

Borrego Water District
MINUTES
Adjourned Regular Meeting of the Board of Directors
Wednesday, September 29, 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 Kathy King, Abby King,
Secretary/Treasurer 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* Marshal Brecht
Jim Engelke Bob McKee
Ray Delahay James Johnston
Lane Sharman, BWX Kathy Johnston
Rebecca Falk, RRR Beth Hart
Mary Watkins Jim Wermers

- D.** Approval of Agenda: *MSC: Mendenhall/Shimeall 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

G. Correspondence: Mr. Williamson reported that Utility Cost Management LLC, through the California Special Districts Association, had reviewed BWD's records to see if we could save money on electricity. They concluded that generally we are already getting the best available rates.

- H.** Approval of Minutes

Regular Meeting of July 28, 2010

Bob McKee requested the addition of the fact that he had distributed copies of the Fire Department's five-year plan to the Board members (Item III.C). Director Shimeall pointed out a typographical error in Item IV.B (William instead of Williamson). *MSC: Mendenhall/A. King approving the Minutes of July 28, 2010 as corrected.*

II. CURRENT BUSINESS MATTERS

A. Consideration and Approval of Resolution 2010-09-02 honoring and remembering the accomplishments of Director Steven Kennedy Smiley for Distinguished Service: Mr. Williamson explained that with Director Smiley's passing, the Board, staff and community wanted to formally recognize his efforts in water issues, particularly the water mitigation and credit policy, and propose renaming the policy as the Steven Smiley Memorial Water Mitigation and Credit Policy. *MSC: Shimeall/Mendenhall adopting Resolution 2010-09-02 honoring and remembering the accomplishments of Director Steven Kennedy Smiley for Distinguished Service.*

B. Consideration and Approval of Resolution 2010-09-01 Authorizing execution of a funding agreement and related documents for funding under the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84): Mr. Williamson reported that the District had applied for a planning grant for the Integrated Water Management Plan. The award would be just over \$500,000, and expenditures for the USGS study could be used for part of our local share. The proposed resolution would authorize President Kathy King to sign required documents and confirm the Board's support of the application. ***MSC: Mendenhall/A. King adopting Resolution 2010-09-01 Authorizing execution of a funding agreement and related documents for funding under the Safe Drinking Water, Water Quality and Supply, Flood Control River and Coastal Protection Bond Act of 2006 (Proposition 84).***

C. Authority for President K. King to execute documents relative to the \$275,000 STAG Grant Award from US EPA: Mr. Williamson announced the imminent receipt of a STAG grant sponsored by Congressman Hunter in 2009. The proposed resolution would authorize President Kathy King to execute the necessary documents. ***MSC: Mendenhall/Shimeall authorizing President K. King to execute documents relative to the \$275,000 STAG Grant Award from US EPA.***

D. Authority for President K. King to execute documents relative to the Bureau of Reclamation Basin Study for funding agreements. Mr. Williamson announced that ours was selected as one of six regions nationwide for a Bureau of Reclamation basin study. Imperial Irrigation District and Coachella Valley Water District are included. The primary focus will be to look at the Borrego basin in terms of potential water banking for Colorado River water that IID and CVWD cannot use, but want to store here. BOR will contribute \$400,000, and a 50 percent match is required. ***MSC: Mendenhall/Shimeall authorizing President K. King to execute documents relative to the Bureau of Reclamation Basin Study for funding agreements.***

E. Discussion and Direction to staff regarding expansion of flood control authority: Mr. Williamson explained that the County is considering imposing guidelines on the Borrego Valley which would raise the flood mitigation requirements from a two-foot pad above grade to a four-foot (three feet plus the foundation). Jim Wermer added that the FEMA requirements only require that it be above flood level, but the County may exceed this requirement. In this case, it will create handicap access problems. Mr. Williamson noted that under the Water Code, the District has flood control authority. So far, we have only exercised it at Montesorio by maintaining flood control channels. The District could expand this authority, but there are liability issues. Jim Engelke suggested seeking community input. President Kathy King suggested negotiating with the County, and Director Mendenhall concurred. Mr. Williamson agreed to contact them.

F. Discussion and Direction to staff regarding proposal to amend the power generation authority of the District to include solar generation facilities: Mr. Williamson explained that the District had attempted to get involved in the Eurus proposal to locate a solar energy facility in Borrego Springs, but didn't have much luck. In the 1980s water districts had power generation authority, but in the 1990s it was limited to hydraulic power. He recommended seeking legislation to restore the broader authority, noting that it could be a source of income to the community. Allison Burns concurred. Lane Sharman pointed out that there are expenses and educational issues involved, and suggested seeking community input. Director Abby King concurred. Mr. Williamson explained that he envisioned the District as a partner with the solar industry, and that the power generation authority would provide a negotiating tool. Mr. Sharman noted that the District could lose its right to a power offset at the retail level should it become a wholesaler, and suggested we consider net metering. Rebecca Falk, representing Eurus, assured the District that her client was anxious to work with the community and urged negotiations. ***MSC: Mendenhall/A. King directing the General Manager to seek legislation to expand the District's power generation authority.***

