

EMIGRATION IMPROVEMENT DISTRICT  
BOARD OF TRUSTEES REGULAR MEETING  
THURSDAY, JUNE 16, 2016

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

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

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

Chair Hughes called the meeting to order at 7:02 p.m.

**1. Consent Approval – Minutes for May 5, 2016**

MOTION: David Bradford made a motion to approve the minutes of the May 5, 2016, Board of Trustees meeting as written. Chair Hughes seconded the motion.

VOTE: Unanimous in favor of the motion.

**2016 Certified Tax Rate**

Eric Hawkes addressed the certified property tax rate to be approved for the year. The Salt Lake County Auditor suggested rate of .000866%. It would give the same estimated budget, estimate income of \$206,000.00. Chair Hughes asked when the rate was adjusted last. Jeremy Cook responded that rates adjust every year according to property tax values. Chair Hughes and Jeremy discussed basis of tax rates and Jeremy explained that mill rate adjusts as property values fluctuate. Jeremy discussed that effective rate and collections essentially stay the same as adjustments are made to the value of the property, a taxation rate hearing required to increase property tax.

MOTION: David Bradford made a motion to approve the 2016 Certified Tax Rate. Mark Stevens seconded the motion.

VOTE: Unanimous in favor of the motion.

**2. Lis Pendens Hearing (May 25) Report, Jeremy Cook – Legal Counsel**

Jeremy Cook informed the Board of Trustees regarding the outcome of the hearing without disclosing legal proceedings or strategy. Hearing regarding motion to release lis pendens, legal fees and statutory damages prevailed. Court ordered release of lis pendens and Judge granted

\$10,000.00 in damages plus attorney fees. The specific amount awarded for attorney fees remains to be determined and approved by the Judge. Judgement will be filed with County before collections are made. Jeremy also informed about settlement with insurance company on disputed claim. EID was awarded \$85,000.00 to resolve coverage dispute. Settlement reflected in current financial report. Hearing on motion to dismiss lawsuit set for July 19, 2016. Mark Stevens asked if insurance company has to be reimbursed if legal fees don't exceed \$85,000.00? Jeremy stated that legal fees are currently at that amount and insurance company wouldn't have had to be paid back. He hopes the district breaks even, so it won't cost tax payers. David Bradford asked who the judgement was against? Jeremy remarked that it was against Mark Tracy but wasn't clear on the law firm. Proposal to include law firm was objected but Judge would have to rule on the matter.

Steve Hook asked Jeremy if the legal action produced any changes regarding the lis pendens or how the district operated? Jeremy answered that lis pendens weren't warranted so the district's operations and water rights remained normal so it didn't really change anything. Steve asked about the July 19<sup>th</sup>, court date and Jeremy stated that it was a motion to dismiss the case on the pleadings against the district, first step to dissolve lawsuit.

### **3. Financial Considerations & Report**

Eric Hawkes reviewed the monthly financial report and fund balances as written on his printed report for June. Insurance settlement of \$85,000.00 was put in treasury fund. Two loan payments are due at the end of the month. David Bradford asked if interest rates were the same on each loan? Eric replied that rates were the same. Mark Stevens clarified a payment and interest amount. Chair Hughes commented that certified delinquents are down and asked if someone was paying? Eric responded that delinquent accounts are being gradually collected.

Steve Hook asked if settlement was reflected as a credit to legal expenses? Eric confirmed that it was. Steve then asked if budget was adjusted? Chair Hughes stated that adjustments to budget are made and reconciled in December. Steve then asked if settlement will effect repair and maintenance of Brigham Fork Well? Chair Hughes commented that he didn't know at this point. Bob Staggers made statement regarding legal fees and adjustments. Chair Hughes remarked that lawsuit wasn't over yet. Eric talked to the CPA firm regarding audit for district and he said some of the settlement will reflect in 2015 budget as well as 2016 budget. Both budgets remain to be finalized. Kathy Christiansen interjected that settlement would be partially reflected in both years. Eric stated that adjustments made in 2015 are not income but credit towards legal expenses. Steve brought up 2014 budget but Chair Hughes and Jeremy Cook quickly explained that it wasn't affected.

