

Irish Beach Water District
MINUTES OF THE MEETING
OF THE BOARD OF DIRECTORS
SATURDAY, November 8, 1997

I. OPEN MEETING

- 1. CALL TO ORDER AND ROLL CALL:** President Ron Frame called the meeting of the Board of Directors to order at 9:30am at the Fire House in Irish Beach (Manchester). Directors Beran, Frame, Lubeck, Poling, and Scaramella were present. Also present was Alan Turner, the District's lawyer and Dorothy Cong, the District's Secretary. The meeting was adjourned to Executive Session at 9:31 am.

EXECUTIVE SESSION:

A. MCP v. IBWD Mendo Co. Superior Court Case No. 71850. The District's attorney, Alan Turner, provided the Board of Directors with a copy of Judge Cox tentative decision. There was no action taken.

B. Moores vs Moores et al/Moores et al vs Moores vs IBWD Mendo Co. Sup Ct Case N. 76370. The District's attorney, Alan Turner, provided an explanation of the case and the Board instructed him. There was no formal action taken.

At 9:55am the Executive Session was adjourned. A short recess was taken.

II. OPEN SESSION RECONVENES:

The open meeting of the Irish Beach Water District Board of Directors reconvened to Open Session at 10:05 am. Members of the public were in attendance were: the Danners, Al and Loretta Thompson, Kathy and Will Edelbrock, Roger Aeschliman, and Mr. Thompson. Alan Turner announced the results of the Executive Session (see above.)

- 2. APPROVAL OF MINUTES:** Director Lubeck moved to approve the minutes of the regular meeting held on September 13, 1997 as amended. Director Poling seconded the motion and the minutes were approved as written.

3. COMMUNICATION AND CORRESPONDENCE:

- 4. PUBLIC INPUT:** There was no input from the public.

5. REPORTS:

A. Treasurer - Report on Finances/Approval of Expenditures:

1. Director Ralph Lubeck reviewed the various funds and their balances. He provided an explanation of expenditures for the months of September and October 1997. Due to extenuating circumstances the Office Manager was not able to provide a detailed analysis of the end of fiscal year, but such figures will be given to the Directors by the January 1998 meeting. Director Beran moved to approve the Treasurer's report. Director Poling seconded the motion and the report was accepted as presented.

B. Water - Charles Acker, Operations Manager, was unable to attend the meeting but provided a written status of significant events/items in the Operations department over the past two months. President Ron Frame read Charlie's memo which expressed that most efforts had been directed toward completing the office. Samples had been taken to do annual testing as required by law. Pump Station B was performing without any problems. A copy of Charlie's report is included in the meeting packet.

C. Safety: Charlie Acker, District Safety Coordinator, was not present and Dorothy Cong reported the safety issues as covered in the Safety Meeting held at the end of October 1997. Director Lubeck moved to accept the water and safety reports as presented. Director Beran seconded the motion and all approved.

D. Fire Department - Fire Chief Rex Dunning reported that there were no medical emergencies and no fire emergencies over the past two months. Some training took place. The "water hammer" situation that *may* have

caused the Pump Station B fiasco was covered and training done as to how to properly turn off the hydrants so as to minimize the possibility of a shock going through the system. Rex said the county burn ban has been lifted. No burning is allowed without a permit, however, and then only on "burn days." Rex can issue burn permits which are good for the season. Only vegetation that is grown on your own property may be burned. Rex wants to be notified when people are burning in Irish Beach. Rex then reported on some of the items he had purchased for the fire truck previously approved at the last board meeting. Director Beran moved to accept Rex's report. Director Poling seconded the motion and the report was accepted as presented.

6. OLD BUSINESS

A. Status: Re: existing litigation MCP v. IBWD Mendo Co. Sup Ct. Case No. 71850. Alan Turner, the District's attorney, reported that Judge Cox arrived at a tentative decision which was in favor of the District in all aspects. The District was awarded its costs. Mr. Moores has the right to appeal, but it is unlikely the judge will change his decision. The District won and Bill Moores lost. The defense was strictly on the statute of limitations.

B. Irish Beach Policy Binder: NTR.

C. Long Term Water Development (Acker): For members of the public who attended this meeting, Director Ron Frame provided a summary about how the water master plan and cost distribution plans came about. He clarified that when the Board talked about adopting the documents, it does not mean the "plans" are adopted. The documents will be used as guidelines. Meetings will be held in the future - open to the public - to determine what will be done and how to pay. If it was determined to implement every item in the Master Plan, the total cost would be somewhere in the neighborhood of \$111,000,000.00. Director Lubeck moved to accept the Master Plan developed for the Irish Beach Water District by Brelje & Race with the idea in mind that a hydrogeologic study be included as an addenda once it is completed. Director Beran seconded the motion and it was accepted by all.

D. Overtime Guidelines): Director Lubeck stated that the committee (Ralph, Ron and Charlie) had not had the opportunity to meet yet so there was nothing to report.

E. Proposition 218 and Stand By Fees: The Irish Beach Water District was authorized to charge a standby fee for undeveloped parcels. Proposition 218 prohibits such a charge on parcels not connected into the system. There is some opinion that standby fees already in existence are "grandfathered." The District in part depends on standby fees as part of its revenue, so there is concern over funding in light of Proposition 218. There are several ways to approach this: 1.) Wait for a challenge; 2.) adjust rates; 3.) impose a benefit assessment; 4.) impose a special tax; 5.) fund "fire" revenues through a special tax keeping current rates the same and moving fire over to tax. Bottom line there is no easy answer. Holding a special election is difficult. As a California Special District, elections are held on an *ad valorem* basis, not by registered voters. Proposition 218 says that a vote must be held by "registered voters." The Health and Safety Code says a vote must be done by "registered voters." Marsh Young apparently believes that all elections must be held on an *ad valorem* basis. However, the Special District legislation only specifies that directors shall be held *ad valorem*. Clearly there is a dilemma. The Board of Directors instructed Alan Turner to contact County Council in an effort to get them to tell the District how to comply with Proposition 218. Mendocino County Elections will not do anything without direction from County Council.

F. Kiosk: Director Lubeck expressed that placing the third kiosk in Unit 4 just below the fire house didn't make much sense since few people go by this way and there is already a kiosk at the entrance to this unit on Pomo Lake Drive. He suggested a couple of locations in Unit 1 which currently have no kiosk. The Board decision was to install the third kiosk at the entrance to the beach road.

G. Collection Policy/Procedures: Director Poling stated that there has been some difficulty in collecting revenues from a few customers. Dorothy has taken these customers to collection as well as to small claims and gotten a judgment in the District's favor. However, collecting on the judgment remains problematic. Once a year, by July 1, the county will accept a list of unpaid delinquent charges which it will apply on the property tax bill. Director Poling proposed the Irish Beach Water District write to Mendocino County in an effort to avail ourselves of this opportunity. All Directors agreed that this approach to collecting on past due accounts sounds like a viable option. Director Poling agreed to prepare a draft to the Mendocino County Auditor to inquire about this service.

President Ron Frame called a brief recess at 11:30 am. The meeting resumed at 11:40 am.

8. NEW BUSINESS:**A. Moores vs Moores et al/Moores et al vs Moores vs IBWD - Mendocino Superior Court Case No. 76370.**

The District attorney Alan Turner explained that this suit was filed by Gordon Moores to get the District into litigation which was filed by Bill against the family. Bill Moores contends he acquired some water rights from the Water District as a result of the 1995 litigation settlement even though all water rights were granted to the Irish Beach Water District in 1988. The matter has been tendered to SDRMA and will be addressed in time for a timely complaint.

B. Limited Hydrogeologic Services:

There remains concern about the potential impact drilling of wells might have on Irish Beach Water District's water sources and its ability to service its customers. The well ordinance which *was* in effect was rescinded as part of the legal settlement in 1995. Drafting an ordinance would require a comprehensive study for which there is no money in the 1997-98 budget. In the meantime, Director Beran moved we do the limited hydrogeological analysis and to inquire about utilizing their services further with an eye towards protecting our entire aquifer. Director Poling seconded the motion and it passed unanimously.

C. Preliminary Consideration for Implementation of the "Master Plan." The water district does have a plan which has some priorities established and some time lines. The potential impact of Proposition 218 on the Irish Beach Water District needs to be addressed before the district can proceed full speed ahead. Director Poling moved that 20 copies of the Master Plan and the Cost Distribution Plan be reproduced (without binding) and be provided to whoever wants them at cost. A notice will be posted on the kiosks when these copies are ready. Director Lubeck seconded the motion. Directors Poling, Scaramella, Beran and Lubeck favored the motion. Director Frame opposed the motion. The motion passed.

