

## MINUTES OF REGULAR MEETING – JUNE 9, 2008

The regular meeting of the Board of Directors of the Irvine Ranch Water District (IRWD) was called to order at 6:08 p.m. by Vice President Matheis on June 9, 2008 in the District office, 15600 Sand Canyon Avenue, Irvine, California.

Directors Present: Matheis, Reinhart, Swan, Withers (arrived at 6:14 p.m.), and President Miller (arrived at 6:10 p.m.)

Directors Absent: None

Also Present: General Manager Jones, Assistant General Manager Cook, Director of Engineering Heiertz, Assistant Board Secretary Savedra, Legal Counsel Arneson, Ms. Beth Beeman, Mr. Rob Jacobson, Mr. Paul Weghorst, Mr. Mike Hoolihan, Mr. Kevin Burton, Mr. Eric Akiyoshi, Mr. Jim Reed, Ms. Maryann Brown, Mr. Jim Carter, Mr. Bruce Newell, Mr. Sat Tamaribuchi, D. Evenson, and Dan Miller (of The Irvine Company), and other members of the public and staff.

### COMMUNICATIONS TO THE BOARD

Written Communications: None

Mrs. Joan Irvine Smith addressed the Board of Directors with respect to the Dyer Road Wellfield. Mrs. Smith said that currently, wells 1, 2, 4, 7, C-8, C-9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 are in operation in accordance with the District's annual pumping plan. Wells 3 and 6 are not in use at this time, but are anticipated to be operated in July as part of the District's annual pumping plan. Well 5 is currently undergoing rehabilitation work on the pump and casing and is scheduled to be operational in July. The District's planned pumping for June is 4,200 AF per month. This was confirmed by Mr. Jones, 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 that it will begin extracting a portion (i.e. 20,000 acre feet) of its 50,000 acre-feet in storage beginning in fiscal year 2008-09. This was confirmed by Mr. Jones.

Relative to the OCWD annexation of certain IRWD lands, OCWD staff is evaluating IRWD's most current projections of the amount and general location of its future groundwater production for inclusion in OCWD's proposed update of the Long Term Facilities Plan and Annexation Environmental Impact Report. On Friday, March 14, 2008, Paul Jones met with Orange County Water District General Manager Mike Markus to further discuss the annexation process and the status of the EIR. At OCWD's request, IRWD staff has provided additional future groundwater production scenarios with annexation. This was confirmed by Mr. Jones.

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 the south county in case of emergencies. IRWD is finalizing negotiations of an agreement with certain south Orange County water agencies to fund the interconnection facilities needed to affect the emergency transfer of water. This was confirmed by Mr. Jones.

ITEMS RECEIVED TOO LATE TO BE AGENDIZED: None

## WORKSHOP

### FISCAL YEAR 2008/09 DRAFT CAPITAL BUDGET

General Manager Jones reported that the Fiscal Year (FY) 2008/09 projected Capital Budget expenditures will be presented tonight for the Board's review. The projected expenditures for FY 2008/09 are \$118.9 million.

Director of Engineering Heiertz reported since the Engineering and Operations Committee meeting on May 20, 2008, fourteen projects have been added and five projects reduced in the budget: projected expenditures for FY 2008-09 have decreased by \$3.8 million from \$122.7 million to \$118.9 million. Mr. Heiertz said that the projects added to the budget were related to the Orange Park Acres consolidation, which became official on June 1, 2008 and the Caltrans Shallow Groundwater Study. He said that for the previous fiscal year, FY 2007/08, the Capital Budget expenditures were estimated to be \$120.7 million. Actual expenditures are estimated to be approximately \$110 million, or 91% of projected expenditures.

