

**WEST VALLEY SANITATION DISTRICT
OF SANTA CLARA COUNTY, CALIFORNIA**

**BOARD OF DIRECTORS MEETING
February 14, 2018**

The Board of Directors of West Valley Sanitation District of Santa Clara County, California, convenes this day in regular session at 6:00 p.m. at the district office, 100 East Sunnyoaks Avenue, Campbell, California.

Roll Call

1. Present: Directors - Steve Leonardis, Paul Resnikoff, Mike Wasserman, and Rowena Turner, Chairperson.

Absent: Director - Manny Cappello.

Staff: Jon Newby, District Manager and Engineer; Edward H. Oyama, Director of Engineering and Operations; Laura McKinney, District Counsel; and Lesha Luu, Secretary.

Approval of Minutes of Previous Meeting

2. Approve the minutes of the regular meeting of the Board of Directors of January 10, 2018. The minutes of the previous meeting is approved as written.

Oral Communications

3. None.

Written Communications

4. Memorandum from Mr. John D. Bakker, Principal from Meyers Nave, dated January 16, 2018, regarding Involvement with San Jose/Santa Clara Litigation.

Reports (Items to be taken in one motion)

5. Investment of District funds: Report on commingled funds invested by the County of Santa Clara for West Valley Sanitation District as of December 31, 2017.
6. Consolidated Income and Expense Statement of West Valley Sanitation District for the period ended December 30, 2017.

Motion by/Second by: Wasserman/Resnikoff to approve Items 5-6. Motion passed unanimously.

Unfinished Business

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7. None.

Public Hearings

8. Public Hearing to consider execution of a lien on the property located at 13651 Saratoga-Sunnyvale Road. Staff Recommendation: Conduct a public hearing and, upon conclusion adopt Resolution No. 18.02.01, RESOLUTION OF THE BOARD OF DIRECTORS OF THE WEST VALLEY SANITATION DISTRICT OF SANTA CLARA COUNTY, CALIFORNIA, TO REJECT THE PROPERTY OWNERS' OBJECTIONS TO THE IMPOSITION OF CHARGES AS A LIEN AND ALLOW THE LIEN TO BE RECORDED AS WRITTEN AND APPROVED BY THE DISTRICT MANAGER AND ENGINEER on the property located at 13651 Saratoga-Sunnyvale Road, Saratoga, California (APN 503-20-010). The Chairperson invited Directors to disclose an ex-party contact and stated the public hearing procedures. There was no ex-party contact. The District Manager reported the District received a claim for reimbursement associated with a sewer back up on the property owned by Mark Evan and Sharon La Fountain, located on Saratoga Sunnyvale Road, Saratoga dated June 4, 2016. The District reimbursed the property owner for the sewer back up cost. However, review of the property's permits revealed the property had illegally connected to the sewer system, constructed improvement that were nonconforming, and had not paid the required fees. The property owners were given notice on September 30, 2016 to perform corrective actions to rectify multiple illegal conditions. Over next 12 months, the District continued to try and work with the property owners to make arrangements to rectify the illegal conditions. Mr. Evans was afforded the opportunity to legalize and correct the illegal conditions himself over many months. However, He did not avail himself of that opportunity and he did not communicate with the District to seek further time to correct the conditions. Upon making no progress with Mr. Evans to complete the required corrective actions, the District proceeded with extending the main in the public right of way. In November 2017, the District completed the main extension including the sewer lateral to the property with a property line clean out to facilitate connection. The new main is now available and ready for the property owner to connect and for the property owner to correct the remaining illegal conditions.

On January 11, 2018, the District sent a Notice and Order to Connect to District Extension within 90 Days and Notice to Collect Cost for District Sewer Main Extension Including Sewer Service Charges and a Notice of Lien for the property owned by Mark Evan and Sharon La Fountain. The letter of notification served 90-day notice to the property owners to perform the work on their property to abandon the illegal connection and connect to the new main. The notice also sought reimbursement of District cost to extend the main and included applicable sewer fees for permitting and use of the sewer. Last, the notice informed the property owners of staff's intent to seek Board approval to place a lien on the property for collecting cost if the payment is not paid and becomes delinquent. The property owner failed to make payment by the February 7th due date and has now become delinquent. This public hearing is for consideration of placing a lien on the property to collect for fees owed and the main extension. Staff recommended placing the lien in an amount of \$125,127.53

Public Hearing opened with Mr. Mark Evans in attendance. Mr. Evans objected to the imposition of a lien on his property. Mr. Evans claimed that he was in communication with the District regarding alternate plans that do not require expensive construction work. He alleged he was not aware the District had proceeded with the work. Due to personal challenges, he had not attended to this matter. Mr. Evans also indicated that he has obtained

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an easement from his neighbor previously when he built the lines to connect to the District sewer, however, the easement was not recorded (a copy of the said easement was not provided). Mr. Evans requested the District to cover a portion of the cost of the new construction. Ms. Sharon La Fountain is also in attendance and declined to comment when she was called. The Board's questions were satisfied by staff. The Board closed the Public Hearing with a vote. The Board's discussion continued. The Board's further questions were satisfied by staff.

Motion by/Second by: Wasserman/Leonardis to close the public hearing. Motion passed unanimously. Wasserman/Leonardis to approve the imposition of charges as a lien and allow the lien to be recorded as written and approved by the District Manager and Engineer and adopt Resolution No. 18.02.01. Motion passed unanimously.

Consent Calendar

9. Approval of payment of invoices, January 11, 2018 – February 14, 2018.
10. Common Interest Group, Privilege, and Confidentiality Agreement. Authorize the District Manager and Engineer to execute future amendments as well as agreements and related documents associated with the litigation being pursued pursuant to the Common Interest, Privilege, and Confidentiality Agreement with Cupertino Sanitary District, County Sanitation District 2-3, Burbank Sanitary District, and the City of Milpitas ("Tributary Agencies").
11. Award of Construction Contract - Multi-Year Open Sanitary Sewer Repair. Award the Multi-Year Sanitary Sewer Repair Contract to Able Construction Group, Inc. for the amount of \$500,000 for the fiscal year period ending June 30, 2018 and \$1,300,000 for fiscal year ending June 30, 2019. Authorize the District Manager and Engineer to extend the contract for up to three additional fiscal years for \$1,300,000 per fiscal year, for a maximum contract period ending June 30, 2022.
12. Acceptance of sewerage systems. Adopt Resolution No. 18.02.02, RESOLUTION ACCEPTING SEWERAGE SYSTEM INSTALLED BY WINCHESTER BOULEVARD PARTNERS, LLC., AND SITUATED WITHIN THE WEST VALLEY SANITATION DISTRICT OF SANTA CLARA COUNTY, STATE OF CALIFORNIA, described as:

Tract Number: 10309
Location: 2295 & 2305 South Winchester Boulevard, Campbell
Constructed by: Winchester Boulevard Partners, LLC.

Motion by/Second by: Wasserman/Resnikoff to approve items 9 to 12. Motion passed unanimously.

New Business

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13. None.

Directors' Items

14. There were no Director's reports, announcements, and questions.

15. There is no District Manager's report.

Adjournment

16. There being no further items of business, the meeting was adjourned at 6:24 p.m. The next Board Meeting is scheduled for March 14, 2018, at 6:00 p.m.

Signature on File

ROWENA TURNER, CHAIRPERSON

Attest:

Signature on File

Secretary