

**MINUTES OF A REGULAR MEETING
REGULAR MEETING OF THE BOARD OF COMMISSIONERS
VICTOR VALLEY WASTEWATER RECLAMATION AUTHORITY (VWRA)
October 26, 2017**

CALL TO ORDER: Chair Russ Blewett called the meeting to order at 8:00 am; in Conference Room D at Victorville City Hall, located at 14343 Civic Drive, Victorville California, with the following members present:

**CITY OF HESPERIA
ORO GRANDE (CSA 42) AND
SPRING VALLEY LAKE (CSA 64)
TOWN OF APPLE VALLEY
CITY OF VICTORVILLE**

**Russell Blewett, Chair
Jeff Rigney, Vice Chair

Scott Nassif, Secretary
Jim Kennedy, Treasurer**

VWRA Staff and Legal Counsel:

**Logan Olds, General Manager
Kristi Casteel, Secretary to GM/Board
Piero Dallarda, Legal Counsel (BB&K)
Alton Anderson, Construction Manager
Angela Valles, Director of Finance
Chieko Keagy, Accounting Supervisor
David Wylie, Safety & Communications Officer
Xiewi Wang, Accountant**

**Robert Coromina, Director of Administration
Ryan Love, Lead Operator
Robert Townsend, EC Inspector
Cynthia Germano, Legal Counsel (BB&K)
Mike Koncur, Maintenance Tech
Marcos Avila, Lead Mechanic
Keith Lueken, Operator
Latif Laari, Regulatory & IT Supervisor**

Others Present:

**Nils Bentsen, City of Hesperia
Lori Lamson, Town of Apple Valley
Art Bishop, Town Of Apple Valley
Walter Linn, Rep for Congressman Cook
George Harris, City of Victorville
Nikki Salis, Town of Apple Valley
Amanda Koncur, Resident**

**Kimberly Cox, Helendale
Dean Johnson, Resident
Brian Gengler, City of Victorville
Keith Metzler, City of Victorville
Jana Spruce, Spruce Consulting
Doug Robertson, City of Victorville
Greg Snyder, Town of Apple Valley**

CLOSED SESSION

PUBLIC COMMENTS- CLOSED SESSION AGENDA

Piero Dallarda announced that there was an FPPC complaint filed by one of the employees affected by the reorganization against Commissioner Nassif. To avoid any type of issue arising, and even though he

does not legally need to do so, Commissioner Nassif will be recusing himself from closed session items #1 and #2 .

Chair Blewett asked if there were any comments from the public regarding any item on the Closed Session Agenda. Hearing none, he called for a motion to enter into Closed Session.

Commissioner Rigney made a motion to enter into Closed Session, which was seconded by Commissioner Kennedy and approved by roll call vote.

Chair Blewett: Yes

Commissioner Rigney: Yes

Commissioner Nassif: Yes

Commissioner Kennedy: Yes

REGULAR SESSION

CALL TO ORDER & PLEDGE OF ALLEGIANCE

Chair Blewett called the meeting to order at 9:11 am.

REPORT FROM CLOSED SESSION

Piero Dallarda stated that the Board met in closed session with Commissioner Nassif recusing himself from items #1 and #2 for reasons previously stated. Item #1 addressed by the Board, Conference with Legal Counsel – Labor Negotiations, 54957/54957.6/ 54954.5 (f) of the Government Code Section. The Board discussed Employee Reorganization of Public Employment and Public Employee Release. The Board received a report from the General Manager and the Board indicated in closed session that the reorganization of VVWRA is within the purview and authority of the General Manager and not the Board. The Board does want the General Manager to bring back, once the reorganization takes place, the salary structure/budget structure for Board approval. On #2 Conference with Legal Counsel- Potential Litigation, Government Code Section 54956.9 (d)(2) and 549569 (d) (5) the Board also met and there was no action. There was also no action on items 3, 4, 5, and 6 to be reported.

PUBLIC COMMENTS- REGULAR SESSION AGENDA

There is one public comment for item 21.

ANNOUNCEMENTS AND CORRESPONDENCE:

7. Possible conflict of interest issues

Commissioner Nassif abstained from any disbursements to Napa Auto Parts.

