

NEVADA IRRIGATION DISTRICT

BOARD OF DIRECTORS

MINUTES

February 24, 2010

The Board of Directors of the Nevada Irrigation District convened in regular session at the District's main office located at 1036 W. Main Street, Grass Valley, on the 24th day of February, 2010 at 9:00 a.m.

Present were W. Scott Miller, President; Nancy Weber, Vice-President; John H. Drew, Jim Bachman and Nick Wilcox, Directors.

Staff members present included Ron Nelson, General Manager; Tim Crough, Assistant General Manager; Don Wight, Operations Manager; John Kirk, Maintenance Manager; Gary King, Chief Engineer; Peggy Davidson, Recreation Administrator; Anthony Soares, District Counsel; and Lisa Francis Tassone, Board Secretary.

MINUTES – February 10, 2010 Meeting

Approved the Minutes of the Board of Directors' meeting of February 10, 2010, as submitted. M/S/C Drew/Weber

EMPLOYEE RELATIONS – Anderson Retirement (Res. No. 2010-06)

Adopted Resolution 2010-06 (Resolution of Appreciation upon Retirement – Charles R. Anderson) after 24 years of service to the District. M/S/C Drew/Weber

TREASURER'S QUARTERLY REPORT OF INVESTMENTS

Accepted the Treasurer's Quarterly Report of Investments for filing as of December 31, 2009. M/S/C Drew/Weber

EMPLOYEE RELATIONS – Williams, Retirement Presentation (Res. 2010-05)

John Kirk, Maintenance Manager, recognized Jim Williams on his retirement after 35 years of service with the District. Mr. Williams was hired as a temporary employee in 1974. In June of 1975 he was hired as a regular employee, a Warehouseman in the Purchasing Department. He advanced through the ranks and worked as a Storekeeper

February 24, 2010

and a Buyer, and in 1996, he was promoted to Purchasing Supervisor. In his position, Mr. Williams maintained a very high level of integrity and trust throughout the District. Mr. Kirk stated that he appreciates Mr. Williams' patience as demonstrated by educating Mr. Kirk on purchasing procedures.

The Board applauded Mr. Williams for his 35 years of service. President Miller presented Mr. Williams with the Resolution of Appreciation (Res. 2010-05).

WARRANTS

Approved the following warrants: Yuba-Bear Revolving Fund Nos. 22490 through 22533, inclusive; General Fund Revolving Account Nos. 49326 through 49448, inclusive, Nos. 49274 and 49360 being void; Recreation Fund Nos. 2205 through 2220; and Payroll Direct Deposit and Warrant Nos. 53015 through 53191. M/S/C Weber/Drew

LOWER CASCADE CANAL / BANNER CASCADE PIPELINE PROJECT – Award of Contract No. 09-09

Brian Powell, Senior Associate Engineer, is requesting approval for the award of construction contract for the Lower Cascade Canal / Banner Cascade Pipeline Project. The District is on the verge of moving forward with construction of one of the largest projects the District has done in some time. The alignment for the Project consists of 6.4 miles of large diameter pipeline for raw water transmission (54-inch, 48-inch and 36-inch) and approximately 5.5 miles of treated water pipeline (12-inch, 10-inch and 8-inch diameter). This Project also includes the complete replacement of the Clipper Creek Siphon. The Clipper Creek siphon is a 40+ year old Techite pipeline that is nearing its design life. The replacement of this pipeline helps the District achieve the maximum amount of flow through the new pipeline and removes a potential environmental hazard if that old pipeline should fail.

For this Project, the District will need to acquire 65 right-of-way easements. To date over 30 easements have been acquired and by the start of construction the District will have acquired all of the necessary easements for the first year of construction.

The first year of construction will begin at Banner Lava Cap Road and Wings of Morning Drive and will proceed westerly down Banner Lava Cap to Idaho Maryland Road. The construction will then proceed down Lee Lane and across the Airport property and will finish at the Winds Aloft property just before Madrone Forest Drive. Approximately three miles of continuous pipeline will be installed. At the end of the first year, the District will be able to provide treated water to the end of Lee Lane where wells have been failing recently. The remainder of the pipeline system will be installed during the 2011 construction season.

A bid opening occurred on January 27, 2010 and the District received six bids. The six contractors that submitted bids came from the pre-qualification process that was

February 24, 2010

approved by the Board of Directors. Teichert Construction out of Lincoln had the low bid for this Project.

Teichert Construction has completed projects for the District in the past. More recently, they completed installation of the 30-inch pipeline from the Loma Rica Water Treatment Plant to Greenhorn Road. There are many similarities between the two Projects (i.e., larger diameter pipeline, construction in the roadways with traffic issues, tight working limits and constraints). Overall, they did a good job and it was a successful installation. There were some issues during that Project, as there are on all construction projects. Staff believes that Teichert Construction gained some insight in this area and now understands what they need to do to avoid these same problems in the future.

Staff has emphasized throughout the pre-qualification and bid process that the District has gained a great deal of trust with the property owners and does not want to lose this trust during the construction process. Staff and the contractor will continue to work on the public relations throughout the pipeline installation.

The bid summary is as follows:

Contractor	Bid
Teichert Construction, Lincoln, CA	\$23,442,081.00
Preston Pipelines, Sacramento, CA	\$23,706,060.00
Steve P. Rados, Inc., Sacramento, CA	\$26,056,694.00
Ranger Pipelines, Inc., San Francisco, CA	\$26,364,431.12
Mountain Casade, Inc. Livermore, CA	\$26,433,762.00
Sundt Construction, Inc., Novato, CA	\$32,129,376.00
Engineer's Estimate	\$26,311,593.00

Staff is comfortable with Teichert Construction's low bid because of how close the two low bids were.

The solicitation for bids also included a District requirement to make a good faith effort to include local contractors, consultants and suppliers as part of the contract. This was called the Local Bidders Preference (LBP) which was a collaboration between the District and the Nevada County Contractors Association. The District set a goal of 12 percent of the total contract price, minus the large pipe cost, to be obtained by the contractor, or the contractor would need to provide a thorough explanation of the reasons why this goal was not achieved. A local contractor was considered any company that held a business license for a minimum of two years within the District's boundary area. Teichert Construction secured a total of nine local companies to work on this project. The local involvement totaled \$2,541,190 which is a percentage of 14.8 percent of the contract.

February 24, 2010

Mr. Powell provided the Board information on the Project's budget and the anticipated costs to complete this Project. The remaining budget for this Project in the 2010 -2012 budget is approximately \$41 million. The remaining costs to complete this Project are estimated to be approximately \$31 million. The difference between the budget and the estimated costs comes from savings that have been realized for this Project in a couple of areas. The first area is the construction management for the Project. The construction management will be performed in-house by Mr. Powell. Staff gathered some informal costs from a couple of sources for a consultant to provide the construction management on this project. As it turns out, the District will save between \$3 to \$3.5 million by performing the construction management responsibilities in-house. Also, Staff estimates a 20 percent reduction from the budget figure (approximately \$7 million) due to the state of the economy and the reduction of construction costs that have occurred over the last several construction projects.

Mr. Powell recognized the efforts made on the design phase of this project. The District selected an outstanding consulting firm. Hatch Mott MacDonald put together a complete and comprehensive design and specifications. Key players include: Tom Grau, Hatch Mott MacDonald; Jennifer Glynn, RMC; Deane Donohue, RMC; Mike Matson, RMC; and Simon Gray, Hatch Mott MacDonald who did a fantastic job managing the consultants. Not only did they put together an excellent design but they did a great job on public relations and working with the property owners. All of the discussions with the stakeholders over the last two years have turned the tide and have made this Project a cooperative effort between the stakeholders and the District. The District does have a long way to go, but is starting the construction out on the right foot.

Mr. Powell also recognized the assistance of the District's Drafting and Survey teams. The Right-of-Way team is doing an outstanding job working through all of the easements and issues – Matthew Crowe, Tony Rondoni, Erica Salter and Greg Lee. The Operations Department has assisted throughout the design – Don Wight, Larry Markey, Chip Close and many others. He recognized Tim McCall, Consultant, for his assistance and history of the Project, and Connie Petty and Gary King for their assistance and guidance through this process.

President Miller recognized that Mr. Powell has also put forth a great effort.

President Miller inquired about the wells failing in the Lee Lane area. He mentioned that if the Project was started two years ago, followed by the drought, the District would have been held responsible for the wells failing. He asked if the residents in this area will need to pay a capacity fee.

Mr. Powell stated that the wells he was referring to are outside of the Project area. They are down the road from where the construction is occurring. He noted that wells are failing throughout the County.

February 24, 2010

Mr. Powell added that the District is continuing with the well monitoring program. There have been two years of testing and after the Project has been completed for two years, the District will retest the wells.

