

BOARD MEETING  
APPROVED MINUTES

February 20, 2009

DIRECTORS PRESENT: President Erik Henrikson  
Directors Ron Treabess, Lou Reinkens, and Judy Friedman

STAFF PRESENT: Cindy Gustafson, General Manager  
Alan Harry, Administrator of Planning and Public Works  
Jim Dykstra, Treasurer/Director of Accounting & Employee Services  
Bob Bolton, Director of Parks and Recreation  
Mike Sexton, Legal Counsel  
Ginger Charlton, District Clerk

**A. CALL TO ORDER – PLEDGE OF ALLEGIANCE**

President Henrikson called the meeting to order at 8:35 a.m. Director Friedman led the audience in the Pledge.

**B. AGENDA AMENDMENTS AND APPROVAL**

1. Agenda Deletions, Changes and Audience Requests

President Henrikson said that he would like to take item #7 right after item #4 so that the community members can get back to work.

2. Additions to Agenda

Mr. Sexton said that late yesterday afternoon he received an order of the administrative law judge regarding the Lake Forest proceedings that are before the PUC. We have 20 days to file comments on the draft order. He said that it can't wait until the next Board meeting and needs action so he asked to add it to this agenda.

**Motion to add the Lake Forest Proceedings in closed session:  
Reinkens/Friedman/3-0 (Director Treabess was not yet in attendance)**

3. Approval of Agenda

**Motion to approve the agenda as amended: Friedman/Reinkens/3-0**

**C. PUBLIC FORUM**

Virginia Graham asked to find out what's happening with the Prop. 218. (Director Treabess arrived.) Ms. Gustafson said that based on the Board's direction, we retained McClintock Accountancy to supervise the protest counting proceedings. The Public Hearing will be opened Wednesday and at that time the count will commence for ballots that were received

unopened. She reviewed the process for tabulating the protests and noted that the public can observe the tabulation.

Bill McClintock introduced himself as a commercial property owner in Tahoe City and encouraged the Board to continue looking forward. He added that if we think we need to work on infrastructure, do it. He also complimented the Board for supporting Parks and Recreation since we aren't part of a city that would handle it. He urged the District to also get shovel-ready projects ready so that we're ready to receive money from the stimulus packages.

Mr. McClintock asked the Board to be sure to look at all sources of revenue to pay for infrastructure instead of having customers pay the entire cost. He added that it might be a good time to think about combining NTPUD and TCPUD to save money. Mr. McClintock said that he feels that the sewer rate structure might be slightly inequitable. Ms. Gustafson responded to his issues and thanked him for his comments. President Henrikson said that he would like to discuss Mr. McClintock's suggestions in the not-too-distant future after the rate hearing issues are completed.

Mr. Sexton said that it was refreshing to hear a member of the public recognize that an elected Board has a fiduciary duty to deal with difficult issues like replacement of infrastructure and makes those decisions even when they're unpopular. He said that he knows that the staff and Board want to thank him.

Logan Carnell asked to discuss an order that arrived yesterday. Mr. Sexton said that the Lake Forest issue was added to closed session and he recommended adding it to open session also so that the Board could discuss it with Ms. Carnell.

**Motion to add the Lake Forest issue to open session: Reinkens/Treabess/4-0**

Ms. Carnell said that the CPUC (California Public Utilities Commission) has not recognized the letters from Lake Forest residents. She added that they said that they have never received any information from TCPUD. Mr. Sexton said that they are wrong. Ms. Carnell said that they have told her that we need to show legal error and she asked for the District's assistance with a response. Mr. Sexton recommended that she put together her comments and submit them via certified mail within 20 days. President Henrikson said that we will submit a response to the CPUC, also.

**D. FINANCIAL**

4. Update on Operating Costs for 2009 as Compared to Rate Study

Mr. Sexton went over how the rates would be implemented through resolutions at the next meeting. He explained that he has drafted resolutions that would be used if there were an inadequate number of protests. He also, in an abundance of caution, drafted another couple of resolutions in case the Board wants to reduce rates temporarily.

