

Regular Meeting
April 18th, 2017
6:00 p.m.

Meiners Oaks Water District
202 West El Roblar Drive
Ojai, CA 93023-2211
Phone 646-2114

MINUTES

The meeting was called to order at 6:01 p.m.

1. Roll Call

The meeting was called to order by the Board President James Kentosh at 6:01 pm at the District Office.

Present were: Board President James Kentosh, Board Vice-President Mike Krumpschmidt, Board Directors Larry Harrold, Diana Engle, and Mike Etchart. Staff Present: General Manager Mike Hollebrands and Board Secretary Stacey Gilbert. Attorney Lindsay Nielson was also present.

2. Approval of the minutes

Approval of the March 21st, 2017 Regular Meeting minutes:

Mr. Etchart made the motion to approve the March 21st, 2017 Regular Meeting minutes. Ms. Engle seconded the motion.

Etchart/Engle
All Ayes
M/S/C

3. Public Comments

Elizabeth Anne Von Gunten was present

Ms. Moll stated she had public comments but wasn't ready. Mr. Kentosh explained that there is an item for all her inquiries and unless it pertains to something else that is not already on the agenda, she is to make it now.

Mrs. Berle stated she had a comment

Ms. Moll interrupted: I just want to make it very clear and what we are discussing is what you have proposed to me, but I am not sure how to understand it.

Mr. Kentosh: We are going to deliberate as a Board what it is we are going to propose to you. We will receive your input on that and then we are going to prepare a letter. We have to decide what we are going to do and we haven't done that yet. We will discuss it in open session and in closed session too if need be. So all your issues we have talked about already that

we are aware of now, we are going to talk about it in those two items. Now, do you have anything additional that goes outside of that topic?

Ms. Moll: Well, maybe I think it might be something that my mother has brought up.

Mrs. Berle: The fire hydrant that is behind the fence that you have erected belongs to 2800 Maricopa. So we just want you to remove your fence from that because it restricts us from having access to the fire hydrant.

Mr. Kentosh: We will discuss that when we get to that item because it is part of that later item.

Ms. Moll then interjects: Is it because I thought you had said that the fire hydrant was an improvement that you have made?

Mr. Kentosh: Well it is an issue related to the right of way that we are going to talk about later.

Ms. Moll: Ok, because as of right now it is becoming a liability for my property because instead of sprinklering the fire hydrant had to be there.

Mrs. Berle: So the person who built her house put the fire hydrant...(unable to hear the rest due to people talking over each other).

Ms. Moll: It sounds like Mike is saying no...

Mr. Hollebrands interjects: It just doesn't sound familiar...(more talking over each other)

Ms. Moll interjects: Well I have the permit from 1984...

Mr. Kentosh interjects: I would like to talk about this when we are under that item. Are there any other public comments?

4. General Manager's Report

- GSA Update – Mr. Krumpschmidt gave a summary of the last GSA meeting held on April 13th, 2017
- Mr. Hollebrands took Ms. Engle on a District tour, and she found it very enlightening

5. Board Committee Reports

- Budget and Rate Committee had met, and the results of that meeting are discussed in section 9e of these minutes

6. Old Business

- District lead testing results – Most of the sites came back as non-detect. However, there were two that were under the action level and one above the action level, on Meiners Road and the office, so retesting is going to be done.
- HR Consultant – no new information to report

7. Board of Directors Reports

- Discussion of State Water importation options (State Water Meeting March 22nd) – this was tabled until next month’s meeting
- Mr. Krumpschmidt – mentioned about the late fee. It seems a little excessive. Need to look at this again and possibly reconfigure how we do late fees. After much discussion, it was determined to address this at the next board meeting

8. Financial Matters

Approval of Payroll and Payables from February 16th, 2017 to March 15th, 2017 in the amount of:

Payables -	\$ 40,312.37
<u>Payroll -</u>	<u>\$ 29,276.21</u>
Total -	\$ 69,597.58

Mr. Etchart made the motion to pay the monthly expenses. Mr. Harrold seconded the motion.

