

MINUTES OF MEETING
BOARD OF DIRECTORS, ORANGE COUNTY WATER DISTRICT
January 16, 2019 5:30 p.m.

President Sarmiento called to order the January 16, 2019 regular meeting of the Orange County Water District Board of Directors at 5:30 p.m. in the Boardroom at the District office. Following the Pledge of Allegiance to the Flag, the District Secretary called the roll and reported a quorum as follows.

Directors

Denis Bilodeau
Jordan Brandman
Cathy Green
Dina Nguyen
Kelly Rowe
Vicente Sarmiento
Stephen Sheldon
Tri Ta (arrived 5:53 p.m.)
Bruce Whitaker
Roger Yoh

Staff

Michael R. Markus, General Manager
Joel Kuperberg, General Counsel
Janice Durant, District Secretary

EMPLOYEE OF THE QUARTER AWARD

The Board presented the Employee of the Quarter Award to Sr. Programmer Analyst Thuy Lam.

VISITOR PARTICIPATION

Doug Reinhart introduced himself as the new Irvine Ranch Water District representative to the Groundwater Producers.

1 Public Hearing to Consider Increasing Directors' Compensation

President Sarmiento opened the Public Hearing to consider adoption of an Ordinance increasing the Directors' compensation from \$288 to \$300 per day of service, up to a maximum of ten days per month, commencing 60 days from the adoption of the Ordinance (March 16, 2019). General Counsel Kuperberg explained that California Water Code Section 20200, *et seq* allows water districts to enact ordinances to increase the amount of compensation that may be received by members of the Board for each day of attendance at meetings of the Board and for each day of service rendered as a member of and by the request of the Board, by an amount not to exceed five percent (5%) for each calendar year following the operative date of the last adjustment of compensation, for up to ten days in any calendar month. Mr. Markus pointed out that the Board has received five increases over the last 18 years. There being no persons wishing to address the Board, President Bilodeau closed the public hearing and the following action was taken.

Upon motion by Director Sheldon, seconded by Director Bilodeau, with Directors Green and Nguyen voting 'No, the following Ordinance was adopted [7-2].

Ayes: Bilodeau, Brandman, Dewane, Sarmiento, Sheldon, Whitaker, Yoh

Noes: Green and Nguyen

Absent: Ta

ORDINANCE NO 2019-01
ESTABLISHING COMPENSATION FOR DIRECTORS OF THE DISTRICT

WHEREAS, since April 2018, the compensation authorized to be paid to a District Director has been fixed at \$288 for attendance at meetings of the Board of Directors and for each day s service rendered as a member of the Board of Directors; and

WHEREAS, California Water Code section 20200, *et seq* provide that water agency governing boards may authorize increases in the rate of compensation for directors, in amount not to exceed 5% for each calendar year following the operative date of the last compensation adjustment, if the action is taken by ordinance following the conduct of a public hearing; and

WHEREAS, on December 19 2018, the Board authorized publication of a notice of public hearing as required by Water Code section 20203 and Government Code section 6066, to be held on February 7, 2018 to consider increasing District Directors compensation from \$288 to \$300 for attendance at meetings of the Board of Directors and for each day of service on behalf of the District; and

WHEREAS, on January 16, 2019, the Board of Directors conducted the duly noticed public hearing for the proposed Directors compensation adjustment and considered all the evidence and testimony presented at that public hearing,

NOW, THEREFORE the Board of Directors of the Orange County Water District does hereby ordain as follows:

Section 1 Each member of the Board of Directors of the District is hereby authorized to receive compensation in the amount of \$300 for each meeting of the Board of Directors attended by that Director, and for each day of service rendered as a Director of the District, other than attending meetings of the Board of Directors, that is authorized, directed and approved by the Board of Directors.

Section 2: Each member of the Board of Directors of the District is hereby authorized to receive compensation for no more than a total of ten (10) days in any calendar month.