Ms. Gustafson gave a presentation on the mechanics of how the rates would be implemented. She went over the five-year plan and said that each year the Board would go back with a rate analysis to implement the rates for the coming year. She emphasized that rates could be set up to the maximum allowed by the 218 but could also be lower if the analysis shows that the full rates aren't needed. A new resolution would be adopted yearly for the upcoming year. Director Reinkens said that he was concerned with it being premature to have a handle on capital replacement costs. Ms. Gustafson agreed and said

that this year we would only be dealing with projections on operations. Ms. Gustafson said that the conservation piece of the water ordinance is being worked on and will come back to the Board in March or April. Ms. Gustafson said that the resolutions will come to the Board next Wednesday and/or Friday if necessary.

Ms. Gustafson said that she put a guest editorial in the newspaper today explaining to the community that water rates are going up in April even if the 218 rates don't go through. She then explained the billing system and noted that customers will be notified of extreme water use so that it isn't a shock when their high bill arrives. Director Reinkens asked if letters that are sent to notify customers of a leak should be sent certified with a return receipt. Mr. Sexton said that they could but we wouldn't have to. Mr. Harry reviewed the new bills that include a red box that tells customers if they have a potential leak.

Mr. Vatisas thanked the Board and Cindy for responding to all of his inquiries over the past two months and the changes that he feels have been taken lately to help the customers.

Mr. Sexton said that he wanted to clarify why the Board would do a Prop. 218 to get approval for a set of rates for a five-year period and then turn around immediately and consider reducing those rates. He said that statutorily, a public utility district is mandated that only revenue producing utilities should be acquired, owned or operated by the District. It is the intention that the District pays all such charges (salaries, office expense, operating expenses of the utility, interest on indebtedness, and fund for replacement, repairs, and betterments) out of the revenue. With respect to Proposition 218, the limitation is then that revenue derived from a fee shall not exceed the funds required to provide the property related service. The Proposition 218 requires that you have the public process to get public approval of the rate. But even if you get approval of the rate, you still can't implement a rate that exceeds the cost of providing service. That means that the District is mandated to collect the money necessary so that we don't exceed the cost of providing the service. That is why a separate resolution is done yearly to protect the public by doing a financial analysis.

Mr. Sexton reviewed the Bighorn Desert Water District Initiative and explained that the people from this District tried to use the initiative process to not only roll back the rate but to set the rates for the future. The Supreme Court said that they could roll back rates if they could prove that the rates exceeded the cost of the service but they could not set rates for the future.

## **G. PARKS AND RECREATION**

### **7. Rideout Community Center Goals and Objectives**

Mr. Bolton reported that North Lake Tahoe Chamber of Commerce had an awards ceremony last week and TCPUD honored Sue Rae Irelan as their Volunteer of the Year. He said that she has volunteered numerous hours and helped create the Rideout Community Center. Ms. Irelan said that she appreciates the recognition and the sense that the work that all of the volunteers do with respect to recreation and community programs is supported and valued by the TCPUD.

## **D. FINANCIAL**

### **4. Update on Operating Costs for 2009 as Compared to Rate Study (continued)**

Mr. Sexton asked to give the following quote from the California Supreme Court about Prop. 218. "We presume local voters will give appropriate consideration and deference to a

Governing Board's judgments about the rate structure needed to insure a public water agency's fiscal solvency. We assume the Board, whose members are elected, will give appropriate consideration and deference to the voters expressed wishes for affordable water service. The notice of hearing requirements of Proposition 218 will facilitate communication between a public water agency's Board and its customers."

Director Treabess thanked Mr. Vatistas for his comment but wanted to follow up that the Board continually looks at the budget and the yearly rates and does what needs to be done in the best interest of the community and the District.

