

# BRANNAN-ANDRUS LEVEE MAINTENANCE DISTRICT

## Minutes of October 12, 2017

The stated meeting of the Brannan-Andrus Levee Maintenance District's Board of Directors was called to order at 10:00 by President, Larry Gardiner, on the above cited date at the District Office, 310 Second Street, Isleton, California.

**1. Roll Call.** The following were in attendance:

Directors: Harvey Correia, Larry Gardiner, Gay Giles and H. Denis Van De Maele  
Staff: Debbie Phulps, Secretary  
Guests: Mark Velasquez, District Counsel in Case No. 34-2016-00204397 Miller, et al v. Brannan-Andrus Levee Maintenance District, et al.

**2. Agenda Setting. MSC** (Giles/Correia) adopting the Agenda as published, and suspending the rules to allow consideration of items out of sequence. [MSC = Motion-Second-Carried unanimously unless otherwise noted].

**3. Closed Session.** The meeting was declared into Closed Session for discussion and action on the following.

3.1 Conference with Legal Counsel—Existing Litigation (California Government Code section 54956.9(d)(1)). Miller, et al. v. Brannan-Andrus Levee Maintenance District, et al, Case No. 34-2016-00204397. Mark Velasquez, Counsel, present. At the conclusion of this item, Mark Velasquez left the meeting.

3.2 Conference with Legal Counsel – Existing Litigation (Govt. Code 54956.9(d)(1)) Name of case: North Delta Water Agency et al. v. Cal. Dept. of Water Resources (Sacramento Superior Court Case no. 34-2017-80002680). Andrea Clark / Meredith Nikkel, Counsel. Andrea Clark was present via conference call.

At the conclusion of Item 3.2, the conference call ended. The meeting was then called to recess to reconvene at 10:15 a.m. such that the remaining staff and public could join the meeting.

**4. Open Session.** The meeting was reconvened by President Gardiner with the following in attendance:

Directors: Harvey Correia, Larry Gardiner, Gay Giles and H. Denis Van De Maele  
Staff: Debbie Phulps, Secretary; Bruce Pisoni, Bookkeeper/Asst. Secretary; Andy Giannini, Superintendent; Gilbert Labrie, Engineer  
Guests: Suzanne Daggert (Pisoni & Associates) and Kirk West

**5. Report back from Closed Session.** President Gardiner reported that in Item 3.1 action was taken (Correia/Giles) accepting Counsel's recommendation regarding settlement in the amount of \$5,000. For Item 3.2 action was taken (Correia/Van De Maele) to execute the Confidentiality Agreement related to joint representation. President Gardiner was authorized to sign on behalf of the District in both matters.

**6. Invitation to Guests.** None responded.

**7. Business**

7.1 Financial - Pisoni.

A. Copies of the Balance Sheet and Unpaid Bills Detail were distributed and reviewed.

Balance Sheet Summary as of meeting date:

Total Checking / Savings. . . . .	\$	264,840.99
Total Accounts Receivable. . . . .	\$	54,026.56
Total Other Current Assets. . . . .	\$	880,725.50
Total Fixed Assets. . . . .	\$	514,182.77
Total Other Assets. . . . .	\$	7,702.00
Total Assets. . . . .	\$	<u>1,721,477.82</u>
Total Liabilities (all Current). . . . .	\$	786,628.47
Equity. . . . .	\$	<u>934,849.35</u>
Total Liabilities and Equity. . . . .	\$	<u>1,721,477.82</u>

B. The following claims were submitted for payment approval.

AT&T Mobility. . . . .	353.89	Harold Bertholf, Inc.. . . . .	1,300.00
California EDD. . . . .	327.64	John Deere Financial. . . . .	631.32
California PERS. . . . .	4,487.76	Kipfell; Russel. . . . .	2,291.14
California Waste Recovery. . . . .	130.90	Oilwell Materials. . . . .	265.70
Correia; Harvey. . . . .	100.60	Pisoni & Associates. . . . .	1,909.80
Deak; Joe. . . . .	100.60	RAM Welding. . . . .	2,642.28
EFTPS (payroll). . . . .	2,056.82	Ramos Oil. . . . .	1,519.09
Frontier Communications. . . . .	213.42	Reclamation Dist. 2067. . . . .	360.00
Gardiner; Larry. . . . .	100.60	River Rats. . . . .	75.00
Giannini; Andy. . . . .	2,324.44	Stewart Industrial. . . . .	17.58
Gilbert Labrie, AIA. . . . .	17,406.87	Van De Maele; H. Denis. . . . .	100.60
Giles; Gay (CSDA Conf.). . . . .	1,396.98	VISA. . . . .	33.48
Giles; Gay. . . . .	100.59	Total Claims. . . . .	<u>\$ 40,247.10</u>

