

Borrego Water District
CORRECTED MINUTES
Regular Meeting of the
Board of Directors of April 23, 2008
9:15 AM
806 Palm Canyon Drive
Borrego Springs, CA 92004

I. OPENING PROCEDURES

- A.** Call to Order: President Mendenhall called the meeting to order at 9:20 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

Absent: Smiley

Staff: Richard Williamson, General Manager
Allison Burns, Stradling, Yocca, Carlson & Rauth
Jerry Rolwing, Operations Manager
Kim Pitman, HR/Finance Specialist
Wendy Quinn, Recording Secretary

Public: Jim Engelke Greg Stumpf
Judy Meier, *Borrego Sun* Ray Shindler
Mary Mitts Brian Siefker, Southwest Development Co.
Betty McKee Beth Hart
Clayton Isemann Dennis Dickinsen
Dennis Russell, BSPCSD Bob McKee
Lynn Smith, BSPCSD Jim Smith
David Dale, BSPCSD

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

- E.** Approval of Minutes

1. 7th Town Hall Meeting Minutes/Agenda March 19, 2008. Director Shimeall requested that the account of Bill Mills' report on the expert panel convened last December include the names of the participants. Rich Williamson pointed out that Gary Haldeman, not Greg Holloway, introduced Speaker #3 (Jerry Rolwing). *MSC: King/Andersen approving the 7th Town Hall Meeting Minutes/Agenda of March 19, 2008 as corrected.*

2. Regular Meeting of March 26, 2008. *MSC: King/Andersen approving the Minutes of the Regular Meeting of March 26, 2008 as written.*

3. Regular Meeting of April 9, 2008. *MSC: Shimeall/King approving the Minutes of the Regular Meeting of April 9, 2008 as written.*

F. Comments from the Public and Requests for Future Agenda Items: Bob McKee referred to an April 18 article in the *Union Tribune* regarding three dangerous weeds, including tamarisk trees. Some are being removed by the Corps of Engineers, and he recommended obtaining an estimate of the cost to remove them from Borrego Springs.

- G.** Comments from Directors and Requests for Future Agenda Items: None

H. Correspondence: Mr. Williamson reported he had received an e-mail from Mike Medema regarding the new tiered rate proposal. Mr. Medema believed the proposal was flawed pursuant to Proposition 218 and California Constitution Article 13B due to a lack of relationship

between costs and fees and could be subject to legal challenge. Mr. Williamson will respond, with the assistance of Allison Burns, who has determined that the proposal meets the necessary criteria.

II. CURRENT BUSINESS MATTERS

A. Board of Consider **RESOLUTION NO. 2008-4-2, A RESOLUTION OF APPLICATION BY THE BORREGO WATER DISTRICT REQUESTING THE SAN DIEGO LOCAL AGENCY FORMATION COMMISSION TO TAKE PROCEEDINGS FOR THE "BORREGO SPRINGS PARK REORGANIZATION"**: Mr. Williamson explained that the Resolution before the Board mirrors the one which the Borrego Springs Park Community Services District (CSD) has been requested to adopt. The action is being termed a "reorganization," because the CSD would be dissolved and the area annexed to BWD. *A motion was made by Director Shimeall and seconded by Director King to adopt Resolution No. 2008-4-2, A Resolution of Application by the Borrego Water District Requesting the San Diego Local Agency Formation Commission to Take Proceedings for the "Borrego Springs Park Reorganization."* Dennis Russell, President of the CSD Board, recommended against signing the current Resolution and proposed Memorandum of Understanding (MOU). He noted that the CSD had just received the latest versions last night and still had some concerns. The CSD is committed to the reorganization and wants to move forward, but Mr. Russell pointed out that negotiations have been going on since 2002. He further recommended that the two Districts retain outside counsel. Representatives of the CSD had met with attorneys from Best, Best & Krieger and obtained a cost estimate (hourly rates ranging from \$160 to \$225 for 15 to 20 hours' work). Mr. Russell predicted that the cost of the LAFCO proceedings would be less if all documents were in order before submission. The majority of the CSD Board concurs in the retention of outside counsel. Mr. Williamson assured Mr. Russell that the CSD has every right to retain counsel, but he saw no reason for BWD to share the cost or consult with anyone other than Ms. Burns. He suggested a recess, during which committees and staff from the two Districts could discuss the issues in the hopes of taking action today. *MSC: King/Andersen tabling the motion to adopt Resolution No. 2008-4-2 until after the recess.* Clay Isemann requested an opportunity to address the Board, noting that he was a CSD Board member but speaking as a private citizen. Mr. Williamson replied that would be a violation of the Brown Act, since two other CSD Board members were present and participating in the reorganization committee. Ms. Burns shared his concern, and Mr. Isemann withdrew his request to speak.

