

April 10, 2009  
Sacramento, California

The Board of Trustees of the American River Flood Control District met in regular session in its office at 165 Commerce Circle, Suite D, Sacramento, CA at 11:00 a.m. on Friday April 10, 2009. In attendance were Trustee Simon, Trustee Holloway, Trustee Minnema, and Trustee Redway. Trustee Moose was absent. Trustee Simon presided. Also present from the District were General Manager Tim Kerr, Field Operations Manager Richard Marck, Field Supervisor Ronald Sundberg, Office Manager Michelle Wilder, and District Legal Counsel David Aladjem. Members of the public present at the meeting included Brendan Belby and Amber Stott.

*Item No. 1 Public Comments on Non-Agenda Items:* There were no comments on non-agenda items from members of the public.

*Item No. 2 Approval of Consent Agenda Items:* Item 2b) Minutes of Special Meeting on March 23, 2009 has been removed from the consent agenda. On a motion by Trustee Minnema seconded by Trustee Holloway, the Board unanimously approved items 2a) Minutes of Regular Meeting March 13, 2009, 2c) Treasurer's Certification, and 2d) Bookkeeper's Statement of Operations (Quarter ending December 31, 2008).

*Item No. 3 Approval of Reports of Investment Transactions January and February 2009 (City Pool A, LAIF, WAMU/Chase):* Trustee Simon requested clarification regarding whether the interest earned by the Retiree Health Benefit Reserve should stay in the reserve fund. GM Kerr responded that the Board had previously directed District staff to keep the interest earned in the reserve fund. He noted that a true-up of the account balance would occur every three years after the District has another actuarial report completed. On a motion by Trustee Holloway seconded by Trustee Minnema, the Board unanimously approved the Reports of Investment Transactions for January and February 2009.

*Item No. 4 Approval of Accounts Payable March 2009, General Fund Expenses, and Expenditures:* President Simon requested clarification on payments to Cintas, Municipal Maintenance Equipment, Pirtek, Psomas, and Sacramento Autoglass & Mirror. Trustee Minnema requested clarification on the payment to Grainger. Following explanations by staff, on a motion by Trustee Mimmena seconded by Trustee Redway, the Board unanimously approved payments on Schedule of Accounts Payable (March 2009) of \$50,492.77 and General Fund Expenses of \$65,732.22 (total aggregate sum of \$107,224.99). Expenditures to Date comparison with the budget were discussed.

*Item No. 5 Removal of Black Walnut Tree on Levee Adjacent to 170 Sandburg:* At the Board meeting in March District staff was directed to contact both arborists and request further clarification and comments regarding the condition of the tree. GM Kerr reported to the Board that he had spoken with both arborists and each was sticking to his previously stated opinion regarding the safety and conditions of the tree. Mr. Close from Davey Tree service felt that pollarding the tree would create a wound and exacerbate deterioration of the tree. Mr. Cookman from Yolo County Arborist felt that the tree is a vigorous species. He said that even though it would be subordinated if pollarded it would have a good chance at survival. GM Kerr reported that he had received a quote from Fallen Leaf Tree Service to perform a test that can determine the health of the tree. GM Kerr reported that he checked with the City of Sacramento and was told that the tree doesn't come under the Heritage tree policy due to the location of the tree and the amount of trimming done on it. He also reported that SMUD was not

going to participate in pollarding the tree. However, they are still willing to remove the tree with District staff providing the haul off. If the tree is pollarded they will continue maintaining the tree and trim it away from the power lines. District Counsel Aladjem noted that if the tree does remain, the homeowners would need to enter into a safety agreement such as getting a rider on their homeowner's liability insurance to protect against falling limbs or injuries to passing pedestrians. GM Kerr concluded that his recommendation was for the Board to ask SMUD to remove the tree and District staff to provide the haul off.

Trustee Minnema asked that Mr. Belby and Ms. Stott state their position regarding the recommendations the Board is considering. Mr. Belby responded that he would like time to plant trees and establish plantings to make up for coverage. He would prefer that either the tree be pollarded or have tests done to establish the health of the tree. He noted that they would be willing to cost-share the tests with the District. Trustee Simon responded that she is uneasy about leaving the tree in place, noting that it could split apart under stormy conditions and that dying trees are very hazardous. She cited several recent local incidents where several falling trees/limbs have been fatal. She recommended that the homeowners make accommodations for shade in their backyard such as awnings or planting other trees. Trustee Holloway clarified that if the District were to split the cost of the inspection that there would be two possible outcomes. The first outcome would be if the tree is determined to be unhealthy the District will coordinate with SMUD to remove the tree. The second outcome would be if the tree is determined to be able to survive 3 years then the District would require the homeowner to pay the cost of pollarding the tree and get a rider on their homeowner's policy. Mr. Belby responded that they would split the cost of the test with the District and if the tree is unhealthy then they would encourage the District to remove the tree. If the tree can last 3-4 years he would prefer the tree stay in its current state and attempt to establish plantings in his yard to compensate for the shade loss. Trustee Holloway requested clarification from Mr. Belby whether he would be willing to provide a rider on his homeowner's insurance if the tree is not removed. Mr. Belby responded that he would need more information from his insurance company before he could make that decision. FOM Marck noted that there are 3-4 very large branches in the canopy of the tree that are dead. At a minimum the dead wood should be removed. Ms. Stott noted that both arborists have acknowledged dead wood in the canopy of the tree that needs to be removed.

