

VALLEY OF THE MOON WATER DISTRICT
REGULAR MEETING MINUTES
July 6, 2004

A regular meeting of the Board of Directors of the Valley of the Moon Water District was held on Tuesday, July 6, 2004, 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 Michael Woods called the meeting to order at 6:31 P.M. and led the Pledge of Allegiance. Roll Call by **Deputy Secretary Shari Walk** noted the following present:

Directors Present:	Mark Bramfitt Ed Kenny Sanford Smith Michael Woods
Directors Excused:	Ron Prushko
Directors Absent:	None
District Personnel:	Shari Walk, Office Supervisor Paul Gradolph, Operations and Maintenance Supervisor
General Manager:	Krishna Kumar
Board Secretary:	Shari Walk
Public Present:	Tony Cinquini, Mickey Cooke, Steve Perry, Sandi Hansen, Sonoma Index-Tribune

2. PUBLIC COMMENTS

Steve Perry, Glen Ellen, referred to his letter dated July 6, 2004 that he submitted to the VOMWD Board of Directors related to the Sonoma County Water Agency's (SCWA's) recent press release with respect to water conservation. His letter highlighted information related to potential limitations on new water connections which has been included in the VOMWD's 1998 Master Water Plan, which he suggested would be helpful to the Board when considering upcoming requests for new service .

3. CONSENT CALENDAR

- A.** Receive and Approve Minutes of Special Meeting of June 22, 2004
- B.** Cancel Regular Meeting of July 20, 2004

Motion by **Director Bramfitt**, seconded by **Director Smith** and carried unanimously by a voice vote to adopt the Consent Calendar, with the removal of Item A.

President Woods requested the following amendments to the minutes.

To the first paragraph under Item 8 A:

It's been a pleasure working with Mr. Harry, and [President Woods] jokingly commented that even though we may not forgive him for leaving, we wish him the best in his future endeavors.

To the paragraph under Item 10.

President Woods reconvened into open session at 7:14 P.M. and reported that no action had been taken in Closed Session that required reporting out.

Motion by **Director Bramfitt**, seconded by **Director Smith** and carried unanimously by a voice vote to adopt the minutes of the special meeting of June 22, 2004, as amended.

4. PUBLIC PRESENTATION

There was no public presentation.

5. OPERATIONAL & COMMITTEE REPORTS

A. Approve Current Financial Reports for May 2004

Office Supervisor Shari Walk advised that the VOMWD had collected for the backhoe in the amount of \$12,150, which had been reflected on the comparison report. She added that the revenues were up \$126,000 eleven months into the fiscal year budget.

Motion by **Director Bramfitt**, seconded by **Director Kenny** and carried unanimously by a roll call vote to approve the monthly Financial Reports & Disbursements for the month of May 2004 in the amount of \$273,614.70.

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

General Manager Krishna Kumar reported that he and Mr. Gradolph had an opportunity to visit almost every VOMWD facility.

On another matter related to the June water deliveries, **Mr. Kumar** reported that VOMWD had availed 3.6 million gallons per day (mgd) during the month of June as opposed to the 4.8 mgd allotted to VOMWD under the Temporary Impairment Memorandum of Understanding (MOU).

Operations and Maintenance Supervisor Paul Gradolph presented the summary review of current District projects and significant operations and maintenance issues for May 2004, as follows:

- **Project #2855 - Glen Ellen Storage Tank:** The VOMWD had received a favorable judgment regarding the lawsuit contesting the Mitigated Negative Declaration under the California Environmental Quality Act (CEQA) and the deadline to file an appeal had passed. The Board had adopted a Resolution of Necessity and requested that District Counsel file for immediate possession, which was expected by November 1, 2004. There was an item on the agenda to approve the completion of the design of the tank in preparation to bid the project in a timely manner after that date.

