



**BEAUMONT-CHERRY VALLEY WATER DISTRICT
560 Magnolia Avenue, Beaumont, CA 92223**

**MINUTES OF REGULAR MEETING – ENGINEERING WORKSHOP
OF THE BOARD OF DIRECTORS
Thursday, September 29, 2022 at 6:00 p.m.**

Meeting held in person and via teleconference pursuant to California Government Code Section 54950 et. seq. and under the provisions of Assembly Bill 361 and BCVWD Resolution 2022-27

Call to Order: President Williams

President Williams began the meeting at 6:04 p.m.

Pledge of Allegiance was led by Director Hoffman.

Invocation was given by Director Slawson.

Announcement of Teleconference Participation

Dr. Kirene M. Bargas advised that this meeting is conducted pursuant to BCVWD Resolution.

The teleconference capabilities of this meeting have been identified in the Notice and Agenda. The teleconference locations are not publicly accessible. The public's right to comment and participate in the meeting is being assured via teleconference capabilities and at the BCVWD Administrative Office Board Room.

Directors Covington, Hoffman, Slawson and Williams attended in person at the meeting location and via teleconference. Director Ramirez was not present for the teleconference verification.

Roll Call:

Directors present:	Covington, Hoffman, Ramirez (6:11 p.m.), Slawson, Williams
Directors absent:	None
Staff present:	Director of Finance and Administration Kirene Bargas, PhD Director of Engineering Mark Swanson Director of Operations James Bean Director of Information Technology Robert Rasha Civil Engineering Assistant Evan Ward (6:21 p.m.) Administrative Assistant Cenica Smith
Legal Counsel	James Markman

Members of the public who registered their attendance: Pam Lindgren, Michael Ramirez of Beyond FoodMart USA, Sylvia Kohler, and William Lattin.

Public Comment: Ms. Pam Lindgren of Cherry Valley advised that she phoned BCVWD to report a broken pipeline in front of her driveway in the center of the street. A crew repaired the break and told her it was an old pipe which needed to be replaced. She asked if there were plans to replace the line, or if the District would dig up the newly paved road. Director of Engineering Mark Swanson explained that the new pipeline project would be coming before the Board at the October 12 meeting.

1. Adjustments to the Agenda: None.

Vice President Ramirez joined the meeting at 6:11 p.m. via teleconference.

2. Request for Will Serve Letter (WSL) for 1189 E. 6th Street (Further Identified as Riverside County Assessor's Parcel No. 418-122-028)

Director of Engineering Mark Swanson presented the request and advised that construction is in progress. Beyond Foods has proposed a convenience store, gas station, and car wash, he explained. He reviewed some background on the developer's application process, noting that staff reached out to the developer after noticing that grading on the site had begun.

The applicant requested staff to calculate the project's water consumption, and staff determined the amount to be 5.1 equivalent dwelling units (EDU) by comparison with similar developments, Swanson explained. The applicant also believed that there was an existing meter to serve the property, but that meter was not intended for that parcel. The property would be served from 6th Street.

Since the project is projected to consume more than 2 EDUS, it may be subject to Resolution 2014-05, Swanson noted.

President Williams invited public comment. Mr. Michael Ramirez of Beyond FoodMart USA indicated he was available to answer any questions.

Director Slawson posited that it appears 2014-05 applies unless this developer comes back without the car wash. Director Covington concurred, noting the largest consumption is the car wash at 3.7 EDUs. Resolution 2014-05 stands, he noted and suggested that if forgoing the car wash the project would come in under the requirements of the resolution, which is the only way this project could move forward.

President Williams reviewed the application steps and noted that this is a request for a WSL for a project that the developer already began. Had this been done in the proper order, the Board would not be having this discussion, she pointed out, and asked the proponent to explain.

Mr. Ramirez stated that the developer is reviewing the information in the staff report and feels there are portions of the time lapse and submittals that are not reflected. He pointed to a May 27, 2021 fire flow analysis and hydrant letter from the District and communication from Civil Engineer Tom Love regarding processing the application. These dates are all within the COVID-19 period, he added, and it was arduous for

them to get in touch with District staff or go into the office. He requested an opportunity to review and put together a timeline to show effort to move the project forward.

