

EMIGRATION IMPROVEMENT DISTRICT
BOARD OF TRUSTEES REGULAR MEETING

THURSDAY, AUGUST 20, 2015

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

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

Ex Officio: Eric Hawkes—Manager, Jeremy Cook—Legal Counsel, Don Barnett—Barnett Intermountain Consulting, Joe Smolka—Project Manager

Chair Hughes called the meeting to order at 7:05 p.m. and read the meeting rules from the published agenda.

1. Consent agenda approval – Minutes for July 9, 2015

Mark Tracy demanded to know which of the Trustees is present. Chair Hughes explained that Mr. Tracy will have an opportunity to speak at the end of the meeting. Mr. Tracy stated that Chair Hughes refused to tell him who was present at the meeting. Chair Hughes asked Mr. Tracy to be respectful to the process and gave him his first warning as stated in the rules.

MOTION: Mark Stevens made a motion to approve the minutes of the July 9, 2015, Board of Trustees meeting as written. Mike Hughes seconded the motion.

VOTE: Unanimous in favor of the motion.

Mr. Tracy demanded again to know who was voting and what they are doing and asked if that is understood. Mr. Cook explained that the minutes will reflect who voted on the motion. Chair Hughes asked Mr. Tracy again to not interrupt the meeting. Mr. Tracy stated that he wanted to know this for the record for his recording which would be transcribed. Mr. Cook explained that the minutes are the official record of the meeting, and they will be provided. Mr. Tracy stated that he would take that as a refusal to identify the Trustees who are present.

2. Financial considerations and report

Mr. Hawkes reviewed the monthly financial report and fund balances as of August 19, 2015, and the itemized expenses and income year to date.

Mr. Tracy asked if Mr. Hawkes was speaking and if he is the Manager. Mr. Hawkes replied that was correct.

MOTION: Mark Stevens made a motion to approve the financial report as presented. Mike Hughes seconded the motion.

VOTE: Unanimous in favor of the motion.

Mr. Hawkes reported that he tried to file the transparency website quarterly report, but there were difficulties with the State Auditor's template. He spoke with the State Auditor's Office, and they suggested that he wait until the EID has transferred its records to QuickBooks.

Mr. Tracy interrupted and stated that two motions were made and voted on and asked where Trustee Bradford is and what his vote was on those motions. Mr. Cook asked Mr. Tracy to not interrupt the meeting. He confirmed that Board Member Bradford was not present and told Mr. Tracy that he does not have a right to interrupt the meeting. If he continues to do so, they will ask him to leave. Mr. Tracy stated that he notes for the record that Trustee Bradford is not present and that normal regular Trustee meetings are held the second Tuesday and that it was delayed to August 20th for no reason. Mr. Cook stated that he was going to ask Mr. Tracy to leave.

Mr. Hawkes reported that some customers have asked for an equal payment plan for the year which would be adjusted annually. He suggested that they do that but require an online billing so no additional mailings would be required. Chair Hughes believed that would be a good idea and might improve their cash flow.

Board Member Stevens suggested that everyone introduce themselves, and each person at the meeting stated their name.

Mr. Hawkes noted that, when the District sends the April billing, it is the largest bill of the year for some people. Another billing option might be to provide an estimated 3-month read in January so people do not receive six months of meter readings in April. Chair Hughes felt it would be better to spread out the billings over the course of the year as previously suggested. The Board Members and Mr. Hawkes discussed both options and concluded that the equal payment plan would resolve both concerns. Chair Hughes suggested that they adjust the annual equal pay billing in September of each year, and Board Member Stevens agreed.

MOTION: Mark Stevens made a motion to implement an equal payment plan as suggested by Mr. Hawkes, to allow all EID customers to opt into or out of the program, with an adjustment in September, and with the stipulation that the equal payment customers agree to an email billing. Mike Hughes seconded the motion.

VOTE: Unanimous in favor of the motion.

3. 2015 Elections information and update

Mr. Hawkes reported that he forwarded an email from Salt Lake County to the candidates regarding the electronic voter information website. He stated that the candidates can post their information at any time and are also welcome to post their information on the EID website. The deadline for posting information on the voter information website is September 4. The ballots will be mailed the first week in October, and people can contact Salt Lake County to register.

