

**MINUTES OF REGULAR MEETING OF  
THE NORTH TAHOE PUBLIC UTILITY DISTRICT  
BOARD OF DIRECTORS  
North Tahoe Event Center  
8318 North Lake Boulevard, Kings Beach, CA 96143**

**Tuesday, July 9, 2013**

**CALL TO ORDER/ESTABLISH QUORUM**

The Regular Meeting of the North Tahoe Public Utility District Board of Directors was held on Tuesday, July 9, 2013 at the North Tahoe Event Center in Kings Beach, California. President Lewis called Closed Session to order at 8:30 a.m. Present were Directors Bergmann, Daniels, Ferrell, Thompson and President Lewis. The full Board was present establishing a quorum.

**CLOSED SESSION AGENDA**

Pursuant to Government Code, the Board of Directors held a closed session to discuss the following listed items. All references are to the Government Code.

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION  
Discussion pursuant to subdivision (a) of Section 54967.9. Name of case: Stuart Corvin v. North Tahoe Public Utility District, et al.
2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION  
Discussion pursuant to subdivision (a) of Section 54967.9. Name of case: Equal Employment Opportunity Commission (EEOC) Charge: Christopher Cannizzaro v. North Tahoe Public Utility District
3. CONFERENCE WITH LEGAL COUNSEL – POTENTIAL LITIGATION  
Discussion pursuant to subdivision (b) of Section 54956.9. Number of cases: Two (2)
4. CONFERENCE WITH REAL PROPERTY NEGOTIATORS – Discussion pursuant to Section 54956.8. Property: 8318 North Lake Blvd., Kings Beach State Recreation Area. Agency Negotiator: General Manager Schultz. Negotiating Parties: State of CA. Under Negotiation: Terms of Agreement.
5. CONFERENCE WITH REAL PROPERTY NEGOTIATORS – Discussion pursuant to Section 54956.8. Property: “Stoker Property” – APN 090-121-010, -011, -026, -027, 090-122-030, -031, -033, and -034, and “Firestone Property” Assessor’s Parcel Nos. 092-010-040, -041, -042, and 093-010-037, -038, -039. Agency Negotiator: General Manager Schultz. Under Negotiation: Terms of Agreement.

President Lewis called Open Session to order at 9:30 a.m. President Lewis reported that no action was taken by the Board during Closed Session. He noted to interested parties in attendance that Item 3 did not concern Chinquapin.

**PLEDGE OF ALLEGIANCE**

Director Daniels led the Pledge of Allegiance.

Staff in attendance included General Manager/CEO Schultz, Chief Financial Officer Marple, Parks and Facilities Manager Long, Engineering and Operations Manager Stelter, Utility Operations Manager Begin, Contracts & Planning Coordinator Gibbons,

Human Resources/Risk Manager Keechler, Technology and Public Information Administrator Emmerich, and Executive Assistant/Board Secretary Potts. Counsel Eskind was also present.

**REVIEW OF AGENDA:** No additions or deletions were made to the agenda. The General Manager's Report, and reopening of the hearing held May 22, 2013 concerning the Chinquapin Sewer Facilities were moved to be held immediately after Public Forum.

**PUBLIC FORUM (9:35 a.m.)**

President Lewis advised that the Board could hear public comment regarding only issues not on the agenda.

Kathy Payne, Chinquapin Homeowners Association (CHOA) President, introduced Tom Kasten, property owner at Chinquapin who stated that he was familiar with public service as a city council member and mayor in Hillsborough, CA. Mr. Kasten stated that he had familiarized himself with the material regarding the sewer facilities at Chinquapin, and questioned why this was happening since the District was the expert in this field, if there were other condominium associations being serviced by the District, and stated that he felt the District's moral duty to ensure the public's health and safety would be to continue providing sewer service to Chinquapin.

District resident, Joe Huelle, stated that he would like the District to use its influence with Placer County regarding the roundabouts being placed in Kings Beach as a part of the commercial core project, as he feels they will be detrimental to public health and safety.

District resident, Dave McClure, stated that he would like to comment regarding Mr. Kasten's comments earlier in public forum. He stated that there is an important distinction regarding moral duties and the principles by which the District must abide which applies to all homeowners within the District concerning public versus private facilities. He agreed that the District by virtue of its mission is the expert in this field, but when a problem occurs on private property, the property owner must hire an expert to take care of it. Mr. McClure also questioned that if the District takes care of lines on private property, at what point does this end, as the actions of the District must be consistent for all customers, and he urged the Board to continue to provide maintenance only on public property.

