

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS

MINUTES OF THE BOARD MEETING OF
October 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
Arnold Wright, Director
John Longville, Director
Richard Corneille, Director
David E. Raley, Director
Manuel Aranda, Director

BOARD MEMBERS ABSENT:

None

GENERAL COUNSEL PRESENT:

David B. Cosgrove, Rutan & Tucker, LLP

STAFF PRESENT:

Shanae Smith, Administrative Manager
Randy Carlisle, Field Supervisor

GUESTS PRESENT:

Charles Roberts, Highland Community News
Bruce Cash, United Strategies, Inc.

1. PUBLIC PARTICIPATION

President Clare Henry Day announced this as the time for any persons present, who so desire, to make an oral presentation to the Board of Directors. There were no presentations made at the meeting by members of the public.

2. ADDITIONS/DELETIONS TO AGENDA

There were no additions/deletions to the agenda.

3. CONSENT CALENDAR

Approval of the Board Minutes from October 13, 2010.

It was moved by Director Corneille and seconded by Director Wright to, “Approve the Minutes from the October 13, 2010 regular Board meeting, as amended. The motion carried unanimously.

The un-audited Financials and Check Register from September 2010 were distributed to the Board as an information item would be added to the Consent Calendar on the November 10th regular Board meeting agenda for review and consideration of approval by the Board.

4. INFORMATION ITEMS

A. Board Committee Reports

Director Longville reported the Ad Hoc Committee on Budget Revisions met and agenda items would be discussed in the items on the agenda.

B. Wash Plan Update

Staff distributed a written Wash Plan Status Report to the Board for review. General Manager, Daniel Cozad reported that both he and Wash Plan Project Manager, Randy Scott met with representatives of the Bureau of Land Management (BLM) to discuss BLM’s commitment to being partners on the Wash Plan and successfully working through the process, despite current issues with the US Fish and Wildlife Service (USFWS) relative to the project. Mr. Cozad stated the BLM would be releasing their Southern California policy on their work with the Wash Plan. Mr. Cosgrove briefly summarized the October 7th meeting with the US Fish and Wildlife Service (USFWS), previously reported to the Board at the October 13th regular Board meeting, as reflected in the minutes with regard to additional details of the Habitat Conservation Plan (HCP).

Staff plans to reconvene both federal agencies to discuss the expansion of the scope of the Environmental Impact Statement (EIS) to flush out some of the items USFWS is looking for in response to a recent Ninth Circuit Court decision, which indicated that a more alternative analysis of the EIS may have been called for. Mr. Cosgrove stated an additional meeting is scheduled for October 28th regarding a final refined view of potential additional work that may be needed for the HCP and EIS together procedurally, as USFWS is now suggesting contrary to direction given to staff in 2005. The next steps will be for the general manager, project manager and legal counsel to decide what to take back to the consultants with regard to revisions to the HCP and EIS and potential out of scope work, and not to exceed estimated costs associated. A discussion ensued regarding estimated costs required to complete the Wash Plan.

C. Canyon House Update

Staff distributed a spreadsheet outlining the Canyon Shop preparation costs. Field Supervisor, Randy Carlisle briefly summarized the total estimated costs for materials, staff time and consultants fees, for an approximate total of \$34,000. Mr. Cozad stated costs also included plumbing and electrical repairs. The second page of the spreadsheet indicated anticipated revenues the District may realize over a period of time once the proposed repairs were completed and the actual relocation of the shop took place. A discussion ensued regarding available access to water for the Canyon House property.

After discussion, staff was directed to complete a market analysis on the Mentone property to determine; 1) a cost estimate of the installation of toilet facilities to the Canyon House; 2) complete a market analysis regarding potential projected revenue associated with renting the property versus the value of the house if sold; and bring back to the Board for review and further consideration at the regular Board meeting in December.

D. General Manager's Report

A written General Manager's Report was distributed to the Board and summarized by Mr. Cozad.

E. Public Records Request Update

Staff distributed a summary of Directors Compensation for FY 2009-2010, as requested in a public records act request by the San Bernardino Sun and Inland Valley Daily Bulletin. Mr. Cozad stated that he contacted representatives of the paper to inform them the District would fully comply with their request and that due to budget revisions and adjusting journal entries made by the auditor, staff would submit the request in the next coming days. A discussion ensued.

Director Raley excused himself from the meeting at 1:55 p.m.

