

Borrego Water District
MINUTES
Regular Meeting of the Board of Directors
Wednesday, March 23, 2011
9:00 AM
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
Wendy Quinn, Recording Secretary
- Public: Judy Meier, *Borrego Sun* Doug Wilson, MTR
Jim Engelke, Lundberg Ray Delahay
Dennis Dickinson Dick Walker
Ray Shindler Julian Peabody
Kathy Johnston

D. Approval of Agenda: Director Lyle Brecht requested that Item II.B (selection of District Counsel) be moved to following Item II.E (use of counsel to assist the Board in developing a Developer's policy for the District in collaboration with the work that Raftelis is doing regarding Developer's fees). *MSC: Shimeall/M.Brecht approving the Agenda as amended.*

E. Approval of Minutes:

Special meeting of February 15, 2011

MSC: L.Brecht/Estep approving the Minutes of the Special Meeting of February 15, 2011 as written.

Special meeting of February 22, 2011

MSC: Shimeall/L.Brecht approving the Minutes of the Special Meeting of February 22, 2011 as written.

Special meeting of February 23, 2011

MSC: L.Brecht/Shimeall approving the Minutes of the Special Meeting of February 23, 2011 as written.

Regular meeting of February 23, 2011

MSC: L.Brecht/M.Brecht approving the Minutes of the Regular Meeting of February 23, 2011 as written.

Special meeting of March 2, 2011

MSC: L.Brecht/Shimeall approving the Minutes of the Special Meeting of March 2, 2011 as written.

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

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

H. Correspondence: Jerry Rolwing reported the Board had received a letter from Alex Chapple asking if they wanted to purchase his 98-acre lemon grove. President Hart asked Mr. Rolwing to write thanking him and letting him know the District is not currently interested in the purchase but may be in the future.

I. Staff Reports:

A. Financial Reports – February 2011

President Hart invited the Board's attention to the Financial Reports in the Agenda. Director Marshal Brecht pointed out that the cash flow projections for February were good, and further improvement is expected in March. He noted that some items are missing from the report, which would account for an increase of approximately \$40,000.

B. Manager/Operations Report

Mr. Rolwing offered to answer questions on his written report. He reported that the Montezuma pipeline is half way to completion and should be finished by summer. Mr. Rolwing explained that the County had constructed a 10-inch pipeline near the airport at no cost to the District and requested a reimbursement agreement. Since the elementary school has now connected to the line, the County has requested payment from the school. The Water District will simply collect the money and transmit it to the County. President Hart inquired about the survey and design of the transmission line to Clark Lake (Agenda pages 43 and 44). Mr. Rolwing explained that the project is being conducted under a STAG grant, and he was working with Bill Mills and the EPA to recoup money expended to date. A payment of \$67,000 is expected. Director Marshal Brecht requested that this be added to the cash flow projections. Director Marshal Brecht inquired about the finance workshop that Mr. Rolwing attended and expressed his interest in participating should it be offered again. Mr. Rolwing found the workshop helpful in developing budgets and rate studies. It is conducted by the North American Development Bank. Director Lyle Brecht requested a copy of the PowerPoint presentation from the workshop. Mr. Rolwing had already asked for it and will follow up.

J. Attorney's Report: No report.

II. CURRENT BUSINESS MATTERS

A. Discussion and possible action regarding establishing a reserve requirements policy for the District: Director Lyle Brecht invited the Board's attention to Agenda page 45, a summary of topics on reserve funds presented at the Utility Management Institute. Types of funds are O&M, Renewal and Replacement, Emergency, Debt Service, Rate Stabilization and Cash Flow. He suggested that the District develop a reserve policy. Mr. Rolwing suggested a presentation for the April 6 meeting. Director Estep suggested reviewing the District's reserve fund history as a basis for future estimates. Mr. Rolwing will investigate.

C. Discussion and possible action regarding the use of local counsel to represent the District's interests at the County in their development and deliberations concerning a new Groundwater Mitigation Ordinance for new development in the County: Director Lyle Brecht noted that the District has spent over \$1 million on its water mitigation credit program. Now that we have another opportunity to build a cooperative relationship with the County on this issue, he recommended retaining an advocate to deal with them. Director Estep questioned the need to spend money for this, opining that the Board is fully capable of dealing with the County. President Hart noted that relations between the District and the County are good at present, and recommended reconsidering Director Lyle Brecht's suggestion in the future if it becomes necessary. Mr. Rolwing announced that he would be meeting with Jim Bennett and would outline the District's position. President Hart asked that the matter be included on the next workshop agenda.

