

MINUTES OF THE ADJOURNED MEETING OF THE
BOARD OF DIRECTORS OF THE
VISTA IRRIGATION DISTRICT

September 16, 2009

An Adjourned Meeting of the Board of Directors of Vista Irrigation District was held on Wednesday, September 16, 2009, at the offices of the District, 1391 Engineer Street, Vista, California.

1. CALL TO ORDER

President Dorey called the meeting to order at 8:30 a.m.

2. ROLL CALL

Directors present: Miller, Vásquez, Dorey, Williams, and MacKenzie. General Counsel Joel Kuperberg was also present.

Directors absent: None.

Staff present: Roy Coox, General Manager; Lisa Soto, Secretary of the Board; Eldon Boone, Assistant General Manager; Jennifer Brust, Customer Service Manager; Bill Moses, Financial Analyst; Al Ducusin, Engineering Manager; Brian Smith, Director of Engineering; Brent Reyes, Water Conservation Specialist; Brett Hodgkiss, Administrative Services Manager; and Marian Schmidt, Administrative Assistant.

Other attendees: Mr. Louis Giallorenzo and Mr. Steven Cesare, property owners interested in agenda Item 7.

3. PLEDGE OF ALLEGIANCE

Director Williams led the pledge of allegiance.

4. APPROVAL OF AGENDA

09-09-128	<i>Upon motion by Director MacKenzie, seconded by Director Miller and unanimously carried, the Board of Directors approved the agenda as presented.</i>
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5. PUBLIC COMMENT TIME

No public comments were presented on items not appearing on the agenda.

6. CONSENT CALENDAR

09-09-129	<i>Upon motion by Director Williams, seconded by Director MacKenzie and unanimously carried, the Board of Directors approved the Consent Calendar, including Resolution No. 09-47 approving disbursements.</i>
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A. Water system and Grant of Right of Way

See staff report attached hereto. Staff recommended and the Board accepted this water system for a five lot single-family dwelling subdivision known as Orchid Court, consisting of approximately 8.99 gross acres, owned by Del Prado Development, LLC, located on Orchid Court and Hibiscus Avenue, Vista and accepted Grant of Right of Way No. C120 for a 5-foot wide specific easement over property owned by Vincent and Nancy P. Ciccia located at 915 Orchid Court, Vista (WOI-3011; LN 2000-032; VT 2-051; APN 217-210-87 through 91, DIV NO 05).

B. Minutes of Board of Directors meeting on September 2, 2009.

The minutes of September 2, 2009 were approved as presented.

C. Resolution ratifying check disbursements

RESOLUTION NO. 09-47

BE IT RESOLVED, that the Board of Directors of Vista Irrigation District does hereby approve checks numbered 36118 through 36238 drawn on the Union Bank of California totaling \$1,032,162.54.

FURTHER RESOLVED that the Board of Directors does hereby authorize the execution of the checks by the appropriate officers of the District.

PASSED AND ADOPTED by the following roll call vote of the Board of Directors of Vista Irrigation District this 16th day of September 2009.

AYES: Directors Vásquez, MacKenzie, Miller, Williams, and Dorey
NOES: None
ABSTAIN: None
ABSENT: None

7. TEMPORARY SERVICE AGREEMENT REIMBURSEMENT AMOUNTS

See staff report attached hereto.

Engineering Manager Al Ducusin provided an overview of the information provided in the staff report. He stated that these four Temporary Service Agreements (TSAs) required the property owners to pay the District should it ever install a water line adjacent to the properties. Mr. Ducusin stated that in May 2009, District crews installed a water line and fire hydrant adjacent to the properties. Staff mailed letters to the property owners informing them of the TSAs before, during, and after the project. Mr. Ducusin said that the project was completed for less than the original estimates which were provided to the property owners. Staff recommended that the Board establish the reimbursement amount and authorize staff to send invoices to the property owners for their share of the cost of the project. Collection of these amounts would satisfy the contractual obligations of the property owners, and enable these meters to become permanent. Mr. Ducusin responded to questions by the Board, providing additional clarification regarding the TSAs and the waterline installation.

Director Miller asked how many TSAs were currently active in the District. Director of Engineering Brian Smith responded that staff would be conducting an inventory of the outstanding TSAs in order to obtain an exact count, but he believed there to be over 100. President Dorey suggested that staff send letters to the TSA property owners once they are all identified, to be sure they are aware of the TSA and what it means.

