

BRADFORD RECLAMATION DISTRICT 2059

Meeting of the Board of Trustees

Time: 10:00 AM Tuesday, October 17, 2017

Location: Antioch Fair Grounds

1201 West 10th St Antioch, CA

Present by a quorum Board President: Rob Davies

Trustees: Michael Craig
Bill Hall
James Folsom
Gil Orozco—Absent

Others present: Legal counsel, Mia Brown; Engineer, Blake Johnson; Levee Superintendent, Smith Cunningham; and the District Manager/Secretary, Angelia Tant is taking the meeting minutes. Landowners Gene and Esther Lewis, Karen Cunningham, Cate Kuhne, Brian Ellis, and Cindy from the Bayview Boat Club are also present.

10:05 A.M. Convene, Call to Order, and Determine a Quorum

PUBLIC COMMENT

Brian Ellis, a new property owner, introduces himself. Ellis explains that he lives in Knightsen, and expresses he has equipment on the island and would be willing to help out with fire-suppression and other on-island issues.

CONSENT ITEMS (Items listed as C.1 through C.4 on this Agenda) – Motion by Trustee Hall, 2nd by Trustee Folsom: Approve Consent Items as presented.

DAVIES, CRAIG, HALL, FOLSOM in favor, none opposed or abstaining, OROZCO absent.

APPROVED

C.1 MEETING MINUTES: APPROVE Board meeting minutes.

Attachments: RD 2059 Meeting Minutes 8-1-2017

C.2 PAYROLL: APPROVE Appropriation warrant for \$5,000.00 to deposit into the Payroll account.

Attachments: Payroll documents

C.3 GENERAL WARRANTS: APPROVE Warrants for General Expenses/Work Agreements

Attachments: List of Warrants

DISCUSSION ITEMS

D.1 CONSENT AGENDA: There are no consent Items removed from Consent Agenda for Discussion.

D.2 BUDGET: Discuss and Review Budget for 17/18 fiscal year – This budget is covered under Agenda Item D2.

- a. Budget Committee – Ad-hoc Budget Committee will consist of Trustees James Folsom and Michael Craig; Engineer, Blake Johnson; Levee Superintendent, Smith Cunningham; and District Manager/Secretary, Angelia Tant
- b. Date for Budget Workshop – Tuesday, November 7, 2017 at 9:00 a.m., at the Antioch Fairgrounds Administration Building Board Room.

D.3 FERRY MATTERS:

- a. Report from President Davies – President Davies reports that there is a \$9,600.00 savings per year, due to a decrease in ferry assessments. The assessments went from \$9,000 to \$8,200. The District Secretary reports that there were no special assessments charged this past fiscal year nor a special bill for repairs. President Davies reports that there is some vibration on the ferry and that this should be monitored. Levee Superintendent Smith Cunningham states that if Bruce is driving the ferry, he notices it and if Bruce is not driving, he doesn't notice it. Mr. Cunningham opines this could be due to how he operates it. President Davies states that the ferry is nice and clean and there appears to be no leaking. He would like for it to stay this way so that there are no problems. Trustee Michael Craig asks whether there was any work done to the Bradford-side ramp. President Davies said no, but this is something the District can look into.

D.4 LEGAL SERVICES: Motion by Trustee Hall, 2nd by Trustee Folsom: Approve sending the RFP for legal services out to approximately five (5) different law firms and select the respond by date to be 10/30/2017 by close of day 5 P.M.

DAVIES, CRAIG, HALL, FOLSOM in favor, none opposed or abstaining, OROZCO absent.

APPROVED

Consider authorizing issuance of a Request for Proposals for District General Legal Counsel

- a. Review and Approve DRAFTED RFP – Legal Counsel, Mia Brown explained that a copy of the RFP is included in the packet for the Board's review. The date should be updated to October 30, 2017, for a response deadline. Mia expresses that the Board can interview candidates at the next Board meeting. Mia expresses that the while the District is not legally required to issue and RFP and that the District may simply select legal counsel, it is recommended that an RFP be issued. Trustee Folsom asks if the District needs to have legal counsel present at every meeting, and if not, that might be a cost-savings for the District. President Davies asks Mia about her recommendations of when the Board may need legal counsel present at the meetings. Mia expresses that legal counsel can be present at the direction of the Board on an as-needed basis. She would like for the District to find replacement legal counsel by December. Pamela Forbes with Al Hossett's office expressed that she may be interested in being the District's legal counsel. Smith Cunningham states this is the firm that used to be the District's legal counsel, and that the District meetings used to be held at Hoslett's/Forbus' office. There is a brief discussion of whether selected legal counsel would come out (to Antioch) to attend the Board meetings.

