

MINUTES
REGULAR MEETING
BOARD OF DIRECTORS
PARADISE IRRIGATION DISTRICT
MAY 16, 2018

The regular meeting of the Board of Directors of the Paradise Irrigation District was called to order at 6:30 p.m. by President Dan Wentland, followed by an Invocation and the Pledge of Allegiance to the Flag of the United States of America.

OPENING

BOARD MEMBERS PRESENT: Directors Marc Sulik, Anne Rice, Bill Kellogg, Vice President Cliff Jacobson, and President Dan Wentland

ROLL CALL

BOARD MEMBERS ABSENT: None

STAFF PRESENT: Interim District Manager Kevin Phillips, Assistant Engineer Neil Essila, and Secretary Georgeanna Borrayo

ALSO PRESENT: PID Legal Counsel Emily LaMoe and members of the public

Board members reviewed consent calendar items as follows:

APPROVAL OF
CONSENT
CALENDAR
(Item 2.a. – 2.b.)

2.a. Approval of Meeting Agenda Order

2.b. Approval of Minutes:

Special Meeting of April 12, 2018
Regular Meeting of April 18, 2018

It was moved by Director Rice and seconded by Director Sulik to approve the Consent Calendar as presented.

AYES: Directors Sulik, Rice, Jacobson, Kellogg, and Wentland
NOES: None
ABSENT: None

Motion passes 5-0

Ward Habriel commented on the following: 1) California Department of Water Resources Conservation performance figures; and 2) Transparency in reference to a class action lawsuit arising out of fee overcharges and improper deductions in connection with PID employee retirement plans. In his opinion, the current CFO cannot be trusted as a fiduciary or trustee of financial accounts; suggesting some kind of collusion and kickbacks. He feels the Board has not been transparent about the lawsuit (Butte County Superior Court Case No. 17CV02546).

PUBLIC
PARTICIPATION
(Item 3)

Fred Hofer praised volunteers for their work on the PID Demonstration Garden and gave special recognition to Michael Spiess and Chuck Bell for their work installing the irrigation system.

Board members reviewed written Staff and Billing Reports. It was moved by Director Rice and seconded by President Wentland to accept the Staff and Billing Reports for the month of April 2018 as presented.

APRIL 2018 STAFF
& BILLING
REPORTS
ACCEPTED
(Item 4.a. & 4.b.)

AYES: Directors Sulik, Rice, Jacobson, Kellogg, and Wentland
NOES: None
ABSENT: None

Motion passes 5-0

DISTRICT
MANAGER'S
REPORT
(Item 5)

The Board reviewed a written report from Interim District Manager Phillips. Additional comments included:

NPDES Permit Renewal: Staff met with the Regional Water Quality Control Board on April 26 regarding the mixing zone and dilution credit evaluation memo and other aspects of the permit.

Reservoir B Replacement Project: Waterworks Engineers is nearing completion of 90% design phase and will present final plans and specifications at the June 12th Board meeting.

Spillway Investigation: Engineering Staff submitted the draft Phase 1 Spillway Condition Assessment Reports for Magalia Dam and Paradise Dam to the Division of Safety of Dams for review. Manager Phillips further added he and President Wentland have a meeting scheduled on May 21 with Assembly Members James Gallagher and Brian Dahle to discuss the spillway investigations and state mandated requirements.

Water Rights: Public member Robin Huffman inquired about information reported in the District Manager's Report; specifically, on the date when direction was given to the District Manager to go to license on Permit 271 and whether a document for license has been submitted to the State Water Board (SWB). Staff confirmed direction was given to the District Manager to go to license on Permit 271 and that a document for license has not been drawn up. As staff understands it, there is not an application process for license; it is more of a negotiation process.

TREASURER'S
MEMO ACCEPTED
FOR PERIOD
ENDING
APRIL 30, 2018
(Item 6)

Board members reviewed a written Treasurer's memo for the period ending April 30, 2018. Manager Phillips indicated he has begun working on the Budget for fiscal year 2018/2019 and is working with staff on capital budget requests for the upcoming budget year in preparation for a Finance Committee meeting and budget session with the Board.

