

**NOTICE OF SPECIAL MEETING  
OF THE  
SOUTH ORANGE COUNTY WASTEWATER AUTHORITY**

**PROJECT COMMITTEE NO. 15**

**Wednesday, September 27, 2017**

**5:00 p.m.**

NOTICE IS HEREBY GIVEN that a Special Meeting of the South Orange County Wastewater Authority (SOCWA) Project Committee No. 15 has called by the Chairman to be held on **Wednesday, September 27, 2017 at 5:00 p.m.** at the SOCWA Administrative Office located at 34156 Del Obispo Street, Dana Point, California.

*THE SOCWA MEETING ROOM IS WHEELCHAIR ACCESSIBLE. IF YOU REQUIRE ANY SPECIAL DISABILITY RELATED ACCOMMODATIONS (I.E., ACCESS TO AN AMPLIFIED SOUND SYSTEM, ETC.) PLEASE CONTACT THE SOUTH ORANGE COUNTY WASTEWATER AUTHORITY SECRETARY'S OFFICE AT (949) 234-5421 AT LEAST TWENTY-FOUR (24) HOURS PRIOR TO THE SCHEDULED MEETING. THIS AGENDA CAN BE OBTAINED IN ALTERNATE FORMAT UPON WRITTEN REQUEST TO THE SOUTH ORANGE COUNTY WASTEWATER AUTHORITY'S SECRETARY AT LEAST TWENTY-FOUR (24) HOURS PRIOR TO THE SCHEDULED MEETING.*

*AGENDA EXHIBITS AND OTHER WRITINGS THAT ARE DISCLOSABLE PUBLIC RECORDS DISTRIBUTED TO ALL, OR A MAJORITY OF, THE MEMBERS OF THE SOUTH ORANGE COUNTY WASTEWATER AUTHORITY PROJECT COMMITTEE NO. 15 IN CONNECTION WITH A MATTER SUBJECT TO DISCUSSION OR CONSIDERATION AT AN OPEN MEETING OF THE PROJECT COMMITTEE NO. 15 ARE AVAILABLE FOR PUBLIC INSPECTION IN THE AUTHORITY OFFICE, 34156 DEL OBISPO STREET, DANA POINT, CA ("AUTHORITY OFFICE"). IF SUCH WRITINGS ARE DISTRIBUTED TO MEMBERS OF THE PROJECT COMMITTEE NO. 15 LESS THAN TWENTY-FOUR (24) PRIOR TO THE MEETING, THEY WILL BE AVAILABLE IN THE RECEPTION AREA OF THE AUTHORITY OFFICE AT THE SAME TIME AS THEY ARE DISTRIBUTED TO THE PROJECT COMMITTEE NO. 15 MEMBERS, EXCEPT THAT, IF SUCH WRITINGS ARE DISTRIBUTED IMMEDIATELY PRIOR TO, OR DURING, THE MEETING, THEY WILL BE AVAILABLE IN THE PROJECT COMMITTEE NO. 15 MEETING ROOM.*

**AGENDA**

**1. Call Meeting to Order**

**2. Public Comments**

*THOSE WISHING TO ADDRESS THE PROJECT COMMITTEE NO. 15 ON ANY ITEM LISTED ON THE AGENDA SHOULD SUBMIT A "REQUEST TO BE HEARD" FORM TO THE CLERK OF THE BOARD BEFORE THE PRESIDING OFFICER ANNOUNCES THAT AGENDA ITEM. YOUR NAME WILL BE CALLED TO SPEAK AT THAT TIME.*

**3. Open Session**

- Chair Comments
- Committee Member Comments
- Approval of Prior Project Committee No. 15 Meeting Minutes

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**4. Closed Session**

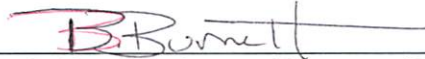
A Closed Session will be conducted for the following matter:

Existing Litigation per paragraph (1) of subdivision (d) of Government Code Section 54956.9, *Case of SOCWA, et al. v. Moulton Niguel Water District*  
Case number 30-2017-00923143-CU-BC-CJC.

I hereby certify that the foregoing Notice was personally emailed or mailed to each member of the SOCWA Project Committee No. 15 at least 24 hours prior to the scheduled time of the Special Meeting referred to above.

I hereby certify that the foregoing Notice was posted at least 24 hours prior to the time of the above-referenced Project Committee No. 15 at the usual agenda posting location of the South Orange County Wastewater Authority and at [www.socwa.com](http://www.socwa.com).

Dated this 25<sup>th</sup> day of September 2017.



