

EUGENE WATER & ELECTRIC BOARD
WORK SESSION
EWEB BOARD ROOM
FEBRUARY 20, 2007
5:30 P.M.

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

Others Present: Randy Berggren, Dick Varner, Tom Buckhouse, Jim Origliosso, Dick Helgeson, Debra Smith, Deborah Brewer, Lance Robertson, Roseanna McArthur, Jim Wiley, Mel Damewood, Karl Morgenstern, Patti Boyle, Katie Sproles, Scott Spettel, Jay Bozievich, and Krista Hince of the EWEB staff; Ruth Atcherson, City of Eugene minutes recorder.

President Menegat convened the work session of the Eugene Water & Electric Board (EWEB) at 5:30 p.m.

MEASURE 37

Drinking Water Source Protection Coordinator Karl Morgenstern acknowledged that Ballot Measure 37 was an emotionally charged issue. He stressed that EWEB was primarily concerned with protecting its source for water. He highlighted the memorandum entitled *EWEB Strategy Related to Measure 37* dated *February 14, 2007*.

Commissioner Farmer observed that the confluence of the Mohawk and McKenzie Rivers was downstream from the intake facility. He asked by how much the total of the claims would be reduced by removal of the claims that only affected that area. Mr. Morgenstern replied that it would reduce them by about one-third.

Commissioner Brown asked if EWEB intended to develop a secondary water resource below the confluence. Mr. Buckhouse responded that this was as yet unknown, though it was a possibility.

Mr. Morgenstern outlined the threats large-scale developments would pose to the purity of McKenzie River water, primarily related to an increase in traffic and the number of septic systems and also the demand on the water supply that individual water systems would create. He referred to a report he had prepared entitled *Non-Point Source Pollution Assessment and Evaluation Report*. He showed the Board a map that indicated the locations of the Ballot Measure 37 claims in the McKenzie River watershed. He noted that fecal bacteria had been a consistent problem in the Camp Creek Basin.

Commissioner Brown commented that Lane County had recently reduced the riparian setbacks by half. He ascertained from staff that a lot of the report had been predicated on data from before the County allowed people to develop “twice as close to the river.”

Mr. Morgenstern outlined the actions that were being taken and the legislative remedies that were being pursued. He noted that State Senator Floyd Prozanski had requested help to write

legislation that would seek to protect the McKenzie River Watershed. He said staff did not want to take this action without direction from the Board.

Commissioner Brown averred that while he did not want to “trample on” property rights he also could not allow further degradation of the water quality for the community. He said he had personally witnessed the degradation of the watershed that resulted from what he considered to be “abysmal” enforcement of land use laws, no enforcement of vegetation removal and no enforcement of regulations governing the application of pesticides. He supported anything EWEB could do to uphold the community’s right to its water source including the institution of a water protection overlay zone and a cluster study. He also hoped that EWEB could expand support for not only the Measure 37 issues, but for a bill State Senator Vicki Walker was sponsoring that would put into place standards for septic tanks which currently were not required to be inspected once installed. He applauded staff’s efforts and supported the proactive stance EWEB was taking.

Vice President Simpson concurred with Commissioner Brown’s statements. He noted that he sat on the McKenzie Watershed Council. He felt there was nothing better that EWEB could do than to be engaged in this. He indicated his support for the actions being undertaken by staff to remedy the situation.

In response to a question from Vice President Simpson, Mr. Morgenstern clarified that the concept behind a water protection overlay zone was similar to the overlay zone instituted by the Rainbow Water District which regulated development related to groundwater wells.

Vice President Simpson asked why there was concern about people sinking wells. Mr. Morgenstern replied that it had to do with the watershed monitoring effort. He said EWEB wanted to know where water was being drawn from and where it was being brought back into the river. He related that as the area entered into the potential effects of a climate change it could experience all of the weather patterns that would go along with such a change including severe droughts. He stated that unregulated wells offset EWEB’s ability to monitor water levels.

Vice President Simpson expressed concern about the cumulative nature of development. He commented that no one would be concerned if it was one single development that was being proposed, rather it was the aggregate degradation numerous developments would cause.

