



BIGHORN-DESERT VIEW WATER AGENCY

BOARD OF DIRECTORS' SPECIAL MEETING AGENDA

BOARD MEETING OFFICE
1720 N. CHEROKEE TR.
LANDERS, CALIFORNIA

Note: New Time

June 23, 2009
TUESDAY
3:00 P.M.

- CALL TO ORDER
- PLEDGE OF ALLEGIANCE
- ROLL CALL
- APPROVAL OF THE AGENDA

Public Participation-Public is invited to comment on any item on the agenda during discussion of that item. You may wish to submit your comments in writing to assure that you are able to express yourself adequately. When giving your public comment, please first state your name and have your information prepared. Due to time constraints, a three-minute time limit may be imposed. Per Government Code Section 54954.2, any person with a disability who requires a modification or accommodation, including auxiliary aids or services, in order to participate in the meeting, should contact the Board Secretary at 760-364-2315 during Agency business hours.

1. **PUBLIC PARTICIPATION**- Any person may address the Board on any matter within the District's jurisdiction on items not appearing on this agenda.
2. **DISCUSSION AND ACTION ITEMS** - The Board of Directors and Staff will discuss the following items, and the Board will consider taking action, if so inclined.
 - a. **RESOLUTION NO. 09R-XX - A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BIGHORN-DESERT VIEW WATER AGENCY APPROVING THE APPOINTMENT OF BOARD SECRETARY** - Board to approve appointment of Joanne L Keiter as Board Secretary, effective June 23, 2009.
 - b. **REVIEW OF VOTER-APPROVED BOND LANGUAGE, BOND DEBT OBLIGATIONS AND OTHER ALTERNATIVE MEANS OF GENERATING NECESSARY REVENUES** - General Counsel Francis Logan will address the committee on the background, interpretation and obligation of the Agency to collect monies necessary to repay debt, fund operations and maintenance, as well as depreciation for the separate enterprises known as Bighorn Service Area (account routes 01-06) and the Desert View Service Area (account routes 07-11), and the Bulk Water Supply System (account routes 30-33) and the Agency-wide Morongo Basin Pipeline Debt Participation.

- c. **RESOLUTION NO. 09R-XX - A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BIGHORN-DESERT VIEW WATER AGENCY INDICATING THAT THE SUSPENSION OF PROP.1A AND SUBSEQUENT SEIZURE OF GENERAL PROPERTY TAX REVENUES WILL CAUSE A SEVERE FINANCIAL HARDSHIP TO THE AGENCY** - Board to discuss and consider resolution identifying a severe fiscal hardship will exist should additional local property tax revenues be seized and supplementary unfunded mandates adopted by the State of California.
- d. **AUTHORIZE FIRE PROTECTION FOR THE THIRD OF JULY (INDEPENDENCE DAY COMMUNITY CELEBRATION) AT HOMESTEAD VALLEY PARK** – Board to consider, as in past years, providing water for pre-event fire protection measures for the Third of July Community Celebration held at Homestead Valley Park.
- e. **AUTHORIZE ATTENDANCE AT THE SPECIAL DISTRICTS LEADERSHIP ACADEMY TRAINING, "DEVELOPING AND UPDATING ESSENTIAL DISTRICT POLICIES"** – Board to consider authorizing Director attendance to Special Districts Leadership Academy Training at a cost of approximately \$375 per director.

3. CLOSED SESSION

- **CONFERENCE WITH LEGAL COUNSEL — ANTICIPATED LITIGATION**
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 (1 potential case)

4. CLOSED SESSION REPORT

5. COMMUNICATION AND PUBLIC INFORMATION ITEMS -

- a. Announcement of Upcoming Candidate Seminars hosted by the County of San Bernardino Registrar of Voters.

6. ADJOURNMENT

Materials related to an item on this Agenda submitted to the Board of Directors after distribution of the agenda packet are available for public inspection in the Bighorn-Desert View Water Agency office at 622 S. Jemez Tr., Yucca Valley, CA during normal business hours.

**BIGHORN DESERT VIEW WATER AGENCY
AGENDA ITEM SUBMITTAL**

Meeting Date: June 23, 2009

To: Board of Directors

Budgeted: yes

Funding Source: Administrative
Compensation (line 56003)

From: Marina D. West

General Counsel Approval: Obtained

Staff Contact:

CEQA Compliance: N/A

Subject: Appointment of Board Secretary

SUMMARY

Executive Secretary/Personnel Administrator Joanne L. Keiter was selected for employment with the intent that she would also serve as the Board Secretary. Therefore, staff recommends that the Board formally consider Executive Secretary Joanne L. Keiter to fill this appointment on a permanent basis.