Section 3. Pursuant to Water Code section 20204, this ordinance shall become effective on March 18, 2019 which is the 60th day from the date of final passage of this ordinance

CONSENT CALENDAR

The Consent Calendar was then approved upon motion by Director Green, seconded by Director Whitaker and carried as follows, with Director Brandman abstaining on Item No. 2, *Cash*

Disbursements relating to Orange County Conservation Corp (due to a business relationship), and Item No. 9 *Agreement to Butter Engineering*, due to a prior business relationship)

Ayes: Bilodeau, Brandman, Green, Rowe, Nguyen, Sarmiento, Sheldon, Whitaker, Yoh

Absent: Ta

Abstain: Brandman (partial abstention on Item No. 1 and full abstention on Item No. 9)

CONSENT CALENDAR

2. Approval of Cash Disbursements

MOTION NO. 19-2
APPROVING CASH DISBURSEMENTS

Payment of bills for the period December 13, 2018 through January 9, 2019 in the total amount of \$14,135,792.72 is ratified and approved.

3. Approval of Minutes of Board Meeting

MOTION NO. 19-3
APPROVING MINUTES OF BOARD MEETING

The minutes of the Board of Directors meeting held December 5, 2018 are approved as presented.

4. Amendment No. 1 to Grant Funding Contract for Prado Sediment Management Demonstration Project with SAWPA

RESOLUTION NO. 19-1-2
APPROVING AMENDMENT NO. 1 TO PROPOSITION 84 GRANT FUNDING CONTRACT FOR PRADO SEDIMENT MANAGEMENT DEMONSTRATION PROJECT WITH SANTA ANA WATERSHED PROJECT AUTHORITY

WHEREAS, pursuant to Resolution No. 14-10-137 adopted October 15, 2014, OCWD approved the Proposition 84 Integrated Regional Water Management Round 2 Implementation Grant Funding Contract with Santa Ana Watershed Project Authority for a reimbursement amount not to exceed \$750,000 for the Prado Sediment Management Demonstration Project; and,

WHEREAS, the District staff has presented and recommended approval of Amendment No. 1 to such Contract providing for changes to the project's scale and cost (previously approved) which include reducing the amount of sediment removed to 120,000 cubic yards and eliminating re-entrainment of sediment into the river downstream of Prado Dam at a revised budget of \$3,898,000;

NOW, THEREFORE, the Board of Directors of the Orange County Water District does hereby approve Amendment No. 1 as outlined herein; and, upon approval as to form by District General Counsel, its execution by the District officers is authorized.

5 Consultant Support for Smith Basin Improvement Project

RESOLUTION NO. 19-1-3
AUTHORIZING WORK ORDER TO SAGECREST PLANNING+ENVIRONMENTAL FOR
SMITH BASIN IMPROVEMENT PROJECT

RESOLVED, that issuance of a Work Order is authorized to SageCrest Planning+Environmental for an amount not to exceed \$29,125 to prepare environmental documentation for the Smith Basin Improvement Project.

ITEMS RECOMMENDED FOR APPROVAL AT WATER ISSUES COMMITTEE MEETING
HELD JANUARY 9 2019

6. Employment Agreement with James Kalinowski for Technical Support Services

RESOLUTION NO. 19-1-4
AUTHORIZING LIMITED-TERM EMPLOYMENT AGREEMENT
WITH JAMES KALINOWSKI FOR TECHNICAL SUPPORT SERVICES

WHEREAS, the Water Issues Committee of this Board has recommended authorization of a Limited Term Employment Agreement with Jay Kalinowski for an amount not to exceed \$125,000 for technical consulting services for the period of March 4, 2019 to March 4, 2020;

NOW, THEREFORE, the Board of Directors of the Orange County Water District does hereby approve the Limited Term Employment Agreement as outlined herein; and, upon approval as to form by District General Counsel, its execution by the District officers is authorized.

