

**REGULAR BOARD MINUTES
SOUTH PLACER MUNICIPAL UTILITY DISTRICT**

Meeting	Location	Date	Time
Regular	SPMUD Boardroom Zoom Meeting	April 4, 2024	4:30 p.m.

I. CALL MEETING TO ORDER: The Regular Meeting of the South Placer Municipal Utility District Board of Directors was called to order with President Durfee presiding at 4:30 p.m.

II. ROLL CALL OF DIRECTORS:

Present: Director Jerry Mitchell, Director Will Dickinson, Director Christy Jewell, Director James Durfee, Director Jim Williams

Absent: None

Vacant: None

Staff: Adam Brown, Legal Counsel
Herb Niederberger, General Manager
Carie Huff, District Engineer
Eric Nielsen, Superintendent
Emilie Costan, Administrative Services Manager

III. PLEDGE OF ALLEGIANCE: Vice President Jewell led the Pledge of Allegiance.

IV. PUBLIC COMMENTS:

ASM Costan confirmed that no eComments were received. Hearing no other comments, the public comments session was closed.

V. CONSENT ITEMS:

1. MINUTES from the March 7, 2024, Regular Meeting.
2. ACCOUNTS PAYABLE in the amount of \$3,357,512 through March 25, 2024.
3. RESOLUTION 24-06 AUTHORIZATION FOR THE GENERAL MANAGER TO EXECUTE A CONTRACT FOR ROOT CONTROL FOAMING WITH DUKE'S ROOT CONTROL INC.

Vice President Jewell made a motion to approve the consent items; a second was made by Director Williams; a roll call vote was taken, and the motion carried 5-0.

VI. BOARD BUSINESS

1. APPEAL OF THE RISING ZONE, 5828 LONETREE BOULEVARD, PARTICIPATION CHARGE CALCULATION

DE Huff presented the appeal of the participation charge calculation for the Rising Zone, an existing two-story building in Rocklin. The second floor offers co-working office spaces with a wellness center on the first floor. The wellness center includes a sauna, yoga studio, and gym with showers and cold

plunge baths. The District received an application for a tenant improvement in February to add the showers and at that time became aware that there were four cold plunge baths in the space. DE Huff shared that this triggered a reassessment of the participation fees per the District sewer code. Staff used a composite calculation with the second floor calculated as office space and the first floor calculated as a sports/fitness center with showers. This resulted in an additional participation charge.

Director Williams asked what the additional fee is per square foot. DE Huff shared that the total space is 22,300 square feet, and the fee is \$33,964. Director Mitchell asked if there have been changes to the District's sewer code and if the District has received similar appeals. DE Huff shared that there have not been any changes to this section of the code since at least 2008 with a few appeals having been received since that time. Director Mitchell asked if this calculation methodology is common amongst other sewer districts, and GM Niederberger shared that it is common among the South Placer Wastewater Authority (SPWA) partners. Director Dickinson asked if other businesses such as Anytime Fitness have spaces in them that are not calculated as a fitness center, and DE Huff shared that they do not. Director Dickson asked for confirmation that hallways, childcare areas, and other spaces at these businesses are not segregated and calculated at a different rate, which was confirmed. Director Dickinson also asked for clarification that the number of customers using the space doesn't impact the fee calculation and the only differentiation for a fitness center is whether it has showers, and DE Huff confirmed that as true. Director Williams asked if the District was notified about the improvements to the space after they had already occurred, and DE Huff shared that the District was part of the tenant improvement review process. She added that the District responded to an initial inquiry during the planning phases regarding what the fee would be if the entire space was calculated at a higher density usage.

Melanie Lagrou, architect for RMW Architecture, spoke on behalf of the appellant. She commented that the Rising Zone has already paid participation fees based on 7.44 Equivalent Dwelling Units (EDU) and the fees being appealed are additional participation fees. She commented that the Rising Zone space is unique. The space currently is used by approximately 112 members who use the workspaces upstairs. She commented that the hallways in the downstairs space are used to access the upstairs offices, and it is a holistic space. She added that the original estimate of additional participation fees to add the showers was over \$40 thousand; however, after speaking with District staff a composite calculation was utilized. She shared that in accordance with the Uniform Building Code, there are 4,120 square feet that are high occupancy use. She commented that the applicant is asking for a fee that is proportional to the number of people using the space and is commiserate with adding a couple of shower spaces for use by the members.