Mr. Tracy asked when the last day would be to withdraw their candidacy. Mr. Hawkes confirmed it would be September 10.

4. Certified Delinquent filing and update

Mr. Hawkes recalled that last month he sent out 56 certified delinquent notices with a payment date of August 31. The District's deadline to file certified delinquencies is September 9. Salt Lake County has indicated that, once the District files, there will be a three- to four-week period that the County will accept a payment, but there will not be a release of lien, and it will probably still show on the tax notice.

Mr. Tracy asked if those properties have already been certified to the County. Mr. Hawkes replied that he has only sent notice letters to the property owners. Mr. Tracy asked when that would be submitted to the County. Mr. Hawkes reiterated that the last day to file with the County is September 9.

5. DDW sanitary survey and system inspection

Mr. Hawkes reported that the Salt Lake County Health Department contracts with the Division of Drinking water to conduct a sanitary survey inspection every two or three years. At the beginning of the month they did a complete inspection of the water system and all of the District's policies and manuals. There were three very minor problems related to the system, and the remaining issues had to do with converting the Upper Freeze Creek Well from a temporary well source protection to a permanent one. He spoke with Mr. Barnett, and they are in the process of completing that filing. The other issue had to do with a cross-connection plan, which is a new focus for the Division of Drinking Water. They want to see if the District knows where backflow preventers are located. Chair Hughes stated that he did not understand the concern, because the EID does not have a secondary water source, and in order to hook up to the system, a property owner must disconnect from their well.

Chair Hughes asked Larry Hall with Aqua Environmental to clarify this issue. Mr. Hall explained that it mainly has to do with administrative records showing that the District has done assessments and education on cross-connection. If they find backflow preventers in the system, the District needs to see records showing that they have been tested. The EID needs documentation showing that they have assessed the system and what they found with regard to backflow preventers. It is a record keeping issue, and he was not sure they would come across any backflow preventers in the Canyon, but this broad-based rule applies to every water system. Chair Hughes asked when the inspection would typically take place and whether it is something they would go out specifically to do. Mr. Hall replied that they would specifically go out and look for them, or they may see something in the normal course of operating the system. He stated that they only need to inspect annually if they find a device that is testable. Mr. Cook clarified that, if the backflow preventers are privately owned, the individual who owns the backflow preventer is required to have it inspected annually.

Chair Hughes asked Mr. Cook to draft a cross-connection plan for the EID.

Trevor Irons requested that the inspection report be published on the EID website. Mr. Tracy requested the names of the individuals who conducted the inspection.

6. Main line leak at 5555 Pioneer Fork Road

Mr. Hawkes stated that about 12 feet of pipe split on Pioneer Fork Road at about 11:00 p.m. and discussed the difficulty of finding someone to repair it at that time of night. They started work at about 11:00 p.m. and were able to get the repair done and the water on again by about 8:00 p.m. the following evening.

7. Water report and well levels status

Mr. Barnett reported that last month's usage was 6.7 million gallons, which is below the average of 7.8 million gallons. He stated that trend is being seen around the State because of weather. The per-connection usage was 24,000 gallons, which is also down from the average of 29,000 gallons.

Mr. Hawkes reported that the well level for Well 2 is at 38 feet. Since the last meeting, they have been using Brigham Fork and have not used Well 1 or Well 2. The Brigham Fork well draw down is about 149 feet. The Upper Freeze Creek well is still at 903 feet.

Mr. Tracy asked how much has been pumped out of the Brigham Fork Well so far this year. Mr. Hawkes replied that they have pumped a little over 1 million gallons.

Bert Bunnell stated that they have a test well on their property and asked if it is still monitored. Mr. Barnett replied that it has been a number of years since it has been monitored. He explained that the wells were put in to implement the District's policy in the past, and that is no longer required. Mr. Tracy asked if the District is required to monitor its five monitoring wells. Mr. Barnett replied that it is not; it was just a service the District did. Mr. Bunnell asked if Mr. Barnett has any concerns about those who have individual wells downstream running out of water. Mr. Barnett explained that those well levels have held steady for many years. Mr. Bunnell is in a transition zone where the stream drops out of communication, and his water levels are recharged from the stream, but they are also dependent upon the discharge to the Salt Lake Valley aquifer as it hits the mouth of the Canyon, and Mr. Barnett's observation has been that they stay fairly level. Mr. Tracy asked how he would know that without actually monitoring the well levels, since Mr. Barnett indicated that they have not monitored them for a number of years. Mr. Barnett replied that they monitored them for a number of years, and they remained consistent throughout that period. Mr. Bunnell stated that he does not really have a concern except that there are a lot of houses upstream.

