

APPROVED 5/9/08

MINUTES OF THE SPECIAL MEETING OF THE BOARD OF DIRECTORS OF SIERRA LAKES COUNTY WATER DISTRICT

February 16, 2008

The Board of Directors of Sierra Lakes County Water District met in special session at the hour of 9:04 a.m., Saturday, February 16, 2008 at the regular meeting place of the Board, 7305 Short Road, Soda Springs, California.

ROLL CALL:

The Directors in attendance at the Sierra Lakes Board Room were Wade Freedle, Gene Bowles, Ulrich Luscher, Martin Bern, and Bill Oudegeest. Staff member Dianna Smith was present. District counsel Peter Kiel of Ellison, Schneider & Harris was present. The guests present were Joe Gray, Katie Gray, Anne Bowles, Leroy Waddle, Linda Waddle, Jenyth Utchen, Joan Pech, Bernard Pech, Gordon Steindorf, Dave Steindorf, Tom Burns, Al Lebel, and Cheryl Lebel. Mike Livak and Kirk Syme were present for Royal Gorge, LLC. Ben Swann was present for Camp, Dresser, & McKee, Inc. Attorney Dan Kelly was present for Somach, Simmons and Dunn.

APPROVAL OF AGENDA:

The Agenda for the February 16, 2008 meeting was presented to the Board for approval. Bern requested to move item IV.C. – Draft Sierra Lakes Water System Master Plan Outline to item I.E.

A motion was made by Luscher and seconded by Oudegeest to approve the February 16, 2008 Agenda, as amended. Ayes: Freedle, Bern, Luscher, Bowles, and Oudegeest. Noes: None. Absent: None. Abstention: None. The motion passed unanimously.

PUBLIC FORUM:

There was no public comment.

ORDINANCE REVIEW AND ADOPTION:

Freedle reported the Districts practices represented operating parameters as described in the proposed Ordinances and being codified for better management. The District expects to adopt more Ordinances codifying operating parameters and planning regulations.

Ordinance No. 2008-82 Concerning Water Service Priorities, Water Supply Availability and Deficiency Management Policy, and Water Service Conditions of Annexation.

Ordinance No. 2008-82 Concerning Water Service Priorities, Water Supply Availability and Deficiency Management Policy, and Water Service Conditions of Annexation was presented to the Board for review and consideration.

Attorney Peter Kiel with Ellison, Schneider & Harris, LLP addressed the Board and stated their firm had drafted these Ordinances for the District. Kiel reported it was his understanding that the Board would not be acting on these proposed Ordinances today to allow for deliberation and public comment.

Kiel stated that the policy includes three basic elements. First, a priority system for the District to approve new water service connections after it is found that the District has the water to provide those connections. Second is a requirement for the District to prepare an Annual Water Assessment Report. It is an assessment of the sufficiency of its supply to meet existing and expected future water demand. The third are criteria for annexing new territory for water service within the District. Bowles clarified the District proposes to adopt Notices of Exemption for these Ordinances to comply with the California Environmental Quality Act (CEQA). Kiel agrees that this Ordinance would be exempt subject to CEQA categorical exemptions.

Livak addressed the Board concerning letters to the District from their Attorneys and their consultants concerning the District's proposed Ordinances. The February 15, 2008 Letter from Somach, Simmons & Dunn regarding Initial Comments Regarding SLCWD's Draft Ordinance Nos. 2008-82, 2008-83; the February 15, 2008 Letter from Remy, Thomas, Moose and Manley, LLP regarding SLCWD's Draft Ordinance No. 2008-83; the February 15, 2008 Letter from Northfork Associates regarding SLCWD Ordinance No. 2008-83; the February 15, 2008 Letter from CDM regarding Comments on Sierra Lakes County Water District Draft Ordinance No. 2008-83, were presented to the Board for review and consideration.

