

Borrego Water District
MINUTES
Regular Meeting of the Board of Directors
AND
Special Meeting of the Borrego Water District
Public Facilities Corporation
Wednesday, July 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, Shimeall, Smiley

Absent: Secretary/Treasurer Andersen

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 Thomas Antel
Maris Brancheau, *Borrego Sun* Bill Mills
Lane Sharman, BWX Bob McKee

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

E. Approval of Minutes: Kim Pitman reported she had been unable to locate the Minutes until after the Agenda was distributed, so they would be on the next Agenda.

F. Comments from the Public and Requests for Future Agenda Items: Bob McKee requested an opportunity to speak to Item III.J when it comes up.

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

H. Correspondence: Rich Williamson reported he received a letter dated July 21 from Lucy Larson expressing concern regarding the budgeted amount for consultants and the increase in legal costs over the last eight years. He intends to respond that costs in general increase over the years, and specifically in 2007 there were extraordinary consultant costs due to the lack of a full-time General Manager and development of the fallowing policy. President Mendenhall pointed out that the District always receives a detailed invoice as to what legal services were provided.

II. JOINT MEETING OF BORREGO WATER DISTRICT PUBLIC FACILITIES CORPORATION AND BORREGO WATER DISTRICT

- A.** Call to order: President Mendenhall called the meeting to order at 9:25 a.m.
B. Roll Call: Directors: Present: President Mendenhall, Vice-President King, Shimeall, Smiley

Absent: Secretary/Treasurer Andersen

C. Consideration of **RESOLUTION NO. 2008-7-1 RESOLUTION OF THE BOARD OF DIRECTORS OF THE BORREGO WATER DISTRICT PUBLIC FACILITIES CORPORATION RATIFYING AND AFFIRMING PRIVATE PLACEMENT OF REFUNDING INSTALLMENT PURCHASE AGREEMENT FOR IMPROVEMENT DISTRICT NO. 4 (WATER SYSTEM IMPROVEMENTS), SERIES 2008 (BANK QUALIFIED) (RESOLUTION NO. 2008-6-7)**: Allison Burns explained that the financial institution which had contemplated a private purchase of the District's refunding certificates prefers an installment purchase instead. The proposed Resolution would document this change. *MSC: Shimeall/King adopting Resolution No. 2008-7-1, Resolution of the Board of Directors of the Borrego Water District Public Facilities Corporation Ratifying and Affirming Private Placement of Refunding Installment Purchase Agreement for Improvement District No. 4 (Water System Improvements), Series 2008 (Bank Qualified) (Resolution No. 2008-6-7). RC: AYES – Shimeall, King, Smiley, Mendenhall; ABSENT – Andersen.*

D. Adjournment of meeting of Board of Directors of Borrego Water District Public Facilities Corporation: There being no further business to come before the Public Facilities Corporation, the meeting was adjourned at 9:30 a.m. The Water District Board remained in session.

III. CURRENT BUSINESS MATTERS

A. Consideration of **RESOLUTION NO. 2008-7-2 RESOLUTION OF THE BOARD OF DIRECTORS OF THE BORREGO WATER DISTRICT RATIFYING AND AFFIRMING PRIVATE PLACEMENT OF REFUNDING INSTALLMENT PURCHASE AGREEMENT FOR IMPROVEMENT DISTRICT NO. 4 (WATER SYSTEM IMPROVEMENTS), SERIES 2008 (BANK QUALIFIED) (RESOLUTION NO. 2008-6-8)**: *MSC: King/Smiley adopting Resolution No. 2008-7-2, Resolution of the Board of Directors of the Borrego Water District Ratifying and Affirming Private Placement of Refunding Installment Purchase Agreement for Improvement District No. 4 (Water System Improvements), Series 2008 (Bank Qualified) (Resolution No. 2008-6-8). RC: AYES – King, Smiley, Shimeall, Mendenhall; ABSENT – Andersen.*

B. Open Public hearing to hear testimony for/against the Activation of Latent Powers for the Borrego Water District: President Mendenhall opened the public hearing at 9:31 a.m. Mr. Williamson explained that after consolidation of the Water District and the Borrego Springs Park Community Services District (CSD), BWD would be operating the Club Circle Golf Course so needs to activate its latent park powers. Jim Engelke asked whether BWD would assume the trash pickup service now provided by CSD, and President Mendenhall replied that BWD would assume all CSD responsibilities. Lane Sharman suggested considering a trash-to-energy service. Mr. McKee asked what the CSD residents now pay for trash pickup, and Jerry Rolwing replied that it is included in the CSD fees. If BWD contracts with one provider to pickup trash throughout the valley, the cost will probably decrease and quarterly pickup of large items could be included. Mr. Williamson clarified that the proposed Resolution not only activates BWD's latent park powers, but any other latent powers, such as trash pickup, necessary to assume the current CSD operations.

