

RANCHO MURIETA COMMUNITY SERVICES DISTRICT

Special Board of Directors Meeting

MINUTES

April 26, 2013

2:00 p.m. Open Session

President Pasek welcomed everyone and stated the purpose of the meeting is to educate everyone on what the present day technology improvements for water plants look like and what it entails to get there. This is not a decision making meeting.

President Pasek commented on comments made on Ranchomurieta.com regarding his personal involvement. President Pasek stated Mr. Sullivan wanted move forward on his development projects and since it all ties into the water plant, President Pasek told Mr. Sullivan he needs to figure out an innovative approach to getting the water plant expanded and a way to finance it.

1. CALL TO ORDER/ROLL CALL

President Gerald Pasek called the regular meeting of the Board of Directors of Rancho Murieta Community Services District to order at 2:00 p.m. in the District meeting room, 15160 Jackson Road, Rancho Murieta. Directors present were Gerald Pasek, Roberta Belton, Betty Ferraro, Paul Gumbinger, and Michael Martel. Also present were Edward R. Crouse, General Manager; Darlene Gillum, Director of Administration; Greg Remson, Security Chief; Paul Siebensohn, Director of Field Operations; and Suzanne Lindenfeld, District Secretary.

2. ADOPT AGENDA

Motion/Gumbinger to adopt the agenda. **Second/Ferraro**. **Ayes: Pasek, Belton, Ferraro, Gumbinger, and Martel. Noes: None.**

Director Belton asked that since the design-build option has been ruled out can the meeting can be shortened or does the District plan to give every bidder the same 2 ½ hour presentation time?

President Pasek stated that it is not a 2 ½ hour presentation; it is a highlight of what Mr. Sullivan is talking about. Meeting with each of the bidders is part of the process and the Board will have to decide if they want that to occur.

Director Ferraro stated that she moves that the Board continue with the agenda.

3. COMMENTS FROM THE PUBLIC

Janis Eckard stated that there should be no building, including the hotel, before the developers pay up front for the water treatment plant expansion, in accordance with the Murieta Gardens county map approval conditions. Ms. Eckard asked the Board to not make any decision until the results from the recent California Public Health Department (CPHD) inspection is received.

Lou Lopez, Lot 66, stated he agrees with Ms. Eckard and feels the community does not need a hotel, but if water is needed for a hotel then they should pay for it.

Mo Chaudhry commented on his 39 years of experience within the water industry and stated if he can be of some help, he would like to get involved in this process. Mr. Chaudhry stated that he will be attending more meetings.

a. History of Water Treatment Plant 1 and Lack of Capacity for Long Term Community Progress

Ed Crouse gave a brief summary of the history of Water Treatment Plant 1, which was built by Pension Trust Fund (PTF) in 1975. In 1997, the plant filters were upgraded to be in compliance with the new regulations from California Department of Public Health (CDPH). This plant has been operating since 1975 at an efficient level. The District recognizes the useful life of the plant at 40 years. It is the District's intent to rehabilitate the plant in 2015, at a cost of about \$1.5 million.

In 2010, District recognized that it would have to spend about \$1.5 million out of reserves and decided to start increasing rates over time in order to generate sufficient reserves so if the District has to borrow money there would not be a big rate increase. Since 2010, the plan was to increase our rates about \$0.75 a month for the next five (5) years which would cover the reserve replacement amounts.

ID#1 built Water Plant #2. Water Plant #3 which is required for Rancho Murieta South, was indentified in CFD #1 that was formed in early 1990's to provide infrastructure for the residents of the South. That has been deferred at the request of the developers since the early 1990s.

Director Martel commented on documents he read which required that the third phase be built when a certain amount of houses has been reached on the South. Director Martel also commented on a letter, from 1991, in which Winncrest asked the District to not go forward with the expansion at that time, even though it was a requirement by the County.

Ed Crouse stated that the County Ordinance does state that the District is supposed to expand the plant but it also has the inference that says unless determined by the District that sufficient capacity is available. So, while the plan is to expand the plant, the District has been able to accommodate the additional units within the existing capacity.