Livak stated Royal Gorge believed there were legal problems with the Ordinances, notably with regard to the method of setting priorities for service, with regard to the annual water supply report, and with regard to annexation procedures. Attorney Kelly with Somach, Simmons & Dunn expanded upon Livak's comments and referred the Board to their comment letters for further information.

A lengthy discussion ensued. Several questions were presented that were answered by Attorney Kiel and Board Members. Bern stated that in light of the Board not taking action on the Ordinances today, the Board should take comments and discussion on the Ordinances and continue this matter to the next Board meeting.

Guest Mr. David Steindorf and Guest Ms. Jenyth Utchen also commented and asked several questions. A lengthy discussion ensued. Questions were answered by Attorney Kiel and Board Members.

Ordinance No. 2008-83 Concerning the Management of Serene Lakes for Water Supply Management, Aesthetic, Ecological and Recreational Purposes.

Ordinance No. 2008-83 Concerning the Management of Serene Lakes for Water Supply Management, Aesthetic, Ecological and Recreational Purposes was presented to the Board for review and adoption.

Attorney Peter Kiel addressed the Board regarding Ordinance No. 2008-83 also known as the 'Lake Elevation Management Ordinance'. Kiel stated it is not a proposal to absolutely freeze the lake level indefinitely. It is a formalization of the District's long standing policy to not draw the lake elevation down below approximately three feet below the spillway. The Ordinance is to confirm that the lakes would be operated with all these effects in mind. Bern stated there was action taken by the Board several decades ago restricting the draw down to four feet, which was an estimate at the time, and this is a clarification in light of additional information that the draw down should not be more than three feet.

Attorney Kelly addressed the Board in regard to the Ordinance issue of recreation. Kelly stated this goes back to the duties and obligation of the District and Water Code section 31015 where the Legislature removed the powers and authority of the District to adopt and act on recreational, aesthetic, or ecological purposes. Bern questioned if the statute does not say that the District's powers with regard to recreation is not entirely removed, but that the power is to not construct recreational facilities. Kelly stated he did not have the code with him, but the code says that the District has no authority to use its water or land for recreational purposes. Bern stated the District has the responsibility in everything it does to consider environmental impact such as recreational uses in what it does. In this subdivision, everyone who owns a lot here has a right to recreate on the lakes. If the District was not considering recreation, it would be potentially violating those owners' rights, subjecting the District to lawsuits for impairment of their recreational rights. Kelly stated he did not know what the specific rights and respective laws are for any of the facilities in the District. A County Water District's powers are limited to those enumerated in the statute. When the Legislature authorized local districts to provide very specific duties, they removed those powers. Nothing he has seen authorizes the District to empower recreational issues. Bern stated he would like the attorneys to address more specifically the language that is relevant to the statutes they reference.

Attorney Kiel stated that he did not agree with their interpretation that this is invalid due to Water Code section 31015. It does state that the District can provide recreational and fire protective services, but it does so by referring to say it shall have eminent powers to recreate. It is very different from saying the District would consider existing legal and practical obligations, including how it is currently used, environmental standards independent of what is in the Water Code. He believes this Ordinance is consistent with law and the District was not embarking to provide recreational services.

Guest Mr. Leroy Waddle stated the local Water Board gets its jurisdiction from the State Water Board who in turn gets its jurisdiction from the Clean Water Act, which specifically calls out the need to protect water recreation. He contended that the local Water Board does have that authority as long as it is consistent with the Water Code and how the State Water Board interprets the Clean Water Act. Ultimately, it has to be interpreted and accepted by the State Water Board.

Oudegeest stated he did not see their argument regarding the recreational portion. Recreation is tied right into the water quality and he wondered if it was Royal Gorge's intention to draw the lakes down as far down as they want, as long as they get as much water as they want, regardless of what happens to recreation; and then somehow water quality issues don't get addressed. If we separate those lakes, there are going to be water quality issues. If we draw those lakes down a long distance, there are going to be water quality issues. Those are attached to recreational issues. So why make the big issue about whether we keep the lakes together so that people can enjoy the recreational issues.

