

# **VALLEY CENTER MUNICIPAL WATER DISTRICT**

## **MINUTES**

### **Regular Meeting of the Board of Directors**

Monday, July 17, 2023 – 2:00 P.M.

The Valley Center Municipal Water District Board of Directors' meeting was called to order by President Polito at 2:00 PM. In the Board Room at 29300 Valley Center Rd.; Valley Center, CA 92082. Additionally, the Board Meeting was livestreamed for those who wish to observe remotely.

### **ROLL CALL**

**Board Members Present:** *President Polito, Vice President Ferro, Director Smith and Director Ness.*

**Board Members Absent:** *Director Holtz*

**Staff Members Present:** *General Manager Arant, District Engineer Grabbe, Director of Finance & Administration Pugh, Director of Operations and Facilities Lovelady, Manager of Accounting Velasquez, Project Manager Carrillo, Project Manager Powers, Senior IT Specialist Day, Executive Assistant/Board Secretary Peraino, and Federal Consultant Howells (HGR) present in-person. General Counsel de Sousa present remotely.*

### **PUBLIC COMMENT(S)**

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 ITEM(S)**

1. **Minutes of the Regular Board Meeting Held Monday, June 19, 2023;**  
\* *Board Secretary noted correction – Agenda incorrectly stated June 5, 2023*
2. **Survey of Auditing and General Counsel Service Costs and Notification of Annual Contractual Fee Increase from General Counsel;**
3. **Audit Demands for Check Nos. 166402 – 166613 from June 9, 2023 thru July 6, 2023 and Wire Disbursements for the Month Ending June 30, 2023;**
4. **Expense Reimbursement Disclosures (4/1/2023–6/30/2023) per Government Code Section 53065.5;**
5. **Treasurer's Report for Month Ending May 31, 2023; and**
6. **Approval of Resolution No. 2023-22 Correcting a Typographical Error in Resolution No. 2023-21.**

**Action:** Upon motion by Smith, seconded by Ness; and carried with four (4) affirmative votes, the previously listed consent calendar items were approved.

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**PUBLIC HEARING ITEM(S)**

**7. Public Hearing Adopting Resolution No. 2023-23 Approving and Levying the Previously Approved Woods Valley Ranch Water Reclamation Facility Service Area Sewer Service Charges (Service Area 1), Sewer Service Charges (Service Area 2), and Grinder Pump Maintenance Charges (Service Area 2) on the Property Tax Roll for FY 2023-2024:**

A public hearing to consider levying the approved Woods Valley Ranch ("WVR") Water Reclamation Facility Service Area Sewer Service Charges (Service Area 1), Sewer Service Charges (Service Area 2), and Grinder Pump Maintenance Charges (Service Area 2) on the Property Tax Roll for FY 2023-2024, was opened by President Polito at 2:07 PM.

District Engineer Grabbe explained that the WVR Water Reclamation Facility Service Area is divided into two: Service Areas 1 and 2. Service Area 1 encompasses the 270-lot WVR Subdivision and Golf Course (allocated a 10 EDU capacity demand), resulting in a total capacity demand of 280 EDUs. Service Area 2 encompasses the parcels participating in the WVR Wastewater Expansion Project, with a total capacity demand of 1,465.5 EDUs.

Sewer Service Charges provide for the operation, maintenance, and ultimate replacement of District-owned & operated collection, treatment & seasonal storage facilities and is levied on those properties connected to the wastewater collection system as of June 30, 2023. Grinder Pump Maintenance Charge provides funding for maintenance, emergency call-out & repair services, as well as the replacement of the pump unit at the end of its service life. On-site private grinder pumps are required for properties connected to the Low-Pressure Sewer Collection System in Service Area 2. As of June 30, 2023, there were 25 units connected (15 Simplex and 10 Duplex units).

