

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

Meeting	Location	Date	Time
Regular	SPMUD Boardroom Zoom Meeting	August 1, 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
Eric, Nielsen, District Superintendent
Carie Huff, District Engineer
Emilie Costan, Administrative Services Manager

III. PLEDGE OF ALLEGIANCE: DS Nielsen 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 June 27, 2024, Regular Meeting.
2. ACCOUNTS PAYABLE in the amount of \$1,546,424 through July 22, 2024.
3. QUARTERLY INVESTMENT REPORT in the total amount of \$78,569,070 through June 30, 2024.
4. BILL OF SALE Acceptance of the Bill of Sale for Sewer Improvements for Whitney Ranch Unit #1 with an estimated value of \$806,336.
5. ACTUARIAL VALUATION FOR DETERMINATION OF OTHER POST-EMPLOYMENT BENEFIT (OPEB) FUNDING CONTRIBUTIONS
6. RESOLUTION 24-20 CITY OF ROCKLIN CONCURRENT ANNEXATION PROJECT AND LOCAL AGENCY FORMATION COMMISSION (LAFCO) RESOLUTION OF SUPPORT FOR PROJECT APPLICATION
7. RESOLUTION 24-21 FINDING THE PROPOSED ANNEXATION CATEGORICALLY EXEMPT FROM CEQA AND ADOPTING A RESOLUTION OF

SUPPORT FOR AN OUT-OF-AREA SERVICE AGREEMENT AND SUBSEQUENT ANNEXATION OF 2624 SWETZER ROAD (APN 032-181-007)

Consent item 4 was removed for further discussion by Director Mitchell, and consent item 5 was removed for further discussion by Director Williams. Consent item 4, Director Mitchell asked if the Whitney Ranch Unit #1 Project was impacted by the easements for the Northwest Rocklin Sewer Annexation Construction Project (Atherton Trunk). DE Huff shared that this project had no impact. GM Niederberger added that the TSD monthly report contained additional information on the status of the easements for Atherton Trunk. Consent item 5, Director Williams asked if the positive returns seen by CalPERS this year were also seen in the District's OPEB trust. ASM Costan shared that the trust has seen positive returns this year and has fully recovered from the substantial losses in fiscal year 2021/22. She added that actuarial reports are based on returns that are one to two years behind the actual account balances.

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

VI. BOARD BUSINESS

1. APPEAL OF HIGH HAND, 3750 TAYLOR ROAD, PARTICIPATION CHARGE CALCULATION

DE Huff presented the Appeal of High Hand. She shared that as commercial tenants change, the equivalent dwelling units (EDU) assigned to the spaces may need to be adjusted. While it is the property owner's responsibility to notify the District of any changes to an existing use, the tenant improvement plan check process and commercial audit program are also used to obtain more information and update corresponding EDUs. DE Huff shared that High Hand submitted tenant improvement plans for a new kitchen space for an existing brewery. While reviewing the plans, the space was analyzed in comparison to previous uses. Staff completed a composite calculation and determined that additional participation fees were due in accordance with the District Sewer Code.

Director Williams asked when the ordinance that allows the reassessment of commercial properties went into effect. GM Niederberger commented that the ordinance was adopted in the late seventies or early eighties and has since been incorporated into the District Sewer Code. Director Williams also asked about the documentation that exists on the uses prior to High Hand and shared that the building's use as a fruit shed was a highly intensive use that employed many people. GM Niederberger shared that the District's records show the building originally paid 2 EDUs in 1960 and an additional 2.49 EDUs when the brewery was added to the space. Director Williams commented that the current reassessment is a significant increase in EDUs and asked if there has been expansion or enlargement work near this project. DE Huff shared that there has not been an increase in the size of the pipeline serving the project. Director Williams commented that there seems to be an imbalance between the fee being collected and the actual impacts. He shared that the property owner found a receipt that showed they paid \$9,210 for their hookup fee which is equivalent to \$97,763 in today's dollars; this is in addition to the monthly services fees that the property owner has been continuing to pay even in times when the building was essentially empty. He asked if the District is being reasonable in how the fees are being assessed. DE Huff

commented that the District's documentation shows that \$450 was paid under the original application to connect to the sewer system.

