

VIRGIN VALLEY WATER DISTRICT REGULAR BOARD MEETING
VIRGIN VALLEY WATER DISTRICT OFFICE
APRIL 15, 2008

Minutes of a Regular Board Meeting of the Virgin Valley Water District Board held on April 15, 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 Ted Miller and Robert “Bubba” Smith. Vice-President Kenyon Leavitt was not present. Also present were Michael Winters General Manager, George Benesch District Council, Erik Beyer District Engineer, Michael “Boomer” Johnson Chief Hydrologist and Mary Johnson taking minutes and other interested parties of agenda items.

President John Paul called the meeting to order at 3:01 p.m.

Bubba Smith offered a Prayer and Cecil Leavitt led the pledge.

Public Comment – Mayor Susan Holecheck requested the board to consider proportional representation for the District Board of Directors.

Discussion: Board Comments – Ted Miller handed out paperwork that he requested be back-up material for a discussion and action item for the May 6, 2008 agenda
President of Board Comments – John Paul handed out the District’s Emergency Procedure Manual and requested that this be put on the agenda for the May 6, 2008 meeting for updates

CONSENT AGENDA:

John Paul had some questions on when the City was paid by cashier check answered and questioned item #4 and the request for 1” meters. Mike stated that this request was because the City of Mesquite requires a 1” meter if the number of fixtures in a home is over a certain amount as they follow the Uniform Plumbing Code (UPC). Mike explained that if we are going to install 1” meters that there must be a 1” line from the main into the home. Some homes requesting an upgrade have only a ¾” line from the main and this would only allow a flow of 31 gpm, compared to a ¾” meter flowing at 23 gpm, but doubling the price for a 1”. Bubba suggested that this item be removed from the consent agenda.

Bubba Smith made a motion to approve the agenda as written and the consent agenda as listed below with item #4 being removed and acted upon separately. Cecil Leavitt seconded this motion and it was unanimously carried. 4-0

1. Discussion & Possible Action - Approve Agenda
2. Discussion & Possible Action – Approve Minutes from **04/01/08 Regular Board Meeting**
3. Discussion & Possible Action – Approve Bills Paid - **\$3,137,482.37**

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

4. Discussion & Possible Action – Approve “Will Serve” Letters
 - a. Calais Townhomes - Revised – Additional 12 EDU’s
 - b. Falcon Point Subdivision – Revised – Additional 38 EDU’s
 - c. Crescent Moon Subdivision – 73 EDU’s

This was removed from the consent agenda to be acted on separately. Mike stated that he had no problem with the board approving “c”, but wanted them to deny “a” and “b” contingent upon meeting with the City and the City either changing their requirement for 1” meters on a single-family residence or being certain that the waterline running from the main is a 1” line. There was further discussion regarding the EDU’s for a 1” meter and water conservation.

Cecil Leavitt made a motion to approve Crescent Moon Subdivision for 73 EDU’s contingent upon meeting the Criteria to Ordinance II and further moved that Calais Townhomes and Falcon Point Subdivision be tabled until after re-evaluated with the City of Mesquite. Bubba Smith seconded this motion and it was unanimously carried. 4-0

5. Discussion & Possible Action – Consideration to Remove \$25 Returned Check Fee-Account 3830.2

The District received a letter from Russell Deakin requesting that the \$25 returned check fee be returned after writing the District a check on an account that had been closed.

Cecil Leavitt made a motion to deny removing a \$25 returned check fee on account 3830.2 and adhering to policy. Bubba Smith seconded this motion and it was carried by a vote of 3 to 1 with Ted Miller opposed. 3-1

6. Discussion & Possible Action – Consideration to Enter into an Agreement with HDR Engineering for Professional Services Related to the Directional Drilling Associated with the Bunkerville/Mesquite Bridge Crossing and the Virgin River/I-15 Crossing

Boomer began by stating that the District requested RFP’s for this project and received approximately eight. After he and Mike had reviewed the RFP’s and narrowed their choices down to three, they then decided on HDR. Representatives with HDR, Dennis Hugh and Project Manager Matt Chapman, presented a power point presentation. The board was given a review of the project team, their experience and other projects completed. There were construction issues discussed regarding the District’s projects and a site view of the proposed crossings was viewed. There were some questions answered and Mike stated that approval would be for the design and then the project would go out to bid for drilling. There was discussion as to why there was only one presentation and what costs would be for designing. Mike and Boomer explained that this was for professional services and you could not get bids. They chose HDR from the RFP’s because of their experience and capability of designing this project. After the District would enter into an agreement with HDR, the agreement would come back for approval and an estimated amount was said to be around

\$150,000 for the design.

