

## **Lake Berryessa Resort Improvement District**

Responses to Questions Submitted on  
June 14, 2016 (Board Meeting) and June 19, 2016 (email to Director Dillon)

### **1. How can residents or property owners challenge or protest decisions made by the District's Board of Directors? (TT, FF)**

- The District Board of Directors encourages participation by LBRID residents and parcel owners in all areas of District governance. All District Board of Directors meetings are calendared in advance with related agendas posted not less than 72 hours prior to the actual meeting.

The District Board of Directors meeting calendar can be found at:

<http://www.countyofnapa.org/workarea/downloadasset.aspx?id=4294985560>

The District meeting agendas and items for posted agendas), as well as past meeting agendas and minutes can be found at:

[http://napa.granicus.com/ViewPublisher.php?view\\_id=6](http://napa.granicus.com/ViewPublisher.php?view_id=6)

Each Board of Directors meeting includes a segment specifically designed for public comment which allows individuals up to three minutes to discuss District related issues that are not on the current meeting agenda.

With regard to certain actions proposed to be taken by the Board of Directors, property owners in the District have the right, depending on the nature of the action, to lodge protests or cast ballots in administrative proceedings, and to be heard prior to the action being taken. One of these circumstances is approval of rate increases. The procedures for protests and hearings on rate increases are set forth in Proposition 218 (contained in Article XIII of the California constitution) and summarized to some extent below in response to question 7. Residents should review the provisions of Proposition 218 to fully understand the required procedures and their rights.

### **2. How can residents challenge, protest, or require justification for the current rates, or any rate adjustments in the future? (FF)**

- Proposition 218 is the initiative passed by California voters in November 1996 that establishes the process by which public agencies can raise fees for services. It was designed to provide greater public involvement in the entire rate setting process. Among other things, as noted above, Proposition 218 requires the agency to mail a public notice to every single property owner regarding the proposed rate increase and then to hold a public hearing no less than 45 days after the notice was given. It also establishes a protest process for the public to follow if they wish to oppose the proposed rates. Proposition 218 sets forth requirements related to the increase of

any property related fee. Rates must be based on the cost of providing the service to the recipients. The District has held several Proposition 218 elections in the past.

**3. How will the voting be handled with the delinquent parcels that the county has assumed ownership of? Will Napa County participate in those votes regarding each owned LBE Parcel? (TT, FF)**

- As a property owner, Napa County would have the right, depending on the nature of the proposal, to cast ballots and/or to lodge protests in any LBRID administrative proceedings to express its position regarding any new or increased assessments, or fees or charges that it would be subject to paying. As to any formal election of the LBRID electorate administered by the Registrar of Voters, however, the County would not be eligible to vote.

**4. Will our two-thirds vote be reduced to compensate the new total of LBRID parcels owned, minus these parcels until they are sold to the public? (TT)**

- No, the County currently holds voting rights in administrative votes conducted under Prop 218 for five parcels so all voting thresholds remain unless the County decides to abdicate its rights.

**5. How can we find the number of parcels available to buy, and what their current costs are? (FF)**

- The Lake Berryessa Estates, at any given time, may have parcels available to purchase through private sales and through auction proceeding initiated by the Tax Collector. Based on a quick look of real estate websites, a few parcels are currently listed for sale.

The Tax Collector does not currently have any parcels up for auction. While many parcels are eligible for auction, any and all bids have been insufficient to cover the past due tax, assessment and fee liens outstanding.

**6. Regarding the number of LBE parcels that have been auctioned, how many have been sold and how many have not been sold? (FF)**

- The District initiated foreclosure proceedings on 39 properties, which to date have resulted in the payment in full on 14 properties, and judgments in foreclosure on 20 more parcels. Thereafter the District conducted Sheriff sales on 5 properties, resulting in no bids. The District obtained creditor deeds and became the legal owner of those 5 properties. The District transferred ownership of those parcels to Napa County and collected past due assessments.

In addition, the Treasurer-Tax Collector conducted property tax auctions on 11 properties in the District which were delinquent in the payment of general taxes, which resulted in no bids.

