

OAKWOOD LAKE WATER DISTRICT

REGULAR MEETING MINUTES OF MARCH 23, 2021

HELD REMOTELY VIA ZOOM¹

A Regular Meeting of the Oakwood Lake Water District was held remotely, via Zoom, on Tuesday, March 23, 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 and the following Directors and staff were remotely present:

Gene Oliver, President
Steve Marino, Vice President
Tim Smith, Director
Nelson Bahler, Director
Glen Campi, Director
Jean Knight, District Secretary
Bert Michalczyk, District Engineer

Others Present Were:

Casey Wichert, Valley Operators
Lynne Wichert, Valley Operators
Kevin Moore, Attorney with Bold, Polisner, Maddow, Nelson & Judson
Andrew Hernandez, Homeowner
Eric B., Homeowner

Absent Was:

Doug Coty, Legal Counsel

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 public comments.
- b. Written correspondence received via District email. No e-mails received.

3. 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.

1. Approve Minutes for Regular Meeting of February 23, 2021 and Special Meeting of March 5, 2021
2. Accept Financial Reports for February 2021
3. Receive Capital Projects Status Report for February 2021
4. Receive Fiscal Year Goals Status Report for February 2021
5. Infrastructure Finance and Construction Agreement Status Report for February 2021
6. Time Schedule Order Status Report for February 2021
7. Consider Approval of Resolution 2021-02 Adopting A Records Retention Policy and Schedule

It was moved/seconded (G. Campi/T. Smith), roll call² by Secretary Knight was responded to as follows: Gene Oliver; Aye; Steve Marino; Aye, Glen Campi: Aye, Nelson Bahler; Aye, Tim Smith; Aye and unanimously carried by the Board of Directors of the Oakwood Lake Water District that a. the Minutes for the Regular Meeting of February 23, 2021 and Special Meeting of March 5, 2021 were approved; b. The Financial Reports for February 2021 were accepted; c. The Capital Projects Status Report for February 2021 was received; d. The Fiscal Year Goals Status Report for February 2021 was received; e. The Infrastructure Finance and Construction Agreement Status Report for February 2021 was accepted; f. The Time Schedule Order Status Report for February 2021 was accepted; and g. Resolution 2021-02 Adopting Records Retention Policy and Schedule was approved.

4. ACTION/ ITEMS:

- a. Approve Post-Operations Wastewater Facility Disposition Project and Increase Fiscal Year Ending 2021 Capital and Project Expense Budget by \$25,000. Bert Michalczyk presented this item and reported on the status of the force main and pumping station that will convey untreated wastewater to Manteca. He noted that the construction contractor's schedule shows that those facilities will be in operation around mid-August 2021 and at that time, operations of the District's existing wastewater treatment plant, storage ponds 1 and 2 and the treated wastewater irrigation operation along Chiavari will cease. Aside from the Chiavari irrigation operation (conversations underway with the Oakwood Shores HOA), other facets of the existing wastewater facilities will need to be secured, salvaged, abandoned in place and/or otherwise disposed of. Other work regarding the regulatory regime under which the District's current wastewater operation functions operate will need to be revised, replaced, or phased out.

The project proposed would provide funding for the remainder of the current fiscal year to open discussions with the Regional Board related to the disposition of the existing

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

permits and provide funding to prepare a plan for the disposition of existing wastewater facilities which will provide information to allow the District to budget costs for the next fiscal year and possibly beyond. This project will increase budgeted expenses in the wastewater enterprise by \$25,000 and in doing so will reduce the budgeted net gain for the wastewater enterprise in the fiscal year by the same amount to \$217,000. A project description for this plan is included in the agenda materials.