F. Future Agenda Items and Staff Tasks

Mr. Cozad presented an update regarding previous requests made by the Board to staff regarding Future Agenda Items and Staff Tasks. An action item would be discussed as part of the agenda regarding Director Corneille's request to suspend the second Board meeting in November in consideration of potential scheduling conflicts due to observance of the Thanksgiving holiday. In addition, Director Raley directed staff to provide a groundwater production summary relative to the producers with wells within the District's boundaries, revenues received for the current period (July 1, 2009 to December 31, 2009) and the amount of agricultural and non-agricultural water reported by the producers as being pumped out of the basin. A map was distributed to the Board indicating the same. A discussion ensued regarding data extrapolated from the groundwater database used for the Engineering Investigation Report (EI).

Director Raley returned to the meeting at 3:05 p.m.

5. ACTION ITEMS/NEW BUSINESS

A. Investment Planning and Actions

This item was taken out of order.

Staff distributed the proposed Reserve Investment Schedule handout. Mr. Cozad stated that the spread was drafted based on previous Board discussions and action preceding him and what he understood to be Director Raley's thoughts regarding investing unrestricted reserves and royalty prepayments in Certificate of Deposits (CDs). Signers on the Account are to be the President of the Board of Directors Clare Henry Day and the General Manager/Secretary of the Board, Daniel B. Cozad. Mr. Cozad estimated projected revenue received is based on purchasing an initial CD for \$240,000. A discussion ensued.

It was moved by Director Raley and seconded by Director Corneille to, "Approve Investment Policy Planning and Actions and direct staff to open (1) certificate of deposit account with an initial deposit of \$240,000 with Capitol Source Bank." The motion carried unanimously.

B. Collaborative Process Agreement

This item was taken out of order.

It was moved by Director Corneille and seconded by Director McDonald to, "Ratify the Board's Previous Commitment to the

Collaborative Process Agreement and Authorize General Manager to Disburse the District's One Third Share for Facilitator Contract to the San Bernardino Valley Municipal Water District, For An Amount Not to Exceed \$19,200." The motion carried 6-0, with Director Raley noted absent from the meeting.

C. Budget Revision and Amendment for 2010

This item was taken out of order.

Staff distributed a preliminary status report regarding the budget revision amendment for 2010. Mr. Cozad summarized staff's efforts concerning budget revisions for the current fiscal year and staff's estimate of each line item based upon year to date cumulative totals. Staff focused primarily on expenses and had been working with the Ad Hoc Committee on Budget Revisions to minimize Directors expenses. Mr. Cozad also stated that adjusting journal entries were made by the auditors to reconcile the cumulative totals within the bottom line and that the details in the accounting system need to be reconciled, as it is critical to know where we are and understand where we're headed. The budget revisions will also help dictate policy changes as the Board considers moving toward managing the District by enterprise based accounting and budgets and working through a district reserve policy, which will also provide additional transparency to the public. A discussion ensued regarding future projected mining revenue versus actual received to date. No action was taken by the Board with regard to this item.

D. Proposed Board of Directors Expenses Policy

This item was taken out of order.

Mr. Cozad said there were a variety of changes the Ad Hoc Committee on Budget Revisions recommended regarding Directors expenses, in addition to the list of meetings attended. Specifically, the attendance of out of state travel would be restricted to aide in the reduction of expenses to the budget. A discussion ensued.

It was moved by Director McDonald and seconded by Director Longville to, "Approve Proposed Board of Directors Expenses Policy For Cost Reductions Due to Economic Reductions of Revenue to the District, as Recommended by the Ad Hoc Committee on Budget Revisions." The motion carried unanimously.

E. Proposed Revision to Appendix C of the Board Policy Handbook

Mr. Cozad summarized redline revisions made to Appendix C of the Board Policy Handbook. Director Longville stated that the Ad Hoc Committee tried to strike a balance between Board members who chose to attend meetings more frequently than other members of the Board. The Committee considered drafting a budget for individual

Directors and discussed potential legal implications, as each member of the Board are equally elected. The solution the Committee sought was to create two different types of events Directors could attend, which would be eligible for compensation. The first meeting type is described as meetings the Board has asked Directors to attend in order to ensure continued District representation, either because Directors have chosen to attend or because some other state or regional organization appointed members of the Board and require District representation, or chosen by the Board members to be a participant. The second meeting type is described as "Director Selected," which is considered chosen by Directors to attend in which they are not the primary or alternate.

It was moved by Director McDonald and seconded by Director Longville to, "Approve Proposed Revision in Appendix C of the Board Policy Handbook, as recommended by the Ad Hoc Committee on Budget Revisions." The motion carried unanimously.

After motion, Mr. Cozad stated staff would modify the Board Policy Handbook to reflect the changes to Appendix C and Directors Reimbursement Policy. The Handbook would be on a future agenda.

Director Longville excused himself from the meeting at 3:35 p.m.

