

Scappoose Drainage Improvement Company
Board of Directors Monthly Meeting Minutes – May 12, 2022

Present via Zoom video/teleconference:

Jeff Mapes, President	Geoff Wenker, Landowner
Gary Wheeler, Vice President	Marie Gadotti, Landowner
Amanda Hoyt, Secretary/Treasurer	Tim Berge, Landowner
Len Waggoner, Director	Debbie Murphey, CalPortland Attorney
Karen Kessi, Director	Robert Hostettler, CalPortland
Chase Christensen, General Manager	Bob Short, CalPortland
Laurie Mapes, Staff	Kyle Hoyt, Landowner
Jeff Condit, SDIC Attorney	Caroline Lobdell per Zoom ID

President Mapes called the meeting to order at 6:02 p.m. through the Zoom virtual meeting platform. President Mapes read the names of the persons in attendance as indicated on the Zoom screen. Minutes below associate with Agenda items.

Public Comment

Marie Gadotti stated she would re-read comments she read at the April 14 meeting because she felt they were not captured in the minutes. She stated she read in the manager's report about significant damage to the Evans pumps Nos. 1, 3 and 4 with No. 1 considered all but unusable except in an emergency. She stated that she is concerned about the pumping of water in the SDIC and that managers' reports back to 2019 note several issues with the pumps, including pump No. 2 belching black smoke in June 2020 and an effort at that time to get it worked on, but the pump was not pulled until October 2021. Ms. Gadotti stated that the Evans pumps remove the majority of the water in the SDIC and that Evans pump repairs should be planned.

Agenda Approval

Director Waggoner made a motion to approve the agenda as presented. President Mapes seconded the motion, and all directors voted in favor of it.

Meeting Minutes Approval

Director Kessi made a motion to approve the minutes of the April 14, 2022 board meeting as presented. Director Wheeler seconded the motion. All directors voted in favor of the motion.

President's Message

There was no President's message.

Company Financial Review & Expenditure Approvals

GM Christensen noted two large transactions for Cornforth Consultants related to the Cadman 408, for \$3,825 and \$4,389.30, that are expected to be reimbursed by Cadman. Director Hoyt stated that she had gone through the financial statements. Director Hoyt made a motion to accept the transaction list as presented and to transfer \$25,000 from the state pool account to checking in order to cover anticipated expenses. Director Wheeler seconded the motion. All directors voted in favor of the motion.

New Bylaw Amendment on Virtual Voting

President Mapes noted that the annual meeting is in June and that state law requires the option for virtual attendance. It was noted that the bylaws limit voting at the landowner meeting to

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persons attending in person or by proxy. Attorney Jeff Condit explained that the 2021 legislature passed a law that went into effect on January 1, 2022 that requires public bodies to allow participation in public meetings virtually, both to attend and to submit testimony. He added that the statute does not explicitly address the right to vote. He stated that, because the statute does not explicitly provide for virtual voting, SDIC should rely on the bylaws that require a person to attend in person or by proxy. He added his thought that the intent of the state law was to allow people to participate virtually, but because it is not clear, it would be a good idea to amend the bylaws to avoid someone challenging the validity of someone's vote. He recommended a bylaw amendment to allow people to vote "electronically."

There was discussion about how and when during the annual meeting a vote would be taken on a bylaw amendment to allow electronic voting and when the landowners might want such a bylaw amendment to take effect. Director Kessi stated that the best stewardship is to make voting as easy as possible for landowners, noted that the Board had taken measures to allow parties to comment on the bylaws amendments currently proposed, and stated that she would not be comfortable with not allowing a similar comment process on an electronic voting amendment. Director Hoyt noted that SDIC allows proxy voting and that a person listening to the meeting through a virtual platform could direct a proxy in attendance how to vote on their behalf. President Mapes stated he did not see a downside to asking the membership whether they want to allow virtual voting but did see a downside to making an amendment effective immediately.

