

## MINUTES OF REGULAR MEETING – JULY 9, 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 Vice President Withers on July 9, 2012 in the District office, 15600 Sand Canyon Avenue, Irvine, California.

Directors Present: LaMar, Swan, and Withers.

Directors Absent: Matheis and Reinhart.

Also Present: General Manager Cook, Assistant Director of Finance/Treasurer Rob Jacobson, Executive Director of Operations Pedersen, Executive Director of Engineering Burton, Secretary Bonkowski, Legal Counsel Arneson, Director of Water Resources Weghorst, Director of Public Affairs Beeman, Mr. Wayne Clark, Mr. Jim Reed, Mr. Bruce Newell, Ms. Shannon Reed, 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 5, 7, C-8, C-9, 10, 11, 12, 15, 16 and 18 will operate in accordance with the District's annual pumping plan. Wells, 1, 2, 3, 4, 6, 13, 14, and 17 will be off. This was confirmed by Mr. Cook, General Manager of the District.

With respect to the Orange County Basin Groundwater Conjunctive Use Program being coordinated by Municipal Water District of Orange County (MWDOC) and Orange County Water District (OCWD), a Notice of Completion was approved by the OCWD Board of Directors on March 19, 2008. Metropolitan Water District has given notice to OCWD to extract 22,000 acre feet in fiscal year 2009-10. The extraction is being performed by agencies that constructed conjunctive use wells under this program. IRWD is not a participant. This was confirmed by Mr. Cook.

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.

## PRESENTATION

### PUBLIC RELATIONS SOCIETY OF AMERICA AWARDS

Mr. Doug Fleischli, Advocacy Chair of the Orange County Public Relations Society of America, presented two awards to Irvine Ranch Water District for staff's efforts with the District's 50<sup>th</sup> anniversary campaign under the "special events and observances" category.

Director of Public Affairs Beeman also presented the 2012 Hermes Gold Award from the Association of Marketing and Communications Professional for staff's efforts with the District's 50<sup>th</sup> anniversary campaign.

## CONSENT CALENDAR

Director Swan asked that Item No. 5 be placed on the Action Calendar. There being no objection, this item was removed from the Consent Calendar. On MOTION by Swan, seconded and unanimously carried, CONSENT CALENDAR ITEMS 4, 6, AND 7, WERE APPROVED AS FOLLOWS:

### 4. MINUTES OF BOARD MEETINGS

Recommendation: That the minutes of the June 22, 2012 Adjourned Regular Board Meeting and the June 25, 2012 Regular Board Meeting be approved as presented.

### 6. QUITCLAIM OF REAL PROPERTY – LBA IV-PPI, LLC

Recommendation: That the Board adopt the following resolution by title approving execution of the Quitclaim Deed to LBA IV PPI, LLC.

#### RESOLUTION NO. 2012 – 32

RESOLUTION OF THE BOARD OF DIRECTORS OF  
IRVINE RANCH WATER DISTRICT  
APPROVING EXECUTION OF THE QUITCLAIM DEED TO  
LBA IV-PPI, LLC

## CONSENT CALENDAR (continued)

### 7. ORANGE PARK ACRES CHAPMAN AVENUE ON-SITE PIPING RELOCATION

PROJECT – FINAL ACCEPTANCE

Recommendation: That the Board accept construction of the Orange Park Acres Chapman Avenue on-site piping, project 11408 (1279); 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.

ACTION CALENDAR

QUITCLAIM OF REAL PROPERTY – IRVINE COMMUNITY DEVELOPMENT COMPANY LLC

Director LaMar said that he is 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 5:12 p.m. On MOTION by Swan, seconded by Withers and carried (2-0) (Withers and Swan voting aye, La Mar abstaining), THE BOARD ADOPTED THE FOLLOWING RESOLUTION BY TITLE:

RESOLUTION NO. 2012 -33

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

At 5:15 p.m., Director LaMar returned to the Board room.

LUMP SUM PAYMENT OPTION FOR EMPLOYER CONTRIBUTIONS FOR FY 2012-13 AND MAKING BUDGETED ADDITIONAL CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM

General Manager Cook reported that CalPERS employer contributions can be made either by a lump sum payment option between July 1 and July 15 of the beginning of the new fiscal year or by payments based on each semi-monthly payroll total based on a payroll percentage established annually by CalPERS actuaries. The District's approved operating budget for FY 2012-13 included \$6,538,300 for the CalPERS employer contribution rate. To reduce the District's unfunded liability, staff anticipates using the normal payment option for the annual required contribution of approximately 16% of payroll, or approximately \$4.2 million, as well as making an additional contribution of approximately 9% of payroll.

Mr. Cook said that staff proposes to make the quarterly additional contributions of \$570,246 on September 1, 2012, December 1, 2012, March 1, 2013 and June 1, 2013. Timing of the additional contributions may be accelerated or delayed, subject to future review and recommendation of the Finance and Personnel Committee. The additional contribution is consistent with the District's policy principles to strategically reduce the District's actuarially-determined unfunded pension liability. Since FY 2009, the District has made additional contributions in excess of its annual required contribution to CalPERS of more than \$11.6 million. The most recent valuation from CalPERS reflects an unfunded actuarial liability on an

actuarial basis as of June 30, 2010 of \$34 million and on a market basis of \$59 million, which would be reduced by these quarterly additional contributions.

