



Yosemite West Property & Homeowners, Inc.

Notes from Yosemite West District Advisory Committee (YWDAC) Meeting

June 11, 2020 (by teleconference)

YWDAC members present:

Tom Lambert (chair)
Debra Kroon
Malcolm Neal
John Mock

YWDAC members absent:

Art Cormier
Jeff Webb
Neal Misener

Ex-Officio Member:

Rosemarie Smallcombe (Mariposa County, District 1 Supervisor)

Mariposa County agency/organization representatives present:

Mike Healy (Public Works, Director)
Darryl Nielsen (Public Works, Plant Technician Operator)
Jean Dordan (Public Works, executive assistant)

Other agency/organization representatives present:

Joe Meyer (Yosemite National Park, YNP, Chief-of-Staff)
Kristina Rylands (NatureBridge National Environmental Science Center, NESCC)
Ted Williams (Yosemite West Property and Homeowners Inc., YWPHI)
Frank Dean (Yosemite Conservancy)
Jerry Edelbrock (Yosemite Conservancy)

➤ Past meetings minutes and notes

- YWDAC meeting on 9/12/2019:
 - No official minutes were published.
 - YWPHI notes published at: http://yosemitewest.org/2019-09-12-YWDAC_notes.pdf
- YWDAC meeting on 12/12/2019:
 - Official minutes published at: http://yosemitewest.org/ywdac/YWDAC_12.12.2019.pdf
 - Minutes approved (Motion by John Mock, second by Malcolm Neal, yes from Tom Lambert, abstention by Debra Kroon who had not reviewed).
 - YWPHI notes published at: http://yosemitewest.org/2019-12-12-YWDAC_notes.pdf
- YWDAC meeting on 3/12/2020:
 - Agenda published at: <http://yosemitewest.org/YWDAC-2020-03-12-Agenda2.pdf>
 - Meeting postponed due to Covid-19 concerns.
 - Requests made to County on 3/14/2020, 3/19/2020, 3/25/2020, and 4/13/2020 to reschedule by teleconference, but the meeting never happened.

➤ Sale of water to NPS for NESC and fire-suppression reserve

- The NPS approached Mariposa Public Works a month ago to request purchase of water to fill the NatureBridge tanks at the NESC, and this was agreed to by County for following reasons:
 - Currently, water usage in YW is low (only 20 kgal/day) due to the YNP closure and rental prohibition, so spare capacity was available.
 - Price is at “retail” (same or above normal residential rate per kgal), so revenue to Fund322.
 - NPS fire-suppression effort benefits from having more water on reserve.
- Concern raised that the YW community had not been notified, and optics were poor.
 - NatureBridge has not been an investor in building the YWMD infrastructure, and has not contributed via property tax or connection fees.
 - Better advance notice of water **purchase** would have alleviated residents’ suspicions.
 - Apparently, decision was made within Public Works, without involvement of Supervisors.
- Additional points going forward:
 - The water purchase is not ongoing. It is considered “one-time” due to maintenance needs at NESC.
 - The current ask for water has been satisfied. Director Healy stated that future water additional water purchase requests could be considered, but there are none planned.
 - The NESC campus is not operational, and does not intend to begin operations until long-term water supply issues are resolved.

➤ Consideration of expanding WWTF leach-field via land purchase

- In 2019, 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 and Amy Shawver. Expanding the leach fields would be a 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 purchase price of the land has been in negotiation for months. There are now 2 appraisals, and it was clarified that there does not need to be any more delay to wait for more appraisals.
- Supervisor Smallcombe confirmed that the County CAO is the representative from the County doing the negotiations. It is not yet clear whether the County is ready to “split the difference” or discuss additional consideration issues.
- The YWDAC committee re-iterated desire and requests to proceed, and the seller (also present on the call) reiterated readiness to respond.

