

# ***MINUTES OF A REGULAR MEETING OF BIG BEAR MUNICIPAL WATER DISTRICT HELD ON THURSDAY, OCTOBER 21, 2010***

## **CALL TO ORDER**

President Fashempour called the Open Session to order at 1:00 PM. Those in attendance included Director Suhay, Director Smith, Director Murphy, District Counsel Wayne Lemieux, General Manager Scott Heule and Board Secretary Vicki Sheppard.

## **REPORTS**

General Manager, Scott Heule reported that Mike Stephenson and Travis Carroll are in Sacramento to lend their expertise on a Quagga summit. He explained that they were invited to attend by the California Department of Fish and game to lend their expertise in the formulation of statewide standards. He added that in fact, the schedule for the event was adjusted to accommodate Mr. Stephenson's calendar, which demonstrates the value that Fish & Game places on our Districts' Quagga program. Mr. Heule reported that a group of engineers from the Japan Dam Engineering Center were hosted by the District on Monday October 18. He explained that the group was formed by the Japanese government after the 1995 Kobe earthquake when they realized the need to learn more about how to strengthen existing dams to prevent failure during strong earthquakes. He added that Mike Rogers and Jim Lindell of MWH provided a detailed "seminar" on the strengthening of the arches and backfill of the bays. Mr. Heule reported that on Wednesday he attended the Big Bear Lake TMDL Task Force meeting. He explained that the report on the 2010 Lake Management Operations that he gave to the Directors this afternoon was also presented to the task force yesterday. Director Suhay asked a question regarding the Lake Management Operations Summary report asking at what point the weeds were weighed. Mr. Heule reported that they were wet when they were weighed and staff took an average weight of several loads and multiplied them by the number of loads taken. He commented that Fish & Game reported that our carp program has had very positive results on the fish population in the lake. Director Murphy asked if the Management Operations Report was the District's weed plan for 2011. Mr. Heule explained that this is just a summary report of 2010 activities adding that the District may be going back to the former herbicide or possibly two different methods of weed control for 2011. Mr. Heule reported that he has a meeting scheduled with Ray Wolfe at Caltrans for November 2<sup>nd</sup> explaining that Directors Murphy and Smith and a representative from Supervisor Dutton's office will also be attending the meeting. He explained that he also has made contact with Supervisor Derry's office and the Division of Safety of Dams. Mr. Heule reported on a meeting he attended at the Chamber of Commerce this morning explaining that they are very supportive of our efforts in dealing with Caltrans.

President Fashempour declared that item 6D, Discussion and possible action on formation of MWD Non-profit Foundation, should be tabled until the next meeting when all Directors are present.

## **APPROVAL OF CONSENT CALENDAR**

Upon a motion by Director Murphy, seconded by Director Suhay, the following consent items were unanimously approved:

- Minutes of a Regular Meeting of October 7, 2010
- Warrant List Dated October 18, 2010 for \$72,579.68

**CONSIDER CLAIM BY BIG BEAR DOCK SYSTEMS IN THE AMOUNT OF \$4,490 AGAINST THE DISTRICT**

Mr. Heule reported that a letter was received dated October 4, 2010 from Larry Cooke of Big Bear Dock Systems claiming the District owed him \$4,490 for ordering a dock to be "demolished and removed from Big Bear Lake". He explained that District personnel made no order to demolish a dock adding that directives were given only to remove the dock from the lake. He continued that on July 22, 2010 Lake Patrol Officer Bill Evans inspected dock number 380, owned by David and Gudrun Mason, and issued a notice to correct because the dock had trip hazards, loose boards and was not stable. He added that in the comments section of the notice to correct it was noted that the dock was "broken in half and falling apart". Mr. Heule reported that the dock was re-inspected on August 26, 2010 and no repairs had been made and during a telephone conversation with the Masons, they informed Staff that a new dock was being constructed to replace the old dock. He stated that on September 20, 2010 the new dock was in place. Mr. Heule reported that the Lake Operations Supervisor was informed by the dock builder Larry Cooke that the old dock had been towed to Captain Johns Marina and in an email of the same date the Masons were informed that when their failed dock was "properly removed from the Lake and not just repositioned to Grout Bay to deteriorate" they would be issued their dock license. He added that they were also informed that if they chose to repair the dock they had 30 days to do it. Mr. Heule reported that on September 21, 2010 he (the General Manager), via email, informed the Masons that the District understood Big Bear Dock Systems had an arrangement with Captain Johns Marina but that no written confirmation from the marina was provided to show that a deal existed for the "storage, refurbishment or destruction and removal of the old dock". He commented that it goes on to say "Mr. Cooke must either repair the dock or remove it from the lake within 30 days because it does not meet District dock standards". He reported that on September 28, 2010 the Lake Operations Supervisor received an email from John Saunders indicating that they dismantled old dock number 380. Mr. Heule reported that at no time did District personnel order the destruction of the dock explaining that the District did advise that the dock must be removed from the Lake because it had failed to meet the standards for dock performance established by District resolution. He advised that Mr. Cooke does not have a basis to make a claim against the District.

