

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS

MINUTES OF April 13, 2011
1:30 P.M.

President Clare Henry Day called the Board Meeting of the Board of Directors to order at 1:32 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
John Longville, Director (1:58 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 Jones, CEMEX
Don Lee, Tetra Tech
Ted Park, Hello Sushi
Tina Hans, Hello Sushi

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

Revisions were made to the agenda to correct Memo No. 1028 and add to Action item No. 8. The revised agenda was posted on Monday morning, April 11, 2011.

There were no deletions to the agenda.

3. PUBLIC MEETING RELATED TO ADOPTION OF GROUNDWATER CHARGE

- Presentation Engineering Investigation (EI) and rate Proposal.

Mr. Cozad gave a brief review of the EI presentation and pointed out the following changes. The numbers in the pressure basin were updated by the City of Riverside. Steve Luhn provided a Change in Storage Model Comparison. The District EI report showed a high correlation between the SBVMWD Grid and the DWR Fortran models. Other agencies were happy with the correlation. The City of San Bernardino was totally supportive and will send a letter of support. The City of Riverside and Loma Linda were also supportive. All agencies were grateful for the data.

- Public questions and answers

There were no public comments or questions.

Hearing none, President Day announced that the Public Hearing will be held on April 27th at 1:30 pm.

The Board continued discussion on the Groundwater recharge enterprise, capital improvements and fees included in the current budget.

It was moved by Director McDonald and seconded by Director Aranda to close the Public Meeting and continue the matter to the Public Hearing scheduled for April 27, 2011. The motion carried 5-0, with Directors Longville and Wright noted absent from the vote.

4. CONSENT CALENDAR

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

General Counsel and Director Corneille noted clarifications to the March 9, 2011 Meeting Minutes.

It was moved by Director Corneille and seconded by Director Longville that the minutes of the March 9, 2011 Board meeting, be approved as amended. The motion carried 6-0, with Director Wright noted absent from the vote.

- Un-audited Financials (based on the 2010-11 Revised Budget) and Check Register for March, 2011.
- Groundwater Assessment #35 Report (handout).

It was moved by Director McDonald and seconded by Director Longville that the balance of the Consent Calendar consisting of Un-audited Financials, Check Register and Groundwater Assessment #35 Report be approved. The motion carried 5-1-0, with Raley opposed and Wright noted absent from the vote.

Director Raley commented that he would like Unaudited Financials to be in a section of the agenda other than the Consent Calendar.

5. INFORMATION ITEMS

A. Board Committee Reports

Administrative Committee

Director McDonald reported that the Committee is evaluating employer contributions to employee benefits and have requested additional information. The Committee received a status report on the Mentone property. The Personnel Handbook updates will be presented to the Board in May. Other topics were included in the General Manager Report.

B. Field Operations Update

Mr. Cozad referred to a handout on Monitoring Wells that showed a comparison of District well levels for 2010-2011. The handout also included charts showing the depth to water of 3 District wells. He provided the following background and observations. The District put in monitoring wells to assess its performance at recharging water. The wells

are read monthly and the chart shows the level of each well. We have begun to see our recharge rates slow – a slight reduction is due to the quality of water, but mostly it is a result of capacity. We are currently down to approximately 144 CFS continuous recharge in the Santa Ana system down from 250 CFS during the high flow. 80 CFS is steady at Mill Creek. We have informed SBVMWD to cease sending State Project water. The good news is we are receiving 350 CFS from the dam. Only about 25 CFS is passing Alabama street which means we are sinking about 150 CFS in the river. Mr. Cozad is attempting to get the dam operators to drop to between 250 and 300 CFS after the 15th which is the end of the Flood Control year. SBVMWD is looking for every basin or river to put water in between now and the end of year and we are working together to identify creative ways to spread water. At the last BTAC meeting our recharge numbers were revised, increasing Mill Creek up to 11,000 AF and decreasing Santa Ana slightly to a 57,000 AF maximum recharge.

The Board commented on how valuable this information is and they are looking forward to receiving the Monthly Summary report.

