

NEVADA IRRIGATION DISTRICT

BOARD OF DIRECTORS

MINUTES

November 28, 2012

The Board of Directors of the Nevada Irrigation District convened in regular session at the District's main office located at 1036 W. Main Street, Grass Valley, on the 28th day of November 2012 at 9:00 a.m.

Present were Nick Wilcox, President; Jim Bachman, Vice-President; Nancy Weber, John H. Drew and W. Scott Miller, Directors.

Staff members present included Tim Crough, Interim General Manager, Jim Malberg, Finance Manager; Gary King, Chief Engineer; Brian Powell, Maintenance Manager; Chip Close, Interim Operations Manager; Bill Morrow, Hydroelectric Manager; Yvonne DuBose, Human Resources Manager; Peggy Davidson, Recreation Manager; Jeff Meith, District Counsel; and Lisa Francis Tassone, Board Secretary.

PUBLIC COMMENT - Butterfield

John Butterfield, property owner on North Bloomfield Road, stated that his property is adjacent to the pipeline to the storage tank for the Cement Hill Water Supply Project. He feels that he is collateral damage in this situation. He filed a claim against the District and a claim against Marques Pipeline for damage done to trees on his property. He spoke with Ed Rossovich, District Inspector, when construction was getting ready to start. The contractor blocked his driveway which is not an active driveway, but a secondary driveway which he uses frequently. Mr. Rossovich asked Mr. Butterfield if the contractor could store barricades along the side of the driveway to be placed on the hillside to contain the boulders that were coming down. Then the Butterfields were asked if a log deck could be placed on his property, in order to catch boulders that might go over the barricades. He stated that he guessed it was decided for expediency and because of impending weather to forget the barricades and start digging. Once the digging started, there was a deluge of boulders that came down the hill bouncing off of the Butterfield's trees. Nothing was done to protect their trees. He noted that trees were protected for the Lower Cascade Canal / Banner Cascade Pipeline Project by wrapping trees with 2" x 4" pieces of wood. A large Douglas fir tree was hit by a 300 to 400 pound boulder that took a large chunk out of the bark and damaged the tree around the back side. This tree cannot be replaced. He stated that Doug Roderick, Project

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Engineer, was helpful last summer by having left over rocks and boulders removed. There is a minimum of 27 trees that have minor to severe damage. Under a California provision, if a contractor blatantly does something to property, damages property or trespasses on property, the contractor is liable up to triple damages. He believes that the damage would be more than triple. His basic issue is that now he has a piece of property that may be difficult to sell because of the damages, and the "bowling alley" that has been created this past summer on his property. He is concerned about more boulders coming down the hillside creating more damage.

Mr. Butterfield distributed additional photographs and a letter to the Board members regarding the damage.

Director Weber asked Mr. Butterfield if he had an arborist visit his property to review the damaged trees.

Mr. Butterfield stated that he did not have an arborist come out to his property. He was told by Tim Crough, Interim General Manager, that an arborist had come out to his property, but Mr. Butterfield was unaware of the visit. The arborist informed District staff that there is no way of putting a value on the damage that was done to the trees.

President Wilcox stated that this matter will be discussed in closed session, so the Board cannot comment at this time.

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Approved the Minutes of the Board of Directors' regular meeting of November 7, 2012, as submitted. M/S/C Drew/Weber

AGRICULTURAL WATER MANAGEMENT PLAN (Res. No. 2012-42)

Adopting Resolution No. 2012-42 (Adopting, Directing, Filing and Implementing the Nevada Irrigation District Agricultural Water Management Plan). M/S/C Drew/Weber

JOB DESCRIPTIONS – Recreation Division Employees

Approved new job descriptions and titles for Recreation Division employees, and impacts to the changes. M/S/C Drew/Weber

WARRANTS

Director Miller asked about a donation to the Hospitality House in the amount of \$1,500. Discussion ensued regarding the District's policy on donations and contributions, and President Wilcox directed Staff to place this matter on the Administrative Practices Committee agenda in January 2013 for further discussion.

