

EUGENE WATER & ELECTRIC BOARD  
REGULAR BOARD MEETING  
EWEB BOARD ROOM  
500 EAST 4<sup>TH</sup> AVENUE  
NOVEMBER 17, 2009  
7:15 P.M.

Commissioners Present: Ron Farmer, President; John Brown, Vice President; Bob Cassidy, Rich Cunningham, Joann Ernst.

Others Present: General Manager General Manager Randy Berggren, Debra Smith, Sheila Crawford, Lance Robertson, Jim Wiley, Jim Origliosso, Cathy Bloom, Tom Buckhouse, Mark Freeman, Will Bondioli, Bill Welch, Clay Norris, Dick Varner, Gary Lentsch, Edward Yan, George Zaczek, Ed Case, Mike McCann, Patty Boyle, Dave Churchman, Garilyn Johnston, Terry Bequette, and Judy Chase of the EWEB staff; Ruth Atcherson, City of Eugene minutes recorder.

President Farmer convened the Regular Meeting of the Eugene Water & Electric Board (EWEB) at 6:55 p.m.

#### **AGENDA CHECK**

General Manager Randy Berggren pulled Item 12, a contract for Waukesha Electric Systems, Inc. from the agenda. He explained that they had received a second level form of protest on the item and it was not yet resolved. He stated that if it reached a third level of protest, it would come before the Board and he did not want to prejudice the Board by presenting it as an action item at the present meeting.

#### **PUBLIC INPUT**

**Paul Duchin**, ratepayer, reiterated that he and his wife had been offered \$5,000 to settle their claim against EWEB and this was not enough. He recalled that at the previous meeting he had proposed that they either split the cost of the damages with EWEB or refer the claim to binding arbitration and the Board had indicated they would discuss this in an executive session. He asked for a response.

Commissioner Cunningham remembered that he had requested an executive session. He said it had not been scheduled at this point.

General Manager Randy Berggren clarified that Commissioner Cunningham had asked whether or not the Board could hold an executive session on this subject. He related that he had consulted EWEB's legal counsel and counsel had indicated that should the Board desire to hold an executive session on the claim, it was the Board's prerogative to do so.

President Farmer determined that there was majority Board support for convening an executive session.

## **APPROVAL OF CONSENT CALENDAR**

### **MINUTES**

No minutes were available for approval.

### **CONTRACTS**

1. Advanced Security, Inc. – armed and Unarmed Security Services – Corporate Services Division, \$50,000 (total contract is \$250,000).
2. Cole Industrial, Inc. – Purchase of One Used Cleaver-Brooks Steam Firetube Boiler – Water & Steam division, \$150,000.
3. Network Computing Architects (NCA) – Purchase of Network Security IP Switches, Software, and Support – Corporate Services Division, \$137,704.
4. Pioneer Truckweld – Repair and Overhaul of Two EWEB Trailers – Corporate Services Division, \$25,500.

Vice President Brown, seconded by Commissioner Ernst, moved to approve the Consent Calendar. The motion passed unanimously, 5:0.

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

There were no items removed from the Consent Calendar.

## **ITEMS FROM BOARD MEMBERS**

Commissioner Ernst reported that she had attended the Northwest Energy Coalition (NWECC) over the weekend. She said the coalition decided to adopt a pledge. She noted that EWEB was already grandfathered in and did not have to sign it. She had not seen the wording at this point but she believed that they should sign it anyway. She surmised that the pledge indicated agreement with the coalition's ideas and statements. She requested that this be an item on the next agenda.

In response to a question from President Farmer, Commissioner Ernst assured him that she would send the language out with plenty of time to read it.

President Farmer asked that staff provide a proper presentation for the pledge. He wanted a fair hearing. He recalled that in the past EWEB had been asked to sign agreements but only one side of the item had been presented. He ascertained that a majority of the Board supported placing the item on an agenda.

Vice President Brown said he had been asked by several constituents about the streamside protections that they had been working on with Karl Morgenstern and where that stood. He wondered if it had a probability "of having a life" or would it be "studied to death." He also asked for additional information on the underground chemical plume that was near the Hayden Bridge water intake. He understood that some testing wells were showing increased levels of the penta wood preservative and that the Department of Environmental Quality (DEQ) was considering reestablishing the study.

General Manager Randy Berggren said this fell outside his expertise. He suggested having Mr. Morgenstern confer with Vice President Brown on the subject. Debra Smith, Director of the Employee, Customer, and Community Services Division, added that when Mr. Morgenstern had been preparing to write the memorandum, a lot of this information had been new to him. She related that he had met with the DEQ to gain a better understanding. She said she would ask Mr. Morgenstern to call him.

Commissioner Cunningham thanked Mark Freeman, Ms. Smith, and General Manager Randy Berggren. He had received several constituent inquiries regarding electricity problems and staff had proven to be very effective and helpful.

