

Minutes of the Casitas Municipal Water District  
Board of Directors Regular Meeting Held  
October 26, 2005

A regular meeting of the Board of Directors was held October 26, 2005 at Casitas' Office, Oak View, California. Directors Hicks, Kaiser, Baggerly and Word were present. Director Bennett was absent. Also present were John Johnson, General Manager, Rebekah Vieira, Clerk of the Board; and Attorney, Rob Sawyer. There were three staff members and twelve members of the public in attendance. Director Hicks led the group in the flag salute.

1. Public comments.

John from Z Pipeline asked to speak and was informed that his item was on the agenda.

Rob Sawyer mentioned that there is a contact from the Nye Family here. President Hicks said it was discussed in the Water Resources Committee Minutes and it is not a specific agenda item but we can hear the comments under manager reports.

2. Board of Director comments.

Director Word asked for a status report of the La Conchita Claims. Mr. Johnson said that they remain claims and there has been no additional action. Nothing has happened since we rejected the claims. Rob Sawyer added that they have time to file a lawsuit after the claims are rejected. He has checked recently and there have been no filings. Director Baggerly added to keep an eye out for the statute of limitations.

Director Word informed the board that he had seen a copy of the Bill Snider and Dick Barnett oral history. It is on two tapes and asked if we have the capacity to copy them for our library. This was taped for the Ventura county Museum. President Hicks asked if it was on video. Director Word said it is on video. President Hicks replied that he has a guy that can copy the tapes.

Director Word then informed the board of the December 14<sup>th</sup> California Special District Staying in Compliance seminar being held in Sacramento and suggested that we should participate in it. Mr. Johnson explained that we had talked about it at the Executive Committee. President Hicks added that everybody has been to the Brown Act seminar. Director Word added that he did not think so. President Hicks said he would rather go to one down here closer.

Director Kaiser reported that he had attended the quarterly meeting of the regional energy alliance which included elected officials from the cities. There were positive comments. Supervisor Long in particular mentioned positive comments about our newsletter and that we recognized some of the involvement with the regional energy alliance. In talking with the executive Director, Cheryl Collart she would like to work

actively in this upcoming year to see if there is some additional way we could benefit from the alliance with regards to some incentive monies and looking at the dam and possible solar energy that could help us out in power generation for our pumps. I hope that we can get staff involved in that too.

Director Baggerly said he had a call from a constituent regarding the new type of bait for rodents that had been put out in the event area and he wondered if this was a test for the new non anticoagulant. There are some concerns with children that could be accessible to it. Mr. Johnson said one of the problems no matter what you use it is harmful to something. I think we can get you information on it. I am sure that the last time I talked with recreation about it we were simply trying a couple of different kinds of products to see if something else would work. One of the things that remain to be done is if you find something else that work is it any better than the product that we have been using. Director Baggerly if it kills rodents and doesn't pass on poison to the rest of the food chain that is what we are looking for.

President Hicks informed the board of a LA Times article where they are predicting a real possibility of a ten year drought in the next ten to twenty years which makes Lake Casitas valuable to this county. Director Baggerly said he had seen a preliminary story on the potential drought on the Colorado Plateau basin and the story that I read was very significant in that they don't think that Lake Mead or Lake Powell will ever fill up again.

President Hicks then asked if we have set a date for the employee's Christmas party. We are trying to do an event for them at the museum. Anyone in the audience that doesn't know this, the museum in Ojai has a display showing what was under the lake before it was filled. It is the most fascinating exhibit I have seen since I have been on the board. It is really interesting. It shows all the ranches that were there and why some of the coves are named Dead Horse cove and so forth. The museum is only opened Thursday, Friday and Saturday. We are trying to get all our employees up there and have a party. Rebekah reported that she and Jane are working on it. President Hicks said he would like to have a date by the next meeting. Rebekah replied yes.

3. Consent Agenda.

ADOPTED

- a. Minutes of regular meeting held October 12, 2005.
- b. Resolution approving membership in CalPelra and attendance at annual conference.
- c. Resolution establishing career path and salary ranges for Maintenance I and II positions.
- d. Resolution authorizing payment of vacation and sick leave upon separation to the payee of choice of the employee.
- e. Resolution approving a salary increase for the Water Quality Supervisor.
- f. Revised Personnel Ordinance.

- g. Resolution setting Rules of Conduct.
- h. Resolution approving agreement to terminate the Cycle Rental Concession Agreement at Lake Casitas between Lake Casitas Marina, Inc. & Shawn Brown.
- i. Resolution approving agreement on Cycle Rental and Shaved Ice Concession between Lake Casitas Marina, Inc. and Nicholas & Luis Berbari at the Lake Casitas Recreation Area.

Director Baggerly asked to pull item F from the consent agenda. He wants to discuss it after approval of the Consent Agenda. President Hicks said he has some questions on that too.

Mr. Johnson reported that we have handed out on your table some changes to the resolution 3 (d) on Vacation and Sick leave. We have just made a couple of little clarifications on it. It still conveys the same thing. Director Word added that there are some typos that need to be corrected in 3 (g). He said he had already talked to John about it.

President Hicks said he noticed that the people that were going to take over the bike concession at the lake were here, the Berbari's. Mr. Berbari said thank you very much and we look forward to working together. President Hicks said we are happy to have you.

Director Kaiser said he would have to abstain from the approval of the minutes as he was absent from the last meeting but he would entertain the motion for the consent agenda.

