

# WALLACE COMMUNITY SERVICES DISTRICT

P.O. Box 398 Wallace, CA 95254 209 763-2882  
REGULAR MEETING, Board of Directors

## Minutes

Thursday November 19, 2009

Mark Fusselman's Barn 9500 Wallace Lake Dr., Wallace CA 95254

### CALL TO ORDER AND ROLL CALL

The meeting was called to order at 7:00 PM by Board President Mark Fusselman. Present were directors Mark Fusselman, Charles Cantoni, Rick Guantone, William Pugh and David Reyner. Also present was General Manager and Secretary/Treasurer Reid Johnson.

### REGULAR AGENDA

#### 1. APPROVAL OF MINUTES

The board voted to approve the minutes of the Adjourned Regular Meeting of October 19, 2009 with a couple of minor corrections.

*Motion: D. Reyner*

*Second: B. Pugh*

*Passed: 5-0-0-0*

#### 2. APPROVAL OF BILLS FOR PAYMENT

After discussion and approval of a modified contract with GM Reid Johnson and a contractual agreement with Mr. Edwards (Item 6 on the Agenda), the board voted to approve payment on checks 4379-4401 for a total amount of \$16,823.79

*Motion: C. Cantoni*

*Second: R. Guantone*

*Passed: 5-0-0-0*

#### 3. PUBLIC COMMENTS

Jerry Zedlitz requested that item numbers 5, 8 and 9 on the agenda be referred to the new board to handle.

Larry Howen stated that he wanted to commend the board member for their four years of service.

Cathryn Jackson asked that we make sure to allow time to cover the General Manager's Report.

#### 3.-a. DISCUSSION WITH CAMPORA PROPANE SERVICES.

Joe Pasic, Plant Manager and Dino Moretti, General Manager for Campora attended the board meeting to speak about propane services and rates. Mr. Moretti stated that Campora has eliminated the \$10.00 first gallon charge. He stated that due to tough economic times they are trying to lower costs and be more consistent about reading meters by the fifteenth of the month, so customers bills are more consistent. He further stated that LPG wholesale costs in October were up \$0.41 per gallon, but that Campora was increasing the rate by only \$0.17 per gallon.

Various public comments were discussed, including that the assertion that LPG could be purchased at much lower prices locally. Mr Moretti suggested that such pricing is below wholesale costs.

Mr. Moretti stated that for the next billing, the LPG charge would be \$2.33 per gallon.

It was the Board's consensus that the matter should be further discussed at the next Regular meeting of the Board.

#### **4. REPORT ON MEETING WITH THE CALAVERAS COUNTY GRAND JURY COMMITTEE ON PLANNING AND THE ENVIRONMENT**

Chuck Cantoni spoke about the meeting he and GM Reid Johnson attended with the Calaveras County Grand Jury Committee on Planning and the Environment. He stated that most of the questions asked were based on several WCSD board meetings the Grand Jury members had attended prior to their meeting. Feedback from the jury members included the following.

- The Grand Jury suggested that we should have a policy on record that covers inter-fund transfers.
- They also suggested the board should find out from an insurance viewpoint about the liability involved in using the Fussleman barn for board meetings.
- The Grand Jury stated that they observed a hostile environment at the meetings they attended and wanted to know why.
- Mr. Cantoni finished by stating that we are still waiting for the Grand Jury's final report. He cautioned that his comments on the meeting represent his views only, and that the Grand Jury Report will contain the official feedback to the WCSD.

Cathryn Jackson wanted to state for the record that there was no involvement from any public member to initiate a Grand Jury investigation.

#### **5. POLICY 7065 INTERFUND TRANSFERS**

Mr. Cantoni stated that he had drafted Policy 7065 for Inter-fund Transfers in response to a suggestion at a prior board meeting from Larry Howen and then reaffirmed by the Grand Jury at the meeting he and Reid Johnson attended. Director Cantoni covered all the points of the policy and stated that the purpose of this policy is simply to track transfers. Mark Fusselman suggested that the board table this item for the new board members to handle per a request by Jerry Zedlitz. Mr. Cantoni stated he didn't understand the reluctance to adopt the policy based on the request at a prior meeting to document inter-fund transfers. Mr. Cantoni moved to adopt the policy as it is written. He also stated that his motivation to adopt this policy is so board members have a baseline to work off. Mr. Howen suggested that the board vote on the policy and when the new board members take office they can amend it as they see fit.

