

**Squaw Valley Mutual Water Company**  
**Minutes**  
**Board of Directors Meeting**  
**Saturday, September 24, 2011 – 9:00 a.m.**

**Call to Order:** President Margot Garcia called the meeting of the Board of Directors to order at 9:05 a.m., Saturday September 24, 2011.

**Roll Call and Establishment of Quorum:** President Garcia called the roll and noted the establishment of a quorum.

- **Directors Present:** Bossung, Coyle, De Mattei, Garcia, Guilford, Mattheis, Suter
- **Members/Guests Present:** Anne-Marie & Cory Giese, Steve Brigman, John Collins, Andy Morris, James Kass, John Reid, Buck & Nina Thys, Jean Sproehnle, Steve DiGiani, Judie Stepner, Carl Gustafson, Ray & Hazel Guaraglia, Stanley Rupkifer, Marleen Barnett, Dave Brew, R Paradis, Ken Vezeau, Greg Parker, Bill Noble, Peter Werbel, Doug Matheson, Abby Lippincott, Gayle DeMattei, Chuck Schaller, Roger Gill, Tom Day, David Salinger, Jon Shanser, Ron Gajar, Mike Geary, Tad Thomas, Buddy Shaw, David Mercer, Mary Jones, Cecile Weaver, Harold Weaver, Tuck Wilson, Elizabeth Danel, Klaus Burmeister, Russell Poulsen and more

**Call to the audience.** President Garcia asked if there were any topics not on the agenda the members of the audience wished to address. Member David Mercer asked when he might get an answer to the letter he had sent to the Board with a number of questions. President Garcia said she was working on it and he should have an answer in a week.

**Approval of Agenda:** President Garcia called for additions to the agenda from the audience. Hearing none, approval of the Agenda was moved by Guilford, seconded by Bossung, and unanimously passed.

**Approval of Minutes:** Approval of the minutes of the 9:00 meeting of September 3, 2011 was moved by Guilford, seconded by Bossung, and passed unanimously. Approval of the minutes of the 10:00 meeting of September 3 was moved by Guilford, seconded by Bossung, and unanimously passed. Approval of the minutes of the 1:50 meeting of September 3 of the new Board of Directors was moved by Bossung and seconded by De Mattei. After a short discussion, Director Mattheis requested the minutes of the September 3 minutes of the new board be amended as follows: Two sentences related to a motion and withdrawal of motion regarding project analysis were removed and replaced with the following two sentences: *Director Mattheis volunteered to talk with Environmental Planning Services and Shaw Engineering about an analysis of possible project and funding alternatives for consideration of the Board. If a consulting service contract would be required, it would be brought to the Board for an E-vote.* The minutes as amended were moved by Bossung, seconded by Mattheis, and unanimously passed.

**Election of Officers:** Election of three officers having been tabled at the September 3 meeting, the Board proceeded to the election of President, Vice President, and Secretary. **President:** Director Mattheis nominated John Coyle for President and Director Bossung nominated Margot Garcia. The nomination of Director Coyle for President passed on a 4-2 vote of the Board. New President Coyle complimented Director Garcia on the quality of the Newsletter, and stated his respect for her work, promising to do his best as President. **Vice President:** Director Guilford nominated Director Mattheis as Vice President, and he was elected unanimously. **Secretary:** Director Suter nominated Director Guilford as Secretary, which she declined to accept. Director Guilford nominated Suter as Secretary, and she was unanimously elected. Director Guilford volunteered to help her.

