

October 9, 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, October 9, 2009. In attendance were Trustee Simon, Trustee Holloway, and Trustee Moose. Trustee Simon presided. Trustee Minnema and Trustee Redway were absent. Also present from the District were General Manager Tim Kerr, Relief General Manager Gary Prall, Superintendent Richard Marck, Field Supervisor Ronald Sundberg, Office Manager Michelle Wilder, and District Legal Counsel David Aladjem. Mr. Robert Robinson was present from the public.

GM Kerr presented two items for the Board to consider adding to the agenda. The first item was a request from SAFCA to resurface the parking lot at Gristmill Park. This item came to the attention of District staff after the agenda was posted and it is necessary to act before the next Board meeting. On a motion by Trustee Holloway seconded by Trustee Moose, the Board unanimously agreed to add item number 5b: Work Request from SAFCA for Mayhew Parking Lot Rehabilitation. The second item was an encroachment permit application from Mr. Robinson. On a motion by Trustee Moose seconded by Trustee Holloway, the Board unanimously agreed to add item number 4b: CA Central Valley Flood Protection Board Encroachment Permit Application (3250 Del Mar Way). This item came to the attention of District staff after the agenda was posted and it is necessary to act before the next Board meeting.

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 Holloway seconded by Trustee Moose, the Board unanimously approved item 2a) Minutes of Regular Meeting, September 18, 2009.

Item No. 3 Approval of Reports of Investment Transactions August 2009 (City Pool A, LAIF, WAMU/Chase) and Treasurer's Certification: Trustee Simon requested clarification on a deposit made by QuickBooks Payroll Services and the difference in interest rates between the two Money Market accounts held at Chase Bank. On a motion by Trustee Holloway seconded by Trustee Moose, the Board unanimously approved the Reports of Investment Transactions for August 2009 and Treasurer's Certification.

Item No. 4 Approval of Accounts Payable September 2009, General Fund Expenses, and Expenditures: Trustee Simon requested clarification on the payments to Grainger, Robin Hardy Communication Design, Signs Now, Gary Prall, and River Valley Feed & Pet Supply. Trustee Moose requested clarification regarding payments to Home Depot and White Cap.

Following explanations by staff, on a motion by Trustee Moose seconded by Trustee Holloway, the Board unanimously approved payments on Schedule of Accounts Payable (September 2009) of \$55,755.96 and General Fund Expenses of \$60,144.96 (total aggregate sum of \$115,900.92). Statement of Expenditures was discussed.

Item No. 4b 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. Mr. Robinson came before the Board in March and requested an encroachment permit for the driveway and a fence. The Board requested that Mr. Robinson enter into a hold harmless agreement with the City of Sacramento for the driveway which is over an easement of the City before they would consider the encroachment permit application. Mr. Robinson has now completed the hold harmless agreement with the City of Sacramento and brought a notarized copy to the meeting for the Board and District staff.

GM Kerr presented a copy of the article "Flood of Frustration" from the Stockton Record which details the enforcement actions being undertaken in Stockton by the CA Central Valley Flood Protection Board. Encroachments on the Federal levees place Public Law 84-99 disaster assistance eligibility and FEMA 100-year Flood Certification in jeopardy.

Trustee Holloway requested clarification of the hold harmless agreement and whether or not it protects the interests of the District and its rate payers. District Counsel Aladjem responded that the District does not yet have a hold harmless agreement with Mr. Robinson but that one could be drafted. Mr. Robinson indicated that he would be willing to enter into such an agreement with the District. District Counsel Aladjem noted that if the Corps decides they must decertify the levee due to encroachments, the District would ask Mr. Robinson to remove the encroached driveway and fence even if a permit had been granted.

Trustee Moose requested clarification regarding the driveway noting that the permit application does not include a driveway. Mr. Robinson stated that the Board had voted on the encroached driveway in March. At the request of Trustee Simon, GM Kerr read the motion from the minutes of that meeting. The motion from Item 7 of the March 13, 2009 Board meeting reads:

"Trustee Holloway made a motion seconded by Trustee Moose, for District staff to remove the block wall and for Mr. Robinson to return with a permit application for the Board to consider the encroached driveway and the possibility of a chain-link fence. The Board approved the motion with 3 ayes with Trustee Redway and Trustee Minnema voting no."

GM Kerr noted that the application is currently for a wooden fence along the edge of the encroached concrete driveway. It is still necessary to apply for a permit for the concrete driveway. Mr. Robinson asked if he could put up a fence and simply allow the District permission to access the property. Trustee Simon commented that the regulation

states that a fence must allow District personnel to see through it while driving on top of the levee. Any permit for a fence would require a see through fence. District Counsel Aladjem requested clarification regarding seepage issues because of the concrete surface.

Trustee Holloway asked for GM Kerr's recommendation. GM Kerr responded that the ideal case would be for the homeowner to remove all encroachments from District property, but in light of the circumstances, he could accept a see through fence on the edge of the driveway. GM Kerr noted that the Corps would be unlikely to approve a permit for the driveway. Trustee Holloway suggested that the bottom 4-feet of the fence be see through with a solid area above. GM Kerr noted that he would recommend a solid fence inside the property line with a permit for the concrete. If the homeowner stays on the property, the fence can remain solid, but if the fence is on the property line it must be see through. Trustee Holloway noted that a see through fence at the edge of the concrete would meet the District's needs for visibility while meeting Mr. Robinson's needs for some semblance of security which would still allow for usability of the driveway.