### **4. Invasive Weed Control – Oaks HOA – Paul Brown**

Paul Brown, President of Emigration Oaks Property Owners Association, is concerned about invasive weeds in Emigration Oaks and entire Canyon. Paul talked extensively about the 3 species taking over, white top, myrtle spurge and the yellow star thistle. He wants to eradicate them as much as possible. Two areas most affected, Upper Freeze Creek Well and pipe line trail. They are currently weed patches. Paul has been spraying on Oaks common ground and private

property to get control of white top. Invasive weeds are also prominent at the smaller reservoir. Chair Hughes expressed large concern for the protection of the Well heads. Paul requested weed removal and replacement planting of grass or other plants. David Bradford asked which poisons were being used? Paul stated that the chemicals are 24D and MSM. They are effective, cheap poisons on a broad leaf spectrum. David asked how quickly they degrade and Paul responded that they are gone within a matter of days or weeks depending on type/concentration. He also claimed they are said to leave little residue in soil because they are sprayed on the leaves of the weeds, not the ground. Paul coordinated weed effort but he will be out of town. Weeds will be sprayed Monday, June 20<sup>th</sup> by a professional from Layton who uses a truck. He has much experience and charges \$300.00 per acre. Mark Stevens asked if it was too late to be on the list to be sprayed? Paul didn't know for certain either way. Paul confessed that he has been spraying along the roadside. Bob Staggers noticed a difference in certain areas.

Don Barnett explained the blue safety zones as seen on his projected map. Zone 1 is within 100 feet of Well head and Zone 2 is within 250 travel days to Well. Highest concern using chemicals within Zone 1. Debate ensued with Don and Chair Hughes regarding different types of chemicals. Don remarked that although use of chemicals are not prohibited in or out of source protection zones, board must use best management practices which includes homeowner awareness. Don expressed that mechanical removal of weeds is the safest and preferred method of weed removal. Chair Hughes requested telephone number of sprayer to get more detailed information. Paul talked about weed types, seeding practices and best methods of removal depending on their root systems. In his opinion, some weeds have to be sprayed. Chair Hughes committed to solving the problem but wants more information on chemicals being sprayed. David Bradford asked how white top seeds propagate, seed or root? Paul responded in detail that they propagate both ways. Contact information was exchanged.

Tanya Andrew, Emigration Place, expressed concern over their white top weeds that were manually removed. She requested additional information about weed removal in other parts of the canyon. Tanya pointed out the large undesirable thistle patch growing across the entrance of Emigration Place. Discussion ensued regarding owner of property. Joe Smolka recalled that Sam Plumb owns the land. Eric Hawkes will exchange information with Tanya to aid in her efforts.

Paul Brown talked about a County Weed Ordinance that is seldom enforced. Weeds can be declared a public nuisance and County will aid in the removal. Joe Smolka stated there is no funding this year. Bob Staggers proposed a weed solution that requires no chemicals using black plastic to cover problem areas, it kills absolutely everything. Chair Hughes explained a lot of money was spent to beautify slope with replanting but district will take care of the problem of invasive weed areas in the canyon easement.

## **5. Distribution System Pressures**

Eric Hawkes talked extensively about problems with high and low water system pressure in certain areas in the canyon. Larry Hall with Aqua Environmental has taken pressure readings during water testing and as a result of homeowner complaints. Eric, along with Larry Hall and Craig Neeley have looked at areas with repeated concerns. It has been determined that an ideal

pressure does not exist in a mountain system. Low pressure is considered to be about 70 psi and high is 150 psi. There is quite a range in the system. One low pressure issue is the home of Edwin McGough at 705 Pioneer Ridge Road. Chair Hughes asked if his house was above or below the PRV valve. Eric replied that his home is below the PRV valve. He only had adequate water pressure until it was discovered that the PRV valve wasn't functioning properly and was fixed. Problems also exist partly because of the way the homebuilder installed the water lines. McGough's current water pressure hardly activates his sprinklers. Eric has been working with homeowner for quite some time to resolve the problem. Don Barnett asked how difficult it would be to reconnect his water before the PRV valve. Eric explained the process of rerouting, possibly 15 feet. Homeowner would rather deal with higher water pressure issues than low. Chair Hughes remarked that his pressure would be much greater. Eric stated that the measured psi above his home is 125. Bob Stagers asked how old the house is. Eric replied that it isn't very old. David Bradford asked if PRV valve could be adjusted higher? Eric replied that it could be but there are already issues of high pressure in the area. Eric explained that the blue poly pipe being used only has a pressure rating of 168 psi and expressed concern over not wanting to push the integrity of the system. Eric also expressed concern from Unified Fire Authority for high pressure levels at several hydrants in the area. Larry Hall had a difficult time shutting off water during a water flow test and a worker had to shut off the valve. Due to extreme water pressure, Chair Hughes interjected that changes cannot be made to the PRVs. Eric agreed and remarked that changes to system to fix one problem will affect other homes downhill, the PRVs are pretty much set to where they need to be. Chair Hughes insisted that boosting pressure would be less expensive than moving a water line. Eric proposed that moving the water line in this situation may only be \$500.00. Joe Smolka thought it would be at least \$1,000.00 to move the water line. David asked Eric if he'd discussed other alternatives with the homeowner. Chair Hughes insisted that McGough's problem should be solved at his end with a booster pump rather than have the district reroute the line. Joe reported that booster pumps are not very effective and cited an example in the canyon, there is usually not enough volume. Chair Hughes interjected that homeowner just needs more pressure to boost sprinkles outside. David stated there may not be enough volume to increase pressure. Chair Hughes explained the issue with volume vs. pressure. If it is the entire volume of water in the house that is needed, a booster pump won't help but if it is simply a zone, it will work great. Chair Hughes indicated that he would look into problem further before investing money. Eric reported that there are very few issues involving low water pressure but they are all adjacent to PRV valves.

