

## **NOTICE AND CALL OF SPECIAL MEETING**

### **KYLE CANYON WATER DISTRICT BOARD OF TRUSTEES**

**9:00 A.M. – AUGUST 4, 2020**

Commission Chambers

Clark County Government Center

500 South Grand Central Parkway, Las Vegas, Nevada  
(702) 258-3100

#### **Board of Trustees**

Larry Brown, Chair  
Michael Naft, Vice Chair  
Jim Gibson  
Justin Jones  
Marilyn Kirkpatrick  
Tick Segerblom  
Lawrence Weekly

*John J. Entsminger,  
General Manager*

Date Posted: July 28, 2020

The Clark County Commission Chambers are accessible to individuals with disabilities. With 24-hour advance request, a sign language interpreter may be made available; phone 870-2011, TDD 385-7486, or Relay Nevada toll-free (800) 326-6868 TT/TDD. Assistive listening devices are available upon request at the Clerk's table.

### **THIS MEETING HAS BEEN PROPERLY NOTICED AND POSTED IN THE FOLLOWING LOCATIONS:**

Clark County Government Center  
500 South Grand Central Parkway  
Las Vegas, Nevada

Las Vegas Valley Water District  
1001 S. Valley View Boulevard  
Las Vegas, Nevada

Regional Justice Center  
200 Lewis Avenue  
Las Vegas, Nevada

Grant Sawyer State Office Building  
555 E. Washington Avenue  
Las Vegas, Nevada

Mt. Charleston Library  
75 Ski Chalet Place  
Mt. Charleston, Nevada

Mt. Charleston Lodge  
5375 Kyle Canyon Road  
Mt. Charleston, Nevada

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All items listed on this agenda are for action by the Board of Trustees, unless otherwise indicated. Items may be taken out of order. The Board of Trustees may combine two or more agenda items for consideration, and/or may remove an item from the agenda or delay discussions relating to an item on the agenda at any time.

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#### **COMMENTS BY THE GENERAL PUBLIC**

NO ACTION MAY BE TAKEN: At this time, the Board of Trustees will hear general comments from the public on items listed on this agenda. If you wish to speak to the Board about items within its jurisdiction but not appearing on this agenda, you must wait until the "Comments by the General Public" period listed at the end of this agenda. Please limit your comments to three minutes or less. Public comment can also be provided in advance of the meeting and submitted to [publiccomment@lvvwd.com](mailto:publiccomment@lvvwd.com). Public comment received through August 4 will be included in the meeting's minutes.

#### **ITEM NO.**

1. *For Possible Action:* Approve agenda and the minutes of the special meeting of January 7, 2020.
2. *For Possible Action:* Adopt a resolution authorizing the District to acquire, through eminent domain, a permanent easement on a parcel needed to construct, operate and maintain the Rainbow Well Discharge Pipeline, held by Frank Gargano and Shari L. Gargano, Trustees of the Gargano Living Trust dated January 05, 1999, for the estimated amount of \$3,800 and authorize the General Manager to sign any documents necessary to facilitate this transaction.

#### **COMMENTS BY THE GENERAL PUBLIC**

NO ACTION MAY BE TAKEN: At this time, the Board of Trustees will hear general comments from the public on matters under the jurisdiction of the Kyle Canyon Water District. Please limit your comments to three minutes or less.

**KYLE CANYON WATER DISTRICT  
BOARD OF TRUSTEES  
SPECIAL MEETING  
JANUARY 7, 2020  
MINUTES**

CALL TO ORDER 9:12 a.m., Commission Chambers, Clark County Government Center  
500 S. Grand Central Parkway, Las Vegas, Nevada

TRUSTEES PRESENT Larry Brown, Chair  
Michael Naft, Vice Chair  
Jim Gibson  
Justin Jones  
Marilyn Kirkpatrick  
Tick Segerblom  
Lawrence Weekly

STAFF PRESENT John Entsminger, Dave Johnson, Julie Wilcox, Greg Walch, Kevin Bethel  
Unless otherwise indicated, all members present voted in the affirmative.

**COMMENTS BY THE GENERAL PUBLIC**

*For full public comment, visit [www.lvvwd.com/apps/agenda/lvvwd/index.cfm](http://www.lvvwd.com/apps/agenda/lvvwd/index.cfm)*

There were no speakers from the public.

**1. Approve Agenda and Minutes**

FINAL ACTION: A motion was made by Vice Chair Naft to approve the agenda for this meeting and the minutes of the meeting of January 7, 2019. The motion was approved.

