



BOARD PRESIDENT
John P. Powell Jr.
DIVISION 3

VICE PRESIDENT
Castulo R. Estrada
DIVISION 5

**OFFICIAL MINUTES
BOARD OF
DIRECTORS
REGULAR MEETING**

July 09, 2024

www.cvwd.org

DIRECTOR
John Aguilar
DIVISION 1

DIRECTOR
Anthony Bianco
DIVISION 2

DIRECTOR
Peter G. Nelson
DIVISION 4

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE

Board President Powell called the regular meeting of the Coachella Valley Water District Board of Directors to order at 8:00 a.m., Tuesday, July 9, 2024, at the office of the District in Palm Desert, California

2. ROLL CALL

Present: Board President John Powell
Vice President Castulo Estrada
Director John Aguilar
Director Anthony Bianco
Director Peter Nelson

Absent: None

Staff Present: General Manager Jim Barrett
General Counsel Jeff Ferre
Clerk of the Board Sylvia Bermudez

3. ADDITIONS/DELETIONS/ADJUSTMENTS TO THE AGENDA

In accordance with the section 54954.2 of the Government Code additions to the agenda require a two-thirds vote of the legislative body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, which makes the determination that there is a need to take action, and the need to take action arose after the posting of the Agenda.

- A. Items removed or continued from the agenda
- B. Emergency items added to the agenda
- C. Changes to the order of the agenda

4. PUBLIC COMMENT

No public comment was received.

5. CONSENT CALENDAR

- A. Administration – Approve payments for CVWD’s share of Colorado River Board activities for Fiscal Year 2024 – 25 through payment of annual dues for 1) Six Agency Committee (\$491,562.50) and 2) Colorado River Authority (\$13,000).
- B. Administration – Approve payment of Fiscal Year 2024-2025 Palm Desert Area Chamber of Commerce renewal membership in the amount of \$425
- C. Clerk of the Board – Minutes of the June 25, 2024, Regular Meeting of the Coachella Valley Water District Board of Directors
- D. Engineering – Authorize the General Manager to execute Task Order No. 9 with Black & Veatch Corporation to provide professional engineering services for the preparation of the Water Infrastructure Improvements for the Nation (WIIN) grant application for the Young’s Farmland NPW Pipeline and WRP 7 Phase 1 Non-Potable Water Improvements Project
- E. Engineering – Professional Services Agreement for On-Call Consulting Services to Support Compliance with the Sustainable Groundwater Management Act in the Indio Subbasin
- F. Operations – Amendment No. 3 to the Contract Services Agreement with B-81 Paving, Inc. for On-call Roadway and Hardscape Repair Services
- G. Service & Communication – Approve the following actions regarding the transfer of the assessor’s parcel numbers that have delinquent and unpaid domestic water charges, sewer service charges, and irrigation water charges to the Fiscal Year 2024-25 tax rolls:
- Approve Resolution No. 2024-21, Delinquent and Unpaid Domestic water charges and sewer service charges – Imperial County
 - Approve Resolution No. 2024-22, Delinquent and Unpaid Irrigation Water Charges – Riverside County
 - Approve Resolution No. 2024-23, Delinquent and Unpaid Domestic water charges, replenishment assessment charges and sewer service charges – Riverside County
 - Authorize staff to file the necessary documents with the counties as listed below on or before August 10, 2024
- H. Service & Communication – Approve the following actions related to the transfer of Sewer Service Charges to Riverside County and Imperial County Tax Rolls for Fiscal Year 2024-25:

- Approve Resolution No. 2024-24, Transferring Sewer Service Charges to Imperial County
 - Approve Resolution No. 2024-25, Transferring Sewer Service Charges to Riverside County
 - Authorize staff to file the documents with the counties on or before August 10, 2024
- I. Service & Communication – Approve Resolution No. 2024-26, Transferring of Unpaid Irrigation Water Availability Charges to the Riverside County Tax Roll Fiscal Year 2024-25

On a motion by Director, Anthony Bianco second by Director, John Aguilar, the board approved the Consent Calendar items 5A through 5I, as presented.

