

**Borrego Water District**  
**MINUTES**  
**Regular Meeting of the Board of Directors**  
**Wednesday, July 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, Shimeall
- Staff: Jerry Rolwing, General Manager/Operations Manager  
Kim Pitman, Administration Manager  
Diana Del Bono, Administrative Assistant  
Lisa Foster, McDougal Love Eckis Boehmer & Foley
- Public: Judy Meier, *Borrego Sun* Ray Delahay  
Dick Walker Julian Peabody  
Jim Engelke, Lundberg Anne Meech  
Pat Fordem, Christmas Circle Dean McBride, Christmas Circle  
Melody McDonald, JPIA Andy Sells, JPIA  
Don Mayer Andrea Roess, Taussig
- D.** Approval of Agenda: *MSC: L.Brecht/Shimeall approving the Agenda as written.*
- E.** Approval of Minutes:

Special meeting of June 14, 2011

Director Lyle Brecht stated that the statement attributed to him at the bottom of page 1 and the top of page 2 regarding a potential extraction fee or pump tax was incorrect. Instead of reading, ". . . the District's former counsel had determined such a charge to be illegal, but since legal opinions on the issue are vague, he suggested addressing the matter in the Groundwater Management Implementation Plan," it should state, ". . . the District's former counsel, Stradling Yocca, is of the opinion that the District can levy a water extraction fee but has no practical means or authority to collect such a fee from anyone who does not wish to pay. (Ref. Fritz Stradling, June 15, 2004; Joseph M. Adams, April 22, 2008; Allison Burns, April 22, 2008.)" Jerry Rolwing corrected a typographical error in the public attendance list: Jim Moxham represents BS Resort (not "Report"). He further requested that Item II.A, in the middle of the first paragraph, be clarified to read, "The lease had been a requirement to seek grant funds for a pedestrian walkway around the course. The District has inadequate funds to remove the turf and retrofit the irrigation." *MSC: L.Brecht/M.Brecht approving the Minutes of the Special Meeting of June 14, 2011 as amended.*

Regular meeting & Public Hearing of June 22, 2011

Director Lyle Brecht made the following corrections: Page 2, Item I.A, ". . . cash increased by approximately \$49,000 last month but will go negative again ~~catch up~~ in June with the payment posting of outstanding ~~the~~ accounts payable for May." Item II.B, "President Hart questioned the statement . . ." Delete the last sentence in the second paragraph ("The issue is debatable.") Page 3, Item IV.3, instead of "Director Lyle Brecht will speak about . . .," state "The topic of discussion will be . . ." Page 4, Item VI, end of the third paragraph, ". . . they may not be as much as the rates proposed ~~for those years as high.~~" In the middle of the fifth paragraph, ". . . the financial picture may ~~will~~ be

better." Page 5, Item V.A, third paragraph, "The Board will ~~always~~ be in a position to adjust future increases downward if warranted." President Hart requested that the clause "and no funds are available" be added to the end of Item III.A. Mr. Rolwing corrected the spelling of two names in the public attendance list: Brian Ceyelski (also on page 4), and Mark Lion. He further pointed out that the reference to Yuima County on page 2 (Item I.G) should be to Yuima Municipal Water District." ***MSC: L.Brecht/M.Brecht approving the Minutes of the Regular Meeting of June 22, 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:** Pat Fordem, Secretary of the Board of Directors of Christmas Circle Community Park, urged caution in raising water rates for the Park for fear of a dire situation for a facility that is the heart of Borrego Springs. Lisa Foster explained that the District does not have the right to reduce rates for one customer, pursuant to California Constitution Article XIII.B.

Dean McBride, a member of the Christmas Circle Community Park Board of Directors, inquired whether the Park would be able to drill its own well, assuming a conveyance of water rights from the District.

**H. Correspondence:**

Christmas Circle Community Park

Mr. Rolwing noted that Jim Wilson had written to the Board on behalf of Christmas Circle Community Park, also requesting that the District donate its water rights to the Park. Lucy Larson and Dennis Dickinson had written suggesting that the District assist in redoing the Park's irrigation system to save water. The item will be placed in the agenda for the September regular meeting.

