

**Bolinas Community Public Utility District**  
**A Regular Meeting Of The Board Of Directors**  
**June 15, 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.**

7:31 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/K. Walker 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.

**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 the district received an additional 1.72 inches of rain between May 17, 2022 and June 13, 2022, bringing the district’s year-to-date rainfall total to 27.57 inches. Last year, as of the end of June 2021, the district had received only 16.42 inches of rain, so rainfall for this rain year is well above last year’s rainfall. That said, cumulative rainfall precipitation as of June 13th remains below the district’s average (which is approximately 32.5 inches) making it virtually certain that the 2021-22 rain year will be a third consecutive year of below-average rainfall in the district.

Both of the district’s reservoirs are close to full, with approximately 15.6 million gallons of water in storage; last month the reservoirs had approximately 15.9 million gallons of water in storage, so the district’s reservoirs are experiencing some amount of evaporation, which is not unexpected. As for water production and consumption, both have increased by approximately 15-16% as compared to the prior month, with consumption averaging just under 80,000 gallons per day, or 135 gallons per day per connection (whereas consumption averaged just over 69,000 gallons per day, or 118 gallons per day per connection, during the prior month).

The district continues to meet demand with water diverted from the Arroyo Hondo Creek. The recent rains have bolstered flows in the creek, which are estimated to be approximately 91,000 gallons per day as of June 30, 2022 (staff noted that the district’s base flow recession model has not been updated since last October due to data gathering constraints at the upper dam, which has diminished the predictive reliability of the model). In contrast, last year at this time, flows in the Arroyo Hondo Creek were predicted to be approximately 75,600 gallons per day by June 30, 2021.

In response to questions from the Board, staff said that the uptick in water consumption is typical for this time of year absent a mechanism in place such as the mandatory ration “trigger”. Staff is working on a new sign to post downtown to raise the community’s awareness about the town’s daily water consumption and encourage conservation given the on-going drought.

- *Operations Update.*

Staff directed the Board’s attention to a message from the State Water Resources Control Board (“SWRCB”) concerning Senate Bill 552, which imposes new drought-related requirements for small water systems in California, including the BCPUD. The requirements include, but are not limited to, district membership in a mutual aid entity such as Cal WARN by January 1, 2023; the ability to conduct continuous operations during power failures (the BCPUD already meets this requirement); possession of a

back-up water source or intertie with another water system that meets current water quality requirements and is sufficient to meet average daily demand by January 1, 2027; the metering of all services and ability to monitor for water loss due to leaks by January 1, 2032. Staff noted that many of the requirements do not take effect for many years, but the district will begin planning now in order to comply with them.

As for water consumption in the district during the last quarter on the back of the Mesa, district meter reads confirm that consumption was up slightly in this area of town as compared to the same time last year. Staff noted that several notices of non-compliance with limited water use permits were sent out in the last month for the first time in more than a year. Staff reported that the BCPUD has requested to participate in the California Rural Water Association (“CRWA”) Leak Detection Services program, whereby CWRA will send out technicians to evaluate the source of potential water losses on the district’s water main infrastructure.

Staff stated that the paving of the valve repair project site in Brighton Avenue (where the West Marin Stagecoach bus parks) was completed on June 1, 2022. As for the project to slip-line the Woodrat 1 Reservoir overflow pipe, the preparatory grouting work was done last week and the installation of the pipe liner was done today. This emergency project was delayed by the atmospheric river storms last fall and the fact that the reservoir subsequently was spilling until last month – the pipe interior must be dry in order for the slip-line to be installed.

On the sewer side of operations, spray season continues and is going well; staff has transferred some water from Pond 2 to Pond 3 for disposal to the spray fields to further improve storage capacity. With regard to the collection system, another one of the damaged laterals identified by district staff last winter is being repaired this week by the property owner. There is one outstanding damaged lateral that has not yet been repaired, so staff will resume communication efforts with the responsible property owner.

