



Yosemite West Property & Homeowners, Inc.

Notes from Yosemite West District Advisory Committee (YWDAC) Meeting

December 12, 2019

YWDAC members present:

Tom Lambert (chair)
Debra Kroon
Art Cormier
Jeff Webb
Malcolm Neal
John Mock

YWDAC members **absent**:

Neal Misener

Ex-Officio Member:

Rosemarie Smallcombe (Mariposa County, District 1 Supervisor)

Other agency/organization representatives present:

Joe Meyer (Yosemite National Park, YNP, Chief-of-Staff)
Kristina Rylands (NatureBridge National Environmental Science Center, NESC)
Ted Williams (Yosemite West Property and Homeowners Inc., YWPHI)
Frank Dean (Yosemite Conservancy)
Darryl Nielsen (Mariposa Public Works, Plant Technician Operator)

Required representatives **absent**:

Mike Healy (Mariposa Public Works, Director)

➤ Yosemite West water sources

Tom Lambert asked for general updates on possible well water sources within the Yosemite West area (both subdivision and surrounding Henness Ridge area properties).

- Joe Meyer said that as previously stated at the 7/26/2019 public meeting, the National Park Service (NPS) has halted the drilling contract with Walt Bannon. The remaining NPS funds previously budgeted for well drilling are being held in reserve and could be used for future drilling or other water infrastructure such as pipe construction.

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- Jeff Hornacek reported that there has been some testing on 2 wells on the LeBlanc parcels adjacent to the Yosemite West subdivision (7.26 acre and 15.05 acre parcels). The water quality was confirmed to be good, and some pumping capacity measurements were made, but there is not yet any statement of the gallons-per-minute (gpm) values.
- There may be other water wells on the Rodden (40.00 acre) or Shawver (192.90 acre and 67.50 acre) parcels adjacent to the Yosemite West subdivision, but no driller logs or capacity information has been made public.
- Frank Dean provided the news that the Yosemite Conservancy has begun drilling an exploratory well at a site near West Creek on their (319.97 acre) parcel. The site was chosen after consultation with Kenneth D. Schmidt (author of the only groundwater study around Yosemite West, published in 1982 and based on data available at that time for test holes and wells, which mostly only considered drilling wells ranging 300 to 400 feet deep). The location of the new Yosemite Conservancy drilling site is just over 1000 feet (about ¼ mile) from the existing water well No. 9 for the Yosemite West subdivision. The new drilling got down to 90 feet deep before hitting granite bedrock, and then the weather turned, and drilling was halted for the season. Drilling can resume later in the spring. So, it is currently unknown whether this well will be successful. Since the well location is so close to the existing Yosemite West well, there is high risk that the wells would compete for the same underground water supply. Assessing the impact of the new well on the existing well's capacity would be done by a simultaneous pump test of both wells over a 10-15 day period, with simultaneous monitoring of capacity. To be definitive, this testing would need to be during the driest season (September – October).

➤ **County updates regarding possible water proposals**

Supervisor Smallcombe reported several aspects of continued preparation by Mariposa County to proposing water agreements:

- The proposal at the 9/12/2019 YWDAC meeting to have a community “water workshop” with appropriate entities was apparently dropped after the reassignment of YNP Superintendent Mike Reynolds. It is unknown whether incoming YNP Acting Superintendent Cicely Muldoon has yet been briefed on the NESC water issues, or when she would take any action, after she starts in January 2020.
- The County has engaged with “Provost and Pritchard”, a civil engineering firm based in Fresno specializing in infrastructure and water projects. The work is for an “impact study”, though there is not yet detail released on the statement-of-work nor goals of this engagement.
- Sarah Williams (Mariposa County Planning Director) is working with the NPS on studies for:
 - CEQA (California Environmental Quality Act)
 - NEPA (National Environmental Policy Act)
 - other engineering reports

The NPS will reimburse Mariposa County for expenses, though the costs may ultimately be rolled into the water fees that could be charged to the NESC.

- Mariposa County Public Works reports receiving applications for water connections from three potential new customers:
 - NPS on behalf of NatureBridge NESC
 - Scenic Wonders
 - Yosemite Conservancy

- County is discussing with their external counsel, the Colantuono law firm, the possible legal arrangements that could be used to authorize expansion of water services. One structure is to create a second Zone of Benefit (ZoB) for new water users and have Mariposa County Public Works department service both Zones of Benefit. There are several possible problems with this approach:
 - The first ZoB formation on 2/6/2018 is still under legal challenge from the Kroon lawsuit which alleges protest voter suppression. If the ZoB formation is negated by the County judge for the case, then Yosemite West returns to its prior status as an Assessment District, requiring different methods to authorize any agreements.
 - It is unclear how voting and rights of current Yosemite West property owners would be preserved for approval/disapproval for the taking of Yosemite West water between two ZoB areas.
 - It is legally unclear whether a second County ZoB would have jurisdiction within the NPS boundary to service NESC.

