

BOARD MEETING  
APPROVED MINUTES

August 25, 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  
Tony Laliotis, Director of Utilities  
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 4:00 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. There was no reportable action taken.
2. Staff and Director Wilkins briefed the Board on current status of negotiations with 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. Proposed SBA Cellular Tower Project

Ms. Gustafson thanked everyone for coming to the meeting and added that there was a good turnout at the workshop held earlier in the day on this issue. She said that the District is interested in this issue because as part of the District's goals we are trying to diversify our revenue stream. The District has been under a lot of scrutiny for necessary improvements in our infrastructure and we are trying to find ways to fund those without further impacting the rates.

Ms. Gustafson explained that this project came to the Community Issues Committee first. They asked for additional information, more time to solicit public input on the proposal, and wanted to make sure the public had ample opportunity to attend this meeting. Mr. Lalotis sent out a letter at the end of July announcing this meeting and Ms. Gustafson attended a very large HOA meeting and spoke about the issue. She said that staff would not propose anything to our customers that they believed was a health and safety risk. Peer-reviewed science was used and nothing was found that indicated there was a health risk.

Mr. Lalotis reviewed the history of this project and how Steve Christianson of RSL Consulting Services contacted him in 2008 looking for possible locations for a new cell tower site for SBA. He was also contacted by the Coast Guard looking for the same thing. The Grouse

location was the only location that would serve the purposes of both agencies. He added that there are no contractual obligations at the current time.

Mr. Laliotis said that the public process began in late June. Staff noticed 40 customers that were in an approximate 1,000 foot radius of the project site of the Community Issues Committee meeting of June 22<sup>nd</sup>. He neglected to put the time of the meeting in the notice and apologized for that omission. The meeting was held for informational purposes and a public workshop was set up to assure that the public would have a chance to discuss the issue. A lengthy packet of information was sent to the 40 customers, both HOA's, and community members that requested it. It was also placed on our website. The workshop was held before this meeting and had a good turnout. Mr. Laliotis said that the public has concerns with public health risks, aesthetics, and property values. Staff has tried to address these issues and feels that the information that was provided is unbiased.

Mr. Laliotis said that the public benefits of this project are: 1) health and safety through the Coast Guard's Rescue-21 system; 2) the E911 system; 3) consolidation of the Coast Guard program with this project will save federal taxpayers \$.5 million; 4) improve visual, cell, and internet coverage. He said that alternative locations were considered but they have not been able to come up with a feasible location on District property.

Mr. Laliotis said that revenue from the tower is anticipated to be \$2,000 a month and would escalate 3% every year. The 20-year revenue stream would be \$600,000. He added that the rent is in alignment with other cell towers on public property.

Mr. Laliotis gave a power-point presentation on the property and where other cell towers are located in the region. He made packets available to everyone in attendance containing all correspondence that the District had received in favor of and opposed to the cell tower. He then introduced Steve Christianson who explained that he is under contract with SBA, a tower manufacturer. Verizon is the head tenant of this project. Mr. Christianson has been in the area researching locations for 9.5 months and has studied 9 sites. This location is the best one and meets their leasing needs, zoning needs, and constructability. He said that Homewood Ski Resort was his first choice but they told him to come back in five years. He added that every single carrier is mandated by the FCC to provide E911 emergency services and they are required to build towers.

Bill Hammett, a registered professional engineer, spoke next about RF issues with the site and how they compare to FCC guidelines. He explained the federal standards adopted by the FCC. The FCC was directed by the U.S. Congress and the Telecommunications Act to adopt a standard. The standards are based on peer-reviewed, published, replicated studies and are reviewed every seven years. RF exposure conditions on this property will comply with the safety standards. They take worst-case calculations and come up with something 20-25 times below the standard. Mr. Hammett then reviewed the term radiation and how the various frequencies measure. He noted that radio frequency is non-ionizing energy. He also noted that it isn't a toxin and isn't cumulative. He said that the emissions are pointed out horizontally and not down. He added that they allow homeowners located near antennas to use the meter in their home to see how low the emissions are.