Using a PowerPoint presentation, Mr. Eric Akiyoshi reported that since the Engineering Committee on May 20, 2008, changes were made by staff. The current projected expenditures for FY 2008/09 are \$118.9 million, a decrease of \$3.8 million from the Committee meeting number of \$122.7 million. He reported on the top Project groups which include: MWRP Improvements/Floodwall - \$30.3M; OCSD CORF -\$8.0M; Tustin Legacy - \$6.9M; Planning Area 1 - \$5.4M; Water Banking - \$4.9M; South County Reliability/Baker - \$4.5M; University/Campus Sewer Phase II - \$3.1M; Planning Area 18 - \$2.3M; Culver Drive Sewer Rehabilitation - \$2.1M; and Planning Area 39 - \$1.9M. Mr. Akiyoshi said these projects represent the top 20% of projects or 83% of the budget, whereas the top 101 projects expenditures totaled \$98.8M.

Mr. Akiyoshi said that another Board of Directors' Capital Budget workshop would be held June 23, 2008 and requested the Board review the list of "flagged" projects, and to advise staff of addition or deletion of flagged projects for inclusion in the budget.

## CONSENT CALENDAR

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

### 4. MINUTES OF BOARD MEETING

Recommendation: That the minutes of the May 16, 2008 Adjourned Regular Meeting and the May 27, 2008 Regular Board Meeting be approved as presented.

### 5. RESOLUTION RECOGNIZING THE 75TH ANNIVERSARY OF THE ORANGE COUNTY WATER DISTRICT

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

RESOLUTION NO. 2008-33

RESOLUTION OF THE BOARD OF DIRECTORS OF  
IRVINE RANCH WATER DISTRICT, RECOGNIZING THE  
75th ANNIVERSARY OF THE ORANGE COUNTY WATER DISTRICT

6. FINAL RESOLUTION TO AMEND CALIFORNIA PUBLIC EMPLOYEES'  
RETIREMENT SYSTEM CONTRACT (CalPERS)

Recommendation: That the Board adopt the following resolution by title authorizing the President to execute the contract with CalPERS:

RESOLUTION NO. 2008-34

RESOLUTION AUTHORIZING AN AMENDMENT  
TO THE CONTRACT BETWEEN THE BOARD OF ADMINISTRATION  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND  
THE BOARD OF DIRECTORS OF THE IRVINE RANCH WATER DISTRICT

7. RATTLESNAKE AND IRVINE LAKE PIPELINE STRAINERS REPLACEMENT –  
RETENTION REDUCTION

Recommendation: That the Board find that satisfactory progress is being made on the S. S. Mechanical Corporation contract; authorize the reduction of retention from 10% to 5% of the contract amount; and release funds in excess of 5% of the contract amount from retention currently held for the Rattlesnake and Irvine Lake Pipeline Strainers Replacement, project 30104.

8. VARIANCE NO. 1 FOR LEGAL FEES FOR BOWIE, ARNESON, WILES AND  
GIANNONE

Recommendation: That the Board approve Variance No. 1 in the amount of \$90,000 to cover additional legal fees with IRWD's General Counsel Bowie, Arneson, Wiles and Giannone.

ACTION CALENDAR

FISCAL YEAR 2008/09 GENERAL COUNSEL SERVICES FOR BOWIE, ARNESON, WILES  
AND GIANNONE

The Board approved IRWD entering into a letter of engagement with Bowie, Arneson, Wiles and Giannone (BAWG) for Fiscal Year 2008/09. The purpose of this letter of engagement is to provide general counsel services to the District effective July 1, 2008. BAWG has raised its

hourly rates as follows: Partner: From \$190/hour to \$205/hour; Senior Associate: From \$170/hour to \$185/hour; and Associate: From \$160/hour to \$175/hour

BAWG's proposed contract amount for Fiscal Year 2008/09 is \$325,000, as compared to a budgeted contract amount of \$315,000 for Fiscal Year 2007/08. Director Swan reported this item was approved at the Finance and Personnel Committee Meeting on June 3, 2008.

On MOTION, by Swan, seconded and unanimously carried THE BOARD APPROVED THE ENGAGEMENT AGREEMENT WITH BOWIE, ARNESON, WILES, AND GIANNONE EFFECTIVE JULY 1, 2008 FOR GENERAL COUNSEL SERVICES FOR A NOT TO EXCEED AMOUNT OF \$325,000, AND THE BOARD AUTHORIZED THE GENERAL MANAGER TO EXECUTE THE AGREEMENT.

