

Borrego Water District
MINUTES
Regular Meeting of the Board of Directors
Wednesday, October 22, 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
Joe Adams, Stradling, Yocca, Carlson & Rauth
Jerry Rolwing, Operations Manager
Kim Pitman, Administration Manager
Wendy Quinn, Recording Secretary

Public: Jim Engelke Marshal Brecht
Judy Meier, *Borrego Sun* Bob McKee
Beth Hart Rudy Monica
Rebecca Falk Lane Sharman, BWX

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

E. Approval of Minutes:

1. Special Meeting of July 29, 2008. *A motion was made by Director King and seconded by Director Smiley to approve the Minutes of July 29, 2008 as written.* Director Andersen questioned Item II on Agenda page 4, Consideration and Authorization to Award Engineering On-call Contracts. The Minutes reported that the motion was to authorize the President to enter into agreements with engineering firms, but she believed it should have been the General Manager. After discussion, it was agreed that either could sign, but they preferred the General Manager. Wendy Quinn pointed out that she had not attended the meeting but prepared the Minutes from a recording, so the President was evidently stated in the motion. The matter will be placed on the next Agenda for action to designate the General Manager. *The motion to approve the Minutes as written carried unanimously.*

2. Regular Meeting of September 24, 2008. *MSC: King/Smiley approving the Minutes of September 24, 2008 as written.*

F. Comments from the Public and Requests for Future Agenda Items: Bob McKee referred to the District's ad in the *Borrego Sun*, citing the average household water use in Borrego Springs as 37 units in August, whereas San Diego County as a whole uses 18 units per resident per month. If Borrego used only 18 units per month, the District's revenue would decline sharply. Rich Williamson explained that we need to conserve water, and we need to design a rate structure that will maintain operations. Mr. McKee pointed out that most Borregans live on large lots, whereas many residents elsewhere in the County are in condos. Beth Hart suggested a comparison to other desert communities.

G. Comments from Directors and Requests for Future Agenda Items: Director Andersen reiterated the request to place authorization for the General Manager to sign engineering contracts on the next Agenda.

H. Correspondence: Mr. Williamson reported that Mr. McKee had sent him a copy of a legal brief from *Special Districts* magazine, dealing with Proposition 218 requirements and tax assessments. The ruling held that taxes must relate to benefits to property, and across-the-board flat rates are inappropriate absent a showing that all properties benefit equally. Joe Adams concurred in the case summary and conclusions.

II. CURRENT BUSINESS MATTERS

A. Consideration of **RESOLUTION NO. 2008-10-1 RESOLUTION OF THE BOARD OF DIRECTORS OF THE BORREGO WATER DISTRICT CONCERNING THE CONSTRUCTION AND INSTALLATION OF SEWER INFRASTRUCTURE**: Mr. Williamson referred to prior discussions of a sewer infrastructure installation policy. The draft policy presented today would apply to developments of five or more lots of four acres or less each, which would be required to install sewer infrastructure. Future homeowners would pay connection fees, which would go into a fund for future capacity increases. President Mendenhall questioned the \$10,000 limit reflected in the policy. (If a public sewer is available within 200 feet, a new homeowner must connect if the cost is \$10,000 or less.) Discussion followed, including the existing EDU policy and how this would interface with the new provisions. **MSC: Smiley/King adopting Resolution No. 2008-10-1, Resolution of the Board of Directors of the Borrego Water District Concerning the Construction and Installation of Sewer Infrastructure. RC: AYES – Smiley, King, Andersen, Shimeall, Mendenhall.**

B. Board to consider authorizing staff to close the office on Friday, December 26, 2008 and Friday, January 2, 2009, in lieu of Veterans Day, November 11, 2008 & 2009: Mr. Williamson pointed out that the Christmas and New Years holidays fall on Thursdays this season, so Friday holidays are proposed in lieu of the next two Veterans Days. On-call personnel would remain available. He suggested, however, that in 2009, Columbus Day be eliminated rather than Veterans Day. **MSC: Shimeall/King authorizing staff to close the office on Friday, December 26, 2008 and Friday, January 2, 2009 in lieu of Veterans Day, November 11, 2008 and Columbus Day, October 12, 2009.**

C. Consideration of the Board to reschedule the November and December Board and Committee Meeting Dates: Mr. Williamson noted that the Regular Board Meetings would normally fall on the days before Thanksgiving and Christmas this year. He suggested they be moved to the third Wednesdays of November and December, and the Groundwater Committee meetings to the second Wednesdays. **MSC: Smiley/King rescheduling the November and December Board and Committee Meetings as proposed.** Director Smiley announced that he would be unavailable for the Groundwater Committee meeting on November 12, and Director King volunteered to substitute.