Nick Berentinos, representative of the United States Coast Guard, explained Rescue 21 and noted that it is congressionally mandated. Lake Tahoe is a federal waterway that must have the system and there are congressional deadlines that have to be met. They have been researching a site for two years and determined that there are no suitable towers available. Mr. Berentinos explained that they only transmit if there is an active case going on. The system will assist with boating, search and rescue, fires, and other disasters. He said that a

location on the west side of the lake would allow them to have a single 220' tower and they could have complete coverage of the lake. Any other area would need two towers. He said that they have to find a site with access, power, cell phone capabilities, and no severe environmental impacts. He asked for the District's support.

Greg Shad explained how Channel 16 works with DSE equipped GPS systems and marine radios for search and rescue. He explained that radio transmissions are broadcast so that numerous boaters are able to pick up a distress call. Mr. Lalotis thanked the public for attending and said that the District's goal was to keep the public process alive. Director Henrikson opened the meeting to public comment.

Chris Sahm said that his kids have snow ball fights every winter where the tower would be placed and he doesn't want the cell tower or the barb wire fence there. He added that most of his friends don't have the radios in their boats so the tower wouldn't help them.

Rob Williams commented that there was no balance to cover the negative issues at this meeting except concerned residents. He said they aren't opposed to the technology but want it placed somewhere else on the 18 acres so it's not right next to their homes. He said 400 meters minimum is what some of the studies say is too close and it's not proven safe. He believes a tower will hurt their property values and will totally take away his mountain views. He said if the tower was one quarter mile away from his house he could accept it but it wouldn't be desirable.

Jim Bruce said that the addition of one of the not-very-good-looking tree towers is not an acceptable addition to their neighborhood. He and his wife checked out one of the other cell towers in a neighborhood and it had a building at the base covered by barbed wire. He said that it wouldn't go well with the aesthetic value of the neighborhood and it will change their property values.

Billy Hauptert said that this may be the cheapest way to get it done, but he has little kids that play there and the property values will be affected. He read part of a letter from Ed Miller in Tahoma stating that he didn't want to have a cell tower in his neighborhood because it would be a threat to the neighborhood's immediate safety, well being, and to the value of their property. Mr. Hauptert said the same is true for their neighborhood.

Colleen Botilier said that she's a second homeowner who chose the neighborhood for its views and aesthetic qualities. She comes to Tahoe to get away from this type of thing and feels that their neighborhood is being asked to bear a higher burden than the other customers.

Kevin McDermott, Tahoe Valuation Services, said that he has been an appraiser for Bank of America for many years and he can say that the homes that are in the closest proximity of the cell tower will have the value of their homes impacted. Regarding the health risk, he said it might all be fear but in real estate appraisal perception is reality and it will impact value.

Mike Franklin said that he feels that it's really all about the money. He then asked if there is a way to make the fencing more aesthetically pleasing.

Keno Williams said that her generation is the future of this country and she feels that there will be a health impact on them. She said that their home is her future and she doesn't want to have the cell tower there.

Director Henrikson closed public comment.

Director Wilkins asked Mr. McDermott how adjacency to public open space fit into a real estate appraisal consideration. Mr. McDermott responded that it increases the value, provides privacy, and gives access to recreation.

The Board asked Mr. Laliotis questions about using other areas of the lot for the cell tower. He reviewed the 18-acre lot and noted that elevation and sensitive land are concerns for some of the areas.

Director Friedman said that this is a difficult issue that has raised a lot of emotion but she's not convinced that there is an adverse safety effect. She said there are 17 other towers in North Tahoe and, since this one is on PUD land, it has been brought to the forefront. Her concerns are staff time involved in this issue and if there was a possibility to move the tower further back on the lot. She said if the tower doesn't go in, her main concern is for the Coast Guard's federally mandated project.

Director Henrikson asked about the building at the base of the tower. He was told that it's an 8x10 concrete structure that is pre-manufactured, pre-wired, and pre-tested. It can be masked any way the District wants. Director Henrikson asked Mr. Sexton if we could condition the use of the property so that if something happened and the tower wasn't in compliance, we could end the agreement. Mr. Sexton said he could write language for that.

