

Borrego Water District
MINUTES
Meeting of the Board of Directors
Wednesday, February 24, 2010
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: Judy Meier, *Borrego Sun* Diane Hydoski
Jim Engelke, Lundberg/Frizstedt Dennis Dickinsen
Lucy Larson Tom Coffey
Marshal Brecht Susan Hancock
Beth Hart David Lloyd
Donald Alford Mark Remy
Susan Alford
- D. Approval of Agenda: *MSC: Mendenhall/Smiley approving the Agenda as written.*
- E. Comments from the Public and Requests for Future Agenda Items: None
- F. Comments from Directors and Requests for Future Agenda Items: None

II. CURRENT BUSINESS MATTERS

A. Public Hearing on the Wilcox Reservoir and Pipeline Initial Study and Mitigated Negative Declaration: project consists of Wilcox Reservoir and Water Service Infrastructure Improvements, project includes construction of Reservoir, Booster Station and Pipeline primarily along DiGiorgio Road, Borrego Springs, CA: President King opened the public hearing at 9:16 a.m. Rich Williamson showed aerial photos of the Wilcox Reservoir site, where five acres of a 160-acre District-owned parcel have been cleared. The tank will be installed in a 12-foot deep excavation and screened by a 12-foot berm. Any vegetation removed will be replaced with native plants. One tank will be installed initially, but in the future a second can be accommodated. The project also includes a small tank and booster station in the vicinity of Well 16 as well as related transmission mains.. The project will serve most of the south end of town and increase fire flow and earthquake safety. Staff has determined there are no significant environmental impacts that cannot be mitigated. Allison Burns noted that mitigation measures are outlined in the Agenda. Director Shimeall pointed out that paragraph c) on Agenda package page 31 regarding hazardous emissions or materials had not been completed. A representative of MSA Consulting confirmed it should be "no impact," and promised to insert the check mark. Director Mendenhall cited a typographical error on Agenda package page 8. It should refer to the State Park, not the National Park.

Mr. Williamson reported that the State Park had expressed concern regarding the habitat of the burrowing owl, big horn sheep and flat tailed horned lizard. Construction will be curtailed during lambing season and owl nesting, although Ms. Burns pointed out that no nests had been discovered. Any lizards discovered will be removed. A biologist will monitor the situation. A paleontology study revealed no impacts, and an archeologist will inspect the site.

Diane Hydoski asked whether the project would be visible from Glorietta Canyon, and Mr. Williamson replied that a hill blocked the view. She further inquired how the reservoir would be filled. Mr. Williamson stated it would be filled from Wells 5, 12 and 16 and the Wilcox Well.

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

B. Adoption of Mitigated Negative Declaration for the Borrego Valley Wilcox Reservoir and Pipeline project consists of Wilcox Reservoir and Water Service Infrastructure Improvements, project includes construction of Reservoir, Booster Station and Pipeline primarily along DiGiorgio Road, Borrego Springs, CA: *MSC: Smiley/Mendenhall adopting the Mitigated Negative Declaration for the Borrego Valley Wilcox Reservoir and Pipeline as presented, including the mitigation measures set forth in the Initial Study in the Agenda package as well as those set forth in the State Department of Fish and Game, with the addition of the designation of "no impact" in paragraph c), Agenda package page 31. RC: AYES – Smiley, Mendenhall, Shimeall, King; NO – Andersen.*

C. Public Hearing on the Indian Head Reservoir No. 2 and Water System Improvements Initial Study and Mitigated Negative Declaration: project consists of Indian Head Reservoir and Water Service Infrastructure Improvements, project includes construction of Reservoir, Well Site and Pipeline starting NW of the intersection of Anza Park Trail and Coyote Way and continuing south to Big Horn Road, Borrego Springs, CA: President King opened the public hearing at 10:00 a.m. Mr. Williamson announced that the project is the second component of our I-Bank loan application and consists of a 750,000 gallon reservoir, a new well to be constructed at Well No IV-3 site or at the Northeast intersection of Borrego Springs Road and Big Horn Road, and related transmission mains. Aerial photos were presented. Due to the hillside location, little excavation will be required. There is another reservoir already on the site. The initial study addressed biology, paleontology and archeology. A mitigation program addresses concerns for the big horn sheep and burrowing owl, as expressed by the State Park and Department of Fish and Game and incorporated into the recommendations.

