

BAYSHORE SANITARY DISTRICT  
MINUTES  
Meeting of June 25, 2020

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**Roll Call:**

The meeting was called to order at 7:02 P.M. As permitted per State of California Executive Order N-29-20 and in compliance with San Mateo County's order for residents to "shelter in place" the meeting of the Bayshore Sanitary District was conducted via Zoom. Members of the public were invited to join the meeting; however, no requests for the call-in information were received.

Present: Constantino, Gallagher, Rizzi, Swanbeck, Tonna  
Absent: None  
Also: Maintenance Director Landi, Engineer Yeager, Counsel Hundley and District Clerk Landi

**Oral and Written Communications:** (*Concerning matters not on the Agenda; no action will be taken nor will extended discussion be permitted.*)

- (1) Communications from members of the public  
None
- (2) Communications from members of the District Board and Staff  
None
- (3) Acknowledgment of recent correspondence to the District  
None

**Public Hearing:**

- (4) Receive Presentation and Consider Adoption of Resolution Authorizing District's Participation in the Statewide Community Infrastructure Program with the California Statewide Communities Development Authority – continued from 2/27, 3/26, 4/23 and 5/28/20  
Due to the County and State orders to shelter in place, the Hearing is continued to the July meeting.

**Consent Agenda:** (*Any member of the Board or the public can request that an item be removed from the Consent Agenda. If there are no objections all items are voted upon by one motion.*)

- (5) Minutes of the Regular Meeting of May 28, 2020
- (6) Payment authorization for bills and compensation
- (7) Accept May 31, 2020 report on District's current financial status
- (8) Accept May, 2020 checking account reconciliation

A motion was made by Director Swanbeck, seconded by Director Tonna and passed by voice vote to approve consent items 5-8.

**Board Reports** – consideration of matters relating to:

(9) President Gallagher

(a) LAFCo: President Gallagher attended the June 17<sup>th</sup> virtual meeting. The meeting was held to approve the budget which was slightly reduced. The amended document will be circulated.

Today we received a communication announcing that it is time to elect a special district representative for the position currently held by Ric Loman. President Gallagher will respond to this on behalf of the District. She will speak to Ric Loman to determine if he would like to remain on the Commission and if so she will nominate him. There will also be an election for the alternate special district member in the near future.

(b) CSDA – Local Chapter: The next meeting has not been scheduled.

(10) Daly City: There was a teleconference regarding the Midway Village cleanup with specific concern about soil vapor. President Gallagher provided an overview of the development activity within the District.

(11) Brisbane: No report.

**Staff Reports:**

(12) Maintenance Director – consideration of matters relating to:

(a) Monthly report on District operations and maintenance: The Carlyle Pump Station is operating properly. There were no inspections during the reporting period. Some landscape maintenance and improvements were done. He has been monitoring activities within the District and things are very quiet. In response to a question from Engineer Yeager about a USA notification of a sewer repair at 2750 Geneva Ave., Mr. Landi said the work was done in the MacDonald's parking lot.

(13) District Engineer – consideration of matters relating to:

(a) May meter reading data: There were 3 rainfall events totaling .9". The average daily flow was 290,448 gallons.

(b) 2019-20 CIPs: We previously requested statements of qualifications for the SCADA project. We received three and two submitted formal bids. They are Tesco and Telstar Instruments. Engineer Yeager reviewed the bids – Tesco was the low bidder at \$128,375 for the PLC/MCI option. The Engineer would like to meet with the Maintenance Director and Director Constantino (participated in the RFQ process) to review the bids to compare just what we would be getting from each of the vendors. A recommendation will be made at the next meeting.

(c) Brisbane Landfill – Industrial Discharge Permit: The fees have been paid and the permit has been prepared. Once it has been signed by President Gallagher a copy will be provided to Sunquest.

(d) Brisbane Baylands: We advised UPC that they needed to secure a Class 4 permit and submit a deposit—they complied with our request. More staff time will be expended now that they are in the Specific EIR phase.

(e) Sewer Service Charges: The Engineer reviewed a summary of the FY 2019-20 vs. FY 2020-21 charges. The 2020-21 charges have increased primarily due to the discharge from the Brisbane Landfill. The tentative total is \$1,031,575.14 which is subject to change prior to adoption at the July Public Hearing. Mr. Yeager mentioned that the EDS system had a problem including the new properties in the Overlook development.

(f) Point Martin 1 & 2: The new developer, Trumark Homes, took out a Class 3 Permit and we have an initial deposit. Construction is planned to start in July. This is a 101 home development. The project engineer inquired about bonding requirements. Per Counsel Bakker developers are typically required to post a bond for payments and another for performance. The District does not have any requirements in our Ordinance Code regarding bonding. Daly City does require bonds. From a practical standpoint, with thorough inspections and our work with Daly City, there may not be a benefit in requiring bonds. Counsel Hundley said this is a way to have some control that things are done right. It is in the Board's discretion but not required. If the Board opts to have the ability to require bonds, that would require an Ordinance amendment. The Maintenance Director said we do require bonds for capital projects. A performance bond is for the cost of the project and the payment bond is to make sure that employees, subs and vendors are paid. Counsel Hundley explained how bonding works. Engineer Yeager advised the developer that at this time the District does not require bonding. This topic will be discussed again in the future.

(g) 267/271 Oriente Street: As previously reported, there was a fire at 267 and the property was red tagged. It turns out that work had been done at the properties without permits. The Engineer has requested plans once they become available.

