

**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 **December 16, 2008**, at 5:30 p.m. at its District administrative office located at 5300 Sixth Street, Carpinteria, California.

Directors Present: Michael Damron – **President (Position Change – Item III.A.2)**
Lin Graf – **President Pro-Tem (Position Change – Item III.A.2)**
Jeff Moorhouse – Secretary
Pat Horwitz – Secretary Pro-Tem
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 Moorhouse led the Board, staff and public in the Pledge of Allegiance.

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 the Meeting of November 18, 2008 – One correction was noted on Page 3, 2nd paragraph. Legal Counsel asked if this would be a negotiated deal. The sentence should have read Director Moorhouse asked if this would be a negotiated deal. Director Horwitz made a motion that the Board approve the November 18, 2008 Minutes as modified; Director Treloar seconded the motion, and the motion was approved by a 5-0 vote.

Public Forum. None

New Terms of Office – Directors Horwitz, Moorhouse, Treloar (2008 – 2010) – President Graf reported, for the public's information, that Directors Horwitz, Moorhouse and Treloar were appointed to the Board of Directors in lieu of election, pursuant to Elections Code Section 10515, for the term of office ending in December, 2012. The Oaths of Office were administered by Board Secretary and Notary Public, Judy Kirkman and submitted to the County Elections Office the first week in December.

Annual Board Reorganization - President Graf said this agenda item was the Annual Board Reorganization where the Board established officers, meeting place, meeting time and

other housekeeping functions required/authorized by law. The floor was opened and the following nominations were received: Director Moorhouse nominated Michael Damron for President, and Director Horwitz seconded the nomination; Director Treloar nominated Lin Graf for President Pro-Tem, and Director Horwitz seconded the nomination; Director Treloar nominated Director Moorhouse as Secretary, and Director Horwitz seconded the nomination; Director Treloar nominated Director Horwitz as Secretary Pro-Tem, and Director Damron seconded the nomination; Director Damron nominated Director Treloar as Treasurer, and Director Horwitz seconded the nomination. President Graf called for a vote, and the Board voted 5-0 to affirm the nominations as presented.

The gavel was passed to the newly elected President, Michael Damron, to fill the Board Committees. After Board discussion, President Damron announced the following: **Finance Committee** - Chairperson, Director Treloar and Member, Director Horwitz; **Personnel Committee** - Chairperson, Director Moorhouse and Member, Director Graf; **Public Relations Committee** - Chairperson, Director Graf and Member, Director Damron; **Ad-Hoc Committee** (Legislative) - Director Moorhouse.

President Damron reaffirmed the following for 2009: Nordman, Cormany, Hair & Compton, LLP as Legal Counsel; Craig Murray, P.E. as General Manager; 5300 Sixth Street as the place of regular meetings of the Board; First and third Tuesdays of each month as the days of the regular meetings of the Board; Sections 54956 and 54956.5 of the Government Code were designated as the manner by which special and emergency meetings respectively shall be called; Compensation to Directors as established by Board Resolution for attendance at regular, special or adjourned meetings of the Board of Directors, for committee meetings, seminars, conferences and other meetings as established by Board Resolution.

Director Horwitz made a motion that the Board approve the organization provisions as presented, and ordered the Secretary to file a Statement of Facts with the Secretary of State and the County Clerk Recorder's Office; Director Treloar seconded the motion, and the motion was approved by a 5-0 vote.

General Manager's Status Report - Lift Station Pump Replacement Projects - Penfield & Smith submitted the design for 90% replacement of pumps at Lift Stations Nos. 1 and 2. General Manager said Lift Station No. 2 was pretty straightforward, but Lift Station No. 1 had space limitations. General Manager said the drywell at Lift Station No. 1 had galvanized landings and stairs, which provided limited access going down and was a safety concern. General Manager said the landings were removed and replaced with a ladder to open up the drywell. General Manager said the replacement pumps being used at Lift Stations No. 1 and No. 2 are the same pumps that is also in the District's influent station, so parts will be interchangeable. General Manager said there were some unanticipated changes in layout, and some new holes would need to be cored into the wetwell, so the project is a little bigger than anticipated going in. Staff's position is that we'd like to bid the project, since we're almost done with the design, and see where the pricing comes out. General Manager said the budget may need to be reviewed at that time. Director Treloar asked if both lift station projects would be bid. General Manager said both lift stations would be bid together, but each one would have a line item; **South Coast Beach Communities Septic to Sewer Project Update** - The executed grant agreement was received from the State Water Board. General Manager said he was working with Finance Director, Hamid Hosseini, on internal accounting platforms and banking systems for the bond funds when those come in and how to administer the project going forward. General Manager said there was also some discussion regarding the bond funds at the Finance Committee Meeting this week. General Manager said the municipal bond market has not seen a lot of change since Adam Bauer

