

MINUTES

GARDEN GROVE SANITARY DISTRICT

An adjourned regular meeting of the Garden Grove Sanitary District Board of Directors was called to order in the Council Chamber, 11300 Stanford Avenue, on Monday, July 21, 2003, at 6:37 p.m.

ROLL CALL: PRESENT: (5) PRESIDENT BROADWATER, MEMBERS DALTON, LEYES, ROSEN, TRAN

ABSENT: (0) NONE

ALSO PRESENT: General Manager, George Tindall; Public Works Director, Les Jones; Finance Director, Anthony Andrade; Legal Counsel, John Shaw; and Deputy Secretary, Priscilla Stierstorfer.

INVOCATION AND PLEDGE

Public Works Director Les Jones gave the Invocation. President Broadwater led the Pledge of Allegiance to the Flag of the United States of America.

ORAL COMMUNICATIONS – PUBLIC

There were no public oral communications relevant to the Sanitary District.

PUBLIC HEARING TO CONSIDER RESTRUCTURING RATES AND CHARGES FOR SEWER SERVICES PROVIDED TO PROPERTY OWNERS AND FILING OF REPORT DETAILING CHARGES TO BE COLLECTED ON THE TAX ROLL FOR SEWER COLLECTION SERVICES IN IMPROVEMENT DISTRICT NO. 1
(F: S-60.1) (XR: S-31.2)

Staff report dated July 21, 2003, was introduced and presented by the General Manager and the Public Works Director.

Legal Counsel commented that in this matter, Proposition 218 requires four votes of the Board in order to pass the ordinance.

RECESS

At 6:45 p.m., the President declared a recess.

RECONVENE

At 6:48 p.m., the meeting was reconvened with President Broadwater and all members in attendance.

PUBLIC HEARING TO CONSIDER RESTRUCTURING RATES AND CHARGES FOR SEWER SERVICES PROVIDED TO PROPERTY OWNERS AND FILING OF REPORT DETAILING CHARGES TO BE COLLECTED ON THE TAX ROLL FOR SEWER COLLECTION SERVICES IN IMPROVEMENT DISTRICT NO. 1 (Continued) (F: S-60.1) (XR: S-31.2)

The Public Works Director introduced Kenneth Harlow (representing Brown & Caldwell) and Zeki Kayran (representing AKM Engineering), consultants who assisted in the preparation of the reports. A slide presentation was given.

In response to Member Leyes, the General Manager commented that the Waste Discharge Requirements (WDR) were enacted last year in 2002, and the District has had to comply. In order to do that, money has been used from other sources and that is why the District is in a deficit. Last year the District spent more money than it brought in.

In response to Member Leyes, the Public Works Director commented that because of the reporting requirements under the WDR's in the event of a spill, it takes three people the better part of a day to document the problem, take photographs, and correct the problem immediately. Also, the process of cleaning and televising the lines has been done by one crew, since the best time to televise the lines is after they have been cleaned. The proposal is to add an additional crew to follow the cleaning crew and televise the lines so both are being done at the same time. We are back to a reactive mode and are unable to do preventative maintenance.

Member Tran inquired whether there was a study done on the emergency reserves. The Public Works Director commented that there were no emergency funds prior to the increase of the rates in 1999. Since that time, we have accumulated \$2.3 million. The General Manager commented that when we had our first break, we had to borrow from the Water Fund. We have since paid that back.

Member Tran inquired whether there was any accounting for inflationary cost in the rate increase each year. The General Manager commented that there was not.

Member Tran questioned what the environmental cost was. The Public Works Director commented that there has been \$624,000 in additional environmental costs. The increase of \$1.32 should meet all of the requirements as we know them for this year.

In response to Member Tran, the Public Works Director commented that additional funds will be needed to hire three new staff members and

consultants because we have to do more reporting. One of the major requirements is a capacity study of the entire system.

Member Tran inquired whether staff was assuming that the increase for the environmental cost will stay the same based on Option No. 1. The Public Works commented that the \$.26 does help to pick up additional environmental requirements that we would need. We could not anticipate too much in advance without knowing what the costs are. What was taken into account were the things that were known from last year and this year and few of the things for next year.