Mr. Larry Cooke explained that he had correspondence that was not included in the staff report and he handed out copies of the letters. He stated that he wanted to make it clear that he was not in town at the time this was taking place. He commented that the permit process failed explaining that the permit process does not have the proper conditions. He commented that an overzealous District employee was the cause of his dock being destroyed when it easily could have been removed from the lake and repaired. He explained that dock ownership had been transferred to Big Bear Dock systems from the Masons adding that he had surveyed the dock and found it to have good flotation and strong and stable fingerways. He reported that he had lost money and the Mason's had been harassed and Captain John's employee had been harassed by District staff. Director Suhay asked who pulled the dock out of the water. Mr. Cooke stated that he had pulled it over to Capt. Johns Marina. Director Smith asked how he was going to fix it without pulling it up out of the water. Mr. Cooke stated that he could have lifted up a portion of the dock and repaired it without taking it completely out of the water and could also do fabrication in the water. Director Suhay stated that it looks like the District did their job in trying to clean up the lake and before they could issue a new dock license this problem needed to be corrected. Mr. Heule commented that the District gave the Masons ample time to correct the problem and did not harass anyone explaining that they were originally given 30 days to correct the problem and then again given an additional 30 days to remove the dock from the lake. He explained that no

repairs were ever made. Mr. Cooke stated that this was not a derelict dock. Director Smith asked why the Masons agreed to pay \$30,000 to \$40,000 for a new dock if this dock could be repaired. Mr. Cooke explained that the Masons have the money and wanted to have a nice new dock. President Fashempour asked if the agreement with the Mason's was that Mr. Cooke would remove the old dock and get them a new dock. Mr. Cooke said that was the agreement. Director Suhay reported that he understood the District wanted the dock repaired or removed. District Counsel Lemieux asked what Mr. Cooke's claim was. Mr. Cooke stated that the Mason's wanted something nice and new and he wanted to take the old dock and do something with it and when it was destroyed he could not repair it and he lost money. Mr. Heule explained that by Resolution the District has the right to have the derelict dock repaired or removed and while the District was trying to remedy the problem, Captain John's destroyed the dock and the District should not be held liable. Director Suhay commented that the District does not have control over other entities employees. President Fashempour stated that she would like to understand the dock resolution better and would like to meet with Mr. Heule to go over this issue. Director Murphy commented that apparently the Masons thought they owned the dock and paid Captain Johns Marina to destroy it.

Director Suhay made a motion to deny the claim by Big Bear Dock Systems in the amount of \$4,490 against the District. Director Murphy seconded the motion and it was unanimously approved.

#### **CONSIDER AWARD OF CONTRACT FOR BIG BEAR MARINA REMEDIATION TRENCH CONSTRUCTION PROJECT**

Mr. Heule reported that the District has been working for several years to remediate the gasoline contaminated soil and ground water from a leaking gas line prior to the purchase of the property. He added that attempts at remediation using wells and bioremediation techniques have not been effective. He stated that during meetings with the Santa Ana River Regional Water Quality Control Board (Regional Board) another remediation method was identified explaining that a 12 to 14 feet deep trench will be dug and backfilled with gravel to collect and drain groundwater into a manhole. He stated that a pump in the manhole will pump the collected water to the surface and into the sanitary sewer in Paine Court providing concentrations of hydrocarbons are sufficiently low. Mr. Heule reported that the construction design was approved by the Regional Board and the District had plans and specifications for the work prepared by Transtech Mapco, and the bid packages were mailed or hand delivered to 14 contractors including two interested local contractors. Mr. Heule added that a mandatory pre-bid meeting was held onsite on Monday October 11 and was attended by two bidders. He stated that the bid documents specify the work to be completed by December 1, 2010 explaining that although the District must first pay for this work, it will be refunded by the California Leaking Underground Storage Tank fund. He reported that two bids were opened on Friday October 15, 2010 and bids were received from the contractors as follows:

Warren Duncan Contracting \$187,911

Bear Valley Paving \$206,430

Mr. Heule stated that he and Mr. Stephenson went over the bids and they recommend awarding the contract for the Big Bear Marina Remediation Trench Project to Warren Duncan Contracting. Director Suhay asked who is responsible for monitoring the project for compliance. Mr. Heule explained that our consultant, Kendall Adams Group, would be on site to check on compliance. Director Smith asked what city the contractor was from. Mr. Heule explained that they are headquartered near San Bernardino. Director Smith asked when the soil is taken to the disposal site, who is it linked to. Mr. Heule explained that would be Warren Duncan Contracting and the

District. Director Murphy asked why the price for "mobilization, demobilization and site specific health and safety plan" was so different between the two bidders. Mr. Heule explained that Warren Duncan was questioned on this and they are very comfortable with their bid. Director Murphy asked when the project would be completed. Mr. Heule stated that the completion date is within 30 calendar days after the date of the Notice to Proceed, and not later than December 1, 2010, however the District will be fair and depending on the weather.

Director Suhay moved approval of awarding the contract for Big Bear Marina Remediation Trench Construction Project to Warren Duncan Contracting in the amount of \$187,911. Director Smith seconded the motion and it was unanimously approved.

**CONSIDER APPROVAL OF CONSULTANT AGREEMENT FOR SIMON WONG ENGINEERS TO PREPARE PLANS, SPECIFICATIONS, AND COST ESTIMATE FOR THE REPLACEMENT DAM SERVICE BRIDGE CONSTRUCTION PROJECT**

Mr. Heule stated that the District has still not received a commitment from Caltrans so this item can't be approved at this time. President Fashempour tabled this item until the meeting of November 4, 2010.

**PUBLIC FORUM**

No comments were made

**ANNOUNCEMENTS**

No announcements were made

**DIRECTOR COMMENTS**

No comments were made

**ADJOURNMENT TO CLOSED SESSION**

The meeting was adjourned to Closed Session at 1:56 P.M to:  
Confer with real property negotiator re: APN NO.2328-202-15, 2328-202-08  
District Negotiator - Scott Heule

**RECONVENE TO OPEN SESSION**

The meeting was reconvened to Open Session at 3:19 P.M.  
No reportable action.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 3:20 P.M.

**NEXT MEETING**

Open Session at 1:00 P.M.  
Thursday, November 4, 2010  
Big Bear Municipal Water District  
40524 Lakeview Drive, Big Bear Lake, CA



Vicki Sheppard  
Secretary to the Board  
Big Bear Municipal Water District

(SEAL)