

**MINUTES OF THE
NORTH TAHOE PUBLIC UTILITY DISTRICT
SPECIAL BOARD OF DIRECTORS MEETING
North Tahoe Community Conference Center
8318 North Lake Boulevard
Kings Beach, CA 96143
February 12, 2008**

The Board convened Closed Session at 12 Noon to consider items listed under Item J on this agenda. President Lewis reported that no action was taken.

A. CALL TO ORDER – ROLL CALL - PLEDGE OF ALLEGIANCE

President Lewis called the meeting to order at 1:04PM. Present were Directors Daniels, Bergmann, Mooney, and President Lewis. A quorum was established.

Staff present was Acting General Manager and Public Works Director Schegg, Chief Financial Officer Marple, Chief Engineer Goebel, Conference Services Director Daniels, Parks and Facilities Manager Long, and Acting Clerk of the Board and Executive Assistant Lefrancois. Also present were Counsel Neil Eskind and Judy Friedman, Recording Secretary.

B. REVIEW AGENDA

The Board reserves the right to take items out of order. Acting General Manager Schegg asked that Item I5, consideration of the SCADA contract, be deleted from today's agenda.

C. APPROVAL OF MINUTES:

1. Approve minutes for January 10, 2008 Regular Board Meeting

It was moved by Director Mooney and seconded by Director Daniels to approve the minutes of the January 10, 2008 Regular Board meeting. Motion carried unanimously.

2. Approve minutes of February 1, 2008 Special Board Meeting

It was moved by Director Mooney and seconded by Director Daniels to approve the minutes of the February 1, 2008 Special Board meeting. Motion carried unanimously.

D. TIMED ITEMS

1. PUBLIC COMMENTS

Amy Levy addressed the Board about her letter to the District dated February 6, 2008 regarding the increase in unauthorized use of motorized vehicles on the trails at the North Tahoe Regional Park (NTRP). Ms. Levy has also spoken with Parks and Facilities Manager Long about the issue, who, along with the Board, agreed with Ms. Levy's assessment. PFM Long noted that there needs to be a way to enforce policy set by the Board. The Board discussed possible solutions and PFM Long will continue to increase the signage and put something in the newsletter about this issue.

David Nessel spoke regarding Ordinance 371 and the recent rate increase, asking the Board to reconsider the ordinance.

2. 3:00 PM – Consider Options Related to Sewer Line at 7212 N. Lake Blvd, APN 117-110-013.

3. 3:30 PM – Consider Ordinance 371 alternatives for appeal process, testing procedure.

4. 4:00 PM – Consideration of Action on Gar Wood Easement Agreements.

5. 5:00 PM – Consideration of Action on Bay Street Easement Agreements.

E. MANAGEMENT TEAM INFORMATIONAL UPDATES

1. Acting General Manager/Public Works Director

AGM Schegg reviewed his written report with the Board, explaining his meeting with Fire Chief Whitelaw and the opportunities for the 25% District match for the Shaded Fuel Break Program. Chief Whitelaw is researching opportunities for funding.

2. Attorney

There were no comments or questions.

3. Treasurer

There were no comments or questions.

4. Chief Financial Officer

a. Review and Discuss Monthly Financial Statement through December 2007

b. Monthly Labor Report

Director Bergmann asked about the sharp increase in net costs for the Conference Center. Chief Financial Officer Marple noted that expenses have been higher across the Board, including payroll and utilities. Director Bergmann offered kudos to PFM Long for the profit shown at Kings Beach State Recreation Area (KBSRA) and asked about the potential for parking revenue in 2008. PFM Long explained how the fees were collected last year and the staffing, noting that she expects staff time to be similar this year. Discussion followed regarding the options for collection parking revenue, including the "pay and display" program that has been successfully implemented in Truckee, and the enforcement that would be required for a similar program. PFM Long will make a presentation to the Board regarding parking when her research is complete.

5. Parks and Facilities Manager

Director Daniels asked about snow grooming at NTRP. PFM Long said that it is going well and the vendor is doing a good job. It takes about 4 hours for each grooming session.