Staff reported that there will be no increase in the Sewer Service Charge from the previous year (\$1,183.20 per EDU), however, a 5.2% increase in the Grinder Pump Maintenance Charge was approved in FY 2022-2023. Staff recommended adoption of Resolution No. 2023-23 levying the sewer service charges on the property tax roll for FY 2023-2024. Charges for any mid-year connections would be collected on the monthly water bill until the next fiscal year.

WVR sewer service charges (which include the grinder pump maintenance charge) are levied on the property tax roll. The collection of service charges is heavily regulated and requires a public hearing to consider collecting the service charges with the San Diego County property taxes; if there is a majority protest, the approved service charges would be collected on the monthly water bill. Mr. Grabbe reported that two notices were published in the local paper advertising this public hearing. An opportunity was provided for public comment. The Board Secretary noted that no comments were received and determined that there was no majority protest. The public hearing was closed at 2:14 PM.

**Action:** Upon motion by Ferro, seconded by Smith; staff's motion to approve the following Resolution passed with four (4) affirmative votes:

**RESOLUTION NO. 2023-23**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE VALLEY CENTER  
MUNICIPAL WATER DISTRICT PLACING THE WOODS VALLEY RANCH  
WATER RECLAMATION FACILITY SERVICE AREA ANNUAL SEWER SERVICE CHARGE  
ASSESSMENTS & ANNUAL GRINDER PUMP MAINTENANCE CHARGE ASSESSMENTS  
FOR FY 2023-2024 ON PROPERTY WITHIN THE SERVICE AREA ON THE  
SAN DIEGO COUNTY SECURED PROPERTY TAX ROLL**

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Was adopted by the following vote, to wit:

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

**ACTION ITEM(S)**

**8. Adoption of Resolution No. 2023-24 Approving and Levying the Approved Woods Valley Ranch Water Reclamation Facility Service Area Sewer Standby Fees (Service Areas 1 & 2) on the Property Tax Roll for FY 2023-2024:**

Sewer standby fees are levied on parcels in the service area that have a capacity reservation, but are not connected to the wastewater collection system as of the close of the fiscal year, stated District Engineer Grabbe. These fees provide funding for certain fixed-cost maintenance items, operation support, and a replacement reserve contribution. This is necessary to maintain a parcel's commitment until it is developed and connected. Additional Parcels were connected to the Collection System in the prior year lowering the Total Sewer Standby Fee Assessments for FY 2023-2024 but increasing the Sewer Service Charge Revenue.

- Service Area 1 – Encompasses the 270-lot Woods Valley Ranch Subdivision and Golf Course. The Golf Course is allocated a ten EDU capacity demand, resulting in a total capacity demand of 280 EDUs for Service Area 1. As of June 30, only one lot remains not connected in Service Area 1.
- Service Area 2 – Encompasses the parcels participating in the Woods Valley Ranch Wastewater Expansion Project. With the Phase 3 financial securities previously posted for the balance of the Park Circle project the total capacity demand for Service Area 2 has increased from 1,247 EDUs to 1,465.5 EDUs. As of June 30, 2023, 813.5 EDUs of capacity reservations remain not connected in Service Area 2.

In the past, the Sewer Standby Fee revenue supplemented the Sewer Service Charge revenue supporting a significant portion of the facility's operation expense, stated Mr. Grabbe. This is the first year that the number of connected units provided sufficient revenue to fund the full cost of operation of the reclamation and collection facilities. Staff recommended the Board of Directors continue the current Sewer Standby Fee of \$550.32 per EDU for FY 2023-2024, and direct that the Sewer Standby Fees be collected by the County of San Diego with the property taxes.

