

VIRGIN VALLEY WATER DISTRICT REGULAR BOARD MEETING
VIRGIN VALLEY WATER DISTRICT OFFICE
FEBRUARY 17, 2009

Minutes of a Regular Board Meeting of the Virgin Valley Water District Board held on February 17, 2009, at the Virgin Valley Water District Office at 3:00 p.m. Attending were President John Paul, Vice-President Kenyon Leavitt, Secretary-Treasurer Cecil Leavitt leaving early at 5:25 p.m., and Board Members Ted Miller leaving early at 4:15 p.m. and Robert “Bubba” Smith. Also present were Michael Winters General Manager, George Benesch District Council, Erik Beyer District Engineer, Michael (Boomer) Johnson Chief Hydrologist and Mary Johnson taking minutes and other interested parties of agenda items.

President John Paul called the meeting to order at 3:02 p.m.
Cecil Leavitt offered a Prayer and Bubba Smith led the pledge.
Public Comment – There was no public comment at this time.

Discussion: Board Comments – Ted stated that he would have to leave the meeting at 4:15.
President of Board Comments - None

CONSENT AGENDA:

Kenyon Leavitt made a motion to approve the consent agenda as listed below. Cecil Leavitt seconded this motion and it was unanimously carried. 5-0

1. Discussion & Action - Approve Agenda
2. Discussion & Action – Approve Minutes from **01/20/09 Regular Board Meeting**
3. Discussion & Action – Approve Financial Statement for **December 2008**
4. Discussion & Action – Approve Bills Paid - **\$1,932,095.94**

**** End of Consent Agenda****

5. Discussion & Possible Action – Consideration to Authorize the General Manager to Sign a Contract Between the VVWD and Zee Designs for the Development of the District Website

This item was tabled from the last meeting until District Council and District IT, Tracy Lee, were able to look over and approve the contract. Mike also stated that there were three additional change orders included that were not in the RFP. Mike explained that these change orders could all be approved or certain ones, or none at all and we would budget for them in the next fiscal year. Mike stated that he would recommend that the board approve the contract along with the change orders. George stated that he had spoken with Tracy Lee and both were in agreement and recommended approval of the contract. The change orders total \$10,782.50 for phases I, II and III. Questions were asked by the board regarding the change orders and Mike

and Zee both stated that the website would be fully operational and secure without the change orders added at this time. Zee Marie of Zee Designs stated that the website will require attention and maintenance of the website, which Zee Designs would be handling.

Cecil Leavitt made a motion to approve and authorize the General Manager to sign a contract between the VVWD and Zee Designs for the development of the District website and approve all three change orders totaling \$10,782.50. John Paul seconded this motion and it was carried by a vote of 4-1 with Bubba Smith opposed.

6. Discussion & Possible Action – Consideration to Approve Opening New Bank Account(s)

District's CFO, John Gleave, was present to inform the board that it was our desire to move money from three accounts at the Local Government Investment Pool (LGIP) to the Bank of Nevada. John has been negotiating with Dan Wright, Senior Vice President over the Mesquite branch to pay an interest rate above the amount that we earn at the LGIP. The funds will be collateralized through the Bank's and VVWD's participation in the Nevada Pooled Collateral Program ("NPCP"), which is a program offered through the Office of the Treasurer with the State of Nevada. Through this program, the deposits of the VVWD held at the Bank will be monitored daily to ensure that sufficient and acceptable collateral is set aside by the Bank to collateralize the full amount on deposit. This program satisfies NRS statutes for collateralization of "public funds". We would move the money from the LGIP regular account to our current money market account at Bank of Nevada and the 2008 Bond and the Ordinance II restricted accounts would be the new accounts opened.

Cecil Leavitt made a motion to approve the opening of two new accounts at the Bank of Nevada and moving monies from the District's LGIP accounts. Bubba Smith seconded this motion and it was unanimously carried. 5-0

7. Discussion – Presentation by JNA Consulting Regarding the 2008 Bond

Marty Johnson representing JNA Consulting was present to recap how the 2008 Bond works. He believes there have been some questions on how the bond came and went and what options the District may have concerning the spending of the bond money. In the past, the District did Revenue Bonds. The 2008 Bond is a General Obligation Revenue Supported Bond. As part of the process, the District had to go before the Debt Management Commission. We went to them proposing a 23.1 million dollar bond, which they approved. The only limitation there is, is that the amount could not increase and it had to be issued within three years. The bond ordinance was adopted with an interest rate of 4.9%. There was no list of projects to be completed within the bond documents. The District had a list of capital improvement projects that the 23.1 million would cover, but Marty stated that it is understood that circumstances and the economy can change. Marty further stated that if the District had no capital projects to construct with the remaining money after arsenic is completed, that the bond money could be used to pay off or down other higher interest

rated bonds, but it most likely would not be dollar for dollar. Marty stated that the District would be hard pressed to receive another bond at this bonds interest rate and that we want to make sure that we maintain our AAA bond rating.

