



BOARD PRESIDENT

John P. Powell Jr.
DIVISION 3

VICE PRESIDENT

Castulo R. Estrada
DIVISION 5

**OFFICIAL MINUTES
REGULAR MEETING
OF THE COACHELLA
VALLEY WATER
DISTRICT BOARD OF
DIRECTORS**

October 24, 2023

**51501 Tyler Street,
Coachella, CA 92236**

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

President Powell called the regular meeting of the Coachella Valley Water District Board of Directors to order at 8:07 a.m., Tuesday, October 24, 2023, at the office of the District in Coachella, California.

2. ROLL CALL

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

Absent: None

Staff Present: General Manager Jim Barrett
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. No items removed or continued from the Agenda

B. No emergency items added to the Agenda

C. No changes to the order of the Agenda

4. PUBLIC COMMENT

No public comment received.

5. CONSENT CALENDAR

- A. Administration – Accept and file the General Manager's Report of Activities for September 2023
- B. Administration – Accept and file the General Manager's Report of Authorizations, Executions and Acceptance of Documents for September 2023
- C. Administration – Approve payment of WaterReuse 2024 Annual Membership Dues in the amount of \$14,427
- D. Administration – Approve payment of Association of California Water Agencies (ACWA) 2024 Annual Agency Dues in the amount of \$47,630
- E. Clerk of the Board – Approve the Minutes of the October 10, 2023, Regular Meeting of the Coachella Valley Water District Board of Directors
- F. Clerk of the Board – Accept and file the Secretary's Report of Written Instruments Accepted and Recorded during the month of September 2023
- G. Environmental Services – Approve payment of Annual Water Rights Permit Fees to State Water Resources Control Board for Fiscal Year 2023-24 in the amount of \$194,540.24
- H. Finance – Approve Resolution No. 2023-30 and authorize the General Manager to execute a Final Budget Approval (FBA) to the Installment Sale Agreement for the Fiscal Year 2020-2021 Nonpotable Water (NPW) Connections Project with the State Water Resources Control Board (SWRCB)
- I. Human Resources-Risk – Authorize the General Manager to execute an annual Professional Services Agreement (PSA) with Alliant Insurance Services, Inc., (Alliant), to provide Property and Casualty Insurance Brokerage Services for a term of three years in the annual amount of \$60,000, and the authority to extend the agreement for up to two additional two-year terms dependent on the availability of fiscal funding as approved

in the annual budget; total seven (7) year cost with an estimated annual CPI escalation and 5% contingency not to exceed \$460,215

On a motion by Director, Peter Nelson, second by Director, John Aguilar, the board approved the Consent Calendar as presented.

Approved by the following roll vote:

Ayes: Powell, Estrada, Aguilar, Bianco, Nelson

Noes: None

Absent: None

Abstain: None

Recuse: None

Motion Passed: 5-0

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

No items pulled for discussion.

7. ORDINANCE(S) FOR ADOPTION

A. **Adopt Ordinance 1437.2, Updating the Canal Irrigation and Drainage System Rules and Regulations**

RECOMMENDED ACTION: Rescind Ordinance No. 1437.1 and adopt Ordinance No. 1437.2 to clarify and update air gap requirements for the Oasis In-Lieu Recharge Project reflected in the Canal Irrigation and Drainage System Rules and Regulations. Questions were asked regarding the potential application of these revised Rules and Regulations to a larger customer base. Then prior to discussion of the revisions to the Oasis In-Lieu Project specifically, Directors Nelson and Bianco recused themselves, and President Powell remained on the dias, pursuant to the recusal and re-qualification process implemented a number of years ago in order for there to be a quorum for consideration of Oasis In-Lieu matters.

On a motion by Director, John Aguilar second by Vice President, Castulo Estrada, the board rescinded Ordinance No. 1437.1, and adopted Ordinance No. 1437.2, clarifying, and updating the air gap requirements for the Oasis in Lieu Recharge Project, reflected in the Canal Irrigation and Drainage System Rules and Regulations.

Approved by the following vote:

Ayes: Powell, Estrada, Aguilar

Noes: None

Recuse: Bianco, Nelson

Motion Passed: 3-0

8. ACTION CALENDAR

Engineering

- A. **Authorize the General Manager to execute Change Order No. 1 to the Emergency Contract with Mamco, Inc. dba Alabassi Construction in the amount of \$75,000 to complete emergency repairs to the Coachella Canal**

RECOMMENDED ACTION: Authorize the General Manager to execute Change Order No. 1 to the Emergency Contract with Mamco, Inc. dba Alabassi Construction in the amount of \$75,000 to complete emergency repairs to the Coachella Canal required due to recent flooding near Siphon 7 (MP 48.5).

On a motion by Director, John Aguilar second by Director, Peter Nelson, the board approved and authorized the General Manager to execute Change Order No. 1 to the emergency contract with Mamco, Inc., dba Alabassi Construction in the amount of \$75,000 to complete emergency repairs to the Coachella Canal required due to recent flooding near Siphon 7 (MP 48.5).

