

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS

MINUTES OF March 9, 2011
1:30 P.M.

President Clare Henry Day called the Board Meeting of the Board of Directors to order at 1:28 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 (1:55 pm)
John Longville, Director (1:56 pm)
Richard Corneille, Director
David E. Raley, Director
Manuel Aranda, Director

BOARD MEMBERS ABSENT:

Arnold Wright, Director

GENERAL COUNSEL PRESENT:

David B. Cosgrove, Rutan & Tucker, LLP

STAFF PRESENT:

Daniel Cozad, General Manager
Eunice L. Griffith, Administrative Manager

GUESTS PRESENT:

Christine Goeyvarts, Robertson's Ready Mix (Robertson's)
Jon Petke, The Planning Associates
Scott Hess, CEMEX
Don Lee, Tetra Tech
Paul Gonzales, Gonzales Environmental
Theresa Gonzales, Gonzales Environmental

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. Hearing none, the meeting continued with published agenda items.

2. ADDITIONS/DELETIONS TO AGENDA

Director Day read a letter of resignation from Director Bud Wright. Legal Counsel stated that a motion to add an item to the agenda would be appropriate to discuss the letter, options and direction.

It was moved by Director Corneille and seconded by Director Aranda to add “Letter of Resignation, Direction, Options” to the Agenda as item H. The motion carried 4-0, with Directors Longville, McDonald and Wright noted absent from the vote.

There were no deletions to the agenda.

3. CONSENT CALENDAR

- Approval of the Board Minutes from February 9, 2011.

Director Corneille noted minor revisions to the February 9, 2011 meeting minutes.

It was moved by Director Corneille and seconded by Director Raley that the minutes of the February 9, 2011 Board meeting, be approved as amended. The motion carried 4-0, with Directors Longville, McDonald and Wright noted absent from the vote.

- Un-audited Financials (based on the 2010-11 Revised Budget) and Check Register for February, 2010.

Mr. Cozad, General Manager clarified a line item expense for ACWA/JPIA.

It was moved by Director Aranda and seconded by Director Raley that the February Un-audited Financials and Check Register be approved.

Further discussion continued on the amount of cash flow required for the remainder of the fiscal year. It was noted by Mr. Cozad that groundwater fees are not in, we are operating

according to budget and only two-thirds of the budgeted amount has been transferred from reserves, a summary will take place later in the meeting.

The motion carried 4-0- with Directors Longville, McDonald and Wright noted absent from the vote.

- Groundwater Assessment #35 Report (Handout at Meeting).

Mr. Cozad reviewed the Groundwater Assessment Report (handouts). Currently revenue of \$421,000 is expected to come in on budget. This is most of the expected groundwater revenue, and is \$20-25 thousand lower than the \$449,000 noted in the budget at the beginning of the year. The report shows the amount paid by our Groundwater partners from the highest to lowest for four periods beginning Jan 2009 to the present. He commended the Staff in getting letters out and Partners in paying charges. The report represents data through March 1st.

4. INFORMATION ITEMS

A. President's Letter of Commendation

Based on the Board's motion during the February 9, 2011 meeting, President Day wrote and read a letter of commendation on the excellent performance of General Manager, Daniel Cozad during his six month contract for consulting services. A copy of the letter will go into Mr. Cozad's personnel file.

B. Wash Plan Update

Mr. Cozad provided background and introduced the presentation on Expanded Mining to the Board. The presentation is to keep the Board informed of the mining project proposed as an early implementation phase of the Wash Plan. John Petke, The Planning Associates made the presentation on behalf of the Group, which included representatives from Gonzales Environmental, Robertson's and CEMEX.

John Petke presented the initial phase and subset of the Wash Plan. The miners have recognized an opportunity to make filing for two projects: 1) off-street haul road completion and 2) mining expansion. The group request Board direction for staff to continue working with Mr. Cozad and Legal Counsel to interpret existing leases, oversee lease modifications, respond to request for endowments and propose mitigation on District land for the spine star, wooly star and kangaroo rat. John Petke passed out a map of project location and status report, "Upper SAR Wash Plan The Initial Phase" by Robertson's and CEMEX.

In response to Board inquiry, Legal Counsel clarified that the Mining Partners have represented that this Phase 1 haul road proposal was intended to be consistent with, and not in place of, the broader Wash Plan and the efforts of the Task Force in securing

approval of the wider plan. He explained that the potential benefit of the "Phase 1" proposal was early implementation of portions of the Wash Plan that would not require coordination between USFWS and BLM, which seems to have stalled the overall effort. . He cautioned that the District has to stay vigilant to make sure that the overall mitigation pledged for the total Wash Plan does not get disproportionately dedicated to this early implementation phase, and that as Lead Agency the District intended to track carefully the communications the Mining Partners made with the regulatory agencies regarding mitigation and proposed conservation easements, which ultimately the District would have to concur with to make final, other than what the Board has previously pledged to the Wash Plan, the cost for monitoring and supporting this initiative is merely staff time and effort.

