

**Borrego Water District**  
**AMENDED MINUTES**  
**Regular Meeting of the Board of Directors**  
**Wednesday, January 21, 2009**  
**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  
Jerry Rolwing, Operations Manager  
Kim Pitman, Administration Manager  
Wendy Quinn, Recording Secretary
- Public: Marshal Brecht                      Bob McKee  
Judy Meier, *Borrego Sun*              Pat McKelvey  
Russell Shelden                          Beth Hart  
Paul Nordman                              Jim Jordan  
Betty McKee                                Dennis Dickinson  
Lucy Larson                                Maggie Lacey-Scheider  
Jim Engelke                                William Mills  
Frank Hubbard                             Buck Barrie

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

**E. Approval of Minutes:**

Regular Meeting of December 17, 2008. *MSC: King/Shimeall approving the Minutes of December 17, 2008 as written.*

Special Meeting of December 17, 2008. *MSC: Shimeall/Smiley approving the Minutes of December 17, 2008 (special meeting) as written.*

Special Meeting of January 8, 2009. *MSC: King/Shimeall approving the Minutes of January 8, 2009 as written.*

**F. Comments from the Public and Requests for Future Agenda Items:** Beth Hart requested that her comments be made part of the Minutes. They are attached and incorporated.

Lucy Larson thanked the Board for including the health benefits on today's Agenda. She reported that she had reviewed the District's financial records for the past six years and distributed copies with her comments to the Board.

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

**H. Correspondence:** Rich Williamson reported he had received a letter from Earth Tech, a company which is working for The Springs at Borrego on water usage. The Springs is allowed to pump 294 acre feet per year and only used 166 last year. A copy of the report will go to the County.

Abby King, President of the Community Sponsor Group, provided a copy of the new draft General Plan. It is available on line or may be purchased on disk from the Department of Land Use and Planning (DPLU). The Plan exempts the Borrego Valley from density constraints common in areas with groundwater sustainability issues, based on the need to encourage conversion of agricultural land to more densely populated (and less water intensive) uses.

Mr. Williamson further reported that the U.S. Department of the Interior is offering a basin study program, and he is working with Bill Mills to prepare an application for funding of our current USGS study.

The Agricultural Alliance for Water and Resource Education (AAWARE) is proposing a workshop on agricultural irrigation efficiency. Director Smiley is organizing it, and information will be available on the District's website.

Ms. Larson had requested financial information from the District, and Mr. Williamson responded.

The annual report from Imperial Irrigation District (IID) discusses their water saving programs and conversion of agricultural land to urban uses. It is available for review at the BWD office.

Mike Medema had requested Glenn Reiter's comments on the exemption of commercial and irrigation customers from tiered rates. Mr. Williamson forwarded the message to Mr. Reiter and will respond to Mr. Medema.

## II. CURRENT BUSINESS MATTERS

**A. Review of Calendar Year 2008 Operations Highlights:** Mr. Williamson presented a chart showing 2008 milestones for the District. They included tiered rates, the water conservation program, an operations and maintenance budget less than the previous one, capital improvement program and budget, Integrated Water Resources Management Plan, integration of the community plan with water management issues, a perfect safety record and perfect water quality compliance record, GIS data system, USGS/DWR groundwater management study, consolidation with the Community Services District, completion of a clean year-end audit, draft water credit program in cooperation with the County, and application for a \$6 million loan from the State Infrastructure and Economic Stimulus Bank (I-Bank). He presented a plaque to President Mendenhall in appreciation for his service and dedication.

**B. Election and Installation of Officers and appointment of Committee Members:** *MSC: Shimeall/Mendenhall electing Kathy King as President. RC: AYES – Shimeall, Mendenhall, Andersen, King, Smiley.* President King and Director Mendenhall exchanged seats.

