

County clause. County Counsel responded.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Merlin Jones, District II Supervisor
SECONDER: Kevin Cann, District IV Supervisor
AYES: Stetson, Jones, Bibby, Cann, Carrier

L. Items removed from Consent Agenda

None.

M. Closed Session

1. Human Resources/Risk Management (ID # 3082)

CLOSED SESSION: Public Employee Employment Title or Position to be Filled: (Government Code Section 54957 (B) (1); Fire Chief/Emergency Planning Coordinator

No Board or public comment.
 This closed session began at 1:15 PM.

RESULT: CLOSED SESSION HELD

N. 12:24 PM Lunch

O. 2:28 PM Reconvene

1. Public Works (ID # 3091)

Update to the Board on the Status of Yosemite West Wastewater Issues

The staff report was made by Peter Rei who discussed the wastewater treatment plant, the water supply, and the legal structure of the district. Reporting on the wastewater treatment plant, Mr. Rei noted that it continues to function but does have issues with the flow meter, the strainer, the clarifier, and the leach field. He noted that, after checking with County Counsel, his department contacted HOWK regarding the flow meter when an RFP yielded no bids, and that an item regarding same will be coming to the Board next week. Mr. Rei also reported that: they will not be able to address the strainer this year, but that Advanced Reliability Technologies has done an evaluation on that issue and will be here next Tuesday; and, as to the clarifier, the polyethylene spheres which the Board approved for the pond and two lagoons have been ordered. Regarding the leach fields, Mr. Rei reported that it has been determined that none of the leach fields are on property owned by the County; that Provost and Pritchard performed a survey and have found a few spots where they could expand; and that he has twice talked to a representative for the doctors group, and has been assured that they are willing to work with us. Regarding the water supply, Mr. Rei reported that the air stripper and the need for a second well on the property continue to be issues. He noted, however, that the air stripper project is largely complete and functions properly when it stands alone, but that they are still having difficulties getting it to interface with the computer system; and that it is anticipated that those difficulties will be resolved within a week. Mr. Rei also reported that they have not yet had any success in determining a location for a second well on the property, but that they will fold that in with the discussion on the leach fields. Regarding the legal structure of the district, Mr. Rei reported that it was not structured properly for

an assessment district, and that a new County Service Area (CSA) is the most likely vehicle going forward.

Chair Stetson announced that the Maintenance Board meeting that was to be held next Thursday has been cancelled as it would be the same information as presented here today.

Supervisor Stetson and Mr. Rei discussed that there are no new issues with the water treatment plant, that the Water Board is agreeable with the way things are proceeding, and that we have sufficient funds for all of the immediate fixes, i.e., the flow meter, the strainer, and the clarifier. Mr. Rei elaborated on the fund balances available.

Chair Stetson advised that Board clarification would be next, followed by public comment; and requested that, given the icy roads, those with brief comments/concerns be allowed to go first at the public comment portion to allow them to leave if they desired.

Board Clarification on Technical Issues.

Supervisor Bibby required clarification of when data capture could be anticipated given that the flow meter is due to be delivered on the 17th, with construction anticipated in January, 2014. Darryl Nielsen/Public Works Plant Operator Technician responded that the estimated time for the installation is 7 days barring bad weather. Mr. Rei clarified that they would begin to get data on a daily basis once it was installed and functional.

Supervisor Carrier cautioned consideration of new Federal regulations for fire hydrants.

Supervisor Jones required clarification regarding the differences between a CSA and a Community Services District (CSD.) Rick Benson and Mr. Rei elaborated on the differences, noting that a CSA is the appropriate structure to be able to levy assessments, collect fees, and to provide the services.

Supervisor Stetson noted that he prefers the CSA.

Chair Stetson requested that public comments at this time be limited to technical issues.

Public comment opened.

Jeff Hornacek noted that his major concern is how to fund the work in the spring of 2014. Chair Stetson noted that it has been established that there is funding to address current issues. Mr. Rei clarified that the fund in question has been set aside for unexpected events/issues and will be available for capital improvements such as this only if nothing unexpected happens between now and June 30th.

Public comment closed.

Chair Stetson noted that the second prong of this issue is the financial side and he requested the CAO to make his report to the Board.

Rick Benson gave his report and discussed his findings, noting that part of the problem is that the language is not very clear.

No Board clarifications needed.

Chair Stetson noted that he didn't mean to abandon any discussion regarding a CSA, and he invited public comment on that, as well as this issue.

Public comment opened.

Jeff Hornacek required clarification of whether the County Auditor had the same information. Mr. Benson responded that the Auditor provided most of the information, but that Mr. Benson was the one who discovered the Certificate Of Participation (COP) payment.

