

**MINUTES OF REGULAR MEETING  
OF THE BOARD OF DIRECTORS OF  
WALNUT VALLEY WATER DISTRICT**

**November 15, 2010  
At the Offices of the District**

**DIRECTORS PRESENT:**

Theodore L. Ebenkamp, President  
Barbara A. Carrera  
Edwin M. Hilden  
Scarlett P. Kwong  
Allen L. Wu

**DIRECTORS ABSENT:**

None

**STAFF PRESENT:**

Timothy J. Gosney, Legal Counsel  
Michael Holmes, General Manager  
Erik Hitchman, Assistant General Manager/Chief Engineer  
Sandra Olson, Director of Administrative Services  
Brian Teuber, Director of Finance  
Jo Ann Angelico, Assistant Secretary

The meeting was called to order at 6:00 p.m. with President Ebenkamp presiding.

Guests and others in attendance: Directors David DeJesus and Joe Ruzicka, and Chief Finance Officer James Linthicum of Three Valleys Municipal Water District; Mr. Jayson Schmitt of Chandler Asset Management; Mr. Nitin Patel of Diehl, Evans & Co.; Mr. Ed Chavez, San Gabriel Basin Water Quality Authority; MWD calendar contest winners and their families and school representatives; and individuals who attended solely to observe the meeting process.

**Item 3: Public Comment – President Ebenkamp**

- ◆ There were no requests to make public comment.

**Item 4: Additions to the Agenda – President Ebenkamp**

- ◆ There were no requests for additions to the agenda.

**Item 5: Reorder of Agenda –President Ebenkamp**

- ◆ There were no requests for reorder of the agenda.

**Item 6: MWD Calendar Contest Award Presentations**

- ◆ The Board recognized three of the District’s poster contest winners whose artwork has been selected to appear in the MWD 2011 “Water is Life” calendar. The students, Anne Tu from Walnut High School, Diana Lin from Pantera Elementary School, and Irene Chang from Evergreen Elementary School were presented with a framed copy of their artwork. Also on hand to help them celebrate were their families and school representatives.

**Item 7: Consent Calendar**

- ◆ The Board was asked to approve the Consent Calendar, including the minutes of the Regular Board Meeting held October 18, 2010; the November 2010 check register; the Community Relations/Website Activities Report; the Operations Report; and the Engineering Project Status Report.

*Upon consideration thereof, it was moved by Director Hilden, seconded by Director Wu and unanimously carried (5-0), to receive, approve, and file the Consent Calendar consisting of the minutes of the Regular Board Meeting held October 18, 2010; the November 2010 Check Register; the Community Relations/Website Activities Report; the Operations Report; and the Engineering Project Status Report. (Items 6-1, 2, 3, 4, & 5)*

**Item 8: Director Expense Reports**

- ◆ The Board was asked to receive, approve, and file the Board member expense reports indicating per diem requests for meeting attendance and the individual reports of additional expenses incurred by the District on behalf of each Director.

*Upon consideration thereof, it was moved by Director Hilden, seconded by Director Carrera and unanimously carried (5-0), to receive, approve, and file the Board member expense reports for meeting attendance. (Item 7)*

**Item 9: Treasurer’s Report – Mr. Teuber**

- ◆ Mr. Teuber reviewed the District’s Statement of Revenue, Expenses, and Change in Net Assets and the District’s Statement of Net Assets as of October 31, 2010. He noted that, with the completion of the District audit, these reports are now final and no longer preliminary. He then provided for the Board’s review and consideration the Summary of Cash and Investments as of October 31, 2010.

*Upon consideration thereof, it was moved by Director Hilden, seconded by Director Wu and unanimously carried (5-0), to receive and file the District’s Statement of Revenues, Expenses, and Change in Net Assets; the District’s Statement of Net Assets as of October 31, 2010; and the District’s Summary of Cash and Investments as of October 31, 2010. (Item 9-1, 2, & 3)*

## Committee Chair Reports

### Item 10: Engineering & Special Projects Committee – Director Kwong

- ◆ The Board was asked to accept the work as installed and authorize the filing of a Notice of Completion for the Bell Memorial Church Expansion project, consisting of the installation of approximately 307 linear feet of 6-inch recycled water main, one fire service, and one recycled metered service, the relocation of existing domestic metered service, and removal of existing manual air release assembly. (Project No. 09-3171)

*Upon consideration thereof, it was moved by Director Kwong seconded by Director Wu and unanimously carried (5-0), to accept the work as installed and authorize the filing of a Notice of Completion for the Bell Memorial Church Project No. 09-3171. (Item 10-A)*

- ◆ The Board was asked to rescind the potable construction water surcharge of \$3.00 per unit used for fiscal year 2010-2011 that became effective July 1, 2010; to authorize staff to amend Section III, Appendix A, of the District's Rules and Regulations accordingly; and to authorize staff to refund any surcharge monies collected since July 2010. It was noted that establishment of this surcharge was based on the District's Rules and Regulations as well as the second consecutive year of a water supply allocation from the Metropolitan Water District. However, based on MWD providing additional Tier-1 supplies to TVWMD, it is projected that the District will not exceed its allocation for the current fiscal year, alleviating the need for this surcharge.