Approved by the following roll vote:

Ayes: Powell, Estrada, Aguilar, Bianco, Nelson

Noes: None

Absent: None

Motion Passed: 5-0

6. ITEM(S) PULLED FROM CONSENT CALENDAR FOR DISCUSSION

7. PUBLIC HEARINGS

- A. **Conduct a Public Hearing to Consider the Domestic Water and Sewage and Wastewater Availability Assessment for Fiscal Year 2024-2025, and approve Resolution No. 2024-27, Transferring of Domestic Water Service and Sewer Availability Charges to Riverside & Imperial County Tax Rolls.**

RECOMMENDED ACTION: Approve Resolution No. 2024-27, Transferring Domestic Water Service and Sewer Availability Charges to Riverside & Imperial County Tax Rolls, and direct the Clerk of the Board to forward a copy of the resolution to the Riverside County Auditor and the Imperial County Auditor. No increase is recommended for the domestic water, sewage and wastewater availability assessments in Fiscal Year 2024-2025.

President Powell then declared the public hearing to be open. No written or verbal comments were received. President Powell then declared the public hearing to be closed.

On a motion by Vice President, Castulo Estrada second by Director, Peter Nelson, the board approved Resolution No. 2024-27, Transferring Domestic Water Service and Sewer Availability Charges to Riverside & Imperial County Tax Rolls, and direct the Clerk of the Board to forward a copy of the resolution to the Riverside County Auditor and the Imperial County Auditor.

Approved by the following vote:

Ayes: Powell, Estrada, Aguilar, Bianco, Nelson

Noes: None

Absent: None

Motion Passed: 5-0

8. ACTION CALENDAR

Engineering

- A. **Waive the immaterial deviations in T. E. Roberts Inc.'s bid and authorize the General Manager to execute a construction contract with T. E. Roberts, Inc. as the lowest responsive and responsible bidder for the Construction of Marriott Shadow Ridge, Low Pressure, and Emerald Desert Non-Potable Water Pipeline Projects, Specification No. 2022-42 in the amount of \$16,588,316 and approve additional expenditures for a total request of \$21,125,827**
RECOMMENDED ACTION: Waive the immaterial deviations in T. E. Roberts Inc.'s bid and authorize the General Manager to execute a construction contract with T. E. Roberts, Inc. as the lowest responsive and responsible bidder for the Construction of Marriott Shadow Ridge, Low Pressure, and Emerald Desert Non-Potable Water Pipeline Project (Project), Specification No. 2022-42 in the amount of \$16,588,316.

On a motion by Board President, John Powell second by Director, Peter Nelson, the board approved the following actions related to the Construction of Marriott Shadow Ridge, Low Pressure, and Emerald Desert Non-Potable Water Pipeline Projects, Specification No. 2022-42, for a total request of \$21,125,827:

- Waive the immaterial deviations in T.E. Roberts Inc.'s bid and authorize the General Manager to execute a construction contract with T.E. Roberts, Inc., as the lowest responsive and responsible bidder for the Construction of Marriott Shadow Ridge, Low Pressure, and Emerald Desert Non-Potable Water Pipeline Projects, Specification No. 2022-42, in the amount of \$16,588,316
- Approve and authorize the General Manager to execute the following:
 - Task Order No. 2 with Krieger & Stewart, Inc., for engineering services during construction in the amount of \$316,500
 - Task Order No. 4 with Atlas Technical Consultants, LLC for soils and concrete testing services in the amount of \$129,230
 - Task Order No. 2 with Vanir Construction Management for Clean Water State Revolving Fund (CWSRF) loan compliance support in the amount of \$262,365
- Approve the following additional expenditures:
 - CVWD Project Management \$400,000

- Construction Inspection \$340,000
- Contingency 5% \$829,416
- Estimated interest on loan \$2,260,000 based on loan terms of 30 years at 1.1% interest

Approved by the following vote:

Ayes: Powell, Estrada, Aguilar, Bianco, Nelson

Noes: None

Absent: None

Motion Passed: 5-0

Finance

- B. **Receive and file the Cost of Service and Rate Study Reports for Canal Water, East Whitewater Replenishment, and West Whitewater and Mission Creek Replenishment Funds**

RECOMMENDED ACTION: It is recommended that the Board of Directors receive and file the Cost of Service and Rate Study Reports for Canal Water, East Whitewater Replenishment, and West Whitewater and Mission Creek Replenishment Funds without preparing or mailing new Proposition 218 notices.

