



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

MINUTES
REGULAR MEETING

5:00 PM

April 23, 2013

PLEDGE OF ALLEGIANCE

At the request of President Caspary, the Pledge of Allegiance to the Flag was led by Director of Finance and Administration Hicks.

1. CALL TO ORDER AND ROLL CALL

A Call to order and roll call

The meeting was called to order at 5:02 p.m. by President Caspary in the District offices. Deputy Secretary Conklin called the roll. Those answering present were Directors Caspary, Peterson, Polan, Renger and Steinhardt.

2. APPROVAL OF AGENDA

A Approval of agenda

General Manager Pedersen requested "4. A: Preliminary Design Report, 5-Million-Gallon Water Storage Tank, LVMWD Report No. 2517.00" be heard after "7. A: Grievance Hearing for General Unit Employee".

On a motion by Director Leonard Polan, seconded by Director Glen Peterson, the Board of Directors voted 5-0 to Approve the agenda for the Regular Meeting of April 23, 2013, as amended by the recommendation of General Manager Pedersen.

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

3. PUBLIC COMMENTS

No speakers cards were received from the public.

4. ILLUSTRATIVE AND/OR VERBAL PRESENTATION AGENDA ITEMS

A Preliminary Design Report, 5-Million-Gallon Water Storage Tank, LVMWD Report No.

2517.00

Receive and file LVMWD Report No. 2517.00, Preliminary Design Report, 5-Million Gallon Water Storage Tank.

Director of Facilities and Operations Lippman gave a presentation entitled "Preliminary Design Report 5-Million-Gallon Water Storage Tank", which discussed background, engineering and design process, Preliminary Design Report (PDR) from AECOM, budget and schedule update, and next steps.

Principal Engineer Zhao discussed the PDR and Technical Memos, which were prepared by AECOM.

A summary of Board comments included: concerns related to spilling of concrete from trucks; seismic activity; project costs increased from \$6.6 million to \$8.9 million (original cost estimate was from 2009, a second pipe was added to the project and the tank diameter was increased); prices for concrete and pipe were higher in 2007 than they are now; cost of updated expansion/plant (in 2009 approximately \$6 million, so now approximately \$8 million).

Director Renger requested information on how much water was used during the Oakland fire or similar fire events.

*On a motion by Director Glen Peterson, seconded by Director Lee Renger, the Board of Directors voted 5-0 to Approve the recommendation as presented.
AYES: Director(s) Caspary , Peterson , Polan , Renger , Steinhardt*

B Legislative and Regulatory Updates

General Manager Pedersen discussed SB 449 (Pavley): State Controller's Audits of Public Agencies and SB 735 (Wolk): Sacramento-San Joaquin Delta Reform Act (Oppose); and stated the EPA Malibu Creek TMDL Workshop was going to be held on May 1, 2013.

5. CONSENT CALENDAR

*On a motion by Director Lee Renger, seconded by Director Glen Peterson, the Board of Directors voted 5-0 to Approve Consent Calendar 5A-5C as presented in the recommendations.
AYES: Director(s) Caspary , Peterson , Polan , Renger , Steinhardt*

A List of Demands: April 23, 2013. **Approve**

B Investment Report for the Month of March 2013. **Approve**

C Investment Review for the First Quarter 2013 **Receive and File**

6. TREASURER

Treasurer Polan reported he had reviewed the checks and all were in order.

7. BOARD OF DIRECTORS

A Grievance Hearing for General Unit Employee

Conduct a grievance hearing for a General Unit employee in accordance with the Memorandum of Understanding between the District and SEIU Local 721; determine whether or not the aggrieved employee worked out-of-class and, if so, for what period of time; and, if the aggrieved employee is determined to have worked out-of-class, approve additional compensation for the period of time when such work was performed.

Legal Counsel Lemieux discussed the grievance hearing process (Employee or Representative to make statement/testify; presentation of documents; General Manager statement; Board questions; opening/closing statements).

President Caspary noted the documentation in the agenda, which is a public record (Craig Davidson (Employee) and Pam Briscoe (SEIU) acknowledged agenda documentation) .

SEIU/Employee Representative Briscoe discussed the background; effected party notice not done; if employee/SEIU prevail they disagree with the dollar amount calculated by the District; Article 7.9: Memorandum of Understanding (MOU) - General Unit in summary states the General Manager will submit annually to the Board of Directors a list of classified positions (this is part of the fiscal year budget process) and at his discretion may employ persons in lower classifications to fill higher classified positions, persons so employed will be considered for promotion to a higher position.

