

Borrego Water District
MINUTES
Special Meeting of the Board of Directors
March 15, 2011
9:00 a.m.
806 Palm Canyon Drive
Borrego Springs, CA 92004

I. OPENING PROCEDURES

- A.** Call to Order: President Hart called the meeting to order at 9:00 a.m.
- B.** Pledge of Allegiance: Those present stood for the Pledge of Allegiance.
- C.** Roll Call: Directors: Present: President Hart, Vice President Lyle Brecht, Secretary/Treasurer Marshal Brecht, Estep, Shimeall
- Staff: Jerry Rolwing, Interim General Manager/Operations Manager
- Public: Jim Engelke, Lundberg Judy Meier, *Borrego Sun*
Ray Delahay Jim Bennett, County DPLU (via
Joe Farace, County DPLU teleconference)
(via teleconference) Heather Stevens, County DPLU
Greg Moser, Procopio (via teleconference)

D. Comments from Directors and Requests for Future Agenda Items: Director Lyle Brecht announced for the record that the closed session would consist of a discussion regarding advice from legal counsel regarding the Viking Ranch purchase agreement, subject to Government Code section 54956.9(b) and (c), and for the purpose of giving direction to the District's negotiators under Government Code section 54956.8 related to the real property known as the Viking Ranch with negotiators Lee Estep, Beth Hart and Jerry Rolwing for the District in preparation for negotiating with Lance Lundberg from the Viking Ranch. This was consistent with the Agenda distributed today, but differed from the draft distributed last week.

- E.** Comments from the Public and Requests for Future Agenda Items: None

II. CURRENT BUSINESS MATTERS

A. Discussion with Jim Bennett and possible action regarding San Diego County's Groundwater Mitigation requirements for new development: Jim Bennett, Joe Farace and Heather Stevens from the San Diego County Department of Planning and Land Use joined the meeting by teleconference. Mr. Bennett explained that the County is in the process of amending its groundwater ordinance. Since BWD has groundwater management authority and the County controls land use, the two agencies are cooperating. The amendment will mandate mitigation of water use by new development, rather than relying on CEQA provisions to do so. Recognition of water credits facilitated by the District is contemplated.

Director Lyle Brecht inquired about enforcement of the ordinance and the County's budget therefor. Mr. Farace replied that the County has budget in its groundwater program to enforce the ordinance through zoning authority with the District's assistance. Jerry Rolwing asked whether the County would permit water credits to be banked (obtained at the time of fallowing and used later when needed by a developer). Mr. Bennett replied that they would. The County will impose criteria on the credits, which are currently being drafted and will be available for the District's review in the near future.

President Hart asked whether the District's two water credit easements, Monica and KRS, would be grandfathered in should their terms differ from the requirements of the amended ordinance. Mr. Bennett asked that Mr. Rolwing forward the documents for his review. Mr. Rolwing inquired about credits for the anticipated turf reduction at Club Circle Golf course,

noting that BWD pays for the water and would be willing to assume enforcement obligations. Mr. Bennett agreed to investigate.

The conference call was terminated with thanks at the conclusion of this item.

B. Motion to establish an executive committee comprised of Beth Hart, Lee Estep and Jerry Rolwing to meet with the owners of the Cocopah Nurseries to discuss the Cocopah option expiring May 29, 2011: A motion was made by Director Lyle Brecht and seconded by Director Marshal Brecht to establish an executive committee comprised of Beth Hart, Lee Estep and Jerry Rolwing to meet with the owners of the Cocopah Nurseries to discuss the Cocopah option expiring May 29, 2011. Director Estep suggested selling the option, and it was agreed to explore this option. Director Lyle Brecht assured the Board that any proposed decision by the committee would come back to the Board for approval. Director Shimeall expressed concern about the propriety and legality of considering the item in closed session, and what items should subsequently be announced to the public. ***The motion carried. RC: AYES – L.Brecht, M.Brecht, Estep, Shimeall, Hart.***

C. Motion to establish an executive committee comprised of Marshal Brecht, Eleanor Shimeall and Jerry Rolwing to meet with Jack Cameron to discuss the District's lease agreement with Cameron Brothers: A motion was made by Director Lyle Brecht and seconded by Director Marshal Brecht to establish an executive committee comprised of Marshal Brecht, Eleanor Shimeall and Jerry Rolwing to meet with Jack Cameron to discuss the District's lease agreement with Cameron Brothers. Director Lyle Brecht expressed his desire to better understand the business issues involved in the lease from the Camerons' perspective. Director Estep explained that as a member of the Community Services District Board, he was involved with the negotiations when the CSD merged with BWD. The course is an asset to the community, but since the Camerons didn't have to pay for water and the two golf course employees devoted half time to CSD water and sewer operations, the CSD could operate it for less than BWD can. He recommended revisiting the possibility of using gray water to irrigate the course, and noted that the partial fallowing will also save money. After discussion, ***Directors L.Brecht and M.Brecht amended their motion and second to substitute Lee Estep for Marshal Brecht. The motion carried.***

D. Authorization for president to sign Wildermuth Environmental, Inc. (WED) Engagement Agreement. This project, chosen advisor, and budget have already been approved by the Board. No additional budget needs to be authorized: President Hart noted that attorney Tony Romano had reviewed the proposed Engagement Agreement, and it was also considered by the Professional Advisory Committee and the ad hoc citizens' group. The cost is not-to-exceed \$15,000, and interim billings will be submitted based on the Board's time limitations. The budget was pre-approved from the \$78,000 contingency fund. The project, advisory and budget were already approved by the Board so no further action was required.

