

**MINUTES OF THE BOARD OF DIRECTORS
MESA CONSOLIDATED WATER DISTRICT
1965 Placentia Avenue, Costa Mesa, CA
Tuesday, October 13, 2009
7:00 p.m. Regular Board Meeting**

CALL TO ORDER

The meeting of the Board of Directors was called to order on October 13, 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
Jim Fisler, Vice President
Trudy Ohlig-Hall, Vice President

Directors Absent

James F. Atkinson, Vice President

Staff Present

Paul E. Shoenberger, P.E., General Manager
Coleen L. Monteleone, Administrative Services Manager/
District Secretary
Victoria Beatley I. Beatley, Financial Services Manager/
Treasurer
Robert R. McVicker, District Engineer
Jerry Vilander, Water Operations Manager
Barbara Wiseman, Human Resources Manager
Denise Garcia, Executive Assistant
Rob Anslow, Attorney, Bowie, Arneson, Wiles & Giannone

Others Present

Christopher Townsend, President, Townsend Public Affairs, Inc.
Heather Dion, Director, Townsend Public Affairs, Inc.
Robin Leffler, Mesa Customer, Government Relations Chair for
Mesa Verde Community, Inc.

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ITEMS TO BE ADDED, WITHDRAWN, OR REORDERED ON THE AGENDA

There were no items to be withdrawn, or reordered. A meeting was added to Item C.

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 Ohlig-Hall pulled Item H. Director Bockmiller pulled Item I. There were no objections.

- A. Approve minutes of regular Board meeting of September 8, 2009.
- B. Approve minutes of adjourned regular Board meeting of September 15, 2009.
- C. Approve attendance considerations (additions, changes, deletions).
 - 1. Orange County Water District Advanced Water Quality Assurance Laboratory Dedication Ceremony; Fountain Valley, CA; Thursday October 15, 2009.
 - 2. Poseidon Huntington Beach Desalination Plant Tour; Huntington Beach, CA; Thursday October 22, 2009.
 - 3. Orange County Water Association Holiday Event; Irvine, CA; Friday, December 11, 2009.
 - 4. Orange County Water Association, Safety Fest; Anaheim, CA; Wednesday, October 21, 2009.
- D. Board Schedule:
 - 1. Tentative Meeting Topics
 - 2. Conference, Seminars, and Meetings
 - 3. Board Calendar
- E. Approve the November/December issue of the District Newsletter.
- F. Receive the FY09 Fourth Quarter Financial Report.
- G. Approve membership to the Southwest Membrane Operator Association for the amount of \$550.00.
- H. Approve membership to the Orange County Business Council for the amount of \$5,000.
- I. Award a two-year contract to O'Connell Landscape for landscape maintenance services for the amount of \$15,223.37 per year and authorize the General Manager to execute the contract.

MOTION 2009-88

Motion by Director Bockmiller, seconded by Director Fisler, to approve Items A - G of the Consent Calendar as amended. Motion passed 4-0-1 with Director Atkinson absent.

Item H – Approve membership to the Orange County Business Council for the amount of \$5,000.

Director Ohlig-Hall noted she has no problem joining but would like to know which director would be assigned to attend the meetings and would like to know what Mesa's involvement would be. She also asked if the District would receive a newsletter. Administrative Services Manager Monteleone responded that the Orange County Business Council does produce a newsletter, but did not have information relative to frequency of the publication.

President Dewane offered to be the Board Liaison and Director Bockmiller agreed to be the alternate and would receive Director Fees if they attend a meeting in accordance with Ordinance No. 20.

MOTION 2009-89

Motion by Director Ohlig-Hall, seconded by Director Fisler, to approve Item I and to include attendance to the Orange County Business Council meetings as a day of service. Motion passed 4-0-1 with Director Atkinson absent.

Item I - Award a two-year contract to O'Connell Landscape for landscape maintenance services for the amount of \$15,223.37 per year and authorize the General Manager to execute the contract.

Director Fisler commented that language was added to the contract to ensure that any workers on Mesa's property have a legal right to work in the United States.

Director Bockmiller commented that landscape maintenance service companies often employ undocumented workers. The District wants to make sure that all contract laborers have the proper credentials. By adding language to the contract, it brings special attention that the contractor assumes all liability.

General Manager Shoenberger confirmed the contract was amended and that the contractor accepted the language regarding Mesa's requirement to have documented workers on Mesa's property and job sites. It was also agreed that the issue would be referred to legal counsel in order to obtain language that is suitable for all of Mesa's contracts as appropriate.