➤ **Wastewater Treatment discharge re-certification**

- The operation of the Yosemite West Wastewater Treatment Facility (WWTF) is supposed to require filing of reports to the State documenting adherence to waste discharge requirements every 10 to 15 years. Apparently, it is time again to do this for the YW WWTF.
 - A contract with the consulting group Provost & Pritchard was initiated 11/7/2019 and is currently in progress to do a Nitrogen Limit Evaluation and prepare the technical reports.
 - The original quoted cost was \$24,500 for work that was supposed to finish 6/30/2020.
 - A revision was made by the Mariposa Supervisors to extend the Provost & Pritchard contract to 12/31/2020, and authorize in increase in cost up to \$43,500.
- Since the re-certification is a valid “maintenance expense” for the WWTF, it could be paid as a sewer expense from YWMD Fund322.
- John Mock pointed out that YWMD could also use Fund755, since this account currently has \$108852 (and growing) which comes from overages in the YW property owners’ repayments of the 2004 bond to re-build the WWTF, and this money is available for WWTF maintenance and capital needs.
 - Motions made to proceed with the Provost & Pritchard contract and request the Supervisors (acting as the YWMD board) move money from Fund755 to Fund322 to replenish the Provost & Pritchard contract costs.
 - Motions approved (Motion by John Mock, second by Malcolm Neal, yes from Tom Lambert and Debra Kroon).

➤ **Zone-of Benefit invalidated, water+sewer rate increases rescinded**

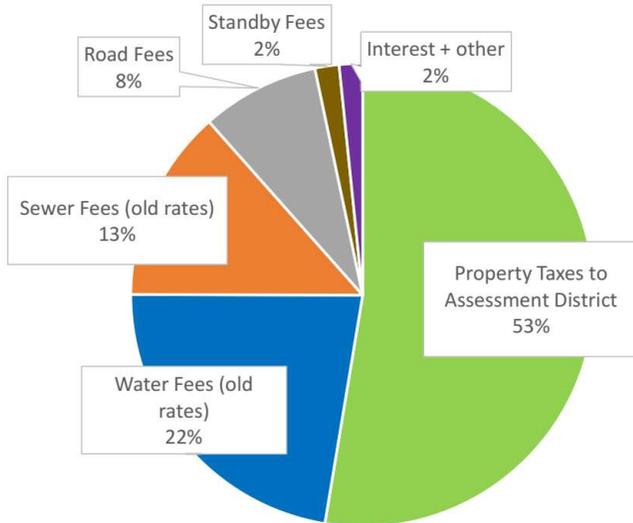
- On 2/6/2018, Mariposa County held a hearing that attempted to convert YWMD from an assessment district (formed in 1967 under 1911 law) into a ZoB (“zone-of-benefit” defined by Proposition 218 in 1996). Then, based on being under ZoB law, there were rate-increases implemented that approximately doubled the YW water+sewer rates on 3/1/2018, and tripled the rates on 7/1/2019.
 - In the period between 3/1/2018 to 5/30/2018, there was approximately \$506,051 additional collected due to the ZoB increases, expected to grow to about \$594,557 by 6/30/2020.
 - Based on accounting ledgers, Ted Williams posted an analysis at http://yosemitewest.org/Fund322_analysis_20200604.pdf of the ZoB increases collected.
- The protest process leading up to the 2/6/2018 was contested, because the County had provided the wrong address for voters to submit protests, and several voters testified they had submitted protests that were not counted. Since the protest count had been a tie (which was deemed to approve the ZoB and rate-increases), even a single uncounted vote would have changed the result.

- On 5/1/2020, Mariposa Superior court Judge Dana Walton invalidated the Zone-of-Benefit formation and gave comments criticizing the heavy-handed approach taken by the County in the hearings and for not addressing the counting problems at the time.
- The final court judgement was issued on 6/9/2020 which directs the County to invalidate the ZoB and rate-increases, and restore the YW water+sewer billing to the rates that had been in effect prior to 3/1/2018.
- Director Healy confirmed that the water+sewer rates for YW will revert back to the old rates, starting on the 7/1/2020 billing. The usage up until about 6/30/2020 will be the last period billed under the new rates.
- Supervisor Smallcombe confirmed that the funds collected under the ZoB cannot be retained by the County, and need to be returned to the YW community.
 - There will be an administrative process for ratepayers to request refunds. The planning by Public Works for this process is still in infancy, and more details will come later, probably in July.
 - Depending on usage, ratepayers could apply for a refund amount in the range of \$1400 to \$3000 per property, on average.

