

**MINUTES OF THE BOARD OF DIRECTORS  
MESA CONSOLIDATED WATER DISTRICT  
1965 Placentia Avenue, Costa Mesa, CA  
Tuesday, July 28, 2009  
7:00 p.m. Regular Board Meeting**

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**CALL TO ORDER**

The meeting of the Board of Directors was called to order on July 28, 2009 at 7:00 p.m. by President Dewane at the District Office Boardroom, located at 1965 Placentia Avenue, Costa Mesa, California.

**PLEDGE OF ALLEGIANCE**

Director Bockmiller led the Pledge of Allegiance.

**ROLL CALL**

Directors Present

Shawn Dewane, President  
Fred R. Bockmiller, First Vice President  
James F. Atkinson, Vice President  
Trudy Ohlig-Hall, Vice President

Directors Absent

None

Staff Present

Robert R. McVicker, District Engineer  
Coleen L. Monteleone, Administrative Services Manager/  
District Secretary  
Victoria L. Beatley, Financial Services Manager/Treasurer  
Jerry Vilander, Water Operations Manager  
Barbara Wiseman, Human Resources Manager  
Rob Anslow, Attorney, Bowie, Arneson, Wiles & Giannone

Others Present

Paul Flanagan, Mesa Customer  
Jim Fisler, Mesa Customer

**PUBLIC COMMENTS**

President Dewane invited members of the public to address the Board of Directors (Board) on matters that were not on the agenda. There being none, President Dewane proceeded with the meeting.

**ITEMS TO BE ADDED, WITHDRAWN, OR REORDERED ON THE AGENDA**

President Dewane asked if there were items to be added, withdrawn, or reordered on the agenda. District Engineer McVicker responded there were no changes to the agenda.

**I. CONSENT CALENDAR ITEMS:**

All matters on the Consent Calendar will be approved by one motion unless a Board member, staff, or a member of the public requests a separate action.

Director Atkinson pulled Item H-3, Board Schedule. There were no objections by the Board.

*Mission: Dedicated to satisfying our community's water needs*

- A. Approve minutes of adjourned regular Board meeting of July 10, 2009.
- B. Approve minutes of regular Board meeting of July 14, 2009.
- C. Approve minutes of special Board meeting of July 14, 2009.
- D. Approve attendance considerations (additions, changes, deletions).
- E. Approve an addendum to the professional services contract between Mesa Consolidated Water District and Teri Black & Company for additional services at a cost not to exceed \$6,375 and authorize the General Manager to execute the contract.
- F. Approve a professional services contract with Johnson & Associates for an amount not to exceed \$38,500 to perform a comprehensive Classification and Compensation Study and authorize the General Manager to execute the contract.
- G. Receive the June 2009 Investment Transaction Report.
- H. Board Schedule:
  - 1. Tentative Meeting Topics
  - 2. Conference, Seminars, and Meetings
  - 3. Board Calendar

MOTION 2009-64

Motion by Director Ohlig-Hall, seconded by Director Bockmiller, to approve Items A–H 1, and 2 of the Consent Calendar. Motion passed 4-0.

Item H.3 – Board Calendar

The Board discussed whether to re-schedule the regular Board meeting of August 11 to August 18 due to the absence of one director.

Director Ohlig-Hall reminded the Board that Mesa’s website and the press release, which was printed in the local newspaper regarding the Board of Directors vacancy states that the Board meets on the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of each month. She noted she didn’t want any potential candidates to miss an opportunity to attend a Board meeting. Her preference is to leave the Board meeting on August 11 as scheduled.

Director Bockmiller explained that the primary reason for the rescheduling was to have all four Board members present as the Board anticipates it may be taking action on a new General Manager and only three Board members will be present for the August 11 meeting. He believes the full Board should vote on hiring the General Manager. The next available date for action would be the August 25 meeting when all four Board members are scheduled to be present.

Director Ohlig-Hall asked about the feasibility of having Director Atkinson participate via teleconference.

Attorney Anslow responded that there are legal measures to take for Director Atkinson to participate via teleconference.

The Board agreed to conduct the August 11 meeting and tentatively plan an adjourned meeting for August 18 in the event it is needed.

MOTION 2009-65

Motion by Director Atkinson, seconded by Director Ohlig-Hall, to approve Item H – 3 Board Calendar. Motion passed 4-0.

