

VALLEY CENTER MUNICIPAL WATER DISTRICT

Regular Board Meeting

TUESDAY, January 18, 2022 - 2:00 P.M.

Place: Board Room

29300 Valley Center Road; Valley Center, CA 92082

Due to the COVID-19 State of Emergency this Board Meeting is being conducted via Web Conference and Live Stream pursuant to Government Code §54953(e)(1)(A), which provides waivers to certain provisions of the Brown Act during a proclaimed state of emergency when state or local officials have imposed or recommended measures to promote social distancing, and allows some or all of the District's Directors to participate in the meeting telephonically or via video conference.

The Valley Center Municipal Water District Board of Directors' meeting was called to order by President Polito at 2:00 P.M. President Polito established for the record that all Directors were able to hear the proceedings, that all members of the Board were able to hear the Directors participating by teleconference clearly, and that all votes would be taken by a roll call vote pursuant to the provisions of the Brown Act.

ROLL CALL

Board Members Present: President Polito, Director Smith, and Director Babineau; with Vice President Ferro and Director Holtz teleconferencing.

Board Members Absent: None.

Staff Members Present: General Manager Arant, District Engineer Grabbe, Director of Finance Pugh, Director of IT Pilve, Executive Assistant/Board Secretary Peraino, and Senior Engineer Lyuber; with Manager of Accounting Velasquez, Director of Operations and Facilities Lovelady, Safety and Regulatory Compliance Supervisor Olson, General Counsel de Sousa and Jacqueline Howells (HGR) teleconferencing.

Guest Speakers Present: Adam Bauer with Field, Rolapp and Associates and Mrunal Shah with Best Best & Krieger Law.

PUBLIC COMMENTS / QUESTIONS

President Polito established for the record the process by which public comments are received by the Board; this process was also described in the Agenda for the meeting. It was announced that no public comments had been received for this meeting.

CONSENT CALENDAR

Action: Upon motion by Smith, seconded by Babineau; and unanimously carried, the following consent calendar items were approved:

1. **Minutes of the Special Board Meeting Held Monday, December 27, 2021;**
2. **Minutes of the Regular Board Meeting Held Monday, January 3, 2022;**
3. **Audit Demands Check Nos. 161900 – 162011 for Dec. 23, 2021 – Jan. 6, 2022; and**
4. **Quarterly Expense Reimbursement Disclosures (Oct. 1 – Dec. 31, 2021).**

ACTION AGENDA

5. Make Findings Necessary to Continue Teleconferenced Board Meetings Pursuant to Assembly Bill 361 (AB 361):

The Board must make specific findings at least every thirty (30) days thereafter making initial findings. The Board must find that it has reconsidered the circumstances of the State of Emergency and that the State of Emergency continues to directly impact the ability of the members to meet safely in person or that state and local officials continue to impose or recommend measures to promote social distancing.

Staff recommends that the Board adopt a motion making the following findings and determinations: (a) That the proclaimed COVID-19 State of Emergency remains in effect and that the Board has reconsidered the circumstances of the COVID-19 State of Emergency; (b) That state or local officials continue to impose or recommend measures to promote social distancing; and (c) That, for the next 30 days, District Board meetings shall be held pursuant to the provisions of Government Code §54953(e) to ensure the health and safety of the Board, staff and the public.

Action: Upon motion by Ferro, seconded by Smith; staff's recommendation to make findings pursuant to AB 361 authorizing the continued use of virtual meetings passes unanimously.

6. San Diego County Vehicle Miles Traveled (VMT) Policy Impact Discussion:

General Manager Arant provided the Board with an overview of the proposed revised Vehicle Miles Traveled (VMT) Policy and its potential negative financial impact on the District. In February the San Diego County Board of Supervisors will consider a state-mandated change to the way the County assesses the traffic impacts based on miles traveled and ultimately determines required mitigation measures for new development in the unincorporated areas of the County. Under the existing policy, the Vehicle Miles Traveled (VMT) generated by a new development are compared to miles traveled in the unincorporated areas of the county, where there would likely be higher average miles traveled. The new policy requires the miles traveled created by new development in an unincorporated area to be compared to the regional average, including VMT in incorporated areas. The new policy could essentially impose a building moratorium in areas like Valley Center, specifically impacting the North and South Village Wastewater Expansion Project stated Mr. Arant