Vice President Jewell asked for clarification on the spaces that are being disputed. DE Huff shared that it is a reassessment of the entire building. Vice President Jewell commented that reassessing the area where the improvements are occurring makes sense. She added that she understands that the code democratizes the process, but it doesn't allow for the discretion of staff to make allowances for unique uses. She expressed concern about the entire space being recalculated to a food service establishment. DE Huff shared that a composite calculation that accounts for all the various uses was applied to the spaces.

Director Dickinson asked why there was no change to the EDU assessment for the retail spaces when the brewery was added in 2022. DE Huff commented that in 2022, staff only reviewed plans for the isolated brewery space. Director Mitchell added that past communication between the County and the District was not always ideal which has made it difficult for the District to capture all development that has occurred. He asked how much should be allocated to correcting mistakes from the distant past and commented that the District needs to look at what is fair moving forward.

Scott Paris, the appellant, spoke before the Board. He commented that he is a longtime member of the community and feels honored to be the steward of the fruit shed. He shared that the fruit shed has been a customer of the District since the 1960s and he has handwritten documentation from the original owner showing that \$9,210.80 was paid to originally connect to the sewer system. He shared some of the history of the fruit shed building which was built in 1900 and used for retail, manufacturing, and wholesale fruit packing. He also shared that he has numerous permits that he has obtained for work that has occurred to the building and that District staff have been on the site multiple times over the years. He commented that while they expected to pay additional fees for the kitchen work occurring to serve the brewery, the change in fee assessment for the other areas where work is not occurring was unexpected. He asked the board to consider assessing fees for the kitchen and brewery improvements only.

Director Williams confirmed with the appellant that fees were already paid for the brewery and that Mr. Paris was asking for fees to only be assessed for the new kitchen and dining spaces which Mr. Paris confirmed. Vice President Jewell clarified that per Mr. Paris's request to the board, the open space and retail spaces would not be reassessed. Mr. Paris stated that the open space and retail will not be used for food service. Vice President Jewell asked staff how the density is calculated in those spaces and commented that those spaces appear to be low-use densities. GM Niederberger shared that the low-density spaces are the storage areas, and the medium-density spaces are the stage, retail, and office spaces. GM Niederberger added that he believes that Mr. Paris is indicating that he should only be assessed fees for the upper dining area and kitchen space located in Building B at 4.84 EDUs and the lower kitchen in Building C at 1.34 EDUs. Vice President Jewell asked the appellant if that summarized his request. Mr. Paris commented that he wants to be assessed what is fair and that he doesn't consider this to be a new project.

Director Dickinson asked the appellant about the stage area in Building D. He asked how often bands perform there and how often the space is used for general food service. Mr. Paris commented that it is twice a week on Fridays and Saturdays with the space otherwise being vacant. Director Dickinson noted that the assessment of that area at medium density is generous as he has visited the space and seen it routinely used for birthday parties and food service. He asked staff to confirm that if the space was identified as a dining area it would be assessed at a higher density, and staff confirmed that it would be. Staff classified the stage area as an auditorium/hall.

President Durfee disclosed that when he was employed by Placer County he managed the lease agreement for the appellant. President Durfee opened the item for public comment. No public comments were received.

Director Williams commented that the additional fees are being reassessed due to a change of use, but he has not heard anything presented on how the use of the space has changed. If a use changes and there is an increase in the impact on the sewer, then a fee is justified; however, in this case, there is no information showing that the current use is more impactful than the previous one. He commented that he believes that the fruit shed was a more intensive use than the current one. He added that he understands that installing a kitchen creates additional impacts but there is a danger in reassessing older buildings as ordinances and uses have changed over time. He commented that it doesn't seem right to assess the space like it's a new building sixty years later. He shared that Mr. Paris has been diligent in applying for all the necessary permits, and he believes the District should only be assessing the current improvements. Director Mitchell agreed that this is a very old building that has changed over time and the assessment of fees needs to be viewed through a broader lens.

