

**CARPINTERIA SANITARY DISTRICT
IN THE
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA**

MINUTES

These are the **minutes** of the **regular** meeting of the Governing Board of the Carpinteria Sanitary District in the City of Carpinteria, County of Santa Barbara, and State of California.

The Governing Board of the Carpinteria Sanitary District held a regular meeting on **May 6, 2008**, at 5:30 p.m. at its District administrative office located at 5300 Sixth Street, Carpinteria, California.

Directors Present: Lin Graf – President
Michael Damron – President Pro-Tem
Jeff Moorhouse – Secretary
Pat Horwitz – Secretary Pro-Tem - **Absent**
Doug Treloar – Treasurer

Staff Present: Craig Murray – General Manager
Judy Kirkman – Board Secretary
Hamid Hosseini – Finance Director

Legal Counsel
Present: Anthony Trembley

President Graf called the meeting to order, and Director Treloar led the Board, staff and public in the Pledge of Allegiance.

President Graf said, for the record, Director Horwitz was absent tonight for the meeting.

President Graf asked if there were any modifications and/or changes to the agenda. Hearing none, the agenda stood as submitted.

Approval of Minutes of April 22, 2008 – Director Treloar made a motion that the Minutes of the April 22, 2008 Board Meeting be approved as submitted; Director Damron seconded the motion, and the motion was approved by a 4-0 vote. Director Horwitz was absent.

Public Forum. None

General Manager's Status Report: General Manager reported on the following: **Staff Recruitment Report** – The District has been recruiting for a Laborer position. Two rounds of interviews were conducted, and an offer was made to one of the applicants. The offer was accepted by the candidate, and the District is in the process of performing the background checks, and we expect the person to start in the next week or so. The District is also recruiting for a Safety and Training Officer. The application period closed, and the five General Managers reviewed the applications. Three interviews have been scheduled for next

week. Director Treloar asked how many applications were received. General Manager said the District extended the search area and did some online recruiting. Nine applications were received, and General Manager said he thought there were some good candidates to choose from; **SBSDA Meeting Report** - General Manager said Director Moorhouse and he attended the Santa Barbara Special Districts Association meeting on April 28th. Salud Carbajal gave an update on the state of Santa Barbara County and what the County was working on; **Operations Update** - Treatment Plant and Collection System operations are working fine with no sewer overflows to report. All departments are in the middle of developing operating and capital budgets for the FY2008/09.

South Coast Annexation to the Carpinteria Sanitary District Status Update -

General Manager said this was an informational item for the Board. General Manager said there was a confirmation election for the South Coast Annexation to the Carpinteria Sanitary District conducted by a special mail ballot election on April 22, 2008 by Santa Barbara County Elections. General Manager said the outcome had not been finalized or certified by County Elections. Director Treloar asked if there was a drop-dead date when we would hear the results. General Manager said the Elections office had to certify the results in twenty-eight (28) calendar days. General Manager said he got a report from Billie Alvarez, the Santa Barbara County Registrar of Voters that 73 ballots had been cast in favor of the annexation and 59 ballots cast in opposition to the annexations. General Manager said Ms. Alvarez reported twenty (20) additional ballots had not been opened and were challenged and would be reviewed by election officials from Ventura County. General Manager said the remaining ballots were germane to the election outcome. General Manager said a letter was included with the staff report from Mr. Fred Woocher, of Strumwasser & Woocher, to Mr. Philip Schmit, the Ventura County Clerk Recorder outlining the legal standards for residency for voting purposes and specifically challenged specific ballots filed on or before the April 22nd deadline. General Manager said the District may hear the election outcome sooner than the 28 day deadline. General Manager said a simple majority was needed to confirm the annexation. The elections result would go to the Santa Barbara County Board of Supervisors and they would take action to confirm the annexation and election results. Director Treloar asked if this needed to be done in both counties. General Manager it may have to go to both counties. General Manager said for purpose of this election, Santa Barbara became the primary county, so it may only have to go to Santa Barbara. General Manager said the District was not conducting the election, and was not responsible for making any decisions. General Manager said this was LAFCO's election and they asked the Santa Barbara Elections to conduct the election. General Manager said we want to understand what is going on, but the District is only the applicant in the process. Director Moorhouse asked if the letter from Mr. Fred Woocher had also reached the Ventura District Attorney. General Manager said he did not know the answer to that question, but some of the Ventura newspaper articles referenced the District Attorney's involvement in the case. General Manager said he attached newspaper articles that he had seen related to the annexation from the *Santa Barbara Daily Sound*, the *Santa Barbara News-Press*, the *Santa Barbara Independent* and *Coastal View News*. General Manager said the District was in a holding pattern as far as implementation activities for the South Coast Beach Communities Septic to Sewer Project was concerned, and added that staff had been responding to inquiries from homeowners and other interested parties over the past several weeks.