Staff and the district’s consulting engineer, Kathryn Gies of West Yost, continue to engage with staff from the Regional Water Quality Control Board (“RWQCB”) concerning the operating permit transition process as well as requests of homeowners on Canyon Road to connect to the sewer system. As part of the process, the RWQCB staff requested some detailed information about the district’s treatment capacity due to concerns about the system’s ability to operate in compliance with its permit during high rainfall years. Ms. Gies provided the requested information, including but not limited to a water balance analysis and clarifying information about the district’s treatment and storage capacity, and proposed a meeting to discuss any questions or concerns at the end of this month; RWQCB staff have not yet responded.

With regard to the project to hard-surface the pedestrian/bicycle path on BCPUD lands, staff reported that the issue of the Deed Restriction is still unresolved, so the district cannot expend any grant funds unless and until that happens. In the meantime, however, a second plant survey must be conducted this month for the biological assessment for this project and the WRA biologist is available this Friday to do so. Staff noted that the Board previously authorized the expenditure of \$1,000 for the April plant survey and contingently approved the June survey (at the same cost); staff recommended the district authorize WRA to conduct the June plant survey and the Board had no objection. With regard to the engineers’ cost estimate for the project, to be prepared by BFK Engineers as per the Board’s approval last month, staff submitted a proposed contract for the work and is waiting to hear back.

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

As reported last month, the district received a notification from the Department of Water Resources (“DWR”) 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 has been on hold pending resolution of some concerns raised by the State Water Resources Control Board (“SWRCB”)’s Division of Drinking Water (“DDW”). Staff hosted a four-hour site meeting last month at the Resource Recovery well site with engineers from DDW District 25, and the district’s consulting engineer and hydro-geologist, and a follow-up remote meeting with senior DDW personnel was held on May 23<sup>rd</sup>. The district currently is awaiting a “findings” email from the DDW engineers; indications thus far is that their concerns have been resolved and they will be supportive of DWR funding for this well.

The Board reviewed correspondence sent and received since the last regular meeting, including but not limited to emails between staff, the County and Recology relating to implementation of SB 1383; the district’s letter to the County in response to the Notice of Violation at Mesa Park (i.e., illegal motocross); an announcement from the College of Marin about a community update on the Bolinas Field Station project to be held on June 28<sup>th</sup> at 5:30 p.m. via Zoom; and a notice from the County’s Department of Public Works concerning planned paving projects on County roads in 2023.

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

Staff reported that the California Coastal Commission staff has issued another “guidance” document entitled “Public Trust Guiding Principles and Action Plan”. The Alliance of Coastal Marin Villages

(“ACMV”) is reviewing this document and likely will prepare a comment letter as there are clear implications for coastal communities. The deadline to submit a comment letter is July 24, 2022.

**6. Public Hearing: Draft Fiscal Year 2022-23 District Budget.**

Director Siedman opened the public hearing on the draft FY 2022-23 district budget and said that this hearing provides an opportunity for the public to address the Board with regard to any questions or concerns about the proposed budget. There was no public comment. Staff reported that Proposition 218 notices were timely mailed out to all property owners to notify them about the proposed nine percent increases to water and sewer service charges and to explain the reasons for those proposed increases. Public notices about tonight’s budget hearing were published in the Marin IJ, the Point Reyes Light and the Hearsay News. Staff noted that the district did not propose any increases to the water or sewer service charges during 2019-20 or 2020-21 fiscal years; last year, the district implemented only a 3% increase. The service charge increases proposed for the upcoming year are due to rising costs across all aspects of district operations and the need to fund a series of capital improvement projects scheduled on the district’s Five-Year Capital Improvement Plan. As there was no public comment on or questions concerning the draft FY 2022-23 budget, director Siedman closed the public hearing.