Director Reinkens said that the greater public good favors the Coast Guard but he sympathizes with the homeowners and he would like to see the tower go further up on the property.

Director Treabess said that he hoped the homeowners in this neighborhood were aware that the water system in their neighborhood has been extremely expensive and is almost double the District average.

Director Wilkins said that the four issues of concern that he heard were public safety, property values, public access, and aesthetic concerns. Regarding public safety, he doesn't believe there will be an imminent health and safety risk as a result of this project. Regarding property values, he said that the taxpayers of the District own 110 acres that provides public open space immediately adjacent to this neighborhood and helps increase their property values. If a cell tower brings that back down a little bit, he doesn't believe the negative aspect of the tower would outweigh the positive aspect of 110 acres of open space. Regarding public access, he said that any lease we enter into would need to make sure that existing points of public access aren't obstructed. Regarding aesthetic concerns, the District will need to be very sensitive to that issue.

Director Wilkins said that he can support the location. He said that the money from the tower would help equalize the cost of their system. He would like to have a post-project assessment done so that any property owner within 1,000 feet of the tower would be granted a free measuring of the level of RF that is coming in. He said the lease would have to be contingent on successful environmental review by TRPA and Placer County, would need to require preservation of public access, would need to require aesthetic treatments of the buildings and fencing at the base, and would need to have requirements that the facility be operated in conformance with all local, state, and federal regulations at all times whether it be existing or future regulations. He said that he would not be comfortable with grandfathering provisions.

Director Henrikson said that he agrees with Director Wilkins and added that he believes the cell service on the West Shore is lousy.

Ms. Gustafson said that she spoke with Chief Whitelaw and Captain Granham and they support increased cell coverage for health and safety reasons because there are capacity issues in emergencies here.

Director Reinkens made a motion to accept the concept of providing a site on PUD property with all the previously outlined conditions. He said that SBA would have to investigate other parts of the property first. Ms. Friedman seconded and asked if the consultant comes up with another site, will the issue be brought back to the Board? Mr. Sexton said it would have to come back to the Board for authorization.

Ms. Gustafson said that if she could get further clarification from Board members on what they would be willing to live with, it would give SBA a better understanding of what the impacts would be. Director Wilkins said that he felt that it was less of a distance-based criteria and more of a performance-based criteria so for the site to function for its intended use, it needs to be as far away from homes as it can be but needs to be in a location that can be permitted through TRPA and Placer County. Director Reinkens said that he wants it to be at least 400 meters up the hill.

Mr. Laliotis said that if the site is moved, we may lose the Coast Guard and he wondered if the Board would be ok with that. Director Wilkins said that he would rather not lose them.

Director Reinkens removed his motion and Director Friedman removed her second.

**Motion to direct staff to prepare a draft lease agreement with SBA that would contain the following points: Wilkins/Reinkens/5-0**

- Require SBA to offer post-project surveys to homes within 1,000 feet of the structure that would specifically be intended to measure the RF exposure within the structures to ensure that what we are being told is true and the levels are below the appropriate standards.
- That the lease be contingent on successful environmental review and permitting by all appropriate agencies.
- That any installation requires preservation of public access to the existing trails on the property.
- That the lease requires aesthetic treatments of the buildings, fencing, and any other components that we aren't thinking of.
- That the lease requires the facility be operated in conformance with all local, state, and federal regulations and safety standards.
- That when the lease comes back to the Board, they be given a report by staff and by SBA, with SBA doing the bulk of the work, stating what attempts have been made to position the tree in as innocuous a location as possible within the 18-acre site, recognizing that it needs to be in a spot that can be permitted by the regulatory agencies and that is functional for both SBA and the Coast Guard, so that people can be given the rationale of why it couldn't have been moved to another position.
- That SBA does a good faith effort and not simply a token effort documenting why the existing site is the only location.
- That if FCC standards or guidelines change, the facility will be updated to meet all new standards.
- Renovation of the current site.

