



BIGHORN-DESERT VIEW WATER AGENCY

"To provide a high quality supply of water and reliable service to all customers at a fair and reasonable rate."

BOARD OF DIRECTORS' MEETING MINUTES

**BOARD MEETING OFFICE
1720 N. CHEROKEE TR.
LANDERS, CALIFORNIA 92285**

**May 11, 2021
Time – 6:00 P.M.**

**PUBLIC AND BOARD WISHING TO PARTICIPATE REMOTELY
TELECONFERENCE LINE THRU ZOOM 669-900-6833**

OR

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/88504867336?pwd=MCswcTEwUDM2czR3U2U3R0JTV1p5Zz09>

Passcode: 611345

Or Dial:

1-669-900-6833

Webinar ID: 885 0486 7336

Passcode: 611345

Please note that all requirements of the Brown Act requiring the physical presence of the board or staff have been waived per Executive Order N-29-20

CALL TO ORDER

Meeting convened by President Burkhart at 6:00 pm

PLEDGE OF ALLEGIANCE

Led by Sharon Conkle

ROLL CALL

Directors present:

John R. Burkhart

Michael McBride

JoMarie McKenzie

Megan Close-Dees

Craig Dicht

Staff present:

Marina West

James Owens, PE – NV5 (Consultant)

Mark Murphy, RG, PhD – NV5 (Consultant)

Paul Fuller, CPUC – Allied Public Risk, LLC (JPRIMA)

Public Present: 3 member(s) of the public indicated they were participating via teleconference and 3 members of the public were present in the meeting room.

APPROVAL OF AGENDA

McBride made a motion to approve the agenda as presented. McKenzie seconded the motion. Unanimously approved.

Discussion and Action Items -

1. Consideration of Adoption of a Mitigated Negative Declaration (MND) Pertaining to the Potable Water System Improvements and Consolidation of Water Systems for the Bighorn-Desert View Water Agency

GM West gave the staff report as provided in the agenda packet. The Mitigated Negative Declaration draft document was circulated in February 2021. Public Workshops were held in March and April 2021. As of the start of this meeting, staff is not aware of any public comments being submitted to the Agency. GM West stated that the action before the Board tonight is to accept any public comments and then to take action to either adopt or decline to adopt the Resolution.

GM West introduced Mr. James Owens, PE, of NV5 who is managing the planning grant process on behalf of the Agency so that any questions from the Board could be addressed.

Motion No. 21-025

Vice President McBride made a motion to adopt the Mitigated Negative Declaration (MND) pertaining to the Potable Water System Improvements and Consolidation of Water Systems (SCH 2021020354). Director Dicht seconded the motion.

Public Comment: None

McBride	Y
Burkhart	Y
McKenzie	Y
Close-Dees	Y
Dicht	Y

MSC¹ (McBride/Dicht) unanimously approved.

2. Fiscal Year 2021/22 Property and Casualty Insurance and Workers' Compensation Insurance Program: Recommendation to Join CalMutuals /JPRIMA-Allied Risk; and to Join CalMutuals as a condition of JPRIMA; and engage Liebert Cassidy Whitmore as Special Counsel to the Agency on Personnel/Human Resource Matters; and to Notify Special Districts Risk Management Authority of the Intent to Withdraw from Coverage Effective July 1, 2021

GM West gave the staff report as provided in the agenda packet. She noted that the Finance Committee held two meetings regarding staff's recommendation to consider an alternative insurance package. GM West stated she believes that all outstanding questions

asked prior to the meeting tonight have been answered. She further stated it was her understanding that the Finance Committee is moving this recommendation to the full Board for consideration and approval.

GM West introduced Mr. Paul Fuller, Allied Public Risk, LLC to answer any further questions of the Board.

Director Dicht's commented on the subject and noted his questions have been answered. He asked for a summary of what JPRIMA is and what the Agency is signing up for. Mr. Fuller gave a brief overview of JPRIMA and the policy noting that Allied Risk is focused on water and wastewater entities only. He further discussed the LCW relationship strategy. Finally, the policy also reflects an increase in liability to \$5M from \$2.5M.

Motion No. 21-026

Vice President McBride made a motion to join CalMutuals /JPRIMA-Allied Risk; and to Join CalMutuals as a condition of JPRIMA; and engage Liebert Cassidy Whitmore as Special Counsel to the Agency on Personnel/Human Resource Matters; and to Notify Special Districts Risk Management Authority of the Intent to Withdraw from Coverage Effective July 1, 2021. Secretary McKenzie seconded the motion.