Director Weber stated that she has “been with” this Project since 2000. She pointed out that there are narrow roads, specifically Wings of Morning Drive. It is crucial that the property owners are treated with respect and that no portable toilets are placed 30 feet from front doors as had occurred during a Teichert project last summer in her Division. She will be out to visit the Project every day. She is trying to represent the property owners in the best way that she can because this is a Project they did not ask for. Fortunately, they will have the ability to obtain treated water. She appreciates Mr. Powell and Mr. King for their efforts. It is important that the sub-contractors know how to function in this environment in addition to Teichert Construction. She asked if Teichert Construction is going to be the lead working with the sub-contractors.

Mr. Powell stated that the District will conduct pre-construction meetings with the contractor and sub-contractors. The sensitivities of the Project will be communicated at this time and throughout the Project.

Director Weber expressed her appreciation that the District is going to be responsible for construction management. This provides a more personal touch as opposed to having an outside consultant performing these responsibilities.

Director Wilcox asked Mr. Powell to review the budget for the Project.

Mr. Powell stated that in the 2010 – 2012 Budget, there is \$41 million remaining in the Project budget to finish the construction.

Director Wilcox would like to receive a bottom line figure (projections and actuals). The District is saving a great deal of money by constructing this Project during this economy, and by helping local contractors in this economy.

Mr. Powell explained that the District has completed the design phase. He does not have what was spent to date, but he estimated that \$4 to \$5 million which includes the design consultant, the sub-contractors that have done environmental work, arborists, etc., and Staff time. Moving forward, \$41 million remains in the Project budget.

Director Wilcox stated that the construction contract is \$23 million, and asked how the remaining budget would be utilized.

Mr. Powell explained that a great deal of the budget will be utilized for environmental compliance. There is a restoration contract as a result of removing approximately 600 trees. In the Environmental Impact Report (EIR), it states that for every tree the District takes, two 15-gallon trees will need to be planted. The Mitigation and Monitoring Reporting Program (MMRP) will be conducted by a monitor that will verify all of the requirements of the MMRP are being complied with by the District. The District will also

February 24, 2010

be bringing in an independent inspector. The District has two in-house inspectors but they are busy with other District projects.

Director Wilcox stated that at some point, it would be interesting to see an accounting for the entire Project to determine what additional costs the environmental requirements added to the cost of the Project.

Director Wilcox asked if the Project is being constructed in such a way that the District can “leap frog” into the hydroelectric facility that is planned for the end of the pipeline.

Mr. Powell stated that a Request for Proposals will be distributed shortly for the engineering design component of this portion of the Project.

Director Wilcox asked if the District will be constrained by the two year waiting period, a Federal Energy Regulatory Commission (FERC) requirement.

Mr. Powell stated that the two year waiting period will not be necessary. FERC is relaxing some of their requirements because they understand the need for the energy, and the positive effects. The District’s plan is to complete the design this year and start construction next year. By the time the Lower Cascade Canal / Banner Cascade Pipeline Project is flowing water, the hydroelectric unit should be ready to operate.

Director Weber asked that when the figures are ready that Mr. Powell provide the Board with these figures back to the beginning of the Project.

Director Wilcox congratulated Mr. Powell and stated that this has been a long journey.

Director Drew echoed Director Weber’s concerns regarding the manner in which this Project is handled. He knows that the Project will be watched very closely.

Awarded Contract No. 09-09 to Teichert Construction in the amount of \$23,442,081 for the Lower Cascade Canal / Banner Cascade Pipeline Project and authorized the General Manager to execute the necessary documents. M/S/C Drew/Wilcox

LOWER CASCADE CANAL / BANNER CASCADE PIPELINE PROJECT – Easement Acquisition

Matthew Crowe, Senior Right-of-Way Agent, acknowledged the efforts of the Right-of-Way team – Greg Lee, Erica Salter and Tony Rondoni.

Mr. Crowe is asking that the General Manager be authorized to send a Notice of Intent to commence eminent domain proceedings to property owners within the Lower Cascade Canal / Banner Cascade Pipeline Project.

Director Weber stated that in the diagram provided, it appears that a small portion is outside of the road.

February 24, 2010

Mr. Crowe confirmed that there is a small portion outside of the road.

Director Weber asked if trees would be removed on this parcel.

Brian Powell, Project Manager, explained that a few trees will be removed from the north side, similar to other parcels along this alignment.

Director Weber expressed concern regarding property owners losing their privacy screen. Losing a privacy screen would be more than just the value of the land. She realizes the District compensates for trees, but there is a value to these trees.

Mr. Powell stated that these parcels are very large and the houses sit back from the road.

Director Weber pointed out that the Board of Directors' Agenda states that this item is recommended by the Administrative Practices Committee. The Administrative Practices Committee approved the process for Notices of Intent, not specific parcels.

Mr. Crowe concurred.

Authorized the General Manager to issue a Notice of Intent (NOI) to consider commencement of eminent domain proceedings for Assessor's Parcel Number 39-080-05 within the Lower Cascade Canal / Banner Cascade Pipeline Project. M/S/C Drew/Wilcox

CEMENT HILL WATER SUPPLY PROJECT (COMMUNITY FACILITIES DISTRICT NO. 2007-1) – Property Acquisition

Matthew Crowe, Senior Right-of-Way Agent, is asking that the General Manager be authorized to send four Notices of Intent to commence eminent domain proceedings to property owners within the Cement Hill Water Supply Project.

Authorized the General Manager to issue Notices of Intent (NOI) to consider commencement of eminent domain proceedings for Assessor's Parcel Numbers 04-030-54, 04-051-17, 04-060-68 and 04-060-82 within the Cement Hill Water Supply Project. M/S/C Wilcox/Drew

CEMENT HILL WATER SUPPLY PROJECT – Public Hearing (Res. No. 2010-07)

Matthew Crowe, Senior Right-of-Way Agent, explained that the acquisition of property for the Cement Hill Water Supply Project is an important issue. This item was continued from the February 10, 2010 meeting to allow the property owners to be present and to address the Board. Mr. Crowe introduced Kriss Halpern, Manager of Nevada City Sugarloaf Properties, LLC, owner of the parcel in question.

February 24, 2010

Mr. Crowe provided the following presentation:

Eminent Domain:

- Power of a public body to obtain needed property rights from constituents
- Eminent Domain Proceedings
 - Petitions and hearings in court for:
 - a) Order of possession for needed property rights
 - b) Determination of “just compensation” for rights acquired

Resolution of Necessity (RON):

- RON is a prerequisite to start Eminent Domain action
- Governing body determines the need for the Project and acquisition
- RON cites several findings:
 - Process
 - Project considerations

RON Findings:

- 1) Public interest and necessity require construction of the project
- 2) The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury
- 3) The property interests sought to be acquired are necessary for the project

Acquisition Process:

- Project design indicates needed parcel or easement areas:
 - Independent Appraisal = “just compensation”
 - Present “offer” to owner
 - Discuss with owner
 - Address owner’s project concerns
 - Provide owner a chance to contemplate and consult advisors
- Typically agreement is reached through discussion
- When impasse is reached:
 - Review the essential elements of the project and administrative record
 - Confirm the necessity of the proposed acquisition
 - Resolution of Necessity hearing – seek Board’s determination on RON findings

Doug Roderick, Project Manager, provided the following presentation:

Cement Hill Water Supply Project:

- Developed over the past decade
- NID Board of Directors approved the Mitigated Negative Declaration on June 27, 2007
- Community Facilities District (CFD) formation election was held on December 11, 2007
- Public Meetings (property owners notified of each meeting):
 - February 2 and September 18, 2008
 - January 8 and October 28, 2009

Project Scope and Purpose:

- Water mains on North Bloomfield Road, Airport Road, Cement Hill Road, Augustine Road and several smaller roads
- 58,000 lineal feet of pipe
- Booster pump station
- 1,000,000 gallon storage tank at an elevation of 3,250 feet
- 2 pressure reducing stations
- Treated water service for over 230 CFD properties
- 55 new fire hydrants
- Convert 24 parcels currently served with irrigation water

Mr. Roderick noted that Staff looked at other parcels. There was a vacant parcel that met the elevation requirements; however, the parcel was 3.97 acres within an existing subdivision. Staff determined that this was not a viable location for the tank site. Another site Staff considered was the Nevada City Airport. The elevations would not work to serve the entire Project, so one pump station would be installed at Snow Mountain which would pump over to the tank site at the Airport. A second pump station would need to be built to be able to serve the area above 3,000 feet. The area near North Bloomfield would not be served, so parallel pipes would need to be installed. In addition, properties below this tank site would not have adequate fire flows.

The parcel in question is approximately 111 acres in size and is currently undeveloped. It is adjacent to and surrounds the District's Snow Mountain site. The tank site is located near Cedar View Road which provides the District with an alternate access.