RECOMMENDATION

That the Board take the following action;

1. Adopt Resolution 09R-XX Appointing Joanne L. Keiter as Board Secretary effective June 23, 2009.

BACKGROUND/ANALYSIS

No further analysis provided.

PRIOR RELEVANT BOARD ACTION(S)

- 4/28/09 Resolution 09R-07 Resolution of the Board of Directors of Bighorn Desert View Water Agency Appointing Michelle Corbin as Board Secretary
- 9/25/07 Resolution 07R-10 Resolution of the Board of Directors of Bighorn Desert View Water Agency Appointing a Board Secretary.

RESOLUTION NO. 09R-XX

RESOLUTION OF THE BOARD OF DIRECTORS
OF BIGHORN-DESERT VIEW WATER AGENCY APPOINTING
A BOARD SECRETARY

WHEREAS, pursuant to Section 112-14 of the Bighorn-Desert View Water Agency Law, the Board of Directors shall appoint by a majority vote a vice president, secretary, treasurer, attorney, chief engineer, general manager and auditor, all of whom shall serve at the pleasure of the Board.

NOW THEREFORE BE IT RESOLVED the Bighorn-Desert View Water Agency Board of Directors does hereby rescind resolution 09R-07 and appoint Joanne L Keiter as Board Secretary effective June 23, 2009.

PASSED, APPROVED, AND ADOPTED by the Board of Directors of Bighorn-Desert View Water Agency this 23rd day of June, 2009.

By _____
Judy Corl-Lorono, Board President

I, the undersigned, hereby certify that I am the duly appointed and acting Secretary of the Bighorn-Desert View Water Agency, and that a special meeting of the Board of Directors of said Agency held on June 23, 2009, the foregoing Resolution 09R-XX was duly and regularly adopted by said Board, and that said resolution had not been rescinded or amended since the date of its adoption, and that it is now in full force and effect.

By _____
Joanne L Keiter, Board Secretary

**BIGHORN-DESERT VIEW WATER AGENCY
AGENDA ITEM SUBMITTAL**

Meeting Date: June 23, 2009

To: Board of Directors

Budgeted: N/A
Budgeted Amount: N/A
Cost: N/A
Funding Source: N/A

From: Marina D. West

General Counsel Approval: Yes
CEQA Compliance: N/A

Subject: Review of Voter Approved Bond Language, Bond Debt Obligations and Other Alternative Means of Generating Necessary Revenues

SUMMARY

General Counsel Francis Logan will address the committee on the background, interpretation and obligation of the Agency to collect monies to repay debt, fund maintenance, operations and depreciation of the separate enterprises known as Bighorn Service Area (account routes 01-06), Desert View Service Area (account routes 07-11), Bulk Water Supply System (account routes 30-33) and the Agency-wide Morongo Basin Pipeline Debt Participation.

RECOMMENDATION

Information and discussion only.

BACKGROUND/ANALYSIS

For the purposes of understanding how Agency operating revenues relate to Agency expenses, it is necessary to view the Agency as four separate business enterprises: Bighorn Service Area, Desert View Service Area, Bulk Water Supply System and Agency-wide Morongo Basin Pipeline Debt Participation. These distinctions are important because two of the business enterprises, Bighorn and Desert View, have separate long-term debt obligations. Each of these is summarized below and will be reviewed in detail by General Counsel Logan for the Committee.

Agency-Wide Morongo Basin Pipeline Debt Service:

The Agency participates in the repayment of debt issued by the Mojave Water Agency (MWA) for the purpose of constructing the Morongo Basin Pipeline. Currently MWA is responsible for paying about 70% of the debt while the project participants pay the remainder. The Agency is responsible for a 9% participation interest as part of the 30% interest paid by project participants. In fiscal year 2008/09, that share was approximately \$71,000. There is no special assessment or surcharge in place to pay this debt and since this is considered an

"Agency-wide" benefit, the revenue that is "earmarked" for this purpose is the 1% general tax levy received through the County of San Bernardino Tax Collector.

Bulk Water Supply System (account routes 30-33):

There are approximately 100 bulk meters assigned at four bulk water supply stations (Johnson Valley, Kickapoo, Cherokee, and Well #4). Several bulk customers are commercial water haulers with a customer base of unknown size. Revenue collected from the Bulk Water Supply Accounts is through measurement of water consumption only. There is no Basic Service Charge or surcharges in the bulk rate structure. The revenue collected is utilized to fund the proportionate share of Agency operations, maintenance and depreciation. Any surplus would be utilized for capital improvements, replacement or refurbishment to the Bulk Water Supply System.