On the motion of Director Kaiser, seconded by Director Word and passed the Consent Agenda was approved minus item (f) with the following roll call vote:

AYES:	Directors:	Hicks, Kaiser, Baggerly and Word
NOES:	Directors:	None
ABSENT:	Directors:	Bennett

Resolutions are numbered 05-70, 05-71, 05-72, -05-73, 05-74, 05-76

President Hicks said that item f is the revised personnel ordinance and I know that we have some questions about it. Director Baggerly said he knows we have talked about this issue before. I have heard comments from two members of the board who were present in the year 2000 when the personnel ordinance was adopted that reinstated the retirement health care benefits for board members. The comments were that they weren't either not aware that it was the item before you or it wasn't their intent. I thought I would offer a motion to approve the revised personnel ordinance with changes to section 30. Near the end of the revised personnel ordinance under section 30 for board members and add the words retirement health care benefits to the list of benefits that board members

are excluded from. President Hicks said he didn't remember putting it back in. When they did it it was making them employees of the district. Rob Sawyer added that based on matters that have been discussed on the agenda before the only member of the current board that would be affected would be the present chairman. President Hicks said this wouldn't affect the prior thing I don't think. Director Baggerly said I feel the same way too. Rob Sawyer said as long as you do not have any questions. President Hicks said I may take that. I don't know depending on my health situation. I might and I might not, if I am eligible. Director Word asked if this action would preclude the former board members if they paid the total cost. Director Kaiser said what is the effective date of this particular policy. Is it effective as of today? Rob Sawyer said that is the issue. At this point with respect to and it is not even certain that it applies to Director Hicks. Certainly with respect to all other currently sitting or future elected board members they are not eligible for retirement health care benefits unless they reimburse and self pay. There remains some question and this board has approved a request from the attorney general opinion as to whether or not certain much earlier elected directors may actually be eligible for that benefits not on a self pay basis but at the expense of the district. I am sure that director Hicks probably feels he has served that long. He is the one person currently on the board depending on the attorney general's determination may be eligible for the district to pay for health care benefits following his retirement. So the way that it was phrased, this was the issue that came up that is still being reviewed. When the ordinance was amended in 2000 did it affect that and the question would this also affect it?

Director Kaiser said should we have some added language except as otherwise provided. Rob Sawyer said every other board member currently sitting and any in the future are not entitled to it except on a self pay basis. It may be wisest at this point because economically the district is protected by current state law not to put in the retirement health care benefits as an excluded benefit specifically in this section. It is a matter that can be revisited as a noticed agenda item any time in the future. It may be wiser for the board to postpone that, enact what is here now and postpone until after the review process if completed on the issue you are facing as to if to include it or not. President Hicks said that might be the smart thing to do.

Director Baggerly added he thought it went to intent. Board members here in 2000 it was clearly not your intent. President Hicks said that did not come up. It was only that we would become employees of the district. Director Word said the reason was that prior we were treated as contractors. We put in the exclusion of sick leave and all that. My feeling is it is pure oversight and it was not the intent to reinstitute retirement health care.

Director Kaiser asked if there is any chance that the AG is going to have any discovery on our current policy and how might that complicate things. Rob answered no. That kind of issue because of the current state law. The other alternative the board might consider is what if state law is changed in the future and the current prohibition is reversed so that future elected board members might be eligible and the board feels that it is advisable at this time to put as much financial protection for the board as possible into

this you might consider if you add the issue of retirement health care benefits to state that the ordinance will continue to mirror the statute as it is in effect today, as of the time of adoption of the ordinance regardless of future changes to state law. If a year from now the legislature decided we are now going to allow qualified retired board members to receive retirement health care benefits, your ordinance would say that you are not going to provide the benefit. Director Word said we already said we are not doing it.

Director Baggerly said there are discussions regarding the cost of retirement health care benefits for employees and certainly the same issues for the district would apply to our board members as well. I think it was clear in 93 that the district board members chose to stop the benefit for board members. What happened in the year 2000 is not clear or if there is some other reason for it, can we really afford it? President Hicks said it is not our intent to reinstate it. It has already dropped. I am the only one affected as I see it right now. My feeling is if someone puts 20 years into this district and we are employees with everything taken out of our checks and you are probably not making minimum wage by the time you study all of this stuff. Maybe with 20 years someone might be deserving. You guys decide.

Director Word mentioned that bill 1234 has been instated and we may earn half of what we earn now.

President Hicks asked if we should leave it out for now. Rob Sawyer said the issue for agency council is difficult. It is unfair to put you on the spot today as the one affected person. The only thing I can say is the district and Director Baggerly has put it very well. The financial issue the district has studied is very significant and that should be taken into account. On the other hand the board should consider if it is appropriate if you individually be given more time to study this in case you determine that the board should take a different tack and you want an opportunity. As you say, you don't know what the future is going to be. It could be very significant if and when the time arises. If is a question for the directors that are here today to vote on, discuss and consider should that door be left open or should a firm policy be decided.

Director Word said if we put in the exclusion how would it affect the two retired directors. Rob answered that it would not affect them as they are subject to prior ordinance. President Hicks said if that is the case there is no problem and lets put it in now. Rob Sawyer said it will muddy the water only for the present chairman. President Hicks said he does not want to muddy the water.

Director Kaiser said there is a certain degree of importance for a board member serving the public for a great number of years and it could be something that the board wants to entertain in the future. The threshold may be 20 – 30 years of service and it should be worth something.

President Hicks asked Rob if it was his recommendation that we do this. I don't really care. Rob said legally I can't recommend either way. President Hicks said lets put it in. Director Kaiser said what is it that we are putting in. President Hicks said board

members are not eligible for retirement health care. Director Baggerly said we are excluding retirement health care benefits. Director Word added the following benefits are excluded, vacation, sick leave, health care benefits. Mr., Johnson said he doesn't usually want to get into it but if you put it in that way you won't have health care benefits at all. You say health care benefits you lose all your health care benefits. The board clarified retirement health care benefits. Director Baggerly said retirement health care benefits.

Director Word commented on the bill 1234 and that we are waiting for a reading on it to see if there is some clarification but the new law stipulates that the stipend pay for meetings would be no more than \$100 per meeting. The definition of meetings is extremely limited. The number of meetings per month would be reduced to six. It is just not clear if you don't already have an ordinance and have something approved in the public meeting if you don't have that the way I read it then these new rules will apply. I am not sure if that is correct. Director Kaiser asked what the status is of that bill. Director Word said it is passed and goes into effect January 1. You get training every two years etceteras. Rob Sawyer said it is from the delta misuse. Director Word said you have a copy of it in the agenda packet. President Hicks said no one is on this board to make a living.

The ordinance with discussed revisions was offered by Director Baggerly, seconded by director Word and adopted with the following roll call vote.