Attorney Anslow commented that there is language in all of Mesa's contracts that the contractor must comply with all state and federal laws. That language covers the District relative to the requirements for legal workers. The issue presented by Director Bockmiller regarding a contractor's breach of contract regarding legal workers and the requirement that the contractor return all funds previously paid on the basis there was fraud, is a drastically different step. He cautioned the Board that this approach may narrow the field of contractors who would bid on Mesa's projects should the Board implement the return fee policy when it is discovered there has been a breach of contract.

Attorney Anslow explained that if it were discovered that a contractor hired people who were not legally able to work in the U.S., Mesa's enforcement process would be to terminate the contract. Attorney Anslow commented that the existing language that requires the contractor comply with all state and federal regulations is sufficient to protect the District.

The contract language issue was referred to the Executive Committee for review and recommendations.

MOTION 2009-90

Motion by Director Ohlig-Hall, seconded by Director Bockmiller, to approve Item H.
Motion passed 4-0-1 with Director Atkinson absent.

II. PRESENTATION AND DISCUSSION ITEMS:

A. TOWNSEND PUBLIC AFFAIRS, INC. UPDATE:

President Dewane introduced Christopher Townsend and Heather Dion who were present to provide the Board an update on efforts to obtain funding through various state and federal agencies.

Ms. Dion reviewed information in the written report provided to the Board including:

- ◆ Federal, State, and Local funding opportunities
- ◆ Outreach meetings with Local, State, and Federal representatives
- ◆ FY2010 Federal Appropriation Request to Senator Boxer and Congressman Rohrabacher from the Department of Interior
- ◆ Federal Stimulus Funding
- ◆ Energy Funding
- ◆ Integrated Regional Water Management

Director Ohlig-Hall asked if there would be any attachments or requirements for funds received by the District.

Ms. Dion responded that if Mesa were awarded State or Federal grant funds that the District would be obligated to certain provisions, primarily certain accounting and auditing, which would be placed in contractual agreement.

Director Bockmiller cautioned the Board in regards to provisions and obligations that may come with State and Federal grants/funds.

Attorney Anslow confirmed that Federal or State grant funds can come with many different provisions and restrictions. The Board agreed to have Attorney Anslow evaluate these provisions and restrictions, as appropriate, to ensure the District is not bound by some provision that may not be in the best interest of the District.

Ms. Dion continued with the update.

The Board thanked Mr. Townsend and Ms. Dion for the update.

RECESS

President Dewane declared a recess at 7:47 p.m. The Board reconvened at 7:57 p.m.

III. ACTION ITEMS:

A. MISCELLANEOUS FEES AND CHARGES:

Director Ohlig-Hall commented that the resolution comes to the Board with the recommendation of the Finance Committee.

MOTION 2009-91

Motion by Director Bockmiller, seconded by Director Ohlig-Hall, to adopt Resolution No. 1381 effective October 14, 2009 updating the Miscellaneous Fees and Charges, and Rescinding Resolution No. 1369. Motion passed 4-0-1 with the following roll call vote.

AYES:	DIRECTORS	Ohlig-Hall, Fisler, Bockmiller, Dewane
NOES:	DIRECTORS	None
ABSENT:	DIRECTORS	Atkinson
ABSTAIN:	DIRECTORS	None

President Dewane announced that the Board of Directors was going into Closed Session at 8:19 p.m.

Prior to going into Closed Session Ms. Robin Lefler introduced herself as the Government Relations Chair for Mesa Verde Community, Inc. She commented that the Home Owner's Association (HOA) has been following the development of the Poseidon project in Huntington Beach. She thanked former General Manager Lee Pearl and then Director Shoenberger for their time and efforts in providing the HOA with information. She asked that Mesa's Board look beyond the pipeline. She noted the carbon footprint for the Poseidon project is substantial and there may be cheaper, more efficient ways to produce water. She asked the Board to be diligent and careful if Mesa moves forward with the project to make sure Poseidon is a worthy business partner. She asked the Board to look at the merits of the entire project. She asked for more specific information on the subject for an article that the HOA will be distributing to its owners.

President Dewane asked Ms. Lefler to include Mesa's General Manager on the distribution of any information the HOA or Government Relations Committee distributes to the public.

Director Fisler offered that he represents the division in which Mesa Verde is located and that the Mesa Verde homeowners should feel free to contact him regarding any questions they have in relation to the Poseidon Project or any other water related issue.

Director Ohlig-Hall asked to speak before going into Closed Session and releasing staff for the evening.

She commented she is very pleased to see General Manager Shoenberger at the Board meeting. She noted that each of the previous General Managers have brought

something to the District and believes that Mr. Shoenberger will make an excellent General Manager. She further commented on the excellent management staff that Mesa employs. In addition, she suggested that the managers be recognized for the extra work and efforts during the period it took to locate a new General Manager.

General Manager Shoenberger agreed to discuss the issue with the Executive Committee.

