

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT  
BOARD OF DIRECTORS

MINUTES OF October 12, 2011  
1:30 P.M.

President 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  
Bob Glaubig, Director  
John Longville, Director, 1:37  
David E. Raley, Director

BOARD MEMBERS ABSENT:

Manuel Aranda, Director  
Richard Corneille, Director

GENERAL COUNSEL PRESENT:

David B. Cosgrove, Rutan & Tucker, LLP

STAFF PRESENT:

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

GUESTS PRESENT:

James Walker, Tetra Tech  
Charles Roberts, Highland News  
Pat Loy, Lewis Operating Corporation  
James Campbell, County of Orange

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

## 2. ADDITIONS/DELETIONS TO AGENDA

There were no additions/deletions to the agenda.

## 3. CONSENT CALENDAR

- Approval of the Board Minutes from September 14, 2011.

The minutes of the September 14, 2011 meeting were reviewed and approved.

**It was moved by Director McDonald and seconded by Director Glaubig to approve the September 14, 2011 minutes. The motion carried 4-0 with Director Aranda, Director Corneille and Director Longville noted absent from the vote.**

- Unaudited Financials

Mr. Cozad reviewed the Expenditures and the Check Detail Financial reports. He advised the Board that he will discuss the first draft of the Enterprise Budget later in the meeting and that a more complete version will be available for review at the next regularly scheduled meeting, November 9, 2011.

President Day noted that the Unaudited Financials were accepted as submitted.

- Groundwater Charges-Income Summary

The Groundwater Income report was virtually the same. One additional check was received since the last report on September 14, 2011.

## 4. ACTION ITEMS, NEW BUSINESS

### A. FALL BASIN CLEANING AND REPAIRS

President Day spoke in support of the decision made at the Resources Committee and read their recommendation requesting that the Board authorize the use of the "October 2010 approved contract" with Jacinto Construction for cleaning and repairs at Mill Creek

and the Santa Ana basins. Discussion ensued on where to store the sediments and debris removed from the basins. Mr. Cozad stated that most materials would be pushed up into the edge of the basin and not moved out. In Mill Creek, sediments that are removed will be stored by the pond. Since there is no market for aggregate at this time, any aggregate removed from the basins will be stockpiled and moved or sold at a later date.

**It was moved by Director McDonald and seconded by Director Raley to authorize the General Manager to use the contract by Jacinto Construction or other contracts as appropriate for cleaning and repairs of Mill Creek and the Santa Ana basins at an amount not to exceed \$80,000.**

**The motion carried 5-0 with Director Aranda and Director Corneille noted absent from the vote.**

#### B. ELECTRICAL GATE OPERATOR – PHASE 2

Based on the recommendation of the Resources Committee and confirmation that Field Staff is satisfied with the electrical gates purchased in Phase I, the Board authorized procurement and installation of the four main gates for Mill Creek.

**It was moved by Director McDonald and seconded by Director Raley to procure electrical gate operators for deployment to the four main gates in Mill Creek at an amount not to exceed \$13,500.**

**The motion carried 5-0 with Director Aranda and Director Corneille noted absent from the vote.**

#### C. GROUNDWATER CHARGE PAST DUE COLLECTION PLAN

Mr. Cozad presented the Groundwater Collection Plan for past due, non filing producers. Per Board direction, Staff developed the policy in accordance with water codes 75610-75633. The Board reviewed the Draft collection process in detail, including monthly interest on unpaid charges and penalties for non-payment and approved the following:

**It was moved by Director McDonald and seconded by Director Glaubig to approve the Groundwater Collections Plan and to report results of collection investigations to the Board.**

**The motion carried 5-0 with Director Aranda and Director Corneille noted absent from the vote.**

#### D. EMPLOYEE HANDBOOK

The Board reviewed the final version of the Employee Handbook with amendments from Labor Specialists at Rutan and Tucker, LLP and one pending policy decision. In

consultation with the Administrative Committee, it was recommended that the Board approve a policy decision limiting the number of sick hours that can be accrued.

**It was moved by Director McDonald and seconded by Director Raley to approve the Employee Handbook with proposed amendments and the policy change limiting the accrual of sick hours to 240 hours.**

**The motion carried 5-0 with Director Aranda and Director Corneille noted absent from the vote.**

#### E. BOARD POLICY HANDBOOK/APPENDIX C

Mr. Cozad reported that there were no policy changes in the revisions. Staff simply made “needed technical changes” to Appendix “C” and the Board Policy Handbook, Section 4025 to ensure consistency and clarity in both documents. The Administrative Committee has reviewed the changes and is requesting final review and approval. General Counsel also recommended a deletion/amendment to circumvent any ambiguity.

**It was moved by Director Raley and seconded by Director Longville to approve the technical revisions and amendment to Appendix C and the Board Policy Handbook Section 4025.**

**The motion carried 5-0 with Director Aranda and Director Corneille noted absent from the vote.**

#### F. ENTERPRISE FINANCIAL REPORTING

Mr. Cozad presented the draft Enterprise financial statements. Each enterprise was broken out. Future revisions will have an additional page for each enterprise along with the accompanying budget. A summary will precede each enterprise. Summary graphs will include District revenue and expenses. The graphs are designed to give budget vs. actual at a glance. Mr. Cozad gave an in depth status of current revenue and expenses for first quarter, year to date. He asked the Board for feedback and received several suggestions to further clarify the graphs. Suggestions were to include previous quarters and actual dollar amounts, highlight the amount historically spent on the Wash Plan and to add a total bar indicating how the District is doing overall.

