

BOARD MINUTES
SOUTH PLACER MUNICIPAL UTILITY DISTRICT

| Meeting | Location | Date | Time |
|----------------|-----------------|---------------|-------------|
| Regular | District Office | March 1, 2018 | 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 Mitchell presiding at 4:30 p.m.

II. ROLL CALL OF DIRECTORS:

Present: Will Dickinson, Jerry Mitchell, Vic Markey, John Murdock, Jim Williams
(Director Murdock arrived 4:40 p.m.)

Absent: None

Vacant: None

Staff: Herb Niederberger, General Manager
Adam Brown, Legal Counsel
Sam Rose, Superintendent
Eric Nielsen, District Engineer
Joanna Belanger, Administrative Services Manager

Others: Rick Massie, Feathered Nest Business Owner
Dave Morton, Construction Mgr. Massie & Co.

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

IV. CONSENT ITEMS:

1. MINUTES from the February 1, 2018 Meeting.
2. ACCOUNTS PAYABLE in the amount of \$903,362.73 through February 22, 2018.
3. MONTHLY INVESTMENT REPORT in the total amount of \$55,276,043 through February 22, 2018.
4. BILL OF SALE FOR SPRING VALLEY PHASE 2 VILLAGE 3.
5. BILL OF SALE FOR SPRING VALLEY PHASE 2 VILLAGE 4.
6. RESOLUTION #18-06 – NEWCASTLE SEWER SYSTEM REPAIRS 2018 CONTRACT with Precision Earthworks Construction, Inc. for \$185,287.
7. RESOLUTION #18-07 – CIPP PIPE LINER PROGRAM 2018 CONTRACT with Insituform Technologies LLC for \$344,022.
8. FY 16/17 AUDIT REPORT – ADDITIONS/CORRECTIONS TO REPORT.

Director Dickinson requested Items 1, 6 & 8 pulled from consent for further discussion. Director Williams made a motion to approve all remaining items from the consent calendar; a second was made by Director Dickinson. The motion carried 4-0.

Director Dickinson clarified a comment he had made from the minutes and asked that the record reflect he had stated he would like staff to request CSDA lobby for a change to the \$100 per meeting limit. General Counsel Brown replied that the \$100 per meeting stipend was tied to the MUD Act and CSDA would be ineffective as a lobbyist. Director Dickinson then asked if staff could prepare a cost of living adjustment to the Health Insurance Benefit. GM Niederberger indicated that he was prepared to return to the Board with a change to the Health Insurance Benefit that was tied to the Bureau of Labor Statistics wage index. Director Dickinson made a motion to approve the revised minutes from February 1, 2018; a second was made by Director Williams; the motion carried 5-0.

Director Dickinson stated that he was concerned on the approach to negotiate with a bidder to change the dollar amount on a project for the Newcastle repairs. GM Niederberger clarified that one of the projects within the bid was eliminated to keep the total project costs within the budget. Director Dickinson asked if there is a provision within the bid documents which allows us to remove items. Superintendent Rose stated that up to 25% can be removed per the bid documents. GM Niederberger stated that the funds for this project are General Funds and included within the rate case and directly affect customer rates. The District have programmed \$200,000 annually for Newcastle projects over the next ten years. After a short discussion Director Dickinson made a motion to approve Resolution #18-06 – Newcastle Sewer System Repairs 2018 Contract with Precision Earthworks; a second was made by Director Markey, the motion carried 5-0.

Director Dickinson stated that he appreciated the Audit Report additions and comments and made a request to change the word “decrease” with the word “increase” on page #5 of the report. With that minor change Director Dickinson made a motion to approve the FY 16/17 Audit report; a second was made by Director Williams, the motion carried 5-0.

V. PUBLIC COMMENTS:

President Mitchell opened the Public comments. Hearing no comments, public comments were closed.

VI. BOARD BUSINESS

1. CONSIDERATION & APPROVAL OF RESOLUTION #18-08 3264 TAYLOR ROAD REFUND AGREEMENT & BILL OF SALE

President Mitchell stated that Director Markey was recusing himself from this item, due to the vicinity of this project to his personal property.

GM Niederberger introduced the Refund Agreement and Bill of Sale for 3264 Taylor Road. He indicated that the applicant – Rick Massie had signed the Agreement under protest. Since the applicant wishes to open their business, the District has consolidated the Bill of Sale and Agreement process to assist them with their timeline. District Engineer Nielsen presented the specifics of the project and the Districts process to create the Refund Agreement and the process to accept the Bill of Sale for the property. He explained the breakdown of the analysis and the determined EDU’s estimated within the Refund Agreement area, along with the value of the contributed capital estimated at \$172,473. Properties which connect to the 8-inch sewer will pay a prorated share of the cost for construction to the District per EDU, which will be passed through to the owner with this Agreement.

GM Niederberger reported that he had met with Mr. Massie prior to the Board meeting to discuss his areas of dispute of the Agreement. He stated that Mr. Massie voiced concerns regarding the number of EDU’s anticipated for the property. He also stated that he was under the impression that he would receive full reimbursement for construction costs he had incurred related to the installation of the sewer system. GM Niederberger reported that the acceptance of the Bill of Sale would typically be brought to the Board after an Agreement had been signed. He offered that the Board could use their discretion in deciding the best option to move forward in this case.

