

**MINUTES OF THE REGULAR MEETING
OF THE BOARD OF DIRECTORS OF
YUIMA MUNICIPAL WATER DISTRICT
October 22, 2007**

The Regular Meeting of the Board of Directors of the Yuima Municipal Water District was held at the office of the District, 34928 Valley Center Road, Pauma Valley, California on Monday, the 22nd day of October, 2007.

**Regular Meeting
10/22/07**

1. ROLL CALL – DETERMINATION OF QUORUM

Call to Order

President Knutson called the meeting to order at 2:00 p.m.

Directors Present:

Present

W.D. Knutson, President
Douglas K. Anderson, Vice-President
George Stockton, Secretary
Mike Fitzsimmons
John B. Lyttle

Directors Absent:
none

Absent

Others Present:

Present

Linden A. Burzell, General Manager
Lori A. Johnson, Director of Finance
Bob Fowler, Director of Operations & Maintenance
Linden R. Burzell, Engineer
Pedro Mercado, Brothers Nursery
Craig & Joyce Childs
William Muhlhauser

President Knutson declared that a quorum of the Board was present.

Quorum Present

2. ADDITIONS TO AGENDA

There were no additions to the agenda.

Additions to agenda: none

3. PUBLIC COMMENTS

President Knutson opened the public comment period. No comments from the public were forthcoming.

**Public
Comments:
None**

I. CONSENT CALENDAR

Following review of the Consent Calendar, a motion was offered by Director Stockton, seconded by Director Fitzsimmons and carried unanimously to approve the Consent Calendar, namely; approval of the Minutes of the Regular Meeting of September 24, 2007, the Accounts Paid and Payables for September and approval of the Agreement Preventing Water Use and Providing for Deferral of Water Availability Charge (Stehly APN 134-100-13 & 134-080-19).

**Consent
Calendar**

**Minutes of
Regular
Meeting
9/24/07**

II. ACTION/DISCUSSION

II-1 Public Hearing to Receive Comments and Consider Adoption of the Proposed Schedule of Water Rates and Charges Establishing Penalty Rate

President Knutson requested staff to make a statement regarding public notification for today's hearing. Director of Finance Johnson stated that pursuant to the provisions of State Law as recently interpreted by the State Supreme Court in the Big Horn case the Notice of this Public Hearing was given no less than 45 days prior to the public hearing by a mailing to each property owner and customer within the District boundaries and published in a newspaper of general circulation, once a week for two successive weeks prior to this hearing, and the notice is published on the district's web page, posted and a copy is on file with the District. Manager Burzell gave a brief summary of the proposed penalty rate in the amount of \$1,212 per acre foot which would be imposed on all water consumed in excess of such quotas/consumption limitations as the District shall establish from time to

**Public Hearing
Establishing a
Penalty Rate**

Staff Report

time, either in order to comply with mandatory supply reductions imposed by an imported water wholesaler (such as the San Diego County Water Authority or the Metropolitan Water District) or as required by reductions in available local supplies.

President Knutson opened the public hearing at 2:10 p.m. on the proposed Penalty Rate. Secretary Stockton stated there were no written comments received. President Knutson called for comments from the public. There were no comments from the public. The public hearing was closed at 2:11 p.m. It was moved by Director Stockton, and seconded by Director Lyttle, that Resolution No. 1143-07 entitled,

RESOLUTION NO. 1143-07
RESOLUTION ADOPTING A PENALTY RATE AND
AMENDING RULES AND REGULATIONS GOVERNING WATER
SERVICE (SCHEDULE OF RATES, RENTALS, FEES,
DEPOSITS AND CHARGES)
(SECTION 16.1 Penalty Rate)

was adopted by the following roll-call vote, to wit:

AYES: Knutson, Anderson, Fitzsimmons, Lyttle, Stockton

NOES: None

ABSENT: None

II-2 Public Hearing to Receive Comments and Consider Adoption of the Ordinance Setting Forth Water Capacity Charges

President Knutson requested staff to make a statement regarding public notification for today's hearing. Director of Finance Johnson stated that the notice of this public hearing was published in a newspaper of general circulation published and circulated within the District, once a week for two successive weeks prior to this hearing, in accordance with Government Code Section §66016(a), and a copy is on file with the District. Director of Finance Johnson gave a brief summary of the proposed capacity charges stating that the water connection fees (capacity charges) are reviewed annually and adjusted to conform to changes in construction costs as determined by the Engineering News Record (ENR) construction cost index. The ENR increased 1.57% from October 2006 to

**Public Hearing
Opened @ 2:10
p.m.**

**Public Hearing
Closed @ 2:11
p.m.**

**Res.#1143-07
Adopting a
Penalty Rate
and Amending
the Rules &
Regulations
Governing
Water Service**

August 2007. The capacity charge, a component of the cost for new water meter installations, is collected and the revenue is allocated toward construction of capital facilities, such as tanks, pump stations and pipelines needed to provide service to the new meter accounts.

