



GRANADA SANITARY DISTRICT  
OF SAN MATEO COUNTY

**MINUTES**  
**BOARD OF DIRECTORS**  
**SPECIAL & REGULAR MEETINGS**

September 17, 2013

**CALL SPECIAL MEETING TO ORDER**

The Special Meeting of the Granada Sanitary District Board of Directors was called to order at 6:33 p.m.

**ROLL CALL**

President Leonard Woren, Vice President Matthew Clark, Secretary Ric Lohman, and Treasurer Gael Erickson. Director Jim Blanchard was absent.

Staff: General Manager Chuck Duffy, District Counsel Jonathan Wittwer, and District Administrator Delia Comito (Open Session only).

**GENERAL PUBLIC PARTICIPATION**

None.

**ADJOURN TO CLOSED SESSION**

**1. Conference with Legal Counsel – Existing Litigation (Gov. Code Section §54956.9(d)(1)).**

Granada Sanitary District v. County of San Mateo (RPI Big Wave et al.) -  
San Mateo Superior Court Case No. CIV505222

**2. Conference with Legal Counsel – Existing Litigation (Gov. Code Section §54956.9(d)(1)).**

Granada Sanitary District Appeal of Big Wave Project to California Coastal  
Commission – Coastal Commission Appeal No. A-2-SMC-11-021

**3. Conference with Legal Counsel – Exposure to Litigation (Gov. Code Section §54956.9(d)(2)). (One potential case).**

**4. Conference with Legal Counsel – Liability Claim (Gov. Code Section 54956.9)**

Claimant: Yem Nguyen  
Agency claimed against: Granada Sanitary District

**RECONVENE TO OPEN SESSION**

District Counsel stated that no reportable action was taken in the closed session.

**ADJOURN SPECIAL MEETING**

## **CALL REGULAR MEETING TO ORDER**

The Regular Meeting was called to order at 7:35 p.m.

## **ROLL CALL**

## **GENERAL PUBLIC PARTICIPATION**

President Woren introduced Sewer Authority Mid-Coastside interim Manager Vivian Housen who was an audience member at the meeting.

## **REGULAR AGENDA**

- 1. APPEAL HEARING:** Hearing on Appeal of Engineer of Work's Proposed Decision for denial of request for relief from assessment; APN 047-251-120 (Caron).

President Woren opened the hearing and conducted it in accordance with Section 304 of Granada Sanitary District ("GSD" or "District") Resolution No. 2004-019 and confirmed that the required audio recording of the Appeal Hearing was being made. The appellant and representative for the parcel owners, Craya Caron (Appellant), was present. Counsel Jonathan Wittwer represented the Engineer of Work for the District.

Mr. Wittwer explained that acquisition by GSD of the Non-contingent Assessment of a particular parcel may be requested by the owner of a parcel. The parcel owner has the burden of proof to provide evidence that the parcel cannot be developed, either currently or in the future, or otherwise shall agree to an irrevocable binding deed restriction to such development as proof that the property cannot be developed in a manner requiring sewer connection.

The written Notice of Appeal by the Appellant contained the required summary of the Appellant's argument appealing the Engineer of Work's Proposed Decision as being incorrect. The Appellant's summary generally stated that: (1) GSD is acting "*ultra viresly*" and without proper civil or legal authority and without proper supervision by the county governing body; and (2) GSD cannot impartially hear this appeal. The Staff Report to the District Board responded in detail to these arguments and Appellant did not pursue them during the Appeal Hearing itself.

At the Appeal Hearing, Appellant made the following arguments (in general) either during Appellant's opening presentation or subsequent rebuttal: (1) the District's Assessment District regulations and provisions were unfair and the equivalent of "a taking" of Appellant's property; and (2) the GSD Urban/Rural Boundary Ordinance precluded any sewer connection to Appellant's property.

