

MAY 14, 2008

1. **CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE:** President Seidel called the regular meeting to order at 6:30 p.m. in the District office.

Directors Present: President Daniel F. Seidel, Vice President Ernest Solomon, and Directors Robert N. Anderson, A. Richard Jones, and Gary C. Waldeck.

Staff Present: Patrick D. Walter, General Manager; Patrick T. Miyaki, Attorney; Joubin Pakpour, Engineer; and Lucy E. Xavier, District Secretary.

The Pledge of Allegiance was recited.

2. **COMMENTS FROM THE PUBLIC:** Rick Ellinger, customer of the District, was in attendance in order to give a presentation of his website dealing with Silicon Valley disaster planning.

3. **CONSENT CALENDAR:** It was moved by Director Waldeck, seconded by Director Jones, that Items B and C of the consent calendar be approved. Motion carried unanimously—voice vote.

B. Approval and Ratification of April 2008 Disbursements—\$606,024.58

C. Financial Reports: Income and Capital Improvement Plan
Revenues and Expenditures
Balance Sheet
Consumption and Billing
Investments

Item A, Approval of Minutes, was removed from the Consent Calendar. It was then moved by Director Anderson, seconded by Director Waldeck, that the minutes of the workshop/special and regular meeting of April 9, 2008, be approved. Motion carried—voice vote.

Ayes: Directors Anderson, Seidel, Solomon, and Waldeck
Noes: None
Absent: None
Abstain: Director Jones (Abstained due to his absence at this meeting.)

4. **BOARD ELECTIONS—NOVEMBER 4, 2008:** Ms. Xavier noted that Resolution 2008-2, Request for and Consent to Consolidation of Elections, relating to the November 4, 2008, elections, was before the Board, as well as the Specifications of the Election Order dealing with the cost of candidates' statements and other items.

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The Board discussed the matter of whether a candidate should pay the total cost of submitting a statement for inclusion in the voter's pamphlet. Director Jones noted that many candidates do not submit a statement because of the cost (currently \$1,400 for a 200 word statement) and suggested that the District pay the cost. Director Seidel said that he believed a candidate should pay for his/her statement because it shows the seriousness of that person's intentions. Director Anderson noted that he would be amenable to the District picking up 50 percent of the cost. The Board agreed that was a reasonable amount for the District to pay.

After discussion, it was moved by Director Anderson, seconded by Director Solomon, that Resolution 2008-2, Request for and Consent to Consolidation of Elections, attached hereto, be adopted. Motion carried—roll call vote.

Ayes:	Directors Anderson, Jones, Seidel, Solomon, and Waldeck
Noes:	None
Absent:	None

It was then moved by Director Anderson, seconded by Director Waldeck, that the District pay 50 percent of the cost of submitting a candidate's statement in the voter's pamphlet. Motion carried unanimously—voice vote. The Board directed the Attorney and Secretary to work with the Registrar's office to ensure that the candidates who submit statements know that the District will pay 50 percent of the cost.

5. **SELECTION OF AUDITING SERVICES:** The Manager noted that interviews had been held on April 16 with each of the three candidates who had submitted proposals to perform the District's yearly audit. He said that the advisory committee consisting of Directors Jones and Waldeck; David Thomas, the previous District auditor; and he had reached a consensus that the firm of Charles Z. Fedak & Company would be best suited to perform the District's audit.

After discussion, it was moved by Director Waldeck, seconded by Director Anderson, that Charles Z. Fedak & Company be retained to perform the District's yearly audit. Motion carried unanimously—voice vote.

6. **ENGINEER'S REPORT:**

A. **Deer Creek Pump Station Improvement Project** The Engineer reviewed his memo of May 6, noting that the contractor, JMB Construction, had completed half of the work as of April 25 and that the generator and automatic transfer switch had arrived on site. The majority of the seismic upgrades and structural modifications were also completed and the new pump can for pump No. 4 was also installed. The Engineer noted that the installation of steel beams had been rejected by the District because it did not meet project specifications and that Staff was working with the contractor to resolve this issue. The Engineer also reviewed pictures of the project.

B. **Award of Contract for Emergency Intertie Project (with City of Palo Alto and California Water Service Company)** The Engineer reported that eight bids had been received out of nine possible bidders and these had been opened on May 9. The lowest apparent bidder was Con-Quest Contractors at \$509,895, well below the Engineer's Estimate of 557,860.

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The Engineer noted, however, that contract documents state that the contractor must have three water main exclusive projects with service connections within the past five years, and that Con-Quest had been in business for only four months and had received its contractor's license only last month. The contractor had submitted two resumes of persons who would be involved in this project, both of whom had had significant experience in civil rail projects. However, the resumes did not demonstrate experience in three water main exclusive projects. The Engineer also said that the contractor was not present for the entire pre-bid meeting and tour which was also specified in the contract documents.