Attorney Kelly addressed the Board and stated he would like to address the legal issues and Mike Livak would address the position of Royal Gorge. With regard to the legal issue and beneficial use, there are absolutely different beneficial water uses in California; irrigation, domestic, municipal, industrial. Recreation is, in fact, a separate beneficial use. If the beneficial recreational use was applied for in the original water rights permit held by the District, the District would not permit the Legislature to not take that power away. Kelly disagreed that water service that is specially used for recreation would be inappropriate. It is the District's job to provide water services to the land within the District. He is not saying the District cannot manage the lakes for water quality purposes. He is saying that as a lawyer he looks at the Ordinance, and he looks at the powers and the duties as a water Board, and he has given an opinion on whether or not the District could enact it. The District may be able to do a lot of things as a Water Board, but it doesn't mean you can just tack things on because you need to do them anyway. Or that you can also just say it is for this purpose. His job was to go through the Water Code and the Ordinance. He found that one of the purposes of the District used to be recreation and it is no longer, and it is his position that the Legislature and the Water Code took that power away from it.

Mike Livak addressed the Board and stated he felt there needed to be more research and discussion on the recreational issues. He stated Royal Gorge was concerned that if the District adopts this Ordinance the actions taken would not be in accordance with State Law.

A motion was made by Bern and seconded by Luscher to table this matter to the next Board meeting. Ayes: Freedle, Bowles, Bern, Luscher, and Oudegeest. Noes: None. Absent: None. Abstention: None. The motion passed unanimously.

OLD BUSINESS:

Draft Sierra Lakes Water System Master Plan.

The Draft Sierra Lakes Water System Master Plan was presented to the Board for review. Freedle explained the District has been in the process of developing a water system master plan; which many phases have already been achieved, while others are still being developed. Bern stated everything he has read and heard indicates the State of California has not planned well for water management. The State is likely to experience a serious water shortage. The District has the responsibility to ensure that quality water service is continued into the future both for current users and future users. The District needs to take steps to secure the water quality for future generations.

A motion was made by Luscher and seconded by Bowles to table this matter to the next Board meeting. Ayes: Freedle, Bowles, Bern, Luscher, and Oudegeest. Noes: None. Absent: None. Abstention: None. The motion passed unanimously.

CONSENT ITEMS CALENDAR:

Minutes of January 11, 2008, January 12, 2008 and January 2008 Check Register.

Luscher and Livak requested removal of the January 11, 2008 Minutes from the Consent Items Calendar. Oudegeest requested removal of the January, 2008 Check Register from the Consent Items Calendar. Royal Gorge's February 15, 2008 Letter regarding corrections to the January 11, 2008 Minutes was presented to the Board for consideration. CDM's February 15, 2008 Letter regarding comments on the January 11, 2008 Minutes of the Special Meeting of the Board of Directors was presented to the Board for consideration. Bern suggested the written comments be received, and incorporated into the draft Minutes.

A motion was made by Luscher and seconded by Bern to continue the January 11, 2008 Minutes to the next Board meeting. Ayes: Freedle, Bern, Luscher, Bowles and Oudegeest. Noes: None. Absent: None. Abstain: None. The motion passed unanimously.

A motion was made by Luscher and seconded by Bowles to approve the remaining Consent Items which included the January 12, 2008 Minutes and the January 2008 Check Register. Ayes: Freedle, Bern, Luscher, Bowles and Oudegeest. Noes: None. Absent: None. Abstain: None. The motion passed unanimously.

OPERATIONS:

Operations Report from Bill Quesnel/Acumen Engineering.

Quesnel's February 1, 2008 Operations and Maintenance Report for January 2008 was presented to the Board for review. Luscher stated that since Quesnel would not be present for this meeting Luscher had contacted Quesnel to clarify some issues in his Operations Report. In regard to the Regulatory Issue of the Stage 2 Disinfectants and Disinfection Byproducts Rule, Quesnel planned to prepare and submit the plan to the Board at the next Board meeting. Quesnel also informed Luscher that in regard to the combination sewer cleaning truck, the best financing option seemed to be the District's line of credit but that he was still keeping track of other financing options. Luscher stated in regard to the calculation of well pumping and treatment costs, the data was based on one day of pumping.