Approved the following warrants: Yuba-Bear Revolving Fund Nos. 25058 through 25105, inclusive; General Fund Revolving Account Nos. 59626 through 59771, Nos. 59411 and 59470 being void; Recreation Fund Nos. 3598 through 3620,

inclusive; and Payroll Direct Deposit and Warrant Nos. 65349 through 65682, inclusive. M/S/C Drew/Weber

RETIREE HEALTH BENEFITS – Changes to Medical Premium Contributions for 2013 (Res. No. 2012-43)

Tim Crough, Interim General Manager, explained that this matter has become routine at the end of each year as the District ratifies employee labor contracts. The labor contracts affect the benefits for retirees. Resolution No. 2012-43 spells out the benefits to retirees with regard to health premiums. The Resolution in the packet has been amended, and Mr. Crough distributed the amended Resolution to the Board and made copies available for members in the audience. This year, the Resolution is more complicated because labor negotiations resulted in a medical benefit that consists of a minimum contribution to PERS. The balance of the premium, or portions of the premium, would be taken out or added to the retiree's Health Reimbursement Arrangement (HRA) account. Because the minimum contribution was negotiated for active employees, PERS requires the District to pay the same minimum contribution to retirees.

Mr. Crough stated that Resolution No. 2012-43 covers the following categories of retirees:

- Aetna Retirees
- Pre-2009 PERS Retirees, Vested
- Pre-2009 PERS Retirees, not Vested at the Time of Retirement
- 2009 and Later PERS Retirees
- Surviving Spouse/Domestic Partner

Mr. Crough stated that HRA caps for all eligible retirees shall remain at \$4,000 until such time that the HRA caps are otherwise modified by the Board of Directors (Paragraph No. 6 in the Resolution).

Director Drew asked what the definition is of a domestic partner.

Mr. Crough stated that the definition of a domestic partner is a statutory definition. Mr. Meith stated that it is defined in California law. Yvonne DuBose, Human Resources Manager, added that a domestic partner has to register with the State.

With regard to the HRA accounts, Ms. DuBose stated that it appears that a few retirees have never taken advantage of their accounts so the accounts are at the maximum level. Staff will be sending letters to retirees encouraging them to contact the District or attend an informational meeting on the HRA accounts.

Director Weber asked what happens to the premium if a retiree does not use the HRA account.

Ms. DuBose stated that the retiree will continue to have health insurance but they will not be reimbursed if they are not using the HRA account.

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Mr. Crough stated that it will be necessary for retirees that have never used their HRA account to use the account now in order to be reimbursed for their health premium.

Director Bachman asked if the premium reimbursement can be automatically deposited into their HRA account.

Ms. DuBose explained that the retiree has to complete a document requesting a recurring reimbursement in order for the automatic deposit to occur.

Ms. DuBose announced that workshops for the retirees will be scheduled on December 13, 14 and 17. Letters will be sent to the retirees this week. The meeting scheduled for December 13 is for surviving spouses. Most retirees are familiar with the HRA accounts, but the surviving spouses have never had an HRA account.

Director Weber stated that she would like to discuss the scheduling of the workshops because she would like to attend each workshop.

Ms. DuBose stated that she would be available to discuss this matter with Director Weber.

Director Weber asked about the \$75,000 budgetary impact noted in the Staff Report.

Mr. Crough explained that the \$75,000 impact is the estimated total increase in the medical premium from last year, for the non-Medicare eligible retirees/annuitants.

Director Weber asked if there will be an increased cost to the District because more retirees will be using an HRA account.

Jim Malberg, Finance Manager/Treasurer, stated that the District pays \$6 per individual enrolled in the plan. At this time, there are 26 retirees that have never had an HRA account.

Les Nicholson, Retiree, stated that it appears that the bargaining groups of the District are bargaining on behalf of the retirees. He asked if that is correct.

President Wilcox stated that the bargaining groups are not bargaining on behalf of the retirees.

Mr. Nicholson stated that the minutes of the October 29, 2012 special meeting need to be changed because they allude to the retirees having a vesting schedule.

Mr. Crough explained that the minutes are referring to current active employees that are going to retire.

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Mr. Nicholson referenced Resolution No. 2012-43 and asked why Resolutions Nos. 2012-38, 2012-39 and 2012-41 are listed in the document. These Resolutions are for employees and should not be in the retiree Resolution.

Mr. Crough stated that the Resolutions are included in Resolution No. 2012-43 as background information to document that employees and retirees are receiving the same health benefits.

Mr. Nicholson asked if it is a PERS requirement that the minimum amount for premiums be paid to the retirees.

