

**SOQUEL CREEK WATER DISTRICT
MEETING MINUTES
April 1, 2003**

The Board of Directors of the Soquel Creek Water District met in Regular/Open Session on April 1, 2003, at 7:00p.m. The meeting was held at the Soquel Creek Water District Office, 5180 Soquel Drive, Soquel, California.

1. **ROLL CALL:**

President Kriege called the meeting to order at 7:05 p.m.

Board Members Present:

Daniel Kriege, President
John Beebe, Vice President
Bruce Daniels
Bruce Jaffe
Thomas LaHue

Staff Members Present:

Bob Bosso, Legal Counsel
Laura Brown, General Manager
Jeff Gailey, Engineering Manager/Chief Engineer
John Nowak, Operations & Maintenance Manager
Chris Regan, Communications & Conservation Coordinator
Robert Stevens, Assistant General Manager

Others Present:

Bill Kocher, Water Director, City of Santa Cruz
Ned Spencer
Katherine Sweet
Mary Tsalis
Betty Cost
Cherie Bobbe
Todd Graff
Two unidentified persons

2. **APPROVAL OF MINUTES**

The March 18, 2003 Board Meeting Minutes were presented for approval.

Director Jaffe noted that the members of the Groundwater Model Committee should be identified, as well as Martin Feeney as the consulting groundwater hydrogeologist (page 5, Item 7). He indicated that on page 7, Item B, Income and Investments, a sentence should be added reflecting that he had requested that the information be analyzed. Additionally, to correct his name on Page 7, Item E.

Director LaHue asked that the minutes reflect on Page 7, Item C, Operations and Maintenance, that he had asked if there was groundwater contamination at these sites, and requested more information about the level of contamination.

Motion: Director Daniels: Second: Director LaHue Approve the March 18, 2003 minutes with the inclusion of the changes noted above. The motion passed unanimously, with President Kriege abstaining.

3. INTRODUCTIONS AND ORAL COMMUNICATIONS

Mr. Ned Spencer presented some proposed general policies for improving public discussion and access to information. He stated his opinion that in the past, sometimes access to information has been inefficient or difficult. His suggestions included

- 1) post the entire Board meeting packet on the District web site by mid-day on Friday before the Board meeting.
- 2) Post District Consultants' reports on the web site.
- 3) Post past consultants' reports if designated as being of substantial interest to a new project, if at all possible.
- 4) Develop a policy when and by what criteria a draft document becomes public.
- 5) Create a guest report section on the District's web site and create criteria whereby relevant reports and information or links would be provided.

Director LaHue indicated that those ideas are worth further discussion, and the President agreed that staff should place the item on an upcoming agenda.

Director Daniels reported that he went to the LAFCO meeting and that Jim Reposa and Don Ramos had been elected to serve as special district representatives on LAFCO.

President Kriege reported that he and Ms. Brown went to Sacramento last week for the purpose of continuing to support the Coastal & Northern California Water Bond Coalition. They met with legislators to make sure they are attuned to what the Coalition is doing and that the Coalition is charged with attempting to make sure some of the Prop 50 money stays in Northern California. He thanked the Board for supporting his appointment to the ACWA Ethics Committee, and explained what led to the creation of the Committee.

Director Daniels suggested that the Board take items out of agenda order, since they were so many in attendance who might have an interest in a particular item.

Note: Item 5.A.7. was taken out of agenda order.

Item 5.A.7 City of Santa Cruz Integrated Water Plan – Statement of Interest in Exploring Regional Desalination Option

President Kriege recognized Mr. Kocher, Water Director of the City of Santa Cruz, and indicated that the Board had received the executive summary for the City's Integrated Water Plan. Ms. Brown indicated that a copy of the full final report had been received from the printer that day.

Mr. Kocher reported on the City's Integrated Water Plan process. Two Councilmembers, two water commissioners, and a member of the public had met for a couple of years and concluded their work, with a recommendation that the Water Commission recommend to the City Council that it move forward with a program level EIR, with two projects that would have preferred alternative status. Those would be City only desalination and regional desalination. The City Council on April 15 will consider that recommendation, and if it is approved, the City would move forward with the program level EIR recognizing those two as preferred alternatives. Obviously what the City would like to hear is that Soquel Creek is still very interested in a regional desalination project because if Soquel Creek were not interested, it would leave the City with a solitary project that would probably change the way the City approached it. He indicated he was quite interested in the Board's position.

Director Daniels asked whether the program EIR would be the City's EIR or a joint EIR. Mr. Kocher responded that the environmental impacts between a regional and a city-only are different, and stated that he imagined the City would come back to the Board to ask for a couple of things, one would be some financial participation in the preparation of the program EIR but the second would be representation of the Board on some kind of a group that will oversee it.

Director Daniels stated that that being the case, would the District have some role in formulating the content of that, the scope of work for that EIR?