8. Discussion & Possible Action – Consideration to Continue with the Construction Manager at Risk (CMAR) for a New Administration and Operations Facility

This item was tabled at the last board meeting because the board wanted the information provided by Marty Johnson in the previous item. Eric Roberts of SH Architecture and Mike both recommend that the District move forward and conduct interviews with the contractors who spent quite a bit of money on this project and look at the proposals submitted. John Paul questioned changing and only putting the Maintenance facility on the Bunkerville property and keep the Administration Building at this location and if this would be appropriate. Mike stated that he would like to keep the facilities together and the RFP was advertised for both facilities at one location. Mike also mentioned that the enabling legislature states that the board decides on a place of business and the by-laws only state that it be in Mesquite; and that this could be changed easily by a resolution. Kenyon Leavitt still questioned whether we could pay for it. Cecil stated that contractors had spent a lot of money on the RFP and no one has even looked at the proposals and that there is no cost to just look at their proposals. John Paul opened the item for public comment. Quite a few persons had public comment and almost all were in favor at looking at the proposals. It was asked if the economy had changed that much since September when the District requested RFP's for this project and why did we ask for the proposals if we had no plans on going forward with the project and that a lot of time had been spent on these proposals.

Kenyon Leavitt made a motion to continue with the Construction Manager at Risk (CMAR) for a new administration and operations facility and review the proposals. Cecil Leavitt seconded this motion and it was unanimously carried. 5-0

Board Member Ted Miller left at 4:17 p.m.

9. Discussion & Possible Action – Consideration to Place Main Line PRV's at the Fairways HOA

Mike stated that he has met with this HOA along with other HOA's regarding the pressure on the north side of the freeway. Mike stated that we had placed a pressure recorder on a vacant home and found that the pressure is ranging around 125 psi and we did not see big fluctuations as they are reporting. Mike further reported that each home is required to place a PRV on the home, but believes the problem lies in the landscaping and suggests that each resident place another PRV on the landscaping at a cost under \$100. If the District were to place a PRV on the main, and with the City requirement of a looped system, two PRV's would be required; the price could be \$30,000 to \$40,000. This would also lead to setting precedence and other HOA's would want this also and this would change the hydrology of the system. Mike further stated that PRV's require annual

maintenance and with the chemical make-up of the District's water, homeowners need to realize that their PRV's need maintained yearly and that they should either replace the entire valve or the guts of the valve each year. Mike recommended to the board that the District not place mainline PRV's at Highland Fairways, but that each customer look into adding another PRV for the landscaping and maintain them yearly.

Jerry Hyland, President of Highland Fairways HOA, gave some background information and requested that the District pay for and fix their problem and not ask each resident to pay for.

Mike Chandler with Bowen & Collins stated that Bowen & Collins contracted with the District and were in the process of updating the system model. Mr. Chandler stated that pressure zones are difficult, but that they are aware of this situation and they would recommend rectifying the situation system wide and not by single subdivisions. The system model could be completed within 90 days. Mr. Chandler further stated that by putting in a main line PRV(s) would cause a chain reaction throughout the rest of the system and problems further down the line.

Bubba Smith made a motion to table item until Master Plan received and then put item back on the agenda. Cecil Leavitt seconded this motion and it was unanimously carried. 4-0

10. Discussion & Possible Action – In Response to the Request by Kraig Hafen, Hafen Dairy to Lease Bunkerville Irrigation Company Irrigation shares from Virgin Valley Water District from the February 5, 2008 Board of Director's Meeting

Boomer had provided the board with a memorandum of events that occurred since the board's vote at the February 5, 2008 meeting. The District previously entered into an agreement in April of 2000 with SNWA regarding acquisition and use of Virgin River within the lower Virgin River Hydrographic Basin 222. The agreement allowed SNWA to purchase surface water rights from the Virgin River with a priority date of pre-1929. In exchange for SNWA acquisition of the water, VVWD received 50 percent joint ownership of the SNWA ground water applications in the basin and for every acre-foot of pre-1929 water right obtained by SNWA, VVWD received 1 acre foot of 1989 priority water held by SNWA. A new agreement between VVWD and SNWA dated March 18, 2008 provided for the removal of the previously cap of 5,000 acre feet; assigns title for 5,000 acre-feet seasonal diversion of 1989 priority water issued to SNWA to VVWD; SNWA assign the remaining portion of the undivided half interest in the 1989 ground water applications in the Virgin River basin to VVWD; and assigns the title to 1,200 acre-feet annually of surface water under Permit No. 54383 with a 1990 priority acquired by SNWA to VVWD. The District transferred the 89 shares of Bunkerville Irrigation Company shares held by VVWD to SNWA. Upon execution of the agreement the total amount of surface water held by VVWD was 8,650 acre-feet. Additionally, VVWD acquires the senior ground water application in their entirety with a priority date of 1989. This equates to a potential estimated volume of 62,000 acre-feet. VVWD gave up approximately 890 acre-feet of Virgin River water to SNWA with a pre1929 priority date. After execution of the agreement between VVWD and SNWA, VVWD no longer held shares of Bunkerville Irrigation water to lease with Hafen Dairy, Inc. The District failed to notify Hafen

Dairy personally about the agreement, but it had been posted on the agenda for the 3/18/08 board meeting. The District currently has 2 Bunkerville Irrigation shares utilized for the secondary system in Bunkerville.