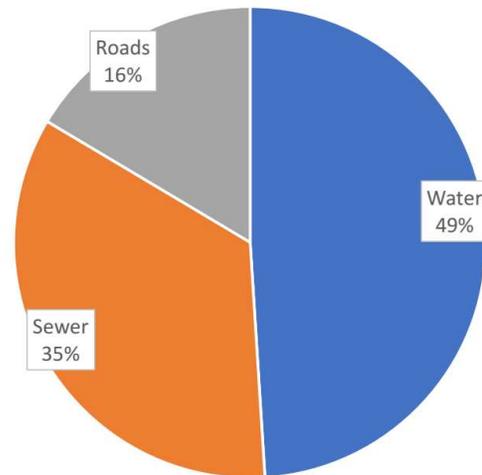
➤ **Future rates for water, sewer, and roads**

- Billing under the old rates will start again after the first meter reading about 7/1/2020.
- Director Healy stated that the Engineer’s report conducted in 2017 is still “valid” for the County to again propose a rate increase for YW.
- The County has consulted with counsel Colantuono again, and apparently the attorneys now say that the increase could be proposed with a new Proposition 218 process under jurisdiction of Mariposa CSA #1 (the general County Service Area encompassing nearly all land in Mariposa County).
- When asked why the ZoB method was chosen in 2/2018 if the Proposition 218 increases could really have been proposed without forming a ZoB, apparently Colantuono’s answer was that forming a ZoB was supposed to provide greater legal clarity.
- Debra Kroon asked whether the new rate-increase proposal could be reduced and toned-down to not plan for a “Rolls-Royce” level of capital improvements.
- Ted Williams raised the point that a major problem with the previous rate-increase justification was that the calculation of the proposed new rates ignored the revenues that YWMD receives annually as an assessment district from a portion of property tax allocation. The property tax allocation is available as revenue to the merged account covering water, sewer, and roads, as shown in charts below:

YWMD Revenue FY19-20 (\$483,288) excluding ZoB



YWMD Expenses FY19-20 (\$450,159)



- The above charts EXCLUDE the ZoB increase amounts, so the charts do accurately reflect the normal annual revenues and expense averages that will be restored starting in July.
 - Normal revenues (even with the old rates) already exceed operating expenses by \$33129 annually, so the main purpose of rate increases is to budget for deferred maintenance, capital improvements, and other extra-ordinary expenses.
 - Since property tax allocations are currently more than half of total revenues, hopefully a new calculation that takes those revenues into account will allow for more modest proposed increases than the tripled rates proposed in 2018.
- Director Healy states the County will likely engage with “Bartle Wells Associates” again for another round of utility rate consulting and a new Proposition 218 process for water, sewer, and roads rate-increases.
 - If road fees are increased, then the process will include applying the fees to all YW road users, not just those in the current YWMD billing system for the subdivision.

➤ Adjacent Land Status

- The boundaries of the YWMD (Yosemite West Maintenance District) has for decades encompassed specifically the existing 294 lots in the 1967 subdivision and the YW condos.
- The central land above the YW mailboxes has always been an “open-space” reserve and had been left open by the original developer/subdividers (known as the “doctors”) since the formation of Yosemite West.
- A descendent corporation of the original subdividers requested authorization to sell the central land, and applied to the County, who at a 12/02/2016 hearing permitted the central land to be broken up and sold in 3 parcels. Then in 2018, the Yosemite Conservancy purchased the 32 acre parcel (at the same time as an adjacent 5 acres), and Ken LeBlanc (Scenic Wonders) also purchased a 7 acre parcel above the mailboxes (in addition to previous purchase of a 15 acre parcel below the mailboxes). All of these parcels are zoned “Rural Residential” with allowance for building one

single-family home on each parcel.

- A recent letter at <http://yosemitewest.org/YWLetter5.29.20.pdf> from the Yosemite Conservancy gives some updates on their development plans, including their new application to the County applying for a lot-line adjustment that rearranges the central 37 acres shown on http://yosemitewest.org/YC_LLA_VicinityMap.pdf into 4 parcels proposed on http://yosemitewest.org/YC_LLA_TentativeMap.pdf. This application does not include any change of YWMD boundaries, nor any rights to connect to water/sewer of the YWMD.