#### **New Officers of the SVMWC:**

**President:** John Coyle  
**Vice President:** Tim Mattheis  
**Treasurer:** Gate DeMattei  
**Secretary:** Lynn Suter

**Past President's Report:** President Garcia reported on the electronic votes taken during the meeting interim:

- *Motion* by Director Guilford to delay mailing the lateral options letter until after the Sept. 24 meeting. Died for lack of a second
- *Original Motion* to approve attached letter offering a prepay option and enclosing a straw poll on laterals to be sent to all members by certified mail. *Substitute Motion* to approve the revised attached letter to be sent to members on Monday Sept. 12 by regular mail, which passed with five "ayes" and two "noes."
- *Motion* to prepare documents including written description of the Project, annotated map, brief description of USDA loan terms and costs to members and a ballot for a vote of the memberships on the projects and the loan. See President's Report included in the Agenda Package for details. This motion passed with four "aye" votes and three votes "no"
- *Motion* that the Board authorize signing the contract with Campbell Construction for \$2,044,000 and issue Campbell a Notice to Suspend Work and notice not to incur additional costs on behalf of SVMWC, which passed with five "aye" votes, one "no" vote, and one director not voting.

Campbell Construction signed the contract on September 23 and delivered five copies to the SVMWC office. SVMWC has 10 days in which to sign. Past President Garcia reported that insurance issues that had come up had been solved on Friday, according to Andy Morris; the Board's attorney The County required an indemnity agreement to place the pipes in the street in response to a concern from a Mutual member. If there is a third party suit against the county, the

Mutual is also liable, but if the Mutual moves forward with the Campbell contract, he must indemnify the Mutual.

Director Mattheis asked about individual board member indemnity in the case of an attempt to pierce the corporate veil. Director Garcia stated that individual members of the Mutual are not liable, and that the Mutual carries insurance for Board Members. Attorney Andy Morris stated he had not seen the actual policies, but would get back to Director Mattheis and the Mutual with answers to the questions raised. Please refer to the President's report for explanation of the legal issues relative to the contract.

Director Garcia noted she spent three and a half hours orienting three of the new Directors to the bylaws of the Mutual, organization structure, contracts, budget, operating procedures and other information. The fourth new Director she oriented in a lengthy telephone call. Director Mattheis thanked Director Garcia for her time, the briefing, and congratulated her for her great work as President.

John Collins announced a tour of the well house after the meeting for any Directors and Members interested in seeing the WWII battleship generator now serving the Mutual.

**Treasurer's Report/Office Manager's Report:** Anne-Marie Giese provided both reports, which are included in the Agenda Package for this meeting.

**Water system Improvement Project Cost Update:** President Coyle announced the Board would proceed to a discussion of the USDA loan, and then the pipe replacement project.

**Loan Discussion:**

Anne Marie Giese summarized details of the loan, as explained in the handout sheet accompanying the Agenda, and discussion ensued on two options: (1) Making semi-annual payments with total interest paid over 40 years with annual reserve requirement of \$19,706. The Board previously approved this option. (2) Interest only payments every 6 months for the first year, assuming a \$500,000 draw at 6 months and the balance withdrawn at one year. The option can be changed with a 3-week notice to USDA prior to loan closing. Cost of the options to Members was discussed, as well as timing for the lock-in of the 3.75% interest rate. Ms. Giese noted, in response to a question, that in the unlikely event we have funds left over that the Mutual would use it to update the rest of the system, as USDA wants the Mutual to use all the funds. Member John Shanser questioned why those members opting to pay their share all at once should have to contribute to the reserve account, to which Ms. Giese replied that what really is being funded is depreciation—an obligation of all members. Stanley Rupifer spoke as an engineer representing Queen of the Snows Church, inquiring about alternatives to the loan, and perceived burdens and restrictions related to working with a government agency (USDA) rather than private financing. Member David Salinger, President Coyle, and Director Garcia responded by recounting the alternatives considered in the past 3-5 years, noting that private banks contacted by the Mutual offered far more expensive options. President Coyle noted the difficulty in finding 3.75% loans anywhere except USDA. He noted he is against assessments because it is only through long-term financing that changing ownership pays for a share in the

improvements over the life of the system. He noted that Campbell Construction would guarantee the work for a period of time, with a well-installed and complete system.

Other members discussed terms of the loan and contract, contingencies for additional costs, the importance of getting the project moving, credit for paying upfront, and other terms of the loan. Ms. Giese agreed to request clarifications to some Member questions from USDA. Member Peter Werbel requested that people speaking identify themselves, stated that the Mutual has already conducted straw votes, a majority wants to move forward, and moved that the Board vote immediately to proceed or not to proceed. President Coyle noted that motions are not allowed from the Floor.

