

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS

MINUTES OF THE BOARD MEETING/PUBLIC HEARING OF
April 29, 2009
1:30 P.M.

President Melody McDonald called the Board Meeting/Public Hearing of the Board of Directors to order at 1:30 p.m. All present stood for the pledge of allegiance, led by President McDonald.

ROLL CALL:

BOARD MEMBERS PRESENT:

Melody McDonald, President
Manuel Aranda, Vice President
Cheryl Tubbs, Director
Clare Henry Day, Director
Arnold Wright, Director
Richard Corneille, Director
John Longville, Director

BOARD MEMBERS ABSENT:

None

GENERAL COUNSEL PRESENT:

David Cosgrove, Rutan & Tucker

STAFF PRESENT:

R. Robert Neufeld, General Manager
Claud Seal, Assistant General Manager/District Engineer
Colleen Theuer, Admin. Mgr/Recording Secretary
Shanae Smith, Executive Assistant
Randy Scott, Wash Plan Project Manager

GUESTS PRESENT:

Matt Litchfield, San Bernardino Municipal Water Department
Greg Gage, San Bernardino Municipal Water Department
Douglas Headrick, San Bernardino Valley Municipal Water District
Wen Huang, City of Redlands

1. PUBLIC PARTICIPATION

President McDonald 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. ADDITIONS/DELETIONS TO AGENDA

There were no additions/deletions to the agenda.

3. BOARD DISCUSSION ITEMS

Director Wright reported that he attended the Resources Committee meeting on April 22, 2009.

Director Aranda reported that he attended the regular chamber meetings and legislative meetings.

Director Corneille reported that he attended the Resources Committee meeting and would be at the Advisory Commission on Water Policy meeting on April 9. He also stated that he was in Washington D.C. to receive an award for his company.

Director Tubbs reported attending the Administrative Committee meeting and several ad hoc committee meetings.

Director Day reported attending the Administrative Committee meeting, the Resources Committee meeting, and an ad hoc committee meeting.

President McDonald reported attending a chamber breakfast, several ad hoc committee meetings, the LAFCO meeting, the Drought Conference in Irvine, and was planning on attending the Advisory Commission on Water Policy meeting on April 9.

4. CONSENT CALENDAR

Ms. Theuer noted a correction in the minutes of April 8, 2009, page 6, 2nd line, "...directed to notify the Court of Appeal in the consolidation action that the District had no position with respect to the publication of the opinion issued." Director Tubbs also noted a correction on page 5, 7A, 6th line, change "bi-monthly" to "semi-monthly."

It was moved by Director Corneille and seconded by Director Tubbs to approve the minutes of April 8, 2009, as amended. The motion carried unanimously.

5. INFORMATION ITEMS

A. Board Committee Reports

Director Tubbs reported on the Administrative Committee meeting of April 17, 2009, regarding job descriptions and salary schedule reviews. She said that the committee was still in the process of revising the job descriptions and the salary schedule and hoped to have that information completed for the May 13, 2009 Board meeting.

Director Day reported on the Resources Committee meeting held on April 22, 2009. He said that field projects would need to be completed before the end of the fiscal year, and would be brought before a future Board meeting that would be discussing budget.

C. Operations and Maintenance Report

This item was taken out of order.

Mr. Seal reported on the repaired SAR North Fork pipe and valve replacement project, noting that the work had been completed at no cost to the District. He said that field staff had been helping Bear Valley and the City of Redlands in trying to unplug the Redlands Aqueduct. He reported that spreading flows had been averaging 31 down to 28 cfs in the last several weeks; the flows were expected to decrease a bit beginning next week once SCE completes computer and flow diversions from their No. 3 Plant. And lastly, Mr. Seal reported that the District has spread over 5,000 AF of water in the SAR spreading grounds, and almost 4,000 AF in the Mill Creek spreading grounds.

B. Wash Plan Update

Mr. Randy Scott reported that work was being completed on the EIS, and that he had received three proposals for work on the Habitat Conservation Plan (HCP) from URS, Jones & Stokes, Inc., and PBS & J. The proposals were reviewed and the interview process was underway. He said he hoped to have a contract available for approval by the Board at the next Board meeting. The anticipated completion date is on schedule, for the end of the year. Discussion continued and Mr. Scott answered questions from the Board.