The developer has experience, and it is not its practice to flaunt the rules and regulations of the agencies with which they deal, Mr. Ramirez continued. He expressed understanding of water as a precious commodity and changing market conditions, and requested an opportunity to see what they can do to make sure BCVWD is meeting the regulations set by the Board and how a better model can be created to fit within those regulations.

Mr. Ramirez acknowledged the Board's suggestion of no car wash but indicated that an all-or-nothing approach was unfair while they are trying to complete the project. He assured that plans were submitted to staff, and the WSL popped up at the last minute.

President Williams indicated that she would need to see any emails that Mr. Ramirez has showing a request for the WSL. Mr. Ramirez also indicated desire to review the water use calculations to determine how to reduce the number.

President Williams tabled the item to the October 27 Engineering Workshop. Mr. Swanson will follow up with the applicant.

3. Request for Will Serve Letter for Tentative Parcel Map No. 38463 (Further Identified as Riverside County Assessor's Parcel No. 405-110-001) located on Nancy Avenue, north of Cherry Valley Boulevard in the Community of Cherry Valley

Director of Engineering Mark Swanson explained the proposal to subdivide one lot into four parcels, retaining the existing house with its service and adding three additional 1-acre minimum parcels with homes requiring service, totaling 3 EDUs. In order to provide service, a pipeline would be installed in the planned street. If a private road, the District would request an easement for the pipeline. This project may also be subject to Resolution 2014-05, he advised, as it does not have a prior entitlement.

President Williams invited public comment. Mr. William Lattin, property owner, indicated he is doing this for future homes and does not plan to build right away. The requirement from Riverside County is to get a WSL in order to complete the parcel map, he noted.

Director Slawson pointed out the application of Resolution 2014-05 and suggested that if the applicant proposed two parcels instead of three it would be approved.

Director Hoffman asked if there was adequate water supply in the street to provide service. Mr. Swanson indicated there is a 12" pipeline and the developer would pay a front footage fee.

Director Covington said he understood the project and reminded that Mr. Lattin has been in front of this Board several times. The challenge is the current declared drought in the State with mandatory conservation measures applicable to every customer. The District has less than a projected demand of five years in storage, he explained. Resolution 2014-05 applied to other projects including one denied by the Board in late August. Subdividing into three additional parcels equates to 3 EDUs but the cutoff is not more than 2 EDUs. He explained the State mandated conservation measures.

If the project can achieve 2 EDUs or less, it would be fine, Covington advised, but the project cannot be approved by the Board as it stands today.

President Williams concurred and reiterated the mandates from the State and the need to protect existing water supply.

Mr. Lattin indicated that he did not realize the situation and requested the item be tabled to allow discussion of future options.

President Williams tabled the item.

4. Resolution 2022-29 Amending Resolution 2022-21: To Adopt the 2022-2023 Annual Water Supply and Demand Assessment

Director of Engineering Mark Swanson advised the Board about the need to satisfy the State regarding Governor Newsom’s directive to execute Water Shortage Contingency Plans. The State Water Resources Control Board promulgated regulations and the Board adopted Resolution 2022-12 declaring a Stage 3 Water Shortage setting forth restriction on watering and water usage.

Documentation was provided to the Board on how to achieve the water savings, the Board adopted the Water Shortage resolution, and everything was submitted to the State by the July 1 deadline, Swanson advised. At the end of August, the State contacted the District about adjusting a negative number related to water shortage and demonstrating where the deficit would be met.

Swanson explained conjunctive use, changes in the report, and the Resolution before the Board amending what was previously approved. The report now shows water taken out of groundwater basin storage, he explained.

Director Slawson acknowledged this is a housekeeping item. Director Covington reminded that over the years, this Board has made difficult decisions to spend a lot of money to buy water in wet years for drought proofing. He commented on lack of State facilities to capture and retain water.

President Williams invited public comment. There was none.