**MSC** (Giles/Correia) approving payment of the claims presented and the issuance of one \$50,000 warrant.

Bruce departed from the meeting. City Representatives, Glenn Giovannoni, Mayor, Chuck Bergson, City Manager and Romi Balbini, Director of Public Works arrived.

7.2 Secretarial - Phulps. **MSC** (Giles/Correia) approving the minutes of the September 14 meeting as corrected by the Secretary, the correction being the redundant entry regarding stubble disk acquisition.

**7.3 Encroachments**

A. Isleton City Manager, Chuck Bergson.

1. City of Isleton Grants. Chuck spoke as to Isleton’s receipt of a \$500,000 grant under the Small Communities Flood Risk Reduction program, and the agreement with GEI to manage said grant on the City’s behalf. He also noted Isleton’s receipt of a \$850,000 federal grant under the Flood Mitigation Grant Program to raise the berms around the sewer ponds and perform associated upgrades. The City is also pursuing federal and state grants for their Wastewater Improvements Upgrade and Infiltration Reduction.

Gil spoke as to his interface with Jeff Twitchell of GEI regarding the Small Communities Flood Risk Grant. The first task scheduled is a feasibility study to ascertain how to best protect the City. DWR is pressing for the scope of those upgrades to be confined to Isleton proper (e.g. ring levee) rather than addressing any weak links in the overall BALMD levee system. Chuck trying to keep the extends and

scope as broad as possible, rather than the limits which seem to be expressed by DWR., not restris of the understanding that the scope

2. Nuisance Abatement Program. City intends to start tagging properties and notifying property owners in an effort to clean up the back of the properties adjoining State Highway 160.
  3. Community Center. The City authorized \$25,000 to commence maintenance/upgrade of the community center.
- B. Willow Berm Access Bridge Deck. Applicant requests 1) authorization to encroach upon the right levee of the Mokelumne River adjacent to Willow Berm Marina for construction access during the replacement of the bridge deck and repair thereof; 2) the District fulfill the role of Lead Agency in the filing of a Notice of Categorical Exemption; and 3) waiver of BALMD submittal fee due to scope of request. Review by the District Engineer indicates that the proposed work does not impact the District levee other than use of the crown for equipment access and staging. However, the bridge is within the District's area of jurisdiction. This office has been involved in the design, engineering and development of the construction sequence for the project and can verify that the project will not adversely affect the structural integrity of the levee. This encroachment application is just part of an effort to have the necessary permits in place before construction starts, probably in the spring of 2018. Owner/Agent: Willow Berm Marina / DCC Engineering. **MSC** (Correia/Van De Maele) authorizing issuance of permit, execution of NOE, and waiver of submittal fee.

## 8. Reports

8.1 Superintendent - Giannini. Andy noted that both DWR inspectors assigned to our area, Herman Phillips and Richard Willoughby, have retired. With regards to equipment, Andy is addressing issues with the boom mower pivot, and the seats on both the AEBI and John Deere. He is following up on an outstanding issue regarding the environmental compliance reporting. Once that is done, rodent abatement will resume. A steel gate has been installed at the 100 acres. The Sevenmile gate was vandalized (run over with some type of large truck bumper) and will need to be reset. President Gardiner reported on the brush fire at the 100-acres which took out the blackberries on one side of the construction access road. Director Correia responded as to the need to spray the other side so the berries don't take over and impede the roadway. Discussion ensued about vegetation maintenance near the Oxbow, and drainage ditch issues near Oxbow, the property across from Giles, and in the vicinity of Mattos. Andy will inventory those culverts and crossings not functioning so follow-up can take place to rectify.

8.2 Engineer - Labrie. Gil distributed and presented his monthly engineering report. Discussion or questions occurring during the course of the Report are noted in inset paragraphs.

