

EUGENE WATER & ELECTRIC BOARD
REGULAR BOARD MEETING
VIDA COMMUNITY CENTER
THOMPSON LANE
AUGUST 2, 2005
7:30 P.M.

Board Members present: Ron Farmer, Mel Menegat, John Simpson, and Patrick Lanning. Vice President Bishop arrived at 7:50 p.m.

Others present: Jim Wiley, Debra Smith, Gale Banry, Dick Helgeson, Dick Varner, Tom Buckhouse, Marty Douglass, Jim Origliosso, Teresa Siemanowski, Jay L'Estrange, Marc Anderson, Ken Wedin, Roseanna McArthur, and Krista Hince of the EWEB staff; and Joe Sams, City of Eugene Minutes Recorder.

AGENDA CHECK

President Farmer convened the meeting at 7:30 pm.

There were no changes to the agenda.

PUBLIC INPUT

President Farmer called for public input from members of the audience.

John Bennett, 90934 Leashore Drive, spoke as past president of Friends of Leaburg Lake (FOLA). He thanked the Commissioners for having meetings in the community. He said his organization had been very involved in the lake raise process. He said he had taken pictures of all the properties along the lake during the raising of the water level and had supplied the pictures to EWEB staff.

David Hinkley, 1350 Lawrence, spoke about Consent Calendar Item No. 4 regarding the light maintenance labor contract with Laurel Hill Center dba SWEEP. He said, as of noon that day, light maintenance was not listed on the State procurement list for qualified rehabilitation facilities. He said the Department of Administrative Services issued a suitability determination that he had challenged on the grounds that the contract was not suitable for disabled individuals meeting the definition in Oregon Statute. He said the contract had Laurel Hill providing two people to do maintenance under the supervision of EWEB employees on site. He added that the wage was higher than minimum wage. He added that the workers were rated at 100 percent productivity, which made them competitively employable and therefore not disabled according to statute. For this reason he said the contract should have gone out for competitive bid. He recommended pulling the item from the Consent Calendar.

Jerry Oltion 750 Brookside Drive, Eugene spoke on the issue of the possible construction of a fence around College Hill Reservoir. He said the site was the perfect site for astronomy. He said the fence brought to mind the creeping concept of the culture of fear that was sweeping across the country and expressed his confidence that there had to be a better solution. He stressed working together with the community to address the issue.

Tom Conlin, 1159 Tyler, spoke on the College Hill Reservoir fence issue. He said he had heard a rumor that the reason the reservoir was going to be fenced off was because of a lack of handicapped access. He said this was not a good reason and said a accessible driveway could easily be installed. He remarked that the site was ideal for astronomy purposes.

Garth Price, 3270 Royal Avenue, spoke on the fencing of College Hill Reservoir. He said one of the great things about the reservoir was its ideal placement for astronomy purposes. He said it was a joy to see astronomical features from a telescope located on the site. He said it would be a shame to fence the reservoir because it was the only place in the area where astronomers could get a good view of the sky.

S. Meyers read a letter by **Mick Rothbart** opposing the construction of a security fence around College Hill Reservoir. The letter concentrated on community value that would be lost if a fence were constructed around the reservoir. The letter also opined that the fence was a symbolic gesture with no real value and might encourage vandalism. She said the community would be losing a highly valued and time-tested community resource.

Bob Grafton, 91040 Leashore Drive, Vida, expressed his appreciation of EWEB's efforts for public outreach during the Leaburg Lake raising process. He said the community was pleased with the way the testing had been conducted. He expressed his willingness to help in any way that was desired during the remainder of the process.

Mr. Grafton said there was a problem with boats speeding on the lake. He said this caused erosion and disruption of wildlife on the lakeshore and requested that EWEB participate with FOLA and the state Marine Board to decide on a solution to the problem.

Carlos Barrara, 2852 Willamette Street, urged another solution besides fencing in the College Hill Reservoir. He said the site had been a community resource since 1939 that the current community did not want to lose. He suggested that an alternative system could be installed that would address the utility's concerns. He raised serious doubts that a fence would stop determined terrorists. Regarding the idea of putting in a handicapped accessible ramp costing in the area of \$200,000, he questioned the necessity for that price and remarked that the Farmers Market had installed an elevator for much less than half of that price. He said the City Council had adopted a vision statement that recognized the importance of arts and outdoor activities.

