

# INDIAN WELLS VALLEY GROUNDWATER AUTHORITY

## BOARD OF DIRECTORS

### MINUTES

Ridgecrest City Hall  
100 W California Ave  
Ridgecrest, CA 93555

Thursday November 17, 2016, 10:00 a.m.

#### **CALL TO ORDER:**

The meeting was called to order by Chairperson Gleason at 10:03am.

#### **ROLL CALL:**

Bob Harrington, Inyo County.

Mayor Peggy Breeden, City of Ridgecrest.

Chairperson Mick Gleason, Kern County.

Peter Brown, Indian Wells Valley Water District.

Robert Lovingood, San Bernardino County. (Not present at the time of roll call)

Robert Pawalek, BLM.

Commander Brian Longbottom, Department of the Navy.

#### **PLEDGE OF ALLEGIANCE:**

The Pledge of Allegiance was led by Don Zdeba.

#### **PUBLIC COMMENTS:**

Lorelei Oviatt, Kern County Director of Planning and Community Development, updated that the launch of the solar overlay zone district, specifically in the Indian Wells Valley, will commence in January. The IWVGA will be on the mailing list. If any member of the public would like to receive mail updates, please contact Ms. Oviatt's office. Ms. Oviatt also explained that after the passing of Prop. 64 there is currently a moratorium on any of these activities in the Indian Wells Valley. In January, Ms. Oviatt will be launching an extensive conversation on zoning and what the Board of Supervisors will consider to be allowed in the Indian Wells Valley.

Judie Decker, local resident, stated that some recent comments by the City and Water District make it appear that they do not take seriously the fact that the IWV is in critical overdraft. In fact, it appears that they intend to operate in a "business as usual" mode. Allowing additional growth without the requirement of new development bringing supplemental water into this valley is irresponsible. Use of presently available water for new users robs water and the right to future water from those already here. In the past 20+ years, local governments have ignored the facts and recommendations of the scientific reports they paid for. You [the Board] are in the process of creating a new government agency to correct the situation, not to make it worse. The more you deny the problem and proceed as you always have, the sooner the State will control our water. You [the Board] need to follow Mr. Gutierrez's recommendation of having a well moratorium on all new wells until this problem is resolved satisfactorily. References made by Judie Decker include: 1) Mayor Breeden "If we are not growing, we are dying" – stated publicly many times. 2) Daily Independent article by Jack Barnwell on 11/16/2016, "IWVWD Board talks conservation plans or potential large scale development". 3) City attorney Keith Lemieux, 09/07/2016, City Council Meeting "critical overdraft is only an option".

Renee Westa-Lusk, local resident, mentioned State law SB 837, signed by Governor Jerry Brown this year that regulates water for marijuana growing purposes. Ms. Westa-Lusk is concerned about the amount of water that will be used and if there will be more agriculture beginning to grow marijuana locally.

Robert Lovingood, San Bernardino County, arrived.

**SPECIAL PRESENTATIONS:**

**a) Report by Tim Parker on Technical Progress in the IWV Groundwater Basin**

Public comments: none.

Mayor Breeden asked how much it costs, per acre foot, to bring water to the surface, with regards to brackish water treatment. Don Zdeba answered that it's close to \$200 per acre-foot for the Water District. Chairperson Gleason mentioned the modeling that is being done by the Navy. Commander Longbottom stated that the model will be made available to the Technical Advisory Committee and the Policy Advisory Committee. DRI will be making a presentation soon. The Navy, as an in-kind service, will maintain the model.

Motion made by Peggy Breeden and seconded by Peter Brown to receive and file agenda item. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Lovingood Nays: None.)

**b) Report By Don Zdeba on the Status of the IWV Cooperative Groundwater Group**

Presentation is available at <http://www.co.kern.ca.us/WaterResources.aspx#.WCoBry0rKUk> under tab "Indian Wells Valley Groundwater Basin" Board packet for 11/17/16.

Peter Brown commented on Judie Decker's earlier comments, stating the Cooperative Group has done some amazing things.

Public making comment is Judie Decker, stating that her comments were not in regards to the Water District not cooperating, but with regards to the Monday night Water District Board meeting and future developments.

Public making comment is Elaine Mead, local resident, thanking Judie Decker and Don Zdeba for their input. Ms. Mead states that the Cooperative Group actually has its roots in the 70's and met often in the 80's. It was the ad-hoc committee, prior to being formalized.

Public making comment is Donna Thomas, EKCRCD, acknowledging the development of the Indian Wells Valley Cooperative Groundwater Management Group and also the work of a previous president, Leroy Marquardt, who served as the first chairperson of the Cooperative Group.