Approved by the following vote:

Ayes: Powell, Estrada, Aguilar, Bianco, Nelson

Noes: None

Absent: None

Motion Passed: 5-0

- B. **Approve solicitation of bids for the construction of the Irrigation Lateral 123.45-1.3-2.2 Replacement Project - Phase 2 (IR2005)**

RECOMMENDED ACTION: Approve solicitation of bids for the construction of Irrigation Lateral 123.45-1.3-2.2 Replacement Project – Phase 2 (Project), which starts from the 123.45-1.3-2.2 division box structure heading south on Monroe 0.5 Street between Avenue 59 and Avenue 60 near the City of Thermal, California. Prior to consideration of this matter, President Powell announced that he would be recusing himself in order to avoid a conflict of interest in that he has a real property interest within proximity to the property subject to this agenda item. President Powell then left the dias and the board room.

On a motion by Director, Anthony Bianco second by Director, John Aguilar, the board approved the solicitation of bids for the construction of Irrigation Lateral 123.45-1.3-2.2 Replacement Project, Phase 2 (project), which starts from the 123.45-1.3-2.2 division box structure heading south on Monroe 0.5 Street between Avenue 59 and Avenue 60 near the city of Thermal, California.

Approved by the following vote:

Ayes: Estrada, Aguilar, Bianco, Nelson

Noes: None

Absent: None

Recuse: Powell
Motion Passed: 4-0

- C. **Authorize the General Manager to execute Task Order No. 1 to the On-Call Professional Services Agreement with Clark Land Resources, Inc. in the amount of \$64,990 for Right-of-Way Acquisition Services at Lift Station 55-12, and approve additional expenditures for a total request of \$81,990**
RECOMMENDED ACTION: Authorize the General Manager to execute Task Order No. 1 to the Right-of-Way On-Call Professional Services Agreement with Clark Land Resources, Inc. (Clark) in the amount of \$64,990 for right-of-way acquisition services at Lift Station 55-12 as part of the Lift Station 55-12 and Lift Station 81-07 Upgrade Project LS2301 (Project). In addition, authorize the General Manager to execute other documents related to this right-of-way transaction and acquisition.

It is also recommended that the Board of Directors authorize the following additional expenditures:

Title costs - \$5,000
Right-of-Way Services Contingency - \$12,000
The total cost of this request is \$81,990.

On a motion by Director, Peter Nelson second by Director, Anthony Bianco, the board approved the following actions:

authorized the General Manager to execute Task Order No. 1 to the Right of Way on-call professional services agreement with Clark Land Resources, Inc. (Clark) in the amount of \$64,990 for right of way acquisition services at Lift Station 55-12 as part of the Lift Station 55-12 and Lift Station 81-07 Upgrade Project LS2301 (project);
authorized the General Manager to execute other documents related to this right of way transaction and acquisition; and
approved additional expenditures for a total amount of \$81,990.

Title costs \$5,500
Right of Way Services Contingency \$12,000

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. Stormwater Update, presentation by David Wilson, Engineer Manager.
 - II. **ITEM CONTINUED 11/14/23** State legislative session "Year in Review", presentation by Victoria Llort, Government & Regional Affairs, and Syrus Devers, State Lobbyist – This presentation was deferred due to technological issues which prevented the virtual participation by the state lobbyist.

10. BOARD COMMENTS AND REQUESTS FOR FUTURE AGENDA ITEMS

A. Board General Comments

- Directors Nelson, Aguilar, and Bianco had no report.
- Director Estrada reported on a partnership with the County of Riverside for a signing ceremony for the Lake Cahuilla 50-year lease agreement; also reported on discussions related to ARPA funds received for the rehabilitation of wells in the Mecca area, to reduce arsenic levels, and a proposed groundbreaking and press releases to inform the community of the project.
- Director Powell reported there may be a potential issue related to challenges for the Coachella Valley Irrigated Lands Coalitions (CVILC) with requirements implemented by the Regional Water Board and State Water Resources Control Board but a lack of enforcement of such requirements.

B. Board Requests for Future Agenda Items

- Financing update for Stormwater projects
- Discussion regarding the Canal Rules and Regulations

11. BOARD MEETING REPORTS

A. Meetings and Conference Reports

- i. October 4, 2023, Association of California Water Agencies Region 4 Tour (Director Nelson)
- ii. October 10, 2023, QSA 20th Anniversary Dinner (Directors Nelson and Estrada)

- iii. October 11, 2023, Dedication of the Lloyd Allen Water Conservation Operational Reservoir Ceremony (Directors Nelson and Estrada) ****Estrada did not attend.**
- iv. October 11, 2023, Colorado River Board Meeting (Directors Nelson and Estrada) ****Estrada did not attend.**
- v. October 16, 2023, Desert Valleys Builders Association Board Meeting (Director Powell)
- vi. October 19, 2023, Salton Sea Authority Board Meeting (Directors Aguilar & Estrada) ****Aguilar did not attend.**
- vii. October 23, 2023, California Farm Water Coalition Meeting (Director Nelson) ****Meeting moved to October 30.**