Kraig stated that the agreement with SNWA was probably a good deal, but questioned how the District used the secondary system without any shares available after the 89 shares traded to SNWA, and now the District needs two shares for the secondary system. Boomer stated that two shares are technically not leased out and we need approximately 200 acre-feet for the secondary system and recommends not leasing the two shares at this time. Boomer answered other questions from the board.

No action was taken on this item.

11. Discussion & Possible Action – Consider Offer by Bunk Farm, LLC to Sell 8 Shares of Bunkerville Irrigation Company Irrigation Water at an Amount of \$80,061.23 Per Share for a Total not to Exceed the Amount of \$640,489.84 and Authorize the General Manager to Negotiate and Sign Agreement Between Bunk Farm, LLC and the Virgin Valley Water District

The board previously authorized the purchase of irrigation water shares in the cumulative amount of \$5,000,000.00. Under this board action, VVWD expended a majority of available funds and purchased 4 shares of Bunk Farm, LLC shares with provisions to lease back to Bunk Farm, LLC for \$300 per share for 5 years. Kraig Hafen stated that the board's action was for the purchase of water and not to lease and thought that the District would no longer have long term leasing agreements anymore and that the lease agreement should have come before the board for approval. Bubba questioned the lease of the four shares and the substantial difference in SNWA leasing amount compared to the District's. Mike stated that the goal was not to recoup money, but the actual purchase of the water. John Paul stated that his primary purpose was to own the water and not a return of money on leasing.

Cecil Leavitt left at 5:25 p.m.

This sale request and lease back is for a five-year period. Bubba questioned the amount of sale and such a low lease back. Kenyon Leavitt questioned Duane Magoon if they would be willing to lease on a year to year basis and Duane stated he was agreeable to this.

Kenyon Leavitt made a motion directing the General Manager and staff to negotiate an agreement with Bunk Farm, LLC to purchase 8 shares of Bunkerville Irrigation Company irrigation water at an amount of \$80,061.23 per share not to exceed \$640,489.84 with a lease back option of \$300 per share on a year to year basis with Bunk Farm, LLC given the first right of refusal. Bubba Smith seconded this motion and it was unanimously carried. 3-0

12. Discussion & Possible Action – Consideration of Leasing Shares Held by Virgin Valley Water District and Authorize the General Manager to Establish Criteria for Leasing, Negotiate and Sign Agreement Between the Virgin Valley Water District and Accepted Lessor

Mike stated that the board decided last year that they would advertise to lease available shares of irrigation water that the District owns. There are 64 shares of Mesquite Irrigation water available at this time and there will be 188 Mesquite shares available in August of this year. Boomer had provided a summary of surface water rights held by VVWD in the lower Virgin River basin and an abstract of irrigation rights for the lower Virgin River basin provided by Nevada Division of Water Resources. Items to be considered is the amount of Mesquite Irrigation Company shares to be leased are: length of lease; minimum lease price per share; termination of leases by VVWD; restriction on where lease may be utilized; how to advertise; and establishment of opening date for Request for Offers. After discussion, it was decided to lease the 64 shares now. Leases would be on a year to year basis with a minimum bid of \$300 per share. The water will be required to be metered. Boomer also stated he wanted termination clause in the agreement.

13. General Manager's Report

Mike informed the board that his and Boomer's evaluation would be put on the next agenda. We also need to schedule a date for budget meeting and it was decided that April 7th at 1:00 would be the budget workshop meeting before the regular meeting. Mike further stated that the vault on the south side of the river was completed. There were also year-end reports regarding production and costs included in the board packets with the District producing 6,771.45 acre-feet of water in 2008.

14. Hydrologist's Report

Michael informed the board that he had attended the quarterly meeting of the Virgin River Conservation Partnership last week. There will be a meeting April 2nd and the 3rd in the St. George area with pertinent information between users of the upper and lower Virgin River basins being given. Additionally at that meeting the Bureau of Reclamation will be present and they have set aside \$5 million for Basin Water Resource Study with a 50-50 matching. Boomer stated that we would have to partner with SNWA and Washington County and was working on the Notice of Intent for this.

15. Engineer's Report

Erik reported that he really had nothing to report with only a few set of plans having needed to be redlined and he was caught up on District business.

16. Public Comment

Duane Magoon questioned where the water irrigating the Lonetti property was coming from. Boomer explained that there is currently 1200 acre-feet at Riverside that has not been certificated, but the application is being processed. SNWA has filed a Report of Conveyance as part of the terms and conditions of the 89 shares given to SNWA from VVWD. All of this has not come before the State Engineer as of yet so until we actually receive the Report of Conveyance and are the certificated owners of the water, the place of use is specifically Meadowland Farms and we cannot move it from that place of use.

17. Adjournment

President John Paul adjourned the meeting at 5:59 p.m.

(NOTE): The minutes of this meeting have been tape-recorded and will remain on file in the District office for a one-year period for public examination.