

MENDOCINO CITY COMMUNITY SERVICES DISTRICT

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Minutes of February 23, 2009

Regular meeting was called to order at 7:00 p.m. in the business office at the Wastewater Treatment Plant. Present were Directors Ball, Kraynek, Dill, Schwartz and O'Brien. Also present were Superintendent Mike Kelley and Secretary Jodi Mitchell. Attorney James Jackson was also present.

1. Approval of Minutes

Minutes of January 12, 2009 – Plant Operations Committee Meeting

The Plant Operations Committee Meeting minutes were provided to the Board.

Minutes of January 21, 2009

MOTION Dill/Kraynek: To approve the minutes of January 21, 2009, as presented.

ROLL CALL VOTE: AYES: Directors Ball, Kraynek, Dill, Schwartz and
O'Brien

NOES: None

ABSENT: None

Minutes of January 26, 2009

MOTION Schwartz/Kraynek: To accept the minutes of January 26, 2009.

ROLL CALL VOTE: AYES: Directors Ball, Kraynek, Dill, Schwartz and
O'Brien

NOES: None

ABSENT: None

Minutes of February 6, 2009 – Special Meeting

MOTION Schwartz/Ball: To accept the minutes of February 6, 2009.

ROLL CALL VOTE: AYES: Directors Ball, Kraynek, Dill, Schwartz and
O'Brien

NOES: None

ABSENT: None

2. Communications

Secretary Mitchell reminded all Board members to complete their Statement of Economic Interest Form 700 and return them to the Mendocino County Clerk-Recorder no later than Wednesday, April 1, 2009, and she offered to assist Board members in returning the information in a timely manner.

3. Public Comment

Resulting from a concern raised at the last meeting under public comment, Director O'Brien noted that if a question were posed to the Board, under public comment, the Board would do their best to answer the question or concern. The Board understood that the Brown Act allowed the public to raise an issue or a problem, but it also limited the Board from taking any action on an item not on the agenda. The Board's position was that they would respond to a concern raised to the best of their ability, without violating the Brown Act requirements.

4. New Business

a. Memorandum of Agreement between the Mendocino County and the Mendocino City Community Services District regarding the Development of an Interagency Data Management System and Permit Notification Procedures

Superintendent Kelley provided a draft Memorandum of Agreement (MOA) between Mendocino County and the MCCSD regarding the development of an interagency data management system and permit notification procedures. The purpose of the agreement was to set forth the role and responsibilities of each party in the development, implementation, and updating of a data management system to accurately track land use within the MCCSD boundary and for development of pending or approved user permit notification procedures between agencies. The County Planning and Building Services would be asking MCCSD to implement a slightly modified spreadsheet for record keeping, share use records with the Planning and Building Services and the Treasurer-Tax Collector once every year or two years, and coordinate use definitions to assure the agencies have compatible language. The County would agree to notify MCCSD prior to issuance of a building permit, use permit, coastal development permit, well permit, and no permits would be issued until notification was provided by the MCCSD that the applicant had met all MCCSD requirements. The County would also notify the MCCSD following issuance of a Certificate of Transient Occupancy and provide an annual Transient Occupancy Report with information regarding the annual bed tax paid, and also, be provided with a quarterly update from Code Enforcement as to the status of non-permitted use investigations within the District.

Rick Miller, Senior Planner, thought that in general the MOA was fine; however, noted two issues that needed the Board's consideration. The County was not permitted to give out the level of transient occupancy tax detail, which was specified in the document per business and professions code 16110, which addressed confidentiality issues. They would be happy to simply tell MCCSD if a parcel was paying Transient Occupancy Taxes, or not. Also, the County was reluctant to be responsible for creating an "update" or report on a "regular" basis. Their department would require further discussion of what level of commitment they could get from their code enforcement officer.

Based on the County's suggestions, Section B, bullet point four, was changed to read that the County Treasurer Tax Collector shall notify the MCCSD within 30 days of issuance or abandonment of a Certificate of Transient Occupancy. Also, the District would not ask for the annual permit fee paid or the annual amount of bed tax paid, only whether the permit was active or not.