Director Martel stated he wants to find out where the extra capacity came from, where it went, and who paid for it.

Ed Crouse stated that in 2010 the District undertook an Integrated Water Master Plan (IWMP) update. The IWMP planned for the MBA density, which the District considers roughly 4,350 residential units both North and South. In the early 1970s, a master plan was adopted by Sacramento County that envisioned 189 Murieta Village lots plus 5,000 residential lots. In 1986, that was reduced to roughly 4,700 homes. But now, due to the MBA, that number is now roughly 4,300 to 4,400 units.

The Board took a break at 2:24 p.m. and returned at 2:29 p.m.

Dick Brandt commented on his participation in forming the District, being a member of the Board from 1982 to 1990, and from April 1993 to 2006, was general counsel for the District. Mr. Brandt

stated he is no longer a practicing attorney but has been working with Mr. Sullivan regarding financing issues and believes the water being passed out has been borrowed, temporarily, from the entitlements that were issued pursuant to the Acquisition and Services Agreement in 1986.

Director Ferraro asked who was doing the borrowing. Mr. Brandt stated the Murieta South developers borrowed it from the owners of property located on the North and from Murieta Gardens. Mr. Brandt stated that Murieta Gardens has actually paid an assessment of over \$1.3 million.

Director Belton stated that over the course of time that Mr. Brandt was on the Board and then as acting legal counsel, he accumulated a significant amount of confidential information that puts him in a position of severe conflict of interest.

Mr. Brandt stated he is talking about public financing and all that information is available to the public. Mr. Brandt commented on the \$20 million worth of bonds for the South in 1990. In order to issue the bonds, the District had to prove the property was of sufficient value. When the appraisal came in October of 1990, it was adequate to support only \$12 million in bonds, of which only \$9 million was going to be available for facilities. There was \$15 million in hard costs required to build the facilities needed, leaving a \$6 million shortfall which is the reason for the Reimbursement and Shortfall Agreement. The appraisal had a specific condition that it would have the value sufficient to support only if there was a guarantee that all facilities would be built, which is where the letter of credit comes in. Mr. Brandt stated that the District should call that letter of credit, exercise all of its contract rights under the Reimbursement and Shortfall Agreement before spending any of the District's own money.

Director Ferraro stated that she wanted to be sure the people in the audience understand that the initial proposal from Mr. Sullivan presented is now null and void and a new proposal put before us.

b. Why Membranes for Water Treatment Plant and Expandability with this Approach? Why Now?

Ed Crouse stated that the water treatment plant uses 1970-1980 technology, a sand filter system. In 2003, our engineer, HDR, did a study and determined that a submerged membrane system would work best for our treatment plant. This would involve removing the sand filter system from existing Plant #1 and putting in a submerged membrane system. Staff recently contacted HDR to see if that technology is still appropriate and if there are any upgrades to that technology. Rich Stratton, HDR, submitted a letter saying that the submersible membrane treatment plant upgrade is still appropriate for Rancho Murieta and that there are several newer generations of the membrane itself.

c. Public Works contracting Methods/Design Build Limitations/Alternative Contracting Methods

Jonathan Hobbs, General Counsel for the District, commented on the concept of a design – build proposal to upgrade the water treatment plant. A design build proposal is where the District would bid to a team of professionals and contractors, to try to develop and build the plant. Mr. Hobbs has researched and analyzed it with Mr. Sullivan's attorney, Greg Dyer, and both have come to the same conclusion that the process is not available to the District.

One option available to the District is the design bid, build, which is when a professional engineer is hired to come up with the project and plans. The plans and specifications are then put out to bid and awarded to the lowest bidder. The District can choose not to award the contract, to reject all the bids and re-bid, or they can not to go forward with the project. Putting a project out to bid does not require the District to award the project to anyone.

Another option is a construction manager at risk (CM at risk). This means the District would hire a construction manager who would give a guaranteed minimum price for the project and then bid the individual trades and assign the contracts to the construction manager to then manage the project and guarantee that it would not exceed the minimum price. One concern with this concept is that the construction manager guarantees a minimum price and then puts pressure upon his/her subcontractors to make sure that the price given is met, and quality of the project can suffer.

