

proposal to the District for installation of solar facilities. Mr. Rolwing replied that he provided the information requested and had not heard back from Honeywell.

Director Shimeall asked whether we had begun receiving STAG funds. Mr. Williamson anticipated the formal application process and grant award next month, when the new federal fiscal year begins.

Director Shimeall further inquired about a recent meeting with the Regional Water Quality Control Board relative to possible conversion of the Roadrunner Club to the sewer system. Mr. Williamson explained that in response to the Regional Board's request, the District agreed to act in an advisory role to ensure the existing septic systems are adequate and to keep the Regional Board apprised. Failing septic tank owners would be required to connect to the sewer.

H. Correspondence: Mr. Williamson referred to a magazine published by ACWA, *Water for Tomorrow*. He suggested purchasing a supply and having them available at the District office and/or the library. President King noted that the minimum yearly purchase is 1,000 copies, and Mr. Williamson agreed to follow up with ACWA to see if BWD could partner with another district on the purchase.

Mr. Williamson reported that the ACWA Joint Powers Insurance Authority performed an inspection following the merger with the Community Services District to ensure safety compliance. All items previously identified have been addressed except defensive driving courses for employees, which will be implemented, and air quality permits for stationary generators, which is being pursued with the Air Quality Control District.

II. CURRENT BUSINESS MATTERS

A. Public hearing on Negative Declaration for Water Credit and Mitigation Policy: President King opened the public hearing at 9:45 a.m. Mr. Williamson reported he had received no comments from other agencies and had met with State Park representatives to answer questions.

Kathleen Carson explained that her mother was preparing to build a home, and the County provides a 30-day grace period for an agency clearance letter. She requested an extension of time. Mr. Williamson suggested she return to the Board when the grace period is closer to expiration.

In response to an inquiry regarding the elimination of the in-lieu fee, Mr. Williamson explained that with the adoption of the Water Credit and Mitigation Policy, it is not required. Individual builders can purchase credits from the District instead.

Mr. McKee thanked the Board for including tamarisk removal in the policy.

Hearing no further comment, President King closed the public hearing at 9:55 a.m.

B. Consideration and adoption of the Negative Declaration for the Water Credit and Mitigation Policy: *MSC: Mendenhall/Smiley adopting the Negative Declaration for the Water Credit and Mitigation Policy.*

C. Consideration and approval of Resolution No. 2009-9-02 adopting the Water Credit and Mitigation Policy and eliminating the "Preservation Fee" as of October 16, 2009: Director Smiley expressed concern that the policy did not contain a requirement for property clean-up following fallowing. Ms. Burns replied that the requirement is contained in the easement document.

Director Andersen inquired about the reference to a DPLU policy on Agenda package page 41. Mr. Williamson stated that the District has a copy and it is available on line. It deals with BWD recognition of County mitigation. *MSC: Smiley/Mendenhall adopting Resolution No. 2009-9-02, adopting the Water Credit and Mitigation Policy and eliminating the "Preservation Fee" as of October 16, 2009. RC: AYES – Smiley, Mendenhall, Shimeall, King; ABSTAINED – Andersen.*

D. Consideration and approval of the Professional Design Services contract for the Wilcox Reservoir, Indianhead Reservoir and the Well 16 Booster Station, to include Mechanical and Electrical Engineering Designs (MSA Consulting, Inc.): Mr. Williamson reported that the projects under consideration are expected to be funded by the I-Bank loan. Grading design and surveys have been

completed. MSA Consulting, Inc. was pre-qualified last summer and worked on the Borrego Valley Road lift station. District and Park staff have met, and a Negative Declaration is anticipated. Director Andersen asked why the Contracts Committee was not consulted. Mr. Williamson explained that it is the Board's decision, and the matter was considered by the Capital Projects Committee during the budget process. The Contracts Committee will be involved with the language of the contract itself. ***MSC: Mendenhall/Shimeall approving a professional design services contract with MSA Consulting, Inc. for the Wilcox Reservoir, Indianhead Reservoir and the Well 16 Booster Station, to include mechanical and electrical engineering designs. Director Andersen voted no, and all other Directors voted aye.***