**7. BCPUD Right-of-Way Permit Application: *Request to Install Underground Fiber-Optic Cable Service via Conduit in the Yucca Right-of-Way South of Zebra (K. Khtikian and N. Torrey).***

The applicants were not present at the meeting. Director Smith noted that the proposed route for the fiber optic cable appears to cross the district’s infrastructure and that could be avoided by routing the cable uphill of the meter; he suggested that alternative be proposed to the applicants. Director Comstock said that if the applicants have specific reasons why they wish to route the cable across district infrastructure, than the standard installation requirements should apply, and the applicants can choose which way they wish to proceed.

L. Comstock/D. Smith four in favor, director Godino absent to approve the right-of-way permit application subject to the district’s standard terms and conditions, and the condition that the applicants be advised about the option to re-route the cable uphill of the meter to avoid district infrastructure.

**8. BCPUD Right-of-Way Permit Application: *Request to Develop the Hawthorne Right-of-Way From and South of its Intersection with Poplar Road for Access to Property (E. de Saint Phalle).***

Director Siedman recused himself from consideration of this application, stating that he lives within two blocks of the proposed right-of-way development and his property also borders the Alder Creek drainage, so while he does not have any financial conflict of interest, his interest as a neighbor may taint his objectivity. Director Smith therefore presided over this agenda item. He asked the applicant to please explain his proposed project.

Mr. de Saint Phalle said that he moved to Bolinas about eight years ago and is interested in mycology. He has been looking for a piece of land on which to pursue this hobby and recently purchased a parcel from Carol DuChamp adjacent to the Hawthorne right-of-way, between Poplar and Larch Roads. He said he has no intent to develop the land, only to plant bushes and trees in furtherance of his mycology hobby. He would like to develop a portion of the Hawthorne right-of-way (similar to the other dirt roads in the neighborhood) for vehicle access to his property; he said Carol suggested that he access the property via Poplar Road rather than Larch Road. He spoke with the neighbors about his plan and no one had any objection, so he hired Don Murch to clear the land, thinking he was following all the rules; however, when the work started he was told he needed to come to the BCPUD because the project involves use of a public right-of-way. He subsequently learned there had been discussions between Carol and the BCPUD regarding this parcel of land and a possible exchange of parcels.

Director Smith asked if there was any public comment. Colleen Hicks said she just found out about this project on Monday and is sorry she did not have a chance to speak with Mr. de Saint Phalle before the meeting. She explained that she has lived at 400 Hawthorne for 50 years and can attest that the Hawthorne right-of-way at this location historically has been a wet and boggy drainage way. She noted that the native plants in the fields on either side of the Hawthorne right-of-way sustain the local birds and mammals and keep the swale healthy; she feels this vegetation is very important to the Mesa ecosystem. Colleen said that this section of the Hawthorne right-of-way is not suitable for a road, notwithstanding whether it is on a map as a paper road. She asked that the Board give careful and thoughtful consideration to any proposed development of this right-of-way, including the short-term and long-term impacts to the Mesa ecosystem.

Mr. de Saint Phalle clarified that he does not intend to install a road between Poplar and Larch but just wants to clear about 80 feet of the right-of-way so that he can drive over it to deliver gardening materials; he said if/when it is too wet to drive on it, he wouldn’t drive there. He repeated that he does not intend to build anything, noting that a lot of rumors are flying around about what he might do. He

said he understands that he would need to get permits for any sort of development; his interest is confined to gardening.

Andrew Alexander Green said he assumes that a project to develop a mapped right-of-way requires permits from the County as well as a biological assessment; he asked if that is correct. He also asked about any implications for BCPUD and potential water use at the property. Speaking as a member of the audience, recused director Siedman said that years ago a property owner named Dwailabee applied to develop a paper right-of-way and he believes the Board at that time required Mr. Dwailabee to first obtain any permits needed from the County for his proposed land use because the BCPUD did not want to allow the development of a paper road unless and until it was shown that the County would allow the proposed use at the property to be accessed. Mr. de Saint Phalle said that he does not seek to open the entire right-of-way, only about 80 feet of it (from the Larch intersection), which does not include any land that is part of the swale; he said he does not believe that gardening requires any permits from the County.