President Mapes made a motion that the Board propose an amendment to the landowners including the word "electronically" for voting purposes and to make that amendment effective after this year's annual meeting. Director Kessi seconded the motion.

Mr. Condit stated that changing the bylaws is not required. Debbie Murphey stated she believes that the bylaws require the landowner meeting to be in person, that there would have to be an amendment to allow electronic voting, that she would have an objection to allowing virtual voting, and that a proposed amendment would need to be vetted because of concerns about verifying the identity of a voter but that discussing it as an option is a great idea. Geoff Wenker noted that he has been the proxy for lots of landowners and that people who cannot attend the meeting should be able to give a proxy to someone who is able to show up. He also noted that world business increasingly is being conducted remotely and that the SDIC should keep up and make participation as easy as possible.

President Mapes asked whether the Board wants to raise the subject of electronic voting at the annual meeting, and Director Kessi responded that landowners should be given an opportunity to be heard on this topic.

All directors voted against the motion.

Planning for Annual Meeting

President Mapes reported that he drafted a one-page notice for the annual meeting with a goal to make the notice simple and to encourage reading of the enclosures, including the proposed bylaws amendments. He will ask Mr. Condit to review the notice. Director Kessi commented that the notice should include how to contact SDIC if anyone has questions.

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Manager's Report

GM Christensen reviewed his monthly report. During discussion of the report, the following comments were added:

Infrastructure: GM Christensen reported that Cascade Pump and Triangle have helped investigate the cause of damage to the Evans pump No. 1 diffuser, and it is not clear that cavitation is the cause of the pitting. Flow testing was part of the investigation. Triangle indicates a new diffuser would take 16-18 weeks to procure, and the part alone would cost \$21,000. GM Christensen stated he is hopeful the existing diffuser for No. 1 can be repaired as was the No. 2 diffuser. It will be advisable to rebuild the No. 1 motor, as well. There is no indication the coils are burnt, so a simple rebuild in the \$8,000 range may be all that is needed. GM Christensen stated he is hopeful the No. 1 repair work will end up costing less than the No. 2 work because a large part of the No. 2 cost was rewinding the motor. He suggested the No. 1 repairs be undertaken now so that they can be completed before high water in 2023. GM Christensen also reported that Evans roof repair parts are on site, that repair will begin when the weather improves, that pumps are running at the same levels as last month, and that the trapper is getting more beaver. He asked whether the Board wants to tackle the Evans repair without knowing the cause of the cavitation damage.

It was the consensus of the board that its directive to GM Christensen is to do whatever repair is needed. Mr. Condit noted that the Evans No. 1 repair is a new project and that a new set of bids must be solicited. GM Christensen stated that the other pumps are operational and do not need repairs right away. President Mapes made a motion that the Board direct GM Christensen to continue to make repair of the Evans pumping capabilities of paramount importance and authorize him to conduct the necessary public contracting steps and enter into contracts up to \$50,000 for the repairs. Director Kessi seconded the motion. All directors voted in favor of it.

Landowner Tim Berge noted he is a mechanical engineer and offered his help.

Personnel: There was no report.

408s:

GM Christensen reported that Cadman Materials brought its team to the Ellis property, and he showed them the North and Cherry pump stations and ditches, the location of the barge loading facility, the Santosh canal, and the overall area. President Mapes thanked GM Christensen for meeting with Cadman representatives and stated GM Christensen should record his time on such matters because it is covered by SDIC's reimbursement agreement with Cadman.

Regarding the CalPortland submission to USACE on its mining expansion into Bible College property, GM Christensen reviewed that the first iteration of the report, which SDIC received in May 2021, had Evans and Santosh ditch levels much lower than they ever had been pumped. GM Christensen has contacted USACE and Rob Hostettler because the most recent submission continues to use these unattainable ditch levels, but no response has been received to explain the ditch levels. He added that he does not know whether the Evans and Santosh ditch levels that

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were used affect the modeling. GM Christensen noted that the current version of CalPortland's USACE submission includes elevations of infrastructure around the mine such as the berms.