C. Close Public Hearing: Hearing no further testimony, President Mendenhall closed the public hearing at 9:40 a.m.

D. Consideration of approval of Notice of Exemption re Application to the San Diego Local Agency Formation Commission to take proceedings for the Activation of latent powers of the Borrego Water District: Ms. Burns explained that the District is exempt from filing an Environmental Impact Report regarding the CSD reorganization because the change does not affect the environment. *MSC: Smiley/King authorizing the General Manager to execute the Notice of Exemption regarding activation of latent powers.*

E. Consideration of **RESOLUTION NO. 2008-7-3 RESOLUTION OF APPLICATION REQUESTING THE SAN DIEGO LOCAL AGENCY FORMATION COMMISSION TO TAKE**

PROCEEDINGS FOR THE ACTIVATION OF LATENT POWERS: *MSC: King/Shimeall adopting Resolution No. 2008-7-3, Resolution of Application Requesting the San Diego Local Agency Formation Commission to take Proceedings for the Activation of Latent Powers. RC: AYES – King, Shimeall, Smiley, Mendenhall; ABSENT – Andersen.*

F. Consideration of approval of Notice of Exemption re Application to the San Diego Local Agency Formation Commission to take Proceedings for the consolidation of the Borrego Springs Park Community Services District and the Borrego Water District: *MSC: King/Shimeall adopting the Notice of Exemption regarding the Application to the San Diego Local Agency Formation Commission to take Proceedings for the consolidation of the Borrego Springs Park Community Services District and the Borrego Water District and authorizing the BWD General Manager to execute and file it. RC: AYES – King, Shimeall, Smiley, Mendenhall; ABSENT – Andersen.*

G. Consideration of approval of revisions to and exhibits to First Amended and Restated Memorandum of Understanding with Borrego Springs Park Community Services District, including revisions to Resolution No. 2008-6-9 adopted June 25, 2008 and entitled A RESOLUTION OF APPLICATION BY THE BORREGO WATER DISTRICT REQUESTING THE SAN DIEGO LOCAL AGENCY FORMATION COMMISSION TO TAKE PROCEEDINGS FOR THE CONSOLIDATION OF THE BORREGO SPRINGS PARK COMMUNITY SERVICES DISTRICT AND THE BORREGO WATER DISTRICT AND ESTABLISHMENT OF THE BORREGO WATER DISTRICT AS THE SUCCESSOR DISTRICT: Ms. Burns summarized two changes to the previously approved MOU: Agenda page 35, item xv(d), amended to read, ". . . the golf course shall not close so long as sufficient revenues from fees and operations of the golf course continue to pay for operation," Agenda page 105, section 7, language was added providing that fees related to the golf course will remain unchanged from current CSD rates for at least one year. *MSC: King/Shimeall approving revisions to and exhibits to First Amended and Restated Memorandum of Understanding with Borrego Springs Park Community Services District, including revisions to Resolution No. 2008-6-9 adopted June 25, 2008 and entitled A RESOLUTION OF APPLICATION BY THE BORREGO WATER DISTRICT REQUESTING THE SAN DIEGO LOCAL AGENCY FORMATION COMMISSION TO TAKE PROCEEDINGS FOR THE CONSOLIDATION OF THE BORREGO SPRINGS PARK COMMUNITY SERVICES DISTRICT AND THE BORREGO WATER DISTRICT AND ESTABLISHMENT OF THE BORREGO WATER DISTRICT AS THE SUCCESSOR DISTRICT. RC: AYES – King, Shimeall, Smiley, Mendenhall; ABSENT – Andersen.*