### SELF-INSURED WORKERS' COMPENSATION COVERAGE

General Manager Jones reported that since 2003, the District has been a member of the California State Association of Counties (CSAC) Excess Workers' Compensation Program. The program has been running smoothly under the third party administrator, Southern California Risk Management Association (SCRMA). SCRMA has provided excellent customer service and our claims have been monitored in a much more proactive and assertive manner. CSAC also conducts their own audit on our TPA to make sure they are following all the appropriate regulations required under Workers' Compensation. During the Fiscal Year (FY) 2007/08, the District's self-insurance program has experienced a total of 23 reported injuries (not including first-aids), resulting in paid claims of \$145,688.

Mr. Jones said that under the CSAC program, the self-insured retention (SIR) would remain at \$125,000 per occurrence, which means that the District is responsible for the first \$125,000 of each and every claim. Total workers' compensation premiums and fees for the FY 2008/09 are estimated at \$176,891. Alliant has indicated that the premium might decrease when final rates and premiums are approved at the June CSAC Board meeting. The total cost of our workers compensation program including the \$20,000 third party administration fee is \$196,891.

Mr. Jones said that Driver Alliant Insurance Services conducted a market study for the District's workers compensation coverage for the FY 2008-09. Unfortunately, many of the carriers were unable to provide a quote on our coverage due to fact that they do not provide coverage for public agencies and/or water districts. The responses to our primary coverage indicates that there are no viable alternatives at this time to our program. Being self-insured has certainly been the best choice in maintaining our premiums. Had we not switched to the self-insured workers' compensation program, we would be forced to select from three primary carriers with estimated ranging from \$600,000 to \$952,424 in premiums. All other primary carriers declined to quote because they do not write for public/or water agencies. Director Swan reported this item was approved at the Finance and Personnel Committee on June 3, 2008.

On MOTION by Swan, seconded and unanimously carried THE BOARD APPROVED TO CONTINUE TO SELF-INSURE WORKERS' COMPENSATION COVERAGE USING OUR CURRENT PROVIDERS; BIND COVERAGE WITH CALIFORNIA STATE ASSOCIATION OF COUNTIES EXCESS INSURANCE AUTHORITY AT THE \$125,000 SELF-INSURED RETENTION LEVEL; AND AUTHORIZED THE CONTINUATION OF THE THIRD PARTY ADMINISTRATOR CONTRACT WITH SOUTHERN CALIFORNIA RISK MANAGEMENT

ASSOCIATION.

BAYVIEW SEWAGE LIFT STATION IMPROVEMENTS CONSTRUCTION AWARD

General Manager Jones reported that staff solicited construction bids for the Bayview Sewage Lift Station Improvements Project, which includes the rehabilitation of the lift station wet well coating, installation of premium efficiency, submersible pumps on guide rails that allow easier removal, larger dry well and wet well vault lids that allow safer access, and a new flow meter and vault. He said that the Bayview Sewage Lift Station is a critical facility located adjacent to the Newport Back Bay. The station was originally constructed in 1986 and underwent electrical upgrades, including a generator installation, in 1998.

Director of Engineering Heiertz reported that during a 2007 station inspection staff identified several potential safety issues and necessary upgrades required to bring the station up to current District standards. Issues identified include the following:

- Access to the wet and dry wells for routine daily maintenance and operation is through standard manhole covers that are heavy and that do not allow easy egress;
- The pumps are bolted to the discharge pipes and are not equipped with guide rails, which means staff must dewater the wet well and perform a confined space entry to unbolt the pumps and perform maintenance activities;
- The wet well coating is well beyond its useful life and has failed in several locations leaving the concrete exposed and subject to degradation; and
- The temporary clamp-on flow meter is inaccurate and not capable of communicating with the District's SCADA system.

