

**Bolinas Community Public Utility District**  
**A Regular Meeting Of The Board Of Directors**  
**September 20, 2023 270 Elm Road, Bolinas**

**1. Call to Order.**

7:32 p.m.

**2. Roll.**

Directors Alexander Green, Godino, McElroy, Siedman and Walker present; director Siedman presiding.

**3. Community Expression.**

Jennie Pfeiffer said she sent an email to elected representatives and the district's General Manager, who has been working with the local committee negotiating with the U.S. Postal Service ("USPS") for the installation of an interim Bolinas Post Office at Mesa Park, to express her dismay that the USPS abruptly withdrew from those negotiations and announced a decision to move the Bolinas Post Office to Olema, without any prior notice to the community. Jennie noted the Olema Post Office regularly floods during wet winters, is not ADA compliant, and there is no public transportation from Bolinas to Olema. She asked what options the community might have to protest this decision. Director Siedman said he believes the community is entitled to postal service in the same manner as any other community – in other words, Bolinas is entitled to a post office. Moving the Bolinas Post Office to Olema is not in the best interests of the community and the Bolinas Postmaster does not appear to be competently handling this situation on behalf of the community, he said. Director Siedman said there appears to be two potential avenues for action: (1) political – the town can petition the USPS to replace the Bolinas Postmaster with someone who will work with the community to secure the return of the post office, initially on an interim basis at Mesa Park and on a long-term basis somewhere else, perhaps even in the BCPUD office building when it is rebuilt, and (2) legal – residents can pursue a court action to enjoin the USPS from interfering with the efficient delivery of mail. A brief discussion ensued, and staff said Congressman Huffman already has sent a letter to Postmaster DeJoy in Washington, D.C. requesting an explanation for the Olema decision and the Postmaster's intervention to get the Interim Bolinas Post Office at Mesa Park back on track. The Board suggested that it might be time to ask the U.S. Senators for California to get involved.

**4. Manager's Report and Project Updates.**

- *Update on the Status of the BCPUD's Water Supply.*

Thus far in the 2023-24 rain year, (July 1, 2023 – June 30, 2024), the district has received 0.59 inches of rain. Between August 16, 2023 and September 18, 2023, water production in the district averaged 82,309 gallons per day (GPD), which was a drop as compared to the last reporting period (87,150). Water consumption during this same timeframe averaged 84,181 GPD (approximately 143 GPD per connection), which was also a drop as compared to the last reporting period, when consumption averaged 87,290 (149) GPD per connection, likely due to the recent foggy and cooler weather as compared to earlier in the summer. As for water in storage, the Woodrat 1 Reservoir is just below full and the Woodrat 2 Reservoir is about a foot below full. The district continues to supply the town with water exclusively from the Arroyo Hondo Creek and has not needed to supplement with any water from storage.

- *Update on the BCPUD's Groundwater Wells Project.*

Staff reported the Funding Agreement with the California Department of Water Resources for the grant funds to install this project finally was executed, which is great news for the district. Staff is working with the district's biologists and engineering consultants to assemble the coastal permit applications to install the projects and submit them before the end of the year. Staff also is coordinating with the Bolinas Community Land Trust ("BCLT") about the BCLT's project at 31 Wharf Road – the BCLT currently plans to do the site preparation for that project in the spring of 2024, so the district plans to install the water line from the well to the street after that. The district must complete the installation of both well projects by December 31, 2024.

- *Update on the BCPUD's Tank Site Pipeline Replacement Project.*

Staff reported that the agreement for this project has been executed by the district and the contractor; staff anticipates issuing a Notice to Proceed in early October with a project completion date of mid-December.

- *Operations Update.*

The crew has been working on repairs needed at the water treatment plant as a result of the recent wet winter, including the replacement of framing and windows that experienced water damage and dry rot. Staff complimented shift operator Evan Kahn, who has a professional painting background, for his work on this project. The operators also have been busy with education and training activities this month as they prepare for higher level water treatment certification exams.

Staff reported the district sampled earlier this month for chlorine disinfection byproducts – total trihalomethanes (TTHMs) and haloacetic acids (HAA5s) as it is required to do on a quarterly basis. Staff is pleased to report that all sample results were well below the applicable maximum contaminant levels. The district also conducted its third round of sampling for per- and polyfluoroalkyl substances (PFAs), also known as “forever chemicals”. The BCPUD was randomly selected by the Environmental Protection Agency as a small water system to participate in this nationwide sampling effort.

Staff has been coordinating with homeowners and contractors, both via email and in the field, on the four remaining sewer lateral repairs required to be completed prior to the rainy season. Staff emphasized these repairs are important to the district’s ongoing effort to identify and eliminate sources of groundwater infiltration and inflow (“I&I”) into the sewer system. Staff thanked the homeowners for their cooperation, particularly since several of the repairs were quite extensive and costly to install.

The crew recently worked with a visiting consultant from the California Rural Water Association to measure the accumulated sludge in Pond 1A at the sewer treatment facility, which revealed that there is about 2.5 feet of sludge at the bottom of this pond. Per the consultant, the district has 5 – 10 years before it will be necessary to remove the sludge from this pond. In response to a question from director Alexander Green, staff said the removal of this sludge will not make a significant difference in the storage capacity of the pond (which is an identified concern of the regulators at the Regional Board) but rather is more of a concern from a treatment standpoint in that a build-up of organic matter can impact the efficacy of the treatment process in the ponds.