## **G. PARKS AND RECREATION**

### **7. Rideout Community Center Goals and Objectives**

Mr. Bolton said that staff and the Rideout Community Center Committee have had several meetings to develop an operational plan for the center. The Committee is made up of staff and community members who represent different demographics within the North Lake Tahoe area. He introduced Sue Rae Irelan, Bob Hartsfield, and Rhonda Krider and thanked them for their participation. He went over the history of the community center and gave a power point presentation on the goals and objectives. Mr. Bolton answered questions of the Board and requested their approval of the draft mission statement and goals and objectives for the Rideout Community Center.

Ms. Irelan said that the opportunity to have a center that is large enough and multi-purpose enough to support the community is wonderful. She urged the Board to drop in and see all of the wonderful programs and differing age groups at the Center.

### **Motion to approve the draft mission statement and the goals and objectives for Rideout Community Center: Treabess/Reinkens/4-0**

### **9. North Tahoe Arts Lease of Tahoe Community Center**

Mr. Bolton introduced Andy Skaff, Karen Ellis, and two artists from North Tahoe Arts. He explained that they have leased a portion of the Tahoe Community Center from TCPUD for several years. The most current one expired on December 31, 2007 and has been extended on a month-to-month basis since that time. He is recommending that the Board of Directors approve the lease in concept of a portion of the Tahoe Community Center by North Tahoe Arts and to direct staff and P&R Committee to negotiate in-kind offsets by May 1, 2009. Mr. Bolton went over the new contract and led a discussion on "in-kind" offsets that would be beneficial to the community and save the PUD some money. He said that North Tahoe Arts provided a list of potential offsets to the PUD and the Committee reviewed them. They made a statement that most of the items on the list didn't meet the requirements of offsets that would enrich programs for the PUD.

Karen Ellis said that she believes that we can work together in the Committee to develop some mutually acceptable volunteer hours. Her concern remains that they have never thought about leasing the building in terms of benefiting the PUD. She said that the economy has affected everyone and she asked us to reconsider the cost of the lease.

### **Motion to approve in concept the rate increase in effect from March 1 – May 1, 2009 so the Committee and North Tahoe Arts can agree upon the in-kind offsets: Treabess/Reinkens/4-0**

Mr. Sexton recommended that the area involving excess operating costs and how they get recouped in future years be spelled out more and then sent to him for review.

**E. PROJECTS**

All items covered under consent calendar.

**F. SEWER & WATER UTILITIES**

5. Proposed Revisions to District Water Ordinance

Mr. Harry said that the changes for the ordinance came to the Sewer and Water Committee this month. The changes, modifications, and additions are due to one or more of the following: The metering of single family residential parcels; the District's move to consumption billing; statutory changes in the areas of billing enforcement; non-payment and appeals; and the shift in non-gender specific language. He reported that the substantive changes that are being proposed have been reviewed by legal counsel and the Sewer and Water Committee. He reviewed the changes and went over a change recommended by Jan Brisco. Mr. Sexton reviewed the recommended change under definitions and changed it to read as follows (with change in bold):

*DWELLING UNIT* – A separate living unit with kitchen and bathroom facilities including those in single residences, multiple dwellings, apartments, mobile homes, trailers, condominiums or townhouses.

He said that staff would recommend that the Board adopt Ordinance 185 as revised.

Director Henrikson said that he appreciates the work that was done on this item but he didn't vote for the ordinance last time because of philosophical reasons such as Right of Entry and he plans on voting no at this meeting also. Mr. Sexton said that he put in changes to the document regarding the Right of Entry, non-gender specific language, and statutory changes in the way in which we can bill and recoup funds if customers don't pay their bills. Director Henrikson said that he is o.k. with the change made by Mr. Sexton for the Right of Entry, but that he has problems with other areas regarding separation. Ms. Gustafson said that it makes sense to wait until February 27<sup>th</sup> to adopt the appropriate ordinance and make revisions to billing that have been discussed. Mr. Sexton said that if the items that Director Henrikson is concerned about are a requirement of state law, then his vote should be to approve the ordinance and make a separate statement that he disagrees with the law.