Joanne Ingwall, a resident of Indian Head Ranch, expressed concern on behalf of her homeowners' association. She asked how the District would guarantee any necessary repairs along Indian Head Ranch Road, which is privately maintained, has no shoulders and could be damaged by large construction vehicles. She was also concerned about the trees along Pine Tree Lane and the gate at the entrance to the community. Underground utilities were also an issue. Lastly, Ms. Ingwall suggested that the District work with the State Park to camouflage the reservoir so the color blends into the landscape. She expressed regret that the community had not been involved earlier in project planning.

Mr. Williamson explained that the tank will be constructed on site, and a weight limit could be imposed on the trucks. Another access route through the Horse Camp may also be considered.

David Lloyd, HOA President, asked what role they would play in working with the District on the design of the project. Mr. Williamson agreed to meet with the HOA during design and attend a meeting. He added that utility lines would be avoided during excavation. The new reservoir is needed to provide necessary fire flows to Indian Head and De Anza.

Another resident asked why the reservoir wasn't being screened by excavation and berms like the Wilcox Reservoir. Mr. Williamson explained that the terrain at Indian Head didn't lend itself to that design; the hillside would be scarred. Furthermore, it is important that all tanks be at the same elevation.

Mr. Lloyd inquired about the removal of oleanders surrounding the existing tank. Ms. Burns explained that it was a Homeland Security issue, to discourage contamination of the water supply. Mr. Williamson will investigate options to plant native species at an acceptable distance from the tank.

Marshal Brecht asked whether the new well at Indian Head would affect the wells at De Anza, and Mr. Williamson replied that it would not, and that in fact the District's Well No. IV-4 is located closer to the proposed well than the De Anza well.

Ms. Hydoski noted that the pine trees in the community were not mentioned in the CEQA documents. Ms. Burns explained that the District had a legal obligation to protect the trees and other HOA facilities regardless of CEQA.

Director Smiley asked whether a vote to approve the Negative Declaration today would preclude consideration of another access route to the project. Ms. Burns replied that the Board could approve the environmental analysis of the designated route, but would not be awarding a contract or approving plans. Mr. Williamson recommended approval, with direction to staff to work with the HOA to analyze alternative routes.

Hearing no further comments, President King closed the public hearing at 10:55 a.m.

D. Adoption of Mitigated Negative Declaration for the Indianhead Reservoir No. 2 and Water System Improvements: project consists of Indian Head Reservoir and Water Service Infrastructure Improvements, project includes construction of Reservoir, Well Site and Pipeline starting NW of the intersection of Anza Park Trail and Coyote Way and continuing south to Big Horn Road, Borrego Springs, CA: *MSC: Mendenhall/Shimeall approving the Mitigated Negative Declaration for the Indianhead Reservoir No. 2 and Water System Improvements with the accompanying Initial Study, including the mitigation requested by the Department of Fish and Game; insertion of a check mark for "no impact" in paragraph d) re substantial light or glare on Agenda package page 80; and direction to staff to work with the Indian Head Ranch HOA to consider alternative access routes. RC: AYES – Mendenhall, Shimeall, Smiley, King; ABSTAINED – Andersen.* Director Smiley suggested that the HOA submit its concerns in writing.

President King declared a recess at 11:00 a.m., and the Board reconvened at 11:15 a.m.

