

**MINUTES OF THE REGULAR MEETING
OF THE BOARD OF DIRECTORS OF THE
OLIVEHURST PUBLIC UTILITY DISTRICT**

November 19, 2009

President Patty called the regular meeting of the Board of Directors of the Olivehurst Public Utility District (OPUD) to order at 7:00 p.m., at 1970 9th Avenue, Olivehurst.

PLEDGE OF ALLEGIANCE

Everyone was asked to stand and give the Pledge of Allegiance to the Flag of the United States of America.

ROLL CALL

Responding to roll call was: Director Morrison, Peeples, Hollis, Dougherty and Patty.
Others present were:

Timothy R. Shaw	General Manager
Cindy Van Meter	District Clerk/Resource Coordinator
John Tillotson	Director of Public Works
Glen Phillips	Accountant/Officer Manager
Karl Cozad	Operations Manager
Wade Harrison	Fire Chief
Greg Axline	WWTF Chief Plant Operator
Jeff Meith	Legal Counsel
Jim Townsend	SDRMA Insurance
Ellen Doughty	SDRMA Insurance
Dave Ward	Interwest Insurance
Kurt Hoffman	Interwest Insurance
George Pappas	Gladfelter Insurance
Ron Erny	

And other interested people.

RECOGNITION OF AUDIENCE

There was no response to President Patty's invitation for comments from the audience.

CONSENT AGENDA

Item 6(d) was pulled from the consent agenda (October 2009 Overtime Report) and sent back to committee.

A MOTION WAS MADE BY DIRECTOR HOLLIS, SECONDED BY DIRECTOR MORRISON, AND PASSED UNANIMOUSLY TO APPROVE ITEMS ON THE CONSENT AGENDA, INCLUDING: (a) APPROVE MINUTES OF SEPTEMBER 17, 2009, SPECIAL MEETING; (b) APPROVE MINUTES OF SEPTEMBER 17, 2009, REGULAR MEETING; and (c) APPROVE CLAIMS FOR PAYMENTS FOR NOVEMBER 2009 IN THE AMOUNT OF \$556,174.98.

DISTRICT DEVELOPMENT

Mr. Shaw explained that a customer attended the water/sewer committee meeting requesting that his delinquent fees be reversed and the committee members forwarded his request on to the full Board.

Prior to his account becoming delinquent the customer had asked staff if there were any programs to help with his water/sewer bill. Since the account was current at that time, the staff explained that there was no program for current accounts.

Once the customer became delinquent staff did offer to amortize the bill in order to bring the account current.

The Board discussed with staff possibly looking into some sort of program to assist with current bills.

President Patty asked for a motion to consider request for refund of water/sewer delinquent charges. No motion was made.

NO ACTION WAS TAKEN

Mr. Shaw explained that per direction from the Board, the District has obtained two insurance proposals for the 2010 coverage. One is from SDRMA (\$106,858 w/Earthquake coverage, \$102,501 w/out) and the other is from Interwest Insurance (\$101,649).

The differences in the two policies is that SDRMA provides a bit more coverage than Interwest and lower deductibles. The SDRMA package also provides a wide spectrum of free training. Mr. Shaw recommended going with the SDRMA package.

Dave Ward and Kurt Hoffman, Interwest Insurance gave a brief background of Interwest's insurance services.

Jim Townsend, SDRMA, also gave a brief background of SDRMA's insurance services.

A MOTION WAS MADE BY DIRECTOR MORRISON, SECONDED BY DIRECTOR PEEPLES, AND PASSED UNANIMOUSLY TO APPROVE THE 2010 DISTRICT INSURANCE PROPOSAL FROM SDRMA IN THE AMOUNT OF \$106,858.

Mr. Ward commented that during his discussion with the District regarding existing coverage, Mr. Shaw stated that for the last few years, Interwest had required OPUD to have separate liability insurance policy for the swim pool . When Mr. Ward researched this matter, he discovered that the District had been covered on both the separate policy and the general liability policy for the swim pool. Mr. Ward stated that the District will be receiving a refund check from Interwest Insurance for the separate policy dating back three years.

Mr. Shaw reported that the District is not ready for a public hearing on the Capacity Fee Study tonight.