AYES:	Directors:	Hicks, Kaiser, Baggerly and Word
NOES:	Directors:	None
ABSENT:	Directors:	Bennett

Ordinance is numbered 05-2

4. Bills.

APPROVED

Director Word asked about #19547 to DataStream. Is this for a new program or what is this for? Mr. Johnson said one of the things that we usually get into with DataStream is we pay them for some types of changes in our programming as we go along. We spend \$20,000 – 30,000 per year and that is part of the reason we are talking about changing the system. It is to get information out of it. Director Word said this is not to change or is new software. Mr. Johnson said this is kind of maintenance work on the software to keep us running. We have a budget for that and incur these expenses. Director Word said we are still considering changing to another system. Director Kaiser asked where are we at on that it is something I had brought up months ago. Mr. Johnson said our accounting manager has indicated to you that she would like some time to experience the existing system to make sure that she understands the full year of the existing system and she would propose to do that in a future year. Director Kaiser said future year is kind of ambiguous. Mr. Johnson said we put it in the long term financing plan for next year or the year after. You would still have to pass the budget for that.

Director Word asked about item #19619 Edison Street light. Are we putting in a street light? That sounds like we paid for the entire new street light. Mr. Johnson said we are not putting in street lights. That is an Edison bill payment. I can't really answer the question about a street light at 1890 Casitas Vista Road is. You are not putting in a street light. That is pumping power. I can find out for you later.

On the motion of Director Baggerly, seconded by Director Kaiser and passed the bills were approved.

5. Committee/Manager Report(s).
  - a. Report on specific issues
  - b. Water Resources Committee Minutes
  - c. Finance Committee Minutes
  - d. Personnel Committee Minutes
  - e. Investment Committee Minutes
  - f. Water Conservation/Public Information/Legislative Report

President Hicks asked if John could provide a background on the Nye issue. Mr. Johnson said he would speak afterwards.

Catherine Nye resides at 8442 Santa Ana Road. Regarding an issue that has come before your water resources committee. I am here representing the 20% of the Nye ranch estate that is on Santa Ana Road. Our property overlays and pumps water from ground water basin and we have sufficient to allow for export without adversely affecting the other overlaying users which include the city of Ventura who also pumps from that basin. We believe that the sale of water from Nye to the district and now is the time to be proactive about getting water into your system. It would benefit the district, its customers and our families. We also understand the sale and export of groundwater requires careful consideration of all individuals involved including the rights of other users. We further understand the districts relationship with the City of Ventura means that everyone would be best served if the City of Ventura is included in any study of contracts of water between the Nye family and Casitas. Your water resources committee has noted in their minutes that the issue would be reconsidered during the next year. Even though the appropriation of that sort of groundwater is a complicated matter it fits the needs of the customers of the Ojai valley and a valuable and practical water resource. We believe that the matter should be continued to be actively studied. If you have any questions or need additional information you can contact me or my husband. You also should be aware that your agency counsel Rob Sawyer has served as counsel for all descendents of the Howard Nye Estate who is my father in law. I would be happy to provide you with additional information and I thank you for your time.

President Hicks asked if they have a riparian right to the river. Catherine Nye answered yes we do it is pre 1914 and we have gushing springs on the property. Director Kaiser asked what kind of beneficial aspects would you see the water being used for. Is there some type of philosophy of the family? Mrs. Nye replied that it could be exported

into Lake Casitas at a price per acre foot and then you could do whatever you want with it. At this point we think it is running down the river.

Director Baggerly added are you familiar with Mark Twain's anecdote? Whisky is for drinking and water is for fighting. That is primarily the concern. Any encroachment upon the wells currently operated by the city could create an immediate friction if not an actual fire. We have to be very; very careful about whose fox is going to be gored. We are moving slowly. Mrs. Nye said she understands that and we are too. Wells were washed out during the January floods and the city is trying to negotiate a way of getting a well without the property to do it. Director Baggerly asked if they had been contacted by the city regarding acquisition of the well or using the water by the city. Mrs. Nye said no. Not using the water that we have but they are in negotiation about how they will fix their own wells. Director Baggerly said they haven't contacted you specifically about this particular well. Mrs. Nye said there is no well, there is no well. We have a private well that we use for supplying our house that is on the primary address.

Mr. Johnson said he is not sure that anyone can see from the surface as to what is under the ground and he is not sure you can see it from the surface. I think we were contacted a while back, maybe six months or a year ago about the possibility. We have gone out there and taken a look at some of the facilities that are on the property. We looked at a well that was there. We got some pictures of it. There are a number of issues that are involved in this kind of discussion and an investment of time and resources. The questions that we brought up at the Water Resources committee is if the time and resources at this point is worth it. We also talked with the City of Ventura about how they would feel about us going onto the Nye property and getting involved with the Nye wells and I got the opinion from them that they would not view that with understanding. I guess from my particular position is that we are likely to alienate our biggest customer if we go in there and start doing something and getting involved in it. Director Baggerly said that was the consensus of the committee as well.

Director Word said who would take advantage of the water. Director Kaiser said that is my questions. Mrs. Nye said yes. I can contact other agencies. Mr. Johnson added that one of the things about water supply is the cost of moving it around to put it someplace where it can be used. When you look at the Nye property and the availability of facilities there are only two agencies that have the ability to move it once it is produced and that is the City of Ventura and Casitas. Any other agency is going to have a real investment to make beyond that of just getting the water out of the ground to move it to an area. Director Word said he does not understand the city of Ventura's involvement. Mr. Johnson explained that the city of Ventura has wells in that same general area and they produce water from the groundwater aquifer. Our concern or at least your staffs concerns is that we don't want to go into an area where others are producing because we may simply be taking water from them and since they have meters from us all they do is take more water from us. We don't gain anything and we may get ourselves into some kind of a disagreement. Director Word asked what the City wants? Is this extra water that is available that the city would want? Are you looking to sell

water? Mrs. Nye said yes. Director Word said you are looking for a buyer ourselves and the city. President Hicks asked why would the city buy it when they can pump their own water.

