

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS

MINUTES OF THE REGULAR BOARD MEETING OF
November 2, 2005
1:30 P.M.

President Cheryl Tubbs called the Regular Meeting of the Board of Directors to order at 1:30 p.m. All present stood for the pledge of allegiance, led by President Tubbs.

ROLL CALL:

BOARD MEMBERS PRESENT:

Cheryl Tubbs, President
Clare Henry Day, Vice President
Manuel Aranda, Jr., Director
Glenda Douglas, Director
Richard Corneille, Director
Melody Henriques-McDonald, Director

BOARD MEMBERS ABSENT:

Arnold Wright, Director

GENERAL COUNSEL PRESENT:

David B. Cosgrove, Esq.

SPECIAL COUNSEL PRESENT:

H. Jess Senecal, Esq.

STAFF PRESENT:

Lawrence M. Libeu, General Manager/Board Secretary
Tom Crowley, Assistant General Manager
Walter Christensen, Project Manager
Colleen Theuer, Assistant to the General Manager/Recording Secretary

GUESTS PRESENT:

Hugh Daniels, Eadie & Payne, LLP
Deborah Crowley, Eadie & Payne, LLP
D. McAlister, Tetra Tech, Inc.

1. PUBLIC PARTICIPATION

President Tubbs announced this as the time for any persons present, who so desire, to make an oral presentation to the Board of Directors. Hearing none, the meeting proceeded with the published agenda items.

2. BOARD DISCUSSION ITEMS

Director Corneille reported that he attended WESTCAS and American Water Works Association meetings, and noted that he is the incoming vice chair of Cal-Nevada Water Resources Division. Director Aranda reported that he also attended the WESTCAS meeting, a legislative meeting in Sacramento, and the LAFCO meeting on October 28. President Tubbs reported that she attended the WESTCAS meeting for one day and also met with representatives from the San Bernardino Valley Municipal Water District (Muni) regarding the settlement agreement easement. Director Henriques-McDonald expressed thanks to the Board and staff for their support during her family's time of mourning.

Mr. Libeu introduced Mr. H. Jess Senecal, special counsel, retained by the Board to assist in the consolidation effort against the District by LAFCO.

3. APPROVAL OF THE MINUTES

It was moved by Director Corneille and seconded by Vice President Day to approve the minutes of the regular meeting of October 5, 2005. The motion carried 5-1-0, with Director Henriques-McDonald abstaining due to her absence at the October 5 meeting, and with Director Wright absent.

4. FY 2004-2005 AUDIT REPORT

Ms. Theuer introduced Hugh Daniels and Deborah Crowley from the auditing firm Eadie & Payne, LLP. Ms. Crowley presented the 2004-2005 audit report, and answered questions from the Board.

It was moved by Director Corneille and seconded by Director Aranda to receive and file the District's 2004-2005 Audit Report. The motion carried 6-0, with Director Wright absent.

5. BOARD COMMITTEE REPORTS

There were no committee reports for this meeting. However, Mr. Libeu indicated a Resources Committee meeting would be scheduled within the next month.

6. GENERAL MANAGER'S REPORT

Mr. Libeu summarized his written report, noting the preview of Board meeting dates for 2006.

7. OPERATIONS AND MAINTENANCE REPORT

Mr. Crowley summarized his written report, and answered questions from the Board.

8. WASH PLAN UPDATE

Mr. Christensen updated the Board on the Wash Plan, noting Fish & Wildlife's concerns regarding their ability to permit the Wash Plan as currently written. They have offered to assist directly in the drafting of the necessary documents to ensure that the documents meet their needs. This process would add approximately six months to their expected public release, taking place in the fourth quarter of 2006. Discussion ensued, and the suggestion was made to refer the matter to the Resources Committee, as well as meet with Fish & Wildlife to discuss further. Additionally, it was suggested that a letter be sent to them indicating a completion date of March 31, 2006.

It was moved by Director Henriques-McDonald and seconded by Director Aranda to (based upon the information received from the Wash Plan update), authorize the Board president to sign and forward to U.S. Fish & Wildlife a letter indicating the District's concern for the necessity to rewrite various portions of the EIR, and request that any deviance from the EIR be completed by March 31, 2005. The motion carried 6-0, with Director Wright absent.

9. CONSENT CALENDAR

Ms. Theuer presented and briefly discussed the financial reports for the month of October 2005. President Tubbs inquired as to the status of the groundwater receipts; Mr. Crowley indicated that the City of Redlands had not yet paid, as well as a few small producers; all other major producers have paid. He said he would resend the statement to the City of Redlands electronically, and second notices to the producers that have not paid. President Tubbs asked that a report of groundwater receipts be placed on the agenda for the December meeting.

It was moved by Director Day and seconded by Director Aranda to approve the Consent Calendar, consisting of the Expenditures for October 2005, and the Un-audited Financial Reports for October 2005 (item C was previously approved). The motion carried 6-0, with Director Wright absent.

10. BOARD LETTERS, ACTION ITEMS, NEW BUSINESS, FYI

Mr. Cosgrove requested an addition to the agenda regarding the LAFCO Committee meeting's discussion of the District sphere of influence and the factual finding on the question that arose at that meeting of October 28, 2005, that occurred after the posting of the District agenda.

