

Independent Rates Oversight Committee – IROC

December 8, 2008

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1. Roll Call

Chairperson Billings called the meeting to order at 10:03 a.m. Monica Musaraca called the roll and a quorum was declared. Attendance is reflected below:

Member	Present	Absent
Donald Billings, Chair	X	
Linda Cocking	X	
Christopher Dull	X	
Jack Kubota	X	
Barry Newman	X	
Jim Peugh	X	
Charles Richardson	X	
Irene Stallard-Rodriguez	X	
Todd Webster <i>(left at 11:26)</i>	X	
Gail Welch		X
ExOfficios		
Scott Tulloch		X
Augie Caires, Alternate (for Scott Tulloch)	X	
Yen Tu		X

2. Non-Agenda Public Comment

There was no public comment.

3. Approval of Minutes from 11/10/08

Chairperson Billings called for a motion to approve the minutes. Committee Member Newman moved, Committee Member Peugh seconded, with Committee Member Welch absent, the minutes were unanimously approved.

4. Chair Updates (Chairperson Billings)

Chairperson Billings reminded IROC the Orange County Ground Water Replenishing Facility tour is scheduled for this Friday. Departure from MOC II is at 8:30 a.m., and those utilizing the Park and Ride in La Costa will depart at 8:45 a.m. The expected arrival time back at MOC II is 2:30 p.m.

He and Committee Member Newman met with Mayor Sanders last Monday to discuss the status of IROC’s desire to raise its public profile with inclusion of an IROC insert in the water bills. As a result of this meeting, the Mayor directed staff to proceed with this, and begin mailout as soon as possible. He mentioned they were able to update the Mayor and his senior staff the status of IROC and what the expectations are in terms of delivery of an Annual Report.

November 24, 2008, He and Committee Member Richardson met with new Council Member, District 1, Sherri Lightner. This is a step toward informally approaching

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Councilmembers to introduce them to the Committee and explain the role of IROC and a desire to be a resource.

The Annual Report is in process. Hopefully, a draft will be circulated to Members in a few weeks. The objective is to have the final Report published by the end of February timeframe.

5. City Staff Updates

➤ *Water Department, Alex Ruiz*

- In regard to the water supply situation, the climate prediction center has forecasted an average winter. There has not been a lot of improvement. According to MWD, there is a 1 in 3 chance of some sort of allocation of being enacted next Spring. At this point, MET will wait for rain amounts and snow pack before taking action. There should be action before the April Board Meeting, if so there are requests that MET give sufficient opportunity between that action and the date of implementation. Any action the Board might take in April will not take effect until July 1. If so, it would likely be a 15-20% demand reduction call. He stated it will be monitored and any updates will be forwarded to the Committee.
- The City Council formally approved the Emergency Water Regulations initially heard on November 17. They will take effect in early January. He mentioned customers will continue to be noticed as far as behavior restrictions in these Emergency Water Regulations. In progress is an allocation methodology which will be established for individual customers. If successful, the behavior restrictions will be superseded by an allocation amount, so customers will have flexibility. This will be discussed with the Finance Subcommittee on January 12.
- The Business Process Re-engineering Recommendation, involving the lakes recreation program, was approved last week. The Water Department will continue to run the program on a cost recovery basis through the fees customers are charged for their use, and any difference will be reimbursed by the General Fund.
- Consolidation efforts are still in effect, some of the recommendations outlined are being implemented. The impact of the City's budget reduction is also being evaluated, in regard to consolidation. Many positions could involve "bumping", which may affect multiple sections.
- Midyear budget adjustments were approved by City Council so libraries and recreation centers were reinstated. Next fiscal year there is an approximate \$54M budget shortfall. The Water Department will be indirectly impacted because of the relationships we have with the General Fund, in which we use many of these departments for services needed.
- The Mayor and new Council Members are being sworn in downtown today. We look forward to working with the new Council Members and City Attorney.

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Chairperson Billings asked if in regard to the allocation methodology, this was done on a customer basis or rate class basis. Mr. Ruiz stated it was on a meter by meter basis, which is a challenge.

Committee Member Peugh asked in regard to the AMR financing falling through, has this been recovered? Mr. Ruiz stated he does not have an update at this time. He will get information out to the IROC.

➤ *Metropolitan Wastewater Department, Bob Ferrier*

- Mr. Langworthy will be updating the IROC today on the status of the Waiver.
- Update to the upcoming Public Financing will be discussed in today's meeting as well, which the Department has been preparing for.
- State of California, under the Waste Discharge Requirements, has changed the requirements for sewer systems across the state. They are requiring the production of a Sewer System Management Plan (SSMP). It should not be a problem for the Department, because most of the elements of the plan are things the City is already doing under the Consent Decree, and work that has been done over the past several years. The approval for the plan is due in May 2009. He stated he will give more information in the Jan/Feb timeframe.