E. Consideration and approval of the Surveying and Drafting Support Services for the Indianhead Reservoir and Transmission Mains relating to the I-Bank funding proposal (Brian Polley Surveying, cost not to exceed \$75,000): In response to Director Mendenhall's inquiry, Mr. Williamson noted that Brian Polley Surveying had done work for the District previously at Clark Lake and on the Wilcox grading plan. The firm has been pre-qualified. Mr. Williamson did not believe the work would come close to the proposed \$75,000 maximum. A motion was made by Director Smiley and seconded by Director Mendenhall to approve surveying and drafting support services by Brian Polley Surveying for the Indianhead Reservoir and Transmission Mains relating to the I-Bank funding proposal, cost not to exceed \$75,000. President King requested that the maximum be set at \$50,000, with the matter to come back to the Board if more is needed. Directors Smiley and Mendenhall amended their motion and seconded accordingly, and the motion carried. RC: AYES – Smiley, Mendenhall, Shimeall, King; NO – Andersen.

F. Authorization for the General Manager to award an amendment to MSA Consulting, Inc. for CEQA support services for the issuance of a mitigated Negative Declaration for the Indianhead Reservoir and related Transmission Mains, cost not to exceed \$30,000: MSC: Mendenhall/Shimeall authorizing the General Manager to award an amendment to MSA Consulting, Inc. for CEQA support services for the issuance of a mitigated Negative Declaration for the Indianhead Reservoir and related Transmission Mains, cost not to exceed \$30,000. RC: AYES – Mendenhall, Shimeall, Smiley, King; NO – Andersen.

G. Authorization for the General Manager to award an amendment to MSA Consulting, Inc. to perform CEQA support services for the issuance of a supplemental mitigated Negative Declaration for the Clark Lake Projects, not to exceed \$25,000: Mr. Williamson requested that this item be deferred to the next Board meeting.

Director Shimeall asked Director Andersen why she voted against the previous three motions. Director Andersen replied she felt it was disrespectful to bypass the Contracts Committee.

H. Authorization for the General Manager to advertise for construction bids on the new Borrego Valley Road lift station: MSC: Authorizing the General Manager to advertise for construction bids on the new Borrego Valley Road lift station.

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

- I. Consideration and approval of water credit allocations to the following properties:***
- Gary Dix, Lane Sharman APN: 141-030-35 (Pepper Farm)
 - Gary Dix, Lane Sharman APN: 140-070-24 (Dragon Fruit)
 - Mallard Investments III LLC (Mike Shetler Mgr.) APN: 198-010-18 (Palm Canyon Resort)

Mr. Williamson reported that these matters had been considered by the Groundwater Management Committee. The County reversed its ruling on the pepper farm, most recently determining it is eligible to be farmed. The Committee recommended approval of two credits per acre. When the credits are sold, a survey will be required. Discussion followed regarding the fact that the County's determination of eligibility to farm was conveyed by e-mail. The Board agreed they should have a signed letter on County letterhead. ***MSC: Mendenhall/Smiley approving the allocation of two acre feet per acre in water credits to the pepper farm (APN 141-030-35, owned by Borrego Sunshine Farms LLC), contingent upon receipt of a letter from the County confirming that the property was eligible to be farmed as of the date of the application for credits. Director Andersen abstained, and all other Directors voted aye.***

Mr. Williamson reported he had contacted the State Extension Office regarding water use by dragon fruit, and they estimated between 1.5 and 4.5 acre-feet per acre per year. The Committee suggested a compromise at 3, and the owner agreed. ***MSC: Smiley/Mendenhall approving the allocation of three acre feet per acre in water credits to the dragon fruit farm (APN 140-070-24, owned by Borrego Sunshine Farms LLC). President King voted no, Director Andersen abstained, and the remaining Directors voted aye.***