Public Comment: None

McBride	Y
Burkhart	Y
McKenzie	Y
Close-Dees	Y
Dicht	Y

MSC¹ (McBride/McKenzie) unanimously approved.

3. Resolution No. 21R-10 Rescinding Resolution No. 21R-01 and Adopting an Increased Basic Facilities Charge (Water Capital Fee) for Water Meters Size ¾-inch to 10-inch

GM West gave the staff report as outlined in the agenda packet. She apologized for the oversight in timing of the implementation and was certainly surprised as the execution of the charge has never been challenged before now. She reported that anyone who purchased a meter prior to the 60-day wait period has received a refund. In addition, any person who submitted a written request to obtain a meter, subsequent to the passage of the resolution and prior to the 60-day waiting periods conclusion, were contacted and informed of the matter coming before the Board tonight.

Vice President McBride asked when the new resolution would be effective. GM West stated it would be effective July 12, 2021. Director McKenzie asked about the flow through a larger meter.

Motion No. 21-027

Secretary McKenzie made a motion to adopt Resolution No. 21R-10 Rescinding Resolution No. 21R-01 and adopting an increased Basic Facilities Charge (Water Capital Fee) for water meter size ¾-inch to 10-inch. Vice President McBride seconded the motion.

Public Comment: A member of the public asked about the size of meters purchased and about larger meters.

McBride	Y
Burkhart	Y
McKenzie	Y
Close-Dees	Y
Dicht	Y

MSC¹ (McKenzie/McBride) unanimously approved.

4. Resolution No. 21R-11 Application by the Board of Directors of the Bighorn-Desert View Water Agency Requesting the Local Agency Formation Commission to Initiate Proceedings for the Annexation of Assessor Parcel Number 0631-051-28 (550 Landers Lane, Landers, CA) to the Bighorn-Desert View Water Agency

GM West gave the staff report as provided in the agenda packet and a PowerPoint presentation identifying the location of the property. She noted that Ms. Tsaconas is present via Zoom should the Board have any questions.

Motion No. 21-028

Vice President McBride made a motion to adopt Resolution No. 21R-11 application by the Board of Directors of the Bighorn-Desert View Water Agency requesting the Local Agency Formation Commission to initiate proceedings for the annexation for assessor parcel number 0631-051-28 (550 Landers Lane, Landers, CA) to the Bighorn-Desert View Water Agency. Secretary McKenzie seconded the motion.

Public Comment: None

Director McKenzie thought it is a good idea to add a customer. Director Close-Dees inquired about bulk water hauling.

Ms. Tsaconas asked about getting the lower meter cost as well as other questions on the process. GM West responded that the annexation would not be completed in 60-days and that being from outside the Agency boundaries the “new” rate is actually the correct fee for a property that has never paid anything to the Agency throughout its history.

McBride	Y
Burkhart	Y
McKenzie	Y

Close-Dees Y
Dicht Y

MSC¹ (McBride/McKenzie) unanimously approved.

5. Formation of an Ad Hoc Committee to Review Water Consumption Trends Following Adoption of New Customer Classifications and Consumption Tiers in Accordance with Resolution No. 20R-08 Policy for Establishing Standing Committees, Other Appointments and Authorizing Creation of Ad Hoc Committees

GM West requested the Board form an Ad Hoc Committee for the purposes of reviewing water consumption trends following the adoption of the new rate and fee structure and to investigate any matters that are related to water consumption trends.

President Burkhart asked if Director Dicht's and Director Close-Dees would be willing to participate.

Motion No. 21-029

Vice President McBride made a motion to adopt the formation of an Ad Hoc Committee on Water Consumption Trends and Issues Related Thereto and to appoint Directors Dicht and Director Close-Dees to that Ad Hoc Committee. Secretary McKenzie seconded the motion.

Public Comment:

A member of the public asked questions about the Ad Hoc Committee's charge and public engagement. He, Erik Sundstrom, also volunteered to participate should the time come.

McBride Y
Burkhart Y
McKenzie Y
Close-Dees Y
Dicht Y

MSC¹ (McBride/McKenzie) unanimously approved.

President Burkhart adjourned to break at 6:50 pm – Meeting resumed at 6:57 pm

6. Board to Discuss: The Brown Act and the Perils of Electronic Communication – Information and Discussion Purposes Only

GM West gave a PowerPoint presentation summarizing the article, *The Brown Act and the Perils of Electronic Communication*, which was included in the agenda packet. She noted this item was requested by a member of the Board so that all could discuss whether or not additional policy on E-Communications / Social Media communications is warranted. GM West noted that general counsel provided this article for review as he was unable to attend

tonight. Lastly, she noted that if the Board wants further discussion then a special meeting/workshop can be scheduled in order to enable general counsel to attend.

