

Borrego Water District
CORRECTED MINUTES
Regular Meeting of the Board of Directors
Wednesday, June 22, 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
Bob McKee Julian Peabody
Lane Sharman Randi Sharman
Jim Wilson, RRC Association Brian Ceyelski, RRC – Springs
Don Klein Jack Cameron, BSR
Shelli Merrick Clare Hagan
Greg Garth Jim Engelke
Bob Mendenhall Kathy Godwin
Marjorie Chandler Chris Cook, BSR
Bill Haneline Linda Haneline
Sue Salt Mike Gaffney, Hacienda del Sol
Victor Levine Mark Lion, Hacienda del Sol
Kathy O'Meara Catherine Gay
Rebecca Falk, RRR Grace Preston
Jack Godwin Rayleen Liebhardt
Jere Hansen Diane Deitz
Richard Denton Mary Helen Prince
Elizabeth Rodriguez Sanjay Gaur, RFC

D. Approval of Agenda: *MSC: approving the Agenda as written.*

E. Approval of Minutes:

Special meeting of May 17, 2011

Director Lyle Brecht made the following corrections: Minutes page 1 (Agenda page 1A), Item II.A, ". . . handouts prepared by Raftelis Financial Consultants, Inc. (RFC)." ". . . build reserves to their ~~optimal~~ fiscally prudent target level . . ." Minutes page 2 (Agenda page 1B), Item II.E, ". . . notices were mailed to their ~~summer~~ billing addresses." ***MSC: L.Brecht/Shimeall approving the Minutes of the Special Meeting of May 17, 2011 as amended.***

Regular meeting of May 25, 2011

Director Lyle Brecht made the following corrections: Minutes page 2 (Agenda page 3), Item I.I.B, ". . . protests would be required to override the proposed rate increase noticed in the mailing of May 6, 2011." Item III.7, ". . . there will be no adverse consequences . . ." Add at the end of the item, "None of these assertions are true." Minutes page 4 (Agenda page 5), Item II.F, ". . . volunteered to serve on an asset ad hoc committee. . . ." President Hart asked that the words "for the EPA" be added at the end of the first paragraph of Item I.I.B (Minutes page 2, Agenda page 3). **MSC: L.Brecht/Shimeall approving the Minutes of the Regular Meeting of May 25, 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: Lane Sharman explained that he and Jerry Rolwing had discussed an issue involving the developer of a project approved at the County level who drills his own well and does not purchase water from the District. Is he still required to meet the 2:1 mitigation requirement? Mr. Rolwing pointed out that the District's only enforcement occurs when the will-serve letter is signed, so if the County lets the project proceed without that, BWD has no authority. He brought the issue to the County's attention, but they said the District has no regulatory power over wells. Mr. Sharman opined that the District could invoke correlative rights under State law as an appropriator. Mr. Rolwing agreed to follow up with Jim Bennett. Julian Peabody suggested contacting Yuima Municipal Water District, which has experienced a similar issue.

Elizabeth Rodriguez requested that in the future notices of the time and location of public hearings be posted a week in advance.

H. Correspondence:

United States Environmental Protection Agency

Mr. Rolwing reported that the District's grant application with the Border Environmental Cooperative Commission for exploratory wells at Clark Lake had been denied.

I. Staff Reports:

A. Financial Reports – May 2011

Kim Pitman reported that the cash increased by approximately \$49,000 last month but will go negative again in June with the payment of outstanding accounts payable for May. Bob McKee inquired about a trash service expense, and Mr. Rolwing explained it was for all of ID 5 (170 units).

B. Manager/Operations Report

Mr. Rolwing invited the Board's attention to his written report in the Agenda. He reported that on June 20 the former CSD treatment plant was inspected and subsequently shut down.

Director Lyle Brecht inquired about Mr. Rolwing's meeting with Bill Mills and the U.S. Department of Reclamation staff. Mr. Rolwing explained that the STAG grant team was waiting for information from the Bureau of Reclamation study, and vice versa. Mr. Mills is assisting with coordination of the two studies. President Hart questioned the statement in Mr. Rolwing's written report that Borrego has no entitlement to Colorado River water. Mr. Rolwing explained that we may be able to store Colorado River water, but we cannot keep it.