Mr. Cozad gave his quarterly report in accordance with the new Investment Policy and pointed out a Board authorized transfer from LAIF to CalTRUST. He referred to the *District Reserve Investment Balances and Returns Report* which showed the history of reserves, yields and rates of return.

#### G. HARMONY DEVELOPMENT CONCEPT PROPOSAL

Director Glaubig attended the Highland Community meeting on September 29, 2011 where Lewis Operating Group (Lewis) presented the water recharge operations for the proposed Harmony development. Director Glaubig gave the following summary of the meeting. The meeting was the third in a series that will take place every 2-3 months. The development is a 20 yr project covering 16,057 acres and 3,600 new homes developed in 3 phases or communities. Phase 1 has a 4.7 acre Commercial development. Phase 2 has a K-5 elementary school. Phase 2 and 3 includes a linear park that will border the south of Mill Creek. Over 50% of the project area is open spaces. The main reason for the meeting was to consider issues including housing density, fire issues, night sky policy and the main concern, traffic.

Pre-harmony planned improvements include replacing the old Iron Bridge with a four lane bridge, the old bridge will be part of the trail system as a historical landmark. The Garnet Street Bridge will also be replaced by a wider 2 lane bridge.

Harmony has plans for three access points; two on the west side in Phase 1 of the development; the third access point will be on the south west end in Phase 2. The Highland staff mentioned that Harmony should include access from the eastern portion of the development to Highway 38. Lastly, the Group said they are considering three options on water and sewer, but discussions were premature at this time.

Pat Loy, Lewis Operating Corporation and James Campbell, County of Orange attended the Board meeting to answer any questions the District may have on the proposed development.

Mr. Cozad commented on Lewis engaging District feedback early in the Harmony project and noted several preliminary meetings. He noted that Lewis really listened well to District problems and our mission “to put water into the ground” and configured their early sketches within the scope of the District’s mission.

In earlier discussions Mr. Cozad relayed that if the District is able to fulfill our mission while working on the Harmony project, there may be opportunities to collaborate. Based on these discussions, Lewis worked on one option. Rather than moving sewage all the way through San Bernardino, they would build a package plant, treat the water to tertiary levels plus and use as recycled water. Lewis would treat the water, pump it to storage tanks and use it for irrigation. Any water not recharged on the site, Lewis would install pumping capabilities for capture in the Mill Creek facility. This would keep water in the upper water shed and serve to keep the Harmony Project greener and better manage water.

It was noted by District Counsel that decisions must be in accordance with existing BTAC judgments and regulations.

Mr. Cozad was seeking conceptual approval to continue working on the project. Lewis estimated 540,000 gallons per day. He noted that even with heavy rains, this would only add 20 CFS to the Mill Creek facility.

**It was moved by Director McDonald and seconded by Director Glaubig to authorize the General Manager to indicate conceptual approval and to continue to work with Lewis Operating Group to develop water recharge operations for the Harmony proposed development.**

**The motion carried 5-0 with Director Aranda and Director Corneille noted absent from the vote.**

District Counsel informed the Board that he represents Lewis Operating Group on Eminent Domain acquisitions in a limited capacity and did not foresee any conflict.

#### **H. USI CONSULTING NONEXCLUSIVE REPRESENTATION OF 21 ACRES**

Mr. Cozad provided background on the surplus of land above Cuttle Weir. To date, in 2011 no firm offers have been received. In August 2011, Bruce Cash, Principal of USI offered to represent the property in a nonexclusive agreement for 5% finder's fee on the purchase price paid and a \$5,000 upfront marketing fee for 2 years. The purchase price and terms would have to be acceptable. USI will provide monthly reports to the General Manager of all contacts made on behalf of the District until a successful buyer is found. Objections were voiced by several Board members on the marketing fee. Mr. Cash reminded the Board of the offer from a buyer represented by USI who was interested in purchasing the property in July, 2010. He also reaffirmed USI's position in negotiating mitigation land. Discussion ensued.

**It was moved by Director McDonald and seconded by Director Longville to approve the USI contract with the 5% finder's fee agreement and a non-refundable retainer of \$5,000 (which will be credited against any commission fee) for the nonexclusive representation of 21 acres located in Santa Ana Rivers Canyon.**

**The motion carried 3-2 with 2 opposed, Director Raley and Director Glaubig. Director Aranda and Director Corneille were noted absent from the vote.**

#### **I. SW WILLOW FLYCATCHER CRITICAL HABITAT COMMENTS**

Mr. Cozad pointed out that the District operations area is not within the SW Willow Flycatcher habitat, however the area above SOD and upper areas of Mill Creek are. Discussion ensued.