President Mendenhall declared a recess at 9:40 a.m., and the Board reconvened at 10:40 a.m.

MSC: Shimeall/King taking the motion to adopt the Resolution off the table. Mr. Williamson announced that he and Ms. Burns recommend adopting the Resolution in its present form with the understanding that the CSD will review it with its own counsel and may requested modifications. *MSC: Shimeall/King adopting Resolution No. 2008-4-2. RC: AYES – Shimeall, King, Andersen, Mendenhall; ABSENT – Smiley.*

B. Board to Consider **FIRST AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN BORREGO SPRINGS PARK COMMUNITY SERVICES DISTRICT, A CALIFORNIA COMMUNITY SERVICES DISTRICT, AND BORREGO WATER DISTRICT, A CALIFORNIA WATER DISTRICT**: Ms. Burns distributed copies of the revised MOU, and Mr. Williamson pointed out changes just agreed to by the reorganization committee. On page 4, paragraph 5, the first bullet, a provision was added that the reimbursement by ID-5 to the BWD General Fund for 50 percent of the reorganization/annexation costs incurred by BWD shall **not** include the cost of the interim intertie. The second bullet in the same paragraph was revised to read, "If this Restated MOU is terminated by either party prior to the Reorganization/Annexation being accomplished, section

8 hereof shall apply.” Language was added at the end of paragraph 8 on page 6 to read, "except the CSD shall only be responsible to reimburse BWD 50 percent of reorganization/annexation costs." The paragraph was further revised to include a provision that those costs would be paid by CSD within 36 months of the issuance of the termination notice. Mr. Williamson and Ms. Burns recommended approval of the MOU with the understanding that LAFCO and CSD may request further amendments, but the basic framework reflects agreement of the committee on behalf of both Districts. **MSC: King/Shimeall approving the First Amended and Restated Memorandum of Understanding Between Borrego Springs Park Community Services District, a California Community Services District, and Borrego Water District, a California Water District, with the further amendments as noted by the BWD General Manager in his presentation. RC: AYES – King, Shimeall, Andersen, Mendenhall; ABSENT – Smiley.**

C. Board to authorize the General Manager to purchase a new vehicle before FYE at a not to exceed price of \$35,000 due to the poor condition of current vehicle and upcoming travel obligations: Mr. Williamson referred to pages 33 through 35 in the Agenda package outlining the proposed purchase of a new vehicle to replace the Explorer, which has accrued 107,000 miles and was scheduled for replacement next year. Unexpended funds are available in the current budget, and Mr. Williamson recommended taking advantage of current pricing. The Budget Committee concurs. Beth Hart asked whether the price was negotiated, and Mr. Williamson replied that three quotes were obtained, and the recommended deal was the lowest. **MSC: King/Andersen authorizing the General Manager to purchase a new vehicle before FYE at a not to exceed price of \$35,000 due to the poor condition of current vehicle and upcoming travel obligations.**

D. Board to consider rejection of Tiered Water Rates as proposed in the "BORREGO WATER DISTRICT NOTICE OF PUBLIC HEARINGS FOR WATER RATE CHANGES" transmitted to rate payers on or about January 25, 2008: **MSC: King/Andersen rejecting the Tiered Water Rates as proposed in the "Borrego Water District Notice of Public Hearings for Water Rate Changes" transmitted to rate payers on or about January 25, 2008.**

E. Board to Consider **RESOLUTION NO. 2008-4-3, RESOLUTION OF THE BOARD OF DIRECTORS OF THE BORREGO WATER DISTRICT, SAN DIEGO COUNTY, CALIFORNIA, DESIGNATING THE GENERAL MANAGER TO ENTER INTO AN AGREEMENT WITH DEPARTMENT OF WATER RESOURCES ON THE BORREGO VALLEY GROUNDWATER BASIN INVESTIGATION PROJECT:** Mr. Williamson suggested approving a one-year term of the three-year DWR groundwater investigation at a maximum cost of \$150,000. He felt the first year would be the most valuable, wanted to reevaluate the project after that and perhaps involve agriculture and golf courses in cost sharing. **MSC: Shimeall/King adopting Resolution No. 2008-4-3, Resolution of the Board of Directors of the Borrego Water District, San Diego County, California, designating the General Manager to Enter into an Agreement with Department of Water Resources on the Borrego Valley Groundwater Basin Investigation Project. RC: AYES – Shimeall, King, Andersen, Mendenhall; ABSENT – Smiley.**