A MOTION WAS MADE BY DIRECTOR HOLLIS, SECONDED BY DIRECTOR MORRISON, AND PASSED UNANIMOUSLY TO REMOVE ITEM 7(d) FROM THE AGENDA, CONSIDER DRINKING WATER CAPACITY FEE STUDY UPDATE.

Mr. Shaw explained that all the required items have been completed for the Arboga School (MJUSD) Capacity Fee Agreement. The difference between this agreement and some of the other Capacity Fee Agreements, is that the school district put in 1500 feet of 18 inch pipe for the water distribution system infrastructure. This shortens the distance to connect the South Zone and North Zone water distribution system, from 10, 000 feet to 8,500 feet. This makes them eligible for some fee credits and reimbursement. They would like to take approximately \$75,000 in credits.

A MOTION WAS MADE BY DIRECTOR HOLLIS, SECONDED BY DIRECTOR PEEPLES, AND PASSED UNANIMOUSLY TO APPROVE THE ARBOGA SCHOOL (MJUSD) CAPACITY FEE AGREEMENT.

PUBLIC WORKS ENGINEER'S REPORT

A written report on the status of development and other District projects was submitted to the Board.

Mr. Shaw requested that an item be added to the agenda regarding a task order for fluoridation training. This issue came up after the agenda was posted and needs to be addressed prior to the next Board meeting.

A MOTION WAS MADE BY DIRECTOR PEEPLES, SECONDED BY DIRECTOR HOLLIS, AND PASSED UNANIMOUSLY TO ADD ITEM 8(c) TO THE AGENDA REGARDING A TASK ORDER (NO. 5) WITH AFFINITY ENGINEERING FOR TRAINING AND ASSISTANCE WITH FLUORIDE FEED SYSTEM AT OPUD WATER TREATMENT PLANTS.

Mr. Shaw explained that the District is out pumping at the Well No. 34 site. The contract with Zimm Industries was based on pumping the water to the ditch. Due to the regulatory requirements, they are pumping to land which requires the rental of approximately 1900 feet of aluminum pipe and appurtenances which was not part of the original contract.

A MOTION WAS MADE BY DIRECTOR DOUGHERTY, SECONDED BY DIRECTOR HOLLIS, AND PASSED UNANIMOUSLY TO APPROVE ZIMM INDUSTRIES CHANGE ORDER NO. 1 FOR WELL NO. 34 PROJECT.

Mr. Tillotson stated that Task Order No. 5 with Affinity Engineering is for training and assistance with installation of the fluoride feed system at the Districts Water Treatment Plants.

A MOTION WAS MADE BY DIRECTOR HOLLIS, SECONDED BY DIRECTOR DOUGHERTY, AND PASSED UNANIMOUSLY TO APPROVE AFFINITY ENGINEERING TASK ORDER NO. 5, FOR TRAINING AND ASSISTANCE WITH INSTALLATION OF THE FLUORIDE FEED SYSTEM AT THE DISTRICTS WATER TREATMENT PLANTS.

FIRE DEPARTMENT

A written report on the status of the Fire Department was submitted to the Board.

A written District Safety Report was submitted to the Board.

A MOTION WAS MADE BY DIRECTOR MORRISON, SECONDED BY DIRECTOR HOLLIS, AND PASSED UNANIMOUSLY TO APPROVE THE USE OF FIRE DEPARTMENT VEHICLES FOR CEREMONIAL USE DURING THE OLIVEHURST AND MARYSVILLE CHRISTMAS PARADES, AND THE WHEATLAND TREELIGHTING CEREMONY.

A written committee report was submitted to the Board.

WASTEWATER COLLECTION AND TREATMENT FACILITIES

A written report on the status of the WWTF was submitted to the Board.

A written committee report was submitted to the Board.

PARKS AND PUBLIC FACILITIES

A written report on the status of the parks and district facilities was submitted to the Board.

Mr. Cozad and Board members discussed the upcoming Olivehurst Christmas Parade and the parks department involvement.

A MOTION WAS MADE BY DIRECTOR DOUGHERTY, SECONDED BY DIRECTOR HOLLIS, AND PASSED UNANIMOUSLY TO AUTHORIZE DISTRICT STAFF TO SUPPORT THE OLIVEHURST CHRISTMAS PARADE.

Mr. Shaw explained that at the committee meeting, staff and committee members were concerned that there was no sewer line at the Lindhurst Memorial Park, which is needed for the Spray Park. Staff researched and discovered that a sewer line had been stubbed in when the park was built.

