

LAKE ARROWHEAD COMMUNITY SERVICES DISTRICT
MINUTES OF REGULAR MEETING OF THE BOARD OF
DIRECTORS

DATE: June 23, 2020

TIME: 5:30 p.m.

PLACE: Via Teleconference
(872) 240-3212 Access Code 769-260-485
<https://global.gotomeeting.com/join/769260485>

ATTENDANCE: ***Board Members Present:***
Vice President Boydston
Ryan Gross, Director
Steve Keefe, Director, joined at 5:41 p.m.
Robert Morris, Director, joined at 5:38 p.m.
John Wurm, President

Board Members Absent:
None

Others Present:
Catherine Cerri, General Manager
Joseph Byrne, General Counsel
Lindsay Puckett, Special Counsel
Glen Price, Special Counsel
Mike Blackwood, Field Operations Manager
Matt Brooks, Operations Manager
Kathleen Field, Board Secretary
Aida Hercules-Dodaro, District Engineer
John O'Brien, Finance Manager
Natalie Potter, Human Resources Manager
Scott Schroder, Engineering Technician
Mike Whatley, SunPower
Members of the Public – 7

The Meeting was called to Order at 5:30 p.m. by John Wurm, President. Ms. Potter certified the proper posting of the Agenda, and Ms. Field called the roll.

APPROVAL OF AGENDA

The Board by general consensus approved the June 23, 2020 Regular Board Meeting agenda as presented.

PUBLIC COMMENT

No written public comments were received for the Public Comment section of the agenda.

CONSENT CALENDAR

Listed on the Consent Calendar were the following items for approval:

1. Approval of Meeting Minutes.

May 26, 2020 Regular Board Meeting Minutes

2. Consider Accepting the Construction of the Wildrose Circle Sewer Replacement Project No 215.

3. Consider Adopting Resolution No. 2020-03 Establishing Appropriations Limit for Fiscal Year 2020-21.

4. Consider Adoption of Resolution No. 2020-07 Approving an Exemption Under the California Environmental Quality Act for an Increase in the Supplemental Water Buy-In Capacity Fee for Residential, Commercial, and Institutional Customers for the Fiscal Year 2020-21; Approving the Capacity Fee and Directing Staff to File a Notice of Exemption.

Vice President Boydston **MOVED** and President Wurm **SECONDED** to approve Consent Calendar Items 1- 4 as presented.

Ms. Field took a roll call vote as follows:

CARRIED: **AYES:** **Boydston Gross, and Wurm**
 NOES: **None**
 ABSTAIN: **None**
 ABSENT: **Keefe, Morris**

INFORMATION AND DISCUSSION ITEMS

5. Departmental Reports.

- a. **District Engineer's Report – Update on the District Corporation Yard, Project No. 177**
- b. **Operations Manager's Report**

There were no questions or comments on the Departmental Reports distributed in the agenda packet.

6. General Manager's Report.

There were no questions or comments on the General Manager's Report that was distributed in the agenda packet.

ACTION ITEMS

7. **Public Hearing to Consider Adopting Resolution No. 2020-04 Determining that there is No Feasible Alternative to the Hesperia Farms Solar Photovoltaic Proposal, Rendering City of Hesperia Zoning Ordinances Inapplicable Pursuant to Government Code section 53096.**

Ms. Cerri announced that Director Morris was having difficulty logging in, and Director Keefe would be joining late. Director Keefe announced his arrival at approximately 5:41 p.m.

- a) President Wurm opened the Public Hearing at approximately 5:44 p.m.
- b) Mr. Byrne made a statement as to the proper notification of the Public Hearing.
- c) Mr. Byrne made a statement as to the purpose of the Public Hearing.
- d) Ms. Cerri reported that during the last ten years, the District investigated various energy alternatives due to the high cost of electricity and the District would like to take advantage of the RES-BCT Program. The District percolates approximately 1000 acre feet of treated water per year into the Mojave River groundwater basin at the 350 acre Hesperia Farms Property percolation facility, which was the location that the District was proposing to install the five-acre project. As part of the search for potential energy generating facilities, multiple options in technologies had been researched to determine the feasibility of wind technology at the Grass Valley Wastewater

Treatment Plant and the Hesperia Farm as well as various locations for solar. The District also sought additional advice from two consultants to determine alternative solutions. Ms. Cerri referred to the consultant reports in the agenda packet, adding that the two reports concluded that the Hesperia location had the highest return. She went over the potential cost savings of the project; the reduction of the carbon footprint as well as enabling the State to meet its energy goals. Ms. Cerri stated that the District used the government code to render the project exempt from the City Ordinances. The action was supported by the Court of Appeals as long as there was no feasible alternative to what was proposed. The District did an exhaustive analysis to confidently make the assertion as documented in the report. The District made changes to comply with the City of Hesperia Ordinances by moving the location of the solar panels 660 feet from the roadway and adjoining property borders. The only thing not compliant was the zoning of the land.