Mr. Tracy asked if the Upper Freeze Creek Well has pumped over 8 million gallons out of the aquifer, and the EID has not once checked the monitoring wells. Chair Hughes asked Mr. Tracy

to wait and ask questions at the end, and he would appreciate it if he would not interrogate everyone as they speak. He would be happy to address Mr. Tracy's issues, but if Mr. Tracy continues to do this through the rest of the meeting, the meeting could go all night. He would love to get to Mr. Tracy's questions, and they would like to get through the agenda first and then address people's questions. Mr. Tracy stated that he would like an answer to the question he just asked. Chair Hughes stated that they would be happy to answer at the end of the meeting.

8. Request from Canyon resident for tour of the water system

Mr. Hawkes reported that he received an email request from Margot McCallum to tour the water system and read Ms. McCallum's demand to view and inspect the EID infrastructure, including anything under a heavy metal cover, and that he was to bring with him the tools to remove the covers at her request. She proposed several dates for the inspection and asked him to inform her by the end of the business day.

Mr. Tracy asked what day that was. Chair Hughes stated that he thought they had an understanding that Mr. Tracy would not continue to interrupt the meeting. Mr. Tracy stated that, if the letter is going to be read, he would like the whole letter read, not a redaction, but he wanted the whole thing read including the date and asked if that was clear. Fred Smolka stated that he disliked this contentious attitude and stated that it is very unhelpful to the progress of the meeting. Mr. Tracy stated that, if a letter is read into the record, he wants the whole thing read. Mr. Cook explained that the record is what will be in the minutes, and it will be reflected on the record. Other members of the public at the meeting asked Mr. Tracy to stop interrupting the meeting and making demands or leave. Chair Hughes explained that the EID is not the enemy; they are neighbors, and Mr. Tracy acts like they are something they're not. He reaffirmed that they would get to Mr. Tracy's questions, and they are not trying to duck anything, but they are tired of this nonsense. Mr. Tracy asked that they state the dates that were requested. Mr. Hawkes replied that Ms. McCallum asked him to inform her by the close of August 12, which he did.

Mr. Hawkes explained that this brings up the issue of community members inspecting or touring the water system. He stated that there is a concern about security, and the EPA and Homeland Security say one of the best ways to maintain the security of the water system is to not show off all the critical components of the system. He spoke with the Division of Drinking Water, and they also expressed concern about security, as this is a public water system. They might consider a tour if some people are interested in seeing some sites, such as the new well and storage building. He also spoke with the White City Water District, and they explained that they do an annual guided tour. The concept of having someone do a thorough inspection without knowing what they are looking for or what their purpose or intent is would be a concern. Chair Hughes asked if the District knows what Ms. McCallum's her purpose was and if she has concerns about something. Mr. Hawkes replied that nothing was disclosed to him. Mr. Tracy tried to interrupt again, and Chair Hughes refused to let him speak at this time. Chair Hughes asked if Mr. Hawkes asked Ms. McCallum what her concerns were. Mr. Hawkes replied that he did, but she did not respond. Mr. Tracy interrupted and stated that he would like to answer that. Chair

Hughes replied that he could not. Mr. Hawkes read the guidelines from the EPA regarding how to restrict access to critical water system components by denying unauthorized personnel access to those components and single points of failure. Supervised guests may be allowed, but unsupervised or uninvited guests could cause major problems, even if they do not intend to. They noted that disgruntled former employees have previously sabotaged systems. Mr. Hawkes noted that there are some disgruntled community members. Ms. McCallum is being charged the fire hydrant fee but is not currently using the water system.

Chair Hughes suggested that Mr. Hawkes contact Ms. McCallum again, ask her if she has an issue, and let her know that the Board would be happy to address whatever issue she may have. If she wants a tour, they could put together a tour, but it will be done when they put together a group of people to go. The Board would be happy to address her concerns as long as it does not put the District in a position of disclosing operational details she has no business knowing.

