

BOARD MEETING
APPROVED MINUTES

September 22, 2009

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

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

A. CALL TO ORDER

Vice-President Wilkins called the meeting to order at 5:00 p.m. The Board adjourned to closed session.

B. CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Government Code Section 54956.9 (c)

1. The Board will consider whether to initiate litigation – One potential case

CONFERENCE WITH REAL PROPERTY NEGOTIATORS: LAKE FOREST WATER COMPANY - Government Code Section 54956.8

2. District Negotiators: Alan Harry, Jim Dykstra, Tony Laliotis, Harold Morgan, and Dennis Viglione

Negotiating Party: Rick Dewante

District negotiators will be given instruction concerning whether the District will seek to purchase the water company and, if so, price and terms of such purchase

CONFERENCE WITH LABOR NEGOTIATORS – Government Code Section 54957.6

3. District Representatives – Cindy Gustafson and Jim Dykstra
Employee Organization – All Employees

C. OPEN SESSION – PLEDGE OF ALLEGIANCE

Director Henrikson called the meeting back to order at 6:00 p.m. Director Treabess led the audience in the Pledge.

D. AGENDA AMENDMENTS AND APPROVAL

4. Agenda Deletions, Changes, and Audience Requests

There were no deletions, changes, or audience requests.

5. Additions to Agenda

There were no additions.

6. Approval of Agenda

Motion to approve the agenda: Treabess/Wilkins/5-0

E. CLOSED SESSION REPORT

Mr. Sexton reported the following from closed session:

1. The Board voted 4-0 to authorize counsel to take steps toward the commencement of a proceeding in eminent domain to acquire the Lake Forest water system from Richard Dewante. The commencement of the proceeding in eminent domain will occur only after the Board adopts a resolution of necessity that meets statutory requirements. The Board will consider adopting a resolution of necessity to acquire the Lake Forest water system at its October 27, 2009 Board meeting. Director Henrikson disqualified himself from discussions, and did not attend the closed session. General Manager Gustafson disqualified herself from participation in discussions and did not attend the closed session.
2. Staff advised the Board that Mr. Dewante had again not responded to the District's most recent offer to purchase the Lake Forest Water System. The Board instructed staff to make a new offer of purchase to Mr. Dewante.
3. There was insufficient time to discuss the item and it will be carried over until open session is completed.

F. GENERAL

7. Recognition of Morgan McClintock and Tour of Community Demonstration Garden

Roger Adamson introduced Morgan McClintock and thanked him and Troop 266 for the outstanding work they did on the demonstration garden. Morgan said that he is going for Eagle Scout and chose the garden as his community service project. He thanked Mr. Adamson for giving him the idea and thanked all the volunteers from the community who helped. He explained the layout and the drip system and led everyone in attendance on a tour of the garden. President Henrikson read a letter of appreciation from the Board and thanked Morgan for the great job. Ms. Gustafson added that the next District newsletter will have a write-up of the project.

K. PARKS AND RECREATION

8. Burton Creek Operating Agreement

Mr. Bolton introduced Kevin Murnane of Tahoe Cross Country and explained that he is asking the Board to approve a ten-year operating agreement with California State Parks for Burton Creek State Park. He reminded the Board that this item was originally presented in June but Mr. Sexton had some concerns about liability issues and the Board directed staff to have Mr. Sexton contact State Parks directly to try to change some of the contract language. Some of Mr. Sexton's requests were approved but some were not acceptable to State Parks. Mr. Sexton reviewed their response and sent a memo to Ms. Gustafson and the Board recommending that they not enter into the agreement because it transfers all costs of operating the facility and all risks and liability onto the District without any sharing by the State. Staff researched other agencies and found that many of them had the same type of contracts with the State. Eastbay Regional Park District did an agreement with them that was very similar to ours but had a different hold-harmless agreement in it. In ours, we held the State harmless but they didn't do the same for us. In East Bay's, they held each other harmless. Mr. Bolton spoke with Diana Salter from the State and she agreed to change the wording in our contract to hold each other harmless.

Mr. Sexton was still concerned that the District is responsible for the land in an "as is" condition and they weren't willing to say it was safe. Mr. Bolton spoke with Ms. Salter and she agreed to state that we still accept it as is but they are not aware of any deficiencies in the property. He pointed out that the contract in front of the Board isn't complete and noted that a section of the property is owned by State Parks but is in a national preserve. Mr. Murnane drew an illustration of a section of the trail that included the piece going through the preserve and said that he will work with them on changing the trail. Mr. Bolton said that this issue will not affect the contract.

