

Yosemite Alpine Community Services District
Approved Board Minutes
July 21, 2021

CALL TO ORDER. Chair Patti Frey convened the ZOOM meeting to order at 7:00 pm.

INTRODUCTIONS AND ROLL CALL. Secretary Karen Glendenning called the roll: Chair Patti Frey – here, Vice-chair Tim McGinty – here, Secretary Karen Glendenning – here, Treasurer John Hastrup – absent. John Hastrup arrived at 7:02 pm. A quorum is established.

Self-Introductions by Stan Muscio, Karen Green.

Others in attendance: Dick Ryon, Jeff Boswell, Brian Johnson, Thorn Hertwig (706 pm arrival) and Doris Ryon (736 pm arrival).

PUBLIC FORUM. Stan Muscio asked for clarification on the water service bill. He asked what the fixed service charge covers. Chair Frey replied it covers the cost of doing business and infrastructure.

OLD BUSINESS.

2020-2021 Grand Jury Report. Chair Frey read aloud R-4 which predates the terms of Tim McGinty, John Hastrup, and herself. The current Agenda is the one Chair Frey prepared for distribution.

Note: Chair Frey read aloud each of the Recommendations during the meeting.

Recommendation 4. The MCCGU recommends the District Attorney investigate allegations of Brown Act violations by YACSD Directors serving between July 2001, and 2018 within 90 days of the publication of this report.

The Mariposa County District Attorney submitted a letter to the Grand Jury stating they do not have the funding nor staffing to research this Recommendation and has referred the matter to the Office of the California Attorney General – Special Prosecution Unit in care of Brett Morris, Deputy Attorney General. This is found on the district's website.

YACSD is asked to respond to Recommendations 5, 6, 8, 9, and 10.

Recommendation 10. The MCCGJ recommends that YACSD invite the District 5 Supervisor to their board meetings.

Chair Frey reported we sent an email to Supervisor Miles Menetrey inviting him to the meeting tonight. Karen Glendenning reported that a Public Notice has been put into the Mariposa Gazette to notify the people for many years. Tim says we can add him to the list.

Recommendation 9. The MCCGJ recommends district records be backed up digitally on an appropriate device, or in the cloud within 90 days of the publication of this report.

Glendenning reported the documents are currently on a thumb drive. Patti Frey said YACSD should look into obtaining a computer. YACSD will need to develop a policy on how it is to be used, kept, and accessed.

Jeff Boswell commented on case law around personal computer. Anything on the computer is discoverable. He is not sure if that includes emails. Chair Frey will contact the district's attorney on the preferable way to work. Boswell recommends district distance itself from current counsel.

Tim McGinty and John Hastrup said they would look into hosting data on the Cloud in regard to the costs and options to the district.

Recommendation 5. The MCCGJ recommends AB1234 mandatory ethics training be completed by all YACSD board members within 90 days of the publication of this report.

Tim McGinty reports that John Hastrup has sent in his certificate. Tim said he hadn't received Karen Glendenning's. Karen stated she had sent in her certificate prior to this date. She will resend the AB1234 certificate to Tim after the meeting.

Recommendation 8. The MCCGJ recommends that all YACSD board members obtain the Certificate in Special District Governance within 180 days of the publication of this report.

Karen Green stated getting this certificate is more involved than the Ethics training. There are 4 courses and a cost involved (\$600). Tim McGinty reported there is a conference in September at South Lake Tahoe for \$600 per person plus expenses. Karen Glendenning reported that the Grand Jury went before the Board of Supervisors for an additional \$2000 to cover their travel expenses in developing the report. Patti Frey thought there was slim chance the Grand Jury would give money to YACSD. Travel costs and expenses need to be considered in complying with the recommendation.

Recommendation 6. The MCCGJ recommends that the YACSD review, and revise the district's bylaws to improve the management actions and allow for more property owners to participate in the district's functions within 90 days of the publication of this report.

