

**COASTSIDE COUNTY WATER DISTRICT**

**766 MAIN STREET**

**HALF MOON BAY, CA 94019**

**MINUTES OF THE SPECIAL BOARD WORKSHOP**

**January 26, 2007**

- 1) ROLL CALL:** President Larimer called the meeting to order at 11:34 a.m. Present at roll call were Directors Ken Coverdell, Chris Mickelsen, Everett Ascher and Bob Feldman.

Also present were Ed Schmidt, General Manager; Anthony Condotti, Legal Counsel; JoAnne Whelen, Administrative Assistant/Recording Secretary, and Gina Brazil, Office Manager.

- 2) PLEDGE OF ALLEGIANCE**

- 3) PUBLIC ANNOUNCEMENTS**

*Larry Kay – 12 Sunset Terrace, Half Moon Bay, CA* – thanked the CCWD Board and Staff for their attention to Proposition 218, commending them for being “right-on-target.” Mr. Kay also distributed a document, Ordinance 2006-01 from the Half Moon Bay Fire Protection District amending the Rate and Fee Schedule to increase, modify and establish certain fees.

President Larimer then announced that this would be a very informal meeting, more of an inter-active workshop, with participation from the public encouraged. He explained that the goal of the workshop was to review the limitations involved with possibly restructuring the District’s rate system. He also provided some of the background, which included that approximately a year ago CCWD had contracted with Camp Dresser & McKee, Inc. (CDM) to produce a study to estimate the District’s maintenance and depreciation costs, separate from the processing and delivery costs of the system. President Larimer stated that now the District is looking at possibly distributing those costs and perhaps changing the rate system so that those costs would be more directly tied to the services that Coastside County Water District customers receive.

President Larimer further stated that the goal is to try to identify and understand how much of the total costs of the system are related to

maintenance and depreciation and to investigate cost models that can be used to develop a new rate system. He also stated that no action would be taken at this meeting, and explained the workshop would proceed with two presentations, followed by a broad discussion among the Board, staff, and any members of the public who wished to participate.

**4) Presentation by District Legal Counsel on legal framework for potential adoption of new rate structure**

Mr. Condotti, District Legal Counsel, advised the Board, that in preparing for this meeting, he had reviewed his files on the District's history of setting rates. He referenced correspondence he had provided to Mr. David Mier, Interim General Manager, dated in June of 2001, which stated, that unlike storage and transmission fee increases, which may be subject to Proposition 218; there is no specific statutory procedure applicable to the Board's increasing of water rates. He said that the memorandum also stated that, notwithstanding the lack of any statutory requirements, it would however seem prudent for the Board to provide ample public notice and an opportunity for members of the public to speak, prior to adopting a significant increase in water rates.

Mr. Condotti informed the Board, that the legal analysis undertaken by many attorneys for California public agencies at that time, was that it was believed that ordinary water consumption charges were not subject to the requirements of Proposition 218, because it was believed that they were not property-related fees or charges. Mr. Condotti then went on to state some of the historical cases involving the challenging of Proposition 218 requirements. He also advised that Coastsides County Water District has been in full compliance with Proposition 218 by following the notice and majority protest provisions applicable to property related fees and charges.

Mr. Condotti reminded the Board that last April, 2006, the District received a report from Jake Boomhouwer, with CDM, an engineer and noted authority on setting rates and charges, and that report examined the potential of applying a new base rate that would not only apply to existing customers that are receiving water, but also to those to whom water service connections have been assigned, but not yet connected. He reiterated the theory stated in this report, that regardless of whether a person is actually using water, or owns a connection to obtain water service in the future, there are still costs associated with the depreciation and maintenance of the existing system.

He stated that of course, the costs associated with the ongoing operations and the cost of purchasing water, should be borne by the current water-consuming customers.

Mr. Condotti then reviewed the legalities that would be necessary in order to include costs assigned to the sold-but uninstalled water service connections. He reported that the portion of Proposition 218 that deals with property related fees or charges states that stand-by charges are to be considered assessments, however, it does not define the term "stand-by" charge. He further stated, that in his view, a conservative reading of Proposition 218 is that in order to impose a charge on those not receiving water service, it would be prudent to go through the process, under Proposition 218, that governs assessments, as opposed to property related fees or charges. He

informed the Board of the process, which entails providing a notice to all of those who will receive the service, or who will be subject to the new assessment, which would also include an analysis of the proportionate costs of providing the service that is attributed to the property that would be assessed. The process would also include a mail ballot procedure, whereby a majority vote would be required in order to put the assessment into effect.

Mr. Condotti answered a few questions from the Directors and provided the details of a few related cases, including a background of law AB2951 and reviewed some election code requirements. The Board discussed some of the potential issues involved with possibly pursuing a new rate structure.

5) Presentation by District Rates and Fees Committee members, President Larimer and Director Feldman on rate and fee modeling results and discussion of principles and guidelines for the potential development of a new rate system

Director Feldman and President Larimer proceeded with their presentation, reviewing the process and the progress that they had accomplished on the modeling of the current rate scheme against new potential alternative rate structures. They referenced their analysis, and explained the tables and report results in detail and addressed questions from the Board members. The Board discussed that any proposed revision to the District's rate structure is a very fundamental change and should be done so only after taking the time to develop a comprehensive plan. Mr. Condotti stated that, although he could not predict the outcome of a legal challenge, in his view, CDM's analysis provides a rational, and reasonable basis, that appears to be very solid.