Mr. Crough stated that it is a PERS requirement to pay the same amount that is paid for active employees, according to the Public Employees' Medical and Hospital Care Act (PEMCHA).

Mr. Nicholson stated that he spoke to a representative at PERS on November 27, 2012 regarding this requirement. What he was told was that for example, if the District were to choose PERS Select as the health insurance coverage for all employees, the retirees would also be covered by PERS Select. But with regard to the payment schedule, retirees "do not fall under that." Additionally, the way he is set up with his HRA account, he receives a reimbursement on the second and fourth Wednesdays of each month. On January 1, 2013, when PERS takes his full health benefit from his check, he will have to wait until the second week of the month to recover that amount. He closed by stating that "this is a wonderful thing that you are doing" and he does not have a problem with it, but it does seem awfully complicated.

Jim Malberg, Finance Manager/Treasurer, reported that Staff is working with Flex Plan to establish a separate schedule for contributions for health premiums so that recurring reimbursements to retirees can be seamless. He pointed out that co-pays, etc. will continue to be reimbursed on the second and fourth Wednesdays of each month.

Mr. Crough stated that the process is complicated, but Staff will try to simplify the process as much as possible.

Carol Gates, Retiree, thanked the Board for the opportunity to speak, and thanked Mr. Crough for amending Resolution No. 2012-43. She stated that she does not understand the ceiling of \$4,000 for the HRA accounts. She asked if the additional funds being placed in the HRA accounts for the minimum contribution will increase the ceiling to approximately \$6,040. She submits claims on a monthly basis and this reduces her HRA account. She asked if she will be losing the ability to receive her reimbursement for these costs.

Mr. Malberg stated that as the additional money is deposited into the HRA accounts, and recurring reimbursements are made to the retiree, there will be no impact to the maximum amount of the HRA accounts. Staff will need to figure out a way to handle contributions for those retirees that are close to the ceiling on January 1, 2013, so that they are kept whole.

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Ms. Gates questioned the ceiling for the surviving spouse/domestic partner. She did not see a ceiling for this category in the Resolution.

Mr. Crough referenced Paragraph No. 6 in the Resolution which covers all categories of retirees, including surviving spouses/domestic partners.

Ms. Gates suggested that Paragraph No. 6 be amended to state with or without the additional premium paid by the District on behalf of the retirees for their insurance premium. She would like this change to be included before the Board adopts the Resolution.

Mr. Crough stated that it is not necessary to change the Resolution. What Mr. Malberg indicated is that Staff is trying to find a solution to this scenario that will occur only on January 1, 2013. Staff should be able to address this matter, and if not able to do so, will bring this matter to the Board for any corrections that may be necessary.

President Wilcox stated that the overall intent is to cause no harm to the retirees.

Mr. Malberg stated that he plans on working with Flex Plan after identifying caps at the end of December for active employees and retirees. It is his understanding that the District controls the contribution and manages the cap, not Flex Plan.

Ms. Gates asked if she will be allowed to continue to receive Medicare reimbursements.

Mr. Crough stated that the pre-2009 retirees will receive an additional \$200 to \$300 contribution. The post-2009 retirees will not receive an additional contribution.

Adopted Resolution No. 2012-43 (Approving Changes to Contributions for Retiree Health Benefits), as amended. M/S/C Drew/Weber

JOB DESCRIPTIONS – Managers and Confidential Employees

Tim Crough, Interim General Manager, stated that the Board previously adopted job descriptions for most of the positions within the bargaining groups with the exception of several Engineering Department job descriptions. Job descriptions for managers and confidential employees were reviewed by the Administrative Practices Committee. The Committee advanced a recommendation to the Board to approve the job descriptions for managers and confidential employees. There are some fiscal impacts, but the goal is to eliminate out of class pay status for several employees.

Director Weber stated that there are salary increases, and she asked specifically about the Finance Manager receiving a \$10,000 per year increase.

Mr. Crough explained that the Finance Manager has been given added responsibilities by managing the Information Technology Department and the Purchasing/Warehousing Department, and has been receiving out of class pay in the amount of 10 percent for these added responsibilities. Once the out of class pay status is eliminated, the

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increase to the Finance Manager's salary will be the same resulting in a net zero increase. The new job description reflects the added responsibilities, and the job description for the Information Technology Manager will be eliminated.

