

**MINUTES
BOARD OF DIRECTORS MEETING
THREE VALLEYS MUNICIPAL WATER DISTRICT**

**Wednesday, January 20, 2010
8:00 a.m.**

1. Call to Order / Pledge of Allegiance

The Board of Directors Meeting of the THREE VALLEYS MUNICIPAL WATER DISTRICT was called to order at 8:00 a.m. by President Kuhn at the District Office located at 1021 East Miramar Avenue, Claremont.

2. Roll Call

Following the flag salute, roll call was taken with a quorum of the board members present.

**Directors
Present**

Bob Kuhn – President, Division IV
David De Jesus – Vice President, Division II
Brian Bowcock – Secretary, Division III
Joseph Ruzicka – Treasurer, Division V
Dan Horan – Director, Division VII
John Mendoza – Director, Division VI
Luis M. Juarez – Director, Division I

**Staff
Present**

Liz Cohn, Sr. Financial Analyst
Vicki Hahn, Executive Assistant
Rick Hansen, General Manager
Kirk Howie, Assistant General Manager, Administration
Jim Johns, Water Operations Manager
Steve Kennedy, Brunick, McElhaney & Beckett
James Linthicum, Chief Finance Officer
Mike Sovich, Assistant General Manager, Engineering & Operations
Esther Romero, Accounting Technician

**Others
Present**

Barbara Carrera, Walnut Valley Water District
Ted Carrera, Rowland Water District
Ken Deck, Rowland Water District
Ted Ebenkamp, Walnut Valley Water District
Ed Hilden, Walnut Valley Water District
Mike Holmes, Walnut Valley Water District
Scarlett Kwong, Walnut Valley Water District
Chris Lancaster, San Gabriel Valley Tribune
Fred Lantz, Pomona Citizen
Ben Lewis, Golden State Water Company
Jennifer Nessler, Representative Assembly Member Norma Torres,
61st District

3. Additions to Agenda

There were no requests for additions to the posted agenda.

4. Reorder Agenda

There were no requests to reorder the posted agenda.

5. Public Comment [2]

President Kuhn opened the meeting to receive public comment on agenda items in areas of concern relative to the operations of the Board of Directors. Members of the audience were advised they could speak during this portion of the meeting or during the portion of the agenda where they wished to comment.

Mr. Holmes, General Manager of Walnut Valley Water District provided an introduction of each of his board members present at today's proceeding – Directors Carrera, Ebenkamp, Hilden and Kwong. President Kuhn acknowledged their attendance and extended his gratitude for their interest in participating at the District meetings on behalf of their member agency.

6. Consent Calendar [1] [2]

Director Kuhn requested a motion to approve the Consent Calendar that included Item A – Receive and file minutes December 16, 2009; Item B – Receive, Approve and File Financial Reports December 2009; Item C – Approval of directors' monthly payment request forms, December 2009; Item E – Adopted Slate of Officers CY

8282

2010; Item F – Adopted Committee Appointments CY 2010; Item G – Adopted District Agency Representatives CY 2010; Item H – Adopted Annual Meeting Schedule for CY 2010; and Item I – Approval of Resolution No. 10-01-646 – Tax Sharing with County Sanitation District, Project No. A-21-726

Motion No. 10-01-4730: Moved by Director Ruzicka, seconded by Director Horan, to approve the Consent Calendar (Items A-I) for the January 20, 2010 Board of Directors Meeting of the Three Valleys Municipal Water District

Motion No. 10-01-4730 passed 7-0

AYES: Bowcock, De Jesus, Horan, Juarez, Kuhn, Mendoza, Ruzicka
NOES: None

7. Review of District’s Sunshine Ordinance #05-4-13, et.al. [2]

Legal Counsel, Steve Kennedy reviewed the Sunshine Ordinance No. 05-4-13 that supplements the California Brown Act as it concerns the Three Valleys MWD Board of Directors obligations regarding the conduct of its open and public meetings and actions taken by the Three Valleys MWD Board of Directors.

The Sunshine Ordinance was originally adopted in 2001 (Ordinance No. 01-03-8) and subsequently amended in 2001, 2002, 2003 and 2004. The current prevailing ordinance was adopted at a meeting of the Board of Directors held on May 19, 2004.

The Ordinance contains a provision for an annual review. If no changes are required during the review, the currently prevailing Ordinance stands.

During 2009 the Board was provided a summary of the material changes to the California Brown Act, however these changes did not require an amendment to the standing Ordinance. During the last legislative session there were not any material changes that would require an amendment to the Sunshine Ordinance.

Directors were advised that the material changes to the Brown Act require that any materials that are made available to Directors after the posting of the agenda / packet must be made available to the public at the same time as it is provided to the governing body. Directors were also reminded that electronic communication, i.e., emails cannot be used in lieu of a public meeting and that extreme caution should always be exercised in replying to emails. Directors were encouraged to never select the “reply all” button when replying to a sender so as not to risk an inadvertent violation of the Brown Act.

