

MINUTES OF REGULAR MEETING – AUGUST 12, 2013

The regular meeting of the Board of Directors of the Irvine Ranch Water District (IRWD) was called to order at 5:00 p.m. by President Reinhart on August 12, 2013 in the District office, 15600 Sand Canyon Avenue, Irvine, California.

Directors Present: Withers, Matheis, LaMar and Reinhart

Directors Absent: Swan

Also Present: General Manager Cook, Executive Director of Finance Clary, Executive Director of Engineering Burton, Executive Director of Operations Shields, Director of Public Affairs Beeman, Executive Director of Water Policy Heiertz, Director of Risk Management and Treasury Jacobson, Director of Water Resources Weghorst, Legal Counsel Arneson, Secretary Bonkowski, Mr. Christopher Smithson, Ms. Christine Compton, Mr. Lars Oldewage, Mr. Jim Reed, Mr. Bruce Newell and other members of the public and staff.

WRITTEN COMMUNICATION: None.

ORAL COMMUNICATION

Mrs. Joan Irvine Smith's assistant addressed the Board of Directors with respect to the Dyer Road wellfield. She said it was her understanding that currently wells 1, 4, 6, 7, C-8, C-9, 10, 12, 14, 15, 17 and 18 will operate in accordance with the District's annual pumping plan. Wells 2, 3, 5, 11, 13 and 16 will be off. This was confirmed by Mr. Cook, General Manager of the District.

With respect to the OCWD annexation of certain IRWD lands, on June 5, 2009, IRWD received a letter from OCWD noting that OCWD has completed the formal responses to comments they previously received on the draft program Environmental Impact Report. The letter further noted that with this task completed, OCWD has exercised its right to terminate the 2004 Memorandum of Understanding (MOU) regarding annexation. OCWD also indicated that due to the lack of progress on the annexation issue, the draft program Environmental Impact Report will not be completed. On June 8, 2009, OCWD completed the Long-Term Facilities Plan which was received and filed by the OCWD Board in July 2009. Staff has been coordinating with the City of Anaheim (Anaheim) and Yorba Linda Water District (YLWD) on their most recent annexation requests and has reinitiated the annexation process with OCWD. IRWD, YLWD and Anaheim have negotiated a joint MOU with OCWD to process and conduct environmental analysis of the annexation requests. The MOU was approved by the OCWD Board on July 21, 2010. This was confirmed by Mr. Cook.

With respect to the Groundwater Emergency Service Plan, IRWD has an agreement in place with various south Orange County water agencies, MWDOC and OCWD, to produce additional groundwater for use within IRWD and transfer imported water from IRWD to south Orange County in case of emergencies. IRWD has approved the operating agreement with certain south Orange County water agencies to fund the interconnection facilities needed to affect the emergency transfer of water. MWDOC and OCWD have also both approved the operating agreement. This was confirmed by Mr. Cook.

ITEMS RECEIVED TOO LATE TO BE AGENDIZED - None.

PUBLIC HEARINGS

SEWER TAXES IN THE NEWPORT NORTH SERVICE AREA

General Manager Cook reported that on June 24, 2013, the Board adopted Rates and Charges for Fiscal Year 2013-14 which included monthly sewer charges of \$18.40 for a residential single family home and \$13.80 per unit for multiple family dwelling units. The Newport North customers will have the same rate, but the method of collection differs in that they pay their sewer fees on an annual basis by means of the County tax rolls.

Mr. Cook said that by adoption of Resolution No. 1987-45, the Board of Directors elected to have sewer charges for certain parcels of land located in the Newport North area collected on the tax roll together with the District's general taxes. That resolution directs the filing of a report containing a description of such parcels and the corresponding charges for each fiscal year. Pursuant to the requirements of the Health and Safety Code of the State of California, a public hearing on the report is required.

President Reinhart said this was the time and place for a hearing on the sewer taxes in the Newport North area, and declared the hearing open. He asked the Secretary how the hearing was noticed.

Secretary Bonkowski reported that the report was filed with her on July 8, 2013 and the notice of the filing of the report and the time and place of this hearing was published in the Orange Coast Daily Pilot on July 27 and August 5, 2013. She said that a notice was also posted in the District office on July 8, 2013.