**Action:** Upon motion by Smith, seconded by Ness; staff's motion to approve the following Resolution passed with four (4) affirmative votes:

**RESOLUTION NO. 2023-24**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE VALLEY CENTER  
MUNICIPAL WATER DISTRICT PLACING THE WOODS VALLEY RANCH  
WATER RECLAMATION FACILITY SERVICE AREA SEWER STANDBY FEE  
ASSESSMENTS FOR FY 2023-2024 ON PROPERTY WITHIN THE SERVICE  
AREA ON THE SAN DIEGO COUNTY SECURED PROPERTY TAX ROLL**

Was adopted by the following vote, to wit:

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

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**9. Request to Adopt Resolution No. 2023-25 Approving and Levying Annual Assessments for Assessment District No. 2012-1 on the Property Tax Roll for FY 2023-2024:**

Assessment District 2012-1 ("AD 2012-1") was formed to provide financial security and funding for the Woods Valley Ranch Wastewater Expansion Project ("Project"). Annual assessments are to fund the annual debt service payments for the State Water Resources Control Board SRF Loans and the two Limited Obligation Improvement Bonds issued to fund the Project, reported District Engineer Grabbe. Annual assessments totaling approximately \$1.78M started in FY 2016-17 and were based on the estimated loan amounts for the total \$30.735M Project costs and were allocated to the participating properties based on the final Engineers Report dated April 13, 2015, prepared by Koppel and Gruber Public Finance.

Since that time, approval and formation of Community Facilities District No. 2020-1 ("CFD 2020-1") in May 2020 provided additional capacity and participation for the Project; which generated a reduction in the cost per EDU for all participants (beginning in FY 2020-21). In addition, the annual assessment for the participants was further reduced by the allocation of \$724,197 of the Phase 2 Project costs to the facility replacement reserves for the portion of the improvements that were for the sole benefit of Service Area 1 and not required for expanding the capacity of the facility. As a result, a portion of the AD 2012-1 annual debt service (totaling \$45,149) is funded from the Woods Valley Ranch Water Reclamation Facility ("WRF") Replacement Reserves for the remaining life of the SRF Loans.

In the current year, modifications to the assessments included the transfer of 5 EDUs from Benefit Area A to 2 parcels added to the Assessment District, 1 EDU to 1 new parcel in Benefit Area A, and 4 EDUs to 1 new parcel in Benefit Area G. The total AD 2012-1 Indebtedness remains at \$29.508M and has an annual debt service of \$1.844M. Adjustments for administration expenses, the Woods Valley Ranch WRF Replacement Reserve Contribution, and Debt Service Reserve contributions bring the total required assessment amount to \$1.834M.

Staff recommended adoption of Resolution No. 2023-25, approving the annual assessment amounts for AD 2012-1 to fund the annual debt service and annual administration expenses for FY 2023-2024 and placing it as a fixed charge special assessment on the San Diego County Secured Property Tax Roll.

**Action:** Upon motion by Ferro, seconded by Ness; staff's motion to approve the following Resolution passed with four (4) affirmative votes:

**RESOLUTION NO. 2023-25**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE VALLEY CENTER  
MUNICIPAL WATER DISTRICT PLACING FIXED CHARGE SPECIAL ASSESSMENTS  
FOR FY 2023-2024 ON PROPERTY WITHIN ASSESSMENT DISTRICT NO. 2012-1  
ON THE SAN DIEGO COUNTY SECURED PROPERTY TAX ROLL**

Was adopted by the following vote, to wit:

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

**10. Adoption of Resolution No. 2023-26 Approving and Levying Special Taxes for Community Facilities District No. 2020-1 on the Property Tax Roll for FY 2023-2024:**

Community Facilities District No. 2020-1 ("CFD 2020-1") was established to provide financial security and funding for the wastewater capacity improvements needed for the Park Circle

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East/West project. The improvements included assuming the AD 2012-1 indebtedness for the Park Circle Projects' participation in the Woods Valley Ranch ("WVR") Expansion Project, construction of the Orchard Run Lift Station, future expansion of the WVR Water Reclamation Facility, and future construction of additional recycled water seasonal storage and transmission facilities (per the terms & conditions of the CFD Financing Agreement dated May 18, 2020).