*Following discussion of this item, it was moved by Director Wu, seconded by Director Kwong and carried 3-2, with Directors Wu, Kwong, and Ebenkamp voting "yes," and Directors Carrera and Hilden voting "no," to delay consideration of the request to rescind the potable construction water surcharge and schedule it for discussion in conjunction with the review/update of the District's water rates. (Item 10-B)*

- ◆ The Board was next asked to receive and file the Twenty-Fourth Annual Report of the Puente Basin Watermaster for Fiscal Year 2009-2010. The Board was provided with copies of Appendix B from the report, which provides the Annual Pumping and Carry-Over; Appendix C, Water Imported into Puente Basin and Import Return Flow Credits; and Appendix D, Annual Pumping Right at an Operating Safe Yield of 1,706 Acre-Feet. It was noted that a complete copy of the report is available for review in the District Library.

*Upon consideration thereof, it was moved by Director Kwong, seconded by Director Wu, and unanimously carried (5-0), to receive and file the Twenty-Fourth Annual Report of the Puente Basin Watermaster for Fiscal Year 2009-2010. (Item 10-C)*

### Item 11: Personnel Committee – President Ebenkamp

- ◆ The Board conducted its annual review of the "Policies for Ethical Conduct Regarding Board of Directors Compensation and Expenses" and the exhibits to that policy that are designated for annual review, which are Exhibit A, "Meeting and Expense Report Form;" Exhibit C, "Guidelines for Board Compensated Meetings and Activities;" Exhibit D, "Advance Payment to Directors for Attendance at Community Events;" and Exhibit F, "Meal Expense Reimbursement Schedule/Guidelines." President Ebenkamp advised that the Committee had recommended minor language changes to the "Policies for Ethical Conduct Regarding Board of Directors Compensation and Expenses" and to Exhibit F, "Meal Expense Reimbursement Schedule/Guidelines." He said the Committee recommended no changes for Exhibits A, C, or D. Director Kwong suggested, with regard to Exhibit F, Meal Expense Reimbursement, that a "daily" allowance be provided rather than individual meal allowances, citing a situation she encountered in trying to reconcile the cost of breakfast items she purchased at a market that were consumed over a three-day period. Mr. Gosney explained that AB 1234 stipulates that reimbursement be for the actual expense incurred and that Directors would still be limited by the amount for the whole day. He suggested that, for instances such as the one cited by Director Kwong, an explanation be provided with the reimbursement request indicating the separation of costs.

*Upon consideration thereof, it was moved by President Ebenkamp, seconded by Director Wu and unanimously carried (5-0), to approve the minor language amendments to the "Policies for Ethical Conduct Regarding Board of Directors Compensation and Expenses" and Exhibit F, "Meal Expense Reimbursement Schedule/Guidelines" as presented. There was no change to the individual breakfast, lunch, dinner, and incidentals meal allowance breakdown. There were no changes to Exhibits A, C, or D. (Item 11-A)*

### Item 12: Finance Committee – Director Wu

- ◆ Mr. Jason Schmitt of Chandler Investment Management presented a report on the current economic climate and reviewed the District's investment portfolio as of October 31, 2010.

*Upon consideration thereof, it was moved Director Wu, seconded by Director Hilden and unanimously carried (5-0), to receive, accept, and file the District's Investment Transactions Report as of October 31, 2010. (Item 12-A)*

- ◆ Mr. Nitin Patel of Diehl, Evans & Co., reviewed the audited 2009-2010 financial statements for the District and the Building Corporation, the Audit Committee Letter, and the Computation of Net Revenue and Revenue Coverage Requirement Report. He said his firm had issued an “unqualified opinion” for both the District and the Building Corporation. He also noted that the required rate revenue coverage for the bond is 1.1% and the District’s actual coverage ratio was 2.11%.

