

**ELEPHANT BUTTE IRRIGATION DISTRICT  
BOARD OF DIRECTORS MEETING  
November 9, 2011**

The monthly meeting of the Board of Directors of the Elephant Butte Irrigation District was held on Wednesday, November 9, 2011. The meeting was called to order by President James Salopek on a motion by Tom Simpson, seconded by Scott Adams. Motion carried. Member absent was Joe Nelson.

Roll Call

EBID personnel present were Henry Magallanez, Engineering Supervisor, Zachery Libbin, Junior Engineer; Gail Norvell, Controller; Valerie Beversdorf, CR/GIS Director; James Narvaez, Hydrology Director; Delyce Maciel, HR/Safety Director; Naomi Ontiveros Executive Secretary.

Also present were Samantha Barncastle and Steve Hernandez, Law Office of Steven L. Hernandez; Dr. Phil King, Hydrology Consultant; Eric Fuchs, NMOSE; Hilary Brinegar, NM Department of Agriculture; Erik Ness, Media Consultant; Greg Daviet, EBID Constituent; Jorge Lopez, Las Cruces Bulletin, Mariano Martinez, MDWCA.

Tom Simpson moved and Robert Sloan seconded to accept the minutes of the November 9, 2011 meeting. Motion carried.

Minutes Approval

Willie Koenig moved and Robert Sloan seconded to accept the water transfer minutes of November 9, 2011. Motion carried.

The calendar was discussed. Gary Esslinger advised the Board the Growers meetings went well each area had sixty to seventy farmers present. The EBID yearly general meeting is scheduled for Thursday, November 10<sup>th</sup> and all Board members are welcomed to join. Gary added that James Narvaez, Valerie Beversdorf and Gail Norvell will be taking a tour of three districts in California to review there TruePoint Software. Gary also advised the Board the District will be closed from noon on December 23<sup>rd</sup> and reopen on Tuesday, January 3<sup>rd</sup>.

Calendar of Events

Special Use Permits

Non-Moratorium

License List for Special-Use-Permits for November 9, 2011 Board Meeting

Licensee	Assessment	Fees Requested to be Waived
<b>2011-L-094 EI Paso Electric Co</b>		
To construct, operate and maintain an overhead utility crossing the piped portion of Mayfield Lateral at Sta# 35+00	\$2,916.67	
<b>2011-L-095 EI Paso Electric Co</b>		
To construct, operate and maintain an overhead utility crossing the Crawford Lateral at Sta# 22+00	\$2,916.67	
<b>2011-L-096 EI Paso Electric Co</b>		
To construct, operate and maintain an overhead utility crossing the West Drain at Sta# 146+75 and Zack Lateral at Sta# 8+50	\$3,583.33	
<b>2011-L-097 EI Paso Electric Co</b>		
To construct, operate and maintain an overhead utility crossing the Garfield Main Canal at Sta#	\$3,166.67	

153+40

**2011-L-098 Qwset Corp dba Century Link QC**

To construct, operate and maintain an bored utility crossing the Las Cruces Lateral at Sta# 106+65 \$1,450.03

**2011-L-099 Qwset Corp dba Century Link QC**

To construct, operate and maintain an bored utility crossing the Leasburg Main Canal at Sta# 632+64 \$1,510.04

**2011-L-100 Qwset Corp dba Century Link QC**

To construct, operate and maintain an bored utility crossing the Dona Ana Lateral at approximate Sta# 197+00 \$1,550.05

**2011-L-101 Qwset Corp dba Century Link QC**

To construct, operate and maintain an bored utility crossing the Mesilla Drain at approximate Sta# 345+00 \$1,590.06

**2011-L-102 Qwset Corp dba Century Link QC**

To construct, operate and maintain an bored utility crossing the Las Cruces Lateral at Sta# 222+27 \$1,450.03

**2011-L-103 Qwset Corp dba Century Link QC**

To construct, operate and maintain an bored utility crossing the Picacho Lateral at Sta# 418+90 \$1,490.04

Subtotal \$20,133.55 \$0.00

**Total Assessments \$20,133.55**

Zachary Libbin presented to the Board the Special Use Permits for the month of November. Jerry Franzoy moved and Scott Adams seconded the motion to accept the Special Use Permits. Motion carried.

Jorge Lopez with the Las Cruces Bulletin presented to the Board the Legislative Guide. Mr. Lopez explained to the Board his hopes to get information put in the Legislative guide that would help get Las Cruces business and housing and the Districts information to the Legislators. Mr. Lopez requested the Board to continue to be a part of the Legislative Guide. Robert Faubion moved and Scott Adams second the motion to participate in the 2012 Legislative Guide. Motion carried.

