

EUGENE WATER & ELECTRIC BOARD  
REGULAR BOARD MEETING  
EWEB BOARD ROOM  
NOVEMBER 1, 2005  
7:30 P.M.

Commissioners present: Ron Farmer, Sandra Bishop, Mel Menegat, John Simpson, and Patrick Lanning.

Others present: Randy Berggren, Dick Varner, Dick Helgeson, Debra Smith, Lance Robertson, Tom Buckhouse, Jim Wiley, Mel Damewood, Jim Origliosso, Deborrah Brewer, Marty Douglass, Jean Meyers, Brad Taylor, and Krista Hince of the EWEB staff; Ruth Atcherson, minutes recorder for the City of Eugene; and members of the public.

President Farmer convened the Regular Board Meeting of the Eugene Water & Electric Board (EWEB).

**AGENDA CHECK**

There were no changes to the agenda.

**PUBLIC INPUT**

President Farmer opened the Public Input portion of the meeting and reviewed the rules for speaking.

**Rick Grosscup**, 2540 Lincoln Street, stated that he had recently been elected to the Executive Committee of the Friendly Area Neighborhood Association but he wished to speak on his own behalf. He shared a personal story of plants that he had installed disappearing with work that EWEB had done by his business. He said work was done and the plants were just gone and no one had communicated to him. He was concerned that he would wake up at his residence one morning and just find that a fence had been installed around the College Hill Reservoir. He noted that one Commissioner had stated at the previous meeting that EWEB was not in the business of recreation. He wished to dispute that and pointed out that EWEB's own website featured recreational opportunities at sites that it managed.

Commissioner Simpson assured Mr. Grosscup that a fence would not "just pop up one day." He explained that it required a budget process and a lot of discussion. He stated that EWEB was in the middle of budget discussions at this time and had earmarked \$30,000 to \$40,000 to explore different options for the reservoir.

Vice President Bishop asked to know more about the work that had been done by Mr. Grosscup's business, whether it had been EWEB working and what exactly had been done.

## **CONSENT CALENDAR**

### **Resolution**

1. Resolution No. 0515 – Board Policies GP7 – Parliamentary Procedure and GP10 – Public Input

Commissioner Menegat, seconded by Commissioner Lanning, moved to approve the Consent Calendar. The motion passed unanimously, 5:0.

## **ITEMS FROM BOARD MEMBERS**

Commissioner Menegat reported that he attended the American Public Power Association (APPA) session on governing in a changing marketplace. He said showing public utilities as providing ‘value-added’ service was emphasized. He related that another key issue that had been discussed was the aging workforce and the shortage of skilled workers to fill some positions. He also attended a section on evaluating Board performance. He had been pleased, in taking the self-evaluation questionnaire regarding Board performance, to find that EWEB’s Board had rated high.

Vice President Bishop announced that she would be gone from November 3 through 14 and out of the country from November 28 through December 20. She said she would miss the meeting scheduled for December 20.

Vice President Bishop related that she had attended one of the Mayor’s round-table discussions that were part of the larger Sustainable Business Initiative Task Force process the Mayor had initiated. She said Intergovernmental Affairs Coordinator Deborrah Brewer and Resource Planning Manager Jim Maloney had also attended several. She stated that there was a task force meeting scheduled for November 15. She thought this meeting would be interesting as the process was now well underway. She hoped an EWEB staff member could be in attendance.

Vice President Bishop reported that she and Commissioner Simpson had attended the Northwest Energy Coalition (NVEC) conference held in Seattle. She provided copies of the handouts and brochures she received at the conference to the Board. She said two resolutions were adopted, one that had to do with the electrification of transportation and sought to encourage auto manufacturers to ramp up hybrids so they include electrical recharging and one that addressed the push from Washington, D.C. to burn “clean coal” and sought to counter any movement to utilize coal. Regarding the latter, she explained that the technology for “clean coal” was considered sketchy and untested.

