

Vice President Haselton commented that the GM ensures the District has good sanitation in addition to good water. District growth was discussed along with District projects which assist in the re-use of water to reduce costs. Vice President Haselton expressed he is comfortable in providing the GM with more time off. President Mandich commented that the GM is always on duty, even when he is on vacation and recommends adding an additional week to the GM's accrued vacation.

Several members of the Public spoke to the issue. Comments were provided to the Board of Directors against any consideration to raise the GM's salary during the current economic conditions and in light of recent and future water rate increases to customers. Two people spoke as it relates to the comments the Directors provided relating to the GM's job performance, stating that is what he receives his salary to do. One person provided statistics on foreclosed homes within the District within the last two years. Another person spoke to the 10-percent penalty customers pay on a 24-hour late utility bill. A customer inquired if the

proposed GM salary increase is a structural step in a pay scale or is provided at the request of the GM.

Director Acosta replied to the Public comment that this is neither a structured pay step increase nor at the request of the GM, rather this is an annual occurrence of the GM's performance evaluation.

MOTION: A motion was made by Director Acosta and seconded by President Mandich to add an additional 7 days to the General Manager's current vacation accrual and to amend the existing contract between TCWD and the General Manager to reflect the same. The motion carried 4-0 with Director Disston absent.

ITEM NO. 1F: DISTRICT PERSONNEL AND SALARY POLICY REVISIONS

Mr. Chadd spoke to this item stating as a result of recent employee issues, TCWD has had the law firm of Liebert, Cassidy, and Whitmore (LCW) review TCWD Personnel and Salary Policy. Mr. Chadd stated LCW's review was generally complimentary though several changes are recommended. Mr. Chadd stated it is the opinion of Staff that the proposed changes do not erode any existing rights afforded to employees of TCWD, but rather assists with making dates and timelines easier to work with. Mr. Chadd discussed Stand-By Duty Call-Back Pay and stated overtime will be established at one-hour increments. Mr. Chadd stated the recent change to this policy to reduce Stand-By Duty Call-Back Pay to one-half-hour increments caused a morale issue with field staff. A member of the Public spoke to the issue.

MOTION: A motion was made by Director Safranski and seconded by Director Acosta to move staff recommendation. The motion carried 4-0 with Director Disston absent.

ENGINEERING MATTERS

ITEM NO. 1G DISCUSSION AND POSSIBLE ACTION RELATING TO ACTIVITIES FOR WATER AWARENESS MONTH

Mr. Chadd advised May is Water Awareness month and provided background on previous TCWD Open House events and locations over the past several years. Mr. Chadd stated he has had discussions with certain TCWD staff members relating to conducting water and wastewater tours for this year's Water Awareness event. Mr. Chadd provided information of possible sights to take customers to and suggested customers meet at the District office and take District provided shuttles to selected locations to tour District facilities.

President Mandich stated the tour may be a good opportunity for District customers to be able to view District projects such as Dry Season Recovery, which has already paid for itself.

Director Safranski stated the tour will show customers the complexity of the District.

Director Acosta commented people may not be able to stay on the tour for two-hours and suggested caravanning to the different sights. Director Haselton commented on the success of last year's open house at Trabuco Canyon Wells site stating 400–500 people attended.

A member of the Public spoke and requested the District not spend any money in what he considers 'marketing' and further stated the District has a captive audience without marketing the product.

President Mandich stated the tour provides District employees the opportunity to show the public what they do.

Another member of the Public spoke and said he would be interested to learn where the District spends its money. The member of the Public stated he has attended a few meetings recently and has learned a lot about Metropolitan Water District and water rates. Another member of the Public spoke regarding the District's Trabuco Creek Wells Facility. Another member of the Public spoke and stated she would be interested in receiving information as it relates to ways she can conserve water and lower her monthly bill.

Additional discussion occurred unrelated to activities for Water Awareness Month.

Mr. Robert Anslow, TCWD General Legal Counsel spoke up and reminded the Board, Staff, and the Public that this item has gotten off track from the subject of Water Awareness activities.

Mr. Chadd directed topic back to Water Awareness and stated if there is a concern relating to needing to leave the tour, caravans could be arranged, but that customers would miss the benefit of a narrated tour.

MOTION: A motion was made by Director Acosta and seconded by President Mandich to schedule the water awareness event for May 12, 2010 at 10:00am and for Staff to bring back more details to the Board. The motion carried 4-0 with Director Disston absent.