**II. PRESENTATION AND DISCUSSION ITEMS:**

**A. LETTER OF INTENT REGARDING POTENTIAL WATER PURCHASE AGREEMENT WITH POSEIDON RESOURCES:**

Director Bockmiller commented that this this Letter of Intent documents Mesa's endorsement, support and gives full effort, with time of the essence, to ensure that the Poseidon project gets permitted. This commits Mesa to publically speaking in favor of the project and allocate staff time in support of the project at the request of Poseidon Resources (Poseidon).

Director Bockmiller read item four of the Letter of Intent: "Poseidon and Mesa share a mutual interest in the expedited development of the Project and Mesa will work cooperatively together with Poseidon to obtain all necessary regulatory approvals and permits to enable the timely construction of the Project."

Director Ohlig-Hall reported that the same Letter of Intent was discussed at the last Municipal Water District of Orange County (MWDOC) meeting and the MWDOC Board deferred action for clarification of certain items.

District Engineer McVicker reported he spoke with MWDOC's General Manager and reported that while the letter was not approved at the last MWDOC meeting, it will be presented at the next MWDOC meeting as the issues needing clarification have been resolved.

President Dewane asked District Engineer McVicker if other participating agencies have approved a Letter of Intent.

Mr. McVicker responded several have signed and there are a total of eight agencies who are being asked to sign the Letter of Intent.

Director Bockmiller commented that he has some concerns regarding the letter as it appears opened ended. He commented that his interpretation of item four indicates an unlimited commitment of staff time and resources, unlimited dollar commitment, and a complete commitment to supporting the permitting and expediting of the permitting process for Poseidon. He asked Attorney Anslow if his interpretation of item four was substantially correct.

Attorney Anslow noted he reviewed the letter as part of the Board packet. He commented that Director Bockmiller's interpretation is one interpretation that could be made of the sentence. Attorney Anslow continued, as there are with all contracts there is a rule of reason. Additionally, item two of the Letter of Intent (No Liability) gives the

Board an opportunity at any time to withdraw its approval. He noted he believes item four is qualified by item two. By signing the letter to support Poseidon's efforts, Mesa's support is documented but to the extent, those efforts become unreasonably expensive, burdensome, or other requirements placed on Mesa, it is the prerogative of the Board to withdraw its support and void the letter.

Director Bockmiller offered that if the Board approves this letter, then he would expect that Poseidon to provide regular financial and status reports to the Mesa's Board.

District Engineer McVicker commented that this desalination project is a standing item on the Engineering and Operations Committee agenda and the Committee does receive regular updates on the subject. He also noted that anything notable will be reported to the Board.

Director Atkinson asked staff to evaluate how much time will be needed to monitor this effort as there may be additional meetings outside the current meetings.

Director Bockmiller asked for full reports to the Board on staff time and efforts towards the Poseidon project.

Mr. McVicker responded to a question regarding staff's involvement to date. He noted that the primary activity has been monthly meetings with Poseidon. He noted that relative to the permitting it is Poseidon's expectation that Mesa's involvement will consist of testifying before a regulatory body. He does not see a lot of staff time, at this point in the process. If extra time is needed, staff will report to the Board.

Director Ohlig-Hall commented on the scope of the project and Mesa's involvement with the development.

Attorney Anslow offered comments relative to Mesa's involvement. He noted there are two components. Any negotiations on the use of Mesa's water system are part of closed session discussions. There are also discussions regarding the pricing of water by all participating agencies which is an open session item. He continued noting that staff has been negotiating with MWDOC and the rest of the purchaser team on the pricing of the water. To partially address Director Bockmiller's concern relative to the letter, he suggested that the Board allow staff to continue working on the negotiation of the purchase agreement and request that updates be provided on the status of water any pricing agreement to the Engineering & Operations Committee or to the Board. In the event, Mesa is asked to extend some type of effort relative to a permitting or regulatory process, either a letter or an appearance that would be an item that would be addressed by the Board for consideration before Mesa agrees to the request. The Board could also approve an initial dollar limit and any amount over the limit would again be subject to Board approval.

President Dewane reiterated that the motion has no affect on the negotiation status or separate consideration of Mesa's closed session item; the negotiation of real property interests.

President Dewane asked for comments from the public. Mr. Jim Fisler was recognized.

