

OAKWOOD LAKE WATER DISTRICT

REGULAR MEETING MINUTES OF SEPTEMBER 28, 2021

HELD REMOTELY VIA ZOOM¹

A Regular Meeting of the Oakwood Lake Water District was held remotely, via Zoom, on Tuesday, September 26, 2021 at 7:00 p.m.

1. CALL TO ORDER; ROLL CALL. The meeting was brought to order at 7:00 p.m. by President Gene Oliver. Secretary Knight took roll call, and the following Directors and staff were remotely present:

Gene Oliver, President
Steve Marino, Vice President
Nelson Bahler, Director
Scott Anderson, Director
Jean Knight, District Secretary
Bert Michalczyk, District Engineer
Morgan Biggenstaff – attorney, Bold, Polsner, Maddow, Nelson & Judson for Doug Coty

Others Present Were:

Lynn Wichert
Casey Wichert

Absent Were:

Doug Coty, Legal Counsel
Tim Smith, Director

2. PUBLIC COMMENT
 - a. Audience members may address the Board on any item pertaining to Oakwood Lake Water District's jurisdiction not appearing on the agenda. Please limit each presentation to five minutes. No audience members.
 - b. Written correspondence received via District email. None.
3. CONSENT ITEMS:
The following items can be acted on in one consolidated motion as recommended or may be removed from Consent and separately considered at the request of any Director.

¹ Pursuant to Governor Newsom's Executive Order N-29-20, N-33-20 and subsequent orders, Directors will participate in this meeting remotely. No physical meeting location will be provided in order to comply with Shelter in Place Order and closure of the Oakwood Shores Association Clubhouse.

- a. Approve Minutes for Regular Meeting of August 24, 2021 and Special Meeting of September 16, 2021
- b. Accept Financial Reports for August 2021
- c. Receive Capital Projects Status Report for August 2021
- d. Receive Fiscal Year Goals Status Report for August 2021
- e. Infrastructure Finance and Construction Agreement Status Report for August 2021
- f. Time Schedule Order Status Report for August 2021
- g. Manteca Wastewater Services Agreement Status Report for August 2021
- h. Amend Fiscal Year Ending 2022 Capital and Project Expense Budget to add Pond 2 Fence Installation Project
- i. Approve an Amendment to the Agreement with HF&H Consultants, LLC in an Amount of \$11,650 to Resume and Complete the Water and Wastewater Rate Update

The Board President asked if any Board Member wished to discuss any of the above consent items, the response was no. Therefore,

It was moved/seconded (N. Bahler/S. Marino), roll call² by Secretary Knight was responded to as follows: Gene Oliver; Aye; Steve Marino; Aye, Nelson Bahler; Aye, Scott Anderson; Aye and unanimously carried by the Board of Directors of the Oakwood Lake Water District that a. The minutes for the Regular Meeting of August 24, 2021 and Special Meeting of September 16, 2021 were approved; b. The Financial Reports for August, 2021 were accepted; c. The Capital Projects Status Report for August 2021 was received; d. The Fiscal Year Goals Status Report for August 2021 was received; e. The Infrastructure Finance and Construction Agreement Status Report for August 2021 was accepted; f. The Time Schedule Order Status Report for August 2021 was accepted; g. The Manteca Wastewater Services Agreement Status Report for August was received; h. The Fiscal Year Ending 2022 Capital and Project Expense Budget to add Pond 2 Fence Installation Project amendment was approved; and i., the Amendment to the Agreement with HF&H Consultants, LLC in an Amount of \$11,650 to Resume and Complete the Water and Wastewater Rate Update was approved.

² All actions taken at this meeting will require a roll call vote. The Secretary will perform all roll calls.

4. ACTION/ ITEMS:

- a. Approve Amendment 6 to the Infrastructure Financing and Construction Agreement between the District and Oakwood LT Ventures II Related to the Early Release of Three Deed Restricted Units and the Early Issuance of Ten Will Serve Letters

Bert Michalczyk presented the background related to this item. He also summarized the chronology of events that brought this matter before the Board at this meeting. He stated that in April of this year, Oakwood Ventures II (Oakwood) requested the release of ten (10) will serve letters which request was denied by the Board. In August, Oakwood again requested the early release of ten (10) will serve letters along with the early release of the deed restrictions on three of the homes. These requests were discussed by the District Board which on September 16, 2021, directed and authorized the District Engineer to prepare and execute (subject to ratification by the Board) a sixth amendment to the agreement which amendment would include the following provisions:

1. Release ten will serve letters upon a. Payment of required fees; b. Delivery of key equipment and material to the job site or to the contractor's corporation yard; c. Verification that payment has been made to the equipment / material vendor and lien releases provided for that equipment and material;
2. Deed restrict all ten (10) lots for which will serve letters are released;
3. Upon recordation of the ten deed restrictions, release the three existing deed restricted units on Calesetta; and
4. Oakwood to forego their option to acquire some or all of the wastewater treatment plant property for development so as to allow Manteca to complete their storm drainage project.

Mr. Michalczyk stated that Amendment 6, incorporating the above provisions, has been prepared and presented to Mr. Rick Lafferty on behalf of Oakwood. (That amendment was included in the agenda materials.) As of the deadline for the agenda preparation, Oakwood had not signed the amendment and no communication has been received from Oakwood regarding the timing of the execution of the Amendment.

Therefore, rather than the Board taking action to ratify an agreement already executed by Mr. Lafferty and the District Engineer, the Board action tonight is to consider approval of Amendment 6.