There being no further items brought before the Board of Directors, Public Forum was closed at 9:45 a.m.

**General Manager's Report**

General Manager (GM) Schultz presented the District's preliminary findings in response to Director Ferrell's request, and Board direction, to determine where the District performs maintenance activities. GM Schultz stated that the District was performing maintenance activities in the public right of way, and also on private property through easements for back lot lines serving multiple properties, and on several multi-unit subdivisions including Brockway Springs, Brockway Shores, Kings Run, Kingswood Village, Carnelian Woods, and Chinquapin. He stated that District

staff had spent a great deal of time researching Chinquapin sewer facilities, however the review of District files relating to the other facilities was preliminary, and he could not yet justify drawing any conclusions as to the appropriateness of this maintenance.

GM Schultz stated that documents located showed acceptance of lines in Sewer Assessment Districts (SAD's) A52, A54, 4, 5A, 5B, and Kingswood West which was noted to represent most of the District lines. He noted that documentation of acceptance of other public facilities will take a thorough review of the District's records, and will require a great deal of staff hours; also stating that when issues come to the District's attention, we will notify the property owners and take appropriate action, with each subdivision to be determined individually based on the specific circumstances. The Board of Directors directed GM Schultz to have the research completed by March 11, 2014. Director Ferrell stated that it is important that we treat each subdivision the same.

Bob Duffield, CHOA General Manager commented on GM Schultz' report, noting that the number of property owners served by the six subdivisions in the GM's report is 715, versus the other ten subdivisions also named as examples of multi-unit properties containing 300 connections. He also stated that he believes that the documentation from the 1970s shows an obligation for maintenance and operation of the lines.

**CONSENT CALENDAR:** The following consent calendar items were presented for approval. Director Daniels stated that she had no opinion on the correctness of the minutes as she was not in attendance on June 11<sup>th</sup>. Director Ferrell requested discussion of Item 4, and questions were answered about 5 and 6. After discussion, all items remained on the consent calendar. Director Bergmann noted conflicts with accounts paid and payable, and Item E6.

1. Approve Accounts Paid and Payable for the period from June 11, 2013 through July 08, 2013.
2. Approve Minutes of the June 11, 2013 Regular Board Meeting
3. Adopt Revised 2010 Urban Water Management Plan (UWMP)
4. Authorize General Manager to Execute Contract Change Order #3 for the Brook Avenue Sewer Main Replacement Project (#1022)
5. Consider Claim against District filed by Jonathan Stafford for water line damage and related water charges at 100 Friars Dell Court
6. Consider Claim against District filed by Winifred Smith for expenses related to sewer line backup at 4136 Ferguson Avenue

**MOTION: Director Thompson moved to approve the Consent Calendar with noted conflicts for Director Bergmann. Upon second by Director Bergmann, the motion carried unanimously (5-0) by roll call vote.**

### **10:00 a.m. Boys and Girls Club of North Lake Tahoe (BGCNLT) Annual Report for 2012**

BGCNLT Executive Director Mindy Carbajal thanked the District for its long established partnership and support. She stated that in 2012, the BGCNLT served 857 children; with average daily attendance of 238 during the school year and 127 per day during the summer. She indicated that the club was made viable and gained increased leverage because of the partnership between the BGCNLT and the District.

The Board inquired about private partnerships and support received by the club, and Ms. Carbajal gave examples of Northstar's support of the ski program with free passes, equipment rentals, and lessons, and advising that the annual harvest festival is run by Ritz Carlton employee volunteers. Support given by the Hyatt Regency in Incline Village was also discussed. She stated that recreational facilities support given by the District at the Regional Park, tennis courts, and beaches is important to club operations. In addition to the District's support, the largest financial contributors to the BGCNLT are Vail, State of CA grant funding, ACES Grant for education and homework support, and the Department of Education's food service program which reimburses the club for snacks and meals for participating members and families.

President Lewis indicated that the BGCNLT's programs may be able to work together to make grants available for maintenance in the park, such as funding for the tennis courts, etc.

### **Reopen Hearing and/or Adopt Findings for Chinquapin Sewer Facilities Hearing held May 22, 2013**

President Lewis acknowledged receiving a letter from CHOA requesting postponement of the decision for adoption of the findings. He stated that this was a decision to be made by the full Board.