Staff met with the property owners on April 10, 2009, and concerns were raised regarding impacts of the land acquisition and access to their property via Cedar View Road. Staff worked with the property owners and made revisions which resulted in a reduction in the District's original acquisition.

Property owners requested of Staff the need for two tanks. Mr. Roderick stated that the original design included two tanks. The Cement Hill Water Supply Project does not require two tanks, so the amount of the District's acquisition was further reduced to accommodate one tank which would be sufficient for future development.

Tank Site Parcel:

- Fee acquisition
- 0.94 acres
- 1,000,000 gallon tank

Easement Strip 1:

- 1.24 acres
- Water from Snow Mountain tanks
- Electrical to tank
- Alternate access

February 24, 2010

Easement Strip 2:

- 0.69 acres
- Water to North Bloomfield Road and Cement Hill area

Easement Strip 3:

- 0.18 acres
- Water fire hydrant
- Access to tank

Director Weber thanked Mr. Roderick for his efforts to work with property owners to reduce the size of the tank site.

President Miller asked if the parcel could be subdivided.

Mr. Roderick stated he did not know if the property in question could be subdivided.

Director Bachman asked what the physical dimensions are of the tank.

Mr. Roderick explained that the height of the wall is 24 feet, the center of the tank is 27 feet and the diameter is 88 feet.

Mr. Crowe continued his presentation:

Acquisition Activities:

- Independent Appraisal: Inspection – May 20, 2009
- First Written Offer – August 26, 2009 (Request to limit area to single tank)
- Revised Offer – December 4, 2009 (Owner is pursuing a second appraisal; questions the location of tanks and impacts to use of property)

Contact Activities:

- Meetings:
 - May 20, 2009 – Appraisal and Site Inspection
- Correspondence:
 - August 26, 2009 – First Written Offer
 - August 31, 2009 – Correspondence
 - September 15, 2009 – Correspondence
 - September 16, 2009 – Correspondence
 - September 18, 2009 – Correspondence
 - September 26, 2009 – Correspondence
 - September 27, 2009 – Correspondence
 - October 2, 2009 – Correspondence
 - October 8, 2009 – Correspondence
 - November 23, 2009 – Correspondence
 - November 24, 2009 – Correspondence
 - December 4, 2009 – Second Written Offer
 - January 21, 2010 – Correspondence
 - January 23, 2010 – Notice of Intent mailed
 - January 25, 2010 – Owner request to be heard at RON hearing

February 24, 2010

- February 4, 2010 – Correspondence
- February 5, 2010 – Correspondence
- February 9, 2010 – Owner request to continue RON hearing to February 24, 2010
- February 10, 2010 – Correspondence
- Telephone Contacts
 - August 19, 2009 – Discussion
 - August 26, 2009 – Discussions
 - January 20, 2010 - Message

Current Status:

- Staff and owners are at an impasse
- Based on comments by owner, Staff has revised Project to minimize the impacts
- At this time, Staff recommends that the Board of Directors consider Resolution of Necessity for proposed parcel and easements

RON Findings:

- Public interest and necessity
- Compatible with the greatest public good and the least private injury
- Acquisition is necessary for the Project

Mr. Crowe reiterated the findings being the public interest and necessity of the Project, the compatibility with the greater public good with the least private injury, and that the acquisitions are necessary for the Project.

President Miller opened the public hearing.

Anthony Soares, District Counsel, explained to the Board that there is a fourth finding that the Board will need to make. An offer to acquire the property by purchase has been made. It would not be appropriate to have a discussion of the adequacy of the compensation offer. The latter is not part of his hearing and is not agendaized for this meeting.

Director Wilcox asked if the fourth finding is included in Resolution No. 2010-07.

Mr. Soares stated that the fourth finding is included in the Resolution.

Kriss Halpern, Manager of Nevada City Sugarloaf Properties, LLC and representative of the property owners stated that Nevada City Sugarloaf Properties, LLC is the owner of the property in question. Mr. Halpern distributed copies of information on which he will present. He thanked the Board for continuing this matter. He is from Southern California and drove eight hours to attend this hearing resulting in a couple days of missed work.

Mr. Halpern informed the Board that “what is going on here” is extraordinarily important. He has listened as Staff presented owners’ rights and interests and how the Board has responded to this information. He appreciates hearing the information but wished that

February 24, 2010

any of this occurred in the dealings he has had with the District. It has not. When he heard information presented earlier for another project, and the Board's appreciation for working with property owners and how the owners' concerns have been taken into consideration, he shakes his head in wonder as to how that never occurred with him. He heard Director Weber express that she was present during meetings with property owners and she appreciated this. He appreciates that Director Weber feels that this is important. Once again, whatever information she was provided is so far from reality that he is struggling to talk about "it" right now because he was angered listening to the description. He stated that he has been "so abused and so ignored" throughout this process. They as owners struggle to use words that are appropriate in a public forum when they talk about what the District is up to with him. He will do his best to be respectful because the Board members he believes have no idea what he is talking about. He will try to provide the Board with an understanding of the reality of what is going on and what is being done to his interests and concerns.

Mr. Halpern referenced a map of the property in question. It is approximately 165 acres and includes Sugarloaf, Manzanita Diggins and Harmony Ridge. Bordering Harmony Ridge is Harmony Ridge Estates. The proposed water tank is going to be located in the Harmony Ridge area. Another map he referenced indicated the usable land area of Harmony Ridge. This design was done by the same engineer that the District used on the Cement Hill Water Supply Project – Andy Cassano, Nevada City Engineering. Mr. Cassano designed for Mr. Halpern what was usable land in terms of development and what exactly the property owners can do to build. So much of the property is sloped. The flat area can be developed at some point in time.

In response to President Miller's question regarding how many acres the flat area represents, Mr. Halpern stated that the area is approximately 22 acres. The key he wants the Board to understand is that on this flat area of 22 acres, the District's proposed water tank will be installed in the middle of the developable area. A future development would not need a tank in "their backyard." They have no existing water. He has asked if a future development on his property could be served water, and the answer he has received is that the water from this tank will serve the Cement Hill Community Facilities District and is not being designed for other developments. The implication that this would benefit him has never been made.

Mr. Halpern referenced two other maps. He has had offers for all of his land – two offers within the last five years. One offer at the height of the market came in at \$11 million without entitlements – raw land only. Then the recession began and prices fell. The second offer was \$6 million.

President Miller asked how long the Nevada City Sugarloaf Properties, LLC and the Estate of Archibald M. Mull have owned the property.

Mr. Halpern stated that the property has been in the Mull Family longer than most people have been alive (or 100 years). The Mull Family is his partner. The LLC was created for a variety of business reasons in 2002.

February 24, 2010

President Miller asked why the property was never developed.

Mr. Halpern stated that he is not sure how that question is relevant to this matter. He suggested that he could discuss this information privately with President Miller in a different setting. It would take him some time to go into the history.

Mr. Halpern referenced designs by the company that offered him \$6 million for his property. Their intention was to develop the entire Harmony Ridge area as a residential area.

The District's 1 million gallon tank would be placed in the middle of the residential area. This impacts this area and every area around it (road access, etc.). The road access the District is proposing to use is the same access the development would need to use, and the development would not be able to utilize this access if the tank is installed at this site. Now the problem is where the development would build a road, and assuming that the same road could be used, the residents would have to drive by a 1 million gallon water tank. This would devalue the homes in the development, and furthermore, the development would receive no benefit (water) from the tank.

He referenced real estate listings of homes that have been for sale in the last five years or so in the Harmony Ridge area. The listings demonstrate the value, the beauty and the type of homes being built. This type of home will not be built if residents have to drive by a large water tank and see a tank from their homes.

Mr. Halpern stated that the District's Project to serve Cement Hill has been discussed for a number of years. And yet, in all of these years, it never occurred to the District to purchase property that was for sale. There have been lots for sale that could have been purchased at any time over these years. But no one at the District had bothered to do so. If that had been done, the Board would not have Mr. Halpern appearing before them to complain.

Mr. Halpern stated that if in fact it is true that his property is the best use for the tank site, then the District will have the eminent domain right, and will be able to acquire the property. He understands and appreciates this. The residents of Cement Hill want water and they deserve water. The problem is twofold: 1) why specifically is this tank being placed in the middle of his usable, buildable land and not put off to the side? He has never received a straight answer to this question. He has expressed his concerns about this from "Day 1." These concerns have never been acknowledged. The idea that his considerations and concerns were ever taken into account is "a joke." The more that he hears this, the angrier he becomes. He is outraged to have to listen to Staff's presentation and know it is not true. He knows for a fact that the presenters know it is not true.

President Miller asked Mr. Halpern how many property owners he represents.

February 24, 2010

Mr. Halpern stated that he represents a company called Nevada City Sugarloaf Properties, LLC. He is the manager and there are four shareholders.

