

EMIGRATION IMPROVEMENT DISTRICT
BOARD OF TRUSTEES REGULAR MEETING

THURSDAY, JUNE 18, 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, Joe Smolka—Project Manager, Jeremy Cook—Legal Counsel, Don Barnett—Barnett Intermountain Consulting

Chair Hughes called the meeting to order at 7:05 p.m.

1. Consent agenda approval

David Bradford made a motion to approve the minutes of the May 20, 2015, EID Board meeting as written. Mark Stevens seconded the motion.

VOTE: Unanimous in favor of the motion.

2. Financial considerations and report

Mr. Hawkes reviewed his printed monthly financial report and fund balances as of June 17. He reported that they are in the process of making two bond payments in the amount of \$86,049.90 and \$95,620.00 and reviewed the loan balances once the payments are applied.

3. Report on official candidacy filings

Mr. Hawkes reported that the filings for the Board of Trustees election opened June 1, and five candidates filed: Mike Hughes, David Bradford, Jamie White, Trevor Irons, and Bob Stagers.

4. Report on meter relocation for Lot 169

Mr. Hawkes reported that the meter relocation is completed on Lot 169. Blue Stakes was off by more than 5 feet, resulting in the contractor nicking the Rocky Mountain Power line. They were able to get the repair done and the power back on quickly, and it was also necessary to interrupt water service for just a brief moment. Emigration Oaks had requested a bond for restoration of the road, but when he finally reached Jack Christensen, the work had been done satisfactorily, and the bond was not required.

5. Report on new connections

Mr. Hawkes reported that the Sorys and Caslers are ready to connect to the water system.

6. DWQ Planning Grant

Mr. Hawkes reported that the grant application for \$60,000 was submitted to the Division of Water Quality. The DWQ Board meets on June 24 to review the grant request. He recalled that the purpose of the grant is to look at the feasibility of doing something to mitigate the stream contamination in the Canyon.

Chair Hughes explained that the purpose of the grant is to explore the possibility of installing several cluster waste water systems to take care of some problem areas in the Canyon and look at what can be done to mitigate the problem of discharge in the Canyon as a whole. He confirmed that this will include federal and State money, and a lot of requirements will be associated with it. He explained that the EPA has determined that Emigration Creek is an impaired waterway, and the federal and State government are forcing the EID to do something about the problem. The EID can either be proactive and address the problem or wait until they are told what they have to do.

Jack Plumb asked if there are experts who do this type of work. Chair Hughes explained that they put it out to bid, and only one respondent was qualified. Mr. Plumb asked why the EID is doing this for people who are in the wrong. Mr. Hughes replied that they are not. They are trying to prevent the problem, and there are people who do not have the ability to change their circumstances. The Board has decided to try to manage the situation so the County does not dictate that they have to put a sewer line down the canyon that would involve a \$5 million waste water system, which is not acceptable. Mr. Plumb stated that he is familiar with Aqua Engineering and is not impressed with them. He questioned whether they have the credibility to do the study. Chair Hughes assured him that they are well qualified to do this work.

Trevor Irons asked to see a copy of the grant proposal. Chair Hughes offered to make it available. He explained that the proposal is to determine the scope of the work, what the problems are, and whether they can do something about them. Jamie White asked to see the contamination data. Chair Hughes replied that he believes it is posted on the DWQ website.

Gary Bowen stated that he attended dozens of meetings about the stream contamination, and the DWQ said it is at the mouth of the Canyon. When he asked them to test further up the stream, they would not do it, and they are stamping the Canyon residents with a black mark. Chair Hughes stated that he is confident they have done the testing. He reiterated that there is a problem with septic tanks in this Canyon, and the Board wants to do something before they are compelled to do something.