The Board adopted Resolution 2022-29: Adopting the Amended 2022-2023 Annual Water Supply and Demand Assessment and Superseding Resolution 2022-21 by the following roll-call vote:

MOVED: Covington	SECONDED: Hoffman	APPROVED 5-0
AYES:	Covington, Hoffman, Ramirez, Slawson, Williams	
NOES:	None	
ABSTAIN:	None	
ABSENT:	None	

5. Authorize a Budget of \$58,000 for the District’s Cost Share for Engagement of a Recycled Water Program Implementation Facilitator in Partnership with the City of Beaumont and the San Gorgonio Pass Water Agency

Director of Engineering Mark Swanson reminded the Board of the ad hoc Water Reuse 2x2 Committee and the execution of a memorandum of understanding for a recycled water use and purchasing agreement. It has been suggested to partner with the San Gorgonio Pass Water Agency and include them in the ad hoc Water Reuse 2x2 Committee (making it a 3x2 committee).

There is desire to bring a recycled water implementation coordinator on board to help administer the program, Swanson explained. He detailed the scope of work to facilitate the agreement and get the implementation going. One proposal was received in the amount of \$172,000. BCVWD's 33 percent portion would be \$57,333, he stated.

President Williams invited public comment. There was none.

Director Hoffman acknowledged the non-responsiveness to the Request for Qualifications (RFQ) and clarified that this would be the approval of the funding once the consultant is selected and engaged.

In response to Director Covington, Mr. Swanson confirmed that the other two agency partners would also be considering approval of a budget item. Should they choose to re-solicit the RFQ, this \$58,000 would already be approved and in place, he added. Director of Operations James Bean assured that staff is comfortable with the sole proposal.

The Board authorized a budget expenditure of \$58,000 for the District's cost share for engagement of a Recycled Water Program Implementation Facilitator by the following roll-call vote:

MOVED: Slawson	SECONDED: Hoffman	APPROVED 5-0
AYES:	Covington, Hoffman, Ramirez, Slawson, Williams	
NOES:	None	
ABSTAIN:	None	
ABSENT:	None	

6. Resolution 2022-30: Amendment to the 2022-2026 Capital Improvement Budget to include the American Avenue Waterline Replacement Project (P-2750-0095)

Director of Engineering Mark Swanson explained that this pipeline was recently added to the list of those needing replacement. This pipeline is not yet listed in the existing master plan and is not in the Capital Improvement Budget for replacement anytime soon, but it has ongoing issues and has reached the end of its service life.

The 1,200-foot pipeline runs along American Avenue between 6th Street to 8th Street, Swanson continued. The street also contains sewer facilities which will necessitate Division of Drinking Water setbacks and standards for proper separation. A hydrant will need to be added, he noted.

The \$800,000 cost is a conservative estimate based on some unknowns, Swanson noted. Staff does not yet know whether the City of Beaumont (City) will allow slurry fill or abandonment of the existing pipeline in place, or will require removal of the entire pipe (an additional \$30,000 cost), he said. He said he hoped to work with the City on an economical solution.

Swanson advised that procurement of materials is still challenging with lengthy lead times. He added that American Avenue is not on the City's list of repaving projects.

President Williams invited public comment. There was none.

Director Slawson noted that this is expensive but said he appreciated staff's approach in not needing to come back to the Board for adjustments.

Director Hoffman confirmed that the \$818,500 is materials and labor to complete the project. Swanson said it included all construction, materials, and soft costs for engineering, survey, and geotechnical. Labor costs were estimated based on the last several outside contracts.

Director Covington asked about the City's reasoning for requiring the removal of the old pipeline in Antonell Court. Mr. Swanson stated that the City said that in that area it was demonstrable that the pipe was failing and causing the pavement to fail.

In response to directors' questions, Mr. Swanson clarified that the \$818,500 was the complete project estimate, and the materials procurement request of \$75,100 was part of that total.

Director Covington asked if the project engineering would be outsourced and whether staff time is billed to the Capital Improvement Budget. Mr. Swanson explained that staff is assessing all projects as to which ones would be outsourced. Because this one does not have a tight timeline due to the pavement moratorium, it could be done in house to provide some cost savings, and staff time is billed to the project. If it did go out for bid, it would be combined with other projects, he added.