Mr. Kocher responded that certainly if the Board participates financially.

Ms. Brown stated she and Mr. Kocher were going to San Francisco on April 4 to meet with EDAW, the City's environmental consultant, and Environmental Science Associates (ESA), the District's environmental consultant, to talk about how we coordinate our two processes and get suggestions from the consultants who would be doing the EIR as to how to blend the agencies' CEQA processes, as the District has its own program decision to make. Combining it only works if the District's preferred alternative is a regional desal, but we have our own decision-making process to work through, which could lead us to a separate EIR process.

President Kriege noted that the size of the desal plant had been downsized in the draft report, but it more than meets the District's needs.

Director Jaffe stated that he thought the District had to pursue this, but would like to see the relationship be broader than a desal plant because both agencies are pumping out the same aquifer, the Purisima, and both agencies should be working together on the concept of regional management of water resources.

Director Daniels agreed and noted the three things the District's working on right now, and in each case just starting, so it would be a good time for the City to participate. One is redoing the AB3030 plan, our groundwater management program, and since the City is pumping out of the aquifer just as the District is, both agencies should share in that management process. Two, the District is bringing back the groundwater model to try to get a more scientific understanding of, for example, when both agencies increase pumping during the drought years, what happens to groundwater levels and what happens to our basin. And three, starting a new EIR on the Purisima pumping.

Mr. Kocher stated that one of the criteria by which the City judged projects was the effect on the Purisima and the thinking behind that was that if the City went ahead with a project that didn't include Soquel Creek, that the District could be left with effectively no other project, and forced to draw more heavily on the Purisima. This would have a devastating effect on the City because, while groundwater doesn't represent a huge amount of the City's supply, the system depends on it. Mr. Kocher stated that the City is putting in another 6th monitoring well, and he has approached the District about perhaps contracting with District staff to actually take the samples from those monitoring wells. This would give Soquel Creek, as the groundwater management authority, full access to all that data. He stated his concurrence that we both share an interest in preserving the Purisima because we both rely heavily on it.

Director Beebe had a question on one of the two key assumptions about the regional project that is made, that is the capital cost and fixed operating cost of any joint project would be divided equally between the parties, but in the memo it was represented as a 60/40 split.

Mr. Kocher responded that when they did their costs, they needed to know what the impact on their ratepayers would be so they calculated a 60/40 split, it means nothing in terms of reality.

Ms. Brown stated that her understanding was 60/40 and didn't realize that the executive summary said something different than that. It was emphasized that there have been no agreements discussed between the two agencies about what the cost-sharing ratio might actually be.

Director Daniels noted that the summary states the City needs water 1 year out of 5 and yet there's also talk that over time that increases to eventually where the city is going to need water as much as 90% of the time. If that's the case, then there won't be any down time, the City will be drawing and, of course, the District will have to draw as well, has that been analyzed?

Mr. Kocher stated that the question had been asked a lot in Santa Cruz, and that is, is SC doing this for growth or is SC doing this as a response to its drought needs, and the simple answer is that in the short term SC is doing it as a response to its drought needs. What the Integrated Water Plan said was, the City will live with some short fall in a drought as severe as 1977 and that shortfall will be as much as 15% until about the year 2015. After the year 2015, something must happen to augment supplies further. That could be an expansion of this plant, it could be construction of some entirely different facility. It could be any number of things, but something has to happen at that time.

Mr. Kocher noted that the City is very nearly built out. Very little of what the City is trying to do has anything to do with growth, but it would be disingenuous to say that it had nothing to do with growth. In the future there's going to have to be additional water supply. A desal plant would certainly take the City on the road to an expansion facility to accommodate future demand, but there's no commitment to that. There would have to be another full EIR and another very public process before any expansion of a desal facility could be considered.

President Kriege asked if the audience had any questions, and if so, to ask them of the Board.

Katherine Sweet thanked Mr. Kocher for the fact that Santa Cruz has had a public process and expressed her opinion that the same cannot be said for this District. She believes the PAC process was largely directed by the Consultants who told the PAC what conclusions it had to reach.

Ms. Sweet then expressed her concern over the District's lack of public process and pointed out that the Integrated Resources Plan had one public hearing at Sesnon House, but that there had never been an environmental review of the IRP document. She said that service areas 3 and 4 would never receive the benefit of desal water, but the financial burden would rest with the entire District. She pointed out that the PAC recommended the recycled water option but that it had not been investigated. She said she wasn't convinced that desal was the best option

Mary Tsalis read a statement (which is on file) regarding the negative impacts of starting a joint desal project with the City of Santa Cruz. Her statement included comments about the Integrated Resources Plan being of great value to aquifer management, enhancement of the watershed, and elements to assist recharge. These elements include ordinances to minimize impervious surfaces, new developments

coupled with recharge catchments, and easements for recharge areas. She stated she was a member of the Sierra Club's Water Committee and that the Sierra Club was preparing a paper to outline methods and success stories for water conservation and recharge that will provide alternatives for water districts considering desal. She said she would deliver the paper to the District and the City of Santa Cruz when it was ready.