Discussion – Mr. Hollebrands stated that we would be getting one more bill from Casitas for water usage due to a misread by Casitas Municipal WD. Mr. Kentosh asked about the professional services for \$1,500 being for 2800 Maricopa. Mr. Hollebrands confirmed. He also asked about the US Bank Corp. and if that is our credit cards. Is there a limit as to how much any one person can charge on it? Mr. Hollebrands explained that it depends on whether we have an actual account with whom we are buying from, but no there is no limit.

Etchart/Harrold
All Ayes
M/S/C

9. Board Discussion and/or Action

- a) Discussion and approval of the draft audit for the fiscal year 2015-16 – there were only a few grammatical and wording changes. Otherwise, it is the same audit presented in March.
- b) Approval of Resolution 20170418 – 2015-16 Annual Audit – Mr. Etchart made the motion to adopt Resolution 20170418 2015-16 Annual Audit 2015-16. Mr. Krumpschmidt seconded the motion. There was no discussion. The motion went to a Roll Call Vote – Kentosh – Aye, Krumpschmidt – Aye, Engle – Aye, Harrold – Aye, Etchart – Aye. Resolution 20170418 passes unanimously.

c) Discussion of options pertaining to 2680 and 2800 Maricopa Hwy property easements and fencing – Mr. Kentosh: At this time we will discuss the issue, and you folks will have an opportunity to provide input, and we will let you know when that is appropriate. Right now we need to take care of some procedural issues. I have made a list of issues that I wanted to go over with the Board. The first is that we have both an open session and a closed session item on the agenda. Now because we are talking about the right of way and negotiations and a proposal, the law would allow us to discuss this in closed session if we so decided, but it doesn't require us to do so. A few of us were just talking, and we would like to do this in open session to the extent that it works and in the sake of building trust with our neighbor and let her listen to our deliberations. Are all of you ok with this and if we come to any difficulties or are uncomfortable talking about it in open session we can take those items out and talk about them in closed session?

Mr. Krumpschmidt: I'm caught a little short because I thought it was going to be a closed session discussion. My gut tells me I am ok with it, but I don't have it thought out.

Mr. Kentosh: If we get to a discomfort level then we can take it into closed session.

Ms. Engle: I am ok with it but how will we signal if its uncomfortable?

Mr. Kentosh: I think we will know when it is.

Mr. Nielson: Well Ms. Moll has employed an attorney, and as you know I have been in contact with him. We have given some proposals as a result of some information. So rather than sitting here and negotiating tonight, I'd like to hear any new information that Ms. Moll wants to present to the Board. We cannot deal with a lawyer and with the party at the same time. I would encourage Ms. Moll to present anything new information because we are in contact with her attorney. I contacted her attorney today as to if he would be here tonight and unfortunately he could not.

Mr. Krumpschmidt: I would like to press you a little further if I may. If we needed to have a discussion amongst ourselves in terms of whatever else was presented new or some of the already presented items would you advise us to do that in the open for the sake of enabling us or would it be prudent to do it in closed session as far as your suggestion?

Mr. Nielson: Well that is a difficult thing because she's employed a lawyer and I believe when you hire counsel you have to go through counsel that's what he is there for. So I would not go into negotiations tonight, but I would like to hear what new concerns she has. For example, Ms. Moll's mother raised something new. I would urge you not to go into any direct negotiations. We have listed the things of concern, and if there is more, then we will add them to the list.

Mr. Kentosh: Ok, so as the process goes, Lindsay, you wrote a letter to her attorney, and your letter was a good letter, but some things have

changed, and today as a result of our discussions there may be some further changes so I would suggest writing another letter.

Mr. Nielson: Sure or give me the changes so that the point of contact is between the lawyers. I also stated in the letter that the suggestions that were made by the Executive Committee are subject to Board approval.

Mr. Etchart: It seems that we should find out what is above and beyond the things we have already talked about. Mr. Kentosh then stated he just wanted to note the process. Mr. Etchart understands that, but it seems that there will be another letter no matter what, so we should not be making any final decisions. We will hear the changes and then go from there.

