

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



9.14

During the oral communication section of the agenda for Tuesday, July 17, 2012, Robert Mabee read his statement into the record.

**ATTACHMENTS FILED WITH
CLERK OF THE BOARD**

**AGENDA NO.
9.14**



MEMORANDUM

RIVERSIDE COUNTY COUNSEL

DATE: July 11, 2012

TO: Supervisor Bob Buster, District 1
Supervisor John Tavaglione, District 2, Chairman
Supervisor Jeff Stone, District 3
Supervisor John Benoit, District 4
Supervisor Marion Ashley, District 5

FROM: Pamela J. Walls, County Counsel *PJW*

RE: Robert Mabee's Allegations

As a follow up to the Board of Supervisor's request on July 3, 2012, County Counsel provides the following brief summary responding to Mr. Mabee's weekly allegations.

In or about 1989, the Flood Control District needed to fence a drainage channel to avoid vehicles driving into the channel and vandalism. Mr. Mabee was the successor beneficiary of a 15-foot non-exclusive easement that ran adjacent to the drainage channel where the fence was to be located. The easement was subordinate to the District's right to construct, maintain and operate the channel and would terminate if a public street was constructed. A 40-foot public street was constructed, which ran the length of the easement. The portion of the street as it approached Mr. Mabee's property would regularly wash out, so a ramp was built over District property and the District provided an encroachment permit for Mr. Mabee to use the Flood District property to access his property.

Mr. Mabee sued the District and County for inverse condemnation for taking a portion of this easement. Mr. Mabee also contended that the ramp and drainage improvements blocked access to his property from the public street.

On October 3, 1995, the District approved an easement for the ramp over District property. A settlement offer was made to exchange the encroachment permit for the easement plus \$5,000. Mr. Mabee countered with a \$161,000 settlement demand, which was rejected. The easement deed across District property was apparently never recorded because the settlement of the litigation was never consummated. (See Memo dated August 13, 1996 from Jay Vickers to the Board of Supervisors, p. 8.)

The Trial Court ruled in favor of the County and found that Mr. Mabee's 15-foot easement was subordinate to the District's right to maintain and operate the channel, and that the easement had

expired by its terms with the construction of the adjacent public street. Mr. Mabee unsuccessfully appealed this decision; which was affirmed by the Court of Appeal.

Mr. Mabee thereafter filed a second lawsuit against the County arguing that the ramp and drainage improvements constructed to provide access to his property actually prevented access to his

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property from the public street and that he did not have legal access to his property. The Trial Court in this case found that Mr. Mabee had "unhindered access" to his property (with the ramp constructed across District property) and that his legal access challenge was time barred. Had Mr. Mabee been given an easement over District Property (rather than an encroachment permit) he would have had both legal and physical access to his property. Mr. Mabee unsuccessfully appealed this decision and it was also affirmed by the Court of Appeal.

Mr. Mabee contends he lost his property in the early 1990's as a result of the County and District's actions, and that he has been damaged in the amount of \$242,626. In a 4-1 decision (Supervisor Ashley voting yes) the Board denied the award of \$242,626 to Mr. Mabee. County Counsel opined that Mr. Mabee has no valid claim given the two Trial Court and two Appellate Court decisions in the County's favor and that such an award would be an unconstitutional gift of public funds. (See *Page v. Mira Costa Community College District* (2009) 180 Cal.App.4th 471, 495; *San Diego County Department of Social Services v. Superior Court* (2005) 134 Cal.App.4th 761, 765-766.)

Mr. Mabee has also pursued the Army Corp of Engineers. In correspondence dated October 14, 2008 to Stephen Thomas, Robert Koplín, Chief of the Engineering Division, stated that he concurs with the Flood Control District's findings that "modification of the maintenance road for side drainage and removal of sparse vegetation from the small diversion dikes are not necessary" and "do not pose an additional increase in flood risk to the surrounding community." Mr. Koplín further stated in his correspondence that: "[t]his letter will serve to close-out our concerns on these issues."