Chairperson Gleason stated that whether the IWVCGMG is absorbed by the Indian Wells Valley Groundwater Authority or not, he appreciates all that the group offers and does.

Motion made by Robert Lovingood and seconded by Peter Brown to receive and file agenda item. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Lovingood Nays: None.)

**c) Report by Department of Water Resources (DWR) on Best Practices for a Groundwater Sustainability Plan**

Chairperson Gleason reported that DWR representatives were running late and gave a brief update. There is an effort underway by DWR to have a conversation about SGMA implementation understanding and Best Management Practices. Kern County Farm Growers was putting on a State Water Board and Department of Water Resources (DWR) forum on the new Best Management Practices tonight. Supervisor Gleason and Mayor Breeden will be attending.

**CONSENT CALENDAR:**

Motion made by Peter Brown and seconded by Robert Lovingood to approve the Minutes of the October 20, 2016 regular IWVGA Board of Directors meeting with two corrections; include Judie Decker's comments as well as Bob Page's corrections. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Lovingood Nays: None.)

**APPOINT LEGAL COUNSEL FOR THE IWVGA:**

Alan Christensen provided the agreement previously asked for at a prior IWVGA meeting. It was suggested that legal counsel at the meetings be rotated on a monthly basis between Kern County, City of Ridgecrest, and the Water District's attorneys.

Phill Hall explained that, due to the GSA notice needing to be filed, the retainer agreement also needed to be filed. Mr. Hall further explained that when an attorney is assigned a task, no matter the duration, that attorney will be in charge of completing it. The monthly rotation is for the serving as legal counsel at the Board meetings.

Public making comment is Chuck Griffin, Indian Wells Valley Water District Board, who stated his concern with regards to conflict of interest. The GSA is a separate entity from each agency. If any of the agencies brought litigation against the GSA, how would representation be offered in that situation? Mr. Griffin also suggested just one attorney who represents the GSA as a whole. Keith Lemieux states that Conflict of Interest waivers will be signed by all attorneys.

Jim Worth, legal counsel for the Indian Wells Valley Water District, states that he has not had the opportunity to discuss with attorneys Phill Hall or Keith Lemieux what the retainer entails or what the representation would be. Mr. Worth also states he is not sure he would relinquish his representation of the Indian Wells Valley Water District for the GSA if there were a conflict between the two entities. Mr. Worth states he is not sure he agrees completely with what Mr. Hall and Mr. Lemieux have said as he has not had the opportunity to discuss it with them.

Donna Hocker, Ridgecrest Area Association of Realtors, asked for clarification on which of the five attorneys represents the GSA. Phill Hall states the GSA is represented with co-counselors. The three attorneys are County of Kern, City of Ridgecrest and Indian Wells Valley Water District. San Bernardino and Inyo County's attorneys are invited to be part of the co-counsel arrangement. Ms. Hocker stated concern for so many attorneys representing the GSA. Ms. Hocker asked how it will be funded. Chairperson Gleason clarifies that the attorneys are being paid for by their agencies.

Bob Page, San Bernardino County, asked that attorney Hall clarify a point he made with regards to the one retainer in place right now which is Kern County's standard retainer agreement. When the other two

retainers come in, all retainers should match. Mr. Page explains that from his understanding, all attorneys will agree upon a retainer that matches and that not all need match Kern County's retainer.

Motion made by Peggy Breeden and seconded by Robert Lovingood to approve the retainer agreement for County of Kern. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Lovingood Nays: None.)

**APPROVAL OF RECOMMENDATIONS FROM AD HOC COMMITTEE ON IWVGA COMMITTEE MEMBERSHIP, MISSION STATEMENTS, AND ORGANIZATIONAL STRUCTURE:**

Alan Christensen presented the recommendations to the Board and stated that as an organization, baby steps are being taken.

Public making comment is Derek Hoffman, legal counsel for Meadowbrook, stating on November 11, 2016 they sent a letter to the Board requesting that Meadowbrook be added as a TAC member for the GSA. Mr. Hoffman expressed appreciation for Meadowbrook being recommended as a PAC member. Mr. Hoffman commented on the bylaws, specifically the engineer that is described within. He expressed hope that the duties of the TAC and PAC are not bypassed or marginalized by this position.

Joshua Nugent, Mojave Pistachio and Nugent Farm, thanked the Board for addressing their concerns thus far. Mr. Nugent wanted to reassure the Board that both Mojave Pistachio and Nugent Farms is in it for the long run and willing to participate financially.

Peter Brown asked if it is necessary to form a new Technical Advisory Committee (TAC) under the GSA while there is an active TAC already formed for the Indian Wells Valley Cooperative Groundwater Management Group.