It was moved by Director Rice and seconded by Director Jacobson to accept the Treasurer's memo for the period ending April 30, 2018.

AYES: Directors Sulik, Rice, Jacobson, Kellogg, and Wentland

NOES: None

ABSENT: None

Motion passes 5-0

APPROVAL OF
APRIL, 2018
CHECKS
(Item 7)

Following review of accounts payable reports for the month of April, 2018, it was moved by Director Jacobson and seconded by Director Sulik to approve General Fund Check Numbers 51777 through 51890 for the month of April, 2018 totaling \$655,445.04, and authorization of a similar amount allowing or adjusting for extraordinary budget or Board approved items during the month of May.

AYES: Directors Sulik, Rice, Jacobson, Kellogg, and Wentland

NOES: None

ABSENT: None

Motion passes 5-0

LEGAL REPORT
(Item 8)

Public Records Act Request regarding Long-Term Urban Conservation Mandates: Attorney Emily LaMoe reported in October 2017 the State Water Board produced some records and also produced a privilege log claiming some of the records were not subject to disclosure. Legal Counsel recently filed a motion to compel approximately 500 of the withheld records. This is set for hearing on June 1, 2018.

Unfinished business - None to report.

UNFINISHED
BUSINESS

In written communication presented in a memo to the Board of Directors dated May 9, 2018, public member Robin Huffman stated her purpose for this agenda item is to gain more clarity going forward regarding the Water Rights Permit Extension Project. Mrs. Huffman added her hope is the Board will request staff to present a detailed report on proceeding with the Water Rights Permit Extension Project in order to revisit the current project and alternatives before restarting an Environmental Impact Report (EIR) process. Mrs. Huffman further commented on the timeline regarding environmental review in connection with the 2007 water right petitions, indicating she was unable to determine when the process was stopped.

NEW BUSINESS:
PID WATER RIGHTS
PERMIT EXTENSION
PROJECT – REVIEW
& DISCUSSION
REGARDING
WRITTEN
COMMUNICATION
SUBMITTED BY
ROBIN HUFFMAN
(Item 10.a.)

PID staff confirmed the status of environmental review. An EIR has not been completed; however, steps to prepare an EIR were noticed in 2010, when PID circulated a Notice of Preparation of an EIR and Draft Initial Study. Through subsequent consultation with the State Water Board and further PID analysis, the District made amendments to its original 2007 Petitions to include a Request for License for Permit 271. Changes in place of use and beneficial use amounts were also made to the project. The decision to transition to license coupled with Water Board staff being redirected to focus on the drought, resulted in a pause in the environmental review process.

Staff noted that when the drought ended, discussions with the District's water rights and environmental consultants were reinitiated in November/December 2016. The District's environmental consultant (DeNovo Planning Group) is revising the project description to incorporate the changes. DeNovo is also evaluating the current state of the previous Biological Study associated with the EIR preparation to determine if further studies are necessary, and information and details will be presented to the Board to make a determination with regard to the EIR process.

Robin Huffman further stated she would like to see this information addressed in a detailed staff report when it comes back to the Board for direction on proceeding with the water rights permit extension project, recommending the Board consider the current project and alternatives in their action. Board members thanked Robin for her input. No Board action was taken on this agenda item.

President Wentland called for Board recess at 8:08 p.m.

BOARD RECESS

President Wentland reconvened the regular meeting at 8:13 p.m.

MEETING
RECONVENED

Assistant Engineer Neil Essila reported the Town of Paradise is preparing to reconstruct Almond Street, including full depth reclamation of the road section, storm drain, curb, gutter and sidewalks. PID staff has investigated the condition of the old steel water main on Almond Street and have concluded this water main should be replaced before the reconstruction of Almond Street. The Town has stated that PID's Almond Street construction must be complete by July 30, 2019. District field crews will not have the time to complete the Almond Street main replacement in time to meet this deadline due to other project commitments. The Almond Street water main construction project will need to be outsourced. Staff has communicated with Mark Thomas & Company regarding PID's design work and they have submitted a proposal for the District's consideration.