**7. What are the steps needed, preferably on an ongoing basis, via the internet, to determine the identification and specific number of Parcels that Napa County currently owns, and what the purchase price and date was for each Parcel purchased? (FF)**

- To date, the County has taken ownership on five parcels from the District. The Lake Berryessa Resort Improvement District (“District”) initiated judicial foreclosure on these parcels and the County acquired the parcels from the District. On March 22, 2016, the District approved the transfer of parcels 016-191-004-000, 016-192-004-000, 016-201-001-000, 016-213-009-000 and 016-213-010-000 to the County. The County paid off the delinquent assessment amounts on the parcels and will pay future assessments until such time as the parcels can be sold.

**8. Regarding LBE’s individual Parcels, are the typically annual taxes paid on the Napa County owned Parcels, and if not, what are the specific details of these deferred annual costs, as well as the detailed information of the outcome of how these needed taxes are recovered to Napa County? (FF)**

- Assessments that directly benefit the District will continue to be paid by the County until the parcels are sold. County payments will include LBRID bond assessments. Government-owned property is generally exempt from ad valorem and special taxes but the County may decide to continue payments of the T-1 Tax.

**9. Regarding the 2012, Grand Jury’s report related to LBRID’s Water and Sewage history, on page 4, bullet point #1, the number of stated LBE Parcels that were in default was 59. What is the current number of parcels in default? (FF)**

- As of June 30, 2015, there were 61 delinquent parcels, seven of which have structures. This information is contained in the continuing disclosure report which is required to be filed on the Electronic Municipal Market Access system. The continuing disclosure report for the fiscal year ended June 30, 2015 can be found at the following webpage:  
<http://emma.msrb.org/IssueView/IssueDetails.aspx?id=9505DE524520F20C36BEC08D410EC5EC>

After accepting the EMMA terms and conditions, you will proceed to a webpage that contains information related to the outstanding bonds. By clicking on the continuing disclosure tab, you will gain access to all continuing disclosures filed in accordance with bond terms.

**10. When did the State Attorney General reduce the \$1.2M fine to \$400,000, and where can we see/watch these meetings or read the public minutes? (TT)**

- According to the attached narrative history of the District and the link to the Central Valley RWQCB decision included at [http://www.waterboards.ca.gov/centralvalley/board decisions/adopted orders/napa/r5-2011-0538 enf.pdf](http://www.waterboards.ca.gov/centralvalley/board%20decisions/adopted%20orders/napa/r5-2011-0538_enf.pdf), the District was fined \$400,000 for discharges of

treated effluent and storm water into Stone Corral Creek in 2005. The District appealed the fine and the State filed a \$1.2M lawsuit against the District. The situation was resolved, the bond assessment was passed by the District parcel owners and a \$400,000 stipulated judgment (fine) was approved. The judgment is to be paid over ten years while bearing no interest.

**11. Regarding LBE's Residents requests, initiated approximately 6 months ago, for a tour of LBE's Water & Sewage Treatment Plant's areas of operations, what is a guestimate date to do so? (FF)**

- District Staff suggest a tour of water and wastewater facilities to be held on July 20, 21, 27 or 28th. Please select one date. Start Time - 9 am. Kickoff Location – Water Treatment Plant (parking above on Deputy Drive). Facilities tour to include Water Treatment Plant, Storage Tank and Booster Pump Station, Wastewater Lift Station and Facultative / Storage Ponds + Disposal Fields.

**12. Regarding LBE's Water & Sewage incidents of spillage, were any insurance liability policies in place and thereby involved in any part of the liability of those incidents? (FF)**

- The District carries both Property and General Liability coverage; however, there is no coverage for damage to the facilities caused by average wear and tear or for a fine levied against the District by another government agency. Insurance policies exclude penalties from coverage so the SWRCB fines that occurred because of the spills are not coverable events.

