

Borrego Water District
CORRECTED MINUTES
Regular Meeting of the Board of Directors
Wednesday, April 27, 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
Absent: Shimeall (due to illness)
- Staff: Jerry Rolwing, General Manager/Operations Manager
Kim Pitman, Administration Manager
Diana Del Bono, Administrative Assistant
Lisa Foster, McDougal Love Eckis Boehmer & Foley
Wendy Quinn, Recording Secretary
- Public: Judy Meier, *Borrego Sun* Doug Wilson, MTR
Bob McKee Ray Delahay
Dennis Dickinson Dick Walker
Ray Shindler Julian Peabody
Sanjay Gaur, RFC
- D.** Approval of Agenda: ***MSC: approving the Agenda as written.***
- E.** Approval of Minutes:

Special meeting of March 15, 2011

Director Marshal Brecht requested that the motion in Item II.C (Agenda page 3, Minutes page 2) be corrected to reflect the subsequent amendment (substitution of Director Estep for Director Marshal Brecht on the executive committee). ***MSC: L.Brecht/Estep approving the Minutes of the Special Meeting of March 15, 2011 as amended.***

Regular meeting of March 23, 2011

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

Town Hall Minutes of March 30, 2011

MSC: L.Brecht/M.Brecht approving the Town Hall Minutes of March 30, 2011 as written.

Special meeting of April 6, 2011

Director Lyle Brecht made the following corrections: In Item III.A (Agenda page 17, Minutes page 2), insert the estimated water use by US Solar during construction (100 acre-feet) and thereafter (2 to 4 acre-feet per year). Change the April 19 meeting date in Items III.A and III.B (Agenda page 17, Minutes page 2) to "the next Board meeting." Amend the first paragraph of Item IV.A (Agenda page 17, Minutes page 2) to read in part as follows: ". . . Director Lyle Brecht noted that the end-of-year revenue projection, reflected on page 2, is \$3,082,918. ~~Brian Brady explained that this includes revenue and depreciation.~~ Director Lyle Brecht pointed out that on the last page, the end-of-year expense projection ~~differs~~ is \$3,708,806." Amend the third paragraph of Item IV.A (Agenda page 18, Minutes page 3) to read in part as follows: "David Dale pointed out that with the current ~~rate study,~~

~~a reserve account should be added into the budget~~ budget, no reserves are being accumulated. . . ." In the fourth paragraph of Item IV.A (Agenda page 18, Minutes page 3), correct the first sentence to indicate the requestor was President Hart rather than Director Lyle Brecht. **MSC: L.Brecht/M.Brecht approving the Minutes of the Special Meeting of April 6, 2011 as amended.**

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

G. Comments from the Public and Requests for Future Agenda Items: Doug Wilson of Mesquite Trails Ranch thanked the Board for approving the water agreement for his development, but explained that with the recent change in District counsel some additional changes were being made and would be presented to the Board at its next meeting.

Bob McKee commended the new Board's efforts to resolve the District's financial issues. He referred to the exemption of commercial and irrigation customers from tiered rates, noting the policy provided they would comply with Best Business Practices in water conservation by July 1, 2009. This has not occurred, and they have been granted benefits by the District. He opined that many Borrego Springs residents are on Social Security and have a low average income. He urged the Board to consider this if a rate increase is contemplated. President Hart inquired about the benefits to commercial and irrigation customers, and Mr. McKee cited the mitigation credits granted to Palm Canyon Resort and Christmas Circle. Director Marshal Brecht asked the source of his information on residents' income levels, and Mr. McKee cited the Social Security System website. Director Marshal Brecht pointed out that many of those collecting Social Security have other sources of income.

H. Correspondence: Jerry Rolwing reported the Board had received a letter from Carolyn Fraser, a casita resident at Montesororo. When Ms. Fraser purchased her home from a seasonal resident, the sewer overflowed and it was discovered the sewer line was never connected to the main. The District paid for the repairs, but now she is requesting reimbursement for a \$120 hotel bill incurred when her bathroom was out of service. President Hart requested that the matter be placed on the next Agenda for possible action. Mr. Rolwing is working with the homeowners' association to avoid future incidents such as this, and he and David Dale are working on a policy for the Board's consideration at its next regular meeting.

