

MINUTES OF REGULAR MEETING – April 13, 2020

The regular meeting of the Board of Directors of the Irvine Ranch Water District (IRWD) was called to order at 5:05 p.m. by President Matheis on April 13, 2020 via teleconference pursuant to the provisions of the Governor’s Executive Orders N-25-20 and N-29-20 due to COVID-19. Members of the public did not attend this meeting in person.

Directors Present: Reinhart, Swan, Withers, LaMar and Matheis.

Directors Absent: None.

Also Present: General Manager Cook, Executive Director of Technical Services Burton, Executive Director of Water Policy Weghorst, Executive Director of Finance and Administration Clary, Director of Treasury and Risk Management Jacobson, Executive Director of Operations Chambers, General Counsel Collins, Director of Public Affairs Beeman, Director of Human Resources Roney, Director of Water Quality and Regulatory Compliance Colston, Director of Recycling Operations Zepeda, Director of Maintenance Mykitta, Director of Water Operations Roberts, Government Relations Officer/Deputy General Counsel Compton, Secretary Bonkowski, and members of staff and the public.

WRITTEN AND ORAL COMMUNICATIONS: None.

ITEMS TOO LATE TO BE AGENDIZED: None.

CONSENT CALENDAR

Director Reinhart asked that Item No. 9, FEDERAL EMERGENCY MANAGEMENT AGENCY ASSISTANCE FOR DISTRICT-WIDE EMERGENCY EVENTS, be moved to the Action Calendar for discussion. There being no objections, this item was moved accordingly. On MOTION by Withers, seconded by Swan and unanimously carried on a roll call vote (5-0) Withers, Matheis, Reinhart, Swan, and LaMar voting aye, and 0 noes, CONSENT CALENDAR ITEMS 3 THROUGH 8 AND 10 THROUGH 12 WERE APPROVED AS FOLLOWS:

3. RATIFY/APPROVE BOARD OF DIRECTORS’ ATTENDANCE AT MEETINGS AND EVENTS

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

4. BOARD MEETING MINUTES

Recommendation: That the minutes of the March 9, 2020 Regular Board meeting be approved as presented.

CONSENT CALENDAR (CONTINUED)

5. 2020 LEGISLATIVE AND REGULATORY UPDATE

Recommendation: That the Board adopt a “support” position on AB 2095 (Cooper) and ACR 179 (Voepel), and a “support if amended” position on AB 3256 (Garcia).

6. RESOLUTION OF COMMENDATION FOR VAN CADY

Recommendation: That the Board adopt the following resolution by title:

RESOLUTION NO. 2020-6

RESOLUTION OF THE BOARD OF DIRECTORS
OF IRVINE RANCH WATER DISTRICT COMMENDING
VAN CADY FOR HER DEDICATED AND
LOYAL SERVICE TO THE DISTRICT

7. RESOLUTION OF COMMENDATION FOR TOM ROBERTS

Recommendation: That the Board adopt the following resolution by title:

RESOLUTION NO. 2020-7

RESOLUTION OF THE BOARD OF DIRECTORS
OF IRVINE RANCH WATER DISTRICT COMMENDING
THOMAS “TOM” ROBERTS FOR HIS DEDICATED AND
LOYAL SERVICE TO THE DISTRICT

8. 2020 INDEX TENDER NOTES AMENDMENT

Recommendation: That the Board approve the 2020 Index Tender Notes Second Supplemental Indentures of Trust and adopt the following resolution by title:

RESOLUTION NO. 2020-8

RESOLUTION OF THE BOARD OF DIRECTORS OF
THE IRVINE RANCH WATER DISTRICT APPROVING
SECOND SUPPLEMENTAL INDENTURES OF TRUST
(REFUNDING SERIES 2011A-1 AND REFUNDING SERIES 2011A-2)

10. LADD CANYON ROAD DOMESTIC WATER PIPELINE IMPROVEMENTS
FINAL ACCEPTANCE

Recommendation: That the Board accept construction of the Ladd Canyon Road Domestic Water Pipeline Improvements, Project 10102, authorize the General Manager to file a Notice of Completion, and authorize the payment of the retention 35 days after filing the Notice of Completion.

