



**SOUTH SAN LUIS OBISPO COUNTY
SANITATION DISTRICT**

BOARD OF DIRECTORS MEETING

Grover Beach City Hall Chambers
154 South 8th Street
Grover Beach, California 93433

Action Summary Minutes of the
Meeting of Wednesday, June 21, 2017, at 6:00 p.m.

1. CALL TO ORDER AND ROLL CALL

Chairman Shoals called the meeting to order and recognized a quorum.

Present: Chairman John Shoals, City of Grover Beach; Director Linda Austin, Oceano Community Services District; Director Jim Hill, City of Arroyo Grande

District Staff in Attendance: Gerhardt Hubner, District Administrator; Mychal Jones, Acting Chief Plant Operator; Gilbert Trujillo, District Legal Counsel; Wendy Stockton, District Legal Counsel

2. AGENDA REVIEW

Upon motion by Director Hill, seconded by Director Austin the Agenda was approved as presented.

3. PUBLIC COMMENTS ON ITEMS NOT APPEARING ON AGENDA

Chairman Shoals opened the item for public comment.

Julie Tacker commented on letters from the Regional Water Quality Control Board (RWQCB), contract with Liebert, Cassidy Whitmore, status of 2015/16 Audit, and the absence of the District Administrator's Report on tonight's agenda.

Kris Victorine spoke about the 3rd Quarter FY 2016/17 performance review and the \$5,300,000 source.

Patty Moreno spoke about the RWQCB settlement agreement, the grit removal project and read the letter from the RWQCB.

Patricia Price commented on letters from the RWQCB, District's average monthly legal costs, cancellation of the May 17th Board meeting, criteria for the District Administrator's Performance Evaluation, and two employees on paid Administrative Leave.

Mary Lucey spoke about the brine disposal being a source of revenue, legal bills being triggered when there is a threat of litigation, and issuing an RFP for legal counsel.

Patty Welsh commented on the length of the board meetings, the Board's responsibility to defend the District Administrator and the cost for a Police Officer to be present at Board meetings.

Debbie Peterson read a resolution regarding civility into the record.

Chairman Shoals closed the Public Comment period.

5. CONSENT AGENDA:

Director Hill requested 5A be removed from the Consent Agenda.

Chairman Shoals opened the Public Comment period.

Julie Tacker spoke about the Minutes, anticipated litigation, abuse of the Public Records Act, and receiving four different compensation reports when there should only be one.

Debbie Peterson commented on the Minutes, and the Brown Act.

Chairman Shoals closed the Public Comment period.

5A. Approval of Warrants

Director Hill commented on high legal costs, and charges from outside counsel Downey Brand.

Gil Trujillo, District Legal Counsel, advised the Board that Downey Brand was retained for specialized legal advice on the RWQCB regulatory matters

Chairman Shoals opened the item for public comment.

Julie Tacker commented on Downey Brand contract, Legal Counsel Trujillo and Stockton's combined costs, public records requests, and the District's payroll being \$2-\$3k higher than normal.

Patricia Price spoke about the Downey Brand legal bill, the water board fine and similarities between the current and Wallace administrations.

Mary Lucey stated the community is watching, and she could never understand why someone would bog down the system. She further stated that if the system is broken it needs to be fixed without being bogged down.

Ron Arnoldsen spoke on the previous speaker's comments regarding potential litigation with employees, one person causing the District's problems, progressive discipline and public records requests.

Patty Welsh commented on the code of civility.

Kris Victorine commented on high legal fees coming up at every meeting and suggested that a better effort should be made to explain the reasons for high legal fees.

Chairman Shoals closed the Public Comment period.

Motion: Director Austin made the motion to approve 5A.

Second: Director Shoals seconded the motion

Action: Motion was approved 2 -1 with Director Hill voting No

- 5B. **Approval of Minutes of Meeting of June 7, 2017**
- 5C. **April Financial Report**
- 5D. **May Financial Report**
- 5E. **Plant Operations Report**

Director Hill asked if the Plant Operations Report should be presented to the Public and not on the Consent Agenda and he further asked about samplings for the Fixed Film Reactor (FFR) oil change.

Mychal Jones, Acting Plant Superintendent advised there was water and some metal shavings in the oil.