On a motion by Trustee Minnema seconded by Trustee Holloway, the Board approved splitting the cost of the Root Crown Inspection and Resistograph test by Fallen Leaf Tree Service with the homeowner to determine the health and lifespan of the tree with three ayes and a no vote by Trustee Simon.

*Item No. 6 Encroachments on Levee Adjacent to 3250 Del Mar Way:* GM Kerr reported that the City of Sacramento has a 4 foot easement on the property with a storm drain pipe underneath this easement. It has been determined that the pipe is installed almost exactly along the property line. Trustee Redway noted that the Board would only entertain an application from the homeowner if he resolves issues with the City of Sacramento first. Trustee Minnema suggested that the District could split the cost of saw cutting and demolishing the driveway along the property line. Trustee Holloway noted that the City of Sacramento may require the homeowner to saw cut and remove the drive clear back to the edge of the easement. Trustee Redway would like to see the retaining wall removed immediately. District Counsel Aladjem recommended that the District remove the wall and talk to the City of Sacramento to determine how and where the driveway will be removed, send the homeowner notice that the wall will be removed and express the District's intentions of working with the City of Sacramento to remove the driveway consistent with their needs. On a motion by Trustee

Redway seconded by Trustee Minnema, the Board unanimously approved the removal of the wall and concurrent conversation with the City of Sacramento regarding the driveway on the easement, with adequate notice to the homeowner of the process.

*Item No. 7 Damage to Elderberry Plants Adjacent to Maintenance Right of Way:*

GM Kerr reported to the Board that he had recently been notified of some damage to Elderberry plants adjacent to the District lower road in River Park. He noted that he met with SAFCA, the District's Pest Control Advisor, and a representative from DowAggro Science to observe the damage. He has contacted Jana Milliken from the Fish and Wildlife Service (FWS) and her response is that the District should not spray herbicides within 20 feet of Elderberry plants and only hand spray herbicides within 100 feet of Elderberry plants. This provides a significant concern for District staff as they would have to start mowing levee crowns. GM Kerr reported that he would attempt to negotiate with FWS and offer to stop using Milestone and revert to chemicals that the District has used in the past. If FWS holds to their initial recommendations the District would eventually need a take permit and be required to mitigate. Trustee Redway suggested that District staff comply with the guidelines and talk to FWS regarding modifications to their recommendations and report back at the next Board meeting. This item was for informational purposes only and no action was taken.

*Item No. 8 Staff Reports:*

*a) General Manager Tim Kerr reported on the following:*

- General Manager's March Meeting Summary;
- City of Sacramento Proposed Plantings in Steelhead Creek: The City of Sacramento recently requested access to the creek bed at Steelhead Creek near El Camino Ave. They intended to plant 133 trees in the channel as required by their Fish and Game permit. GM Kerr contacted the Flood Board and was notified that they hadn't approved any type of plantings within the flood way. The City will be in contact with the Flood Board to obtain their required permission.
- SMUD Proposed Fencing Plan near Bell Marine: SMUD plans to fence off their property to begin construction on the land. They are working with the District to go around the access road and provide a ramp for District use.
- Status of SAFCA Natomas Levee Improvement Plan: Teichert Construction had the winning bid of \$21,500,000 for the work. SAFCA is still going to verify the accuracy of the bid before they officially award it to Teichert.
- Updates to Employee Handbook: GM Kerr expects to have a draft handbook available for the personnel committee to review next month with approval of a final draft in June.
- FY 2009-10 Budget Process: GM Kerr reported that he has been working with OM Wilder to develop the 5-year budget and they are making progress on the FY 09-10 budget as well.
- Corps' Proposed Policy on Vegetation on Levees: The Corps is planning to move forward with the roundtable recommendations and framework documentation presented last month.
- Hydrologic conditions: Folsom Lake is at 77% capacity with an outflow of 3250 cfs. I Street Bridge is currently at 5 feet;
- The next regular Board meeting is May 15, 2009.

b) *Legal Counsel David Aladjem reported on the following:*

- Update on Central Valley Flood Protection Board JPA Indemnity Policy: The Flood Board no longer intends to require indemnity from member agencies of JPA's for design and construction and development. They still intend to require O & M agencies to be responsible for their work. A parent agency can give these assurances to the Flood Board as long as the parent agency is not going to be dissolved. If this satisfies the Flood Board the plan will move forward. District Counsel Aladjem is requesting a letter of support for this plan.

c) *Field Operations Manager Richard Marck reported on the following:*

- Photos of crew activities
- Surplus Equipment Disposal: The Deweze has been sold.

d) *Office Manager Michelle Wilder reported on the following:*

- Board Tour: The Board tour will be held on Friday, May 8<sup>th</sup> at 11:00 am.
- Summer Function: Date to be determined.
- Newsletter Plan Outline

*Item No. 9 Correspondence:*

*Item No. 10 Questions and Comments by Trustees:* There were no questions or comments by Trustees.

*Item No. 11 Adjourn:* There being no further business requiring action by the Board, the meeting was adjourned by President Simon at 1:08 p.m.

Attest:

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Secretary

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President