In response to a follow-up question from Vice President Simpson, Mr. Morgenstern stated that the Ballot Measure 37 claims were denied or approved by the Lane Board of County Commissioners. He related that staff had a “plan B” of sorts to address a scenario in which EWEB’s legislative and lobbying efforts did not work and development went forward. He explained that staff had been monitoring water quality in the area and had a baseline feel for what it should be. He said EWEB would try to work with developers to encourage a lighter impact and would pursue conservation easements and larger buffers. He noted that construction alone created an impact.

Commissioner Farmer asked how ‘interested parties’ was defined in the Measure 37 claim

process. Mr. Morgenstern responded that being an interested party assured EWEB a standing when a claim was filed so that EWEB could review the claim and participate in any appeals that could result.

Commissioner Farmer did not want to support an overlay zone until he was certain what it entailed. He was concerned that EWEB did not have the science to fall back on to prove that development should not go into that area. Mr. Morgenstern responded that this was why EWEB staff was undertaking a grant to research the impact of septic systems.

Mr. Berggren asked if Commissioner Farmer was advising a course of no action until there was a certain foundation of research to support it. Commissioner Farmer replied that he did not wish to take no action, he only wanted to “ramp up” the scientific inquiry. Mr. Berggren remarked in response that he considered this a “soft science” and that the sort of findings Commissioner Farmer was looking for could be expensive.

Commissioner Lanning said staff’s approach made sense. Having reviewed the proposed legislative remedies he did not see any he would not support.

President Menegat indicated his support for working with the legislature to take steps to remedy the situation brought about by Measure 37 so long as the work was directed toward EWEB’s interests in protecting the water supply.

Commissioner Brown commented in response to Commissioner Farmer’s remarks that the City had waited until it was too late in the River Road area improvements. He underscored that one could not take the groundwater out of that area because it was so polluted. He felt it was important to take actions expeditiously before the river was impacted. He added that the Rainbow Water District overlay zone was “easy.” He explained that the zone prohibited the use of certain chemicals or pesticide applications within a certain geographic area. He felt it was a very good way to regulate uses that would impact the water supply.

Vice President Simpson observed that EWEB was not the only stakeholder on the McKenzie Watershed. He asked if the Oregon Department of Fish and Wildlife (ODFW) had provided input. Mr. Morgenstern replied that he did not think so. He underscored that EWEB had focused on the river from a drinking water perspective. Vice President Simpson suggested that partnering with ODFW would benefit EWEB in this matter.

WATER UTILITY

Water Engineering Manager Mel Damewood provided a report on the *Water Division 2007-2011 Capital Improvement Plan (CIP) –2008 Capital Budget* with power points. He noted that Senior Financial/Rate Analyst Patty Boyle would speak about the financial plan.

Regarding the spreadsheet entitled *2007 5-Year CIP Project Areas and Initiatives Summary*, Commissioner Farmer asked how the 63 cent increase for the CIP correlated with the \$3 increase in

water rates that was being proposed. Mr. Damewood replied that the smaller amount was the portion of the increase that paid for the CIP.

In response to a question from Commissioner Farmer, Ms. Boyle clarified that the estimates were in “2006 dollars.”

Mr. Damewood continued his presentation, highlighting the *Past Performance* of the CIP for the water utility. He noted that the 2007 water main work was designed and ready to go.

Regarding *Emerging Issues and Uncertainties*, Mr. Damewood underscored the difficulty EWEB was having in finding and recruiting engineers and other skilled employees.

Mr. Damewood said, like the Roosevelt Building Project, the water utility was facing a dramatic rise in the costs of construction goods.

Commissioner Farmer asked why the groundwater project was projected to cost \$19.2 million. Mr. Damewood replied that this was only a placeholder. He said staff thought it could potentially increase. He noted that there was a possibility that EWEB could share the cost burden with metro partners.

Ms. Boyle briefly reviewed the long-term financial plan, noting that she would return in April to further elaborate on the plan.

Commissioner Brown asked if EWEB had discussed whether the secondary water resource included water from the Willamette River. Mr. Damewood replied that for the present EWEB was looking into infiltration wells on the McKenzie River.

Vice President Simpson expressed concern regarding the difficulty EWEB was experiencing in recruiting personnel. He asked if EWEB was having trouble finding trade laborers as well. Mr. Berggren replied that the utility was having difficulty recruiting employees for all technical areas.

