

## MINUTES OF REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE PALMDALE WATER DISTRICT, AUGUST 27, 2014:

*A regular meeting of the Board of Directors of the Palmdale Water District was held Wednesday, August 27, 2014, at 2029 East Avenue Q, Palmdale, California, in the Board Room of the District office. President, Kathy Mac Laren, called the meeting to order.*

### 1) Pledge of Allegiance.

At the request of President Mac Laren, Director Alvarado led the pledge of allegiance.

### 2) Roll Call.

#### Attendance:

Kathy Mac Laren, President  
Robert Alvarado, Vice President  
Gloria Dizmang, Treasurer  
Vincent Dino, Director

Joe Estes, Secretary --  
EXCUSED ABSENCE

#### Others Present:

Dennis LaMoreaux, General Manager  
Bill Wynder, Attorney  
Matt Knudson, Assistant General Manager  
Mike McNutt, PIO/Conservation Director  
Jon Pernula, Water & Energy Resources Director  
Jim Stanton, Information Technology Manager  
Tim Moore, Facilities Manager  
Kelly Jeters, Systems Supervisor  
Dennis Hoffmeyer, Senior Accountant  
Linda Trevino, Water Conservation Aide  
Dawn Deans, Executive Assistant  
6 member of the public

### 3) Adoption of Agenda.

It was moved by Director Alvarado, seconded by Director Dizmang, and unanimously carried by all members of the Board of Directors present at the meeting to adopt the agenda, as written.

### 4) Public Comments for Non-Agenda Items.

There were no public comments.

### 5) Presentations:

#### 5.1) Cash for Grass Rebate Program. (Water Conservation Aide Trevino)

PIO/Water Conservation Director McNutt informed the Board of the Cash for Grass Program statistics to date and reviewed pictures of the landscapes for this evening's recipients after which Water Conservation Aide Trevino presented Cash for Grass Rebate checks to Elizabeth Kaspar in the amount of \$709.00 and to Phyllis Gonda in the amount of \$15,114.00. The recipients then briefly shared their experiences replacing their landscapes and thanked the Board for the opportunity to participate in this water saving program.

**6) Action Items – Consent Calendar: (The Public Shall Have an Opportunity to Comment on Any Action Item as Each Item is Considered by the Board of Directors Prior to Action Being Taken.)**

**6.1) Approval of Minutes of Regular Meeting Held August 13, 2014.**

**6.2) Payment of Bills for August 27, 2014.**

**6.3) Approval of Budget Reallocation to Purchase Used Dump Truck. (\$55,000.00 – Non-Budgeted – Facilities Manager Moore/Facilities Committee)**

**6.4) Approval of Resolution No. 14-14 Adding a Claims Presentation Protocol as Article 19 to the Palmdale Water District's Rules and Regulations. (Attorney Quilizapa)**

President Mac Laren announced the items included in the Consent Calendar after which it was moved by Director Dino, seconded by Director Alvarado, and unanimously carried by all members of the Board of Directors present at the meeting to approve those items included in the Consent Calendar.

**7) Action Items – Action Calendar: (The Public Shall Have an Opportunity to Comment on Any Action Item as Each Item is Considered by the Board of Directors Prior to Action Being Taken.)**

**7.1) Consideration and Possible Action on Approval of Agreement in Principle (AIP) Affirming Terms of Contract Extension Between Palmdale Water District (PWD), State Water Contractors, and the Department of Water Resources (DWR) for a Future Amendment to Extend the State Water Project Contract to Year 2085. (Water & Energy Resources Director Pernula/Water Supply & Reliability Committee)**

Water & Energy Resources Director Pernula provided an overview of the construction of the State Water Project, the District's early and continuing participation in the State Water Project as a water source for the District, and the benefits and need to extend the State Water Project contract after which it was moved by Director Dizmang, seconded by Director Dino, and unanimously carried by all members of the Board of Directors present at the meeting to approve the Agreement in Principle (AIP) Affirming the Terms of the Contract Extension Between Palmdale Water District (PWD), State Water Contractors, and the Department of Water Resources (DWR) for a Future Amendment to Extend the State Water Project Contract to Year 2085.

Water & Energy Resources Director Pernula then offered to arrange tours of Oroville Dam and the Delta for the Directors.

**7.2) Consideration and Possible Action on Board and Staff Attendance at Conferences, Seminars, and Training Sessions as Follows: None at This Time.**

There were no conferences, seminars, or training sessions to consider.