6. Water Conservation on Multi-Family Properties / San Diego County Apartments Association

Mr. Alan Pentico, San Diego County Apartment Association (SDCAA), presented information on what water means to multifamily properties and how it is used including some of the associated obstacles. He explained most rental properties do not have separate water meters individually, because of the cost. This makes it difficult for the typical tenant to be affected by the water bill, hence, they do not see the bill as the property owner does. Therefore, individual tenants are not able to see the impact of an unusually high bill to be concerned with water use. He mentioned 10% of the water is used for outside irrigation use which the property owner can control, but approximately 90% is inside, used by the tenants. Most property owners have gone through the process of retrofitting toilets, shower heads, high efficiency washers etc. to help out with the drought situation, and high bills.

Mr. Pentico stated there is a disconnect between water usage on rental property and water conservation. Many of the members have looked into sub-metering, which can be very expensive but worth it for the future. He mentioned some recommendations such as sub-metering for new construction as well as possible retrofits, if feasible. He mentioned the value of separating irrigation meters even now, on existing properties, from the potable water use in interior units, this would eliminate a sewer bill on irrigation lines, separating potable water used by residents versus water used for the operations of common areas. Mr. Pentico added adjusting water and sewer rates to be the same for multifamily units as is for single family would be fair, which currently is not always the case.

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Lastly, he pointed out some things the SDCAA has done to help out with the drought situation such as making available a Water Conservation Resource Packet for rental property owners with conservation tips, program incentives, resources, etc. He also mentioned a consulting firm for homeowners associations has created a water conservation “report card” for properties and is currently compiling a list of businesses that provide water conservation assessments. This will help owners achieve higher levels of efficiency on their properties. He mentioned a flier they developed, that each rental property owner can put their own logo on and make available to tenants educating them about the drought situation and also offers conservation tips.

Committee Member Peugh inquired about the process for billing, using submetering. Mr. Pentico stated at this point, the HOA or property owner would typically hire a third party billing company that would establish a billing process, send out individual bills to tenants and then send the payment back to the owner who is still responsible for the payment directly to the Water Department. Ideally, the City would be able to do the billing themselves, but this would be a significant staff cost, because of the number of meters. Mr. Ruiz concurred. Comments were made in regard to property owners installing the meters, and able to bill their tenants. Mr. Pentico said this can lead to problems because the tenant is not certain the meter is accurate. Legal obstacles were also mentioned by Mr. Zeleny, in regard to submetering by private parties.

Committee Member Richardson gave his views of submetering. In a multifamily situation, it is beneficial to submeter so the individual has understanding of the importance of saving water and can make behavioral changes when the bill is high. However, the potential for discretionary use of water in a large multifamily setting does not compare to what it may be in a single family home, due to the fact that they cannot utilize the same perks such as watering their landscaping, washing their cars in their driveways, etc. He does feel everyone should have their own bill, but with priorities and choices, multifamily does not seem like as much of an opportunity to produce discretionary water use as others may. Mr. Pentico commented that 45% of San Diego is multifamily, and adding a drought scenario with double and quadruple charges for water usage, it makes a big difference. Committee Member Richardson added he feels the focus is that they have less flexibility, than others have. Mr. Pentico concurred.

Committee Member Cocking introduced Tom Rogers, California Submeters and American Submeters, President and Owner, who mentioned that his company started 18 years ago doing private water metering systems, billing, collections and follows all technology. He gave information regarding savings, stating 25% is the typical savings. He offered several examples on some of the projects he has worked on. He then offered to give more information to the IROC at request.

7. Update on Modified Permit at Pt. Loma Plant

Mr. Langworthy stated last week the EPA announced their tentative decision to approve the renewal of the Waiver for the Pt. Loma Plant. He referred to handouts provided (Decision Notice by the Regional Administer and for interest, a copy of the Press

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Release). He stated it is clear that the EPA makes a definitive statement at this point, their review indicates the public health and the ocean environment is protected by the current discharge.

He stated what happens next is the EPA will open the public comment period on the tentative decision, which opened on Friday, December 5 and will go through January 28. They make documents available for public view. All comments are due January 28, but ask if the comments can be turned in by January 7, if possible. The first of the public joint hearing between the EPA and the Regional Board, will be January 21. He stated public has the right to comment in written form or attend the hearing and verbally make their comments. It is important for the written comments be received by January 7 so they are prepared for the first hearing. Mr. Langworthy noted there will not be a decision made at this hearing, the staff will make an analysis, the EPA and Regional Board hearing officer will meet around the March timeframe. There would then be another public hearing for discussion of the Board members and at that time the decision will be made.

Furthermore, it will go to the Coastal Commission for a consistency determination, and then the EPA Regional Administrator will sign a final decision. If all goes smoothly, the decision should be made in the June timeframe.

