

Bolinas Community Public Utility District
A Special Meeting Of The Board Of Directors
October 4, 2023 270 Elm Road, Bolinas

1. Call to Order.

11:00 a.m.

2. Roll.

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

3. Public Comment on any item on the agenda.

None.

4. Vote on Whether to Adjourn in Closed Session.

K. McElroy/K. Walker all in favor to adjourn in Closed Session.

5. Closed Session: Appointment of public employee (General Manager), Government Code Section 54957(b)(1).

6. Report of Actions Taken, if any, during Closed Session.

Director Siedman said no reportable action was taken by the Board during the Closed Session.

7. Vote on Whether to Disclose Matters Discussed during Closed Session.

A. Alexander Green/K. McElroy all in favor not to disclose matters discussed during closed session.

8. Community Expression.

None.

Director Siedman recused himself from participation in the next agenda item and departed the meeting room.

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.

Director Godino presided over this agenda item and began with sub-item (a): Bolinas Community Land Trust (“BCLT”)’s 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. Annie O’Connor, Executive Director of the BCLT, said that sub-item (a) is the BCLT’s strong preference among the three sub-items detailed for this agenda item. Director McElroy said the proposal seems to be relatively straightforward and he believes the

request is allowable under existing BCPUD rules and regulations. He asked Annie O'Connor to confirm that the proposed water use at 130 Mesa Road is for the purpose of affordable housing, which is a requirement under the Board's regulations; Annie confirmed that it is, she said the property will be used exclusively for the affordable housing.

Director Walker asked about the "temporary" nature of the request, noting that by stacking the water allocation from the meter serving 31 Wharf Road the BCLT thereafter will have no available water to serve that development. Jed D'Abrevanel, counsel to the BCLT, said the plan is to stack the water allocations as proposed until the BCLT's close of the purchase of 160 Mesa Road; at that point, the BCLT will then come back to the BCPUD Board with a request to reinstate the decisions reached at a special BCPUD Board meeting on May 31, 2023 with regard to water use allocations and stacking of the meters serving 130 Mesa Road and 160 Mesa Road. Director Alexander Green asked BCLT to provide some details as to the chronological steps needed to close the purchase of 160 Mesa Road. Mr. D'Abrevanel said the BCLT is in the final stages of negotiations with Larry Baskin, receiver for the Tacherra Ranch. After the signing of the purchase and sale agreement, he said, there will be a due diligence period with likely negotiations with certain regulatory bodies and, after that, the close of escrow. In response to further questions from director Alexander Green, Jed D'Abrevanel said the time lines at issue remain under negotiation; the BCLT anticipates less than a year until the close of escrow, but there are uncertainties relating to various regulatory issues. Annie O'Connor said the BCLT does not anticipate there will be any overlap between the need for water to serve the occupants of 130 Mesa Road and the need for water to serve the occupants of the future development at 31 Wharf Road. Director Walker noted the BCLT will need water during the construction of the project at 31 Wharf Road; Annie O'Connor said the BCLT is in negotiations with Habitat for Humanity about this project and will address any water needed for construction of the project in the Spring of 2024.

Director McElroy, noting the BCLT's request is to "temporarily" stack the meters under sub-item (a), said he does not believe the Board has previously approved temporary stacking of meters. He proposed instead that the Board take action to approve the stacking request and, if the BCLT at some point in the future wishes to present a new/different request, it can do so at that time. Annie O'Connor said the BCLT had no objection. Director Alexander Green concurred, saying it should be clear that there is no automatic "reversion" of the Board's decision. In response to a question from director McElroy, staff said the ownership of the water meters and amount of the water allocations cited in the agenda item have been confirmed. Staff said the Board's decision today, if one is made, will replace the Board's decisions made concerning water use for 130 Mesa Board at the May 31, 2023 special meeting. Jed D'Abrevanel acknowledged this and said it is the BCLT's intention to come back to the BCPUD Board and request the reinstatement of those decisions after the close of escrow for 160 Mesa Road.

Jennie Pfeiffer said she has no objection to the BCLT's request, but wonders how it might impact other properties in Bolinas. For example, she said, others might request some sort of similar stacking of water use allocations. She asked if the Board has considered the implications of a decision of this nature. Director Godino said the applicable resolution (BCPUD Resolution 671) is limited to affordable housing projects. Following a brief discussion, director Alexander Green said BCPUD Ordinance 38 defines affordable housing and director McElroy read the specific requirements: "the property is 1) managed as affordable housing by the Bolinas local nonprofit affordable-housing agency, the Bolinas Community Land Trust ("BCLT"), whether owned by BCLT or managed under contract between BCLT and the private owner; or 2) under a recorded deed restriction guaranteeing its ongoing use as affordable housing. The definition of "affordable" shall be that used by the BCLT." Annie O'Connor said there are projects currently underway to deed restrict properties as affordable housing and those projects are not going through the BCLT; she emphasized that the BCLT does not have a monopoly over affordable housing in Bolinas. Jed D'Abrevanel provided additional details relating to how applicable state law and median income levels determine eligibility for affordable housing and how such housing rental rates are determined.

Director McElroy observed that the request before the Board is for an amount of water to serve 130 Mesa Road that is less than the amount approved by the Board on May 31, 2023 and he wants to be sure the BCLT understands this and is prepared to comply with the limitation. Annie O'Connor affirmed the BCLT is aware of the water use amount and, while it is less than approved on May 31st, it is more than the BCLT has determined is minimally necessary to serve the residents. Director McElroy said he is prepared to move to approve the BCLT's request under sub-item (a), with the removal of the word "temporarily" since the BCPUD does not have a mechanism for "temporary stacking", noting again this would replace the Board's decision at the May 31, 2023 special Board meeting

Alicia Gamez said she believes the Board's decision to remove the word "temporarily" is a material change to the BCLT's request as stated on the agenda; she said if the deal for the BCLT to purchase 160 Mesa Road does not close for any reason, she wants assurance that the temporary RV trailer campground will not become permanent. She also said affordable housing is a defined term in law, and she has heard in the community that the Tacherra Ranch project will be agricultural housing, which is not the same, and that also may apply to the RV trailer campground project; as such, the Board may be approving something on an erroneous basis. Director Godino noted that beginning of item 9 defines the time limit applicable to the BCLT's request and makes clear it is temporary; Annie O'Connor concurred. As for the purpose of the housing, Jed D'Abrevanel said BCPUD Ordinance 38 defines whether a project is affordable housing for purposes of the BCPUD. Annie O'Connor confirmed the RV trailer campground is temporary, serving an

interim need pending the purchase of 160 Mesa Road and establishment of permanent housing there. Alicia requested that the language reflect that the campground itself is temporary; she said as she reads the language, it sounds like the housing is temporary in that a resident may temporarily reside at the campground, but not that the campground is temporary. Director Godino said the word “temporary” clearly applies to the RV trailer campground in agenda item 9; directors Alexander Green and McElroy concurred.

K. McElroy/A. Alexander Green four in favor, director Siedman abstaining to approve the BCLT’s request to “stack” the water use limit applicable to its property at 31 Wharf Road (12,250 cubic feet per quarter) 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 at 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, replacing the Board’s stacking decision made at the May 31, 2023 special Board meeting.

10. Adjournment.

12:43 p.m.