

**MINUTES OF THE REGULAR MEETING
OF THE BOARD OF DIRECTORS OF
SIERRA LAKES COUNTY WATER DISTRICT**

Date: Friday August 12, 2016 / **Time:** 6:00 p.m. / **Place:** 7305 Short Road, Serene Lakes, CA

I. Open Meeting:

Roll Call: Directors in attendance at the Sierra Lakes Boardroom were:

Director Karen Heald
Director Michael Lindquist
Director Dan Stockton
Director Wade Freedle
Director Bill Oudegeest

Staff members present: Anna Nickerson, Financial Consultant
 Christian Curtis, District Counsel

Guests present were: See attached Guest List

Minute Recorder: Anna Nickerson, Financial Consultant

II. Public Forum: An opportunity for members of the public to address the Board on items that were not on the agenda. There were no public comments.

III. Approve Agenda:

The agenda was presented to the Board for approval.

A motion was made by Director Oudegeest and seconded by Director Lindquist to approve the agenda. The motion passed by a unanimous vote.

IV. Public Comments: Director Heald said “Public Comments” was normally reserved for comments regarding items on the agenda but received after the agenda was posted. However, Leanne Grimmer’s request to address the Board was put under Public Comment instead of “on the agenda”. She said because the item was listed on the agenda after “Approve Agenda”, her request to address the Board would be considered by the Board. The members of the Board agreed to consider her comments.

Leanne Grimmer said it was her understanding that the “beach” was public but she felt the signs, that were posted at the entrance of the beach, that read “Private Facility”, were misleading. She said she understood that the “facilities”, the bathrooms, snack bar, boat storage etc., were private and suggested that the “Private Facility” signs be posted on the actual facilities not at the entrance of the beach.

Director Heald said the beach at Lot 1 was for recreational use by all property owners of the development, and their guests, and that SLPOA’s lease included a term that clearly stated that it

was subject to the pre-existing recreational easement; SLPOA had exclusivity subject to the pre-existing recreational easements. Homeowners could use the beach but not the facilities because the facilities were for SLPOA members only.

Bob McCormick, member of the SLPOA Board, was asked if he had any comments. He said it depended on what was meant by “public”. He said public didn’t mean it was open to the general public. Director Heald said it meant that it was open to people who owned homes in the development, and their guests, even if the homeowners weren’t members of SLPOA. Mr. McCormick said the reason the signs were adopted was to keep people from outside the community from using the facilities.

Director Heald clarified that the term “facilities” would be used to describe the facilities owned by SLPOA; the snack bar, bathroom etc. The term “beach” would be used to describe Lot 1, which was the recreational easement that was leased to SLPOA. And that any homeowner, including their guests or renters, were allowed to use the beach as provided by the recreational easement. People from outside the area, Truckee, Sacramento, etc., did not have a recreational easement right to use the beach. Furthermore, SLPOA had a right to exclude anyone from the community from using the facilities if they were not a SLPOA member.

Ms. Grimmer said she understood and had no problem with Director Heald’s clarification. However, she felt the signs were misleading. She used the example of the sign by the volleyball court. Mr. McCormick said the volleyball court was the basis used for designing the signs. He said the language was used because a group from outside the community was coming in at night and using the facility. He also said the SLPOA Board had considered various issues and feedback from the community before adopting the signs and felt the SLPOA Board would stand by its decision regarding the signs. He thought maybe the signs could say “private homeowner’s beach”. Ms. Grimmer said the current signs saying “Private SLPOA Facility” were misleading.

Director Heald said what she heard Mr. McCormick say was that the intent was to preclude people from outside the community from using the beach and that Ms. Grimmer was saying the signs were making people who were not members of SLPOA also feel precluded.

Although Ms. Grimmer couldn’t site a specific incident, she said her daughter had been down at the beach and felt very uncomfortable because she wasn’t sure if she was allowed to be there or not. When asked, Ms. Grimmer said she liked “private homeowner’s beach”. Mr. McCormick said he didn’t remember “private homeowner’s beach” being a consideration by SLPOA but said he would be happy to take that back to the SLPOA Board for consideration.

Director Heald asked if Ms. Grimmer would be willing to write a letter to Mark Himelstein, SLPOA Board President, stating that the sign at the entrance of the beach was misleading and ask if it could be changed to “homeowner’s beach”. She also asked that Mr. McCormick report back to the Water Board regarding SLPOA’s resolution.