Rob Sawyer disclosed that our office had represented Howard Nye during his lifetime and we continue to give real estate advice to the family. I have been aware of this issue. I was surprised that Director Baggerly did not also mention Mark Twain's statement that California runs up hill towards money. The first order of rights for groundwater are for use by overlying owners on their own property. The next level is to pump it up and send it somewhere else. The Nye family is essentially first priority user, pump it up and irrigate. The city is an appropriator; it pumps it up and sends it to its customers. It is on a different tier. What is distinct about the Nye property is that it is a large area that overlays a distinct aquifer that appears to have a large capacity and the way it is zoned current agriculture it is not profitable to raise cattle on the property, they can not use the water for one property uses but if the water is there is might be available for appropriate uses. If that happens, the Nye family then is on the same priority level as the city and traditionally appropriate uses have the same right unless the groundwater level is threatened. In which case an appropriator can file adjudication and limit pumping all over. That is the great risk that anyone else that came in and purchased the water would by doing that create a situation where if a shortfall the city would say we were here first appropriating. What may be important to casitas is because casitas has a storage facility it may want to look at the issue of if shortages are seasonal and it purchased water when there really is a surplus and store it and back off and let the City take its traditional amount if it is threatened. That is why the city has to be included in any type of negotiation. It is a complicated issue but it is one of the few areas in the county where you have a productive basin that really is only at the beginning of study and the overlying owners really don't have the ability to use the water on their property. If this was in strawberry growing country this questions would not arise.

President Hicks asked how far from the river is the aquifer? Rob said it is right next to it. Mrs. Nye responded that is a geological question. As you know Santa Ana Road cuts right through our property. There are 40 acres along the river and there are 80 acres on the other side against Haley property. The running springs are on the 80 acres on the other side of the river and the other side of the road from the river on the west side. If the well were on that side of the river and that side of the road.

President Hicks said wouldn't this open a can of worms with the environmental folks who are trying to get more water down the river. If it is going to affect the flow of the river which I assume it would to some degree. Rob Sawyer answered no. Again it is a geological question. If it is distinct underground flow that is not geologically affect your surface flow or it because of the separation uplift is part of a distinct basin that is not part of the underground river flow. President Hicks said that would be a different ballgame. President Hicks said wouldn't you need to know if it is a separate basin? If it is attached to the river you have a thorny problem you have to deal with. Rob answered that is one of the reasons this is very preliminary.

Director Kaiser said the springs you are referring to are on the side of the hills that separate the lake from the river. It seems to me that this should have further discussion with the City of Ventura so that their particular concerns could be addressed. President Hicks said I don't think you do anything until you figure out where the aquifer is and does it affect the flow of the river. Mrs. Nye said that is where we are at right now. President Hicks said this is an informational topic right now. He thanked Mrs. Nye for coming and explaining it to use. Mrs. Nye invited the board to come to the property to walk it.

Director Baggerly commented that the Personnel committee minutes were listed but they were not in the packet. Rebekah said they would be included in the next packet.

6. Presentation from Tom Bryan regarding his appeal for water service.

Tom Bryan addressed the board. He said his project manager is also here and he has been involved in the process. My appeal was turned down in a meeting in the summer and I don't know if you knew what occurred there. I had written notice the day of the meeting and I emailed Rebekah that I could not attend but that communication never got to Mr. Johnson so I was not able to represent my project. What appeared to be a very reasonable time limit when we were on the priority list initially nine months were given to use turned out not to be a realistic time line because of the processing of the County of Ventura. I received a letter stating none of the delays were as a result of us. It was a community plan development and zoning that required a great amount of paperwork. I communicated with Mr. Johnson's office every time there was a delay. We were given reasonable extensions. The issue now is that we are in a time warp. The project has been approved; we are off the priority list. We have a certain time limit on performing and complying with the County conditions which we can do however, if we have to start all over we are going to lose and it will take over a year again. I have over \$30,000 into the project and we are going to be denied the project if we don't have some assistance from you and compromise. I would like to have my project manager speak.

Randall Romadick, 156 St, Thomas Drive in Ojai explained that he has worked with Tom on this project for over three years. Your people and the board acted reasonable. Prior to coming to you and asking for this water allocation we submitted a plan to the County and submitted a fee for preliminary review of the project. It was deemed feasible and we came to you asking for some time. You gave us nine months to process. We went into the process and about seven months into the process the county determined they wanted to widen the streets, taking 15 feet and all our plans were worthless. We went into some traffic study problems that we didn't know of at the time. The project was reduced from four units to one unit. At that time we notified Mr. Johnson that we were going to withdraw the request for four units and asked to get a continuance for just the one unit. The project was redesigned, resubmitted and then we went through another nine month process. In the mean time Mr. Johnson was cooperative with us. He extended as far as he could and in fact he extended it farther than I expected. He was very generous. The county was shorthanded and meticulous about what it approves. Again the second process was approved this summer and by that

time our allocation expired. Now the county says you have 18 months to process and we can't go to plan check without water. The county guidelines and your guidelines are conflicting. We can never get the water in time to finish the process with the county.

President Hicks said I am sympathetic to you. My daughter is doing a remodel and my wife is a general contractor and she knows every person at the county as she has been there many times. I know that it is not easy to get something through the county. He continued that he is personally very sympathetic to your dilemma and I would assume the other board members might be also because we are here to serve you guys and not be a crutch in something that should have gotten handled and just didn't because of circumstances beyond your control. Director Word asked if we have issued the allocation that they were in line to receive. Mr. Johnson said we continue to issue offers of allocation I think there are some left I am not sure but I think the latest estimates from our engineering section is that we are probably at the end of the line. If we have one left for him or not based upon the others that we have offered I don't know. Director Word said the appeal was denied to therefore there was an allocation that was being held for that and extended at the end of the time, no there was nothing else and so were those allocations then handed out to the next in line. Mr. Johnson would have to say at this point that it went to the next in line. Director Word asked if there is any to give them. Mr. Johnson said he didn't know if he could answer that at this meeting. He would have to research. I have been told that if everybody takes the allocation on the last offer we are going to be out. Mr. Johnson continued that we have our priority list. There are 160 folks total on it. We are working on #84. President Hicks said can't we reinstate him in to our original priority order. Director Word said not if the allocation was already given. If you run out, you run out. President Hicks said he was in line first and because of circumstances beyond his control he was kicked off and I don't think that is right myself.

