

**SQUAW VALLEY PUBLIC SERVICE DISTRICT
SPECIAL BOARD OF DIRECTORS MEETING MINUTES #834
December 19, 2017**

A. Call to Order, Roll Call and Pledge of Allegiance. Chairman Dale Cox called the meeting to order at 8:30 A.M.

Directors Present: Directors: Dale Cox, Carl Gustafson, Fred Ilfeld and Eric Poulsen

Directors Absent: Bill Hudson

Staff Present: Mike Geary, General Manager; Kathryn Obayashi-Bartsch, Secretary to the Board; Allen Riley, Fire Captain; Dave Hunt, District Engineer; Brandon Burks, Operations Superintendent; Danielle Grindle, Finance & Administration Manager and Thomas Archer, District Counsel.

Others Present: Mike Carabetta, Erin Casey, Ed Heneveld, Andrew Lange, Sal Monforte, Katrina Smolen, David Stepner, Ron Treabess and John Wilcox.

Chairman Cox asked Sal Monforte to lead the Pledge of Allegiance.

B. Community Informational Items.

B-1 Friends of Squaw Creek – none

B-2 Friends of Squaw Valley – David Stepner provided an update on the group's activities including the results of a survey on the proposed Mountain Twister. Fred Ilfeld said there were about 1,000 responses to the survey.

B-3 Squaw Valley Design Review Committee (SVDRC) – David Stepner said the group did not meet this month.

B-4 Squaw Valley Municipal Advisory Council (SVMAC) – David Stepner said there was a presentation from Squaw Valley Resort regarding traffic control including the three-lane configuration of Squaw Valley Road and providing a bus lane on Highway 89 on a trial basis.

B-5 Squaw Valley Mutual Water Company (SVMWC) – David Stepner provided an update on the group's activities. Mr. Poulsen commended David Stepner for his community involvement.

B-6 Squaw Valley Property Owners Association – none

B-7 Mountain Housing Council of Tahoe Truckee – none

B-8 Tahoe-Truckee Sanitation Agency (T-TSA) – Dale Cox said Director Oz Butterfield has resigned and Blake Tresan was appointed as the Truckee Sanitary District representative.

C. Public Comment/Presentation.

Public Comment –

David Stepner said there are two Democratic candidates running against Representative Tom McClintock and encouraged people to find out more about these candidates.

Dale Cox thanked Fabienne Gueissaz and Jessica Grunst for coordinating a wonderful holiday party for staff, Board members and guests.

D. Financial Consent Agenda Items.

Directors Poulsen and Ilfeld met with staff on December 18th from approximately 3:00-5:00 to review items D-1 through D-16 as well as other finance related items on this agenda. A revised exhibit D-1 was provided at the meeting and was posted on the website.

Director Poulsen said the committee reviewed all finance related items on the agenda. This is an early meeting this month and staff did a great job of preparing the reports. The Fire Department expenditures are running a bit high due to strike team work but revenue from that work will cover all expenses and include an additional administrative fee.

Director Ilfeld said the District's revenues are consistently running higher than expenditures so the District is in good financial shape.

Public Comment – none

A motion to approve the financial consent agenda was made by Directors Ilfeld/Poulsen as submitted. The motion passed and the vote was unanimous with the exception of Director Hudson who was absent.

Cox-yes
Gustafson-yes
Hudson-absent
Ilfeld-yes
Poulsen-yes

E. Approve Minutes.

E-1 Minutes for the Board of Directors meeting of November 28, 2017.

Public Comment – none

A motion to approve the minutes for the Board of Directors meeting of November 28, 2017 was made by Directors Poulsen/Gustafson. The motion passed and the vote was unanimous with the exception of Director Hudson who was absent.

Cox-yes
Gustafson-yes
Hudson-absent
Ilfeld-yes
Poulsen-yes

F. Old & New Business.

Items F-4 through F-8 were taken out of order.

F-4 Contract with Placer County for Bike Trail Snow Removal Program.

The Board reviewed the item, accepted public comment, approved the contract and authorized the General Manager to execute the agreement with Placer County for the Bike Trail Snow Removal Program.