Betty Cost, a land use planning consultant, asked for clarification about when the District was talking about growth, was it talking about getting to the build out of the general plan or about growth beyond that expected number of units.

President Kriege responded that what is looked at is the growth projection under Measure J that has been running something less than 1 percent per year.

Laura Brown stated that build out to the current general plan is what the District has based its supply projections on, and that is consistent with Measure J. It also is a 30-year projection before that build out is reached, so what the District is looking at is a water supply to meet build out and anticipating that that would take about 30 years to reach that level of demand. She also stated that the District has a current overdraft situation whereby it needs to replenish the aquifer by approximately 600 acre-feet a year to achieve balance.

Director Jaffe stated that the options people had addressed take time and have not been fully explored. He asked Mr. Kocher what the City's timetable is.

Mr. Kocher responded that the City will be in an EIR process probably a year; and, in that time, it would have an adopted EIR that would call for, probably, the pursuit of some alternative. He believes that the earliest time that the City could have a desalination facility constructed would be 2009. He clarified that after preparing a program EIR, the City would go into a project level EIR on the actual impacts of any project, and that would be a very specific document to review specific environmental impacts that should be mitigated. That would take some time itself.

In response to other questions from Board members, Mr. Kocher stated that the City is involved in a programmatic EIR on its Integrated Water Plan. One of the alternatives would include the District, resulting in an assessment of the environmental impacts of both a city-only desalination project and a regional desalination project.

President Kriege set forth the District's options as the joint desal with Santa Cruz, winter diversion of Soquel Creek, and wastewater reclamation with Watsonville/Pajaro Valley Water Management Agency. He thought the District had to go back to looking at each of these project options, have a scoping meeting and proceed with selecting a preferred option, if possible.

Director Jaffe stated there were two other things he would add to that list, and that's determine how far conservation and recharge can get the District.

Director LaHue stated he wanted to make sure he was clear then, so, if the District wanted to consider the recharge option, the Pajaro Valley option, and the conservation option, it would be a public process, but Santa Cruz needs to know that one of those things we're going to be talking about is the regional desal. We can't commit to more than that at this point

President Kriege stated that this was not a commitment on either the City's or District's part.

Director Jaffe said he didn't want to mislead the City of Santa Cruz, desal is one of the options the District is considering, but there are other options as well.

Mr. Kocher said the City wouldn't go into an EIR process with a predetermined outcome. The City isn't committing to anything either. It could very well be that neither of those options is going to be attractive to the City. There are impacts that have to be evaluated that, if they can't be adequately addressed, could prevent the City from moving forward on either of the alternatives. So, it's completely understood that no one is committing to anything.

Ms. Brown further clarified what staff believes the District's current position is. She recalled the process to look at the needs and the alternatives that were available at the time, and that was the result of the public advisory committee process, and they looked at numerous options. The District then put everything on hold because it is the small player in either regional project that's being considered, and until those options are worked through by the lead agencies to see if the District could be a player, the District didn't want to consider only a local project if there's a regional option out there that would be a better alternative. So the District has been sitting on hold, unfortunately, for several years, waiting for this moment to happen. The City of Santa Cruz is now at the table saying it thinks this may be a possibility, are you still interested; likewise, just within the last month, Pajaro Valley Water Management Agency has come forward with a possible recycle project that we're looking at. At this point, Staff would come back to the Board, with not just a few options, but all of the options that have been considered and identified in the PAC process, which included recharge, conservation, a reservoir, off stream diversion, a local desal, etc. For those projects that are viable, comparative information on yield, cost, etc. for each project and the obstacles within those different options would be discussed through a public process so the Board can determine from all of the options that are possible to meet our needs, which project or projects are the ones that would be preferable. At that point, then, we can start an EIR process to look at those preferred alternatives. She then asked if that was consistent with how the Board would like to proceed.

Director Daniels stated that there are lots of interpretations of public process, and that he would like to have a discussion about what the Board means by public process.

Ms. Brown responded that this would be an agenda item for the next meeting

Director Jaffe stated that what Ms. Brown had described sounded reasonable. He would include among the project options, increased conservation and also recharge. He also expressed concern about being on the larger player's time schedule. He thought it was imperative to proceed with our own process.

Director Daniels stated he thought that if the District is going to go through all this effort to build a project and repair this aquifer, it also needs to think about the Aromas Red Sands and what we might need to be doing there, because we don't want to do this twice.

Ms. Sweet indicated she would submit a letter to the Board regarding public process.

Ms. Brown indicated that, in order to include material in the Board packet, it is needed by Staff no later than Wednesday at 5 p.m. prior to the Board meeting.

