

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

Minutes of a Regular Board Meeting of the Virgin Valley Water District Board held on March 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, and Board Members Ted Miller and Robert "Bubba" Smith. Also present were Michael Winters General Manager, George Benesch District Council, 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 3:01 p.m.

Bubba Smith offered a Prayer and Kenyon Leavitt led the pledge.

Public Comment – There was no public comment at this time.

Discussion: Board Comments – Ted Miller questioned the GM when the last rate increase took effect and when he thought we would have another increase; which Mike stated that our last increase took effect in February of this year and that we would look at it in another year or so and see if we needed to increase because of arsenic.

President of Board Comments - None

CONSENT AGENDA:

John Paul questioned payments to Jimmie Hughes and where we made our Lonetti payment and he was informed that was through the 2006 Bond. Kenyon questioned the Hazmat Fees for each arsenic site.

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

1. Discussion & Action - Approve Agenda
2. Discussion & Action – Approve Financial Statement for **January 2009**
3. Discussion & Action – Approve Bills Paid - **\$830,358.47**
4. Discussion & Action – Approve Purchase Orders Over \$2,500
 - a. State Fire Marshall - **\$13,900.00 – Hazmat Permitting Storage Fees**

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

5. Discussion & Possible Action – Consideration to Repeal and/or Make Adjustments to What the District will Assess as Ordinance II Fees for New Construction

John Paul began by disclosing that he has a family trust that he is the surviving beneficiary and that this trust has positions in Pulte. Mike Winters stated that it was up to the

board to decide if they wanted to continue to purchase water. Mike informed the board again that when Dixie Leavitt sold water shares to SNWA for \$3,300 per acre-foot that the District increased their Ordinance II fees from \$912 to \$3,300 or the fair market value and that did not stop growth. Mike further stated that many developers pre-paid Ordinance II fees for \$912 an acre-foot before the increase took effect and that these prepaid fees have not been constructed as of yet. Mike further explained that the Ordinance II account was a restricted account and could not be used for operation and maintenance, salaries or capital improvement projects, etc. It is to be used to purchase water and we must also pay the 2006 Bond and Jimmie Hughes monthly and must meet this obligation.

Cecil commented that the Ordinance II fee was charged in lieu of the developer bringing water. If the developers don't want to pay the fee then bring the water and they will be paying that much to obtain the water. The District cannot buy water any cheaper than that price and knows that this is a large amount of money, but growth should pay for itself.

Mike stated that when the District first put Ordinance II together, we were requiring that the developer bring the water, but the people who held the shares felt that we were forcing them to sell and then the board at that time decided they could bring money in lieu of water. Mike further informed the board that the City of Mesquite has adopted the UPC and if a home meets a certain fixture count, that home must upgrade to a 1" meter in lieu of a ¾" meter making them go from 1 EDU to 2 EDU's.

George stated that when the money came in that there was no groundwater to purchase and the surface water was sold in shares and not by EDU's and it was unfair for someone building one home to purchase an entire share to dedicate 1 EDU to the District for Ordinance II. George further advised the board to look at Ordinance II because this was a major policy and if they amended anything this would affect Ordinance II.

Bubba agreed with George and stated that the District needed to review Ordinance II and that the board would probably need a couple months to decide on what they wanted to do. Bubba also questioned the EDU and what actual amount of water is being used; ground water vs. surface water; the deal with SNWA; and that we don't blend or can we afford to use surface for culinary and that we don't want to get to the point where we price developers out of business.

John Paul stated that if they did take the Ordinance II fee back to the \$3,300 that he wasn't sure that they would want to leave it at that amount and when we review Ordinance II that this may change again. John further questioned if we could look at one (1) EDU for a residence even if they meet a certain fixture count and need to move up to a 1", but keep it only at one EDU. Mike stated that the State Engineer requires one-acre foot of water per residential home.

Mike further stated that the groundwater permits are decided by the State Engineer and the USGS and they will decide whether the District will be given more water permitted in the basin. Mike stated that growth will depend on the City and the County and we also need to look at our neighbors to the north for the Lincoln County Land Act and that we are in the water business and need water for future growth. John Paul questioned the cost to treat the surface water. Kenyon stated that we purchased groundwater from Lonetti for \$15,000 an a/f and we are purchasing and charging \$8,700 a/f so the developers are getting a deal. Kenyon further stated

that growth pays for itself and how can they ask us to reduce our fee when that is what we are buying it for. Cecil commented that growth should pay for itself and if the developer can

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bring in water cheaper, then they should bring the water. Ted Miller stated that the country was in a severe economic downturn and hard to pay these fees and feels that we should roll back the fee before it was increased to \$8,700. Bubba had questions regarding the USGS and the State Engineer and Boomer explained the process and how it works to prove that there is more water available than permitted.

