

MINUTES OF THE REGULAR MEETING OF THE
 BOARD OF DIRECTORS OF
 COUNTY SANITATION DISTRICT NO. 9
 HELD AT THE OFFICE OF THE DISTRICT
 AND AT THE KENNETH HAHN HALL OF ADMINISTRATION
 VIA TELECONFERENCE

June 28, 2023
 1:30 o'clock, P.M.

The Board of Directors of County Sanitation District No. 9 of Los Angeles County met in regular session via teleconference:

There were present: Tim McOsker, Alternate Director from Los Angeles City via teleconference
 Kathryn Barger, Temporary Alternate Director from Los Angeles County via teleconference
 Absent: Janice Hahn, Chairperson, Director from Los Angeles County
 Also present: Kimberly S. Christensen, Secretary to the Board
 Jessica Lienau, District Counsel

Upon motion of Director McOsker, duly seconded and unanimously carried, Director Barger was elected Chairperson pro tem.

RE: PUBLIC COMMENT The Chairperson announced this was the time for any questions or comments by members of the public. There were no public comments or questions to address the Board on any matters.

RE: TEMPORARY ALTERNATE DIRECTOR FROM LOS ANGELES COUNTY A notice given by Supervisor Janice Hahn, Chairperson of the Board of Supervisors of Los Angeles County, to the Board Secretary's Office appointing Supervisor Kathryn Barger, a member of the Board of Supervisors of Los Angeles County, to serve as temporary alternate Director from the county, to attend the meeting of June 28, 2023, is in the file in the Secretary's office.

Upon motion of Director McOsker, duly seconded and unanimously carried by a roll-call vote, the action was accepted and ordered filed.

RE: MINUTES Upon motion of Director McOsker, duly seconded and unanimously carried by a roll-call vote, the minutes of the regular meeting held February 22, 2023, were approved.

RE: DISTRICT EXPENSES The following expenses for the months of January, February, and March 2023, were presented and upon motion of Director McOsker, duly seconded and unanimously carried by a roll-call vote, were approved:

Local District Expenses:	
Operations & Maintenance	\$3,127
Capital	1,443
Allocated Expenses:	
Joint Administration	1,770
Total Expenses	<u>\$6,340</u>

RE: RESOLUTION OF THE BOARD OF DIRECTORS OF COUNTY SANITATION DISTRICT NO. 9 OF LOS ANGELES COUNTY ADOPTING POLICIES AND PROCEDURES FOR PROVIDING PRIORITY SERVICE TO AFFORDABLE HOUSING PROJECTS - ADOPT A proposed Resolution of the Board of Directors of County Sanitation District No. 9 of Los Angeles County Adopting Policies and Procedures for Providing Priority Service to Affordable Housing Projects (Resolution) was presented. California Government Code Section 65589.7 requires public agencies that provide water or sewer services to adopt written policies and procedures with specific objective standards for providing priority service to housing projects that include lower income units. The proposed Resolution would establish the required policies and procedures in accordance with the requirements of the law. Once adopted, these policies and procedures must be updated and approved by the Board every five years. This item is consistent with the Districts' Guiding Principle of commitment to continual

improvement. A copy of the proposed Resolution was attached to the agenda. A recommendation was made to adopt the Resolution.

Upon motion of Director McOsker, duly seconded and unanimously carried by a roll-call vote, the following Resolution was adopted:

RESOLUTION OF THE BOARD OF DIRECTORS OF COUNTY SANITATION DISTRICT NO. 9 OF LOS ANGELES COUNTY ADOPTING POLICIES AND PROCEDURES FOR PROVIDING PRIORITY SERVICE TO AFFORDABLE HOUSING PROJECTS
(California Government Code Section 65589.7)

WHEREAS, the California legislature has declared that the lack of affordable housing is a matter of vital statewide importance; and

WHEREAS, Government Code Section 65589.7 enhances the priority granted to lower-income housing by requiring that public agencies that provide water or sewer services shall adopt written policies and procedures with specific objective standards for providing priority service to housing projects that include lower income units; and

WHEREAS, the Sanitation Districts of Los Angeles County are continually evaluating system requirements and capacity, monitoring planned and proposed project development, and working to ensure there is adequate capacity for future development throughout the Sanitation Districts of Los Angeles County service areas.

