

# BRANNAN-ANDRUS LEVEE MAINTENANCE DISTRICT

## Minutes of Thursday, April 11, 2013

The stated meeting of the Brannan-Andrus Levee Maintenance District's Board of Directors was called to order in Closed Session by presiding officer, Larry Gardiner, President, at 9:45 a.m. on the above cited date at the District Office, 310 Second Street, Isleton, California. The purpose of the Closed Session was to conduct the annual, personnel performance review.

**1. Roll Call** indicated a quorum with the following in attendance:

Directors: Larry Gardiner, Gay Giles, Manuel Rebero, Fran Silva and Denis Van De Maele

**2. Recess.** A five-minute recess was called to allow assembly of personnel and guests for the Open Session.

**3. Call from Recess.** The meeting was called from recess to Open Session by President Gardiner at 10:05 a.m. A quorum was noted, and the following individuals joined the meeting:

Staff: Victoria Hale, Bookkeeper; Gilbert Labrie, Engineer; and Debbie Phulps, Secretary

Guests: Ben Kolber of KG Vineyard Management

**4. Agenda Setting. MSC** (Giles / Rebero) [MSC = Motion-Second-Carried unanimously unless otherwise noted] adopting the agenda, as amended, and suspending the rules to allow consideration of items out of sequence. The following business item was added:

7.1 Personnel Search Effort

**5. Report from Closed Session.** President Gardiner reported favorably as to the Board's personnel review concerning the District Superintendent's performance, and the decision to increase the District Superintendent's monthly salary from \$3,605.28 to \$3,785.54, a 5% increase, effective May 1, 2013.

**6. Financial Report**

6.1 Treasurer / Assistant Secretary - Victoria Hale. Balance Sheet and Unpaid Bills Detail were distributed and reviewed. Director Giles received copies of the bank statements.

A. Balance Sheet Summary as of meeting date:

Total Checking / Savings	\$	963,641.78
Total Accounts Receivable	\$	144,937.79
Total Other Current Assets	\$	835,461.70
Total Fixed Assets	\$	649,320.46
Total Assets	\$	<u>2,593,361.73</u>
Total Current Liabilities	\$	312,653.03
Total Long Term Liabilities	\$	0.00
Equity	\$	<u>2,280,708.70</u>
Total Liabilities and Equity	\$	<u>2,593,361.73</u>

B. The following claims were submitted for payment approval. Invoices were available and those presented by DCC Engineering and Delta Bookkeeping were reviewed.

California Waste Management	93.50	Oilwell Materials	109.12
Delta Bookkeeping	1,608.28	Payroll - PERS	1,972.83
DIR/CMU	311.60	Payroll - Liabilities	1,284.36
Downey Brand LLP	612.00	Ramos Oil	245.80
Frank Machado Diary	75,207.15	Rebero, Manuel	100.49
Frontier Communications	139.25	Reeves Sand & Gravel	200,552.40
Gardiner, Larry	200.87	Rio Vista Ford	57.87
Giannini, Andy	2,090.80	Silva, Frank	100.49
Gilbert Labrie, AIA	27,284.37	Stewart Industrial	13.77
Giles, Gay	100.49	US Postmaster	78.00

Van De Maele, H. Denis . . . . .	100.49	Total Claims . . . . .	<u>\$312,653.03</u>
Visa . . . . .	<u>389.10</u>		

**MSC** (Giles / Silva) authorizing payment of claims with (6) \$50,000 warrants and (1) \$15,000 warrant.

**7. Invitation to Guests to Address the Board.** Ben Kolber of KG Vineyard Management, the firm overseeing development of the River Vine property, (former Delta Five Partners, aka Rose Ranch opposite Ida Island) addressed the Board regarding being approached by the Department of Water Resource concerning a project they have in the works for the waterside area of his property, and their desire to purchase an easement from him to do so being that he "was the only owner for which they did not have a similar easement on the island". DWR also proffered to work with Mr. Kolber regarding the installation of a siphon to serve the upland property in exchange for the easement, and that such an installation could be installed within a short turn around.