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John Paul asked for a motion and received none. Cecil stated that the District needed to move on this and would make a motion, but knew it would not pass. Boomer again went through the planning process and time required for this project. John Paul asked if it wouldn't be better to table and put on the May 6th agenda with more back-up material.

Cecil Leavitt made a motion to enter into an agreement with HDR Engineering for professional services related to the directional drilling associated with the Bunkerville/Mesquite Bridge Crossing and the Virgin River/I-15 Crossing. John Paul seconded this motion, but the motion died by a vote of 2 to 2 with Ted Miller and Bubba Smith opposed. 2-2

Bubba stated that he would like to see this again on the May 6th agenda with back-up material and reasons why Mike and Boomer chose HDR for this project.

7. Discussion – Presentation by Eric Roberts with SH Architecture and District Staff Regarding the Expansion of District Administration and Operations Office Facilities

Mike informed the board that Eric had been called to Reno and was unable to attend. Mike handed out a new building study put together by SH Architecture for review and a proposal from Virgin Valley Ventures, LLC for property located at 175 Willis Carrier Avenue and stated that this and the next item should be tabled until the next meeting Eric could attend.

8. Discussion & Possible Action – Consider Recommended Alternatives and Direction to Staff Regarding Proposed Administrative and Operations Office Facilities

There was some discussion as to whether a motion was actually needed to table this item.

Bubba Smith made a motion to table this item until Eric Roberts with SH Architecture was available. Cecil Leavitt seconded this motion and it was unanimously carried. 4-0

9. Discussion & Possible Action – Consideration to Approve Interlocal Agreement with the City of Mesquite for Communications Facilities Approved by this Board on February 19, 2008

George Benesch, District Counsel, stated that the Board had directed staff to enter into an agreement with the City and he and the City's attorney had mutually drafted the agreement that was before the board. Cody's brother, Brent Whipple an attorney explained that he was here to see that the VVWD followed through with their agreement with Rebel Communication, more so for the next item. A notice from Rebel Communication received by fax to George was forwarded by George to the District and the City of Mesquite. After being asked, Brent stated that the notice was a legal notice because of their concerns, but it was for the next item. Cody explained that the notice was

tower at the Scenic Site was going to cause a financial burden on Rebel Communications. Cody further stated that the agreement he has with the District is going to be affected by the City having their own site and Rebel Communications not able to re-coup their money within the allotted time of the agreement. Mike explained that the tower erected at White Rock was put there because the City of Mesquite requested this and all plans developing this tower were because the City of Mesquite requested this. Mike further stated that the District's right-of-way with the BLM does not state that you can or cannot put a radio tower in it. When Mike spoke with the BLM about the radio tower, they referred to the ACEC. However, the District's right-of-way was granted prior to the ACEC being established. The BLM has not given a determination of whether the tower can stay or must be moved. Mike stated a meeting had been scheduled with the new BLM Director to discuss the White Rock Site. Mike further explained that there were no commercial spots on that tower. All are government entities; however, the District is in the process of introducing a bill to congress for 300 plus acres in Clark County to take these right-of-ways and proposed right-of-ways that we are looking at down the road out of BLM control and into private ownership of the District. The BLM is willing to take a closer look at this action, but there has been no determination or action taken by BLM thus far. Mike further stated that if Cody would like to amend our agreement, he was willing to do this. There was further discussion and Bubba requested a point of order stating the discussion was more to do with the next item and not this item. Bubba questioned the agreement between VVWD and Rebel Communications and whether the District was limited to do anything regarding radio communications on all District property or just the White Rock Site. Bubba then gave George specific directions to contact the FAA under article 333 of the Communications Act which prohibits anyone from interfering with emergency communications of any government entity and wants George to get a finding on that and Rebel Communications trying to interfere with the emergency communications of the City of Mesquite. Bubba further stated that he wanted George to contact Homeland Security, the Nevada Division, which also prohibits the interference of emergency communications of government entities. Cecil pointed out that the last paragraph of the agreement between the VVWD and Rebel Communication describes the property as 2500 square feet, which is the White Rock Tank site. There continued to be a lengthy discussion with the board members, staff and City Manager, Tim Hacker explaining the City's plans to temporarily construct a 30' tower at the Scenic Tank Site and eventually a 130' tower.

