

**Irish Beach Water District
MINUTES OF THE MEETING
OF THE BOARD OF DIRECTORS
SATURDAY, September 11, 1999**

I. OPEN MEETING

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

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

- 1. Proposition 218 Issues:** The Board considered possible litigation with regard to Proposition 218 issues and received direction from counsel. No formal action taken by the board.

At 10:00 am the Executive Session was adjourned. A short recess was taken.

II. OPEN SESSION RECONVENES:

The meeting of the Irish Beach Water District Board of Directors reconvened to Open Session at 10:07am. Members of the public in attendance were Gordon Moores, Margaret Ballou, Gene Scaramella, Dorothy Engle, Roger Aeschliman. Alan Turner announced that in the Executive Session information was provided by counsel and no action was taken by the Board.

- 2. APPROVAL OF MINUTES:** Director Poling moved the minutes of the July 10, 1999 meeting be approved. Director Burmania seconded the motion and the minutes were approved as submitted.

3. COMMUNICATION AND CORRESPONDENCE:

President Ron Frame stated that there was a series of letters between him and Mr. William Moores regarding Proposition 218 and that Mr. Moores has elected to cease further correspondence.

4. PUBLIC INPUT:

Speaking as a member of the public, Kathy Poling thanked Water District personnel for being so helpful in stopping the leak at their home. They had lost 80 thousand gallons of water within a 30 day period.

5. REPORTS:

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

1. Treasurer Ralph Lubeck reviewed the reports distributed to the Directors covering expenses and income for the months of July and August 1999, balances in the various funds, period Trial Balances, Check Registers, Fire-Water Fund Reconciliation, and synopsis of highlights over the past two months. The single largest expense for this two month period was for 2 First Responder "kits" totaling \$1,576.81. All the financial reports were reviewed at the meeting. Director Lubeck was directed by the Board to look at the loan agreements. The board also suggested finding another auditor. Director Poling moved to accept the financial report. Director Lubeck seconded the motion and the report was accepted as submitted.

B. Water - Following are highlights of the water report presented by Operations Manager, Charles Acker.

Mr. Acker reported 1.) there had been a couple of leaks and stepped through how they were isolated and what was done about them. He discussed the repercussions of leaks on the water system. 2.) The Pressure Reducing Valve Project has been completed. 3.) The Alta Mesa overlay on the patchwork has been completed and lines painted.

The other significant issues Mr. Acker dealt with are item #6E and F and #7A on the agenda.

C. Safety: Charles Acker reported that the safety committee had met on September 2, 1999. Regarding Y2K the Water District believes that it has done everything it can. All software has been upgraded for the billing and accounting systems. Software for spreadsheets, databases, and correspondence is also Y2K compliant. Appropriate bios has been upgraded as well. Fire Department training is ongoing. Because of encountering various "creatures" when opening meter boxes and valve boxes, there was some discussion about bites and stings. Also reported was that all owners in Unit #9 and the acreage parcels have been notified about the rather serious slippage on the Alta Mesa Road and the potential for impact on the District's water supply line.

D. Fire Department: Fire Chief Rex Dunning was unable to attend the meeting. President Ron Frame reported that the last equipment inspection uncovered that the diesel fire truck badly needed brake repair. The seals are leaking and the drums are heat checked and coming apart. The repair work has been scheduled.

President Ron Frame called a 10 minute recess. The meeting resumed at 11:15am.

6. OLD BUSINESS

A. Long Term Water Development

Director Poling moved that items 1 – 3 below be combined. The motion was seconded and all agreed.

1. Implementation of “Master Water Plan” and “Cost Distribution Plan.” and Hook Up Fee -

2. Proposition 218 and Stand By Fees,

3. Resolution 99-1 Increase in Hook Up Fee Rate:

The District’s attorney, Alan Turner, has received “dispensation” from the Attorney General’s office to bring questions to them regarding Proposition 218 on behalf of the water district. He is able to do so as county counsel and therefore will be expedited faster. The questions deal with the following: 1.) grandfathering of pre-1996 standby fees and 2.) application of Proposition 218 to capacity or connection fees. The AG has rendered some opinions, but not *specifically* about these areas. The League of California Cities has a panel of attorneys that advise that collection of capacity fees are not governed by Proposition 218.

Director Poling expressed that Article 13D of Proposition 218 clearly says that existing assessments for water operations shall be exempt from procedures of the approval process set forth in Section 4 of Proposition 218. The Board directed Alan Turner to address the Attorney General regarding the above issues relative to Proposition 218 and to incorporate the advice of the League of California Cities into his opinion. Alan indicated that within two weeks from the date of this meeting he will communicate electronically as directed with the AG. It is difficult to determine how fast his questions may be acted upon. They will normally act faster on issues that do not expose the department to any heavy controversy. AG opinion has considerable weight as “authority” although not the same as a court decision.

President Ron Frame expressed that the Hook Up Fee Resolution is awaiting the opinion of the AG. He emphasized, however, that the District’s position is that a hook up fee is a buy-in to the system and not a tax assessment.

There was extensive discussion about the efforts of the *ad hoc* committee (which to date has not reached any conclusions enabling the to District to move forward either on standby fees or capital projects). Director Poling emphasized that she was hoping the committee would compartmentalize the process into the following three segments:

1. Hook up fees. An opinion was expected from the MCP attorney, but was not received.
2. Continuing “implementation” of current standby fees.
3. Capital improvement projects requiring additional assessments.

