

***MINUTES OF A REGULAR MEETING OF
BIG BEAR MUNICIPAL WATER DISTRICT
HELD ON THURSDAY, SEPTEMBER 20, 2012***

CALL TO ORDER

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

Director Smith reported that he would like to add an item to the agenda stating that the District did not receive it until after the Agenda had been published. He stated that it is the cooperative agreement between the District and Caltrans explaining that it is almost Fall and if we wait two weeks for the next Board meeting to approve it the weather might prohibit the project being completed this year. Director Suhay asked if this was okay to add to the agenda at this time. District Counsel Wayne Lemieux stated that it was.

Director Murphy moved approval of adding item 6C, Consider Approval of Caltrans Cooperative Agreement, to the agenda. Director Suhay seconded the motion and it was unanimously approved.

REPORTS

Mr. Heule stated he would like to thank District Staff that put in so many hours of hard work to make the Dam 100 Year Celebration a success from John Tuttle figuring out how to make a video work on two TV's at the same time, to Victoria Moore's artistic talents in crafting the poster displays and tickets, to Mike Stephenson and his seasonal maintenance workers decorating the Dam, assisting with the balloons, opening the boom line and turning on the aerator, to Vicki Sheppard getting through the maze of caterer bids and ordering the cake, commenting that it was truly a team effort. He added that we thought that the 100 banner would be nice to display, for at least one more time, here in the Board room before it is archived for the next 100 year celebration. He also thanked everyone who helped put the staff barbeque together for the fourth year now. He added that the Trout Pond provided opportunity for games that previous location did not afford. He also thanked the Directors for participating and sharing part of their day with the employees and their families. Mr. Heule reported that another grant application has been submitted in collaboration with the City of Big Bear Lake and the County of San Bernardino to address TMDL issues. He explained that the grant, if approved, would fund sediment capture basins at two or three locations in the City at the USFS property boundary, a doubling of the capacity of the aerator at the dam, and about \$150,000 for the purchase of herbicide to treat Eurasian Water Milfoil. He commented that it will be months before we hear a response from the State Water Resources Control Board and the Federal Environmental Protection agency regarding a possible award.

Lake Manager, Mike Stephenson reported that the lake has flipped commenting that the dissolved oxygen remained high for the entire season. He added that we have not had an algae bloom explaining that if we were going to have one he believes it would have happened by now. He commented on the Kool Kids poster on the wall given to us by North Shore Elementary School thanking the District for the Kool Kids event. He added that 16,300 pounds of carp have

been removed so far and there would be two to three more weeks of carp work and then staff will concentrate on the marsh and the boardwalk.

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 September 6, 2012
- Warrant List Dated September 14, 2012 for \$163,937.87

HEARING ON REVOCATION OF THE DOCK LICENSE FOR DOCK NUMBER 601 AT EDGEWATER INN

Mr. Heule explained that over the past several months Big Bear Marina has complained to the Lake Operations Supervisor that Edgewater Inn has been illegally renting boats to guests and non-guests of the lodging facility. He reported that Lake Operations Supervisor, Adam Williams, confirmed with a secret shopper phone call two months ago that they were renting a pontoon boat to guests and non-guests alike. He stated that at that time the owner/management company Cabins 4 Less assured him that they would stop renting boats. He added that following up another complaint from Big Bear Marina a secret shopper phone call from our seasonal dispatcher Becca Bradford confirmed again that Edgewater Inn was renting boats to non-guests. He explained that subsequently Cabins 4 Less was advised that their dock license was being suspended in accordance with District Resolution 2009-02 due to violation of Section 5, part b. Lodging and Multi-Family Residential – Hotel, Motel, Bed & Breakfast, ..., (3) Boat Restrictions, that reads:

a. Hotel, Motel and Bed and Breakfast

- i. The number of boats owned and moored by the lodging facility shall be limited to three and shall be for the exclusive use of the resident owner or manager.
- ii. They shall not be available for rental or use by tenants or for the general public.
- iii. Any dock slips not occupied by the facility's boats shall be only for the mooring of boats owned by registered tenants during their stay at the facility.

