

Minutes of the Casitas Municipal Water District  
Board of Directors Meeting Held  
February 28, 2007

A meeting of the Board of Directors was held February 28, 2007 at Casitas' Office, Oak View, California. Directors Baggerly, Word, Hicks, Handley and Kaiser were present. Also present were John Johnson, General Manager, Rebekah Vieira, Clerk of the Board; and Attorney, Rob Sawyer. There were six staff members and fourteen members of the public in attendance. Director Baggerly led the group in the flag salute.

1. Public comments.

None

2. Board of Director Comments.

Director Word mentioned his visit with Ron Caulkins at the Chamber of Commerce meeting and got the indication that the issue we had been exploring about water out of district issue. His comment was it looks like it was a one time situation and not something that would necessitate a change or renegotiation. Director Word then mentioned the March 15<sup>th</sup> AWA Waterwise topic on Proposition 218 and it might be a good meeting to attend. Director Word then informed the board that the March 20<sup>th</sup> Finance Committee would need to have the alternate member attend.

3. Consent Agenda

ADOPTED

- a. Minutes of February 14, 2007 meeting.
- b. Recommend approval of reimbursement to Rob Weinerth for the purchase of flashlight kits for the host program in the amount of \$433.54.
- c. Recommend approval of purchase order #7568 to CR'S Gate Service in the amount of \$5,357.13 to install a traffic control gate at the park entrance.
- d. Recommend approval of a damage claim for a gate closing on an employees personal vehicle in the amount of \$576.61.
- e. Resolution approving attendance at various conferences for Recreation staff.
- f. Resolution approving memberships for Recreation area.
- g. Recommend approval for Brian Roney to travel to Fresno to give a presentation to a recreation class on internships.
- h. Recommend approval of the relocation of the propane tank and removal of the icebox at the park store.
- i. Recommend approval of attendance at the Boating and Waterways meeting on March 13 and 14.
- j. Resolution of appreciation to John Johnson upon his retirement.
- k. Resolution authorizing the General Manager to sign an agreement with SEIU Local 998 and SEIU Local 721.
- l. Recommend approval of the agreement with Tom Kennedy to install a lateral extension for fire service.

- m. Recommend approval of a time extension of 90 days for Buzz Bonsall.
- n. Recommend approval of a time extension of 30 days for 12784 Blue Heron Circle.
- o. Recommend approval of a variance for the movement of the Cross Connection Device of Bob Davis.
- p. Recommend approval of a time extension of 30 days for Tamara Stafford.
- q. Recommend approval of the variance for the movement of the Cross Connection Device of the Ojai Valley Inn.
- r. Recommend approval of purchase order #7550 to Dell in the amount of \$4,259.98 for the purchase of new computers for Administration. Over budget by \$270.67.
- s. Recommend approval of an additional campsite for the Trailer Rentals to be for their employee use only.

Director Word suggested that item j be addressed separately and then asked for clarification on item o as it was not clear which option was being recommended. Ron Merckling responded the recommendation was to not move the cross connection. Director Baggerly added we will pull item j.

The consent agenda items a-i and k-s was offered by Director Kaiser, seconded by Director Word and passed by the following roll call vote:

|         |            |   |
|---------|------------|---|
| AYES:   | Directors: | Kaiser, Handley, Hicks, Word and Baggerly |
| NOES:   | Directors: | None                                      |
| ABSENT: | Directors: | None                                      |

Resolutions are numbered 07-16, 07-17 and 07-19.

Director Hicks read item j, the resolution for John Johnson on his retirement and thanked John for his service to Casitas.

The resolution was offered by Director Hicks, seconded by Director Word and passed by the following roll call vote:

|         |            |   |
|---------|------------|---|
| AYES:   | Directors: | Kaiser, Handley, Hicks, Word and Baggerly |
| NOES:   | Directors: | None                                      |
| ABSENT: | Directors: | None                                      |

Resolution is numbered 07-18.

President Baggerly called for a five minute break for cookies.

4. Bills

APPROVED

Director Handley questioned #323377 to Marzulla & Marzulla, is that bill for the month of January? Mr. Johnson answered yes for legal services in January concerning the takings claim.

On the motion of Director Word, seconded by Director Hicks and passed, the bills were approved.

5. Committee/Manager Reports APPROVED FOR FILING
- a. Specific Issues
  - b. Finance Committee Minutes
  - c. Recreation Committee
  - d. Executive Committee Minutes
  - e. Water Resources Committee Minutes
  - f. Personnel Committee Minutes
  - g. Verbal report regarding the recent issue with Mira Monte Well.

