



**SAWPA COMMISSION
SPECIAL MEETING MINUTES
JANUARY 10, 2017**

COMMISSIONERS PRESENT

Thomas P. Evans, Chair, Western Municipal Water District
Phil Anthony, Orange County Water District
Dave Slawson, Alternate, Eastern Municipal Water District
Susan Lien Longville, San Bernardino Valley Municipal Water District
Kati Parker, Alternate, Inland Empire Utilities Agency

COMMISSIONERS ABSENT

Ronald W. Sullivan, Secretary-Treasurer, Eastern Municipal Water District
Jasmin A. Hall, Inland Empire Utilities Agency

**ALTERNATE COMMISSIONERS
PRESENT; NON-VOTING**

Gil Navarro, Alternate, San Bernardino Valley Municipal Water District

STAFF PRESENT

Celeste Cantú, Rich Haller, Larry McKenney, David Ruhl, Kelly Berry

The Special Commission Meeting of the Santa Ana Watershed Project Authority was called to order at 9:30 a.m. by Chair Evans at the Santa Ana Watershed Project Authority, 11615 Sterling Avenue, Riverside, California.

1. CALL TO ORDER

Chair Evans welcomed newly appointed Commissioner Susan Lien Longville from San Bernardino Valley Municipal Water District. Longville has an extensive water background having served on the Regional Water Quality Control Board and formerly with the Water Resources Institute at California State University San Bernardino. Chair Evans also welcomed Kati Parker, a licensed Professional Engineer and newly appointed Alternate Commissioner from Inland Empire Utilities Agency and Gil Navarro, newly appointed Alternate Commissioner from San Bernardino Valley Municipal Water District.

2. ROLL CALL

Roll call was duly noted and recorded by the Clerk of the Board.

3. PUBLIC COMMENTS

There were no public comments.

4. ITEMS FOR COMMISSION CONSIDERATION

Larry McKenney noted the Commission would discuss Agenda Item No. 4.A. in Closed Session, with no action anticipated. At 9:34 a.m., Chair Evans recessed the meeting to Closed Session. Designated personnel essential to the discussion of Agenda Item No. 4.A. were present during Closed Session.

**A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO
GOVERNMENT CODE SECTION 54956.9(d)(1)**

Name of Case: Spiniello Companies v. Charles King Company, Inc., Santa Ana Watershed Project Authority, The Ohio Casualty Insurance Company (Superior Court of Los Angeles BC616589)

Chair Evans resumed Open Session at 10:40 a.m. There was no reportable action. The Commission next considered Agenda Item No. 4.B.

B. CONSIDER CONTRACT ACTIONS FOR REACH V REHABILITATION AND IMPROVEMENT PROJECT – PHASE I (CM#2017.5)

A revised CM#2017.5 was provided.

Staff's recommendation was to approve the items listed under Agenda Item No. 4.B.

Commissioner Anthony moved that the Commission table Agenda Item No. 4.B., which was seconded by Commissioner Slawson and a roll call vote was taken.

MOVED, table Agenda Item No. 4.B.

Result:	Failed (Lost; 2-3)
Motion/Second:	Anthony/Slawson
Ayes:	Anthony, Slawson
Nays:	Evans, Longville, Parker
Abstentions:	None
Absent:	None

Chair Evans announced that the motion to table failed. He moved to adopted staff's recommendation, which was seconded by Commissioner Longville.

Larry McKenney provided an oral presentation. The recommendation, to move forward with this approval without going to competitive bid, is based on authority provided in case law to award a contract without competitive bidding in a situation where the bid process would be unavailing or impossible which is based largely on the factual matters described in CM#2017.5 – unavailability of other bidders, the likelihood we would even receive bids and the statements of the terminated contractor to the effect that they could not find a replacement contractor.

McKenney noted that SAWPA received the following communications, a copy of which are attached to these meeting minutes, all reiterating that Charles King Company cannot complete the project because they were unable to find a supplier or subcontractor to do the installation, despite vigorously canvassing the industry, and on that basis they could not possibly proceed.

1. April 27, 2016 correspondence from Finch Thornton Baird, the law firm representing Charles King Company;
2. June 10, 2016 correspondence from Finch Thornton Baird, the law firm representing Charles King Company;
3. July 29 2016 correspondence from Booth Mitchel & Strange LLP, the law firm representing the performance bond surety; and,
4. Statements in Charles King Company's responses to interrogatories.

Commissioner Anthony asked if there is any code or statute supporting staff's recommendation. McKenney responded that the exception to the public competitive bidding process is not in statute; however, the common law doctrine was developed by numerous cases and is described in numerous treatises, guidebooks and handbooks addressing this doctrine, which is well-recognized.

Chair Evans called for a roll call.

MOVED, authorize the General Manager to:

1. Award a contract on the Inland Empire Brine Line Reach V Rehabilitation and Improvement Project – Phase 1 to Weka Inc. for an amount not to exceed \$12,950,113;
2. Execute Task Order No. VALI326-04 in an amount not to exceed \$1,252,400 with Vali Cooper & Associates, Inc. to provide Construction Management Services for the Inland Empire Brine Line Reach V Rehabilitation and Improvement Project – Phase 1; and,
3. Execute Task Order No. DUDK326-06 in an amount not to exceed \$134,900 with Dudek to provide Engineering Services during Construction for the Inland Empire Brine Line Reach V Rehabilitation and Improvement Project – Phase 1.

Result:	Adopted (Passed; 3-2)
Motion/Second:	Evans/Longville
Ayes:	Evans, Longville, Parker
Nays:	Anthony, Slawson
Abstentions:	None
Absent:	None

5. ADJOURNMENT

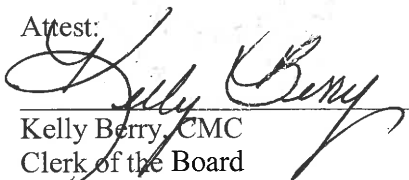
There being no further business for review, Chair Evans adjourned the meeting at 10:45 a.m.

Approved at a Regular Meeting of the Santa Ana Watershed Project Authority Commission on Tuesday, January 17, 2017.



Susan Lien Longville, Chair

Attest:



Kelly Berry, CMC
Clerk of the Board