

VALLEY CENTER MUNICIPAL WATER DISTRICT

Regular Board Meeting

Monday, March 20, 2023 – 2:00 P.M.

Place: Board Room

29300 Valley Center Road; Valley Center, CA 92082

The Valley Center Municipal Water District Board of Directors' meeting was called to order by President Polito at 2:00 PM, via teleconference and in-person. 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 remotely clearly, and that all votes would be taken by a roll call vote pursuant to the provisions of the Brown Act. The meeting was also livestreamed.

ROLL CALL

Board Members Present: *President Polito, Vice President Ferro (arrived at 2:33 p.m.), Director Smith, and Director Ness.*

Board Members Absent: Director Holtz

Staff Members Present: *General Manager Arant, Director of IT Pilve, District Engineer Grabbe, Director of Finance and Administration Pugh, Director of Operations and Facilities Lovelady, Manager of Accounting Velasquez, Senior Engineer Lyuber Executive Assistant/Board Secretary Peraino, Project Manager Carrillo, General Counsel de Sousa, and Federal Consultant Representative Ike from HGR present in-person.*

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.

CONSENT CALENDAR

1. **Minutes of the Regular Board Meeting Held Monday, March 6, 2023; and**
2. **Audit Demands for Check Nos. 165583 – 165667 from February 24 thru March 9, 2023.**

Action: Upon motion by Smith, seconded by Ness; and carried with three (3) affirmative votes, the previously listed consent calendar items were approved.

CUSTOMER APPEALS

3. **Customer Appeal of Fixed Water and Wastewater Charges:**

The Director of Finance and Administration Mr. Pugh, explained that the District received a letter dated February 3, 2023 from Mr. Padmanabha, challenging the fixed charges versus the charges for usage consumed. Mr. Padmanabha is asking that the fixed charges be eliminated or reduced for the period of December 31, 2022 through January 31, 2023. Mr. Padmanabha stated that there are only two adults and a baby in the house and that the consumption amounted to only \$28.94 against a total of \$158.00.

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Upon receiving Mr. Padmanabha's refund request, staff sent a denial letter detailing the fixed charges. Staff received an email from Mr. Padmanabha dated February 23, 2023, requesting to be heard by the Board to appeal the water bills in question (noting that Mr. Padmanabha was not present to address the Board).

Action: Upon motion by Smith, seconded by Ness; motion approving staff recommendation to deny the customer appeal to eliminate or reduce monthly fixed charges, was approved with three (3) affirmative votes.

4. Response to Hilda Elorza Water Meter Application – Comments from the March 6, 2023 Regular Board Meeting:

At the March 6, 2023 Board Meeting, the Board heard public comment during the open public comment period, concerning outstanding fees/charges for water service to APNs 128-480-14, -15, and -16. Staff agreed to report back to the Board at the next regular Board Meeting with more information on the request. An overview of communication between staff and the referenced APNs was provided by Senior Engineer Lyuber.

- 1992: Parcels formed and covenant established;
- March 2015: Application initiated, \$43,584 collected;
- 2017-18: Ownership changed;
- July 2019: Ownership changed again, Mrs. Elorza contacted District as the new owner;
- Aug. 2019: Correspondence with Mr. Krusheski;
- 2019-2022: Mrs. Elorza worked on satisfying covenant and easement;
- Mar 2023: All other conditions met, current balance due: \$19,401.

A review of the pertinent articles in the District's Administrative Code was given, focusing on Section 160.2 (b) *Water Service Applications*, which states "At the time application for water service is submitted to the District, the applicant shall provide all of the following:

1. Total payment of all costs for and related to meter service connections (Reference Sections 160.4, 160.12 and 160.20).
2. Proof of ownership of the parcel to be served (Grant Deed or Title Policy) when documents to be recorded by the District are required.
3. Proof of easement that may be utilized by the applicant if the applicant's property does not adjoin the District's right-of-way (grant deed, title policy). A notice indicating the meter is off site and may be relocated (per Section 160.8) will be shown on the application.
4. Service application shall be signed by owner/agent acknowledging conditions of service. If the Applicant is not the owner of record, the Applicant shall provide written consent to act on behalf of the property owner of the parcel subject to the requested water service action."