Director Williams asked the appellant for confirmation that they are disputing part of the downstairs square footage that is calculated as a fitness center. Ms. Lagrou confirmed and shared that some of the square footage used in the staff calculation is hallways used by the workspaces upstairs or is not a fitness area. She commented that the areas categorized in the City of Rocklin approved building plans as a fitness center are 4,120 square feet versus the 6,902 square feet used in the District's calculation. DE Huff commented that the District doesn't look at the space in relation to the building code, staff is assessing the fee based on the District's sewer code and how it relates to other similar businesses. Ms. Lagrou commented that if the spaces are medium occupancy spaces for safe exiting requirements per the building code it is reasonable to assume that they are also medium occupancy users of the utilities. Director Williams commented that the sewer code is very different from the building code as is based

on the amount of sewage generated. He added that he is sympathetic to the argument that some of the hallway areas would be there regardless of the fitness center.

Director Mitchell commented on the impact on other businesses if a deviation from the sewer code and standardized calculation methodology were to be approved. President Durfee asked how this change would impact the SPWA partners. GM Niederberger shared that it would have an impact if the sewer code were to be revised; however, the applicant is asking for consideration of how the existing sewer code is being applied to their spaces and that determination is within the purview of the Board. Vice President Jewell commented that the sewer code provides objective equity to the business partners and builders. She asked if staff has the discretion to subjectively find that a business like the Rising Zone is not a fitness center and that it is a co-working space. DE Huff shared that the only discretion that staff had per the sewer code was to utilize a composite calculation for the space whereas typically the entire space would be calculated at the higher use. GM Niederberger added the Board is the only one with the discretion to waive the sewer code.

President Durfee opened the item for public comment. Ken Broadway, a Rocklin resident gave public comment. He shared concern about the amount of the impact fees being assessed on businesses. He commented that a fee of \$33,000 for adding four showers is concerning. He shared that high fees make it difficult to compete with other neighboring jurisdictions for new businesses and grow the community. He shared that he reached out to the City of Roseville and was notified that a similar project there would only cost \$5,000. He commented that while it is important to fairly distribute fees based on the impact, it should be done collaboratively with the community and the fees should be set appropriately relative to the impact. He asked whether the District is collecting funds to purchase a Lucid or a Toyota and asked the Board to consider the appeal and the overall level of the fees assessed by the District.

A member of the audience asked if the business has workout equipment or just showers, and the appellant shared that there is workout equipment in the space.

Director Williams commented that other fitness facilities have chiropractor and wellness spaces. The District doesn't have a method that allows for charging based on the number of members or tools available to charge based on actual usage. The main concern is making sure that the square footage is correct. Vice President Jewell commented that the primary use is as a co-working space, which makes it different from a health and wellness space. She advocated for case-by-case discretion and assessing all the space at a medium-density use.

Director Dickinson commented that he is a member of Anytime Fitness which is not a crowded facility. They have two showers that he has personally never seen used and their entire space is charged as a high-density user. Based on the District's code, when showers are added it changes the usage, and that usage is typically applied to the entire square footage. The composite calculation utilized by staff benefited the applicant. He asked for a breakdown of the difference in the appellant's stated square footage and the chart provided in the staff presentation. DE Huff commented that she has not seen the calculation used by the applicant to determine the 4,120 square feet of high-density usage. The appellant shared that per the building code, the determination is based on the size of the individual spaces with the yoga room and large fitness room requiring additional exits and the smaller spaces like the locker rooms having a lower occupancy. President Durfee clarified with the appellant that their calculation is based on exit requirements from the building code and is not based on the sewer code.

Director Dickinson commented that the sewer code provides for a broad-based method to determine impact based on square footage and the use of the space. It does not prescribe a method for calculating impact based on fixture counts, flow devices, and other methodologies. Every calculation is an estimate, and changing the methodology in this instance would not be fair to other businesses that have not had their hallways and other spaces parsed out and calculated differently. He commented that he believes that staff has applied the District's code appropriately.