8. ADJOURNMENT: Director Poling moved the meeting be adjourned and Director Beran seconded the motion. All favored and the regular meeting of the Irish Beach Water District was adjourned at 12:15pm.

Respectfully submitted,

Ron Frame, President

Prepared by Dorothy Cong

Attest:

Rudy Beran, Secretary

**Irish Beach Water District
MINUTES OF THE MEETING
OF THE BOARD OF DIRECTORS
SATURDAY, January 10, 1998**

I. OPEN MEETING

- 1. CALL TO ORDER AND ROLL CALL:** President Ron Frame called the meeting of the Board of Directors to order at 9:30am at the Fire House in Irish Beach (Manchester). Directors Beran, Frame, Lubeck, Poling, and Scaramella were present. Also present was Alan Turner, the District's lawyer. Dorothy Cong, the District's Secretary, was absent. The meeting was adjourned to Executive Session at 9:31 am.

EXECUTIVE SESSION:

A. MCP v. IBWD Mendo Co. Superior Court Case No. 71850. The District's attorney, Alan Turner, stated that Judge Cox tentative decision previously provided to the Board has become his final decision. The judge's statement of decision was in favor of the Water District.

B. Moores vs Moores et al/Moores et al vs Moores vs IBWD Mendo Co. Sup Ct Case N. 76370. The District's attorney, Alan Turner, provided further explanation of the case and the Board instructed Alan to file a cross-complaint. There was no formal action taken.

At 9:55am the Executive Session was adjourned. A short recess was taken.

II. OPEN SESSION RECONVENES:

The open meeting of the Irish Beach Water District Board of Directors reconvened to Open Session at 10:05 am. Several members of the public were in attendance. Alan Turner announced the results of the Executive Session (see above.)

- 2. APPROVAL OF MINUTES:** Director Beran noted several changes he would like to see made in the minutes from the November meeting. Director Lubeck moved to approve the minutes of the regular meeting held on November 8, 1997 as corrected. Director Beran seconded the motion and the minutes were approved as amended.

3. COMMUNICATION AND CORRESPONDENCE:

- 4. PUBLIC INPUT:** Roger Aeschliman reported that Howard Bashford, an engineer who approved several projects in the Irish Beach subdivision in the past either relinquished his license or had it removed. Roger suggested that an audit be done of those things in Irish Beach approved by Mr. Bashford, i.e.: Unit 9, Unit 9A and Unit 5. This will be on the agenda at the next board meeting in March. Another member of the public suggested that Roger write a letter to the county of Mendocino expressing his concerns to them.

5. REPORTS:

A. Treasurer - Report on Finances/Approval of Expenditures:

1. Director Ralph Lubeck reviewed the various reports provided by Dorothy covering expenses and income for the months of November and December.. Since Dorothy was unable to attend the meeting, she provided a written summary of the highlights for the past two months and the fiscal year to date. It was noted that a couple of items were overlooked when preparing the annual budget. Director Lubeck stated that the budget would need to be amended. Fire Chief Dunning inquired about credits that should be applied to the Fire District for lot cleaning and refund for the Airlock Systems. This will be directed to Dorothy.

B. Water - Charles Acker, Operations Manager, provided the Directors with a written report of his activities for the past two month period. The steps were completed in front of the little office. A meter was installed at pump station B so the amount of water brought into the lower system from Unit 9 could be monitored. Charlie rebuilt a valve. The most significant event that occurred was a leak in the pipe on Alta Mesa Road. The leak was detected easily because it was bubbling out of the pavement which had a slump in it and a large cavern had eroded away. The pipe itself was easy to repair. The bigger issue was the size of the cavern eroded from under the pavement.

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voters.

There was considerable discussion. Alan Turner expressed that in addition to funding normal operations and maintenance, the District can fund reserves out of it water rates. Connection fees and capacity charges are expressly dedicated to reserves. The difficulty that has arisen is that the mechanism to distribute operations and maintenance costs to people not connected to the system has been limited by Proposition 218. Now the District needs to divided the cost of improvement within legal bounds over a fixed number of users. How much should be put over on the current users? Or is it appropriate to pass these costs along to the people not currently connected in the form of connection fees or a benefit assessment. This would have to be approved under the terms of Proposition 218.

Alan Turner suggested it would behoove the District to seriously consider funding fire services by special tax to be paid by all of the property owners with improved parcels paying more than unimproved parcels. The Fire District needs to develop a comprehensive long term budget. That amount would be removed from the current base. The current portion of the water bill directed to fire would then shift to water.

The Board of Directors ultimately decided to hold a Special Meeting on Sunday, February 15 at the Firehouse in Irish Beach at 10:00 AM.

D. Overtime Guidelines): Director Lubeck stated that he and Charlie met. Based upon his current contract, Charlie is to work 50 hours per month with a salary of \$1,000.00. It was agreed that an addendum would be added to Charlie's contract stating in effect that he is to be considered in the "exempt" category because of his managerial responsibilities. This would cause him to be paid at "straight time" for any time in excess of 50 hours per month. The addendum would be for \$20.00 per hour. This was acceptable to Charlie. John Acquistone

As a quick fix, Charlie had Paulson, a contractor, repair the immediate area by pouring concrete slurry into the hollow. The slurry filled the immediate hollowed out area to make the road safe. There is some remaining area that needs repair, but it is uncertain how much. The District authorized Charlie to have some contractors bid on the remaining repair. They will have to bid time and materials because the extent of the repair is unknown.

The issue of a pressure reducing valve came up and the Board directed Charlie to look into the cost of acquiring and installing one. Charlie reported further that the treatment plant was closed down most of November and December operating 12 days in November and only 11 days in December. The concern is that during high turbidity the treatment plant shuts down making the entire subdivision dependent only on the well for water. Charlie discussed the engineer's suggestion that the District go to microfiltration for the current plant. It would be in operation most of the time and not close down because of turbidity.

Charlie announced that Ron Bloomquist got his Grade 1 Operator's License.

C. Safety: Charlie Acker, District Safety Coordinator, reported that we were current on our safety meetings. The issues before the committee were wooden lids that were rotten on several culverts in Irish Beach. The County has replaced them. There is no change in the fuel spill. Check lists have not yet been completed and the boxes in unit 4 have not been replaced yet.

D. Fire Department - Fire Chief Rex Dunning reported that there was one call out on Christmas day for a chimney fire. Irish Beach volunteers responded along with the Redwood Coast personnel. No serious damage incurred.

6. OLD BUSINESS

A. Status: Re: existing litigation MCP v. IBWD Mendo Co. Sup Ct. Case No. 71850. Alan Turner, the District's attorney, reported that Judge Cox arrived at a final decision in favor of the District.

B. Moores vs Moores et al/Moores et al vs Moores vs IBWD Mendo Co. Sup Ct Case N. 76370. The District was brought in on a cross-complaint and will be filing its response within a few days.

C. Long Term Water Development (Acker): President Ron Frame announced that copies of the engineering plan and cost distribution plan are available for \$3.00 per set if picked up directly from him. All members of the Board stressed that Long Term Water Development is a top priority. It is of utmost importance to have a special session of the board with input from the public about implementation and how to finance what it is decided to implement. Once it is settled upon what to implement and how much it will cost, then the means of funding will need to be determined, i.e.: 1) a possible assessment, 2) a tax, 3) an increase in connection fees, ... Then the method of acquiring the funds will need to be determined, i.e.: 1) an election, either *ad valorem* or by registered voters.

There was considerable discussion. Alan Turner expressed that in addition to funding normal operations and maintenance, the District can fund reserves out of its water rates. Connection fees and capacity charges are expressly dedicated to reserves. The difficulty that has arisen is that the mechanism to distribute operations and maintenance costs to people not connected to the system has been limited by Proposition 218. Now the District needs to divide the cost of improvement within legal bounds over a fixed number of users. How much should be put over on the current users? Or is it appropriate to pass these costs along to the people not currently connected in the form of connection fees or a benefit assessment. This would have to be approved under the terms of Proposition 218.

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Dorothy Cong, and Ron Bloomquist are not considered "exempt" employees. Charlie agreed to prepare a new copy of his contract and present it to a Board member for signature.