Vice President Bishop expressed concern that a *Register-Guard* opinion-page article printed over the weekend had contained factual errors; specifically it had indicated that a signed purchase agreement between EWEB and McKenzie-Willamette/Triad Hospital existed. She asked staff to provide a copy of this purchase agreement. General Manager Randy Berggren responded that EWEB did have a purchase agreement in principle that would permit negotiations to continue if conditions

were right. He underscored that the agreement was non-binding and EWEB was not able to adequately determine if the conditions were right within the specified time frame. Because of this, he said, EWEB did not have an agreement to purchase.

Vice President Bishop declared there was no purchase agreement. She asked what EWEB would do to “push back” and correct the factual error. Public Affairs Manager Marty Douglass replied that the Board could pursue a couple of response options. He stated that, with Board agreement on a response, staff could craft a response. If there was no Board agreement, he said Commissioners could respond as individual Commissioners as long as they clearly indicated that they were speaking for themselves and not for EWEB. He did not believe at this time that EWEB could get another opinion (op-ed) piece printed. He was also uncertain whether EWEB wanted to keep the topic “stirring” to the degree that an op-ed piece might do.

Vice President Bishop thought a short crisp response that pointed to the error was warranted.

President Farmer said while it was technically a factual error; most people would perceive it as semantics. He wondered if EWEB would be stubbing its own toe, given that they had just printed a long op-ed piece that sought to distance EWEB’s potential move from the hospital’s desire for the property. Additionally, he noted that EWEB was 20 days away from the 30 percent design review. He hoped EWEB could make a quick decision at that point on which way to proceed subsequent to the design review.

Commissioner Simpson agreed that the op-ed piece had been in error. He thought while it was important to correct some errors, it was just as important to let some errors “die on the vine.” He did not think it would be inappropriate for Vice President Bishop to write a letter to the editor.

Commissioner Menegat supported letting the error go. He echoed President Farmer’s reasons for doing so. Commissioner Lanning concurred.

Continuing with Items from Board Members, President Farmer cited the letter from the Friends of Leaburg Lake asking EWEB to take the lead in policing the lake. He thought it would be appropriate to respond that the letter had been received and acknowledge that it may be an issue, but it should be pointed out that EWEB did not have the jurisdiction to police the area. He said EWEB could suggest that it would be willing to add emphasis or help wherever possible.

Mr. Berggren noted that Mr. Douglass had crafted an acknowledgement that would be sent within a day or two, with copies to be provided to the Commissioners. He stated that staff agreed that EWEB could not police boats on the lake.

Commissioner Simpson commented that everyone could agree that boats should not go over five miles per hour on the lake. He suggested that EWEB could increase its signage. Mr. Berggren said there was some signage up that indicated the speed limit. He thought it would be possible to erect additional signs.

President Farmer felt even the placement of signs could be legally shaky.

Mr. Douglass said the role EWEB might consider would be to facilitate between relevant parties and provide an opportunity for them to have that discussion first-hand with the Marine Board or the Lane County Sheriff's Office patrol. He clarified that by facilitate he meant arrange.

Commissioner Lanning wished to congratulate staff on winning the SHARP award for the second year in a row.

Commissioner Lanning announced that the Lane Council of Governments (LCOG) annual award dinner would be held on December 10 at Lane Community College.

Commissioner Lanning shared his preference that Commissioners also only be allowed three minutes to comment after the Public Input portion. He suggested this be placed on an upcoming agenda for discussion.

Commissioner Lanning congratulated Electric Division Director Jim Wiley on making his five-year anniversary mark.

Commissioner Simpson said he was pleased and proud of staff for winning the SHARP award. He thought it important to "get a little PR" out on it.

Commissioner Simpson called attention to an email Commissioners received from Mr. Maloney regarding the Mayor's Sustainable Business Initiative Task Force. He said a survey was available, sponsored by the University of Oregon and coordinated through the Mayor's office, that would take approximately 15 minutes to do and that sought to gauge public attitudes about sustainability and business.