Barbara Reed, District resident and property owner, noted that the Agreement should be more specific regarding the County Department that would be providing the information to the District. Wendy Roberts, property owner, agreed and suggested that the Agreement should specifically name the individual at the County level who would be responsible for providing the information to the District. Based on her negative experience between the two agencies when she applied for a County Permit, she further suggested that the District should require that the Planning and Building Department provide MCCSD's requirements for sewer and Groundwater Extraction Permits to all County Permit applicants at the time they apply for a County Permit,. Attorney Jackson suggested that the District should not personalize a responsible party within this document, but rather add a bullet point that the specific County office would provide an information packet to the County applicant regarding the District's requirements and also suggested that document should be executed by the Mendocino County CEO and by all Department Heads.

MOTION Kraynek/Dill: To approve the concept of the Memorandum of Agreement, subject to the provisions as discussed. Staff was directed to re-submit the MOA to the County for their execution.

ROLL CALL VOTE: AYES: Directors Ball, Kraynek, Dill, Schwartz and O'Brien
NOES: None
ABSENT: None

b. Board Review and Approval of Auditing Services for the years ended June 30, 2009, 2010 and 2011 as provided by Wendy Boise, CPA

Wendy Boise, CPA, provided a proposal for the Board's review for her continuing auditing services for the years ended June 30, 2009, 2010 and 2011. The Board reviewed the proposal and noted there was a \$700 increase in the annual fee. Director Kraynek indicated that since he had been on the Board, Wendy had provided the Board with an outside look at all aspects of the District, and she had moved the Board in a positive direction of setting aside funds for equipment and replacement costs for the aged treatment plant. Director Kraynek also noted that Wendy's costs were very fair for the excellent service she provided. Director O'Brien explained that the County of Mendocino used to perform the District's audits, but a number of years ago, they quit providing that service, and special districts were forced to solicit their own CPA for auditing purposes. The Board was happy with Wendy Boise's auditing services.

Nancy Kleiber, Grand Jury Member, asked if the District was required to solicit bids for other auditing proposals. The District's legal counsel responded that the District was not required to go out to bid, and the proposal was a continuation of current auditing services.

Jovan Jelic, retired Board member, expressed complete satisfaction with Wendy Boise's Services for the District, and he was supportive of the Boards acceptance of her proposal for continuing auditing services.

MOTION Schwartz/Dill: To accept the proposal as submitted by Wendy Boise, CPA for Service through June 2011.

ROLL CALL VOTE: AYES: Directors Ball, Kraynek, Dill, Schwartz and O'Brien
NOES: None
ABSENT: None

c. Authorize Expenses for Superintendent Kelley to attend the 2009 Funding Fair by the California Financing Coordinating Committee

Superintendent Kelley requested approval to attend the 2009 Funding Fair on March 10th in Eureka. This was an opportunity for the District to obtain information on funding resources or grants that may be available for different types of projects and the application process for assessing the funds. The District had two shovel ready projects; the Heeser Drive Building and the proposed generator. Mike requested expenses for a car rental, overnight accommodations, and a couple of meals.

MOTION Schwartz/Kraynek: To approve Mike Kelley's attendance at the Funding Fair, with expenses not to exceed \$500.00

ROLL CALL VOTE: AYES: Directors Ball, Kraynek, Dill, Schwartz and O'Brien
NOES: None
ABSENT: None

5. Groundwater Management

The District had received a total of 16.78 inches of rainfall by February 17, 2009. Although February's rainfall was near average, Mendocino was still over 50% below normal for this time of year.

The Stage 2 Water Shortage was declared in the District on June 30, 2008. The Stage 2 Water Shortage was continued into 2009. Since Mendocino received less than 14 inches of total rainfall by

the end of January, the water shortage was increase to Stage 3, which was considered a severe drought. The Water Shortage Contingency Plan called for a reduction in allotments by 20% and a moratorium on Groundwater Extraction Permits that required a hydrological study aquifer pump tests were prohibited during the Stage 3 drought. If the District received an additional 1.36 inches of rainfall between February 17 and March 31, the Stage 3 Water Shortage should be continued. Less than 1.36 inches would call for a Stage 4, and greater than 5.22 inches would drop the drought to a Stage 2.

