

**SOUTH BAY IRRIGATION DISTRICT
MINUTES OF THE REGULAR MEETING**

September 21, 2009

The Board of Directors of South Bay Irrigation District held a regular meeting on Monday, September 21, 2009, at the Sweetwater Authority Administrative Office, 505 Garrett Avenue Chula Vista, California. President Thomas called the meeting to order at 4:01 p.m.

- **ROLL CALL**

Directors Present: Bud Pocklington, Jose Preciado, Maria Rubalcaba, Terry Thomas, Margaret Welsh

Directors Absent: None

Others Present: General Manager Rogers, Operations Manager Smyth, Legal Counsel de Sousa, Treasurer Farrow, and Board Secretary Schoonderwoerd. Also present: Janet Gonzalez and Stacey Hansen, Bartlett, Pringle and Wolf, LLP.

- **PLEDGE OF ALLEGIANCE TO THE FLAG**

Director Welsh conducted the pledge of allegiance to the flag.

- **OPPORTUNITY FOR PUBLIC COMMENT (Government Code Section 54954.3)**

There were no members of the public present.

- **PRESIDENT'S PRESENTATION**

President Thomas circulated a recent article from *American Laboratory* titled, "Simple Wisdom 7: A Short Course in Human Relations" by Daniel J. Schneck, which contained some advice she wanted to share with the Board.

ACTION CALENDAR ITEMS

1. AUDIT REPORT BY BARTLETT, PRINGLE, AND WOLF, LLP

Treasurer Farrow introduced Stacey Hansen, a manager with Bartlett, Pringle and Wolf, LLP, to present the audit report for the year 2008-09. Ms. Hansen has been with the firm for six years, and previously worked in private industry in the field of accounting and trade marketing in consumer packaged goods.

Ms. Hansen reported that the audit went very well this year and a clean audit report was issued. The auditors had full cooperation from management and had no disagreements on any audit or accounting issues. No significant issues arose from the audit that were discussed or were the subject of correspondence with management, and there was no management letter this year. There were no changes to accounting policies or principals, and they did not identify any significant or unusual transactions or accounting policies and

controversial emerging areas on which they lacked guidance or consensus. No alternative treatments were discussed with management within generally accepted accounting principals. Estimates are an integral part of preparation of the financial statements; however, they did not identify any significant estimates in the District's financial statements. No audit adjustments were necessary to the original trial balance, and there were no uncorrected statements.

Ms. Hansen reported that the management discussion and analysis provides a brief overview of the District's financial activities for the year and a brief description of the different financial statements. The statement of fund net assets shows the assets and the liabilities of the District. During the year, cash and investments decreased about \$12,000 due to lower interest income on investments. Some higher costs related to lobbying expenses were partially offset by a decrease in the Board's per diem and conference expenses. Interest receivable is lower this year because the overall return on investments is less. Liabilities were the same as prior year. The statement of revenues, expenses and changes in net assets shows the revenues and expenses of the district regardless of when the actual cash is paid, but when the expenses were incurred or the revenue was realized. Ms. Hansen noted that the Directors' fees decreased significantly from the prior year. Licenses, fees, notices and public information increased considerably due to the election in November 2008. The lobbying expense connected with AB 348 was something new this year. Investment income went down significantly. With the market downturn, the Local Agency Investment Fund (LAIF) return went from approximately 4.0 percent to 2.5 percent during the year. The statement of cash flows shows nothing different from the prior year in operating and investment activities. Other than updating some of the amounts, there were no changes from the prior year in the notes to the financial statements.