Mr. Kentosh: I have made a list, and I would like to go through these one at a time, and if there is some I have forgotten then we give them an opportunity to speak as well, but I would like to go through these items one at a time. This is a procedural item, but, I want to mention that there was no Executive Committee meeting. Somehow somebody got the idea that there was one but all we did was exchange emails, and once I found out that Mike and I were on the same page we realized we didn't have to have an Executive Committee meeting, so there was not one. So let's go down the various items. I think that we should start with the one that might be easier to do. Evidently, there is a grant deed requirement that we install a gate at Highway 33, not the existing gate we have but a new gate at Highway 33. There was some discussion as to whether or not we should build the whole gate, or we build a minimal gate and have Ms. Moll electrify it. Last meeting she suggested that she might be willing to pay to have the gate electrified. We have had some discussions on that one here, but one of the things that Mike and I were talking about is that it might just be easier for us to supply the entire gate, because if you have a gate that is split or one person builds the gate and the other person electrifies it, then if it breaks, it becomes an issue as to who pays to fix it. Mike has convinced me that it would be relatively easy to bury conduit within our easement along the access roads. We can power the gate from our own electricity so it would appear we are on the hook for installing the gate. Lindsay has advised us that as a legal matter we are only honor bound to provide a minimal sized gate, but I think that the gate we have now kind of establishes the type of gate we would like. So are you all ok with us funding the gate?

Mr. Krumpschmidt: I have a more fundamental question than that. I thought the last time we met you were going to look and see whether that in the deed we were legally required to put that gate in the there.

Mr. Nielson: In my research, I have found that that is not an easy question. It's clearly not a covenant running with the land, and Ms. Moll is not in primitive with the district. It is oddly stated because it is not stated in the deed as being a consideration for the land that was acquired it's just a statement to build it. It hasn't been built in 67 years,

so there is a waiver provision. You can get into a legal thicket, the only way you are going to get it resolved is to have a declaratory relief action to have some judge tell us what he thinks. I think the easier thing in talking to the board is just to build the gate.

Ms. Engle: Well Mike asked the very question I was going to ask was to take a step back like that. So if there is some quasi-legal/quasi-deed type issue that this gate is addressing in the first place, I would like to know before entering into the constructing of this gate if there is going to be some sort of document written up which is basically both parties agreeing that this is the end of that topic. I just want an end to it and an agreement that says that this issue is put to bed.

Mr. Nielson: There will be some sort of Settlement agreement.

Mr. Krumpschmidt: That would be a requirement of the building of the gate right?

Mr. Nielson: Well I think there is going to be a lot of things and once we do that we want an end to it and so there will be.

Mr. Kentosh: So you foresaw a Settlement Agreement once everything is done?

Mr. Nielson: Yes

Mr. Kentosh: Are you ok with the expenditure of the constructing of a gate? (yes's heard around the room). I don't imagine the gate going to be more than \$10,000 is it

Mr. Hollebrands: It's going to be close, but I don't know, I haven't gotten a quote on it yet

Mr. Krumpschmidt: Bringing power to the site, buying the material of the gate, and then, of course, installing it right?

Mr. Kentosh: We have a budget item for fencing is that correct?

Mr. Hollebrands: Not for fencing no, but we have a fund for contingency.

Mr. Harrold: How long is the list you have?

Mr. Kentosh: Five, this is one out of five. What I propose is we kind of get consensus on these items, and we make a list of them, and at the end of our item, we vote on all of them and offer a package deal.

Ms. Engle: Well I guess what I am saying is if I know that we have to do four other items and this one seems kind of silly I might say no I don't want to do the gate because we are going to do these other things.

There were several people talking so this part was unclear

Ms. Moll: May I make a suggestion?

Mr. Kentosh: Could you wait on it a little bit we are...

Ms. Moll: I am just trying to save time for everybody and all parties.

Mr. Kentosh: Ok what is your suggestion?

Ms. Moll: I'm just suggesting that there are some items that are much more important to me than others and you are focusing on what's really important to you, and you may want to know what is important to me.

Mr. Kentosh: Ok we are going to go through all these items, and the order really isn't all that important. So some may be more important to you or more important to us.

Ms. Moll interrupted: I thought it might help her and with her question.

Mr. Etchart: Well my opinion is that these are going to be addressed already but if there are additional items we should hear those and then, probably at the next meeting, address every issue that has been brought to our attention.