Bob Monnier spoke to the Board regarding the recent issue with the Mira Monte Well. The nitrates in that well exceed the State MCL. To use the water it has to be blended. The radio scada system allows us to blend that water with water at the pump plant. If Ave. 2 shuts off, the well shuts off. It is dependant on the communication. Tuesday morning there was an indication the well ran by itself. The well put high nitrate water into distribution system. It may have run five or six hours. Immediately everyone in the organization knows the problems and it is not something that is taken lightly. We responded to it immediately and started remediation by notifying the health department, and effected customers, and it was cleaned up in a number of hours and got o.k. from health department and got everything taken care of same day. The reason it happened was a communication failure at Mira Monte well. We have installed a new scada system in the district. There was a misalignment of antennae. Prior to us initiating the change over of the radios we reviewed what we did ten years ago. We came up with the heartbeat process to page if there is a problem. It seems like there was a rung in the ladder logic and a tag in the position that had a timer on it for the heartbeat and the well site had the same tag with a timer on it. The timer to shut it down did and the heartbeat timer turned it back on. We are confident we took care of the problem. We skipped some steps and should do a verification test when we modify a program.

Director Kaiser commended staff for addressing the issue so quickly with door to door notice of the problem, and how quickly it was resolved. President Baggerly mentioned that Rebekah called as soon as she knew. The guys were working on it and doing a great job. Thank you for getting it done. Bob Monnier replied that the employees don't like to face these kinds of problems and they don't sweep it under the carpet. The fabric of organization showed on this.

On the motion of Director Word, seconded by Director Kaiser and passed, the committee/manager reports were approved for filing.

6. Consideration of an Encroachment Agreement and Waiver of Liability for the property at 95 Larmier Street to maintain a life estate on the property with or without modifications recommended by staff.

APPROVED

Mr. Johnson reported that at the last meeting the board reviewed the proposal by the owner for an agreement. During that meeting we talked about a number of additional items to be discussed; the self executing clause to make sure you take care of the issue in

the end and some money to afford it, deal with any other people being in there. That was communicated to Mr. Nielson and he responded in an e-mail. It appears that his view is that they have done a good job of putting an agreement together and they want to stay with that agreement.

There was discussion regarding the removal of the building at the end of the life of residents. Rob Sawyer mentioned that the agreement should indemnify both the Bureau and Casitas. Director Handley asked if the agreement could be changes to state the removal of the house is incumbent upon the estate. Mr. Nielsen said they would consider that.

Mr. Galgas a resident of Oak View spoke regarding this and felt it is a travesty and a failure on Casitas to identify the lines. He thought the board should consider purchasing the lot under eminent domain and give him the right to live there.

On the motion of Director Hicks to forward the agreement to the Bureau of Reclamation with a change to indemnify the Bureau and Casitas, seconded by Director Word and approved by the following roll call vote:

|         |            |   |
|---------|------------|---|
| AYES:   | Directors: | Kaiser, Handley, Hicks, Word and Baggerly |
| NOES:   | Directors: | None                                      |
| ABSENT: | Directors: | None                                      |

7. Recommend approval of the 2005/2006 audit. APPPROVED

Paul Kaymark presented the 2005/06 audit and noted a clean opinion of financial statements of overall materiality of financial statements. He handed out a summary of the changes over the last two years.

On the motion of Director Word, seconded by Director Kaiser and passed the above recommendation was approved.

8. Discussion of the Filming Permit Agreement and items that must be covered for it to be a ministerial agreement

TABLED

Brian Roney asked for feedback from the Board regarding the criteria for filming permits. President Baggerly presented an outline of concerns and Susan McMahon has provided feedback regarding water quality. Brian added he is not asking for approval but for feedback and suggestions. It will be brought back to recreation committee and then to the board.

There was discussion regarding body contact and use of closed areas in the lake and that if you allow people to think it is o.k. because they saw it being done that it may happen more frequently.

President Baggerly tabled this item.

