

EMIGRATION IMPROVEMENT DISTRICT  
BOARD OF TRUSTEES REGULAR MEETING  
THURSDAY, SEPTEMBER 22, 2016

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

Board of Members in Attendance: Mike Hughes – Chair, Mark Stevens – Vice Chair, David Bradford – Secretary/Clerk

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

**1. Consent Approval – Minutes for August 18, 2016**

MOTION: David Bradford made a motion to approve the minutes of the August 18, 2016, Board of Trustees meeting as written, Mark Stevens seconded the motion.

VOTE: Unanimous in favor of the motion.

**2. Financial Considerations & Report**

Eric Hawkes reviewed the monthly financial report and fund balances as of September 21, 2016, as shown on his printed report.

Mark Tracy asked several questions. He first asked Eric what his affiliation is with the EID and Eric replied that he is the manager. Mark Tracy then inquired regarding the Hydrological Engineering & Consulting Fees budget. Eric responded that most of the fees are associated with the sewer study. Chair Hughes interjected that a budget is proposed because they don't know how much money will be required.

**3. General Liability Insurance Proposals**

Eric Hawkes discussed 3 Insurance Proposals he circulated for consideration and reviewed their current policy with Arches. Chair Hughes asked for an explanation regarding the differences in pricing. Eric explained the coverage, claims/occurrence, aggregate, liability, medical and annual fee for; Golden Bear/Scottsdale Insurance, Allied World and Utah Local Trust, which only insures with local government and districts. Mark Stevens asked if Utah Local Trust included property insurance and Eric stated that they cover up to 1 billion dollars. Chair Hughes asked if Utah Local Trust sells their policies to anyone other than local government and Eric replied that they don't. Jeremy Cook stated that he has worked with Utah Local Government Trust and highly recommends them. All Board members expressed support for Utah Local Trust. Mark

Stevens asked if Arches got out of the insurance business and Eric explained that they chose to not renew EID policy due to adverse claims. Mark Tracy asked for the date the policy was cancelled and Eric replied as of August 31, 2016 and clarified that Arches chose to not renew policy, they weren't canceled. Mark Tracy asked if their policy was cancelled because of the lawsuit and Eric stated that it was probably the settlement. Chair Hughes indicated that they weren't exactly sure. All of the Board members agreed to pursue insurance coverage with Utah Local Trust. Mark Stevens suggested that Jeremy review the policy first before making a final decision. Mark Tracy inquired about the cost increase for the new policy. Eric restated the policy amounts as written in the circulated proposals.

#### **4. Review of District Procurement Policy – Jeremy Cook**

Jeremy Cook discussed the suggestions made by the State Auditor's Office for EID to update their Procurement Policy. Jeremy gave a brief background of the changes made in January of 2015. A State law was mandated that districts were subject to Utah Code's Procurement Policy set under the Utah Code unless they opt to adopt their own policies. Jeremy talked about the Utah Code Section and Utah Administrative Roles. Utah Association of Special Districts adopted own policy to opt out of Utah Administrative Roles because they were too complex for simple districts with no employees, overkill. Districts are always subject to the Utah Procurement Code but they can adopt a policy that is simpler. Utah Auditors Office suggests their 2-page policy for small districts but it doesn't comply with State Code. Jeremy's suggestion was to adopt policy suggested by the Utah Association of Special Districts even though there is a lot there that EID may never implement. Chair Hughes asked for a condensed version and what would really change. Jeremy explained that the Procurement Policy mostly pertains to purchases with the intent that public entities get the best deals. Chair Hughes asked about an emergency situation and how policy would affect procedures already in place. Jeremy remarked that nothing would change regarding emergencies.

Mark Tracy interrupted discussion and asked if EID was in compliance with Utah law. Jeremy calmly stated that Mark Tracy was not allowed to interrupt and he wasn't invited to address the board at this time. Mark Tracy insisted that his question be answered. Chair Hughes commented that he will have to wait until after the discussion. Jeremy and Chair Hughes gave Mark Tracy several warnings. Mark Tracy wouldn't comply so Chair Hughes requested that he be removed from the meeting. Officer Jake Alistair escorted Mark Tracy out of the building.

