

**MINUTES OF THE REGULAR MEETING  
OF THE BOARD OF DIRECTORS OF THE  
CASTRO VALLEY SANITARY DISTRICT**

**HELD ON MAY 6, 2008**

***[1. Call to Order, Roll Call and Pledge of Allegiance.]***

The regular meeting of the Board of Directors of the Castro Valley Sanitary District was called to order by President Johnson at 6:30 p.m., Tuesday, May 6, 2008 at the District Office. The Pledge of Allegiance was led by President Johnson.

**ROLL CALL:**

**PRESENT:** DIRECTORS Daniel Akagi, Harry Francis, Ralph Johnson,  
Timothy McGowan and Dennis Waespi

**ABSENT:** None

**LATE:** None

Staff in attendance:  
Roland Williams, Jr., General Manager  
Cecilia Storr, District Counsel  
Barbara Nagy, Recording Secretary

Others in attendance are listed on the attached attendance sheet.

***Note: President Johnson moved to Item 7.A. Regular Calendar at this time.***

***[7. Regular Calendar.]***

**A. RESOLUTION NO. 3162 – COMMENDING BOY SCOUT TROOP 726 FOR  
ITS PUBLIC SERVICE TO THE CASTRO VALLEY SANITARY DISTRICT.**

President Johnson read the resolution in its entirety.

There being no further discussion, Member Waespi made a motion to adopt the resolution. The motion was seconded by Member Francis and passed on a roll call vote 5 - 0.

**ROLL CALL**

**AYES:** DIRECTORS Akagi, Francis, Johnson, McGowan and Waespi

**NOES:** None

**ABSENT:** None

**MOTION CARRIED**

Scout Leader Neil Guerin stated many scouts came through and worked hard. Manager Williams stated he was impressed with the young men's work as youth are not always as motivated.

***Note: President Johnson returned to the original format of the agenda.***

***[2. President's Comments.]***

President Johnson stated he had nothing at this time.

***[3. Consent Calendar.]***

The Consent Calendar contained: A. Minutes of Regular Meeting on April 1, 2008; B. Minutes of Special Board Meeting on April 15, 2008; C. Accounts Payable List for the Regular Meeting of May 6, 2008; D. Monthly Statement of Operations for February 2008; E. Monthly Report on District Investments and Deposits for February 2008; F. Wastewater Department Report for March 2008; G. Solid Waste Projects Report for April 2008; H. Report of Solid Waste Committee Meeting on April 3, 2008; I. Verbal report of ACSDA Annual Dinner Meeting on April 3, 2008; J. Report of Public Relations Committee Meeting on April 8, 2008; K. Report of OLSD Construction Committee Meeting on April 9, 2008; L. Report of ACWMA Meeting on April 23, 2008; M. Report of Wastewater Committee Meeting on April 29, 2008; N. Report of Solid Waste Committee Meeting on May 2, 2008; O. Donation Request Report for the month of April 2008.

President Johnson asked if there were any items to be discussed. Manager Williams stated he had several.

First, Manager Williams discussed Item D. Monthly Statement of Operations noting under Administrative Expenses, Contractual Services and Professional Services numbers show 200% of budget, adding that much of these amounts will be reallocated to CIP and Solid Waste.

Second, Manager Williams discussed Item F. Wastewater Department Report noting the attached information from Oro Loma showing plant performance, flows, etc., will be provided on a quarterly basis. President Johnson noted dry weather flows at CVSD 3 MGD and OLSD at 9 MGD, which are below the 20 MGD capacity of the treatment plant.

Manager Williams asked Member Francis to provide a verbal report on the ACSDA annual dinner held April 3<sup>rd</sup>. Member Francis stated there was a good showing from our group and it went well, adding the speaker was excellent. Manager Williams added the speaker presented political issues around the county. CVSD had the most attendees; OLSD had the most Board members present.

Next discussed was Item M. Report of Wastewater Committee Meeting on April 29<sup>th</sup>. Manager Williams noted that the report was at Board Members' places. Manager Williams noted the changes in law pertaining to notification of Federal, State and Local regulators in the event of a sewage overflow, adding a new sewage spill response plan will be presented to the Board upon completion. The I-580 Off-ramp project was discussed with an update made to the Committee by Engineer Lewandowski. Final plans are due and should be presented to the Board for acceptance at the Board Workshop on May 20<sup>th</sup>.

