

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS

MINUTES OF THE BOARD MEETING OF
February 10, 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
Manual Aranda, Director
Arnold Wright, Director
Richard Corneille, Director
John Longville, 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
Randy Scott, Wash Plan Project Manager
Shanae Smith, Executive Assistant II

GUESTS PRESENT:

Bob Bowcock , Integrated Resource Management (IRM)
Mike Litton, Vulcan Materials
Don Lee, Tetrattech
Charles Roberts, Highland Community News

1. PUBLIC PARTICIPATION

President Clare Henry Day announced this is 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

Mr. Neufeld requested that consideration for nominations for the positions of the regular and alternate members representing Special Districts to LAFCO, be added to the agenda as Item 6L.

It was moved by Director McDonald and seconded by Director Longville to add “Consideration Nomination for the Position of the Regular Member, and an Alternate Member to the Local Agency Formation Commission (LAFCO) Nomination for Special Districts Representative” to the agenda as Item 6L. The motion carried unanimously.

3. BOARD DISCUSSION ITEMS

Director Corneille reported attending the San Bernardino Valley Municipal Water District’s (SBVMWD) Advisory Commission on Water Policy meeting, where Robert Tincher gave presentations regarding the Enhanced Recharge Study and the study of more run-off from the mountains to capture and recharge into the basin. He stated that Sam Fuller gave an overview of the big water picture and that a report will be published.

Director Raley reported attending the Administrative Committee meeting. He said he attended a Redland’s Chamber of Commerce (RCC) event; and met with a representative of the Inland Empire Resource Conservation District. He stated that he had an opportunity to read the Optimization Study.

Director Aranda reported attending the Basin Technical Advisory Committee meeting and the RCC meeting. He announced his appointment to the Association of California Water Agencies’ (ACWA) Communications Committee.

Director Longville reported attending the San Bernardino Area Chamber of Commerce (SBACC) Annual Installation of Officers dinner. He stated that he received a number of phone calls regarding lawn project is complete, and that Wallace Allen from a local radio station would like to do a program on how to reduce water usage, and that he spoke on the topic at a local high school.

Director Wright reported attending the Administrative Committee meeting.

Director McDonald reported attending the San Bernardino Valley Municipal Water District Advisory Commission meeting where Mark Bulot gave an update on the Constituents' Work Group. She attended the Basin Technical Advisory Committee meeting; she also reported that the San Bernardino Valley Municipal Water District is now joined the Southern California Water Committee where a summary of the state water allocation supply was summarized; she also attended the San Bernardino Valley Municipal Water District Board meeting.

Director Day reported attending Administrative Committee meeting.

4. CONSENT CALENDAR

The minutes of the January 25, 2010, and minutes of the January 27, 2010 minutes were reviewed. Minor revisions were noted.

It was moved by Director Corneille and seconded by Director Longville to approve the Minutes of the January 25, 2010 Board meeting, as amended. The motion carried 6-0, with Director Wright abstaining due to his absence at the meeting.

It was moved by Director Corneille and seconded by Director Longville to approve the Minutes of the January 27, 2010 Board meeting, as amended. The motion carried unanimously.

5. INFORMATION ITEMS

A. Board Committee Reports

All items, as discussed at the Administrative Committee meeting on February 3, 2010, are reflected as action items on the agenda.

B. Wash Plan Update

Director Raley reported that he had an opportunity to read the Wash Plan and distributed the Executive Summary to the Board of Directors for review. Director Raley summarized his understanding of the purpose of the Wash Plan relating to the mining opportunities and the District's role as the Project Manager.

C. Financial Supervisor's Report

Samantha Brown stated that financial activities during the month of January will be covered as action items on the agenda, resulting from the Administrative Committee meeting on February 3, 2010. She said staff has been working on the 2010/11 FY budget and for the annual Engineering Investigation Report.

