

Jennifer Blackman

From: Alicia Gamez <amgamez@yahoo.com>
Sent: Saturday, September 30, 2023 2:36 PM
To: BCPUD
Subject: 130 Mesa Rd Project - BCLT Application - 10/4/23 & 9/20/23 Meeting Agenda Item 9
Attachments: 2023-10-04 BPUD agenda 100423-agenda-special-meeting-closed-and-open-sessions.pdf; 2023-09-20 BPUD Agenda Item-9-BCPUD-Letter-re-BCLT-Coastal-and-LWUP-Permit-Applications.pdf

Dear BPUD Board,

At the September 20, 2023 Board meeting, I inquired regarding Item 9 of the Agenda. This topic appears also as Item 9 on the October 4, 2023 Agenda. Item 9 is the BCLT application requesting modifications regarding water meters. BCLT is asking the BPUD to amend or modify its policies to accommodate BCLT's projects.

I raised the issue at the September 20, 2023 Board meeting, but I was shut down by the presiding Board member who claimed that Footnote #2 (see below) concerned a *future* request and is therefore irrelevant to BCLT's current request. This position is wrong and ignores the risk that such a written record creates for the BPUD, its governance, and all Bolinas Community members who rely on the BPUD. Secondly, though I raised the issue at the Board meeting, the presiding Board member said that I should have emailed my question, though the Board packet was released shortly before the meeting and it was impossible for me to have done so. Please note that I called the BPUD and left messages for a call to be returned. It was not.

My concern is that BCLT is approaching the project in a manner that weakens the BPUD and its governance. BCLT is pressuring the BPUD (and other agencies) to bend to their plans rather than work within the agency's existing policies. For example, had the BCLT plan placed the RVs where there is water, *on* the Tacherra Ranch, none of these requests for exceptions to the common ownership requirement, or to stack and unstack meters, or to amend resolutions, would be necessary. This sort of bespoke tailoring and catering to an applicant raises concerns of fairness to other members of the Bolinas Community that the BPUD and its Board serve. It also weakens the BPUD governance and makes it vulnerable to attack.

Footnote #2 of the June 12, 2023 letter from the BPUD to the County states:

2. During this discussion, the BCLT Executive Director Annie O'Connor queried whether the BCLT would be able to "unstack" the water use allocations at a later time if the BCLT should seek to use any of the water for non-affordable housing purposes.

All of the accommodations made by the BPUD for BCLT have been predicated on the basis that the accommodations are made **exclusively** for affordable housing and because it is for affordable housing. The Resolutions so recite. However, in Footnote #2, the BPUD acknowledges that the accommodations could merely be a step towards a "non-affordable housing" use. You cannot have it both ways. Either the BPUD's accommodations are exclusively for affordable housing, or they are not. If for affordable housing, the BPUD should clarify that any accommodations will roll back if that condition is violated. If the use is even potentially for non-affordable housing purposes, this should be opened up for a broad discussion by the Bolinas Community.

If the BPUD is making dramatic accommodations with full knowledge that the accommodations may later be applied to "non-affordable housing purposes," then the BPUD is putting itself at risk. Residents of Bolinas who face enforcement by the BPUD would rightly demand accountability for why the BPUD allows exceptions, accommodations, or amendments to resolutions for some "non-affordable housing purposes" and not others.

Any accommodation must be predicated on a permanent and exclusively affordable housing purpose; if this purpose is violated, the permissions must revert.

Alicia Gamez

BOLINAS COMMUNITY PUBLIC UTILITY DISTRICT

BCPUD BOX 390 270 ELM ROAD BOLINAS CALIFORNIA 94924 415 868 1224



A Special Meeting of the BCPUD Board of Directors
October 4, 2023 11:00 a.m. 270 Elm Road, Bolinas

The BCPUD Board of Directors has resumed in-person meetings at its offices (270 Elm Road, Bolinas)

1. Call to Order
2. Roll
3. Public Comment, including comment on whether the Board should adjourn in Closed Session.
4. Vote on whether to adjourn in Closed Session.
5. Closed Session: Appointment of public employee (General Manager), Government Code Section 54957(b)(1).

The BCPUD Board of Directors will return to Open Session at 12:00 noon.

The public is invited to participate in-person or via Zoom: <https://zoom.us/j/4229514446>

Meeting ID: 422 951 4446 (no password required);

Dial by your location: +1 669 900 9128 US (San Jose)