GM West then showed a YouTube.com presentation by an attorney from Atkinson, Andelson, Loya, Ruud & Romo (AALRR) on AB 992 Mullin. Open meetings: local agencies: social media.

Directors discussed the matter amongst themselves.

Public Comment:

Mr. Sundstrom asked for clarification on the policy on communications with the members of the Board outside the agenda meeting.

No Action Required: Information and discussion purposes only.

7. Consent Items –

- a. Regular Board Meeting Minutes for April 13, 2021
- b. Receive and File PLEGS Committee Meeting Minutes for February 16, 2021
- c. Receive and File FPREP Committee Meeting Minutes for March 17, 2021
- d. Financial Statements April 2021
 - 1. Balance Sheet
 - 2. Budget Sheet
- e. Receive and File Disbursements for April 2021
- f. Quarterly Investment Report for the period ending March 31, 2021 (Q1)
- g. Service Order Report for April 2021
- h. BDV Production Report for April 2021
- i. Goat Mountain Production Report for April 2021
- j. Authorize Director Attendance to BIA 2021 Southern California Water Conference, August 12, 2021 at an Estimated Cost Not to Exceed \$390 per Director
- k. Authorize Filing a CEQA Notice of Determination for the Potable Water System Improvements and Consolidation of Water Systems Project (SCH No. 2021020354) and Payment of CA Department of Fish and Wildlife filing fee (\$2,480.25)

Recommended Action:

Approve as presented (Item a-k):

Motion No. 21-030

Vice President McBride made a motion to adopt the consent calendar. Director Dicht seconded the motion.

Public Comment: none

McBride	Y
Burkhart	Y

McKenzie Y
Close-Dees Y
Dicht Y

MSC¹ (McBride/Dicht) unanimously approved.

8. Matters Removed from Consent Items

None.

9. Public Comment Period

An anonymous member of the public asked about water supply from Big Bear, CA.

Mr. Sundstrom commented on "illegal" pot farms and water supply. He wants to know how the Bighorn-Desert View Water Agency can support law enforcement in this efforts. Provide water and then look the other way. He mentioned the Sheriff and those things that are in the purview of the water company. He mentioned the bust from last week. Can water be suspended/cut-off from these parcels, they have violated state and county laws. Is it unreasonable for the public to think the water agency can assist law enforcement and cut off water to these accounts. I have done some research and we do have "good cause" rights to cut service. What is good cause? An illegal business something that is totally illegal.

Ms. Burkhart commented that she understands the gentlemen's concerns and anxieties about it however the Agency cannot be involved in law enforcement and there are state laws that require the service to be provided. The Board can have a request from people who don't pay bills and the agency still has to provide water. The Agency has no legal means to deal with it. It is the sheriff's job and we don't have enough law enforcement to go around.

Mr. Sundstrom responded that he knows the Board is not a law enforcement agency. What can be reasonably done to support law enforcement. What type of unintended consequences when we believe we are doing something right? Little insane to provide water and then the sheriff's bust them and water stays on. Maybe look to other agencies to see what they are doing.

Director McKenzie asked that once the sheriff has raided a property it was because they were doing something illegal.

President Burkhart stated that each time a search warrant is needed and that time and research is way beyond our resources.

An anonymous member of the pubic commented on the carbofuran being brought in from Mexico and it is deadly.

10. Verbal Reports - Including Reports on Courses/Conferences/Meetings.

1. General Manager Report – Reported on the focused preventative maintenance the Operations Crew is executing including valve maintenance and fire hydrant maintenance in addition to regular duties. She also noted that the administrative staff is preparing for the new billing rates and pre-audit with the full audit scheduled for August 1, 2021.

GM West reviewed portions of a memo sent by Assy. Smith to Assy. Ting – Assembly Budget Committee asking for additional funding to County of San Bernardino Marijuana Enforcement Team in the amount of \$978,000.

2. Director Reports
Director Dicht's reported on the Anti-Harassment training he recently completed via Target Solutions.

11. Adjournment

President Burkhart adjourned the meeting at 7:52 pm.

Approved by:



JoMarie McKenzie, Secretary of the Board

MSC¹ – Motion made, seconded and carried



Official Seal