

***MINUTES OF A REGULAR MEETING OF
BIG BEAR MUNICIPAL WATER DISTRICT
HELD ON THURSDAY, AUGUST 18, 2011***

CALL TO ORDER

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

President Suhay announced that item 6B (Marina Point) is being removed from the agenda.

REPORTS

General Manager, Scott Heule reported that Mike Rogers, MWH, advised that computer modeling of the dam stability during 100 year and PMF flood routing is nearly complete. He explained that preliminary findings are that the dam is stable under these conditions. He added that some geological mapping is still needed to see how the new highway bridge construction might have modified the stability of some rocks below the dam. He stated that Mike Rogers is hopeful that they will be able to complete the inundation map of the valley for various dam overtopping scenarios so that the Board can better evaluate the risk and benefits of three large radial arm gates on the dam. He stated that they will schedule a facilities committee to discuss the results with Mr. Rogers before presenting to the full board. Director Smith asked if the model was being done with the road off or on. Mr. Heule explained that it was being done with the road off. Director Smith asked that under the circumstances, if we could not bypass the radial arm installation. Mr. Heule explained that this work is being prepared to inform the Board and they can ask Mike Rogers more information when he submits his report adding that it might be better to put in the gates depending on the report outcome. President Suhay commented that MWH will be supplying us with more information so we really can't discuss it, in more detail, at this time. Mr. Heule stated that he met with the TMDL named parties on Tuesday afternoon. He reported that it appears that the task force no longer exists but that the parties that have specific obligations for performing on the TMDL will continue to collaborate on meeting deadlines, performing monitoring, and implementing nutrient reduction strategies. He added that the group shared the availability of some grant funding that could be used to construct sediment basins on stream tributaries to the lake. He explained that they are asking that the District team with them in securing this money. He added that according to the rules of the grants, they cannot be used by named parties to respond to their TMDL obligations. He commented that he will be meeting with the City of Big Bear Lake next week to discuss this further and provide further information as it becomes available. Mr. Heule reported that another TMDL related issue is a re-emergence of efforts for a Mercury TMDL. He explained that the District has been asked to assist the Regional Board in collecting survey data from fishermen on and around the lake. He reported that after getting some clarification regarding the methodologies and data analysis for the survey that would be managed by Mike Perez, he shared this information with the TMDL parties suggesting that the District politely decline our assistance and suggest that a more scientifically defensible creel survey be conducted and they strongly concurred. He explained that this is all coming down as the State is getting started on a Statewide TMDL for Mercury. Mr. Heule reported on a

LAFCO meeting he attended yesterday morning explaining that the Commission approved the service reviews and sphere of influence boundaries for Recreation and Parks, Big Bear Fire Protection District, County Service Area 53, the Airport District, the Community Services District and the MWD. He explained that the City requested, and was granted, a continuance on their piece in order for them to consult further with the District and the County regarding Lake shoreline responsibilities. He added that the Commission granted the continuance until their November 16th Board meeting. He reported that Steve Foulkes spoke on the Sphere of Influence and Service Review for the District explaining how disappointed he was that the MWD did not complete the acquisition of the DWP. Mr. Heule reported that demolition of the old highway bridge will probably begin sometime next week. He explained that, as part of that process, the contractor needs to install a protective railing on the old catwalk that remains under the bridge deck. He reported that Flatiron Construction asked if the District wanted to have them move the 3.5 foot high chain link fencing that is presently on the upstream side of the bridge down onto the catwalk. He added that if the District paid for the materials, Flatiron would install a similar fence on the downstream side of the catwalk and it would all be left in place for the District to use after the project is complete. Mr. Heule explained that staff estimates the cost to the District would not exceed \$10,000 and because the contractor needed an answer quickly, he called President Suhay asking permission to go ahead with the idea. He added that President Suhay approved it and the contractor is ordering the rest of the materials that he needs. He stated that staff will keep the Facilities Committee up to date on further developments.

Lake Manager, Mike Stephenson reported on the most current limnological report explaining that the lake is flipping and macro algae is starting to form. He reported on the Kool Kids program yesterday explaining that it went very well. He thanked the Directors for all of their help. He added that there is one more day of Kool Kids next week, Wednesday. Director Eminger complimented Mr. Stephenson on how well the day went. Mr. Stephenson explained that the school conducted a survey asking the children if they would rather take a field trip to Kool Kids, Sea World, the Zoo, and several other field trip choices explaining that the children overwhelmingly selected Kool Kids as their first choice. He reported on the Carp program explaining that to date 30,000 pounds of carp have been removed from the lake. He added that the goal is 50,000 pounds and they are on the way to meeting that goal. Mr. Stephenson explained that the electrical work at the dam is going full speed and they plan to test bay 10 tomorrow. Director Smith congratulated Mr. Stephenson on the success of Kool Kids. Director Fashempour complimented staff and the Directors on their hard work during Kool Kids and remarked that her booth (Lake Clarity) was exciting. Director Murphy echoed the other Directors. Director Fashempour asked if all of the children caught a fish. Mr. Stephenson stated that all the children, except for one child who chose not to participate, caught a fish. He explained that when Paul Fetterhoff heard that one child did not catch a fish, Paul took the child and helped him catch one.

