

CONFORMED AGENDA

SPECIAL MEETING

GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT BOARD OF DIRECTORS
6530 WENTWORTH SPRINGS ROAD, GEORGETOWN, CALIFORNIA

MONDAY, SEPTEMBER 14, 2015

6:00 P.M.

MISSION STATEMENT

It is the purpose of the Georgetown Divide Public Utility District to:

- Provide reliable water supplies
 - Ensure high quality drinking water
 - Promote stewardship to protect community resources, public health and quality of life
 - Provide excellent and responsive customer services through dedicated and valued staff
 - Insure fiscal responsibility and accountability are observed by balancing immediate and long term needs
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1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE – *The meeting was called to order at 6:02 PM. Directors present: Krizl, Hoelscher, Capraun, Hanschild, Uso. Staff present: General Manager Wendell Wall, Operations Manager Darrell Creeks, Office Manager Victoria Knoll. Legal Counsel: Barbara Brenner and Robin Baral of Churchwell White.*

2. ADOPTION OF AGENDA

A. Board Action

Motion by Director Hoelscher to adopt the agenda; second by Director Uso.

Public Comment: *Director Capraun requested the agenda be amended to add "Count Protest Votes" to Item D.*

Motion by Director Hoelscher to amend and adopt the agenda so that Item D reads: "Closure of Hearing and Consideration of Protests and Count Protest Votes"; second by Director Uso.

Vote: Motion carries

Aye: Krizl, Hoelscher, Capraun, Hanschild, Uso.

3. PUBLIC FORUM – This is a special meeting under Government Code Section 54956. Public comment is limited to items appearing on the agenda. Under Section 5494.3 the public shall have the right to comment on any items appearing on the agenda prior to or during consideration of the item. Public comment on items not appearing on the agenda should be made at the regular meetings of the District. Public members desiring to provide comments must be recognized by the Board President, and speak from the

podium. Comments must be directed only to the Board. The public should address the Board members during the public meetings as President, Vice President, or Director followed by the Board member's individual last name.

No disruptive conduct shall be permitted at any Board meeting. Persistence in disruptive conduct shall be grounds for summary termination, by the President, of that person's privilege of address.

Director Krizl clarified that the public comments are limited to the item under consideration and in the interest of time requested that comments all occur under the agenda item.

4. **PROPOSITION 218 HEARING** – The Board will conduct a public hearing to consider the possible implementation of a Supplemental Charge on all treated water accounts. If implemented, the additional charge will result in a not to exceed \$15.08 per month increase to each treated water account. The State of California has required the District to upgrade the Auburn Lake Trails Water Treatment Plant. In order to qualify for a low interest loan from the State, the District must demonstrate an additional source of revenue that will enable the District to meet its current obligations while paying for the new facilities.

Director Krizl clarified that all protest votes need to be deposited in the box on the table before the close of the hearing. He gave a brief overview of the hearing and vote counting process.

A. Presentation by Staff

- 1) Auburn Lake Trails (ALT) Water Treatment Plant Project Background
- 2) Prop 218 Public Hearing Purpose
- 3) ALT Water Treatment Plant Prop 218 Public Hearing Summary
- 4) ALT Water Treatment Plant Loan Amortization Schedule

General Manager Wendell Wall provided a slide show presentation which is included as "Attachment A" to these minutes.

B. Presentation by Legal Counsel – Discussion of legal aspects of Prop 218 process

Robin Baral of Churchwell White provided a slide show presentation which is included as "Attachment B" to these minutes.

C. Public Protest Hearing under Proposition 218 concerning the Supplemental Charge

Director Krizl opened the hearing and instructed the public saying that anyone who wanted to speak would be afforded an opportunity, but in the interest of time, each person would be allowed to comment only once, and each person would be allowed three minutes.

Approximately 20 individuals commented or posed questions on the topic. Board, staff, and Legal Counsel responded as appropriate, and there was considerable discussion.

D. Closure of Hearing and Consideration of Protests and Count Protest Votes

Director Krizl closed the hearing and staff proceeded to count ballots at 8:08 PM. The count was overseen by GDPUD General Manager Wendell Wall and Churchwell White representatives Robin Baral and Barbara Brenner, while a few members of the public observed the counting of the protest ballots. At some point during the counting of the ballots Directors Capraun and Hoelscher left the hearing.