Despite these issues, Colantuono returned to the second ZoB concept as the most likely legal structure proposal. Mariposa County may also have a likely conflict-of-interest in engaging with Colantuono on the topic of a second ZoB, since Colantuono is currently also defending the County in the ongoing lawsuit challenging the formation of the first ZoB.

- The Yosemite West Maintenance District (YWMD) services parcels within the 1967 Yosemite West subdivision. Colantuono is recommending the County send a letter to the dozen or so adjacent property owners (not in YWMD) to notify them of the water discussions. For example, adjacent parcels are owned by the Mariposa School District and the Pacific Forest Trust, the largest adjacent land owner.
 - Ted Williams cautioned that the letter should not imply an “invitation” to get water from YWMD since the water supply is already oversubscribed. The letter should not create a false impression that these adjacent property owners have any “rights” for obtaining water or joining the existing subdivision YWMD.
 - Supervisor Smallcombe pledged that she would notify YWMD owners with a copy of any letter sent to adjacent owners, but she refused the request to consult on the text of the letter before sending.

Homeowner David Deto spoke extensively that the viability of the Yosemite West community should not be threatened by authorizing a “taking” of water by entities outside of the existing residential community of YWMD. He emphasized that finding additional water sources is required BEFORE committing to supply water to additional customers. Several YWDAC members also pointed out though, that if additional existing or new water wells are confirmed (sufficient quality and capacity), then combining these sources into a single water system adds redundancy and resiliency as a benefit to all, compared to having separate fragile independent pipelines from separate wells to users.

Keeping the community involved in the process is essential. A heavy-handed approach driven by external lawyers would certainly trigger community opposition.

➤ **Regional Water Board authority**

Our previous contact at the California State Water Resources Control Board, Kassy Chauhan, left employment there in September 2019. We have been re-directed to Arnold Hatai, who has been with the Water Board for decades and knows Yosemite West.

There remain some questions about jurisdiction in the Yosemite West TPA (Town Planning Area). One question is whether the Mariposa County LAFCO (Local Agency Formation Commission) would need to take specific action to authorize a new water district, but apparently the Water Board does not believe so.

The general principle is that all water wells in the region are under the authority of the Water Board. Debra Kroon stated this means that if there were a “Yosemite West Water System” then all nearby well owners would be required to either connect (supply water from their wells) into the system, or cap (disable/remove) their wells. So, determining the combined capacity of all wells is relevant.

Wells that have contamination or only non-potable quality would likely be exceptions. For example, Frank Dean stated that the original (now 28 gpm) well above Chinquapin might still be used to independently supply non-potable water to the Chinquapin restrooms.

➤ **Future possible capacity limitations**

Ted Williams raised the action item from the 9/12/2019 YWDAC meeting regarding investigating a previous statement from Kassy Chauhan, who had stated that existing Yosemite West property owners might be denied building permits if the YWMD water capacity limits were reached in the future. The Yosemite West property owners generally believe that vacant lot owners who have been paying standby water fees (in some cases, for several decades) are already YWMD customers, and therefore could not be denied building permits due to water capacity limitations. Rather, if YWMD had future insufficient capacity, then any rationing or limitations would apply to both old and new customers. This is analogous to the capacity planning already in place for sewer issues, which allows all properties one EDU (Equivalent Dwelling Unit) of wastewater generation. Future wastewater capacity limitations could change the definition of an EDU, but would not deny service or building permits to property owners. Supervisor Smallcombe does not yet have a clarification regarding this issue, and so answering this question remains a carried **action item**.

In the event of water capacity limitation, a procedure was previously formulated in Resolution 88-1 passed by the then-Supervisors on 7/19/1988. The Resolution 88-1 specifically defines phases of rationing where there are specific priorities given, in order, to:

- 1) Fire suppression reserve
- 2) Full-time residents
- 3) Part-time residents
- 4) Transient rental units

In particular, transient rental units become limited in days of operation or completely prohibited, if there becomes insufficient water capacity. However, the document's process of rationing phases based on water storage tank levels is widely expected to be unworkable because the tanks would only have enough water for 2 or 3 days of usage at the usage rates that would trigger rationing. So, the transition between "phases" would be on the scale of hours, making it impossible to communicate or enforce rule-changes that would really make sense only by including well capacity and expecting successive "phases" of rationing on the timescale of weeks/months.