CONSENT CALENDAR (CONTINUED)

11. LANDSCAPE AND IRRIGATION MAINTENANCE THREE-YEAR CONTRACT AWARD

Recommendation: That the Board authorize the General Manager to execute a three-year landscape and irrigation maintenance contract with Tropical Plaza Nursery, Inc. for \$1,727,796.

12. WATERWORKS BUSINESS PARK OFFICE PROPERTY LISTING AGREEMENT EXTENSION

Recommendation: That the Board approve a new listing agreement for the Waterworks Business Park property with the brokerage team of Colliers International under previously agreed-upon commission terms and expiring on February 28, 2021.

ACTION CALENDAR

FEDERAL EMERGENCY MANAGEMENT AGENCY ASSISTANCE FOR DISTRICT-WIDE EMERGENCY EVENTS

General Manager Cook reported that on February 26, 2020, the County of Orange proclaimed a local emergency and the Orange County Health Officer declared a local health emergency due to COVID-19. IRWD is required to submit a Board-adopted resolution to Cal OES to become eligible for reimbursement for costs incurred for current and future emergency disaster events for up to three years following the date of approval.

In response to Director Reinhart's inquiry if a consultant would be necessary to assist with the funding process, General Manager Cook responded that he believed that staff and WEROC have sufficient experience in obtaining funds with past emergency situations, so at this time it will not be necessary to hire additional assistance. There being no further comments, on MOTION by Reinhart, seconded by Withers and unanimously carried on a roll call vote (5-0) Withers, Matheis, Reinhart, Swan, and LaMar voting aye, and 0 noes, THE BOARD ADOPTED THE FOLLOWING RESOLUTION BY TITLE ALLOWING IRWD TO RECEIVE REIMBURSEMENT FROM THE CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES (CAL OES) FOR EXPENSES INCURRED IN RESPONSE TO STATE-DESIGNATED EMERGENCY DISASTER EVENTS DUE TO THE CORONAVIRUS PANDEMIC.

RESOLUTION NO. 2020-9

DESIGNATION OF APPLICANT'S AGENT RESOLUTION FOR
NON-STATE AGENCIES
(STATE OF CALIFORNIA, GOVERNOR'S OFFICE OF
EMERGENCY SERVICES – CAL OES 130)

AGREEMENT FOR 1,2,3-TCP COST RECOVERY LITIGATION

General Manager Cook reported that pursuant to the discussion with the IRWD Board of Directors at its meeting on January 27, 2020, staff and general counsel interviewed Robins Borghei LLP in connection with jointly undertaking with Rosedale-Rio Bravo Water Storage District certain cost recovery litigation related to 1,2,3-Trichloropropane (1,2,3-TCP). On MOTION by Reinhart, seconded by LaMar and unanimously carried, on a roll call vote (5-0) Withers, Matheis, Reinhart, Swan, and LaMar voting aye, and 0 noes, THE BOARD AUTHORIZED THE GENERAL MANAGER TO EXECUTE, JOINTLY WITH ROSEDALE-RIO BRAVO WATER STORAGE DISTRICT, A LEGAL SERVICES AGREEMENT WITH ROBINS BORGHEI, LLP FOR COST RECOVERY RELATED TO 1,2,3-TRICHLOROPROPANE CONTAMINATION OF GROUNDWATER.