Eric discussed possibly mitigating problem areas of high pressure in the system, such as Marathon, Donner Hill Circle, Little Tree Circle, some other properties and vacant area. Don Barnett asked how much it would cost to add another inline PRV? Eric replied that the valves are approximately \$35,000.00 each. Bob Stagers asked why this issue involves the district? Chair Hughes interjected that this area is where district delivers water. Bob commented on some problems he has experienced with his water pressure in his home. David Bradford clarified that the issues are not the problems that occur in the house but the stress on the system and how the district can lower the pressure. Chair Hughes remarked that this problem is on district's side of the meter. Eric explained saddle pipes with 168 psi and meters which push the limits of the system in several areas. Additional in line PRV too costly and there is a risk of similar issues as a

result. Replacing pipe with greater psi capacity too costly at \$100.00 per ft. Eric discussed option of sticking an adjacent, next to the meter inline PRV valve in another meter box to reduce pressure about 30 psi to the meter. Eric explained his idea using an example. Chair Hughes inquired further about idea but felt it wouldn't change anything. Problem has to be mitigated before the poly, possibly a run around. An engineer may be needed. Chair Hughes is concerned that problem won't be solved. Eric thought it may not solve problem on the district's end but possibly for the home owner. The highest recorded psi is 160. Chair Hughes asked about the fire hydrants. Eric replied that 2 PRVs would be required to solve issues with fire hydrants. Bob asked if there is a higher pressure line that could be used to replace the line in affected areas. Eric responded that it is very expensive. Chair Hughes explained that it would be a lot of work, digging up to replace water line. Chair Hughes didn't like any options discussed as possible solutions. Joe Smolka asked about other low pressure areas in the canyon. Eric explained situation and that he is just trying to figure out a solution. Chair Hughes asked questions about issues with homeowners and discussed different possible solutions. David Bradford noted that every situation is different. Chair Hughes interjected that the homeowner with a water volume problem should get what he is paying for. Kathy Christiansen asked a question regarding homeowner with low pressure problem and offered an idea. Joe didn't know if simple solution could fix issue with sprinklers. Chair Hughes asked Eric to talk to Craig Neeley regarding both homeowner's issues and include pricing.

## **6. Water Levels & Report**

Don Barnett discussed the Well levels and volumes used as seen on his printed report. Reports were from 2009 to present, showing highs and lows for last 8 years. Report also reflected increase of canyon residents. Chair Hughes was encouraged by the numbers. Don Barnett hopes homeowners will keep thinking about water conservation especially during the hotter months.

Eric Hawkes reported that Upper Freeze Creek Well is at -898. Well 1 is down -13 feet. Brigham Fork is still artisan. Level of Well 2 is unknown. Chair Hughes asked if Well 2 was still being exercised and Eric stated that it was. Eric informed that some water is being used from Well 1. Steve Hook asked what percentage of total water is from the Upper Freeze Creek Well. Eric replied that it is 99%. Don Barnett pointed out Well numbers for Steve on his printed report. Mark Stevens asked if it was time to fix the Brigham Fork Well? Eric said that required testing was complete but more testing was necessary. Bob Staggers asked about the company doing the testing. Eric replied that the company was back East. Chair Hughes and Bob discussed what may have caused the problems with Brigham Fork Well. Chair Hughes insisted problem be addressed after July 19<sup>th</sup>. Mark Stevens agreed that litigation needs to be resolved before focusing on the well. Don Barnett stated that physical and chemical repairs will need to be made at the same time.

