

BOARD MEETING
APPROVED MINUTES

October 27, 2009

DIRECTORS PRESENT: 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
Bob Bolton, Director of Parks and Recreation
Matt Homolka, District Engineer
Tony Laliotis, Director of Utilities
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 – EXISTING LITIGATION

Subdivision (a) of Government Code Section 54956.9

1. Eminent Domain Proceeding of Lake Forest Water Company

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 REAL PROPERTY NEGOTIATORS: TIMBERLAND WATER COMPANY Government Code Section 54956.8

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

Negotiating Party: John Ballard

District negotiators will be given specific 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

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

C. OPEN SESSION – PLEDGE OF ALLEGIANCE

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

E. CLOSED SESSION REPORT

Mr. Sexton reported the following from closed session:

1. The Board gave counsel and staff instructions. No further items to report.
2. The Board gave counsel and staff instructions. No further items to report.
3. The Board gave counsel and staff instructions. No further items to report.
4. Ms. Gustafson and Mr. Dykstra updated the Board on status of negotiations. No further items to report.

D. AGENDA AMENDMENTS AND APPROVAL

5. Agenda Deletions, Changes, and Audience Requests

Ms. Gustafson asked to change the order of the agenda due to public input on several of the items. Items number 21, 22, and 23 will follow item number 9.

6. Additions to Agenda

Mr. Sexton said that he needed to add an item regarding the cell tower lease. This item came up after the posting of the agenda and the Board needs to take action before the next Board meeting.

Motion to add the cell tower lease item to the agenda: Reinkens/Treabess/4-0

7. Approval of Agenda

Motion to approve the revised agenda: Reinkens/Treabess/4-0

O. GENERAL

Added Cell Tower Lease Item

Mr. Sexton passed out a copy of an e-mail from Rob Williams to Cindy Gustafson regarding the cell tower. In the e-mail Mr. Williams makes it clear that if he and the other property owners don't get the cell tower done their way, he's prepared to file suit against the District to seek injunctive relief and to halt the project. Mr. Sexton urged the Board to not enter into any discussions with any of the property owners relating to the cell tower lease. If Board members get inquiries, they should direct them to staff or legal

counsel and agendize the matter for discussion at a Board meeting if anything else comes up.

Director Reinkens asked if all of the e-mails on his computer are discoverable. Mr. Sexton said that only the e-mails relating to this topic would be discoverable. Ms. Gustafson said that she will put his concern on Board follow-up to find out what other Districts in the area are doing.

F. PUBLIC FORUM

There was no comment.

G. RECOGNITION

8. Layne Van Noy – 10 Year Service Recognition

Mr. Bolton reviewed Mr. Van Noy's history with the District and said he has been very flexible and has accomplished a great deal. Mr. Van Noy was responsible for three state awards for the community sailing program and has been instrumental in the transformation of Rideout School into the Rideout Community Center. Mr. Bolton said that he really appreciates all that Layne has done and it's been a pleasure to work with him. Director Wilkins presented Layne with his certificate and thanked him for the District.

H. RESOLUTIONS

9. Accepting the Nine Tools of Civility
Truckee Tahoe Community Foundation will give a presentation on "The Civility Project"

Ms. Gustafson said that she is very excited that the Truckee Tahoe Community Foundation decided to take on this project publicly due to what we have witnessed in the community. She reported that Director Henrikson couldn't attend this meeting but he is under the impression that this is common sense and the District operates under these norms already. He didn't feel that we needed to do a resolution for being civil. Lisa Dobe, Executive Director of the Truckee Tahoe Community Foundation, gave a power-point presentation about the project and urged the Board to adopt the resolution as a reminder to use good manners.

Ms. Gustafson suggested a change to the resolution. She suggested adding "check your facts" after "Don't gossip". She thanked Ms. Dobe and the Foundation for all they have done for TCPUD.