Mr. Halpern asked why the tank could not be placed in another area. There are other areas the tank could be placed. In fact, Mr. Cassano had been in discussions with the District and advised that the tank could be placed in another area with less impact to the property in question. From the beginning he was told that two water tanks would be installed at the tank site. Later, the District admitted that they did not really need the second tank. It would have been for future use. Under eminent domain law, unless a specific use is identified, property cannot be taken.

Mr. Halpern has corresponded with District Counsel via e-mails and facsimiles a number of times over the years on a related issue. Mr. Soares has asked Mr. Halpern not to speak to the related issue, so Mr. Halpern will not. But he wants the Board to understand where the anger comes from and what the source of the anger is. His trust in the District does not exist.

Mr. Halpern referenced a pipeline that the District built in 1994. The District came onto his land and installed the pipe. They did not pay for it, they had no meetings, and there was no eminent domain process. "They stole our land in 1994." He and Mr. Soares are trying to resolve this matter. He wanted the Board to understand Mr. Halpern's frustration with the District because of the "history of theft." He is not going to tolerate it any more. He thinks the Board needs to "get it."

He stated that if the Board thinks Mr. Halpern is angry, they have not spoken to the Mull Family. Mr. Halpern, of all of the property owners, is the least angered about this matter.

Mr. Halpern stated that he has heard that the amount of compensation is not relevant. He understands that the District needs his property. If the tank has to be located in the middle of a developable area, it causes the most damage. He has not heard why the answer has to be yes to this tank site.

Mr. Halpern stated that he is more concerned with access and alternative access than he is with the removal of trees.

Mr. Halpern stated that the District offered him \$37,000. This is the reason for his anger and frustration. This is "such a pathetic offer for this, it is such a joke that it is not even an insult." If this is what the District thinks they are going to do, then his company and the District will be court, and the District will spend "a lot" of money. He is angered now, but he is a good lawyer. He is not going to play any games, and he is not going to take this type of treatment.

Director Drew asked if the map Mr. Halpern presented is to scale.

February 24, 2010

Mr. Halpern answered in the affirmative. He stated that he appreciates the opportunity to express his frustration and to explain the history of the frustration, and to share his concerns that he has never been listened to or his issues acknowledged.

To summarize, Mr. Halpern stated that he does not understand why the proposed tank site is needed, and why he has been treated so reprehensibly for all of these years by the District. He hopes this ends, and that the District begins to consider his thoughts and feelings, because it has never been done.

Director Weber asked if he would be willing to negotiate a different tank site.

Mr. Halpern stated "absolutely." He stated that the District should work with Andy Cassano. The District trusts and respects Mr. Cassano and so does Mr. Halpern. He is extraordinarily honest and knows what he is doing. He does not know if Mr. Cassano would be willing to be put in this kind of situation, but Mr. Halpern trusts and respects Mr. Cassano's work, and so does the District. This would be the way to handle this matter rather than going the litigation route.

Director Weber asked Mr. Halpern how available he is. She stated that at the time she visited the site, Mr. Halpern was not available.

Mr. Halpern stated that he was never advised that a member of the District's Board of Directors wanted to meet with him.

Director Weber stated that the meeting may have been set up with District Staff, and she has accompanied Staff on occasion. She stated that Mr. Halpern or the other property owners were unavailable on at least two occasions that she knows of.

Mr. Halpern stated that he has no knowledge of this ever occurring. He asked Director Weber to contact Mr. Halpern whenever she needs to, and he will be here.

Norm Stout, Cement Hill resident, stated that it appears there are two issues being discussed: 1) treatment by the District and 2) location of the tank site. Mr. Stout stated that he has been working with the District to obtain water for 10 years now. He finds the District extremely helpful and courteous. The Cement Hill Water Supply Project has been discussed for some time with Mr. Halpern. The 240 parcels in the Cement Hill Community Facilities District need water. Not only do they need the water, but the District is obligated under State law to provide drinking water. The State has been working with the District to complete this Project.

Mr. Stout stated that construction has started and now the residents are faced with a delay for the economic motivation of one parcel. If the objection is to one tank, he would remind the Board that the original design included two tanks so that one tank could be maintained without turning off the water supply. Having two tanks might satisfy that concern. He encouraged the Board to recognize the 240 parcels involved and their

February 24, 2010

need to receive treated water, and not to delay the process because of the viewpoint of one property owner. If price is the issue, the courts will be fair.

President Miller closed the public hearing.

President Miller asked if the subdivision developed on the land near the proposed tank site could access water.

Mr. Roderick answered in the affirmative.

Director Wilcox asked if there is sufficient capacity in the system as designed to serve both the Mull property and Harmony Ridge Estates.

Mr. Roderick explained that the 1 million gallon tank can serve approximately 750 homes. The Cement Hill Water Supply Project has 230 homes.

Director Wilcox asked if the property owners wanted water in the future, would they have to go through the normal process of forming a district.

Mr. Roderick stated that they could form a district, or as a developer submit plans for approval by the District.

Director Wilcox stated that Harmony Ridge Estates is an existing subdivision. He asked if they are currently receiving water by wells.

Mr. Roderick answered in the affirmative.

Director Wilcox stated that he knows from past experience that the Harmony Ridge and the Washington Ridge areas are very poor areas in terms of well capacity. Having this pipeline in place greatly enhances the District's ability to serve those areas in the future.

Director Wilcox referenced Mr. Halpern's issue regarding the location of the tank. He asked Mr. Roderick to address the location issue and why the site chosen is preferable to other sites in the flat area.

Mr. Roderick explained that the elevation required is 3,250 feet or more. The District cannot move west, because the tank is already located at the westerly edge of the 3,250 foot elevation. The other reason this location was chosen is because of the close proximity to the Cedar View Road access point. If the tank was located to the east, additional access and pipeline easements would need to be acquired to get to and from that tank site. This would result in an increased impact to areas on this property. The easements, other than the easements for the tank site, are not exclusive easements which provide the property owners the ability to use those areas for future roads, etc. The District would not have an objection to an access road over the District's existing pipeline. The access to Cedar View Road could be utilized by the property owners as well. The tank site is the shortest distance from Cedar View Road.

February 24, 2010

Director Weber asked what if 10 feet in elevation is lost. It seems as times that the District designs for the ultimate engineering situation, when there are other concerns to consider.

Mr. Roderick explained that there are certain criteria the District utilizes. If the tank site was moved, pipe would need to be upsized throughout the alignment to meet the State's requirement.

Director Wilcox asked if elevation would be gained if the tank site was moved to the east.

Mr. Roderick stated that additional pipe and access issues would be needed to get to and from the tank site.

Director Weber stated that she would like to see this matter resolved in some way that is more compatible if possible.

Mr. Soares clarified that one finding the Board will be asked to make is if the Project is planned or located in a manner that will be most compatible for the greatest public good and the least private injury. The statement by Director Weber fits within the framework of this finding. He cautioned against discussing compensation. An alternative that maximizes the public interest and yet accomplishes less private harm is entirely appropriate. In order for the Board to make this finding, there will need to be sufficient evidence for the Board to consider. If the Board feels there is sufficient evidence, the Board can move forward. If the Board feels that there is not sufficient evidence, the Board can choose not to move forward.

President Miller asked Mr. Crowe if there are other areas to explore.

Mr. Crowe stated that a discussion regarding other areas to explore would be of an engineering nature. The point he would like to make is that when the Right-of-Way team is presented with an acquisition based on an engineering design, the Right-of-Way team needs to deal with the property in its current state, with the improvements in place and the entitlements that have already been acquired. A discussion on any property would be of a speculative nature. What may be developed on a property may not necessarily come to pass.

Mr. Crowe expressed his concern about carrying this decision over. From a right-of-way standpoint, he is here to serve the needs to the Project and the needs of the people. If it would serve the needs of the Project and the people to carry this matter over, the Right-of-Way team will work toward this.

President Miller asked if the Resolution was passed by the Board, if negotiations could continue.

February 24, 2010

Mr. Soares stated that negotiations and discussions can continue; however, the Board is being asked to make a finding. In making that finding, the Board has to be satisfied that there is substantial evidence in the record to support that finding. If that finding is made by the Board and challenged at a later time, this would be the same standard a court would apply. He advised that if additional information is required, the Board should continue a decision on this matter to a future meeting.

Director Wilcox pointed out that the Resolution has an Exhibit that contains a legal description of the easement. If the Resolution is adopted at this time, the Board has narrowed its decision to the parcel in question.

Mr. Crowe stated that from a standpoint of greatest public good and least private injury, the design presented takes all of this into account. If the Resolution was adopted, it serves as a baseline for a project that would provide the greatest public good and least private injury. Staff would continue to discuss with property owners an alternative that may make special accommodations for future decisions they would like to make on their property.

President Miller asked what the time constraints on an engineering basis are if a decision on this matter is delayed one month. His inclination is to carry the matter over.

