

## MINUTES

The meeting was called to order at 6:02 p.m.

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### 1. Roll Call

The meeting was called to order by the Board President James Kentosh at 6:02 pm at the District Office.

Present were: Board President James Kentosh, Board Vice-President Mike Krumpschmidt, Board Directors Larry Harrold, Diana Engle, and Mike Etchart. Staff Present: General Manager Mike Hollebrands and Board Secretary Stacey Gilbert. Attorney Lindsay Nielson was also present.

### 2. Approval of the minutes

Approval of the March 21<sup>st</sup>, 2017 Regular Meeting minutes:

Mr. Etchart made the motion to approve the March 21<sup>st</sup>, 2017 Regular Meeting minutes. Mr. Krumpschmidt seconded the motion.

Discussion: Ms. Engle requested to add to page 6 the explanation “based on evaluation of subsets of customer data” under section D) Drought Committee

Etchart/Krumpschmidt  
All Ayes  
M/S/C

### 3. Public Comments

Elizabeth Anne Von Gunten was present  
Susan Moll had a question about the closed session item – She did not understand that under section 10 the board will go into a closed session under real property negotiation and that she does not want it under closed session and feels that it is a violation of the Brown Act. Mr. Kentosh answered that it is not a violation of the Brown Act because some of the topics we discuss are about real property negotiation and that is privileged under the Brown Act. Ms. Moll then stated that she does not choose to have it in closed session and wants it public. Mr. Harrold and Mr. Kentosh both stated that Ms. Moll is on the agenda, as Section 9e and 9f which is public. While the Board has an item that is in closed session, the Board offered for

Ms. Moll to look at the Open Public Meeting Law and the Brown Act to take a look for clarification at which time she did.

#### **4. General Manager's Report**

- **Production and rainfall report – Our wells are still holding at 12 feet static levels, and it is quite possible that we will not have to pull water from Lake Casitas this year, and if we have good rainfall again, that will help with sustaining our wells. The rainfall totals are around 30 inches total so far this season in Matilija Canyon. Lake Casitas is still diverting approximately 30 CFS at this time.**
- **Budget update – The budget committee has not been able to meet but the GM has been working on it some, and hopefully it can be presented at the April meeting.**
- **GSA Update – The GSA had a public meeting to formally announce that they are going to be a GSA which took place on March 9<sup>th</sup> at 6:30 pm. The meeting prior to that was just “housecleaning” items. There was a GSA committee meeting March 21, 2017, to work on the Conflict of Interest at which time Mr. Krumpschmidt gave a synopsis.**

#### **5. Board Committee Reports**

- **No committees met this month**

#### **6. Old Business**

- **New water source – to be discussed in section 9a**
- **School lead testing – Due to what happened in Flint Michigan and the lead poisoning issues they had, the State of California tried to be more proactive and do lead testing and requested that the water districts contact the schools. We were contacted by Meiners Oaks Elementary School to do this testing and found that one of their sites had a detection of lead while all other four sites were negative. Those sample results get sent to the State. Since the District has no regulatory authority, the State contact the school district and advises them how to mitigate any issues.**
- **MOWD lead testing – Ms. Engle mentioned that this was put off a month to flush all Casitas water out of the system. GM stated that he has not done the testing yet but stated he would get it done next week.**

#### **7. Board of Directors Reports**

- **Mr. Etchart just wanted to report that there is ACP (Asian Citrus Psyllid) Spring spraying that is happening right now.**
- **Mr. Krumpschmidt has nothing to report**
- **Mr. Harrold asked about the HR consultant and how that is going. Mr. Hollebrands stated that she was hired on as an as needed basis and we have not needed her.**

- Ms. Engle has nothing to report
- Mr. Kentosh reminds everyone to do their 700 forms by April 3<sup>rd</sup>. The AWA Symposium is next month. Mr. Hollebrands will be attending and if anyone else is interested in going to get a hold of Mr. Hollebrands.

