

Borrego Water District
MINUTES
Special Meeting of the Board of Directors
Tuesday, August 4, 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
Wendy Quinn, Recording Secretary
- Public: Marshal Brecht Bob McKee
Connie George, *Borrego Sun*

D. Approval of Agenda: Director Smiley suggested moving the Comments from the Public (Item I.F) to the end of the Agenda. Further discussion was continued to Item II.B. Director Smiley requested that the date of the next meeting, reflected under Agenda Item IX, be changed to September 16 due to his absence from September 21 on. *MSC: Smiley/Shimeall approving the Agenda as amended.*

E. Approval of Minutes:

Regular Meeting of June 24, 2009. Bob McKee asked that his questions regarding Item II.L (Resolution Adopting a Time Limit for Speakers at the Board Hearings and Meetings) be reflected in the Minutes. Although they were not answered during the meeting, staff responded afterwards and the responses were as follows: Name of the person who proposed this action (the Board President), copies of any notes leading thereto (there were none), copies of correspondence with the attorney on the subject (all communication was verbal), and the total cost (\$300).

Director Shimeall pointed out that the discussion of Best Management Practices and tiered rates reported under the Groundwater Management Committee report should actually come under the Conservation Committee. She further asked that the Conservation Committee report be amended to reflect that she and Diana Del Bono attended the elementary school final assembly as well as the eighth grade graduation.

MSC: Mendenhall/Smiley approving the Minutes of the June 24, 2009 Regular Meeting as amended.

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

F. Comments from the Public and Requests for Future Agenda Items: None.

G. Comments from Directors and Requests for Future Agenda Items: Director Mendenhall requested that the General Manager's report and other documents relating to the Agenda be delivered to the Board members earlier. He was concerned that he received the report at 11:00 p.m. last night for

this morning's meeting and had insufficient time to review it. Allison Burns pointed out that no action items were requested in the report. If they had been, 72 hours' notice is required.

Director Andersen inquired whether the report included information on the District's investments (Item II.C), and Mr. Williamson replied there was some information on Certificates of Deposit, Account Registry Services (CDARS). Director Shimeall noted she had difficulty reading the attachment on the I-Bank loan due to the print style. Mr. Williamson explained that the attachments to his report were simply to provide thorough information; they do not change the recommended action in the Agenda packet. Marshal Brecht requested that he be added to the Agenda distribution list.

H. Correspondence: Mr. Williamson reported that he had received a letter from the County Department of Land Use and Planning regarding the water mitigation credit policy, some of which the County agreed with and some they did not, consistent with prior discussions. Director Mendenhall requested a copy of the letter.

Mr. Williamson further reported he and the Negotiating Committee had received correspondence from Beth Hart regarding the proposed procedures to enhance public participation in District decision making. There were also questions for Allison Burns, but Mr. Williamson replied that they dealt with matters considered in closed session and could not be divulged unless the Board elects to waive the privilege. Director Mendenhall inquired about correspondence regarding solar energy, and Mr. Williamson explained that a subcontractor to Honeywell had requested information from the District so they could submit a proposal for installation of solar facilities. Staff is compiling the information.

II. CURRENT BUSINESS MATTERS

A. Consideration by the Board to authorize General Manager to write a letter of support on behalf of Board of Directors to support Assembly Bill, AB 1506: Assemblymember Anderson had requested the District's support for AB 1506, which would allow recipients of State-issued IOUs to endorse and return them to the State as payment for any obligations they owe to the State. ***MSC: Mendenhall/Andersen authorizing the General Manager to write a letter of support on behalf of the Board of Directors to support Assembly Bill 1506.***

B. Board to consider and approve RESOLUTION NO. 2009-6-6 RESOLUTION OF THE BOARD OF DIRECTORS OF THE BORREGO WATER DISTRICT ADOPTING PROCEDURES TO ENHANCE PUBLIC PARTICIPATION IN DISTRICT DECISION MAKING: Mr. Williamson referenced to the discussion at the last Board meeting relative to public participation procedures. The matter had been referred to the Negotiating Committee, which recommended detailed and/or controversial matters be handled primarily in committee. ***A motion was made by Director Shimeall and seconded by Director Smiley to adopt Resolution No. 2009-6-6, Resolution of the Board of Directors of the Borrego Water District Adopting Procedures to Enhance Public Participation in District Decision Making.*** Mr. Brecht noted that in the Committee meeting, it was contemplated that the three-minute speaking limit would remain, but the Board could change the rule during the meeting if desired. Section 2 of the proposed Resolution did not reflect this option. After discussion, it was agreed to leave the provision as is, noting the discretion of the President. Mr. McKee suggested that the fourth "whereas" should reference section 54954.3(c) of the Brown Act, as well as (a) and (b). The subsection deals with public criticism. President King pointed out that the Board has never prohibited public criticism, and Ms. Burns added that the provision was not relevant to time limits for public speaking. Mr. McKee further inquired about permission for one speaker to donate time to another, as provided by Roberts Rules of Order. Director Smiley explained that some of the provisions agreed to by the Committee did not comply with the Brown Act, so they were changed. Mr. Williamson pointed out that a two or three-minute limit in public meetings is typical, and if attendees wish to offer additional testimony, they can submit it in writing. Director Shimeall suggested the matter be referred back to the Committee, and ***the motion was tabled.*** Mr. McKee urged that more Minutes be taken at Committee

meetings. Director Smiley asked whether the President has discretion to limit speaking time on a particular item. Ms. Burns replied that she/he does, but it must be exercised prior to onset of discussion on that item. Any time limits should be set when the Agenda is approved.

