

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
PUBLIC HEARING ON GROUNDWATER and BOARD OF DIRECTORS MEETING

MINUTES OF April 22, 2015
1:30 P.M.

President Corneille 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 Corneille.

ROLL CALL:

BOARD MEMBERS PRESENT:

Richard Corneille, President
Melody McDonald, Vice President
David E. Raley, Director
Manuel Aranda, Director

BOARD MEMBERS ABSENT:

John Longville, Director

GENERAL COUNSEL PRESENT:

David Cosgrove, Rutan & Tucker, LLP

STAFF PRESENT:

Daniel Cozad, General Manager
Athena Monge, Administrative Services Specialist
Jeff Beehler, Land Resource Manager

GUESTS PRESENT:

Charles Roberts, Highland Community News
Shane Sibbett, EVMWD/Meeks & Daley

Director Longville contacted staff and requested that his absence from today's meetings be excused.

1. PUBLIC PARTICIPATION

President Corneille 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 or deletions.

3. PUBLIC HEARING RELATED TO ADOPTION OF GROUNDWATER CHARGE

President Corneille opened the Public Hearing on the District's Groundwater Charge for comment. Hearing no public comment, President Corneille requested staff present any comments provided by mail. Staff indicated no comments have been received, and based on this President Corneille closed the Public Hearing. President Corneille requested that District Counsel, David Cosgrove review the substantive changes from previous year's groundwater resolution. Mr. Cosgrove made reference to the following substantive changes in Resolution No. 520:

- Section 4 paragraph one: Reference to recent case law making the allowance for non-agricultural water users to pay three times more than agricultural constitutional per *City of San Buenaventura v. United Water Conservation District* has been added. This does not violate the Article XIII C & D requirements that the cost of the rate not exceed the cost of the service. The charge is based on use. Mr. Cosgrove noted that a petition to the Supreme Court on the appeals court opinion has not been filed yet, but may be in the near future.
- Section 4 paragraph two: Notes the need for the current groundwater charge to remain in place until the Groundwater Sustainability Council develops a funding mechanism. In the event the groundwater charge is found to be replaced by funding provided via GSC this issue will be revisited.
- Section 5 (A): References case law indicating that the groundwater charge is not a "property related" charge and that by its standards does not violate Prop 218 *Great Oaks Water Company v. Santa Clara Valley Water District* and *San Buenaventura v. United Water Conservation District*.
- Section 5 (E) (5): Notes that the District utilizes the groundwater revenue to obtain various environmental permits and related permissions to be able to continue operations and maintenance of its facilities.

Vice President McDonald noted that she attended Orange County Water District's hearing and that their agricultural water rate is currently at \$161 per acre foot and their urban charge is double that amount. Mr. Cozad indicated that Orange County is a Special Act District created by the legislature, not under water conservation district law. She thanked Mr. Cosgrove for his thoroughness on the update. Mr. Cozad provided a handout spreadsheet showing an estimate of the groundwater charge if the Governor's Executive Order for statewide 25% reduction were fully implemented. He indicated that if implemented in the way that the State Board states in its draft regulations released Saturday the District's revenue may potentially decrease by as much as \$197,532. He indicated that the District would still have adequate reserves and revenue to still propose no increase of the groundwater charge for 2015-2016. Mr. Cozad said that the implementation of the Governor's Executive Order will be watched closely and staff will bring back any updates received that would affect its previous analysis.

It was moved by Vice President McDonald seconded by Director Aranda to approve Resolution No. 520 related to the Groundwater Charge for 2015-2016 where no increase will be implemented for that period. The motion carried by roll call vote of 4-0 with all directors

present voting in the affirmative and Director Longville noted absent from the vote.

**President Corneille: Yes
Vice President McDonald: Yes
Director Longville: Absent
Director Raley: Yes
Director Aranda: Yes**

4. CONSENT CALENDAR

It was moved by Director Aranda and seconded by Vice President McDonald to approve Consent Calendar Item A-Board Minutes, April 8, 2015. The motion carried 4-0 with all directors present voting in the affirmative and Director Longville noted absent from the vote.