President Lewis reopened the hearing of May 22, 2013 at 10:30 a.m. to hear statements from CHOA specific to information contained in new files provided to them which was discovered in the District's archives and is related to their public records request regarding the Chinquapin sewer facilities.

CHOA General Manager Duffield presented his comments, and asked for a continuation of this item until the other subdivisions are considered. He asked that this request and his letter are acknowledged in the District's minutes.

Mr. Duffield stated that the recent information was important for determining why the sewer system was not accepted for ownership by the District at the time it was constructed. He cited information specifically related to the recently discovered documents which he stated shows the intent of the Chinquapin developers to transfer ownership of the sewer system to the District after it was completed.

President Lewis asked for further public comment. Additional comment was given by District residents Dave McClure and Joe Huelle, CHOA President Kathy Payne. Discussion was held by the Board regarding the new information brought forth.

The hearing was closed at 11:20 p.m. Upon conclusion of the hearing, the following action was taken after a discussion of the findings, and a revision in the language of Item 1.e. of the findings listed below as adopted.

**MOTION: Director Ferrell moved to confirm the action taken by the Board of Directors at the Chinquapin Sewer Facilities Hearing held May 22, 2013. After discussion and clarification of the action taken on May 22<sup>nd</sup>, Director Daniels seconded the motion. The motion carried unanimously (5-0).**

**MOTION: Director Ferrell moved to adopt the following findings. Upon second by Director Thompson, the motion carried unanimously (5-0) as follows:**

The Board of Directors hereby adopts the following findings in regard to the motions adopted on May 22, 2013, determining that the District did not accept dedication of sewer facilities within the Chinquapin subdivision except for the D6 Sewer Lift Station and that responsibility for maintenance of the Chinquapin sewer lines be transferred to the Chinquapin Homeowners Association on November 22, 2013, and the motion adopted on July 9, 2013 confirming the motions adopted on May 22, 2013:

1. The facts, conclusions and analysis contained within the Discussion section of the Staff Reports dated May 22, 2013 and July 9, 2013 submitted by General Manager/CEO Schultz are true and correct. In particular,

a. The "will serve letters" signed by then District General Manager Thomas Llewellyn required formal District Board action to accept dedication of any Chinquapin sewer facilities.

b. Then District General Manager Llewellyn was aware of the process required for the District to accept dedication of sewer facilities. On November 7, 1972 General Manager Llewellyn formally requested that the Board accept dedication of the D6 Sewer Lift Station and the Board did so by unanimous roll call vote. Except for the D6 Sewer Lift Station, no Board action accepting dedication of any Chinquapin sewer facilities was ever requested by District management or ever took place.

c. The 1971 Agreement between the District and Placer County was solely for inspection services and did not obligate the District to accept dedication of any sewer facilities.

d. The developer of Chinquapin was aware of the procedure required for the District to accept dedication of sewer facilities. There is no evidence that any Chinquapin sewer facilities were ever offered for dedication to the District or that dedication was ever accepted by the District, except for the D6 Sewer Lift Station and its associated force main.

e. The District's maintenance of gravity sewer lines between manholes was on an interim basis and subject to termination. The District has never maintained pump stations, force mains or sewer facilities other than gravity lines between manholes on the Chinquapin property, except for the D6 Sewer Lift Station and its associated force main.

2. Nothing presented or considered at the hearing held on May 22, 2013 and the hearing held on July 9, 2013, including verbal testimony and written evidence submitted by the Chinquapin Homeowners Association or others, and the two files which were located after May 22, 2013 contradicted the facts, conclusions and analysis submitted by General Manager/CEO Schultz.

The District's maintenance of gravity sewer lines between manholes was on an interim basis and subject to termination. The District has never maintained pump stations,

force mains, or other sewer facilities than gravity lines between manholes on the Chinquapin property, except for the D6 Sewer Lift Station and its associated force main.

President Lewis called for a short break at 11:30 a.m. and reconvened the meeting at 11:35 a.m.

**Timed Item (11:30 a.m.) Designate Location for Dog Park in North Tahoe Regional Park**

Park and Facilities Manager Long gave a presentation citing possible locations in the North Tahoe Regional Park to place a fenced dog park which included the areas known as Field 3, Shelter Road, and the Upper Bench. Based on costs for construction of the dog park, feasibility, and unbiased consideration from Bob Bryant, PFM Long recommends Field 3 as it is partially developed with some fencing, irrigation, and turf.