## **7. Discussion on EID committee and purpose**

Jeremy Cook explained the purpose/need for a committee and their requirements. David Bradford asked if requirements were the same for an advisory board and Jeremy replied that they were. Jeremy further stated that committees are required to keep minutes and comply with the

open committee's act. It depends on whether or not the committee dictates the decision making process or is just advisory. Jeremy felt that Eric Hawkes already fills many capacities and stated that experts are employed by the district as needed. Jeremy thinks board does a great job and he doesn't feel an advisory committee would serve a useful purpose. Mark Stevens inquired about an ad hawk committee and if they had the same requirements. Jeremy replied that they do but on a much limited basis. Some governing bodies rely heavily on committees while others ignore recommendations, they are seen as a waste of time. Bob Stagers agreed with the technical side but insists that district needs citizen participation committees and input because it doesn't have the time to talk to everyone and most people will not respond to district website. He feels citizens need an opportunity to input their feelings and concerns to the district. Steve Hook mentioned last committee in March of 2011 and their function. David asked Bob if he thought being part of a committee was worthwhile given all the requirements? Bob replied that he just didn't know. Jeremy restated that committees have to comply to all the requirements; post notices 24 hours in advance on Utah public website, hold meetings open to the public, record, produce written minutes and make recommendations. EID already meets all these requirements. He further stated that committees can be problematic sometimes. Jeremy commented that concerned individuals can always come to the board meetings. Bob acknowledged the bureaucracy and hassle of a committee. Jeremy noted that district doesn't need the issues associated with a side committee and recommends to keep it that way. Bob asked how experts are selected. He wants more canyon residents to get involved, people are generally lazy until situation affects them financially. Chair Hughes remarked that district has a committee that doesn't meet regularly at this time and he asked David what they should do about it. David replied that they just have names on a list, it's not a functioning committee. Chair Hughes reflected and asked Jeremy if they should do anything about it? Jeremy confirmed that a non-functioning committee is okay. They may be needed sometime as an ad hawk committee to look at a particular issue. Joe Smolka remarked that the district's committee already served its purpose. A new committee can be formed to make a case and then be disbanded after its done. Chair Hughes appreciated everyone's input.

#### **8. Any Items requested by visiting public, Dismiss public.**

Steve Hook asked about Mark Tracy's letter and if it was written or attached to the meeting minutes for May? Eric Hawkes replied that Mark read his letter at the board meeting and it was referenced in the minutes. David Bradford stated that Mark's letter had no bearing on the function or operation of the district. Steve expressed much interest in Mark's letter. Bob Stagers remarked that he got Mark's letter in an e-mail and he will forward it to Steve. Chair Hughes commented that he has no problem with making Mark's letter public or posting it on EID website so residents can read it if they want to.

Bob Stagers asked about standard operating procedures for district. Chair Hughes explained that they have policies. Bob asked if there was a book containing all the policies. Chair Hughes explained that there is a book but it has been greatly modified. He also mentioned that district has talked about reproducing the policies. Bob declared that he had heard allegations and discrepancies concerning waivers. Chair Hughes told Bob that he would send him specific language deciding waivers. Chair Hughes said that policies have been greatly modified so they

would have to be redrafted. Bob wanted policy and criteria clarification for fee waivers. David Bradford interjected that existence and distribution of policy book would not solve the problem of people lying. Chair Hughes confirmed that district will get policies written up and distributed. Bob volunteered his assistance. He also inquired about a master plan for Emigration Canyon. Chair Hughes directed question to Fred Smolka because of his involvement. Fred Smolka informed that an Engineering Firm was hired in 2002 project, which included a basic overall plan (as a precursor) for the entire canyon. Fred spoke about some ideas in Master Plan that haven't been met. Bob was glad there was a master plan. Chair Hughes interjected that the politics in the canyon have changed. Don Barnett commented that not all homeowners are receptive to the master plan. Chair Hughes said EID has always operated under a plan. Bob expressed concern over negative impressions he's heard about the district and how they run things. Fred recalled more projects in master plan that were implemented in the canyon over the years to get water, that was available, to all the residents (estimated 700 homes at the time). He stated that plan has been executed and closely followed, just at a slower rate than originally anticipated. Chair Hughes mentioned again the changing politics in the canyon and many people haven't been interested in a water system. EID has done what they thought was best for close to 750 homes in the canyon. Bob expressed his opinion that district was doing a great job based under the circumstances. He also admitted that no one will ever be happy with the water and water bills.

Gary Bowen, Past Director of the Division of Professional Licensing, who was set up to supervise 70 boards, admonished district to listen to the recommendations of legal counsel to absolve committees. He further stated that district doesn't need a committee, they already have a board and community outreaches like fire wise. Gary stated if district ever needed a committee they could get their recommendations then dissolve it. He adamantly recommended Mark Tracy's paper not be published on EID website, it would promote distorted truths and wouldn't serve the purpose of the district or Emigration Canyon. Jeremy Cook added that it would be beneficial to publish the lis pendens transcripts from the hearing that prove County never wanted district's water rights.

## **9. Closed Session – Pending Litigation**

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

VOTE: Unanimous in favor of the motion.

The Board of Trustees met in closed session from 8:51 p.m. to 9:40 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. Chair Hughes seconded the motion.

VOTE: Unanimous in favor of the motion.

The regular meeting of the Emigration Improvement District adjourned at 9:40 p.m.

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Minutes Approved