

MENDOCINO CITY COMMUNITY SERVICES DISTRICT

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Minutes of December 28, 2015

The regular meeting was called to order at 7:00 p.m. in the business office at the Wastewater Treatment Plant. Present were Directors Kerstein, Stubbs, Hauck, Kraynek and Schwartz. Also, present were District Superintendent Mike Kelley, Attorney James Jackson and Secretary Jodi Mitchell.

1. Agenda

Director Stubbs commented that on December 6th he proposed in a memo to the Superintendent that there be an agenda item for a general Board discussion regarding the policy for charging sewer fees to private sewer systems. Individual homeowners must operate, maintain and replace the system, and they were absorbing a substantial additional cost that other users were not. He found no mention of private sewer systems in the District Ordinances. He requested that discussion of Private vs. Public Sewer System be moved in its order on the agenda to discuss sewer fees charged to owners of private sewer systems, prior to the specific discussion of the Hills Ranch Collection System Service Agreement. Director Hauck thought it would be too confusing to hear the discussion before the proposed Hills Ranch Agreement and he was not personally willing to support the suggestion to move the agenda item.

MOTION Hauck/Kerstein To adopt Director Stubbs' suggestion to move the agenda item for discussion of private vs. public sewer system prior to the discussion and possible action regarding Hills Ranch Collection Service Agreement.

ROLL CALL VOTE: AYES: Director Stubbs
NOES: Directors Kerstein, Hauck, Kraynek and Schwartz
ABSTAIN: None

2. Minutes – November 30, 2015

Corrections: Page 4, Section 8(e), Line 5, call of for an increase in the drought level

Page 5, Section 10, Line 3: ~~MCCSD~~ MCCSD

MOTION Hauck/Kraynek: To approve the minutes of November 30, 2015, as corrected.

ROLL CALL VOTE: AYES: Directors Kerstein, Hauck, Kraynek and Schwartz
NOES: None
ABSTAIN: Director Stubbs

3. Communications

Correspondence was received from Barbara Reed and Peggy Griffith, both requesting that Hills Ranch Subdivision should reimburse MCCSD the amount owed for collection, operation and improvements, and equipment replacement of the Hills Ranch Collection system since 2004.

4. Public Comment

Ed O'Brien looked forward to the new MCCSD office building with sufficient meeting space. The Board agreed with Mr. O'Brien's position.

5. Old Business

a. Discussion and Possible Action Regarding Hills Ranch collection System Service Agreement and November 13, 2015 Hills Ranch Lift Station and Collection Lines Staff Report

President Schwartz recused himself from the discussion and said he would not vote on this issue, however, he planned to avail himself from the audience, as a Hills Ranch property owner. Vice President

Kraynek assumed the Chairman's position. Director Stubbs, Hills Ranch Homeowner, recused himself from the discussion and any decision made regarding the matter.

Amanda Pekin, Hills Ranch Owners Association (HROA) representative, requested that the issue be tabled for at least 90 days. HROA hired Attorney Jim King, and they could not make any decision on the proposed Service Agreement until they had received the Public Records documents which they requested from the MCCSD. Director Hauck expressed concern over the amount of broad information they had requested, and he was surprised that the HROA had taken the position to retain legal counsel, when the proposed Agreement had not even been discussed amongst the MCCSD Board members.

Attorney Jackson saw no reason to table the issue. The item on the agenda was intended for the MCCSD Board to discuss and possibly take action on a Service Agreement between Hills Ranch and MCCSD. Superintendent Kelley stated he had sent a copy of the proposed Agreement to Charles Jenkins, HROA President, and a copy of the Staff Report, advising them that the Board would be reviewing and discussing the proposed Service Agreement at their meeting to charge a monthly fee for MCCSD to operate and maintain the private Hills Ranch Lift Station.

Director Kraynek encouraged HROA to work together with the MCCSD Board, to resolve an issue that Staff had identified as an unresolved issue.

Superintendent Kelley explained that MCCSD did not operate or maintain sewage facilities on private property with the one exception of Hills Ranch. There had been no formal agreement to provide the service since 2004. It was staff's recommendation that the District and the HROA formally adopt a Service Agreement for continued operation and maintenance of the HROA's private sewer collection system, noting the Agreement was not a transfer of the ownership of the Hills Ranch private collection system for incorporation into the public sewer system. In the November 13, 2015 MCCSD memo and the draft Service Agreement prepared by MCCSD legal counsel, the monthly service agreement charge was originally estimated at \$185/month. A closer analysis of the actual costs to operate and perform routine maintenance at the lift station was \$198 per month for regular monitoring of the HR lift station three times per week, routine maintenance, three emergency callouts per year, sewer cleaning and truck expenses. A draft MCCSD/Hills Ranch Owners Association Service Agreement was provided for Board consideration. Other costs were determined; PG&E since 2006, Emergency LP gas for generator, and telephone for the emergency dialer since 2006 was \$12,901. District labor and truck expenses were \$12,360.

