

EMIGRATION IMPROVEMENT DISTRICT
BOARD OF TRUSTEES REGULAR MEETING

THURSDAY, DECEMBER 11, 2014

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

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

Ex Officio: Fred Smolka—General Manager, Eric Hawkes—Assistant Manager, Joe Smolka—
Project Manager, Jeremy Cook—Legal Counsel, Craig Neeley—Aqua Engineering

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

1. Consent agenda approval – November 20, 2014 minutes; 2015 Trustee meeting schedule

MOTION: David Bradford made a motion to approve the consent agenda. Mark Stevens seconded the motion.

VOTE: Unanimous in favor of the motion.

2. Financial considerations

Fred Smolka reviewed the financial report, account balances, receivables, and impact fee balances. He noted that the District should receive a report and deposit for the certified delinquent accounts shortly.

Eric Hawkes reported that the external audit for 2013 has been completed and submitted to the State Auditor's Office, and the District received a clean report.

3. Appeal of fee – Joanne Edwards

Mr. Smolka reported that the previous owner of Ms. Edwards' lot requested to pay a standby fee on that lot. He walked the lot with Ms. Edwards, and it is essentially all 30% slopes or greater. He recommended that the Board deem that lot to be undevelopable. He noted that Ms. Edwards would like to continue to pay the fire suppression fee for the lot.

Chair Hughes asked what would happen with the fees collected to this point. Mr. Smolka replied that he had not discussed that with Ms. Edwards, but he assumed the District would retain them, since the prior property owner had the benefit of the standby fees, and he was the one who paid them.

MOTION: David Bradford made a motion to approve the standby fee waiver requested by Ms. Edwards. Mark Stevens seconded the motion.

VOTE: Unanimous in favor of the motion.

4. Well status report

Mr. Hawkes reported that the Upper Freeze Creek Well is working very well and pumping about every other day. The water level in the tanks at 11:00 p.m. determines whether one well kicks on or if all three kick on, which means Well 1 and Well 2 are regularly being exercised. He reported that the water level in the Upper Freeze Creek Well is at 906 feet, and it maintains that level constantly.

Board Member Stevens asked where they stand with Brigham Fork Well. Mr. Hawkes replied that they continue to flush it. He believed the telemetry is off again, because the water level shows 248 feet. Mr. Smolka reported that Dewey Peterson, the well driller, is in the hospital. His son-in-law is still working and will keep covering the District's needs.

Mr. Hawkes reported that he and Joe Smolka walked the well construction site and found a couple of minor repairs that the contractor is taking care of. He was confident that they would have good growth with the hydroseeding in the spring.

Craig Neeley discussed the negotiations with the filter manufacturer and supplier and stated that he is still confident that they will be able to work out the warranty issues. He has talked to Hill's Construction about a solution to the Peterson Drilling bill. He verified with the Board that they see no reason to pursue the VFD option if the soft starter continues to function well. Hill's Construction agrees they do not want the insurance companies to get involved unless they absolutely have to. Mr. Neeley stated that he did not think they would get a remedy by the end of the year, and he suggested that the District pay the Peterson Drilling invoice in the interim while they get this worked out and seek reimbursement from Hill's Construction for a remedy under their contract. Mr. Smolka also recommended that they pay the Peterson Drilling bill and reported that Peterson Drilling has agreed to deduct \$2,500 from the bill.

5. Well status report

Mr. Hawkes reported that the static water level on Well 1 is at 106 feet and Well 2 is down to 113, so they have been consistent for the last three or four months. Upper Freeze Creek is consistent at 906 feet, and Brigham Fork says 248 feet, but he speculated that it is actually 48 feet. In November they pumped 1.5 million gallons, 145,000 gallons from Well 2, 75,000 gallons from Well 1, and approximately 1.2 million gallons from Upper Freeze Creek. He explained that, in order to use water from the Brigham Fork Well in the system, he has to manually manipulate the actuator, and the well pumps continuously. It will not operate off the telemetry system, which is part of the repair work that needs to be done.

6. Report on IRS exam

Mr. Hawkes reported that he and Mr. Smolka had a conference call with Carl Chavez with the IRS on November 20 regarding whether the Trustees' compensation should be treated as miscellaneous income or as employee income reportable on Form W-2. Mr. Smolka wrote a letter to Mr. Chavez, who believes the District has a good argument for a 530 exemption which would allow them to continue to report trustee compensation as miscellaneous income on a Form 1099. It would also give the District immunity so they would not have to pay any unpaid taxes from previous years. He reviewed the criteria for receiving a 530 exemption and explained that the District appears to meet those criteria. Mr. Cook commented that the EID is not the only district that has been contacted by the IRS this year, and every district he represents has been contacted. Mr. Hawkes explained that if the District does not qualify for the 530 exemption, the IRS has agreed to offer them a settlement program, which will cost the District about \$1,300, and the IRS will not go after any past years or personal returns of the Board Members.

7. Utility billing software progress report

Mr. Hawkes reported that the meter readings for the last five years have been input along with the current balances. He will input the impact fee notes this week and do some mock billings. Everything appears to be on schedule for starting on January 1, 2015. He stated that it is very helpful to have all the information centralized in one location. Mr. Smolka explained that they will run parallel with both systems for the January billing so they can compare and be sure the new system is working the way it should. Mr. Hawkes explained that they have input five years' worth of meter readings, which would allow them to do pro-rated meter readings in the winter, and they could easily do a monthly billing.