Randall then said maybe you could allow us to have the next allocation available or if one is not taken form the recent offer to have one of those so no one would have their allocation taken away. Move us back on the list where we were. We were on the top ten at one time. Mr. Johnson said the issue on all of these is that we try to go back and when we originally talk about this methodology the idea was to get it to people who were ready to move so that we wouldn't stall them out. When we came to someone who didn't get it done in time we bypassed them. Bypassing means those allocations go to the next people on the list. One of the big concerns of your staff had always been what happens if you move someone up in the allocation and they receive a higher allocation if they have been on the list before then you have all sort of other issues that come up. I ma not against you doing it you are just going to multiply the issues that come before you. Director Kaiser said there might be other people in line that we will be hearing from. Mr. Johnson said you already have had a number of other people who are ready to move but they don't get it done in time. They have come before you and you have basically rejected their appeals because they weren't ready to move at the time we had given them. The issue here is not so much that Mr. Bryan didn't do the work. We certainly would like to sell them services. The issue is you have a list now with people that expect certain things to happen and you also have a priority list of people that have been bypassed that we basically told them if they want to stay there you have to get back in line. If you do

something like this you will create precedence where someone can get back at the front of the list because they were there at some point. If you do that you are likely to get a lot more appeals from folks concerning them being higher on the list and being bypassed and now they find we are elevating someone else. President Hicks asked how many are on the list. Mr. Johnson said the total number is 162 you are at 84 so you have 78 still waiting for allocations.

Director Word added that the water we had available to allocate we have already used all of it. President Hicks said in essence they can't get water if they get back in line. Mr. Johnson replied that we have been talking about what to do about this very situation. We have always known that we were going to run out of these allocations and where is the next step. Your board has authority to release more water for additional allocations. Because of our situation with our existing supply that is our existing supply is less than the water that we think we need based upon our December 7, 2004 report we recommended to you that you go slow in whatever you decide to do. There are a number of ideas that we have proposed before your water resources committee to add additional approvals to move down the list some more. Another one is that you could allocate more on the basis of buying more water. One of the other ones that I have been talking about is doing the same kind of thing but basing it on water conservation. There are a number of projects that we have listed in your Urban Water Management Plan that you could move forward with but those are a number of years out.

Director Baggerly said the timing of this is very difficult. You must have been traveling in the summer. When did the project actually get adopted and was that any time close to or before our water resources committee meeting where we took action. Is there a possibility that you could find it sort of correct after the fact because of cross connections? Director Word said you are looking for a way to explain it to other customers. President Hicks said that is why we are here. If we had a rule book that could deal with every situation all you would need is a book. That is why you have a board to try to use common sense. If we have to do fifty more then we will do 50 more and make a decision on it. In this particular case these people got between a rock and a hard spot from no fault of their own because the county wants to widen the road. As a board it is our obligation to make a decision that is in the public interest. I don't think we could be critiqued for making this decision. If someone else wants to come in and make their case we will make a decision on that too. Director Baggerly said we could base it on the county's process taking longer. Had the county not made the project that much more complicated.

Director Kaiser asked this particular project is within the Meiners Oaks water district. Have you approached them to find out if they have had a change of policy at their end? Randall said the last time he talked to them they would do a tentative will serve letter based upon your consent. Director Kaiser said at that time it was still dependent upon us.

President Hicks asked if he heard a motion to reinstate these guys on the list. Director Word asked how much the allocation is. Randall replied it is a quarter acre foot.

If we had estimated one acre foot for four units. Director Kaiser said you are planning to go ahead with just the one unit that would require the ¼ acre foot. Director Word asked if you receive the will serve letter what kind of timing will you need, when would the project be started. Randall answered we would be in plan check in less than thirty days. It is engineered, we have our soil study done, we have the plans, we just need the will serve, we can't go into plan check without water.

On the motion of Director Baggerly, seconded by Director Word the recommendation to reinstate them on the allocation list was approved.

7. Public Hearing on the Draft Urban Water Management Plan.

Ron Merckling presented the Urban Water Management Plan. The Urban Water Management Planning Act requires urban water suppliers to update their plan and submit a complete copy to the Department of Water Resources every five years. A water supplier will only be eligible for Department of Water Resources administered grants and loans and drought assistance if it has submitted a plan.

The Urban Water Management Planning Act requires urban water suppliers to: Describe and evaluate sources of water supply; Explain efficient uses of water; clarify demand management measures which is the same as best management practices; Make clear implementation strategy and schedule; and provide other relevant information and programs.

An Urban Water Management Plan is considered to be a source of information for Water Supply Assessments and Written Verifications of Water Supply. The Plan may also be considered: long range planning document for water supply; Source data for development of a regional water plan; and a source document for cities and counties as they prepare their General Plans.

Casitas' draft plan describes the water supply and demand issues and how Casitas plans to meet all of its water supply requirements until 2030. The plan in front of you is a draft plan. We have received comments on the draft plan and we will provide a final document at the next board meeting including those comments.

Twenty-one agencies were mailed a letter on March 9, 2005 that provided planned public meeting dates and times. The June 2005 newsletter sent to 29,000 households also noted the planning meetings for the Urban Water Management Plan. The District has advertised this public hearing in the Ojai Valley News and in the Ventura County Star. The District has posted the Document and all of its attachments on the front page of the Casitas website. A second letter was sent to the previously mentioned 21 agencies on September 30, 2005, which indicated that a copy of a draft plan was available on Casitas' website and a CD copy could be made available if so requested. In addition, a hardcopy was available at the District office for review.

The two Board Members serving on the Water Resources Committee have provided significant input on this plan throughout the planning process.

Significant discussions occurred with CH2MHill. They represent the Golden State Water Company. A letter was received by the City of Ventura requesting specific changes as well. Changes you can expect is that I had Urban Water conservation Plan not Management Plan. The recommended changes are not included in this document. The public has been given until October 31, 2005 to submit comments on this draft document. Once all comments have been provided staff will work on making appropriate revisions of the draft plan and then will bring back a final draft plan for the Board approval.

The most significant change that staff is expecting to make in the draft document is to amend Section 7 projected supply and demand tables. There was an omission for the years 2016-2020. In addition, the numbers relied on for the projections were less reliable than the calculations provided in the Water Supply and Demand Study – Attachment C. So, staff is considering using the numbers from the latter study for the final document.