Bighorn Service Area (account routes 01-06):

The Bighorn Service Area is a portion of the predecessor entity known as the Bighorn Mountains Water Agency (BMWA). Within the boundaries of the BMWA, an Improvement District, ID 1, was formed for the purpose of incurring general obligation bond debt. The instruments creating the ID 1 Debt commit the Agency to raising revenue not only to cover principal and interest of the ID 1 Debt but also the amount of money determined by the Board of Directors of the Agency necessary for the purpose of covering operating expenses, repairs, depreciation, extensions and improvements to the water system funded by the ID 1 Debt.

Approximately 870 metered connections are active in the Bighorn Service Area (excludes bulk accounts). Revenue for this enterprise is derived from several sources: Basic Service Charge, Ad Valorem Property Tax, and the water consumption charge.

The Finance Committee reviewed the formula for the Ad Valorem Property Tax assessment at the May meeting, the full Board set the Ad Valorem Property Tax assessment at the May meeting but this issue is being brought to the PLEGS Committee for a discussion of the legislative framework that makes it possible for the Board to utilize this assessment to not only collect principal and interest for the bond debt but also to derive revenues for the sole purpose of maintaining the Bighorn Service Area water supply system comprised of wells, boosters, pressure reducing stations, reservoirs, pipeline, fire hydrants, meters and other appurtenances. Staff recommends that the Ad Valorem Property Tax assessment be brought to the full Board again on June 23, 2009 for a final discussion and analysis including up-to-date information regarding property tax devaluation.

Desert View Service Area:

The Desert View County Water District (DVCWD) is another predecessor-in-interest to the Bighorn Desert View Water Agency. The entire DVCWD Service Area incurred a revenue bond debt for the "acquisition, construction, improving and financing of additions, replacement and extension to an enterprise consisting of the existing District water supply and distribution system...". The DVCWD Debt (DV Debt) is not a lien against land. The instruments creating the DV Debt commit the Agency to maintaining a series of funds to operate the water system built by the DV Debt as a separate and distinct entity. The DVCWD

Bond Proposition specifically stated that the DV Debt was being incurred for "improving and financing of additions, replacements, and extensions".

Approximately 850 metered connections are active in the Desert View Service Area (excludes bulk accounts). Revenue for this enterprise is derived from several sources: Basic Service Charge, DV Debt Surcharge, and water consumption charge.

The Desert View Debt Surcharge has not previously been discussed by the Board. This issue is being brought to the PLEGS Committee for a discussion of the legislative framework that makes it possible for the Board to utilize the surcharge to not only collect principal and interest for the bond debt but also to derive revenues for the sole purpose of maintaining the Desert View Service Area water supply system comprised of wells, boosters, pressure reducing stations, reservoirs, pipeline, fire hydrants, meters and other appurtenances. Staff is not currently recommending any change to the DV Debt Surcharge.

PRIOR RELEVANT BOARD ACTION(S)

none

**BIGHORN DESERT VIEW WATER AGENCY
AGENDA ITEM SUBMITTAL**

Meeting Date: June 23, 2009

To: Board of Directors

Budgeted: N/A

Budgeted Amount: N/A

Cost: N/A

Funding Source: N/A

General Counsel Approval: N/A

CEQA Compliance: N/A

From: Marina D. West

Staff Contact:

Subject: Adopt Resolution Indicating the Suspension of Prop. 1A and Subsequent Seizure of General Property Tax Revenues will Cause Severe Financial Hardship to the Agency.

SUMMARY:

The State of California has indicated an interest in suspending Prop. 1A (2004) which would permit borrowing general property tax revenues from Special Districts as well as cities and counties. Bighorn Desert View Water Agency relies on the general property tax revenue to balance its Operating Budget. Although no reliable information is available at this time to determine the total impact to the budget, a 100% property tax revenue shift would result in a budget deficit of approximately \$40,000 or \$2.00 per month per connection, not including any unforeseen costs to execute a Prop. 218 rate increase that would be necessary to cover the deficit.

RECOMMENDATION:

That the Board take the following action:

1. Adopt Resolution 09R-XX identifying a severe fiscal hardship will exist if additional local property tax revenues are seized and supplementary, unfunded mandates are adopted by the State of California.

