

## MINUTES OF REGULAR MEETING – MARCH 12, 2018

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 LaMar on March 12, 2018 in the District office, 15600 Sand Canyon Avenue, Irvine, California.

Directors Present: LaMar, Reinhart (arrived at 5:30 p.m.), Matheis, Swan, and Withers.

Directors Absent: None.

Also Present: General Manager Cook, Executive Director of Water Policy Weghorst, Executive Director of Engineering and Water Quality Burton, Executive Director of Finance and Administration Clary, Director of Public Affairs Beeman, Public Affairs Manager Fabris, Director of Human Resources Roney, Director of Treasury and Risk Management Jacobson, Director of Water Operations Zepeda, Director of Maintenance Drake, Director of Water Operations Roberts, Government Relations Officer Compton, Principle Engineer Cortez, Principle Engineer Akiyoshi, Ms. Kelly Welch, Mr. John Dayer, Mr. Dane Johnson, Mr. Ian Swift, Legal Counsel Smith, Legal Counsel DeMayo, Secretary Bonkowski, Assistant Secretary Swan, Mr. Dan Burmaster and members of the public.

WRITTEN COMMUNICATIONS: None.

ORAL COMMUNICATIONS:

ITEMS TOO LATE TO BE AGENDIZED: General Manager Cook said that last week the District's General Counsel, Nossaman LLP, sent a letter to the Board and staff suggesting a withdrawal from representation from the District. Mr. Cook said additionally, he received confirmation from Nossaman's Managing Partner, Mr. George Joseph, that this letter sent could be characterized as a request for mutual separation. He further said that due to the timing of when this clarification was received after the agenda was posted, he recommends adding an item to the agenda as Item No. 16A on the Action Calendar to consider this request. On MOTION by Swan, seconded and carried (4-0) (LaMar, Swan, Withers and Matheis voting aye and Reinhart absent), **IT WAS DETERMINED THERE WAS A NEED TO TAKE IMMEDIATE ACTION TO CONSIDER THE REQUEST FOR A MUTUAL SEPARATION WITH NOSSAMAN LLP AS THE DISTRICT'S GENERAL COUNSEL, AND THIS MATTER WAS ADDED TO THE AGENDA AS ITEM NO. 16A (see page 5).**

CONSENT CALENDAR

Director Matheis asked that a correction be made to her list of meetings. There being no further comments, on MOTION by Matheis, seconded and carried (4-0) (LaMar, Swan, Withers and Matheis voting aye and Reinhart absent), **CONSENT CALENDAR ITEMS 3 THROUGH 11 WERE APPROVED AS FOLLOWS:**

CONSENT CALENDAR (CONTINUED)

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

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

4. MINUTES OF REGULAR BOARD MEETING

Recommendation: That the minutes of the February 12, 2018 Regular Board Meeting be approved as presented.

5. 2018 LEGISLATIVE AND REGULATORY UPDATE

Recommendation: That the Board adopt an "OPPOSE/OPPOSE UNLESS AMENDED" position on the "Safe and Affordable Drinking Water Act" budget trailer bill and a "SUPPORT IN CONCEPT" position on AB 2050 (Caballero, D-Salinas).

6. CULVER DRIVE RECYCLED WATER PIPELINE REPLACEMENT CONSULTANT SELECTION

Recommendation: That the Board authorize the addition of project 10588 in the amount of \$717,000 to the FY 2017-18 Capital Budget and authorize the General Manager to execute a Professional Services Agreement in the amount \$149,850.50 with RCE Consultants to provide design engineering services for the Culver Drive Recycled Water Pipeline Replacement, project 10588.

7. MICHELSON WATER RECYCLING PLANT BIOSOLIDS AND ENERGY RECOVERY FACILITIES CONTRACT CHANGE ORDER NO. 73

Recommendation: That the Board approve Contract Change Order No. 73 in the amount of \$150,755.29 with Filanc/Balfour Beatty for additional electrical conduits and circuits for control of the dewatering centrifuges for the Michelson Water Recycling Plant Biosolids and Energy Recovery Facilities, project 04286.

8. MICHELSON WATER RECYCLING PLANT ASPHALT REPLACEMENT CONTRACT AWARD

Recommendation: That the Board authorize the General Manager to execute a construction contract with Sanders Paving, Inc. in the amount of \$376,133.35 for replacement of approximately 127,350 square feet of asphalt at the Michelson Water Recycling Plant.