Yuba County has the District's signed Spray Park agreements, but will not take to the Board of Supervisors until they have the exhibits. Mr. Tillotson stated that the survey for the exhibits will be done sometime next week.

The District received grant funding from Yuba County Public Health for the production of the park "rules" signs. Mr. Cozad reported that the park sign design has been completed and the signs are in production.

A written committee report was submitted to the Board.

OPERATIONS AND MAINTENANCE DEPARTMENT

A written report was submitted to the Board concerning the activities in the Operations Department.

A written committee report was submitted to the Board.

BUSINESS OFFICE

A written report was submitted to the Board concerning the activities in the Business Office.

A written status report was submitted to the Board from the temporary Accountant.

Mr. Shaw gave a brief status report on Senate Bill 67 (Securitization).

Item 13(c) “Consider changes to billing language”, was sent back to the water/sewer committee for further discussion.

RESOURCES COORDINATOR REPORT

The Board was presented with an eligibility list for the Engineering Technician position.

A MOTION WAS MADE BY DIRECTOR PEEPLES, SECONDED BY DIRECTOR HOLLIS, AND PASSED UNANIMOUSLY TO APPROVE AND CERTIFY THE ELIGIBILITY LIST FOR THE ENGINEERING TECHNICIAN POSITION AS PRESENTED.

Mr. Shaw stated that the Catastrophic Leave Policy has been discussed in committees and is a common practice in many agencies. If an employee runs out of leave time due to his/her or an immediate family members dramatic illness they may become eligible for requesting leave from the Catastrophic Leave Bank.

Employees who wish to donate to the Catastrophic Leave Bank would do so anonymously and cannot designate the donation to a specific employee.

After further discussion of the proposed policy, the consensus of the Board was to send this item back to committees for further conversation regarding anonymous donation versus a specific employee donation.

Mr. Shaw explained that the Leave Without Pay Policy is a continuation of the concept of an employee experiencing a dramatic situation where they have exhausted all of their leave. Once that occurs, the existing District policy is that once an employee is out of leave and continues to take time off, they have effectively resigned.

A MOTION WAS MADE BY DIRECTOR MORRISON, SECONDED BY DIRECTOR HOLLIS, AND PASSED UNANIMOUSLY TO APPROVE THE LEAVE WITHOUT PAY POLICY, AS PRESENTED.

During the oral interview process, each applicant is scored by a panel of three or more interviewers. The existing practice is, once the interviews are complete and the score sheets are totaled up, the applicants are rated according to the total of all the interviewers scores. However, if one of the interviewers had a bias for a particular candidate and scored all the other candidates extremely low and his/her favorite candidate extremely high, the final result could be skewed. Two of the three interviewers could have scored a specific candidate as their number one and the other candidates a close second, third, and so on. If the third interviewer then used the extreme high and low scoring method, the

final scores could result in the number one candidate being the choice of only one of the interviews.

The Districts Civil Service Ordinance states that a candidate is hired based on the merits. If the scoring process were more normalized, it could prevent any manipulation of the process. For example, once the interviewers have totaled their individuals scores, they would then rank the candidates accordingly and then give the number one candidate at 10, number two a 9, and so on. Staff would then add up the total ranked scores rather than the overall scores. Thus, “normalizing” the process.

A MOTION WAS MADE BY DIRECTOR MORRISON AND SECONDED BY DIRECTOR HOLLIS TO “NORMALIZE” THE SELECTION PROCESS. THE MOTION PASSED AS FOLLOWS:

AYES, AND IN FAVOR THEREOF: DIRECTOR MORRISON, HOLLIS, AND PATTY.

NOES : DIRECTOR PEEPLES AND DOUGHERTY.

Ms. Van Meter explained that per the District’s Civil Service Ordinance, Mr. Cariker was to turn in his written appeal no later than October 15, 2009. In his written appeal, he is also required to explain why he wishes to appeal the committee’s decision. Mr. Cariker’s written appeal was received by the District (dated and time stamped) on October 16, 2009 and he did not address his grounds for asking the Board to appeal the committee’s decision.

A MOTION WAS MADE BY DIRECTOR DOUGHERTY, SECONDED BY DIRECTOR MORRISON, AND PASSED UNANIMOUSLY TO DENY THE LATE FILED APPEAL OF PERSONNEL ACTION BY BRAD CARIKER.