In addition, Mr. Lyuber discussed Section 160.4, which reiterates that regardless of the situation, fees in full are due at the time of connection. The District is constantly investing in its assets through capital improvements and a large portion of the charges are capacity fees (which are based on the asset value of the District), noted Mr. Lyuber. Because of this, it is important to collect fees based on current asset values in order to maintain equity and ensure everyone is paying their fair share, at the time they connect to the system.

The Board heard public comment from Mr. Kuchinsky (attorney for Ms. Hilda Elorza), who spoke on behalf of his client. It was requested that staff honor the existing contract, operative and in place as established 8 years ago, and not at the current rates.

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Staff feels that the information provided in the Board Report supports the District's position in requiring Mrs. Elorza to pay the balance of the full cost at the time of installation in the amount of \$19,401 for water meter installation to APNs 128-480-14, -15, and -16.

Action: Upon motion by Smith, seconded by Ness; motion approving staff recommendation to enforce the District's Administrative Code requiring additional fees and charges to be paid prior to releasing meters for installation was approved with four (4) affirmative votes.

ACTION AGENDA

5. Adoption of Resolution Approving the District's Statement of Investment Policy and Renewing the Authority Delegated to the Treasurer:

Director of Finance and Administration Pugh facilitated a review of the District's investment policy (as required by the District's Administrative Code §50.1(j)); as well as, a review of the investment authority delegated to the treasurer to invest and reinvest District funds, (as required by Government Code §53607 and in the District's Administrative Code §40.6). Both items must be reconfirmed annually by the Board. The primary goals of the policy are: first, preservation of capital and second, to maintain enough liquidity to meet our cash flow requirements. After these goals, investment income is considered, stated Mr. Pugh.

Staff recommended approving the District's Statement of Investment Policy without modification and renewing the authority delegated to the Treasurer to invest and reinvest District funds.

Action: Upon motion by Ness, seconded by Smith; the following Resolution was approved with four (4) affirmative votes:

RESOLUTION NO. 2023-09

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE VALLEY CENTER
MUNICIPAL WATER DISTRICT TO APPROVE THE STATEMENT OF
INVESTMENT POLICY AND TO RENEW THE DELEGATION
OF INVESTMENT AUTHORITY TO THE TREASURER OF THE DISTRICT**

was adopted by the following vote, to wit:

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

AND

Action: Upon motion by Ferro, seconded by Ness; the following Ordinance was approved with four (4) affirmative votes:

ORDINANCE NO. 2023-03

**ORDINANCE OF THE BOARD OF DIRECTORS OF
THE VALLEY CENTER MUNICIPAL WATER DISTRICT
AMENDING THE ADMINISTRATIVE CODE TO PROVIDE
FOR CHANGES IN THE STATEMENT OF INVESTMENT POLICY**

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was adopted by the following vote, to wit:

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

6. Adoption of Resolution Approving Change Order #4 to the Construction Contract with CCL Contracting, Inc. for the Gordon Hill Pipeline Replacement Project:

A brief overview of the Construction Contract with CCL Contracting, Inc., for the Gordon Hill Rd. Pipeline Replacement Project ("Project"), was given by Senior Engineer Lyuber. The Project scope includes the replacement of approximately 4,700 linear feet of 12-inch diameter buried polyvinyl chloride (PVC) potable waterline including valves, water services, and appurtenances within Gordon Hill Road (*Private*), between Old Castle Road (*Public*), and Welk View Drive (*Private*). The Project replaces aging existing 8- and 10-inch steel waterlines and realigns portions out of hard-to-access easements. Mr. Lyuber noted that this project is the second in the trilogy of projects funded by the State Revolving Fund (SRF) loan.

An overview of the previously approved change orders was given (for a total of \$130,516). Change Order No. 1 was administrative only, with zero cost and no time impact. Change Order No. 2 had a financial increase of \$91,645 with no time impact. Lastly, Change Order No. 3 had a \$38,871 increase with an addition of 5 days.