H. Consideration of RESOLUTION NO. 2008-7-4 RESOLUTION OF INTENTION TO APPROVE AN AMENDMENT TO CONTRACT BETWEEN THE BOARD OF ADMINISTRATION CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE BOARD OF DIRECTORS BORREGO WATER DISTRICT: Mr. Williamson explained that the proposed Resolution would memorialize the changes to the employees' retirement plan approved by the Board at its last meeting. *MSC: King/Smiley adopting Resolution No. 2008-7-4, Resolution of Intention to Approve an Amendment to Contract Between the Board of Administration, California Public Employees' Retirement System, and the Board of Directors, Borrego Water District. RC: AYES – King, Smiley, Shimeall, Mendenhall; ABSENT: Andersen.*

I. Consideration and action on finalizing the water credits associated with the "Lemon 50" following the two following assignments/credits to date: Mr. Williamson and Mr. Rolwing distributed memoranda from Mr. Williamson and Mr. Sharman on this item. Mr. Williamson introduced the subject by noting he had a productive meeting yesterday with representatives of the County regarding the following policy. He announced he is also participating with the Community Sponsor Group in its Farm and Water Subcommittee and assisting with development of the Community Plan, which will become part of the County's General Plan.

Mr. Williamson explained that when the District negotiates the fallowing of farmland, because our basin is not adjudicated, it does not actually purchase water credits but an easement over the property. When the District purchased the easement over the "Lemon 50," Rudy Monica's property which was fallowed, it was contemplated the deal would include 150 acre feet of consumptive water use and a 40-acre easement. Subsequently, KRS Development purchased another easement of approximately six acres. During this transaction, it was determined that the assumed 50-acre parcel was actually 47.509 acres, so with the District's purchase and KRS's, .9301 acres remains.

Discussion followed regarding the standard consumptive use rate (3.8 acre feet per year per acre) used in the calculation of credits, and whether this is appropriate. President Mendenhall pointed out that the transaction had already been signed and recorded. Mr. Williamson explained that the issue is that the easement refers to 150 acre feet, but based on the latest survey, it should be 152 acre feet.

Mr. Sharman pointed out that the discrepancy could create problems in future agreements, and urged the District to return two acre feet of credit to Mr. Monica. Mr. Monica realizes that the title to the property was defective. Director King pointed out that early in the transaction there was uncertainty as to the exact acreage, so the District purchased a 40-acre easement because we were sure there were at least that many. Mr. Sharman volunteered to prepare an amendment to the agreement between the District and Mr. Monica, and between KRS and Mr. Monica, at no expense to the District.

Mr. Williamson suggested that the analysis presented in his memo distributed today be conveyed in writing to Mr. Monica, along with an invitation for him to address the Board on the issues if desired.

Discussion followed regarding the use of 3.8 acre feet per year per acre as the standard irrigation rate for citrus. President Mendenhall pointed out that this was based on Bill Mills' calculation. Director Smiley explained that each farmer uses different irrigation methods and uses different amounts of water. He urged that the mitigation credit transactions be based on historical use, and Mr. Engelke concurred. President Mendenhall noted that data is not available for many farms. Mr. Sharman suggested using the average in the absence of records, but accepting records when available. Mr. Williamson agreed. Director King asked how the accuracy of the records would be verified, and Director Smiley replied that electricity or diesel consumption could be checked. Mr. Engelke questioned how the amount of water returned to the aquifer would be measured. Mr. Mills pointed out that farmers' water use records would show applied use, not consumptive. Director Smiley suggested that the Henderson-Netto model could assist.

President Mendenhall concluded that there are two issues before the Board: Resolution of the Monica/Sharman transaction issue, and determination of the water use rate calculation method by the mitigation policy task force. Director Smiley announced that the task force would meet on August 6, following the 9:00 a.m. Conservation Committee meeting, and is open to the public. Mr. Engelke requested that the group discuss reselling credits versus permanent retirement.

Mr. McKee pointed out that the rate of return flow would vary depending on whether the fallowed grove was surrounded by a fence or tamarisk. President Mendenhall suggested requiring the tamarisk to be removed in conjunction with fallowing the grove.

Mr. Williamson amended his recommendation to respond to Mr. Monica, and asked that the matter be tabled pending further deliberations by the task force. President Mendenhall asked that it be included on the next Agenda.

President Mendenhall declared a recess at 10:50 a.m., and the Board reconvened at 11:05 a.m.