Counsel Wittwer made the following points (either in his opening presentation or rebuttal). He explained the history of GSD's Integrated Financing District ("Assessment District") and the principles behind the assessment allocation, including, but not limited to the following: the Assessment District needed to be created in a way that it would "pencil out" (*i.e.*, that there would be an income stream from assessees sufficient to pay the bondholders who would purchase the

bonds to finance the treatment plant improvements. This required in general that undeveloped parcels within the Assessment District would pay a noncontingent assessment for 25 years unless their property could not be developed, or further developed, currently or in the future. Counsel Wittwer explained that if property owners were able to avoid payment of the noncontingent assessments until they later developed their property, there would have been insufficient funds to create the necessary income stream for bondholders to be willing to purchase bonds to make the treatment plant improvements because the repayment of bondholders would not “pencil out.” The Assessment District was necessary to avoid a possible moratorium on development at the time and needed to be designed to obtain a majority vote of the District electorate, which it did. The current District Board is carrying out the regulations of this Assessment District as approved and adopted approximately 17 years ago (and renewed in substantially the same form in a refinancing 10 years ago). In applying the Assessment District regulations, the Engineer of Work’s Proposed Decision correctly denied the request because the grounds for acquisition by the District were not met. Counsel Wittwer also explained that the GSD Urban/Rural Ordinance allowed the Appellant property owner to apply for a determination whether wastewater collection and treatment would be by sewer connection or septic system and that Appellant property owner had been informed of that fact and had made no application to GSD for such a determination.

Counsel Wittwer requested that the record of proceeding include the audio recording of the Appeal Hearing, the Notice of Appeal, the Application for Relief, the Engineer of Work’s Proposed Decision, all evidence introduced at the hearing, and all correspondence generated or received by the District concerning the application (including all prior correspondence between the property owner and GSD regarding the Urban/Rural Ordinance [and other GSD Ordinances] and their application with respect to the property owner). No objection was made and the record was so established.

President Woren closed the Appeal Hearing and the District Board discussed the evidence, arguments and rebuttals presented. Board President Woren confirmed with the GSD General Manager that the noncontingent assessments would be paid up in 2022 and that contingent assessments charged to property owners at the time of future development of their property were ultimately intended to repay all noncontingent assessments over time. Director Lohman stated that the District Board had been absolutely consistent over time in applying the applicable regulations. He confirmed with President Woren (the longest serving Board member) that the Board had never denied a sewer connection to any Board members recollection. Director Lohman also confirmed the prior statement of the District Administrator that other property owners had obtained relief by signing the deed restriction not to use the sewer system and stated that if the Board granted this Appeal those parties might come back and request to rescind their deed restrictions. President Woren pointed out that if property owners could avoid payment of the assessments until they develop their property, then there would not

be enough to pay off the bondholders. Director Clark stated that he did not believe the Board had any choice but to continue to consistently apply the Assessment District regulations, which have the force of law so that there would be enough money keep the Assessment District viable and to pay the bondholders.

**ACTION:** Director Clark moved to deny the Appeal. (Clark/Erickson). Approved 4-0.

**2. Consideration of LAFCo Application for Potential Reorganization into a Community Services District with Parks and Recreation Powers:**

**b. Adopting Resolution on Policy Limiting Acquisition and Use of Agricultural Lands for Park and Recreation Purposes; and**

The Board President moved to first consider item 2.b. because Mr. Louie Figone, on behalf of the Agricultural Advisory Committee, was present to discuss providing a draft agreement/MOU between the San Mateo County Farm Bureau and the District.

**a. Report from General Manager on status of Application to LAFCo.**

The General Manager reported that the District had received letters in support of the proposed reorganization from the Highlands Recreation District and the Coastside Land Trust.

**c. Further directions to General Manager necessary or convenient to the processing to completion of the Granada Sanitary District Reorganization Project (including execution of any related agreements).**

**3. Consideration of Report and Ongoing Issues by District's Sewer Authority Mid-Coastside Representatives.**

There was no report as the SAM board had not met since the last meeting.

**CONSENT AGENDA**

4. Approval of Special Meeting Minutes for August 29, 2013.
5. Approval of September 2013 Warrants for \$132,147.85 (Checks 5198-5224).
6. Approval of August 2013 Financial Statements.
7. Approval of Assessment District Distribution #2-13/14 for \$7,968.25.

**ACTION:** Director Lohman moved to approve the Consent Agenda. (Lohman/Clark). Approved 4-0.

**COMMITTEE REPORTS**

8. Report on seminars, conferences, or committee meetings.

**INFORMATION CALENDAR**

9. Attorney's Report. (Wittwer) – None.
10. Treasurer's Report. (Erickson) – None.
11. General Manager's Report. (Duffy) – None.

- 12. Administrator's Report. (Comito) – None.
- 13. Engineer's Report. (Kennedy Jenks) – None.

**ADJOURN REGULAR MEETING**

The regular meeting was adjourned at 9:20 p.m.

SUBMITTED BY:

APPROVED BY:

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Chuck Duffy, General Manager

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Ric Lohman, Secretary

Date Approved: October 17, 2013