

Minutes of the Casitas Municipal Water District
Board of Directors Meeting Held
September 13, 2006

A meeting of the Board of Directors was held September 13, 2006 at Casitas' Office, Oak View, California. Directors Kaiser, Bennett, Baggerly Word and Hicks were present. Also present were John Johnson, General Manager, Rebekah Vieira, Clerk of the Board; and Attorney, Rob Sawyer. There were two staff members and one member of the public in attendance. Director Kaiser led the group in the flag salute.

1. Public comments.

None

2. Board of Director comments.

Director Hicks commented that the paint on the flag pole is coming off and it looks bad. He continued stating that he drove by the property on Larmier Street and the work is continuing on the house.

Director Baggerly reported on meetings that he attended. The Watershed Coalition of Ventura County is working to finish the integrated regional water management plan. There is another meeting tomorrow of the Watershed Coalition to finish the plan. The other meeting was for the Ventura River Watershed Council and we have been going over priorities and types of projects and the water management strategies for that group. The project list has study for data gaps for steelhead lifecycles and I talked to Ron about bringing forward the Weir project. Ron did a good job of putting together the project description.

Director Word asked about the Finance Committee meeting in October and asking the Library if the remaining Finance Committee meetings could be held there. Director Word added that there is an AWA board meeting on November 2, 2006. He then mentioned that the December Recreation meeting is scheduled in the middle of the ACWA conference. AWA is trying to arrange another session locally in November for Ethics training.

President Kaiser mentioned that it appeared there was stocking on Friday. Mr. Roney answered we were doing private stocking. If Department of Fish & Game was there it was their first load, they require 76 degrees or below.

3. Consent Agenda.

APPROVED

- a. Minutes of meeting held August 23, 2006.
- b. Recommend approval of the United Water Conservation letter and agreement on sharing the cost of a Fisheries Scientist.
- c. Recommend rejection of the Aaron Stitteler Claim for personal injury and damages and approval to send letter of rejection.
- d. Presentation of the Government Finance Officers Association Certificate for Excellence in Financial Reporting.

- e. Recommend approval of the Safety Committee Recommendation on the Safety Recognition and Incentive Program.
- f. Recommend approval of the per diem for the effective cost provided to employees rather than the actual cost.
- g. Recommend approval of an agreement on Irrigation Training and Research Center for Ag Uniformity Reviews.
- h. Recommend approval of a letter of support for H.R. 4162 (Gallegly) which would authorize a land exchange between United Water Conservation District and the U.S. Forest Service.

Director Baggerly requested that item h be pulled for discussion.

On the motion of Director Word, seconded by Director Bennett and passed the consent agenda minus item h was passed.

On item h Director Baggerly voiced some concerns over the controversy about the land swap he thought we might be spending political capital that we will not get anything in return for it. His recommendation was to not send this letter. Director Hicks thought we should be supportive of United and thought that if our support or non support would have an effect.

On the motion of Director Hicks, seconded by Director Bennett and passed with four yes and Director Baggerly voting no the recommendation on item h to support the letter was approved.

4. Bills. APPROVED

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

5. Committee/Manager Report(s). APPROVED FOR FILING

- a. Report on specific issues.
- b. Executive Committee Minutes
- c. Water Resources Committee Minutes
- d. Personnel Committee Minutes
- e. Finance Committee Minutes

On the motion of Director Bennett, seconded by Director Hicks and passed, the Committee/Manager Reports were approved for filing.

6. Resolution setting the policy on Board and Committee meetings according to Government Code Section 54954 (a). APPROVED AS MODIFIED

Mr. Johnson explained that there are three objectives. First, Government Code Section 54954 (a) required the district to have a resolution adopting some rules. The second objective is if the district could have committee meetings with less than two members attending, and the third objective is if everything that is done at committee had to come to the board. The reason for this resolution was to try to solve all of those.

54954 (a) requires Casitas adopt rules and regulations for board meetings. The resolution sets times and dates for the meetings and for the committee meetings. We need to discuss the authority of the committees. We have also handed out another resolution. The only authority of the committee is to move the item to the board, listen to issues, keep track of issues and have a broad understanding of the district. He continued that we have talked about the issue of one or two members to hold a committee meeting. I relied upon information before I think that the intent of the board is committees are informational to support board action not take action themselves. I think the board may want to discuss this and provide direction to staff.