It appeared that there was miscommunication regarding:

1.) emphasis of the committee on what it was attempting to do:

Per Director Poling, the *ad hoc* committee meetings were to focus first on current standby fees **separate** from capital funding issues. The effort was to evaluate the current operating standby fee and determine if that fee is a grandfathered issue or if an adjustment is needed which would require a vote. Both Margaret Ballou and Gordon Moores stated they are close to an agreement on standby fees. Director Poling emphasized that what we are currently paying for standby fees is not inappropriate and she was hoping to get out of the meetings that the current standby fee would not need to be changed. It was pointed out that the District believed the arrearage on the current standby fees would be paid.

2.) understanding of the Master Plan.

Director Poling asserted that MCP did not understand capital funding believing the Water District intended to adopt the entire plan “wholesale”. MCP did not realize the District had prioritized the plan and wanted to fund the Priority One items, determine what implementation of *those* projects would cost, and implement the funding via a hook up fee and capital improvement assessment or surcharge.

Discussion proceeded at length about the Master Plan. Alan Turner emphasized two things: **1.) The theory behind the Master Plan is that the cost of improving the water system capacity and complying with State rules and regulations is borne by all who ultimately benefit.** Those “on-line” benefit immediately and those who come in later benefit later. The district’s engineer came up with a formula that

called for the contribution of those benefiting on-line to pay over time, and those who come on line later to pay in the form of a connection fee. **2.) The District has to rely upon the reports of its experts, i.e. the district engineer.** The Board has discretion to change priorities, but if it moves away from the recommendations of its engineers, then it may run into problems. If the Master Plan is changed in any segment other than priorities, then it would have to be reengineered. Generally courts will not go behind an engineers report to see if the engineer was correct.

Mr. Turner pointed out that the existing standby fee is calculated by the district's engineer to be the appropriate amount of actual benefit that the bare lot owners receive from keeping the system up. That standby fee, when paid, is part of the Operating and Maintenance budget. The system has to be maintained in order to be available. It is available to bare lot owners at any point in time.

***Mr. Turner then pointed out that how improvements to the system or asset replacements are funded has different elements: 1) There can be a rate surcharge and that is not a Proposition 218 issue. 2) There can be a connection capacity fee which in his opinion is not a Proposition 218 issue. 3.) There can be a benefit assessment which clearly is a Proposition 218 issue. 4.) There can be a special tax which is not a Proposition 218 issue.

Consider rate surcharges for the people that are on-line so they are contributing over time to the plan. Consider a connection fee for those who are not on line so that when they come in they catch up. Proposition 218 will not allow you to simply charge bare lot owners for plant improvements.

Extensive discussion ensued. In conclusion it remains that MCP and the District "still need to get over the hump of the current standby fee." The question remains with the *ad hoc* committee to hold additional meetings and come to a resolution.

B. Resolution 99-2 - Well Regulation: NTR.

C. Should the District join ACWA? NTR.

D. Y2K: Dorothy Cong stated that the computer and software should be OK. Charles Acker said he will get some extra gas cans for a small reserve in case the generator will need to be run for a lengthy period of time in case of a power outage.

- E. Status of Forest View Loop Project:** Operations Manager Charles Acker presented his engineering outline of the Forest View Loop Project. He indicated the road department of the County of Mendocino needed to review it. If they approve, the District will be issued a permit. Mr. Acker also indicated he needs to add to the plans a "locator wire." Some minor modifications were suggested dealing with providing water to the east side of Forest View Road. President Ron Frame requested a letter from the District's engineer Tom Yokoi stating he has reviewed the plan and is in agreement. Then it goes to the County and out to bid.
- F. Status of repair of Alta Mesa Road:** Charles Acker reported that the pipe was patched. Pavement has been repaired with a slurry seal being added to it. The yellow line has been painted. The District's insurance company, SDRMA, agreed to pay all the costs.
- G. Water District Operating Budget:** Director Beran moved the water district operating budget be approved as presented. Director Lubeck seconded the motion and the budget for fiscal year October 1, 1999 through September 30, 2000 was unanimously accepted as presented. Director Beran moved to approve the Fire Department operating budget as presented. Director Lubeck seconded the motion. Directors Burmania, Frame, Beran, and Burmania all voted "Aye." Director Poling voted "Nay." The Fire Department operating budget was accepted by a vote of 4 Ayes to 1 Nay.

7. NEW BUSINESS:

- A. Replace tanks or have a lease/maintenance contract?:** Operations Manager Charles Acker reported on two companies that provide lease/maintenance contracts. No decision was made at this meeting. Mr. Acker will do some further investigation of maintenance options.
- B. Irish Beach Fire Department Financing:** There have suggestions that the fire charge for bare lot owners be eliminated. Board President Ron Fame reported that he had written a position paper regarding the options that could be available if the assessment for bare lot owners were eliminated. The memo was discussed. A copy of the memorandum is in the meeting packet.

8. ADJOURNMENT: It was moved and seconded that the meeting be adjourned. All favored and the regular meeting of the Irish Beach Water District was adjourned at 2:17pm.

Respectfully submitted,

Ron Frame, President

Prepared by Dorothy Cong

Attest:

Rudy Beran, Secretary

Missing the rest of Meeting Minutes 1999