

**Minutes of the Regular Meeting of the Board of Directors
Tamalpais Community Services District
Community Center, 203 Marin Avenue
September 9, 2009**

The regular meeting of the Board of Directors of and for the Tamalpais Community Services District ("District") was called to order by President Steffen Bartschat at 7:05 PM on Tuesday, September 9, 2009, in the District Office at 305 Bell Lane.

ROLL CALL

PRESENT: Board President Steffen Bartschat, Board Members Linda Johnson ("L. Johnson"), Richard Johnson ("R. Johnson"), Jim Jacobs and Gretchen Stagg; as all five (5) of the five (5) Board Members were present at the commencement of the meeting, a quorum was constituted.

STAFF PRESENT Jon Elam, General Manager ("GM"), Carol Buchholz, Parks & Recreation Director, Jerry Taylor, Finance Manager and Jack Schwartz, Recording Secretary.

ALSO PRESENT District legal counsel John Bakker, Sue Hayes Chair of the P&R, and Robb Schaaf Chair of the R&S Commissions and Robert DeWalt, who assisted with the audio equipment.

2. **APPROVE AGENDA.** President Bartschat asked that the "proposed Closed Session" be struck and otherwise asked the Members to approve the Agenda, in response to which the following motion was made and passed:

MOTION: MOVE TO APPROVE AGENDA AS SUBMITTED (WITH THE EXCEPTION OF THE WORD "PROPOSED")

M/S/C JACOBS/I. JOHNSON Vote – 5 Ayes

3. **PUBLIC EXPRESSION.** President Bartschat invited non-agenda public expression, noting that the expression should be brief and that no action may be taken on any such expression.

Tam Valley resident Jim Casper reported that CalTrans work will adversely affect traffic at Shoreline. There was no further public expression.

4. COMMISSION REPORTS.

A. Revitalization and Safety Commission Report. Chairperson Robb Schaaf reported on the following highlights of the August R&S Commission Meeting: (i) Commission-sponsored community clean-up will continue on a quarterly basis (the Commission hopes for more community and business assistance and perhaps will consider some form of award system for participating merchants); (ii) Commissioner Sue Hayes was recognized for her continued extraordinary volunteer efforts, most recently in cleaning along Highway 1 and by encouraging the merchants along Highway 1 to pitch-in; (iii) the Commission is considering "Good Neighbor Awards" for merchant clean-up participation and for front yard beautification using water conservation systems/techniques (President Bartschat expressed his belief that a "Green Award" would be a great idea for water-wise, conservation and beautification of front yards; (v) the 7-11 "No Parking" issues has been resolved by CalTrans and the neighboring sidewalk repairs are being addressed; (vi) the DeLano Post Office Annex opened on September 9, with a Grand Opening planned in 30-days or so, which will include honoring Commissioner Lester Kaufman for his tireless efforts in arranging this Annex. The Board thanked Commissioner Schaaf for his fine report.

B. Parks & Recreation Advisory Commission Report. P&R Commission Chairperson Sue Hayes provided the following report: (i) the interior and exterior electrical at the Community Center is being worked on (special thanks to Bob DeWalt and Jeff Brown); (ii) the Eastwood tennis court resurfacing project has received bids but in view of the District finances, this project is temporarily put on hold; (iii) Commissioner Hayes' "walk-about" with GM Elam has resulted in new plantings throughout the District parks; (iv) the Creekside Friday events were marvelous, for which great credit must go the Director Carol Buchholz – The Board collectively joined the Commission in thanking Commissioner Hayes and lauding the work of Director Buchholz.

5. GENERAL BUSINESS.

A. Discussion with Legal Counsel Regarding Sewer Agreements. District Counsel John Bakker passed out a brief summary of his review of the SMCSD/TCSO Sewer Treatment Contract, after which Mr. Bakker reported as follows: (i) the original SMCSD/TCSO Sewer Treatment Contract began in 1955, with an indefinite term and mutual rights to terminate; (ii) the most recent amendment to this Sewer Treatment Contract contemplated the extension of credit to the District in consideration for the District's commitment for treatment service through 2014 (24% of all SMCSD expenses, based not on flow but rather on equity).

Mr. Bakker reminded everyone that the key issue is how SMCSD is compensated by the TCSO (SMCSD provides the initial fee, for which the TCSO pays up-front, and after which there is a year-2014 reconciliation).

Mr. Bakker stated that the Inequitable Costs clause of the Contract might provide TCSO with a possible redress of the capital expense inequity.