## 8. Financial Matters

Approval of Payroll and Payables from February 16<sup>th</sup>, 2017 to March 15th, 2017 in the amount of:

Payables -	\$ 50,385.86
Payroll -	\$ 28,082.62
Total -	\$ 78,468.48

Mr. Etchart made the motion to pay the monthly expenses. Mr. Harrold seconded the motion.

Discussion: Ms. Engle was curious if the Computer services are the annual maintenance fee for Tyler, seeing as it was a large figure.

Etchart/Harrold  
All Ayes  
M/S/C

## 9. Board Discussion and/or Action

- a) **New water source – Evaluation of Groundwater Supply Opportunities Report from Bryan Bondy – Mr. Bondy gave a presentation of his report to the board. Mr. Bondy was given two tasks: 1) Are our wells in the best optimal area within the basin and 2) to explore the feasibility of a new water source such as cold water and where the best place to do that is. Mr. Bondy presented his findings to the Board. Mr. Bondy came to the conclusion that based on where our wells are placed in the alluvium; there are not other areas that a substantially greater thickness of alluvium can be worked with and as a matter of fact it would be very challenging to do so.**
- Mr. Bondy reported on the Groundwater formation and the possibility of obtaining any substantial water source. Upon looking over Mr. Kear's report and other geological reports of the area and areal photos, Mr. Bondy concluded that in the area by Wells 1 and 2 there is a groundwater formation that is under and around them. So regarding where the District might look to obtain groundwater, Mr. Bondy would suggest drilling below Wells 1 and 2 however it may not produce the amount water for constant use we are looking for. It should be used as a backup source to help get the District through times of drought with minimal production periods. This would allow the aquifer to recharge. If the District decided to investigate the cold water formation, Mr. Bondy would not recommend going straight to a well; he would recommend an**

exploration hole as well as a dual wall reverse circulation because it will give the benefit of getting some water samples out for testing while drilling the hole. The downside is that it is only a test hole and would not be the actual size to obtain the water source, which will end up costing around \$50,00 plus the cost of having a geologist to log the test information but could be 25%-30% higher for prevailing wage.

- b) Discussion of State water importation options (State Water Meeting March 22, 2017) – Mr. Kentosh, Mr. Hollebrands and possibly Ms. Engle will be attending the meeting on March 22, 2017, at 10 am. Mr. Kentosh planned to give a personal statement but wanted the Boards feelings on the matter. Mr. Krumpschmidt, Mr. Harrold, Ms. Engle and Mr. Etchart all agree with obtaining State Water. Mr. Hollebarnds had a meeting with Mr. Wickstrum and Mr. Rapp and discussed several things of which one of those topics was the state water connection. It appears that Mr. Wickstrum is not as optimistic as the Board.
- c) Drought Committee Discussion – Approval of One-page letter to our customers – The Board approves of this One-page letter to our customers.
- d) Discussion and approval of the draft audit for the fiscal year 2015-16 – Raj Acharya and Mitchell Thomas with Soars, Sandall, Bernacchi & Petrovich, LLP presented the Board with their independent Auditor Report from the 2015-2016 Audit and explained their analysis of the Districts Financial Statements. It was decided to table the approval until the next meeting to go over the Auditors’ Management Letter and make a few corrections in the Draft Audit Report.
- e) Susan Moll – Discussion of property lines and easements and a list of options for resolution in this matter –  
Mr. Kentosh began by informing the Board that he and Mr. Krumpschmidt met with Ms. Moll at 2800 & 2680 Maricopa Hwy on Thursday, March 16<sup>th</sup>. Here are the facts that we discussed with her; The Facts as we understand them are that MOWD has a 30 ft wide easement within her property on the east side. The easement is for our access road and related facilities. Our present facilities are well within the easement. At the northern part of our easement is a 30 ft wide peninsula that contains live water pipes and a hydrant. Our fence line at present blocks the land owners access to that peninsula, and one of the landowners existing access roads crosses over a quarter of our property. We have made a list of 6 possible options to fix this. 1. We do nothing with no change in ownerships. We leave the existing fence in place and allow unimpeded access for the landowner over MOWD’s property. 2. We would do a voluntary land exchange and negotiate with the land owner. We would acquire full ownership of the “peninsula” property, we would pay fair market value for the property, and then we would subtract from that the cost of an easement so they can drive over that corner of our property unimpeded and not have to worry about that. Option 3. Would be to relocate the chain-link/barbed wire fence with two ideas of either putting a fence around the border of the peninsula or