At 8:41 PM Director Krizl noted that Directors Hoelscher and Capraun were no longer present. He announced that the initial count of the ballots showed a total of 868 protest ballots and that the ballots would be validated at the District office on Thursday, September 17, at 10:00 AM. He invited the public to observe the validation process. Protests votes totaling 1,778 were required to stop the Prop 218 process. The initial rough count of 868 being nowhere near the required number, the hearing proceeded according to the agenda.

E. Consideration of Resolution 2015-11 adopting a Regulatory Compliance Supplemental Charge to Treated Water Accounts

F. Board Action

Motion by Director Uso to adopt Resolution 2015-11; second by Director Hanschild.

Public Comment: *Johanna Friesen asked if the motion could be considered in spite of the absence of two Board members. Both Director Krizl as well as Legal Counsel noted that a quorum was present and the vote could proceed.*

Another member of the public asked if the vote could be postponed in order to allow more time for public comment. Director Krizl responded that the opportunity had been given, the Board had followed the 218 process as outlined in the law, and there was no reason to postpone the vote at this point.

Dennis Goodenow commented that the public had been provided ample opportunity to comment and that it is time to move forward.

Vote: *Motion carries*

Aye: *Hanschild, Uso, Krizle*

Absent: *Capraun, Hoelscher*

5. NEXT MEETING DATE AND ADJOURNMENT – Next regular meeting October 13, 2015 at 2:00 PM at the Georgetown Divide Public Utility District office.

Director Krizle announced that on Thursday at 10:00 AM at the District office the final validation tally would be done and that the public was invited to attend and observe the process. He noted that the actual count would be announced at the next regular meeting, October 13, 2015.

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact Wendell Wall by telephone at 530-333-4356 or by fax at 530-333-9442. Requests must be made as early as possible and at least one-full business day before the start of the meeting. In accordance with Government Code Section 54954.2(a), this agenda was posted on the District's bulletin board at the Georgetown Divide Public Utility District office, at 6425 Main Street, Georgetown, California, on September 9, 2015.

Signed Wendell B. Wall
Wendell B. Wall, General Manager

Date 10-13-2015

Georgetown Divide Public Utility District (GDPUD)

Prop 218

Public Hearing Presentation

ALT Water Treatment Plant Project

Wendell Wall
General Manager, GDPUD
Sept 14, 2015





Auburn Lake Trails (ALT) Water Treatment Plant Project Background



- GDPUD operates two Water Treatment Plants
 - Walton Lake plant, built in 1974, serves Georgetown, Garden Valley, and a portion of Greenwood
 - ALT plant, built in 1971 serves the Western portion of the District - Cool, Pilot Hill, Cherry Acres, Meadow View Acres, and a portion of Greenwood
 - Current active treated water connections as of Aug 2015 = 3,554

- The ALT water treatment plant does not meet state standards
 - February 2004, CA State Dept Public Health issued order to modify or replace treatment process
 - District advised CA Dept Public Health that a new Treatment Plant would be built
 - Continued delay carries increased exposure of noncompliance fines



Auburn Lake Trails (ALT) Water Treatment Plant Project Background

- District decision to replace ALT Plant; Factors considered include:
 - Age, condition, and design of current plant made retrofit not feasible
 - Cost effective solution to provide for current and future Divide community needs plus meet local, state, federal requirements
 - Ability to continue to deliver treated water to Divide customers during project period
- Total ALT treatment plant project cost estimated at \$12 million
- On May 28, 2015 the GDPUD Board of Directors approved a 20-year loan in the amount of \$10,000,000 from the State for the construction of the ALT treatment plant
 - Current loan interest rate = 1.663%
 - To qualify for the loan, the District needs to demonstrate ability to meet loan payments
 - An EPA grant of \$1.4 million plus reserve funds will make up the remaining costs



Auburn Lake Trails (ALT) Water Treatment Plant Project Background

- On June 9, 2015 after review of loan repayment options, the GDPUD Board of Directors approved a motion to repay the loan with a flat-rate method
 - \$181 per year per connection for the first 10 years
 - \$164 per year per connection for years 11-20
 - Years 1-10 allocations increased to meet state loan reserve requirements
 - Additional considerations
 - Flat rate method in keeping with industry practices
 - District Board confirmed method easier to defend if challenged
 - Flat rate method very straight forward; reduces risk of issues securing state loan
- In order to raise additional revenue, state law requires a Proposition 218 process



Prop 218 Public Hearing Purpose

- What is Proposition 218:
 - Proposition 218 was approved by the voters in 1996
 - The proposition requires notice be given to the public
 - The proposition requires a hearing be held at least 45 days after notice has been given
 - The proposition limits the use of these revenue increases
 - The proposition passes unless 50% + 1 “no” votes are validated (1,778 no votes)
- The purpose of this hearing is to ensure the public is fully informed about the process and reasons for the proposed supplemental charge