Mr. Roderick stated that his concern is the more delay there is for the tank construction, the more likely construction will occur during fall and winter seasons. Construction of the tank has been scheduled for the end of April, 2010.

Mr. Roderick also stated for the record that Nevada City Sugarloaf Properties, LLC and the Mull Family have been on the mailing list throughout the design process. They could have been involved from the beginning when Staff mailed the initial design and construction plans. Concern about the tank site was not brought to his attention, but concern was raised about access, and Staff addressed this by reducing the size of parcel and eliminating one tank. If the Project is postponed another month, and there is no resolution, his concern is that the District will be in the same position they are in now. He can continue to work with the property owners to come up with alternatives that are mutually agreed upon, but if this takes one month or more, then the District is back to "square one."

Director Weber stated that if the District is challenged in court, the Project would be delayed any way. The timeline involves more than the District.

Mr. Roderick stated that he will continue to work with the property owners.

President Miller suggested that Staff meet with Mr. Halpern in the next day or so and that this matter be presented to the Board at their meeting of March 10, 2010.

Director Bachman asked if there would be change orders involved with the existing construction contract.

February 24, 2010

Mr. Roderick explained that the original contract involved acquisition of the larger parcel for two tanks. There will be a change order, but the change order will result in a reduction because there is a smaller area to work with. He added that drawings would need to be changed.

Director Wilcox asked if President Miller would be willing to reopen the public hearing. He would be very interested in hearing Mr. Halpern's response to Director Wilcox's question: In Mr. Halpern's opinion, if he were to move the tank in an easterly direction, would that reduce the impacts to the property in terms of the usability of the property?

President Miller reopened the public hearing.

Director Wilcox stated that Mr. Halpern's fundamental argument was that the tank site as it is currently proposed unreasonably detracts from the value of the property. He thinks that the necessity for the tank is well established. So it becomes a question of siting. He asked Mr. Halpern if he would be willing to discuss moving the tank site to the east to reduce the impacts to his property, and if he would be willing to grant such an easement.

Mr. Halpern stated that his answer is yes to both questions.

Mr. Halpern's goal is not to delay the Cement Hill Water Supply Project. He can stipulate that the District needs some portion of his property. He has no problem with this. His issue is the District doing this in a way that is not as damaging to his property.

Gary King, Chief Engineer, stated that the District has a Project moving forward. He provided the Board with some background. In May 2009, Staff met with Mr. Halpern, the Mull Family and their appraiser regarding the Project. At that meeting, nothing was communicated to Staff that the location of the tank was unacceptable, so Staff proceeded. Later on, Staff sent them an appraisal and made a second offer with modifications throughout the process in an open and transparent manner. Staff has also requested that Mr. Halpern obtain another appraisal, and to this date, Mr. King has not seen the appraisal. The other issue is the offer the District made. The District uses two appraisals and compares the two. His concern about extending a decision on this matter has to do with being in the same position two weeks from now as the Board is today. Staff needs commitments from Mr. Halpern to authorize a right of entry so the District can do the necessary work for the Cement Hill Water Supply Project if a location can be determined that is reasonable. If this is the case, then he would recommend that the Board defer its decision but set a time frame less than a month in order for discussions to occur regarding alternatives. If this is not acceptable to Mr. Halpern, it is his recommendation to continue with the Resolution of Necessity. Staff has made efforts with the property owners for the past nine to ten months.

President Miller closed the public hearing.

February 24, 2010

Director Drew stated that the availability of treated water to this property will so greatly enhance the value of that property and would more than offset any potential monetary damage that might be perceived to be occurring.

Director Drew made a motion to adopt Resolution No. 2010-07 (Declaring Necessity and Authorizing Eminent Domain Proceedings for the Acquisition of Real Property for a Public Project known as Cement Hill Water Supply Project on Nevada County Assessor's Parcel No. 36-020-49, owned by Nevada City Sugarloaf Properties, LLC and the Estate of Archibald Mull).

Mr. Halpern stated that from the moment this Project was brought to his attention, he repeatedly asked the question why the tank was being placed in the middle of his developable property. It appears that Staff does not remember the facts, never knew the facts or is lying. To state that he is somehow raising this issue for the first time now is a lie. He has e-mails to and from Mr. Crowe, to Bender Rosenthal, etc. raising this issue again and again. He has been ignored throughout this entire process.

Mr. Halpern has been asking the District for the money to conduct an appraisal for months. He has wondered why the money has not been paid to the appraiser. Now, the District has informed him that she has to conduct the appraisal first, and then she will be reimbursed. Now his appraiser has to decide whether she will do the work and, if so, hopes she is paid.

Mr. Soares stated that payment for an appraisal is made on a reimbursement basis. This is his interpretation of the statute.

Director Weber stated that if the District is going to end up in court, she wants to make sure the District has covered all of the bases beforehand. She is not sure the District will have done that if Staff does not take the time to evaluate an alternative tank site. Litigation is costly. It seems to her that the pipeline can be installed in the meantime. She would like this decision to be delayed.

In response to President Miller's question regarding whether or not pipe has been installed, Mr. Roderick stated that pipe is being installed on the existing County right-of-way. The concern he has is that the time available to construct the tank is limited to a certain window – summer to fall. If the tank is not constructed until winter, this will impact the District's ability to finish the tank.

Director Drew stated that adopting the Resolution does not preclude the Board from reaching agreement with Mr. Halpern.

Mr. Roderick stated that he would be happy to continue to meet with Mr. Halpern and his associates to determine whether or not there is an alternative tank site.

Mr. Soares informed the Board that they are in a position to make a decision to vote on the matter that is before them. It becomes simply a matter for the Board to weigh the

February 24, 2010

evidence and decide whether or not there is substantial evidence to support the three critical findings.

President Miller asked Mr. Soares to review the findings:

- 1) Public interest and necessity require construction of the project
- 2) The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury
- 3) The property interests sought to be acquired are necessary for the project
- 4) An offer of purchase was made

President Miller seconded the motion.

The Motion received the following roll call votes:

Division I	No
Division II	Aye
Division III	—
Division IV	Aye
Division V	No

Director Wilcox stated that he voted no because he does not believe that the District has met the standard of least private injury at this time.

Before President Miller cast his vote, he asked how the District could meet this standard.

Director Wilcox stated that the best way to meet the standard is to defer this issue for two weeks and place upon Mr. Halpern the obligation to meet with District Staff and find an alternative site that meets his needs, and then conduct an engineering analysis. All of this needs to be done on a short timeline so that the process is not dragged out. He would feel more comfortable if the Board had information on alternative sites.

Mr. Crowe spoke to the notion of private injury. This parcel is 111 acres and the total holding is approximately 140 acres. The access issue raised by Mr. Halpern is certainly a concern, but at this point, they do not have any access rights to the property, and access is speculative. The view of the property as it is in its current condition, and the Project as it is proposed at this time, meets the greatest compatibility meeting the greatest public good and least private injury.

Mr. Soares interjected and stated that four Board members have already voted. For there to be more discussion on this matter would be considered a process problem. If the Board would like to continue hearing from Staff or the public, he advised that the motion be withdrawn.

Director Drew withdrew his motion.

February 24, 2010

President Miller asked Mr. Stout for his opinion.

Mr. Stout stated that he can see the dilemma from a legal point of view. He would like to emphasize the point that Mr. King made. If the Board wishes to defer its decision on this matter for two weeks or a month, this would be agreeable as long as a decision is made so that the greater public good is not harmed. To Director Weber's point, Mr. Halpern can take the District to court now or a month from now. He questioned whether or not there will be more facts for the Board to consider a month from now.

Director Weber emphasized that she did not say "avoid litigation." She said, if the District goes to court, she wants the District well prepared. She has seen a number of District cases go to court without adequate preparation.

Director Drew stated that there has been a "huge" record established. He does not think the record will change much, but he would like to reiterate that the increased valuation to the Mull properties as having treated water available will more than offset any potential damage that they might think is going to occur.

Delayed decision on Resolution of Necessity for two weeks (March 10, 2010) during which time Mr. Halpern and the Mull Family will meet with District Staff; if no resolution is made as a result of the meeting, the matter will be placed on the Board of Directors' agenda for March 10, 2010. M/S/C Weber/Wilcox

Meeting recessed at 11:20 a.m. and reconvened at 11:31 a.m.

Ron Nelson, General Manager, informed the Board later in the meeting that he met with Mr. Halpern to set up a meeting with District Staff and Mr. Cassano to discuss alternative tank sites.

MT. VERNON ROAD SIPHON PROJECT – Public Hearing (Res. Nos. 2010-08 and 2010-09)

Anthony Rondoni, Right-of-Way Agent, stated that he is requesting that the Board separately review the proposed easement acquisitions for two parcels. The property owners have responded to the District's Notice of Intent and have identified that they would like an opportunity to participate in today's proceedings and provide their comments to the Board.