Director Word asked about the draft Ordinance language for Committees is this revision that would replace what is in our packet? Mr. Johnson explained this is a rewrite from Counsel and expressed that he has some concerns about the rewrite. We need agreement from the board.

Rob Sawyer explained there are two issues for the board. One is the board meeting and the other is the function of the committees. The Board Meeting resolution is required by law to state regular meetings. The modification counsel recommended is that no one can find the original resolution, it is counsels suggestion is to adopt the revised short one on the board meetings to second and fourth Wednesday's and bring this back annually.

President Kaiser asked if there is not a quorum would a special meeting be called. Mr. Sawyer answered yes the notice can be posted but go to a broader list of recipients. The preference is to find out enough weeks ahead to enact a resolution ahead of time. President Kaiser asked about special meeting restrictions on what to add to the agenda? Mr. Sawyer answered only those things on the published agenda and can be published as late as 24 hours before the special meeting. He added that based on the way the district functions it is exemplarily on how it has followed the open meeting act. We must be conscious of the letter of the law as well. This conforms to the letter of the law and the objective to preplan so that as seldom as is necessary does the board hold a special or emergency meeting.

Mr. Johnson added that there are two views, one is following the law. The other is rules that are flexible enough to run the district. Typically we use the special meeting rule to get items that come in late to you because it is hard to add them at the meeting. This allows us to add an item to general meeting or committee meetings. The law has allowed the flexibility to bring those items to you in a timely manner.

President Kaiser thought that additions to the agenda should be the exception and not the norm; they should be of an urgent nature and not a regular practice. Mr. Sawyer added that recently we had a situation of a short notice matter and what we did was notice a special meeting for the same day and time as the regular meeting. Mr. Johnson added this occurs more than on a one time basis. The board meetings rarely have special meetings but committee meetings have it all the time in order to respond to the public in a reasonable amount of time. Director Baggerly had never seen that used before but it is creative and within the law.

Mr. Sawyer stated that the revised resolution affirms the regular meeting has been passed out and if the board wants to act on that and then deal with the committee issues that is fine. The General Manger and I have discussed this and Director Baggerly and the issue is that by the letter of the law we can't have a committee that is in between. There is a choice, either treats the committee as advisory but then it can not provide the committee with ongoing jurisdiction and can not provide public notice of the meeting or give authority to do anything. On the other hand historically what the district has done has given public notice. Must you then have a quorum? Committees function as though standing committees. The issue is 1. No matter how informal committee is if it gives notice 72 hours for a regular meeting, by law it is a legislative, standing committee and must comply and you must have a quorum. 2. Another statue that exempts from the brown act have subject matter jurisdiction or established meeting dates. Meetings as informal have been charged with specific areas of. Matter of policy to determine if committee be given standing committee authority or should be downgraded to informal advisory committee without public notice or participation. Either one is proper. If the board determines a committee a legislative body then it has to make a decision as to the authority and to give it broadest authority only those specific authorities be delegated to committee.

Director Word asked if it is a standing committee regulated by resolution and noticed then does a resolution have to be made to move a time date and place. Mr. Sawyer answered no. Once established, the head of committee has authority to call special meetings and emergency meetings.

Mr. Johnson added that your board has said to me that the committees were not made to make decisions but to advise your board. In fact they have two functions – one review items to come to the board and we provide information to the committees to keep the board informed. Everything flows to the board through minutes. The way we have operated those is there has not been a presiding officer. The Manager has operated as the presenter of the items. Could the presiding officer be the General Manager whose only duty is to call the meetings and present the items?

There was further discussion regarding having an alternate attend a committee meeting and concerns for the potential for serial meeting. There was also a question raised regarding attending a meeting via the telephone.

Mr. Sawyer made the suggestion that the resolution on the board meeting time and date be approved. The issue on the committees should go back to the Executive committee.

The resolution to establish the board meetings was offered by Director Hicks, seconded by Director Word and approved by the following role call vote:

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

Resolution is numbered 06-37.

7. Discussion regarding and setting the date for Candidates Day.

APPROVED

On the motion of Director Baggerly, seconded by Director Hicks and passed the Board Candidates Day is set for October 14th at 9:00 a.m.