**It was moved by Director McDonald and seconded by Director Raley to support preparation of consensus comments with partner agencies on the SW Willow Flycatcher Critical Habitat and to ratify Staff's commitment to contribute an amount not to exceed \$1,000.**

**The motion carried 5-0 with Director Aranda and Director Corneille noted absent from the vote.**

**5. INFORMATION ITEMS:**

**A. General Managers Report and Field Operations/Recharge Report**

Mr. Cozad reported September 30, 2011 as the end of the water year and that 54,412 acre-feet was our number for last year. He asked staff to note October 1<sup>st</sup> as the first day of the new water year and reported that the District sank about 72% of all the artificial recharge in the Bunker Hill, Mill Creek and Santa Ana basins. Field Staff did an excellent job of operations and maintenance. The District will be billing approximately 45,000 acre-feet of the water recharged, approximately \$150,000 in billing. Valley District has been receiving monthly estimates of what they are spending.

Mr. Cozad noted that a fuel spill at the headwaters of the Santa Ana River was well contained, however the spill requires some work, None of the water entities were given sufficient notice. Chris Diggs, City of Redlands found out by going to the scene. The spill was reported a day after the occurrence. As a result, we have initiated an effort with County Emergency Operations to do a morning of training on how the water systems work and where things are for first responders. He informed the Board that this is possibly a good use of E.R.N.I.E. – (the Emergency Response Network of the Inland Empire).

Staff is doing a great deal of work on the Audit. Though the District received savings on the overall cost for the Auditors, the District has incurred additional expense, (at minimum a couple of thousand dollars) for software to meet the Auditor's request. One such request was an application to estimate unfunded liability of other post-employment liabilities. The purpose of the report is to satisfy the requirements of Government Accounting Standards Board (GASB 45) statements.

Mr. Cozad informed the Board that Staff is invoicing and has billed approximately \$25,000 from the AB303 Grant.

**B. Collaborative Principles Update**

Ms. Griffith confirmed availability for the Joint Agreement meeting to be held at Valley District, Tuesday, November 15, 2:30 p.m.

**C. Audit Update**

There was no report on this item.

D. ACWA State Legislative Committee Bill Packet

There was no report on this item.

E. Santa Ana Sucker Update (SAS)

Mr. Cozad reported that the original complaint was amended to include the *Freedom of Information Act*, and pending issues requested six months ago and a number of emails, especially on the Economic study that was never received. As a result, an amended complaint was filed which will set everything back a little longer. The SAS is also working on another Collaborative process that requires a facilitator to work between US Fish and Wildlife Service and the stakeholders.

F. Future Agenda Items & Staff Task requests from Directors

Director Glaubig inquired about the \$5,000 approved for the Water Resources Institute. Mr. Cozad agreed to inform the Board when he expects the funds to be available.

6. MONTHLY BOARD MEMBER COMMITTEE ACTIVITY REPORTS, AND /OR COMMENTS BY BOARD MEMBERS

Director Raley attended the Administrative Committee, Resources Committee, Administrative and Ad Hoc Committee on CEMEX.

Director McDonald attended the Santa Ana Sucker meeting and the Groundwater Committee meeting in Sacramento and gave a brief summary on a presentation given by the Dept. of Water Resources on boundaries of the federal government. She also attended the Administrative Committee and Special Districts meeting in Twin Peaks.

Director Day reported attending the Administrative and Resources Committee meetings.

A. Board approval for Director Selected meetings with travel

There was no report on this item.

7. UPCOMING MEETINGS

There was no report on this item.

8. CLOSED SESSION

**At 3:20 p.m. it was moved by Director Raley and seconded by Director McDonald to adjourn to Closed Session.**



General Counsel announced that the meeting will adjourn to closed session under all of the items listed in number eight of the agenda.

1. Under authority of government code section 54956.8, the board may recess to a Closed Session for a 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.
2. The Board may convene in Closed Session to discuss exposure to litigation, under Government Code section 54956.9(b)(3)(b), relating to communications regarding mineral the lease status between the District and Cemex Construction Materials Pacific, LLC.
3. The Board may convene in Closed Session under Government Code section 54956.8, to discuss real property negotiations, relating to a potential new lease on portions of property located in the Santa Ana River Wash, and depicted as "Cemex" in Figure 3.7 of the Final Environmental Impact Report for the Upper Santa Ana Wash Land Management and Habitat Conservation Plan, with Cemex Construction Materials Pacific, LLC. Daniel B. Cozad and David B. Cosgrove are the negotiators for the District. Scott Hess and Christine Jones are the negotiators for Cemex.
4. The Board may convene in Closed Session to discuss exposure to litigation, under Government Code section 54956.9(b)(3)(e)
5. Under authority of Government Code section 54956.9 (c), the Board may meet in Closed Session to decide whether to initiate litigation.

At 3:58 p.m., the meeting reconvened into Open Session with no reportable action under Government Code Section 54957.1.

## 9. ADJOURN MEETING

At 3:58 p.m., the meeting adjourned to the Board meeting scheduled for October 31, 2011, at 10:00 a.m., at District Headquarters, 1630 W. Redlands Blvd., Suite A, Redlands, CA.