



1902 - Serving Our Community for over 110 Years - 2016

**WEST BAY SANITARY DISTRICT
MINUTES OF THE REGULAR MEETING OF THE DISTRICT BOARD
WEDNESDAY, SEPTEMBER 14, 2016 AT 7:00 P.M.**

1. Call to Order

President Moritz called the meeting to order at 7:00PM

2. Roll Call

BOARD MEMBERS PRESENT: Moritz, Dehn, Walker, Thiele-Sardiña (left at 7:56pm, returned at 9:25pm), Otte

BOARD MEMBERS ABSENT: None

STAFF MEMBERS PRESENT: Scott, Kitajima, Condotti

Others Present: Ron Shepherd;

Dan Child, Teresa Herrera and Matt Anderson of SVCW

- 3. Communications from the Public:** Ron Shepherd addressed the Board regarding the recent press articles on SVCW CIP projects and to express his support to WBSD on their view to slow SVCW CIP spending so that rate payers may see as little increase as possible in sewer service charges. He submitted a letter to the editor for the record (attached to minutes) showing his support for WBSD.

9. Report & Discussion on Silicon Valley Clean Water (SVCW)

Comments: Director Otte outlined his participation as the alternate WBSD member at the recent SVCW Commission meeting. Regarding the Commission's response to President Moritz's letter expressing the District's views on slowing CIP spending in order to give rate payers a break from high rate increases, he stated his interpretation was that the Commission wished to get the WBSD vote on record to hold CIP spending until April 2017, rather than tabling the item for discussion when President Moritz could be present and possibly provide more detail on the District's position and answer questions to his letter on the topic.

President Moritz then presented the following statement regarding SVCW:

Thank you George Otte for standing in for me due to my previously planned travel. It turned out to be an unpleasant assignment. And it should not have been. Out of respect for the Commission and the staff at SVCW, we at West Bay met with the SVCW staff and the consultant who performed the risk study. I will get to some specifics about that study in a minute. After that meeting we composed a detailed letter explaining our concerns. That letter was distributed to the Commission and made part of the meeting record for the August meeting. Mr. Lieberman was absent and sent the Belmont alternate. Copies of the letter are available here.

I listened to Commission recording of discussion regarding the pre-planning agenda item. Somewhat surprised. Our reasoning and position should not have been a surprise. Please indulge me while I try to bring context and clarity to our decision. The drama and theater that was rolled out at the last SVCW meeting was interesting. First, there seemed to be question and doubt about the capability of our board members. It was also said by one commissioner, "I don't know how they run their meetings down there, but they don't run them like we do (on the city councils).

Indeed, I think we probably do things differently here. I'd like to spend a few minutes outlining a few of those differences. We are transparent in all our actions and services. It can all be found on our web site.

We are fortunate to have a rich pool of talent that has stepped forward to serve on the Board. Brief resumes of each board member are on the web site. Each brings a set of experiences in the business world along with significant academic training. A Civil engineer, manager in heavy construction, and bio-chemist (who now closely follows our city government), a venture capitalist, and a logistics and transport expert, both these last two were executives in large corporations and had worldwide responsibilities. We also have a dedicated, experienced and well trained staff.

What we do different? Examples of what we do, beyond running an efficient collection system.

- Recognized by the Town of Los Altos Hills with a contract for West Bay to clean their main sewer lines. We completed a 3 year agreement and renewed for another 3 years.
- Woodside contracts with West Bay to clean their sewer lines and help maintain their pump station.
- Half Moon Bay contracted with us to write a plan for their inspection procedures for restaurants.
- The Board, unlike other cities on the SVCW commission, took on a long, tough legal fight when an organization named Bay Keepers who tried to bully and black-mail us. Our fight was costly, but we saved our citizens millions of dollars that the other cities decided to agree to rather than have a public fight. The other cities rolled over and agreed to a set of conditions that will have them paying for years to come.
- It was West Bay who proposed and then carried on the effort to convince the other members of the SVCW Commission to use a Letter of Credit form of financing rather than issue large amounts for bonds and then pay more interest than they were receiving. This very logical approach to financing has saved well over a million

dollars.

