

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS

MINUTES OF THE REGULAR BOARD MEETING OF
April 4, 2007
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
Richard Corneille, Director
Clare Henry Day, Director
Glenda Douglas, Director
Melody McDonald, Director
Arnold Wright, Director

BOARD MEMBERS ABSENT:

None

GENERAL COUNSEL PRESENT:

David B. Cosgrove, Esq., Rutan & Tucker, LLP

STAFF PRESENT:

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

GUESTS PRESENT:

Marc Lusebrink, Manatt, Phelps, Phillips

1. PUBLIC PARTICIPATION

President Tubbs announced this as the time for any persons present, who so desire, to make a presentation to the Board of Directors. Hearing none, the meeting proceeded with the published agenda items.

2. PUBLIC MEETING RELATED TO ADOPTION OF GROUNDWATER CHARGE

Mr. Cosgrove reported that the Annual Engineering Investigation and Report (Report) of the groundwater conditions of the District was presented at the March 7, 2007 regular Board meeting. He said it could be presented also this date; however, additional data was still being compiled, and the amended Report would be presented at the April 27 Board meeting. The Board opted to wait for the presentation on April 27.

3. BOARD DISCUSSION ITEMS

Director Corneille reported that he attended the Special District's dinner and the Advisory Commission (Commission) meeting. He said that the Commission meeting was also attended by Directors Tubbs and McDonald, and Assistant General Manager Tim Clark. At that meeting an outline was distributed for the Upper Santa Ana River Watershed Integrated Regional Groundwater Management Plan (Plan), scheduled for completion by September 2007. He said the next Commission meeting would be on May 17.

Director McDonald reported that she attended the Advisory Commission meeting, the Highland Chamber luncheon, and the San Bernardino Chamber Koffee Klatch.

President Tubbs reported that she attended the Special Districts meeting, the Advisory Commission meeting, and a joint meeting between the San Bernardino Valley Municipal Water District and Western Municipal Water District, where the joint water rights EIR for both agencies was certified.

Vice President Aranda reported that he attended the regular chamber meetings and the ACWA State Legislative Committee meeting in Sacramento, where there was discussion on extending the sunset clause on the Harmon Bill.

Director Douglas reported that she attended the Highland Chamber breakfast.

4. APPROVAL OF THE MINUTES

There was a brief discussion on the minutes from the March 7, 2007 meeting. Minor changes were noted.

It was moved by Director Day and seconded by Vice President Aranda to approve the minutes of the regular meeting of March 7, 2007, as amended and approve the minutes from the special meeting of March 15, 2007. The motion carried unanimously.

5. BOARD COMMITTEE REPORTS

There were no Committee reports for this meeting.

6. GENERAL MANAGER'S REPORT

Mr. Libeu summarized his written report, noting the upcoming ACWA Conference and the special event to honor Steve Hall.

7. OPERATIONS AND MAINTENANCE REPORT

Mr. Libeu reported that there had been normal maintenance in the field during the month. He noted that in approximately three weeks the pool behind the Seven Oaks Dam would be emptied, so that repairs and maintenance could be performed at the SOD tunnel.

8. WASH PLAN UPDATE

Discussion on the Wash Plan was led by Burnie Cavender by conference call. He said the Administrative Draft (screen check) is in the hands of the Technical Committee for their review, and their comments are due back by April 9. He anticipated that all comments would be received on time with the exception of the federal agencies. Discussion continued. President Tubbs suggested not releasing it until all comments had been received. Mr. Cavender said he would be at the District offices during the week of April 16 and that there would be a Technical Committee meeting on April 18, at 1:00.

9. CONSENT CALENDAR

There was a brief discussion on the un-audited financial reports for March 2007.

It was moved by Director Wright and seconded by Vice President Aranda to approve the Consent Calendar, consisting of the un-audited financial reports for the month of March 2007. The motion carried unanimously.