President Knutson opened the public hearing at 2:15 p.m. which is being held in conformance with the California Environmental Quality Act (CEQA) and district procedures. Secretary Stockton stated there were no written comments received. President Knutson asked if there were any comments from the audience on this item. There being no public comments presented, the public hearing was then closed at 2:16 p.m. Upon motion offered by Director Anderson, seconded by Director Fitzsimmons, Ordinance No. 96-07, entitled

**Public Hearing
Opened @ 2:15
p.m.**

**Public Hearing
Closed @ 2:16
p.m.**

ORDINANCE 96-07
ORDINANCE OF THE BOARD OF DIRECTORS OF
YUIMA MUNICIPAL WATER DISTRICT
FIXING CAPACITY CHARGES

**Ord. #96-07
Fixing Capacity
Charges**

was adopted by the following roll-call vote, to wit:

AYES: Knutson, Anderson, Fitzsimmons, Lyttle, Stockton

NOES: None

ABSENT: None

- II-4 Proposed Resolution Awarding Contract for the Construction of Station 8 Reservoir Replacement Project, with construction of a 1.7 MG Tank and Appurtenances (Station 8 Reservoir Removal, Grading and 1.7 MG Welded Steel Tank) (Crosno Construction, Inc.)

Manager Burzell stated that the bid opening was held on Monday, October 15th. There were seven bidders present. The bid results ranged from \$1,034,000 to \$1,459,000 with the lowest responsible bidder being Crosno Construction, Inc. All documents have been reviewed by Engineer Burzell and Attorney Foster. Engineer Burzell stated that he completed a lengthy check on Crosno Construction's experience in this field.

He felt the bids were reasonable considering current costs for steel. He reviewed the bid schedule with the board and stated Crosno was the low bidder in Schedule 1 items, including clearing, grubbing, soil replacement, compaction and slope protection. The tank, ring wall and pipe installation prices in Schedule 2 were very close to those of the second, third and fourth bidders. He stated he felt that we also received good bids for Schedule 2 the tank and appurtenances. It also seems to indicate that Crosno found a subcontractor (American Contractors), to do the site preparation at a lower cost than the other bidders determined to use. Manager Burzell noted that American Contracting, out of Temecula, was at the site a number of times prior to bid opening. President Knutson inquired about the tank coating. Engineer Burzell stated that is will be handled by Crosno as part of the contract and that they have a lot of experience in that. Following discussion and upon a motion offered by Director Fitzsimmons, and seconded by Director Lyttle, that Resolution No. 1144-07 entitled,

RESOLUTION NO. 1144-07
RESOLUTION OF THE BOARD OF DIRECTORS OF
YUIMA MUNICIPAL WATER DISTRICT AWARING
CONTRACT FOR THE CONSTRUCTION OF
STATION 8 RESERVOIR REPLACEMENT PROJECT, WITH
CONSTRUCTION OF A 1.7 MG TANK AND APPURTENANCES
(STATION 8 RESERVOIR REMOVAL, GRADING,
AND 1.7 MG WELDED STEEL TANK)
(CROSNO CONSTRUCTION, INC)

**Res.1144-07
Awarding
Contract
For Station 8
Tank &
Appurtenances**

**(Crosno
Construction,
Inc. \$1,034,000)**

were adopted by the following roll-call vote, to wit:

AYES: Knutson, Anderson, Fitzsimmons, Lyttle, Stockton

NOES: None

ABSENT: None

II-2A Resolution Adopting Schedule of Rates, Rentals, Fees, Deposits and Charges and Amending Rules and Regulations Governing Water Services (Capacity Charges)

President Knutson stated that an amendment is required to incorporate the new capacity charge adopted by Ordinance 96-07 under Item II-2. Upon motion offered by Director Stockton, seconded by Director Anderson, that Resolution No. 1145-07 entitled,