PFAS TREATMENT PROGRAM AGREEMENT

Executive Director of Water Policy Weghorst reported that per-and polyfluoroalkyl substance (PFAS) compounds have emerged as “contaminants of concern” primarily due to human health impacts and that several of these compounds have been detected in significant concentrations in parts of the groundwater basin. He said that the District’s Orange Park Acres (OPA) Well No. 1 is impacted by the PFAS contamination, as are drinking water wells operated by nine other groundwater producer agencies. Mr. Weghorst said that in response to this contamination of the groundwater basin, OCWD is implementing its PFAS Policy that was developed with input from IRWD consistent with IRWD policy principles. OCWD has developed a program to work with the impacted groundwater producer agencies to fund a substantial portion of the design, construction, operation and maintenance of facilities to remove PFAS from water produced from drinking water wells in the affected areas of the Basin.

Mr. Weghorst said that staff and IRWD’s legal counsel have been working with OCWD and nine other affected groundwater producer agencies in the development of a Master Treatment Program Agreement that would allow OCWD to fund 100% of the design and construction of PFAS treatment facilities at Producer drinking water wells as well as 50% of the operation and maintenance costs to operate the facilities over a 30-year period.

Following discussion, Director Reinhart asked that an item be placed on the next Board meeting agenda, if timely, to discuss the design of the well. The Board and staff further complimented Legal Counsel Collins on her efforts to make the agreement fair and equitable. On MOTION by Matheis, seconded by Reinhart, and unanimously carried, on a roll call vote (5-0) Withers, Matheis, Reinhart, Swan, and LaMar voting aye, and 0 noes, THE BOARD AUTHORIZED THE GENERAL MANAGER TO EXECUTE THE MASTER TREATMENT PROGRAM AGREEMENT IN THE FORM PRESENTED, SUBJECT TO REASONABLE SUBSTANTIVE CHANGES OTHERWISE AGREED UPON BY ALL PARTIES AND APPROVED BY GENERAL COUNSEL, TO FACILITATE THE DESIGN, CONSTRUCTION AND OPERATION OF PFAS TREATMENT FACILITIES AT AFFECTED WELLS INCLUDING IRWD’S ORANGE PARK ACRES WELL NO. 1, CONTINGENT UPON A FUTURE DETERMINATION THAT IRWD WILL PROCEED WITH CONSTRUCTION AND OPERATION OF A PFAS REMOVAL FACILITY.

COVID-19 RESPONSE – COMMERCIAL INVESTMENT PROPERTIES LEASE PAYMENT DEFERRALS

Director of Treasury and Risk Management reported that as a result of the impacts on businesses related to COVID-19, and the stay-at-home order, staff has received lease payment deferral requests from five tenants at the Waterworks Business Park and one tenant at the Sand Canyon Professional Center. Mr. Jacobson said that some tenants have contacted their respective insurance providers related to potential relief through their business interruption insurance; however, the general response from insurance companies has been that the coverage does not cover loss of income due to market conditions, a slowdown of economic activity, or suspensions and shutdowns implemented to limit the spread of a virus or bacteria, which would apparently include COVID-19.

Mr. Jacobson said that staff recommends the Board authorize staff to implement a lease payment deferral program for IRWD's commercial investment properties and also recommends the deferral program allow tenants to defer lease payments up to 90 days, with a repayment plan that amortizes the deferred rent over the following 12-month period without incurring late fees or interest, for tenants impacted by COVID-19 who request rent deferral assistance. The deferral amount related to current tenant requests would result in approximately \$227,000 in deferred payments over the 90-day period; this amount could increase if additional requests are received. Based on discussions with industry professionals, similar rent deferral programs are being developed and implemented by other commercial property owners. IRWD's special counsel (Jackson-Tidus) is drafting a proposed lease amendment based on the above parameters that will be executed by tenants and IRWD.