6. Report of actions taken, if any, during Closed Session
7. Vote on whether to disclose matters discussed in Closed Session.
8. Community Expression.
9. Bolinas Community Land Trust (“BCLT”) Proposals re: Water Use at 130 Mesa Road to serve the temporary RV trailer campground (*all requests are for the time period pending either close of escrow for the BCLT’s purchase of 160 Mesa Road or, if a decision is made by the BCLT not to purchase 160 Mesa Road, the date of that decision*).
 - a. BCLT request to temporarily “stack” the water use limit applicable to its property at 31 Wharf Road (12,250 cubic feet) and a portion of the water use limit applicable to its property at 6 Wharf Road (3,000 of the 9,000 cubic foot limit) on the meter serving 130 Mesa Road (which has a water use limit of 2,700 cubic feet) for a combined water use limit of 17,950 cubic feet per quarter.or
 - b. BCLT request for a one-time emergency exception to the common ownership requirement of BCPUD Resolution 671 to allow the swap of water use limits applicable to 130 Mesa Road (2,700 cubic feet per quarter) and 160 Mesa Road (18,233 cubic feet per quarter), on the condition the swap shall automatically revert without further action of the BCPUD Board effective on the date of a decision by the BCLT not to purchase 160 Mesa Road.or
 - c. BCLT request for an amendment to BCPUD Resolution 671 to allow for the swapping or stacking of water use limits applicable to properties with affordable housing projects during an escrow period that would result in common ownership of said properties by the same entity or person.
10. Adjournment

The BCPUD requests individuals who require special accommodations to access and/or participate in this meeting to please contact the BCPUD office at (415) 868-1224 at least 24 hours before the meeting.

BOLINAS COMMUNITY PUBLIC UTILITY DISTRICT

BCPUD BOX 390 270 ELM ROAD BOLINAS CALIFORNIA 94924 415 868 1224



June 12, 2023

Immanuel Bereket
Planner
Marin County Community Development Agency
3501 Civic Center Drive
San Rafael, California 94903

Re: Bolinas Community Land Trust (“BCLT”) Coastal Permit P4047 for 130 Mesa Road, vacant lot, APN 193-020-38) (establish a temporary private RV trailer campground and new on-site wastewater system); BCLT Limited Water Use Permit Applications for 130 Mesa Road and for 160 Mesa Road (APN 188-171-11); Request to “stack” water use allocations.

Dear Mr. Bereket:

On behalf of the Bolinas Community Public Utility District (“BCPUD”), I am writing with regard to the above-referenced emergency coastal permit issued by the County of Marin to the BCLT (P4047) which authorizes the establishment of a temporary RV trailer campground and a new on-site wastewater system on APN 193-020-38 (currently a vacant lot, known locally as 130 Mesa Road), and the related limited water use permit applications submitted by the BCLT to the BCPUD. The BCPUD Board of Directors held a special meeting on May 31, 2023 (*please see the enclosed meeting agenda*) at which both topics were considered and public comment was received. This letter therefore conveys a summary of the public comments received with regard to the emergency coastal permit P4047 and confirms the actions taken by the BCPUD Board with regard to the BCLT’s limited water use permit applications.

Emergency Coastal Permit P4047:

Prior to the May 31st special BCPUD Board meeting, the district received a number of written comments concerning the project authorized by the County via emergency Coastal Permit P4047 (*please see the enclosed copies of the written public comments received by the BCPUD in advance of the special Board meeting*). In addition, considerable public comment was provided during the special meeting; a link to a video of the meeting is available on the BCPUD’s website on the following page: www.bcpud.org/administration/board-of-directors/minutes/. We encourage you to watch this video and listen to the comments in order to fully appreciate the viewpoints presented.

In general, the persons speaking in favor of the project expressed dismay at the reported living conditions of the residents at 160 Mesa Road and serious concerns about the apparent public health hazards they have endured. People advocated on behalf of the residents and underscored the importance of their roles in the community – as agricultural workers and otherwise – and conveyed strong support for the RV trailer campground at 130 Mesa Road as a *temporary* solution to improve those living conditions and keep the residents in the community while the BCLT works to design and install permanent replacement housing at 160 Mesa Road. Several people also voiced their support for the planned remediation of the long-standing informal “dump” at 160 Mesa Road and for the planned wetland restoration project at 130 Mesa Road (once the permanent housing has been completed).

Persons expressing concern about the project raised a number of issues (also detailed in their letters), such as, in their view, (1) the project does not qualify as an “emergency” because the conditions at 160

Mesa Road have existed for decades, and (2) the project will impact protected wetlands. One person questioned whether any of the permanent replacement housing eventually developed for 160 Mesa Road actually would be “affordable” given the likely costs of remediating the property and constructing the housing. Another person was skeptical whether the beneficiaries of the eventual permanent housing would be agricultural workers (which this person said would be a requirement for the coastal permit needed for the permanent housing development), and claimed that most of the current residents at 160 Mesa Road are not agricultural workers. One person expressed doubt that the current residents at 160 Mesa Road would even be the beneficiaries of the eventual permanent replacement housing project at 160 Mesa Road given that federal and state funding requirements for such projects do not allow the project proponents to prioritize who will be selected for the housing (doing so would violate fair housing laws, this person stated). Several persons asserted there could be insufficient water to serve the project, or that serving the project with water somehow would “violate” the district’s long-standing moratorium on new connections to the water system.¹

Please note that this letter does not purport to be a comprehensive summary of the viewpoints expressed at the meeting. Please review the attached letters and view the video of the meeting for additional information. The BCPUD Board also advised the interested persons to submit written comments directly to the County to ensure their support or concerns would be received and considered, so you may receive additional public comments.

