

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS

MINUTES OF THE BOARD MEETING OF
January 27, 2010
1:30 P.M.

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

ROLL CALL:

BOARD MEMBERS PRESENT:

Clare Henry Day, President
Melody McDonald, Vice President
Manuel Aranda, Director
Arnold Wright, Director
John Longville, Director (1:42 P.M.)
Richard Corneille, Director
David E. Raley, Director

BOARD MEMBERS ABSENT:

None

GENERAL COUNSEL PRESENT:

David Cosgrove, Rutan & Tucker, LLP

STAFF PRESENT:

R. Robert Neufeld, General Manager
Claud Seal, Assistant General Manager/District Engineer
Samantha Brown, Finance Supervisor
Shanae Smith, Executive Assistant II

GUESTS PRESENT:

Don Lee, Tetrattech
Charles Roberts, Highland Community News

1. PUBLIC PARTICIPATION

President Day announced this as the time for any persons present, who so desire, to make an oral presentation to the Board of Directors.

On behalf of the Association of California Water Agencies Joint Powers Insurance Authority (ACWA/JPIA), Vice President McDonald presented the District with a check in the amount of \$16,767.18 for retrospective premium adjustments relative to the District's workers' compensation insurance low risk ratio pool. She said that as an Executive Committee member of ACWA/JPIA, she had the pleasure of making presentations to several agencies and congratulated the District on a job well done.

2. ADDITIONS/DELETIONS TO AGENDA

David Cosgrove stated that staff received a proposal, after the agenda was posted, from JDM Excavation, relative to the maintenance work occurring in the Mill Creek spreading ponds. He requested an addition to the agenda, as Item 6E, for consideration and possible action of that proposal.

It was moved by Director Aranda and seconded by Director McDonald to add "*Consideration of the JDM Excavation Proposal*," to the Agenda as Item 6E. The motion carried unanimously.

3. BOARD DISCUSSION ITEMS

Director Corneille reported attending the retirement dinner honoring Randy Van Gelder, former General Manager of the San Bernardino Valley Municipal Water District (SBVMWD), and the District's Strategic Planning Workshop. He said he is scheduled to attend the SBVMWD Advisory Commission on Water Policy meeting on January 28, 2010.

Director Raley reported attending the Upper Santa Ana Wash Land Management Plan (Wash Plan) and Habitat Conservation Plan (HCP) Ad Hoc Committee meeting to review the draft HCP; and the Strategic Planning Workshop.

Director Aranda reported attending the ACWA Legislative Committee meeting in Sacramento regarding legislation opposed by ACWA, which prohibits Governor Schwarzenegger's authorization to call for a peripheral canal. He also reported attending the District's Strategic Planning Workshop.

Director Wright reported attending the regular Board meeting and the Resources Committee meeting.

Director McDonald reported attending the retirement dinner for Mr. Van Gelder; the Strategic Planning Workshop; and the Wash Plan HCP Ad Hoc Committee meeting to discuss the Wash Plan HCP revisions. She said she attended the Association of San Bernardino County Special Districts dinner at the Panda Inn, where Kathleen Rollings-

McDonald, the Executive Officer for the Local Agency Formation Commission (LAFCO), and Larry McCallum were the guest speakers on the topic of SB 375.

Director Longville reported attending the regular Board meeting and Strategic Planning Workshop. He said he is scheduled to attend the San Bernardino Chamber Area of Commerce (SBACC) Annual Installation dinner scheduled later in the evening.

President Day reported attending the Resources Committee meeting and the Strategic Planning Workshop.

4. CONSENT CALENDAR

Minutes of the January 13, 2010 Board meeting were reviewed. Minor word changes were noted. Director McDonald requested clarification for the motion regarding "Direction from the Board for Participation in ACWA Legislative Committee Meetings." A discussion ensued regarding the interpretation of the language in the motion. The Board agreed that the motion would remain as written.

It was moved by Director McDonald and seconded by Director Longville to approve the minutes of the Board meeting of January 13, 2010, as amended. The motion carried unanimously.