Henry Magallanez presented to the Board the final Diez Lagos Deed for approval. Henry states that the recorded deed needs to be confirmed. Gary adds that the deed has 34.21 acres of assessments worth thirty three thousand dollars that haven't been paid since 2005. The developer may purchase back the water rights. There may be a problem regarding the valuation of the property and Dona Ana county may not refund the property taxes already paid. If the property

Porter  
 Lateral  
 Update

were sold to the State it may be able to collect back while working with the County Commissioner. Robert Faubion moved and Robert Sloan second to accept the final Diez Lagos Deed. Motion carried.

Henry gave an update on Dona Ana Mutual Domestic. \$88 thousand of their grant portion will be used for construction for check structures. Lee Peters is working on an MOU outlining conditions of payment to EBID. Henry hopes the project will begin next week. Dona Ana needs to have receipts for EBID by January 1<sup>st</sup>. The biggest EBID cost will be the concrete. Leo and Henry have confidence it can get done in the time allotted. Leo adds the second pour of concrete will be critical. Jerry Franzoy moved and Scott Adams second to approve signing of the MOU. Motion carried.

Leo Barrett gave the Maintenance update. The Ranch Road pipeline has been installed. The pipe for La Clinica de Familia has been delivered. Cross training is still ongoing; as well as, tree trimming and drain cleaning. The rotary mulcher has been completed and the excavator was tested and had no issues. Leo adds the Dam inspection went well no major issues. There were a few fractures that had been previously exposed in past years and a couple drains that need a few updates.

Maintenance  
Department  
Update

Dr. Phil King gave the Hydrology report. The outlook for the next three months still looks to be below normal. It looks as though this coming water season will be a repeat of the last season, a short water season.

Operations/  
Hydrology  
Report

Dr. King discuss to the Board RG Water Transaction RFP that is funded by IBWC. It will be working through National Fish and Wildlife. Dr. King intentions are to go after the contract. He adds in order to do so he has several request:

Request  
By Dr. Phil  
King

1. Request to be allowed to go after the contract despite conflict of interest. Robert Faubion moved and Scott Adams second to approve Dr. King going forward. Motion carried.
2. Waive conflict of interest for Steve Hernandez and Lee Peters to be subcontractors. Robert Faubion moved and Tom Simpson second to waive conflict of interest. Motion carried.
3. Request to subcontract with EBID staff. Robert Faubion moved and Scott Adams seconded to approve subcontracting EBID staff. Motion carried.

Valerie Beversdorf advised the Board Relinquishment Policy was reviewed by Legal and was finalized and was accepted by the Board at the October Board meeting. The next Policy will be two maintenance policy's 1984-MNT3 and 1984-MNT4.

Policy  
Amendment

Valerie Beversdorf gave CR/GIS update. The growers meeting presentation has been posted on the EBID website with links and sources to follow. CRGS is responding to request for assistance.

CR/GIS  
Report

Valerie discussed the Storm Water Coalition. The last meeting was held on November 3<sup>rd</sup>. Dona Ana County issues were reviewed on how Dona Ana County flood issues are met. Paul Duggie discussed the need for Southwest Coalition.

Storm Water  
Coalition

Valerie also discussed Vision 2040. Vision 2040 has been taken to sectors and agencies for comments. The comments were reviewed and had little corrections.

Vision 2040

Delyce Maciel gave the HR/Safety update. The current employee count is 85with no other pending retirements planned. The general meeting is scheduled for November 10<sup>th</sup> at Lorenzo's de Mesilla. EAC is scheduled to meet December 12<sup>th</sup> at 8am. Delyce adds the district had the annual Petroleum Storage Inspection on October 31<sup>st</sup> and all went well with no issues. It has now been required to train all employyes who use the fuel pumps to be qualified operators no later than June 30, 2012 per NMEMA regulations. Training will be done in house at no cost. Delyce advised the Board there was one accident regarding a dozer backing into an EBID vehicle, the employee matter has been addressed.

HR/ Safety  
Report

Gail Norvell presented to the Board the financial reports for the Month of September 2011. Cash in the bank is \$184,398, assessments receivable is \$446,318 and investments \$3,795,472 for a total

Controller  
Report  
Financial

increase of \$1,452,445 over October 2010. Grant projects are on going.