Director Hauck stated as a Board Member, his obligation was to all of the ratepayers within the District, not only Hills Ranch homeowners, and he calculated that over the last 11 years, each rate payer has contributed approximately \$100 to support the Hills Ranch lift station.

Director Hauck suggested changes to the Services Agreement; Article 2.01, line 5: *initial* rate of \$50 per hour per operator *adjusted annually based on the Bureau of Labor Statistics*, and Article 3.01, line 1: *initial* rate of \$198, and *adjusted annually by the Bureau of Labor Statistics*.

MOTION Hauck/Kerstein To adopt the Service Agreement, dated 12/28/15 as amended, Article 2.01 and 3.01.

Attorney Jackson commented that the MCCSD rates were set, based on the reasonable cost of providing services, and he suggested there be no reference to inflation in the agreement. The MCCSD could provide a 30 day notice to HROA of any proposed rate changes.

Director Hauck asked what the District's legal obligation was to recoup those funds. Attorney Jackson commented that Hills Ranch was a separate and distinct private collection system and there were two issues: 1) the proposed Service Agreement, and 2) a broader discussion regarding 11 years of service to the private collection system. In 2004, the MCCSD proceeded in good faith, but Hills Ranch legal easements were never provided to MCCSD. The MCCSD was offering, as a courtesy, a Service Agreement, for MCCSD to continue to service to the private collection system. Hills Ranch assets were never transferred to MCCSD.

An unidentified HROA representative quoted excerpts from MCCSD documents pertaining to the 2003/2004 proposed MOU. Superintendent Kelley commented that the MCCSD's only interest in operating the Hills Ranch lift station and private sewer lines was because in 2004 the Hills Ranch Homeowners had asked for help; however, the documents were irrelevant because the MOU was only a draft. The documents, which were provided, were intended to update the HROA on the history of the matter. The

HROA Attorney, at that time, never followed up with easements to convey the private system to the MCCSD. Superintendent Kelley clarified that all monthly sewer service charges, including the monthly charge for the individual Hills Ranch Subdivision owners, were used to support the public sewer system. The Hills Ranch contractors had originally created a private collection system with sewer lines and a pump station on private property to convey wastewater to the public sewer system on Little Lake Road. There was no MOU approved in 2004 to operate and maintain the Hills Ranch Lift Station.

Amanda Pekin requested 90 days to schedule a meeting with their Homeowners. They were also waiting for public documents, which HROA had requested from MCCSD. They would need that information to provide to their Attorney.

Attorney Jackson noted that MCCSD could initiate the transfer of utilities at any time, separate from the Services Agreement.

Director Hauck proposed that an MCCSD Committee be appointed to meet with HROA representatives to look at past expenses that have been documented and determine a fair resolution between the two organizations. Ms. Pekin would need to confer with their attorney regarding issues concerning the alleged debts. Hills Ranch operated under good faith and they were under the assumption that there would be no additional costs, other than the utilities.

The Board requested that MCCSD initiate transfer of Utilities from MCCSD to HROA by February 1, 2016. Ms. Pekin suggested that if the Homeowners execute the agreement she suspected they would pay for the retroactive labor expenses from this date forward.

Director Hauck rephrased his Motion.

MOTION Hauck/Kerstein To adopt the Services Agreement dated 12/28/15 with changes as discussed in Article 2.01 and 3.01. Transfer of utility accounts would be initiated and completed by February 1st. A response from HROA regarding the Agreement would be expected at the March MCCSD meeting, noting HROA would retroactively pay labor rates from this date.

ROLL CALL VOTE: AYES: Directors Kerstein, Hauck and Kraynek
NOES: None
ABSENT: None

Attorney Jackson would revise the agreement, and Sam Kraynek would execute the document as the Vice President.

MOTION Hauck/Kerstein To appoint Directors Hauck and Kerstein to a committee to meet with HROA committee to review recovery of approximately \$40,000 of revenue that MCCSD had spent for the private Hills Subdivision Lift Station.

Ranch

ROLL CALL VOTE: AYES: Directors Kerstein, Hauck and Kraynek
NOES: None
ABSENT: None

MOTION Kerstein/Hauck To table the issue to the next meeting.