## CORRESPONDENCE

General Manager Randy Berggren highlighted the following items of correspondence:

- Strategic Planning & Governance Coordinator, Sheila Crawford, provided a memorandum regarding the possible review of the governance policy on the inclusion of bill stuffers. It was noted that staff was unclear as to whether there was majority support to place the item on an agenda. Staff ascertained from the Board that a majority would support visiting this governance issue on a future agenda.
- Four memoranda on the budget were included in Board packets: Features of the 2010 Budget, Electric Financial Planning Assumptions and Information, 2010 Budget Impact of Split Operations, and Personnel Costs in the 2010 Budget.
- A memorandum providing the *Riverfront Master Plan Project Update* was submitted by Jeannine Parisi, Community and Local Outreach Coordinator, and Mark Oberle, EWEB Property Manager.
- Ms. Crawford sent out a *Third Quarter EWEB Performance Metric Report*.
- Human Resources Manager Christina Bennett included a memorandum regarding the *Quality Leadership Honorable Mention Award*, which had been given to EWEB by the Certification of Disability Management Specialists in recognition of the effectiveness of EWEB's disability management program.
- Karl Morgenstern included a memorandum providing an *Update on the PCP Plume from International Paper Containerboard Plan in Springfield*.

## BOARD AGENDAS

General Manager Randy Berggren provided the *Board Agenda Report* dated *November 17, 2009*. He asked for the Board to allow staff to delay its backgrounder on canal leaks in order to gain further information on it. He planned on providing a history of leaks on the canal.

President Farmer noted that he would be out of town on January 5.

Vice President Brown indicated that he would arrive late to the meeting scheduled for December 1.

Commissioner Cunningham ascertained from staff that the governance item regarding bill stuffers would be placed on the agenda for the December meeting. Commissioner Cunningham

added that he would likely be unavailable for the meeting scheduled for December 15, though there was a possibility he could participate by telephone.

## **2010 ELECTRIC/WATER BUDGETS**

Fiscal Services Supervisor, Patty Boyle, provided an overview of the draft **2010 Electric/Water Budgets** with power points.

President Farmer asked if Ms. Boyle knew why the rates for medium general service were higher for Everett, Washington. Ms. Boyle said she would look into it. She surmised that it was likely a function of their rate structure.

In response to a question from Commissioner Cunningham, Ms. Boyle clarified that they anticipated hiring four individuals approximately half way through the year for security at the Roosevelt Boulevard center and at the riverfront property. Commissioner Cunningham asked why a position was being added in power trading. Ms. Boyle replied that the position had been part of the strategic staffing plan for a couple of years. She said it helped to address a number of anticipated retirements and the initiation of the new contract with the Bonneville Power Administration (BPA) which would require a more active management of the Slice contract.

Ms. Boyle reviewed the steam utility budget.

Commissioner Cunningham asked what the overtime costs were based upon and whether it might be prudent to hire more employees. Ms. Boyle explained that most of the overtime costs were attributable to the overtime worked during storm events and were predominantly associated with the electric utility.

Vice President Brown asked who would be responsible for any asbestos clean-up that would be associated with the termination of the steam utility. Ms. Boyle responded that ultimately it would fall on the electric utility.

In response to a question from Vice President Brown, Ms. Boyle stated that the hedging program for 2009 had benefited both EWEB and the city, as the city had received a larger than anticipated Contribution in Lieu of Tax (CILT). The contribution was estimated at \$11 million for 2010.

President Farmer asked if the steam utility was hedged higher than market. Ms. Boyle replied that she believed the utility was hedged higher, but the market had come down a small amount.

President Farmer was concerned that as steam customers dropped off, the more the remaining customers would be affected by what the price was. He thought that hedging it now might provide a little protection for them.

Ms. Boyle proposed that they did not have the skills for a regular hedging program for the remaining horizon of the steam system.

President Farmer asked if they had any concern that usage projections might fall off faster than had been predicted. Ms. Boyle thought this scenario could be possible, but she would want to confer with Mike Logan regarding its likelihood.

In response to a question from Commissioner Cunningham, Ms. Boyle explained that the group medical insurance was an area within the organization that they forecast rather high cost increases for, though the increases had come in even higher than the forecast. She said the post-retirement medical benefits amount was based on an estimate of what it would cost to provide medical benefits to employees in the future.

Commissioner Cunningham asked if the long-term disability insurance was incident-based. General Manager Randy Berggren responded that it was an insurance program. Ms. Smith added that it was a percentage of pay and had stayed the same percentage; the increase was caused by an increase in the payroll.

Commissioner Cassidy observed that the Register-Guard had written an article about grants made to schools and the grants that EWEB made had not been mentioned.

Garilyn Johnston, Senior Financial Analyst, presented the proposed budget for the water utility, which included a 7 percent rate increase effective in May. She stated that the consumption was projected to be the same as it had been in 2009. She said there would be a drop in the operating reserve and the utility would also be drawing from its capital reserve. She reviewed the rate comparisons with other utilities.

President Farmer reminded them that he wanted to include the rates from Medford in the comparison. Ms. Johnston noted that others had wanted to include the more local small communities, such as Creswell and Coburg. President Farmer explained that he did not want to exclude Medford because he did not want it to appear that EWEB was deliberately excluding a community with significantly lower rates.