F. Written Status Report by Washington Lobbyist James McConnell: Mr. Williamson reported that Mr. McConnell feels this would be a good time for a BWD delegation to visit Washington D.C. to meet with our Congressional delegation and staff of the USDA. There are a number of programs available which could assist with an importation line, plus the De Anza flood control project is pending. Mr. McConnell is available on May 19 and 20, and suggested two BWD Board members join him. Mr. Williamson suggested deciding who will attend at the next Board meeting. Director Andersen expressed concern regarding the expense, and Mr. Williamson responded that the presence of local elected officials carries more weight with the legislators. Mr. McKee urged the team to pursue funding for tamarisk removal.

G. Consideration of the Sewer System Management Plan – Development Plan Schedule:

Mr. Williamson referred to Kim Post's written report in the Agenda package outlining a plan required by the State to ensure that potential sewer system overflows are minimized. Because our system is small, the risk is limited and the plan will be simple to develop. It will be accomplished during the next two years, mainly in house. *MSC: King/Shimeall acknowledging receipt of the State requirements and approving the Sewer System Management Plan Schedule as presented in the Agenda.*

III. COMMITTEE REPORTS & PROPOSALS

A. Ad Hoc Committees

1. Review of grant opportunities. Mr. Rolwing reported that Bill Mills is working on a Water Supply Plan, which is similar to a Groundwater Management Plan and establishes goals. It is part of the Integrated Regional Water Management Plan, in which BWD would join with regional partners in order to qualify for Proposition 84 funds. Potential participants include the Salton Sea Community Services District, Salton Sea Authority and Coachella Water District. Mr. Rolwing and Mr. Mills will participate in a workshop soon and have already met with the DWR. President Mendenhall requested a copy of Mr. Mills' report.

Mr. Rolwing reported there is a new General Manager at Imperial Irrigation District, Bob Brady, formerly from Rancho California Water District.

Mr. Rolwing followed up with the Department of Health Services on our grant applications for well security and the sewer system and learned that a short list should be available by early summer. Those agencies whose projects are included would then reapply with a more detailed plan.

2. Personnel. Director Shimeall reported that the Personnel Committee would be meeting on April 30 to review personnel actions as they relate to the new budget. Work on job descriptions, policies, organization charts and benefits is continuing.

3. Budget and Finance. Mr. Williamson hoped to have a Budget and Finance Committee meeting in mid-May. Director King announced she would be absent May 8 through 23, and all agreed to schedule the meeting for May 1 at 3:00 p.m.

Mr. Williamson reported that Mr. Rolwing and Kim Pitman were working on the latest bond refinancing and hoped to close before the end of the fiscal year. We decided to take the \$225,000 proceeds up front, rather than in increments.

4. BSPCSD. These issues were addressed earlier in the meeting.

5. Contract labor review. It was agreed to combine contract labor review with the May 1 Budget and Finance Committee meeting.

6. Negotiating.

a. Special Meeting Agenda and Minutes of March 27, 2008

b. Meeting Agenda and Minutes of April 2, 2008

Director Shimeall invited the Board's attention to the two Negotiating Committee Agendas and Minutes in today's Agenda package. She requested that she be listed in the attendance of both meetings under "public," rather than "Directors," since she is not a member of the Committee. She further requested that the April 2 Minutes near the top of Agenda page 56 be amended to read in part, "Water meters would be made available at cost inside homes to monitor usage"

7. Town Center Sewer. No report.

8. GWM Plan update. No report.

B. Standing Committees

Conservation. Director Shimeall invited the Board's attention to the Agenda and Minutes of the last Conservation Committee, included in today's Agenda package. She requested that the word "Special" be removed from the heading; the date was changed, but it was not a Special

Meeting. Mr. Williamson proposed that the May 7 Committee meeting be moved to April 30 because of a conflict with a meeting of the Association of California Water Agencies.

C. Comments & Suggestions. Mr. McKee inquired how the meters would be counted in notifying and protesting the new tiered rate proposal, since the commercial and irrigation rates had been deleted. Mr. Williamson explained that commercial and irrigation customers would be billed at Tier 1, and the District will work with the commercial users to observe best management practices without jeopardizing their businesses. The only true irrigation customer is Montesoro, and the District will discuss options and golf course management practices with them. Master metered communities will be assigned a ceiling for Tier 1 based on the number of units served. If they exceed the ceiling, the rate goes to Tier 2.

