

Borrego Water District
CORRECTED MINUTES
Regular Meeting of the Board of Directors
Wednesday, February 25, 2009
9:15 AM
806 Palm Canyon Drive
Borrego Springs, CA 92004

I. OPENING PROCEDURES

- A.** Call to Order: President King 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 King, Vice-President Smiley, Secretary/Treasurer Andersen, Mendenhall, Shimeall
- Staff: Richard Williamson, General Manager
Jerry Rolwing, Operations Manager
Kim Pitman, Administration Manager
Allison Burns, Stradling, Yocca, Carlson & Rauth
Wendy Quinn, Recording Secretary
- Public: Marshal Brecht Bob McKee
Judy Meier, *Borrego Sun* Jim Melvin
Clark Shimeall Beth Hart
Mike Hussey Don McKelvey
Martha Deichler, BSUSD Klariza Cruz, Borrego Elem.
Josh Haro, Borrego Elem. Adan Delgadillo, Borrego Elem.
Jessica Gucwa, Borrego Elem.

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

E. Approval of Minutes:

Regular Meeting of January 21, 2009. Director Smiley pointed out that the quote attributed to Lucy Larson (Item I.F) that the addition of health benefits for Board members increased the Directors' income by 600 percent was incorrect. The statement was deleted. Bob McKee questioned the statement in Item II.E that a new District employee's benefits would cost the District \$500 to \$1,200 per year, and Rich Williamson confirmed that should have been per month. ***MSC: King/Shimeall approving the Minutes of January 21, 2009 as corrected.***

Special Meeting of February 11, 2009. Director Smiley noted that Item II.A should state that the Clark Lake project includes a pipeline along Route S22, not 78. Director Shimeall pointed out that Item II.C should refer to a 2 million gallon reservoir, not 2,000. ***MSC: Shimeall/Mendenhall approving the Minutes of February 22, 2009 (special meeting) as corrected.***

F. Comments from the Public and Requests for Future Agenda Items: Mike Hussey stated that the Board had voted not to drill on the Nels property, and then changed its mind. He cited a Grand Jury investigation in 1994 which determined the District had no easements from the highway to the Nels property. He opined that the groundwater management boundary map on the wall in the Board room was incorrect, and that the Environmental Impact Reports previously done on the project were incomplete. He requested written confirmation of Mr. Williamson's statement that the Clark Lake and Ocotillo aquifers had been combined. Mr. Williamson invited Mr. Hussey to schedule an appointment with him to discuss the matter further.

Bob McKee requested a copy of the Personnel Committee Minutes documenting the discussion regarding health benefits for Directors. He cited page 6 of the Integrated Water Management Plan as providing that ad hoc committees shall provide a full record of their proceedings.

G. Comments from Directors and Requests for Future Agenda Items: Director Shimeall cited the January 21 Minutes (Item II.H), reflecting that Mr. Williamson would put the comments on the Integrated Water Resources Management Plan on the next agenda; and Item II.J, contemplating a public hearing on the draft water credit program for today's meeting. Mr. Williamson replied that the matters had been referred to the committee and would be on the Board agenda for March.

Director Smiley requested that Mr. Hussey cite the California Codes when referring to California water law, allegedly providing that when you extract water from a basin you must sustain a safe, static water level, and that you can import water only via a canal. Mr. Hussey agreed to provide the citations.

H. Correspondence: Mr. Williamson invited the Board's attention to correspondence from the ACWA Joint Powers Insurance Authority, enclosing a refund check of nearly \$10,000.

Jim Melvin's comments regarding the Integrated Water Resources Management Plan were forwarded to Bill Mills.

Jim McConnell has confirmed that funds have been earmarked for BWD in the State and Tribal Assistance Grants and Corps of Engineers for BWD.

II. CURRENT BUSINESS MATTERS

A. Presentation to the Board of Directors of the Borrego Springs Park Community Services District: Mr. Williamson announced that he had plaques for the CSD Board members commemorating the consolidation and expressing BWD's thanks.

B. An official "thank you " to the BWD Directors from the students and staff of the Borrego Springs Elementary School for sponsoring the transportation to Balboa Park to help make it possible for them to see the water exhibits: Martha Deichler, Borrego Springs Elementary School Principal, thanked the District for paying for a coach to transport students to a water exhibit at the Natural History Museum in San Diego last October. Students Adan Delgadillo, Klariza Cruz, Josh Haro and Jessica Guewa spoke regarding the benefits of the trip regarding the importance of conserving water.