The Board adopted Resolution 2022-30 authorizing an amendment to the 2022-2026 Capital Improvement Budget in the amount of \$818,500.00 for the American Avenue Waterline Replacement Project (P-2750-0095) by the following roll-call vote:

MOVED: Covington	SECONDED: Hoffman	APPROVED 5-0
AYES:	Covington, Hoffman, Ramirez, Slawson, Williams	
NOES:	None	
ABSTAIN:	None	
ABSENT:	None	

The Board approved expenditures in an amount not to exceed \$75,100 for the procurement of materials for the American Avenue Waterline Replacement Project (P-2750-0095) by the following roll-call vote:

MOVED: Hoffman	SECONDED: Slawson	APPROVED 5-0
AYES:	Covington, Hoffman, Ramirez, Slawson, Williams	
NOES:	None	
ABSTAIN:	None	
ABSENT:	None	

7. Resolution 2022-31: Amending the 2022-2026 Budget to Include the 2022-2023 Service Lateral Replacement Project (P-2750-0096)

Director of Engineering Mark Swanson advised that this is not a pipeline replacement, it is the changing out of various service laterals to District standard copper lines. He explained that in light of the City of Beaumont annual 2022-23 Citywide Street Rehabilitation and Maintenance Project identifying downtown areas, staff has identified existing water services in need of replacement. He detailed the proposed work in the target areas.

Typically, these are handled through the maintenance budget, but this project is larger than the maintenance mechanism would allow, Swanson explained. He suggested that if the City continues with the annual plan, this work might be appropriate to include in the Capital Improvement Budget.

President Williams invited public comment. There was none.

The Board adopted Resolution 2022-31 amending the 2022-2026 Capital Improvement Budget in the amount of \$652,000 for the 2022-2023 Service Replacements Project (P-2750-0096) by the following roll-call vote:

MOVED: Slawson	SECONDED: Covington	APPROVED 5-0
AYES:	Covington, Hoffman, Ramirez, Slawson, Williams	
NOES:	None	
ABSTAIN:	None	
ABSENT:	None	

The Board approved expenditures in an amount not to exceed \$232,000 for the procurement of materials for the 2022-2023 Service Replacements Project (P-2750-0096) by the following roll-call vote:

MOVED: Hoffman	SECONDED: Slawson	APPROVED 5-0
AYES:	Covington, Hoffman, Ramirez, Slawson, Williams	
NOES:	None	
ABSTAIN:	None	
ABSENT:	None	

8. Approval of an Agreement between Beaumont-Cherry Valley Water District and County of Riverside for American Rescue Plan Act (ARPA) Funding Allocations

Director of Engineering Mark Swanson provided background on the funding opportunity through the office of Riverside County Supervisor Jeff Hewitt. The allocation was approved by the Board of Supervisors and a contract has been vetted by legal counsel and brought to the County.

Swanson detailed the projects to be funded:

1. A 24-inch 3040 Pressure Zone Cherry Avenue/International Park Road Transmission Pipeline, Swanson explained. The other piece of the project is

to build a tank at the Bogart Park site for a total estimated cost of \$5.1 million with ARPA funding of \$1.2 million

2. The “B” Line Upper Edgar Transmission Pipeline and Facilities Project from the 3620 tank which experienced some issues during the Apple Fire for a cost of \$2.1 million with ARPA funding of \$1.3 million

As part of the work, the National Environmental Policy Act (NEPA) considerations must be addressed including a public hearing process, he noted.

President Williams invited public comment. There was none.

Director Slawson extended thanks to Supervisor Hewitt.

In response to Director Hoffman, Mr. Swanson confirmed that the draft agreement has been reviewed by the general manager and by legal counsel.

Legal Counsel James Markman responded to directors’ questions about federal provisions in the contract. He noted that the District would be a subrecipient of federal funds. He said he would investigate the David-Bacon requirement (federal prevailing wage) and advised that the federal contracting prohibitions were applicable.

The Board approved the agreement between BCVWD and the County of Riverside for American Rescue Plan Act Funding Allocations and authorized the General Manager to execute the agreement by the following roll-call vote:

MOVED: Covington	SECONDED: Hoffman	APPROVED 5-0
AYES:	Covington, Hoffman, Ramirez, Slawson, Williams	
NOES:	None	
ABSTAIN:	None	
ABSENT:	None	

9. Board Discussion and Possible Action Regarding Well Drilling Activities at Assessor’s Parcel Number 401-190-002 (9154 Lilac Lane)

Director David Hoffman recused himself from discussion of this item. Legal Counsel advised that this is due to the location of Director Hoffman’s property in relation to the subject property (within 500 feet).