Director Raley requested clarification regarding the AB303 budget item indicated on the financial reports. Shanae Smith stated that the AB303 is in reference to the Local Groundwater Assistance Grant that was awarded the District from the Department of Water Resources (DWR). Samantha Brown said that the item was originally budgeted for \$250,000, which was revised at the first quarter budget review, and decreased to \$100,000. Mr. Neufeld said that the District began budgeting for the funds in 2008, in anticipation of receipt of those funds. He said staff elected to decrease the amount at the end of the first quarter during the budget revision. Ms. Smith, as Grants Administrator representing the District, reported the District would receive that amount this fiscal year.

Director Corneille asked about the re-evaluation of the Exchange Plan indicated in the staff report. Ms. Brown said the amount was budgeted at \$25,000, which has already been received and will be increased. A discussion ensued regarding the terms of the Exchange Plan agreement and the costs captured and billed for actual time spent for the District's operations.

It was moved by Director Corneille and seconded by Director Wright to accept the Un-Audited Financial Reports for December, 2009. The motion carried unanimously.

5. INFORMATION ITEMS

A. Board Committee Reports

President Day announced that the Wash Plan Ad Hoc Committee had completed its duties for the review of the final draft HCP.

B. Wash Plan Update

No report was given for this meeting.

C. Financial Report

Ms. Brown reported that staff is currently working on the semi-annual budget review. She said a draft budget proposal and draft Wash Plan cost analysis will be reviewed by the Administrative Committee on February 3, 2010 and brought back before the full Board. A Board budget workshop will be scheduled in March for FY10-11. She said staff will be recommending approval of the Statement of Investment Policy, indicated on the agenda as discussed at the January 13, 2010 Board meeting. She said at this time, investment policy options would not be discussed, due to a conversation with a senior investment strategist regarding investing the District's restricted money for a period of two years or more. A return higher than the Local Agency Investment Fund (LAIF) would not be available to the District at this time. A discussion ensued regarding the District's restricted funds and the terms of the mining royalty agreements.

D. Assistant General Manager's Report

Mr. Seal made the following announcements:

1. We have continued spreading natural water in our Mill Creek spreading basins. Initial runoffs have contained too much mud and silt to capture. We are now diverting about 18 cfs. We have been spreading about 3 to 4 cfs of Santa Ana River water and have had a brief surge due to the Seven Oaks Dam SOD releasing up to 25 cfs of water temporarily to clear out water that was being diverted into the discharge tunnel. The tunnel gates leaked and didn't allow complete filling operation so it was emptied yesterday. The tunnel gates will be recalibrated today and the tunnel refilled tonight and tomorrow.
2. As of yesterday, the Seven Oaks Dam (SOD) water reservoir level was at 2208-feet (msl), or at the "Intermediate Water Level." This is above the basic debris level required to contain debris behind the dam. This new water elevation storage capacity is 3653 AF. Upstream watershed inflow was calculated to be 116.5 cfs. Total dam capacity, when the reservoir is full, is 115,000 AF.
3. Although there has been substantial rain and snow fall in upper mountain elevations, especially in Northern California, the DWR still forecasts only 5% of the annual state water contractors' allocation will be available later this year. We should have a new forecast in about a month.
4. The District's head field Operator, Randy Carlisle, has been placed on disability leave for the last two weeks, due to a partial disability that has not been medically corrected. He is continuing to be paid and his position with the District

has not been filled, nor do we anticipate hiring anyone new at this time. Given his ongoing treatments for nearly a year, we were required by our insurance carrier (ACWA JPIA) to either allow him to continue doing his job for the remainder of his employment with the District under a partial disability restriction, or to place him on disability leave until the problem was corrected. Randy is pursuing medical remedy now.