Ms. Hansen then reviewed the notes on the nature of the organization, the summary of significant accounting policies, and cash and investments. Ms. Hansen noted that investments are reported at fair value. All investments are currently in LAIF, which is considered cash because there are no penalties for withdrawing the funds early. Investment income is a non-operating item, and all of the District's expenses are operating expenses. Occasionally there are operating revenues; Ms. Farrow stated that this was the mandated cost program that the State of California has since suspended due to the budget situation in Sacramento. In this program, the District was able to recuperate certain costs such as producing agendas. The cash and investment note shows comparisons from year-to-year on the cash in the checking account and the investment cash equivalent in LAIF. This note also identifies the investment types authorized by the District's investment policy. As far as interest rate risk, funds in LAIF are not considered to be subject to interest rate risk because the funds are liquid. Ms. Hansen noted that the District is not subject to concentration of credit risks because LAIF and other governmental type securities are exempt from this disclosure. The District is not subject to custodial credit risk because its cash and investments are safe as they are currently situated. The final note is the required disclosure of the District's investment in LAIF, the state investment pool. Ms. Farrow noted that with investments under \$1 million it is difficult for the District to invest in agencies or treasury bills, and it is hard to find a broker that would deal with that small of an amount. Director Pocklington stated that he is thankful to see that the Board had made decisions to reduce the number of meetings allowed for per diem to two per month, as well as to reduce the amount

of per diem from \$120 to \$100, which saved about \$5,000. He believes it will be another two years before we start seeing the black, and we just need to be patient. Director Preciado requested copies of the Sweetwater Authority audit report that would be given at the meeting on the 23rd so the Board could review it before that meeting. Ms. Hansen noted that her copies of that audit were signed and could not be circulated until the actual meeting, but that Ms. Farrow would provide the Board with draft copies. The Board thanked Ms. Hansen for her presentation.

Director Welsh made a motion, seconded by Director Pocklington, that the Board accept the results of the audit report as presented by Bartlett, Pringle, and Wolf, LLP for the fiscal years ending June 30, 2009 and 2008. The motion carried.

2. ITEMS TO BE ADDED, WITHDRAWN, OR REORDERED IN THE AGENDA

There were none.

3. APPROVAL OF MINUTES

Director Welsh made a motion, seconded by Director Preciado, that the Board approve the minutes of the August 17, 2009 meeting. Before taking action on this item, Director Preciado asked if the recording was still available for the August 17th meeting. He is concerned about the reference to AB 1234 in the second sentence of Item 7 (Reports by Directors on Events Attended). He wanted to discuss that reference and suggest an amendment to the minutes. He was curious about the reference to AB 1234 attributed to President Thomas when he gave his meeting report on attending the WESTCAS Conference on June 24th. He believed the minutes state that President Thomas' discussion was that AB 1234 somehow was or was not being met or needed to be met, and he does not recall that she had that discussion. His recollection was that President Thomas brought up Policy 120, but he does not know why she brought up AB 1234, or why it is being attributed to her as a statement she made. President Thomas stated that she made reference to the fact that when Directors go to meetings, they get approval by the South Bay Board and the report goes to the South Bay Board. Director Preciado stated that that is policy under Board Policy 120, but that is much different than citing AB 1234, which is the Board's ethics legislation. He asked legal counsel if he was overstating this. Legal Counsel de Sousa stated that AB 1234 does have the ethics component, but it also does require that, for meetings where one receives compensation, there has to be a report at the next regular Board meeting. So, it has that aspect to it as well as the biannual ethics training. Director Preciado stated that the minutes reflect the discussion the Board had, so he asked President Thomas if she stated AB 1234 or if she meant to cite District policy. President Thomas stated that she was actually citing reference to the South Bay Irrigation District guidelines that were brought to the Board's attention in the past. Director Preciado asked President Thomas that, if she accepts the change to say that she was restating South Bay policy and strike AB 1234, he will be happy. President Thomas agreed to strike AB 1234 and reword the sentence to read "President Thomas noted that District policy requires that any compensation provided to Directors by South Bay Irrigation District for attendance at meetings must be approved and a report must follow." Director Preciado concurred. President Thomas stated that she just wanted it understood so there were no problems in the future. Director Welsh stated that her general recollection was that Director Preciado felt he did not need to give this particular report

because he gave it to Sweetwater Authority. She recalls that the explanation given was that if he was getting compensation of per diem from this Board, then he had to give a report to this Board. Director Preciado stated that that is correct, and that right now he wanted to correct the minutes, but that he does have further comments about that. He restated that he would agree to leaving out the reference to AB 1234. President Thomas stated that she had no problem with removing the AB 1234 reference from the minutes and she would rather not discuss the policy at this time.