Mr. Hobbs recommends using the design, bid, build process.

Director Martel asked what the low bid price was when the District went out to bid in 2004. Ed Crouse stated that in 2003, Richard Stratton, from HDR designed a new plant for the District for full build out. The District had a letter of credit for Rancho Murieta South and a verbal commitment from Pension Trust Fund (PTF). HDR designed the plans and specs which were then put out to bid, and at the third (3rd) week into the bidding process, PTF would not commit to the funding so the District withdrew the request for bids. No bids were received or opened. In 2005, the District updated the plans, got an engineer's estimate of about \$8 million. It was not put out to bid at that time.

d. Presentation and Discussion of Financing Mechanisms and Water Treatment Contracting Methods

Jonathan Hobbs explained how the letter of credit works. Under the Reimbursement and Shortfall Agreement entered into in 1991 and extended out to 2031, a letter of credit was posted and there is currently about \$4.2 million available on it.

It is a valid letter of credit and can be drawn upon, subject to certain conditions being met. Costs are billed to the District and then a demand is made upon the developer, the developer can then pay that demand or not. If they do not pay the demand, the District can then draw on the letter of credit. The requirements of the letter of credit need to be met so the District is not in breach of any agreement.

Greg Dyer, who represents Cosumnes River Land, asked if the bill for HDR in 2003 and 2005 submitted to Reynen & Bardis for reimbursement. Ed Crouse stated that it was and they paid it out of pocket and the letter of credit was reduced accordingly. Of the original \$6.6 million, Reynen & Bardis spent \$2.4 million, which leaves the remaining amount of the letter of credit at \$4.2 million.

Bob Kjome, Roebbelen Contracting, Inc. stated that his company has worked on over 100 CM at risk projects for public agencies, including special districts. When projects are broken into multiple prime trade contracts, each contract is publicly bid through the public works bidding process and opened with bid bonds and those contracts are then assigned to the construction manager for the

purpose of administration of the contract only. His experience in CM at risk is a viable approach that has been proven successful over time.

Mr. Hobbs stated that Jeff Small of Capital PFG is here to give a presentation on ways to finance the rehabilitation and expansion of the treatment plant. Director Martel asked if the company works for Mr. Hobbs's firm. Mr. Hobbs stated no, he does not work for his firm. Director Martel then asked if his firm hired him. Mr. Hobbs said no, public agencies do.

Jeff Small, Managing Partner, and Cathy Dominico, of Capital Public Finance Group, gave a presentation on ways to finance the rehabilitation and expansion of the water treatment plant. Areas covered included: identification of funding needs, revenue sources, financing options and moving forward. The steps to funding the project include development of a financial plan, implementation of revenue sources and implementation of financing mechanism. Mr. Small recommended the District first develop a financial plan before going any further with financing the project.

Carl Gaither, lot 441, commented on how confusing this workshop has been and asked if Mr. Sullivan's projects were eliminated, would the treatment plant as is right now have to be overhauled. Ed Crouse stated that the treatment plant is reaching its useful life. Mr. Gaither asked if the technology needs to be changed with the new development coming in. Mr. Crouse said no but since there are continual regulatory environment changes, the membrane technology is the better way to go for the future.

Director Martel commented on how confusing it can be when trying to reconcile all the documents/information.

Greg Dyer commented on his belief that Murieta Gardens has already paid for the water.

John Merchant asked if an invoice for upgrading the water plant to a membrane system can it be submitted for payment against the letter of credit. Mr. Hobbs stated that the costs need to be incurred as a result of the upgrades. Ed Crouse clarified that the letter of credit is a guarantee of payment for new construction of any facility that benefits the South.

Director Belton stated that a revenue bond does not need to go to a vote of the electorate and suggested an advisory vote to get the public's input.

Director Martel commented on how people that own property believe they have certain entitlements and how much money the District will have to spend defending things that are not documented properly.