reported at the December 2nd Board Meeting. General Manager said a deal was done for the City of Malibu, 42 homes, and it priced out at 7.5% on average of serial bonds and term bonds. General Manager said the yield of the short bonds were 4%, down from last week. General Manager said there was a Saugus School District credit that sold today, very different kind of credit with more development risk involved that sold at 10% on the line bonds. General Manager said double state and federal, tax free, selling at 10%. General Manager said the spread between the treasury and these types of bonds is still very high, and we are in the “wait and see” until the first of the year; **CWEA Tri-Counties Section Awards Banquet** – General Manager said he just wanted to let the Board know the annual awards banquet will be held on January 16, 2009 at the Hotel Mar Monte in Santa Barbara. General Manager said staff is hoping to bring back some awards from the dinner, and the Board was welcome to attend. General Manager said he would report back following the dinner; **Operations Update** – Treatment Plant and the Collection System are both running fine, and there were no problems with the recent two inches of rain. General Manager said the Hazardous Materials Business Plan was updated with the local Fire Department. General Manager said some odor scrubber media is being replaced in one of the District’s odor scrubber units. Lance Lawhon, District Engineer, and Branson Taylor, OIT, attended a CWEA Technical Certification Program test prep course in Oxnard last week. They both will take an upcoming certification exam. Director Treloar asked about a date for the exams. Lance Lawhon, District Engineer, said the exams would be scheduled the first quarter of the new year through an online testing system. General Manager said staff conducted a tour for Middle School students the week of December 8th. General Manager said staff was troubleshooting some minor issues with the telemetry at Lift Station No. 7, between the Mission Terrace lift station and the District’s SCADA system, and there is a backup system being used until the issues are resolved. General Manager said the District received the ArcFlash report from our consultant and staff was working on the labeling and updates to the electrical systems. This is an OSHA mandated program where all motor control and electrical equipment need to be labeled with what level of personal protective equipment is required to work on that equipment. General Manager said the new Carl’s Jr. restaurant under construction on Carpinteria Avenue installed a new grease interceptor, a new sewer lateral and a new manhole on the District’s main at Reynolds Avenue. Director Treloar asked if the new grease trap meant they did not have one prior, or was it a replacement. Lance Lawhon, Engineer Technician, said they had to replace one that was there.

2009 CASA Mid-Year Conference and 2009 CASA Washington D.C. Conference –

General Manager said this was an informational item on both conferences. General Manager said two Directors were signed up to attend the Mid-Year Conference. Director Moorhouse said he would be at the Mid-Year Conference for two purposes – participating on the California State Legislative Committee, and also for the CSRMA Finance Committee and training.

District Policy and Procedures for Addressing Illegal/Illicit Sewer Connections –

General Manager said the District’s Engineering Technician, Lance Lawhon, was present to help answer any questions. General Manager said he reported several Board Meetings back about some customers/homeowners on Padaro Lane who were connected to the District’s sewer system and not paying charges and without any record of their connection. General Manager said he reported at a previous meeting how staff was dealing with these situations, and the Board requested that the topic be brought back as a future agenda item for discussion.

General Manager said with respect to the property owners on Padaro Lane, it first came to staff’s attention when they received a call from a contractor asking for help locating a

sewer for a specific parcel. Staff responded that the parcel was not connected to the District's sewer. Staff went out to the site and discovered a cleanout in the driveway. Staff conducted a dye test and found it was connected. General Manager said a letter was drafted to that property owner that requested the following remedies: 1) Pay the current Development Impact Fee of \$2400; 2) Pay current year sewer service charges and the two preceding year charges; 3) Investigate the nature and condition of the existing sewer connecting by CCTV inspection, and provide a written report to the District within 30 days; and 4) Make improvements to the lateral sewer within the public right of way necessary to comply with District design and construction standards within 120 days.