9. Discussion of the issues created by Proposition 218 on the water rates of the district.

Mr. Johnson reported on Proposition 218 which the Supreme Court determined does apply to water rates. Proposition 218 was adopted in November of 1996 and became effective January 1, 1997. The Supreme Court has said that it applies to water rates and therefore the district needs to consider the implications of that. The fee or charge imposed on person or property, not exceed a proportional cost of service attributable to that parcel. The wording seems to appear that you could charge less but there is a potential issue if it is a lot less then it could appear that the real cost is less than agency says it is. Someone could argue everyone get the same discount. Proportional cost of service. Proportional cost is a proper share for that property and related to what you are charging for. Casitas should, when it gets to reasonable proportional cost of service adopt a resolution so that it is clear. The clearer you make it in your methodology in your written material the easier to defend. It has to be attributable to the parcel. Costs rendered to parcel have to be attributed to the parcel and connected with the service you provided and the cost to serve that parcel.

There are two methods that we see in water service; the postage stamp method and the railroad ticket. The postage stamp idea is send letter anywhere at same cost. Used for water service everybody gets at same cost. Attributing based upon an averaging out over the whole system. It does not work for larger packages. The railroad ticket depends on how far you go on the train. Farther you go the more it costs. Seems to be more of what the court or proposition was talking about when you get to pricing your costs. Attributable to the cost of what it takes to deliver it to the property.

Current rate model:

Source supply – acre feet

Treatment – acre feet except Ag

Transmission and distribution telemetry – divided 10% gravity

Customer accounts – per customer

Admin General – divided cost of above 4 items

Pumping gravity none, pumping based on postage stamp

To be fully compliant with 218 you are trying to move from your postage stamp to railroad ticket method.

Residential at full compliance would have a lesser cost. Some are currently undercharged. There are a number of issues when get in this discussion. Under full compliance you have some that appear to violate your not to exceed. Ag pays less than cost of service. Ag supplemental pays only if they use the water.

Alternatives:

Maintain the status quo and wait until litigation provides answers. How court deals with it may provide different answers.

Re-evaluate the model or the method of apportioning the costs in the model.

Maintain some of the status quo such as treatment and go to prop 218 on others. Ag customer do not obtain that benefit. Not charged for treatment plant. Option at that time

was TP and new water system to supply everybody else. Not a real option that was considered.

Do fully compliant 218 model. This will depend on the law and what people in the community will think.

Do combination of the above,

Other issues:

If you want to have a rate increase in November you will have to make some decisions on how this stuff works. ACWA suggested you work on this in a transparent manner. As you prepare to do your prop 218 hearing this coming year, set it for November so rates are effective Jan 1<sup>st</sup>. Put the issue in your newsletter to have discussion of the issues, may want to have committee and board meetings to discuss issues and you may want to talk about a transition strategy.

Director Handley commented that Prop 218 does not allow you to charge more than cost of service but not clear on charging less than cost of service. Mr. Johnson replied under the law it says clearly it would not exceed. As long as it is not exceeding the cost of service to any parcel there is no problem. There is concern if there is a large difference. ACWA said they would try to have a conference item at their next conference and they don't have it on their agenda.

Director Kaiser asked about any other water districts efforts? Mr. Johnson said that he heard at ACWA a number of agencies went through prop 218 hearings like we did in November. It was clear that no one had answers.

Director Word added that he had a discussion with others and the consensus was there are a number of districts locally that have dug into this and taken care of it. Castaic was one and United had dealt somewhat with it. They may not be faced with the same issues we are. Ag is paying about triple what we are charging. They may have dealt with it and bitten the bullet. We need some more discussion with them on how they did it and what they did. Hoping ACWA would have that as part of their conference.

Director Hicks added there is no way we can let Ag get hammered with these increases. If green attracts more clouds then there is more rain. They can't have that kind of increase. Director Word added one other element is if we say Ag can't afford to pay for treated water at higher rates than we can't defend that Ag pay their part of safety of dam. President Baggerly added there is work to be done on the rate model. Director Hicks commented that the rates are low for everybody. The City of Ventura getting a good deal. There is no way we can put the farmers in this valley in jeopardy. The project was built because of farmer in the valley. Director Word added that maybe through the hearings if there is enough support if others will want Ag to remain.

Issues with rate model:

It is not very stable. Over the years, because of fluctuating usage by customers you can see cost of service go all over the place. Electricity.

Rates will be more complex requiring different rates for each pressure zone. Model we are averaging the usage over 5 years to stabilize. Averaging the costs over 5 years.

Need to deal with Casitas accounts and special rates that may not meet the law. Such as the domestic part of the Ag customer. In 1988 started charging the first two blocks of residential rate. 85% of Ag customers have residences. Ag rate could be questionable if don't do something.