Director Welsh's motion and second by Director Preciado was amended to approve the minutes of the August 17, 2009 meeting with a change to sentence 2 under Item 7 to read as follows: "President Thomas noted that District policy requires that any compensation provided to Directors by South Bay Irrigation District for attendance at meetings must be approved and a report must follow." **The motion carried with Director Pocklington abstaining due to his absence from the meeting.**

4. APPROVAL OF DEMANDS AND WARRANTS

Director Welsh made a motion, seconded by Director Thomas, that the Board approve Warrants 10820 through 10831 including all voided checks. The motion carried.

5. NEW BUSINESS

Director Welsh made a motion, seconded by Director Thomas, that the Board approve the membership renewal in the California Special Districts Association, San Diego Chapter, for the period July 1, 2009 through June 30, 2010, and the payment of dues in the amount of \$150.

6. APPROVAL OF DIRECTORS' ATTENDANCE AT MEETINGS AND FUTURE AGENDA ITEMS

There were none.

7. REPORTS BY DIRECTORS ON EVENTS ATTENDED

There were none.

8. REPORT OF TREASURER

The investment portfolio and treasurer's report for the month of August 2009 were noted and filed. There were no questions from the Board.

9. REPORT OF SWEETWATER AUTHORITY DIRECTOR TO THE WATER CONSERVATION GARDEN AUTHORITY

Director Rubalcaba reported that at the September 9th meeting the Board discussed a restructuring plan for the Garden that will be proposed in the near future. Also under discussion was the one-time donation requested from all member agencies. The Garden did send an email thanking Sweetwater Authority for its donation.

10. REPORT OF LAFCO SPECIAL DISTRICTS REGULAR MEMBER

Director Pocklington reported that there was no meeting in September. The next meeting will be October 5, 2009.

11. REPORT OF SAN DIEGO COUNTY WATER AUTHORITY REPRESENTATIVE

Director Pocklington reported that he just received his Board packet over the weekend and will make a report at the Sweetwater Authority Board meeting on September 23rd.

12. REPORT OF LAFCO SPECIAL DISTRICTS ADVISORY COMMITTEE MEMBER

President Thomas reported that the Advisory Committee did not have a meeting this month, but she had a report on the August 21st meeting. Tom Pocklington was designated the new Chair, and the new members of the Committee were welcomed (Margaret Morgan, Vista Fire Protection District, Richard Williamson, Borrego Water District, and President Thomas). The Committee reviewed the Rincon Oaks Estates Reorganization plan which, in essence, was to take an area of land designated as agricultural and transfer that estate to the City of Escondido. President Thomas stated she could provide more details when they have the final results. The reason they wanted the reorganization is because the County of San Diego did not provide sewer access to the site. In order to get sewer access to a development project at that site they felt that a transfer to Escondido was called for. She noted that Robert Barry and Michael Ott of LAFCO and consultant Harry Ehrlich were present and there were other issues involved. Valley Center Municipal Water District (MWD) declared that they had enough water for the development, yet LAFCO was opening the possibilities that a more extensive look at that land would be taken up by LAFCO at some point because of the great losses there have been in agricultural soil and agricultural land on the county and regional level. This whole philosophy and idea of a look by LAFCO at the bigger issues was going to be the prime point of discussion. There was discussion and input related to the specific project rather than to the entire concept of LAFCO getting involved now. As a result, Olivenhain MWD asserted that if a local agency declares there is water, then that should be respected, and many local agencies agree. However, there was not a consensus, so things were left standing. The committee requested that Mr. Arant of Valley Center MWD provide a summative statement of his stand. The issue of LAFCO's level of involvement in water will take a lot more discussion, but the Rincon issue will be going to the LAFCO Commission. President Thomas explained LAFCO's Sphere of Influence study of water agencies to the new Directors. She is looking forward to Director Pocklington's report on the status. Director Pocklington asked how much water they were going to consume, because that is the key, as well as to come up with ways to save water to make up for the new project. He added that in the past year the only approvals at CWA have been very small projects after the agency demonstrated that they could save enough water to make up for their project. He said that with the cutbacks of agricultural water over the last year, they will have to get into the details about the availability of agricultural and urban water.

