

YOSEMITE ALPINE COMMUNITY SERVICES DISTRICT
Minutes of Saturday, April 23, 2011
Board of Directors Meeting at The Tenaya Lodge

CALL TO ORDER.

Chair Dick Ryon called the meeting to order at 10:00 a.m.

1. ROLL CALL and INTRODUCTIONS

Board Members in attendance: Ken Fox, Diane Bopp, Chair Dick Ryon, Shannon Glendenning and Karen Glendenning. Others in attendance: Patti Frey, Tom Bopp, Doris Ryon, Karen Green, Barry Green, Pamela Salisbury, Carolyn Avila, Lou Avila, John Swenson, Suzi Keller, Bill Keller, R. Keller, Louise Hastrup, Eugene Glendenning, Darlene Swenson, Kirk Helland, Donn Harter, Greg from Bay Area, Donn Harter, Kirk Helland & Susie Odry.

2. PUBLIC FORUM

- A. Patti Frey thanked the Board members for service to the water and property owners. Patti expressed concern over the goals of Suzi Keller's letter. The full text of Patti's comments is attached at the end of the minutes.
- B. Doris Ryon asked to have Patti Frey's letter entered into the minutes.
- C. Barry Green asked that YACSD explore annex all of Fish Camp, especially for snow removal and garbage collection. He is willing to help on this matter.
- D. Pamela Salisbury, as a representative of Block D, would like Block D brought into the district for snow and garbage. There are 36 properties within Block D.
- E. Robert Keller asked for a copy of the by-laws. No by-laws have been found for YACSD.
- F. Dick Ryon asked Ken Fox for a copy of the by-laws that came from the 1978/79 committee of Rosemary Plue, Ken Fox and Dick Ryon.
- G. Karen Green commented that Community Services District law states that YACSD can create their own by-laws.
- H. Greg from Bay Area asked "How do you govern yourselves?"
- I. Dick Ryon responded that YACSD follows state law.
- J. Robert Keller gave a history lesson in that from 1969-74 the Mariposa County Board of Supervisors, BOS, were the Board of Directors, BOD, of YACSD.
- K. Barry Green stated that the BOS should have created the by-laws originally.
- L. Karen Green – Government code allow compensation for Board members for up to \$100/day for up to 6 days/ month.
- M. Dick Ryon stated that the YACSD BOD is a volunteer status activity after you are elected to office.
- N. Patti Frey stated that the Keller family is continuing to harass the board. Keller family needs to put it to rest.

O. Gene Glendenning stated if and when the by-laws are found that he suggests going through them as they are probably in need of updating. Government code allows for individuals to donate money and services to the district.

3. APPROVAL OF MINUTES of Dec. 11, 2010, regular meeting and Feb. 4, 2011, special meeting. Motion: To approve the minutes of the December 11, 2010, YACSD meeting as presented. Motion: K. Fox, 2nd D. Bopp, Motion: Passed 5-0.

Motion: To approve the minutes of the February 4, 2011, YACSD Special Meeting as presented. Motion: K. Fox, 2nd, D. Bopp, Motion: Passed 5-0.

4. TREASURER'S REPORT

- A. Revenues and Expenditures to date. Request to compare expenses to budgeted amounts on Treasurer's Report. Correct report to remove one \$800 fee to State of California (listed twice on report). **Motion:** To accept the Report as presented. Motion: K. Fox, 2nd: D. Bopp, Motion: Passed 5-0.
- B. Resolution to apply for CAL-FEMA grant to pay for exceptional snow removal this winter. YACSD needs to have a resolution to apply for Cal-FEMA grant for reimbursements for expenses incurred from heavy winter storms. The protocol was explained and the Resolution was adopted. **Motion:** S. Glendenning, 2nd, D. Ryon, Motion: Passed 5-0.
- C. Request for proposal to develop website. Discussion was held over the expenses needed to set up and maintain a website. Currently www.fishcampca.org permits YACSD to post information on website. Directors will look into finding a volunteer to develop website. Still have expenses for yearly maintenance. YACSD will continue to enjoy the generosity of www.fishcampca.org.

5. REVIEW FEBRUARY 4 MEETING. Dick Ryon gave an overview of the Special Meeting called for February 4. Resolution 2011-001, the attorney YACSD had been using with the PacificUS lawsuit left his firm, amicably. Resolution 2011-002 the governing body needs a resolution authorizing application for a CA Dept of Water Resources Floodway Corridor grant. Resolution 2011-003 the body is the same at 2011-002 just a change in the wording in the title of the Resolution for a CA Dept of Water Resources Floodway Corridor grant. Patti Frey doesn't see the need to discussion as the resolutions are already passed. No need to revisit the decisions, it would not be productive. Suzi Keller asked for the relevance, did the grant application get filed? Dick Ryon commented that action is continuing.