Over the last eight years, the District has taken on the financial obligation, with the State Water Resources Control Board (SWRCB), to expand the treatment capacity of the Woods Valley Ranch Water Reclamation Facility and build the systems to serve the wastewater needs of the Valley Center's North and South Villages. The Villages were created with the last County General Plan Update and contain land use densities requiring wastewater service; in response, the District planned, designed and built an expansion of the Woods Valley Wastewater Treatment Facility to serve those approved densities. Because of the updated zoning, VCMWD began expansion of treatment capacity from 75,000 gpd to 275,000 gpd, developed of a 16 MG seasonal storage facility, and installed a collection system to connect properties in both the North and South Villages to the treatment plant.

At this time, only 110 of the 1247 capacity units made available by the expansion project are connected to the plant with 400 more currently under construction in the Park Circle

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Project to be connected in the near future; leaving 737 units unconnected (roughly 60% of the available capacity). Developers and investors who own the majority of this unentitled and unconnected capacity have expressed concern to District staff that if the County adopts the VMT Policy with the Region-wide Average Standard, it will be very difficult for them to move forward with their respective developments, due to the potential high costs of traffic mitigation.

If those developers/property owners' ultimately default on their annual obligations, the District has a full faith credit obligation to the SWRCB to make the annual loan payments from any funds available (including General Fund water revenues). This would mean the District either must reduce its operations and water capital improvement program by roughly \$1,000,000 per year, and/or shift that additional burden to other ratepayers, with the potential legal and political consequences.

In good faith, VCMWD (serving an unincorporated community under county jurisdiction) obligated itself financially to plan, build, and now operate infrastructure to serve properties based upon land use determinations by the County of San Diego. Given the facts and circumstances in this case, staff expressed that properties within the Valley Center North and South Villages (which are obligated to the North South Wastewater Expansion Project) should be exempted from the application of the new VMT mitigation requirements (expressed in Resolution No. 2022-02).

Action: Upon motion by Ferro, seconded by Babineau; staff's motion to approve the following Resolution passes unanimously:

RESOLUTION NO. 2022 – 02

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE VALLEY CENTER
MUNICIPAL WATER DISTRICT REQUESTING THE SAN DIEGO COUNTY
BOARD OF SUPERVISORS BE COGNIZANT OF AND RESPONSIVE TO FINANCIAL
HARDSHIPS WHICH RESULT TO THE DISTRICT WITH ADOPTION
OF THE REVISED VEHICLE MILES TRAVELED (VMT) POLICY**

Was adopted by the following vote, to wit:

AYES: *Directors Polito, Ferro, Holtz, Smith, and Babineau*
NOES: *None*
ABSENT: *None*

7. Approval of Audit Firm Request for Proposal and Overview of the Selection Process:

An overview of the audit firm Request for Proposal (RFP) and selection process was presented by Director of Finance and Administration Pugh. At the April 1, 2019 Board Meeting, the Board extended the contract with audit firm Leaf & Cole LLP, to conduct the District's annual audit for three fiscal years (2019 through 2021). It was stipulated that when the contract terminated, an RFP to solicit proposals from auditing firms to provide audit services would be completed. With the conclusion of the audit for fiscal year ending on June 30, 2021, the current contract for auditing services has expired.

A brief review of the selection process was given by Mr. Pugh. The selection process begins with preparation of the RFP, preparation of a qualified list of firms to solicit

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proposals from, evaluation of the returned proposals (verifying that responding firms have met all of the requirements and understand the complete scope of work to be performed), select firms to be interviewed, audit selection committee will interview prospective firms; resulting in the award of the auditing services contract. The RFP for audit services was approved by the Board, with President Polito appointing Directors Smith and Ferro to assist in the audit firm selection process.

Action: Upon motion by Smith, seconded by Babineau; motion to approve the RFP for audit services has been unanimously approved.