Staff recommended a Special Tax totaling \$871,404, the maximum allowable to be levied due to the County of San Diego's total tax rate limitations for the Park Circle projects. The Rate and Method of Apportionment ("RMA") for CFD 2020-1, previously approved by the Board of Directors, set the maximum tax rate for both developed and undeveloped property in each zone in the Park Circle East/West project. As of May 15, 2023, (the cutoff date for determining Developed Property and Undeveloped Property as defined in the RMA), 593 parcels and 1.36 acres of commercial property were developed in CFD 2020-1 and the remaining 6.95 acres (comprising the remaining 41 lots and 1 commercial parcel) were undeveloped.

Such Special Taxes levied on and collected before the issuance of Bonds that are not required to pay administrative expenses of the CFD 2020-1 and debt service on the AD 2012-01 Indebtedness shall be held in a special, discrete fund established by VCMWD for the CFD 2020-1 ("Special Fund"):

• \$516,983	AD 2012-1 Indebtedness
• \$ 28,000	Administrative Expenses
• <u>\$326,421</u>	<u>Special Fund</u>
<b>\$871,404</b>	<b>Total</b>

Staff recommended approving the proposed FY 2023-2024 levy of special taxes, to be collected in the same manner as property taxes, for the parcels in CFD 2020-1.

**Action:** Upon motion by Ferro, seconded by Ness; staff's motion to approve the following Resolution passed with four (4) affirmative votes:

### RESOLUTION NO. 2023-26

#### RESOLUTION OF THE BOARD OF DIRECTORS OF THE VALLEY CENTER MUNICIPAL WATER DISTRICT ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2020-1 (PARK CIRCLE EAST/WEST) OF THE VALLEY CENTER MUNICIPAL WATER DISTRICT LEVYING SPECIAL TAXES TO BE COLLECTED FOR FISCAL YEAR 2023-2024

Was adopted by the following vote, to wit:

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

#### 11. **Adoption of Resolution No. 2023-27 Approving Change Order No. 3 to the Construction Contract with Amp United, LLC. for the San Gabriel No. 1 Reservoir Paint & Recoat Project:**

A brief overview of the Construction Contract with Amp United, LLC. for the San Gabriel No. 1 Reservoir Paint and Recoat Project ("Project"), was given by Project Manager Powers. The Project consists of the surface preparation, structural work, interior coating, exterior painting of the reservoir, and the addition of a second access manway. AMP United, LLC. was awarded the Construction Contract on October 17, 2022, with a total bid of \$1,622,575. An overview of

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the previously approved change orders was given. Change Order No. 1 added 66 calendar days and \$109,076.00 to the contract (approved by the Board on April 3, 2023) and Change Order No. 2 added 12 calendar days and \$49,850.00 to the contract (approved by staff on June 26, 2023 pursuant to Admin Code Section 140.4).

Change Order No. 3 is for 2-inch asphalt overlay on San Gabriel Way which is the access road for the San Gabriel Reservoirs which experienced accelerated wear during the construction of the Project. The total amount of the change order is still under negotiation because construction is still in progress and the extent of repairs will not be known until construction is complete. The change order is expected to be less than \$84,000 and pursuant to the District's Administrative Code, cumulative change order amounts exceeding \$50,000 require Board approval. Funds are available within the current project funding authorization to complete this additional work. In addition, the contractor has requested an additional seven calendar days to complete the work.

Staff recommended the Board adopt Resolution No. 2023-27 authorizing the General Manager to approve Change Order No. 3 in an amount not to exceed \$84,000 and seven (7) additional calendar days to the contract with Amp United LLC. and resulting in a revised total contract amount of \$1,865,291 and a revised contract end date of August 8, 2023.