John Paul opened the item to the public. Morris Workman questioned the applications for groundwater and EDU's. Robert Bunker stated that if people are forced to sell their water and the District will not purchase at the current market value, the water will leave the valley and people will sell elsewhere to get the most money. Quincy Edwards questioned if a feasibility study had been done. Cecil stated that we should work with other entities and doesn't want growth to stop, but growth needs to pay for itself and we should have a workshop. Bubba questioned that since this was an Ordinance and if we changed something wouldn't this need to come back to the board? George stated that the way the agenda was structured that the board could repeal or amend the amount charged, but that will have real inconsistencies within the actual Ordinance since you are not charging the fair market value and that the ordinance would need to come back before the board for amendment.

Bubba Smith made a motion to set the price for Ordinance II fees at \$3,300 and then any other recommendations that staff may have. Ted Miller seconded this motion.

Bubba stated that we would need to revisit this and just when it was convenient, but with no date certain. John Paul questioned motion and asked if this meant from this date forward.

Bubba Smith amended his motion to include the price of \$3,300 was to be charged from this date forward. Ted Miller seconded this motion and it was passed by a vote of 3-2 with Cecil Leavitt and Kenyon Leavitt opposed.

6. Discussion & Possible Action – Consideration to Select a Contractor and Site to Construct a New Administration and Operations Facility

Mike began by stating that the board had heard presentations from three contractors at the March 11, 2009 special meeting and since that meeting, with the new stimulus package, that the District will receive close to another \$4 million for arsenic from the ACOE. The District also received an additional 1.3 million from the State. With these additional grants Mike feels that we have the money in the bond and can afford to construct the facility and that this is the time to do it.

John Paul stated that we could apply the extra bond money to the 2006 Bond and Mike cautioned that if we do use bond money to pay debt and then try to build later, the interest rate would not be as cheap as it is now. Ted feels that we can use the bond money to reduce debt and the financial statement doesn't justify it. John Paul thinks that we should move the maintenance and equipment to the Bunkerville site. John opened to the public and there was no comment at this time.

John further questioned if there were any limits or time frame when we could bring this back.

Kenyon stated that he understands that we need more space, but finds it hard to bite off four to five

million when we can pay bond off. Bubba stated that this was a tough decision and it was tempting to construct now with the prices so low, but feels that it is not prudent to do so now.

Barry Zeller questioned the timing and the economy from when the board started this

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process and that the contractors spent a lot of money and time on the project and questioned why the board sent them down this road and it was unfair. Dean Kilmer thought the board was going to choose a contractor and Brad Harold had questions regarding the grant money. Morris Workman asked if the money was in the bank and if so wouldn't you just be paying debt with debt and you would still have to make payments on the bond whether you built a building or not. Larry Swenson wanted to point out to the board that they could build a building and pay off debt since the building costs were under half of what the District bonded for.

The item died for a lack of a motion.

7. Discussion & Possible Action – Consideration to Appoint the Board Chairman or a Designated Person to Vote Mesquite and Bunkerville Irrigation Shares at Their Annual Meetings

John Paul stated that he had no objection to attending and being the designated person to vote the District's irrigation shares at the annual meetings.

Bubba Smith made a motion to appoint the Board Chairman, John Paul, to vote the District's Mesquite and Bunkerville Irrigation Shares at their annual meetings. Kenyon Leavitt seconded this motion and it was unanimously carried. 5-0

8. Discussion & Possible Action – Performance Evaluation of Michael Johnson, Chief Hydrologist, Including, but not Limited to, Salary Increase, Termination, Suspension, Demotion, Reduction in Pay, Reprimand, Promotion, Endorsement, Engagement, Retention, or 'No Action'

Boomer stated that as far as activities this year that the District had acquired more water this year than in any other and that there have been no major issues. Ted questioned the expense in January 2008 for \$210,000 in hydrology. It was explained that we received \$210,000 from SNWA for money spent on Half-Way Wash, but that we did not budget the expense side of that even though it was reimbursed from SNWA. Ted further stated that he felt they should receive only what the employees were given. Kenyon Leavitt asked about the Ranney collector, where we were at and what the next year's prognosis looked like with hydrology. Boomer stated that the project was still called "Half-Way Wash" even though it was at "Riverside" now and this would happen this fall and he is working with the Bureau of Reclamation for grant money. Boomer further stated that the HMMP should be completed and approved within the next couple months and that we will drill well #34, but with growth at a standstill we won't have to equip the well right away. Boomer also stated that he was working on a recharge program and finalizing the groundwater module.