**I. Staff Reports:**

**A. Financial Reports – June 2011**

Kim Pitman reported that the District has approximately \$158,000 cash on hand; \$135,000 is from the STAG grant. Director Marshal Brecht and Ms. Pitman are working to streamline the financial reports and include a projection for year end.

**B. Manager/Operations Report**

Mr. Rolwing reported he had received the Memorandum of Understanding from the Bureau of Reclamation. They approved \$1.3 million in local match expenditures from the District.

Mr. Rolwing had received several calls during the current fire, expressing concern regarding possible depletion of the aquifer for fire fighting. He confirmed that Cal Fire had taken 150,000 gallons from reservoirs and some from fire hydrants at Indian Head. The District has an obligation to assist in public safety efforts.

Director Marshal Brecht inquired about the reference to a "Rescission of Waste Discharge Requirements" in Mr. Rolwing's written report. Mr. Rolwing explained that with the closing of the ID5 treatment plant, the District can save money by eliminating lab reports and fees.

Director Lyle Brecht asked whether the citizen's advisory group for the USGS study had been contacted regarding parameters for the model runs. Mr. Rolwing replied that his contact at USGS is out of town, and he expects to contact him in October. Director Lyle Brecht emphasized the need for a written, analytical basis for the parameters being put into the model. Mr. Rolwing pointed out that the model considers a number of hypothetical situations.

Director Lyle Brecht inquired about a loan application to USDA. Mr. Rolwing replied that in year three, he hopes to get funding for the Borrego Springs Road transmission line. David Dale is busy working on the STAG grant now, but upon its completion Mr. Rolwing will come back to the Board for authorization regarding the next effort.

**J. Attorney's Report:** None

## II. CURRENT BUSINESS MATTERS

A. Presentation from JPIA representative regarding insurance services: Andy Sells of the ACWA Joint Powers Insurance Authority (JPIA) narrated a PowerPoint presentation and introduced Melody McDonald of the JPIA Executive Committee. BWD has been participating in the JPIA since 1983 and is currently one of over 290 member water agencies in California. The JPIA is a public agency governed by contract law, and does not make a profit. Any excess funds are returned to the members. Three pooled programs are offered: liability, property and workers' compensation. BWD participates in all three. Within these three categories there are some unique services, such as inverse condemnation, crisis management, risk management analysis and a human resources program. Training is offered, both in person and on line. Ms. McDonald thanked the District for its responsible membership, and Mr. Rolwing commended Ms. Pitman and Greg Holloway for overseeing the insurance program.

**President Hart declared a recess at 10:45 a.m., and the Board reconvened at 10:50 a.m.**

J. Consideration of **RESOLUTION NO. 2017-7-2 RESOLUTION OF THE BOARD OF DIRECTORS OF THE BORREGO WATER DISTRICT, SAN DIEGO COUNTY, CALIFORNIA, LEVYING STANDBY CHARGES AND/OR ACREAGE ASSESSMENTS TO DEFRAY THE COST OF OPERATIONS AND MAINTENANCE OF THE DISTRICT AND REQUESTING THE LEVY AND COLLECTION OF SAID STANDBY CHARGES AND/OR ACREAGE ASSESSMENTS ON LAND WITHIN THE DISTRICT FOR THE FISCAL YEAR 2011-2012:**

K. Consideration of **RESOLUTION NO. 2011-7-3 RESOLUTION OF THE BOARD OF DIRECTORS OF THE BORREGO WATER DISTRICT, SAN DIEGO COUNTY, CALIFORNIA, LEVYING STANDBY CHARGES AND/OR ACREAGE ASSESSMENTS TO DEFRAY THE COSTS OF OPERATIONS AND MAINTENANCE OF THE DISTRICT, AND TO PAY COSTS OF OPERATIONS AND MAINTENANCE FOR IMPROVEMENT DISTRICT NO. 1 AND REQUESTING THE LEVY AND COLLECTION OF SAID STANDBY CHARGES AND/OR ACREAGE ASSESSMENTS ON CERTAIN LAND IN IMPROVEMENT DISTRICT NO. 1 FOR THE FISCAL YEAR 2011-2012:**

