



**BOARD OF DIRECTORS
SAN LORENZO VALLEY WATER
DISTRICT
REGULAR MEETING
MINUTES
OCTOBER 19, 2023**

Thursday, October 19, 2023, at 5:30 p.m., SLVWD Conference Room, 12788 Highway 9, Boulder Creek, CA and via videoconference and teleconference.

1. **Convene Meeting: 5:30 p.m.**
Roll Call

Board Members Present:

Mark Smolley, President
Jeff Hill, Vice President
Jayme Ackemann, Director
Bob Fultz, Director
Gail Mahood, Director

Staff Present:

B. Brenner, District Counsel
H. Hossack, District Secretary
S. Mattoch, Network Specialist

2. **Changes to Closed Session Agenda: None**
3. **Oral Communications Regarding Items in Closed Session: None**
4. **Adjournment to Closed Session: 5:32 p.m.**
5. **Re-Convene Meeting: 6:30 p.m.**
Roll Call

Board Members Present:

Mark Smolley, President
Jeff Hill, Vice President
Jayme Ackemann, Director
Bob Fultz, Director
Gail Mahood, Director

Staff Present:

B. Brenner, District Counsel
R. Rogers, General Manager
G. Roffe, District Engineer
C. Blanchard, Environmental Programs Manager & Admin Analyst

H. Hossack, District Secretary
S. Mattoch, Network Specialist

6. **Report of Actions Taken in Closed Session:** None

7. **Changes to the Agenda:** None

8. **Oral Communications:**

B. Holloway, Boulder Creek, addressed the Board

Unidentified member of the public addressed the Board

C. Dzendzel addressed the Board

N. Launder-Berridge, Bracken Brae, addressed the Board

9. **Unfinished Business:**

a. QUAIL HOLLOW ROAD FAILED MAINLINE TRENCH - FINAL BILLING

G. Roffe introduced and explained this item. R. Rogers summarized the project at the request of Pres. Smolley.

Discussion by the Board regarding:

- County standards need to be updated going forward

A motion was made and seconded to direct the District Manager to amend the not to exceed amount to \$967,646.99 for the emergency storm damage repairs of the potable water main in Quail Hollow Road.

Bring the standards for sand hills road construction to the Engineering Committee.

All present voted in favor of the motion. Motion passed.

10. **New Business:**

a. CHANGE TITLE OF DISTRICT MANAGER TO GENERAL MANAGER

J. Hill introduced and explained this item.

A motion was made and seconded for the Board to adopt the attached resolution changing the title of the District Manager to the General Manager.

All present voted in favor of the motion. Motion passed.

b. RESPONSE TO DAMAGING IMPACT DIRECTOR FULTZ IS HAVING ON THE DISTRICT

G. Mahood introduced and explained this item. R. Rogers said the he participated in the writing of this letter and he said this behavior has been going on for a long time and needed to be brought to the public's attention.

Discussion by the Board regarding:

- Is there a problem?
 - Collaboration and compromise needed for challenging issues and Dir. Fultz doesn't do this
 - Dir. Fultz is abrupt and pointed with staff
 - Additional staff have made comments to the Board
- What to do to remedy the situation?
 - GM can excuse staff, other than the District Secretary, from attending BoD meetings - not found to be feasible
 - Direct all questions/emails from Dir. Fultz to the GM
 - Censure/Reprimand - doesn't solve the problem
 - Common courtesy - ask questions in advance
 - Process for resolving issues (Board vs. staff - power dynamic)
 - Remove Dir. Fultz from the Engineering & Environmental Committee
 - The Board values Dir. Fultz's expertise but that is separate from the issues
- What is the next step?
 - Take to a committee
 - Follow the Respectful Workplace Policy

R. Moran, Ben Lomond, an unidentified member of the public, E. Martin, Boulder Creek, J. Mosher, Felton, April Zilber, Felton, A. Layng, Boulder Creek, E. Fresco, and B. Sprenger, Felton, addressed the Board.

