

COASTSIDE COUNTY WATER DISTRICT  
Minutes of the Special Meeting of the Board of Directors  
766 Main Street, Half Moon Bay, CA 94019  
June 10, 2002 – 7:30 p.m.

- 1) ROLL CALL: President Eleanor Wittrup called the meeting to order. Present at roll call were Directors Chris Mickelsen, James Marsh, John Muller, and Jim Larimer. Also present were Ed Schmidt, General Manager; Dave Mier, Superintendent; Anthony Condotti, Legal Counsel; James Teter, Engineer; JoAnne Whelen, Executive Secretary; Glenna Lombardi, Executive Assistant, and Linda Goetz, Recording Secretary. There were approximately twelve people in the audience, including District employees.
- 2) PLEDGE OF ALLEGIANCE: Everyone stood for the Pledge of Allegiance.
- 3) PUBLIC ANNOUNCEMENTS:  
*Larry Kay, 12 Sunset Terrace, HMB*, spoke in favor of seeking the Attorney General's opinion regarding Director Wittrup's residency, and proposed that Director Mickelsen may have a potential conflict of interest in expansion issues.  
*Keith Mangold, El Granada*: presented a letter from the Pilarcitos Creek Advisory Committee regarding well testing in Pilarcitos Creek.
- 4) APPROVAL OF THE AGENDA: Director Marsh requested that Item 7-A be discussed in conjunction with the budget as number 3 of Item 6-A. The General Manager recommended taking up Closed Session Item 8-B at the end of the agenda. Director Larimer moved Item 8-A to after Item 5, the Consent Calendar.

**ON MOTION by Director Marsh, seconded by Director Mickelsen, the Agenda was unanimously approved as amended.**

- 5) CONSENT CALENDAR:
  - A. Requesting the Board to review payment of claims for the month ending May 31, 2002 in the amount of \$212,709.86.
  - B. Acceptance of Financial Reports.
  - C. Minutes of Meeting of May 14, 2002.
  - D. Acceptance of Mixed Use Project Water System.

Director Marsh pulled Item 5-D for further discussion, and Director Muller reported a positive review of Claims for the month ending May 31, 2002.

**ON MOTION by Director Mickelsen, seconded by Director Muller, Items 5 A through C were unanimously approved as presented.**

- 5-D Acceptance of Mixed Use Project Water System: At the request of Director Marsh, the Superintendent described the project and answered questions from the Board.

**ON MOTION by Director Marsh, seconded by Director Muller, the Board unanimously accepted the water system improvements for the South Wavecrest Mixed Use Project as complete.**

Item 8 was taken up at this point in the meeting, but is reported in these Minutes in order of the agenda.

6) REPORT OF THE GENERAL MANAGER:

A. Continued discussion and possible direction to staff regarding proposed FY 2003 Operating and Maintenance (O&M) Budget and Capital Improvement Program (CIP) Budget:

1. *Discussion of salary survey results for Coastside County Water District – Presentation by Barbara Nance, CPS Consultant:* The General Manager presented a summary of five budget options and the associated rate impact for each. He introduced Barbara Nance, the Human Resource consultant from CPS, who presented the results of the compensation survey and compensation increase recommendations. After discussion and consideration of the opinions of Directors Mickelsen and Wittrup of the Human Resource Committee,

**Director Wittrup MOVED, and Director Marsh SECONDED to adopt Budget Option C-2. Further discussion ensued, but roll call was suspended to allow time for the consultant to gather further information. After taking action on Item 6-A-2, the Board returned for Roll Call Vote on the issue of compensation increases, and the motion PASSED unanimously.**

2. *Discussion of new Public Employee Retirement System (PERS) contract option (including actuarial evaluation) and possible direction to staff; presentation by John Bartel, AON Consultant:* Mr. John Bartel, the Actuarial Consultant, discussed the alternative benefit formulas available under CalPERS and their cost impact to the District. There was extensive discussion, during which he explained the effect of employee behavior and CalPERS' investment return on the District's contribution rate.

**Director Wittrup MOVED to accept the Budget Option C-3, including the recommended retirement contract amendment alternative, of 2.5% at age 55. Director Muller SECONDED, and after hearing from the following members of the public, the MOTION PASSED UNANIMOUSLY.**

*Sean Donovan, employee representative on the HR Committee*, spoke in favor of the 2.5% at 55 plan as the best alternative for everyone at this time. He also reminded the Board of the employees' commitment to their 1% contribution.