Mr. Heule reported that Dock License Suspension Notification Buoys were placed at the dock on August 30, 2012 and Cabins 4 Less was notified in a letter dated August 28, 2012 that a hearing would be held regarding revocation of their dock license as a result of their violation.

Lake Operations Supervisor, Adam Williams explained the series of events regarding dock #601. He reported that approximately two months ago, he was informed that the Edgewater Inn (now operated by Cabins 4 Less) was renting a pontoon boat out of their dock adjacent to Big Bear Marina (dock #601). He explained that he checked the area and found that the boat was secured to the dock and he contacted Cabins 4 Less by telephone the following morning and asked if they had pontoon boats for rent. He stated that the call taker advised him that they did have a pontoon boat for rent and that it was a \$65 dollar charge for the boat in addition to the room rate. Mr. Williams then asked if it would be possible to rent the vessel if he was not a guest and she advised that the rate would then be \$75. He then identified himself and asked to speak with the manager and was directed to Reneh Shahin. He advised Mr. Shahin that they were violating District regulations by renting the pontoon boat and that if they continued to do so their dock license would be revoked. He advised him that only Marina's had the ability to rent registered vessels as they hold a marina permit. He then said that he had a marina permit. Mr. Williams advised him that this was not the case and again reaffirmed that they were not permitted to rent

the vessel. He stated that Mr. Shahin then advised him that he was unaware that they were not allowed to rent the boat and that they would stop doing so immediately. He reported that Mr. Shahin stated "we want to play by the rules" and again stated that they would not continue to rent the vessel. Mr. Williams told Mr. Shahin specifically that rental of the vessel was not allowed regardless of whether or not the charge was included in the room rate. He advised him that if he wanted to seek permission to be allowed to rent the vessel in any way he would have to contact the District's General Manager. He added that Mr. Shahin told him that the vessel was owned by Dennis Parker, a partial owner of the property, and he then advised Mr. Shahin that if the vessel was removed from the dock it would eliminate any question as to whether or not the vessel was being rented out to guests at the Edgewater. Mr. Williams reported that Mr. Shahin agreed but stated that Dennis Parker was still a partial owner and would have permission to keep his vessel on the dock until next season. He then discussed non registered vessel issues such as Lake use permits and safety equipment requirements with Mr. Shahin and after a lengthy conversation Mr. Shahin expressed gratitude for the information he had provided him and again stated that they would comply with District regulations. Mr. Williams reported that approximately one month after this event he was again contacted and advised that it appeared that the pontoon boat was once again being rented out. He contacted Mr. Shahin and he advised that the vessel was not rented and that he had the key for the vessel in his possession adding that the guests staying at the Edgewater were allowed to sit on the boat, but that they had no permission to use it or any means to start it. Mr. Williams explained that several weeks later Lake Manager Mike Stephenson received a complaint regarding the same issue and at this time they decided to once again call Cabins 4 Less to confirm whether or not they were continuing to rent the vessel. He reported that upon calling and asking if a rental vessel was available the call taker advised our employee that they did have a pontoon boat for rent, but that it was only available to persons renting a cabin for the night and that the charge was \$65 in addition to the normal room rate, a direct violation of District resolution as made clear by his previous discussion with Mr. Shahin. He added that at this time Mike Stephenson and he contacted Mr. Shahin and advised him that his dock license was suspended and would be revoked pending Board approval. He commented that Mr. Shahin advised that he was going to come in first thing the next day with his lawyer and that he needed to see in writing the sections that he violated. Mr. Williams reported that staff prepared a copy of the dock resolutions with the violated sections highlighted and Mr. Shahin came in the next day and picked up the document from the counter. He explained that on 8/28/12 the District sent a letter to Cabins 4 Less with the applicable resolution sections and a notification of hearing for revocation of their dock license scheduled for 9/20/12. Mr. Williams reported that on 8/30/12 District personnel placed dock license suspension buoys at the dock. He added that the vessel in question was found to be registered to a Gary Trumpler of Big Bear Lake, and the permit on the vessel was purchased by a Dennis Balhe of Big Bear Lake. He advised that on 8/31/12 Mr. Shahin came to the counter and stated that he did not understand what the dock suspension buoys placed at his dock meant and he was advised that (as was stated in the letter previously sent and in the phone conversation several days earlier) the dock license was suspended pending revocation and that all use of the dock was suspended. He added that shortly after this conversation he was contacted by Dennis Parker, who identified himself as the owner of the Edgewater Resort, informing him that he was subletting the property to Mr. Shahin, but that he was the owner of the property (information later obtained from the Title Company confirmed that Mr. Parker was the owner of the property). Mr. Williams reported that Mr. Parker explained that he was informed by Mr. Shahin of the events that had taken place and he apologized for the problems he created. Mr. Williams explained in detail the series of events that had taken place