Mr. Tracy stated that Ms. McCallum asked him to attend this meeting to address that issue and asked if the Board would like to know what she has to say. Chair Hughes replied that he would not, because Ms. McCallum had not informed him that was the case, and he has already had the conversation with Mr. Tracy to not interrupt. The next time he interrupts the meeting, he will be asked to leave. Mr. Tracy stated that is why he is here. Mr. Cook assured Mr. Tracy that he will have an opportunity to speak at the end of the meeting. Chair Hughes told Mr. Tracy that he has to stop. Mr. Tracy stated he will not stop and that he is here for the members of the Emigration Canyon Homeowners Association. Chair Hughes stated that he wants to hear everything they have to say when he gets to them. Mr. Tracy stated that they are there and asked if he is refusing to hear what Ms. McCallum asked him to tell them. Mr. Bunnell, a Canyon resident, asked why Mr. Tracy continues to be so disruptive. If he would just let the meeting proceed they could get to his issues. Mr. Tracy stated that they are on the agenda item and asked if they would like to know what Ms. McCallum has to say about this issue. Mr. Cook explained that the District has no evidence that Mr. Tracy is here representing Ms. McCallum and stated that he can talk when they have public comment. Mr. Tracy stated that they have refused to listen to what she has to say. Chair Hughes replied that they have not refused anything. The only thing they have refused is to listen to Mr. Tracy be rude, and they will get to his issues.

Mr. Cook agreed that security is a concern, and he believed every resident would agree that they want to make sure their water system is secure. By the tone of the email, it is evident that this person is upset. Chair Hughes stated that he would like to know what she is upset about and have a discussion with her. Board Member Stevens suggested that the inspection report from the County Health Department might address Ms. McCallum's concerns. Mr. Cook agreed with having a tour of the new Freeze Creek Well for residents who might be interested in seeing it, but it should be limited to areas the District feels they can secure well. Their main concern is that someone does not sabotage the water system.

Joanne Edwards, a resident, asked what they do to secure the well. Chair Hughes replied that they lock doors. Mr. Irons stated that he would like to see a complete census of all the property and components that make up the water system.

Mr. Cook explained that it is an interesting dilemma when they operate a water system. They want to be sure the public is involved and knows what they are doing, but they do not want people to know all the connections and how they can get into the system.

Chair Hughes asked Mr. Hawkes to schedule a tour, but before doing that, he wanted to be sure that Ms. McCallum's concerns are addressed.

9. Any items requested by visiting public

Chair Hughes noted, as stated in the meeting rules, that public comment will be limited to three minutes per person.

Mark Tracy stated that today the law firm of Christensen Jensen issued a lis pendens on a water right belonging to the EID of 694 acre feet that was filed with the Utah Division of Water rights with a copy to Salt Lake County. He asked the EID counsel to explain what a lis pendens is and what it means to the District and the District's customers from this point forward during the litigation that was filed in Federal District Court by Mr. Tracy on behalf of the United States Government against the Trustees and Managers, including Mr. Fred Smolka. He stated that a second amended complaint of that lawsuit was filed recently and is under seal and will remain under seal, so he cannot discuss it. However, because the litigation is pending, he felt he needed to file the lis pendens on the water right. Mr. Cook responded that he will not discuss pending litigation. Mr. Tracy claimed that it is not pending litigation; it is a lis pendens that was filed with the Division of Drinking Water and is public record. He asked if Mr. Cook would like to explain to the Trustees what that means. Mr. Cook reiterated that they are not going to discuss pending litigation. Mr. Tracy again claimed that it is not pending litigation. Mr. Cook explained that it is part of a pending litigation. Mr. Tracy stated that he would discuss it. He claimed that pending litigation, lis pendens, means that any disposition of that water right by the Emigration Improvement District during the pendency of the litigation is basically not allowed. That means that any water letters that Emigration Improvement District should release or lease water rights under that large water right of 649 acre feet would not be allowed, and a complaint would immediately be filed by him with the Utah Division of Water Rights that would basically prevent Emigration Improvement District from using a very large water right, 649 acre feet, which could conceivably be used for over 1,000 new residents within the Canyon. He asked that be recorded in the meeting minutes. Board Member Stevens asked what the implication would be for the customers of the water system. Mr. Tracy suggested that he speak with his legal representative about that issue.