Manager Williams noted that the Solid Waste Committee Meeting report has not been completed and will be presented at the next Board meeting.

Manager Williams noted that more donation requests for Clearstreams have been coming in since the notice appeared in the Forum newspaper. Member Francis asked how many does the District have in stock. Manager Williams replied he believes about 40.

There being no further discussion, a motion was made by Member McGowan to accept the Consent Calendar minus Item N. Report of Solid Waste Committee Meeting on May 2, 2008. The motion was seconded by Member Francis and passed on a 5 – 0 vote.

***[4. Board Expenditures and Event Attendance Approval.]***

President Johnson asked if there were any questions regarding Board Expenditures. There were none.

***A. Castro Valley Chamber of Commerce Student Award Luncheon on May 29, 2008.***

President Johnson and Member Francis stated they would be attending the Student Award Luncheon.

Manager Williams asked if all five Board Members would be attending the Rowell Ranch Rodeo Parade on the upcoming Saturday. Member Akagi stated he would be unable to attend.

There being no further discussion, a motion was made by Member Akagi to approve Board Expenditures and authorize attendance at the Chamber of Commerce Student Award Luncheon on May 29, 2008. The motion was seconded by Member McGowan and passed on a 5 - 0 vote.

***[5. Items from the Public.]***

Resident Todd King of Garnet Court presented a letter and a photo showing a Waste Management driver dumping garbage into a recycling cart. Mr. King explained that when he spoke with the Waste Management route supervisor, he was "blown away—he didn't believe

me". Waste Management employees were in the audience and were presented with the photo and letter. President Johnson thanked Mr. King for coming; Member Francis stated this must be followed up on. Member Waespi stated this practice ruins recycling and asked what the punishment is to the driver for this behavior. Mr. Bob Angell of Waste Management replied a driver receives five warning letters before being suspended. This matter will be investigated by Waste Management.

**[6. Presentation of Petitions.]**

**A. Letter from Jeff & Julie De Lima requesting refund of connection fees regarding their property at 17760 and 17762 Madison Ave./Common Rd.**

Mr. De Lima asked for justification from CVSD for imposing fees on private collector systems owned by 10 residents vs. governed systems. A resolution passed in 1982 allowed one connection per property with separate laterals. President Johnson replied that the sewer system is a public system and sewage is treated at a public treatment plant. Secondary units are charged the same as single-family dwellings—two connections, two fees. He added that fees pay for capacity across town to the Oro Loma Sanitary District. It is a local responsibility and is not paid for through taxes.

Manager Williams explained the connection fee has two components: 1) infrastructure in place with a network of pipes that begin at the end of their private system, and; 2) capacity and treatment plant maintenance and updates. Manager Williams stated in the 1982 agreement, all members are subject to adherence of the CVSD Code, permits and fees. A copy of the agreement will be sent to Mr. De Lima.

Another hearing may be necessary regarding 11 vs. 10 connections. Neighbors may be bothered by an extra connection and Mr. De Lima may be asked by his neighbors to disconnect. Manager Williams stated that direction was received from the Wastewater Committee allowing for the use of the 11<sup>th</sup> connection and, as far as the District is concerned, it may be used and a letter will be sent stating such.

There being no further discussion, a motion was made by Member Akagi to deny the petition. The motion was seconded by Member Francis and passed on a 5 – 0 vote.

**[7. Regular Calendar.]**

**B. Solid Waste Services Contract.**

Manager Williams stated staff and District Counsel met with Waste Management a couple of times and no action is anticipated at this meeting adding, Cecilia Storr is present for Tony Varni this evening. Manager Williams referred to a memo from Solid Waste Coordinator Naomi Lue regarding the recent negotiations.

Regarding long-term disposal, Manager Williams stated Waste Management has agreed to it and their attorney is working on a red-line strikeout document. Both counsels have worked long and hard on this issue. Rates over the 20-year period will be determined utilizing the RRI method, the same as the collection portion of the contract, with a floor and ceiling percentage to be determined. Details to follow.