Motion: Director Austin made the motion to approve 5B, 5C, 5D and 5E

Second: Director Hill seconded the motion

Action: Approved unanimously by roll call vote

6. ACTION ITEMS:

6A. **ADOPTION OF THE FINAL BUDGET FOR FISCAL YEAR 2017-18**

District Administrator Hubner provided a PowerPoint presentation and gave background information on the final proposed budget.

Director Hill commented on deferring maintenance on the primary No. 2 clarifier, Fund 20 expansion use, Co-generation payment, joint Environmental Impact Report (EIR), the reserve account, salaries and wages, approved employee positions, Maintenance Assistant, attorney fees, outside litigation, Moyno pump, plant corrosion control, lab calibration, capital projects and needing a quorum of the Board to hire.

Chairman Shoals commented on Fund 19, deferral on the primary clarifier, reserve funds versus contingency, legal fees, human resource issues, the total budget being in line with previous years and clarification for use of Fund 20.

Chairman Shoals opened the item for Public Comment.

Julie Tacker spoke about no line item for PRA requests, being confused about the Bay Foundation check, new development affecting trunk lines, costs for the I&I Study and asked if the 2010 I&I Study could be updated. She commented on the public notice not being published according to legal requirements, having an Organizational chart of staffing, and leaving money in Fund 20 for redundancy.

Kris Victorine stated both the 2013/14 and 14/15 audited financial statements indicate that the District follows the accrual method, and she asked for clarification of which accounting method the District uses.

Amy Simpson asked why revenues for the school services had dropped so significantly.

Mary Lucey asked if Amy Simpson was speaking as a plant employee or a ratepayer and if there would be a reduction of chemicals or a cost savings after the clarifier is fixed. She stated she would like to see more maintenance at the plant and jetting out the collection systems.

Debbie Peterson spoke about how Fund 20 historically has been used. She also stated it was risky to take the advice that the Board has discretion on how to use the funds. She commented on past audit comments, Grand Jury reports and capital fund projects.

Patricia Price spoke about a chart for FY 2016/17, the number of fulltime employees, and deferring maintenance.

Ron Arnoldsen commented on a correlation between now and the Wallace years, and commended Director Hill for the way he approaches the budget and agenda.

Chairman Shoals closed the item for Public Comment.

Chairman Shoals asked about the Wallace I&I Study and the cash versus accrual method.

Director Austin asked if the uncashed check to the Bay Foundation will come back before the Board.

District Administrator Hubner advised the check will come back on a future warrant register.

Director Hill asked District Counsel to comment on the budget hearing notice legal requirements.

The Board recessed at 7:50 p.m. to allow District Counsel the opportunity to get clarification on the hearing notice.

The Board reconvened the meeting at 8:00 p.m.

Gil Trujillo, District Counsel, advised the Board the code section citation provided by a member of the Public regarding the hearing notice applied to the Air Pollution

Control District and not the Sanitation District. Therefore, the Budget hearing had been properly noticed and the Board could proceed with the hearing.

Motion: Director Hill made a motion to approve the Budget for Fiscal Year 2017/18 generally as presented by staff with the following changes: Phase I and Phase II of the video logging jetting cleaning and I & I Study not be funded through Fund 20 rather they be funded through Fund 19 or 26, funds collected for Redundancy project under the recent rate increase be identified as a separate account which could be incorporated into Fund 20; Professional Services for attorney fees be reduced to \$36k from \$96k and the Professional Services Outside Counsel litigation be reduced from \$50k to \$20k absent additional Board action; transfers from Fund 19 to Fund 26 reflect the updated total of \$777,200 instead of the \$1 million that was on an earlier copy; Item 6A, Attachment 2, Page 9 the total revenues to Fund 20 be corrected to \$153k such that the total at the end of the year is \$3.203 million currently the total; acknowledge the deferral of the work on the primary clarifier; and charges under laboratory capital equipment for 2017-B2-13 laboratory calibrations be transferred to a maintenance fund; under Attachment No. 5, Page 1 Administration Compensation Plan in the 3rd sentence, the term District Manager be changed to Administrator and in the subsequent sentence the Chairman of the Board of Directors shall make a decision be changed to the Board of Directors shall make a decision; and that the adopting Resolutions (Resolution Nos. 2017-369 and 2017-370) be modified as necessary to comply with his motion.