Mo Chaudhry commented on the need for an outreach plan to keep the community informed of what is going on; the meeting is confusing, too much information at one time; and the District needs to develop a business plan for the project. Director Ferraro stated she hopes this will go to the Communications & Technology Committee to develop the outreach.

John Meehan stated that the District needs to look at doing phase development. President Pasek agreed and stated that is what the membrane technology allows for.

Bill Geyer commented on his feeling that the hotel is needed and is willing to work with the District and Mr. Sullivan regarding this issue.

The Board took a break at 4:21 p.m. and returned at 4:28 p.m.

e. Cosumnes River Land, LLC/John Sullivan's Conceptual Approach for Water Treatment Plant 1 and Water Service to Hotel

John Sullivan stated that he brought his design build team: Bob Kjome of Roebbelen, a former Board member; Josh Twist and his dad of TNT Industrial, a general engineering contractor; Dean Boom who handles the GE representative for this area; and Rich Stratton of HDR who has worked with the District in the past.

Rich Stratton gave a brief overview of the GE system. Mr. Stratton stated that Water Treatment Plant 1 will need to be shut down during construction and that water capacity will need to be made up elsewhere. When HDR did the plant design back in 2003 and update to the plans in 2005, a CEQA exception was completed, so little to no CEQA work should be needed.

f. Cosumnes River Land, LLC/John Sullivan's Management Approach – Team Qualifications

Qualifications in the packet – not discussed.

g. Cosumnes River Land, LLC/John Sullivan's Contractual Approach, Role of the District, GE Capital Lease

Greg Dyer commented on the negotiations between Cosumnes River Land, LLC and the District over the last several months. Mr. Dyer stated that it is their contention that the Murieta Gardens project has already paid their fair share and requests that, to avoid litigation, the Board reach an agreement at the May 15, 2013 Board meeting regarding issuing will serve letters so the project can proceed. Cosumnes River Land is willing to pay \$175,000 to HDR to continue working on the water treatment plant plans.

Janis Eckard asked that the Board not make any decision until the CDPH inspection report is received.

Steve Murphy commented on the letter of credit and stated that the District needs to correct the past mistakes and go forward.

Ted Hart commented on the lack of attendance at regular Board meetings, the District has been very transparent in discussing this issue, and feels that the District needs to move quickly.

Mo Chaudhry commented on the need for more information and the need to have the community on board with the project before a decision can be made.

Janis Eckard agreed with Mr. Chaudhry and requested that the Board not compromise the community.

Director Martel commented on his wanting information on who does and doesn't have water, televising Board meetings, and County documents stating that the water treatment plant needs to be up and running before any development plans can be approved. Director Martel stated that he would like to have someone come in and look at the District's books.

h. The Way Forward – Next Steps and Directions to Staff

President Pasek stated that the next steps should be to 1) proceed with updating the design documents, 2) work with Cosumnes River Land, LLC in reaching an agreement, 3) and develop a financial plan.

Jonathan Hobbs stated that the District is not in agreement with Cosumnes River Land, LLC's claim that they have already paid for their water entitlements.

Staff direction for the May Board meeting are to work on agreement with Cosumnes River Land, LLC, on the will serves and to work with HDR on their redesign proposal to include evaluation of alternative capacity scenarios.

Ken Kosh commented on how the District needs to start with today and go forward, not keep bringing up the past.

Julie Samms commented on verifying the terms of the letter of credit, that the building of Plant 3 was deferred for a reason, contract manager at risk, use of the membrane technology, and requested the Board wait to make any decision until the CDPH annual report is received.

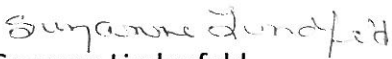
5. COMMENTS/SUGGESTIONS – BOARD MEMBERS AND STAFF

None.

6. ADJOURNMENT

Motion/Gumbinger to adjourn at 5:54 p.m. **Second/Belton. Ayes: Pasek, Belton, Ferraro, Gumbinger, and Martel. Noes: None.**

Respectfully submitted,


Suzanne Lindenfeld
District Secretary