

MINUTES OF REGULAR MEETING – JUNE 24, 2019

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 LaMar on June 24, 2019 in the District office, 15600 Sand Canyon Avenue, Irvine, California.

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

Also Present: General Manager Cook, Executive Director of Finance and Administration Clary, Executive Director of Technical Services Burton, Executive Director of Water Policy Weghorst, Executive Director of Operations Chambers, Director of Water Resources Sanchez, Director of Public Affairs Beeman, Director of Human Resources Roney, General Counsel Collins, Director of Water Operations Zepeda, Director of Water Quality and Regulatory Compliance Colston, Director of Water Operations Roberts, Director of Treasury and Risk Management Jacobson, Director of Administrative Services Mossbarger, and members of staff and the public.

WRITTEN COMMUNICATIONS: None.

ORAL COMMUNICATIONS: City of Irvine's Councilmember Mike Carroll thanked the Board for inviting both City Manager John Russo and himself to tonight's Board meeting.

ITEMS TOO LATE TO BE AGENDIZED:

General Manager Cook reported that an item came to staff's attention after the agenda was posted on Friday relative to a license agreement for the County of Orange to access and use recreational rights to Irvine Lake which he asked to be added to the Action Calendar as 11A (see page 7). On MOTION by Matheis, seconded by Withers, and unanimously carried (5-0) (Matheis, Withers, Reinhart, LaMar, and Swan voting aye), THE BOARD FOUND THAT THERE WAS A NEED TO TAKE IMMEDIATE ACTION ON THE LICENSE WITH THE SERRANO WATER DISTRICT AND THE COUNTY OF ORANGE TO ALLOW THE COUNTY OF ORANGE TO ACCESS AND USE RECREATIONAL RIGHTS TO IRVINE LAKE FOR SHORELINE FISHING PURPOSES BEGINNING JULY 1, 2019, AND FOUND THAT THIS CAME TO THE ATTENTION OF THE DISTRICT SUBSEQUENT TO THE AGENDA BEING POSTED, AND THIS MATTER WAS ADDED TO THE AGENDA AS ITEM 11A OF THE ACTION CALENDAR.

PUBLIC HEARING

PROPOSED CHANGES TO THE SCHEDULE OF THE RATES AND CHARGES EFFECTIVE JULY 1, 2019

The District's Fiscal Year (FY) 2019-20 and 2020-21 Operating Budgets were adopted at the April 22, 2019 IRWD Board meeting. The proposed changes to IRWD's rates and charges were publicly noticed by mail as required under Proposition 218, and protests to the implementation of those rates and charges have been tallied by the District's independent

PUBLIC HEARING (Continued)

auditors. Pursuant to the requirements of Proposition 218, a Public Hearing on the rates and charges is required.

President LaMar declared it to be the time and place for a hearing on the proposed changes to the rates and charges and asked Secretary Bonkowski how the hearing was noticed. Director Withers left the Board Room at 5:10 p.m.

Secretary Bonkowski said that the hearing was noticed by mail and presented an Affidavit of Mailing. On MOTION by Matheis, seconded by Swan, and carried (4-0), (Matheis, Swan, Reinhart, and LaMar voting aye and Withers absent), THE AFFIDAVIT OF MAILING BY AN INDEPENDENT PROCESSING FIRM AS PRESENTED BY THE SECRETARY WAS RECEIVED AND FILED.”

President LaMar asked Legal Counsel Collins to describe the nature of the proceedings. Legal Counsel Collins said that the public hearing is held, pursuant to Proposition 218, Article XIID of the Constitution of the State of California, for all persons interested to be heard, to present objections or protests, including any written comments submitted, concerning the increase in property-related rates and charges and any proposed new property-related rates and charges.

President LaMar asked for a staff report from the Executive Director of Finance or her Designee on the proposed rates and charges and inquire whether there have been any written communications.

