



**BOARD OF DIRECTOR'S MEETING  
ESPARTO COMMUNITY SERVICES DISTRICT  
ESPARTO, CA**

REGULAR MEETING  
MARCH 20, 2013  
MINUTES

**(1) CALL TO ORDER**

Chair Melissa Jordan called the meeting to order at 7:09 pm.

**(2) PLEDGE OF ALLEGIANCE**

All residents and members in attendance recited the pledge

**(3) ROLL CALL**

**Present:**

- Directors: Melissa Jordan, Steve Knightley, Anna Girk, Charles Schaupp
- District Counsel: Tom Barth
- General Manager: Mel Smith
- Board Clerk: Mel Smith

**Absent:**

- Colleen Fescenmeyer

**Public:** Public present

**(4) APPROVAL OF AGENDA**

Chair Melissa Jordan entertained a motion to approve the agenda.

**Motion by;** Director Charles Schaupp to approve the agenda as presented

**Second by:** Director Steve Knightley

**Discussion:** None

**Vote:** Ayes: 4 No: 0 Abstain: 0 **Motion:** Passed

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**(5) PUBLIC COMMENTS**

Chair Melissa Jordan opened public comments -- none received

**(6) CORRESPONDENCE**

Chair Melissa Jordan announced the Esparto Chamber of Commerce will be hosting the Culpepper & Maryweather Circus on May 15. This is a community fund raiser and tickets can be purchased in town. Elementary school children and anyone in town on that day can watch the tent be raised and have a tour of the circus.

**(7) APPROVAL OF MINUTES**

Chair Melissa Jordan entertained a motion to approve the minutes of Feb. 20, 2013.

February 20, 2013

**Motion by:** Director Anna Girk to approve the minutes of Feb. 20, 2013

**Second by:** Director Charles Schaupp

Public Comments: None

Discussion: None

**Vote: Ayes: 3 No: 0 Abstain: 1 (Knightley) Motion: Passed**

Chair Melissa Jordan entertained a motion to approve the minutes of March 6, 2013.

March 6, 2013

**Motion by:** Director Steve Knightley to approve the minutes of March 6, 2013

**Second by:** Chair Melissa Jordan

Public Comments: None

Discussion: None

**Vote: Ayes: 3 No: 0 Abstain: 1 (Girk) Motion: Passed**

**(8) CLAIMS: FUND 466-0 REGULAR MONTHLY**

Chair Melissa Jordan entertained a motion to approve the claims

**Motion by:** Director Anna Girk to approve the claims packet as presented by the General Manager.

**Second by:** Director Charles Schaupp

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Discussion: General Manager: explained the change in county procedures regarding warrant runs. Concerned regular reoccurring monthly bills must be submitted prior to being reviewed by the board.

Discussion followed. Acknowledgement that the General Manager has a feel for the bills that might be questioned and those should be left for the Board to review at the meeting

Chair Melissa Jordan referenced the claim coversheet for the March 6 meeting which has not been approved.

7:22 pm: Chair Melissa Jordan indicated Director Colleen Fescenmeyer had joined the meeting.

Question: regarding the claims cover sheet for the March 6 meeting.

General Manager: explained to the board that it was not the correct cover sheet, sheet in question was actually from the meeting of Feb. 6. Cover sheet you have this evening is the correct sheet for the claims of March 6.

Director Charles Schaupp: indicated the General Manager should not approve payment of bills prior to board approval. Questioned if the meeting night could be changed to accommodate the new warrant schedule.

General Manager: indicated it was his responsibility to pay regular reoccurring bills without board approval and above the limit approved by the board for expenses.

Chair Melissa Jordan questioned why then, are they on the agenda

General Manager: for oversight, so board can see every dollar spent.

Chair Melissa Jordan reaffirmed the obligation the board has to the community to see the district bills are paid.

Public Comments: none

Discussion:

Chair Melissa Jordan suggested perhaps some of the smaller bills could be placed on the General Managers credit card rather than requesting a warrant. Board can review credit card statement.

General Manager: AT&T bill is paid by the credit card once the hard copy bill is received.

Discussion followed on the concern at hand due to the county procedure change for issuing warrants.

Majority of the board indicated they are comfortable with the method the General Manager is using to pay the district bills.

**Vote: Ayes: 5 No: 0 Abstain: 0 Motion: Passed**

**(9) BOARD CONSIDERATION OF SEWER DAMAGE CLAIM, RESOLUTION NO. 13-03**

General Manager provided information on the sewer damage claim.