Commissioner Simpson also wanted to touch on the plug-in hybrid electric vehicles, called PHEVs. He said the concept of charging up the PHEVs during the night when electricity was more abundant and then discharging back into the grid during the day was called "Smart Grid." He encouraged the Board to look into the topic.

Commissioner Simpson wished to thank Vice President Bishop for her efforts at the NWECC conference. He related that she had helped the group through an impasse in drafting a resolution on the coalition's position on TIG versus Gridwest. He also thanked Power Resource Director Dick Helgeson for his well-written letter, copies of which were sent to federal representatives, adding that he agreed "with every word."

## **CORRESPONDENCE**

General Manager Randy Berggren reported the following:

- A legislative reception was planned for November 17 from 5:30 to 7 p.m. at the Hilton Hotel.
- Copies of Power Resource Division Director Dick Helgeson's letter to Gridwest were provided to the Board. Mr. Berggren agreed that it was well written and that it did well to represent EWEB's public power position.
- Copies of the most recent edition of *Pipeline* were included in Board packets.
- In-service day, a day for the customer service department to engage in some organizational development was coming up. It had been expanded so that other work sections could participate. The event was scheduled for Friday, November 11, and Mayor Kitty Piercy was scheduled to speak on sustainability at 10:30 a.m. and Professor Patrick Bartlein was scheduled to speak about global warming at 1:30 p.m. Mr. Berggren invited Commissioners to attend.
- Board packets included a memorandum from Purchasing Manager Ed Case regarding concerns expressed about Commercial Diving Certification and how EWEB had addressed them.
- A letter was included in Board packets from Corporate Division Director Roseanna McArthur about vehicle assignments.

## **BOARD AGENDAS**

Mr. Berggren said, per Commissioner Lanning's request, he had added a discussion on appropriate Commissioner response to Public Input to the list of future Board Agenda items.

Commissioner Lanning noted that a majority of the Board had to agree to place the item on an agenda.

President Farmer indicated his support for placing the item on an agenda, as did Commissioner Menegat.

Vice President Bishop asked that it not be queued for discussion at the December 6 or 20 meeting, as she would not be present.

Mr. Berggren reviewed the *Eugene Water & Electric Board Agenda Report for November 1, 2005*.

## **DRAFT GENERAL MANAGER'S 2006-2008 EMPLOYMENT CONTRACT**

Human Resource Manager Jean Meyers said she hoped to facilitate Board review and discussion of the draft General Manager contract, included in the memorandum entitled ***GM Employment Contract*** dated *October 25, 2005*. She stated that, in substance, there were five major change areas to the contract.

President Farmer requested a copy of the old contract, or a draft contract with changes indicated in red or with deletions. Ms. Meyers agreed to provide copies of the contract with the changes highlighted.

Ms. Meyers reviewed the changes in the contract, as follows:

- Section B, changes in how the salary is defined;
- Section C, codification of health benefits;
- Section E, a new section on performance and merits;
- Section F, the section on termination was elaborated on to better define what 'just cause' meant;
- Section H, changes in arbitration.

Commissioner Menegat said a basic premise was to provide protection first for the utility and then for the General Manager and the Board. He also wanted to forge an appropriate agreement between the Board and the General Manager in order to come up with a fair contract that could be used as a basis for future contracts with Mr. Berggren and his successors, should he retire.

Commissioner Simpson called the process "amicable." He felt Mr. Berggren had been open to all suggestions made by the subcommittee and the subcommittee had been open to his suggestions as well. He underscored that the subcommittee intended to formulate a somewhat generic document that could be used. He said there was some simple language that was specific to Mr. Berggren but that it would be no trouble to remove it. He noted there had been quite a bit of discussion on centering the compensation on the 55<sup>th</sup> percentile of pay scales at comparable public power utilities.

President Farmer recommended the contract include a definitions page. He thought, for instance, that 'at will' should be defined.

Commissioner Menegat related that he had spoken with EWEB General Counsel and had determined that some words were indisputable or were well defined by case law and State laws.

Vice President Bishop asked why the contract only specified a two-year term. Commissioner Simpson explained that Mr. Berggren had suggested two years in order to allow him to consider retirement options.