Director Dickinson commented that he doesn't believe the fact that the property owner has not had to increase their pipe size is relevant. He shared that he has some hesitancy based on Director Williams' comments but added that he is troubled by where the District draws the line. He commented that this is an old building, but there are buildings in the District that are twenty years old and have had tenant changes that the District wasn't made aware of, and this standard has been applied to them. He added that this is the process the District has for making itself whole, completing an audit and looking at the current use versus what has been paid for in the past. Director Williams commented that the District doesn't reimburse when there is an overpayment on the parcel due to a less intensive use. He added that back in time when this was a retail and wholesale fruit shed the building was in compliance, and he doesn't agree with retroactively assessing an entire operation.

Director Dickinson asked the board to consider if there was an incorrect assessment spanning back to the 1960s, whether the Board would have no business in trying to correct the assessment. Director Williams commented that most regulations have statutes of limitation, and if a business has remained in compliance, then there shouldn't be a reassessment. Director Dickinson asked if

Director Williams believes that the appellant should be assessed for the brewery and kitchen improvements. Director Williams commented that the brewery is already in use. He added that the brewery operations may have created an additional impact on the regional treatment capacity, but he doesn't see how it impacts the capacity of the collection system. Director Dickinson commented that he doesn't believe that the District wants an increase in pipe size for the business to be the standard for collecting for future capacity enlargements. Director Williams stated that he would like to look at the timeframe that the District is using to reassess properties and study the applicability of these practices. He shared that he is worried about the impact on historic structures. He commented that the appellant should only be charged for the current square footage that has changed use. GM Niederberger commented that assessing only the new kitchen and dining spaces would calculate to a charge of an additional 6.18 EDUs. Director Jewell asked Mr. Paris if the board was interpreting his appeal properly.

Mr. Paris shared that he feels that he needs to hire a consultant and asked for a continuance so that he could obtain legal advice. Director Jewell commented that the appeal outlined what the appellant believed to be an appropriate assessment of the space. Mr. Paris commented that he needs more time to review the square footage that is being included. Director Dickinson asked if there was any downside to continuing the item. The board did not see a reason to not allow a continuance. Director Mitchell asked if staff is clear on which square footage is being counted. DE Huff commented that the schematic used to determine the square footage was provided by the appellant. Mr. Paris commented that if he hadn't pulled a kitchen permit the issue of additional participation fees would never have been raised. He shared that he didn't realize when he provided the schematic that it would lead to a reassessment of spaces other than the kitchen area. Mr. Paris commented that he believed that this occurred due to inviting the District in to conduct a study of the brewery operations. He commented that if he knew this would be the outcome he would have hired additional experts and taken a different approach.

GM Niederberger asked staff if the appeal could be reheard in September. DE Huff asked what the Board is hoping to achieve and whether the applicant would be providing additional information for staff to review. Director Williams commented that he believes the appellant is asking for time to provide more information and enter into negotiations. DE Huff commented that she would defer to the appellant on how much time is needed. Director Dickinson asked if the item should come back to the Board or if it should be directed back to staff to negotiate a resolution. GM Niederberger asked that the Board direct staff to work with the applicant over the next two months and return in October. The Board discussed narrowing the scope of the reassessment but instead decided to direct staff to work with the applicant to potentially revise the calculation based on the additional information provided by the applicant.

Vice President Jewell made a motion directing staff to work with the applicant to review additional information provided by the applicant and continue the appeal to October 3, 2024; a second was made by Director Mitchell; a roll call vote was taken, and the motion carried 5-0.