*Upon consideration thereof, it was moved by Director Hilden, seconded by Director Wu and unanimously carried (5-0), to receive, approve, and file the Audit Committee Letter as prepared by Diehl, Evans & Co.; the Walnut Valley Water District Audited Financial Statements; the Walnut Valley Water District Computation of Net Revenue and Revenue Coverage Requirement Report; and the Walnut Valley Building Corporation Audited Financial Statements. (Item 12-B)*

- ◆ The Board was asked to approve staff’s recommendation, for the 2009-2010 Source and Application of Funds, to transfer from the General Operating Reserve: 1) \$1,350,000 to the Reserve for Replacement, and 2) \$750,000 to the Employee Liabilities Reserve related to the Employer OPED liability.

*Upon consideration thereof, it was moved by Director Wu, seconded by Director Hilden and unanimously carried (5-0), to approve, for the 2009-2010 Source and Application of Funds, transfer from the General Operating Reserve: 1) \$1,350,000 to the Reserve for Replacement, and 2) \$750,000 to the Employee Liabilities Reserve related to the Employer OPED liability. (Item 12-C)*

- ◆ The Board was asked to receive, approve, and file the annual (year ended June 30, 2010) Acreage Supply and Reservoir Capacity charges (Capital Improvement Fees) report, which will then be made available to the public upon request.

*Upon consideration thereof, it was moved by Director Wu, seconded by Director Carrera and unanimously carried (5-0), to receive, approve, and file the annual Acreage Supply and Reservoir Capacity charges (Capital Improvement Fees) report and make it available to the public upon request. (Item 12-D)*

- ◆ The Board was asked to amend the Walnut Valley Affordable Rate Program to include all eligible residential customers receiving water through a 1-inch or smaller meter. Currently the Program is restricted to residential customers who receive water through a 3/4-inch or 5/8-inch meter. Staff has received requests from a handful of customers who, aside from having a 1-inch meter, would otherwise qualify for the program. It was noted that funding originally designated for this program is adequate to accommodate these additional, qualified customers.

*Upon consideration thereof, it was moved by Director Wu, seconded by Director Hilden and unanimously carried (5-0), to amend the Walnut Valley Affordable Rate Program to include all residential customers receiving water through a 1-inch or smaller meter.*

*Following further discussion, it was moved by Director Carrera, seconded by Director Hilden and unanimously carried (5-0), to amend the motion to include the stipulation that the Walnut Valley Affordable Rate Program be funded by revenue from the District’s communications site leases. (Item 12-E)*

- ◆ The Board was asked to authorize the General Manager to negotiate a three-year contract, which will include a termination clause, with “Paymentus” to provide services related to electronic bill presentment and payment acceptance. It was noted that the Board had originally approved entering into a contract for a one-year trial period; however, due to up-front costs that would be incurred by the consultant, Paymentus is requesting a three-contract that would include a provision to allow the District to terminate the agreement at any time and for any reason provided costs incurred by Paymentus are reimbursed by the District.

*Upon consideration thereof, it was moved by Director Wu, seconded by Director Hilden and unanimously carried (5-0), to authorize the General Manager to negotiate a three-year contract, including a termination clause, with Paymentus to provide services related to electronic bill presentment and payment acceptance. (Item 12-F)*

- ◆ The Board received an information report regarding the District’s ACWA dues for calendar year 2011, which included an explanation of how the dues are calculated. (Item 12-G)

### **Item 13: Public Information/Community Relations/Legislative Action – President Ebenkamp**

- ◆ The Board was asked to consider ACWA’s request for adoption of a resolution in support of their policy principles on Endangered Species Act implementation.

*Upon consideration thereof, it was moved by President Ebenkamp, seconded by Director Carrera and unanimously carried (5-0), to adopt Resolution No. 11-10-568 Supporting ACWA Policy Principles on Implementation of State and Federal Endangered Species Act. (Item 13)*

## Other Items

### Item 14: TVMWD/MWD – Director Hilden

- ◆ Director Hilden reported on TVMWD's October Board meeting activities.

### Item 15: The P-W-R Joint Water Line Commission – Director Hilden

- ◆ Director Hilden reviewed the P-W-R water use report included in the Board packet.

### Item 16: Puente Basin Water Agency –President Ebenkamp

- ◆ The Board of Directors was asked to approve actions recommended by the Puente Basin Water Agency, as follows: 1) preliminary pipeline design services by the District; 2) authorization for Civiltec Engineering to provide design services for pressure reducing and metering structure; 3) solicitation of construction contracts without formal bids; 4) authorization to execute agreements for the project, subject to acceptable agreements approved by the Rowland and Walnut water agency boards; and 5) PBWA action to intervene in the Central Basin adjudication. The estimated project cost is \$500,000 to \$750,000, which would be shared equally by Rowland and Walnut. The project is expected to yield approximately 2 cfs (4 acre-feet) per day and, if completed in time, will provide an additional supply of water during the Weymouth Treatment Plant shutdown in March 2011.