Member Tran inquired what staff would do with the surplus, if there were any. The Public Works Director commented that the prediction is that at the end of four years, there will only be \$1,800 left in reserve.

The General Manager commented that the inflationary factor is only 3%, which is not significant at all. The rules that the Santa Ana Regional Control Board (SARCB) has imposed are only the beginning. There will be more. The State has not slowed down on environmental requirements; they have increased them. We are one of the few agencies that spoke before SARCB questioning this proposed set of rules and regulations. Eight percent of the sewer system has been televised, and we have to have 100% televised in three years.

President Broadwater inquired how the system would be replaced if we had a major disaster such as a large earthquake. The General Manager commented that we now have \$2.1 million, and that would not go very far.

President Broadwater commented that after the Sylmar earthquake there were State funds available, and he didn't think the District could count on any State funds in light of the State budget. He questioned whether there were emergency funds available from the Federal Government. The General Manager commented that if there is a Federal emergency, FEMA (Federal Emergency Management Assistance) would respond with emergency funds.

President Broadwater inquired whether \$3.5 million in the contingency fund would be enough money for an emergency. The General Manager commented that they want to have a sufficient reserve but not too much like the Orange County Sanitation District or the Irvine Ranch Water District. We think 5% of the system value, which is on the low side, would be sufficient.

The Finance Director commented that it is based on the book value, and the real value may be a higher number. He also noted that if there were a good rate structure with a high cash flow where there was money flowing for capital, that could possibly be used for a bonding capacity to borrow \$30 million to make repairs or improvements on the system if it is broken up due to an earthquake.

Member Leyes inquired regarding the GASB standards and how the 5% related to that. The Finance Director noted that 5% is the minimum standard.

In response to Member Rosen, the General Manager commented that there could be a collapse of the system and pumps would have to be rented until the repairs were made. One foot of sewer line would cost \$150.00, which equates to one half million dollars for one half mile of pipeline.

President Broadwater inquired as to the cost when there was a breakage right after the City took over the District. The General Manager commented that the first one was around \$400,000 and the second one \$600,000.

Member Dalton commented that in 1999 when the rates were increased to \$3.32 there were no reserves; and since that time, the District has accumulated \$2.1 million. The General Manager commented that was correct. Some of that money came from the County after the bankruptcy.

President Broadwater declared the public hearing opened and asked if anyone wished to address the Board on this matter.

Verla Lambert commented that it appears to her that the District is still subsidizing the hotels. She noted that the rates should be different for residential and commercial. The infrastructure should be fixed before there is any more construction. She also requested more information be supplied on any future letters to the residents.

Eileen Jurak commented that she has had increases since 1999, and showed a property tax bill with a recent increase. It was noted by Member Leyes that the increase she was referring to was for the Orange County Sanitation District, which is collected on her property tax bill.

Tony Flores commented that the sewer rates do have to be addressed, after looking at all the projects that have been done in the city. However, he was not in favor of a 72% increase to residents and a 54% increase to nonresidents. He could support an increase if it could be explained and justified for the city and not given to out-of-state developers.

Allen Burns commented that after the increase in 1999, everyone received new trashcans picked up by only one man on a truck, and more money for recycling. He noted that if the District is collecting more recycling money, his rates should be reduced.

There being no further comments from the audience, the public hearing was declared closed.

Member Rosen requested that staff explain for the audience the difference between what the Orange County Sanitation District (OCSD) does versus what the Garden Grove Sanitary District. The General Manager commented that OCSD is a regional agency, which operates two treatment plants that discharge to the ocean. The Garden Grove Sanitary District is a collection

agency that goes to people's homes and businesses through a series of pipelines that tie into OCSD's system at various locations through the city.

Member Rosen inquired whether the OCSD rates were the same for residences as for commercial. The General Manager commented that they have different charges, which are higher for businesses. The Public Works Director added that because they are a treatment facility, they are very sensitive to the amount of volume that comes in. Their rates are based on volume and content of what comes in. Garden Grove transports sewage. The lines must be sized enough to transport the sewage by gravity flow. It does not matter whether it is residential or commercial, as long as the pipe is large enough for the flow.