7 Amendment to Agreement to Contech Services for Repair of Concrete Cracks in Green Acres Project Treatment Building

RESOLUTION NO. 19-1-5
APPROVING AMENDMENT TO AGREEMENT WITH CONTECH SERVICES FOR REPAIR
OF CONCRETE CRACKS IN THE GREEN ACRES PROJECT TREATMENT BUILDING

WHEREAS, pursuant to Resolution No. 18-8-109 adopted August 15, 2018, OCWD approved Agreement No. 1328 with Contech Services, Inc. for the repair of concrete cracks in the Green Acres Project Treatment Building for an amount not to exceed \$48,650, and

WHEREAS the Water Issues Committee has recommended issuance of Amendment No. 1 to such Agreement for an amount not to exceed \$5,975 for additional epoxy injection repairs;

NOW, THEREFORE, the Board of Directors of the Orange County Water District does hereby approve Amendment No. 1 as outlined herein; and, upon approval as to form by District General Counsel, its execution by the District officers is authorized.

8. Contract No. GAP-2019-2, 2019 Green Acres Project (GAP) Appurtenance Rehabilitation – Categorical Exemption and Notice Inviting Bids
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MOTION NO. 19-4
APPROVING NOTICE INVITING BIDS FOR CONTRACT NO GAP-2019-2, 2019
GREEN ACRES PROJECT (GAP) APPURTENANCE REHABILITATION AND
AUTHORIZING FILING OF CATEGORICAL EXEMPTION

Publication of a Notice Inviting Bids is authorized for Contract No. GAP-2019-2, Green Acres Project (GAP) Appurtenance Rehabilitation; and filing of a Categorical Exemption is authorized for the replacement of existing Green Acres Project appurtenances in compliance with the California Environmental Quality Act (CEQA) guidelines

- 9 Mid-Basin Injection: Centennial Park – Amendments to Butier Construction Managers and Geotechnical Consultants, and Construction Change Orders 4 and 5 to Contract MBI-2017-1

RESOLUTION NO. 19-1-6
AUTHORIZING AMENDMENTS TO BUTIER CONSTRUCTION MANAGERS AND
GEOTECHNICAL CONSULTANTS, INC IN CONNECTION WITH MID-BASIN INJECTION
CENTENNIAL PARK PROJECT AND RATIFYING CONSTRUCTION CHANGE ORDERS 4
AND 5 TO CONTRACT MBI-2017-1, MID-BASIN INJECTION:
CENTENNIAL PARK (PACIFIC HYDROTECH)

WHEREAS, pursuant to Resolution No. 16-4-52 adopted April 20, 2016, OCWD approved the Mid-Basin Injection: Centennial Park Project which includes the construction and operation of four injection wells at Centennial Park and a monitoring well at the Heritage Museum; and

WHEREAS, pursuant to Resolution No. 17-5-78 adopted May 24, 2017 OCWD awarded Contract No. MBI-2017-1, Mid-Basin Injection. Centennial Park to Pacific Hydrotech; and

WHEREAS, the District staff has advised of issuance of Change Orders No. 4 and 5 to such Contract for a net total of \$91,668.03 and no time extension for use of native soil for backfill, conflicts with existing utilities, structure cripple walls, additional well drilling and development, and other changes; and

WHEREAS, pursuant to Resolution No. 16-6-81 adopted June 15, 2016, OCWD approved the following agreements in connection with the Project:

- 1) Agreement to Butier Construction Managers for an amount not to exceed \$1,155,932 for Civil Construction Management Services
- 2) Agreement to Geotechnical Consultants, Inc. for an amount not to exceed \$449,810 for Well Construction Management Services; and

WHEREAS, the Water Issues Committee has recommended approval of the following Amendments to such Agreements in connection with such project:

- 1) Amendment No. 1 to Agreement No. 1168 with Butier Construction Managers for an amount not to exceed \$90,000 for additional civil construction management;
- 2) Amendment No. 2 to Agreement No. 1164 with Geotechnical Consultants, Inc. for an amount not to exceed \$23,700 for additional well construction management; and

NOW THEREFORE, the Board of Directors of the Orange County Water District does hereby resolve as follows.

Section 1 Issuance of Change Orders No. 4 and 5 to Contract No. MBI-2017-1 is ratified.

Section 2: Amendment No. 1 to Agreement with Butier Construction Managers is authorized as outlined herein; and upon approval as to form by District General Counsel, its execution by the District staff is authorized.

Section 3. Amendment No. 2 to Agreement No. 1164 with Geotechnical Consultants, Inc. is authorized as outlined herein; and upon approval as to form by District General Counsel, its execution by the District staff is authorized.

