



Independent Rates Oversight Committee (IROC)

May 18, 2015

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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:

Members:	Present	Absent
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	
Ex-Officio Members:		
Ed Spriggs, Metro JPA	x	
Ken Williams, City 10	x	

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

2. **Non-Agenda public comment**

None.

3. **Approval of Draft Minutes of April 20, 2015**

Chairwoman Stallard-Rodriguez asked for a motion to approve the Draft Minutes of April 20, 2015. Member Hess noted that on the last page, the meeting adjournment time should reflect p.m. rather than a.m.

ACTION: Member Peugh moved to approve with said change. Member Hess seconded. Minutes passed 7 (in favor), 0 (oppose), 1 (abstain - Mittal).

4. **Chair updates** – Chairwoman Stallard-Rodriguez

- Recognition of appreciation to Tisa Agüero for providing her a fantastic ride-a-long while checking valves and fire hydrants. She provided a certificate to be given to her.
- Recognized Vice Chair Billings for his 7 years and 7 months of dedicated service to the IROC. She praised him for his valuable contributions to the City of San Diego and its ratepayers. She presented him with a certificate of service as well as a plaque award in recognition of his leadership and dedication.

Director Razak thanked Vice Chair Billings for his amazing support for rate payers, the Department, and IROC. She commended his expertise and valuable

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ideas shared over the past 7 years and 7 months. She expressed how appreciative the Department and the City of San Diego is for his many years of contributions.

Member Welch thanked Vice Chair Billings for his valuable service and shared knowledge over the years. She then presented him with a heartfelt speech on behalf of Member Kubota who was not in attendance.

5. City Staff updates

Announcements - Director Razak

- Lee Ann Jones-Santos has promoted to Assistant Director, she will lead the Business Support Branch which includes the Long Range Planning, Customer Service, and Finance Divisions.

Drought Update - Director Razak

- April 1, 2015 the Governor issued an Executive Order asking for cut backs of 25% of water use. She noted that the concentration of this Order is really on the retail level.
- With the State mandated Draft guidelines, the Department has been consumed with lobbying, communicating with the State, and giving updates of our progress. The final requirements state that the City must cut 16%. This level will be very difficult and other surrounding cities are experiencing the same difficulty. Discussions with some of the heavy water users in the City such as Park and Recreation are on-going, and John Helminski is heading up a group to work very closely with the different departments. Meanwhile, it has been challenging to change the State's opinion on getting credit for local supply development such as Desal, which is expected to come online this September.

Currently there is regional outreach to have customers cut their irrigation to 2 times per week, and 5 minutes per station. The City is in the process of changing the Muni Code to make this a requirement. Currently there are 19 people assigned to investigating water waste complaints, issuing notices of violations and citations. She indicated over 120 notices of violations, and 9 citations for the month of April have been sent out, to let the public know the drought is very serious.

- The Pure Water schedule has been studied, and she has been working closely with John Helminski, and MWH making sure Pure Water can be delivered as soon as possible. The schedule has been shared with the environmental stakeholders and the business community, and they are very impressed. She indicated the incredible City staff work very hard with a lot of passion and excitement to make a difference to set the Public Utilities Department in a perfect place to help the residents during this drought.

Member Hess commented that he learned from a recent Board memo, that the Metropolitan Water District (MET) has spent \$100M for turf rebates this year so far, and on their last week's agenda Agenda was to increase this amount to \$250M in turf rebates. He calculated that \$25M comes from the City's rate payers, and he has

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concerns about how MET spends this money. He understands a portion is going out to other areas to help them meet their goals, which does not benefit the City of San Diego.

ACTION: Member Hess made a motion for IROC to draft a letter to MET expressing concern about this program, and about the monies coming from the City of San Diego to fund other area's conservation to assist in meeting their goals.

Discussion:

Tom Zeleny, Deputy City Attorney, interjected and indicated there is not sufficient notice on this Agenda to entertain a motion at this time. He added it may be taken up at the Subcommittee level, or a future full IROC agenda.

Director Razak commented that the San Diego County Water Authority (CWA) has already issued a letter that addressed this issue. She added that the Mayor's office is involved and discussing the messaging as well. Furthermore, the City of San Diego customers themselves are interested in these rebates, and have many have utilized the program as well.

Mr. Zeleny added that IROC may proceed with a motion by declaring that this topic is a very urgent matter that came to light of this Committee within 72 hours of the meeting, with a 2/3 vote.