A question came from homeowner Andrew Hernandez asking why the District is spending \$25,000 on something the District already knows how to do. Engineer Michalczyk responded that with the permitting process, District staff does not know what needs to be done. Also, there is a need to know how to dispose of the underground equipment and there may be contamination – which staff does not know of at this point. Trustee Bahler asked how the figure of \$25,000 came about and Engineer Michalczyk stated that the figure of \$10,000 came from an amount estimated by the Regional Board and Dewberry | Drake Hagland estimated the other part of the work would likely be around \$15,000. Dewberry is also doing storm drain design work for the City of Manteca. He noted this is not typical dismantling of a facility and it must be done legally and done properly. After discussion,

It was moved/seconded (G. Campi/S. Marino), roll call by Secretary Knight was responded to as follows: Gene Oliver; Aye; Steve Marino; Aye, Glen Campi: Aye, Nelson Bahler; Aye, Tim Smith; Aye and unanimously carried by the Board of Directors of the Oakwood Lake Water District that the Post-Operations Wastewater Facility Disposition Project and Increase of Fiscal Year Ending 2021 Capital and Project Expense Budget by \$25,000 be approved.

- b. Consider Recommendations Formulated by Chiavari Landscape Water Replacement Ad-Hoc Committee. At this time, Director Gene Oliver left the Board Meeting (stepped away from Zoom presentation and was muted by Engineer Michalczyk). Asked by Homeowner Hernandez why he did this, the response was that Mr. Oliver is a member of the Oakwood Shores Homeowner Association and a Director and President of the Oakwood Lake Water District and therefore has a conflict of interest with this matter.

Engineer Michalczyk began this agenda item and stated that when the District wastewater starts flowing to Manteca, the water that was being used to irrigate the landscaped area on Chiavari would no longer be available. The agenda materials detail what has happened to date, including action taken at the February District meeting and it was noted that the District did get an informal response (Attachment B) from the HOA. The HOA response also showed that the HOA had been discussing this matter with Lafferty. The District also provided a high-level summary of the cost of providing potable water to the area to maintain the existing landscaping (Attachment C) and said that the District Board has not yet considered whether it would rather make potable water or well water available to the

site. The HOA also was interested to know if the District could advise what level of financial participation (if any) it would be willing to make.

Concepts being discussed were also outlined in the agenda materials on pages 53 and 54 – items 1-8.

Mr. Michalczyk reported that the Chiavari Landscape Water Replacement Ad-Hoc Committee met on March 15, 2021 (Directors Bahler and Smith, along with Engineer Michalczyk and Counsel Coty) to discuss the status, concepts being discussed and the District's involvement. Although encouraged by the informal e-mail response from the HOA, the Committee concluded that the concept currently being discussed by the HOA remains very conceptual and tentative and observed that a written proposal has not yet been presented to the District by the HOA for the use of the property as requested by the District.

It was at this time that the committee, who Mr. Michalczyk said had a very healthy debate, concluded that because there is not yet a proposal to respond to that it would not be appropriate for the District to express its opinion on the concept being discussed by the HOA. Since the Committee had not yet made a recommendation to the full board regarding what should be the District's position for District participation, until a specific written proposal is received from the HOA, the Committee's recommendation to the Board, at this time was 1) The District remain committed to the cooperative approach outlined in its January 29, 2021 letter but convey to the HOA that time needed to implement any agreed-upon water supply for the landscaping has become critical; 2) The water purchase cost be at standard water rates and meter charges if the water supply for the landscaping is potable water through a connection to the District's existing potable system; and 3) There is to be no capital cost contribution, nor waiver of capacity, connection or other fees, by the District.

Nelson Bahler also commented that he felt Mr. Michalczyk did a good of summarizing the status at this time and stated that he felt that the HOA is at an impasse of what they need to do. They had discussed who they would the rate payers would be (all homeowners) and set aside from being responsible to pay would be the mobile home park homeowners and those who reside on Aplicella Court. New residents in the applicable areas within the subdivision would also be rate payers. The HOA would need to decide how to spread the costs out and at this point, the District is waiting for the HOA to give some guidelines. Another material matter is when the District runs out of water to irrigate the area, there will still be maintenance and weed control and initially some upfront costs for high water plants.

