

**VALLEY OF THE MOON WATER DISTRICT**  
**REGULAR MEETING AGENDA**  
August 5, 2003

A regular meeting of the Board of Directors of the Valley of the Moon Water District was held on Tuesday, August 5, 2003, in the Board Chambers of the District Office at 19039 Bay Street, El Verano, California.

**1. CALL TO ORDER - PLEDGE OF ALLEGIANCE - ROLL CALL**

**President Ron Prushko** called the meeting to order at 6:30 P.M. Roll Call by **Deputy Secretary Shari Walk** noted the following present:

Directors Present:	Ed Kenny Sanford Smith Michael Woods Ron Prushko
Directors Excused:	Mark Bramfitt
Directors Absent:	None
District Personnel:	Shari Walk, Office Supervisor
General Manager:	Lee Harry
Board Secretary:	Shari Walk
Public Present:	Warren Hashagen, Steve Perry, and Sandi Hansen, Sonoma Index-Tribune

**2. PUBLIC COMMENTS**

There were no public comments.

**3. CONSENT CALENDAR**

- A.** Receive and Approve Minutes of July 1, 2003
- B.** Adopt Resolution No. 030801, Approving Closing Papers, Henry Mayo (Mayo Family Winery), Main Extension Agreement, Project #2868

Motion by **Director Kenny**, seconded by **Director Smith** and carried unanimously by a voice vote to adopt the Consent Calendar, as shown.

**4. PUBLIC HEARING**

There was no Public Hearing.

## 5. OPERATIONAL & COMMITTEE REPORTS

### A. Approve Current Financial Reports for June 2003

**Office Supervisor Shari Walk** pointed out that this was the last in-house financial report for 2002/2003. The Auditor would start his work next week with a presentation to the Board of Directors at the second meeting in September. She also reported that the final rates for Worker's Compensation had been 25 percent as predicted although the e-modification had gone from 93 percent to 83 percent resulting in a \$5,000 plus savings for the VOMWD.

Motion by **Director Woods**, seconded by **Director Kenny** and carried unanimously by a roll call vote to approve the monthly Financial Reports & Disbursements for the month of June 2003 in the amount of \$410,739.91.

### B. Review/Comment on Current District Projects and Significant O & M Issues

**Operations and Maintenance Supervisor Paul Gradolph** presented his summary review of current district projects and significant operations and maintenance issues for July 2003 related to the following:

- **Project #2855** - Glen Ellen Storage Tank: The project had been placed on hold pending the results of the lawsuit filed protesting the Mitigated Negative Declaration that had been conducted on the Project.
- **Project #2863** – Sobre Vista Water Main Replacement: Ashlin Pacific construction had gotten underway on the project with the most difficult portion of the work being conducted first. The contractor was getting ready to move into the roadway. The project was going well.
- **Project #2865** – Future Production Well at Arnold Drive and Felder Road: The site had been cleared of all materials and the Board would be asked to issue a Task Order to Brelje & Race Consulting Civil Engineers to conduct an Initial Study and determine the required California Environmental Quality Act (CEQA) filings for the construction of a production well at the site.
- **Project #2869** - Highway 12 Main Relocation: The project was 100 percent complete.
- **Project #2872** - State Developmental Center Emergency Intertie: The Intertie had been tested and it had been found that the VOMWD had more pressure than the Developmental Center. Water from the VOMWD System could be sent into the Developmental Center without the use of a booster pump at a rate of 300 gallons per minute (gpm). With a booster pump, the rate would be 600 gpm. A transfer of water to the VOMWD would require a pump to overcome the higher VOMWD pressure. With a pump a 400-gpm transfer was possible, equating to 576,000 per day. The agreement allowed 500,000 gallons a day. While not representing a supplemental supply, if there were an outage in Glen Ellen, another water supply would be available.

In response to **General Manager Lee Harry**, **Mr. Gradolph** clarified that the site could serve emergency water to all of the elevations in Glen Ellen. However, the use of any emergency water would require repayment to the Developmental Center within seven days of taking, through an exchange of water as repayment.

Speaking to the Sobre Vista Water Main Project, **Mr. Harry** advised that the owner of the private property

with the right of way and easement had incurred some damage to the roadway over the years by the fact that the VOMWD water line had broken in so many places.

As such, **Mr. Harry** proposed to enter into a cost sharing agreement where the VOMWD would repay for the cost of repairs to the roadway on a one-time arrangement where damage could be attributed to the VOMWD's water main breakages. He stated that would be done outside of the purview of the contracts. The VOMWD could hire its own road repair specialist to do the work. He would return the cost sharing agreement on the property with the owner and off the property with three property owners in the area to the VOMWD for approval.