Mr. Steven Cesare of 761 Ann's Way addressed the Board, stating that he believed external benchmarks should have been used by the District to assure that the cost of the project was reasonable. Mr. Cesare said he also felt he was not provided enough advance communication regarding the project and the cost he would incur as a result. Mr. Cesare stated that he had recently been laid off from his job, and he requested that the Board consider lowering the reimbursement costs, since it was a lot of money during hard economic times.

Mr. Louis Giallorenzo of 764 Ann's Way stated that approximately 10-12 months ago, at 79 years old, he personally did the work to replace his corroded water line. Two months later he was informed by VID of the impending water line project on Ann's Way. He said he was later informed of his share of the cost, which was over \$12,000. Mr. Giallorenzo stated he is not unwilling to pay, but he just did not have this amount of money and could not work due to his age and health condition.

The Board asked staff if payment options had been discussed with any of these customers. Mr. Eldon Boone responded that he did not believe payment options had yet been discussed with the customers, but in the past, payment arrangements had been made for up to two years. President Dorey pointed out that in Mr. Cesare's case, this would pencil out to be about \$500 per month. President Dorey inquired what would happen if the balance was not paid in full by the end of the agreement. Assistant General Manager Eldon Boone responded that with a lien on the property, the District would have the right to act as any mortgage holder would act in that situation.

The Board discussed other options for the customers considering their individual situations, and the tough economic times. The Board discussed extending the payback period in order to lower the payments. Mr. Coox responded that while staff empathizes with the customers' situations, it would be best for the District if the homeowners were to obtain private financing to pay the District. Otherwise, it would be at the Board's discretion how the customers could be accommodated.

Director MacKenzie asked, with a lien on the property, what would happen in the event of bankruptcy? General Counsel Kuperberg stated that a payment agreement could be structured with an instrument recorded on the property obligating the owner to pay and requiring the acceleration of any remaining payments upon refinancing or transfer of the property. He added however, that the instrument would probably be negated in the event of bankruptcy or foreclosure. Mr. Kuperberg suggested that another option for the Board to consider, which may exceed the value of the agreements, would be to set up an assessment district for the four properties. This would guarantee repayment to the District over a period of approximately 20-25 years.

Director MacKenzie asked if an unpaid TSA balance could be added to the tax rolls like unpaid water bills. Mr. Kuperberg responded that he did not think so because the TSA was considered to be a commercial transaction. He added that the water bill is considered to be for a service.

Mr. Brian Smith suggested for the future, that the Board may wish to consider simplifying the TSA repayment process by establishing yearly a temporary offsite meter fee along with the rates, which could be applied to any TSAs which may become due during the course of that year.

The Board discussed Mr. Cesare and Mr. Giallorenzo's complaint that they were not given enough advance notice of the project. Mr. Cesare acknowledged that he was given 10 months' notice regarding the project itself, but the estimate of the cost of the project was provided a few months later.

09-09-130	<i>Upon motion by Director MacKenzie, seconded by Director Vásquez and unanimously carried, the Board of Directors established a reimbursement amount of \$88 per foot of frontage to satisfy the terms and conditions of Temporary Service Agreements (TSA) Nos. 266, 498, and 755 which were recorded on properties located at 755, 757, 761 and 764 Ann's Way, Vista (LN 2004-020; D-2143, APN 163-222-19, 20, 21 & 23; DIV NO 4).</i>
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The Board directed staff to work with the property owners to come up with an equitable repayment plan in order to satisfy their contractual obligations under the TSAs. The Board requested that staff work with General Counsel to analyze the process and cost of setting up an assessment district. General Counsel said he would work with staff on this as well as on other alternatives. The Board further directed staff, after inventorying all the TSA's in the District, to send letters to the property owners involved, explaining about the TSA and how it could affect them in the future. The Board suggested that as water line replacements are planned for future years, that staff notify affected TSA property owners with ballpark estimates of the cost.

Messrs. Al Ducusin and Brian Smith and the two members of the public, Messrs. Louis Giallorenzo and Steven Cesare, all left the meeting after this item.

8. CALL FOR PUBLIC HEARING TO AMEND THE DISTRICT'S DROUGHT RESPONSE CONSERVATION PROGRAM

See staff report attached hereto.

