

**MINUTES OF THE REGULAR MEETING
OF THE BOARD OF DIRECTORS OF THE
KINNELOA IRRIGATION DISTRICT
SEPTEMBER 21, 2004**

MEMBERS PRESENT: Directors Barkhurst, Pickard, Stock.

Director Brain had requested to be excused as he was out of town.

Director Sorell was unavoidably detained from attending the meeting.

STAFF PRESENT: Melvin Matthews, Christopher Burt, and Shirley Burt

CALL TO ORDER: The meeting was called to order at 1942 hours by the Acting Chair, Maurice Pickard. He noted that there was a quorum of the Board present. The Agenda was unanimously approved as presented.

PUBLIC COMMENT

Director Pickard introduced Mike McCabe who resides at 1616 Pasadena Glen Road and noted that the Board had received a letter from Mr. McCabe which was given to the Board.

Mr. McCabe made the following statement--

"I just wanted to introduce myself to you folks tonight and just share the concern that I have with the recent construction at Philip Lunn's property. I know that you folks are aware of the fact that they have put an estimated 200 yards of loose spoils that are not compacted upon your property. My concern is twofold. First that that pile of fill is now redirecting all of the drainage that was coming down that hill to the north side of my house. Secondly I am concerned that it could possibly have negative ramifications on the fire lane turn around directly below that fill and subsequently on to the street including the rock retaining wall that has been put in place. I understand that a few feet behind that wall has been compacted by Mr. Lunn's contractors but as you go up past that area which has been planted with sod you will see just how much fill is sitting up there in rough form. Between the retaining wall and spoils from his footing for the garage that has been dug out I think is easily 200 plus yards. So I wanted to inform you all of my intentions to go to the County and try to put it on record if for nothing else to protect myself and my property because if we do get into rainfall that would put a lot of water directly on the side of my house. So I wanted to speak to you all and see if maybe you could help me how to generally communicate this problem and how to get it reversed. I think it is poor what has been done and I know it is your property and not mine but that is a lot of stuff that is sitting up on your property right now and I don't know where it stands with you folks trying to reverse that but I mean to go after it aggressively, as aggressively as I can. And that is really it. Just more of an introduction. I wanted to speak to you all and see if you could help me."

Following Mr. McCabe's statement, the General Manager, Melvin Matthews, made the following statement--

"Well let me, just for the benefit of you and public and the Board, just to bring you up to speed based on the concerns and the potential liability to the District if the soil slips down or there is any problem, we drafted a revocable license that was presented to Mr. Lunn and he did sign it. Only later our Attorney advised us that it cannot be recorded unless the signature is notarized. And so we resubmitted the document but at least we do have a signed document from Mr. Lunn.

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and we are still pursuing a notarized signature so that we can actually record the revocable license. It is the District's feeling that we wanted to of course maintain our access in the future to our property and not be stuck with the liability if some of the things you are concerned about came to pass and so that was our approach. We did have the property surveyed in order to find out what was ours and what was his and did that to our expense, and considerable expense to at least determine where the line was because there was considerable doubt as to who owned what up there. So based on that we did draft this document and did get it signed. It was really perhaps my error realizing that a notarized signature was needed to be eligible for recording. I did not know that. I have recorded many, many documents over the years. I don't know if the requirements have changed but anyway that is what we were advised. We are still pursuing it. At least from the staff's standpoint, it has been our position that you as a property owner or anybody could express a concern to the County and that we certainly do not want to prevent you from doing that and we feel that indeed that is the proper way to proceed on this. If the wall was built improperly, if the soil was compacted improperly, then the County would be the appropriate agency and I think you are indeed pursuing it the right way. It was not our feeling that we would rip out any of the improvements. We felt that was not the appropriate move at this particular time. So that is why we sought the alternate approach of granting a revocable license and again it is a revocable license and in fact part of the document is a quit claim deed that could be exercised at an appropriate time, if we wanted to indeed use the property for any reason, for access or improvement or whatever. So that is sort of where we stand. At the present time, at least in this last go around, Mr. Lunn has not been responsive. That is all I can say."