BCLT Limited Water Use Permit Applications:

Applicable BCPUD regulations require that property owners apply for a limited water use permit whenever changes are proposed to a property that require issuance of a Marin County coastal, building and/or use permit. The BCLT submitted limited water use permit applications for the meters serving 130 Mesa Road and 160 Mesa Road, and requested to temporarily “stack” the resulting water use allocations, or limits, at 130 Mesa Road to serve the emergency RV trailer campground, in anticipation of and conditional upon the BCLT’s acquisition of 160 Mesa Road (APN 188-170-11) (*please see the enclosed letter from the BCLT to the BCPUD dated May 25, 2023*). BCPUD staff analyzed the BCLT’s limited water use permit applications and “stack” request and this analysis was presented to the Board in a memorandum dated May 31, 2023 (*a copy of the staff memo to the BCPUD Board is attached*).

As noted, the BCPUD Board of Directors considered the BCLT’s permit applications and “stack” request at the May 31st special meeting, directly following the public discussion of the emergency coastal permit. Again, there was considerable public comment about the applications, which launched a wide-ranging discussion of the BCPUD’s water moratorium resolution (*BCPUD Resolution 173*) and related regulations. Following discussion and explanation of the BCPUD’s general rule governing how the BCPUD Board determines water use allocations, or limits, in connection with approving limited water use permits (*BCPUD Resolution 655*), most of the discussion concerned the BCLT’s request to “stack” the water use limits for 130 Mesa Road and 160 Mesa Road together at 130 Mesa Road, which is governed by BCPUD Resolution 671. That resolution provides that the BCPUD Board has the discretion to allow the stacking of water use allocations, or limits, *for affordable housing projects if it finds that:* (1)

¹ See *BCPUD resolution 173*. In this case, the County has issued an emergency coastal permit and determined that the temporary RV trailer campground is a legally permitted use of the property at 130 Mesa Road. This property currently is served by the BCPUD’s water system and continuing to serve the property does not “violate the moratorium”. The issue before the BCPUD Board at the May 31st meeting was to determine whether the proposed project could increase water use and, if so, the Board is mandated to impose a limit, or cap, on the maximum amount of water that can be used at the property. See also *BCPUD Resolution 655, Exhibit A*. Prior to the May 31st meeting, the district’s legal counsel advised the BCPUD that the BCLT’s LWUP applications and water meter “stacking” request could be granted within the limitations of the water moratorium and related BCPUD resolutions.

affordable housing is the sole purpose of the project (except for such additional requirements as may be imposed by another federal, state or local entity with permitting jurisdiction over such projects) and (2) the water service connections at issue are both owned by the project proponent.²

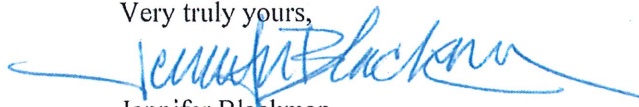
After the public comment and Board discussion of the issues at hand, the BCPUD Board voted to:

- (1) Approve a limited water use permit for 130 Mesa Road with a maximum quarterly water use limit of 2,700 cubic feet.
- (2) Approve a limited water use permit for 160 Mesa Road with a maximum quarterly water use limit of 18,233 cubic feet³ *contingent on (a) the BCLT's acquisition and ownership of the property at 160 Mesa Road and (b) the issuance of a County building permit for the temporary RV trailer campground project.*
- (3) Pursuant to and consistent with all applicable requirements of Resolution 671, approve the "stacking" of the above-approved water use allocations (i.e., 2,700 cubic feet + 18,233 cubic feet = 20,933 cubic feet per quarter) at 130 Mesa Road to serve the temporary RV trailer campground project, *contingent on (a) the BCLT's acquisition and ownership of the property at 160 Mesa Road, (b) the issuance of a County building permit for the temporary RV trailer campground project, and (c) confirmation from the BCPUD's legal counsel that the BCLT may request to "unstack" the water use allocations at a future date, if needed.*⁴

Important Note: the BCPUD Board's approvals of the BCLT's (or any customer's) limited water use permit applications and its determinations of the associated limits, or caps, on maximum water use in no way establish a water "right" or any form of "guarantee" that any specific amount of water can be provided. Rather, these approvals establish maximum quarterly water use allocations, or limits, that cannot be exceeded or the permits are subject to revocation and the water service(s) are subject to termination. All BCPUD customers, whether they have a limited water use permit and associated maximum quarterly water use cap applicable to their property or not, are subject to all of the district's rules and regulations with regard to water use, including but not limited to mandatory rationing and/or other water supply management rules and regulations as the Board may reasonably determine are appropriate under the circumstances during severe drought conditions.

Please let me know if you have any questions or would like to discuss any aspect of this letter.

Very truly yours,



Jennifer Blackman
General Manager

² During this discussion, the BCLT Executive Director Annie O'Connor queried whether the BCLT would be able to "unstack" the water use allocations at a later time if the BCLT should seek to use any of the water for non-affordable housing purposes.

³ In connection with this approval, which is the highest allocation allowed under BCPUD Resolution 655, the Board made the requisite finding that a lesser amount would result in a hardship to the customer's residents.

⁴ The Board subsequently has been advised that it has the authority to apply BCPUD Resolution 671 to allow the "unstacking" of the two specific water use allocations.