Davidson: appreciates the Board hearing the issue and respects their decision.

A discussion between the Board of Directors, Employee Davidson, SEIU Representative Briscoe and General Manager Pedersen ensued during which the topics of landscape certification; job description differences; job description language of "assist" versus "perform"; statute of limitations; current General Manager was not here in 2009-2012, began at the District in January 2013 therefore he went through his own investigative process including: detailed audit information, key distinguishing factors, relative time spent on duties, during the drought duties shifted for all employees, and finds the employee was not working out of class; all employees in the Field Customer Service group perform water audits (employee stated other employees in the group declined performing water audits due to a lack of experience, so temporary staff was hired who had specific skills).

Closing Statements: General Manager Pedersen stated when comparing the duties in the job descriptions of Field Customer Service Representative I, II versus Resource Conservation Specialist a significant level of work as defined in the General Unit MOU, Article 7.10 "working out of classification is defined as when an employee is performing significant duties and functions of the higher classification" had not been met.

Additional discussions between the parties included: calculation of out of class pay; working out of class pay is typically 5%; employee was never asked to do all of the higher level duties; owed out of class pay due to experience or for actual duties performed (employee: former Resource Conservation Specialist was not performing all of the higher level duties either); why was the Resource Conservation Specialist position eliminated (General Manager: upon review there was a reorganization done based on District need and all vacant positions are reviewed and filled or not based on business needs; Caspary: position was eliminated July 1, 2009, during the budget process for Fiscal Year 2009-10).

President Caspary closed the grievance hearing.

Director Steinhardt inquired as to whether deliberations were to be done in public (Caspary: yes).

Director Steinhardt made a motion to review the grievance at a later meeting. The motion failed due to lack of a second.

Director Renger: stated a decision needs to be made and his decision is to deny. Director Peterson: believes employee did a great job and positions are "Y" Rated. Director Polan

believes employee did an exemplary job and may be eligible for the smaller amount of money.

Directors Renger, Peterson and Steinhardt do not believe out of class pay is due to the employee. Director Polan does believe out of class pay is due to the employee. Director Caspary stated Las Virgenes does not give bonuses and represented units have multiple steps. Polan stated he did not know there were several steps and based on this new understanding does not believe out of class pay is due to the employee.

*On a motion by Director Lee Renger, seconded by Director Glen Peterson, the Board of Directors voted 5-0 to Deny the aggrieved General Unit employee out of class pay.
AYES: Director(s) Caspary , Peterson , Polan , Renger , Steinhardt*

At this point in the meeting "4. A: Preliminary Design Report, 5-Million-Gallon Water Storage Tank, LVMWD Report No. 2517.00" was heard.

8. FACILITIES AND OPERATIONS

A 1,235-Foot Backbone Improvement Calabasas Pipeline Project: Construction Award

Award a construction contract for 1,235-Foot Backbone Improvements Project, Calabasas Pipeline to Preston Pipelines Inc., in the amount of \$5,053,984 and reject all remaining bids upon receipt of duly executed contract documents; accept the proposal from and authorize the General Manager to execute a professional services agreement with Kennedy Jenks Consultants to provide professional engineering services during construction in the amount of \$82,232; and accept the proposal from and authorize the General Manager to execute a professional services agreement with BTC Labs Vertical Five to provide geotechnical and material testing services in the amount of \$27,912.

A summary of Board comments included: minimize change orders (we plan the best we can, Preston Pipelines is hiring only one sub-contractor, concept of "wrap-ins", contractor provides all insurance, labor/material bond, performance bond); cathodic protection (passive protection); bond financing (too late for this project).

Director Polan stated he wanted a good/smooth patch done on paving.

B 2013 Las Virgenes Dam Settlement Report

Receive and file the Las Virgenes Dam Settlement Report No. 2516.00.

