

Borrego Water District
MINUTES
Meeting of the Board of Directors
Wednesday, October 21, 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, Mendenhall, Shimeall
Absent: Secretary/Treasurer Andersen

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: Judy Meier, *Borrego Sun* Rudy Monica
Jim Engelke, Lance Lundberg Beth Hart
Lane Sharman

- D.** Approval of Agenda: *MSC: Shimeall/Smiley approving the Agenda as written.*

- E.** Approval of Minutes:

Special Meeting of September 16, 2009. *MSC: Smiley/Mendenhall approving the Minutes of the August 4, 2009 Special Meeting as written.*

Special Meeting of September 23, 2009. *MSC: Mendenhall/Shimeall approving the Minutes of the September 23, 2009 Special Meeting as written.*

F. Comments from the Public and Requests for Future Agenda Items: Beth Hart referred to her recent request for an explanation as to how District Policy 84-1 applies to the requirement that Directors request information via the General Manager. She also asked how she should convey information to the Board without violating the Brown Act.

Lane Sharman stated that although he commended the Board for adopting the water mitigation credit program, he, Rudy Monica and Gary Dix felt they had been injured by its implementation. He urged the appointment of an independent organization which could not buy or use credits to oversee the program. He further requested that Mr. Dix and the pepper farm be placed on the next agenda, because DPLU has refused to issue a letter saying the property is farmable. They did issue an e-mail so stating, however.

- G.** Comments from Directors and Requests for Future Agenda Items: None

H. Correspondence: Rich Williamson reported he had received correspondence from Tim Ross with DWR, his first monthly report on the groundwater management study. They worked 89 hours in September and billed BWD for 45. The next task will be to catalog well logs in a uniform manner to assist USGS in updating the model.

II. CURRENT BUSINESS MATTERS

A. Consideration of **RESOLUTION 2009-10-01 OF THE BOARD OF DIRECTORS OF THE BORREGO WATER DISTRICT REGARDING ESTABLISHMENT OF THE DISTRICT-WIDE WATER ENTERPRISE FUND AND FURTHER ASSURANCES TO THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK**: Allison Burns explained that the I-Bank wanted a resolution confirming, establishing and ratifying the existence of an enterprise fund in the District, even though it already exists. *MSC: Mendenhall/Smiley adopting Resolution 2009-10-01 of the Board of Directors of the Borrego Water District regarding establishment of the District-wide water enterprise fund and further assurances to the California Infrastructure and Economic Development Bank. RC: AYES – Mendenhall, Smiley, Shimeall, King. ABSENT – Andersen.*

B. Consideration of **RESOLUTION 2009-10-02 OF THE BOARD OF DIRECTORS OF THE BORREGO WATER DISTRICT SETTING THE MINIMUM PRICE AT WHICH IT WILL SELL WATER CREDITS PURCHASED FROM PALM CANYON RESORT**: Mr. Williamson explained that the District purchased water credits from the Palm Canyon Resort for \$5,000 each, so it is proposed that the minimum selling price be set at \$5,500 to cover the District's administrative costs. In response to Mr. Monica's inquiry, he stated that potential buyers would be made aware of the availability of his credits and any others which may come into existence. *MSC: Smiley/Mendenhall adopting Resolution 2009-10-02 of the Board of Directors of the Borrego Water District setting the minimum price at which it will sell water credits purchased from Palm Canyon Resort. RC: AYES – Smiley, Mendenhall, Shimeall, King; ABSENT – Andersen.*

C. Authorization of General Manager to execute Right of Entry Agreements with various landowners in Clark Lake area: Mr. Williamson requested Board approval of agreements with Clark Lake landowners enabling the District to test their wells and perhaps drill test wells. *MSC: Mendenhall/Smiley authorizing the General Manager to execute Right of Entry Agreements with various landowners in the Clark Lake area.*

D. Authorization for General Manager to negotiate and enter into agreement with MSA Consultants for construction services related to new Borrego Valley Road sewage lift station, not to exceed \$20,000: Mr. Williamson explained that MSA Consultants had designed the Borrego Valley Road sewage lift station. The CEQA document is in draft form and will be presented to the Board for authorization to issue. During construction, the design engineers will visit the job site periodically to ensure compliance with the plans, and District staff will be there daily. Completion of the new lift station will enable us to shut down two other lift stations, although the former CSD treatment plant can be used in emergencies. *MSC: Shimeall/Mendenhall authorizing the General Manager to negotiate and enter into agreement with MSA Consultants for construction services related to the new Borrego Valley Road sewage lift station, not to exceed \$20,000.*

E. Authorization for General Manager to negotiate an agreement for provision of soil analysis and design and foundation for Wilcox and Indianhead Reservoirs, not to exceed \$12,000: Mr. Williamson reported that two quotes are being submitted for soil analysis, design and foundation for the Wilcox and Indianhead reservoirs, so he proposed that this item be continued pending their receipt.