D. Optimization Study Update

Mr. Seal reported that MWH and GEI had issued a draft of the final report for the Optimization Study. Anticipated completion for the final report was for May, 2009. The next meeting was scheduled for May 4, at 9:30 a.m., at the District office. Additionally, Mr. Seal noted that he would be presenting a report on the Optimization Study at the Advisory Commission on Water Policy meeting on April 30, at the San Bernardino Valley Municipal Water District (SBVMWD).

E. Assistant General Manager's Report

Mr. Seal reported that he made a presentation of the Engineering Investigation (EI) report to the Upper Santa Ana Water Resources Association meeting on April 9. The Big Bear Watermaster Report had been completed, and the next meeting for that group

would be on May 5, at 1:30 p.m., at the District office, to discuss the report. Mr. Seal also reported that the annual Outstanding Civil Engineering Achievement award was held in Washington D.C. the previous week, in which Director Corneille received the award on behalf of his engineering firm.

F. General Manager's Report

Mr. Neufeld reported that staff was in the process of revising the Board Policy Handbook, and would be bringing a draft of the revision to the next Administrative Committee meeting for review. The intent is to review all District policies for update. Additionally, staff was in the process of working on the budget and will be bringing that item to the committee meeting; he indicated there would be significant changes in the budget. Discussion ensued. A meeting of the Resources Committee was scheduled for May 11th at 8:00 a.m., at the District office, to review capital project budget items.

6. ACTION ITEMS, NEW BUSINESS

A. Adoption of Addendum to 2009 Engineering Investigation (EI) Report

Director Wright recused himself from item A & B, due to a potential conflict of interest based on his stock in Bear Valley.

Using visual aids, Mr. Seal made a presentation of an addendum to the 2009 EI report. He said that upon review of the completed EI report, he noted that while Task 7 followed the format from previously used formulas, the numbers seemed too high. He analyzed the actual water pumped out of the basin from previous years, and performed a regression analysis, which caused him to recalculate the values. The addendum indicates the revised values. He continued his discussion and answered questions from the Board.

It was moved by Director Longville and seconded by Director Aranda to receive and approve the Addendum to the 2009 Engineering Investigation. The motion carried unanimously.

B. Public Hearing Related to Adoption of Groundwater Charge

Using visual aids, Mr. Cosgrove made a presentation regarding establishing the groundwater charge for 2009-2010. He said that Water Code Sections 75500 set out the authority and procedures for the District to establish an annual groundwater charge, based on production of groundwater from the portions of the Bunker Hill Basin underlying the District's boundary. The Engineering Investigation report was presented to the Board on March 11, 2009, and was presented at the regular Board Meeting/Public Meeting on April 8, 2009 and was also presented to the Upper Santa Ana Water Resources Association meeting on April 9, 2009. Notice of the District's proposal to establish the groundwater charge at the rates of \$2.18 for water produced for agricultural purposes and \$7.85 non-agricultural purposes was sent on March 12, 2009 to all reporting groundwater producers, as well as a notice published weekly

beginning March 15, 2009 in the Sun Newspaper. Mr. Cosgrove continued with his presentation, showing the estimated amount of revenue expected from the groundwater charge and a breakdown of expected expenses, for the 2009-2010 fiscal year. He said in response to comments received regarding the groundwater charge, Resolution No. 451 proposes that staff will provide to the Board at the end of the water year a report detailing the revenues collected from the groundwater charge and describing the purposes and expenses to which such revenues were applied toward the services detailed. He said that the proposal to increase the groundwater charge was due to the sharp decline in the District's mining and other revenues.

Mr. Cosgrove discussed at length Proposition 218, and whether it would be applicable to the District. He indicated that the District had endeavored to comply in all respects with the requirements of Proposition 218; however, its applicability to the District's groundwater charge was questionable. He said that Resolution No. 451 contained a number of findings which make reference to either the applicability or the requirements of Proposition 218, and the structure of the District's charge vis a vis charges "upon a person as an incident of property ownership."