8. Public hearing – FY 2015 Budget; amend 2014 Budget to conform to 2014 actuals year end

MOTION: Mark Stevens made a motion to open the public hearing. David Bradford seconded the motion.

VOTE: Unanimous in favor of the motion.

Steve Hook questioned how the depreciation in the 2015 proposed budget could be the same as the depreciation for 2014 with this new project going online. Mr. Hawkes offered to look into that. Mr. Hook asked if the actual costs for maintenance and repairs for 2014 are correct and if they are actually that far below budget. He questioned whether they may have capitalized items in the new well that should have been included in maintenance and expense. Mr. Smolka confirmed that they only capitalized the items in the budget that were for the project, and everything else was charged to repairs and maintenance. He explained that they budgeted for a major project on Brigham Fork Well that has not yet occurred. Mr. Hook asked why the management expense is lower for 2015. Mr. Smolka explained that he will retire, which will cut down that item substantially.

MOTION: David Bradford made a motion to close the public hearing. Mark Stevens seconded the motion.

VOTE: Unanimous in favor of the motion.

MOTION: David Bradford made a motion to adopt the Fiscal Year 2015 Budget for the Emigration Improvement District. Mark Stevens seconded the motion.

VOTE: Unanimous in favor of the motion.

MOTION: Mark Stevens made a motion to adopt the amended 2014 Budget for the Emigration Improvement District to conform to the actuals for the year ending December 31, 2014. David Bradford seconded the motion.

VOTE: Unanimous in favor of the motion.

9. TMDL – Cluster or community drain field septic system

Brad Rasmussen with Aqua Engineering explained that the first step will be to decide how much and what water they are dealing with and tie that in with what the State expects them to do. He provided some information on drain fields and explained that the simplest solution would be a pump that goes into existing septic systems and pumps the effluent to a new drain field. They would need to look at where to put the drain field and be sure they meet all the necessary criteria. He suggested that they conduct a study and come up with costs and find an appropriate site.

Chair Hughes discussed the possibility of pumping into three separate drain fields. Mr. Rasmussen explained that drain fields are limited by length and zones, and they can have three different zones in one drain field. Chair Hughes explained that the EID has the possibility of getting this funded by the State, and they will want to continue doing additional systems like this.

The Board Members and Mr. Rasmussen discussed potential disinfection systems that could be included. Mr. Rasmussen explained that they would work out all the details in the design process. He explained that they can get a 30% credit on drain field size if they do a treatment system or a domed cover.

Mr. Rasmussen suggested that the District do some preliminary work to refine the scope of work so he can help them develop an RFP, such as determining the effluent requirements and whether the State requires additional treatment. He explained that, in order to do perc tests for on-site systems, a certain set of criteria is required, and the person who does it has to be on-site certified. He suggested that digging pits on a proposed site would help them determine if a perc test is necessary based on the soils in the pits. Mr. Neeley explained that they could either do an RFP for the project costs, or they could do a Request for Qualifications for engineering qualifications to do the project. Mr. Rasmussen explained that they would develop an engineering report that addresses the design parameters and take that to the State for their approval, and then they would

do more engineering to actually design the system and send it out to bid. Mr. Hawkes asked if it is necessary to do an RFP for this type of specialized project. Mr. Cook replied that typically they would do an RFQ rather than an RFP.

Board Member Stevens expressed concern about the District acquiring additional debt. Mr. Smolka explained that the State is talking about having the people pay for the system, and the EID may have to subsidize the system to some extent. Chair Hughes explained that the discussions with the State indicated that the District would have to commit something to the system, and they have to have the ability to repay part of the cost, but they were looking for the individuals who connect to the system to repay it, not the District. The District would be the body politic to administer the process. He explained that a problem has been found in the creek, and if the EID does not do something about it, the State will. The EID can determine what is done in the Canyon if they get ahead of what is happening at the State level, and the State is willing to pay for the pilot project for the EID to show them what they intend to do. Board Member Stevens believed they need to get the citizens on board with what they are doing. Chair Hughes stated that he believes they need some solutions first. Mr. Rasmussen explained that the State is always willing to meet with people and explain the situation. He explained that the earlier they get involved in the process, the more likely it is that funding will be available.

Chair Hughes requested that Aqua Engineering prepare a request for qualifications for the community drain field system. Mr. Neeley stated that they would have a draft document available for the next board meeting.

10. Any items requested by the visiting public

Steve Hook asked about the Mark Tracy group and if there is any activity at the State level. Mr. Cook replied that he has not heard anything, and no one has officially filed legal action. Mr. Smolka stated that, when he spoke with Ryan Roberts at the State Auditor's Office, he was told that it could take a long time before they get an opportunity to look at it. Mr. Hook commented that Sam Plumb attended the community preservation meeting at the County last evening and dredged up all kinds of things about the EID and not having a set group takes control of everything.

11. Closed session

MOTION: David Bradford made a motion to convene in closed session to discuss imminent litigation. Mark Stevens seconded the motion.

VOTE: Unanimous in favor of the motion.

The Board of Trustees met in closed session to discuss litigation from 9:00 p.m. to 9:25 p.m. Those present included the Board of Trustees, Fred Smolka, Eric Hawkes, Jeremy Cook, and Karen McLaws.

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MOTION: Mark Stevens made a motion to dismiss from closed session and to adjourn the meeting the Board of Trustees. David Bradford seconded the motion.

VOTE: Unanimous in favor of the motion.

The regular meeting of the Emigration Improvement District adjourned at 9:25 p.m.

Minutes Approved