**President Prushko** verified with **Mr. Gradolph** that all of the work associated with the Highway 12 Main Relocation had been done at night.

- **Project #2875** - Donald and Hanna Storage Tank Painting: The work on the Hanna Tank would be initiated first, at the end of August. Once completed after four weeks or so the Donald Tank would be painted. When the interior was done the operation of the well would be changed to feed into the pump station to keep Michael Drive in water while painting the interior of the Donald Tank.

**President Prushko** verified that the Donald Tank was a 200,000-gallon tank and was in a separate zone from the Bolli Tank. He also verified with **Mr. Gradolph** that there was a backup plan to bring in a portable pump if something were to happen to the well to ensure service to the 26 recipients of water in that area.

#### C. Water Source Report

**Director Woods** commented that the Water Source Report appeared to reflect the lowest usage in June for the past three years, reported by **Mr. Gradolph** to be temperature related and the fact that the Donald Tank had previously been used on a 24 hour day basis although it was now being run on a four hour a day basis, as well as other factors, such as other conservation methods.

**Mr. Harry** added that the number of service leaks had now been reduced which could also account for the low water usage.

### 6. RECEIVE & FILE PRESIDENT'S AND DIRECTOR'S REPORTS OR COMMENTS

There were no reports or comments from the President or Directors at this time.

### 7. GENERAL MANAGER'S AND DISTRICT COUNSEL'S REPORTS

General Manager Reports:

#### A. WAC Regular Meeting of July 7, 2003

**General Manager Harry** advised that he had not attended the meeting on July 7, at which time the County subcommittee to the County Permit Resources Management Department (PRMD) Citizens Advisory Committee (CAC) regarding the Water Resources Element had offered input. He presented some information regarding a draft letter related to the document. He commented that the City of Petaluma had disagreed with a number of points and had not voted to send the letter that had been drafted and would send its own letter.

Given the importance of the issues to the VOMWD, **Mr. Harry** recommended contacting its attorneys to

help in the preparation of a letter from the VOMWD primarily having to do with the VOMWD's need for supplemental ground water sources. He noted that the CAC was trying to push the public water agencies to use Russian River water and avoid the use of ground water, although he stated that the VOMWD would have to have some conjunctive use of its wells during the summer. He would return a draft letter for Board action. He also recommended that a discussion be agendized at a future meeting to address all issues related to the negotiations and the CAC.

**B. WAC Negotiation Meeting of July 28, 2003**

**Mr. Harry** referenced two handouts on the Negotiation Meeting of July 28 and noted issues of concern to the City of Sonoma and the VOMWD related to recycled water and local supply requirements. He commented that the VOMWD was putting in for its local supply requirements the Felder Road well site which would help the VOMWD meet the Temporary Impairment Memorandum of Understanding (MOU) to address peak summer demands. He noted an attempt to add recycled water charges of \$25 an acre foot, which could equate to \$75,000 in direct costs regardless of whether or not a feasible recycled water project could be developed in the Sonoma Valley.

**Mr. Harry** supported the preparation of a feasibility study prior to entering into any cost sharing agreements. He noted that the projects benefited the sanitation districts that were having problems finding places to put their discharge as well as those trying to conserve water for potable water purposes. As an area of contention of water contractors, he stated that he would keep the Board apprised. He also noted that a 10 percent penalty was being considered on all water contractors collectively if the reclaimed water targets were not met. That and other troublesome issues would have to be addressed.

Related to the Water Advisory Committee, **Mr. Harry** reported that it had been split into a policy group and a technical group and it would be incumbent upon each district to have an elected official sit on the WAC and to rotate the chairmanship, which could involve a room and staff for secretarial work and which could impose a hardship on the smaller districts. While he supported the involvement of elected officials and acknowledged that there was now a mixture of elected officials participating in the WAC, he emphasized that there would have to be some sensitivity of the impacts to the small water districts.

In response to **President Prushko**, **Mr. Harry** noted recent legislation passed to have the water agencies certify water availability for large developments over a specified number of units.

**8. OLD/NEW BUSINESS**

**A. Discuss/Direct Staff:** Regarding Annexation Request for Flicker Road Property

**Mr. Harry** reported that the Board had previously considered the item on two occasions.

**Warren Hashagen**, 12160 Flicker Road, Glen Ellen, the new owner of the property reported that he had entered into an agreement to purchase the site predicated upon the availability of public water. He noted that there had been some back and forth from the VOMWD in terms of cost estimates. He inquired why the agreement had been rescinded, why the water could not be provided and why the lot split which had predicated the change in Local Agency Formation Commission (LAFCO) laws was being affected by that law. He emphasized that there were hardships in terms of setback and cost and he sought some help from the Board to determine what could be done to resolve the situation.