8. VVWRA Receives EPA Green Power Leadership Award

9. Article: Senate Passes Bipartisan Integrated Planning Bill

10. Notice: Proposed Emergency Rulemaking – State Water Resource Control Board

11. Draft Final Cannabis Cultivation Policy and Cannabis General Order

12. General Managers Report

Manager Olds stated that the Nanticoke Interceptor has been completed. Also, Assembly Bill on Bio cremation passed the legislature. Manager Olds requested that if any member agency gets a request to build a bio cremation facility in their area to please let VVWRA know as early as possible in the planning stages. There are a number of issues associated with accepting that type of waste and would prefer to be involved as early as possible in the planning stages.

CONSENT CALENDAR:

13. Approve September 2017 Disbursement Registers

Commissioner Nassif abstained from any disbursements to Napa Auto Parts.

14. Approve Minutes from the September 21, 2017 Regular Meeting

15. Recommendation to Ratify Low Voltage Power Emergency Purchases

Commissioner Rigney asked about reimbursement from SCE. Manager Olds stated that there was a breaker that was bad and needs to be repaired. Until all repairs are made SCE will not come in and check their transformers. Once the repairs are made and SCE comes out to check their transmitters, then we will have the information needed to determine if it was an issue on SCE's side.

16. Recommendation to Approve Fedak & Brown LLP as an Auditor for Both Financial and Single Audits For Years Ending June 30, 2018 and 2019

Commissioner Rigney asked about this item being sole sourced. Manager Olds stated that with all of our single audits for grants and loans staff recommended keeping the same company. Yes, it is within our policies.

Commissioner Kennedy made a motion to approve the consent calendar seconded by Commissioner Nassif and approved by roll call vote with Commissioner Nassif abstaining from any disbursements to Napa Auto Parts.

Chair Blewett: Yes

Commissioner Rigney: Yes

Commissioner Nassif: Yes

Commissioner Kennedy: Yes

PRESENTATIONS:

17. Update on Odor Issues at the Apple Valley WRP (Laari) –

Latif Laari gave a presentation on the odor issues at the Apple Valley Pump Station

ACTION & DISCUSSION ITEMS:

18. Employee Reorganization

Piero Dallarda stated that this was a place holder in case the Board decided to take any action on this item in closed session. As reported from closed session the Board was advised in closed session, with Commissioner Nassif recusing himself, of the General Managers plan to reorganize VVWRA as recommended by a consultant's report. Piero Dallarda indicated that pursuant to VVWRA's practices and procedures, the General Manager has the authority to reorganize VVWRA and retain and release employees. To the extent that the reorganization will have an effect on anyone's salaries, in terms of any remaining employee's at VVWRA, the General Manager has been asked by the Board to bring those back to the Board for approval.

19. Discussion: Current Status of CalOES and FEMA Close Out Process

Manager Olds stated that VVWRA received some good news in regards to the OIG Audit. An auditing firm was retained to assist in a response to the draft OIG audit. CalOES has completed their audit of the documentation VVWRA submitted and they agreed with the entire value that was submitted for claim. The next step for CalOES is to go through the emergency portion of that project with the same process but they got through 81% of the cost. This e-mail was received three days prior to the fires in Northern California and prior to Hurricane Irma so CalOES and FEMA may not make their findings by the end of the year.

20. Recommendation to Revise Microgrid and Battery Storage Project to Include a Load Bank Design

Manager Olds stated that as a result of the UCR Study, rather than doing the battery system in one long line the study is saying that we will get better performance and longevity by putting them in two rows of four. There are electrical costs associated with doing this that totals \$56,550.00 to perform those tasks.

The other element associated with this request is to install load banks to assist this project. UCR has agreed to perform the additional programming associated with including the load banks at no cost to the project. Staff will return to the Board at a later date to include the hardware necessary for Load Bank installation.

Commissioner Nassif made a motion to approve the Recommendation, seconded by Commissioner Rigney

Chair Blewett: Yes

Commissioner Rigney: Yes

Commissioner Nassif: Yes

Commissioner Kennedy: Yes

21. Discussion: Oro Grande Interceptor Project Funding

Kimberly Cox the General Manager from Helendale CSD made comments in support of this project being done.