*Upon consideration thereof, it was moved by President Ebenkamp, seconded by Director Wu and unanimously carried (5-0), to approve actions recommended by the Puente Basin Water Agency, as follows: 1) preliminary pipeline design services by the District; 2) authorization for Civiltec Engineering to provide design services for pressure reducing and metering structure; 3) solicitation of construction contracts without formal bids; 4) authorization to execute agreements for the project, subject to acceptable agreements approved by the Rowland and Walnut water agency boards; and 5) PBWA action to intervene in the Central Basin adjudication. (Item 16)*

### Item 17: General Manager Report – Mike Holmes

- ◆ The Board received an update from the Assistant General Manager regarding Purchased Water for FY 2009-2010 through October 2010, and the General Manager provided an MWD report summarizing the calendar year 2010 and 2011 outlook on water supply and storage conditions, noting the possibility that there will not be a water supply allocation for the coming year.
- ◆ The General Manager provided an update regarding MWD's Weymouth Plant 10-day Shutdown scheduled for March 2011.

### Item 17: Directors' Oral Reports

(NOTE: Board meeting Minutes provide written reports of Board meeting activities and committee meeting reports are given during the course of regular Board meeting activities)

- ◆ Director Wu noted, in addition to District committee and Board meetings previously reported, a meeting related to an engineering review at Arbor Ridge, his participation in the Walnut Family Festival, and attendance at the TVMWD Leadership Breakfast meeting.
- ◆ Director Hilden noted, in addition to District committee and Board meetings previously reported, his attendance at an ACWA Region 8 meeting, the Public Safety Appreciation Luncheon, and a Regional Chamber "California Leaders" luncheon at which California State Controller Chiang spoke.
- ◆ Director Carrera noted, in addition to the District committee and Board meetings previously reported, her attendance at the TVMWD Leadership Breakfast meeting, a Puente Basin Water Agency meeting, and a SCWUA luncheon meeting.
- ◆ Director Kwong noted, in addition to District committee and Board meetings previously reported, her attendance at the Industry Manufacturer's Council breakfast meeting, a Diamond Bar Site 'D' Workshop, a meeting with the General Manager and Assistant General Manager regarding Diamond Bar Site 'D', the TVMWD Leadership Breakfast meeting, PWR Joint Water Line Commission meeting, ACWA Region 8 program, and the Chamber mixer.
- ◆ President Ebenkamp noted, in addition to the District committee and Board meetings previously reported, his attendance at the TVMWD Board meeting, Puente Basin Water Agency meeting, TVMWD Leadership Breakfast meeting, the Regional Chamber Government Affairs Committee meeting, the Public Safety Appreciation luncheon, and a MWDOC Water Policy Forum.

### Item 19: Legal Reports

- ◆ Mr. Gosney referenced information provided in the Board packet regarding the Amicus Brief filed on behalf of the Yorba Linda Water District by the Public Water Agencies Group (the District is a member of this group) and offered to answer any questions the Directors might have in this regard. There being none, he concluded his report, noting there would be a closed session following the regular business meeting.

### Item 20: Activities Calendar Review – Mike Holmes

- ◆ The General Manager reviewed the District's activities calendars for November-December 2010 and January 2011.

**Item 20: Items for Future Discussion**

- ◆ Director Hilden noted the staff review regarding “Arc Flash” training and implementation he had requested last month will be provided at a future meeting due to the number of items considered at this meeting. He also asked if the other Board members would be interested in an informal workshop on the recent audit.
- ◆ Director Wu suggested that consideration be given to following the format TVMWD uses for numbering its motions and mentioned the desire for Board meetings to “go electronic” some day. He then asked that staff report numbering be coordinated with the agenda numbering.

**Item 22: Board of Directors Business**

- ◆ Proposed amendments to the Association of California Water Agencies (ACWA) Bylaws will be voted on at the General Session meeting during the ACWA 2010 Fall Conference. As Director Kwong, the District’s voting delegate, is not attending the conference, Director Carrera, the District’s alternate delegate, will cast the District’s vote, and the Board is asked to give Director Carrera guidance in that regard. Mr. Holmes noted that Mr. Ciampa, who served as a member of the Decision-Making Workgroup Committee, advises that most of the changes are internal to ACWA’s governance and have no significant effect on our relationship with ACWA

*Upon consideration thereof, it was moved by President Ebenkamp, seconded by Director Hilden and unanimously carried (5-0), that Director Carrera should vote as she feels appropriate. (Item 22-A)*

- ◆ The Board was provided with a brief review of information pertaining to a proposed site plan and feasibility study that was discussed at a recent Building Ad Hoc Committee meeting. The Board was advised that staff will be sending out a “Request for Proposals” (RFP) for architectural services based on this recent feasibility study to the two firms whose proposals were preferred by the Board during a previous search. Mr. Hitchman said that once the proposals are received and reviewed by staff, they would be presented to the Building Ad Hoc Committee for review and, ultimately, to the Board for selection of an architect, probably in January. (Item 22-B)
- ◆ The scheduled IVR System Demonstration was postponed to a future meeting. (Item 22-C)

**Item 23: Public Comment on Closed Session**

- ◆ There were no requests to comment on either open or closed session items at this time.