V. Operations Report:

A. Mr. Quesnel’s Operations Report was presented to the Board for consideration and possible action. Director Oudegeest said he wanted to know what was meant by “work around” but since Mr. Quesnel was not in attendance, his question could not be answered at that time.

Director Heald said she was concerned that even though letters were sent out and the Board agreed to keep the same water restrictions as the previous year, staff continued to see people hosing down driveways and violating other water restrictions. She suggested that the Board take a more proactive approach for next year. Director Freedle said he felt the District was out on a limb with its ordinance because the State rescinded its watering restrictions. Mr. Curtis said the District had a right to pass Ordinances governing the use of water. Mr. Lamson asked why the District was still restricting water. Director Heald said because the Board still believed that water was a valuable resource that should not be misused; it was more of a public policy statement. Mr. Lamson responded that the community wasn't with the District on the issue. Director Heald said the public wasn't with the District the previous year either when it was a law.

Director Lindquist, looking forward to next year, asked what the magnitude of the problem was; was it a lot of people or was it just a few. Director Heald asked that "water use" be put on the next agenda so the Board could get a better understanding from Mr. Quesnel of how big the problem was.

VI. Consent Items Calendar:

The Consent Items Calendar was presented to the Board for action. The Consent Items Calendar included the minutes from the July meeting, the July Check Register, Disbursements for Board Approval, and the July 31, 2016 Financial Reports. Director Heald noted that Christian Curtis was District Counsel and asked that the word "Representing" be stricken. She also presented a more detailed version of Ms. Nickerson's invoice. She said that the new version would be presented in the future.

A motion was then made by Director Freedle and seconded by Director Stockton to approve the Consent Items with the noted correction to the minutes. The motion passed by a unanimous vote.

VII. Approval of Litigation Fees:

A Summary of Litigation fees was presented to the Board for consideration and possible action.

A motion was made by Director Lindquist and seconded by Director Freedle to approve the litigation fees. The motion passed by a vote of 4-0; Director Stockton abstained.

VIII. New Business:

A. Mr. Quesnel's memorandum titled "CEQA Notice of Exemption for Vegetation Management Activities", dated July 30, 2016 was presented to the Board for consideration and possible action. Director Heald said the memorandum pertained to the planned vegetation removal around the development and it included the necessary Notice of Exemption (NOE). Director Oudegeest said he thought there was an area that CalFire couldn't do but that wasn't specified and he didn't remember which area it was. Mr. Curtis said he didn't think it would make a difference with the NOE since less work would be done. Director Freedle asked why the NOE wasn't being sent to the Department of Fish and Game, it was being sent directly to the Clerk Recorder. Mr. Curtis said the NOE pertained to the District's action so the District was giving notice that their upcoming action was exempt.

A motion was made by Director Oudegeest and seconded by Director Freedle, to approve the Notice of Exemption. The motion passed by a unanimous vote.

B. Resolution 2016-835, establishing the District's Appropriation Limitation was presented to the Board for consideration and possible action. Ms. Nickerson said it was an annual required calculation setting the limit for budget expenditures.

A motion was made by Director Oudegeest and seconded by Director Freedle to approve the Resolution. The motion passed by a roll call vote. Ayes: Directors Heald, Stockton, Lindquist, Freedle and Oudegeest. Noes: None. Absent: None. Abstentions: None.

IX. Old Business:

A. Directors Freedle and Stockton's memorandum titled "Proposed Contract Agreements with Robert W. Johnson Accountancy Corporation", dated August 4, 2016, was presented to the Board for consideration and possible action. The following attachments were also presented.

- Attachment 1 – Professional Services Agreement
- Attachment 2 – Memorandum of Understanding

Director Freedle said he and Mr. Johnson had several discussions before they were able to develop the content desired by both parties. Mr. Johnson then placed the agreed upon content into his standard contract form for presentation to the Board. Director Freedle said if the Board was satisfied with the agreements the next step would be to send it to Counsel for review.

Director Lindquist confirmed that the process was to approve the draft, send it to Counsel for review and then a final version would be brought back to Board for approval. Mr. Curtis suggested that the motion make clear that the Board would be referring the contract to Counsel, not approving the contract.

Director Oudegeest asked to be reminded as to why the District needed three quarterly audits. Director Freedle said that with only one individual in the office, there was no cross referencing of responsibilities and approvals. Director Stockton said it was a result of his concern with the District's internal controls and the inability to obtain insurance or bonding. The best alternative was to initiate quarterly audits.