BACKGROUND/ANALYSIS:

California Special Districts Association and Association of California Water Agencies have been closely monitoring the progress of the State budget and the proposed Suspension of Prop. 1A, which would result in a loss of revenue from general property tax assessments, relied upon by BDVWA for the Operating Budget. This State proposal not only intends to shift 8% of the state-wide general property tax revenue away from the Special Districts, but also recommends that the Districts shoulder a share greater than 8%. The impact to Special Districts has not yet been determined, but is projected to be between 25% and 100%. Before the exact impact of the suspension will be known, a 2/3rds vote of the State Legislature is required.

At this time, California Special Districts Association is urging Special Districts to adopt a Resolution expressing the severe fiscal hardship that will result from a suspension of Prop. 1A. Although the BDVWA Staff has already mailed letters to various members of the State Legislature appealing this action and the harsh impact it creates, Staff feel the Board should also adopt this key Resolution. Should the proposed shift cause a budget deficit, then this Resolution will prepare the Board for that impending shift as well as any subsequent decisions they will be asked to consider in order to balance the FY2009/10 Operating Budget.

PRIOR RELEVANT BOARD ACTION(S):

Not researched.

RESOLUTION NO. 09R-XX

RESOLUTION OF THE BOARD OF DIRECTORS OF BIGHORN-DESERT VIEW
WATER AGENCY FINDING A SEVERE FISCAL HARDSHIP WILL EXIST IF
ADDITIONAL LOCAL PROPERTY TAX REVENUES ARE SEIZED AND
ADDITIONAL UNFUNDED MANDATES ARE ADOPTED BY
THE STATE OF CALIFORNIA

WHEREAS, the current economic and housing crises have placed independent special districts under immense financial pressure and caused special district officials to reopen already adopted budgets to make painful cuts, including layoffs and furloughs of employees, decreasing maintenance and operations of public facilities, and reductions in direct services to keep spending in line with declining revenues; and

WHEREAS, since the early 1990s the state government of California has seized over **\$6.807 billion** of independent special district property tax revenues statewide to fund the state budget; and

WHEREAS, in FY 2007-08 alone, the state seized nearly **\$618 million** in independent special district property tax revenues statewide to fund the state budget; and

WHEREAS, the most significant impact of taking local property tax revenues is the reduction of quality and effectiveness of vital services provided to constituents; and

WHEREAS, in 2004 the voters by an 84 percent vote margin passed Proposition 1A which adopted substantial constitutional protections for local revenues, but the Legislature can still “borrow” local property taxes to fund the state budget; and

WHEREAS, the Governor recently proposed to suspend Proposition 1A (2004) and “borrow” \$2 billion in local property taxes from independent special districts, cities, and counties to balance the state budget, which would cause deeper cuts to fire protection, water and wastewater, mosquito abatement, recreation and park, and many other vital services; and

WHEREAS, in the past the Governor has called such “borrowing” proposals fiscally irresponsible because the state will find it virtually impossible to repay and it would only deepen the state’s structural deficit, preventing the state from balancing its budget; and

WHEREAS, the Legislature is currently considering hundreds of bills, many of which would impose new costs on local governments that can neither be afforded nor sustained in this economic climate; and

WHEREAS, state agencies are imposing, or considering, many regulations imposing unfunded mandates on local governments without regard to how local agencies will be able to comply with these mandates while meeting their other responsibilities; and

WHEREAS, the combined effects of the seizure of the Special District's property tax revenues, increasing unfunded state mandates, and the revenue losses due to the economic downturn have placed the Special District's budget under serious fiscal pressure; and

WHEREAS, this Special District simply cannot sustain the loss of any more property tax funds or to be saddled with any more state mandates as they will only deepen the financial challenge facing this Special District and impact the services to the constituents we serve; and

WHEREAS, a number of this Special District's financial commitments arise from contracts, including long term capital leases and debt obligations which support securities in the public capital markets, that the Special District must honor in full unless modified by mutual agreement of the parties.

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF DIRECTORS OF THE BIGHORN-DESERT VIEW WATER AGENCY, A SPECIAL DISTRICT OF THE STATE OF CALIFORNIA has determined that the Special District will experience a severe fiscal hardship if the state "borrows" local property taxes to solve the state's budget deficit; and

RESOLVED FURTHER, that the Board of Directors strongly and unconditionally opposes the Governor's proposal and any other state government proposals to borrow or seize any additional local funds, including property tax; and

RESOLVED FURTHER, that the Board of Directors strongly urge the Legislature and Governor to suspend the enactment of any new mandates on local governments until the economy has recovered and urges the state to provide complete funding for all existing and any new mandates.

RESOLVED FURTHER, that the Board Secretary shall send copies of this resolution to the Governor, our state Senator(s), our Assembly Member(s) and the California Special Districts Association.