Mr. Cozad stated that he has a proposal from Lilburn Corporation and that he was in the process of securing additional proposals from consultants on the modifications USFWS has asked for in the EIS and HCP. No decision was required on this item.

C. Board Committee Reports

Resources Committee

Chairperson Corneille reported on a successful half day field trip to Seven Oaks Dam (SOD) on March 4, 2011, hosted by Randy Carlisle, Field Supervisor and Mr. Cozad. Joined by President Day, they were able to visit all the facilities and see results of the SOD High Flow Hydraulic test and Mill Creek site improvements. He reported that lots of water is going into the basins and that Field staff is doing a great job in managing operations and recharging.

D. Other Reports from Staff

Field Update

Mr. Cozad gave a brief report on behalf of Mr. Carlisle as he was dealing with a wash-out at Santa Ana Doc-11. Field staff was engaged in moving material and repairing the hole. Mr. Cozad acknowledged that the pond has not been used or checked, and the need for improved maintenance. The best case scenario for our ponds is to have them frequently used each year and maintained. He continued his report under Action item, 5A – High Flow Lessons learned.

Currently 40-50 CFS is going into Mill Creek. A clean, steady flow of water is going into the ponds and all are full. Since pond 10, 11 and 12 are out, as much water as possible is being diverted to other ponds. We are taking about 250 to 300 CFS continuously in the Santa Ana System.

Mr. Cozad stated that a test is scheduled for in river percolation. The monitoring is being sponsored by the City of Riverside and should take place within the next two weeks. The Board cautioned against exceeding the approved limits of the Basin Technical Advisory Committee (BTAC). The penalty for exceeding the contractual agreement between the District and San Bernardino Valley Municipal Water District (SBVMWD) is \$1,000 per af. To date, the District has never exceeded the agreement.

Mr. Cozad provided a status on the Board's request for a Monthly Update Summary Report. Mr. Carlisle is working on the draft to determine which data should be included in the report. After completing his draft, Ryan Hejka, Intern will generate the report. The first draft should be completed in April/May timeframe.

E. Legislative update and Senate Bill 235 (SB235)

Director Longville reviewed the background of SB235 and reported he has been working on the bill with Senator Gloria McLeod and Staff, Peter Detwiler, Chief Consultant for Calif. State Senate Committee on Local Government and the Staff of the Senate Governance and Finance Committee. He has received input from the Senate Committee on a number of changes and the bill, as amended will only apply to water conservation districts. He noted that language was included in the bill that would enable members of a board to resign, thus bringing the membership down to a lower number.

Director Longville informed the Board that he does not see any concerns or opposition to getting the Bill passed and signed by the Governor and that he would like to go for urgency passage,, in lieu of current changes facing the Board. In order to get urgency language adopted, there are two consequences: 1) the Bill would immediately become law after signing and; 2) a two-thirds vote would be required in each house. If defeated on the floor in one house, the bill could be amended and brought back.

Mr. Cozad asked that Director McDonald correct the way the bill analysis was written by ACWA in reference to the "inability to find board members" at the next ACWA Legislative Committee meeting.

The bill is scheduled for hearing March 16, 2011 at 9:30 am. Mr. Cozad and Director Longville will attend.

The following item was taken out of order.

F. General Manager Report (Daniel B. Cozad)

A written General Manager's Report was distributed to the Board and summarized by Mr. Cozad. The following key points were highlighted and are not included in other agenda topics:

1. Mentone house – The lease will be signed today. Tenant will be required to have their own tenant insurance and will receive a water allowance with a requirement specified in the lease that they maintain water to the facility.
2. Redlands Plaza –Reported that the empty units have been shown a few times. Matthew Millet, the Leasing Agent responsible for showing the property resigned from Coldwell Banker, Lazar & Associates. Lazar opted to quit the listing the property. Hello Sushi would like to lease the vacant unit next door for storage, the Administrative Committee will discuss the request at their next meeting.

Athena is continuing to work on removing the homeless from the premises. Numerous attempts have been made including engaging the Redlands Police Department. Mr. Cozad will be calling the Chief of Police directly to address the issue.

G. Future Agenda items & Staff Task requests from Directors

There were no reports on this item.

H. Election Options

The Board previously requested that Mr. Cozad provide options on saving money on the election process. In response, Mr. Cozad spoke with the Registrar of Voters (Registrar) and reported the following: General elections held on even years are less expensive per person than those held on odd, however to avoid lengthy ballots, the County has passed a resolution preventing special districts from moving to even years. In the last election the cost for a registered voter was \$4.60 per individual. Each election usually has a 15% increase over the previous year. The estimated cost for the next election would be \$86,000 per Director for any district that would hold a contested election.. The Registrar suggested a mail return vote which is 30% less. However, if the Board opts to do a mail ballot, the resolution must be passed by mid April (for timely preparation of materials) and to mail ballots in August. It was also noted that there is a higher return on mail votes, but it is important to be aware of the effects of changing to a mail ballot.