Kenyon Leavitt made a motion to retain Michael Johnson for another year with a .5% increase. Ted Miller seconded this motion and it was unanimously carried. 5-0

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9. Discussion & Possible Action – Performance Evaluation of Michael Winters, General Manager, Including, but not Limited to, Salary Increase, Termination, Suspension, Demotion, Reduction in Pay, Reprimand, Promotion, Endorsement, Engagement, Retention, or ‘No Action’

Mike stated that he felt that he and staff had done a good job this past year. He mentioned the purchase of the water, arsenic and having less than 1.5% in change orders on this project, and the millions of dollars he brought in from grants for arsenic. Mike further stated that there were other projects on the horizon that would keep rates the same if not lower them and that he could do a better job, but feels he has come a long way since his last evaluation and that he enjoys working for the District and would like to continue doing so.

Ted questioned the budget and why the repairs and maintenance expenses were so high. Mike explained that line breaks cannot be budgeted for and if a line breaks you have to repair. Ted stated that overall expenses were up 2% and felt that was pretty good. Another red flag was our “other income” and Ted stated to keep a sharp eye on it. Mike stated that we were looking at expenses and that we were not boring under the freeway because of the economy.

John Paul stated that Mike needed to apply more diligently to work in office and administration, but had no problem with his job regarding water delivery. John thought Mike needed to work on his management skills in policy and procedures.

Cecil commented that this evaluation was for Mike’s performance in the last year and that he has been impressed with the way things have been handled. He knows that there has been some questions regarding some water purchases, but felt that Mike did exactly what he was instructed to do. Cecil further stated that his allegiance to Mike is because he feels that he does a good job and would recommend that he be retained.

Kenyon Leavitt stated that it was important to show that the District is doing more for less especially with manpower and that all of us have room for improvement. He also said that Mike’s job was difficult with five board members and all wanting different things.

Boomer commented that Mike was a pivotal player in teamwork from what he has seen from 1992 to today.

Kenyon Leavitt made a motion to retain Michael Winters for an additional year and to give him a .5% increase. Ted Miller seconded the motion and it passed by a vote of 4 to 1 with Bubba Smith opposed.

10. General Manager’s Report

Mike had not included a written report. Mike informed the board that four out of the five arsenic treatment facilities have a start-up date of April 6, 2009. Mike further stated that he had

received an e-mail from Jori and complaints have been served on Vanguard Pipe. Ted asked about revisiting this issue because he had heard that it was a no win situation and didn't think the District should be spending money on this. Mike stated that he would have Jori come up to talk to the board. Mike also stated that we are getting ready for budget session.

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11. Hydrologist's Report

Michael had not included a written report. He informed the board that the Aqua Guard CO₂ injection occurred last week without complications. Boomer stated that in upcoming events, Lincoln County representatives would be present April 2, 2009 in Mesquite regarding servicing the Lincoln County Land Act. On April 3, 2009 there is an Upper Basin/Lower Basin meeting in St. George and Boomer will be speaking giving water quality presentation for the Virgin River Nevada perspective as well as an upcoming AWWA presentation on well #30.

12. Engineer's Report

Erik had not included a written report nor was he present.

13. Public Comment

Tim Hacker, City Manager, stated that he was gratified to hear Boomer speak about the Mitigation Plan and that he is looking forward to those documents coming back for finalization.

Sandra Raymaker stated that she was a little disappointed in some of the action she saw today with the board and the items regarding choosing a contractor and rolling back the Ordinance II fees when every member of the board unanimously voted to increase the fees to what the District was paying for water shares.

Bob Draskovich stated that he was sorry he was late for the meeting, but feels that developers should bring the water to the District in order to build.

14. Adjournment

President John Paul adjourned the meeting at 5:30 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.