

Jennifer Blackman

From: J Bryant <johnwmbryant@gmail.com>
Sent: Monday, August 7, 2023 8:52 AM
To: Jennifer Blackman
Subject: Proposed Agenda Item
Attachments: Proposed Agenda Item for August 16th meeting of BCPUD.docx; Proposed Agenda Item for August 16th meeting of BCPUD.pdf

Good morning Jennifer:

Thank you for the transcripts.

Here is my proposed Agenda Item, proposed resolution and my opinion of why Section 7 of Resolution 173 does not prohibit an right-of-way application through Ordinance 30 of a rate payer's encroachment through the public right-of-way for the purpose of servicing all parts of a property that has been merged across a road.

Please let me know what you think, including any proposed changes – so that I can let Annie and Pete know that from your understanding of Section 7, this is application has merit to go before the Board.

Thank you
John

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August 16, 2023 – Proposed Agenda Item

BCPUD Right-of-Way Permit Application: Request to install underground transmission lines of effluent, potable water and electricity in two places along the Cedar Road Right-of-Way, at Elm (169 Elm Road - Smith) and at Poplar (164 Poplar Road - Bryant) AND clarification that Section 7 of Resolution 173 does not prohibit the requested encroachment.

Ordinance 30 sets forth the rules regarding the private use of the right of way network of roads that has been dedicated for the public's use. The proposed encroachment is detailed in a Right of Way permit application and if the proposed encroachment has been before the Board before, the District Management may approve the permit, otherwise the permit application is brought before the board for its review and approval.

Encroachment of effluent and electricity has come before the Board in the past, however an encroachment of private potable water has not been fully researched by the District Manager nor has this research been reviewed by this Board, until now. That research shows that:

1. At the July 18, 2001 meeting of the board of the BCPUD District Manager Phil Buchanan requested that the Board consider adding additional language to Section 7 of Resolution 173. He felt that the first sentence of the Section 7 was not sufficient to prohibit people from expanding their water use to someone other's property, stating:

“But the other thing is, Resolution 173, section 7 says that “the district may discontinue service to any meter through which water flows to an expanded and modified service for which no permit has been issued”, and it seems to me that if we would be requiring a permit for people to expand their service within the boundary of their own property, we'd certainly be requiring something to allow it to leave their property and go to some other property. And yet I couldn't find anything explicit and then, on the then back of that 173 -- I found this in about a minute and a half searching on the web -- which is Seacoast Utility Authority says, “in no case shall a customer, except with the written consent of the Authority, extend lines across the street, alley, lane, court, property line, avenue, or other way, in order to furnish water service for an adjacent property through one meter”. And, I am just wondering if we should have a resolution that says something similar like that.”

2. The minutes of the August 22, 2001 meeting of the board of the BCPUD, show that additional language was added to Section 7 of Resolution 173 to prevent one meter service two properties that were not serviced by the same meter:

“Item 13. Resolution 471, revising Resolution 173, §7, to add language prohibiting water pipes crossing property lines

Director McClellan raised the question of the language in the resolution prohibiting an owner of two adjacent parcels from legitimately watering a yard on the second parcel. After discussion the wording was amended to avoid specific reference to owners of adjacent parcels.”

3. There has been a misunderstanding by the community and the board of the BCPUD that a rate payer’s property may not be merged across the public use right of way, however properties in Marin County have always been allowed to merge across a road. The property at 169 Elm was merged in 1996 and the property at 164 Poplar was merged in 2006.

Upon the review of right-of-way permit applications, we request that the Board:

“Approve the right-of-way permit application subject to the district’s standard terms and conditions regarding separation of district water lines from effluent, private water lines and electrical lines, having found that Section 7 of Resolution 173 does not prohibit the encroachment of private water lines which only service the property with which the water meter is associated.”