

**Borrego Water District
MINUTES
Adjourned Meeting of the
Board of Directors of January 23, 2008
To
Wednesday, February 13, 2008
9:00 AM
806 Palm Canyon Drive
Borrego Springs, CA 92004**

I. OPENING PROCEDURES

- A.** Call to Order: President Mendenhall called the meeting to order at 9:00 a.m.
- B.** Pledge of Allegiance: Those present stood for the Pledge of Allegiance.
- C.** Roll Call: Directors: Present: President Mendenhall, Vice-President King, Secretary/Treasurer Andersen, Shimeall, Smiley
Staff: Richard Williamson, General Manager
Allison Burns, Stradling, Yocca, Carlson & Rauth
Greg Holloway, Water Operations Supervisor/Safety Administrator
Wendy Quinn, Recording Secretary
Public: Jim Engelke, Lundberg Milt Caldwell
Judy Meier, *Borrego Sun* Mary Mitts
Rudy Monica Bob McKee
Tim Ross, CA DWR Beth Hart
Thomas Fredericks Beverly Kuhrts
Jack Kuhrts

D. Approval of Agenda: *MSC: King/Andersen approving the Agenda as written.*

E. Comments from the Public and Requests for Future Agenda Items: Jim Engelke presented photographs of a test pit which had been dug three years ago and filled with water during the last storm. He reported on the new test well on Yaqui Pass. The casing was drilled to 500 feet, they hit water at 300 feet, and the well is producing 400 gallons per minute. In response to President Mendenhall's question, Mr. Engelke confirmed he would continue to provide data from the well to Jerry Rolwing.

F. Comments from Directors and Requests for Future Agenda Items: None

G. Correspondence:

1. Letter from Milt Caldwell. Rich Williamson reported a letter from Milt Caldwell, who was unhappy that the District crew had damaged foliage on his property during meter installation.

2. Letter responding to Milt Caldwell – Jerry Rolwing. Mr. Williamson reported that Mr. Rolwing replied to Mr. Caldwell, assuring him the District did not intend to cause problems and was taking steps to avoid such situations in the future. Mr. Caldwell was extended a \$100 credit on his construction meter rental. Mr. Caldwell spoke regarding District policy, noting the damage to natural vegetation on his property. He suggested that on larger parcels, exemptions from the practice of placing the meter on the corner of the property be considered. Mr. Williamson agreed to explore the matter, and President Mendenhall asked that he work with Mr. Rolwing and Allison Burns.

3. E-mail approving proposed water tiers – Phillip & Joan Carskaddan. Mr. Williamson read an e-mail dated February 1 from Phillip and Joan Carskaddan, supporting the tiered

water rate proposal and encouraging use of gray water. Beth Hart asked whether the District would read all correspondence regarding tiered rates. Mr. Williamson replied that all correspondence would be read, but not necessarily aloud at the meetings. If a lot is received, the number for and against the proposal will be reported to the public. Director Smiley reported that a letter dated January 31 was received from Robert Veora in opposition to the tiered rates. Ms. Burns announced that the public could request copies of any of these letters from District staff. A copying fee may be charged.

II. CLOSED SESSION

A. Performance Review for Operations Manager – reference Government Code section 54957:

B. Conference with Legal Counsel – (one potential case) – reference Government Code section 54956.9(b):

The Board adjourned to closed session at 9:15 a.m., and the public session reconvened at 9:45 a.m. Ms. Burns announced that the Board voted unanimously to reject a claim submitted to the Board under the Government Tort Claims Act.

III. CURRENT BUSINESS MATTERS

A. Consideration of the Board to approve a job description for the Operations Manager: *MSC: Andersen/King approving the job description for the Operations Manager as proposed.*

B. Consideration of the Board to approve a merit increase for the Operations Manager: *A motion was made by Director Andersen and seconded by Director Smiley to approve a merit increase of \$1,000 per month for the Operations Manager. The increase was granted on a temporary basis while Mr. Rolwing was serving as Interim General Manager and by this action would be made permanent. The motion carried unanimously.*