Concerns of the importance of messaging for Pure Water began with Members Billings and Peugh. Director Razak concurred with the importance of messaging, and added that the Department has been very careful with the tone of the messaging. Member Peugh also indicated his concern for the aging infrastructure that may be cut back on due to the Pure Water Program. He also shared that the Cost of Service Study is now a 5-year rather than a 2-year program, which he finds concerning.

ACTION: Chairwoman Stallard-Rodriguez asked for a motion to support the action as stated by Member Hess, as an urgent matter.

Ex-officio Member Spriggs commented that he concurs that the Department is on track, taking all steps possible, and the acceleration of Pure Water; history will be the judge. He added what is important is to continue to move forward and cover all bases, making sure to plan for the worst case scenario, being prepared.

Member Hess moved to support said action, second by Member Peugh. Action failed, did not pass with a 2/3 vote as required. 4 (in favor) – 3 (oppose) – 1 (abstained – Justus).

San Juan Capistrano Court Decision - Tom Zeleny, Deputy City Attorney

Tom Zeleny gave a brief history of the City of San Juan Capistrano's adoption of new water rates back in 2011, which consisted of 4 tiers. The Capistrano Tax Payers Association filed the lawsuit in 2012 challenging the rates that they believed violated

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Prop 218. After trial, it was found that those rates were indeed a violation. The judge indicated that the cost of the recycled water at their new water reclamation plant could not be paid for by potable water users because the purple pipe water would never be available to most single family residential customers, and that the recycle water system had to be entirely self sufficient. He also invalidated the various tiered water rate pricing saying this was not supported by the cost of service. There was an appeal by the City of San Juan Capistrano, and the appellate decision was out last month, and could be appealed again to the California Supreme Court if they decide to hear this.

He added that the appellate court did uphold the second ruling which was that the tiered pricing for single family residential customers violated the cost of service because of the way tiers were determined (by “water budgets”). He explained that tiered rates are legal, as long as they are based on the cost of providing service to those customers. He indicated that the ruling stated that rates cannot be justified based on penalties either.

Member Welch asked for clarification of the reconciling of the Prop. 218 with the courts in regard to the cost of the different types of water. He indicated that the appellate court states that “water is water” and overall as an entire water system, including potable and recycled, you cannot charge more than the cost to run all systems. No justification is needed in the cost of recycled water to any particular partial and can have a cross subsidization from the potable water customers due to the benefits to them, from the use of recycled water.

Member Hess asked whether the recycled water COSS will change based on this decision. Mr. Zeleny indicated that his understanding is that the study is going to increase the cost of recycled water and actually reduce the potable water subsidy. Director Razak added that the City is not capturing absolutely all recycled water costs to be repaid for by the recycled water rate, but will be brought into a more reasonable place.

Member Mittal asked about the outreach plans. Director Razak stated that outreach has been ramped up tremendously, and the Mayor is doing community outreach and media spots, and the San Diego County Water Authority recently approved and additional \$1M for outreach. Also, the enforcement of citations may gain some coverage as well.

Chairwoman Stallard-Rodriguez stressed the importance of having a very good working relationship with the media partners, as well as messaging such as catchy jingles as they did in the 90’s. Director Razak concurred.

Member Justus asked if there is a limit as to how the penalty rates can be set, and when they can be set based on the City being fined by the State and so on. How do these fines get carried down to the customers, or does the City take this burden. Mr. Zeleny indicated that penalties cannot be embedded into the rates. However, one approach is to account for the possibility of fines in our rate structure and apportion that among the highest water users.

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6. **Mayor and Council Staff comments**

None.

7. **Selection of new IROC Chair and Vice Chair**

Tom Zeleny facilitated the selections of Chair and Vice Chair. The results are below:

Chairperson:

- Chairwoman Stallard-Rodriguez nominated Member Justus. Member Dull seconded. Member Justus accepted.
- Member Mittal nominated Member Hess. Member Dull seconded. Member Hess declined the nomination.

ACTION: Motion for Member Justus to be the new Chair of IROC passed 8-0.

Vice Chairperson:

- Member Stallard-Rodriguez nominated Member Hess. Member Mittal seconded. Member Hess accepted.

ACTION: Motion for Member Hess to serve as Vice Chair of IROC passed 8-0.

8. **Selection of Subcommittee Chairs and Members**

Finance Subcommittee Members:

- Member Hess nominated Member Mittal. Member Stallard-Rodriguez seconded. Member Mittal accepted.
- Member Mittal nominated Member Hess. Chairman Justus seconded. Member Hess accepted.
- Ex-officio Member Williams indicated he would like to remain on the subcommittee.