D. Assistant General Manager's Report.

Mr. Seal reported the following:

- Santa Ana River Water that we spread Year to Date is 770 acre ft, and we are currently receiving 3-9 cfs, dam is withholding inflow. We had 1,115 acre ft carried over of State Water Project that we spread earlier in the year.
- Mill Creek erupted 442 acre ft of water spread; water quantity coming into the system is now receiving 0 to 20 cfs.
- Seven Oaks Dam as of 3pm yesterday had a reservoir level at 2,237 ft, which is 6,685 acre ft in storage releasing 3 cfs, there has been 141cfs calculated inflow.. Southern California Edison's road behind the dam is flooded and the valve is closed, they are unable to open their valve to send water to power plant 3. Bear Valley Mutual Water will begin to take Dam water, therefore our water going into the spreading basins will drop down to 0 and ½ cfs.
- There is a Leak on Gate 3 on the North side of borrow pit (double gate). A Contractor will work to plug up the leak, which should cost less than \$5000 to be resealed.

Mr. Seal also reported that he participated in the tour of the Upper Santa Ana Region Area and Dam with Black and Veatch, where he and other engineers were able to give them information for their design of the parallel pipe. We have been delayed in sending out the daily flow reports, with the responsibility released from Shanae and given to the field staff, we are now sending in sheets to bring things up to date. He is continuing to work on the Engineering Investigation Report. As of yesterday the district has submitted an application to the Water Resources Institute for a \$150,000 grant, we will have feedback in March 2010.

E. General Manager's Report

Robert Neufeld reported that LAFCD will have their regular scheduled meeting on February 27, 2010. He said agenda copies were available upon request.

Mr. Neufeld reported on the decision made by U.S. District Judge Oliver Wagner to remove, for a period of two weeks, the pumping restriction caused by the Delta Smelt found close to the pumps.

Mr. Neufeld announced that he received (2) concurring nominations for the support of Thomas Cuquet and Merile Aleshire for the Office of Vice President for the ACWA/JPIA Board of Directors. This item was received after the posting of the Agenda and the response time would not allow for the matter to be held over to the next regular meeting.

It was moved by Director Longville and seconded by Director McDonald to add the two (2) requests for Concurring Nominations

for the Office of Vice President to the ACWA/JPIA Board of Directors as Item 6M to the agenda. The motion was carried unanimously.

Mr. Neufeld reported that the District has been asked to participate as sponsors for ACWA's upcoming conference. He said the District received a complimentary registration for an upcoming conference and suggested redeeming the attendance package at the upcoming 2010 ACWA Spring conference in Monterey. He states the item should be considered during the budget preparation process.

Mr. Neufeld reported that he and Mr. Seal attended a groundbreaking ceremony at the Rosamond Community Services District where both he and Mr. Seal were instrumental in developing the largest water bank project in Antelope Valley. The project could hold up to a total of 500,000 acre feet of water. Mr. Seal said that water leaders from several entities attended the event.

6. ACTION ITEMS, NEW BUSINESS, FYI

A. Draft Wash Plan Habitat Conservation Plan (HCP) and Incidental Take Permit Applications

Mr. Scott reported that the Wash Plan Ad Hoc committee reviewed the submittal draft HCP and recommended that it was suitable to submit to the full Board. He explained that the HCP is an important element of the Wash Plan for mitigation included in the EIR, and referenced in the Environmental Impact Statement (EIS) and becomes programmatic to mitigation relevant to the land exchange. He said the incidental take permit is defined under the Endangered Species Act as the take of species to kill, harm, harass or cause destruction of habitat. The permit can be authorized by the U.S. Fish and Wildlife Service (USFWS) as an adjunct of byproduct of otherwise lawful activity. He gave a presentation regarding the purpose of the HCP, which is to obtain a 50-year incidental take permit for water conservation, mining expansion, and other ground disturbing activities undertaken by the District. Mr. Scott answered questions from the Board regarding (4) funding alternatives for implementation of the plan, as outlined below:

- Alternative 1: Three Principals at 27.272% each, and Cities & Flood Control at 6.061% each
- Alternative 1a: Three Principals at 23.3% each, Cities and Flood Control at 10% each
- Alternative 2: Three Principals at 33.33 each of full amount

- Alternative 3: All Task Force Members at current Agreement rate

Director Raley asked why the Cities of Redlands and Highland would pay additional cost share percentages, and how they would benefit from the plan. Mr. Scott explained that the City of Highland will receive mining and property tax revenue, and the City of Redlands will receive open space and buffering protection and trails benefits as part of the Wash Plan Task Force Agreement. Mr. Cosgrove said that In addition, the City of Redlands leases property directly to CEMEX, and they will receive mining revenue if the permit is approved.