Director Word said when you are talking about where the sources are you give a verbal description. Do we have any maps that could be included as an index so it would be easier to follow? Ron replied that he can include a map. Director Word said specifically Ventura River basin, Ojai groundwater basin. If there is a map or something that could be included it would make it much clearer to users. Ron replied absolutely. We have planned to do a few diagrams and maps.

Director Baggerly commented about section 4 page 170 Current Water Storage corrections on the middle sentence beginning with Lake Casitas safe yield has been set at 20,540 that is 840. I would do a search through the document to make sure you find that throughout. On page 172 second sentence from the bottom it should be 1998 instead of 1988. Director Word said same page last sentence water sales were as follows but there is nothing shown. Director Baggerly added that his computer is not working well today but there is a lot of clean up that needs to be done and hopefully can be provided in advance of the next public hearing. President Hicks asked if we did this in house. Ron Merckling said we did it in house. President Hicks said he takes his hat off to you. If there are a few errors that is amazing. Director Word said in the storage capacities if we had something in there that would tell us how they were determined or explain to the user how they were determined. The one that comes to mind is page 16, storage. How do we determine that? Ron Merckling added to please e-mail me to provide these comments to me.

Director Baggerly continued on page 168 Section 4 Step 4 we talk in a couple a paragraphs about the Biological Opinion and how it produces the 360 acre foot deficit. The next paragraph it talks about the 960 surplus in water recovery period. It is not clear at all and I raised it a few times at the Water Resources committee meeting because that surplus and John has a rationale and it needs to be explained here if you don't want people to draw their own conclusions. John is the explainer he has the rationale for that.

Director Kaiser told Ron that it was well done overall. I would just ask that when you have all the comments that have come in from the public and private sector that you have that as an exhibit within the document so that you are going to incorporate those particular revisions and those modifications to the plan however it would be nice to have as a separate exhibit what the comment was and how the district answered them. Director Word added the answer will already be there.

Director Word asked about section 2 best management practices. It dawned on me it was 2001 and 2002 and we had a lot of no in there until we get later and we have really started to show some real progress and thank you for it. Ron Merckling said there is also more description on where we are going on that. Ron Merckling mentioned that Steve Wickstrum, Bob Monnier and John Johnson provided an immense amount of input.

At 4:15 P.M President Hicks said this is the time and date set to consider input to the draft urban water management plan. Will the clerk of the board please read names of the public that responded to the urban water management plan? Rebekah Vieira reported there was communication. She passed a letter from the City of Ventura that Ron had mentioned and also he had comments from CH2MHILL as well. I had a phone call from the public asking for clarification on when and how to submit comments but had not received any comments from them yet. President Hicks asked if there were any comments from the public. There was none. President Hicks then closed the public hearing at 4:23 P.M. Mr. Johnson explained that this was just an opportunity for discussion and no action is required at this time. The Urban Water Management Plan will come back to your board for final approval.

8. Recommend approval of changes to the Audit as recommended by the Auditors.  
APPROVED

Auditor Charles Fedak addressed the board. We are here to discuss one particular issue and a change in the district's accounting treatment of the participation in the state water project. We have distributed to you copies of the financial statement. There will probably be some minor changes to this report. We are giving it to you today so that you can see the effect of what we are proposing. I would call your attention to foot note number two on page seventeen. I am going to have Paul speak. He is the manager of all of our water clients and he will go through the mechanics of this adjustment.

Paul spoke and called the board's attention to the footnote two on page 17. As we have proceeded with your audit engagement this year we came across an area of how you have been accounting for the state water project and your participation in the state water project as you are not taking water from this project but it is a backup source of supply there. What has gone on through the history of the state water project is as you have incurred expenditures throughout the year for participation in the state water project you would capitalizing those on your balance sheet as an asset over a period of time. Until you either take water or construct facilities. The way we account for this type of project is intangible property that has changed the accounting method has been changed on how

you account for intangible property. How you buy it, buy a portion of a business, what actually are you purchasing here and how are you going to account for this. There was also a letter written by the State Controllers Office on how to account for this on the State Controller's Report. Unfortunately, the State Controllers Report is not generally accepted accounting principles. It is how the state would like to see those. Generally accepted accounting principles state that tangible property is given a life like a contract and there is a portion of those costs that you have incurred each year on the state water project that is contributed capital or capital costs that would imply ownership toward the project. It is not your project; it is the state's project. Part of that contributed capital you would take that as part of your intangible assets and amortize that portion over the life of the contract each year. The first year you would start at 75, then go to 74, 73. If is a bell curve effect. You are heading down the bell curve on this type of asset. The way we were accounting for it was from beginning to the end and at the end of the contract you would assume about a 20 million dollar asset on your financial statements. The contract ends and you don't re-participate in the contract you have grossed up a 20 million dollar asset on the books. The amortization has not been taken against that to smooth the bell curve effect towards the end.

Let's say you bought a house or apartment building. I buy it at one period of time. The IRS allows me some type of depreciation on that so I have written it down to the value of the land. When I sell it at that point in time at the point of sale I am going to sell it for a million dollars. I have a nine hundred thousand gain at that time. That is when we show the gain. The value or the gain on the sale would be the asset at that point in time. If you ramped up this asset for all these years without taking any amortization.

Private companies or companies on the stock exchange it has changed. President Hicks asked since we are non profit what's the difference. Paul replied that there is no guidance in GASBY for generally accepted accounting principles for dealing with these types of projects. You have to go to where there is guidance either governmental or financial to account for this type of transaction.