Motion to adopt Resolution 09-29: Reinkens/Friedman/4-0 by roll call vote

O. GENERAL

21. North Tahoe Fire Protection District (NTFPD) Lease Agreement

Ms. Gustafson said that the new final lease based on Mr. Sexton's input was handed to the Board last night. The only issue that Mr. Sexton raised with the new lease was regarding the 21 parking spaces vs. the 17. Chief Whitelaw said that the 17 original spaces were a requirement from Placer County but they felt that if they were going to build 21 they should reflect it in the lease.

Chief Whitelaw introduced NTFPD Directors O'Dette and Potts. He said that they expect to get their building permit and call for bids after the first of the year. If everything goes as they hope, they will break ground on May 1st and construction should take about 16 months.

Director Wilkins pointed out that the intent of the parking is shared-use. The lease agreement says that it is for the exclusive use of the fire district. Mr. Sexton said that the ground lease says that it's an exclusive right to the use of the 21 spaces by the fire department. The MOU states a more accommodated use but, if push comes to shove, the fire district can insist on using them exclusively. Chief Whitelaw said that Placer County and California State Infrastructure are going to provide financing for a significant part of the project and they need to have it worded like that.

Motion to accept and sign the ground lease with the North Tahoe Fire Protection District: Treabess/Reinkens/4-0

Chief Whitelaw said that this is a huge milestone for the fire district. He said they appreciate TCPUD for taking this action and what it will mean to the community. Director Wilkins said that this is a good opportunity to show local government working together.

22. North Tahoe Fire Protection District Memorandum of Understanding

Ms. Gustafson said that we received the first draft of the MOU yesterday afternoon and the Community Issues met with Chief Whitelaw at that time to discuss the concepts included. She said that the main points were the use of this board room, the fueling issues (fuel, security gate, and roadway into the fueling area), and snow removal. She said that Chief Whitelaw also added the disposition of the old Station 51.

Regarding the use of the board room, many groups use the room and it was felt that the fire district should pay the same hourly rate as other groups. Regarding parking, they would put in the 21 spaces and we would be maintaining them as far as snow removal and long-term maintenance. On snow removal, the two Districts would look at bidding them together and share the costs according to what lands each are responsible to maintain.

Regarding improvements to the fueling facilities, the fire district could pay a lump sum or we could assess them as a fuel surcharge.

Regarding the disposition of Station 51, although they don't own the property and can't guarantee the disposition of it, they will try to work with us and Placer County to make sure that there is a community plan for the disposition.

Chief Whitelaw said that there is an outstanding issue regarding a requirement that the fire district have a sidewalk that goes down from the driveway to Highway 89 and how snow removal will be dealt with on that. Signage is also an issue that the two districts can work on. He felt that the districts could add a phrase saying that we'll do everything possible in the future to identify opportunities as they come along where we can work together for the betterment of the community.

Director Reinkens asked if there will be an on-demand traffic signal at the bottom of Fairway Drive. Chief Whitelaw said that it's not a requirement through Placer County and they don't envision it at the current time.

Mr. Sexton said that we should incorporate the sharing of the sign at the bottom of the hill into the language but feels that otherwise the Board can take action on this item now.

On motion to approve the MOU subject to the signage and the word smithing of the touchy-feely language: Friedman/Reinkens/4-0

23. Tahoe City Snow Storage

Justin Brolio did a power-point presentation on the snow storage issue. He reported that five months ago the Tahoe City Downtown Assn. agreed to take the lead on this issue with the help of the fire department and the PUD. They have spoken with the affected business owners, property owners, haulers and operators, community partners and some of the agencies that control this. He said this issue has been around since 1997 and there has never been a permanent solution. He reviewed the history of the issue and said that it is a business owner, property owner, local government, and community responsibility and everyone needs to work together to find a long-term solution that benefits everyone.

