

**MINUTES OF THE
BOARD OF DIRECTORS MEETING OF THE
OTAY WATER DISTRICT
March 1, 2017**

1. The meeting was called to order by President Robak at 3:34 p.m.

2. ROLL CALL

Directors Present: Gastelum, Robak, Smith and Thompson

Directors Absent: Croucher (out-of-town on business)

Staff Present: General Manager Mark Watton, General Counsel Daniel Shinoff, Attorney Jeanne Blumenfeld, Asst. General Manager German Alvarez, Chief of Engineering Rod Posada, Chief Financial Officer Joe Beachem, Chief of Administration Adolfo Segura, Chief of Operations Pedro Porras, Asst. Chief of Operations Jose Martinez, District Secretary Susan Cruz and others per attached list.

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF AGENDA

A motion was made by Director Thompson, and seconded by Director Smith and carried with the following vote:

Ayes: Directors Gastelum, Robak, Smith and Thompson

Noes: None

Abstain: None

Absent: Director Croucher

to approve the agenda.

5. ADOPT RESOLUTION NO. 4329, A RESOLUTION OF THE BOARD OF DIRECTORS OF THE OTAY WATER DISTRICT CONDEMNING DISCRIMINATION

President Robak read the Resolution No. 4329 into the record.

A motion was made by Director Thompson to adopt Resolution No. 4329 and the motion was seconded by Director Gastelum.

There were members of the public who wished to address the board on this item. The first speaker was Mr. David Patterson of Ramona who is a member of San Diego Veterans for Peace. Mr. Patterson asked that the board vote to approve

the Resolution and requested that Director Gastelum resign from his position on the Board.

Mr. Karem Elhams of El Cajon indicated that he is an engineer who worked on major water facilities that benefited the Otay WD. He asked that Muslims not be labeled as subhuman or as terrorists and asked that the board vote to approve the Resolution on the floor.

Mr. Edgar Hopida of Chula Vista indicated that he was deeply offended by Director Gastelum's anti-Muslim comments. He indicated that what is clear from hate motivated incidents is that it all starts with rhetoric and when rhetoric turns into action, it turns into a hate crime. He stated, today, Director Gastelum has an opportunity to make an official sincere public apology and it is his hope that he will pledge not to contribute to further dividing the community.

Mr. Steve Ritt of National City indicated that he felt he could not state anything better than what has already been said this evening.

Ms. Cynthia Rich of San Diego indicated that she did not feel that there was a great deal that she could add to the comments made today, but stated that in her experience over her lifetime, where language used by Director Gastelum leads is not somewhere we would want to go.

Mr. Hanif Mohibi of San Diego indicated that he is with the San Diego Office of Council of American Islamic Relations (CAIR). He stated that Director Gastelum's language encourages hate crimes against the Islamic community. He indicated that while he supports the presented resolution, it does not indicate why it is being presented for adoption and it does not provide consequences for actions that violate the resolution. Thus, he feels it does not go far enough. He asked that Director Gastelum provide a sincere apology and suggested that the District's board and staff be provided "Cultural Competency" training.

Ms. Mona Dibas, a student at Southwestern College, indicated that she does not see any consequences in the resolution. She wished to know what the consequences are for not observing the resolution and would like assurances that there are next steps.

Mr. Fayaz Nawabi of CAIR San Diego and the Trustee Advisory Council for the San Diego Community College District indicated that he has six (6) requests: 1) a public apology from Director Gastelum; 2) official statement from the board formally condemning Director Gastelum for his anti-Muslim, anti-immigrant and anti-refugee comments; 3) that Director Gastelum meet with local Muslims and immigrant communities; 4) should Director Gastelum reject these requests, that the board ask that he resign; 5) that the District provide training to the board and high level staff members on basic "Cultural Competency"; and 6) that CAIR will be supportive of any actions the constituents of Director Gastelum's division wish to pursue.

Ms. Becca Taylor of the Interfaith Center for Worker Justice of San Diego County indicated that she appreciates the resolution, however, there is a lack of accountability. She would like to see the board consider consequences for those who violate the resolution and would like a sincere apology from Director Gastelum.

