

**Borrego Water District**  
**MINUTES**  
**Regular Meeting of the Board of Directors**  
**Wednesday, October 27, 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 Ray Shindler  
Ray Delahay Lane Sharman, BWX  
Rebecca Falk, RRR Beverly Kuhrts  
Beth Hart Jack Kuhrts

**D.** Approval of Agenda: President Kathy King requested that Item II be reordered as follows: A, B, D, C, E. She is recusing herself from Items II.A, B and D and asked that they be grouped together. *MSC: Shimeall/Mendenhall approving the Agenda as amended.*

**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: Rich Williamson reported that Borrego Springs Youth Soccer had requested a donation. Allison Burns stated that such a donation would be inappropriate, and Mr. Williamson agreed to circulate the letter to employees should they choose to make personal donations.

**H.** Approval of Minutes

Adjourned Regular Meeting of September 29, 2010

*MSC: Mendenhall/Shimeall approving the Minutes of the Adjourned Regular Meeting of September 29, 2010 as written.*

Special Meeting of September 29, 2010

*MSC: Shimeall/Mendenhall approving the Minutes of the Special Meeting of September 29, 2010 as written.*

**II. CURRENT BUSINESS MATTERS**

President Kathy King left the meeting at 9:20 a.m.

**A.** AMENDMENT NO. 1 TO BOND INDENTURE: Ms. Burns explained that Amendment 1 to the Montesorro Bond Indenture would accomplish three things: (1) allow bondholders to tender those bonds as payments for sums due on property at the foreclosure sale; (2) allow ongoing

special taxes to be paid with bonds; and (3) allow bondholders, at their own expense, to hire a receiver (this is unlikely to occur).

**B.** Consideration and Approval of Resolution 2010-10-01 *Resolution of the Board of Directors of the Borrego Water District acting as the legislative body of Community Facilities District no. 2007-1 (Montesoro) authorizing the execution and delivery of amendment no. 1 to the indenture and taking certain other actions in connection therewith:* *MSC: A. King/Shimeall adopting Resolution 2010-10-01, acting as the legislative body of Community Facilities District no. 2007-1 (Montesoro), authorizing the execution and delivery of amendment no. 1 to the indenture and taking certain other actions in connection therewith.*

**D.** Consideration of hearing request by Lane Sharman: Mr. Williamson distributed copies of Lane Sharman's Agenda item request alleging abuse of power by President Kathy King. Ms. Burns explained that under District Bylaws, it is in the Board's discretion whether to hold a hearing as requested. **Secretary/Treasurer Mendenhall declared a recess at 9:30 a.m. to enable the Directors to read the written request, and the Board reconvened at 9:40 a.m.** Mr. Williamson noted that Mr. Sharman's concerns could be addressed via the upcoming election, and that many of the actions attributed to President Kathy King were recommended by Mr. Williamson and/or voted on by the Board. Mr. Williamson felt a public hearing would be inappropriate and would set a dangerous precedent. Secretary/Treasurer Mendenhall asked whether the issue should be considered in closed session, and Ms. Burns replied that under the Brown Act it could not be considered in closed session. Director Abby King emphasized the need for Board members to conduct themselves in the best possible manner and keep personality conflicts away from public meetings. She asked Mr. Sharman about his expected outcome. He replied that he wanted the contributing public to be treated with respect, and suggested a workshop where citizens could share their concerns. Ms. Burns noted that she would be holding a duties and responsibilities workshop for new Board members (open to the public), and Mr. Williamson added that seminars are available through the California Special Districts Association. The proposal to conduct a public hearing failed for lack of a motion.