Regarding closure/post closure and change in law, an agreement was reached. Changes in law that have a material change in costs will not be applied to tons in place (existing tons), and will only apply to new tons added to the landfill starting day 1 of the change in law.

Regarding Force Majeure/strike/liquidated damages, an agreement was reached and, strike will not be considered Force Majeure. CVSD will be notified within 12 hours that the first strike vote has taken place. Within 3 days of a strike, if Contractor is not removing waste from the District, Contractor will meet with the District to implement the Strike Implementation Plan then in effect. This is equal to other jurisdictions. There will be no liquidated damages for the first two cycles of collection (10 working days).

Member Waespi expressed concern regarding language stating during a strike it would be permissible for Contractor not to pick up recyclables which are placed at the curb so long as such recyclables do not cause a public health and safety issue. Manager Williams stated the thought is to prioritize. The food waste program produces pungent order in the greenwaste carts, then garbage and, recycling could sit if a choice must be made. Ric Hutchinson stated it is not blanket permission to not collect. Member McGowan expressed concern regarding no specific language defining "failure to perform", as well as liquidated damages.

Member Waespi asked about the language regarding liquidated damages not indicating a dollar amount. Manager Williams stated this came directly from Counsel Varni. Ms. Storr stated it is not yet finalized and that portion will refer to another chart within the agreement. Member Francis asked if the agreement will be finalized by June. Ms. Storr replied yes. Manager Williams stated he hopes to have a document to present to the Board on June 3<sup>rd</sup> and then the Board will be asked to vote at the Special Meeting on June 17<sup>th</sup>.

Member McGowan expressed concern in Item 3.b.6. of Ms. Lue's memo that "failure" is not defined. Ric Hutchinson of R3 Consulting stated there is a whole schedule in the contract and this will read differently in the end. Member McGowan also expressed concern over the lack of definition of "failure to perform" in Item 3.b.8. Manager Williams replied after 30 days it is breach of contract. Ms. Storr explained "failure" includes a great deal of language that is not depicted in this short memo.

David Tucker of Waste Management stated the latest Teamsters contract includes a no-strike, no lock-out provision, providing time to settle disputes.

An agreement for Full-Service Quantitative Research is being executed with EMC Research to conduct 40 Commercial service surveys, 20 minutes each, including 10 on-site interviews. A full report will be made to the Board at the June 17<sup>th</sup> meeting. Member Waespi asked if the survey has already been conducted. Manager Williams stated no and, a list of commercial customers has been started; a variety is desired. Member Waespi asked to receive a copy of the survey and the list of commercial customers surveyed and asked if this is a statistical sampling. Manager Williams replied it is a good indicator and the reason we hired an expert. It is a fast turn-around. A copy of the survey will be provided to the Solid Waste Committee.

President Johnson stated he is very pleased with the negotiating team, adding, keep up the good work.

***C. Report of EBDA Commission Meetings on April 17 & 22, 2008.***

Manager Williams stated at the April 17<sup>th</sup> meeting no action was taken on changing the Voting Rules under the Authority's JPA.

President Johnson asked about a strategic plan. Manager Williams stated he tried to hone in on the subject with no success. Business will continue as usual if there is no planning. President Johnson stated the General Managers from each district will work with the new EBDA General Manager taking on more responsibilities.

Direction was given to EBDA Commissioner Francis to champion a strategic plan. Member Francis stated Bob Murray had spoken to all commissioners and would be calling all General Managers and asked that Manager Williams bring up this subject.

There being no further discussion, Member Akagi made a motion to approve the reports. The motion was seconded by Member Waespi and passed on a 5 – 0 vote.

***D. District Performance Indicators (DPI's).***

A revised copy of the memo was presented.

