

**AGENDA
REGULAR MEETING
BOARD OF DIRECTORS
BEAR VALLEY WATER DISTRICT
Monday, September 20, 2010**

Time: 9:00 A.M.

Place: 441 Creekside Drive, Bear Valley, CA 95223

A. Roll Call

B. Approval of Minutes for August 16, 2010 and Special Meeting of September 4, 2010

C. Public Comment (no action can be taken by the Board on non-agenda matters)

D. Correspondence

E. General Manager's Report

1. Update, Schoening correspondence, possible action item
2. Review of financial reports
3. Review of accounts payable for August-September
4. Pre-paid connection fee update
5. Loan refinance, update
6. Review of plant operations
7. Report of Waste Discharge, update
8. Outreach regarding current District capacity, update
9. Chlorine contact tank project, update
10. Moving A-Frame off TBI Property, possible action item

F. Unfinished Business

1. Resolution No. 480, Endorsing District Engineer's Excess Capacity Determination and Requirements for Future Development
2. Discussion and possible action on additional capacity studies and allocation of development-related costs
3. Capacity study, possible need for disposal land acquisition, action item
4. Resolution No. 481 approving amended by-laws, action item
5. Discussion, possible action on rate study
6. Ordinance on establishing sewer service rates, action item, amendment to Ordinance No. 1
7. Review, discussion, Ordinance No. 16 as amended by Ordinance No. 66, Section 2.823, Time Limit on Permits
8. Discussion, evaluation if policy may be required to address dormant connections vis-à-vis connection fee increases during dormancy and excess capacity limitations

G. New Business

1. Ad hoc Technical Advisory Committee, report

H. Board Members Reports & Comments

I. Adjournment

Materials related to an item on this Agenda submitted to the District after distribution of the agenda packet are available for public inspection in the District Office at 441 Creekside Drive, Bear Valley, CA. 95223 during normal business hours. Information on materials in the agenda is also available on the Bear Valley Water District website at <http://www.bearvalleywater.org>, subject to staff's ability to post the documents before the meeting.

Any material provided to the legislative body at the meeting by agency staff or a member of the legislative body will be available at the public meeting, documents provided by others will be available right after the meeting.

This agenda shall be made available upon request in alternative formats to persons with a disability, as required by the Americans With Disabilities Act of 1990 (42USC, #12132) and the Ralph M. Brown Act, CA Government Code # 54954.2.

Any persons requesting a disability related modification or accommodation in order to participate in the meeting should contact Tia White at 209-753-2112, during regular business hours, at least 72 hours prior to the meetings. All regular meetings are held on the third Monday of the month at 9:00 A.M.

Minutes
Bear Valley Water District
Board of Directors
Monday, September 20, 2010

Time: 9 a.m.

Place: 441 Creekside Drive, Bear Valley, CA 95223

(A) CALL TO ORDER

President Ritchie called the meeting to order at 9 a.m. with Directors Bissell, Goodrich, Coffman and Nelson present.

District employees present: General Manager Julio Guerra (until 11:15 a.m.) and admin. assistant Tia White.

Community members present: Gary Hinman and Jeff Mack. On SKYPE: Gloria Dralla and Phil Davis.

GM Julio Guerra informed the board that a revision was being made to the agenda. Item F2 (discussion and possible action on additional capacity studies and allocation of development-related costs) was being pulled per the advice of legal counsel pending legal review of a possible conflict of interest .

(B) APPROVAL OF MINUTES

B.1 Approval of Minutes for August 16, 2010.

Director Goodrich proposed a correction to page 9 regarding the Bloods Creek Study. After that correction, on motion by Director Goodrich and seconded by Director Bissell, the minutes for August 16, 2010 were approved by unanimous vote.

B.2 Approval of Minutes for Special Board Meeting for Saturday, September 4, 2010.