D. Discussion and possible consideration of the replacement of Well ID 4-3: Mr. Rolwing reported that Well ID 4-3, located on Borrego Springs Road between Santa Rosa and Indian Head, had been in production since 1962. The water is of low quality, and a video inspection indicated an opening in the casing, admitting gravel. The damage has been repaired for now, but normally a sleeve would be installed at a cost of approximately \$100,000, which he hesitated to spend. He suggested considering a new well. Mr. Williamson suggested installing a pump in the existing well, which should last for two to three years, and meanwhile planning for a new well. The Board concurred.

E. Board to consider counter offer made by James McConnell regarding fee arrangement for lobbying activities in Washington, DC: Mr. Williamson referred to previous discussion on Mr. McConnell's lobbying contract. The District had offered him a monthly fee of \$500, with additional work pre-approved on an hourly basis, and he countered with a base rate of \$1,500. Both Mr. McConnell and Bill Mills agree that current funding bills favor projects that are ready for construction now, although we have a chance at a State and Tribal Assistance Grant (STAG) for early planning on our pipeline. Mr. Williamson suggested maintaining contract with Congressman Hunter's successor, monitoring the STAG bill, and in a year, following completion of the USGS study, consider retaining Mr. McConnell again. At this time, he proposed to cancel Mr. McConnell's contract but maintain communication. Director King suggested notification by telephone as well as in writing. President Mendenhall asked that USGS, USDA and Bureau of Reclamation updates be included as a regular Agenda item, and Mr. Williamson suggested monthly or quarterly meetings with Congressional staff. **MSC: King/Shimeall advising Mr. McConnell that we are suspending operation of full-scale lobbying, but ask that he keep us informed on STAG activities and will consider work authorization in the future; and directing staff to open and maintain communications with our local Congressional delegation.**

F. Update on the Integrated Water Resources Management Plan: Mr. Williamson reported that the Integrated Water Resources Management Plan is currently being reviewed by the USGS. He and Mr. Rolwing will also review it, then request Board approval to release the final draft to the public for comment. Details will be addressed by the Groundwater Management Committee. Director Shimeall brought up a change in the District's wall map requested by Mike Hussey and agreed to by the Board. Mr. Williamson explained that the map outlines the watershed boundaries, which would be addressed by the USGS and DWR.

III. COMMITTEE REPORTS & PROPOSALS

A. Ad Hoc Committees:

1. Personnel. No report.
2. Budget and Finance. No report.
3. BSPCSD. President Mendenhall reported that the regular Community Services District Board meeting had been rescheduled to Saturday, October 25. Mr. Williamson added that a status report on the LAFCO proceedings would be included in his General Manager's report.
4. Contract labor review. The contract labor review will be addressed in Closed Session.
5. Negotiating. President Mendenhall reported the Negotiating Committee met, and Mr. Williamson stated that they discussed the potential consignment of water rights from Borrego Sunshine Farms to the District to sell on their behalf. The Committee agreed that consistency with the County policy needs to be achieved first, and a meeting is scheduled for November 10.
6. Town Center Sewer. No report.
7. Review of Grant Opportunities. Mr. Rolwing reported that he was waiting to hear from the Department of Health Services regarding a possible grant for a town wide sewer feasibility study.

B. Standing Committees:

1. Conservation. Director Shimeall invited the Board's attention to the Conservation Committee Minutes, which were included in the Agenda packet.
2. GWM. President Mendenhall announced that he had asked Director Smiley to chair the Groundwater Management Committee. Director Smiley referred to the Committee Minutes in the Agenda packet. The meeting focused on the Integrated Water Resources Management Plan, and Mr. Mills attended. Resolution of the water credit/mitigation issue is a priority.

