



## Independent Rates Oversight Committee (IROC)

October 20, 2014

## MINUTES

**1. Roll call**

Chairwoman Stallard-Rodriguez called to order the regular meeting of the IROC at 9:36 a.m. Monica Foster conducted roll and a quorum was declared. Attendance is reflected below:

<b>Members:</b>	<b>Present</b>	<b>Absent</b>
Irene Stallard-Rodriguez, Chair	x	
Don Billings, Vice Chair	x	
Craig Chapman		x
Christopher Dull		x
Gordon Hess	x	
Jeff Justus	x	
Jack Kubota	x	
Tiffany Mittal	x	
Jim Peugh	x	
Gail Welch	x	
<b>Ex-Officio Members:</b>		
Luis Natividad, Metro JPA	x	
Ken Williams, City 10	x	

*City representatives present at dais: Halla Razak, Director; Tom Crane, Assistant Director; Tom Zeleny, Deputy City Attorney*

**2. Non-Agenda public comment**

None.

**3. Approval of Draft Minutes of September 15, 2014**

Chairwoman Stallard-Rodriguez asked for a motion to approve the Draft Minutes.

**ACTION:** Upon motion by Vice Chair Billings and seconded by Member Justus, motion passed 5 (in favor) -0 (opposed) -3 (abstained – Welch, Stallard-Rodriguez, Mittal).

**4. Chair updates/Certificates of Appreciation – Chairwoman Stallard-Rodriguez**

- She was fortunate to do a ride-along with some outstanding employees of the Department. She presented certificates of appreciation to each individual and gave a brief note about her experience with the employee during her time spent with them. Employees present and recognized were: Terrell Powell; Eddie Salinas; Herberto Nino; Wayne Lindquist; Miguel Hernandez; Henry Rodriguez; Evelyn Houston; Willie Bailey; Robert Cloe; Jaime Garcia; Jose Hernandez; and Kenneth Crowell.

Member Kubota commended the individuals as well as the Chair for taking the time to go on a ride along. He suggested videos of a type of ride along could be helpful in an outreach approach.

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5. **City Staff updates** – *Halla Razak, Director*

- Drought continues and intensifies each day. The Mayor recommended to the City Council last week, moving to the next stage of the Drought Alert, which takes all voluntary measures and moves them to the mandatory stage. This stage increase is due to water supply. The high heat and evaporation play a big part. Metropolitan Water District storage has dipped below 50% and we expect they will go into water allocation, forcing the San Diego Water Authority (CWA) to go into allocation. This will be heard at City Council this evening. If this is approved this next stage will begin November 1.

The Mayor announced that the Public Utilities Department developed at a minimal cost, a new free App for Androids and iPhones for Waste No Water. Since, the Department has tripled the amount of water waste complaints, and it is quite successful.

The CWA is looking at rates and charges, and she will meet with them today to participate in this, and discuss the fiscal sustainability which started some time ago, she will update IROC as things come together.

- Pure Water update: The Waiver and proceeding with Pure Water was taken before the Committee of the Environment last week. Broad support was given by the Committee; communities, speakers spoke of support; and we have received many letters of support from many organizations such as the Tax Payers Association. The Committee members moved the item to Council without taking a position because of the issues with Prop. A, which will be worked on.
- Bond on Ballot of November 4 (Prop.1): The Department will be able to compete for \$2B of the \$7.12B of the Bond. With a very conservative estimate, we plan on getting \$100-\$125M from the Bond.

**City Awards** – *George Adrian, Principal Water Resource Specialist and Alma Rife, Senior Public Information Officer (Pure Water)*

- Mr. Adrian shared that the Department won two awards for the 2012 Long Range Water Resources Plan. One award being from the American Academy and Environmental Engineers & Scientists which qualified the Department for the second award, International Water Association Award. He thanked several IROC members (Members Hess, Stallard-Rodriguez, Peugh, Billings, and Welch) who participated on the Stakeholder Committee.

Ms. Rife shared that the Outreach Program has received two honors. First being the 2013 Public Communications Achievement Award from the American Water Works Association; and the second being the Silver Merit Award from the Public Relations Society of America, recognizing excellence in public outreach and education for the Water Purification Demonstration Project.