PASSED, APPROVED, AND ADOPTED by the Board of Directors of Bighorn-Desert View Water Agency this 23rd day of June, 2009.

By _____
Judy Corl-Lorono, Board President

I, the undersigned, hereby certify that I am the duly appointed and acting Secretary of the Bighorn-Desert View Water Agency, and that a special meeting of the Board of Directors of said Agency held on June 23, 2009, the foregoing Resolution 09R-XX was duly and regularly adopted by said Board, and that said resolution had not been rescinded or amended since the date of its adoption, and that it is now in full force and effect.

By _____
Joanne L Keiter, Board Secretary

**BIGHORN DESERT VIEW WATER AGENCY
AGENDA ITEM SUBMITTAL**

Meeting Date: June 23, 2009

To: Board of Directors

Budgeted: no

Funding Source: Water Leak Relief
(line 56002)

From: Marina D. West

General Counsel Approval: N/A

Staff Contact:

CEQA Compliance: N/A

Subject: Fire Protection for the Third of July (4th of July Community Celebration) at Homestead Valley Park

SUMMARY

Board to consider, as in past years, providing water for pre-event fire protection measures such as dust mitigation for the Third of July Community Celebration held at Homestead Valley Park. Although this could be construed as a "gift of public funds", providing such service is not biased towards any customer in particular since the event is open to the whole community and is free of charge.

RECOMMENDATION

That the Board take the following action;

1. Authorize staff to provide water for fire protection at the "Third of July" Community Celebration at Homestead Valley Park.

BACKGROUND/ANALYSIS

No further analysis provided.

PRIOR RELEVANT BOARD ACTION(S)

6/26/07 Motion to provide water for fire protection at the Fourth of July festivities at Homestead Valley Park.

**BIGHORN DESERT VIEW WATER AGENCY
AGENDA ITEM SUBMITTAL**

Meeting Date: June 23, 2009

To: Board of Directors

Budgeted: Yes

Funding Source: Administrative
Compensation (line 56003)

From: Marina D. West

General Counsel Approval: Obtained

Staff Contact:

CEQA Compliance: N/A

**Subject: AUTHORIZE ATTENDANCE AT SPECIAL DISTRICTS LEADERSHIP
ACADEMY TRAINING: DEVELOPING AND UPDATING ESSENTIAL
DISTRICT POLICIES AT A COST PER DIRECTOR OF APPROXIMATELY
\$375**

SUMMARY:

Board to consider authorizing Director attendance to the Special Districts Leadership Academy Seminar: Developing and Updating Essential District Policies, Ontario, CA on July 24, 2009 at a cost per director not to exceed \$325 plus applicable mileage.

RECOMMENDATION:

That the Board take the following action:

1. Authorize director attendance to the Special Districts Leadership Academy: Developing and Updating Essential District Policies, Ontario, CA on July 24, 2009 at a cost per director not to exceed \$325 plus applicable mileage.

BACKGROUND/ANALYSIS:

No further analysis provided.

PRIOR RELEVANT BOARD ACTION(S):

n/a

Developing & Updating Essential District Policies

 \$225

- Sonoma – MARCH 20 – Red Hill-Vista Fire Protection District - #DUEDP01

→ Ontario – JULY 24 – West Valley Mosquito and Vector Control District - #DUEDP02



Special district organizations are becoming more complex and accountable for their services and operations. Districts are facing more legal and financial pressures from federal and state agencies as well as increased emphasis to contain liability and workers' compensation costs. Personnel regulations and recent court rulings will be discussed.

This program will provide an overview of how your agency could and should develop a comprehensive and ongoing public policy approach including administrative and human resource management techniques at every level in the organization. CSDA and the Special District Risk Management Authority will provide ideas and suggestions to assist your agency in addressing areas such as risk avoidance, improved safety and financial management. Examples will be provided of how policies are developed and updated.

Agenda

- 8:30 – 9:00 a.m.
Registration
- 9:00 a.m. – 12:00 p.m.
Workshop
- 12:00 – 1:00 p.m.
Lunch on your own
- 1:00 – 4:00 p.m.
Workshop

Cost

CSDA member	\$225
Non-member	\$300



CANDIDATE SEMINARS
1:30 pm

June 22, 2009

Registrar of Voters Office
777 E. Rialto Ave
San Bernardino, CA

June 24, 2009

Apple Valley Council Chambers
14955 Dale Evans Parkway
Apple Valley, CA 92311

INFORMATION TO BE DISCUSSED:

Filing Process
Preparation of Candidate Statements
Ballot Designations
Campaign Disclosure Filings