ACTION: Motion for Members Mittal, Hess, and Williams to remain on the Finance Subcommittee passed 8-0.

Finance Subcommittee Chairperson:

- Member Stallard-Rodriguez nominated Member Hess. Member Mittal seconded. Member Hess accepted.

ACTION: Motion for Member Hess to remain Finance Subcommittee Chairman passed 8-0.

Outreach & Communication Subcommittee Members:

- Current members Stallard-Rodriguez, Kubota, Dull, and Spriggs to remain on the subcommittee.

ACTION: Motion by Member Dull for current members to remain on the Outreach & Communication Subcommittee, seconded by member Stallard-Rodriguez passed 8-0.

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Outreach & Communication Subcommittee Chairperson:

- Member Stallard-Rodriguez nominated Member Kubota. Member Dull seconded.

ACTION: Motion for Member Kubota to serve as Outreach & Communication Subcommittee Chairman passed 8-0.

Infrastructure & Operations Subcommittee Members:

- Current members Peugh, Kubota, Justus, Chapman and Welch to remain on the subcommittee.

ACTION: Motion by Member Billings for current members to remain on the Infrastructure & Operations Subcommittee, seconded by member Stallard-Rodriguez passed 8-0.

Infrastructure & Operations Subcommittee Chairperson:

- Member Justus nominated Member Peugh to remain Chairman of the subcommittee. Member Welch seconded.

ACTION: Motion for Member Peugh to serve as Infrastructure & Operations Subcommittee Chairman passed 8-0.

9. Subcommittee Reports

a. Finance – Gordon Hess, Chair

No meeting due to requested items (Revised Budget of PUD; Impact of reduced sales; and SDCWA water rate increase) not being able to be heard due to timing.

b. Infrastructure and Operations – Jim Peugh, Chair

- Presentation of ADS Flow Monitoring System and how it is managed, and what parts are contracted out
- Discussion of Optimization Study to include in the Annual Report, however the timing will not allow this
- Discussed the subcommittee portion of the Annual Report

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

No meeting.

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

- He gave a brief description on where the CWA stands in terms of supplies. This region has been active in addressing potential drought difficulties over the past decade and the ratepayers have paid for this. Some other water districts do not have meters, and are not planned for several years. He commented the additional water consists of the lining of the All American Canal which produced 80K ac/ft of water; IID which produced 100K ac/ft of water; and the Carlsbad Desal which will produce 50K ac/ft of water. All of these projects have increased the rates, but this region needs to reduce its usage of 16%. He supports that, typically, pricing

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is a means of sending a signal to the buyer as to what the value is of the commodity, which is not happening.

11. **Metro/JPA Report Out** – *Ed Spriggs*

- Review of recent JPA Audit had no findings or issues, this was approved.
- The JPA website has been redesigned. It also has access to a manual describing what the JPA offers.
- Special meeting of the JPA on June 4, 2015 which will last most all day, and includes a tour of Pt. Loma and a strategic planning session to get the new members acquainted.

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

- Information on the 16% water reduction, and how much HCF this may equate to, what dollar amount this equates to of lost revenue – and how the budget will be adjusted to make up this loss, which large users are identified and how their percentage affects the other users. Member Hess asked if a staff member from Park & Recreation can present information related to their use. He asked who the 16% pertains to. Director Razak indicated all water users are affected.

Director Razak commented that the 16% goal details are in the Cost of Service Study that is being developed currently. This information may be available next meeting.

Member Peugh indicated he would like to know how the 16% is going to be split up per class of user. He also asked if the COSS is not ready by next meeting, he would like to have a briefing on the rationales and considerations for each that they are discussing and how they are weighted.

- Presentation on Customer Care Call Center
- Public relations strategy to find a way to make Potable Reuse more appealing. San Diego has done extraordinary work and should be recognized as an example now, not in the future, making sure the national media is educated sufficiently.

13. **IROC Members' Comments**

Member Billings thanked the IROC and the Department with a heartfelt speech for the opportunity to work with such a valuable team. He expressed his great gratitude for the experience over the past eight years. Member Stallard-Rodriguez stated that she appreciates so much, the dedication he has given to the committee and the rate payers, and thanked him for his service. Cake was served for recognition of Member Billings' fine service over the years.

Meeting adjourned at 11.52 a.m.

Minutes submitted by: Monica Foster