Chairperson Billings asked if, under his understanding, the EPA Regional Administrator has said not to expect another Waiver. Is this true? Mr. Langworthy stated with his review of the documents, he does not recall this being written. He suggested there is a general feeling what is to take a look at planning, not expect this every time, and take a look at what is ahead. He does not believe the statement has been made.

Committee Member Richardson asked when the 5-year Waiver begins. Mr. Langworthy stated it would be after the approval. He does not know if that day it is actually signed, or if it would be after the 33-day waiting period.

Committee Member Newman voiced his ongoing concerns that the expenditure that comes with over caution when there are many other things money can be spent on other than MET. He feels this is full compliance, even those without a Waiver, complying, face the same issue as to whether or not later pharmaceuticals, loading, etc. will make that compliance non-compliant. Mr. Langworthy concurred.

Committee Member Webster stated that we are not complying with the Clean Water Act (CWA), he said we have a variance for the CWA, he feels we should be very careful. He asked Mr. Langworthy in regard to the last Waiver, what was the City's thought on developing a plan, and what can be learned from it and where we are today? Mr. Langworthy stated the City wanted to ensure we had the best ocean monitoring that could be put together, which goes far beyond expectations. He stated we also partnered with local environmental groups, Scripps Institute of Oceanography, etc. so we could demonstrate and stay in compliance, also to be sure if anything was going on it would be

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caught and could be reacted to, keeping the ocean clean. Secondly, we did advance studies such as a pilot tested biological aeration filtration, and we learned from this. He stated we continue to partner with Scripps and the So Cal Coastal Water Research Project on Ocean Research, so we can keep the ocean clean. Facilities planning and ongoing efforts play a huge role in our past and present goals. Mr. Ferrier concurred and added the Waiver is not an evasion of responsibility, we always have and always will continue to look for better ways to enhance the condition and minimize any problems from our discharge. Chairperson Billings concurred.

Committee Member Peugh enquired about Coastkeeper articles mentioning their desire to negotiate with the City for alternative means of reducing ocean pollution, in exchange for not objecting to the Waiver. He asked if Mr. Langworthy knows the status of this. Mr. Langworthy stated he occasionally sees the same quotes, but would be supposition on his part to answer for them. Mr. Ferrier stated in his understanding, general accord has been reached with those representatives, which a study will be conducted and will have participation on both sides. He asked Ms. Alejandra Gavaldon to elaborate further. Ms. Gavaldon stated she was present in the meetings, which the Mayor met with Surfriders and Coastkeeper. Last week they sent a proposal to review, and another meeting scheduled later in the month. She stated there is the commitment to continue working with the environmental community to have dialogue, and make sure there are no impacts to the ocean environment. She said as we move forward, the City wants to avoid litigation and make this process the least contentious. The Mayor will have dialogue with them, and have the ongoing long term strategic planning effort. She stated she will keep the IROC informed as dialogues continue. She then mentioned Coastkeeper and Surfrider have indicated they would like to solidify the commitments, and go to City Council sometime in January.

8. Subcommittee Reports

a. Finance

Committee Member Richardson went over his Minutes from November 10, provided in the package. He pointed out a few items covered such as the status of recycled wastewater production and customer utilization at both plants; reviewed the current wastewater rate schedule for each class of rate payer and where that stood, and what the expected changes are as a result of a result of the Council actions in November 2007. He mentioned review of the monthly cost of purchased water, which is high comparison to other cities, but they do have more internal local sources. He noted there were some SLA's that were not initially provided to the IROC, but have been submitted recently.

b. Environmental & Technical

This meeting was cancelled. There is nothing to report at this time.

c. Public Outreach, Education & Customer Service

This meeting was cancelled. There is nothing to report at this time.

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9. **Metro / JPA Report Out**

This meeting was cancelled. There is nothing to report at this time.

10. **Budget Update Highlights for Water and Wastewater**

Rod Greek gave an update on the timeline for the budget process and where the Water Department is with the process. He stated for the FY10 Budget, the Water Department supplied the executive team with a very rough draft in late November. He listed total revenues, water purchases, CIP and reorganization figures. He mentioned in the first run of the Budget, personnel cuts for Administration were included. They will be meeting with key staff to include position cuts for Long Range Planning and Engineering Program Management into the next draft. He said in the first draft there was an even break on Personnel for the Department because of cut positions and additions. Finalization of the Budget, by entering it into the system, will be complete by the first week of January. They will again present the budget to the Water executive team mid December, next to Jim Barrett for Public Utility Program final approval in mid January, then near the end of January, it will be presented to the CFO and Jay Goldstone. In early March the review of the Budgets and narratives will occur and during April, the official proposed Budget will be presented to City Council.