In response to a question from Vice President Simpson, Ms. Boyle explained that some of the major initiatives had been pulled out of the plan because there were a few high-profile projects that did not necessarily fall under the heading of the CIP, such as the Roosevelt Building Project. Regarding the latter, she noted that the electric utility was planning to issue all of the bonds. She further explained that the automatic meter reading (AMR) would also have a stand alone perspective as it represented a fundamental shift in EWEB’s way of doing business.

In response to a question from Commissioner Farmer, Mr. Berggren stated that the financial plan included a rate increase every year.

President Menegat observed that the rates set before the Board was in 2006 dollars. Ms. Boyle clarified that the ten-year plan did build in escalation for a normal rate of inflation, which was three and a half to four percent per year. Mr. Berggren said it included a nominal inflation rate, but the steel and concrete cost factors were increasing at a much more accelerated rate.

President Menegat asked if the finance plan built in a multiplier so that EWEB would end up with its necessary capital in 2016. Ms. Boyle replied that it was included in this set of notes.

Commissioner Farmer said he wanted to see a comparison of the debt versus the rates. He wanted to start out by looking into what the benchmark for debt would be. He thought Fiscal Services Supervisor Dick Varner could provide feedback regarding where EWEB would want to be from a positioning standpoint. He thought some of the items would be useful for 25 to 30 years. Mr. Damewood noted that EWEB sought to install facilities that would last 100 years.

Commissioner Farmer commented that he was not afraid to moderate rates as long as EWEB kept its debt within a comparable industry average and that the facilities that were being financed had a useful life that extended beyond the life of the debt.

Vice President Simpson indicated that he would lean toward having a rate mechanism to fund the CIP rather than debt. He was interested in seeing the scenarios for borrowing, however.

Commissioner Lanning supported the proposal staff was bringing forward. He observed that it might not be in the best interest of the ratepayers to ask them to pay for a large bill of goods over ten years when the facilities could ostensibly benefit the community for the next 70 years.

President Menegat remarked that the CIP seemed like a reasonable and prudent plan. He thought the plan addressed the capital needs occurring today.

Commissioner Farmer felt the Board needed some input from staff as he did not feel he could correctly ascertain when looking at a project on paper for a pump upgrade how important it was and whether it should be done within one year or within four years.

In response to a question from Commissioner Brown, Mr. Damewood stated that EWEB staff had been in discussion with City of Eugene staff regarding water main replacements so that EWEB could coordinate with the City when roadways were being reconstructed. He explained that the water utility was in the road right-of-way by permit and permit conditions dictated that EWEB would have to move the water main or make arrangements to have it moved when the City undertook a project to rebuild the substructure of a roadway. He added that this was at EWEB's cost, which was why it was prudent to include main replacements with such projects.

Mr. Damewood stated that staff would seek Board approval for the CIP in May.

UPDATE TO EWEB'S RENEWABLE RESOURCE ACQUISITIONS

Power Management and Planning Manager Scott Spettel recounted that the Board had given staff financial constraints, limiting negative cash flow to approximately \$1.5 million per year. Because of this, he explained, EWEB had embarked on this endeavor through "take and pay" contracts so that there would be no debt financing involved that would constrain the Carmen-Smith relicensing or the Roosevelt relocation efforts. He related that changing Bonneville Power Administration (BPA) transmission practices, emerging Renewable Portfolio Standards (RPS), and higher construction costs were putting pressure on costs and pricing for new renewable resource projects.

Mr. Spettel reported that staff was pleased with the final Klondike III Wind project contract. He related that they had been surprised when applying for the final application for transmission access because instead of a "slam dunk" they had been instructed that firm transmission would not be forthcoming without further study. He felt optimistic that EWEB would resolve this with the BPA, but he thought the worst case alternative would be that EWEB would have to use conditional firm transmission. He believed that this would be firmed up once the BPA had formalized its methodology for Generation 'B' dispatch. He perceived this as a "yellow flag," something to be monitored.