Mr. Williamson explained there are two components of the proposed agreement with Palm Canyon Resort. The first is the approval of water credits for turf removal, and the second is conversion of all toilets to low water use and an agreement with the District to place signage on the resort property promoting conservation. They propose to convert existing turf (1.84 acres) to desert landscaping and remove a water feature as well as eucalyptus and citrus trees. Tom Fredericks presented plans for the conversion, including irrigation improvements. He requested approval contingent upon completion of a water credit application, due to time constraints for reseeded if the application is denied. Mr. Williamson explained that upon approval of the credits, the Board will be asked to decide whether the District will purchase those credits at an agreed price. Five thousand dollars per credit has been contemplated based on prior sales. Mike Shetler of Palm Canyon Resort noted that he could not afford the landscape conversion without the sale of the credits and had been unable to find another buyer. ***MSC: Shimeall/Mendenhall approving in concept the granting of a maximum of 14 turf removal credits for Palm Canyon Resort, APN 198-010-18, based on current policy. MSC: Shimeall/Mendenhall authorizing the District to purchase the credits from Palm Canyon Resort at \$5,000 each.***

J. Consideration and approval of purchasing up to 14 water credits from Palm Canyon Resort APN: 198-010-18: This item was taken care of during the prior item.

K. Consideration and approval of proposed agreement with Palm Canyon Resort for proposed water conservation project implementation and the leasing of signage: Mr. Williamson explained that the approval of rebates for replacement of all toilets at Palm Canyon Resort would wipe out the toilet rebate budget. Since the public information and awareness account has had excess funds in the past, he proposed that the District enter into an MOU with the Resort providing for some rebates plus a lump sum fee for District conservation signage on Resort property. He suggested that section 3.A(i) of the proposed MOU be amended to require *ultra* low-flow toilets (1.28 or fewer gallons per flush). Ms. Hart suggested establishing a budget line item for commercial upgrade credits, and Mr. Williamson agreed to discuss it with the Conservation Committee. ***MSC: Smiley/Mendenhall approving the proposed agreement with Palm Canyon Resort for proposed water conservation project implementation and the leasing of signage, with the amendment of section 3.A(i) as proposed.***

L. Consideration of RESOLUTION 2009-09-01 RESOLUTION OF THE BOARD OF DIRECTORS OF THE BORREGO WATER DISTRICT, SAN DIEGO COUNTY, CALIFORNIA, AUTHORIZING THE ADOPTION OF A PUBLIC RECORDS POLICY AND A RECORDS RETENTION POLICY AND SCHEDULE FOR THE DISTRICT: Ms. Burns explained that the proposed policy was recommended by the Secretary of State. ***MSC: Smiley/Mendenhall adopting***

Resolution 2009-09-01, Resolution of the Board of Directors of the Borrego Water District, San Diego County, California, authorizing the adoption of a public records policy and a records retention policy and schedule for the District. RC: AYES – Smiley, Mendenhall, Shimeall, King; ABSTAINED – Andersen.

M. Consideration and approval of Resolution No. 2009-09-03 setting the next three board meetings on the 3rd Wednesday of each month in the District's Board room: *MSC: Shimeall/Mendenhall adopting Resolution 2009-09-03 setting the next three Board meetings on the third Wednesday of each month in the District's Board room.*

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 trash collection and agreed to consider it. We need a straw vote from the community and cost estimates. Mr. Williamson has contacted three vendors.
4. Negotiating. No report
5. Sewer. No report.
6. Capital Projects. No report.

Ms. Hart inquired about notices of Ad Hoc Committee meetings, and Mr. Williamson confirmed they are on the District's website.

B. Standing Committees:

1. Conservation. Director Shimeall invited the Board's attention to Agenda package page 116, providing a status report on the conservation program. In response to Director Mendenhall's request, Mr. Rolwing announced that he would provide a report on how much water was saved through the conservation program.
2. GWM. Rebecca Falk reiterated her request to have the last Groundwater Management Committee Minutes amended to reflect that her concern regarding Colorado River Water related to perchlorate, not minerals. Mr. Rolwing asked whether the Board wants the Groundwater Management Committee to approve water credits, as the Conservation Committee does for rebates, or should they come to the full Board. After discussion, it was agreed to bring them to the Board for now.

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 – July, 2009.

