

**Borrego Water District
MINUTES
Regular Meeting of the
Board of Directors of April 9, 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 9:15 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
Jerry Rolwing, Operations Manager
Kim Pitman, HR/Finance Specialist
Wendy Quinn, Recording Secretary
Public: Jim Engelke Ronald Del Guercio
Judy Meier, *Borrego Sun* Ray Shindler
Rudy Monica Harry Anderson
Betty McKee Beth Hart
Mary Delaney Maggie Lacey Schneider
Jim Jordan Willie Sanders
Lane Sharman, BWX Dennis Dickinsen
Tom Martin Rebecca Falk
R.D. Sheldon Gerald Ehly
Reuben Ellis Steven Ludwig
Harry Preston Grace Preston
Lavonne Himeck Nancy Miller
Janice Hansen Lee Del Guercio
John Roddler Joe Russely
Judy Haldeman Beth Hart
Clark Shimeall Bob McKee
Laura Maxwell Ken Smith, KSD Hawaii
- D. Approval of Agenda: *MSC: Shimeall/Smiley approving the Agenda as written.*
- E. Comments from the Public and Requests for Future Agenda Items: None
- F. Comments from Directors and Requests for Future Agenda Items: None
- G. Correspondence: None

II. CURRENT BUSINESS MATTERS

- A. Public Hearing to hear testimony and consider adoption of a resolution regarding the proposed rate changes: President Mendenhall opened the public hearing at 9:17 a.m. Rich Williamson announced that at the last Board meeting, based on the comments at the town hall meeting and the number of protests to the tiered rate proposal, he had asked President Mendenhall to appoint a Negotiating Committee to meet with concerned citizens and negotiate a revised rate plan. The

Committee, comprised of President Mendenhall and Director Smiley, has met twice and then followed up with the Conservation Committee. As a result, the proposed tiered rates have been modified, the conservation program strengthened and specific goals established. The new proposal calls for two tiers rather than three, with Tier 1 at the current rate and Tier 2 1-1/2 times that rate. The Tier 1 limits have been raised to 45 units per month in winter, 55 in summer. As an incentive to large water users to conserve and address concerns regarding consideration of lot and family size, rates for those in Tier 2 will be reduced to the Tier 1 level if they conserve ten percent based on their four-year average usage. The new rates will not be implemented until July 2009. In the meantime, the conservation program (education, water audits and incentives) will be implemented. Mr. Williamson hoped to achieve a 15 percent reduction in water usage by July 2013. The program will continually be evaluated and modified as appropriate. Today the Board was requested to adopt the conservation program, but approve the tiered rates in concept and initiate another Proposition 218 procedure for the modified proposal.

Jim Jordan noted that the District was focusing on ten percent of the users (residents), and asked about agriculture and golf courses. Mr. Williamson explained that the District has no authority over agriculture or most golf courses. The aquifer will not provide a sustainable water supply for the valley, and the conservation is important to assist in funding imported water by obtaining grants.

Bob McKee asked, since commercial rates have been deleted from the proposal, how many notices will be sent out during the next Proposition 218 procedure and how many protests will be required to defeat it. Mr. Williamson replied that the numbers would be the same, since everyone who has a water meter would receive notice and be entitled to protest. He explained that the commercial users account for a very small percentage, mostly restaurants and motels, and restricted water use could severely impact their business. They will be encouraged to use best management practices such as water conserving dishwashers and offering multiple night guests the option of not having their sheets washed every day. Mr. Williamson further pointed that the only true irrigation customer is Montesorro, which will be considered individually following review of their current agreements with the District.

Laura Maxwell asked where the District would import water from. Mr. Williamson replied there are three or four options and more may be identified. We can look for groundwater basins outside of ours or try to acquire water rights anywhere in the southwest from areas with access to Colorado River water and pump it through the Imperial Irrigation District.

