

SAN GORGONIO PASS WATER AGENCY
1210 Beaumont Avenue, Beaumont, California 92223
Minutes of the
Board of Directors Meeting
December 19, 2016

Directors Present: David Fenn, President
Ron Duncan, Vice President
Lenny Stephenson, Treasurer
Blair Ball, Director
David Castaldo, Director
Michael Thompson, Director

Staff Present: Jeff Davis, General Manager
Thomas Todd, Finance Manager
Cheryle Rasmussen, Executive Assistant
Jeff Ferre, General Counsel

1. **Call to Order, Flag Salute and Roll Call:** The meeting of the San Gorgonio Pass Water Agency Board of Directors was called to order by Board President David Fenn at 7:00 p.m., December 19, 2016 in the Agency Boardroom at 1210 Beaumont Avenue, Beaumont, California. Director Stephenson led the Pledge of Allegiance to the flag. A quorum was present.
2. **Adoption and Adjustment of Agenda:** *President Fenn asked if there were any adjustments to the agenda.* General Manager Davis recommended moving Items 6A, 6B, 6C & 6D be addressed after item 4; the Board was in agreement. The agenda was adjusted as amended.
3. **Public Comment:** *President Fenn asked if there were any members of the public that wished to make a public comment on items that are within the jurisdiction of the Agency.* Tom Shalhoub wished the Board a Merry Christmas. There were no other members of the public that wished to comment at this time.
4. **Consent Calendar:**
 - A. Approval of the Minutes of the Regular Board Meeting, December 5, 2016
 - B. Approval of the Minutes of the Engineering Workshop, December 12, 2016

Director Stephenson made a motion, seconded by Director Duncan, to adopt the consent calendar as presented. Motion passed 6-0.

6. **New Business: (Discussion and Possible Action)**
 - A. Consideration of Acceptance 2015-2016 Audit Report (Linda Devlin, of Ahern Adcock Devlin LLP (AAD), a division of SingerLewak):** A staff report and a copy of the Independent Auditor's Report for the Year Ended June 30, 2016 was included in the agenda packet. General Manager Davis explained the State's requirement of an annual Audit Report for public agencies. He stated that the Board must do their due diligence in looking after the Agency's finances and assuring the taxpayers that the books are well kept. He introduced Linda Devlin to present the 2015-2016 Audit Report. Ms. Devlin reviewed the audited Financial Statements for the Year Ended June 30, 2016. In summary, the overall income (Operating and Non-operating) totals \$22.98 million for FY 2015-16, an increase of \$1.94 million from FY 2014-15. Overall expenses (Operating and Non-Operating) totaled \$11.59 million for FY 2015-16, an increase of \$0.36 million from FY 2014-15. The resulting Net Income is \$11.49 million. Ms. Devlin concluded

her presentation and answered questions from the Board. After discussion, Director Duncan made a motion, seconded by Director Castaldo, to accept the 2015-2016 Audit as presented. Motion passed 6-0.

B. Public Hearing on Determination of whether to Form a Groundwater Sustainability Agency (GSA) Pursuant to the Sustainable Groundwater Management Act for One-Square Mile in the Verbenia Area: President Fenn opened the public hearing. General Manager Davis stated that under the Sustainable Groundwater Management Act, the State requires public agencies around the state to form Groundwater Sustainability Agency's for certain types of groundwater basins. The Agency has worked closely with a number of other public agencies in the eastern portion of its service area, to develop a GSA governance structure for most of our service area in the San Gorgonio Pass Sub-Basin. General Manager Davis provided an image that showed the San Gorgonio Pass Sub-Basin detailing the Verbenia area, the SGPWA boundary, Desert Water Agency boundary, Mission Springs Water District (MSWD), Cabazon Water District and Morongo Band of Mission Indians (MBMI) Tribal lands. He explained that MSWD elected to be a GSA for the one-square mile of land that is in its service area, as well as the Agency's service areas. The Agency has 90 days to also elect to be a GSA for this area. MSWD has made it clear that it is not opposed to the Agency electing to become part of a GSA for the one square mile. The purpose of this proposed Board action is to determine if the Board wishes to also become the GSA for the one-square mile in the Verbenia area. Comments were received from Eric Fraser (BCVWD – General Manager) who had some concerns about exposure in a basin that also includes the Morongo Band of Mission Indians. Paeter Garcia (BBK) responded and stated that we need to ensure coordination and collaboration with the Morongo Band of Mission Indians. During the last 9 months we have been involved in a very intensive effort with all of the stake holder agencies that purvey water from this basin to coordinate, cooperate and identify what it means to be a GSA and to develop a Memorandum of Understanding. A representative of the Tribe has stated that they are there to work with the stake holders. Additional discussion was on the Groundwater Sustainability Plans. After further discussion, President Fenn closed the hearing.