Homeowner Hernandez spoke at this time and said how are we going to let the homeowners know how we are going to go back – all 380 of us, in filing a lawsuit on this matter? The problem needs to be fixed or there will need to be action to have the problem fixed. Director Marino's response to this was that the HOA had been notified since this last year and no decision has been made by them and nothing formally has been

received. He said he's hoping that the HOA can come up with a plan. Mr. Hernandez mentioned at this time the area has burn marks on the fence and if the plants die, would the water district pull the plants? The response to him was that this is a water district, not a park district. Its purpose goes away as there is no purpose related to the water utility and what is felt is that the Director of the HOA needs to be told that the water district needs some feedback.

Engineer Michalczyk stated that District staff is hoping for an endorsement of the committee's recommendations or propose an alternative recommendation.

It was also reported that Grover Landscaping (currently doing the landscaping on this area) is being paid between \$7,000 and \$9,000 a month by Lafferty for landscape maintenance. The HOA received a proposal from another landscape company for \$1,200 for this work and the thought was that this seems like a very low figure for an area this size. Also, there are special certifications that are needed for doing this type of work and it was stated that the landscape company giving proposal does not have those certifications.

Mr. Michalczyk also mentioned that on the District's website, there is information stating that there will be no purpose for the District to irrigate this land with a well after September as that is when the pipeline to Manteca is expected to go into operation. Other figures given were that potable water costs \$1,200 a month (\$50,000 a year). Capital costs might be covered by Lafferty. Also, it would be about \$130,000 + the \$50,000 to hook into a 2" water main.

Engineer Michalczyk stated he thinks there is a solution and the HOA needs to work a little more assertively with Lafferty.

After the discussion,

It was moved/seconded (N. Bahler/T. Smith), roll call by Secretary Knight was responded to as follows: Steve Marino; Aye, Glen Campi; Aye, Nelson Bahler; Aye, Tim Smith; Aye and carried (Gene Oliver, by his absence to this discussion abstained) that the Board of Directors of the Oakwood Lake endorse the Committee's recommendations that until a specific written proposal is received from the Association, the Committee recommends to 1) The District remain committed to the cooperative approach outlined in its January 29 2021 letter but convey to the HOA that time needed to implement any agreed-upon water supply for the landscaping has become critical; 2) The water purchase cost be at standard water rates and meter charges if the water supply for the landscaping is potable water through a connection to the District's existing potable system; and 3) There is to be no capital cost

contribution, nor waiver of capacity, connection or other fees, by the District.

5. STAFF REPORTS:

- a. Director Reports – no report
- b. Staff Reports: Bert Michalczyk reported that 50-60% of pipeline is into the ground and that the Pump station will be breaking ground mid to late April.
- c. Secretary Jean Knight gave a report on the status of the even year election matter discussed at the January and February meetings and said that the original resolution passed at the February meeting had been signed, attested to and mailed to the Registrar of Voters. Acknowledgement of the receipt of the resolution was sent to Ms. Knight. The Register of Voters office also advised that the paperwork that is to be submitted to the Board of Supervisors will be sent to them in time for the Board's meeting on April 20th. At this point, the District has fulfilled all the requirements needed at this time. The Registrar of Voters office will keep the District apprised of the status as this matter moves forward.
- d. Committee Report (Ad-Hoc Chiavari Landscape Replacement Water Committee – Agenda Item 4.b) – reported above.

It was asked if the public had any comments regarding the closed session members. There were no questions.

This part of the meeting closed to the public at 7:40 p.m.

6. CLOSED SESSIONS:

- a. Conference with Legal Counsel – Existing Litigation - as authorized pursuant to Paragraph 1 of Subdivision (d) of Government Code Section 54956.9: *Oakwood Lake Water District v. Beck Properties, et al.*; San Joaquin County Superior Court Case No. 39-2015-00329828 CU-CD-STK
- b. Conference with Real Property Negotiator – as authorized pursuant to Government Code Section 54956.8: Property: *Pond 1 and Pond 2 Property*; Agency Negotiator: *District Engineer*; Negotiating Party: *Oakwood LT Ventures II*; Under Negotiation: *Terms and price*
- 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 held on the above items. Return to open session. There was no reportable action.

7. ADJOURN - The meeting was adjourned at 8:07 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