Eva Sack, 2495 Lawrence, Eugene, said College Hill Reservoir had always been special to her. She added that the friendliness of the community would be affected by building a fence around the site. She raised significant doubts that an eight-foot fence would not provide adequate security for the area if fear of terrorists were genuine.

Commissioner Simpson thanked those who offered public comment for driving to the meeting location. He said there was a meeting of the Friendly Area Neighborhood Association to discuss the College Hill Reservoir matter at Washington Park on August 8. He agreed that a dollar value could not be put on quality of life issues. He said protecting water safety was the primary goal of the utility and stressed that he was open to alternatives to fencing. He said a fence was not the only strategy. He said public outreach efforts were being made on the issue and he would be asking the Board to consider having some public forums on the matter.

APPROVAL OF CONSENT CALENDAR

Minutes

1. Minutes of June 28, 2005 Executive Session and the July 5, 2005 Regular Board Meeting.

Business Service Agreements

2. Brattain International Trucks **Inc.** – 18 Ton Mobile Aerial Crane – Corporate Services Division - \$149,410
3. Indus International – Train the Trainer Program – Financial and Customer Services Division - \$30,000
4. Laurel Hill Center dba SWEEP - Light Maintenance – Facilities Services - \$471,000
5. Eugene School District #4J – Educational Grant – Public Affairs – General Manager’s Division - \$1,342,500
6. Bethel School District – Educational Grant – Public Affairs – General Manager’s Division - \$365,000
7. McKenzie School District – Educational Grant – Public Affairs – General Manager’s Division - \$110,000
8. Springfield School District #19 – Educational Grant – Public Affairs - General Manager’s Division - \$320,000

Commissioner Simpson pulled Consent Calendar Item No. 4 (Laurel Hill Center) from the Consent Calendar.

Vice President Bishop pulled Consent Calendar Item No. 1 (July 5th Regular Board Meeting Minutes).

Commissioner Menegat, seconded by Commissioner Lanning, moved to approve the remaining items on the Consent Calendar. The motion passed unanimously.

ITEMS FROM BOARD MEMBERS

Commissioner Simpson moved that the Eugene Water & Electric Board hold two or, if appropriate, more public forums to allow the public to submit testimony and also consider options for mitigating some of the identified problems with College Hill Reservoir, and to open up a brainstorming session and information sharing opportunity for the public.

As a point of order, President Farmer noted that the Items for Board Members agenda item had not historically been used for motions. He said motions of that sort should be raised under Items for Future Board Agendas so that future Board agendas could be managed in an appropriate manner.

Commissioner Simpson raised concern over the timing of that process. He said the public forums would have to be held before there were any budget discussions regarding the possible fence construction around the reservoir.

President Farmer noted that the timing of planned agenda items was at the discretion of the Board.

Commissioner Simpson withdrew his motion to make it under the appropriate agenda item.

Commissioner Simpson said he and Tom Buckhouse had been walking around the Friendly area neighborhood and collecting feedback from neighbors on the College Hill Reservoir issue. He said it had been a positive experience for him and said he had collected valuable input from the neighbors.

Commissioner Lanning thanked the membership of the Friends of Leaburg Lake for their public comment.

Commissioner Lanning said he had been invited and attended a meeting of the College Hill Citizens Group. He said a Friendly Area Neighborhood member, under the impression that he lived in the neighborhood, had invited him. He said he had not participated in the meeting and said he would have referred the matter to Commissioner Simpson.

Commissioner Lanning raised concern with the public process over the issue of College Hill Reservoir.

Vice President Bishop said she was meeting with staff the following day regarding ideas of sustainability in preparation for a meeting with Mayor Piercy. She said the Mayor had primarily been focusing on economics. She said her staff group was brainstorming ideas to submit to Mayor Piercy and urged members or staff that had ideas to bring them to her so she could present them to the Mayor. She said she had been thinking about educating the community about existing sustainability successes.

Vice President Bishop said Mid-American Energy Holdings was proposing to buy PacifiCorp in Portland. She noted that EWEB was in partnership with PacifiCorp on a wind project and stressed the importance of keeping up with issues concerning the utility's partners

Vice President Bishop said the National Energy Policy had just been passed and expressed an interest in the possibility of getting grant funding for EWEB projects. She asked staff to look into the possibilities.

