

EMIGRATION IMPROVEMENT DISTRICT
BOARD OF TRUSTEES REGULAR MEETING

THURSDAY, SEPTEMBER 11, 2014

EMIGRATION CANYON FIRE STATION
5025 EMIGRATION CANYON ROAD
SALT LAKE CITY, UTAH

Board Members in Attendance: Mike Hughes – Chair, Mark Stevens, David Bradford

Ex Officio: Fred Smolka—Manager, Eric Hawkes—Assistant Manager, Joe Smolka—Project Manager, Craig Neeley—Aqua Engineering

Chair Hughes called the meeting to order at 7:00 p.m.

1. Consent agenda approval

Steve Hook requested that some background be included in the minutes about the payment to the State that is being made this year rather than delaying it until next year. Board Member Bradford recalled that they discussed Fred Smolka's inquiry to the State about whether the EID could delay the first payment on the new bond note for a year. Mr. Smolka learned that would be a major process that would require them to go back to the Drinking Water Board. The point of delaying the payment was to give the District some additional time to build up the account, but there is no danger of a cash flow shortage if they make the payment this year. He believed the minutes as they read are uncontroversial.

MOTION: David Bradford made a motion to approve the minutes of the August 21, 2014, Board of Trustees meeting as written. Mike Hughes seconded the motion.

VOTE: Unanimous in favor of the motion. Mark Stevens was not present for the vote.

2. Financial considerations

Mr. Smolka discussed the checking account balance, accounts receivable for water service, and new connection impact fees. He reviewed the amounts of the next loan payments to the State and indicated when the next payments will be due.

MOTION: David Bradford made a motion to accept the financial report as presented. Mike Hughes seconded the motion.

VOTE: Unanimous in favor of the motion. Mark Stevens was not present for the vote.

3. Policy review

Mr. Hawkes recalled that in the past the District allowed people to deed over .45 acre foot for their indoor use and keep .3 acre foot and operate their own well for irrigation. However, the District does not know whether those people might now be using the EID system for both indoor and outdoor use. Chair Hughes stated that would not matter, because if they use the EID system for outdoor watering, their bill will be higher. He recalled that the water right system changed

when they installed a system that covers the whole Canyon, and that became less important, because people can no longer use their water rights outside the Canyon or buy up enough to sell them for use elsewhere. The initial concept was that there are more water rights than physical water in the Canyon, and they wanted to retire as many water rights as they could. By building the water system, they basically took away the market for people to sell their water rights. Mr. Smolka felt that, on the basis of fairness, they should require everyone who uses the system to turn in .75 acre feet. He recalled that some people had to pay cash because they did not have .75 acre feet. Chair Hughes stated that one advantage of not having people turn in the other .3 acre feet is that they are using their wells, which takes pressure off the EID system. He believed the fairness issue may be whether people should have to pay the difference if they have not turned in .75 acre feet. Board Member Bradford agreed that if someone has only turned in .45 acre feet so they could irrigate from their well, and they are now irrigating from the EID system, the only effect is that they have to pay the EID's water rates. If they are talking about setting a policy to apply from here on, that is entirely different than going back and trying to collect water rights under a previous agreement. Chair Hughes asked how this issue came up. Mr. Smolka replied that he and Don Barnett were going through the water leases, and Mr. Barnett asked if everyone contributed the .75 acre feet. Chair Hughes explained that the leases are different, because they are contractually obligated for .75 acre feet. Mr. Smolka discussed the water right amounts that were individually adjudicated by the State with some property owners and that the EID has accepted those adjudicated amounts as the full requirement for those property owners. Board Member Bradford suggested that they table this item until Mr. Barnett is present to see if there are issues the Board is not aware of.

Mr. Smolka addressed the issue of unbuildable lots and stated that a property owner in the Canyon put his lot up for sale, and potential buyers went to the County and decided not to buy it because it did not seem to be buildable. The property owner asked why he should buy water if he has an unbuildable lot. He recalled that when they put in the water system, they tried to decide whether lots are buildable. He thought they had decided at the last meeting to take this property owner off the list and not bill him. It was noted that no action was taken at the last meeting. Chair Hughes did not believe that would be a good idea, because a lot that may be unbuildable today may not be unbuildable in the future, and a property owner could put a conservation easement on the property if they want to. He stated that the property owner still gets the benefit of fire protection, regardless of why they own the lot. As long as they are within 250 feet of a hydrant and get fire protection, they should pay the fee. Mr. Smolka stated that, if they do that, they would have to start charging all the lots they were previously considered to be unbuildable, because they get fire protection. Chair Hughes agreed that they need to do that. He did not believe a lot should be excluded when it gets the benefit of fire protection. Board Member Bradford commented that the reason why someone may choose not to purchase or build on a lot may hinge on a number of other factors, but it will not hinge on whether the lot has fire protection. The value of the lot is improved by the fact that fire protection is available to the lot. Mr. Smolka disagreed and stated that a property owner has no reason to pay a water fee for a lot that is unbuildable. Chair Hughes argued that it is also not fair to place the burden of fire protection and the value it adds to a lot that may later become buildable solely on the people who have built or buildable lots. If it is not equitable for everyone, it is not equitable for anyone. Board Member Bradford questioned whether there should be a class of property owners in the Canyon who are not obliged to participate in providing fire protection for some reason. Chair

Hughes suggested that they consider what has been discussed and talk about it again at a future meeting. He did not believe there are special classes; everyone who owns property uses the Canyon for whatever reasons they choose, and all of those things have consequences that need to be weighed out. He did not believe it is fair for those who participate with heavier use of the Canyon to pay the toll for those who sit on their property waiting for a better day to come that might allow them to build on their lot, and meanwhile everyone else has financed their ability and created the value on their property. If someone owns an odd-shaped or narrow lot that they will never be able to put to use, and they want to get the tax advantage of putting it in a conservation easement, he would agree that they should not pay the fees, because the property owner makes that choice, and the property would then have no value to them. He believed there are many ramifications that need to be considered before deciding on a policy.