On MOTION by LaMar, seconded and unanimously carried, **THE AFFIDAVIT OF POSTING AND THE PROOF OF PUBLICATION PRESENTED BY THE SECRETARY WAS RECEIVED AND FILED.**

President Reinhart requested Legal Counsel Arneson to describe the nature of the proceedings.

Legal Counsel Arneson described the nature of the proceedings, saying that the purpose of the hearing was to provide an opportunity for all persons interested or the owner of any parcel within the area to present objections or protests to the report.

President Reinhart asked Secretary Bonkowski whether she had received any written communications concerning this matter, and she stated that she had not. President Reinhart asked if there was anyone present who wished to address the Board concerning the report and the proposed collection of sewer charges on the tax roll. There was no one present who wished to be heard. President Reinhart further inquired if there were any comments or questions from members of the Board of Directors. There were no comments from the Board.

On MOTION by Matheis, seconded and unanimously carried, THE HEARING WAS CLOSED, AND RESOLUTION NO. 2013-31 WAS ADOPTED BY TITLE AS FOLLOWS:

RESOLUTION NO. 2013-31

RESOLUTION OF THE BOARD OF DIRECTORS OF IRVINE
RANCH WATER DISTRICT ADOPTING REPORT OF SEWER
CHARGES TO BE COLLECTED ON THE TAX ROLL

REPORT ON WATER QUALITY RELATIVE TO PUBLIC HEALTH GOALS

General Manager Cook reported that the 2013 Report on Water Quality Relative to Public Health Goals is a triennial report required by the California Health and Safety Code summarizing constituents detected in the District's water supply at levels exceeding applicable Public Health Goals or Maximum Contaminant Level Goals during calendar years 2010, 2011 and 2012. Mr. Cook said that a public hearing regarding the report will be held at this evening's Board meeting to accept any public comments that may be provided regarding the report.

President Reinhart declared this to be the time and place for the hearing on the Report on Water Quality Relative to Public Health Goals, and declared the hearing open. He requested the Secretary to report the manner by which the Notice of Hearing was given.

Secretary Bonkowski said that the Notice of this hearing was published in the Orange County Register on August 5, 2013. A Notice was also posted in the District office on July 22, 2013. She presented an Affidavit of Posting and the Proof of Publication for the Board to receive and file.

On MOTION by Matheis, seconded and unanimously carried, THE AFFIDAVIT OF POSTING AND THE PROOF OF PUBLICATION PRESENTED BY THE SECRETARY WAS RECEIVED AND FILED.

President Matheis inquired of the Secretary whether there have been any written communications. Secretary Bonkowski said there were none.

President Reinhart asked legal counsel to describe the nature of the proceeding.

Legal Counsel Arneson described the nature of the proceedings, saying that the purpose of the hearing was to provide an opportunity for all persons interested to comment on the public health goals.

President Reinhart inquired if staff would like to give a report. There were no comments from staff.

President Reinhart inquired whether there is anyone present who wished to address the Board concerning the Report on Water Quality Relative to Public Health Goals. There were none.

He further inquired whether there are any comments or questions from members of the Board of Directors. In response to Director Withers' comment asking staff to communicate these results to customers, staff was asked to place the results on the website under *Liquid News*.

On MOTION by Matheis, seconded and unanimously carried, THE HEARING WAS CLOSED AND THE REPORT ON WATER QUALITY RELATIVE TO PUBLIC HEALTH GOALS WAS RECEIVED AND FILED.

CONSENT CALENDAR

On MOTION by Withers, seconded and unanimously carried, CONSENT CALENDAR ITEMS 5 THROUGH 10 WERE APPROVED AS FOLLOWS:

5. MINUTES OF REGULAR BOARD MEETING

Recommendation: That the minutes of the July 22, 2013 Regular Board meeting be approved as presented.

6. RATIFY/APPROVE BOARD OF DIRECTORS' ATTENDANCE AT MEETINGS AND EVENTS

Recommendation: That the Board ratify/approve the meetings and events for Steven LaMar, Mary Aileen Matheis, Peer Swan, Douglas Reinhart, and John Withers.

7. 2013 STATE LEGISLATIVE UPDATE

Recommendation: Receive and file.

8. APPROVAL OF FIRST SUPPLEMENTAL INDENTURE FOR 2009-A BONDS

Recommendation: That the Board approve the amended 2009-A Supplemental Indenture in substantially the form submitted and adopt the following resolution by title approving First Supplemental Indenture and certain other actions in connection with substitution of Remarketing Agent (Consolidated Series 2000-A).