F. Change Board Meeting Dates and Frequency of Meetings

This item was taken out of order.

It was moved by Director McDonald and seconded by Director Wright to, "Approve Resolution No. 462 – Making a Finding to Reduce Board Meetings From (2) Meetings Per Month to (1) Meeting Per Month; and to Change Dates of Meetings From Second and Fourth Wednesday of the Month to Second Wednesday of the Month." The motion carried 6-0, with Director Raley noted absent from the vote.

Legal counsel recommended that staff make adjustments to the 2010 Board Meeting Calendar to reflect the above motion.

G. Reduction In Size of Board From Seven to Five Directors

Director Longville, Chair of the Ad Hoc Committee on Budget Revisions stated that there is a legal problem that must be solved in order to make the reduction in size of the Board feasible. Under current law, an election of the Boards within the District would have to be held in order to approve the reduction in the size of the Board and the District would incur those costs. Director Longville stated he believes the costs associated with an election could be avoided by changing the legislature. It is required

that the District perform a redistricting every ten years, regardless of the number of members on the Board, to reflect the current population. Instead of being divided into seven divisions, the boundaries would change and be divided into five divisions. If the law could be changed rapidly enough, the District would not have to spend additional funds to change the size of the Board if the boundary lines were redrawn reflecting such a change, as a requirement of redistricting. The Ad Hoc Committee on Budget Revisions is requesting the approval of the Board to adopt the formal measure to pursue the legislation, which would save taxpayers money with regard to reducing the size of the Board. Director Aranda asked for clarification regarding the rationale of the Board to approve the reduction in the size of the Board. He summarized a proposal discussed at the October 22nd ACWA legislative planning meeting regarding the proposed criteria set for future Municipal Services Reviews (MSR) conducted by the Local Agency Formation Commission (LAFCO). The change in number of directors is to be responsive to District costs and good governance. A discussion ensued regarding whether the District's intent is to request the legislative bill be drafted to apply statewide or measure that would apply solely to the District.

It was moved by Director McDonald and seconded by Director Longville to, "Adopt Resolution No. 463 - Reducing the District's Seven Member Board to Five as Soon as Economically Efficient, amended and recommended by the Ad Hoc Committee on Budget Revisions." The motion carried 6-0, with Director Raley noted absent from the vote.

H. Surplus Property Outside Wash Plan Boundaries

Mr. Cozad stated he visited the area indicated on the map outside the Wash Plan boundaries. Mr. Cozad stated that in the past, he invested in mitigation banks and sold property for the purpose of mitigation banking. He stated he met with Bruce Cash of United Strategies, Inc., to discuss a variety of options previously identified and presented to the Board. Mr. Cozad stated there are several steps to take or the sale of surplus land. Mr. Cosgrove stated that surplus property must be noticed and offered to local public entities including housing agencies, parks and schools. A discussion ensued regarding the public processes associated with brokering the sale of the land outside the Wash Plan boundaries.

It was moved by Director McDonald and seconded by Director Raley to, "Approve Property Owned in Excess of Its Needs for Water Conservation, Which is Outside of the Wash Plan Boundaries." The motion carried 6-0, with Director Longville noted absent from the vote.

6. Monthly Activity Reports, AND/OR Comments by Board Members

Director Corneille reported that he would be out of the country November 2 – 13, 2010 and would be unable to attend the November 10th regular Board meeting.

7. UPCOMING EVENTS

Upcoming events were received and filed.

Mr. Cozad announced that Administrative Manager, Shanae Smith had tendered her resignation from the District, effective November 5th to pursue other employment opportunities. Ms. Smith personally thanked the Board and District Staff for the opportunity to work with them for the past five years and wished the District all the best in their future endeavors.

At 4:03 p.m., the Board took a ten minute break before going into Closed Session.

8. CLOSED SESSION

At 4:10 p.m., it was moved by Director Corneille and seconded by McDonald to adjourn to Closed Session, under the authority of Government Code Section 54957(b), regarding a personnel matter; under Government Code Section 54956.9(c), consider whether to initiate litigation; under Government Code Section 54956.9(b)(3)(a), and Section 54956.9(c), and Section 54956.9(b)(1), confer with legal counsel regarding significant exposure to litigation in one case. The motion carried unanimously.

At 4:40 p.m., the meeting reconvened into Open Session, with no reportable action under Government Code 54957.

9. ADJOURN MEETING

At 4:40 p.m., the meeting adjourned to the regular Board meeting scheduled for November 10, 2010, at 1:30 p.m., at 1630 W. Redlands Blvd., Redlands, CA.

Daniel B. Cozad
General Manager/Secretary