Quesnel Report on Ice Holes.

Quesnel's February 6, 2008 Memorandum regarding Lake Ice Investigation was presented to the Board for review. Freedle summarized the objectives as follows: First, they were trying to determine how much water is flowing over the dam in the winter months. Secondly, to determine how the pressure transducers are affected by a lake

that is frozen over. The third is to determine the amount of free water in the lakes. Luscher stated he went out to the dam on February 13, 2008 to survey the water at the dam. The area was covered with snow and they had to probe to find the dam. There was no evident outflow of water at the dam. Yet, when they dug down next to the dam, it looked like there was free water up to the level of the dam. Oudegeest stated the prior week he could see the water was flowing over the dam. Luscher stated what was really important operationally is whether the straight or the narrows between the two lakes was available for flow or not. If it is not available for flow, then they are pumping exclusively from the upper lake which would be highly detrimental because we would be drawing the water down lower than what we planned to because we have less than half the area to pump from. The second issue is whether the culverts were blocked or not. If the culverts were blocked, they might still be blocked when the thaw comes in the spring, then the outflow could not go over the dam and we would accumulate water in the lake. He confirmed the District needed Andregg to analyze the depth of the bottom of the lake and the elevation of the free flowing water. Oudegeest suggested it would be cheaper to drill a few holes in the lake, including the deepest part of the strait. Luscher did not believe the bathymetric readings were accurate within six inches at any location because there are a lot of interpretations at the local level. Bern questioned how likely we were to, in the near future, draw the lakes down based on where we are at the end of the season to the top of the intake valve. Oudegeest stated it depended on how frozen the water is. He said last year Stransky had found it froze to about two or three feet above the intake.

A motion was made by Oudegeest and seconded by Bern for staff to purchase pressure transducer equipment for an amount not to exceed \$2,000.00. Ayes: Freedle, Bern, Luscher, Bowles and Oudegeest. Noes: None. Absent: None. Abstain: None. The motion passed unanimously.

A motion was made by Luscher and seconded by Oudegeest to authorize Andregg Geomatics to establish sampling locations and to obtain absolute elevations of the level of head of water under the ice, for an amount not to exceed \$3,000.00. Ayes: Freedle, Bern, Luscher, Bowles and Oudegeest. Noes: None. Absent: None. Abstain: None. The motion passed unanimously.

JDH Corrosion Engineers Phase II Report.

A motion was made by Luscher and seconded by Bowles to continue this matter to the next Board meeting. Ayes: Freedle, Bern, Luscher, Bowles and Oudegeest. Noes: None. Absent: None. Abstain: None. The motion passed unanimously.

Review and Approval of Sewer System Management Work Plan.

Quesnel's February 5, 2008 Memorandum regarding Approval of Sewer System Management Plan Work Plan Section Two, Goals was presented to the Board for review and approval.

A motion was made by Luscher and seconded by Bern to approve the Sewer System Management Plan Work Plan Goals, as amended, and to certify to the SWRCB that Section 2 of the SLCWD Sanitary Sewer Management Work Plan has been

completed. Ayes: Freedle, Bern, Luscher, Bowles and Oudegeest. Noes: None. Absent: None. Abstention: None. The motion passed unanimously.

OLD BUSINESS:

President's Report.

The February 8, 2008 President's Report was presented to and reviewed by the Board.

Update on Reimbursement Agreement with Royal Gorge for Hydrology Studies.

Freedle reported on the reimbursement agreement with Royal Gorge.

Review of Royal Gorge's Alternative Water Supply Presentation.

The Board discussed the proposed alternative water supply by Royal Gorge.

Status Update.