Director of Engineering Mark Swanson reported that on Sunday, September 18, 2022, District staff observed a drill rig being staged on the subject parcel in the upper Mesa area and on Monday, September 19 staff reached out to the County and obtained the well permit issued in August 2022.

It has been the position of the District that of properties in the area, as established by the Beaumont Land and Water Company (BLWC), that the water rights have been retained by the Water District with BCVWD as the successor to the BLWC, which is clear on the grant deed, Swanson explained.

A letter was sent to the property owner via certified mail indicating the violation of the District's Rules and Regulations, Swanson advised. The parcel takes domestic service from the District, and the letter states that violation may warrant service to be terminated if the actions are continued.

On September 20 and 23, BCVWD General Manager Dan Jagers had conversations with the applicant and the applicant's son about the well and a meeting was held on Monday, September 26 to review water rights for the property. Staff received a title report on September 26 and the grant deed shows the first party is the BLWC which retains all rights to surface, subsurface, riparian and all water. The second part states that the person who purchased the original land and their successors would not assert or claim any right to water. In addition, there are provisions prohibiting the imposition of sewage or contamination to the water, and that no machinery, mechanical device or apparatus for pumping water shall be erected.

Staff understands that a well permit was requested and was issued by the County, Swanson continued. Unfortunately, BCVWD was not consulted by the County, he reported. The application for the permit has a box checked indicating that the proposed well is not within 500 feet of another well, but the District's Well 5 is approximately 420 feet away, Swanson noted. He provided a copy of the title report to the County, who indicated they would share it with their legal counsel, but there has been no further communication.

Swanson quoted the BCVWD Regulation stating that it is a violation to construct or operate a water producing well for any purpose without first obtaining written permission to do so from the District's Board. It is the opinion of staff that the well should not be drilled, Swanson stated. At this point, for the District's protection of water rights, the work that has been done should be destroyed, then certified by the County like a normal well abandonment, he emphasized.

The Upper Mesa area is fed from Edgar Canyon where the District has and must continue to hold the water rights, Swanson stated. Allowing multiple straws to go into the ground within the District's service area becomes problematic in managing the groundwater and the system. Of additional concern is a party operating a separate system; there is no way to verify they are protecting themselves and the District. The water pumped may not be properly chlorinated or flushed and could cause cross-contamination. If there is an issue, the Department of Drinking Water would come after the District as the registered water purveyor, he explained.

Property owner Sylvia Kohler and her son addressed the Board and communicated:

- The District's Well 5 is adjacent to her property
- She requested the District remove dead trees on the Well 5 site
- She and her husband purchased the property 33 years ago and the first page of the deed showed no water exclusions
- The Department of Environmental Health told her that well permits were being given in the area, but she had to have a licensed contractor make the request
- She submitted the well permit request when the Water District took away the agricultural meter on her property
- When Cherry Valley was established in 1900, the property owners were asked to give rights to the water, in exchange for supplying water at a reduced rate for irrigation; this means there is a breach of contract, as there is no discount for irrigation water because the ag meter was removed

- There is no purple pipe water available in the area
- The Kohlers need a well in order to have affordable water to irrigate the orchard and trees on the property
- After almost losing her house in the Apple Fire, she began researching wells
- She paid Vickery Drilling Company \$1,000 to obtain the permit from the County, and \$23,000 once the permit was received
- Digging was about halfway done when the letter from the District was received indicating if they did not comply their water service would be turned off immediately
- There are others in the area with wells and if an exception was made for one person, an exception needs to be made for someone else
- There is a discrepancy regarding water rights on the deed
- She emphasized the following issues:
 - The Kohlers did not know permission from the Water District was needed
 - The location is too close to the District's Well 5
 - The deeds from 1900

Ms. Kohler requested the Board grant a variance. Her son said they are asking for a continuous well to continue to keep the old growth alive and sustain the area.

Director Ramirez asked if Ms. Kohler had any written documentation regarding water rights. She said she has not yet been able to procure it. Ramirez acknowledged the concern and suggested looking at options to work with Ms. Kohler.

