

November 13, 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, November 13, 2009. In attendance were Trustee Simon, Trustee Redway, Trustee Minnema and Trustee Moose. Trustee Simon presided. Trustee Holloway was absent. Also present from the District were General Manager Tim Kerr, Superintendent Richard Marck, Field Supervisor Ronald Sundberg, Office Manager Michelle Wilder, and District Legal Counsel David Aladjem. Mr. Dave Morrow, Ms. Amanda Morrow, and Mr. Robert Robinson were present from the public.

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: On a motion by Trustee Moose seconded by Trustee Redway, the Board unanimously approved item 2a) Minutes of Regular Meeting, October 9, 2009.

Item No. 3 Approval of Reports of Investment Transactions September 2009 (City Pool A, LAIF, WAMU/Chase) and Treasurer's Certification: On a motion by Trustee Moose seconded by Trustee Redway, the Board unanimously approved the Reports of Investment Transactions for September 2009 and Treasurer's Certification.

Item No. 4 Approval of Accounts Payable October 2009, General Fund Expenses, and Expenditures: Trustee Simon requested clarification on the payments to Alhambra, Cascade Rock, Diamond D Engineering, Mahaney, Sacramento County Tax Collector, Google, B&H Photo-Video, SAME Conference, and Verizon Wireless. Trustee Minnema requested clarification regarding the payment to Mail Rite. Trustee Simon also requested clarification regarding Trustee pay for the month of October. It was noted the Trustee Minnema and Trustee Redway were paid in error for attending the October Board meeting. OM Wilder was directed to correct the error. Following explanations by staff, on a motion by Trustee Redway seconded by Trustee Minnema, the Board unanimously approved payments on Schedule of Accounts Payable (October 2009) of \$75,633.71 and General Fund Expenses of \$77,965.41 (total aggregate sum of \$153,599.12). Statement of Expenditures was discussed.

Item No. 5 Closed Session: Conference with Legal Counsel—Potential Litigation: Government Code 54956.9 (1 Case): The Trustees met in closed session with District Counsel David Aladjem and GM Kerr. No motions were approved and no action was taken.

Item No. 6 CA Central Valley Flood Protection Board Encroachment Permit Application (3250 Del Mar Way): GM Kerr provided a background of working with Mr. Robinson, owner of 3250 Del Mar Way, to attempt to arrive at a solution in regards to

the encroached driveway and the request for an encroached fence. At the October meeting, Mr. Robinson was asked to revise his application to include all encroachments being considered as well as drawings and layout of the fence and driveway. District staff was directed to draft a Hold Harmless Agreement for consideration with the permit application.

A Draft Hold Harmless Agreement was included with the Board packets for Trustees to review. Photos with captions were provided by the property owner and have been entered into the record. A permit application for the encroached driveway and an encroached fence along with a drawing of the placement of the fence was provided by the homeowner and entered into the record.

Trustee Moose requested clarification regarding the State of California or the US Army Corps of Engineers requiring the encroachments be removed. District Counsel Aladjem identified the clause in the agreement that addressed her concern.

Trustee Minnema requested clarification regarding how the Draft Hold Harmless Agreement corresponds with the Encroachment Permit Application. District Counsel Aladjem responded that the Board has an option to approve the encroachment permit application with a signed Hold Harmless Agreement from Mr. Robinson acknowledging that the State of California or the US Army Corps of Engineers (Corps) may deny the permit application or in the future require the encroachments be removed. The agreement protects the interest of the District by requiring Mr. Robinson to remove the encroachments or allow District staff to remove the encroachments at no cost to the District and without the threat of litigation.

Trustee Simon asked GM Kerr for his recommendation. GM Kerr stated that his recommendation is for the Board to deny the permit application.

On a motion by Trustee Moose seconded by Trustee Minnema the Board considered the motion to approve the permit application and the Hold Harmless Agreement which indicates that if the permit is granted and either the United States or the State of California issues an order to remove the improvements in whole or in part the owner shall remove the encroachments within 30 days or allow the District to remove the encroachments. The motion stalled; (Ayes: Minnema and Moose, Noes: Simon and Redway). District Counsel Aladjem indicated that the Board could either amend the motion or table and continue the item until the next meeting where a full Board would be present. On a motion by Trustee Redway seconded by Trustee Minnema, the Board unanimously approved the continuation of this item until a special meeting at a date to be announced or otherwise the next regular meeting.

Item No. 7 Limitations of 1998 River Park Survey: GM Kerr noted that recent information indicates the District executed survey of River Park from 1998 was never recorded at the Sacramento County Recorder's Office. A review of the field indicates that the 1998 survey monuments no longer exist and may have been removed during past construction. Trustee Moose requested clarification regarding whether or not

another survey should be performed. GM Kerr responded that the District would benefit from a new survey. He noted that he would return next month with cost estimates and a proposal for a new River Park survey. Direction to District staff was given. No action was taken. This item was heard out of order.

Item No. 8 Fence Relocation at 5611 Seward Court: Mr. Dave Morrow and Ms. Amanda Morrow recently purchased the property at 5611 Seward Court and noticed that their existing fence is fragile and wanted to secure the property due to their dog and pool. The homeowners began construction of a new fence riverward of the existing fence. GM Kerr contacted the homeowners to discuss the importance of locating the property line to ensure proper placement of their fence. GM Kerr also informed the homeowners that District records indicate the existing fence was on District property and correspondence had been sent informing the previous homeowner. Superintendent Marck assisted GM Kerr in trying to identify the property line but measurements off the parcel map didn't provide them with clear indication of the location of the property line. In the interim, homeowners removed the incomplete new fence until the true property line could be located. GM Kerr acquired 2 quotes from surveyors and recommended that the Board agree to have a survey completed. GM Kerr also suggested that the Board allow the homeowner to bolster and reinforce their existing fence until completion of the survey. On a motion by Trustee Minnema seconded by Trustee Redway, the Board unanimously approved the survey contract with Kendall Surveying. Trustee Minnema requested a Special Meeting be held as soon as the survey results are received. This item was heard out of order.