Dennis Dickinsen asked whether the conservation plan which the Board was asked to approve today included tiered rates. Allison Burns explained that tiered rates were part of the overall conservation program, but they would not be adopted today. They would be approved in principle, and the Proposition 218 process would be initiated leading to final action after notice and hearing. President Mendenhall pointed out that if 51 percent of the ratepayers protest the revised rates, the District will have to wait a year before submitting another proposed rate change. The protests received on the first tiered proposal will not count; those wishing to protest the revised tiers must resubmit. Beth Hart asked whether the first proposal would be withdrawn, and discussion followed. Ms. Burns explained that the Board may take no action, in which case the first proposed rates would not be adopted, or vote at the next meeting to withdraw the proposal after it has been agendaized. Director King requested that withdrawal of the first tiered rate proposal be placed on the next Agenda.

Maggie Lacey Schneider complimented the Board on its efforts, and reported that De Anza Country Club was reviewing its landscaping and irrigation practices. She recommended that the District's next notice to ratepayers not make reference to raising money, but emphasize the importance of conservation. She stressed the importance of public relations.

Mary Delaney noted that the tiered rates would not conserve much water but were necessary to secure grants for an importation pipeline, which could pay for up to 75 percent of the cost. She asked where the other 25 percent would come from, and further expressed concern that the pipeline might be built and then a source of imported water not be found. Mr. Williamson replied that the local

share of the cost would probably be covered by issuance of general obligation bonds and repaid through property taxes. He assured her that water rights were available for purchase, and identification of a water supply would be a separate effort.

Grace Preston asked whether agriculture and golf courses would receive the imported water, and Mr. Williamson replied that it would only go to customers of the District. He pointed to the need to coordinate land use decisions and water resource policy so that agricultural land may be converted to residential. The District is working with the County toward this end.

Lane Sharman announced that the Conservation Committee had worked for years on the conservation and tiered rate program and wanted to submit a minority report outlining its objections to the current revised proposal. Nevertheless, he thanked the community for working together and expressed his support for the revised program.

Mr. McKee referred to Exhibit B to the Resolution adopting the Conservation Management Plan, which referred to reducing water use levels consistent with those in similar communities. He did not believe the communities with which Borrego Springs was compared were similar because they were west of us, and that other desert areas such as Holtville should have been used. Mr. Williamson noted that Borrego Springs is in a unique situation as a community with growth potential which is not tied into any type of imported water. However, the government will compare our usage to that in other communities when evaluating grant applications.

William Sanders inquired about the suggested four-year history to be used in moving a Tier 2 customer to Tier 1 if they reduce usage by ten percent. He had been here only two years and was absent much of the time, so he wondered how his rate would be calculated. Mr. Williamson replied that the issue would need to be addressed by the Conservation Committee.

Hearing no further comments, President Mendenhall closed the public hearing at 10:20 a.m.

B. Consideration of the Board to adopt *RESOLUTION 2008-4-1 ADOPTING TIERED WATER RATES*: Mr. Williamson referred to the minority opinion submitted by the Conservation Committee. He noted that the proposed Resolution was the result of negotiation and public input, and requested adoption of tiered rates in principle, authorization for staff to proceed with Proposition 218 requirements and adoption of the Conservation Management Plan. Mr. Williamson explained that the Conservation Committee would have preferred to retain a third tier, lower the tier limits and include commercial and irrigation rates. Director Shimeall presented the dissenting opinion, but noted she favored adopting the proposed Resolution today. She noted that though compromise was necessary, the Committee felt too much was eliminated from the original proposal, which was designed to target those who use more water than half the Borrego residents. Many who worked on that proposal felt their work was devalued by sweeping, last minute changes and would be discouraged from participation on the Committee. Jerry Rolwing announced that the Conservation Committee meetings are open to the public and are held the first Wednesday of each month at 9:00 a.m. in the District Board Room. ***MSC: King/Smiley adopting RESOLUTION NO. 2008-4-1, RESOLUTION OF THE BOARD OF DIRECTORS OF THE BORREGO WATER DISTRICT, SAN DIEGO COUNTY, CALIFORNIA, ADOPTING IN PRINCIPLE TIERED WATER RATES SUBJECT TO SUBSEQUENT COMPLIANCE WITH PROPOSITION 218 AND ADOPTING THE BWD FIRST CONSERVATION MANAGEMENT PLAN. RC: AYES – King, Smiley, Andersen, Shimeall, Mendenhall.***

President Mendenhall declared a recess at 10:30 a.m., and the Board reconvened at 10:45 a.m.