Director Slawson acknowledged the complicated situation, and noted that the title company is responsible for providing all information. He said he would ask staff about the irrigation meter. Mr. Swanson advised that there are only a handful of irrigation meters still out there. He explained the tiered water rates and services. Mr. Kohler noted that to keep things alive, the water bill was unaffordable at \$800.

Director Covington asked about the removal of the irrigation meter. Ms. Kohler said she asked the person who removed the meter, who told her that he had been instructed by the District to take it.

Mr. Swanson advised that he had researched well permits in the area and found one property, which he is investigating. Staff will be going through title reports and legal counsel will be involved, he noted. The District will enforce its policy, he stated, and documentation will be needed to support that the Water District allowed them to drill the well.

Legal Counsel Markman reviewed legal issues. It would be very hard for the Board to accommodate this, he began, and discussed the following:

1. Title reports. Mr. Swanson has been finding impediments saying there are no water rights as they were collected by the BLWC long time ago, and the District has run into this several times. He said he doubts that there is a document binding on the successors in interest that says water rights were exchanged for a certain water rate for agriculture or for groves instead of domestic. The District ordered a title report, and it shows that an exception to their title is they don't have any water rights, as those were reserved when the property was first sold 100 years ago, and it applies to every successor in interest.

2. Water source. It is a big engineering problem to determine the source of the water. If riparian or appropriative rights, the applicant would have to go to the State Water Resources Board to get a well permit.
3. Well interference. If in proximity to a production well that is used for potable water by the District, tests can determine if the new well could create problems with contamination or production capacity.
4. County well permits. The County has control and has criteria for digging wells, but they do not control the water right and do not think about the entitlement right, nor what water district might have rules and regulations that are already serving the people. Unfortunately, a well driller may say they know how to get the permit, but that does not mean that the District's power and responsibility over water have disappeared.
5. Drought and District regulations. The area is in a drought and this Board just turned down two projects that wanted to put something on their property within the District's boundaries. Conservation regulations are in effect, including restrictions on watering. The Kohlers are suggesting that they want to irrigate but do not want to pay the price for it, will stick a straw into the water source and draw out a certain amount of water over which the District has no control or conservation power, and they can take as much as they like because the State regulations do not talk about small domestic wells.

Markman advised that the Board may alleviate issues by placing conditions on the variance and by making it clear that this is not something the District is compelled to do based on past instances. He pointed out that in the six or seven years he has been with BCVWD he has never seen an instance where the District has allowed someone to put in a well and pump competitively.

Markman stated that he had no doubt that the impediments – the exceptions to title regarding water rights, or even installing water facilities or infrastructure on the property – were arising from a title report that could be obtained just by ordering. He suggested that the title company may have a problem if they did not disclose these when the property was purchased.

Director Slawson pointed out that what others may have done does not apply. It appears the Kohlers should be talking to the title company and the well driller. The Board would like to work with them, he said, and he was leaning toward reinstalling the ag meter. He suggested thinning and saving which trees may be possible. The District's regulations, and the rights that came with the property seem straightforward.

Ms. Kohler continued to stress irrigation of the trees.

Director Covington stated that he lives in Cherry Valley. He noted that the County has the option to issue the permit, but its issuance does not relinquish the applicant's obligation to check with the local agencies that have jurisdiction in the area. He expressed doubt that the County told the Kohlers that there is a statewide moratorium on new wells or rehabilitating wells that was issued by the Governor in early 2022. He also explained the local Groundwater Sustainability Agency (GSA) jurisdiction and lamented that there has always been a disconnect between the County and other agencies. But with the regulations in place, the County should have its own obligations to consult with other agencies before issuing a permit. If they did not, then the issue is with the County, not with the Water District. The Water District is doing what it is

supposed to be doing, and is holding firm on regulations because if a well is drilled, others will be lining up to do the same, and BCVWD will have no more control of the groundwater on the Mesa.

To grant a variance means the Board would have to give the next people a variance, which is extremely problematic, Covington continued. He said he had been on the Board for eight years and had never heard of a variance being given. Surely there are people out there drilling wells that are not allowed, as the drillers know what they are doing and did not ask if permission had been obtained from the local water agency, he posited. But what the Kohlers are asking the Board to do would set a precedent, which he would not support, he said.