C. I-Bank Loan update – Rich Williamson: Mr. Williamson reported that the I-Bank loan application process is proceeding and the outlook is optimistic. A \$5.5 million line of credit with a \$500,000 local match are anticipated at a current rate of approximately four percent, not due until we expend the funds, which must be done by August 2011. Initial approval is anticipated before the next Board meeting, with funding in June.

D. Consolidation of Borrego Water District and Borrego Springs Park Community Services District: Mr. Williamson reported that JPIA had inspected the CSD facilities and recommended some safety improvements which BWD is addressing. This will be covered by former CSD funds, and the issues are minor. The transfer documents were recorded on February 10, 2009, and the last meter reading under CSD rates is in process. A notice in the billings will explain the consolidation. Bob McKee asked whether new ID #5 (former CSD) would be subject to tiered rates, and Mr. Williamson replied that they would (same rates as BWD ID #4), pursuant to the consolidation agreement.

E. Consideration of the Board to approve the Personnel Policy Manual: Mr. Williamson noted he had distributed revised copies of the Personnel Policy Manual to the Board, incorporating comments received. Kim Pitman added that the Personnel Committee had reviewed it. Beth Hart inquired about a community review, and Mr. Williamson explained that would be for the general policy manual, not the personnel. Mr. McKee asked if the Personnel Policy Manual would be available for review, and Mr. Williamson replied that it would, in the District office. ***MSC: Smiley/Shimeall approving the Personnel Policy Manual as revised 1/09. RC: AYES – Smiley, Shimeall, Andersen, Mendenhall, King.***

F. Consideration of RESOLUTION NO. 2009-2-1 RESTATING AND ADOPTING A STATEMENT OF INVESTMENT POLICY; MSC: Shimeall/Mendenhall adopting Resolution No. 2009-2-1, Restating and Adopting a Statement of Investment Policy. RC: AYES – Shimeall, Mendenhall, Andersen, Smiley, King.

G. Consideration of RESOLUTION NO. 2009-2-2 UPDATING BSB SIGNATURE CARDS TO INCLUDE NEW ACCOUNT NUMBER FOR ID #5; MSC: Shimeall/Mendenhall adopting Resolution No. 2009-2-2, Updating BSB Signature Cards to Include New Account Number for ID #5. RC: AYES – Shimeall, Mendenhall, Andersen, Smiley, King.

III. COMMITTEE REPORTS & PROPOSALS

A. Ad Hoc Committees:

1. Personnel. No report.
2. Budget/Finance/Contract/Grants. Jerry Rolwing reported that Mr. Mills is applying for economic stimulus funds on the District's behalf. Mr. Williamson added that he had participated in several conference calls with Mr. Mills and Mr. McConnell and was working with Senators Feinstein and Boxer. We are applying for approximately \$7 million. Mr. Rolwing reported that Proposition 84 funds are still frozen.
3. Services Committee. President King suggested combining the Services and Sewer Committees, but after discussion, it was decided to keep them separate.
4. Negotiating. No report.
5. Sewer. No report.

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 pages 50-51). Mr. Rolwing announced that Water Wise Consulting has agreed to make a presentation in Spanish to local gardeners, tentatively on March 10. Another will be scheduled in April for "do-it-yourself" gardeners. Director Smiley reported he was continuing his efforts to schedule speakers for a seminar for the agricultural industry, and has arranged three to date. He questioned his authority to continue to work on this now that he is not a member of the Conservation Committee. Allison Burns stated he could continue the arrangements, but would have to report to the full Board rather than the Committee. Marshal Brecht expressed concern. Mr. Williamson suggested transferring the seminar to the Groundwater Management Committee, of which Director Smiley is a member, and agreed to discuss it with both Committees. Director Smiley inquired about Don McKelvey's work on Best Management Practices for commercial customers. Mr. McKelvey wanted to speak with Mr. Williamson and Ms. Burns after the meeting regarding gray water, and invited community volunteers to serve on his committee.

2. GWM. Mr. Williamson announced he would be distributing a redraft of the water credit/mitigation policy at the next Committee meeting and would bring it to the full Board in March.

Director Smiley referred to the February 11 GWM Committee Minutes (Agenda page 31, Item 7), indicating Jim Engelke was concerned about the County's acceptance of a water credit equaling an acre-foot of water per year. Director Smiley recalled he questioned the 2:1 mitigation policy, not the water credit calculation.