*Everett Asher, HMB*: suggested designating unallocated funds as a reserve against PERS contributions.

**ON MOTION by Director Wittrup, seconded by Director Mickelsen, the Board unanimously adopted Budget Options (A: Estimated Revenues = Estimated Expenditures), (B: Doubling the Training Budget and Removing Hydrant Fees), and (C-1: Increased Depreciation), which equate to a 4.3% rate increase.**

Item 7-A, proposal to budget funds for a Master Plan, was discussed and acted upon at this point in the meeting, but is reported in sequential order of the agenda in these Minutes. The General Manager then sought Board action on other budget-related items, including retroactive salary increases and setting a date of Public Hearing on the rate increase.

**ON MOTION by Director Muller, seconded by Director Mickelsen, the Board unanimously: 1) approved retroactive compensation adjustments to January 1, 2002; 2) directed staff to prepare a resolution establishing a new restricted reserve non-Crystal Springs CIP funding in the amount of \$2,374,000; and 3) directed staff to set July 9, 2002 at 7:30 for a Public Hearing relative to rate increase.**

- B. Discussion and possible direction to staff regarding the letter to be presented to the California Coastal Commission addressing Coastsides County Water District Fire Flows: The General Manager reminded the Board that they directed him to write a letter to the California Coastal Commission regarding fire flow and the advantages of a gravity-flow water line over a pump station. During discussion, Director Marsh expressed concern about the emotional tone of the letter. He'd rather see just the facts. Director Wittrup told the Board that it was her understanding that fire protection to the El Granada Highlands is more dependent on the reliability of the pump station than pipeline size. Director Larimer said he thought it was a great letter.

**Director Muller MOVED to send the letter as presented to the California Coastal Commission, and Director Mickelsen SECONDED. The Motion PASSED 3-2, with Directors Marsh and Wittrup voting No.**

- C. Resolution 2002-06, - Determination of Appropriation Limit for Fiscal Year 2002-2003: The General Manager recommended adoption of Resoluion2002-06 to increase the District's appropriation limit to \$3,250,709.

**ON MOTION by Director Wittrup, seconded by Director Marsh, the Board unanimously adopted Resolution 2002-06, "Establishing the Appropriations Limit Applicable to the District during Fiscal Year 2002-2003" as \$3,250,709.**

- D. Request for Board to authorize General Manager to write off bad debts for Fiscal Year 2002: Upon presentation by the General Manager and discussion, the following action was taken:

**ON MOTION by Director Marsh, seconded by Director Muller, the Board unanimously authorized the General Manager to write off bad debts for Fiscal Year 2002 in the total amount of \$2,981.57.**

- E. General Manager Activities: The General Manager referred the Board to his written report, which was accepted without discussion.
- F. Discussion and possible direction to staff regarding a request from Mr. John L. deBenedetti of Magnolia Associates, LLC for an exception to the District's transfer policy as embodied in Resolution No. 2001-08 which addresses exceptions based on the transfer "providing a specific public benefit such as permanent open space." In addition to the General Manager's report, Mr. deBenedetti asked for an indication from the Board as to whether it would act favorably upon his transfer request as qualifying as an exception to policy, and if not, whether the Board would consider a policy amendment. After some discussion, including input from Counsel, the following action was taken:

**President Wittrup MOVED to find that the Magnolia Associates project has a specific public benefit consistent with the exception language contained in Section 1U, Item 4, Page 5 of Resolution No. 2001-08. Director Muller SECONDED. Director Mickelsen suggested taking the "same owner" wording out of the transfer policy entirely, but since the topic of re-defining the policy was not properly agendaized for action at this meeting, Director Wittrup assigned a committee of herself and Director Muller to review the transfer policy for consideration at a future Board meeting. The motion and action PASSED UNANIMOUSLY.**

- G. Correspondence: (1) Letter from SFPUC dated May 29, 2002: This letter regarding concurrence with the selection of Carollo Engineers was presented without discussion.

7) AGENDA ITEMS REQUESTED BY BOARD MEMBERS;

- A. Discussion and possible direction to staff to include money in the FY 2003 budget for the preparation of a Master Plan – placed on the agenda at the request of Director Marsh: Director Marsh presented his recommendation and reasoning for setting aside money for preparing a Master Plan, and Director Wittrup provided her support.