- **Project #2865 - Future Production Well at Arnold Drive and Felder Road:** As a result of input from interested parties, action on the Initial Study and proposed Negative Declaration had been tabled pending the results of additional studies in the area of hydrology and geology in the area of the proposed well site.
- **Project #2878 - Arnold Drive, Horn Avenue, Garric Avenue, Hill Drive and Mound Avenue** and
- **Project #2879 - Loma Vista Drive:** Bids had been opened on June 22. A situation with respect to the County's requirement for a two-inch overlay over 1,600 feet of roadway as opposed to the 400 feet associated with the project was being discussed to effect some resolution of that situation.

C. Water Source Report

There were no comments related to the Water Source Report.

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

Director Kenny spoke to a proposal for a project in Glen Ellen and questioned why the VOMWD Board had not been apprised of that project.

Ms. Walk advised that the VOMWD Office had received no information or application related to that project. **President Woods** emphasized that the Board would like to be apprised of applications. He noted that informational items would be welcome from staff.

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

A. Report of WAC Negotiating Meeting of June 28, 2004

General Manager Kumar advised that the Water Advisory Committee (WAC) meeting on June 28 had included discussions centered on Draft 4 of the Restructured Agreement and the Temporary Impairment MOU. Draft 4 of the Restructured Agreement and the Temporary Impairment MOU are currently under review by the water contractors' attorneys and/or by their decision making bodies. The consensus at that meeting was to complete the review by the attorneys by September 2004.

President Woods clarified with Mr. Kumar that the WAC was considering the draft and that the draft would be submitted to the respective attorneys and legal counsel of the water contractors, after which it would be submitted to the various decision-making bodies. The timeline would depend on the time it would take the attorneys to review the documents, to be returned to the Board for discussion at a later date.

Mr. Kumar reported that further discussions had focused on the revised methodology for allocations during drought that had been furthered and pressed by Santa Rosa for agreement. Each prime contractor would be visited to discuss that methodology in an attempt to reach consensus. He noted that Santa Rosa did not want the methodology to be adopted per se into the Restructured Agreement. Santa Rosa had indicated a willingness to revise Section 3.5 of the agreement. He stated that he would monitor the situation closely to learn of the exact language proposed.

President Woods inquired if there was more discussion of the Farmer's Lane well and bringing that on line, to which Mr. Kumar advised that well issue had not been discussed.

With respect to the need for increased entitlements to conform to the new General Plan, **Mr. Kumar** noted

the VOMWD's pending request with the SCWA . He stated that the SCWA had indicated at the meeting that the need for added entitlements would result in an expansion of the Supplemental Environmental Impact Report (EIR) to include that request. He explained that the SCWA was undertaking the Supplemental EIR in response to the lawsuit and the intent was to roll those enhancements into the Supplemental EIR which would prolong the process another two years at a minimum.

Mr. Kumar clarified that while that delay would result in the delay of several pipeline projects, the two projects of greatest interest to the VOMWD; Collector 6 and the Eldridge/Madrone pipeline are exempted from the Supplemental EIR. Both Collector 6 and the Eldridge/Madrone pipeline were expected to be completed by the summer of 2005.

With respect to increased entitlements, **Mr. Kumar** reported that Santa Rosa had offered to host a meeting of attorneys representing the interest of the water contractors to consider the interpretation issues of Section 1.6 relating to the question of appropriateness with respect to rolling the entitlement issues into the Supplemental EIR. He characterized that situation as a big development at the WAC meeting of June 28.

Mr. Kumar suggested that approach would at least give the VOMWD a form and structure to deal with those issues and there was some merit to that approach.

President Woods verified that the erroneous information related to the VOMWD in the General Plan was also to be rolled over into the Supplemental EIR. He expressed concern with that situation since the VOMWD's request was not for enhancements but to correct an error and a miscalculation in the General Plan. He emphasized that the VOMWD's situation should not be lumped with requests for increased allocation.

Mr. Kumar advised that he would push the Board's stand in the matter.

