

**San Gabriel Valley Mosquito & Vector Control District**  
1145 N. Azusa Canyon Road, West Covina, California 91790

**Board of Trustees Meeting**

**July 9, 2010**

**Minutes**

**Trustees Attending**

- 1 Stephen Sham (Alhambra)
- 2 Joseph Rocha (Azusa)
- 3 Rick Barakat (Bradbury)
- 4 Henry Morgan (Covina)
- 5 Margaret Finlay (Duarte)
- 6 Andre Quintero (El Monte)
- 7 Charles Myers (Glendora)
- 8 Jeff Parriott (Industry)
- 9 Manuel Garcia (Irwindale)
- 10 Dan Holloway (La Puente)
- 11 Frank Hall (Los Angeles County)
- 12 Dan Kirby (Monrovia)
- 13 Joseph Leon (Monterey Park)
- 14 Elliott Rothman (Pomona)
- 15 Robert Bruesch (Rosemead)
- 16 Jeffrey Templeman (San Dimas)
- 17 Janice Nelson (Sierra Madre)
- 18 Kenneth Gillanders (Temple City)
- 19 Mary Su (Walnut)
- 20 Shelly Sanderson (West Covina)

**Trustees Absent**

- 1 Roger Chandler (Arcadia)
- 2 Linda Elderkin (Claremont)
- 3 Robert Neher (La Verne)
- 4 Albert Huang (San Gabriel)

**Staff Attending**

Steve West  
Kelly Middleton  
Kenn Fujioka  
Ramona Deacon  
Esther Elliott

**Staff Absent**

Carol Anne Hegele  
Rose Alba  
Mel Cook

**Guest:**

Michael Jenkins, District Counsel

**1. Call to Order**

The meeting was called to order by President Sham at 7:05 am.

**2. Pledge of Allegiance and Silent Roll Call**

The Pledge of Allegiance was led by President Sham.

**3. Opportunity for Public Comment on Non-Agenda Items**

None

**4. Consent Calendar**

District Manager Steve West reported an error in the minutes of June 2010: Albert Huang was in attendance.

Trustee Finlay suggested the Management Car Allowance currently listed in Item 4B *Budget, Status Report*, under Personnel Expenses, reflect only the allowance and other expenses be transferred to the appropriate accounts.

President Sham requested District Manager West do so in next month's report.

A motion by Trustee Quintero to approve the Consent Calendar as corrected was seconded and unanimously approved.

- A. List of Claims for June, 2010
- B. Budget Status Report for June, 2010
- C. Minutes of Board of Trustees Meeting on June 11, 2010
- D. Surveillance and Vector Report
- E. Abatement Report
- F. Education Program

5. **A. March Monthly Treasurer Report / District Working Balance Report for May 2010**

**B. April Monthly Treasurer Report / District Working Balance Report for June 2010**

**C. May Monthly Treasurer Report / District Working Balance Report for July 2010**

A motion by Trustee Quintero to approve Items 5A, 5B, and 5C Monthly Treasurer Reports District Working Balance Reports was seconded and unanimously approved.

6. **Consider Resolution 2010-03, Nature Education Facilities Program Approval of Grant Application**

A motion by Trustee Bruesch to approve Resolution 2010-03, Nature Education Facilities Program Approval of Grant Application was seconded and unanimously approved.

7. **Legal Opinion by District Counsel, Mike Jenkins regarding City of Baldwin Park Proposition 218 Election, and Agenda Item 8: City of Baldwin Park Increasing its Contribution for the Proposition 218 Election**

President Sham introduced District Counsel Mike Jenkins.

District Counsel Mike Jenkins commented that his legal opinion with respect to which entity, the city or the District, would be responsible for conducting the election for the City of Baldwin Park annexation was included in the agenda packet.