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**Water Main Breaks & Sewer Spills Update** - *Agnes Generoso, Deputy Director, Wastewater Collection Division*

**Sewer Spills:** As of September 30, total of 19 spills compared to 37 spills this time last year. Volume released to the environment: 4,200 compared to approximately 30,000 this time last year. She noted the handout representing this has a typo, showing approximately 5,000 gallons but should read just over 29,000 gallons last year. There was one canyon spill to date at Lopez Canyon, and 1 public water spill at La Jolla this year.

Member Peugh asked for details from the recent La Jolla spill. Ms. Generoso indicated on 10/14/14 a private lateral sewer spill occurred coming from the La Valencia Hotel. City crews were notified at approximately 8:15 a.m. Following Wastewater Collection Division's (WWCD) initial investigation, it was determined that, from the time it was reported, approximately 330 gallons had spilled. Meanwhile, the Transportation and Storm Water Department (TSWD) was at the site, conducting a separate investigation, and came upon the spill. As part of their permitting requirement of reporting any illegal discharges into the storm drain, TSWD immediately filed a preliminary report to the Office of Emergency Services (OES), and also contacted the County Department of Environmental Health (DEH). Unfortunately, this resulted in different volume estimates being given to the regulatory agencies by WWCD and TSWD. Subsequent conversations with the TSWD resulted in their agreement that WWCD's information should be considered the official City information. Meanwhile, at the conclusion of WWCD's investigation, it was found that the spill actually started approximately 5:00 a.m. Therefore, the spill total was adjusted to reflect that start time, revising the spill report to the DEH and State to reflect a total of 2,250 gallons. The DEH is in agreement with this final spill total. It was noted that the path of the spill was followed and it ended up in La Jolla Cove, not in Children's Pool as initially reported. More meetings will take place between WWCD and the TSWD as well as with the County DEH related to reporting of sewer spills, so reports can remain consistent. The DEH and TSWD are willing to defer to WWCD to be the experts in estimating, investigating, and researching for reporting on findings particularly about sewer spills. She noted that private lateral spills are not counted against the Department's total spills. Terrell Powell, General Water Utilities Supervisor, noted that private parties can be fined by Regional Water Quality Control Board if gross negligence is found.

**Water Main Breaks:** *Bernard Powell, Water Construction & Maintenance*

This quarter number of water main breaks: 20 compared to 11 at the same time last year; YTD 57 vs. 65 YTD last year.

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6. **Mayor and Council Staff comments**

None.

7. **City 10 – County Water Authority update** – *Ken Williams*

- Drought update: If the Metropolitan Water District gets 5% allocation from the State (same as last year), and assumed they use 1/3 of its reserves, that translates to roughly a 9% cut in water supply to San Diego, which is manageable.
- Next fall, the Carlsbad Desal Plant will come online, and is on schedule.
- A fact sheet put out by the San Diego County Water Authority was distributed regarding the Metropolitan Water District (MWD) Lawsuit. This lawsuit has been ongoing for 3-4 years. He recited that on April 24, 2014, the Water Authority received a major victory in the case, as the San Francisco Superior Court Judge issued his final statement of decision in Phase 1; he ruled that MWD's rates for 2011-2014 violates four different laws. Final ruling agreeing with the County Water Authority's long-standing position that MWD's rates must be based on the actual costs of providing service and must be reasonably related to the burdens imposed on MWD by its member agencies and benefits they receive from MWD. Mr. Williams reviewed a chart of the finances involved in the this lawsuit

A second phase of the trial is yet to be scheduled on the two remaining Water Authority claims in the litigation. The final judgment that covers both phases of the case is expected by the end of 2014/early 2015. For more information, go to [www.sdcwa.org/mwdrate-challenge](http://www.sdcwa.org/mwdrate-challenge).

8. **Pure Water: As Needed Contract for Engineering and Technical Services**

Ann Sasaki, Assistant Director, indicated that last week they went before the City Council for the permit application for Pt. Loma. The City will be making a commitment to the implementation of Pure Water, which brings 83 million gallons per day of safe, reliable, locally controlled water created by 2035. She indicated they are trying to get to Council early next year to get moving forward.

