

VALLEY OF THE MOON WATER DISTRICT
REGULAR MEETING MINUTES
May 17, 2005

A regular meeting of the Board of Directors of the Valley of the Moon Water District was held on Tuesday, May 17, 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 to order at 6:30 P.M. and led the Pledge of Allegiance.

Roll Call by **Deputy Secretary Walk** noted the following present:

Directors Present:	Mark Bramfitt Ed 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
Public Present:	Ken Borba and Sandi Hansen, Sonoma Index-Tribune

2. PUBLIC COMMENTS

There were no public comments.

3. CONSENT CALENDAR

President Woods advised that the General Manager had requested the removal of Item E, 1 and 2 from the Consent Calendar, to be returned to the next meeting agenda.

- A. Receive and Approve Minutes of Regular Meeting of April 5, 2005
- B. Resolution No. 050501, Adopting the Updated Urban Water Shortage Contingency Plan
- C. Adopt Updated Job Descriptions
- D. Set Date and Time of Public Hearing to Receive Public Comments Regarding a Proposed 3 Percent Water Rate Increase
- E. Adopt Resolutions [REMOVED FROM CONSENT CALENDAR]

1. No. 050502, Accepting Project Closing Documents, Water Facilities Installation Agreement with Pine and Greger, LP, Project No. 2877
2. No. 050503, Accepting Project Closing Documents, Water Main Extension Agreement with Peter Trethewey, Project No. 2889

Motion by **Director Bramfitt**, seconded by **Vice President Smith** and carried unanimously by a voice vote to adopt the Consent Calendar, with the removal of Item E, 1 and 2.

4. PUBLIC PRESENTATION

There was no public presentation.

5. OPERATIONAL & COMMITTEE REPORTS

- A.** Approve Current Financial Reports for March 2005

Motion by **Director Prushko**, seconded by **Director Kenny** and carried unanimously by a roll call vote to approve the monthly Financial Reports & Disbursements for the month of March 2005 in the amount of \$271,534.51.

- 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 April 2005, as follows:

- **Project #2855 - Glen Ellen Storage Tank:** Award of a contract on the current meeting agenda.
- **Project #2891 – Locust Avenue, Spring Street, Toy Lane, and Queeno Lane Main Replacements:** Award of a contract on the current meeting agenda.
- **Project #2895 – Pressure Reducing Valve Replacements:** All valves had been replaced. The three remaining vault lids were scheduled to be installed later in the month. That work would complete the project.

Mr. Gradolph reported that the leak survey would be conducted during the first two weeks of June with a report to the VOMWD Board of Directors in July.

When asked by Director Prushko, **Mr. Gradolph** noted that the last unaccountable water rate was almost 6 percent. He also explained, when asked by Vice President Smith that the pressure reducing valves had been replaced and were working well.

- C.** Water Source Report

When asked about the Larbre Well, **Mr. Gradolph** reported that water level readings had been taken on the Larbre Well, which had held up well. The rehab had been conducted on that well last month which had helped the production from that well.

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

Vice President Smith presented a written report dated May 17, 2005 on his attendance at the Association of Water Agencies (ACWA) JPIA Conference in San Jose from May 2 to 5, 2005. Highlighting that conference, he noted that the JPIA had removed the Rainbow Water District of San Diego County from its membership given that District's record losses and the JPIA's position that a district and its electorate would have to maintain its system and JPIA cannot simply raise rates to cover losses from such entities. He supported the JPIA's conviction in that case.

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

A. Report on the Water Advisory Committee Negotiating Meeting of April 25, 2005

General Manager Krishna Kumar reported on the WAC Negotiating Meeting of April 25 and stated that there had been an important development related to the VOMWD's current annual allocation which had been announced at the WAC meeting and which would be discussed later under Agenda Item 8.G.

B. Report on the Water Advisory Committee Regular Meeting of May 2, 2005

Given that he had been unable to attend the WAC regular meeting on May 2, 2005, **Mr. Kumar** advised that Director Bramfitt had attended that meeting in his place.

Director Bramfitt characterized the meeting as uneventful but noted the caution offered to watch the California Water Plan from the State because it might involve a certain amount of charges on water storage and water use to fund the overall CALFED system. He reported that the City of Santa Rosa had hired a permanent legislative analyst/lobbyist and was tracking legislation at the State including impacts to water districts and providers. It had been reported that the City of Santa Rosa would make its information available to the WAC. He also reported that for the foreseeable future, WAC regular meetings and WAC negotiating meetings would be combined.