### **Project Discussion:**

President Coyle stated that the Board would discuss project alternatives and how it wished to move forward. He noted that Campbell Construction's insurance issues have been resolved and the Board passed an electronic vote to proceed with signing the contract and suspending construction; that the Mutual is still uncertain about details of its own insurance and associated risks. Attorney Andy Morris noted we might need supplemental insurance before work starts. In answer to Member questions, Buddy Shaw from Campbell Construction noted that building materials purchased this fall would be stored on suppliers' premises under secure conditions, and that the materials are covered against theft or damage by Campbell's insurance.

*Steve Brigman* provided handouts that illustrate the project and briefly described it. He referred Members and Directors to the Mutual's website for a full project description as well as alternatives that are included in the bids if there is enough money. He went on to describe the well house replacement project. Currently there are 2 well houses, one very small that will both be torn down and replaced with one new well house. Twenty-five fire hydrants will be added to the system, scattered throughout the Mutual's area, doubling the current number of 23, with 2 new hydrants in the Lanny/Christie area. Member Buck Thys asked about the number of pressure reducing valves needed, which was addressed by Mr. Brigman. A discussion ensued about fire insurance issues for individual property owners. President Coyle called for further questions and comments; there were none.

Director Mattheis stated he is looking for Member input, and had spent some time with Shaw Engineering and Tim Youmans on alternatives to the existing project, beginning with Alternate #1 from Shaw which would increase fire flow, keep the back lot laterals, and offers other funding options. He stated the Board should not make a decision this week because there are lots of alternatives and many, many options. He stated the Board should discuss priorities and goals before proceeding with the project. He asked for additional vetting of options prior making a decision to move forward. If that decision is made, he then supports taking a vote of the entire Membership on whether or not we should move forward. If the Membership votes "no" we should start considering other options. Mr. Brigman pointed out that the USDA loan is based upon the current engineer-approved option and that the Mutual would have to do another presentation to USDA of any amended project. Director Mattheis stated he is upset the Board is making a decision on encumbering all Members with the significant cost of the project, that the question should go out for a Membership vote, and that he would like to hear opinions from audience members.

Member Dave Brew requested Director Garcia summarize the options that have been considered carefully over the past five years, stating that many members were at meetings, many options have already been discussed and documented, and there has been much due diligence. Director Garcia discussed the six phases of the Auerbach Study, described the redwood tank replacement project (Phase 1) and the examination of priorities for subsequent phases. She noted points such as construction costs, economies of scale, and financing options such as assessments and private bank loans, culminating in the decision to go with the USDA loan as the most prudent. She said the Board considered options such as the cost of individual projects, replacing the back-lot laterals in place, the necessity of moving 200 trees to do so, and the lack of right-of-way enforcement over the years that results in landscaping and buildings covering some laterals. She noted that a number of PSD members had to move stairs and porches during the rehabilitation of that system. She stated that Dale Cox, Chairman of the PSD Board, made a moving speech at the last meeting stating that he experienced a 180 degree reversal of his opinion because of his experience with being unable to repair a leak in a back lot line water main over the winter. He noted that moving water mains to the street was the best option because of repair costs, ease of street-location repairs, easier leak detection. Director Garcia also told of the importance of the new well houses in order to protect Squaw Creek from any chemical spills and SVMWC's liability for clean-up should such a spill happen.

