

**SCOTTS VALLEY WATER DISTRICT
MINUTES OF THE
REGULAR BOARD MEETING
NOVEMBER 12, 2009**

**SCOTTS VALLEY WATER DISTRICT
BOARD ROOM, 2 CIVIC CENTER DRIVE
SCOTTS VALLEY, CALIFORNIA**

1. CONVENE MEETING

Item 1.1 President Perri called the meeting to order at 7:00 p.m.

ROLL CALL

Present: Directors Kassis, Miller, Hodgkin, Kannegaard and Perri

Absent: None

Item 1.2 Pledge of Allegiance and Invocation

Director Kassis led the Pledge of Allegiance and Invocation.

Item 1.3 Closed Session Report:

Attorney Bosso reported that in closed session the Board considered General Manager McNiesh's evaluation; no action was taken on real property issue.

Item 1.4 Approval of Minutes from the Regular Board Meeting of October 8, 2009

Director Hodgkin moved, seconded by Director Kassis, to approve Minutes from the Regular Board Meeting of October 8, 2009, as presented. Motion carried unanimously.

ADDITIONS/DELETIONS TO THE REGULAR AGENDA: None

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA: None

2. PUBLIC HEARINGS AND PRESENTATIONS

Item 2.1 Presentation by Terry Corwin of Land Trust of Santa Cruz County on Senate Bill 211 to Enable Establishment of a Countywide Open Space District

Terry Corwin addressed the Board on the following: background of Land Trust's mission; many counties have an open space district; Sonoma is

perhaps best model for what Santa Cruz County (SCC) could have; with SB 211, SCC would be following established process that other counties followed; SB 211 would not directly create an agency or a funding mechanism; would merely enable the creation of an open space district if approved by voters; would operate consistent with city and county general plans; she asked audience if they were in support to raise their hand, and several people raised their hands.

General Manager advised the Board of several letters received after preparation of the agenda packet, either in support or opposed to the bill; copies had been distributed to Board members.

Virginia Johnson of Ecology Action spoke on behalf of SB 211, urging the Board to support it.

Tom Walsh, executive director of Senior Coalition, stated that his organization determined to oppose the bill after much investigation; there are already enough government agencies that oversee land use.

Kevin Flynn of Sempervirens Fund advocated importance of land preservation and correlation between open space and property value; urged support of bill to allow voters to vote.

Dene Bustichi, resident and City Council member, stated his concern is in giving up local control to countywide district; City and other local organizations have done a good job of protecting open land; doesn't see the need for this new district.

Gene Scothorn addressed the Board stating SB 211 should be a concern to every water district in County; urged Board to oppose bill to protect water supply and land that may be needed for future wells, recharge and other SVWD uses.

Bernie Goldner, Land Trust board member, stated that Santa Clara Valley Water District (SCVWD) works positively with open space district in that county; urged SVWD to get in touch with SCVWD for a different perspective.

Mike Keogh reminded the Board that Scotts Valley is already subject to a regional type government, the Board of Supervisors; questioned the value of an additional countywide authority.

John Ricker, County Water Resources Division Director, stated a neutral position; pointed out that collaboration with open space district could be helpful in grant funding for conservation or recharge projects; noted that open space district approach allows for land preservation through incentives not regulation.

Maureen McCarty of Senator Simitian's office advised the bill would not come up for a vote for at least 3-4 months; urged the Board to give

Senator's office an opportunity to answer any questions before taking a position.

Eric Seever described himself as a member of Ohio State Legislature before his move to California slightly more than year ago; Ohio prohibits regulations that apply to parts of the state only; asked why this isn't a statewide bill.

Donna Lind, City Council member and representative to LAFCO, urged any open space district formation go through, not around existing LAFCO process; expressed concerns regarding funding the proposed open space district in current tough economy.

Betsy Herbert, San Lorenzo Valley Water District environmental analyst and representative to countywide water district conservation committee, urged Board to give SB211 a chance.

Cindy Rubin, Land Trust board member, urged giving the voters a chance; believes they can make a sound decision.

Director Miller asked if the open space district would have power to overrule local general plan; noted Santa Cruz is the smallest physical county in the state; listed all the acreage that the county has in parks, beaches, and protected land.