Director LaHue asked if the dates of the meeting, once they have been decided on, could be posted on the web site, and perhaps have the submittal date as well so that people know.

Mary Tsalis asked if it was possible to post the Integrated Resource Plan (IRP) on the web site, and Ms. Brown responded that it already is posted. Mr. Regan added that the attachments are not; attachments are problematic as we do not always receive them in electronic form from the consultants. The full IRP is available to the public at the District Office.

President Kriege asked for any other comments or questions.

Director Beebe moved/Director Daniels seconded a motion to authorize the Board President to sign a letter to the Santa Cruz City Council stating the District's interest in further exploring the feasibility of a regional desalination facility.

Discussion of Motion:

Director Daniels said he wanted to see the Board's sentiment for what he suggested about inviting the City of Santa Cruz to participate in the AB3030 program, the groundwater model, and groundwater management of the Purisima, or whether to do that in a separate letter.

Ms. Brown stated that she and Mr. Kocher have already been discussing how the groundwater management effort could be coordinated.

Mr. Kocher responded that staff would probably have the ability to do that, perhaps through the Water Commission. Including both issues in a single letter might compound the situation, and perhaps a second letter would be more in order.

President Kriege suggested that the AB3030 group meet and invite Santa Cruz and Pajaro, with Central's permission.

Director Jaffe concurred with Director Daniels' suggestion of an additional letter, and that it could be in the form of just scheduling a meeting, but that that it should be made clear that we do invite Santa Cruz to participate in groundwater management.

Director Daniels said he'd like the City to understand that it has some responsibility for this basin as well; and particularly, he would also like to include the water model and have the City participate in that as well.

President Kriege asked if this could be agendized, and Ms. Brown responded that she had that topic identified under the item about what's on upcoming agendas.

President Kriege noted that the District does not have a big staff, and there's a phenomenal amount of work trying to be done now and being added to. So he thinks the Board has to be more than a little bit cautious of the amount of work it places on Staff.

Director Daniels concurred and encouraged Staff to tell the Board when something's impossible or when they can't do things.

<p>MOTION: Director Beebe, Second: Director Daniels: to authorize the Board President to sign a letter to the Santa Cruz City Council stating the District's interest in further exploring the feasibility of a regional desalination facility. The motion passed unanimously.</p>
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4. **PUBLIC HEARING** **None.**

5. **ADMINISTRATIVE ITEMS:**

A. **Approvals/Authorizations**

1. District Policy Revision on Requests for New Water Service, Will Serve Letters

Jeff Gailey reported that Will Serve Letters for all single family dwellings and minor land divisions of four parcels or less are currently approved by staff.

Director Daniels indicated that the Engineering Status Report currently just shows the large projects that have requested water service; he would like to see all projects listed, if possible.

Ms. Brown and Mr. Gailey indicated that our records were not completely accurate on what's already in progress because issuance of will serve letters has been such an informal process over the years; single family dwelling applications are just filled out over the counter. But all applications from this point on can be listed on the report. In response to a question from the audience, Ms. Brown explained the difference between a will serve letter and a connection. Since the letters have a two-year sunset, after two years the District will have a complete record.

Motion: Director Jaffe, Second: Director LaHue: Adopt a revised policy with respect to Will Serve Letters as follows: "It is the policy of the Soquel Creek Water District that all new water service applications shall be reviewed and approved by the Board of Directors." The motion passed unanimously

2. Request for Will Serve Letter, 7-Lot Subdivision, Soquel Drive and Monterey Avenue.

Director LaHue stated that he understood the plan to be to discuss the policy regarding will serve letters at this meeting so that the Board would have a consistent policy towards all of them. The previous discussion had outlined several possible ways such as no net increase in water demand, landscaping restriction, recharge on the property. He stated he thought the Board needed to have the policy in place before the Board approved any will serve letters.

Ms. Brown stated that because of the workload, Staff had not been able to bring the policy back. She stated that if the Board chose to consider the will serve requests in absence of the policy, the current language still puts the development under whatever conditions the Board may

impose for receiving final approval for water service. Another option would be to table all will serves until the policy is in place.

Director Jaffe recognized the additional language in the will serve letters as presented, but stated the Board had not had a systemic discussion of all the possible additions that had been suggested.

Director Daniels expressed concern that the will serve letter might not withstand a legal challenge and Director LaHue stated that even if it was not a legal problem, it's better public policy to decide on a policy and let applicants know ahead of time.

Betty Cost stated that these will serve letters just get you in the door at the County Planning Department, and that the letters don't promise anything whatsoever. This 7-lot subdivision is in escrow and is waiting for the will serve letter so application can be made for the County Design Review Group. Her other project is two weeks away from making application, and she needs the letters. Delay will have a financial impact to the property owners and developers.