Mr. Jorge Del Castillo of Chula Vista indicated that Director Gastelum's comments did not just say Muslims are inferior, he categorized Muslims as subhuman. He stated that an apology is not enough and, they, as a community must fight back and not allow leaders to persecute the Muslim community. He asked Director Gastelum to resign.

Ms. Blair Overstreet of San Diego, representing the organization Showing up for Racial Justice, indicated that she supports the demands made by those who spoke before her. She indicated that she is a history teacher by profession and if she had made similar comments on social media she would be immediately fired. She noted that she is not an elected official, someone who represents the people of San Diego. She feels that he should be held accountable for his actions. She requested that Director Gastelum resign if he is unwilling to provide a proper apology.

Mr. Orin Robinson of San Diego indicated he concurs with all that has been said this afternoon and he feels it is disgraceful that there are no consequences for Director Gastelum's actions. He indicated that he appreciates the resolution and echoes the calls to do much more.

Ms. Jessica Jollett of San Diego indicated that it is not okay to tweet personal feelings that incite violence against a community. She stated she is proud of the people who have the courage to stand here today and tell Director Gastelum that their humanity means something. She asked that the board have the political will to demand that Director Gastelum resign from the Board of Directors.

Ms. Nada Dibas, a student at Southwestern College, indicated that the resolution states that it will not tolerate discrimination, but it doesn't state what will happen if you violate the resolution. She stated her issue with Director Gastelum's comments is that it makes people think it is okay to attack her (Muslims) because now they are considered subhuman. As an elected official representing a community, such opinions are not appropriate and are harmful. She respectfully asked that he step down from his seat on the Board of Directors.

Mr. William Johnson of San Diego, representing the United Taxi Workers of San Diego, indicated that the kind of rhetoric spoken by Director Gastelum causes hate crimes and using such language is not okay. He asked Director Gastelum to resign and stated that if he did not resign they would push to have him removed.

Ms. Amada O'Rourke, a student at Southwestern College, indicated that they are attending today's meeting to tell Director Gastelum that what he is doing is wrong. She asked Director Gastelum to resign.

Mr. Vince Snodgrass of Chula Vista indicated that the kind of language used by Director Gastelum leads to violence and should not be used. He stated that this Country is made of immigrants and free speech does not mean that it is okay to say things that damage communities. He indicated that the resolution is a good beginning and he would add his name to the list of those who ask that Director Gastelum resign.

Ms. Melody Godinez of San Diego indicated that the Muslim community should not be generalized because a few bad Muslim people have done bad things. Those people do not represent all the Muslim people in the United States and around the world. She indicated that we are all one people and asked Director Gastelum to resign.

Mr. Hanif Mohebi of San Diego wished to address the board again. He indicated that he wanted to assure that this dialogue is moved in a positive direction. He stated that they were here to work with the board and meet with Director Gastelum to further the discussion.

Director Gastelum indicated that he would not read his prepared statement as he felt that reading a statement seems insincere and he would speak straight from his heart instead. He indicated that first he wished to clarify that his comments are not reflective of the people of Otay WD. He thanked Mr. David Patterson for his service to the United States of America; Mr. Karem Elhams for his 30 years of service to the Helix WD; and Mr. Edgar Hopida for his father's service to the United States of America. He stated he wished to apologize to the people of the Otay WD as they do not deserve this. He shared that though he was born in the United States his roots are Mexican and English is his second language. He agreed that if he had read the words he had tweeted, he would be very offended as well and wished to clarify that he did not mean to offend 1.6 billion people for being Muslim.

He indicated that his father was murdered in front of his neighbor's home 28 years ago and, thus, condemns violence and chose to live in the United States because it is a civil society. He stated he condemns violence against women, the stoning of women to death, throwing homosexuals from roof tops, and all terrorist acts. He asked those who can find it in their hearts to forgive those comments. He stated the comments are not specific to you and were geared to those who treat women as second hand citizens. He asked people attending the meeting to join him in condemning persons who treat women as second hand citizens, throw homosexuals from roof tops and radical Islamic terrorism. He indicated that he agrees with their comments and he apologizes for his statement and asked them to forgive him. He stated that he denounces bigotry and condemns violence on Mosques as in a civil society there is no place for

violence. He indicated that he would meet with the Muslim community leaders and stated that he has taken sensitivity training since he made those comments.