GM Kerr noted that the application is currently incomplete and drawings of the layout and alignment of the fence are needed. The application must also include a request to permit the encroached concrete. Trustee Holloway asked Superintendent Marck for his recommendation. Superintendent Marck noted that the driveway would still obscure seepage and therefore District staff may not notice damage.

Trustee Holloway stated a conceptual motion calling for staff to bring back a permit application for the driveway and a see through metal fence at the edge of the driveway next month. The application should include drawings of the layout and alignment of the fence and driveway as well as details of the type of fence. Staff should also draft a hold harmless agreement to protect the District regarding the driveway and fence with a clause included requiring Mr. Robinson to remove all features at the direction of the District, State, or Corps. At a call from the Chair, there was no opposition to the conceptual motion.

Item No. 5 ACWA California Caucus national Water Resources Association Board of Directors Election: No action was taken on this item.

Item No. 5b Work Request from SAFCA for Mayhew Parking Lot Rehabilitation: GM Kerr presented a proposal from SAFCA to resurface a parking lot at Gristmill Park. The work needs to be done by October 23rd. GM Kerr noted that he put together a rough cost estimate for the project which came to roughly \$7,000. On a motion by Trustee Holloway seconded by Trustee Moose, the Board unanimously approved entering into a contract with SAFCA for the proposed work.

Item No. 6 Staff Reports:

a) General Manager Tim Kerr reported on the following:

- General Manager's September Meeting Summary: Trustee Simon requested clarification regarding the 9/3 Mayhew Closure Structure construction meeting. GM Kerr noted that a new contract would be needed for the maintenance of the erosion control features. Trustee Simon requested clarification regarding the 9/30 WRDA 99: Jacob Lane Reach B Pre-Construction meeting: GM Kerr noted that the earth work would be completed in approximately two weeks and an additional two weeks would be spent on erosion control;
- Job Descriptions: GM Kerr noted that he has a copy of job descriptions that a consultant wrote for RD 1000. His original intention was to develop detailed job descriptions but the general format used by RD 1000 was very useful. A Personnel Committee will be scheduled next week. Trustee Simon requested that Superintendent Marck and Office Manager Wilder be present at the committee meeting;
- River Park Slope Stabilization: Photos were shown of the work at each site. The contractor was on site for three days. District staff spent an additional two days on erosion control;
- Encroachments on Levee Adjacent to 3250 Del Mar Way: This topic was addressed during item 4b;
- Replacement of Hesston Mower: Superintendent Marck is currently drafting specifications to ensure the District obtains a mower that is best suited to staff's needs;
- Status of Army Corps Construction 2009: Mayhew had a drainage issue on the landside so a French drain was installed to collect run off. The closure structure at Mayhew is near completion. Rock rip-rap has been installed and covered with soil, it will be hydroseeded soon. The Corps' contractor intends to test and demonstrate gate operation with the County. Jacob Lane Reach B will start construction on October 14th and should be completed by mid-November. The Corps wanted to award a contract for site L12 by the end of the FY but now they must wait until September 2010 to begin work. They need to coordinate with WAPA on work under power lines at site R6;
- LAR Erosion Monitoring Survey: Trustee Minnema attended the survey. The team took row boats down the river to look at erosion. Notable erosion sites that include Larchmont Park and RM 10.0;
- Hydrologic Conditions: Folsom Lake is at 40% of capacity with an outflow of 2200 cfs. A half inch of rain is expected this coming Tuesday. I Street Bridge is at 4.5 feet;
- Next Board Meeting: November 13, 2009.

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

- The Corps will be at the Society of American Military Engineers (SAME) Annual California Water Conference to be held on October 26th-28th. Trustee Simon noted that it would be good to have representation at the conference.

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

- Crew activities including gate maintenance, dirt work at Arcade Creek, trimming vegetation, a lower road being built, and tree stump removal;
- Flood Season Preparations: Radios are being tested, satellite phones will be turned back on and tested, emergency contact lists are being updated, supply boxes replenished and vehicles being serviced before flood season begins;
- Flood Fight Training is next Thursday.

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

- OM Wilder discussed the changes made to the website. The updates are complete and the new website will be live before the end of the day.

Item No. 12 Correspondence:

- a) ACWA-JPIA Cal-OSHA Standards Board: Heat Illness Prevention in Outdoor Places of Employment: GM Kerr noted that this letter was received from ACWA-JPIA regarding the Cal-OSHA standards for heat illness prevention. The District is not currently required to meet OSHA standards due to the small number of employees. Trustee Simon directed GM Kerr to send a communication to JPIA noting that the District's size is not such that we have to comply but these have been our common practices over the years.

Item No. 13 Questions and Comments by Trustees: GM Kerr noted that the District received a questionnaire from the Sacramento Grand Jury requesting information about financial practices. This questionnaire is due by October 30th.

Item No. 14 Adjourn: There being no further business requiring action by the Board, the meeting was adjourned by Trustee Simon at 12:43 p.m.

Attest:

Secretary

President