

VALLEY OF THE MOON WATER DISTRICT
REGULAR MEETING MINUTES
January 4, 2005

A Regular meeting of the Board of Directors of the Valley of the Moon Water District was held on Tuesday, January 4, 2005, 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 of the Valley of the Moon Water District and the Valley of the Moon Water District Financing Corporation to order at 6:30 P.M. Roll Call by **Deputy Secretary Shari Walk** noted the following present:

Directors Present:	Mark Bramfitt Edward Kenny Ron Prushko Sanford Smith Michael Woods
Directors Absent:	None
District Personnel:	Shari Walk, Office Supervisor Paul Gradolph, Operations and Maintenance Supervisor
General Manager:	Krishna Kumar
Board Secretary:	Shari Walk
District Counsel:	Bob Maddow
Public Present:	Steve Perry

2. PUBLIC COMMENTS

There were no comments from the public.

3. CONSENT CALENDAR

- A.** Receive and Approve Minutes of Regular Meeting of December 7, 2004
- B.** Adopt Resolution No. 050101, Accepting the Easement Grant Deed from the Sonoma Valley Unified School District
- C.** Receive and File ACWA Joint Powers Insurance Authority, President's Special Recognition Awards

Motion by **Director Kenny**, seconded by **Director Bramfitt** and carried unanimously by a voice vote to adopt the Consent Calendar, as shown, with particular acknowledgement of staff for the ACWA-JPIA President's Special Recognition Awards to VOMWD under Item C.

4. PUBLIC PRESENTATION

A. Brown Act Update by District Counsel, Robert B. Maddow, Esq.

District Counsel Bob Maddow presented a refresher of the Brown Act. He reported that the legislation was more than 50 years old and had been triggered by a series of investigative reports by the San Francisco Chronicle in 1952 about a variety of public agencies that were conducting a variety of secret meetings. Through the Chief Lobbyist for the League of California Cities at that time and then through Ralph M. Brown, the Speaker of the State Assembly at that time, the Brown Act was enacted in 1953.

Mr. Maddow presented a summary of the Legislative intent under Government Code 54950 – 54963 to ensure that the business of the public would be conducted openly and in public. Members of the entity were to hear, discuss, and deliberate upon any item within the subject matter of the jurisdiction or agency. He highlighted the exceptions to the Brown Act which included individual conversations, a conference or similar gathering, a meeting on a topic of community concern, a meeting of another agency, social or ceremonial occasions and Standing Board Committees. He also described what was possible and under the control of the Brown Act such as adjourned regular, special and emergency meetings and dire emergency meetings. He emphasized that serial meetings, the use of any means of communication to develop or collect concurrence outside noticed public meetings were expressly prohibited. He noted that the use of e-mail could be construed as a serial meeting.

Mr. Maddow also summarized the noticing requirements to post the agenda at least 72 hours prior to a meeting. He described the prescribed format of the meetings and commented that the VOMWD agendas were in conformance with Brown Act requirements. He added that VOMWD staff did very well in understanding the Brown Act and in knowing how it worked. The subject of Closed Sessions and the exceptions to the general rule were also pointed out at this time as were the prescribed descriptions of Closed Session items on meeting agendas.

With respect to enforcement, **Mr. Maddow** explained that with failure to comply with the Brown Act, the Board's actions could be declared null and void, members of the legislative body could be found guilty of a misdemeanor for a knowing violation of the Act with special intent to deprive the public of information to which it was entitled, or a disciplinary action could be taken against an employee.

Mr. Maddow distributed a helpful primer to clarify Brown Act regulations.

Director Kenny questioned whether or not anyone had ever been brought up on charges for violating the Brown Act, to which **Mr. Maddow** noted circumstances where criminal actions had been brought although he had seen no conviction. In his experience there had been little prosecution under the Brown Act.

President Woods stated that he had never seen criminal prosecutions although he had been involved in a number of civil actions related to the Brown Act. He had never heard of a criminal conviction.

Mr. Maddow verified in response to Director Bramfitt that there were provisions for calling for an emergency meeting on short notice should that be required. When it was not possible to get all involved together for an emergency meeting, he stated it was important to have some form of emergency or policy procedures in place to allow actions to be taken in the case of a dire emergency with subsequent confirming actions to be taken by the Board in that case. He urged caution in that regard.

As to whether or not conference calls were legal, in response to Director Kenny, **Mr. Maddow** explained that a conference call could be a means of serial communication, although conference calls could be used in a variety of circumstances without violating the Brown Act.

Director Bramfitt referred to the establishment of two members of the VOMWD Board of Directors as an ad hoc committee to meet with as many as two members of the City of Sonoma City Council. Noting that those meetings were irregular in nature and were not always noticed, he questioned whether or not those meetings would violate the Brown Act.

