

VIRGIN VALLEY WATER DISTRICT REGULAR BOARD MEETING  
VIRGIN VALLEY WATER DISTRICT OFFICE  
FEBRUARY 5, 2008

Minutes of a Regular Board Meeting of the Virgin Valley Water District Board held on February 5, 2008, at the Virgin Valley Water District Office at 3:00 p.m. Attending were President John Paul, Secretary-Treasurer Cecil Leavitt and Board Members Kenyon Leavitt, Ted Miller and Bubba Smith. Also present were Michael Winters General Manager, Erik Beyer District Engineer, Michael Johnson (Boomer) Chief Hydrologist and Mary Johnson taking minutes and other interested parties of agenda items.

**President John Paul called the meeting to order at 3:03 p.m.**

**Cecil Leavitt offered a Prayer and Kenyon Leavitt led the pledge.**

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

Discussion: Board Comments - None  
President of Board Comments - None

**CONSENT AGENDA:**

Bubba Smith had some questions regarding item #5 that were answered.

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

1. Approve Agenda
2. Discussion & Action – Approve of Minutes from **01/15/08 Regular Board Meeting**
3. Discussion & Action – Approve Financial Statement for **November 2007**
4. Discussion & Action – Approve Bills Paid - **\$1,181,617.15**
5. Discussion & Action – Approve to Write Off Delinquent Accounts **Account 981.2 in the amount of \$34.28, Account 1995.5/\$37.33, Account 88.8/\$45.45 and Account 4938.5/\$23.68**

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

6. Discussion & Possible Action – Authorize the General Manager to Execute memorandum of Agreement for Implementation of the Virgin River Habitat Conservation and Recovery Program

Michael Johnson enclosed the Memorandum of Agreement (MOA) establishing participation in the Virgin River Conservation and Recovery Program. This MOA only commits VVWD to participate in the processes. Meetings were held on January 8<sup>th</sup> and 9<sup>th</sup> to resolve

pending issues associated with in stream flows in the Virgin River as identified in the Virgin River Conservation and Recovery Program (VRCRP). The issues on Section 7 and Section 10 are being resolved and there is a meeting February 20<sup>th</sup> for the next step and execution. Michael stated that this formalizes an agreement of cooperation, but it is not binding and recommends that the District execute the MOA.

**Kenyon Leavitt made a motion to authorize the General Manager to execute Memorandum of Agreement for implementation of the Virgin River Habitat Conservation and Recovery Program. Bubba Smith seconded this motion and it was unanimously carried. 5-0**

7. Discussion & Possible Action – Consideration to Approve a Lease of Bunkerville Irrigation Shares to Hafen Dairy, Inc.

The District currently owns 90 Bunkerville Irrigation Shares and a Bunkerville share has 10 acre-feet per share compared to a Mesquite share which only has 7.24 acre-feet of water per share. The District is currently using approximately 200 acre-feet of Bunkerville irrigation water for the secondary system per year. Mike stated that Michael Johnson also had some projects coming that might require the remaining irrigation shares within a year. Bubba questioned the time frame, the amount of money that would be charged and the amount of water available to lease. Mike stated that the District currently leases Mesquite irrigation shares to Legacy Construction for \$250/share and Wolf Creek Golf Course leases them at \$200 per share. These leases are for five-year terms with Wolf Creek's lease going until 2015. Mike further stated that he did not think that the District should lease for more than a year. Kraig Hafen representing the Hafen Dairy, Inc. stated that a month to month lease or even up to a year lease would be fine with him and he would like to lease as many shares as available. Bubba stated that he would like to see a monthly lease, but no more than six months and that the amount would be proportioned to be even with the amount a Mesquite share leases for.

**Cecil Leavitt made a motion to approve leasing Bunkerville Irrigation Shares to Hafen Dairy, Inc. and that District Council draw up a lease agreement and bring back to the Board for their approval and Hafen Dairy's approval. Bubba Smith seconded this motion and it was unanimously carried. 5-0**

8. Discussion & Possible Action – Consideration to Approve a Cost of Living Allowance (COLA) for VVWD Employees Effective July 1, 2008

The District has set the first meeting in February for Mike and Michael's evaluations and any salary increases along with looking at a COLA for all employees for preparing the budget. A graph from the Bureau of Labor Statistics was included, as used last year, showing the cost of living index increased 3.2% from 2006.

**Bubba Smith made a motion to approve a cost of living allowance of 3% for VVWD employees effective July 1, 2008. Cecil Leavitt seconded this motion and it was unanimously carried. 5-0**

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

John Paul opened this item for public comment and employee, William Peterson, stated that employees in the back shop had included a letter in the packets with their remarks regarding the general manager.

Cecil stated that the evaluation of the general manager was to be for his performance for the past year only and that any comments or questions relating to anything prior to the past year was in the past and should not be brought up for this evaluation. Cecil further stated that he felt Mike had done an exceptional job and the only problem he was aware of within the past year was a discrepancy regarding the arsenic removal project at well #27 site and that Mike did not state that the District would not stucco the building and wall, but the board of directors had made that motion. Cecil also said that there seemed to be a lack of communication between Mike and the Board and that he wanted on the record that evaluations in public with personal conflicts was not proper.

John Paul stated that he believed there should be no time frame for the evaluation and thanked the employees for their input. John Paul went on to reprimand the Board stating that they were lacking and even somewhat dysfunctional with no current job description in place and how can they evaluate properly without directives. John further commented that procedures and processes directed by the board are not in place. John questioned Mike whether he had employee job descriptions completed as directed when the new employee salary range was adopted and Mike stated that they were on his computer. John went on to read some of his comments from his position paper included in the packet and stated that he would like to see a meeting held where expectations and/or job descriptions were established for the general manager.

