



BIGHORN-DESERT VIEW WATER AGENCY  
**BOARD OF DIRECTORS'  
SPECIAL MEETING MINUTES**

**BOARD MEETING OFFICE  
1720 N. CHEROKEE TRAIL  
LANDERS, CA 92285**

**JUNE 23, 2009  
TUESDAY  
3:00 PM**

• **CALL TO ORDER**

Meeting convened by Board President Corl-Lorono at 3:11 P.M.

• **PLEDGE OF ALLEGIANCE**

Led by Director Burkhart

• **ROLL CALL**

Directors Present: Judy Corl-Lorono, President  
Michael McBride, Vice President  
Terry Burkhart, Director  
Duane Lisiewski, Director  
Warren Strodel, Director

Staff Present: Marina West, General Manager  
Joanne Keiter, Board Secretary

Public Present: Approximately 13 members

• **APPROVAL OF AGENDA - MSC Burkhart/Strodel - 5 ayes**

**1. PUBLIC PARTICIPATION-** Any person may address the Board on any matter within the District's jurisdiction on items not appearing on this agenda.

- Linda Dossey - Questioned advalorem tax and commented that it had been "voted out".
- *GM West responded - that there has always been an advalorem tax. Annually, the Board votes to set the rate. That item is being discussed on tonight's agenda... not the "standby assessment" that Mrs. Dossey was describing. Furthermore, "tonight's item under consideration was simply a review by our General Counsel of the voter-approved bond language. Tonight, no vote was being held; that would take place at the Special Board meeting on Thursday night".*
- Paul Dossey - Also wanted to comment on the advalorem issue.
- *Director Corl-Lorono - Described the purpose of the Public Participation (section of the meeting) was to address items **not** on tonight's agenda.*

- *A discussion continued (with comments made by Director Lisiewski and others) to clarify what could be discussed during "public comment" and what should be held until the agenda item was under consideration by the Board when it could then be opened for public comment by the Board President.*
- *Paul Dossey - Mentioned on a "piece of paper" that showed a "surplus of money" and he questioned where the money was.*
- *Director Corl-Lorono - Commented "since she had no copy of this piece of paper, she couldn't respond, but offered to review it, if Mr. Dossey would bring this information to her on behalf of the Board after the meeting".*
- *Gerry Kay - Suggested GM West should consider layoffs and reducing staff salaries, including her \$100,000.00 salary, before asking the ratepayers, already on fixed incomes, to pay more for water.*

*Director Corl-Lorono asked for additional comments and hearing NONE, thanked everyone and closed the section.*

## **2. DISCUSSION AND ACTION ITEMS -**

### **a. RESOLUTION 09R-10 - A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BIGHORN-DESERT VIEW WATER AGENCY APPROVING THE APPOINTMENT OF BOARD SECRETARY**

***Director McBride motioned to approve appointment of Joanne L Keiter as Board Secretary, effective June 23, 2009; seconded by Director Strodel.***

*Board Discussion of Item 2a: Director McBride - "this is the person recommended by our Agency's General Manager; I'm not going to tell Ms. West who she should work with. Then added he felt she (referencing Mrs. Keiter) would be a fine secretary."*

*Director Lisiewski - Questioned the appropriateness of appointing a new Board Secretary to perform duties (described as Executive Secretary/Personnel Administration Class Description in the updated version of the Agency Employee Handbook, adopted by Resolution 09R-08), which weren't in effect yet. He believed that since the Resolution hadn't been numbered or signed yet, the original Ordinance (which pertained to this Classification) was still in power and therefore, the Resolution (Handbook and Salary Ranges) was not.*

*Additional comments were made by Directors McBride and Burkhart regarding the need for a Board Secretary. General Counsel Logan agreed, but added, "he was not telling the Board what to do". General Manager West proposed delaying any Board action or simply modifying the pending motion before the Board.*

*Director Lisiewski said, "He wanted to have the motion changed to indicate separate obligations. He wanted this appointment to be for Board Secretary only, excluding all references to Executive Secretary/Personnel Administration".*

*Then, Director Corl-Lorono asked Director Lisiewski to restate the motion, proposing this modified action, as Director Lisiewski would like it to be recorded. Director Lisiewski then amended the motion, still pending before the Board, excluding any reference to the phrase "Executive Secretary/Personnel Administration".*

