

Borrego Springs Watermaster Board
Special Meeting
May 14, 2020 @ 5:30 p.m.
Borrego Water District: 806 Palm Canyon Drive
Borrego Springs, CA 92004

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I. OPENING PROCEDURES

- A. Call to Order:
- B. Pledge of Allegiance
- C. Roll Call
- D. Approval of Agenda
- E. Approval of Minutes -None
- F. Comments from the Public & Requests for Future Agenda Items (may be limited to 3 min)
- G. Comments from Directors
- H. Correspondence Received from the Public: None

II. ITEMS FOR BOARD CONSIDERATION AND POSSIBLE ACTION

- A. Confirmation of List of Responsive Firms to Watermaster Legal Counsel RFQ - Poole (2)
- B. Determination of Process for Selecting Legal Counsel and Executive Director/Technical Consultant – Anderson/Poole (3-4)
- C. Addendum #1 to Executive Director/Technical Consultant RFQ re: CA Driver’s License Requirement- Poole (5-6)
- D. External Communications Policy – Smith (7-9)
- E. Payment of Invoices – Pinel (10)
- F. Update on Installation of Meters – Duncan (11)
- G. Collection/Use of Metering Data - Duncan (11)

III. STAFF REPORT

- A. Financial Reports: None
- B. Water Use Reports: None
- C. Executive Directors Report: None

IV. CLOSING PROCEDURE: The next Board Meeting is scheduled for May 28, 2020 at Borrego Springs Library, 2580 Country Club Rd, Borrego Springs, CA 92004

AGENDA: May 14, 2020 All Documents for public review on file with the Borrego Water District General Manager Director located at 806 Palm Canyon Drive, Borrego Springs CA 92004 Any public record provided to a majority of the Board of Directors of the Watermaster Board less than 24 hours prior to the meeting, regarding any item on the open session portion of this agenda, is available for public inspection during normal business hours, located at 806 Palm Canyon Drive, Borrego Springs CA 92004.

The Borrego Springs Watermaster complies with the Americans with Disabilities Act. Persons with special needs should call Geoff Poole – Board Secretary at (760) 767 – 5806 at least 48 hours in advance of the start of this meeting, in order to enable the District to make reasonable arrangements to ensure accessibility.

If you challenge any action of the Board of Directors in court, you may be limited to raising only those issues you or someone else raised at the public hearing, or in written correspondence delivered to the Board of Directors at, or prior to, the public hearing.

BORREGO SPRINGS BASIN WATERMASTER
BOARD OF DIRECTORS MEETING
MAY 14, 2020
AGENDA ITEM II.A

May 11, 2020

TO: Board of Directors

FROM: Geoffrey Poole

SUBJECT: Confirmation of List of Responsive Firms to Watermaster Legal Counsel RFQ - Poole

RECOMMENDED ACTION:

Receive Report and Direct Staff as Deemed Appropriate.

ITEM EXPLANATION:

The deadline for Responses was April 30 and 9 Responses were received:

1. Richard Watson Gershon
2. Lewis BrisBois
3. Rutan and Tucker LLP
4. Nossman LLP
5. Artiano Shinoff Abed Blumefield Carelli Sleeth & Wafe APC
6. AALRR – Atkinson Anderson Loya Ruud & Romo
7. Brownstein Hyatt Farber Schreck
8. Devaney Pate Morris & Cameron
9. Downey Brand

The Response received by Downey Brand came in approximately 25 hours after the published deadline. Since there is no formal policy on this issue and the Watermaster is not required to follow Public Contract Law, Staff is requesting a discussion by the Watermaster Board on how to proceed with this Response.

NEXT STEPS

TBD.

FISCAL IMPACT

N/A

ATTACHMENTS

1. None

BORREGO SPRINGS BASIN WATERMASTER
BOARD OF DIRECTORS MEETING
MAY 14, 2020
AGENDA ITEM II.B

May 11, 2020

TO: Board of Directors

FROM: Geoffrey Poole

SUBJECT: Confirmation of Process for Selecting Legal Counsel and Executive Director/Technical Consultant – Anderson/Poole

RECOMMENDED ACTION:

Receive Report and Direct Staff as Deemed Appropriate.

ITEM EXPLANATION:

At the April 16th WM Board Meeting, a discussion occurred on the topic of publishing Responses to the ED/TC RFQ during the selection process. The consensus at that time was for the Responses to be published on the BWD WM Webpage, but not the Financial Information. Following the meeting, questions were raised by one of the possible ED Respondents about the equity and potential problems that could be created by publishing the Responses during the selection process.

By posting the proposals, different competing firms get to see what others have submitted and they can indirectly criticize (or use) the other proposals' information during their interview. For example one firm may say that A,B, and C are the key issues that Watermaster should consider and another firm has not mentioned those issues in their proposal, they will get a chance to say that they are going to focus on A,B, and C even though they may not have the expertise. Of course, they say it with best intentions of acquiring that expertise if they are selected.