Mr. Coox recalled that the District implemented its Drought Response Conservation Program in September 2008. On June 1, 2009, VID declared a Drought Response Level 2. Mr. Coox advised that the watering restrictions associated with the Drought Response Level 2 were set to become more restrictive for the winter months on November 1, 2009. At that time, among other added restrictions, allowable watering days would go from three days per week to one day per week. Mr. Coox stated that through the summer months, VID customers exceeded the mandatory cutback levels which were prescribed by the Water Authority. Mr. Coox stated that conservation has been so successful, decreased revenues have become a recent concern. Mr. Coox said that all the agencies in the region were in agreement that no additional restrictions would be warranted at this time. Mr. Coox stated that staff drafted revisions to the District's program to be aligned with what other agencies in the region have done or were in the process of doing. New revisions include giving the General Manager the flexibility to implement watering days commensurate with the level of conservation being experienced. Mr. Coox stated that this has been done with the understanding that the agencies of the region will consult regularly to assure consistency among them. Mr. Coox commented that he led the effort among the agencies of the region to attempt to match watering restrictions and watering days with the City of San Diego, since theirs are the best publicized and largely assumed by the customers to apply to the entire County.

Mr. Coox reviewed staff's proposed changes to the resolution and provided clarification for the Board. Mr. Coox clarified that based on the proposed changes, the General Manager would be able to monitor the conservation performance levels of the customers and current water supply situations, and based on that information he would have the flexibility to keep or change watering days and times. He

would not be able to change the Drought Alert Level without the Board's approval. The Board discussed the proposed language. General Counsel Kuperberg offered that the Board could add language to the draft resolution requiring the General Manager to report to the Board on any changes he makes to the program. The Board requested that the draft resolution be modified to reflect the change suggested by General Counsel.

09-09-131 *Upon motion by Director MacKenzie, seconded by Director Miller, the Board of Directors adopted Resolution No. 09-48 setting October 7, 2009 at 8:30 a.m. as the date and time for a public hearing to receive comments concerning proposed amendments to the District's Drought Response Conservation Program, and directed staff to further modify the draft and bring back the draft as modified, by the following roll call vote:*

*AYES: Directors Williams, Vásquez, Miller, MacKenzie, and Dorey
NOES: None
ABSTAIN: None
ABSENT: None*

A copy of Resolution No. 09-48 is on file in the official Resolution Book of the District.

Mr. Brent Reyes left after this item.

9. WATER BILL FORMAT

See staff report attached hereto.

The Board reviewed and discussed the sample water bills from other agencies. Financial Analyst Bill Moses provided clarification regarding the MWD Readiness-to-Serve charge and the SDCWA Infrastructure charge and Surcharge, all shown on the City of Oceanside bill. President Dorey suggested that perhaps in the future, a pie chart could be included on the District's periodic newsletter which would show customers how much of their per-unit rate goes to other entities, and how much goes to VID.

The Board discussed the "Option 2" format sample provided with the staff report. Mr. Boone stated that if Option 2 were adopted, staff would try to have the new format implemented by November 1, 2009, so customers would be able to see the current water rate structure in the new format before the increased CWA pass-throughs become effective on January 1, 2010. Mr. Boone said he was not able to guarantee that the new format could be implemented that quickly, but staff would strive to meet that goal.

09-09-132 *Upon motion by Director Miller, seconded by Director MacKenzie and unanimously carried, the Board of Directors approved changes to the water bill format based on the proposed "Option 2", adding detail on the split between the District's and CWA's share for the tiered rates.*

Ms. Jenny Brust and Mr. Bill Moses left the meeting after this item.

10. MATTERS PERTAINING TO THE ACTIVITIES OF THE SAN DIEGO COUNTY WATER AUTHORITY

See staff report attached hereto.

Director Williams reported that the Metropolitan Water District (MWD) delegates met, with the MWD pension plan on the agenda for discussion. Director Williams stated that the meeting was over very quickly, and the MWD pension plan was never discussed. Director Williams said he later saw it reported in the newspaper that the item was pulled from the MWD agenda. Mr. Coox interjected that he learned the previous day at the Water Authority that this topic would be on the next CWA Board agenda for input from the CWA Board. Mr. Coox stated that this was done with the understanding that according to CWA's administrative code, the Water Authority board can not tell the MWD delegates how to vote. Mr. Coox added that there was an announcement that MWD would hold a public workshop on the item before bringing it back to the MWD board.

Director Williams reported that he attended a CWA Water Planning Committee meeting to discuss the master plan, which is eight years old and due to be completely updated in the next two years.

11. REPORTS ON MEETINGS AND EVENTS ATTENDED BY DIRECTORS AND AUTHORIZATION FOR DIRECTOR ATTENDANCE AT UPCOMING MEETINGS AND EVENTS

See staff report attached hereto.

