

EUGENE WATER & ELECTRIC BOARD  
REGULAR BOARD MEETING  
EWEB BOARD ROOM  
APRIL 4, 2006  
7:30 P.M.

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

Others present: Jim Wiley, Debra Smith, Ed Case, Ken Beeson, Cathy Bloom and Krista Hince of the EWEB staff; Lynn Taylor, City of Eugene Minutes Recorder.

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

### **AGENDA CHECK**

President Bishop announced that Agenda Item No. 7 was shown as an action item but the Board would only hold a discussion in order to schedule a public hearing on the item at the next meeting. She said that while notice of a public hearing at the April 4, 2006, regular meeting was properly distributed the agenda did not list a public hearing and therefore the Board would postpone action until a public hearing could be held.

Commissioner Lanning asked if the delay would have an impact. Acting in the absence of the General Manager, Electric Division Director Jim Wiley said there would be no relevant impact to delaying a decision to the next Board meeting.

President Bishop determined there was Board consensus to have a thorough discussion of the item and make a decision at the next meeting with adequate notice on the agenda of a public hearing. She noted that Agenda Item No. 8 was actually three separate bonding issues encapsulated under one title.

### **PUBLIC INPUT**

President Bishop determined there was no one wishing to speak.

### **CONSENT CALENDAR**

#### **Minutes**

1. Minutes of the December 21, 2005, Regular Board Meeting, the January 3, 2006 Regular Board Meeting, and the January 17, 2006 Regular Board Meeting.

#### **Business Service Agreements**

2. Brattain International Trucks, Inc. – Mobile Aerial Crain – Shop – Corporate Services Division - \$160,350
3. Cascade Claims Service – Claims Adjuster Services – Customer Services Division - \$125,000

4. Hughes Supply Inc. – Three-Phase Transformers – Electric Division – \$114,000
5. Industrial Safety Services, Inc. – Health and Safety Testing and Training Services – Corporate Services Division – \$12,250
6. Northwest Youth Corps – Leaburg/Waltermville Vegetation Management – Environmental Management – Corporate Services Division – \$20,000
7. Washington Crane & Hoist – Trailridge Stiffleg Derrick Crane Rehab – Electric Division – \$79,223

**Resolution**

8. Resolution No. 0608 – To Grant an Easement for Access Purposes to a Private Property Owner Across EWEB’s 35’-Wide Utility Corridor Paralleling Beltline Road/Division Avenue – Property Management – Corporate Services – \$875

President Bishop removed the minutes of the January 3, 2006 Regular Board Meeting from the Consent Calendar.

Commissioner Simpson, seconded by Commissioner Farmer, moved to approve the Consent Calendar with the exception of the minutes of the January 3, 2006, Regular Board meeting. The motion passed unanimously, 5:0.

**ITEMS FROM BOARD MEMBERS**

President Bishop asked staff to research an article in *The Oregonian* on April 3, 2006, that stated the Governor requested that Oregon be exempted from a global trade agreement that covered, among other things, items such as energy services and field-testing for natural resources. She was concerned about the impact on procurement of alternative resources.

Commissioner Simpson recognized the Water Division’s energy savings measure that resulted, through the use of more efficient pumps, in an annual energy cost savings of approximately \$117,000. He congratulated the Water Division and Director Tom Buckhouse for his leadership.

**CORRESPONDENCE**

Acting in the absence of the General Manager, Electric Division Director Jim Wiley said there was no correspondence to discuss. At President Bishop’s request he reported that employees were being educated about the voluntary employee benefit accounts (VEBA). He said that the question of whether a super majority was two-thirds or 75 percent had been researched and a two-thirds majority was recommended.

**BOARD AGENDAS**

Mr. Wiley reported that all future items were scheduled and there were no outstanding backgrounders. He reviewed the document **Board Agenda Report**, including the agenda content for meetings from April through December 2006.

President Bishop requested that agendas be emailed to commissioners once they were set and before they were published.