**Mr. Harry** presented the chronology of the situation. The original property at the location consisted of two

lots of 3.61 acres and 16.79 acres. In 1989 the owners requested and received service for two homes on the larger lot for the main house and for a granny unit. Between 1989 and 1992 a lot split had been created and the two properties had received water as if they were in the VOMWD. It had not been determined that the property was outside the VOMWD districts and the two properties had received water as if they were located within the VOMWD. In January 1998 the County approved another lot split creating three lots on the original 16.79-acre property. The VOMWD performed a cost estimate to provide water on the new lot on January 14, 1998 and informed the applicant of an estimated cost to provide service of approximately \$6,900. It remained unknown that the site was outside of the VOMWD.

In 2002, the VOMWD told the property owner that when a building permit was issued the service would be installed upon the payment of the required fees. The property owner had informed the VOMWD that he was selling the lot and the availability of public water service was an expectation of the buyer.

In February 2003, the potential buyer requested confirmation that public water service was still available, at which time it had been discovered that the property was outside the VOMWD boundary as were the three other parcels, including the two that had received water at regular VOMWD rates since 1989. District Counsel had opined that the two parcels currently receiving services were grandfathered and must be allowed to receive VOMWD water, although to serve a new applicant an out-of-service agreement would be required. That information was supplied without the VOMWD's knowledge that the property was situated outside LAFCO's sphere of influence (SOI).

A new cost estimate based on such an agreement had been performed and the applicant had been informed on March 3, 2003 that an out-of-service agreement would be necessary with an estimated connection fee of \$8,445, with a basic service fee two times the basic service fee for properties within the VOMWD, and a commodity fee billed at 1.5 times the commodity fee for properties within the VOMWD.

In March 2003 a letter had been sent to Mr. Rothfeld informing him of Government Code Section 56133, which section states that no extended service for a water district could be provided to properties located outside their current district boundary if such property was also outside the current SOI. The only exception would be if the service were required to respond to an existing public health or safety request. LAFCO had informed the VOMWD that its SOI was identical to VOMWD boundary and the VOMWD was not permitted to provide service to the property based on State law.

**Mr. Harry** stated that he had expressed regret to Mr. Cornwall's agent on behalf of the VOMWD for the oversights that had caused two pieces of incorrect information regarding the proposed service; the estimated cost of providing the service performed in 1998 based on the assumption that the property was situated within the VOMWD and the March 2003 estimate when the property owner had been informed that water could be supplied on an out-of-service agreement. In each case the information had been supplied in good faith and had been based on the VOMWD's understanding of the situation.

**Mr. Harry** stated that the Board had instructed him to contact LAFCO to determine whether or not the property could be served on an out-of-service agreement based on a health and emergency basis. LAFCO had apprised him that could not be done because the property was an empty lot and would not be construed as an emergency.

Further, **Mr. Harry** stated that a copy of the PRMD planning application had indicated that the water source for the property had been designated as a private source. As such, there had been some misinformation that the water source was to be public water.

**Mr. Harry** emphasized that the Board had no options. The VOMWD could not supply water service to the new lot because State law precluded the VOMWD from doing so. He recommended that the Board deny the request to annex the property at 12160 Flicker Hill Road.

In response to **Mr. Hashagen** as to whether or not LAFCO could grandfather the situation to allow the VOMWD to provide service, **Director Woods** explained that the State Legislature would have to opine that the VOMWD could provide service outside its boundaries.

**Director Woods** stated that the Board had been struggling to find a way to accommodate the property, if possible but could not do so if triggering some larger CEQA or growth inducing view. He noted that the Board had heard repeatedly that the subdivision had been approved based on the availability of a public water source. When reviewing the documents, it was clear that the site was to be served by a private system. The water source was identified as being private on the PRMD application, the engineer for the applicant had specified that the water supply would be a common system from a well located in a specific well easement, and the conditions of approval specified that the plan would include a domestic well site. While sympathetic, he stated that the VOMWD could not do anything at this point.

**Mr. Hashagen** inquired whether or not there was any other avenue or some procedure to determine whether or not the boundaries could be moved.

**Mr. Harry** pointed out the VOMWD's boundary on the map displayed in the Boardroom and noted that just one small corner of the property was adjacent to the VOMWD boundary. All four properties earlier noted were outside the VOMWD boundary. He noted that LAFCO would initiate a municipal service review (MSR) later in the year when the VOMWD's boundaries and the SOI would be evaluated.

**Director Woods** stated that the Board could make a decision to expand the SOI and include the property in the VOMWD, but in order to do that there would need to be an environmental document that would consider all potential impacts. The VOMWD and LAFCO would have to be satisfied with those documents. He added that even if the VOMWD wanted to annex the property, LAFCO could deny that situation based on growth inducing concerns, which process could be onerous. He clarified that the Board had been clear that it was not interested in considering annexation requests where the result could be growth inducing.

