

Borrego Water District
CORRECTED MINUTES
Regular Meeting of the Board of Directors
Wednesday, May 25, 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, 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* Ray Delahay
Dennis Dickinson Dick Walker
Ray Shindler Julian Peabody
Jim Engelke Kathy Johnston
Mike Hussey Doug Wilson, MTR

D. Approval of Agenda: President Hart requested that Item II.B regarding Mesquite Trails be moved to first under Current Business Matters so that Doug Wilson could make his presentation first. She further asked that Item III.7 (Executive Committee (FAQs)) be considered following the Staff Report (Items I.I), for this meeting only. ***MSC: L.Brecht/Estep approving the Agenda as amended.***

E. Approval of Minutes:

Special meeting of April 20, 2011

Director Lyle Brecht made the following corrections: Minutes page 1 (Agenda page 2), Item I.D, ". . . Item II.J be moved . . . so Doug Wilson could ~~leave~~ make his presentation first." Minutes page 2 (Agenda page 3), Item II.D, "Marshal Brecht pointed out that if the working capital reserves are large enough . . ." Minutes page 4 (Agenda page 5), Item III, ". . . Lisa Foster . . . had been appointed as Interim General Counsel . . ." ***MSC: L.Brecht/Estep approving the Minutes of the Special Meeting of April 20, 2011 as amended.***

Regular meeting of April 27, 2011

Director Lyle Brecht made the following corrections: Minutes page 2 (Agenda page 7), Item I.I.A, delete the sentence, "Director Lyle Brecht noted that \$432 was left at the end of the month." Minutes page 3 (Agenda page 8), Item II.A, "She thanked the Board for the opportunity to serve as Interim General Counsel . . ." Item II.C, ". . . \$200,000 has been expended by the prior Board for which we don't expect reimbursement . . ." Minutes page 4 (Agenda page 9), Item III.A.4, "Negotiations are continuing ~~toward a potential three month extension of the option for three months at a cost of \$50,000.~~" Item VIII.A, ". . . annual rate increases beginning on July 1, 2011." Minutes page 5 (Agenda page 10), Item VIII.B, delete the sentence, "After discussion, it was agreed not to mention that the two alternate increases were based on the sale or [sic] Montesoro." ***MSC: L.Brecht/Estep approving the Minutes of the Regular Meeting of April 27, 2011 as amended. Director Shimeall abstained.***

Special meeting of May 3, 2011

Director Lyle Brecht made the following corrections: Minutes page 1 (Agenda page 11), Item I.D, ". . . Sanjay Gaur . . . had suggested approving the Operations and Maintenance budget" Item II.D, change \$3.8 million to \$3.2 million. *MSC: L.Brecht/M.Brecht approving the Minutes of the Special Meeting of May 3, 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: Julian Peabody expressed concern regarding the potential rate increase but reluctantly agreed to support it. He suggested considering a "Tier 1-1/2" for those with limited incomes.

Mike Hussey explained that he had been requesting an explanation of the map on the Board Room wall since 2007. He presented another map which showed differing District boundaries. He was concerned that the proposed southeast transmission line would go through his property and that BWD would take his water. President Hart suggested that Mr. Rolwing and one or two Board members review Mr. Hussey's documentation and schedule a meeting or conference call with him. Director Lyle Brecht recommended including the attorney, and Director Shimeall volunteered to participate.

H. Correspondence: Jerry Rolwing reported that the only correspondence items were letters of protest regarding the proposed rate increase.

I. Staff Reports:

A. Financial Reports – April 2011

Kim Pitman reported that the cash and cash equivalents had decreased by approximately \$119,000 since last month. Director Marshal Brecht noted that approximately \$74,000 of that was for capital items – primarily the new lift station. He invited the Board's attention to a hand-out detailing the BWD 18-month cash flow projection, particularly the third page which supports the need for a rate increase. The projection will be continually updated.

Mr. Rolwing reported that he was developing a cost list for the major repair and replacement items and would present it at the next meeting.

B. Manager/Operations Report

Mr. Rolwing invited the Board's attention to his written report in the Agenda. He had been in contact with our EPA grant coordinator, who was confused since the change in District management, and prepared a notebook with background information for the EPA.

Mr. Rolwing reported that he had contacted the USGS regarding restoration of the stream gauge in Palm Canyon which we lost in the 2003 flood. There would be an \$18,000 initial cost and \$22,000 annually thereafter. He suggested submitting it with the County Flood Control District as an IRWM project.

Mr. Rolwing announced that between 1,023 and 1,123 protests would be required to override the proposed rate increase noticed in the mailing of May 6, 2011. There is a range because the owner of each parcel with a meter has the right to protest, but some meters serve more than one parcel.

III. COMMITTEE REPORTS & PROPOSALS

Ad Hoc Committees

7. Executive Committee (FAQs)

President Hart announced that the Frequently Asked Questions had been expanded to include responses from citizens ("Specific Questions from Concerned Citizens"). It is on the website, and all were encouraged to visit it. Director Lyle Brecht suggested the questions address assertions that the rate increase is optional, there will be no adverse consequences if it doesn't occur, and they are unfair because Montesorro, De Anza and agriculture receive free water. None of these assertions are true.