RESOLUTION NO. 1145-07
RESOLUTION ADOPTING A PENALTY RATE
AMENDING RULES AND REGULATIONS GOVERNING WATER
SERVICE (SCHEDULE OF RATES, RENTALS, FEES,
DEPOSITS AND CHARGES)
(Section 14.7 Capacity Charges)

**Res.#1145-07
Adopting a
Capacity
Charges and
Amending the
Rules &
Regulations
Governing
Water Service**

was adopted by the following roll-call vote, to wit:

AYES: Knutson, Anderson, Fitzsimmons, Lyttle, Stockton

NOES: None

ABSENT: None

II-5 Resolution Adopting a Surplus Property Policy

II-6 Resolution Updating the Purchasing Policy and Rescinding Resolution No. 721-99

Manager Burzell stated that staff has proposed a Surplus Property Policy for handling fixed assets owned by the District that become surplus, unusable or no longer needed. This will promote uniformity in the procedures for the sale or transfer of surplus property owned by the District. In addition, updating the purchasing policy to include reference to the surplus property policy. Upon motion offered by Director Lyttle, seconded by Director Fitzsimmons, that Resolution Nos. 1146-07 and 1147-07 entitled,

RESOLUTION NO. 1146-07
RESOLUTION OF THE BOARD OF DIRECTORS
OF YUIMA MUNICIPAL WATER DISTRICT
ADOPTING A SURPLUS PROPERTY POLICY

**Res.#1146-07
Adopting a
Surplus
Property Policy**

and

RESOLUTION NO. 1147-07
RESOLUTION OF THE BOARD OF DIRECTORS
OF YUIMA MUNICIPAL WATER DISTRICT
UPDATING THE PURCHASING POLICY AND
RESCINDING RESOLUTION NO. 721-99

**Res.#1147-07
Updating the
Purchasing
Policy**

were adopted by the following roll-call vote, to wit:

AYES: Knutson, Anderson, Fitzsimmons, Lyttle, Stockton

NOES: None

ABSENT: None

II-7 Review the Proposal for General Counsel Services From the Law Offices of Jeffrey G. Scott

Manger Burzell stated the District's general Counsel, Kent Foster has notified the District of his intention to retire from the practice of law, effective October 31, 2007. Kent Foster strongly recommended that the District consider engaging Mr. Jeffrey G. Scott, an attorney with a great deal of experience as General Counsel to public agencies, including the Vallecitos Water District through his existing firm and the Olivenhain and Ramona Municipal Water Districts when he was employed by the firm of Smith and Peltzer. President Knutson stated he was impressed with his statement of qualifications and was pleased to see that his billing rate of \$185 per hour was the same as our current rate. Following discussion Director Fitzsimmons moved that the District engage the services of the Law office of Jeffrey G. Scott as General Counsel for the district effective November 1, 2007. The motion was seconded by Director Anderson and carried unanimously.

**General
Counsel
appointed**

Jeffrey G. Scott

II-8 ACWA California Water Public Education Program: Request for Financial Support

President Knutson stated that due to the critical water supply conditions throughout the State, the Association of California Water Agencies will initiate a statewide mass media campaign to educate Californian's and raise an awareness about the issues impacting the State's water supply resources and infrastructure. It was noted that some

agencies are calculating their contribution at \$1.00 per acre foot of Delta diversion which for Yuima would be \$2,000. Director Stockton stated his concerns with ACWA's request. Director Fitzsimmons expressed the importance of educating the public and how these efforts will benefit Californians in providing the information to make an informed decision regarding the proposed comprehensive ballot measure for water facilities which may be before the voters in November, 2008. President Knutson stated funds were not built into Yuima's 2007-08 budget for this specific item, however, there is \$2,000 in available funds in the budget for outside representation and advocacy that can be used for this purpose. Following discussion Director Fitzsimmons moved that the district contribute \$2,000 to ACWA's Public Education Campaign. The motion was seconded by Director Lytle and carried unanimously.

**Support of
ACWA's Public
Education
Program \$2000**

II-9 Interim Agricultural Water Program (IAWP) Water Supply Reduction Implementation Plan for Approval

Manager Burzell reviewed the details of the District's Interim Agricultural Water Program (Mandatory Supply Reduction Plan), to be effective January 2008. He stated that the 30% cut-back to Yuima will be based on fiscal year 2003/04 IAWP imported water purchases, however Yuima will establish each agricultural customer's quota based on usage during fiscal year 2006/07. Manager Burzell summarized the Interim Agricultural Water Program Draft Mandatory Supply Reduction Plan, (a copy of which is attached to these minutes).