Patti Frey questioned how to open up residency. She wondered if the Grand Jury was asking if the bylaws could be opened up to anyone in Mariposa County. Tim McGinty suggested to change the bylaws to only require a person to own a lot within the district and not live there. John Hastrup believes there is a law that requires residency to run for office. McGinty suggested using the owner's exemption filing on primary residence as proof of living in area 51% of the time. Hastrup said that Mariposa County Elections has a position on what residency is.

Thorn Hertwig reported that Fish Camp Mutual Water Company requires their board members to be property owners. Karen Glendenning stated that Mutual Water Companies are under different state codes from Special Districts. She also said that renters who are registered voters can be on the board.

Patti Frey stated this topic is covered in the district's bylaws.

John Hastrup read aloud Bylaw section 2.05
Bylaw Section 2.05: Qualifications for Directors. Candidates for the office of Director shall be registered voters in Mariposa County and shall reside within the boundaries of Yosemite Alpine Community Services District. A Director may not be a compensated employee of the District. This section revised and accepted by the Board of Directors on December 15, 2012.

Frey commented in this day of vacation rentals there are fewer persons eligible.

Chair Frey commented the hard part of this is that some of the comments go back to 2001, 2003, and 2007. She reported when she testified before the Grand Jury she was asked questions in relation to loan documents.

Chair Frey read the Penal Code 933.05 Responding to Grand Jury.

Responses: A Agrees
 B Disagrees

2B Comment on each Grand Jury Recommendation.

Implemented
Not Implemented
Will be Implemented Further Analysis Needed (not to exceed 90 days)
Recommendation Not Addressed,
Reasonable with Explanation.

Chair Frey asked if an ad hoc committee should be formed to address the recommendation. This was not done. Frey stated she had submitted a Public Records Act request to the Planning Department for the written report submitted to the Grand Jury. This request was denied.

She noted that the Transient Occupancy Tax, TOT, was mention 2 times in the report. YACSD has no control over the TOT produced in Fish Camp. Frey noted that the foreperson for the Grand Jury serves on the tourism board and that she used to work in the Planning Department as a clerk.

Frey continued that on page 48, *YACSD is now without a neighbor who would have over 500,000 gallons of water available, to help fight the next wildfire in their community.* Dick Ryon commented that the current developer never offered to drill 2 wells and conveying pipes to YACSD.

Frey commented that if a fire came into Fish Camp the property would use its own water to defend the structure. She continued that fire retardant drops have been very helpful with fires. The report goes on to comment on aging pipes, 24% of properties are yet to be developed and the number of short term rentals. Patti questioned the source of the info. Tim McGinty reported those numbers came from county permits.

Frey noted on page 50 there are questions raised as to the water testing of the system. Karen Glendenning responded that there was an extensive baseline testing done after the BOS approved the Silvertip EIR. YACSD was reclassified to a transient non-community water system based on the population base at about that time. YACSD continues to comply with state mandated water testing protocols.

Chair Frey brought up the Irrevocable Offer of Dedication. Dick Ryon stated that his document was never given to YACSD board of directors. YACSD only learned of the offer by looking at the Planning Department's website. The easement offer was one given by Mr. Keller and then claimed to be a mistake by Mr. Keller.

Frey continued that the loan documents were provided by Karen Glendenning when she testified before the Grand Jury.

Karen Green noted on page 51 there was a comment about changing the wording on the bills from water assurance fee to legal fees. Tim McGinty said it was done at a meeting when Dick Ryon asked Karen Glendenning to do so.

John Hastrup addressed the Brown Act comments on page 51. Dick stated this was run past legal counsel to show that we will comply with the Brown Act.

Break in Meeting. Chair called for a 5 minute break in the meeting at 815 pm.

Reconvened the Meeting. Chair called the meeting back into session at 820 pm. Those rejoining the meeting are: Karen Glendenning, Dick Ryon, Thorn Hertwig, Patti Frey, John Hastrup, Karen Green, Tim McGinty, Doris Ryon, Stan Muscio and Brian Johnson.

Chair Frey continued to page 52, the report reads: *One would expect to see a Proposition 218 Protest Form with this mailing. It was not included with the mailing, and only one homeowner protested.* The law does not require a form to be submitted for the Protest Hearing. John Hastrup agrees that is it not a requirement to include the form. A letter is easy to draft for the property owners.