Mr. Heiertz said that in April 2008, the design was completed, and plans and specifications were made available to 14 pre-selected contractors. The bid opening occurred on May 22, 2008, with six contractors submitting bids. The apparent low bidder was Paulus Engineering with a bid amount of \$358,848. The engineer's estimate for the project was \$319,300. Bids from the other five contractors were significantly higher and ranged from \$439,300 to \$484,500. Staff met with Paulus Engineering after the bid opening and discussed the gap between the bids. Paulus Engineering expressed a high level of comfort with their bid because they are currently performing similar work for the District on the Vault Facilities Lid Replacement Project. Paulus Engineering has successfully completed numerous District projects and is very familiar with District plans and specifications. The funding includes the construction cost of the project, as well as engineering support services, construction administration and inspection services.

On MOTION by Matheis, seconded and unanimously carried THE BOARD AUTHORIZED AN INCREASE TO THE FISCAL YEAR 2007-08 CAPITAL BUDGET FOR PROJECT 20530 FOR \$370,200, FROM \$220,000 TO \$590,200; APPROVED AN EXPENDITURE AUTHORIZATION FOR \$529,700 FOR PROJECT 20530; AND AUTHORIZED THE GENERAL MANAGER TO EXECUTE A CONTRACT WITH PAULUS ENGINEERING FOR \$358,848 FOR THE BAYVIEW SEWAGE LIFT STATION IMPROVEMENTS, PROJECT 20530.

MEMORANDUM OF UNDERSTANDING (MOU) WITH POSEIDON RESOURCES  
REGARDING THE REVIEW AND POTENTIAL PURCHASE OF WATER FROM THE  
HUNTINGTON BEACH DESALINATION PROJECT

General Manager Jones reported Poseidon Resources Corporation (Poseidon) is currently proposing the construction of a 50 MGD ocean water desalination facility in Huntington Beach, and has approached several agencies in Orange County regarding participation in the project. He said, in response, a group of managers from 11 public water districts and cities in Orange County have been meeting and have determined that it would be beneficial to negotiate with Poseidon as a consortium. The consortium has developed a proposed MOU with Poseidon that would provide a framework for the negotiations and protect the interests of the public agencies during the negotiation process with Poseidon.

Mr. Jones said that Poseidon is currently proposing the construction of a 50 MGD ocean water desalination facility on a co-located site with the AES power plant at the intersection of Pacific Coast Highway and Newland in Huntington Beach. The project will use ocean intake and outfall facilities for the existing AES plant, and will produce product water that is proposed to be delivered for retail water agency use through an interconnecting transmission main constructed through Costa Mesa to the East Orange County Feeder and the East Orange County Feeder #2. The vast majority of the product would be delivered through these facilities and connecting transmission mains for distribution in the Irvine Ranch Water District (IRWD), Mesa Consolidated, Huntington Beach and Newport Beach service areas. The remaining product water would flow through the Tri-Cities and Aufdenkamp lines to south Orange County agencies.

Mr. Jones said that Poseidon is aggressively pursuing implementation of the project, and through the City of Huntington Beach has processed a certified EIR for the project and secured a Conditional Use Permit. Poseidon is currently preparing a Coastal Permit application for the California Coastal Commission and anticipates a hearing on the permit this fall. In addition, Poseidon is concurrently securing requisite approvals through the State Lands Commission.

Mr. Jones said that several months ago, Poseidon approached several retail agencies individually to determine interest in negotiating a Water Purchase Agreement for the project. In addition, several other agencies had heard about the project and expressed interest in discussions with Poseidon. As a result of these contacts, IRWD and other agencies in coordination with the Municipal Water District of Orange County (MWDOC) contacted both the agencies approached by Poseidon or interested in the project and determined interest in forming a negotiating consortium. The primary purpose of the consortium is to efficiently negotiate potential terms of a Water Purchase Agreement and ensure consistent pricing and benefits for all participants. In addition, negotiating as a consortium will help dissuade Poseidon from politically pitting one agency against another.

Mr. Jones said that along with MWDOC, the retail agencies currently involved in the Poseidon negotiations include: IRWD, Santa Margarita Water District, El Toro Water District, Mesa Consolidated Water District, City of Anaheim, Laguna Beach County Water District, City of Newport Beach, South Coast Water District, Trabuco Canyon Water District, and Moulton Niguel Water District. The City of Santa Ana is also considering participating with the group. The City of Huntington Beach has already negotiated a Water Purchase Agreement with Poseidon in conjunction with the EIR and Conditional Use Permit approval. The Huntington Beach agreement contains extremely favorable terms for the City and as such, the City is not participating in the current negotiations. In addition, the City of Newport Beach is informally participating in group

meetings with Poseidon regarding the project, and will not be signatory to the Memorandum of Understanding (MOU) at this time.