Mr. Brolio reported that instead of having a community meeting in July or August to discuss the issue, they held one-on-one meetings because they were more constructive. They also didn't look at any sites that were recommended outside of the haul zone because they would cost too much. The temporary alternative that he proposed was to work with the PUD and move uphill to the next available space at the Fairway Community Center while readying additional backup sites through town that could be used and tested as potential additional storage sites. He discussed dual-use sites that could be used for parking during the summer and possible snow storage in the winter. The ideal dual-use test site is Jack Pine parking lot which was built by Placer County's Redevelopment Agency for the communities use. They have been in discussions with Placer County Public Works and have gone out to Placer County Redevelopment Agency for approval. He also discussed using the PUD's lower yard as a dual-use parking lot and snow storage area.

Mr. Brolio said that they looked at using private properties but have determined that the best long term use of downtown properties to serve the community would be as boutique hotels, ice rinks, parks, or parking lots. He said that the perfect solution for Tahoe City and surrounding communities is the SRS – P100 Eco-Melter. He reviewed the machine and said that it has environmental benefits, is cost effective, and portable.

Mr. Brolio said that the reason he is here tonight is to request the use of the PUD sites for a short-term solution while they pursue the Jackpine dual-use solution. Ms. Gustafson said that PUD staff would prefer TCDA run the program this year, work with the snow removal contractors, collect the deposits, and get us out of the day-to-day issues. The Board would like us out of the snow storage issue. Mr. Brolio asked to be able to use Mr. Bolton's and Mr. Adamson's expertise on the issue.

Director Reinkens voiced his concern about the use of the District's driveway for snow storage haulers. Mr. Laliotis said that he isn't as concerned about the stress on our roadway as he is with the use of the administrative area. He said the work would have to be done at night in order not to disrupt the operations of the District.

Director Friedman asked what was meant by temporary. Dave Wilderotter said that it could be one to three years. Ms. Gustafson said that the County is going back out to bid on the transit center and we should try to push building the other 60 spaces and ask them to handle the snow storage issue.

Director Treabess said that he would like to be sure that if the District agrees to the temporary solution, a long-term solution is still aggressively pursued.

Director Wilkins commended the TCDA for taking on the challenge and said that he believes that in the near-term it needs to be handled through a partnership. The PUD's part should be to provide short-term sites provided that it's not detrimental to our operations and that it's not increasing our political or monetary liability. He said that the PUD getting away from working with the contractors and not collecting the deposits is key to him and in order for him to support it there would have to be an agreement between TCPUD and TCDA that clearly outlined roles and responsibilities. Our primary role would be to provide site(s) for storage and TCDA would handle everything else with the coordination of the activity. He would also like part of the agreement to state that TCDA take on the responsibility of permitting liability. He said that he would continue to be willing to participate in the search for a long-term solution as a private citizen who has experience in snow removal issues in other communities. He also feels that a one-year agreement should be done for a temporary solution.

Director Friedman asked Mr. Sexton what the potential liability is to us given that both of the areas have pedestrian and automobile traffic. He answered that there is a risk associated with these activities and Director Wilkins said that TCDA needs to handle risk transfer for pedestrians and automobiles. Director Reinkens added the environment.

Director Wilkins asked Mr. Wilderotter what his ideas are on this motion before voting. Mr. Wilderotter said that he's not sure about the insurance and he's not sure they could get an indemnification policy. He doesn't know if permitting is available and if he could get insurance without it. Director Friedman asked if the snow removal operators could indemnify the District through their insurance. Director Wilkins asked if staff could work with TCDA on the definition of responsibility so that we're not in charge of everything. Ms. Gustafson said that Director Henrikson asked her to request that if this moves forward that the snow removal contractors be responsible to remove the snow at the Fairway Community Center for the two tenants in the building as part of the agreement to use that site.

Mr. Sexton said that the snow removal operators would not be able to indemnify the District directly unless the District dealt directly with them.