Several directors had comments and concerns specific to the handling of reporting requirements for MWD inspection trips. Some expressed that the definition of the MWD Inspection trip as gifts presents a potential conflict of interest for directors if

8283

MWD is not reimbursed for director participation and / or expense for these trips are not charged against the director's individual travel budget. Others commented that the Fair Political Practices Commission (FPPC) rules are unclear and present an unnecessary burden to directors requiring that they report and file on the Form 700 Statement of Economic Interest when they do not have any control over the preparation of the agenda or what is said or done at the sessions. Some agreed that the trips are educational, but only the first time you participate; others disagreed. Some believe they are there to augment and support other guests from their communities and that the trips provide opportunities to network with these individuals to deliver the message regarding the importance of water conservation.

Mr. Kennedy reported that based upon a decision from the FPPC last year when a MWD member agency from Burbank experienced similar concerns about the reportability of the MWD inspection trips on the Form 700, MWD published an article that stated the inspection trips are reportable, but are not subject to gift limits.

However, each director is responsible for independently determining what they decide to include on their Form 700 Statement of Economic Interests. The liability falls on each director personally if there is a violation and therefore it is not prudent or recommended that staff provide guidance. Rather, each director was encouraged to independently seek a ruling from the FPPC on their individual circumstances. There are provisions in the FPPC regulations that allow for telephone advice and that a request can be made for a written opinion. Mr. Kennedy recommended that any advice given by the FPPC should be requested in writing.

Director De Jesus reminded all that the MWD Inspection Tours are conducted by MWD as a courtesy to the member agencies for the benefit of the public. MWD staff is well trained and capable of taking care of the local stakeholders. He expressed his gratitude to staff and directors for their participation on the trips, but reminded all that it is their personal choice to participate or not.

8. General Manager's Report [2]

A. 2010 Legislative Update

Staff distributed a brief status report on the second half of the current legislative session. There are many new bills being introduced and the balance of the month is expected to be busy in Sacramento as the deadline approaches for bill submissions by legislators. Staff will be scheduling sessions with local stakeholders in the upcoming months to discuss their support of the water bond initiatives on the November 2010 ballot.

Of importance, all of the local legislative body voted in support of the water bond. Only a small handful of the legislature in total voted in opposition. This will be especially favorable as we move forward in providing educational and lobbying related activities on the bond.

B. Finance / Personnel Committee

The Finance / Personnel Committee did not meet in January in lieu of a special board meeting. The Committee will convene on its regular date of Wednesday, February 3, 2010. Due to a conflict the Committee will meet at noon instead of the normal time of 8:00 a.m.

There has been discussion between the Committee chairmen to exchange the time of the Finance / Personnel Committee with the Project/ Planning & Development (PPD) Committee.

C. Project / Planning & Development Committee

The Project / Planning & Development Committee did not meet in January in lieu of a special board meeting. The Committee will convene on its regular date of Wednesday, February 3, 2010 at its regular time of 9:30 a.m.

As discussed in the previous agenda item, agreement was made that effective with the March 2010 Committee meetings, the PPD Committee will meet on the first Wednesday of each month at 8:00 a.m. and the Finance / Personnel Committee will meet on the first Wednesday of each month at 9:30 a.m. Staff was directed to update the District Calendar on the website and to include this information in the Action Line prepared for today's proceeding.

D. Calendar Year Imported Water Purchases

Staff distributed the Water Supply Allocation Plan (WSAP) charts at the meeting as they had inadvertently been left out of the packet. It was reported that it is premature to determine the outcome of the WSAP for the District, but that based on currently available data it looks as though the District will achieve its allocation goals.

Staff reported that based upon twelve months of data, the District's Tier 1 sales stood at 60,000 AF. For CY ended December 31, 2009 the District did not exceed its Tier 1 allocation of 70,400 AF. The recent storms that have been experienced helped.

E. Miramar Operations Report – December 2009

Staff provided a summary of operations at the Miramar Plant for December 2009:

- Water quality remains outstanding.
- Monthly production was 1,100 AF which is average for December.
- December water/loss gain has evened out with a gain of 1.7 AF. Staff determined water loss issue that was being experienced was due to air in the line of 1-2 meters serving the Joint Water Line causing inaccuracies to be metered. This issue is being monitored on a weekly basis. All monitors were tested in December within standards. Staff is working with the Joint Water Line to reconcile the previously reported loss.
- The Miramar well pumped 64 AF during December; year-to-date, July – December greater than 400 AF was pumped.
- The bulk of the water sales continue to be to City of La Verne, Golden State Water Company and the Joint Water Line.
- During the month of February the Rialto Feeder will be shut down for nine days. Miramar plant will also be off line during this time. Staff will work with member agencies to minimize the inconvenience associated with the shut down.
- Hydro continues to produce greater than what was budgeted.