Sam Ridino stated the County has already issued his planning permit, for which he has already spent close to \$25,000, and he was now expending monies on submitting construction drawings to the County and is uncomfortable about being in limbo. He thinks the will serve letter is very clear that no promises are being made to anybody. He stated that although a redesign might be necessary as a result of what policy the Board might implement, he would be willing to comply.

Mr. Bosso stated that Sam Ridino, the applicant, was a client of his firm and therefore there might be a conflict of interest.

President Kriege expressed concern about essentially shutting down the planning and construction activities within the District.

Director Daniels offered his suggestions to make the language clearer and perhaps more legally justifiable: "The applicant for water service is hereby notified that the Board of Directors of Soquel Creek Water District is considering an ordinance requiring all new development to bear the effort to find and to convince and the cost of retrofitting other existing structures within the District with low water use fixtures to achieve a level of water use reduction as determined by the District. This ordinance may also require all new development to bear the cost of installation of pervious surfaces or other means to encourage ground water recharge at this site and or other suitable sites to achieve a level of water supply enhancement as determined by the District. Adoption of

such an ordinance *would* impact this application for service. By accepting this will serve letter the applicant agrees to be bound by the requirements of any such future ordinance.”

Motion: Director Beebe, Second: President Kriege: Approve the will serve letter as amended by Director Daniels. The motion was defeated 3-2 with Director Beebe and President Kriege voting yes; Directors Jaffe, LaHue, Daniels voting no.

President Kriege asked when staff would be ready to come back with this issue.

Ms. Brown responded that based on the discussion earlier today, staff anticipates being able to bring back the first look at a proposed process for accomplishing zero impact for new development on June 3. If the Board wanted to have the supply side addressed at the same time, that is a whole new level of staff work that she didn't think could be met by June 3. Staff was anticipating a work product to bring the Board concepts for programs that would require retrofitting equal to or above the demand.

Director LaHue stated he wants the will serve letter not just mention retrofitting structures, but to include a more complete listing of the possible things the Board was considering.

Mr. Bosso suggested having a proposed draft on the agenda for the next meeting.

Motion: Director Daniels, Second: Director Jaffe: Direct staff to come back at the next meeting with a proposed draft of the will serve letter.

Motion: Director Daniels, Second: Director Jaffe: Amend the motion to include bringing back Items 2, 3, and 4. The amended motion carried unanimously.

Director Jaffe said he would urge that at least the draft be very broad and inclusive. It's easier to strike things out than to add in. He also asked that at the same meeting the Board talk about a policy for will serve letters that have already been issued.

Note: Items 2, 3, and 4 were continued to the next meeting.

Note: Item 5.A.13 was taken out of Agenda order.

5.A.13 Consider Rescheduling the May 6 Regular Meeting and Possibly Rescheduling the April 15 Regular Meeting to Accommodate Board Members' Attendance

Mr. Bosso explained that he also represents the Aromas Water District and that Board meets on the fourth Tuesday.

Motion: Director Jaffe, Second: Director Beebe: Cancel the regular meeting of April 15 and reschedule to April 29. The motion passed unanimously.

Motion: Director Daniels, Second: Director Jaffe: Cancel the regular meeting of May 6 with possible scheduling for May 13. The motion passed unanimously.

A.5.5 Atherton Place Subdivision, Tract No. 1049, Approve Agreement, CWO 03-125

Mr. Gailey reported that the new owner is Northbrook Atherton Place, LP and that Mr. Todd Graff is the consultant on the project. All fees have been paid, and there will be no new mains or facilities other than service hookups to the existing main.

Director LaHue asked about the time frame between approval and when the work is actually done, is there a sunset.

Mr. Gailey responded that the subdivision agreement says one year, and most of the time they are completed within that time. Some larger subdivisions might take longer.

Mr. Bosso added that the project is bonded to be completed.

Mr. Gailey noted that the cost adjustment on the meters will be made at the end of the project.

Director LaHue asked if on something like this that has already been approved, whether there was any chance to discuss improvements like we've talked about, like landscaping.

Asked if the shrubs were drought resistant, Mr. Graff responded that they were all on a drip system, so it's as low water usage as they can get. Mr. Gailey stated that the plans met the Santa Cruz County criteria for landscape design.

Director LaHue asked if conditions such as landscaping and energy efficient appliances could be imposed on a project once it's approved, as this one was.

Mr. Bosso responded that conditions were normally imposed at the tentative map stage and they are now at the final subdivision map stage, so to impose something new now would be a matter of equity.

Mr. Gailey stated that the County and Uniform Building Code imposed certain conditions, but the District's engineering staff did not monitor enforcement.

Ms. Brown stated that the requirements in the new will serve letter would be part of the District's conservation program, and those would be inspected by the conservation specialist prior to final approval for service.

Asked if conditions could be placed on anybody who comes in for service connection, Mr. Bosso responded that he didn't think so, because new policies had not been agendized and discussed, and absent adopted policies, the Board could not arbitrarily impose conditions that haven't been imposed on other projects.