Director Thompson indicated that he is proud to be part of a diverse community and agrees that we have an incredible community. He thanked Director Gastelum for separating his comments from the Otay WD. He indicated that he feels very strongly and deplors Director Gastelum's comments. He feels that it is insensitive of him to make those comments and agrees that such comments lead to heinous acts. He stated that the problem with Director Gastelum's apology is that it is lacking contrition and needs to be more sincere. He says this to Director Gastelum with great sincerity. Director Thompson clarified that the District's Board of Directors has certain things that it can and cannot control and the appropriate thing for him to do as a member of the Board is to search what else this Board can do. He would like to see more from Director Gastelum and feels that our Muslim citizen's need to be embraced.

Members of the public requested to address the board a second time.

Mr. Karem Elhams of El Cajon asked that Director Gastelum provide a sincere apology to the Muslim community. He also suggested that he educate himself about the Muslim faith and culture. He stated picking up information from social media and condemning "this and that" has no value. He indicated a sincere apology would help his fellow board members and would help resolve this issue.

Mr. Edgar Hopida of Chula Vista indicated that he does not feel what Director Gastelum said is a heartfelt apology. He asked him to learn about Islam from mainstream sources and not from anti-Muslim sources. He stated they, as a community, are concerned and he is beginning to feel that Director Gastelum is not being sincere and feels he may have to resign.

Ms. Mona Dibas, a Southwestern College Student, indicated to Director Gastelum that when he referred to Muslims as subhuman in his tweet, he did not clarify that he was referring only those that treat women as second hand citizens, etc. His tweet referred to all Muslims. She stated that his apology was not sincere and she asked him to resign or they, as a community, will force him to step down from his position.

Ms. Maria Serrano, a Southwestern College Student, indicated that what Director Gastelum said today was not an apology and that he needed to own up to what he has said. She indicated that if he cannot bring himself to apologize, he should resign.

Mr. William Johnson of San Diego and representing the United Taxi Workers of San Diego indicated that what they want is to stop the *hate speeches* and asked that Director Gastelum stop his *hate speeches*.

Mr. Hanif Mohebi of San Diego indicated that when Director Gastelum started his apology, he had some hope as he (Director Gastelum) stated he was going to speak from the heart. He indicated that, however, Director Gastelum's apology offended him and he feels they, as a community, need to do something about this issue.

President Robak indicated that he represents Division 5 of the District's service area which he believes is the largest Chaldean community outside of Detroit, Michigan. He stated the resolution presented today states the values of the Otay Water District. He indicated that he has served on the board for 12 years and the board and staff have been a model of professionalism and inclusiveness during those 12 years. He observed that today was a low point for the District. He stated that Director Gastelum is elected by the people in his division and he asked Director Gastelum, as he has already offered to do, to meet with the leaders of the Muslim community.

Director Smith indicated that he is an Engineer by trade and he worked with Mr. Kareem Elhams and considers him a fellow engineer and friend regardless of his religion, etc. He stated he is a person and I do not judge people based on their religion, sex, creed, etc. He indicated that he knows that the staff and board of the District concur that Director Gastelum's views do not represent the views of the Otay Water District, nor do they represent his views.

President Robak indicated that Director Croucher was unable to attend today's meeting, but forwarded a statement which he read for the record:

I apologize for not be available to attend today's board meeting, but I am out-of-town on San Diego County Water Authority business. I do fully support the resolution being introduced today condemning discrimination. Otay WD represents more than 220,000 customers that are of diverse backgrounds and as a board member of the District, I have always and will continue, to foster an environment that has full respect for all. It is unfortunate the District has been in the news for this matter. We should be using our resources to provide water services to our customers at this time, but as board and as a District, we must address our customers and the community about the comments made by one of our board members and make a clear statement on the District's stance in this matter.