INFORMATIONAL AGENDA

8. Overview of Proposed Increases in Water Meter Capacity and Annexation Charges:

Proposed increases in Water Meter Capacity (including Specific Benefit Area Charges) and Annexation Charges was presented by District Engineer Grabbe. Meter Capacity Charges are collected for new meters purchased from the District. The last adjustment to Meter Capacity Charges and Annexation Charge was approved in December 2020. Staff's recommendations are based on estimated water system and non-facility asset values as of June 30, 2021. Modifications to the approach since last year include the following changes:

- Reduced the number of Equivalent Meters to account for reduced water revenues contributed to capital improvements associated with Inactive Meters;
- Detachment of Meadowood Subdivision; and
- Recategorizing Right-of-Way acreage as Exempt from taxes and availability charges.

Staff proposed an increase in the Meter Capacity Charges of approximately 5.9%, from \$4,950 to \$5,242 for a ¾-inch meter.

An Incremental Component to the Water Meter Capacity Charge is added for projects that fit one of two of the following criteria: 1) Projects constructed by the District that benefit future connections in a specific area, or 2) Contributed Capital Projects (Developer Projects with Reimbursement Agreements) that benefit future connections in a specific area. In situations where an Incremental Component applies, a Specific Benefit Area (SBA) is established and a Specific Benefit Area Capacity Charge (SBACC) is separately approved; conceptually during the project approval process, based on estimated project costs (with final approval after project is completed, when all costs are known). The Specific Benefit Area Charge is added to the Meter Capacity Charge for new meters, only for properties within the SBA. Staff recommended a 4.4% increase in the SBA Charge, based on the Engineering News Record Construction Cost Index and an additional year of depreciation.

Annexation Charges are collected from properties requesting annexation to the District. Property owners outside of the District have not paid Availability Charges or tax revenues to the District, and as such, would need to buy-in to the value attributed to those revenue sources to be on an equal basis as customers within the District. An increase in the Annexation Charge of 10.2%, from \$1,210 to \$1,334-acre, was also proposed. There will be a public hearing on February 7, 2022 to consider increases in water meter capacity and annexation fees was requested.

Action: No action required, informational item only.

9. Overview of the Proposed Orchard Run Lift Station (ORLS) Assessment District 2012-1 (AD 2012-1) Funding:

Proposed Assessment District 2012-1 (AD 2012-1) indebtedness for funding AD 2012-1's share of the Orchard Run Lift Station (ORLS) and Forcemain, was presented for review by District Engineer Grabbe. The Woods Valley Ranch Wastewater Expansion Project consisted of the following projects: South Village Collection System, Charlan Road Seasonal Storage Facility, Woods Valley Ranch Phase 2 Expansion, North Village Collection System and Orchard Run Lift Station Construction.

The service area for the Orchard Run Lift Station includes Community Facilities District 2020-1 (CFD 2020-1), consisting of the Park Circle East/West projects and multiple properties within AD 2012-1. The ORLS project has a total budgeted cost of \$4,550,000; shared between the AD 2012-1 and CFD 2020-1. 84.5%, or approximately \$3,845,000, is the responsibility of CFD 2020-1, and is being funded by Developer Advances and ultimately a CFD 2020-1 bond. The AD 2012-1 share of the ORLS project is 15.5% of the total project cost (based on the lift station capacity allocation), or approximately \$705,000, and should be funded by AD 2012-1. The amount is too small to process as a public bond sale, and staff recommended a loan from the Woods Valley Ranch Reclamation Facility Replacement Reserve.

In May 2015, AD 2012-1 was authorized as the funding mechanism for the North Village Collection System (NVCS), ORLS, and North Village Lift Station (NVLS) projects. Through private placement of a \$4.035M Series 2018 Limited Obligation Improvement Bond (NV Bond), the District funded the design and construction of the NVCS Improvements and design of the two lift stations. An additional \$186,000 is being requested for the Old Road Forcemain construction and ORLS design costs not covered by the NV Bond.