President Mapes noted that CalPortland's submission to USACE exceeds 800 pages, that CalPortland has not been willing to reimburse SDIC for its expenses on CalPortland's 408 submission, and that SDIC does not have the resources to competently review and comment on the submission. He stated that he will propose that the Board solicit a consultant but first wanted advice from Mr. Condit on how SDIC should proceed. Mr. Condit stated that SDIC should use a process similar to the process used to obtain Cornforth Consultants for the Cadman 408, with a similar review, a similar scope of work, and solicitation of three competitive quotes. He added that the project appears unlikely to rise to the level of \$250,000 that would require a formal RFP.

In discussion, GM Christensen stated that CalPortland is in a 408 determination process rather than a 408 process and that it is unclear what role SDIC can have or whether USACE has any obligation to share with SDIC information such as information Golder Associates generated for the modeling, or what SDIC could accomplish with that information.

Debbie Murphey stated that her understanding that the ditch levels used are the as-built levels from USACE. She also stated that she believes USACE has volunteered to discuss and present the analysis with SDIC in an iterative process and that GM Christensen has an e-mail regarding USACE's intent to issue a determination that a 408 is not required as well as USACE's offer to talk to SDIC about that.

GM Christensen stated that Ross Foster of USACE said he is still waiting on official sign-off by regional management on the determination of no impact.

Mr. Wenker reported his understanding that the ditch levels came from a past manager, not as-builts, and that he and GM Christensen had given notice of the error. He stated that John Porcello, the original modeler with GSI, is still available. Mr. Wenker asked whether the ultimate question, whether SDIC in a 100-year event will get flooding from within, is being investigated. He stated that elevation of vision berms in the report are based on 2010 LiDAR. He also noted former SDIC attorney Hong Huynh's repeated advice that SDIC hire its own licensed engineer to review safety and maintenance concerns.

Director Waggoner stated that Section 2.3 has removed discussions and comparisons to the GSI model and asked what that means.

Director Wheeler stated SDIC needs a consultant and that outside resources would be prudent. Director Kessi agreed, noting the need has nothing to do with GM Christensen's competency but rather the need for an opinion from an expert hired by SDIC.

Director Waggoner made a motion that SDIC obtain an engineering company to review the submission by Golder on behalf of CalPortland and that CalPortland be responsible to reimburse the costs. There was no second. President Mapes made a motion that GM Christensen be tasked with soliciting at least three competitive bids for a consulting engineering firm to assist the SDIC's review of CalPortland's Bible College expansion. Director Waggoner seconded the

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motion. Director Wheeler asked if the SDIC would seek reimbursement because it is one landowner's project. President Mapes responded that CalPortland could be asked, but that SDIC could not predicate getting a consultant on CalPortland's reimbursement. Director Hoyt noted USACE's offer to meet with SDIC and stated it would make more sense to wait and take that option first. GM Christensen questioned what the point of engineering review would be after USACE issues a determination of no impact. Director Wheeler and President Mapes noted that USACE has informed SDIC "we are not your engineers" and that SDIC must look out for its own interests and not rely on USACE. It was noted that the timeline for USACE determination of impact or no impact is not known.

Mr. Berge stated he works for the USACE and thinks it is reasonable and prudent to get professional help and advice.

All directors voted in favor of the motion except Director Hoyt, who voted against it.

GM Christensen explained that a single-phase LONO request from Bernets/MCYC (Multnomah Channel Yacht Club) for a cable crossing on the levee was first planned as a horizontal boring but was changed to an open ditch of about two feet. He stated that he does not see any problem with the request and that USACE will look for problems when they receive it. President Mapes made a motion that GM Christensen be authorized to issue a LONO on the Bernet request. Director Kessi seconded the motion, and all directors voted in favor of it.