**8) Information Items.**

**8.1) Reports of Directors:**

**a) Meetings/General Report.**

Director Dizmang reported that on August 14, she attended the Rate Presentation Workshop at Golden Poppy Elementary School and was impressed with the set-up and information provided; that on August 25, she attended the Water Supply & Reliability Committee meeting with Director Dino where they heard the presentation considered earlier under Agenda Item No. 7.1 and then complimented Water & Energy Resources Director Pernula on providing this information in an easy to understand format; and that on August 26, she attended a Board briefing with General Manager LaMoreaux.

Director Alvarado reported that on August 14, he also attended the Rate Presentation Workshop at Golden Poppy Elementary School, ratepayer questions were addressed, the event was very well organized, and he is proud of the District's team; that on August 20, he attended the Palmdale Recycled Water Authority meeting where the District is working together with the City of Palmdale to bring recycled water to parks, schools, and other facilities in the near future; that on August 21, he attended the second Rate Presentation Workshop at Palmtree Elementary School, and attendance was

increased, the public was more actively engaged in the process, and staff did an excellent job of addressing misconceptions of the ratepayers; that on August 26, he attended a Board briefing with Director Dino and General Manager LaMoreaux; and that earlier today he attended a live Spanish radio interview where he discussed the drought and some of the District's restrictions in place.

Director Dino reported that on August 14, he also attended the Rate Presentation Workshop at Golden Poppy Elementary School; that on August 21, he attended the second Rate Presentation Workshop at Palmtree Elementary School, which was well attended; that on August 25, he attended the Water Supply & Reliability Committee meeting with Director Dizmang; and that on August 26, he attended a Board briefing with Director Alvarado and General Manager LaMoreaux.

President Mac Laren reported that on August 14, she also attended the Rate Presentation Workshop at Golden Poppy Elementary School, the set-up was very nicely done, and staff was ready to handle any question; that on August 20, she attended the Palmdale Recycled Water Authority meeting, and the Board is working on a contract for recycled water; that on August 21, she also attended the second Rate Presentation Workshop at Palmtree Elementary School where everyone left informed with a sense of understanding of our rates and of our water quality; and that on August 26, she attended a Board briefing with General Manager LaMoreaux to discuss the Board meeting as well as other upcoming items.

There were no further reports from Directors.

**8.2) Report of General Manager.**

**a) Information Technology Department Activities. (Information Technology Manager Stanton)**

Information Technology Manager Stanton provided a detailed overview of the responsibilities of the Information Technology Department including this Department's mission statement, managed and maintained equipment, providing a safe and secure networking environment, and the core responsibilities and challenges of the Department.

It was then determined that an iPad Workshop will be scheduled when Information Technology staffing allows, and the Board thanked Information Technology Manager Stanton for his presentation.

**b) Update on Status of Water Main Replacement Funding. (Assistant General Manager Knudson)**

Assistant General Manager Knudson provided an overview of the District's \$485,000.00 EPA Water Main Replacement Grant and stated that the grant funds are still available to the District; that these grant funds require District matching funds of nearly \$400,000.00; that a water main replacement project has been identified for the grant funds, and a cultural and biological survey is being prepared for this project as part of the grant process; that staff anticipates approval of an agreement in the near future; and that quarterly progress reports will be submitted to the EPA for reimbursement of expended funds.

It was then clarified that the EPA grant funds were never intended for meter replacements; that the funds have not been received; that the District's audit reports clearly indicate the funds have not been received; and that the District has constructed seven water main replacement projects since applying for this grant.

It was then requested that Assistant General Manager Knudson's memo be posted on the District's website to provide further clarification to those having questions on the EPA grant.

General Manager LaMoreaux then reported that a third Rate Presentation Workshop has been scheduled for September 8, 2014 from 5 p.m. to 8 p.m. at the District and that in addition to the general public, the Boards of various agencies having facilities within the District's boundaries have been sent invitations to attend this Workshop.

**8.3) Report of Attorney.**

Attorney Wynder reported that he included a written overview of AB1471, the \$7.12 billion Water Bond, in the agenda packets and then briefly reviewed the specifics of the Water Bond and the allocation of the \$7.12 billion.

General Manager LaMoreaux then stated that ACWA has sent sample resolutions and rules for supporting the Water Bond and that this information will be presented to the Board for consideration at a future meeting.

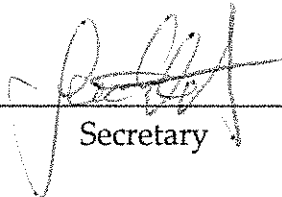
**9) Board Members' Requests for Future Agenda Items.**

Director Alvarado inquired as to the status of his previous request for a study on the fees and charges of other similar-sized water districts after which General Manager LaMoreaux stated that staff hopes to have this information by the time of the next Board meeting.