Director Comstock said that the BCPUD does not have jurisdiction over private land use activities, whereas the County does. With regard to the development of a paper right-of-way, BCPUD Ordinance 30 addresses encroachments and obstructions and projects that could impact drainage in the public rights-of-way, but beyond that, the BCPUD does not enforce environmental laws; it could well be that a project like that is beyond the scope of BCPUD's authority and that the BCPUD will need to defer to the County and/or Coastal Commission. He noted that Mr. de Saint Phalle hasn't yet said exactly what he wants to do in the way of improvements in the right-of-way, but he would hope whatever he proposes to do will have the least impact possible on the neighbors and the environment. Mr. de Saint Phalle said that he simply would like to have two tracks free of vegetation that are smooth enough to drive on to the property; he wasn't intending to put down any gravel and does not want to affect the drainage in this area at all.

Caitlin Lacey next spoke and explained that she is Colleen Hicks' daughter and was raised at 400 Hawthorne Road. She fears that developing paper roads into drivable roads will encourage more drivers on the Mesa and she is pained by the fact that vegetation already has been removed as she thought it was protected as an "ESHA" (environmentally sensitive habitat area). Caitlin said the neighbors over the years have cooperated to preserve the land as one of the last open space habitats on the Mesa. She said she opposes the conversion of Bolinas's unique and charming natural footpaths into roads. Further discussion ensued about the limits of BCPUD authority over the paper roads and any County and/or coastal permits that likely are needed to develop previously undeveloped rights-of-way in Bolinas. Bonnie Jones said she is a neighbor of Colleen Hicks' and lived at her property for 36 years; she concurs that the swale can be a river during wet years and standing water is present much of the year. As for permits, she said that the County recently told her she needs to obtain a coastal permit (at a cost of \$3,400) to merge two of her lots, so she does not believe that much of anything can be done at a property in Bolinas these days without a coastal permit.

Director Smith said that all property owners, public and private, must follow applicable rules, such as CEQA and the coastal permit process. He noted that the public rights-of-way on the Mesa were mapped a century ago by Manhattan developers without regard for topography or the environment. Now, environmental laws are in place that must be followed – one can't simply bulldoze a public right-of-way without regard to these considerations. Mr. de Saint Phalle repeated that he has no desire to ruin the environment but does believe he has the right to access his property across a public easement; he said he isn't sure what the next step should be.

Ned Hoke said that he submitted a written paper to the district and it touches on the issues of the potential wetlands status of the property and Coastal Commission stipulations about use of wetlands, which he believes needs to be resolved in connection with any consideration of this project. He also raised the topic of the drainage way "set back" area depicted in the Gridded Mesa Plan and asked if it was still relevant and/or applicable. He said he appreciates that Mr. de Saint Phalle plans a relatively small project, but he is concerned about future potential agricultural uses proposed for properties in the Alder Swale.

Director Smith said that he believes Mr. de Saint Phalle should pause any additional work until he gets a clear indication from the County about what he can/cannot do with his property. Mr. de Saint Phalle can then come back and present that information to the BCPUD Board. Director Walker said that she is not familiar with the specific property, but in her experience, the presence of wetlands will trigger a requirement for a biological assessment before any land grubbing can be done. She suggested that a pre-consultation meeting with a County planner could be very helpful. Mr. de Saint Phalle said he has no intent to destroy any wetlands, he simply wants to pursue his mycology hobby and does not want any conflict. Director Siedman commented as a member of the audience that Mr. de Saint Phalle doesn't seem to be proposing to do a "bad thing", so to speak, but he is proposing activity in an area that has traditionally been left as open space and this has caused a lot of concern for other property owners near or adjacent to the swale. He said that a lot of the neighbors would like the land to be left as open space, but it may be that Mr. de Saint Phalle will be approved to use his land in a way that doesn't cause environmental damage or require permits, hence the recommendation that he consult with the County as his next step.