APPROVAL OF CONSENT CALENDAR

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

- Minutes of a Regular Meeting of August 4, 2011
- Warrant List dated August 11, 2011 for \$147,786.73
- Consider approval of a special event permit for the Antique & Classic Boat Show to be held August 18th through August 21st

CONSIDER APPROVAL OF CONSENT TO ASSIGNMENT; LESSOR, LESSEE, AND LENDER AGREEMENT; AND ESTOPPEL STATEMENTS, BIG BEAR MARINA

Mr. Heule reported that Big Bear Marina is refinancing a loan from First Mountain Bank to upgrade floating docks in the marina. He commented that District Counsel and the bank were working on the language of the agreement up until moments before the start of this meeting. He explained that the Bank is using the Marina business as collateral for the loan and in the event of a default on the loan by the Marina the Bank would step in and take over the Marina business. He reported that Big Bear Marina leases the marina license and real property owned by the District adding that the District is being asked to consent to the assignment of the lease to the Bank only and unless and until there is an event of default under the terms of any of the loan documents Big Bear Marina is securing for the new loan. Mr. Heule explained that the Administrative Committee, with the help of District Counsel, previously researched a variety of questions directly related to this request, including Big Bear Marina LLC incorporation documents, original and subsequent lease agreements between the District and the marina, and minutes of the marina LLC meetings. He added that a similar assignment was approved by the District at the time Big Bear Marina secured an earlier loan prior to the death of Deborah Hull and then Greg Boll. District Counsel Wayne Lemieux went over two areas of concern. He reported the first concern was one of assignment. He explained that the District would want to be involved in approving a new tenant adding that a proposal was made establishing a right of refusal for the District to purchase the leasehold interest at an amount limited to that owed to the bank adding that this solved the assignment problem. He commented that the second concern was the rental clause. He explained that protecting the District's right to collect back rents was addressed. He reported that if the bank institutes foreclosure, the bank will pay rent during the proceedings. He added that if the District decides to buy it, this is moot. Director Murphy asked if the bank owns the docks. Mr. Lemieux responded that they are part of the package and therefore the District will have ownership of the docks. President Suhay asked for clarification that the District would have the option to buy. Mr. Lemieux stated that the District would have 10 days to exercise its option to purchase the lease.

Director Murphy moved approval of consent to assignment; lessor, lessee, and lender agreement; and estoppels statements for Big Bear Marina. Director Fashempour seconded the motion, with Director Smith abstaining, and it was unanimously approved.

PUBLIC FORUM

Sandy Steers, Friends of Fawnskin, stated that she feels staff has done a very good job with Marina Point and she supports staff's recommendation for an environmental impact report. Michael Gonet, First Mountain Bank, thanked the District for the Kool Kids program adding that his son was involved yesterday and had a wonderful time.

ANNOUNCEMENTS

Mr. Heule reported that he will be out of the office on approved leave next Friday and the following Monday to celebrate his 35th wedding anniversary.

DIRECTOR COMMENTS

No comments were made

ADJOURNMENT TO CLOSED SESSION

The meeting was adjourned to Closed Session at 1:50 P.M to:

Conference with Legal Counsel:

Potential Litigation - Santa Ana Sucker Task Force vs. U.S. Department of the Interior & U.S. Fish and Wildlife Service

RECONVENE TO OPEN SESSION

The meeting was reconvened to Open Session at 2:05 P.M. reporting that the Board authorized participating as a plaintiff along with Bear Valley Mutual Water Company; City of Redlands; City of Riverside; City of San Bernardino Municipal Water Department; East Valley Water District; Riverside County Flood Control and Water Conservation District; San Bernardino Valley Water Conservation District; West Valley Water District; and Yucaipa Valley Water District vs. Kenneth L. Salazar, Secretary of the United States Department of the Interior; United States Department of the Interior; Daniel M. Ashe, Director, United States Fish and Wildlife Service; United States Fish and Wildlife Service in a complaint to be entered in the United States District Court for declaratory and injunctive relief as it relates to the designation of critical habitat for the Santa Ana Sucker fish, and to direct Counsel to sign the complaint.

ADJOURNMENT

There being no further business, the meeting was adjourned at 2:10 P.M.

NEXT MEETING

Open Session at 1:00 P.M.
Thursday, September 1, 2011
Big Bear Municipal Water District
40524 Lakeview Drive, Big Bear Lake, CA



Vicki Sheppard
Secretary to the Board
Big Bear Municipal Water District

(SEAL)