Motion to approve the use of the property in concept and direct staff to work out the details of the agreement with TCDA to allow portions of our property to be used as snow storage locations with restrictions for one year and bring the agreement back to the Board next month: Reinkens/Treabess/4-0

A five-minute break was called after this item. When the meeting was called back to order, the snow storage item was opened again for further discussion. Mr. Wilderotter said that TCDA will try their best to handle their responsibilities on this item but he wasn't anticipating how much was going to be on their plate. They don't have someone on staff to review the legalities and they don't have the money to hire an attorney.

Mr. Homolka said that we can enter into an agreement with TCDA to manage the contracts but we can enter into the contract with the snow removal contractors and have risk transfer exactly like it is now with full indemnity and insurance.

Mr. Sexton said that the issue is that we are a public utility district and we don't have delegated powers to get into snow removal operations. On top of that, we know that the dumping of snow requires a permit. The District knows that there is some liability and doesn't have the authority to do this in the first place. He understands the practical problems associated with operating the downtown and how things have been done in the

past. He suggested the Board do whatever they think is the best thing that they can do since they can't satisfy him from a legal perspective. Anything they do will be better than what they did in the past and unless they can get out from under this totally, then there is some liability that is going to come back to the District. Ms. Gustafson said that we may need to do what Mr. Homolka suggested and she wanted the Board to understand that. She said we're in a dilemma because we're not a municipality. We're an unincorporated area but the County won't help us. She said that the property owners need to work with the County to perform the services that they are empowered to do.

Director Friedman voiced her concern that if we take responsibility, the County will see us pick up the ball again and they won't step up to the plate. Director Wilkins said that this is the first step in the direction of looking for partners in snow storage and we should get as far in that direction as is reasonable while still providing a solution for this winter. Director Friedman said that a message needs to be sent to the County and she suggested that the Community Issues Committee need to be involved in this now to be able to stay on top of it. Ms. Gustafson suggested asking legal counsel to outline the legal issues and concerns with this as backup for how we deal with the County.

Mr. Wilderotter thanked the Board for all the considerations and for all the PUD does for the community. He said that he hopes the fire department will continue to help now that they have their agreement.

Director Reinkens asked if the Board should do a resolution saying that this is the last year they will be doing this. Mr. Sexton said that if they do, they will need to stand by it next year.

J. PROJECTS

10. Lake Forest Water improvement District – Final Design and Construction Documents Professional Engineering Services Contract with Auerbach Engineering Corp.

Ms. Gustafson absented herself from the meeting for this item.

Mr. Homolka said that three proposals were received for this project. The Gary Davis Group partnered with Auerbach Engineering so did not submit a separate proposal. The Consultant Selection Committee met and selected Auerbach Engineering as the most qualified for this project. Mr. Homolka reviewed the scope of work which has been fine-tuned and went over the fee estimate. Director Wilkins said that the Consultant Selection Committee is happy with the selection and recommended approval.

Motion to approve: Reinkens/Friedman/4-0

11. District Water & Sewer Capital Project Status Report

Mr. Homolka went over the list of projects that were originally approved for 2009 and the changes that were made in March when the Board approved a water capital amendment to take advantage of the Federal Fire Protection Partnership Grant funding. He reviewed each project's budget status, schedule, and key issues encountered.

Director Reinkens said that he has a concern about taking on Lake Forest and still continuing with our capital improvement program. Ms. Gustafson said that staff will be recommending that we add a full-time engineering technician position. She is hopeful that with the replacement of Debi Black's position a little of Mr. Laliotis' burden can be taken off so he

would be able to help a little more with the operational projects which would free up Mr. Homolka as well.

There was a discussion about problems that are encountered with TRPA and how they could be handled. Mr. Laliotis said that all of the districts have the same problems with TRPA and they have discussed joining forces to try to better streamline the process.

Director Treabess thanked Mr. Homolka for the Board for his work effort this year.

K. SEWER & WATER UTILITIES

12. Water System Acquisition Policy

Ms. Gustafson said that this item was requested by the Board. In 2007 the Board and staff spent quite a bit of time revising the policy to address new issues and situations but some procedures in the policy remain fairly vague. Also, Director Henrikson had a concern because a willing seller couldn't sell to us and we couldn't buy because of our requirement to have a petition of his customers prior to moving forward. Director Reinkens suggested having a workshop on this item at a later date.