(h) 352 Oriente Street: This property is undergoing a remodel that does not increase the size of the structure. However, there is no cleanout so the project engineer was advised that one needs to be installed at the owner's expense. The District will televise the line to determine if it needs to be replaced. The necessary permit fees have been paid.

(i) Capacity Entitlement Charges: There are two customers that have exceeded their capacity. One is Recology for \$2,202.03 and the second is V&A/7 Mile House for \$6,862.14. There was discussion about the 7 Mile House being closed during the shelter in place. They have recently opened for distance dining and take out. The Engineer said that we could forego billing for 6 months and then look at the water usage again. After discussion the Board concluded that it would be a hardship to bill at this time. Engineer Yeager will notify V&A/7 Mile House of the charge based on last year's water consumption and also that the Board is willing to wait until January and re-evaluate the water usage at that time. Director Swanbeck made a motion authorizing the Engineer to communicate the Board's decision. The motion was seconded by Director Constantino and unanimously passed by voice vote.

(j) North San Mateo County Sanitation District-City of Daly City 2019-20 invoice: The Engineer reviewed cost analysis labeled 12j. This year an inspection only item was done which increased the cost. The contract allows a CPI increase and an additional increase for labor if it is above the CPI. The cost for FY 2020-21 will be \$62,089.92. An amendment will be issued in July.

(k) Rate increase for engineering services: Engineer Yeager is requesting a \$5 per hour increase. The Clerk said that this will not affect the amount budgeted for the next fiscal year. A motion was made by Director Swanbeck, seconded by Director Constantino and passed unanimously by voice vote.

(14) District Counsel – consideration of matters relating to:

(a) Pt. Martin – Statewide Community Infrastructure Program: This matter is continued to the July meeting.

(b) 1099 providers vs. employees: AB5 became effective January 1, 2020. It changes the test that is used to decide if someone is an employee or a 1099 provider (independent contractor). Employees would be entitled to various benefits. There is a business-to-business (BtoB) exemption. There are 3 questions: (1) are the tasks free from control or direction, (2) is the work that is being performed outside the usual business and (3) that the work is what the contractor normally does. BtoB has specific criteria and Counsel Hundley said that some categories are going to be exempted and some will be added. A contractor needs to be a business entity, not an individual. As to the question of working free from direction, the District can give an outcome but the contractor carries out the task. The service must be provided to the District, not the District customers. They must use their own equipment, set their own hours, etc. If those criteria are met then they are exempt. Some districts are just assessing this now and waiting to see if things get sorted out. President Gallagher presented the downside of an LLC vs. a sole proprietorship.

(15) District Clerk – consideration of matters relating to:

(a) Resolution 2020-02 and assorted documents regarding the 2020 election of 3 Directors

The District received a packet of information and documents regarding the November election of 3 directors. There is a resolution and a service agreement among the documents and they were reviewed by counsel. The resolution is acceptable but counsel has a problem with language in the Term section of the agreement. That was communicated to the elections staff and the language was modified. However, it remains in counsel's opinion that the language needs further editing. That information was provided to Jim Irizarry and to date we have not received a response. Resolving the issue may involve our counsel speaking to the county counsel representing the Chief Elections Officer.

A motion was made by Director Swanbeck and seconded by Director Constantino to adopt Resolution 2020-02, a Resolution of the Bayshore Sanitary District Calling For An Election To Be Held on November 3, 2020 For The Election of Three Members of The Governing Board. The motion passed by the following roll call vote:

Ayes: Constantino, Gallagher, Rizzi, Swanbeck, Tonna

Noes: None

Absent: None

**Old Business:**

None

**New Business:**

(16) Adopt Resolution No. 2020-01 Establishing Appropriations Limit for Fiscal Year 2020-21

The calculation was made by our auditor Fechter & Co., CPAs. A motion was made by Director Swanbeck, seconded by Director Tonna and passed by the following roll call vote to pass Resolution No. 2020-01:

Ayes: Constantino, Gallagher, Rizzi, Swanbeck, Tonna

Noes: None

Absent: None

(17) Consideration of draft Fiscal Year 2020-2021 Budget

The workgroup consisting of President Gallagher, Director Swanbeck, Engineer Yeager and Clerk Landi met on June 18. The draft provided in the meeting packets needs to be updated with the Engineer's new information. President Gallagher explained the workgroup process. What became apparent is that it is getting more difficult to balance the budget without going into reserves. This coming year the revenue is less than the expenditures. We will need to use reserves to cover the expenses. It has been almost 20 years since the rates have been increased. The Board may have to consider raising fees and holding the required public hearing. Earlier this year the Engineer provided a memo with projected revenue and expenses. The revenue has been fairly flat while the San Francisco contract has been increasing each year and exceeds the revenue from the sewer service charges (SSC). Connection and capacity fees cannot be used for operating expenses. He added that he believes it is time to consider increasing the SSC and capacity/connection charges. He spoke to Counsel Bakker and was advised that an increase of capacity/connection fees doesn't need to go through the Prop 218 hearing process required for SSC. For SSC hearings it is necessary to put together a mailing to all property owners showing what their existing charge is vs. what it would be under the proposed increase. That is a massive undertaking. The computations are straight forward but the mailing of about 1400 individualized notifications with the correct charges to each property owner is the problem. We may want to use a mailing service. This discussion will be on future agendas for continued consideration.

(18) Reports on other matters: no action will be taken

None

**Adjournment:**

A motion was made by Director Swanbeck, seconded by Director Tonna and passed to adjourn the meeting at 8:38 P.M. The next meeting is July 23, 2020 at 7:00 P.M.

Submitted by, Joann Landi

/s/ Iris Gallagher  
President

/s/ Norman Rizzi  
Secretary