The Engineer noted that Con-Quest had been informed the day prior that Staff would recommend that Con-Quest's bid be rejected and that it had 48 hours to submit a formal protest. The Engineer said that, at the June Board meeting, Staff will recommend rejecting Con-Quest's bid as non-responsive and award the contract to the second lowest bidder, Lewis & Tibbitts, Inc., at a bid of \$531,232. The Attorney reviewed the process the District would follow if a formal protest is received.

Director Seidel said that he was reluctant to wait until the June meeting to award the contract because of the urgency to start this project. After discussion, the Board directed that a special meeting be held on May 19, at 4:30 p.m.

7. **ZONE 2.5 PHASE II PROJECT:** The Engineer reported that alignment work had been started for the project and had been given to the surveyor for review to ensure that the alignments are within public right-of-ways or in proper easements. The Engineer then reviewed the locations of some of these alignments on a map.

8. **PAX MIXER FOR NEARY TANK:** At the April meeting, the Engineer had noted that Staff was working on a performance guarantee from PAX. The Attorney now reported that this issue had been resolved. He said, however, that he was now working with PAX on issues of risk allocation. Director Waldeck asked how important the PAX Mixer would be to the Neary tank once several related capital projects are completed. The Engineer replied that, as improvements are completed and more water is allowed to flow into the Neary tank, the PAX Mixer will become more important for water circulation in that tank.

Director Jones said that he retracted his memo of May 13 he had just given to the Board in which he stated several reasons he regretted voting for the purchase of the PAX Mixer. He said that he had misunderstood Staff's explanation for the purchase of the mixer and the other Directors agreed that they, as well, appreciated this clarification.

9. **EMERGENCY PREPAREDNESS:** Director Seidel directed that item 10. D, Emergency Preparedness, be moved up in the agenda to allow Mr. Ellinger to give his presentation. Mr. Ellinger said that he had been involved with Silicon Valley Disaster Planning and the State Office of Emergency Services for some time. He said he had developed a website that incorporates a common operational picture using a GPS system in live time which provides tools that the private sector can use during an emergency. He noted that responding to a regional disaster involves three stages: planning, response, and recovery and that public and private sectors do not have any formally established or systematic way to integrate their plans in a disaster at this time.

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He demonstrated his website, www.caview.org, which allows the viewing of information on resources and situations with a geographic location focus (Silicon Valley) and targets specific resources—people, businesses, organizations, and equipment—which are useful for recovery. He said that region-wide disasters require resources beyond those available to the public sector, and private sector resources will be needed to put the public infrastructure back together. He noted that disaster response centers will be located to receive, store, and distribute emergency supplies for the Silicon Valley region, regardless of source.

He said that he had come to the Board with this presentation at the request of the San Jose Water Company who's system is on the website to use for a state-wide drill in the Fall in Southern California and to let the District know that this program had been established and is a work in progress.

He noted that many agencies were very interested in this program, such as the Red Cross, insurance companies, and other water agencies. He did note that, because of security issues, public agencies would only need to show above-ground facilities. After discussion, the Board thanked Mr. Ellinger for his presentation.

The Board then discussed the proposed agenda for an emergency operations tabletop exercise for a Level 2 event, prepared by the District's consultant. The exercise consists of objectives, the emergency scenario, "what if..." scenarios, and discussion of response, recovery, and restoration actions. Directors Anderson and Waldeck said they would help the Manager script a scenario, per Director Seidel's suggestion.

Director Waldeck noted that he had attended a CERT class and had learned that the Los Altos Hills County Fire District (LAHCFD) has a trailer which is filled with emergency equipment and which is currently located at the El Monte Fire Station. He noted that the LAHCFD has plans to acquire additional trailers and thought that the District might consider housing these trailers in different tank sites. Director Seidel said that access and security would be issues to consider and discuss if and when additional trailers are acquired.

10. **MANAGER'S REPORT / COMMUNICATIONS ITEMS:**

A. Field Report

- The Manager reported that two small leaks had occurred—one on La Cresta Drive, and the other on a 2-inch line.
- Backflow testing had begun.
- All District trucks had been purchased, except for one.

B. Customer Communications The Manager reported that most of the conservation messages printed on the bottom of the April billing statement contained a calculation error. Approximately 50 customers had called in who were concerned about their high use. He said that office Staff had determined that the customers' concerns were initiated by the conservation message but only three callers asked specifically for clarification of the conservation message. Director Jones then requested that the Manager put a notice in the next newsletter stating that there had been an error and indicating what the correct conservation messages should have been for April. He submitted a draft message to the Board. Director Seidel noted that those customers who had noticed the error had probably already called the District for clarification.

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Director Jones then said he was embarrassed by the mistake, that the mistake also embarrassed the District, that it reduced the credibility of the District, and that the mistake interfered with the conservation efforts of the District. He paraphrased two prior conversations he had with the Manager regarding corrective actions. He said that the Manager did not take this mistake seriously and called for a closed session to discuss disciplinary action against him. Director Solomon said that this kind of action was uncalled for and that mistakes happen. Director Jones responded that this kind of mistake should not happen and that it meant that the Manager did not take this issue seriously because he did not check a few statements before they were sent out.

