

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS

MINUTES OF THE REGULAR BOARD MEETING OF
April 28, 2006
1:30 P.M.

President Cheryl Tubbs called the Regular Meeting of the Board of Directors to order at 1:30 p.m. All present stood for the pledge of allegiance, led by President Tubbs.

ROLL CALL:

BOARD MEMBERS PRESENT:

Cheryl Tubbs, President
Manuel Aranda, Vice President
Clare Henry Day, Director
Glenda Douglas, Director
Arnold Wright, Director

BOARD MEMBERS ABSENT:

Richard Corneille, Director
Melody Henriques-McDonald, Director

GENERAL COUNSEL PRESENT:

David B. Cosgrove, Esq.

STAFF PRESENT:

Lawrence M. Libeu, General Manager/Board Secretary
Colleen Theuer, Assistant to the General Manager/Recording Secretary

GUESTS PRESENT:

Gary Nolff, City of Riverside
Douglas Headrick, City of Redlands

OTHERS:

Chris Bahnsen, Special Consultant

1. PUBLIC PARTICIPATION

President Tubbs 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 proceeded with the published agenda items.

2. PUBLIC HEARING RELATED TO ADOPTION OF GROUNDWATER CHARGE

Mr. Libeu presented the Annual Engineering Investigation Report as required by the Water Conservation Code Section 75560, and recommended that the groundwater charge for FY 2006-2007 remain at the current rate of \$6.65 per acre foot for non-agricultural use, and \$1.85 per acre foot for agricultural use.

Director Wright was excused due to a potential conflict of interest.

President Tubbs declared the Public Hearing open at 1:55 p.m., and asked for comments from guests. Mr. Nolff, Assistant Director of Resources of the Public Utilities Department, City of Riverside, reiterated the comments made from their letter of April 25, 2006 in which they question the rate level, methodology, and the need for the District to collect a groundwater charge, and asked that the Board carefully consider whether the groundwater charge was really required. Mr. Headrick, Chief of Water Resources, City of Redlands, also commented and opposed the groundwater charge. He indicated that in his opinion the District was over-collecting monies and that the true purpose of the District was to fund groundwater programs. Mr. Cosgrove indicated that the District had also received written comments from the City of San Bernardino, in which they expressed their opposition to District legal expenses that had been budgeted for FY 2006-2007 as part of the groundwater recharge expenses in the amount of \$275,000, with respect to consolidation efforts. Mr. Cosgrove said that this budget item was eliminated, and any necessary legal fees with respect to consolidation efforts would be funded from the District's reserves. He noted that Water Code Section 75523 allows for groundwater charge proceeds to be applied to anything that is authorized by the District, and the payment of attorney fees is specifically authorized by Water Code Section 74502. He commented that the District does not overcharge, and in fact the District has shown that specific expenditures will exceed the groundwater charges collected. Discussion continued. At 2:20 p.m., President Tubbs closed the Public Hearing.

3. ADOPT RESOLUTION NO. 422 ESTABLISHING GROUNDWATER CHARGE

It was moved by Director Day and seconded by Director Douglas to adopt Resolution No. 422, establishing the groundwater charge for FY 2006-2007 at \$6.65 per acre-foot for non-agricultural use and \$1.85 per acre-foot for agricultural use. The motion carried 4-0-3, with Directors Tubbs, Day, Aranda, and Douglas aye; Director Wright excused due to a potential conflict of interest; and Directors McDonald and Corneille absent.

4. BOARD DISCUSSION ITEMS

Director Wright returned to the Board meeting after being excused from the discussion on groundwater charges.

Director Douglas reported that she attended the CSDA Government Affairs Day, where LAFCO was discussed. It was the feeling among the attendees that the LAFCOs have become very aggressive against Special Districts.

President Tubbs said she was unable to attend the Special Districts meeting where the election for Special Districts representatives was to have taken place, but she designated Director Henriques-McDonald as proxy. There was not a quorum for that meeting; therefore the election would be done by mail.

Vice President Aranda reported that he attended a breakfast for Senator Dutton and Assemblyman Emmerson, and also spoke to them at their offices regarding the issues in the basin. He also attended the CSDA Government Affairs Day.

Director Wright reported that he attended the Resources Committee meeting on April 19.

5. APPROVAL OF THE MINUTES

The minutes from the April 5, 2006 meeting were discussed. Minor changes were noted.

It was moved by Director Wright and seconded by Director Day to approve the minutes of the Regular meeting of April 5, 2006, as amended. The motion carried 5-0-2, with Directors McDonald and Corneille absent.