With home construction complete in the Bear Peak development and rapidly progressing in the Park Circle developments, the District initiated construction of the ORLS. On October 27th the District received bids and awarded the construction contract at the November 15, 2021 Board Meeting. A Notice to Proceed on the construction contract was issued to the contractor on January 5, 2022.

Taking the lead in determining the proper form of debt instrument and interest rate, as well as preparation of necessary documentation for Board approval, will be the District's Municipal Advisor, Feldman-Rolapp and Associates, and Legal Counsel, Best Best Krieger Law.

Action: No action required, informational item only.

10. Overview of Proposed Woods Valley Ranch Water Reclamation Facility – Phase 3 Capacity Charges:

Background information on the Woods Valley Ranch Reclamation Facility (WVRWRF) Phase 3 Expansion (including a System Development Charge and a Buy-in to the Phase 1 and Phase 2 Improvements) and capacity charge methodology, was presented for review and discussion by District Engineer Grabbe. The proposed capacity charges are for participants in a future WVRWRF Phase 3 Expansion Project.

All available capacity is allocated to the Woods Valley Ranch development and properties that participated in the WVR Wastewater Expansion Project (Phase 2 Expansion Project); currently 1,527 Equivalent Dwelling Units (EDU) in the WVRWRF. Allocation of capacity above this current level will require the construction of additional facilities (as described

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and identified in the WVRWRF Master Plan); these facilities would constitute a Phase 3 Expansion Project. In addition to the construction of the Phase 3 Expansion Project, certain other capacity charges (including a System Development Charge and a Buy-in to the Phase 1 and Phase 2 Improvement) would be required. The Wastewater capacity requirements of the Park Circle East/West developments will require construction of the Orchard Run Lift Station and an additional 219 EDUs of capacity above the current capacity of the WVRWRF. The additional capacity requirement will require the construction of a Phase 3 Expansion Project.

Funding for the ORLS, the Phase 3 Expansion Project, and these capacity charges are financially secured in the formation of Community Facilities District No. 2020-1 (CFD 2020-1); bonds issued for these costs are repaid from the special taxes levied on the properties within CFD 2020-1. There are two series of limited obligation improvement bonds currently planned; the Series 1 Bond is intended to fund the construction of the ORLS and the proposed capacity charges applicable to the Park Circle East/West development, the Series 2 Bond would be issued at a later date to fund the construction of the Phase 3 Expansion Project when it is needed.

The following is a discussion of the capacity charges that would apply to the participants in a Phase 3 Expansion Project:

Phase 1 Facility Reimbursement:

The Phase 1 Facility (the original Woods Valley Ranch Water Reclamation Facility) was constructed by Newland Communities at a cost of \$12M. The facility consisted of a Membrane Biological Reactor (MBR) treatment process with sufficient capacity for the 270 lot Woods Valley Ranch Subdivision and golf course. While the MBR's capacity was limited to the development, several components of the Phase 1 Facility provided a benefit to the future expansion phases; land costs, site improvements, control building, offsite access improvements, chlorine contact tanks, etc.

The District entered into a reimbursement agreement with Newland Communities to assess the future phases and the appropriate share of the Phase 1 Facility costs. The share is calculated using the same Replacement Costs New Less Depreciation (RCNLD) asset valuation methodology used for other capacity charges; with initial reimbursement for the Phase 2 Expansion Project just over \$2,700 per EDU.

System Development Charge:

The System Development Charge (SDC) is a buy-in to the WVRWRF capital assets and improvement reserves and the facilities constructed using those reserves. The Phase 2 SDC was established in August 2018 at \$2,202 per EDU. The original participants in the Phase 2 Expansion Project (1095 EDUs) funded this charge through Standby Fees paid prior to completion of the Phase 2 Facility with the balance deducted from the property's participation deposit. The Phase 2 SDC for the additional 152 EDUs is intended to be funded from the CFD 2020-1 Series 1 Bond, along with the SDC established for the Phase 3 Expansion Project for the 219 Phase 3 EDUs. The Phase 2 SDC consisted of the following four asset components (*the same four asset components will be evaluated for the Phase 3 Expansion Project*):

- System upgrades,
- Replacement reserve,
- Seasonal storage land purchase, and
- Capital improvement funds.