Joann Edwards, a resident of the Canyon, asked if the District does background checks on the candidates for office to be sure they do not have skeletons in their closet. She noted that they handle a lot of money and deal with contracts and asked if they know that everyone who will assume office does not have things the residents should know beforehand. Chair Hughes replied that they do not do background checks, and the residents have the ability to vote someone into or out of office. That responsibility falls on the voting public, and they do not do a background

check on everyone who wants to run for office. Mr. Cook explained that State election law governs how elections are handled.

Steve Hook addressed the issue of a tour of the water system and stated that it seems like Mr. Hawkes has a lot of things that need to be taken care of right now, which is another reason why he does not have the time to take someone individually on a tour of the water system. Chair Hughes agreed and stated that there is no hurry to conduct a tour immediately other than to address Ms. McCallum's concerns.

Board Member Stevens asked Mr. Tracy if he believed a copy of the inspection done by the County would answer Ms. McCallum's concerns. Mr. Tracy replied that Ms. McCallum received a copy of the lawsuit filed in Federal District Court by him after the seal was lifted on June 12. She has read the complaint thoroughly and is concerned about the allegations in the Complaint. He believed the Complaint speaks for itself and has been emailed throughout Emigration Canyon. He believed Ms. McCallum's concerns are the issues of placing huge infrastructure on Steve Creamer's property without recording easements on that property, the placement of the Wildflower reservoir, which was supposed to go on Salt Lake City's property and suddenly appeared on Mr. Creamer's property, and the background of Michael Scott Hughes as a securities broker who has been blacklisted for life due to fraudulent transactions. Board Member Stevens reiterated his question as to whether the inspection done by the County would satisfy Ms. McCallum's concerns rather than her seeing the system in person. Mr. Tracy replied that all she wanted was what she stated in the letter, and she gave three possible dates and a deadline to reply to those dates. It was rejected because of "security concerns," and he believed the letter speaks for itself. The Board has read exactly what she requested, and he has read the letter, which was unequivocal as to what she asked for, and she was denied. That has been recorded, so there is no reason to contact her again. She has not requested that, and that is why he was going to tell the Board that they are wasting their time. She gave them a deadline, they let it go, they refused her request, and it has been recorded. That is all she asked for.

Dana Bowen noted that the entire meeting has been about the water system and asked if her tax money as a resident on Sunnysdale gets no benefit from the water system. Chair Hughes explained that the idea of taking the wells away from the creek was to help improve the creek flow. If they can get their water sources away from the creek, it is easier to protect those sources from contamination. A lot of little wells were removed from areas along the creek, and the EID has developed sources where they can be protected and not influence the creek. The intent was to try to improve the water where people in Sunnysdale pull their water from. Ms. Bowen stated that she has heard the District is allocating a lot of water for more building in the Canyon, when their water hasn't been monitored for years. Chair Hughes replied that the monitor wells were put in because the District was trying to identify where water sources might be for potential wells. They decided not to put one near the Sunnysdale area because it would be too difficult to protect the source, and they put the wells in areas where they could protect the source. Ms. Bowen stated that she has heard the EID is proposing to give out water rights further up the Canyon, which would drain water that she uses. Chair Hughes stated that the District never gives away water rights. There is more paper water than physical water in the Canyon, and they

want to get rid of that problem by getting people to convert to the water system. Some of those water rights are then donated to the system as people hook up, and the District can retire some of those rights. Being able to deliver what they have is more important than having a lot of people with a lot of paper water that they cannot physically pull out of the ground. He asked Mr. Barnett to explain the hydrogeology of the Canyon.

Mr. Barnett provided a history of how water rights were leased by the District and explained that the water levels were monitored to be sure the District was not creating problems for the existing residents. Since the water system was developed, the District has only leased a couple of water rights, and the purpose for the monitor wells went away, because the District's sources moved away. The District no longer leases water rights to people in the Canyon, because they can now connect to the water system.

Mr. Tracy stated that, while this litigation is going on, the District will not be leasing water rights.

