

**VALLEY OF THE MOON WATER DISTRICT**  
REGULAR MEETING MINUTES  
May 4, 2010

A regular meeting of the Board of Directors of the Valley of the Moon Water District was held on Tuesday, May 4, 2010, 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 Russ Townsend** 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:	Ron Prushko Ed Kenny Al Bandur Russ Townsend
Directors Excused:	Mark Bramfitt
General Manager:	Krishna Kumar
District Personnel:	Paul Gradolph, Operations and Maintenance Supervisor Shari Walk, Office Supervisor
Public:	Michael Smith, Jr., Argonaut Constructors, Tony Cinquini, Cinquini & Passarino, Mark Heneveld & Heidi Danieli

**2. PUBLIC COMMENTS**

Mark Heneveld, 18595 Manzanita Avenue, Sonoma, commented on the recent press statement from the Sonoma County Water Agency that the water shortage was over. He wondered about the effects of such a statement on the on-going water conservation efforts and the new state goal of using 150 gallons of water or less per person per day.

**President Townsend** stated that everyone should be monitoring themselves and be reasonable in the use of water in light of the current conditions, and with water storage capacity being full at this point in time, he thought people could relax a bit.

**Director Kenny** thought the newspaper article was premature, and emphasized the importance of continued water conservation.

**President Townsend** moved to item 8.A at that point to accommodate the guest in the audience.

<b>8. OLD/NEW BUSINESS</b>
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- A. Trinity Oaks/Glen Ellen Interconnection Project & the Boyes Hot Springs Water System Improvements, Project No. 2926.

**Mr. Kumar** noted that subsequent to the submission of the Board packet, the District received a bid protest from Argonaut Constructors (Argonaut), which was forwarded to the District Counsel. Copies of both the protest letter and the letter from the District Counsel to Argonaut were distributed to the Directors.

**President Townsend** confirmed with the representative from Argonaut that he had received a copy of the letter from the District Counsel.

**Michael Smith Jr.**, Vice-President, and a co-owner of Argonaut addressed the Board with the following questions/comments:

In regards to the letter from the District Counsel, he thought the mentioning of “incorrect and irrelevant statutory references” was a bit strong for a bid protest response letter.

He asked if the District was not required to award public works contracts under competitive bidding principles, then why go through the process of a competitive bid.

The letter from the District Counsel mentioned that there was no statutory requirement that a bid bond be submitted with a bid to construct a public works contract for a county water district. He saw the bid bond as extremely important to any agency. He suggested that if the Board checked the scribble on the bid bond from Ashlin Pacific Construction, he didn’t think that would match the principal’s signature from other projects submitted to the District. He added that he didn’t want the Board to take that suggestion as an accusatory comment. He stated that, as per the bid document, the bid bond must be signed and acknowledged by both principal and surety, and he didn’t think it was signed by the principal. He thought it may have been signed by someone at the bid opening, pre or post bid. He asked why the bid instructions mentioned the words “must be signed”, if it was not a critical or important element.

He thought the most important thing to note in the letter from the District’s Counsel was the statement “...or could have provided any financial advantage to Ashlin”. He felt that being unaccountable to the District was absolutely, undeniably, a financial advantage. He felt that the bid bond as submitted by Ashlin was not enforceable. He cautioned the Board, if not then, in the future, to pay close attention to that. He stated that Argonaut believed the project should be awarded to Argonaut as it was the lowest responsible bidder.

**President Townsend** responded to Mr. Smith stating that he appreciated his appearing before the Board, and the fact that his firm was among those bidding. Irrespective of whether the District actually had to follow a competitive bid procedure or not, the District felt it was really important to enter into agreements that were certainly competitive, but were the best for the District’s rate payers. The District felt that the competitive bidding process was the best way to achieve that goal. The District’s Counsel had determined that the bond issue was a minor irregularity, and can be corrected to the satisfaction of the District. He didn’t think there was a lot of room following the District Counsel’s recommendations. He certainly hoped that the next time the District had a project, his firm will bid on it as well.

**Director Prushko** commented that he had submitted a bid a couple of years ago, where he had failed to sign on one of the eleven or twelve required spots and he was the low bidder. Since the state was not going to

initially award him the project on the grounds of a missing signature, he protested and ultimately he was awarded the project.

**Vice-President Bandur** said it was in the Board's best interest to follow the recommendations of the District's Counsel, since he would be the one representing the District in a court of law.

**Director Kenny** asked Mr. Smith if he was one of the official owners of the company and wondered why his attorney hadn't given him a copy of the response letter from the District. Mr. Smith said the first person he will be contacting after leaving the meeting will be his attorney.