Director Baggerly commented that the analogy does not seem to fit. It is not an asset that we can either sell state water, we can't sell water from the state that we pay for and don't take. Mr. Johnson added that we can sell under certain conditions. Those conditions do not occur a lot. We can sell your right to it. I think in the past what your board has wanted to do is keep track of how much you spent on that right. If anybody wanted to know you would have some kind of value for that. Director Word said the only purpose for that is to recover what we have paid if we try to sell it. Mr. Johnson said people are trying to buy those rights now. They are paying the entire value of what everybody has put into them. It is an important number. Director Word said if they sell the right, the right has an end. Our right has an expiration date doesn't it? Mr. Johnson said the contract with state water tend to end in 2035. The trouble with that is you have folks that have put billions of dollars into it and they will maintain that right. To think that it will end on that day is. Director Word said if we wanted to sell our right in 2034 would we be selling a right that is only good for one year. Mr. Johnson said that right will go on. Director Baggerly asked what the change is. Director Word said if it doesn't

have an end date why are we writing it all off. Mr. Johnson added that you get into the same issue with the Ventura River project and I'd rather not get into that one. What they are saying to you is they are looking at a contract that has an expiration date and the way they are viewing it is that is when everything ends and disappears and everybody starts over. In accordance with accounting principles that they are relating to you is that means that you have to have it all written down to zero by that time. They are providing you a method that would ultimately write it down. Director Word asked where does the value of it come in. According to accounting standards we have reached the peak and hereafter it starts diminishing.

Paul added that if you were to account for it the way we are proposing from genesis to now. Director Word added that if we tried to sell it we would have no value on the books. Paul answered that the footnote would show an amortized cost of the contributed capital portion. Part of the footnote that will stay in the body of the financial statement will say the district as of 6-30-05 has incurred such and such cost to date. That will be on the face of your statements and balance sheet. It looks like you have a 12 million dollar asset.

Director Word asked what our option here is. If we don't make this change then we are not following generally accepted accounting principles as they have been rewritten. Paul answered yes that is correct and it is our opinion is what you have asked for to have a special district water type auditor to come in here. Our opinion and our capacity of our firm we do not believe that it has been correctly reported.

President Hicks asked what the first year charge would be. You are saying you would capitalize and amortize it over a period of time. What would our first years write down be? Paul answered that to get it back to where we are you basically have a portion, if you turn to page number 20 at the top. Last year you had on your balance sheet an 11 million dollar asset on the books. As we have taken the amortization table and the cost table from the state water project, the contributed capital portion so far that you have invested to the state water project, if you look on the top of page 20 there as of 6-30-05 it is 2.7 million. That portion that we feel is correct. This is the contributed capital portion, not debt service. The 12 million dollar number is on aqueduct, off and revenue bond and other costs associated with maintenance and operation of the aqueduct. That is an expense. It is just like you would have variable expense. It is not a fixed asset or recoverable.

President Hicks said we have capitalized the amount from what we have spent from the beginning. He asked what is the value of this option we have for 5000 acre feet. How do you put a value on it? Paul replied that we don't have fair value financial statements. President Hicks said from the board's standpoint we will know what we have by doing it as we have been. It would reflect our true costs.

Charles added that we can continue to keep track of that in the footnote. President Hicks said unless it is against the law at least how we have been doing it we know what it is. If we put a big charge on the books as depreciation we will throw the district out of

whack. Charles added that you will still have the information available to you in the footnotes. Paul added that a lot of the costs you have put in are non recoverable costs, payroll, maintenance, power, wheeling charges.

Director Baggerly added that a lot of this conversation sounds like it is directed to private business. Some of those will never be recoverable because they are an investment to the public. President Hicks said it is almost like an insurance policy. Paul added that the accounting is trying to mirror now private business. GASBY 34 came into affect it was to take all the governmental assets a true amount. If you look at fund accounting and this is enterprise fund, it looks like a business and has a net income. These other businesses we say what the true cost is. You have been capitalizing all of the years and not expensing the true cost of what it cost you to maintain the district. President Hicks asked what makes the difference. Do you think the true value is 68 million could you replace it for 68 million dollars. President Hicks said if you saying that we legally have to do this I would say lets do it. Are we breaking the law by doing it the way we are doing it? Director Baggerly said you can write us a letter. You could say in your management letter what your opinion is. Director Word said in their opinion we are not following generally accepted accounting principles. President Hicks asked if this puts you in a bad light if we do not do this. Charles answered that it puts you in a bad light. Paul replied that it is in our opinion under generally accepted accounting principles that we believe that your financial statements are overstated by approximately. Director Kaiser added that as you mentioned these are guidelines. It seems that there is some latitude for interpretation. Paul said we have gone with the latitude for the interpretation. Under generally accepted accounting guidelines the financial statement is overstated. President Hicks added wouldn't you be able to say that the value of the district is understated by 50 million so what is the difference.

Paul continued that we have guidelines that we follow as your auditors to put this agency up against your peers and across the board. If you put your financial statements, this is the only agency that does this. Metropolitan, united water conservation, other agencies that accept state water from the state water project. President Hicks said they take water that is the difference. Paul said yes. This is also a back up source and supply for you and that is where the expenses should be going through except for the capitalized portion of it. The intent of the state controllers report is that if you are paying for it you would be taking it or selling it somewhere else and at least reaping some type of recovery for that. Charles added that letter did not come from the accounting standards board. The date of the letter is 1973. President Hicks asked if there is any other agency like us that is not taking water and has this same issue. Paul added that others have to take water to survive. Director Baggerly asked how does the City of Ventura account for their 10,000 acre feet. Paul replied that is buried in their water costs. You are capitalizing it as an asset that has an upward trend. They are only capitalizing a portion of it and amortizing that portion over the length of the contract. The rest is being expensed to source and supply cost.

Director Baggerly asked if we can make some lemonade out of this lemon. Mr. Johnson explained that he thinks it is a big deal if they write into the opinion that you are

not performing to generally accounting standard. People will miss the point of what that this isn't and you will get some heat for that. I don't think that is a good idea. Director Baggerly asked from whom. Mr. Johnson replied it could be your public. Mr. Johnson said he thinks a better methodology is what they have proposed. Maybe not exactly in that same way and that is to keep track of the same things so you still have the number. One of the troubles with the accounting profession sometimes is they do flip flops on some of their decisions. You would still have that information in that footnote. I think in the long run that will be better. There are so many things that are understated in that audit and in the value of this district that you get into a discussion that never ends if you get into that. I think that the best solution at this point is to allow them to do a one year write off. They write it off as a prior period adjustment, not something that goes into the income statement. You maintain that information as a part of a footnote so you have that information so it is available to you and you know how much you put into it. It accomplished the same thing. At least you get a clean audit opinion and I think that is important to you if you ever go out to borrow money or if you ever have to deal with folks that really are concerned about audits. I think that is where you need to be. Director Word asked if there are more than one of these. Mr. Johnson said this is it.