C. Report on the Water Agency Presentation to the State Water Resources Control Board

Mr. Kumar reported that as requested by the State Water Resources Control Board, the Water Agency had submitted a detailed report on the current status of water conservation on April 15, which had been followed by a presentation on April 21. Three important conclusions had been presented by the Water Agency.

- The projected population increases in the Water Agency's service area would require the Agency to increase its diversions from the Russian River above present levels, even if all cost-effective water conservation measures had been implemented.
- Because the Water Agency had sufficient water supplies for those projected increased diversions, it would not be necessary and would not be appropriate to require the Agency, its contractors and their customers to implement the severe drought-response measures that would be required if the Agency were to be prohibited from increasing its Russian River diversions.
- The Water Agency and its contractors were implementing an aggressive water conservation plan and would continue to implement all cost-effective water conservation measures in the future. The Executive Director of the California Urban Water Management Council addressed the State Board and offered testimony in support of the water conservation measures implemented by the Water Agency's contractors which the Executive Director had characterized as one of the best in the State.

Mr. Kumar advised that both the written report and the presentation had been well received by the State Board, particularly the fact that the Water Agency had sufficient water supplies to meet its projected future needs.

With respect to other items, **Mr. Kumar** reported that the VOMWD would hold a community meeting at the Glen Ellen Fire District on Tuesday, May 24, 2005 at 6:00 P.M. to discuss emergency access through Hill Road during the construction of the Hill Road Storage Tank Project. District staff and engineering consultants would be on hand to discuss specific components in the construction contract that would facilitate emergency access during construction, the nature and specifics of the planned coordination among the District's contractor, staff, field inspector and the Glen Ellen Fire Department in the event of being notified of an emergency, and details about an emergency drill to be conducted during the first week of construction, with the cooperation of the Glen Ellen Fire District.

Mr. Kumar also reported that the Sonoma County Water Agency had planned a "Day in the Capitol" event in Sacramento on June 6, 2005 to garner support for Northern and Coastal California's integrated regional water management planning efforts and to encourage future funding for local and regional priorities. Mr. Kumar further reported that the ACWA Region 1 Nominating Committee was currently seeking candidates for the Region 1 Board with applications due by July 1, 2005. At its conference in San Jose, ACWA had released an important document titled "No Time to Waste: A Blueprint for California Water," which provided a policy framework and identified a mix of actions needed to meet California's water demands in coming decades in the form of 12 specific action plans. Additional copies had been requested to provide to members of the Board.

Mr. Kumar further reported that the VOMWD had participated in Earth Day celebrations at the Sonoma Developmental Center on April 22 when 80 to 90 people had visited the VOMWD table. He advised that 11 VOMWD customers and 3 City of Sonoma customers had signed up for the free residential water surveys. Approximately 75 hose nozzles and 50 shower heads and aerators had been distributed to interested visitors.

Mr. Kumar advised that he was working on the articles for the Sonoma Index Tribune, with a draft version expected to be presented to the Board in July.

8. OLD/NEW BUSINESS

- A. **Discuss/Award:** Glen Ellen Storage Tank and Water Main Project No. 2855 to North Bay Construction Inc. in the Amount of \$902,485

Mr. Kumar reported that bids had been opened on May 10, 2005. Six bids had been received. All were found to be acceptable and ranged from a high of \$1,393,894.50 to a low bid of \$902,485. North Bay Construction Inc. had submitted the low bid. He recommended awarding the project to North Bay Construction Inc. in the amount of \$902,485.

Director Bramfitt noted that North Bay's bid had the second lowest cost for temporary traffic control, which was a concern given the importance of traffic control on the project. He sought some assurance that North Bay understood the traffic control needs of the project.

Mr. Gradolph explained that only two contractors had attended the pre-bid meeting. North Bay Construction was one of them. He stated that VOMWD staff had stressed the importance of traffic control at

that time and North Bay had walked the project and was aware of the traffic control concerns in this case.

President Woods agreed with the concern and commented that he had raised the same question with staff prior to the meeting. He had been advised by VOMWD staff that the description of the temporary traffic control requirements in the bid had been very clear and sufficiently detailed.

Motion by **Director Bramfitt**, seconded by **Director Kenny** and carried unanimously by a roll call vote to award Project No. 2855, Glen Ellen Storage Tank and Water Main Project to North Bay Construction Inc. in the amount of \$902,485.