**Action:** Upon motion by Smith, seconded by Ness; staff's motion to approve the following Resolution passed unanimously:

**RESOLUTION NO. 2023-27**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE VALLEY CENTER  
MUNICIPAL WATER DISTRICT AUTHORIZING THE GENERAL MANAGER TO  
APPROVE CHANGE ORDER NO. 3 TO THE CONTRACT WITH AMP UNITED, LLC  
FOR THE SAN GABRIEL NO. 1 PAINTING AND RECOATING PROJECT  
[PROJECT NO. 01-06-78-51403]**

Was adopted by the following vote, to wit:

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

**12. Adoption of Resolution No. 2023-28 Approving Change Order No. 4 to the Construction Contract with Cass Construction, Inc. for the Lilac Road Pipeline Upsizing Project:**

A brief overview of the Construction Contract with Cass Construction, Inc., for the Lilac Road Pipeline Upsizing Project ("Project"), was given by Project Manager Carrillo. The Project generally consists of replacing approximately: • 6,000 linear feet of 6-inch Asbestos Concrete ("AC") waterline within Lilac Road with 4,200 linear feet of 8-inch PVC waterline from Hideaway Lake Rd to Hunza Hill Terrace; • 1,800 linear feet of 12-inch PVC from Hunza Hill Terrace to Betsworth Road; and • New gate valves, fittings, and appurtenances, as well as roadway restoration affected by construction activity.

Cass was awarded the Contract for Construction on October 4, 2022, with a total bid of \$2,364,994.50. The District has previously approved three change orders to date totaling \$37,386.74 and a total time extension of 26 calendar days. Mr. Carrillo gave an overview of the previously approved change orders: Change Order No. 1 was administrative only, with zero cost and no time impact. Change Order No. 2 The District requested an additional survey for the Right of Way location at each existing water service and appurtenances which added \$6,336.17. Change Order No. 3 consisted of the following requests:

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*Part 1: \$12,474.89 for Time and Material ("T&M") costs for damaging an unmarked utility during trench excavation and a time extension of one (1) calendar day.*

*Part 2: \$18,575.68 and a time extension of two (2) calendar days.*

*Part 3: Cass requested a time extension of twenty-three (23) calendar days for inclement weather through March. This was a zero-cost item.*

Funding for Change Order No. 4 and the additional anticipated costs are available from the project contingencies. Staff recommended the Board adopt Resolution No. 2023-28 approving Change Order No. 4 to the construction contract with Cass in the amount of \$33,463.87 and a 22 calendar-day time extension resulting in a total contract amount of \$2,435,845.11 and a new contract completion date of January 25, 2024.

**Action:** Upon motion by Ness, seconded by Ferro; staff's motion to approve the following Resolution passed with four (4) affirmative votes:

**RESOLUTION NO. 2023-28**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE VALLEY CENTER  
MUNICIPAL WATER DISTRICT APPROVING CHANGE ORDER NO. 4 TO  
THE CONTRACT WITH CASS CONSTRUCTION INC. (DBA CASS ARRIETA)  
FOR THE LILAC ROAD PIPELINE UPSIZING PROJECT  
[PROJECT NO. 01-06-78-51417]**

Was adopted by the following vote, to wit:

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

**13. Adoption of Ordinance No. 2023-09 Setting the FY 2023-24 Fixed Charge Special Assessments for Unpaid Charges for Water and Other Services:**

Adoption of Ordinance No. 2023-09 setting the FY 2023-2024 fixed charge special assessments and unpaid charges for water and other services, was requested by the Manager of Accounting Velasquez. Water Code authorizes the District to add delinquent and unpaid charges for water and other services to the property taxes of the property using the water or service. To go on the tax roll, the delinquency must be unpaid for at least 60 days on July 1, 2023, and have had a lien recorded against the property with the County Recorder. Fifty-four (54) parcels with a delinquency of \$218,276.44 are eligible to go on the tax roll for 2023-2024.