6. Conference Services Director

President Lewis said that CFO Marple's numbers indicate that if no more business is booked into the Conference Center for the rest of the year, there will be a deficit of approximately \$116,000. Conference Services Director Daniels said that there have been bookings since that number was determined and that the number will continue to decrease as bookings increase between now and June 30.

7. Public Works Director (See Item E-1 Above)

There were no comments or questions.

8. Chief Engineer

Chief Engineer Goebel's report that was included in the Board packet was reviewed, noting that the projects listed are not billable, but that grant opportunities are being considered.

The Boyle Report, which addresses possible code violations at the Water Treatment Plant, was distributed to the Board and AGM Schegg said that the report highlighted issues that were already known. One significant issue had to do with the height of a platform that allowed access to a control. The platform will be modified to be in compliance. President Lewis asked that an outside company be hired to address the SCADA system and insure that the plant is completely up to code. He stressed that this needs to be done in a timely manner. AGM Schegg noted that there are two projects: one is SCADA and one is project control. They need to be integrated into a single project and he is considering the appropriate way to do that. Discussion followed.

ACTION: AGM Schegg to ask Sierra Controls to attend a Board meeting in order to address the Board's concerns. Engineer Eric Sandel will meet with the O&P Committee.

9. Utility Operations Manager

President Lewis asked about Utility Operations Manager Hopkins comments regarding a meeting with the Incline Village General Improvement District (IVGID) about secondary treatment. **ACTION: AGM Schegg to discuss this with UOP Hopkins for clarification.**

10. Committee Reports: a) Conference Center Committee; b) Finance Committee; c) Legal Committee; d) Operations and Planning Committee; e) Personnel Committee; f) Placer County RDA Committee; g) Recreation and Parks Committee.

There were no comments or questions.

11. President's Comments

There were no comments or questions.

12. Director's Comments

There were no comments or questions.

13. TTSA Director's Report

President Lewis reported that TTSA will be considering a request from the Squaw Valley Public Service District to drill a well. He noted that there is an issue of about 6-8 houses in the area that TTSA is responsible for and that this might offer a better situation for those properties.

F. CONSENT CALENDAR

Regarding Item F3, Director Bergmann asked if the Beaver Street project has been completed. CE Goebel said that the construction is complete, but it will be one more dig season for some minimal work to finish the entire project.

It was moved by Director Bergmann and seconded by Director Daniels to approve the Consent Calendar. ROLL CALL VOTE: Ayes: Directors Mooney, Bergmann, Daniels, Lanini, and President Lewis. Noes: None. Directors Mooney and Bergmann abstained from voting on any conflicts of interest noted on the Accounts Paid and Payable List. Motion carried.

The following actions were taken in the Consent Calendar:

1. The Board approved Accounts Paid in the amount of \$121,196.06 and Payable in the amount of \$278,295.31 for the period from January 10, 2008 to February 12, 2008.
2. The Board approved the following actions related to the Carnelian Grinder Pump Project:
 - i. Payment of Progress Payment #1 to Resource Development Corporation for the Carnelian Grinder Pump Project in the amount of \$48,749.40.
 - ii. Change Order #1 an increase in the amount of \$1265.00.
 - iii. Filing of a Notice of Completion
3. The Board authorized the following actions related to the Beaver Street Water/Sewer Replacement Project:
 - i. Progress Payment #9 a release of retention in the amount of \$160,517.92 to Aspen Developers Corp.
 - ii. Amending the Cooperative Agreement with Placer County to reflect actual costs incurred on the Project
4. The Board approved an amendment to the Professional Services Agreement with Eastern Sierra Engineering for Waterline Replacement Project on Cutthroat Avenue.
5. The Board approved an amendment to the Professional Services Agreement with Kennedy/Jenks Consultants for the Carnelian Grinder Pump Project in the amount of \$8,274.70.
6. The Board considered the following claim:
 - i. Robert Miller – \$880.15
7. The Board approved a contract with Damore Hamric and Schneider to perform annual audit of the District's Pension Plan.
8. The Board approved use of the Kings Beach State Recreation Parking lot for an Ice Castle as part of Snow Fest.