Karen Glendenning stated that YACSD received 1 protest letter. Property owners were supplied with a ballot to Approve or Disapprove the water rate change. The ballots were counted at a public meeting that was held at the Tenaya Lodge.

Chair Frey moved on to page 53, *"This may be the reason legal expense are referred to as "the project" in the conveyance agreement; they are disguised as infrastructure."* Patti remembers a meeting where Cardinal Mahony was in attendance and asking those in attendance being asked if you have other ideas as to funding.

Karen Green and Dick Ryon agreed that Albert Reyes was assigned as the reviewing counsel for the loan documents. Chair Frey questioned the statements attributed to the YACSD independent auditor. Karen Glendenning will contact the auditor for the clarification of facts.

Chair Frey moved on to page 54 regarding a letter to a YACSD property owner from CDIAC. She will do further research into this comment.

Chair Frey stayed on page 54 in looking at the YACSD Bylaws. Sky had suggested we consider a contracting with a district manager at so many hours per month. That would provide YACSD to be able to fulfill the requirements with a flat fee of x hours per month. Sky said there are lots of districts who do that.

Patti Frey stated now is the time to develop a written response to the Grand Jury. She asked for comments from attendees.

Karen Green had several issues with the one-sided comments and the offensive manner it was written. She observed that no other reports had Sub-titles. It was unnecessary for an official body to speak in such a way. It is not professional in the manner in which it was written. Many of the comments were stated as opinions not as facts.

Patti Frey started the review of the findings.

Finding 1. YACSD infrastructure is 50 years old and needs to be replaced. The quantity of water the wells were producing was far less than what the district claimed.

Karen Green questioned what the amount of water produced has to do with the Grand Jury. Karen Glendenning stated that during the drought the YACSD property owners were asked to cut back on their water usage and they did. Not sure where this comment came from or why it is included.

Finding 2. Offers from Silvertip developers that included installing new wells, and infrastructure to provide high quality water were rejected by YACSD BOD.

Karen Glendenning said there was never an offer like this given to the BOD.

Finding 10. The EIR reports regarding water quality, and quantity found SilverTip wells would be drawing water from a source isolated from YACSD wells. Likewise, according to analysis, treated effluent from SilverTip would not contaminate YACSD wells.

Karen Glendenning stated that the staff report presented at the Regional Water Quality Control Board hearing in Roseville, in October 2007, for the SilverTip Waste Water Treatment Facility, said the water would be contaminated, but because of the Mariposa County Board of Supervisors approval of the Silvertip EIR with a statement of overriding considerations the water would not be protected.

Thorn Hertwig commented that AC pipe was the industry standard for many years and that there are millions of miles of the AC pipe throughout the country. A coating builds up inside the pipe to protect the fibers from disturbance. Thorn continued that the pipes in Fish Camp could last about 70 years.

Patti Frey asked is it would be alright if she developed a response with independent knowledge as long as not discussing what another board member said. It was agreed that was okay.

Karen Glendenning was asked to assemble the EIRs for quantity of water and quality of water. She was also asked to access the staff report regarding the Waste Water Treatment Facility.

NEW BUSINESS.

5. New Items by Directors.

Tim McGinty suggests a new counsel for district. Especially if the Department of Justice moves forward on the investigation. We need another attorney not involved in current action.

Patti Frey suggested items for next meeting's agenda: New counsel and Clean-up crew for downed trees and debris.

NEXT MEETING DATES.

Saturday, July 31, 2021 at 11:00 am via ZOOM.

Saturday, Sept. 18, 2021 at the Tenaya Lodge, time to be determined.

Saturday, Dec, 4, 2021 at the Tenaya Lodge, time to be determined.

ADJOURNMENT.

The meeting was adjourned at 919 pm. **Motion:** To adjourn the meeting. Motion: McGinty, 2nd: Hastrup. Voice vote 4-0, Passed, with one vacancy.

Respectfully submitted,

Karen Glendenning
YACSD Secretary