Director Smith said he would like to propose a motion whereby no further work or alteration is done in the right-of-way until such time as Mr. de Saint Phalle presents a written statement to the BCPUD from the County about what he is allowed to do with his property and pursuant to whatever permits, which the BCPUD will then consider in connection with his proposal to develop the Hawthorne right-of-way. Director Walker seconded the motion.

D. Smith/K. Walker three in favor, director Godino absent, director Siedman recused approving director Smith's motion.

**9. BCPUD Resolution 701: Amending BCPUD Resolution 577 to Add State Law Requirements Relating to Purchase of Recycled-Content Paper to the Goods and Services Procurement Policy for the Bolinas Community Public Utility District.**

Staff reported that this resolution was prepared by the district's attorneys as part of the requirements under SB 1383, the new organic waste diversion law, to ensure the BCPUD's compliance with the recycled content paper products purchasing requirements. Director Smith raised a question about a possible typographical error in Section D(1). After some discussion, director Comstock proposed that the Board approve Resolution 701, subject to staff consulting with the district's attorney to correct any typographical error in the text of Section D(1).

L. Comstock/D. Smith four in favor, director Godino absent approving BCPUD Resolution 701.

Director Smith said that he would like the district to adopt a general policy to always purchase recycled content paper, with no regard to the paper quality and cost considerations detailed in Resolution 701 as it will always be the case that recycled content paper is slightly lower quality and more expensive, creating a loophole in SB 1383 through which anyone can avoid ever having to buy recycled paper. Director Smith argued that the district should simply have a policy to do the right thing and purchase recycled content paper. Director Siedman asked staff to prepare such a policy for the Board to consider at a future meeting.

**10. Proposal from Brelje & Race Consulting Engineers to Update the BCPUD's Watershed Sanitary Survey.**

Staff requested Board approval of a proposal from Brelje & Race Consulting Engineers to update the district's Watershed Sanitary Survey at a cost of \$9,000; staff noted this update is legally required and the district is behind schedule, so staff would like the engineers to complete the update as soon as possible.

L. Comstock/D. Smith four in favor, director Godino absent to approve the proposal from Brelje & Race Consulting Engineers to update the BCPUD's Watershed Sanitary Survey.

**11. Master Services Agreement between the BCPUD and Gannett Fleming.**

This agenda item was deferred to a future meeting.

**12. Report from Ad Hoc Committee re: BCPUD Building at 270 Elm Road, Bolinas; *BCPUD Application to the County of Marin for Multi-Family Affordable Housing Development Septic Funding for Testing and Design Services.***

Director Siedman said that because the BCPUD is considering partnering with the Bolinas Community Land Trust ("BCLT") on the project to replace the BCPUD building at 270 Elm Road, it has been suggested that the BCPUD apply to the County's Multi-Family Affordable Housing Development Septic Funding for testing and design services; applications are due on June 17<sup>th</sup>.

D. Smith/K. Walker four in favor, director Godino absent approving the BCPUD's submittal of an application to the County's Multi-Family Affordable Housing Development Septic Funding for testing and design services.

Director Walker then reported on behalf of the ad hoc building committee. She noted that Steve Matson and Andrew Alexander Green, who have been advising the committee, also were present and available to answer questions. Director Walker said the committee has developed a three-phase approach for the redevelopment of the building at 270 Elm Road. The first phase is an exploratory site assessment, which means engaging qualified professionals to perform a boundary survey and record of survey, septic siting and engineering, and a geotechnical soils assessment. The committee estimates that a budget of \$93,500 will be needed for this phase of work. Once the first phase of work is completed, the committee will be in a position to recommend an architect and engineer for the design development phase, which is phase two. Typically, the design development phase is about 18-25% of the construction costs. Director Walker said it will likely be two years before the district will really have a sense of the construction costs and be in a "shovel ready" position.