Cate Kuhne makes a public comment, that the District's Board is prone to make Brown Act violations on their own and Mia stops them. Trustee Folsom expresses that he personally hasn't made any Brown Act violations. Cate Kuhne expresses that Mia (in attending meetings) makes sure that the Board follows protocol, and the Board is prone to conduct serial meetings. Kuhne further expresses that the Board needs to confirm that the selected law firm has no conflicts of interest with anyone one in the District, with the contractors, or

any other parts of the District. Kuhne states that DWR has a list of water attorneys on its website. Cate Kuhne expresses that the District has a lot of upcoming projects, Metropolitan Water District as a neighbor, the ferry matters and other things, and that the District needs to make sure that the new attorney is capable to handle all of this and that they follow protocol. Trustee Folsom explains that he was only inquiring about legal counsel's meeting attendance, because it would be nice to save money. Trustee Folsom asks whether the District will send out the RFP or if we will be just contacting Al Hosslet's/Pam Forbus's office. Trustee Craig expresses that he has no issue with using Hosslet's office and expresses that he was the District's attorney forever. Mia recommends that we send the RFP out to a group of attorneys known to have experience with reclamation districts. Mia expresses that there have not been any violations of the Brown Act. She will not abandon the District, but that she needs to withdraw as counsel as soon as practical, as she is closing her office. Trustee Craig inquires on if Mia spoke with Al Hosslet's office and Mia expresses yes, that she spoke with Pam and she would be willing to receive RFP.

- b. Deadline for submittals of RFP 10/30/2017 by 5 P.M.

D.5 SPEED BUMPS & SIGNAGE FOR BRADFORD ISLAND DISCUSS/POSSIBLE ACTION

- a. Designated Locations for Speed Bumps & Signage – District Engineer, Blake Johnson, goes over a handout he provided that shows a diagram of speed bump specifications. Blake reports that there are really no spacing requirements for distance between speed bumps. Smith Cunningham asks how much it will cost the District per speed bump. Blake states that the District would be using their own material and Smith's time for approximately four (4) hours of labor. Mia asks whether pre-made/pre-fab speed bumps are available. Blake reports that he knows that they do make them however, he does not know what the cost would be but he can look into it. Trustee Craig asks if the District has jurisdiction over installing speed bumps. President Davies asks what the liabilities are for the District not having them. Landowner, Cate Kuhne, makes a public comment that in March of 2015, the District stated it had no police powers and could not issue speeding tickets. She states that the Board approved making traffic signs setting a speed limit, but it wasn't enforceable by the District because of the lack of police power. Cate expresses that the (levee) road deteriorates over time, and that this (installing speed bumps) is spending District's money, and that the District installed the siphon crossings (on the levee) the way it did to use them as speed bumps. Trustee Craig expresses that he is against the speed bumps and he is not voting for it.

Trustee Folsom expresses that the District should go to individual landowners and ask them that if they want a speed bump at their property, and if so, then they need to pay for it themselves. Mia expresses that this is not an appropriate approach--landowners do not dictate work upon the District's levee and that there are issues the District must take into consideration for flood fighting when deciding where to place speed-bumps; it needs to be a District decision for this reason. Trustees Craig and Folsom both express that they do not like the speeding and traffic and the fact that you can't have an animal or kids on the levee during certain ferry hours due to people speeding. President Davies expresses that he has his own signs placed regarding speeding, and says that no one pays attention to them. Trustee Craig expresses that this is a private landowner issue, not a District issue. Mia expresses that the District does have some control over how the landowners use the District's property, meaning the levee road. Mia explains that the Sheriff is most likely not going to come out to enforce speeding on the levee roads, since the island is privately owned and does not have public roads. Cindy from the Bayview Boat Club makes a public comment that she brought

this item up at the Boat Club's meeting and the complaint about motorists honking at the cows. Cindy expresses that the people who attend the meetings have asked asking who has been doing this, what cars etc.

Cindy expresses that the Boat Club takes this matter seriously, and if they know who the offenders are then the Boat Club can issue a letter and eventually remove those individuals from the Club. Cindy is willing to give out her card to people and whoever has a description may call her and if it is a Boat Club member, she can pursue this matter for the District and expresses that the Boat Club would like to be good neighbors. Cindy expresses that the Club emails out a big to members list of how to respect their neighbors on the island. Cate Kuhne asks President Davies if the Board can send out a speed limit reminder to the landowners. Cate also requests that the District ensure that the signs are still visible. The speed limit is 5 mph on the entire island. Smith Cunningham expresses that his cattle are eating the dust caused by speeding cars. Cate Kuhne expresses that the cattle have the right of way.

