

**RECORD OF THE MINUTES OF THE  
REGULAR MEETING OF THE  
BOARD OF DIRECTORS OF THE  
BEAUMONT CHERRY VALLEY WATER DISTRICT  
January 20, 2010**

**CALL TO ORDER, PRESIDENT BALL**

President Ball called the meeting to order at 7:00 p.m., 560 Magnolia Avenue, Beaumont, California.

**PLEDGE OF ALLEGIANCE, DIRECTOR ROSS**

Vice President Parks led the pledge.

**INVOCATION, VICE PRESIDENT PARKS**

Director Woll recited the invocation.

**ROLL CALL, JULIE SALINAS**

Those responding to roll call were President Ball, Vice President Parks and Directors Ross and Woll. All present with the exception of Director Magee. Also present at this meeting were General Counsel Gil Granito, Interim General Manager Anthony Lara and Business Manager Julie Salinas.

**PUBLIC INPUT**

President Ball invited Patsy Reeley to address the Board on two items not on the agenda. Ms. Reeley wondered if there was a special reason for the meeting date change as she could not see anything on the agenda that warranted a special change. Secondly, Ms. Reeley noted she has attended various Board and Committee meetings and that small things don't seem to get accomplished. She referred to a line item on the Month End Financial Statement (page 21 of 76) that includes due bills maybe as old as ten years. In a recent meeting, she heard that in order to correct the problem, the District needed to adopt a policy. This wasn't the first time the problem was discussed and the problem could be solved by composing a short paragraph, instructing a secretary to type it, bringing it to the Board for a vote and then making sure that it is implemented. The Board appears to have a problem doing that. It was suggested by the Auditors in 2008, in the Governance Report in 2007, and discussed by Chairman Ball. Let's get this problem solved and move on to more important ones.

**PRESENTATION BY GENERAL MANAGER OF THE SAN GORGONIO PASS WATER AGENCY  
REGARDING PROPOSED CAPACITY FEE**

President Ball introduced the General Manager of the San Gorgonio Pass Water Agency, Mr. Jeff Davis. Mr. Davis greeted the Board and members of the public and thanked Mr. Lara for the invitation. The Pass Agency is up to a number of things, one of them important enough for Mr. Davis to come and share with the District. Mr. Davis noted that no action was requested tonight or in the immediate future. The Pass Agency wants to be cooperative and work with District and may, in the future, come back to the Board for action.

Mr. Davis made a PowerPoint presentation on the San Gorgonio Pass Water Agency regarding their proposed capacity fee. Following the presentation, Mr. Davis entertained questions from the Directors, staff and members of the Public.

## **ACTION ITEMS**

### **1. ADOPTION OF THE AGENDA**

Director Woll moved to adopt the agenda as presented. Vice President Parks seconded. The motion passed unanimously.

### **2. FINANCIAL REPORTS**

#### **a. Bills for Consideration**

Board Action  
December 2009

The Board will take action on the Bills for Consideration taking into account the recommendations of the Finance and Audit Committee.

Director Ross moved to approve the December 2009 Invoices. Vice President Parks seconded. The motion passed unanimously.

#### **b. Invoices for Payment Approval**

Board Action

The Board will take action on the Bills for Consideration taking into account the recommendations of the Finance and Audit Committee.

Director Ross moved to approve the invoices pending payment. Vice President Parks seconded. The motion passed unanimously.

#### **c. Month End Financial Statements December 2009**

Board Action

The Board will take action to "accept and file" the Month End Financial Statements presented by staff.

Director Ross moved to accept the December 2009 Financial Statement. Director Woll seconded. The motion passed unanimously.

### **3. APPROVAL OF THE MINUTES**

#### **a. Minutes of the Regular Meeting of December 16, 2009**

Director Woll did not have a correction to make but noted that Director Magee was appointed as a member of the Collaborative Agency Committee (pg. 31) and inquired as to whether or not a backup had been designated. Director Woll suggested the replacement be made an action item on the next agenda. President Ball directed Julie Salinas to place the appointment as an action item.

Vice President Parks moved to approve the Minutes of December 16, 2009 as presented. Director Woll seconded. The motion passed unanimously.

### **4. ACCEPTANCE OF RESIGNATION OF DIRECTOR NIKI MAGEE FROM THE BEAUMONT CHERRY VALLEY WATER DISTRICT BOARD EFFECTIVE JANUARY 6, 2010 AND DETERMINE THE PROPER COURSE OF ACTION FOR FILLING THE VACANCY**

Legal Counsel Granito reported that the action before the Board was a two step process: (1) the Board needs to formally accept the resignation, and (2) decide how they are going to fill the vacancy. The District can appoint within 60 days or can choose to call a special election. Historically the District has chosen to appoint.