**13. Is Phillips insured against spills and other potentially fineable malfunctions, miscalculations or mishaps that might occur while running the water/sewer system? The residents of our community should not be the liable party for such occurrences. (TT, DS)**

- Phillips and Associates is required to keep current insurance policies for general, professional, and automotive liability. The amount for general liability is \$2M and the amount for professional and automotive liability is \$1M. As the permit holder, liability for violation (including discharges of wastewater) of any permit held by the District is the responsibility of the District. Should a violation occur due to negligence of Phillips and Associates to follow the scope of services written into the contract or as written into one of the District's permits, the District has the ability to seek compensation from Phillips and Associates. Violations occurring as a result of faulty infrastructure or acts of nature are the responsibility of the District.

**14. Can I get a detailed (line-by-line) itemized list for construction that has been completed at the LBRID Waste water/sewer plant representing the \$3,481,753.39 spent in fiscal year 2014/2015? (TT)**

<u>Project</u>	<u>Actual</u>	<u>Funding Source</u>
Water Tank Replacement	\$ 406.56	CDBG
Water Treatment Plant – Intake Electrical Project	112,040.78	Bond
Generators	3,490.00	Bond
Wastewater Storage & Expansion	3,461,153.81	SWRCB
Intake Replacement Project	235,467.45	SWRCB
<b>Total 2014-15</b>	<b>\$ 3,812,558.60</b>	

**15. Can I get a detailed (line-by-line) itemized report for the construction currently being done, allocating the \$2,621,047 spent and planned in the fiscal year 2015/2016? (TT)**

<u>Project</u>	<u>Actual To-Date</u>	<u>Budget</u>	<u>Funding Source</u>
Water Tank Replacement	\$ 39,446.43	\$ 1,447,675.00	CDBG
Wastewater Storage & Expansion	842,066.09	2,000,000.00	SWRCB
<b>Total</b>	<b>\$ 881,512.52</b>	<b>\$ 3,447,675.00</b>	

The work performed on the Wastewater Storage & Expansion Project included the following:

1. Spray field Pump Station Pump, Piping, Electrical, and Instrumentation
2. Site work and Drainage
3. Change Order Work
4. Facility Start-up

The work performed on the Water Tank Replacement Project included the following:

1. Completion of Plans and Specifications
2. Advertisement for Bids

**16. Can I get a detailed (line-by-line) itemized list of the construction that is currently budgeted for fiscal year 2016/2017? (TT)**

<u>Project</u>	<u>Budget</u>	<u>Funding Source</u>
Water Tank Replacement*	\$ 717,675.00	CDBG
Wastewater Storage & Expansion	874,900	SWRCB
<b>Total</b>	<b>\$ 1,592,757</b>	

*\* Amount budgeted in fiscal year 2016/2017 is the remaining appropriation carried over from fiscal year 2015/2016. The total budget for the replacement is \$1,447,675 with \$730,000 expected to be spent in 2015/2016 and \$717,675 expect in fiscal year 2016/2017.*

The work planned for Wastewater Storage & Expansion Project includes the following:

1. Wetland and Valley Oak Mitigation Project
2. Lift Station Rehabilitation Project
3. Facility Start-up and testing

The work planned for the Water Tank Replacement Project includes the following:

1. Replacement of the three existing potable water storage tanks
2. Replacement of two existing pump stations
3. Facility Start-up and testing

**17. What is the total cost to run the water/sewer system for one year? (DS)**

- o Annual costs for the District are comprised of operator labor and expense, administration labor and expense, electrical costs to run the facilities, chemical costs for treatment, laboratory testing, permit renewal fees, bond repayment, liability insurance, and other miscellaneous costs associated with equipment/facility repair, like pipes and other appurtenances.

The table below identifies the expenses for the District for the past four years.