L. Consideration of **RESOLUTION NO. 2011-7-4 RESOLUTION OF THE BOARD OF DIRECTORS OF THE BORREGO WATER DISTRICT, SAN DIEGO COUNTY, CALIFORNIA, LEVYING CHARGES AND/OR ACREAGE ASSESSMENTS TO DEFRAY THE COST OF PROVIDING PEST CONTROL SERVICES BY THE DISTRICT AND REQUESTING LEVY AND COLLECTION OF SAID CHARGES AND/OR ACREAGE ASSESSMENTS FOR THE FISCAL YEAR 2011-2012:**

M. Consideration of **RESOLUTION NO. 2011-7-5 RESOLUTION OF THE BOARD OF DIRECTORS OF THE BORREGO WATER DISTRICT, SAN DIEGO COUNTY, CALIFORNIA, LEVYING STANDBY CHARGES AND/OR ACREAGE ASSESSMENTS TO DEFRAY THE COST OF OPERATING AND MAINTAINING THE WATER FACILITIES WITHIN IMPROVEMENT DISTRICT NO. 3 OF THE DISTRICT AND REQUESTING THE LEVY AND COLLECTION OF SAID STANDBY CHARGES AND/OR ACREAGE ASSESSMENTS FOR THE FISCAL YEAR 2011-2012:**

N. Consideration of **RESOLUTION NO. 2011-7-6 RESOLUTION OF THE BOARD OF DIRECTORS OF THE BORREGO WATER DISTRICT ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2007-1 OF THE BORREGO WATER DISTRICT AUTHORIZING THE LEVY OF SPECIAL TAXES WITHIN COMMUNITY FACILITIES DISTRICT NO. 2007-1 FOR THE FISCAL YEAR 2011-2012:**

President Hart asked that Andrea Roess from Taussig be invited to address her items next. Ms. Roess explained that these proposed Resolutions are adopted every year to approve tax levies,

parcel charges and standby charges. She noted that this year the Community Facilities District has some significant delinquencies so the levies are being increased to replenish the reserve fund. She agreed to contact the County regarding the District's options for collecting the money it is owed. **MSC: Estep/L.Brecht adopting Resolution No. 2017-7-2 Resolution Of The Board Of Directors Of The Borrego Water District, San Diego County, California, Levying Standby Charges And/Or Acreage Assessments To Defray The Cost Of Operations And Maintenance Of The District And Requesting The Levy And Collection Of Said Standby Charges And/Or Acreage Assessments On Land Within The District For The Fiscal Year 2011-2012; Resolution No. 2011-7-3 Resolution Of The Board Of Directors Of The Borrego Water District, San Diego County, California, Levying Standby Charges And/Or Acreage Assessments To Defray The Costs Of Operations And Maintenance Of The District, And To Pay Costs Of Operations And Maintenance For Improvement District No. 1 And Requesting The Levy And Collection Of Said Standby Charges And/Or Acreage Assessments On Certain Land In Improvement District No. 1 For The Fiscal Year 2011-2012; Resolution No. 2011-7-4 Resolution Of The Board Of Directors Of The Borrego Water District, San Diego County, California, Levying Charges And/Or Acreage Assessments To Defray The Cost Of Providing Pest Control Services By The District And Requesting Levy And Collection Of Said Charges And/Or Acreage Assessments For The Fiscal Year 2011-2012; Resolution No. 2011-7-5 Resolution Of The Board Of Directors Of The Borrego Water District, San Diego County, California, Levying Standby Charges And/Or Acreage Assessments To Defray The Cost Of Operating And Maintaining The Water Facilities Within Improvement District No. 3 Of The District And Requesting The Levy And Collection Of Said Standby Charges And/Or Acreage Assessments For The Fiscal Year 2011-2012; and Resolution No. 2011-7-6 Resolution Of The Board Of Directors Of The Borrego Water District Acting As The Legislative Body Of Community Facilities District No. 2007-1 Of The Borrego Water District Authorizing The Levy Of Special Taxes Within Community Facilities District No. 2007-1 For The Fiscal Year 2011-2012.**