It was moved by Vice President Day and seconded by Director Douglas to add to the agenda, as Item F, the factual finding on a question that arose out of the LAFCO Committee meeting of October 28, 2005. The motion carried 6-0, with Director Wright absent.

A. Consider Retention of Soren McAdam Christenson LLP

Mr. Libeu led a discussion and answered questions from the Board regarding engaging the services of Soren McAdam Christenson LLP for a financial evaluation, specifically on the financial impacts due to changes in the groundwater charge. During the discussion, it was suggested that the report be completed within 30 days, and a draft of the evaluation be brought before the Administrative Committee.

It was moved by Director Corneille and seconded by Director Henriques-McDonald to authorize the General Manager to enter into a contract with Soren McAdam Christenson LLP, for preparation of a financial evaluation on the impacts on revenues due to possible changes in the groundwater charge, to be completed within 30 days, in time for a report at the December 9, 2005 Board meeting. The motion carried 6-0, with Director Wright absent.

B. Amendment to Contract for General Counsel Services

It was moved by Director Henriques-McDonald and seconded by Director Douglas to approve an amendment to the Legal Services Retainer Agreement with Rutan & Tucker and General Counsel David Cosgrove, to increase the hourly rate for compensation to \$250.00 per hour. The motion carried 6-0, with Director Wright absent.

C. NWRA California Caucus Ballot

Mr. Libeu led a brief discussion on the NWRA California Caucus Ballot.

It was moved by Director Aranda and seconded by Director Henriques-McDonald to cast the ballot for the NWRA California Caucus, naming David Breninger, Placer County Water Agency, Lawrence M. Libeu, San Bernardino Valley Water Conservation District, Gregory Zlotnick, Santa Clara Valley Water District, as Board members, and John Fraser, El Dorado

Irrigation District, as an alternate. The motion carried 6-0, with Director Wright absent.

D. FYI - Effects of AB 1234 on Board Policy Manual

The effects of AB 1234 on the Board Policy Manual were discussed. The key element of the legislation was that all special district directors and officials would be required to receive at least two hours of training in ethics every two years; otherwise the legislation would have little effect on the District Board Policy Manual.

E. FYI - East Valley Water District Tour of Seven Oaks Dam/SCE Powerhouses and Related Facilities

Mr. Libeu briefed the Board on the upcoming tour of the Seven Oaks Dam/SCE Powerhouses being offered by the East Valley Water District on November 16, 2005. Director Douglas indicated that she would be going on the tour.

F. Addition to Agenda - Factual Finding on Question that Arose out of LAFCO Committee Meeting of October 28, 2005

Mr. Cosgrove discussed the LAFCO Committee meeting of October 28, 2005, and said a question arose out of that meeting concerning the District's sphere of influence. LAFCO had commented that everything the District does affects the whole basin. Also during the conversation, a comment was made by one of the members that the entire consolidation issue is very disruptive to the daily workings of the administration of water and water policy. LAFCO staff said that if it were the direction of the committee to say that the sphere of influence should be the current boundaries, LAFCO would close the book on the consolidation effort. However, it was unlikely that the committee would agree to this. The discussion at the meeting continued with questions on the sphere of influence, and District staff thought it prudent to take the issue to the District Board. Using visual aids, he specifically discussed four alternatives for the District: (1) status quo; (2) (suggested by LAFCO staff): coterminous (meaning not intended to grow nor expand, but continue role as before within the District's current boundaries); (3) entire basin; and (4) zero sphere of influence. After discussion, Mr. Cosgrove suggested that the Board communicate to LAFCO the District's willingness for status quo, or coterminous, or include the entire basin in the District's sphere of influence, if LAFCO would insist. He also suggested that if LAFCO would want to expand the sphere of influence to include the entire basin, the District should talk to the other agencies and report to LAFCO their responses.

It was moved by Director Corneille and seconded by Director Henriques-McDonald to authorize District staff to communicate to LAFCO, in connection with the District's Sphere of Influence from the Municipal Services Review, that the District would favor either a status quo or a coterminous determination, and that while staff is not advocating an amendment to include the entire basin, if LAFCO staff views that as

appropriate, the Conservation District would not oppose it. The motion carried 6-0, with Director Wright absent.

11. CLOSED SESSION

It was moved by Vice President Day and seconded by Director Henriques-McDonald to adjourn to Closed Session, at 3:40 p.m., as provided by the authority of Government Code Section 54956.9a, relating to Application No. 31371 before the State Water Resources Control Board to appropriate waters of the Santa Ana River; Government Code Section 54956.9c, to determine on whether to initiate litigation; and Government Code Section 54956.8, relating to real property negotiations re: easement agreement with San Bernardino Valley Municipal Water District/Western Municipal Water District; the negotiators would be Lawrence Libeu and David Cosgrove for the District; Robert Reiter and David Aladjem for the San Bernardino Valley Municipal Water District; and John Rossi for the Western Municipal Water District. The motion carried 6-0, with Director Wright absent.

At 4:30 p.m. the Board reconvened in Open Session. In accordance with Government Code Section 54957.1, there was no reportable action taken.

After a brief discussion, it was decided that a Special Board meeting would be held on November 17, 2005 at 4:00 p.m.

12. ADJOURN MEETING

At 4:35 p.m., the meeting adjourned to the Board meeting scheduled for November 17, 2005 at District Headquarters, 1630 W. Redlands Blvd., Ste. A, Redlands, CA, at 4:00 p.m.

Board Secretary