



LAS VIRGENES MUNICIPAL WATER DISTRICT
4232 Las Virgenes Road, Calabasas, CA 91302

MINUTES
REGULAR MEETING

5:00 PM

October 23, 2012

PLEDGE OF ALLEGIANCE

At the request of President Renger, the Pledge of Allegiance to the Flag was led by General Manager Mundy.

1. CALL TO ORDER AND ROLL CALL

A Call to order and roll call

The meeting was called to order at 5:04 p.m. by President Renger in the District offices. Assistant Deputy Secretary Conklin called the roll. Those answering present were Directors Bowman, Caspary, Peterson, Renger and Steinhardt.

2. APPROVAL OF AGENDA

A Approval of agenda

General Manager Mundy stated there were members of the public present who would like to address two items on the agenda "7B: Water System Design Report Update - 340 Kanan Road" and "8A: Claim by David and Denise Pepper" and requested these items be heard immediately following "3: Public Comments"; he further stated item "11. C2: Closed Session Cooper et al. v. Calabasas Park Estates, et al." be corrected to read "Cooper et al. v. Las Virgenes Municipal Water District".

*On a motion by Director Charles Caspary, seconded by Director Joseph Bowman, the Board of Directors voted 5-0 to Approve the agenda for the Regular Meeting of October 23, 2012, as amended by General Manager Mundy's recommendations.
AYES: Director(s) Bowman , Caspary , Peterson , Renger , Steinhardt*

3. PUBLIC COMMENTS

No speaker cards were received from the public.

At this point in the meeting "7B: Water System Design Report Update - 340 Kanan Road" was heard, followed by "8A: Claim by David and Denise Pepper".

4. **ILLUSTRATIVE AND/OR VERBAL PRESENTATION AGENDA ITEMS**

A Legislative and Regulatory Updates

No report was given.

General Manager Mundy stated Kathy Cole would be at the board meeting of December 11, 2012 to provide an annual summary of legislation, and an update regarding State Water Resources Control Board proposed regulations would be provided at the Joint Powers Authority meeting of November 5, 2012.

5. **CONSENT CALENDAR**

On a motion by Director Charles Caspary, seconded by Director Lee Renger, the Board of Directors voted 5-0 to Approve Consent Calendar 5A-5D, as presented in the recommendations.

AYES: Director(s) Bowman , Caspary , Peterson , Renger , Steinhardt

A Minutes: Regular Meeting of May 22, 2012 and Special Meeting of September 25, 2012.

Approve

B List of Demands: October 23, 2012. **Approve**

C Investment Report for the Month of September 2012. **Approve**

D Investment Review for the Third Quarter 2012. **Receive and File**

6. **TREASURER**

Treasurer Steinhardt stated he had reviewed the payable checks and all were in order.

7. **FACILITIES AND OPERATIONS**

A Sewer Bridge Rehabilitation Project - Final Acceptance

Approve a time extension of 46 calendar days to complete the project; approve the final Progress Payment, in the amount of \$2,835.00 to L.A. Builders, Inc.; approve the execution of a Notice of Completion by the Secretary of the Board for and on behalf of the District and have the same recorded; and that in the absence of claims from subcontractors and others, release retention in the amount of \$24,241.01 thirty calendar days after filing the Notice of Completion for the Sewer Bridge Rehabilitation Project.

On a motion by Director Joseph Bowman, seconded by Director Lee Renger, the Board of Directors voted 5-0 to Approve the recommendations as presented.

AYES: Director(s) Bowman , Caspary , Peterson , Renger , Steinhardt

B Water System Design Report Update - 340 Kanan Road

Receive and file the Update of Water System Design Report for 340 Kanan Road (LVMWD #2392.01)

Director of Facilities and Operations Lippman provided an overview of the updated water system design report and potential effects of a 1972 Limited Service Agreement (LSA) for White Cloud Ranch located at 400 Kanan Road, which would be triggered if 340 Kanan Road opts to construct a proposed main extension; and stated

tonight's recommendation is only to receive and file the updated water system design report, which sets guidelines for 340 Kanan Road to determine pipe size (diameter).

A summary of Board comments and Lippman's responses included: Renger: are other properties on wells (not our water customers, but we assume yes) and fire hydrant (quite away from site); Bowman: tank/pump (would have to be constructed) and capacity to those parcels to the north (yes, if line is extended); Peterson: Seminole sub-system (believes this is on the opposite side) and again believes this is part of Seminole sub-system and the State Park Service has a house on their property used for records storage, is there an LSA (frontage is on Mulholland and will need to check on whether the State Park Service has an LSA or not); and Steinhardt: no one pays 340 or 400 for oversize (no, District pays).