8. Discussion regarding the scheduled dates for the Board Meetings being held close to Thanksgiving and Christmas. Is there a need to change the dates of these meetings?

On the motion of Director Hicks, seconded by Director Word and passed the decision to change the time of the November 22, 2006 meeting to 10:00 was authorized to return to the board at the next meeting for the adoption of a resolution changing the time of the meeting. The Board did not see a need for changing the meetings in December.

9. Ordinance modifying the ordinance on water rates and regulations providing for the granting of priority for the provision of services to affordable lower income households and adding a section on water service to recreation.

Mr. Johnson reported that 65589.7 requires priority to low income housing for service. We also have a controlling issue with Recreation on water quality. Important that Recreation could cause water quality problems if not controlled by the district.

There was concern of the Board that if someone were putting in affordable housing units they would get the next allocations in front of others who have been on the priority list. There was also discussion regarding what affordable housing is and if this is related to lower income households. It was suggested that this be discussed again in Water Resources.

Mr. Johnson explained that the issue with recreation is that there has been some concern in the past that reclamation has some kind of authority over recreation and could sever recreation from the district and then they sever water quality from the district and don't think you should allow that.

On the motion of Director Baggerly to adopt section 19.5 for the amendment to the Ordinance on water rates and regulations and the issue related to section 4.3 would go to water resources committee for further review, seconded by Director Hicks and passed by the following roll call vote:

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

Ordinance is numbered 06- .

10. Discussion and review of the Significant Watering Enhancement Agricultural Program (SWEAP).

Ron Merckling reported that this is a three year program beginning with an informational phase. There will be letters to agriculture customers. There are a very small number of the overall agricultural customers who are using a greater amount of water. The ITRC distribution evaluations next summer which will assist them in being more efficient. The incentive phase would happen later on for use above 3.3 acre feet.

Mr. Johnson added that the issue before the board is setting a public hearing on November 8th.

On the motion of Director Baggerly, seconded by Director Bennett and passed the public hearing for the SWEAP program was set for the November 8th board meeting.

11. Discussion and review of an over allocation program.

Mr. Johnson reported that in the past the district had incentive rates for stages 2-5. Now, because of water shortages we are proposing the incentive in stage one. We have talked about an over allocation charge to charge an incentive rate for those that go over their allocation. We have talked about setting up some kind of meeting with resale customers to talk about the over allocation. This has also been noticed for November 8th meeting and you should set a hearing on the over allocation charge for November 8th.

On the motion of Director Baggerly, seconded by Director Hicks and passed a public hearing was set for November 8th regarding the over allocation program.

12. Information items:

Level of lake -9/05/2006 - -562.60 feet above mean sea level 4.40 feet below spill elevation); present storage is 242,227 acre feet (11,773 acre feet below full capacity of 254,000 acre feet, 115,227 acre feet above half capacity, or 95.36% full capacity.

- a. Fisheries Report.
- b. Water Wise Program Report.
- c. Letter to Amalio and Ofelio Cornejo regarding request for cessation of building activities at 95 Larmier Avenue.
- d. Article in Aquatics International regarding Woodsy Waterparks.
- e. News Articles of interest.
- f. Investment Report of September 6, 2006.

There was a discussion regarding the issue of the house that has been built over the water main. Mr. Johnson reported he has gone to the County and there is a building permit and planning permit. Planning and zoning was for a carport on 76 Larmier. Building and safety issued two permits for a house at 96 and 95 Larmier. 76 has occupancy 95 doesn't and there is no information on easements on the drawings.

President Kaiser reported that the citation program is working well. He asked that the board's appreciation be conveyed to staff on this program

13. 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 Real Property Negotiators (Section 54956.8):
District Designated Negotiators: John Johnson, James Word, Bill Hicks
Property: Rights to operate Lake Casitas Recreation Area under Federal Water Project Recreation Act.
Negotiating Parties: Bureau of Reclamation
Under Negotiation: Lease, price, identification and nature of consideration, and terms of payment
- c. Conference with Legal Counsel -- Existing Litigation (Subdivision (a) of Section 54956.9, Government Code). Name of Case: Casitas Municipal Water District v. United States.

President Kaiser adjourned the meeting at 4:33 P.M. there was no closed session held.

Secretary