Fact Sheet

Gail Norvell presented the RTU Contract to The Control Design. Scott Adams moved and Robert Sloan motioned to award contract to Control Design. Motion carried.

Resolution  
2011-17

Gail Norvell also presented to the board the Lobbyist contract renewal for Water Strategies LLC. Scott Adams moved and Willie Koenig motioned to approve renewal of contract. Motion carried.

PERA  
ELECTION

Gail advised the Board the general meeting is scheduled for November 10<sup>th</sup> from 7-2:30 at Lorenzos with breakfast starting at 7am.

It was presented to the Board a constituent request for waiver of fee's for Public Records. Gary suggested a fee schedule be added online as well as on the back of the Public Records forms. Willie Koenig moved and Tom Simpson declined the waiver of public record's fee. Motion carried.

Gary Esslinger advised the Board of a situation with Parasol Dairy constructing his dairy and is currently moving dirt. Gary adds that this may be a BOR matter and not the Districts but can result in a problem for EBID. It could contaminate Caballo if the material were to wash in Caballo. The only time to stop the process at this time would be if they have not complied with permit regulations. Jerry Franzoy moved and Scott Adams second to have Steve Hernandez investigate permit. Motion carried.

Managers  
Update

Gary announced Board members in Precincts 1, 3, 5, 7 and 9 are up for election and the election will be held on December 6, 2011.

Gary presented to the Board DASWCD request to use EBID facilities to conduct their monthly meetings every second Tuesday of the month. Scott Adams moved and Tom Simpson second to approve use of EBID facility. Motion carried

Gary discusses with the Board the Low Head Hydro Working Group that Washington is interested in developing. A cost of five thousand dollars per irrigation district will help get the group through to FERC. An Executive Committee meeting will be held in Tucson. More than twenty districts are to participate in the coalition. A motion was requested to look further into the Low Head Hydro Working Group a motion made by Robert Sloan and seconded by Scott Adams. Motion carried.

Steve Hernandez and Samantha Barncastle reported on legal matters.

Legal  
Update

- LRR 302 – City of El Paso/Montoya Drain. Open- SAH
- LRR 303 – Hatch Easements. Open -SRB
- LRR 323 - Policies, Relinquish of Easement and Excess of Real Property. Open-SRB
- LRR 342- Protest to DAC and Verde Reality Water Rights Apps, Reopen-LEP
- LRR 345 – Lack/EBID Land Exchange and Flow Easement. Open-LEP
- LRR 351 - Request to realign ROW boundaries, Stahmann. Open-SAH
- LRR 359 – LRG MD Surface Water Treatment Facility Proposed Plan. Open-BJS
- LRR 365 - Assessment Roll Reconciliation. Open-SRB
- LRR 367 – Sierra County Communication Tower on Caballo Mountain MOA. Open-LEP
- LRR 379- Grey Fox Subdivision Special Use Permit- Open-SRB
- LRR 381- Federal Screening thru the BOR- Open

LRR  
Report

Robert Sloan moved and Willie Koenig seconded to break for lunch. Motion carried. Following lunch, Willie Koenig moved and Scott Adams seconded to reconvene the meeting. Motion carried

Open/  
Closed  
Session

Jerry Franzoy moved and Scott Adams seconded to go into closed session to discuss legal matters. Motion carried. Pursuant to Section 10-15-1-h, NMSA of the New Mexico Open Meetings Act, the following topics shall be discussed in closed session:

State ex. rel. D'Antonio vs. EBID CV 96-888 (Stream Adj.)

- SSI 101-CIR/FDR
- SSI 103-Domestic Wells
- SSI 104-US Project Water Right
- SSI 105-Expedited Inter Se-Boyd Claims
- Threatened Litigation Regarding Operating Agreement

LRR 342/ Matter 150-2<sup>nd</sup> EBID Protest to Verde Realty Operating Partnership Application  
LRR 358/ Matter 151-EBID Protest to City of Las Cruces Well Application- LRG 430-S-36  
and LRG 5818

Matter 155- EBID Protests to County of Dona Ana Applications LRG 3150 B and LRG 9356  
Matter 154- Estate of Stacey J. Williams v. EBID and F. Calderon; CV 2010-2899  
AWRM Appeal to Supreme Court

There being no further business, Jerry Franzoy moved and Scott Adams seconded to adjourn the meeting. Motion carried.

Adjourn

The next meeting of the Board of Directors will be held on Monday, December 12, 2011.

JAMES SALOPEK, President

WILLIE KOENIG, Secretary