Director Drew asked if there are two out of class components – one for the Information Technology Department (five percent) and one for the Purchasing/Warehousing Department (five percent).

Mr. Crough responded affirmatively and added that this has resulted in a savings to the District for the past three to four years.

Director Miller asked if the actual salaries were presented to the Committee.

Mr. Crough responded affirmatively.

Director Weber stated that she would like to know the salary levels for all of the managers.

Mr. Crough stated that he will provide this information to the Directors as soon as possible.

Director Miller stated that he was surprised at how low the General Manager was paid.

Mr. Crough stated that Director Miller would be even more surprised when he looks at the salaries of all of the managers.

Director Weber asked if Sue Sindt will need a new job description for her new role.

Mr. Crough explained that Staff is developing a description, but in the mean time, Ms. Sindt is being paid out of class.

Director Weber asked if any managers are receiving out of class pay.

Mr. Crough stated that there are no managers receiving out of class pay with the exception of the Finance Manager and the Interim General Manager positions. Once the job description is approved for the Finance Manager position, there will be no department managers receiving out of class pay.

Director Weber asked if requirements for certification are built into the job descriptions as a requirement.

Mr. Crough responded affirmatively.

Approved job descriptions and titles for all managers, confidential employees, and approved the revised Financial Impact Adjustments. M/S/C Drew/Weber

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CLOSED SESSION was declared at 10:25 a.m. pursuant to Government Code Section 54957: Board interviews of candidates for position of General Manager.

CLOSED SESSION was declared at 10:25 a.m. pursuant to Government Code Section 54956.8 to confer with Real Property Negotiators Nelson, Morrow, Sindt and/or Meith regarding price and terms of payment for acquisition and sale of rights in real property; properties subject to negotiations:

- South Yuba Canal, Chalk Bluff Canal, Deer Creek Powerhouse; flowage/wheeling rights in Drum Canal, Bear River Canal, Wise Canal, and South Canal (all owned by PG&E)
- Flowage Rights in Bowman-Spaulding Canal, Fall Creek Flume, Dutch Flat Flume, and Chicago Park Flume; right to storage in Rollins Reservoir (all owned by NID)

Persons with whom negotiations will be conducted: PG&E Management.

CLOSED SESSION was declared at 10:25 a.m. pursuant to Government Code Section 54956.9(a) to confer with Legal Counsel – Existing Litigation – Butterfield v. Nevada Irrigation District.

CLOSED SESSION was declared at 10:25 a.m. pursuant to Government Code Section 54956.9(a) to confer with Legal Counsel – Existing Litigation – Bingaman v. Nevada Irrigation District; Nevada County Case No. 78684.

CLOSED SESSION was declared at 10:25 a.m. pursuant to Government Code Section 54956.9(b) to confer with Legal Counsel – Anticipated Litigation – Claim of George Loftus.

MEETING RECONVENED in regular session at 2:05 p.m.

CLAIMS & SUITS – Butterfield

Jeff Meith, District Counsel, reported that the following action was taken in closed session:

Director Miller made a motion to return as untimely, and to reject the claim of Butterfield vs. Nevada Irrigation District. Director Bachman seconded the motion.

Motion passed on the following roll call vote:

Division I	No
Division II	Aye
Division III	Aye
Division IV	Aye
Division V	Aye

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2013-2015 FINAL BUDGET

Jim Malberg, Finance Manager/Treasurer, stated that the Budget was presented to the Administrative Practices Committee on November 6, 2012, and a workshop was conducted with the Board of Directors on November 7, 2012.

As a result of those presentations, the following changes have been incorporated into the Final Budget:

1. Reduced 10113-52702 Director's Conference Expenses by \$1,000
2. Increased 10115-52603 Consulting Fees by \$90,000 to have adequate budget for Water Rights Consultants, Licensing & Permits
3. Included newly adopted Job Descriptions and Fiscal Impacts resulting in an increase of \$48,150 to salary & benefits costs for the entire District
4. Above changes resulted in an increase of \$4,100 to the Operating Contingency budget amount

The net amount of the above listed revisions results in an increase to Water Division Operations & Maintenance Expenditures of \$141,250 and a corresponding increase to Transfers from Reserves in the same amount.