Mr. Rondoni provided the following presentation:

Purpose of Resolution of Necessity (RON) Hearing:

- Board to Review and Make Finding on Three (3) Issues
 - Public interest and necessity to require construction of the project
 - The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury

February 24, 2010

- The property interests sought to be acquired are necessary for the project

Adrian Schneider, Project Manager, continued the presentation as follows:

Project Overview:

- Capacity and Operations
 - Canal at capacity
 - Future flows exceed current capacity
 - Water loss due to seepage of Canal
- Maintenance
 - Limited access for maintenance
 - Unstable canal berm
- Public Safety
 - Failures and flooding of properties

Project Timeline:

- March 2007
 - Initial Public Meeting – Alternative alignments with preferred route presented
- June 2007
 - Start environmental process
- July 2007
 - Geotech borings B-5 and B-6 (Hawkins and Hane properties)
- February 2008
 - Alignment presented (Design Tech report)
- October 2008
 - Second public meeting during 30-day public comment – Alignment presented (including the Hane's property)
- November 2008
 - Board of Directors accepts Project

Project Objectives:

- Increases capacity to meet demand
- Eliminates bank erosion and flooding
- Reduces maintenance
- Enhances existing services
- Conserves water
- Public safety

Mr. Schneider stated that typically the District installs pipeline along property lines. At the first public meeting, Mr. Hane informed Staff of his Christmas tree operations. Staff knew that installing the pipeline on his property would be problematic, so the alignment was moved over to the neighboring property.

February 24, 2010

Mr. Rondoni described the subject easement:

➤ Assessor's Parcel No. 051-080-037 (Hawkins)

Summary:

- Overall parcel size: +/- 4.2 acres
- Easement area: +/- 0.31 acres
- Easement is approximately 30 feet by 462 feet
- Easement sits inside Placer County Building setback area (30 feet)
- 39 trees will be removed (owner concerned about impacts to privacy and tree loss which was duly noted in the appraisal)

Acquisition Process:

- Schedule an appraisal inspection
- Acquire an appraisal
- Present "offer" to owner
- Discuss with the owner
- Address owner's Project concerns
- Provide owner a chance to contemplate and consult advisors

Contact Activities:

- Two (2) Right of Way meetings with the property owner
 - July 28, 2009 – Appraisal inspection
 - January 29, 2010 – Site meeting
- Four (4) separate letters/mailings
 - October 30, 2009 – First written offer with copy of appraisal sent certified mail (picked up November 6, 2009)
 - January 29, 2010 – Notice of Intent
 - February 8, 2010 – Letter(s) from owner requesting to be heard at RON
 - February 10, 2010 – Notice of RON hearing date
- Six (6) telephone calls
 - October 26, 2009 (left message)
 - December 2, 2009 (discuss)
 - December 15, 2009 (left message)
 - January 25, 2010 (received message)
 - January 26, 2010 (discuss)
 - February 16, 2010 (discuss upcoming hearing date of February 24, 2010)

Current Status:

- Staff has reached an impasse with owners on agreement of acquisition
- Project review and acquisition impasse leads Staff to recommend that the Board of Directors consider Resolution of Necessity for proposed parcel and easement affecting APN: 051-080-037

President Miller opened the public hearing.

Philip Dustin Hawkins stated that he owns the property in question. Mr. Rondoni and Mr. Crowe met with Mr. Hawkins to discuss the appraisal that was provided to him. He

February 24, 2010

wanted the Board to be clear that he does not have a problem with the Project and he understands it is a necessity. He was born in the Mt. Vernon/Ophir area. He knows that property owners need water, and that infrastructure is failing. He is also “fine” with the appraisal. However, the appraised value and what is being offered to him are different amounts. When Mr. Hawkins asked about the difference, Staff told Mr. Hawkins it was because the District is not purchasing the property. He stated that Mr. Crowe asked him if he would sell Mr. Crowe the property for \$2/foot. Mr. Hawkins said that he would and the deal was done. Then Mr. Crowe stepped back and said that he was not offering to buy it. Mr. Hawkins stated that Mr. Crowe just asked him if he would sell the property at \$2/foot. Mr. Hawkins has made many improvements and the house pad is in place. Not only are 39 trees going to be removed, but there is a road that will be placed on his property. This has not been taken into consideration. The only thing taken into consideration is that the trees will be removed and he will be in view of a Christmas tree farm. He stated that the Christmas tree farm will be in operation once a year, but he is “ok” with this. What he is “not ok” with is that his backyard will now have a road. When he purchased the property, he had no intention of placing a road in this location. In the early meetings with Mr. Schneider, there was no road. A pipeline would be installed with minimal impact.

Mr. Hawkins received a document that states he will receive \$125 per tree of which \$25 is for planting costs, but he cannot plant the trees inside the easement because it is pipeline or a road. This means he cannot plant in his backyard. In the appraisal, it clearly states that there will be no lost land area. Once again, how is it not a loss if he cannot use this part of the property? He is not disputing the appraisal. He has an idea that could resolve his issues, but he was told he could not negotiate with Mr. Crowe or Mr. Rondoni, but could address the Board during a public hearing. He would like to know who he negotiates with in order to come to a resolution. He does not want to delay the Project. He has neighbors downstream that will benefit from the Project and he would like to help provide that water. He also does not want to be “stepped on” on the way.

Director Drew complimented Mr. Hawkins on his sincere presentation.

President Miller closed the public hearing.

Director Drew asked Staff why a road needs to be installed.

Mr. Schneider explained that a road is needed to access the pipe. The road will be 15 feet from edge to edge and will be topped with gravel. Within the 30 foot easement, trees would have to be removed.

Mr. Hawkins stated that the gravel on the road will create dust.

Director Drew stated that he has had a pipeline installed on his property and a clearing was made for access, not a road. The road changes the degree of encumbrance to the property. The gravel also changes the degree of the encumbrance.

February 24, 2010

Mr. Rondoni stated that these issues have been in the appraisal and are addressed in the standard operating easement deed. The District has the ability to operate in the easement area and clear it if need be. Mr. Rondoni stated that Mr. Hawkins feels he is not being paid enough for the interest the District is acquiring. The property owners have been provided the opportunity to obtain their own appraisal, at District expense, and if there is additional compelling information, the District would evaluate it.

Robert Hane, neighboring property owner, stated that he would like to reiterate what Mr. Hawkins is saying and would like to be able to address the Board.

President Miller stated that Director Wilcox has the floor, so Mr. Hane can address the Board when he is finished speaking.

Director Wilcox stated that part of what Mr. Hawkins was addressing is a privacy issue. He asked if the road is a public road.

Mr. Rondoni stated that this is a private road that will be gated at either end.

Director Wilcox asked what the frequency of travel will be by District vehicles.

Mr. Rondoni estimated that blow-off valves will need to be checked and maintained, and estimated that District vehicles (Operations Department) would use the road once every two months, if that.

Mr. Soares reminded the Board that the issues before them are not the adequacy of the compensation or the appropriateness of the appraisal that was done. Instead, the issues are whether there is public necessity, whether the Project has been designed so as to be most compatible with the greatest public need and the least private harm, and whether this property is necessary for the Project.

Mr. Hane stated that his matter will come up next on the agenda. He would like to discuss the appraisal process that he went through. He had lengthy conversations with Mr. Crowe and Mr. Rondoni at Mr. and Mrs. Hane's home. He was happy with the \$1.90/foot appraisal price and is not opposed to the Project. Mr. Crowe suggested that the only way that Mr. Hane could interact with the Board is to obtain a second appraisal. At that time, Mr. Hane did not want to obtain another appraisal because of the time limit. If Mr. Hane wanted anything more than \$5,000, he would need to obtain a second appraisal. Mr. Hane contacted an appraiser and provided him with a copy of the appraisal he had and a copy of a letter stating that the District would pay up to \$5,000 for an appraisal. Within a short period of time, he was contacted by the second appraiser who indicated he contacted the District and spoke with Mr. Rondoni. Mr. Rondoni told him that if the appraisal was only worth \$2,500, that is what the District would pay. Mr. Hane stated that he would have to consider what his next step would be. He thought it over for about one week and contacted the second appraiser. The second appraiser requested that he would need \$4,000 up front. The second appraiser

February 24, 2010

said that he might only receive \$2,500 for the appraisal leaving the second appraiser to pay the balance.

Director Bachman asked if the District is providing service from the siphon.

Mr. Schneider explained that the District is providing those property owners that use water off of the Howard Ditch a connection to a manifold that comes off of the siphon. He pointed out that the Howard Ditch is a private ditch, maintained by the property owners. It is difficult to maintain and flows very slowly during the summer months because more water is used.

Director Bachman asked if it would be possible to install a short road to this area.

Mr. Schneider explained that because this is the low spot in the pipeline alignment, and a blow-off valve is at this location, access would be necessary to maintain the valve.