<b>Fiscal Year</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016*</b>
Total Services & Supplies	\$ 1,059,343.09	\$ 729,453.35	\$ 545,128.55	\$ 505,995.03
Total Other**	305,348.56	289,722.84	302,075.87	540,442.63
<b>Total Cost</b>	<b>\$ 1,364,691.65</b>	<b>\$ 1,019,176.19</b>	<b>\$ 847,204.42</b>	<b>\$ 1,046,437.66</b>

*\*Through June 20, 2016*

**18. What is the total amount of revenue that is taken in from all sources per year, such as: taxes, loans, bonds, water/sewer fees from residents, and all others. (DS)**

<b>Fiscal Year</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016*</b>
Taxes	\$ 35,384.28	\$ 32,842.14	\$ 29,759.38	\$ 26,814.07
LBRID T-1 Tax	259,638.46	252,114.98	272,040.00	234,497.00
Sewer/Water Usage Fees	341,503.78	562,641.11	537,553.59	458,914.06
Interest	2,570.35	672.03	1,852.99	2,272.43
Loans/Intrafund Revenue	0	1,172,000.00	340,751.26	500,000.00
Misc	11,661.41	2,411.30	5,115.72	2,702.89
<b>Total</b>	<b>\$ 650,758.28</b>	<b>\$ 2,022,681.56</b>	<b>\$ 1,187,072.94</b>	<b>\$ 1,225,200.45</b>

*\*Through June 20, 2016*

**19. What does it cost other communities of comparable size to ours to run their water/sewer systems per year? (A list of the names of communities and their costs per year to run their water/sewer systems, please. (I assume a cost comparison was done before Phillips was hired.) (DS)**

- No cost comparisons were made between the District and other systems as the District's costs are unique to the District. A comparison was made between the proposed costs and the historic costs paid when the County supplied the certified operators to the District. The comparison showed that the costs continue to be similar to those in fiscal year 2010-2011, or the year before Phillips took over operations and maintenance services.

**20. What are the steps and/or process to determine what other similar small community Water & Sewage systems exist and who their individual Water & Sewage companies are that maintain their systems? (FF)**

- The District issued a Request for Proposals (RFP) for water and wastewater operations companies in the spring of 2015. The District sent notices to ten companies known to provide the requested services, and advertised the notice in the local paper and on various online sites. Three companies attended the mandatory site visit for the RFP, and of those three, only two submitted proposals. Phillips and Associates was ultimately chosen for the contract.

The above is important because the costs to run facilities will differ from facility to facility, and not all companies will be certified to operate facilities like ours. The below is a list of the contractors we solicited:

- i. Aquality
  - ii. PERC Water
  - iii. Phillips & Associates
  - iv. California Water Services Co
  - v. California Water Service Group
  - vi. HydroScience Engineers
  - vii. Veolia North America
  - viii. Dudek
  - ix. CH2M HILL O&M & Facilities Management
  - x. American Water
- If additional research is desired, The State Water Resources Control Board – Division of Drinking Water handles the permits for water treatment facilities, and they may be able to provide a list similarly sized systems. Their website is: [http://www.waterboards.ca.gov/drinking\\_water/programs/index.shtml](http://www.waterboards.ca.gov/drinking_water/programs/index.shtml).

Additionally, the following link is a search tools for systems throughout California with their contact information. <https://sdwis.waterboards.ca.gov/PDWW/index.jsp>

The Regional Water Quality Control Board handles permits for wastewater systems, their website is: <http://www.waterboards.ca.gov/centralvalley/> it is unclear whether they will be able to provide information for similar systems.

**21. The T-1 Tax needs a set fee amount that does not increase from year to year without a special vote by the community. I understand that it was supposed to have been capped some years back but this was not done as the community was not made aware of it. It needs to be capped now, and decreased to a reasonable set amount, such as say, \$400.00 to \$500.00 per year. (DS)**

- The T-1 Tax was revised in 2005 by voters of the District to establish a fixed annual increase of 4% to provide enough revenue each year to address the accumulated debt that District was accruing each year. A cap, or reduction of the tax was not included as part of the election to increase the tax.

**22. Is money being set aside for the future replacement of this water/sewer system in 30-40 years? If not, we need to investigate as to how much and from where funding could come from that could not be utilized or tapped into for any other concerns over the years. (DS)**

- No.

