

Borrego Water District
CORRECTED MINUTES
Regular Meeting of the Board of Directors
Wednesday, May 27, 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 9:20 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
 Wendy Quinn, Recording Secretary
- Public:** Marshal Brecht Bob McKee
 Judy Meier, *Borrego Sun* Bill Mills
 Beth Hart Rebecca Falk
 Jim Engelke, Austins Lucy Larson

D. Approval of Agenda: Rich Williamson requested that Item II.B (Consideration and Action by the Board of Directors authorizing the General Manager to terminate the Memorandum of Understanding with BWX) be removed from the Agenda. Further explanation will be offered under "Correspondence." ***MSC: Shimeall/Smiley approving the Agenda as amended.***

E. Approval of Minutes:
Regular Meeting of April 22, 2009. Director Shimeall requested that the report of Clark Shimeall's comment at the top of Agenda packet page 6 be amended to read, "Clark Shimeall expressed concern about the lack of evidence to support DWR's decision to combine the Clark Lake and Ocotillo Wells aquifers as reported in DWR Bulletin 118." Mr. Williamson corrected the summary of his budget status report (middle of Agenda packet page 9), last sentence, to read, "Reserves are at \$5.5 million, with total cash at \$6.9 million, of which \$5.9 million is unrestricted." ***MSC: Shimeall/Smiley approving the Minutes of the April 22, 2009 Regular Meeting as corrected.***

Special Meeting of April 22, 2009. ***MSC: Andersen/Mendenhall approving the Minutes of the April 22, 2009 Special Meeting as written.***

Special Meeting of May 12, 2009. ***MSC: Shimeall/Andersen approving the Minutes of the May 12, 2009 as written.***

F. Comments from the Public and Requests for Future Agenda Items: Beth Hart addressed the Board regarding the budget, noting that most people are limiting their spending today and the District should do the same. Rather than raising rates, she urged the Board to reduce expenses and curb discretionary spending. Lucy Larson presented Ms. Hart's closing remarks due to the time limit, suggesting that the District delay purchases when possible and buy used equipment rather than new.

Bob McKee pointed out that the issue of health benefits for Directors was not on the Agenda, and the Board had indicated it would be reviewed at this time. Mr. Williamson replied that it was included in the budget presentation.

G. Comments from Directors and Requests for Future Agenda Items: Director Mendenhall requested a copy of the contract between the District and the Borrego Water Company, and Jerry Rolwing agreed to provide it. Director Mendenhall requested that discussion of an expenditure for identity theft protection be placed on the next Agenda for closed session. Director Mendenhall asked for clarification of the figures in Mr. Williamson's last budget status report (Agenda packet page 9), and Mr. Williamson agreed to meet with him individually.

Director Mendenhall inquired about the status of the STAG grant. Mr. Williamson explained that this grant is administered by earmarking the funds, and once they have been spent, a bill is submitted to EPA and the District is reimbursed. Director Andersen expressed concern that the Board had requested that Jim McConnell be paid for lobbyist services upon receipt of grant funds, and in this case the funds were only earmarked, not received yet, and Mr. McConnell had been paid. Mr. Williamson explained that Mr. McConnell's work on this grant is complete and the funding has been secured. His agreement with the District provides that when the appropriation is secured, he will submit his invoice, a typical procedure.

Director Mendenhall asked about the De Anza flood control project, in which the District was seeking to participate with its recharge basin. The project is on hold, and he suggested investigating the transfer of the funds to another project. Mr. Williamson explained that the money was earmarked for flood control, but Mr. McConnell had agreed to talk to the Corps of Engineers about the possibility of reallocation. Mr. Williamson will follow up with Bill Mills and Mr. McConnell. President King suggested contacting De Anza regarding the status, and Mr. Williamson agreed to present an update at the next meeting.