IV. CONSENT AGENDA: The Consent Agenda includes reports that are distributed with the Agenda packet and are submitted for filing following Board approval. At the first Board meeting of each quarter, **Jan/April/July/October**, these items will be discussed in full. Any member of the Board, staff or public may request items from the Consent Agenda be removed for discussion. Items so removed shall be acted upon separately immediately following approval of items remaining on the Consent Agenda.

APPROVAL OF QUARTERLY REPORTS
MARCH, 2008

A. Water and Wastewater Operations Report. President Mendenhall inquired about the system problems reported on Agenda page 62, and Mr. Rolwing replied that they had been taken care of. Mr. Williamson asked what exactly was meant by "All restaurant grease traps were clean." Mr. Rolwing explained that all traps are inspected to ensure they are not plugged up. Mr. Williamson pointed out that sometimes grease cutting agents are used and the lines become clogged further on. Mr. Rolwing referred him to staff, and Mr. Williamson promised to report back to the Board.

B. Water Production/Use Records. Mr. Rolwing reported that the unaccounted water is continuing to decline due to ongoing meter replacement.

C. Financial Reports

1. Disbursements & Claims Report
2. Financial Statement
3. Treasurer's Report
4. Expenditures on Groundwater Management
5. BWD/BSPCSD Intertie/MOU Accounting
6. Expenses for Board Consideration and Approval
7. Year to Date Meter Installations
8. Meter Installation History

Ms. Pitman summarized the Financial Reports, and discussion followed regarding the BWD/BSPCSD Intertie/MOU Accounting. There were some uncertainties as to the cost allocations, and Mr. Williamson agreed to investigate and ensure the Financial Report is consistent with the MOU. Director Shimeall inquired about some inconsistencies in the Meter Installation reports, and Mr. Rolwing agreed to investigate. *MSC: King/Shimeall approving the Financial Reports.*

V. STAFF REPORTS

A. General Manager's Report. Pursuant to the Board's request, Mr. Williamson had included a prioritized list of projects in the Agenda package, based on Russ Fogarty's list. He summarized the items, noting the Groundwater Management Plan update as top priority. Establishment of a cost accounting system and employee review system are in process. Ongoing projects included

policy update, Montesororo expansion, CSD reorganization, grants, Viking Ranch, conjunctive water use, Mesquite Trails, creation of a newsletter and water rate development. Completed projects were also included in the list. Mr. Williamson stated he would provide an updated list at alternate Board meetings. President Mendenhall suggested including the Community Park issue as a separate item, and Beth Hart suggested the Clark Lake project.

B. Engineer's Report. Mr. Williamson reported that the Mesquite Trails project is progressing, with plans to begin grading this fall and opening a year later. He met with representatives of the Yaqui Pass project, who plan to mitigate partly by fallowing and partly by payment rather than using the Viking Ranch recharge project. They plan to present engineering design quotations to the Board and make a selection in June or July. President Mendenhall inquired about the District's protest to the Viking Ranch recharge basin environmental documents. Mr. Rolwing reported he received a response from their attorney and forwarded it to Ms. Burns. Mr. Williamson further reported that he would be meeting with representatives of Montesororo to finalize acceptance of recently completed infrastructure and discuss the golf course redesign. Dennis Dickinsen inquired about mitigation for Montesororo's increased water use, and Mr. Williamson agreed to investigate. Mr. Williamson reported he plans to develop a review process for development, keeping some in house and including an RFQ procedure and scope. He noted that it is not the District's role to redesign projects which are unacceptable.

C. Operations Report. Mr. Rolwing reported that the CIMIS station is operational and he has website information and sample data sheets available. He further announced a desert landscaping workshop at the Joshua Tree Community Center on May 17, for which he had information and registration forms available.

VI. ATTORNEY'S REPORT

Mr. Williamson questioned the advantage of involving the County in the District's mitigation policy. He suggested requiring a combination of fallowing and a fee, which could go toward an importation pipeline. President Mendenhall explained that so far the County will only accept fallowing as mitigation, but Ms. Burns pointed out that the County has not completed any new projects offering fallowing as mitigation. Mr. Williamson stated that BWD is a part of State Region 10 (San Diego County), and perhaps we are better suited to Region 9 (Imperial and Riverside). He planned to attend an upcoming Region 9 meeting and inquire about possible transfer or becoming an associate member.

VII. INFORMATIONAL ITEMS

None

VIII. CLOSED SESSION

None

IX. CLOSING PROCEDURE

There being no further business, the meeting adjourned at 12:40 p.m. The next Regular Meeting of the Board of Directors is scheduled for Wednesday, May 14, 2008 in the District's Board Room.