Engineer Michalczyk reported that, after preparation of the agenda, that he had received calls from Directors expressing concern with the actual language proposed that would capture the above deal points. He asked if the Directors would like to consider going into Closed Session to further discuss the detailed language. Director Bahler stated he felt this matter should be discussed further in closed session and the others agreed. Therefore, the public meeting was

closed and both Secretary Knight and Lynne Wichert left the meeting. The closed session began at 7:10 p.m.

A closed session was held with respect to item 6.a. of the Closed Session below:

- a. Conference with Legal Counsel – Conference with Legal Counsel – Anticipated Litigation; Significant exposure to litigation pursuant to Subdivision (b) of Government Code Section 54956.9: (*1 Potential Case*)

At 7:25 p.m., the Board came out of the Closed Session and Ms. Knight and Ms. Wichert returned and the open session portion of the meeting reconvened. The Board President stated that there was no reportable action taken in the closed session.

The Board returned to Action Item 4.a.:

It was moved/seconded (N. Bahler/G. Oliver), roll call by Secretary Knight was responded to as follows: Gene Oliver; Aye; Steve Marino; Aye, Nelson Bahler; Aye, Scott Anderson; Aye and unanimously carried by the Board of Directors of the Oakwood Lake Water District that (a) after discussion of proposed Amendment 6, with emphasis on revising the provisions of Section 4, the Board directed that revisions be made to Section 4. Amendment 6 was approved with the attached revised Section 4 and (b) delegate authority to the District Engineer to execute Amendment 6 on behalf of the District and to make non-substantive changes to Amendment 6 with the concurrence of District Legal Counsel.

5. STAFF REPORTS:

- a. Director Reports – none
- b. Committee Report (Ad-Hoc Chiavari Landscape Replacement Water Committee) – none
- c. Staff Reports (District Engineer, Legal Counsel (absent)). Bert Michalczyk reported that:

The Governor's moratorium on water shut offs was extended to December 31st. Thus the District remains prevented from shutting off the customer's water for non-payment but the District continues to lien properties when the outstanding billing balance meets the Board policy for doing so. He noted that there remains one very seriously delinquent account. Overall, Mr. Michalczyk thought the District was in good shape with regard to collections.

The Governor's Executive Order allowing the District to conduct virtual meetings during the pandemic is scheduled to expire September 30th. However, legislation has been enacted allowing the District to continue to do so provided that it takes certain procedural steps. Key among those is the passage of a resolution by the Board allowing for virtual meetings. The Board indicated that they would like to consider such a resolution at their next meeting.

The City of Manteca has issued a Notice of Preparation (NOP) for an environmental impact report for their storm water project. When the NOP was published by Manteca that NOP erroneously identified both the City of Manteca and the Oakwood Lake Water District City of Manteca as lead agencies; only Manteca should have been identified as the Lead Agency for the project. Manteca is aware of the situation and is working to correct the record.

Given the Board's approval of consent item 3(i) the District's rate study will be restarted shortly and the Board will be presented with a series of policy decisions to be made related to the rate structure beginning as early as the November Board meeting. In response to a question from Director Bahler the District Engineer stated that the current direction from the Board is to have the wastewater rates be a "pass through" of Manteca wastewater rates for treatment and disposal services. He noted that currently Manteca does not distinguish between single family homes and mobile home parks for the purposes of wastewater service charges. However, he went on the state that Manteca is also in the process of commissioning a wastewater rate study and that could possibly change and they could make a distinction between the two types of dwelling units.

There continues to be issues with the status of construction of the Manteca option facilities. In particular:

The facilities at the Eastern terminus of force main remain approximately 150 feet from being complete. Lafferty has reached an accommodation with Raymus to allow the contractor to enter the property to complete the facilities. However, discussions are still ongoing between Lafferty and Meritage to allow completion of the 21-inch gravity line into which the District's force main will connect. It appears that the City of Manteca will have to accept the gravity line before Meritage will allow the District to accept the sewer line. That action is tentatively scheduled for October 18, 2021.

PG&E has yet to energize the new motor control panel which was delivered to the job site only last week. PG&E has done one site inspection but at least one more inspection will be required because the installation did not meet all the PG&E

requirements. Further, Lafferty's electrical contractor is still working on the underground electrical and will likely not be complete for at least 4 weeks.

Only a portion of the plant site underground piping has been installed; a lot remains to be done.

Site grading remains virtually un-started

The submitted construction schedule shows completion in late October or early November. Mr. Michalczyk stated that in his professional opinion it looks like the work will be completed in mid-December. He stated that he hopes the contractor's schedule is right but that he is not hopeful.

6. CLOSED SESSION:

Engineer Michalczyk stated that the Closed Session for items 6.b and 6.c do not need to be held. The Closed Session for Item 6.a. was discussed earlier in the meeting.

- b. Conference with Legal Counsel – Conference with Legal Counsel – Anticipated Litigation; Significant exposure to litigation pursuant to Subdivision (b) of Government Code Section 54956.9: (*1 Potential Case*)
- c. Conference with Legal Counsel – Consider Initiation of Litigation – as authorized pursuant to Paragraph 4 of Subdivision (d) of Government Code Section 54956.9: (*1 Potential Case*)

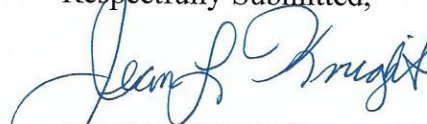
A closed session was not held on Items b. and c. while Item a. was discussed earlier in the meeting.

7. ADJOURN

The meeting was adjourned at 7:41 p.m.

The Agenda for this meeting was posted in a sign board in front of the Oakwood Shores Clubhouse, 1699 Bella Lago Way, Manteca, CA at least 72 hours preceding the meeting.

Respectfully Submitted,



JEAN L. KNIGHT
District Secretary