Director LaHue stated he thought this brought up the issue of having the will serve letter and notification of the changes to the letter and that it's important that we have the policy adopted so that it applies to everyone who gets a hookup from that point on.

The Board concurred.

President Kriege asked for a motion on the item.

Director Beebe moved approval and President Kriege seconded the motion.

Directors Beebe and Kriege voted yes, Director Daniels voted no. Discussion followed as to whether the motion could pass with only two affirmative votes.

Director Jaffe said he felt it was arbitrary and inconsistent to have to approve a project because it came to Board prior to the date when it approves a policy.

President Kriege said that rules get changed and because a new policy is being considered doesn't mean that it can be applied instantaneously

Director Beebe moved to amend his motion to approve the agreement, but that any additional applicants of this nature from this date on would be under the proposed new policy. There was no second to the motion.

Director LaHue said he was having a problem with both sides because on one hand he didn't want to be inconsistent with these people, and then the other people that come in the door that are single family don't have to meet any restrictions, so that's inconsistent.

Director Daniels stated that tonight the Board passed a policy that said all applications (will serve letters) have to get reviewed by us and asked if there should also be a policy that all hookups have to be approved by the Board.

Director Beebe responded that he thought what was really needed rather than every one of these individual ones to come to the Board is a policy that applies to them, whether it's a 7-home subdivision or a single family home.

Director Daniels thought that a policy for all hookups to come before the Board could be done at the next meeting, but the big ordinance about all the various things the Board wants to consider wouldn't be effective until sometime this summer.

Mr. Bosso indicated that he didn't think the Board could approve the subdivision agreement conditioned on something that's vague, and it sounded like it would be vague at this point.

A member of the audience asked if the Board was adding conditions to these permits, didn't the Board have to have a policy that's gone to public hearing, and wasn't the Board talking about a moratorium on hook ups, until it has all those policies in place?

Director LaHue said that was the part that bothered him, the people who are coming in one at a time, don't have to deal with it, but someone with 7 units does. He expressed concern about people rushing in for water hookups.

President Kriege stated the County's lengthy planning process would prevent that, and Mr. Bosso added that this District, unlike others that he represents, will not issue a connection without a building permit.

Mr. Gailey explained that a subdivision or minor land division has to have completed all of their entitlements. A subdivision is done by a contract with the County, there's a map that's approved and a design review process. The planning department does an extremely detailed review, much different from a single-family dwelling. It is required that the infrastructure be installed, the curb, gutter, sidewalks, the sewer, the water system, everything is paid for, and the County makes sure it is bonded to be paid for and completed 100%. But they don't do that with single family projects.

Director Jaffe presented a hypothetical of somebody who wants to assure that they've got a hookup before the new rules take effect, so they go ahead and bond all these things that are required and they come to us for service approval.

Mr. Bosso said the only one that would fit that example would be a subdivision that had gotten fully approved but for some reason had not gone forward, so they're sitting there with a fully approved map and decided at the last minute to go forward.

A discussion followed regarding any possible projects that might be coming in and, including a few single-family homes, there might be 50-60 units.

Mr. Graff, representative of the project, said he thought it's dangerous to discount the County's planning process that was set up by the State Planning Law and Subdivision Map Act, as these processes were created because of problems that the Board was going through right now. He said the Board was trying to decide where to apply the new regulations, and that's dealt with in the Subdivision Map Act, and the permit streamlining act, so learning from what the State has done is valuable.

He thinks where the Board can get into problems is changing a rule at the end of the process because that may have an effect on the physical layout of the subdivision. The developer could not go back and change that arbitrarily, at least not without the County's approval, and to get that approval would be difficult. To apply a regulation at the very end of the process, he thinks, is dangerous from the legal standpoint. He thinks it's easier and more appropriate to do it up until the tentative map approval stage, or when the application is incomplete, that's the way it's usually done.

Director Jaffe said some of these conditions don't involve changes in plans, they involve finding offsets.

Mr. Graff responded that a couple of things mentioned may not, but some do, like the coverage questions, any recharge possibilities on the property. He assumed that this would be one that would be looked at because it's near a creek and all the water from the subdivision drains back into that creek, but their design was approved a year ago at the County, so that makes it difficult for them to go back and implement new design features

Director LaHue stated that he felt the Board had to be fair to both, it would be nice if the Board had already decided on the policy, but we don't have it yet, and the sooner we do it and do it in a good way the better, but as much as he'd like to see all of these improvements right away, he didn't see how one could be arbitrary about it in the meantime.

Director Jaffe indicated that he wanted to be recorded as abstaining on this vote.

President Kriege asked Director LaHue how he was voting, and Director LaHue responded that he was in a quandary.

President Kriege restated the vote: two to approve, one no, and two abstentions.