E. Proposition 218 and Stand By Fees: Alan Turner has been corresponding with the County of Mendocino Elections department pertaining to Irish Beach Water District and Proposition 218. Marsh Young continues to insist that the water district is an *ad valorem* district - or a land owner voting district and therefore cannot hold a special election to be governed by a 2/3 registered voter standard. This position would preclude the District from complying with Proposition 218 which requires the district to do certain things by a 2/3 registered voter standard. Alan Turner, District attorney, met personally with County Counsel which agreed that it would be ridiculous that the District be unable to comply with Proposition 218. They and Alan both expressed concern that it appear the proponents of Proposition 218 failed to consider the existence of landowner voting districts. In their letter to Alan dated January 5, 1998, County Counsel stated that "the District, in its statutory expressed powers as a fire protection district, would have the authority to impose a special tax for general fire protection and related purposes only. County Clerk Marsh Young is in concurrence with a special tax election for this limited purpose only. County Counsel further suggested the District "submit to the Attorney General the question regarding the District's authority to request a special tax election in its capacity as a landowner district."

F. Collection Policy and Procedures: There are some customers who are simply not paying their water bills. The collection agency charges 40% so is expensive. If the customer picks up their notice, the District can get judgment, but it has no power to collect once it does. Following the last Board of Directors meeting,, Director Poling issued a letter to the County Auditor inquiring about having the County collect delinquent bills on the property tax bill. The auditors office responded that, yes, the charges could be added to the tax bills for a charge of 2% and must be submitted to the county by July 1. Director Beran moved and Director Lubeck seconded that the District implement California Water Code Section 37212 allowing the District to collect delinquent charges on the County property tax, and authorized the President to sign an agreement with the County to authorize their collection. The motion passed unanimously.

G. Limited Hydrogeologic Services: In a letter submitted to the Irish Beach Water District dated Sept. 24, Richard Slade & Associates proposed that for a cost of between \$500.00 and \$600.00, they would do a limited hydrogeologic study which would: 1) evaluate local geologic/hydrogeologic conditions, 2) assess pumping impact of potential new well(s) on existing District well, and 3) prepare a letter. The water district must provide them with a PG&E efficiency test of the well, current non-pumping and pumping water levels, and the approximate depth setting of the existing pump. Director Lubeck moved the District accept the Slade proposal as outlined in the letter at a cost of \$500.00 to \$600.00 which helps the District meet its obligation to do such a study before it may consider reenacting a well ordinance. Director Beran seconded the motion. Directors Beran, Lubeck and Frame voted "Yes." Director Scaramella voted "No." Director Poling abstained.

7. NEW BUSINESS:

None.

8. ADJOURNMENT: Director Beran moved the meeting be adjourned and Director Lubeck seconded the motion. All favored and the regular meeting of the Irish Beach Water District was adjourned at 1:32pm.

Respectfully submitted,

Ron Frame, President

Prepared by Dorothy Cong

Attest:

Rudy Beran, Secretary

**NOTICE OF A MEETING
OF THE BOARD OF DIRECTORS
OF IRISH BEACH WATER DISTRICT
IRISH BEACH FIREHOUSE
15401 FOREST VIEW ROAD
Mar. 14, 1998**

I. OPEN MEETING 9:30AM

A. . ADJOURN TO EXECUTIVE SESSION: Conference with legal counsel regarding existing litigation: Gov't Code Section 54956.9a (9:30am)

1. **Moores vs Moores et al/Moores et al vs Moores vs IBWD Mendo Co. Sup Ct Case No. 76370**
2. **Moores vs IBWD - Small Claims Case #983727SC**
3. **Proposition 218/Standby/Election**

II. OPEN SESSION RECONVENES

1. CALL TO ORDER AND ROLL CALL: 10:00am

2. APPROVAL OF MINUTES of regular meeting held Jan. 10, 1998

3. COMMUNICATION AND CORRESPONDENCE:

- You Already HAVE These* {
- A. Moores letter dated 1/21/98 re: Standby fees and subsequent correspondence
 - B. Kohut letter re: Water Availability and Fire Charges Imposed by the Irish Beach Water District in Violation of the Provision of Proposition 218.
 - C. Memos from Roger Aeschliman re: a) Howard Bashford work in Irish Beach (See "B" below), b) Drainage in Irish Beach, and c) Purchase of IBWD Property.

4. PUBLIC INPUT for items not on the agenda. The public will also be given an opportunity to address concerns about agenda items as they occur in the agenda.

5. REPORTS and any action necessary (Total 40 min):

- A. Treasurer - Report on Finances/Approval of Expenditures for Jan. & Feb. (Lubeck) (10mins)
- B. Water - Acker (20 min)
- C. Safety Committee - Acker (5 min)
- D. Fire Department - Dunning (5 min)
- E. Other

7. OLD BUSINESS: (Total 45 mins)

- A. Moores vs Moores et al/Moores et al vs Moores vs IBWD Mendo Sup Ct. Case No. 76370 (Turner) (5min)
- B. Long Term Water Dev - implementation of "Master Water Plan" and "Cost Distribution Plan." (20 min)
- C. Proposition 218 and Stand By Fees - Special Election? (Turner) (15 mins)
- D. Limited Hydrogeologic Services (Acker) (5 min)

8. NEW BUSINESS: (Total 35 mins)

- A. Resolution 98-2: Collection of Delinquent Charges on Property Tax. (10 mins)
- B. Audit of Howard Bashford approved projects within the Irish Beach Subdivision, i.e.: Units 5, 9, and 9-A. (5 mins)
- C. Resolution 98-1: Modifying and Replacing Disclosure Category 3 of Appendix of Resolution 97-3 Amended Conflict of Interest Code by Reference. (5 mins)
- D. Copy Machine (5 mins)
- E. Small Claims Case #983727SC (5 mins)
- F. Budget Modification (5 mins)

9. ADJOURNMENT

**Irish Beach Water District
MINUTES OF THE MEETING
OF THE BOARD OF DIRECTORS
SATURDAY, March 14, 1998**

I. OPEN MEETING

- 1. CALL TO ORDER AND ROLL CALL:** President Ron Frame called the meeting of the Board of Directors to order at 9:30am at the Fire House in Irish Beach (Manchester). Directors Beran, Frame, Lubeck, Poling, and Scaramella were present. Also present was Alan Turner, the District's lawyer. Dorothy Cong, the District's Secretary, was absent. The meeting was adjourned to Executive Session at 9:31 am.

EXECUTIVE SESSION: Conference with legal counsel regarding existing litigation: Gov't Code Section 54956.9a

1. Moores Vs Moores et al/Moores et al Vs Moores Vs IBWD Mendo Co. Sup Ct Case N. 76370. The District's attorney, Alan Turner, provided further overview of the case and provided the Board with current status.

2. Moores Vs IBWD - Small Claims Case #983727SC.

3. Proposition 218/Standby/Election.

At 9:55am the Executive Session was adjourned. A short recess was taken.

II. OPEN SESSION RECONVENES:

The open meeting of the Irish Beach Water District Board of Directors reconvened to Open Session at 10:00 am. Several members of the public were in attendance. Alan Turner announced the results of the Executive Session (see above.)

- 2. APPROVAL OF MINUTES:** Director Lubeck moved to approve the minutes of the regular meeting held on January 10, 1998 as corrected. Director Poling seconded the motion and the minutes were approved as amended.

3. COMMUNICATION AND CORRESPONDENCE:

President Ron Frame commented on the Communication and Correspondence reporting: A.) Moores letter dated 1/21/98. *Answered by Ron Frame.* B.) Kohut correspondence re Water Availability Charges and Proposition 218. *Answered by Ron Frame.* C.) Memos from Roger Aeschliman re: Bashford, Drainage, and purchase of IBWD property next to the firehouse. None answered. Issues to be placed on agenda for the May 9th meeting.

- 4. PUBLIC INPUT:** None.

5. REPORTS:

A. Treasurer - Report on Finances/Approval of Expenditures:

1. Director Ralph Lubeck reviewed the various reports provided by Dorothy covering expenses and income for the months of January and February, balances in the various funds, customers whose past due balances are in excess of 120 days, period Trial Balance, Check Registers, Year to Date Trial Balance, Year to Date Budget Vs Actual, and Dorothy's synopsis of highlights over the past two months. Director Beran moved the Treasurer's report be accepted as presented. Director Poling seconded the motion and the report was accepted.

B. Water - Charles Acker, Operations Manager, provided the Directors with a written report of his activities for the past two month period.

1.) Forty Days and Forty Nights! Excessive rains caused a nearly complete shut down of the water treatment plant for the bulk of this two month period due to high turbidity. This resulted in the subdivision being dependent entirely upon the well in Unit 9 for its water. The well was unable to keep up with consumption forcing the District to put Units One and Two back on the treatment plant. Coincident with this a "Boil Water" notice was placed on all homes in the two units and mailed to the homeowners as well.

2.) Charlie contacted the Water Quality Control Board about the ongoing fuel spill up on the hill. Benbow got another extension from them, and has contracted with another firm to do the clean up. All the debris is gone.