**Director Wittrup MOVED to include \$50,000 in the FY 2003 budget for preparation of a Master Plan. Director Marsh SECONDED. The MOTION FAILED 3-2 when Directors Mickelsen, Muller and Larimer voted No.**

- B. Consideration of replacement of Board President – placed on the agenda at the request of Director Mickelsen. Director Mickelsen proposed that Director Muller replace President Wittrup as President of the Board. Without discussion, the following action was taken:

**Director Mickelsen MOVED to elect Director Muller President of the Board of Directors, who accepted the nomination after emphasizing that he would only do so knowing he has full cooperation and assistance from the rest of the Board and staff. Director Wittrup SECONDED, and the motion PASSED UNANIMOUSLY by roll call vote.**

8) ATTORNEY'S REPORT:

- A. 2002 San Mateo County Grand Jury Report: District Counsel, Anthony Condotti, reported that his opinion on the residency issue involving Carol Cupp and Eleanor Wittrup has not changed as a result of the Grand Jury's report. He maintained that the Water Code is clear in terms of creation of a vacancy on the Board of Directors and qualifications for residency for purpose of holding office, i.e. when a director's place of residence moves outside of the District for a County water district, water code Sec. 30508 requires that the director either re-establish residence within 180 days or there is a presumption of vacancy. He indicated that it follows that there is no presumption of vacancy by the mere fact that a director has moved their residence outside the district unless that 180-day period has elapsed. With respect to President Wittrup, he pointed out that the Grand Jury's report was based upon its own speculation about the "intent" of the law, whereas, based on the plain language of the law, he had previously opined that President Wittrup was a resident for purposes of qualifying to remain in office. During discussion he answered questions from the Board and clarified that the Grand Jury's recommendations did not contain a legal mandate, i.e., did not outline a course of action designed to "cure" any purported violation of residency laws, thus again suggesting that the Grand Jury's recommendations had a policy basis, but not a legal basis. .

Director Marsh MOVED to respectfully respond to the Grand Jury's three recommendations, thanking them for their guidance on items 1 and 2, and advising them that they see no legal basis for asking for Director Wittrup's resignation. His motion died for LACK OF SECOND.

Director Wittrup MOVED to disagree wholly or partially with the finding of the Grand Jury, and to finish implementing the Jury's three recommendations by voting to ask Eleanor Wittrup to leave her office, and then respond to the Grand Jury regarding the implemented action. It was noted that the first two recommendations have been acted

upon, i.e. 1) clarification of what constitutes a board vacancy, and 2) Board recognition of its public responsibilities. Director Muller SECONDED. Discussion ensued and the following members of the public spoke:

*Jerry Donovan, 2005 Touraine, HMB:* expressed disagreement with Counsel's opinion.

*Larry Kay, 12 Sunset Terrace, HMB:* reminded the Board that this is not a criminal grand jury, but a civil grand jury whose role is to investigate systems and procedures of local agencies,

After agreeing that two motions would better clarify the actions being taken, Director Wittrup's Motion was WITHDRAWN.

**Director Larimer MOVED to agree with the Grand Jury's finding. Director Marsh SECONDED, and the MOTION FAILED 3-2 as follows:**

<b>Director Mickelsen</b>	<b>Yes</b>
<b>Director Marsh</b>	<b>No</b>
<b>Director Muller</b>	<b>No</b>
<b>Director Larimer</b>	<b>Yes</b>
<b>President Wittrup</b>	<b>No</b>

**Director Marsh MOVED to disagree wholly or partially with the Grand Jury's findings. Director Muller SECONDED, and the Motion PASSED 3-2 as follows:**

<b>Director Mickelsen</b>	<b>No</b>
<b>Director Marsh</b>	<b>Yes</b>
<b>Director Muller</b>	<b>Yes</b>
<b>Director Larimer</b>	<b>No</b>
<b>President Wittrup</b>	<b>Yes</b>

Director Marsh MOVED to implement the recommendations of the Grand Jury by asking for Eleanor Wittrup's resignation. Director Larimer SECONDED. After discussion of whether the motion should include all three recommendations, Director Marsh WITHDREW his motion and received guidance from Counsel as to the appropriate wording for a new motion. Counsel also recommended asking for the resignation as the first action.