### A. Levee Subventions Program Issues Overview

1. Investment Strategy (DLIS). As previously reported, this study, was initiated in 2014 as a Delta Stewardship Council (DSC) directed effort to develop a benefit/cost budgeting methodology, relying on flood risk assessments, to enable prioritization of levee project funding proposals. The results of that effort was transmitted to the the Central Valley Flood Protection Board to incorporate into the 5-year update of the (CVFPP), which is a requirement of the Delta Reform Act., at 5-year intervals. The updated 2017 CVFPP was adopted on August 25, 2017. It contains over 150 pages and the DLIS appears to have been replaced with a State Systemwide Investment Approach (SSIA) that, according to the Flood Board action summary, focuses on "investments and policies to support comprehensive flood risk management actions locally, regionally, and systemwide, rather than promoting specific projects". The

impact of this approach on the Levee Subventions Program will only be revealed over time in the budgeting and funding process involving Delta levee maintenance, rehabilitation and improvements. The first test will be what happens to address the upcoming end of the bond funds being allocated to the Levee Program.

2. Subventions Special Project (BA-15-1.0-SP). As previously reported, this major erosion repair project is being funded separately with Subventions Special Project monies that are advanced to the District in stages. The first phase, which is permitting, is underway with the Flood Protection Board, the USACE and CDFW.

This office actually submitted documents to the agencies listed above, and began the permitting process before the SOW advance check arrived, because the project was part of the District's 5-Year Plan. Following submittal of the applications, this office has been interfacing, with the assistance of the habitat bench wall supplier, with USACE regulatory agency staff. Up until a month ago, there had been an ongoing exchange with USACE regarding technical details involving installation of the special fabric bags that are crucial to the habitat bench design. There are reasons to believe that the USACE technical concerns have been addressed satisfactorily. However, that has not been confirmed because the USACE review process has been hampered by a budget shortfall. According to a USACE memo, that situation was supposed to be resolved this month, which is the start of a new Federal Fiscal Year. The next step for the USACE will be to initiate the Section 7 environmental consultation process, as well as a new Section 406 cultural evaluation.

On the environmental review side, some existing project site-specific information was gathered earlier by an outside consultant and that effort is being followed up by the same consultant, Robertson-Bryan, who is currently generating the required information and documentation to facilitate the regulatory environmental reviews that are part of the permitting process. Their services also include preparation and assistance with both CEQA and NEPA environmental processing. For the CEQA process, the Levee District is being identified as the Lead Agency in order to expedite the formal review process.

A 1600 Agreement for the project has been reached with CDFW thanks to the relationship with the agency that is facilitated under the Levee Subventions Program.

3. 2016 Special Projects Solicitation Results. It was previously reported to the Board that BALMD's erosion repair project for the B & W bend on Georgiana Slough has been approved for Subventions Special Project funding. The next step in the project implementation process involves the BALMD Board entering into a Work Agreement with DWR. That document is supposed to be forth coming this month. The next step is to prepare a Statement of Work (SOW), which is essentially a project schedule and more detailed estimate of time line and cost. After the Work Agreement is signed and returned, any consulting effort expended to prepare and get approval of the SOW is reimbursable under the Work Agreement. Because of the removal of the broken concrete and rip-rapping of the eroded bank at this location, it did not seem necessary to spend any time and effort on this project until the Work Agreement is final. The initial rip-rap layer was contemplated in the original project design.
4. Levee Subventions Program. As previously reported, BALMD's 2015-16 Levee Subventions reimbursement should be arriving before the end of October, according to DWR. Based on an adjusted, eligible claim amount of \$1,062,294, the reimbursement check should be for approximately \$796,720. A major adjustment was the denial of the \$33,726 claim for the emergency pipe blow out repair at the Three-

mile Slough dam.

In terms of major rehabilitation project planning for FY 2017-18, this office is prepared to finish developing bid packages for the revised B&W French drain project and Gardiner toe ditch removal projects so that those projects could be considered for construction when funds are expected to be available. Given the current circumstance a likely construction schedule would be spring 2018. No final engineering effort is being expended at this time, for these projects.