Rules and regulations protect the District's ratepayers. It is not fair to grant a variance or waiver because no one came to BCVWD to look into this before moving forward with a project, Covington advised. He said he understood the assumption that it would be OK if the County issued a permit, but the County cannot say they don't know about drought regulations that came out in early 2022, as the local GSAs provided notice.

Ms. Kohler emphasized that it is not the permit, it is the money and that the well is half dug. She said Mr. Jagers had told her that he was unaware of any prior variance granted and that no one has previously come with a permit in hand and a well half dug. She reiterated that the County representative told her that permits are being approved in her area. She noted that receipt of the letter from the District was happenstance. The well could have been completed before they had seen it.

In response to Director Covington, Mr. Swanson explained that the title report obtained by the District is the only one he has seen. The Kohlers have stated that their title report from 1989 differs, but a copy of that has not been provided, he noted.

President Williams directed staff to follow up regarding the irrigation meter and asked the Kohlers to provide the title. Ms. Kohler requested immediate Board action. Mr. Markman said he would like to see a full copy of the title report and suggested that Ms. Kohler contact Fidelity Title for a copy, and he would look at it. He advised the Board against taking a vote at this time.

Ms. Kohler asked about the presence of the drilling rig on her property. Mr. Swanson pointed out there is an error on the drilling permit application made by her contractor regarding proximity to the District's Well 5, and reiterated that the District still takes issue with the location of the well and the fact that it is being drilled, and the Board will ultimately make a decision.

The Kohlers requested consideration of the trees and the Cherry Valley way of life, and alleged that the decline of orchards says something about the water, and the District needs to address it.

Director Covington noted two outstanding items: a response back from the County of Riverside, and the discrepancy in the Kohlers' view of the title report and the title report on file at the District. Those two key questions must be resolved before the Board considers a variance. Ms. Kohler expressed doubt that the property owners would give away their water rights without getting something back, e.g., the less expensive irrigation rate. Legal Counsel Markman explained that at that time historically, mutual water companies were formed so that they could have service systems. The procedure was to sell the property and issue stock in the mutual water company, take back the water rights, and then deliver the water. It was a common way to put in a

water system to the property when the lots were sold. He reiterated that he has never seen a mutual water company promise a rate. They are required to serve water at their cost, as is the Water District.

President Williams stated that there needs to be a response from Riverside County and an answer as to why the title reports may be different. Mr. Markman added that a title policy would show a list of exceptions, which the District would want to review.

Director Slawson expressed understanding and pointed out that if it were not for the quickness of staff action, the Kohlers would be another \$24,000 into the project. He said he is not prepared to support a variance at this time and concurred with Covington and Williams.

Director Ramirez suggested finding an interim solution to make water affordable while research is being done. President Williams pointed out the property is currently receiving water service from the District, and she had recommended working with staff. Mr. Markman pointed out that even with an agriculture rate, there is the problem of volume. In the service area, according to State direction, the water district is supposed to be cutting everyone back by a percentage. Enabling the use of more water at a cheaper rate for the Kohlers is directly contrary to that conservation effort and to the thousands of ratepayers who are cutting back – losing lawns and more.

Director Ramirez asked about placing conservation limits and Mr. Markman stated that an ag rate would enable more water to be used on that grove and much more would need to be known about the property's situation to determine conservation targets. Mr. Swanson explained there is no difference between scheduled irrigation rate (\$1.22 per unit) for agriculture or commercial-industrial irrigation and explained the application of drought restrictions. Mr. Markman suggested that the interim solution was to refrain from spending more money on well drilling.

Mr. Kohler requested future consideration of how to get a cheaper water rate for Cherry Valley to continue cherry orchards and sustain trees. Director Covington recalled that in approximately 2010 the Board determined that the non-irrigation ratepayers were subsidizing the cherry orchards and took action to dissolve the irrigation rates. One of the campaign promises of former Director John Guldseth was to bring the irrigation rates back, and it did not happen, he noted.

Some fundamental questions need to be answered and if staff believes the item should come back to the Board for consideration, then it will be on an agenda, Covington stated. He reminded about the earlier actions denying WSLs to other properties, and that many of the directives are coming from Sacramento.