Bob McKee expressed concern regarding the retention of Mr. McConnell to pursue a grant for something the Board had rejected (a well on the Nels property). Mr. Williamson explained that Mr. McConnell's current project was an intertie with the Imperial Irrigation District, a much more far-reaching proposal. The study will determine if the Nels well will be resurrected.

Director Shimeall asked whether we had obtained a clarification from Peter Martin regarding Claudia Faunt's estimate of the life of the aquifer following the town hall meeting. Mr. Williamson replied they had been trading phone messages, but he would see Mr. Martin before the next Board meeting and report back.

Director Shimeall further inquired about the results of the recent LAFCO election, and Mr. Williamson promised to report on it under correspondence.

Director Shimeall inquired about the possibility of using County funds earmarked for Borrego Springs park purposes for Christmas Circle. Mr. Williamson reported he had met with Jim Wilson, who indicated as long as the existing nonprofit corporation has sufficient funds to operate the park, they want to do so. Jim Engelke explained that the funds could be transferred in the discretion of the Community Sponsor Group, which would be discussing the issue tomorrow.

Director Shimeall asked whether the District was considering assumption of trash collection responsibility, and President King replied that the Services Committee was investigating.

Director Andersen stated for the record that she was shocked and surprised by the formation of an ad hoc Committee on Capital Projects without the matter having been placed on the Agenda for consideration by the full Board. She further expressed the opinion that the Board should reconsider its health care benefits. Mr. Williamson explained that he had contacted President King and suggested the ad hoc committee be formed, then she appointed Directors Mendenhall and Smiley. Ms. Burns announced that the District's Administrative Code, section 4.2, authorizes the President to appoint an ad hoc committee at any time. Ms. Larson felt it should have been done in public.

H. Correspondence: Mr. Williamson reported that the two candidates that BWD supported, Ingalls and McKenzie, had been elected as LAFCO regular member and alternate, respectively.

Jim Bennett had extended an invitation to BWD, on behalf of the County, to partner with the County in efforts to aid water conservation in Borrego Springs via a new landscape water agency. Further discussion was continued to the Conservation Committee.

Regarding his request to remove Item II.B (termination of the MOU with BWX), Mr. Williamson reported that he had received a letter from Lane Sharman terminating the MOU. It had always been contemplated that once we had a mitigation policy in place, the agreement would be terminated. Mr. Williamson will respond to Mr. Sharman. Director Smiley cited the debt owed Mr. Sharman by the Board and the community for his pioneering efforts toward reduction of agricultural water use.

Mr. Williamson reported that Dennis Ciocca is expecting a letter from the I-Bank inviting the District to make its final loan application.

Mr. Williamson recommended that the District renew its membership in the Water Agencies Association of San Diego County, \$100 for 2009-10. The Association lobbies and provides a forum for discussions of common interest to the member agencies.

Beth Hart reported that Mike Medema had sent an e-mail regarding the disparity among residents, commercial and agricultural in the tiered rates and requested a review of the rate system. Mr. Williamson replied that staff had reviewed the system and found no problem with the structure. Ms. Hart asked that he reply to Mr. Medema.

President King reported she had received a letter from Tim Ross regarding the Borrego Valley well canvass. He has documented 26 wells and thanked Jerry Rolwing for his assistance.

II. CURRENT BUSINESS MATTERS

A. Consideration of approval of sewer transfer from Nancy Steele to Bill Wright, Wright and Co. Trust. All fees have been paid and paperwork is in order: MSC: Mendenhall/Andersen approving a sewer transfer from Nancy Steele to Bill Wright, Wright and Co. Trust.

B. Consideration and Action by the Board of Directors authorizing the General Manager to terminate the Memorandum of Understanding with BWX: This item was deleted.