NOW, THEREFORE, BE IT RESOLVED, that the following guidelines are hereby adopted by the Board of Directors of County Sanitation District No. 9 of Los Angeles County (“District”) with respect to providing priority service to housing projects that include lower income units:

- (1) The District shall devote its best efforts to plan for and, to a reasonable degree (as determined on a case by case basis), prioritize providing sewer connections to residential housing projects that include lower income units as specified in the housing element of a general plan adopted by the legislative body of a county or city within the District’s boundaries;
- (2) Development projects that include lower income housing units shall not be denied approval of an application for service, nor shall conditions be imposed thereon or services reduced which are applied for, unless the District makes specific findings that the denial, condition, or reduction is necessary due to the existence of one or more of the following:
 - a. Insufficient water supply or insufficient water treatment or distribution capacity;
 - b. A State Department of Health Services order prohibiting new water connections;
 - c. Insufficient sewer treatment or collection capacity;
 - d. A Regional Water Quality Control Board order prohibiting new sewer connections; or
 - e. The applicant has failed to agree to reasonable terms and conditions.
- (3) Areas with Available Capacity – In times where the District has available capacity in its wastewater collection, treatment and disposal facilities, the provision of public sewer service to residential housing developments will be on an income-neutral basis.
- (4) Areas with Limitations in Capacity – In times where the District experiences service limitations due to capacity or regulatory constraints, service priority shall be given to planned developments that include housing units affordable to lower income households in accordance with Government Code Section 65589.7 and the limitations set therein.
- (5) Procedure – Whenever housing units affordable to lower income households are identified in a city or county housing element, or amendment thereto, from any city or county within the service area of the District, and a developer where the District is the local sewer agency applies for a connection permit, the District will give highest priority to the provision of services to that development and particularly to the affordable housing units contained therein.
- (6) At least once every five (5) years, the District shall update and approve the provisions of this Resolution by subsequent Resolution.

RE: SERVICE CHARGE PROGRAM
HOLD PUBLIC HEARING ON
SERVICE CHARGE REPORT, AND
COLLECTION ON TAX ROLL

The Chief Engineer and General Manager announced that today the Board would hold a public hearing, and the proposed rate increases associated with the service charge, industrial wastewater surcharge, and connection fee rates, and the collection of the service charge on the

property tax roll were presented. Holding a public hearing and then adopting the Service Charge Report is required each year to collect the wastewater service charge on the property tax roll. The current service charge rate per single-family home is \$6.50 per month (\$78 per year) and no increase is recommended for fiscal year 2023-24. A letter discussing this matter, together with the Service Charge Report, the final budget, and a budget explanation and glossary, accompanied the agenda. This item is consistent with the Districts' Guiding Principles of commitment to fiscal responsibility and prudent financial stewardship; and to plan for both short-term and long-term needs to minimize the need for significant rate increases.

In accordance with Section 5473 of the Health and Safety Code of the State of California, the *County Sanitation District No. 9 Service Charge Report for Fiscal Year 2023-24*, was filed on February 22, 2023, and publication of two newspaper notices for today's public hearing were published in *The Daily Breeze*, a daily newspaper. The Service Charge Report addresses the continued collection of the service charge for the District on the tax roll. These charges are needed to supplement the District's existing revenue sources for the forthcoming fiscal year, as discussed in the letter to the Boards, dated February 3, 2023.

The Chairperson opened a public hearing on the Service Charge Report for County Sanitation District No. 9 of Los Angeles County. In response to the Chairperson's question, the Secretary reported that the District has received no correspondence or telephone calls on the Service Charge Report.

There being no further comments, the Chairperson closed the public hearing.

RE: SERVICE CHARGE PROGRAM
ADOPT SERVICE CHARGE REPORT

Following the public hearing, upon motion of Director McOsker, duly seconded and unanimously carried by a roll-call vote, the Board of Directors of County

Sanitation District No. 9 of Los Angeles County approved and adopted the *County Sanitation District No. 9 Service Charge Report for Fiscal Year 2023-24*, which was filed with the Clerk of the Board on February 22, 2023.

RE: APPROPRIATIONS LIMIT
FOR FISCAL YEAR 2023-24
ESTABLISH AND ADOPT

A letter discussing the 2023-24 fiscal year budget matters accompanied the agenda. The Government Code requires the governing body of each local jurisdiction to establish, by resolution, an appropriations limit for each fiscal year.

The documentation used in the determination of the appropriations limits must be available 15 days prior to this action being taken. The method by which the Districts' appropriations limits were calculated has been available to the public at the Districts' Joint Administration Office since May 18, 2023, and was provided to the Directors with the letter of June 2, 2023, mailed with the agenda. This item is consistent with the Districts' Guiding Principles of commitment to fiscal responsibility and prudent financial stewardship; and to plan for both short-term and long-term needs to minimize the need for significant rate increases.