Mr. Fisler offered that he supports the project relative to water delivery, but has concerns about what will happen to the City's infrastructure.

Director Bockmiller commented that the installation of the mainline can be done reasonably quickly with minimal disruption to the City of Costa Mesa.

A motion was made by Director Ohlig-Hall and seconded by Director Atkinson to approve the Letter of Intent regarding a potential water purchase agreement with Poseidon Resources and authorize the District Engineer to execute the Letter of Intent.

After consideration, a substitute motion was offered and accepted.

#### MOTION 2009-66

Motion by Director Atkinson, seconded by Director Ohlig-Hall, Mesa's Board directs that the Letter of Intent, as presented in the Board package, be signed on behalf of the Mesa Consolidated Water District authorizing the District Engineer to execute the Letter of Intent; however with the caveat that further work on the water purchase agreement continue contingent upon: 1) There is no extraordinary level of effort required on behalf of Mesa's staff 2) The Board will receive periodic reports as to the status of these efforts and 3) In the event, Poseidon Resources requests direct support from Mesa for some type of regulatory or permitting in the form of testimony, a letter of support, statement, or press release that the Mesa Board be notified in advance of the date expected so a meeting can be conducted to consider the request for support prior to its being authorized by Poseidon. Motion passed 4-0.

#### B. DIRECTOR VACANCY:

President Dewane reported that at the July 21, 2009 Executive Committee meeting, the Committee reviewed the letters to be sent to residents and Water Issue Study Group Alumni who reside in Division II as well as the letter of invitation to interested parties to interview with the Board.

Director Ohlig-Hall commented on MWDOC's opening on its Board and that Mesa is conducting its search for a replacement director in accordance with the regulations.

President Dewane reported on the Orange County Grand Jury report "Water Districts: A New Era in Public Involvement," that was released shortly before Mesa's director stepped down. One of the criticisms in the Orange County Grand Jury Report (Report) was that some of the water boards choose to fill board vacancies by appoint rather than hold elections and that statistically the incumbent in the next election has an advantage. He noted that Mesa's Board has a responsibility to the ratepayers to manage Mesa's funds.

Director Bockmiller asked what the cost would be to the District to hold an election. Administrative Services Manager Monteleone responded that the county has estimated the cost to be \$37,000 to \$42,000, to elect a director.

The Board determined it would be more cost effective to appoint a director. An important note is that the director will be appointed through a public forum process. All candidates who are interested can apply and go through the public review process. It is an established practice at Mesa to conduct all meetings and interviews in the public forum. At no time does Mesa's Board address any issues regarding the appointment of a director in Closed Session.

Attorney Anslow offered that the next scheduled election is November 2010. If the Board chose to hold an election, the Board would function as a four member Board for over a year. Attorney Anslow also offered that at the Board's last meeting, a document explaining the Board's legal options was given to the Board and is on file with the District.

Director Bockmiller commented that if the election were to be held in November 2009, he would have preferred to go through the election process; however, he does not feel it is in the best interest of the District to go for a year and a half without a five member Board.

President Dewane asked for comments from the public. There being none proceeded with the call for the vote.

#### MOTION 2009-67

Motion by Director Bockmiller, seconded by Director Ohlig-Hall, to approve letters to be sent to residents and Water Issues Study Group Alumni who reside in Division II as well as the letter of invitation to interested parties to interview with the Board. Motion passed 4-0.

#### C. NON-PROFIT PROGRAM:

President Dewane offered that this item was discussed at the July 7, 2009 Executive Committee meeting and is being brought to the Board for full discussion.

President Dewane commented that Administrative Services Manager Monteleone reviewed donation requests received by Mesa and noted that Mesa has only received two donation requests from non-profit groups. He noted it is the opinion of the Committee that if a policy was in place it may restrict the Board. He noted the Committee would like the Board to be able to respond on a case-by-case basis.

Director Ohlig-Hall offered that if a non-profit group asks for a donation from the District it should be in writing and be presented to the Board for approval. She noted that Mesa gets its revenue from the ratepayers and is not funded by any tax revenue. She noted it is the Board's responsibility to prudently spend ratepayers' money on

water and water delivery and not give it away to non-profit groups. Mesa's customers are Mesa's obligation.