Director Di Mattei stated that the Board must know what the cost will be if the construction contract is cancelled. Mr. Shaw of Campbell Construction responded that he is not sure of the actual costs. His firm provided up-front funding with the intent to proceed. He cautioned against terminating a contract issued in good faith that secured an extremely good price in a bad economy where everything is cheaper. He is anxious to do the project; he works with the USDA and public agencies every day. Board Attorney Morris stated that the Board can terminate the construction contract without lost profit exposure. Director De Mattei asked about any cost difference if the project starts in the spring instead of October. Mr. Shaw stated that portions of the project should be done in the fall when subsurface water flow is at a minimum. It is difficult, more time consuming and more expensive to put pipes in the ground when the soil is saturated with subsurface water flow. Director Mattheis asked a question regarding sequencing. Member Russell Poulsen stated that the more pertinent question is what is the cost to the Mutual to cancel and move forward with repairs. He estimated the cost would at least double over time, and has no doubt this is the cheapest time to replace pipes and borrow money. He stated that every pipe in the system could be on the brink of leaking, and that stopping the contract would be gross negligence on the part of the Board. Member Greg Harper alluded to past diligence on the part of the Board and stated he feels very comfortable with moving forward. He noted that the Mutual had not chosen the option to join the PSD, and a piecemeal approach to repairs could be cause to be taken over by PSD, if they still want the system. Member Jack Russ stated that the Mutual would still be liable for capital improvements even if taken over by the PSD. Director Bossung asked for a show of hands among the audience of those Members wanting to move ahead with the project. Many hands were raised. He asked for a show of hands of those wanting to put the project to a vote of the Membership. About 8 hands were raised. Member Peter Werbel stated that if the Mutual does not go forward it would be out the \$300,000 already spent, not including what we still owe Shaw Engineering. He asked for an estimate of the cost to put in water meters, a requirement of the USDA loan Mr. Brigman explained that the bid cost for the

meters alone is \$73,360. However, there is also the cost of new water boxes for all lots and cost of the software for the automated read meters which totals an additional \$228,600.

President Coyle commented that one reason he ran for the Board is that a decision of this magnitude is beyond the scope of what the board should be doing, and he feels the question should be approved by the Membership. He feels the Board is taking on a project that is way over their heads. Member David Mercer asked how the complicated project would be conveyed to the Membership if the question goes to a vote. Director Garcia proposed a letter be drafted. President Coyle stated he knows the improvements need to be done; he has no problem with the report, feels we should go forward, but firmly believes that the whole membership must vote on the issue. A Member asked if the bylaws reference such decisions. Director Garcia noted that the Board is authorized to go into debt on behalf of the Membership and noted that the Board had provided peer review of the project, due diligence, special meetings, additional house meetings with maps and engineers available to answer questions.

Director Mattheis suggested the ballot go out with the question "I support moving forward with the project with the loan, or I do not." Included in the ballot mailing should be Shaw's description of the project, the project map, and Ms. Giese's description of the loan. Director Garcia stated she would like to make the motion in two pieces.

Director Mattheis disagreed, stating that the project and the loan should be presented as a package. Member Klaus Burmeister stated he would like to understand why the Board is so reluctant to put the questions to the Membership for a vote, and that we have wasted a lot of time. Member Elizabeth Danel) stated there are 281 Members and many, including herself, had not paid attention to the early discussions. She stated she was ignorant of the details until about 60 days ago. Since then, she spent 15 to 20 hours in meetings, read all the reports, and attended the last six-hour Board meeting. Three weeks ago she was lost, but now knows what kind of work has been done on the project and understands its history. She said she had never heard so much hearsay, lies, and so many things to consider and that many Members will not do the work to understand the project. Member John Reid stated he was a past Board Director at a time when he was in favor of joining the PSD, noting a small group undid that effort. He now feels the Mutual must go through with the project, as it should have been undertaken ten years ago. Member Chuck Schaller stated that those Members who have gone through the process and attended meetings when choices were being offered know the progress the Board has made. He noted that a number of people have been involved in the process and there was ample opportunity to participate for anybody with the interest. He feels if the project goes to a vote, the same lies and innuendo that undid the Board vote on the PSD would torpedo that vote, and it would go down in flames. Member Mary Jones stated that people don't really read or understand the project complexities, and that the Board Members and engineers here should make the decision. She urged the Board to move forward, stating she has more confidence in it than neighbors who haven't followed details of the project. Member Doug Wilson stated that some of his neighbors have gone to only one meeting, are ignorant of the details, and would be likely to vote the project down. He said he does not want to study alternatives; he wants the Board to study them. He noted that 60 days ago he might have looked negatively on the project, but it didn't take long to convince him the Board should go through with the project, and that putting the contract off for a vote delays the project for six months.