## CONSENT CALENDAR (CONTINUED)

### 9. 2017 SEWER REHABILITATION FINAL ACCEPTANCE

Recommendation: That the Board accept construction of the 2017 Sewer Rehabilitation, project 07100, authorize the General Manager to file a Notice of Completion, and authorize the payment of the retention 35 days after the date of recording the Notice of Completion.

### 10. BAKER WATER TREATMENT PLANT FINAL ACCEPTANCE

Recommendation: That the Board authorize the General Manager to accept construction of Baker Water Treatment Plant, project 05027, authorize the General Manager to file a Notice of Completion, and authorize the release of retention 35 days after filing of the Notice of Completion.

### 11. ADDENDUM NO. 3 TO THE BAKER WATER TREATMENT PLANT PROJECT FINAL ENVIRONMENTAL IMPACT REPORT

Recommendation: That the Board approve the proposed Addendum No. 3 to the Baker Water Treatment Plant project final Environmental Impact Report, including the determinations set forth in Addendum No. 3, and authorize staff to post and file a Notice of Determination.

## ACTION CALENDAR

### SEAWATCH RECYCLED WATER MAIN REHABILITATION CONSTRUCTION AWARD BACKGROUND:

General Manager Cook reported that a 10-inch Seawatch recycled water pipeline supplies the Crystal Cove development in Newport Beach. Mr. Cook said that a total of 17 leaks have been repaired on the pipeline since its installation in 2003 which have been determined to be crack-type failures occurring from the PVC pipe bells. He said that staff recommends the replacement of 4,500 feet of cured in place (CIPP) pipe and 140 feet of PVC pipe to rehabilitate the pipeline.

Executive Director of Engineering and Water Quality Burton reported that this project was advertised for construction bidding to a select list of 17 pipeline and CIPP specialty contractors. Mr. Burton said that five contractors attended the pre-bid meeting; the bid opening was held on February 27, 2018 with two bids received from Paulus Engineering and T.E. Roberts. He said that due to the specialized CIPP process of lining pressure pipelines, many contractors elected not to bid. He further said that T.E. Roberts is the apparent low bidder with a bid amount of \$1,071,940; the engineer's estimate was \$1,245,000.

Mr. Burton said that in the District's contract, General Provisions Section 6.6.2 states, "CONTRACTOR shall not award work to Subcontractors in excess of fifty (50) percent of the Contract Price without prior written approval of DISTRICT." He said that however, in the Statements by Bidder sections of the contract documents, both T.E. Roberts and Paulus Engineering noted that their CIPP subcontractors would perform more than 50% of the work. He said with the concurrence of legal counsel, staff recommends waiving this requirement and awarding the construction contract to T.E. Roberts.

On MOTION by Swan, seconded and carried (4-0) (LaMar, Swan, Withers and Matheis voting aye and Reinhart absent), THE BOARD AUTHORIZED A BUDGET INCREASE IN THE AMOUNT OF \$640,000, FROM \$720,500 TO \$1,360,500, FOR PROJECT 07099; WAIVED THE REQUIREMENT THAT T.E. ROBERTS SHALL NOT AWARD WORK TO SUBCONTRACTORS IN EXCESS OF 50% OF THE CONTRACT PRICE WITHOUT PRIOR WRITTEN APPROVAL OF THE DISTRICT; AND AUTHORIZED THE GENERAL MANAGER TO EXECUTE A CONSTRUCTION CONTRACT WITH T.E. ROBERTS IN THE AMOUNT OF \$1,071,940 FOR THE SEAWATCH RECYCLED WATER MAIN REHABILITATION, PROJECT 07099.

WITHDRAWAL FROM SOUTH ORANGE COUNTY WASTEWATER AUTHORITY RECYCLED WATER MASTER PERMIT (PROJECT COMMITTEE 12)

The District's service area overlies portions of both the Santa Ana (Region 8) and San Diego (Region 9) Regional Water Quality Control Boards. South Orange County Wastewater Authority (SOCWA) currently administers the Recycled Water Master Permit for Region 9 for its member agencies. As of May 2018, IRWD's recycled water deliveries within the Region 9 boundary will be regulated under IRWD's existing Region 8 discharge order and IRWD will have no continuing financial obligations to SOCWA for recycled water permitting. Staff therefore recommends that the Board authorize the General Manager to notify SOCWA of its intent to withdraw from the Recycled Water Master Permit (Project Committee 12) effective July 1, 2018. On MOTION by Swan, seconded and carried (4-0) (Withers, Swan, LaMar, and Matheis voting aye and Reinhart absent), THE BOARD AUTHORIZED THE GENERAL MANAGER TO NOTIFY THE SOUTH ORANGE COUNTY WASTEWATER AUTHORITY OF ITS INTENT TO WITHDRAW FROM THE RECYCLED WATER MASTER PERMIT (PROJECT COMMITTEE 12) EFFECTIVE JULY 1, 2018.