Having served as a Trustee for RD20259 and familiar with such powers, Mr. Kolber thought it prudent to bring the BALMD Board into the loop. The DWR project and approach of local owners for easements was news to the District. Mr. Kolber was advised that the DWR representative's statement concerning such easements was incorrect. Further, installation of a siphon is not an easy permitting process and the District's Engineer did not concur with the DWR agent's representation as to timing and ease.

The Board thanked Mr. Kolber for bringing the matter to their attention. Mr. Kolber noted he would bring additional information to them as it becomes known. He retired from the meeting. The Board continued their discussion segueing into the manner in which tree and vineyard installations are treated as encroachments under the District's regulations. The District Engineer will review; but believes only "structures" are addressed as encroachments requiring District review or permit. The question was raised as to whether the District's regulations should formalize a levee set-back pertaining to planting of orchards and vineyards.

**8. Business**

8.1 Personnel Search - Maintenance Worker I / Equipment Operator I. The Board approved the draft Job Description and Help Wanted Advertisement. They requested advertising be placed in the Sacramento Bee, Lodi News Sentinel, and River News Herald. Application period to close May 8, 2013. Applicant to be available July 1, 2013.

**9. Staff Reports**

9.1 Secretary - Debbie Phulps.

- A. **MSC** (Giles / Silva) approving the minutes of March 14, 2013 as distributed.
- B. Correspondence was read from:
  - 1. Central Valley Flood Protection Board - Notice of Presentation by USACE on the process of de-authorizing levee systems. Friday, April 26, 3013.
  - 2. Carolyn Runnells - request for access to watercolor paint. Ms. Runnells will be advised that the District does not have the authority to grant the access she requests.

9.2 Superintendent - Andy Giannini. No report as Andy was absent fulfilling the Ethics Training requirement by attending the seminar in Williams conducted by Golden State Risk Management.

9.3 Engineer - Gilbert Labrie. The District Engineer (DE) presented his report. Discussion points in the course thereof are noted by the use of inset paragraphs.

- A. Levee Program Financing. At the most recent Delta Levees and Habitat Advisory Committee meeting it was reported that the levee program policy documents being prepared by DWR, for consideration by the Delta Stewardship Council (DSC) and inclusion in the Central Valley Flood Protection Plan, are anticipated to be formally considered by the DSC in May. This includes the "*Framework for DWR Investments in Integrated Water Management*" (Framework) and a companion document called the "*Background Reference Memorandum*" (BRM). However, it was also reported that these documents are still being fine tuned by DWR staff and will be presented to the DSC without further input from the Local Maintaining Agencies. The BRM establishes the State standard for Subventions Program funding decisions and, when last presented to the LMAs for comment, did incorporate the more rigorous Bulletin 192-82,

State Standard as the minimum standard for Subventions funding. It is becoming more and more likely this standard, or something like it (PL 84-99), will be incorporated into any new MOU with FEMA regarding disaster assistance eligibility for Non-Project Levee repairs. Speculation is that FEMA wants to shift any levee responsibility to the Corps of Engineers. Of course the Corp's periodic inspections and rating system is rendering most project levees in the Delta ineligible for PL 84-99 flood damage assistance; so the Corps cannot really be depended upon to step up to the table and provide any assistance on any Delta levee.

The precipitous FEMA action regarding the HMP MOU has led the State to suspend implementation of a \$50 million HMP levee improvement effort in the central Delta, which upset a number of local reclamation districts. While the money is still available for levee improvements, none has been released for any of the projects originally slated to receive a grant. DWR staff has been unable to shed any light on the future plans being considered by DWR management for the \$50 million. When queried, staff falls back on the investment strategy approach to levee funding that DWR has adopted, and is discussed above. Yet DWR announced at the Habitat Advisory meeting that it is open for recommendations of "good levee projects" to fund. Of course, implicit in that announcement is the inference that a good project has to have a habitat enhancement component and a funding partner. A recent workshop sponsored by the USACE and DWR to highlight a Delta Islands and Levees Feasibility Study that is underway, clearly revealed that the highest priority for the State and Federal agencies is on habitat conservation. To get much consideration, projects have to have a major habitat component.