An amendment was made to reduce the Professional Services for attorney fees to half of the \$96k proposed (or \$48K).

Director Hill recommended establishing an account with the fees for the redundancy project based on the document that was approved during the Proposition 218 rate increase and if the amount to place in the account is not easily determined to bring it back to the Board.

Second: Director Shoals seconded the motion

Action: Approved unanimously by roll call vote.

6B. AWARD OF CONTRACT FOR THE CHERRY AVE SEWER BRIDGE MAINTENANCE PROJECT

District Administrator Hubner provided a PowerPoint presentation on the Cherry Avenue Sewer Bridge maintenance project.

Director Hill commented on California Fish & Wildlife permitting for the project.

District Administrator Hubner advised that California Fish & Wildlife, in lieu of a Streambed Alteration Agreement, issued an Operation of Law letter with permit conditions proposed in the District's application.

Chairman Shoals opened the item for Public Comment.

Julie Tacker spoke of the items removed from the scope and asked if they were no longer applicable to the project or who was going to do them.

Patricia Price commented on spraying both sides of the creek with Roundup.

Chairman Shoals closed the item for public comment.

District Administrator Hubner advised the items proposed for deletion would not jeopardize the project and the District would defer to California Fish & Game and our biological monitor for use of Roundup during the project.

Director Austin questioned if someone could come back on the District and say the items removed should have been done.

Director Hill noted that the originally proposed vegetation removal was 25' and that it can be done with 5' so there will be less vegetation removal, there is some non-native species, and he shares the previous speaker's concerns regarding the use of Roundup.

Motion:

Director Austin made a motion to enter into an agreement with Brough Construction, Inc. in the amount of \$280,200 for the Cherry Ave Sewer Bridge Maintenance Project.

Second: Director Shoals seconded the motion.

At the request of Director Hill, the motion was amended to include having Garing Taylor & Associates or someone ensure that the District properly utilizes Roundup during the project.

Action: Approved unanimously by roll call vote.

7. BOARD MEMBER COMMUNICATIONS

Director Hill commented on the number of items not on the Agenda, the Strategic Plan, job descriptions, the PPM, the Audit, potential confusion regarding the PRA, and the need for a PRA policy. Director Hill read, in its entirety, a letter from the RWQCB and he requested a special meeting to address the letter. Director Hill stated he had provided the Board with a cease and desist letter to prevent discussing items not listed on the Agenda. He further stated at the April 19, 2017 meeting only three items were noticed and announced for Closed Session and when the 4th item came up, he recused himself from the meeting.

Gil Trujillo, District Legal Counsel, stated he was not aware of any Brown Act violation. He had talked to Director Hill and attempted to address his concerns. He was comfortable with the Closed Session notice. He further stated in regard to Public Records Act requests it is assumed that every document is a public record, unless an exemption applies and that State law should be followed.

Director Hill made a motion to agendaize for discussion his cease and desist letter regarding an alleged violation of the Brown Act.

The motion died for lack of a second.

Director Austin commented about the length of the last meeting, and requested a Bylaw change to adjourn meetings at 10:00 p.m.

The Board directed staff to return with a Bylaw amendment changing the meeting adjournment time to no later than 10:00 p.m.

8. CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Chairman Shoals opened the item for Public Comment.

Debbie Peterson commented on the requirement for posting the budget before May 30th, and the relationship between the District Administrator and the RWQCB.

Ron Arnoldsen stated the point of conflict was not the Plant Manager but District Administrator.

Julie Tacker commented on all potential litigation the District may be exposed to, on public claims, the RWQCB letter, exposure to outstanding grievances, a chlorine spill, a potential Brown Act violation, the Downey Brand agreement, and PRA requests.

Chairman Shoals closed the item to Public Comment.

The Board recessed to Closed Session.

The Board returned to Open Session with District Counsel announcing that there was no reportable action.

9. ADJOURN MEETING

The meeting adjourned at 9:15 p.m.

The next regularly scheduled Board meeting on July 5, 2017, 6:00 pm at the Grover Beach City Hall Chambers, 154 South 8th Street, Grover Beach, California 93433