**Mr. Harry** added that the VOMWD's entitlements were challenged right now where it would be difficult for the VOMWD to get more entitlements in the future from the Sonoma County Water Agency (SCWA) Russian River source. The VOMWD had been designated by the General Plan of serving the needs of the existing district and would be challenged to serve those demands from a water resource, availability and growth inducing aspect.

On motion by **Director Woods**, seconded by **Director Kenny** and carried unanimously by a voice vote to deny the request to annex 12160 Flicker Hill Road.

**B. Discuss/Award:**

Task Order to the Firm of Brelje & Race Consulting Civil Engineers in the Amount Not-to-Exceed \$12,600 to Conduct an Initial Study and Determine Required CEQA Filings for the Felder Road Well Project

**General Manager Harry** noted that based on the option for drilling the well, the availability of consultants and the excellent environmental work from Brelje & Race in the past, he had met with Sue Nelson, the Environmental Manager at the site and had sought a proposal for the Initial Study for the new well site at

Felder Road.

Emphasizing that a rapid turnaround was required to be able to drill the well prior to the winter months, **Mr. Harry** stated that he had not canceled the second meeting of the month and would be looking at the results of the environmental recommendation to make a determination on the appropriate CEQA document to complete that work. He reported that he had received an excellent proposal from Brelje & Race. He recommended the approval of Task Order No. 03-2865-01 for an amount not to exceed \$12,600.

**Mr. Harry** clarified for **Director Kenny** that the proposal was a not-to-exceed amount and billings would be based on a time and materials basis. The work was expected to be completed within two weeks.

**Director Woods** stated that he had been pleased with Brelje & Race' environmental work in the past.

When asked by **Director Woods**, **Mr. Harry** explained that Gene Boudreau, under the General Manager's discretionary approval process, had been engaged to conduct the geological analysis of the site, was near completing that analysis and that his report would be made available to Brelje & Race as part of the process.

On motion by **Director Woods**, seconded by **Director Smith** and carried unanimously by a roll call vote to approve Task Order No. 03-2865-01 to the firm of Brelje & Race for an amount not to exceed \$12,600.

- C. Discuss/Award:** Term Engineering Agreement and Task Order to the Firm of Boyle Engineering Corporation in the Amount Not-to-Exceed \$19,537 to Update Standard Plans, System Maps and Boardroom Map

**General Manager Harry** noted the need to update the VOMWD's water atlas maps, facility maps and standard plans. The proposal was to hire a firm to do the auto cad work necessary to bring all the maps and the standard plans and atlas maps used daily in the field to current standards. Bids from three firms had been sought through a Request for Proposal (RFP). Brelje & Race, Winzler & Kelly and Boyle Engineering had responded to the RFP. The bids ranged from \$56,000 to \$19,537. He stated that the Boyle Engineering proposal had been determined to be the most technically competent proposal as well as the lowest bid.

On the discussion of the significant range in bids, **Mr. Harry** described the known particulars of the bids, which appeared to account for the wide range of estimated costs.

On motion by **Director Kenny**, seconded by **Director Smith** and carried unanimously by a roll call vote to approve Term Engineering Agreement and Task Order No. 03-858-01 in the Amount Not-to-Exceed \$19,537 to Boyle Engineering Corporation to update the District Maps, Standard Plans and Boardroom Map, and authorize the General Manager to execute the documents.

**President Prushko** adjourned into Closed Session at 7:13 P.M.

## **9. CLOSED SESSION**

- A.** Conference with Real Property Negotiators Pursuant to Government Code Section 54956.8; Negotiate Price and Terms of Payment. Agency Negotiator: Lee J. Harry; Negotiating Parties: N/A. District Declared Surplus Properties: APN 056-583-017, Alberca Road.
- B.** Conference with Legal Counsel on Existing Litigation (under Government Code Section 54956.9(a) Petitioners – Cooke, Smith and Perry – Sonoma County Superior Court Case

No. 232354.

**10. RECONVENE IN OPEN SESSION**

**President Prushko** reconvened into open session at 7:35 P.M. and reported that no action had been taken in Closed Session.

**11. REQUEST FOR FUTURE AGENDA ITEMS**

There was no request for future agenda items.

**12. ADJOURNMENT**

Motion by **Director Kenny**, seconded by **Director Smith** and carried unanimously to adjourn the meeting at 7:40 P.M. The next scheduled meeting is a Regular Meeting on August 19, 2003 at 6:30 P.M.

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Shari Walk, Deputy Board Secretary