Member Rosen inquired who is the Santa Ana Regional Water Control Board (SARWCB) that imposes waste discharge requirements on us. The General Manager commented that the Federal Government and the State have a Clean Water Act, and the State created the Water Control Board to monitor that businesses, industry, and government are in compliance with those laws. From the State Board, they have created regional boards, and the one that regulates us is SARWCB. The people that sit on the Board are appointed by the legislature and by the Governor.

Legal Counsel commented that Garden Grove has been successful in getting several major modifications to some of their provisions. We were the only city responsible for some of the changes.

The General Manager encouraged the public to get in touch with members of the Board.

President Broadwater commented that the last time rates were increased, people were upset because of the small difference between commercial and residential rates. However, when looking at the OCSD rates, there is a big difference in these rates.

Member Tran requested clarification on the difference between residential and nonresidential rates and how they are classified. The Public Works Director commented that the difference between the two rates is that the District tried to take into account what the primary difference was between the maintenance and operation standpoint for the sewer system. Garden Grove collects and transports to the main line of the County Sanitation District. The only difference between residential versus nonresidential has to do with the size of the lines. There is no difference between residential and nonresidential in terms of the application. The Fat, Oil and Grease Program is not limited to residential.

RECESS

At 7:58 p.m., the President declared a recess.

RECONVENE

At 8:10 p.m., the meeting was reconvened with President Broadwater and all members in attendance.

PUBLIC HEARING TO CONSIDER RESTRUCTURING RATES AND CHARGES FOR SEWER SERVICES PROVIDED TO PROPERTY OWNERS AND FILING OF REPORT DETAILING CHARGES TO BE COLLECTED ON THE TAX ROLL FOR SEWER COLLECTION SERVICES IN IMPROVEMENT DISTRICT NO. 1 (Continued) (F: S-60.1) (XR: S-31.2)

Member Leyes inquired as to the reference to the 10-year financial plan and the consultants that were hired to prepare it and what the cost was. The Public Works Director commented that it was \$150,000, which also included a lot of engineering effort. Phase II cost another \$100,000. The most recent cost was \$15,000 for a rate study rather than a financial plan.

Member Leyes commented that the slides referenced the 10-year financial plan and what has been accomplished. There was a reference that the plan was implemented even though we are operating in a deficit. The General Manager commented that when we took over the District, consultants were hired to help us prepare a financial plan on how to operate the district. There was a public hearing held to adopt new rates, and the Board approved rates lower than what were recommended. Since then we have done an engineering analysis and have only looked at 10-15% of the system to base the capital improvement plan on. The Public Works Director commented that the environmental requirements were not taken into account. Those requirements occurred after 1999.

Member Rosen commented that the environmental requirements that have imposed on us must be done or face the consequences of a fine of \$25,000 a day and criminal penalties. We are seeing a lot of this on the regional and state level where people sitting on these boards feel that their rules are the most important. We have to respond to all of the priorities, and we have no choice. We have to approve the \$1.32 environmental fee increases. If you take out the waste discharge requirements, we are still below the rates recommended in 1999. The \$.80 is a recommended rate, so we don't have to do this for another four years. Option One brings that in at a \$.26 increase per year. Member Rosen moved support of Option One.

President Broadwater seconded for the sake of discussion. He commended staff for the job they have done in providing a good report and trying to keep rates as low as possible.

Member Rosen commented that he and Member Dalton spent a lot of time on rates in 1999 because they were concerned that the report had catastrophic expectations about the sewer system collapsing, which is why they supported a lower rate. He commented that Option One is consistent with the research that he and Member Dalton did in 1999.

The foregoing motion failed to pass by the following vote:

AYES: MEMBERS: (3) DALTON, ROSEN, BROADWATER
NOES: MEMBERS: (2) LEYES, TRAN
ABSENT: MEMBERS: (0) NONE

Member Tran was in favor of the environmental increase in Option One for this fiscal year with increases every subsequent year. As far as the emergency reserve fund and the inflation cost, he was still trying to reconcile the fact that since 1999, there was no implementation of an annual emergency fund on the ratepayers and no inflationary cost implemented. The General Manager commented that at the rate structure, there was money set aside for an emergency; however, there was no inflationary factor in the original rate structure. The Board at that time did adopt the Business Principles and there was money set aside for emergencies.