Following discussion, Director Swan said that this item was reviewed by the Finance and Personnel Committee on April 7, 2020, and on MOTION by Swan, seconded by Mathies and unanimously carried on a roll call vote (5-0) Withers, Matheis, Reinhart, Swan, and LaMar voting aye, and 0 noes, THE BOARD AUTHORIZED STAFF TO IMPLEMENT A LEASE DEFERRAL PROGRAM FOR IRWD'S COMMERCIAL INVESTMENT PROPERTIES FOR A PERIOD OF UP TO 90 DAYS, WITHOUT INCURRING LATE FEES OR INTEREST, AND REPAYMENT OF DEFERRED RENT AMORTIZED FOR A PERIOD NOT TO EXCEED 12 MONTHS FOR TENANTS WHO REQUEST ASSISTANCE DUE TO IMPACTS FROM COVID-19.

SERRANO SUMMIT / LENNAR PROMISSORY NOTE REQUEST TO EXTEND MATURITY

Director of Treasury and Risk Management reported that since acquiring the Serrano Summit site from IRWD, Lennar has added significant value to the property by completing installation of all the primary neighborhood infrastructure (streets, utilities, storm drains, etc.), grading of residential lots and recently opening model homes for two neighborhoods. New homes are currently under construction and for sale. Mr. Jacobson said that based on recent discussions, Lennar is prepared to pay off the principal and interest on the scheduled maturity date but did express an interest in extending the maturity date by seven months to December 1, 2020.

Mr. Jacobson reported that during the proposed seven-month extension, it is anticipated that Lennar will begin completing and selling the first homes in the project. He said that based on discussions with the District's legal counsel (Jackson-Tidus), the amended note terms would include the partial release of certain lots secured by the Deed of Trust in order to provide clear title to homeowners. To compensate for the reduction in lots, the amended note terms would provide for a pro rata (total lots released divided by the total approved lots) principal paydown to IRWD of the note balance, plus a 10% premium, prior to any partial releases approved by the District. No other terms of the note will be modified by the recommended amendment.

Director Swan reported that this item was reviewed by the Finance and Personnel Committee on April 7, 2020, and on MOTION by Swan, seconded by LaMar, and unanimously carried on a roll call vote (5-0) Withers, Matheis, Reinhart, Swan, and LaMar voting aye, and 0 noes, **THE BOARD AUTHORIZED THE GENERAL MANAGER TO EXECUTE AN AMENDMENT TO THE CURRENT PROMISSORY NOTE BETWEEN IRWD AND LENNAR HOMES OF CALIFORNIA FOR A SEVEN-MONTH EXTENSION TO DECEMBER 1, 2020, AT THE CURRENT INTEREST RATE OF 4.00%, TO BE APPLICABLE TO BOTH THE PRINCIPAL AND ACCRUED INTEREST AMOUNT AS OF APRIL 30, 2020, AND INCLUDING PARTIAL RELEASE PROVISIONS AS STATED.**

ELECTRONIC BILL PRESENTMENT AND PAYMENT SOLUTION

General Manager Cook reported that the District is proposing to implement a new Electronic Bill Presentment and Payment Solution (EBPP) that will provide IRWD customers with an updated web portal allowing them to receive bills in an electronic format and provide services for on-line and on-demand electronic payments. The new solution will be integrated with IRWD's current WaterSmart portal and will provide real-time payment functionality and dynamic water usage visibility – thereby increasing operating efficiency and improving customer satisfaction.

Executive Director of Finance and Administration Clary reported that staff provided a Request for Qualifications (RFQ) for an EBPP Solution to four firms, and that staff received and evaluated the responses and identified two firms, Paymentus and Invoice Cloud, to present system functionality demonstrations. Ms. Clary said that it was determined that the best functionality for IRWD was provided by Paymentus, which also integrates well with Oracle Customer Care and Billing, WaterSmart, and other systems and functions necessary for enhanced IRWD customer service and support. She said that an evaluation of the functionality of Paymentus and Invoice Cloud is provided in the exhibit.

Using a PowerPoint presentation, Mr. Ryan Matuska reviewed the current challenges for customers and noted that, in addition to traditional payment methods, customers will have access to enhanced payment options. Additionally, he said that WaterSmart will serve as the official "landing page" for all customers who access their accounts electronically.

