

SPECIAL BOARD MEETING
APPROVED MINUTES

April 6, 2009

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

STAFF PRESENT: Cindy Gustafson, General Manager
Alan Harry, Director of Development & Public Information
Jim Dykstra, Treasurer/Director of Accounting & Employee Services
Mike Sexton, Legal Counsel (via telephone)
Ginger Charlton, District Clerk

A. CALL TO ORDER – PLEDGE OF ALLEGIANCE

President Henrikson called the meeting to order at 5:05 p.m. and Ms. Gustafson led the audience in the Pledge. Director Henrikson explained that he and Ms. Gustafson have a conflict with this issue and they excused themselves from the table. Director Wilkins took over the lead on the Lake Forest item.

B. RESOLUTIONS

1. Lake Forest Improvement District – Adopt Amended Assessment Engineer’s Report

Mr. Harry passed out a revised election packet and reviewed the contents.

Mr. Auerbach gave an overview of the changes that he made to the Engineers’ Report. The cost estimate was modified to incorporate the anticipated amount of public funding from various sources leaving the total amount to be accessed as \$1.612 million (previously \$2.747 million). Text in Exhibit B, Cost Estimate, was also modified to explain how public funding has been applied and if funding in excess of that amount were received, it would be applied to further reduce the assessments in proportion to each assessment.

Mr. Harry explained that Exhibit D, Method of Assessment, had a minor change within Assessment Zone 4 paragraph. There were two slivers of land that have no development potential and were not considered to be parcels that should be assessed. They were zeroed out and now there are a total of three parcels that fall within the special case.

Mr. Harry said that the assessment role was based on the following conditions:

- The District would allocate up to \$308,000 for the acquisition of LFWC.
- The District successfully acquires the LFWC.
- The District receives a minimum of \$1,327,000 in outside grant funding.
- The total project cost would be no more than \$3,247,209.
- The interest rate would not go above 5%.

Mr. Dykstra reviewed the business case for the acquisition of the Lake Forest Water Company (LFWC). He said that he recapped what we had been doing with the LFWC and then took Mr. Harry's projections on the revenues and expenses for these new customers and calculated the yearly totals. During the ten-year period there was an estimated incremental contribution to the District of about \$270,000.

Mr. Harry said that staff has determined that the best way to ensure that we don't have a postage stamp rate for the Lake Forest Improvement District (LFID) is to have all TCPUD water customers pay the adopted base and consumption rates for water. Improvement District customers will have their assessments credited to their base rates and at no time will a new customer pay a base rate that is less than TCPUD customers.

Mr. Harry went over the information contained in the election packet that was passed out at the meeting, the minor changes in it, and answered questions of the Board. Director Reinkens asked about the construction time frame. Mr. Harry said that if things went well, it could go out for construction in spring of 2010. Mr. Homolka added that the old system will provide water for a couple of years. During that time the homeowners need to hook up to the new system. If a homeowner hasn't hooked up to the new system when it comes time to cut the water off on the old system, the PUD will do it and charge the customer.

Director Wilkins asked if the audience had any comments or questions. He had audience members pose all of their questions first and then staff answered.

Robert Jones thanked the Board for doing this and asked the following questions:

If the current owner doesn't want to sell, what happens? Mr. Harry said that we have made an offer to Mr. Dewante but have not received anything back from him. If the owner refuses to negotiate, the Board of Directors will decide if eminent domain should be used at that time. Mr. Sexton said that he has included in the resolution that eminent domain will not be used at that time without a revisit of the issue with the Board. Director Wilkins said that if the Board is considering using eminent domain, they will look at the percentage of the yes vote to see how strong the level of support from the property owners for the acquisition is.

What are the options if the amount of funding in the assessment isn't enough to fully fund the project? Mr. Harry said the Board could revisit the whole Prop. 218 process if the property owners in the LFID signed a petition that showed that a majority of them would go along with a higher interest rate or construction cost. He added that it can't be built in to this election, but another 218 could be held later.

Could we devise a method so that if we rebuild the system, homeowners could get their service laterals rebuilt at the same time? Mr. Homolka said that he is sure that contractors will be contacting the homeowners to hook them up at that time.

What is the number of votes required for the passage of the assessment district? Mr. Harry said that it's not the number of votes that count, but the total portion of the assessment. Each property has a certain assessment and that is their weight. The dollar amounts will be totaled up on each side of the chart and whichever side has the most value will win. Only votes that are cast will be counted.

