

APPROVED 12/12/08

**MINUTES OF THE REGULAR MEETING  
OF THE BOARD OF DIRECTORS OF  
SIERRA LAKES COUNTY WATER DISTRICT**

**November 14, 2008**

The Board of Directors of Sierra Lakes County Water District met in regular session at the hour of 5:03 p.m., Friday, November 14, 2008 at the regular meeting place of the Board, 7305 Short Road, Serene Lakes, California.

**ROLL CALL:**

The Directors in attendance at the Sierra Lakes Board Room were Wade Freedle, Gene Bowles, Ulrich Luscher, and Bill Oudegeest . Director Martin Bern was present by telephone from 560 Mission Street, 27<sup>th</sup> Floor, San Francisco, California. Staff members Bill Quesnel and Dianna Smith were present. The guests present were Terry Tuggey, Cheryl LaBel, Peter Wiley, Linda Waddle, Fran Freedle, and Mickey Gray. Mike Livak was present for Royal Gorge, LLC.

**PUBLIC FORUM:**

Freedle informed the Board that Donner Summit Public Utility District had a boil water notice for the past few weeks which has been lifted.

Guest Mr. Terry Tuggey addressed the Board and requested the recent rate increase information be sent to him. Freedle would provide that information to Mr. Tuggey.

**CONSENT ITEMS CALENDAR:**

The Consent Items Calendar was presented to the Board for review and approval. Luscher requested the October 2008 check register be removed as he had questions regarding some of the checks.

A motion was made by Luscher and seconded by Bowles to approve the Consent Items Calendar which included: the Minutes of October 10, 2008; the October 2008 Check Register; and new vendors: GLA Morris and Sierra Mountain Pipe and Supply. The motion passed on the following unanimous vote of five to zero: Ayes: Freedle, Bowles, Bern, Luscher, and Oudegeest. Noes: None. Absent: None. Abstention: None.

**OPERATIONS:**

**Operations Report from Bill Quesnel.**

Quesnel's October 2008 Operations and Maintenance Report dated November 6, 2008 was presented to and reviewed by the Board. The Board directed Quesnel to research if the backwash gallons used are included in the gallons used on his Sewer and Treated Water Totals Report.

**Progress Report on 2008 Construction Projects.**

The Summary of Extra Work and Major Contract Changes 2008 Watermain and Lateral Replacement Project was presented to and reviewed by the Board. The Board commended Quesnel on the savings.

**Direction to Operations Manager on Consulting Engineer for Evaluation of Donner's Sewer Projects.**

Quesnel's November 6, 2008 Memorandum regarding Peer Review Engineer DSPUD Wastewater Facilities Planning and Design was presented to the Board for review and consideration. The Board directed Quesnel to get some concrete proposals and report back at the December meeting.

**Possible Abandonment of Utility Easement Block F Lots 39 and 9 IL II.**

Quesnel's November 7, 2008 Memorandum regarding Request for Utility Easement Abandonment Lots 9 and 36 Ice Lakes Subdivision II was presented to the Board for review and consideration. Quesnel reported that since he had prepared this memorandum he had received a call from Placer County Planning Department informing him that they have changed their position in regard to how they would like to see the District handle this situation. He stated Placer County researched deeper and felt that if they granted the abandonment of the easement, it would be a gift of public funds. The County will issue the property owner an encroachment permit with the understanding that if the county or other utility wanted to use the easement the owner would have to remove their building. Quesnel recommended the Board support an encroachment permit rather than an abandonment of the easement.

A motion was made by Oudegeest and seconded by Luscher to authorize the Board President to prepare and send a letter to Placer County Planning Department in support of an encroachment permit on Block F, Lots 9 and 39 Ice Lakes II. The motion passed on the following unanimous vote of five to zero: Ayes: Freedle, Bowles, Bern, Luscher, and Oudegeest. Noes: None. Absent: None. Abstention: None.

**OLD BUSINESS:**

**President's Report.**

Freedle's November 12, 2008 President's Report for November was presented to and reviewed by the Board. Freedle reported income from service charges was coming in which would help not to have to redeem as much from T-Bill reserves. Freedle stated he and Quesnel were in the process of compiling a report to Bank of the West in regard to the project monies expended over the summer for the District's line of credit. Freedle also reported that Donner Summit PUD has completed their annual audit and had advised him that the District will be receiving an approximate \$30,000 credit for the 2007/08 sewage processing costs.

**Update on Reimbursement Agreement with Royal Gorge, LLC for Hydrology Studies – Status Update.**

**Biological Resources Assessment for the +/- 87-Acre Serene Lakes Study Area.**

Freedle reported the District had received a bill from ICF Jones & Stokes for well capacity testing which was recently charged back to Royal Gorge. Freedle stated he had sent the Biological Resources Assessment study to ICF Jones & Stokes for their review and asked them to get back to Royal Gorge. Freedle had not heard from them.