Director Bachman stated that a new pipeline should have minimal maintenance.

Mr. Schneider concurred.

Director Wilcox stated that he believes the District has met the standards and can make the findings necessary as outlined in Resolution No. 2010-08.

Director Wilcox made a motion to adopt Resolution No. 2010-08 (Declaring Necessity and Authorizing Eminent Domain Proceedings for the Acquisition of Real Property for a Public Project known as Mt. Vernon Road Siphon Project on Placer County Assessor's Parcel No. 051-080-037, owned by Philip Dustin Hawkins and Renee J. Hawkins).

Director Weber stated that with regard to privacy, in other Projects, the District has replanted. She asked if this is an option in this situation.

Mr. Rondoni stated that the short answer is that this speaks to the adequacy of compensation. His suggestion is that the Board adopt the Resolution of Necessity. This would not preclude Staff from coming to some other accommodation with the property owner. A determination needs to be made that the easement area is necessary and is for the greater public good with the least private injury. After the Resolution is adopted, commencement of eminent domain proceedings begins. These take some time to file. At that time, Staff could enter into some meaningful discussions with the property owners.

Director Weber stated that it makes her uncomfortable that these discussions have not already occurred, and this point has been reached without the discussion occurring.

Mr. Rondoni stated that Staff had been requested to remove blackberry bushes and trees on some of the parcels and because the blackberry bushes are being removed,

February 24, 2010

Staff is being asked if a privacy fence can be installed. He thinks there have been some conflicts in the negotiation discussions.

Mr. Rondoni stated that if the property owner provides relevant material not considered during the appraisal, this information can be addressed. Staff will consider any reasonable requests made during negotiations. What Staff cannot negotiate is a gift of public funds.

President Miller asked what protection the property owner would have if the Resolution of Necessity is adopted today, prior to execution of eminent domain proceedings.

Mr. Soares stated that the Board will be authorizing the District to file eminent domain action. District Counsel will not file until notified by District Staff.

Director Weber stated that in the 11 years she has been on the Board, there have only been a couple of situations where the Board adopted a Resolution of Necessity. In those cases, the Director in the Project area had visited the site and was able to speak to the issue, so that there was a separate opinion from Staff. She asked Director Bachman if he has visited the parcels in question.

Director Bachman stated that he has driven down Mt. Vernon Road, but has not visited the two parcels. He would be happy to participate in a field review of these two parcels.

Director Drew stated that he sees two different standards of performance. One presentation was presented in a respectful manner. His neighbor was also respectful, as opposed to another presenter who has called the District liars and thieves. They required two different responses in his mind. The Board gave one party a two-week extension in an attempt to resolve the issue. He sees no less of a requirement to be conducted for this matter. This Project can wait two weeks and he will not vote on the matter until he hears more information from Staff.

Director Wilcox withdrew his motion.

Ron Nelson, General Manager, asked the Board what their expectations of Staff would be during the next two weeks.

Director Drew stated that he is not going to question Staff or the appraisal defining the degree of encumbrance to any of these properties. He sees that property owners are willing to cooperate. He sees an opportunity to meet the needs of the property owners and the needs of the District in order to complete the Project in a reasonable way.

Director Weber requested that a privacy screen be “worked out” for the road. The District has provided a privacy screen on another project and this property owner deserves the same.

February 24, 2010

Director Drew stated that the Board has the authority to establish where, what and how much that privacy screen is. The Board will need input from Staff to define what that privacy screen might be, with the cooperation of the property owners.

Mr. Hawkins asked if he could present his thoughts on how this matter can be resolved. He stated that he has several ideas and since he is not building his house at this time, the District could use this area for staging of equipment and materials.

Director Drew suggested that Mr. Hawkins' information be shared with Staff, so that Staff can present the information to the Board at a future meeting.

Mr. Crowe stated that Staff is in a position to review the information Mr. Hawkins can provide that would speak to reasonable compensation or other considerations. Staff has not received that information. Staff will need to receive this information in writing.

Mr. Hawkins stated that he has not provided his information because he was told that he could not negotiate with Staff.

President Miller directed Staff to continue negotiations with the property owner and continued this matter for two weeks.

Mr. Hawkins stated that he is fine with the appraisal. What he would like to do is provide his "take" on how to resolve the matter.

Mr. Crowe clarified that the appraisal arrives at a conclusion and Mr. Hawkins does not agree with the conclusion. For Mr. Hawkins to say that he agrees with the appraisal is not accurate.

Mr. Soares stated that what the Right-of-Way team does is try and determine the value of the property, using an appraisal. Once the value is determined, they cannot pay more than the value unless they are provided with information that allows them to reconsider the value.

Mr. Crowe will work with the property owner and present this matter in two weeks (March 10, 2010).

With regard to the next parcel in question, Mr. Schneider explained that Staff realized that Mr. Hane has a Christmas tree farm, so the alignment was relocated off of his property to the left. Staff reviewed the existing infrastructure, and on the Richardson property there is a horse corral, a barn, and a small well. Because of this, Staff thought it would be prudent to relocate this portion of the alignment to the Hane's property. Mr. Hane stated that this would be fine as long as he is compensated.

Mr. Rondoni described the subject easement for the next parcel:

February 24, 2010

➤ Assessor's Parcel No. 038-032-078 (Hane)

Summary:

- Overall parcel size: +/- 5.2 acres
- Easement area: +/- 0.24 acres
- Easement area is approximately 30 feet by 352 feet
- Easement sits inside Placer County Building setback area (30 feet)

Acquisition Process:

- Schedule an appraisal inspection
- Acquire an appraisal
- Present "offer" to owner
- Discuss with the owner
- Address owner's Project concerns
- Provide owner a chance to contemplate and consult advisors

Contact Activities:

- Five (5) Right of Way meetings with the property owner
 - August 27, 2009 – Appraisal inspection
 - October 13, 2009 – Deliver and discuss District's first written offer
 - November 6, 2009 – Site meeting
 - January 14, 2010 – Site meeting
 - January 29, 2010 – Site meeting
- Six (6) separate letters/mailings
 - October 13, 2009 – First written offer with copy of appraisal hand delivered
 - November 20, 2009 – Letter
 - January 15, 2010 – Letter
 - January 29, 2010 – Notice of Intent
 - February 1, 2010 – Letter(s) from owner requesting to be heard at RON
 - February 10, 2010 – Notice of RON Hearing date
- Nine (9) telephone calls
 - October 27, 2009 (left message)
 - November 3, 2009 (discuss)
 - November 6, 2009 (left message)
 - November 16, 2009 (discuss)
 - December 15, 2009 (discuss)
 - January 10, 2010 (discuss)
 - January 15, 2010 (discuss)
 - January 26, 2010 (discuss Project with possible appraiser for Hane)
 - January 29, 2010 (discuss Project with possible appraiser for Hane)

Current Status:

- Staff has reached an impasse with owners on agreement of acquisition
- Project review and acquisition impasse leads Staff to recommend that the Board of Directors consider Resolution of Necessity for proposed parcel and easement affecting APN: 038-032-078

February 24, 2010

President Miller opened the public hearing.

Robert Hane stated that it appears that this point has been reached due to confusion or lack of communication. When the meeting was recessed earlier, he spoke with Mr. Rondoni about the way this was coming about. Mr. Hane thought he had the ability to negotiate with the Right-of-Way team but he does not, and that is why he is here today. He was given a right-of-way and a right to enter agreement so that the District could start the Project. He declined to sign the document mainly because, on page 2 under Miscellaneous Agreements, number 2 states that verbal agreements and any thing that is not in writing or in a contract will be null and void. He purchases 1.5 Miner Inches of water from the District, and without this water, he would not be in the Christmas tree business.

Mr. Hane remembers receiving a telephone call from Mr. Schneider. Mr. Schneider came out to the ranch with an aerial photograph in 2007. He provided Mr. and Mrs. Hane with a great deal of information. In the process of sitting on the Hane's patio, Mr. Schneider asked if this is a Christmas tree ranch. Mr. Hane answered in the affirmative and stated that he has been in the business for 29 years. Mr. Schneider then referenced the aerial photograph that did not show any Christmas trees. Mr. Hane stated that he has about 10,000 Christmas trees.

Mr. Hane stated that the appraisal does not give any consideration for the fact that Mr. Hane cannot plant Christmas trees on his own property. On page 35 of the appraisal, it talks about overall impact of the easement.

Mr. Soares interjected to inform the Board that this matter is not on the agenda. If the Board wants to treat this as public comment and listen, that is fine. In terms of engaging in a dialogue over the appraisal and particular provisions of the appraisal, this has not been agendized.

Mr. Hane stated that he is not going to talk about money. He would like to talk about a few things that stand out in the appraisal. That is why he is here today. He is not opposing the Project. When Mr. Schneider first came to visit the Hane's, he asked for a 50 foot easement for 1,400 feet, Mr. Hane asked how the District would pay him for the loss of Christmas trees.