ROLL CALL VOTE: AYES: Directors Kerstein, Hauck and Kraynek
NOES: None
ABSENT: None

Directors Stubbs and Schwartz resumed their seats on the Board.

Director Stubbs noted he had specifically requested that the discussion of the private vs. public sewer systems be discussed prior to the Hills Ranch Agreement on the agenda. He suggested there may be audience members who were leaving the meeting but may be interested in the discussion. He referred to Superintendent Kelley's memo where he had previously requested that discussion amongst the Board members occur.

Cynthia Arch, who was next on the Agenda, stated she would prefer to keep her place on the agenda, since she had also been waiting since 7:00 to be heard.

Board consensus was to leave the discussion of private vs. public sewer systems, as stated on the agenda under the District Superintendent's report.

6. Attorney's Report – No report.

7. New Business

a. Cynthia Arch, Request for adjustment to Monthly Sewer Fees, 45110 Calpella St.

A request was received from Cynthia Arch for an adjustment to the monthly sewer charge for 45110 Calpella Street. The property was approved for a four-bedroom single-family residence. Mrs. Arch asked for a reduction of monthly charges based on; 1) Two people reside at the home, 2) water use was conservative, 3) the volume was far below their allotment of 320 gpd, 4) the volume was far below the allotment of 200 gallons per day for a single-bedroom home, and 5) even if every gallon used was treated through the sewer system, they would still be bearing a disproportionate cost.

The District's monthly sewer service charges Ordinance 2015-1 established the criteria for calculating a property owner's sewer charge. The criteria were applied to all users in the District. MCCSD findings were; 1) Ordinance 74-1 Section 14 did not apply to this request, since the sewer charges criteria applied to all residential users, 2) Groundwater extraction rates were not used to determine the monthly sewer charges and the correct criteria was used to determine the monthly sewer charges for 45110 Calpella Street.

Staff recommended that sewer charges were based on the criteria found in Ordinance 2015-1, and had been equitably charged for the residential parcel. Staff recommended denial of the request to adjust sewer charges at 45110 Calpella Street.

MOTION Hauck/Stubbs: To deny the request for an adjustment to monthly sewer fees as submitted by Mrs. Arch.

ROLL CALL VOTE: AYES: Directors Stubbs, Kerstein, Hauck, Kraynek and Schwartz
NOES: None
ABSENT: None

b. Hal Richardson, Request for adjustment to Monthly Sewer Fees, 10991 Palette Dr.

A request was received from Hal Richardson for an adjustment to the monthly sewer charge for property at 10991 Palette Drive. Superintendent Kelley explained the criteria for calculating monthly sewer charges. Findings were that groundwater extraction rates were not used to determine the monthly sewer charges and the correct criteria was used to determine the monthly sewer charges for 10991 Palette Drive. Staff recommended denial of the request to adjust sewer charges.

MOTION Kraynek/Hauck: To deny the request for an adjustment to monthly sewer fees as submitted by Mr. Richardson.

ROLL CALL VOTE: AYES: Directors Stubbs, Kerstein, Hauck, Kraynek and Schwartz
NOES: None
ABSENT: None

8. Groundwater Management

a. Application for Hydrological Study Approval Renewal-10475 Hills Road

The Board reviewed a request for a 2-year extension of the Hydrological Study Approval submitted by James Sullivan. The Hydrological Study was approved in 2006 and has been renewed every two years.

MOTION Hauck/Stubbs: To approval the request for a 2-year Hydrological Study Approval Extension for property at 10475 Hills Road, as recommended by Staff.

ROLL CALL VOTE: AYES: Directors Stubbs, Kerstein, Hauck, Kraynek and Schwartz
NOES: None
ABSENT: None

b. Monthly Groundwater Management Report

The District was currently in a declared Stage 2 Water Shortage, based on the average depth-to-water in the District's drought indicator wells on November 30, 2015. The November 30th evaluation was an interim evaluation that was used to modify the drought stage up to a Stage 2 Water Shortage.

At the end of December, the Water Shortage Contingency Plan (WSCP) recommended another evaluation of the drought level based on both rainfall and DTW. If DTW at the end of December was in the range of 18.2 ft. to 20.6 ft., the WSCP called for a modification to a Stage 1 Water Shortage declaration. The Depth to Water in the drought indicator wells was preliminary measured on December 22 at 19.72 ft. It was anticipated that the December 31, 2015 evaluation would still call for a reduction in the drought level to Stage 1.