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Betty C. Burnett, General Manager/Secretary  
SOUTH ORANGE COUNTY WASTEWATER AUTHORITY

**REVISED** MINUTES OF SPECIAL  
MEETING OF THE  
SOUTH ORANGE COUNTY WASTEWATER AUTHORITY

Project Committee No.15

May 12, 2017

The Special Meeting of the South Orange County Wastewater Authority (SOCWA) Project Committee No. 15 was held on Friday, May 12, 2017, at 3:00 p.m. at SOCWA's Administrative Offices located at 34156 Del Obispo Street, Dana Point, California. The following members of Project Committee No. 15 were present:

JOHN PIETIG	City of Laguna Beach
JOONE LOPEZ	Moulton Niguel Water District
ANDY BRUNHART	South Coast Water District
MIKE DUNBAR	Emerald Bay Service District

Staff present:

BETTY BURNETT	General Manager
TERI NOSON	Executive Assistant/Clerk of the Board

Also present:

JEREMY JUNGREIS	Rutan & Tucker
ART KIDMAN	Kidman Law
ALLISON BURNS	Stradling, Yocca, Carlson & Rauth
PETER WHITTINGHAM	Curt Pringle & Associates
ERIC WEIGAND	Senator Patricia Bates
DON FROELICH	Moulton Niguel Water District
ROGER FAUBEL	Faubel Public Affairs
JAKE VOLLEBREGT	Moulton Niguel Water District
RUBEN DURAN	Moulton Niguel Water District
SHAUN PELLETER	Aliso Viejo
JOHN UHRICH	Moulton Niguel Water District
JEFF DUNN	Moulton Niguel Water District
DON SEDGWICK	Mayor- City Laguna Hills
ANTHONY KOO	County of Orange - Auditor Controller
ERIC WOOLERY	County of Orange - Auditor Controller
ROBERT L. BROWN	Citizen - Moulton Niguel Water District
SHARON CAMPBELL	Assemblyman Brough
DENNIS WILBERG	City of Mission Viejo
KATHYN FRESHLEY	Laguna Woods Village
ELAIN GENNAWEY	City of Laguna Niguel

Chairperson Dunbar called the meeting to order at 3:03 p.m. and welcomed everyone present.

Open Session

Public Comments

Public comments were received by Eric Woolery, Don Sedgwick and Robert L. Brown.

ACTION TAKEN

No action taken.

Approval of Minutes

Director Lopez noted for the record that the submitted minutes for approval indicate Moulton Niguel Water District (MNWD) as absent from the meeting and further stated that there was a discussion verbally and in writing about not consulting MNWD prior to scheduling all of the meetings that is outlined in the agenda. Director Lopez requested that there be a footnote added to all of the current submitted meeting minutes stating that MNWD was not notified and was not able to be present at the meetings, and that such a footnote should be added for the minutes of the May 12, 2017, Project Committee No. 15 meeting. Director Lopez further noted that if there is a Project Committee No. 15 meeting, MNWD would want to attend to understand "what is going on" and requested that all the minutes reflect Director Lopez's request. An open discussion ensued.

Chairperson Dunbar noted that Mr. Collings did attend the April 14, 2017, Project Committee No. 15 meeting. Director Lopez requested that her comments be added to the April 14, 2017, minutes noting that MNWD had to move their schedules to accommodate attendance of the meeting. An open discussion ensued.

Mr. Jungreis inquired if Director Lopez was making a motion to amend the submitted minutes. Director Lopez confirmed that her comments for the record were submitted for a motion to amend the submitted minutes for Project Committee No. 15 approval. An open discussion ensued.

Director Pietig reported that some of the meetings were scheduled on short notice due to actions by MNWD, and stated that MNWD had some responsibility for the short meeting notice situation. Director Pietig suggested that the notation to the minutes state MNWD had concerns regarding timeliness of meetings and requested notification in advance as much as possible in the future. An open discussion ensued.

Director Pietig reported that there were instances where Project Committee No. 15 members, Emerald Bay Service District, City of Laguna Beach, and South Coast Water District, have had to meet with legal counsel as a result of MNWD's actions. All of the meetings have had an open session as required by the Brown Act and adjourned to closed session. MNWD is welcome to attend open sessions, and they were notified of those meetings. MNWD's actions were the cause of the need to schedule meetings. Director Pietig stated that the other members of PC 15 look forward to coordinating Project Committee No. 15 meetings in a collaborative manner going forward. There were very specific reasons for the Project Committee No. 15 meetings to be scheduled in the manner that they were. An open discussion ensued.

Mr. Jungreis reported that there was not a second motion to Director Lopez's motion to amend the minutes, and it failed for lack of a second.