C. Board to consider and approve Resolution No. 2009-5-1 RESOLUTION OF THE BOARD OF DIRECTORS OF THE BORREGO WATER DISTRICT APPROVING AND ADOPTING AN IDENTITY THEFT PREVENTION PROGRAM: Mr. Williamson explained that this is a new requirement for agencies that collect personal information on customers. **MSC: Andersen/Smiley adopting Resolution No. 2009-5-1, Resolution of the Board of Directors of the Borrego Water District Approving and Adopting an Identity Theft Prevention Program. RC: AYES – Andersen, Smiley, Mendenhall, Shimeall, King.**

D. Presentation and discussion regarding the comments of San Diego County on the Water Credit/Mitigation Ordinance: Mr. Williamson reported that the District had been working with the County since last year in an effort to develop a consistent water credit/mitigation ordinance. Now the focus has shifted to adoption by BWD, followed by the County's selection of which provisions it considers viable under CEQA. The Groundwater Management Committee will meet this afternoon to develop a revised version. A crucial difference between the District and the County is that the District considers a farmer eligible for credits when he/she has the right to farm but doesn't, while the County says a credit depends on the removal of existing, living crops. Therefore, some fallowers will be eligible for District credits but not County.

Discussion followed regarding whether to require District mitigation when the water meter is purchased or when the building permit is approved.

Mr. McKee noted that a previous version of the policy had offered credit for tamarisk removal, but that had been deleted from the latest draft. Mr. Williamson predicted it would be reinserted.

Ms. Burns pointed out that if an ordinance is adopted rather than a policy, there are publication requirements and staff could be deputized to enforce it. A policy would be less stringent.

President King declared a recess at 10:45 a.m., and the Board reconvened at 11:00 a.m.

E. Presentation of FYE 2010 O&M and Capital Budget: Mr. Williamson distributed the FYE 2010 budget proposal, showing the current budget to date, year-end projection and proposal for next year. He noted that some figures were skewed by the addition of the Community Services District. The budget proposal has been reviewed by staff, the Conservation, Groundwater Management, Services, Personnel, Budget/Finance and ad hoc Capital Projects Committees. It was presented to the Board today to answer questions; approval will be requested at the June meeting.

Mr. Williamson explained that there are three primary budget categories: income, expense, and capital. Mr. Williamson summarized the proposed income budget, noting that water sales are expected to increase with a full year of service to the former CSD customers. Other components were special assessments, sewer service and interest. Marshal Brecht asked to review data from the District's Wells Fargo Bank account.

Mr. Williamson went on to explain the expense budget, and pointed out that the maintenance expenses would increase, again due to the merger with the CSD. Professional services are expected to remain constant, except for some additional accounting necessitated by the STAG grant and I-Bank loan. Mr. Brecht believed the estimated increase in accounting was too high. Insurance expense is expected to decline.

Discussion followed regarding the personnel expenses. Questions were raised regarding the significant increase in Board meeting expense. Diana Del Bono distributed a new proposed organization chart, showing the addition of Ms. Del Bono and the two CSD employees, as well as a new Customer Services Representative position. The new employee would begin training to replace an existing employee who is expected to retire this year. In response to Director Andersen, Mr. Williamson confirmed that the chart had been reviewed and recommended for approval by the Personnel Committee. The Board will vote on it next month as part of the budget package. Mr. Williamson explained that the salaries and wages contra account is used when employees are paid out of the operations and maintenance budget but were performing tasks associated with a capital project. The O&M budget is then reimbursed for that portion of their time from the capital budget. Mr. Brecht felt that the contra account and depreciation should be listed after income, rather than expense.

Mr. Williamson continued with the employee benefits expense, pointing out that the Directors' health coverage was included in this section. Mr. McKee recalled that when the Board approved health insurance for the Directors, it was contemplated that the cost would be born by the new parcel fee, which has not yet been implemented. He asked where the money was coming from and if it would be reimbursed eventually from the parcel fees. Kim Pitman replied that it was paid out of the medical insurance account. Ms. Larson inquired about the reserve for future personnel wage/benefit adjustments. Mr. Williamson explained that with the state of the economy, the Personnel Committee recommended against giving employees a cost of living adjustment this year. However, the funds are being held in reserve for next year. Director Mendenhall suggested using performance evaluations and merit increases rather than COLAs, and asked Mr. Williamson and the Personnel Committee to consider it. Mr. Williamson pointed out that the District now has a merit increase program as well as a COLA option.