**Director Larimer MOVED to act on the Grand Jury's third recommendation by asking Eleanor Wittrup to resign her office. Director Mickelsen SECONDED, and the MOTION PASSED as follows:**

<b>Director Mickelsen</b>	<b>Aye</b>
<b>Director Marsh</b>	<b>Aye</b>
<b>Director Muller</b>	<b>Aye</b>
<b>Director Larimer</b>	<b>Aye</b>
<b>President Wittrup</b>	<b>Abstained</b>

**ON MOTION by Director Marsh, seconded by Director Muller, the Board UNANIMOUSLY agreed to report to the Grand Jury that the Board has implemented their recommendations by: 1) reviewing and publicly clarifying what constitutes a Board vacancy, and 2) considering and acknowledging their public responsibility not to manipulate the electoral process and thereby deny District voters their right to elect their representatives; and 3) asking for the resignation of Eleanor Wittrup. After the vote, Director Wittrup DECLINED RESIGNATION.**

BREAK: The Chair called for a ten-minute break at 8:45, and the meeting resumed at 8:55.

- B. CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Cal. Government Code Section 54956.9) Beuth v. Coastside County Water District – SMSC Case No. 407917): This item was taken up after Item 12 at 11:45 when the Board went into Closed Session. Counsel will report any action taken in Closed Session in a separate memorandum.
- 9) ENGINEER'S REPORT:
- A. Engineering Projects Received in May 2002: None.
  - B. Engineering Projects in Progress: The Engineer referred to his written report which summarized the following current work assignments: 1) Disinfection Profiling for the State Department of Health; 2) Report of Estimated Cost of Water Produced from Proposed Lower Pilarcitos Creek Groundwater Project, 3) Paving and Drainage Improvements at the Alves Tank site; 4) El Granada Storage Tank 3 Site Improvements; 5) Preparation of Design Contract Documents of the El Granada Transmission Pipeline Replacement Project; and 6) Preparation of Design Contract Documents for the Carter Hill West Pipeline Replacement Project. 7) Carter Hill West Pipeline Replacement Project. No action was required.
  - C. Preliminary report on estimated cost of water production from the proposed Lower Pilarcitos Creek Groundwater Project: The Engineer presented his written report, which concluded that assuming well production rate of 500 gpm for 300 days per year, the water produced by the Lower Pilarcitos Creek Groundwater Project would be less expensive currently than water from Crystal Springs. Based on these preliminary findings and other discussion, the Board directed staff to prepare a draft Request for Proposal for the Lower Pilarcitos Creek Groundwater Project.”

- 10) OPERATIONS REPORT: Superintendent Mier presented Items A through D without comment.
- A. Water Service Connections Installed, Priority and Non-Priority: 4.5 non-priority and 1.5 priority water connections were installed in May.
  - B. Capital Improvement Program Progress: A total of \$2,251 was expended in May, \$1,420 of which was for the Alameda Pipeline Replacement Project.
  - C. Water Sample Report, Local Production, Water Purchases, Leaks, etc: Water production totaled 85.98 million gallons; 61.53 of which came from Pilarcitos Lake. Sales totaled 81.59 million gallons. Four leaks were repaired. .52 inches of rain was recorded at the District office.
  - D. Carter Hill West Pipeline Pressure Readings: Pressures were well above the minimum recommended psi.
  - E. Department of Health Services – Drinking Water Field Operations Branch – Water Quality Monitoring in 2002: The Superintendent presented his letter to Sequoia Analytical Labs requesting their response and suggested corrective actions to issues raised in the letter from the Department of Health Services.
  - F. Relocation of Pipeline on Ferdinand Avenue: Upon the Superintendent's request, the Board took the following action:

**ON MOTION by Director Muller, seconded by Director Marsh, the Board unanimously authorized staff to utilize Stoloski & Gonzales, Inc as the lower bidder to relocate the existing water pipeline on Ferdinand Avenue in El Granada at a cost of \$31,680.**

11) MEETINGS ATTENDED/SCHEDULED: None reported or requested.

12) AGENDA ITEMS AND DIRECTOR COMMENTS:

- A. Director Muller repeated his request for cooperation during his tenure as President of the Board.

Item 8-B: CLOSED SESSION was taken up at this point in the meeting at 11:45. The audience and staff were permitted to leave.

13) ADJOURN: The Recording Secretary was not present for adjournment, which occurred after the re-positioned Closed Session. The next meeting of the Board of Directors will be a Regular Meeting on July 9, 2002 at 7:30 p.m.

Respectfully submitted,

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Ed Schmidt, General Manager

APPROVED:

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John Muller, President