I. Staff Reports:

A. Financial Reports – March 2011

Director Marshal Brecht pointed out that the actuals for March were close to the cash flow projections (within \$5,000). Discussion followed regarding variations in the financials which could occur based on whether or not the Montesororo sale goes through and whether we receive the STAG grant. Further discussion was continued until Raftelis' arrival this afternoon. Mr. McKee suggested the District could save money on cell phones by using radios, and President Hart asked him to provide details to Mr. Rolwing.

B. Manager/Operations Report

Mr. Rolwing invited the Board's attention to his written report in the Agenda. He added that he received an e-mail from Allison Burns regarding the Montesororo lawsuit, informing him of a court proceeding on May 13 regarding fees. He and Andrea Rauth from Taussig will testify. Director Lyle Brecht requested time frame information on the projects in progress listed in Mr. Rolwing's written report. President Hart inquired about the County's water mitigation credit policy, and Mr. Rolwing expected their draft to be released on May 17.

J. Attorney's Report: President Hart introduced the new Interim General Counsel, Lisa Foster.

II. CURRENT BUSINESS MATTERS

A. Report of selection of General Counsel: Ms. Foster explained that her managing partner had worked with the Camerons and let her know the District might be seeking a General Counsel, so she contacted Mr. Rolwing and submitted written material on her background and her firm. She thanked the

Board for the opportunity to serve as Interim General Counsel and committed to avoiding delays during the transition. President Hart noted that Ms. Foster had offered to serve on an interim basis to afford the District the opportunity to become familiar with her. Ms. Burns will continue to represent the District in the Montesorro case. Ms. Foster noted that she plans to attend all Board meetings but does not charge for travel time to and from her home in Alpine. Director Estep noted that he had been familiar with her firm for 45 years and was happy to have Ms. Foster serve the District. *MSC: L.Brecht/Estep approving the agreement between Borrego Water District and McDougal, Love, Eckis, Boehmer, & Foley, A Professional Corporation.*

B. Discussion and possible action regarding the appointment of Jerry Rolwing as General Manager: *MSC: Estep/M.Brecht appointing Jerry Rolwing as General Manager and Operations Manager. RC: AYES – Estep, M. Brecht, L. Brecht, Hart. ABSENT – Shimeall.* The action was enthusiastically endorsed by all.

President Hart declared a recess at 10:00 a.m., and the Board reconvened at 10:10 a.m.

C. Presentation of STAG Grant: Mr. Rolwing distributed a handout outlining the status of the pending STAG grant, an earmark initiated by Congressman Hunter Sr. and continued by his son, the current Congressman Hunter. The grant would fund a feasibility study for the importation of water from Imperial Irrigation District or Clark Lake. Some additional design and survey work remains, as well as coordination with other affected agencies. The District has submitted a claim for \$135,000 and has been informed by the EPA that it has been approved. This will provide reimbursement for the Southeast Transmission Line survey and design, the Clark Lake Transmission Line survey and design and the Wilcox Reservoir site and drainage studies and design. Mr. Rolwing explained that another \$200,000 has been expended by the prior Board for which we don't expect reimbursement from EPA; however, less than \$20,000 in project costs remains. Some costs may be covered by the Bureau of Reclamation, and future STAG grant payments are anticipated. The total grant amount is \$267,000. Julian Peabody questioned the water quality at Clark Lake, and Mr. Rolwing replied that original tests in 2002 indicated excessive salinity but more recently higher quality water was discovered in the northern area.

III. COMMITTEE REPORTS & PROPOSALS

A. Ad Hoc Committees

1. Due-Diligence

Mr. Peabody asked whether the January 26 draft report from the Due Diligence Committee had been finalized. President Hart asked Diana Del Bono to check for any more recent reports or e-mails and send them to Mr. Peabody. Director Lyle Brecht noted that the January 26 report had been adopted, but it was unclear whether there were revisions prior to adoption.

2. Strategic Planning Committee

President Hart explained that the Strategic Planning Committee had been formed to prepare for the Town Hall Meeting, and asked whether the Board had additional jobs for the Committee. Ray Shindler suggested they look for ways to get agriculture out of the Valley, and Dick Walker suggested seeking input on rates.

3. IRWM Committee

Mr. Rolwing reported he had spoken to the State facilitator, who wants to interview him as well as Directors Lyle Brecht and Shimeall and perhaps Brian Brady.

4. Executive Committee (Cocopah)

Director Estep reported that the Committee met with Cocopah and discussed a possible compromise whereby the District would get the well and the property it is on. President Hart added that the District had requested a full refund from Duane Young (Cocopah owner), but he respectfully declined. Negotiations are continuing.