Mr. Bakker stated that adding to this controversy is the fact the Schedule F of the contract (Depreciation Schedule) is not current – in 2014, the TCSD might well be owed \$1.7 million. This is the same argument that Board President Bartschat has been espousing. Mr. Bakker stated that “it is clear that at a minimum, the TCSD needs assurances that the capital improvement reimbursement funds from the SMCSO will be available.”

Mr. Bakker continued to state that the changed circumstances provision of contract might provide the TCSD with a possible tool to modify the current capital contribution formula; the intergovernmental cooperation provision is yet another possibility for redress; and the mediation provision will serve as the last formal method of affecting a change in the current capital contribution formula.

Regarding the Board’s primary questions (as proffered by GM Elam and President Bartschat [and the Board]), Mr. Bakker responded, as follows:

- TCSD is paying with present-day money for SMCSO capital improvements that have 40-year lives (this until 2014 for a reconciliation) – this is an equitable or inequitable argument;
- How will TCSD ensure the total/prompt payment by SMCSO under the current formula (perhaps as much as \$1.7 (or more) million dollars will be owed?)

Mr. Bakker stated that one of the TCSD’s best leverage is contract termination.

President Bartschat suggested working on an amendment to the contract to deal with the TCSD’s contributions toward SMCSO’s capital contributions, toward which amended-end, the TCSD and the SMCSO would be mathematically even.

Board Member R. Johnson suggested an escrow account to be demanded by the TCSD for the SMCSO’s deposit of the 2014 funds that will be owed to the TCSD (an exit payment account).

President Bartschat repeated his hope that the contract could/will be amended such that no one owes anyone any money in 2014.

Mr. Bakker reminds everyone that TCSD remains uncertain over its sewer treatment plans and its ultimate decision regarding SASM (vs. SMCSO).

Following the foregoing discussion, the Board consensus appeared to agree with President Bartschat’s proposal to attempt to amend the current Sewer Treatment Contract between TCSD and SMCSO such that the parties will each be even at the contract end (2014).

GM Elam then argued against this approach in view of what seems to be the good faith dealings of SMCSO to informally spread-out its capital improvement costs. President Bartschat agreed that if such an informal contract adjustment of the SMCSO’s capital improvement expenses was already being done, then there is no reason to retain counsel to formally amend or modify the existing agreement.

Following more discussion, the Board's consensus was to allow GM Elam a chance to informally work-out a spread-out formula for the SMCS D's capital improvement expenses as they affect the TCSD. The Board then thanked District Counsel Bakker for his professional assistance.

B. Background on SMCS D – TCSD Agreement (as approved March 13, 2001). As this was redundant, it was removed from the Agenda.

C. Quarterly Report on 2009 Work Goals. GM Elam referred to his written report included in the Board's Agenda packet, after which the GM reported, as follows:

- Goal 1 – Sewer Concerns – seem to be progressing
- Goal 2 – Community Outreach -- missing only the volunteer brochure piece
- Goal 3 – Waste Info Stickers -- this is in process and will cost about \$2,000
- Goal 4 – Leadership Forum – progressing, but poor response to date;
- Goal 5 – 5/10-Year Capital Plan – proceeding well
- Goal 6 – Succession Plan – currently stalled
- Goal 7 – Collection Planning – proceeding well (including Bay Cities)

Following Board appreciation for the work achieved, President Bartschat again inquired about the status of the Emergency Preparedness Plan, in response to which GM Elam again stated that was/will/is working on this plan.

D. Draft Encroachment Policy. Following a GM report and Board Member L. Johnson's concerns regarding various fences, walls, and walkways, the Board took No Action (referring all efforts to Staff, with the admonition that all costs be billed to the encroaching party).

E. Property at 244 Shoreline Highway. GM Elam referred the Board to the written materials included with the Board's Agenda packet, after which Mr. Elam explained that this facility might accommodate storage of the TCSD's garbage trucks and attendant cans/totters. GM Elam stated that this now-empty 10,360 sq ft building might well be perfect for the District's refuse truck fleet and attendant refuse materials (the totters/cans).

Following the GM's report, President Bartschat expressed his opinion that this seemed like a great idea and suggested getting an appraisal, get whatever inside information might be available and try to negotiate price, financing and other terms. Member Stagg opined that while this seems to be the right deal, it would appear to be the wrong time due to financial constraints and public perception.