It was moved by Director McDonald and seconded by Director Wright to Authorize the General Manager to Submit the Draft Wash Plan Habitat Conservation Plan (HCP) and Associated Incidental Take Permit Application to the U.S. Fish and Wildlife Service with funding alternative 1a, and follow up with the Task Force regarding funding alternative. The motion carried unanimously.

B. Payment of Past Due Invoices on the Wash Plan Environmental Impact Statement (EIS) and HCP

Ms. Brown reported that staff recommends that the Board approve payment of Past due invoices in the amount \$42,428.99. Money is in the approved Budget under budget line item 5081 -- Wash Plan.

It was moved by Director Raley and seconded by Director Wright to Approve Payment of Past Due invoices, in the amount of \$42,428.99.

Discussion ensued. Mr. Neufeld reported that the City of Redlands is unable to contribute to the costs associated with the Wash Plan. He stated they are participating in the project with land and would like to use that land as a credit to their account. Mr. Cosgrove and Mr. Scott answered questions from the Board of Directors regarding agreements and past due payments.

Director Raley asked if the District has enumerated what the District has paid for staff and professional services for the Wash Plan. Mr. Cosgrove explained the cost share percentages of the participation agencies, and the terms of the Wash Plan Task Force Agreement provisions regarding work performed by District staff and legal fees. Mr. Scott stated that the SBCFCD and the mining companies are in concurrence with the payment plan that has been submitted; the City of Highland has been delayed due to a turnover in staff and that the item will be taken to the City Council in two weeks. Mr. Scott summarized his assessment of the participants

The motion carried unanimously.

The following motion was made:

A motion was made by Director Raley and seconded by Director Corneille to refer costs associated with Conservation District Staff and Professional Services not yet billed to the Wash Plan Task Force, for potential repayment to the District.

Discussion ensued regarding Staff time and Professional Services. Mr. Cosgrove answered questions asked by the Board of Directors regarding agreements.

The motion carried unanimously.

Staff was directed to bring to Wash Plan Task Force and back to the Board with a report that would identify staff and professional services time spent associated with Wash Plan expenses to the March 10, 2010 Board meeting.

C. Wash Plan Financial Analysis and Presentation by Integrated Resource Management (IRM) on Environmental Mitigation Banking Opportunities

Ms. Brown distributed a financial cost analysis report for the Board's review. Mr. Neufeld stated that the reports that were handed out were presented to the Administrative Committee as Directed by the Board regarding two scenarios depicting projections for potential revenues from the District's continuation and participation in the Wash Plan. He stated that included as a separate report, is another scenario as possible alternative to continuing in the Wash Plan, which was presented to the Administrative Committee, on February 3, 2010. A discussion ensued regarding the financial analysis and potential increases to the District's revenue based on a 15% projection over a ten year period, starting with the current year as a base.

After discussion, Mr. Neufeld introduced Bob Bowcock with Integrated Resource Management (IRM) and Mike Litton with Vulcan Materials, who presented the Board with an alternative option to the Wash Plan through the creation of an environmental mitigation bank. An Environmental Bank can provide offsets for land to be purchased or leased opening a potential new revenue source. Mr. Bowcock and Mr. Litton answered questions asked by the Board of Directors.

Director Aranda was excused from the meeting at 4:35 p.m.

Discussion ensued regarding the Wash Plan and Environmental Mitigation Banking.

It was moved by Director McDonald and seconded by Director Longville to temporarily suspend all further expenditures on the wash plan effort, due to financial urgency, until the Wash

Plan Task Force can reconvene; as well as direct staff to investigate alternative future uses of the property. The motion carried 6-0, with Director Aranda noted absent.

D. Approval of FY 09-10 Budget Revisions

Ms. Brown recommended that the Board approve the General Fund Budget Revisions and the Proposed Redlands Plaza Budget, as recommended by the Administrative Committee. A discussion ensued regarding the proposed decreases and increases, and potential revenue that will impact FY 10-11 Budget.