President Coyle thanked everybody for their comments. He stated his personal opinion that many people have been following the project, but the problem is positioning of the cart, ahead of the horse. The Board should not have rushed to put a project out to bid before the Membership voted to approve it. Director Bossung stated he appreciated the President's position, but supports the project because it will bring safe and dependable drinking water and improved fire safety to every family in the Mutual. Member Dave Brew asked Attorney Morris if there are Bylaw provisions governing taking the project to a Membership vote. Mr. Morris stated the Board could take the question to a Membership vote if it wished, but is not required to do so. Member Peter Werbel stated he agrees with the last several speakers and that 281 members elected the Board to represent them because everybody does not have time to study the project in detail. He feels the Board spent four years doing their fiduciary duty, and now the Membership has a fiduciary duty to move forward, knowing anything we don't do now will cost more in the future. Construction costs are at an incredible low, the USDA interest rate is extremely low and it will be very difficult to find another contractor if we renege on this contract. He feels strongly the Board made the right decision and has saved significant costs. He disagrees there hasn't been a Membership vote because several straw votes were taken resulting in tremendous response in support. Member Ray Guaraglia stated that he voted for the new Directors because of his concern with the laterals, but he believes in the construction project and thinks it needs to move forward. He believes all Mutual Members should be responsible for the lateral lines.

Director Mattheis suggested the Board entertain a motion.

Motion: Moved by Director Garcia, Seconded, Director Bossung *That the Board sign the contract with Campbell Construction and move forward without a vote of the Membership.*

President Coyle stated up that in at least two past Board meetings two cases were brought up by attorneys who questioned the size of the project and the necessity for going to a membership vote. He said those cases may have been considered and rejected, but he recognizes that a number of members feel the project is too big not to be voted upon by the entire membership. He called for a vote on the motion.

*The motion was passed on a four-to-two vote. Those in favor: Bossung, De Mattei, Garcia, Suter. Those against: Guilford, Mattheis.*

Member Russell Poulsen thanked the prior Board for its work and told the audience that if everyone had been involved on a regular basis, they would be here in support of the project.

### ***Discussion on Lateral Line Connections***

President Coyle turned the meeting over to Director Garcia to explain the issues related to lateral line replacement. She noted that the project requires 139 lots to reconnect from the water main in the back of their property to a new water main in the street. Standard public utility practice is that the owner pays for the laterals, and the USDA won't loan money for use on private property. The Lateral Options are described on a handout provided to the Membership at the meeting. The handout is available for viewing on the Mutual's website. There was discussion among the

Board and Members about technicalities in the options, the obligation of the entire membership to contribute to improving the system, who should benefit or contribute, the merits of having maintained one's pipes and the collective responsibility to bring water to all lots. Members Mercer, Salinger, and Werbel stated their preference for Option X as the fairest for everybody and most beneficial to the whole system. Director Mattheis stated that he is interested in helping the 139 as a member of the Mutual, because the cost of the laterals is an integral part of the cost of the project. He and Director Suter agreed that Option Z may be the most legally defensible. President Coyle stated that vacant lots will not be required to place laterals. A discussion followed concerning the cheapest alternative to all 139 lots, cases where new laterals have been placed for new houses, and the benefits of those receiving new laterals as opposed to those lots *not included in the 139* that have old laterals also in need of replacement. Director Guilford stated whatever option is decided, it must be as fair as possible to the whole membership. Campbell Construction can provide an estimate for each lot, and is likely the least expensive option due to volume, and only moving in equipment once. Any Member can choose to construct his/her own lateral and pay for it.

David Brew suggested breaking the issue into three parts:

Whose laterals should be subsidized; the 139 vs 281?

Should the property owner make a contribution to the cost of his/her lateral?

How will the Mutual pay for the subsidy, should it chose to subsidize the lateral?