Have to have a pumping charge for each zone, the farther you pump the more it costs.

Also prepared two models:

The current model base looks like residential is paying more than what they should but everyone else is paying less.

Fully compliant number model shows a change to spread to everyone the cost of treatment and spread transmission and distribution and spread pumping on the basis of zone. 22.3% below costs but numbers reverse. Customer types overpaying but one or two right at or underpaying.

One solution is to use tax money to pay portion of rates. The tax money may be taken from us at some point in future. Tax money currently goes to capital improvements

Director Word added if we decide to be fully compliant than we can make decisions about transition method. Other issue is one reason tend to do transitional method is courts may make some changes that would allow not full compliance.

Mr. Johnson added if it is a method that is acceptable to the community that few people will challenge it. Go through the public process and understand where the issues are and adopt something that fits. The risk is that someone sues on that for 218 non-compliance and then you owe a whole bunch of money and attorneys fees which still has to be paid for by the customer.

President Baggerly added there is a lot of work to do on how we allocate things in this model. We could make the decision to use the newsletter as a source for information about Prop 218. This issue should go to multiple committees. Everybody needs to work on this. Director Kaiser suggested a workshop on this issue. Director Baggerly continued we need to dig into this model and see different types of models for water rates to see how things will come out. We need to set out a schedule to accomplish the model and how to allocate by October when the 218 letter has to go out. We may need some special meetings to get this jumpstarted and moving in the right direction.

Jim Finch asked for more opportunities to talk. Don't see how, if all treated the same, how Ag is so high. That does not make sense to me. The effect of that will be Ag will tap the aquifer heavily and will dry out the aquifer and Golden State will buy it from you. Don't see how it costs less to sell to residence or to Ag. Don't see how the model takes that in.

Jim Churchill said he was glad the board is interested in protecting Ag. He suggested that you be fully compliant with 218 in all language that you use.

Emily with Friends Ranches commented on how Casitas water affects the ground water and Golden State recharging the ground water with your water. If rates go up we drill deeper.

10. Information items:

Level of lake –2/21/2007 - -558.52 feet above mean sea level 8.48 feet below spill elevation); present storage is 231,534 acre feet (22,466 acre feet below full capacity of 254,000 acre feet, 104,534 acre feet above half capacity, or 91.15% full capacity.

- a. Letter from Calleguas regarding formation of Safety Working Group in the Tri County Area.
- b. Report from Russ Baggerly regarding the Southern California Steelhead meetings on January 23 & 24.
- c. Letter from Elyse Saria Nielsen regarding her protest of any action that would allow the house on Larmier.
- d. Letter from the Santa Barbara Botanic Garden regarding the Center for Earth Concerns boat.
- e. Letter from Julia Whitman regarding John Taft being out of the country until March 1<sup>st</sup>.
- f. Lake Casitas Recreation Area 4<sup>th</sup> Annual Family Fun Fishing Day being held March 24, 2007.
- g. Report on Volunteer Hours used during calendar year 2006.
- h. Report on the January discount program for Lake Casitas Recreation Area.
- i. Letter from Ed Henke regarding his experience in fishing the Ventura River.
- j. Ventura County Air Pollution Control District proposed revisions to Rule 42 for permit fees which would include a 12.5% increase.
- k. Letters from the Attorney General regarding the request for an opinion regarding retirement health care for retired board members.
- l. Information on web site statistics for the Recreation web site.
- m. Letter from Rob Sawyer to Senator McClintock regarding the request for opinion of the Attorney General.
- n. Water Quality Report
- o. Report from Director Baggerly regarding the NMFS Conference call on February 8, 2007.
- p. News Articles of Interest
- q. Investment Report

11. Closed Session

- a. Conference with Legal Counsel -- Existing Litigation (Subdivision (a) of Section 54956.9, Government Code). Name of Case: Casitas Municipal Water District v. United States.
- b. Conference with Legal Counsel - Anticipated Litigation Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 (one potential case).
- c. Conference with Real Property Negotiators (Section 54956.8):  
District Designated Negotiators: John Johnson, Pete Kaiser, Bill Hicks



Property: Rights to operate Lake Casitas Recreation Area under Federal Water Project Recreation Act.

Negotiating Parties: Bureau of Reclamation

Under Negotiation: Lease, price, identification and nature of consideration, and terms of payment

President Baggerly convened to closed session at 6:36 p.m. President Baggerly reconvened to open session at 6:46 p.m. stating that no action was taken in closed session.

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Secretary