

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS

MINUTES OF THE REGULAR BOARD MEETING
AND PUBLIC HEARING OF
April 27, 2007
1:30 P.M.

President Cheryl Tubbs called the Special 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:

Wen Huang, City of Redlands, Municipal Utilities
Ross Wittman, City of Redlands Municipal Utilities

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

Tim Clark, Assistant General Manager, and David Cosgrove, District Counsel, presented the annual Engineering Investigation Report (EI) as required by the Water Conservation Code Section 75560. Staff recommended that the groundwater charge for FY 2007-2008 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. Discussion ensued. Mr. Cosgrove said that the District had received an inquiry from Mr. David Garcia of the Arrowhead Country Club on whether water used for the purpose of irrigating a golf course may properly be construed as water used for agricultural purposes for calculation of the groundwater charge. Mr. Cosgrove had replied to Mr. Garcia by letter and indicated that the statute allowed a different fixed and uniform rate per acre-foot that could be used to compute the charge for all water other than agricultural water used for irrigation purposes on parks, golf courses, schools, cemeteries, and publicly-owned historical sites. Discussion continued. Staff was given direction to contact Mr. Garcia and advise him that the Board would consider his request. Staff was also directed to bring to the next Board meeting a list of all producers that might qualify for a different rate under these same circumstances.

President Tubbs asked for comments from the guests. Mr. Wen Huang, from the City of Redlands Municipal Utilities Department, said that he was speaking on behalf of Gary Phelps of the City of Redlands, and also acting as proxy for Gary North from the City of Riverside Public Utilities, in protesting the groundwater charge. He said they believed there was no basis for the charge and there had been no presentation of the EI at the Upper Santa Ana Resources Association meeting; therefore the groundwater charge should not be adopted at this time. Mr. Cosgrove explained that the EI had actually been presented twice. A brief discussion ensued. After discussion, President Tubbs closed the Public Hearing at 2:15 p.m.

3. ADOPT RESOLUTION NO. 429 ESTABLISHING 2007-2008 GROUNDWATER CHARGE

It was moved by Director Day and seconded by Director McDonald to adopt Resolution No. 429, establishing the groundwater charge for FY 2007-2008 at \$6.65 per acre-foot for non-agricultural use and \$1.85 per acre-foot for agricultural use. The motion carried 6-0, with Directors Tubbs, Aranda, Day, McDonald, Corneille, and Douglas voting aye, and Director Wright excused due to a possible conflict of interest.

4. BOARD DISCUSSION ITEMS

Director McDonald reported attending board meetings, board committee meetings, and special districts. She noted that she would be meeting with Stacy Alstadt of the City of San Bernardino Water Department.

Vice President Aranda reported that he attended the board meetings and board committee meetings. He noted that on May 24 there would be a court hearing regarding the District's request for a change of venue in the LAFCO case.

5. APPROVAL OF THE MINUTES

It was moved by Director Corneille and seconded by Vice President Aranda to approve the minutes from the Public Meeting/Regular Meeting of April 4, 2007 and the Special Meeting of April 12, 2007. The motion carried unanimously.

6. BOARD COMMITTEE REPORTS

Mr. Libeu reported that the Outreach Committee, the Administrative Committee, and the Resources Committee all met separately during the month to discuss the proposed FY 2007-2008 budget, culminating in the Board budget workshop on April 26, 2007.

7. GENERAL MANAGER'S REPORT

Mr. Libeu summarized his General Manager's report. Regarding the June 6 Board meeting, two Board members advised that they would be out of town for that meeting, and requested a change of the date for the meeting. As this item was not on the agenda, a motion was required to add to the agenda a request for a Board meeting date change.

It was moved by Director McDonald and seconded by Director Douglas to include an addition to the agenda, requesting a date change for the June 6, 2007 Board meeting. The motion carried unanimously.

Discussion ensued, and the new date for the June meeting was set for May 30, 2007, at 1:30 p.m. at District Headquarters.

8. OPERATIONS AND MAINTENANCE REPORT

Mr. Libeu summarized the Operations and Maintenance report, and distributed the daily flow report.

9. WASH PLAN UPDATE

Mr. Cosgrove advised the Board that there had been some problems with LSA Associates, Inc., the consultant for the Wash Plan. A new Project Manager, Paul Kiehold, had been assigned to the Wash Plan. Mr. Kiehold and Mr. Cavender were working towards resolving these problems.

10. CONSENT CALENDAR

As the financial reports were through April 27, 2007 the Board decided to table this item until the May 30 meeting.

It was moved by Director Day and seconded by Director McDonald to table the approval of the Consent Calendar for the month of April, 2007 until the May 30, 2007 Board meeting. The motion carried unanimously.

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

A. Upcoming Meetings

The upcoming meetings for the month of May were briefly discussed.

12. CLOSED SESSION

It was moved by Director McDonald and seconded by Vice President Aranda to adjourn to Closed Session, at 3:00 p.m., as provided by the authority of Government Code Section 54957 and 54957.6, to consider public employee items: review the performance and contract of General Manager, and potential appointment of a new position. The motion carried unanimously.

At 4:30 p.m., the meeting reconvened into Open Session. Mr. Cosgrove reported that during Closed Session, pursuant to Government Code section 54957.1, the Board approved by a unanimous vote of the Directors in attendance the terms of a Separation Agreement with Mr. Larry Libeu, and to the appointment of Mr. Tim Clark as Acting General Manager, on the same terms and conditions of Mr. Clark's current terms of employment with the District.

13. ADJOURN MEETING

At 4:35 p.m., the meeting adjourned to the Regular Board Meeting scheduled for **Wednesday, May 30, 2007**, at District Headquarters, 1630 W Redlands Blvd., Suite A, Redlands, CA at 1:30 p.m.

Board Secretary