

Bolinas Community Public Utility District

A Regular Meeting Of The Board Of Directors

May 18, 2022 270 Elm Road, Bolinas

In compliance with local and state shelter-in-place orders, and as allowed by the Brown Act as currently in effect under the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19, and the Governor's Executive Order N-29-20 (March 17, 2020), the BCPUD did not offer an in-person meeting location for the public to attend this meeting. The meeting was conducted by the BCPUD Board, staff and public via Zoom.

1. Call to Order.

7:33 p.m.

2. Roll.

Directors Comstock, Siedman, Smith and Walker present via Zoom; director Godino absent. Director Siedman presiding.

3. Amend BCPUD Resolution 693: Proclaiming a Local Emergency, Ratifying the Proclamation of a State of Emergency by the Governor (March 4, 2020), and Authorizing Remote Teleconference Meetings of the Legislative Bodies of the Bolinas Community Public Utility District for the Period of 30-Days Pursuant to Brown Act Provisions.

L. Comstock/D. Smith four in favor, director Godino absent to adopt amended BCPUD Resolution 693, continuing the authorization of remote meetings of the BCPUD Board and committees for an additional 30 days.

Director Godino joined the meeting.

3(a) Addition of Urgent Item to the Meeting Agenda.

Director Siedman noted that an urgent item needs to be added to the meeting agenda and requested that staff update the Board. Staff reported that in order to add an urgent item to the agenda, the Board needs to make two findings: (1) there is a need for immediate action and (2) the matter came to the attention of the district subsequent to the agenda being posted. In this case, the BCPUD earlier today received a Notice of Violation from the Marin County Code Enforcement Office about an alleged illegal motocross at Mesa Park (land owned by the BCPUD) with a response requested no later than May 31st. 2

L. Comstock/D. Smith all in favor finding that there is a need for immediate action on the Marin County Code Enforcement Notice of Violation, that this matter came to the attention of the district today, subsequent to the posting and publication of the meeting agenda, and that an urgent item should be added to the agenda so that the Board can consider appropriate action.

Director Siedman directed staff to include a new item 9a on the meeting agenda regarding a BCPUD Response to the Marin County Code Enforcement Notice of Violation.

4. Community Expression.

None.

5. Manager's Report and Project Updates.

- *Update on the Status of the BCPUD's Water Supply. (Update will be posted on the BCPUD website.)*

Staff reported that since the last update to the Board dated April 18, 2022 and as of May 13, 2022, the district has received an additional 0.86 inches of rain, bringing the year-to-date total to 25.85 inches. Last year, as of the end of May 2021, the district had received only 16.3 inches of rain, so rainfall to-date remains well above last year's rainfall. The current forecast and seasonal trend suggest that the district will not receive its average annual rainfall this year. Correlating rainfall progress for May (assuming pessimistically that there will be no more rain for this month) with total annual rainfall for the available historical record (preceding 68 years), the district has experienced 27 other years where the rainfall received was 25.85 inches or less as of the end of May. Those rain years generally turned out to be somewhat drier than normal years with a minimum total rainfall received of 14.49 inches, a maximum of 26.26 inches, an average of 21.04 inches and a line of best fit projection of 26.24 inches. As such, it is virtually certain the 2021-22 rain year will be a third consecutive year of below average rainfall in the district (see graph on the top of the next page), albeit not as dry as last year.

The district has approximately 16.3 million gallons of water in storage in its emergency reservoirs and treated water storage tanks, combined, which both reservoirs essentially full. As for the Arroyo Hondo Creek, the district's base flow recession model predicts that if the district receives average annual rainfall for the rest of May and into June (approximately 1.3 more inches) creek flows will be approximately 87,500 gallons per day ("GPD") by June 30th. If the district only receives as much rain for the rest of May and into June as it did last year (approximately 0.2 of an inch), creek flows are projected to be approximately 80,200 GPD on June 30th.