As staff reported last month, the County has launched monthly “Operational Area Partner Training and Coordination Meetings” to discuss emergency management preparedness, planning, response, mitigation and recovery with all of the towns, cities, special districts and other responsible entities, such as the local hospitals. Staff attended the September meeting earlier in the day and there was a presentation by the California Office of Emergency Services (“CalOES”) on disaster proclamations and process; evidently CalOES recommends that even small special districts such as the BCPUD have their own local disaster proclamation process. As such, staff plans to incorporate this into an update of the district’s Emergency Operations and Response Plan. The County Office of Emergency Management also gave a presentation about a new 24/7 Duty Officer Program to coordinate County-wide communications relating to potential and actual disaster events.

Staff worked last month with representatives of the Stinson Beach County Water District, the Inverness Public Utility District and the Muir Beach Community Service District to prepare a Letter of Intent to submit to a grant program administered by the National Oceanic and Atmospheric Administration (“NOAA”) which funds projects relating to coastal resiliency planning and implementation. It is a nationwide grant program that is likely to be highly competitive, but the participating districts believe it was worthwhile to submit a proposal reflecting common priorities of these communities in coastal West Marin to assess their risks and vulnerabilities and implement climate adaptation actions. In addition, the Stinson Beach County Water District submitted a separate Letter of Intent for a proposed wastewater feasibility study and asked the BCPUD to sign on as a potential partner. Staff agreed to do so for purposes of the Letter of Intent, but advised that it was unlikely the BCPUD Board would be interested in advocating for the conversion of all of the non-sewered areas of Bolinas off of septic and onto a centralized sewer system. Instead, staff advised that the BCPUD Board likely would be willing to authorize the district to participate in a feasibility study to determine whether specific areas of town (i.e., those threatened by climate change impacts such as flooding and sea level rise, or properties with small lots that cannot upgrade their septic systems) would be appropriate for conversion.

Staff continues to work on the post-January 2023 winter storm disaster clean-up and documentation for reimbursement of costs related to that effort from FEMA. The final work to be done is the clean-up of debris (i.e., trees and small slip-outs) blocking access along the Arroyo Hondo access road; this work was delayed due to the presence of nesting spotted owls in the vicinity of the work site. This past weekend, the National Park Service issued the district a “special use permit” to perform this work, so the district will proceed with it as soon as possible.

- *Proposal for Engineering & Design Services for the Canyon Road Sewer Lateral Connections (Nute Engineering).*

Staff said Nute Engineering unfortunately was not able to complete its proposal in time for consideration at this Board meeting. Staff requested that the Operations Committee meet with staff to evaluate the proposal when it is submitted. Overall, the project is relatively straightforward: it involves the connection of six residences on Canyon Road to the district’s sewer system; each residence will need to have a small holding tank and booster pump on their property, with a lateral running from their

property via a common trench in Canyon Road to a point of connection with the district's sewer main on Terrace Avenue. However, there are complications to resolve. For example, preliminary research indicates that Canyon Road is privately owned and the adjacent property owners own to the center of the road, so each owner of a sewer lateral in the common trench will need to obtain easements from their neighbors to cross the neighbors' property with their sewer lateral. In addition, agreements will need to be reached as to homeowner responsibility for the costs of installation and ongoing maintenance of the new infrastructure, which will belong to them individually. In response to questions from the Board, staff confirmed that all of the property owners have indicated their commitment to participate in the project, but the scope of costs required for the design and installation of the sewer lateral connections have not yet been identified.

- *Proposed Change Order to the Surfer's Overlook Bluff Evaluation Update Agreement between Gannett Fleming and the BCPUD to Include Inspection of Seawall Pilings and Determination of the Feasibility of Splicing Repairs.*

Staff reminded the Board an evaluation of the bluff at Surfer's Overlook was performed by Sage Geotechnical Engineers in 2011 (Sage subsequently was purchased by Gannett Fleming) and this evaluation led to the County's replacement of the road-level retaining walls in 2015. The Save Terrace Avenue committee – Ralph Camiccia, Rudi Ferris, Ken Masterton and Remick Hart – recently reconvened due to concerns about the deterioration of the County's wooden seawall at the base of the bluff. The committee recommended the community obtain an updated bluff evaluation, this Board agreed, and Gannett Fleming was engaged to perform the work. A draft update has been provided to the committee and it documents the retreat of the unprotected portion of the lower bluff at Surfer's Overlook has progressed more slowly over the last 12 years than published long-term retreat rates would have predicted; the soils in the upper bluff are eroding at a more significant rate than the lower bluff, and will likely continue to do so for some time if not stabilized; and the eastern half or so of the timber sea wall is in disrepair. Gannett Fleming states that full replacement of the timber sea wall would be relatively straightforward from an engineering standpoint, but would be a disruption to the area, and would require careful planning to work around tides. The engineers suggest there may be an option for discrete repairs to the seawall, either in lieu of, or prior to, full replacement, but some investigation would be involved in order to examine the integrity of the embedded portions of the piles.

The committee asked Gannett Fleming to submit a proposal for the additional investigatory work needed, hence the agendaized change order. The change order proposes either one day of limited investigation of six of the most deteriorated pilings at a cost of \$15,624.00 or a multi-day investigation of all accessible pilings at a cost of \$24,394.00. Remick Hart said he concurs with the concept of investigating all of the pilings, but noted the committee has not yet met to discuss the change order. Remick said the committee has the funds available to pay for the work (over \$160,000 on deposit), but the funds are temporarily tied up in a CD administered by the committee's fiscal agent (the Bolinas Community Center) that does not mature until December. Rudi Ferris agreed a committee meeting is needed to decide between the two options proposed in the change order. The Board deferred any action on this matter until the committee meets and submits a recommendation as to the scope of work.