- B. Delta Bay Stability Project. The initial gravel berm construction project was submitted for FEMA consideration as an emergency response triggered by the January/February 2017 high water event. However, the construction turn-around road was not submitted, since it will facilitate access and reuse of the spoil material on site for other levee projects. Also, it was not actually “triggered” by the event. At this juncture the Project Worksheet has been blessed at the local level by FEMA representative’s and OES and has been submitted up the chain. The approved project total eligible for reimbursement is \$497,594.81. That amount does include engineering and would be eligible for 75% Federal reimbursement. At this point it is not clear whether the State will pick up any of the remaining 25% through the CDAA.
- C. 2017 High Water Event. For Brannan-Andrus, the emergency response items submitted for review and consideration for reimbursement by FEMA included: the berm construction at Delta Bay discussed above; the costs for the standby emergency response measure involving the crane barge and rock mobilization, the rip-rap over-topping crown edge cap that was placed on the Mokelumne River levee; levee patrols; and engineering consulting. The only major item that did not make the final BALMD FEMA Project Worksheet was the last barge load of rock, placed on the Mokelumne River levee to close the gap to Rancho Marina Resort. The FEMA representatives classified this work as permanent work, not directly related to the event. Consequently, the final FEMA claim amount that is now higher up the chain, totals \$821,679.81.
- D. San Joaquin River Toe Ditch Cleaning. This issue began because of property owner complaints about the functionality of a specific section of the toe drainage ditch along the back of the eight 2-acre lots developed by Tony Libordi in 1990. In response to this identified drainage problem, the Board directed this office to prepare and mail out correspondence to all of the property owners along the entire levee toe drain, commencing as far westerly as Happy Harbor, alerting them to District plans to clean the ditch this fall and directing the removal of any obstructions before this coming November. The response to that notification was very limited until the September meeting of the BALMD Board. After considerable discussion it became evident that a lot transpired before the District assumed the responsibility for maintenance of the drainage ditch, relating to flow impediments and authorizations for them. Obviously there is a problem with the ditch functioning properly and adequately accommodating the seepage issues emanating from the levee and adjacent farm land adjacent to the Libordi subdivision. To conclude the September hearing on the issue, the Board determined that addressing the functionality problems hampered by structures located in the easement area on top of a filled section of the ditch, as well as the fill itself is going to be handled on a case by case basis, following clearing and cleaning of the open sections.
- E. Delta Legacy Community - Isleton Grant. At the previous Board meeting this office reported about its efforts to review of a project outline with tasks, team member involvement and costs associated with a DWR Legacy Community Grant program,

sponsored and administered through Sacramento County, but with the local sponsorship of the City of Isleton. The first phase of this two-phased grant program involves a feasibility study to determine the most achievable and cost effective project to reduce the risk of flooding to the City of Isleton. Based upon a brief discussion with an engineer in the office of the lead consultant GEI, a multi-service engineering firm with an office in Sacramento, it is not clear whether the scope of the effort will get much beyond the City Limits of Isleton. This office argued from the beginning the logical conclusion of such a feasibility study would be that addressing known island levee deficiencies should prove to be the most feasible and cost effective solution to reducing the flood risk to Isleton.

That option may be off the table, given the present position of the DWR staff directing the ultimate allocation of the Grant funding through the County. Consequently, this office will hold back on any effort to keep up-to-date with the progress of the feasibility study or likely have much direct influence on the outcome. This office is listed as a participating consultant so, to the extent this office is involved, it will be an effort that is funded by the Grant.

The second phase of this grant program would be construction. However, it is difficult to envision what that would involve given the latest project focus information.

8.3 Director Corriea. Inquired as to results of nominations and election for the ensuing terms. Secretary Debbie reported that the number of nominations did not exceed the vacancies to be filled. Consequently, notification will be published that no election will be held within the District, and petition will be made to the Board of Supervisors to appoint those who applied, in lieu of election (Class of 2021 Members-at-Large: Joe Deak and H. Denis Van De Maele; and Class of 2019 - RD2067: Harvey Correia).

8.4 Director Giles. Reported as to attending the California Special Districts Association conference.

**9. Announcements, Notification of Change of Venue, Recess.** President Gardiner announced that the meeting would resume over lunch following the recess. Those present were invited to join the Board for lunch at River Delta Diner (Viera's Resort), 15460 St. Highway 160, Isleton (approximately 12:30 p.m.). The meeting was then recessed.

**10. Call from Recess.** The meeting was reconvened by Vice President Van De Maele with Harvey Correia, Gay Giles, Debbie Phulps and Gil Labrie in attendance. Discussions continued regarding pipeline penetrations, and ditch and drainage issues.

**11. Adjournment.** With no further business to come before the Board, the meeting was adjourned at 1:45 p.m.

Respectfully submitted,

---

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

Date Approved: November 8, 2017  
MSC: Giles / Van De Maele