

EMIGRATION IMPROVEMENT DISTRICT

BOARD OF TRUSTEES REGULAR MEETING

THURSDAY, SEPTEMBER 17, 2015

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: Eric Hawkes—Manager, Jeremy Cook—Legal Counsel, Don Barnett—Barnett Intermountain Consulting

In the absence of Chair Hughes, Board Member Stevens called the meeting to order at 7:05 p.m.

**1. Financial considerations and report**

Mr. Hawkes reviewed the monthly financial report and fund balances as of September 15 as shown on his printed report.

Board Member Stevens asked why interest income is lower than budgeted. Mr. Hawkes explained that he budgeted the same as last year, but last year some of the money for completion of the Upper Freeze Creek Well was held in the Public Treasurer’s Fund account. The balance in that account is lower this year, resulting in less interest income. Board Member Stevens asked about the impact and water right fees. Mr. Hawkes explained that, if the District finances impact fees, they do not show up in this budget item but are shown in the impact fee balance. This year the District financed one impact fee, and he believed they would have another one that will be paid in full. Board Member Stevens noted that it appears they may come up a little short on the income budgeted for the year.

**2. Proposal to remove “convenience fee” for online payments**

Mr. Hawkes recalled that the District started offering online payments in January, and he has received requests from people that the District remove the convenience fee for paying online. He explained that the District is charged by the software company when people pay online, and he believed more people would pay online if the District were to waive the convenience fee. Board Member Bradford confirmed with Mr. Hawkes that he is talking about the District waiving the convenience fee but that the software company would not waive its fees. Mr. Hawkes explained that the District pays 50 cents per transaction for e-check payments and 2.99% for credit card payments. Based on the number of transactions so far this year, the District would have paid a total of \$22.50 for e-checks and \$766.66 for credit cards. When he asked the software company if they could separate the two types of transactions and offer e-checks at no charge, they replied that they currently cannot, but they may be able to by the beginning of next year.

Board Member Stevens asked about the advantages of electronic transactions. Mr. Hawkes replied that electronic transactions go straight from the customer into the bank, and he does not have to handle paperwork and checks or input anything into the system manually. He believed

more people would pay electronically if the District did not charge a convenience fee. He projected the cost to the District if double the number of people were to pay electronically.

Mr. Cook referred to the large discrepancy in the cost of e-checks and credit cards and suggested that offering e-check transactions at no cost and charging for the credit card transactions.

Board Member Stevens expressed concern about the cost to the District of offering electronic payments without charging a convenience fee, especially after reviewing the budget and some of the shortfalls they might experience in other areas. Board Member Bradford stated that he liked the solution proposed by Mr. Cook. At 50 cents per transaction for e-checks, the District may actually make money considering that there would be fewer costs in handling the overall transaction, but at \$3.00 per transaction for credit cards, that is not the case. Mr. Hawkes explained that the software is not currently set up to split the transactions, and in order to waive the fee for e-checks, he would have to manually enter a credit for the fee each month. Board Member Stevens suggested that they wait until the software is available to split the transactions before taking action. Board Member Bradford suggested that, in the meantime, they should make it clear to the users of the system that there is a discrepancy in the cost to the District for e-checks and credit cards.

### **3. 2015 elections information and update**

Board Member Stevens announced that the EID Board has two seats open this year, and five candidates are running for the two positions. The ballots are scheduled to be mailed the first week of October, and it was his understanding that the ballots must be postmarked by the first Tuesday in November. Mr. Hawkes explained that all registered voters should have received a notice in the mail, and if someone did not receive that mailer, they should contact Salt Lake County.

Jamie White commented that, if someone has not voted in the last four years, they may no longer be registered and should contact Salt Lake County. It was his understanding that the ballots must be mailed before November 3. If someone misses the date and still wants to vote, they can go to Salt Lake County and vote on the machine.

Chair Hughes arrived and assumed the chair.

### **4. Consent approval – Minutes for August 20, 2015**

MOTION: Mark Stevens made a motion to approve the minutes of the August 20, 2015, Board of Trustees meeting as written. Mike Hughes seconded the motion.

VOTE: Unanimous in favor of the motion. David Bradford did not vote as he did not attend the August 20 meeting.

### **5. Utah Association of Special Districts Conference**

Mr. Hawkes reported that the Utah Association of Special Districts will hold a conference November 4 through 6 which will qualify for existing and new board member training and handling GRAMA requests. Those who are running for office may want to put those dates on their calendar.

#### **6. Certified delinquent filing update**

Mr. Hawkes reported that the certified delinquencies were filed on September 9 for a total of 53 parcels, 31 of which were fire hydrant fees only. Of the remainder, 20 were for standby fees, and 2 were for situations where the District has shut off the water and no one is currently living on the property. The total amount filed was \$19,674.07.