Commissioner Farmer asked that Assistant Secretary Krista Hince determine commissioners' vacation schedules for the summer months.

## **CONSTRUCTION CONTRACTS EXEMPTION**

Risk/Purchasing Manager Ed Case explained that staff is requesting to raise the exemption of a class of Public Works contracts from \$20,000 to \$40,000. He said the Board, by statute, had the authority to exempt a contract or class of contracts from competitive bidding requirements. He said a notice of the proposed rule-making had been published in the *Daily Journal of Commerce* on March 20 and posted on EWEB's bids and contracts website on March 16. He said he would place another notice in the newspaper for a public hearing at the Board's April 18, 2006, meeting.

Commissioner Simpson determined that there were no audience members who had come to testify on the matter. He asked how staff would guarantee satisfaction of the requirement that the exemption would not encourage favoritism in the awarding of public improvement. Mr. Case said he had seen no evidence of favoritism in the particular contracts to be exempted. He said EWEB engaged in a significant amount of construction work and unlike other public entities that might do public improvements periodically, EWEB did public improvements continually. He said that EWEB used most of the contractors locally and in the Portland area and engineers had not shown any favoritism. He said the problem most often was availability of a contractor to do the work as the construction season neared.

Commissioner Simpson found the arguments for efficiency set forth in Mr. Case's memorandum of March 29, 2006, to be compelling but wanted to hear additional discussion before making a decision.

Commissioner Farmer commented that there were no guarantees and the issue was whether to trust staff to assure the requirements were met.

Commissioner Simpson questioned whether it was necessary to have a formal system of checks and balances in place to eliminate favoritism. Mr. Case said that generally a contractor was selected based on expertise in a particular area such as sealing reservoirs. He said with all of EWEB's planned capital work there would be many large construction projects and the intent of the exemption request was to focus engineers' and staff's attention on the high dollar/high risk work instead of the smaller projects. He felt that was in the utilities best interest if there was competition for staff attention between large and small projects. He remarked that there was not a comparison between mistakes on a multi-million dollar contract and a \$40,000 contract and it was not his intent to create an environment where staff could continually go to a "favorite" contractor. He monitored contracting activities and would be the first to alert staff if it appeared a contractor was being used too frequently.

President Bishop said her concern was that the economy was in a relatively healthy cycle and a \$40,000 contract did not seem significant, but that could change with an economic downturn and she was hesitant to arbitrarily raise the exemption. She asked for the total dollar volume of exempted contracts in the past year and an estimate of future totals if the exemption amount was raised in order to put the matter in context. Mr. Case estimated that exempted contracts totaled \$100,000. He said typically there were two to four smaller projects annually although that would increase as construction ramped up. He understood the Commissioners' reluctance to grant approval of the request for an extended period of time and suggested authorizing the exemption during the construction phase and reverting back to the \$20,000 exemption in 2010.

President Bishop asked how many construction bid protests EWEB had during the past three years. Mr. Case said that EWEB had an open process that allowed anyone to protest specifications and contract terms and conditions and those were often challenged. He said awards could also be protested and generally a bidder who was close to being the lowest bid or highest ranked did protest. He said currently there were 110 solicitations and contract preparations being processed and four or five had been challenged although the challenge usually did not go past the correspondence phase, which meant that the parties agreed not to proceed with the protest.

Commissioner Farmer supported a process that was as open and competitive as possible, but would agree to the exemption as a matter of practicality and cost savings. He suggested an annual review process to assure that the exemption was serving its purpose and there were no problems with respect to favoritism or lack of competition.

President Bishop stated that she was not comfortable with the exemption and preferred to keep contracting open and competitive. She did not believe the exemption would save money and be more convenient. She said she would probably oppose the exemption request. She appreciated the suggestion for a sunset provision.