Darlene Morrow-Truver gave an update for the Metropolitan Wastewater Department which was very similar. She added all Deputy Directors have reviewed their Budgets, a Management Team review will be held in the next week or two. The rest of the schedule mirrors Water's update.

Committee Member Peugh asked in regard to a decision made by MWD on whether the City would be penalized if over in allocations and decided upon in July, is this figured into the Budget? Mr. Greek stated there are no penalties figured into the FY10 Budget. Mr. Ruiz explained when allocations are established, it would be a function of how we establish that to provide for penalties for exceeding that allocation that will recover the penalties we would get from CWA. Until allocations are set, we would not have the penalty structure in place. The penalties would most likely be along the lines of 2x and 4x the going rate, depending on the percentage of exceeded allocations.

11. **Contract for Implementation of Fluoride Funding**

This item was tabled for the January 12, 2009 meeting. However, Committee Member Newman mentioned First 5 as with many other non-profits have seen a dramatic reduction in available funds. He asked whether the commitment made earlier is able to be fulfilled in a way that will satisfy the City. Mr. Ruiz stated this is one of the significant issues that the City is working through in the Contract. This element will be brought back to the Committee in January.

12. Update on Debt Financing for Public Utilities

Mr. Greek gave an update on the Water Bond Issuances, a handout was provided. He mentioned this handout was a section from the presentation given to the Rating Agencies a couple weeks ago. He referred to the overview of the Bond Issuances on page 38. In general, 2 series of Bonds (2009A, 2009B) will be issued. The first issuance will be the end of January (\$57M) to take out the Morgan Stanley Note, the Preliminary Official Statement will be issued on December 19 after review tomorrow. The 2009B issuance will be late Spring for take out of a \$150M JP Morgan Note, and \$150M in "New Money". With both of these issuances, the City is looking for approval to refund any of the 1998 Bonds. Permission for this was given by City Council. Mr. Greek briefly touched on some of the items in the handout including rate setting process, Council approval, risks such as earthquakes, security of the water system and the current financial crisis.

He went over the high level schedule of the Preliminary Statement. He stated this will be posted to the Investment website on www.sandiego.gov. He hopes it will be issued January 30. He did mention the rates are fixed 30-year. Mr. Greek said Ernie Linares will be emailing the IROC, the full presentation given to the Rating Agencies.

Mr. Newman commented that on page 40, it is referred to as a "drought risk". He feels this is a misstatement in his opinion because "drought" is the norm. The heavy rains are actually the anomaly.

Ms. Morrow-Truver gave a brief update on the timing of the Wastewater financing. The POS is currently in the works with the financing team. All consultants are on board and are planning to have a POS and Feasibility Study in January, which can go to the DPWG. She mentioned on March 2 will be the first Council reading and the second reading will be March 23. Tentatively scheduled the week of March 30 will be the Rating Agency presentations and print and mail the POS April 27. The private financing (\$223M) needs to be taken by May 15, so that is the goal for this financing. New money is also expected of approximately \$140M, and if the markets are right there will be a refunding of approximately up to \$1B of previous debt. All of this is in process. She stated there is a call feature of 10-20 years.

Committee Member Newman asked the difference between the Water not having a call feature and Wastewater having a call feature. Sam Gray stated he misunderstood the question earlier and noted Water is not looking at any "early" call provisions, but would have the normal call provisions that are out in time.

13. Proposed Agenda Items for next IROC Meeting of January 12, 2008

Committee Member Peugh stated he would like to see some of the Council Members at future IROC meetings to give input on what they expect from the IROC. Committee Member Richardson recommended seeing the Draft Annual Report, which would then dictate how to approach the Council Members for individual discussions. This would

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provide something for them to look at, and then invite them come back to the IROC. Chairperson Billings concurred.

14. IROC Members' Comments

Committee Member Newman made a comment of the trade off of what had been represented as the environmental community, saying they would not litigate if the City went to greater IPR, to “reduce ocean pollution”, but the report says that the City “is not polluting”. He pointed out that we all should accept the fact that there is no greater advocate than IPR, not to save the ocean, but for water supply.

Mr. Peugh hopes discussions are including potential storm water measures as well as IPR, because we are causing significant problems with urban runoff. He also feels only as far as we know, we are not harming the ocean. The Scripps documents do not claim it is definitely known that we are not harming the ocean. He also mentioned City Council approved moving ahead with the live stream discharge program but was changed. It was temporary before the peak flow retention facility gets built on Harbor Drive. For this reason, he would like to know not only about the IPR Demonstration Project but when implementation actually takes place. He hopes there is a look at long-term planning, and wants to see this next meeting. Chairperson Billings concurred.

Adjournment of IROC

At 11:56 Chairperson Billings called for a motion to adjourn, Mr. Newman moved, Mr. Peugh seconded, with Committee Member Welch absent, unanimously the meeting was adjourned.

Recording Secretary: _____
Monica Musaraca