Mrs. Williams asked the question --"Is the effect of this document to put the burden of any mud slides or other such things that might result from this problem on any new owner."

Mr. Matthews replied --"Yes. It does indeed and we also informed the Real Estate Agent that is handling the property, of this whole situation and so they would have to disclose that to any potential buyer as well. And so we felt that was the best approach to take with the situation and obviously if the County came to some particular position as far as what was done and did not meet codes or whatever then they would have to be changed. Our feeling was that the best thing we could do was protect ourselves indeed from any liabilities that might incur to the District if there were future problems."

Mr. McCabe replied--

"Well from our point of view I am anxious to stand up before anything would or could happen and part of my goal here tonight with you guys is to find out any channels you've taken with the County or in general. I don't want to go down if you guys can help with the best way to approach this, the most diplomatically to approach it. Because I just want it removed. It is not really that big of a deal to have that removed. It is just obviously they are not willing to do it."

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Their contractor stonewalled them or however they got around it and now I understand that the house is on the market which means that the County has signed off on the finals of the house, and they are probably not interested in reviewing plans or opening that back up. Hey the deal's been signed off --what's the problem? Then I'm stuck holding the bag, the new owner's holding the bag and it just becomes ugly. And I want to prevent that. I spoke with Mr. Lunn directly and his attitude was basically -- Hey, Kinneloa doesn't have a problem with it, then I don't want to hear it. Why don't you send them down to talk to me -- in a very polite way is how he put it. He has no intentions as far I can see to clean up this mess and take care of his business, and I don't really know of any other avenue to go down then to go to you guys and to the County."

Mr. Matthew replied--

"Well at this point we feel that we have done everything that we can and of course as a property owner you have every right to go to the County and pursue whatever remedy that you might have if there is concern over mud slides or drainage or whatever and that is certainly your right as a property owner. I don't feel, at least from the staff's standpoint, that there is anything more that we can do than we have done. Now, to the extent that you are in communication with Mr. Lunn, and he wants to re-execute this document in all measure of good faith, then we would welcome that. But I don't know of anything further that we can do with respect to talking L. A. County".

Director Stock then asked--

"So Mel, we have no liability, no risk of liability, in this issue at all?"

Mr. Matthews replied--

"That's right. The only issue is obviously a recorded document is a better one with respect to future owners. But our signed document does, it doesn't mean that the document is not valid, it just means it is more difficult to enforce in the future."

Director Stock replied--

"So we can't do anything for Mike at this time."

Mr. Matthews replied--

"No not directly. "

Director Barkhurst stated--

"We certainly could take our documents, which I assume are a part of the public record, and submit them to the Listing Agent, or the Escrow Agent if it goes into Escrow, it sounds as if you have not sought legal counsel yet?"

Mr. McCabe replied--

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"No"

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Director Barkhurst stated--

"I don't know whether this rises to the ability to place a "Lis Pendas" on the property or not. But it might help".

Mr. Matthews explained --

"It is a legal term that puts a cloud on the title and of course anytime there is a cloud on the title than there is other activity to unclear the title."

Director Barkhurst questioned--

"Are we of the consensus that these documents are in the public domain.?"

Mr. Matthews replied--

"Shirley and I discussed it and let's put it this way. I feel that they are. We were of course hoping to have the official recorded document. But if that is not forthcoming, the fact the document is not notarized does not make any difference as far as I am concerned other than we could not record it. So it is a public document. I would certainly direct staff to give you a copy of the signed version that we have. And since that is as far as I am concerned a public record, you can use that in any way that will help you."

Mr. McCabe then asked--

"Would you guys also assist me in the channels to take. I don't know really where to start to get this issue on the title or lien against the title."

Mr. Matthews replied--

"I think you would take it to an attorney that deals in real estate matters and spend a couple of hundred dollars or whatever it takes to get the appropriate advice and documents you need. There is nothing we can do directly. I mean that is what we would do - is simply go to an attorney and find out what we need to do. But I think that Director Barkhurst's suggestion is a good one and as far as leverage, actually your best leverage is now when it is up for sale. So your leverage in my opinion will be lower if a sale is concluded. There may still be some things you could do but I would say time is of the essence. Now if you don't know of a real estate attorney, I may be able to give you some referrals. I will be happy to do that."