Member Tran commented that there was no implementation of a rate against the consumers. The General Manager commented that in 1999 the Board adopted the first rate of \$3.32 that the District had, which is the rate in effect today. Money was set aside in reserves from that rate.

Member Tran commented that Option One has three types of rates. He would be in favor of voting for the unfunded mandates; however, he was not on the Board and does not agree to the Business Principles.

President Broadwater commented that how can the Board not say that there will not be an inflationary cost. Everything is more expensive today than it was four years ago.

The General Manager commented that the \$.26 represents an estimated 3% cost of living increase.

Member Tran commented that in 1999 when the rate was increased, there was no annual inflationary cost increase. He commented that his motion would be to approve the environmental cost to cover any pass through unfunded mandates that would require the City to cover.

President Broadwater inquired about the reserve. If we have a major spill and we don't have the ability to take care of it immediately, that is when the Mayor goes to jail. The increase to the emergency reserves will get the District up to where it should be.

Member Tran inquired whether the \$2.2 million in reserves was encumbered by any other obligations. The Finance Director commented that is the amount available for projects and for capital improvements.

Member Dalton commented that in 1998 and 1999 when he and Member Rosen were involved in looking at the proposals, they were told that those

rates were necessary to function. The \$3.32 increase was passed and the District still achieved over \$2 million in reserves. He commented that an increase of \$1.32 will still provide additional reserves. He indicated that the District will survive and meet every mandate and still accumulate money in reserves if the \$1.32 increase were approved. He commented that is his motion.

Member Tran seconded the motion. He felt that it would be irresponsible on the part of the District not to look at the realities and be responsible for the unfunded mandates and cover for that. He was aware of staff's concern of a non-elected Body passing on regulations or mandates to cities and to local sanitary districts that we have to cover in terms of cost. We have to do what we have to do pending changes in the regime.

President Broadwater agreed. Nobody wants to pay for costs that are being passed on to us without consideration of where it is coming from. The State government consistently does that. He did not think that \$.26 each or a total of \$.52 was an overwhelming amount. He asked whether the motion could be amended to include \$.26 one time on both.

Member Tran inquired whether a local jurisdiction could meet under emergency session, assuming a doomsday scenario with a magnitude 10 earthquake, to pass an ordinance or resolution that would require the funding to maintain the infrastructure. Legal Counsel commented that they can meet on short notice to increase rates on an emergency situation. However, he would have to check the research done on Proposition 218 to reconcile normal emergency powers under the Health and Safety Code.

Member Rosen commented that in an emergency they would not be able to get all the money right away. Staff's recommendation is to build up to \$3 million over an 11-year period of time.

President Broadwater questioned whether any part was on the annual tax. The Finance Director commented that it was not.

Member Tran commented that he was still not convinced as to why the District needs to include the reserve as well as the inflation.

The General Manager commented that an option to consider could be that the Board approve the rate structure and reserve the right to vote on the cost of living adjustment every year. Otherwise, staff will be back every year holding a public hearing for the inflation costs because the Business Principles that were adopted say that the District will not lose money or go into a hole regardless of the emergency reserves. On an operational standpoint, the District will be spending more money than it will be bring in. The inflationary cost was included so that it would not be necessary to hold public hearings every year. As a Board you can reserve the right to approve inflationary costs. The only restriction tonight is you cannot exceed the maximum amount of

\$2.38 that was advertised and noticed to the residents. He noted that \$.26 amounts to 3% of the operational cost of the District.

President Broadwater asked Member Leyes if there was any leeway or whether he would vote "no" on everything.

Member Leyes commented that he has not heard a motion that he could support.

President Broadwater commented regarding Option One and to bring back everything for a vote with the exception of not including the \$.26 on the emergency reserve. Or, he commented, going to Option Two and bring back the \$.09 and \$.26 every year for a confirmation by the Board.