B. **Discuss/Award:** Locust, Spring, Queeno and Toy Water Main Replacement Project No. 2891 to W.R. Forde Associates in the Amount of \$199,602

Mr. Kumar stated that bids for the water main replacement project had been opened on April 19, 2005. Five bids had been received. While D & D Pipelines was the apparent low bidder, a math error had been discovered. When recomputed, D & D had become the highest bidder, which had made W.R. Forde Associates the low bidder at \$199,602. He also noted while that did not affect staff's decision, the bid from Pipeline Excavators had been disqualified as that bid had exceeded the prescribed maximum of 10 percent of the total base bid for 'mobilization.'

Mr. Kumar recommended that the project be awarded to W.R. Forde Associates in the amount of \$199,602.

When asked by Director Prushko, **Mr. Gradolph** reported that W.R. Forde Associates was an established company, had bid on a number of VOMWD projects in the past, and had experience in water main replacement projects.

Director Bramfitt recognized that the W.R. Forde Associates bid had come in 10 percent higher than the Engineer's Estimate. He questioned whether or not staff had experienced an increase in pipeline and material costs. Mr. Gradolph answered in the affirmative.

Motion by **Vice President Smith**, seconded by **Director Kenny** and carried unanimously by a roll call vote to award Project No. 2891, Locust, Spring, Queeno and Toy Water Main Replacement Project to W.R. Forde Associates in the amount of \$199,602.

C. **Discuss/Approve:** Agreement for Funding of the Valley of the Moon Water District's Local Water Supply Project (LRT2 Program) with the Sonoma County Water Agency

Mr. Kumar reported that the Water Agency planned to distribute funds to the water contractors under the Local Supply/Recycled Water/Tier 2 Water Conservation Funding Program (LRT2 Program) for implementing water conservation measures, developing recycled water projects that offset potable water use, and developing standby local peak-month production capacity that reduces demand on the Water Agency's water transmission system and that had been approved by the WAC. The WAC had previously approved \$627,875 for the VOMWD to design and construct a groundwater well. The VOMWD was currently exploring a suitable site for the proposed well.

Mr. Kumar recommended the approval of the agreement for funding the VOMWD's Local Supply Project and authorizing the General Manager to execute the agreement.

Motion by **Director Kenny**, seconded by **Vice President Smith** and carried unanimously by a voice vote to

approve the Agreement for funding of the Valley of the Moon Water District's Local Supply Project (LRT2 Program) and authorize the General Manager to execute the agreement.

- D. **Discuss/Adopt:** Resolution No. 050504, Approving and Authorizing Execution of The Memoranda of Understanding (MOU) with the Employee Bargaining Groups Regarding Rate of Pay and Other Conditions of Employment

Mr. Kumar advised of three separate employee contracts with VOMWD employee bargaining groups. All three contracts would expire on June 30, 2005. Formal negotiations with representatives of each group had been completed within the parameters recommended by the Board. The new contracts would be effective for a period of five years. He pointed out significant aspects of the MOUs; a one time 3.5 percent salary adjustment for the coming fiscal year, provision for annual cost of living increase adjustments to offset inflation, 50 percent of increases, if any, over the current health care costs to be borne by the employees with one or more dependents (which was new for the VOMWD), for employees of the Office Unit and Office Supervisor, the hours of work, benefits and conditions of employment would be nearly the same as those of the represented employees, the VOMWD and employee representatives were currently exploring the 2.5 percent @ 55 enhanced California Public Employees' Retirement System (PERS) retirement plan, with the resulting increased contributions to be borne entirely by the employees. The terms of an enhanced PERS retirement plan would be governed by a separate MOU.

Mr. Kumar recommended the adoption of Resolution 050504, approving and authorizing the execution of the MOU.

President Woods took this opportunity to thank the General Manager for negotiating on behalf of the Board and for doing a fine job. He also thanked Director Kenny for serving as a resource to the General Manager. He also expressed his appreciation for the cooperation of VOMWD employees.

Mr. Kumar thanked Director Kenny for his help to move the process along.

Motion by **Director Prushko**, seconded by **Vice President Smith** and carried unanimously by a roll call vote to adopt Resolution No. 050504, approving and authorizing execution of the Memoranda of Understanding with the District's employee bargaining groups regarding rate of pay and other conditions of employment.

- E. **Discuss/Adopt:** Resolution No. 050505, Approving and Authorizing Execution of the Memoranda of Understanding (MOU) with the Employee Bargaining Groups and Amendment No. 1 to the General Manager's Employment Agreement for the Employee Funded California Public Employees' Retirement System Retirement Formula Enhancement

Effective January 1, 2002, **Mr. Kumar** reported that three new retirement formula had become available to contracting public agencies from PERS, one of which was the 2.5 percent @ 55 formula. He described the difference in cost with respect to that formula, resulting in a change in the total rate of 3.614 percent, which increase would be totally picked up by the employees.