Attorney Bosso advised that SVWD and other similar districts are exempt from zoning and requirements when it comes to acquiring, storing, and distributing water, but not as to buildings.

Director Kannegaard commented that in his view SB 211 is not the way to address the open space district issue; LAFCO is the place; Board of Supervisors would control decisions for open space; recommended that the Board have staff provide a recommendation at next meeting regarding support or opposition for this bill; has concerns that the bill might get passed quickly, and therefore the Board needs to take a position soon.

Director Miller commented that the open space district proposal probably is a two-edged sword; there is truth in what both proponents and opponents stated; he would like to see District form a committee with City to see if they can craft changes to address the concerns expressed.

Director Perri said he could see how a benevolent open space district board could provide funding for recharge area or otherwise provide for watershed wide benefits; but a not-so-benevolent board could be harmful to District efforts to protect or improve the aquifer; depends on who is running the open space district and under what guidelines or mandates.

Directors Miller and Kannegaard volunteered to meet with City representatives; Donna Lind said she was agreeable to be a part of such a committee; Dene Bustichi said it would be up to City Council as a whole to approve a joint sub-committee with the District on this topic; if they approve it he would be interested in participating.

In response to a question from Terry Corwin, Director Miller said the District would continue to be in contact with the Senator's office and the Land Trust; he wants to make sure the open space district could not override a city's general plan.

General Manager McNiesh said a letter of support from Friends of Santa Cruz State Parks had been received during the public hearing; letter should be included in the hearing record.

President Perri called a five-minute recess at 8:25 p.m.

- Item 2.2 Public Hearing: First Reading of Ordinance No. 151-10, Amending Section 4.27(c) of Ordinance No. 119-96 to Implement Water Rate Changes Effective February 2010, December 2010, and December 2011

The public hearing was opened and closed without public comments.

General Manager McNiesh said this draft ordinance was discussed at the last Board meeting; he provided copies of the ordinance to audience; advised this is a rate increase over the course of three years; rates will stay the same first year with change in tiers; he went over the changes, approximate 2% per year increase in revenue to District, approximately the same as anticipated inflation; Prop 218 process provides for public hearing; he went over schedule and protest procedures.

Attorney Bosso advised that Prop 218 requires District to notify identified parcels, not specifying if property owner or actual customer should be notified; recent statutes clarify that notice can be provided to customers only; however, if notice is to customers only, property cannot be liened in case of non-payment; recommended proposed notification letter and protest procedures with minor modifications reflecting the type of notification that is decided upon.

After discussion, Board determined to focus notification on customers and forego ability to lien property owners.

Director Hodgins moved to approve protest procedures and letter with modifications discussed. Motion seconded by Director Kannegaard. Motion carried unanimously.

Director Perri said one of the attendees at the SB211 public hearing had expressed opposition in principle to a multi-year rate increase.

Director Hodgins asked who would be the rate protest officer provided for in draft protest procedures. After Board discussion and upon a

request from the Board, District Secretary Hazen agreed to act as rate protest officer.

Director Hodgkin moved, seconded by Director Perri, to name District Secretary Hazen as rate protest officer. Motion carried unanimously.

3. CONSENT AGENDA:

Item 3.1 Approve Progress Payment No. 3 in Amount of \$48,695 to McGuire and Hester for Construction Work on Recycled Water Distribution System Extension Projects

Item 3.2 Approve Recoating Specifications and Expenses Estimated at \$60,000 for Orchard Run Water Treatment Plant Contactor Pump Station Rehabilitation Project

Item 3.3 Approve Proposal from Water Systems Cleaning to Service and Clean Orchard Run Water Treatment Plant Air Stripper Tower for Cost of \$6,420.

Item 3.4 Approve Proposal from WaterSystems Cleaning to Service and Repack Well 10 Water Treatment Plant Air Stripper Tower for Cost of \$9,545.

Director Hodgkin moved, seconded by Director Miller, to approve the Consent Agenda, as presented. Motion carried unanimously.

4. ITEMS REMOVED FROM CONSENT AGENDA: None

5. DIRECTOR'S AGENDA ITEMS

Item 5.1 Individual Director Reports

Director Hodgkin reported on ACWA activities, saying that there was a lot of back room work regarding water legislation and bond proposal; advised he will be going to Sacramento November 19th to 20th for ACWA board meeting; noted he is preparing committee recommendations for Region 5; asked Board members to let him know if they would be interested in being on an ACWA committee; advised that he will be going to ACWA conference in San Diego at the end of this month.

