BURBANK SANITARY DISTRICT **MINUTES OF REGULAR MEETING**
BOARD OF TRUSTEES **August 21, 2008**

1. CALL TO ORDER

Call to Order

President Pro Tem Yoder called the meeting to order at 7:35pm.

2. ROLL CALL AND APPROVAL OF AGENDA

Roll Call and Approval of Agenda

Directors Present: Michael Yoder, John Marke, Soren Spies, Bruce Smith,
Directors Absent: Lisa Post (called)
Counsel Present: None
Staff: Donald Toy, Mark Thomas & Company, Inc.

Motion: To approve the agenda.
Move: Spies **Second:** Smith
Board vote: **Ayes,** Yoder, Marke, Spies, Smith **Noes,** None
Absent, Post

3. PUBLIC COMMENTARY

Public Commentary

A. Visitor Commentary – None.
B. Agency Representatives – Staff reported the new checking account was active. Staff suggested that the two remaining directors who did not have direct deposit, Spies and Yoder, should forward their information so that staff could set it up. Staff reported that direct deposit makes it easier for the District to track checking account funds.
C. Board Commentary – Director Spies stated that he had a chance to weigh the options on reducing the number of regular meetings from two to one per month and had determined that it may be beneficial to the District to reduce the current schedule to once monthly.

4. CONSENT CALENDAR

Consent Calendar

A. Approval of Minutes. Board action required: Approve Minutes from the Meeting of 08/07/08.

Motion: To approve the minutes from the 08/07/08.
Move: Smith **Second:** Spies
Board vote: **Ayes,** Yoder, Spies, Smith **Noes,** None
Absent, Post
Abstain, Marke

5. WARRANTS

Warrants

A. Approval of Warrants.

1. Able Underground Construction, Inc. FY 2007-08 CIP Sewer Repairs.
2. Enviro-Commercial Sweeping, Inc. District Street Sweeping Services.
3. Santa Clara County Integrated Waste Management. FY 2007-08 Q4 Payment.
4. Mark Thomas & Company, Inc. District Management Services.
5. Meyers Nave. District Legal Services.

5. WARRANTS (continued)

Warrants (continued)

Motion: To approve five warrants as listed.
Move: Marke **Second:** Smith
Board vote: **Ayes,** Yoder, Marke, Spies, Smith **Noes,** None
Absent, Post

6. OLD BUSINESS

Old Business

A. City of San Jose Agreement. Staff reviewed a memorandum from District counsel that discussed the options and legal statutes pertaining to the sewer usage agreement between the City of San Jose and the District. Staff reported that no official invoice or request for payment had come from the City, but it was anticipated that the request would be forthcoming. Based on the recommendations from counsel, it was suggested to the Board that a portion of the requested payment amount be paid to the City as a gesture indicating the District's intentions to work with the City in drafting a new agreement. Staff suggested that a compromise in the payment amount be presented to the City. The statute of limitations as described by counsel dictated payment as little as two years worth of back fees and the City is seeking ten and a half years. Staff suggested that the District propose a payment of the current year and prior three years of back fees. This is consistent with the District's policy for collection/payment of overdue sewer service charge fees to residents of the District. The Board agreed that this was an acceptable compromise and directed staff to present the City with the proposal to pay the current year and prior three years of back fees, per the terms of the expired agreement.

B. Annexation of Burbank No. 40. Staff reported that another annexation proposal had been received by the District in addition to the first annexation request (Burbank No. 40). The Buena Vista Avenue portion of the District will be annexed to the City of San Jose via the streamlined annexation process put in place by LAFCO several years ago. It is anticipated that the annexation of this area will be completed within a year. Staff reported that the annexation will result in the loss of approximately twenty-two properties and $26,000 in annual sewer service charge revenue. Additionally, the portions of mainline and lateral sewers would become the responsibility of the City. Staff reported that the reduction of parcels in the District should also result in lower costs paid the treatment plant for annual fees. Because no flow studies have been conducted in the District for many years, the same flow figures have been reported to the treatment plant and the annual fees have been based on those flow figures. Staff recommended that the Board commission a flow study to determine the current flow amount generated by the District so that accurate data could be reported to the plant. The Board directed staff to prepare a proposal for a flow monitoring report and study.

C. BSD Audit Proposals. Staff reported that three proposals had been received for audit services related to the audit reports for FY 2008-10. Staff reviewed the proposed fees from all three firms and reiterated that the accepted practice was to change audit firms approximately every three years.

6. OLD BUSINESS (continued)

Old Business (continued)

C. The low bidder is Patel & Associates. The Board directed staff to check their references and report the findings at the next meeting.

D. BSD Meeting Schedule. Staff reported that reducing the number of regular meetings to once per month would benefit the District by reducing the amount of staff time utilized to prepare the agendas, Board packets, and meeting minutes. Director Spies stated that he believed a reduced meeting schedule would not impact the operations of the District and that the funds saved were worthwhile. Director Smith agreed and also noted that if there were important issues, the Board could call special meetings to accommodate those instances. The Board opted not to make a final decision until the next meeting when all of the directors were present to voice their opinions on the matter.

7. SUBCOMMITTEE REPORTS- None.

Subcommittee Reports

8. ADJOURNMENT: Next Regular Meeting: ***Thursday, September 4, 2008***

Adjournment

Motion: To adjourn meeting.
Move: Matke **Second:** Smith
Board vote: **Ayes,** Yoder, Spies, Marke, Smith **Noes,** None
Absent, Post

Approved: September 4, 2008

Respectfully Submitted,
Mark Thomas & Company, Inc.

District Manager – Engineer
Donald Toy
Administrator

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Lisa Post, President