- *Proposed Projects to Remove Cypress and/or Eucalyptus Trees and/or Limbs of Such Trees on BCPUD Properties per Urban Forestry Associates' Tree Failure Analysis and Risk Assessment Report.*

At its regular meeting on August 16, 2023, the Board received a Eucalyptus and Monterey Cypress Tree Failure Analysis and Risk Assessment report prepared by Ray Moritz of Urban Forestry Associates ("UFA"). This report details the results of UFA's inspection of several BCPUD properties that experienced tree/limb failure during the January 2023 winter storms, a declared disaster event. BCPUD asked UFA to inspect the sites for the cause(s) of the tree failures and conduct a risk assessment of associated trees. The three sites are 270 Elm Road (the BCPUD office building property), 290 Mesa Road (the BCPUD's water storage tank site) and the Mesa/Olema-Bolinas Road Grove. As explained in a staff memo to the Board, staff is coordinating a site meeting with Mr. Moritz, the Bolinas Fire Protection District, PG&E and perhaps also the County of Marin to discuss a coordinated project or series of projects to address the hazards identified in the UFA report as targeting Olema-Bolinas and/or Mesa Roads. Staff anticipates bringing a proposed project or series of projects for all three sites to the Board for consideration at upcoming meetings. If and when some or all of the projects are approved by the Board, staff will then pursue cost estimates, determine the extent of any required permitting, and research potential sources of funding to pay for the work.

- *Memorandum of Understanding between the BCPUD and Chris & Lara Deam re: Fence between 52 Crescente and Adjacent BCPUD Property.*

Staff reminded the Board the Deams have proposed to replace the chain link fence on the north side of the BCPUD's water tank property (bordering their property at 52 Crescente) with a more attractive wooden fence and also to relocate the west-facing fencing further to the east, all at their expense. The Board previously approved the Deams' proposal subject to a written agreement. Staff prepared a memorandum of understanding and provided it to the Deams in advance of the meeting, and a copy is in

the Board materials. A brief discussion ensued and, in response to questions from director McElroy, the Deams agreed that they would be obligated to disclose the MOU to any prospective purchaser of their property and make clear that they do not own any portion of the BCPUD water tank property. In addition, staff confirmed that the district will retain its access to all infrastructure on its water tank property.

K. McElroy/K. Walker all in favor to approve the Memorandum of Understanding between the BCPUD and Chris & Lara Deam regarding a fence between 52 Crescente and the adjacent BCPUD property.

- *Alliance of Coastal Marin Villages*

The Board reviewed a letter of welcome sent by the Alliance of Coastal Marin Villages to Supervisor Rodoni's new aide, Morgan Patton. In addition, staff reported the County has issued draft Short-Term Rental regulations for public review and comment. Finally, the County has established a new ombudsperson within the Community Development Agency, Christy Stanley (formerly with County Code Enforcement) to assist those seeking building permits.

In response to a question from director Godino concerning repairs recommended for the Bolinas Beach Groin at a previous meeting, staff said a proposal for the necessary plans and specifications is expected from Ron Noble's firm (Noble Consultants) but has not yet been submitted. The district received a proposal from Gannett Fleming, but it was less complete than desired. Staff will follow-up with both firms.

**5. Public Hearing to Consider Termination of Water Service and/or Revocation of Permit – Violation of Maximum Water Use Allowed Under Limited Water Use Permit # 93-2 (S. Ganis – 61 Crescente Avenue, Bolinas).**

Sid Ganis said he and his wife have been working to identify the source of the high water use at their property since it was brought to their attention by district staff. Mr. Ganis explained he hired new landscapers at the beginning of the summer and it is now clear they were overwatering during that timeframe. In addition, during a meeting on site with district staff, a leak in the irrigation system was identified and has since been repaired. Staff confirmed this and explained the leak was resulting in a loss of several hundreds of gallons of water per day. District staff will meet on site with the Ganis' new landscapers to show them how to track water use while irrigating to ensure the amount of water used does not exceed the terms of the limited water use permit. Director McElroy noted the district discourages the use of automatic irrigation systems and inquired whether the Ganis' would consider the installation of rainwater catchment tanks as a source of water for landscape irrigation; he also recommended the installation of a Flume device to enable them to remotely monitor their water use in real time. Mr. Ganis said staff recommended both options and he is looking into them. Director Godino said she would like to see documentation from the property owner about the steps taken to identify and stop excessive water use.

Don Smith said he remembers this property from when he was on the BCPUD Board. He recalled that water use permit warning letters regularly were sent to the owners in the summer months but, because the water use permits were enforced at that time over a 6-month (two quarterly billing cycle) period, the water use typically dropped enough in the fall such that the property's overall water use for the 6 month period was in compliance. Don said this is the very reason the district's enforcement policy was revised to require violations letters in the event of over-use in a single billing quarter. Sid Ganis expressed surprise at these statements and reiterated he is committed to complying with the terms of his permit; he does not want the district to shut off his water. Director McElroy said one problem appears to be that the district does not have a "middle ground" for enforcing water use permits and he suggested the Board evaluate this and alternative potential enforcement options at a future meeting. Director Alexander Green agreed and suggested the district may want to consider charging for the staff time required to assist with a property owner's compliance efforts (i.e., site meetings, meter reads, etc.).