In response, **Mr. Maddow** suggested that was more in the nature of an ad hoc committee. He stated that he would have a concern if there was a standing liaison committee that met with prescribed frequency to cover a prescribed set of circumstances.

5. OPERATIONAL & COMMITTEE REPORTS

A. Approve Current Financial Reports for November 2004

Office Supervisor Shari Walk reported that the final payment had been made for the Glen Ellen Water Main Project. The project had come in under budget by \$156,000.

Motion by **Director Prushko**, seconded by **Director Smith** and carried unanimously by a roll call vote to receive and approve the monthly Financial Reports & Disbursements for the Month of November, 2004 in the amount of \$251,724.40.

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

Operations and Maintenance Supervisor Paul Gradolph provided the summary review of current District projects and significant O & M Issues for December 2004 and reported that:

- **Project #2855 – Glen Ellen Storage Tank:** Seventy percent design plans would take into account the comments from the public from the September 13, 2004 and December 7, 2004 Board meetings. A meeting of VOMWD staff with Bill Murray, Fire Chief of the Glen Ellen Fire District, Win Smith and Steve Perry had discussed fire, safety and emergency vehicle access during the construction process and other concerns. VOMWD staff would finalize a plan to address those concerns. The project was on schedule to bid early in 2005.
- **Project #2865 – Future Production Well at Arnold Drive and Felder Drive:** The project had been placed on hold pending investigation of an alternative well site at Gillman and Arnold Drives.
- **Project #2891 – Locust Avenue, Spring Street, Toy Lane and Queeno Lane Main Replacements:** The project had been surveyed and was in the design process. The 30 percent complete plans were expected in mid-January 2005 for VOMWD staff review. The project would be ready to bid in the spring of 2005.

C. Water Source Report

There were no comments related to the Water Source Report.

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

Director Bramfitt reported that he and General Manager Kumar had attended a meeting on December 21, 2004 in Santa Rosa with a number of other parties related to Marin Municipal Water District's contract option with the Sonoma County Water Agency (SCWA) for the delivery of 5,000 acre feet of water

annually, which option would deadline in July 2005. He noted that the SCWA's transmission system was currently incapable of delivering that water and a significant pipeline facility from Petaluma to Marin Municipal would be required. He noted that there was an interest in knowing whether or not the water contractors would be interested in extending the deadline on that option or purchasing rights to the 5,000 acre feet of water from Marin Municipal, or a combination thereof.

Director Bramfitt clarified that Marin Municipal would have to make a decision related to the exercise of what was an expensive option versus the desalinization plant that was being considered as an alternative, although that option was considered to be very costly. He stated that four options had been discussed at the meeting and included the possibility that the option would be allowed to expire, that the option would be exercised, that some form of financial buyout would be pursued from the SCWA and the water contractors and that the option be delayed with Marin Municipal to pay for the delay.

Noting the comments from some elected officials that the SCWA would eventually have to seek other options to using the river system for moving water from Warm Springs Dam to its collectors, **Director Bramfitt** explained that a pipeline option would be extremely expensive and the cost of water would become more expensive as a result.

General Manager Krishna Kumar offered a clarification of the 5,000 acre feet option held by the Marin Municipal Water District by stating that the SCWA currently had 75,000 acre feet and there was a pending permit before the State Water Resources Control Board for another 26,000 acre feet for a total of 101,000 acre feet. While the 5,000 acre feet were currently part of the 101,000 acre feet total, he noted that the initial proposal was to postpone the allocation given that it was not needed at this point.

Mr. Kumar added that even with the pipeline option from Lake Sonoma to the SCWA collectors, the SCWA would require additional water rights permit, since that permit was for diversion and rediversion.

Director Prushko suggested the use of Proposition 50 funds for that project.

Mr. Kumar agreed that the discussions had emphasized the need for outside assistance due to the costs involved.

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

A. Report on the Regular Water Advisory Committee (WAC) Meeting of January 3, 2005

Mr. Kumar reported that the same issue described by Director Bramfitt had been discussed at the WAC meeting and after the options had been identified, it had been decided that the Local Recycled Tier 2 Water Conservation Program subcommittee of the WAC would complete a report on the matter, to be considered by the full WAC at a later date. The subcommittee would therefore evaluate the four options that had been submitted, to be returned to the WAC prior to the June deadline.

Mr. Kumar stated that Randy Poole, General Manager of the SCWA had provided comments related to the SCWA's presentation to the State Water Resources Control Board in November 2004. The next presentation to the State Board would be made in May or June 2005. Mr. Poole had also provided an update on the ongoing Section 7 consultation process. While the Biological Assessment was expected to be completed in September 2005, the Biological Opinion would take years to complete. He noted that Mr. Poole wanted to increase the operations and maintenance charge for 2005/06 to fund additional water conservation programs so that the water contractors could comply with the remaining Best Management Practices (BMPs) as soon as possible.