In response to questions from director Smith about potential septic system costs and design considerations, director Walker emphasized that the phase 1 exploratory site assessment work will provide a lot more information to help inform the design of the septic system, which also will depend upon the anticipated load, which will be quite a bit more substantial if housing units are included in the redevelopment of the building. Janine Aroyan requested that the committee consider including senior housing as part of the redevelopment (not just multi-family housing) given the aging population in Bolinas. After further discussion, director Walker said the committee will obtain at least two proposals for each of the phase 1 tasks and circle back with staff if the committee is ready to recommend proceeding with engaging any or all of the service providers before the next Board meeting, in which case the Board can hold a special meeting to consider the recommendation.

### 13. Volunteer Committee Reports:

- *Resident Permit Parking Plan Committee*: Nothing to report.
- *Resource Recovery*: Nothing to report.
- *West Marin Mosquito Control Coordinating Council*: Nothing to report.
- *Land Stewardship Committee*: Director Siedman noted that there are materials in the Board binders relating to the land adjacent to the Talucci property on the east side of the beach ramp. Janine Aroyan said that the committee is working on a plan for this area, but that some tree work first is necessary to remove overhanging branches from a cypress tree on the Talucci property (which presents a safety danger). The committee also plans to present some ideas relating to the deterioration of the low seawall on the beach to the east of the ramp. Finally, the committee recommends that signage be posted in this area as soon as possible regarding acceptable public uses of this land and will be sending suggested wording after obtaining input from Mr. Talucci. Staff offered to run the suggested signage wording by the Sheriff's Office when it is available to ensure it is legally enforceable.

### 14. Other Business.

#### a. Board Committee Reports.

- *Finance*: : *Engagement Letter from Maze & Associates (FY 2022-23 bookkeeping services); Engagement letter from R.J. Ricciardi, Inc. (FY 2021-22 Audit Services); FY 2021-22 Third Quarter Financial Statements.*

Staff presented a proposed engagement letter from the district's outside bookkeepers, Maze & Associates, for fiscal year 2022-23 bookkeeping services. The letter proposes an overall increase in bookkeeping services costs of about \$2,500. Staff feels the proposal is reasonable, except the proposed cost for the preparation of the annual State Controller's Office ("SCO") report, which is nearly three times higher. Staff recommended that the Board approve the engagement letter, subject to staff seeking an explanation for the increase for the SCO report preparation and potentially negotiating a reduction.

L. Comstock/D. Smith                      four in favor, director Godino absent                      to approve the engagement letter from Maze & Associates, subject to clarification and possible reduction of the of the amount to be paid for the preparation of the SCO Report.

Staff represented a proposed engagement letter from R.J. Ricciardi, Inc. to provide audit services for the FY 2021-22 at a cost of \$12,750, which is consistent with the firm's original proposal for this work.

L. Comstock/D. Smith                      four in favor, director Godino absent                      to approve the engagement letter from R.J. Ricciardi, Inc. for FY 2021-22 audit services.

The Board next reviewed the third quarter financial statements. Staff noted that metered water sales and interest income are two revenue sources that are well below budget due to the drought and to the current financial environment, respectively. In addition, the district has experienced a number of unbudgeted expenses for engineering and consulting services (approximately \$25,000), as well as emergency repairs (approximately \$60,000); in addition, the district has expended approximately \$87,000 in pursuit of the two emergency groundwater wells. That said, if the district is approved for the full \$400,000 in state grant funding to bring the wells on line, it will be a good return on the investment.

- *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 April 20, 2022 regular Board meeting; Minutes of the May 18, 2022 regular Board meeting.

L. Comstock/D. Smith                      four in favor, director Godino absent                      to approve the minutes  
of the April 20, 2022 Regular Board meeting.

D. Smith/K. Walker                      four in favor, director Godino absent                      to approve the minutes  
of the May 18, 2022 Regular Board meeting.

- c. Warrants.

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

- c. Scheduling of Next Meeting(s):

July 20, 2022 at 7:30 p.m.

**15. Adjournment.**

10:13 p.m.