C. Consideration of Resolution No. 2016-08, Election to Become a Groundwater Sustainability Agency: A staff report and Resolution 2016-08 were included in the agenda packet. General Counsel Ferre stated that the recommendation is for the Board to approve Resolution 2016-08, electing to become a GSA for the one square mile in the Verbenia area, thus allowing the Agency to participate in overall management of the San Gorgonio Pass Sub-basin, and that the Board authorize Staff to file the appropriate documentation with DWR to become a GSA. Director Stephenson made a motion, seconded by Director Duncan, approving Resolution 2016-08 as presented. Motion passed 6-0.

D. Overview of Urban Water Management Plans (UWMP): A PowerPoint presentation was included in the agenda packet. General Manager Davis informed the Board that he asked Paeter Garcia (BBK) to attend tonight's meeting; his expertise is in SGMA and UWMPs. The Agency will be presented with an UWMP for approval within the next couple of months. General Manager Davis introduced Mr. Garcia to go over the UWMP process. He stated that the entities that are required to prepare an UWMP are publicly or privately owned water suppliers (including wholesalers), providing water for municipal purposes either directly or indirectly to more than 3,000 customers or

supplying more than 3,000 acre-feet per year. In addition, he reviewed why UWMPs were developed, stating that UWMP are not project specific, they are long-term planning documents. An UWMP is often used as key reference document for land use planning and decision making. It is also used as a source document for CEQA review, Water Supply Assessments, written verifications, and other water supply analyses. Mr. Garcia answered questions from the board and concluded his presentation.

5. Reports:

A. General Manager's Report:

(1) Operations Report: (a) SWP Water Deliveries: The Agency has delivered a total of 798 acre-feet to the Noble Creek Connection, so far this month. **(b) CVPS** was not visited during the Agency's tour that took place on December 12th. General Manager Davis reported to the Board that CVPS new Pump 4 (the largest pump – 20 cfs) has been working for the past several days.

(2) General Agency Updates: (a) Northern California Hydrologic Conditions. General Manager Davis spoke on the precipitation index for the dates of December 15 and December 16 in Northern Sierra, San Joaquin and Tulare Basin. He also spoke on Lake Oroville storage levels for the same dates. So far this water year looks impressive, however precipitation now is not a guarantee that it will continue. **(b) Water Resources Development Act:** The WRDA was signed by President Obama. The WRDA is also known as the California Drought Act. The bill had been in the Congress for a number of years, introduced by Senator Feinstein each session; Senator Boxer initially supported the bill, but then ended up opposing it. The bill includes funding for recycled water, stormwater capture, and environmental issues. **(c) YVWD:** YVWD is hosting AB 1234 ethics training on January 19th from 6 to 8 pm.

B. General Counsel Report: (a) General Counsel Jeff Ferré stated that the Board had charged him with looking into a couple of items during the last meeting. General Manager Davis is working on providing Resolution 2006-01, pertaining to Section 101-11 of the Agency's Act of setting forth the board election of officers in even-numbered years and changing to odd-numbered years. Section 13 of the Act deals with legal rights of the Agency. He stated that in his opinion there is flexibility to change the board election years. **(b)** The other issues were what are the offices of the board and how are they appointed. General Counsel Ferre referred to Section 14 of the Agency's Act reading it verbatim. He provided detailed information on the officers titles, duties and he explained that the Agency needs to have a secretary, treasurer and auditor, but there is flexibility in terms of who they are, whether an outside contractor or in house auditor. General Counsel Ferre referred to Section 16 of the Act reading it verbatim, referring to general manager and officer's duties. **(c)** There was also a question on an invocation policy. He stated that the Agency should have a policy for invocation should the Board desire to incorporate an invocation. He explained what the policy should include and what the parameters set by the courts for an invocation. It was determined by the Board to continue discussion on the invocation issue. President Fenn requested from General Counsel Ferre an electronic version of the Brown Act for all the board members. Director Castaldo questioned General Counsel Ferre as to what the specific duties are for the president of the board. General Counsel Ferre stated that there is no level of detail in the Act, it is an internal policy or based on the specific action taken by the Board. General Manager Davis stated that duties may be included in a board handbook, which needs to be developed.