In addition, most public agencies, including The County of SD, does not publish anything until after the selection is made. The County's only public facing documentation during a typical RFQ process is the RFQ. After internal review the County publicly posts a notice of intent to award...once the protest period ends...begin negotiating with the chosen consultant...once a contract is awarded, everything is public.

Staff would like to discuss the LC and ED/TC process with this information in mind including and recommends the WM B adjust its plans accordingly for the LC and ED/TC selection process to include holding the interviews of the Consultants in Closed Session, as follows:

Potential Legal Counsel Selection Process

- (1) Distribute Responses to WM Board – May 15th
- (2) Include a closed session item to narrow the field – May 28th:
PUBLIC EMPLOYEE APPOINTMENT
Title: Watermaster General Counsel

In this meeting, the WM Board would look at all the RFP responses and then narrow down the field to those who they want to interview, all in closed session.

(3) At a second, later WM Board meeting, interview the selected two or three firms one by one in closed session using the same Brown Act closed session item listed above. – TBD

(4) Have an open session item late on the date of the second meeting, or at a third meeting, to hire the WM General Counsel and approve their contract in open session. - TBD

NEXT STEPS

If the Board concurs, inform Eligible Respondents of Selection Schedule /Next Steps

FISCAL IMPACT

N/A

ATTACHMENTS

1. None

BORREGO SPRINGS BASIN WATERMASTER
BOARD OF DIRECTORS MEETING
MAY 14, 2020
AGENDA ITEM II. C

May 11, 2020

TO: Board of Directors

FROM: Geoffrey Poole

SUBJECT: Addendum #1 to Executive Director/Technical Consultant RFQ re: CA Driver's License Requirement- Poole

RECOMMENDED ACTION:

Receive Report and Direct Staff as Deemed Appropriate.

ITEM EXPLANATION:

Board Member Smith requested this item be placed on the Agenda on the topic of who and how will the Watermaster communicate with the Public. Director Smith requested assistance from "Staff" and a template was provided and Mr. Smith customized it for our use.

NEXT STEPS

N/A

FISCAL IMPACT

N/A

ATTACHMENTS

1. Draft Addendum #1

Borrego Springs Watermaster
Addendum 1
Dated May 11, 2020

CONTRACT DOCUMENTS FOR
Executive Director/Technical Consultant RFQ

Notice is hereby given to prospective bidders that the contract documents for the above project are amended as follows:

Item No. 1 – Licenses; Certificates; Special Requirements

Page 3, Paragraph 4 – Licenses; Certificates; Special Requirements will now read:

Possession of a valid drivers' license is required, as well as automobile liability insurance covering all personal vehicles that are operated in connection with the performance of services as Executive Director/Technical Consultant.

The word "California" is being eliminated from the Subject Paragraph

BORREGO SPRINGS BASIN WATERMASTER
BOARD OF DIRECTORS MEETING
MAY 14, 2020
AGENDA ITEM II.D

May 11, 2020

TO: Board of Directors
FROM: Geoffrey Poole
SUBJECT: External Communications Policy – Smith

RECOMMENDED ACTION:
Receive Report and Direct Staff as Deemed Appropriate.

ITEM EXPLANATION:
Board Member Smith requested this item be placed on the Agenda on the topic of who and how will the Watermaster communicate with the Public. Director Smith requested assistance from “Staff” and a template was provided and Mr. Smith customized it for our use.

NEXT STEPS

N/A

FISCAL IMPACT

N/A

ATTACHMENTS

1. Draft External Communications Policy

POLICY

The purpose of this External Communications Policy is to establish guidelines concerning communications with the Media and third-parties on matters concerning the Borrego Springs Subbasin Watermaster. The intention of this policy is for Watermaster to convey information concerning Watermaster Matters to the public and the Media in a coordinated and consistent manner, following discussion and direction from the Watermaster Board. It is the policy of the Watermaster that only the Executive Director, or in some circumstances, a Board Member, employee, or consultant explicitly so directed by the Watermaster Board, may communicate the official position of the Watermaster to the public and the Media concerning a Watermaster Matter following discussion and direction from the Watermaster Board, and that all other communications on a Watermaster Matter are the personal opinion of the Watermaster affiliated individual on Watermaster Matters, not the official Watermaster position.