General Manager said, concurrently, three more parcels on Padaro were identified in the same situation. General Manager said these connections may have happened in 1981 when the line went in, and the current property owners might not have been aware of the connections. General Manager said the letter sent to those property owners was stern and direct, but also not accusatory. General Manager said three of the four property owners identified on Padaro Lane complied and said they were unaware of the situation and wanted to make things right. They engaged contractors and paid the Development Impact Fee and back charges. General Manager said the initial property owner came into the District office and said they already paid all charges in the 1980s and protested the demands made in the District letter, indicating that she did not intend to pay. The property owner said it was not their problem, but the District's problem that the District did not have the records.

General Manager asked, going forward how does the District deal with this situation from an enforcement standpoint, and what do we have in our existing ordinances to address this kind of situation. General Manager said in the past, staff has worked directly with the property owners, and in some cases some of the back charges were collected as SSC on the property tax roll. General Manager said it was not something that had been dealt with recently or frequently. General Manager said in Ordinance No. 2 there is language from 1975 that states that any person making a connection to our system, uncovers our system, or does anything with the public sewer system needs to get a permit from the District. There are also some enforcement provisions in Ordinance No. 2, Article No. IX, however these generally flow from the statutory enforcement authority granted to the District in the Health and Safety Code Section 6400 et seq., the Sanitary District Act of 1923. The three main available remedies are: 1) **Criminal Prosecution** – Section 6523 makes a violation of a District ordinance a misdemeanor punishable by jail time or a \$1000 fine or both. The local District Attorney would typically be involved, or the District could make some kind of claim on our own. Legal Counsel said this remedy would probably be the District's last alternative; 2) **Injunctive Relief** – Section 6523.3 authorizes the District to pursue injunctive relief through the superior court system to restrain any person from continued violation of a District ordinance. General Manager said this may not be the most appropriate remedy for an illegal sewer connection, but it was an option under the law; 3) **Termination of Service** – Section 6523.2 allows the District staff to enter upon private property to inspect and maintain lateral sewers. Service may be terminated, pursuant to this section, if a violation of a District rule or regulation is found to exist. General Manager said there were some requirements before service is terminated for any property owner. The owner or tenant would need to be notified of the District's intent to terminate service. A notice would need to be posted on the property, and the Board would need to conduct a hearing on the termination not less than ten days after giving notice. General Manager says this has serious implications for the property owner. It renders their property uninhabitable. General Manager said at this stage the Environmental Health Department would be involved or the local jurisdiction that would address those types of issues. General Manager said it was the ultimate enforcement remedy for the District in the case of an illegal sewer connection.

General Manager talked about the collection of fees and charges on the tax roll, and said the District's approach was to require property owners who were found to have an illicit connection to pay a Development Impact Fee at the current rate, if we find they have not paid one in the past. Director Moorhouse asked if this was enforceable. Legal Counsel said, in a situation where there is an unauthorized connection, they were looking into this. Legal Counsel said he had some concerns about this because the provision in the Principal Act that allows for this is where the property owner has "requested the services." This situation is where the District has investigated and found there is an unpermitted connection. Director Moorhouse said if the District terminated service, their remedy would be to request service. Legal Counsel said that was correct. General Manager said what Legal Counsel was talking about was the District's ability to collect the Development Impact Fee or other past due charges on the tax roll, which may be limited to that circumstance. General Manager said it did not mean that the District could not ask for or claim the property owner owes the District a Development Impact Fee. Legal Counsel said the District could file a demand letter, and that would be the second step in this process. Director Moorhouse voiced his concerns with collecting charges and back fees from the three property owners, and not being able to collect from the property owner who might legally challenge the process. Legal Counsel said he did not agree that this presented a legal problem for the District. Director Graf asked why the policy or procedure couldn't be to terminate their service because it would be an illegal hookup, and in lieu of termination they would pay the fees to avoid termination of service. General Manager said that is what has been constructed in the second demand letter, but just to clarify that it is within the District's right as the service provider to say, "You owe us this money." General Manager said there might be some clarification staff would like to add in a subsequent ordinance to make that clear, but it is not contrary to the code to ask for or demand payment of applicable fees. General Manager said he thought that was already spelled out in Ordinance No. 10 and Ordinance No. 8.