Mr. Kumar described the steps involved, stated that the first step was the signing of the MOU and Amendment No. 1 to the General Manager's Employment Agreement, and explained that the

implementation of the Enhanced Retirement Plan was contingent upon a secret ballot election among all employees of the VOMWD, to be conducted at a later date. The approval of the MOU would only initiate the process with PERS at this time.

If approved by the Board, **Mr. Kumar** stated that the Board would consider the adoption of a Resolution of Intention at the next meeting after which the employee elections would be held. With no majority, the process would terminate. With a majority approval of the employees, a final resolution would be considered by the Board along with a contract amendment between the VOMWD Board and the PERS Board in July.

Mr. Kumar recommended the adoption of Resolution No. 050505 approving and authorizing execution of the MOU with the District's employee bargaining groups and Amendment No. 1 to the General Manager's employment agreement for the employee funded PERS retirement formula enhancement.

Director Kenny commented that normally when there was a bargaining unit and with retirement the employee could never again work in the industry or related industry. He questioned whether or not that was the case with PERS.

Mr. Kumar noted his understanding that one could only retire once from PERS.

Director Kenny requested additional information in that regard to be presented in a future report.

President Woods pointed out that at a time when various local government agencies in the State were feeling the impact of earlier decisions to expand retirement options and benefits, he was pleased with the way the Board and the staff had been able to approach the situation with a proposal that would not be at the ratepayer's expense. He expressed his appreciation for the responsibility that had been shown by all the parties involved.

Motion by **Director Prushko**, seconded by **Vice President Smith** and carried unanimously by a voice vote to adopt Resolution No. 050505 Approving and Authorizing Execution of the Memoranda of Understanding with the District's employee bargaining groups and Amendment No. 1 to the General Manager's Employment Agreement for the Employee Funded PERS Retirement Formula Enhancement.

F. **Discuss/Direct Staff:** Board Policies and Procedure Manual and Board Member Compensation

Mr. Kumar referred to the draft Board Policies and Procedures Manual presented to the Board at its April 5, 2005 meeting, at which time the item was to be returned to allow the public an opportunity to review the document and offer comments. Consistent with the current By-Laws, Directors Bramfitt and Kenny had been appointed to serve as an Advisory Committee to review the draft document, including the issue relating to Boardmember compensation. The Advisory Committee had met to review the matter, including comments received from a member of the public, Steve Perry.

As a member of the Advisory Committee, **Director Bramfitt** noted that the Policies and Procedures Manual had changed little from the last review and the Committee had responded to comments from Mr. Perry. The issue of Board compensation had been discussed and the option for \$100 compensation per meeting had been recommended.

Director Bramfitt explained that Mr. Perry had recommended the establishment of a limit to the number of meetings per month or an annual limit well below what the statutes allowed. Stating that the VOMWD

Board had done a good job managing Boardmember compensation through the budget process and did not spend all the funds budgeted, it had been suggested that the appropriate amount be budgeted in the annual budget rather than adopting an arbitrary limit that was not being approached.

President Woods thanked the members of the Advisory Committee for addressing Mr. Perry's comments. He supported each of the recommendations, the work and the way it had been laid out. He added that the recommendation for \$100 a meeting would result in a \$125 increase in Boardmember compensation for each meeting.

Director Bramfitt commented that Mr. Perry had also suggested the rotation of District Counsel, although that was not being recommended since it was not a statutory requirement and there was no need to do so.

Director Prushko emphasized the importance of retaining District Counsel Maddow's expertise in the area of water which was a substantial benefit to the VOMWD.

Vice President Smith concurred that Mr. Maddow's expertise in the area of water law was an important asset for the VOMWD to retain.

Motion by **Director Kenny**, seconded by **Vice President Smith** and carried unanimously by a voice vote to direct staff to prepare resolutions adopting the Board Policies & Procedures Manual, and changes to the Boardmember compensation.

Mr. Kumar took this opportunity to thank the Boardmembers and VOMWD staff for the preparation of what was a voluminous agenda packet requiring an extraordinary amount of work to complete.

G. **Discuss/Receive:** Report on the Status of Negotiations Regarding the Restructured Agreement for Water Supply

Mr. Kumar identified two major outstanding items which needed to be resolved in relation to the Restructured Agreement for Water Supply: the inadequacy of the VOMWD's current annual limit of 3,200 acre-feet (AF) and the desire cited by a number of water contractors to see an example of allocation during water shortage conditions pursuant to Section 3.5 of the Restructured Agreement.