*Motion: C. Cantoni*

*Second: R. Guantone*

*Passed: 4-0-0-1*

#### **6. EMPLOYMENT CONTRACT- GENERAL MANAGER**

President Fusselman started by reminding everyone that when we entered into a contract with Reid Johnson, the agreement was for him to pay directly out of his pocket for the services of David Edward. An SDRMA representative had previously stated to Reid and Cantoni stated that for liability purposes, anyone employed to do work for the district should be paid directly by the

district. This conversation motivated the discussion about Reid Johnson's contract. The money paid out by the district for the service of David Edwards would be deducted from Mr. Johnson's monthly salary, resulting in no extra cost to the district, but the payment to Mr. Edwards should be made by the District. A draft modified agreement for Mr. Johnson was reviewed. The modification reflects the fact that the services of Mr. Edwards will be paid directly by the District, but deducted from Mr. Reid's compensation.

An agreement with DAE Engineering (David Edwards) was reviewed. This agreement employs Mr. Edwards as the Sewer Plant operator of record and stipulates that he will be paid directly by the District.

The agreement for David Edwards to be the operator on record for the wastewater plant with Mr. Johnson being the operator in training, is contingent on the approval of the Regional Water Quality Control Board. As yet a response has not been received from them. Mr. Cantoni said that if a response is not received soon there will be follow up.

It was also discussed that Mr. Johnson has asked John Villerimie to be a back up operator to cover for vacations or emergency purposes, with a formalized contract in place. Any pay to John Villermie would be deducted from Mr. Johnson's salary.

Bill Pugh moved to accept the agreements be approved as written and they were approved by the Board.

*Motion: B. Pugh*

*Second: R. Guantone*

*Passed: 5-0-0-0*

#### **7. CONFERENCE WITH LEGAL COUNSEL ANTICIPATED LITIGATION**

Mark Fusselman stated that WCSD was served by Robert Closson, with a Torte Claim demanding John Boyd's \$12000.00 road repair fee be returned to him. Chuck Cantoni suggested that this be postponed until the new board is sworn in. At that time they can hold a closed session with legal to determine how to resolve the matter. Mark Fusselman suggested we send correspondence to Robert Closson acknowledging the demand and that it would not be discussed at the December 4 Special Meeting of the Board.

#### **8. MOKELUMNE OAKS DEVELOPMENT (Continued from October 19, 2009)**

The request for reinstatement and extension of the Mokleumne Oaks Will-Serve Agreement by new owner Purisima Ridge Partners was reviewed and discussed. Public members expressed concern over the Agreement, in particular with respect to the lack of an LPG clause and the possible out of date annexation fee stipulated in the Agreement. Cathryn Jackson stated that the annexation had never been approved or certified by Lafco.

The item was continued to the next Regular meeting of the Board of Directors.

*Motion: D. Reyner*

*Second: M. Fusselman*

*Passed: 3-2-0-0*

#### **9. REMAINDER PARCEL DEVELOPMENT (Continued from October 19, 2009)**

The request for a five-year extension to the Remainder Parcel Will Serve Agreement by Developer Reynen & Bardis was reviewed and discussed. Director Guantone questioned the need for a five year extension and suggested that three years might be more appropriate. Members of the public questioned the need for extending the Agreement. Mr. Cantoni offered his opinion that the request deserved discussion since the developer performed as requested by the District on the previous extension, including deed-over of the wells, water plant and open space to the District.

Director Reyner moved to continue the topic to a future meeting. Motion died for lack of a second.

Upon motion made and seconded, the Board approved the extension for three years. The extension is attached as Exhibit A.