J. Consideration of approval of Memorandum of Understanding and Rental Agreement with Christmas Circle: Mr. Williamson reported he met with Jim Wilson and another Board member of Christmas Circle Community Park to discuss the park's turf removal and irrigation system improvements. A proposed MOU was developed providing for credit for turf removal and contribution to the irrigation system upgrade in exchange for rental of advertising space for the District's conservation program. ***A motion was made by Director King and seconded by Director Smiley to approve the MOU and Rental Agreement with Christmas Circle.*** Mr. Engelke expressed concern that if the sprinklers around the perimeter are upgraded, paving the perimeter will no longer be considered. Mr. Rolwing suggested working with the contractor to ensure the new sprinklers can be removed or capped easily if desired, and Mr. Williamson concurred. ***Directors King and Smiley amended their motion and second to include authorization for the General Manager to meet with Christmas Circle and assist in the design of the irrigation system to accommodate further future turf reduction.*** Mr. McKee noted that Christmas Circle had requested exemption from the first tiered rate proposal, which was eventually granted, and subsequently all commercial and irrigation customers were exempted. He suggested that each of those customers pay \$30 toward the irrigation improvements, rather than the District paying rent for the bulletin board. Mr. Williamson pointed out that the commercial and irrigation users are not exempted from the conservation program, only the tiered rates due to economic concerns. They will be encouraged to use best management practices, such as guests' option to decline daily linen laundry in motels and low water use dishwashers in restaurants. ***The amended motion carried by unanimous vote of those present.***

K. Consideration of the Board to cancel the Regular Board Meetings for August: Mr. Williamson noted that a short Special Meeting would probably be required after the Contracts Committee reviews the engineering services proposals for the new sewer lift station on Borrego Valley Road. Work is expected to start before September. The Board agreed to schedule a Contracts Committee meeting on Monday, July 28 at 8:30 a.m., and a Special Board Meeting on Tuesday, July 29 at 9:00 a.m. ***MSC: Smiley/King canceling the Regular Board Meetings for August.***

L. Consideration of the Board to accept the completion of all surface improvements and underground utilities for Vallecitos III, TM 4613-3 at Montesor: Mr. Williamson reported he had received certification from the developer that all improvements are in place. District staff has inspected the facilities, found them acceptable and recommends they be accepted into the District's system. ***MSC: King/Shimeall accepting the completion of all surface improvements and underground utilities for Vallecitos III, TM 4613-3 at Montesor.***

IV. COMMITTEE REPORTS & PROPOSALS

A. Ad Hoc Committees:

1. Review of grant opportunities. President Mendenhall announced that the ad hoc committee for review of grant opportunities would meet at 1:30 today.
2. Personnel. No report.
3. Budget and Finance. No report.
4. BSPCSD. President Mendenhall reported that the CSD Board had approved all necessary documents for the consolidation with BWD at its last meeting. They also voted to pay themselves \$50 per meeting. Mr. Rolwing reported that the first phase of the intertie pipeline is complete. After testing, CSD customers should begin receiving water from ID #4 next week. Ms. Burns reported she would be submitting the reorganization package to LAFCO, and expected the review to take approximately three months.
5. Contract labor review. Director King reminded the Board of the meeting on Monday.
6. Negotiating. No report.

7. Town Center Sewer. Mr. Rolwing announced that the grant review committee would discuss the town center sewer at its meeting this afternoon.

B. Standing Committees:

Conservation. Director Shimeall referred to the Committee Minutes in today's Agenda Packet. Mr. Rolwing reported that the application and conditions for the Conservation Incentive Program were on the District's website and will be published in the *Borrego Sun*. Director King asked whether Directors were eligible, and did not feel they should be. Ms. Burns replied that they are not eligible. Director Smiley reported that during discussion of the following policy at the July 9 Committee meeting, it was agreed that the mitigation entitlement certificates should be valid in perpetuity, and complete cessation of water use should not be required. At the July 2 meeting, a member of the public expressed concern that the tiered rates violated Proposition 218. Ms. Burns disagreed. Mr. Williamson announced that the Committee would meet on August 6.