G. CORRESPONDENCE

The Board reviewed all correspondence.

H. NEW BUSINESS

1. Concurrence on date of February 27, 2008 at 3 PM as recommended by the Recreation and Parks Commission for a Joint Workshop between the Board and Commission related to Friends of the Park Fund, Definition of Recreation and Priorities of the Adopted Master Plan.

The Board concurred with this date and time for a Joint Workshop.

2. Approve: The Finance Committee and Acting General Manager Schegg recommends approval of a 3% Adjustment to the Unclassified Salary Range.

Director Daniels suggested that this item be considered after a new General Manager is hired, instead of now.

It was moved by Director Mooney and seconded by Director Bergmann to approve a 3% Adjustment to the Unclassified Salary Range. ROLL CALL VOTE: Ayes: Directors Mooney, Bergmann, and President Lewis. Noes: Director Daniels. Motion carried.

3. Appoint Two Board Directors to Participate in SDRMA Seminar.

It was moved by Director Mooney and seconded by Director Bergmann to appoint Directors Bergmann and Daniels to participate in the SDRMA Seminar. Motion carried unanimously.

4. Approve: Conference Services Director Daniels recommends Approval of a Two (2) Year Extension Option to the North Tahoe Community Conference Center Catering Contract with Bella Affair Catering.

The Finance Committee has reviewed this request and recommends approval.

It was moved by Director Mooney and seconded by Director Bergmann to approve a two-year Extension Option to the North Tahoe Community Conference Center Catering Contract with Bella Affair Catering. Motion carried unanimously.

5. Presentation by the League to Skate Lake Tahoe – Approve Request for Site Designation at the North Tahoe Regional Park for Continuing Design and Fundraising.

Andrew Eisenmann, President of the League to Skate Lake Tahoe, reviewed the presentation distributed in the Board packet, stating that the goal today is to identify a site for the skateboard park, which is necessary in order to begin fundraising. Mick Nicklin, an engineer, was also present to represent the League, and reviewed a comparison of sites under consideration, preliminary costs, and a construction schedule. He is recommending the site between the soccer field and the bike path at the Regional Park. Mr. Eisenmann spoke to potential maintenance costs based comparable parks and the maintenance plan proposed for this park. Discussion followed regarding the plan presented, the sites for the park, parking and other necessary improvements, costs, and insurance. The Board agreed that a skateboard park is an appropriate use for the NTRP and asked that the League consider alternative sites.

6. 3:00 PM - Consider Options Related to Sewer Line at 7212 N. Lake Blvd, APN 117-110-013.

CE Goebel explained an aerial photo of this site that was included in the Board packets. The property owner, Dr. Foulk, is considering an extensive remodel on his home and the property encroaches over an NTPUD easement. CE Goebel said that the sewer line currently runs under the home. He recommends that ultimately the line be moved along the right-of-way on Highway 28, which may not happen until the line is replaced in 2010. He has met with Dave Shelton and Eric Bacon of Shelton & Bacon Engineering, the engineers working with Dr. Foulk. Dr. Foulk, Mr. Shelton, and Mr. Bacon were present and Mr. Shelton explained the proposed project to the Board and the proposal the property owner is making in return for an encroachment being granted. Discussion followed regarding the options available. CE Goebel's recommendation is that an engineering analysis and feasibility review be done to consider moving the line and in the meantime, allowing Dr. Foulk to proceed with his plans, subject to the District review of the plans, and that the construction is done using techniques that will not damage the pipe, such as the hand-digging that is being proposed. Dr. Foulk expressed his desire to work with the District to find the best solution, noting that he would accept liability for damages. Discussion continued regarding how best to proceed, given the unknown condition of the pipe and the vulnerabilities.

It was moved by Director Bergmann and seconded by Director Mooney to direct Counsel to draft an agreement that would alleviate the District's risk in order for the property owner to proceed with this project. Motion carried unanimously.