Director Bockmiller noted that Scott Sullivan and John Cernek completed certifications through ACWA/JPIA.

General Manager Shoenberger provided additional information regarding Poseidon site visit. He noted it would include a walk of the proposed project site and an explanation of the vision for the project.

President Dewane welcomed General Manager Shoenberger. He commented on how he enjoyed working with Mr. Shoenberger during his service as a Director and is looking forward to working with him in his capacity as Mesa's new General Manager. President Dewane thanked staff for their efforts during the transition and noted the Board is indebted to them for a smooth running District.

B. CLOSED SESSION:

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(A).
Name of case: State of California, et al., ex rel. Armenta v. James Jones Co., et al., City of Banning, et al v. James Jones Co., et al. Los Angeles Superior Court Case No. 173487.
2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS – PURSUANT TO GOVERNMENT CODE SECTION 54956.8:
Property: Capital Project # CM-394 (OC-44 FEEDER)
District Negotiator: General Manager
Negotiating Parties: Poseidon Resources
Under Negotiation: Possible use of Mesa Consolidated Water District property by an outside company for purposes of delivering desalinated potable water to other agencies.

RETURN TO OPEN SESSION.

The Board returned to Open Session at 9:07 p.m.

Attorney Anslow announced that the Board met in two Closed Sessions. The first Closed Session was conducted pursuant to Government Code Section 54956.9(A) with the General Manager and Legal Counsel. The Board received information and gave direction to Legal Counsel. There was no other announcement. The second Closed Session was conducted

pursuant to Government Code Section 54956.8 with the General Manager and District Engineer. The Board received information and there was no other announcement.

IV. REPORTS AND INFORMATION ITEMS:

A. REPORT OF THE GENERAL MANAGER:

1. August Key Indicators Report
2. Items of general interest:
 - ◆ Other
 - General Manager Shoenberger thanked both the Board and Mesa's staff for their warm welcome.

B. STANDING COMMITTEE REPORTS:

1. Director Ohlig-Hall reported on the following meetings:
 - a. Finance Committee Meeting, 9/25
The Committee reviewed disbursements to Directors and employees as reported on the Accounts Paid Listing" per California Government Code Section 53065.5.
 - b. 50th Anniversary Ad Hoc Committee Meeting, 10/12
2. Director Bockmiller reported on the following meeting:
 - a. Public Information Committee Meeting, 10/5
3. Director Fisler reported on the following meeting:
 - a. Engineering and Operation Committee Meeting, 10/8
4. President Dewane reported on the following meeting:
 - a. Executive Committee Meeting, 10/1

C. DIRECTORS' REPORTS AND COMMENTS:

2. Director Atkinson – not present at this meeting:
 - a. CSDA Annual Conference, 9/21-9/24
 - b. WACO Meeting, 10/2
 - c. OCWD Meeting, 10/7
 - d. Other
3. Director Ohlig-Hall reported on the following meetings:
 - a. CSDA Annual Conference, 9/21-9/24
 - b. CA-NV AWWA Fall Conference, 10/5-10/8
 - c. Other
4. Director Fisler reported on the following meeting:
 - a. CSDA Annual Conference, 9/21-9/24
 - b. WACO Meeting, 10/2
 - c. Jt. MWDOC Meeting, 10/7

- d. Diamond Valley Lake Tour, 10/9
- e. Other

- 5. Director Bockmiller:
 - a. Other

- 6. President Dewane reported on the following meetings:
 - a. CSDA Annual Conference, 9/21-9/24
 - b. ISDOC Meeting, 10/6
 - c. Other

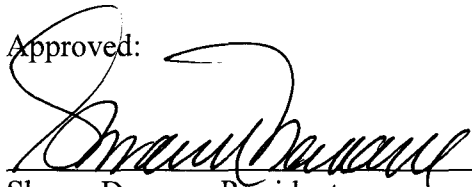
V. INFORMATION ITEMS:

A. ITEMS OF GENERAL INTEREST:

- 1. Online Bill Pay Activity Update
- 2. Water Vending Machine Activity Update
- 3. Groundwater Producers Meeting Minutes, 9/10/09
- 4. Thank you letters for bottled water donations from the following organizations:
 - ◆ The Boys & Girls Club of the Harbor Area, letter dated 09/09/09
 - ◆ MOMS Club of Costa Mesa North, letter dated 09/11/09
 - ◆ Orange County Substance Abuse Prevention Network, letter dated 09/30/09

President Dewane adjourned the Board meeting at 10:03 p.m. to a regular Board meeting to be held on Tuesday, October 27, 2009 at 7:00 p.m.

Approved:



Shawn Dewane, President



Coleen L. Monteleone, District Secretary

Recording Secretary: Sharon D. Brimer