

MINUTES
REGULAR BOARD MEETING
of the
WEST VALLEY WATER DISTRICT
April 6, 2017

REVISED

PRESENT **ABSENT**

DIRECTORS

- ✓ Dr. Clifford Young, Sr., President
- ✓ Linda Gonzalez, Vice President
- ✓ Gregory Young, Director
- ✓ Donald Olinger, Director
- ✓ Robert Bourland, Director

STAFF

- ✓ Matthew H. Litchfield, P.E., General Manager
- ✓ Robert Christman, Interim Chief Financial Officer
- ✓ Linda Jadeski, Engineering Services Manager
- ✓ Karen Logue, Human Resources/Risk Manager
- ✓ Wendy Strack, External Affairs Manager
- ✓ Jon Stephenson, Business Systems Manager
- ✓ Joanne Chan, Operations Manager
- ✓ Diana Gunn, Purchasing Analyst
- ✓ Rosa Gutierrez, Associate Engineer
- ✓ Lauren Albrecht, Public Affairs Analyst

LEGAL

- ✓ David J. Olivas, Tafoya & Garcia, LLP

VISITORS

- Deborah Crowley, Eadie and Payne, LLP
- June B. Hayes, Director, SBV Municipal Water District
- Tom Shalhoub, Director, Yucaipa Valley Water District
- Anthony and Diana Araiza
- Gary Koontz, Burrtec Waste Industries

Scott Olson, Redlands Tea Party

Danielle Maurizio

Brad Welebir, Rogers, Anderson, Malody & Scott, LLP

The Regular meeting of the Board of Directors was called to order by Dr. Clifford Young, Sr., at 6:00 p.m. at the District Office, 855 W. Baseline Road, Rialto, CA.

OPENING CEREMONIES

Pledge of Allegiance – Director Young

Opening Prayer – Vice President Gonzalez

Roll Call

ADOPT AGENDA

President Young announced that prior to the adoption of the agenda, he had questions regarding whomever had put it together and whether it was the Board Secretary or General Manager. Mr. Matthew H. Litchfield clarified that he had in fact put it together. President Young stated that a procedure had been in place and that this agenda varied from that procedure and asked the General Manager to explain his authority to take it upon himself to prepare the agenda. Mr. Litchfield clarified that this stemmed from discussions had at their Monday meetings and that he had expressed that in the absence of a written policy, it is difficult to properly set the agenda of the Board, as there is no clear direction. He has an item is on the agenda tonight to discuss that very issue. Some items were set through committees and some items were set by various members of the Board. President Young stated that in reviewing his contract, he did not see that in his contract for him to have that authority. It is not there. We did an audit that laid out our procedures on how the agenda was set, and he varied from that and took it upon himself to do it. President Young inquired whether it was an appropriate agenda for the evening. Director Bourland stated that he may have been an influencer in that, as he talked to the General Manager and asked if there is a written process for this and his understanding is that there is not. Director Bourland stated he took it upon himself to recommend that the agenda for the Board be open to any all who requested items and then sent to the Board as a preliminary agenda for approval or rejection, of which he did. Director Bourland stated that no changes were requested. President Young asked the General Manager what is his authority to set the Board agenda. President Young read from a report dated, June 16, 2016, a report by DeLoach on agenda setting: *“The Board President along with input from various Board committees, legal counsel and the General Manager coordinate with the Board Secretary to create the Board agenda.”* President Young stated that Mr. Litchfield had violated this and the practice that we have had. Mr. Litchfield stated he is not aware of the report being referenced. President Young stated that the he is a part of the report and that the Board had adopted it. Director Bourland commented that an audit report is not the same as stating policy. President Young stated policy is set by doing something over and over again and set by a clear statement of what the policy is; that is how policy is set. President Young reiterated his question regarding the General Manager’s authority that he sent to him in an email for setting the board agenda. Mr. Litchfield restated that as far as the authority goes, it was his understanding, based on their Monday meetings that he would proceed with this process to solicit input from all Board members for the Board agenda going forward. Mr.