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

A. Request from City of Highland - Subordination of Tax Increment Revenue

Mr. Cosgrove briefly discussed a letter from the City of Highland requesting that the District agree to subordinate its tax sharing amounts to their agency's bond debt service payments, in order for them to receive the most advantageous bond rating. Mr. Cosgrove recommended agreeing to their request, for a number of reasons, including: (1) the amount at stake would not be significant, for example, last year's District's property tax revenues only amounted to approximately \$43,665.00, of which just \$267.00 was attributable to the City of Highland Redevelopment Agency's pass-through calculation; (2) there is little reason to believe that the City of Highland would not be able to make what pass-through obligation payments it has to the District; and (3) the Health & Safety Code Section 33607.5(e)(3) deems the request approved unless substantial evidence indicates justifiable grounds for disapproving the request.

It was moved by Director Corneille and seconded by Director Day to approve the request from the City of Highland for the District to subordinate its tax sharing amounts to their agency's bond debt service payments. The motion carried unanimously.

- B. Cooperative Agreement to Protect Water Quality and Encourage the Conjunctive Uses of Imported Water in the Santa Ana River Basin

Mr. Libeu reported that at the Muni Advisory Commission meeting of March 22, 2007, a draft agreement of the Cooperative Agreement to Protect Water Quality and Encourage the Conjunctive Uses of Imported Water in the Santa Ana River Basin (Agreement) was presented regarding the spreading of imported water into the Santa Ana River groundwater basins. This Agreement was in response to the Regional Water Quality Control Board's (RWQCB) announcement in April 2006 that it intended to impose waste discharge requirements on water from the State Water Project, characterizing the water as "waste." Through SAWPA, several agencies organized to resist this effort. While the District has not been involved in recharging imported water, it has occasionally assisted other agencies in doing so. Mr. Cosgrove said that while the recharging of imported water has not been central to the District's mission, it directly impacts the District's mission, and therefore recommended that the District participate in the further development of the Agreement. Discussion continued. After discussion, the following motion was made:

It was moved by Director Corneille and seconded by Director McDonald that the District become a participant in the further development of the proposed "Cooperative Agreement to Protect Water Quality and Encourage the Conjunctive Uses of Imported Water in the Santa Ana River Basin," with the possibility of becoming a signatory and participant in the Water Quality Monitoring Program it seeks to implement. The motion carried unanimously.

- C. Amendment to Contract for Consultant D. Burnell Cavender

Mr. Cosgrove led a discussion on an amendment for additional services to the contract for consultant D. Burnell Cavender, for his testimony before the State Water Resources Control Board (Board), regarding the District's Application No. 31371. Mr. Cavender agreed to perform these services at the same rate of \$165 per hour, plus \$500 per diem for days spent traveling.

It was moved by Director McDonald and seconded by Director Douglas to approve an amendment to the contract of consultant D. Burnell Cavender for the services of testifying before the State Water Resources Control Board, regarding the District's Application No. 31371. The motion carried unanimously.

D. Amendment to Contract for Consultant EDAW

Mr. Cosgrove said that EDAW Inc. has been the District's environmental consultant in preparing the EIR regarding the District's Application No. 31371 before the State Water Resources Control Board. General Counsel and Special Counsel requested a supplemental proposal from EDAW for providing testimony regarding this application. EDAW provided a proposal in the amount of \$37,710. Discussion ensued on the proposed cost. Mr. Luesebrink noted that EDAW, in addition to reviewing other parties' documents, were preparing for a very complex hearing that may last three days or more. However, EDAW may not use the complete amount proposed. After continued discussion, the following motion was made:

It was moved by Director Corneille and seconded by Director McDonald to approve the Amendment to Contract Services Agreement to EDAW Inc., in the amount of \$37,710. The motion carried unanimously.

E. Upcoming Meetings

This item was for information only.

10. CLOSED SESSION

It was moved by Director McDonald and seconded by Director Day to adjourn to Closed Session, at 3:35 p.m., as provided by the authority of Government Code Section 54956.9(a), to consider the Application No. 31371 before the State Water Resources Control Board to appropriate waters of the Santa Ana River; and Government Code Section Government Code Section 54956.8, 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 54957 and 54957.6, to consider public employee items: review the performance and contract of General Manager. The motion carried unanimously.

At 6:00 p.m. the meeting reconvened into Open Session. During Closed Session, the Board took no reportable action.

11. ADJOURN MEETING

At 6:00 p.m., the meeting adjourned to the Special Board meeting scheduled for Thursday, April 12, 2007 at District Headquarters, 1630 W Redlands Blvd., Suite A, Redlands, CA at 4:30 p.m.

Board Secretary