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

C. Financial Reports – July, 2009.

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

Director Andersen questioned Check No. 15115 (Agenda package page 107), \$4,000 for a shredder. She asked why we were not using a shredding service, which provides a locked storage box and picks it up when full. Kim Pitman cited storage issues, and Director Mendenhall suggested the Conservation Committee address paper reduction strategies.

Mr. Rolwing pointed out that reports on flow rates and wastewater treatment plant capacities had been added.

Mr. Williamson noted that the only discrepancy cited by the auditors was the fact that they felt conservation should be shown as an expense rather than capitalized. He felt it should be capitalized. The auditors will make a presentation at a future Board meeting.

Director Mendenhall questioned the reflection of the Water Company acquisition as an asset for ID#4.

MSC: Mendenhall/Shimeall approving the Quarterly Reports.

V. STAFF REPORTS

A. Manager's/Engineer's Report: President King invited questions regarding Mr. Williamson's written report. Director Andersen inquired about the lighting of the flag outside the District office. This is an alternative to lowering the flag each night, but there was a question as to whether a light directed downward, to preserve the "dark sky" designation, was appropriate. Director Andersen will investigate.

Director Mendenhall inquired about the soils testing for the new reservoirs, and Mr. Williamson reported he had two quotes from specialists, \$3,600 being the lower.

Mr. Williamson reiterated that I-Bank funds are expected in December or January. We are still awaiting a response on the Bureau of Reclamation basin credits. BWD has been preliminarily approved as the Regional Water Management Agency for lands east of the Tecate divide in San Diego County, parts of Riverside County and the Coyote Creek watershed. We will update our Regional Water Resource Plan, seek committee and State approval, and will then be eligible for Proposition 84 funds. A cross section including agriculture, business, Ocotillo Wells and golf will be involved.

Mr. Williamson pointed out that since this is the first month of our budget year, revenue for residential water sales and net income are low because a large portion of the proceeds from the last billing (20th of each month) is accrued back to the prior fiscal year. On a cash basis, we would be \$20,000 over.

Ms. Falk inquired about solar facilities, noting that she was familiar with a solar company that had tried to contact the District without success. Mr. Williamson explained that he had been contacted by a number of companies and offered to see her after the meeting.

Director Mendenhall pointed out a discrepancy between the disbursements and claims on Agenda package page 105 and the hand-out distributed by Mr. Williamson at the beginning of his report. Mr. Williamson explained that page 105 reflects the overall District, including capital, while the hand-out is operations and maintenance only. He agreed to prepare a report on total cash revenue and a separate capital report for next month.

Ms. Hart inquired about the power surcharge, and how it was calculated. Mr. Williamson explained that it is currently 25 cents per CCU. Although it was instituted before his time, he surmised that the total power bill was divided by the number of units of water pumped. It should probably be reconsidered due to rising power costs. Director Shimeall recommended waiting until budget time. Proposition 218 procedures are not required to modify a surcharge.

Marshal Brecht asked about the negotiations reflected in the task list, and Mr. Williamson explained that these are potential tasks.

Mr. McKee expressed concern regarding conservation rebates granted to commercial enterprises, who do not pay tiered rates. The revenue from tiered rates is supposed to fund the rebates. Mr. Williamson pointed out that anything that conserves water is good, benefiting the entire aquifer.

Maris Brancheau asked about the recent emergency preparedness meeting, and whether the press should be covering it. Mr. Williamson apologized for the omission and agreed to provide information agreed upon to date and keep her informed of future meetings. The Fire Department, Medical Center, Park, Sheriff and San Diego Gas and Electric were involved.

B. Operations Report: Mr. Rolwing reported that we have finally received an operating permit from the Department of Health Services, and Well 5 will be operational upon installation of a phone line.

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

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

Property: 198-051-02: 2473 Stirrup Road
District Negotiator: Richard Williamson
Negotiating Parties: John Ehly
Under Negotiation: Price and terms of payment

The Board adjourned to closed session at 1:15 p.m., and the open session reconvened at 2:10 p.m. There was no reportable action on Items VIII.A, B and C. Ms. Burns reported that as to Item VIII.D, the Board gave direction to its negotiator.

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 2:15 p.m. The next regular meeting of the Board of Directors is scheduled for October 21, 2009 at the Borrego Water District.