moving the fence to the top of the hill. Option 4. Is to condemn the "Peninsula." We as a water district have the power of eminent domain. We would condemn the area of the peninsula, apply for a lot line adjustment and absorb the parcel. We would have it appraised and pay full market value for that. Option 5. Would be that Meiners Oaks would condemn the entire easement down to the road and pay a fair market value for that. We have presented these options to Ms. Moll, and we asked her to come today to tell us which option she would prefer.

Ms. Moll: "Ok well, first I would like a correction. I see you have stated some facts and those are facts as you know them, but it is not as I know it. One, the existing access road is not your property, and it is not a fact. So I just want to make that clear, and I want that in there. It is not a fact".

Mr. Kentosh then answered: I said that was an easement. Ms. Moll then interrupted: No I said the land owners existing access road crosses over MOWD's property, that is not a fact. Mr. Kentosh then stated: Oh you are talking about that little corner of your driveway. Ms. Moll then talked over Mr. Kentosh and said yes that and that is not a fact. Mr. Kentosh asked how did that change and Ms. Moll then said: "I am getting into that, Ok but I just want to make it on record that it is not a fact. That is how you understand it. Just like his bumper sticker says don't believe everything you think. But anyway, so I just want to make that really clear. Um, and then, as far as all the different options, I did see a note with what you did give me which you actually gave me a copy of my title report back when I asked you where are the easements were, you didn't give me anything about the easements, what you did let me know that I may look at your 1950 deed reported in book 937 page 51 which I guess is an ordinance. So I did and then so I think if there are any other options I think what we should just do is to just comply with the conditions on that deed. Which you suggested I look at and I highlighted the conditions on the other page, and you can read it out loud.

Mr. Kentosh then read the deed which states: The grantee to erect and maintain a gate at the highway right of way and the gate at the entry to the 2.105-acre parcel described in the beginning. So what is... Ms. Moll interrupted and said: They haven't been erected, and I have to tell you that when you were given the property by Hankon, there were two kids that were hurt on the property, and he was concerned; (Mr. Kentosh went to ask a question but then was told Mr. Card: Excuse me you are interrupting; at which time Mr. Kentosh apologized). Ms. Moll continued: The gates need to be at the front of the property, and they need to be at the top so that no part of the easement is blocked. He specifically said that so we didn't have a scenario like we have right now. It is specific in the deed, and that is the only thing that is actually called out in the deed since you were gifted this property. All he wanted to know is that it was secure and safe and that he had a right of way to that entire easement. Mr. Kentosh then asked Mr. Hollebrands how many people use that gate if we were to put a gate at the highway. Ms. Moll answered: It would be me, my guests and you and any number of people who enters but you

also have a gate that would be at the end of your easement that the only people who will be entering are going to be you, your workers, the people that clean your port-a-potty and the people that pick up your trash can. Mr. Kentosh asked: what about the neighbor Barnard does he have a separate access. Mr. Hollebrands stated no. Mr. Kentosh: He uses that road too. Ms. Moll answered: No he doesn't. Mr. Hollebrands then answered: Well he can to access his property because he may need to spray weeds or something. Ms. Moll then answered: Well then we will put a gate, well I think that a fence should be on the old Fry and Hankon property and Barnard's and mine. Mr. Nielson then asked if that is a copy of the deed that we can have, and Ms. Moll said yes of course. Mr. Etchart then asked a question which was unclear as well as Ms. Moll's explanation and continued to talk while Mr. Krumpschmid asked for some clarity as to what has just transpired. Mr. Kentosh answered: Well as I understand we have some deed that states we have to construct a gate at the highway. Mrs. Berle interrupted and said: You suggested that Susan refer to that deed. She did not know about it, so she referred to it, and so now we are all looking at it all together and to all be on the same page. Mr. Krumpschmid stated he understood that part what he doesn't understand is in order to use the easement according to what that says we have to have a gate at Highway 33 and a gate at the beginning of the driveway to our parcel. Mr. Kentosh states: It doesn't preclude us from adding a gate at our property which is what we have.