To clarify the situation for the audience, **President Woods** verified that there were two separate processes involved. An environmental process for the Water System Transmission Improvement Project that had been challenged in court related to the expansion of the water transmission system which is separate from the County's EIR.

B. Report on Kenwood Spa Fire Service Connection

As a follow-up to a previous question related to the procedures followed by the SCWA when it allowed a fire service connection to the Kenwood Spa in 2000, **Mr. Kumar** reported that the Kenwood Spa had obtained a domestic service connection in 1994. He noted that the SCWA had indicated its understanding that the SCWA had sought and obtained permission from the VOMWD at that time but could not confirm that fact with readily available documentation. The SCWA had otherwise indicated that it had failed to obtain permission from the VOMWD in 2000. SCWA staff noted that it had made a distinction between domestic and fire service connections.

Mr. Kumar also reported that SCWA staff had indicated that its staff is now fully aware of the requirement to obtain permission from any prime contractor within two miles of the proposed new water service whether it be fire or domestic connection.

Director Bramfitt suggested that the onus was not on the Kenwood Spa. It was on the SCWA.

President Woods suggested that Mr. Kumar confirm SCWA's understanding of the requirement to obtain

permission in writing.

Mr. Kumar highlighted a presentation at the SCWA's June 29 meeting, which had resulted in the Board's adoption of a resolution with several requests to the water contractors and direction to SCWA staff, including voluntary water conservation by all transmission system customers and reporting of savings achieved, that water contractors with water supply needs that go beyond those contemplated in water supply and transmission system projects develop local supply and recycled water projects, and that SCWA staff and County Counsel be directed to continue to research and investigate whether 'Other Agency Customers' of SCWA were violating the peaking provisions in the SCWA Water Service Rules and to report such findings to the Board.

Mr. Kumar stated that he had advised the Board that the VOMWD was doing all it could do to ease the pressure on the system during peak demand periods through an enhancement of its storage capacity and by exploring potential well sites. He had also reiterated the VOMWD's need for additional water entitlements. Supervisor Kerns had complimented the VOMWD on its efforts.

Speaking to the 2003 Final Grand Jury Report published on July 1, 2004 with respect to groundwater management and recycled water, **Mr. Kumar** noted three recommendations from the report: the County and each city should include a water element in its General Plans and develop a comprehensive groundwater management plan; the Board of Supervisors should establish an independent regional water resources management board with a long term regional vision of all water issues affecting the County emphasizing sustainability; and with a call to all residents, businesses and agri-businesses to practice and integrate conservation into their daily lives.

Mr. Kumar advised that Director Bramfitt had requested at the last meeting of the Board an opportunity for Board candidates to obtain information about the VOMWD; such information could include the time commitment required by a member of the Board, legal constraints of a member of the Board related to discrimination, conflicts of interest and compliance with the Open Meeting Act, and details of the VOMWD Code of Conflicts for members of the Board. **Mr. Kumar** advised the Board that staff plans to make available such information to interested parties on request.

President Woods asked Sandi Hansen of the Sonoma Index-Tribune to let the public know that information from the VOMWD would be available through the General Manager and the VOMWD Office.

8. OLD/NEW BUSINESS

- A. **Discuss/Award:** Arnold Drive, Horn Avenue, Garric Avenue, Hill Drive and Mound Avenue Water Main Replacement Project #2878 to Pipeline Excavators in the Amount of \$319,672

General Manager Kumar reported with respect to the Glen Ellen Water Main Project that five bids had been received. The low bid was from Pipeline Excavators in the amount of \$319,672, approximately \$5,000 less than the Engineer's Estimate. He reported that the VOMWD had enough funds in the Capital Improvement Program (CIP) to fund the project. He recommended approval of the award of project to Pipeline Excavators in the amount of \$319,672.

Motion by **Director Bramfitt**, seconded by **Director Smith** and carried unanimously by a roll call vote to award Project #2878, Glen Ellen Water Main Replacement to Pipeline Excavators in the amount of \$319,672.