Mr. Geary reviewed the item. The District will provide snow removal services on 2.3 miles of bike trail for the 2017/18 winter. Snow removal is performed as needed between November 15th and April 30th. Maintenance services also include trail inspection and maintenance, sanding for traction control, sweeping, installation & removal of snow poles and signage, litter pick-up, equipment maintenance, and springtime fence repair and trail resurfacing. The program complies with provisions of a Placer County Encroachment Permit issued by the County's Department of Facilities Services.

Placer County staff prepared a contract with the District for snow removal services on the bike trail in Squaw Valley. The contract defines the scope of work, defines the dates of snow removal service (November 15, 2017 – April 30, 2018), and indicates a not-to-exceed amount of \$70,000 to be paid on a time and materials basis for all work performed by District staff. The actual cost will depend largely on the amount and timing of the snowfall as many expenses are not fixed costs. In the past the District entered into a contract with the North Lake Tahoe Resort Association for the program.

Public Comment – none

Erin Casey of Placer County thanked the District for working with Placer County on this program.

Director Poulsen commented on the use of Transient Occupancy Tax (TOT) funds for this program and said this work should be funded in a similar manner as park and trail facilities in western Placer County.

Erin Casey said this is a snow removal program which is unique to the eastern portion of the county. There are park funds used in a similar manner in both eastern and western Placer County. She recommended that County Parks & Facilities staff provide a presentation to the District on Park dedication and maintenance fees, including how they are allocated.

John Wilcox commented on the difference between TOT funds and Park dedication fees.

Ron Treabess commended the District for the program and said TOT funds were intended to provide additional safety and enhancements for visitors. The trail system in the North Tahoe area not only requires trail development but maintenance and refurbishing of existing trail sections.

A motion to approve the contract and authorize the General Manager to execute the agreement with Placer County for Bike Trail Snow Removal Program was made by Directors Ilfeld/Poulsen. The motion passed and the vote was unanimous with the exception of Director Hudson who was absent.

Cox-yes

Gustafson-yes

Hudson-absent

Ilfeld-yes

Poulsen-yes

F-6 Potential Sales Tax Initiative to Fund Trail Maintenance & Construction.

The Board reviewed the item, accepted public comment and provided direction to staff to support the planning, administrative and legislative processes necessary to have a proposed sales tax on an Eastern Placer County voter ballot.

Mr. Geary reviewed the item. The North Lake Tahoe Transportation Authority is an entity which may impose a sales tax ordinance for the purpose of funding an adopted transportation expenditure plan. There is an opportunity to amend the language in the existing Code to focus expenditure of the revenue of up to a half percent sales tax increase toward funding trail construction and maintenance. The language would also require an amendment to the "Authority" created under this Code.

If amendments are made to the legislation's language by the mid-January deadline, a legislative sponsor is identified by the mid-February deadline, and a voter survey shows promise that the initiative can succeed, then the District may be requested to participate in a Joint Powers Authority (JPA) along with Placer County and other Special Districts in eastern Placer County that provide trail maintenance services.

Participation in the JPA would require the District share in the responsibilities necessary to administer the sales tax revenue, comply with Brown Act requirements, hold meetings, and maintain compliance with other requirements of the JPA.

The District, the Olympic Valley community and visitors to Squaw Valley currently rely on Placer County to provide all of the funds necessary for the Bike Trail Snow Removal Program. The source of those funds is revenue from the Transient Occupancy Tax (TOT) collected in eastern Placer County. While the District may not have an apparent direct benefit from the proposed increase in sales tax, the increased sales tax would provide additional revenue to the region. In general, more funding for trails in the region likely has an indirect benefit to the District.

Public Comment –

Erin Casey of Placer County stated that Placer County has no requirement or commitment to put this item on the voter ballot but it is being discussed due to request from North Lake Tahoe Resort Association. She clarified that the funds may be used for a combination of trails and transportation projects and Placer County is also researching an increase of the TOT rate.

Ron Treabess of the Tahoe City Public Utility District provided a summary of the item's history and anticipated next steps in the process.

Mr. Archer said the District has the authority to enter into a JPA.

David Stepner said the District should only become involved in the JPA if transportation and transit are included. He also summarized the results of Measure M and believes that the area would support funding for transportation and transit.