3.) Alta Mesa is repaired except for the final paving. We are waiting for improved weather before completing this project. All reports have been submitted to the insurance company who will be sending us around \$4,000.00. The cost for paving will be around \$2,600.00

4.) Operations has been monitoring Pump Station B to determine how much water has been brought across from the well system into Units 1 and 2 due to the heavy rains and the automatic shut down of the treatment due to high turbidity.

5.) Considerable time spent in preparing for the Small Claims suit - Bill Moores Vs IBWD for \$5,000.00 related to road maintenance.

6.) There was a short power failure in Irish Beach. Since the District was only relying on the well and barely getting enough water as it was, this power failure posed yet another challenge. PG&E had provided Charlie with a special number to call in emergency situations due to our status as an "essential service." Charlie called the number and PG&E responded rapidly and efficiently getting the District back in service. We didn't have to use our generator.

7.) Charlie issued a "Boil Water" order in Units 1 and 2 due to the well not being able to consistently keep up with usage and the treatment plant being shut down for the bulk of January and February. Notices were placed on every home in Units 1 and 2. Notices were also mailed to customers whose mailing address was other than local. In the winter months Units 9, 3, 4 and 7 are supplied from the well and Units 1 and 2 from the treatment plant. In the summer only Unit 9 is supplied from the well and everyone else from the treatment plant.

8.) "Don and Jerry's" Pump Service was hired to take a look at the well in Unit 9 and give some advice on how to improve output. They provided operations with a well cleaning procedure. This increased output by two gallons per minute. They also suggested sinking the pump lower into the well perhaps resulting in increased output. This has not yet been done.

9.) The 3" pipe that runs up the gulch had to be repaired twice.

10.) A minor repair had to be made in the treatment plant.

C. Safety: Charlie Acker, District Safety Coordinator, reported that we remain current on our safety meetings only being required to hold them once per quarter. There are no new issues at present. The main outstanding issue remains the Fuel Spill.

D. Fire Department - Fire Chief Rex Dunning reported that there were no medical or fire emergencies over the past two months.

6. OLD BUSINESS

A. Moores Vs Moores et al/Moores et al Vs Moores Vs IBWD Mendo Co. Sup Ct Case N. 76370. This case is Bill and Tona Moores suing Gordon and Sandra and MCP for "excess water rights." The District was brought in as a third party defendant. Complaints and answers have all been filed. Depositions and other discovery will probably begin to take place within the next 60 days.

B. Long Term Water Development - Implementation of "Master Water Plan" and "Cost Distribution Plan.": A Special Meeting was held at the Firehouse in Irish Beach on Sunday, February 15 for the purpose of discussing only the Master Water Plan and Funding. Out of this meeting, an *ad hoc* committee was formed to analyze the plan and consider funding options and so on. Also it was agreed at the meeting that the representatives of the District, its attorney Alan Turner, Kohut, attorney for MCP and Gordon Moores, and the Moores would meet to discuss the Master Plan, priorities, and funding. This meeting will take place in Santa Rosa on April 10. Until that meeting happens there is really nothing to discuss.

Charlie stated that he had talked with Tom Yokoi about microfiltration. Mr. Yokoi provided us with an outline of what a proposal would look like to implement installing a microfiltration plant and about what one would cost. Charlie also spoke with Tom about funding options who said his proposal would have a funding element built into it providing various funding options, i.e.: leasing, grants (amounts influenced by the average income in Irish Beach), loans, purchase, ... The Board directed Charlie to hold off on Tom Yokoi's proposal until after the April 10 meeting. Further discussion was tabled until the next meeting.

C. Proposition 218 and Stand By Fees - Special Election? Alan Turner stated that the District believes it is in compliance with Proposition 218, both in letter and in spirit. MCP and Moores say "No." Also at issue is the

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Amended Conflict of Interest Code by Reference. Director Poling summarized that there have been several efforts to please the powers that be in the County of Mendocino regarding the Conflict of Interest Code. There has been correspondence from County Counsel that we adopt it as it now stands with one additional amendment. Peter Klein of the County Counsel believes that our category of real estate must include not only ownership of property within the District itself, but include any ownership outside the district that is within the sphere of influence of the District. Currently the District does not supply any surplus water outside the District. If at some point we do start supplying somebody with surplus water, then we would have to report to the county if we have property ownership or lease holding in that property which is receiving surplus water. Director Beran moved to adopt the resolution and Director Scaramella seconded the motion. The vote was as follows: Ayes: Directors Scaramella, Poling, Beran and Lubeck. Absent: Director Frame.

D. Copy Machine: It was decided to table this item until the next meeting. However, Director Lubeck gave a brief report about the current copy machine. It was recently repaired, but is in serious need of some parts which are no longer available. The machine is old and wearing out. It is not certain how long it will last, but Dorothy felt we should try to make it until the end of the fiscal year (September 30) before considering either purchasing or leasing another machine. She has acquired some materials about a couple of machines available from The Network Systems in Fort Bragg reflecting both purchase prices and lease options.

E. Small Claims Case: This was discussed previously. Bill Moores has taken the District to Small Claims suing for \$5,000.00 which he feels is the District portion for road maintenance. The case was postponed until

District's ability to hold an election. Constitutionally a 2/3 vote of registered voters is required. However, the district was created by the legislature and is an *ad valorem* district. All of this results in a major dilemma. There are several options to be considered. 1.) Hold an election for a Fire District special tax and thus relieve the water district from collecting fire fees. 2.) Develop a benefit assessment which requires a ballot of affected landowners. These and any other possibilities (taxes, assessments, adjustment of rates, connection fees, etc.) will be addressed at the April 10 meeting. The hope is to develop a comprehensive package for financing and funding that will allow the District to maintain its current operation and fulfill the obligations set out in the Master Plan.

D. Limited Hydrogeologic Services: Charlie had nothing to report on this item.

(Note: At this point President Ron Frame had to leave the meeting and Vice President Kathy Poling chaired the balance of the meeting.)

7. NEW BUSINESS:

A. Resolution 98-2: Collection of Delinquent Charges on Property Tax: This resolution grew out of efforts to collect on delinquent accounts. Several methods have been used in the past, aside from issuing the normal past due reminders. Working through a collection agency is costly (40% of the amount owed). Small Claims is not always effective as it is sometimes difficult to even serve the customer. Once served, a judgment is not difficult, but collecting on the judgment can bring nightmares. As a result of this, the District has looked into the option of collecting via the county tax mechanism, which is allowed under Section 37212 of the California Water Code. This code provides for an assessment on the tax rolls through the county for standby and usage fees. Resolution 98-2 gives the District Secretary authority to certify to the county tax collector those delinquent fees in excess of 120 days on the date of certification effective July 1, 1998. The county does charge a fee of 2%. The Resolution passed as follows: Ayes: Directors Poling, Scaramella, Beran and Lubeck. Absent: Director Frame.

B. Audit of Howard Bashford approved projects within the Irish Beach Subdivision, i.e.: Units 5, 9, and 9-A: This item was placed on the agenda at the request of Roger Aeschliman at the last meeting in which he requested the District to conduct some sort of an audit to see what projects within the District were certified by Howard Bashford. Per Roger, Mr. Bashford is no longer licensed. Director Poling stressed that when a rate payer requests an item be placed on the agenda, it is so done unless the topic is completely frivolous. Director Poling read Roger's correspondence about Mr. Bashford's work within the subdivision. The Directors expressed concern that such an audit would be time consuming, expensive, and probably not a good use of our time. Further discussion was tabled until the May meeting when Roger Aeschliman would be present.

C. Resolution 98-1: Modifying and Replacing Disclosure Category 3 of Appendix of Resolution 97-3 Amended Conflict of Interest Code by Reference. Director Poling summarized that there have been several efforts to please the powers that be in the County of Mendocino regarding the Conflict of Interest Code. There has been correspondence from County Counsel that we adopt it as it now stands with one additional amendment. Peter Klein of the County Counsel believes that our category of real estate must include not only ownership of property within the District itself, but include any ownership outside the district that is within the sphere of influence of the District. Currently the District does not supply any surplus water outside the District. If at some point we do start supplying somebody with surplus water, then we would have to report to the county if we have property ownership or lease holding in that property which is receiving surplus water. Director Beran moved to adopt the resolution and Director Scaramella seconded the motion. The vote was as follows: Ayes: Directors Scaramella, Poling, Beran and Lubeck. Absent: Director Frame.

D. Copy Machine: It was decided to table this item until the next meeting. However, Director Lubeck gave a brief report about the current copy machine. It was recently repaired, but is in serious need of some parts which are no longer available. The machine is old and wearing out. It is not certain how long it will last, but Dorothy felt we should try to make it until the end of the fiscal year (September 30) before considering either purchasing or leasing another machine. She has acquired some materials about a couple of machines available from The Network Systems in Fort Bragg reflecting both purchase prices and lease options.