The year-end evaluation data would be collected on December 30th. Based on the December 30, 2015 data, the drought level may be reduced to a Stage 1 at the next public meeting on January 25, 2016. On January 31, 2016 there would be another evaluation of the drought level. If there were greater than 19 inches of rainfall since October 1, 2015 on January 31, 2016, the drought level may be reduced to a No Water Shortage Condition.

By December 22, 2015, MCCSD recorded 15.47 inches of rainfall for the 2015-2016 rain years. Normal rainfall through December was 14.70 inches. In late-December, Mendocino recorded 105% of normal precipitation for this time of year.

9. District's Superintendent's Report

a. Discussion of Private vs. Public Sewer System

Director Stubbs disagreed with Superintendent Kelley's interpretation of his email of 11/11/15 and suggested that the paragraph on page 4 New Public Sewer System Definition be stricken from his Memo of 12/28/15. He explained that the Hills Ranch owners pay the same sewer fees as all other property owners in the District and there was no differentiation between property owners who were served by a lift station and those which were not served by a lift station. He concluded that the fees paid by Hills Ranch owners covered the operating cost of the sewerage collection service but also a substantial part of the capital costs, and suggested the owners of Hills Ranch may be subsidizing MCCSD. He referred to an illustration of Sewer System Costs and collection system capital costs, and estimate of sewer system capital and operating costs by component, which was previously provided to staff. The Board discussed Public Sewer Systems vs. Hills Ranch Private Sewer System and sewer line terminology was clarified.

Consensus of the Board was there was no compelling reason to continue the discussion and requested to move on to the Superintendent's Report.

At 10:00, Director Kraynek excused himself from the remainder of the meeting.

b. Monthly Report

During the month of December 2015, the treatment plant operated normally. Plant personnel performed routine plant operations, and needed plant maintenance.

The District's new NPDES permit now required submission of quarterly CIWQS reports to the State Water Quality Control Board. The first reporting period would be for October to December 2015.

There were no sanitary sewer overflows in November 2015.

MCCSD had not completed the inspection of Food and Beverage Establishments. Hopefully, the inspections would resume in January 2016.

During the December 13 storm a piece of plywood stored outside the generator room was picked up by the wind, and smashed an office window. FB Electric would repair the damage.

Fort Bragg Electric was still working on the Generator installation. One change order approval was made by the Superintendent in December to drywall the inside of the generator room to give it a 2 hour fire rating, which was a code requirement since diesel fuel was stored in the emergency generator. The project could not move ahead until the additional work was completed. The cost of the change was \$15,000 to install two layers of 5/8 drywall, tape and mud the drywall, and paint the room.

The Safety Officer also conducted the monthly safety inspection of the plant. Operators took online safety courses in the month.

Superintendent Kelley reported to the Board a serious problem that occurred at the plant. He explained that the plant flow got up to close to 3 times the dry weather design flow of 300,000 gal/day. Over 800,000 gallons was logged at one point. Effluent backed up into the chlorine contact tank in the plant, which meant effluent backed up the 1,000 ft. outfall pipe, up the bluff, and filled the effluent pipeline back into the flow equalization pond. The situation was dire, and he contacted the Regional Water Quality Control Board. The regulator told Superintendent Kelley to do everything possible to prevent violating the discharge permit. The divers were contacted to do an emergency dive to jet out the diffuser. They would start in January on a time and material basis. Consensus of the Board was to proceed with jetting the ocean outfall line.

10. Committee Reports

11. District Secretary's Report

a. Monthly Register of Cash Disbursements

MOTION Hauck/Kraynek To approve expenses in the amount of \$126,412.71 for checks #12616 – #12655, noting checks #12533, 12643, 12649, and 12651 were void.

ROLL CALL VOTE: AYES: Directors Stubbs, Kerstein, Hauck, and Schwartz
NOES: None
ABSENT: Director Kraynek

b. Update on Delinquent Sewer Accounts and Certificate of Liens

The Board reviewed the update on delinquent accounts and certificate of liens.

12. Matters from Board Members

a. Annual Board Evaluations

This was carried over to the next meeting, awaiting Director Kraynek's evaluation.

13. Election of Officers and Committee Appointments

The Board agreed to postpone the Election of Officers and appointment of the Committees until February, when all Board members would be present.

Directors Hauck and Kerstein were appointed to an Ad-Hoc Committee to meet with HROA. Directors Hauck and Kerstein accepted the appointment. Director Schwartz noted that the appointment of an Ad Hoc Committee did not require an agenda posting, but on the advice of the Attorney, MCCSD would post an agenda for any meeting with HROA representatives.

The meeting adjourned at 10:55 p.m.

Respectfully submitted,


Jodi Mitchell, Secretary