Director Barkhurst stated--

"Shirley, I think it is very important that we put all of these documents as part of our meeting of record so that they do become in the public domain."

Shirley replied--

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"We have and it is my understanding that anything that is brought to the Board or provided to them in their Board Packet is a record that is to be shared with the public."

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Director Pickard then thanked Mr. McCabe for bringing his concerns to the Board and asked if there were any further public comments.

Mrs. Williams requested information regarding a fence that has been placed at the end of Hastings Heights Road which she thought might be on District property. The staff stated that they were not aware of its existence but would check it out and report back.

REVIEW OF COMPLETED K-3 PIPELINE PROJECT

The General Manager reviewed the original bid price, the change order deletions and additions, and noted that the final cost of the project is \$307, 508.73 as compared to the bid price of \$291,000. He noted that some of the change orders were for the District's benefit and not just simply unusual conditions.

REVIEW OF THE HOLLY TANKS PROJECT CHANGE ORDERS

The General Manager reviewed the first three change orders for the Holly Tanks Project that have been approved for the East Holly Tank and noted that--

- 1) the first change order had to do with various valve replacements that were not part of the project but were felt prudent to do from an operational standpoint
- 2) the second change order involved the unseen conditions that needed to be addressed
- 3) the third change order involved the degree of corrosion that was found in places that couldn't be known about beforehand
- 4) the cumulative effect of these change orders is approximately \$20,000.

He also explained that a fourth change order is in draft form which involves the hazardous waste material disposal and will be presented at the next meeting. He noted that the final contract price will be approximately \$150,000. rather than the bid price of \$109,000.

In response to Director Barkhurst's question as to how this cost overage would effect the budget, the General Manager explained that

- 1) Certain worthy projects will not get done this year but they are not critical in nature
- 2) The meter replacement project has been slowed down
- 3) Budgeted items for the SCADA system will get deferred
- 4) From a cash flow standpoint it doesn't hurt us this year and we are in good shape budget wise

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REVIEW OF UNSIGNED LETTER SENT TO THE DISTRICT OFFICE

Director Barkhurst requested that the unsigned and undirected letter having to do with the septic systems in the Kinclair Tract be discussed at this time.

Director Stock noted that there seemed to be some misunderstandings in the letter having to do with the \$250,000 agreement made with the developer and he wondered if what was said in the letter was right.

The General Manager stated that if an unsigned letter by a fictitious person is received that comes with suspicion. He noted that he thought that the history of the manner in which the Board had dealt with the whole contamination problem was done in a very good fashion with a lot of good advice and that the Board made a very good decision in taking the \$250,000 and putting it into a reserve fund. He further noted that if there is some evidence of contamination which we would find through testing, then of course this Board could make a decision to deal with it.

Director Stock noted that the advanced disinfection system was considered by the Board at the time but the system was not approved by the various approving agencies at that time and he felt that the District was clean on this issue.

Chris Burt noted that in the last six months the County is requiring the installation of a denitrification kit.

Director Barkhurst stated that since we do not know who sent the letter there is no way that a response can be sent.

GENERAL MANAGER'S REPORT

The General Manager reviewed his written report as provided in the Board packet

REVIEW OF MINUTES

The minutes of the Regular Meeting of August 17, 2004 were reviewed and unanimously approved as presented.

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REVIEW OF FINANCIAL REPORTS

The financial reports for August 31, 2004 were reviewed.

The General Manager noted the following --

- 1) an income statement and balance sheet will now be provided which comes directly out of the accounting program
- 2) there will no longer be a separate report for the LAIF Account as there will only be General Fund moneys in that account
- 3) Improvement District moneys have all been transferred to the Bank Of America Checking Account
- 4) the spread sheet now includes the actual figures up through the current month and the forecasted expenditures are shown for the months of September through the end of the year
- 5) the total expenditure for the year was budgeted to be \$261,000 but currently is forecasted to be only \$195,000.

Director Barkhurst questioned as to whether the late payment penalty charges could be increased and the General Manager replied that it can not be done arbitrarily as a basis for the increase has to be justified and that can be a complicated process.