Director Fultz read a statement.

President Smolley noted that there was no recognition of the primary issue by Dir. Fultz in his response.

Discussion by the Board regarding:

- Conflict resolution training
- Formal resolution with a process for accountable conduct
- Engagement with the public without the input of staff
- No acknowledgement by Dir. Fultz that he is damaging the District

A motion was made and seconded to direct the District Counsel to undertake an investigation on the lines of the Respectful Workplace Policy regarding Director Fultz's behavior towards staff.

Discussion by the Board regarding:

- Dir. Fultz doesn't recognize his damaging behavior with staff
- Due process, there are two sides to every story
- Dist. Counsel described the process for the investigation

R. Moran, Ben Lomond, Mark Lee, A. Layng, E. Fresco, 2 unidentified members of the public, J. Mosher, and E. Martin addressed the Board.

Discussion by the Board regarding:

- Personnel issues private
- District Counsel response and the policy
- Cost and timeline for the investigation

Director Mahood withdrew the motion.

Further discussion by the Board regarding:

- Investigation/interview staff and Board
- Due process
- Censure
- Wait for the new GM
- Balance sheet with the costs that Dir. Fultz has caused with his behavior
- Support for the staff

Bring this item to the Administration Committee (Board Policy Manual) and then back to the Board at a later time.

11. **Consent Agenda:**

A member of the public requested to pull an item from the Consent Agenda for discussion.

B. Fultz made a point of order stating that we have allowed the public to pull Consent Agenda items in the past.

- a. **APPROVAL OF SPECIAL BOARD OF DIRECTORS MINUTES 9.14.23-**
pulled for discussion.

B. Holloway addressed the Board.

A motion was made and seconded to record Mr. Holloway's comments in the minutes accurately as means of correcting any deficiencies in the prior meeting's minutes.

Discussion by the Board regarding:

- Identification of public members wishing to speak
- Policy for public comment to the Admin Committee
- Minutes of Board meetings

Vice President Hill withdrew the motion.

A motion was made and seconded to approve the minutes from 9.14.23 as written.


Director Fultz voted no. All other Board members voted in favor of the motion. Motion passed.

b. APPROVAL OF BOARD OF DIRECTORS MINUTES 9.21.23-approved

12. **District Reports:**
DEPARTMENT STATUS REPORTS

13. **Adjournment:** 9:08 p.m.

Minutes approved: 11/18/23


Holly B. Hossack, District Secretary

As everyone knows, there's two sides to every story and we'll see what comes out in time—if the Board wishes to pursue this as vigorously as they seem to intend to.

The past 5 years have most definitely been a stressful time for our community and our District. The pandemic, CZU fire, storm damages, Josh's tragic death, supply chain issues, two District Manager transitions and the need for money as embodied in the upcoming rate increase. Not to mention a critical grand jury report and significant turnover in Board membership. Public service is difficult and conducting business in public is stressful as well—for everyone.

Regardless of where we stand on any particular issue or what disagreements we have, the community should be proud of the fact that the water continued to flow. It's also important to realize that we agree more than we disagree. I think this fact sometimes gets lost in the disagreements we have about budgets, money and the rate increase process as well as the role of Board members in a public agency.

A truly transparent, democratic process can appear chaotic, especially over those fundamental issues. That reflects the nature of our community as well—where not everyone agrees on everything. I do my very best to keep a focus on policy, not personalities, as well as a focus on my fiduciary responsibilities to the people I work for—the voting community. I also recognize that we are all human—and understand that my vigorous advocacy for positive change made with the best of intentions could very well be perceived differently. Our Respectful Workplace policy makes room for differing opinions, honest debate and constructive criticism, essential to our system of open government. For us, the message is to focus on business and not make it personal, and that is how I view my role as a Board member.