Director Heald said she had no issues with Attachment 1 but would like to rewrite Attachment 2. She said the language should be consistent. If the language was going to say "Robert Johnson Accounting had knowledge of accounting and other administrative practices" then every other recital should talk about accounting and other administrative practices; not operations, office or whatever. Mr. Curtis said the language should be increased to define what the parties were agreeing to. He questioned whether or not it was really a contract. Director Freedle said that was the intent. Until there was a need for their services, the number of people that would be provided, the duration and the fees would not be decided. He said Robert Johnson Accounting was merely agreeing to provide a service in the event of an emergency. Mr. Curtis suggested the document wasn't needed unless the District wanted to bind them to something in the future.

Director Oudegeest asked why Robert Johnson was the only agency with the necessary capability and why would the Board consider the option if the costs weren't stipulated. He said maybe someone from DSPUD or the community could come in. Director Freedle said they were the only ones with the capability to walk into the office and be immediately productive. Anyone else would need quite a bit of lead time to learn the system.

Mr. Curtis said if the intent was to be able to have someone come in on an emergency basis then the contract should have an amount so the approval didn't have to come back to the Board before they got started. Director Freedle said he agreed with that as a valid financial control. Mr. Curtis suggested the agreement also include parameters on the authority of the person designated to engage their services.

Director Heald agreed with the suggestion that the Board President be the designated authority. She also said the rate should be added. Director Freedle suggested that it say "at their current billing rate". Director Lindquist said he wasn't comfortable with that because there was no way of knowing what their rates would be five years from now. He said he thought it was reasonable to ask Mr. Johnson to book out his rates for three to five years.

Director Heald said she would rewrite the agreement based on the items discussed and Director Freedle would ask Robert Johnson about proposing rates.

B. Mr. Quesnel's memorandum titled "Fuel Tank Risk Assessment", dated August 2, 2016, was presented to the Board for consideration and possible action. Presented with the memorandum was:

- Draft Resolution 2016-836 – Approving submission of legislative proposal to allow the regulation of heating oil tanks within 1,000 feet of Lakes Serena or Dulzra.

Director Heald said she wondered why the Central Valley Regional Water Quality Control Board didn't think excavation of District property was necessary. It said it would excavate private property but did not recommend excavation on District owned property. Director Oudegeest said when they were looking to buy the gas station, a company came out and bored some holes to see how far the contamination went. He said if they had done some bore holes maybe they found that the contamination didn't extend too far from the house. Director Heald asked Ms. Nickerson to make a note to ask Mr. Quesnel if he knew the answer.

There was a question whether ACWA would provide support by finding a legislator to introduce the legislation or if they would Sponsor the legislation. Sponsorship would be provided if the outcome benefited more member agencies than just Sierra Lakes.

Director Oudegeest suggested that the Board approve the resolution and let Mr. Quesnel know the Board would prefer sponsorship unless he had a good reason for going with support.

A motion was made by Director Oudegeest and seconded by Director Stockton to approve Resolution 2016-863 approving the President to sign and change the application from support to sponsorship if applicable.

Director Lindquist asked if the application was specific to heating oil tanks. Mr. Curtis said

that home heating oil tanks were one of the categories of tanks that fell under the exemption of the under 1,100 gallons limit. Director Lindquist wanted to make sure that other heating fuels like diesel would also be regulated. He also asked if old tanks would be grandfathered in. Mr. Curtis said existing tanks would be grandfathered in but that they could propose language to govern existing tanks. Director Lindquist asked about requiring old tanks be taken out. Mr. Curtis said if the District wanted to require old tanks be taken out then the District would have to pay for it. Director Lindquist wanted to be sure all necessary tanks would be covered so Mr. Curtis was asked to look up the specifics regarding the exemptions.

Mr. Curtis read the list of exceptions that included tanks located on farms used to store motor vehicle fuel that was used primarily for agricultural purposes and not for resale, a heating oil tank located on a residence or a farm, structures such as some separator, storm drains, hash basins, oil gathering fuel lines, refineries pipelines, lagoons etc., a tank holding hydraulic fluid or closed loop mechanical system that uses compressed air or hydraulic fluids to operate lifts etc. or a tank that was regulated as an above ground tank. The heating oil tank was the only tank that applied to the District.