Mr. Cosgrove said that besides the letter received from the City of San Bernardino opposing the increase in the groundwater charge, a letter was received at 12:00 noon this date from the San Bernardino Valley Municipal Water District (SBVMWD), indicating that, in their view, the EI Addendum contained errors, and requested the District "defer approval of any groundwater charge until the EI could be peer reviewed and corrected." He said staff recommendation was to direct staff to meet with SBVMWD and if in the course of the meeting additional information is brought to bear that would affect the charge in a material way, this can be brought back to the Board with the intention to modify any groundwater charge. However, he did not recommend deferring the approval of the groundwater charge. Discussion continued. Director Tubbs noted that the calculated amount of revenue the District would receive if the new rates were adopted was \$98,338. Additionally, the CEMEX Highland plant has closed; therefore mining royalties will be further reduced.

President McDonald opened the Public Hearing for the Adoption of the Groundwater Charge for 2009-2010. Comments were made by members of the public:

Matt Litchfield, City of San Bernardino: Mr. Litchfield reiterated the letter received from the City of San Bernardino, protesting the increase in groundwater rates, suggesting that there were other areas in the District budget that could be cut. He also commented on Proposition 218.

Doug Headrick, San Bernardino Valley Municipal Water District: Mr. Headrick said he appreciated the District's willingness to meet with their staff to review the Engineering Investigation Addendum. He discussed particular areas of concern in the addendum that they would like to review with District staff.

There were no further comments from the public.

It was moved by Director Tubbs and seconded by Director Day to close the Public Hearing. The motion carried unanimously.

Director Tubbs indicated that she was not in favor of an increase in the groundwater charge, and discussed other adjustments that could be made in the budget to bring costs down. Discussion continued. Mr. Neufeld said that staff was confident that the numbers reflected in the EI report were correct. He said he was also going to recommend changing the fiscal year to a calendar year to be more consistent with the EI report.

It was moved by Director Corneille and seconded by Director Aranda to approve and adopt Resolution No. 451, establishing the Groundwater Charge for the 2009-2010 water year at the rates of \$2.18 per acre foot for agricultural purposes, and \$7.85 per acre foot for non-agricultural purposes; with direction to staff to confer with the San Bernardino Valley Municipal Water District pursuant to the information that they have raised in their most recent letter, and should those deliberations indicate any necessary modifications in the groundwater charge, to bring back to the Board for additional action; to review the budgeting process; and to research the possibility of changing the District fiscal year to a calendar year. By roll call vote, the motion carried 5-1-1, with Director Tubbs voting no, and Director Wright abstaining.

C. LAFCO - Special Districts Election for Alternate LAFCO Member

Mr. Neufeld briefed the Board on the official voting process for the Alternate Special District Member of the LAFCO, indicating that the voting period was for 32 days, beginning April 13, 2009 and ending May 15, 2009.

It was moved by Director Corneille and seconded by Director Aranda to cast a vote for Director John Longville, for the Alternate Special District Member of LAFCO. The motion carried 7-0, by roll call vote.

D. Capital Project and Equipment Acquisition, Upgrade Webpage Approval Request

Mr. Seal led a discussion on a request for the purchase of field equipment, updating the District website, and for repair of the Mill Creek inlet structure, totaling \$58,969. Director Day stated that the Resources Committee had discussed these purchases at length at their last meeting, and recommended approval, since the costs for these items would come out of money not spent this fiscal year (involving transfers of budget amounts).

It was moved by Director Day and seconded by Director Aranda to approve the construction project, equipment acquisition, and the upgrade of the website as listed in the staff report, for a total of \$58,969, and to authorize the transfer of budgeted amounts as indicated in the staff report. The motion carried unanimously.

7. UPCOMING EVENTS

Upcoming events were briefly discussed.

8. CLOSED SESSION

At 3:25 p.m., it was moved by Director Tubbs and seconded by Director Aranda to adjourn to Closed Session, under Government Code Section 54956.8, consider Real Property negotiations with the City of Redlands regarding potential well sites along Orange Avenue; Government Code Section 54956.9(c), consider whether to initiate litigation; Government Code Section 54957 and 54957.6, consider public employee items; and Government Code Section 54956.9(b), consider significant exposure to litigation. The motion carried unanimously.

At 4:45 p.m., the meeting reconvened into Open Session. Under Government Code Section 54957.1, action taken was to authorize the General Manager to retain Mathis Consulting Group to facilitate the General Manager's upcoming performance review.

9. ADJOURN MEETING

At 4:45 p.m., the meeting adjourned to the Board Meeting scheduled for May 13, 2009, at 1:30 p.m., at District Headquarters, 1630 W. Redlands Blvd., Redlands, CA.

R. Robert Neufeld
Secretary of the Board