

## MINUTES OF REGULAR MEETING – AUGUST 13, 2012

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 Matheis on August 13, 2012 in the District office, 15600 Sand Canyon Avenue, Irvine, California.

Directors Present: Matheis, Reinhart, LaMar, Swan, and Withers (arrived at 5:18 p.m.)

Directors Absent: None.

Also Present: General Manager Cook, Acting Executive Director of Finance/Treasurer Rob Jacobson, Executive Director of Operations Pedersen, Executive Director of Engineering Burton, Executive Director of Water Policy Heiertz, Director of Water Resources Weghorst, Principal Engineer Malloy, Director of Human Resources Wells, Secretary Bonkowski, Legal Counsel Arneson, Director of Public Affairs Beeman, Mr. Jim Reed, Mr. Bruce Newell, Ms. Kirsten McLaughlin, 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, 5, 7, C-8, C-9, 10, 11, 12, 13, 14, 17 and 18 will operate in accordance with the District's annual pumping plan. Wells 2, 3, 6, 11, 15, 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.

## PRESENTATION

### WATER REUSE AWARD TO CREAN LUTHERAN HIGH SCHOOL

Executive Director of Engineering Heiertz presented to Principal Beavers of Crean Lutheran High School a Water Reuse award for "Recycled Water Customer of the Year" for using recycled water to irrigate nine acres of landscaping and for toilet flushing. He said that in total they use almost 10 million gallons of recycled water per year. He further said that Crean Lutheran is the second dual-plumbed school in the State of California, and contributed to more dual-plumbed schools in the IRWD service area. Mr. Beavers thanked the District for its partnership in receiving this award.

## CONSENT CALENDAR

Following a request by Directors Reinhart and Swan, items No. 5 and No. 15 were moved to the Action Calendar (see pages 4 and 5). On MOTION by LaMar, seconded and carried (Withers absent), **CONSENT CALENDAR ITEMS 4, 6 THROUGH 14 AND 16 WERE APPROVED AS FOLLOWS:**

#### 4. MINUTES OF BOARD MEETING

Recommendation: That the minutes of the July 23, 2012 Regular Board Meeting be approved as presented.

#### 6. RATIFICATION OF AUGUST 2, 2012 MEMORANDUM RELATIVE TO THE BOARD, COMMITTEES AND OTHER ASSIGNMENTS, AND ADOPTION OF A RESOLUTION REVISING ASSIGNMENT OF DIRECTORS TO COMMITTEES OF THE BOARD

Recommendation: That the Board ratify the Memorandum dated August 1, 2012 entitled *Officers of the Board, Committees and Other Assignments*, accept the resignation of Ms. Debby Cherney as Assistant Treasurer of the District, and adopt the following resolution rescinding Resolution No. 2012-2 and revising the assignment of Directors to Committees of the Board.

### RESOLUTION NO. 2012 - 35

RESOLUTION OF THE BOARD OF DIRECTORS OF  
IRVINE RANCH WATER DISTRICT, RESCINDING  
RESOLUTION NO. 2012-2 AND REVISING THE ASSIGNMENT  
OF DIRECTORS TO COMMITTEES OF THE BOARD

CONSENT CALENDAR (CONTINUED)

7. NATIONAL WATER RESEARCH INSTITUTE AMENDMENTS TO JOINT POWERS AGREEMENT

Recommendation: That the Board authorize the President to execute Amendment Nos. 4, 5, 8, 9, 10 and 11 to the National Water Research Institute's Joint Powers Agreement.

8. 2012 STATE LEGISLATIVE UPDATE

Recommendation: Receive and file.

9. SAND CANYON OFFICE DEVELOPMENT PROJECT – PHASE I CHANGE ORDER, CONSULTANT VARIANCE AND FINAL ACCEPTANCE

Recommendation: That the Board approve Contract Change Order No. 8 with KPRS Construction, Inc. in the net amount of \$60,333 (project No. 1284); approve a final consulting variance for Newport Real Estate Services in the amount of \$26,515; authorize the General Manager to file a Notice of Completion; and authorize payment of the retention 35 days after the date of recording the Notice of Completion.