Director Williams commented that he understands that the fees can be debilitating especially for high-impact uses such as a restaurant; however, the District does not remove the hallway that leads to the bathroom or a meeting room that is only used once a week when calculating the fees for that restaurant. He commented that this is a capacity fee and is based on the way the system must be designed to accommodate peak flows. Over the years, the District has worked hard to set the fees as low as possible and create efficiencies to mitigate increases. He welcomed additional feedback and discussed additional regulatory requirements that increase costs. He offered the idea of deferring the decision on the appeal to allow additional time for the appellant to provide their calculation of 4,120 square feet to staff for review. He commented that the District has put tools in place to allow the fees to be financed. Director Mitchell voiced support for Director Williams' proposal to defer the decision on the appeal. He added that conveying 4.5 million gallons of sewer a day is a monumental task. He shared that the District has three buckets: operating expenses, system expansion, and repair and maintenance. He added that the District pays an enormous amount of the money collected towards treatment. He shared that the City of Roseville is much larger than the District so there is an economy of scale, additionally, they have different funding tools. A recent comparison of all development fees presented to the board showed that Rocklin is quite competitive when it comes to overall fees, and the District needs to collect adequate fees to meet its short-term and long-term needs.

Director Dickinson commented that if the District starts parsing fees with this level of detail, the logical next step would be that fees per EDU would need to increase. The District has a set amount that it needs to collect to pay for necessary expansion projects. He opined that the current method is the most practical way to allocate charges. Director Williams added that the District has maintained the lowest monthly sewer service rates in the region by constantly working to find efficiencies in the organization.

GM Niederberger stated that the applicant is asking the Board to reconsider roughly 2,800 square feet of ancillary areas being calculated at the higher density. He provided that the Board could direct staff to work with the applicant to determine if these areas should be considered in the calculation. The Board discussed whether the appeal should come back to the Board if staff and the applicant come to an agreement on a composite calculation. DE Huff shared that there may be time constraints for the applicant with their building permits if the decision is delayed and asked if the Board would like to review the square footage breakdowns to determine what spaces should be included in the calculation. President Durfee commented that he would prefer not to complete that analysis during the meeting. Director Dickinson asked that staff check with the City of Roseville to see how they would calculate the fee for these improvements. He commented that the partners should be charging customers using the same methodology.

Director Williams made a motion to table the appeal and direct staff to review the square footage calculation with the applicant and come back to the Board for further action; a second was made by Director Dickinson; a roll call vote was taken, and the motion carried 4-1 with Vice President Jewell voting No.

2. RESOLUTION 24-07 UPDATING THE INVESTMENT OF DISTRICT FUNDS STRATEGY

ASM Costan presented two proposed updates to the District's investment strategy. She shared that the first change is to formally include California CLASS and Five Star Bank in the overall investment strategy to provide flexibility in responding to cash flow needs and market performance. The second change is to invest \$15 million currently invested with the Placer County Treasury into longer-term fixed-income securities with Wells Fargo Securities Investment Group to minimize interest rate risk. She shared that these investments would return comparative long-term rates and do not have additional banking, recordkeeping, or other third-party fees. She introduced John Williams, Executive Director with Wells Fargo Securities Investment Group who provided an overview of the investment proposal to purchase federal agency notes with a duration ranging from two to four and a half years and a yield of 4.42 percent if held to maturity.

Director Williams commented that if interest rates do decline, these investments would likely increase in market value and asked if there is a penalty for early withdrawal. Mr. Williams confirmed that there are no early liquidation penalties, and the District would have the future option of selling these notes before maturity at a higher gain. He added that the worst-case scenario is a yield of 4.42 percent. There could be a loss from a shock in the system that causes interest rates to go even higher and the market value of the notes to decrease; however, that would only be realized if the notes were not held to maturity. Director Dickinson asked for confirmation that the notes are non-callable, and Mr. Williams confirmed that they are not.

President Durfee opened the item for public comment. No public comments were received.

Director Williams commented that it seems like a prudent move to lock in favorable rates. Director Dickinson also shared his support. Director Durfee thanked staff for their work on this item.

Director Dickinson made a motion to adopt Resolution 24-07 Updating the Investment of District Funds Strategy; a second was made by Vice President Jewell; a roll call vote was taken, and the motion carried 5-0.