Robert Kroon remarked that at the last Maintenance Advisory Meeting, Mr. Rei noted having an extra \$100,000 and requested an explanation of the source of that money. He also expressed concern regarding how the records have been kept over the years. Mr. Rei responded by explaining the budgetary process, including the determination of the fund balance at the end of the fiscal year.

John Mock inquired of Rick Benson as to whether he had investigated the possibility of refinancing the Yosemite West COP in order to free up some money. Mr. Benson responded that they have not been able to find anyone willing to fund a refinancing.

Supervisor Cann inquired if it would be possible to find a lower rate than what they have now. Mr. Benson responded.

Barry Turner referred to the original Engineer's Report, and required clarification regarding language that reads: "...these grants and contributions do not have to be repaid by the Yosemite West Maintenance District." Mr. Benson responded that he is aware of the language, but cannot make a legal judgment regarding it; and he discussed possible other repayment scenarios.

3:22 PM Supervisor Jones exited the meeting.

Mr. Turner also inquired if this plant was insured upon construction and, if it was, why we are not collecting off of that bond. Mr. Rei responded that, according to Mr. Mock, there was a bankruptcy of one contractor and another one was found, so he is unsure of any ensuing impact from such a situation. John Mock elaborated that the contractor was bonded for performance and completion, but went bankrupt during the building process. He also noted that a letter from Dana Hertfelder, the Public Works Director at the time, stated that only minor electrical repairs and some concrete platforms needed to be repaired; yet, payments of nearly one million dollars were made to Saint Paul Casualty and Fire in Minneapolis which he believes is the bonding company. He questioned why Yosemite West would have to pay that money to a bonding company. CAO requested a copy of that documentation. Mr. Mock discussed potential legal avenues to pursue, and noted the importance of the engineer's report. Mr. Mock urged getting an independent audit in order to clear the air of feelings of bias.

Kenneth LeBlanc/Yosemite Scenic Wonders Owner noted that he has been hearing about these monies for years, but is here for the current sewer issue; noted that he represents 49 owners who own 56 properties; discussed the annual T.O.T. revenues generated by Yosemite West; noted that his group is in favor of having utility rates increased to pay for the repairs that they need; that his group does not want to participate in any frivolous lawsuits; that they want to get these issues resolved as quickly as possible; and he urged the Board to revise the district into a CSA.

Jeff Hornacek required clarification as to whether the formation of a CSA or CSD requires a 218 vote. Mr. Rei responded on the mechanics of the process. Mr. Benson further clarified the process, noting that the decision has been made to go forward and form the CSA; that water, wastewater or garbage are the exceptions to 218; and discussed petitioning against it. Mr. Benson also noted that charges for roads is a balloted procedure.

Robert Kroon remarked that he can't afford any increase; noted that he has read the letters in support of an increase; noted the amount of T.O.T. generated by Yosemite West from July, 2009, to June, 2012, and discussed how much would be lost should the sewer fail and Yosemite West be closed down; and discussed the history of the design and construction of the wastewater treatment plant.

Barry Turner noted that over 150 people at Yosemite West have signed a Petition stating that they do not want the water rates to go up; discussed that the Board accepted the roads, easements and avenues in 1967; noted a letter sent to the county from Pierce Loberg, a civil engineer, and requested a response to same. Mr. Rei responded that they do not dispute Mr. Loberg's conclusions. Mr. Turner inquired why they continue to pay for the roads if the County owns them. Mr. Rei clarified that the roads were accepted per the subdivision map for use by the public; the distinction, however, is that they were not accepted into the County road system which is reported to the State. Mr. Rei further expounded on the issue, noting that another option regarding the roads is a Zone of Benefit; and he expounded on same.

CAO noted that understanding that the roads are not in the county system clarifies much. He also noted that there is a budget unit for Grand Jury audits which he will investigate. Supervisor Bibby cautioned, off mic, that the Grand Jury decides how they spend their money.

Jeff Hornacek requested clarification of the design flow of the wastewater plant. Mr. Rei responded that 80,000 gallons in dry weather and 105,000 gallons in wet weather were originally designed in, but that they are permitted for 60,000 gallons per day.

Matthew Hornacek stated his understanding that there is a surplus of money this year; and inquired if road fees could fund equipment as the road equipment is at the end of its life, and they could use equipment this winter. Mr. Rei noted that there is no organized vehicle replacement plan/fund for this equipment. Mr. Hornacek noted that they are looking at only two speeds working on the loader, and he is just warning everyone that the equipment is failing and funding should be set up.