Mr. Kentosh: Is that what you guys want to do? Hear if there are any additional items then? Ok then, Ms. Moll why don't you tell us what your issues are. Let me just tell you for your information what I have on my list. I have gate down at Highway 33, options for upgrading the gate, fencing off the peninsula with an option for purchasing the peninsula, trash bins, our existing gate is going to remain in place, and now I have added the hydrant. So is there anything else to consider?

Ms. Moll: Well I disagree with your list because what you are stating in your list is starting with the items that you are willing to do.

Mr. Kentosh: Well that is what we are going to discuss?

Ms. Moll: I know, but you are starting from the point of what you are willing to do, and one of the paramount things to me is that the fence that is within our easement should not be there, period. One of the reasons why is because the two deeds that were given to you from Fry and Hantgin. Both of those deeds were given for the right of drainage, it was for drainage, and it was because later they didn't want to be fully responsible for the drainage but it was not to be blocked by any type of fencing. Fencing can become a damn, and it is supposed to be cleared, and that is the reason why no fencing should be in that area, period.

Mr. Kentosh: Are there any other issues?

Ms. Moll: Well that is priority number one, and that is why I am here, and that is why I have been for five months.

Mr. Kentosh: So if I understand you right, you don't want any fence at all?

Ms. Moll: No I am saying I do not want the fence within the easement area or the drainage or a fence around the "finger" or "the peninsula" or whatever you want to call it. It's not to be there, it is stated in the deed, and it is also stated in your title report, and so I don't...

Mr. Kentosh interrupted: I get the gist of what you are saying but we may be in disagreement with that, and we need to discuss amongst ourselves what we are willing to do and so if you will please be patient and let us continue with our discussion...

Ms. Moll: Well ok but do you want me to finish?

Mr. Kentosh: No not really, not at this point. I think it would be better if you just let us proceed and get our issues taken care of. So, I guess we are going to discuss later whether we are going to provide the entire gate. There is an option that Ms. Moll may want an upgraded gate. The

standard gate we would construct is demonstrated by the gate we already have out there, she may want some estate kind of gate.....

Ms. Moll interrupts: You are avoiding what I am trying to say!

Mr. Kentosh: I am getting to you ok!

Ms. Moll: I am not talking about...

Mr. Krumpschmidt tries to interject: May I say...

Mr. Kentosh: Ma'am, Ma'am would you be quiet, please

Mr. Krumpschmidt: I want to interrupt both of you (Ms. Moll interrupts emphatically: I am not talking about.. you are turning this into something else) excuse me a moment, excuse me a minute.

Mr. Kentosh: We have an issue we need to discuss amongst ourselves, and please let us do it.

Mr. Krumpschmidt: Excuse me, as I understand what's happening right now is that we are trying to show our deliberative process on this whole issue, and we are trying to talk it out from our perspective, of course, but your concerns are interrupting that process, and I am becoming very concerned and upset about it, and I would like this deliberative process to be closed so we can get to our business because...

Mr. Kentosh interrupted: So ruled (rap of the gavel). We are going to cover it in closed session because obviously, we are not going to get anywhere if we do it in open session. Thank you, Mike. Just so you know how that works when we go into closed session, we will have a brief discussion and then Lindsay our attorney will get back with you, is that the appropriate next step? (Mr. Nielson answered sure) Ok.

Ms. Moll: In the mean time I would like my fire hydrant, and my property is not protected.

Mr. Hollebrands: It is protected

Ms. Moll: No it isn't Mike! You have put your fence around my hydrant! You have confiscated my fire hydrant, and this is theft, and you have actually confiscated my property, and I am now sitting here for five months, and this is really upsetting. I hope all of this is tape recorded because I have to tell you this is wrong. Five months you have held my property hostage, and now I find out that it is also my fire hydrant that you are claiming is yours.

Mr. Hollebrands: So the fire hydrant is accessible by the fire department they have a key...

Ms. Moll interrupts: No I understand, I know, I talked to the fire department, I went to the County, I've got all the permits on it. There is no record

Mr. Hollebrands: So you understand that it is protected (Ms. Moll answered yes) and they have access to it...

Ms. Moll interrupts: I understand that they have a code from you, but if I have to if I need to, I don't know who I am to call. Am I to call them? I should be able to have rights to it. It should not be blocked behind your fence, period I'm sorry!

Mr. Hollebrands: If you are not going to listen then I won't talk anymore.