Litchfield clarified that he is setting a draft agenda and sending it out for review. President Young reported that some things changed in the agenda. The Closed Session was switched from the beginning to the end and several items are basically unclear. Vice President Gonzalez stated that her memory of Robert DeLoach is that a consultant came in to do a review of all different components of the different departments and that report was never brought to the Board members until she made a request several months later. Vice President Gonzalez recalled that at an all hands on meeting with all the employees where President Young basically stated that report, \$60,000, shred it! There was almost seventy people in the audience and now he is referring to a report that he said to shred and now is surfacing the report. That is not fair. Director Bourland commented that respectfully, an audit report is not an agreed upon process and procedure. It comes out with recommendations that subsequently lead to procedures and processes to be adopted by the Board. If that was done, he was not made aware of it and that he did not think an audit report was necessarily an agreed upon procedure. The General Manager did send out a preliminary agenda and there was no reply to all that we should not go along with this. No response is agreement. Director Young stated that he tries to avoid a Brown Act Violation and that is why he only replied to the General Manager. Director Bourland stated that, as he clarified last week and legal counsel David J. Olivas agreed, agreement on the topics to be discussed is not a Brown Act violation. If details about that is discussed, then it is a violation. President Young stated that he is going on record that the General Manager put the agenda together without the authority of his contract and no voting authority from the Board of Directors and noted the record for the clerk. Director Olinger stated that this is not West Valley decorum he had been used to for thirteen years and that he is embarrassed about the public display, which is not a good way to start the meeting and inquired about his take on it. Mr. Olivas stated that in the thirty years that he has been doing this, every board has their process for adopting agendas. In this District, the policy and practice has been for the President to sign off on the agenda and that is his understanding on how this agenda is set in this District. It can change, as the agenda item is on the agenda for today to discuss the policy. Director Bourland inquired as to where it's documented? Mr. Olivas clarified that it is not documented and that a policy and procedure is an expectable means of determining policy. Director Bourland agreed that is correct if agreed upon by equal parts of a Board. He recommended that a formal process be adopted. Vice President Gonzalez commented to Mr. Olivas that she was sure that he had spoken to the President prior to the meeting, as they brief themselves and keep the Board in the shadows. Vice President Gonzalez inquired as to why Mr. Olivas had not provided email in advance of the meeting for clarification instead of waiting to do this display. President Young stated for the record that he had not met with General Counsel prior to the meeting. Following discussion, Director Bourland made a motion to adopt the agenda as printed, seconded by Director Olinger. President Young amended the motion to move Closed Session to the beginning of the meeting, after Public Participation, seconded by Director Young. The motion failed by the following vote:

Ayes:	Directors: Young, Young, Sr.
Noes:	Directors: Gonzalez, Olinger, Bourland
Absent:	Directors: None
Abstain:	Directors: None

Following discussion, President Young made a motion to table Item No. 5 to the Closed Session to be listed as CONFERENCE WITH LEGAL COUNSEL – PUBLIC EMPLOYEE APPOINTMENT– Pursuant to Government Code Section 54957 – Title: Chief Financial Officer, seconded by Director Young. The motion carried by the following unanimous vote:

Ayes: Directors: Gonzalez, Olinger, Bourland Young, Young, Sr.
Noes: Directors: None
Absent: Directors: None
Abstain: Directors: None

Director Young moved to Approve the balance of the Agenda, seconded by Vice President Gonzalez. The motion carried by the following unanimous vote:

Ayes: Directors: Gonzalez, Olinger, Young, Bourland, Young, Sr.
Noes: Directors: None
Absent: Directors: None
Abstain: Directors: None

PUBLIC HEARING

None

PUBLIC PARTICIPATION

President Young indicated that any person wishing to speak to the Board of Directors (Board) on matters listed or not listed on the agenda, within its jurisdiction, is asked to complete a Speaker Card and submit it to the District Clerk. Each speaker is limited to three (3) minutes. Under the State of California Brown Act, the Board is prohibited from discussing or taking action on any item not listed on the posted agenda. Comments related to noticed Public Hearing(s) and Business Matters will be heard during the occurrence of the item.

Mrs. Diana Araiza commented that she listened to the audio from the last meeting and she understands that Greg Young demanded a report on the leak here at the District and that she is here to give that report. Mrs. Araiza stated she obtained the documents pertaining to Clifford Young's long term care as part of the Freedom of Information Act. Mrs. Araiza stated that she is providing each member of the Board with the document that she received through the District's attorneys. If you are a Board member of a public agency, you are subject to full disclosure to the customers of West Valley of all monies we pay you for your service on the Board and that she paid .25 per copy for the documents she requested. For your information, anyone who lives in this District can do the same. Your HIPAA law does not apply to West Valley, as they are a water service and not a medical facility or hospital. You should study your information more thoroughly before making threats. You learn well from Clifford. Mrs. Araiza also commented on tapes she has obtained from Board meetings. She has three tapes where Clifford Young has talked down to West Valley employees. On November 15, 2015 Mr. Young dressed down the CFO and she is sure that had something to do with her resignation a couple of weeks later. On April 21, 2016, it was a young lady from the GIS Department. In a budget meeting this year on February 21, 2017, Mr. Young chastised an external affairs employee about something he wanted done that hadn't been done and he went on about \$1.6 million that wasn't being spent as he envisioned. The only employee of the District that Mr. Young should be asking questions of or giving direction to is the General Manager and that she is very sure that other employees of the District are very demoralized by his actions. Mrs. Araiza urged the Board to obtain copies of these tapes that she

has already given to Mr. Bourland and make a judgement if they are proper. Mrs. Araiza addressed President Young stating that he is a bully and that she thought he did not belong in that chair.