and informed Mr. Parker of the numerous regulations that had been violated and Mr. Parker explained that Mr. Shahin asked him if he could rent his vessel out to tenants and they agreed to do so, splitting the money collected after paying for gas and oil. Mr. Williams stated that Mr. Parker again apologized for the problems that had been created. He informed Mr. Parker that the vessel at the dock was not registered to him and until it was, storing it at the dock was an additional violation of District regulations. Mr. Williams summarized as follows: Persons involved with the Edgewater Resort have continued to rent vessels in violation of District resolutions despite repeated verbal warnings explaining that the following sections have been violated:

(i) The number of boats owned and moored by the lodging facility shall be limited to three and shall be for the exclusive use of the resident owner or manager.

(ii) They shall not be available for rental or use by tenants or the general public.

Additionally, the vessel stored at the dock is found to be registered to a subject who is not an owner or tenant, a violation of the following section

(iii) Any dock slips not occupied by the facility's private boats shall be only for the mooring of boats owned by registered tenants during their stay at the facility.

Mr. Dennis Parker, owner of the Edgewater Inn, explained that he worked as manager and then purchased the Edgewater Inn. He added that he paid his dock fees. He stated that he purchased a pontoon boat from Big Bear Marina and then subleased the Motel to Reneh Shahin agreeing to rent out the pontoon boat, not understanding the rules. He added that they thought it could be rented to tenants, just not to outsiders commenting that they were just trying to generate some revenue. He presented some paperwork that he thought showed he could rent it to tenants. He added that he spent money on the boat explaining that it doesn't even run now and they haven't rented it to anyone since the end of July, not even to tenants. He explained that it was all a misunderstanding and he apologized. He again said that the boat doesn't even run and they are going to take it out of the water.

Director Suhay explained that tenants can use the dock for their own boats, just not rent the owners boat.

Mr. Heule explained the options:

A. The Board can choose to forgive at this point and say "just don't do it ever again" or

B. Revoke the dock license and the dock will be removed from the lake and the owner may come back at some point and re-apply for a dock license.

Director Murphy commented that they seem to also have kayaks and canoes on the beach. Director Suhay added that they are not allowed to rent these vessels either. Mr. Heule reported that Mr. Williams and Mr. Stephenson have observed kayaks and canoes below the high water line explaining that businesses are prohibited from delivering boats below the high water line. Mr. Shahin stated that they do not charge at all for these boats explaining that they are free. Mr. Heule explained that whether they charge or not, they can't be delivered below the high water line. Mr. Shahin stated that guests are responsible for moving their kayaks. Director Smith asked for a recommendation from the Operations Committee. Director Murphy stated that he would recommend "Option A" but then if it happens again the dock would be gone forever. Director Smith stated that Alan Sharp is a Marina Owner and Edgewater has done this in broad daylight so let's just call it a misunderstanding at this point. He added that the District has spent a lot of time on this so (without question) this would be the last time we would want to discuss this violation.

Director Murphy moved approval of not suspending Dock License #601 and forgiving the violation as long as it never happens again. Director Smith seconded the motion and it was unanimously approved.

DISCUSS CONTENT AND DATE FOR BOARD WORKSHOP (ORIENTATION, TROUT POND, SUMMER WRAP-UP, ETC.)