C. General Manager Report

In addition to the written General Manager report, Mr. Cozad shared the following success stories:

- 1) In Spring 2011, the District will spread its one millionth acre foot of water
- 2) The passage of Senate Bill 235
- 3) One of our interns has been accepted to a prestigious Graduate Program, The Bren School of Environmental Science and Management at UC Santa Barbara. He reported that the admissions office was impressed with the work he is doing for the District.

D. Legislative Update on SB-235

Director Longville reported, the final vote on the Senate floor was 30 to 0 at the end of the first roll call. The roll call was left open and the final vote was 35 to 0 – no opposition; 5 Senators did not vote. No official action has been taken in the Assembly. The Assembly will not likely consider Senate bills until June or July. He provided an overview of what could happen, but expects good results in the Assembly. SB-235 allows Water Conservation Districts (about 11 in the state) with seven members to reduce their Board size to five members. The Board would have to initiate the reduction in members, prepare a map of new districts and have a public hearing allowing full public input. If adopted, the reduction could be challenged by voters and placed on the ballot. The Board requested a copy of the final Senate approved version of SB-235.

E. Santa Ana Sucker

Mr. Cozad called the Board's attention to an article (in Board packet and received via *The Redlands Daily Facts*, the article also ran in *The Press Enterprise* and *The Sun*) indicating that the Santa Ana Sucker Task Force filed their 60 day notice to initiate legal proceedings on the Santa Ana Sucker, discussion to follow in Closed Session.

F. Big Bear Watermaster (BBWM) Thirty-Fourth Annual Report

A copy of the BBWM Thirty-Fourth Annual Report was distributed. Mr. Cozad informed the Board that the report was filed with the Court at the end of the month in accordance with requirements.

G. Future Agenda Items and Staff Task requests from Directors

Director Raley suggested that the Financials be moved from the Consent Calendar to an Agenda item.

Director Corneille requested the one page summary of the Monthly Recharge Update Report.

6. ACTION ITEMS, NEW BUSINESS

A. RESIGNATION OF DIRECTOR ARNOLD WRIGHT – FAREWELL PLANNING

General Counsel, Cosgrove provided the following summary: The letter of resignation was received from Director Wright without an effective date and read at the March 9, 2011 Meeting. General Counsel was tasked with identifying the effective date of resignation. General Counsel informed the Board that the District's past practice was to treat the effective date of the resignation, if not otherwise specified, as the date when the Board accepts the resignation and Director Wright had not expressed any objection to following this practice. Per General Counsel our recommendation would be to have the Board take action to accept his resignation and assign today as the day of resignation. Based on the District budget, it was Staff's recommendation that the Board consider appointment of Director Wright's replacement. General Counsel pointed out that the District has historically opted for appointments. He reviewed the requirements of Gov. Code 1780 to inform the Board of steps required for compliance, should the Board opt appointment.

Staff's recommendation was to: 1) Motion to accept Director Wright's resignation, 2) Provide 15 day notice to the Registrar of Voters and post the vacancy in three locations, 3) Provide Staff with policy direction and process if Board opts to fill the vacancy by appointment.

General Counsel recommends revisiting the question of appointment at the May Board meeting, which will provide time for notices and identifying interested candidates.

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**It was moved by Director Corneille and seconded by Director Aranda to accept Director Wright's resignation with regrets.
The motion carried 6-0-1 with Director Wright noted absent.**

It was moved by Director Longville and seconded by Director Corneille to fill the vacancy in District 3 by appointment. The motion carried 6-0.

B. DIVISION 3 – APPOINTMENT PROCCESS

General Counsel, Cosgrove answered questions on the process and provided guidance as the Board continued further discussion on the process of filling the vacancy.

It was moved by Director Longville and seconded by Director McDonald that the Board direct Staff to post the notice of vacancy and report the status of candidates who have expressed interest in the appointment on April 27, 2011. Based on the report, the Board will to evaluate the need for interviews, if required. The motion carried unanimously.

C. ALL MAIL BALLOT RESOLUTION

The Board requested information on election options. Mr. Cozad provided information from the Registrar of Voters at the March 9, 2011 Board Meeting. The Board discussed the merits of the All Mail Ballot and reviewed the 2010 sample calendar. Based on the recommendation of the Administrative Committee and Staff, the Board reviewed and adopted the draft resolution.