Mr. Schneider stated that he did not know that this was a Christmas tree ranch until this time, so he would try and "do something." Mr. Schneider relocated the alignment to the neighboring property.

Mr. Hane is concerned about the financial impact on him down the road. He is trying to provide input that is common sense. Basically, he cannot use $\frac{1}{4}$ acre of his property. The appraisal was valued at one amount, and the District's offer is entirely different. If the Board does not want to give Mr. Hane the legal right to discuss the concerns he has that he feels are pertinent and are a problem to him, then he will draft another letter.

February 24, 2010

President Miller stated that Mr. Hane could continue.

Mr. Hane stated that originally the pipeline was going to be installed from the very north of his pasture way down Vista Robles. He was not notified by the District as to what was going on and found out more about the proposed Project at a the first public meeting. At that time, the pipeline was moved from 50 feet to 30 feet, and the alignment cut through his Christmas tree farm. He informed Mr. Schneider about this, and after reviewing this concern, Mr. Schneider relocated the alignment.

Mr. Hane stated that he appreciates the Board's effort to "get everybody heard."

President Miller closed the public hearing.

Director Weber asked Mr. Rondoni to explain the second appraisal process.

Mr. Rondoni explained that when Staff sends out the first written offer, and in Mr. Hane's case this occurred on October 13, 2009, Staff sits down to discuss the appraisal with the property owner and provide an opportunity for the property owner to obtain a second appraisal. The property owner would order this appraisal, and the District would reimburse the property owner or pay the appraiser directly up to \$5,000 for the cost of acquiring the appraisal.

Director Weber asked if the District negotiates that amount.

Mr. Rondoni stated that the District does not negotiate the price of the second appraisal. The District is required to pay the reasonable cost of an appraisal. In his opinion, the amount of \$5,000 is high for this kind of review.

Director Wilcox stated that he believes that the issues before the Board are strictly fiscal issues. This is not the Board's purpose today to resolve those issues. The findings that the Board is required to make are fairly clear.

Director Wilcox made a motion to adopt Resolution No. 2010-09 (Declaring Necessity and Authorizing Eminent Domain Proceedings for the Acquisition of Real Property for a Public Project known as Mt. Vernon Road Siphon Project on Placer County Assessor's Parcel No. 038-032-078, owned by Robert G. Hane and Sharon M. Hane).

Motion failed due to lack of a second.

President Miller stated that discussions need to continue with the property owners, and this matter will be continued for two weeks (March 10, 2010).

Director Drew informed the members of the audience that Staff is doing what they are supposed to do, and he commended them for their efforts. "It is not always where everybody would like to be." The Board's job is to bring those two points together and

February 24, 2010

move toward a point that is mutually agreeable. Property owners need water and they deserve water.

Karen Wyatt stated that she purchased her property three years ago and is the last property owner on the Howard Ditch. The Ditch has been disintegrating for some time. She has a pond and fruit orchards and sometimes she receives no water. It is in her best interest and her neighbors' best interest that these issues regarding acquisition of easements for the Project be resolved.

Meeting recessed at 12:48 p.m. and reconvened at 12:59 p.m.

RECREATION DAY USE PASS

Peggy Davidson, Recreation Administrator, reported to the Board that at the Maintenance and Resource Management Committee, approval was given to provide a coupon for a free day use pass at Orchard Springs or Scotts Flat Campgrounds. This coupon will be included in the Waterways newsletter (customers) and the Pipeline newsletter (employees). Director Drew had suggested stating on the coupon that donations would be accepted by bringing canned goods for the Food Bank, or other charities. It is not a requirement, but an opportunity to provide a donation.

President Miller asked what the intent of the coupon is.

Ms. Davidson explained that the intent is to invite the public and employees to see what recreation areas the District has.

President Miller suggested making the coupon 'Buy 1, Get 2.'

Ron Nelson, General Manager, stated that the coupon is one way the District can thank its patrons.

NO MOTOR WEEKEND

Peggy Davidson, Recreation Administrator, informed the Board that the No Motor Day was extended to a No Motor Weekend at Scotts Flat based on suggestions. This event will take place on April 24 and 25, 2010. Those involved include the Gold Country Yacht Club, Wolf Creek Wilderness, the Boy Scouts, etc.

NORTHWEST HYDROELECTRIC ASSOCIATION – 2010 Annual Conference: Director Drew's Report

Director Drew reported that he attended the Northwest Hydroelectric Association Annual Conference in Portland, OR during the week of February 15, 2010. He had the opportunity to tour the Bonneville Dam Complex which consists of three dams on the Columbia River. He provided photographs of the tour. There are nine generators that

February 24, 2010

produce 65 megawatts each. The rated capacity is 75 megawatts. There are fish passage considerations at this location. They have been meeting with an improved amount of success but are still far from where they need to be. They have spent a great deal of money trying to accomplish their goals.

LOCAL AGENCY FORMATION COMMISSION (LAFCo) – Nomination of Special District Member

Director Drew informed the Board that he will not be running again for the Special District Member on LAFCo.

Director Weber asked Director Wilcox what he is doing with his spare time.

Director Drew stated that the Cortese Knox Hertzburg Act that governs LAFCo has conflicting discussion regarding how the Special District Members are to be selected. While it might have been within the authority of LAFCo to choose another method of selecting the Special District Members, it does not fit with the discussion in the Act itself. The Act requires that there be a special committee appointed of special districts to appoint the Special District Member. In Nevada County, LAFCo holds an election.

Director Drew stated that the Act states that in order for the District to have a vote, their financial position / contribution rate to LAFCo must be at a certain percent. The District currently contributes approximately 50 percent, but other Special Districts contribute less than one percent, but have an equivalent vote. The majority of the special districts are fire departments of which there are at least seven on “this side of the hill.” They have seven votes and the District has one vote.

Director Weber stated that the District should be involved with LAFCo. She asked if Director Wilcox would decline if nominated.

Director Wilcox asked Director Drew if this has been a fulfilling experience for him.

Director Drew stated that he has no desire to participate. He added that the City of Grass Valley has initiated a movement to reorganize the way LAFCo is run. They would retain all of the Commissioners and the Counsel, but LAFCo would be run by County staff as opposed to having a separate staff. The LAFCo staff is a huge portion of the budget – of a \$427,000 budget, \$310,000 is for staff.

Director Weber stated that there is an opportunity to influence consolidation of services of different agencies and annexations.

Director Drew stated that one of the duties LAFCo is charged with is performing municipal service reviews on a regular basis of agencies and districts to ensure their capability to provide services. During a presentation by the fire department, a report was made that in order to attempt to provide more efficiency within the fire district, they wanted to retain the seven chiefs and add an administrator. At the conclusion of the presentation, Director Drew requested, and LAFCo approved, that the next time a

February 24, 2010

municipal review is due for these agencies, that LAFCo look for an opportunity to consolidate all of them. Each station would have a captain, and there would be one chief.

Director Wilcox stated that the District would have one vote out of 12 when casting a ballot for LAFCo and that LAFCo is populated by the fire districts.

Director Wilcox disclosed that LAFCo's counsel is a friend of his, as is the Assistant Clerk. He asked if this would create a conflict.

District Counsel stated that personal friendships do not create a conflict.

Director Drew nominated Director Wilcox as a candidate for Special District Member on the Local Agency Formation Commission (LAFCo).

Motion passed on the following roll call vote:

Division I	Aye
Division II	Aye
Division III	Aye
Division IV	Aye
Division V	Abstain

The Board Secretary informed the Board that a Resolution authorizing the nomination will be presented at the next Board meeting

CLOSED SESSION was declared at 1:21 p.m. pursuant to Government Code 54957.6 to provide direction to the District's designated bargaining representatives – Nelson, Crough, Owens, DuBose and Meith – regarding 2010 salary/benefit/working conditions.

CLOSED SESSION was declared at 1:21 p.m. to discuss existing litigation with District Counsel pursuant to Government Code Section 54956.9; the name of the case is Robbins vs. Nevada Irrigation District, County Superior Court Case No. 75530.

Director Drew left the meeting at 2:00 p.m.

Director Weber left the meeting at 2:55 p.m.

MEETING RECONVENED in regular session at 3:31 p.m.

President Miller directed the Labor Committee to work with the Management Labor Negotiating Team to establish a compensation philosophy and strategy, and authorized the Committee to meet as necessary. Meetings will be agendized accordingly.

February 24, 2010

MEETING ADJOURNED at 3:33 p.m. to reconvene in regular session on March 10, 2010, at 9:00 a.m. at the District's main office located at 1036 W. Main Street, Grass Valley, California.

Board Secretary

Attest a true record of actions
had and taken at the above and
foregoing meeting our presence
thereat and our consent thereto.

Director
Division I

Division II

Division III

Division IV

Division V