- e) President Wurm acknowledged that the District received a letter from Richard Borchert, the Principal Planner from the City of Hesperia. Ms. Field stated that the District received written public comment on Agenda Item 7 from the City of Hesperia at 3:44 p.m. that day. A copy of the comment letter was made available to the public on the District's website, and copies were provided to the Board. Ms. Cerri reiterated that the Board members should have received a copy of the letter from the Principal Planner from the City of Hesperia received at 3:44 p.m. that day. In response to the written comment, Ms. Cerri read into the record the following response.

The letter does not raise any new legal or factual issues that have not been previously addressed in response to the City's prior legal challenge to the project or in the Report presented to you today regarding alternatives to the Hesperia Farms Solar Photovoltaic Proposal.

First, Government Code section 53096 states that the determination there is no feasible alternative to the Proposal "may" be made at the time the agency adopts the CEQA document. Here, the District already adopted an Addendum to the Mitigated Negative Declaration and approved the solar project in August 2017. No further action under CEQA is required. The project approved in August 2017 has not changed. The CEQA document was not at issue in the litigation brought by Hesperia. The appellate court only looked to CEQA, by analogy, in assessing the adequacy of an alternative's analysis performed under section 53096, given that the definition of "feasible" in both statutes is the same.

Second, in response to the City's inquiry regarding the applicability of the RES-BCT Program to the solar project site at Hesperia Farms, the project meets the requirements of Southern California Edison's Schedule RES-BCT, which governs the Program. The Schedule requires that the generating and

billing accounts be located within the geographical boundary of the agency and that the project be located on property that is owned, operated and under control of the agency. The Local Agency Formation Commission has recognized that LACSD's sphere of influence includes the Hesperia property. The sphere of influence of an agency is a recognized geographical boundary. Nothing more is required. Further, the Hesperia Farms Property is owned, operated, and controlled by LACSD.

In response to a question posed, Mr. Byrne stated that the letter was reviewed by Best, Best & Krieger, and the letter had no merit. Ms. Field stated that there were no other written comments received.

- f) Public Comment was heard from Noel Siena, who stated that he had a property that connected to the site, and he posed a series of questions regarding the location of the project, size of the project, and if it was a sewer treatment project. Mr. Siena expressed concern that the project location was too close to residential properties and asked to move the project to the north away from the residential properties. President Wurm and Ms. Cerri responded to the questions. There were no other public comments, and President Wurm closed the Public Hearing at 6:03 p.m.
- g) Vice President Boydston commented on Mr. Siena's question regarding the location of the solar project stating that the project was approximately two-foot ball fields away and would not block views from Mr. Siena's property. Vice President Boydston reiterated the District's efforts and remarked that the District was in the position to save the ratepayers money. President Wurm stated that he reviewed the packet of materials provided and available online. He noted, the proposed project was five acres out of 350 acres, a small percentage of the total area. He looked very closely at the opinion by the Court of Appeals and their direction that there was no feasible alternative to the solar project. He cited that feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors. He felt the District met all the requirements. President Wurm went over the District's efforts on the search for alternative site locations, energy alternatives and talked about the high cost of electricity. President Wurm stated that the District complied with the City Ordinance by moving the project site 660 feet to the north. President Wurm stated that the environmental factors for the project to be successful were; the site had to be flat, clear, stable soil, and located near electrical distribution lines; pointing out that the mountains were subject to snow, fog, and clouds. In his opinion, this was the only feasible alternative for the District to build a solar facility.

Following Board consideration, Vice President Boydston **MOVED** and Director Keefe

SECONDED to adopt Resolution No. 2020-04 Determining that there is no Feasible Alternative to the Hesperia Farms Solar Photovoltaic Proposal, Rendering City of Hesperia Zoning Ordinances Inapplicable Pursuant to Government Code Section 53096.

Ms. Field took a roll call vote, and Mr. Byrne called for Director Morris's vote as noted below.

CARRIED: **AYES:** **Boydston, Gross, Keefe, Morris, and Wurm**
NOES: **None**
ABSTAIN: **None**
ABSENT: **None**

Director Morris stated that he was trying to comment on Item 7 but could not be heard. Mr. Byrne said because Director Morris was trying to connect, but unable to, his vote would be registered for Item 7. Director Morris stated that he would like to comment first. Director Morris commented that it appeared that the District in accordance with the current State of California law, as well as the appellate court ruling of the definition of feasible and all of the available solar sites that the District would have, that it appeared the best and most important thing the District could do based on the high usage of electricity is to move forward with the project. Director Morris added that the District has a duty to the ratepayers to provide the solar site and voted yes. Mr. Byrne noted for the record Director Morris's comments and the vote goes back to Item 7, which showed a unanimous approval.