- B. Project Levee Inspections. Recently, the District Engineer received a CD with the official, final report following up the USACE Periodic inspection, which took place in early 2012. That report continues to include RD 556 with BALMD as part of a single system. While the four (4) levee units (2 in each district) are rated individually, the system is rated as one. According to the USACE correspondence addressed to the CVFPB and copied to the districts, the BALMD/RD556 system received an unacceptable rating due to a number of items considered deficiencies, ranging from encroachments and animal control to seepage. Consequently, the system is now ineligible for PL 84-99 assistance following a disaster. According to the USACE letter the system will remain in an inactive status until the project sponsors present the USACE with sufficient documentation and evidence that the identified issues have been resolved.

As previously reported, most of the 60 individual items in the 2011 USACE Periodic Inspection Report, occurring along both Georgiana Slough and the Sacramento River levees, were addressed by a local contractor, Bruce Gornto, under the direction of this office. However there are seven (red) sites on the Sacramento River that have not been addressed because of access difficulties. There are another seven sites that involve cracks in the pavement section of Highway 160. In the February Engineer's Report the Board was advised that there are plans to talk with Bruce Gornto about addressing some of the identified slope stability deficiencies along the State Highway. There is a conference call taking place at 1:00 pm this afternoon to discuss the press release that is going to be made regarding the condition of the levees based on these USACE inspections. The veiled threat that is made in the USACE letter to the Flood Board, and will probably be incorporated in the upcoming press release, is that the USACE inspection rating may be used in conjunction with other information for a levee certification determination for Nation Flood Insurance Program (NFIP) purposes.

Obviously, an adverse impact on FEMA certification is not a Brannan-Andrus worry. So then the question is, should the District proceed to address all the issues when the rating is likely going to be adversely influenced, in the end, by what RD 556 does not do. There has been some rumors circulating that other districts, faced with a similar rating and voluminous list of deficiencies, may choose not to try and regain PL 84-99 eligibility because the potential benefit, of a USACE repair response, is not assured. In fact, the last time the USACE spent any money in the Delta, after an event, was in 1998. It is the opinion of this writer that both FEMA and USACE officials want to shift the burden of emergency repairs onto the State, which is primarily focused on urban area levee issues and desirous of prioritizing the islands to establish eligibility for any type of State assistance.

In previous reports this office has advised the BALMD Board that, to correctly address all the remaining issues identified in the report, (e.g. encroachments, slope stability and erosion) local

Districts have been advised that a Notice of Intent (NOI) to prepare a SWIF (System Wide Improvement Framework) will need to be submitted to the USACE indicating the proposed solutions, for USACE approval. The District would then have until June 29, 2014 to fix everything, in order to retain PL 84-99 eligibility for Project Levee repairs after a flood event. There is no mention of this procedure in the USACE letter to the Flood Board that is discussed. Maybe the 1:00 pm briefing today will shed some light on the status of this pre-project requirement.

- C. Levee Stability Project (formerly the "USACE/CALFED Levee Stability Project"). As previously reported, this office is continuing to work with Raney Geotechnical to get a geotechnical testing strategy scoped out and involving the two miles of levee that encompasses the two proposed stability berm sites. That process will involve borings in the levee crown, as well as the land-side toe, in several locations in order to arrive at the appropriate berm design to provide an effective increase in levee stability, and is feasible to construct.