Mr. Bolton answered questions and concerns of the Board and asked them to allow the President to sign the contract when the wording is complete.

Mr. Sexton said that there is a sentence that doesn't make sense in the hold-harmless agreement and asked that the following change be made:

In cases where the Parties are found to be jointly and severally liable and a Party is not found to be solely or concurrently (~~by appointment~~) liable, the obligation for payment of judgment or any settlement in such matter shall be apportioned ~~based on the prorate contribution of the Parties to purchase of the properties.~~ **according to fault.**

Ms. Gustafson asked if Mr. Sexton felt that this change would be allowed by State Parks. He said yes.

**Motion to allow the President of the Board to sign the contract when ready pending the additions or changes that Mr. Bolton mentioned:
Trebess/Wilkins/5-0**

Mr. Sexton said that kudos should be given to Ms. Gustafson and Mr. Bolton for their work with the State on this issue. They made a huge difference and the Board needs to recognize the huge change in position from what he was able to get from the State and what they have now been able to get from the State. He said the District is much more protected now than it would have been. Ms. Gustafson said kudos need to go to Mr. Sexton as well because without his pushing, they would have been fine with continuing things the way they were.

G. PUBLIC FORUM

There was no public comment.

H. FINANCIAL

All items covered under consent calendar.

I. PROJECTS

All items covered under consent calendar.

J. SEWER & WATER UTILITIES

All items covered under consent calendar.

M. RESOLUTIONS/ORDINANCES

18. Amending and Modifying Sewer Ordinance No. 255 –Withhold Provisions

Ms. Gustafson reported that John Falk called staff a month ago regarding the modification of the sewer ordinance in 2006. At that time, the District had had issues with escrow companies that didn't want to hold money for long periods of time and some withhold provisions were causing problems. Our new ordinance changed it so that people had to pay the District instead of having a title company hold the money. Mr. Falk said that it had caused problems for a few clients and he asked if the District could change the ordinance back to what it had been. Staff contacted other local districts and verified that they were still using title companies to hold the money. Staff is suggesting that the ordinance be changed to allow the District or the title companies to hold the money. Ms. Gustafson added that this would also reduce some administrative burden on staff.

Ms. Gustafson recommended the following change on page 18-3 in both the 6th and 8th sentences of the second paragraph:

Such costs ~~shall~~ **may** become a lien on the property in accordance with normal service charge billing procedures.

Mr. Falk thanked staff and told the Board that he feels there is a very functional and ever increasingly effective relationship here and the realtors appreciate it.

Motion to approve proposed language revisions to Section 6.02.1.5.2 of Ordinance 255: Wilkins/Reinkens/5-0 by roll call vote

L. CONSENT CALENDAR

Director Friedman asked to pull items #13 and #14. Director Henrikson asked to pull item #15.

Motion to approve the balance of the calendar: Treabess/Wilkins/5-0

9. Minutes

Community Issues Committee – June 22, 2009
Finance Committee – July 21, 2009
Parks and Recreation Committee – July 24, 2009
Community Issues Committee – July 24, 2009
Special Board Meeting – August 7, 2009
Water System Acquisition Committee – August 13, 2009
Finance Committee – August 14, 2009
Board Meeting – August 25, 2009

10. Finance Report

11. General Manager and Staff Reports

- a. General Manager
 - Director of Development and Public Information
 - Director of Utilities
 - District Engineer
 - Project Status
 - Technical Services
- b. Director of Parks and Recreation
 - Parks Superintendent
 - Recreation Superintendent

12. Recreation Outreach and Promotion Plan

13. Dollar Hill II and Granlibakken Water Meter Installation Project

- Change Order No. 2
- Pay Estimate No. 3

14. Condominium Master Water Metering Project

- Change Order No. 2
- Pay Estimate No. 2

Director Friedman asked why we do so many change orders. Mr. Homolka said that change orders occur because all plans and designs aren't perfect and we can't see underground. He added that change orders and the quality of a design aren't related and all of our budgets have contingencies built in. Regarding change order #2 for item 13, Mr. Homolka said that it was caused by changing the installation from a non-traffic area to a traffic area. For change order #2 on item 14, staff switched the valves because they were failing on another project.