ITEM NO. 1H: STATUS UPDATE RELATING TO THE BAKER REGIONAL WATER TREATMENT FACILITY

Mr. Hector Ruiz, District Engineer, reminded the Board of the benefits to TCWD from participation in the Baker Regional Water Treatment Facility (BRWTF) project. Mr. Ruiz stated it keeps TCWD from having to build a huge reservoir along with allowing TCWD to take water from Irvine Lake in times of emergency.

Mr. Ruiz provided a status update relating to the 100-percent design submittal which he stated is currently under review by IRWD. Mr. Ruiz discussed a variance related to the handling of on-site sludge and stated this will further delay the timeline for the project and will increase costs. Mr. Ruiz does not have a revised cost estimate at this time. The BRWTF committee is scheduled to meet on April 12, 2012.

The Board received and filed the status update. No action required.

ITEM NO. 1I: STATUS UPDATE AND POSSIBLE ACTION RELATING TO THE ALTERNATE RAW WATER TRANSMISSION LINE (ARWTL) (16-inch Raw Water Transmission Line – Serrano Creek Crossing Alternate Route – PW79)

Mr. Ruiz distributed Figure 1 and provided background on the project and discussed imminent failure of the pipeline. Discussion occurred relating to potential FEMA reimbursement. A member of the Public asked what the District may do if FEMA funding is denied. Mr. Ruiz replied TCWD has diversified means of importing water into the District along with the local well water sources. Mr. Chadd commented that though the District has import options, the cost to wheel water is extremely expensive.

Mr. Ruiz advised TCWD anticipates that FEMA will request additional technical documentation which TCWD will have 60 days to respond to. In anticipation of this request, Tetra Tech has submitted a proposal for an additional scope of work which Mr. Ruiz reviewed with the Board.

MOTION: A motion was made by Director Acosta and seconded by Director Safranski to move Staff recommendation. The motion carried 4-0 with Director Disston absent

ITEM NO. 1J: STATUS REPORT AND POSSIBLE ACTION RELATING TO DOVE RESERVOIR TO TRABUCO RESERVOIR INTER-TIE AND TRABUCO HIGHLANDS PRESSURE REDUCING STATIONS PROJECTS

Mr. Ruiz provided background on the project and discussed the benefits to the community. Mr. Ruiz advised TCWD has received the Grant of Easements that relate to this project. Mr. Ruiz stated he has issued the Notice to Proceed with this project and that the City of Rancho Santa Margarita has issued the necessary encroachment permits.

The Board received and filed the information. No action required.

ITEM NO. 1K: STATUS UPDATE AND POSSIBLE ACTION RELATING TO THE SADDLE CREST SUB-AREA MASTER PLAN

Mr. Ruiz provided background on this project and advised PSOMAS has completed the new Sub-Area Master Plan (SAMP), at the developer's expense. Mr. Ruiz advised the SAMP evaluates the projected water demands, wastewater generation, water storage requirements, and other recommended on-site and off-site system improvements. The SAMP will be used by District staff to prepare a conditional Will-Serve letter. Vice President Haselton recused himself from the vote due to potential conflict of interest.

MOTION: A motion was made by Director Acosta and seconded by Director Safranski to move Staff recommendation. The motion carried 3-0 with Director Disston absent and Director Haselton abstaining.

LEGISLATIVE MATTERS

ITEM NO. 1L: DISCUSSION AND POSSIBLE ACTION RELATING TO LOCAL GOVERNMENTAL AND LEGISLATIVE INFORMATIONAL ITEMS

Mr. Chadd distributed information relating to CSDA's Board of Directors call for nominations, Seat A. Mr. Chadd also distributed meeting announcements relating to MWDOC's Board member and member agency elected officials forum and the March 28, 2012 meeting at Moulton Niguel Water District.

END ACTION CALENDAR

OTHER MATTERS

ADDITIONAL DIRECTORS' COMMENTS

Director Acosta thanked members of the public for attending the Board meeting and stated the feedback is appreciated.

Director Safranski encouraged the public to attend the Regular Board meetings and participate in the discussions. Director Safranski stated public comments are taken to heart.

President Mandich agreed with comments provided from both Director Acosta and Safranski.

ADDITIONAL GENERAL MANAGER COMMENTS

There were no additional General Manager comments.

ADJOURNMENT

At 7:41 p.m. President Mandich adjourned the March 21, 2012 Regular Board meeting to Closed Session.

