

**Borrego Water District  
MINUTES  
Regular Meeting of the Board of Directors  
Wednesday, September 26, 2012  
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, Delahay, Estep

Staff: Jerry Rolwing, General Manager  
Kim Pitman, Administration Manager  
Greg Holloway, Operations Manager  
Diana Del Bono, Administrative Assistant  
Lisa Foster, McDougal Love Eckis Boehmer & Foley  
Wendy Quinn, Recording Secretary

Public: Jim Engelke Kathy Johnston  
Ray Shindler Tony deDomenico  
Casey Jones, *Borrego Sun* Pam deDomenico  
Jim Snowden Dennis Davis  
Malcolm Dyos Tom Pantich  
Hank Schuette Bill Berkley, Rams Hill  
Judy Schuette Public Golf Course  
Genevieve Miller Russ Miller, B. Berkley  
Chuck Miller Nan Schwab, Rams Hill  
Jane Daniels, Rams Hill Joe Tatusko, Rams Hill  
Sue Salt Rick Sprouse, B. Berkley  
Omar Cecena, USA Communications

**D. Approval of Agenda:** *MSC: L.Brecht/Estep approving the Agenda as written.*

**E. Approval of Minutes:**

Special meeting of July 17, 2012

*MSC: L.Brecht/Estep approving the Minutes of the Special Meeting of July 17, 2012 as corrected (change Item II.A in part to read, "A ~~ten-year~~ plan is underway to return the District to a credit-worthy condition by FY 2016 or FY 2017.")*

Regular meeting of July 25, 2012

*MSC: L.Brecht/M.Brecht approving the Minutes of the Regular Meeting of July 25, 2012 as written.*

**F. Comments from Directors and Requests for Future Agenda Items:** Director Lyle Brecht announced that he would be absent from the October Regular Meeting.

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

**H. Correspondence:**

a. 21 e-mails in support of Mr. Bill Berkley's proposal of ED1-12  
Jerry Rolwing reported that three more messages in support of Bill Berkley's proposal had been received after the Agenda was prepared.

b. 1 letter in support of Mr. Bill Berkley's proposal  
In addition to the e-mails, a letter of support had been sent.

**I. Staff Reports:**

**A. Financial Reports - July 2012:** Director Marshal Brecht reported that revenue was down in July because of low usage. Kim Pitman announced the receipt of \$94,000 for the sale of the Clark Lake property.

**B. Financial Reports - August 2012:** Ms. Pitman reported that revenue was also down in August.

**C. Manager/Operations Report:** Mr. Rolwing invited the Board's attention to his written report in the Board package. He summarized recent difficulties with Well 11. Videotaping and cleaning are in progress to identify and resolve the problems.

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

**II. CURRENT BUSINESS MATTERS**

**A. Presentation by Mr. Bill Berkley in regards to purchase proposal of ID1-12:** Mr. Berkley outlined his proposal to reopen Rams Hill as a public golf course. He had put the \$9.3 million worth of bonds under contract and now faced the choice whether to purchase them and if so, whether to reopen the course or wait for another buyer. In reopening the golf course, the biggest expense would be water. Mr. Berkley at one time had contemplating purchasing all or part of Well 12, but he had since determined it would be more cost effective to secure BWD's permission to drill his own well or import water from another source. The 2009 agreement between BWD and the previous owner, whereby BWD acquired Well 12, provided that all water for Rams Hill must be purchased from BWD.

Discussion followed regarding legal ramifications, including laws regulating the transfer of water from one property to another, the fact that there is a third party to the 2009 agreement, and permit requirements for well drilling. Mr. Berkley was reluctant to deposit funds to cover legal expenses, as suggested by the Negotiating Committee; and Ms. Foster pointed out that it would be a conflict of interest for her to accept payment directly from Mr. Berkley. Mr. Berkley agreed to have his own attorneys look into the issues and then refer their conclusions to Ms. Foster for comment.

Several residents of Rams Hill spoke in support of Mr. Berkley's proposal, citing the benefits to the community and the economy.

President Hart declared a recess at 10:20 a.m., and the Board reconvened at 10:30 a.m.