Mr. Krumpschmid: So essentially there should be then as I heard it two gates; one at the highway, one where it is now according to the use of the easement. Susan then stated: No. Mr. Krumpschmid then said: Ok then correct me.

Ms. Moll then proceeded to show a map and pointed out the 2.105-acre parcel and stated: This is the 2.1-acre is right across here, and that is right at the tip of the easement. So the fence should be here, and a fence should be here. (Ms. Moll then pointed out some other areas of the map) So the gate needs to be at the top of the easement. Mr. Card then helped point out some other particulars on a bigger diagram.

Mr. Kentosh: Where are you suggesting we put the gates then?

Ms. Moll: I am not suggesting, the deed says it needs to go right here (points to the very bottom of the easement right at the highway) and above at the line of the 2.105-acre (pointing to a spot at the top of the easement). (pointing to an area on a map) This is .22-acres that were given to you later. It's four different deeds, and I have all the deeds, and you have both deeds with you that were from Hankon. One is for the 2.105-acres, and the other is for the .22-acres.

Mr. Nielson: That is totally within our ownership, and it makes no sense to put a gate at the top, and I think it makes little sense to put a gate down at the highway because that is going to be an impediment to going in and out.

Ms. Moll and Mr. Card talked over each other then Ms. Moll said: No, no, no that is what the Grant Deed said. I am only saying that the gentlemen

and I know that if it was me and I gave property to someone, and I had just one request, and they didn't do that you know, he had very little to ask and didn't ask for anything. He just said that I want to make sure this doesn't happen.

Mr. Nielson: Well this hasn't happened in 67 years, and I am not sure how this...

Ms. Moll interrupted and said: I don't think anybody else had this situation and the gate has been up for a few years, and you know that's just happened. Nobody has really looked into it.

Mr. Kentosh: So this is obviously new information for us it is going to take us a month to digest this, and we have on our agenda to approve a fence which would go around the peninsula which would be in our rights to do but one of the reasons we were going to approve it this week was because you were so adamant about getting something done quickly. Are you willing to give us some time to look at these documents and figure out what we are going to do?

Ms. Moll answered: Yes I will give you some time. To me, it just seems so natural to not walk the easement and to do it the way I suggested at the top of the hill, and I was just surprised that that was what they suggested. That just makes sense to me.

Mr. Kentosh: Yes but do you realize that the deed that you are showing us, was written up before we got that other corner of land. Ms. Moll then answered: no that's not true. Mr. Kentosh then said: I thought you just said that? You said afterward were stipend that other triangle.

Ms. Moll: I gave you my title report, and in that report, it shows the easements that you have. If you would just give me your title report, you know maybe we could clear up some things and if there is something on there that maybe that corner is just a drainage that was given to you...

Mr. Nielson: What is it that you are trying to achieve.

Ms. Moll: Ok what am I trying to achieve, well I guess keeping my own property and doing things the way it should be. I was threatened with condemnation, taking an entire 30 ft easement and in fact, you would even be trying to take even more than 30 ft because then you are then going to have another argument in saying that 30 ft goes down the middle of the road, so we need 50 ft. We need 50 ft by 160 ft...

Mr. Nielson: Ms. Moll, you can blame me, I'm their lawyer ok. They asked what are the options. We already have a 30 ft easement clear up the peninsula, which the road is within that easement. We already encumber the surface and subsurface of that. So I suggested to the Board one of the things they could do is, for a lack of anything, acquire the peninsula area, we have already encumbered it. You're not going to be able to put a structure on there because of our easement. So we would be buying under the bundle of rights the remaining rights for the fee ownership so we can round that off and not have to fence this odd looking thing. That's one way. Apparently, the Board has also said, and I would be against this, is to acquire the entire roadway in feet, there's no purpose in that at all, and I would urge the Board not to do that. So I'm trying to

figure out what it is that you're...it has to be an economic thing. The law says to how we have to acquire anything it has to be appraised, and we have to negotiate and all this other stuff. I was going to compare that with the cost of the fence, but I really want to understand what it is that you want to achieve because I feel there is a little hostility, so let's get that out of the air. Ms. Moll then says: Ok well then let's just say, who started it.