President Mendenhall declared a recess at 10:55 a.m., and the Board reconvened at 11:05 a.m.

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.

A. Water and Wastewater Operations Report – September, 2008. Mr. Rolwing referred to his written report in the Agenda packet. A new section at the bottom of page 25 showed average and peak flows from the BSPCSD reclamation plant. Mr. Rolwing reported that since Well 3 has been out of service, we are using other wells in the area for reseeding. Discussion followed over use of reclaimed water for golf course irrigation. Mr. Williamson explained that our population is insufficient (12,000-15,000 are needed), and Jim Engelke suggested using reclaimed water to supplement other sources.

B. Water Production/Use Records – September, 2008. Mr. Rolwing summarized a new chart on Agenda page 26, which showed a month-by-month comparison of water production in each Improvement District for the past year. The next page showed water production and use for domestic, irrigation, construction and golf courses. Discussion followed regarding water use at the Montesorro golf course, and Director Smiley urged compilation of a comparison before and after the recent redevelopment. Mr. Williamson noted that Allison Burns had reviewed past records and found no policy on whether mitigation would be required in the event water use escalates due to the golf course redesign.

MSC: Shimeall/King accepting the Water and Wastewater Operations Report and the Water Production/Use Records for September, 2008

C. **Financial Reports – September, 2008.**

1. Disbursements & Claims Report
2. Financial Statement for Period Ending
3. Treasurer's Report
4. Capital Improvement Program Accounting
 - 01-Water Conservation Program
 - 02-Sustainable Water Program

10-Office/Engineering/Administration

5. CSD-BWD Intertie/MOU costs
6. Expenses for Board Consideration and Approval
7. Year to Date Mater Installations
8. Meter Installation History

Kim Pitman reported total disbursements of \$288,862.65 during the reporting period ending September, 2008. No Certificate of Participation payments have been received, as the bonds just funded on October 1. Trucks were purchased for the crew and the wastewater treatment plant. The report delineated the three charge card payments separately. BSPCSD Intertie/BWD MOU costs to date total \$307,520.89. Discussion followed. Ms. Pitman explained that the costs will be capitalized. Mr. Williamson added that BWD is covering the cost of the intertie because it benefits ID #4. Funding comes primarily from the savings realized from refinancing the COPs. CSD still maintains its own accounts, and will reimburse BWD for half the shared costs when the reorganization is complete.

Ms. Pitman summarized the capital projects program and the conservation incentive payments to date. Director Shimeall referred to a report which was provided in the past showing each budget item and the year-to-date expenditures. Mr. Williamson agreed to provide it quarterly.

Agenda pages 37 and 38 detailed BSPCSD accounting.

A motion was made by Director Shimeall and seconded by Director King to accept the Financial Reports for September, 2008. President Mendenhall questioned a payment of \$49,933.68 to Hidden Valley Pump for work on the Country Club booster station. Ms. Pitman explained that CSD would pay half the cost. Director Andersen inquired about a payment to Iron Mountain, and Mr. Rolwing explained that they store the District's archived files. In response to another question from Director Andersen, Ms. Pitman reported that Check No. 12236 to U.S. Bank related to the 1997 COPs. ***The motion to accept the Financial Reports carried unanimously.***

V. STAFF REPORTS

A. Manager's Report: Mr. Williamson distributed a written report. He reported that in the last billing cycle, customers who exceeded Tier 1 were notified what their bill would be once tiered rates go into effect.

Mr. Williamson reported on a recent conference he attended in Las Vegas, hosted by the EPA and the Southern Nevada Water Authority. Advice on how to conserve water and maintain income was provided, including rate design and fixed costs.

Mr. Williamson, Ms. Pitman and the District's accountant have been working on the unit cost basis used in bonding, which will assist in evaluating assets. A schedule will be maintained and updated. President Mendenhall inquired about the relationship between in-house staff projects and the Henderson-Netto model. Mr. Williamson explained that the Henderson-Netto model was classified as a consultant expense and is being used by the USGS in its study. The District auditors hope to make a presentation to the Board in November or December.

Mr. Williamson reported he is continuing to work with the Community Planning Committee.