F. Tam Valley Go Bag. GM Elam referred the Board to the written materials included with the Board's Agenda packet, after which Mr. Elam explained that Mill Valley (and other jurisdictions) had created and offered an emergency kit to its residents. The kit that appealed to Mr. Elam would cost \$98 (a price that Member L. Johnson stated could easily be beat). Following brief discussion, the Board informally, unanimously approved this project.

6. STAFF REPORTS.

A. Parks & Recreation, Carol Buchholz. Director Buchholz provided the following report: (i) a bench was sold/dedicated for the Rhubarb Trail (the Stout family); (ii) Friends of Tam Valley (led by Robert DeWalt) are paying for new windows at the Cabin (at a cost of \$4,800); (iii) Ms. Buchholz passed out the Creekside financials (\$7,000 expenses; food revenue of \$16,000 and alcohol revenue (to Friends) of \$10,000) – considering all expenses, including Staff payroll, the event broke even; (iv) new classes include salsa, tennis, yoga, dog obedience, children’s martial arts, and a Halloween Haunted House; (v) the Thanksgiving Run/Race has been called-off due to permit complications; (vi) the District’s garden is full of vegetables; (vii) Beverly Healy will be helping Staff the Parks & Recreation Department during Ms. Buchholz’s vacation absence; and (viii) the Crafts Fair will be held on November 13 and 14. The Board unanimously thanked Director Buchholz for her energy and her work.

B. Sanitation -- Jon Elam for Bob Bunce. In Supervisor Bunce’s absence, GM Elam reported that there had no spills, but a few lateral problems, which had been resolved. GM Elam also reported that Bob Bunce had cleaned Shoreline after a closure due to an accident. GM Elam also reported that waste is down by 180 tons – green waste is also down by 160 tons.

C. Finance Report -Jerry Taylor. Finance Manager Jerry Taylor passed out financials, including current cash receipts and disbursements. Mr. Taylor stated that the District current had a reserve (savings) of approximately \$439,000. Mr. Taylor also reported that due to financial constraints, the District was deferring many payments (including SMCSD and SASM payments, certain sewer projects, the Eastwood tennis court resurfacing project and the Eastwood playground fencing project). Mr. Taylor stated that the District was going to their bankers at WFB to negotiate/secure a line of credit loan.

Thereafter, Finance Manager Taylor reported that the annual audit went very well; however, the Board must hereafter be deemed employees for tax purposes (this means that each Board Member must provide the District with an informational employee statement.

Lastly, Mr. Taylor asked the Board to approve the disbursements during the Consent Calendar portion of the Agenda.

D. Refuse Report - Jon Elam. Issues relating to this Agenda Item were discussed above.

7. BOARD REPORTS AND COMMENTS.

A. SMCSD Meeting Report of August 26, 2009. Linda Johnson. Ms. Johnson referred to her written report and otherwise further reported on the SMCSD meeting of 8/20/2009, at which sewer laterals were discussed; also, a high-rate clarifier will save the SMCSD a lot of money. Ms. Johnson also reported that there was no Gateway meeting.

B. SMSCD Meeting Report of September 2, 2009 -- Member Jacobs. Mr. Jacobs referred the Board to his written report of the 9/2/09 SMCS D meeting. Mr. Jacobs also stated that there was no SASM meeting.

**MOTION MOVE TO SEND A LETTER TO STATE LEGISLATORS
 TO VETO AB 1232.**

M/S/C JACOBS/BARTSCHAT Vote – 5 Ayes

8. COUNTY ISSUES OF CONCERN. NONE. None.

9. CONSENT CALENDAR.

**MOTION MOVE TO APPROVE THE CONSENT CALENDAR AS
 SUBMITTED.**

M/S/C L. JOHNSON/STAGG Vote – 5 Ayes

10. MEETING REVIEW – AGENDA ITEMS FOR THE OCTOBER MEETING. By unanimous informal approval, add GM Review for the October Board meeting.

11. ADJOURN.

**MOTION MOVE TO RE-SET OCTOBER MEETING AND TO
 ADJOURN.**

M/S/C BARTSCHAT/L. JOHNSON Vote – 5 Ayes

BOARD WORKSHOP

**Date: September 23, 2009
Time: 8:45 AM
Place: District Office**

OCTOBER BOARD MEETING

**Date: October 21, 2009
Time: 7:00 PM
Place: Community Center**

The September Board meeting adjourned (peacefully) at 9:26 PM)