President Graf opened this item up to the public. First speaker was Billy Taylor. Mr. Taylor in his comments said there was a majority of opposition to the project within the Rincon Point Community, and this was worth acknowledging. Mr. Taylor said the majority of opposition would increase, should any of the challenged no votes be overruled by the

Registrar. Mr. Taylor said CSD and LAFCO included Rincon Point with Sandyland Cove, Sandpoint Road and Padaro Lane in an effort to utilize majority support for the project within these districts against Rincon. Mr. Taylor said it was interesting that the opposition within Rincon was large enough to sway the total vote against the project. Mr. Taylor said he understood that CSD had a lot to lose, and so did Heal the Ocean should this project not go forward. Mr. Taylor said CSD and LAFCO had ignored their requests to separate Rincon from the other communities in the proposed annexation. Mr. Taylor asked the Board not to overlook this majority and to ask LAFCO to exclude Rincon from the South Coast annexation to CSD.

Sandra Carradine said Mr. Taylor summed up her thoughts. Ms. Carradine said we live in a democracy and that democracy should support that people get to have their vote. Ms. Carradine said at the time they were told that Heal the Ocean and CSD thought that the majority of the votes were yes. Ms. Carradine said she hoped Ventura County would do the right thing and honor the rights of the citizens. Ms. Carradine informed the Board there was an article that just came out that said there was a rise in voter registration due to the interest in the election.

Giti White's comments included: concerns about an annexation process that seemed tailor-made to disenfranchise voters; Rincon homeowners warned about the perils of a collective annexation of 4 project area that included some areas that opted out in advance; many of Rincon voters oppose this annexation regardless of Ventura's determination of the challenges to the ballots; annexation was not a revote, nor did it result from an appeal of the assessment vote; voter intimidation during the election period; Heal the Ocean only challenged ballots from Ventura County; concern that this process may fail to apply uniform standard to ballots in this election.

Doug White's comments included: concerns about process surrounding this very questionable project; project intended to improve water quality; challengers to the project intimidated for ten years; seen unabashed advocacy and partisanship from you again and again; number of Rincon residents that went to last weeks LAFCO meeting to protest the inherent bias to a single annexation; Rincon's self-determination in jeopardy; lumping all four communities together in a single annexation would disenfranchise voters.

Jaleh White said she agreed with almost everything everyone else had said. Ms. White said for years you have told homeowners, the County and the State agencies that the reason you have accepted money from a nonprofit was because you did not want to burden your ratepayers. Ms. White said she was astonished to read in the Board's planning workshop report of February 25th, that due to a minority opposition a significant amount of staff time and an increasing amount of general funds had been used to advance this project. Ms. White asked which one was it. Ms. White said general fund monies had already been used, and this was very confusing and troubling. Ms. White said she hoped the Board could find some way to fix this.

Marilyn Ulvaeus said everyone had said everything, but she did have one question. Ms. Ulvaeus asked if her grandson voted. President Graf said this was public comment and she was asking a question that the Board could not answer.

Wastewater Treatment Facility Tour – The Board recessed the meeting at 6:00 p.m. and staff led the Board on a walking tour to the 5351 Sixth Street Wastewater Treatment Plant.

The Board reconvened at 6:19 p.m. to resume the regularly scheduled Board Meeting at 5300 Sixth Street. Legal Counsel said the record should reflect that members of the public were invited to attend the tour and discussion by Board Members and General

Manager were confined to matters pertaining to the wastewater treatment plant. Legal Counsel said it should be noted that no members of the public attended the tour.