Mr. Heule explained that with our new Board member, Mary Ann Lewis, there is a need for the District to conduct some orientation in order to bring her up to speed on several issues. He would like the Directors to discuss scheduling a workshop to conduct this orientation as well as continue discussions on the future of the Trout Pond. He is also asking Board members what other topics they would like to discuss so they can be added to an agenda for the workshop. Director Smith explained that this would probably take three to four hours so it should probably be other than a Board Meeting day. Director Murphy stated that the Trout Pond would be a very important topic. Director Smith stated that he feels the summer wrap up might be better if discussed after the Marina Task Force meeting. Director Suhay commented that maybe by then we could come up with a more definite cost to separate the Trout Pond properties (house from trout pond). Director Murphy stated that the Committee's would meet before this workshop and have more information and ideas. Director Smith commented that once we start digging at the Trout Pond we probably won't want to sell the house before the digging is done. Mr. Heule stated that maybe in October between the October 4th and the 18th meeting might be good.

CONSIDER APPROVAL OF CALTRANS COOPERATIVE AGREEMENT

Mr. Heule stated that for many months the District has been working to get Caltrans to fund construction at the Dam that would allow employee and maintenance activity access now that the highway bridge has been removed. He explained that in some cases the District had to take action to provide dam security and access even though we were not assured Caltrans would reimburse the necessary expenses as in the case of the chain link security fencing and metal stairway access to the top of Bay 7. He added that finally after months of inaction on their part Caltrans has drafted a cooperative agreement that would obligate them to pay the District \$77,306.00 for work already completed and the fabrication and installation of necessary dam access and maintenance railings, stairs, ramps and catwalks. Mr. Heule explained that with the construction season for this year rapidly coming to a close and the necessity of protecting District workers during the upcoming and future winter months this work must begin very soon. He added that Staff has already solicited and received bids for this work from one vendor and is prepared to move quickly to secure others in order for the Board to award a contract for this work as soon as the Board approves the Caltrans cooperative agreement. He reported that specifically this cooperative agreement would fund:

1. Stairway access into the top of Bay 7 that has already been paid for and installed by the District at a cost of \$8,465.
2. Security fencing on the left and right abutments of the dam already paid for and installed by the District at a cost of \$6,200.
3. Ramp access at the left abutment and stairways and catwalk access to the control building at the right abutment of the dam for an estimated cost of \$42,779.
4. Fabrication and installation of railing, platform and ladder to provide safe access to the service spillway gates at Bays 1 and 10 for an estimated cost of \$19,862.

He explained that the contract has already been sent to Sacramento for their signature and once it is signed we can send an invoice to Caltrans and they will give us a check.

Director Suhay moved approval of the Caltrans Cooperative Agreement. Director Murphy seconded the motion and it was unanimously approved.

PUBLIC FORUM

No comments were made

ANNOUNCEMENTS

Mr. Heule stated that he would be out of town most of next week attending the California Special District Conference in San Diego. He added that he and District Counsel have been working on updating the Administrative Code and the Administrative Committee will soon convene to begin final review and edits before it is considered by the full Board.

DIRECTOR COMMENTS

Director Suhay agreed with Director Smith that the summer wrap-up should be held after the Marina Task Force meeting. Director Smith thanked Mike Stephenson for all his hard work on the Fish & Game MOU commenting that it will streamline many alterations. Director Murphy reported on many compliments and good reports he received on the 100 Year Celebration. Director Lewis agreed adding that the Celebration and the BBQ were lots of fun.

President Eminger reported that he has appointed Director Lewis as JPIA Director and himself as alternate.

ADJOURNMENT

There being no further business, the meeting was adjourned at 1:55 P.M.

NEXT MEETING

Open Session at 1:00 P.M.
Thursday, October 4, 2012
Big Bear Municipal Water District
40524 Lakeview Drive, Big Bear Lake, CA



Vicki Sheppard
Secretary to the Board
Big Bear Municipal Water District

(SEAL)