Item No. 9 Personnel Committee Proposal: Approve Draft Job Descriptions: GM Kerr provided an overview of the draft job descriptions. He noted that there are now two Levee Maintenance Worker positions; Maintenance Worker Range A and Maintenance Worker Range B. The Personnel Committee met to review the job descriptions and then District Counsel Julia Jenness reviewed them for consistency and legality. On a motion by Trustee Redway seconded by Trustee Moose, the Board unanimously approved the Draft Job Descriptions.

Item No. 10 Contract with the CA Conservation Corps (CCC): This contract is for hand labor to assist in pulling up brush and trimmings along the levee as well as chipping the trimmings. Coordination with the CCC provides the District with a significant cost savings and allows the District to trim a greater amount with better results. On a motion by Trustee Minnema seconded by Trustee Moose, the Board unanimously approved the contract for Unit 4 Vegetation Removal and the contract for Units 1 & 7 Vegetation and Debris Removal.

Item No. 11 Purchase of John Deere 6430 Tractor through CA Multiple Award Schedule (CMAS): GM Kerr noted that purchasing the tractor through the CMAS allows the District access to the lowest price on the market because the State of California performs negotiations with all suppliers to ensure the lowest prices are available. A fee of 2.06% will be required and paid to the State of California for administration of the contract. District Counsel Aladjem indicated that because of the process CMAS goes

through this is the lowest price available and therefore bidding would be to no avail and unnecessary. On a motion by Trustee Redway seconded by Trustee Minnema, the Board unanimously approved the purchase of a John Deere 6430 Tractor through CMAS.

Item No. 12 Sacramento LAFCo Nomination for Special District Advisory Committee: On a motion by Trustee Redway seconded by Trustee Moose, the Board unanimously nominated Trustee Minnema for the Sacramento LAFCo Special District Advisory Committee.

Item No. 13 Staff Reports:

a) General Manager Tim Kerr reported on the following:

- General Manager's October Meeting Summary: Trustee Moose requested clarification regarding River District Specific Plan meeting. GM Kerr noted he stressed at the meeting that a thoroughfare was needed for mowing and spraying. Superintendent Marck indicated that Bremuda grass would be low maintenance but weed free is not possible. Trustee Simon requested clarification regarding the County VPN access. Superintendent Marck responded that the VPN (Virtual Private Network) allows the user to access the County server and database information through a virtual network connection. Trustee Simon requested clarification regarding the expected weather pattern for winter. GM Kerr responded that there is an indication of this winter being an El Nino year;
- Status of Army Corps Construction 2009: Modifications have been made to the Jacob Lane contract to provide a uniform cross-section and correct a damaged roadway surface. The Mayhew pre-final inspection is scheduled for November 24th;
- LAR Erosion Monitoring Survey: The survey has been completed and a report has been drafted for staff level review. Some highlights include no high water in 2009; bank cuts from the sustained 5000 cfs release, and undercuts resulting in block failure of the bank on the Sacramento River. There is one site on the North Levee of the American River the county may want to fix due to potential loss of parkway;
- Levee Documentary—Flight 33 Productions: District staff provided levee access to a film documentary crew in order for them to interview the Corps staff;
- Status of FY 08-09 Audit: The auditors from Richardson and Co were onsite last week for 3 days. A Draft Audit report is expected in January;
- 2009 California SAME Conference: GM Kerr briefed the Board on presentations made at the conference;
- Mayhew Parking Lot Rehabilitation Update: The work is complete and an invoice for services is being developed;
- Draft ARFCD Stair Design: The District received a draft design for District approved levee stair design;

- Columbus Day 2009 Storm: The District experienced no significant damage from the storm;
- Sacramento County Grand Jury Questionnaire: The questionnaire was completed and returned to the Sacramento County Grand Jury;
- Hydrologic Conditions: Folsom Lake has an outflow of 1800 cfs. I Street Bridge is at 3.5 feet;
- Next Board Meeting: December 11, 2009.

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

- He is following legislation to clean up authorizations for the Central Valley Flood Protection Board and will keep the District and Board informed.

c) *Superintendent Richard Marck showed photos and discussed the following:*

- Crew activities including monitoring and watering the River Park reslope, vegetation management, demonstration of a potential water damming device, and rodent abatement;
- Winter Jackets Purchase: Goretex jackets were purchased for the crew and a local vendor will be installing reflective tape;
- Flood Season Preparations: Magpie levee had a big cut. A sandbag wall was placed at the toe and backfilled with rock and covered with dirt.
- Flood Fight Training was held with RD 1000 and the State. The CCC did their own training.

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

- Website Statistics: The District's website had 199 visits during the month of October.

Item No. 12 Correspondence: There was no correspondence.

Item No. 13 Questions and Comments by Trustees: There were no questions or comments by Trustees.

Item No. 14 Adjourn: There being no further business requiring action by the Board, the meeting was adjourned by Trustee Simon at 1:30 p.m.

Attest:

Secretary

President