2. APPEAL OF 6013 PRINCETON REACH WAY, PARTICIPATION CHARGE AND MONTHLY SERVICE CHARGES

GM Niederberger presented the appeal of 6013 Princeton Reach Way sharing that during the process of reviewing the viability of transferring the Rodgersdale assets to Placer County, staff discovered that the property at 6013 Princeton Reach Way had never been placed on billing, obtained a lower lateral inspection, or paid participation charges. The property is an approximately 5,000 square foot home that was built in 1996. Mr. Reese appealed the participation fee and past-due monthly charges based on the assertion that he hired a contractor to pay all required fees to the District; however, the District has no record of those fees ever being paid. GM Niederberger shared that the recommendation included allowing staff to negotiate the inclusion of the three years of past-due monthly charges along with the participation charges in a deferred payment agreement.

President Durfee asked if staff had completed CCTV of the line to see what the connection looked like. GM Niederberger commented that the line has been inspected with CCTV and a standard wye and property line clean-out were installed. After that installation, the home was built and connected to the sewer system without the District being notified. Vice President Jewell asked if there was precedence for this. GM Niederberger shared that staff occasionally find an illegal connection, but this is the most egregious instance he has seen. Director Dickinson asked if the customer indicated why they didn't believe that they should have been paying a sewer bill. GM Niederberger shared that the customer had stated that he didn't believe that any of his neighbors were paying sewer bills either. He added that there are some service areas where sewer bills are paid on the property tax bill which could have led to the customer's confusion. Director Mitchell asked what could be done other than routine audits to ensure there are no other connections like this. DE Huff shared that since she has worked for the District three of these illegal connections have been discovered and they are all located in the County which is one of the trickier areas to enforce as the County also has their own systems and it can be easy for a builder to go through the process without anyone notifying the District. She added that the District can add a process to reconcile field data that has been collected with the District's billing software. DS Nielsen added that the ability to do these types of reconciliations and audits is only available due to recent investments in technology.

The appellant did not appear in person or via Zoom to speak on this item. President Durfee opened the item for public comment. No public comments were received.

Director Williams commented that the appeal seems straightforward and that if there was an issue with paying the contractor for work that was not completed that should be addressed with the contractor. Director Mitchell commented that the customer didn't pay fees that were due to the District for a very long time. Vice President Jewell commented that the period of time that the outstanding fees are paid over should be left to staff's discretion; however, it is the responsibility of the homeowner to pay the fees. President Durfee commented that when fees go unpaid, it is not the District that is subsidizing it but the other ratepayers. Director Williams asked if the deferral includes the ability to lien the property. GC Brown commented that the District does record a lien on the property if the terms of the deferred payment agreement are not met.

Director Williams made a motion to (1) Find that the calculations and application of fees and charges for 6013 Princeton Reach Way are correct per the District's Sewer Code and Policies, (2) Deny the appeal, (3) Require payment of total charges due in the amount of \$16,509.52, and (4) Allow the General Manager to negotiate a Deferral of Participation Charges in accordance with Policy 3350, which allows the inclusion of the past-due monthly service charge and inspection fee; a second was made by Director Mitchell; a roll call vote was taken, and the motion carried 5-0.

3. RESOLUTION 24-22 AUTHORIZING THE GENERAL MANAGER TO EXECUTE A PARTICIPATION AND MONTHLY SERVICE CHARGE AGREEMENT FOR WASTEWATER COLLECTION AND TREATMENT FOR DEL ORO HIGH SCHOOL

GM Niederberger presented the agreement with Placer Union High School District regarding participation and monthly service charges. The agreement is in response to a District audit finding received last year that related to the billing for both Del Oro High School and Sierra College. The agreement moves the high school into standard billing in accordance with the District Sewer Code. The agreement is effective July 1, 2024, and implements the revised billing based on EDU assessment over a three-year period and is based on the existing square footage at the campus. Outstanding participation fees have been paid according to the previous agreement.

President Durfee thanked staff for their work on this item. He opened the item for public comment. No public comments were received.

Director Williams made a motion to approve Resolution 24-22 authorizing the General Manager to execute a Participation and Monthly Service Charge Agreement for Wastewater Collection and Treatment for Del Oro High School; a second was made by Vice President Jewell; a roll call vote was taken, and the motion carried 5-0.