Manager Williams stated the Solid Waste Collection Contract and Collection System Master Plan projects were by far the top two choices by the Board. The next six items were lumped closely together. President Johnson stated he wanted the District to be part of CASA's Private Lateral Taskforce. This could be state legislation. Manager Williams added this is the District's 10<sup>th</sup> year anniversary for the LRGP and that the District is way out in front with many programs. Member McGowan questioned with the loss of value in homes, is this the right time to inflict this regulation. President Johnson stated we should work with CASA and support legislation. It would probably be another year and a half before legislation would be in effect. Member Akagi questioned potential legislation regarding Districts taking over responsibility for all laterals. President Johnson stated there is not much acceptance on this issue with CASA

members. Member Waesi questioned using an insurance policy. Manager Williams stated it works like a grant program and is quite successful.

Member Francis noted that many of the DPI items are ongoing. Manager Williams stated staff hopes to complete all DPI's but it is helpful for the Board to prioritize if staff is unable to complete all items, adding we take the Board's direction seriously. Manager Williams admitted that one of his top five was to complete a new agreement with Oro Loma; however, it was not the Board's. That's why this exercise was important.

The fifth choice was to continue fiscal conservative practices to rebuild District Reserves. Member McGowan stated the District is not raising rates enough to build reserves. Member Francis stated the District should spend less. Manager Williams stated he attended a Funding Fair in Sacramento and obtained a lot of information. It is possible for the District to obtain no-interest funding through the State Revolving Fund and could complete the Master Plan projects over five years instead of 20 and take 20 years to pay back the loan, which could be a significant benefit to the community. Manager Williams will do an economic analysis and present it to the Budget & Long Range Planning and Wastewater Committees.

There being no further discussion, a motion was made by Member Waespi to accept the DPI priority list. The motion was seconded by Member Akagi and passed on a 5 – 0 vote.

*Note: A 10 minute break was taken at 8:05 p.m.*

***E. RESOLUTION NO. 3163 – ESTABLISHING A GOAL OF 75% REDUCTION OF WASTE GOING TO LANDFILLS BY 2010 FOR THE CASTRO VALLEY SANITARY DISTRICT IN ACCORDANCE WITH THE COUNTYWIDE 75% WASTE REDUCTION GOAL.***

Manager Williams stated this resolution is to establish a goal of 75% diversion by 2010 and to maintain funding status with Stopwaste.org.

There being no further discussion, Member Waespi made a motion to adopt the resolution. The motion was seconded by Member Akagi and passed on a roll call vote 5 - 0.

**ROLL CALL**

AYES: DIRECTORS Akagi, Francis, Johnson, McGowan and Waespi  
NOES: None  
ABSENT: None

**MOTION CARRIED**

***F. ORDINANCE NO. 147 – ADDING CHAPTER 8, GREEN BUILDING AND BAY-FRIENDLY LANDSCAPING REQUIREMENTS FOR CASTRO VALLEY SANITARY DISTRICT BUILDING PROJECTS, TRADITIONAL DISTRICT PROJECTS AND PUBLIC-PRIVATE PARTNERSHIPS, TO ARTICLE V, REGULATION OF SOLID WASTE DISPOSAL, REUSE AND RECYCLING OF THE CASTRO VALLEY SANITARY DISTRICT CODE.***

Manager Williams stated this is another regulation. The District already has Bay Friendly landscaping and is in compliance whenever possible. Manager Williams recommended adoption.

Member McGowan asked why this is an ordinance rather than a resolution, as it has no impact on the public, just the District. Recording Secretary Nagy stated she believes the District has a choice of an ordinance or resolution. Manager Williams stated this item can be tabled for further investigation. It must be implemented by July.

Member McGowan requested item (l) under Section 5801 (Definitions) be struck as this does not apply to CVSD.

President Johnson tabled this item.

***G. Master Plan Priority 1 Sewer Improvements Phase 1.***

President Johnson stated there are two resolutions for this item.

***1. RESOLUTION NO. 3164 – APPROVING PLANS AND SPECIFICATIONS FOR MASTER PLAN PRIORITY 1 SEWER IMPROVEMENTS PHASE 1, DISTRICT PROJECT NO. 64 (2008-2).***

Manager Williams presented plans and stated the first resolution is to approve plans and specifications and the second is to call for bids for the first major project. He highlighted the main areas that will be affected during this phase, adding these areas have the greatest need from a capacity standpoint. This will be the first 3,000 feet of pipe replaced.