Director Wilkins said that he doesn't have a lot of concern with the existing policy but the implementation of the policy in certain areas.

Mr. Sexton said that historically with respect to the acquisition of these water systems, public agencies that deliver water establish parameters for the annexation of new land into their district. He suggested that we probably need to do the same thing for these water systems. He also said that the District's policy doesn't go far enough.

Director Wilkins said that we keep coming back to the appropriate level of taxpayer participation in these private system acquisitions. He said the Board needs to figure out what information they need from staff in order to be able to put together everything necessary in the policy. Ms. Gustafson said that in establishing policy as we've gone along, the bottom line issue is the property tax component and how we use it. Director Wilkins said that the district's amount of participation is the main question.

Director Wilkins said that Director Henrikson's concern was that our policy reduced the likelihood of a willing seller/willing buyer transaction. He said that our policy has legitimacy but the issue of how much money we are willing to put into the private system acquisition is still unclear.

After discussion on various scenarios, the Board decided to have this conversation when Director Henrikson is in attendance. Everyone understood the concern about not creating unnecessary workload on staff that isn't productive at the end of the day. Between now and the next meeting on this item, the individual Board members should try to focus the areas of interest that they have on this policy.

Ms. Gustafson said that based on staff's workload, she couldn't imagine getting it on the November agenda and the soonest would be December. Director Friedman suggested taking this conversation to the committee level. Ms. Gustafson will also talk with Director Henrikson about the timeline for a workshop but the committee would study the issue first. The consensus was that the workshop be held after the first of the year.

M. CONSENT CALENDAR

Ms. Charlton stated that on the minutes for the October 2nd Consultant Selection Committee, revised minutes were passed out correcting the Board members in attendance from Directors Henrikson and Wilkins to Director Wilkins and Reinkens.

Motion to approve the consent calendar as presented with the correction of the Consultant Selection Committee minutes: Friedman/Reinkens/4-0

13. Minutes

- Special Board Meeting – September 8, 2009
- Finance Committee – September 11, 2009
- Board Meeting – September 22, 2009
- Consultant Selection Committee – October 2, 2009

14. Finance Report

15. 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

16. Dollar Hill II and Granlibakken Water Meter Installation Project

- Notice of Acceptance of Completion
- Final Pay Estimate – Release of Retention

17. Condominium Master Water Metering Project

- Change Order No. 3
- Progress Pay Estimate No. 3
- Notice of Acceptance of Completion

N. RESOLUTIONS/ORDINANCES

18. Adopting a New Conflict of Interest Code

Ms. Charlton explained that the last adopted Conflict of Interest Code for the District was done in 1991 and many positions have changed in the District since that time. She worked

with legal counsel and a representative from the FPPC to ensure it was done correctly and is current.

Motion to approve Resolution #09-30: Friedman/Reinkens/4-0 by roll call vote

Mr. Sexton added that this code was approved and it places the obligation on the General Manager to determine whether a particular consultant should disclose and determine what level of disclosure. A contract was just awarded tonight and he suggested that the Board designate Mr. Homolka to require consultants disclose interest in real property, etc., according to our Code.

19. Declaring Equipment Surplus and Authorizing Disposition by Sale

Mr. Laliotis went over the list of items to be sold and explained the reasoning for each sale.

Director Wilkins asked to add a friendly amendment that if the items aren't sold for the minimum prices, we authorize cutting the prices in half. Mr. Laliotis said that he has the authorization to accept bids below the minimum anyway.