Mr. Rolwing reported that the County groundwater ordinance will be available on June 30, followed by a 30-day comment period.

Seven of eight escrows at Montesorro have closed. The remaining transaction includes the golf course, outlying property and vacant land.

J. Attorney's Report: None

II. CLOSED SESSION

A. Conference with Real Property Negotiators pursuant to Govt. Code section 54956.8:

Property: 199-080-21

Agency negotiators: Lee Estep, Eleanor Shimeall, and Jerry Rolwing

Negotiating party: Jack Cameron

Under negotiation: price and terms

The Board adjourned to closed session at 9:40 a.m., and the open session reconvened at 10:10 a.m.

III. CURRENT BUSINESS MATTERS

A. Discussion and possible action regarding CSD fees and Golf Course continuation in ID5:
Director Estep announced that the Board had discussed the contract and lease agreement with the Cameron Brothers for operation of the Club Circle golf course. The Board decided to send a letter to the Camerons advising them that the conditions precedent were not carried out as far as the contract is concerned and the District is giving 30 days' notice of intent to breach the contract. The District will pay the Camerons \$20, the full value of the 20-year lease at \$1 per year. President Hart pointed out that the District had signed the contract assuming grant funds would be available for a park around the perimeter of the course, and no funds are available.

IV. COMMITTEE REPORTS & PROPOSALS

Ad Hoc Committees

1. Audit

Director Marshal Brecht reported that he had spoken with a representative of Diehl Evans.

2. Due-Diligence

No report.

3. Strategic Planning Committee

Mr. Rolwing announced that a Strategic Planning Committee meeting had been scheduled for June 29 at 9:00 a.m. in the District office. The topic of discussion will be the groundwater management implementation plan and coordination with the IRWMP.

4. IRWM Committee

Director Lyle Brecht suggested providing documentation regarding the IRWMP to the State Facilitator in advance of her arrival. County requirements will be included once the groundwater management ordinance has been finalized. Director Lyle Brecht suggested providing input to the County during the comment period.

5. Executive Committee (Cocopah)

President Hart requested that the Executive Committee (Cocopah) be disbanded.

6. Executive Committee (Cameron)

This committee's report was presented under Item III.A.

7. Executive Committee (FAQs)

President Hart requested that the Executive Committee (FAQs) be disbanded after today.

8. Operations & Management Committee

President Hart reported that the Operations & Management Committee was still collecting information and had not met.

V. STAFF REPORTS

A. Water and Wastewater Operations Report – May 2011:

B. Water Production/Use Records – May 2011:

Mr. Rolwing invited the Board's attention to the reports in the Agenda and offered to answer questions. Operations are proceeding smoothly.

VI. ADJOURNMENT TO BORREGO SPRINGS HIGH SCHOOL COMMUNITY ROOM, 2291 Diegueno Road, Borrego Springs, at 11:00 A.M.

The Board adjourned at 10:25 a.m., and reconvened at 11:00 a.m. in the Borrego Springs High School Community Room. Those present stood for the Pledge of Allegiance.

Mr. Rolwing introduced Sanjay Gaur of Raftelis Financial Consultants, Inc. (RFC). RFC specializes in utility rate studies and was retained by the District to make recommendations leading to restoration of its financial stability. He announced that speakers today would be limited to three minutes each and would not be counted as protests, which must be in writing and must be submitted by the end of the public hearing.

President Hart urged the public to visit the District's website and added that hard copies of the information contained therein are available at the District office for review. She emphasized the Board's goal to ensure a safe, reliable water supply and sanitary sewage disposal. Since the District's cash reserves were depleted under the previous administration, we are no longer able to borrow money. Recent cost saving measures include cancellation of health insurance for Directors, changing legal counsel, combining the positions of Operations Manager and General Manager and eliminating future unfunded obligations. President Hart pointed out the need to be prepared for unexpected expenses due to disasters, emergencies and governmental changes. She added that the rate changes proposed today are based on a "worst case" scenario, and after the first year's 30 percent increase they may not be as much as the rates proposed for those years.