6. BOARD COMMITTEE REPORTS

Mr. Libeu reported on the Resources Committee meeting that took place on April 19. Discussion included granting the request of the Cub Scouts for a field trip on District property; the renewal of the M.A.R.K.S. permit; and the appraisal and construction for expanding Redlands Boulevard that the City of Redlands (City) proposes. He said the District requested that the City meet with all tenants of Redlands Plaza to discuss the ramifications of the construction. Mr. Cosgrove said that he has discussed the matter with the City's attorney, and while they have declined to give any appraisal information, they have agreed to meet with the tenants.

7. GENERAL MANAGER'S REPORT

Mr. Libeu summarized his report. He said that the District has hired Chris Bahnsen as a part-time consultant, and the District is preparing to place an ad for Tom Crowley's and Walter Christensen's positions.

Mr. Libeu discussed the need for an Administrative Committee meeting, which was then planned for Friday, May 19, 2006 at 9:00 a.m. at the District office.

Mr. Cosgrove advised the Board that he would be stepping in for Walter Christensen on the Wash Plan. He has met with the mining companies and Fish & Wildlife, and will be calling a Task Force meeting. He is anticipating a meeting with the Technical Group within two weeks and then with the whole group within the month.

8. OPERATIONS AND MAINTENANCE REPORT

Mr. Libeu reported that the operations and maintenance in the field remain steady. He indicated that due to an unseasonably heavy flow in Mill Creek, the diversion soft plug had washed out, and subsequently has been repaired. New control gates were also installed in the Mill Creek spreading area. The District shut down spreading on SAR and Mill Creek as the target amount has been met. The IMPDPA participants were notified that the existing targets had been met, and new targets needed to be established. This item would be discussed later in the meeting.

9. CONSENT CALENDAR

The financial reports were briefly discussed.

It was moved by Director Day and seconded by Director Douglas to approve the Consent Calendar, consisting of the Warrant Table for April 2006 and the un-audited financial reports for April 2006. The motion carried 5-0-2, with Directors McDonald and Corneille absent.

10. BOARD LETTERS, ACTION ITEMS, NEW BUSINESS, FYI

A. Integrated Management Program Demonstration Project Agreement

Mr. Libeu discussed an amendment to the Integrated Management Program Demonstration Project Agreement (IMPDPA). The amendment would increase replenishment targets in the Santa Ana River from 10,500 acre-feet to 14,500 acre-feet, and transfer 2,000 acre-feet from the Waterman area to the Devil Canyon/Sweetwater area. The amendment would run for the term of the Agreement, through September 30, 2006. In order to implement the revised groundwater recharge targets, each participating agency would need to gain approval from their Boards; each agency agreed to take the amendment to their governing body. Mr. Libeu further stated that the District would not commence spreading until all agencies had approved the new targets. Discussion followed. After discussion, the following motion was made:

It was moved by Director Wright and seconded by Director Day to approve and authorize the execution of an Amendment to the Integrated Management Program Demonstration Project Agreement, establishing revised water recharge targets for the Santa Ana River from 10,500 acre-feet to 14,500 acre-feet, and transfer 2,000 acre-feet from the Waterman area to the Devil Canyon/Sweetwater area, term to run through September 30, 2006. The motion carried 5-0-2, with Directors McDonald and Corneille absent.

B. DESIGNATION OF VOTING DELEGATE ACWA CONFERENCE

Mr. Cosgrove requested that this item be added to the agenda, as it was received after the agenda had been posted.

It was moved by Director Aranda and seconded by Director Wright to add to the agenda the item of Designation of Voting Delegate ACWA Conference. The motion carried 5-0-2, with Directors McDonald and Corneille absent.

Mr. Libeu advised the Board that ACWA had requested each agency to name an individual to vote on an Amendment to the Bylaws during the General Session at the ACWA Spring Conference, May 9-12, 2006. He recommended Vice President Aranda be designated as the District's voting delegate.

It was moved by Director Douglas and seconded by Director Wright to designate Vice President Aranda as the District's voting delegate at the ACWA Spring Conference in Monterey, CA, May 9-12, 2006. The motion carried 5-0-2, with Directors McDonald and Corneille absent.

11. CLOSED SESSION

It was moved by Director Douglas and seconded by Director Day to adjourn to Closed Session at 2:55 p.m., as provided by the authority of Government Code Section 54956.8, to consider Real Property negotiations re: easement agreement with San Bernardino Valley Municipal Water District/Western Municipal Water District concerning the District's Santa Ana River facilities; and Government Code Section 54956.9(c), to determine whether to initiate litigation. The motion carried 5-0-2, with Directors McDonald and Corneille absent.

At 3:50 p.m., the meeting reconvened into Open Session. Under Government Code Section 54957.1, there was no reportable action taken.

12. ADJOURN MEETING

At 3:50 p.m., the meeting adjourned to the Board meeting scheduled for **Wednesday, June 7, 2006** at District Headquarters, 1630 W Redlands Blvd., Ste. A, Redlands, CA at 1:30 p.m.

Board Secretary