Mr. Anthony Araiza commented that he is here to discuss Ordinance No. 84, Article 407 Long Term Care provision, which applies to one (1) member of the Board. The article was adopted August, 2016 and reimbursements to Dr. Young at \$527.91 per month for his long term care that he was receiving from Cal State San Bernardino through his CalPERS, payed through his retirement. Mr. Araiza stated he believes this is an improper use of public funds and this article in Ordinance No. 84 should be rescinded and the District should be reimbursed for the full amount. Mr. Araiza also requested that Ordinance No. 84 be placed on the next agenda for review and that Article 407 be deleted or rescinded. It would be proper for the directors to look at the entire ordinance very closely, as it was changed summarily a year ago and took power away from the General Manager and given to the President of the Board of Directors. You hired the General Manager to run this District, not the President of the Board of Directors, who is not a full time employee, but an elected of this Board. That is why you have a General Manager and if he is not doing his job, he could be dealt with. The president of the board has overstepped his bounds. Ordinance No. 84, Article 407 need to be addressed immediately, as it is costing all the ratepayers money.

Mr. Scott Olson commented that he has attended a lot of Board meetings at a lot of different agencies, sat through City Council and he has seen the dirt and politics at all sorts of levels. It is very obvious in this room that certain individuals are not happy with the choices of the Chair. Mr. Olson reminded everyone that he was elected to be the Chair by everyone on the Board, not by former General Managers who have retired. When you are a General Manager you have a job to do and when you are a Board member and a Chair, you have a job to do. As someone who sits on a board himself, Mr. Olson stated he knows he must divert to the Chair or President of Board, as that is the one chosen to be there. As for Ordinance No. 84, it only came into being because the Board voted on it and if someone in the audience does not like it and wants to make it personal against a single individual, then they need to look at who voted on the record. As for the personal information, Mr. Olson stated that he plays personal politics and has done if for a long time. There is, however, a limit you go after them for what they do as a politician and elected official. If all of a sudden the audience is quoting how much you pay for things and then claim it is public record from the attorney, Greg Young is within his ability as a Board member to say that he wants to look at that. Any Freedom of Information Act request must be done and is on record. If she is giving information of a personal nature and airing it like dirty laundry, you had better look at it, as it is a breach of confidentiality. Mr. Olson questioned who gave her the information, as he has a feeling listening to what he heard in those numbers, he would be surprised if they would be giving stuff out at that level from a Freedom of Information Act. Mr. Olson also stated that it looks more like a personal smear campaign. Mr. Olson concluded by addressing the General Manager and commented that the Chairman of the Board sets the agenda.

CONSENT CALENDAR

Vice President Gonzalez made a motion to approve the Consent Calendar, seconded by Director Bourland. The motion carried by the unanimous following vote:

Ayes: Directors: **Gonzalez, Olinger, Young, Bourland, Young, Sr.**
 Noes: Directors: **None**
 Absent: Directors: **None**
 Abstain: Directors: **None**

BUSINESS MATTERS

1. Discuss Policy and Procedures – Board of Directors Meeting Agendas – President Young led a detailed discussion regarding the current practice for setting Board meeting agendas and how to proceed forward with possible draft policy and procedures. Following discussion, President Young instructed both Director Bourland and Director Young to memorialize their recommendations for the draft in writing and bring back for the Board’s review and consideration.