Between April 18th and May 17th, water production averaged just under 70,000 GPD, or approximately 118 GPD per connection, which is an increase of approximately 11% as compared to the last reporting period, when production averaged 63,126 GPD, or approximately 107 GPD per connection. Water consumption during this same timeframe averaged 69,116 GPD, which is approximately 118 GPD per connection, and is also an increase of approximately 11% as compared to the last reporting period, when consumption averaged 63,829 GPD, or approximately 108 GPD per connection. Staff cautioned that consumption increased significantly after May 1st: between May 1, 2022 and May 17, 2022, consumption averaged 73,981 GPD, or 126 GPD per connection, which is an increase of approximately 17% as compared to the last reporting period. As such, the district appears to be experiencing an uptick of "seasonal demand", most likely due to landscape irrigation, which is exactly what the mandatory rationing resolution last year was designed to prevent. At the present time, staff does not believe that action is needed to reduce demand as the district is in a better water supply position as compared to last year, but staff plans to conduct renewed education and outreach to customers to remain conservation-minded. Staff is in the process of developing a new sign to be posted at the entrance to town as last year's sign was the district's most effective communication tool.

- *Update on BCPUD Grant Applications to the Department of Water Resources' Small Community Drought Relief Program.*

Staff is pleased to report that the district received a notification from the Department of Water Resources Small Community Drought Relief Program that grant funding has been approved to install the treatment facilities at the Wharf Well. As for the Resource Recovery well, approval is on hold pending resolution of some last minute concerns raised by the State Water Resources Control Board ("SWRCB")'s Division of Drinking Water ("DDW"), potentially arising from the fact that the BCPUD's water system has been moved to the newly created DDW District 25, which includes all of the Marin water systems. (Previously, the BCPUD was in Sonoma District 18.) A four-hour site meeting was held today at the Resource Recovery well site with engineers from DDW District 25, staff, and the district's consulting engineer and hydro-geologist, and a follow-up remote meeting with senior DDW personnel is scheduled for May 23rd. The site meeting was extremely productive and greatly facilitated DDW's understanding of the well and site conditions.

- *Operations Update:*

The shift operators continue to focus on maintaining general water and sewer operations pending the return of our Chief Operator from medical leave in early July; they also are studying for and take certification exams. The district has been experiencing some leaks on the inline coagulation treatment piping at the Woodrat Water Treatment Plant, which staff has been able to repair, but not without some difficulty as the piping is 10-feet high on the wall and requires the installation of scaffolding. The operators are preparing to pump the accumulated sludge from the clarifier for treatment process on what has become a biannual process. They have completed the removal of azolla from surface of Woodrat 1.

Staff meet with Marin County Department of Public Works personnel about the extent of paving to be required incident to the Brighton Avenue valve repair and have come to an agreement; staff expects the repair site to be paved within the next few weeks. The district experienced a leak in the Nymph right-of-way that presented challenges for the crew as the backhoe is too big to use in this area so Piazza Construction was called in to help. Staff noted that the purchase of excavator is on the district's Capital Improvement Plan for this very reason – this smaller piece of equipment will be very helpful to install repairs on the Mesa's narrow rights-of-way.

On the sewer side of operations, spray season started on April 15th so the operators are discharging to land out in the disposal fields. During spray season, additional sampling and monitoring is required, so that requires additional staff time. Staff also has been doing some extensive mowing around the sewer lab facilities and access paths.

Staff continues to work with the district's consulting engineer at West Yost, Kathryn Gies, with regard to the Regional Board permit transition process and the potential addition of 7 new connections on Canyon Road. Kathryn has submitted a report to Regional Board staff concerning their request for a treatment capacity analysis. At this point, the district now awaits a response.

Staff timely mailed out the district's Proposition 218 notice to alert property owners to the draft FY 2022-23 budget and proposed increases in water and sewer annual service charged. The public hearing on the budget will be during the June 2022 Board meeting. The district's annual report to the SWRCB is

due this Saturday and the 2021 Consumer Confidence Report must be mailed out to customers by the end of June.