6. Computerized Maintenance Management System Presentation

Ms. Gustafson said that she felt that this item was important to do before the hearings, and she had hoped that the public would stay and understand what goes into operating and maintaining a water and sewer system. She said it's very frustrating when people who are very critical of our O&M costs don't stay for this presentation.

Mr. Laliotis said that Director Reinkens requested that he review with the Board and public what our procedures are and how we maintain our facilities. He gave a power point presentation on the history of our computerized maintenance system and what District staff does now. He went over the work order procedures and pointed out that TCPUD has the highest number of connections per full-time field employee of the three neighboring basin utility districts. That means that one of our employees serves more people than any other district in the basin. That holds true for both water and sewer.

Mr. Laliotis said that we should start evaluating our current system and, based on what our potential future district technology goals are, see if we want to invest more money into it or make the decision to migrate to something different.

Director Reinkens thanked Mr. Laliotis for his thorough report and encouraged the Board to support this area as it is the key to increased efficiencies.

**G. PARKS AND RECREATION**

8. Request for Authorization to Install Bear Carving at Commons Beach Entrance

**Motion to Approve: Friedman/Treabess/3-1 (Director Henrikson voting no)**

**H. CONSENT CALENDAR**

Director Friedman asked to pull the January 23<sup>rd</sup> Board minutes from item 10.

**Motion to approve remaining consent calendar: Friedman/Treabess/4-0**

10. Minutes

- Finance Committee – January 16, 2009
- Sewer and Water Committee – January 22, 2009
- Parks and Recreation Committee – January 22, 2009
- Board Meeting – January 23, 2009

Ms. Friedman asked for the motion to be rewritten on item #5. It will come back to a future meeting.

11. Finance Report

12. General Manager and Staff Reports

- a. General Manager
- b. Administrator of Planning and Public Works
  - Director of Utilities
  - District Engineer
  - Project Development
  - Technical Services
- c. Director of Parks and Recreation
  - Parks Superintendent
  - Recreation Superintendent

**I. RESOLUTIONS**

13. Nominating Its ACWA/JPIA Board Member to the Executive Committee (Lou Reinkens)

**Motion to approve: Treabess/Henrikson/4-0 by roll call vote**

14. Concurring in Nomination to the Executive Committee of ACWA/JPIA (Thomas A. Cuquet)

**Motion to approve: Reinkens/Treabess/4-0 by roll call vote**

15. Concurring in Nomination to the Executive Committee of ACWA/JPIA (E. G. "Jerry" Gladbach)

**Motion to approve: Reinkens/Treabess/4-0 by roll call vote**

**J. GENERAL**

16. Mountain Counties Water Resources Association Membership

Ms. Gustafson said that we can table this item and ask the group if they would like to have someone come give a presentation to the Board.

17. Reports

Ms. Gustafson said that Director Reinkens had asked for historical information on recreation. She reported that resolutions dating back to 1948 were included in the packet proving that the District was in the parks business dating back to 1949.

Ms. Gustafson reported that she included information on the Governor's proposal for 20% conservation by 2020 in the packet. Mr. Sexton said that ACWA originally opposed the position and is now watching it.

18. General Correspondence

Director Friedman asked about the item regarding Districts of Distinction. Ms. Gustafson said that we filled out the application and mailed it in. She will report back to the Board when she learns more.

19. Board Follow-Up

There was no comment.

**M. CLOSED SESSION**

**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION  
SUBDIVISION (a) OF SECTION 54956.9**

22. Significant Exposure to Litigation Pursuant to Subdivision (b) of Government Code Section 54956.9: One potential case

**N. CLOSED SESSION REPORT**

Mr. Sexton reported out of closed session that, regarding item #22, the Board rejected the claim and instructed staff to turn it over to JPIA. With respect to the added item for Lake Forest, instructions were given to the attorney.

**O. ADJOURNMENT**

At this time, two Board members had to leave the meeting so there was not a quorum. The meeting was adjourned at 12:30 p.m.

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Erik Henrikson, President

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Ginger Charlton, District Clerk

Prepared by Ginger Charlton