➤ Possible YWMD water expansion

- NatureBridge built the NESC (National Environmental Science Center) campus in the period from 2011-2018 with plans to operate with water from a Chinquapin well which later went dry.
- At a 7/26/2019 meeting, with notes at http://yosemitewest.org/YNP_NatureBridge_FAQ_20190726.pdf the then-superintendent of YNP requested the Yosemite West community consider expanding YWMD to provide water to support opening the NESC.
- Applications for YWMD water have also been received by Mariposa Public Works from the Yosemite Conservancy and Scenic Wonders. John Mock pointed out that there has not yet been any quantification of the possible water requests of those applicants, and their possible usage is not accounted for in any current discussion about capacity.
- Supervisor Smallcombe stated there will soon be a letter sent to other adjacent land owners around YW informing them the County is considering providing water to other customers.
- The County engaged on 1/21/2020 with “Provost and Pritchard”, a civil engineering firm based in Fresno specializing in infrastructure and water projects. The work is for an “impact study” as a preparatory step the County is taking to consider water district expansion. NatureBridge has agreed to pay the \$40000 cost of the contract for the study.
- The Provost & Pritchard Engineering report dated 6/8/2020 and posted at http://yosemitewest.org/ywdac/NESC_Water_Provost_Pritchard_Engineering_Report_2020-0608.pdf was just received by the YWDAC on 6/10/2020.
 - The report quotes letters written by (now departed) State Water Board employee Kassy Chauhan from 9/9/2019 and 9/19/2019 discussed at previous YWDAC meetings, where the letters were hotly contested. These letters contain uncorrected errors (for example, misquoting well second-source agreements) and optimisms (projecting buildout of YW lots at only 4 houses per year, and not planning for NESC buildout).
 - The study claims analysis was done in October 2019 to estimate potential NESC usage, but it relies on unchallenged optimistic input, such as assuming only 20gpd per capita, which is a very low estimate when future usage includes the buildout for a full commercial kitchen, dining hall, restrooms and bathhouses.
 - Despite previous statements from Public Works that existing usage (at current buildout) was 51000 gpd to 65000 gpd, the report claims historical data showed only 40000 gpd even in the worst month (August) and uses that peak value and lower averages as basis.
 - The report draws conclusion that the current well #9 has sufficient capacity for both YW buildout and NESC usage. The report does not consider the optimism of the NESC usage estimate, and does not include any usage if other new customers are also added to the

- system.
 - The report sketches a plan for system interconnection with a proposed new pipeline to be built between the existing YWMD tanks above Azalea Lane and the existing NESC tanks.
 - The conclusion recommends allowing NESC connection and suggests the connection fee for the NESC campus should be equivalent to 48 times the EDU connection fee assessed in YWMD.
- Because the Provost & Pritchard Engineering report was only distributed to the YWDAC on 6/10/2020, there was not time to review it prior to the 6/12/2020 meeting. The YWDAC agreed there needs to be a subsequent dedicated meeting to discuss the report, called within the next 2 to 3 weeks.

➤ Water capacity and limitations

- There is still significant concern throughout the YW community that it is premature to consider providing water to additional customers when the existing well #9 of the YWMD does not have enough capacity even to support full build-out of all the existing YW subdivision lots. A table published in the previous meeting notes at http://yosemitewest.org/2019-09-12-YWDAC_notes.pdf shows our current 85 gpm well is insufficient to handle the > 90 gpm needed for full subdivision lot buildout, much less the > 105 gpm needed to include NESC.
- If even more customers were added, then we would certainly need an even larger level of well capacity, but the full capacity needed has not been estimated, since there is not clarity regarding requested quantities from applicants.
- A key question is whether existing YW lot owners could be denied building permits if the water capacity is oversubscribed at time of building permit application.
 - The CA State Water Board has provided conflicting information about the priority of existing standby customers of YWMD to connect in the future.
 - Previous Water Board employee Kassy Chauhan stated that YW lot owners could be denied building permits if insufficient capacity, but newer employee Caitlin Juarez stated on 2/14/2020 that standby water users are already customers so could not be denied permits.
 - Section Chief Tricia Wathen concluded that the CA State Water Board doesn't really have standing on the question of building permit dependency on water capacity, since building permits are issued by the County.
- Tom Lambert pointed out existing rules and agreements regarding YW sewer capacity that state building permits cannot be denied due to lack of WWTF capacity. Rather, if the wastewater treatment capacity were insufficient for the customers in YWMD, the definition of an EDU (Equivalent Dwelling Unit, currently 250gpd) would be redefined, effectively "rationing" sewer capacity.
- Equivalent "rationing" rules regarding YW water if there ever becomes insufficient capacity were previously addressed by a 1988 document called posted at http://yosemitewest.org/ywdac/Rationing_Plan_Resolution_88-1.pdf, however the rules defined there are unworkable since based on "tank level" rather than "well capacity".
 - YWMD directors or the County BoS could rewrite the water capacity rationing rule

document or it could be superseded by new agreements that could come if YWMD were expanded.