E. Consideration and Adoption of Resolution 2010-02-01: Support for Merle J. Aleshire for Vice President of ACWA-JPIA: *MSC: Mendenhall/Shimeall adopting Resolution 2010-02-01 supporting Merle J. Aleshire for Vice President of the Association of California Water Agencies Joint Powers Insurance Authority. RC: AYES – Mendenhall, Shimeall, Andersen, Smiley, King.*

F. Discussion regarding policy 83-2 relative to directors compensation and direction to staff for future action: Kim Pitman reported that the Personnel Committee had reviewed the updated policy regarding Directors' compensation. The Committee recommends consistency among the District Administrative Code, Policy 83-2 and the relevant Ordinance. The proposed rate is \$165 per day for a maximum of two Board meetings per month, and \$40 per hour for other meetings and/or legal proceedings, maximum of four hours per day and eight days per month. Director Andersen inquired about pay for travel time. Ms. Pitman replied it may be prohibited by law, and Ms. Burns agreed to investigate. She noted that any revisions to the Code, Policy and Ordinance would have to be noticed, published and voted on at a future meeting. She further opined that portal-to-portal payments could be authorized if the Board so chooses. The matter was referred back to the Personnel Committee for revision and reconsideration at the next Board meeting.

G. Consideration and Adoption of proposed Energy Consultant Contract with Chris Gadowski: Mr. Williamson referred to recent interest in solar energy, involving the Community Sponsor Group and the County. BWD has been encouraging solar providers to locate their facilities on fallowed agricultural land. Director Andersen asked why the proposed Consultant Contract was not reviewed by the Contracts Committee. Director Mendenhall replied that the Services Committee had

discussed it. Mr. Williamson reported that support for solar energy generated the highest response on the recent customer questionnaire. Director Shimeall asked whether a solar provider locating here would provide energy to Borrego Springs, and Mr. Williamson replied the power generated would go to Borrego first.

Mr. Williamson explained that the California Integrated Service Operator (ISO) controls the transmission of power and determines who can connect to a substation. The proposed consultant, Chris Gadomski, has a home in Borrego and is very knowledgeable regarding solar energy. His expertise would be valuable in analyzing issues during negotiations. His fee is \$125 per hour, on an on-call basis. Jim Engelke expressed support, noting the opportunity may arise quickly and his skill and knowledge will be important. Director Mendenhall suggested inviting Mr. Gadomski to address the Board at its next meeting. Dennis Dickinsen questioned the District's involvement in solar power beyond advocating the use of fallowed farmland and wondered how a consultant would help in this effort. ***MSC: Mendenhall/Shimeall authorizing an Energy Consultant Contract with Chris Gadomski for an initial term of one month at a cost not to exceed \$2,000; and directing staff to invite him to the next Board meeting. Director Andersen voted no, and all other Directors voted aye.***

H. Board to consider whether to agendize request made by Dennis Dickinsen regarding attorney fees related to General Manager's contract for next Board meeting: Ms. Burns informed the Board that discussion of the attorney fees related to the General Manager's proposed (withdrawn) contract would involve disclosure of privileged attorney-client communication. After discussion, Ms. Burns agreed to write off the charge to the District.

III. COMMITTEE REPORTS & PROPOSALS

A. Ad Hoc Committees:

1. Personnel. Director Smiley reported that the Personnel Committee met during the last month, and their discussions were covered during prior Agenda items.
2. Budget/Finance/Contract/Grants. No report.
3. Services Committee. President King reported that the Services Committee met with Eurus, a solar energy provider, and urged the location of their facilities on agricultural land. They were not receptive. The Committee also discussed the Club Circle Golf Course.
4. Negotiating. No report for open session.
5. Sewer. No report.
6. Capital Projects. No report.
7. Legal Affairs. No report.

B. Standing Committees:

1. Conservation. Director Shimeall invited the Board's attention to the Conservation Committee Agenda and Minutes and the 2010 Conservation Budget Summary, included in the Agenda. Mr. Rolwing announced that the District would have a booth at the Anza Borrego Desert Natural History Association's native plant sale on March 6. Our irrigation efficiency auditors will participate.
2. GWM. Director Smiley reported that the Groundwater Management Committee discussed finance and pending applications for fallowing. The pepper farm is still trying to determine its eligibility to farm from the County, which has declined to meet the District's requirement for confirmation in writing.

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 – January 2010.