Vice President Menegat thought that raising the exemption from \$20,000 to \$40,000 was acceptable. He pointed out that not much could be done for \$20,000, most projects of any kind were more expensive and EWEB needed the flexibility to move on projects when there were contractors who could do the work and were available. He said he would probably support the request and was opposed to a sunset clause. He supported Commissioner Farmer's suggestion for a formal annual review process.

Commissioner Lanning echoed Commissioner Menegat's comments.

Commissioner Simpson asked if EWEB would do a project itself without a formal bidding process if the available expertise and resources existed in-house. Mr. Case said no bidding would occur.

Commissioner Simpson asked if staff had an estimate of the annual savings that would be derived from the exemption and what type of annual review might be conducted. Mr. Case said he could provide a savings estimate at the next meeting. He said a review could include a backgrounder that discussed the number, type and cost of projects under \$40,000 as well as the name of the contractor for each project.

Commissioner Lanning asked how much staff time would be involved in preparing information in response to Commissioner Simpson's request. Mr. Case said that two or three hours of staff time would be required.

## **ROOSEVELT BUILDING PROJECT**

New Resource Project Manager Ken Beeson said that he and Assistant Treasurer Cathy Bloom would discuss Resolution 0606, which would request City Council approval for issuance of \$26.3 million in bonds, a portion of which would fund design and development of the Roosevelt project.

Ms. Bloom said the resolution related to three issues:

- a. 2006 improvement bonds - \$3.8 million to complete the Carmen Smith license application process, \$1 million for final payment on purchase of the Roosevelt site
- b. 2006 refunding bonds - \$12.4 million to refund 1996 bonds
- c. 2006 new project bonds - \$8 million for Roosevelt project design

Ms. Bloom said that approval of the resolution would place the issuance before the City Council at its April 10, 2006, meeting, followed by a 60-day Uniform Revenue Bond Act (URBA) process. She said the goal was to have the bonds close and proceeds available by the end of July 2006.

Commissioner Menegat noted that Exhibit A to the resolution included language stating "...future disposal of surplus EWEB property located at the downtown riverfront site..." and stated for the record that EWEB had not yet declared any surplus property at the downtown site.

President Bishop said that the phrase was standard as any EWEB property that was sold was declared surplus but she understood why the language might be confusing to the public. Ms. Bloom suggested that the phrase "future disposal of surplus" could be stricken from the first paragraph, last sentence of Exhibit A as that was the document that would be published in the newspaper revision and would eliminate any confusion.

President Bishop determined there were no objections to Ms. Bloom's suggestion.

Commissioner Simpson said he understood that the process would retire the 1996 revenue bond with the \$12.4 million earmarked for that purpose; however, it would cost an additional \$1 million to close out the bond. He asked how the \$1 million would be obtained. Ms. Bloom said the

backgrounder described the \$12.4 million still owed on that debt but \$13.5 million in authorization would be needed to reissue that portion of the debt. She said the resolution discussed the payoff amount and the authorization of \$13.5 million, which included reserve deposits and other activities in addition to the payoff amount.

Mr. Beeson related that the specific portion of the resolution related to the Roosevelt project authorized the issuance of up to \$8 million in bonds. He said the intent was to provide some contingency over the next 15 to 16 months, which was an estimate of the time period before pursuing additional financing. He said language was structured to allow flexibility for any funds remaining after the design work to be applied to development work. He reviewed critical activities and timelines over the next two months and said staff intended to return to the Board with a design agreement on June 20, 2006, and that would start the design process. He said additional material on the construction management process would be provided as it became available and there would be several questions to be decided regarding how the process should proceed.

Commissioner Farmer asked if a construction manager/general contractor (CMGC) would be engaged after the design process. Mr. Beeson said the intent was to research in detail how entities like EWEB approached construction of a facility like the Roosevelt project and provide that information to the Board along with a recommendation on how to proceed. He said that would occur early in the design process.