Director Pickard questioned as to why the number of billed accounts changes each month and the General Manager replied that it has to do with the lock out accounts that become active, new homes that are built, etc.

Director Barkhurst questioned as to where the Ad Hoc Budget Committee was in its process and Director Pickard replied that Director Sorell for whatever reason has not been able to set up a meeting. The General Manager stated that he was ready and suggested to the Acting Chair that the committee be reformulated to include someone that has more time, with Director Sorell's approval. Director Pickard asked Director Barkhurst if he would be available and he replied that he would be gone until October 12th, but that he would be available after that.

Director Barkhurst questioned the increase in the Medical Insurance and the General Manager replied that next month that would be adjusted as that now includes the employees share also.

Director Barkhurst noted the there was a reduction in the anticipated legal expense and questioned as to whether that is expected to continue. The General Manager stated that there are

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a lot of things that he intends to do on his own time, and that he intends to keep that expense lower than it has been in the past by doing the routine matters himself.

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Director Barkhurst questioned as to when the Improvement District Account would be reduced to a zero balance and the General Manager replied that until all of the properties are cleared of liens that account will have to be maintained which will extend into the coming year.

Director Barkhurst questioned the high cost of the City of Pasadena Electric Bill and the Facilities Supervisor replied because of the low water level it takes more energy to move the water up and out into the main.

The Financial Reports as represented were then unanimously approved for filing.

DISCUSSION OF NEWS REPORT REGARDING WATER CONTAMINATION

Director Barkhurst stated that he wished to discuss the news article regarding the water E Coli contamination problem in Southgate and the notification of the public regarding the problem. He questioned the General Manager as to whether he believe that there is a proper process in place that gives him the power that he believes he needs to quickly and decisively act when an E Coli type of problem should occur.

The General Manager replied that he does and that because the District is small, in terms of notification methods and speed of notification, the reality is that 579 door hangers can be hung in very little time and so that would be the quickest and most effective way to make sure anybody would know about the problem.

Director Barkhurst stated that the reason he is asking is that Channel 4 is making very much of the fact that the water company knew about the problem on Saturday afternoon but did not notify the rate payers until today. He further stated that he wanted to be sure that if a similar problem occurred that the General Manager felt that he had authority and ability to quickly act when such a situation occurs.

The General Manager stated that there is indeed a plan and also that the web site could be used. He stated that he thought the District was in good shape and he felt that the staff were very in tune into what the requirements are if anything goes wrong with the water.

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Director Pickard suggested that the president of the various homeowner groups could be notified and that they could help spread the words.

Director Barkhurst suggested that at the next meeting the plan could be reviewed with the Board so that the Board would be aware as to what plan is in place.

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In reply to a question as to the notification of the media, the General Manager stated that his plan is to provide full disclosure to the media so that they receive the correct information before misinformation second hand.

In response to a statement from the public that the possibility of this happening in this small District is pretty low, the Facilities Supervisor reviewed the problem that had occurred in another District during the filming of a movie. He noted that no supervision by the water company had been requested and therefore a proper backflow device had not been used and the contamination occurred without the water company's knowledge.

Director Barkhurst noted that we do have construction sites in this district.

The Facilities Supervisor explained that these situations were talked about in the Fire Preparedness Plan and the Emergency Preparedness Plan and that the General Manager, or in his absence, the Facilities Supervisor can take the proper action immediately and then make the explanations afterward.

ITEMS FOR NEXT AGENDA

Review of notification plan regarding emergency situations with water quality.
Report of Budget Committee
Review of Holly Tank Change Order
Plan to acquire additional Water

PUBLIC COMMENT

Mrs. Williams noted that the Wilcox Reservoir is now being filled by the K-3 Well and asked who is served by that water.

The General Manager replied that it is serving basically the whole east side of the system.

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Mrs. Williams then questioned if the Fluoride level in the water would be less and the answer was yes once the well has been providing the water for some time.

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ADJOURNMENT

The meeting was adjourned at 2100 hours. The next Regular Meeting will be held on October 19, 2004.

Respectfully submitted,

Shirley Burt
Secretary To The Board