***Motion to approve appointment of Joanne L Keiter as Board Secretary only, effective June 23, 2009, excluding all references to the classification of Executive Secretary/Personnel Administration. Director Strodel again seconded.***

*The Board discussion continued with Director Burkhart and Corl-Lorono mentioning that the job classification of Executive Secretary/Personnel Administration was not even part of the Resolution under consideration by the Board. Director Lisiewski countered, "that since it was shown on the Agenda Item Submittal (coversheet to the Resolution), it was open for discussion". He did state that he had no qualms against Ms. Keiter being Board Secretary; he just wanted it clarified and to be a separate action".*

*Next Director Corl-Lorono asked if there was any more Board comment or discussion before the vote.*

*Director Corl-Lorono accepted a comment made from Jim Hanley in the audience: "Did Ms. Keiter have a previous relationship with General Manager West?"*

Director Corl-Lorono thanked him and asked for any more comments and hearing none, she called for the Board vote.

***Board approved - 5 ayes, motion carried***

**b. REVIEW OF VOTER-APPROVED BOND LANGUAGE, BOND DEBT OBLIGATIONS, AND OTHER ALTERNATIVE MEANS OF GENERATING NECESSARY REVENUES**

**NO BOARD ACTION TAKEN – DISCUSSION AND INFORMATION ONLY**

GM Marina West gave a brief overview and introduction of the Agency's General Counsel, Francis Logan, before his PowerPoint presentation began. She mentioned that he would be focusing on the two different types of "voter-approved" debt that the Agency had and the differences on how that revenue was raised. The existing advalorem tax was assessed to all of the Bighorn property owners; while from the Desert View properties, the Agency collected a surcharge (applicable to those that had a metered connection or water service). Additionally, Counsel Logan will talk about the Mojave Pipeline Debt Participation, differences between the obligations, terms, and definitions.

General Counsel Logan introduced his PowerPoint presentation by commenting, "That this was going to be a very technical discussion".

At the request of the Board and the General Manager, he was asked to assist with analyzing the Agency obligations, especially addressing the Board's concern on how to raise the revenue necessary to pay the total obligations, and to explain, in some detail, the policy choices that the Board must make. He asked the Board to consider the level of service that they want to provide for today and tomorrow.

Highlights of the Power Point Presentation:

- State Water Code Chapter 112, Section 25...(the basis for Board Resolution 174) cites  
"...The Board of Directors, so far as practicable, shall fix such rate or rates for water in Improvement District No. 1 as will result in revenues which will pay the operating expenses of the improvement district, provide for repairs and depreciation of works, provide a reasonable surplus for improvements, extensions, and enlargements, pay the interest on the bonded debt, and provide a sinking or other fund for the payment of the principal of such debt as it may become due. If the revenues of the improvement district will be inadequate for any cause to pay the expenses set forth above, the Agency must provide for the levy and collection of a tax sufficient to raise the amount of money determined by such Board of Directors to be necessary or the purpose of paying such charges and expenses as set forth above and the principal and the interest on the bonds as the same become due."

Legislature prefers to raise revenue from rates, but not limited to that, can also raise revenue from advalorem taxes.

- State Water Code Chapter 112, Section 26...(the basis for Board Resolution 304) gives the Agency the power or authority to provide for the levy of collection of taxes to raise the amount of money necessary to pay for repairs and maintenance, as well as all of the obligations of the Agency.

Legislature doesn't want the Board to run the Agency into the ground, so the Board must levy property taxes to raise the required revenue. Counsel Logan told the Board that they could decide to collect more than principal and interest. They have the legal "voter-approved" power.

- Historically, these propositions started back in the 1970's – predating Proposition 13, so they are exempt from the 1% cap. Voters allowed the District (then Bighorn Mountains) to collect principal and interest plus money to repair the waterworks.
- In 9 years, the bond will be paid in full; then the Board will lose the power to levy the special advalorem tax. The Board must make a policy decision to rebuild the reserve while they can.
- The Board can tell the County Assessor the amount of revenue needed and they will determine the rate to levy on all the properties.
- Desert View revenue has similarities but is structured differently. The voters allowed the Agency to borrow money (\$700,000.00) and gave them powers/authority to levy charges in order to maintain the system (build, maintain and operate) plus create a "water surplus fund".