President Damron asked how long after the letter is sent out does the property owner have to respond. General Manager said the sample letter in the Staff Report gives the property owner 30 days to pay the Developer Impact Fee and the past due sewer service charges, and within 30 days they would need to provide a video inspection of their existing lateral connection. Within 120 days any improvements would need to be made to bring their sewer lateral into compliance with District design and construction standards. General Manager said at the end of the letter the property owner is told if they don't comply, the District will pursue proceedings to terminate their service. Legal Counsel said, depending on the response from the property owner, what staff would do would meet with the Board in Closed Session and discuss the remedies available to the District and instruct staff as to what steps to take next.

Director Moorhouse said because the three property owners complied, the District chose not to terminate their service. Director Moorhouse said he was concerned with the appearance that this fourth person might challenge the District, the District may have a weak legal argument to collect the DIF. Legal Counsel said he did not agree that it would be a weak legal argument. Legal Counsel said the Principal Act allows the District to collect for the services it renders. Legal Counsel said where he thought Director Moorhouse was going with that issue was with respect to whether or not the District can show that the connection was authorized. Legal Counsel said if it's not on the District's books, and the District never authorized the connection, then it is an unauthorized connection. Director Moorhouse said he thought Legal Counsel had said in reading the ordinance that in order for the District to collect the DIF fee, the person had to request service. Legal Counsel said he was only talking about a remedy under the Health and Safety Code for placement of a lien on the property. Legal Counsel said there were two issues: 1) unpermitted connection, and 2) nonpayment of fees. Legal Counsel said there were remedies available for both, but what he was talking

about was in respect to where you have someone that has requested service, has received it, and has not paid for it. Legal Counsel said what he was looking into was whether or not a lien remedy is available in a situation where it is an unauthorized connection. Legal Counsel said he was not prepared to say, but clearly the District has other enforcement remedies that are in the District's Ordinance No. 2, and these parrot what is in the District's Principal Act. Legal Counsel said those are three tough remedies, and his counsel would be that staff provide the demand letter to the property owner as a second notice, and if there is no progress the District would consider sending another letter and setting a date for a hearing on termination of service. Legal Counsel said he would meet with staff and the Board about this in Closed Session.

Director Horwitz asked if there were cooperative efforts with the two counties, Santa Barbara and Ventura, that permits are not given out until there is a will call letter or something signed off by the District. General Manager said there are measures in place.

General Manager said another community the District has looked at is the Serena Park community. General Manager said those sewers were built after the Padaro Lane sewers, and every property within that assessment district area was not mandated to connect, regardless that the District had the authority to force them to connect. General Manager said there were parcels there in the same circumstance. Director Horwitz asked if the assessment district included their DIF fee, and General Manager said it did not. General Manager said he thought that the land use building process for new development would help people from making illegal connections, but it did not mean it could not happen. Director Horwitz asked were the laterals already in place, and if not, wouldn't the property owner have to tear up the street to put in a lateral. General Manager said, in this case, there is a patch in the street that has pavement that does not match the existent pavement, which might be twenty years old. Director Horwitz asked if the contractor who installed the lateral had any responsibility. Legal Counsel said the legal responsibility fell on the property owner.

President Damron asked if the dye test was being used to find the illegal connections. District Engineering Technician, Lance Lawhon said the dye test, the inspection camera and the GIS system were being used. Lance said at Serena Park, the GIS system shows 28 parcels that were not paying fees. Those 28 parcels may or may not be connected, and staff would need to check them out in the same way as Padaro Lane. Director Treloar said his concern was that if it was new construction, they should have gotten a can and will serve letter. Director Treloar said staff should be able to obtain something from the building department or Environmental Health Services that show they did what they were supposed to do if they're connected. District Engineer, Lance Lawhon, said he agreed with Director Treloar, and said staff should go through the records at the county to see if they are connected. Director Treloar said another concern he had was just because a neighbor is connected does not mean someone living next door is connected. Director Treloar said there are pockets in our District where they have not joined our District through the Coastal Commission. Director Treloar said he thought staff should be notifying the Coastal Commission as well. General Manager said, in a bigger picture, staff is addressing this by working on a sphere of influence review and update through LAFCO. General Manager said there are some islands, but he didn't think there was a great number connected to our system that were not annexed to our system.