The motion and second was carried with the following vote:

Ayes: Directors Gastelum, Robak, Smith and Thompson
Noes: None
Abstain: None
Absent: Director Croucher

to approve Resolution No. 4329 condemning discrimination.

The board recessed at 5:12 p.m. and reconvened at 5:25 p.m.

6. PUBLIC PARTICIPATION – OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO SPEAK TO THE BOARD ON ANY SUBJECT MATTER WITHIN THE BOARD'S JURISDICTION BUT NOT AN ITEM ON TODAY'S AGENDA

Ms. Mona Dibas, a Southwestern College Student, indicated that during the recess she had received information that Director Gastelum had stated that he will not be resigning. She asked that he resign and stated that the members of the board have indicated that Director Gastelum's statements do not reflect their beliefs. However, not one member on the Board of Directors has stood up against him and requested that he resign. She requested that the members of the board ask him to resign.

CONSENT CALENDAR

7. ITEMS TO BE ACTED UPON WITHOUT DISCUSSION, UNLESS A REQUEST IS MADE BY A MEMBER OF THE BOARD OR THE PUBLIC TO DISCUSS A PARTICULAR ITEM:

Director Robak pulled items 6a, AWARD A CONSTRUCTION CONTRACT TO INSITUFORM TECHNOLOGIES, LLC FOR THE TRENCHLESS SEWER REHABILITATION PROJECT IN AN AMOUNT NOT-TO-EXCEED \$373,954.00, for discussion.

President Robak presented item 6a for discussion:

- a) AWARD A CONSTRUCTION CONTRACT TO INSITUFORM TECHNOLOGIES, LLC FOR THE TRENCHLESS SEWER REHABILITATION PROJECT IN AN AMOUNT NOT-TO-EXCEED \$373,954.00

In response to an inquiry from Director Robak, staff indicated that the District bid process is per State statute and the low bid is generally selected. However, there are other items that the District reviews as well, such as, reference checks. Staff stated that Instituform Technologies, LLC has been determined as the lowest responsive bidder and the District must select the lowest responsive bidder.

Director Gastelum inquired why the bids came in much lower than the engineer's estimate of \$450,000. It was indicated that this type of work is new for the District and staff reached out to other agencies who have done this type of work to develop the engineer's estimate. Director Smith indicated that from his experience, the competitive bids indicate that we have a very good bidding environment. He further added that the bids reflect that the bidding package was very clear in terms of the specifications and drawings. The three bidders came

up with very a similar amount. He stated that the engineer's estimate is supposed to hit the mid-point of the bids and not the lowest bids.

Director Gastelum pulled item 6d, AUTHORIZE AN AGREEMENT WITH CONCORD UTILITY SERVICES, INC. FOR MASTER METER REGISTER AND METER CHANGE OUTS IN FISCAL YEAR 2017 AND INCREASE THE BUDGET FOR THE AUTOMATED METER READING CHANGE OUT CAPITAL IMPROVEMENT PROGRAM PROJECT BY \$200,000 FOR THE LABOR ASSOCIATED WITH THE CHANGE OUT PROCESS, for discussion.

President Robak presented item 6d for discussion:

- d) AUTHORIZE AN AGREEMENT WITH CONCORD UTILITY SERVICES, INC. FOR MASTER METER REGISTER AND METER CHANGE OUTS IN FISCAL YEAR 2017 AND INCREASE THE BUDGET FOR THE AUTOMATED METER READING CHANGE OUT CAPITAL IMPROVEMENT PROGRAM PROJECT BY \$200,000 FOR THE LABOR ASSOCIATED WITH THE CHANGE OUT PROCESS

In response to an inquiry from Director Gastelum, staff indicated that the District is approving \$200,000 for this contract and feels that there will be some internal staff time required for this project in terms of managing Concord Utility Services out in the field.