1. Claim for damages from customer
2. Sewer backed up into her home and caused damage
3. Clog was found to be in the customers lateral

General Manager referenced District Resolution 06-05 which states in one paragraph, "district staff will maintain the sewer tap and district main, laterals are the responsibility of the property owner". Laterals are not district property only the sewer tap and mains. If the clog would have been in the sewer main ~~and~~ backup into a house then the district would be responsible. That is my conclusion as well as the district's insurance agent's conclusion; the Board does have the authority to override the decision and assume responsibility for the damage. WITH

Question: Are there special conditions that would warrant us looking at this  
General Manager: a little; there is maybe a half dozen places in the community where the end lots where turned. He referenced the alleys where the sewer mains run.

Discussion followed on placement of laterals in the past. General Manager explained the use of a common homeowner lateral where two homes are connected.

Chair Melissa Jordan: reviewed the resolution book and did not see any resolutions for a similar situation. Is this resolution required?

General Manager: in the past, the General Managers have actually stepped in and assumed responsibility for some laterals.

Chair Melissa Jordan: it may have been in the best interest of the customer but not the district. We know with the metered rates things have to be equitable so that not one customer is subsidizing the water of another and it's essentially the same thing using the sewer lines.

General Manager: referenced that all water and sewer districts assume responsibility at the tap into the main.

Chair Melissa Jordan: referenced it is in our policy, is the resolution the correct thing to do according to district policy.

General Manager: yes, based on this circumstance. He indicated proper procedures were followed, the claim was sent to our insurance, they denied it and referred it back to the board. The clog was clearly in the homeowners lateral, not the districts main.

Question: do we have a written denial from the insurance agent?

General Manager: no written only verbal. Our agent is to contact claimant and claimant's insurance company.

Chair Melissa Jordan: asked District Counsel, Tom Barth if a letter from the insurance agent should be included.

Tom Barth: indicated it wasn't necessary and went on to explain the broader concern.

Chair Melissa Jordan read Resolution 13-03 into the record.

Chair Melissa Jordan entertained a motion to accept the resolution.

**Motion by:** Director Steve Knightley to accept Resolution 13-03

**Second by:** Director Colleen Fescenmeyer

Public Comments: comment by resident (name unknown) referencing the previous district in place during 1964, which allowed laterals to be placed, in 1969 ECSD inherited the undersize water and sewer lines. Cannot be responsible for neighbor's property which is a rental, owner will not help keep line cleared out. District replaced

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line several years ago, clog was 140 feet north almost a drop into the main. Don't see how I can be held responsible.

Discussion: Concern referencing the payment of the claims, one before us this evening and the possible request for reimbursement from the insurance company of funds already paid. Would this be considered one damage claim?

General Manager: not sure, nothing in the resolution about the insurance company asking for reimbursement.

Tom Barth, District Counsel addressed the concern. Each claim would be addressed individually and the district can respond in different ways to those claims. It has already been demonstrated that the district has a long standing policy that draws the line for responsibility. He mentioned the suggestion made earlier to change Policy 06-05, perhaps it would be better to amend the policy if the district desires to do so.

Director Charles Schaupp: a subrogation claim from the insurance company already exists against the district.

Tom Barth: district can consider approving this claim as an exception to the policy. However if you approve the claim it can establish a basis for the insurance company to come back with the argument the district has made some admission of liability.

Director Charles Schaupp: if we deny the claim this evening and the claimant takes court action against the district and wins, our liability insurance will cover us except for the \$500.00 deductible.

Additional questions were brought forward regarding history of project and who would be liable. Tom Barth addressed questions and provided information.

Question from public regarding an encroachment permit?

General Manager asked county if one did exist for that lateral, county could find no record. He explained the reasoning for an encroachment permit. Would not be the first thing to be constructed in a public right-of-way without an encroachment permit.

Director Steve Knightley: if we approve this claim we water down our policy for anyone who has some sort of different difficult condition.

Additional questions on the codes in place during the 60's. Information provided on the adoption of the original policy which states we own from the tap along the main, liability the district assumed for the water and sewer mains. Reference made to old Esparto and the sewer lines that need to be replaced; it's the responsibility of the residents to maintain their lateral.

Some additional clarification on making an exception on this claim with reference to the districts liability insurance should this matter go to court and the claimant wins were raised. General Manager indicated the insurance company will most likely defend us but at that point we have subrogated our right for settlement to them.

Chair Melissa Jordan indicated should we decide to make an exception; claim will be paid out of district funds.

Director Steve Knightley: the manner in which the resolution is written if we do anything other than deny the claim it opens us up to potential liability.

Chair Melissa Jordan called for the vote.