Staff also has been in discussions with the County's Sherriff's Office about including the BCPUD in the County's Local Hazard Mitigation Plan (which currently is being updated) as this will render the district eligible for hazard mitigation grant funding. To be included, the BCPUD likely will need to hire a consultant to prepare the necessary assessments and reports, but this could be well worthwhile if the BCPUD then were able to secure grant funding for its various hazard mitigation projects, such as the rehabilitation of the West Tank and related seismic improvements.

Staff did not attend the ACWA/JPIA Board of Directors meeting in Sacramento earlier this month. The meeting was held in-person, but with no pre-meeting Covid testing or any masking required. Given that several BCPUD staff have immunocompromised family members in their immediate households, staff elected not to attend this meeting.

Staff directed to the Board's attention to an email from the Department of Water Resources informing small water systems that it has contracted with the California Rural Water Association to provide no-cost leak detection surveys on water system infrastructure to identify sources of unaccounted for water loss; staff intends to submit a request for a survey.

- *Updated Form of BCPUD Right-of-Way Permit*

Staff presented an updated form of BCPUD right-of-way permit with all of the revisions requested by the Board at the April regular meeting. Staff noted that the Board voted at that meeting to approve the updated form of permit, subject to the requested revisions. No further revisions were requested by the Board, so staff will finalize the updated form of permit

- *Update on Implementation of SB 1383 (new law re: diversion of organic waste)*

Staff directed the Board's attention to a memorandum in the meeting binders with an accompanying matrix that contains staff's recommendation for negotiating a restatement/amendment of the franchise agreement with Recology Sonoma Marin to allocate specific obligations required under SB 1383. Recology already has agreed in principle to undertake many of the reporting and enforcement responsibilities, which staff strongly endorses because the district has worked hard to cultivate the trust and confidence of customers and staff does not want to be in the position of inspecting customer garbage for prohibited materials and pursuing enforcement against them. The Board had no objection or modification to staff's recommendations for a restated and amended franchise agreement.

Director Comstock commented that the refusal of CalRecycle to grant the BCPUD a low population waiver from the extensive SB 1383 requirements is very frustrating as it is causing a lot more work for staff (who already are overworked) as well as imposing unbudgeted costs on the district to hire legal expertise for compliance purposes. The BCPUD is unlike an incorporated city government, he noted, and does not have the personnel or resources to be inspecting garbage and/or issuing fines. Director Comstock said he would like the district to write a letter to its state senator and assembly member to explain the consequences of the new law and lack of exemptions on small districts like the BCPUD. A brief discussion ensued, during which it was noted that the legislature did include exemptions for low population districts in SB 1383, but the CalRecycle regulations were written in such a way that many small districts were rendered ineligible. Director Comstock acknowledged this and said that the legislators should be aware of this; he offered to draft a letter for the Board's consideration.

- *Alliance of Coastal Marin Villages/Coastal Communities Working Group.*

Staff said that there are no updates on the Local Coastal Program Update at this time, but the Alliance of Coastal Marin Villages is encouraged by County statements in recent public forums acknowledging coastal communities as protected "coastal resources" per the Coastal Act.

6. BCPUD Resolution 700: Proposing An Election Be Held In Its Jurisdiction on November 8, 2022; Requesting The Board Of Supervisors To Consolidate With Any Other Election Conducted On Said Date; And Requesting Election Services By The Marin County Elections Department.

Director Siedman explained that this resolution is necessary in an election year to request County election services. Three seats are up for re-election on the BCPUD Board of Directors and the period to sign up to run for election to the Board is between July 18th and August 12th; this period will be extended by four days for non-incumbents if all incumbents to not file for re-election. No advisory measures are contemplated at this time.