There were no further requests for future agenda items.

**10) Adjournment.**

There being no further business to come before the Board, the meeting was adjourned.

  
Secretary

**PALMDALE WATER DISTRICT  
RESOLUTION NO. 14-14**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF  
PALMDALE WATER DISTRICT ADDING ARTICLE 19 TO  
THE PALMDALE WATER DISTRICT RULES AND  
REGULATIONS TO ADOPT A PRESENTATION  
PROTOCOL FOR CLAIMS PRESENTED AGAINST THE  
PALMDALE WATER DISTRICT**

**WHEREAS**, the doctrine of “sovereign immunity” provides that, with certain exceptions created by statute or constitutional law, a public agency is immune from liability for its actions that cause injury to person or property; and

**WHEREAS**, Government Tort Claims Act (Government Code §§ 810 *et seq.*) (the “Act”) establishes the statutory protocol for the presentations of liability claims to a public agency for consideration and possible action, whether those claims sound in tort, contract, other form of liability; and

**WHEREAS**, the Act establishes the procedural rules pursuant to which a claimant may seek a damage award from a public agency, including procedural rules requiring the filing of an administrative claim within an applicable six-month or one-year statute of limitations as prerequisites to the filing of a civil action against the public agency; and

**WHEREAS**, the procedural requirements provide public agencies the opportunity to timely investigate claims, to reduce litigation expenses and potential judgments, and to limit liability by barring certain claims; and

**WHEREAS**, Section 905 of the Act exempts certain damage claims from the prerequisite administrative claim presentation requirements, including, but not limited to, claims by the state or other local public entity against a public agency; and

**WHEREAS**, Section 935 of the Act provides that claims that are excluded from the prerequisite administrative claim presentation requirements under Section 905, and that are not governed by other statutes or regulations expressly related thereto, may be covered by a public agency’s charter, ordinance, or regulation that requires the filing of an administrative claim prior to the filing of a civil action against the public agency; and

**WHEREAS**, Section 22727 of the Water Code provides that all claims for money or damages against irrigation water districts are governed by the Act; and

**WHEREAS**, Article XIII, Section 32, of the California Constitution sets forth what is commonly known as a “pay first, litigate later” doctrine, which requires a taxpayer to pay a tax, fee, fine, or assessment before commencing a court action to challenge the collection thereof, and said doctrine is made applicable to all types of government, including water districts (*Water Replenishment Dist. of Southern Calif. v. City of Cerritos, et al.* (2013) 220 Cal.App.4th 1450, 1466-67); and

**WHEREAS**, the California Court of Appeals has stated that the “pay first, litigate later” doctrine only applies when a public agency has a “pay first, litigate later” provision in its policies and practices (*City of Anaheim v. Superior Ct.* (2009) 179 Cal.App.4th 825); and

**WHEREAS**, board of directors of the Palmdale Water District desires to enact a claims presentation procedure and a “pay first, litigate later” requirement, which will benefit the District and its customers by imposing a more uniform procedure for the filing of claims against the District, streamline the process to reduce the District’s time and expense in responding to such claims, and ensure the District’s revenue remains stable pending litigation to ensure services continue to be provided to the District’s customers.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Directors of the Palmdale Water District as follows:

**Section 1:** The above recitals are all true and correct and are hereby adopted as findings.

**Section 2:** Article 19 entitled “Claims Presented Against The District” is hereby added to the Palmdale Water District Rules and Regulations to read in full as follows:

**“ARTICLE 19: CLAIMS PRESENTED AGAINST THE DISTRICT**

**19.01 AUTHORITY.**

This regulation is enacted pursuant to Section 935 of the California Government Code.

**19.02 CLAIMS REQUIRED.**

All claims against the District for money or damages that are excluded by Government Code § 905 and that are not otherwise governed by the Government Claims Act, California Government Code §§ 900 *et seq.*, or another state law (hereinafter in this resolution, “claims”) shall be presented within the time, and in the manner, prescribed by Part 3 of Division 3.6 of Title 1 of the California Government Code (commencing with Section 900 thereof) for the claims to which that Part applies by its own terms, as those provisions now exist or shall hereafter be amended, and as further provided by this Chapter.