- Bighorn ID1 collects revenue as a property tax, while Desert View collects revenue from fixed surcharge charges, not just ordinary rates and charges. Currently, the Board policy has not collected sufficient revenue to create this "water surplus fund". The Board needs to keep in mind, that when these bonds go away, the Agency will revert to raising revenue again from normal rates and charges only. The Board has the power to create new or increased surcharges, they're responsibility is to determine the appropriate level of reserves needed and to insure that the money is spent on repairs.
- Counsel does not advise depending solely on water consumption revenue to pay for ordinary operating costs of the Agency since either drought or conservation can decrease amounts collected.
- The Mojave Pipeline Debt Participation – Agency is “contracted” with Mojave Water Agency to pay a share (9% participation), which is paid with general revenues.

*Board Comments:*

- *Director Lisiewski – Believes Agency can only increase tax rates if there is not sufficient revenue to cover principal and interest payments.*
- *Counsel Logan – Resolution No. 174 states that the Board is not obliged to get all of the revenue from rates and fees; the Board can make a policy to use all the money for principal and interest or principal and interest, and improvements, repairs or refurbishment.*
- *Director Burkhart – Asked if there are any advantages of surcharges over taxes.*
- *Counsel Logan – The 1977 Board accepted a policy to tax landowners vs. surcharge ratepayers believing this to be a fair allocation. He believes that the Board intended to move the cost of repairs over time from the landowners to the ratepayers.*
- *Director Lisiewski – Commented that the Agency should not spend the revenues across the districts. He stressed that the budget should reflect clearly that the expenses are to be used within that district only.*
- *Counsel Logan – It’s key that the Agency demonstrates compliance with the bond language and that extra revenue be absorbed by the allocated costs in the specific Improvement District.*
- *General Manager West – Agency has always collected money through an accounting system. The structure is there, but possibly not clearly explained to the Board in the past. Predicting the rate for the advalorem tax will be determined on Thursday’s Special Board meeting when addressing the 2009-2010 Budget.*
- *Director Burkhart – Asked about Well 10 revenues.*
- *General Manager West – Bulk hauling is its own enterprise; the rate was set for consumption only.*
- *Director Lisiewski – Asked for a clarification about the term "levy".*
- *Counsel Logan – Explained that the tax is "levied" on the property by the County when directed by the Board. For example, if we ask for \$125, 900.00, the Assessors Office will determine the rate and levy that assessment on the landowners' property tax bill.*
- *Director Lisiewski - Concluded, "We give the total amount needed and the County does the division, right? I got it "*

*In summary, GM West stated that the Board had a policy decision to make. Over the past 10 years of audits that she's reviewed, there was never a profit reported, excepting 1 year. The Agency doesn't have a reasonable surplus and the \$20,000.00 that she's mentioned is not even 10%. The Board can choose to collect an additional \$20,000.00 within ID1 or decide not to do so, leaving the topic of increased rates and fees to be addressed at a later time. She mentioned that there's still a possibility that the State will take our reserves under the Proposition 1A language and that the Agency doesn't have that kind of money to survive. She suggests that the Board think ahead to 2010 - 2011 when adopting a policy.*

Director Corl-Lorono called for a break in the meeting @ 4:29 PM and reconvened @ 4:47 PM.

**c. RESOLUTION NO. 09R-11 - A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BIGHORN-DESERT VIEW WATER AGENCY INDICATING THAT THE SUSPENSION OF PROP.1A AND SUBSEQUENT SEIZURE OF GENERAL PROPERTY TAX REVENUES WILL CAUSE A SEVERE FINANCIAL HARDSHIP TO THE AGENCY**

***Director Burkhart motioned to adopt a resolution that identifies the severe fiscal hardship that will exist should additional local property tax revenues be seized and supplementary unfunded mandates be adopted by the State of California; motion seconded by Director Strodel.***

*Board discussion of Item 2c: Director Lisiewski questioned receiving lower revenues due to property devaluation.*

*General Manager West said that in May, the County predicted 15% reduction. Since then, the County Assessors have stated that BHDV Service area ID1 may be 25% to 30%. Regarding the Proposition 1A shift, 25% is the basis for this year's budget (HDWD budgeted 30%).*

*GM West conversations with the Assessor she learned that the Board doesn't have to set the rate, just determine the total amount needed and they'll set the rate for us. Director Lisiewski said losing the 1% is still on the table (Prop 1A) so he considers this budget still iffy.*

*GM West responded that because Special Districts can raise rates on their own it appears that the State could take all of our property tax revenue. The budget was based on conservative estimates since a formula and real information has yet to be provided.*

*Director McBride questioned how this action differed from the letters (that had already been sent to Assemblyman Paul Cook and others). General Manager West said that the letters that Director McBride was referring to were written and signed by her ; this would be a more formal notice from the Board adopting a Resolution would give a clearer indication of the Board's support. She further stated that this Resolution would then be sent to all those same addressees.*

Director Corl-Lorono asked if there were any comments or questions from the Board before the vote; hearing none, she called for the vote.