John Mock also reminded that any expansion to a water district must additionally follow County code ordinances such as sections 13.02.145 and 13.02.146 that require permit applications and public hearings, and specifically state that districts such as YWMD are under no obligation to approve applications for service outside their districts.

➤ **YWMD responsibilities**

John Mock raised questions about complying with contingencies and orders that were conditions of the current YWMD operating permit. The 2018 Sanitary Survey of the Yosemite West Water System referenced the requirement for the YWMD to develop a plan for the addition of a second water source. Specifically, the water supply permit issued in December 2012 required Mariposa County Public Works to submit by 1/15/2013 a plan for providing a second source of water to mitigate the dependence of the System on well No. 9 as a single point-of-failure that could cripple the community.

At the 9/12/2019 YW DAC meeting, Kassy Chauhan stated that there was some previous agreement that may have satisfied that requirement, but her research later in September 2019 failed to find any evidence that such an agreement ever existed, so Mariposa County is still responsible for a plan to satisfy the December 2012 water permit requirement to provide a second source of water for Yosemite West.

➤ **Utility Fees retention**

In February 2018, Mariposa County used the Proposition 218 process to impose a tripling of water and sewer rates for the Yosemite West subdivision. However, the formation of a ZoB and subsequent majority protest process had a number of contested irregularities, which are currently the subject of a lawsuit. In

the meantime, since March 2018, Mariposa County Public Works has been collecting the increased rates. Funds from the increased rates are being retained by Public Works in the operating accounts for the YWMD. Due to the uncertainty of the lawsuit outcome, Mariposa County Public Works has not begun funding any of the capital improvement projects for the water and wastewater systems that had been outlined in the Engineer's report justifying the Proposition 218 rate increase process, including planning or explorative drilling for second well sites.

Based on the Revenue Ledger Reports sent prior to the YWDAC meetings, a rough calculation shows that there should now be between \$261,000 and \$336,000 accumulated due to the additional revenues from the rate increases. However, the 12/12/2019 letter from Public Works Director Mike Healy stated that only about \$80,000 has been accumulated/sequestered so far (combined water and sewer accounts). A follow-up **action item** from both the 9/12/2019 and 12/12/2019 meetings is therefore for the Public Works department to clarify where the missing rate increase revenue have gone, or how they have been spent. On 12/18/2019, Director Healy stated he was continuing to work with the Mariposa County Finance Division to prepare a response to this question.

➤ **NESC Fire Station Development**

The fire station currently remains an unfunded component of the approved master plan for the NESC at the intersection of the Wawona Road and Henness Ridge Road. The concept and key vision are that a working fire station also would provide a key educational resource to NESC students in learning about fire science and fire environment management.

The NESC construction has already built the fire station underground infrastructure and site grading. Krystina Rylands reported that NatureBridge has completed a compliance study and firehouse design, which is already an approximately \$500,000 investment. The plan is a two-bay firehouse that would likely have space for one wildlands fire engine and one structure fire engine.

Supervisor Smallcombe updates on several possible funding sources/methods that could be used to provide the estimated \$2million needed to build the fire station:

- The County CAO (Chief Administrative Officer Dallin Kimble) proposes a combination of commitment letters from the County and other sources.
- Mariposa County grant writer Mollie Stevens could be available to seek grants from federal or state agencies.
- Allocation of funds from the ToT (Transient Occupancy Tax) rate increase (from 11% to 13%, with TBID) passed by Measure M in November 2018.
- USDA (United States Department of Agriculture) low-interest loans.
- NPS budget - Joe Meyers reports that the NPS continues discussions with the overall fire strategy team in Boise, but there is not yet funding commitment.
- National Park Foundation (charitable purposes organization)
- Yosemite Conservancy

Ted Williams asked Kristina Rylands whether NatureBridge was yet soliciting fundraising or accepting donations targeted towards the NESC fire station, and Rylands answered that the NatureBridge CFO is

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still exploring options and the NatureBridge executive Board has not yet authorized the holding/accumulation of donations targeted to the NESC fire station.

Additional questions regarding the NESC fire station were asked by Josie Neal and other Yosemite West residents. The fire station staffing would be provided during wildfire season with NPS staffing from Chinquapin. There is not yet an NPS assurance that there would be 24/7 coverage or that the fire station would be staffed during non-wildfire fire season. There was a question about whether the Yosemite Conservancy would invest in the NESC fire station or consider a second fire station on its parcels, including the central 31.99 acre parcel.