Alicia Gamez said she understands "leak relief" is available and she inquired about it, as well as how many notices a property owner receives about excessive water use before they are threatened with having their water shut off. Staff explained meters are read on a quarterly basis and the water use permits are limited on a quarterly basis so, when someone's water use exceeds the quarterly limit, they receive a letter from the BCPUD notifying them of this fact and providing 30 days to come into compliance with the terms of their permit (per BCPUD Resolution 655). After 30 days, if the property owner is still not in compliance, a second notice is issued which includes the scheduling of a public hearing before the Board – that is where this particular matter is at this time. Staff said there also are usually many informal communications with property owners during the enforcement process where the property owner seeks to identify the source of their high water use and take steps to address it. In this case, staff expects to be able to work with the property owner's landscapers to adjust the irrigation system such that water use is within the permit limits. As for leak relief, staff said that BCPUD Resolution 553 sets forth the district's criteria and process for applying for relief from quarterly metered water delivery charges in the event of a leak or other water loss.

Director Siedman requested that staff continue to assist Mr. Ganis and report back at the next regular Board meeting.

**6. Limited Water Use Permit Application – 161 Elm Road, Bolinas (APN 192-212-17) (*replace exterior wood finishes, windows, doors, roof and foundation; interior remodel; new septic system; Eichler Davies Architecture, on behalf of D. Shen*).**

Eric Davies said he is the architect on this project, representing the owner, and is happy to answer any questions about it; he explained the project primarily is an interior remodel of an existing house that is not in great condition. He said the project will not add any square footage to the structure and it will be a three bedroom, 2 bathroom house. In response to questions from director Walker, Mr. Davies said the existing house actually has 4 very small bedrooms which are not optimal, which is why the remodel will result in three bedrooms; he said a new septic system will be installed and is designed for 350 gallons of water per day. In response to a question from the Board, staff said Mr. Davies was informed prior to the meeting about Resolution 655 and the limited water use formulas applicable there; based on the historically very low water use at this property, staff advised Mr. Davies the Board most likely would determine the limit on water use under subsection (a), which would be a limit of 2,700 cubic feet per quarter. Director McElroy noted an automatic irrigation system is depicted on the plans for the project and Mr. Davies said he heard the discussion during the prior agenda item and would be very mindful of it. Director Godino encouraged Mr. Davies to ask his clients to consider a rainwater catchment system. Director Walker asked if the Board's approval of a limited water use permit could be conditioned on the removal of the automatic irrigation system from the project plans; director Godino said this would need to be a policy decision of the Board applicable to all permit applicants. Director Siedman agreed; director McElroy said he would like to have that discussion at a future meeting. Mr. Davies said he will encourage his clients to install a rainwater catchment system in lieu of an automatic irrigation system.

G. Godino/K. Walker all in favor to grant a limited water use permit with a quarterly water use limit of 2,700 cubic feet per quarter.

**7. BCPUD's Pedestrian/Bicycle Path Project: *Proposal for Engineering and Design Services from BKF Engineers (Becky Dower, P.E.)*.**

Don Smith urged the Board to authorize the district to proceed with the engineering and design of the project to hard-surface the pedestrian/bicycle path; he said the Board needs this work to be done in order to be able to solicit bids for the project. He said the district will not know, until the bids are in, how much of the path can be hard-surfaced, but it is likely that not all of it can with the available grant funds. Don noted the path route has been prioritized in terms of the sections most in need of repair/hard-surfacing (i.e., the most deteriorated sections), and only one of those sections is in the eucalyptus grove. He acknowledged the concerns about the hazards that may be posed by the trees in the grove, but said it could take a decade or two to resolve these concerns because of how extremely expensive it is to remove them. In the meantime, he said, no one has a safe way to get downtown or to the school from the Mesa without being on trafficked roads if the community does not have a viable pedestrian/bicycle path.

Director McElroy said there are many roads in town that are vulnerable to trees falling across them and the town needs as many routes out of town as possible, including this pathway; he does not like the idea of allowing the pedestrian/bicycle path to deteriorate. With regard to the eucalyptus grove, while acknowledging the concerns about it, he said the funding is available now for the hard-surfacing of the pathway and the district should not lose them. Director Walker concurred, noting the considerable amount of work already put in by the district to secure the funding. Director Alexander Green asked if the funding covers the engineering and design costs. Don Smith explains that it does, up to an amount equal to 25% of the grant funding; director Walker noted the BKF proposal is for \$75,000 and she generally finds that "soft costs" are 18-25% of total project costs. Director Alexander Green said he agreed the district should proceed with the engineering and design of the pedestrian/bicycle path project at this time; director Godino concurred.

Director McElroy inquired about the optional costs included in the BKF proposal for geotechnical work and a boundary survey. Staff said it was previously decided not to include the geotechnical work and whether a boundary survey will be needed is up to the County; as the engineers have explained it, a survey may be needed to assure the County that the entirety of the path is on BCPUD property (and not in the County rights-of-way on Mesa or Olema-Bolinas Roads). That said, staff noted the path already was permitted by the County when it was originally installed and the footprint is not changing, so a survey should not be required under these circumstances. Staff recommends the Board approve the scope of services BKF proposes exclusive of the survey and geotechnical work and Don Smith said he agrees with this recommendation.