Two speaker cards were received from the public (1) Carol Holmes owner of White Cloud Ranch (400 Kanan Road), stated she has lived on her property for 43 years; maintains a fire safe ranch, pastures act as a fire break, barns and house have a fire hydrant; Howard Leight (owner of 340 Kanan Road) built a mansion on the top of the hill on his property, has grapes as does Calamigos Ranch and Semler, main is on Mulholland; Mr. Leight wanted a line through the White Cloud Ranch property and she said no; White Cloud Ranch has most of the frontage, if water line goes in it would put them into foreclosure; Mr. Leight should pay for the line as he wants it and has the money to pay for it; State Park doesn't need the water line; and her son takes care of the water on their property through a chlorination process and they have a water truck as backup; and (2) Bill Holmes (Carol's son) discussed the setup for water supply at White Cloud Ranch including several tanks for fire, grapes and house, and stated the estimated cost of the LSA would be \$100,000 plus re-piping and connection fees, which would put them out of business (Mundy stated the developer would have to pay for the meter).

A summary of Board comments and responses included: Peterson: frontage on Mulholland (Carol Holmes, yes) and believes Board waived requirement on Latigo property; Bowman: can 340 connect at alternate road (Lippman, no other frontage); language in LSA (Mundy, the Board has to approve Reimbursement Agreements, but the District does not have to collect the money; Mr. Lemieux stated Reimbursement Agreements are discretionary, but needs to review the documents as the property owner may have an LSA they have to abide by), there are certain concepts in contracts regarding legal and equitable, not a good public policy to impose financial burden when equity can be done; Renger: can a smaller line be installed and do they have to abandon the existing line (Mundy, yes), and where is the house located on 340 (Lippman, at the top of the hill); and Caspary: Board needs to take care with LSA remedies for some, but not all.

Lippman stated there seems to be a lot of questions and recommends the item be tabled and brought back pending clarification in regards to zoning and lot sizes, and legal counsel's review of the LSA documentation.

The Board of Directors did not take any actions on this item.

8. FINANCE AND ADMINISTRATION

A Claim by David and Denise Pepper

Deny the claim from David and Denise Pepper.

General Manager Mundy discussed customer responsibility for the regulator on their side of the meter and stated the customer had been mailed two high pressure notices prior to the date of claim.

One speaker card was received from David and Denise Pepper (1) Mr. Pepper thanked staff

for their professional service, discussed damage to his residence, was without water for four days, not asking for damage monies just what the District's responsibility is, there was 110 psi at the street, their house is supposed to be half this amount, so there was a surge and further stated there is reasonable diligence.

A summary of Board comments and responses included: Bowman: is customer saying District's regulator was 47% higher than it was supposed to be (Mr. Pepper, yes); requested staff check the District's pressure and stated when there are claims the District should check their regulator at the street (Mundy, understands customer concerns, but per Las Virgenes Code this is the policy); Mr. and Mrs. Pepper commented four claims have all been denied using the same section of the Code; Lippman stated the psi at the street is approximately 300); legally binding (Lemieux, yes these are conditions of service); Steinhardt: requested verification that meter to street is District responsibility and meter to residence is customer responsibility (Mundy, yes) and wants District regulator checked; Mr. Pepper inquired as to whether there is a log that says when the District regulator was checked; Caspary: water heaters are required to have a valve to release water to the outside; Renger: customer has two regulators and both failed.

A motion to deny the claim was made by Director Lee Renger, and was seconded by Director Glen Peterson. This motion and second was not voted on, instead Director Caspary offered an amended motion.

On a motion by Director Charles Caspary, seconded by Director Barry Steinhardt, the Board of Directors voted 5-0 to Approve an amended recommendation to settle the claim of David and Denise Pepper upon acceptance of a 25% (twenty-five percent) payment of the total amount of the claim they submitted.

Mr. Pepper was amenable to the recommendation.

Director of Finance and Administration Hicks stated she would process a payment for 25% of the total amount of the claim, which would be released to the customer upon receipt of a signed release of liability agreement from The Peppers.