RESOLUTION NO. 2013-32

RESOLUTION OF THE BOARD OF DIRECTORS OF
THE IRVINE RANCH WATER DISTRICT APPROVING
FIRST SUPPLEMENTAL INDENTURE AND CERTAIN OTHER
ACTIONS IN CONNECTION WITH SUBSTITUTION OF
REMARKETING AGENT (CONSOLIDATED SERIES 2009-A)

CONSENT CALENDAR (CONTINUED)

9. LONG-TERM FINANCE PLAN IMPROVEMENT DISTRICT CONSOLIDATIONS BUDGET ADDITION

Recommendation: That the Board approve the addition of projects 11742 (4710) and 21742 (4711) in the amounts of \$77,000 each to the FY 2013-14 Capital Budget, and approve Expenditure Authorizations for projects 11742 (4710) and 21742 (4711) in the amounts of \$77,000 each.

10. REVISIONS TO WATER BANKING PROGRAM CAPITAL BUDGET AND EXPENDITURE AUTHORIZATIONS

Recommendation: That the Board authorize the addition of project 11738 (4661) for Water Banking Planning to the FY 2013-14 Capital Budget in the amount of \$275,000; authorize an increase to the FY 2013-14 Capital Budget for project 11645 (3766) Stockdale West Ranch Joint Banking Project in the amount of \$2,750,000; approve Expenditure Authorizations for project 11596 (1338) in the amount of \$82,500 for the Water Banking Agreements; project 11645 (3766) in the amount of \$16,500 for the Stockdale West Ranch Joint Banking Project; and project 11738 (4661) in the amount of \$275,000 for Water Banking Planning.

ACTION CALENDAR

REVISED IRWD WATER RESOURCES FUNDING POLICY PRINCIPLES

Ms. Christine Compton reported that water resources infrastructure funding will continue to be a point of discussion within and around the State Capitol during the 2013-2014 legislative session and beyond, and since discussions concerning the 2014 bond and potential modifications are underway, staff has updated the IRWD Water Infrastructure Funding Policy Principles adopted by the Board on May 29, 2007 to reflect the current landscape.

Director LaMar reported that this item was reviewed and approved by the Water Resources Policy and Communications Committee on August 1, 2013. Following discussion, on MOTION by LaMar, seconded and unanimously carried, **THE BOARD APPROVED THE UPDATED IRWD WATER RESOURCES FUNDING POLICY PRINCIPLES.**

LETTER OF INTENT WITH SOLARCITY FOR JACKSON RANCH SOLAR PROJECT

Using a PowerPoint presentation Assistant Director of Water Resources Weghorst reported that on February 13, 2012, staff was authorized to investigate the feasibility of developing a solar power generating facility at the Jackson Ranch. Mr. Weghorst said that in August 2012, the results of the feasibility investigation were presented to the Technology Ad Hoc Committee and staff soon after issued a Request for Qualifications (RFQ) to identify potential solar developers for the project. He said that staff updated the Board in December 2012 on what was learned during the RFQ process and made recommendations related to pursuing a 3 MW solar photovoltaic (PV) project in partnership with SolarCity. He further said that in May 2013, staff

reviewed with the Water Banking Committee a draft Letter of Intent (LOI) with SolarCity that sets forth preliminary, indicative, and non-binding terms for IRWD and SolarCity to share in development costs and benefits of implementing a 3 MW solar PV project at IRWD's Jackson Ranch. SolarCity has completed both a financial and legal review of the LOI and the proposed project and in July 2013 provided an executed copy of the LOI for IRWD's consideration.

Mr. Weghorst provided a project overview noting that a 3 MW solar PV generating facility at IRWD's Jackson Ranch is estimated to require about 20 acres of land; two potential development sites are being considered; financial modeling by SolarCity indicates a 3 MW single-axis tracker facility is estimated to cost \$10.5 million to construct and would produce approximately 7,300,000 kWh per year of electricity; gross revenues before taxes are estimated to be approximately \$804,000 in the first year; it is envisioned that SolarCity would fund the construction of the project facilities and upon completion would likely sell the project to one of its banking partners; and SolarCity would maintain and operate the facility over the life of the project.