General discussion ensued on the census, redistricting and reduction to a 5 member board. The Board agreed to table the items, and place Election Options on the agenda for the next meeting scheduled for April 13, 2011.

5. ACTION ITEMS, NEW BUSINESS

A. HIGH FLOW LESSONS LEARNED

Mr. Cozad distributed pictures of Seven Oaks Dam (SOD) before and after the test. He pointed out the Cuttle Weir and highlighted water levels at different stages of the release. Initially water flowed over the top of our intake gates at 3,500 CFS. Boards were prepared and successfully added to increase the height of the gates before the next test to prevent water from over flowing at 6,000 CFS. Both gates at the dam were fully opened at 6,200 CFS and passed the test with good numbers. Vibrations were low and the full plunge pool received water. The levy next to the Cuttle Weir was washed out. Mr. Cozad called attention to the slope eroding in the background and the need for additional maintenance in the future.

He reported that the County requested permission to build a levy on District property to protect the road. Mr. Cozad, Legal Counsel, the County Counsel and the Flood Control District will collaborate to identify next steps. The day after the test, 3 ½ - 4' of boulders were in front of our gates. The County agreed to help the District dig the rocks out saving thousands in bulldozer and excavator work.

He informed the Board that the washed-out levy was completely rebuilt and we are currently taking about 200 CFS. In the future, perhaps Orange County will push the USACOE to reassess the integrity of the road and see the need for a two step levy or permanent facility to avoid reoccurring maintenance at higher flows.

B. 2011 PRELIMINARY ENGINEERING INVESTIGATION REPORT DISCUSSION

Mr. Cozad gave a presentation on the Engineering Investigation report (EI Report), located at www.sbvwd.dst.ca.us/reports-data/documents/2011_EngineeringInvestigation.pdf. A link of the first version was previously sent to all interested partners. The report represents a unique value to the people in the basin, in that it presents an independent view from a non-interested perspective. Our interest is keeping the basin full on behalf of people who pay the groundwater charge and use the water.

The 2011 EI Report used the 2005 methodology approach. It will be presented at The Upper Santa Ana and BTAC tomorrow along with the budget. The analysis of the report was done on a groundwater sub-basin process. He pointed out spreading grounds, color coded water level elevations on the map and gave a thorough explanation of how data was calculated with nine task test. Data was gathered and used from 1993 when all agreed that the basin was full to future forecast thru June 2012.

Stephen Luhn is planning to run the San Bernardino Valley Municipal Water District (SBVMWD) model so a corroborating data point will be available to use as a frame of reference. Mr. Cozad acknowledged and thanked staff for their diligent work. He also acknowledged Steve Mains, Watermaster Support services and thanked the agencies that provided information on well elevation, well production, precipitation, diversion and gauging data. He noted the EI Report is one of the only reports that has all this information, but does not include water quality. Required approval will take place at the hearing on April 27th.

General Counsel informed the Board of the Water Code requirements for a public hearing, a public meeting and the mail notice, functions of the Brown Act and special provisions that apply anytime there is an increase to a charge or assessment. To comply with processes of the Brown Act, the Water Conservation District law t and Prop 218 and to ensure all procedural bases covered, the public meeting will take place at our regular meeting, April 13th. The public hearing and adoption of the resolution is scheduled for April 27th.

C. DRAFT BUDGET FOR GROUNDWATER ENTERPRISE FOR DISCUSSION

Mr. Cozad presented the initial draft of the budget using the Enterprise approach. The Groundwater budget is exclusively and a direct causal of groundwater revenue. He took the total budget and updated sections that affect the groundwater charge. He reviewed total revenue, actual cost and explained his logic in categorizing expenses and basis of percentages for expense projections.

The Board continued discussion on expenses, staff requirements and measures to cut cost on employee benefits.

Mr. Cozad explained expense items on the budget that are directly allocated to the groundwater charge. He used a 20% overhead number based on the enterprise labor charges. He also included a chart on the history of groundwater charges (including Ag, NonAG and Utilities, So CA and CPI West) to provide a basis of consideration for evaluating fair rate increases.

General Counsel requested Board to give direction of the proposed rate for published and mail notice. Considerable discussion on an appropriate "notice rate" ensued.

It was moved by Director McDonald and seconded by Director Corneille to direct Staff to publish a 25% rate increase for the Groundwater charge.

The motion carried 4-2-1 with Director Aranda and Raley opposed and Director Wright absent from the vote.