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Phase 2 Facility Reimbursement:

The Collection facilities were sized for the Park Circle East/West development's ultimate capacity and essentially no oversizing was included in the WVRWRF Phase 2 Expansion Project. As a result of ongoing water conservation, the average flow rate per EDU generated by the wastewater customers had decreased. Since the initial design, average flow rates have decreased from 250 gpd per EDU to 200 gpd per EDU to the current 175 gpd per EDU. An additional 152 EDUs of available capacity were added and allocated to the Park Circle East/West development, with the reevaluation of the WVRWRF capacity. This resulted in an overall reduction in cost per EDU for all the participants, with the Park Circle East/West development's total cost increasing due to its additional 152 EDUs. No capacity charge for Phase 2 Facility Reimbursement was proposed.

Action: No action required, informational item only.

11. Overview of Proposed Permanent Water Service Discontinuance Policy:

Proposed revisions to Administration Code Article 160 were presented for review by Senior Engineer Lyuber. Board of Directors adopted the inactive meter charge at the Public Hearing held on January 3, 2022. The charge will become effective on February 1, 2022 and will apply to all meters that have readily available service. Staff recognized that some customers may no longer need their inactive meters and will want options to avoid paying the charge. In response, the proposed changes will facilitate implementation of *Permanent Service Discontinuance* for those customers that no longer desire to retain readily available service to their inactive meter(s).

Mr. Lyuber explained that regardless of water usage the District is responsible for maintaining the service lateral from the water main to the meter location, as well as the overall system to ensure service and capacity are readily available at all times. Therefore, the District continues to incur expenses on active and inactive meters as long as service is readily available. Discontinuing the service will remove its connection and forfeit its reserved system capacity, making it no longer readily available.

The proposed Administrative Code changes establishes formal criteria that will facilitate Permanent Service Discontinuance. The following items were described that will be reflected in the Code changes:

1. The legal property owner shall submit a letter requesting permanent discontinuance, accompanied with an administrative fee (currently proposed at \$500);
2. An agreement shall be executed between the District and the property owner, to be notarized and recorded against the property; and
3. The property owner will be responsible for costs associated with disconnecting and abandoning the service lateral. Costs are proposed at:
 - \$5,400 when work is within a heavily trafficked area, or
 - \$3,700 when traffic control is not needed.

Once the above is satisfied, the inactive charge will no longer apply.

Action: No action required, informational item only.

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GENERAL MANAGER'S AGENDA

12. General Information:

General Manager Arant briefly reported on the most recent Water Supply Levels.

Action: No action required, informational item only.

DISTRICT GENERAL COUNSEL'S AGENDA

General Counsel de Sousa reported on the FPPC Form 700, reminding the Board of the April 1, 2022 deadline.

Action: No action required, informational item only.

CLOSED SESSION

At any time during the regular session, the Board may adjourn to closed session to consider litigation, personnel matters, or to discuss with legal counsel matters within the attorney-client privilege. Discussion of litigation is within the attorney-client privilege and may be held in closed session. *Authority: Government Code Section 54956.9.*

13. A Closed Session was Called by President Polito at 4:28 p.m., Held Pursuant to:

- **Government Code §54957 - Public Employee Performance Evaluation:**
Unrepresented Employee: *General Manager*
- **Government Code §54957.6 - Conference with Labor Negotiators:**
Agency Designated Representatives: *Board of Directors*
Unrepresented Employee: *General Manager*

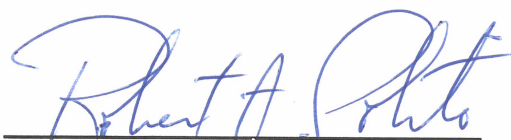
RECONVENE

Action: The Board came out of closed session at 5:04 p.m. with no reportable action.

ADJOURNMENT

Action: Upon motion by Smith, seconded by Babineau; motion passes unanimously, the regular meeting of the Board of Directors was adjourned at 5:05 p.m.

ATTEST:



Robert A. Polito, President

ATTEST:



Kirsten N. Peraino, Secretary