

VALLEY OF THE MOON WATER DISTRICT
REGULAR MEETING MINUTES
October 5, 2004

A regular meeting of the Board of Directors of the Valley of the Moon Water District was held on Tuesday, October 5, 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 6:30 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
District Personnel:	Shari Walk, Office Supervisor Paul Gradolph, Operations and Maintenance Supervisor
General Manager:	Krishna Kumar
Board Secretary:	Shari Walk
Public Present:	Dushan Medan, Steve Perry, Sandi Hansen, Sonoma Index-Tribune

2. PUBLIC COMMENTS

Dushan Medan, 750 Michael Drive, El Verano, noted that he owned a home with a second unit. Since his bill had increased dramatically as a result of the VOMWD's tiered water rate system, to what he suggested amounted to \$50 a month, he suggested he was being penalized. He requested that his property remain on a fixed rate pending the VOMWD's evaluation of the rate system and how that system affected properties with more than one unit.

President Woods advised that the VOMWD had made its decision related to the tiered water rate last year after an extensive series of public hearings and after a detailed study by CH2MHill and extensive discussions by the Board of Directors on the very issue raised by Mr. Medan. He stated that the VOMWD had made the decision to introduce the new rate structure at the beginning of 2004.

President Woods reported only one other public complaint about the issue. As a result, the General Manager had been directed in August 2004 to reevaluate the situation and present a report to the Board in November 2004. He urged Mr. Medan to attend the Board meeting in November to be apprised of the Board's discussion at that time. He also advised Mr. Medan that the request could not be discussed at this time because of the Brown Act and would have to be agendaized for the next meeting. He reiterated that the VOMWD was looking into the situation.

Steve Perry, Glen Ellen, stated that the Hill Road subdivision project was scheduled to be presented to the Sonoma Planning Commission on October 7 although it had been continued and would be heard on October 21 at 2:15 P.M. He advised that there was no staff report at this point in that County Counsel was currently reviewing that report.

Mr. Perry also thanked the Board for the special meeting on Hill Road to obtain citizen input. With respect to the minutes of that meeting, he noted that he had asked what role, if any, the County would have in the process of the project although the minutes had not reflected that inquiry.

3. CONSENT CALENDAR

- A. Receive and Approve Minutes of Regular Meeting of September 7, 2004
- B. Receive and Approve Minutes of Special Meeting of September 13, 2004
- C. Declare Vehicle No. 13, 1974 C60 Chevy Dump Truck as Surplus Equipment
- D. Annual Statistical Report
- E. Cancel Regular Meeting of October 19, 2004

Motion by **Director Bramfitt**, seconded by **Director Kenny** and carried unanimously by a voice vote to adopt the Consent Calendar, as shown, with the removal of Item B.

- B. Receive and Approve Minutes of Special Meeting of September 13, 2004

Director Smith advised that he would abstain from the minutes of the special meeting of September 13 in that while present at the meeting he was not present as a member of the Board.

Director Bramfitt stated that he had not attended the meeting and would also abstain from the minutes. He otherwise clarified the last bulleted item on Page 1 as *The access road and whether it can be relocated to the side of the tank.*

Since there was no quorum of members present to approve the minutes of the September 13, 2004 meeting, the minutes were continued to the next meeting.

President Woods requested that the numbering for the items in the minutes be corrected. He also requested that the first paragraph on Page 3 be clarified to indicate that his intent was rather than providing individual notices of the meeting where the Engineer's recommendation regarding landscaping and partial screening of the tank would be discussed actually related to the notice regularly provided by the VOMWD, those who had signed up to receive notices at that special meeting, and those who had been notified of that special meeting on Hill Road.

General Manager Krishna Kumar advised that there was a list of all addressees on Hill Road and that list would be noticed, as would those who had signed up at the special meeting on September 13 as directed by President Woods.

President Woods also stated that the minutes were not intended to be inclusive of the landscape architect's notes on the landscaping.

Motion by **Director Kenny**, seconded by **President Woods** and carried unanimously by a voice vote to continue the minutes of the special meeting of September 13, 2004 to the next meeting, with the amendments as requested.

4. **PUBLIC PRESENTATION**

There was no public presentation.