The Board established the dates and times for the December committee meetings as follows:

Fire Department Committee Meeting – Tuesday, December 1, 2009 @ 3:00 pm
Parks & Recreation Committee Meeting – Wednesday, December 2, 2009 @ 2:00 pm
Water/Sewer Committee Meeting – Thursday, December 3, 2009 @ 2:00 pm

GENERAL MANAGER’S REPORT

Mr. Patty expressed concern over the recent selection process conducted to facilitate hiring of the accounting temporary position. A comment was made towards an employee

during this process by one of the Directors and Director Patty feels that said employee deserves an apology.

Director Peoples stated that she only commented on what the situation looked like to her and to assure that the process is on the “up and up”. She further stated that she had gotten to the office a little early, and Director Patty and Mr. Phillips were already in the Board Room going over the applications. Director Peoples continued by stating that once the process was complete, she was “blown away” by Director Patty and Mr. Phillips number one candidate and that she “just couldn’t see it”.

Director Morrison interjected that he has a problem with Directors getting involved in the hiring of employees. This is because the Directors, at a later date, may have to make a final determination on the outcome of an employees employment with the District.

Director Peoples explained that part of the reason that she felt suited to participate in the interview process was due to her background in accounting and the performance of detailed work.

Mr. Dougherty asked what offensive comment was made during this process. Director Patty replied that basically Director Peoples insinuated that a he and Mr. Phillips had been attempting to “stack the deck” by discussing the applications prior to the interviews.

Mr. Patty remarked that he concurs with Director Morrison, and that the Directors should recues themselves from the hiring process.

Director Hollis observed that if a Board member is sitting on that type of hiring committee, the other Board members should trust them to make a sound decision.

Director Peoples, apologized and stated that if she offended Mr. Phillips or Director Patty, it was unintentional She has no concern that there was any type of collaboration. Mr. Phillips replied that he felt his integrity was called into question on that day, and would hope that the rest of the Board did not feel the same way.

All the Directors commented that they appreciate Mr. Phillips and the work he has been doing.

Mr. Shaw updated the Board on the status of the fluoridation of the drinking water system.

Mr. Shaw reported that there will be another WWTF Regionalization meeting on December 3rd. Per recent correspondence, Beale Community Partners is no longer part of the process.

CLOSED SESSION

The Board adjourned to Closed Session at 9:15 p.m. to address the following:

- a) Closed Session. Government Code 54957.6. Board to instruct District Labor Negotiators Shaw and Meith.
- b) Closed Session. Government Code 54957.6. Board to instruct District Labor Negotiators Shaw and Meith regarding proposed Cafeteria Plan AKA Flexible Spending.
- c) Closed Session. Anticipated Litigation. Government Code 54956.9(b). The Board shall meet in closed session with legal counsel to discuss a matter in which counsel has advised the Board there is a significant exposure to litigation. One potential case.

MEETING RECONVENED

The meeting reconvened at 10:42 p.m.

- a) Closed Session. Government Code 54957.6. Board to instruct District Labor Negotiators Shaw and Meith.
 - a. A MOTION WAS MADE BY DIRECTOR DOUGHERTY, SECONDED BY DIRECTOR MORRISON, AND PASSED UNANIMOUSLY TO AUTHORIZE AND EXECUTE AN MOU BETWEEN OPUD AND THE FIRE DEPARTMENT ASSOCIATION AS NEGOTIATED, WITH THE ADDITIN OF AN EXHIBIT TO SHOW THE NOT TO EXCEED AMOUNT TO BE PAID BY THE DISTRICT FOR EMPLOYEE ONLY, EMPLOYEE + 1, AND EMPLOYEE + FAMILY.
- b) Closed Session. Government Code 54957.6. Board to instruct District Labor Negotiators Shaw and Meith regarding proposed Cafeteria Plan AKA Flexible Spending.
 - a. The Labor/Negotiating team were instructed.
- c) Closed Session. Anticipated Litigation. Government Code 54956.9(b). The Board shall meet in closed session with legal counsel to discuss a matter in which counsel has advised the Board there is a significant exposure to litigation. One potential case.
 - a. The Board conferred with legal counsel regarding a matter of anticipated litigation.

ADJOURNMENT

As there was no further business to come before the Board at this time, the meeting was adjourned at 10:45 p.m.