G. Godino/L. Comstock all in favor to approve BCPUD Resolution 700.

Director Comstock announced that he is not intending to run for re-election to the Board. He said he is announcing this now so that his fellow Board members and the community are aware of his decision well in advance of the election deadlines. He said that he has appreciated his time on the Board but, after nine years, he is ready for someone else to serve in his place. Director Siedman thanked director Comstock for his good service to the community and for the courtesy of his announcement.

7. Information Technology Proposal – BCPUD Office Telecom (K. Backenstose, IT consultant).

Staff reported that the BCPUD has maintained its service with AT&T (including landlines and DSL internet service) out of a concern that Muir Beach LAN and/or Horizon Cable may not be able to provide on-going service at some point in the future, but the district's IT consultant is confident that there are/will be other options for wireless internet access even if that should occur. As such, staff recommends that the Board approve the Information Technology Proposal submitted by Kris Backenstose whereby the BCPUD will terminate its AT&T service for 270 Elm Road where the monthly cost for all four lines plus DSL service is over \$1,000 per month. Per the IT proposal, this monthly cost will be reduced to \$41.74 per month by switching to a voice over internet system. Staff recommends the district keep its AT&T service at 400 Mesa Road and 51 Wharf as those locations currently have critical landline-based alarm systems. Director Smith said that he is very glad this project has been proposed and that Kris Backenstose's proposal is excellent.

D. Smith/L. Comstock all in favor to approve the Information Technology Proposal submitted by Kris Backenstose.

8. Update on Project to Hard-Surface the Pedestrian/Bicycle Path on BCPUD Lands: Grant Contract between the BCPUD and the California Department of Parks and Recreation; Proposal for Preliminary Project Cost Estimate from BKF Engineers.

Staff reported that last Thursday, May 12th, the district was advised by California State Parks that if it did not sign the grant contract (a revised copy of which was sent to the district on May 9th) then the project to hard-surface the pedestrian/bicycle path would not be funded until the next fiscal year (October or November 2023) at the earliest. Staff noted that a delay of this nature would significantly impair the district's ability to timely install the project prior to the 2024 deadline; however, the district's concerns about the proposed deed restriction (which the district raised with California State Park last September), have still not been resolved, so staff balked at signing the contract under such exigent circumstances. Staff, director Smith and California State Parks senior management therefore held an emergency meeting during which California State Parks acknowledged the district's concerns and offered to provide express written assurances that district is not obligated to proceed with the project and can unilaterally withdraw from the contract if it is not possible to reach a mutually acceptable resolution of the deed restriction issue; senior management urged the district to sign and return the revised contract that day so as not to lose the funds for this fiscal year. Staff and director Smith decided it was prudent to do so and not risk the loss of nearly \$400,000 in grant funds; a copy of the signed contract is in the Board meeting binders.

Director Smith commented that Lee Butterfield, the head of the grant office for California State Parks, expressed confidence that the district's concerns about the deed restriction can be resolved, which was heartening. He noted that the district cannot spend any of the grant funds until this issues is resolved, so the district needs to press for a resolution as soon as possible.

With regard to the proposal for a preliminary cost estimate from BKF Engineers, this proposal was submitted at the request of directors Smith and Walker following a remote meeting with engineer Jason Kirchmann on May 11th. As was discussed during the April 2022 Board meeting, this remote meeting was held to discuss BKF Engineer's design and engineering proposal for the path project and explore opportunities for cost reductions given the 25% cap on non-construction project costs under the grant contract. Jason explained that many of the design and engineering tasks are included to eliminate the potential for change orders during the project installation. During the meeting, the topic of whether the \$450,000 in grant funds and local match is likely to be sufficient to hard-surface the entire existing pathway came up and, after some extensive discussion, it was agreed that a cost estimate for the overall project would be very useful to guide the district efforts, particularly as to whether any time and effort should be spent now on potential extensions of the pathway if current funding is insufficient to do so. Jason therefore submitted the preliminary cost estimate in the Board binders at a cost of \$6,100. Staff noted that this cost is eligible for reimbursement (or to be counted as match) under the grant, but if the district ultimately withdraws from the grant for any reason, the district will still be responsible for this cost. A brief discussion ensued about the fact that it may take several months to resolve the deed restriction issue and the district would lose valuable project-planning time if it waits until then to receive a cost estimate.