Auburn Lake Trails (ALT) Water Treatment Plant Prop 218 Public Hearing Summary

- ❑ The ALT Water Treatment Plant is 40 years old with state standards deficiency since 2004
- ❑ The ALT Water Treatment Plant replacement project will provide for the current and future needs of the Divide while meeting local, state, and federal standards
- ❑ Further delay carries additional, unnecessary risk for the District
- ❑ Total project cost to replace the ALT plant is estimated at \$12 million
 - Approximately \$2,000,000 will be funded through EPA grant and District reserves
 - \$10,000,000 loan to be repaid over a 20-year period
 - Revenue for loan repayment will be funded with charges of
 - \$15.03 per month (\$181 per yr) per connection for the first 10 years
 - \$13.66 per month (\$164 per yr) per connection for years 11-20

Georgetown Divide Public Utility District (GDPUD)

Prop 218

Public Hearing Presentation

ALT Water Treatment Plant Loan Amortization Schedule

Wendell Wall

General Manager, GDPUD

Sept 14, 2015



ALT Water Treatment Plant Loan Amortization Schedule

Assumptions:

- 1 \$10,000,000 loan
- 2 1.663% interest rate
- 3 One interest & principal payment semi-annually
- 4 20-year term
- 5 3,586 connection base as of May 2015
- 6 One tenth of one year payment funded annually for 10 years until debt deserve equals one annual payment

| Year | Assumes No CIP Reserves Funded | | | | Annual Total | Number of Connections | Annual Total Per Connection | Monthly Total Per Connection |
|----------------------|--------------------------------|---------------------------|---------------------|-----------------------|--------------------|-----------------------|-----------------------------|------------------------------|
| | Annual Debt Service | Reserves (First 10 Years) | Annual Total | Number of Connections | | | | |
| 2017 | \$589,938 | \$58,981 | \$648,789 | 3586 | \$ 180.92 | \$ 15.08 | | |
| 2018 | \$587,938 | \$58,794 | \$646,732 | 3586 | \$ 180.35 | \$ 15.03 | | |
| 2019 | \$587,938 | \$58,794 | \$646,732 | 3586 | \$ 180.35 | \$ 15.03 | | |
| 2020 | \$587,938 | \$58,794 | \$646,732 | 3586 | \$ 180.35 | \$ 15.03 | | |
| 2021 | \$587,938 | \$58,794 | \$646,732 | 3586 | \$ 180.35 | \$ 15.03 | | |
| 2022 | \$587,938 | \$58,794 | \$646,732 | 3586 | \$ 180.35 | \$ 15.03 | | |
| 2023 | \$587,938 | \$58,794 | \$646,732 | 3586 | \$ 180.35 | \$ 15.03 | | |
| 2024 | \$587,938 | \$58,794 | \$646,732 | 3586 | \$ 180.35 | \$ 15.03 | | |
| 2025 | \$587,938 | \$58,794 | \$646,732 | 3586 | \$ 180.35 | \$ 15.03 | | |
| 2026 | \$587,938 | \$58,794 | \$646,732 | 3586 | \$ 180.35 | \$ 15.03 | | |
| 2027 | \$587,938 | | \$587,938 | 3586 | \$ 163.95 | \$ 13.66 | | |
| 2028 | \$587,938 | | \$587,938 | 3586 | \$ 163.95 | \$ 13.66 | | |
| 2029 | \$587,938 | | \$587,938 | 3586 | \$ 163.95 | \$ 13.66 | | |
| 2030 | \$587,938 | | \$587,938 | 3586 | \$ 163.95 | \$ 13.66 | | |
| 2031 | \$587,938 | | \$587,938 | 3586 | \$ 163.95 | \$ 13.66 | | |
| 2032 | \$587,938 | | \$587,938 | 3586 | \$ 163.95 | \$ 13.66 | | |
| 2033 | \$587,938 | | \$587,938 | 3586 | \$ 163.95 | \$ 13.66 | | |
| 2034 | \$587,938 | | \$587,938 | 3586 | \$ 163.95 | \$ 13.66 | | |
| 2035 | \$587,938 | | \$587,938 | 3586 | \$ 163.95 | \$ 13.66 | | |
| 2036 | \$587,938 | | \$587,938 | 3586 | \$ 163.95 | \$ 13.66 | | |
| 20 Year Total | \$11,760,627 | \$588,125 | \$12,348,752 | | \$ 3,443.60 | \$ 286.97 | | |

Proposition 218

Notice and Voting Overview

Georgetown Divide Public Utility District

September 14, 2015

General Overview

- Prop 218 compliance is required whenever an agency proposes to adopt an assessment, or fees or charges for property-related services.
- Prop 218 compliance will vary, depending on whether the agency proposes to adopt an assessment or a fee or charge.
- An increase in water rates is the adoption of a fee or charge for a property-related service.