*On a motion by Director Lee Renger, seconded by Director Charles Caspary, the Board of Directors voted 5-0 to Approve the recommendation as presented.
AYES: Director(s) Caspary , Peterson , Polan , Renger , Steinhardt*

C Initial Study and Negative Declaration for SCADA Communication Upgrade

Receive and file the SCADA Communication Upgrade Study Preliminary Engineering Report (LVMWD Report No. 2520.00); approve the Initial Study and Negative Declaration for the Water Distribution System High Speed Radio Upgrade Project (LVMWD Report No. 2521.00); authorize staff to file a Notice of Determination for the project with the Los Angeles County Clerk; and accept the proposal from and authorize the General Manager to execute a professional services agreement with MSO Technologies, Inc., for engineering design services in the amount of \$93,900 for the first phase of the project.

A summary of Board comments included: do we need bandwidth (yes for redundancy and security cameras at some facilities); encrypting; is this a moving target (yes due to technology changes, and the last upgrade was in 1998).

President Caspary requested a Closed Session item for SCADA security.

*On a motion by Director Lee Renger, seconded by Director Charles Caspary, the Board of Directors voted 5-0 to Approve the recommendations as presented.
AYES: Director(s) Caspary , Peterson , Polan , Renger , Steinhardt*

9. FINANCE AND ADMINISTRATION

A Third Quarter Financial Review

Receive and file.

*On a motion by Director Leonard Polan, seconded by Director Glen Peterson, the Board of Directors voted 5-0 to Approve the recommendation as presented.
AYES: Director(s) Caspary , Peterson , Polan , Renger , Steinhardt*

10. 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 including Chair Foley was present at the board meeting; Yolo Bypass (farmer putting fish in his rice fields); Senator Pavley endorsed alternative from National Resources Defense Council; 7,000 acre feet of water being sold per day; lease of facilities to credit union.

(2) Director Renger reported on his attendance at the California Water Policy Conference during which there were discussions of Tulare having problems with nitrates; by 2050 food production needs to double; desalination. Director Steinhardt also provided a report on his attendance, and stated the conference was put together well this year; discussions included food production report, hunger is the worst disease in the world; invasive species; animal health; climate action team; water for the future, improve water distribution system; fracking; Monterey Formation is a result of fracking; on April 17th, Mark Nechodom (Director, California Department of Conservation) toured the Malibu Creek Watershed, is aware of Las Virgenes' situation and is willing to support the District; water runoff; many of the students at the conference work for Heal the Bay and have their opinions (suggested Las Virgenes look into hiring interns so they can see the other side).

President Caspary reported on his attendance at the Santa Monica Bay Restoration Commission meeting during which there were discussions of options for updating of the Bay Commission Workplan (#1 on the list was adopt a TMDL for Malibu Creek Watershed); Executive Committee meeting in May they will have to look at cost to public versus benefits.

B Director's Reports on Outside Meetings

None.

C General Manager Reports (1) General Business; (2) Follow-Up Items

(1) General Manager Pedersen provided an update on general business of the District including Mark Nechodom's tour of Tapia and stated his wife is Debra Bowen the California Secretary of State; upcoming calendar events (Strategic Planning/Labor Negotiations Workshop, CASA Conference, ACWA Conference, EPA Workshop (staff is using their individual contacts to notify the public of the event); Malibu Lagoon Restoration Project Ribbon Cutting; Solar Cup trial/test at Westlake Lake.

Director Peterson requested staff contact customers who have gone on tours and President Caspary stated constituent participation is critical at the EPA Workshop.

(2) General Manager Pedersen provided an update related to board meeting follow-up items.

D Director's Comments

None.

11. FUTURE AGENDA ITEMS

Director Steinhardt requested that Chairman Caspary add a future agenda item related to Director's decorum at public meetings.

12. CLOSED SESSION

The meeting convened into break at 8:05 p.m.

The meeting reconvened into Closed Session at 8:09 p.m.

A Conference with District Counsel - Existing Litigation:

1. Heal the Bay, Inc. v. Lisa P. Jackson

B 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.

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

1. Las Virgenes Municipal Water District v. Millgee Investment Company, Inc.

13. OPEN SESSION AND ADJOURNMENT

The meeting convened into Open Session at 8:28 p.m.

Legal Counsel Lemieux stated the Board gave authority on Las Virgenes Municipal Water District v. Millgee Investment Company, Inc. and no action was taken on Heal the Bay v. Lisa P. Jackson.

The Chair declared the meeting adjourned at 8:29 p.m.



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

ATTEST:



BARRY STEINHART, Secretary
Board of Directors
Las Virgenes Municipal Water District

(SEAL)