E. Small Claims Case: This was discussed previously. Bill Moores has taken the District to Small Claims suing for \$5,000.00 which he feels is the District portion for road maintenance. The case was postponed until May because an indispensable party that also shares the roads must be brought into the case.

F. Budget Modification: Director Lubeck moved the Directors formally adopt the budget changes that occurred since the budget was originally adopted last September. The proposed changes to the budget are: 1) Add Telephone Distribution. 2.) Add Vehicle Operation, and 3.) Modification of the replacement depreciation fund. Director Lubeck moved the budget modification be adopted. Director Beran seconded the motion. The budget modification was accepted as presented.

8. ADJOURNMENT: Director Lubeck moved the meeting be adjourned and Director Beran seconded the motion. All favored and the regular meeting of the Irish Beach Water District was adjourned at 12:10pm.

Respectfully submitted,

Ron Frame, President

Prepared by Dorothy Cong

Attest:

Rudy Beran, Secretary

Irish Beach Water District
MINUTES OF THE MEETING
OF THE BOARD OF DIRECTORS
SATURDAY, May 9, 1998

I. OPEN MEETING

- 1. CALL TO ORDER AND ROLL CALL:** President Ron Frame called the meeting of the Board of Directors to order at 9:40am at the Fire House in Irish Beach (Manchester). Directors Frame, Lubeck, Poling, and Scaramella were present. Director Beran was absent. Also present was Alan Turner, the District's lawyer, Dorothy Cong, the District's Secretary, and Charles Acker, Operation's Manager. The meeting was adjourned to Executive Session at 9:41 am.

EXECUTIVE SESSION: Conference with legal counsel regarding existing litigation: Gov't Code Section 54956.9a

- 1. Moores Vs Moores et al/Moores et al Vs Moores Vs IBWD Mendo Co. Sup Ct Case N. 76370.** The District's attorney, Alan Turner, provided further overview of the case and provided the Board with current status.

At 9:55am the Executive Session was adjourned. A short recess was taken.

II. OPEN SESSION RECONVENES:

The open meeting of the Irish Beach Water District Board of Directors reconvened to Open Session at 10:05 am. Several members of the public were in attendance, i.e.: Roger Aeschliman, Al and Loretta Thompson, Dorothy Engle, Will Edelbrock, Mark Rapelje, and Gordon Moores. Alan Turner announced the results of the Executive Session stating that he had been instructed by the Board of Directors not to change the September trial date as requested by Bill Moores.

- 2. APPROVAL OF MINUTES:** Director Poling moved to approve the minutes of the regular meeting held on March 14, 1998. Director Scaramella seconded the motion and the minutes were approved as submitted. Director Poling moved to accept the minutes of the Special Meeting held on February 15, 1998. Director Lubeck seconded the motion and the minutes were approved as submitted.

3. COMMUNICATION AND CORRESPONDENCE:

Letters had been received from Roger Aeschliman he had written to the Department of Public Health about Unit 5 Conditions. The subject is an agenda item below.

4. PUBLIC INPUT:

Will Edelbrock brought to the attention of the Board of Directors his concern (for three years) about the on-going septic spill on the Rasmussen property across from his house. It is a problem particularly when we have heavy rains such as this past winter, and is a health problem. Several people familiar with the situation provided input. Ultimately the board suggested that Will call the Health Department of Mendocino County.

5. REPORTS:

A. Treasurer - Report on Finances/Approval of Expenditures:

1. Director Ralph Lubeck reviewed the various reports provided by Dorothy covering expenses and income for the months of March and April, balances in the various funds, customers whose past due balances are in excess of 120 days, period Trial Balance, Check Registers, Year to Date Trial Balance, Year to Date Budget Vs Actual, and Dorothy's synopsis of highlights over the past two months. Director Scaramella moved the Treasurer's report be accepted as presented. Director Lubeck seconded the motion and the report was accepted as presented. Director Frame requested that the month and percentage of the year be added to the YTD budget comparison for clarification.

B. Water - Charles Acker, Operations Manager, provided the Directors with a written report of his activities for the past two month period.

- 1.) The water pump was set 40' lower in hopes of increasing output and stop the cycling of the pump.
- 2.) The well was acid washed and chlorination was added at the suggestion of a well contractor.

- 3.) Alpha Labs did their annual testing.
- 4.) The treatment plant is now in normal operating mode feeding the complete subdivision except the three houses in Unit 9.
- 5.) There is a slide on the upper diversion road large enough for the district to hire a licensed contractor to clear. Charlie said he would check with Paulson and expects the cost not to exceed \$500.00.

C. Safety: Charlie Acker, District Safety Coordinator, reported that the safety committee met in April. We have been going through the safety manual and are looking more specifically at check lists. There are a couple that we can adapt for our use. This is for improved employee awareness, safer work conditions and accruing "points" with our insurance carrier which provide a small reduction in our annual rate.

D. Fire Department - Fire Chief Rex Dunning reported that the Fire District burned the pigeon coop at Gordon's request providing good practice for the volunteer crew. He said that at the end of May the Fire District will make its annual rounds of Irish Beach checking for any hazardous conditions.

At this point (11:20am) a short recess was called by President Ron Frame. The meeting was reconvened at 11:30am.

6. OLD BUSINESS

A. Moores Vs Moores et al/Moores et al Vs Moores Vs IBWD Mendo Co. Sup Ct Case N. 76370. This case is Bill and Tona Moores suing Gordon and Sandra and MCP for "excess water rights." The District was brought in as a third party defendant. Complaints and answers have all been filed. Alan Turner expressed that there has been no activity in the way of formal procedural movement or formal communication. There was a request from the plaintiff to "continue" the trial date beyond September. The Board directed Alan to respond that the District does not wish to move the trial date. Thus it appears the matter will be tried in September.

B. Rate Study Workshop: Alan Turner reflected on issues that came out of the meeting in Santa Rosa between the developers, the developer's lawyer, and Irish Beach representatives (Ron Frame, Kathy Poling, Alan Turner, the District's lawyer, Charlie Acker, Operations Manager, and Tom Yokoi, District engineer hired to analyze capital needs and costs.)

Alan Turner stated that the District needs to make a decision at this meeting regarding how it will proceed on several of the issues that were presented at the Santa Rosa meeting. First of all there is an issue dealing with treatment capabilities of the water the District gets from surface sources. District engineers have recommended adding to the existing plant. *MCP proposes that the District should proceed to develop Mallo Pass at this time in order to a) guarantee water rights and b) guarantee Cal Trans easements. They believe that in 15 or 20 years these rights/easements may not be available.* There was some representation that if Mallo Pass were to be developed today, it would cost far less than estimated by the engineer.

Basically the District and MCP are at a point where the legal people can only give recommendations as to what the District is entitled to do - a general direction legally as to how the District should proceed. *Also at this point the numbers people and the operations people need to come up with what the District has to have in order to operate and where these funds can be obtained.* The legal people are there to see if obtaining funds from those sources is legal or not.

Pertaining to long term development and implementation, there is both a Water Master Plan and a Cost Distribution Plan which are engineered. There is a question now which is reaching the courts about Proposition 218 and its effect on District standby fees. All of these issues are presently up before the Board because it's time for budgeting. *The District also needs to determine if it will continue its practice of funding fire services by water rates which is arguably allowed under the water code special provision which relates to Irish Beach. Additionally there's a question where the District will fund operations and maintenance out of water rates and how much contribution can be obtained from people who are presently the owners of undeveloped property. And lastly is the issue of capital expenditures for water treatment and how much of that can be paid by people who are presently connected to the system and those who are undeveloped properties. Unless these issues are resolved and addressed, it will be very difficult for the Board to develop a budget which is meaningful in the real world. Today some direction needs to be given to the numbers and operations people who can come up with a rate structure and possible assessment structure which will allow the District to : A) Keep running on a day-to-day basis and B) Develop its capital facilities so it will be running into the future.*

Alan said a decision needs to be made now to the proposal from MCP and Mr. Kohut that the District consider developing Mallo Pass today as opposed to adding treatment to the existing facility.

Director Poling stated the following in response to the proposal that we shut down what we have and develop Mallo Pass. Three elements that would make it extremely expensive are: 1) In our current plant we have gravity feed. Mallo Pass would require a tremendous amount of electricity. 2) Mallo Pass is down in a hole subject to flooding, and 3) It would require at least 50% increase in personnel operating expense. These costs need to be considered. *The question is not only can we afford to buy it now versus buy it later, but can we afford to run it and moth ball what we have here?*

1.) One of MCP's thrusts is that if you develop Mallo Pass, you can have a microfiltration system as part of that and won't have to spend the microfiltration expense for the current facility.

