

**Borrego Water District
CORRECTED MINUTES
Meeting of the Board of Directors
Wednesday, July 28, 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. Swearing-in of new Director Abby King: Allison Burns administered the oath of office to the new Director, Abby King.

D. Roll Call: **Directors:** **Present:** President Kathy King, Abby King, Mendenhall, Shimeall

Absent: Vice-President Smiley (medical excuse)

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* Marshal Brecht
Jim Engelke, Lundberg Bob McKee
Ray Delahay Lucy Larson
Lane Sharman, BWX

E. Approval of Agenda: *MSC: Mendenhall/Shimeall approving the Agenda as written.*

F. Comments from the Public and Requests for Future Agenda Items: Jim Engelke reported on a new County requirement to build on a three-foot pad, then construct the floor frame on top of that, making it four feet. This makes access difficult for seniors and is onerous for the builders. He asked the District to consider extending its flood control authority throughout Borrego Valley in order to combat this requirement. Ms. Burns noted that LAFCO would have to be involved. President Kathy King asked staff to investigate, and Rich Williamson agreed to include it on the next agenda.

Mr. Engelke announced that Lance Lundberg was prepared to present a solar proposal once negotiations with the District are complete.

Lane Sharman, alleging to speak on behalf of other members of the public, requested an open hearing on alleged abuse of power by President Kathy King. He further opined that it is appropriate to periodically review services provided by legal counsel and determine whether the costs are reasonable. Additionally, he recommended that Directors be limited to two terms in order to facilitate turnover on the Board. Lastly, he felt that the Board had discriminated against Rudy Monica based on the terms of his fallowing and mitigation credits.

Lucy Larson expressed concern regarding the reporting of the salaries and wages, and the fact that the account is currently 114 percent of the budgeted amount, with vacation and sick leave at 137 percent. She recommended these funds be placed in a control account and then transferred to payroll. Kim Pitman replied that she already does so, and Mr. Williamson referred to Agenda page 20, showing the payroll accounting. The overage in the vacation and sick leave account is due to employees who have accrued the time off but not taken it. Ms. Larson apologized for her oversight.

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

H. Correspondence: Mr. Williamson reported that David Born had written to thank the District for continuing operation of the Club Circle Golf Course, and the ongoing, improved operations of the Service Area 5 infrastructure which the District has operated for the past year.

A letter from CalPers reported a preliminary gain of 11.4 percent for fiscal year 2009-2010. Marshal Brecht pointed out that they suffered a loss in 2008-09 but spread it over several years.

Bob McKee noted that he had written to the Board on June 15, but his letter was not included in the Agenda. Mr. Williamson explained that because of the nature of the letter he referred it to counsel for response. Mr. McKee confirmed he had received it, and Ms. Burns added that Board members received copies and they were available to the public upon request.

I. Approval of Minutes

Special Meeting of May 19, 2010

MSC: Shimeall/Mendenhall approving the Minutes of May 19, 2010 as corrected. Director Abby King abstained. (These had been approved as corrected at the June meeting, and Mr. Williamson subsequently added more corrections so they were submitted again.)

Regular Meeting of June 28, 2010

Mr. McKee requested the addition of details in Item I.E regarding his opinion that Director Smiley may not meet requirements for being a Director. He further specified that his reference to contact between the District and former Director Andersen (Item I.H, top of Agenda page 10) was a text message from her to Mr. Williamson on his birthday.

Referring to the bottom of Agenda page 10, Mr. McKee announced that he had information on Borrego residents' annual income. Director Mendenhall had questioned the statistics reported on the Social Security website.

Mr. McKee recommended that the statements submitted by the candidates for the Board at the last meeting be included in the Minutes. Ms. Burns pointed out that over and above the motions made, it is up to the Board what to include in the Minutes. The statements are on file and are public records.

Jerry Rolwing corrected the spelling of Dennis Dickinson's name.

MSC: Shimeall/Mendenhall approving the Minutes of June 28, 2010 as corrected, adding clarification that the Williamson/Andersen communication was a text message and correcting Dennis Dickinson's name. Director Abby King abstained.

II. CONSENT AGENDA: The Consent Agenda includes reports that are distributed with the Agenda packet and are submitted for filing following Board approval. 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 2010.

B. Water Production/Use Records – June 2010.

C. Financial Reports – June 2010.

1. Disbursements & Claims Report.
2. Financial Statement for Period Ending 6/30/10.
3. Treasurer's Report.
4. Water Conservation Program Accounting.
5. Year to Date Meter Installations.
6. Meter Installation History.

Mr. McKee suggested the District may be able to save money on its long distance phone service. Mr. Rolwing explained that all the District's lines are included in the bill, and Mr. Williamson added that business rates differ from residential. Mr. Rolwing will check on opportunities to reduce the bill.

Marshal Brecht requested a breakdown of the legal services bill, and Mr. Williamson agreed to provide it, with privileged items redacted.

MSC: Mendenhall/Shimeall approving the Consent Agenda.