If the Board adheres to past practices and chooses to appoint, a notice of vacancy will need to be posted by Friday, January 22<sup>nd</sup>. While it is not required by law, Legal Counsel Granito noted it would be prudent to also run an advertisement in the newspaper.

Vice President Parks added that the District had the option of asking the Board of Supervisors to appoint. Legal Counsel Granito clarified that if the District does not make an appointment within 60 days, the Board of Supervisors can then appoint or call for a special election.

Director Woll moved to fill the vacancy by appointment and to accept the resignation of Director Magee. Director Ross seconded. Director Parks amended the motion to include "with regrets". Director Woll added to the motion that Board was grateful for Director Magee's service and regrets that she felt she had to resign. The amended motion passed unanimously.

President Ball added the advertisement of the notice of vacancy in the newspaper as an action item.

**5. VARIANCE REQUEST FROM DAVID THOMAS, 1026 WELLWOOD AVENUE ON OUTSTANDING BALANCE**

General Manager Lara reported that Mr. Thomas previously appeared before the Board at a special meeting. Mr. Thomas was directed to make his request in writing and unfortunately, the written request was received after the December 16<sup>th</sup> agenda had already been posted.

Mr. Thomas is requesting a variance on a delinquent balance of \$336.84 dating back to 2004. He has spoken several times with the General Manager as well as staff members. Several special payment arrangements have been made in the past. Staff drafted a memorandum which includes a copy of an office order where the Customer Service Representative went to the property and confirmed there was a leak. The customer was present and was made aware.

Mr. Lara recommended that the variance be denied and that Staff be authorized to set up one more special arrangement in an attempt to assist Mr. Thomas in bringing his account current in the next 12 months.

Director Ross moved to accept the staff recommendation. Director Woll seconded. The motion passed unanimously.

**6. ACCEPTANCE OF THE NOBLE CREEK ARTIFICIAL RECHARGE FACILITY GROUND WATER MONITORING REPORT (JULY 16 TO SEPT 30, 2009)**

General Manager Lara reported the third quarter report was being presented for acceptance and that the fourth quarter report would be coming shortly. Monitoring at the Noble Creek Artificial Recharge Facility by Geoscience has been suspended. Report findings are consistent with previous reports and recommendations are being carried out.

The District has been recharging since 2006 and in that time, 14,599 ac-ft of water has been recharged. Staff will continue to manually record water levels so that if and when the monitoring resumes, data can be turned over to consultants.

Director Woll moved to accept the Noble Creek Artificial Recharge Facility Ground Water Monitoring Report. Director Ross seconded. The motion passed unanimously.

**7. VARIANCE REQUEST FROM CHERRY VALLEY WATER COMPANY ON OUT-OF-THE DISTRICT RATES**

Director Woll called on Marilyn Simone. Ms. Simone re-iterated what was in the letter included in the Board package. General Manager Lara added that he had been under the impression that they (CVWC) were being assessed the outside service rates and while conducting inquiries he came to discover that they (CVWC) were being assessed the inside rate. Mr. Lara directed staff to update the service rate. The change occurred during the December billing cycle.

Mr. Lara reported that the purpose of the higher outside rate (double the inside rate) is it serves as an "in-lieu" fee for temporary service outside the District's service area. Those customers have not made an investment in the facilities necessary to get the water to them. These facilities are operated and maintained on a daily basis. Mr. Lara noted that CVWC is actively seeking annexation and that once the process is complete, they will need to pay the facility fee and at that time, they will be making an investment.

CVWC should have been paying the outside rates when the District first began to sell them water in 2006. Mr. Lara is not recommending that the Board go retroactive on the charge but wanted to bring it to their (CVWC) attention, that the Board has this option. Mr. Lara recommended the out-of-district rate remain in effect.

Director Ross moved to grant a variance in return to interest rates for Cherry Valley Water Company.

Legal Counsel Granito interceded and asked the General Manager if there were any other customers currently being charged the outside rate to which the G.M. replied there were 9 other accounts. Mr. Granito expressed his concerns that the District could be setting a precedent and warned that if the Rules and Regulations are not being applied uniformly (preferential treatment), this could evolve into a lawsuit.

Director Ross withdrew the motion.

Director Ross moved to continue billing at outside rates without retroactive charges.

Legal Counsel Granito presented a third option to the Board which would be to rescind uniformly, to no longer charge the outside rate. General Manager Lara added that the current Rules and Regulations prohibit the District from providing service outside its service area.

Director Ross withdrew the motion.

Director Ross moved to table the item until next month. Vice President Parks seconded. The motion passed unanimously.

**8. APPROVAL OF RESOLUTION 2010-01, A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BEAUMONT CHERRY VALLEY WATER DISTRICT DECLARING THE OFFICIAL INTENT TO BE REIMBURSED FOR CERTAIN CAPITAL EXPENDITURES FROM THE PROCEEDS OF INDEBTEDNESS**

Legal Counsel Granito reported that the District is engaged in constructing certain capital facilities such as the recycled water facilities and ways of financing the construction are being explored. In order for the District to preserve the right to reimburse itself, Internal Revenue Service laws require that this resolution be in place.