Director Atkinson commented that the District does provide donations to non-profit groups in the form of Mesa's bottled water program. That use of the donation process is within Mesa's purview and established public outreach programs. He noted he does not support monetary donations and is in favor of a Board practice wherein ratepayers' funds are not given to any non-profit for their various events.

Director Bockmiller noted it is the past practice of the Mesa Board not to monetary donations to organizations.

President Dewane commented on two donations that were made by Mesa: Friends of the Delta and the California Latino Coalition. A discussion ensued. He noted that, in his opinion, both donations were put to good use. These are extraordinary times and this is where grass roots support is built.

Administrative Services Manager Monteleone noted that based on the discussion by the Board she offers that the Board continue its past practice of reviewing requests on a case by case basis. However, if a non-profit group wishes to solicit the Board for a donation, it will have to submit a written request justifying its request and that request would go before the Board for discussion and action.

## RECESS

President Dewane declared a recess at 8:07 p.m. The Board reconvened at 8:16 p.m.

### III. ACTION ITEMS:

#### A. CLOSED SESSION:

President Dewane announced that the Board of Directors was going into Closed Session at 8:16 p.m.

1. PUBLIC EMPLOYEE APPOINTMENT  
PURSUANT TO GOVERNMENT CODE SECTION 54957:  
Title: General Manager

RETURN TO OPEN SESSION.

The Board returned to Open Session at 8:42 p.m.

Attorney Anslow announced that the Board met in Closed Session with the Recruitment Consultant pursuant to Government Code Section 54957. The Board received information and there was nothing more to report.

B. DISTRICT MANAGEMENT:

No discussion or action was taken on this item.

IV. REPORTS AND INFORMATION ITEMS:

A. REPORT OF THE GENERAL MANAGER:

District Engineer McVicker gave the report of the General Manager.

1. June Key Indicators Report
2. Items of general interest:
  - ◆ Other
    - The Operations Department arranged for the bulk purchase of fire hydrants, which will save an estimated \$10,000.
    - In September, the Met water rates are due to go up about \$122 per Acre Foot. With Mesa's pumping percent at 62%, Mesa needs to purchase imported water. The bulk of the water will be purchased in August, which will save the District approximately \$30,000 to \$50,000.

Mr. McVicker responded to questions from the Board.

B. STANDING COMMITTEE REPORTS:

1. President Dewane reported on the following meeting:
  - a. Special Executive Committee Meeting, 7/21

C. DIRECTORS' REPORTS AND COMMENTS:

1. Director Bockmiller:
  - a. Other
2. Director Ohlig-Hall reported on the following meetings:
  - a. MWDOC Board Meeting, 7/15
  - b. MWDOC Public Affairs and Legislative Committee Meeting, 7/20
  - c. Desalination Facilities Workshop, 7/22
  - d. Other
    - The ad hoc 50th Anniversary Committee will set a date for its first meeting.
3. Director Atkinson reported on the following meetings:
  - a. OCWD Board Meeting, 7/15
  - b. MWDOC/OCWD Jt. Planning Meeting, 7/22
  - c. Other

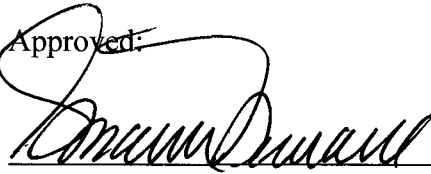
4. President Dewane reported on the following meeting:
  - a. Other
    - Financial Services Manager Beatley reported on the refinancing of the 2009 Certificates of Participation (COPs) savings. The initial savings were expected to be approximately 3% or \$500,000. The actual savings which resulted in finalizing the refinancing will be \$943,537.77 over the next 10 years.

The Board thanked all parties involved for the excellent results with the refinancing.

**V. INFORMATION ITEMS:**

- A. ITEMS OF GENERAL INTEREST:
  1. Groundwater Producers Meeting Minutes, 6/10/09
  2. Outreach Events Update
  3. Summary of Savings 2009 Certificates of Participation
  4. Thank you letter from Palm Harvest Church for bottled water donation

President Dewane adjourned the meeting at 9:16 p.m. to an adjourned regular Board meeting to be held on Tuesday, August 4, 2009 at 7:00 p.m.

Approved:   
Shawn Dewane, President

  
Coleen L. Monteleone, District Secretary

Recording Secretary: Sharon D. Brimer