It was moved by Director Longville and seconded by Director McDonald for the Board to approve Resolution No. 469 to change from the standard odd year election to the All Mail Ballot. The motion carried unanimously.

D. STATUS UPDATES ON REDLANDS AND MENTONE PROPERTY

As previously shared with the Board, Mr. Cozad reported that the Leasing Agent quit our listing at Redlands plaza. It was agreed by the Board that Redlands Plaza units would not be leased for under \$1.00 per sq. ft. Hello Sushi is interested in leasing Unit I for storage at \$.75 per sq. ft. Ted Paul and Tina Hans from Hello Sushi attended the meeting and were introduced by Mr. Cozad.

The Administrative Board discussed three issues at Redlands Plaza:

The District has spent \$30k to repair water damage at Suite J. Mr. Cozad reported that we have been working with Hello Sushi to make arrangements for the plumbing repairs. The plumbing contractor projected that it will take 3 days to complete the repairs. Hello Sushi indicated that it would be difficult for them to close. The work will cost an additional \$1,600 to complete if Hello Sushi wishes to remain open to the public. Staff presented the opportunity that if Hello Sushi chose to pay the additional \$1,600 Hello Sushi could remain open during the work.

For today, Mr. Cozad is requesting that the Board provide direction on a 10-day notice to Hello Sushi (according to section 7.3 of the lease which states, "if the Lessee fails to maintain the property the Lessor can give a 10-day written notice) to make the repairs and if Hello Sushi does not give notice according to the lease, the District has the right to enter the property and make the repairs or immediately negotiate a schedule to be determined by the District.

It was moved by Director McDonald and seconded by Director Aranda to direct staff to give written notice that within 10 days the repairs will have to be done or the District will do the repairs with the possibility that the District will look to the Lessee to pick up the cost of repairs. The motion passed 6.0.

President Day suggested that the District pay the basic tab for repairs and bill Hello Sushi \$100 per month for 16 months at no interest so the work can be completed during non-business hours.

It was moved by Director Raley and seconded by Director McDonald to pay \$8,000 for the cost of plumbing repairs and Hello Sushi can elect to be billed \$100 per month for 16 months at no interest so the work can be completed outside of business hours. The motion was unanimously approved.

The Board accepted the Administrative Committee and Staff's recommendation to solicit proposals for repair Redlands Plaza roof.

It was moved by Director McDonald and seconded by Director Corneille to authorize Staff to solicit proposals for repairs and resealing the roof and to bring proposals back for Board consideration. The motion carried unanimously.

E. CEMEX LEASE EXTENSION (EXERCISE OF 5 YEAR OPTION)

General Counsel briefed the Board on the following: CEMEX is the biggest lease we have. There are nine five-year options to renew and under the current provision, the lease can go to 2046 and ties up all land in the CEMEX lease areas. The action recommended by Staff is related to CEMEX's request to permit a late exercise of the next 5 year option. General Counsel explained that if the Board accepts this late exercise, the

royalty for the next five years is 45 cents a ton and then for the remaining terms will go to market rate. Currently the Lease is not renewed because CEMEX missed their deadline.

Discussion ensued on evaluating use of land and competitive mining pricing. Staff acknowledged that more information was required before making a decision on how to proceed.

It was moved by Director Corneille and seconded by Director Aranda to table the discussion and consideration of the request by Cemex to allow for a late exercise of its option under the lease to the Resources Committee to allow Staff to provide additional information. The motion carried unanimously.

F. BASIN SOUTH 11 RESTORATION

Staff recommended the Board authorize the General Manager to implement restoration of Basin 11 South and authorize an amendment to existing contracts for emergency repairs with Larry Jacinto Construction.

It was moved by Director McDonald and seconded by Director Corneille to authorize the General Manager to implement restoration of Basin 11 South and authorize an amendment to existing contracts for emergency repairs with Larry Jacinto Construction at an amount not to exceed \$19,250 and to file a notice of CEQA exemption. The motion carried 6-0

Per inquiry, Mr. Cozad confirmed that SBVMWD will reimburse the District for the repairs under the Easement Agreement.