AYES: Director(s) Bowman , Caspary , Peterson , Renger , Steinhardt

B Consideration of the Proposed Ordinance Amending Potable Water, Recycled Water and Sanitation Rates and Temporary Water Fees

The full reading of the proposed Ordinance, Amending Las Virgenes Administrative Code (Ordinance No. 11-86-161) As It Relates To Potable Water, Recycled Water and Sanitation Rates and Temporary Water Fees, be waived, and the Board order publication within 30 days of adoption using a summary of the ordinance. The Board by a roll call vote of Ayes: Noes: Abstain: Absent that the proposed Ordinance, Amending Las Virgenes Administrative Code (Ordinance No. 11-86-161) As It Relates To Potable Water, Recycled Water and Sanitation Rates and Temporary Water Fees be given first reading by title only.

Deputy Secretary Conklin notified the Board one speaker card had been received (1) Pam Evans, who did not speak as she departed the board meeting at 6:17 p.m., which was prior to the item being heard. General Manager Mundy stated at the request of Director Caspary during the Public Hearing of October 22, 2012, the public comments pertaining to the proposed rate adjustments be entered into the Regular Board Meeting record; two telephone calls were received (1) Golf Projects Lindero Inc. (high cost of recycled water complaint) and (2) Westlake Pointe HOA (requested an explanation of the proposed potable and recycled water rate adjustments); and two written comments (1) Patience Lacy-Smith (high cost of readiness to serve charge and sanitation fees) and (2) Wendy Webb (confirming the proposed rate adjustment does not affect her as she is not a sewer customer). Mundy further stated that the

proposed rate adjustments as stated in the 218 Notice are effective commencing with meter reads on or after January 1, 2013.

A summary of Board comments and responses included: Bowman: 218 Notice says all meter reads on January 1, 2013, date at top of heading sets increase; opposing ordinance, is there an opportunity to not include the 5% increase (Mundy stated as he has said many times during the past several months that if the 5% adjustment is not enacted the agency will not meet its obligations); requested in August to not go out with three years of increases at 5% per year + Metropolitan pass through, agrees with pass through, but not the additional 5% increase and believes a 2% increase is needed, not a 5% increase as the District can break even in 2015 with only a 2% increase by using the rate stabilization fund (Hicks stated the reserves were drawn down during the water allocation program); has argued for ten years that reserves are too high and again requested the increase be 2% instead of 5% (Peterson stated the rate stabilization fund is for use during water shortages to offset the loss of revenue, doesn't want to micromanage the process, doesn't want the new General Manager to walk into a situation where revenues go down and then a rate increase is triggered, we are in a ditch and cannot borrow money, throttle down in later years); it's the Board's responsibility to determine rates and reserves, plan for infrastructure of three years instead of five years as five years is unreasonable; and stated staff has done an excellent job in providing information on the proposed rate adjustments; Caspary: most concerned with the District not being able to get money for the potable side based on outside criteria, does not want to put the District in a poor financial position, if healthy then lower the increase in 2014 or 2015 (Bowman stated the District does not need to borrow money due to the amount in reserves, Mundy stated the Board has an adopted policy on reserves and Peterson stated borrowed money is at a great rate right now, but the District is not in a position to borrow, borrowing extends payments over a longer period of time); Steinhardt: agrees with Bowman that a 5% increase is too much, money was given back to customers during drought, money could have gone to other enterprises instead of customer refunds, there is rental property income, water tank is unnecessary, pump from reservoir for ten hours and issue a boil order (Peterson doesn't want to go backwards in time and issue boil orders); Renger: is voting yes on the proposed rate adjustments, increase rates now and if the District doesn't need future increases then don't implement them; and Peterson: sanitation rate adjustment was a bright idea.

On a motion by Director Glen Peterson, seconded by Director Lee Renger, the Board of Directors voted 5-0 to Approve waiving the full reading of the ordinance, and the Board order publication within thirty days of adoption using a summary of the ordinance.

AYES: Director(s) Bowman , Caspary , Peterson , Renger , Steinhardt

On a motion by Director Lee Renger, seconded by Director Glen Peterson, the Board of Directors voted 3-2 to Approve by a roll call vote conducted by Assistant Deputy Secretary Conklin of Ayes: Caspary, Peterson, Renger; Noes: Bowman, Steinhardt; Abstain: None; and Absent: None, the proposed ordinance as it relates to potable water, recycled water and sanitation rates and temporary fees. Legal Counsel Lemieux gave the first reading of the proposed ordinance by title only.

AYES: Director(s) Caspary , Peterson , Renger

NOES: Director(s) Bowman , Steinhardt

C First Quarter Financial Review

Receive and file.