On the motion of Director Word to accept the recommendation of the auditors to change our accounting statement and that we continue the footnotes that would establish the ongoing expense, seconded by director Baggerly and passed.

9. Recommend rejecting a claim from Z – Pipeline in the amount of \$4,200.

APPROVED

John from Z Pipeline addressed the board and explained that the line wasn't marked by Casitas. We were out there July 6<sup>th</sup> to install a conduit for Ventura Sanitation district. Prior to that we called USA that marks all the lines. We gave them one address because there were so many so we just gave them one address and we usually mark the lines on the ground so they come out and mark them. Casitas just marked that one address and did not go all the way down the street. When we went down the street we ripped out a water line and we have to stop and repair the line.

Mr. Johnson explained the issue is the USA notification. USA required you to notify where you are digging before you dig. Depending upon about what is notified is what you are responsible for digging. Clearly the notification did not notify us of all the places that they were digging. John just admitted to you that is the case. The fact is that you need notify all of those locations because otherwise people don't know what you have to mark. In fact that is exactly what happened. We have copies of the notification. The notification just says for one address. We did mark that address and the place where the line was hit which wasn't a regular service line because they were going only 18 inches down. It was one of the lines for water quality testing. They hit that and caused the problem. The question now becomes whose responsibility is it. Z pipe line could have resolved it by noticing all of the services or addressed that they were going to hit. That is the requirement in law. That they notice. They did not do that. Director Baggerly added that the break was not where we marked. Mr. Johnson replied it was not

where we marked. The issue is it is first their requirement to notice. Then it is our requirement to mark. The way it appears from the law where the liability is if you don't notice you are liable for the damage. If you do note and it isn't marked then the other guy is liable for the damage. It is clear it wasn't noticed and wasn't marked. It was not noticed. The recommendation of the engineering section who did the marking and looked at the notice and talked to them is that you reject it because we did not get the notice that is required under the law.

Rob Sawyer asked John to provide his last name and position with the company. John answered that his last name was Zepeda and he is Vice President with Z pipeline. Rob then asked if the notice is by address or do they submit to the district actual plans. Mr. Johnson said they notice by address.

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

10. Discussion regarding the request of the Hells Angels to hold a blood drive and fundraising event at Lake Casitas Recreation area to aid Katrina victims.

APPROVED

Archie Schaffer Vice President of the Ventura Hells Angles. The event was supposed to be October 23 but now, we have done four events with the Ventura county blood bank and now they will distribute where needed. As far as Katrina I am sure they still need it but now the blood bank will distribute where needed. We have had four events with them and they have all been acceptable. We have filled each event and they have had to turn people away each time. We are going to the Ventura County food bank which will bring out big bins for canned food and we will encourage that also. President Hicks added that the recreation committee met with Jessie and talked about this. There are some other things that are going to go on other than the blood drive. You are going to have some skating demonstrations and the liability insurance you have that part covered. You are going to have sheriff deputies there if there is one problem you will be history and this is the last one. Archie replied that we have been here for 30 years and have had events all over Ventura County and have not had one incident. President Hicks said we don't want to start here.

Director Kaiser thanked him for coming. Can you describe everything that is going to happen there? Archie replied that we are in partnership with deer lodge for food. There will be vendors selling clothing, sunglasses. Food and drinks we will have a free style dirt bikes and jumpers. There will be music bands. It is a normal event like the chili cook-off, very similar. Director Kaiser said there will be bands there. Archie replied yes, local bands. Director Word asked how many people do you think will be coming. Archie replied probably 2,000 – 3,000. It is our first event there. Director Word asked what the charge is when they come in. Archie said it will be 10 for children and 13e for adults. Director Word asked if they will be coming in the main gate with their bikes. Archie replied it is not just a motorcycle event, it is a public event.

Brian added that it will be handled like all of the other special events. They would come in and park across the street. The park would be closed from trailer storage down for the event. Director Kaiser asked if there are any concerns that have not been addressed. Brian said no, we talked to the sheriff and they recommended four deputies for patrol purposes and if they had any concerns that we not approve the event we would not be before you. President Hicks said it is during a time when we are not busy anyway. How many events do we have in November zero. Hopefully we will have good weather.

Director Baggerly asked how many porta-potties will we have out there for an event. There is never enough. Brian replied that we have a formula in our contract and it is based on attendance.

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

11. Information items:

Level of lake –10/19/2005 - -559.69 feet above mean sea level (7.31 feet below spill elevation); present storage is 234,634 acre feet (19,366 acre feet below full capacity of 254,000 acre feet, 107,634 acre feet above half capacity, or 92.4% full capacity.

- a. September 2005 Water Quality Report
- b. Results of the Water Adventure Concession
- c. Results of the Water Adventure
- d. Assembly Bill 1234
- f. News Articles
- g. Investment Report of October 20, 2005.

12. Closed Session

- a. Conference with Legal Council- Anticipated Litigation  
Significant exposure to Litigation-Facts and Circumstances that might result in litigation against the agency, but which the Agency believes are not yet known to a potential plaintiff or plaintiffs. Government Code Section 54956.9(b)(3)(A).  
Agency Claimed against: Casitas Municipal Water District
- b. Conference with Legal Counsel – Existing Litigation (Subdivision (a) of Section 54956.9 Name of Case: Casitas Municipal Water District vs. United States.
- c. Public Employee Performance Evaluation  
Title: Accounting Technician
- d. Conference with Real Property Negotiators (Section 54956.8):  
District Designated Negotiators: John Johnson, James Word, Russ Baggerly

Property: Appropriative water rights, including future appropriative water rights, to the waters of Matilija Creek, and associated appurtenances including Matilija Conduit.

Negotiating Parties: Ventura County Watershed Protection District,

County of Ventura, and California State Water Resources Control Board

Under Negotiation: Price, identification and nature of consideration other than cash, and terms of payment.

President Hicks adjourned the meeting to closed session at 5:00 P.M and returned to open session at 5:05 P.M. with President Hicks stating that no action taken during the closed session. The meeting was adjourned at 5:05 p.m.