**23. What is the minimum level of Putah Creek within the guidelines of the agreement with Solano County and their water rights? (TT)**

- The Napa County Flood Control and Water Conservation District (NCFCWCD) entered into a contract with the Bureau of Reclamation in 1999 for approximately 1,500 acre-feet\* of water for municipal, domestic, and stock-watering uses within the Putah Creek watershed. The District then entered into Agreement 54 (FC) with the NCFCWCD for the withdrawal of 200 acre-feet per year for 25 years for domestic uses at the Berryessa Estates. The agreement expires in 2024. Per the Agreement with the NCFCWCD (which is also a part of their contract with the Bureau), no assurances are given to the quality of the water delivered, or for the level of the lake.

With regard to other agencies, The Solano County Water Agency (SCWA) maintains a mean daily release of flow in Lower Putah Creek below the Diversion Dam. Mean stream flow ranges between 20- 46 cubic feet per second as stated in their water rights. Minimum stream gage heights are not applicable. The “Upper Drainage” area of Putah Creek that encompasses nearly 576 square miles of watershed terrain including Lake Berryessa is not subject to the SCWA streamflow requirements. State Water Resources Control Board has jurisdictional authority over water availability and rights for Upper Putah Creek. Additionally, the Upper Putah Creek Watershed Watermaster keeps records of diversions from the creek.

\*(One acre-foot is approximately 325,851 gallons).

**24. Is it our responsibility to care for the water in Putah Creek with regard to public use and possible threats to health and sanitation? (TT)**

- Community residents are encouraged to report drinking water quality concerns. Releases of untreated sanitary sewer flow warrant immediate action by notifying the District's On-Call Operator @ 707-254-1931.

**25. Is Phillips & Assoc. responsible for cleaning the bottom of Putah Creek to remove excess algae? If not, who is responsible? (TT)**

- No agency or contractor is responsible for cleaning the bottom of Putah Creek. The algae and other organic matter is a natural condition of the creek/watershed, and any attempts to modify this with dredging or "cleaning" could result in violations from the State for disturbing the waters of the state. The water treatment plant removes contaminants from the raw water in the creek prior to distribution to the public. There are many water quality tests required every day to ensure that the water provided for potable purposes meets the requirements of the Division of Drinking Water

**26. When, what kind, and to who, have "Request for Bids" been sought for the Water & Sewage Systems, 3 Primary Water Tanks? (FF)**

- The Water Storage Tank Replacement Project was advertised for construction in March 2016. The advertisement was published in the Napa Register and sent to many Builder's Exchanges located throughout California. The bids were opened on May 5, 2016. Proposals were received by Hess Construction of American Canyon, Valentine Construction of San Rafael, Western Water Constructors of Santa Rosa, Suulutaq, Inc of Suisun City, and Kiewit of Fairfield. All five bids exceeded the available budget for the project.

Several components of the design are being revised in order to bring construction costs down to the budget limit. When the revisions are complete in July, the project will be advertised again. Construction is expected to begin in the spring of 2017.

**27. What is the projected date(s) of completion of the potential phases of these repairs? (FF)**

- Wetland Mitigation Project, Completion by December 2016
- Water Tanks Replacement/Pump Station Rehab, Completion in Summer 2017
- Lift Station Rehabilitation, Completion by June 2017
- Sewer Treatment/Disposal Force Main Replacement, Completion TBD
- Water Plant Backwash Water Recycling, , Completion TBD
- Intake Variable Frequency Drive, Completion TBD
- Sewer Line Rehabilitation to reduce inflow/infiltration, Ongoing
- Filter modifications at Water Plant, Completion TBD
- Disinfection By-Product Reduction, Completion TBD
- Standby power at pump stations, Completion TBD

**28. Are full-time or part-time operator's staff hours being charged to the LBE's accounts? If part-time operators are assigned, how many other accounts are these individual operators also assigned to beyond the LBE account? (FF)**

- The operators staffing the LBRID water and wastewater facilities are full-time employees for Phillips and Associates and represent at least one-full time operator, with additional support through the employee pool of Phillips and Associates. The full-time operator assigned to work the LBRID facility, only works the LBRID facility. Should that operator go on vacation or be ill, another operator from the Phillips's pool of employees would be able to step in.

Please contact District staff at the following with additional questions or comments.

[LBRID@countyofnapa.org](mailto:LBRID@countyofnapa.org)

707-259-8600