D. Smith/K. Walker all in favor to approve the proposal for a preliminary project cost estimate from BKF Engineers at a cost of \$6,100.00.

9. Agreement with Stetson Engineers for Engineering and Design Services for Replacement of Valves and Water Discharge Pipelines Associated with the BCPUD's East and West Treated Water Storage Tanks.

Staff reminded the Board that the directors approved a proposal from Stetson Engineers for these engineering and design services at last month's meeting; the current item relates to the form of agreement for those services. Staff requested approval to execute the agreement, subject to consultation with counsel (and possible negotiation with Stetson Engineers) about the change requested by Stetson Engineers that slightly modifies the indemnification section of the agreement.

G. Godino/L. Comstock all in favor to approve the agreement with Stetson Engineers for engineering and design services, subject to staff consultation with counsel (and possible negotiation with Stetson) regarding Stetson's requested change to the indemnification provision.

9a. Notice of Violation – Illegal Motocross

Director Siedman said that the district has received a notice of violation from Marin County Code Enforcement about an illegal motocross at Mesa Park. He noted that whereas Mesa Park has responsibility under the Joint Powers Agreement establishing that agency for the operation and maintenance of the park facilities, the BCPUD owns the property on which Mesa Park is located, which is why it received the notice of violation. Director Siedman said the County's notice states that the violation can be corrected by immediately ceasing all use of the property for motocross activities by no later than May 31, 2022; if not, fines of \$2,500 per day and other penalties will be assessed against the BCPUD. He therefore recommended the BCPUD send a letter to the Mesa Park Board advising them of the County notice and requiring that Mesa Park ensure that all motocross activities cease immediately. He suggested the folks involved in supervising the motocross activities also be notified of the County notice as soon as possible. Director Siedman said he spoke with the County Code Enforcement officer about the notice and was advised that there is no possibility of an agreement whereby motocross activities can be allowed at Mesa Park as this is not an allowable use under applicable County rules and regulations; as such, the BCPUD does not have any effective choice in the matter.

An extended discussion ensued about the long history of motor bike use at the property, the benefits such use has afforded some of the young people of Bolinas, the noise experienced at neighboring properties as a result of such use, whether there might be opportunities of a negotiated resolution with the neighbors, whether e-bikes may be an alternative to dirt bikes, whether the young people will instead ride on the roads (which is potentially quite dangerous), and so forth. Director Walker advocated that the district push back on the County notice of violation on behalf of the many Bolinas young people who love this activity (including her son), whereas other directors said there does not appear to be any kind of pathway to do so given the allowable uses at the property per County Code. Director Comstock proposed that the Board approve sending the letter to Mesa Park (with a copy to County Code Enforcement) as director Siedman recommended, but that the Board wait for one week to send it in order to provide director Walker sufficient time to contact the County and explore whether anything short of complete cessation of the motocross activities could be allowed. If director Walker is successful, then the BCPUD's letter will not be necessary. Director Smith reluctantly seconded the motion, saying he does not believe the BCPUD has any choice under the terms of the County's notice of violation.

L. Comstock/D. Smith four in favor, director Walker opposed to send a letter to the Mesa Park Board of Directors (with a copy to County Code Enforcement) in one week, advising them of the County Notice of Violation and requiring that all motocross activities must cease immediately.