Additional Meetings Reported

- viii. October 3, 2023, Section 5 Contractors Meeting (Director Nelson)
 - ix. October 13, 2023, Meeting with Global Water Farms regarding potential water supply (Director Estrada)
 - x. October 19, 2023, Milestone celebration for the Salton Sea Authority North Lake Pilot Demonstration Project (Director 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 reported on the following:

- Listened to the Ninth Circuit Court of Appeals hearing on 10/16 for the Rancho Mirage Mobile Home Park matter.
- CVWD staff is scheduled to make a presentation at the 11/29 City of Cathedral City Council meeting. Director Aguilar requested a meeting with staff, in advance of the presentation to the city council.
- Supervisor Perez’s Open House ceremony of the new La Quinta office location.
- BBK’s dinner during the ACWA Conference on 11/29. Board members are invited to attend.
- Call on 10/30 with MWD and other agencies, regarding Colorado River Strategy Coordination meeting.

- Attending the San Diego County Water Authority (SDCWA) QSA celebration on November 8.
 - Proposed tour for Congressman Calvert on 11/1.
 - Phasing out of Zoom for all meetings; Zoom will be used on an as-needed basis.
- B. Counsel, Jeff Ferre briefly discussed the various bills related to teleconference participation by the board; AB 361, Brown Act Teleconferencing, and AB 557, which removed the sunset clause of AB 361; additionally, explained the different options under AB 2449 and AB 361 for board participation via teleconference.
- C. Departments – None

13. CLOSED SESSION AGENDA

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9
one (1) case
- B. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION
Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9
one (1) case
- 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. 5:13-cv-00883-JGB (SPx)
- D. 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
- E. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Government Code § 54956.9 (a) Name of Cases: SWP Matters:
Howard Jarvis Taxpayers Association v. Coachella Valley Water District, et al., Riverside Superior Court Case No. RIC1825310 (Mandate);
Howard Jarvis Taxpayers Association v. All Persons Interested, Riverside Superior Court Case No. PSC 1905977 (FY 20);
Howard Jarvis Taxpayers Association v. All Persons Interested, Riverside Superior Court Case No. PSC 2003702 (FY 21);

Howard Jarvis Taxpayers Association v. All Persons Interested, Riverside Superior Court Case No. CVPS 2102910 (FY 22);
Howard Jarvis Taxpayers Association v. All Persons Interested, Riverside Superior Court Case No. CVRI 2203364 (FY 23);
Howard Jarvis Taxpayers Association v. All Persons Interested, Riverside Superior Court Case No. CVRI 2304703 (FY 24)

F. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Government Code § 54956.9 (a) Name of Cases: Canal Rates

Howard Jarvis Taxpayers Association v. Coachella Valley Water District, et al., Riverside Superior Court Case No. RIC 1904943 (Mandate);
Howard Jarvis Taxpayers Association v. All Persons Interested, Riverside Superior Court Case No. CVRI 2204484 (FY 23);
Howard Jarvis Taxpayers Association v. Coachella Valley Water District, Fourth District Court of Appeal Case No. E080870 (Appeal from Judgment)

G. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Government Code § 54956.9 (a) Name of Case: RAC Rates

Howard Jarvis Taxpayers Association v. Coachella Valley Water District, et al., Riverside Superior Court Case No. RIC 1905897 (Mandate);
Howard Jarvis Taxpayers Association v. All Persons Interested, Riverside Superior Court Case No. PSC 2003606 (FY 21);
Howard Jarvis Taxpayers Association v. All Persons Interested, Riverside Superior Court Case No. CVRI 2103373 (FY 22);
Howard Jarvis Taxpayers Association v. All Persons Interested, Riverside Superior Court Case No. CVRI 2203038 (FY 23);
Howard Jarvis Taxpayers Association v. All Persons Interested, Riverside Superior Court Case No. CVRI 2304311 (FY 24);
Howard Jarvis Taxpayers Association v. John Powell Jr., et al., Fourth District Court of Appeal Case Nos. E079078/E079712 (Anti-SLAPP Appeals);
Howard Jarvis Taxpayers Association v. Coachella Valley Water District, Fourth District Court of Appeal Case No. E081996 (Appeal from Judgment)

H. CONFERENCE WITH LABOR NEGOTIATORS
Pursuant to Government Code Section 54957.6 – Agency negotiator: Jay Trinnaman, Dan Charlton, Scott Hunter and Christopher Chaffin
Employees' organization: Association of Supervisory Support Evaluation Team (ASSET)

I. CONFERENCE WITH LABOR NEGOTIATORS
Pursuant to Government Code Section 54957.6 – Agency negotiators: Jay Trinnaman, Dan Charlton, Scott Hunter, and Christopher Chaffin

Employees' organization: Association of Supervisory Support Evaluation Team (ASSET), Coachella Valley Water District Employees' Association (CVWDEA) and Confidential & Unrepresented Employees

14. RECONVENE

- A. Report out of Closed Session
President Powell reconvened the meeting to open session and announced there were no reportable actions

15. ADJOURNMENT

There being no further business to discuss, President Powell adjourned the meeting at 12:05 p.m. The next regularly scheduled meeting is on Tuesday, November 14, 2023, at 8:00 a.m. at CVWD's Palm Desert office.

DRAFT