**Item 23: Adjourn to Closed Session – 8:55 P.M.**

*The Board adjourned to closed session in accordance with Government Code §54956.8 to discuss one real property negotiation matter pertaining to the acquisition of water resources; and in accordance with Government Code §54956.9(a) to discuss one existing litigation matter concerning Michelle Lin, Esther Hong, D.H. Hwang and Isabella Hwang for decedent Jessica Hwang vs. Dachan Kim, Kyung Lee Kim, City of Industry, Walnut Valley Water District, County of Los Angeles, Doty Bros. Construction Co., and DOES 1 through 25, Inclusive; and in accordance with Government Code §54956.9(c) to discuss one potential litigation case; and in accordance with Government Code §54957 to conduct an employee performance evaluation for the General Manager.*

**Item 24: Closed Session – 9:00 P.M.**

The Board met in closed session in accordance with Government Code §54956.8 to discuss one real property negotiation matter pertaining to the acquisition of water resources; and in accordance with Government Code §54956.9(a) to discuss one existing litigation matter concerning Michelle Lin, Esther Hong, D.H. Hwang and Isabella Hwang for decedent Jessica Hwang vs. Dachan Kim, Kyung Lee Kim, City of Industry, Walnut Valley Water District, County of Los Angeles, Doty Bros. Construction Co., and DOES 1 through 25, Inclusive; and in accordance with Government Code §54956.9(c) to discuss one potential litigation case; and in accordance with Government Code §54957 to conduct an employee performance evaluation for the General Manager.

**Item 25: Reconvene in Open Session/Report of Action Taken in Closed Session – 9:15 P.M.****A. Report of Action Taken in Closes Session**

- ◆ It was reported that the Board met in closed session in accordance with Government Code §54956.8, to discuss one real property negotiation matter pertaining to the acquisition of water resources. The Board was briefed on the current circumstances in this matter. No action reportable under the Brown Act was taken.
- ◆ The Board also met in closed session in accordance with Government Code §54956.9(a) to discuss one existing litigation matter concerning Michelle Lin; Esther Hong; D.H. Hwang and Isabella Hwang for decedent Jessica Hwang vs. Dachan Kim; Kyung Lee Kim; City of Industry; Walnut Valley Water District; County of Los Angeles; Doty Bros. Construction Co.; and DOES 1 through 25, Inclusive. The Board was briefed on the status of the case. No action reportable under the Brown Act was taken.
- ◆ The Board also met in closed session in accordance with Government Code §54956.9(c) to discuss one potential litigation case. No action reportable under the Brown Act was taken.
- ◆ The Board also met in closed session in accordance with Government Code §54957 to conduct an employee performance evaluation for the General Manager. No action reportable under the Brown Act was taken.

**B. Consider Compensation Adjustment for General Manager**

- ◆ The General Manager requested that he be given no salary increase; however, in an effort to respect his wishes and still recognize his excellent performance during the past year, the Board elected to grant the General Manager a 1% salary increase, effective January 1, 2011.
- ◆ Ms. Olson then noted General Manager requested his contract be amended by striking the provisions relating to “non-mechanical” vehicle costs, PDA, cell phone, and laptop computer. These were items that were included in the previous General Manager’s contract and carried over but never used by the current General Manager.
- ◆ Ms. Olson said the General Manager also requested that the vacation cap be set at 600 hours and that administrative leave be consistent with the executive staff’s Terms and Conditions of Employment.
- ◆ The General Manager also asked that, should a COLA be granted to District employees, he be excluded from receiving that adjustment.

*Upon consideration thereof, it was moved by President Ebenkamp, seconded by Director Hilden, and unanimously carried to grant the General Manager a 1% salary increase, to exclude the General Manager from receiving any COLA given to District employees, and to direct Legal Counsel to amend the General Manager’s contract as requested.*

**Adjournment at 9:25 P.M.**

*It was moved by Director Carrera, seconded by Director Kwong and unanimously carried, to adjourn the meeting.*