**Action:** Upon motion by Smith, seconded by Ness; staff's motion to approve the following Ordinance passed with four (4) affirmative votes:

**ORDINANCE NO. 2023-09**

**ORDINANCE OF THE BOARD OF DIRECTORS OF THE VALLEY CENTER  
MUNICIPAL WATER DISTRICT PLACING FIXED CHARGE SPECIAL  
ASSESSMENTS FOR 2023-2024 ON PROPERTY FOR UNPAID CHARGES FOR  
WATER AND OTHER SERVICES PURSUANT TO WATER CODE SECTIONS  
72094, 72100, 72102 ON THE SAN DIEGO COUNTY SECURED PROPERTY TAX ROLL**

Was adopted by the following vote, to wit:

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

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**GENERAL MANAGER'S ITEM(S)**

**14. Adoption of Resolution No. 2023-29 Rescinding Resolution No. 2022-23 to Deactivate Provisions of Level 2, Concurring with the General Manager to Deactivate Level 1 of the District's Water Shortage Contingency Plan, and Preserve Implementation of the State Water Resources Control Board Emergency Regulations:**

Thanks to the wet winter and the conservation measures implemented in 2021, the imported water supply and State Water Project reservoir levels have seen a positive shift, resulting in the lifting of many drought-related conservation regulations. The State Water Resources Control Board (SWRCB) Emergency Regulations regarding the implementation of demand reduction actions expired June 10, 2023, Governor Newsom issued Executive Order N-5-23 terminating some of the drought emergency provisions, and the San Diego County Water Authority (SDCWA) Board rescinded Resolution No. 2021-24 on June 22, 2023 deactivating Level 1 and provisions of Level 2 of their Water Shortage Contingency Plan. Now that the majority of the state mandated conservation regulations have been lifted, the District can now contemplate rolling back its drought-related restrictions, explained Board Secretary Peraino.

To understand the progress made since the drought regulations were put in place, a summary of the actions taken by our Board thus far was given by Ms. Peraino. On October 18, 2021, in response to Executive Order N-10-21, the Board concurred with the General Manager in declaring a Drought Response Level 1 of the District's Water Shortage Contingency Plan. On June 6, 2022, in response to Executive Order N-7-22, the Board adopted Resolution No. 2022-23 implementing the demand reduction actions in Level 2 of the District's Water Shortage Contingency Plan.

Considering the recent actions taken by Governor Newsom, the State Water Resources Control Board, and the San Diego County Water Authority, staff recommended adoption of Resolution No. 2023-29: (1) declaring that conditions necessitating increased water conservation are no longer in effect, and (2) rescinding Resolution No. 2022-23, which enacted provisions of the District's Drought Response Level 2, while continuing to comply with the SWRCB Emergency Regulation's prohibition of wasteful water uses, and (3) concurring with the General Manager's intent to deactivate the District's Drought Response Level 1.

**Action:** Upon motion by Ness, seconded by Ferro; staff's motion to approve the following Resolution passed with four (4) affirmative votes:

**RESOLUTION NO. 2023-29**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
VALLEY CENTER MUNICIPAL WATER DISTRICT RESCINDING  
RESOLUTION NO. 2022-23 DEACTIVATING PROVISIONS OF LEVEL 2  
AND CONCURRING WITH THE GENERAL MANAGER TO DEACTIVATE  
LEVEL 1 OF THE WATER SHORTAGE CONTINGENCY PLAN, AND  
PRESERVING IMPLEMENTATION OF THE STATE WATER RESOURCES  
CONTROL BOARD EMERGENCY REGULATIONS**

Was adopted by the following vote, to wit:

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



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**15. San Diego County Water Authority (SDCWA) Board Meeting Summary and Possible Action Regarding AB399 (Boerner) Proposing a Countywide Vote on Detachment from the SDCWA:**

General Manager Arant began his presentation by providing a brief summary of the San Diego County Water Authority Board Meeting Summary for June 22, 2023. The second part of his presentation was to provide the Board with an opportunity to act on AB 399 (Boerner) which proposes to require any detachment from the San Diego County Water Authority ("SDCWA") to be approved by the entire electorate within the SDCWA jurisdictional boundary. Current law only requires an election within the boundary of the detaching agency.