5. Executive Committee (Cameron)

Director Estep reported that the Committee had been working with Abby King and hoped to meet with Jack Cameron on Thursday.

6. O&M Budget Committee

President Hart reported that the work of the O&M Budget Committee would be part of this afternoon's presentation by Raftelis.

IV. STAFF REPORTS

A. Water and Wastewater Operations Report – March 2011: Mr. Rolwing reported that the former CSD treatment plant would be decommissioned next week. President Hart inquired about the possibility of selling it. Mr. Rolwing explained that the District would take a loss, but agreed to discuss it with Mr. Dale.

The data from the annual pump check was received yesterday and the results were good.

B. Water Production/Use Records – March 2011: The records were included in the Agenda.

C. Year to Date meter installations: Mr. Rolwing reported that several more meters were installed last month for Bill Wright, and three more are scheduled for next month.

D. Meter Installation history: The historical figures were included in the Agenda.

V. INFORMATIONAL ITEMS

None

VI. CLOSED SESSION

None

VII. ADJOURNMENT UNTIL 1:00 P.M.

President Hart declared a recess at 10:45 a.m., and the Board reconvened at 1:00 p.m.

VIII. ADDITIONAL BUSINESS MATTERS

A. Discussion and possible action regarding a review of the results of the financial model developed for the District by Raftelis Financial Consultants (RFC): Sanjay Gaur of Raftelis Financial Consultants presented a proposed financial plan covering the next ten fiscal years with suggested annual rate increases on beginning on July 1, 2011. Separate plans were developed for ID 4 water rates due to debt coverage requirements; and for ID 2 sewer rates due to contract commitments. A 30-year debt at 5 percent interest with a 3 percent cost, issuing each July 1, was assumed. The District's cash at the beginning of 2012 was estimated at \$383,337 assuming the sale of Montesoro. Discussion followed regarding alternative scenarios if the sale doesn't occur, and President Hart asked that Mr. Gaur do those calculations. Mr. Gaur explained that the financial model can include reserve targets for operating, capital improvement, contingency, rate stabilization, emergencies and employee benefits.

President Hart declared a recess at 1:35 p.m., and the Board reconvened at 1:50 p.m.

Mr. McKee reiterated his concern regarding the tiered rates and the exclusion of commercial and irrigation customers. Mr. Gaur explained that the rate study included three components: the financial plan, costs, and rate structure. The financial plan is being addressed currently, and under Proposition 218 the Board must act now if they wish to implement a rate increase on July 1. Thereafter, the rate structure can be addressed, and any change would also require a 218 process.

Mr. Gaur presented charts and graphs illustrating the District's financial picture with and without the sale of Montesoro. Figures were included for each ID and for each meter size. Discussion followed regarding whether to advertise two alternative rate increases under 218 or just the "worst case" without

the Montesorro sale. The rates can always be adjusted downward if the sale occurs without another 218 process. The possibility of saving money by canceling the Wildermuth groundwater management study was discussed.

Discussion followed regarding inflation. Mr. Gaur assumed three percent, and later five percent. Ms. Foster noted that language could be included in the 218 notice allowing for rate increases to cover inflation.

B. Discussion and possible action regarding recommendations from Raftelis Financial Consultants (RFC) regarding potential steps to improve the District's present financial situation that may include, among other things, providing notice of a Proposition 218 rate increase hearing in June 2011: *MSC: Estep/L.Brecht directing legal counsel to draft a Notice of Public Hearing on water and sewer rates pursuant to Proposition 218 including increases in sewer rates by 30% in 2012, 20% annually in 2013 and 2014, and 5% annually in 2015 and 2016; two alternate water rate increases by 50% in 2012, 20 percent annually in 2013 and 2014, and 5% annually in 2016 and 2016; or 30% in 2012, 20% in 2013 and 2014, and 5% in 2015 and 2016; and including a "pass through" provision that escalating electrical rates may trigger an additional rate increase. RC: AYES – Estep, L. Brecht, M. Brecht, Hart; ABSENT – Shimeall.*

IX. CLOSING PROCEDURE

Adjournment. There being no further business, the meeting adjourned at 4:10 p.m. The next regular meeting of the Board of Directors is scheduled for May 25, 2011 at the Borrego Water District.