Freedle reported the fisheries, archeological/historical and recreational technical studies have all been completed.

Status of the Re-Billing Process to Royal Gorge.

Freedle reported the re-billing to Royal Gorge for the technical studies was being worked on and would be sent to Royal Gorge this month.

Construction-in-Progress.

The February 8, 2008 Construction-in-Progress lists were presented to the Board for review.

Request for Continuances – Cook and Morton.

The January 26, 2008 Letter from Steve & Denette Cook and the February 12, 2008 Letter from RC Morton requesting a 90-day extension to obtain their building permits were presented to the Board for review and consideration.

A motion was made by Bern and seconded by Bowles to grant a 90-day extension for Cook and Morton to obtain their building permits. Ayes: Freedle, Bern, Luscher, Bowles and Oudegeest. Noes: None. Absent: None. Abstention: None. The motion passed unanimously.

NEW BUSINESS:

January 21, 2008 E-Mail from Property Owners Dave Emanuel and Maria Wamsley re: Stop the Royal Gorge Expansion.

The January 21, 2008 E-Mail from Property Owners Dave Emanuel and Maria Wamsley re: Stop the Royal Gorge Expansion was presented to the Board for review and consideration. Bern stated this was not an issue of the District. It was more for Placer County since they were objecting to the Royal Gorge development. Oudegeest stated the Board should not address this letter.

1/12/08 Letter form Property Owner Joe Gray re: Lake Level Management as Proposed by Royal Gorge, LLC.

The 1/12/08 Letter form Property Owner Joe Gray re: Lake Level Management as Proposed by Royal Gorge, LLC was presented to the Board for review and consideration. The Board responded to Joe Gray, who was in the audience, regarding his letter.

Letter from SLCWD Taxpayers received February 5, 2008.

The Letter from SLCWD Taxpayers received February 5, 2008 was presented to the Board for review and consideration. Oudegeest stated he objected to this letter. He did not like getting anonymous letters and thought the Board should disregard it. Bern thought it was cowardly to not sign the letter and thought the claims made in the letter were factually incorrect. Bowles thought the person should give their name and run for the District Board.

Wade Freedle Meeting with Nevada County Grand Jury on January 23, 2008.

Freedle reported the Nevada County Grand Jury was investigating and reviewing certain circumstances on the summit in regard to Royal Gorge's proposal. Luscher thought they were still investigating DSPUD with regard to Steve Grimm. Bowles clarified they were looking into another agency and were looking at the District to provide some information in regard to this other agency.

Sewer Capacity Planning Presentation at the DSPUD Meeting on January 15, 2008.

Freedle reported he had attended the January 15, 2008 meeting where Royal Gorge had requested sewer service from DSPUD. Bern stated he thought that anyone in our service area was to come to the District directly. Livak stated the information and discussion related to sewer disposal and treatment and was oriented to DSPUD because they provide the service, not the District. Livak stated they would be glad to have his consultants schedule a sewage/treatment discussion at the next meeting.

Appointment of Committee to Negotiate DSPUD Plant Expansion.

The January 8, 2008 Letter from Donner Summit Public Utility District regarding Expansion Committee was presented to the Board for review and consideration. Freedle reported the District needed to have two Directors appointed to their expansion committee to represent the District. He stated he and Luscher were on the expansion committee back in 2002.

The Board concurred Luscher, Freedle and Blake Tresan would be representing the District on the sewer expansion committee with DSPUD.

Variance Request Review.

Freedle's February 7, 2008 Memorandum regarding Zoning and Set-Back Regulations within the Sierra Lakes Water District was presented to the Board for review. Luscher noted these are new regulations for the District and should also include variances as well as set-backs. The Board concurred to amend the procedures to include variances.

Truckee Fire Protection District Fire Suppression Assessment.