Brian Ellis asks whether landowners wanted to add a speed bump or a siphon, if could they do those projects on their own. President Davies replies that individuals wanting to do that would have to get a permit from the District. Blake expresses that the District does allow siphons. Blake expresses that once an applicant applies for a permit, the District can provide the details of what's allowed. Trustee Folsom asks if the District is allowed to place a sign at the ferry slip about on-island speeding. Blake reports that the District may have to get an encroachment permit from Jersey Island to do so. The Board has a brief discussion on the location of where signs are currently located on the island. Karen Cunningham expresses that she will begin snapping photos and taking videos of the violators and forward them to Cindy.

No Board action taken on this item.

D.6 ELECTION: Status report on upcoming Trustees' election

- a. Bylaw ballots for upcoming election – Mia expresses that the District was going to send out a copy of the bylaws for approval and adoption by the landowners. Mia expressed that years ago, the Board had a committee that updated the bylaws, they were circulated pursuant to the Water Code, and the District did not receive enough affirmative votes/reponses to pass them. Mia expresses that the District will send them out, and require a protest vote of those landowners opposing adoption. Mia expresses that these will be sent out soon.
- b. Notice of Appointment of Trustee(s) by the Board of Supervisors – The letter was sent a couple of weeks ago to the Board of Supervisors, notifying them that the Trustee's seats to be filled and the number of candidates are the same, requesting that appointment be made pursuant to the Water Code. Mia expresses that we are awaiting to hear a response from the Board of Supervisors as to the date of the meeting where the appointment will be made, and that the Trustees' terms begin December 1, 2017

D.7 FIRES ON BRADFORD ISLAND DISCUSS/POSSIBLE ACTION

- a. Fire Fighting Supplies & storage – President Davies expresses his thanks for the efforts volunteers put in, in order to put the recent fire out. He states that we all need to be extra careful out on the island with cigarette butts and other items may cause a fire. Cindy expresses that the Boat Club has done away with fire pits and expresses that they have fire extinguishers on site. Blake states that approximately a month ago, there was a fire and that

historically there have been other fires on the island. Blake expresses that Angelia was sending e-mail notifications out as the fire was taking place, and that she reminded landowners that the District does not provide fire-fighting services. Smith Cunningham expressed that he is concerned about the Pump Station and the Mitigation Site in the event of a fire. President Davies asks whether there is an extinguisher on the inside of the Pump Station. Smith stated that he isn't sure but typically the fires begin inside the Pump House and by then the extinguisher would be useless.

- b. Fire Action Plan for Bradford Island Parcels – Mitigation Site – Blake reports that Smith Cunningham mentioned the Mitigation Site and expresses that in October of 2015 the DWR did not reimburse the District for these expenses. Blake asks if the site were to catch on fire again, should it be allowed to burn because the District does not have funding for fire-fighting? Blake expressed that the District's new contact with the Dept. of Fish and Wildlife thinks otherwise, but he does not have final approval on funding. Mia expresses that the District's obligation to restore the Mitigation Site in the event of a fire, where the Department will not provide any funding for fire fighting is not outlined in any of the agreements. Trustee Craig asks if there is a tax item on the property tax bills that covers fire fighting for the island. Mia responds with no and Mia expresses that this is the CM1 funds that the District gets because it does not get any benefits like firefighting.

D.8 LEVEE IMPROVEMENT MATTERS: Motion by Trustee Folsom, 2nd by Trustee Hall:
Authorize District Engineer to contact DWR to see if repairs can be covered under a
“directed action,” and if not, give Board authorization for the repairs to be performed.

DAVIES, CRAIG, HALL, FOLSOM in favor, none opposed or abstaining, OROZCO
absent.

APPROVED

Receive update from Levee Superintendent and District Engineer – Blake reports that he and Smith Cunningham were out on the island recently, and identified two (2) seepage areas. One location is Smith Cunningham's property and the second one is located at Rodney Mariani's property. Blake expresses that they are not sure on why the seepage is occurring, but expresses that there is a berm on the Kuhne property and typically the water will find its way out. Blake reports that they discussed a slurry wall or cut off wall as a remedy. Blake expresses that there is nothing out at this location that you can tie a wall into at a reasonable depth. Blake expresses that this work is costly and that the District needs to look to the State for funding. Blake discusses a chimney drain and gives a description on how this works to discharge the water. Blake reports that you can back fill this with sand or dirt and you can move the water away from the levee. Blake reports that these locations are ones the District should fix. Blake reports that he has a call in to DWR regarding potential funding opportunities but he hasn't heard back yet. On the DWR website it shows the “directed action” plan appears to be reinstated. The District has the opportunity to apply for this, if so. Blake will continue contacting DWR. Blake reports that he will need about a week to contact the State prior to making the decision to install the chimney drain. Blake recommends that if these two (2) locations cannot be repaired through the directed action plan, that he recommends fixing them soon. Blake reports that Rodney's Mariani's property has been leaking worse than Smith Cunningham's property. Blake reports that it's a 4-6” pipe that would need to be installed that is relatively inexpensive. Blake is working with Andrea Lobato and John Wright at DWR.