**2. Adopt the Small Systems Conservation Plan for 2019 through 2024.**

FINAL ACTION: A motion was made by Trustee Kirkpatrick to adopt the plan. The motion was approved.

**COMMENTS BY THE GENERAL PUBLIC**

*For full public comment, visit [www.lvvwd.com/apps/agenda/lvvwd/index.cfm](http://www.lvvwd.com/apps/agenda/lvvwd/index.cfm)*

There were no speakers from the public.

**Adjournment**

There being no further business to come before the Board, the meeting adjourned at 9:14 a.m.

APPROVED:

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Lawrence L. Brown III, Chair

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John J. Entsminger, Secretary

Copies of all original agenda items and minutes, including all attachments, are on file in the  
General Manager's office at the Las Vegas Valley Water District,  
1001 S. Valley View Boulevard, Las Vegas, Nevada.

**KYLE CANYON WATER DISTRICT  
BOARD OF TRUSTEES  
AGENDA ITEM**

August 4, 2020

**Subject:**

Resolution for Eminent Domain

**Petitioner:**

Doa J. Ross, Deputy General Manager, Engineering

**Recommendations:**

That the Board of Trustees adopt a resolution authorizing the District to acquire, through eminent domain, a permanent easement on a parcel needed to construct, operate and maintain the Rainbow Well Discharge Pipeline, held by Frank Gargano and Shari L. Gargano, Trustees of the Gargano Living Trust dated January 05, 1999, for the estimated amount of \$3,800 and authorize the General Manager to sign any documents necessary to facilitate this transaction.

**Fiscal Impact:**

Acquisition costs will be determined by judicial process or by further negotiation in anticipation of the judicial action. The estimated \$3,800 is available in the District's Capital Budget.

**Background:**

The Rainbow Well Discharge Pipeline (Pipeline) is a critical pipeline that transports water from the Rainbow Well, which is one of only four municipal wells that serve the Mount Charleston community. The Pipeline is 40 years old, has met the end of its useful life and needs to be replaced. The Pipeline cannot be replaced in the same location due to the location and density of trees on U.S. Forest Service land and likelihood of avalanche and flood activity that would compromise the integrity of the Pipeline.

On February 20, 2019, an offer was made on behalf of the District to Frank Gargano and Shari L. Gargano, Trustees of the Gargano Living Trust dated January 05, 1999 (Trust), to acquire a permanent easement for the Rainbow Well Pipeline Replacement Project (Project) based upon 2018 values. Negotiations ensued, but were not successful. On April 29, 2020, the District submitted a revised offer letter to the Trust in the amount of \$3,800, based on 2020 values. Through numerous contact attempts by telephone, e-mail and in-person visits have been made, the Trust has not yet responded to the District's offer.

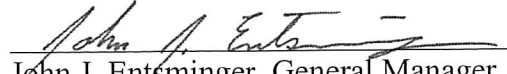
The engineer's estimated cost of the Project, as currently proposed and using this recommended easement, is \$499,790. The estimated cost avoiding the Trust's parcel altogether is \$1,242,345. The next best alternative would increase the engineer's estimate to \$1,900,893.

To maintain the schedule necessary to meet critical water demands, staff recommends that the Board of Trustees adopt this Resolution to initiate eminent domain proceedings and obtain an order of immediate occupancy over the subject parcel. The attached resolution contains a statement of necessity and public use as required by state law, authorizes eminent domain action, and directs counsel to proceed with the condemnation action.

Eminent Domain  
August 4, 2020  
Page Two

This action is authorized pursuant to NRS 37.010. In accordance with NRS 241.034, the owner has received written notice of the date, time, and place of the Board meeting to consider the use of eminent domain to acquire the Trust's property rights. The office of the General Counsel has reviewed and approved the attached resolution.

Respectfully submitted:

A handwritten signature in black ink, appearing to read "John J. Entsminger", is written over a horizontal line.