Executive Director of Finance and Administration Clary said that as of June 20, 2019, nine written protest letters were received by the District, which represents less than 0.01% of the total customers, substantially less than the 50% which would have been required to prevent the Board from adopting the current proposed rates and charges.

Using a PowerPoint presentation, Manager of Strategic Planning and Analysis Smithson reviewed the schedule for budget and rate adoption, reviewed the key driver comparison to the prior year budget for both the FY 2019-20 and FY 2020-21, and described the potable and recycled rate development. Mr. Smithson reviewed the proposed rates for a typical residential customer for both fiscal years, and a comparison of proposed rates with other agencies based on a 15 cfs usage and imported water. Mr. Smithson said that for the Proposition 218 notices, 104,323 notices were mailed, and as of June 20, 2019, 782 letters were returned as undeliverable. He said that separate notices were sent for residential, commercial, landscape and Newport North. He said that the primary issues raised by the protest letters was one protesting the rate increase percentages by tier, and one protesting sewer changes and the rate increase, with the other seven letters being a simple protest of the rate increase. He said that these letters are included in the Board agenda package, and that staff will be responding with individual responses. Director Withers returned to the Board room at 5:18 p.m. Mr. Smithson further said that the verification of protest letter counts were performed by the District’s independent auditors, Davis Farr.

President LaMar inquired whether there is anyone present who wished to address the Board regarding the proposed changes to the rates and charges. There was no one who wished to be heard.

President LaMar inquired whether there are any comments or questions from members of the Board of Directors. There were none.

On MOTION by Matheis, seconded by Swan, and unanimously carried, THE HEARING WAS CLOSED AND THE FOLLOWING RESOLUTION WAS ADOPTED BY TITLE:

RESOLUTION NO. 2019 -17

RESOLUTION OF THE BOARD OF DIRECTORS OF IRVINE RANCH
WATER DISTRICT, ORANGE COUNTY, CALIFORNIA
RESCINDING RESOLUTION NO. 2018-16 AND ADOPTING
CHANGES TO THE SCHEDULE OF RATES AND CHARGES FOR FISCAL YEAR 2019-
20 AS SET FORTH IN EXHIBIT "B" AND CHANGES TO THE SCHEDULE OF RATES
AND CHARGES FOR FISCAL YEAR 2020-21 AS SET FORTH IN EXHIBIT "C"
TO THE RULES AND REGULATIONS OF IRVINE RANCH WATER DISTRICT
FOR WATER, SEWER AND RECYCLED WATER SERVICE

CONSENT CALENDAR

On MOTION by Withers, seconded by Matheis, and unanimously carried, CONSENT CALENDAR ITEMS 4 THROUGH 8 WERE APPROVED AS FOLLOWS:

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

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

5. MINUTES OF BOARD MEETING

Recommendation: That the minutes of the June 10, 2019 Regular Board meeting be approved as presented.

6. MAY 2019 TREASURY REPORTS

Recommendation: That the Board receive and file the Treasurer's Investment Summary Report, the Summary of Fixed and Variable Rate Debt, and Disclosure Report of Reimbursements to Board members and staff; approve the May 2019 Summary of Payroll ACH payments in the total amount of \$2,025,956 and approve the May 2019 accounts payable Disbursement Summary of warrants 398264 through 399225, Workers' Compensation distributions, wire transfers, payroll withholding distributions and voided checks in the total amount of \$18,754,485.

7. FISCAL YEAR 2019-20 LEGAL SERVICES PROVIDED BY ALSTON & BIRD

Recommendation: That the Board authorize the General Manager to execute a variance to the Letter of Engagement with Alston & Bird for legal services related to complex issues and litigation extending the term to June 30, 2020, and increasing the not-to-exceed value of the contract by \$2,500,000.