**SLCWD October 27, 2008 Letter to State Water Resources Control Board re: Water Right Complaint 31-39-01 SLCWD permit 142481.**

**1. LeBel's October 28, 2008 Letter to State Water Resources Control Board re: Water Right Complaint LJV:262.0 (31-39-01) & A20601.**

Freedle's October 27, 2008 Letter to Laura Lasquez Lavallee of the State Water Resources Control Board regarding Water Right Complaint 31-39-01 SLCWD Permit 14248 and LeBel's October 28, 2008 Letter to the State Water Resources Control Board re: Water Right Complaint LJV:262.0 (31-39-01) & A20601 were presented to and reviewed by the Board. Freedle reported the State Water Resources Control Board had indicated that the portion of the complaint regarding Al LeBel's complaint had been resolved. However, the direct diversion issue that arose from this complaint is still ongoing. The District's attorney was taking a look at the form and method of presenting a petition to the State Board to confirm that the District is operating in the same way we always have since the inception of the Permit. Hopefully by the December meeting the Board will have the entire process before them to make a decision.

**Eminent Domain – Status Update.**

Freedle reported the District's attorney stated an appraisal is moving forward and hopefully would be available for the December meeting. Oudegeest stated he recommended the Board consider discussing negotiations with Royal Gorge in regard to the District obtaining all the rights it wants to manage the lake bottom parcel, short of ownership to save litigation fees. Freedle reported the District has to manage the property and the District would not be able to manage the property merely by having those rights. It would not be able to go to someone who was building a dock on the shoreline and tell them they could not. Oudegeest suggested if Royal Gorge deeded development rights, management rights, all but property rights, why the District would need to go through the eminent domain proceedings if the District could obtain those rights. Freedle reported an easement does not give the District a proactive authority.

Oudegeest suggested that if the District could get Royal Gorge to agree to grant the District everything it could possibly want and need, it would save the District a lot of litigation fees. Bern stated you can enter into a contract, but in terms of getting recorded property rights, you need to have an easement. The District needed the right to exclude which an easement does not provide. Oudegeest presented his 'Eminent Domain – Alternative', which is attached hereto and included herewith [at the end of this set of minutes]. Livak stated he thought this list of alternatives was not all inclusive and appreciated the opportunity to discuss this matter with the Board. Freedle stated when the Resolution is presented to the Board, Royal Gorge will have the option to negotiate at

that time. The District was in the process of getting feedback from the eminent domain attorney.

**Construction-in-Progress Request for Continuance – Singer.**

The November 4, 2008 Letter from Aaron Singer requesting a continuance to obtain his building permit was presented to the Board for review and consideration.

A motion was made by Oudegeest and seconded by Luscher to grant Singer a 90-day continuance to obtain his building permit. The motion passed on the following unanimous vote of five to zero: Ayes: Freedle, Bowles, Bern, Luscher, and Oudegeest. Noes: None. Absent: None. Abstention: None.

**NEW BUSINESS:**

**Letter from Property Owners Kathy and James Atkinson re: 2008-09 Water & Sewage Charges.**

The Letter from property owners Kathy and James Atkinson re: 2008-09 Water & Sewage Charges was presented to the Board for review and consideration. Freedle stated due to the fact that the connection permits are very limited and for anyone who takes one out is prohibiting others from obtaining one. Freedle stated he would prepare and send a letter outlining the parameters and their options.

**Follow-up on Managing District Properties.**

Freedle's November 12, 2008 Memorandum regarding Management of District Properties was presented to and reviewed by the Board. Freedle reported none of the District owned properties on the lake are available for subdivision or are incapable of obtaining a building permit.

Guest M.S. Gray addressed the Board in regard to observing a property owner (Davis) topping trees on the District property of 1.2 acres on Serene Road in Serene Lakes Subdivision 1, directly across from their property. Bern reported that this was not the first time that Davis had disturbed this District property. Davis had placed a large amount of rock on this same property when he was in the process of constructing his house. The Board concurred Bern would prepare and send a letter to Davis informing him that he is in violation and hopefully be able to resolve this matter. The Board also concurred they would develop a policy regarding District property management.

Mr. Mike Livak addressed the Board in regard to recent Sierra Lakes Property Owners Association's (SLPOA) Board voting to allow Sierra Watch to place political signs on District property at Lot 1. Livak requested the Board research the existing lease agreement between the District and SLPOA to determine if such signage is allowed and to consider prohibiting political usage of public property in the renewed lease agreement. The Board concurred to add this item to the December Board meeting Agenda.

**Holiday Dinner Scheduled for December 12, 2008 at 6:30p.m.**

Freedle reported reservations have been made for Board and staff to attend a holiday dinner at Ice Lakes Lodge on December 12<sup>th</sup> at 6:30p.m. Bern informed the Board that he would not be able to attend the December 12<sup>th</sup> meeting. The Board directed Smith to change the reservations to 7:00p.m.

### **ADMINISTRATION:**

#### **Review and Possible Approval of 2007/08 Audit Report.**

The Financial Statements and Independent Auditor's Report for the year ended June 30, 2008 was presented to the Board for review and consideration. Freedle reported the auditor recommended the District adopt a Fraud Policy.

A motion was made by Oudegeest and seconded by Luscher to adopt the 2007/08 Audit Report as presented. The motion passed on the following unanimous vote of five to zero: Ayes: Freedle, Bowles, Bern, Luscher, and Oudegeest. Noes: None. Absent: None. Abstention: None.