He reported that in order to finance any work that the District would do in Baldwin Park the District would want to collect assessments from all the properties in the same amount and the same extent that we collect assessments from all the other territories within the District. In order to collect assessments we have to deal with an assessment election. Under Article 13D of the Constitution which was put into the Constitution by Proposition 218 the assessment election is a mail ballot election mailed to all property owners which if returned has to have a majority vote. You do not want to annex the city unless the property owners approve the assessment.

If you annex the city without the people's approval of the assessment then you are obligated to provide them service with no revenue, so it needs to be done together. You don't want to do the annexation without the assessment and obviously you can't do an assessment unless they are annexed.

The only way to do an assessment is pursuant to the procedures set forth in the Constitution and the Government Code relative to the approval of the special benefit assessment. Those procedures call for a mail ballot election, not a typical election where everyone goes to the polls.

Unfortunately the statutory scheme is not very clear about the provisions in Article 13D and the Government Code sections that deal with approval of special assessments and the provisions in the Knox Cortese Act which deals generally with re-organizational issues. The way it has generally been harmonized in other Districts around the State has been that the election is done in mail ballot election, approved by LAFCO, where two questions are posed to the residents:

- 1) Do you approve the annexation into the vector District?
- 2) Do you approve the assessment in a certain amount?

The residents fill out the ballot and mail it back.

Because it is the District who is actually imposing the special benefit assessment, it is the District that has to actually mail out the ballots and process them when they come back in. So it is the District that runs the election. It's just an unusual procedure in that the District is doing both; an annexation and a special assessment on the same ballot concurrently as part of the same election.

In conclusion, it is the District that would conduct the election. That is not to say that the District is necessarily obligated to do it or foot the bill. The next time on your agendas whether or not you want to get Baldwin Park to contribute more money.

Question:

How do we resolve the Cost Of Living Allowance (COLA) issue in Prop 218 when we ask that residents to approve the amount of the assessment.

Michael Jenkins:

In order to justify an assessment you to have an engineering report. The engineering report has to demonstrate that each property paying a benefit assessment is receiving a benefit and the amount of the benefit assessment is commensurate with the amount of the benefit.

This was tricky in the post Prop 218 era when courts gave closer scrutiny to this special benefit received by the property owner. It's a particularly tricky with vector districts because it's not easy for an engineer to ascertain what the actual benefit is to the property from the work done by the District.

The District has engaged the services of SCI Consultants, Inc. who specializes in doing engineering reports for the creation of the assessment. After doing a number of these reports SCI has come to the conclusion that there is a special benefit and has figured out what the assessment should be.

They recommend that we should not perpetuate the same methodology done in 1996 when the District approved the \$20.00 cap on the assessment and where each year the Board is allowed to set the assessment as long it's within the \$20.00 assessment. SCI's recommendation is to instead set the assessment as whatever the correct rate is and include an annual automatic Consumer Price Index (CPI) adjustment. You could assess the same amount for residential, commercial and industrial properties as everywhere else in the District. Each year it would be subject to automatic CPI adjustment. If the CPI adjustment were greater than what you might be interested in imposing everywhere else in the District you don't have to do the whole CPI.

The reason the District should not perpetuate the same methodology done in 1996 is because the \$20 cap concept has never been tested in court. No one wants to test it; no one is comfortable

having to test it. It is better to go to the other method of an annual automatic CPI. For our purposes generally, the prospect of having to switch over for the entire District is remote.

There must a majority vote of yes to both questions in order for the ballot to pass. For example:

- 1) Do you approve the annexation into the vector District?
- 2) Do you approve the assessment of \$ \_\_\_ for a residential parcel plus an annual CPI adjustment based on COLA as determined by the federal government.

Question: How can an engineer establish the benefit of vector control?

Michael Jenkins:

The SCI report shows that SCI took into consideration a number of different issues in terms in trying to evaluate the benefit to the parcel. The District deals with benefits that avoid health costs. Health costs effect people. The assessment benefit is for property. Under the constitution special benefits have to benefit property not people. The statues say you're entitled to finance your services thru a special assessment district. The constitution has this more exact standard that requires you to have a report and ultimately when you exercise your discretion to assess (determine) the assessment you have to also take into consideration the professional engineers report.