Vice President Bishop distributed copies of Governing Magazine to other Commissioners. She indicated it was a free subscription should anyone want to sign up for the magazine.

Vice President Bishop distributed a memo notifying the Commissioners that a complaint had been filed against her by the Oregon Government Standards and Practices Commission contending that she had not declared a conflict of interest when discussing and taking action on an EWEB contract. She maintained that she had no conflict of interest and stated her intention to continue to fulfill her duties as an EWEB Board member to the best of her ability.

CORRESPONDENCE

Acting in the absence of the General Manger, Electric Division Director Jim Wiley noted that there had been correspondence regarding McKenzie River issues. He said the Army Corps of Engineers (ACOE) would issue a permit by the end of the week to modify chevrons on the river. He added that permission was also needed from the Oregon Department of Fish & Wildlife but expressed confidence that construction would begin by the end of August.

Mr. Wiley said the paint on the roll gates was beginning to discolor and the new painting would be done August 17. He said the bridge would be closed between 9 am. and Noon. Notification was going out to let the neighborhood affected by the closure know about limited access.

Mr. Wiley said staff had been informed that the draft report cost estimate for relocating the utility would be ready by November 15. He said this was four weeks later than was originally scheduled and would cover the two main options of split versus combined operations.

Mr. Wiley noted that the Lane County Fair was scheduled for August 16 – 21. He said the Oasis Water Booth would be present and Commissioners who were interested in manning the booth to sign up for a shift.

BOARD AGENDAS

Mr. Wiley noted that a public hearing on water rights was scheduled for August 16.

Commissioner Lanning said he would not be present for the August 16 meeting.

Commissioner Simpson expressed a desire to create a public input process for citizens who were concerned over the College Hill Reservoir issue. He requested that the Commissioners approve a few public input/process meetings with water division staff present. He said the entire Board would not need to be present.

President Farmer raised concern that this was not following Board process. He said he was not opposed to the idea but stressed that the matter needed to be put on the agenda in an orderly manner. He said he did want to get into a process where Board members inserted items to agendas that had not gone through the appropriate process.

Vice President Bishop said there was some immediacy to the issue and Commissioner Simpson had expressed a desire for the public to be heard. She commented that she was under the impression that the decision had already been made and raised concern that a public input session would give a false impression to the public that it could affect the outcome.

Water & Steam Division Director Tom Buckhouse said there was nothing in the budget for the current year on the College Hill Reservoir fencing issue. He said it was staff's perspective that fencing was the most economic way to handle the problem. He said he would proceed to propose that funding be set aside in the 2006 budget to construct a fence around College Hill Reservoir.

Vice President Bishop raised concern that the item was already in process.

Commissioner Lanning agreed with Commissioner Simpson that more public input work needed to be done. He suggested continuing the public input work and to ask staff to come back with a plan to address community concerns. He noted that over 50 people had attended the meeting he had been present for and added that there was some inaccurate information being circulated.

President Farmer commented that there was no burning time issue with the item and reiterated his concern that appropriate Board procedure be followed.

Commissioner Simpson said he was not asking for the public forum to take Board time at a meeting.

President Farmer stressed that the issue deserved more discussion at the Board level.

Commissioner Lanning expressed his desire for following established Board procedure and assign the College Hill Reservoir as a future agenda item for Board discussion. He stressed that there was a significant portion of the community who were convinced that the utility was making a mistake.

Commissioner Menegat agreed with Commissioner Lanning and added that staff had not been given specific orders to proceed with security fencing.

Vice President Bishop said she did not feel that the Board had made a determination. She said she wanted to hear specifics about alternative ideas to a security fence. She expressed a desire for public input.

Mr. Buckhouse reiterated that there was funding set-aside in the 2006 budget for a fence.

President Farmer reiterated that the item should be placed on a future Board agenda. He stressed that he wanted to have public input that was fair and balanced.

Commissioner Lanning said the reservoir had a history of community use and suggested that the matter not be debated that evening but at a future meeting.

Mr. Wiley suggested putting the issue on a future Board agenda and ask staff to prepare a backgrounder on the issue.

President Farmer said he would put the item on a future Agenda as a Work Session item.

