

Borrego Water District
MINUTES
Regular Meeting of the Board of Directors
Wednesday, March 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
Diana Del Bono, Administrative Assistant
Allison Burns, Stradling, Yocca, Carlson & Rauth
- Public: Marshal Brecht Bob McKee
Judy Meier, *Borrego Sun* Jim Melvin
Mike Hussey Dennis Jensen, Oasis Ranch Mgmt.
Jim Engelke, Lundberg Paul Nordman
- D.** Approval of Agenda: *MSC: Smiley/Shimeall approving the Agenda as written.*
- E.** Approval of Minutes:

Regular Meeting of February 25, 2009. Director Shimeall pointed out a typographical error on Agenda packet page 6 (Item V.A of the Minutes). The capital expenditures should be **\$804,781** (a comma in the middle instead of a period). *MSC: Shimeall/Andersen approving the Minutes of February 25, 2009 as corrected.*

F. Comments from the Public and Requests for Future Agenda Items: Bob McKee noted that Rich Williamson's quarterly newsletter indicated that the Integrated Water Resources Management Plan was out, but it actually has not been approved yet. Mr. Williamson explained that due to publication requirements, the draft Plan and comments would be considered at the April Board meeting.

G. Comments from Directors and Requests for Future Agenda Items: Director Mendenhall asked how the proposed Water Credit and Mitigation Policy would interface with the current water mitigation fee. Mr. Williamson noted that the issue would be addressed later in today's agenda. The policy has been reviewed by the Groundwater Management Committee and will be presented to the Board and public today for comment, followed by a redraft in April if necessary.

H. Correspondence: Mr. Williamson reported that he had been contacted by the EPA regarding our \$275,000 STAG grant, and staff is preparing the request for funds and scope of work.

Mr. Williamson further reported that the District has been selected to present a paper at the Water Smart Conference this year in Las Vegas. Our topic is utilizing the water credit program to help protect groundwater reserves.

II. CURRENT BUSINESS MATTERS

A. Water Credit and Mitigation Policy presentation by the General Manager: Mr. Williamson distributed additional copies of the policy, which has been discussed by the Groundwater

Management Committee for several months. He requested that any comments be submitted in writing, and announced that the policy would be considered for adoption at the next Board meeting. Director Smiley requested that the first sentence be amended to read, "It is the desire of the District to implement a *voluntary* program" This would make it more acceptable to the agricultural community. He further emphasized the importance of a clear definition of "consumptive use" (net use after recharge, roughly equivalent to evapotranspiration). Mr. Williamson asked him to provide appropriate wording for inclusion in the policy. Four types of water credits are proposed: agricultural fallowing, golf course turf removal, other water use reduction documented by historic records (five acre minimum), and a water importation fee (replaces the existing in-lieu fee). President King expressed concern regarding the provision that the water importation fee shall be, at a minimum, equal to the market price of fallowed agricultural land. Mr. Williamson explained that the existing in-lieu fee is substantially lower than the price of credits, so it could dilute the value of the credits. President King felt that increasing the fee would discourage development of land that has already been subdivided. Discussion followed regarding the possibility of "grandfathering-in" subdivided lots under the existing fee, and Ms. Burns agreed to investigate. Jim Engelke asked that the rough proportionality rule be investigated relative to the 2:1 mitigation ratio. President King asked Ms. Burns to do so. Director Smiley recommended that the top of policy page 3 (Agenda packet page 11) be amended to read, ". . . equal to the market price of *water credits for* fallowed agricultural land" Discussion followed regarding the proposal to grant four credits per acre for fallowing of permitted crops (citrus, turf, palms). Mr. Williamson explained the goal of keeping the policy simple; however, data on water use for different crops vary. Director Smiley felt the four credits provision would not encourage farmers to fallow. Paul Nordman concurred. Director Smiley asked him to provide substantiating data at the next Groundwater Management Committee meeting. Further discussion followed regarding the impracticality of calculating each crop separately and the fact that the County does not support that. However, there is a provision for variance on a case-by-case basis. Mr. Engelke recommended that evapotranspiration be the only criterion, and Mr. Williamson asked him and Mr. Nordman to bring information to the next Groundwater Management Committee meeting. Director Smiley suggested adding a provision that the fallowing landowner is responsible for removal and disposal of irrigation materials and shredding of trees.

B. Board to discuss scheduling a time and place for a public hearing on the Mitigated Negative Declaration for the Borrego Springs Water Supply Augmentation Project: Mr. Williamson reported that staff had prepared a Negative Declaration for the Borrego Springs Water Supply Augmentation Project (Clark Lake). ***MSC: Shimeall/Andersen setting a public hearing on the Mitigated Negative Declaration for the Borrego Springs Water Supply Augmentation Project at a Special Board Meeting on April 20, 2009, at 11:00 a.m. in the District office.***