2. Adopt Resolution No. 2017-8, Amending Schedule “B” Standing Committees and Schedule “C” Outside Meetings of Ordinance No. 84, Compensation and Policies Related to Board Activities – President Young led a discussion modifying the Board’s current Board committee assignments as follows:

- Executive Committee Dr. Clifford Young Robert Bourland
- Engineering and Planning Gregory Young Robert Bourland
- External Affairs Committee Linda Gonzalez Robert Bourland
- Finance Committee Gregory Young Robert Bourland
- Human Resources Committee Donald Olinger Linda Gonzalez
- ACWA/JPIA Dr. Clifford Young General Manager
- ACWA Region 9 Linda Gonzalez Gregory Young
- Bloomington MAC Linda Gonzalez Gregory Young
- Drought Action Plan Dr. Clifford Young Donald Olinger
- Valley District Advisory Commission on Water Policy Donald Olinger All Board Members
- Valley District Board Meeting Linda Gonzalez Donald Olinger
- WESTCAS Dr. Clifford Young Gregory Young

Following discussion a motion was made by President Young to Approve Resolution No. 2017-8, Amending Schedule “A” Standing Committees and Schedule “B” Outside Meetings, seconded by Director Olinger. The motion carried unanimously by the following vote:

Ayes: Directors: **Gonzalez, Olinger, Young, Bourland, Young, Sr.**
 Noes: Directors: **None**
 Absent: Directors: **None**
 Abstain: Directors: **None**

3. Approval of Agreement for Professional Services with Rogers, Anderson, Malody & Scott, LLP for Annual Audit for Fiscal Year Ending June 30, 2017 – Following discussion, Director Young made a motion to Approve the Agreement for Professional Services with Rogers, Anderson, Malody & Scott, LLP for Annual Audit for Fiscal Year Ending June 30, 2017, seconded by Director Bourland. The motion passed by the following vote:

Ayes: **Directors: Olinger, Young, Bourland, Young, Sr.**
Noes: **Directors: Gonzalez**
Absent: **Directors: None**
Abstain: **Directors: None**

4. **Adoption of Plan Pursuant to SB 415 to Consolidate District Elections with Statewide Elections Beginning in 2020** – Following discussion Director Bourland made a motion to Amend Resolution No. 2017-9, Approving adoption of Plan Pursuant to SB 415 to Consolidate District Elections with Statewide Elections Beginning in 2022, seconded by Director Young. The motion passed by the following vote:

Ayes: **Directors: Young, Bourland, Young, Sr.**
Noes: **Directors: Gonzalez, Olinger**
Absent: **Directors: None**
Abstain: **Directors: None**

5. **Approval of Agreement for Chief Financial Officer** - This item was tabled to Closed Session.

6. **Approval of a Budget Reporting and Amendment Policy** – Following discussion a motion was made by President Young to Approve a Budget Reporting and Amendment Policy, seconded by Director Young. The motion carried by the following unanimous vote:

Ayes: **Directors: Gonzalez, Olinger, Young, Bourland, Young, Sr.**
Noes: **Directors: None**
Absent: **Directors: None**
Abstain: **Directors: None**

7. **Approval of a Cooperative Purchasing Program** – Following discussion, a motion was made by President Young to Approve of a Cooperative Purchasing Program, seconded by Director Young. The motion carried by the following unanimous vote:

Ayes: **Directors: Gonzalez, Olinger, Young, Bourland, Young, Sr.**
Noes: **Directors: None**
Absent: **Directors: None**
Abstain: **Directors: None**

8. **Water Service Regulations Schedule of Rates and Charges – Article 16 – Temporary Service and Charges – Repeal of Six Month Termination of Temporary Services** – Following discussion President Young made a motion to Approve the Repeal of Six Month Termination of Temporary Services, seconded by Director Young. The motion carried by the following unanimous vote:

Ayes: **Directors: Gonzalez, Olinger, Young, Bourland, Young, Sr.**
Noes: **Directors: None**
Absent: **Directors: None**
Abstain: **Directors: None**

9. **Approval of Payment to Albright, Yee & Schmit, APC for Professional Services rendered through February 28, 2017; Invoice No. 24145; \$24,092.50** – Following discussion, President Young a motion to Approve Payment to Albright, Yee & Schmit, APC for Professional Services rendered through February 28, 2017; Invoice No. 24145; \$24,092.50, seconded by Director Young. Discussion ensued. Following discussion, Director Young amended the motion to table the item to the next meeting until a detailed itemized invoice is provided to the Board and if there are questions from the Board, a Closed Session will be scheduled, seconded by Vice President Gonzalez. The motion passed unanimously by the following vote:

Ayes: Directors: **Gonzalez, Olinger, Young, Bourland, Young, Sr.**
Noes: Directors: **None**
Absent: Directors: **None**
Abstain: Directors: **None**

10. **Approval of Payment to Tafoya and Garcia, LLP for Professional Services rendered through February 28, 2017; Invoice No. 1013; \$15,119.25** - A motion was made by President Young to Approve Payment to Tafoya and Garcia, LLP for Professional Services rendered through February 28, 2017; Invoice No. 1013; \$15,119.25, seconded by Director Young. The motion passed by the following vote:

Ayes: Directors: **Olinger, Young, Bourland, Young, Sr.**
Noes: Directors: **Gonzalez**
Absent: Directors: **None**
Abstain: Directors: **None**

11. **Approval of Payment to Larson O'Brien, LLP for Professional Services rendered through February 28, 2017 in the San Bernardino Valley Municipal Water District Matter; Invoice No. 3391; \$6,991.50** – Following discussion, a motion was made by President Young to Approve Payment to Larson O'Brien, LLP for Professional Services rendered through February 28, 2017 in the San Bernardino Valley Municipal Water District Matter; Invoice No. 3391; \$6,991.50, seconded by Director Young. The motion carried by the following unanimous vote:

Ayes: Directors: **Gonzalez, Olinger, Young, Bourland, Young, Sr.**
Noes: Directors: **None**
Absent: Directors: **None**
Abstain: Directors: **None**

REPORTS – LIMITED TO 5 MINUTES MAXIMUM (Presentations or handouts must be provided to Board Members in advance of Board Meeting).

1. Committees

Director Young reported on the following:

- a) At the April 4th Bloomington Municipal Advisory Council (MAC) meeting, a gentleman complained to former President Betty Gosney, who reported to him that on Laurel, near Bloomington High School, there appears to be an excessive leak that may actually be on the school side. Director Young requested that Operations Manager, Joanne Chan investigate the matter.
- b) Requested to adjourn the meeting in honor of former Senator and Astronaut John Glenn, who passed a few months ago, as it takes a while to get buried at the Arlington Nation Cemetery. Mr. Glenn was a pioneer and hero to this country, served in World War II, Korea and Service in the U.S. Space Program.

Vice President Gonzalez reported on the following:

- a) Apr. 8th – The San Bernardino Valley Riders is presenting their first Easter Egg Hunt at 10:00 a.m. at Kessler Arena in Bloomington. Free soft drinks and snacks for all volunteers and challenged children. They do excellent work every year when they have other events.
- b) April 1 -30, 2017 – The Sixth Annual Wyland Foundation National Mayor’s Challenge for Water Conservation. Mayor Robertson has entered the City of Rialto (“City”) into the race. It is a competition between cities across the country that uses a series of online pledges (mywaterpledge.com) to see which city can be the most water wise. Residents who take the pledge will have an opportunity to win hundreds of prizes including a car.

Director Olinger had no report.

Director Bourland had no report.

President Young had no report.

1. Legal Counsel/Consultants

No report.

2. General Manager

No report.

3. Assistant General Manager

No report.

4. Interim Chief Financial Officer

No report.

5. Operations Manager

No report.

6. Treasurer

No report.

7. Engineering Services Manager

No report.

8. External Affairs Manager

No report.

9. Human Resources/Risk Manager

No report.

10. Business Systems Manager

No report.

11. Board Secretary

No report.

FUTURE AGENDA ITEMS

No future agenda items.

CLOSED SESSION

At 7:25 p.m. the Board convened into Closed Session. At 8:21 p.m. the Board convened to open session and Mr. Olivas reported the following:

- CONFERENCE WITH LEGAL COUNSEL – PUBLIC EMPLOYEE PERFORMANCE EVALUATION – Pursuant to Government Code Section 54957 – Title: Tafoya and Garcia, LLP, General Counsel - The Board decided to bring the item back in May 2017 and to have Legal counsel provide updates.
- CONFERENCE WITH LEGAL COUNSEL – PUBLIC EMPLOYEE PERFORMANCE EVALUATION – Pursuant to Government Code Section 54957 – Title: Human Resources/Risk Manager - The Board voted to accept the General Manager’s recommendation to place the employee off probation and to accept the evaluation. The vote was 3-1-1. The noe vote was President Young and the abstention was Director Young.
- CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – Pursuant to Government Code Section 54956.9(d)(2) – Number of Cases: one (1) – The General Manager gave the District Board an update on that matter.
- Subsequent Need Item - CONFERENCE WITH LEGAL COUNSEL – PUBLIC EMPLOYEE APPOINTMENT– Pursuant to Government Code Section 54957 – Title: Chief Financial Officer. Instructions were given to staff concerning that matter.

INFORMATION

THERE BEING NO FURTHER BUSINESS, DIRECTOR YOUNG MOVED TO ADJOURN IN HONOR OF FORMER SENATOR AND ASTRONAUT JOHN GLENN AT 8:25 P.M.

Dr. Clifford Young, Sr.
President of the Board of Directors
of West Valley Water District

ATTEST:

Shanae Smith
Board Secretary