

**WEST VALLEY SANITATION DISTRICT
OF SANTA CLARA COUNTY, CALIFORNIA**

**BOARD OF DIRECTORS MEETING
OCTOBER 28, 2009**

The Board of Directors of West Valley Sanitation District of Santa Clara County, California, convenes this day in regular session at 6:00 p.m. at the District office, 100 East Sunnyoaks Avenue, Campbell, California, with the following members present: Dan Furtado, Diane McNutt, Curtis Wright, Ken Yeager, and Chuck Page, Chairperson. Staff present are Robert R. Reid, District Manager and Engineer; Douglas B. Aikens, Deputy District Counsel; Edward H. Oyama, Director of Engineering and Operations; Dorie Barras, Executive Assistant, and Joanna Fuller, Secretary.

The minutes of the previous meeting are approved as presented.

Oral communications: This portion of the meeting is set aside for persons wishing to address the board on any matter not on the agenda. There is no public comment.

Written communications: No written communications have been received.

Reports: The following reports are submitted for action in one motion:

San Jose/Santa Clara Water Pollution Control Plant: Minutes of the June 11, 2009, meeting of the Treatment Plant Advisory Committee.

Investment of District Funds: Report on Commingled Funds Invested by the County of Santa Clara for West Valley Sanitation District for the period ended September 30, 2009; and the June 30, 2009, quarterly report from the County Controller.

Consolidated Income and Expense Statement of West Valley Sanitation District for the period ended September 30, 2009.

Status Report on District Goals and Manager's Objectives.

The reports are accepted.

Under Unfinished Business, staff submits for second reading and adoption three ordinances concerning wastewater discharge regulations. The titles are read, reading of the titles constitutes second reading, further reading is waived, and the following ordinances are enacted:

A. ORDINANCE NO. 137, AN ORDINANCE OF THE BOARD OF DIRECTORS OF WEST VALLEY SANITATION DISTRICT OF SANTA CLARA COUNTY, AMENDING CHAPTER

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1.050 OF THE DISTRICT'S ORDINANCE CODE ADDING CERTAIN TECHNICAL DEFINITIONS AND REPLACING OBSOLETE PROVISIONS.

B. ORDINANCE NO. 138, AN ORDINANCE OF THE BOARD OF DIRECTORS OF WEST VALLEY SANITATION DISTRICT OF SANTA CLARA COUNTY, AMENDING SECTIONS 1 AND 7 OF THE DISTRICT'S ORDINANCE CODE TO LIMIT THE DISCHARGE OF DENTAL AMALGAM INTO THE SANITARY SEWER SYSTEM AND TO REQUIRE THE INSTALLATION OF DENTAL AMALGAM SEPARATORS IN CERTAIN DENTAL OFFICES.

C. ORDINANCE NO. 139, AN ORDINANCE OF THE BOARD OF DIRECTORS OF WEST VALLEY SANITATION DISTRICT OF SANTA CLARA COUNTY, AMENDING SECTIONS 1 AND 7 OF THE DISTRICT'S ORDINANCE CODE TO REVISE PROVISIONS RELATED TO THE DISCHARGE OF GREASE INTO THE SANITARY SEWER SYSTEM, TO ESTABLISH REQUIREMENTS FOR FOOD SERVICE ESTABLISHMENTS RELATED TO INSTALLATION OR UPGRADE OF GREASE CONTROL DEVICES, AND TO ESTABLISH MAINTENANCE AND RECORD KEEPING REQUIREMENTS FOR GREASE CONTROL DEVICES.

The ordinances will be effective 30 days after enactment.

Consent Calendar: The following items are submitted for action in one motion:

Approval of payment of bills and ratification of payroll summaries of September 20, October 4, and October 18, 2009.

Authorization to sell surplus equipment: 1986 Massey Ferguson Backhoe and 1986 Ziemann Trailer combination to be sold on the open market for the best offer; and the 1991 F800 5-yard dump truck and 1997 LTS8000 Vactor HVC to be sold through the services of First Capitol Auction, Inc.