Member Tran commented that when he seconded Member Dalton's motion, they were basically saying that they are not convinced that the reserve fund, as well as the inflationary cost, based on last years' precedence since 1999 are required. Unless those figures are required, we will come back and discuss it, and the Board can pass or deny the increase. If the \$1.32 is broken down as staff has presented it and reflected in the report that requires the Board to fund the mandates or hire more staff and personnel so that we comply with State law, there is no way to get out of that. Therefore, he suggested that if the Board has to do a supplement for \$1.32 for this year, then next year they can again discuss the issue of emergency reserve funds, if there is a deficit, as well as the inflationary cost to keep the rate in pace with the times.

President Broadwater commented that the motion is to only increase the environmental cost and nothing else, and he called for the vote.

The General Manager commented that the cost of the public hearing and to send out 44,000 notices is \$27,000. Next year, if the District is in the hole and the Board wants to adjust the revenues for inflation, staff will have to spend another \$27,000 to send out first-class notices to every property owner in the District. The Board has an opportunity tonight to include an inflationary factor where the Board reserves the right to make the decision on an annual basis based on the Board's judgment value without spending another \$27,000.

President Broadwater made a substitute motion that the Board implement Option Two and that the increase needs to be voted on by the City Council annually starting in 2004/05. Member Rosen seconded the motion.

Legal Counsel commented that if the motion passes, a clause would be added into the ordinance.

The substitute motion failed to pass by the following vote:

AYES: MEMBERS: (2) ROSEN, BROADWATER
NOES: MEMBERS: (3) DALTON, LEYES, TRAN
ABSENT: MEMBERS: (0) NONE

President Broadwater commented that there is still a motion on the floor to increase rates for the environmental costs only.

Member Leyes commented four years ago the District spent \$150,000 for professional consultants, economists, and engineers to develop a plan and a range of financing options. A lot of that was stabbing in the dark because of the condition of the sewer system that the District inherited and the lack of data available. It was in bad shape. Gloating that there has not been a catastrophe in the last four years is whistling past the graveyard. \$150,000 was spent for consultants last time, and we had a couple of members pull some numbers out of a hat and arbitrarily throw some numbers against the wall. If we had paid more attention to the consultants and staff, we would not be here right now. We are seeing it again; however, we only paid \$15,000 for the study this time. He commented that he cannot vote for a rate increase. In the last few months he proposed cost saving budget cuts and was rebuffed. Residents have seen water rate increases, City fee increases, trash rate increases, bed tax increases, County sewer increases, street light increases, tripling of the car tax by the Governor, gas bill, electricity, and cable TV going up, and the cost of lawsuits crippling business in this state, and somebody has to say no.

President Broadwater commented that the motion on the floor is only the environmental costs, and he called for the vote.

ORDINANCE NO. 4 was introduced and the title read in full, entitled AN ORDINANCE OF THE GARDEN GROVE SANITARY DISTRICT INCREASING FEES AND CHARGES FOR SEWER AND REFUSE COLLECTION

Member Dalton moved, seconded by Member Tran, that full reading of Ordinance No. 4 be waived, and said Ordinance be and hereby is passed with the following vote:

AYES: MEMBERS: (4) DALTON, ROSEN, TRAN, BROADWATER
NOES: MEMBERS: (1) LEYES
ABSENT: MEMBERS: (0) NONE

Member Rosen commented that he voted for the increase because that is the best that they could get. He noted his concern that there is a difference between taxpayers in Garden Grove and ratepayers in Garden Grove. There are people who get sewer service who are not residents of the city because they live in unincorporated islands under the sphere of influence of Fountain Valley or Stanton and maybe Anaheim. If in fact staff is correct and this will leave us in a deficit position and the Board has to use General Fund money to pay for the deficit, the taxpayers of Garden Grove will be subsidizing the ratepayers of Garden Grove. He commented that is a bad position to be in.

ADJOURNMENT

At 8:45 p.m., the meeting was declared adjourned.

PRISCILLA STIERSTORFER
DEPUTY SECRETARY