After the discussion, the motion passed by a roll call vote. Ayes: Directors Heald, Stockton, Lindquist, Freedle and Oudegeest. Noes: None. Absent: None. Abstentions: None.

C. Mr. Quesnel's memorandum titled "District Counsel Solicitation and Selection" dated August 3, 2016, was presented to the Board for consideration and possible action. Director Heald said the Legal Ad Hoc Committee met, reviewed the submitted Statements of Qualifications and based on the matter of law they were asked for expertise in, the Committee selected four firms. The firms selected were Best Best & Krieger, Porter Simon, Kronick Moskovitz Tiedemann & Girard and Churchwell-White. Director Oudegeest asked if any of the selected firms had late submittals. Director Heald said yes and that the Committee decided to consider all of submittals because Federal Express delivered late and all of the submittals came in on that day.

Because the Board expressed a desire to interview the candidates the Committee did not go any further. Director Heald said she felt it was absolutely necessary to interview the attorney that would be appointed to the District. The question was should the attorneys be interviewed as a Board or interviewed as the Committee. After some discussion it was agreed that the attorneys would be interviewed as a Committee. Board members were asked to submit questions. Director Oudegeest asked the Committee look for compatibility. Director Freedle said he was sensitive to cost. Director Lindquist said he was also sensitive to cost and said rates for travel could have negotiated. He also said that the right attorney could be worth almost any price. It required a balance.

Director Heald said the Committee would conduct the interviews and submit their recommendation at the September meeting. She also said the Board needed to know that Mr. Curtis had accepted another job starting August 29th so a decision needed to be made soon.

D. Ms. Nickerson's memorandum titled "Delinquent Assessments Update" dated August 5, 2016, was presented to the Board for consideration and possible action. Director Heald said one of the homes on the list became delinquent on their property taxes and Placer County intended to sell the house. The foreclosure would impact the District and the outstanding assessment payments.

Additional information was received in the form of an email to Jim Curtis from Jonathan Cristy that said:

Jim:

I spoke with Bill Chisum of our office about whether the District needs to take any action in response to the County Treasurer's intended sale of a property in the assessment district for delinquent taxes. In short, no, the District is not required to participate in the tax sale process to protect the assessments that it has levied. Rev and Tax Code section 4673.1(a)(1) requires the County to make a pro-rata distribution of sale proceeds to pay any delinquent assessment installments.

Bill did suggest that it would not hurt to contact the County just to confirm that they are aware of the assessments.

Jon

Jonathan P. Cristy
Attorney at Law

Mr. Curtis said the Board should be aware that future assessment payments would not be affected, they would be paid by the new owner. He also said, any unpaid water/sewer fees that were not put on the tax roll would not be paid from the proceeds of the sale. Director Heald said no further action was needed by the Board.

X. Administration:

A. The list of Follow-up Items from the July 2016 meeting were presented to the Board for consideration and possible action. All items were complete.

B. The Status of Action Items remaining as of the August 2016 Board meeting was presented to the Board for consideration and possible action. No changes were made.

XI. CLOSED SESSION:

A motion was made by Director Oudegeest and seconded by Director Freedle to move the meeting into closed session. The motion passed by unanimous vote.

- A. Closed session pursuant to Government Code Section 54956.9(d)(2) –
CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of
Section 54956.9: One potential case--Threat of litigation by Karl Byers
(Section 54956.9(e)(5))**

A motion was made by Director Freedle and seconded by Director Lindquist to move the meeting into open session. The motion passed by a unanimous vote.

Mr. Curtis said, the Board met with Counsel to discuss the threat of litigation described on the agenda and has no action to report.

Director Heald said the same closed session item needed to be on the September agenda. Mr. Curtis said because the public would have an opportunity to comment before the Board went into closed session a separate item for public comments was not necessary. However, if the Board wanted a separate item to allow Mr. Byers to address the Board before closed session, there needed to be a very clear delineation between the two agenda items. It was agreed that only the Closed Session item would be on the agenda at the beginning of the meeting and that Mr. Byers would be invited to comment before closed session.

XII. Adjournment

A motion was made by Director Oudegeest and seconded by Director Freedle to adjourn the meeting. The motion passed by a unanimous vote.

The minutes were approved at the Regular Meeting held on September 9, 2016 as part of the Consent Items Calendar. A motion was made by Director Freedle and seconded by Director Lindquist to approve the Consent Items Calendar as presented. The motion passed by a unanimous vote.