Pat Sheya stated that she had a conversation with Fred Smolka several years ago, and he stated that they could not put in a sewer line because it would deplete the aquifer. She expressed concern that, if the sewage is not being taken care of in a sewage line, the drinking water from the District's wells and individual wells is recycled from sewage. Chair Hughes explained that it was determined long ago that a sewer line could dewater the Canyon. They also cannot afford a sewer line as a community, because Salt Lake City will not accept Emigration Canyon's sewage,

and if they put in a sewer line, they would have to build a ridiculously expensive treatment plant. They have tried to manage costs as best they can and are trying to determine what they can and cannot do to take pressure off the creek, and they are applying for a grant to get the engineering to find out what their options are.

Joanne Edwards stated that the creek is depleted, and has a strong sewage smell. She asked why that is happening. Mr. Barnett explained that the creek flow is about 25% of average, which is the case with all the creeks in northern Utah. He noted that this area went for months without any rain or snow, and this is one of the most severe dry cycles they have had. Ms. Edwards requested data showing how Emigration Creek compares with other creeks around them. Chair Hughes clarified that the EID does not have authority over the stream. They are just trying to deal with issues they face that they can do something about.

7. Water report & well levels status

Mr. Hawkes reported that they have pumped 83,100 gallons from Well 1 so far this month, and 276,800 gallons year to date. From Well 2 they have pumped 189,800 gallons this month to date and 960,600 gallons year to date. He noted that Well 2 was artesian this past month for four or five days and is now at about 10 feet. Upper Freeze Creek well pumped 1,766,000 gallons month to date, and 8,174,600 gallons year to date. The well level for Upper Freeze Creek rose to 900 feet. It appears that the rains provided some recharge for the aquifers, and the Brigham Fork well is currently artesian. He noted that they have not put water from the Brigham Fork well into the system this year pending mechanical repair of that well.

8. Website report/review

Mr. Hawkes stated that he was unable to get an internet connection to demonstrate the new website. He will send a link to the Board Members so they can review it before it goes online.

9. Any items requested by visiting public

Jack Plumb stated that he is an advocate of the stream, which is one reason he moved here. He expressed concern about people pumping water from the stream and discussed the history of pumping from the stream. He believed it was hypocritical to say that the EID is trying to protect the stream when they do not take any initiative to ask the State to enforce on people who pump from the stream. Chair Hughes stated that he believes about 95% of the pumps have been removed from the stream. Mr. Barnett recalled that, at Mr. Plumb's urging, he asked the State Engineer to come and address that, and people were very uncivil to him. However, the State did tag pumps that were in the stream illegally. It is easy for anyone to access the State Engineer's Office online and anonymously identify illegal action, and the State will tag pumps and levy fines. He explained that the EID has moved its water rights from the streams to wells, and they do not take any water from the stream. He noted that some people do have legitimate existing water rights to pump from the stream unless they injure someone who has a senior water right.

A member of the public asked if the EID's wells affect the stream flow. Chair Hughes explained that when they put in the water system, it took a lot of private well use away from the creek, which actually caused stream flows to increase. The EID moved its sources far from the creek where they will not affect the creek. He stated that they spent a lot of money on hydrologic studies to determine where to drill for water so they could deliver more and better water and increase the stream flow. Mr. Plumb stated that most people on the main Canyon Road chose not to connect to the water system. Chair Hughes replied that is not true. Mr. Plumb did not believe it was accurate to suggest that people stopped using their wells near the stream when the water system was installed. He asked for a list of people who joined the water system, because he did not believe many people had stopped using their own wells. Mr. Barnett explained that a certain number of people in the Canyon use a specific amount of water, whether they are hooked up to the water system or not. He explained that a reason the stream disappears and reappears is due to underflow, and the Canyon loses about 4,000 acre feet each year that the residents don't see. Historically, almost all the wells in the Canyon drew from the underflow. The District purposefully drilled its wells far from the stream, and the water in those wells is deep water, far removed from the aquifer that feeds the stream. If someone is no longer using their well that taps into the stream underflow and uses water that comes from a source isolated from the stream, the impact on the stream is less, and the EID has purposefully tried to help the stream. He verified that about 120 residences that are not part of Emigration Oaks are connected to the water system, which has removed that impact from the stream. Mr. Plumb stated that he does not believe there are 120 homes on the water system. Chair Hughes added that the depth of the Freeze Creek well is the same depth as Hogle Zoo, and they do not affect the water table if they pull water from that depth far away from the stream.