ACTION TAKEN

Motion was made by Director Pietig and seconded by Director Brunhart to approve the Project Committee No. 15 minutes for April 5, 2017, April 14, 2017, April 28, 2017, April 26, 2017 and May 4, 2017 as submitted.

Motion carried: Aye 3; Nay 1; Abstain 0; Absent 0

Director Pietig	Aye
Director Dunbar	Aye
Director Brunhart	Aye
Director Lopez	Nay

Moulton Niguel Water District Payment of Due and Owing Invoices

Chairperson Dunbar provided brief comments regarding Project Committee No. 15 meeting comments/discussion protocol and welcomed opening comments from Project Committee No. 15 members.

Director Pietig, Director Lopez, Director Brunhart, and Chairperson Dunbar provided opening comments regarding the MNWD payments due and owing invoices.

Chairperson Dunbar requested that Director Lopez provide the full check of \$755,871 without any conditions, to Project Committee No. 15 at which time the Project Committee No. 15 members would proceed to the next steps of negotiations.

Director Lopez provided the check in the amount of \$755,871 accompanied by a letter from MNWD, which is herewith attached to these minutes. And open discussion ensued.

Chairperson Dunbar adjourned the Project Committee No. 15 meeting for recess at 3:43 p.m.

The Board meeting reconvened at 3:51 p.m.

Chairperson Dunbar directed the SOCWA General Manager to provide the requested accounting that is available to MNWD, and referenced the MNWD provided letter and reported that conditions were not acceptable and did not accept the MNWD provided check stating that preconditions were unacceptable.

Chairperson Dunbar noted for the record that Project Committee No. 15 is not accepting any conditions on the payment and should MNWD insist that payment be conditional Chairperson Dunbar requested that MNWD come and retrieve the check. Chairperson Dunbar directed that the minutes reflect that Project Committee No. 15 took custody of the check after declining to withdraw its conditions on payment.

Chairperson Dunbar further noted for the record that acceptance of the check is not acceptance of any condition that MNWD has attempted to impose. Project Committee No. 15 partners will discuss the next steps of negotiating potential divestment only after MNWD makes unconditional payment of past due amounts owed to South Orange County Wastewater Authority.

Director Lopez requested clarity regarding 'unconditional' and 'accounting that is available'. Chairperson Dunbar stated that the accounting that is available will be provided to MNWD and restated that the General Manager has been directed to provide the available requested accounting information.

Mr. Jungreis reported that the response to the MNWD letter was not agendized and a detailed discussion about data would have to be on the agenda. Mr. Jungreis stated that the Chairperson has made a commitment to MNWD to provide available SOCWA requested accounting data to address the concerns in the letter provided today. Any further discussion of data sought by MNWD would need to be agendized for a later meeting.

Director Lopez expressed concerns of receiving accounting information from SOCWA, and Chairperson Dunbar stated that the information would be provided to MNWD.

Chairperson Dunbar provided clarification on the need for unconditional payment to SOCWA referencing the letter submitted by MNWD. Chairperson Dunbar stated that the last sentence of the first paragraph of MNWD's letter was a condition and could not be accepted as condition of payment. The second paragraph of MNWD's letter also imposed a condition on payment. Chair Dunbar stated that should MNWD want to remove those two (2) conditions on payment, SOCWA would accept the check. Should MNWD not want to remove the two (2) conditions, then they were to retrieve the check. An open discussion ensued after which MNWD voluntarily retrieved the check.

#### ACTION TAKEN

Motion was made by Director Pietig and seconded by Director Dunbar that Project Committee No. 15 was unable to accept the check as currently provided because it was not in compliance with the existing legal agreements between the agencies. Chair Dunbar expressed willingness to begin negotiations with Moulton Niguel Water District regarding potential divestiture of MNWD's obligations under the agreements regarding the Coastal Treatment Plant once MNWD's obligations to PC 15 were unconditionally paid in full.

Motion carried:           Aye 3; Nay 1; Abstain 0; Absent 0

Director Pietig	Aye
Director Dunbar	Aye
Director Brunhart	Aye
Director Lopez	Nay

Director Lopez inquired if the check was accepted by Project Committee No. 15.

Mr. Jungreis reported that the approved motion was not to accept the check with the conditions on payment imposed by MNWD, and should MNWD want to withdraw the conditions a different motion could be submitted.

#### Public Comments

Upon the request of MNWD, additional public comments were received from Dennis Wilberg and Rod Foster.

Project Committee No. 15 went into Closed Session at 4:14p.m.