Mr. Kumar described two possible options for solving the VOMWD's annual allocation. At a meeting with the Water Agency, he stated that neither option was acceptable to the Water Agency. After further discussion, John Nelson, Consultant to the WAC, had been requested to draft language that would allow the VOMWD to exceed its current annual cap up to 1,000 AF pending a formal increase to its annual cap, which would require the completion of the County of Sonoma's General Plan 2020 expected in twelve to eighteen months.

President Woods questioned whether or not there had been any indication that the language would be acceptable to the Water Agency. He was advised by Mr. Kumar that the language would be drafted and then submitted for consideration.

Director Bramfitt suggested that the language could set a precedent for other water contractors that might be approaching their allocation limit. He expressed concern that the proposal did not address the fundamental underlying problem, the disparity in the General Plans of the water contractors.

While he agreed with the concern, **President Woods** commented that out of eight water contractors, only the

VOMWD and Forestville were not in control of the General Plan process affecting them while all the other contractors could ensure that the General Plan land use and planning horizon was coexistent with the allocation under the Water Supply Agreement. With that, those contractors should have less of a reason to object to the proposal and/or pursue the same exception.

Mr. Kumar explained that all other water contractors were aware of the VOMWD's position and there was a lot of acceptance of that situation. He commented that the San Francisco Public Utilities Commission (PUC) which served 30 cities and other entities had prepared a water supply plan with a uniform closing window of 20 or 30 years. It was not staggered.

President Woods suggested in that case that the PUC must be doing its own independent environmental review.

Director Bramfitt commented that would offer a defense to a special deal.

H. **Discuss/Direct Staff:** Request from Marin Municipal Water District

Mr. Kumar explained that the Marin Municipal Water District (MMWD) had expressed an interest in the extension of the deadline on June 30, 2005 to exercise the option of obtaining a firm supply of 5,000 AF of water from the Water Agency. MMWD would prefer an extension of the deadline pending completion of their desalination pilot project and the new water project Environmental Impact Report (EIR) by the Water Agency. MMWD was seeking support for an extension of a minimum of three months. The extension of the deadline would require the approval of the WAC.

With a deadline for the option on June 30, 2005, **Mr. Kumar** stated that the WAC might need to take a vote as early as its next meeting on June 6 which was the day prior to the next Board meeting. He asked for direction from the Board.

As to whether or not the 5,000 AF would be part of the 75,000 AF often referenced, **Mr. Kumar** explained that was a contentious issue. There was no consensus in that regard.

Director Prushko questioned whether or not MMWD had the funds to exercise the option, to which **Mr. Kumar** suggested that money was not the issue in this case.

Director Bramfitt described a number of factors related to MMWD and the fact that progress was being made in the area of the water project EIR and the desalinization project. He suggested that three months was nothing in the process and he expressed his hope that situation would not become unnecessarily contentious. He suggested that the VOMWD's position in this case be left to the discretion of the assigned negotiator, who was Mr. Kumar. While the issue did not necessarily fall under the Restructured Agreement, he suggested it was supplemental to that. He would leave the Board's recommendation in this case to the negotiator. He leaned towards the granting of an extension.

Vice President Smith concurred with Director Bramfitt's comments. Having attended the meeting, he described it as interesting but not diplomatic in some cases. He noted that the approval was required for the Water Agency but it was not required that MMWD get the approval of the water contractors in this situation. He commented that the discussion related to something that would not occur for 10 to 14 years because the infrastructure was not in place to utilize the water, if the option was exercised. He did not see a problem with a three month extension at this point in time.

President Woods expressed his comfort with Director Bramfitt's recommendation and a three months extension although he did not support an extension greater than three months.

By consensus, the Board supported a three month extension at the General Manager's discretion.

President Woods declared a recess at 7:45 P.M. and adjourned into Closed Session at 7:50 P.M. to consider the following:

9. CLOSED SESSION

- A. Public Employee Performance Evaluation Pursuant to Government Code Section 54957 – General Manager

10. RECONVENE INTO OPEN SESSION

President Woods reconvened into Open Session at 8:20 P.M. There was nothing to report from Closed Session.

11. REQUEST FOR FUTURE AGENDA ITEMS

There was no request for future agenda items.

12. ADJOURNMENT

Motion by **Director Kenny**, seconded by **Vice President Smith** and carried unanimously to adjourn the meeting at 8:21 P.M. The next scheduled meeting is on June 7, 2005 at 6:30 P.M.

Shari Walk, Deputy Board Secretary