III. CURRENT BUSINESS MATTERS

A. Appointment of Secretary/Treasurer: President Kathy King appointed Director Mendenhall as Secretary/Treasurer.

B. Consideration and adoption financial services contract with Glenn Reiter and Associates for water rate study: Mr. Williamson noted that during budget discussions, it was agreed that we would proceed with a rate study. Glenn Reiter has extensive experience with financial studies and water agencies. Mr. Williamson hoped to spread the cost of acquiring a sustainable water supply among future developers and all landowners within the District, as well as existing rate payers. Proposition 218 proceedings will be required, including a determination that any fee modifications are reasonable and in line with costs. Mr. McKee expressed concern regarding the District's participation in the Integrated Water Management Program, which involves areas outside BWD's sphere of influence. He further questioned the expenditure on a rate study and potential rate increase, when Borrego Springs has been designated as a disadvantaged community. Mr. Williamson assured him that the study and associated public meetings would cover these issues. **MSC: Shimeall/Mendenhall adopting the financial services contract with Glenn Reiter and Associates for a water rate study as presented. RC: AYES – Shimeall, Mendenhall, Abby King, Kathy King; ABSENT – Smiley.**

C. Status of Fire District plans for a second station to foster development approvals: Mr. Engelke reported that in June the American Legion presented a plan to the Community Sponsor Group whereby the Legion would donate an acre of land to the County for a new fire station. Legion representatives and a California Highway Patrol officer presented the proposal to the Fire Department, and they agreed. The County would operate and manage the new station, and local developers would contribute via a Community Facilities District. Mr. McKee distributed copies of the Fire Department's five-year plan to the Board members.

D. Consideration and Approval of Resolution 2010-7-1 RESOLUTION OF THE BOARD OF DIRECTORS OF THE BORREGO WATER DISTRICT RESTATING AND ADOPTING A STATEMENT OF INVESTMENT POLICY: Ms. Pitman explained that the restatement and adoption of an investment policy is done annually. The only change from last year is the requirement that financial institutions collateralize investments in excess of FDIC amounts, as recommended by the auditors. **MSC: Mendenhall/Shimeall adopting Resolution 2010-7-1, Resolution of the Board of Directors of the Borrego Water District Restating and Adopting a Statement of Investment Policy. RC: AYES – Mendenhall, Shimeall, Abby King, Kathy King; ABSENT – Smiley.**

E. Consideration of canceling August Regular Board meeting: **MSC: Kathy King/Abby King canceling the August Regular Board meeting. RC: AYES – Kathy King, Abby King, Mendenhall, Shimeall; ABSENT – Smiley.**

President Kathy King declared a recess at 10:55 a.m., and the Board reconvened at 11:10 a.m.

IV. COMMITTEE REPORTS & PROPOSALS

A. Ad Hoc Committees:

1. Personnel. No report.
2. Budget/Contract/Grants. No report.
3. Services Committee. Director Mendenhall reported that the Services Committee met and discussed the Club Circle Golf Course. The lease with the Camerons is being finalized.

4. Negotiating. No report.

5. Sewer. No report.

6. Capital Projects. No report.

7. Finance. Director Mendenhall reported that the Finance Committee received an update on the I-Bank loan, which will not be forthcoming at this time, and reduced the capital budget accordingly by putting some projects on hold. Mr. Williamson reported that the lift station is under contract, and the work is continuing.

B. Standing Committees:

1. Conservation. Director Shimeall invited the Board's attention to the conservation budget summary, included in the Agenda. The rebate program was discontinued, effective July 1.

2. GWM. Mr. Sharman asked whether developers within the District but outside its service area were subject to mitigation requirements. Mr. Williamson said they would not be subject to the District's 2:1 requirement, but developers of multiple units would be covered by the County's 1:1. Mr. Williamson agreed to investigate the policy, applicable laws and options. Further discussion was referred to the Groundwater Management Committee.

V. STAFF REPORTS

A. Manager's/Engineer's Report: Mr. Williamson reported that the IRWMP would be applying for a planning grant in September. Some concern has been expressed regarding adjudication, and he suggested inviting an expert in this area to address the Board and public regarding the process, pros and cons. The Board concurred, and Mr. Williamson agreed to try to schedule it for the September meeting.

The District's application for a basin study by the Bureau of Reclamation is still pending. Mr. Williamson planned to meet with representatives of the USDA to discuss their funding opportunities for transmission lines, grading plans and booster stations. The EPA STAG grant application is complete and going to the processing unit. We expect a decision in late September.

Mr. Williamson reported there was no damage to District facilities during the last earthquake.

Additional sewer hookups will be installed at the Roadrunner Club to replace older systems in 60 to 70 homes.

The Montesorro foreclosure proceedings are progressing.

Mr. Williamson had not completed the spread sheet on capital expenditures referenced in his written report, but agreed to e-mail it to interested parties upon completion.

Contacts from solar providers continue. The Services Committee and Budget Committee are reviewing the matter.

Mr. Williamson suggested advertising in a water industry journal to ascertain interest in water banking in this area. Ms. Larson inquired if water banking would require adjudication, and Mr. Williamson hoped this would be a question addressed by the expert at the September meeting. Director Mendenhall suggested creating a replenishment district, and Mr. Williamson predicted appointment of a water master to apportion water to the users.

B. Operations Report: Mr. Rolwing reported that some new participants, including the Bureau of Land Management, Ocotillo Wells State Vehicle Recreation Area and possibly some Indian tribes, have joined the IRWMP.

The crew has been replacing angle stops in the Sun Gold area.

Precautions have been implemented to protect the wells in the event of additional earthquakes.

VI. ATTORNEY'S REPORT

Ms. Burns reported that all foreclosure cases are at issue. Some answers have been filed, and default prove-up motions will be filed for others.

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 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.

D. 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 11:55 a.m., and the open session reconvened at 1:00 p.m. There was no reportable action.

VIII. CLOSING PROCEDURE

Adjournment. There being no further business, the meeting adjourned at 1:00 p.m. The next regular meeting of the Board of Directors is scheduled for September 22, 2010 at the Borrego Water District.