G. Godino/A. Alexander Green all in favor to approve the proposal for engineering and design services from BKF Engineers at a cost of \$75,000 for the BCPUD's pedestrian/bicycle path project.

**8. Recology Sonoma Marin: *Request For One-Time Extraordinary Rate Increase due to Ongoing Losses from Operations in Bolinas*.**

Nikki Burke, Regional Rate Manager, was present on behalf of Recology Sonoma Marin and said the company is seeking a one-time extraordinary rate increase because it has been operating at a significant loss in Bolinas since 2017, after it acquired the franchise from the Ratto Group. She gave a brief presentation about the services currently provided by the company in Bolinas, noting that the company is 100% employee-owned and the drivers are unionized and considerably better paid than they were under the prior ownership. Recology serves more than 600 accounts in Bolinas (providing solid waste, recycling and organic waste services) and conducts 2 bulky-waste pick-ups per customer per year. The company also donates services in town for special events such as Labor Day. Recology has replaced its older trucks and focused on health and safety goals since acquiring the franchise. The “waste zero” department also is available to help commercial and residential customers understand how to reduce its waste. Recology has increased Bolinas’ landfill diversion from 50% in 2020 to 60% in 2023, and has achieved 100% compliance with the state commercial compost law (AB 1826) in Bolinas, which was at 33% compliance in 2018.

Nikki referred to the packet of information in support of Recology’s request for a rate increase of 108.7% based on revenues and expenses in Bolinas (the “Detailed Rate Review” information); she acknowledged the burden such as a rate increase would pose on Bolinas ratepayers and said the company included options in its proposal to mitigate that increase. She noted some accounts in Bolinas require significantly more time and effort to service; for example, smaller trucks are required on some roads, it is necessary for the drivers to exit the collection trucks to pull the carts out to be serviced, or to drive up long driveways, etc. Nikki said the existing rate structure does not differentiate based on the time/difficulty of service for specific accounts. She suggested the company can adjust its walk-in charges, drive-time charges and other account-specific charges and doing so would bring down the overall rate increase request to 77%, which she realizes is still quite significant. However, Nikki pointed out, as set out on page 4 of the Detailed Rate Review, a rate increase of 77% would result in an increase of less than \$20 per month for 458 out of 584 residential Bolinas customers.

Director Alexander Green noted Recology purchased the franchise in late 2017 and he asked why an audit wasn’t done at that time regarding the adequacy of the rate structure. Nikki said the company knew it was coming into a situation where it would need to increase rates, and it has had similar conversations about rate increases with essentially every franchise it has acquired, but it has taken time to get to the Bolinas franchise. Director McElroy referenced a side-by-side chart in the Detailed Rate Review materials for Bolinas and Stinson Beach and discussion ensued about the multi-year process that took place in Stinson between 2020 -2022 to adjust the rate structure there via a new contract that includes a rate increase methodology (based on publicly available indices, not CPI) and a detailed rate review process that can be invoked either by the district or by Recology. Director McElroy asked if that process has ever resulted in a rate decrease and Nikki said no, not in her experience. However, she said Recology currently is engaged in a Detailed Rate Review with Santa Rosa concerning the rates charged there and it appears at the present time that this will result in a smaller rate increase than would have been determined via the contractual rate increase methodology.

In response to questions from director Walker seeking clarification as to whether Recology is seeking a 77% rate increase, or something else, Nikki said she is proposing that the district and the company find a way to ensure that Recology covers its costs of operations while minimizing the impact to Bolinas ratepayers. Nikki said there are other options that could be discussed to mitigate rate increases such as a “CARE” or low-income discount – if a customer qualifies for PG&E’s CARE program they may qualify for a Recology discount, for example – but that would then spread the cost of that discount back onto other ratepayers. Director McElroy said the materials Nikki provided indicate that even with this discount, those low-income residents would experience a 50% increase in their rates, which is very significant. In response to further questions from director Walker, Nikki said the company is proposing a one-time increase effective next year (2024) and that would replace the CPI increase otherwise provided for in the franchise agreement; after that, the existing contract would continue through 2030 (with annual CPI increases).

Director McElroy inquired whether there are any opportunities for Recology to make up some of its revenue deficits via grants or other funding sources other than directly from ratepayers. Nikki said she is not aware of any opportunities like this, but will do some research and report back. Director McElroy noted that in 2017 when the BCPUD consented to the assignment of the franchise agreement from the Ratto Group to Recology, Recology said it would honor the terms of the existing franchise agreement. Now, however, Recology is stating that it immediately encountered a deficit between revenues and expenses; he asked if Nikki could address this apparent disconnect. Nikki said the company relied on the financials it was provided by the Ratto Group; she noted further that the contract with the BCPUD states the company is entitled to reasonable compensation, so Recology is honoring the contract by asking the district to acknowledge this and consider an extraordinary rate increase. Director Siedman pointed out the company could invoke that reasoning every year, which would render irrelevant the contractually agreed upon rates for the duration of the contract. Nikki said the company must back up any rate increase request and the district can and should have an independent consultant verify the accuracy of the supporting information (i.e., that Recology’s claimed costs are verifiable and a rate increase is warranted/appropriate) to ensure the company is not making an unreasonable rate increase request.

