

MINUTES
Forest Lakes Mutual Water Company
Board of Directors Meeting On-line Meeting
May 9, 2023 7:00 p.m.
Public Session
910 Fern Avenue, Felton CA

This meeting will be conducted by video/teleconference. Shareholders are welcome to attend all public session meetings via Zoom.

CONVENE MEETING/ROLL CALL: The meeting was called to order at 7:00 p.m. by President P. Gonda. Attending: Directors Dennis, Gonda, Kelly, Maskolunas, Wade, West. Staff: General Manager D. Cortez. Shareholders: S. Hector, L. Taylor, S. Knoepler, C. Wade, B. Davidson

ADDITIONS/DELETIONS TO AGENDA: None.

SHAREHOLDER/PUBLIC COMMENTS:

- Shareholder comments: None.
- Forest Lakes Firewise & Safety Association update: None.

APPROVAL OF MINUTES:

- Minutes of April 11, 2023 public session meeting: A motion to approve the minutes of the April 11, 2023 public session meeting was seconded and passed by unanimous vote to approve.

COMPANY REPORTS:

- Financial Reports:
General Manager Cortez provided the financial report for April, 2023, noting the following:
Cash on hand March 31, 2023: \$962,932.50; cash on hand April 30, 2023, \$957,927.10. Income through April 30, 2023 was \$723,448.75; expenses through April 30, 2023 were \$173,850.82. Net income through April 30, 2023 was \$549,597.93.
Noted overages include: Water Maintenance, Outside Services: \$434.07 for electrical repairs needed at the 10D filter plant. It is not expected that this line item will be over budget at year end. Vehicle repair: as noted last month, the overage is related to replacing tires on the F350 truck. This account may be over budget for the year as the brakes and the calipers on the vehicle had to be replaced at the beginning of the month.

It was noted that during the March open session meeting, the internet connection of one of the Board members failed. On logging back for the executive session, a question arose regarding professional fees in 2022. As this was mentioned in conjunction with a request for a third-party audit, and seemed to be of some concern, Cortez addressed those items which could be discussed in open session, as follows: Professional fees were all examined and verified during the internal financial review, which is on the agenda for the meeting. The fees consisted of the following: The annual accountant's fee; legal counsel research, Board-approved on 3/8/2022, regarding Altamount easements; Title Research as recommended by legal counsel, Board-approved on 5/10/2022; Legal counsel research regarding the Water Moratorium, Board-approved in executive session and reported in public session on July 12, 2022; Legal counsel review of draft MOU between FLFSA and FLMWC, Board-approved on 8/22/2022; Legal counsel review and updating of bylaws, Board-approved on 10/11/2022; Board training, approved in executive session and reported in open session on 10/11/2022; and three additional items for which legal counsel was engaged and which, due to their confidential nature, cannot be discussed in public session.

Cortez added that she has spoken with another loan manager with SBA and answered all questions for him to complete his review and send to the next level representative.

A motion to approve the financial report for April, 2023 was seconded. The motion passed by unanimous vote to approve.

- Operations Report:
Cortez reported the following: System production totals for all wells for the calendar month was 810,027 gals. Quarry wells for the month were 80,000 gals. There were no system leaks and no system call outs. There were 3 excessive users. Loss rate was 4.5%. Staff continue to train the OTS leased operator.

The Scenic treatment plant continued to be operated manually throughout April; it has now been repaired and returned to normal operation. The pump and motor failed at well 1D and were replaced. The well has returned to normal operation. The booster to tank 7 was repaired. A new chlorinator was installed at well 4C which is now in operation and producing very well over long periods of time. Well 10D was off-line while Granite replaced a damaged water line. It is now back on line. FLMWC fixed a few of Granite's fittings and completed the connection at our end. Testing was clear on 5/2/22 and the well is being returned to normal operation. Electrical problems with the treatment plant for 10D were addressed by a contracted electrician. Well 10A pump and motor failed and was off-line for the last

two weeks of April. Granite's electrician confirmed that motor and pump need replacement. The Granite employee responsible being off for two weeks, Granite agreed to allow our contractor to complete the work and provide a PO# to bill Granite directly. Work is scheduled for completion 5/5/2023 pending PG&E removing their line.

Staff removed all Visqueen from the Ferrari culvert project; the area will be left exposed for the summer months to allow it to dry. Staff cleared the reservoir bed and beach; data logger data retrieval was verified, wetted width measurements calculated and the dam boards were installed. CDFW permit-required monitoring is taking place. Staff paved the road area on Lakeside that was excavated to repair a leak. The park lawn was mowed. A walk-through with RCD for the Quarry culvert match grant is set for 5/15/23. Flyers have been sent out to recruit lifeguards. There are two potential candidates, and one lifeguard is returning. The lake is scheduled to open on 6/8/23.