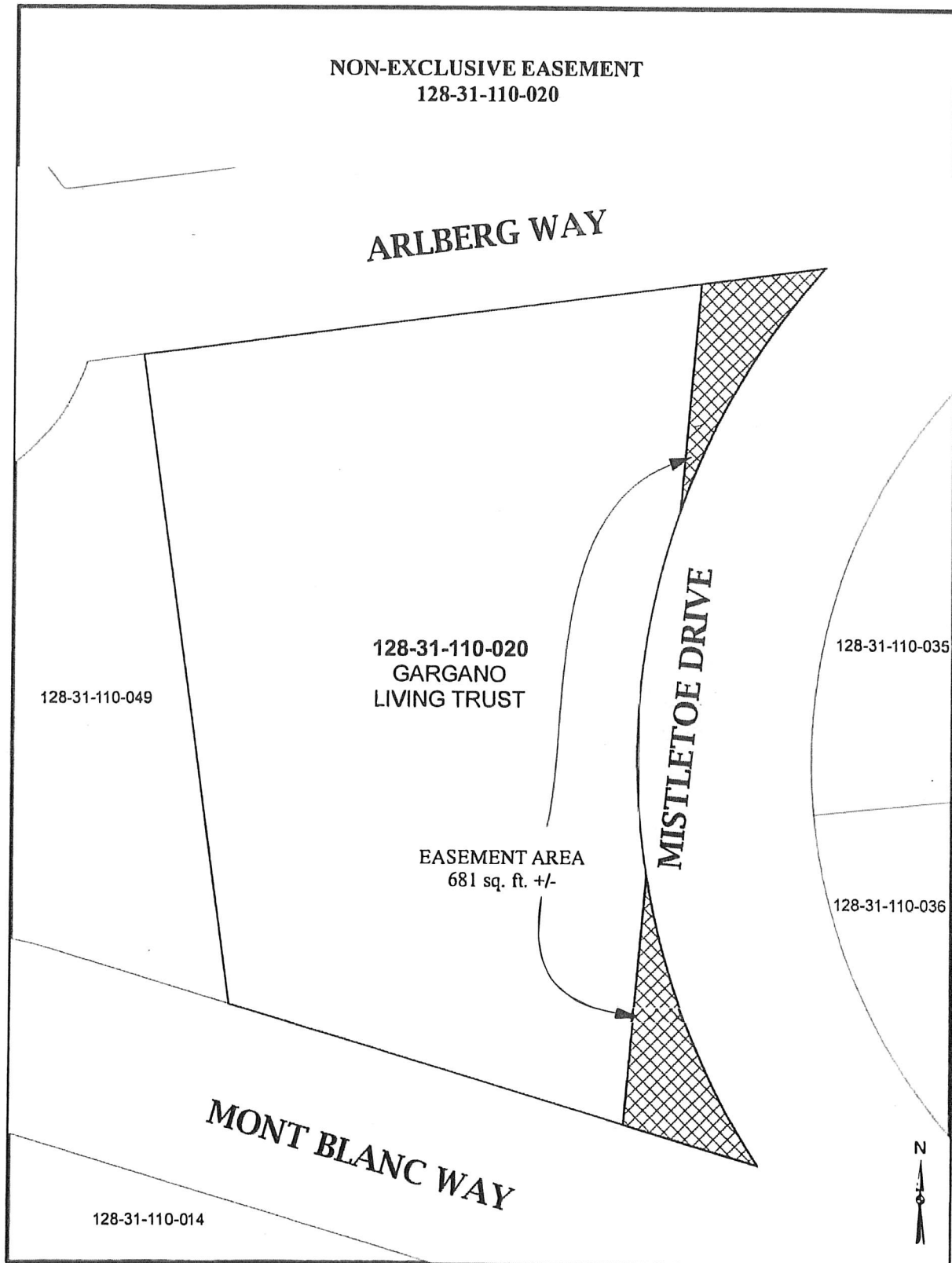
John J. Entsminger, General Manager

JJE:DJR:PJJ:RCP:SLK:MR

Attachments

KYLE CANYON WATER DISTRICT  
BOARD OF DIRECTORS  
AGENDA ITEM  
AUGUST 4, 2020

NON-EXCLUSIVE EASEMENT  
128-31-110-020



**RESOLUTION  
AUTHORIZING THE  
KYLE CANYON WATER DISTRICT  
TO EXERCISE THE RIGHT OF EMINENT DOMAIN**

WHEREAS, the Las Vegas Valley Water District ("District") is a political subdivision of the State of Nevada, as designated by Chapter 167, Statutes of Nevada on March 21, 1947; and

WHEREAS, Kyle Canyon Water District (KCWD) is a publicly owned, quasi-municipal political subdivision created by the County Commission of Clark County, Nevada, through enactment of Ordinance No. 419 effective December 17, 1973.

WHEREAS, the District has been designated the role as the operating agent for the KCWD under Ordinance No. 419, effective December 17, 1973 and the agreement dated August 20, 1974.