GM informed the Board that he made a correction to the minutes and distributed the corrected minutes to the Board. On motion by Director Bissell and seconded by Director Goodrich, the minutes for Saturday, September 4, 2010, as revised, were approved by unanimous vote.

(C) PUBLIC COMMENT: None.

(D) CORRESPONDENCE: Director Coffman informed the Board that he had a conversation with Greg Finch of Dundee Resort Development. Director Coffman related the following, which he identified to Mr. Finch as his personal opinion, not the "official" position of the Board: (a) Director Coffman was surprised that Dundee didn't take a more proactive position since they had so much at stake with respect to capacity; (b) discussion of availability of Forest Service land for spray dispersal; and (c) a recommendation to Mr. Finch that they hire their own consultant.

President Ritchie stated he had also talked to Mr. Finch approximately two weeks prior. President Ritchie stated that Mr. Finch was under the impression that Director Coffman told him the outfall project would never be used. Director Coffman said he didn't recall discussing the outfall project except regarding the expenditures and cost of ownership of the project, and that it was in Mr.

Finch's interest to help BVWD control rates and capital expenditures; the outfall project had a big price tag due to mismanagement of the district.

Director Goodrich inquired about Julio's involvement in negotiating for USFS land to accommodate the Development. Julio replied that, once we had a target of how much we need at buildout, we would be in a more favorable position to discuss potential land deals with the Forest Service. He stated, however, that he was not actively engaged with the USFS at this point except for renegotiating the District's current lease for existing ratepayers. GM reiterated that it is the duty of the developer to provide additional capacity and to fund any efforts by the District that are specifically related to that. Director Coffman stated he thought Mr. Finch had a pretty good grasp of the things the Board was doing. Julio indicated that he had a number of emails on these topics to and from Mr. Finch.

(E) GENERAL MANAGER'S REPORT

E.1 Update, Schoening correspondence, possible action item

GM informed the Board that the District received correspondence from Kevin Schoening dated September 15, 2010 which may have crossed in the mail with GM's letter, as well as emails from Mr. Schoening expressing his outrage about District billing practices and intention not to pay for sewer service on unsold units. GM restated the history of Silver Mountain billing abatement, Board action and subsequent dispute. GM reminded the Board that he talked to four different agencies as to policy regarding this type of situation, noting that all the districts he surveyed collect sewer service fees as soon as a project is "finaled" by the county building dept. Nonetheless, GM stated that he would like to give Mr. Schoening the opportunity to respond to the BVWD letter dated September 14th, 2010 in case it crossed in the mail.

A discussion ensued regarding protecting the District's rights in the event of a lawsuit. GM was directed to clarify which units were paid and which were unpaid and to leave a good paper trail. It was recommended that each unit be separately billed. President Ritchie indicated that Lake Alpine Water Company is discussing its rights as well, up to possibly shutting off water service.

Ratepayer Gloria Drealler requested that the partners of Bear Valley Investors be identified.

E.2 Review of Financial Reports

The Board was provided with August 31, 2010 and 2009 comparative balance sheets, along with comparative performance vs. budget for the two months ended August 31. Director Nelson raised questions about prepaid insurance, accrued vacation and unclaimed bearer bonds. GM was asked to pursue whatever information BVWD has re the holder(s) of unclaimed bonds before they escheat to the State. Re the prepaids and accruals,

Director Goodrich acknowledged Director Nelson's points. She indicated that a number of repeating entries were still done manually and that BVWD should review the accounts that amortize at least quarterly.

Review of the Budget vs. Actual

GM discussed a couple of highlighted items. Commercial revenue, significantly below budget, was affected by a \$15,000 credit to the USFS commercial account for previous overbilling that will be amortized in USFS billing over several quarters but recognized in the financial statements as soon as it was discovered. Cash income will exceed the amount reflected in the financial statements because of this timing difference. Commercial income was also lower vs. budget because charges for the pool in the commercial center were overestimated in the 2010 budget. Current pool billing is in accordance with District policy via amendment to Ordinance No. 1. GM also discussed the expense of chlorine cylinders which are higher since the installation of the chlorine contact tank which requires higher amounts of chlorine than used in the past.