Mr. Bunnell asked Mr. Barnett to explain the aquifers that serve the Canyon. Mr. Barnett described the geology of the Canyon and explained that the geological beds lower in the Canyon are the older ones, as are the ones on the hillsides. Most residents with their own wells are in the shallow bedrock layer of the Canyon, and many of those wells are marginal. He recalled that the water system was donated by the Emigration Oaks developer, who drilled two wells that are in a thinly bedded limestone formation and take water from multiple little fractures, and those two wells are fairly isolated from each other. The Brigham Fork Well is in a similar formation. The Upper Freeze Creek Well is in the same formation but in a member that is deeper, more massive, and has larger fractures.

Ms. Edwards asked if they can calculate how many houses they can support with the wells the District has. She noted that there are people with swimming pools and massive lawns who use a lot of water and asked if there is ever a point where they cap the amount of water people can use. Mr. Barnett explained that the Division of Drinking Water regulates the District's sources and assigns a peak day demand to the well, and there is a formula that determines how many homes that well can serve. Mr. Tracy asked about the maximum number of homes in Emigration Canyon. Mr. Barnett replied that he does not know the answer to that. The State Engineer's Office looked at the Canyon in total and determined how many water rights could be allocated, and by the mid-1960's, they determined that they would not allocate any more water rights in the Canyon. He noted that there are locations outside the Canyon that also depend on the resources in the Canyon. Chair Hughes explained that the District rates and monitors the use per connection, and they have found that the water use in the Canyon has gone down year after year because of the District's education programs. Ms. Edwards expressed concern about what would happen if they allowed another 200 houses in the Canyon. Mr. Barnett clarified that the District is not the zoning authority and cannot say what can and cannot be built. Chair Hughes replied that there is no place to put 200 more houses in the Canyon. Based on zoning and water allocations, he did not foresee that being an issue.

Pat Sheya, a Canyon resident, asked if the wells are from a different water source other than the stream. Chair Hughes explained that the District's wells do not rely on water from the stream, and they have tried to increase the stream flow by taking their water sources away from the stream. Mr. Barnett stated that the District's wells are from a formation that is much deeper and would not have an influence on the stream until much further down at the mouth of the Canyon. He explained the underflow associated with the stream and stated that it has been estimated that 3,000 acre feet discharges out of the mouth of the Canyon in the underflow that supports the stream. Ms. Sheya asked where the water comes from that feeds the springs on the south side of the Canyon. Mr. Barnett replied that they believe it is the Twin Creek limestone. On the north side of the Canyon, the water does not drop into the ground as readily, so it creates a stream.

Jack Plumb noted that the City did some excavation near the monument and put in a large pipe that brings water from this Canyon and asked where that water comes from. Mr. Barnett explained that is Salt Lake City's tunnel, and the water comes out of fractures in the Twin Creek limestone on the south side of the Canyon. Mr. Plumb stated that he was aghast at the amount of water the City is taking out of the Canyon. Mr. Barnett explained that the City has a water right for that water, which would be senior to most of the Canyon residents' water rights but junior to the District's water right. Mr. Plumb recalled that there was a time when it was determined that the Canyon could only carry enough water for 710 homes. Mr. Barnett replied that there was a gauge at Killyons and a gauge at the mouth of the Canyon, and the Trustees at that time looked at that and estimated how many homes could be supported by what they saw with those gauges. That number was not generated by the State Engineer or Division of Drinking Water, but the Trustees were trying to preserve the stream environment. However, it never got to that point, because a Canyon water system was installed. Mr. Tracy asked if Mr. Barnett is saying that was a decision of the Trustees and no hydrological data supported that decision. Mr. Barnett stated that is not true, and he spent hours providing the Trustees with hydrologic data. Mr. Tracy asserted that Mr. Barnett's data said the Canyon could support 700 homes. Mr. Barnett clarified that the criteria they were talking about were based on a percent of stream flow reduction, what they believed was an acceptable stream flow, and how many homes that would support. Mr. Tracy asked what Mr. Barnett believes that to be today and if it could theoretically be 2,000 or 3,000 homes.