WHEREAS, the District's operations staff have found that the Rainbow Well Discharge Pipeline has reached the end of its useful life; and

WHEREAS, the Rainbow Well Discharge Pipeline is the outlet pipeline to the Rainbow Well, one of only four (4) well sites providing water and fire protection to the Mount Charleston community; and

WHEREAS, the most economical and efficient route to construct a new pipeline is through a portion of the parcel owned by Frank Gargano and Shari L. Gargano, Trustees of the Gargano Living Trust, dated January 05, 1999, which is within the paved roadway known as Mistletoe Drive in Mount Charleston, Nevada; and

WHEREAS, the District has made several attempts, including two (2) written offers to the Frank Gargano and Shari L. Gargano, Trustees of the Gargano Living Trust, dated January 05, 1999 to acquire an easement for the Rainbow Well Discharge Pipeline; and

WHEREAS, subsection (1) (d) of NRS 37.070 provides that a complaint for the exercise of the power of eminent domain must contain a statement of the right of the plaintiff, and the KCWD wishes that this resolution constitute a statement of its right to exercise its power of eminent domain and authorizing such exercise of that right; and

WHEREAS, NRS 37.040 provides that no judgment of condemnation shall be entered unless a court first finds that (1) the use to which the property is to be applied is a public use; (2) the property is necessary to such public use; and (3) if the property is already appropriated to some public use, the public use to which it is to be applied is a more necessary public use, and the KCWD wishes to declare in this resolution that these requirements have been met.

NOW, THEREFORE, BE IT RESOLVED that the Kyle Canyon Water District Board of Directors agrees and authorizes:

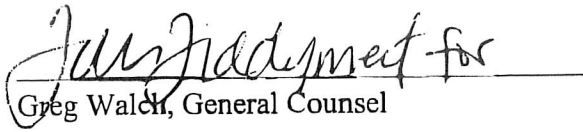
1. That the public interest and necessity require the construction the Rainbow Well Discharge Pipeline, and the plans and specifications for that project necessitates construction upon, over, under and across that certain real property situated in the county of Clark, State of Nevada, described in Exhibit A hereto; and that the public interest and necessity require the acquisition of the real property and interests in real property described in Exhibit A and depicted in Exhibit BI for said public facilities and improvements;
2. That the use to which the property to be acquired is to be applied is a public use and the property sought to be condemned is necessary to such public use; and
3. That the proposed construction, reconstruction, and use to operate and maintain said facilities and improvements is planned and located in a manner which will be the most compatible with the greatest public good and the least private injury.

BE IT FURTHER RESOLVED THAT this resolution constitutes a statement of the right of the plaintiff for purposes of complying with NRS 37.070 and a declaration by the District that the conditions precedents to entry of judgment have been met.

BE IT FUTRHER RESOLVED THAT the Kyle Canyon Water District be and its counsel is hereby authorized and directed to acquire in its name, in fee simple absolute, unless a lesser estate is hereinafter described, the real property and interests described in Exhibit A, by the exercise of power of eminent domain in accordance with the provisions of Chapter 37 of the Nevada Revised Statutes.

PASSED, ADOPTED and APPROVED THIS \_\_\_\_ day of August of 2020.

Approved as to Legality:

  
Greg Walch, General Counsel

KYLE CANYON WATER DISTRICT

\_\_\_\_\_  
Larry Brown, Chair



**PROPERTY TO BE ACQUIRED BY EMINENT DOMAIN:**

<b>ASSESSOR PARCEL NOS.</b>	<b>PROPERTY OWNERS</b>
160-28-510-021 and 160-28-610-001	John G. Dugan and Cecilia L. Dugan, as Trustee of the John and Cecilia Dugan Family Trust dated January 7, 2005
	Arthur T. Murphy
	Richard Thomas Surguine

**LEGAL DESCRIPTION FOR EMINENT DOMAIN**

**APN 160-28-510-021 – PARCEL NO. 1**

and

**APN 160-28-610-001 – PARCEL NO. 2**

**PARCEL NO. 1:**

Lots One (1) and Two (2) in Block Twenty-Seven (27) of Boulder Dam Park Track #3, as shown by map thereof on file in Bok 1 of Plats, Page 73, in the office of the County Recorder of Clark County, Nevada,

and

**PARCEL NO. 2:**

Lots Twenty-Seven (27) and Twenty-Eight (28) in Block Twenty (20) of Boulder Dam Park Track #3, as shown by map thereof on File in Book 1 of Plats, Page 73, in the office of the County Recorder of Clark County, Nevada.