2.) The second major thrust is that we have the water rights for Mallo Pass, but water rights are always tenuous and if we don't use them there is the potential they can be lost.

The question was asked who might use the water rights besides the water district?

Alan responded that part of what got the 1988 agreement going was that the State had notified the developer that those water rights were going to expire because they had not been put to beneficial use. The District, by taking possession and becoming the permittee under those water rights, was able to go to the State and say, "We have need of this in our development because we have a developing community which will ultimately put those rights to use." There is nobody else out there who will foreseeably have need for those waters in the future, so the State was willing, by permit, to convey the water rights over to the District with the understanding that as development continues within the community, the waters will ultimately be placed into use. So the question is, "Will the State ever withdraw its permit and apply the waters to other purposes?" 1.) The District is the owner by permit. 2.) There is a plan in place to put the waters into use as development occurs. and 3.) There is nobody else out there that could be a permittee. Therefore, it does not appear the District needs to be overly alarmed or concerned about the potential that the State will withdraw its permit and the District would be without water resources in the future. However, it is true that these things can be fluid.

The question was asked whether the State might withdraw its permit because of fish and game?

Alan responded that yes, the State has sequestered water rights. However, in this case water rights have already been dedicated to a specific public purpose and a planned growth. It is unlikely that Fish & Game would come in now. But the point that Mr. Kohut was trying to make was that you never know who is going to talk about your water next.

Director Poling stated, "The question we need to answer is: Does the proposal to move Mallo Pass up and change the priority of this Master Plan make any sense? Should we rearrange the priorities because of the funds available (\$270K), the cost of doing some of the other things, and the fact that Mallo Pass could incorporate some of those costs?" The microfiltration plant would cost \$91K which would bring the total to about \$361K.

In fact, the District engineer has determined that the cost would not be quite that cheap.

Director Poling moved we accept our engineers priority determination and keep Mallo Pass in the priority position as presented in the Water Master Plan. Director Scaramella seconded the motion. Following the motion there was some additional discussion about operational issues, i.e.: the Mallo Pass plan does not address how to clean the muddy stream. Currently we either clean out with a backhoe or backwash. Adding microfiltration at the current plant would gain a full time plant and also have the ability to put in the Lower Diversion without any extra treatment which would be good for the drought years. Also, microfiltration reduces the need for chlorine so water tastes better. **The motion passed as stated.**

The next key item per Alan Turner was that the District currently funds fire services out of water rates which is allowed by code enabling the District to charge enough in our water rates to do so. Today there is an objection (Proposition 218) to standby fees. Here a substantial portion of fire services are funded out of standby fees. *It may be in the District's best interest to get these fire funds funded by means of a special tax. Such taxes have passed in other Districts quite easily. It is the opinion of County Counsel that the District is entitled to conduct a special election, i.e., get a ballot measure for November.* This would remove fire from the water budget. Then the budget considering fire will have its own revenues and its own budget mechanism in place at some point in the future as soon as you get in the tax roll.

The District needs to decide if it wants to continue to have fire services funded out of water rates. If it does continue to do so, the next question is *can standby fees be used to fund fire services?* All lots in the District do have the benefit of use of fire services. So, fire has a better legal position to stay in place today. But, it is all incorporated into water rates. Legislation which created fire services within the District also provided that the District have the full authority of a fire protection district which says we can impose a special tax. Once funded by special tax, the District would have a district within a district. Proposition 218 allows for imposition of taxes on 2/3 registered vote. Over time, property owners would pay the same for fire as today, but it would be collected on the tax rolls as opposed to water bills.

The comment was made that the District is currently setting aside a portion for fire and then allocate a percentage that we charge fire for services provided. In other words, the fire district pays the water district a certain amount every month for services provided. Director Poling indicated she would like the advantage of keeping the two together. Alan Turner reinforced that if we keep charging standby fees for water to fund fire, we are buying litigation.

Alan Turner summarized that the District is faced with dealing with fire and water being A.) commingled, and B) being charged for with a standby fee. The District is also faced with the idea that capital facilities, i.e. microfiltration plant, needs to be accomplished at a point in time and funded at a point in time, and the District has to determine where the funds come from - current rates by current rate payers or from people not connected to the system. *Alan stated that owners of the undeveloped property here have indicated a willingness to contribute to some degree to the system. The District is faced with making a determination of what that fairly might be.* In addition, the District is faced with existing ratepayers, at least arguably are responsible for cost of daily operations because they received the benefit of it. *Question is how much of that operation and maintenance can be fairly charged to people who are not connected within the system? The simple response would be:*

- 1.) **Fund fire by a special tax.**
- 2.) **Do away with standby fees altogether.**
- 3.) **When a customer connects to the system, hit them with a heavy connection fee to catch up to what their fair share of the cost would be.**
- 4.) **Figure out how much it is going to be and make a rate adjustment to actual user fees to fund the operation and maintenance of the District.**
- 5.) **Figure how much to fund the capital improvements that need to be done and get it out of rates, or pass a benefit assessment that allows the people who are not paying presently to contribute to this microfiltration system.** Once all of the above is accomplished, the net effect is that people will be paying more for water tomorrow than today, but by figuring out which is properly allocated it can justify the rate changes and put everything into the category it needs to be placed.

Alan suggested that the District take the budget and play with some numbers, i.e.: figure the bottom line cost of running the District and divide that by the number of houses. Then determine how much is fire and subtract that out. Some costs that the District might attribute to a special benefit assessment for people not receiving water are: depreciation, legal, insurance, all costs associated with maintaining the office, ... Those people who actually receive water would pay those costs actually associated with operating and maintaining the system. Fire and others charges as stipulated in the short (but incomplete) list above might appropriately be attributable to bare lot owners. Alan stated that there is already a commitment by the majority of bare lot owners to pay a fair price *if* the District can show how the numbers work out. Once the number crunching is accomplished, then perhaps a landowner ballot can be taken.

The commitment from this meeting is for the District to set up a committee to come up with some exact figures. The committee will present these figures to the Board at the next meeting. The committee will contact Tom Yokoi, the District engineer, for those things which can be legally and fairly attributed to bare lot owners. And the committee will send MCP and their attorney, Mr. Kohut, a list to see if they are in agreement. President Ron Frame set up a committee consisting of himself, Ralph Lubeck, Charlie Acker and Dorothy Cong. A meeting will be set at a later date.

C. Long Term Water Development - Implementation of "Master Water Plan" and "Cost Distribution Plan.": Covered above.

D. Proposition 218 and Stand By Fees - Special Election? Covered above.

E. Limited Hydrogeologic Services: Charlie is working with a Mr. Slade, the engineer who will be doing this analysis and is getting a PG&E study for him.

F. Small Claims Case #983727SC: Will be heard next Friday.

G. Audit of Howard Bashford approved projects within the Irish Beach Subdivision, i.e.: Units 5, 9, and 9-A: Since Roger had to leave the meeting early this item was tabled until the next meeting.

H. Copy Machine: The Board suggested the budget committee consider the purchase of a copy machine.

7. NEW BUSINESS:

A. Resolution 98-3: Contract with County of Mendocino regarding collection of delinquent water fees on the tax rolls: Alan Turner prepared a contract for the District with Mendocino County to have delinquent water fees collected on the tax rolls. However, he indicated that at this point if we pursued sending the delinquent accounts to the county, we would be slapped with a writ of mandate. Director Lubeck moved we adopt the resolution contingent upon the fact we may use it this year or another time. Director Scaramella seconded the motion. Ayes: Directors Lubeck, Frame and Scaramella. Nays: Director Poling. Absent: Director Beran.

B. Policy about liens, etc. for a State of California Water District: There was little discussion on this item with Alan Turner expressing the thought that our water district cannot place a lien on a parcel without a court judgment. Director Poling felt that was not the case. The issue was dropped for the time being.

C. Unit 5 Drainage: Since Roger Aeschliman had to leave the meeting early, this item was tabled until the next meeting.

D. Sale of IBWD property next to firehouse: Since Roger Aeschliman had to leave the meeting early, this item was tabled until the next meeting.

8. ADJOURNMENT: Director Scaramella moved the meeting be adjourned and Director Lubeck seconded the motion. All favored and the regular meeting of the Irish Beach Water District was adjourned at 1:30pm.