WEYCO TURBINE UPGRADE PROJECT

Energy Resource Projects Manager Ken Beeson and Power Resources Director Dick Helgeson provided a PowerPoint presentation on the Weyco Turbine upgrade project.

Mr. Beeson outlined the proposed project. He said staff were asking for approval of a resolution that would authorize EWEB to proceed with a project to rebuild turbines on the Weyerhaeuser site described in the background memo, authorize EWEB to execute contracts with Weyerhaeuser to manage the project, and authorize a budget amendment to provide funding for the project.

Mr. Beeson said the project would provide an additional 4.2 megawatts of generation. He said the project would also allow replacement of the governor that had reached the end of its useful life. He said under the terms of the agreement Weyerhaeuser would handle the replacement work for both the turbine and the governor.

Moving on to the costs of the agreement, Mr. Beeson said estimates for the direct cost of the turbine rebuild would be \$920,000 and \$317,500 for the governor. He added that contingency costs for the project would amount to 20 percent of total direct costs for the turbine and governor work. He said the Weyerhaeuser contribution in aid amount assumed that Weyerhaeuser would pay 50 percent of direct costs as well as 50 percent of any contingency amount actually spent.

Regarding the cost benefits of the project, Mr. Beeson said, assuming medium power prices from 2006-2015, that additional power generation would provide a net value of approximately \$5.1 million. He said the payback period on the investment was less than one year.

Mr. Beeson said staff was recommending the use of Capital Reserve Funds for the turbine rebuild with pay back to come out of generation revenue proceeds.

In response to a question from Commissioner Lanning regarding protection or recourse in case something unforeseen happened with Weyerhaeuser, Mr. Helgeson said there were protections in the Joint Operating Agreement that protected EWEB that prevented incidental damage from discretionary decisions from Weyerhaeuser. He said there was always a level of risk but stressed that Weyerhaeuser was viable and had made significant investments in equipment on their own including assuming 50 percent of the costs of the project.

President Farmer remarked that the project was probably the best capital project he had seen since being a member of the Board.

In response to a question from Commissioner Menegat regarding whether EWEB would have any involvement in the specifications of the project, Mr. Helgeson said there would be ongoing involvement. He said EWEB representatives would be present to make decisions and oversee the project.

Vice President Bishop, seconded by Commissioner Simpson, moved that the Board authorize the text Resolution that provided for the following actions:

- i. Authorization for completion of the proposed turbine modification project.
- ii. Authorization for EWEB to execute a Personal Services Contract with Weyerhaeuser for the completion of the turbine modification including the governor replacement
- iii. Authorization of the Electric Utility Budget Amendment No. 8 as described by staff at the August 2, 2005 meeting.

The motion passed unanimously.

ITEMS REMOVED FROM THE CONSENT CALENDAR

Minutes

For the July 5, 2005 Regular Board Meeting, Vice President Bishop noted that there were typographical errors on page 11. She suggested that the phrase ... “as well as” be inserted.

On the second paragraph from the bottom of the page in the fourth line a “was” was needed.

Commissioner Simpson, seconded by Vice President Bishop, moved that the corrections be adopted. Commissioner Lanning and Commissioner Menegat abstained from voting. The motion passed 3:0: with two abstentions.

Business Service Agreements

Laurel Hill Center, dba SWEEP. Commissioner Simpson raised concern that the amount of money mentioned for the contract seemed “exorbitant” for two people.

Corporate Services Director Roseanna McArthur said the amount included wage benefits over the entire length of the contract. She said the prices were set by the Department of Administrative Services (DAS) and showed documentation provided by that agency that indicated going rates for those particular services being provided.

In response to a question from Commissioner Simpson regarding whether the utility was bound by any particular statute to use the agency it had hired through the life of the contract, Ms. McArthur said ORS 279.015 bound the utility. She added that she had a letter from EWEB’s legal staff stating that the utility had been following ORS and Department of Administrative Service rules. She said all public contracts needed to be based on competitive bids except those contracts made with qualified nonprofit agencies providing employment opportunities for disabled individuals and others.

In response to a question from President Farmer regarding wages, Ms. McArthur said the Department of Administrative Services set the wages for Qualified Rehabilitation Facilities. She said those wages were built into the contracts that were made.