#### **October 10, 2008 Meeting Follow-Up.**

The Follow-up from the October 10, 2008 Board meeting was presented to the Board for review. The following was noted:

- Freedle sent a letter to SWRCB requesting they include the District on their distribution list regarding DSPUD.
- Quesnel summarized the recent construction projects pointing out the money saved by the District for the various situations and forwarded to Oudegeest for posting to web site.
- Freedle referred the North Fork's biological study to Jones & Stokes for review and scheduled a meeting to review it with CDM.
- Quesnel followed-up on obtaining wastewater treatment plant peer engineer.
- Staff incorporated the lake flow monitoring and release program as adopted at the October 10, 2008 meeting.

#### **October 2008 Action Items List.**

The October 2008 Action Items List was presented to and reviewed by the Board. The Board directed Smith to send the ethic's training information to Luscher, Freedle and Bern.

### **FINANCE:**

#### **Disbursements Requiring Board Approval.**

The following disbursements requiring Board approval were presented to the Board for review and approval:

ACWA 2009 Agency Dues	\$7,415.00
Acumen Engineering October Professional Services Dated 11/1/2008	\$10,974.46
County of Placer Engineering & Surveying Sewer Main Replacement Dated 10/28/2008	\$3,111.00
County of Placer Engineering & Surveying Water Main Replacement Dated 10/28/2008	\$1,281.00
County of Placer Engineering & Surveying Fire Hydrant Replacement Dated 10/28/2008	\$869.25
Deal's Excavating and Trucking Change Order on Hillary Way Dated 10/1/2008 – Final Payment	\$1,333.00
Deal's Excavating and Trucking #08-003 – Fire Hydrant Replacement Dated 9/19/2008 – Final Payment	\$823.65
Ellison, Schneider & Harris LLP September Legal Services Dated 9/30/2008	\$6,013.71
Ellison, Schneider & Harris LLP October Legal Services Dated 10/31/2008	\$2,672.20
GLA Morris Construction Inc. Miscellaneous Repairs Dated 11/6/2008	\$11,979.00
Hansen Bros. Enterprises #08-002 – Sewer Mainline Replacement Dated 10/2/2008 – Final Payment	\$8,991.64
Holdrege & Kull 10/1/08 – 10/31/08 Professional Services Dated 11/3/2008	\$2,696.25

McDonough Holland & Allen PC Legal services thru 9/30 Dated 10/28/2008	\$2,284.36
Petersen Construction Progress Billing #3 Dated 10/31/2008	\$33,139.48
Petersen Construction Retention Billing (50%) Dated 10/31/2008	\$28,794.96
Petersen Construction Final Bill – (less retention) Dated 10/31/2008	\$11,160.00
Vanderwood Enterprises October Professional Services Dated 11/6/2008	\$1,600.00
Robert W. Johnson 2007/08 Audit Dated 10/9/2008	\$8,500.00
WECO Industries	<u>\$259,258.31</u>
Total	\$402,897.27

A motion was made by Oudegeest and seconded by Luscher to approve the above disbursements requiring Board approval in the amount of \$402,897.27. The motion passed unanimously on the following vote of five to zero. Ayes: Freedle, Bowles, Bern, Luscher and Oudegeest. Noes: None. Absent: None. Abstention: None.

**Financial Reports October 2008.**

The Operating Expense Budget-to-Actual for October 2008 was presented to and reviewed by the Board.

The Operating Expense Budget-to-Actual July 2008 through October 2008 was presented to and reviewed by the Board.

The 2008/09 Capital Projects Budget as of October 31, 2008 was presented to and reviewed by the Board.

The October 2008 Cash Flow Forecast was presented to and reviewed by the Board.

**ADJOURNMENT:**

A motion was made by Luscher and seconded by Oudegeest to adjourn the meeting at 7:40 p.m. The motion passed unanimously on the following vote of five to zero. Ayes: Freedle, Bowles, Bern, Luscher, and Oudegeest. Noes: None. Absent: None. Abstention: None.

---

Administrative Specialist II

**APPROVED BY:**

---

President

**Eminent Domain - alternative**

**Object:**

- Maintain health of the lakes
- Preserve water quality
- Maintain recreational aspects
- Maintain integrity of the lakes
- Maintain water flow
- Maintain ability for water storage of at least 2008 capacity

**To Accomplish Object:**

- Control of lakebed and integrity of lakebed
- Control activities on strip of land surrounding the lake from water line to individual lot property lines
- Control building of man made objects, both temporary and permanent, in lake and immediate surrounding area up to individual property lines
- Control area adjacent to dam
- Control soil removal

Royal Gorge will sell development rights to the lake, lakebed and immediate surrounding area including the area immediately surrounding the dam to the SLCWD for \$1. (Deed restrictions)

SLWCD (and successors) will be given the rights to manage the lakes, lakebed, area immediately surrounding the lakes and the dam which will include the forested areas included in those areas for:

- Maintenance
- Preservation of water quality
- Control of human activities
- Control of natural events such as erosion and eutrophication