Question:

If we're responsible for the cost of the election can we still be responsible for the cost of the campaign?

Michael Jenkins:

Public funds can only be used for informational purposes only. It is mostly an informational campaign, not a political campaign. Both the city and the District are within their authority to put out informational material that would explain the benefits of being within the District and the health benefits associated with the vector control program. How much of that is required depends on the circumstances but both the city and the District could do an informational campaign.

Question:

Is SCI running the campaign?

District Manager West: The contract with SCI authorizes them to conduct the election. They are prepared to offer informational briefings and community based meetings where additional factual data is provided to the public. District Manager West stated that the City Council is in a position to offer promotion type advertising and/or closed circuit television spots and is not limited as the District is. Staff would have to be careful to understand the fine line between a promotional presentation and a factual one.

Trustee Finlay:

What is it going to cost to run the election?

District Manager West: \$80,000 - \$100,000.

Trustee Finlay:

Do we have significant commitment from all City Council Members and the City Manager?

District Manager West: We have received \$20,000 from the City. When I spoke to the City

Manager about the possibility of the City of Baldwin Park contributing additional money for the election, he informed me that he would schedule it as an item at a future City Council meeting.

Trustee Finlay: Without a 100% buy-in by the City Council and the City Manager, the election is not going to pass regardless of the campaign and she could not see spending more money and not winning.

District Manager West reported the SCI survey indicated that among the eligible voters the margin of approval was very small but did predict the election would pass.

Trustee Finlay: Recommended a committee be set up within the City of Baldwin Park that would be funded by donations from contractors within the City to conduct a promotional campaign. The City has to be willing to do something like that. She asked the District Manager whether the City Council had been polled.

District Manager West agreed with her promotional ideas but stated we have to be careful to respect the Brown Act. The Baldwin Park City Manager may have a feeling for the election results and suggest we approach the City Council and have an open meeting to ask for funds.

Trustee Templeman: Since one of the action items is to file with LAFCO and the City Council would have to vote on that, we would get an indication of how the Council would vote.

District Manager West: We have already communicated with LAFCO. We were encouraged to proceed and noted we are technically avoiding the law in contracting with them. We will have to correct this no matter what the consequences of the election.

Michael Jenkins:

At some point you're going to go to the City, whether it is a public or private meeting, and ask City Council if they are willing to join us and apply to LAFCO for an annexation and would they support us financially. Is the entire City Council going to commit to this election?

They are spending City money now on a contract with the District which they cannot recover from their residents unless they impose a tax, which they won't likely do. So in the long term, the District would save them money. They no longer have to spend money out the City's General Fund.

Trustee Finlay: What do they spend with us yearly?

District Manager West: We have a Time and Materials contract which is about \$25,000 to \$30,000 a year. The actual revenue to the District annually would be about \$125,000. Previously they were paying us what the assessment would generate if they were part of the District. Their one year contract was up June 30, 2010.

Trustee Finlay: Steve should ask the City Manager the date of the next City Council meeting and ask to be placed on the agenda with as many of the Trustees wishing to attend.

District Manager West: The Board President should attend and any other Trustee willing to go. The more Trustees who attend the better the impact. The staff will attend.

Trustee Templeman: Will this be posted as a joint meeting, because otherwise we shouldn't have a quorum?

Michael Jenkins: It is not a joint meeting as long as they are meeting.

Trustee Sanderson: We need to make sure when it is presented to them we are clear that they are honest with their public. We should explain that they are now paying for services from the General Fund. They need to know how that process works.

Trustee Barakat: Do they really have a choice to not become part of the District or not to contract our services?

District Manager West: Yes

Trustee Barakat: What does this Sphere of Influence (SOI) provide? Doesn't this give us some authority?