**President Corneille: Yes
Vice President McDonald: Yes
Director Longville: Absent
Director Raley: Yes
Director Aranda: Yes**

5. ACTION ITEMS

A. THIRD QUARTER FINANCIALS FOR 2014-2015

Vice President McDonald introduced this item for discussion. Mr. Cozad noted that the Third Quarter Financials for 2014-2015 are included beginning on package page 16. The District ended the quarter at \$111,585.83 over budget in revenue; this is due to an increase in groundwater pumping and aggregate management. Mr. Cozad said that expenses are under budget in most areas. He stated that some of the capital Wash Plan expenditures have not been expensed because they are not completed; the Wash Plan will likely be expensed next quarter.

It was moved by Vice President McDonald and seconded by Director Aranda to receive and file the Third Quarter Unaudited Financials for 2014-2015. The motion carried with all directors present voting in the affirmative and Director Longville noted absent from the vote.

**President Corneille: Yes
Vice President McDonald: Yes
Director Longville: Absent
Director Raley: Yes
Director Aranda: Yes**

B. RESERVE POLICY REVISIONS AND TARGET LEVELS

Vice President McDonald introduced this item for discussion. She noted that the Finance & Administration Committee reviewed these on April 15th. There were minor revisions to the Reserve Policy with the addition of clarifying language beginning on package page 21.

“Additionally, specific projects (such as the Wash Plan and Plunge Creek) will have project funding that must be illustrated in the District Annual Budget, but is not received or expended with regard for fiscal year. Planned spending of these project funds will be identified in the budget to the extent possible and will be subject to the segregation requirements of the Reserve Policy, but are not technically reserves for other purposes.”

Mr. Cozad indicated that these revisions are in response to a question from the Board as to how we label reserves. The revisions clarify several issues. Additionally, staff recommended that compensated absences be specifically called out as a separate reserve rather than co-mingled with General Fund Reserves as they currently are. Compensated absences consist of earned time off such as sick and vacation time hours that are unpaid; they are currently listed in the annual audit. Also, the word endowment has been added to clarify the Habitat Management Reserve/Trust as intended to fund the Wash Plan. Mr. Cozad also said that CalPERS will be releasing the GASB unfunded liability reports soon and this will be brought back to the Board with a recommendation to segregate reserves or and possibly pay in full. On page 24, the target levels are included. Many of the reserves are now fully funded.

It was moved by Director Aranda and seconded by Vice President McDonald to approve the revisions to the Reserve Policy and Target Levels. The motion carried with all directors present voting in the affirmative and Director Longville noted absent from the vote.

**President Corneille: Yes
Vice President McDonald: Yes
Director Longville: Absent
Director Raley: Yes
Director Aranda: Yes**

C. ANNUAL DISCLOSURE OF REIMBURSEMENTS FOR 2013-2014

It was moved by Vice President McDonald and seconded by Director Aranda to receive and file the Annual Disclosure of Reimbursements for 2013-2014. The motion carried with all directors present voting in the affirmative and Director Longville noted absent from the vote.

**President Corneille: Yes
Vice President McDonald: Yes
Director Longville: Absent
Director Raley: Yes
Director Aranda: Yes**

D. AD HOC COMMITTEE APPOINTMENTS

President Corneille appointed himself and Vice President McDonald to the Ad Hoc Committee for the General Manager's Evaluation, noting it appropriate for the two officers of the Board to be on this Committee. He also appointed himself and Director Raley to the Ad Hoc Audit Committee after he asked the Board if anyone else was interested in sitting on that Committee.

6. INFORMATION ITEMS

A. BOARD COMMITTEE REPORTS

There were none discussed.

B. GENERAL MANAGER'S REPORT

Mr. Cozad provided a handout on the April 18th Highland Trails Day. He noted that to date the District has recharged 3228 AF. Mr. Cozad stated that the District received an offer from the contractor who worked on EBX to sell the District a scale. Since the contractor currently owes the District approximately \$40,000; the District believes they can obtain it at a discounted rate. Staff will bring back an agreement for review if the Board supports the concept. Director Aranda asked if we had a need for the scale. Mr. Cozad stated that the District is currently paid a royalty per tonnage for aggregate but that it is estimated by volume. If we obtained a scale the District would be able to weigh aggregate and more easily monitor mining activity and potentially use it as an auditing tool. The scale is currently located in Mill Creek. Mr. Cozad said that it is a 70 foot long scale similar to those they have at local landfills. Vice President McDonald asked if there was an appraisal process or how we know the cost. Mr. Cozad asked the manufacturer located in Fontana for comparable costs and new costs; which range from \$40,000-60,000. Director Raley asked if there were recurring costs. Mr. Cozad said there may be minor maintenance costs, but the cost for certification will need to be done every few years. The costs would be covered by whoever is utilizing it. It would be a few thousand at most. Director Raley spoke in opposition of obtaining the scale as there are other options including using public scales. Brief discussion ensued. President Corneille also indicated he opposed acquiring the scale without additional analysis. Director Aranda spoke in support of obtaining the scale. While some were opposed and some in support the Board indicated to the General Manager that they needed additional information and procurement documentation to consider such a purchase.

