

November 24, 2009
Sacramento, California

The Board of Trustees of the American River Flood Control District met in special session in its office at 165 Commerce Circle, Suite D, Sacramento, CA at 11:00 a.m. on Tuesday, November 24, 2009. In attendance were Trustee Simon, Trustee Holloway, Trustee Redway, Trustee Minnema and Trustee Moose. Trustee Simon presided. 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. 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 Fence Relocation at 5611 Seward Court: Trustee Simon provided an overview of need to locate the property line at 5611 Seward Court in order for the homeowner to replace their fence to secure their property. Mr. and Ms. Morrow recently purchased the property with the improvements in place. GM Kerr showed photos which indicate the property line is along the edge of back patio and cuts through the corner of a raised planter bed. Ms. Morrow indicated a preference to not alter the planter bed. Trustee Redway clarified that visibility and access are the District's primary goals and good visibility and access are in place at this property and the District is preserving what the easement is needed for. District Counsel Aladjem responded that the Corps is closely inspecting the entire District and noting anything that is not up to specification. Superintendent Marck proposed that the District assist the homeowner with removal and disposal of the old fence as well as relocation of the sidewall of the planter box. Trustee Simon indicated that the homeowner could incorporate the planter box wall into the fence. Trustee Minnema asked whether the District would cost share the new fence. GM Kerr responded that as the neighbor the District typically shares the cost of the new fence based on the price of a standard redwood fence. Trustee Minnema requested clarification regarding any other potential problems at the property line. GM Kerr indicated that a tree at the south end of the property has a limb which may need to be removed in order to install a fence along the property line. Ms. Morrow indicated that removing the limb of the tree could adversely affect the health of the tree. GM Kerr suggested that the homeowner could install a short board in the fence near the tree to allow a gap in order to preserve the tree limb. On a motion by Trustee Moose seconded by Trustee Minnema, the Board approved assisting the homeowner in removing the encroached portion of the planter box and a 50% cost share of a standard redwood fence to be installed on the property line as well as assistance with the removal and disposal of the existing fence. (Ayes: Minnema, Redway, Simon, and Moose; Noe: Holloway)

Trustee Holloway indicated concern regarding the Corps hard line regarding encroachments. GM Kerr responded that the Corps primary concern is 15 feet from the toe of the levee regardless of the property line. District Counsel Aladjem indicated that the District needs to reconsider all encroachments up to the property line, but we don't have any rights beyond the property line. Trustee Holloway indicated that he doesn't want to penalize the property owners if we don't have to. Ms. Morrow asked what the District would do to ensure problems like this do not occur in the future. Trustee Simon responded that the District had paid to survey the area and were told that monuments marking the property line had been set. Either this didn't happen or monuments were lost when the slurry wall was installed. Trustee Holloway

responded that the law holds the realtor as the expert in the field and the broker is held liable for mistakes made in regards to real estate.

Item No. 3 CA Central Valley Flood Protection Board Encroachment Permit Application (3250 Del Mar Way): Photos were shown of the survey done at the property earlier in the year. An overhead photo indicated the proximity of Arcade Creek to the property. Trustee Holloway explained that he visited the site yesterday and previously would have been inclined to allow the driveway to stay intact. However, after getting up on the levee and seeing how narrow the levee is, he realized that there is little room to operate and maintain the levee. He also noted that it is necessary for District staff to clearly see boils on the side of the levee. Trustee Holloway proposed a saw cut of the encroached driveway along the property line which would allow the owner to build a fence on the property line. Trustee Holloway indicated that the homeowner could place gravel at the front of his property to sustain a year round driveable surface and a gate angled at the corner of the house which would be wide enough for the homeowner to drive into the backyard but allowing him security for his property with a fence on the property line. Trustee Moose questioned whether or not gravel would meet the needs of the District. GM Kerr responded that no permit is needed for gravel or the fence because the fence would be on the homeowner's property. Trustee Moose requested clarification regarding the cost to remove the driveway. Superintendent Marck responded that cutting the driveway could cost \$100-\$150 per day and equipment to remove the pieces of cement could cost \$300 per day and allow for the District staff to remove them without accessing the homeowner's property. On a motion by Trustee Holloway seconded by Trustee Moose, the Board unanimously agreed to deny the encroachment permit application for an encroached driveway and fence but allow gravel along a portion of the levee. The District will assist in saw cutting the concrete off the District's property and dispose of it subject to right of entry and hold harmless assurances. District staff will place the gravel at the base of the levee. This item was heard out of order.

Item No. 4 Correspondence: There was no correspondence.

Item No. 5 Questions and Comments by Trustees: There were no questions or comments by Trustees.

Item No. 6 Adjourn: There being no further business requiring action by the Board, the meeting was adjourned by Trustee Simon at 11:49 a.m.

Attest:

Secretary

President