Quito Basin No. 8 Sanitary Sewer Rehabilitation Project: Approval of Progress Payment No. 7 in the amount of \$77,894.25 to K. J. Woods, Inc.

Adoption of RESOLUTION NO. 09.10.24, RESOLUTION ACCEPTING THE RIGHT-OF-WAY AGREEMENT BETWEEN WEST VALLEY SANITATION DISTRICT AND CITY OF SARATOGA, and approval of the recordation of the Wildwood Way Sanitary Sewer Easement.

The Consent Calendar is approved unanimously.

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There are three items of new business. The first is a request from Mr. Michael Kokinos, owner of the commercial building at 2255 So. Bascom Avenue, Campbell, for modification of sewer connection and capacity fees associated with converting a portion of the office space to medical use. The space has been reclassified as a medical use by the City of Campbell. Mr. Kokinos applied to the District for the sewer permit in order to fulfill the requirements of both the District and the City. District staff reviewed the plans and calculated connection and capacity fees based on the fee structure established in the District's Ordinance Code. Mr. Kokinos maintains that because of his green building practices the use change will not substantially alter the discharge into the sewer system, and that the additional fee is therefore not fair or equitable. Mr. Kokinos has applied to the board for relief based on Section 10.180 of the Ordinance Code, Relief from Charges, Fees, or Levies. Mr. Kokinos is given the opportunity to address the board, as is his consultant, Mr. Daniel Elliott, P.E. After the applicant has explained his position, the chair asks for comment from board members, staff, and District Counsel. Counsel advises that the District is authorized to establish classifications of use and to charge based on those classifications, and that staff worked within these boundaries when calculating the fee. Staff explains that the fees are based on treatment parameters and are standardized cost recovery rates for the purchase of the additional system capacity required by the use change. Staff and board discuss the possibility of establishing a working group to develop guidelines for green practices, but confirm that there is currently no policy in place to allow for an exception. After discussion, the board determines that although the applicant's green practices are praiseworthy, the fees charged to Mr. Kokinos are consistent with the District's Ordinance Code and that there is no basis at this time for a fee modification or waiver. The Board denies the appeal.

The next item of new business concerns the Fairview Plaza Sanitary Sewer Extension Project: Staff reports that in 2006 the sewer system serving the Fairview Plaza neighborhood was discovered to be in poor condition and in need of repair. Staff has met with neighbors and a design alternative has been agreed to, which requires acquisition of easements from nine of the property owners. Eight of these have signed and returned the easement documents, but one property owner, Mr. Robert Murphy of 72 Fairview Plaza, has expressed concern that the location of the sewer line will interfere with his plans to build a garage and workshop on the property. Mr. Murphy has therefore not agreed to grant the easement. Staff requests authorization to begin proceedings to acquire the easement through eminent domain. Mr. and Mrs. Murphy are present at this meeting, and they are given the opportunity to address the board. Mr. Murphy explains that he does not object to the installation of the sewer, but would like the District to consider alternatives to the current design, in order to accommodate his proposed building plans. Staff and directors discuss the alternatives with Mr. Murphy, and at the conclusion of the discussion agree to delay further consideration of the matter until the January board

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meeting, giving Mr. Murphy time to prepare construction plans for his garage, and to work with the Town of Los Gatos staff on any variances that may be required.

The final item of new business is the letter from District Counsel Charles T. Kilian informing the Board of his decision to retire from the practice of law, effective March 1, 2010. The board appoints Directors Chuck Page and Dan Furtado to an ad hoc subcommittee to develop a process for selection of Mr. Kilian's successor.

The Closed Session scheduled for this meeting, to discuss the compensation of the District Manager, is postponed to the November 18 board meeting.

Under Directors' Items, Director Furtado encourages staff and board to consider establishing a working group to explore green technology and sustainability guidelines that were discussed earlier this evening

There being no further items of business, the meeting is adjourned at 7:25 p.m.

CHUCK PAGE, CHAIRPERSON

Attest:

Secretary