Larry Kay – 12 Sunset Terrace, Half Moon Bay, CA – shared the history of a legal civil case between the Canada Cove Homeowners Association versus the Canada Cove residents. He also requested that the record reflect that he had provided a copy of the 2006-2007 Grand Jury Roster, which was distributed to the Board by Mr. Schmidt and requested that the Board pay close attention to the names on the roster. Mr. Kay also submitted the due-diligence report for the City of Half Moon Bay, including copies of documents from Mr. Kay dated December 18, 2006 to the Half Moon Bay City Council in regards to the proposed parkland at 880 Stone Pine Road, and a memorandum dated December 19, 2006 from him to Half Moon Bay City Clerk, Sibhon Smith.

The Board also briefly discussed the potential affect of re-structuring the rate structure on the District's priority and non-priority connections.

Ann Carey - addressed the Board with a few questions regarding the District's depreciation and maintenance costs in regards to the Crystal Springs Project.

President Larimer announced that prior to the conclusion of the workshop, he would like to get a sense of how the Board wishes to proceed on this issue. He

proceeded by stating that he felt that one of the conclusions is that the District re-visit CDM's engineering analysis and try to divide the costs in terms of how much of the depreciation and maintenance costs are generated by the demand on the system and how much is attributed to the cost of the aging infrastructure. It was also agreed that the report be reviewed to ensure that capacity charges versus connection charges are clearly defined.

President Larimer requested that the Board indicate if they were interested in pursuing this topic further, by means of an updated analysis and a more specific model. Director Coverdell advised that he felt the project parameters should be prepared in a punch-list format, which may be useful to help target the Board member's responses and interpretations in order to take the project to the next level. He proposed that a few areas to be considered include the target group and the proper amount of the proposed increases, and whether base rates or usage figures should be involved, and how to incorporate the encouragement of water conservation.

President Larimer referenced Figure 1 in the Rates and Fees Committee modeling report and stated that what is demonstrated in these models is for existing customers. He explained that the green line in the table is neutral, so that the area under that curve, is the impact of this rate change,

and it is offset, so that the area above the line subtracts from the area below the line, so they have actually affected a rate increase to existing customers with both of these models. In these particular models, existing customers, as a total group, will end up paying more. He further stated that one of the boundary conditions for a model could be to leave current customers paying the exact same amount or perhaps evoke a small increase, or even a small decrease in rates for these customers, which could all be considerations for the model. Another matter to be contemplated included instituting charges to customers who hold uninstalled connections, and pointed out that all of these are philosophical issues that the Board needs to determine.

Director Ascher commented that he felt it was important to get a sense if the Board, as a whole, actually wishes to move away from the District's historical rate structure, which currently charges only the current, existing, customers who are connected and utilizing the water system, to a system where costs are assigned to anyone who is connected or has the potential to connect to the system.

President Larimer agreed with Director Ascher's comments and stated that the only variance that he would include, is that the Board is not discussing all of the potential, future users, but those potential, future users who have identified themselves by purchasing a water service connection. Director Coverdell stated that he was in favor of moving away from the old rate structure, towards a structure where anyone who has the ability to hook up to the system, participates in the costs. He added that one

variable could be that these people who have not been paying, could be considered for possibly some type of "dial-up" costs, with some type of schedule that gradually increases the fees. This would allow these customers to gradually become accustomed to and have the ability to budget for these new fees. Director Ascher agreed that he felt that any person who has any ownership stake in this system at all, should share in paying for the costs of the District's system, and that the only question is how to properly determine and distribute these costs.

Larry Kay – 12 Sunset Terrace, Half Moon Bay, CA – shared a concern, that should there be a hearing on this matter, the three hundred and sixty residents of Canada Cove, who receive CCWD water, but are not property owners, would not have the opportunity to participate in or provide input in such a hearing.

Ann Carey – stated that she knows that CCWD is not a land-use agency, but requested that the District keep in mind that many of the uninstalled customers would like to put their connections into use, and that there are some who paid for the system initially twenty years ago, but did not have the opportunity to put the connection into service and have since gone bankrupt.

President Larimer stated that the Board's perspective is that they would like to see revenue being generated from all of those service connections, because the money is needed to operate the District's system.

6) **Discussion and possible direction to staff to place the potential development of a new rate system on the February 13, 2006 Board of Directors meeting agenda**

President Larimer stated that he felt that the sense of the Board is to request that the modeling committee proceed with an update of the engineering analysis, an investigation of the costs associated with depreciation and the system maintenance costs attributed directly to the delivering of water, and an investigation to determine the portion of the costs that are based on the aging of the infrastructure. Director Feldman stated that he also felt that some key parameters needed to be defined as a basis to generate more pertinent data and to manipulate and refine the model to include a selection of configuration and scenario alternatives.

The Board also agreed that if the District were to implement a new cost structure, that the intent would be to try to reduce the costs to the existing customers and that it was also agreed to try to manipulate the incentive for conservation. The Board also discussed considering allocating a large portion of the additional funds to possibly be assigned to improving and upgrading the District's operations, including the reading of water meters. The possibility of providing a provision for the District to buy back the uninstalled connections that have not been utilized, was also discussed.

President Larimer concluded the workshop by informing the audience that it was the Board's goal to have open communication and an excellent relationship with the public and that he hoped they felt comfortable in contacting the Board on any issue of concern. He reiterated that the door is always open to meet with the CCWD Board members and the General Manager, Mr. Ed Schmidt.

7) **Adjournment**

The Special Board Workshop was adjourned at 2:25 p.m.

Respectfully submitted,

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Ed Schmidt, General Manager

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Jim Larimer, President