Bubba stated that in his opinion that there should always be disagreements and then commented on John’s position paper and the letter from the employees. Bubba further stated that in his experience as a board/council member that saying “that’s the way we’ve always done it” is unacceptable and some adjustments need to be made in order to move ahead. Bubba stated that Mike needed to come to terms with the Board and that the Board needs to give Mike direction. Bubba stated that he has never felt so disrespected as a Board Member as he does on this board and that the general manager needs to give as much information as possible to the board and he should make the board look good; the general manager should adopt a management style and broaden his vision. Bubba further went on to state that he felt that Mike managed with a divide and conquer method and had some specific items he would like to touch on including the bids on the well #27 arsenic removal site, agenda items and that the information should not be slanted or contain misinformation, cooperation with other entities, a better master plan of the water system and more

planning.

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Ted Miller stated that honesty and integrity were very important and letters from attorneys are very serious and should have been seen by the board. Ted further stated that he spoke with no less than 75 people from all around and the District's integrity is in serious trouble.

**Ted Miller made a motion not to renew Mike's contract. The motion died for a lack of a second.**

Kenyon Leavitt stated that if job descriptions were going to be discussed and determined for Mike that it needed to be done at a different meeting. Kenyon further stated that it was hard to evaluate Mike on things that he perceives that he should do and evaluate him on things that the board perceives that he should do when he hasn't been told to do them. Kenyon stated that he hasn't seen anything in Mike's conduct in the past year or since he's been on the board that Mike hasn't done what the board has asked him to do and felt that this was not the time to ask for Mike's resignation or termination.

John Paul stated some of the board's responsibilities and that the structure of the employment agreements are quite unacceptable and not in the District's best interest. John recommends that Employment Agreements be modified. There was further discussion on this item and the employment agreement and how to proceed without council present.

**Cecil Leavitt made a motion to extend Mike Winters and Mike Johnson's contract of employment services for one year with a 2% pay increase and the 3% COLA as other employees effective July 1, 2008 and to have the employment agreement re-evaluated and amended by legal counsel with a different meeting.**

**John Paul objected to the motion because item "10" was included.**

There was further discussion of when to hold a meeting to amend agreement.

**Cecil Leavitt restated his motion.**

John Paul asked Mike if he agreed with the motion and Mike stated he did.

**The motion died for a lack of a second.**

**Bubba Smith made a motion to continue Mike Winters employment for one year commencing July 1, 2008 until June 30, 2009 with a 3% COLA as the other employees. Kenyon Leavitt seconded this motion.**

Bubba questioned whether he should make another motion or amend his motion to include holding a meeting with District Council to amend employment agreement and Kenyon did not have a problem with amending the motion since he seconded first motion.

**Bubba amended his motion to include that the Board discuss and amend, at a future date and time, the employment agreements and discuss possible performance pay increases.**

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**Kenyon Leavitt seconded the amendment to the original motion and the motions passed by a vote of 4-1 with Ted Miller opposed.**

### 13. Engineer's Report

Erik needed to catch a plane so his report was heard at this time. Erik included a written report. Erik stated that he had made contact with representatives of the pipe manufacturer and they were in the process of writing a contract with a lab to perform the testing. The Water Conservation Plan has been mailed to the appropriate parties.

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

Ted Miller began by stating that he wanted to congratulate Michael, after his fact finding mission and after questioning some 75 people, Michael has a stellar reputation and is very well respected.

John Paul led off with some questions regarding the Arizona/Nevada compact, which Boomer stated that there was no AZ/NV compact. He further asked about the well #31 site, the fault at the airport, Bighorn Ranch, LLC Agreement and the Trough II Agreement and monitoring wells in Lincoln County.

Mike Winters questioned whether this was Boomer's evaluation or his Hydrologist's Report and John stated that he thought Boomer had to leave to catch a plane, but he wouldn't be leaving until tomorrow.

Cecil stated that everyone knew how he felt about him and would suggest that they ditto the motion in item "10".

**Cecil Leavitt made a motion to make the same motion as in item "10" with the general manager in that the board would continue Michael Johnson's employment for one year commencing July 1, 2008 until June 30, 2009 with a 3% COLA as the other employees and that the Board discuss and amend, at a future date and time, the employment agreements and discuss possible performance pay increase. Kenyon Leavitt seconded this motion and it was unanimously carried. 5-0**

### 11. General Manager's Report

Mike had not included a written report but had included some "Cost to Deliver" forms for the wells for the past year and then handed out some additional usage reports from 2007. Mike also handed out the appraisals he had received for one acre of property on Hardy Way where the District

would move the arsenic treatment plant previously to be built on the well #27 site. Hopefully there would be an agreement between the District and Legacy Construction at the next meeting. Mike

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also stated that he expected to have another agreement for the next meeting with Ted Lee. Ted received a draft of the agreement and was very much in favor of the parking lot proposed and the District would still have access to well #27. Mike further stated that he and Boomer were working on the demonstration for the Public Lands Meeting and that he and John Gleave would be going to a Due Diligence Meeting on February 15<sup>th</sup> for the 2008 Bond.

#### 12. Hydrologist's Report

Michael had not included a written report. John Paul continued his questions of Boomer regarding the water hearings and well #34. Boomer stated he would be going to Carson City tomorrow for the hearings.

Bubba requested that Boomer include information on his Hydrologist's report of information like he just gave answering John's questions, so it is written down and easier to understand.

Michael further stated that the NWRA conference would be held in Mesquite at the Casa Blanca Hotel/Casino March 4<sup>th</sup> through the 6<sup>th</sup>.

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

15. Adjournment

**President John Paul adjourned the meeting at 6:15 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.