Mike Carabetta said there has been a lot of discussion about various funding mechanisms but he believes that a property assessment would better address the needs of the Olympic Valley community.

Director Poulsen commented on the importance of trails in the area.

A motion directing staff to support the planning, administrative and legislative processes necessary to have a proposed sales tax increase on an Eastern Placer County voter ballot was made by Directors Ilfeld/Poulsen. The motion passed and the vote was unanimous with the exception of Director Hudson who was absent.

Cox-yes

Gustafson-yes

Hudson-absent

Ilfeld-yes

Poulsen-yes

F-7 Representation on Placer County's Capital Projects Advisory Committee –Transient Occupancy Tax.

The Board reviewed the item, accepted public comment and provided direction to participate in the committee member appointment process and considered representation on the committee.

Mr. Geary reviewed the item. The Placer County Board of Supervisors approved formation of the Capital Projects Advisory (CAP) Committee on December 12, 2017. The CAP Committee will serve in an advisory role to the Board of Supervisors. The Committee will provide recommendations on which capital projects best achieve the goals and objectives of the Tourism Master Plan and deserve grant funding from revenue generated from Transient Occupancy Tax collected in eastern Placer County.

There are two seats on the CAP Committee representing Special Districts and Public Utility Districts (PUDs) in eastern Placer County. The five eligible Districts are:

- Northstar Community Services District
- North Tahoe Public Utility District
- Squaw Valley Public Service District
- Tahoe City Public Utility District
- Truckee Tahoe Airport District

The County is expected to send a letter to these agencies requesting two nominations through a process that's yet to be determined. County staff indicated that nominations may be accepted and the Committee formed by the end of January 2018. There is a potential that the CAP Committee will be selected before the District's next regularly scheduled Board meeting on January 30, 2018.

Due to the timeline, the Board may authorize the General Manager, a Board member, or a committee of the Board to meet as needed, and participate in the appointment process with the other four Special Districts in selecting two representatives to serve in the seats designated for Special Districts.

The Board, a committee of the Board, or the General Manager may nominate a representative from the District for consideration by the group of Special Districts for appointment to the CAP Committee. The representative can be a Board, staff, or community member. The Board may also defer representation on the CAP Committee until a later time.

Representation by individual Special Districts is expected to alternate between the five Districts which will serve staggered two-year terms. One of the two CAP Committee members may serve a three-year term to establish the staggered schedule.

Chairman Cox asked if any Board members or community members would like to volunteer for this effort.

Public Comment – none

Erin Casey reviewed the process and time constraints related to this item.

Director Ilfeld commented on the importance of the early stages of committee formation in which norms and procedures are typically established.

Director Poulsen said although there has been some discussion about this issue and Parks & Recreation, it is not a Parks & Recreation Committee issue. Mr. Geary has been involved with the region's Special District group and he supports Mr. Geary's involvement.

John Wilcox commented on the award of TOT funds which has historically been distributed to areas outside of Olympic Valley.

Ed Heneveld said he supports having the General Manager participate in the appointment process and selecting a candidate with the time and interest to participate on the CAP committee.

A motion authorizing the General Manager, in consultation with Director Ilfeld to participate in the committee member appointment process was made by Directors Poulsen/Gustafson. The motion passed and the vote was unanimous with the exception of Director Hudson who was absent.

Cox-yes

Gustafson-yes

Hudson-absent

Ilfeld-yes

Poulsen-yes

Break 10:15-10:30 a.m.

F-8 Palisades at Squaw Valley - Water & Sewer Service Agreement Amendment.

The Board reviewed the item, accepted public comment and did not authorize the Board President to execute an amendment to the Water and Sewer Service Agreement with the Palisades at Squaw Project (Palisades).

Mr. Geary and Mr. Archer reviewed the item. The Board approved execution of the Water and Sewer Service Agreement for the Palisades on May 30, 2017. Section 3.4 of the Agreement requires the developer record covenants that impose a fee equal to 0.5% of the cost of the property for the purposes of funding Community Benefits that could include improving the environment, cultural, educational and recreational benefits in Olympic Valley.