5. A potential major restriction on the usage of the Santa Ana River and Mill Creek channels due to expanded controlled reaches on all the area rivers is looming in the near future. The Federal and State Environmental Protection Agencies are proposing to place severe restrictions on river channel access and usage due to endangered "Santa Ana Sucker" species. This problem was addressed in 2003 and dismissed. Now it is back again. SBV Municipal Water District is now leading a campaign to initiate correspondence to the EPA officials, to drop the issue once and for all. Staff would like to address the problem by writing a letter to the EPA in support of not instituting the proposed restrictions.
6. The Valley District sponsored Enhanced Water Storage Facilities Project kickoff meeting was held yesterday and Black and Veatch Engineering was able to have most of their design goals and issues addressed. Along with Manuel Colunga, I will be leading a group of designers and biologists on a tour of the Santa Ana River water capture and distribution system on this coming Friday morning.
7. The preparation of the Engineering Investigation Report is progressing satisfactorily and should be completed, with additional information, on time.

Director Corneille asked for clarification on the official name and purpose of the study being conducted by Black and Veatch. Mr. Seal said the official name of the study is Enhanced Water Storage Facilities Project, which includes the preliminary design with evaluation of several different approaches and routing and pipelines and construction contract documents for the Santa Ana River environmental documents. Director McDonald asked whether the study will enable SBVMWD to submit applications of the storm water run-off. Mr. Cosgrove stated that the SBVMWD's implementation of additional facilities would occur under the easement agreement granted to SBVMWD to utilize the District's properties and existing facilities, subject to the District's review and approval. He said the additional facilities will be used as a potential application for storm water. A discussion ensued.

E. General Manager's Report

Mr. Neufeld summarized a report from the District's lobbyist in Washington, D.C., regarding an article on the subject of the restoration and rehabilitation of wetlands. He stated that a model had been developed by scientists predicting the level of methane emissions from wetlands that may help to understand climate change.

Mr. Neufeld reported that the LAFCO's apportionment formulas for the 2010/2011 fiscal

year have been reduced by 60% for the District. He briefly summarized special districts' varying in size throughout the county under LAFCO's jurisdiction. The District will need to submit its vote by March 1, 2010.

Mr. Neufeld stated that the collaborative presentations regarding water resource projects had been completed with the General Managers from the San Bernardino Valley Water Conservation District, San Bernardino Valley Municipal Water District, and Western Municipal Water District (WMWD), and that implementation plans will be presented to the members of the Board at the second meeting in March.

Mr. Neufeld distributed a hand-out regarding the economic forecast for the Inland Empire. He said the full presentation is available, as he referenced one slide regarding the prediction of the economy and its recovery in 2011 in California and in 2013 for the Inland Empire.

Mr. Neufeld referenced six proposed elements resulting from the Strategic Planning Workshop. He said staff met with Will McMullan of McMullan & Associates to establish objectives and discuss specific tasks to implement the plan, to bring back to the Board for adoption in April.

6. ACTION ITEMS, NEW BUSINESS

A. Discussion with Board of Directors Regarding Proposed Revenue Enhancements and Cost Savings

Mr. Neufeld distributed staff's and Director Raley's proposed cost reduction handouts. He stated that staff solicited input from the members of the Board regarding significant savings for the organization with various cost reductions. He asked the Board to review the hand-out and provide direction to staff. Director Aranda stated that a special workshop should be scheduled to discuss the proposed cost reductions, as the changes would be significant to the organization as a whole. A lengthy discussion ensued regarding taking staff's recommendations to the Administrative Committee to begin dialogue and possible recommendations.

It was moved by Director Aranda and seconded by Director Wright to refer Item A to the Administrative Committee for a Recommendation.

Discussion continued. After discussion, the following motion was made:

It was moved by Director Day and seconded by Director Wright to Terminate the Discussion. The motion failed to secure the required votes for passage.

Discussion continued. The Board proceeded to vote upon the main motion.

The motion carried 6-1, with Director McDonald opposed.

B. Discussion of 2010 District Investment Policy

It was moved by Director Raley and seconded by Director Longville to approve the 2010 District Investment Policy. The motion carried unanimously.