Mr. Spettel related that the Raft River Geothermal project had spent its exploration budget of \$10 million and had found a lot of good geothermal resources, noting that each well drilled seemed to be a better producer than the one before it. He said the price had changed by a dollar per megawatt hour (MWH). He reported that EWEB had become more interested in acquiring green tags as staff believed the green tags would be more valuable in the "RPS environment." He stated that the transmission contract from Idaho to Eugene was complex. He explained that EWEB would exchange the power with the BPA, which would take the power and serve its contracts in Idaho and would give EWEB a corresponding amount of power from the Grand Coulee Dam. He added that the details were more challenging to work out which meant that it was not completed at this point in time.

In response to a question from Vice President Simpson, Mr. Spettel affirmed that the transmission circuit was a "paper trail" and did not require the actual firm transmission. He said the project would help alleviate some transmission constraints. He noted that if the BPA gave up the transmission rights and the project went down it would have to address how it would serve the load.

Mr. Spettel stated that there were some unresolved credit issues. Mr. Varner elaborated, explaining that EWEB had gone into discussions with the idea that the project would be structured similarly to other resource projects, i.e. with a relatively modest amount of equity and a fairly high debt load. He said it could be a cause for concern as it did not take a very big difference in

production to cause cash flow issues if the debt load was high. He reported that if the structure included substantial equity, it would not carry much debt load and might allow EWEB to work with the credit provisions that would be easier for the other entity to deal with. He related that staff was working with Raft River Geothermal project staff on how much EWEB would need from them, and at what debt load should security be required and how much that security would entail.

Mr. Spettel reiterated that EWEB only had an obligation to pay for energy that was delivered. He clarified that if it cost more to replace the contract if the project did not perform then this would be a financial loss.

Mr. Spettel recalled that EWEB had contracted for the Tieton Hydroelectric Project in 2001. He reported that the developer had run into cost overruns due to issues with the foundation. He said the project had asked EWEB if it would explore alternatives for restructuring the contract and staff had agreed to look into two alternatives: to pay more in the near term in return for the green tags from the project as well as a ten-year extension of the contract (from 25 years to 35 years) or for Tieton to look for an alternative buyer who would then pay EWEB a royalty for every MWH sold to someone else. He and Mr. Varner were uncertain which alternative would better suit the needs of EWEB.

Commissioner Farmer asked what the scenario would be if EWEB took no action. Mr. Spettel responded that they could decide to continue performing given that they had a lot of equity in the project, they could breach the contract by selling the input to someone else and in that case EWEB would have legal recourse (though the amount EWEB could recoup could be reduced substantially by the cost of legal proceedings), or the Tieton project could declare bankruptcy in which case EWEB would be dealing primarily with the lender. Regarding the latter, he said it opened the possibility that EWEB could restructure the contract with the bank. He reported that Tieton had been very open in working with EWEB thus far.

Vice President Simpson indicated his preference for restructuring the existing contract. He felt it would show a good faith effort in keeping the project going. He was uncertain whether lengthening the contract term to 35 years was prudent.

Vice President Simpson asked if the contracts with the energy suppliers could include a dependency clause so that EWEB would only enter into a contract if the BPA would agree to provide the firm transmission. Mr. Spettel replied that in theory a contract could be fashioned in that way but he likened it to a "chicken/egg" problem in that it was not certain which should come first. He underscored that the Tieton project had been portrayed as very straightforward. They had chosen not to address this in the contract because it seemed the issue had been adequately managed.

Vice President Simpson asked how important having 100 percent firm transmission was to a contract. Mr. Spettel responded that if there was a case in which the transmission was not 100 percent firm there would be an expectation that a study would be completed to attempt to project the percentage of time a project would experience trouble.

Commissioner Farmer commented that the developer was taking the risk for the project. He felt EWEB had helped the developer by signing a contract committing itself to buying a certain amount of power. He averred that EWEB should not take any of the burden due to the fact the developer could not make the project work. He did not wish to spend any time in the court either. He said if EWEB was going to be involved he wanted to see a more tangible benefit. If this meant the project had to forego more profit initially and front-end load it, then that was how it would have to be done.

Commissioners Lanning and Brown concurred with Commissioner Farmer.

President Menegat said he generally concurred, but he was willing to take a look at the proposal staff was carrying forward.

President Menegat adjourned the meeting at 7:32 p.m.

Assistant Secretary

President