Ms. Brown and Mr. Bosso questioned whether 2 aye votes could approve, with all Board members present and eligible to vote.

President Kriege asked if Directors Jaffe or LaHue would consider voting, and Director LaHue agreed to do so.

Mr. Bosso said he would research Roberts Rules of Order and report back to the Board on the issue of how many votes it takes to approve.

MOTION: Director Beebe, Second: President Kriege: To approve the Subdivision Agreement for Atherton Place Tract No. 1049 CWO 03-125. The motion passed with Director Beebe, Director LaHue and President Kriege voting aye, Director Daniels voting no, and Director Jaffe abstaining.

5.A.6. Approve Continuation of Consulting Services with KOMEX H2O Science Inc. for Quik Stop Market No. 78 MTBE Contamination

Mr. Nowak reported that KOMEX H2O Science, Inc. had been reviewing the reports from the Quik Stop MTBE consultants. This estimate is \$11,000 for approximately 6 months. The last time this was reviewed was about a year ago.

Director Jaffe noted an inconsistency on the schedule of fees, Item 2, the words read 12 percent but the figures read 15%.

Director LaHue asked about possible reimbursement for oversight of this cleanup. Mr. Bosso stated he did not know of any entity that enforced reimbursement.

MOTION: Director LaHue, Second: Director Daniels: Approve Continuation of Consulting Services with KOMEX H2O Science, Inc. for Quik Stop Market No. 78 MTBE Contamination. The motion passed unanimously, with Director Beebe absent from the room.

By consensus, staff was directed to explore the possibility of reimbursement by the responsible party for our oversight costs.

5.A.8 Authorize Settlement for Attorneys Fees on Save the Habitat Litigation.

Mr. Bosso provided a memorandum and reported that at the last closed session the Board had directed Counsel to effectuate a settlement and it has been done.

Motion: Director Jaffe, Second: Director Daniels: To authorize payment of attorneys fees and costs. The motion passed 4-1, with Director Beebe voting no.

The Board took a brief recess from 10:00 to 10:05 p.m.

5.A.9.a. Shore Trails PRV Automation Project Preliminary Environmental Assessment

Mr. Gailey responded to inquiries from the Board regarding the project.

MOTION: Director Daniels, Second: Director Beebe: Motion to approve the Preliminary Environmental Assessment. The motion passed unanimously.

5.A.9.b. Shore Trails PRV Automation Project Approve Resolutions Approving Plans and Specifications; Call for Bids and Prevailing Wages CWO -3-137

Mr. Gailey reported the estimate for the project was \$10,000.

MOTION: Director Daniels, Second: Director Jaffe: To adopt resolution No 03-09 approving the Plans and Specifications for the project and Resolution No. 03-10 calling for Bids and Prevailing Wages. The motion passed unanimously.

5.A.10.a Bayview Drive Main Replacement Project, Preliminary Environmental Assessment CWO 03-146.

Mr. Gailey reported that the Preliminary Environmental Assessment was categorically exempt.

MOTION: Director Beebe, Second: Director LaHue: To approve the Preliminary Environmental Assessment. The motion passed unanimously.

Mr. Bosso asked what was being replaced and Mr. Gailey responded that it was the existing main of 2" and 2 1/2" steel, and that the County approved of the project.

Ms. Brown explained that 6" is the minimum size under American Water Works standards to accommodate fire flow, so the District doesn't put anything new in less than 6" but oftentimes what we're replacing is only 2" to 4". This can raise the question of have you increased capacity or not.

5.A.10.b. Bayview Drive Main Replacement Project, Resolutions Approving Plans and Specifications, Call for Bids and Setting Prevailing Wages CWO-146

Mr. Gailey stated that, due to the delays on other projects, capital improvement program funds are available for reappropriation to complete the project.

Director Jaffe stated that at some point we might want to consider putting in reclamation lines along the regular lines so that if reclaimed water ever does become available, it could be used for irrigation.

MOTION: Director Beebe, Second: Director Daniels: Adopt Resolution No. 03-11 approving plans and specs and Resolution No. 03-12 calling for bids and setting prevailing wages. CWO 03-146. The motion passed unanimously.

11. Shallow Well Monitoring Project, Budget Adjustment CWO 01-128.

Mr. Gailey reported that Luhdorff and Scalmanini had submitted a revised budget for some additional work to provide redlined versions of the revised report after the TAC committee meeting and responses to any additional comments. So their budget needs to be increased by \$5,347 in addition to the \$18,707.40. The total request would amount to \$24,055.00, and the Lindsey Krager Associates request would be \$13,320.

MOTION: Director Beebe, Second: Director Daniels: To approve a budget adjustment appropriating Operating Contingency Reserves in the amount of \$37,374.40 to supplement the budget for the Soquel Creek Piezometers (also known as the Shallow Monitoring Well Project). CWO 01-123. The motion passed unanimously.