To help facilitate discussions with Poseidon and set ground rules for negotiation, MWDOC and the participating retail agencies have been working with Poseidon on the subject MOU. The current draft includes the following provisions:

- Sets a format and schedule for meetings and communications;
- Obligates Poseidon to uniformly disclose project technical and financial information to the parties, with the disclosure of confidential information by Poseidon to the parties subject to the execution of confidentiality agreements;
- Restricts Poseidon from negotiating project agreement terms with non-designated agency representatives;
- Requires all parties to mutually approve media and other outside communications regarding terms under negotiation;
- Provides reimbursement by Poseidon for participating agencies' due diligence costs;
- Sets requirements for state, federal and MWD grant and funding program applications;
- Requires Poseidon to inform participating agencies of any other outside negotiations for purchasing water from the project, to disclose the terms of such negotiations prior to the execution of agreements with outside entities, and to offer most favorable terms and conditions to the participating agencies; and
- Sets forth a term through June 30, 2011, and allows agencies to terminate participation at any time.

The MOU also allows other retail agencies to join the negotiating consortium in the future. Staff believes the MOU will facilitate negotiations with Poseidon and help protect the interests of IRWD and the signatory agencies. Director Matheis reported this item was approved at the Water Resources Policy and Communications Committee Meeting on April 21, 2008.

After some discussion, Director Swan requested that the record reflect the fact that this MOU is being entered into on a non-precedent-setting basis, and only because of the unique situation. On MOTION by Matheis, seconded and unanimously carried THE BOARD APPROVED THE MEMORANDUM OF UNDERSTANDING WITH POSEIDON RESOURCES, MWDOC AND OTHER PARTICIPATING RETAIL WATER AGENCIES IN ORANGE COUNTY, SUBJECT TO NON-SUBSTANTIVE CHANGES APPROVED BY THE GENERAL MANAGER AND LEGAL COUNSEL.

President Miller left at 6:45 p.m.

#### GENERAL MANAGER'S REPORT

General Manager Jones reported that the District received a check from SC Edison for \$243,385 for its solar panel project. He also recognized Tom Bonkowski for his efforts in working with the SCE for these incentive dollars. He also welcomed Tom back to work after a leave of absence.

Mr. Jones said that the City of Irvine is forming a Green Ribbon Environmental Committee. The Committee will make recommendations directly to the City Council on matters related to energy, recycling, waste management, transportation and water. He indicated that this was tailored towards elected officials, and that an application needs to be submitted by 6/12/08, if the District is interested.

Mr. Jones reported that Jeff Mosher has been ill and on medical leave for a week, but has now returned to work. He asked staff to send a card to Jeff Mosher to communicate our thoughts.

Mr. Jones said that the District received notice of a bankruptcy filing last Friday (6/6/08) for LandSource which is Lennar in the Newhall Ranch.

#### DIRECTORS' COMMENTS

Director Swan reported on his attendance at WACO and Santa Ana Watershed Water Supply Meetings.

Director Matheis reported on her attendance at WACO and the Southern California Water Committee Meetings. She also attended an event that Irvine was having at Bommer Canyon and said that our Public Affairs staff (Beth Beeman, Shavonne Tibbs, and Julie Bendzick-Sin) were there maning a booth.

#### CLOSED SESSION

Vice President Matheis said that a Closed Session would be held this evening with legal counsel relative to anticipated litigation- Government Code Section 54956.9(b) - significant exposure to litigation- one potential case.

#### OPEN SESSION

The meeting was reconvened with Reinhart, Swan, Withers and Vice President Matheis. No action was reported from the closed session.

#### ADJOURNMENT

There being no further business, Vice President Matheis adjourned the Board Meeting.

APPROVED and SIGNED this 23rd day of June, 2008.

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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, Anson, Wiles & Giannone