Mr. Geary said a status report on Community Benefit fees was provided to the Water & Sewer Committee including an update on legal challenges due to new federal regulations. Staff and Counsel reviewed the issue including a summary of the steps needed to be performed by the developer of the Palisades to comply with the terms related to community benefit fee included in the development agreement with the District. Federal regulations regarding such fees have changed and are more rigorous. The Palisades developer is having difficulty meeting the requirements and staff and counsel have spent considerable time researching the issue.

Below are excerpts of an explanation of the challenges associated with recording covenants on the parcels in the Palisades which were provided by the developer's attorney, experienced in this specialty of law:

"Federal Regulations require a demonstrable direct benefit to the payer of the fee. Here is how the final Federal Regulations define 'direct benefit':

Direct benefit means that the proceeds of a private transfer fee are used exclusively to support maintenance and improvements to encumbered properties, and acquisition, improvement, administration, and maintenance of property owned by the covered association of which the owners of the burdened property are members and used primarily for their benefit. Direct benefit also includes cultural, educational, charitable, recreational, environmental, conservation or other similar activities that-

(1) Are conducted in or protect the burdened community or adjacent or contiguous property, or (2) Are conducted on other property that is used primarily by residents of the burdened community.

The Final Decision document provides an explanation which is helpful because the regulators go to great pains to show that they considered all the comments that they received during the regulatory process.

From my perspective, as legal counsel to a developer, it is irresponsible to become the facilitator for drafting and recording a binding covenant, obligating future lot and home buyers, to pay fees that may not be legal just because well-intentioned nonprofit groups in and around Squaw Valley want another source of revenue for their projects and charitable endeavors. The folks who desire Palisades to record a covenant should find a

lawyer who is willing to issue a legal opinion to the effect that the covenant is a valid and a binding legal obligation, enforceable in accordance with its terms.

If the covenant is challenged, it may not be enforceable and that leaves the developer open to litigation with future owners who challenge the covenant. In discussions regarding Community Benefit Fees in Squaw Valley, there is a lot of dancing around about having a very general and non-specific fee recorded in the chain of title and letting all the difficult problems sift themselves out later.

California is stuck between a rock and a hard place because the California laws (Civil Code sections 4575 through 4580) prohibit property owner associations from being the recipients of transfer fees and yet the Federal rules are exactly the opposite --- wanting the community that is paying the fee to have the direct benefit from those payments.”

There may also be risk for the recipient of the funds associated with the approach of “letting all the difficult problems sift themselves out later”. There has been some discussion about the District being the recipient of the funds. The collection, administration, and disbursement of Community Benefit fees as intended and envisioned may be outside of the statutory authorities provided to the District, which was formed as a County Water District under the California Water Code.

Director Ilfeld asked why the District included Community Benefit fees in the development agreement if the District does not have the authority to require this.

Mr. Archer said the District became involved with Community Benefit fees when working on the Resort at Squaw Creek Development Agreement and included this requirement into the Palisades Development Agreement. The physical configuration at Squaw Creek is very different and provides many options to meet the direct benefit criteria. In addition, state and federal requirements have changed and are much more rigorous than when the Resort at Squaw Creek Development Agreement was created. The District does not have the authority to require community benefit fees or to draft transfer fee covenants.

Public Comment –

Andrew Lange asked about the liability for the District. Mr. Archer said the District does not have the authority to draft transfer fee covenants or to act as the beneficiary recipient of the funds.

Katrina Smolen asked if protection of drinking water supply could be considered a direct benefit. Mr. Archer said this has been considered but may be challenged as a special assessment and there is nothing in the regulations to give guidance. The fees are intended to be used primarily for the burdened property.

David Stepner said this is unique opportunity and there is plenty of time to figure out how the Community Benefit fees may be used in a manner to satisfy the regulations. The District should not be involved in drafting the transfer fee covenant. He suggested fees could be collected and retained until an appropriate non-profit could be formed or identified.

Ed Heneveld commented on the direct benefit aspect of this issue. He said there may be more case law in the next few years that will provide more direction. Since the transfer fees only apply to resale of property, he believes there is time to work through the issue. This is an opportunity to generate a Community Benefit fund which should not be passed up. He suggested keeping the requirement in the agreement for the time being.