In response to a question from Commissioner Menegat regarding the rate paid, Ms. McArthur said a monthly fee was paid to the QRF who then paid the employees.

Vice President Bishop distributed written information to the Commissioners. She said she questioned the contract’s validity because it did not fit with the statutory definition. She called out the type of work being done under the contract and said it did not meet the definition for the type of work a disabled person could do as it was called out by State statute. She remarked that there would be dangerous equipment in use and questioned how disabled individuals could safely use the equipment. She expressed her desire to put the matter out for competitive bid among non-profit agencies. She commented that staff was entering into a five year contract knowing what it was getting into. She recommended not approving the contract or put the contract in place for one year with careful periodic review.

Ms. McArthur said staff was not entering into a contract without knowing what it was getting into. She said staff did not make its own determination about whether a particular agency was a QRF. She said DAS provided the utility with a notice stating that the organization to be contracted with met the requirements for being a QRF. She stressed that a state agency had certified the contract.

Vice President Bishop said DAS had not reviewed the contract being made between EWEB and Laurel Hill.

Ms. McArthur said legal staff had stated the requirements established by a State agency.

Vice President Bishop was opining that this contract did not follow certain rules regardless if a state agency had certified that it did.

President Farmer said he was not clear whether the state agency had identified the specific work identified in the contract had met state requirements.

Ms. McArthur confirmed DAS had certified that the work being done was according to legal statute.

Vice President Bishop commented that EWEB was paying a high price for casual labor. She reiterated her concern that the individuals doing the work were capable enough to be hired as regular employees by EWEB. She said she was having a hard time with the process and the fact that a 'mysterious' state agency was determining what EWEB was doing with its employee contracts. She said because of the high dollar amount and a high hourly figure, and the fact that anyone with a modicum of common sense could read the definitions in the law and realize that if a person was so highly skilled that they could perform the listed tasks in the contract, then they did not meet the definition of a disabled person. She said would vote to oppose the contract.

Ms. McArthur said it was difficult for EWEB to go against the advice of legal counsel as well as what was listed in Oregon's Revised Statutes on the basis of Vice President Bishop's concerns.

Commissioner Lanning said he was not qualified to make a legal assessment of the contract. He said he would feel more comfortable if legal council could look at the conflict of interest issue before moving forward.

President Farmer questioned why the utility would not hire an employee to do the work being contracted out.

Ms. McArthur said there were some positions in the utility that management chose not to have as EWEB employees. She added that, because of the way the ORS read, management wanted to support the intent of the law. She said the law provided a beneficial way to get work done and

management had chosen the contracted method.

In response to a question from Commissioner Simpson regarding whether the contract had been used in the past and whether the work had been satisfactory, Ms. McArthur said yes it had and added that the same workers would be doing the actual work.

In response to a question from Commissioner Simpson regarding what would happen if the Board denied the contract, Ms. McArthur said if the contract were voted down the utility would have to go against its established strategy to get the work done. She said there was no real alternative but to use a QRF because of the requirements of the law. She said she would not recommend bringing on new EWEB employees to do the contracted work.

Commissioner Lanning, seconded by Commissioner Menegat, moved to approve Consent Calendar Item No. 4, Laurel Hill dba SWEEP.

In response to a question from Vice President Bishop regarding whether it would be possible to approve the contract for one year instead of five, Ms. McArthur said the contract was for five years to save administrative trouble and costs. She added that either party could give 30 days notice to end the contract.

Vice President Bishop said the contract needed to be carefully reviewed. She said the purpose of the state statute was to further the policy of the state to encourage and assist disabled people to achieve gainful employment and independence. She said she could not be convinced that operating technical equipment was meeting the intent of the law. She expressed her belief that the utility was violating the law by approving the contract. She reiterated her desire to see a one-year time period and further review of the contract after that time. She reiterated that she would oppose the contract.

President Farmer said he was bothered by the strategy of hiring disabled employees when regular employees could be hired by the utility for less money. He said he was concerned but would still vote yes.

Ms. McArthur said there were some positions that had high rates of turnover, and other issues that made them difficult to manage. She said it was more efficient for the organization to outsource those services.

The motion passed 4:1 with Vice President Bishop voting in opposition.

The meeting adjourned at 9:40 pm.

Assistant Secretary

President

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