*Motion: C. Cantoni*

*Second: B. Pugh*

*Passed: 3-2-0-0*

#### **10. REPORT ON RESULTS OF SAFETY INSPECTION BY SDRMA**

Chuck Cantoni stated that he and GM Reid Johnson met with Bob Lapidus, a safety consultant from SDMRA on October 30, 2009. They went through about 35 pages of questions followed by the inspection of all WCSD properties. The session was divided between the Occupational Safety and Health Program and Liability Loss Control Program. There will be a report sent by SDMRA's Lapidus that will provide a detailed action list. Mr. Cantoni mentioned two items that need to be corrected from a safety standpoint. The first one is to install 6ft. safety railings at each side of the ladder on the ground level water tank. The second one is the safety harness on the water tower needs to be replaced.

#### **11. NEW WATER LEGISLATION JUST RELEASED BY THE CA DEPT. OF WATER**

Mr. Cantoni briefly reviewed material provide by District Engineer Gary Ghio on new California Water Legislation.

#### **12. GENERAL MANAGER'S REPORT**

GM Reid Johnson reported that the average daily water production for the month of October was 47,377 per day.

He also reported that all monthly water samples were taken and tested in accordance with the sampling plan and all test results met the drinking standards. Mr. Johnson stated that CDHP has not responded to the report on well #3 and well #2 continues to be our sole water supply. Three incidents of pink water were reported. Each time the potassium permanganate feed rate was reduced and water lines were flushed. A discussion with CDHP indicated that pink water is not a health concern because potassium permanganate is an approved chemical for treating water.

Mr. Johnson reported the average wastewater treatment was 12,343 gallons per day. Mr. Johnson stated in his report that all monthly reports for the wastewater plant were submitted with the required weekly sampling and test data.

He stated that due to the fact that the trickling filters are old and leaky we are at risk of a sanitary sewer overflow if the filters are not replaced. District Engineer Gary Ghio is working on a design for the building per authorization at the last meeting.

Mr. Johnson reported the air compressor that operates the valves controlling the flow of pumped wastewater failed due to the contacts in the pressure switch fusing together. The pressure switch was replaced and a small compressor was purchased and installed as an on-line back-up.

The wastewater plant only has one air blower, which is getting old and is a critical piece equipment. If the blower fails the aerobic bacteria that process the waste would die and the wastewater would become septic. This could cause major problems. He said that most treatment plants have redundant items of critical equipment. WCSD received a proposal from Accurate Air in June 2009 for a blower. Some modifications will be needed and a stand fabricated to mount the blower. A budget estimate should be less than \$5000.00. Mr. Johnson said he would bring a firm proposal to submit to the board for review.

GM Johnson spoke about the bids we received in October for street repair. Both companies that submitted a bid exceeded our budget and said the repairs could only be done if the temperatures were above 70 degrees. Due to these issues the district may try to seal some of the areas with driveway sealer.

Jerry Zedlitz suggested that GM Johnson form a comprehensive plan to deal with the issues at hand, so the board can make more knowledgeable decisions.

### **13. PRESIDENT'S REPORT**

President Fusselman thanked the outgoing board members for all their time and effort, with a special thanks to Chuck Cantoni. He then announced that the next meeting will be his last meeting as President of the Board. To summarize Mr. Fusselman stated that he would like to see the community come together for the best interest of all.

Chuck Cantoni thanked Mr. Fusselman for his time as President of the Board.

### **14. COMMITTEE REPORTS**

#### **a. Finance - R. Guantone/C. Cantoni**

Mr. Cantoni reviewed financial results for the period ending October 31, 2009. He concluded that revenues to date are running slightly above plan, expenses and significantly above plan due to the Well 3 repairs in July. With funding of repairs provided by the Repair & Maintenance Reserve, the operational cash flow is running very close to plan.

#### **b. Lake & Open Space - D. Reyner**

David Reyner reported that he is working on a plan of action that will cover the next 3 to 5 year time span.