E.3 Review of Accounts Payable

The Board raised questions about a couple of items, focusing particularly on paying for expenses that did not originally meet BVWD specifications. On motion by Director Bissell and seconded by Director Coffman, accounts payable in the amount of \$29,027.15 were unanimously approved for payment.

E.4 Prepaid Connection Fee Update

GM prepared a Prepaid Connection Review staff report identifying eight lots. Staff noted that connection fees can be paid before a permit is issued, and in at least two cases, permits were never applied for after the connection fees were paid.

Ordinance No. 66, passed June 19, 2006, put a time limit on permits and the granting of a one-time extension, after which the permit holder converts to ratepayer status or the permit expires and the connection fee is refunded. GM suggested that he notify the parties identified on the list with a Notice of Intent. The Board discussed a two-year time limit after paying a connection fee to either build on the lots or forfeit the connection fee. In the event they pulled a permit and didn't build, they would be offered a refund in accordance with Ordinance 66. Mr. Mack questioned the fairness of BVWD retaining the connection fee. Per GM, legal counsel stipulated that a resolution to sunset these items needed to be approved by the Board. GM was asked to write a resolution accordingly. This item will be carried over.

Director Bissell stated the District does not have a current policy on transferring prepaid connections with the property. Mrs. White said that, historically, prepaid connection fees were a useful selling point. Director Bissell raised the issue of prepaid connection fees paid by a developer which goes out of business. There was some confusion about whether Ordinance 66, amending 8.03 of Ordinance 16, covered this situation. President Ritchie stated that this Item will be carried over to the next agenda.

GM said he identified a problem regarding coordination between the District and the County wherein County personnel wrongly told ratepayers adding a bathroom that they didn't need to pay a connection fee. The Board discussed the preparation of a letter to the County and sign-off sheet in order to avoid this problem in the future and directed GM to find out how many bathrooms had been added without a connection fee in recent years. GM also indicated that the District was periodically misinformed on remodels that included bathrooms and, with the lack of notification, the District had not billed for the additional EDUs (in addition to not collecting a

connection fee). Director Goodrich anticipated a number of upset ratepayers and said that this situation tied in to the need for a rate study, which we should not continue deferring. The Board directed Julio to put persons effected on notice but not to collect any monies until we address the amount of the connection fee. Ratepayer Gary Hinman stated the District needed to know what the cost is for running the system as it is right now. Director Goodrich said the current connection fee was based on the most expensive scenario of building a tertiary treatment plant in excess of \$10,000,000, which was no longer the District's plan. Director Coffman said we can turn back to either the old hook-up fee or adjust it to today's expenditures. GM will present questions to legal counsel Mike McGrew on this issue.

E.5 Loan Refinance, Update

GM told the Board that the loan refinance has been approved at a 4.75% interest rate and loan papers would be in hand by the end of this week.

E.6 Review of Plant Operations

- The irrigation pump has been fixed. Calculations show that we have disbursed 130 acre feet with 57 acre feet left in the reservoir according to the elevation measurement (though GM's sense is that the number is smaller). He expects to empty the reservoir before the end of the season and he needs to see the valve at the bottom of the reservoir. Aerial photos of the empty reservoir will help make the volume curve calculation more reliable. GM wants to get the floating section to the middle of the reservoir and anchored firmly so that it doesn't drift off to the side of the bank and confound the sample results.
- The Regional Board conducted an inspection on September 9, 2010. They were not concerned about inception-related issues when the chlorine contact tank was first installed.
- Plumbing repairs in the field are scheduled for the end of the week.
- GM informed the Board that the Hartford Steam Boiler Inspection and Insurance Company was not going to pursue an action against PG&E re damage done last winter by PG&E equipment. BVWD will file a claim against PG&E for its \$ 1,000 deductible.