Director Kassis stated his desire to continue serving on ACWA's Water Resources Committee.

Director Kannegaard, General Manager McNiesh and Attorney Bosso confirmed they would also be attending the upcoming ACWA conference.

Item 5.2 ACWA Update:

5.2.1 ACWA Officer Elections for 2010-2011 Term

General Manager McNiesh said SVWD Board has an opportunity to vote as an organization, and can appoint a voting delegate.

Director Hodgkin advised that the nominating committee recommends Randy Record for ACWA Vice President; this is likely the one vote that may be required.

President Perri asked Director Hodgkin if he would be the Board's representative. Director Hodgkin agreed.

Director Miller moved, seconded by Director Perri, to appoint Director Hodgkin as the Board's voting representative at ACWA. Motion carried unanimously, with Director Hodgkin abstaining.

5.2.2 National Water Resources Association Caucus Ballot for 2010-2011 Term

General Manager McNiesh explained that the Board was entitled to cast one vote for up to five candidates for the caucus. After discussion, the Board decided on Larry Russell of Marin Municipal Water District, Lawrence Libeu of Rancho California Water District, David Breninger of Placer County Water Agency, Bill George of El Dorado Irrigation District, and James Heitzman of Marina Coast Water District.

Item 5.3 Anticipated Directors' Expenses:

Director Kannegaard asked about the hotel reservations for ACWA convention; General Manager McNiesh said he would confirm that reservations had been made for Director Kannegaard.

Item 5.4 Board Priority List: No update.

6. COMMITTEE REPORTS:

Item 6.1 Business Administration Committee

6.1.1 Customer Billing Corrections

General Manager McNiesh addressed the Board stating there have not been any new problem accounts identified; staff will continue to follow up in next months regarding payment plans and getting past due amounts cleared up.

6.1.2 Groundwater Replenishment Impact Fee Annual Report

Accounting Manager Catalano reported: impact fees are recorded directly to their own account, and applied as received; they show on monthly budget comparison report and income statement; current method and proposed alternate method both meet government code and accounting procedures; this year's annual report will include detailed

spreadsheet; annual report could be approved on Consent Agenda as in prior years or adopted by resolution.

Director Miller stressed the importance of keeping impact fee revenues separate from the general fund.

Accounting Manager Catalano assured that they are kept in a separate account on the books and in compliance according to the government code.

The Board concurred that new procedures for the annual report were not required as long as legal requirements were being satisfied.

6.1.3 Request for Annexation of Heritage Parks Association (Monte Fiore)

General Manager McNiesh advised that this item was going to be continued until next month's meeting, per prior agreement with Frank Kertai, President of Heritage Parks Association; noted that Mr. Kertai was present notwithstanding this postponement.

Director Miller asked that further information be provided to the Board members regarding other annexations and how much annexation fee is. General Manager McNiesh explained that staff had already spent many hours researching files on prior annexations; advised that additional research in the files could be burdensome without helping much to resolve the fundamental issues.

Mr. Kertai addressed the Board regarding the annexation proposal; advised that he will be providing additional information for the District's consideration.

Attorney Bosso noted he had talked previously with Anthony Condotti, Heritage Park Association's attorney; said he would like to look at all the information provided by Heritage Park Association before advising the Board.

Item 6.2 Water Resources Committee

General Manager McNiesh reported that Water Use Efficiency Grant term was extended one year until 2011; said committee discussed approaching the Department of Water Resources to forego approved \$54,000 purchase of conservation software in favor of landscape rebates for another year and approximately \$30,000 to be allocated toward installation of a demonstration garden with low water use features at the District office.

Item 6.3 Facilities Engineering Committee

6.3.1 Draft Ordinances to Revise Service Connection and Ground Water Replenishment Impact Fee Study

General Manager McNiesh reported that the written report from Bartle and Wells on this project was received today; SVWD now needs to move forward with new ordinance soon; suggested the possibility of presenting the draft ordinance at the December or January meeting.