**Vote: Ayes: 5 No: 0 Abstain: 0 Motion: Passed**

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**(10) FORMATION OF AD HOC COMMITTEE TO RESEARCH ERRORS & OMISSIONS**

Chair Melissa Jordan invited Director Colleen Fescenmeyer to join her on the committee as they had both attended Water District Meetings since 2007 and this would get us up to speed the fastest on the errors and omissions on the USDA policy. An Ad Hoc committee will be formed for three months and report back to the board.

**(11) MANAGERS REPORT**

- a) PG&E spreadsheets w/locations added – as requested. Filled in the blanks missing from last sheet. Sheet now provides more information to work off of. Every account is now at zero, paying current bills as received. Question on street lights, how they are billed, PG&E owns and maintains them, we pay for usage and administration costs. Chair Melissa Jordan referenced the street scape committee and the funds they have available to update or added more lights to certain areas. General Manager indicated adjustment to increase resident lighting bill can be done without a 218 as long as it does not go above the consumer price index. Discussion and questions followed.
- b) Additional response to 2012 audit questions – addressed the two questions on the audit the board asked about in writing. Included in your packet this evening. Gave me an opportunity to gain more information as well.
- c) Well 4 update – problem developed with the new retrofitted, began pumping gravel from the gravel pack. Well was shut down, pulled and videoed to determine where the problem was coming from. Second videoing identified the problem, located where the new screen was welded to the old one. Question: who is liable?  
Chair Melissa Jordan: assuming this was fairly expensive, and we had a failure on a well that required a special meeting for the district to authorize expenses, this is an after the fact thing.  
General Manager: explained the cost to determine the problem. Estimate is out to install a swedge patch where the metal has eroded and caused the problem. Now have a better understanding of how the contact of dis-similar metals can cause a problem with the softer one.  
Same issue that caused problem with Well 5. Can't shut down Well 5 to repair because Well 4 is down. Need to have both wells repaired and running before the summer months.  
Director Charles Schaupp: indicated steps taken to this point were proper, so what is needed to make the repair?  
General Manager: put a public notice out for the swedge patch repair. He went on to explain what the swedge is and how it works. The stainless steel will continue to erode the softer metal, explain what would be done to correct this issue.

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Chair Melissa Jordan: questioned why the engineer did not advise us that the stainless steel would affect the softer metal in such a manner.  
General Manager: decision for board if they want to go after the engineer for errors and omissions.  
Additional discussion followed.  
Chair Melissa Jordan: requested a spreadsheet be prepared on the cost of the Well 4 repairs.

- d) Well 5 update – contact from dis-similar metals is believed to have caused the holes. Well 5 cannot be repaired until Well 4 is back up and running. Will be putting out public notice for repairs, bid sheet being prepared. This will come back to the board once bid period has ended.

Chair Melissa Jordan called for a 10 minute break before entering closed session.

9:06 pm: Chair Melissa Jordan announced the Board would now enter closed session.

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**(12) CLOSED SESSION**

- a) Conference with Legal Counsel: Existing Litigation, Emerald Homes, authorized by Gov. Code Section 54956.9(b) (1case)

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10:30 pm: Chair Melissa Jordan reopened the regular meeting of 3/20/13.

**Report of Closed Session:** Instruction given to General Manager.

**(13) FUTURE AGENDA ITEMS**

- a) Solar Bee
- b) Sewer Lateral Review
- c) Metered Rates Outreach
- d) District Calendar
- e) Solar Panels on 15 acres
- f) Research Impact Fees
- g) LAFCO Update

**(14) ADJOURNMENT**

Chair Melissa Jordan entertained a motion to adjourn the meeting

**Motion by:** Director Charles Schaupp to adjourn the meeting

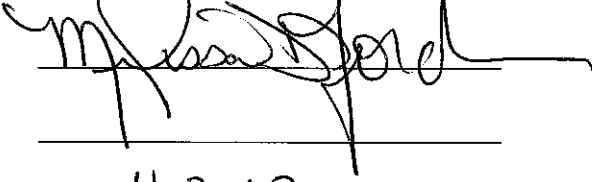
**Second by:** Director Steve Knightley

**Vote: Ayes: 5 No: 0 Abstain: 0 Motion: Passed**

Meeting adjourned at 10:32 pm

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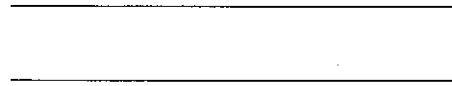
Melissa Jordan – Chair of the Board



A handwritten signature in black ink, appearing to read 'Melissa Jordan', written over two horizontal lines.

Date: 4-3-13

Mel Smith - Board Clerk



Two horizontal lines provided for a signature.

Date: \_\_\_\_\_