**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.

**K. PARKS AND RECREATION**

8. Approval to Proceed with Grant Playground Projects

Mr. Bolton reported that the District was originally allocated \$220,000 from the California Department of Parks and Recreation 2002 Resources Bond Act. A portion of the grant funds were used to replace the windows at the Fairway Community Center and the Tahoe Community Center so we have a balance of \$107,000 for approved District projects. He requested approval to proceed with the Rideout Community Center, Marie Sluchak Park, and Kilner Park playground projects if the funds are approved. Director Friedman asked if any of the old playground equipment is able to be surplus to a condominium project. Mr. Bolton said they need to be destroyed because they don't meet code. Director Friedman also asked if we could put iron rangers in the park facilities. Mr. Bolton said we could.

**Motion to approve: Reinkens/Friedman/5-0**

**M. GENERAL**

15. Homewood Multi-Use Trail

Mr. Harry reported that last year the District received grant funding from the Conservancy and LTRA for the design of the one-mile section of the District's bicycle trail system in Homewood from Cherry to Fawn Streets. There are two alignments being considered and there isn't consensus among the community on which one to use. He is asking the Board to put a hold on this project until we receive 90% plans from Cal Trans so staff can evaluate how much private property is going to be affected by the State Route 99 alternative.

Mr. Harry also noted that Conservancy money can easily be used for a Class I trail, but a trail with Class I and Class 3 segments would be much more difficult. Peter Eichert, Tahoe Conservancy, said that they are usually involved with Class I projects because they are the safest and available to a broad spectrum of users. He said that the grant that was authorized for the design work of this stretch was really specific to the highway alignment and the Sans Souci alignment hadn't been discussed. If Sans Souci was selected, they would need to look at it more seriously. Due to the economy, they will have a hard time funding either option in the near term.

Director Wilkins said that the Board needs to have a conversation at the Board level before going back to the environmental review stage to make sure we have the right alignment. Director Reinkens said that he feels we need to put more emphasis on working with Cal Trans to keep the issue on top of the table.

Mr. Eichert noted that this grant is still frozen and before the Board incurs any costs for which they are looking for reimbursement, make sure we have the proper paperwork and the Conservancy has money to reimburse us with.

**Motion to table further work on the Homewood Multi-Use Trail until staff has the opportunity to review Cal Trans 90% plans for the SR89 Homewood Storm Water Project: Wilkins/Treabess/5-0**

**L. CONSENT CALENDAR**

Director Wilkins asked to pull item 11-a for the District Engineer Report.

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

9. Minutes

Parks and Recreation Committee – July 15, 2009  
Sewer and Water Committee – July 23, 2009  
Board Meeting – July 28, 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

Director Wilkins said that he wanted to pull item 11-a to segue into other things. He said they are getting to a point with the Lake Forest Improvement District where the Consultant Selection Committee needs to be engaged. Because Director Henrikson is currently conflicted out on actions associated with Lake Forest, he wanted to suggest appointing an alternate to the Committee. Director Henrikson appointed Director Reinkens as the alternate.

Director Wilkins said that Mr. Harry was going to be requesting that the Private Water System Acquisition Committee meet sometime in the next two to three weeks to possibly discuss what is going on in Tahoe Park and/or Timberland. He said that he appointed that committee as Vice President because it was related to Lake Forest but Director Henrikson isn't conflicted out of those other areas. Director Henrikson said that he felt that the committee should be kept intact until Lake Forest is handled and then the Sewer and Water Committee should handle any other acquisitions. Director Treabess said that it could cause

an overload on the Sewer and Water Committee. Director Henrikson said that he would like to think about the committee makeup for a week or so.

Director Wilkins said that Mr. Homolka had been asked by the System Acquisition Committee to get proposals from engineering companies to potentially design the Lake Forest system. He has spoken with him a couple of times since the meeting to decide on a local or a local plus outside focus. He suggested that we get rid of the two non-local engineering companies from the invitation list and invite proposals from local engineering firms. Mr. Sexton asked what the rationale is for taking them off the list. Director Wilkins said that the direction given at the meeting was that with the relative ease of this project, we could select consultants that staff felt would be qualified to do the job and get a proposal from them to accelerate the process and follow the goals of the consultant selection policy. If we don't have enough qualified local consultants, we broaden the boundaries until we do have it. The District is trying to keep 70% of every dollar we spend in our local community. The committee said three or more consultants could be included. Mr. Sexton said that if the District is comfortable going local, that's fine, but he cautioned that if the District doesn't ever go out of the area, they won't know if the costs are in-line with what they ought to be.