*MSC: Shimeall/Mendenhall electing Steve Smiley as Vice President and Rita Andersen as Secretary/Treasurer. RC: - AYES – Shimeall, Mendenhall, Andersen, King; ACCEPTED – Smiley.*

President King requested the following committee assignments:

Groundwater Management:	Mendenhall, Smiley
Conservation:	Andersen, Shimeall
Budget/Contract/Finance/Grants:	Andersen, King
Negotiating:	Mendenhall, Smiley
Personnel:	Shimeall, Smiley
Services:	King, Mendenhall
Sewer:	King, Shimeall

**C. Overview of projected calendar year 2009 activities:** Mr. Williamson presented a chart outlining the proposed activities for the coming year. They included finalizing and implementing the water credit/mitigation program, using the I-Bank loan to bridge the water supply needs, preparing a five-year financial plan (completion of parcel fee analysis), a new sewage lift station on Borrego Valley Road, integrating CSD operations into BWD, exploring expansion of trash services, finalizing the water

wheeling (transportation) agreement with IID, evaluation of sewer master plan and water importation opportunities, completion of water resources management plan, application for State and federal grants, seamless implementation of tiered rates, upgrade of water conservation management outreach, and review/update/upgrade of District policies.

Mr. McKee pointed out that the District had agreed to correct information regarding Christmas Circle's cooperation in the conservation program, which indicated they were part of the tiered rate program. He had asked that it be made clear that the District contributed to their irrigation improvements, which was done in the District's newspaper ad but not on the bulletin board. Mr. Williamson agreed to address the issue.

**D. Discussion of District Policy relative to Health Benefits:** Mr. Williamson explained that when benefit open enrollment arose last fall, he observed that most special district board members are routinely offered the same benefits as employees. In 2003, the District had adopted a policy pursuant to an IRS ruling deeming Directors employees who may not be discriminated against in offering fringe benefits. He felt the benefit would attract people to run for Board seats, and pointed out that publicity of the offer was not required but thought prudent.

Buck Barrie requested the Directors' personal opinions, and Director Mendenhall pointed out they supported the plan unanimously. Director Smiley noted he was not even aware of the monthly stipend when he ran for election. In response to Ms. Hart's allegation regarding the 1,000-hour yearly requirement for employee benefits, he felt the Board members met that with committee and Board meetings, travel and home study. Mr. Williamson explained that the 1,000 was a probationary period after which an employee is eligible for benefits, not a yearly minimum.

Jim Jordan recalled that when the Directors were offered the benefit option in 2003, dependents were not included. President King explained that the Board members had to pay for them, and that the Directors' coverage had been offered pursuant to a change in IRS policy. Mr. Williamson concurred, noting that Board members must be afforded the same coverage as employees, which they are considered. Margaret Lacey-Schneider cited the government's financial problems and the fact that the District is considering borrowing money. She suggested raising the stipend for Directors rather than providing health insurance. In response to Ms. Lacey-Schneider's comment concerning the loan, Mr. Williamson pointed out that the District did not require the I-Bank loan, but the interest rate and terms are incredibly attractive – better than bonds. Ms. Larson noted that the District's revenues declined last year, but the number of meters increased. She recommended that surplus be set aside for the benefit of the community. Mr. McKee urged the Board to consider Proposition 218 requirements, and reiterated his concern regarding lack of discussion and questions when the Board took action to approve the benefits. Mr. Williamson explained that the matter was considered by the Personnel Committee, which recommended approval. Director Smiley added that the details were included in the Agenda packet, which was available in advance for the Board's review. Mr. Williamson pointed out that the cost of the health insurance will be spread among all District property owners, customers and owners of vacant land, when the parcel fee is implemented. He explained that group insurance open enrollment is offered during only one month yearly. The District is updating all its policies, so Directors' health coverage will be included in this review and public input will be invited.

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

**E. Consideration of the Board to authorize the General Manager to advertise an opening for the Administrative Assistant position:** Mr. Williamson referred to the current budget item for an Administrative Assistant position, the need for which was to be reviewed six months following adoption. With increased responsibilities following the CSD consolidation, need for front office coverage, filing and workload backlog, staff recommends that the position be filled. Director Smiley requested ACWA data on staffing levels of districts of comparable size. Mr. Williamson explained that comparison is difficult because of our relatively large square mileage and services in addition to

providing water. President King asked how much overtime would be eliminated by the new position, and Kim Pitman estimated 40 hours a month, between three people. In response to Director Smiley, Ms. Pitman replied that the salary grade for the position would be \$17.60 minimum, with a recommended starting rate of \$19.62. Marshal Brecht inquired about the cost of health insurance for the new employee, and Mr. Williamson replied it would be between \$500 and \$1,200 per month, depending on age. ***MSC: Mendenhall/Andersen authorizing the General Manager to advertise an opening for the Administrative Assistant position.***