Jeremy Cook continued his discussion and explained that a Procurement Policy doesn't go into depth about authority for decision making but a policy can be adopted for any emergency situation. Jeremy talked about policies, procedures and money management in detail and recommended that Eric be given the authority, as the manager, to make purchases within a set limit for emergency repairs, maintenance or general purchases without authorization from the EID Board. Chair Hughes asked if contractors can be pre-qualified and Jeremy replied that they can be under the policy. Bob Staggers asked about pre-qualified contractors. Chair Hughes clarified that pre-qualified contractors are capable, available and ready to do the work. Jeremy advocated to adopt policy with an executive summary for Eric to follow, a purchasing policy procedure. David Bradford asked Eric about purchases he's made. Eric replied that most

purchases he makes are under \$100. Joe Smolka interjected about the need to purchase large items in an emergency repair situation. Eric talked about purchases authorized for planned maintenance and emergency operations with the assistance of Aqua Environmental, the system operators, who usually do the repairs themselves. Board members discussed a set purchasing amount. Eric stated that an emergency board meeting would be required to amend budget for large purchase items. Jeremy mentioned that policy doesn't include amounts, they would be set by the board and can be adjusted if necessary. David Bradford clarified that the point of a policy is to set procedures in place that are independent of the person. Jeremy indicated that Eric would be purchasing on behalf of the district because he isn't an employee or anyone else the board dictates. He also wanted to curtail the criticism of some of the public that the district doesn't have a policy in place. David recommended a purchasing limit of \$2,500. Mark Stevens requested to review policy prior to its implication. Jeremy said he would circulate policy draft for consideration. Mark Stevens would prefer purchasing limit of \$5,000. Chair Hughes felt like it was a good place to start.

Jeremy addressed other issues with expenditures, purchases that Eric makes personally and gets reimbursed for. Jeremy mentioned the need for a district credit card. Chair Hughes thought a district credit card was a bad idea. Bob Stagers asked how Eric makes purchases. Jeremy replied that the district typically gets an invoice. Marco Perez asked question regarding reimbursed scheduled expenses. Eric explained that the billing and mailings vary and that payment is required at the time of service. He informed that all invoices and receipts are submitted. Eric affirmed that he can't sign his own check, they require two signatures of the trustees. Jeremy stated that there are enough checks and balances in place that there is no problem with procedure.

Chair Hughes asked Jeremy if district was in compliance. Jeremy replied that as of January 1, 2015 district has been under the default procurement policy but they are adopting and customizing their own policy now. Bob Stagers asked if district would be allowed to have virtual meetings. Jeremy stated that district doesn't currently have a policy in place for virtual meetings and the public would have to be invited, given the best possible notice, at least 24 hours, to attend. Eric could contact trustees in the event of an emergency.

## **5. System Repairs & Maintenance Report**

Eric talked about an emergency repair that occurred a couple of weeks ago at 5124 Little Tree Road. The home is a rental and the renter didn't know who to call so the process was delayed. Eric explained the difficulty he had with trying to turn off the water at the valves with no success in the early hours of the morning. After he talked with Larry Hall, it was determined that the water wasn't able to shut off due to the back flow around PRV valve. They were able to fix the problems and they replaced two saddles with the brass ones that were available. Eric reported that there is still some landscaping to do to create a swell in the yard to help divert the water. Eric expressed that they learned lessons about the flow of the water system and PRV valves. Bob Stagers inquired if there were maps of the water lines. Eric confirmed that there are and he used them for reference. Chair Hughes commented that they haven't had good luck with brass saddles and asked Eric about stainless steel. Eric confirmed that they have 6" and 8" stainless steel

saddles in stock but not 2” and 4”, they will have to be ordered. Chair Hughes then stated that brass saddles don’t work well in this environment and talked about the original material of saddles being cast iron. Fred Smolka mentioned that saddles were replaced proactively with stainless steel. Marco Perez asked how much these emergencies usually cost. Eric responded that they typically cost about \$5,000.00, planned maintenance is different. Chair Hughes requested Eric to get various sizes of stainless steel saddles to have on hand. He stated that brass saddles don’t work very well because of the conductivity in the ground which destroys the metal. Fred interjected that stainless steel is the only way to go.