Mr. Kumar also noted that it had been heartening to hear after the WAC meeting from a Santa Rosa Councilmember that the need for additional entitlement to the VOMWD would be among the issues that the WAC would have to address in 2005.

B. Emergency Response Plan

With respect to a VOMWD Emergency Response Plan (ERP), **Mr. Kumar** reported that Winzler & Kelly had completed the preparation of the Plan which had incorporated the results of the Vulnerability Assessment that the VOMWD had previously completed. The required certification had been submitted to the Environmental Protection Agency (EPA) on December 28, 2004. A copy of the final ERP had been hand delivered to the Department of Health Services on December 30, 2004. The only remaining task would be for Winzler & Kelly to create a Field Handbook of the ERP.

C. Request for Proposal (RFP) for New Auditor

Mr. Kumar reported that the VOMWD had received six proposals for a new auditor and staff was in the process of making preliminary examinations of the proposals. The VOMWD had obtained the assistance of the Accounting Manager of the Sonoma County Audit Controller's Office who would participate in the evaluation process. A recommendation would be submitted to the Board in February prior to the beginning of the next auditing cycle.

D. Status of Jacobsen Property

Mr. Kumar advised that the Superior Court of the State of California had granted the VOMWD an Order of Possession for the Jacobsen property at 1475 Hill Road, Glen Ellen effective November 27, 2004. A Settlement Conference had been set for March 23, 2005. A trial date of April 14, 2005 had also been set in the event the case had not settled.

E. Urban Water Management Plan 2005

Mr. Kumar stated that the SCWA was updating the water demands of the water contractors and other customers to reflect the current General Plan projects, savings from water conservation measures and savings from recycled water use. The Demand Analysis update was expected to be completed in 2005.

The SCWA was also coordinating the preparation of the 2005 Urban Water Management Plan as required by the Urban Water Management Planning Act, to cover the period 2005 to 2025 to be updated every five years, and to be filed with the California Department of Water Resources by December 31, 2005. SCWA has contracted with Brown & Caldwell to prepare the Urban Water Management Plan and the Demand Analysis, which would have a bearing on the VOMWD's request for an increased allocation. Staff would continue to monitor and participate in the Demand Analysis update to ensure the protection of the VOMWD's interests.

F. Glen Ellen Outage.

Mr. Kumar reported that on December 9 a subcontractor working for Cablecom had drilled through a VOMWD line requiring the use of the intertie with the Sonoma Developmental Center.

Given the importance that the Urban Water Management Plan and the Demand Analysis key off of the Sonoma County General Plan, **Director Bramfitt** questioned the status of the County's update of its General

Plan.

Mr. Kumar agreed that the status of the General Plan was critical given that the SCWA preferred to base its projections on approved General Plans. He noted that the timeframe for the Urban Water Management Plan was 2005 and it was likely that the Sonoma County 2020 General Plan would be completed by the end of 2005. He was hopeful that the General Plan would be completed by that time.

8. **OLD/NEW BUSINESS**

A. **Discuss/Appoint:** President, Vice President, Secretary, and Deputy Secretary

Vice President Smith nominated Michael Woods to continue to serve as the President of the VOMWD Board of Directors. There were no other nominations. The nominations were closed. By acclamation, **Michael Woods** was selected to serve as the President of the VOMWD Board of Directors for 2005.

Director Bramfitt nominated Sanford Smith as Vice President of the VOMWD Board of Directors. There were no other nominations. The nominations were closed. By acclamation, **Sanford Smith** was selected to serve as the Vice President of the VOMWD Board of Directors for 2005.

Vice President Smith nominated Krishna Kumar to serve as the VOMWD Board Secretary. There were no other nominations. The nominations were closed. By acclamation, **Krishna Kumar** was selected to serve as the VOMWD Board Secretary for 2005.

Director Bramfitt nominated Shari Walk to serve as the Deputy Secretary of the VOMWD Board of Directors. There were no other nominations. The nominations were closed. By acclamation, **Shari Walk** was selected to serve as the Deputy Secretary of the VOMWD Board of Directors for 2005.

President Woods convened as the VOMWD Financing Corporation at 7:32 P.M. to consider the remainder of that meeting agenda. He returned to the regular Board meeting at 7:39 P.M.

9. **CLOSED SESSION**

There was no Closed Session.

10. **REQUEST FOR FUTURE AGENDA ITEMS**

There was no request for future agenda items.

11. **ADJOURNMENT**

Motion by **Director Kenny**, seconded by **Director Prushko** and carried unanimously to adjourn the meeting at 7:39 P.M. The next regular meeting is scheduled for February 1, 2005 at 6:30 P.M.

Shari Walk, Deputy Board Secretary