Director Horwitz said since the District was enforcing full hookups in the beach communities, why aren't we going into Serena Park and requesting the same. Legal Counsel said there were two issues. At Serena Park, they are already hooked up. Director Treloar said back when Serena Park was annexed into the District there were a lot of undeveloped lots that were not connected. They were told they would have ten years to connect into the system because of the "financial hardship" at the time. Director Treloar said property owners came along later and connected. Director Treloar said if there was an existing home, like on

Padaro Lane, there would be no can and will serve letter, but there should be some kind of letter with the County that the tank was demolished. Director Moorhouse asked if staff could find any documentation that talked about the ten-year deal. Director Moorhouse said he would like to see something in writing. Director Moorhouse said if it wasn't in writing, it did not exist, and the District needs to move forward. Director Moorhouse said he would like to offer a suggestion to have staff research and come back to the Board at a future date with a plan for Serena Park.

General Manager said Finance Director, Hamid Hosseini, indicated to him that the Development Impact Fee for the people in the assessment district was included for Serena Park. General Manager said he would suggest that staff do a little more research and come back to the Board, as the Board suggests, with a report of what we'd like to do and how we'd like to proceed with this.

General Manager said he'd like to comment on the South Coast Beach Communities Assessment District 2007-1, and the issue of whether the District will force people to connect on that project. The Board has not come out and said in public forum that they intend to do that. General Manager said the District would need to obtain from these property owners a simple easement that would allow staff to go on their property, install grinder pumps and infrastructure. General Manager said if staff got into a situation where someone said absolutely not, that might be a situation where the Board might make a decision to allow them not to connect. General Manager said it is a different situation there, because if they wanted to connect at a future date, they would need to have a grinder pump. General Manager said they have an incentive to connect at this time because a lot of the onset improvements are a part of what they are paying through their assessment. General Manager said he just wanted to make a clarification that this decision had not been made, but it is within our Ordinance No. 2 that if your property is within 300 feet of a public sewer you have to connect.

Director Horwitz asked Legal Counsel if someone said they had paid the three years of back charges could the District call it something else and charge a penalty for hooking up. Legal Counsel said if they paid the Development Impact Fee through the assessment district financing and did not connect on paper and were not paying SSC fees, that's the case where the District could reach back three years and collect the fees. General Manager said in this case he would like to make sure that the means in which they connected was up to the District's standards.

General Manager said it was staff's intent to send out the second demand letter to the one property owner, and he wanted to make sure this was consistent with what was discussed. The Board agreed that staff should send out the second demand letter. Director Graf asked if the property owner understood that the next option would be to terminate service. General Manager said the second demand letter would make that clear. Legal Counsel said there would also have to be a hearing in front of this Board, preceded by a ten-day notice and then a hearing before that order could be issued. Legal Counsel said any more discussion regarding this particular property owner would need to be held in Closed Session.

Board Committee Reports

Finance Committee – Director Treloar, Chairperson, said the committee met yesterday and went over the monthly budget report, the preliminary report on mid-year budget adjustments, and a report on investing funds from other agencies. Director Treloar said he was happy to report there would be very little mid-year adjustments to the budget. Director Treloar reported most of the other agencies invest their funds with LAIF. Director

Treloar said that Montecito Sanitary District invested funds with LAIF and the SB County Investment Pool. He said Montecito had been splitting their funds for many years, and when LAIF made a change to invest 100% of funds from an agency, Montecito was able to continue their split funding through a grandfather clause.

Personnel Committee – did not meet.

Public Relations Committee – did not meet.

Board General Items

CASA Legislative Committee Report – none.

Future Agenda Items – 1) Serena Park Sewer Connections Report

Adjournment. There being no further items to discuss, President Damron adjourned the meeting at 6:26 p.m.

Michael Damron
President

Pat Horwitz
Secretary Pro-Tem

Lin Graf
President Pro-Tem

Doug Treloar
Treasurer

Jeff Moorhouse
Secretary