Ms. Sasaki indicated that as part of this implementation, outside assistance is necessary. Following a Request for Proposal for an As-needed Contract for Engineering and Technical Services, five (5) proposals were received in August. These firms were shortlisted and interviewed by a panel comprised of IROC members, Metro JPA, City Equal Opportunity staff, as well as Department staff. In September the selection of MWH Consultants was made. Rates are being negotiated for this as-needed contract. Ms. Sasaki reviewed the scope of work, and plans for the coming work.

Ms. Sasaki is asking for IROC's support in moving forward to Council once the Contract is negotiated.

Vice Chair Billings asked how \$30M will be allocated between Water and Wastewater funds. Ms. Sasaki indicated the City is working with the Metro Participating Agencies.

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Initially it will be 50/50, but once that allocation is decided upon, the books will be reconciled.

Vice Chair Billings asked for an elaboration of the contract management, and how this will be overseen and broken down for billing and invoicing. Ms. Sasaki indicated that MWH will provide their actual billing rates, and based on the scope of work, task orders will be issued for a distinct scope of work. The City's Contracts and Engineering groups will be negotiating this. Invoices will be reviewed and verified by City Contracting staff onsite.

**ACTION:** Chairwoman Stallard-Rodriguez asked for a motion to support the As-needed Contract for Engineering and Technical Services award to MWH in the amount of \$30 million not to exceed, for duration of 5 years.

Member Peugh moved to support the motion as stated, Member Welch seconded. Motion passed 6-0-2 (abstained: Kubota, Dull)

9. **Discussion: Prop. A (2012)**

Tom Zeleny, Deputy City Attorney indicated that Prop. A passed and indicates that the City could not require its contractors on construction projects to use a Project Labor Agreement (PLA), which is an agreement with the relevant trade unions that would say that during the term of a project, they promise not to strike. In return, the contractor would agree to hire workers from Union halls.

He noted that before Prop. A was voted on, Senate Bill 829 was passed which said that if any Charter city constrained in any way the ability of the governing body to consider a PLA, they would be ineligible for State funding. Prop. A constrained the City's ability to require one.

Over the past couple of years, the City has been in discussions with the State Water Resources Control Board (SWRCB) who was, at the time responsible for administering the State Revolving Fund Loan Program for wastewater projects in the state of California, over whether or not the City was eligible because of an exception in Prop. A. This exception said that the City could not require PLAs except as required by law as a condition of procurement or getting State funding or financial assistance.

Meanwhile, the City had a Water loan, which was administered by the Department of Public Health (DPH) at the time. Since, DPH has turned over its Water loans to the SWRCB. This later caused confusion to how the City obtained this loan, and how the City is still eligible. The City Attorney's office had responded to SWRCB explaining the exception stating we can consider PLA as required by State law on all projects. Mr. Zeleny noted that the Department of Industrial Relations likewise has sent letters asking all Charter cities whether they are eligible for State funding because under Senate Bill 7, the DIR is supposed to create a list of all Charter cities in California who are still eligible for State funding.

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At Council Committee recently, the Committee on the Environment did not have a recommendation to approve the permit for Pt. Loma and the cooperative Agreement with the environmental stakeholders. It was moved to City Council but without a recommendation with the concern that if the City was not eligible for State funding under Prop. A, this may become a more expensive proposition.

However, the Mayor, Council President, and the City Attorney's office have been in discussions with Toni Atkins' office and others, about the interpretation of exception clause in Prop. A and the SWRCB has tentatively agreed recently, but they would like to see the City Council concurring in the City Attorney's legal opinion on how this exception works. Mr. Zeleny added that this resolution will go before City Council later today. If this passes and all goes well, it will confirm that the City is eligible for State funding.

Vice Chair Billings asked if there is a risk that someone can challenge this administrative action. Mr. Zeleny indicated it is always possible to challenge, but in this case it is not likely.