The California Attorney General has reviewed Mr. Mabee's allegations on two separate occasions in 2007 and then again in 2011, and on both occasions, has declined to intervene. In correspondence dated September 22, 2011 from John Saurenman, Senior Assistant Attorney General, to Assemblyman Kevin Jeffries, Mr. Saurenman observed that, "Mr. Mabee has had recourse to the courts but has not been successful in his litigation" and that "his lack of success ... does not provide a basis for this [Attorney General's] office to intervene."

Mr. Mabee has continued to appear each week for over the past five years raising the same contentions during oral communications and boot strapping his contentions onto unrelated items on the agenda. The purpose of this brief summary is to provide an alternative to an oral response to Mr. Mabee's repetitive allegations, which unnecessarily delay Board meetings.

PJW:ay

RIVERSIDE COUNTY BOARD OF SUPERVISORS

JULY-17-2012

I have for the Clerk of the Board 4 documents.

Document 1: Supervisor Ashley's report on agenda 3.30-4-12-2011, was based on public records and determined that outside counsel falsely represented to the Appellate Court that the construction of a new road would provide Robert Mabee unobstructed access to his property. Page 2, Supervisor Ashley said, "It is a matter of record that no easement was ever recorded nor was any written settlement ever offered for loss of access." Supervisor Ashley recommended that \$242,628 be paid in compensation. Supervisor Tavaglione, Buster, Stone voted no. As reported in the Press Enterprise July 1996, Bob Buster would sell his vote and Jeff Stone paid \$26,000 in fines for corruption cases to the Attorney General. In one case the Pharmacy Board made 20 accusations, including improperly labeled drugs, dishonesty, fraud, deceit, and corruption.

Document 2: Page 1, agenda 10.3 Resolution No F-95-50, Oct 3rd, 1995: To give four property owners easements for ingress and egress over district owned land. Page 2, justification: The county has landlocked the property owners and these easements will provide new access to the property owners. Page 3, easement deed to Robert Mabee signed by John F. Tavaglione. Buster voted yes.

Document 3: A letter dated March 1, 2012 from the Clerk of the Board stating the County Recorder has determined that the deeds have never been recorded. On video June 12, 2012 Supervisor Tavaglione told this Board and the public that the deeds were not recorded because the escrow was not closed.

Document 4: County Counsel's letter June 14, 2012 stating that there was no escrow. DOCUMENTS-2 PAGE LETTER FROM FEMA DESCRIBING THIS FRAUD IN DETAIL. Mr. Tavaglione the fact that you have lied shows that you are corrupt and incompetent and not fit to be our Congressman. I have a claim against the County. I have until Oct 4th, 2012 to file in Federal Court under the RICO Law. I will name you as a defendant for fraud. A County employee will testify as to the fraud you committed. Ask a good lawyer what is the RICO Law.

Again I offer a reward of \$1000 for information on missing Baby John Deed. Conceived on the floor of the board room by Supervisor Buster and Supervisor Tavaglione. Mother unknown. Baby John Deed was born Oct 3rd, 1995 at 10 a.m. in the County Board Room. Supervisor Tavaglione signed the birth certificate as the father of the child. Baby John would be 17 years old on Oct 3rd, 2012, and has been missing since birth. The County Recorder's office had determined the birth was never recorded.

Robert Mabee
3086 Miguel St.
Riverside, Ca 92506
(951) 788-4858

Submitted by Robert Mabee
7/17/12 Item oral
(date)



FEMA

May 18, 2012

Mr. Robert Mabee
3086 Miguel Street
Riverside, CA 92506

Re: Correspondence provided to this office.