ALMOND ST. MAIN
REPLACEMENT
PROJECT –
ENGINEERING
DESIGN SERVICES
AWARDED TO
MARK THOMAS &
COMPANY
(Item 10.b.)

It was moved by Director Kellogg and seconded by Director Rice to accept the proposal for professional engineering services from Mark Thomas & Company, Inc. for engineering design services for the Almond Street Water Main Replacement Project,

CONTINUED –
ALMOND STREET
MAIN
REPLACEMENT
PROJECT –
ENGINEERING
DESIGN SERVICES

for a not-to-exceed amount of \$35,000 and direct the Interim District Manager to execute the professional services agreement following review by legal counsel.

AYES: Directors Sulik, Rice, Jacobson, Kellogg, and Wentland
NOES: None
ABSENT: None

Motion passes 5-0

RECONSIDERATION
OF THE DIVISION OF
BOATING &
WATERWAYS
GRANT
AGREEMENT FOR
THE NORTH LAKE
BOAT LAUNCHING
FACILITY PROJECT
(Item 10.c.)

Manager Phillips reported the District executed a Grant Agreement on June 3, 2015 with the Department of Parks and Recreation, Division of Boating and Waterways (DBW) to receive a \$670,000 grant for the North Lake Boat Launching Facility.

During Board consideration in August, 2017 to send a formal request to the DBW to relocate the grant funded site from Boat Launch 2 to Boat Launch Ramp No. 1, concerns and questions were raised relative to many conditions in the agreement. The Board appointed an Ad Hoc Grant Agreement Review Committee to review the agreement further and prepared a list of questions regarding the Grant Agreement. The District received a response from the DBW on April 17, 2018 regarding PID's questions. The Ad Hoc Committee has reviewed the responses provided by DBW and does not recommend moving forward with the grant for the following reasons:

1. The 20 year term of the agreement does not allow the District to opt out once the project moves forward.
2. Once grant funds are paid, no termination is allowed unless all the funds are repaid to DBW.
3. The facility must be operated in accordance with the agreement for the 20 year term.

It was moved by Director Rice and seconded by Director Wentland to authorize the Interim District Manager to send written notice prepared by the District's Legal Counsel to the Department of Parks and Recreation, Division of Boating and Waterways that requests termination of Grant Agreement No. C41223010; Project No. 1083 pursuant to Exhibit B, Article 21 – Termination.

AYES: Directors Rice, Kellogg, and Wentland
NOES: Directors Sulik and Jacobson
ABSENT: None

Motion passes 3-2

JUNE 20, 2018
REGULAR BOARD
MEETING
CANCELLED;
SPECIAL MEETING
SET ON TUESDAY,
JUNE 12, 2018
(Item 10.d.)

Manager Phillips indicated he will not be available to attend the regularly scheduled Board meeting of June 20, 2018. If the Board desires to change the date of the June meeting, a special meeting date may be set.

It was moved by Director Rice and seconded by Director Sulik to cancel the regularly scheduled Board of Directors meeting on June 20, 2018 and set a special meeting on Tuesday, June 12, 2018.

AYES: Directors Sulik, Rice, Jacobson, Kellogg, and Wentland
NOES: None
ABSENT: None

Motion passes 5-0

RESOLUTION NO.
2018-05 ADOPTED
TO CENSURE
DIRECTOR
WILLIAM KELLOGG

Manager Phillips reported Resolution No. 2018-05 to censure Director Kellogg has been placed on the agenda for discussion at the request of the Board.

Director Kellogg stated he has a presentation prepared to comment on the complaint as referenced in the Resolution. Referencing the PID Policy & Procedures Manual, he

inquired with Legal Counsel on whether or not the District can censure a director under policy guidelines.

Legal Counsel confirmed the authority is in the Code of Ethics (Paragraph (C) 14, which summarizes that a perceived violation of the policy can be addressed in one of three ways. One is by adopting a resolution expressing disapproval of the conduct of the Board member who has violated the policy. Legal Counsel further cautioned Director Kellogg and the Board that personnel matters are confidential and this is not a matter for public disclosure.