Ms. Meyers pointed out that sections B (1), (2), and (3) were all new.

President Farmer asked if B (1) would force the utility to give a pay raise in the face of a poor performance review. Ms. Meyers responded that it would not.

Regarding B (2), Vice President Bishop asked the dollar difference between this and the current salary. Ms. Meyers responded that it was slightly more. She added that there was no current procedure for determining salary levels. She said the current base salary was \$144,500 and the new one would be \$179,000, a \$35,000 increase. She clarified that currently Mr. Berggren received an annual \$35,000 bonus and the new contract sought to roll the bonus into the salary.

In response to a follow-up question from Vice President Bishop, Ms. Meyers stated that benefits were not included in the salary and appeared in a different area of the contract.

President Farmer remarked that it seemed premature to consider a salary increase without a performance review. Ms. Meyers replied that it was important to delineate between performance and what the market said. She averred that generally jobs of this type were paid for.

President Farmer suggested a scenario in which the General Manager had received a bad review and, at the same time, a 15 percent wage increase and asked how this would play out in public. He thought the adjustment should be done shortly after the review, instead of "ahead of the curve."

Ms. Meyers averred that a raise for the General Manager would never be palatable. She said people in the position that Mr. Berggren was in used the same indices to determine desirable salary levels. She stressed the importance of retaining talent and being able to acquire new talent.

Commissioner Menegat stated that Mr. Berggren's current contract would end on December 31, 2005. He said if the Board wanted to wait and negotiate a contract that would start April 1, 2006, the current conversation was not urgent. But for the new contract to be in place on January 1, 2006, a basis was needed by which to determine the salary level, such as taking the APPA median and offering pay in the 55<sup>th</sup> percentile.

President Farmer reiterated his concerns. Commissioner Menegat asked him when he would start the process by which to determine salary. President Farmer reiterated that he would wait until after the General Manager's review.

Mr. Berggren pointed out that the Board had been using his incentive contract as a part of the comparative calculation for eight years, even though when the contract was signed, he was told that wouldn't be the case, but nevertheless, it has been. He said he would not find equity in being put in a position wherein he would be paid \$35,000 less and told to wait until after the review before he would receive more. He said that it would be a dis-incentive for him to do so.

President Farmer indicated that this was not his intention. He said he was merely concerned about the public perception of a raise without an evaluation.

Commissioner Menegat stressed that Mr. Berggren was currently being paid \$179,000 with the salary and incentive and the new proposed 55<sup>th</sup> percentile was \$179,968.

Vice President Bishop observed, as the one Board member who never wanted to raise the General Manager's salary, that what was being proposed was exactly the *status quo*.

Commissioner Simpson maintained that the contract, as written, was a valuable succession strategy to attract another General Manager of Mr. Berggren's caliber.

Vice President Bishop asked for a process check. She wanted to have adequate time to discuss this item, but did not want to shortchange the next agenda item.

Ms. Meyers asked if the draft contract could be put on an upcoming agenda to allow for an adequate page-by-page discussion of the contract.

Commissioner Menegat asked the Board to comment on the draft and give proposals for the General Manager's salary for the new year if there were objections.

Vice President Bishop indicated that she had no trouble with the methodology. She had one concern, but said she would address it with Ms. Meyers outside of a meeting.

President Farmer commented that most of his concerns with the contract were "housekeeping" issues. He said, on the comparators, there seemed to have been substantial differences by sales revenue as compared to looking at it by numbers of customers. He noted that EWEB ranked 6<sup>th</sup> in revenue and 14<sup>th</sup> in customers. He asked for some of the same APPA information that had been provided to the subcommittee for the previous process. Ms. Meyers responded that she had provided the information in the packet.

In response to a question from President Farmer, Fiscal Services Supervisor Dick Varner stated that EWEB garnered \$170 million in retail revenue and \$40 million in wholesale revenue.

After some discussion, the Board and General Manager agreed to bring this item back for further discussion on the November 15 agenda.