Mrs. Berle: We have been sitting here for hours listening to you week after week. (Ms. Moll talked over Mrs. Berle stating: Months this is five months!!!)

At this point, there was arguing and talking over each other, and it was unclear as to what was being said.

Mr. Nielson: We will communicate with your lawyer Ms. Moll, and then you can communicate with your lawyer with the issues you have, and he will communicate with us because obviously, we are getting nowhere.

Ms. Moll: Well I talked to Mr. Barnard today, and he told me and confirmed, and Steve was very nice and said he would testify that that is my road.

Mr. Kentosh: Ok this discussion is over...

Ms. Moll continues: ...and that Mike actually called Barnard after the fact and asked for a fence to be put up which he thought was put up a long time ago. It has been a bunch of lies! Lies, lies, lies.

Mr. Kentosh states: Our attorney will talk with your attorney.

Ms. Moll: Yea well I'm telling you guys it is not...

Mrs. Berle: It should be put on the record that we all feel very threatened...

Ms. Moll states emphatically: I feel very threatened, and I need a restraining order at this point because I feel threatened. There have been way to many lies and the fact that he is telling me that first of all it is his water line and then I should just do a lot line adjustment...

Ms. Engle states: We should not be talking anymore.

Ms. Moll: I am just telling you that this is not...

Mrs. Berle: I just want to say that we feel a little strange here because when we walk in, and we sit here like crows on a line, everybody looks away from us. Nobody makes eye contact with anybody; we wait hours until all of your business is done before you even hear from us and then when you do you are so condescending in the way you talk to us. We are just two women who bought a property. My daughter came up with all the money through her lifetime of savings to do something wonderful with her own life. I am here only because I am so incredibly proud of my daughter in everything that she has done and I stand behind her 100% and I am so sorry you men just couldn't look behind you and say hello to us when we came in or we would like to welcome you or anything. Nobody has ever offered us water or nothing. We are like the enemy when we walk in here, and maybe we appear that way to you because we feel that way and you have made us feel that way.

Ms. Moll: You really have. It is just intolerable, I mean I have to tell you and to think this is transparency. Is this transparency? Is this the way transparency works? I thought you were a public company. I thought that I should know where things are. This is no transparency.

Mr. Etchart: Thank you for coming.

There were some other comments made under breath but was unclear as to by who.

- d) Eagle Aerial quote for high-resolution aerial mapping of irrigable and non-irrigable landscaping on all District parcels for the purpose of allocation assignments – Mr. Hollebrands explained how this scope of work would help us understand how the district is mapped out in terms of irrigable and non-irrigable land. It will help in determining allocations within our new CARP system. After much discussion, it was determined to go over the new allocation scheme next meeting and how this aerial mapping affects it. Mr. Krumpschmidt requested that we get two other quotes just to be thorough. Mr. Krumpschmidt made a motion to authorize aerial mapping amount not to exceed \$11,000 with the caveat that we will have two or three bids to choose from. Mr. Harrold seconded the motion.

Krumpschmidt/Harrold

All Ayes

M/S/C

- e) Discussion of Draft Budget for the fiscal year 2017-18 – Mr. Hollebrands summarized the budget. There was discussion about the possible backup generator for Meiners road and how it will be used and billed to customers. Mr. Kentosh discussed table four of the budget and how the rates could look. Mr. Hollebrands explained how the budget table is laid out and then went over some of the capital improvement projects. Doing a Prop 218 is prudent to do and is to be approved to send at the next board meeting with a public meeting to follow in June with the approval of the budget and new rates in the July meeting.

At this time the Board of Directors went into Closed Session at 9:00 PM

10. Closed Session: The Board of Directors may go into closed session to discuss personnel matters or litigation, pursuant to the attorney/client privilege, as authorized by Government Code Section 54957 & 54956.8, 54956.9 and 54957a.

- a) The Board will go into closed session under the Real Property Negotiations Exception Government Code Sections (§54956.8 and 54957.1) to discuss options regarding easements and property lines on parcels 010-0-102-290 and 010-0-102-090

Closed Session was closed at 9:17 PM

11. Meeting Adjournment

There being no further business to conduct at this time, Board President James Kentosh adjourned the meeting at 9:18 PM.

President

Secretary