**C.** Consideration and possible action by the Board of Directors to authorize the use of contingency funds to replace the water line in Montezuma Road: President Kathy King returned to the meeting and reported there were two water line breaks in two days on Montezuma Road. Mr. Williamson distributed a map showing their location, and those of two additional breaks this year. District crew could do the work to replace the line, and the cost would be approximately \$45,000 to \$46,000. *MSC: Shimeall/Mendenhall authorizing the use of contingency funds to replace the water line in Montezuma Road. RC: AYES – Shimeall, Mendenhall, A. King; ABSTAINED – K. King (due to her real estate listings in the area).*

**E.** Consideration of moving next two months' Board meetings to the third Wednesday of the month: *MSC: Shimeall/Mendenhall moving the next two months' Board meetings to the third Wednesday of the month.*

### **III. COMMITTEE REPORTS & PROPOSALS**

**A.** Ad Hoc Committees:

1. Personnel. No report.
2. Budget/Contract/Grants. President Kathy King reported that she and Director Mendenhall met to discuss grants. A response to our application for an IRWM planning grant is expected in November. Mr. Williamson reported that the District received a STAG grant in the amount of \$275,000 (\$267,000 with EPA administrative costs) for the feasibility study on importation of water from Clark Lake.
3. Services Committee. No report.
4. Negotiating. No report.
5. Sewer. No report.

6. Capital Projects. No report.
7. Finance. No report.

**B. Standing Committees:**

1. Conservation. No report. The next meeting is scheduled for November 3.
2. GWM. No report.

**IV. STAFF REPORTS**

**A. Manager's/Engineer's Report:** Mr. Williamson reported that 25 percent of the budget year has passed, and the District has collected 24 percent of its revenue. Expenses are at 23 percent of projection.

Mr. Williamson and Bill Mills met Jim McConnell in Washington, D.C. the first week in October. They met with representatives of the USDA, Senator Boxer's staff, Congressman Hunter's staff, representatives of the Bureau of Reclamation, Senator Feinstein's staff, and representatives of the USGS. Discussion followed regarding the BOR basin study and the possibility of storing water from Imperial Irrigation District (Colorado River water) in the Borrego basin and associated water quality concerns. Mr. Williamson will present an update at the next meeting.

**B. Operations Report:** Mr. Rolwing reported that there was some lightening damage to District facilities earlier this month. Some repairs were made to Well 12. The crew has just completed this month's meter reading. The District is working with the County Department of Environmental Health to deliver potable water to the elementary school instead of using their well.

**C. Water and Wastewater Operations Report – September 2010:** Mr. Rolwing invited the Board's attention to his written report in the Agenda. The new lift station is 80 to 90 percent complete.

**D. Water Production/Use Records – September 2010:** Mr. Rolwing reported the water production/use records were typical for September. Montesoro didn't use much water, but will increase now with the reseeding.

**E. Financial Reports – September 2010:** Kim Pitman summarized the revised Financial Reports, which provided additional information on disbursements and capital projects. Marshal Brecht inquired about a \$62,000 payment on the Certificate of Participation, and Ms. Pitman explained that it was an accrual. Mr. Williamson added that we pay interest only until 2013. In response to Marshal Brecht's question regarding a payment for computer services, Mr. Rolwing explained that it included continual refreshing of the system and was only paid quarterly.

**F. Meter Installation reports:** The meter installation reports were included in the Agenda packet.

**V. ATTORNEY'S REPORT**

Ms. Burns noted that we will soon have at least one new Director, and per Water Code section 35204 he or she will take office on November 26. The oath must be signed then, but a Board meeting needn't be held. It is contemplated the swearing in will take place at the regular December meeting.

Beth Hart asked when the Brown Act provisions took effect for the newly elected Director(s), and Ms. Burns agreed to investigate.

Ms. Burns reported that she received a request after publication of the Agenda, and it may be added upon Board approval. The Yorba Linda Water District is requesting an Amicus Curiae letter in support of their defense of a lawsuit alleging inadequate water for fire protection during the 2008 fire storm. The deadline for filing is November 8. Ms. Burns explained that this is an issue of statewide importance which could set a precedent adverse to water districts. ***MSC: Kathy King/Mendenhall adding the item to the Agenda. MSC: K. King/Mendenhall authorizing an Amicus Curiae letter from Borrego Water District in support of Yorba Linda Water District in its inverse condemnation suit.***

**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 11:05 a.m., and the open session reconvened at 11:35 a.m. There was no reportable action.

**VII. CLOSING PROCEDURE**

Adjournment. There being no further business, the meeting adjourned at 11:35 a.m. The next regular meeting of the Board of Directors is scheduled for November 17, 2010 at the Borrego Water District.