

TUOLUMNE CITY SANITARY DISTRICT

TCS
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REGULAR MEETING STAFF REPORT DECEMBER 7, 2022

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To: Board of Directors
From: Dave Andres, General Manager
Subject: Management Report
Date: November 29, 2022

Agenda Item: VII(b)

I am currently working with staff on a number of activities. These activities include the following:

- **State Revolving Fund Program Update**

The District is still awaiting the State Department of Water Resources decision on approval of our request for *Phase 2* funding for our Wastewater Treatment Plant (WWTP) Improvement Projects and Wastewater Collection System (WWCS) Improvement Projects. We hope that a decision will be made prior to the end of the calendar year, but that is not guaranteed.

- **Update on Community Services District Formation Application**

Attached is the most recent correspondence from Quincy Yaley, LAFCo Executive Officer, dated October 24, 2022. In order to complete the application, she is requesting the following three items: *Property Tax Revenue Sharing Agreement*, Proposed Community Services District (CSD) budget, and a Proposed Organizational Chart. District staff and the Board President met with Tracie Riggs, Tuolumne County Administrative Officer on October 11, 2022 to discuss the agreement. She anticipated that it would take about one month for their counsel to review the agreement. However, this deadline has come and gone. We are now approaching two-months. If recommended, it would then need to be set for hearing before the Board of Supervisors. In addition, the Public Works staff is recommending against transferring the Street Lighting District to the CSD.

- **Rural Community Assistance Corporation Construction Project Line of Credit**

The District received approval from the Department of Water Resources (DWR) to enter into agreement with the Rural Community Assistance Corporation (RCAC) for a line of credit for the Wastewater Collection System (WWCS) Construction Project. District staff signed off on the agreement on October 26, 2022. The purpose of this line of credit is to maintain cash flow for the District when seeking reimbursement for the WWCS Construction Project. Staff is concerned that reimbursement from the DWR can exceed 45-days and with total project costs exceeding \$3.4 million the District does not want to lose interest income while awaiting state reimbursement for construction costs.

- **AB 2449 – Summary of Revised Open Meeting Requirements**

Governor Newsom signed California Assembly Bill 2449 (AB 2449) into law on September 13, 2022 . This Bill takes effect on January 1, 2023, and imposes new rules on remote access to, and member attendance of, local agency public meetings under the Ralph M. Brown Act (Brown Act). A summary of the changes are provided below.

- Traditional Brown Act rules and AB 361 Emergency Pandemic rules apply until January 1, 2023. Traditional Brown Act teleconferencing rules require a quorum of the Board of Directors meet in person at the designated regular meeting location, the posting of the members' remote location on the Board of Directors meeting notice and agenda, and public access to each teleconferencing location. Under AB 361's teleconferencing procedures the Board of Directors is required to make factual determinations by majority vote to justify remote or virtual meetings including a determination that a state of emergency exists and either State or local officials recommend social distancing measures or that meeting in person would present a health and safety risk.
- Traditional Brown Act Rules, AB 361, and New Rules under AB 2449 (Government Code §54953 et. seq.) are in effect from January 1, 2023 to January 1, 2024. Effective January 1, 2023 traditional Brown Act teleconferencing rules or AB 361's abbreviated teleconferencing rules both described above are available to the Board, as well as AB 2449's new

teleconferencing rules. The new law requires that at least a quorum of members of the local legislative body participate in person from a public location, typically our regular meeting site, within the district. Unless there is a physical quorum of at least two members present if no more than four board members are attending the meeting, or three members if all five board members are attending the meeting, the governing body may not utilize AB 2449. If the physical attendance quorum requirement is met, AB 2449 permits a member who is not physically present to request virtual attendance at the meeting under two circumstances: (1) for “just cause” and (2) due to “emergency circumstances.”

In order to attend remotely for “just cause,” a member must (1) notify the district at the earliest opportunity of their need for such participation, and (2) provide a general description of the circumstances justifying their virtual attendance. AB 2449 provides a list of reasons that qualify as “just cause” under its provisions. Specifically, a member has “just cause” for remote participation when: 1.) There is a childcare or caregiving need (for a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner) that requires the member to participate remotely; 2.) A contagious illness prevents the member from attending the meeting in person; 3.) There is a need related to a defined physical or mental disability that is not otherwise accommodated for; or 4.) Traveling while on official business of the legislative body or another state or local agency. A director is limited to two virtual attendances based on “just cause” per calendar year.

A director must also make a request to the Board to allow the member to meet remotely due to an emergency circumstance, and further must provide a general description of the circumstance justifying such attendance. The member seeking to appear remotely must make the request “as soon as possible,” and shall make a separate request for each meeting in which they seek to participate remotely. Unlike a request for remote attendance for “just cause,” a request from a member to attend remotely due to an emergency circumstance requires that the legislative body act and approve the remote attendance at the start of the meeting for the member to be allowed to participate remotely for that meeting. AB 2449 defines “emergency circumstances” as “a physical or family medical emergency that prevents a member from attending the meeting in person.” A member is not required to disclose any medical diagnosis or disability, or any personal medical information that is already exempt from existing law.

The law has additional requirements when making a request either for “just cause” or due to an “emergency circumstance” for remote appearance.

These additional requirements include:

- 1.) the board member must publicly disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member’s relationship with any such individuals.
- 2.) A board member must participate through both audio and visual technology.
- 3.) A board member’s remote participation cannot be for more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year.
4. The law also mandates other technical equipment requirements, public comment requirements, disrupted broadcast procedures and public notice requirements.

- Traditional Brown Act Rules and New Rules under AB 2449 are in effect from January 1, 2024 to January 1, 2026. The new law sunsets on January 1, 2026. Unless this legislation is renewed the traditional Brown Act requirements will be the only method of having remote meetings after January 1, 2026.

- **Wastewater Collection System (WWCS) Construction Project**

Mozingo our construction contractor on the WWCS Project encountered an abandoned Underground Storage Tank (UST) from an old gasoline service station while constructing the project. Staff has been in contact with the County for removal. This item can be discussed under your next agenda item.

- **TEDA Sewer Main Relocation Project**

Staff is working with the Tuolumne Economic Development Agency (TEDA) in respect to relocating the sewer main currently located on the dam. This project requires the construction of a bridge to support the pipeline and the entire project is grant funded. Work has been halted due to the winter permit conditions on the project. However, there are a number of issues associated with the construction that need to be corrected. Staff is preparing an Easement / Maintenance Agreement to address the long-term implications of the project. This item can be discussed under the next agenda item.