Closed Session

Closed Session was conducted under Government Code Section 54956.9 for the following purpose:

POTENTIAL LITIGATION IN 1 MATTER

Pursuant to Government Code Section 54956.9 a Closed Session was held to confer with legal counsel regarding potential litigation in 1 matter.

Project Committee No. 15 reconvened to open session at 5:39p.m.

Report Out of Closed Session

Director Dunbar reported that Project Committee No. 15 authorized the initiation of litigation.

Adjournment

There being no further business, Director Dunbar adjourned the meeting at 5:40p.m.

I HEREBY CERTIFY that the foregoing Minutes are a true and accurate copy of the Minutes of the Special Meeting of the South Orange County Wastewater Authority Project Committee No. 15 of May 12, 2017, and approved by the Board of Directors of the South Orange County Wastewater Authority.

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Betty C. Burnett, General Manager / Secretary  
SOUTH ORANGE COUNTY WASTEWATER AUTHORITY

September 26, 2017

Project Committee 15  
c/o Mike Dunbar, Chair  
South Orange County Wastewater Authority  
34156 Del Obispo  
Dana Point, CA 92629

Re: Objection to Draft Minutes from May 12, 2017 PC 15 Board of Directors Meeting

Dear Chair Dunbar,

We appreciate Betty's e-mail last week, notifying us of this Committee's next meeting. We renew our request to be afforded the same professional courtesy provided to other Committee members and Board representatives in coordinating Committee and Board meetings. After reviewing the draft minutes of the May 12, 2017 Project Committee 15 Special Meeting, Moulton Niguel Water District ("MNWD") requests that the following edits be made to the draft meeting minutes prior to approval in order to ensure that the public is accurately informed of the meeting's events:

- 1) A copy of MNWD's \$775,870 check and letter of August 29, 2016 are omitted from the transmittal letter attached to the minutes. These enclosures should be included to ensure the record of MNWD's submission is complete.
- 2) The word "voluntarily" should be removed from the last line of the fourth paragraph on page four of the minutes. The term "voluntarily" does not accurately reflect the events as they transpired. The Committee voted to reject MNWD's check, after which the check was returned to MNWD's representative.
- 3) Councilmember Elaine Gennaway's name should be corrected throughout the minutes.
- 4) The "Public Comments" section on page 4 should be corrected to remove Elaine Gennaway's name and replace it with Rod Foster. Elaine Gennaway, City Councilmember for Laguna Niguel, did not speak during public comment. Rod Foster, City Manager of Laguna Niguel, spoke during public comment after Dennis Wilberg.

MNWD respectfully requests that the above edits be made to the minutes prior to its passage so the record of the meeting accurately reflects the events as they transpired.





MNWD received these minutes, for the first time, one day before they were scheduled for consideration on August 31st. This is contrary to statements provided by the SOCWA General Manager, Betty Burnett, on September 14<sup>th</sup> and a letter received from PC 15 legal counsel on September 24<sup>th</sup>. The other Project Committee 15 members had the opportunity to review these minutes much earlier than MNWD, as indicated by the comments of Director Brunhart at the Committee's meeting on July 13, 2017. On September 14, 2017, the representatives from South Coast Water District and the City of Laguna Beach, along with yourself, were reluctant to allow MNWD more time to review the meeting minutes or to allow a MNWD representative to be present to act on the item. We appreciate your decision to do so. It was noted prior to the meeting that MNWD representatives were not consulted about our availability to attend the meeting to take action on the item, and unfortunately, we were not able to attend. It is very concerning that the Project Committee 15 representatives and SOCWA staff continue to schedule items for action by the committee without checking with ALL members of the committee to confirm availability.

On September 14, 2017, Betty Burnett noted that these minutes were provided with previous PC 15 agenda packages. MNWD has reviewed the agenda materials provided for the July 13<sup>th</sup> PC 15 meeting, and minutes of previous meetings were not included with the agendas that were sent out. MNWD has reviewed the materials provided on the website, and again, there were not any minutes available for review. This was the basis for my verbal request on August 31<sup>st</sup> and written request on September 12<sup>th</sup>, so that MNWD could review versions of the minutes that had previously been made available to all members of Project Committee 15 except MNWD. MNWD ultimately received several versions of minutes from PC 15 legal counsel on September 24<sup>th</sup>. It is not clear how the previous versions of the minutes were made available to other PC 15 Board Members, and not the MNWD representatives. Again, we will restate our request that MNWD representatives be afforded the same professional courtesy provided to other Committee members in scheduling meetings and making materials available for review.

Sincerely,



Matt Collings  
Assistant General Manager  
Moulton Niguel Water District

