

Borrego Springs Watermaster Board
MINUTES
Special Meeting
May 28, 2020 @ 5:30 p.m.
Borrego Water District:
806 Palm Canyon Drive, Borrego Springs, CA 92004

I. OPENING PROCEDURES

- a. Call to Order: Borrego Water District General Manager Geoff Poole called the meeting to order at 5:30 p.m.
- b. Pledge of Allegiance: Those present stood for the Pledge of Allegiance.
- c. Roll Call: Directors: Present: Dave Duncan, Mark Jorgensen, Mike Seley, Shannon Smith
- Staff: Geoff Poole, BWD
 Russell McGlothlin, O’Melveny
 Esmeralda Garcia, BWD
 Wendy Quinn, Recording Secretary
- Public: Cathy Milkey, Rams Hill Bruce Mortazavi
 Martha Deichler, BSUSD Rich Pinel
 Wesley Miliband, AALRR Rebecca Falk
- d. Approval of Agenda: *MSC: Duncan/Jorgensen approving the Agenda as written. The roll call vote was unanimous.*
- e. Approval of Minutes: April 16, 2020. *MSC: Smith/Seley approving the Minutes of April 16, 2020 as amended (add a fourth sentence to Item III.B, last paragraph, “However, the attorneys do have to avoid sequential communication with multiple Board members that would constitute a violation of the Brown Act”).*
- f. Comments from the Public on Items not on the Agenda: Martha Deichler requested a future Agenda item, guidance from legal counsel on how Alternate Directors relate to the Brown Act.
- g. Comments from Directors: None
- h. Correspondence Received from the Public: None

II. ITEMS FOR BOARD CONSIDERATION AND POSSIBLE ACTION

- a. Confirmation of List of Responsive Firms for Executive Director/Technical Consultant: Mr. Poole reported that the deadline for Executive Director/Technical Consultant applicants was May 14. Four firms responded within the deadline, and they were included in the Board package. Staff is reviewing them.
- b. Selection of Legal Counsel, Executive Director/Technical Consultant: Next Steps: Mr. Poole invited the Board’s attention to Board package pages 8 and 9, outlining a proposed procedure for selection of Legal Counsel and Executive Director/Technical Consultant. Further discussion is scheduled for closed session today, including creation of a short list of Legal Counsel candidates who will be invited for interviews on June 11. ED/TC interviews will take place two weeks later. Rebecca Falk asked whether candidates would be available for questions from the public, and Director Smith replied that questions from the public could be submitted to the WMB, but a public question and answer session was not planned. Wes Miliband of Atkinson Anderson Loya Ruud & Romo stated that he would welcome the opportunity to serve as the WMB Legal Counsel.
- c. Public Comments Received on the Alternative and Next Steps for the Stipulating Parties to Respond and Consider an Addendum: Russ McGlothlin reported on the comments received by DWR on the Stipulated Judgment. Flood Management was concerned about potential effects on the flood control infrastructure. The Plan notes that it has not been
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substantial, and it will be continually monitored. The California Department of Fish and Wildlife had concerns about safe yield under the Stipulated Judgment and penalties for those who over-pump. Provisions were included in the Stipulated Judgment, including enforcement by the Court and oversight by the TAC. Another concern was the effects on GDEs, and there are provisions to protect them in the Judgment. Rebecca Falk was concerned about the WMB parties' lawyers' communications, the draft external communications policy, and groundwater oversight by the State as a public resource. The Tubb Canyon Desert Conservancy thought the 20-year period to reach sustainability was too long, suggested improved metrics for water quality, and a structure for fallowing. The Borrego Springs Air Ranch, which is outside BWD's jurisdiction, commented on the State's designation as an unmanaged basin. Discussion is continuing among the pumpers and their attorneys.

Director Duncan noted that DWR had made it clear that they would only review issues related to SGMA. Ms. Falk pointed out that the WMB member representing the community does not have an attorney, while the other pumper groups do. She recommended establishing a budget to employ counsel.

d. Pending action by County of San Diego Supervisors re: Declining Board Seat: Mr. Poole reported that Jim Bennett called him two weeks ago to inform him that the Board of Supervisors would consider the County's participation as a member of the WMB on June 3. The Stipulation documents had contemplated a County representative as the fifth member, and there have been discussions among counsel for WMB members and County Counsel, assuring them that liability is not a factor or at least very limited. However, County staff is recommending that the County not participate as a member of the WMB, but attend meetings and perhaps participate on the Technical Advisory Committee. BWD is working on a letter to the Board of Supervisors expressing the District's desire to have the County participate on the WMB, but supporting their participation on the TAC or other role and welcoming help with well permitting and abandonment issues.

Mr. Poole pointed out that should the County opt out, the stipulating parties will need to discuss alternative governance systems and report back to the WMB. He added that Ben Mills of Supervisor Desmond's staff had expressed hope that BWD would support the County having a seat on the WMB. Discussion followed regarding possible endorsement of the BWD letter by the WMB, but there were concerns about the Brown Act. Mr. Poole suggested he share it with interested individuals, including the WMB members, and request comments. Director Smith requested an opportunity to review the letter and call a special WMB meeting if necessary. Mr. Poole will contact the WMB members after distribution of the letter to discuss endorsement and/or a special meeting.

e. Clarification of Request from May 15 WM Board Meeting re: Meter Installations: Director Duncan recommended establishing a system to track metering results, and insuring staff is available to read the meters. This should be the first order of business for the new ED/TC. There is also a provision in the Stipulation about third party verification, which needs to be implemented. Director Smith asked the Board members to review the Stipulation to refresh their understanding prior to the next meeting, and place it on the Agenda.

III. STAFF REPORT

- A.** Financial Reports: None
- B.** Water Use Reports: None
- C.** Executive Director's Report: None

IV. CLOSED SESSION: PUBLIC EMPLOYEE APPOINTMENT: Appointment of Watermaster Legal Counsel (LC) pursuant to subdivision (b)(1) of Government Code Section 54957.

V. CLOSED SESSION: PUBIC EMPLOYEE APPOINTMENT: Appointment of Watermaster Technical Consultant/Executive Director pursuant to subdivision (b)(1) of Government Code Section 54957.

The Board adjourned to closed session at 6:35 p.m. Thereafter, the open session was reconvened. There was no reportable action.

VI. CLOSING PROCEDURE

The next Board Meeting has yet to be scheduled at Borrego Water District, 806 Palm Canyon Drive, Borrego Springs, CA 92004. There being no further business, the meeting was adjourned.