Early on, I was told by a former Board member, based on her years of experience, that Board members have the right to ask anything and see everything regarding the District's operations, within the limits of the law. That seemed very logical to me and fit with my view, and our board training, that the primary role of the Board is oversight, particularly with how money was being spent, and within my campaign promise to work towards positive changes and transparency. In fact, the California Special Districts Association explicitly states in its Board member handbook, and I quote:

"Overseeing Finances

Boards ensure sound fiscal policy exists and that practices and controls are in place so that the district, board, general manager, and staff have direct accountability to their constituents."

Accountability means oversight. Oversight means scrutiny. Scrutiny means questions. In my view, it is impossible for a Board member to fulfill their fiduciary responsibilities to the community without asking questions. Our District doesn't have a robust onboarding program and so, in lieu of that, questions are the substitute.

I'm happy to say that some of my questions have resulted in improvements to the District's financial reports—and I've thanked both Kendra and her predecessor, Stephanie Hill, for those, in public.

Our district is constantly being watched and measured by our community and beyond. A 2018 Grand Jury report reviewed our district and identified contention between the Board and District Manager on one side and community members who were exercising their rights to free speech on the other. This inherent right of citizens to bring grievances to the board is the responsibility of government to protect, but, instead, the District was trying to control those community members.

With the election of 2018, the community was no longer excluded from the conversation. There may still be disagreement, but there were no longer overt acts to shut down community input into the process. That represented a dramatic cultural shift and I'm proud of the fact that I helped usher that in.

Unfortunately, the apparent need for control has now shifted to within the Board, causing needless conflict. Outside of well-defined boundaries on free speech which have been established by the Supreme Court, and Roberts' Rules of Order, in my opinion, the best approach is to let people have their say about policy, especially on contentious issues.

I'm very concerned this action will send a chilling message into our community—that free speech is not valued—which I believe to be the antithesis of our system of government.

Let me be very specific. I will continue to engage with community members and discuss issues as it is my duty to do so, particularly if they have exhausted all other avenues for their grievances.

I will continue to be transparent with our community and encourage us to reflect reality in the financials supporting the rate model and process. Facts are sometimes uncomfortable. We have a history showing the operating expense increases in past rate models have, with one exception, always been exceeded by actual budgets. Let's agree to make the process match reality.

I will continue to ask questions of senior staff and senior staff should expect questions as part of our oversight role and fiduciary responsibilities through the General Manager. Without this oversight role, our District would be no different than most private companies where community concerns are ignored—as was the case in Felton. Answering questions is part of the job of staff at any public agency. I understand that this District has historically not had a culture of Directors asking a lot of questions. But I would also point out some undesirable outcomes that occurred in the past due to Directors not asking tough questions.

I'm concerned that we may be taking philosophical and process disagreements to a place where a vague, though I'm sure well-intentioned, policy is being weaponized against core political speech of a member of this agency's governing board. And I'm concerned that a successful weaponization will metastasize over time. Regardless of our disagreements, I wish Rick a happy retirement. He's served the District for many years. Likewise, I wish Kendra success in her new position. She made improvements that benefit the District and our community.

Where do we go from here? I'm always of the opinion that there is room for continuous improvement—in everything. That's because humans aren't perfect. I agree with Rick Moran—it might be worthwhile to do another session on contentious issues, with an emphasis on getting to the core of the disagreements and figuring out a better way for presentation of dissenting views.

Also, with a new District Manager coming soon, I believe it is prudent to hit pause. That person may very well have a different approach. To make decisions for that person that would in any way limit their ability to freely interact with any member of the Board is counterproductive. I look forward to establishing a good working relationship with that person which, I hope, will include ideas about handling questions that are vital to providing transparency to the community and support for the Board members' fiduciary responsibilities.

I will continue to do my best to focus on policy—but I will vigorously oppose any attempts by this Board and/or District to suppress my speech, my ability to communicate with our community or my critiques of the District's approach to the rate increase process or any other topic with which I have an issue.

I believe we need to refocus away from us-them politics and get to work, perhaps reminding ourselves of CSDA's directive: that all of us, Board and staff, have direct accountability to those we serve, the voters.