District Manager West: It's a LAFCO matter. In the process of creating the District, Baldwin Park and South Pasadena chose not to join and are not within any sphere. We understand that at one time both cities were thought to be within the SOI, but an investigation by LAFCO concluded that is incorrect.

Staff proposes to add Baldwin Park and South Pasadena to our SOI. South Pasadena has called asking about services. He explained that once they decide what they wanted he would bring the matter before the Board. Previously they paid us equal to what their City would have provided if they were part of the District, but once evidence of WNV decreased they dropped the contract.

Michael Jenkins: Clearly you don't want to spend District funds unless you're sure it will pass, but on the other hand there are advantages in terms of revenue received. Consider driving a hard bargain with the City. In the end, the District would net increased revenue to offset the cost of the election. So it's to our advantage and to the City to being annexed. With advantage of having both cities (Baldwin Park and South Pasadena) in the District could warrant expenditure of the District funds to conduct the elections.

Trustee Finlay: She agreed with Mike Jenkins but stated we would want to be sure there's a reasonable chance it will pass.

Trustee Kirby: It's very doubtful it will pass. We need to take the political and economic situation into account as well. If we cannot get the City Council on board and supportive, there is no chance it'll pass.

District Manager West agreed that is the most critical point, and thinks a discussion with them about supporting the election and providing more money so that the risk is economically equal would be the best course of action.

Trustee Barakat: Maybe we should focus our energy and work with LAFCO to get Baldwin Park into our SOI so we have some clout. Doesn't that give us an upper hand?

District Manager West stated that in prior years Baldwin Park and South Pasadena were both

looking for the least expensive answer for services. They actually solicited Greater Los Angeles County Vector Control District.

If the Board decides not to go ahead with the election, he would still recommend we apply to LAFCO regarding the District's Sphere of Influence.

Trustee Holloway: If we choose not to go forward with the election or if we do go forward and the election does not pass and they continue to want services, at what level would we be charging them?

District Manager West: It would be up to Board to decide. Baldwin Park might ask for a Time and Materials contract and the Board would have to decide whether to offer that contract or the equal revenue for members.

President Sham requested District Manager to follow thru with contacting the Baldwin Park City Manager regarding the City increased funding for the election.

**8. See above conversation.**

**9. Request by Trustee Finlay to Increase the Number of Trustees on the Personnel Committee to 7-9 members (Continued from the May 14, 2010 Board meeting)**

District Manager West stated Trustee Finlay had earlier requested the Board look at increasing the number of members on the Personnel Committee stating her concern was that at times only four members of the Committee are in attendance and important recommendations are being made to the Board without sufficient participating Trustees. She explained that with the eventuality of the District Manager's retirement and other matters she thinks it is important we have more than 4-5 people considering the possible issues. Her recollection is that the Personnel Committee has never been this small before.

Trustee Templeman agreed this is an important committee, and there should be nine members with important work ahead. He pointed out that a larger number of members could help the Committee make upcoming decisions such as medical benefits for retired employees.

Steven Sham stated he understood these points but there is the potential problem increasing the number of members of that Committee such that when there would be a joint committee meeting, they would constitute a quorum of the Board.

District Manager West stated that the Board previously approved a resolution of six members per committee to avoid that possibility of a quorum of the Board when there are joint committee meetings. When two committees meet and they constitute a quorum of the Board, staff is obligated to notice a Board meeting which means that all Trustees can attend and participate. This is a value judgment for the Board.

Trustee Templeman: He only recalls a few times when that occurred. He does not think that element of the system is more important than having a larger Personnel Committee. He thinks the Personnel Committee is more important than the logistics of a joint meeting.

District Manager West stated that with that understanding he will prepare for the next meeting a

Resolution to change the Personnel Committee membership from six to nine members.

President Sham stressed that if the Committee is increased to nine members to be sure the additional members are committed to attend.