Director Seidel said that if Director Jones thought it necessary, he should make a motion to censure the Manager. Director Jones answered that he would not make the motion but asked for a closed session to discuss the matter. Director Seidel said he did not want a closed session on the agenda if the Board did not want to discuss the matter and asked the Directors for their opinions.

Director Seidel began by saying that everyone makes mistakes and agreed it was a serious matter but it was not necessary to send out a special mailing to explain an error. Director Solomon said that he was in accordance with Director Seidel. He said he had made mistakes in his professional career from time to time but in no way did he believe the Manager made a willful error and there was no reason to go any further except to put a notice in the newsletter. Director Waldeck agreed that mistakes occur and there was no maliciousness intended. Director Anderson agreed that a correction should go out but that no punishment should be given.

The Board then reviewed Director Jones' draft message and agreed on a corrective message to be in the next newsletter and posted on the District's website.

The Board also discussed the matter of the District setting up an electronic billing and payment system. The Manager said he would look into the matter as many customers had started requesting this type of service.

C. Antenna Tower at the La Cresta Tank Site The Manager noted that the amendment to the original agreement was being reviewed by the Town's Emergency Communications Committee before review by the Town Council.

D. Information on Billing Statements: Director Jones noted that he did not like the fact that the Manager was using the calculation of "748 gallons = 1 unit" on the billing statements. He preferred that the number be rounded to 750 gallons. The Manager responded that the correct calculation of 748 was already pre-printed on the statements and he did not think it appropriate to purposely calculate the total gallons incorrectly.

11. **WATER SUPPLY ALTERNATIVES:**

A. Potential Purchase of Additional Water from the Santa Clara Valley Water District (SCVWD) The Manager noted that he had had further discussions with Amy Fowler in the Water Supply Management Division of the SCVWD regarding costs for the three alternative approaches for the District's potential purchase of water. Another meeting has been scheduled for May 29. He also noted that the SCVWD had asked that the District pay the legal fees for developing a contract for the District's purchase of water. The Board discussed the legal aspects of this matter with the Attorney.

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B. Quarry Hills Lake The Engineer noted that a test that had been scheduled for the next day had been postponed until the next week due to the high temperatures which could compromise the sample. Director Waldeck noted that it would be better for the test to be taken now because the water would only get warmer as the hot weather continues. The Engineer said he would speak to the consultant about this.

12. **AMEND POLICY ON COMPENSATION AND EXPENSE REIMBURSEMENT FOR BOARD MEMBERS AND ADOPT RESOLUTION 2008-3—AMENDING A POLICY ON COMPENSATION AND EXPENSE REIMBURSEMENT FOR BOARD MEMBERS:** The Attorney noted that at the April meeting, the Board had briefly discussed an amendment to the policy which would allow Directors to attend the Association of California Water Agencies (ACWA) Spring and Fall Conferences without pre-authorization and to receive compensation and reimbursement. The Board had directed that this item be deferred to the May meeting when a full quorum of the Board would be in attendance.

Director Anderson noted that, because of the small size of the District, it is expensive for all Directors to be reimbursed for attendance at the ACWA conferences but, on the other hand, these conferences are extremely valuable. He also noted that waiting for authorization to attend does not allow directors to take advantage of the lower hotel rates that are offered with the registration packet on a first come, first served basis.

After discussion, it was moved by Director Anderson, seconded by Director Waldeck, that Resolution 2008-3, attached hereto, amending a policy on compensation and expense reimbursement for Board members for attendance at ACWA conference, be adopted. Motion carried—roll call vote.

Ayes: Directors Anderson, Jones, Seidel, Solomon, and Waldeck
Noes: None
Absent: None

13. **DRAFT BUDGET FOR FISCAL YEAR 2008-2009:** The Manager reviewed the draft budget for the upcoming fiscal year. With relation to the budget, the Board discussed the possibility of mandatory cutbacks issued by the San Francisco Public Utilities Commission and how rates could be affected, projected costs of liability and property insurance, and the ramifications of the State withholding tax monies from the District. The Manager noted that the budget will be on the June agenda for adoption after final review by the Board.

14. **DIRECTORS' REPORT:**

A. Bay Area Water Supply and Conservation Agency (BAWSCA) Issues
Director Seidel reported on BAWSCA issues.

B. ACWA/JPIA Board of Directors Meeting May 5, 2008, in Monterey Director Anderson, alternate Board representative to the JPIA, reported on the Board of Directors meeting on May 5.

C. ACWA Conference May 6-9, 2008, in Monterey Directors Anderson and Seidel each reported on the ACWA conference they had attended.

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D. Agenda Item Requests The Board identified agenda items for the June 11, 2008, meeting.

15. **ADJOURNMENT**: The meeting was adjourned at 10:25 p.m. to reconvene at a special meeting on May 19, 2008, at 4:30 p.m., in the District office.

Respectfully submitted

Lucy E. Xavier, District Secretary

Approved: _____
Daniel F. Seidel, President