E.7 Report of Waste Discharge, update

Julio informed the Board that he was in contact with the EPA contractor. He has not heard anything negative from them and has provided them with further clarification re our sample data.

E.8 Outreach Regarding Current District Capacity, update

GM sent an email about BVWD's special meeting on 9/4/10 to the development team (Chuck Toeniskoetter, Greg Finch, Leah Toeniskoetter and Jeff Mack) and forwarded them a copy of District Engineer Gary Ghio's preliminary memo on capacity. He indicated that the Board would be discussing allocation of development-related costs at its 9/20 meeting (which discussion was deferred at

recommendation of legal counsel because of possible conflict of interest issues). GM indicated that his emails to the developers are available to the Board at any time, many of which have already been copied to various directors.

E.9 Chlorine contact tank project, update.

See discussion above under item E6, Plant Operations.

E.10 Moving A-Frame off TBI Property, possible action item.

GM presented the Board with an estimate for dismantling and removing the A-frame. The contractor agreed to reduce the price to \$5000 to meet BVWD's budget. Discussion ensued about getting the dismantling and removal price even lower by either letting the party interested in the wood do it or some other alternative.

F. UNFINISHED BUSINESS

F.1 Resolution No. 480 Endorsing District Engineer's Excess Capacity Determination and Requirements for Future Development.

President Ritchie asked if our capacity determination is still predicated on the District's maximum discharge rate: What would our ability to discharge be if there was no maximum discharge rate? Right now, the capacity determination and acreage requirement is predicated on the current discharge maximums which are less than the creek will assimilate. If the current maximum discharge rate went away or were modified extensively, what is the creek's real capacity and what would be our single family equivalent capacity? GM said it is based on 2009 hard data and calculated that just under 100 million gallons could have been discharged at the 20/1 dilution rate based on the actual creek flow measurement; this varies from the 84 million gals. District Engineer Gary Ghio calculated under current discharge restrictions. GM stated that he 100 year calculation is critical. President Ritchie said his point was it has been recommended that the District **not** pursue a maximum discharge rate change (from a one mgd average) by permit process.

If that were to triple because of the additional creek capacity under the 100 year plan, how many additional single family equivalents would that give us? Director Coffman stated that we have one benchmark on this and that is the analysis Gary did on the 900

EDUs and the annual requirement to discharge 145 million gallons. Julio said that discharge rate turned out to not be feasible because of the timing. President Ritchie said the report from Hydrologics stated there were 169 million gallons available, but because of our discharge rate, we can only utilize 80 million gallons, leaving us with 89.5 million gallons that we can't use. If you divide the gallons per year for a single family equivalent into those 89.5 million gallons, it appears that you could have 1,220 single family equivalents that we are not being able to utilize. President Ritchie and Director Coffman discussed the number Gary Ghio used in the months the District is allowed to discharge. Director Coffman said the District doesn't have enough time to discharge. President Ritchie said we should at least ask. Director Goodrich commented that, according to the District engineer and GM, trying to change the discharge permit to do planned discharges every year could put the current ratepayers at risk. Director Bissell noted that everything is going well with our current permit as written. GM reiterated the State wants to see that we have exhausted all land application first; secondly, the State expressed apprehension about the creek being used for development purposes. President Ritchie stated that

we are not going to get more land from the adjacent landowners because they have said so. The only way is through eminent domain; what is the cost of that? Julio said that it is up to the developer to pay and we will cross that bridge in ten years when they are ready to build. Director Coffman said we can't close the door on eminent domain.

F.2 Discussion and possible action on additional capacity studies and allocation of development –related costs.

This item was removed from the Agenda at legal counsel's suggestion because of a potential conflict of interest issue. This item will be carried over to the next Board Meeting.