District General Legal Counsel, Mr. Robert Anslow, stated that the Board would be conducting a closed session proceeding pursuant to California Government Code Section 54957 (Employee Dismissal/Discipline/Release) as indicated on the posted agenda. Mr. Anslow noted that the appeal proceedings would be conducted in three phases. The first phase of the closed session would be conducted in closed session involving the Board of Directors, District General Legal Counsel and District Special Employment Legal Counsel, pursuant to Government Code Section 54957.

This closed session would be conducted in Building 2 and that during the closed session no other persons or parties would be authorized to enter Building 2 without the Board's express consent. The second phase would be conducted in open session, pursuant to the requirements of Government Code Section 54957(b)(2), and would include presentations by the involved parties. Mr. Anslow noted that this open session portion would be subject to recordation by a

court reporter. Mr. Anslow noted that this phase of the appeal proceedings would be conducted in Building 1 (the building housing the Board meeting room). Mr. Anslow indicated that following conclusion of the open session portion, the third phase, a closed session portion of the meeting would be conducted involving the Board of Directors and District General and Special Employment Legal Counsel to the Board (Ms. Melanie Poturica of the firm of Liebert, Cassidy Whitmore). Mr. Anslow indicated that the closed session portion of the meeting would be conducted in Building 2 and that during that closed session no other persons or parties would be authorized to enter Building 2.

Following the announcement of the closed session, including the incorporated phases, the Board of Directors, General Legal Counsel and Special Employment Legal Counsel to the Board went into Building 2 to conduct the first phase of the closed session proceedings.

The Board of Directors reconvened the Board Meeting from Closed Session.

MOTION: Motion was made and seconded to ratify the contents, substance and distribution of the Notice to Parties dated March 12, 2012, and distributed to the involved parties in the Appeal Proceedings (as identified within the Notice). No objections from the Board or involved parties were provided on this Motion, and the Motion was approved by a vote of 4-0.

Following the approval of the aforementioned motion by the Board, Mr. Anslow introduced himself and requested that involved members of the Board, staff and legal counsel introduce themselves for purposes of recognition by the Court Reporter. Legal Counsel to the District, Board members, the appearing parties and legal counsel for the appearing parties all introduced themselves for the Court Reporter.

Mr. Anslow provided an admonition to attending members of the public that they are not allowed to interrupt, provide questions, ask questions or otherwise interfere with witnesses or the proceedings during the Appeal Proceedings. He requested that members of the public who might be present during the Appeal Proceedings would be requested to observe decorum during such proceedings.

Mr. Anslow addressed the parties and counsel to parties involved in the Appeal Proceedings directing, on behalf of the Board, that arguments and evidence to be presented would be limited to the appeal of the suspension at issue.

Ms. Poturica identified and briefly reviewed the evidence standard(s) that would be in effect for the Appeal Proceedings.

At the request of Mr. Anslow, on behalf of the Board, counsel for the appearing parties were requested to present their initial and procedural motions.

Included with the initial motions was a motion by Ms. Nelson to exclude witnesses (other than the appearing parties) from Building 1 during testimony of other witnesses. This motion was

granted and Mr. Anslow requested that witnesses, not involved in the proceedings as parties, would be excluded from Building 1 during the open session portion of the appeal proceedings. Identified witnesses, including Mr. Don Chadd and Mr. Hector Ruiz left Building 1 for Building 2 during this portion of the meeting.

Additional motions, presented by counsel to the appearing parties, concerning the submission of documents and the scope of evidence to be presented, were heard and ruled upon.

Following completion of the initial and procedural motions, opening statements were presented by counsel to the appearing parties. The opening statements will be detailed in the court reporter's transcript.

Opening statements were concluded.

Following discussion, and expression of the Board's desire to continue the Appeal Proceedings in a diligent manner, the Board directed that the Regular Board meeting be adjourned to an Adjourned Regular meeting of the Board of Directors to be conducted on March 26, 2012, commencing at 6:00 pm at the District's administrative facility located at 32003 Dove Canyon Drive, Trabuco Canyon, California. Mr. Anslow indicated that he would provide written notice of the continuance to counsel for both involved parties.

Mr. Anslow noted that, because of the nature of the continued appeal proceedings, that there was no announcement to make at this time pursuant to the Ralph M. Brown Act, including, but not limited to, Government Code Section 54957.

Following direction of adjournment of the meeting, the meeting was adjourned by the Board at approximately 10:10 pm.

Respectfully Submitted,

Michael Perea
District Secretary

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