C. WELL IMPACTS DUE TO DROUGHT STUDY

Mr. Cozad verified with BTAC Engineering Committee chair that the study is not completed yet. There are three entities that have not submitted their data.

D. GOVERNOR'S EXECUTIVE ORDER

Mr. Cozad presented a PowerPoint presentation and overview. Some of the general issues outlined are: 25% reduction from 2013, 3 month average used, local rates will vary inland areas up to 35%, SWRCB Developing Emergency Regulations, Effective on or around May 5th. Draft regulations were released on April 18th. He reviewed in detail the regulations pertaining to our region and producers such as:

- Groundwater Sustainability Counsel and CASGEM – requirement that anyone not complying with CASGEM has to immediately begin reporting.
- iEfficient ongoing and to ramp up – There will be specific outreach efforts regarding these regulations set to ramp up in July 2015.
- District to provide notice to GW producers – The District mailed out a notice to its producers on April 20th advising them of the regulations and how they may pertain to them.

President Corneille requested that a copy of the notice the District sent out be given to the Board along with the letters that BTAC sent to the State Board on the regulations as well. Discussion ensued regarding regulations. Mr. Cozad said that public water systems implement the regulations. The District's action was to make our non-municipal producers aware of these regulations and how they could potentially affect them. There will be changes made to the Mentone House to fall in line with these regulations. One of them will be turf removal since the Mentone House sits on about ¾ of an acre of property; most of which is now grass. Additionally, Redlands Plaza should be recognized as reducing outdoor water by over 60% due to the changes in landscaping. An update will be brought forward as these regulations are implemented.

E. FUTURE AGENDA ITEMS & STAFF TASKS

None were discussed.

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

Director Raley attended the State of the County, Finance & Administration Committee meeting and Highland Trails Day.

Director Aranda attended the State of the County and ASBCSD Dinner Meeting.

Vice President McDonald attended the ASBCSD Dinner at Hilton Garden Inn, SBVMWD Board Meeting,

President Corneille attended the Highland Trails Day and setup and manned a booth with Wash Plan and District information. He also attended the monthly MACA meeting. He attended the SBVMWD Board meeting where he presented the Advisory Commission's recommendation on their support of the GSC.

8. UPCOMING MEETINGS

President Corneille requested to be registered for the upcoming HACC State of the Community Luncheon.

9. CLOSED SESSION

It was moved by Director Aranda and seconded by Vice President to adjourn to Closed Session. The motion carried with all directors present voting in the affirmative and Director Longville noted absent from the vote.

**President Corneille: Yes
Vice President McDonald: Yes
Director Longville: Absent
Director Raley: Yes
Director Aranda: Yes**

General Counsel announced that the meeting will adjourn to closed session under all items posted on the published agenda.

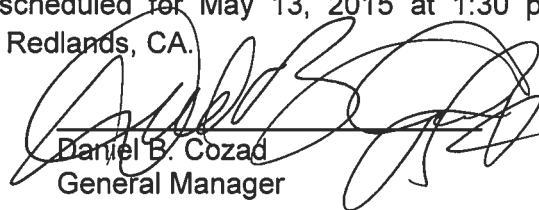
At 2:50 p.m., the meeting reconvened into Open Session. Mr. Cosgrove noted while in Closed Session under Government Code section 54957.1 that the decision of the CEMEX arbitration was delivered and that the fair market royalty rate has been identified at ninety cents per ton.

10. ADJOURN MEETING

It was moved by Director Aranda and seconded by Vice President McDonald to adjourn. The motion carried with all directors present voting in the affirmative and Director Longville noted absent from the vote.

**President Corneille: Yes
Vice President McDonald: Yes
Director Longville: Absent
Director Raley: Yes
Director Aranda: Yes**

At 2:55 p.m. the meeting adjourned to the Board Workshop immediately following this meeting and the next regular Board Meeting scheduled for May 13, 2015 at 1:30 p.m. at District Headquarters, 1630 W. Redlands Blvd., Redlands, CA.


Daniel B. Cozad
General Manager