On MOTION by Swan, seconded and unanimously carried, THE BOARD APPROVED THE LUMP SUM PAYMENT FOR EMPLOYER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS) BY MAKING A ONE-TIME CONTRIBUTION OF \$4,257,316 FOR THE DISTRICT'S FY 2012-13 EMPLOYER CONTRIBUTION AND MAKING AN ADDITIONAL QUARTERLY CONTRIBUTION OF \$570,246 EACH QUARTER TO REDUCE THE DISTRICT'S ACTUARIALLY-DETERMINED UNFUNDED PENSION LIABILITY.

#### MAIN STREET DIVERSION STRUCTURE GRATING MODIFICATIONS - CONSTRUCTION AWARD

Executive Director of Engineering Burton reported that the Main Street diversion structure contains a 45-inch diameter inlet pipe and two outlet pipes, and that the existing fiberglass grating installed over the sewer channels has deteriorated and requires replacement. The proposed project will replace the existing fiberglass grating with stainless steel grating that will cover all of the channels and the shelves of this structure and will also provide fall protection inside this structure.

Mr. Burton said that on May 17, 2012, a bid opening was held with three contractors submitting bids. The apparent low bidder was Schuler Engineering with a low bid of \$115,200. The engineer's estimate was \$111,000. He said that on May 29, 2012, Schuler requested withdrawal of its bid. The California Public Contracts Code provides a bidder the right to be relieved of its bid by consent of the awarding body if the bidder establishes that a mistake was made in filling out the bid that was not the result of carelessness in inspecting the work site or reading the plans and specifications, or error in judgment, that the mistake materially altered the intended bid, and that the bidder notified the agency within five working days (weekends and state holidays excluded) of the bid opening. Mr. Burton said that Schuler's request was not made within the five-day period, and the relief statute has been held to apply only to a mistake in the prime contractor's bid, not a mistake in a material or subcontract bid. Schuler's request was based on a mistake in a material supplier's bid rather than a mistake in its own bid. He said for these reasons, staff had notified Schuler that they cannot withdraw its bid without either paying for the cost difference between their low bid and the second lowest bid or surrendering its bidder's bond. Schuler has agreed to make payment in the difference of \$3,297 between its bid and the next lowest bid from S.S. Mechanical, and therefore staff recommends that the Board relieve Schuler of its bid. Legal counsel has also reviewed this withdrawal request.

Mr. Burton said that with the withdrawal of Schuler's bid, S.S. Mechanical now becomes the low bidder with a bid of \$118,497, and staff recommends that the Board award the contract to this contractor.

Following discussion, on MOTION by Swan, seconded and unanimously carried, THE BOARD CONSENTED TO RELIEVE SCHULER ENGINEERING OF ITS BID SUBJECT TO PAYMENT OF THE COST DIFFERENCE BETWEEN ITS BID AMOUNT AND THE AMOUNT FOR WHICH THE DISTRICT OBTAINS THE WORK; AND AUTHORIZED THE GENERAL MANAGER TO EXECUTE A CONTRACT WITH S.S. MECHANICAL IN THE

AMOUNT OF \$118,497 FOR THE MAIN STREET DIVERSION STRUCTURE GRATING MODIFICATIONS PROJECT, PROJECT 20957.

FISCAL YEAR 2012-13 GENERAL COUNSEL SERVICES FOR BOWIE, ARNESON, WILES, AND GIANNONE

General Manager Cook reported that Bowie, Arneson, Wiles & Giannone (BAWG) has provided a proposed letter of engagement for the purpose of providing legal services to the District effective July 1, 2012. BAWG's services shall not exceed \$615,000, of which \$415,000 is for general legal services and \$200,000 is for the J127 matter, for the District's fiscal year (FY) 2012-13 without additional authorization from the District.

Director Swan reported that this item was reviewed by the Finance and Personnel Committee on July 3, 2012 and that the Committee is very satisfied with BAWG services. On MOTION by Swan, seconded and unanimously carried, THE BOARD AUTHORIZED THE GENERAL MANAGER TO EXECUTE THE ENGAGEMENT AGREEMENT WITH BOWIE, ARNESON, WILES, AND GIANNONE EFFECTIVE JULY 1, 2012 FOR GENERAL COUNSEL SERVICES IN THE AMOUNT NOT TO EXCEED \$615,000, SUBJECT TO THE NOT TO EXCEED AMOUNTS WITHIN SUCH TOTAL AMOUNT AS PROVIDED IN SEPARATE DETAIL.

GENERAL MANAGER'S REPORT

General Manager Cook reported that the water bond bill, AB 1422 (Perea), has been signed by Governor Brown delaying a vote on an \$11 billion water bond until November 2014.

He noted that the public review period on the Biosolids draft Environmental Impact Report is this month, and staff is inviting several homeowner associations within the vicinity to meet with staff to review the report. He also said that ongoing conversations are being held with the Irvine Company.

DIRECTORS' COMMENTS

Director LaMar reported that he attended two MWDOC meetings, and a Southern California Water Committee Storm Water Workshop which noted that agencies are not capturing large quantities of storm water.

Director Withers reported on upcoming meetings including LAFCO, WACO, ISDOC, and OCBC.

ADJOURNMENT

Vice President Withers adjourned the meeting at 5:37 p.m.

Approved and signed this 23rd day of July, 2012.

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President, IRVINE RANCH WATER DISTRICT

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Assistant Secretary, IRVINE RANCH WATER DISTRICT

APPROVED AS TO FORM:

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Legal Counsel - Bowie, Arneson, Wiles and Giannone