G. Consideration and possible action on request of Lane Sharman for the Board to investigate his allegations against President K. King: President Kathy King left the meeting at 10:40 a.m., and Secretary/Treasurer Mendenhall assumed the chair. Mr. Williamson distributed Mr. Sharman's letter, requesting an agenda item with public input. Director Shimeall suggested it be postponed until after the November election, and Director Mendenhall requested the subject of the inquiry. Mr. Sharman expressed concern regarding the circumstances surrounding Judy Burzell's departure from District employment in 2007 and his hope that such an occurrence would be avoided following the upcoming election. *MSC: Mendenhall/A. King requesting Mr. Sharman to provide written evidence of his concerns for the Board's consideration, with a decision on whether to hold a public hearing to be made at the October Board meeting.*

President Kathy King rejoined the meeting and declared a recess at 10:50 a.m., and the Board reconvened at 11:10 a.m.

III. COMMITTEE REPORTS & PROPOSALS

A. Ad Hoc Committees:

1. Personnel. No report.
2. Budget/Contract/Grants. No report.
3. Services Committee. No report.
4. Negotiating. No report.
5. Sewer. No report.
6. Capital Projects. No report.
7. Finance. No report.

The Board agreed to wait until after the election to make committee appointments.

B. Standing Committees:

1. Conservation. Noting that Mr. Williamson and Jerry Rolwing would be absent next week, Director Shimeall cancelled the next Conservation Committee meeting.
2. GWM. Mr. Rolwing inquired about the Border Environmental Contamination Commission grant opportunity through the EPA and USDA. Mr. Williamson explained that it was being offered to national border communities, particularly the disadvantaged, for use in infrastructure and economic development, among other things. It was agreed that the Budget or Finance Committee will meet to discuss it.

IV. STAFF REPORTS

A. Manager's/Engineer's Report: Mr. Williamson reported that work is progressing on the new lift station and is ahead of schedule. It should be on line by the end of the year.

The easements for the Clark Lake project are being finalized.

Mr. Williamson referred to discussions at the last meeting regarding the retention of an expert in water adjudication, and reported that he had found information on line. He invited the Board members to review it.

In response to Director Shimeall's inquiry, Mr. Williamson reported he had met with Fire Chief Hardcastle, who indicated the new fire station would be staffed by local firefighters, not the County as previously reported. Negotiations are continuing as to the prospective donation of land from the American Legion.

Mr. Williamson reported that a question had arisen as to whether a change in fees for checking and certifying backflow devices would be subject to Proposition 218 proceedings. Ms. Burns stated that it was not, because there others besides the District who provide the same service and customers are free to shop around. Mr. Rolwing pointed out that only commercial customers are

required to have the certified backflow devices, and discussion followed. Mr. Williamson pointed out that District-subsidized irrigation retrofits for residences are required to include the devices. It was agreed to review the District ordinance and consider updates in this and other areas.

New sewer lines are being installed at the Roadrunner Club.

We are awaiting a revised golf course lease reflecting comments from the Camerons.

Mr. Williamson announced that he and Bill Mills would be going to Washington D.C. next week to meet with Senators Feinstein and Boxer, Congressman Hunter, and representatives of the Bureau of Reclamation, EPA and USDA.

Ms. Burns reported that the default prove-up motions have been submitted in the Mello-Roos foreclosure proceedings, and dates have been set for the summary judgment motions. Mr. Williamson noted that the Montesoro water bill payments are current.

Mr. Williamson invited the Board's attention to the budget comparisons attached to his written report.

Dennis Ciocca, who now works for Stern Brothers, has identified a source of funding which may replace the I-Bank loan. Information will be presented to the Budget and Finance Committees.

Mr. Williamson announced that the District's grant application for the Water Education Center has been accepted as complete. Marshal Brecht asked whether the funds could be used for conservation, and Mr. Rolwing replied that they are limited to educational facilities. There will be a conservation component in the Education Center, however.

B. Operations Report: Mr. Rolwing reported that the crew has been painting fire hydrants and continuing with meter replacements.

C. Water and Wastewater Operations Report – July and August 2010: President Kathy King invited questions and comments.

D. Water Production/Use Records – July and August 2010: President Kathy King invited questions and comments.

E. Financial Reports – July and August 2010: Kim Pitman invited questions and comments. She noted the report would be expanded next month to include payroll in the disbursements report.

V. ATTORNEY'S REPORT

None

VI. CLOSED SESSION

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

B. 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.

C. 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 12:20 p.m., and the open session reconvened at 1:05 p.m. There was no reportable action.

VII. CLOSING PROCEDURE

Adjournment. There being no further business, the meeting adjourned at 1:05 p.m. The next regular meeting of the Board of Directors is scheduled for October 27, 2010 at the Borrego Water District.