5. **OPERATIONAL & COMMITTEE REPORTS**

A. Approve Current Financial Reports for August 2004

Office Supervisor Shari Walk pointed out that the VOMWD's annual liability premium of \$27,000 was due. That premium had been budgeted at \$32,000. She also noted that the loan payment to Sonoma Valley Bank brought the balance down to \$2,507,000. Everything else was on track.

Motion by **Director Bramfitt**, seconded by **Director Smith** and carried unanimously by a roll call vote to approve the monthly Financial Reports & Disbursements for the month of August 2004 in the amount of \$673,039.86.

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

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

- **Project #2855 - Glen Ellen Storage Tank:** The Board held a special meeting at the tank site on September 13 to receive input from the Hill Road residents and other interested parties for the landscape design. A good turnout of residents offered innovative ideas. Those ideas would be considered by the Board at a later meeting.
- **Project #2865 - Future Production Well at Arnold Drive and Felder Road:** The project had been placed on hold pending investigation of an alternative well site at Gillman and Arnold Drives.
- **Project #2878 - Arnold Drive, Horn Avenue, Garric Avenue, Hill Drive and Mound Avenue:** The connections to the existing line on Arnold Drive would be made on October 6. The work would be completed before the start of the golf tournament scheduled for October 16. There was a test on Horn Avenue to verify that there were no leaks. Garric Avenue, Hill Drive and Mound Avenue had been pressure tested and tied in and the areas would now have fire protection.
- **Project #2879 - Loma Vista Drive:** The new water lines had been installed, tested and placed in service. Cleanup and final paving remained. Fire service in this area had also been substantially improved.

Director Smith questioned why both Route 12 and Arnold Drive had been reduced to one way traffic during work hours, to which Mr. Gradolph clarified that the VOMWD's project was regulated by the County while the other work on Route 12 was regulated by Caltrans. He suggested that there might have been some miscommunication between Caltrans and the County.

C. Water Source Report

General Manager Kumar reported that the data for September had not been received in time to be included in this month's Water Source Report.

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

There were no reports.

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

A. Report of Water Advisory Committee (WAC) Negotiating Meeting of September 27, 2004

Mr. Kumar reported that John Nelson, Consultant to the WAC had indicated that the current Draft of the Impairment Memorandum of Understanding (MOU) had a reference to the SCWA Board's Interim Impairment Resolution No. 99-1564 which had been based on an 84 million gallons a day (mgd) supply as opposed to the 92 mgd that the current draft mentions. He stated that the SCWA had been asked to adopt a new resolution to identify the 92 mgd, which he suggested was a technicality for the Water Agency's Board. The Agency indicated that it would do that in late November or early December.

With respect to the Draft Restructured Agreement, **Mr. Kumar** reported that Mr. Nelson had recapped the outstanding changes to be made to Draft 4 of the proposed Restructured Agreement. He distributed a listing of those identified changes. He stated that the major issues to be resolved related to two items; agreement on Section 3.5 language regarding water shortage allocation incorporating consideration of demand hardening, and consensus on watershed planning and restoration charges.

When asked the source of the Sonoma County Water Agency's (SCWA's) general fund, **Mr. Kumar** advised that the SCWA received a portion of the Prop. 13 one percent property tax.

Mr. Kumar added that he had advised the WAC that the VOMWD's annual allocation of 3,200 acre feet from the SCWA was based on growth projections up to the year 2005, which issue he emphasized would need to be addressed and which should be included as the third major category in Mr. Nelson's listing. He stated that there had been no opposition to his suggestion.

B. Report of Regular WAC Meeting of October 4, 2004

Mr. Kumar noted that Tim Anderson with the SCWA had presented a chart summarizing each water contractor's progress with the 13 water conservation Best Management Practices (BMPs). He reported that the VOMWD was shown to be on track with all but four BMPs although there was an error and the VOMWD was on track with all but 3 BMPs. He highlighted the status of those three remaining BMPs.

Mr. Kumar also reported that at the WAC meeting, Randy Poole of the SCWA had indicated that the SCWA Board had requested the development of a composite score to each of the 13 BMPs depending upon their overall contribution in reducing water demand during peak months as well as annual availability. According to Section 1.12 of the Eleventh Amended Agreement, the WAC would be allowed to impose a 10 percent surcharge to any water contractor who in the opinion of the WAC was not making satisfactory efforts towards water conservation. The WAC subcommittee dealing with the Impairment MOU had met after the regular meeting to discuss the concept, at which time the subcommittee had agreed that no contractor at the present time would be considered to be making unsatisfactory efforts to the extent that the WAC would consider the imposition of that 10 percent surcharge. The subcommittee was to craft a position statement on the level of water conservation efforts that the water contractors were currently undertaking.