***Board approved - 5 ayes, motion carried***

**d. AUTHORIZE FIRE PROTECTION FOR THE THIRD OF JULY (INDEPENDENCE DAY COMMUNITY CELEBRATION) AT HOMESTEAD VALLEY PARK**

***Motion made by Director Strodel to provide water for pre-event fire protection measures for the Third of July Community Celebration to be held at Homestead Valley Park, Landers; seconded by Director Burkhart.***

*Board Discussion of Item 2d: Director McBride believed that we are part of the community and this was being a "good citizen".*

*Director Lisiewski commented that the park had it's own well.*

*GM West responded, "They probably don't have the flow from their well to provide adequate dust control and fire protection adding, we just furnish the water to the Fire Department and Fire Protection is free". Since this could be considered a use of public funds, she suggested that the Board vote on this motion.*

Director Corl-Lorono asked if there were any comments or questions from the Board before the vote; hearing none, she called for the vote.

***Board approved - 5 ayes, motion carried***

**e. AUTHORIZE ATTENDANCE AT THE SPECIAL DISTRICTS LEADERSHIP ACADEMY TRAINING, "DEVELOPING AND UPDATING ESSENTIAL DISTRICT POLICIES"**

***Motion made by Director McBride authorizing any Director (who chooses to go) funds equal to a maximum of \$325.00 (plus mileage) per director to attend the Special Districts Leadership Academy Training course, "Developing And Updating Essential District Policies"; seconded by Director Burkhart.***

*Board Discussion of Item 2e: Director McBride commented that even though 4 of the Directors are up for election, he believes training is something that people should go to.*

*GM West explained that the seminar costs are just estimates, ballpark assumptions so that the Board can approve a maximum expense. This would allow the staff to discuss and negotiate better travel rates and possibly lower our costs (recently, we were able to save almost ½, by booking early). The additional expenses quoted are include per diem, but the Directors can always turn it down.*

*Director Corl-Lorono told of a quote that heard recently and thought most appropriate, "Training is a moral and professional obligation" and we'd all like to be professional. Regarding our stipend, which we receive usually once a month, sometimes twice a month, but there are many hours invested.*

*Director Lisiewski doesn't think we should be spending money now on seminars considering the upcoming election and the current economic situation. He thinks this expense should wait until after the election and the new Directors are voted in by the public.*

*Director McBride concluded by saying, "He thinks we would be foolish to pass this up, especially since the course is local.*

Director Corl-Lorono asked if there were any more comments or questions from the Board. She accepted a comment from the public before the vote.

James Hanley asked about the courses offered.  
*Director McBride read the description from the syllabus.*

Director Corl-Lorono thanked Mr. Hanley asked if there were any more comments and hearing none, she called for the Board vote.

***Board approved - 4 ayes; Director Lisiewski - no, motion carried***

**3. CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL REGARDING ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 (1 potential case)

Director Corl-Lorono called for a recess @ 5:50 PM

**4. CLOSED SESSION REPORT**

Director Corl-Lorono reconvened the meeting @ 6:17 PM and announced that the Board had authorized the General Manager to settle the claim.

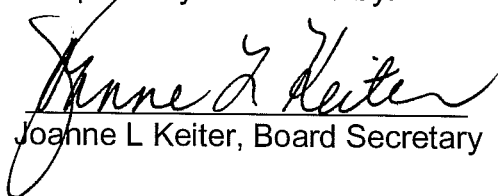
**5. COMMUNICATION AND PUBLIC INFORMATION ITEMS**

Director Corl-Lorono announced that the County of San Bernardino Registrar of Voters was hosting Candidate Seminars on July 24, 2009, beginning @ 1:30 PM. Anyone interested in the upcoming election was invited to attend at the Apple Valley Council Chambers.

**6. MEETING ADJOURNED -**

Director Corl-Lorono adjourned the meeting @ 6:28 PM.

Respectfully Submitted by:

  
Joanne L Keiter, Board Secretary