President Thomas shared that Leslie Dobalian of CWA and Mark Watton of Otay Water District also were in attendance at this meeting. So, there were others present that were interested in this item as well as the agenda item dealing with LAFCO's involvement in principals and issues. Director Preciado stated that he did not understand what President Thomas just said. President Thomas responded that the CWA has a responsibility as a

wholesaler with member agencies and municipalities. She conjectured that Otay may have a need to have more collaboration with other districts. When the official minutes are available, she will share them with the Board. Director Pocklington asked if Mark Watton made any comments being pro or against. Director Preciado asked if this was on a project in Escondido. President Thomas stated that Mr. Watton commented on the more global issue of LAFCO involvement. She felt he was more supportive of that than not. Director Pocklington stated that in the past year and a half since the drought has been around LAFCO has taken a much wider concern about where the water is coming from. So that is one of the areas they will be concerned about, and he does not know exactly what will happen with that at this point. President Thomas stated that everyone will be interested in this issue and that it may be a good agenda item for South Bay Irrigation District and LAFCO could be invited. Director Pocklington asked if this issue was going to the LAFCO Commission in October. President Thomas stated that she remembered there was no consensus from the Advisory Committee, and that there really was not enough time to discuss the main issue related to the principals. They wanted input and it would go to the LAFCO Commission to decide. Director Pocklington said he would check with Michael Ott at LAFCO. Director Thomas reiterated that she believes this is an important thing for us to understand. She knows that so much prime agricultural soil has been lost and in looking at the population studies of SANDAG for 2050, there will be a lot of people who will want food that they can trust. During the discussion itself, she and two other new people were proponents for watching over the agricultural soil, but that actually does not mean that LAFCO will do that. They want the local agencies to be able to make their own determinations. The bottom line is that we should also be caretakers of our agricultural industry.

President Thomas stated that, as a personal comment, she knows there are wonderful methods that biotechnology had provided to enhance the agricultural productivity. At one point in time, for example, Bali was going to have to export some of its people into other areas because the rice they were growing was not enough for the population on the island. Then they started to grow a new, genetically engineered rice that was not as tasty but was able to feed that population and sustain future populations. Both agriculture, with its need for good soil, and the biotechnology need water, so we do have choices and we need to consider all sides. She threw that out from an academic viewpoint, but she believes that it is something that maybe in the future could be a discussion point. Director Preciado suggested that that could be held in an academic setting and not at South Bay Irrigation District. President Thomas said that if the Board was going to be making policies it needs to be enlightened. Director Welsh stated that it pertains to water agencies in that it is going to change the power of LAFCO if water agencies “gang up” and say that LAFCO is not going to tell them what to do. That has been a conflict between the agencies and LAFCO. President Thomas stated she had a written summary of the meeting and could attach the other items to be made available to the Board for a better review.

13. REPORT OF MANAGEMENT

Management had nothing to report.

14. DIRECTORS' COMMENTS

Director Welsh commented that Long Beach has gone to a very aggressive water

conservation program and is restricting watering on certain days as opposed to just hours. Because of the heavy use on Monday, Thursday, and Saturday, water mains are breaking and creating extra problems for the City.