Ex-officio Williams asked when it comes time to contract for Pure Water or any other project, how this exception plays into that contract and any PLAs. Mr. Zeleny indicated that the City Council would retain their discretion to put in the bid specifications, stating that in order to bid you must agree to enter into a PLA.

**10. Discussion: FY2014 Annual Report**

Chairwoman Stallard-Rodriguez opened for discussion the changes/recommendations necessary to finalize the Annual Report. After collaboration, the following items were recommended:

- Infrastructure & Operations Subcommittee section:

**ADD:** Insert one sentence on page 16 of the Draft Report, under Sustainability of the System, second paragraph after the first sentence: "In the 2014 Cost of Service Study, the Department plans on cash funding the program for FY 2014 and FY 2015."

- Finance Subcommittee section:

**ADD:** Insert one paragraph in the Recommendations area of the Approved and recommended changes to water rates and Water Rate Structure section: "In addition, the Department should continue working with others to provide programs or encourage assistance for low income users to address some of the needs they may have in respect to water bills."

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- Executive Summary:

**REVISE:** Last page, item 6, should be updated to reflect number of termed out members.

Chairwoman Stallard-Rodriguez pointed out that IROC's Key Recommendations are duplicated in the Subcommittee subsections of the Report, and will also be included in the Executive Summary.

**REMOVE:** IROC's Key Recommendations from Subcommittee Sections, and remain included in the Executive Summary.

- **UPDATE:** IROC Membership list to reflect member's term expiration dates.
- David Bryant, IROC Liaison to make non-substantive grammatical error adjustments to the Report as necessary.

**ACTION:** Vice Chair Billings moved to approve the IROC FY2014 Annual Report as presented with the understanding that non-substantive edits will be made prior to publication; and to encourage the Department to continue to explore ways and means to provide a "Lifeline Rate" or assistance; and Management's validation of financial data. Member Welch seconded. Motion passed 8-0.

## 11. Subcommittee Reports

### a. **Finance** – *Gordon Hess, Chair*

- Presentation on the status of the Reclaimed Water Study. Department staff is still meeting with the Mayor's office, and will hope to move forward in the next couple of months.
- Presentation on the Fiscal Year 2014 Year End balances. Discussed the flow of funds in and out of accounts, and reviewed the handling of overages/unders.
- Discussed the Annual Report Subcommittee sections.
- Discussed changing the meeting day/time of the Finance Subcommittee and it was a consensus to keep it at the current time which is most convenient.
- Follow up item: Lee Ann Jones-Santos to provide information related to reclaimed water use, and how much is sold to other agencies and used by other City departments.

### b. **Infrastructure and Operations** – *Jim Peugh, Chair*

- Presentation on Water Conveyance Pipeline Condition Assessment
- Discussion of the Pure Water As Needed Contract for Technical Services
- Discussion of trunk sewer assessment
- Discussed the FY2014 Annual Report
- Future items: Energy Conservation in the Department; Discussion on the testing of valves every 3 years opposed to every 5 years.

### c. **Outreach and Communications** – *Irene Stallard-Rodriguez, Chair*

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- Update on conservation. They were very impressed with the Waste No Water App now available, which customers can download a photo of a leak or wasteful water use. The location will be uploaded to the Department, and the Department will be able follow up with the customer.
- Update on the Reward and Recognition and performance management, as well as information on the new San Diego Works recognition program. There have been 56 submissions from the Department already.

12. **Metro/JPA Report Out**

None.

13. **Proposed Agenda Items for next/future IROC meeting**

- Reclaimed Water (Purple Pipe) information such as a customer profile of how many customers there are and how much do they purchase, etc. Vice Chair Billings added that Olivenhain has a new rate case to go before their Board, and may present to IROC next meeting.

14. **IROC Members' Comments**

Member Kubota requested that in regard to the Public Utilities management being fully staffed, he would like an updated organization chart.

Member Welch thanked Chairwoman Stallard-Rodriguez for her leadership, and getting the Annual Report out earlier than last year.

Chairwoman Stallard-Rodriguez thanked the Department management for having the employees present today, and preparing certificates for the recognition given in Item 5.

Meeting adjourned at 12:00 noon

Minutes submitted by:           Monica Foster