C. Consideration of the Board to revise *POLICY NO. 2005-5-1 ON DESTRUCTION SCHEDULE FOR BOARD MEETING TAPES* to read *The District will record all public meetings and maintain these recordings at the District's Administrative Office for a minimum period of 30 DAYS (instead of 5 years after the meeting) after the date of the Board's approval of the minutes of the meeting, at which time the recordings will be destroyed or erased:* President Mendenhall noted that this item had been considered by the Board previously; he considered it a good policy and asked that it be reconsidered. *A motion was made by Director King and seconded by Director Andersen to approve the revision to Policy No. 2005-5-1 as proposed.* Director Shimeall expressed support for the revision, noting it was consistent with the Brown Act. Mr. Williamson stated that his previous employer in Arizona kept them for six months. Ms. Burns pointed out that most public agencies retain them for 30 days, and five years is unusual. Citizens wishing to keep certain recordings may request them. Lane Sharman asked whether the destruction could be considered destruction of evidence. Ms. Burns stated it could not, because there is another record of the proceedings. *The motion to revise the Policy was carried unanimously.*

D. Consideration of the Board to approve changing the regular (fourth Wednesday of the month) Board meeting time to 9:15 a.m. instead of 9:00 a.m. *MSC: King/Andersen changing the regular Board meeting time to 9:15 a.m. AYES – King, Andersen, Smiley, Mendenhall; NOES – Shimeall.* Director King stated she had intended for the time change to apply to the adjourned (second Wednesday of the month) Board meeting as well, and Ms. Burns agreed to put the matter on the next Agenda.

IV. GROUNDWATER MANAGEMENT

A. Report and update of DWR three year Groundwater Investigation proposal – Tim Ross: Mr. Williamson introduced Dr. Tim Ross, manager of the Groundwater Section of the Southern

California Department of Water Resources. Dr. Ross referred to the DWR proposal late last year for a joint investigation with BWD, which was supported by the District. Since then the expert panel was convened by the District, and their ideas coincided with DWR's. Costs, including staff time, would be shared between DWR and BWD. Individual projects would be identified by BWD, and DWR would act as consultant/technical advisor. Dr. Ross noted that background data would need to be compiled initially, such as what wells exist and what information they provide. Contract documents for the joint study are being compiled, and will include reporting requirements and formats. Dr. Ross confirmed that a representative of DWR would participate in the annual groundwater meeting in March, either by offering a formal presentation or leading a discussion. He suggested that meeting could initiate the first project, a canvas of existing wells via questionnaires to owners and potential owners covering the age, size and usage of their wells. Director Smiley urged that data on the annual extraction from each well be kept confidential. Ms. Hart expressed concern regarding the Public Records Act, and Mr. Williamson agreed to work with Ms. Burns to assure confidentiality.

Director Smiley asked whether at the conclusion of the three-year study the useful life of the aquifer would be calculated. Dr. Ross explained that the number of variables, such as water quality, pumping costs, recharge and well depths make an exact calculation difficult, but the study will bring us closer to an estimate. Mr. Williamson noted the importance of gathering data on subsidence and recharge before spending money on importation and storage. After compiling a contract or MOU, working with Ms. Burns, the matter will be brought back to the Board.

Director Smiley inquired about financial provisions. Dr. Ross explained there are options. Mr. Williamson preferred assigning a pool of money to the projects with monthly billings coinciding with deliverables, to provide a better audit trail.

Director Smiley inquired about two gauging stations which had been destroyed and whether they could be rebuilt. Dr. Ross replied they could offer valuable data on climate patterns. He didn't know whether the USGS would rebuild them but agreed to investigate.

President Mendenhall declared a recess at 10:40 a.m., and the Board reconvened at 10:50 a.m.

B. Clark Lake Well drilling update – Rich Williamson: Mr. Williamson reported he had reviewed the contract documents for the Clark Lake Well drilling project, discussed it with Bill Mills, and had some concerns regarding priorities. He felt a multi-faceted approach was needed, Clark Lake may be a part of it, but he requested it be put on hold at this time pending further investigation. He pointed out that if water at Clark Lake is determined to be suitable for Borrego's use, a pipeline will be required at a cost of approximately \$4 million. He recommended a few months' delay, consultation with experts and a well design, then agreed to return to the Board with a recommendation.