Mr. Weghorst said that IRWD would financially benefit from the proposed solar PV project through the lease of Jackson Ranch lands to SolarCity. The lease payments of \$1,000 per acre are expected to be a fixed cost per acre and would be negotiated prior to the execution of a project development agreement and would depend on the final terms of the Renewable Electric Market Adjusting Tariff (ReMAT) program and IRWD's level of participation in the project. He said that estimated costs for SolarCity prior to construction are estimated at \$122,900 while IRWD's additional costs for its share of environmental compliance work, permitting and PG&E design related studies, beyond the \$92,100 already spent on feasibility studies, are expected to be approximately \$100,000.

Director Reinhart said that this item was reviewed by the Water Banking Committee on July 23, 2013. In response to Director LaMar's comment relative to green house gas credits, Mr. Weghorst said that staff would investigate different tariffs in the future; however, only one Renewable Electric Market Adjusting Tariff program can be implemented. On MOTION by Reinhart, seconded and unanimously carried, **THE BOARD AUTHORIZED THE GENERAL MANAGER TO EXECUTE THE LETTER OF INTENT WITH SOLARCITY TO SHARE IN DEVELOPMENT COSTS FOR A 3 MW SOLAR GENERATING FACILITY AT THE JACKSON RANCH; AUTHORIZED AN INCREASE TO THE FY 2013-14 CAPITAL BUDGET FOR PROJECT 11637 (3667) FOR \$61,100 FROM \$214,100 TO \$275,200 FOR THE JACKSON RANCH SOLAR PROJECT; AND APPROVED AN EXPENDITURE AUTHORIZATION FOR PROJECT 11637 (3667) FOR \$149,100.**

GENERAL MANAGER'S REPORT

General Manager Cook reported on an upcoming meeting this Wednesday with the Army Corps of Engineers relative to creative alternative financing for the Syphon Reservoir. He said he will report back to the Board following the meeting.

DIRECTORS' COMMENTS

Director Matheis said she was reflecting on the 2013 political scene and noted a discussion with Congressman Issa from the Oversight Committee. She also noted that she attended a meeting relative to Citizens against Lawsuit abuse which was presented by Assemblyman Travis Allen and asked staff to contact him for a visit to the District. She further noted the upcoming Urban Water Institute conference this week that she will be attending with Directors Reinhart and LaMar.

Director Withers reported on tomorrow's OCBC Infrastructure Committee meeting and said that Wednesday he will be attending LAFCO's strategic planning workshop.

Director LaMar reported that he attended MWDOC's Public Affairs and Legislative Committee meeting where they recommended the ACWA Region 10 recommendations as provided by its Nominating Committee; a draft response to the Grand Jury; and the formation of an Ad Hoc Committee to hire a new General Manager.

Director Reinhart reported on his attendance at WACO and MWDOC Board meetings. He also commented on ocean outfall projects which he said may make sense in the future.

CLOSED SESSION

President Reinhart said the following Closed Sessions would be held this evening:

- 1) Conference relative to anticipated litigation - Government Code Section 54956.9(d)(2) - significant exposure to litigation - 26 cases - 13 claims filed under the Tort Claims Act, on file with the District, and 7 occurrences as follows: 3 potential claimants at 10632 N. Meads, Orange, CA; 10 potential claimants at 166, 174, and 186 Sydney Bay, 70 Twilight Bluff, 2 and 24 Tideline Bluff, and 18 Baffin Bay, Crystal Cove, CA, 2596 and 2620 Thorman Place, and 10436 Vernon, Tustin, CA;
- 2) Conference with legal counsel relative to existing litigation - Government Code Section 54956.9(d)(1) -State of California, et al., ex rel. Hendrix v. J-M Manufacturing Company, Inc., et al.;
- 3) Conference with legal counsel relative to anticipated litigation pursuant to Government Code Section 54956.9(d)(4) – initiation of litigation (one potential case); and
- 4) Conference with legal counsel relative to anticipated litigation - Government Code Section 54956.9(d)(2) - significant exposure to litigation (two potential cases).

OPEN SESSION

The meeting was reconvened with LaMar, Matheis, Reinhart, and Withers present. President Reinhart said that no action was reported from the Closed Session.

ADJOURNMENT

There being no further business, President Reinhart adjourned the meeting.

APPROVED and SIGNED this 26th day of August, 2013.

President, IRVINE RANCH WATER DISTRICT

Secretary IRVINE RANCH WATER DISTRICT

APPROVED AS TO FORM:

Legal Counsel - Bowie, Arneson, Wiles & Giannone