Dewatering Building Replacement Acceptance and Approval of Notice of Completion – General Manger said this building was the highlight of the tour the Board just went on. General Manager said the board awarded a construction contract to Spiess Construction Company, Inc. of Santa Maria for the Dewatering Building Replacement Project on September 5, 2006. General Manager said staff and the District’s engineering consultant verified that the work was performed in accordance with the project specifications, and the project is complete. General Manager said staff recommends that the Board accept the improvements and authorize the General Manager to execute and record the Notice of Completion and approve release of retention and applicable bonds in accordance with the contract.

Director Treloar made a motion that the Board accept the Dewatering Building Replacement Project, authorize filing and recordation of a Notice of completion, and approve release of retention and applicable bonds in accordance with the contract; Director Damron seconded the motion. Director Treloar asked about the timeframe of the project. General Manager said there had been a delay related to the metal building supplier. General Manager said Spiess went through four or five suppliers when the supplier named in their contract defaulted and did not provide the building. General Manager said another vendor submitted everything to an engineer, and staff and the engineer reviewed it and then the supplier backed out. General Manager said finally Spiess went to one of the major building manufacturers in the country, Varco Pruden, and at a significant expense to Spiess provided the building from Varco Pruden. General Manager said to Spiess’ credit, they did not come back and say all these things were out of our control affected this decision and we need more money. General Manager said he felt it was in the District’s interest to work with this contractor as long as they were cooperative. General Manager said work was done outside the contract by Spiess that needed to be done. General Manager said it was staff’s decision not to pursue liquidated damages and recommended that the project be accepted for the original contract amount. Director Treloar said he would like to see a note sent to the contractor in appreciation of their cooperation. General Manager said he would do that. President Graf called for a vote, and the motion was approved 4-0.

Ralph M. Brown Act – Communications Between Directors and Pending AB 1946 (Nava) – Water Quality Enforcement – President Graf asked Tony Trembley, Legal Counsel to present this item. Legal Counsel passed out handouts on AB1946 (Nava) pending legislation on water quality enforcement. Legal Counsel said the bill was amended on May 1st by Nava to authorize, but not require district attorneys and some city attorneys in large cities to bring the types of actions it discusses. Legal Counsel said this legislation increases the statute of limitations from one to five years if someone violated a hazardous materials business plan, but more importantly to this Board it authorizes County district attorneys and city attorneys’ offices in large cities, such as San Francisco or Los Angeles, to bring civil penalty actions for violation of the Porter-Cologne Act, which is the California version of the Federal Clean Water Act. Legal Counsel said this legislation also authorizes regional water quality control boards to delegate to their executive directors the authority to apply to the Attorney General’s office for judicial enforcement of clean water laws, and eliminates the current requirement that a hearing must be held by a regional board before requiring civil penalties in court. Legal Counsel said CASA was opposed, and the real concern CASA has is that we have the Attorney General’s office, a county district attorney and city attorneys who might have a different standards of practice and differences in terms of wastewater quality

enforcement. Legal Counsel said it made it a difficult situation for wastewater discharges, particularly publicly owned treatment parks. For those reasons, CASA is opposed and was opposed prior to May 1 and has not changed that opposition. Legal Counsel said the question from Director Moorhouse was could someone go after individual property owners. Legal Counsel said conceivably yes, but he thought district attorneys and large city attorneys would look into situations where there was significant alleged pollution. Director Moorhouse said this bill was currently in Appropriations. General Manager said the regional boards have the ability, under the Porter-Cologne Act to collect administrative civil liabilities from permitted entities. Director Moorhouse said that's why CASA is taking the position that this is the process that should continue.

Legal Counsel talked about permissible communications under the Ralph M. Brown Act for the Board. Legal Counsel passed out an eight page memo to the Board and said Director Moorhouse asked at a prior meeting if Board Members could exchange emails concerning District issues, and if those emails were in violation of the Brown Act. The bottom line from Legal Counsel's memo was: *My strong recommendation is that Board Members avoid exchanging emails with each other, or conversing or otherwise communicating with one another, about District issues outside of a noticed Board meeting, since such activity may lead to an allegation that majority of Board Members violated the Act by reaching a "collective concurrence" outside of a noticed public meeting.* Legal Counsel said on pages 7-8, under Conclusions/Recommendations: *Under the current state of the law, the Brown Act is not violated by a separate, one-on-one conversation between a staff member and member of the legislative body, or between two members of the body, on an issue within the public agency's jurisdiction. However, staff or members may not use the conversations to develop a consensus of the majority by action to be taken on an item, e.g. polling members on issues to obtain a "collective concurrence" on an item.* Legal Counsel said if the General Manager were to call Board Members and poll them and ask their views on a particular matter, this could be in violation of the Brown Act if this information was utilized or shared. Legal Counsel said the difficulty is how the law allows these one-on-one conversations between Board Members, or member(s) with staff. Legal Counsel said the line between permissible and impermissible activities is very easily crossed, and if SB 1732 passes, the restrictions on communications between members will be increased.