Commissioner Farmer asked for a definition of design agreement. Mr. Beeson replied that it would be an amendment to the existing agreement with the architectural firm Pivot (formerly WBGS); the amendment would contain a detailed scope of work related to taking the design from the 30 percent stage through to having completed construction documents in place. He said the amendment would include a considerable amount of detail and the scope of work would be developed over the next two months.

Commissioner Farmer said the URBA process would give EWEB the authority to issue bonds but not did not commit EWEB to issuing bonds nor to any design and he was supportive of that. He wanted assurance that the design process did not result in verbal approval of a specific design as he continued to have reservations about the building design. Mr. Beeson said he was aware of the reservations and believed as the process went forward in the next two months those questions would be discussed. He said that the Board would be provided sufficient information to address those issues and concerns prior to June 20. He added that there was nothing in the URBA process that approved what would be spent on design; that would occur at the Board's last meeting in June 2006.

Commissioner Farmer asked if the reference in Mr. Beeson's March 23, 2006, memorandum to site planning and design work associated with the downtown site meant the existing building or adjacent property. Mr. Beeson replied that he was referring to the adjacent property. He said \$100,000 was allocated in Phase I costs for planning work on the downtown site to determine where lots lines might be adjusted and what easements and zoning changes might be required but stopping

short of actually doing those things.

Commissioner Farmer urged that the Board be involved in a discussion of what property would be disposed of. Mr. Beeson said ideally by the June 6 meeting there would be agreement on the part of the Board to the construction budget estimate and design review process moving forward.

Commissioner Simpson asked for clarification of the CMGC approach and alternatives to that approach. Mr. Beeson said he continued to research the issue and would provide more information at a future meeting. He outlined aspects of those approaches:

Conventional approach:

- Complete design work over the next 15-16 months
- Develop cost estimate
- Obtain financing
- Request bids and hire the low bid general contractor to act as EWEB's agent and enter into a variety of subcontracts

Alternative approach:

- Early in the design process issue a request for proposals (RFP) for a CMGC
- Hire a CMGC based on qualifications
- Conduct public hearing on exception to EWEB rules
- Board, acting as contract review board, would authorize
- CMGC participates in the design process, provides input, but would not necessarily take the place of value engineering
- EWEB would pay a premium (guaranteed maximum price)
- Must demonstrate why this approach is preferable to the conventional approach

President Bishop commented that EWEB had gone through previous although smaller projects without a construction manager. She encouraged staff to provide the Commissioners with as much information on the subject as quickly as possible so there could be full discussions of the various approaches. She said she would look closely at how any additional costs would be rationalized and what benefit would be derived. She emphasized that the Board should be provided with real numbers.

Mr. Beeson recommended Board approval of Resolution 0606.

President Bishop clarified that Attachment A to the resolution had been revised.

Commissioner Simpson, seconded by Commissioner Lanning, moved approval of Resolution No. 0606, with a change to Exhibit A by striking the words "future disposal of surplus" in the first paragraph: A resolution requesting the City of Eugene to authorize the issuance and sale of electric utility system revenue and refunding bonds in the aggregate principal amount of not to exceed twenty-six million three hundred fifty-four thousand two hundred eighty dollars (\$26, 354,280) for the purpose of financing and refinancing improvements to the electric utility system and providing

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for related matters. The motion passed unanimously, 5:0.

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

President Bishop requested the following changes to the minutes of the January 3, 2006 Regular Board meeting:

Page 3, next to last paragraph – “President Bishop said if the Vice President were *available agreeable to it*, she would *appreciate having* ~~prefer to have~~ the Vice President participate in agenda setting meetings with the *President and General Manager*.”

Page 3, last paragraph – “He approved of the idea of having two Board members *meet with the General Manager to set Board meeting agendas* ~~present~~.”

Commissioner Lanning, seconded by Vice President Menegat moved to approve the minutes of the January 3, 2006 Regular Board meeting as revised. The motion passed unanimously, 5:0.

President Bishop adjourned the meeting at 8:45 p.m.

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Assistant Secretary

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President