Respectfully submitted,

Ron Frame, President

Prepared by Dorothy Cong

Attest:

Rudy Beran, Secretary

**NOTICE OF A MEETING
OF THE BOARD OF DIRECTORS
OF IRISH BEACH WATER DISTRICT
IRISH BEACH FIREHOUSE
15401 FOREST VIEW ROAD
July 11, 1998**

I. OPEN MEETING 9:30AM

- A. . ADJOURN TO EXECUTIVE SESSION: Conference with legal counsel regarding existing litigation: Gov't Code Section 54956.9a (9:30am)**
- 1. Moores vs Moores et al/Moores et al vs Moores vs IBWD Mendo Co. Sup Ct Case No. 76370**

II. OPEN SESSION RECONVENES

1. CALL TO ORDER AND ROLL CALL: 10:00am

2. APPROVAL OF MINUTES of regular meeting held May 9, 1998.

3. COMMUNICATION AND CORRESPONDENCE:

A. Letter from Bill Moores to Charlie re: Repairs on Alta Mesa Road. B.) Letter from Bill Moores re: contesting the "dismissal with prejudice" of small claims case #983727SC.

4. PUBLIC INPUT for items not on the agenda. The public will also be given an opportunity to address concerns about agenda items as they occur in the agenda.

5. REPORTS and any action necessary (Total 40 min):

- A. Treasurer - Report on Finances/Approval of Expenditures for May & June. (Lubeck) (10mins)
- B. Water - Acker (20 min)
- C. Safety Committee - Acker (5 min)
- D. Fire Department - Dunning (5 min)
- E. Other (5 min.)

7. OLD BUSINESS: (Total 65 mins)

- A. Moores vs Moores et al/Moores et al vs Moores vs IBWD Mendo Sup Ct. Case No. 76370 (Turner) (5min)
- B. Long Term Water Dev - implementation of "Master Water Plan" and "Cost Distribution Plan." (20 min)
- C. Proposition 218 and Stand By Fees - Special Election? (Turner) (15 mins)
- D. Limited Hydrogeologic Services (Acker) (5 min)
- E. Small Claims Case #983727SC (5 mins)
- F. Audit of Howard Bashford approved projects within the Irish Beach Subdivision, i.e.: Units 5, 9, and 9-A (Aeschliman - 5 mins)
- G. Unit 5 Drainage (Aeschliman 5 mins)
- H. Sale of IBWD property next to firehouse (Aeschliman 5 mins)

8. NEW BUSINESS: (Total 45 mins)

- A. To County Tax Rolls for Delinquent Accounts or not? (Cong 5 mins)
- B. Purchase of metal detector and pressure reduction & check valve (Acker 5 mins)
- C. IBIC / IBWD Newsletter August 6 - Article assignment (Poling 5 mins)
- D. Preliminary Budget
 - 1.) Rate Restructure Analysis.
 - 2.) Reduction of Fire Admin charge?
 - 3.) Microfiltration financing. (Lubeck, Frame 30 mins)

9. ADJOURNMENT

**Irish Beach Water District
MINUTES OF THE MEETING
OF THE BOARD OF DIRECTORS
SATURDAY, July 11, 1998**

I. OPEN MEETING

- 1. CALL TO ORDER AND ROLL CALL:** President Ron Frame called the meeting of the Board of Directors to order at 9:30am at the Fire House in Irish Beach (Manchester). Directors Frame, Beran, Lubeck, Poling, and Scaramella were present. Also present was Alan Turner, the District's lawyer, Charles Acker (Operations Manager), and Dorothy Cong, the District's Secretary arrived at the meeting at 10:45am. The meeting was adjourned to Executive Session at 9:31 am.

EXECUTIVE SESSION: Conference with legal counsel regarding existing litigation: Gov't Code Section 54956.9a

- 1. Moores Vs Moores et al/Moores et al Vs Moores Vs IBWD Mendo Co. Sup Ct Case N. 76370.** The District's attorney, Alan Turner, provided information pertinent to the case. No action was taken by the Board of Directors.

At 9:55am the Executive Session was adjourned. A short recess was taken.

II. OPEN SESSION RECONVENES:

The open meeting of the Irish Beach Water District Board of Directors reconvened to Open Session at 10:05 am. Several members of the public were in attendance, i.e.: Roger Aeschliman, Al and Loretta Thompson, Dorothy Engle, Will Edelbrock, Mark Rapelje, and Gordon Moores. Alan Turner announced the results of the Executive Session stating that he had been instructed by the Board of Directors not to change the September trial date as requested by Bill Moores.

- 2. APPROVAL OF MINUTES:** Director Poling moved the meeting minutes be approved. Director Scaramella seconded the motion and the minutes were approved as presented.

3. COMMUNICATION AND CORRESPONDENCE:

1.) Bill Moores had written to the District about the deterioration of the roadway on Alta Mesa basically saying it was a result of the water leak about 500' above it and he wants it repaired forthwith. Director Frame sent a negative response to Bill's request. 2.) The District had received a copy of Bill Moores petition to small claims court to reverse the dismissal. The case was dismissed because Bill arrived late. Director Frame wrote a letter to the court providing the District's views against reopening the case.

4. PUBLIC INPUT:

None.

5. REPORTS:

A. Treasurer - Report on Finances/Approval of Expenditures:

1. Director Ralph Lubeck reviewed the various reports provided by Dorothy covering expenses and income for the months of May and June, balances in the various funds, customers whose past due balances are in excess of 120 days, period Trial Balance, Check Registers, Year to Date Trial Balance, and Dorothy's synopsis of highlights over the past two months. Because the 2nd Saturday sometimes falls very early in the month making it difficult to provide financial information accurate to the end of the previous month since statements may not have been received in time, Director Scaramella suggested moving the board meeting to the third Saturday. The Board decided not to move the meeting date because it would cause too many complications. There was some discussion over the high balance due, and Alan Turner indicated he would write a letter to Kohut and Kohut about the matter since most of it is the developers. Director Scaramella moved to accept the Treasurer's report. Director Beran seconded the motion and the Treasurer's report was accepted as presented.

B. Water - Charles Acker, Operations Manager, provided the Directors with a written report of his activities for the past two month period. Charlie said that there have been no system problems and they have been mostly working on mowing, hydrant flushing and regular system checks. He also spent quite a lot of time collecting data for the Slade analysis (see 7 D below). As of this meeting, Baxman has not yet done the patch work on Alta Mesa. The upper diversion had a couple of slides which Charlie thought originally would require hiring a contractor. However, he was able to do the work himself with

his small tractor. He also mowed the entire upper diversion. He has attempted to follow up on the fuel spill with no success. The last information the District received from Water Quality Control was that someone was contracted to clean up the spill and their time was extended to do so. Director Lubeck suggested Charlie write a letter to both Paul Hagen, Assistant DA, and Greg Nelson about the matter.

C. Safety: Charlie Acker, District Safety Coordinator, reported that the safety committee met in April, just prior to the last Board of Directors meeting and that they have not met since. We are only required to meet on a quarterly basis.

D. Fire Department - Fire Chief Rex Dunning reported that the Fire District had been called out twice:

1. Once for a suspected heart attack, but no one could find anything wrong.
2. A man slipped on the steps at the rental office and broke his shoulder. The paramedics took him to the hospital.

Chief Dunning further reported that in May the Fire District did their "drive around" to check for fire hazards. They found 14 violations. Letters were sent to the property owners on June 5. Of the 14 individuals, only 3 did not take care of their problem. Upon checking the second time, two more properties were found to have excessively high grass and letters were sent to them. The Fire District will hire someone to clear the property of the three who failed to clear their violation and will then bill the customer.

6. OLD BUSINESS

A. Moores Vs Moores et al/Moores et al Vs Moores Vs IBWD Mendo Co. Sup Ct Case N. 76370. This case is Bill and Tona Moores suing Gordon and Sandra and MCP for "excess water rights." The District was brought in as a third party defendant. Complaints and answers have all been filed. Alan Turner expressed that a motion was set on Friday, July 10 for the plaintiff requesting to continue the trial date. Alan appeared on behalf of Irish Beach Water District expressing that we did not want a continuance. The Judge did not rule yet. The basis for the plaintiff's motion was that Bill wanted to be on vacation in Alaska just at the time the trial is scheduled. Following that, Margaret will be headed for Mexico.

B. Long Term Water Development - Implementation of "Master Water Plan" and "Cost Distribution Plan.": Discussed with 8 D under New Business.

C. Proposition 218 and Stand By Fees - Special Election? Discussed with 8 D under New Business.

D. Limited Hydrogeologic Services: Charlie Acker reported that he has sent Slade all the information he requested with the exception of a pumping test from PG&E who would not test the pump because it was less than 5 hp.