6. CALIFORNIA SPECIAL DISTRICTS ASSOCIATION. Dick Ryon gave an overview of the objectives of the California Special Districts Association. There is a special promotion membership fee of \$100/year as opposed to \$125/year. Following discussion it was found that it would benefit YACSD to join. **Motion:** K. Fox, 2nd D. Bopp, Motion: passes 5-0.

7. DISTRICT PROCEDURES. To follow government regulations YACSD needs to have a ballot vote of the voters/property owners to change the rates of the administration fees and snow plowing fees. IF YACSD gets the votes from the registered voters of YACSD it would need a 2/3 majority for approval. IF YACSD gets the votes from the property owners it would take a 50% majority for approval. Mariposa County could count the ballots for YACSD – for a fee. Diane Bopp would like to keep expenses down. Karen Glendenning reported that currently YACSD has paid \$20,891.64 in legal fees related to the PacificUS lawsuit. Following discussion it was decided to send ballots to each property owner with ONE VOTE per buildable property – this includes vacant lots and developed lots. The ballots will be sent with one ballot per buildable property with the ballots due back to YACSD by the beginning of the next YACSD meeting on June 18, 2011. Ballots will be tabulated during the June 18 YACSD Board of Directors meeting. Results will be announced at the meeting.

8. DISCUSSION OF 2011-2012 YACSD BUDGET. Ken Fox and Susie Odry volunteered to poll the vacant lot owners for input on fees charged to them. No report was generated. Dick Ryon reported that in developing budget vacant lots were charged roughly 1/3 the fees of developed lots. Ken Fox likes the 1/3 approach to vacant lots, he still has problems with the entire proposed budget. Donn Harter commented that the legal fees benefit all the property owners, roads will deteriorate and need to be maintained if not upgraded, water transmission benefits all lots as does the installations of the infrastructure of the district. Dick Ryon reported that Black Pine Way paving looks bad in places, the snow removal costs this past year were above budget – but the snowfall was above average. Gene Glendenning stated the infrastructure needs maintenance and needs to be fully funded by all lots. Gene also commented that a road was never developed to Susie Odry's lot #2. Ken Fox feels 2010-2011 budget better reflected how to spend money, a majority of property owners do not understand what's in Dick's budget. Ken also questions the Special Legal Assessment – where would it be stopped at, how it would be paid for, fund for legal fees should be the only outstanding fee. The maintenance Capital Asset Fund hasn't been explained to Ken fully. Robert Keller asked when the time frame would take effect. Dick Ryon stated that the Fiscal Year for YACSD is July 1 to June 30.

Motion: Adopt the water access fees, set by YACSD Board of Directors, parcel tax for snow removal, streets and administration at \$693.00 per developed lot and \$230.00 per vacant lot with the water rate at \$6.08 per 1000 gallons. Motion: S. Glendenning, 2nd D. Bopp, Motion – Passed 5-0. Election date for passing/defeating ballot is Sat. June 18, 2011, at the next YACSD Board of Directors, BOD, meeting. Protest hearing for fee changes will be on Saturday, June 18, 2011, at the next YACSD BOD meeting.

9. SET ELECTION DATE AND TAX COLLECTION BY MARIPOSA COUNTY. The election date will be Saturday June 18, 2011 at the next YACSD Board of Directors meeting. **Motion:**

YACSD election recognizes one, 1, vote per parcel for the adoption of Snow, Road and Administration taxes for Fiscal Year 2011-2012. Ballots will be counted publicly at YACSD meeting of Saturday, June 18, 2011. Votes will be cast by secret written ballot. Motion: S. Glendenning, 2nd: D. Bopp, Motion: Passed 5-0.

Protest Vote – PDF file by written file to Motion: For purpose of protest vote for water rates approved by YACSD Board of Directors for Fiscal Year 2011-2012 the protest must be sent through e-mail with electronic signature by Noon, June 16th 2011 OR by postal mail received by Noon June 16th, 2011 or hand delivered by start of YACSD meeting on June 18, 2011. Vote to be tied to parcel. One protest per parcel. Motion: S. Glendenning, 2nd: D. Bopp, Motion: Passed 5-0.

10. UPDATE AND ACTION ON LAWSUIT FILED BY PACIFICUS REAL ESTATE GROUP vs YACSD. Dick Ryon read the PacificUS letter to Dick regarding applying for a Forbearance Agreement with ONE WEST, due to be granted in mid-May. Mr. Giuntini stated in the letter that PacificUS did not respond to negotiations because of change in attorney to Scott Cross. Dick Ryon said YACSD never authorized Scott Cross to take over as attorney.

11. FISH CAMP BIG CREEK CONSERVANCY. Barry Green stated the reason for forming the Big Creek Conservancy – the pre-foreclosure filing against the PacificUS Real Estate Group, Silvertip developers in the fall of 2010. He had brochures to hand out to those in attendance. Pamela Salisbury also spoke of the efforts of working the Sierra Conservancy in establishing the Big Creek Conservancy. Donations can be made to the Sierra Conservancy with Big Creek on the memo ling.