F. Authorization for General Manager to sign the FY 2010 amendment to the joint funding agreement for the USGS Groundwater Management Study in an amount equal to \$159,808: Mr. Williamson explained that the authorization requested is for the second year of the three-year USGS groundwater management study. This is the largest of the three authorizations, and the funds have been budgeted. *MSC: Mendenhall/Smiley authorizing the General Manager to sign the FY 2010 amendment to the joint funding agreement for the USGS Groundwater Management Study in an amount equal to \$159,808.*

III. COMMITTEE REPORTS & PROPOSALS

A. Ad Hoc Committees:

1. Personnel. No report.
2. Budget/Finance/Contract/Grants. Jerry Rolwing reported that the Department of Public Health Services will readdress the District's sewer expansion funding request, which was submitted last year, in the spring. Another grant opportunity from Public Health Services involves the prevention of contamination of the public water supply through natural sources. The District may be eligible due to the introduction of additional nitrates from fallowed farmland.
3. Services Committee. Mr. Williamson reported that the Services Committee continues to discuss possible trash collection and has requested preliminary proposals from two firms. Thereafter, public comments will be solicited. President King urged consideration of commercial recycling and e-waste disposal, and Ms. Hart added that garden trash pickup would also be helpful.
4. Negotiating. No report for open session.
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, as well as Agenda page 74, summarizing incentive rebates to date.

Director Smiley inquired about an issue raised by Mr. Dix in the *Borrego Sun*. Mr. Rolwing explained that Jim Engelke had proposed that businesses along Palm Canyon plant drought tolerant trees and asked if the District would water them initially until they are established. The Committee agreed to consider it and come up with a price.

Judy Meier asked about the District signage at Palm Canyon Resort, part of the agreement regarding replacement of their toilets with low-flow models. Mr. Williamson replied that details would be negotiated by the Committee, and contents of the sign could be changed from time to time.

Mr. Rolwing announced an irrigation seminar conducted by Waterwise Consulting, scheduled for October 31, 9:00 a.m. to 1:00 p.m. at the District office. Fourteen people have signed up so far. He hoped to have another in the spring.

Mr. Rolwing reported that many irrigation audits had been requested, and the District has retained a second auditor.

A booth with the "water bottle/unit of water" display is planned for Borrego Days. Wrist bands stating "Water is Borrego's Treasure" will be given out.

2. GWM. Director Smiley reported that the Groundwater Management Committee is beginning to receive applications for water credits. Two controversial issues were Mr. Monica's request to requantify his existing credits (referred to the Negotiating Committee), and Mr. Engelke's request on behalf of Lance Lundberg, who wants to fallow immediately but is not ready to develop. The District would accept these credits, but not the County. This is an opportunity for the District to reiterate its position to the County that the County's interpretation of CEQA is counter productive to water conservation.

President King declared a recess at 10:35 a.m., and the Board reconvened at 10:45 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 – August, September 2009. Mr. Rolwing reported he had compared the August water usage of customers who had received conservation incentive rebates to their prior four-year average, and the total was 34 acre-feet less. He will continue to monitor the figures after six months and one year.

B. Water Production/Use Records – August, September 2009. Mr. Rolwing responded to questions regarding the details of the water production and use records.

C. Financial Reports – August, 2009.

D. Financial Reports – September, 2009.

1. Disbursements & Claims Report. In response to Director Mendenhall's inquiry, Kim Pitman confirmed that the disbursements and claims report covered two months.

2. Financial Statement for Period Ending. Ms. Pitman explained a San Diego Gas and Electric line item that was capitalized and transferred to "other assets."

3. Treasurer's Report. Ms. Pitman reported that all accounts except one had been transferred to Wells Fargo. A small account remains with Borrego Springs Bank for check cashing.

4. Water Conservation Program Accounting. There were no questions regarding this report.

5. Year to Date Meter Installations.

6. Meter Installation History.

President King announced that the District has installed three meters this year, and Mr. Rolwing added that only one was for new construction.

V. STAFF REPORTS

A. Manager's/Engineer's Report: Mr. Williamson reported that the Bureau of Reclamation plans to fund four basin studies and to date has approved three, with a "place holder" for BWD. The Federal Government wants the project to benefit a larger area, so the Bureau has expanded our proposal to contemplate Borrego as a banking facility, possibly for the San Diego Water Authority. We are also discussing options with Imperial Irrigation District and Coachella Water District. Issues include the source of water to be banked and its transportation.

Director Shimeall inquired about the conference Mr. Williamson attended recently in Las Vegas. Mr. Williamson reported that it was a Water Smart Innovation Conference, and he spoke about BWD's water credit mitigation policy. The presentation was well attended and well received, and there were some excellent questions.

B. Operations Report: Mr. Rolwing reported that one well was down last month, and two irrigation wells were used to supplement Montesoro's reseeded.

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: 140-280-13
District Negotiator: Richard Williamson
Negotiating Parties: Steve & Gail Van Camp

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: Carlos Lugo
Under Negotiation: Price and terms of payment

The Board adjourned to closed session at 11:20 a.m., and the open session reconvened at 12:00 p.m. There was no reportable action.

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 12:00 p.m. The next regular meeting of the Board of Directors is scheduled for November 18, 2009 at the Borrego Water District.