Mr. Kumar explained that at the last regular Board meeting a definition of "demand hardening" had been requested by Director Smith. He had been unsuccessful in finding a specific definition of demand hardening although he suggested that would refer to the direct relationship between water conservation efforts and the overall water demand, generally referred to as being 'elastic' [the higher the water conservation effort the larger the impact on overall demand], and that demand hardening referred to the loss of such elasticity between water conservation efforts and the reduction of the overall demand due to an already saturated level of water conservation efforts.

Mr. Kumar reported that he and Bob Freeland had attended a meeting at the PRMD on September 20 to discuss the VOMWD's overall water supply. He reported that VOMWD staff had emphasized that the VOMWD was getting close to reaching its annual allocation limit from the SCWA.

Further, **Mr. Kumar** advised that work on the Supplemental Environmental Impact Report (EIR) was progressing. The final EIR was anticipated to be completed in May 2007 with project approval in July 2007. Construction of the Eldridge/Madrone Pipeline Project was anticipated to begin in November 2004 with project completion expected in Spring 2005. Construction associated with Collector 6 was also progressing well, expected to be completed in Spring 2005.

8. OLD/NEW BUSINESS

A. **Discuss/Accept:** Fiscal Year 2003-2004 Annual Audit – Larry D. Johnson

Larry Johnson reported that the VOMWD was GASB 34 compliant, although he commented that GASB 34 made the financial statements difficult to read. He referred to Page 1, the Auditor's report and the unqualified opinion for this year, the same as last. He highlighted the changes related to GASB 34. He also explained that the MD&A [management discussion and analysis] represented a financial overview of what had occurred with the VOMWD last year. He responded to a number of questions from the Board with respect to the wording of the document and with respect to projects written off, which was identified as the Verano Avenue well which had been found not to be viable.

With respect to the Local Agency Investment Fund (LAIF) and any potential risk in response to President Woods, **Mr. Kumar** stated that due to the State budget crisis many investors had moved money out of the LAIF and had placed funds elsewhere. The general consensus has been that the LAIF funds were safe and that the State could not have raided those funds.

Mr. Johnson summarized the audit notes, stated they were similar to last year, but noted some of the changes in the new accounting pronouncements this year that would not need to be explained again next year.

President Woods spoke to the Public Employees Retirement Funds (PERS) liability and requested a copy of the County's budget to learn of the County's excess asset or coverage percentage of its pension liability. He otherwise verified with the General Manager that the VOMWD's funds with Sonoma County would be unreachable to solve the County's pension fund shortages, if any.

Motion by **Director Bramfitt**, seconded by **Director Smith** and carried unanimously by a voice vote to accept the VOMWD's annual audit report for fiscal year 2003-2004.

B. **Discuss/Review:** County of Sonoma Water and Sewer Providers Municipal Service Review Report

Mr. Kumar advised that the Sonoma County Local Agency Formation Commission (LAFCO) was required to perform Municipal Service Reviews (MSRs) every five years in conjunction with reviews of City and special district Spheres of Influence (SOI). He stated that Economic and Planning Systems (EPS) had completed the MSR for water and sewer service providers. He presented the relevant pages of the draft report that affected the VOMWD to the Board for its information.

President Woods pointed out that the report had reiterated the fact that the VOMWD was approaching its allocation under the Eleventh Amended Agreement and well water was being used for the VOMWD's base

demand level. Given that situation, he had requested that the General Manager pursue a specific analysis of the basis for the current allocation from the Water Agency. He had pointed out that the allocation had only been projected to 2005 and did not extend beyond that time in terms of any increase in the allocation.

President Woods stated that he had requested that analysis since the VOMWD was reaching its entitlement limit and significant water supplies would be needed from new wells, from SCWA or from a combination of the two. He noted that situation had been called out as a major issue to be resolved in the Restructured Agreement and he was pleased that there had been no opposition to placing that matter on the list. He commented that the approval of the Restructured Agreement would not be likely if it did not provide for an allocation increase. He emphasized that issue was relevant to a number of other outstanding issues and processes.