D.9 DELTA LEVEE SUBVENTIONS PROGRAM for 2017-2018: Motion by Trustee Hall, 2nd by Trustee Craig : Authorize participation in the 2017-2018 Subventions program and adopt, approve, and execute the DWR Work Agreements and the authorizing Resolution no. 2017-03.

DAVIES, CRAIG, HALL, FOLSOM in favor, none opposed or abstaining, OROZCO absent.

APPROVED

D.10 ENCROACHMENT PERMITS:

a. John Norment: Gangway Permit: Blake reports that he has reviewed the permit application and that he has reviewed some updated drawings from Mr. Norment. Smith Cunningham expresses that Mr. Norment needs a permit from the Army Corps of Engineers and the District has no jurisdiction to tell Mr. Norment this. Smith expresses he isn't comfortable with his previously installed access ramp being too steep and we let this go by. Blake expresses that he sent over the abutment drawings, and that is a concrete block. Blake reports that he has received several emails from Mr. Norment and his contractor about this project. Mia states that the permit, if issued, needs to state that the project may require other permits from other agencies, and that it is the landowner's responsibility to determine what permits are needed and to obtain them—the District does not have jurisdiction to approve the project as a whole, just that the project conforms to the District's requirements.

Cate Kuhne inquires that the encroachment committee was going to get back together to go over the levee standards. Mia informs here that the District voted not to adopt levee standards. Cate asks if the District is required follow Title 23. Mia responds no, the District is not bound by Title 23, but looks to them as a guideline. Blake expresses that he does use these standards. Mia expresses that proposed encroachments are reviewed on a case-by-case basis, and are reviewed by the District's Engineer. Landowner Gene Lewis asks if Title 23 has a section in it for the taking of property. Blake responds that he does not believe that this is under Title 23. Mia expresses that if an encroachment has been destroyed, deteriorated, or exceeded its useful life and a landowner wants to replace it, they may not be able to if it no longer conforms to acceptable levee encroachment practices. The Board will await further input from the District Engineer before considering the Norment permit.

No Board action taken.

D.11 LANDOWNER BRIAN ELLIS:

a. Request for interest/penalty waiver for two (2) parcels purchased: 026-050-016 & 026-050-012 – Mr. Ellis purchased the parcels from the County and expressed that he thought he did the due diligence and researched and he said that he didn't find any liens recorded on the properties. Mr. Ellis stated that he would like to pay these delinquent assessments if he owes them and requests that he get a waiver of some penalties of interest. Mr. Ellis expresses that he spoke with someone on the island who told him that historically the District removed the penalties and interest in such cases. Mia expresses that the County's online auction site specifically includes a warning to prospective bidders that there may be additional special district assessment liens on the properties offered for sale. There generally are no recorded liens for delinquent reclamation district assessments (for RD 2059 or any other districts) Reclamation districts are not required to file liens in order for them to be valid—they exist automatically as a matter of law--and he is correct that there was not one filed here. Mia Mia

states that the same thing happened to a Trustee on the Board and that the District could not waive charges already validly accrued, as it would constitute a gift of public funds. Mr. Ellis was advised that penalties and interests would stop accruing if he entered into a payment plan with the District to pay the amount in arrears.

D.12 REPORTS: M/S/P by Folsom/Hall all in favor to hire the auditing firm to conduct the past two fiscal years of audits.

a. District Secretary:

1. Financial reports provided by District Manager, Angelia Tant, consist of the Year to Date Profit and Loss, 16/17 Year-end Budget Report, Delinquent Assessments Report, and Outstanding Amount Owed to Carr & Ferrell, Outstanding Amount owed on the pump station, cost analysis report, warrants issued since the last meeting to the current meeting, and a discussion on strategies to generate income. There was a brief discussion with regard to the PG&E billing and the fact that PG&E estimated the amount of electricity used for approximately three (3-4) months. The District will look at options in reducing this amount claimed by PG&E. Karen inquires about what the status is of going to the County to get more funds for the District. Karen expresses that this was discussed approximately six (6) months. Mia expresses the only increase that we can get is a change to the CM1 funds. Karen express that there is a grant out to cover public safety and flood control. Karen goes over several local agencies and lists the amount of money that they were receiving. Karen expresses that there is a workshop for grant writing that costs \$400+ dollars to attend. Karen expresses that she believes that there may be a benefit to the District for attending this workshop. Blake expresses that they have a grant writer at his company GHD, Inc.