Motion to approve Resolution #09-31: Reinkens/Treabess/4-0 by roll call vote

20. Approving the Form of and Authorizing the Execution and Delivery of a Purchase and Sale Agreement and Related Documents with Respect to the Sale of the Seller's Proposition 1A Receivable from the State; and Directing and Authorizing Certain Other Actions in Connection Therewith

Mr. Dykstra explained that the State borrowed up to 8% of our property tax revenue. In the 2009 budget year our loss would be about \$205,000 and another \$205,000 in 2010. The State came up with a methodology where we can recoup the money at no cost to the District. That is by them selling these bonds to California Communities (a JPA). He has enrolled us in it but he needs the Board's approval. He added that the vast majority of counties, cities, and special districts are doing this. The State is offering 2% interest but we wouldn't get the money for three years. If we participate in this, we will get our payments in January and May. Mr. Dykstra and legal counsel have reviewed the paperwork.

Motion to approve Resolution #09-32: Reinkens/Treabess/4-0 by roll call vote

Mr. Sexton pointed out that he put a very short opinion in the packet. He pointed out that if for some reason we don't get the payment, we still can't rescind this agreement.

O. GENERAL

24. Reports

Mr. Homolka said that now that we have approved the Notice of Completion for the Peterson contract and the Longo contract, he wanted the Board to know that they were excellent contractors for the District this year.

Mr. Laliotis said that several months ago we received a request from Rick Dewante regarding his ability to exercise California Water Code Section 1810 as a means of supplying permanent source for his Lake Forest water system. Our counsel replied to him that he didn't fit the criteria of being a person with a contract for the sale of water that is conditioned upon the acquisition of this facility. Mr. Dewante responded and requested it again. Mr. Laliotis, Mr. Harry, and Mr. Sexton have drafted a response saying that he isn't eligible and put it back on

him to answer why he feels he is. They gave a list of bulleted items for him to answer and won't speak with him anymore unless he answers the questions.

Ms. Gustafson said that she has been working with Senator Feinstein's office and the entire California Nevada delegation as well as the local basin partners on the Lake Tahoe Restoration Act. They heard late Friday afternoon that the water systems were deleted from inclusion in that act. They are still trying to get to the bottom of it. It appears that Senator Reid is stopping it. She said there is still time so everyone is continuing to work on it.

25. General Correspondence

Ms. Gustafson said that she hasn't responded to Mr. Jones yet. She said that he is a good friend and long-time supporter of improvements in Tahoe City and she will respond to him.

P. MEETING REVIEW AND STAFF DIRECTION

26. Meeting Review and Staff Direction

- o Staff will look at the way other area districts deal with e-mail to their boards.
- o Staff will make changes on the MOU with the Fire District and memorialize our intention of shared use and cooperation between the two districts.
- o Regarding snow storage, staff will work with TCDA on an agreement to address their coordination with our operations clearly defining the rules and responsibilities of each organization. The issue of permitting lies with them, it needs to be a one year agreement, and we'll work on the indemnification issue with the risk transfer with contractors. Staff will have Mr. Sexton develop what the agreement would like if the District only provided the land.
- o Staff will have the snow storage issue go to the Community Issues Committee to ensure that a long term solution is pursued. Staff will have Mr. Sexton work on a letter that we could share with the County giving his advice to our District to not be involved with this issue.
- o Mr. Homolka will deal with the Conflict of Interest paperwork as it relates to the consultant selected.
- o The Water System Acquisition Committee will meet and will look at a Board workshop after the first of the year to discuss some of the options for the policy.
- o Mr. Sexton instructed the Board not to speak with Rob Williams.

Q. DIRECTORS' FORUM

27. Director's Comments

- o Director Friedman thanked staff for all the work they did before the workshop which made it flow smoothly.
- o Director Reinkens thanked Mr. Homolka for his report and suggested some of the information should be given to the press for public relations.
- o Director Treabess said the strategic workshop helps with a good working relationship and brings out good ideas.
- o Director Wilkins agreed and said that the Board needs to keep those policies and core values fresh in their minds.

R. ADJOURNMENT

The meeting was adjourned at 9:30 p.m.

Erik Henrikson, President

Ginger Charlton, District Clerk

Prepared by Ginger Charlton