Director Kelly, noting that there were two pump failures, asked if there are other pumps of the same age that may soon need replacing. He asked if pump replacements are included in the budget, and about approximate costs. Cortez noted that Granite is paying for the replacement of 10A. Cost to FLMWC for the other will be approximately \$3000.

ADVISORY COMMITTEE REPORTS:

- Water Conservation and Water Committee: No report
- Recreation Committee: Dir. Wade said that the committee is planning a BBQ to celebrate the lake opening, and will be recruiting volunteers
- HR Committee: Dir. West reported that employee D. Glenz now has both D2 and T2 certification, and has started field training with Water Operator staff.
- Road & Safety Committee: The committee met. Cortez updated the committee on the engineer's report on the reservoir. The committee inspected the site of the Laurel repair which was conditionally approved by the Board in April pending the committee's recommendation. After the site inspection, the committee recommended construction of the conditionally approved project. The committee noted new potholes on Tollhouse and the need for updated pricing to repair these. It was decided that "No Name Road" can be left for another time. Committee also discussed options of using slurry or chip sealing as options for extending road longevity.
- Rules Committee: See agenda item under New Business.
- Finance Committee: Cortez reported the completion of investment in short-term Treasury bills, with the goal maintaining liquidity while securing 5.537% interest on the invested funds. Dir. Dennis reported consolidating of the two Liberty Bank money market accounts into one account at a higher interest rate.
- Strategic Planning Committee: No updates.
- Community Fire Prevention Committee: No updates.

NEW BUSINESS:

1. **Discussion item:** Annual Shareholder meeting and election: Cortez noted that the usual date for the event is the first Sunday in June, but 2 directors have indicated they would be unable to attend that day. The question was raised as to an alternate date. Saturday, June 3 was suggested. Five directors indicated they would be able to attend on June 3. Dir. Maskolunas said she would not be attending either day. A motion to change the date of the annual shareholder meeting to Saturday, June 3 was seconded. Motion was approved by unanimous vote. Shareholders will be notified.
2. **Discussion item:** Review of FLMWC financial records for FY2022: Dir. Kelly presented the Report of the Review of FLMWC FY2022 Financial Records. He reviewed in detail what the review included: emphasized that the reviewers follow best practices and procedures: and that only a few minor administrative errors were found. A motion to accept the results of the 2022 annual review was seconded. The motion carried by unanimous vote. *[Note: A complete copy of the report, and the procedures used to guide the review, was emailed to shareholders on 5/15/23.]*
3. **Discussion/Action item:** Shareholder/Board Member request for 3rd party audit of company financials to be completed within 60/90 days: Dir. Maskolunas said "numerous shareholders have requested a financial audit in 90 days," and she is trying to relay the wishes of the shareholders.
Cortez said that one shareholder had contacted her with a request for an audit, the stated concern being an approximately \$45,000 expenditure listed in the 2023 budget without explanation. Cortez offered to answer any questions about the amount in question. The \$50,000 stock transfer fee being the budget item closest in amount, Cortez explained the fee but also said if this was not the item, to please specify. The shareholder then responded that they were referring to "potential reserve spending of \$44,334.01...what is this amount reserved for?"
Cortez explained by pointing out that the anticipated income for 2023 is \$872,839.00, while budgeted expenses of all the detailed expense items are \$917,173.01. Anticipated expenses are greater than anticipated income, leaving a deficit of the \$44,334.01, which would be covered by current reserves. Reserves are shown at the top of the budget. The actual deficit will be determined by expenses paid out in 2023. If FLMWC does end the year with a deficit, the capital improvement/infrastructure loss reserve would be used to cover the deficit.

The emergency reserves are required by the State. The State Water Resources Control Board requires that 6 months minimal operating expenses be held in reserve at all times. The other reserve account is contributed to annually and is meant to be saved until there is enough in the fund to pursue hydrology to locate potential site[s] for a new well and then engineering/permitting and installation of the new source [well].

Following this explanation, the shareholder emailed stating an understanding that the reserves were earmarked for emergency/catastrophic events and not to balance a deficit. Cortez responded to this email, pointing out that the reserve account is also for capital improvements, that the budget includes \$180,000 in water capital improvement and \$77,000 in road capital improvements. There is a budget deficit because the Board did not want to increase revenues by 28% to create a neutral budget. She directed the shareholder to the discussion found in the December meeting minutes.