3. RESOLUTION 24-08 OPPOSING INITIATIVE 1935 (AKA 21-0042A19)

GM Niederberger shared that the California Special District Association (CSDA) has requested that all special districts adopt resolutions formally opposing Initiative 1935. If passed, this legislation would amend the State Constitution to significantly undermine local control and the ability of local governments to provide services and infrastructure. He shared that the rates and charges recently adopted by the District would be negatively impacted by the passage of Initiative 1935. He added that due to the significant impact on local government, this initiative is being legally challenged before being placed on the ballot. Agencies supporting local government are being proactive due to the potential determinantal effects with the biggest concern being retroactivity.

Vice President Jewell asked where the local control would be moved. GM Niederberger shared that the way that rates and fees are established and voted on would be changed. Director Williams commented that the District has always had to justify rates and fees based on the cost of the service. If

the District were not able to set fees to cover the cost of service, things would start to break down and the State would need to step in to bail out agencies thereby eroding the ability of local governments to manage their affairs. President Durfee asked who was behind the initiative. GM Niederberger shared that it is funded by large developers and business interests. Director Mitchell commented that the California Supreme Court is likely to rule on the pre-election challenges in June. He added that the District and the City of Rocklin spend efficiently and are focused on specific mission-driven requirements that benefit their residents.

President Durfee opened the item for public comment. Warren Jorgenson, a Rocklin resident gave public comment. He shared information from a San Francisco Chronicle article where former Governor Brown and Governor Newsom have asked for the California Supreme to hear a pre-election challenge due to the substantial change it would have on the California Constitution. He shared support for formally opposing Initiative 1935.

Director Durfee commented that regardless of the quality of service provided, there is a large risk that constituents would not vote for needed rate and fee increases.

Director Williams made a motion to adopt Resolution 24-08 Opposing Initiative 1935 (aka 21-0042A19); a second was made by Director Mitchell; a roll call vote was taken, and the motion carried 5-0.

Director Williams left the meeting at 5:42 p.m.

VII. REPORTS

1. District General Counsel (A. Brown):

General Counsel Brown had no report for this meeting.

2. General Manager (H. Niederberger):

A. ASD, FSD & TSD Reports:

GM Niederberger shared an update on the discussions with the City of Roseville regarding the potential transfer of assets south of Highway 65. He commented that they are currently discussing a cost-sharing agreement for future maintenance costs. Director Mitchell asked about the funding for a study on the electrification of the District's fleet. DS Nielsen shared that the State passed the Advance Clean Fleet Act which applies to local governments and requires them to move to a zero-emissions fleet. The District is seeking assistance in developing a plan to comply with these requirements. GM Niederberger added that there will be a presentation on this item at the May board meeting. Director Mitchell asked GM Niederberger if he would be reporting on the status of his annual goal completion, and GM Niederberger shared that he would as progress is made.

Director Dickinson asked about the timeline for a SCADA update to the Board. DS Nielsen shared that this item will be included in the budget approval process. The bid documents will be prepared after the budget is approved, and the award of the contract will come back to the Board. GM Niederberger suggested an Infrastructure Advisory Committee meeting in May. Director Dickinson asked if the outstanding easements for the Atherton Sewer Trunk have been resolved. Staff shared that there has

been progress, but they are still delayed and have been operating under a temporary sewer use agreement for over a year.

Director Mitchell asked about the meeting with Sierra College to discuss the monthly service and capacity charge payments. GM Niederberger shared that the meeting was positive and that there will be a follow-up meeting in a couple of weeks to discuss the item in more detail. The first meeting regarding monthly service and capacity charge payments for Del Oro will also occur in a couple of weeks. Director Mitchell asked about the two vehicles in the FSD report that are out of compliance with smog requirements. DS Nielsen shared that staff worked with the vehicle manufacturer who recommended that the vehicles which are both newer vehicles with low mileage be driven a high number of miles to become eligible for smog testing. GM Niederberger shared that staff has reached out to local legislative representative's offices to explore other solutions. Director Mitchell thanked staff for the long period with no loss time injuries.

B. Information Items:

There were no information items.

3. Director's Comments:

There were no Director's comments for this meeting.

VIII. CLOSED SESSION READOUT

The Board met in Closed Session at 5:54 p.m. to hear a report from staff and the General Counsel and no action was taken.

The Board adjourned the closed session at 6:32 p.m.

IX. ADJOURNMENT

The President adjourned the meeting at 6:33 p.m. to the next regular meeting to be held on May 2, 2024, at 4:30 p.m.



Emilie Costan, Board Secretary