In response to **Vice-President Bandur**, Mr. Kumar stated that the budget for the project included the 10% change order authorization requested by staff.

On motion by **Director Kenny**, seconded by **Vice President Bandur** and carried unanimously by a roll call vote to:

1. Reject the bid submitted by Kat construction on the grounds that it is non-responsive in several respects.
2. Waive the minor irregularity in the bid submitted by Ashlin Pacific Construction Inc.
3. Accept the bid from Ashlin Pacific Construction Inc. and award the contract to Ashlin Pacific Construction Inc., the lowest responsible and responsive bidder, for Project No. 2926, Trinity Oaks/Glen Ellen Interconnection & the Boyes Hot Springs Water System Improvements Project in the corrected amount of \$665,910.
4. Authorize the Board President to execute the construction contract upon receiving the requisite bonds and insurance documentation.
5. Delegate authority to the General Manager for approving contract change orders that total no more than 10% of the original construction contract amount.

**President Townsend** declared a five minute recess at that time.

<b>3. CONSENT CALENDAR</b>
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- A. Minutes of the April 6, 2010 Board of Directors Meeting.
- B. Amendment No. 1 to the Agreement with the City of Sonoma to share Costs for Water Conservation Services.
- C. Amendment No. 2 to the General Manager's Employment Agreement.

On motion by **Director Prushko**, seconded by **Director Kenny** and carried by a voice vote to adopt the Consent Calendar, as shown.

<b>4. PUBLIC PRESENTATION - NONE</b>
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<b>5. OPERATIONAL REPORTS</b>
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- A. Monthly Financial Reports & Disbursements.

In response to **Director Kenny**, Mr. Gradolph explained that the increased payments to Caltest this month was due to the federally mandated Unregulated Contaminant Monitoring Regulation supporting the second cycle of testing for unregulated contaminants (UCMR 2). The District, as a public water system, was subject to that regulation. Those costly water quality testing had to be repeated within 6 months. Depending on the

results, it would be determined by the State Department of Public Health if that testing needed to be continued.

On motion by **Director Prushko**, seconded by **Vice President Bandur** and carried unanimously by a roll call vote to approve the monthly Financial Reports & Disbursements for the month of March 2010 in the amount of \$267,274.60.

**B. Water Source Report**

In response to **Director Prushko**, Mr. Kumar confirmed the 12% well usage was for March, and that the percentage of well usage would increase during the summer months.

**6. PRESIDENT'S AND DIRECTORS' REPORTS OR COMMENTS**

In response to **Director Prushko**, Mr. Kumar said that on April 20<sup>th</sup>, the Board of Supervisors approved the water rate increase for Sonoma County Water Agency, as well as the sewer rate increase for the Sonoma Valley County Sanitation District. He stated that the impact of the Water Agency's rate increase to the District was approximately \$80,000.

In response to **Director Kenny**, Mr. Kumar explained in detail the difference between a fully funded pension program and a pension program which is less than 100% funded and the reasons why some of the California pension funds are unfunded and some of the approaches currently being considered by California cities and counties to get them fully funded. He added that the District's pension program is fully funded.

**Vice-President Bandur** commented that during his recent travels he had observed several billboards advocating energy conservation, and noted that could be coming our way as well.

**Director Prushko** pointed out that the Sonoma Valley County Sanitation District supplied and installed 40,000 free toilets at a cost of \$1.5 million, and wondered how much of that came from the recent sewer rate increase adopted by the Sanitation District. He indicated that part of the spending went to vendors outside the county thereby curtailing the positive impacts this spending could have had on the local economy. He added that the role of the District was merely advisory in nature – through the Water Advisory Committee – and to have any meaningful impact on how the Water Agency conducted its affairs, the governance of the Water Agency needed to be re-evaluated.

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

**Mr. Kumar** reported the following:

**Water & Technical Advisory Committee (WAC & TAC) Meetings of May 3, 2010**

Jay Jasperse, the Interim Chief Engineer of the Sonoma County Water Agency (Water Agency) made a presentation on the Water Agency's Water Supply Strategy Action Plan, similar to a presentation he made to the Technical Advisory Committee (TAC) at its meeting in April. This time around, the Water Agency had incorporated the TAC priorities into the Action Plan and also reduced the strategies from twelve to ten by combining a few strategies.

At the WAC, there was a request for incorporating the budgetary implications of these strategies, especially the immediate actions which are to be initiated within the next year. The Water Agency will be adding that

information as an appendix to the document.

**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 7:27 P.M. The next scheduled meeting is a regular meeting on June 1, 2010 at 6:30 P.M.

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Shari Walk, Deputy Board Secretary

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Russell Townsend, Board President