Trustee Finlay agreed and emphasized that District Manager West is the appointing individual and he should screen potential members asking if they can attend and stay beyond 8:00 am as may be necessary.

Trustee Templeman added that some of the upcoming issues may require meetings other than after the regular Board meeting or at another time other than 8:00 am.

Trustee Bruesch pointed out that the issues presented to the Personnel Committee can be very time consuming.

A motion by Trustee Myers to have District Manager West return to the Board with a resolution to increase the number of the members of the Personnel Committee to nine was seconded and unanimously approved.

#### **10. California Special Districts Association 2010 Board Elections**

District Manager West reported that none of the candidates for the California Special Districts Association 2010 Board of Directors are on this District's Board.

Trustee Finlay commented that since no one on this Board was familiar with the candidates, the Board should pass on making a selection. All agreed.

#### **11. District Administration**

##### **A. Report on Vehicle Sales**

District Manager West reported a total of \$7,800 received from the sale of District vehicles.

#### **12. Disease Surveillance**

Assistant Manager Fujioka reported that West Nile virus is fairly quiet for this time of the year. The District reported two positive crows from Glendora and Covina. There were no mosquitoes, no humans, and no chickens reported.

Two households in the City of Duarte reported Myxomatosis, a disease of domestic rabbits. Myxomatosis does not kill wild rabbits but wild rabbits are a reservoir. Myxomatosis is caused by a myxoma virus which is in the same family as the virus that causes small pox. It does not harm humans at all but is almost 100% lethal to pet rabbits. All domestic rabbits originate from a common genus which is extremely susceptible to the virus. These outbreaks occur from time to time, largely on the northern coast of California. The virus is potentially transmitted by insects that bite mammals such as fleas, mosquitoes, black flies, biting midges, deer flies, stable flies. The virus does not multiple in the insect itself but is mechanically transmitted to another rabbit by the mouth parts of an insect after it bites an infected animal.

We are in touch with the two households that had the fatalities and have set traps. Our technicians are currently looking for additional sources of mosquitoes. The houses are fairly close to San Gabriel River where we have trapped *Anopheles* mosquitoes may be involved in the transmission cycle. We will be treating the River again for black flies. Public Works is currently

draining Morris Dam to remove sediments from the fires so there is more water than usual coming down the River. Public Works will stop the water so we can get in to do control work.

An information sheet on Myxomatosis was provided.

**13. Trustee Reports**

Trustee Bruesch reported that in the last LAFCO election in which he was a candidate for a Seat he found out that mosquito districts are out numbered and never win a seat. He continued saying that LAFCO is an extremely powerful body within any county. People do not understand the power they have. He suggested that the next time there is an election the Board should scrutinize the candidates to make sure that our issues are brought up in LAFCO. He does not think we have an adequate voice.

Trustee Rothman commented that the Board just took a pass on CSDA election in Item 10 and by doing so it just shows our complete lack of interest in anything like that. It is going to be registered that this Board doesn't even participate in that. So how can we define someone who is a candidate or take us seriously?

Trustee Barakat thanked District Manager West for his letter addressing unemployment insurance the District possibly has to pay. How is that determined?

District Manager West commented it depends how many people leave the District and apply for unemployment benefits. The amount is a percentage of their salary over a certain period of time that's applied to the employment benefits. It is not fixed amount. We currently have six part time employees.

The reason the unemployment insurance is so high this year is because the old seasonals did not find new jobs. We do not expect this to happen next year as the quality of the new employees is much higher.

Trustee Barakat estimated that the maximum would be \$2400 if all of them collected unemployment benefits next year. If we switched over and there were no unemployment benefits the maximum they would all collect would be \$2400 and that beats \$61,000. Why leave ourselves open for that exposure?

District Manager West will check what the full application process involves.

**14. New Business**

None.

**15. Adjournment**

No motion to adjourn. The meeting was adjourned by President Sham at 8:11 a.m.