F.3 Capacity study, possible need for disposal land acquisition, action item.

This item will be carried over to the next Board Meeting.

F.4 Resolution No. 481 approving amended by –laws, action item.

GM informed the Board of legal counsel's recommendation to have the Board approve the amended by – laws. On motion by Director Coffman and seconded by Director Goodrich, the amended by-laws were approved by unanimous vote.

F.5 Discussion, possible action on rate study.

This item will be carried over to the next Board meeting.

F.6 Ordinance on establishing sewer service rates, action item, amendment to Ordinance No. 1.

Carried over , pending action on completion of a rate study.

F.7 Review, discussion, Ordinance No. 16 as amended by Ordinance No. 66, Section 2.823, Time Limit on Permits.

This item is being carried over to the next Board meeting.

F.8 Discussion, evaluation if policy may be required to address dormant connections vis-à-vis connection fee increases during dormancy and excess capacity limitations.

This item will be carried over to the next Board meeting.

G. NEW BUSINESS

G.1 Ad hoc Technical Advisory Committee (TAC), report

Director Coffman informed the Board that Will Betchart, Brian Thurston, and John Dralla have volunteered to serve on the TAC. Director Bissell and ratepayer Randy Hanvelt have been invited to serve. All the information from the District Engineer (DE) has been passed out to the committee. Director Coffman stated that some sensitivity analyses were done to see how sensitive the water balance is to estimates of some parameters in different reports. The committee is reviewing the 2000 and 2004 reports from Eco-Logic as well. President Ritchie asked if the committee is adjusting the occupancy rate. Director Coffman stated not yet. President Ritchie asked if our occupancy rate is still valid. Director Coffman asked if he could get back to President Ritchie on these numbers. Jeff Mack asked what the Ad-Hoc Committee is looking at presently. Director Coffman said they are looking at all the reports that Gary Ghio (the DE) has provided the District and are looking for soft spots

in the reports. Of particular interest is assessing the validity of assumptions and estimates to enhance the Board's confidence in taking a position based on these reports. Jeff Mack asked whether or not information on Bloods Creeks was addressed. Director Coffman stated yes and that a criterion of whether the information is technically sound is essential. Director Coffman stated that the issue of the assimilation of material into the creek is very important. The DE's analysis is very clear on that issue based on 2009 data which shows two or three times greater flow than previously thought. Jeff said he had two impressions on this (decreased water usage and what affect that will have) and asked if we are going to look at that to see if that makes sense? Director Coffman said that if we reduce effluent, we are still driven by I & I. Conservation approaches were discussed to reduce inflow (low volume flush toilets and dual flush valves) and the possible merits of some sort of incentive program for the rate payers. Cooperative incentives with the Lake Alpine Water Co. and the District should be investigated. Jeff asked about alternatives in the spray fields. Director Coffman responded that all potentially cost effective options, including snowmaking, and such are being looked at. President Ritchie said they looked at these 10 years ago.

H. BOARD MEMBER REPORTS & COMMENTS

Mrs. White raised the issue of two ratepayers whose water was shut off due to broken pipes and whether or not sewer should be billed during the period of shut off. Discussion ensued about how long it should reasonably take to fix a broken pipe and whether homeowners were expediting or delaying repairs. Director Coffman stated the need for a policy on this. The Board directed Mrs. White to gather more information on these lots.

Mrs. White raised the issue ratepayer BV-001 asking for relief due to medical reasons. Director Nelson said that this ratepayer is foreclosing, which triggers Districts policy to file a lien. District staff was directed to call the ratepayer and so advise.

Director Nelson asked Mrs. White to explain the healthcare plan change from Blue Cross to Blue Shield. Mrs. White briefly discussed the salient changes , including an increased deductible and lower premium.

I. Adjournment

The meeting was adjourned at 12:10p.m.

Next Board meeting is October 18th, 2010 at 9:00am

Approved By: _____

Board Secretary