Director LaMar said that this item was reviewed by the Water Resources Policy and Communications Committee on April 2, 2020. On MOTION by LaMar, seconded by Reinhart, and unanimously carried, on a roll call vote (5-0) Withers, Matheis, Reinhart, Swan, and LaMar voting aye, and 0 noes, THE BOARD AUTHORIZED THE GENERAL MANAGER TO EXECUTE A FIVE-YEAR AGREEMENT WITH PAYMENTUS FOR ELECTRONIC BILL PRESENTMENT AND PAYMENT SOLUTION FOR IRWD CUSTOMERS FOR THE TRANSACTION RATES STATED IN THE PAYMENTUS PROPOSAL.

GENERAL MANAGER'S REPORT

General Manager Cook reported on operations of the District noting that the suppliers are intact, and accommodations are being addressed for customers, similar to the past emergency situation in 2008. He said that the Customer Service Department is handling requests, and to date has received approximately three dozen requests from customers asking for accommodations for monthly bills due to the current pandemic causing them financial hardships.

DIRECTORS' COMMENTS

Director Withers reported that he attended his regular meetings including an OCBC Work Force Development Committee meeting, an NWRI officers conference call, and an ISDOC Executive Committee meeting via teleconference.

Director Swan reported that he attended a MWDOC Administration and Finance Committee meeting, a WACO Planning Committee meeting, a MWDOC Planning and Operations Committee meeting, and a MWDOC Administration and Finance Committee meeting.

Director LaMar reported that he attended several ACWA meetings, a Natural Communities Coalition meeting, an SCWC Legislative task force meeting, and an NWRA Board meeting.

Director Reinhart reported that he attended an IRWD-El Toro Water District Issues discussion, an OCWD Water issues Committee meeting, an OCWD Administration Finance Committee meeting, a MWDOC Board Meeting, an OCWD Board meeting, and an OCWD Water Issues Committee meeting.

Director Matheis reported that she attended an IRWD-El Toro Water District Issues discussion, a 2020 State Legislative reception in Sacramento, an ACWA legislative symposium, and an Urban Water Institute Executive Committee meeting.

COMMUNITY UPDATES

General Manager Cook said that he spoke with consultant Newell and he thanked the District for its efforts relative to the improvements in Ladd Canyon where 2,000 feet of PVC pipe was replaced.

RECESS

Legal Counsel Claire Collins announced that President Matheis will be recessing the Board meeting to hold two corporation meetings, and that that upon reconvening the Board meeting, the following Closed Session would be held as follows:

CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL –
ANTICIPATED LITIGATION – Pursuant to Government Code Section 54956.9
(d)(4): initiation of litigation. *(One (1) potential case).*

RECESS AND RECONVENE

President Matheis recessed the Board meeting to hold Special Annual Meetings for Bardeen Partners, Inc. and IRWD Water Service Corporation. Following the Corporation meetings, the meeting was reconvened with Directors Swan, Withers, LaMar, Reinhart, and Matheis present.

CLOSED SESSION

President Matheis recessed the Board meeting to hold a Closed Session as noted by legal counsel.

OPEN SESSION

Following the Closed session, the meeting was reconvened with Directors Swan, Withers, LaMar, Reinhart, and Matheis present. On MOTION by LaMar, seconded by Swan (5-0 vote), the Board authorized the initiation of litigation and General Counsel Collins reported that the particulars of the case will be disclosed to any person upon inquiry once the action has been formally commenced unless doing so would jeopardize the agency's ability to effectuate service of process or jeopardize the agency's ability to conclude settlement negotiations.

ADJOURNMENT

President Matheis adjourned the meeting at 6:56 p.m.

APPROVED and SIGNED this 27th day of April 2020.

President, IRVINE RANCH WATER DISTRICT

Secretary IRVINE RANCH WATER DISTRICT

APPROVED AS TO FORM:

Claire Hervey Collins, General Counsel
Hanson Bridgett LLP