**F. Consideration of the Board to authorize staff to open a new checking account for ID #5 with the same authorized signers as existing checking accounts:** ***MSC: Mendenhall/Andersen authorizing staff to open a new checking account for ID #5 with the same authorized signers as existing checking accounts.***

**G. I-Bank Loan presentation – Rich Williamson:** Mr. Williamson explained that I-Bank loans are offered to fund infrastructure needs, protect public health and help with economic stimulus. He presented a chart showing our present population and annual water usage compared to projections for year 2035, contemplating a reduced overdraft, but nonetheless an overdraft. Funding for water production and storage is required. Mr. Williamson presented two options for the loan, (A), which would include acquisition of wells and credits from De Anza Country Club, Indian Head reservoir, twin tanks reservoir, Austin well, Montesoro well, transmission main and appurtenances; and (B), including the Wilcox reservoir and eliminating the De Anza components. The total loan would be \$6 million at 3.8 to 4 percent interest, which the financial advisors and auditors agree is preferable to drawing down reserves. Judy Meier asked how the loan would be repaid, and Mr. Williamson replied it would come from capital funds or revenues, no extra assessments. Jim Engelke inquired about the spending plan, and Mr. Williamson answered that we would have until August, 2011 to spend the money. We are not required to spend it all, and interest is paid only on what is spent. In response to Director Shimeall, Mr. Williamson explained that the loan funds are funded through bonds and are not affected by the current State budget problems. The District has submitted an application, and the chances appear good. Ms. Hart inquired about flexibility on loan expenditures, and Mr. Williamson replied that there is some flexibility, as long as projects fit the loan criteria.

**H. Review of comments made in regards to the Integrated Water Resources Management Plan:** Mr. Jordan inquired about the Clark Dry Lake project, and discussion followed. Mr. Williamson explained that it is an option in the Integrated Water Resources Management Plan, on which two comments were received and more are welcome. Bill Mills will respond. The Plan will be a requirement for a Regional Water Resources Management Plan, needed for many grants, and the definition of a "region" has recently changed. We may now partner with the County (DPLU or Flood Control), Resource Conservation District of Greater San Diego County or possibly the School District. Other stakeholders, such as AAWARE and the golf course community, could contribute. Director Shimeall suggested including the State Park, and Mr. Williamson explained that they could be invited to comment, but as a State agency may not accept State grant funds. The Regional agency would likely apply for the grant on behalf of the individual member agency in need.

Mr. Williamson asked that the matter be included in the next Agenda for consideration of adopting the draft Plan as final and directing Mr. Mills to prepare an addendum responding to comments and modifying the document accordingly. President King requested advance copies of the comments and responses.

Mr. McKee asked why tamarisk removal was deleted from the Integrated Plan. Director Shimeall reiterated that the tamarisk threat does not apply to this area, and Mr. Williamson asked Mr. McKee to see him later this week to discuss the matter. Mr. Engelke expressed support for the Plan, noting he had sent it to his clients but had not received a response.

**I. Discussion on the Consolidation with the CSD:** Mr. Williamson reported we are awaiting recordation of the consolidation documents by LAFCO, expected within the next three to four weeks.

The CSD will have its final meeting on January 24 at 9:00 a.m. at the Borrego Springs Resort. Staff is addressing administrative matters, including liability insurance. Director Mendenhall reported he had received a proposed CSD resolution, to be considered Saturday, thanking BWD for its support and assistance.

**J. Discussion of the Draft Water Credit Program:** Mr. Williamson distributed the draft water credit program and requested Board authorization to release it for public comment. District staff has been working with the DPLU to integrate the County's mitigation program with BWD's in an effort to encourage the conversion of agricultural land to less water-intensive uses. Pat McKelvey suggested that draft documents be dated to clarify which version is being reviewed. Mr. Williamson stated that following the document's release for public comment, it will be discussed by the Groundwater Management Committee at its next meeting and set for public hearing during the next Board meeting. In response to Mr. Jordan's inquiry, Mr. Williamson explained that when a farmer fallsows his/her land, payment is made by a developer in need of mitigation credit or by the District for resale to small developers unable to purchase acreage. A credit equals one acre foot of water per year. The price is market-driven, and the District's sales must be in compliance with prevailing rates. Upon implementation of the water credit program, the in-lieu fee will be eliminated. Mr. Engelke suggested that realtors be involved, since an easement is required.