Change Order No. 4 is a paving upgrade with a request for a \$138,141 increase, with no impact on time. The road was significantly impacted by construction activity compared to its pre-construction condition, stated Mr. Lyuber; noting the original project scope included repavement of only a 4-ft-wide area over the trench line. In order to adequately return the road to its pre-existing construction condition, a 2-inch thick full road-width overlay would be required.

Staff recommended the Board adopt Resolution No. 2023-10, approving Change Order No. 4 with CCL Contracting, Inc. in the amount of \$ 138,141 for the Gordon Hill Road Pipeline Replacement Project.

Action: Upon motion by Smith, seconded by Ferro; the following Resolution was approved with four (4) affirmative votes:

RESOLUTION NO. 2023-10

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
VALLEY CENTER MUNICIPAL WATER DISTRICT APPROVING
CHANGE ORDER NO. 4 TO THE CONSTRUCTION CONTRACT
WITH CCL CONTRACTING, INC. FOR THE GORDON HILL ROAD
PIPELINE REPLACEMENT PROJECT [PROJECT NO. 01-06-78-51412]**

was adopted by the following vote, to wit:

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

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7. Adoption of Resolution Approving a Mid-Year Budget Adjustment for the CFD 2020-1 Series 1 Bond Issuance:

An update on the planning and implementation of the Community Facilities District 2020-1 (CFD) Series 1 Bond was provided by District Engineer Grabbe. The scope of this effort included not only preparation for the issuance of the Series 1 bond but also confirmation of the funding sources and securities for the Phase 3 improvements. As a result of the delays, additional costs were incurred by staff and the financial team not anticipated in the original agreements and additional funding in the amount of \$150,000 is requested. The majority of the project cost is for District staff time with the balance divided among the various finance team consultants.

The project account was established in the FY 2021-22 Annual Budget to track costs associated with the planning and implementation of the CFD Series 1 Bond Sale, in the amount of \$150,000. The planning expenses for issuance costs of the bond were to be funded from the CFD's net special tax proceeds and reimbursed from the Series 1 bond. The Series 1 Bond sale was initially planned for the Fall of 2021, but has since been delayed until June 2023.

In late 2021, the bond underwriter requested that we obtain SWRCB authorization to issue the CFD bond on parity with the SRF loans. Since that time staff, BBK, Fieldman-Rolapp and Integra Realty have been working to obtain that authorization resulting in significant additional costs. As a result of the delays, additional costs not originally anticipated were incurred by staff and the financial team and additional funding in the amount of \$150,000 was requested.

Funding for the additional \$150,000 expense authorization is available from the CFD Special Fund established for the cumulation of special taxes collected in excess of the CFD's current debt obligations. Currently, through FYE 2023, there is approximately \$735,000 available in the Special Fund. It was noted that the issuance and planning expenses funded from the Special Fund could be reimbursed from the bond proceeds.

Action: Upon motion by Ness, seconded by Smith; the following Resolution was approved with four (4) affirmative votes:

RESOLUTION NO. 2023-11

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
VALLEY CENTER MUNICIPAL WATER DISTRICT AMENDING THE
FY 2022-23 ANNUAL BUDGET TO APPROPRIATE ADDITIONAL
FUNDING FOR THE COMMUNITY FACILITIES DISTRICT NO. 2020-1
SERIES 1 BOND ISSUANCE PLANNING COSTS**

was adopted by the following vote, to wit:

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

GENERAL MANAGER'S AGENDA

8. General Information:

General informational items were reported on by General Manager Arant.

Action: Informational item only, no action required.

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BOARD OF DIRECTORS' REPORTS ON MEETINGS ATTENDED

Director Smith reported on his attendance at the San Diego County Local Agency Formation Commission's Special District Advisory Committee Meeting on Friday, March 17, 2023.

CLOSED SESSIONS

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 §54956.9.*

ADJOURNMENT

Action: Upon motion by Ferro, seconded by Ness; motion passes with four (4) affirmative votes, the regular meeting of the Board of Directors was adjourned at 4:10 PM.

ATTEST:

ATTEST:

Robert A. Polito, *President*

Kirsten N. Peraino, *Secretary*

Approved at a regularly scheduled Board Meeting on Monday, April 3, 2023