

SUMMERLAND SANITARY DISTRICT

2435 Wallace Avenue
Regular Board of Directors Meeting
Thursday, October 10, 2013, at 5:00 p.m.

MINUTES

THE MEETING WAS CALLED TO ORDER AT 5:00 P.M. BY PRESIDENT COLOMY.

I. ROLL CALL

DIRECTORS PRESENT: JOLENE COLOMY
BETTY FRANKLIN
JOHN FRANKLIN
MARTIN TUCKER

ABSENT: DAVID NOVIS

ALSO PRESENT: JIM McMANUS General Manager
BILL HAIR Legal Counsel
MARJON SOUZA Clerk to the Board

PUBLIC: SEE ATTACHED SIGN IN SHEET

I. APPROVAL OF THE AGENDA

Director J. Franklin made a motion to approve the agenda. The motion was seconded by Director Tucker and passed with four ayes and one absent vote.

II. APPROVAL OF THE MINUTES OF THE REGULAR BOARD MEETING AUG 8, 2013

Director Tucker moved to approve the minutes of the Board meeting. The motion was seconded by Director J. Franklin and passed with four ayes and one absent vote.

III. APPROVAL OF THE MONTHLY BILLS SEPTEMBER, 2013, INCLUDING PAYROLL AND PETTY CASH

General Manager McManus answered and clarified questions the Board asked about pay out of the bills. Director Tucker moved to approve the bills for September 2013, including payroll and petty cash, totaling \$65,473. The motion was seconded by Secretary B. Franklin and passed with four ayes and one absent vote.

IV. PUBLIC COMMENT

No

V. COMMITTEE REPORTS

A. Finance Committee Report

The committee did not meet.

B. Administration, Operations & Personnel (AOP) Committee Report

The committee did not meet.

C. Ad Hoc Committee - Review Annual Sewer Service Rates

Director J. Franklin informed the Board members that the committee met and that at the meeting community members were also present to give input. On behalf of the Ad Hoc Committee, a

recommendation was presented, which is listed on the Agenda as an action item under IX New Business -A.

Copies of the recommendation were handed out. The committee received input from Mr. Malott and some other community members that the rate structure should be based on water usage. The committee also received information from different sources like CASA, legal counsel, consultants and other sanitation agencies. The Ad Hoc Committee said that the sewage fee is based on a fixed costs and variable costs. The committee's recommendation is for no reduction of the fixed rate portion as all users must share this cost. Its recommendation is a 50% reduction in the variable rate portion only. District's fixed expenses are estimated at 75% to 85% of the total user fee. The committee's recommendation is to use the lowest fixed rate percentage of 75% in its rate reduction calculation.

Formula and recommendation: New Residential Rate for 2013-2014 is \$909.81. The 25% variable portion is then equal to \$227.24. Hence, 50% of \$227.45 = \$113.73. The new recommended per unit user fee for one bedroom apartments and smaller is \$909.81 minus \$113.73= \$769.08 per unit.

There is estimated to be approximately 112 apartment units that meet this criteria which would make the revenue loss as follows: 112 units multiplied by \$113.73 = \$12,737.76.

Public Comment:

Mr. Malott: Mr. Malott is co-owner of an apartment complex in Summerland with 30 units. He asserts that records show that water usage of this apartment complex compares to an average water usage of three single family dwellings. Last year the complex was billed \$4,000 in water usage and \$27,000 in annual sewer fee. He expressed that the annual sewer fee was disproportionately high compared to water usage. Mr. Malott expressed his appreciation to consider a rate reduction proposed by the Ad Hoc Committee; however, he felt the amount was inadequate and does not address the issue. He noted that members of the public present at the meeting want to see the issue of water usage being addressed by the Board regardless of whether the units are one or two bedroom.