It was moved by Director McDonald and seconded by Director Longville to Approve the FY 09-10 Budget Revisions.

Discussion ensued. Director Corneille asked what the significant changes in expenditures to cause the increase of \$365,000. Ms. Brown stated that the staff expenditures were grossly under budgeted in the original budget, the line items that were significantly increased were regular salaries, PERS retirement and Directors fees. Director Raley stated that by the end of the fiscal year the District will only have approximately \$1.4 million and he is recommending to the Board that we do not spend our Reserves to a level less than \$1 million. Further Director Raley suggested that for the next fiscal year the budget needs to come in with a deficit of no more than \$400,000 and we should start working towards that now. Mr. Neufeld pointed out that we cannot continue to cut the budget expenses, at some point we need to increase revenues. The Strategic Plan will come forward in April and put a lot of these choices on the table for the Board to make a decision on. Director Corneille pointed out that again Capital Expenditures were decreased to subsidize the increase of other expenditures and this cannot continue to happen. Mr. Neufeld reported that the Capital Expenditures were just being deferred to the next fiscal, as there is not sufficient time to start those capital projects.

The motion carried 6-0, with Director Aranda noted absent.

E. Consider Reducing Number of Approved Compensated Meetings for Directors

Mr. Neufeld began the discussion by stating that the Administrative Committee recommended that we reduce the number of authorized compensated meetings to be attended by Directors be changed from 10 to 9 per month.

It was moved by Director Longville and seconded by Director Wright to Approve the Reduction of the Number of Approved Meetings for Directors from 10 to 9.

Discussion ensued. Director McDonald recognized all Directors contribution to the District but pointed out that this motion will only affect 2 Directors. She is requesting that all Directors agree to attend one uncompensated meeting per

month; therefore this action will affect all Directors. Director Longville pointed out that the Board could cut the meetings to 9, as well as donate a meeting as Director McDonald is recommending.

The motion carried 4-2, with Director McDonald and Director Corneille opposed with Director Aranda noted absent.

Mr. Neufeld reported that the Administrative Committee is also recommending reducing the number of Regular Board Meeting from 2 per month to 1, it was also stated that this is not staff's recommendation and staff is opposed to this.

It was moved by Director Raley to discuss the recommendation of reducing the number of Regular Board Meetings from 2 per month to 1. Motion died for lack of second.

Director Corneille suggested an alternative that the General Manager cancel Regular Board Meetings where there is not a need to meet. Mr. Neufeld responded that staff would recommend cancelling meetings if there was not a need but would still have to be approved by the Board of Directors. Mr. Cosgrove suggested directing staff to look at the resolution and bring it back to the Board to amend to give the General Manager the power to cancel meetings, as well as giving the Board the opportunity to set their meeting dates as is needed in the resolution.

F. Review District's WESTCAS and Water Education Foundation Memberships

It was moved by Director Corneille and seconded by Director Raley to direct staff to not to renew WESTCAS and Water Education Foundation Memberships at the end of this calendar year. The motion carried 6-0, with Director Aranda noted absent.

G. Consider Request to Reimburse Director McDonald's Expenses

It was moved by Director Corneille and seconded by Director Longville to Approve Reimbursement to Director McDonald's Expenses to attend Steve Hall's memorial service. The motion carried 6-0, with Director Aranda noted absent.

H. Consider LAFCO Alternative Apportionment Formula for FY 10-11 and Thereafter

It was moved by Director Longville and seconded by Director McDonald to Approve LAFCO Alternative Apportionment Formula for Fiscal Year 2010-2011 and Thereafter. The motion carried 6-0, with Director Aranda noted absent.

I. Approve Hicks Richardson Associates Contract Amendment for Legislative Advocacy Services

It was moved by Director McDonald and seconded by Director Wright to Approve Hicks Richardson Associates Contract 9th Amendment for Legislative Advocacy Services.