The Board members discussed splitting water fees between two lots. Mr. Smolka explained the existing policy, which is that, if someone owns two lots, they can pay the impact fee and other normal fees for the second lot but not put a meter on it. The District will take the reading off the lot that is using the water, divide it by two, and base the fees on two separate connections. Chair Hughes stated that he has no problem with that policy. In order to be fair to all property owners in this situation, Mr. Smolka offered to identify all the property owners who own more than one lot and let them know about this policy.

With regard to the Phase 4a septic system billing, Chair Hughes recalled that they agreed to put together a pool of money with the \$75 in the event there is an upset in the system. Board Member Bradford explained that the terms of the contract do not provide for creation of a reserve. Board Member Stevens noted that the contract states the actual cost of operating the system would be divided by the number of people on the system, with a cap of \$75. Mr. Bennion objected to paying the cost of the inspection because he did not believe it was an operating cost, and he believed the system would operate without an inspection. Board Member Bradford reported that Board Member Stevens proposed a compromise that the EID would bill solely for the direct cost of the inspection, and the District would cover the administrative costs. He was willing to comply with the terms of the contract and be more transparent in how the billing is done. He believed there still needs to be discussion about who pays for the District's administrative work in ensuring that the inspection is done, because an inspection is crucial to the continued operation of the septic system. Board Member Stevens commented that the contract seems to be favorable to the property owners. The Board Members discussed how they might bill for a repair of the septic system if one were needed. Chair Hughes stated that he would like to discuss the contract with Jeremy Cook, understand the District's obligations under the contract, and address this at the next meeting.

4. Report on Certified Delinquent Notice filing

Mr. Hawkes reported that he filed 48 tax ID numbers on September 3, for a total of \$21,823.83. The fee assessed for filing the delinquent notices was \$20 per notice, which was verified with the State Auditor's Office. He noted that the County requested that any payments on the delinquent accounts be handled through the County Treasurer's Office. Mr. Smolka reported that the County is also calculating interest on these accounts. Mr. Hawkes stated that he will send out a

letter immediately providing that information. He verified for Board Member Stevens that the majority of the delinquent accounts are those where the new hydrant fee is being assessed.

5. Well status report

Craig Neeley reported that the Upper Freeze Creek Well is operational and has been converted to a soft starter. The VFD supplier and electrical contractor continue to investigate what caused the failure. Aqua Engineering has agreed to pay for the soft starter, because if they cannot get it in, they cannot prove that the problem is with the VFD. He stated that the contractor is not off the hook with the VFD problem. He expressed concern about the inductive current in the well because the lead is so long, and they are looking at options to reduce or eliminate it. Therefore, they are not running the well right now. He would like to solve that problem to decrease wear and tear on the equipment and because it is costly to pull the motor out and put it back in again. If they need to turn the well on in the meantime, they can do so, but he would like to wait a few days to see if he can solve the inductive current problem. He was confident that the pump would run well with the soft starter. Board Member Bradford verified with Mr. Neeley that the inductive current was not part of the problem with the VFD motor. Mr. Neeley stated that his only focus right now is to get this well operating and have it operate reliably.

6. Water system report

Mr. Hawkes reported that the Brigham Fork well is still on the manual position and pumping 55 gpm nonstop, or about 80,000 gallons a day. The flow has been steady, and the water level remains at about 175 feet. Wells 2 and 1 are backup to the Brigham Fork Well, and when the reservoir levels get down to a certain point, Well 2 turns on for a period of time. If the level goes down even further, Well 1 will turn on. He stated that people have cut back on their water use with the recent rain, which can be seen in the fact that Wells 1 and 2 have not turned on at all in the last few days. He reported that Well 2 is pumping down to about the 505-foot range. He reported that last month's water usage was a little over 4 million gallons.

7. Proposed changes in billing software

Mr. Smolka reported that the District bought the current billing software for about \$450 a number of years ago, and there are no updates for it. Several people have requested features on their bills that the current software does not provide. With the number of water users now on the system, that software has become cumbersome. Mr. Hawkes stated that they have looked at other billing software, and it is in the high thousands to purchase plus additional costs for support and additional features. There are also charges for updates to the software. He described some of the features available on the software packages. Board Member Bradford suggested that Mr. Hawkes put together a spreadsheet comparing the programs he is interested in.

8. Septic system funding pilot project

Chair Hughes stated that all the projects that are immediately apparent involve people who would qualify for a grant because their income levels are too high. He requested that Kathy Christensen meet with him and discuss some of the people she previously identified who might

need help with their septic systems. He also asked Joe Smolka to help him identify people he might be aware of who would qualify.

9. Any items requested by the visiting public

Mr. Smolka reported that he has an item that did not get onto the agenda. He received a call from the IRS about a payroll issue. The IRS believes special districts in the State of Utah should have employees, but they are all treated like independent contractors. The IRS believes the Trustees should be on the payroll and receive W-2s so they would have to pay Social Security and Medicare. He informed the IRS agent that the Trustees already pay taxes, and this would be an exercise in futility, because the amounts involved are so small. The Trustees might also have to amend their previous tax returns, and it could be that the IRS might have to refund some of their taxes. Mr. Smolka stated that he will write up a response to the call, and the IRS agent will also write up his notes and take it back to his manager.

Steve Hook asked if there is any information about the letter from Mr. Tracy. Mr. Smolka explained that the State indicated it could be a couple of years before they know anything.

The regular meeting of the Emigration Improvement District adjourned at 9:00 p.m.

Minutes Approved