Mrs. Geoff

Mrs. Geoff is owner of a duplex in Summerland and she said that the water usage of her duplex is the same as her neighbor's property who owns a two-story home. Mrs. Geoff pays for two annual user fees and the neighbor only gets charged for one. Mrs. Geoff asserted that the sewer rate has to be based on water usage and that this method is being used by many sanitation districts in the state of California.

- D. Ad Hoc Committee - Effluent Water Reclamation
The committee did not meet

IX NEW BUSINESS

A. Residential Sewer Service Charge

Board was asked to consider taking action on the Ad Hoc Committee's recommendation to establish a separate "per unit" residential sewer service charge for apartment buildings comprised of single bedroom apartments or less made earlier in its committee report to the Board. If passed, the new service charge would go into affect in fiscal year 2014-2015.

Public Comments

Mr. Smith, legal counsel for Mr. Malott: Mr. Smith said that he understood that the Ad Hoc Committee presented a reduction on variable rate for studios and one bedroom units. He asserted that this proposal compounds the problem of the District's rate structure and is not compliant with the law. Mr. Smith thanked the committee for their time and effort. However, he asserted the law states that sanitation districts have to proportion the fee structure rates on the impact that each parcel has on the system, not only on the variable rate but on the entire fee. Mr. Smith added there are owners of two bedroom apartments in the room today that expressed that their units should be included in the re-calculation.

Mr. Smith said that he did not want to threaten litigation and spend the District's resources. Yet, in his opinion, the rate structure is not set up correctly, suggesting two choices: put together a rate structure that complies with the law and allows the District to meet its budget, or the District can continue on as is, in which case legal action will be initiated. Mr. Smith said that his client in this case will ask for substantial refunds and a rate structure that he feels complies with the law. Mr. Smith said that there were several court cases that support their case. Mr. Smith said that he hopes the Board will reconstitute the committee and get a rate that works for all.

Legal Counsel Mr. Hair said that, with all due respect for Mr. Smith, the law was misstated. The law is covered by the California Constitution 13D, section 6. It does not say that the service cost has to be proportional to the burden on the system. The law says that the rate shall be proportional to the cost of providing that service and that service is the overall fixed cost and the variable cost. Mr. Hair said that the recommendation of the Ad Hoc Committee goes well beyond what the constitution requires.

Mr. Malott

Mr. Malott showed the Board members a document which was handed to him during the Ad Hoc Committee meeting. The document is a list of over two hundred sanitary districts with their user fees and how the fees are constructed. Mr. Malott pointed out the separate categories that are billed on water usage. The only solution, in his opinion, is to go from a fixed rate to a variable rate based on water usage. Mr. Malott suggested a six-step solution that he explained and gave a copy to the Clerk of the Board.

Mrs. Geoff

Mrs. Geoff said that everything that she learned about sewer charges is that it is all based on water usage and that many cities have been forced to this rate system. Mrs. Geoff said that the impact on the Summerland Sanitary District should be based on how much water/effluent you have to treat; she feels the current rate set up is unjust.

Director B. Franklin moved to accept the report and to take no further action. The motion was seconded by Director Tucker and approved with four ayes and one absent vote.

X MANAGER'S REPORT

The General Manager provided a written report on operations, facility and collection maintenance.

XI CLOSED SESSION:

Closed Session in accordance with Government Code Section 54957

Public Employee Performance Evaluation

Title: General Manager

The Board went into closed session at 5:52 p.m. and returned into open session at 6:30 PM

No action was taken during the closed session.

The AOP committee will meet with General Manager McManus on Thursday, October 17, 2013 at 8:00 a.m. to discuss his contract.

XII ITEMS FOR FUTURE CONSIDERATION BY THE BOARD

- Next Board meeting is November 14, 2013
- Closed Session: Anticipated Litigation.

VI. ADJOURNMENT

A motion to adjourn was made by Secretary B. Franklin and seconded by Director Tucker. The meeting was adjourned at 6:35 PM.

Respectfully submitted:

Betty Franklin
Board Secretary

Date: _____

Minutes prepared by M. Souza