V. 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 – June, 2008. Mr. Rolwing offered to answer questions on his written report. He reported that Montesorio will cease some of its golf course irrigation soon. *MSC: Smiley/King accepting the Water and Wastewater Operations Report.*

B. Water Production/Use Records – May, 2008. *MSC: King/Smiley accepting the Water Production/Use Records.*

C. Financial Reports – May, 2008.

1. Disbursements & Claims Report
2. Financial Statement for Period Ending
3. Treasurer's Report
4. Expenditures on Groundwater Management
5. CSD-BWD Intertie/MOU Costs
6. Expenses for Board Consideration and Approval

A motion was made by Director Shimeall and seconded by Director King to approve the Financial Reports. Mr. Williamson pointed out that the City of Escondido Utilities Department (water and sewer) has reserves of \$3.2 million, and the City of Tucson Water Utilities Department has \$5 million; BWD is in good shape as a much smaller entity with \$6.2 million in reserves. President Mendenhall asked how labor was assigned to the groundwater management account. Ms. Pitman explained that those tasks are indicated on employees' time cards. It is mostly administrative work and a percentage of Mr. Williamson's, Mr. Rolwing's and hers. Field workers' time is designated for the various Improvement Districts. *The motion to approve the Financial Reports carried by unanimous vote of those present.*

VI. STAFF REPORTS

A. Manager's Report: Mr. Williamson distributed a written report, thanking staff for assistance and commending the Board. Accomplishments during the last six months included the CSD consolidation and tiered rates. A list of priorities for next year was attached to the report. Mr. Williamson identified the Groundwater Analysis Cooperative Study as a key item. The District will be working with DWR and USGS on the model, so we can estimate the capacity and life of the aquifer.

Mr. Mills noted that the expert panel convened in December 2007 recommended development of a Geological Information System (GIS) and a numeric model. A consultant has been retained to develop the GIS, which will be an important tool for the model. Mr. Williamson noted he will be invited to a future Board meeting. USGS is working to upgrade its model, using current technology and data from the Henderson-Netto model. Mr. Mills reported on a meeting yesterday with representatives of the County, DWR, USGS and the GIS consultant. Tasks were assigned among the various agencies and individuals. Director Shimeall requested a written report on the meeting. The GIS is expected to be complete by October. An update of the activities will be presented at the Town Hall Meeting in March, and a year later (March 2010) we should have the information on the life of the aquifer. Mr. Mills pointed out it would not be a firm number, but a good estimate. Discussion followed regarding the need for additional monitoring wells. Mr. Mills explained that much of the data from the existing wells can be used to predict other locations using the model. The group will meet again in October. Mr. Williamson suggested reinstating the Groundwater Management Committee and having that Committee participate as well.

Discussion followed regarding the need to import water. Mr. Mills stated that some Indian tribes had water available, as do certain agencies in Northern California. Desalination plants provide another option. He and Mr. Williamson have discussed hiring a consultant to seek importation sources. Mr. Williamson explained that we could purchase the rights now before prices increase, then resell them on a temporary basis until we need them. President Mendenhall noted that the District currently owns some unused water rights. Director Smiley suggested seeking federal assistance, and Mr. Mills agreed, once we have better data on the aquifer and a potential source of importation.

Director King expressed concern that the value of mitigation credits would decline due to lack of development. Mr. Williamson replied that there are currently 3,000 lots in the early development process. Discussion followed regarding the attendance of Board members not on the mitigation task force at the task force meeting. Ms. Burns suggested setting it up as a Special Board meeting.

Mr. Mills reported that the Groundwater and Management Alternatives (GAMA) program, a State program funded by Proposition 50, is assessing groundwater basins throughout the State and will focus on Borrego Springs in 2009.

B. Engineer's Report:

Mr. Williamson noted that the Engineer's report was included in his written report. In September we will issue an RFQ for financial consultants to conduct a five-year plan and rate review. Mr. Williamson welcomed comments on the list of priorities in his report.

C. Operations Report: Mr. Rolwing stated that all his information had been covered under other items.

VII. ATTORNEY'S REPORT

Ms. Burns reported she would be submitting the CSD reorganization documents to LAFCO and working with Mr. Williamson on the following policy.

VIII. INFORMATIONAL ITEMS

None

IX. CLOSED SESSION

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 1:05 p.m. The next regular meeting of the Board of Directors is scheduled for September 10, 2008 at the Borrego Water District.