



Date: February 17, 2015

TO: LOCSD Board of Directors

FROM: Kathy A. Kivley, General Manager

SUBJECT: **Agenda Item 11F – 3/5/2015 Board Meeting**
Establish a Prepaid Assessment Reserve and a Disputed
Claims Reserve

President

DESCRIPTION

Authorization to establish two Reserve Funds: Prepaid Assessment Reserve and Disputed Claims Reserve.

Vice President
R. Michael Wright

SUMMARY OF STAFF RECOMMENDATION

Directors
Leonard A. Moothart
Marshall E. Ochylski
Jon-Erik Storm

This item will be approved along with the Consent Calendar unless it is pulled by a Director for separate consideration. If so, Staff recommends that the Board adopt the following motion:

General Manager
Kathy Kivley

Motion: I move that the Board adopt Resolution No. 2015-04 authorizing the General Manager to establish two Reserve Funds for the Los Osos Community Services District effective July 1, 2014.

District Accountant
Michael Doyle

DISCUSSION

Fire Chief
Robert Lewin

Disputed Claim Reserve

Battalion Chief
Phill Veneris

On October 15, 2013, the Honorable Robin L. Ribet, Judge, United State Bankruptcy Court, Central District of California Northern Division issued an order granting the motion for approval of the Second Amended Plan for Adjustment of Debts (Amended Plan). The Amended Plan as stipulated to by all the parties resolves all the lawsuits and claims arising from the District's former Wastewater project and puts an end to years of District involvement in numerous legal proceedings. This Order ends seven years of bankruptcy legal proceedings. Under the Amended Plan, the District paid the Class 8 allowed claims of the general unsecured creditors as of February 7, 2014. This includes the approved claims arising from the former wastewater project at the rate of 41% of their claim. Under the Order, the District was required to open two separate bank accounts: LOCSD Bankruptcy Creditor Fund and Disputed Claims Reserve Account. All payments were issued from the Creditor Fund. Any checks not submitted to the bank for payment once stale dated must be transferred to the Disputed Claims Reserve Account. According to the Order, any returned or uncashed checks, funds must be deposited into the Disputed Claims Reserve. Any allowed claims for checks that are issued are null and void if the check is not cashed within 90 days or issuance and for any checks reissued that are not cashed within 180 days, the funds belong to the District. Any checks returned or uncashed after two years, the funds revert to the District and are considered unclaimed property.

Mailing Address:
P.O. Box 6064
Los Osos, CA 93412

Offices:
2122 9th Street, Suite 102
Los Osos, CA 93402

Phone: 805/528-9370
FAX: 805/528-9377

www.locsd.org

The District is currently reconciling both bank accounts. Because the District must abide by the Order, the District must hold the funds from one more year. In order to properly account for the remaining monies, staff requests the Board establish the appropriate Reserve Fund to coincide with the Disputed Claim Reserve bank account.

Prepaid Assessment Reserve

In reconciling the financial information for the past two years, there is an account entitled Prepaid Assessments. At this time staff is unable to identify any information to either support or not support the dollars shown in this account. Because there is extensive work needed to complete the reconciliation, staff believes it is necessary to transfer the monies into a Reserve Fund. It is prudent to have specific monies identified in the financial records. From staff's review, the monies were not tracked or recorded for financial purposes, simply shown as money in a bank account with no bank account reference. Any funds shown by the District whether held in a separate investment account, Certificate of Deposit or other bank instrument need to be recorded. For that purpose, staff requests authorization to establish a Prepaid Assessment Reserve.

FINANCIAL IMPACT

There is no financial impact associated with the creation of two reserve funds. Those Disputed Claim Reserve and Prepaid Assessment Reserve will be reflected on the Reserve Statement.

Attachment – Resolution 2015-04

RESOLUTION NO. 2015-04

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE LOS OSOS COMMUNITY SERVICES DISTRICT
ESTABLISHING A BANKRUPTCY DISPUTED RESERVE AND
PREPAID ASSESSMENT RESERVE IN THE WASTEWATER FUND**

WHEREAS, the Los Osos Community Services District ("District") provides water service within the District's water service area pursuant to § 61100 (a) of the Community Services District Law; and

WHEREAS, pursuant to § 61112 of the Community Services District Law the Board of Directors may establish designated reserves; and

WHEREAS, the Board of Directors pursuant to this same section find that establishing a reserve for ongoing investments are consistent with prudent financial operations; and

WHEREAS, the Board of Directors desires financial stability and accountability with transparency in their actions; and

WHEREAS, the Board of Directors recognizes by Court order on October 15, 2013 the Bankruptcy Court order the establishment of a Disputed Reserve for a period of two years or twenty four months from disbursement of the funds; and

WHEREAS, the Board of Directors recognizes their fiduciary responsibilities in complying with the Court Order;

WHEREAS, further the Board of Directors recognizes the responsibility in identifying any monies for prepaid assessments for the 2002 Wastewater Bond and any potential relationship these funds may have to the bankruptcy and bond redemption; and

WHEREAS, based on staff's extensive and on-going analysis, reconciliation and research the Board of Directors desires to take actions within their authority to reflect these funds.

NOW THEREFORE, in consideration of the mutual covenants therein contained, the Board agrees and directs as follows:

1. Establish a Disputed Reserve to reflect the dollars remaining after the issuance of the Bankruptcy Class 8 Creditor payments consistent with Standard Government Accounting Practices in the Wastewater Fund; and
2. Establish a Prepaid Assessment Reserve to reflect the funds identified.
3. Authorize staff to take this action effective July 1, 2015.

The Board of Director hereby agrees with all the terms and conditions as outlined. This agreement was passed by Resolution No. 2015-04 adopted on the 5th day of March 2015 and incorporated therein by reference.

Upon motion of Director _____, seconded by Director _____
and on the following roll call vote, to wit:

AYES: _____
NOES: _____
ABSENT: _____
ABSTAIN: _____

The foregoing resolution is hereby passed and adopted this 5th day of March 2015.

R. Michael Wright
President, Board of Directors
Los Osos Community Services District

ATTEST:

APPROVED AS TO FORM:

Kathy A. Kivley
General Manager and Secretary to the Board

Michael W. Seitz
District Legal Counsel