Director Siedman said most residents have a 32-gallon garbage can and asked how Recology's proposed rate increase would impact them. Nikki referenced the supporting materials and verified that most customers in Bolinas have 32 gallon cans and a sizable group of customers have 20-gallon cans. For the customers with 32 gallon cans, the requested rate increase would result in an increase from \$25.74 per month to \$41.08 per month. Janine Aroyan said many customers only put out their garbage cans once a month, not once a week, so this increase will really impact those people in terms of service provided for rates paid; she inquired whether it is possible for any customers to opt for once-a-month service. Nikki said this is not an unusual question, but it is virtually impossible to implement from a driver perspective; in addition, there is a mandatory weekly waste collection ordinance in place. Finally, Nikki explained that the company offers recycling and organics service at no additional cost apart from the garbage fee when, in fact, these services are not cost-free (so the monthly garbage rates help subsidize those costs).

Director Alexander Green inquired whether it would be possible to do a "step" increase in rates over time rather than a one-time extraordinary increase. Nikki said when this has been done in the past, it has been done in connection with a contract extension. She said the company already has endured five-years of losses on this franchise, but it does want to maintain its good relationship with Bolinas; she suggested if the BCPUD would consider a ten-year extension to the contract, Recology likely would be open to considering step increases. In response to a question from director Siedman, Nikki said the company might propose something like a 40% increase for the first year, then another step of 25%, and then determine how to go from there to achieve the full increase needed. She said when presented with this option, franchise holders often prefer to proceed with a one-time extraordinary increase rather than impose repeated significant increases over time on their customers.

Director Godino said she is sympathetic to the company's need to cover its costs and inclined to prefer a one-time increase and also to explore the CARE discount so that lower-income residents would not be hit as hard with a big increase in rates. Director Andrew Green agreed, noting the community's remoteness means that it is more expensive to service; he said he also prefers the one-time increase. With regard to the amount of the increase, he suggested the BCPUD appoint a committee to evaluate the financial information provided by the company in support of the rate increase request. Nikki offered to provide the names of potential consultants to assist the district in this regard. Director Walker concurred with the comments of directors Godino and Alexander Green; director McElroy said he would like to take more time to consider the request and supporting financial information.

Annie O'Connor of the Bolinas Community Land Trust ("BCLT") said 75% of full-time Bolinas residents qualify as low-income, so Bolinas is a very different demographic as compared to Stinson. Annie said she is aware that Community Action Marin has assisted many Bolinas residents who are having trouble paying their rent or other utilities and she encouraged the Board to consult with Chloe Cook of Marin County Health & Human Services because she believes the proposed rate increase would pose a significant hardship to many people in the community and Chloe may be able to offer resources to bridge this financial gap.

Director Siedman said it appears the Board is receptive to an appropriate rate increase, but the directors want to more thoroughly evaluate Recology's request and supporting documentation. Staff recommended the appointment of an Ad Hoc Committee of the Board for this purpose and noted that any rate increase ultimately agreed to will be subject to the Proposition 218 notice and hearing process, so the proposed January 1, 2024 deadline for the rate increase is likely overly ambitious. Nikki acknowledged this and said Recology can be flexible as long as the parties are making progress. Director Siedman said the Board also is concerned about the need to build in protection for low income customers. Annie O'Connor suggested that the County's Health & Human Services personnel may be able to assist with any income-verification role needed for this purpose. Alicia Gamez commented that any adjustment made for low-income residents likely will then be shifted to non-low-income ratepayers, so she would like to see documentation regarding that impact and suggested it be published in the Hearsay News. Nikki said she is open to conferring with Chloe Cook and learning more but, in her experience, in most communities only about 6% of residents qualify for the low-income discount so she would be very surprised if the percentage is significantly different in Bolinas. After a short additional discussion, Nikki agreed to provide an updated one-time extraordinary rate increase proposal reflecting the issues discussed during the meeting for consideration by the Board's Ad Hoc Committee.

**9. BCLT Request to Temporarily Modify the Conditions Placed on the Limited Water Use Permits Approved by the BCPUD on May 31, 2023 for 130 Mesa Road and 160 Mesa Road, Bolinas to Allow the Water Limit Approved for 160 Mesa Road to be Temporarily Swapped for the Water Limit Approved for 130 Mesa Road Pending the Close of BCLT's Acquisition of 160 Mesa Road.**

Director Siedman recused himself from consideration of this agenda item.

Annie O'Connor referenced a letter submitted by the BCLT in support of its request. She said due to reasons outside of the BCLT's control, the BCLT will not be able to meet the conditions imposed by the BCPUD Board at its May 31, 2023 approval of the limited water use permits issued to 130 and 160 Mesa Road and the BCLT's stacking request. Specifically, the BCLT will not be able to acquire 160 Mesa Road prior to the planned opening of the temporary RV trailer campground at 130 Mesa Road. In order

to operate the temporary RV trailer campground, the BCLT therefore requests revised approval from the BCPUD. Annie noted the Tacherra residents will be relocated to the campground pending the planned redevelopment of 160 Mesa Road and the water use at 160 Mesa Road therefore will be substantially reduced; the BCLT therefore proposes to shift the water use between the properties and emphasized that the combined water use at the two properties will not increase overall. Specially, Annie requested that the Board allow the 18,233 cubic foot/quarter limit it approved on May 31, 2023 for the 160 Mesa Road property to be used at 130 Mesa Road and that the Board allow the 2,700 cubic foot/quarter limit it approved on May 31, 2023 for 130 Mesa Road to be used at 160 Mesa Road. Annie said this would allow the relocation of the residents of Tacherra Ranch to improved housing as soon as possible.