- It was West Bay who argued for years that SVCW needed to hire a CFO. As the Capital Projects plan grew from an initial amount of \$150 mill to today's \$800 mill it was clear to us that a specialist in organizing and managing large funds was needed.
- In the summer of 2015, just over a year ago, the Staff at SVCW was proposing the immediate issuance of \$60 million in bonds. They were convinced interest rates were going to rise. We found ourselves to be the odd man out on the Commission and opposed this issuance for two reasons:

SVCW had sufficient cash on hand to cover ongoing capital projects until the beginning of February 2016. West Bay felt borrowing money just so we could pay interest on it was folly. Smart business practice, and common sense, says you borrow money when you need it. We did not believe the interest rates were going to rise until at least the first quarter of 2016. Interest rates did not rise. The bonds were oversubscribed when issued in late December 2015 resulting in favorable interest rates averaging approximately 4.5%. So for the four months we forced a delay not paying 4.5% of \$60 million and we saved SVCW \$900,000. The cost of debt has become a significant portion of the SVCW capital programs. It needs to be managed carefully.

My point with this example, is that West Bay is not an unsophisticated group trying to make trouble. We have an admirable record of making sound operating and financial decisions. Perhaps that's what we do different down here.

Now to the immediate proposal, and our insistence to slow the planning and construction. Let's be clear - West Bay has supported the work done by staff and its contractors for the past ten years. The heavy financial burden being placed on our collective customer base is due to the neglect of previous staff and Commission's failure to establish a reasonable capital reserve and to complete a reasonable maintenance program. Like so often happens with government programs, the can is kicked down the road to future generations. West Bay applauds the Commissions and staff of the past ten years for picking that can up and fixing it.

The result of finally taking action over the past ten years has been a 235% increase in sewer rates. The rate-payers have been very generous. We just think it's now time for a brief pause to respect the generosity of the rate-payers. These people are being asked to pay for past sins of others as well as their own service. At this point I would remind everyone - the SVCW organization does not have to justify its rates, or ask for 2/3 vote approval for the passage of a bond measure. The citizens of San Carlos recently turned down a bond measure of about \$40 mill for a park, and Menlo Park School District just lost a vote on the extension and increase in taxes. It would have been interesting to see if the voters would have approved that \$60 million bond placed by SVCW one year ago. Voters are paying attention.

The current CIP program at SVCW is now about ten years old. The first estimate cost for all projects was about \$150 million. Now, ten years later, the revised estimate is \$800 million. Let me say empathically, that increase is not viewed by West Bay as poor planning or management by SVCW Staff. It is seen as a result of a process. The stages of that process are estimate, initiate, discover, adjust and revise. The biological and chemical conditions at the plant are harsh. The soil conditions at the plant are difficult. Time and again the staff and contractors have had to adjust their timing and costs once they begin a project because they find conditions that were not anticipated. The bad news is that the overall project takes longer and costs go up. The good news is that the staff and the Commission want to do the project right.

As an example, on the last agenda where West Bay asked for a delay, there was a request for an additional \$93,000 for a project involving an HVAC system that was discovered to need additional work and materials. This is a relatively small amount. Often the "Adjusted Costs" require more than one million dollars. And that's how the projected budget has moved from \$150M to \$800M.

Risk. Let's address the risk issue. I started my career working in Washington, DC. One thing I learned there was the rule that said.... "He who has a number is one up on he who does not." It doesn't matter in that forum whether the number is even close to true. Please remember this as I comment on the numbers used to arrive at the estimate that a one year delay will cause \$100 million of additional cost. Financial risk - This is based on the assumption that state subsidized financing, known as SRFs, would not be available if there is a delay. Mathematically that is correct. The difference between the subsidized interest rate and market-rate interest rates will increase cost.

The assumption of it not being available, however, is not completely correct. The SFR program is now about ten years old. Each year, after government agencies apply and are assigned a limited pool of financing other applicants must wait until the following year when more funds become available. The program has been re-funded now for ten years. There is no reason to believe that the State Government will not re-fund it next year. West Bay has been pursuing SRF funding for a recycled water project. We have to compete with other projects. It is our understanding that the competition has gotten heavier and the funds for this year have all been awarded. So new funding is one year away. Assigning the risk of not receiving SRF funding to West Bay's desire for a year delay is not accurate. We have confidence that the SVCW finance and operating staff will present convincing arguments to the state finance agency when the next pool of subsidized funds becomes available. That's why West Bay discounted the financial risk number as we evaluated our position.