Mike Maley Kennedy/Jenks hydrologist would be making a Power Point presentation at the Matheson Performing Arts Building on March 5, 2009 at 6:00 p.m. This meeting would be called to discuss the annual groundwater model update. Mr. Maley would review the updated model and the expected groundwater supply conditions for 2009.

#1 Notice of Violation letters were mailed to property owners that were twenty days late with their January groundwater extraction meter reading.

Superintendent Kelley provided an addendum to the Groundwater Management Report regarding the District's meter reading policy and review of MCCSD water system development history.

Ordinance No. 09-1

Superintendent Kelley explained that as a result of public objection to the adoption of Ordinance No. 09-1, he prepared an addendum to the February 2009 Groundwater management Report

Mike explained that as a condition of approval of a Groundwater Extraction Permit, a property owner must agree to install a water meter and submit a monthly meter reading on the first of each month. Groundwater Extraction Permit Ordinance 07-1 specified that a water meter reading be provided to the District on the first of each month, and that District personnel may enter the owner's real property if the property owner failed to submit a reading for two consecutive months. The applicant was requested to provide the District with water extraction readings beginning 30 days after the issuance of a Groundwater Extraction Permit, and thereafter on the first of each month. Mike explained that the District had initiated a 3-Step Meter Reading Policy to obtain timely readings. If the property owner missed one month's reading, on the twentieth day after the reading was due, staff would send out a 1st Notice of Violation letter by regular mail. The letter discussed the important of timely readings, and reporting, and advised the property owner that that district staff would read the meter if timely readings were not forthcoming. They would also be informed of various options that would be available for submitting the information. If the property owner failed to submit a reading by the twentieth day of the second month, a 2nd Notice of Violation letter was sent by Certified mail. If the owner persisted in non-reporting, District staff would take the reading on a date and time specified in the second letter, and the property owner would be billed accordingly. The owner would be asked in the second letter to be present when staff read the meter. The date and time specified in the second letter would be a minimum of eight weeks after the reading was due. If the property owner refused to provide access to the property, their permit would be subject to revocation and/or the matter referred to legal counsel for further handling.

With the adoption of Ordinance 09-1, the property owner who failed to submit a reading after eight weeks, would be charged \$50.00 as a result of District personnel being forced to read the meter. The charge would be applicable to property owners who didn't read their meter for two consecutive months or eight weeks. The only purpose of the Ordinance was to establish a fee for reading an occasional basis to a handful of property owners who don't read their water meter in a timely matter. The \$50 charge was based on actual costs for staff wages and time to prepare records and read water meters for a non-routine meter reading.

Superintendent Kelley explained the importance of monthly meter readings and the penalties for excess groundwater extraction.

Discussion was open to audience members. Wendy Roberts, Mendocino resident and property owner, objected to the approval of the proposed ordinance as written and said that she had serious concerns because the ordinance did not define "late" or "inconsistent", nor did it specify a grace period

from the 1st of the month. Barbara Reed, MCCSD resident and property owner agreed. Mrs. Roberts suggested that anyone who had ever received one of MCCSD overly aggressive letters, either because they inadvertently missed a reading or because MCCSD lost the reading, would be subject to exorbitant meter reading fees if the Ordinance passed. In her opinion, the Community Services District had divided the community by not informing all property owners, many of whom reside outside of the area, of important issues which were of considerable economic interest. Paul Clark, commercial property owner, injected the same sentiment, stating that there were very few people that were even aware of the Groundwater Ordinance adoption in 2007, and noted there was no community involvement because they were not notified of the District's agenda. He questioned whether the Ordinance was legally adopted, and urged the Board to provide notice to every property owner within the District of all District activities, including the Board of Realtors. He also urged the Board, as suggested in correspondence from the Employers Council of Mendocino, to pursue a water source that could serve the needs of the District. The Employer Council suggested that the Groundwater Extraction Permit process, which only addressed the conservation side of the water supply equation, and did nothing to solve the problem of an adequate water supply and storage for the community.

Attorney Jackson noted that, in his opinion, the District had properly noticed and published their Ordinances.