### **III. COMMITTEE REPORTS & PROPOSALS**

#### **A. Ad Hoc Committees:**

1. Personnel. No report.
2. Budget and Finance. No report.
3. BSPCSD. No report. Director Mendenhall recommended that this item be removed from future Agendas, now that the consolidation is complete.
4. Contract labor review. No report.
5. Negotiating. Mr. Williamson reported that he met with representatives of De Anza Country Club last month and was awaiting a response on the options presented.
6. Sewer. No report.
7. Grants. Jerry Rolwing reported that Proposition 84 funds are currently frozen.

#### **B. Standing Committees:**

1. Conservation. Director Shimeall invited the Board's attention to the Conservation Committee Minutes, which were included in the Agenda packet, and the Water Conservation Program report (Agenda page 54).
2. GWM. President Mendenhall invited the Board's attention to the Groundwater Management Committee Minutes, which were included in the Agenda packet. Mr. Jordan inquired about the status of the Clark Lake Groundwater project, and Mr. Williamson replied that there are water quality issues, as well as access problems involving the State Park. Ms. Lacey-Schneider inquired as to the source of future imported water, and Director Smiley explained that BWD would purchase water from another agency, import it to an Imperial Irrigation District reservoir and then construct a pipeline along Route 78 to bring it to Borrego Springs. Director Andersen asked why the Dr. Nell Groundwater Development project was included on the Grants and Loans Status Report, since the District had decided not to pursue it. Mr. Mills replied that the application had already been submitted and approved when the decision was made, so it is on hold in case circumstances change.

**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 – December, 2008.**

**B. Water Production/Use Records – December, 2008.**

Mr. Rolwing invited the Board's attention to the written reports in the Agenda packet. He noted that Well #3 is out of service, and we are awaiting State approval to turn on Well #5.

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

1. Disbursements & Claims Report. Mr. Brecht asked whether the payments to CalPers were gross, before withholding, and Mr. Williamson replied that they were.

2. Financial Statement for Period Ending. Mr. Brecht inquired about a negative entry involving funds collected from the County, and Ms. Pitman agreed to investigate that item and other questions raised by Mr. Brecht concerning the Financial Statement.

3. Income/Expense Budget to Actual Comparisons

4. Capital Improvement Program Accounting

01-Water Conservation Program

02-Sustainable Water Program

07-Sewer System Improvements

10-Office/Engineering/Administration

5. CSD-BWD Intertie/MOU costs

Mr. Brecht raised issues relative to the documentation of depreciation in the Financial Reports. Mr. Williamson explained that the depreciation is used as a basis for the District's fees. Ms. Larson opined that the issue was semantic, and all agreed it was a cash flow statement. Mr. Williamson agreed to investigate the details, together with further questions from Mr. Brecht. *MSC: Shimeall/Smiley approving the Financial Statements.*

**V. STAFF REPORTS**

**A. Manager's Report:** Mr. Williamson distributed a written report. He noted that BWD would be getting a letter of support from Assemblyman Joel Anderson for the I-Bank loan. He further reported that David Dale, former CSD General Manager, had offered to update BWD's Watercad model, a computer model of the water system for use in planning future facilities and assessing development impacts. The cost will be offset by Montesoro and other future developments, is currently covered by the capital budget, and has been authorized by the Board.

Mr. Williamson further reported he had met with the Wrights regarding sewage options for the Roadrunner Club, and had received \$15,000 from Mesquite Trails for the initial costs of reviewing their development plans.

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

**C. Operations Report:** All items were covered previously.

**VI. ATTORNEY'S REPORT**

No report. Mr. Williamson thanked Joe Adams for filling in during Allison Burns' maternity leave.

**VII. INFORMATIONAL ITEMS**

ACWA JPIA presents the President's Special Recognition Award to BWD for continuing to keep the Loss Ratio down. Mr. Rolwing invited the Board's attention to the information in the Agenda packet, and Ms. Pitman explained that the award covered workers' compensation and liability. Mr. Williamson commended the staff.