Prop 218 Definitions

- **Assessment:** any levy or charge on real property by an agency for a special benefit conferred upon the real property.
- Assessments cannot be used to fund an agency's ongoing budget.
- Assessments should require properties that receive special benefits to pay the cost of the public improvements that provide those benefits.
- A "special benefit" cannot be attributable to properties outside of the assessment area. E.g., treated water is not a special benefit if customers outside of the assessment area also receive treated water.

Prop 218 Definitions

- **Fees and Charges:** any levy other than an ad valorem tax, a special tax, or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for a property related service.
- **Water Fees:** No more distinction between “commodity charges” and Prop 218 fees. Providing water is a property-related service.
- **Water:** any system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water from any source.

Prop 218 - Fees and Charges

Prop 218 “Nexus” Requirements for Adopting Fees and Charges:

A fee or charge shall not be extended, imposed, or increased by any agency unless it meets all of the following requirements:

- (1) Revenues from the fee or charge shall not exceed the cost of providing the service.
- (2) Revenues from the fee or charge shall not be used for any other purpose.
- (3) The amount of the fee or charge imposed as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.
- (4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question....
- (5) No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services, where the service is available to the public at large in substantially the same manner as it is to property owners....

Rate Study

- The District did a rate study to comply with the nexus requirement under Prop 218
- The rate study shows that the proposed regulatory compliance charge complies with the nexus requirements under Prop 218
- Information regarding the rate study was included in the notice that was sent to treated water customers

Prop. 218 Procedural Notice Requirements

- Notice must be mailed to the owner of each identified parcel upon which the charge is proposed for imposition
- The amount of the charge to be imposed must be included in the notice
- The basis for the amount of the charge must be discussed
- The reason for the charge must be provided
- The date, time, and location of the public hearing regarding the charge must be included in the notice

Notice Details

- Notice was sent to all affected property owners, referred to as treated water customers
- Notice included the amount, basis, and reasons for the charge
 - Maximum amount of regulatory compliance supplemental charge: \$15.08/month
 - Basis for charge: rate study available on District's website
 - Reason for charge: debt repayment for the State Water Resources Control Board loan to replace the ALT treatment plant and related systems
- Public hearing date, time and place included in notice

Not required in Prop. 218 notice for a charge

- Discussion of any additional funds used for the project
 - This can be included, but is not required for the notice
- Board approval of the notice
- Explanation of the benefit to affected property owners as a result of the regulatory compliance supplemental charge
 - The charge is not an assessment that must identify the benefit to the property that is subject to the assessment

Collection and Tabulation of Ballots

- The District may designate an address to return ballots by mail
- The ballots are tabulated by an impartial person such as the Clerk of the Board
- Impartial District staff may tabulate the ballots in public view

District's Tabulation of Votes

- District collected ballots through the following means:
 - By mail to Churchwell White, the District's legal counsel
 - In person at the District's office
 - Through the slot for payments at the District's office
- Ballots were collected and placed in a locked container
- The ballots will be counted by impartial District staff, removed from the locked container and tabulated in public view

Conflicts of Interest

- A public official ... has a prohibited conflict of interest and may not make, participate in making, or in any way use or attempt to use his or her official position to influence a governmental decision when he or she ... has a disqualifying financial interest [that] will have a reasonably foreseeable material financial effect, distinguishable from the effect on the public generally

Public Generally Exception for Public Services

- The financial effect on a public official's financial interest is deemed indistinguishable from that of the public generally if the official establishes: the decision establishes or adjusts ...fees... for water... services or facilities that are applied equally ... to the official's interest and other businesses, properties, or individuals subject to the assessment, tax, fee, or rate

Treated Water Customer Board Members

- A Board Member who is a treated water customer is not prohibited from voting on the proposed regulatory compliance supplemental charge
- The regulatory compliance supplemental charge is applied to all treated water customers equally
- A Board Member's interest in the proposed regulatory compliance supplemental charge is indistinguishable from the public's generally
- A Board Member may vote on the proposed regulatory compliance supplemental charge