B. Water Production/Use Records – January 2010.

C. Financial Reports – January 2010.

1. Disbursements & Claims Report.
2. Financial Statement for Period Ending 1/31/10.
3. Treasurer's Report.
4. Water Conservation Program Accounting.

D. Approval of Minutes

Regular Meeting of January 27, 2010

E. Correspondence

Betsy Knaak
William Davis
Club Circle Golf petition

Director Shimeall asked why the Minutes and correspondence weren't at the beginning of the Agenda as usual. Ms. Burns explained that staff was trying to streamline the meetings. The Board may also wish to eliminate the quarterly non-consent agendas.

Tom Coffey summarized the petition which he presented on behalf of the Club Circle Condominium Homeowners' Association, expressing support of retention of the golf course.

MSC: Andersen/Mendenhall approving the Consent Agenda.

V. STAFF REPORTS

A. Manager's/Engineer's Report: Mr. Williamson reported that Congressman Hunter and a staff member visited the District to discuss FY 2011 funding. The District is requesting a STAG grant of \$600,000 for two monitoring wells and a production well at Clark Lake.

I-Bank staff also visited us and toured the community.

District staff has been involved in discussions with the County concerning the need for a new fire station to serve future development. The County is willing to equip and staff the station but needs a location, perhaps the abandoned gas station at Borrego Springs Road and Yaqui Pass. Since the merger with the Community Services District BWD has fire protection powers, but there are questions as to whether we should become involved.

The construction contract for the Borrego Valley Road Lift Station was awarded to TC Construction for \$452,947. They were the second low bidder, but the lowest responsive bidder. The project is expected to take six months.

Ms. Burns reported that the Montesorro bond payments have been separated from the property taxes, and the deadline for payment is the end of February. Letters have been sent to the affected owners. Administrative expenses have been tracked and invoiced, and will continue if foreclosure is necessary.

Mr. Williamson reported that the Budget Committee will meet in March, April and May regarding the 2011 budget adoption process. Glenn Reiter will participate. A change in the title of "ID" is being contemplated as most people in government equate that to "Improvement District" and that leads to confusion.

Mr. Williamson announced he had been appointed to the ACWA Groundwater Committee and will be attending a meeting in Sacramento on Monday.

B. Operations Report: Mr. Rolwing reported a main break on Montezuma in De Anza. Well 10 failed and will be repaired next week.

VI. ATTORNEY'S REPORT

Ms. Burns explained that in an effort to streamline the meetings, more routine items were included in the consent agenda and the Board may wish to eliminate the quarterly non-consent agenda. Director Shimeall expressed her preference for the Minutes at the beginning of the meeting but liked the idea of eliminating the non-consent agenda.

Ms. Burns reminded the Board members to submit their financial disclosure forms.

VII. CLOSED SESSION

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

Property: 141-030-24
District Negotiator: Richard Williamson
Negotiating Parties: Dennis Avery
Under Negotiation: Consideration for real property and terms of same.

B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – Reference Government Code section 54956.9(b) one potential case:

C. 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):

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

Property: 140-030-03, 140-030-05
District Negotiator: Richard Williamson
Negotiating Parties: Lance Lundberg
Under Negotiation: Consideration of restrictive water use easement and terms of same

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

Property: 199-080-21
District Negotiator: Richard Williamson
Negotiating Parties: Cameron Bros. Construction Company, L.P.
Under Negotiation: Lease of Club Circle Golf Course

The Board adjourned to closed session at 1:25 p.m., and the open session reconvened at 2:25 p.m. Ms. Burns announced that in closed session the Board voted unanimously to approve a settlement agreement in the matter of Burzell v. Borrego Water District (SDSC Case No. 87-2008-0057104-CU-OE-NC); a copy of the settlement agreement is available at the District for public review. No other reportable action was taken in closed session.

VIII. CLOSING PROCEDURE

Adjournment. There being no further business, the meeting adjourned at 2:30 p.m. The next regular meeting of the Board of Directors is scheduled for March 24, 2010 at the Borrego Water District.