9. Directors' Comments/Reports [2]

A. Local Area Formation Commission Report (LAFCO)

Director Ruzicka thanked the Board for their nomination of him to run as the Special District alternate on the LAFCO Board of Directors. After the papers were filed he determined that now is not the time to run for the Board and that it is more important for him to continue to attend the meetings and apprise himself of the issues coming out of LAFCO that could impact the District. Director Ruzicka has sent a letter to LAFCO withdrawing his name from consideration; however it was too late to take his name off the ballot. Another opportunity for the LAFCO Board may come up in the near future as the Public Official. If/when this opportunity presents itself Director Ruzicka will again approach this Board for their support of his nomination. Director Ruzicka was asked what would happen if he wins the seat vis-à-vis the voters. If this should occur, Director Ruzicka would serve the term for that seat.

B. PWR Joint Water Line Commission Report

Director Horan did not have anything to report.

C. Six Basins Watermaster Report

Director Bowcock did not have anything to report.

D. Main San Gabriel Basin Watermaster Report

Director Bowcock reported that the key well is presently at 189.9, and continues to fall. The level at the key well may change due to the precipitation. Current level is still another historical low.

Election of officers took place at the recent Board meeting. There will not be any change in the slate from 2009 for CY 2010.

E. Chino Basin Watermaster Report

Director Kuhn reported that a conference call was held this past Monday, January 18, 2010. Directors Kuhn and De Jesus participated as the District representative/alternate. At the end of the conference call it was clear that the Pool is engaging to sue the Watermaster regarding the delivery of the storage water. If this occurs there is potential for a second lawsuit to be initiated by a second Pool. Director Kuhn requested that Mr. Kennedy be involved from this point forward. The litigation is surrounding the failed auction activities, and when notice was provided. These issues are also embedded in the compliance of the Peace II agreement. Of note Watermaster contends that notice was given while the Pool(s) contend that notice was not provided.

F. San Gabriel Basin Water Quality Authority

Director Kuhn reported that WQA is close to settlement on the South El Monte agreement. The WQA received \$3.5 million in federal funding. Producers with shovel ready projects should contact Grace Kast at WQA. The application process will be open for 30 days.

G. MWD Board Report

Director De Jesus reported that discussions at the recent board meeting surrounded the cost of delivering water for 2010. It is anticipated that this cost will be around \$598 million dollars before a single drop of water is delivered due to conveyance charges.

This amount will not decrease and must be paid before any delivery of State water occurs. Further there is not any guarantee of water delivery.

Current WSAP is at 5%. During January MWD staff will be discussing the water rates for 2011. Three quarters of the way through 2009 MWD exercised a second rate adjustment during the existing CY which was unprecedented. While this is not anticipated to occur again in 2010 it is anticipated that the projected rates for 2011 will increase by at least 20%.

There has been some discussion that the actual increase may be much lower than 20%, in the range of 12-13%. Member agencies have been working with MWD in an effort to get the increase to a single digit. One area that is important to consider is how the rate increases impact the bond rating for MWD (presently very favorable). If there isn't any follow through to increase rates it will negatively impact the bond rating at MWD. A public hearing to discuss these issues is being planning for March 2010.

Director De Jesus reported that litigation has been initiated regarding the QSA transfers and agreements. Meetings are being held with the parties. It is not expected to impact water deliveries for 2010 as the focus will be on Imperial Irrigation District (IID) transfers.

Member agencies present were encouraged about the potential rate increases being lowered to the 12-13% range. There are still outstanding concerns regarding the water stewardship component of the rates. Member agency Walnut Valley Water District indicated that it costs them approximately \$1.0 million dollars annually, and that their preference would be to have the funds directly and do the programs locally.

Director De Jesus encouraged all to continue to deliver their conservation messages to their communities and stakeholders. It does seem to be working and people in general are beginning to use less water. Conservation of water will result in lower transfer costs and will result in the availability of greater supply.

In closing Director De Jesus notified all present that budget workshops at MWD are scheduled for 12:30 p.m. on January 26 and February 2, 2010 respectively.

H. Additional Board Member Activity Reports

Director Juarez inquired whether MWD will be able to meet the demands presented in the letter from Rowland Water District to provide a three-year plan for rate increases. Staff reported that this will be discussed further during the member agency meetings and that a letter is being prepared to submit to MWD.

Director Mendoza acknowledged Ms. Jennifer Nessler from Assembly Member Norma Torres, 61st District in the audience.

Director Mendoza reported he attended the recent Upper District Meeting where a new MWD Director was appointed. Director Kuhn inquired who this was. The new director appointed was Director Tony Fellow. Mr. Fellow had previously served as a MWD Director most recently as Vice-Chairman.

10. Future Agenda Items

MWD Inspection Trips – Potential for Conflict of Interest
Report from Ad Hoc Committee on Approved Meeting List for Director Compensation

11. Adjournment

Director Kuhn adjourned the meeting at 9:07 a.m. to a Regular Board Meeting at 8:00 a.m. on Wednesday, February 17, 2010.

/s/ Bob Kuhn
Director, Board of Directors
Three Valleys Municipal Water District

Recorded by: Victoria A. Hahn
Executive Assistant