Manager Olds stated that when the State Water Resource Control Board changed their rules and allowed 1% loans for recycled water facilities, which VVWRA benefited from significantly, and they eliminated the \$50 million dollar cap on SRF loans, several large agencies in California submitted and the State has run out of funds for the SRF loans program. The other difficulty VVWRA has is that Oro Grande is a disadvantaged community but VVWRA as a whole is not a disadvantaged community therefore VVWRA is not eligible for disadvantaged community (DAC) funding. As a result, VVWRA no longer has a revenue source for this project. However, a complete set of plans has not been submitted to the State for approval for this project because it can take years to get final approval and technology changes. There may be a couple of other options to investigate including California Rural Water and other funding programs. Right now staff is reevaluating the project and looking for ways to potentially, significantly reduce the cost. If there is another funding source, VVWRA has a complete package that can be submitted. This is an information only item at this time to make the Board aware of the loss of funding.

22. VVWRA Claim Against the City of Hesperia

Commissioner Nassif asked if any changes have happened has there been any revenues received from the City of Hesperia. Manager Olds stated no, there have not been any changes.

Commissioner Kennedy stated that it was his understanding that VVWRA has a policy to asses a thirty percent late fee for unpaid bills.

Chair Blewett stated that he had not seen the policy and asked if that policy was in writing. Manager Olds said that it was in writing and that it could be provided to the Board.

Chair Blewett stated that the City of Hesperia feels that it is being treated unfairly. For more than three years the Board has ignored flow diversion from Victor Valley Waste Water and Hesperia decided to take unilateral action so that the City could get their message across loud and clear to this Board and the

Agency that things needed to change. Yesterday there were discussions and hopefully something productive will come from those discussions but the fact is that Hesperia is the little problem. The big problem is the flow diversion from one of the other member agencies. Hesperia asks that the same three year time frame that Victorville was given be used for them.

Commissioner Nassif asked if the Board should allow Hesperia to not pay their bill for three years. Chair Blewett said no, the City has the money to pay the bill. The fact is that this Board did not do what it should have done years ago. The Board did not take care of their responsibility.

Commissioner Nassif stated that they are two different issues. One is flow diversion and the other is non-payment.

Commissioner Kennedy stated that there is mediation going on for the flow diversion and that he believes that at the conclusion of the mediation the problem will be solved. This issue is unpaid bills and Hesperia has created an unnecessary distraction by not paying their bill. They have the money and their customers have paid, the City needs to pay the bill.

Chair Blewett said that the reason Hesperia did what they did was because the Board was not moving ahead.

Commissioner Nassif stated that it is still no reason to withhold the funds. This just compounds the issue. If the Board does not take action, they are condoning Hesperia not paying their bill. Something needs to be done so that it is on record so that if things do fall into place or don't fall into place, at least action was taken. This is something that Hesperia made the decision on almost a year ago. The decision in mediation will not be made on whether or not Hesperia has paid their bill. The decision will be made, at least from Apple Valley, on what is best for VVWRA and what is best for the rate payers. Commissioner Nassif stated that his focus is on protecting the rate payers moving forward.

Commissioner Kennedy stated that everyone, including Hesperia, is working towards that solution and we will get there. All Hesperia is doing is complicating this and creating hardship on the Agency by not paying their bill and it just doesn't make any sense.

Commissioner Nassif stated that everything that happens at this agency flows to the rate payers.

Chair Blewett stated that he has been asking the Board for years to take action on the flow diversion. Where has this concern been for the last three years.

Commissioner Nassif stated that the concern has been there and that litigation costs money. The mediation alone is costing \$100,000 and ultimately the rate payers have to pay that. Any interest to borrow money to offset any funds that VVWRA does not have for lack of funds will go to the rate payers and is not fair.

Commissioner Rigney said the Boards actions are not going to change by the payment or the non-payment. The Board is going a direction that it agreed to go. As far as this item is concerned, for equality sack, Commissioner Rigney said that he would make a motion on this item.

Commissioner Nassif asked if this moves forward are there penalties or fees that can be assessed.

Commissioner Kennedy stated that there is a policy for thirty percent on unpaid bills.

Piero Dallarda stated that there is an Ordinance in place that leads you to the policy and the policy does provide for penalties and interests. But to be clear, VVWRA has never applied that.

Chair Blewett asked if flow diversion was included in that policy.

Commissioner Kennedy and Nassif stated that the flow diversion is not an unpaid bill.

Chair Blewett said it certainly created an unpaid bill.

Commissioner Kennedy stated that Victorville has never been billed for anything. It is not an unpaid bill.