Construction Risk - The consultant study developed an additional cost of about \$49 million. The consultant used a statistical tool called a Monte Carlo study to arrive at this figure. To simplify the approach used by the Monte Carlo system - there are two key elements. The first is the assignment of "weights" (or multipliers) to the variables identified as impacting

future events. The second is the generation of repetitive results of the calculation of the variables over time. In this study heavy weights were assigned to all the variables. This virtually pre-determined the outcome as being significant and within a high degree of confidence, demonstrated in nice, tight, histogram charts. The statistical tool adds elegance to the study, but time and the likelihood of intervening events need to be considered.

Let's step back for a minute. In ten years we've seen a seven fold increase in costs estimates. The project we're talking about has an eight year time-frame. No matter when it's begun. I don't want to be a pessimist or break anyone's bubble, but it would not surprise me that in the coming years we find the forecast of \$49 million in increased cost is too small. It would also not be surprising if the project is actually completed in eight years. We will have eight years of process of estimate, initiate, discover, adjust and revise. I participated in forecasting and budget building in a 5 billion dollar corporation. Each year we assembled a five-year plan. The first year out was expected to be solid. The fifth year out was recognized as interesting, but more of place-holder. Eight years out is Pollyannaish. Life Happens. The unexpected arrives. He who has a number in government needs to make sure it is used accurately and not to create environments of uncertainty and distrust. A number does not exist in a vacuum. The context surrounding the number is important. That's how West Bay conducts its business.

Let me close by saying the concerns of safety are taken very seriously. West Bay as well as SVCW leadership have responded and supported all actions where there has been a need to repair or replace a failing component in the system. I have every confidence we will continue to do so. The one caveat... Earthquakes. A major earthquake can impact even the best designed and maintained of systems.

President Moritz asked for any comments from the Board.

Director Thiele-Sardiña commented that at the last SVCW meeting some of the representatives from both Belmont and San Carlos made it sound like WBSD was finically irresponsible, which he found insulting. He pointed out that Belmont spent \$13M last year in the sewage department but only took in \$8.1M in revenue. It has the highest sewer rates of all the member agencies. They also ran a \$5M deficit. The District meets twice a month to discuss sewage and the City of Belmont has only discussed sewers one time in three years at their City Council meeting on March 15, 2014. Director Thiele-Sardiña pointed out the City San Carlos and the City of Redwood City have similar issues. Director Thiele-Sardiña outlined that every District decision on SVCW CIP spending is based on history of the programs and process and that 70% of our rate base goes to SVCW interest. He pointed out that all the member agencies except WBSD can run deficits because they can take money out of other City department budgets to fund the sewer department. WBSD cannot do this.

Treasurer Walker commented on why the item on the CIP spending at the last SVCW meeting couldn't have been tabled to wait for WBSD representative President Moritz to be there to answer questions regarding his letter.

Secretary Dehn agrees with President Moritz comments and believes that advisory boards should work together, listen and value others options. She states that when she heard the tape of the

SVCW meeting she was appalled by the way which the Commission approached the item. She felt the item should have been tabled if they needed more information.

4. District Manager's Report

1) CIP Project:

- a) Sausal Vista pump station pipeline, Phase I PG&E is complete. Phase II is 80% complete.
- b) Marsh Road Liner – Work completed.
- c) DM will be bringing to the Board at next meeting a change order for Belle Haven I to use extra pipe on additional replacement project.

2) Affiliate Agency/Association News:

- a) **CWEA:** Tri-State Seminar prep week of Sept 19. 6 staff scheduled for exams.
- b) **CMPK:** Working on RFP for Baylands Recycled water feasibility study.
- c) **CASA:** See update on Special Districts Page 4-2.

3) Upcoming Events:

- a) September 28
- b) New Maintenance worker to start this week.