**B. Board discussion and possible decision of providing a location for Cable USA antenna site at reclaim tank site at Rams Hill:** Omar Cecena of USA Communications requested that the term of the proposed lease agreement be extended from six months to one year. Ms. Pitman pointed out that BWD would have to acquire liability and workers' compensation insurance, and she was awaiting a response from JPIA. ***MSC: Estep/L.Brecht approving the lease agreement between BWD and USA Communications with the term extension to one year and subject to JPIA concurrence.***

C. Board discussion on the County GW Ordinance and MOU: This item will be included on the agendas for both October meetings.

D. Board discussion and possible decision of requesting White Nelson Diehl Evans, LLP to submit a proposal for auditing services for fiscal years 2013 through 2015: The Board decided to hold off on this decision until the current audit has been completed. Meanwhile, Mr. Rolwing will check with other similar sized public agencies to see what they pay their auditors.

E. Board to receive a synopsis of the Club Circle trash tribulation: Ms. Pitman explained the confusion as to whether a contract exists between Allied Waste and BWD. Allied had a contract with the Community Services District, which has merged with BWD, but BWD never signed anything. Allied contends there is a valid contract through July 2013, and 60 days notice is required to terminate. President Hart asked that the matter be calendared for consideration and public comment early next year. Abby King asked that the ID 5 customers be kept informed.

F. General Manager Jerry Rolwing to update the Board of Directors on the pending sales of Clark Lake property and the Wastewater Package Plant: Mr. Rolwing reported that the Clark Lake property sale is complete, and we have been paid. A Dominican Republic agency offered \$36,000 for the Wastewater Package Plant and is working on permits. Greg Holloway pointed out that BWD has not been paid, although the broker received his commission. President Hart asked Mr. Holloway and Ms. Foster to follow up.

G. Board to consider adoption of Resolution 2012-09-01 REAFFIRMING THE DISTRICT'S COMMITMENT TO OPEN GOVERNMENT AND INTENT TO COMPLY WITH SUSPENDED PROVISIONS OF THE RALPH M. BROWN ACT; MSC: L.Brecht/Estep adopting Resolution 2012-09-01 Reaffirming the District's Commitment to Open Government and Intent to Comply with Suspended Provisions of the Ralph M. Brown Act.

H. Board discussion and possible decision of allocating the JPIA insurance rebate check received on January 19, 2012 in the amount of \$12,843.19 to staff: Director Delahay pointed out that the rebate was due to employees' perfect safety record on the job. Since they haven't had a raise in four years, he recommended the money be divided equally among them. Ms. Foster recommended it be paid as a bonus instead of salary so it will only be subject to income tax, not other deductions. She will confirm this via e-mail to Mr. Rolwing and Ms. Pitman. *MSC: L.Brecht/Delahay allocating the JPIA insurance rebate check received on January 19, 2012 in the amount of \$12,843.19 to staff.*

### III. COMMITTEE REPORTS & PROPOSALS

#### Ad Hoc Committees

1. Audit Committee

Discussed earlier in this meeting.

2. Due-Diligence

No report.

3. Strategic Planning Committee/IRWM

President Hart reported that the Committee had been working on options for the IRWM following the decision on our grant application denial appeal.

4. Executive Committee

No report.

5. Operations & Management Committee

Mr. Rolwing had covered this report in his Manager's Report.

6. Christmas Circle Committee

No report.

7. Negotiating (Rams Hill)

Discussed earlier in this meeting.

8. New Development Committee

Director Lyle Brecht announced the Committee would have a report at the next Special Board meeting.

**IV. STAFF REPORTS**

**A. Water and Wastewater Operations Report - July and August 2012:**

**B. Water Production/Use Records - July and August 2012:**

Mr. Holloway elaborated on the problems at Well 11, and noted the High School may be entitled to credit for damages sustained.

**V. INFORMATION ITEMS**

None

**VI. CLOSED SESSION**

**A. Conference with Legal Counsel - Anticipated Litigation/Significant Exposure to Litigation; Government Code section 54956.9(b), One case:** The Board adjourned to closed session at 11:25 a.m. The open session reconvened at 12:00 p.m. There was no reportable action.

**VII. CLOSING PROCEDURE**

There being no further business, the Board adjourned at 12:00 p.m. The next Special Meeting of the Board of Directors is scheduled for October 16, 2012 at the Borrego Water District. The next Regular Meeting of the Board of Directors is scheduled for October 24, 2012 at the Borrego Water District.