Anita Starchman-Bryant/Attorney for Ken LeBlanc Scenic Wonders Owner noted that Mr. LeBlanc should not be discounted because he manages properties from out of the area; urged that direction be given to staff to begin the process of setting up the CSA immediately; and noted that the property owners represented by Mr. LeBlanc have a vested interest in the repair and maintenance of these systems. She also discussed that her client applauds staff efforts to address the Regional State Water Board's Notices of Violation (NOVs), and urged raising fees in order to come into compliance; and noted that the Yosemite West Homeowner's Association does not represent the concerns of all homeowners. Chair Stetson noted that direction has been given to proceed with the formation of the CSA.

Tom Landert/Yosemite West resident noted that the movement behind the protest is independent and should not be associated with the Homeowners Association; remarked that we need to get real about the expenses of Yosemite West as we are facing infrastructure collapse and we need to move forward; discussed anger in Yosemite West due to issues from 10 years ago; noted that he is happy to pay more if they have to pay more; and wants to see a fee structure that will avoid this kind of situation 20 or 30 years down the line.

Ken Schultz noted that he just wants his sewer fixed and doesn't want to get into analysis paralysis; and inquired if we know how our rates compare with other counties. Mr. Rei responded that he can't speak specifically but, generally, knows that all facilities are impacted.

Barry Turner noted that he thinks we're getting hung up on the water rates; that this isn't about the water rates going up but, rather, the repair of the wastewater facility; thinks we're going down the right road to get an outside audit; and commended Mr. Rei for his efforts in communicating and working with them.

Public comment closed.

Supervisor Cann noted that he is, personally, supportive of an outside audit in order to settle that matter; noted that failure of that system is not an option, and then it needs to be maintained but we can't pretend that it costs less to maintain than it does; discussed that the state regulations have changed since construction; noted that it bothers him to see the divide within the community; and feels that we need to work together to fix the confidence issues and problems.

Supervisor Stetson noted: that there is a budget for the immediate needs right now; that they do have a functioning system right now; that the Water Board is content with the progress on the NOVs at this time; and that past accountings, as well as lack of funding and expertise, contributed to the overall situation. He also noted that if the district does, indeed, want an independent audit then the funds to pay for it will come from the district, as well.

Chair Stetson concluded by thanking everyone for their participation in the process.

RESULT: INFORMATION RECEIVED

2. Administration (ID # 3096)

Discussion and Possible Direction Regarding Issues within the Yosemite West Development

No Board clarification required.

Public comment opened.

Robert Kroon discussed the fire hydrants in the Yosemite West area and provided repair diagrams to Darryl Nielsen of Public Works.

Jeff Hornacek inquired if we will be hearing from Provost and Pritchard regarding their findings.

Michael Taylor/Provost and Pritchard reported that they have investigated the potentially viable sites; noted that they did find three viable sites for use as additional leach fields; and noted having some estimates of what each field may provide. He also discussed that all of the sites are property that the County does not presently own, and proposed a lot line adjustment.

Public comment closed.

Supervisor Bibby inquired if they will need a variance in addition to a lot line adjustment. Mr. Rei responded that they will have to look into that in detail; and he discussed that they will need approval from Environmental Health and the Regional Water Board.

Supervisor Carrier inquired if an improvement of leach fields will allow us to get a permit for more gallons per day. Mr. Taylor responded that it would not as it currently exists, and expounded on the reasons for same. Supervisor Carrier also inquired if a building moratorium should be considered. Mr. Taylor noted that there are physical limits to the disposal capacity of the site, and building permits should not be issued if the system cannot process it. Mr. Rei discussed the importance of the flow meter.

Supervisor Bibby inquired what the flow meter will monitor; and inquired as to what happens if construction causes a spring to open up in the leach field. Mr. Rei responded that all they can do is monitor. Supervisor Bibby inquired if there is a way to check. Mr. Taylor responded.

Supervisor Stetson noted that direction has already been given regarding a CSA; required clarification that we have funding for the flow meter; and inquired if we can look at the sewer lines to see how much root intrusion there may be once done. Mr. Rei responded.

Supervisor Carrier noted that he has attended a lot of statewide meetings where they have discussed that other community wastewater treatment systems within the state are failing because they were all put in so long ago; that a lot of people are facing the same things; and noted that this Board is committed to fixing the issues.

Chair Stetson remarked that direction is given to the CAO to investigate if the Grand Jury audit money can be used for an independent audit, noting that the Board will determine what to do once the results of that investigation are received. He also extended his thanks to everyone for participating.

RESULT: DIRECTION GIVEN

4:47 PM The Board recessed to closed session.

Report Out

6:25 PM Chair Stetson reported out that Information was Received and Direction was Given.