**Motion to approve item 11-a with expressed modifications: Wilkins/Treabess/5-0 with Director Henrikson abstaining from the section on Lake Forest**

**M. GENERAL**

16. Strategic Planning Workshop

Ms. Gustafson said that the workshop is set for September 8<sup>th</sup> at Sunnyside. She spoke with Streamline Consulting in Truckee and provided the proposal at this meeting. She said that she spoke with Ms. Doherty today and told her that the proposal was higher than she had anticipated. Ms. Doherty agreed to cut approximately \$1,000 from the proposal. Ms. Gustafson explained the topics for the workshop and asked for the Board's opinion on hiring a facilitator.

**Motion to hire Ms. Doherty and put a cap up to \$2500 on the cost. If there is future need, we continue on at her hourly rate: Treabess/Wilkins/5-0**

17. Reports

Mr. Dykstra asked for dates for the budget workshop. The Board selected Tuesday, November 3<sup>rd</sup> at 3:00 pm. Mr. Dykstra then asked to change the October 16<sup>th</sup> Finance meeting to 3:00 pm.

Mr. Bolton reported that Morgan McClintock is working on his Eagle Scout project and has approached the District on converting the front lawn area into a demonstration project for native plants to show people how to conserve water. The Boy Scouts will get donations of plants and irrigation products. Director Reinkens asked that the yard on the side of the building be improved. Ms. Gustafson agreed and said it will be improved next year.

Mr. Sexton gave the Board an update on five Delta water bills. He said they will take away property rights akin to water rights by setting up bureaucracies to manage the Delta. He advised the Board to oppose all of them. He said one out of the five could possibly be saved if they worked with the water delivery people. Ms. Gustafson said that she will bring this back for action.

Ms. Gustafson reported that she and Tony attended the Board of Realtors Local Government Committee meeting last Tuesday regarding withholds. She will get the information to the Board. Staff plans to bring some suggested wording changes to the Sewer Ordinance to the Sewer and Water Committee meeting in September. The change in wording would allow withholds to occur to us or the escrow company.

18. General Correspondence

Mr. Homolka reported that a preliminary notice was in the correspondence section (18-51 and 18-52) and it shouldn't have been included.

**N. MEETING REVIEW AND STAFF DIRECTION**

20. Board Action and Direction

Ms. Gustafson reported the following:

- Staff will deal with the long list of items in the motion on the lease with SBA.
- Staff will look at iron rangers at more of our park facilities.
- Staff will look at conducting the strategic planning session at a cost not to exceed \$2,500.

Mr. Sexton said that Closed Session items 1 and 2 need to be included in closed session for the September 22 and probably October 27 Board meetings.

**O. DIRECTORS' FORUM**

22. Director's Comments

Director Reinkens announced that Lean Management is going to be a future presentation at the December 1 ACWA meeting.

Director Treabess said that one of the water bills (PSB-4) was authored by Susan Treabess. It is the only one to which our legal counsel said he doesn't recommend outright opposition.

Director Henrikson asked what the policy is for allowing catamarans and sailboats on the beach. There is a whole fleet of them on Skylandia beach. Mr. Bolton said our policy is to not allow them but he needs to check with the State. Director Henrikson was also concerned about a D.J. being on the beach. Mr. Bolton will follow up on it.

**M. CLOSED SESSION**

**CONFERENCE WITH LABOR NEGOTIATORS** – Government Code Section 54957.6

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

**N. CLOSED SESSION REPORT**

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

**O. ADJOURNMENT**

The meeting was adjourned at 10:40 p.m.

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Erik Henrikson, President

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Ginger Charlton, District Clerk

Prepared by Ginger Charlton