Legal Counsel Granito proceeded to read aloud section 2 of Resolution 2010-01, "This declaration is made solely for purpose of establishing compliance with the requirements of Section 1.150-2 of the Treasury Regulations, and does not bind the District to make any expenditure, incur any indebtedness, or proceed with the Recycled Water Facilities Project."

General Manager Lara added that adoption of this Resolution was recommended in the 2007 Governance Study. Legal Counsel Granito stated there was a real chance the District would be seeking public financing which really elevates the importance of this resolution.

With the aid of a map, General Manager Lara reviewed with the Board and members of the Public the District's plan to work with Yucaipa Valley Water District and the City of Banning in developing a regional network of pipelines (recycled).

Director Woll moved to approve the resolution. Vice President Parks seconded. The motion passed unanimously.

#### **9. REPORTS FOR DISCUSSION AND POSSIBLE ACTION**

**(a) Ad hoc Committees** – Director Ross reported that the District met with the City of Beaumont following the last board meeting. Director Ross expressed his regret that the District has been unable to work with the City.

#### **(b) General Manager**

- Recycled Water Project – covered under item 8.
- LAFCO Annexation – General Manager Lara reported that he had attended the meeting held earlier in the day. The annexation request has been approved and it is now a matter of paperwork being submitted to the County (by LAFCO) for recordation.
- 2009 Audit – Requests for Proposals were sent out in December. Proposals are due by January 28<sup>th</sup>. It is staff's intention to present the proposals to the Finance and Audit Committee the first week of February, and then the full Board.

#### **(c) Directors**

- Dr. Blair Ball – No report.
- Stella Parks – Vice President Parks reported that as of December 31<sup>st</sup>, the snow levels are 85% of normal levels. Vice President Parks also reported that she had attended a presentation of the canal.
- Ken Ross – No report.
- Ryan Woll – Director Woll suggested two action items: (1) update from Financial Consultant, and (2) exploring the possibility of storm runoff as a possible avenue for the recharge facility.

General Manager Lara reported that a *Five Year Capital Improvement Plan* had been drafted. It is his intention to schedule a workshop or special meeting to review the plan with the Board of Directors.

#### **(d) Legal Counsel**

Legal Counsel Granito reminded everyone to complete their 700 Form (Statement of Economic Interest).

#### **10. ANNOUNCEMENTS**

- **Regular Board Meeting will be held on February 10, 2010**

#### **ACTION LIST**

- Appoint replacement to Collaborative Agency Committee
- Posting of Notice of Vacancy (Newspaper Publication)
- Review by financial consulting firm.

**11. CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL-**

President Ball adjourned the meeting to Closed Session at 9:03 p.m.

- A. Closed Session will be held to confer with legal counsel on ONE matter of potential litigation pursuant to subdivision (c) of Government Code section 54956.9-ONE MATTER-Potential Litigation**
- B. Closed Session will be held to confer with legal counsel on one matter of pending litigation pursuant to subdivision (a) of Government Code Section 54956.9. Daniel Slawson and Arlene Slawson vs Beaumont Cherry Valley Water District, a public agency, Case No RIC 533149-Riverside Superior Court.**
- C. Closed Session will also be held regarding a personnel matter pursuant to Government Code Section 54957- Interim General Manager-Performance Review.**

**12. OPEN SESSION- REPORT ON CLOSED SESSION**

President Ball reconvened to Open Session at approximately 11:57 PM.

General Counsel Gil Granito reported that at approximately 9:03 PM, the Board went into Closed Session to discuss the following items as reflected on tonight's agenda:


The first matter discussed in Closed Session concerned Item 11A of tonight's agenda. During this phase of the Closed Session, General Counsel led a discussion on one matter of potential litigation pursuant to subdivision (c) of Government Code Section 54956.9 and no further reportable action was taken.

The second matter discussed in Closed Session concerned Item 11B of tonight's agenda. During this phase of the Closed Session, General Counsel, Gil Granito, pursuant to subdivision (a) of Government Code Section 54956.9, reported on the status of the litigation and no further reportable action was taken.


The third and last item discussed in Closed Session concerned Item 11C of tonight's agenda. During this phase of the Closed Session the Board members continued their ongoing evaluation of the performance of the Interim General Manager pursuant to Government Code Section 54957 and no further reportable action was taken.

**13. ADJOURNMENT**

President Ball adjourned the meeting at approximately 12:00 AM.

  
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Dr. Blair Ball, President of the  
Board of Directors of the  
Beaumont Cherry Valley Water District

Attest:

  
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Ryan Woll, Secretary to the  
Board of Directors of the  
Beaumont Cherry Valley Water District