I. OLD BUSINESS

1. Discussion and Action Regarding Engineering Department Structure and Staffing.

Director Daniels asked that this item be tabled to the March meeting.

2. Approve: Chief Engineer Goebel recommends approval of a Stag Drive Alignment Alternative.

CE Goebel's written recommendation was reviewed and the Board discussed the financial impact of this proposal, how it may affect the Cutthroat project, alternative methods that can be implemented, and whether or not this line is in a high-maintenance location. CFO Marple reviewed a cash flow scenario as the Board considered other projects

and how this may fit in. **ACTION: The Board asked that O&P consider this request for Board consideration at a later date.**

3. Report by Conference Center Committee and Counsel Eskind on results of meetings related to the Conference Center, Community Enhancement Projects and Kings Beach State Recreation Area.

The Conference Center Committee of Directors Mooney and Bergmann met with Counsel Eskind to consider the impact and benefits of the Conference Center. Counsel Eskind explained charts showing the types and frequency of events at the Conference Center and overall financial information, indicating the benefits and cost of the Center to the community and Placer County. He will present this information to the North Tahoe Business Association (NTBA) and then to Placer County, as the Board has directed the Committee to secure financial assistance in order to continue to operate the building. Copies of this presentation will be distributed to the Board.

4. Recreation and Park Commission

i. Draft Minutes from January 23, 2008 Meeting

5. Approve: CFO Marple recommends approval of a contract with Mark Hammon for services in conjunction with SCADA project(s) management.

This item was removed from today's agenda.

6. Approve: CFO Marple recommends approval of a contract w/Mark Hammon for Information Technology (IT) Services

CFO Marple said that Counsel Eskind is making revisions to the contract, however insurance was a concern that Mr. Hammon has taken care of. John Sutek, the District's Risk Manager feels the insurance Mr. Hammon has secured is adequate, given the work he will be doing. Discussion followed regarding the work that Mr. Hammon will be doing for the District as an independent contractor, his liability, and his fees. **ACTION: Counsel Eskind will make necessary revisions to the contract with Mark Hammon.**

It was moved by Director Bergmann and seconded by Director Daniels to pay Mr. Hammon \$95.00/hour for the balance of this fiscal year (to June 30, 2008) and then the rate will increase to \$100/hour. Motion carried.

7. 3:30 PM - Consider Ordinance 371 alternatives for appeal process, testing procedure.

AGM Schegg introduced this topic noting that the District has received a number of emails and letters asking the Board to reconsider their adoption of Ordinance 371. He explained similar ordinances in other districts, noting that the differences are mainly in enforcement. It is staff's recommendation to take no action at this time, pending a meeting with Placer County to consider alternatives. President Lewis opened the topic to Public Comment.

John Falk, Legislative Advocate for the Tahoe Sierra Board of Realtors urged the Board to embrace the responsibility for public health and safety, to insure the integrity of the system, and to continue the maintenance of the line instead of turning over that responsibility to the property owner.

Jennifer Merchant from Placer County thanked the Board for inviting the public to participate in this meeting, but feels that there was not adequate opportunity for the community or Placer County Department of Public Works to evaluate this ordinance. She said that line repair is an expensive and cumbersome process for a property owner and that repair standards would be irregular and problematic to the system. She asked that the ordinance be rescinded.

Real Estate Broker Jeff Hurst noted that there may be similar ordinances in other districts, but that there is difficulty in administering them. He believes the ordinance is ill conceived and that ultimate compliance would take so long, it would render the process ineffective. He considered the financial and seasonal consideration and urged the Board to rescind their decision.

Mike Willett asked the Board to consider some of the scenarios that may cause damage to the line, such as tree roots, and where would the liability lie for damage or pollution resulting from damage on someone else's property. AGM Schegg explained that it is currently the responsibility of the property owner to keep the line open and flowing to the main.

Peter Morris believes that the District is shirking their responsibility for pipes in the public right-of-way and asked that the ordinance be rescinded.