LAFCO proceedings for the CSD/BWD merger are expected to conclude early next year. President Mendenhall asked about billing for the new ID #5 following the merger. Ms. Pitman explained they would be billed according to the BWD schedule, and rates would remain at the ID #4 rate at least for the first year. The CSD fees will remain in force to cover golf course costs.

B. Engineer's Report: The Engineer's report was included in the General Manager's report.

C. Operations Report: Mr. Rolwing reported invited the Board's attention to his written report in the Agenda packet. The crew has completed work on a connection pipeline adjacent to MarDean Apartments. Work is continuing along Borrego Springs Road.

Mr. Rolwing summarized his presentation to the Groundwater Management Committee on the new GIS system, a data depository to be used by USGS and DWR,

The Conservation Committee's news is continuing to be displayed on the bulletin board at Christmas Circle, and newspaper ads are being updated. Plans are underway for a booth during Borrego Days, including a visual display of a unit of water and relevant statistics. Rebate applications and brochures will be available.

VI. ATTORNEY'S REPORT

None

VII. INFORMATIONAL ITEMS

None

VIII. CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION - Reference Government Code section 54956.9(a) Burzell v. Borrego Water District (SDSC Case No. 87-2008-0057104-CU-OE-NC):

B. PUBLIC EMPLOYEE PERFORMANCE EVALUATION Title: General Manager – Reference Government Code section 54957:

C. CONFERENCE WITH REAL PROPERTY NEGOTIATOR – Reference Government Code section 54956.8:

Property: 140-280-42
District Negotiator: Richard Williamson
Negotiating Parties: Douglas and Wendy Austin
Under Negotiation: Consideration for real property and terms of same

The Board adjourned to closed session at 12:15 p.m., and the open session reconvened at 12:30 p.m. There was no reportable action regarding Items VIII.A and C.

IX. OTHER ACTION ITEMS

MSC: Upon review of the performance of the General Manager/District Engineer ("GM"), the abilities of the GM to assume additional responsibilities given his professional certifications and experience, and the benefit that accrues to the District and its ratepayers through the reduction of management and engineering fees historically paid by the District as noted below, adopting the following:

1. ***The job responsibilities of the GM are expanded to include the following activities:***

- ***Conduct all new development plan reviews that involve water and/or sewer improvements, and transmit the comments to the appropriate parties.***
- ***Develop, revise, and maintain standard specifications and details for the District's infrastructure improvements.***
- ***Implement the Sanitary Sewer Overflow program and related tasks as mandated by the State Water Resources Control Board.***
- ***Prepare the Sewer System Management Plan as required by the State Water Resources Control Board.***
- ***Perform the engineering report activities associated with Regional Water Quality Control Board Order No. R7-2007-0053.***
- ***That the GM affix his Professional Engineer's seal to any official documents of the District which are necessary to be certified by a Professional Engineer, said work being accomplished either by himself or under his direct control and responsibility, consistent with the statutes and regulations of the State of California.***

2. ***That a cost of living adjustment consistent with the Consumer Price Index from February 2008 to September 2008 coupled with a merit increase in recognition of the performance of the GM to date, combined, shall be equal to 7.14% of his base salary, which will equal an incremental increase of \$833.33 per month.***

3. ***That recognizing costs for engineering consulting fees paid in fiscal years 2006 and 2007 for the type of work described in paragraph 1 above were in excess of \$200,000 per year (\$16,666 per month), the GM's base pay be increased by \$2,917.67 per month to perform the subject activities, thus realizing a net savings to the District of approximately \$13,750 per month based on past expenditures.***

4. ***That the net result of these job description and compensation modifications results in a monthly salary of \$15,416.67 per month, which is in the lowest 10% of the combined salary ranges paid to***

General Managers and District Engineers in the most recent Association of California Water Agencies salary survey for Districts with these positions, and is within the salary range adopted by the District.

5. *That the GM's performance evaluations and COLA shall next be considered as of November 1, 2009.*

6. *That the provisions of this Motion shall be effective as of November 1, 2008.*

X. ADJOURNMENT

There being no further business, the meeting adjourned at 12:30 p.m. The next regular meeting of the Board of Directors is scheduled for November 19, 2008 at the Borrego Water District.