MOTION: Director Daniels, Second: Director Jaffe: To authorize the General Manager to sign the purchase orders for the additional costs. The motion passed unanimously.

Director Jaffe requested the TAC's comments.

12. AMBAG Regional Orthophotography Project, Approve Purchase Order

Mr. Gailey stated that the County of Santa Cruz has contributed over \$120,000; the agency that dropped out was the Air Pollution Control Board; the City of Santa Cruz is as listed; San Lorenzo Valley is as listed; Soquel Creek's cost went up by \$1,945; so the new requested amount is \$21,400.86. The amount requested is the total amount rather than just \$10,000 now, since the funds are available in the budget. This is a unified approach to a GIS system for the entire Santa Cruz County area.

MOTION: Director Daniels, Second: Director LaHue: To appropriate \$21,400.86 for the AMBAG Orthophotographic project CWO-03-147. The motion passed unanimously.

MOTION: Director LaHue, Second: Director Daniels: To authorize the General Manager to sign a purchase order for the project. The motion passed unanimously.

5.A.14 Letter of Support for AB 1300 (Laird)

President Kriege asked the Board to approve the letter.

MOTION: Director Daniels, Second: Director Jaffe: To authorize sending the letter to John Laird in support of AB 1300. The motion passed unanimously.

5.B. Information Items

1. Annual Water Quality Report.

The following changes to the report were approved by consensus:

In the footnote section: Add "Effective January 23, 2006, the federal arsenic mcl will be 10 parts per billion and the mclg will be 1 part per billion"

Under Sources of Contamination, For Alkalinity: "The capacity of water to neutralize acid" is a definition, it's not a source. Staff was directed to leave it blank or put something else there.

Last page, under Purisima Formation: An additional component of the study *will* analyze.....

Where the levels are tested, under Footnotes, at the *...change source to wellhead.

Under Source Water Assessments section, identify Todd Engineers and Luhdorff and Scalmanini by their consultant roles, i.e. hydrologists, etc.

Under "The quality of the water you drink" section: Change "Last year, as in years past, your tap water met all..." to something like "*Your tap water continues to meet all...*"

2. Memo from District Legal Counsel Re: Swanson vs. Marin

Mr. Bosso stated he would provide the part of the Stanford Law Review that was missing when he last provided the material. A brief discussion followed on the El Dorado decision.

6.A. Status Reports

A. Engineering:

Mr. Gailey reported on the fuel tank removal remediation in the corporation yard. KOMEX brought in the sampler and the County inspector was there. No soil contamination was found.

The lab sample came back on the Austrian Tank coating and it detected ketones, so the tank has to be stripped and recoated.

On Garnet Street, the treatment plant is running on and off, there are some minor problems with the chlorine injector, and a pressure relief valve has to be added to the plant to protect the vessels from over pressuring, so those two items will be coming back as extra work.

B. Operations and Maintenance

Mr. Nowak reported that we're still waiting for State Health's approval on Tannery Well No. 2; it's still not in service. There's nothing major that is outstanding, they just haven't had time to go through it and finalize it.

Director LaHue asked if the Board would receive information on the Shell Station fuel contamination and Mr. Nowak responded yes, as soon as KOMEX is through with its investigation.

C. General Counsel

Mr. Bosso reported on the Austrian Way recoating issue. He has provided the contractor's attorneys with a copy of the lab report and gave them until Friday to respond. Further investigation into the cause of the problem is continuing.

With respect to Topsail Court, the Supreme Court sent it back to the District Court of Appeals with direction to the Court of Appeals to reconsider the case in view of the changes that were made by the Legislature in the Government Code.

With respect to the Fairway Tank case, an address for Mr. Theo, one of the principal partners, was finally obtained and we believe we have him served.

Regarding Aquastore, which is the F&M Construction on the Ironwood Tank, F&M was the subcontractor. Aquastore was their sub, who supplied the tank. There's a dispute between them that was supposed to go to mediation. They all agreed on Justice Capiciolli and the Board agreed. Aquastore's counsel now does not wish to use Justice Capiciolli because of the expense associated with JAMS, the Judicial Arbitration Mediation Service. He has suggested a John Madison, who is an independent arbitrator, civil engineer type. Unless the Board has other direction, Mr. Bosso recommends agreeing to Mr. Madison, assuming his background check is acceptable.

D. General Manager

Ms. Brown distributed her written report, and announced that Roy Sikes would start on April 8 as water conservation specialist

7. **WRITTEN COMMUNICATIONS AND CORRESPONDENCE None.**
8. **WORKSHOP ON BROWN ACT AND CONFLICT OF INTEREST Postponed.**
9. **CLOSED SESSION None.**
10. **ADJOURNMENT**

President Kriege adjourned the meeting at 10:50 p.m.

SUBMITTED BY:

APPROVED BY:

Emma Solden, Interim Board Clerk

Daniel F. Kriege, Board President