Director Daniels stated that the Recreation and Parks Committee had met for discussion of the location and agreed with PFM Long's recommendation.

Many individuals were present in support of the dog park being placed in this location.

Opposition to the Field 3 location for use as a dog park was given by Luke Markham and Ian Tippins of the Tahoe Wave Soccer Program who stated that they utilize the field frequently throughout the summer season for their nonprofit soccer program.

Discussion of the pros and cons of the sites was held.

**MOTION: Director Thompson moved to accept staff's recommendation for Field 3, and to designate that area of the North Tahoe Regional Park as the dog park. After a second by Director Bergmann, the item was tabled until August by President Lewis. No vote was taken.**

After further discussion, the Board requested a special meeting to be held at the North Tahoe Regional Park on Friday, July 12<sup>th</sup> at 4:00 p.m. in order to consider the potential sites before taking action at the regular meeting to be held August 13, 2013.

**Timed Item (12:45 p.m.) PUBLIC HEARING**

1. Adopt Resolution 2013-09 of the Board of Directors of the North Tahoe Public Utility District Authorizing the Levy of a Special Tax within Community Facilities District 94-1 for Fiscal Year 2013-2014
2. Adopt Resolution 2013-10 of the Board of Directors Authorizing the Annual Lien Action for Delinquent and Unpaid Sewer and Water Charges

President Lewis opened the Public Hearing at 12:45 p.m. There was no public present to address the Board regarding these items. After a short discussion, the hearing was closed at 12:50 p.m. and the following action was taken:

**MOTION: Director Ferrell moved to adopt Resolution 2013-09 Authorizing the Levy of a Special Tax within Community Facilities District 94-1 for Fiscal Year**

**2013-2014. Upon second by Director Daniels, the motion carried unanimously (5-0) by roll call vote.**

**MOTION: Director Daniels moved to adopt Resolution 2013-10 Authorizing the Annual Lien Action for Delinquent and Unpaid Sewer and Water Charges. Upon second by Director Bergmann, the motion carried unanimously (5-0) by roll call vote.**

#### **MANAGEMENT TEAM INFORMATIONAL UPDATES**

- 1. Accounting Department Report**
  - a. Review and Discuss Monthly Financial Statement through May 2013**
  - b. Treasurer's Report**
- 2. Park and Facilities Department Report**
- 3. Planning and Engineering Department Report**
- 4. Utility Operations Department Report**

The Board of Directors reviewed the reports. Director Thompson inquired about the progress made on the new base facilities. He was advised that plans were going to be submitted to the Tahoe Regional Planning Agency on the following day after the resolution of a right of way abandonment issue at base. Engineering Manager Stelter advised that he is working to ensure the bid documents are clear in order to reduce the potential for change orders, and his plan is to have the documents out to bid in late fall in order to allow the modular company to perform the necessary construction over the winter months, leaving the National Avenue Community Center available to the Park and Facilities Department until its demolition in March 2014. No further discussion was held on the reports.

#### **NEW BUSINESS**

Authorize new Sewer Capital Project and related Budget Adjustment to install new transformer, related hardware, and appurtenances for the D-6 Sewer Pump Station, and authorize General Manager to execute agreement with California Pacific Electric Company, LLC (Liberty Utilities)

**MOTION: Upon motion by Director Ferrell and second by Director Daniels to authorize the capital project, budget adjustment and agreement as requested, the motion carried unanimously (5-0).**

Adopt Resolution 2013-11 Authorizing Records Destruction per the District's Records Retention Policy

Board Secretary Potts revised the requested records to remove the request for destruction of the Utility Operations Department records from the list. All other records on the list were authorized for destruction.

**MOTION: Upon motion by Director Bergmann and second by Director Ferrell, the motion to adopt Resolution 2013-11 authorizing records destruction as requested and revised per the District's Records Retention Policy carried unanimously (5-0) by roll call vote.**

#### **CORRESPONDENCE**

1. Correspondence from Chinquapin Homeowners Association regarding Chinquapin Sewer Facilities
2. Letter of thanks from the Tahoe Truckee Excellence in Education Foundation

Correspondence presented was reviewed.

**GENERAL MANAGER/CEO AND BOARD OF DIRECTORS COMMENTS**

No comments.

**ADJOURNMENT**

The meeting was adjourned at 1:40 p.m.

**Marianne Potts**  
**Board Secretary**