Bubba Smith made a motion to approve the Interlocal agreement with the City of Mesquite for communications facilities approved by this board on February 19, 2008. Ted Miller seconded this motion and it was unanimously carried. 4-0

10. Discussion – An Order to Show Cause why the VVWD Should Not Proceed with the Termination of our Agreement with Rebel Communication Based Upon Their Failure to Obtain all Permits Required by the BLM, FCC, FAA and Clark County to Construct and Operate a Communication Tower at the White Rock Tank Site – Requested by Bubba Smith

Bubba stated that this was only a discussion item because Rebel would have 30 days to

discovery and if action should be required, it would be brought back before the board in May. Cody Whipple, representative of Rebel Communication began by reviewing the situation and why site was selected and process Rebel Communication has gone through. Cody stated that the FCC and FAA only require registration on towers that are within 5 miles of an airport and above 200'. The White Rock site is 8 miles away from the airport and it is below 200'. Cody contracted with local companies because he is not a contractor for construction of the pad and electrical and they told him that because it is on a federal right-of-way and it is a non-occupied building that building permits were not required. The right-of-way is all in the contract with the VVWD regarding the BLM. John Paul commented on the notice received from Rebel Communication and wondered if it was a notice that they were going to sue the District. Cecil commented and stated that Rebel Communication was only giving the District notice that they did not want the District to sign the agreement with the City because of financial burdens Rebel Communications would have and not being able to fulfill their part of the agreement with VVWD because of the City pulling out of the White Rock Site. Bubba read from the agreement and stated that the Lessee, Rebel Communication, was responsible to obtain all permits and continued to request whether there was a permit from the BLM to erect a tower. There continued to be ongoing discussion regarding the agreement, the site, etc. George stated that Bubba had directed him to contact certain agencies and felt that if this was still to be done that it should be put on the next agenda and have the entire board vote to have this done. John Paul directed staff to have this put on the next agenda. The Mayor spoke and stated that she had been in contact with Cody, but that her staff had decided to go in a different direction and felt that it was unfortunate for Cody and the financial situation, but that she trusted her staff and this was the way the City was going to handle it. Bubba further stated that at the appropriate time that the agreement between the VVWD and Rebel Communications be brought back and revisited regarding extending the time so Rebel Communications could recoup their money.

11. Discussion & Possible Action – Consideration to File Justice Court Action to Enforce Agreement with Adrian Macias for Payment of Damages to District Property While Driving Under the Influence or Otherwise Negligently Operating a Motor Vehicle – Tabled from March 4, 2008 Meeting

This item was tabled after the March 4th meeting to see if George could contact Mr. Macias or if payment continued. George has written a couple letters, but has heard nothing from Mr. Macias and no further payments have been received.

Cecil Leavitt made a motion to file with small claims and move from there. Bubba Smith seconded this motion and it was unanimously carried.

12. General Manager's Report

Mike had not included a written report. Mike informed the Board of his and Boomer's trip to DC and representatives they met with regarding the property takedown in Clark County. Mike

also stated that he is working on obtaining two additional grants.

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13. Hydrologist's Report

Boomer had not included a written report. He informed the board that he would be in Carson City tomorrow to meet with the State Engineer and Vidler Water regarding Tule Desert. Boomer had included his response to hydrologic data submitted by Lincoln County Water District and Vidler Water Company, LLC on Ruling No. 5181 and Application No. 64692 by the VVWD in the packet that he had submitted to the State last week. He also informed the board of various other meetings concerning the Virgin River. He further stated that he is continuing work on well #34 and well #30.

14. Engineer's Report

Erik had included a written report informing the board that the cathodic protection on Phase II was complete and a Notice of Completion had been filed. Erik further stated that he was not having any luck with communication with the pipe people in regards to the pipe failures. They continue to state that they have no answers and no test results yet and felt that we should have George send a letter.

15. Public Comment

City Manager, Tim Hacker, commented that he would meet with staff regarding the 1" meters and see if there was something that couldn't be done.

16. Adjournment

President John Paul adjourned the meeting at 6:30 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.