- “Executive Director” is the hired Executive Director of the Watermaster, who reports to the Watermaster Board.
- “External Communication” is a communication intending to convey or represent Watermaster Matters to the Media or other third-parties by anyone affiliated with the Watermaster whether through writing, public speaking or otherwise. Communications which are prefaced as being a representation of the Watermaster’s view or position on a Watermaster Matter may be made only by the Executive Director or other Watermaster affiliated individual expressly authorized by the Watermaster Board to represent the Watermaster’s view or position on a Watermaster Matter. A communication by a Watermaster Board Member with representatives of the Board Member’s appointing entity(s) or their attorneys about Watermaster Matters is not an External Communication.
- “Media” is defined as newspapers, magazines, television, blogs, digital news sites, social media, and other methods of dispersing and providing information to the general public.
- “Watermaster Matter(s)” are Watermaster’s policies, decisions, programs, initiatives, activities, and issues, including those items formally adopted, mandated by the Court or Settlement Agreement, and those under discussion.
- “Watermaster Board Member(s)” are the appointed members of the Watermaster Board as specified in the Stipulated Judgment.

PROCEDURES

The Executive Director is primarily responsible for the Watermaster’s relations with the Media. Accordingly, the Executive Director should be the point of contact for a representative of the Media.

The spokesperson for the Watermaster will generally be the Executive Director. Board Members, employees, and consultants should not represent that they speak for Watermaster in any External Communication unless the Watermaster Board explicitly directs them to do so, and then only for such Watermaster Matter for which the Watermaster Board explicitly directs them to speak on Watermaster’s behalf and at the point in time so directed.

Inquiries by the Media to a Board Member, employee, or consultant seeking the Watermaster’s view or position concerning a Watermaster Matter should be referred immediately to the Executive Director unless the inquiry pertains to a Watermaster Matter for which the Watermaster Board has explicitly directed the Board Member, employee, or consultant to speak on Watermaster’s behalf at that point in time.

The Executive Director shall maintain and update a record of External Communications made to the Media

and the public, including the subject matter, presentations used, etc., to ensure consistency of information and to maintain a written record.

Board Members shall routinely report at regular Watermaster Board meetings on contacts from the Media seeking the Watermaster's view or position concerning a Watermaster Matter.

In order to avoid misunderstanding of the Watermaster's view or position on a Watermaster Matter, if a Board Member, employee, or consultant offers a personal opinion on a Watermaster Matter during a meeting with a third-party or with a representative of the Media, it should be explicitly identified as a personal opinion and not a representation of the Watermaster's view or position on the matter.

When a Board Member, employee, or consultant engages, as a private citizen, on external social media or other platforms, they should not use the Watermaster's name in their identity (e.g. username, "handle" or screen name), nor should they purport to speak as a representative of the Watermaster.

All requests for information through the Watermaster's website shall be directed to the Executive Director or her/his designee.

BORREGO SPRINGS BASIN WATERMASTER
BOARD OF DIRECTORS MEETING
MAY 14, 2020
AGENDA ITEM ILE

May 11, 2020

TO: Board of Directors
FROM: Geoffrey Poole
SUBJECT: Payment of Invoices – Pinel

RECOMMENDED ACTION:

Receive Report and Direct Staff as Deemed Appropriate.

ITEM EXPLANATION:

Alternate Board Member Pinel requested this item be placed on the Agenda on the topic of the upcoming invoices being sent out by the Interim Watermaster. Invoices for Watermaster Expenses has been distributed and BWD reimbursements for GSP/GMP is next. Staff will be prepared to answer any questions on this topic.

NEXT STEPS

N/A

FISCAL IMPACT

Ensures funding for Watermaster Activities

ATTACHMENTS

1. None

BORREGO SPRINGS BASIN WATERMASTER
BOARD OF DIRECTORS MEETING
MAY 14, 2020
AGENDA ITEM II.F and G

May 11, 2020

TO: Board of Directors

FROM: Geoffrey Poole

SUBJECT: F. Update on Installation of Meters - Duncan
G. Collection/Use of Metering Data - Duncan

RECOMMENDED ACTION:

Receive Report and Direct Staff as Deemed Appropriate

ITEM EXPLANATION:

Board Member Duncan requested this item be placed on the Agenda on the topic of the status of installation of meters as well as collection and use of the data. Michael Bozick will be prepared to update the WM Board on the status of agricultural meter installations and Shannon Smith will be prepared to update the WM Board on the status of recreational meter installations..

On the topic of collection and use of the data, water usage will be either transmitted by smart meters or monitored by Watermaster starting in water year 2020 (commencing October 1). The Stipulating Parties had discussed that having meters earlier in 2020 for the benefit of the pumpers so they could begin to understand their regular usage, but there is no reporting of that usage. Information generated will also be used to determine fees (including any penalties, if necessary). The fees are based on one-year of pumping data (October 1, 2020 – September 30, 2021).

NEXT STEPS

N/A

FISCAL IMPACT

Ensures future funding for Watermaster Activities [initial funding is based on Baseline Pumping Allocation]

ATTACHMENTS

1. None