Director of Finance and Administration Hicks stated Southern California Edison (SCE) invoices for Tapia appear to have billing errors, Lippman has requested SCE verify as usage data for billings at Tapia are down by 2/3, SCE has not responded yet and the potential error could

result in a very large invoice, which would cause the first quarter financial numbers to be off therefore the Joint Powers Authority report will be delayed.

Director Caspary inquired as to beginning/ending meter reads, can they be verified to Tapia's meter (Lippman stated billings are off plus/minus for five months and one month the meter read stated "not available").

On a motion by Director Glen Peterson, seconded by Director Charles Caspary, the Board of Directors voted 5-0 to Approve the recommendation as presented.

AYES: Director(s) Bowman , Caspary , Peterson , Renger , Steinhardt

9. NON-ACTION ITEMS

A Organization Reports (1) MWD a. Representative Report/Agenda(s); (2) Other

(1) MWD Representative Peterson reported on general business of Metropolitan Water District including Chairman Foley had appointed John Morris of San Marino to serve as Secretary.

(2) None.

B Director's Reports on Outside Meetings

Directors Bowman and Renger reported on their attendance at the October 18, 2012, AWA WaterWise program during which a "how to lobby" presentation was made by Wendy Ridderbusch. Director Caspary stated he would provide an update at the next board meeting in regards to his attendance at the Santa Monica Bay Restoration Commission governing board meeting of October 18, 2012.

C General Manager Reports

General Manager Mundy provided an update on general business of the District including upcoming calendar events, dates of scheduled office closures, City of Agoura Hills-State of the City Luncheon; quarterly facility tour for potable water system; stated Director Steinhardt had provided photos that he would pass around to the Board showing District employees working on a main line break at Shamrock Plaza in Agoura Hills.

Director Steinhardt stated he would have liked the Board to be made aware of the October 24, 2012 proclamation presentation by City of Agoura Hills to General Manager Mundy in recognition of his service to the District (Mr. Mundy took note of the request and stated he felt the event was of a personal nature versus a Board event).

D Director's Comments

Director Caspary reported the District's annual report entitled "It's All About Tomorrow" was well received by Malibu Surfing Association (MSA) during their Santa Monica Bay Restoration Commission governing board meeting and stated MSA really liked the information in the report and thanked staff for their efforts. Director Steinhardt stated the three staff members who worked on the pipe repair in front of Shamrock Plaza took command of the situation and were excellent. Director Bowman reported that he had been asked by the City of Westlake Village, City Council to report on the outcome of tonight's rate adjustment vote and stated he considered the vote by Board majority to be the position of the District, and further stated he expects the new General Manager to settle into the position within 120 days, then looks forward to working with the person on how reserves are set by other agencies. Director Renger stated he is going through Community Emergency Response Teams (CERT) training and inquired as to how often the District updates their plan (Lippman stated the plan is reviewed quarterly, mainly for contact names and telephone numbers, and that the District

does not have a mutual assistance agreement, but does cooperate in cases of an emergency). Director Steinhardt requested a copy of the District's Emergency Response Plan (ERP).

10. FUTURE AGENDA ITEMS

None.

The meeting adjourned to break at 7:20 p.m.

11. CLOSED SESSION

The meeting convened into Closed Session at 7:25 p.m.

A Labor Negotiations (Government Code Section 54957.6):

1. Employee Compensation and Benefits

B Conference with District Counsel - Property Acquisition and Disposition (Government Code Section 54956.8):

1. Building # 1 Lease

C Conference with District Counsel - Existing Litigation (Government Code Section 54956.9 (a)):

1. San Diego County Water Authority v. Metropolitan Water District of Southern California (Cases 1 and 2)

2. Cooper, et al. v. Calabasas Park Estates, et al. (this item was amended to read Cooper, et al. v. Las Virgenes Municipal Water District)

D Conference with District Counsel - Potential Litigation (Government Code Section 54956.9): One Case

1. In the opinion of District Counsel, disclosure of the identity of the litigant would be prejudicial to the district.

12. OPEN SESSION AND ADJOURNMENT

The meeting reconvened into Open Session at 7:44 p.m. No reportable actions were taken during Closed Session.

The Chair declared the meeting adjourned at 7:45 p.m.

Lee Renger

LEE RENGER, President
Board of Directors
Las Virgenes Municipal Water District

ATTEST:

Charles Caspary

CHARLES CASPARY, Secretary
Board of Directors
Las Virgenes Municipal Water District

(SEAL)