Don Smith said the Board's May 31, 2023 decisions were made contingent upon the BCLT's purchase of 160 Mesa Road because BCPUD Resolution 671 requires common ownership to stack water use allocations. He said the purchase has not closed because the BCLT needs to better understand the scope of requirements concerning the clean-up of the former dump site; however, it is important to relocate the residents of the Tacherra Ranch before the rainy season. He noted if the purchase agreement falls through, the residents will have to leave the RV trailer campground and the water use requirements will be moot. He further explained the receiver for 160 Mesa Road does not want to sell the water meter serving that property, so it is not possible for the BCLT to acquire that meter; as such, the BCLT is asking to swap the water use allocations. Director McElroy pointed out that BCPUD Resolution 671 requires common ownership for swapping as well as stacking.

Annie O'Connor clarified the BCLT will have signed the purchase and sale agreement with the receiver prior to the opening of the RV trailer campground, but will not have closed the purchase before the residents will be relocated there (on or about October 15<sup>th</sup> or October 20<sup>th</sup>) due to the need for a prolonged escrow to conduct due diligence. The BCLT therefore is asking the BCPUD Board to deem the BCLT eligible for the privileges of ownership during the escrow; if the deal should fall through, "everything reverts back" and, she noted, the water use at 160 Mesa Road would not be limited (because the conditions of the limited water use permit approval on May 31<sup>st</sup> would not be satisfied). She asked that the BCLT and the residents of the Tacherra Ranch not be penalized because of the inability to close the purchase given the good faith effort to complete the transaction. Annie said the County has required the residents be relocated prior to winter and the BCLT is doing everything it can to make sure the temporary RV trailer campground will be available for them. She said the BCLT does not expect a "worst case scenario" in which it is prohibitively costly for the BCLT to remediate the dump site (or that any other issue will emerge to impact the close of the purchase) but, if it does, the residents are aware they would have to relocate as water would not be available to serve them. Annie said the BCLT would be responsible to relocate the residents off of the RV trailer campground housing in that circumstance.

Director Alexander Green asked about the estimated timeframes for the purchase of 160 Mesa Road and he also asked about October 15<sup>th</sup> and 20<sup>th</sup> dates mentioned earlier. Annie said the BCLT is planning to open the temporary RV trailer campground and relocate the Tacherra Ranch residents there between October 15<sup>th</sup> and October 20<sup>th</sup> (proxy dates for the beginning of the rainy season). As for the due diligence, Annie said the BCLT plans to sign the purchase and sale agreement within the next few weeks and then conduct a 120-day due diligence period during which it will complete a "phase 2 study" on the dump site to obtain more information about the scope of remediation. The BCLT will then take that information to state regulatory authorities to negotiate an agreement pertaining to the requirements for the clean-up of the property. Annie said the BCLT cannot close on the purchase of the property prior to negotiating this agreement with the state regulatory authorities, which could be an 8 – 12 month process. In response to further questions from the Board about timing, Annie said the BCLT is looking at a protracted escrow period of no more than a year, with 6 – 8 months as a target for the close of the transaction.

Director McElroy said he does not believe BCPUD rules and regulations allow for the swap proposed by the BCLT at this meeting. Director Alexander Green concurred, saying the Board would have to amend its existing rules and regulations in order to approve such a swap. Director McElroy suggested the BCLT may be able to allocate water use from another of its properties to 130 Mesa Road and asked if this option has been explored. Annie said she is aware that the BCLT is asking for a special accommodation and it is the BCLT's hope that because the overall water usage will not be increased the BCPUD Board can find a way to approve the request. Don Smith said Resolution 671 was expressly limited to affordable housing projects owned by the same entity and this project is on track to become completely compatible with that requirement but for a limited, interim period pending close of escrow. The BCLT is committed to ensuring that water use will not exceed the allotments approved by the Board on May 31<sup>st</sup>, he said, so he believes the request meets the spirit of Resolution 671. Director Alexander Green asked if the BCLT has considered moving the allotment assigned to 31 Wharf Road per the limited water use permit for that property to 130 Mesa Road. Annie said the BCLT is open to considering this or any solution that will allow the timely opening of the temporary RV trailer campground. Director McElroy said he understands Don Smith's point about the spirit of Resolution 671, but he does not believe the Board has the authority under that resolution as it exists to approve the BCLT's request.

Alicia Gamez noted footnote 2 in the BCPUD's letter to the Marin County Planning Department following the May 31<sup>st</sup> special Board meeting references BCLT's potential use of water for non-affordable housing purposes and she inquired whether there is any intention to use water for non-

affordable housing purposes. She said she also understood the intention was to have the temporary RV trailer campground at 130 Mesa Road only for so long as required to remove the existing substandard structures at 160 Mesa Road after which time the trailers would be moved to 160 Mesa Road during the construction of the permanent housing. She asked if she had misunderstood that. Finally, she asked how long the temporary RV trailer campground will exist. Annie said the BCLT has always planned that the temporary RV trailer campground at 130 Mesa Road will house the Tacherra residents during the removal of the existing substandard structures at 160 Mesa Road and construction of the permanent housing; she said the BCLT has committed to complete this process within 5 years (i.e., raise funds, complete the design and permitting process, and construct the new development). Alicia inquired again about footnote 2 and any possible use of water by the BCLT for non-affordable housing purposes; director Godino suggested she follow-up with staff about the letter, noting the footnote relates to a query by the BCLT about potential unstacking of water use allocations in the future.