Manager Williams stated there is an issue of cost. Harris & Associates' original estimate was \$800,000, and is currently at \$577,000. Manager Williams anticipated it would come in around \$500,000. With a current favorable climate, the hope is that the bids will come close to \$500,000. There will be another bid process at the end of summer to finish Priority 1.

The Wastewater Committee discussed the project in detail with Engineer Lewandowski. Member McGowan stated there is important work to be done. He added there are difficult areas to deal with and Engineer Lewandowski did a good job and was ingenious to reroute some lines to help flow.

There being no further discussion, Member Akagi made a motion to adopt the resolution. The motion was seconded by Member Francis and passed on a roll call vote 5 - 0.

ROLL CALL

AYES: DIRECTORS Akagi, Francis, Johnson, McGowan and Waespi  
NOES: None  
ABSENT: None

MOTION CARRIED

2. ***RESOLUTION NO. 3165 – CALLING FOR BIDS FOR MASTER PLAN PRIORITY 1 SEWER IMPROVEMENTS PHASE 1, DISTRICT PROJECT NO. 64 (2008-2).***

There being no discussion, Member Francis made a motion to adopt the resolution. The motion was seconded by Member Waespi and passed on a roll call vote 5 - 0.

ROLL CALL

AYES: DIRECTORS Akagi, Francis, Johnson, McGowan and Waespi  
NOES: None  
ABSENT: None

MOTION CARRIED

***H. Board Committee Assignments.***

President Johnson stated this item has come back to the Board for discussion. A couple of months ago committee assignments were proposed and changed. Member Akagi stated changes were made per the request of Member McGowan who was reassigned as the ACSDA representative but has failed to attend any events to date. President Johnson stated he has had a conversation with Member McGowan regarding this. Member McGowan acknowledged Member Akagi's concerns and explained why he was unable to attend the two events.

***[8. Communications.]***

***A. Email from resident Rocky Farquhar regarding his dissatisfaction with Waste Management.***

Manager Williams stated this issue is being handled by Waste Management like any other claim and is out of the District's hands. There is a difference of opinion in the value of damage. Solid Waste Coordinator Lue is aware of the situation.

On a side note, President Johnson reiterated the importance of good customer service and stated this is an important element in the new Solid Waste Services Contract.

***[9. Miscellaneous Comments from Board Members and Staff.]***

Member McGowan referred back to the Solid Waste monthly report and the increase in number of missed pick-ups. Manager Williams stated we have challenged Waste Management's reporting, adding he will follow up.

Member McGowan stated that all of the non-profit recycling events put a dent in bulky pick-ups, which is good. Manager Williams stated these are commodities now. Member Akagi added with people replacing their TV's with new hi-def units, there are a lot of old TV's out there.

Member Waespi inquired about the Rowell Ranch Rodeo Parade. Manager Williams stated the Board is to meet at 9:30 a.m. on Norbridge Avenue.

Member Francis commended staff on a great job on Earth Day. He feels with only two employees working, the event was understaffed. Also, he observed that at least 25% of the audience left the lunch prior to the awards ceremony.

Member Francis asked if anyone from the District would attend the East Bay EDA meetings as we have attended in the past. Manager Williams indicated these meetings are more for businesses and for jurisdictions with business interests.

Member Waespi stated that at four ACWMA meetings per year our District is featured.

Member Francis stated he will be attending the ACSDA meeting tomorrow in Fremont, and next week, he, President Johnson and Manager Williams will attend the Legislative Day in Sacramento.

President Johnson stated CASA was a good conference. He also commented on how we need to pay more attention to our website. He would like to see the chronology of the Solid Waste Services Contract process. He is also interested in our website having an interactive component allowing constituents to post comments.

A Wastewater Committee meeting was scheduled for June 5, 2008 at 5:45 p.m.

**[10. *Adjournment of Meeting.*]**

There being no further business to come before the Board, Member Akagi made a motion, seconded by Member Francis and passed on a 5 - 0 vote, to adjourn the meeting at 9:05 p.m. by President Johnson.

Respectfully submitted,

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Daniel M. Akagi,  
Secretary of the Sanitary Board