10. QUITCLAIM OF REAL PROPERTY – SHEA/BAKER RANCH ASSOCIATES LLC

Recommendation: That the Board adopt the following resolution by title approving execution of the Quitclaim Deed to Shea/Baker Ranch Associates LLC.

RESOLUTION NO. 2012-36

RESOLUTION OF THE BOARD OF DIRECTORS OF  
IRVINE RANCH WATER DISTRICT APPROVING  
EXECUTION OF THE QUITCLAIM DEED TO  
SHEA/BAKER RANCH ASSOCIATES LLC

11. GREAT PARK DEVELOPMENT REIMBURSEMENT AGREEMENT WITH HERITAGE FIELDS EL TORO, LLC

Recommendation: That the Board authorize the General Manager to execute a Reimbursement Agreement with Heritage Fields El Toro, LLC for the construction of capital facilities for Planning Areas 30 and 51 (Great Park Development).

CONSENT CALENDAR (CONTINUED)

12. METER AND VALVE VAULT LID REPLACEMENT PROJECT, PHASE 1 FINAL ACCEPTANCE

Recommendation: That the Board accept construction of the Meter and Valve Vault Lid Replacement project, Phase 1, projects 11358 (1800) and 31358 (1065); authorize filing of a Notice of Completion; and authorize the payment of the retention 35 days after the date of recording the Notice of Completion.

13. GENERATOR INTERCONNECTION AGREEMENT AND SERVICE AGREEMENT FOR WHOLESALE DISTRIBUTION SERVICE WITH SOUTHERN CALIFORNIA EDISON FOR OC-39 HYDROELECTRIC GENERATING FACILITY

Recommendation: That the Board authorize the General Manager to execute the Generator Interconnection Agreement and Service Agreement for Wholesale Distribution Service with Southern California Edison for the existing OC-39 Hydroelectric Generating Facility.

14. APPROVAL OF IRWD'S SHARE OF SOCWA'S FISCAL YEAR 2012-13 BUDGET

Recommendation: That the Board approve IRWD's share of SOCWA's Fiscal Year 2012-13 budget in the amount of \$342,200.

16. MEMORANDUM OF UNDERSTANDING BETWEEN IRWD AND ICDC FOR THE BEE CANYON PUMP STATION RELOCATION

Recommendation: That the Board authorize the General Manager to execute the Memorandum of Understanding regarding construction of the new Bee Canyon Pump Station and the subsequent dismantling and quitclaiming of the existing Bee Canyon Pump Station site and pipeline easement to Irvine Community Development Company LLC.

ACTION CALENDAR

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

Director Matheis asked that the July 27, 2012 meeting be removed from her meetings to be ratified as she was unable to attend the Southern California Water Committee Quarterly Meeting. Director Reinhart asked that the July 24, 2012 meeting with South County Agencies at Moulton Niguel Water District be removed as he was unable to attend. There being no further changes, on MOTION Reinhart, seconded and unanimously carried, THE BOARD RATIFIED/APPROVED THE MEETINGS AND EVENTS FOR STEVEN LAMAR, MARY AILEEN MATHEIS, DOUGLAS REINHART, AND PEER SWAN.

FISCAL YEAR 2012-13 IRVINE LAKE OPERATIONS, MAINTENANCE AND CAPITAL BUDGET

In response to an inquiry from Director Swan, Executive Director of Operations Pedersen reviewed the cost sharing methodology with Serrano Water District for the repair work. On **MOTION** by LaMar, seconded and carried (Withers absent), **THE BOARD APPROVED THE PROPOSED FISCAL YEAR 2012-13 IRVINE LAKE OPERATIONS, MAINTENANCE AND CAPITAL BUDGET OF \$287,300, INCLUDING \$215,475 FOR IRWD'S PROPORTIONATE SHARE OF THE COSTS AND \$71,825 FOR SERRANO WATER DISTRICT'S PROPORTIONATE SHARE OF THE COSTS.**

RATIFICATION OF QUITCLAIM OF REAL PROPERTY - IRVINE COMMUNITY DEVELOPMENT COMPANY LLC

This item was adopted on July 9, 2012, on a 2-0 vote, with Director LaMar recusing himself from voting on the item due to a past business relationship with Wilson Mikami Corporation. Following the meeting, legal counsel had an opportunity to research the item and found that in an opinion issued in late 2011, the California Attorney General reconsidered some of its prior opinions on the treatment of abstentions in counting a quorum, and concluded that unlike discretionary abstentions, abstentions required by law (including those required as a result of economic interests) should not be used for purposes of a quorum. Based on this opinion, for this item, a quorum of the Board was not met.