The shareholder also stated “we should be able to qualify for FEMA assistance/funding to pay for additional damage to Scenic.” Cortez responded to that question as well. In summary, it was clarified that the shareholder’s concerns were specific to the 2023 budget, not the 2022 financials. An audit would be to the 2022 financials and would not address the shareholder’s concerns. Cortez then provided background information regarding current company procedures on financial reviews and audits. Reviews and audits that are regularly done include an annual comprehensive financial review of the previous year’s books. Results and recommendations are then presented at a Board meeting. A report similar to the one preceding this agenda item is completed annually and information pertinent to the review is stored in the office and available for public inspection.

These are the reviews and audits regularly completed:

Annually, the accountant reviews both accrual and cash P&L and balance sheet as well as specific expense items, particularly those with contracted work, including capital improvements, road and culvert repairs, professional fees, outside services and miscellaneous expenses. The accountant provides all year-end journal entries to capitalize expenses, book depreciation, adjust SBA principal and interest, book assets and correct any errors that might be found.

Annually, FLMWC is audited by ICW Group (our Workers’ Compensation carrier) to assure that proper documentation is kept on all contractors including certificates of insurance, that payroll and the payroll tax liabilities match reporting, and that employee workers’ comp categories are correct.

Annually, FLMWC is audited by our general liability carrier, which also checks contracted work vs. payroll, that proper certificates of insurance for contractors are on file, and verifies that all information provided to acquire the insurance was correct.

All transactions related to the SBA loan are audited by SBA, including all contracts, all receipts, all payments, all work completed. Tax returns and financial reports are reviewed. SBA can request audited financials if they so choose.

Regarding additional CPA audits, Cortez stated that at the November, 2021 Board meeting during the review of the 2022 budget, she noted that the professional fees line item was increased by \$2500.00 to begin saving year-over-year for CPA audited financials with a cost estimated at \$10-\$14K. This was done not because this type of audit is a legal requirement but because in dealing with FEMA, USDA and State Water Resources Control Board, should FLMWC request and receive funding these three agencies could require audited financials. At that time Cortez spoke with two firms regarding higher-level types of financial audits. The estimated cost at that time for reviewed financials, which is a third-party review of company financials and is in addition to the review by our tax preparation accountant, was \$7,000-\$10,000. The cost for audited financials was estimated at \$10,000-\$14,000. We do not have current estimates at this time. Estimates would need to be obtained prior to moving forward. Not all accountants are accredited to complete this level of financial review, so assuring that they are qualified would be a key element in either level of review or audit.

Pres. Gonda asked if there were questions for the General Manager. There were none. He said he had a question for both Dir. Maskolunas and the G.M.: The question from the shareholder was about concerns regarding the 2023 budget. No year was specified in the agenda item for the requested audit. Was that about the 2023 budget? Dir. Maskolunas replied that she believed the shareholders were concerned about 2022, and that there had been multiple requests for several items.

Pres. Gonda asked if there was a motion. Maskolunas asked, “if shareholders want to ask something of our company, do they make a motion?” Gonda said that Board members make motions, adding that shareholders are welcome to come to meetings and voice their concerns, or contact the General Manager. He noted that as the request conveyed by Dir. Maskolunas did not specify the year of an audit, and since the shareholder who called the office was concerned with FY23, he asked Dir. Maskolunas if the request was for an audit of FY22. Dir. Maskolunas replied that she believed “that was one of the shareholders’ highest concerns, yes.” Pres. Gonda asked again for clarification. Dir. Maskolunas said there were actually multiple requests and each of them was a little different. Shareholders wanted more transparency and wanted a 3rd party to do the audit. Pres. Gonda noted the extraordinary amount of transparency involved in preparing the FY23 budget, including “open office” hours, multiple opportunities for shareholder input, and distribution of the proposed FY23 budget presentation to shareholders in October, 2022. These efforts were made because we knew there were serious ongoing structural budget issues.

Pres. Gonda called for a motion. Dir. Maskolunas asked if she could ask a question, as follows: Do they [shareholders] make a motion? Do we need a motion to have a 3rd party audit, even though many shareholders want that? Pres. Gonda: Yes we do.

Dir. Maskolunas said that’s not clear. Dir. Kelly said it should be clear; it would cost a considerable sum to have a 3rd party audit, so it would have to be something we agree on as a Board.

Dir. Dennis referenced the cost of such an audit, and asked if this request is coming from a majority of the 300+ shareholders. Dir. Maskolunas asked, so if a majority of shareholders wanted to remove the President, they could do that by petition, right? What can the shareholders do without having a motion passed by the Board? Pres. Gonda noted that the discussion needed to stay on topic.

