

Borrego Springs Watermaster Board
MINUTES
Special Meeting
May 14, 2020 @ 5:30 p.m.
Borrego Water District Office:
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:** Nick Bosik, Dave Duncan, Mark Jorgensen, Shannon Smith

Staff: Geoff Poole, BWD
 Steve Anderson, Best Best & Krieger
 Russell McGlothlin, O’Melveny
 Michele Staples, Jackson Tidus
 Esmeralda Garcia, BWD

Public: Rebecca Falk Kathy Dice, BWD
 Martha Deichler, BSUSD Rich Pinel

D. Approval of Agenda: *MSC: Jorgensen/Duncan approving the Agenda as written. The roll call vote was unanimous.*

E. Approval of Minutes: None

F. Comments from the Public on Items not on the Agenda: None

G. Comments from Directors: None

H. Correspondence Received from the Public: Steve Anderson reported that a comment was submitted today on the alternative sustainability plan from the Tubb Canyon Desert Conservancy and is on the DWR website.

II. ITEMS FOR BOARD CONSIDERATION AND POSSIBLE ACTION

A. Confirmation of List of Responsive Firms to Watermaster Legal Counsel RFQ: Mr. Poole reported that nine proposals were received in response to the RFQ for Legal Counsel. Eight of the nine were submitted on time, but the last, from Downey Brand, was 25 hours late. Public contract law requires its automatic rejection, but the WMB is not bound by that, so he asked for input from the Board. After discussion, the Board agreed to include Downey Brand for consideration, noting that the late submittal could have a bearing on the decision.

B. Determination of Process for Selecting Legal Counsel and Executive Director/Technical Consultant: Mr. Poole referred to the Board’s prior direction to publish the RFQ responses, minus the financial information. Subsequently, he heard from a potential respondent expressing concern that applicants would know how others responded. Steve Anderson noted that most of his colleagues considered the responses in closed session, then interviewed the “short list” candidates in closed session, and finally the WMB would announce its selection in open session and finalize the contract. One way to handle it would be to share the proposals with the participating pumpers, the WMB and Alternates. Once the selection is made, all proposals would become public. The Board concurred. Director Duncan asked whether he could share the proposals with the BWD Board in closed session, as well as other WMB decisions, and Mr. Anderson suggested that should be a question for the new WMB Counsel. Rebecca Falk asked whether the public could see a video or live statements by the final candidates before a decision is made. After discussion, the Board decided to consider this at the next meeting.

C. Addendum #1 to Executive Director/Technical Consultant RFQ re: CA Driver's License: Mr. Poole explained that the RFQ contained a requirement that candidates have a California driver's license, but one of the applying firms has a member who has an Arizona driver's license. Mr. Poole proposed an addendum removing "California" from the requirement. *MSC: Smith/Jorgensen approving Addendum #1 to Executive Director/Technical Consultant RFQ re: CA Driver's License. The roll call vote was unanimous.*

D. External Communications Policy: Mr. Poole invited the Board's attention to the draft External Communications Policy in the Board package. Director Smith explained he had requested this item after reading Rebecca Falk's newspaper column. How does the WMB want to interface with the media? Director Smith had discussed the policy with Mr. Anderson, who provided a template for the Policy for Director Smith's adaptation. It differentiates between a Board member's personal opinion and that of the WMB. WMB communications would be handled by the Executive Director.

Director Jorgensen pointed out that Borrego Springs is a small town, and a lot of people depend on the local newspaper. Several of the WMB members have already been interviewed, and the questions are usually posed to them as WMB members. His additional concern was how long it would take for the new Executive Director to come up to speed on local issues, should the inquiries be passed on to him or her. Mr. Anderson explained that when a Board member says, "as a WMB member this is my opinion," it is unclear whether it is a personal opinion or that of a majority of the Board. That is why most Policies provide for referral to staff.

Ms. Falk suggested including a disclaimer stating whatever is said by a WMB member is the opinion of that member, not of the Board. She noted that the County refers official media inquiries to their Media Communications Office, that individual Board of Supervisors members speak to the press frequently, and they make clear it is a personal opinion. Martha Deichler stated that based on her experience, a single person handling media questions was welcome. Ms. Falk felt the language in the Policy requiring that sensitive issues be immediately referred to the Executive Director was too loose and therefore open to an overly restrictive interpretation. Director Smith noted there had been some revisions in a second draft. He felt the disclaimer would solve the problem of confusion over personal opinions versus those of the Board, and Directors could identify themselves as Board members so long as the disclaimer was provided. Mr. Poole agreed to bring back a final draft at the next meeting.

E. Payment of Invoices: Rich Pinel expressed his appreciation for the invoice information and spread sheets. He was interested in a receivables report indicating which pumpers had paid their invoices and any that might be in arrears. Mr. Anderson noted that nonpayment could come under the jurisdiction of the judge and subject the pumper to fines and/or loss of BPAs. Ms. Falk asked whether the payment information would be public, and Director Smith replied that the WMB budget was on the BWD website and also attached to the Stipulation documents.

F. Update on Installation of Meters: This item was requested by Director Duncan, who had to leave for another commitment. Alternate Director Dice replaced him for the remainder of the meeting. Director Bosik reported that 10 out of 11 agricultural pumpers were working with approved vendors on meter installation. Eight out of eleven have completed installation or recalibration, and four have upgraded to telemetry. Director Smith reported that for the recreational pumpers, Borrego Springs Resort, Roadrunner and Rams Hill have upgraded their meters. De Anza did not sign the Stipulation and was unavailable for comment. Ms. Falk asked when all meters were expected to be installed, and Director Bosik predicted by the end of the month.

G. Collection/Use of Metering Data: Mr. Poole explained that the water year begins in October, and Director Duncan wanted to know if there was anything that should be done now to capture and retain metering data between now and then. Mr. Anderson pointed out that it is

important to insure that the meters are working properly before October. Mr. Poole will update Director Duncan on today's meeting and see if it needs to go on the next Agenda.

III. STAFF REPORT

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

IV. CLOSING PROCEDURE

Mr. Anderson asked that the pumpers provide the names of their technical consultants to Mr. Poole so a roster can be compiled for the WMB Technical Advisory Committee. TAC input is required in the selection of staff. The next Board Meeting is scheduled for May 28, 2020 to be available online. There being no further business, the Board adjourned at 6:40 p.m.