10. Agreement with DDB Engineering for Preparation of 2018 GWRS Annual Report

RESOLUTION NO. 19-1-7
APPROVING AGREEMENT WITH DDB ENGINEERING FOR
PREPARATION OF 2018 GWRS ANNUAL REPORT

RESOLVED, that issuance of an Agreement is authorized to DDB Engineering Inc. for an amount not to exceed \$52,000 to provide consulting services for the preparation of the calendar year 2018 GWRS Annual Report; and, upon approval as to form by District General Counsel, its execution by the District staff is authorized.

11. Alamitos Seawater Barrier 2019-20 Operations and Maintenance Budget

MOTION NO 19-5
APPROVING ALAMITOS SEAWATER BARRIER 2019-20 O&M BUDGET AND
APPOINTING GARY YOSHIBA AS ALTERNATE MEMBER OF ALAMITOS BARRIER
JOINT MANAGEMENT COMMITTEE

The Alamitos Barrier 2019-20 total Operations & Maintenance (O&M) budget in the amount of \$2,465,000 is approved, and payment of the District's share not to exceed \$1,102,500 payable to the Los Angeles County Department of Public Works is authorized after receipt and review of invoices; further, the appointment of Gary Yoshiba as an OCWD alternate member of the Alamitos Barrier Joint Management Committee is authorized.

ITEMS RECOMMENDED FOR APPROVAL AT ADMINISTRATION AND FINANCE ISSUES COMMITTEE MEETING HELD JANUARY 10, 2019

12. Monthly Cash Control Report

MOTION NO. 19-6
RECEIVING AND FILING THE MONTHLY CASH CONTROL REPORTS

The Summary Cash and Cash Equivalents Control Reports dated December 31 2018 are hereby received and filed.

13. Investment Portfolio Holdings Reports

MOTION NO. 19-7
RECEIVING AND FILING THE INVESTMENT PORTFOLIO HOLDINGS REPORTS

The Investment Portfolio Holdings Reports dated December 31 2018 are hereby received and filed

14. Surplus of Equipment, Vehicles, Miscellaneous Furniture and Computer Hardware

MOTION NO. 19-8
DECLARING EQUIPMENT VEHICLES, MISCELLANEOUS FURNITURE AND
COMPUTER HARDWARE SURPLUS

The items on Surplus List as of 12/31/18 are declared surplus and the sale and disposal thereof is authorized.

15. Amendment Three to License Agreement with PUB Construction for Storing of Construction Equipment Located at Upper Five Coves Basin, Anaheim

RESOLUTION NO. 19-1-8
APPROVING AMENDMENT THREE TO LICENSE AGREEMENT WITH PUB
CONSTRUCTION FOR STORING OF CONSTRUCTION EQUIPMENT LOCATED AT
UPPER FIVE COVES BASIN, ANAHEIM

WHEREAS, pursuant to Resolution No. 18-8-97 adopted August 15, 2018, OCWD authorized issuance of Amendment Two to such License Agreement with PUB Construction extending the License through December 31 2018;

WHEREAS, the Water Issues Committee of this Board has presented and recommended approval of Amendment Three to such Agreement extending the License expiration date to February 28, 2019, with an additional license fee of \$1,148, with all other Agreement terms to remain the same;

NOW THEREFORE, the Board of Directors of the Orange County Water District does hereby approve Amendment Three to such License Agreement as described herein; and, upon approval as to form by District General Counsel, its execution by the District officers is authorized

- 16. Amendment Three to License Agreement with T.E. Roberts for Storing of Construction Equipment Located at Huckleberry Pond, Anaheim

RESOLUTION NO 19-1-9
APPROVING AMENDMENT THREE TO LICENSE AGREEMENT WITH T.E ROBERTS
FOR STORING OF CONSTRUCTION EQUIPMENT
LOCATED AT HUCKLEBERRY POND, ANAHEIM

WHEREAS, pursuant to Resolution No. 18-1-2 adopted January 3, 2018, as subsequently amended, OCWD issued a License Agreement to T.E. Roberts, Inc. to allow equipment storage at the District's Huckleberry Pond property in Anaheim utilizing the District's maintenance roads, through July 31 2018, and

WHEREAS, the Property Management Committee has recommended execution of Amendment Three to such License Agreement extending the expiration date to June 30, 2019 for a fee of \$500 per month, with all other Agreement terms to remain the same;

NOW, THEREFORE, the Board of Directors of the Orange County Water District does hereby approve Amendment Three to such License Agreement as described herein; and, upon approval as to form by District General Counsel, its execution by the District officers is authorized.