**IAWP
Mandatory
Supply
Reduction Plan
Jan 1, 2008**

- A. Communication Protocol: A series of meetings will be held in October and November with agricultural customers participating in the IAWP program. Grove managers will be included for the purpose of informing them about the details of the program, including their individual IAWP water quotas, penalties for consumption in excess of established quotas, and the requirement for irrigation scheduling. Their assistance and involvement in setting up the required irrigation schedules will also be sought.
- B. Retail Agency and End-User Reduction Targets: Exhibits have been prepared showing the average flow rate from the aqueduct which would be necessary to deliver that net reduction in supply. In addition, exhibits have been prepared summarizing the range of effects that the District's retail customers would have experienced had the 30% cutback been in effect during the period in question.

C. Methodologies for Administering Reduction:

1. Declaration of a Stage IV Water Emergency under the District's Conservation Ordinance No. 95-07.
2. Establish Individual Monthly Maximum Delivery Quotas.
3. Re-allocation among Multiple Meters in Single Ownership.
4. Establish Irrigation Schedules for all Agricultural customers.
5. Limitation on Deliveries from the Aqueduct
6. Imposition of Penalty Rates.

D. Methodologies for Monitoring and Verifying IAWP Reduction. All IAWP service connections are metered; meters are normally read once per month. During the first three months of the mandatory reduction program it is anticipated that meters may be read more often to provide feed-back to customers as to their progress in complying with established quotas.

He explained that each customer that uses less than their monthly quota will be allowed to carry the under use forward to the next month for each month in 2008. They will be charged the penalty rate if they exceed their accumulated quota for any given month.

Following discussion and upon a motion offered by Director Anderson, seconded by Director Fitzsimmons and carried to adopt the Interim Agricultural Water Program - Mandatory Supply Reduction Plan as presented.

II-10 National Water Resources Association (NWRA) California Caucus Ballot

NWRA Ballot

President Knutson stated that the mail-in ballot needs to be return by December 3rd. Following discussion the board cast its ballot for 5 candidates.

II-11 Resolution Amending Employee Manual – Sections 17F Pregnancy Disability Leave (PDL) and adding Section 17-G Family and Medical Leave/California Family Rights Act (FMLA/CFRA)

Director of Finance Johnson explained that at the time the provisions of the Pregnancy Disability Leave (PDL) Act were updated in the employee manual years ago the provisions of the Family Medical Leave Act (FMLA) and the California Family Rights Act (CFRA) were not added as they applied only to employers with 50 or more employees. Since that time there has been some clarification under these acts and it appears that they now apply to *public agencies*, including State, local and Federal employers, and local education

**FMLA/CFRA
Leave**

agencies (schools). The FMLA affects only those employees eligible for the protections of the law and it involves entitlement to leave, maintenance of health benefits during the leave, job restoration after the leave, and protects employees who request or take FMLA leave. The law also includes certain employer recordkeeping requirements. An employee may request Pregnancy Disability Leave (PDL) under the California Pregnancy Disability Act for up to sixteen (16) weeks with a doctor certification. This is separate and distinct from the Family Medical Leave (FMLA) which allows for twelve (12) weeks of unpaid leave and runs concurrently with PDL and the California Family Rights Act (CFRA) which allows for 12 weeks unpaid leave. Employees may choose to use their accrued sick, vacation or other accrued leave time during these absences. She explained that there are provisions in the act that allow the district to require an employee to use accrued leave when requesting FMLA & CFRA leave as provided for in Section 17-8 (B). There are also provisions in the act that allow the District to deny reinstatement to a “key” employee if such denial is necessary to prevent substantial and grievous economic injury to the operations of the District, and the employee is notified of the District’s intent to deny reinstatement on such basis at the time the employer determines that such injury would occur. This provision is to protect small employers. Following discussion and upon motion offered by Director Fitzsimmons, seconded by Director Anderson, that Resolution No. 1148-07 entitled,

**RESOLUTION NO. 1148-07
RESOLUTION OF THE BOARD OF DIRECTORS
OF YUIMA MUNICIPAL WATER DISTRICT
AMENDING THE EMPLOYEE MANUAL
(Section 17-F, Pregnancy Disabilities Leave (PDL) Family and
Medical Leave/California Family Rights Acts (FMLA/CFRA) Section 17-G)**