Tom Lambert stated that there are many important benefits to the community of a fire station for emergency response and risk reduction, but that we should not over-emphasize effects, if any, on fire insurance rates or availability. The predominant rating in Yosemite West from the ISO (Insurance Standards Organization) is currently 10, the worst rating. To get the rating improved to 8 is likely to require the fire station to be continuously staffed with 4 trained structure firefighters.

➤ **Leach field land acquisition**

Early this year, a proposal was identified to expand the leach fields of the Yosemite West Wastewater Treatment Facility (WWTF) by having the YWMD purchase approximately 45 acres of land from its current owner, Robert Shawver. Expanding the leach fields would be a small step towards raising the sewer treatment capacity of the WWTF from its current permitted 60,000 gallons-per-day (gpd) back up to the original equipment-design target of 100,000 gpd. The proposed leach field expansion would add an estimated 7,000 additional gpd of capacity, as previously stated by Public Works Director Mike Healy.

There were long delays in getting an appraisal of the land value so that the YWMD could make an offer based on appraised value. The appraisal has now been obtained, and Supervisor Smallcombe reports that there are now price negotiations in progress. Then the next step would be approval of the purchase. **Action item** for Supervisor Smallcombe and Director Mike Healy to update the YWDAC on whether the purchase will be proceeding, and how it will affect the WWTF wastewater capacity cap.

➤ **Tree felling**

Blue Ridge Services is continuing tree felling work in the Yosemite West area. Their services are paid through an agreement made by Mariposa County where 75% comes from state-level grants (paid by California taxpayers), and the remaining 25% local share from the County General Fund. There was a question about whether all funds had been exhausted, but the 12/12/2019 letter from Directory Mike Healy clarified that an additional \$400,000 was received from CalOES (California Office of Emergency Services). Once the County CAO confirms, tree work from Blue Ridge Services can remove dead/hazard trees near the County water tanks at the top of the Yosemite West community.

➤ **Trash Collection**

Ted Williams raised the possibility in the 9/12/2019 YWDAC meeting for arranging with Mariposa County Public Works to provide trash collection service. Currently, Yosemite West does not have county-organized trash collection, like inholding communities such as Wawona. Just like in other communities, the County could charge a fee per property on the Mariposa Public Works YWMD bills, and then provide public unlocked trash collection dumpsters emptied weekly. Having unlocked dumpsters would solve the perennial problem that the current private locked dumpsters create with trash left outside of dumpsters, which then becomes a danger and mess when animals such as bears and racoons get into the trash left by careless people.

Costs for county-organized trash collection would probably be in the range from \$30 to \$60 per month, which is slightly higher than the current Yosemite West Trash Co-Op fees averaging about \$25 per month. Many residents would consider the quality of life worth the expense, to not have to pick up trash visitors leave outside locked dumpsters. Other homeowners expressed that the utility bills are already so high that they would vote against any extra imposed costs.

Supervisor Smallcombe took the action item to consider various ideas for trash collection, and make a proposal at the next YWDAC meeting.

➤ **Snowplowing**

Plowing of roads at night immediately after snowstorms continues to be a problem. For several years, there have been a few hardy local souls that plowed before the larger Mariposa County equipment and crews arrive late morning. However, the availability of plow operators continues to dwindle, possibly with only one (Tom Lambert) remaining. Potential solutions can be to re-start County advertisement of a job opening for local plow operators and/or to find some temporary accommodation during incoming snowstorms for out-of-area plow operators.

➤ **Action items**

At several points during the meeting, requests were reiterated that the community needs to be kept informed about steps taken by County officials relating to the community and water system proposals in particular. The YWPHI's key purpose is to communicate to the community, and YWPHI can make website posts of documents provided by Mariposa County officials or other agencies to YWDAC and send email to Yosemite West property owners and members.

Action items from the YWDAC 12/12/2019 meeting include:

- 1) Updates from Supervisor Smallcombe on what the County has requested from external consultant Provost & Pritchard and external counsel Colantuono.
- 2) Send copy of the letter being sent to property owners adjacent to the Yosemite West subdivision.

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- 3) Confirm lot owners already paying water standby fees cannot be excluded from building permits.
- 4) Scheduling revision of Resolution 88-1 regarding phasing of rationing when capacity exceeded.
- 5) Confirmation if leach field land acquisition is proceeding, and when WWTF cap could be increased.
- 6) Accounting from Director Healy or CAO with explanation as to how accumulated \$261,000 to \$336,000 additional rate increase revenues have been stored or spent.
- 7) Proposals from Supervisor Smallcombe for trash collection fees to provide unlocked dumpsters.
- 8) Carried item to investigate how to fairly assess roads fees to non-subdivision properties using YW roads.

The next YWDAC meeting will be on 3/12/2020, tentatively to be held at the NESC.