Director LaMar said that he currently has a business relationship with Wilson Mikami Corporation, who is processing the Quitclaim for the property located in Portola Springs on behalf of the Irvine Community development Company LLC, and he will recuse himself from voting on this item. He left the Board room at 5:15 p.m. On **MOTION** by Swan, seconded by Reinhart and carried (3-0-2) (Matheis, Reinhart and Swan voting aye, La Mar abstaining and Withers absent), **THE BOARD RATIFIED AND READOPTED THE FOLLOWING RESOLUTION BY TITLE:**

RESOLUTION NO. 2012 -37

RESOLUTION OF THE BOARD OF DIRECTORS OF  
IRVINE RANCH WATER DISTRICT  
APPROVING EXECUTION OF THE QUITCLAIM DEED TO  
IRVINE COMMUNITY DEVELOPMENT COMPANY LLC

At 5:17 p.m., Director LaMar returned to the Board room.

PERSONNEL POLICY NO. 36 – PERFORMANCE RECOGNITION PROGRAM

General Manager Cook reported that at its meeting on August 7, 2012, the Finance and Personnel Committee requested that the District's Performance Recognition Program be brought to the Board for discussion. Mr. Cook said that during this meeting, the Committee reviewed the Performance Recognition Program Quarterly Update and that there was a discussion during this meeting regarding the administration of the Performance Recognition Program, particularly in

regard to the line item titled “Exemplary Performance Awards – 90 Employees. He said that this program has been very effective and recommends affirming Personnel Policy No. 36 – Performance Recognition Program as adopted on March 9, 2009.

Director Swan reported he concurs with the language in paragraph No. 4 in the policy noting that awards are to be made in an unscheduled and spontaneous manner in order to reward the employee for his/her exemplary performance in a timely manner following the event or activities which justified the recognition. He said he does not want the program to be a bonus program for employees with awards given at the end of each fiscal year. Director Withers arrived at 5:18 p.m. Following Board discussion, On MOTION by Swan, seconded and unanimously carried, Personnel Policy No. 36 – Performance Recognition Program as adopted by the Board on March 9, 2009 Performance was reaffirmed and referred to the Finance and Personnel Committee for review and possible recommendations and modification.

MICHELSON WATER RECYCLING PLANT PHASE 2 EXPANSION AND FLOOD PROTECTION IMPROVEMENTS CONTRACT CHANGE ORDER NO. 75

Director of Engineering Burton reported that the Michelson Water Recycling Plant (MWRP) Phase 2 Expansion and Flood Protection Improvements are currently being constructed by J. R. Filanc Construction Company (Filanc).

Mr. Burton reported that the abandoned Michelson Pump Station No. 1 (MPS-1) Building will be demolished to allow for additional parking and improved maintenance access within MWRP once the Phase 2 Expansion is complete. Because the MPS-1 Building is a uniquely designed room with multiple levels, it is unable to be used for storage or otherwise repurposed. Additionally, as the building has lead-based paint and asbestos-containing gaskets and insulation, this could pose potential health hazards to staff. The abandonment also includes excavation and removal of the MPS-1 inlet and outlet piping. The MPS-1 Building contains the electrical control equipment for the primary sedimentation tanks. Due to the building’s structural design, it is not possible to retain only that portion of the MPS-1 Building. Therefore, new electrical equipment will be acquired and installed outdoors in exterior cabinets adjacent to the primary sedimentation tanks.

Mr. Burton said that Contract Change Order (CCO) No. 75 consists of safe removal of hazardous materials by a licensed hazardous materials contractor, demolishing the abandoned MPS-1 Building, replacing and relocating electrical equipment that controls the existing primary sedimentation tanks, removal of underground piping, regrading the area, and new curb, gutter and asphalt paving. CCO No. 75 is for the materials and labor to perform the work for a total of \$473,570.