6.3.2 Pasatiempo Recycled Water Exchange Project

Director Perri said Kennedy/Jenks Consultants is preparing the engineering feasibility report that will be jointly funded between the District and the Golf Club. General Manager McNiesh said the report should be ready for committee and Board review in January.

Item 6.4 Executive Committee

General Manager McNiesh recommended replacing an employee who retired a year ago; staff is thin overall, and there is no backup in the recycled water program; meanwhile, the District is at a time of adding numerous new recycled water customers; some of field staff may be retiring soon; intern who has been working with the District for several months works well with other staff and has been working on conservation program with water conservation coordinator; General Manager said this is a good opportunity for the District to take advantage of hiring the intern full time.

Assistant General Manager/Operations Manager O'Brien advised that the staff intern has already completed certifications and is now dual certified; individual is computer literate as well as a college graduate; he highly recommends hiring him.

Director Perri said the committee concurred with General Manager McNiesh's recommendation on this hiring.

Director Hodgkin moved, seconded by Director Kannegaard, to authorize filling the vacant position. Motion carried unanimously.

General Manager McNiesh advised what the budget impact would be, with the new position earning around \$40,000 annually, or approximately \$57,000 with benefits.

7. STAFF REPORTS

Item 7.1 Accounting/Customer Service Reports

Accounting Manager Catalano advised that he is on schedule for September and October reports.

Item 7.2 Operational Reports

Assistant General Manager/Operations Manager O'Brien reported that Scotts Valley Banner will publish a notice of violation for SVWD, as required by the Department of Public Health (DPH) because of two

positive bacteriological samples in September; the water district is only allowed to have one positive sample a month; he contacted Soquel Creek Water District who had a similar problem with the samples analyzed at the same lab; meanwhile, he is holding off on sending a DPH-required mailer to customers, in case DPH allows invalidation of the sample results.

Assistant General Manager/Operations Manager O'Brien reminded that the year-end holiday party is coming up on the 11th and he will need menu choices by December 2nd.

Item 7.3 General Manager's Report

General Manager McNiesh reported that District staff has concerns with approved changes in sampling schedules for the Scotts Valley Dry Cleaners and Watkins Johnson sites; advised that District staff will express concerns to Regional Water Quality Control Board and Environmental Protection Agency.

Item 7.4 Attorney's Report:

Attorney Bosso said he furnished Director Miller requested information.

8. DIRECTOR'S COMMENTS ON ITEMS NOT ON THE AGENDA:

Director Kannegaard asked Director Kassis if he was pleased with the large audience tonight.

9. MISCELLANEOUS CORRESPONDENCE:

Item 9.1 Letter dated October 18, 2009, from Simon Westbrook Regarding Claim for Damage Caused by Falling Tree

Item 9.2 Letter Dated November 2, 2009, from District to City of Scotts Valley Commenting on Gateway South Retail Project Supplemental Environmental Impact Report

Director Ferri asked about the tree incident referenced in Item 9.1. Assistant General Manager/Operations Manager O'Brien reported that it was considered by insurance as an act of God, the District is not required to pay, but it would be a good neighbor policy.

Board members concurred with good neighbor policy concept and agreed to pay \$1,000 to customer to cover his insurance deductible.

10. CLOSED SESSION:

Item 10.1 Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator
Property: Portion of Lehigh Hanson Quarry (APN 067-021-21)
Agency Negotiator: General Manager

Negotiating Parties: SVWD, Kaiser Sand & Gravel Company
Under Negotiation: Price and Terms of Payment

The Board went in to Closed Session at 10:02 p.m. with General Manager McNiesh, Assistant General Manager/Operations Manager O'Brien and Attorney Bosso in attendance. The Board reconvened in Open Session at 10:25 p.m.

11. CLOSED SESSION REPORT AND ACTIONS ON MATTER(S) CONSIDERED IN CLOSED SESSION

Item 11.1 Consider Approval of Environmental Consultant and Related Expenses Pursuant to Real Property Acquisition

No action was taken.

12. ADJOURNMENT

Director Kassis moved to adjourn at 10:27 p.m. Motion carried unanimously.

Respectfully submitted,

/s/ Deborah L. Hazen
Deborah L. Hazen, District Secretary

Approved: December 10, 2009