Discussion followed regarding the office, utilities, depreciation and other expenses. Ms. Larson asked whether written comments on the budget could be submitted between now and the June meeting, and Director Mendenhall replied that they could.

Ms. Larson expressed concern regarding priorities in the capital budget. New reservoirs and the sustainable water program have replaced groundwater management as the top priority, and she questioned whether the District had given up on using the aquifer as our source of water in favor of importation. She pointed to the statewide water shortage and attendant difficulties Borrego Springs could face with importation. Mr. Williamson explained that unless all grass is removed and all residents cut their water usage in half, the aquifer will be insufficient by itself to sustain us. The farmers cannot be forced to fallow, and adjudication is a losing proposition. While we are lucky to have the aquifer, we cannot rely on it as the sole source of water. Director Smiley pointed out that importation is not the District's only focus. We have a conservation program and a fallowing program. Mr. Rolwing added that since we have the aquifer, importation would only be necessary during dry years. Mr. Brecht suggested adding expenditure target dates to the capital budget.

III. COMMITTEE REPORTS & PROPOSALS

A. Ad Hoc Committees:

1. Personnel. The Personnel Committee matters were covered previously.
2. Budget/Finance/Contract/Grants. The Budget/Finance/Contract/Grants Committee matters were covered previously.
3. Services Committee. President King reported that the Services Committee did not meet during the past month.
4. Negotiating. Mr. Williamson reported that he and Director Mendenhall had met with a staff member from Senator Boxer's office.
5. Sewer. Director Shimeall reported that the Sewer Committee met and discussed the lift stations, town center sewer, and EDUs. Eventual enlargement of the system was also addressed.
6. Ad Hoc Capital Projects. Director Mendenhall reported that the Ad Hoc Capital Projects Committee met to discuss the budget.

B. Standing Committees:

1. Conservation. Director Shimeall invited the Board's attention to the Conservation Committee Minutes, included in the Agenda packet, and Agenda pages 55 and 56, showing the conservation subsidies paid to date. Mr. Rolwing reported that the Committee had received contest entries from the schools, posters and PowerPoint presentations regarding water conservation.
2. GWM. Director Mendenhall reported that the Groundwater Management Committee was working on the proposed mitigation/entitlement program and efforts to coordinate it with the County. The Committee hopes to have a recommendation for the Board at its next 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 – April, 2009.

B. Water Production/Use Records – March, April, 2009.

C. Financial Reports – April, 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

MSC: Mendenhall/Smiley approving the Quarterly Reports.

V. STAFF REPORTS

A. Manager's/Engineer's Report: Mr. Williamson distributed his written report, which included information on the I-Bank loan, Clark Dry Lake project, water credit program, grant status, Well 12, the budget, the Austin well site, the new sewage lift station, road repaving, tiered rates, the District Administrative Code update and summer staff schedule. Directors Andersen and Shimeall volunteered to serve on a new ad hoc committee to work on review and update of the Administrative Code.

B. Operations Report: Mr. Rolwing reported on the crew's current work to redo a pipeline on Diegueno Road.

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)

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

Property: Well 12, easement and water line
District Negotiator: Richard Williamson
Negotiating Parties: GHLA Montesoro Investors, LLC
Under Negotiation: Price and terms of payment

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

Property: 120-020-07
District Negotiator: Richard Williamson
Negotiating Parties: Decker
Under Negotiation: Price and terms of payment

The Board adjourned to closed session at 2:00 p.m., and the open session reconvened at 2:20 p.m. There was no reportable action.

IX. OTHER ACTION ITEMS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 2:20 p.m. The next regular meeting of the Board of Directors is scheduled for June 24, 2009 at the Borrego Water District.