Director Lyle Brecht explained that the proposed rate increase would serve two primary purposes: provide a minimum cash flow to pay for infrastructure improvements, and to begin accumulating reserves. Financial stability will ensure preventive maintenance and sound business practices. Director Lyle Brecht emphasized the need to address the aquifer overdraft. The issue has been thoroughly studied and we now need to look into water banking, storage and importation.

Mr. Gaur presented slides depicting the key assumptions of his study, the District's current condition, the proposed financial plan and its impacts. The plan objective was to determine the District's cash flow requirements to fund operations and maintenance and capital improvement program while meeting reserve requirements and debt coverage ratio. The planning period covered years 2012 through 2017, with proposed rate increases July 1 of each year. The plan did not assume the sale of Montesoro, so if it sells the financial picture may be better. Reserve targets are expected to be met by 2017. Mr. Gaur presented current and proposed rates. Among five similar communities surveyed, Borrego's are now the lowest and with the proposed increase would be second lowest.

Ms. Rodriguez inquired about legal costs should the District declare bankruptcy. Director Lyle Brecht explained that bankruptcy proceedings would be costly and time-consuming and would not offer the District significant relief because it is not heavily in debt. Courts often deny bankruptcy petitions from public agencies since they have the ability to raise revenue.

Rayleen Liebhardt asked about the improvement districts. Mr. Rolwing replied that ID 1 is Montesoro, ID 2 is the town center sewer, ID 3 is Deep Well and Borrego Ranch, ID 4 is the former Borrego Springs Water Company (Indian Head to San Pablo and Roadrunner Club), and ID 5 is the former Borrego Springs Park Community Services District.

Ms. Liebhardt asked whether the District had adopted a capital improvement plan for the next three to five years, and President Hart replied that it had. It is available on the website.

V. ADDITIONAL BUSINESS MATTERS

A. Public Hearing to hear testimony and consider adoption of a resolution regarding the proposed water and sewer rate changes: President Hart opened the public hearing at 11:45 a.m. Brian Ceyelski, representing the Wright family, the Roadrunner Club and The Springs at Borrego, conveyed his support for the proposed rate increase.

Jim Wilson, representing the Roadrunner Club Association and the Roadrunner Club (341 homes), also supported the proposed increase.

Ms. Liebhardt suggested that the wording of Resolution 2011-06-01 be modified to provide for a 30 percent increase in 2011 and subsequent annual reevaluation. President Hart explained that the Proposition 218 process requires notice of the maximum amount of the rate increase. The Board will

be in a position to adjust future increases downward if warranted. Repeated 218 processes would place an unnecessary financial burden on the ratepayers.

There being no further comments, the public hearing was closed.

B. Consideration of the Board to adopt *RESOLUTION 2011-06-01 ESTABLISHING WATER AND SEWER SERVICE RATES*: Mr. Rolwing announced that the District had received 165 written protests. At least 1,023 were required to override the proposed rate increase. *A motion was made by Director Lyle Brecht and seconded by Director Estep to adopt Resolution 2011-06-01 Establishing Water and Sewer Service Rates.* Mr. McKee referred to Resolution 2011-05-01, adopted at the May 17, 2011 special meeting, providing that the protests would be tabulated following the close of the public hearing by an employee, official or consultant at the District office. President Hart pointed out that there were insufficient protests to raise concern over the validity of the proposed increase. Director Lyle Brecht added that most of the protests were submitted prior to today's hearing and were tabulated as provided. *The motion carried. RC: AYES – L.Brecht, Estep, M.Brecht, Shimeall, Hart.*

VII. CLOSING PROCEDURE

Adjournment. There being no further business, the meeting adjourned at 12:10 p.m. The next Special Meeting of the Board of Directors is scheduled for July 19, 2011 at the Borrego Water District. The next regular meeting of the Board of Directors is scheduled for July 27, 2011 at the Borrego Water District.