Chair Blewett stated that until Hesperia decided to take action, nothing was getting done and now all of the sudden it is.

Commissioner Nassif stated that the Board was way into this process before it found out that Hesperia was not paying.

Commissioner Rigney stated that this item is only for the claim.

Commissioner Nassif asked in regards to the thirty percent, if it could be brought back.

Manager Olds stated that the item has been referred to legal. He asked Piero to take a look at it a couple of weeks ago.

Chair Blewett asked if there was a thirty percent penalty on the fund that were held by the City of Victorville for connections fees.

Commissioner Kennedy asked if he was talking about the connection fees that were held for a year.

Chair Blewett said it was longer than a year.

Commissioner Nassif stated that the issue is not in the past but current and regarding this one item.

Commissioner Rigney made a motion directing staff and legal counsel to file a claim against the City of Hesperia for unpaid fees and in the process of doing so, look into the possibility of applying a 30% late fee for Hesperia's unpaid bill and also the possibility of asserting late fees against the City of Victorville for the connection fees and flow diversion, seconded by Commissioner Nassif

Chair Blewett: No

Commissioner Rigney: Yes

Commissioner Nassif: Yes

Commissioner Kennedy: Yes

Commissioner Nassif stated that he knows that a vote has already been taken, but is there any other option. In business you can just cut off the customer but he doesn't think you can put a plug in the pipe. Is there any other options.

Manager Olds stated that at the last utility he worked, there was an ordinance in place for non-payment of sewer bills the public agency had the ability to go and physically disconnect the property whether it be residential, commercial or industrial from the sewer line. VVWRA does not have an ordinance like that in place. If the Board were to choose to go in that direction that would mean that every sewer enterprise within the City of Hesperia would receive a condemnation notice. The State Office of Emergency services would have to be notified as well as Lahontan. The idea to physically disconnect them, yes you could, but all of the other associated issues connected to doing that- it is Manager Olds belief that the Board would choose not to pursue that action. Yes it is possible but no, Manager Olds does not recommend it.

Commissioner Nassif asked if there were any other options.

Manager Olds stated that in years past, there have been other interesting issues. When you file a law suit, you can request from the judge an injunction. What the judge can do is say that while you are going through that court case, the other party is required to pay you. Assuming that the City of Hesperia will deny the claim, VVWRA will then file against the City of Hesperia in State court and ask the judge for an injunction.

Commissioner Kennedy stated that he would like to hear if the entire Council in Hesperia is going to deny this claim.

Chair Blewett said we will find out.

Commissioner Kennedy stated that the claim would have to be discussed in open session and how they ever made the decision to not pay the bill in closed session is a real interesting issue for the FPPC to decide. There is no way that fell under any of the protected sections of the Brown Act. To make a decision to not pay a bill is not a threat of litigation, it's not a personnel matter and it is not real estate. The Council needs to make this decision and not just Mr. Blewett.

Chair Blewett stated that the Council will make the decision.

STAFF/PROFESSIONAL SERVICES REPORTS:

- 23. Financial and Investment Report –September 2017**
- 24. Operations & Maintenance Report – September 2017**
- 25. Environmental Compliance Department Reports – September 2017**
- 26. Septage Receiving Facility Reports – September 2017**
- 27. Safety & Communications Report – September 2017**

NEXT VVWRA BOARD MEETING:

Thursday, November 16, 2017 – Regular Meeting of the Board of Commissioners

FUTURE AGENDA ITEMS

Leave Policy

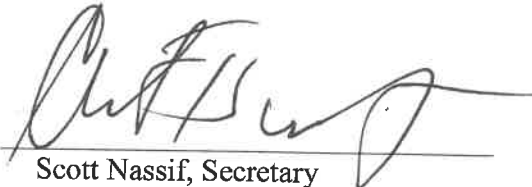
COMMISSIONER COMMENTS

Commissioner Blewett stated that the City of Hesperia's position is that this Board has not responded to Hesperia's concerns, staff and legal counsel have not been forthcoming about the issues and has damaged this organization. With that said, mediation was yesterday and Hesperia wants to solve the problems within this organization.

ADJOURNMENT

APPROVAL:

DATE: 11/16/17
Approved by VVWRA Board

BY: 
Scott Nassif, Secretary
VVWRA Board of Commissioners