In addition, the preliminary budget for the Recreation Division had revenues equal to expenditures. Staff, in their final review of the Budget, discovered an error with one of the calculations. The Recreation Division budget actually has revenue in excess of expenditures in the amount of \$68,500 for 2013. This is now being shown as a deposit to the Recreation Division Operating Repair & Replacement Reserve (ORRR) fund.

Director Drew asked if the Recreation Division is now "in the black."

Mr. Malberg responded affirmatively.

Director Drew asked what future projections will be for Long Ravine Campground now that the District has taken over operations of the facility. The reason he asks is that the former concessionaire reported an amount and the District received a percentage of the amount. He wants to make sure the District made the right decision by taking over the facility.

Mr. Malberg stated that he will look into this further and report back to the Board in the near future.

Director Miller asked about the term ORRR. He had understood that the ORRR was a rate stabilization fund. He did not realize an ORRR was in place for the Hydroelectric Division and the Recreation Division.

Mr. Malberg explained that the description of the ORRR is operating reserve, replacement and rate stabilization, and the reserve is used as a mechanism to mitigate rates by contributing to operations expenditures.

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Director Miller asked if there are multiple ORRR funds.

Mr. Malberg stated that he is using the term at this time because the District does not technically have reserves set up for Hydro and Recreation, so he is earmarking the surplus funds in the Recreation Division. When the reserve is set up, it may have a different name. When a new rate study is developed, the Board may want to consider setting up a rate stabilization fund so that it is clear to customers and other interested parties that the District has a fund in place to help mitigate rate increases.

President Wilcox pointed out that a discussion on the District's reserve policy will be taking place at the Administrative Practices Committee in December, and presented to the Board for consideration early next year.

Director Weber referenced Item 2 regarding consulting fees for Water Rights, Licensing and Permits. The amount of \$150,000 was needed potentially for negotiations with Foothill Water Network and the Department of Fish & Game. She questioned whether or not there may be other consulting needs for water rights.

Sue Sindt, Operations Supervisor, stated that \$150,000 should be adequate. All of the money in the 2012 Budget may not be spent because the studies may not be finished due to weather. The remaining funds in 2012 should be carried over to 2013 (in addition to \$150,000 budgeted for 2013).

The Board agreed that any funds remaining in the 2012 Budget for Water Rights, Licensing and Permits be carried over to 2013.

Director Weber asked if there is money available for the Cosumnes, American, Bear and Yuba (CABY) watershed group.

Tim Crough, Interim General Manager, stated that there is currently no funds budgeted for 2013. Once CABY redefines its business plan and budget, Staff will present a budget amendment for the Board to consider approving.

Mr. Malberg closed his presentation by pointing out that a discussion regarding Hydroelectric Division impacts due to Federal Energy Regulatory Commission (FERC) relicensing and the hydroelectric revenue stream will be held with the Administrative Practices Committee and ultimately the Board. Amendments as necessary will be made to the Budget.

President Wilcox opened the public hearing.

Hearing no testimony, President Wilcox closed the public hearing.

Adopted the District's 2013-2015 Final Budget. M/S/C Weber/Drew

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COMBIE SEDIMENT AND MERCURY REMOVAL PROJECT - Update

Tim Crough, Interim General Manager, reported that the District received notification from the Department of Water Resources that the District has received the 401 certification for the Combie Sediment and Mercury Removal Project. The remaining permits consist of a low threat discharge order for the dredging process. Obtaining the permits has been a two year process. Now the District will be pursuing funding in the amount of approximately \$9 million.

YUBA WATERSHED COUNCIL - Meeting

Director Weber reported that she attended the Yuba Watershed Council meeting on November 14, 2012. Americorps provided an interesting presentation on the work that they are doing. The next meeting is scheduled for February 20, 2013 at the District, and she would like a representative of the District to be assigned to attend these meetings.

Mr. Crough stated that a member of Staff will be available for the meetings.

MEETING ADJOURNED at 2:30 p.m. to reconvene in regular session on December 12, 2012, at 9:00 a.m. at the District's main office located at 1036 W. Main Street, Grass Valley, California.

Board Secretary

Attest a true record of actions
had and taken at the above and
foregoing meeting our presence
thereat and our consent thereto.

Director
Division I

Division II

Division III

Division IV

Division V