4) Misc./Action Items from Previous Meeting:

- a) **SSOs:** 3 SSO year to date. 1 in September.
- b) **SHGCC:** Long Term Agreement development in progress. Targeting end of September for completion of agreement.
- c) DM Scott advised the Board that a District vehicle was struck by another vehicle and there were no injuries.

5) Resource Sharing:

- a) **Town of Los Altos Hills:** Beginning new contract year of cleaning and TV. GPS locating of MHs. 1 SSO to date this calendar year. DPW resigned.
- b) **Town of Woodside:** District assisting with Pump station rehabilitation planning. Writing contract for new service year. New DPW.

Partnering with SAM: Superintendent visited and wrote a memo to provide helpful suggestions on improving cleaning and customer service techniques

5. Consent Calendar

- A. Approval of Minutes for Regular meeting August 10, 2016
- B. Approval of the Withdrawal Order Authorizing Payment of Certain Bills and Salaries and Consideration of Other Financial Matters for September 14, 2016
- C. WBSD Operations and Maintenance Report – August 2016
- D. Town of Los Altos Hills Operations and Maintenance Report for Work Performed by WBSD – August 2016

- E. Consider to Ratify and Approve Report on District's Investment Portfolio Including the Transactions of Assets Described Therein as of 8-31-16
- F. Consideration of Authorizing the District Manager to Issue Class 3 Sewer Permit No. 1052 for the Construction of Wastewater Facilities on 100/150/190 Independence Drive, Menlo Park, California Project

Motion by: Walker 2nd by: Dehn Vote: AYE: 4 NAY: 0 Abstain: 0

CONSIDERATION OF ITEM(S) REMOVED FROM THE CONSENT CALENDAR

Comments: None

6. Discussion on 2015-16 San Mateo County Civil Grand Jury Report - San Mateo County's Cottage Industry of Sanitary Districts

Comments: DM Scott presented a draft response letter for Board consideration. Board consensus was to send letter as discussed.

7. Report: Update & Discussion on Recycled Water

Comments: DM Scott reported that there are no more SWRCW SRF funds available this year, the City of Menlo Park inquired if the District would have discussions on the possibility of the City being the recycled water purveyor. If no chance of city being purveyor CMPK may need more time to come to terms with that and participating in feasibility study. Looking to bring an agreement on feasibility study 50/50 split by Oct 12. Continuing MOU negotiations with SHGCC 3 working on the key points, Quality, Quantity, Security. DM Scott advised the Board that the flows to the project are lower than expected so he will be proposing at a future meeting a capital improvement project that will replace sewer lines and divert the flow to the proposed pump station to allow for sufficient recycled water capacity.

8. Report & Discussion on South Bayside Waste Management Authority (SBWMA)

Comments: Secretary Dehn gave an update on the fires at the MRF and transfer station.

10. Consider Approving Revised Performance Merit Pay Program for FY2016-17

Motion by: Dehn 2nd by: Thiele-Sardiña Vote: AYE: 5 NAY: 0 Abstain: 0

Comments: DM Scott outlined the program and the one change this year in the lowering in the SSO goal.

11. Closed Session – WBSD

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Initiation of litigation (Government Code §54956.9(d)(4))
Number of potential cases: (3): 601 Marsh Road, Menlo Park, 775 Menlo Ave. #2,
Menlo Park, 775 Menlo Ave. #3, Menlo Park
- B. CONFERENCE WITH LEGAL COUNSEL—WORKERS’ COMPENSATION CLAIM
(Pursuant to Cal. Govt. Code Section 54956.9)
Claimant: Albert Patino

Entered closed session at 9:35p.m. Left closed session at 9:47p.m.

Reportable action: None

12. Comments or Reports from Members of the District Board and Consider Items to be Placed on Future Agenda

Comments: Director Otte presented to the Board a letter he received regarding sidewalk work on Santa Cruz Ave. and the replacement of sewer laterals. He asked that this letter be made part of the record of the meeting (see attached letter).

At the Oct. 12 meeting the Board would like to discuss the gas line and recent Belle Haven I CIP project.

- 13. Adjournment Time:** The meeting was adjourned at 9:57 p.m.

David Walker
Secretary Pro-Tem