E. Authorization for president to sign Raftelis Financial Consultants (RFC) Engagement Agreement. This project, chosen advisor, and budget have already been approved by the Board. No additional budget needs to be authorized: President Hart explained that the Due Diligence Committee had selected Raftelis from three bidders, including Glenn Reiter, to continue the work that Reiter began concerning potential rate modification and the Proposition 218 process. No additional action was required.

F. Discussion and possible action to retain Dr. Brian Brady (former General Manager of the Imperial Irrigation District) to provide an independent review of District staffing and O&M budget. No additional budget needs to be authorized: Director Lyle Brecht explained that Dr. Brady did not submit a competitive bid for review of District staffing and O&M budget, because he was still employed by IID at the time of the bidding. He has now agreed to perform the review for \$3,000, which will come from budgets previously authorized. ***MSC: L.Brecht/M.Brecht retaining Dr. Brian Brady to provide an independent review of District staffing and O&M budget.***

G. Discussion and possible action for a no-cost extension to USGS study due date: Director Lyle Brecht invited the Board's attention to the report from the Community Support Group on its recent meeting with USGS. He noted that some minor changes had been made to the report, and Mr. Rolwing will e-mail the final version. A number of issues arose during the meeting that the USGS would be happy to address given a little more time, including climate change and additional updates to the model. The study would be completed by October, followed by peer review and final report at the 2012 Town Hall Meeting. Discussion followed regarding the two rain gauges that are no longer operational, and Director Shimeall suggested looking into budgeting for their replacement or seeking a grant. Mr. Rolwing suggested seeking the cooperation of the County and the Corps of Engineers, and President Hart recommended involving the State Park. *MSC: L.Brecht/Estep extending the USGS study due date at no additional cost.*

H. Discussion and possible action regarding recommendations from ad-hoc Strategic Planning Committee for March 30th Town Hall planning: Director Lyle Brecht summarized the proposed Town Hall Agenda developed by the Strategic Planning Committee, including introductions by moderator Gary Haldeman and the Board; presentations by DWR on well monitoring, Mr. Rolwing on grant funding opportunities, and USGS on their study; and final wrap-up on overdraft strategy by the Board, followed by questions from the audience. Mr. Rolwing noted that the Committee recommended a pause after each speaker for audience members to write down their questions. Director Lyle Brecht recommended that the Board members sit on the stage with the speakers.

Discussion followed regarding how to advertise the Town Hall Meeting. In the past we have done a mass mailing to all P.O. boxes. It was agreed to save expenses by using e-mails to major organizations, website notice, postings, and perhaps a banner at Christmas Circle. Judy Meier will put a notice in the March 31 *Borrego Sun*, which actually will come out the day of the meeting (March 30).

The Board discussed the proposed strategy to address the overdraft (Agenda page 58), and agreed to amend the second bullet to state the objective to determine the various viable legal options for establishing rights of all pumpers. Referring to the financial report on Agenda page 60, Director Estep pointed out that the strategy makes it obvious that rates will be increased, but this is not stated. After discussion, it was agreed to insert a statement that, "There is a significant probability that in order to meet our needs for water there will be a rate increase."

The Board concurred in the Town Hall Meeting handouts as presented in the Agenda with the amendments discussed.

I. Consideration and possible appointment of BWD Board Director as the JPIA designated director: Mr. Rolwing announced that the Secretary/Treasurer normally represents the BWD Board before the JPIA, which handles the District's liability, workers' compensation and property insurance.

III. CLOSED SESSION

A. Discussion regarding advice from legal counsel regarding the Viking Ranch purchase agreement subject to Gov. Code section 54956.9(b) and (c) and for the purpose of giving direction to the District's negotiators under Gov. Code section 54956.8 related to the real property known as the Viking Ranch with negotiators Lee Estep, Beth Hart, and Jerry Rolwing for the District in preparation for negotiating with Lance Lundberg from the Viking Ranch: Jim Engelke offered to answer questions from the Board prior to the closed session. The Board adjourned to closed session at 11:30 a.m., and the open session reconvened at 12:35 p.m. There was no reportable action.

IV. CLOSING PROCEDURE

A. Adjournment: There being no further business, the meeting adjourned at 12:35 p.m. The next meeting of the Board of Directors is scheduled for March 23, 2011 at the Borrego Water District.