Director Reinhart reported that this item was reviewed and approved by the Engineering and Operations Committee on July 24, 2012. He said that the amount of change orders directly related to Phase 2 Expansion and Flood Protection Improvements is \$2,029,437 or 2.3% of the original bid. On MOTION by Reinhart, seconded and unanimously carried, THE BOARD APPROVED CONTRACT CHANGE ORDER NO. 75 WITH J. R. FILANC CONSTRUCTION COMPANY IN THE AMOUNT OF \$473,570 TO DEMOLISH THE MICHELSON PUMP

STATION NO. 1 BUILDING AND ASSOCIATED WORK FOR THE MICHELSON WATER RECYCLING PLANT PHASE 2 EXPANSION, PROJECTS 20124 (1599) AND 30214 (1706).

MODJESKA CANYON ROAD DOMESTIC WATER PIPELINE RELOCATION – EXPENDITURE AUTHORIZATION AND CONSTRUCTION AWARD

Executive Director of Engineering Burton reported that the Modjeska Canyon Road Domestic Water Pipeline Relocation Project will construct a replacement 8-inch domestic water pipeline in Modjeska Canyon Road and abandon the existing pipeline due to its alignment conflict with the new reinforced concrete box storm drain of the County of Orange. Mr. Burton said that the project was advertised to a select bidders list of 13 contractors and that three contractors submitting bids included GCI Construction, Inc. (GCI), Leatherwood Construction and Paulus Engineering. He said that the three bids ranged from \$196,903 to \$218,868 with the apparent low bidder being GCI with a bid of \$196,903. The engineer's estimate of \$139,400 was low on 13 of the 14 bid items. He further said that since the bids were relatively uniform and the difference between the low and high bidder is roughly 11 percent, staff believes the bids more accurately reflect the construction cost, and that the low bid is reasonable.

On MOTION by Reinhart, seconded and unanimously carried, THE BOARD APPROVED AN EXPENDITURE AUTHORIZATION IN THE AMOUNT OF \$258,500 AND AUTHORIZED THE GENERAL MANAGER TO EXECUTE A CONTRACT WITH GCI CONSTRUCTION, INC. IN THE AMOUNT OF \$196,903 FOR THE MODJESKA CANYON ROAD DOMESTIC WATER PIPELINE RELOCATION, PROJECT 11574 (1245).

WELLS 21 AND 22 DESALTER PROJECT PIPELINES CONTRACT CHANGE ORDER NO. 13 AND GEOTECHNICAL SERVICES CONTRACT VARIANCE NO. 3

The Wells 21 and 22 Pipelines Project is being constructed by Flatiron West, Inc. with Geotechnical services being provided to IRWD by Ninyo & Moore.

Director of Engineering Burton reported that Contract Change Order (CCO) No. 13 is for additional work at the Peters Canyon Wash pipeline jack and bore operation. Mr. Burton said that the original product water pipeline alignment consisted of placing two 16-inch welded steel pipes through open utility bays inside the Peters Canyon Wash bridge, and after several plan review meetings with the City of Tustin (City), City staff prohibited any work within or on the bridge structure and suggested that the pipeline be constructed under the Peters Canyon Wash flood control channel. The City, as the owner of the underlying land, agreed to grant IRWD an encroachment permit following the issuance of an additional encroachment permit by the Orange County Flood Control District (OCFCD), who owns an easement on the property.

Mr. Burton said that the decision to realign the pipeline was made when the Wells 21 and 22 Desalter Pipelines contract documents were being finalized for bid advertisement. Staff coordinated with OCFCD, finalized the pipeline re-alignment, and issued the revised plans for bidding. OCFCD and the City approved the revised pipeline alignment and issued the encroachment permits during the bidding period. Due to the timing of the pipeline realignment, site specific geotechnical information for the Peters Canyon Wash jacking and receiving pits was unavailable and not provided with the contract documents. The prospective bidders for the project

based the cost of the jack and bore pipeline work on other nearby soil borings that were performed during the early design phase of the project. Following the award of the construction contract, staff directed Ninyo & Moore, the project geotechnical engineering support consultant, to perform field investigations and laboratory testing services that defined site specific geotechnical information at the location of the jacking and receiving pits. The information provided by the additional geotechnical investigation identified an unexpected sand lens not identified in any of the previous soil borings, which resulted in the need for additional work associated with extensive unanticipated dewatering and a more extensive shoring system for the approximately 41-foot deep pits. Mr. Burton said that Flatiron initially submitted a cost proposal of \$653,253 for the additional work. Following a thorough review of the costs and extensive discussions with Flatiron, staff negotiated a change order amount to a reduced cost of \$324,053.