- 17 BPP and RA Estimates for Fiscal Year 2019-20

MOTION NO. 19-9
AUTHORIZING BASIN PRODUCTION PERCENTAGE AND REPLENISHMENT
ASSESSMENT ESTIMATES FOR FISCAL YEAR 2019-20

The Fiscal Year 2019-20 Replenishment Assessment and Basin Production Percentage estimates are hereby provided to the Groundwater Producers as. RA of \$498 to \$505 per acre-foot and BPP of 75%

Director Ta arrived at 5:53 p.m. at this point in tonight's meeting.

MATTER FOR CONSIDERATION

- 18. Consideration of Agreement with Moulton Niguel Water District

Executive Director John Kennedy recalled in August 2017 the Board broadened the District's Water Resources Policy to allow the consideration of water storage and exchange programs with South Orange County (SOC) water agencies. He further recalled that in October 2018 the Board President created an ad-hoc committee of OCWD and Moulton Niguel Water District (MNWD) Directors to discuss the issues of developing a MNWD pilot storage account in the groundwater basin.

Mr. Kennedy presented a proposed Interagency Agreement that provides for hiring consultants to formally study the issues related to developing a potential MNWD pilot storage account in the OCWD groundwater basin and noted that MNWD has agreed to fund this work

The following individuals then addressed the Board:

IRWD representative Paul Weghorst expressed objections to the proposed Agreement, suggesting it is not compatible with the OCWD Act. He urged the Board to consider the will of the Groundwater Producers and recited sections of the OCWD Act that prohibit exportation of water outside of the watershed.

MNWD General Manager Joone Lopez urged the Board to support the Agreement noting there is no expectation of obligation.

Golden State Water Company representative Ken Vecchiarelli urged deferral of a decision on the proposed Agreement stressing that OCWD's mission does not include South Orange County. He urged the Board to meet the needs of its stakeholders and requested deferral of action on this item pending receipt of a letter from the Groundwater Producers.

General Counsel Kuperberg responded that the proposed agreement is non-binding and does not provide for groundwater storage or exportation of water, noting that the OCWD Act allows for storage agreements. Director Rowe advised that he could not support the agreement due to an overlooked study he performed over the past several years on the SESBEE aquifer beneath Santa Margarita that potentially contains two million acre-feet of stored groundwater. The Board questioned whether the consultant's scope of work could incorporate the Groundwater Producers concerns and requested that Mr. Kuperberg address District Act concerns and review the language that created the MNWD ad hoc Committee. The Board then took the following action.

Upon motion by Director Ta, seconded by Director Brandman and carried [9-1], with Director Rowe voting "No," the following resolution was adopted.

Ayes: Bilodeau, Brandman, Green, Nguyen, Sarmiento, Sheldon, Ta, Whitaker, Yoh
Noes: Rowe

RESOLUTION NO. 19-1-10
APPROVING INTERAGENCY AGREEMENT WITH
MOULTON NIGUEL WATER DISTRICT FOR POTENTIAL
STORAGE EXCHANGE PROGRAM

WHEREAS, the Water Issues Committee has presented and recommended approval of an Interagency Agreement with Moulton Niguel Water District to evaluate the potential joint benefits of developing a storage exchange program; and

WHEREAS, such Agreement calls for issuance of Request for Proposals (RFPs) for consultants to formally study the issues related to developing a potential MNWD pilot storage account in the OCWD groundwater basin. MNWD has agreed to fund this work,

NOW, THEREFORE, the Board of Directors of the Orange County Water District does hereby approve and authorize execution of the Interagency Agreement as described herein; and, issuance of RFPs for review of existing water storage programs and Evaluation of Groundwater Conveyance Options is authorized.