C. Consideration of the Board to approve a new Agreement with Lobbyist James McConnell: Mr. Williamson explained that by securing a STAG grant for the District, Mr. McConnell is entitled to be paid at the agreed hourly rate, not to exceed 30 hours, upon receipt of the grant funds. There are two other federal funding opportunities currently pending, one to refine the southeast water importation line and one for the Borrego Springs Water Supply Augmentation Project (Clark Lake). Mr. McConnell has proposed a similar arrangement, payment upon receipt of funding with a maximum amount. Director Andersen expressed concern regarding the lack of a formal agreement or contract in the Agenda packet, and the provision in the Board Action Memorandum for Mr. McConnell "being reimbursed upon the District being *offered* federal assistance" (emphasis added). She recommended that reimbursement be contingent on receipt of funds, not simply an offer. Mr. Williamson concurred that payment would be made upon receipt of the grant or loan. Director Andersen pointed out a discrepancy in the hourly rate - \$425 per the November Minutes and \$475 cited today. Mr. Williamson believed the \$425 was a typographical error. Director Andersen expressed further concern regarding the lack of a contract, documentation of a vote and a start and end date. Allison Burns explained that a 30-day

termination provision could be included, but a fixed date would not be appropriate for a contingency contract. Mr. McKee inquired about a 2006 agreement for Montesoro to bring water from outside the Borrego aquifer to serve its property. Mr. Williamson explained that Montesoro did purchase a well, but it is within the Borrego aquifer. The southeast importation line would serve the BWD domestic customers, not Montesoro, and is not related to the previous Nels property proposal presented by Lin Burzell. In the future, the District may look at purchasing additional water with the participation of the local golf courses. **MSC: Smiley/Mendenhall approving a new Agreement with lobbyist James McConnell (Director Shimeall voting NO, Director Andersen abstaining).**

III. COMMITTEE REPORTS & PROPOSALS

A. Ad Hoc Committees:

1. Personnel. No report.
2. Budget/Finance/Contract/Grants. Mr. Williamson reported that the Budget Committee would meet next month regarding the preliminary budget for FYE 2010.
3. Services Committee. No report.
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 offered to answer questions. Information on rebates was also included (Agenda packet pages 40-41). Director Mendenhall inquired about the procedure for approving committee Minutes, and it was confirmed that the Board had decided to approve them in the respective committees and include them in the Board packet for information.
2. GWM. Director Smiley reported that the Groundwater Management Committee spent most of its last meeting on the Water Credit and Mitigation Policy. He asked that future Committee Agendas be revised to delete standard items which will not be addressed at the meeting.

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 – February, 2009.

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

C. Financial Reports – February, 2009.

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

Director Andersen inquired about checks no. 12656 and 12698 (Agenda packet page 32), both for black toner. Jerry Rolwing surmised that we ran out, ordered another and then ordered a backup. He will confirm. Marshal Brecht referred to check no. 12653 (page 31) for tank inspection and asked what was involved. Mr. Rolwing explained that three tanks were inspected by divers, videotaped

and documented in a report. It is required by the Department of Public Health. *MSC: Shimeall/Mendenhall approving the Consent Agenda.*

V. STAFF REPORTS

A. Manager's/Engineer's Report: Mr. Williamson distributed a written report. Staff review of the I-Bank loan application is complete, and it is now being reviewed by attorneys.

The survey and half the design have been completed for the Borrego Springs Water Supply Augmentation Project. A test well has been drilled, and a high level of Total Dissolved Solids was discovered.

District staff has initiated review of the Mesquite Trails improvement plans.

Mr. Williamson had been working with Ms. Burns on establishing the association of local golf courses. BWD, as a golf course manager, will contribute financially but will not be an active participant.

Negotiations on the Austin well site acquisition are continuing.

A new sewage lift station is being designed, and the old one will be upgraded and moved to the treatment plant site. At that time the CSD lift station can be decommissioned, and the CSD treatment facility can be taken off-line and held in reserve.

Mr. Williamson met with representatives of Yaqui Pass and Viking Ranch regarding their proposed recharge project, and it the developers decided not to pursue it at this time.

Diana Del Bono has joined the District staff as an Administrative Assistant. She will coordinate communications with the Board and agenda preparation, streamline the filing system and follow up on commitments made during meetings.

Mr. Williamson referred to the CSD recommendation to purchase a new lawnmower, and reported he had located a used one in Coachella Valley for \$10,000 including refurbishment. An amount of \$15,000 had been budgeted from CSD reserves.

The former CSD customers will receive their first BWD bill this month.

Repairs were made to the CSD wastewater treatment plant filter system.

Mr. Williamson reminded everyone of the town hall meeting on April 1 and distributed a draft agenda.

Director Mendenhall inquired about the status of Well #5, and Mr. Rolwing replied that we are still awaiting approval from the Department of Public Health, which inspected the well in August.

Mr. Williamson announced that a workshop on the proposed parcel fees would be included in the April Board Agenda. Adoption is required by July 1 to accommodate a special election, which would be by mailed ballot and requires approval by property owners representing at least 50 percent of the assessed valuation.

Mike Hussey asked that he be included on the Agenda for April or May, expressing concern that he could not vote on the Integrated Water Resources Management Plan but would be affected by it. Mr. Williamson asked him to submit his comments in writing, which would then be included with others in the appendix.

B. Operations Report: Mr. Rolwing summarized his written report, noting the ongoing meter inspection and replacement efforts and improvements to pipelines. Water Wise Consulting presented a workshop in Spanish for local gardeners. Six attended and were favorably impressed.

VI. ATTORNEY'S REPORT

No report for open session.

VII. INFORMATIONAL ITEMS

None

VIII. CLOSED SESSION

A. 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.

B. 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)

The Board adjourned to closed session at 12:30 p.m., and the open session reconvened at 1:00 p.m. Ms. Burns announced that further negotiations were recommended on the Austin real property matter, and she had no report on the Burzell litigation.

IX. OTHER ACTION ITEMS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 1:00 p.m. The next regular meeting of the Board of Directors is scheduled for April 22, 2009 at the Borrego Water District.