**Res.#1148-07
Amending the
Employee
Manual
(Sections 17-F
& 17-G PDL &
FMLA/CFRA)**

was adopted by the following roll-call vote, to wit:

AYES: Knutson, Anderson, Fitzsimmons, Lyttle, Stockton

NOES: None

ABSENT: None

III. REPORTS/MEETINGS

III-1. Board Reports/Meetings

Director Knutson reported that:

- ✦ The Colorado River Board is currently engaged in delicate negotiations concerning the operation of Lakes Powell and Mead. Arizona has raised objections to some of the current provisions of the draft agreement. Unresolved issues include electricity generation from Glen Canyon and Boulder Dam. Interior Secretary Kempthorne has given the parties a December deadline to come to terms; if there is no resolution of all outstanding issues, he will step in.
- ✦ SDCWA Board attention is focused on issues surrounding the impending water shortage. The Coachella Canal lining is complete, but determination of who is responsible to pay for the \$13 million cost overrun on the project is still pending.

Board Reports
SDCWA/MWD

III-2. Administrative Report

Manager Burzell called the board's attention to his written Administrative report; there were no questions. He then elaborated on recent developments with respect to the EIR/EA for the Northern Route Pipeline, describing some of the outstanding issues raised by the Pala Band of Mission Indians concerning the inclusion of capacity in the pipeline to meet the future needs of the Warner Ranch development.

Administrative Report

III-3. Capital Improvement Program Review.

Manager Burzell stated that as of October September 19th, the current year capital improvement program totals \$3,557,257, of which \$265,152 has been expended to date.

Discussion on Capital Improvements

III-5. Engineer's Report.

Engineer Burzell stated that he will be preparing bid documents for well drilling and rehabilitation work that will indicate a unit price so that we can proceed with an aggressive well rehab program without the delay of bidding each project separately. We are nearing

Engineer's Report
Well Drilling & Rehab.

emergency status as we get closer to the mandatory cut back period in January. He expects the documents will be presented at the next meeting for approval.

III-6. Counsel's Report.

Counsel was not present.

Counsel's Report

III-7. Finance Report

Director of Finance Johnson called the Board's attention to the written Treasurer's report in the packet. She stated that the Station 8 project funded this month. Also, Auditor Giedt, CPA will be at our next meeting to present the audit for fiscal year ended June 30, 2007. She stated that *Requests for Proposals* for actuarial services to comply with the requirement of GASB 45, Accounting for Pensions and Other Post-Employment Benefits (OPEB) have been sent out and are due in December. The three month budget report was reviewed and discussed noting that water sales as well as imported water purchases are 200 acre feet higher than this time last year. She noted that the 2007/08 budget projections indicate a deficit of \$315,000 to be transferred from the rate stabilization fund. That the impact of the IAWP mandatory cutbacks were not known at the time the budget was adopted are not reflected in the budget.

Finance Reports

III-8. Joint Powers Fire Report

Manager Burzell stated that Chief O'Leary was unable to be at the meeting today however we have received confirmation that the lease documents are being prepared by the State for the building location. CalFire Captain Ray Rapue is obtaining building specifications and working with metal building manufactures.

Building Project CDF

County Contract for Fire Funds

Director of Finance Johnson stated she has been in contact with the County of San Diego in regards to assistance in funding our fire protection while the regionalization study is still pending. We understand there is a line item in the county budget set aside for this purpose and we have been told that we should see an agreement sometime in November or December.

IV. OTHER BUSINESS

It was suggested that the date for the annual employee recognition awards dinner be on Friday, December 7th if that works with everyone. Staff was instructed to send out a notice to get this on everyone's calendar.

Other Business
Annual Employee Recognition Awards Dinner and Holiday Dinner 12/7/07

V. ADJOURNMENT

President Knutson stated due to the Thanksgiving Holiday and conflicts in scheduling he would like the board to consider adjourning the meeting to Monday, November 19th, 2007 at 2:00 p.m. Upon motion offered by Director Stockton, seconded by Director Fitzsimmons and carried unanimously, the meeting was adjourned at 3:56 p.m. to Monday, November 19th at 2:00 p.m. Said meeting to serve as the regular meeting of the board for all purposes.

Meeting adjourned at 3:56 p.m. to November 19th at 2:00 p.m.

George Stockton, Secretary

ATTEST:

W.D. Knutson, President