Dear Mr. Mabee:

Thank you for providing the Federal Emergency Management Agency (FEMA) copies of correspondence and documentation relating to the development at Bautista Wash and Bautista Creek located near the City of Hemet, California (33 degrees, 42 minutes, 54.55 seconds North and 116 degrees, 52 minutes and 25.33 seconds West; aka Station 244+25.) The documents you provided to this office via FAX and/or courier were assembled in several groupings identified below:

1. A February 10, 2011 letter from Riverside County Supervisor Marion Ashley,
 - a. Mr. Mabee's February 13, 2011 response to Supervisor Ashley's letter, and
 - b. an April 12, 2011 council motion by Supervisor Ashley to approve payment of \$242,000 to Mr. Mabee along with a chronology of Mr. Mabee's complaint against the County.
2. A November 21, 2011 letter from Mr. Mabee to Zone Commissioner Roy Bleckert requesting the recording of missing deeds and letters of apology to property owners (including Mr. Mabee who is a former property owner.)
3. A May 27, 2008 letter from Robert Koplin of the US Army Corps of Engineers (USACE) to Mr. Stump of the Riverside County Flood Control and Water Conservation District (RCFCWCD) that indicate modifications to a levee at Station 244+25 were made without permits and compromised the integrity of levee.
 - a. A May 20, 2008 Memorandum of Record that documents the findings of a field visit by two USACE engineers.
 - b. A July 3, 2008 response from the RCFCWCD to that memorandum, and
 - c. An October 14, 2008 reply to RCFCWCD from Chief, Engineering Division (USACE) concurring with the RCFCWCD response.
4. A September 30, 1988 "Specifications and Contract Documents" that details construction along the Bautista Creek Channel.

Mr. Robert Mabee
May 18, 2012

5. A July 1, 1996 notarized letter from USACE to Mr. Mabee stating that USACE did not authorize permanent fill in a public road.
6. Multiple years' of RCFCWCD maintenance reports that document activity along Bautista Creek and
 - a. An April 2, 1986 letter from RCFCWCD to the USACE stating that residents living adjacent to the channel would be provided an alternate roadway.
7. An October 3, 1995 RCFCWCD Resolution (F-95-50) authorizing four (4) non-exclusive easements for ingress purposes over district-owned land.
8. A February 16, 1994 US Bureau of Land Management (BLM) Serial Register Page(s) detailing Right-of-Way rental fees charged to Mr. Mabee from 1980 through 2011,
 - a. A February 12, 1993 request from the BLM to Riverside County Dept. of Transportation to grant dedicated access to private properties in the area, and
 - b. A July 1, 1993 BLM letter indicating that Riverside County denied the BLM request.
9. A March 19, 2012 Freedom of Information Act (FOIA) from Mr. Mabee requesting recorded easement deeds.
10. A September 28, 2010 Report on Findings submitted by Riverside County Supervisor Marion Ashley (a summary of actions related to Mr. Mabee's complaint).
11. A July 3, 2007 letter from RCFCWCD indicating that levees identified as # 24 and 25 were not levees, but rather a channel capable of containing a 100-year flood event.
12. A September 28, 2007 Federal Emergency Management Agency (FEMA) letter indicating that levees identified as #s 24 and 25 should have been identified only as a concrete-lined channel that contains a 100-year flood event.

Mr. Mabee, the list above describes the documents you provided to me over the past 60-days. Please call if you have any questions.

Respectfully yours,

Frank Mansell
Natural Hazards Program Specialist
DHS/FEMA
Region IX
Oakland, CA

**Riverside County Board of Supervisors
Request to Speak**

Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: ROBERT MABEE

Address: 3086 Mibuel ST
(only if follow-up mail response requested)

City: RIVERSIDE **Zip:** 92506

Phone #: 788-4858

Date: 7-17-12 **Agenda #** _____

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

_____ **Support** _____ **Oppose** _____ **Neutral**

ORAL COMMUNICATION

Note: If you are here for an agenda item that is filed
for "Appeal", please state separately your position on
the appeal below:

_____ **Support** _____ **Oppose** _____ **Neutral**

I give my 3 minutes to: _____