*Motion: Director Mattheis moved and Director Guilford seconded a motion that SVMWC will pay some portion of the cost of replacing the laterals for the 139 lots forced to move their connection from the back lot water main to a new water main in the street. The motion passed with 5 "aye" votes and Director Mattheis abstaining.*

The Board discussion proceeded to the question of determining a cost share between the Mutual each affected member. Director Garcia clarified that the cost basis should be the least cost solution as estimated by the contractor and engineer. If individual members choose a more expensive alternative, they are responsible for the cost difference.

*Motion: Director Garcia moved and Director Guilford seconded a motion that the engineer and contractor make an estimate of the least expensive method of connection, and require the homeowner to pay 25% of that least cost with the Mutual bearing the remaining 75% of such cost.*

Discussion between the Board and Members ensued regarding rationale for the 139 lot owners paying 25%, whether there is consumed value in the existing pipes, if the contractor will actually have the least cost alternative and similar issues. Mr. Brigman noted that in theory the contractor would have the lowest cost estimate. However, the reason to have both the engineer and contractor do the estimate is that the engineer can question excessive cost and suggest alternatives. He noted that the contractor is already paid to be on the site.

*The motion passed on a 3-2-1 vote. Ayes: Bossung, Garcia, Suter. Noes: DiMattei, Guilford. Abstain: Mattheis.*

Motion: Director Mattheis moved that the Board accept Option Z, which requires that the 139 lots must opt into the financing plan.

Director Suter moved a substitute motion to provide that the 75% of the lowest estimate of the cost of the new laterals for 139 lots be credited to the water bills of the 139 lots, and that the total is assessed against the 265 occupied lots. Director De Mattei seconded the substitute motion, which passed unanimously.

President Coyle directed Mr. Brigman to ask Campbell Construction to prepare a cost estimate. Director Mattheis suggested that Director Bossung fill the role of Members' Representative to the contractor, which was agreed.

Motion: Director Suter moved and Director Guilford seconded a motion that Director Bossung be named the "Members' Representative" to the contractor and be the signer on all construction progress and monthly outlay reports. The motion passed unanimously.

The Board proceeded to discuss a date beginning construction and the risk associated with issuing a Notice to Proceed prior to loan closure. Mr. Brigman said he would schedule a telephone conference between the USDA, Placer County, the contractor, the Members representative and the attorney. Director Guilford asked if there will be any upfront expenses, and Mr. Brigman stated there is a pay request for the end of October, but suggested the teleconference take place prior to a Board vote on a motion to issue the notice to proceed. It is a question of whether any work can be completed this year. It will take 2-3 days of work for a grinding machine to build the trenches, and 4-5 weeks for the whole project, although placement of permanent pavement requires 40-degree temperatures. Director De Mattei spoke against squeezing the time frame and suggested commencing construction next spring. Mr. Brigman noted the cost savings of immediately purchasing pipe and other construction material. Director Garcia noted the water level is appropriately low now for construction while the weather is still dry. Director Demotte moved that the Board put off construction until next spring. There was no second to the motion and so it died.

Motion: Director Garcia moved and Director Bossung seconded a motion that President Coyle be authorized to sign checks on all SVMWC accounts.

President Coyle moved and Director Bossung seconded an amendment to the motion to include Director Garcia as a check signer on all SVMWC account. The amendment was accepted by the maker and second, and the amended motion passed unanimously.

Mrs. Giese noted that a homeowner who lives in Reno and is a chronic late payer would like a payment plan on his past-due annual water bill. He has paid \$100 toward his \$800 bill, and his water was shut off two months ago. President Coyle postponed discussion of the extension to the next Board meeting. Member Peter Werbel asked that an item be placed on the Agenda for the next board meeting to discuss options for upgrading or replacing older laterals throughout the system.

**Setting Future Meetings:** The next Board meeting is scheduled for Saturday, November 19 at 9:00 a.m. A meeting is tentatively scheduled for December 31<sup>st</sup> at 9:00 a.m.

**Adjournment:** *It was duly moved, seconded, and unanimously passed that the meeting be adjourned.*

Respectfully submitted,

*Lynn M. Suter*

Lynn M. Suter

Secretary