Mr. Nielson: Ok well we are here to solve a problem.

Ms. Moll: Well I think at this point since we had a lot of different things come up and since you have given me all these other options, I think it is really clear to just do what the deed says, and rather it being personal between you and me, lets just comply.

Mr. Nielson: The Board can certainly consider that. Ma'am, there's rules and things of the law, whether that is still valid or not, we will find out. However, what I want to find out from you Ms. Moll, is do you really want a gate at the highway there so that anytime someone comes to your house you are going to have to come out and open the gate to go through it. Is that really what you are achieving.

Ms. Moll: Well yea we could put an electric gate.

Mr. Nielson: Well that would be great, but we aren't going to put in an electric gate.

Ms. Moll: Well then maybe I would electrify it if you put the gate in.

Mr. Nielson: There's an idea just as long as our access is not impeded.

Ms. Moll: your access would never be impeded.

Mr. Etchart: So would you prefer accommodation two things; a gate and potentially a change of the fence to accommodate that peninsula.

Ms. Moll: I think there is a reason why the property is cut like this. I think there is a reason and I am trying. I have to tell you there is no impending mitigation, OK. I'm not trying to scare anyone or pull a fast one, all I want to know is, I mean I was the one who was attacked first, and it has cost me \$40,000 because of what's happened. So all I am trying to do is, at this point, now I'm looking at everything carefully and going; what's the next thing. You and your conditions, actually the last two choices, really were a threat to take the property. So how am I supposed to react to that? You would feel the same way if someone did that, especially now that I know the property is not complying with the deed. So I just feel I have to watch everything and I am literally a nervous nelly at my house thinking that I have binoculars on me. I also found out that one of my markers was pulled out from the front of my property. You know just strange things are going on.

Mr. Kentosh: What marker is that?

Ms. Moll: The front corner marker of my parcel was pulled out; a 1.5-inch boundary pipe. Its just crazy, so now I am just making sure I dot all my l's and cross all my T's and just do everything legal and the way it's supposed to be.

Mr. Kentosh: Well just to reassure you, condemnation is the last thing we want to do.



**Ms. Moll:** Then why are we even talking about it. (there was much talking over one another) that's scary, that's a threat tactic.

**Mr. Nielson:** Ms. Moll it's not a threat. They asked me what can be done and I'm telling them this is one of the things they can do. Nobody has made that decision yet. I am just advising the board that's one way they can deal with it. So don't take it as a personal threat, it is one of the many ways to handle this.

**Ms. Moll:** Well I feel as if, well I don't know how you would feel if someone said that to you.

**Mr. Kentosh:** Ok so besides the gate at Highway 33, even if we build a gate, we still have the problem with you being fenced off from your peninsula. So if we build a gate do you still want us to remove that fence.

**Ms. Moll:** Yes

**Mr. Harrold:** Have you ever considered just selling us that little peninsula?

**Ms. Moll:** Why don't you sell me your property?

**Mr. Nielson:** Well that doesn't make any sense at all. We have a half million gallons of water stored up there, would you like to buy that too? Which then you would have to serve water to our customers.

**Mr. Krumpschmidt:** Well it is clear to me that that property is not for sale. It is clear that we still have the original impediment of the fence that blocks the property owner from access. It may now be that we have some conditions to live up to, but we have to look into that. So I think we need to take this new information, look at it carefully and then see how that affects what options are in front of us and discuss those options at the next board meeting. Nothing else is going to happen now until we have a chance to go through that. However, one thing I do want to make clear Mr. Moll is that when Mr. Kentosh and I stood at the top of that road and we talked about the second possibility for a fence there that you were suggesting, and in fact that I entertained at some point. We also talked about reasons why that was dismissed, and those reasons have to do with the difficulty and the narrowness of that driveway and the types of vehicles that ply that driveway. So to put the fence there, maybe something that would satisfy the wishes of someone that is no longer on the scene. However, it would greatly aggravate the use of the property and the safety of the use of the property, so it is very likely that the gate is going to remain in the general location of where it is. I am not saying it will; I am saying it is very likely because of those issues. So then all we have left to talk about, if that's the case, is what to do with the fenced off portion, and that we have given you in terms of those options. Not as threats but as ways of dealing with that issue. Condemnation is just one way. Probably the simplest way but perhaps even the ugliest way is to fence that property in a way that we talked about. What I would like for you to think about before the next meeting is, is that a solution in your mind that you would be happy with. To have access to that property,