Director O'Brien stated that all property owners had the option of receiving an agenda each month. He noted that some property owners had requested to receive the monthly agenda. He stated that if property owners who resided out of the area were interested in the District's activities, then they should also request to receive an agenda. He asked whether the people in the audience had received an agenda. Director O'Brien noted that the District made every attempt to get the agenda mailed and posted as soon as possible, but at the same time, they tried to accommodate agenda requests, so applicants don't have to wait an entire month to take care of business with the District. Connie Korbel, Mendocino Beacon, offered that the District could provide a draft agenda to the Beacon up to a couple of weeks in advance, if they knew of a particular item that was planned to be on the agenda.

Nancy Kleiber, Grand Jury Member, suggested that the Ordinance made no reference to the meter reading process. Attorney James Jackson responded that the only function of Ordinance No. 09-1 was to set a fee for MCCSD personnel to read a water meter on an occasional basis, and it was basically intended for a small percentage of property owners who didn't comply with the water meter reading requirements. The water meter requirement was already incorporated in the District's Groundwater Extraction Permit Ordinance, but he suggested that a paragraph could be added to Ordinance 09-1 referencing the process.

Jovan Jelic, MCCSD resident and retired Board member, commented that if a property owner couldn't submit a meter reading within 8 weeks or arrange to have someone read it for them, then his only comment was they could not be billed soon enough.

President O'Brien commented that for many years, the District pursued the issue of finding a water source suitable both in quantity and quality to provide a community water system for the town of Mendocino. The District spent over \$300,000 studying the options for a water source and construction of a community water system, and some efforts of MCCSD's investigation included drilling water wells at the mouth of Big River, discussions regarding a desalination process, and studies on a long-term yield analysis of the lower gulches and reservoir tributary in the big river watershed. In 1997, the District's efforts to develop a community water system were abandoned due to the lack of a suitable water source. Director O'Brien was of the opinion that development of a water system would require the political will of the community. At this time, the Board was focused on groundwater management plans and programs, with emphasis on conservation, which purpose was to prevent depletion of the Town's groundwater that could be pumped regularly and permanently without dangerous depletion of the aquifer storage reserve. Director O'Brien invited the public to review the reports in the MCCSD office. He invited anyone to review the available reports related to water system development.

Four pieces of correspondence were received regarding the adoption of Ordinance 09-1: Charles Reinhart, Kathleen and Rod Cameron, Lisa Walters and Richard Lang, and the Employers Council of Mendocino County.

The Board agreed to continue the adoption of Ordinance No. 09-1 to the next meeting. The Ordinance would incorporate reference to the District's meter reading process.

6. Attorney's Report

7. District Superintendent's Report

During the month of February, the treatment plant operated normally. Plant personnel performed routine plant maintenance and equipment repair.

No recycled water was transferred to the Mendocino High School during the month of February 2009.

The District was in the process of obtaining construction bids for the Heeser Drive Lift Station shed, and has been put on hold until after the funding fair.

The creation of a new sewer manhole and mainline map is near completion. Following the GPS work, staff would obtain an estimate from the District's engineering firm for a hydraulic study of the collection system for the Sanitary Sewer Management Plan.

An order has been placed for the new SRECO high pressure sewer jetter.

Staff took their regular monthly safety meeting on line. The Safety Officer also conducted the monthly safety inspection of the plant.

Superintendent Kelley reported that the District was assessed a \$3,000 penalty for a high dioxin reading in the outfall in 2007.

8. District Secretary's Report

Monthly Demands and Disbursements

MOTION Schwartz/Ball: To accept payment of checks #8728 through #8774, noting #8439 was void.

ROLL CALL VOTE: AYES: Directors Ball, Kraynek, Dill, Schwartz and O'Brien

NOES: None

ABSENT: None

Report on Past Due Sewer Use Accounts

The Board was updated on delinquent sewer use accounts, and they directed staff to proceed with filing a Certificate of Lien against property located at 45055 Albion Street for unpaid sewer fees in the amount of \$448.24.

The meeting adjourned.

Respectfully submitted,

Jodi Mitchell
District Secretary