Vice President Bishop asked for clarification on the transition time for a new manager to be hired and put into place.

President Farmer said he did not understand what special circumstances Mr. Berggren could, as the draft contract indicated; terminate his employment with only 30-days notice. Mr. Berggren responded that it had to do with the Public Employees' Retirement System and the vagaries it had been fraught with. He wished to preserve the option to preserve his retirement should there be a sudden shift.

Commissioner Lanning asked what the total all-in package would be with the draft contract. Ms. Meyers responded that the total benefit was \$191,584, and this did not include one week of vacation pay.

### **WATER SUPPLY AND REGION 2050**

Water Resource and System Planner Brad Taylor recounted the timeline of what had transpired in the process to date:

- April 19 – The Board was provided an update on the Region 2050 process.
- June 29 – The Oregon Legislature passed House Bill (HB) 3038.
- August 16 – Staff provided an update on HB 3038 to the Board.
- August 23 – Staff met with Eugene Mayor Kitty Piercy.
- August 30 – The Board received a memorandum from Ms. Brewer on EWEB's water rights strategy and Region 2050.
- September 22 – The Region 2050 process completed its public outreach.
- October 28 – The Oregon Water Resource Commission adopted municipal extension rules.

He said the last three items pointed to the present agenda item.

Intergovernmental Affairs Coordinator Deborah Brewer said the meeting with the Mayor had been to share the EWEB's proposed long-term strategy to address issues the utility was facing with water rights as well as some local jurisdiction requests for EWEB water service in the future. She reported that the City of Eugene had made a commitment to continue to work with EWEB, though the City did not specifically agree to be a regional water provider. She felt the city staff and elected officials at the meeting had understood what EWEB was facing and they were willing to work toward some resolution. She related that they had focused on ensuring that Eugene citizens benefited from any agreements made with other jurisdictions, including with future water rights and with financial benefits. She stated that the only legal barrier was a Council Resolution and no Charter Amendment would be needed.

Ms Brewer reviewed the history of the Region 2050 planning process, begun in 2000 by 11 communities. She said the communities had entered into regional studies together and now had the subsequent evaluations and reports and had developed seven goals. She stated that the third phase of the process had begun, the implementation stage at which strategies for the future were being

created. She related that it was beginning to be very political and the jurisdictions were looking for options and discussing the cost of building their own water facilities or getting the water from elsewhere. She reported that Junction City had decided to request water service from EWEB. She surmised that this was just the first request and more would come. She said the staff position had always been to be open and no decision as to how to respond to this had been made.

Ms. Brewer reported that the State was going to look at the entire region rather than at individual communities when planning. She said this would allow smaller communities to retain a rural feel with larger lots. She stated that the objective spoke to future distribution of the population being throughout the region. She related that the next step would be to pull together the preferred growth scenarios of individual communities and determine if the scenarios met the population and economic development requirements set by the State. She felt this information would help EWEB to plan for growth and the densities in different communities so that the utility could prepare a facilities plan and a water supply plan based on that information.

Ms. Brewer stated that EWEB would likely be required to sign agreements in the future that EWEB would cooperate with regional planning both for the water and electric utilities. She said the process was looking at something between adoption of a vision and codification of a more detailed plan. She related that Lane Chatterly, director of the Land Conservation and Development Commission (LCDC), would attend a future LCDC meeting on November 16 in order to speak with the regional policy group about what LCDC would accept on a regional level. She predicted that the way EWEB conducted its planning would likely change as EWEB would be asked to consider a more regional overview.

Mr. Taylor reported on recent changes to the Oregon Administrative Rules (OARs) governing permit extensions, which EWEB supported. He said the rules had been up for adoption in front of the Water Resources Commission (WRC) and in addition to EWEB, the Springfield Utility Board (SUB) and the Oregon Water Utility Council. He explained that the rules had been changed to require that all new water rights permits had to be utilized within 20 years and permit extensions would no longer be granted. He said permits granted prior to November 2, 1998, could get extensions approved for up to 50 years, but they had to be tied to a land use planning process.