**19.03 FORM OF CLAIM.**

All claims shall be made in writing and verified by the claimant or by the guardian, conservator, executor, or administrator of claimant. In addition, all claims shall contain the information required by California Government Code §§ 910 through 915.4. The foregoing reference to Government Code §§ 910 through 915.4 shall not be construed to authorize a class claim, and no claim may be filed on behalf of a class of persons unless verified by every member of that class.

**19.04 DELIVERY OF CLAIMS AND ADMINISTRATION.**

All documents setting forth claims or demands against the District must be delivered to the District Office, located at 2029 East Avenue Q, Palmdale, California 93550, to the attention of the General Manager. The General Manager, or designee, shall audit each demand and



investigate each claim for damages and shall cause the same to be promptly presented to the Board of Directors with a recommendation as to the action which should be taken. Notwithstanding the foregoing, the General Manager may delegate to a third-party administrator the general administration of claims under the continued supervision of the General Manager.

**19.05 CLAIM PREREQUISITE TO SUIT.**

In accordance with California Government Code §§ 935(b) and 945.6, all claims shall be presented as provided in this section and acted upon by the District prior to the filing of any action on such claims, and no such action may be maintained by a person who has not complied with the requirements contained in this resolution.

**19.06 ACTIONS FOR PAYMENT OF TAXES, FEES OR FINES; PAYMENT REQUIRED PRIOR TO COMMENCEMENT OF LEGAL ACTION.**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against the District or an officer thereof to prevent or enjoin the collection of taxes, fees, or fines sought to be collected pursuant to any provision, resolution, or ordinance of the District for the payment of all taxes, fees, or fines. Payment of all taxes, fees, or fines, interest, and penalties shall be required as a condition precedent to seeking judicial review of the validity or application of any such tax, fees, or fines.

**19.07 SUIT.**

Any action brought against the District upon any claim or demand shall conform to the requirements of Sections 940-949 of the California Government Code. Any action brought against any employee of the District shall conform with the requirements of Section 950-951 of the California Government Code.

**19.08 WARRANT FOR PAYMENT.**

If a claim or demand against the District is presented to the Board of Directors and allowed and ordered paid by it, the General Manager shall draw a warrant upon the Finance Director for the amount allowed, which warrant shall be countersigned by the General Manager. The warrant shall also specify for what purpose it is drawn and out of what fund it is to be paid.

If the warrant statement referred to shows sufficient available funds in the treasury legally applicable to the payment of the same, and in case of a written contract that the condition under which the money would become due has been performed, the General Manager shall cause a warrant to be drawn thereon, in the same manner as provided for the payment of other claims and demands.

**19.09 SPECIAL CLAIMS PROCEDURES.**


Notwithstanding the general provisions of Section 19.02 with respect to claims, pursuant to the authority contained in Section 935 of the California Government Code, the following claims procedures are established for those claims against the District for money or damages not now governed by state or local laws:


- A. Employee Claims. Notwithstanding the exceptions contained in Section 905 of the California Government Code, all claims by public officers or employees for fees, salaries, wages, overtime pay, holiday pay, compensating time off, or vacation pay, sick leave pay, and any other expenses or allowances claimed due from the District, when a procedure for processing such claims is not otherwise provided by state or local laws shall be presented within the time limitations and in the manner prescribed by Sections 910 through 915.4 of the California Government Code relating to the prohibition of suit in the absence of presentation of claims and action thereon by the Board of Directors.
- B. Contract and Other Claims. In addition to the requirements of this resolution, and notwithstanding the exemptions set forth in Section 905 of the California Government Code, all claims against the District for damages or money, when procedure for processing such claims is not otherwise provided by state or local laws, shall be presented within the time limitations and in the manner prescribed by Sections 910 through 915.4 of the California Government Code relating to the prohibition of suit in the absence of presentation of claims and action thereon by the Board of Directors.”

**Section 3: Severability.** If any section, subsection, paragraph, sentence, clause or phrase of this resolution is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this resolution, it being expressly declared that this resolution and each section, subsection, paragraph, sentence, clause and phrase thereof would have been adopted, irrespective of the fact that one or more other section, subsection, paragraph, sentence, clause or phrase be declared invalid or unconstitutional.

**Section 4: Construction.** This resolution is to be interpreted liberally and applied consistent with the interpretation and application of Article XIII, Section 32 of the California Constitution and Revenue and Tax Code Section 6931.

**PASSED, APPROVED, AND ADOPTED** at a regular meeting of the Board of Directors of Palmdale Water District held on Aug. 27, 2014.

  
Kathy MacLaren, President  
Palmdale Water District

  
Robert Alvarado, Vice President  
Palmdale Water District for  
Joe Estes, Secretary  
Palmdale Water District