Director McElroy asked if the BCPUD has any meters it can sell to the BCLT for this project; staff said no, the BCPUD does not. Director McElroy asked if the BCLT has other water use allocations from other properties that it can move to 130 Mesa Road. Annie said BCLT will consider whether it is possible to move the allotment from 31 Wharf. Jeff Clapp said he is concerned the allocation for the limited water use permit at 31 Wharf Road is not sufficient to serve the Tacherra Ranch residents, even if stacked with the meter owned at 130 Mesa Road. Director Alexander Green said this is a very difficult decision, but it is not possible per applicable BCPUD rules and regulations to swap the water use allocations between the properties if the properties are not commonly owned; he said also he has concerns about the time that might be needed for the purchase to close. Director Godino said she is hearing there is willingness on the Board to consider alternative proposals from the BCLT consistent with BCPUD rules and regulations to serve the RV trailer campground, but the BCLT's current request cannot be approved.

Alicia Gamez inquired as to whether a vote was taken; director McElroy said there was no vote taken.

#### **10. Consideration of One (1) Claim Presented under the Government Claims Act: *McCormick vs. CalPERS et.al.***

Staff explained that the district, apparently along with 1,540 other public agencies in California, was presented with claim alleging that CalPERS has been improperly determining certain types of retirement benefits issued to public employees and it is unclear what, if any, responsibility the BCPUD purportedly has in this regard.

K. Walker/K. McElroy                      all in favor                      to reject the claim.

#### **11. Update from the Ad Hoc Committee re: BCPUD Building at 270 Elm Road, Bolinas.**

Director Walker said the district has obtained the boundary and topographic survey and has planned a meeting for October 4, 2023; staff said the geotechnical engineering report is pending.

#### **12. Volunteer Committee Reports:**

*-- Resident Permit Parking Plan Committee: Update from the Committee; Minutes of the June 13, 2023 Committee Meeting; Summary of Discussions with Marin County Sheriff's Office Concerning Enforcement Policies and Procedures in Bolinas.*

Staff said the Resident Permit Parking Committee has reported that the Resident Permit Parking Plan is in the coastal permitting process at the County and the committee is holding off on further meetings at this time until the permit is issued.

Caren Quay said she has a question about Item 11 earlier on the agenda. She asked if the Board will be addressing the historical significance of the BCPUD building and providing an opportunity for the community to provide input on the fate of the building. Director Walker said she does not believe it is listed as a historic building and confirmed that the Board will be going through a very public process concerning the replacement of the BCPUD building with opportunity for community input.

*-- Resource Recovery:* In response to inquiries from Jennie Pfeiffer, staff said the Resource Recovery Committee stopped meeting during the pandemic but is planning to resume in-person meetings soon.

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

#### **13. Other Business.**

##### **a. Board Committee Reports.**

- *Finance:* Staff is working on the close of the district's books for fiscal year 2022-23 with the goal of presenting them to the district's auditor by the end of October.
- *Legal:* Nothing to report.

- *Mesa Septic, Flood Control and Roads*: Nothing to report.
  - *Water and Sewer Operations*: Nothing further to report.
  - *Personnel*: In response to questions from director Siedman regarding the planned Assistant General Manager position, staff said the district has the option to promote from within to fill this position. Director Godino noted that it may make sense to do this and hire the new Assistant GM as soon as possible due to the volume of work currently required of the General Manager; as the committee understands it, she said, there is interest in the new position within the existing staff. As for the hiring of the General Manager, director McElroy noted the deadline for applications is this Friday and he suggested the Board schedule a special meeting to discuss the applications. After a short discussion, the Board tentatively agreed to hold that meeting on the same day as it holds a special meeting to consider a revised request from the BCLT, likely on October 4, 2023; the portion of the meeting dedicated to the applications will be held in closed session. Board members will review the applications at the BCPUD office prior to the special meeting.
- b. Minutes of the May 31, 2023 Special Board meeting; Minutes of the June 21, 2023 Regular Board meeting; Minutes of the July 19, 2023 Regular Board meeting; Minutes of the July 27, 2023 Special Board meeting; Minutes of the August 16, 2023 Regular Board meeting.

Director McElroy offered corrections of typographic errors in the draft minutes of the May 31, 2023 special Board meeting minutes.

K. Walker/A. Alexander Green                      all in favor                      to approve the minutes of the May 31, 2023 special Board meeting, as corrected.

Director McElroy offered a clarifying correction to the draft minutes of the June 21, 2023 regular Board meeting.

A. Alexander Green/K. McElroy                      all in favor                      to approve the minutes of the June 21, 2023 regular Board meeting, as corrected.

Director McElroy offered a clarifying correction to the draft minutes of the July 19, 2023 regular Board meeting.

G. Godino/A. Alexander Green                      all in favor                      to approve the minutes of the July 19, 2023 regular Board meeting, as corrected.

A. Alexander Green/K. Walker                      all in favor                      to approve the minutes of the July 27, 2023 special Board meeting.

The minutes of the August 16, 2023 regular Board meeting were deferred to the next meeting.

c. Warrants.

K. McElroy/A. Alexander Green                      all in favor                      to approve the warrant list.

d. Scheduling of Next Meeting(s):

Special Board meeting: October 4, 2023 (tentatively at 12:00 pm, timing to be determined)

Regular Board meeting: October 18, 2023 at 7:30 p.m.

**14. Adjournment.**

11:45 p.m.