In response to a question from President Farmer, Mr. Taylor said EWEB was well-positioned to hold on to its water permit on the Willamette River and meet the requirements set forth by the State.

Mr. Taylor reported that an approved Water Management Conservation Plan was now required prior to diverting water beyond the maximum amount the utility had demonstrated would be put to beneficial use. He thought the utility was close to the point where it could exceed its maximum and because of this a draft Water Management Conservation Plan had been crafted.

Commissioner Simpson asked what was meant by water that went beyond the maximum amount currently used from the McKenzie River. Mr. Taylor responded that it meant the amount that the utility was certificated for.

Commissioner Simpson commented that any water taken by the utility would be put to beneficial use. Mr. Taylor clarified that EWEB had multiple water rights but only one was certificated. He said in order to access additional water, the management conservation plan had to be approved.

Mr. Taylor related that the plan had to be reviewed by other jurisdictions. President Farmer asked if this meant they had to approve the plan. Mr. Taylor replied that they did not have to formally approve of the plans but they had the opportunity to comment on them. He said it was a way to sort out different jurisdictions saying they would do similar things that would result in no cooperation in planning.

Mr. Taylor showed an overhead of a map of the area that indicated all of the water in the area. He said only one stretch of the McKenzie River had enough water year-round to serve the area.

Mr. Taylor read aloud a short report on the work done on the groundwater project at the confluence of the McKenzie and Willamette Rivers. Staff had recognized that development of groundwater was in conflict with neighboring water utilities vested in more senior water rights. He said progress had been made to better understand these issues and the work to complete the study was nearly completed. He stated that staff would be before the Board on January 17 to provide an update on the costs associated with the groundwater project. He said the strategy would be to focus on securing what EWEB had and justifying the need.

In response to a question from Commissioner Simpson, Mr. Taylor explained that diversity and reliability of the system could mean an alternate source or it could also be interpreted to mean a second intake from the McKenzie River.

Vice President Bishop asked for a more elaborate definition of system diversity as pertaining to water. Ms. Brewer said staff would provide it for her.

Mr. Taylor cited, as an example of source diversity, that Springfield had a groundwater source and a surface source on the Willamette River. He said EWEB would seek to secure existing water rights while developing a diverse drinking water supply that may or may not include partnerships.

In response to a question from President Farmer, Mr. Taylor stated that \$200,000 was earmarked in the 2006 budget for a comprehensive study of water sources. He predicted that this budget number would be revised down due to a change in emphasis from the groundwater source at

the confluence to other sources. In response to a follow-up question, Mr. Taylor said most of the work would be done in house. He thought it was feasible to get to a point in 2006 where the utility needed to make some tough decisions about whether it was economically feasible for EWEB to serve water outside of the area.

Vice President Bishop conveyed her appreciation for the work that went into the presentation.

President Farmer was struck by the emphasis in the OARs on regional planning. He asked if one could appeal it if an administrative rule could not be met. Mr. Taylor responded that there were opportunities to challenge a rule. He commented that the OARs would be watched very closely. He hoped to learn about challenges from other utilities' court processes.

President Farmer said he had some apprehension with the focus on regional planning and the edict that this was how to get things done. He was concerned that there might not be enough regional planning to do it. He expressed concern that the Region 2050 process would break down. He encouraged staff to look for ways to meet the regional planning tests outside of the Region 2050 process.

Mr. Taylor stated that part of the water supply work in 2006 would be some legwork to have discussions with other jurisdictions regarding how they perceived themselves in the "water landscape." He felt this process could go on with or without Region 2050. He surmised that EWEB could develop a strategy that would position the utility regardless of what the growth would ultimately be.

Ms. Brewer pointed out that it was a trend in State agencies to require regional planning. She noted that transportation had to be planned regionally or the LCDC would not approve the plan.

#### **ITEMS REMOVED FROM THE CONSENT CALENDAR**

There were no items removed from the Consent Calendar.

President Farmer adjourned the meeting at 9:55 p.m.

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Assistant Secretary

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President