If there are excess funds at the end of construction, what would be the disposition of those funds? Director Wilkins said that there would be several options to use the leftover funds. Apply that balance to lowering the annual assessments; put the

balance towards the principal on any loans that were taken out to shorten the length of the assessment; or go to repaying the funds that the District is advancing the assessment district. Mr. Harry said that if there are funds left available, there will be a requirement for Board action. The Board would look at the whole picture after the accounting was done and decide what the best use for the money is at that time.

Mike Robertson asked if it is possible for arguments for or against to be included with the ballot. Mr. Sexton said that arguments cannot be included in the ballot package.

Director Henrikson asked if all residential parcels get a water stub to the parcel and if all lots are being assessed. Mr. Harry said all residential lots get a stub and will be receiving a level of benefit. Only those lots that are developed will receive the domestic service credit. Vacant parcels that are not developed and have not paid a connection fee at any time will be required to pay a connection fee when they want service. Ms. Gustafson said that this is the practice that the District has followed in the past but Lake Forest will become a model for acquisitions in the future so the Board can decide how they want to handle it.

Logan Carnell asked if owners of homes in foreclosure can still vote. Director Wilkins said that the vote would belong to whoever the property owner of record is on the date that the ballot is due to the District, whether it's a bank, third party, or owner.

Director Wilkins said that staff is recommending that vacant lots or lots that do not currently receive service from LFWC would pay a connection fee to receive service from LFID in the future and he wondered how the rest of the Board felt about it. He said that the Board could decide it now as a part of this action or could decide it later with Director Henrikson and Ms. Gustafson participating. It was determined that the decision could affect how some people vote so it needs to be dealt with now. Director Reinkens said that he felt that requiring the connection fees to be paid on the vacant parcels in the future is a fair thing to do and he agreed with it. Director Treabess also agreed.

Mr. Harry passed out a revised copy of Resolution No. 2009-11 and noted that it includes changes that were made by legal counsel on Saturday. The only edit is a change on #6 that changes the date of the Amended Engineer's Report from April 6th to March 31st. He said that the Resolution adopts the Amended Engineers' Report and notices the Public Hearing for May 26th at 5:30 p.m. for the tabulating of ballots.

Motion to approve Resolution No. 2009-11: Reinkens/Treabess/4-0 with Director Henrikson abstaining

Director Wilkins thanked the residents of Lake Forest for being diligent in this process and for bearing with the Board as they work their way through this system acquisition.

2. Lake Forest Improvement District – Authorize Property Related Assessment Ballot Election Pursuant to Article 13(D) of the California Constitution

This item was pulled as the revised resolution for item #1 contained the necessary information.

C. FINANCIAL

3. 2009 Budget Amendment to Water Capital

Mr. Homolka reviewed the spreadsheet with the Board and said that he is recommending that the budget be amended to provide the design money only. When it is known whether they are going to make it to construction or not, they will come back to the Board for a call for bids, a budget amendment, and funding offsets. He said that we will do the projects that we have always planned on doing and that the three projects that were added in are funding eligible.

Mr. Dykstra said that we are looking at accelerating some projects in order to have the opportunity to get some grant funding. He said that if we were able to save on some of the other projects, we could use some of that revenue to provide funding. We could also use the revenue from any operating cost savings.

Motion to approve the budget amendment: Treabess/Wilkins/5-0

D. PUBLIC FORUM

Rob Westin said that in 2003 Mr. Dewante decided to re-drill the Skyland-Nielsen Well. It was winter time and they didn't come back in the same well hole so dropped the well onto property that is currently owned by Wendy Wood. Mr. Dewante never told anyone. Wendy Wood doesn't want the well there and is stating that she is going to turn off the water. Her attorney said that it will be turned off on April 8th. The Skyland Homeowners Association doesn't want to be involved with this but had to protect themselves with a temporary restraining order against Wendy Wood. Mr. Westin said that it has cost them money and time so he's not very happy with the situation. Ms. Gustafson said that she would attend their next Homeowners Association meeting.

E. ADJOURNMENT

The meeting was adjourned at 6:30 p.m.

Erik Henrikson, President

Ginger Charlton, District Clerk

Prepared by Ginger Charlton