The Truckee Fire Protection District Fire Suppression Assessment Ballots were presented to the Board for review and consideration. Freedle reported this is a loop hole in Proposition 13, wherein they kept one way to tax by way of a Special Assessment. They could go through this procedure and the value of the tax is weighted on the value of your property. In this case the engineering firm is hired to perform the election and the ballots are returned to that engineering firm for counting. Freedle reported that property owners in the District are still paying \$100.00 per parcel more than any other parcel in the Truckee Fire Protection District.

A motion was made by Bern and seconded by Luscher to vote no on the proposed Fire Suppression Assessment. Ayes: Freedle, Bern, Luscher, and Bowles. Noes: Oudegeest. Absent: None. Abstention: None. The motion passed.

ADMINISTRATION:

January 12, 2008 Meeting Follow-up and February 2008 Action Items List.

The January 12, 2008 Meeting Follow-up and the February 2008 Action Items List were presented to and reviewed by the Board. The following was noted:

- Smith forwarded the Royal Gorge's alternative water supply analysis to Oudegeest for posting to the website.
- Quesnel checked with Truckee Fire and Placer County on how to protect the propane tanks.
- Quesnel verified data points of Royal Gorge's water analysis interfacing SCADA with snow/ice to water.
- Smith advertised for part-time Administrative Assistant.
- Freedle/Oudegeest are working on posting the financial sheets to the website.
- Freedle/Smith transferred LAIF funds to Bank of the West.
- Bowles/Smith looked into purchasing new Boardroom table chairs.

- Quesnel finalized sewer truck equipment options with vendor and inquired as to pre-payment discount from vendor.
- Quesnel determined as to whether Royal Gorge is using water over and above the allocation for their EDU's when snowmaking.
- Quesnel prepared invoices for pumping and treatment costs associated with Royal Gorge well pump testing.
- Smith is developing a sample Fraud Policy.

FINANCE:

DISBURSEMENTS REQUIRING BOARD APPROVAL:

The following disbursements requiring Board approval were presented to the Board:

Acumen Engineering 2/1/08 for January Professional Services	\$6,796.20
Ellison, Schneider & Harris, LLP 12/31/07 for December Legal Services	\$4,614.85
1/31/08 for January Legal Services	\$10,360.93
JDH Corrosion Consultants, Inc. 2/5/08	\$20,411.58
Rossmann and Moore, LLP 2/4/08 Jan Services	\$21,672.00
Sierra Control Systems, Inc. 1/16/08	<u>\$2,396.45</u>
Total	\$66,252.01

A motion was made by Luscher and seconded by Bowles to approve the above disbursements requiring Board approval in the total amount of \$66,252.01. Ayes: Freedle, Bern, Luscher, Bowles, and Oudegeest. Noes: None. Absent: None. Abstain: None. The motion passed unanimously.

Operating Expense Budget vs Actual (January).

The 2007/08 Operating Budget vs Actual for the month of January 2008 was presented to the Board for review. Oudegeest questioned why the professional services account was so high. Freedle reported that Acumen Engineering was in this account. Jones & Stokes was also in this account, which part of it would be back billed to Royal Gorge before the next Board meeting.

Operating Expense Budget vs Actual (Year-to-Date).

The 2007/08 Operating Budget vs Actual for the year to date was presented to the Board for review. Bowles noted the year-to-date figures looked pretty good because there has been no money spent on Accuweb and there are budgeted projects which have not been completed.

Capital Expenditure Budget.

This matter was continued to the next Board meeting.

Cash Flow Forecast.

The February 13, 2008 Cash Flow Forecast was presented to the Board for review.

Cash Management Procedures.

Freedle reported for cash management procedures, the District would not have excess funds in the Local Agencies Investment Fund (LAIF). It would only keep enough money in LAIF to keep the account open.

ADJOURNMENT:

A motion was made by Bowles and seconded by Bern to adjourn the meeting at 1:02 p.m. Ayes: Freedle, Bowles, Luscher, Bern, and Oudegeest. Noes: None. Absent: None. Abstain: None. The motion passed unanimously.

Administrative Assistant II

APPROVED BY:

President