10. Report from Ad Hoc Committee re: BCPUD Building at 270 Elm Road, Bolinas.

Directors Siedman and Walker reported that the Ad Hoc Committee has not met recently but continues its work on developing a plan for the replacement of the building, including but not limited to obtaining a site survey, replacement septic plans, and possible geotechnical work. Director Walker noted that the BCPUD has \$100,000 set aside for building improvements which will pay for some of these initial costs, but the amount ultimately need to rebuild the structure will far exceed this, even if the BCPUD ultimately partners with the Bolinas Community Land Trust or another entity. Director Comstock commented the BCPUD more than likely will need to borrow the funds needed given all the competing needs for infrastructure improvement projects. Director Siedman noted that the committee also will be seeking BCPUD staff input soon on storage and other needs for the new building so that these needs can be incorporated into the building design. Staff said that if there is a set amount of square footage for staff to work with within the footprint of the new building design vis-a-vis potential partner uses and community meeting space, staff will work within that to allocate office vs. storage space.

11. Draft FY 2022-23 District Budget and Updated Five-Year Capital Improvement Plan – FY 2022-2027; Narrative Description of Projects Detailed on Updated FY 2022-27 Plan.

Staff reported that work is underway to develop a narrative description of the projects detailed on the updated FY 2022-27 Capital Improvement Plan ("CIP"). Staff is undertaking this project in response to a customer request for more information after reviewing the updated CIP on the BCPUD's website. Staff had hoped to have the narrative description ready for tonight's meeting, but was not able to complete it due to the press of other business.

12. Volunteer Committee Reports:

-- *Resident Permit Parking Plan Committee: Update from the Committee on Survey of Brighton Avenue Residents re: County Proposed Parking Restrictions.*

Bruce Bowser and Chuck McParland were present to answer any questions the Board may have concerning the recent survey of Brighton Avenue residents for their views on the County's proposed parking restrictions. Bruce said the committee had a very good response rate among residents and the key take-away is that Brighton residents favor a permit system, although they are not very enthused about the prospect of having to pay for a permit to park in front of their own homes. That said, these residents understand fees will be necessary to administer a permit system. The committee has an important meeting with Supervisor Rodoni and County employees on June 8th and the committee members believe it would be very helpful to have a letter for support from the BCPUD to provide to Supervisor Rodoni in advance of that meeting. Bruce said the committee has worked for two and a half years to implement a permit parking plan and would really appreciate the BCPUD's support at this critical juncture. After a brief discussion, Board members suggested the committee reach out to Supervisor Rodoni or County staff to inquire the content that would be most helpful in such a letter, and then draft a proposed letter and provide it to district staff to finalize on BCPUD letterhead. Bruce said he would relate this suggestion to the committee's secretary, Sherry Hirsch, for follow-up.

-- *Resource Recovery:* The Board received a copy of the most recent site inspection report from the County of Marin's Environmental Health Services department.

-- *West Marin Mosquito Control Coordinating Council:* Nothing to report.

-- *Land Stewardship Committee:* Nothing to report.

13. Other Business.

a. Board Committee Reports.

--*Finance: Minutes of the April 19, 2022 Finance Committee meeting; Engagement Letter from Maze & Associates (bookkeeping services).*

Director Comstock offered one correction to the draft Finance Committee efforts to address a typographical error.

L. Comstock/K. Walker both in favor to approve the minutes of the April 19, 2022 Finance Committee, as corrected.

-- *Legal:* Nothing to report.

-- *Mesa Septic, Flood Control and Roads:* Nothing to report.

-- *Water and Sewer Operations:* Nothing to report.

-- *Personnel:* Nothing to report.

b. Minutes of the March 16, 2022 Regular Board Meeting; Minutes of the April 20, 2022 regular Board meeting.

D. Smith/L. Comstock all in favor to approve the minutes of the March 16, 2022 Regular Board meeting.

The minutes of the April 20, 2022 regular meeting were deferred to the June meeting.

c. Warrants.

L. Comstock/D. Smith all in favor to approve the warrant list.

c. Scheduling of Next Meeting(s):

June 15, 2022 at 7:30 p.m.

14. Adjournment.

9:36 p.m.