Phill Hall stated he would first need to find out more about the active IWVCGMG TAC and fully understand it prior to considering a potential merge.

Bob Harrington states that Inyo County is unsure of the capacity in which they will be able to participate in the Technical Advisory Committee. Mr. Harrington also commented that if the existing TAC is working effectively and producing the necessary analysis that the Groundwater Authority is going to need to complete its work, he feels we should utilize the existing TAC.

Mayor Breeden asked that one of the two representatives for the Domestic Well Owners be a representative for Mutual and cooperative well owners on the Policy Advisory Committee.

Chairperson Gleason stated he attended an IWVCGMG meeting and appreciated how science and water were discussed without an argument.

Public addressing the Board is Don Decker, who commented that the rural community is at the greatest jeopardy resulting from declining water levels. It is important that well owners are properly represented.

Bob Page, County of San Bernardino, asked for a point of clarification. Did Mr. Christensen state that the provisions in the committee charter document about the PAC would be added to the IWVGA Bylaws? Might the Ad Hoc Committee's recommendation at the next meeting then be that the committee charter provisions about the TAC would also be included in the Bylaws? Or is it the Ad Hoc Committee's intent to have the IWVGA Board approve the Bylaws and committee charter as separate documents?

Alan Christensen clarified that just the PAC membership list would be added to the Bylaws, the draft charter is intended to be a separately approved document, which would be presented to the IWVGA Board for consideration at a future meeting.

Public making comment is Judie Decker asking for clarification that just the PAC membership is being voted on right now and not the TAC. Ms. Decker also urged the Board to develop an independent committee that will use their knowledge independently, whomever they represent.

Patti Farris, local resident, stated concern about the IWVCGMG being absorbed. Also, SGMA law requires that everything be subject to the Brown Act.

Motion made by Peter Brown and seconded by Robert Lovingood to approve the recommended Policy Advisory Committee membership list and staff to provide options for Technical Advisory Committee. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Lovingood Nays: None.)

#### **REVIEW OF DRAFT BYLAWS:**

Alan Christensen presented draft bylaws.

Public making comment is Derek Hoffman, legal counsel for Meadowbrook. Mr. Hoffman reiterated that this is a set of draft bylaws and if there is such an engineer selected that those provisions within the bylaws are seamlessly integrated with committee language to ensure that the committee function is not bypassed, marginalized, or diminished in any way.

Don Decker, local resident, thanked Mr. Lemieux for mentioning liability of the various members of committees and how the whole package is going to work in a legal sense.

Phill Hall stated that it would be helpful to set up a committee to work with counsel and staff on the bylaws.

Motion made by Peggy Breeden and seconded by Robert Lovingood to appoint an ad hoc committee consisting of the Water District (Peter Brown) and Kern County (Supervisor Gleason) to help staff and legal counsel with the bylaws due in January. (Ayes: Breeden, Brown, Gleason, Harrington, Lovingood Nays: None.)

#### **REPORT ON DRAFT BUDGET FOR 2017:**

Alan Christensen presented the draft budget for 2017. Tracking of in-kind is in process and office space has been offered. Mr. Christensen explains that a budget must be adopted at the next meeting. Three issues must be considered: 1) Implementing a revenue measure and a timeline for implementation. 2) Bridge financing until more grant funds are available. 3) Under the organizational structure, how will the proposed general manager/executive director position be funded? Mr. Christensen will provide a draft budget report for 2017 at the next IWVGA meeting.

Robert Lovingood asked that hire dates and projected costs for the fee study consultant, the engineering/hydrologist consultant and the general manager/executive director also be included in next month's budget report.

#### **PROJECTS AND OBJECTIVES OF THE IWVGA:**

Alan Christensen stated that this is an upcoming items list that includes deadlines. This will remain a standing agenda item.

**CLOSING COMMENTS:**

Chairperson Gleason thanked everyone, especially the staff for everything they have done. There is always room for improvement. He would like to see a workshop with the staff before the end of the year. Chairperson Gleason instructed his staff to coordinate a workshop to have a focused conversation about improving the process for exchanging information among the agencies and staff.

**DATE AND TIME OF NEXT MEETING:**

The next IWVGA meeting and Public Hearing will be held on December 8, 2016, at 10:00 am, in the Council Chambers at Ridgecrest City Hall, 100 W. California Avenue.

**CLOSED SESSION:** None.

**ADJOURN:**

Motion was made by Peter Brown and seconded by vice chair Breeden to adjourn meeting at 12:46pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Lauren Duffy', with a long, sweeping flourish extending to the right.

Lauren Duffy  
IWVWD Recording Secretary