## **6. Report on Waste Water Study Meeting with County & State Officials**

Eric Hawkes addressed the meeting he went to at the County Building with several people from the State Division of Environmental Quality, Walt Baker, the Director and John Mackey, who has helped with the loan and does funding with the State. He stated other officials attended including Planning and Zoning, Marian Hubbard with Salt Lake Planning, who has been doing the testing along the creek for e-coli, TMDL, caffeine and optical brighteners study. Eric also recognized individuals from the Department of Health, Jeremy Rogers, Rita Lund and others including representatives of the Township. Eric talked about Brad Rasmussen with Aqua Engineering who presented the Waste Water Study and his results. Eric informed that there were a number of concerns especially with the data. Chair Hughes interjected that the tenor of the meeting was that officials want a canyon wide sewer system regardless of the expense and economic impact. He also asserted that the raw economics don’t make sense even with a loan of 45 million which translates to at least \$70.00 a month per resident for 40 years. Questions were raised regarding grants to assist and point sources but data isn’t great. Chair Hughes affirmed that their science has to be bright with alternative solutions and perhaps Brad isn’t the person for the task at hand. Jeremy Cook asserted in the discussion that all residents would be financially impacted not just the homes with faulty systems. Chair Hughes described the reality of water in the canyon and the insanity of exporting it. Don Barnett commented that sewer pipes are infamous for affecting the delicate balance of groundwater and springs, trees would be greatly affected. Fred Smolka asked about the future need for a Bond Election but Chair Hughes said it was too soon to address that. Eric recalled that Walt Baker viewed this waste water problem as a public safety issue and not a popularity contest. Jeremy mentioned that because there is no point source, DEQ cannot force or regulate EID. Don talked about the Non-Source Monitoring Conference he attended and their presentation and overall attitude of Emigration Canyon residents. Other points and issues were discussed extensively among everyone present but Don insisted that more hard data is required to solve the issue and he recommended a private meeting with Walt Baker to discuss real solutions. Chris Jones asked if there was technology to track homeowners with septic problems and Don replied that there is a dye that can be traced. Chair Hughes added that areas with issues have been identified by their odor. Don explained that these homes are older, along the stream and vaults are expensive to pump. Other contributing factors were talked about such as the dog park, Camp K and Hogle Zoo. Chair Hughes informed that issue is serious and meetings will be held monthly. He ascertains that a meeting with Walt Baker with hard data will be beneficial to discuss alternatives. Marko Perez asked what TMDL was and Don Barnett described it in detail. Chair Hughes asked Eric to set up a meeting.

## **7. Water Levels Report**

Eric Hawkes talked about the levels of the wells being relatively consistent. He reported that Freeze Creek is -900 ft., Well 1 is about -70 ft., he didn't know the level of Well 2 and Brigham Fork Well is still artesian even after a dry summer. Eric stated that Brigham Fork Well was still being exercised. Don Barnett talked about water levels and artesian process. Bob Staggars inquired about well levels and Don explained the process. Chair Hughes talked about the well levels and what it takes to recover back to a level, adding or mining the wells and that is why the wells are constantly monitor. They want to know what is in the ground underneath. Mrs. Jones asked question about monitoring the monitoring wells on a regular basis which was addressed later in the discussion. Don talked about the district's drinking water wells and total water usage as seen on his projected graphs. Water usage in August was as much as July because of the dry, hot summer.

Don gave a brief history of the original purpose of monitoring wells when the district's primary function was to lease water rights. He stated that the district limited the number of leases to preserve water levels. Don asserted that the monitoring wells were drilled in various places in the canyon and tested to track water levels. He reported that there was no change in the water levels for 6 years because the stream recharges the ground water. Don explained that for a time the district suspended monitoring the monitoring wells and now there is a canyon water system that most residents connect to. Don discussed how he and Eric located the monitoring wells and measured them. They are in good condition. Don explained the location of each well and their levels as seen on his projected graphs. Mrs. Jones asked if wells need to be that deep and Don answered that wells need to be in a -100 to -120 foot range. Don stated that the district has purchased a probe so they can monitor the monitoring wells. Eric commented that it takes several hours to monitor all the wells. Board members discussed reasons for monitoring the monitoring wells and how frequent that should be. Chair Hughes asserted that monitoring the monitoring wells shows responsibility and data to appease the public. Don mentioned that he gave Eric a binder containing information on easements, leases and data on all the monitoring wells. Jeremy Cook asked Don about the public assertion that the EID stopped monitoring the monitoring wells because they wanted to hide the influence of the Freeze Creek Well. Don replied that there was absolutely no data to support that false claim. Don asserted that the new wells were drilled purposely to be far removed and back into the mountain to not affect the existing canyon residents or future structures. Chair Hughes asked if data was emailed to Dana Bowen and other residents that requested information. Eric confirmed that data had been sent and he had talked with Dana several times.

## **8. Visiting Public**

Marco Perez asked questions regarding the financial report and tax collection revenues. Eric Hawkes replied that taxes are mostly collected in November and December but will reflect early in the year's budget. Marco then asked about EID employees but Eric and Jeremy Cook explained that they are all independent contractors. Marco inquired about depreciation. Eric explained that the depreciation is in reference to all the infrastructure which is on a schedule. Marco then asked what the depreciation value rate was and Fred responded that total value is

around 30 million. Marco inquired about Mark Tracy and his lawsuit and Jeremy gave a general overview of the situation. Bob Stagers insisted that Marco view Mark Tracy's website.

**9. Closed Session – Pending Litigation**

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

VOTE: Unanimous in favor of the motion.

The Board of Trustees met in closed session from 9:28 p.m. to 9:48 p.m. to discuss pending and imminent litigation.

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

VOTE: Unanimous in favor of the motion.

The regular meeting of the Emigration Improvement District adjourned 9:48 p.m.

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Minutes Approved