The appropriations limit for fiscal year 2023-24 has been determined by adjusting the previous fiscal year's limits using the factors specified in the Government Code. The appropriations limit has also been adjusted to include mandated costs, all in accordance with the procedures outlined in Article XIII B of the Constitution and Section 7910 of the Government Code. A recommendation was made that, in order to comply with legal requirements, this Board adopt an appropriations limit of \$1,356,871 for fiscal year 2023-24.

Upon motion of Director McOsker, duly seconded and unanimously carried by a roll-call vote, the following resolution was adopted:

BE IT RESOLVED, that pursuant to Section 7910 of the Government Code of the State of California, the Board of Directors of County Sanitation District No. 9 of Los Angeles County does hereby establish and adopt an appropriations limit of \$1,356,871 for fiscal year 2023-24, utilizing the population change and the change in the personal per capita income.

RE: BUDGET 2023-24
OPERATING FUND

The Chief Engineer and General Manager introduced Mr. Matt Eaton, Deputy Assistant Chief Engineer, to give a brief presentation of the wastewater budget matters for

fiscal year 2023-24.

Mr. Eaton stated that today's agendas, except for District No. 2, include items related to wastewater matters and he would spend a few minutes providing an overview of the final budgets, which are attached to the Directors' agendas.

The final budgets are consistent with preliminary budgets presented earlier in the year and with the detailed presentation given to the Personnel Committee in January. For today's meeting all Districts, except District No. 9, are part of the Joint Outfall System (JOS). The JOS consists of 17 Districts that operate as one physical system of sewers and water reclamation plants, with each District paying for its share of expenses. The vast majority of costs for each District goes toward the JOS.

He showed a slide of a simplified summary of the JOS final budget. Operating revenue consists of the payments from individual Districts, contracts and industrial waste revenue. Non-operating revenue is interest. Capital revenue is connection fees and capital payments from individual Districts, plus the Districts is budgeting debt proceeds of approximately \$290 million in the next fiscal year. The expenses are those required for ongoing operations, capital projects and debt service.

As previously discussed a number of times over the last year, capital spending has increased significantly and is projected to continue, due to the desire to accelerate our sewer repair and rehabilitation work, new water recycling projects, new regulatory requirements, and inflation. In addition, Operations and Maintenance (O & M) costs are higher than expected primarily due to significant increases in chemicals and utilities as a result of high inflation. As a result, the JOS is drawing down reserves and plans to issue new debt as mentioned. Although reserves are projected to be at 74 percent of target at the end of the year, the Districts expects to approach the target in the following three to five years. The amount of reserves is more than adequate to cover current needs.

The JOS current service charge rates are part of a four-year package with about two percent annual increase in most Districts. In 2026, a new rate package will be presented. Staff expects the next round of increases to be significantly higher – at least 10 percent per year. Despite the higher increase, rates are expected to remain below those of comparable agencies for the foreseeable future.

In response to Director Barakat, City of Bradbury, Mr. Eaton stated that the sources of non-operating revenue are interest on reserves, bank accounts, and investments. Debt service expenses are payments on existing bonds. The JOS is paying approximately 3.5 percent interest on existing debt service.

In response to Director Garcia, City of Sierra Madre, there is a small amount of funds in a bank account for cash flow needs. Most reserves are in the County Pooled Surplus Investment fund or in specific investments such as corporate notes or government sponsored-enterprise notes, such as Fannie Mae.

In a letter dated June 2, 2023, to the Board, matters were discussed pertaining to the budget for the 2023-24 fiscal year. A sewerage system final budget for the 2023-24 fiscal year was presented and a recommendation was made that the budget be adopted.

Upon motion of Director McOsker, duly seconded and unanimously carried by a roll-call vote, the sewerage system final budget for 2023-24 was approved, adopted, and ordered filed.

RE: TAX LEVY
OPERATING FUND

Data for the tax levy necessary for the Operating Fund was presented and a recommendation was made that the tax levy be requested in accordance therewith.

Upon motion of Director McOsker, duly seconded and unanimously carried by a roll-call vote, the following resolution was adopted:

BE IT HEREBY DETERMINED, RESOLVED, AND ORDERED AS FOLLOWS:

That pursuant to the provisions of Article 6, Section 4815 of the County Sanitation District Act (Chapter 3, Part 3, Division V, of the Health & Safety Code of the State of California), the Board of Directors of County Sanitation District No. 9 of Los Angeles County does hereby find and declare that the sum of \$130,000 is and will be the amount necessary to maintain, operate, extend, or repair any work or improvements of the District for the collection, treatment, and disposal of sewage, and to defray all other expenses incidental to the exercise of any of the District's powers, except the amounts necessary to acquire, construct, maintain, and operate a refuse transfer or disposal system, or both, and any other expenses incidental to the operation of the system during the ensuing year and prior to the annual levy of taxes for the fiscal year 2024-25, and the Board of Supervisors of Los Angeles County is hereby requested to cause to be levied and collected at the same time and in the same manner as the next general tax levy for the County a tax upon the real property in the District, in an amount sufficient to

raise the required amount, to wit: \$130,000, to be paid into the County Treasury to the credit of the Operating Fund of the District.