Asked about the motion, Dir. Maskolunas said there is a motion to have a 3rd party audit on the financials of FLMWC. Dir. West commented that based on what the G.M. had said about the kinds of audits, it would be good to specify the type of audit being requested so that we can ask for the right kind. Gonda explained the kinds of audits possible.

Dir. Maskolunas said that the shareholders she heard from specifically said a 3rd party audit, and that she was relaying information from people who have asked that of her.

Dir. West asked for a concise motion. Dir. Maskolunas then moved that FLMWC have a third-party audit of the finances conducted and completed in 90 days to meet shareholder request. There was no second. The motion died for lack of a second. Pres. Gonda asked if anyone would like to make an alternate motion. There was none.

Dir. Maskolunas said she'd like to make a statement, as follows: "It has been my pleasure to serve our community, and effective immediately, I am stepping down from my position as a director." She terminated her connection to the Zoom meeting. Pres. Gonda asked to let the record reflect that Dir. Maskolunas has stepped down from her position with the Board of Directors.

4. **Discussion/Action item:** Revised Excessive Water Use Policy: Dir. Wade presented the revised policy. He related the history of tightening water use requirements, and went over the various "tiers" in the policy. In discussion, Dir. Kelly asked "empirically, what has been the highest use?" Pres. Gonda asked if the changes capture the intent not to ensnare people for one-time leaks. Wade replied that the appeal process was tuned up, that notifications and warnings are provided and that there is forgiveness once per year. Gonda asked about the \$75 reconnection fee; Dir. Wade said that was already existing. Dir. Kelly questioned the spread between 250-500 gpd. He wondered also if it is possible to predict issues by using data. After further discussion, Dir. Kelly moved to approve the updated water use policy subject to change in language regarding the reconnection fee and minor language modifications on pages 21 and 24. The motion was seconded. Pres. Gonda amended the motion to include "friendly amended minor corrections to correct grammar but not to change substance." The motion as amended was passed with unanimous vote to approve.
5. **Discussion/Action item:** Excess Liability Insurance Coverage: General Manager Cortez provided the following information: Our general liability policy, underwritten by Nautilus, renewed on April 16. 15 days prior to the expiration Nautilus sent a notice of non-renewal of our excess liability policy, which is insurance that sits on top of our other policy and covers losses to the property of others, or other occurrences that present a liability to the company. It does not cover damage to Forest Lakes property but would cover damage to property where FLMWC infrastructure caused damage. The policy, including general liability, excludes subsidence [land movement]. Insurance Agent D. Martini requested an extension through 4/29/23 in order to provide time to shop the coverage to multiple underwriters. The request was approved but the extension has expired. Amwins brokerage approached over 25 underwriters all of whom denied excess liability coverage. Only one carrier was found that was willing to write an excess liability policy, and then for only \$1,000,000 at a cost of \$15,827.00. By way of comparison, last year's coverage was for \$4,000,000 and cost only \$8,683.09. Cortez next contacted G. Pappas at JPRIMA, risk insurance offered through CalMutuals. She asked specifically for GL& Excess and explained the need for excess coverage. The initial response was they could consider casualty only [no property] and asked if FLMWC currently has D&O coverage. He said he would recommend at a minimum, GL and D&O and could "explore" Excess. He sent an application and a requirement for 10 years' loss runs. In a follow-up email, Pappas indicated he would like to write the GL, D&O, Auto, and possibly the Excess. Cortez has not completed the application, pending Board review and recommendation. Per Cortez, the unavailability of Excess Liability coverage has nothing to do with FLMWC history but everything to do with the current market, which suffered losses subsequent to the CZU fire and more recently, the severe winter storms. Cortez notes that all the policies other than Excess that he is looking to provide have been renewed recently, and carry fees for early cancellation. She noted that approval of \$15,827.00 for excess would result in a budget overage of \$5,876.10. There was discussion focused on whether the cost of the coverage is worth the expense. Cortez stated that in the past 10 years, FLMWC has had only one incident [pipe break on Fern] and the cost of that was \$86,000. After discussion, Dir. Dennis moved that FLMWC not pursue Excess Liability Coverage due to the cost. The motion was seconded and passed by unanimous vote.

PUBLIC MEETING ADJOURNMENT TO CLOSED SESSION: The public meeting was adjourned at 8:46 p.m.

RECONVENE TO OPEN SESSION FOR CLOSED SESSION ACTION ITEM REPORTING: The meeting was reconvened at 9:52 p.m. to report that a decision was made regarding an excess water usage appeal.

MEETING ADJOURNED: The meeting was adjourned at 9:52 p.m.