Directors Vásquez, Dorey, Miller, and Williams all reported on the Council of Water Utilities breakfast meeting the previous morning. The program was presented by Halla Razak, the Colorado River Program Director of the San Diego County Water Authority regarding the Colorado River Augmentation. Some of the concepts which were presented were brackish water desalination, coal-bed methane water production, and stormwater storage.

Director Williams requested to attend the ACWA Region 8, 9, 10 Joint Program and Tour October 8-9, 2009 in Lake Elsinore.

09-09-133	<i>Upon motion by Director MacKenzie, seconded by Director Vasquez and unanimously carried, the Board of Directors authorized the following attendance: Director Williams to ACWA Region 8, 9, 10 Joint Program and Tour, October 8-9, 2009 in Lake Elsinore.</i>
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A brief break was taken from 10:49 a.m. to 10:57 a.m. Upon return from break present in the audience were Messrs. Brett Hodgkiss and Don Smith.

12. ITEMS FOR FUTURE AGENDAS AND/OR PRESS RELEASES

See staff report attached hereto.

The Board requested a press release on the upcoming public hearing on October 7, 2009 concerning revisions to the Drought Response Conservation Program.

13. DIRECTOR COMMENTS

President Dorey thanked staff and the Picnic Committee for the enjoyable employee picnic on September 12, 2009. Director MacKenzie joined President Dorey in complimenting staff on this event.

14. COMMENTS BY GENERAL COUNSEL

Mr. Kuperberg updated the Board about a recent court decision concerning the confirmed legality of the fixed fee portion of a water rate under Prop 218.

15. COMMENTS BY GENERAL MANAGER

Mr. Coox informed the Board that the deadline for bids on the pipeline construction portion of the Poseidon Resources seawater desalination project was extended by two weeks to September 18, 2009. He said it would soon be known who won the bid, and if any follow-up would be required with L.H. Woods and Sons construction, who had indicated an interest in using District property on Pipeline Drive as a staging area if selected as winning bid on the project.

Mr. Coox passed around a plaque received from AWWA in appreciation for the District's work in the recent National AWWA Annual Conference and Exhibition, for which he and Director of Facilities Ken Bouchard were co-chairs of the local host committee.

16. CLOSED SESSION FOR CONFERENCE WITH LEGAL COUNSEL

President Dorey adjourned the meeting to closed session at 11:07 a.m. for a conference with legal counsel to discuss the following pending litigation:

- A. San Luis Rey Indian Water Rights Settlement per Govt. Code section 54956.9(a).

The meeting reconvened in open session at 11:50 a.m. President Dorey declared that no reportable action had been taken.

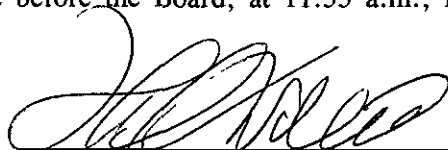
17. UPPER SAN LUIS REY WATERSHED AUTHORITY REQUEST FOR FUNDING FOR LEGAL COUNSEL

Mr. Coox referred to the letter from Lin Burzell, President of the Upper San Luis Rey Watershed Authority (USLRWA), which was attached to the staff report. In the letter, Mr. Burzell expressed his desire to have the USLRWA help pay for counsel to deal with issues surrounding the southern steelhead/Endangered Species Act along the upper reaches of the San Luis Rey River. As a member of the USLRWA, VID has contributed approximately \$2,500 to its approximate \$8,000 bank account. Mr. Burzell requested that the VID Board support his proposal to expend \$4,000-5,000 of the USLRWA's money towards the cost of these legal services.

09-09-134	<i>Upon motion by Director Williams, seconded by Director MacKenzie and unanimously carried, the Board of Directors authorized President Dorey to vote in favor of the Upper San Luis Rey Watershed Council expending funds for the purpose of engaging specialized legal counsel on the southern steelhead/Endangered Species Act issues.</i>
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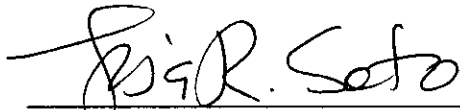
18. ADJOURNMENT

There being no further business to come before the Board, at 11:53 a.m., President Dorey adjourned the meeting.



Howard S. Williams, Vice-President

ATTEST:



Lisa R. Soto, Secretary

Board of Directors

VISTA IRRIGATION DISTRICT