On a motion by Director, Anthony Bianco second by Director, John Aguilar, the board approved the receipt and filing of the Cost of Service and Rate Study Reports for Canal Water, East Whitewater Replenishment, and West Whitewater and Mission Creek Replenishment Funds without preparing or mailing new Proposition 218 notices.

Approved by the following vote:

Ayes: Powell, Estrada, Aguilar, Bianco, Nelson

Noes: None

Absent: None

Motion Passed: 5-0

- C. **Adopt a State Water Project (SWP) Levy of \$0.11 per \$100 of Assessed Value (AV) for the Fiscal Year 2025 Tax Roll for both Riverside and Imperial Counties and Adopt Resolutions Fixing Rates of Taxation Required by the Counties of Riverside and Imperial**
RECOMMENDED ACTION: Staff recommends that the Board of Directors adopt Resolutions 2024-28 and 2024-29, authorizing a SWP levy of \$0.11 per \$100 of Assessed Value (AV) for the Fiscal Year 2025 Tax Roll for both Riverside and Imperial Counties.

On a motion by Director, John Aguilar second by Director, Peter Nelson, the board approved Resolution No. 2024-28 authorizing a SWP levy of \$0.11 per \$100 of Assessed Value (AV) for the fiscal year 2025 tax roll in Imperial County and Resolution No. 2024-29, authorizing a SWP

levy of \$0.11 per \$100 of Assessed Value (AV) for the fiscal year 2025 tax roll in Riverside County.

Approved by the following vote:

Ayes: Powell, Estrada, Aguilar, Bianco, Nelson

Noes: None

Absent: None

Motion Passed: 5-0

D. Approve Resolutions 2024-30 and 2024-31, Establishing Fiscal Year 2024-2025 Assessment District Assessments and Community Facilities District Special Taxes

RECOMMENDED ACTION: Approve Resolutions Nos: 2024-30 and 2024-31, which will provide for the following:

Collection of funds required to meet debt service and other administrative obligations for Assessment Districts (ADs) 33, 68, and 70; and

Collection of funds required to meet maintenance, repair, replacement, and other administrative obligations for Community Facilities District (CFD) No. 102; and request the County of Riverside to levy and collect such taxes on behalf of CFD No. 102.

On a motion by Director, Peter Nelson second by Director, John Aguilar, the board approved Resolution No. 2024-30, for the collection of funds required to meet debt service and other administrative obligations for Assessment Districts (ADs) 33, 68, and 70.

Approved by the following vote:

Ayes: Powell, Estrada, Aguilar, Bianco, Nelson

Noes: None

Absent: None

Motion Passed: 5-0

On a motion by Director, Peter Nelson second by Director, John Aguilar, the board approved Resolution No. 2024-31, for the collection of funds required to meet maintenance, repair, replacement, and other administrative obligations for Community Facilities Districts (CFD) No. 102; and request the County of Riverside levy and collect such taxes on behalf of CFD No. 102.

Approved by the following vote:

Ayes: Powell, Estrada, Aguilar, Bianco, Nelson

Noes: None

Absent: None

Motion Passed: 5-0

E. Approve lump sum payment of \$10,862,811 to the California Public Employees Retirement System (CalPERS) unfunded accrued liability for fiscal year 2024-25.

RECOMMENDED ACTION: Approve lump sum payment of \$10,862,811 to the California Public Employees Retirement System (CalPERS) unfunded accrued liability (UAL) for fiscal year 2024-25 and request staff to evaluate the future formation of a Section 115 Trust for Pension Obligations.

On a motion by Director, Peter Nelson second by Director, Anthony Bianco, the board approved the lump sum payment of \$10,862,811 to the California Public Employees Retirement System (CalPERS) unfunded accrued liability (UAL) for fiscal year 2024-2025 and requested staff to evaluate the future formation of a Section 115 Trust for Pension Obligations.