Mr. Cozad requested direction from the Board for changes on the budget. Director Raley suggested he would prefer a rate adjustment in the area of 10%. Discussion ensued on possibly forecasting a rate or declaring your intent to raise the rate in the future, which is not permitted under the Water Code.

D. JOINT WATER CONSERVATION – COOPERATIVE AND URBAN GREENING PROPOSAL

In working with Manny Parks, Mr. Cozad received a request from the Inland Empire Resource Conservation District (IERCD) to prepare a proposal for funding a program called Urban Greening - paid for by Prop 84. The IERCD would like to develop their project on a portion of the 2 ½ acres parcel located next to the Mentone house. If the District is willing to lease the property, the IERCD is willing to front the total cost to prepare the proposal. If funding is granted for the project, the IERCD would be willing to lease the property for \$20,000 per year.

It was moved by Director Raley and seconded by Director McDonald for the Board to approve IERCD to prepare a proposal for funding the Urban Greening project for use with the Mentone property parcel adjacent to the house, if approved. The motion carried 6-1 with Director Wright noted absent from the vote.

E. STRATEGIC PLAN EXTENSION

Based on Staff's recommendation, the Board agreed to extend the deadline for the Community Based Strategic Plan revision.

It was moved by Director Raley and seconded by Director Corneille that the Board extend the deadline of the Strategic Plan revision to September 2011.

The motion carried 6-1 with Director Wright noted absent from the vote

F. ACWA/JPIA STATE LEGISLATIVE COMMITTEE BILL PACKET

Vice President McDonald stated that the bill packet is available for Board review. Board members were encouraged to request the packet if interested. Director McDonald emphasized the benefit of being familiar with the bills.

It was moved by Director Aranda and seconded by Director Raley that a link to each bill packet be forwarded to Board members, per their request. The motion carried 6-1 with Director Wright noted absent from the vote.

G. GENERAL MANAGER'S CONTRACT

This item was taken out of order.

A question was raised and confirmed by Legal Counsel that there is no severance cost associated with a future termination of the General Manager contract.

It was moved by Director Raley and seconded by Director Aranda to approve the General Manager Contract. The motion carried 6-1 with Director Wright noted absent from the vote.

H. LETTER OF RESIGNATION, DIRECTION, ELECTION OPTIONS

A letter of resignation without an effective date, was submitted to President Day from Director Bud Wright. President Day read the letter to the Board, the following discussion ensued.

Legal Counsel informed the Board that there are two requirements upon receiving a resignation according to Statue, Government code 1780: 1) The district is required within 15 days of learning of the resignation of notifying the county election officials of the pending resignation; 2) district has a time limit of 60 days, of when the board is notified or the effective date of the vacancy, whichever is later, to make a decision to appoint a successor or call a special election for the replacement. If district opts to appoint, a successor, the fact of notice of vacancy must be posted in three places in the district. The posting has to occur at least 15 days before the Board takes any action to appoint. The district must notify the county election officials no later than 15 days after the appointment. If a Special election is held it would be for the remainder of the term.

Legal Counsel will contact Director Wright to determine effective date of the resignation..

Discussion ensued led by Director McDonald to follow-up on Director Wright's 40th year anniversary date as a Board member.

It was moved by Director Raley and seconded by Director Longville to:

- 1) Receive and file the letter,**
- 2) Direct staff to follow up with Director Wright on effective date and to**
- 3) Agendize resignation policy for further action on next agenda.**

The motion carried 5-1-1 with, Director McDonald opposed and Director Wright noted absent from the vote.

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

There was no discussion on monthly activity reports.

7. UPCOMING EVENTS

8. CLOSED SESSION

At 5:01 p.m., it was moved by Director Corneille and seconded by Raley to adjourn to Closed Session, under the authority of Government Code.

1. Conference with Real Property Negotiators related to the East Branch Extension Easement, located in the Santa Ana and Mill Creek Spreading Grounds APN 0168-321-10; 0168-341-04; 0168-342-04, 06, 09; 0168-381-02; 0297-051-01, 02; 0297-011-07, and 0168-311-06. Real Property negotiators are Daniel B. Cozad and David B. Cosgrove for the District and Doug Headrick for SBVMWD. Instructions are related to price and terms of payment.

2. Under the authority of Government Code Section 54956.9(c), the Board may recess to Closed Session to consider whether to initiate litigation;

The motion carried 6-1 with Director Wright noted absent from the vote.

At 5:35 p.m. the meeting reconvened into Open Session, with no reportable action under Government Code 54957.1.

9. ADJOURN MEETING

At 5:35 p.m. the meeting adjourned to the next regular Board meeting scheduled for April 13th, 2011 at 1:30 p.m., at District Headquarters, 1630 W. Redlands Blvd., Redlands, CA.

Daniel B. Cozad
General Manager