Mr. Geary said this issue was discussed extensively by the Water & Sewer Committee. This issue is outside of the District's mission of providing water, sewer and fire/EMS services and exposes the District to risk. He commended Ed Heneveld for his interest and significant efforts to resolve this issue.

Chairman Cox said staff and Counsel resources have been used to research this issue and expressed concern with potential spending of funds to resolve this issue.

Director Ilfeld commented on the importance of having a Community Benefit fee in Development Agreements but is concerned about the practical application.

Director Poulsen said requiring Community Benefit fees in Development Agreements is outside of the District's mission and is concerned with the exposure to risk and inability to enforce the requirements.

Director Ilfeld made a motion to keep the development agreement as written. There was no second to the motion.

Chairman Cox said the motion on the floor failed for lack of a second.

The Board provided direction to staff to curtail the use of staff and legal resources to proceed with this issue unless the Palisades developer is willing to pay for the work.

F-1 Selection of President and Vice-President.

The Board accepted public comment, nominated and elected Dale Cox to serve as President and Eric Poulsen to serve as Vice-President by adoption of Resolution 2017-21.

Public Comment – none

Directors Poulsen/Ilfeld nominated Dale Cox to serve as President for 2018 and Directors Cox/Ilfeld nominated Eric Poulsen as Vice-President for 2018; vote was unanimous with the exception of Director Hudson who was absent.

Cox-yes

Gustafson-yes

Hudson-absent

Ilfeld-yes

Poulsen-yes

F-2 2018 Committee Assignments and Appointment.

The Board reviewed the item, accepted public comment and the President determined the 2018 Committee assignments, added a Parks & Recreation Committee and approved appointments to Tahoe Truckee Sanitation Agency (T-TSA) and the Mountain Housing Council.

Ms. Obayashi-Bartsch reviewed the item. Staff prepared a draft list of assignments and appointments and included a Parks & Recreation or Parks & Trails Committee. President Cox asked the Board for comments and suggestions.

Public Comment –

Katrina Smolen said she supports having a Parks & Trails Committee. She asked that the Committee be authorized to provide letters of support for TOT projects as needed.

Mike Carabetta said he supports having a “Parks & Recreation” Committee; naming the committee “Parks & Trails” is limiting.

David Stepner supports having a Parks & Recreation Committee.

Director Poulsen supports having a Parks & Recreation Committee.

President Cox determined the 2018 Committee assignments, added a Parks & Recreation Committee and approved appointments to T-TSA and the Mountain Housing Council based on feedback from the Board and the public.

The Committee assignments for 2018 are as follows:

STANDING COMMITTEES			
COMMITTEE	MEETING HELD	MEMBERS	TERM
Personnel & Administrative	As Needed	Chair Hudson Member Ilfeld	Appointed Annually in December
Water & Sewer	As Needed	Chair Cox Member Poulsen	Appointed Annually in December
Finance & Budget	Day preceding Board meeting	Chair Poulsen Member Ilfeld	Appointed Annually in December
Fire Department	As Needed	Chair Gustafson Member Poulsen	Appointed Annually in December
Parks & Recreation	As Needed	Chair Ilfeld Member Hudson	Appointed Annually in December
AD HOC COMMITTEES			
Garbage	As Needed	Chair Cox, Member Gustafson	Appointed Annually in December
GMP Advisory	As Needed	Mike Geary, General Manager	Appointed Annually in December
GMP Implementation	As Needed	Full Board	Appointed Annually in December
Parks & Recreation	As Needed	Chair Ilfeld Member Hudson	Appointed Annually in December
SVSH-Development Village Project	As Needed	Chair Cox, Member Hudson	Appointed Annually in December
OUTSIDE COMMITTEE APPOINTMENTS			
T-TSA	2 nd Wednesday	Dale Cox	Appointed Annually in December
Mountain Housing Council	As Needed	Fred Ilfeld	Appointed Annually in December

F-3 Notice of Completion – PlumpJack Well Phase I Project.

The Board reviewed the item, accepted public comment and authorized staff to file a Notice of Completion with Placer County for the PlumpJack Well Phase I Project and authorized subsequent release of retainage funds when all conditions are met.

