

Golden West Community Service District

P.O. Box 448, El Dorado, CA. 95623

www.gwcsd.org



July 13, 2013- Meeting Minutes for Golden West Community Services District

Regular Meeting, held at Fire Station 44

6109 Quartz Dr., El Dorado, CA 95623

1. The meeting was called to order at 10:44 a.m. Directors present were Ed White, V. Emi Kimura, Rod Repschlaeger, Audrey Keebler and John MacConnell. Kathy White was present as acting secretary.
2. Public Comments- Items not on the agenda- This item has been moved to the beginning of the meeting. No community comments were made at this time.
3. Approval of the agenda for July 13 and meeting minutes for June 25, 2013 were each approved by a 5-0 vote.
4. Treasurer's Report- The district has a current balance of \$206,978.31.
- A. Proposed 2013-2014 Budget- The proposed budget was approved by a 5-0 vote.
5. Board Positions
- A. LAFCO2013-2014 Inter-Agency information needs to be submitted.
6. New Business- no new business was discussed.
7. Old Business
- A. Culvert Dolomite/Galena Repair- no action at this time.
- B. Manganite culvert- no action at this time.
8. General Manager: Vacancy- the position is still vacant.
9. Unfinished Business
- A. Road Policy Clarification- The policy was worked on at a workshop meeting after the correspondence was read.
10. Correspondence- A memorandum from GWCSD's attorney, Robert Laurie, was read into the minutes (see below). It was a response to the letter submitted by Laurie Babbage at the June 25 meeting. The board will send a letter to Ms Babbage regarding the memorandum.

There was a five minute recess of the meeting at 10:50. At 10:55, the meeting was reconvened to discuss the draft Road Policy.

11. The meeting was adjourned at 1:00 p.m.

2013 Scheduled Regular Meetings

August 10	October 12
September 14	November 9
	December 14

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Robert A. Laurie

July 11, 2013

MEMORANDUM

To: Board of Directors GWCSO

RE: District Maintenance of Private Roads

1. BACKGROUND - The Golden West CSD was formed and is empowered to perform, a singular act; specifically to maintain the public roads within the jurisdiction of the CSD.

The road system within the CSD consists of both public and private roads. Over a long period of time and on numerous occasions, property owners fronting on private roads have requested or demanded that such private roadways which provide access to their individual properties should be maintained by the CSD.

The most recent request/demand was submitted by letter dated June 23, 2013 and signed by a number of property owners.

The purpose of this memorandum is to clarify the CSD's responsibilities and obligations to maintain roads that are not considered public.

2. PUBLIC v PRIVATE ROADS - When the Golden West Subdivision was created, a specific condition of the approval was the public dedication of certain, specified roadways. These roadways are identified on the final subdivision map. The County accepted the dedication thus making such roads public however at the same time the County refused maintenance responsibilities and required the formation of a public agency for such maintenance purposes. When the GWCSO was lawfully approved by El Dorado County LAFCO, it was ordered to be limited in its powers to the maintenance of such public roads.

Those roads within the CSD that were not dedicated to the County are private roads which are lawfully served through the grant of non-exclusive access easements. The granting of such easements to individual property owners allows access to such owners, their guests and their invitees (service vehicles). Maintenance of such easements is a responsibility of the individual property owners.

3. DISCUSSION – The request/demand calling for CSD assumption of maintenance responsibility on the private easements as set forth in the letter of June 23, 2013 are inconsistent with and would be a violation of law.

It is suggested that there has been a history of CSD expenditures for maintenance of the private easements. Accordingly, it is argued such roads have become public. That is simply not the case. First, any expenditures of public funds on private easements would have been unlawful and should not have been done. Further, any such expenditures that were made did not convert the roads to public ownership. The most that can be said in this regard is that expenditure of public funds on the private easements resulted in such easements being made available for public use but not ownership. This position would be consistent with the County's current policy on the question.

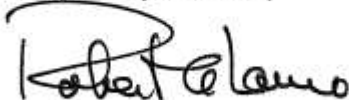
This issue has long been discussed in the County, especially the inequities that have arisen as a result of the public's use of but not maintenance obligation for, such private roadways. The only solutions that have been proposed to address such inequities were directed at requests for the County to condemn such roadways and bring them into the County maintenance system. The County has shown a great deal of reticence in assuming such obligations.

The issue has previously been raised regarding the circumstance whereby properties on the private roads pay the same assessment as those on the public roadway. The rule regarding assessments is that properties may only be assessed at a rate equivalent to the benefits received. It is my understanding that all the properties served by private easements utilize the publicly maintained roadways to access the easements. Accordingly, it would seem that such properties receive the same benefit as all other properties that front the public roadways.

4. CONCLUSION - In light of the above it is concluded that:

- a. Absent acceptance by the County of an offer of dedication, the roadways designated as easement roads are not public.
- b. Prior expenditures of public funds on private roadways do not automatically convert private roads into public roads. However, such expenditures would cause said roadways to be made available for public access.
- c. Maintenance of private easements, absent a road maintenance agreement among the owners or the establishment of a road association (HOA), is conducted through enforcement of California Civil Code Section 845 which requires that all those who lawfully utilize an easement must pay their fair share of the cost of maintenance therefore.

Respectfully submitted,



ROBERT. A. LAURIE