2. Audit--The District Secretary reports that the State has contacted her and requested the two (2) most recent year's audits. The District put out a RFP repeatedly for audit services and got no responses. Angelia expresses that over the months she has reached out to individual firms and continually got no response. Recently she attempted to reach out again after receiving the notice from the State Controller's office and she got a response from a Mr. Gross at a Accountancy Corporation. The cost to do the necessary outstanding audits is \$8,500.

b. Levee Superintendent Smith Cunningham reports:

1. Report on general maintenance activities – Smith Cunningham reports that there is some cracking on the levee/road. Smith expresses that everything seems to look good to him. He reports that the San Joaquin River side levee has some settlement where there was some seepage in the Stevenson field.

c. Engineer Blake Johnson with GHD, Inc. reports:

1. California Conservation Corps. Contract for Clearing & Grubbing – Blake got in touch with the supervisor at CCC and they have been fighting fires all year long. First it was flood damage and now it's fires. Blake reports that the CCC can commit to a few days of work on the island in November. Blake expresses that the cost is approximately \$1,600.00 per day. Blake will confirm the costs and if this is just labor or if it includes equipment.

2. Emergency Action Plan – Mia and Blake have not gotten together to go over this but they will by the next Board meeting.

3. Update regarding the PG&E utility pole raising – Struggled getting a hold of PG&E, they finally got a design over the re-location pole raising. Blake reports that a part of

PGE's plan they included a line relocation on the other side of the island. Blake reports that PG&E was delayed for approximately nine (9) months due to the fact that PG&E stated couldn't get a hold of landowners. Blake expresses that they have begun working on the north side of the island. They originally were to begin construction at the end of October, but now it looks like it won't begin until next year. PG&E has joint-use poles and the communication line belonging to AT&T is the one that sits too low and is causing issues. Blake goes over the historical work AT&T should have done with re locating the line back in 2002. PG&E is the one who coordinates the relocation, PG&E sent a request and for 15 years AT&T never did anything. If AT&T was to come out and relocate their line we can most likely get equipment under it and get to work. President Davies asks what the chances are that if the District can get a hold of them, they will do the work. Blake reports that PG&E did get a hold of AT&T and now the ball is moving and they will be moving the line. Blake expresses they are working to get the District into their existing work-schedule. Blake expresses that the District has been pushing PG&E to contact AT&T to get moving. Cate Kuhne asks whether the guywires will be an issue with the new pole configuration. Blake expresses that with the final build that there are guywire issues and expresses that he brought this issues up with PG&E. Blake expresses that he discussed anchoring the pole at this location by using a metal pole or a wood composite pole to eliminate the guywire issue. Blake expresses that from a levee/flood protection point, Engineers have typically requested these type of poles. Cate Kuhne asks how they will bring the utility back up to the road once the work is done. Blake responds that it must either be strung high, per Title 23 has requirements or go underground and bury it at depth. Blake reports that PG&E has gotten at hold of AT&T and they are working on their schedules, but that the recent Sonoma fires may be a factor in getting work scheduled, as the fires created emergency situations that take precedent.

d. Attorney Mia Brown reports: Mia expresses that working for the District has been a pleasure. The District has come a long way and hopes that we can keep this up. Mia expresses the District was in bad shape a couple of years ago, but turned around pretty quickly, probably quicker than any other district she has seen. Mia expresses that she will always be available for the District's new counsel if they have any questions in order to get everything transferred to the new legal counsel with no hiccups. Mia expresses that there is no charge to transfer files to the new counsel or related activities.

D.13 CLOSED SESSION at 1:02 PM: Conference With Legal Counsel—Pending Litigation (Government Code section 54956.9(d)(2)):

1 potential case: Claim by Scott and CJ Kuhne

The Board adjourned to closed-session at 12:54 p.m.

The Board returned to open session at 1:16 p.m.

There is a reportable action from the closed session:

Motion by Trustee Craig, 2nd by Trustee Folsom to approve a tolling agreement between the District and Scott and Cate Kuhne.

DAVIES, CRAIG, HALL, FOLSOM in favor, none opposed or abstaining, OROZCO absent.

APPROVED

D.14 TRUSTEE COMMENTS: None

ADJOURNMENT is at 1:20 PM:

Next meeting to be held November 7, 2017 at 10:00 a.m.