C. Directors Reports: (1) **Director Thompson** reported on the BCVWD meeting that he attended on December 14th. (2) **Director Ball** reported on the the BCVWD meeting that he attended on December 14th. (3) **President Fenn** reported on the the BCVWD meeting that he attended on December 14th. (4) **Director Duncan** reported on the South Mesa Water District meeting that both he and Director Stephenson attended on December 14th. (5) **Director Castaldo** thanked staff for the work that they put in to provide a Field Trip to Craffton Hills Reservoir and Citrus Reservoir that took place on December 12th.

6. New Business: (Discussion and Possible Action)

E., F. and G. Consideration of Resolution Nos. 2016-09, 10 and 11 Honoring John Jeter, Bill Dickson and Mary Ann Melleby: A copy of Resolution Nos. 2016-09, 10 and 11 were included in the agenda packet. General Manager Davis explained that whenever a board member leaves the board we develop resolutions honoring them. There are a total of three resolutions. Director Duncan made a motion, seconded by Director Stephenson, approving Resolutions 2016-09, 2016-10 and 2016-11, recognizing John Jeter, Bill Dickson and Mary Ann Melleby for their years of service to the Board and which were set forth as items **6 (E), (F) and (G)**. Motion passed 6-0.

H. Ratification of Paid Invoices and Monthly Payroll for November, 2016 by Reviewing Check History Reports in Detail: A copy of the Check History Report was included in the agenda packet. Director Castaldo made a motion, seconded by Director Duncan, to approve that the Board ratify paid monthly invoices of \$817,175.63 and payroll of \$32,695.94 for the month of June, 2016, for a combined total of \$849,871.57. Motion passed 6-0.

I. Approval of Pending Legal Invoices for November, 2016: A copy of the Legal Invoices Accounts Payable Invoice Listing was included in the agenda packet. Director Castaldo made a motion, seconded by Director Stephenson, approving payment of the pending legal invoices for June, 2016. Motion passed 6-0.

J. Review of November, 2016 Bank Reconciliation: A copy of the Bank Reconciliation for November 30, 2016 was included in the agenda packet. Director Duncan made a motion, seconded by Director Stephenson, to move for approval. Motion passed 6-0.

K. Acknowledge Receipt of Budget Report for November, 2016: A copy of the Budget Report was included in the agenda packet. President Fenn asked if the board members had any questions. Director Duncan asked if there were any significant changes. General Manager Davis stated that he would recommend approval tonight and at the January Finance and Budget meeting an extensive amount of time will be spend on the Budget Report. Director Duncan made a motion, seconded by Director Stephenson, approving the Budget Report as presented. Motion passed 6-0.

L. Consideration of Preparations for Filling Board Vacancy: A staff report and a copy of Division 3 Notice of Vacancy were included in the agenda packet. General Counsel Ferre stated that John Jeter resigned from the board effective December 7,

2016. The Board is required to make an appointment within 60 days from notification, or the effective date of the vacancy, whichever is later. A special election could be called at an extreme cost, which is not recommended. General Counsel Ferre provided details on how to conduct the vacancy proceedings. Staff recommends that the Board take action to authorize moving forward with the Notice of Vacancy requirements, so that it is clear that there will be an appointment, as opposed to a special election. The appointee's term of office will expire December 2018. General Counsel Ferre read the Notice of Vacancy for Division 3 and also read the legal requirements as noted in the staff report. The deadline to appointment a new board member is February 6th. The Board decided that letters of interest must be delivered no later than 4:30 p.m. on January 9, 2017. The candidates review will be conducted during a regular board meeting to be set on January 17, 2017. After discussion, Director Castaldo made a motion, seconded by Director Ball, to proceed with the notice requirements and other preparations for filling the vacancy on the Board of Directors, by appointment, which has resulted from the resignation of John Jeter, Division 3. Motion passed 6-0.