C. Board to consider approving the General Manager to solicit proposals from Hydrologists for well design/analysis/groundwater investigation for proposed Clark Lake facilities: *A motion was made by Director Shimeall and seconded by Director Smiley to suspend action on soliciting proposals from hydrologists for the Clark Lake facilities for three months to provide opportunity for further review and investigation.* President Mendenhall suggested modifying the existing well at Clark Lake, and discussion followed. Though there was uncertainty, it was the consensus that it had been filled in and abandoned. Ms. Burns explained that a motion was not necessary to suspend action on the item, and *Directors Shimeall and Smiley withdrew their motion and second.*

D. Submittal of Protest Application of the Viking Ranch Project by Borrego Water District: Mr. Williamson reported that the District had filed a Protest to Application No. 31658, whereby Lundavid proposed to appropriate water from Coyote Creek. The grounds for the Protest were that the Application misidentified the BWD boundaries, erroneously lists BWD as the preparer of environmental

documents, and fails to identify surplus water. The State has not yet responded to the Protest. Mr. Engelke reported that six protest letters had been received, and he and his client would be responding.

V. GENERAL MANAGER'S REPORT

President Mendenhall reported that James McConnell had offered to attend today's meeting, but President Mendenhall and Mr. Williamson agreed that a written report would suffice and save money. Mr. Williamson added he had talked to Mr. McConnell by phone and he was available to attend a meeting on February 27 or in March upon request. Mr. McConnell's report announced that section 5039 of the Water Resources Development Act provides \$40 million for environmental assistance. He suggested the District apply for partial funding for in importation study with the Imperial Irrigation District or other agency with water rights and an interest in storage. Another option is water banking, which is common in Arizona and warrants further study. President Mendenhall suggested we consider only importing the amount of water being overdrafted and storing it in a small facility within the District. Mr. Sharman asked whether importation of water would confer the right to manage its extraction. Mr. Williamson replied that it would depend on the agreement covering the importation.

VI. ATTORNEY'S REPORT

Ms. Burns invited the Board's attention to the County authorization in the Agenda packet allowing the District to set its own meeting dates and times without County approval.

She further reported on a recent meeting with County Counsel and Department of Planning and Land Use staff regarding the fallowing policy. Issues included enforcement, accounting, CEQA requirements and coordination with the County Health Department. Ms. Burns expected the policy to be finalized soon. Mr. Sharman suggested that Stadling, Yocca, Carlson & Rauth consider serving as a third-party auditing source to protect confidentiality, among other things.

VII. INFORMATIONAL ITEMS

A. An Amendment of the Borrego Water District's Administrative Code Section 4:1.1 was approved by the County of San Diego Board of Supervisors on Wednesday, January 30, 2008: This item was covered during the Attorney's Report.

B. The Annual Groundwater Management Meeting will be held on Wednesday, March 19, 2008 @ 4:00 p.m. in the Performing Arts Center: Ms. Burns noted that written protests on the tiered rate proposal are due by April 9. Verbal protests are welcome, but to be counted toward the 51 percent protest necessary to abandon the proposal or put it to public vote, they must be in writing. Protests may be filed by landowners within the District who have meters. The procedure is mandated by the California Constitution. Ms. Hart pointed out that the letter from the District included with the water bills states that renters may protest if they pay the water bill. Ms. Burns explained that the owner or the tenant could protest, but not both. Director Andersen emphasized that protests must be addressed to the District, not to individual Board members; and Ms. Burns added that they must be signed. Discussion followed regarding the need to reference the Assessor's Parcel Number. Ms. Burns recommended it be included, but if Mr. Rolwing deems it unnecessary it would be optional. Director Shimeall suggested that Mr. Rolwing be requested to include information on protest requirements in the tiered rate Powerpoint presentation, as well as tips on how to read a water bill and how to identify your AP number. Ms. Burns suggested this information could also be posted in the District lobby.

VII. ADJOURNMENT

There being no further business, the meeting adjourned at 11:50 a.m. The next Regular Meeting of the Board of Directors is scheduled for Wednesday, February 27, 2008 in the District's Board Room.