**B. Approval of the RFC reference letter submitted by the Strategic Planning Committee:** President Hart requested Board approval of a letter to George Raftelis, President and CEO of RFC, Inc., commending Sanjay Gaur on his services to the District. The letter would be signed by her, Director Lyle Brecht and Mr. Rolwing. **MSC: L.Brecht/M.Brecht approving the RFC reference letter submitted by the Strategic Planning Committee.**

**C. Discussion and possible action regarding San Diego County groundwater mitigation draft ordinance:** Mr. Rolwing reported that the County groundwater mitigation draft ordinance had not yet been released.

**D. Discussion and possible action regarding hiring a technical consultant to assist in developing a planning grants proposal to the California Department of Water Resources (DWR) Integrated Regional Water Management (IRWM) planning grants program:** Director Lyle Brecht reported that an RFQ for technical consulting services relative to the IRWM planning grants program had been submitted to six consultants, and two responded. Sufficient funds are available in this year's budget. Last year's planning grant application cost approximately \$30,000, and it was unsuccessful. He felt the consulting services would be valuable not only in preparing a new application, but in updating the IRWM stakeholder process and the groundwater management program. Director Lyle Brecht noted that both proposals (RMC and GEI) were excellent, and Mr. Rolwing agreed. The prices were close. Based on RMC's location in San Diego and its having been awarded high or perfect scores in recent planning grant applications, Mr. Rolwing recommended selection of RMC. The cost would be approximately \$47,000, and Ms. Foster will be asked to review the contract before signature. After discussion, since the Board is dark in August and the next round of planning grant applications will be due in October or November, it was agreed that an ad hoc committee consisting of Directors Estep and Marshal Brecht would also review the contract instead of bringing it back to the full Board. **MSC:**

***L.Brecht/Shimeall authorizing the General Manager to enter into a contract with RMC for technical consultant services subject to approval of counsel and the ad hoc committee.***

**E. Discussion and possible approval of Second Amendment to Bargain Sale Agreement & Donation Agreement with Lundavid, Viking Ranch:** President Hart invited the Board's attention to a proposed Second Amendment to the Agreement between the District and Lundavid, now in final form and approved by counsel for both parties. She explained that originally the principal, Lance Lundberg, was going to fallow 50 acres of citrus and donate one of the parcels to the District. They asked to switch parcels, because the one they were planning to donate produces better fruit. Mr. Lundberg agreed to delay collection of a \$69,000 payment from the District until the first parcel has been fallowed. Instead of using the resulting credits to satisfy the District's mitigation requirement, he will now use them to satisfy the County's and give the District a dollar-for-dollar reduction in its debt. Sale of the credits could reduce or eliminate the debt. ***MSC: L.Brecht/Shimeall approving the Second Amendment to Bargain Sale Agreement & Donation Agreement with Lundavid, Viking Ranch.***

**F. Discussion and possible approval of Settlement Agreement and Release, with Monica Real Estate Holdings, L.P.:** President Hart explained that the potential for litigation had arisen from the 2007 fallowing and easement involving the District and Rudy Monica. Disputes arose as to the size of the parcel and the number of credits. After negotiation, the Board agreed that the original agreement with Mr. Monica was appropriate. The proposed Settlement Agreement would eliminate the threat of litigation, and Mr. Monica has signed it. ***MSC: L.Brecht/Estep approving the Settlement Agreement and Release with Monica Real Estate Holdings, L.P.***

**G. Discussion and possible approval of Water Credit Reimbursement Policy:** Mr. Rolwing explained that a situation had arisen when a property owner purchased two water mitigation credits from the District and subsequently abandoned his project due to difficulties with flood control requirements. The County refunded his permit fees minus their costs, but the District hadn't encountered the situation before and didn't have a policy. The proposed Policy would provide for reimbursement, less a 10 percent handling fee, and return of the credits to the District. It would apply to single family residences only. Director Lyle Brecht requested that this be included in the title. ***MSC: Estep/L.Brecht approving the Water Credit Reimbursement Policy for Single Family Residences.***