I. OPENING PROCEDURES (continued)

- J.** Attorney's Report
None

II. CURRENT BUSINESS MATTERS

B. Discussion and possible action regarding approval of Agreement for the Construction of Water Facilities, Mesquite Trails: Mr. Wilson reported that minor changes had been made to the agreement between BWD and Mesquite Trails. The modifications were developed with the assistance of Lisa Foster and Mr. Rolwing, and Mr. Wilson supported them. Ms. Foster and Mr. Rolwing concurred. *MSC: Estep/L.Brecht approving the Agreement for the Construction of Water Facilities with Mesquite Trails.*

A. Consideration and possible approval of reimbursement of expenses for C. Fraser: *A motion was made by Director Lyle Brecht and seconded by Director Estep to approve reimbursement of expenses for C. Fraser.* Mr. Rolwing reviewed the situation, wherein Ms. Fraser had a sewer problem in the District's right-of-way which was repaired at BWD's expense. Ms. Fraser is now requesting reimbursement for a \$120 hotel bill during the sewer outage. There was concern regarding a potential precedent and lack of a written policy. After discussion, *the motion failed.* President Hart asked Mr. Rolwing to inform Ms. Fraser.

C. Discussion and possible action for a no-cost extension to USGS study due date: Mr. Rolwing noted that the Board had tentatively approved a no-cost extension to the USGS study due date, and the document memorializing same is now before them. He recommended final approval. Upon Director Lyle Brecht's suggestion, Mr. Rolwing agreed to follow up with Peter Martin regarding public input to the modeling process. President Hart pointed out that Mr. Rolwing had previously been authorized to sign the agreement.

D. Consideration and possible approval of Budget Resolution 2011-05-02 *Resolution of the Board of Directors of the Borrego Water District approving the operations, maintenance, capital improvements and groundwater management budgets and board designated reserves fund policy for fiscal year 2011-2012:* Mr. Rolwing noted that the 2011-2012 budget had already been approved, with the exception of groundwater management. President Hart noted a typographical error in the third "whereas" of the resolution. It should be corrected to read in part, ". . . the Budget establishes the basis for ~~and~~ incurring liability" Director Shimeall pointed out a discrepancy on Agenda page 76, first line ("water sales"). The "total all funds" and "total" should match and didn't. Ms. Pitman corrected the page and distributed the revised version. Both figures should be \$1,608,313. Director Lyle Brecht requested that the budgets be included on the District's website, without signatures. *MSC: L.Brecht/M.Brecht adopting Resolution 2011-05-02, Resolution of the Board of Directors of the Borrego Water District approving the operations, maintenance, capital improvements and groundwater management budgets and Board designated reserves fund policy for fiscal year 2011-2012, with the correction to the water sales total.* Wendy Quinn asked whether resolutions were legally required to be adopted by roll call vote, and Ms. Foster replied that to her knowledge the only required roll call votes were during conference call meetings.

President Hart declared a recess at 10:10 a.m., and the Board reconvened at 10:20 a.m.

E. Approval of a motion to establish an ad-hoc committee comprised of Marshal Brecht and Lyle Brecht for the purpose of working with the District's auditors, Diehl Evans, in the preparation of the Fiscal Year 2010-2011 audited financials: *MSC: L.Brecht/M.Brecht establishing an ad-hoc*

committee comprised of Marshal Brecht and Lyle Brecht for the purpose of working with the District's auditors, Diehl Evans, in the preparation of the Fiscal Year 2010-2011 audited financials.

F. Discussion of selling District Assets and possible creation of an Asset Ad Hoc Committee: President Hart informed the Board that she and Mr. Rolwing had discussed the possible sale of some District assets, including the vehicle previously used by Rich Williamson. Because of some special equipment on the vehicle, she wondered if the Fire Department would be interested, and if the District is required to offer the items first to other public agencies. Ms. Foster thought that requirement only applied to real property but will double check, and also will look into any prohibitions on sales to officers, employees and their family members. Directors Shimeall and Marshal Brecht volunteered to serve on an asset ad hoc committee with Mr. Rolwing and Ms. Foster.

III. COMMITTEE REPORTS & PROPOSALS (continued)

Ad Hoc Committees (continued)

1. Due-Diligence

Director Lyle Brecht recommended that the Board ask the Due Diligence Committee to review the District's insurance policies, particularly the earthquake coverage. He also suggested the Committee examine the rate structure. Staff will contact the District's insurance carrier, JPIA, and Ms. Pitman reported that a tentative meeting had been scheduled for July 27. She asked the Board to convey any specific questions to her. Director Marshal Brecht requested a sheet showing deductibles, premiums and due dates. He also asked for the carrier's opinion on how much the District should be self-insuring.

2. Strategic Planning Committee

Director Lyle Brecht suggested that the Strategic Planning Committee begin to develop a proposal for the next IRWM planning grant application.

3. IRWM Committee

Mr. Rolwing reported that the IRWM Committee was still awaiting the State Facilitator.

4. Executive Committee (Cocopah)

In response to an inquiry from Kathy Johnston, President Hart reported that the District had elected not to exercise its option to purchase the Cocopah property.

5. Executive Committee (Cameron)

President Hart reported that negotiations with the Camerons were not sufficiently complete to be made public.

6. O&M Budget Committee

President Hart reported that the work of the O&M Budget Committee was complete, and the Committee could be disbanded.

IV. STAFF REPORTS

A. Water and Wastewater Operations Report – April 2011:

B. Water Production/Use Records – April 2011:

Mr. Rolwing invited the Board's attention to the reports in the Agenda. Pumping was up compared to April of last year, and water losses are down. The Roadrunner Club is continuing to gradually connect its residents to the sewer system.

V. INFORMATIONAL ITEMS

None

VI. CLOSED SESSION

A. Public employee performance evaluation – Govt. Code section 54957; Position Title: Interim General Counsel: The Board adjourned to closed session at 10:55 a.m., and the open session reconvened at 11:45 a.m. Lisa Foster was named General Counsel.

VII. CLOSING PROCEDURE

Adjournment. There being no further business, the meeting adjourned at 11:45 a.m. The next Special Meeting of the Board of Directors is scheduled for June 14, 2011 at the Borrego Water District. The next regular meeting of the Board of Directors is scheduled for June 22, 2011 at the Borrego Water District.