C. Consider Resolution No. 455, In Support of Concurring Nomination of E.G. “Jerry” Gladbach for Office of President of the ACWA/JPIA Board of Directors

It was moved by Director McDonald and seconded by Director Aranda to Adopt Resolution No. 455, In Support of the Concurring Nomination of E.G. “Jerry” Gladbach for Office of President of the ACWA/JPIA Board of Directors. The motion carried unanimously.

D. Authorize Staff to Send Comment Letter to United States Fish and Wildlife Service (USFWS) Regarding Proposed Revised Critical Habitat Designation for the Santa Ana Sucker on Behalf of the District

It was moved by Director Corneille and seconded by Director Raley to Authorize Staff to Send Comment Letter to United States Fish and Wildlife Service (USFWS) Regarding Proposed Revised Critical Habitat Designation for the Santa Ana Sucker on Behalf of the District. The motion carried unanimously.

Director Aranda suggested that the Board consult with Fred Hicks of Hicks Richardson Associates, the District’s Washington D.C. lobbyist, regarding current legislation and the Environmental Protection Agency (EPA).

E. Excavation Proposal from JDM Excavation

David Cosgrove summarized the proposal from JDM Excavation for royalties in the Mill Creek spreading grounds. He said staff would like to move forward on an expedited basis. President Day requested the estimated amount of the potential revenues of said agreement. Mr. Neufeld stated the initial amount would range from roughly \$3,000 per month, not limited to stockpiles or what has been extracted from the basin. He said essentially the arrangement entails JDM Construction receiving payments for maintenance of the basin, and the District in turn would be paid royalties for the extractions. A discussion ensued regarding the terms of the agreement.

It was moved by Director McDonald and seconded by Director Corneille to Authorize Staff and Legal Counsel to Develop an Agreement Based on the JDM Excavation Proposal, Not To Exceed One year, and to Make a Finding that the Action is Categorically Exempt Under Title 14 California Code of Regulations, (1) Section

15302 Maintenance to Existing Facilities, and 2) Section 15304(g) Minor Alteration of Land. The motion carried unanimously.

7. UPCOMING EVENTS

It was moved by Director Raley and seconded by Director Wright to Approve Director Aranda's Attendance to the Three Valleys Municipal Water District Leadership Breakfast. The vote carried 6-1, with President Day abstaining.

Director Aranda stated that he is a Director of WESTCAS representing the state of California, and that he reports to the USAWRA at its monthly meeting, as well as to the Board of Directors. He said the costs were minimal compared to other conference expenses. Director McDonald stated that the Board of Directors' Policy Manual for the Conduct of Business of the Board, states that the President and Vice President of the Board are authorized to attend. A discussion ensued regarding Directors fees and registration fees associated with the conference and the benefit to the District for attendance.

It was moved by Director Longville and seconded by Director McDonald to Approve the Attendance of Director Aranda to the WESTCAS Winter Conference. The motion carried 6-1, with Director Raley opposed.

Discussion continued. Director Raley requested to amend the motion to not include Director's fees. A discussion ensued regarding the budget revision process concerning membership dues and the number of conferences budgeted per year.

8. CLOSED SESSION

At 4:25 p.m., it was moved by Director Day and seconded by Director Aranda to adjourn to Closed Session, Government Code Section 54957(b)(1), to discuss the performance evaluation of the General Manager, and Government Code Section 54956.9(b)(3)(a), and Section 54956.0(c), and Section 54956.0(b)(1), confer with legal counsel regarding significant exposure to litigation in one case. The motion carried unanimously.

The Closed Session adjourned at 4:31 p.m., and the regular meeting reconvened, with no reportable action.

9. ADJOURN MEETING

At 4:31 p.m., the meeting adjourned to the Regular Board meeting scheduled for February 10, 2010, at 1:30 p.m., at District Headquarters, 1630 W. Redlands Blvd., Redlands, CA.

R. Robert Neufeld
Secretary of the Board