Discussion ensued. Director Longville asked without this Amendment if Mr. Hicks contracted ended in October 2009. Mr. Neufeld pointed out that in fact the contract ended in June 2009 and Mr. Hicks has continued service and this contract, if approved, would expire in June 2010 where it would come back to the Board for approval. Director Corneille suggested Mr. Hicks give some highlights on what is being done on a monthly basis to update the Board of Directors. General Manager Neufeld responded that he receives regular updates from Mr. Hicks and will include those as information items for the Board in the future.

The motion carried 6-0, with Director Aranda noted absent.

J. Consider Approval of Regular Board Meeting Date Change

It was moved by Director McDonald to cancel the Regular Board Meeting Dated February 24, 2010. Motion died for lack of second.

Discussion continued regarding a date change and/or continuation of the regular board meeting dated February 24, 2010.

It was moved by Director McDonald and seconded by Director Wright to change the Regular Board Meeting scheduled for February 24, 2010 to March 3, 2010.

Discussion ensued. Director Raley asked why the meeting has to be moved at all. Mr. Cosgrove explained that there is a closed session item that needs to be discussed by a deadline and would be most effective with all Board members and General Manager in attendance.

The motion carried 4-2, with Director Corneille and Director Raley opposed, with Director Aranda noted absent.

K. Approve Amendment to December 11, 2009 Board Meeting Minutes

Mr. Neufeld reported being misquoted in the original minutes dated December 11, 2009, and asked that they be amended as follows; that "Mark Nuami, is no longer the Assistant City Manager for the City of Colton" but the minutes also stated that he was no longer a chairman for LAFCO, which is incorrect. Mr. Neufeld stated that he originally reported his position as chairman of LAFCO would not be effected by this change as he is one of the two city officials to the LAFCO Commission and that has not changed.

It was moved by Director Longville and seconded by Director McDonald to Approve Amendment to December 11, 2009 Board

Meeting Minutes. The motion carried 6-0, with Director Aranda noted absent.

- L. Consider the nomination for the regular member and the alternate member representing Special Districts to Local Agency Formation Commission (LAFCO)

Mr. Neufeld led the discussion by reporting that the nomination for two representatives of Special Districts to LAFCO for the regular member and alternate member are up in May of this year. Two people have submitted their requests to be nominated, Jim Curatalo from Cucamonga Valley Water District for the regular position and the other is Robert Smith for the alternate position from Yermo Community Services District. Mr. Neufeld asked the Board to approve these recommendations and authorize the Board President to sign nominations for support of these candidates.

It was moved by Director McDonald and seconded by Director Raley to Approve Nominations for Jim Curatalo as the regular position and Robert Smith as the alternate member. The motion carried 6-0, with Director Aranda noted absent.

- M. Consider Vice President ACWA/JPIA Nominations

Mr. Neufeld reported that we have two requests for nomination of the position of Vice President for Joint Power Insurance Authority: Thomas A. Cuquet from the South Sutter Water District, who is currently on the Board of Directors and also Merle Aleshire from Valley Center Water District, who is currently on the Board of Directors.

It was moved by Director Longville and seconded by Director McDonald to Approve to Adopt Resolution 456 for Nomination for Thomas A. Cuquet as Vice President to the Joint Powers Insurance Authority. The motion carried 6-0, with Director Aranda noted absent.

7. UPCOMING EVENTS

Upcoming events were discussed. President Day announced that ACWA Legislative Symposium for March 17th, 2010 calls for Board Action.

It was moved by Director McDonald and seconded by Director Wright to approve the attendance of Director Longville to the ACWA Legislative Symposium. The motion carried 6-0, with Director Aranda noted as absent.

8. CLOSED SESSION

At 5:42 p.m., it was moved by Director McDonald and seconded by Director Wright to adjourn to Closed Session,

Under Government Code Sec. 54957.1, Mr. Cosgrove reported that in closed session, the Board unanimously voted to retain Lagerlof, Senecal, Gosney & Kruse LLC, as special counsel, to investigate a personnel matter.

The Closed Session adjourned at 6:22 p.m., and the regular meeting reconvened.

9. ADJOURN MEETING

At 6:23 p.m., the meeting adjourned to the regular Board meeting scheduled for March 3, 2010, at 1:30 p.m., at the San Bernardino Valley Water Conservation District, Redlands, CA.

R. Robert Neufeld
Secretary of the Board