8. RESOLUTION COMMENDING ROBERT “BOB” HILL FOR HIS DEDICATED SERVICE TO THE EL TORO WATER DISTRICT AND THE WATER INDUSTRY

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

RESOLUTION NO. 2019-18

RESOLUTION OF THE BOARD OF DIRECTORS OF
IRVINE RANCH WATER DISTRICT COMMENDING
ROBERT R. “BOB” HILL FOR HIS DEDICATED AND LOYAL
SERVICE TO THE EL TORO WATER DISTRICT AND THE
WATER INDUSTRY

ACTION CALENDAR

AMENDMENT NO. 2 TO THE AGREEMENT BETWEEN IRVINE RANCH WATER DISTRICT AND BARDEEN PARTNERS, INC. FOR SERVICES RELATED TO THE REAL ESTATE INVESTMENT PROGRAM

General Manager Cook reported that recently staff and legal counsel reviewed the bylaws, governing documents, and agreements for Bardeen Partners, Inc. Mr. Cook said that two of documents reviewed were an agreement with Bardeen Partners, Inc., for services related to the Real Estate Investment Program along with its first amendment. He said that this review revealed that the agreement needed to be amended to reflect the current District committee assigned to oversee IRWD’s real estate investments. He said that Amendment No. 2 to the Agreement will replace IRWD’s Real Estate Investment Committee, which no longer exists, with IRWD’s Finance and Personnel Committee – the committee with oversight of the District’s real estate investments.

On MOTION by Withers, seconded by Swan, and unanimously carried, THE BOARD APPROVED AMENDMENT NO. 2 TO THE AGREEMENT BETWEEN IRVINE RANCH WATER DISTRICT AND BARDEEN PARTNERS, INC. FOR SERVICES RELATED TO REAL ESTATE INVESTMENT PROGRAM.

FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR THE SYPHON RESERVOIR GEOTECHNICAL INVESTIGATIONS PROJECT

Using a PowerPoint presentation, Principle Engineer Mori provided an overview of the environmental review of the Syphon Reservoir’s Geotechnical investigation project. Mr. Mori said that in 2010, IRWD acquired the Syphon Reservoir from the Irvine Company and integrated this facility into the IRWD recycled water storage and distribution

system. He said that IRWD has completed several analyses and studies of the feasibility and constructability of expanding the current reservoir from its current size of 500 acre-feet (AF) to up to 5,000 AF. He said that the proposed Syphon Reservoir Improvement Project will expand recycled water storage to meet the seasonal demand of IRWD's recycled water customers and enhance water supply reliability by maximizing the use of recycled water in IRWD's service area.

Mr. Mori said that in 2013, IRWD implemented the Syphon Interim Facilities Project which included minor improvements to integrate the reservoir into IRWD's recycled water system, and in June 2017, the Board approved an expenditure authorization for work on supporting engineering services and environmental documentation for the Syphon Reservoir Improvement Project.

Mr. Mori said that the proposed Syphon Reservoir Geotechnical Investigations Project is necessary to characterize the geologic and geotechnical conditions at the reservoir site and it will evaluate the dam foundation and abutments to determine the appropriate excavation depths and the requirements for dam seepage control measures. The investigations will also evaluate the characteristics of potential dam construction materials that could be extracted from borrow areas on the project site and used to construct the new dam. The investigations will verify the location and historical activity of the previously documented inactive (for approximately 35,000 years) Central Valley Fault. In order to accomplish these goals, the work will involve a combination of exploratory test pits, borings and geophysical surveys to characterize the subsurface conditions of the soil at each exploratory location. Prior to the start of these activities, the reservoir will be drained to allow the reservoir bottom to dry out so that the borings, test pits, and trenches can be implemented on dry land.