Fred Smolka explained that Salt Lake County has put several zoning regulations in place that help maintain reasonable growth in the Canyon, including the Foothill and Canyons Overlay Zone, which does not allow anyone to build on slopes greater than 40%, and to build on slopes between 30% and 40%, a person has to get special approval from the Township Planning Commission. Many of the homes that currently exist in the Canyon might not be allowed under the current zoning. Also, the zoning has become more straightforward and understandable, and some areas in the Canyon where large pieces of land are located are zoned FR20, which means only one home is allowed on 20 acres, which might be eliminated further by the steepness of the slopes. He stated that it has been rumored that he owns property to develop 710 lots, but he does not. Mr. Tracy asked who has zoning authority after November 2016. He raised his voice at Mr. Smolka to answer the question as to who has zoning authority after November 2016. Mr. Smolka stated that he was talking and asked Mr. Tracy to be quiet. Mr. Tracy demanded that

Mr. Smolka answer the question. Mr. Smolka replied that he would not answer the question and that he was addressing Ms. Edwards with a response to her concerns about the number of homes that could be developed in the Canyon. He continued by stating that the zoning makes it difficult to get approval. Ms. Edwards responded that Mr. Creamer has oodles and oodles of money and asked if Mr. Smolka is saying that he could not finagle something to 100 houses per acre, because money talks. That is what bothers her.

Chair Hughes reiterated that the District does not control zoning. They have nothing to do with that and do their best to let the other agencies know the District's policies, what they are trying to do, and the science they pay for to further their decision making, but the District does not make those decisions. He stated that when he started as a Trustee, 1,100 homes were approved for Emigration Oaks, and the District capped it at 222 homes. Mr. Tracy asked how they were going to develop that with water rights for 188 homes. Chair Hughes replied that he did not know what their concept was, and Mr. Tracy might want to talk to the developer about that. Mr. Tracy stated that he is very well aware of what water rights Boyer Company has and did have at that time. Chair Hughes continued that they were able to stop the development of that many homes by managing the water. He explained that the Trustees live in the Canyon, too, and do not want any more homes here than anyone else does. He does not want the stream to go away, and he does not want to have his water quality fouled, because it is important to him. This is why they do what they do, and this is not some master scheme to turn the Canyon into something else and make a bunch of money and move out of the country. That whole concept is ridiculous. The Trustees have been doing this a long time, they make no money doing it, and it is a thankless job. He believed they do a pretty good job of it.

Board Member Stevens stated that another reason the use per connection has gone down is that they steepen the graduated rate so it becomes very expensive for the higher users of water. The residents of Emigration Oaks are not fond of that, but the Board shares the residents' concern regarding the use of water.

Michelle Anderson asked if it would be possible for those who live on Sunnydale to have a reading of the test well for purposes of comparison with the last time it was read. Mr. Barnett replied that would be easy to do. Board Member Stevens suggested that they collect that data every year. Ms. Anderson commented that the creek flow has decreased considerably since there has been more development in the Canyon. Chair Hughes agreed that they should read the test wells. Mr. Barnett suggested that they read the well level in the spring and the fall.

Mr. Plumb expressed concern about how they could have an estimated meter reading when sometimes the meters are not read for a long period of time. He believed it would be tricky to come up with a number without ever reading the meter. Chair Hughes explained that the District would still read the meters like they do now and will know how much people owe for their usage. They would simply spread the amount over 12 months. Mr. Hawkes explained during which months the meters are read each year. Mr. Plumb believed it would be complicated if the District does not have the ability to read the meters constantly to come up with a number they could divide by 12. Mr. Barnett explained that this is commonly done in the city.

Trevor Irons did not understand how they would account for the tiered water rates if they divide the annual amount by 12. Chair Hughes explained that the meters would be read and the people would be charged for their water usage just like they are now. If someone runs their rate up in June, they will pay that rate, but the payment will just be spread over 12 months. Mr. Hawkes explained that the software is still the same, and they will still collect all the same data, and once a year they will monitor and adjust the rate accordingly for the year.

10. Closed session

MOTION: Mark Stevens made a motion to convene in closed session to discuss pending and imminent litigation. Mike Hughes seconded the motion.

VOTE: Unanimous in favor of the motion.

The Board of Trustees met in closed session from 8:45 p.m. to 9:15 p.m. to discuss pending and imminent litigation.

MOTION: Mark Stevens made a motion to dismiss from closed session and to adjourn the regular meeting. Mike Hughes seconded the motion.

VOTE: Unanimous in favor of the motion.

The regular meeting of the Emigration Improvement District adjourned at 9:15 p.m.

Minutes Approved