Ms. Kohler asked what she should ask from the County that would allow the Board to change its mind. Covington pointed out the errors on the permit application prepared by the driller. Swanson indicated that needed information includes the County's position on the 500 feet proximity and on the information in the title report. Mr. Markman emphasized the need for a copy of the full title report from the owner's title company.

President Williams tabled the item pending receipt of needed documentation and review by legal counsel.

10. Status of Local Emergency regarding the Impact of the Respiratory Illness Pandemic COVID-19 pursuant to Resolution 2020-07

Nothing to report.

11. Status of Declared Local Emergencies related to Fires

a. Impact of the Apple Fire pursuant to Resolution 2020-17

b. Impact of the El Dorado Fire pursuant to Resolution 2020-20

Director of Operations James Bean advised that monsoon season has begun, and thundershowers have deposited a lot of water in the fire area. A lightning strike directly behind the District's Taylor tank at Union and Orchard started a fire which was quickly put out by the ensuing rain. There were no mud and debris flows, he added.

Last week, a significant downpour caused damage in Banning's canyon and in Oak Glen, Bean continued. On the Forest Falls side of the hill, a woman lost her life in a mud and debris flow, he noted, so staff takes this very seriously, watches the weather, and responds appropriately.

12. Reports for Discussion

a. Directors' Reports:

Director Ramirez reported attending the following:

- Collaborative Agencies Committee on September 7, 2022

Director Slawson reported attending the following

- San Geronio Pass Economic Development Alliance on September 15, 2022
- San Geronio Regional Water Alliance
- Beaumont Chamber of Commerce Annual State of the City Dinner on September 22, 2022

Director Hoffman reported attending the following:

- Beaumont Chamber of Commerce Annual State of the City Dinner on September 22, 2022
- San Geronio Pass Economic Development Alliance on September 15, 2022

Director Covington reported attending the following:

- Beaumont Chamber of Commerce Annual State of the City Dinner on September 22, 2022

President Williams reported attending the following:

- Beaumont Chamber of Commerce Annual State of the City Dinner on September 22, 2022

b. Director General Comments: None.

c. General Manager's Report: None.

d. Legal Counsel Report: None.

13. Action List for Future Meetings

- Presentation on the San Bernardino Valley Resource Conservation District
- Water supply for BCVWD and the region
- Matrix for delivery of recycled water
- Maintenance costs at 800-hp well sites

14. Announcements

President Williams read the following announcements:

- Beaumont Basin Watermaster Committee: Wednesday, Oct. 5 at 11 a.m.
- Finance and Audit Committee Meeting: Thursday, Oct. 6 at 3 p.m.
- Regular Board Meeting: Wednesday, Oct. 12 at 6 p.m.
- Personnel Committee Meeting: Tuesday, Oct. 18 at 5:30 p.m.
- Engineering Workshop: Thursday, Oct. 27 at 6 p.m.
- Collaborative Agencies Committee: Wednesday, Nov. 2 at 5 p.m.

15. Closed Session

Item 15a was tabled to the next meeting by the following vote:

MOVED: Williams	SECONDED: Covington	APPROVED 5-0
AYES:	Covington, Hoffman, Ramirez, Slawson, Williams	
NOES:	None	
ABSTAIN:	None	
ABSENT:	None	

The Board recessed to Closed Session at 9:23 p.m.

- a. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (tabled)
Pursuant to Government Code Section 54947
Title: General Manager
- b. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to paragraph (2) of
Subdivision (d) of California Government Code Section 54956.9
(One case concerning claims to water based upon Hannon Agreement.)

Reconvened in Open Session at 9:59 p.m.

16. Report on Action Taken during Closed Session:

President Williams announced that no reportable action was taken.

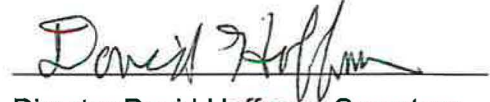
17. Adjournment

President Williams adjourned the meeting at 9:59 p.m.

ATTEST:



Director Lona Williams, President
to the Board of Directors of the
Beaumont-Cherry Valley Water District



Director David Hoffman, Secretary
to the Board of Directors of the
Beaumont-Cherry Valley Water District