Director Mendenhall left the meeting at 10:40 a.m.

Director Smiley then referred to the Minutes at Agenda page 32, third paragraph, quoting Mr. Williamson's alleged concern that farmers would adopt high water-use crops prior to fallowing to enhance their credits. Director Smiley recalled that Mr. Williamson's concern was that they would simply pump more water onto existing crops, not change crops. He expressed his opinion that standard water use should be based on evapotranspiration, not consumptive use. Ms. Burns

stated that any corrections to the Committee Minutes should be done by the Committee. Wendy Quinn pointed out that the Committees do not consider the Minutes. They come to the full Board. Mr. Williamson agreed to include the Minutes in future Committee Agendas.

Mr. Williamson reported that he met with Mr. McKee regarding the impact of tamarisk removal and inclusion of credit in the mitigation program, and agreed to include in the next draft provision for additional credit to fallowing farmers who also include tamarisk removal.

President King declared a recess at 10:50 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 – January, 2009.

B. Water Production/Use Records – January, 2009.

C. Financial Reports – January, 2009.

1. Disbursements & Claims Report.
2. Financial Statement for Period Ending.
3. Income/Expense Budget to Actual Comparisons
4. Capital Improvement Program Accounting
 - 01-Water Conservation Program
 - 02-Sustainable Water Program

Director Shimeall requested that Check #12622 to U.S. Bank (Agenda page 43) be pulled per Mr. Brecht's request. Ms. Pitman reported it was the District's charge card payment. **MSC: Shimeall/Andersen approving the Consent Agenda.**

V. STAFF REPORTS

A. Manager's/Engineer's Report: Mr. Williamson distributed a written report, including a budget report. He attended a Special Districts Governance Seminar and has been working with the District's parcel fee consultant to make the District's data consistent with the County's and determine the appropriate costs to include in the parcel fee. All engineering contracts approved at the last Board meeting have been executed. The Clark Lake project had been renamed the Borrego Springs Water Augmentation Project. Changes to the Montesorio improvements and grading as-built plans have been reviewed and accepted. Mr. Williamson had been working with Mr. Mills and Mr. McConnell on various grant applications. He attended a meeting in Tucson regarding water transfers, but the State of Arizona has forbidden the Indians to sell water rights outside central Arizona. This issue may take years to resolve, so BWD needs to pursue other options. Mr. Williamson will be meeting with representatives of the proposed Mesquite Trails RV park to discuss mitigation.

Mr. Williamson went on to summarize his budget report, indicating 53.9 percent income budgeted versus actual as of January 31. Discussion followed regarding possible property tax reassessment, and Mr. Williamson agreed to investigate. Expense budgeted versus actual as of January 31 was at 59.94 percent. Of our \$1,913,000 capital budget, \$804,781 had been spent as of January 31. Mr. Williamson did not expect to spend it all in this fiscal year, nor to take anything from reserves. He predicted we will be under budget by year end.

Director Smiley asked whether, if the parcel fee is adopted this year, it would be included on the December property tax bills. Ms. Burns replied that the request would have to go to the County by mid-July. Mr. Williamson hoped to have a public hearing in April, preceded by workshops in late

March. Director Smiley inquired about the application of the fee to farmers who do not use District water, and Mr. Williamson replied it was under discussion. One idea is to charge based on development potential. Discussion followed regarding a possible agreement between the District and the farmer not to develop, creating an easement similar to that used in the Williamson Act for agricultural preserves.

B. Operations Report: Mr. Rolwing reported that Booster Station #3 had been tested and all went well. He went on to explain modifications to an intertie at Well #18 (Indian Head) that is rarely used and can now serve De Anza as needed, increasing reliability until a new well is drilled. A new generator was delivered to the District, included in last year's budget, which can move from well to well during power outages.

VI. ATTORNEY'S REPORT

Ms. Burns was glad to be back following her maternity leave and thanked everyone for their good wishes.

Director Smiley brought up Mr. Hussey's issue regarding the combining of the Clark Lake and Ocotillo aquifers. Ms. Burns agreed to investigate.

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. 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.

Ms. Burns announced that Item VIII.C had been deleted. The Board adjourned to closed session at 12:15 p.m., and the open session reconvened at 12:45 p.m. There was no reportable action.

IX. OTHER ACTION ITEMS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 12:45 p.m. The next regular meeting of the Board of Directors is scheduled for March 25, 2009 at the Borrego Water District.