The San Diego Local Agency Formation Commission (SD LAFCO) approved the Fallbrook/Rainbow Detachment on July 10, 2023, with the actual elections on the detachments expected late this year or early 2024. AB 399, urgency legislation, has not yet been approved or signed into law and it is unclear whether AB 399 (if passed) will apply to the recently approved detachments, and will likely be a heavily debated issue.

An overview of the existing SDCWA Voting Structure was given by Mr. Arant. As the legislation moves, there may be an opportunity to seek other amendments to the code, specifically to the voting methodology. Votes at the SDCWA are based on a weighted vote, with votes reflecting the amount of "all in" historical financial contribution to the SDCWA, stated Mr. Arant. The City of San Diego currently has roughly 40% of the weighted vote; in comparison, VCMWD has just under 6%. This voting structure has led to several recent votes which have resulted in an item passing by the weighted vote but was opposed by the majority of the member agencies (i.e. Phase 2 of the Regional Conveyance Project Study). The hope would be to have a voting structure that emphasizes the need for collaboration and compromise on an item to reach a majority of the weighted "all in financial" vote and the "one agency, one vote."

AB 399 has passed the Assembly and will soon go over to the Senate for further action. Options presented for the Board were to:

1. Take "No Action" and remain neutral on the bill: The legislation will likely pass and if it indeed applies to the Detachments, then it will effectively stymie the Detachments. VCMWD and others will not bear the financial impacts anticipated with the detachments.
2. Remain "Neutral" on the main intent of the bill, SDCWA-wide elections on detachment, but seek amendments regarding the voting structure: The legislation will likely pass but VCMWD has an opportunity to make a statement regarding issues with the current SDCWA voting structure. However, making such a statement will not be well received by many SDCWA Member Agencies, including the City of San Diego.
3. Oppose the legislation: If the legislation is defeated, Fallbrook and Rainbow are likely to proceed with affirmative votes for detachment within those districts. In all likelihood, the legislation will pass, but VCMWD has made a statement supporting the self-determination of SDCWA Member Agencies in the realm of detachments from the SDCWA.
4. Support the legislation: The legislation will likely pass and if it actually applies to the recently approved Detachments, then it will effectively stymie the Detachments. VCMWD and others will not realize the financial impacts anticipated with the detachments.

After review and discussion, the Board opted for a fifth option – "not support" and seek amendment to the SDCWA voting structure. While this is an atypical legislative position, it reflects that our Board had different reasons for **not** supporting AB 399. The reasons ranged from out-and-out opposition on the basis that AB 399 would take away a member agency's right to self-determination to conditioning support based on seeking and securing needed

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amendments to the SDCWA voting process. However, as a part of the overall discussion about how AB 399 was introduced, the Board did agree that the SDCWA weighted vote method needs to be changed to a vote requiring a concurrent majority of the weighted vote and a majority of the member agencies voting for a SDCWA Board measure to pass. Currently, votes are determined based solely on a majority of the weighted vote (based on each member agency's all-in historical financial contributions to the SDCWA).

**Action:** Board input and direction was received regarding the District's position on AB399. The Board voted to "not support" AB 399 and seek amendment to the SDCWA voting process.

**16. General Information:**

A review of General Informational items reported on by General Manager Arant.

**Action:** Informational item only, no action required.

**DISTRICT GENERAL COUNSEL'S ITEM(S)**

None

**BOARD OF DIRECTORS' AB1234 REPORTS ON MEETINGS ATTENDED**

None

**CLOSED SESSION ITEM(S)**

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 Smith, seconded by Ness; motion passes unanimously, the regular meeting of the Board of Directors was adjourned at 4:35 PM.

**ATTEST:**

**ATTEST:**

\_\_\_\_\_  
**Robert Polito, Board President**

\_\_\_\_\_  
**Kirsten Peraino, Board Secretary**

**Approved at a regularly scheduled Board Meeting on Monday, August 21, 2023**