C. Consideration and possible action by the Board of Directors regarding investing the District's Reserve/Capital Improvement funds: Mr. Williamson explained that Wells Fargo Bank had submitted a proposal for reinvestment of District funds currently in a non-interest bearing account. The investment would be similar to CDARS, in that Wells Fargo would put the offer out to bid and spread the funds among several institutions so they would all be fully insured. The District would receive regular, detailed reports. Mr. Williamson recommended this alternative. Mr. Brecht suggested considering a brokerage, such as Schwab or Vanguard. ***MSC: Mendenhall/Shimeall authorizing the General Manager to invest in a brokerage Certificate of Deposit account with Wells Fargo Bank, not exceeding a six-month term. RC: AYES – Mendenhall, Shimeall, Andersen, Smiley, King.***

President King declared a recess at 10:45 a.m., and the Board reconvened at 10:55 a.m.

III. COMMITTEE REPORTS & PROPOSALS

A. Ad Hoc Committees:

1. Personnel. No report.
2. Budget/Finance/Contract/Grants. No report.
3. Services Committee. President King reported that the Services Committee had discussed Christmas Circle and park grant funds. Mr. Williamson added that proposals would be requested for trash collection.
4. Negotiating. Mr. Williamson reported that the Committee met with staff last week regarding implementation of the water mitigation credit program. Three applications have been received so far.
5. Sewer. No report.
6. Capital Projects. No report.

B. Standing Committees:

1. Conservation. Director Shimeall invited the Board's attention to the Conservation Committee Minutes, included in the Agenda packet, and the conservation subsidies paid to date. Director Mendenhall requested a report on how much water has been saved by the conservation program.
2. GWM. The Groundwater Management Committee Minutes were included in the Agenda packet. Director Mendenhall reported that STAG funds have been earmarked for the program and we should begin receiving them this fall.

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 – June, 2009.

Director Mendenhall inquired about our total wastewater capacity, and Mr. Rolwing replied it is approximately one-quarter million gallons per day. Mr. Williamson suggested adding to the report production capacity in gallons per minute for each well.

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

C. Financial Reports – June, 2009.

1. Disbursements & Claims Report.

2. Financial Statement for Period Ending.
3. Treasurer's Report.
4. Income/Expense to actual
5. Capital Budget to actual.
6. Year to Date Meter Installations
7. Meter Installation History
8. Capital Improvement Program Accounting.

01-Water Conservation Program

Director Mendenhall requested the total cost of the conservation program, and Mr. Williamson replied it was \$175,185, \$96,000 of which is in-house labor.

02-Sustainable Water Program

Mr. McKee inquired about a payment to Jim McConnell, and Mr. Williamson explained it was for securing the STAG grant.

MSC: Shimeall/Smiley approving the Quarterly Reports.

V. STAFF REPORTS

A. Manager's/Engineer's Report: Mr. Williamson reported that the District has completed all requirements to be designated as a Regional Water Management Planning Agency.

The Bureau of Reclamation has suggested the District include a conjunctive use element in its financing application. A decision is expected by the next Board meeting.

Mr. Williamson had been investigating water availability in Yuma, working with legal counsel and the Metropolitan Water District.

It remains uncertain if we will receive STAG funds this fiscal year or next.

Assignment of Well 12 from Montesoro is expected to record tomorrow.

The District is working with property owners and the State Park on a potential well site at Clark Lake.

The aerial survey work for the Southeast Transmission Line is complete. Design of the Cox Reservoir will begin upon completion of the storage tank elevation determination, with bids to be sought in late spring or early summer of 2010. Environmental documents are in work.

Design of the new lift station on Borrego Valley road is nearing completion.

The sewage lift station for the Mesquite Trails RV Park has been approved.

A monitor well for the Rams Hill Wastewater Treatment Plant will be initiated within the next two months, as required by the Regional Water Quality Control Board.

Mr. Williamson reported he met with the Executive Director of the Regional Board to discuss the potential conversion of the Roadrunner Club to individual ownership and sewer system connection.

New satellite imagery for the District has been ordered and will be used for planning purposes.

A new vehicle was purchased for Mr. Rolwing. Director Mendenhall requested a list of all District vehicles.

The Groundwater Basin Study is on hold until the new fiscal year.

The final I-Bank loan application should be complete this week or next.

A new administrative staff member has been hired and will begin work on August 10.

Mr. Williamson participated in a conference call with Jim McConnell and Bill Mills to discuss stimulus fund opportunities for the Clark Lake project.

B. Operations Report: Mr. Rolwing reported that he had sold three meters this fiscal year. Contractors are finishing the paving in the area of the pipeline break at Country Club and Weather Vane. Staffing is currently short due to vacations and illness.

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 12:45 p.m., and the open session reconvened at 1:45 p.m. There was no reportable action.

IX. OTHER ACTION ITEMS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 1:45 p.m. The next regular meeting of the Board of Directors is scheduled for September 16, 2009 at the Borrego Water District.