- b) ADOPT RESOLUTION NO. 4328 FIXING TERMS AND CONDITIONS FOR THE ANNEXATION OF CERTAIN REAL PROPERTIES OWNED BY OTAY VALLEY QUARRY, LLC (APN 644-060-24-00) TO OTAY WATER DISTRICT WATER IMPROVEMENT DISTRICTS 22 AND 27
- c) ADOPT ORDINANCE NO. 561 AMENDING CHAPTER 6, SECTION 9.03, ANNEXATIONS TO OR DETACHMENTS FROM THE DISTRICT THROUGH LAFCO; SECTION 9.06, OTHER CONDITIONS OF ANNEXATION; AND ADDING SECTION 9.07, ANNEXATION OF TRIBAL LANDS; TO THE DISTRICT'S CODE OF ORDINANCES

A motion was made by Director Smith, seconded by President Robak and carried with the following vote:

Ayes: Directors Gastelum, Robak, Smith and Thompson
Noes: None
Abstain: None
Absent: Director Croucher

to approve consent calendar items 6a though 6d.

ACTION ITEMS

8. ADMINISTRATION AND FINANCE

- a) ADOPT ORDINANCE NO. 562 AMENDING APPENDIX A WITH PROPOSED CHANGES TO VARIOUS FEES AND CHARGES; AND SECTION 34, ISSUANCE AND PAYMENT OF WATER BILLS; OF THE DISTRICT'S CODE OF ORDINANCES

Customer Service Manager Andrea Carey indicated that staff is requesting that the board adopt Ordinance No. 562 amending Appendix A with proposed changes to various fees and charges and amending Section 34, Issuance and Payment of Water Bills, of the District's Code of Ordinances. Please reference the Committee Action notes attached to staff's report (Attachment A) for the details of Ms. Carey's report.

In response to an inquiry from Director Gastelum, Ms. Carey indicated that previously, the District treated all installations of temporary meters, no matter the size, as a temporary meter install. Over this last year, staff has been receiving requests for very large developments which require a much larger meter. These larger meters require two employees to install and take much more time. This cost is being reflected in the new fees.

A motion was made by Director Smith, and seconded by Director Thompson and carried with the following vote:

Ayes: Directors Gastelum, Robak, Smith and Thompson
Noes: None
Abstain: None
Absent: Director Croucher

to approve staffs' recommendation.

9. BOARD

- a) DISCUSSION OF 2017 BOARD MEETING CALENDAR

President Robak noted that a regular board meeting may not be held in April, but a special meeting may be required to discuss the development of the rates for Fiscal Year 2018. Staff will be in contact with the board to advise on meeting needs.

INFORMATIONAL ITEMS

10. THIS ITEM IS PROVIDED TO THE BOARD FOR INFORMATIONAL PURPOSES ONLY. NO ACTION IS REQUIRED ON THE FOLLOWING AGENDA ITEM.

The board noted receipt of the following items and would forego presentations as the items were reviewed in committee.

- a) OTAY WATER DISTRICT 2017 LEGISLATIVE PROGRAM PRIORITIES
- b) SECOND QUARTER OF FISCAL YEAR 2017 CAPITAL IMPROVEMENT PROGRAM UPDATE REPORT
- c) FISCAL YEAR (FY) 2017 MID-YEAR REPORT FOR THE DISTRICT'S FY2015-2018 STRATEGIC PLAN

REPORTS

11. GENERAL MANAGER'S REPORT

General Manager's Report

General Manager Watton reviewed handouts that were provided on the dias for each member of the board (see attached). He also presented information from his report which included an update on a workshop provided by staff to the public on how to do business with the District, staff training on organizational risk management and performance management, the Campo Road sewer replacement project, the State Route 94 Campo Road at Melody Road water project, the City of San Diego pure water project, the testing of the Lower Otay Pump Station, and water sales. Mr. Watton and staff responded to questions from members of the board related to items within the General Manager's Report.