12. COMMUNICATION. Keller family asserting special privileges and letter from Kellers' lawyer; he suggests special benefit district for Keller home – paying nothing, or Keller withdrawal from the District. Dick Ryon reviewed the recent Keller activity: of sending a 12 page letter to property owners that was then sent on to Mariposa County District Attorney Bob Brown. The District Attorney found that YACSD followed the Brown Act – there were no violations. Dick read the Emory Wishon letter of 4-13-2011 and read the Emory Wishon letter of 4-21-2011 stating options of having Keller Railroad Avenue property 1. Become a zone unto itself or 2. Property secedes from the District. Suzi Keller stated the home receives water from a different source – Fish Camp Mutual. Barry Green commented the water is accessible to home and has option to hook into YACSD, property also benefits by having fire hydrant nearby to lower fire insurance rates. Gene Glendenning commented that the tank assessments paid by other YACSD property owners paid for the tanks and the fire hydrants.

Dick Ryon asked the Keller family to bring information to the next YACSD meeting siting the benefit(s) to YACSD for action on options regarding the Keller property. Issue was tabled to next meeting to have information brought forward.

Patti Frey asked the Keller family why are they creating so much grief to YACSD, increasing costs to her and to the property owners. Robert Keller stated he had no further comment. Dick Ryon asked the applicant to provide all documents to make help YACSD make an informed decision. Keller commented that YACSD was paid \$100 strictly for the snow removal along the parking strip on Silvertip Lane. Keller alleges that his residence is on a County Road.

13. ITEMS BY DIRECTORS

- A. Karen Glendenning: Please buy stamps at the Fish Camp Post Office.
- B. Dick Ryon: Has been looking at By-laws of other Districts. Sub-committee formed of S. Glendenning and D. Bopp to develop draft by-laws.

14. NEXT MEETING DATE AND LOCATION.

Saturday, June 18, 2011, at the Tenaya Lodge will be the next meeting. Time was originally set at 3:00 pm to avoid conflict with Fish Camp Mutual Water annual meeting. Contact with Tom Miller of FC Mutual found their meeting will be June 25. YACSD meeting moved to 10:00 a.m. start at the Tenaya Lodge.

15. CLOSED SESSION TO DISCUSS PACIFICUS LAWSUIT AND OTHER LITIGATION.

Discussion was held regarding personnel matters.

16. REOPEN MEETING. YACSD Board will explore different representation by attorney(s) for general legal matters.

17. ADJOURNMENT. Motion: To adjourn the meeting. Motion: S. Glendenning, 2nd K. Fox. Motion: Passed 5-0. Chair Dick Ryon adjourned the meeting at 3:45 pm.

Respectfully submitted,

Karen Glendenning
YACSD Secretary

Comments to the YACSD Board
Patricia Frey
1164 Silvertip Lane, Fish Camp
April 23, 2011

I want to thank the board members for your service to the Yosemite Alpine CSD. You spend countless, sometimes thankless hours in preserving the district's water quality and in providing access to our homes.

As you know, I responded to Suzi Keller's March memorandum with a letter to the entire district. Her memo continues to trouble me. She all but accuses the board of misconduct including nonfeasance, misfeasance, malfeasance, obfuscation and egregious behavior, to highlight but a few. I would like to address these now, in this public forum, by asking her to give us specific examples of how the board has conducted itself in these manners. For example:

Nonfeasance is the failure to meet obligations; in law, the omission of some act that is expected to have been performed.

Malfeasance is conduct by a public official that cannot be legally justified or that conflicts with the law.

Misfeasance in law is the abuse of lawful authority in order to achieve a desired result.

Obfuscation is to make something obscure, especially by making it unnecessarily complicated.

Egregious behavior is behavior that is conspicuously bad or offensive.

[Note: Ms. Keller declined my request to speak now, despite her statement to me earlier that she was planning on doing so at this meeting.]

It is clear from the amount of emails that I have received in just this past month, that Ms. Keller is demonstrating obfuscating and egregious behavior herself. She monopolizes board time and attempts to create the impression that the board does not conduct itself in a forthright manner. Her actions have wasted my money, and the money of the rest of the CSD customers, by necessitating the use of legal counsel as the board defends itself against her inflammatory accusations. Her latest consultation with the district attorney is an attempt to create yet another impression of impropriety by the board.

My question to Ms. Keller is "why?" Why does she spend this amount of time harassing the board? My speculation is that she is motivated to promote the Silvertip development project. My speculation is that if the Silvertip project does not come to fruition, than she will experience a negative financial consequence.

I call for Ms. Keller and her family to stop this bullying conduct. The board has better things to do with its time and better things to do with our monies.