C. Consideration of the Board to Approve in concept the Purchase and Sale Agreement and Joint Escrow Instructions, as well as the Grant of Exclusive Groundwater Easement on Water Mitigation for parcel located at Palm Canyon Drive and Hoberg Road, County of San Diego, Tentative Map No. 5511: Mr. Williamson requested approval of a water mitigation package proposed by KSD Hawaii for property at Palm Canyon Drive and Hoberg Road. The proposal was similar to the previous fallowing agreement between the District and Rudy Monica known as "the lemon 50." KSD is asking the General Manager to sign documents including a Grant of Exclusive Groundwater Easement from Mr. Monica to KSD, which would then be assigned to the District. A survey has provided assurance the acreage is sufficient. Ms. Burns stated she had reviewed the proposal and it fits the District's existing mitigation policy. Ken Smith, representing KSD Hawaii and KRS Development, explained that in order to satisfy the District's 2:1 mitigation requirement, he contemplated that the Board would accept the Easement and Assignment, then he would reconcile with staff the exact dollar amount for the second component (preservation fee). The District's concurrence will assist in negotiations with the County to satisfy their mitigation requirements, which he intended to coordinate with Ms. Burns. *MSC: King/Shimeall authorizing the General Manager to issue a letter to KSD Hawaii approving in concept the Purchase and Sale Agreement, Joint Escrow Instructions and Grant of Exclusive Groundwater Easement on Water Mitigation for a parcel located at Palm Canyon Drive and Hoberg Road, County of San Diego, Tentative Map No. 5511; and authorizing the General Manager to sign a Certificate of Acceptance transferring the easement to the District. RC: AYES – King, Shimeall, Andersen, Smiley, Mendenhall.*

III. GROUNDWATER MANAGEMENT

President Mendenhall reported on recent meetings with representatives of Congressman Duncan Hunter regarding a flood control project at De Anza. He further reported that Mr. McKee had obtained information on grant funding which was available for tamarisk removal and suggested that the Grant Committee and lobbyist look into it and place it on the next Agenda.

Ray Shindler, a former lobbyist for agriculture, opined that agriculture is not sustainable in the Borrego Valley. He did not believe an importation pipeline would solve our water problem and recommended fallowing, imposition of fees on agriculture and adjudication if necessary. Mr. Williamson reiterated his support for future importation and was opposed to incurring legal expenses. President Mendenhall asked Mr. Shindler to put his suggestions in writing.

IV. GENERAL MANAGER'S REPORT

Mr. Williamson reported his next focus would be on budget development, with a draft to be presented to the Board in late May, review by the Budget Committee and final adoption in June.

President Mendenhall requested a prioritized list of projects at the next Board meeting.

Director Shimeall inquired about the Proposition 218 notices. Ms. Burns predicted they would go out in the next couple of weeks, and the hearing would probably be held in June. A vote may be held at the same meeting.

V. ATTORNEY'S REPORT

Ms. Burns reported she had not heard from the County on the fallowing policy. Her phone calls and e-mails remained unanswered. President Mendenhall suggested political intercession, and Ms. Burns agreed to discuss it with Mr. Williamson.

VI. INFORMATIONAL ITEMS

Mr. Williamson reported that Mr. Rolwing would be on vacation next week.

Director Shimeall announced that there would be two seats on the Board up for election in November. Filings are due in August. Mr. Rolwing stated that staff would publicize the election once notice is received from the County.

VII. ADJOURNMENT

There being no further business, the meeting adjourned at 11:30 a.m. The next Regular Meeting of the Board of Directors is scheduled for Wednesday, April 23, 2008 in the District's Board Room.