CWA Report

Director Smith indicated that CWA has been discussing the lawsuit with MWD in closed session. He stated that CWA is now ready to release the approximate refund that each member agency will be awarded from the lawsuit. The award has been split into two groupings; 2011 to 2014 and 2011 to 2018. Otay WD's refund for the period 2011 to 2014 is estimated to be \$18.9 million and for the full period (2011 to 2018; when the funds may actually come in) the approximate refund is \$38.1 million. This includes cost for the reimbursement of lawyer's fees. CWA has also determined the future costs of water estimating that it will be approximately \$200/acre feet less which would provide Otay WD with an annual water cost decrease of \$5.8 million. CWA's General Manager Maureen Stapleton will be speaking at member agency board meetings to share this information. General Manager Watton noted that CWA will not know until May or possibly July if the monies will be received because the lawsuit is still in appeal.

CWA is also doing public outreach in Orange and Riverside Counties to inform the agencies on how MWD operates. He also shared that CWA is discussing adding solar onto the Olivenhain Reservoir to generate energy and that CWA

and Helix WD joined forces to inspect the La Mesa Sweetwater Extension. The inspection utilized Otay WD's consultant's (PICA, Pipeline Inspection Condition Analysis Corp.) specialized technology for pipeline inspection where segments of the pipe were identified as requiring replacement. Replacing just segments of the pipeline, as opposed to replacing the full pipeline, will extend the life of the pipe and save millions of dollars as well.

12. DIRECTORS' REPORTS/REQUESTS

Director Smith reported that he attended, along with his regular committee and board meetings, a meeting of the District's Ad Hoc San Diego Matters Committee and the employee holiday dinner.

Director Gastelum indicated that he gives his unconditional apology to all the Muslims that he has offended. He stated that he is sorry.

13. PRESIDENT'S REPORT

President Robak noted that he and Director Thompson would be providing a presentation on the drought and other water issues at the Albondigas meeting scheduled on March 3. He reported on the Metro Commission JPA meeting, presented a video from the State Department of Water Resources on Lake Oroville's Spillway, and noted his report for meetings he attended during the month of February 2017 (his report is attached).

14. CLOSED SESSION

The board recessed to closed session at 6:40 p.m. to discuss the following matters:

- a) CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION
[GOVERNMENT CODE §54956.9]

BLALOCK vs. OTAY WATER DISTRICT; CASE NO. 37-2016-00013542-CU-OR-CTL

- b) CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION
[GOVERNMENT CODE §54956.9]

MARK COZIAHR, ET AL. vs. OTAY WATER DISTRICT, SAN DIEGO COUNTY WATER AUTHORITY, ET AL.; CASE NO. 37-2015-00023413

The board reconvened at 8:43 p.m. and General Counsel Shinoff reported that the board met in closed session and took no reportable actions.

15. ADJOURNMENT

With no further business to come before the Board, President Robak adjourned the meeting at 8:43 p.m.

President

ATTEST:

District Secretary

**President's Report
Mark Robak
March 1, 2017
Board Meeting**

#	Date	Meeting	Purpose
1	1-Feb	State of the County Address by Supervisor Dianne Jacob	Outlined priorities for County for 2017
2	1-Feb	OWD Regular Board Meeting	Monthly board meeting
3	2-Feb	Metro JPA	Monthly commission meeting
4	2 and 3-Feb	5th Annual CalDesal Conference held in San Diego	Heard information on Desalination technology.
5	7-Feb	SD East County Chamber of Commerce First Friday Meeting	Citizen of the Year Event
6	8-Feb	East County Networking Meeting	Received an update on Padre Dam MWD's Advanced Water Purification Project.
7	10-Feb	Committee Agenda Briefing	Met with General Manager Watton to review items that will be presented at the February committee meetings.
8	13-Feb	Met with General Manager Watton and Harry Erlich	Discussed agenda items for proposed Board Workshop.
9	15-Feb	Finance, Administration and Communications Committee	Reviewed items that will be presented at the March board meeting.
10	17-Feb	Metro JPA Nominating Committee	Met with Ad-Hoc Committee on nomination for new Chair
11	24-Feb	Board Agenda Briefing	Met with General Manager Watton and General Counsel Shinoff to review items that will be presented at the March Board Meeting.

12	25-Feb	Met with Dan Shinoff and Hector Gastelum	Discuss recent news reports
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