Accreditation/LOMR: President Mapes reported that Paul Vogel of Columbia Economic Team was contacted for an update, and there is little news. It was noted that county employees who originally were involved in the LOMR process are no longer with the county. There was discussion of how to keep the county informed about the LOMR process. The consensus of the Board was to ask for a work session with the county commissioners. President Mapes offered to draft a letter to the county requesting to be included in a work session.

GM Christensen reported that USACE is requesting funding for levee inspections in the 2022-23 budget year and expects SDIC to have a routine inspection early next spring. The inspection is important to accreditation as well as continued participation in the RIP.

Best Practices: Director Kessi reported that there will be matters to attend to in upcoming meetings.

Scappoose Storm Water Master Plan: President Mapes noted that Director Waggoner has proffered a proposal for a payment process from the city and thanked him for his efforts. Director Waggoner explained that he expanded from the Intergovernmental Agreement (IGA) Mr. Condit drafted to devise a payment system because he believes it is important to approach the city with a specific proposal that would first be presented to city staff including the manager, engineer and planner. Director Waggoner's proposal is for the city to give SDIC certain percentages of the stormwater fees the city collects from owners of properties that drain into SDIC. The proposal is for 20-25% from lands west of Highway 30 that drain into Jackson Creek, 50% from lands east of Highway 30 that drain into Springlake, and 85% from airport properties. Director Waggoner explained that his rationale for the percentages is (1) the tide

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gates through which Jackson Creek flows to the Multnomah Channel rarely are closed, (2) the drainage from impervious city surfaces into Springlake occurs year-round, and (3) SDIC rather than the city is responsible for drainage of all the water from 300-350 acres of impervious surface at the airport, but the city could keep 15% for administration. Director Waggoner stated that a property owner cannot collect groundwater and send it to adjacent property and that he estimates 44 million cubic feet of water drainage annually from airport properties, so SDIC has a good position to bring the proposal to the city.

Asked to comment on how SDIC could use money it collected under the proposal, Mr. Condit noted that SDIC does not have authority to collect fees, only assessments. He stated that SDIC has authority to enter into an IGA. He stated “off the top of my head” and without researching relevant statutes, if the money came to SDIC as a result of an agreement that its purpose was to help SDIC pay for the conveyance of water, the revenue would factor into SDIC’s assessment for the coming years and thus would reduce the assessment. Director Waggoner responded that his proposal therefore would not buy SDIC something and asked whether the city could take responsibility for a pump and write checks that did not pass through SDIC. Mr. Condit replied yes, the city could provide services in lieu of a payment, but whatever the city provided would affect the Board’s ultimate annual decision about how much money SDIC needs to operate and what the assessment will be.

Director Kessi raised, as a separate issue but related to SDIC’s assessment process, her sense that SDIC would be served well by having a long-range strategic plan that addresses the SDIC’s needs in the future and that SDIC should get input from outside consultants such as SDAO’s Teri Dresler and WEST Consultants to develop a strategic plan. She noted that a long-range plan is needed to give the Board full awareness of fiscal responsibilities going forward.

Mr. Condit reviewed the history of Multnomah County Drainage District’s IGA, which began with discussion of the fact that the City of Portland and the MCDD largely overlap in their boundaries; the city was charging stormwater fees but MCDD was draining the water. A complicated formula was developed that calculates payment to MCDD based on impervious surface and other contributions to stormwater. He added that the City of Scappoose is under no compulsion to participate in an IGA with SDIC.

Director Waggoner remarked that the city annexed property at the airport but uses a drainage system that is not in the city. It was noted that stormwater management facilities have to be constructed and that the city engineer has asserted that the facilities slow down the drainage.

There was discussion of how to begin discussions with the city toward an IGA and whether initial discussion should include proposal of numbers. President Mapes was in favor of opening a dialogue, stated he was not sure there is a downside to presenting Director Waggoner’s numbers, and suggested pointing out that SDIC expected to be involved in the city’s development of its stormwater plan but has not heard anything for two years. He suggested opening discussion with the city by showing them MCDD’s IGA, showing Director Waggoner’s proposal and proposing that the city’s engineers look into these things as an approach to consider. Directors Wheeler, Hoyt and Kessi were in favor of starting a dialogue with the city about an IGA but did not support presenting numbers at this time. Director Kessi stated that she

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would not be comfortable with numbers unless SDIC has help developing them; Director Hoyt agreed and stated that coming into discussions with numbers could be off-putting.