The Secretary is hereby instructed to furnish a copy of this resolution and statement to the Board of Supervisors of Los Angeles County at least fifteen (15) days before the first day of September 2023.

RE: APPROPRIATIONS
OPERATING FUND 2023-24

Upon motion of Director McOsker, duly seconded and unanimously carried by a roll-call vote, the appropriations from the Operating Fund for Fiscal

Year 2023-24 were ordered made as shown in the Operating Fund Final Wastewater Budget that was attached to the agenda.

RE: STATEMENT FROM DISTRICT COUNSEL
ITEMS NOT LISTED ON AGENDA

The Chief Engineer and General Manager stated that the Districts' legal counsel team at the firm of Lewis, Brisbois, Bisgaard, and Smith LLP (LBBS) consists of a

dedicated legal team within LBBS that focuses on Districts' matters. Unfortunately, there was recent negative news coverage of LBBS related to attorneys leaving the firm and their email correspondence. He introduced Ms. Jessica Lienau, District's General Counsel, to make a statement regarding this matter.

Ms. Lienau's statement to the Board is as follows:

"Thank you to the Chief Engineer and the Directors for allowing me the opportunity to address the Boards. As the Chief Engineer stated, the Districts' legal counsel is at the law firm of Lewis, Brisbois, Bisgaard & Smith. Our team of lawyers feels privileged to serve the Districts and we continually strive to provide efficient and quality legal representation.

Lewis Brisbois, as a law firm (Firm), has recently faced some serious challenges that you may have read about in the press. First, a group of labor and employment lawyers left the Firm. Following the departure of these attorneys, an anonymous complaint was lodged against two of the former partners concerning their behavior while at the firm. The Firm's investigation into both of these former partners revealed private emails between the two containing unacceptable and offensive language aimed at Firm colleagues, clients, opposing counsel, and even judges. Some of the emails apparently included other Firm lawyers or third parties, but Firm management has stated that any other Firm attorneys were passive recipients of these emails and did not participate in the email correspondence. Firm management has stated that any Firm attorneys who received these emails no longer work at the Firm. Further, none of the Firm attorneys who handle Districts' legal work were even aware of these emails prior to their publication in the last few weeks (and were not copied on any of the emails). The Firm's investigation is ongoing, we want to make it clear that the Firm and we individual attorneys strongly condemn their conduct and will do everything within our power to ensure that nothing like this ever happens again.

Going forward, the Firm will continue to take all measures necessary to hold ourselves to the highest standards of professional conduct that are truly reflective of our commitment to diversity, equity and inclusion (DEI) as well as basic human decency. Various controls are being discussed among the Firm and a DEI consultant. The Firm has hired Dr. Steven Jones as its DEI consultant. Dr. Jones will conduct an independent investigation into the emails and perform a DEI audit of the Firm. Dr. Jones expects to have preliminary findings and recommendations for the Firm within six months. The Firm has always been a leader amongst law firms in DEI efforts and the despicable conduct of two former partners does not negate the decades of work that the Firm has done nor is it representative of the more than 1500 other quality attorneys at the Firm.

We, your Districts Counsel team, were embarrassed and shocked to learn of the conduct of our former partners which we learned about at the same time the emails were provided to the media. However, their conduct is in no way representative or reflective of the team of lawyers who serve the Districts or the Firm at large. Our Districts legal team – and the Firm at large – are committed to maintaining the highest ethical and professional standards in the delivery of quality legal work. Thank you. "

The Chairperson stated that a subcommittee was convened several years ago to review law firms, including LBBS. It was determined that LBBS was the best firm to serve as General Counsel due to their extensive knowledge of Districts' matters.

The Chief Engineer and General Manager stated that he has worked with the attorneys from LBBS for 25 years. They have never exhibited any behavior such as that described in the press. The Districts Counsel team has always been very professional. As he recently stated during Mr. Wes Beverlin's announcement of his

transition to partial retirement, the Districts' legal team at LBBS has always exhibited high ethical standards towards Districts' staff and its team.

Upon motion of Director McOsker, duly seconded and unanimously carried, the meeting adjourned.


KATHRYN BARGER
Chairperson pro tem

ATTEST:


KIMBERLY S. CHRISTENSEN
Secretary

/ee