INFORMATIONAL ITEMS

19 ACWA/JPIA H.R. LaBounty Safety Awards to Laboratory Staff

Executive Director of Health and Regulatory Jason Dadakis advised that OCWD's water quality laboratory staff have been recognized by the Association of California Water Agencies through its LaBounty Safety Awards Program which recognizes staff's successful transition to a safer organic extraction procedure for the analysis of nitrosamine compounds in water samples.

20 State Wetland Definition and Procedures for Discharges of Fill Materials to State Waters

Executive Director Greg Woodside noted that OCWD has existing permits from the state and the United States Army Corps of Engineers for maintenance and operations of the Prado Wetlands and Orange County recharge facilities. He stated the SWRCB issued a public notice of new state policies for the definition of wetlands and regulations for discharges of dredged or fill material to waters of the state. Mr Woodside stated these new state requirements are proposed for inclusion in the Water Quality Control Plans for Inland Surface Waters and Enclosed Bays and Estuaries and Ocean Waters of California. If approved as currently written in the January 3, 2019 document, these requirements would significantly increase the regulatory burden for OCWD's existing operations and maintenance of the Prado Wetlands and the District's Orange County recharge facilities (such as the Santa Ana River and Anaheim Lake)

21 Groundwater Remediation Status Update

District Hydrogeologist Roy Herndon updated the Board on recent remediation activities.

22. Water Resources Summary – December 2018

There was no discussion of this item.

23. Committee/Conference/Meeting Reports

The Board reported on the following Committee meetings and noted the Minutes/Action Agendas were included in tonight's Board packet.

January 09	- Water Issues Committee
January 10	- Administration and Finance Issues Committee
January 14	- GWRS Steering Committee

24. VERBAL REPORTS

President Sarmiento drew the Board's attention to the Committee and Outside Agency assignments included in tonight's packet. (Director Ta left the meeting prior to the vote on this item.) The Board then took the following action.

MOTION NO 19-10
APPROVING COMMITTEE AND OUTSIDE AGENCY ASSIGNMENTS

Upon motion by Director Green, seconded by Director Brandman and carried [9-0]. The Committee and Outside Agency assignments are hereby approved as presented.

Ayes: Bilodeau, Brandman, Green, Nguyen, Rowe, Sarmiento, Sheldon, Whitaker, Yoh
Absent: Ta

General Manager Markus provided rainfall totals for the current year, noting the County is way ahead of last year.

RECESS TO CLOSED SESSION

The Board recessed to Closed Session at 7:15 p.m. as follows.

- CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION –
[Government Code Section 54956.9(a)] – One case:
OCWD v. Unocal Corporation, et al (MTBE Litigation) Superior Court Case No. 03CC00176
- CONFERENCE WITH REAL PROPERTY NEGOTIATOR [Government Code Section 54956.8]
Real property located at: 1200 and 1204 South Phoenix Club Drive, Anaheim, CA 92806
Parcels (4) - APNs 253-473-01 253-631-32 – 1200, 253-631-39 and 375-221-09
OCWD negotiator: Michael Markus
Negotiating party: North Basin Land, LLC (H&S Ventures, LLC)
Under negotiation: Price and Terms

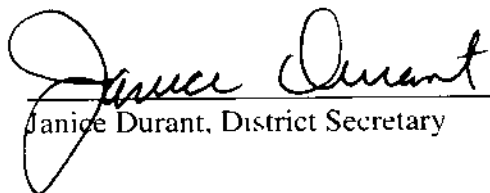
RECONVENE IN OPEN SESSION

The Board reconvened in Open Session at 7:50 p.m. whereupon General Counsel Kuperberg advised that the Board by a unanimous vote of those present approved the following agreement in Closed Session.

CS-19-1-1
APPROVING SETTLEMENT AGREEMENT WITH BP ARCO FOR FULL RELEASE OF
MTBE CLAIM IN EXCHANGE FOR \$14 MILLION.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 7:51 p.m.



Janice Durant, District Secretary



Vicente Sarmiento, President