Steve Hook asked how this compares with what has been filed in the past. Mr. Hawkes replied that last year they filed on 46 parcels for a total of approximately \$23,000.

#### **7. Cross connection**

Mr. Hawkes recalled that the Division of Drinking Water now requires the District to provide public awareness regarding cross connection compliance. He researched that and determined that they should be able to accomplish that by putting the information on the website. He also suggested that they put a notice in the October newsletter directing people to the website. Chair Hughes confirmed with Mr. Hawkes that the District has no reports of cross connections to the EID system. He commented that they do not have many possible situations where people may still have a well and a connection to the water system and suggested that they send a notice to those property owners with specific information about how to prevent a cross connection situation. Board Member Stevens noted that almost everyone who joins the water system from here on will be on a well and has the potential for a cross connection. He suggested that they keep a supply of the printed material on how to prevent a cross connection and provide it as people join the system.

#### **8. Canyon wastewater feasibility study**

Mr. Hawkes reported that Aqua Engineering is ready to hold an open house to present its findings on available options for handling wastewater in the Canyon. Chair Hughes summarized the wastewater issues in the Canyon and the grant the District received to look for solutions to those wastewater problems in response to the TMDL study and potential EPA requirements. Mr. Hawkes stated that Aqua Engineering has proposed an October 15 date, and he suggested that they also hold the regular EID Board meeting that evening.

#### **9. Water report and well levels**

Mr. Barnett presented a chart showing the water usage since 2001. He noted that usage increased as the number of connections increased, but total usage has dropped off over the last

three years as people have responded to conservation efforts. He presented the water usage per capita, which has also declined. In the last three years, summertime usage is 23% less than it was the previous three years. He also presented a graph showing total usage from all the wells.

Board Member Stevens asked if they will repair the Brigham Fork well this year. Chair Hughes replied that it does not make sense from a financial standpoint to do that. That is a decision they can make later, because there is no real need to fix it right now. Mr. Barnett explained that Brigham Fork is currently providing a significant amount of water into the system and is not being stressed by how it is being pumped right now. Chair Hughes stated that he would like another year of data on the Upper Freeze Creek Well before shutting down the Brigham Fork Well for repair.

Mr. Hawkes reported that the well levels in Brigham Fork and Upper Freeze Creek have remained consistent.

Steve Hook commented that stories are circulating in the Canyon that the District is flushing water down the side of the well for unknown reasons, and he believed there must be a good reason for flushing the wells. Mr. Barnett stated that every public water supply he has been involved with runs to flush when a well is turned on, and that is standard practice.

#### **10. Any items requested by the visiting public**

Mr. Hook asked about the legal issue and sealed document that came up in the last EID Board meeting. Mr. Cook explained that a complaint was filed against the District under the Federal False Claims Act, which allows an individual to sue on behalf of the Federal Government. The original complaint is filed under seal so no one knows what it says, and then it goes to the Federal Government to decide whether they want to intervene in the case and take it over. If the person decides they want to amend their complaint, they file it under seal again, and it goes back to the Federal Government to decide whether they want to intervene in the amended complaint. The amended complaint is currently with the Federal Government to determine whether they want to intervene in the case. Mr. Hook asked why that complaint was being published on Trevor Irons' and Jamie White's public website when it is currently under seal, which he believed was completely inappropriate. Mr. White claimed that the first amended complaint is on the website, not the second amended complaint. Mr. Cook confirmed that it should not be made public.

Mr. Hook also noted that there is a lot of public discussion about what the Board did to reallocate funds from maintenance to legal in their budget. He asked if all the District did was to reallocate a line item, which they are required by law to do in a public meeting. Chair Hughes confirmed that is the case. Mr. Hook commented that some of the mischaracterization and misinformation that is floating around is astounding, because the District is required to do what they have done. Chair Hughes explained that the District is also required by law to defend the lawsuit, so they did not have a choice but to amend the budget to pay for the lawsuit. Board Member Stevens wanted it to make it clear to the public that, because of this suit, some of the money people pay for water

now has to pay attorneys instead of delivering water. Mr. Hook expressed concern about the damage being done. He also found it astounding that it is being represented that the District has a lot of discretionary funds to cover this lawsuit, because there is nothing discretionary in the District's budget, and he was not sure where people believe that money should come from. If there is a major problem with the water system, the District will have to find a way to repair it, and there is nothing discretionary about the repairs and maintenance line item.

**11. Closed session**

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

VOTE: Unanimous in favor of the motion.

The Board of Trustees met in closed session from 8:20 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. David Bradford seconded the motion.

VOTE: Unanimous in favor of the motion.

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

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Minutes Approved