#### **c. Gates & Roads - W. Pugh**

Bill Pugh stated that the laptop for programming the gate was taken to the WCSD office and will become the responsibility of the Administrative Assistant.

**15. CORRESPONDENCE**

A letter was submitted to the board in response to a request by resident Jerry McCain, asking the board to consider a reduced service rate for unoccupied residences that use little or no water.

**16. DIRECTOR'S COMMENTS**

No director's comment were made.

**17. AJOURNMENT TO SPECIAL MEETING OF DECEMBER 4, 2009**

Upon motion duly made and seconded, the board voted to adjourn the meeting to the special meeting on December 4, 2009.

*Motion: M. Fussleman*

*Second: D. Reyner*

*Passed: 4-0-0-0*

**DRAFT MINUTES**

Respectfully Submitted,

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T. Jones, Administrative Assistant

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Mark Fusselman, President

## Exhibit A

# WALLACE COMMUNITY SERVICES DISTRICT

## THIRD EXTENSION OF WILL SERVE AGREEMENT NO. 2005-1

Wallace Community Service District (the "District" or "WCSD") and Pinnacle Land Ventures, LLC a Delaware limited liability company, (the "Developer"), the successor-by-assignment of John D. Reynen, enter into on this 20<sup>th</sup> day of November, 2009 (the Effective Date) this Third Extension to Will Serve Agreement No. 2005-1, dated April 14, 2005, as first extended by Agreement dated August 14, 2008 and later extended by Agreement dated February 14, 2009, between the District and Pinnacle Land Ventures (the "First and Second Extensions").

### RECITALS

- A. On April 14, 2005 the District and John D. Reynen entered into Will Serve Agreement No. 2005-1 for approximately 155.46 acres identified as the Remainder Parcel on the Final Map of Wallace Lake Estates, Tract 434, Unit I ("Will Serve Agreement").
- B. John D. Reynen assigned the Will Serve Agreement to Reynen and Bardis Communities who in turn assigned it to Pinnacle Land Ventures, LLC.
- C. By its original terms, the Will Serve Agreement No. 2005-1 terminated on April 14, 2008
- D. The District and the Developer agreed to reinstate and extend Will Serve Agreement No. 2005-1 to expire on April 14, 2010, by signing an "Extension of Will Serve Agreement No. 2005-1," this first extension being effective August 14, 2008.
- E. The August 14, 2008 Extension of the Will Serve Agreement required developer to deed over to the District certain properties underlying District wells and its water treatment plant and the remaining portion of Wallace Lake and the dam (APN 048-061-018) within six (6) months of the signing of the Extension.
- F. The Developer notified the District that well #4, located on the Mokelumne Oaks Project, was on land that was in foreclosure by the bank, thus taking deed-over capability out of the hands of the Developer.
- G. The February 14, 2009 Extension of the Will Serve Agreement eliminated the need for Developer to deed over to the District well #4, located on the Mokelumne Oaks Project and extended the deadline for deed over of the remaining specified parcels to April 14, 2009.
- H. Developer deeded over the parcels specified in the Second Extension prior to the April 14, 2009 deadline and signed easements for access to the parcels as requested by the District. The Grant Deed and Easements have been recorded with the County of Calaveras.
- I. The current state of the housing market in Calaveras County and the County's request for

focused EIR's on water and the California Tiger Salamander habitat preclude starting development by the Developer within the original deadline of April 14, 2010.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Extension, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, District and Developer hereby amend the Agreement, Extension of August 14, 2008 and Extension of February 14, 2009 in accordance with the terms of this Third Extension.

The parties agree to modify the First Extension Agreement as follows:

The parties agree to extend Will Serve Agreement No. 2005-1 until midnight April 14, 2013.

IN WITNESS WHEREOF, the Parties hereto have executed this Third Extension to Will Serve Agreement No. 2005-1 as of the Effective Date stated above.

WALLACE COMMUNITY SERVICES DISTRICT

By: \_\_\_\_\_

Name: Mark Fusselman, President

Pinnacle Land Ventures, LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_