- C. **Discuss/Review:** Methodology for Implementation of Shortage Provisions in the Eleventh Amended Agreement for Water Supply – City of Santa Rosa Final Report

Mr. Kumar commented that most of the points had previously been discussed by the Board. He highlighted his staff report dated October 5, 2004 and stated that the situation continued to evolve, particularly since the City of Petaluma offered a potential alternative methodology. He stated that staff would take all necessary steps to ensure that the VOMWD's interests were reflected in any alternative methodology, policy and the language in the Draft Restructured Agreement to be adopted.

As earlier requested to clarify, **Mr. Kumar** reported that the Eleventh Amended Agreement did not provide any role for the WAC in the administration of Section 3.5, although the Draft Restructured Agreement provided for an alternative method for allocating available water supply which involved the WAC. He also clarified that the Restructured Agreement would modify the eight prime water contractors in that the Forestville Water District would cease to be a prime contractor and would move into the Other Agency Customer category. The City of Windsor would then become a full fledged prime water contractor. The rest would remain the same.

While acknowledging that the issue would be subject to some additional language revisions, **President Woods** preferred that the VOMWD not state a position at this time. He wanted to see the SCWA's response to the City of Santa Rosa's proposed methodology and negotiations prior to any statement of position.

Director Bramfitt clarified his understanding of the situation that Santa Rosa had concerns about demand hardening and wanted to evaluate the provision and craft a methodology before reaching a shortage situation. To that end, Santa Rosa had hired a consultant to do that and there was now a proposal to consider. It was his understanding that Santa Rosa now wanted to institute some specific language regarding the way it would like to see entitlements be allocated in a shortage situation. The City of Petaluma had now submitted a proposal of its own.

Mr. Kumar concurred with that assessment and noted that there were two issues involved; the language in the Eleventh Amended Agreement and the methodology. He noted the consensus that a specific methodology was not to be included in the Agreement. He stated that the City of Petaluma had recommended another methodology not to be included in the Eleventh Amended Agreement but as something for the SCWA to potentially utilize.

President Woods emphasized that the issue underscored the VOMWD's concerns, that its allocation had to be addressed given that any shortage allocation to the VOMWD would be tied to the insufficient allocation included in the Restructured Agreement, which the Board would likely not support until corrected.

D. **Discuss/Direct Staff:** Rescheduling of November 2, 2004 Regular Board Meeting

Director Smith suggested that it would be inappropriate to hold a meeting on election night.

Director Bramfitt commented that he was not opposed to rescheduling the meeting although he emphasized that the Board had often met on election night.

President Woods also did not have strong feelings either way. He suggested that November 16 might be a better date for the next meeting.

By consensus, the Board cancelled the November 2, 2004 meeting.

President Woods adjourned the meeting into closed session at 7:44 P.M.

9. **CLOSED SESSION**

- A. Conference with District Counsel Concerning Initiation of Litigation, Pursuant to Government Code Section 54956.9(c) – one case
- B. Conference with Real Property Negotiators Pursuant to Government Code Section 54956.8; Negotiate Price and Term of Payment. Agency Negotiator: Krishna Kumar; Negotiating Party: Larbre Trust. Renewal of Existing Well Lease: APN 052-251-33
- C. Conference with Real Property Negotiators Pursuant to Government Code Section 54956.8; Negotiate Price and Term of Payment. Agency Negotiator: Krishna Kumar; Negotiating Party: County of Sonoma. Proposed Well Site at Ernie Smith Park, on Arnold Drive.

10. **RECONVENE IN OPEN SESSION**

President Woods reconvened into open session at 8:27 P.M. and reported with respect to Item 9A that the Board had directed staff to retain the law firm of Phillips and Cohen to represent the District and file certain common law claims in the James Jones litigation regarding faulty brass fittings, and authorized the General Manager to sign the retainer agreement.

11. **REQUEST FOR FUTURE AGENDA ITEMS**

Director Kenny requested a discussion regarding Board compensation at a future Board meeting.

12. **ADJOURNMENT**

Motion by **Director Kenny**, seconded by **Director Smith** and carried unanimously to adjourn the meeting at 8:30 P.M. The next scheduled meeting is a regular meeting on November 16, 2004 at 6:30 P.M.

Shari Walk, Deputy Board Secretary