Craig Cooper reviewed the possible legal consequences of the ordinance and reviewed government codes that he believes address this issue. He feels that this ordinance is unfair to rate payers.

Cheri Lewis feels that this ordinance lacks fairness to property owners, particularly those who sell their homes in the summer.

There being no further public comment, President Lewis closed this portion of the meeting and the Board considered the issue. Director Bergmann explained the Board's decision, noting that it was done in consideration of the public good for all rate payers in the District. He reviewed the new reporting process that was the catalyst for Ordinance 371 and the cumulative affect it has on the liabilities and possible fines to the District. Director Bergmann spoke to the need of empirical evidence from communities with similar ordinances. Director Mooney said that the Board may have made a hasty decision and that because of the public input, he is in favor of rescinding the ordinance. Director Daniels reviewed the reason that a Public Utility District was formed and state that it is the District's responsibility to get sewage out of the basin. She acknowledged the need for property owners to have easements for the purpose of a driveway, but that this is a much different situation and that the responsibility should not be put on individual property owners. Discussion followed regarding where the responsibility lies in keeping the lines clear at certain points of the system and the history of the system. President Lewis reiterated that the decision of the Board was made in order to reduce the financial impact to the property owner because of the changes in reporting.

It was moved by Director Daniels and seconded by Director Bergmann to rescind Ordinance 371. ROLL CALL VOTE: Ayes: Directors Mooney, Bergmann, and Daniels. Noes: President Lewis. Motion carried.

8. 4:00 PM – Consideration of Action on Gar Woods Easement Agreements.

Because Mr. Turner was not present for this item, it was tabled.

9. 5:00 PM – Consideration of Action on Bay Street Easement Agreements.

Counsel Eskind said that the only agreements that need to be secured are from Basile and Boxler. Tom Boxler, property owner, was present to address the Board. He has reviewed the proposed District agreement and presented a revision to the document as regards replacement of landscaping. Discussion followed to determine a reasonable replacement amount and an agreement was reached.

ACTION: Counsel Eskind to revise the agreement for Mr. Boxler's signature.

J. CLOSED SESSION AGENDA

Closed Session was reconvened at 7:38 PM to consider the following:

1. CONFERENCE WITH LABOR NEGOTIATOR

Agency Negotiators: Lee Schegg, Acting General Manager; Larry Marple, CFO; Sandra Conroy, HR Specialist; Dick Whitmore, Labor Counsel, Liebert Cassidy Whitmore Employee Organization: Stationary Engineers Local 39

2. Public Employee Appointment/Recruitment of the following Position - Government Code Section 54957: Title: General Manager/CEO

3. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: Adjacent to Placer County APNs 115-050-028-000 and 115-050-029-000

Agency Negotiators: Board of Directors, Acting General Manager, and/or Counsel

Negotiating Parties: District and The Gar Wood Building, A California Limited Partnership

Under Negotiation: (1) Sewer Line Easement (2) Access and Sewer Line Easement

4. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: Adjacent to Placer County APN's 115-050-032-000, 115-050-033-000

Agency Negotiators: Board of Directors, Acting General Manager, and/or Counsel

Negotiating Parties: District and the following property owners: Basile, LEG Investments, Boxler. Under

Negotiation: (1) Sewer Line Easement

5. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: (3 cases).

Pursuant to subdivision (c) of Government Code Section 54956.9, the incident to which said anticipated litigation

exists involves the Bay Street Sewer Main Repair and Sewer Line easements for portions of the Bay Street Sewer Main.

6. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: (1 case). Pursuant to subdivision (c) of Government Code Section 54956.9, the incident to which said anticipated litigation exists involves an accident at the gate at the North Tahoe Regional Park.

Open Session was reconvened at ... PM and*action*.....

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at ... PM. The next scheduled meeting of the NTPUD Board of Directors is Tuesday, March 11, 2008.

Respectfully submitted,
Judy Friedman, Recording Secretary
THE PAPER TRAIL SECRETARIAL & BUSINESS SOLUTIONS