Legal Counsel recommended that Directors refrain from conversations, whether orally or by email or otherwise, with each other about District issues, and confine such conversations to noticed public meetings. Legal Counsel said communications of policy-related information by the General Manager to Directors, as long as such communication is strictly confined to transmission of information, does not violate the Brown Act. Legal Counsel said emails from the General Manager to Board Members covering legislation updates, CSDA announcements, scheduling, etc., does not violate the Brown Act.

Integrated Regional Water Management Plan Grant Funding – General Manager said this was an informational item for the Board. General Manager said the District had been working with 26 other agencies in Santa Barbara County to develop an Integrated Regional Water Management Plan (IRWMP) and a subsequent grant application package in pursuit of Proposition 50 funds. General Manager said our region's grant application was one of nine submitted to the State for the Round 2, Step 2 Implementation Grant under this IRWMP grant program. General Manager said the Department of Water Resources reported its Draft Funding Recommendations on May 1, 2008, and recommended an award of a \$25,000,000 grant to Santa Barbara County, which was the maximum award allowed under this program. General Manager said a written comment period and a public comment period will be held over the next two weeks, followed by final approval from the DWR and State

Resources Control Board. General Manager said if the full \$25M is awarded to our region, the District's Bluffs Sewer relocation Project will receive \$1.25M in grant funds, representing approximately 50% of the project implementation costs. General Manager said the grant commitment is not yet final, but this preliminary news was most welcome.

CLOSED SESSION – District Legal Counsel reported the Board would go into Closed Session at 6:50 p.m. regarding the following two items:

PUBLIC EMPLOYEE PERFORMANCE EVALUATION: Per Government Code Section 54957. Title: General Manager

CONFERENCE WITH LABOR NEGOTIATORS: Per Government Code Section 54957.6. Agency designated representatives: CSD Board of Directors. Unrepresented employee: General Manager.

President Graf reported the Board coming out of Closed Session at 7:45 p.m. and did not have any action to report. Regular Session reconvened.

Board Committee Reports

Finance Committee – did not meet.

Personnel Committee – Director Damron said the Personnel Committee met and discussed a personnel item, but he didn't have anything to report.

Public Relations Committee – did not meet.

Board General Items

CASA Legislative Committee Report – Director Moorhouse said he had attended the CASA conference in Squaw Creek near Tahoe. Director Moorhouse said he attended CSRMA's Executive Board meeting the first day and information was provided about the management of our funds with PFM Assesst Management at CSRMA. Director Moorhouse said PFM was recommending investing our funds in longer maturity bonds. Director Moorhouse said CSRMA was looking at making some changes in investing these funds, and he was glad he attended the meeting. Director Moorhouse said he attended the Air Issues Forum on Thursday, as well as the Directors meeting. Director Moorhouse said he participated in a presentation and discussion regarding keeping pace with technology. Director Moorhouse said he attended sessions in the afternoon on implications of AB32, and another session where discussion was held regarding the Statewide pharmaceutical Initiative, along with storm water separation from wastewater issues. Director Moorhouse said on Friday he attended the CSRMA Board of Directors meeting and attended the CASA State Legislative Committee. Director Moorhouse said as a committee member, he participated in the discussion of many Assembly and Senate Bills supported by CASA. Director Moorhouse said he attended the Closing General Session on Saturday and the annual budget was passed. Director Moorhouse said he would be in Sacramento on Monday for the CSDA Legislative Day, meeting with Pedro Nava and hopefully to talk more about AB 1946 and a couple more bills he has his hands on.

Future Agenda Items - None

Adjournment. There being no further items to discuss, President Graf adjourned the meeting at 8:25 p.m.

Lin Graf
President

Pat Horwitz - **Absent**
Secretary Pro-Tem

Michael Damron
President Pro-Tem

Doug Treloar
Treasurer

Jeff Moorhouse
Secretary