LANDSCAPE AND IRRIGATION CONTRACT TWO-YEAR CONTRACT EXTENSION

General Manager Cook reported that the landscape and irrigation contract for the District's properties expires on March 31, 2018 which allows for two one-year extensions at the discretion of the District. Since the scope of work for the 2015 contract was defined, the District has also added nine locations which require regular maintenance including: 1) San Joaquin Reservoir Standby House, 2) Peters Canyon Pump Station, 3) Bee Canyon Pump Station, 4) Hidden Hills Pump Station, 5) Cienega pilot site, 6) Baker Water Treatment Plant, 7) Bonita Canyon Pump Station, 8) Operation's monument signage area, and 9) Dyer Road Well No. 16. Director Withers said that this item was reviewed by the Engineering and Operations Committee on February 20, 2018, and the Committee concurs with the extension of the current contract. On MOTION by Swan, seconded and carried (4-0) (Withers, Swan, LaMar and Matheis voting aye and Reinhart absent), THE BOARD AUTHORIZED THE GENERAL MANAGER TO EXECUTE A TWO-YEAR CONTRACT EXTENSION WITH TROPICAL PLAZA NURSERY, INC. FOR A TOTAL OF \$985,856.28, EFFECTIVE APRIL 1, 2018.

SAN JOAQUIN MARSH AND NATURAL TREATMENT SYSTEM FACILITIES THREE-YEAR LANDSCAPE MAINTENANCE SERVICES CONTRACT

General Manager Cook reported that current operation and maintenance needs within the San Joaquin Marsh, San Joaquin Marsh Campus, Peters Canyon Water Capture and Reuse Pipeline (Peters Canyon), and Natural Treatment System (NTS) facilities require landscape maintenance contract services to control and remove native and non-native vegetation along with landscape

and irrigation maintenance. Mr. Cook said that the contract includes 10 new NTS sites that the District acquired since the previous contract of 32 sites encompassing a total area of 523 acres. He said that staff initiated the competitive bid process and based on the bids received, staff recommends that the Board authorize the General Manager to execute the landscape maintenance contract with LandCare for three years for the NTS and the San Joaquin Marsh, and with Habitat Restoration Sciences for Peters Canyon.

Director Withers said that this item was reviewed and approved by the Engineering and Operations Committee on February 20, 2018. On MOTION by Swan, seconded and carried (4-0) (Withers, Swan, LaMar and Matheis voting aye and Reinhart absent), **THE BOARD AUTHORIZED THE GENERAL MANAGER TO EXECUTE A CONTRACT WITH LANDCARE IN THE AMOUNT OF \$2,616,874.33 AND WITH HABITAT RESTORATION SCIENCES IN THE AMOUNT OF \$42,792 FOR LANDSCAPE MAINTENANCE CONTRACT SERVICES FOR A THREE-YEAR TERM.**

### CALIFORNIA WATERFIX PARTICIPATION THROUGH DUDLEY RIDGE WATER DISTRICT

General Manager Cook reported that IRWD owns approximately 883 acres of land within Dudley Ridge Water District (DRWD). Associated with this land, IRWD has the right to the use of 1,748 acre-feet per year (AFY) of State Water Project (SWP) Table A water. DRWD has requested that its landowners make a selection of their desired level of participation in the proposed California WaterFix (WaterFix), which will upgrade infrastructure associated with the SWP. DRWD will use the selections made by its landowners to negotiate DRWD's multi-level participation in the project. Staff has prepared a hydrologic and economic analysis of the various options that are being offered to DRWD landowners for participation in the WaterFix. Using a PowerPoint presentation, Mr. Dane Johnson presented the results of the analysis for IRWD's participation in the WaterFix. He reviewed four options for participation, a description of the analysis performed, expected water supplies, expected cost of water, alternative cost comparison, and recommendations. President Reinhart arrived at 5:30 p.m.