Mr. Hunt reviewed the item. The District registered the PlumpJack Well Phase I – Construction and Testing project as required with the Department of Industrial Relations (DIR). Registering a project with the DIR is required on all public works projects that exceed \$25,000 in value.

Filing of a notice of completion is necessary to close out a project filed with the DIR. Filing a notice of completion and recording the notice with the Placer County Recorder’s Office applies to contractor’s lien law and sets in motion specific time frames for sub-contractors and suppliers to file a lien if they have not been paid. Under SB 854, public agencies are required to file a Notice of Completion (NOC) for each prevailing wage project. DIR’s 18-month statute of limitation for prevailing wage enforcement does not start until the public agency has filed a NOC. Failing to file the notice gives the DIR an open-ended period to investigate claims; filing the NOC limits the time for investigation to 18 months, therefore it is in the District’s best interest to do so.

Public Comment – none

Director Gustafson requested staff provide a chart showing well production from all District wells.

A motion authorizing staff to file Notice of Completion with Placer County for the PlumpJack Well Phase I Project and subsequent release of retainage funds when all conditions are met was made by Directors Ilfeld/Gustafson. The motion passed and the vote was unanimous with the exception of Director Hudson who was absent.

- Cox-yes
- Gustafson-yes
- Hudson-absent
- Ilfeld-yes
- Poulsen-yes

F-5 Special District Risk Management Authority Workers’ Compensation for Governing Body Members and Interns.

The Board reviewed the item, accepted public comment and adopted Resolution 2017-22, approving workers compensation coverage for governing body members and interns.

Ms. Grindle reviewed the item. The District currently provides workers’ compensation for its Board of Directors through SDRMA, the District’s insurance carrier. Staff was recently made aware that a new resolution is required if the District wishes to continue covering the Board of Directors and interns.

To maintain the current coverage for the Board and interns, a resolution designating employees for purposes of workers' compensation must be provided to SDRMA. An annual contribution will be paid to SDRMA, like how coverage is currently handled.

Public Comment – none

A motion to adopt Resolution 2017-22, approving workers' compensation coverage for governing body members and interns was made by Directors Ilfeld/Gustafson. The motion passed and the vote was unanimous with the exception of Director Hudson who was absent.

Cox-yes

Gustafson-yes

Hudson-absent

Ilfeld-yes

Poulsen-yes

G. Status Reports.

G-1 Fire Department Operations Report.

Chief Riley reviewed the report including an update on the strike team assisting with the Thomas Fire in southern California.

Public Comment – none

G-2 Water & Sewer Operations Report.

Mr. Burks reviewed the report. Director Ilfeld commented on other constituents in the water that may not currently be tested and reported upon; and asked staff to provide this information.

Public Comment – none

G-3 Engineering Report.

Mr. Hunt reviewed the report and provided an update on the Palisades at Squaw Valley, PlumpJack Well and Truckee River Siphon projects.

Public Comment – none

G-4 Administration Report.

Ms. Obayashi-Bartsch reviewed the report.

Public Comment – none

G-5 Manager's Comments.

Mr. Geary reviewed the report. He attended a Granite Chief Homeowner's Association meeting and they are interested in replacing the sewer line that serves homes along the South Fork of Squaw Creek. He said the first four items discussed at today's Board meeting are representative of the types of issues that are a bit outside of the District's current mission and are indicative of

the issues that may be brought forth should the District become more involved in Parks & Recreation.

Public Comment – none

G-6 Legal Report (verbal).

Mr. Archer had no comments.

Public Comment – none

G-7 Director's Comments.

Director Poulsen said that he and Mr. Geary met with the representative for the Tram Condominium Homeowners Association regarding the PlumpJack well house. He supports Community Benefit fees for the community but does not think the District should be involved in negotiating Community Benefit fees with project developers.

Director Gustafson commented on the new well and potential impact on the aquifer.

H. Adjourn.

Directors Poulsen/Ilfeld made a motion to adjourn at 12:40 P.M. The motion passed and the vote was unanimous with the exception of Director Hudson who was absent.

Cox-yes

Gustafson-yes

Hudson-absent

Ilfeld-yes

Poulsen-yes

By, K. Obayashi-Bartsch