

**LAVWMA**  
**Livermore-Amador Valley Water Management Agency**  
**Minutes**  
**Regular Meeting of Board of Directors**  
**Wednesday, August 18, 2021**

**Due to Shelter in Place Orders, this was a web meeting available to participants and the public through the following link: <https://us02web.zoom.us/j/88291240316>  
6:00 p.m.**

**1. Call to Order**

Chair Ann Marie Johnson called the meeting to order at 6:01 p.m.

**2. Pledge of Allegiance**

The Pledge of Allegiance was recited.

**3. Roll Call**

Board Members Present: Chair Ann Marie Johnson; Vice Chair Julie Testa; and Directors Valerie Arkin, Gina Bonanno, Bob Carling, and Arun Goel

Board Members Absent: None

Staff Present: General Counsel Alexandra Barnhill, General Manager Chuck Weir, Treasurer Carol Atwood, DSRSD, and Jeff Carson, DSRSD Operations Director

Staff Absent: None

Others Present: None

Introductions

Introductions were not made.

**4. Order of Agenda**

There were no changes to the order of the agenda.

**5. Comments from the Public**

There were no comments from the public.

**6. Consent Calendar**

- a. Minutes of the May 19, 2021 and July 21, 2021 LAVWMA Board Meetings

**Director Bonanno motioned, seconded by Director Arkin, to approve Consent Calendar Item No. 6.a.**

There were no comments from the public. The Motion passed unanimously (6 – 0) by a roll call vote.

### **7. Financial Reporting for the Fiscal Year Ending June 30, 2021**

General Manager Weir and Treasurer Atwood noted that due to the extraordinary effort related to the debt refunding and the yearend closeout process for the Fiscal Year ending June 30, 2021, there is no formal financial report for June 30, 2021. Financial reports for both fiscal years as well as the financial audit for the year ending June 30, 2021 will be presented at the November 17, 2021 meeting. The Board reviewed the O&M expenses and the capital project expenses through June 30, 2021 and noted that all expenses were in order.

There were no comments from the public. This was an information item requiring no action by the Board.

### **8. Status Report on LAVWMA Debt Refinancing**

General Manager Weir and Treasurer Atwood provided a summary of the process that led to the successful sale of the bonds on August 11, 2021. All bonds were oversold by a factor ranging from 2-7 which allowed the underwriter to get the interest rate lowered by several basis points. The result is that the total cost savings increased from the July 21, 2021 estimate of \$12,849,244 to a total of \$14,214,819. The entire process should be completed in November. Treasurer Atwood noted that the first payment on the old debt has already been made and the second semi-annual payment will be based on the new debt schedule and will be substantially less. Both General Manager Weir and Treasurer Atwood thanked the staffs of LAWVMA, DSRSD, Livermore, and Pleasanton for their outstanding efforts to make this happen.

Director Bonanno asked if it would have been possible for Board members to buy some of the debt. She wondered if it would be a conflict of interest. Both Mr. Weir and Ms. Atwood indicated that since all information regarding the debt had been disclosed, and the investment would be immaterial to the entire issue, that it would be possible for Board members to invest in the debt, although it would likely be through an institutional investor. Note: this has since been confirmed with bond counsel.

There were no comments from the public. This was an information item requiring no action by the Board.

### **8. Modification to the Operating and Capital Budget for Fiscal Year 2021/22**

General Manager Weir and General Counsel Barnhill described the bid process and some irregularities associated with the bids of the low bidders for the purchase of three vertical turbine pumps. The apparent low bidder clearly understood and addressed the technical specifications. However, the bidder provided additional information with its bid, including proposed possible alternative language to the contract, which was included in the bid packet, in particular, the liquidated damages clause. The second low bidder submitted their bid after the deadline, which excludes the bid from consideration. The third low bidder appears to have understood the technical specifications and did not object to the contract.

General Counsel cited existing case law that would allow all bids to be rejected and allow LAVWMA to negotiate the best deal with one of the low bidders. This would potentially involve some modifications to the contract terms, but likely not the bid price (unless the scope of work was changed). As a result of the bids and the need to have available funds for an agreement with

one of the three low bidders, the General Manager recommended that the cost for the pump purchase project be increased to \$510,000.

Director Carling asked if negotiations would be successful. Mr. Weir and Ms. Barnhill stated that they believed that they would be successful.

Director Bonanno encouraged staff to get the best possible deal and asked if the increase in project cost would have a negative impact on the member agencies. Mr. Weir showed the table in the budget that indicated that capital project costs come from the Renewal & Replacement Fund, which currently has a balance of over \$15 million and that it would not impact the member agencies.