which you should, but to have it fenced in a manner that we are proposing because we need to fence it in that way to secure it.

Ms. Moll: First of all, yes I did walk up to the top of the property with you, and I would like this in the minutes. I do not believe it's not feasible. I believe you are using that as an excuse not to move the fence. It is absolutely feasible, I walked it with you, and that's what I believe, and that's what I can see. We can measure the drive; we can even get an engineer out there and go ahead and measure the grade of the driveway if you like because I know my driveway grade is much steeper than that are right there and that's going all the way up the property. So I disagree with you there.

Mr. Krumpschmidt: That's fine. I am willing to defer to someone that has some expertise in that.

Mr. Kentosh agrees with Mr. Krumpschmidt. However, Ms. Moll suggests putting the gate up further and refers back to the deed and codes regarding gates and driveways.

Mr. Kenstosh: Ok, why don't we study this for the next month. We obviously have to look at this document you gave us, and if you will be patient, we will put off awarding a contract for the fence until we get this resolved.

Mrs. Berle asks about fencing the whole property and why that is not done if we are worried about securing the water. Mr. Krumpschmidt informs her that we are dealing with that issue and that MOWD is aware of the open areas. However, we are a small water district and finance is always an issue for us so we are trying to figure out how we can address that within our where with all.

Ms. Moll and the Board continued to discuss the deed and fencing further with no resolution at this time. It was decided to table this till next month to look over all documentation with the Districts attorney.

Ms. Von Gunten: May I make a comment on this issue? Mr. Kentosh: Go ahead, Elizabeth. Ms. Von Guntent: Good fences make good neighbors. Its not unreasonable for a propprter to want to clarify ambiguous boundaries, it's a legal necessity to do that, it's best management practices. It's also not unreasonable to expect the water district or any other landowner to comply with their own deed, especially one that these people have been directed by the Board itself. These issues don't seem unreasonable to me. It does seem unreasonable that to me it seems that the contending party has not always been treated with respect and that is an issue. I think these are not unreasonable issues to resolve and it's the way to do it. There is a slew of you including your lawyer, and she comes in on her own and deserves more respect and patience and not threats.

Mrs. Berle and Ms. Moll requested that comment be on record.

After some further comments, Mr. Kentosh thanked everyone for coming and stated we would try to put her earlier on the agenda for next month or meet aside from the monthly Board meeting.

- f) Discussion and approval of fencing the Districts easement at 2680 Maricopa Hwy (May be conducted in closed session) – after much discussion in section E it was determined to table this item to next month or later.

Meeting went into recess at 8:25 pm to 8:30 pm  
Meeting reconvened at 8:30 pm for closed session

**10. Closed Session:** The Board of Directors will hold a closed session to discuss personnel matters or litigation, pursuant to the attorney/client privilege, as authorized by Government Code Section 54957 & 54956.8, 54956.9 & 54957

- a) The Board of Directors will go into closed session under the Real Property Negotiations Exception Government Code Sections (§54956.8 and 54957.1) to discuss options regarding easements and property lines on parcels 010-0-102-290 and 010-0-102-090

The closed session ended at 9:11 pm at which time the public session reopened.

The Board has directed Mr. Nielson to obtain a title report for 2680 Maricopa Hwy and to research any other documents that pertain to this property. The executive committee will meet with Ms. Moll in the interim before next board meeting.

**11. Meeting Adjournment**

There being no further business to conduct at this time, Board President James Kentosh adjourned the meeting at 9:15 pm.

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President

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Secretary