Property Owner Rick Massie of 7481 Quinn Place, Loomis addressed the Board. He stated that he was under the impression that he was entering into a Reimbursement Agreement not a Refund Agreement. He felt that he hadn’t had adequate time to review the Agreement and work out the details with the District. He proclaimed that since his business is scheduled to open he had signed the Agreement under protest. He reiterated that he was under the impression that he would be reimbursed for the full construction costs he

had incurred to build the sewer. Mr. Massie stated that he had met with GM Niederberger to discuss the Agreement details and at that meeting he provided a binder with copies of all of his bills demonstrating actual costs in excess of \$300,000 to complete this project.

The Board deliberated the Agreement and addressed Mr. Massie's concerns. Director Williams asked Mr. Massie to clarify what he thought he would be reimbursed/refunded for the project. Mr. Massie said that he was under the impression that he was constructing the sewer infrastructure and would have all of his costs reimbursed by the District. Director Williams stated that there was a gross misunderstanding of the process, and that the submitted costs were triple the engineers estimate.

Further discussion followed; and staff explained the application of the schedule of values which had been approved by the Board in November 2017. Director Williams asked where the project estimate of \$122,000 had come from – DE Nielsen stated it was from Mr. Massie's engineer's estimate. Director Williams suggested that the District could provide a standardized guide which explains the process for this type of Refund Agreement, to ensure that in the future this type of misunderstanding does not occur. Director Williams stated that the Board created the discretionary practice for Refund Agreements in its efforts to be fair and equitable and assist those developing sewer infrastructures for the needs of their own project. Director Dickinson specified that he would like to see staff spend time on the EDU calculation verses reviewing the costs provided by Mr. Massie. Director Murdock added that staff has been diligent in their work following policies and procedures.

President Mitchell closed the discussion commenting that the Districts Vision and Mission Statement are clear in addressing the protection of the environment while providing efficient sewer systems. He stated that if a Developer chooses to construct sewer infrastructure to service a project for their interest, he is not willing to burden other property owners with that expense.

The Board Directors deliberated on next steps to take for this situation. A motion was made by Director Murdock to accept the Bill of Sale for 3264 Taylor Road; a second was made by Director Dickinson, the motion carried 4-0. Staff was then directed to complete a limited review of engineering and construction costs for the project and continue Resolution #18-08 for the Refund Agreement at 3264 Taylor Road to the next meeting.

2. CONSIDERATION & APPROVAL OF RESOLUTION #18-09 UPDATE TO POLICY 2025 – EXPENDITURE REIMBURSEMENT

GM Niederberger introduced the update to Policy 2025, addressing an update to expenditure reimbursements for business travel expenses to be in line with the GSA amounts for per diem rates tied to meals. With this update, costs will still be reimbursed based upon costs incurred, but not in excess of the GSA rate for the location of training or meetings. Director Williams made a motion to approve Resolution #18-09 updating Policy 2025 for Expenditure Reimbursements; a second was made by Director Dickinson; the motion carried 5-0.

3. CONSIDERATION & APPROVAL OF RESOLUTION #18-10 FOOTHILL TRUNK ADDENDUM #3

DE Nielsen introduced Resolution #18-10, addressing contract changes for the Waterworks Agreement for the Foothill Trunk project. DE Nielsen reported that in efforts to prepare complete construction bid documents for this project, it is necessary to obtain additional information to characterize the potential presence and location of rock. Director Dickinson made a motion to approve Resolution #18-10 approving the Foothill Trunk Addendum #3 with Waterworks Engineering; a second was made by Director Williams; the motion carried 5-0.

4. COMMERCIAL UTILITY ACCOUNT AUDIT UPDATE

ASD Belanger presented an informational presentation, demonstrating examples of findings from the comprehensive review of Commercial Utility Accounts. Policy #3160 – Utility Billing Reconciliation & Payment Policy allows the District to routinely audit accounts and determine if any changes in use have occurred. Any billing errors will be corrected, and notices will be sent to the property owner indicating any necessary adjustments to their account.

5. EASEMENT ENCROACHMENT PROGRAM UPDATE

DE Nielsen provided a review of the Easement Encroachment Program. He reported that staff developed an approach to visit identified sites for confirmed encroachments. Hurdles were however encountered when gaining access to private property for the purposes of inspection. He said that staff have explored other programs used by partnering agencies to gain access to their easements and may use their examples to model the Districts program. He also suggested that the District may approach these encroachments in a different manner with the use of technology such as a drone. Staff is working with legal counsel to determine if there are any legalities which may need to be addressed. Legal Counsel Brown said that drones can be problematic, although there isn't a lot of legislation to guide us. He said it's a great innovative way to do business however there are privacy issues with no clear answers at this time, and he will assist staff in reviewing this as an option. DE Nielsen said that staff is developing next steps for the program including the development of pamphlets to provide to the public, reviewing City permits on a regular basis and reviewing USAs as they come in to capture improvements encroaching on easements in advance of construction.

VII. REPORTS:

- 1. District General Counsel (A. Brown):** General Counsel Brown stated that he had submitted a memorandum to the Board regarding advisory committees.
- 2. General Manager (H. Niederberger):** GM Niederberger had no additions to his report.
 - A. ASD, FSD & TSD Reports:** ASM Belanger reported that tickets had been purchased for Board Directors to attend the State of the City event at Sierra College held on Friday March 9, 2018 at 7:15 a.m.
 - B. Information Items:** No additional items were reported.
- 3. Directors Comments:** Director Dickinson stated that he would like to see a future agenda item regarding a Cost of Living adjustment to the Director Health and Welfare benefits.

VIII. ADJOURNMENT

The meeting was adjourned at 6:45 p.m. to the next regularly scheduled meeting to be held on Thursday, April 5, 2018 at 4:30 p.m.



Joanna Belanger, Board Secretary