Director Goel expressed concern with an apparent trend of bidders offering a low bid but proposing possible alternative terms and conditions to the contract. Mr. Weir noted that he had informal discussions with the low bidder regarding the low bidder's proposed schedule, as contemplated by the bid packet, during which he reminded the low bidder that the proposed schedule should generally be consistent with the target delivery date of 275 days from issuance of a purchase order, as identified in Addendum No. 1 to the bid packet. The low bidder stated that they could deliver the pumps in approximately 243 days, so they would have a cushion before liquidated damages would apply. Director Goel thought that was reasonable and that this demonstrated a possible misunderstanding about the way liquidated damages were being calculated, which could be acceptable to the low bidder without any contract modifications. He did not support the higher cost for the third low bidder at this time.

**Director Arkin motioned, seconded by Director Carling, to approve Modification No. 1 to the Operating and Capital Budget for Fiscal Year 2021/22 with an increase in the pump purchase project to \$510,000.**

There were no comments from the public. The Motion passed 5 – 1 by a roll call vote, with Director Goel voting No.

**10. Approval of a Resolution Awarding an Agreement for the Purchase of Three Vertical Turbine Pumps to Trillium Pumps USA, Inc.**

Based on the irregularities associated with the low bids as noted in Agenda Item No. 9, General Manager Weir and General Counsel Barnhill recommended the following: 1) reject all bids in light of the irregularities in the bids of all respondents who submitted a bid close to the budget, 2) invoke the common law exception to public bidding per *Greydon v. Pasadena Redevelopment Agency*, and 3) direct the General Manager to negotiate an agreement with one of the low bidders, subject to review and approval of the terms by General Counsel.

Director Goel maintained that the low bidder should be required to adhere to their bid with no contract modifications. For the reasons described above, it seemed that the contract terms did not require any modification to provide the low bidder the cushion they proposed on liquidated damages. General Manager Weir stated that he would inform the low bidder of this, but that, if the low bidder disagreed, it could result in needing to come back to the Board to consider another

bidder. Board members stated that they would make themselves available for a special meeting, if needed.

**Chair Johnson motioned, seconded by Director Goel, Approval of a Resolution Awarding an Agreement for the Purchase of Three Vertical Turbine Pumps to Trillium Pumps USA, Inc.**

There were no comments from the public. The Motion passed unanimously (6 – 0) by a roll call vote.

**16. Project Status Reports – Motor Control Center Replacement Project and the San Leandro Sample Station Improvements Project**

Mr. Weir discussed both projects in some detail. The MCC replacement project is proceeding on schedule, despite the fact that some noncritical capacitors are back ordered. The team decided to have the MCCs shipped and installed and to install the capacitors in the field when they arrived.

HydroScience was the only proposer for the San Leandro Sample Station Improvements Project. Staff Advisory Group members reviewed and rated their proposal and agreed to award them the agreement. The final scope is nearing completion and will be attached to the agreement. The agreement should be executed before the end of August 2021. Director Bonanno asked Mr. Weir to describe the intent of the project. He stated that it would replace outdated equipment and automate the facility to the maximum extent possible to reduce the need to send staff to the facility during wet weather conditions.

There were no comments from the public. This was an information item only requiring no action by the Board.

**17. Update and Response to Various Legal and Legislative Issues**

Mr. Weir and Ms. Barnhill highlighted several legislative and legal issues described in the report as presented by CASA and BACWA. A blanket NPDES permit amendment for chlorine residual will allow treatment plants to use much less sodium bisulfite for dechlorination, which will save substantial costs. This applies to the EBDA permit and will result in savings for LAVWMA. The CASA and BACWA reports included information on wipes legislation at the state and federal level as well as continuing information on PFAS/PFOS and other issues.

General Counsel Barnhill noted that the Governor’s order allowing Zoom meetings for public agencies will be expiring and it is not certain what regulations will apply for future meetings. It is likely that Zoom meetings will be allowed, but there must also be physical location for members of the public to attend. The November 17, 2021 meeting will be set up as a Zoom meeting and adjusted if necessary. There was also discussion regarding holding meetings at Pleasanton City Hall, which was approved by the Board in early 2020 or at DSRSD. This will need to be an item of discussion at a future meeting. General Manager Weir will check with Pleasanton about holding future meetings there.

There were no comments from the public. This was an information item only requiring no action by the Board.

**18. General Manager's Report**

Mr. Weir referred to the list of issues and activities in his report. He noted that some items are getting backed up as a result of not having an administrative assistant for over the last year. He will be meeting with DSRSD staff next week to discuss options, including one possible candidate.

This was an information item only requiring no action by the Board.

**19. Matters From/For Board Members**

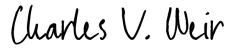
There were no matters from the Board.

**20. Next Regular Board Meeting, Wednesday, November 17, 2021 at 6:00 p.m.** The meeting will be set up as a Zoom meeting and adjusted as required.

**21. Order of Adjournment to Wednesday, July 21, 2021, 6:00 p.m.**

There being no further action, Chair Johnson adjourned the meeting at 7:30 p.m.

Minutes Approved by the Board September 8, 2021.

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Charles V. Weir  
General Manager