- Supervisor Smallcombe has the action item to clarify the status of building permit issuance to existing YWMD standby customers if adding water customers causes insufficient water system capacity in the future.
 - Building permit issuance is already NOT limited by wastewater capacity. Existing lot owners want reassurance that building permits will not be gated by water system capacity.

➤ Water sources

- The NESC (National Environmental Science Center) campus was built with plans to operate with water from a well at Chinquapin which later went dry. The Chinquapin well has now been completely disconnected from water production.
- There are other wells on private properties adjacent to the YWMD boundaries. No driller logs or capacity information has been made public, though it is expected that some have usable capacity.
- In previous YWDAC meetings, the general principle was affirmed that all water wells in the region are under the authority of the CA State Water Board. For these wells to be given operating permits, current California law (SB1263) requires that new well operators approach an existing permitted operating water supplier (such as YWMD) and consider interconnection.
 - An existing water supplier is not obligated to accept new customers, but rather is encouraged to set the appropriate “conditions” for a new customer, such as requiring the new customer “bring additional capacity into the system” by adding water capacity from their own well.
 - NESC does not have its own well, but they do have storage tanks.
- 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 1600 feet (about 0.31 mile) from the existing water well No. 9 for the Yosemite West subdivision.
 - The drilling got down to 90 feet deep before hitting granite bedrock as winter started in November 2019. Drilling has just resumed last week, now in June 2020.
 - 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).
 - Finding more capacity is good, but it is unclear whether the new YC well would be permitted if its pumping diminished the capacity of the current well No. 9.

➤ **Public works updates**

- Due to the YNP closure March-June, the diminished flows have caused disruption to the normal balance of bacteria in the sewer treatment ponds. Basically, bacteria have been dying because of diminished sewer input! And the timing was bad, because the seasonal transitions are always difficult times for the ponds to stay balanced. Public Works is monitoring the situation.
- Summer leach-field spraying has not yet begun. Darryl Nielsen reported they are waiting for the fields to dry, and will likely be leach-field spraying soon, which increases the WWTF capacity.
- Work order has been submitted for Public Works to perform seasonal digging out of fire-hydrants to be ready for fire-season access.

➤ **Tree-felling on road to wells**

- Blue Ridge Services performed tree felling work in the Yosemite West area in 2019 (around both the YW paved roads and individual properties). They completed the work authorized by an initial \$6M county-wide contract paid through an agreement made by Mariposa County where 75% came from state-level grants (paid by California taxpayers), and the remaining 25% local share from the County General Fund.
- An additional project was defined to fell trees along the access road leading to the WWTF and an additional 1.6 miles down to the YW community well #9 site. Initial estimates were that this area included approximately 2000 trees that were at risk of falling across the well-access road. Estimates were that Blue Ridge Services would charge > \$600000 for the work, of which 25% would need to be a local share requiring \$155000, and 75% would come from CalOES (California Office of Emergency Services).
- Director Healy clarified in the YWDAC meeting that once funding sources for the grants and local share were confirmed, the project would be put out to bid to select the actual contractor and determine final costs.
- Subsequent to the initial tree-counting, another round found there really could be closer to 4000 risky trees. A new grant application has been submitted through Melinda Barrett of the Mariposa County RCD (Resource Conservation District) that could address felling all the trees, including the original 2000 trees. We are awaiting news of this grant.
- If the RCD grant does not provide funds and Public Works still wants to do the tree-felling along the well-access road, another possibility to find funds is to request the Yosemite Conservancy pay for some portion of the local share matching cost, since accessing the new YC wellsite also requires access on the same road. In fact, the marked trees for the project include trees along the road extension to the YC wellsite, pictured at http://yosemitewest.org/ywdac/YC_well_road.pdf, that would not even be needed to protect the current YWMD well-access road, so it could make sense for YC to share costs.

➤ **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 volunteers to 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 6/11/2019 meeting include:

- 1) Schedule within the next 3 weeks a YWDAC review of Provost & Pritchard Engineering report.
- 2) Send copy of the letter being sent to property owners adjacent to the Yosemite West subdivision.
- 3) Confirm lot owners already paying water standby fees cannot be excluded from building permits.
- 4) Schedule revision of Resolution 88-1 regarding phasing of rationing when capacity exceeded.
- 5) Confirm if leach field land acquisition is proceeding, and when WWTF cap could be increased.
- 6) Provide information to YWMD ratepayers for how to request refunds of the amounts collected under the now-invalidated ZoB.