President Mapes made a motion that the board authorize Director Waggoner to begin negotiations with the city about compensation to the SDIC for the city's stormwater conveyance and include sharing the IGA Mr. Condit provided as well as Director Waggoner's plan for the various percentages in various areas that would be due to the SDIC. Director Waggoner seconded the motion. Director Wheeler stated he was supportive of the idea but not necessarily the numbers.

Mr. Wenker noted that City Engineer Chris Negelspach argues strongly that the city's system controls the flow of drainage. He stated his opinion that the approach to the city should not be presentation of Director Waggoner's proposed numbers but rather a request for an update on the city's development of its stormwater plan followed by bringing up the basic concepts of an IGA. Regarding the airport, Mr. Wenker stated that there is no direct pipe into SDIC's system; there is infiltration and engineering to a 100-year event and an overflow pipe.

Mr. Berge stated that he would look for changes in conditions, runoff, rate and quality that impact the SDIC. He added that selling the concept is a good start, but SDIC needs a good argument that the impact to the district is real.

Director Waggoner voted in favor of the motion and the remaining directors voted against it.

President Mapes made a motion that Director Waggoner and possibly another director begin discussions with city staff about potential compensation to the SDIC for stormwater conveyance from the city that includes sharing the IGA between MCDD and the City of Portland. Director Kessi seconded the motion and asked whether GM Christensen could be involved. President Mapes amended his motion to add GM Christensen as a participant in the discussions, and Director Kessi agreed to the amendment.

Mr. Wenker asked if the discussions might include the updating to the flood mapping that WEST is going to conduct based on including the city's infrastructure.

All directors voted in favor of the motion.

Rental Home: Director Kessi reported that the rent has been deposited, the tenant received the new lease agreement, and the agreement needs to be signed by July.

Legal: There was no report.

Mercury TMDL: GM Christensen reported that the process is ongoing. He met with Tim Couch, manager of SIDIC, who is looking at an amendment to their maintenance plan regarding ditch cleaning.

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Schedule Upcoming Meetings

The annual meeting is June 27 at 7 p.m. It was noted that virtual participation must be accommodated and that the city’s virtual attendance equipment may be adequate. The next SDIC board monthly meeting will be June 9, 2022 at 6 p.m.

Review of Action Items

- President Mapes will draft a letter to the county asking for the SDIC and the LOMR to be included in a work session before the county commissioners.
- GM Christensen will give a LONO for the Bernet / Multnomah Channel Yacht Club request
- GM Christensen will solicit bids for engineering review of the CalPortland submission to USACE, and President Mapes will help.
- GM Christensen will proceed with Evans pump repairs.
- President Mapes will continue working on the annual report and send the draft meeting notice to Mr. Condit when it is finalized.
- Mr. Condit will review the notice for compliance with law and bylaws
- Director Waggoner will set up a meeting with the city, including GM Christensen and possibly another board member.
- Director Hoyt announced she already made the money transfer from the state pool to checking as authorized during the meeting.

Adjournment

Director Kessi made a motion to adjourn. President Mapes seconded the motion. All directors voted in favor of the motion. The meeting adjourned at 8:50 p.m.

Associated documents:

- Meeting Agenda
- SDIC Monthly Manager’s Report 5/12/2022
- 05-12-22 Balance Sheet
- 05-12-22 P&L Budget vs Actual
- 05-12-22 P&L This vs Last
- 05-12-22 Check Register
- 05-12-22 Credit Card Register
- 05-12-22 Transaction List

Approved by the Board of Directors on : _____

Signature

Printed Name and Title