8. Consider Adopting Resolution No. 2020-05 Approving the Budget for Fiscal Years 2020-21 and 2021-22.

There were no questions, comments or discussion on Item 8 to consider adopting Resolution No. 2020-05 approving the Budget for Fiscal Years 2020-21 and 2021-22.

Following Board consideration, Vice President Boydston **MOVED** and Director Gross **SECONDED** to adopt Resolution No. 2020-05 Approving the Budget for Fiscal Years 2020-21 and 2021-22.

Ms. Field took a roll call vote as follows:

CARRIED: **AYES:** **Boydston, Gross, Keefe, Morris, and Wurm**
NOES: **None**
ABSTAIN: **None**
ABSENT: **None**

9. Public Hearing and Consideration to Adopt Resolution No. 2020-06 Adopting the Report of the Annual Wastewater Service (Sewer) Fees and Directing the General Manager to File Said Report with the San Bernardino County Auditor-Controller/Treasurer/Tax Collector and Request the Auditor-Controller/Treasurer/Tax Collector Place the Fiscal Year 2020-21 Wastewater Service (Sewer) Fees on the Tax Roll.

- a) President Wurm opened the Public Hearing at 6:19 p.m.
- b) Ms. Field made a statement as to the proper notification of the Public Hearing.
- c) Ms. Field made a statement as to the purpose of the Public Hearing.
- d) Mr. O'Brien stated that there are portions of the District that receive only wastewater services. Mr. O'Brien explained that because the rate was a monthly fixed rate, the District found that it saved time, money, and made collections more efficient when the fees were placed on the County tax roll. In December 2015, the Board approved a resolution establishing the fees through 2020. Effective January 1, 2020, the rate increased \$1.87 per month for a monthly charge of \$55.40 per month or \$664.80 per year. Because the increase became effective January 1, 2020, it was not included on the 2019/2020 tax roll and would be added to the upcoming 2020/2021 tax roll. Including the six months of service fee increase from 2019/2020 tax year, the total to be placed on the tax roll will be \$676.02. Approval of this item would approve Resolution 2020-06 authorizing the General Manager's Report calculating the Fee to be filed with the County Auditor and request placement of the Fee on the County tax roll for the fiscal year 2020-21.
- e) Public comment was heard from Ms. Baum asking if there were medical exemptions available. Ms. Cerri and Mr. Wurm responded to the questions. Director Gross commented that there were organizations that might be able to assist, and the information could be provided to her. President Wurm and Mr. O'Brien responded to a question regarding why this item was being proposed. Director Keefe pointed out that this is something the District has been doing for years and not anything new.
- f) There was no Board member discussion.
- g) President Wurm closed the Public Hearing at 6:31 p.m.
- h) There were no Board member comments.

Following Board consideration, Director Gross **MOVED** and Vice President Boydston **SECONDED** to adopt Resolution No. 2020-06 Adopting the Report of the Annual Wastewater Service (Sewer) Fees and Directing the General Manager to File Said Report with the San Bernardino County Auditor- Controller/Treasurer/Tax Collector and Request the Auditor-Controller/Treasurer/Tax Collector Place the Fiscal Year 2020-21 Wastewater Service (Sewer) Fees on the Tax Roll.

Ms. Field took a roll call vote as follows:

<u>CARRIED:</u>	AYES:	Boydston, Gross, Keefe, Morris, and Wurm
	NOES:	None
	ABSTAIN:	None
	ABSENT:	None

10. Consider Voting to Elect a Representative to the California Special Districts Association Board of Directors Seat C.

Ms. Cerri reported that the District is a voting member of the California Special Districts Association, and there were four candidates; however, she did not have any recommendations. The Board took no action on Item 10.

BOARD MEMBER MEETINGS

No Board members requested to attend any meeting.

BOARD MEMBER COMMENTS

There were no Board Member comments.

CLOSED SESSION

The Board, Mr. Byrne, and Ms. Cerri went into Closed Session at 6:34 p.m. to discuss items 1 - 2.

1. Conference with Labor Negotiators.

Pursuant to Government Section 54957.6

Agency Designated Representatives: Catherine Cerri, General Manager, and Joseph Byrne, General Counsel
Utility Workers' Union of America Local 557

2. Conference with Legal Counsel – Anticipated Litigation.

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: One Case

OPEN SESSION

President Wurm announced at approximately 7:20 p.m. that there were no reportable actions taken in the Closed Session.

ADJOURNMENT

The Meeting adjourned at approximately 7:21 p.m.

Kathleen Field, Board Secretary

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