M. Discussion of Resolution 2014-02 – Establishing a Policy for Meeting Future Water Demands: A copy of Resolution 2014-02 was included in the agenda packet. President Fenn commented that he had attended the BCVWD board meeting in which the Policy for Meeting Future Water Demands was discussed several times during the BCVWD presentation of its UWMP. President Fenn stated that this item was requested by Director Ball. President Fenn invited Director Ball to continue discussion. Director Ball stated that in 2014 the Board had approved this resolution. He is concerned with items A, B and C of the resolution. He feels that the Agency is sending a message that water is easily obtainable. He does not want to send the message to others that it's simply 30 days and it's a done deal. Director Ball expressed his personal opinion that the resolution should be rescinded. Director Stephenson suggested a memorandum of understanding with the retailers within our service area, as the Act states that the Agency will provide supplemental water, not all of the water. President Fenn requested General Manager to give a history on what took place during the workshops, etc. leading to the Water Policy, and for General Counsel Ferre to provide opinion if it is a possibility to do an MOU. General Manager Davis explained the steps the Board has taken to bring additional water supplies to the region. In light of the Strategic Plan that had been adopted it was decided to take a strong policy stand on the Agency's role in obtaining additional water supplies, consistent with the Strategic Plan. The Board ultimately decided that it is in the best interest to not only contract with DWR for water, but to also supply the water demands of the region for the future, as other State Water Contractors do within the state. General Counsel Ferre spoke on Director Stephenson's suggestion of an MOU. He stated that we have tried agreements over the last couple of years regarding a collection of capacity fees on behalf of the Agency. Being the wholesaler we have the authority to set out the parameters of what we are doing and how we are going to get water. He recommended revisiting the policy, as to whether or not we need to make any changes, or come up with a new policy, or revise the current policy; as opposed to entering into an agreement with the retailers. Director Duncan stated that at the end of the day the Act itself states that we are to secure new water. General Counsel Ferre reminded the Board that this is a resolution and that it does not impact our authority, ultimately it is what our Act states. Director Thompson stated that our customers are relying heavily on the resolution as it has given them the feeling that they can demand, request, and can get as much water as they need. Director Stephenson believes that an MOU is still needed specifically pertaining to the cooperation of a capacity fee. If retailers are unwilling to collect a capacity fee on behalf of the Agency

then we are still at a disadvantage. General Counsel Ferre stated that if this resolution is being interpreted as some sort of a vested right, it is not. Director Castaldo stated that during his tenure on the Beaumont City Council the City interpreted the resolution as saying the water agency will go out and get everything they need. In his opinion, the resolution needs to be more detailed. President Fenn suggested finishing the UWMP, and then review the Water Policy and the Wheeling Policy, to then modify these based on our UWMP at a future workshop. Director Ball stated that this should be rescinded tonight. General Counsel Ferre stated that this item was presented specifically as a "Discussion" item; therefore no vote can take place this evening. Director Ball requested that this item be placed on the next agenda for discussion and possible action.

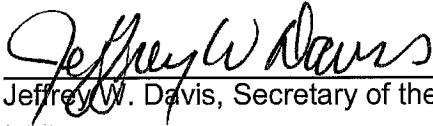
7. Topics for Future Agendas: **1.** Discussion and Possible Action to revise or recind Resolution 2014-02, Establishing a Policy for Meeting Future Water Demands. **2.** Duties of Officers and possibly develop a rotation policy on the terms of Board President, discussion and possible action to take place prior to voting in officers. General Counsel Ferre stated that he will present to the Board possible options. **3.** Discussion on developing a Board Handbook.

8. Announcements

- A. Office closed Friday, December 23, 2016 in observance of Christmas Eve
- B. Office closed Monday, December 26, 2016 in observance of Christmas
- C. Canceled – Finance and Budget Workshop, December 26, 2016
- D. Office closed Friday, December 30, 2016 in observance of New Year's Eve
- E. Office closed Monday, January 2, 2017 in observance of New Year's Day
- F. Regular Board Meeting, Tuesday, January 3, 2017 at 7:00 p.m.

9. Adjournment

Time: 9:38 p.m.



Jeffrey W. Davis, Secretary of the Board