Mr. Burton said that during the initial pipeline work, the City requested additional pavement testing that was neither anticipated nor included in the original geotechnical services contract as well as more frequent field testing including a new requirement for sampling at the asphalt batch plant. He said that Variance No. 3 includes this additional work and ongoing geotechnical support through the completion of the project. Staff reviewed Ninyo & Moore's cost proposal and negotiated the costs in the amount of \$23,235.

Director Reinhart reported that this item was reviewed and approved by the Engineering and Operations Committee on July 24, 2012. Following discussion on the pipeline alignment, on MOTION by Reinhart, seconded and unanimously carried, **THE BOARD APPROVED AN EXPENDITURE AUTHORIZATION IN THE AMOUNT OF \$336,600; APPROVED CONTRACT CHANGE ORDER NO. 13 IN THE AMOUNT OF \$324,053 TO FLATIRON WEST, INC.; AND AUTHORIZED THE GENERAL MANAGER TO EXECUTE VARIANCE NO. 3 IN THE AMOUNT OF \$23,235 WITH NINYO & MOORE FOR GEOTECHNICAL SERVICES DURING CONSTRUCTION OF THE WELLS 21 AND 22 DESALTER PROJECT PIPELINES, PROJECT 10286 (1081).**

#### GENERAL MANAGER'S REPORT

General Manager Cook provided an overview of the meeting held with representatives of the Great Park Corporation noting IRWD's concerns relative to storm water capture, treatment and distribution facilities. He said that he will be providing the Board updates on future meetings with them.

Mr. Cook reported that the Association of California Cities–Orange County will be holding a City Leaders' reception on October 18, 2012 at the District's Learning Center, and invited the Board to attend.

Mr. Cook reported that for the two open seats on the Board in November, and as there is no opposition, an election will not be held, thereby saving the District an anticipated \$200,000 in election fees. In December staff will be preparing a Board resolution declaring the appointment of these two Board members.



## DIRECTORS' COMMENTS

Director LaMar reported that he attended WACO's monthly meeting and noted that he will not be attending the upcoming OCBC Infrastructure meeting.

Director Reinhart reported on his attendance at a SOCWA Board meeting, a WACO meeting, a MWDOC Board workshop, and a meeting that he, General Manager Cook, and Director Matheis held with El Toro Water District relative to topics of mutual interest. He further said that he did not attend the San Bernardino County Water Conference as planned.

Director Swan reported on his attendance at a WACO meeting, and a CASA conference in Monterey.

Director Matheis said that she will be attending the upcoming Urban Water Institute conference in San Diego.

## CLOSED SESSION

President Matheis said that the following Closed Session will be held:

CONFERENCE WITH LABOR NEGOTIATORS - Government Code Section 54957.6

Agency Designated Representatives: Paul Cook and Janet Wells

Employee Organization: Irvine Ranch Water District Employees Association

## OPEN SESSION

Following the Closed Session, the meeting was reconvened with Directors Swan, LaMar, Withers, Reinhart and Matheis present. President Matheis said that Paul Cook, Janet Wells and the District's Special Legal Counsel Jim Payne and Jim Moss are the District's Agency Designated Representatives in regard to labor negotiations with the Irvine Ranch Water District Employees Association.

## ADJOURNMENT

President Matheis adjourned the meeting.

Approved and signed this 27th day of August, 2012.

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President, IRVINE RANCH WATER DISTRICT

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Secretary, IRVINE RANCH WATER DISTRICT

APPROVED AS TO FORM:

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Legal Counsel - Bowie, Arneson, Wiles and Giannone