Director Preciado noted the reduction in the cost of operating South Bay Irrigation District, and he hopes that in the near future reducing the number of meetings in a year can be considered. In order to reduce costs, particularly in the next two or three years where financial shortfalls will continue to be experienced, he suggested meeting perhaps two or three times a year rather than every month, unless there was an absolute necessity to meet to conduct business or a legal reason to meet. He noted that there will be an approximate \$5,000 expenditure associated with the election next year. As beneficial as these meetings are, he is hoping that business could be covered on an information or educational basis at the Sweetwater Authority Board that meets twice a month every month. Also, Director Preciado informed the Board that he has read Board Policy 120 and has taken into mind the specific statements associated with the responsibilities of Directors as they come back from meetings. He is particularly interested in the following phrase in the policy: "Said written or verbal report shall detail the information that may be of benefit (he restated, 'that may be of benefit') to the district..." The next time he has an opportunity to attend a meeting on behalf of the South Bay Irrigation District, he hopes to come back and give a concise report. He is hoping never to have to take 25 minutes to give a report from a committee; but, he will do his very best to be concise, to bring a summary, and to explain how his participation at that meeting and the information he collects will benefit the District. After reading the minutes of the last meeting, he realizes that simply referencing the (Sweetwater Authority) minutes was not as beneficial as restating (his report) for the benefit of all. At the WESTCAS meeting they heard a report from the federal lobbyist for WESTCAS discussing some of the important information associated with regulations that are coming down from the Environmental Protection Agency associated with aquifer regulation. This has more to do with some states other than our state, but Director Preciado sees the importance to bringing that information forward. He did not attend the WESTCAS reception that evening because of the Sweetwater Authority meeting that same day (June 24). Director Preciado added that in the future he will be mindful of Policy 120 and that his report should focus on information that will benefit the District. He thanked the Board President for reminding him of his responsibility to do that.

Director Pocklington concurred with Director Preciado that the Board could probably cut back on some meetings throughout the year, but not to hold only two or three a year. He believes the meeting frequency should be reasonable to keep the organization involved. He noted that one meeting this year already has been cancelled. Regarding Policy 120, one of his concerns is that since we do have two organizations (Sweetwater and South Bay), he does not think it is necessary to go into a lot of additional detail and time to give the report in both meetings, if it is stated that the report was given at the other meeting.

President Thomas stated that another consideration is that commitments should not be made to attend conferences and then not be present, because that adds to the costs. Understandably, emergencies do occur, but sometimes representation can be covered by an alternate or staff. Board members need to be aware to communicate when they cannot attend a meeting or make sure to plan so that the cost of meetings not attended are not encumbered on the agency. She brought this item up because she seemed to remember a comment made by the auditor in a previous year. She thought that was actually what the Board was to

follow, and that Policy 120 just reflected that. Director Preciado asked for clarification of that statement. President Thomas responded that this dealt with making a report at the South Bay meeting when compensation for a meeting comes from that agency. Legal Counsel de Sousa stated that it was a legal issue and she could provide a short memo on that. She stated that basically the report has to be made to the agency that provides the compensation for attendance at that meeting and needs to be made at the next meeting of that Board. Director Preciado asked if Ms. de Sousa could write up what the detail of the report should be. If he states he went to a meeting, does that constitute a report? Ms. de Sousa stated that the specifics are in AB 1234 but she will note the statute. He asked that she make sure to include that because he wants to be sure it is made clear how a report is going to be judged or evaluated. He stated that, for example, President Thomas just gave a 25-minute report on her LAFCO meeting, and that may seem like a substantive report. But, from his vantage point, maybe some of it was not necessary. So, he is confused as to what reports are necessary - long, detailed reports, or short reports, or what constitutes a report. Director Preciado stated that the minutes reflect that he made a report, but he got sensitive because of the ethics reference that was made in the minutes. He questioned whether legal counsel reviewed the minutes and agreed with them before they were circulated. Ms. de Sousa stated that she reviewed the minutes, but does not make a value judgment about them. She looks at what references are made to what she had said. Director Preciado stated that he is very concerned that there was some suggestion that he as a Board member made an ethical violation, and that the minutes were circulated when he did make a report. That is why he had to bring it up at the beginning of the meeting. It would be helpful to have legal counsel's explanation or legal advice as to what constitutes a report. He hopes that sometimes very limited information will be sufficient and not these lengthy reports that go on about all kinds of things.

15. CLOSED SESSION

There was none.

16. ADJOURNMENT

With no further business before the Board, President Thomas adjourned the meeting at 5:03 p.m.

Teresa Thomas, President

Attest:

Rita Schoonderwoerd, Board Secretary