Director Swan said that he and Director LaMar reviewed the item late last week, and recommended Option 3. On MOTION by Swan, seconded and unanimously carried, **THE BOARD AUTHORIZED THE GENERAL MANAGER TO SUBMIT AN ELECTION TO FULLY PARTICIPATE IN THE CALIFORNIA WATERFIX THROUGH DUDLEY RIDGE WATER DISTRICT AT THE 100% LEVEL, WHICH WILL BE SUBJECT TO CHANGE BY IRWD AT A LATER DATE BASED ON NEW SUBSTANTIVE INFORMATION.**

### GENERAL COUNSEL REQUEST FOR MUTUAL SEPARATION

General Manager Cook reported that on March 6, 2018, IRWD General Counsel Nossaman sent a letter to the IRWD Board and staff suggesting withdrawal from its representation of IRWD as General Counsel. Mr. Cook said that this letter also outlined a number of "transitional items" as the District moves to new legal counsel. He said that Nossaman has offered to work with IRWD staff during this transition to address these items. The Professional Services Agreement between IRWD and Nossaman includes a 10-day notification to end this agreement. On MOTION by Swan, seconded and unanimously carried, **THE BOARD ACCEPTED NOSSAMAN LLP'S OFFER FOR MUTUAL SEPARATION, WITH SEPARATION EFFECTIVE MARCH 23, 2018.**

## OTHER BUSINESS

### GENERAL MANAGER'S REPORT

General Manager Cook reported that the permit amendment for MWRP is moving forward as planned.

Mr. Cook said that the agreement with the City of Newport Beach relative to the diversion of recycled water to the San Diego Creek watershed was executed. He thanked both Ms. Lyndy Lewis and Mr. Ian Swift for their efforts.

Mr. Cook said that Ms. Leslie Bonkowski celebrated her 40<sup>th</sup> anniversary at the District last week.

### DIRECTORS' COMMENTS

Director Matheis reported on her attendance at an ACWA Summit in Sacramento and a Public Policy group meeting.

Director Withers reported on his attendance at an ISDOC Quarterly luncheon meeting with Director Matheis where they discussed Special District funding. He said he also attended an OCSD Committee meeting, and last Friday, a Federal Affairs meeting at MWD. He reported that tomorrow he will be attending an OCSD Legislative and Public Affairs Committee meeting, and this Thursday, a LAFCO Commissioners' meeting.

Director Swan reported on his attendance at an OCWD Board meeting and Committee meeting, an ACWA energy meeting in Sacramento, an ACC-OC Chapter meeting, a meeting he and Director Reinhart attended with MNWD, and a CASA and ACWA conference in Washington, DC. He noted the passing of Mr. Bill Steele, a former employee of the Bureau of Reclamation, and asked that the Board meeting be adjourned in his memory.

Director Reinhart reported on his attendance at SOCWA meetings, a South County meeting, and MWDOC meetings.

### DIRECTORS' COMMENTS (CONTINUED)

Director LaMar reported on his attendance at an ACWA conference in Washington, DC and an ACWA Board Strategic Planning Session.

### CLOSED SESSION

Vice President LaMar said the following Closed Sessions will be held this evening:

CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION -  
Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2).  
(One (1) potential case);

PUBLIC EMPLOYEE PERFORMANCE EVALUATION — Pursuant to  
Government Code Section 54957(b)

Title: Legal Counsel;

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE — Pursuant to Government Code Section 54957(b); and

PUBLIC EMPLOYEE APPOINTMENT — Pursuant to Government Code Section 54957(b)

Title: Legal Counsel

OPEN SESSION

Following the Closed Session, the meeting was reconvened with three Directors present. Vice President LaMar said that relative to CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2). (One (1) potential case), there was no action to report.

Vice President LaMar said that relative to PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Pursuant to Government Code Section 54957(b) Title: Legal Counsel, there was no action to report.

Vice President LaMar said that relative to PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE - Pursuant to Government Code Section 54957(b), there was no action to report.

Vice President LaMar said that a Closed Session was held relative to PUBLIC EMPLOYEE APPOINTMENT pursuant to Government Code Section 54957(b) Title: Legal Counsel. He said that by a MOTION by Swan, seconded by LaMar, and carried (Swan, LaMar, Matheis, and Reinhart voting aye and Withers voting no (4-1), THE FIRM OF LEWIS BRISBOIS WAS APPOINTED AS GENERAL COUNSEL FOR THE IRVINE RANCH WATER DISTRICT EFFECTIVE MARCH 12, 2018.

ADJOURNMENT

Vice President LaMar adjourned the meeting in memory of Mr. Bill Steele, long-time former employee of the Bureau of Reclamation.

APPROVED and SIGNED this 26th day of March, 2018.

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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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Claire Hervey Collins, Legal Counsel – Lewis Brisbois