E. Small Claims Case #983727SC: Pending a decision by the court to stand by dismissal of the case or to reopen it.

F. Audit of Howard Bashford approved projects within the Irish Beach Subdivision, i.e.: Units 5, 9, & 9A:

Roger Aeschliman stated there was no point in discussing because Unit #5 had already been accepted.

G. Unit 5 Drainage: Roger Aeschliman expressed that he wanted this on the agenda because of potentially inappropriate work that may have been done in Irish Beach, and that he felt the District had the opportunity to reopen accepting of the water system as a result of correspondence from Scott Miller of the Division of Environmental Health. Director Frame had responded to Mr. Miller's letter on behalf of the District stating the District had accepted the water system in place in Unit 5 in 1991. The final map has already been approved. Roger suggested that the Water District test the water system in Unit 5 now before the road is to be built in September. Director Lubeck agreed because the last time road work was done in Unit 5 it resulted in some leaks. Charlie stated that there is one small repair to make. Then he will activate the system and if it breaks during construction, it will be very apparent. The District's attorney Alan Turner said that if the District anticipates some damage may result from the construction efforts, a letter needs to be sent to both the developer and the contractor stating the following: A) the subdivision is final, B) we know additional work is contemplated, and C) By doing road work in the past the District's water system has been damaged. The system has been pressurized and made operational. The condition is that if any damage is caused to the system by the construction, the contractor and the developer will have to bear the cost of repair. The Board of Directors requested that Gordon Moores find out who the contractor is. Gordon said he would furnish that information to the Board as well as the dates the work is to be done. Director Frame also suggested that we should ask them to contact "USA." The Board of Directors authorized the chair to initiate a letter to both the contractor and the developers.

H. Sale of IBWD property next to firehouse:

Roger Aeschliman brought up the issue once again of the sale of the Water District property adjacent to the firehouse. He said 1) in reading the master plan there was nothing about using the property in the future.

- 2) the District always needs money, and
- 3) safety issue.

Director Poling said that last time this was before the board it was stated the board did not deem to make the property in question "surplus." The Board's position is that nothing has changed.

At this point (11:20am) a short recess was called by President Ron Frame. The meeting reconvened at 11:30am.

7. NEW BUSINESS:

A. To County Tax Roll for Delinquent Accounts or not?

Dorothy expressed concern over whether or not she could proceed with sending those customers who are delinquent in paying their fees on bare lots to the county for collection on the county tax rolls in view of the issues surrounding Proposition 218. Alan Turner, the District's attorney said that up to July 1, 1997 there was nothing questionable. Dorothy said that by mid-August she will send the applicable accounts delinquent up through June 30, 1997 to the County of Mendocino for collection.

B. Purchase of metal detector and pressure reduction & check valve.

Director Rudy Beran moved that Charlie Acker contact Tom Yokoi for technical specifications and purchase a check valve not to exceed budgeted amount of \$2,500.00. Director Poling seconded the motion. It passed as stated.

The Board of Directors refused to approve the purchase of a metal detector because it would be used so rarely it would be cheaper to rent one (or use Roger Aeschliman's).

C. IBIC / IBWD Newsletter:

Director Poling said that the deadline for the newsletter is August 6. Charlie is to supply the annual report and an article dealing with microfiltration. Director Lubeck is to supply an article on the budget, and Chief Rex Dunning will write about fire issues.

D. Preliminary Budget

- 1.) Rate Restructure Analysis
- 2.) Reduction of Fire Admin. Charge
- 3.) Microfiltration financing.

Alan Turner summarized:

The District has funded operations for many years on a budget which is lean and has virtually no fat in it. The way it has been financed is to involve both developed and undeveloped parcels on a share in the cost of operations. With the advent of Proposition 218 there is now some question raised about the legal ability of the District to require bare lot owners to contribute to the maintenance and operations of the system. There are two positions:

1.) Existing standby fees are as now defined in the Constitution of California assessments for water service and Proposition 218 has a grandfathering clause for pre-existing assessments for water and sewer service. That is, our continuance of those standby fees as assessments is specifically approved by Proposition 218.

2.) Standby fees are not legal and cannot be enforced.

The alternatives all involve consequences that are unpalatable. In some instances they would cause the District to have insufficient funds to run the system causing inadequate water service. Other alternatives would involve suits from the Moores family which would mean the District would spend a substantial amount of time and money in lengthy litigation and attorneys fees while its funding options remain up in the air pending some court's decision.

Alternatives:

1.) **Do absolutely nothing.** Leave the charges in place as they have been for many years and cause the bare lot owners to contribute to the operation of the District as they have in the past. This options carries with it an automatic challenge in the court.

2.) **Do not charge unmetered lot owners anything.** The whole cost of operating the District would fall on metered parcels. To do that, the District would have to adjust its rate structure in a rate adjustment proceeding and thereafter get its operating funds entirely from water rates, i.e.: metered customers. It is likely this would not incur a lawsuit from the Moores family because they own a substantial amount of bare lots and would be relieved from any obligation to contribute. This does not mean that the Moores developed lots would not be the subject of a challenge to the increased rates. This creates a rather unfair burden on the ratepayers to pay the full cost of District operations.

3.) **Develop a "Benefit Assessment" which, by virtue of engineering, would allocate certain costs to bare lot owners and others to developed lots.** In order to pass a benefit assessment within the District, it would be incumbent upon the District to follow the procedure as outlined in Proposition 218. That requires engineering and approval by ballot - a landowners ballot which weights the value of the vote by the cost that each landowner would be required to pay. The landowners in the District could disapprove the benefit assessment and the result would be no means of obtaining contribution from bare lot owners.

4.) **The District has the ability to put on a regular ballot a "Special Tax" for water services.** This might be a tax imposed on both bare lots owners and homeowners. This would have to be passed by a 2/3 vote. It is likely that if the District would put on the ballot a special tax for either water or fire, the Moores family would sue the District because their contention is the only viable vote within the District is an *ad valorem* vote. Mendocino County Counsel's opinion is that putting a special tax for Fire service on the ballot would be subject to 2/3 majority - not *ad valorem*. They have made no opinion on a special tax for water service.

It appears that regardless of whatever option or combination of options the Water District would follow, it would be challenged. **The bottom line is that in order to live here, it is necessary to have water. Providing water requires funds.**

At this point the preliminary budget was presented. Directors Lubeck and Frame reported that the budget committee had met and came up with a "proposed budget for fiscal Oct. 1, 1998 - Sept. 30, 1999." Dorothy had contacted the district's engineer, Tom Yokoi, who provided a breakdown as to how funds might be distributed between homeowners and bare lot owners. **The proposed budget was based upon that input resulting in some increase in rates to both homeowners and bare lot owners.** Since the District had decided to install a microfiltration system, Alan Turner requested that this capital item be incorporated into the budget. This would result in a "surcharge" over a 5 year period the cost to be born by homeowners. Dorothy said she would make the change and send a revised copy to Alan by July 15 or 16, 1998. Alan would then provide a copy to Kohut and Kohut for review.

At 1:25 pm President Ron Frame called a short recess. The meeting was reconvened at 1:35pm. Director Scaramella did not return to the meeting.

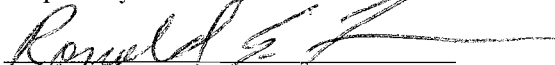
There was some further discussion about the budget. The Directors made the decision to continue charging fire fees on the water bill as it does today. For the time being, the District determined not to modify the amount of overhead the fire district pays the water district each month.

Alan Turner and the Board requested that Dorothy add Fire charges into the proposed water budget as well as "Capital Reserve Contribution" amounting to \$30,000.00 per year. The following deadlines were established: Dorothy must mail her modifications to Alan Turner by Tuesday, July 14. Alan will get a copy to Kohut & Kohut shortly thereafter and give them 10 days in which to draft a reply.

Some further discussion ensued relative to the Water Master Plan pointing out that the *replacement* of water tanks should be paid from the District's "Capital Replacement" fund if at all possible as opposed to an additional assessment or surcharge. The District has been attempting to put away an amount each month designated by the Mendocino County auditor as "Capital Depreciation" (amounting to slightly over \$16,000.00 per year). It might be noted that the Water District has not been able to save anything in reserve in the years past primarily because of legal fees.

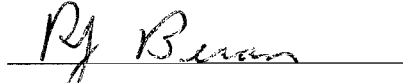
8. ADJOURNMENT: Director Beran moved the meeting be adjourned and Director Lubeck seconded the motion. All favored and the regular meeting of the Irish Beach Water District was adjourned at 2:05 pm.

Respectfully submitted,


Ron Frame, President

Prepared by Dorothy Cong

Attest:



Rudy Beran, Secretary

Missing September 1998 Meeting Minutes