In preparation for this stability berm project some suitable spoil material, for berm construction, is being acquired from an on-island source adjacent to the District's 100-acre parcel. The material is sand that was deposited on top of good farming ground during the flood of 1972. It became available when the property owner contacted a grading contractor to remove the sand to improve the farm-ability of the property. To date, over 100,000 cubic yards of material has been relocated to the District site, based on a scraper load tally. Once the hauling process is complete, post grading survey will be utilized to determine the final quantity of material excavated from the Machado site.

Raney Geotechnical was consulted in advance to establish the parameters for the stockpiling operation to avoid any potential adverse impact on the adjacent levees and DCCE established some specific survey reference points in the area in order to monitor the adjacent levees for any movement or shifting that might be triggered by the fill loading on the District site. To date there has been no sign of any movement.

On a related matter, it was reported in March that there has been communication with the owner of the River's Edge Marina and Resort, that shares two property lines with the District's parcel, regarding the District's plan to install a security fence. Based on a site visit and some further discussion there has been some conversation about the possibility of adjusting the property lines to give the resort some more room along its south border, in exchange for lengthening the District's property line along the canal. Of course, the net effect being no change in acreage for either party. This would make installation of the fence simpler address a problem the resort has along its south boundary, accommodating its customers and tenants. This is just in the discussion stage and is just being presented to the Board for feedback. J B Morais of Walnut Grove has the fence and gates that once surrounded the site that was going to be utilized for greenhouses to grow marijuana in Isleton and was contacted regarding its re-use to fence off the District property from the River's Edge RV Park.

- D. 2012-13 Subventions. As reported previously, due to the current focus on the stability berm project preparations, the current project planning for the District is to shift crown raising efforts on the Mokelumne River and Sevenmile Slough to late summer or this fall, in order to shift those costs into the 2013-14 Fiscal Year Subventions Budget.

Preliminary design documents for erosion repairs along the Sacramento River levee between Cache Slough and the Isleton Bridge, have been prepared for consideration by the USACE, DWR and the environmental control agencies, preparatory to a formal submittal for permits. Documentation has been published by the USACE, Sacramento Region, describing the procedure to set up a pre-application meeting. The next step, which is on the office work schedule, is to set up such a meeting.

- E. Levee Monitoring. As reported in March this office has made arrangements to gather additional information in the water-side area bordering the section of Georgiana Slough levee that is being monitored with an inclinometer. Because there is a similar situation occurring at Delta Bay Resort, which is exhibiting vertical and horizontal movement, it is also scheduled to undertake a hydrographic survey at that location. Additionally, with the surveyor in the area, a hydrographic monitoring survey will also be conducted of the reach of the Mokelumne River, between Perry's Harbor and Rancho Marina, where the oversized rip-rap was placed in 1992.

Survey points obtained from this effort will be used by DCCE to create cross sections for geotechnical evaluation. Because of a family health issue, the hydrographic surveyor is experiencing a delay.

- F. Benefit Assessment Roll Update. The Final draft of the *Valuation Assessment Commissioners Report* has been officially endorsed by all the Commissioners and has been transmitted to the County Board of Supervisors for adoption. As previously reported, the major differences between this report and the previous one issued in 1987, involve the addition of more land use types, a more defensible apportionment of the relative values of the special benefits provided by maintenance of the levee protection system, and the elimination of a benefit valuation reduction for parcels located above sea level.

## **10. Director Reports**

10.1 Gardiner - No report.

10.2 Giles - Reminder that Gay will be absent from the May meeting.

10.3 Rebero - No report.

10.4 Silva - Advised of a State Lands Commission meeting on April 16 regarding the imposition of lease fees for private recreational docks and a charge for rip-rap installations.

10.5 Van De Maele - No report.

**11. Adjournment:** The meeting was adjourned by President Gardiner at 11:37 a.m. Those present were invited to join the Board for lunch at Pineapple's in Isleton. Accepting the invitation were Gay Giles, Gil Labrie and Debbie Phulps.

Respectfully submitted,

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Debbie Phulps, District Secretary  
DCC Engineering Co., Inc.

Date Approved: May 9, 2013  
MSC: Van De Maele / Silva