Director of Water Resources Sanchez reported that a Draft Initial Study/Mitigated Negative Declaration (Draft IS/MND) for the Syphon Reservoir Geotechnical Investigations Project was prepared by environmental consultants at Environmental Science Associates (ESA). Ms. Sanchez said that the Draft IS/MND was circulated for a 30-day public review period and that eight letters providing comments on the Draft IS/MND were received from the Gabrieleno Band of Mission Indians-Kizh Nation, the City of Irvine, South Coast Air Quality Management District, Orange County Public Works, Orange County Fire Authority, the Transportation Corridor Agencies, U.S. Fish & Wildlife Service (USFWS) / CA Department of Fish & Wildlife (CDFW), and the Department of Water Resources. She said that staff reviewed all comments received and worked with ESA to prepare responses to comments and a Mitigation Monitoring and Reporting Plan. She said that staff also coordinated with USFWS and CDFW to ensure that the agencies were satisfied with the response to comments. As a result of this coordination, USFWS and CDFW issued a joint letter stating that they do not object to the activities proposed for the Syphon Reservoir Geotechnical Investigations Project. The joint letter from the wildlife agencies is included in the Final IS/MND.

Director Reinhart said that this item was reviewed by the Engineering and Operations Committee on May 21, 2019. Director Swan commented that the District needs to be aware of any historic landslides, that alternative projects be revisited with staff, and to provide the Board with updates relative to any mitigation credits. Director Matheis thanked staff for their efforts on this project. On MOTION by Reinhart, seconded by Matheis, THE BOARD FOUND ON THE BASIS OF THE WHOLE RECORD BEFORE

IT (INCLUDING THE FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION AND THE COMMENTS RECEIVED) THAT THERE IS NO SUBSTANTIAL EVIDENCE THAT THE SYPHON RESERVOIR GEOTECHNICAL INVESTIGATIONS PROJECT WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND THAT THE FINAL MITIGATED NEGATIVE DECLARATION REFLECTS IRWD'S INDEPENDENT JUDGMENT AND ANALYSIS; ADOPTED THE PROPOSED FINAL MITIGATED NEGATIVE DECLARATION FOR THE SYPHON RESERVOIR GEOTECHNICAL INVESTIGATIONS PROJECT AND THE ASSOCIATED MITIGATION MONITORING AND REPORTING PROGRAM; APPROVED THE SYPHON RESERVOIR GEOTECHNICAL INVESTIGATIONS PROJECT; AND AUTHORIZED STAFF TO POST AND FILE A NOTICE OF DETERMINATION.

NOMINATION OF STEVE LAMAR AS A CANDIDATE FOR PRESIDENT OF THE ASSOCIATION OF CALIFORNIA WATER AGENCIES

General Manager Cook reported that the Association of California Agencies (ACWA) Nominating Committee is seeking nominations for candidates to serve as the ACWA President and Vice President for the 2020-2021 two-year term and will recommend a slate of candidates for election by the ACWA membership at its fall conference in December 2019. Mr. Cook said that IRWD Director Steve LaMar is currently serving as the ACWA Vice President for the 2018-2019 term and has expressed an interest in the position of ACWA President.

Prior to a motion, Director Swan said that he was also interested in an ACWA Region 10 open Board member seat, and asked for the Board to support a resolution to nominate him.

On MOTION by Matheis, seconded by WITHER, and unanimously carried, THE BOARD SUPPORTED THE NOMINATION OF DIRECTOR STEVE LAMAR FOR PRESIDENT OF ACWA FOR A TWO-YEAR TERM BEGINNING JANUARY 1, 2020 AND THAT THE FOLLOWING RESOLUTION BE ADOPTED BY TITLE SUBJECT TO NON-SUBSTANTIVE CHANGES AND IN ACCORDANCE WITH ACWA'S REQUIREMENTS:

RESOLUTION NO. 2019-

RESOLUTION OF THE BOARD OF DIRECTORS OF THE
IRVINE RANCH WATER DISTRICT, ORANGE COUNTY, CALIFORNIA
NOMINATING STEVE LAMAR AS A CANDIDATE FOR PRESIDENT OF THE
ASSOCIATION OF CALIFORNIA WATER AGENCIES

and

On MOTION by Matheis, seconded by Swan and unanimously carried, THE BOARD ADOPTED THE FOLLOWING RESOLUTION BY TITLE:

RESOLUTION NO. 2019-20

PLACING IN NOMINATION PEER A. SWAN AS A
MEMBER OF THE ASSOCIATION OF CALIFORNIA
WATER AGENCIES REGION 10

LICENSE FOR COUNTY TO ACCESS AND USE RECREATION RIGHTS TO IRVINE LAKE

General Manager Cook reported on the License for the County of Orange to access and use recreational rights to Irvine Lake which had been placed before each Board member. He noted that the District and Serrano Water District are the co-owners of Irvine Lake which maintains operations of the reservoir, and that the County of Orange and Serrano Water District are co-owners of the recreational rights. Mr. Cook said that this License will enable interim fishing for a 12-month period from July 1, 2019 to June 30, 2020. He said that legal counsel has reviewed the document and recommended non-substantial changes.

Director Swan said that both Serrano and the District are accommodating the County's request to open the lake for recreational fishing. He said that there remains outstanding issues such as the boundary issues that need to be resolved before a license is extended for a longer period of time. Director Swan recommended that the License be approved with an additional recital to be added describing ongoing negotiations with the County on other issues related to Irvine Lake. On MOTION by Reinhart, seconded by Matheis, and unanimously carried, **THE GENERAL MANAGER WAS AUTHORIZED TO EXECUTE THE LICENSE FOR COUNTY TO ACCESS AND USE RECREATIONAL RIGHTS TO IRVINE LAKE WITH THE SERRANO WATER DISTRICT AND THE COUNTY OF ORANGE IN A FORM SUBSTANTIALLY SIMILAR TO THE FORM PRESENTED AT THE MEETING AND SUBJECT TO THE ADDITION OF THE RECITAL REQUESTED BY DIRECTOR SWAN.**

GENERAL MANAGER'S REPORT

General Manager Cook reported on a recycled water pipeline repair job performed under an urgent necessity contract. He said that A and Y Company performed the repair of an eight-inch AC pipe that was installed in 1983 which failed in the Irvine Spectrum at a cost of \$113,777.

DIRECTORS' COMMENTS

Director Reinhart reported on his attendance at a SOCWA Board meeting and a WACO monthly meeting.

Director Withers reported on his attendance on behalf of OCSD at meetings in Washington, DC. He said that he will be attending the Business Outreach Luncheon tomorrow and on Wednesday an OCSD Board meeting.

Director Swan reported on his attendance at a WACO Planning Committee meeting, a City of Newport Beach and UCI event relative to water quality and coastal impacts, a meeting relative to sustaining OC watersheds, a CASA Federal Legislative Committee meeting, and an OCBC Infrastructure Committee meeting. He said tomorrow he will be attending the District's Business Outreach Luncheon and will be attending a North-South meeting.

Director Matheis reported on her attendance at a California Water Law and Policy Conference in San Francisco.

Director LaMar reported on his attendance at a MWDOC Public Affairs and Legislative Committee meeting and a Natural Communities Coalition annual field trip.

COMMUNITY UPDATE

Consultant Bruce Newell reported that all was going well in Santiago Canyon with no activities to report this evening.

CLOSED SESSION

Legal Counsel Collins said that the following Closed session will be held:

CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION - Pursuant to Government Code Section 54956.9(d)(1): *Orange County Water District v. Sabic Innovative Plastics US, LLC, et al.*, Case No. 30-2008-0078246-CU-TT-CXC

OPEN SESSION

Following the Closed Session, the meeting was reconvened with Directors LaMar, Matheis, Swan, Withers and Reinhart present. General Counsel Collins announced that the Board authorized a dismissal of the cross-complaint in exchange for the dismissal of the action against the District.

ADJOURNMENT

President LaMar adjourned the meeting at 6:30 p.m.

APPROVED and SIGNED this 8th day of July, 2019.

President, IRVINE RANCH WATER DISTRICT

Secretary IRVINE RANCH WATER DISTRICT

APPROVED AS TO FORM:

Claire Hervey Collins, Legal Counsel
– Lewis Brisbois