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 that the District was awarded the Distinguished Budget Presentation Award for its most recent budget book for the second consecutive year. President Durfee congratulated staff on receiving the award and commented that he appreciated that the budget was very easy to follow.

Director Mitchell asked about the Zoom meeting mentioned in the GM report to discuss the Sierra Partner's Sewer Collection Agreement and Lucille's Notice of Violation. GM Niederberger shared that in 2017 the District negotiated an agreement with the City of Lincoln and a developer called Sierra Partners to serve four homes that drain into Lincoln but are located in the City of Rocklin.

Since the time of the original agreement, there have been several changes in conditions including the City of Lincoln's sewer treatment and how they charge for it. The agreement is being revised to reflect the changed conditions. DE Huff shared that Lucille's has completed two sampling periods and submitted the data. The next step was to work with legal counsel to create periodic testing requirements. The compliance order will be issued in the coming weeks. Director Mitchell asked if Lucille's installed a new grease control device (GCD). DE Huff shared that they are using the same GCD, but they installed a grease recycling system inside the restaurant and replumbed multiple fixtures to the grease waste line. Both of the recent samplings were completed on the last day before the GCD was pumped out and were in compliance.

Director Williams asked the GM to update him on the regional equivalent dwelling unit study. GM Niederberger shared that the partners met again today to go over next steps. Director Williams also asked about the special meeting in September to bring candidates before the board. GM Niederberger provided an update on the GM recruitment schedule.

Director Mitchell asked for more information about the demonstrations for an emergency communications system. DS Nielsen shared that staff are looking at a system to replace group text messages as the emergency notification process. He shared that these systems provide emergency communications in a more refined and controlled way. Director Mitchell asked if the software still uses a cell phone, and DS Nielsen confirmed that it does. More information about this item is scheduled to come to the Board in October.

Director Dickinson asked about PG&E's attendance at the Countywide Development Coordination meeting. DE Huff shared that a representative from PG&E was in attendance. Director Mitchell recommended that the Town of Loomis also consider participating in these meetings.

GM Niederberger shared that the District notified the City of Rocklin on July 11th that a large 165 EDU subdivision project, Stanford Ranch 6.8, will not be allowed to connect to the District's sewer system until easements for the Northwest Rocklin Sewer Annexation Project are finalized and the project is accepted by the District. The notification was acknowledged by City staff.

B. Information Items:

There were no informational items.

3. Director's Comments:

Director Dickinson asked that the Board consider assessing a fee for appeals and that this be added as a future agenda item. GM Niederberger added that the board has never adopted a resolution setting an appeal fee. Director Williams commented that he is concerned that the District is getting a bad reputation. He shared that Mr. Paris is very influential in the business community, and he feels that he was punished for inviting the District in for the brewery study. He added that unless someone is egregiously abusing the appeals process it's the Board's job to listen to the constituents. The District depends on cooperation and if people don't feel like they are being heard, it will create more issues for the Board and the organization. He commented that the District has been on the defensive and has a responsibility to be fair to the community. Vice President Jewell added that

the messaging to the constituents feels punitive. The District is a partner in local economics and infrastructure and there is a shared responsibility to do it well. Director Dickinson asked why Mr. Paris believes the brewery study impacted the reassessment and not the kitchen addition. Director Williams commented that according to Mr. Paris, the issues resulted from the City of Roseville visiting his facility. DE Huff shared that it is under the purview of Roseville to conduct testing. Director Mitchell commented that if the District doesn't provide an efficient and low-cost appeal process people won't make the effort to lay out their arguments before the board. The Board should invite input and not discourage it. Director Dickinson asked that the item be brought back for discussion by the Board. He commented that appeals are a tremendous amount of staff time and there was an appeal tonight where the appellant didn't show up. He added that there are a lot of opportunities for constituents to provide comments.

VIII. ADJOURNMENT

The President adjourned the meeting at 5:52 p.m. to the next regular meeting to be held on September 5, 2024, at 4:30 p.m.



Emilie Costan, Board Secretary