G. CSDA BOARD OF DIRECTORS CALL FOR NOMINATIONS SEAT C

The Board reviewed Staff's request to consider nomination for Seat C. No recommendations were made.

H. ACWA/JPIA STATE LEGISLATIVE COMMITTEE BILL PACKET

In accordance with Board's previous direction, the Bill packet was posted to the website with a link that has been emailed to Board members. An email notification will be sent when future Bill packets are posted.

I. CONFLICT OF INTEREST CODE UPDATE AND AMENDMENT

General Counsel briefed the Board on the pro-forma requirement. Staff informed the Board that an amendment was required to correct the 2010 Conflict of Interest appendix

indicating levels of disclosure. A revision to Resolution 460 was required to amend the appendix submitted on September 22, 2010

It was moved by Director McDonald and seconded by Director Aranda to approve Resolution 460 amending the 2010 Conflict of Interest appendix. The motion carried unanimously.

J. HR 1042 – LETTER OF SUPPORT

The Board agreed to send a letter of support to Councilman Joe Baca for HR 1042.

It was moved by Director McDonald and seconded by Director Aranda to send a letter of support to Councilman Joe Baca to Delist species when the species no longer exist. The motion carried 6-0.

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

Director Corneille attended the San Bernardino Valley Municipal Advisory Commission Meeting on March 24th and heard four presentations. One was on "The Regional Urban Water Management Plan". He reported that every five years agencies have to develop a water management plan and submit it to DWR. SBVMWD is overseeing a contract with one consultant to provide information about long term water supply in their area and water conservation methods with each of the agencies completing the plan. In this plan, the agencies must show a 20% savings by 2020, so positive actions are required by retail agencies to meet water conservation goals. The plan will be adopted by each of the retail agencies in June.

They also heard a presentation at the Special Districts Meeting in Ontario on low water use plants and reported that Home Depot has a promotion going where they are discounting the cost for low water use plants. SBVMWD is sponsoring a water conservation garden at California State University, San Bernardino. He also received an update on the critical habitat, Santa Ana Sucker and the East Branch Extension. He introduced Director Raley as his alternate. The next Advisory Commission Meeting is May 19th.

Director Aranda reported that he has changed his presentation from saying, "*a water drought*" to say, "*the value of water*". He recently gave his presentation to Middle Schools in Redlands and received favorable response. He reported that people are beginning to believe water is in jeopardy.

Director McDonald attended BTAC and reported that State water project allocations are now at 70% and will probably go up to 85%. They are looking at the Mojave basin for storage and any other available place they can store water. Bob Martin brought SB-34 up at the BTAC. This is a meter tax that will cost East Valley Water District a 11% increase if passed. She reported that Mr. Cozad did a great job presenting the EI Report. She

attended the Santa Ana Sucker Task Force Meeting and cautioned Board members to preface comments as personal opinion, not as statements made as a representative of the Task Force or the District. She also reported that the San Bernardino County unemployment rate last surpassed Las Vegas last month. Director McDonald attended the SBVMWD April 5th Board Meeting and will be out of the country next week.

Director Longville reported circulating a bill and noted that he would like to attend the Committee when SB-235 is considered committed in the Assembly.

President Day reported that he will be out of the Country from June 15th to July 20th.

8. RECHEDULE MAY BOARD MEETING

Due to the ACWA Spring Conference, the May 11th Board Meeting was rescheduled to May 18th.

It was moved by Director Raley and seconded by Director McDonald to move the May 11, 2011 Board Meeting to May 18, 2011. The motion carried unanimously.

9. UPCOMING MEETINGS

The April 21, 2011 Advisory Commission Meeting has been rescheduled to May 19, 2011.

10. CLOSED SESSION

At 4:15 p.m., it was moved by Director McDonald and seconded by Director Aranda 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 6-0.

At 4:58 p.m. the meeting reconvened into Open Session, with no reportable action under Government Code 54957.1.

11. ADJOURN MEETING

At 4:58 p.m. the meeting adjourned to the next regular Board meeting scheduled for April 27th, 2011 at 1:30 p.m., at District Headquarters, 1630 W. Redlands Blvd., Redlands, CA.

Daniel B. Cozad
General Manager