## **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. 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.

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

District Negotiator: Richard Williamson  
Under Negotiation: Possible negotiation for purchase of water and/or water related enterprises.

The Board adjourned to closed session at 1:30 p.m., and the open session reconvened at 2:00 p.m. There was no reportable action.

## **IX. OTHER ACTION ITEMS**

None

## **X. ADJOURNMENT**

There being no further business, the meeting adjourned at 2:00 p.m. The next regular meeting of the Board of Directors is scheduled for February 25, 2009 at the Borrego Water District.

January 21, 2009

Board of Directors  
Borrego Springs Water District  
PO Box 1870  
Borrego Springs, CA 92004

Re: Medical benefits for Board Members

I request that my comments be made part of the minutes of the January 21, 2009 Board meeting.

I believe the Board should reconsider and reverse its decision to include themselves in medical benefits offered to employees of the District for the following reasons:

The cost of covering Board members, their families and domestic partners is disproportional to the time and service provided to the District. Medical benefits are not offered to District employees until they've work 1000 hours per year, that's nearly a half year of full time employment. While this Board is active and spends more time on District duties than have previous Boards, they don't commit 1000 hrs. a year. The disparity between the District's medical benefit policy for employees and Board members is discriminatory and inequitable. Board members should not receive medical benefits.

This expense has been justified because it's "in the budget". A specious argument since the same Board seeking a benefit for itself established and approved the budget. More importantly, life has changed significantly since the budget was passed in July. Not just the state of California, but our entire economic system is in trouble. Given these times, it is fiscally irresponsible to earmark money for the benefit of 5 Board members when it could be used to the greater good of the District. For example, Well #3, a 40 year old problem child for the District needs replacing at an estimated cost of \$100,000. \$64000 would go a long way toward covering that cost and the benefit would be to the future of the whole valley, not just 5 elected officials.

Further, the District is beginning a period of declining revenues and increased expenses. It's looking for multiple sources to fund these expenses from both rate payers and property owners. To it's credit, the District has hired a professional organization to help establish fees so they are equitably applied within the District. In their meeting with the Board, those very professionals urged the Board to gain the confidence of rate payers so they could trust the Board to do what was best for the District during the difficult times ahead. Did you not hear? Did you really think you would increase our confidence in your ability to make right decisions for the betterment of rate payers when you put your wants above our needs. During the vote on this issue in December, not a single Board member asked questions about the benefit and the only comments made left a clear impression that this matter had been discussed and decided before the meeting and outside the public's view: a done deal with no public input.

This action did not inspire confidence or invite trust; instead, it provoked a RECALL sign at the Post Office.

Finally, it's been said the Board is entitled to medical benefits because other Districts in other places give their Board's medical coverage. As you well know, Borregans hate being compared to everywhere else and do not share the "entitlement" attitude of other communities. To the contrary, the Board's action has violated one of basic tenets of life in Borrego and deeply offended its citizens. Folks live here because they love the spirit of this diverse tightly knit community where generosity and service abound. Quiet money and golf tournaments fund services for the young and old. The Park, the Chamber, Sponsor Group, Rotary and most all of our civic organization are staffed full time by volunteers. When someone has cancer, a friend of a friend organizes a fund raiser crossing socio economic lines. We trade junk at flea markets to benefit the Lions club so they can provide for the blind and disabled. The Art community funds scholarships and after school art programs to make up for a lack of state school funding. In a retirement community dubbed "a desert playground for the rich", Soroptimist funds a celebration in December so Santa can visit children from families that aren't retired, aren't rich or in many cases, aren't citizens. It's this giving of ourselves, a generosity of spirit, one community member serving another which makes Borrego so unique and so loved. It's everywhere...except in this District. Your actions speak louder than your words: elected as public servants, you now seek to have the public serve you.

I urge you to reconsider your action, reverse course and make amends with your constituents. Think hard on the words of those professionals you hired who said repeatedly that to be successful in your ambitious efforts to create a sustainable water supply for the valley, you MUST win the confidence and trust of rate payers. Be someone we can trust.

Sincerely,

Beth and Steve Hart  
PO Box 1282  
Borrego Springs, CA 92004