Motion to approve: Friedman/Treabess/5-0

15. Lake Forest Erosion Control Area B SEZ Restoration Project – Cooperative Agreement with Placer County

Director Henrikson asked if the District is taking out the fire hydrants and valves at Lake Forest Glen. Mr. Homolka affirmed that we are and said that the County will pull everything

out. He noted that the fire hydrants can be salvaged but they are pretty old and we wouldn't use them again. Mr. Bolton suggested putting them in the dog park.

Motion to approve: Friedman/Treabess/5-0

M. RESOLUTIONS/ORDINANCES

16. Resolution Commending Debi Black

Ms. Gustafson said that Debi Black retired on August 15th and that this resolution was written in her honor. It will be presented to her at her retirement party.

Motion to approve Resolution #09-27: Friedman/Reinkens/5-0 by roll call vote

17. Declaring Equipment Surplus and Authorizing Disposition by Sale

Ms. Gustafson explained that this resolution is for a power pole that we had on a property. We have no use for it and the new owners could use it so she recommended approval. Mr. Sexton added that this sale is contingent on the property owner securing an easement from the Forest Service for the location of the power pole.

Motion to approve Resolution #09-28: Friedman/Wilkins/4-1 by roll call vote with Director Treabess temporarily away from the table

N. GENERAL

19. Reports

Mr. Dykstra reported that the Counties have now determined the amount of borrowing which the State will have for our fiscal year in the property tax (\$406,000). California Communities is going to do a financing backed by the State's receivables which would take us out of the process at little cost. This item will come back to the Board in October.

Mr. Harry reported that the Placer County Board of Supervisors approved our application for park dedication fees for the Lake Forest Beach Park in excess of \$72,000. He also reported that the Humane Society found a \$3,000 matching grant for our dog park. Staff is in the process of gathering the additional \$3,000 and has received a \$500 grant from the North Lake Tahoe Kiwanis Club and \$500 in cash donations. People that donate will have their name on the "wall of paws".

Mr. Bolton reported that he attended two meetings regarding the possible construction of an ice rink at Tahoe Tree Nursery. He was invited to attend because of his experience with building an ice rink at Truckee Regional Park. He will keep the Board informed if it moves forward.

Mr. Bolton reported that they started doing repairs on the Truckee River bike trail.

Mr. Bolton said that he came to the Board last year for approval in case grants were approved for playgrounds at Rideout, Marie Sluchak Community Park, and Kilner Park. He said they are getting real close but he feels that installation should be done in the spring.

Mr. Homolka will be bringing an update on capital projects for this year at the October meeting.

Ms. Gustafson reported that she is receiving letters from candidates running for the ACWA Board. Unless she knows the person, she doesn't take a position on them. Director Reinkens will make recommendations to the Board.

Ms. Gustafson reported that the California Conservancy will hold a Board meeting here on the 30th and will then tour Commons Beach, the Lakeside Trail, and the outlet parcel. She invited any Board members who are interested to attend. She reported that she and Mr. Bolton have also given tours to the Economic Development Board of Placer County, the California Planners Association, and Placer County Parks Commission.

20. General Correspondence

There was no input.

21. Board Follow-Up

There were no comments.

O. MEETING REVIEW AND STAFF DIRECTION

22. Meeting Review and Staff Direction

Ms. Gustafson said that staff will make sure that if the concessionaire is using any part of State Parks, they should name us additionally insured.

The Board reviewed dates for the second Strategic Planning Session. It was decided to hold the meeting on Thursday, October 22nd from 4:00 – 7:00.

A Special Board meeting was also set up for Tuesday, October 20th, at 4:00 pm. It will be a closed session meeting regarding Lake Forest.

Mr. Sexton said that several things need to be on the agenda for the next Board meeting:

- Closed session item regarding litigation first
- Open session for the resolution of necessity which will be a public hearing
- Public hearing on the Lake Forest Improvement District where the Board will consider levying the assessment that has already been approved.

P. DIRECTORS' FORUM

23. Director's Comments

There were none.

B. CLOSED SESSION

CONFERENCE WITH LABOR NEGOTIATORS – Government Code Section 54957.6

3. District Representatives – Cindy Gustafson and Jim Dykstra
Employee Organization – All Employees

E. CLOSED SESSION REPORT

Ms. Gustafson reported out that the Board gave staff direction on negotiations.

Q. ADJOURNMENT

The meeting was adjourned at 8:30 p.m.

Dan Wilkins, Vice President

Ginger Charlton, District Clerk

Prepared by Ginger Charlton