**H. Discussion and possible approval of expenditure of \$8,216.62 for USGS Water Quality testing. Amount to be deducted from USGS Invoice:** Mr. Rolwing reported that as part of its study, the USGS includes depth dependent water quality analysis this year. When their contractor passed away, they asked the District to retain a contractor and deduct the cost from their payment to USGS. Hidden Valley Pump has agreed to do the work for \$8,216.62. ***MSC: Estep/L.Brecht approving expenditure of \$8,216.62 for USGS Water Quality Testing. Amount to be deducted from USGS Invoice.***

**I. Consideration and Approval of RESOLUTION 2011-7-1 RESOLUTION OF THE BOARD OF DIRECTORS OF THE BORREGO WATER DISTRICT RESTATING AND ADOPTING A STATEMENT OF INVESTMENT POLICY:** Mr. Rolwing noted that the District's investment policy is restated and adopted annually. ***MSC: L.Brecht/Estep adopting Resolution 2011-7-1 Resolution Of The Board Of Directors Of The Borrego Water District Restating And Adopting A Statement Of Investment Policy.***

**O. Consideration of canceling August Regular Board meeting:** ***MSC: L.Brecht/Estep canceling the August Regular Board meeting.***

### **III. COMMITTEE REPORTS & PROPOSALS**

#### **Ad Hoc Committees**

##### **1. Audit Committee**

Director Lyle Brecht reported that he and Director Marshal Brecht would be meeting with the auditors today.

2. Due-Diligence

Director Lyle Brecht reported that the Due-Diligence Committee had considered the rate structure analysis and does not believe another Proposition 218 process would be worthwhile at this time. He recommended it be tabled until after the groundwater management and IRWM planning process.

3. Strategic Planning Committee

This was covered earlier in the meeting.

4. IRWM Committee

This was covered at last week's workshop.

5. Executive Committee (Cameron)

President Hart reported that following the District's announcement that they planned to pay the remaining \$20 and cancel the Cameron lease, we were asked to renegotiate and are currently in the process of doing so. The District employee at the golf course has resigned, and the District crew is maintaining it for now.

6. Operations & Management Committee

President Hart reported that the Operations & Management Committee had not met.

7. Asset Ad Hoc Committee

Director Marshal Brecht reported that the Asset Ad Hoc Committee had not met.

8. Negotiating Committee (Viking)

This was covered earlier in the meeting. The Committee will be disbanded after today.

**IV. STAFF REPORTS**

**A. Water and Wastewater Operations Report – June 2011:**

**B. Water Production/Use Records – June 2011:**

Mr. Rolwing reported that the average sewer flow is 54,000 gallons per day, and the water production was 225 acre-feet.

**C. Year to Date Meter Installations:**

Director Shimeall pointed out that the new meters so far have been Bill Wright's.

**D. Meter Installation History:**

The meter installation history was included in the Agenda packet.

**V. CLOSED SESSION**

**A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR – Reference Government Code Section 54956.8:**

Property: Montesoro  
District Negotiator: Jerry Rolwing  
Negotiating Parties: Raymond Bolanos  
Under Negotiation: Price and terms

**B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS – Reference Government Code section 54956.8:**

Property: 199-080-21  
District Negotiator: Lee Estep, Beth Hart, and Jerry Rolwing  
Negotiating Party: Jack Cameron  
Under negotiation: Price and terms

The Board adjourned to closed session at 12:10 p.m., and the open session reconvened at 1:35 p.m. Mr. Rolwing announced that as to Item V.A, Ms. Foster will respond to Mr. Bolanos' attorney with input from the Committee. As to Item V.B, the Committee will respond to the Cameron proposal.

**VI. INFORMATIONAL ITEMS**

None

**VII. CLOSING PROCEDURE**

Adjournment. There being no further business, the meeting adjourned at 1:35 p.m. The next Special Meeting of the Board of Directors is scheduled for September 20, 2011 at the Borrego Water District. The next Regular Meeting of the Board of Directors is scheduled for September 28, 2011 at the Borrego Water District.