Gary Bowen recalled that he attended meetings where pumping from the stream was discussed, and pumping from the stream has gone down substantially due to the protective, aggressive nature of this Board. His family has never pumped from the stream, but his water rights specifically give him the right to do so. If someone has the right to pump from the stream, they would be wasting their time to try to persuade them to not pump from the stream.

Steve Hook asked if the grant is intended to cover the entire cost of the study, with no negative impact on the District's financial statements. Mr. Hawkes confirmed that is correct and explained that the study will include public meetings that involve the public in the process.

Sam Plumb stated that "ridiculous charges" is a hard word to hear and referred to the \$17,000 cost of hooking up to the water system. Chair Hughes noted that a hookup in Salt Lake City is about \$22,000, and he did not believe the EID's charge for a hookup is out of line. Mr. Plumb stated that there are plenty of people who think certain things are ridiculous, whether they are justified or not, and certain people choose not to pay their fees and have them levied on their property taxes. He claimed that Board Member Bradford did not pay his Spring Glen bill for over two years, and when he did decide to pay it, he paid \$25 per month instead of the \$80 he agreed to when he moved in. Board Member Bradford asked how that is relevant to this discussion. Mr. Plumb replied that it is relevant because the Board talks about ridiculous fees that people view are being imposed on them, and maybe they do or do not have justification for

that. But he understands Board Member Bradford has justification for what he has done. Board Member Bradford responded that Mr. Plumb's facts are wrong. Mr. Plumb stated that they have to be careful when they are doing the same things to people that are arguing for the opposite. He apologized if he is incorrect. Chair Hughes stated that is like trying to put the toothpaste back in the tube. He stated that Mr. Plumb knows that and should be more careful about how he couches his comments. Mr. Plumb stated that he is just reporting what he was told. Chair Hughes explained that is not before this Board. Mr. Plumb argued that it is when they said "ridiculous charges," and it has parity to exactly what they are doing. It is couched as the EID protects the stream, but they don't, because that is not their responsibility, but they do through the septic system, and it is hard to hear it go back and forth. He asked why the Treasurer is never here. Chair Hughes responded that they do not need the Treasurer here to make decisions, and right now his services are not needed. He confirmed that he is not paid unless his services are needed. Mr. Plumb asked how the expenses related to the litigation published in the *Salt Lake Tribune* will be paid. Chair Hughes replied that, since he was just served as he walked into this meeting, the Board will have to discuss that with counsel and get back to him. So far there are no legal expenses, and he has no answer for him. Board Member Stevens stated that, if the EID does bear the cost of the litigation, it should make very citizen in the Canyon angry. Whether the lawsuit is frivolous or not, it will involve hours of attorney's fees that could be paid from water fees and taxes. Mr. Plumb argued that the Board Members are independent contractors, and the District should not pay their fees. Mr. Hook clarified that they are Trustees, which is entirely different from being an independent contractor, and stated that Mr. Plumb needs to get his facts right.

Jamie White protested the fact that Mr. Hawkes is handling the election. Chair Hughes explained that Mr. Hawkes is not handling the election; Salt Lake County is contracted to handle the election. Mr. Hawkes described the process the County will use for the election and explained that the County Elections Office simply makes him aware of deadlines that come up and the information they need, such as candidates' biographies. He is simply the intermediary. Mr. White did not believe Mr. Hawkes should be the intermediary and recommended that they find someone who is neutral to handle that. Chair Hughes stated that he would be happy to listen to any suggestions Mr. White might have.

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

VOTE: Unanimous in favor of the motion.

10. Closed session – litigation


The Board of Trustees met in closed session from 8:20 p.m. to 9:55 p.m. to discuss litigation.

MOTION: David Bradford made a motion to dismiss from closed session and to adjourn. Mike Hughes seconded the motion.

VOTE: Unanimous in favor of the motion.

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The regular meeting of the Emigration Improvement District adjourned at 9:55 p.m.


Minutes Approved