- B. **Discuss/Award:** Loma Vista Water Main Replacement Project #2879 to John Benward Company in the Amount of \$166,412

Mr. Kumar reported that seven bids had been received and John Benward Co. had submitted the low bid of \$166,412, which was 13 percent less than Engineer's Estimate. He explained that while the bid had not included unit prices, he suggested that the omission was an informality and not material to the cost or performance. He advised that there was enough money in the CIP budget to complete the project. The favorable bid would represent significant savings from the budgeted amount.

Mr. Kumar recommended that the informality of the lowest bid be waived and that Project #2879 be awarded to John Benward Co. in the amount of \$166,412.

Director Bramfitt verified that staff had checked the situation with District Counsel to ensure that other bidders could not charge that the lowest bidder had not met all applicable legal requirements. He was advised that District Counsel had opined that the Board could waive the informality.

President Woods commented that the VOMWD Board was not bound by the Public Contracts Code and that the Board could waive that informality, saving \$4,000.

Motion by **Director Smith**, seconded by **Director Bramfitt** and carried unanimously by a roll call vote to waive the informality in the lowest bid and award Project #2879, Loma Vista Water Main Replacement to John Benward Co. in the amount of \$166,412.

- C. **Discuss/Approve:**
- (1) Authorize Staff to Transfer Funds in the Amount of \$6,000 from the Loma Vista Water Main Project #2879 to the Glen Ellen Storage Tank Project #2855
 - (2) Approve Task Order #04-2855-01 to Winzler & Kelly for the Design of the Glen Ellen Tank Project for an Amount Not-to-Exceed \$102,000

Mr. Kumar stated that Winzler & Kelly had submitted a proposal to perform engineering services based on a time and materials basis not to exceed \$102,000. While the allocation for the project was short \$6,000, the savings available in the just approved Loma Vista Water Main Project would make up that shortfall.

Mr. Kumar recommended that staff be authorized to transfer funds from the Loma Vista Water Main Project to the Glen Ellen Storage Tank Project and approve the task order to Winzler & Kelly for engineering design and construction management services for the Glen Ellen Storage Tank Project.

Director Kenny used the Bolli Tank as an example of a situation where the soils had proven to be a difficult and costly situation to address. He did not want the same to occur with the Glen Ellen Tank Project.

Tony Cinquini, Winzler & Kelly, explained that in 2001 during the Mitigated Negative Declaration proceedings when the CEQA documentation had been prepared for the site, his firm had also prepared the preliminary geotechnical investigation. Design recommendations had been offered at that time through Taber Consultants and there did not appear to be any problem with the hardpan rock for the construction of the tank.

Motion by **Director Bramfitt**, seconded by **Director Kenny** and carried unanimously by a roll call vote to

authorize staff to transfer funds in the amount of \$6,000 from the Loma Vista Water Main Project #2879 to the Glen Ellen Storage Tank Project #2855, and approve Task Order 04-2855-01 to Winzler & Kelly for Engineering Design and Construction Management Services for the Glen Ellen Storage Tank Project in the amount not-to-exceed \$102,000.

President Woods urged the Board to thoroughly honor the landscaping mitigation measures as set forth in the Negative Declaration.

Mr. Kumar advised that specific tasks within the scope of work had been focused to ensure that would be done.

9. CLOSED SESSION

There was no Closed Session.

10. RECONVENE IN OPEN SESSION

There was no closed session.

11. REQUEST FOR FUTURE AGENDA ITEMS

President Woods recommended that a Goal Setting Workshop be scheduled with Mr. Kumar and the Board to set goals for the next year and to identify Board priorities.

12. ADJOURNMENT

Motion by **Director Kenny**, seconded by **Director Smith** and carried unanimously to adjourn the meeting at 7:15 P.M. The next scheduled meeting is a Regular Meeting on August 3, 2004 at 6:30 P.M.

Shari Walk, Deputy Board Secretary