Following conclusion of Director Kellogg's comments and an opportunity for public and Board comment, Manager Phillips stated the sentiments of one director does not hold weight with the full district about the appearance of character of one of the District's employees and that is not how the full Board feels about the unnamed employee.

It was moved by Director Sulik and seconded by Director Rice to adopt Resolution No. 2018-05, a Resolution by the Board of Directors of the Paradise Irrigation District regarding the Censure of Director William Kellogg. Directors' votes were polled as follows:

AYES: Directors Sulik, Rice, and Jacobson

NOES: Directors Kellogg and Wentland

ABSENT: None

Motion passes 3-2

Ad Hoc Demonstration Garden Committee: Board members received a written summary of the May 3, 2018 committee meeting. Updates were provided regarding progress on the PID Demonstration Garden Landscape Project. The dedication for the demonstration garden is schedule for Friday, June 29, 2018 at 10.00 a.m.

COMMITTEE
REPORTS
(Item 11.a.1-3.)

Paradise Lake & Recreation Committee: Director Sulik distributed a written summary from the May 1, 2018 committee meeting. Discussion included updates on water supply, various projects, environmental assessment and permitting for proposed improvements to the existing parking area for the Paradise Lake Boat Launch Ramp No. 1, and the annual Kids Fishing Day event held on Saturday, April 21.

Ad Hoc Grant Review Committee – North Lake Boat Launch Facility Project: President Wentland reported information was presented under agenda item 10.c. regarding the Grant Agreement with Division of Boating and Waterways. There is no further information to report.

Director Sulik: Thanked public members for their participation in the meeting this evening, and acknowledged volunteers and PID staff for their work to make Kid's Fishing Day a great success.

DIRECTORS'
COMMENTS
(Item 12)

Director Kellogg: Commented he has received inquiries about the status of the District Manager position and he feels the public has a very good Board that the community can support.

Director Wentland: Encouraged the public to continue to participate in the meetings as much as possible.

Manager Phillips addressed statements made under public participation regarding his character and possible criminal activity; alluding to collusion and kickbacks. Phillips stated these statements are a lie and slanderous to his character, which he takes very seriously and would appreciate it if it would stop.

INTERIM MANAGER
KEVIN PHILLIPS
ADDRESSES
PUBLIC COMMENT
STATEMENT

CLOSED SESSION
(Item 13.a.-13.d.)

President Wentland announced the Board will adjourn to closed session to discuss closed session agenda items 13.a. through 13.d. The Board entered into closed session at 9:30 p.m. to discuss the following:

- 13.a. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE. Pursuant to Government Code section 54957.

Closed Session Announcement: Direction has been given to Legal Counsel.

- 13.b. CONFERENCE WITH LABOR NEGOTIATORS (Government code section 54957.6).
Employee organizations: General Unit represented by IBEW, Local 1245 and Management Unit
PID designated representative: Emily LaMoe

Closed Session Announcement: Direction has been given to the PID designated representative.

- 13.c. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Paragraph (a) of subdivision (d) of Government Code section 54956.9): Neil Essila et al v. Paradise Irrigation District et al. Butte County Superior Court Case No. 17CV02546.

Closed Session Announcement: Direction has been given to Legal Counsel.

- 13.d. PUBLIC EMPLOYMENT: District Manager (Government Code section 54957).

Closed Session Announcement: Direction has been given to the District Secretary to communicate information from the Board of Directors to the consultant, Koff & Associates, regarding the position of District Manager.

CLOSED SESSION
ANNOUNCEMENT

President Wentland reconvened the regular meeting at 11:33 p.m. and provided a closed session report regarding agenda items 13.a., 13.b., 13.c. and 13.d. as listed above in italicized print.

ADJOURNMENT

It was moved by President Wentland to adjourn the meeting. The regular meeting was adjourned at 11:35 p.m.


Georgeanna Borrayo, Secretary


Daniel Wentland, President