D. Discussion and possible action regarding the use of counsel to develop a District water credits policy in conformance with the County's new Groundwater Mitigation Ordinance: This item was covered during the previous one.

E. Discussion and possible action regarding the use of counsel to assist the Board in developing a Developer's policy for the District in collaboration with the work that Raftelis is doing regarding Developer's fees: Director Lyle Brecht noted that Raftelis is developing a financial model to

address connection fees and how they are established and to make recommendations for the future. A key question is whether current rate payers should subsidize future development. Mr. Rolwing explained that developer's fees have traditionally been negotiated on a case-by-case basis with the District's engineers. Doug Wilson of Mesquite Trails stated that his agreement with the District has not yet been finalized, but involves assurance that the development's infrastructure will be compatible with District facilities, irrigation considerations and an EDU fee. Mr. Rolwing reported that the agreement would be considered at the next Board meeting. Director Lyle Brecht offered to bring a sample developer's policy for the Board's consideration, and Mr. Rolwing suggested seeking David Dale's advice.

B. Discussion and possible action regarding the selection of District Counsel reporting to the Board: Director Lyle Brecht announced that further discussion of this item would be conducted in closed session. Director Estep explained that when Rams Hill was constructed the District needed a bond counsel, so the law firm Stradling, Yocca, Carlson & Rauth was retained and has represented the District ever since. He emphasized the need for an attorney familiar with water law and contracts, and expressed a preference for one closer to Borrego Springs.

F. Discussion and possible action regarding BoR MOU: Mr. Rolwing invited the Board's attention to the revised MOU from the Bureau of Reclamation, specifically page 4, paragraph VI.B, noting that the amendment did not really address the District's concern that monetary contributions would not exceed \$12,000 and that the MOU include a pre-approved list of in-kind services. Approval was tabled pending Mr. Rolwing's further negotiation with BoR to include these requests.

G. Discussion and possible action regarding the preparation of a planning grant proposal to DWR for the purpose of completing the ABD-IRWM planning process: Mr. Rolwing explained that the Anza-Borrogo Desert Integrated Regional Water Management Plan had been essentially complete as of December, but since then our direction has changed. Mr. Mills has been assisting, and now the new DWR facilitator will provide input and hopefully involve more stakeholders. Once the Plan has been amended and adopted, taking into consideration DWR's comments when our planning grant application was denied, the IRWM group can apply for project implementation funds. *MSC: Estep/M.Brecht forming an ad hoc committee comprised of Directors Shimeall and Lyle Brecht to work with Mr. Rolwing on the planning process for the IRWM.*

H. Discussion and possible action regarding the selection of auditor for FY2011: *MSC: Estep/Shimeall retaining Diehl Evans as the District's auditor for at least one more year.*

III. COMMITTEE REPORTS & PROPOSALS

A. Ad Hoc Committees

1. Due-Diligence

This report was covered previously.

2. Strategic Planning Committee

President Hart reported that the Committee was working on the introduction, agenda and final statement for the March 30 Town Hall Meeting. Gary Haldeman will serve as moderator, and Tim Ross (DWR), Peter Martin and Claudia Faunt (USGS) will speak.

IV. STAFF REPORTS

A. Water and Wastewater Operations Report – February 2011: Mr. Rolwing announced that operations had been switched over to the new lift station, and the former CSD treatment plant would be moth balled.

B. Water Production/Use Records – February 2011: Director Marshal Brecht inquired about the definition of irrigation customers versus golf courses, and Mr. Rolwing explained that irrigation customers were basically homeowners' associations.

V. INFORMATIONAL ITEMS

None

VI. CLOSED SESSION

A. Discussion regarding advice from legal counsel regarding the Viking Ranch purchase agreement and the Monica easement agreement subject to Gov. Code section 43956.9(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:

B. Discussion 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 Cocopah Nurseries with negotiators Lee Estep, Beth Hart, and Jerry Rolwing for the District:

C. Discussion for the purpose of giving direction to the District's negotiators under Gov. Code section 54956.8 related to the lease of real property known as the Club Circle Golf Course with negotiators Lee Estep, Eleanor Shimeall, and Jerry Rolwing for the District in preparations for discussions with Jack Cameron:

D. Discussion and possible action regarding the selection of District Counsel reporting to the Board under Govt. Code section 54957:

The Board adjourned to closed session at 10:50 a.m., and the open session reconvened at 12:55 p.m. As to Item VI.A, the ad hoc committee was directed to continue negotiations.

VII. CLOSING PROCEDURE

Adjournment. There being no further business, the meeting adjourned at 12:55 p.m. The next regular meeting of the Board of Directors is scheduled for April 27, 2011 at the Borrego Water District.