Approved by the following vote:

Ayes: Powell, Estrada, Aguilar, Bianco, Nelson

Noes: None

Absent: None

Motion Passed: 5-0

9. INFORMATIONAL ITEMS AND REPORTS

- A. Written Communications to the Board as filed
- B. Informational Presentations to the Board
 - i. Presentation/Update on the proposed Enterprise Resource Planning and Utility Billing System by Karla Romero, Director of Finance.

10. BOARD COMMENTS AND REQUESTS FOR FUTURE AGENDA ITEMS

- A. Board General Comments
 - Director Peter Nelson reported on the passing of the state's conservation bill and new conservation targets for urban areas. Also, reported that Imperial Irrigation District has come to an agreement with the USBR on the conservation program through 2026, and recognized Assistant General Manager, Robert Cheng for receiving the 2024 Abel Wolman Award of Excellence presented by the American Water Works Association (AWWA).
 - Directors Aguilar, Bianco, Estrada and Powell had no report.
- B. Board Requests for Future Agenda Items

11. BOARD MEETING REPORTS

- A. Meetings and Conference Reports

- i. June 12, 2024, Meeting with CVWD staff, Syrus Devers and Assemblymember Garcia to discuss Chrom-6 Bill (Director Estrada)
- ii. June 26, 2024, Coachella Valley Irrigated Lands Coalition (CVILC) Meeting (Directors Powell and Nelson)
- iii. June 26, 2024, Mecca-Thermal Sewer Line Project for Mecca COD Campus Funding Meeting (Director Estrada)
- iv. June 26, 2024, Special Meeting of the Salton Sea Authority Board of Directors Meeting (Directors Aguilar and Estrada)
- v. June 27, 2024, CVWD & City of Cathedral City Meeting (Directors Powell and Aguilar)

Additional Meetings Reported

- vi. July 2, 2024, Section 5 Contractors California Meeting (Director Nelson)
- vii. July 8, 2024, Agua Caliente Principals Mediation (Directors Powell and Estrada)

- B. Approval of per diem for meetings reported

On a motion by Director, Peter Nelson second by Director, Anthony Bianco, the board approved per diem for meetings reported.

Approved by the following vote:

Ayes: Powell, Estrada, Aguilar, Bianco, Nelson

Noes: None

Absent: None

Motion Passed: 5-0

12. REPORTS

- A. General Manager, Jim Barrett had no report.
- B. Counsel Jeff Ferre reported on a recent U.S. Supreme Court ruling which ended a legal precedent referred to as the "Chevron deference." This legal theory, based on a previous case, provided for courts to defer to a regulatory agency's interpretation of a statute when enforcing a regulation. In the new case, the Supreme Court concluded that the courts, not regulatory agencies, are authorized to interpret statutes. This case could be beneficial to entities such as CVWD in the future when faced with an adverse ruling from a regulatory body. Legal counsel also reported on another U.S. Supreme Court case which provided guidance on when the statute of limitations starts to run on legal challenges to federal regulations. This case could also be beneficial to entities such as CVWD in the future when faced with an adverse ruling from a regulatory body.

C. Departments

- Dan Charlton, Assistant General Manager, Operations & Maintenance, introduced Thomas West, the new Assistant Director of Sanitation Services.

13. CLOSED SESSION AGENDA

- A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Paragraph (1) of subdivision (d) of Section 54956.9) Name of case: Coachella Valley Water District v Imperial Irrigation District, Case, Los Angeles County Case No. 22STCV00356.
- B. CONFERENCE WITH LEGAL COUNSEL- EXISTING LITIGATION Pursuant to Government Code § 54956.9 (a) Name of Case: Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water District, et al., Case No. 5:13-cv-00883-JGB (SPx)
- C. CONFERENCE WITH LEGAL COUNSEL- EXISTING LITIGATION Pursuant to Government Code § 54956.9 (a) Name of Case: Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water District, et al., Case No. 5:20-cv-00174-JGB-SPx

14. RECONVENE

- A. Report out of Closed Session
President Powell convened the meeting into Open Session and announced there were no reportable actions.

15. ADJOURNMENT

There being no further business to discuss, Board President Powell adjourned the meeting at a.m. 10:50 a.m. The next regular meeting is scheduled for Tuesday, August 13, 2024, at 8:00 a.m. at the District's Palm Desert office

Sylvia M. Bermudez, MMC
Clerk of the Board
Coachella Valley Water District