Vice President Brown noted that he had heard from people living in Creswell who were paying four to five times the rates that EWEB charged for water.

Ms. Johnston continued her presentation and reviewed the Water Operating Expenditures. She explained that \$470,000 of the increases were for source and treatment, transmission and distribution had increased by \$400,000, and administration and general costs had increased by approximately \$200,000.

Commissioner Ernst observed that less water was being pumped with the departure of Hynix and asked what was causing the increase in costs. Ms. Johnston replied that the cost was driven by increased staffing. Ms. Boyle added that regardless of how much water was pumped, 80 percent of the cost was still due to staffing.

Commissioner Ernst asked what the bottom line would be for staffing if there was a major increase or decrease in water consumption. General Manager Randy Berggren replied that the staffing level was at an appropriate level. Director of the Water & Steam Division Tom Buckhouse added that for the last couple of years they had assigned the work on infrastructure

for subdivisions to the developers and their contractors, with EWEB then conducting the inspection. He said this allowed them to work more on aging infrastructure issues. He stated that the staffing at Hayden Bridge was associated with the expansion there. He felt the staffing level was right and noted that if water sales increased by 15 percent they would not have to add anyone.

Commissioner Ernst asked if staffing levels would remain the same in the face of decreasing sales. Mr. Buckhouse responded that if the decrease was due to the closure of a section of town so that EWEB would no longer have to maintain the pipes in that area, then they could reduce the number of people that worked for the water utility. He said if the infrastructure remained as customer sales dropped off, the utility still had to operate and maintain it with the same number of people.

Commissioner Cunningham asked what amount of money had been in the reserve funds historically. Mr. Buckhouse responded that it had ranged from a negative number to zero to the amount currently in reserves over the past few years.

President Farmer recalled that the electric utility had loaned money to the water utility in prior years.

Commissioner Cunningham observed that with approximately 760 miles of pipe to replace, the capital reserve fund for the water utility should be added to more than the fund for the electric utility. Mr. Buckhouse responded that from an operating perspective, if they experienced a cool, wet summer the water utility could be "a million dollars in the hole." He underscored that the water utility was very dependent on hot weather and a long, dry spell. Ms. Johnston added that the utility was below average for revenue for 2009.

Vice President Brown asked where the source protection money came from. Mr. Buckhouse replied that the majority of it was in administration and staff, with some in source and treatment.

Commissioner Ernst asked what the reserve target for 2010 was. Mr. Johnston responded that it was \$7.2 million.

Ms. Johnston discussed the Water Capital Budget. She explained that the main reason for the drop in the budget was the big project at Hayden Bridge for 2009, now almost completed.

Commissioner Cunningham said he would like to see a rate stabilization reserve account set up for the water utility. General Manager Randy Berggren replied that this type of reserve fund was set up for the electric, but the water utility did not have that capability. He felt there was value in having a Board discussion on reserve funds.

## **PUBLIC HEARING ON 2010 ELECTRIC/WATER BUDGETS**

President Farmer opened the public hearing. Seeing that there was no one present who wished to speak, he closed the public hearing.

## **CONTRACT APPROVAL THRESHOLD**

Jim Origliosso, Corporate Services Division Director, introduced the item. He said the current practices delegated contracting authority to the General Manager for most matters, but the Board retained the right to approve goods, equipment, and construction contracts at a threshold of \$100,000 or greater and personal services contracts at a threshold of \$20,000 or greater. He underscored that staff did not have a position on this matter and would do as the Board directed.

Commissioner Cassidy had brought this forward as a concern, not because of the dollar amounts, but because he believed the Board was approving things that were specifically operational and that had nothing to do with policy. He felt that sometimes it seemed to be busy work for the Board and there were some things the Board should not be bothered with. He was hoping to find a different way of distinguishing the contracts.

Mr. Origliosso surmised that Commissioner Cassidy was seeking another criterion for whether or not a contract needed to be approved by the Board that was not based on dollar amount.

President Farmer did not agree with this. He noted that he had been present for eight years as people challenged Consent Calendar contracts that were sometimes as little as \$25,000 and involved things as operational as a janitorial service or a load of gravel.

Commissioner Cassidy said he still wanted to get the information, perhaps in a backgrounder that explained what had been contracted for and what had been done. He did not want people to wait for the Board's approval before they could execute a contract.

Vice President Brown said while he understood what Commissioner Cassidy intended, he wished to cite a couple of examples that made contract approval important to him. He recalled his question on a grass planting contract for \$77,000 and that staff had been under the impression that it was a Bureau of Labor and Industries (BOLI) contract. Because of his calling this to their attention, the contract had come back in a different iteration at a cost of less than \$50,000. He wanted to continue to be able to bring cost savings forward.

Commissioner Cassidy reiterated that his concern lay in having staff wait for Board approval before moving forward with a contract.

Vice President Brown asked how many contracts were brought forward in the Consent Calendar. Ed Case replied that the Board had reviewed 41 services contracts that were under \$100,000 in 2007 and 29 contracts that were over that amount.

Vice President Brown said if EWEB was doing 5,000 contracts in a year and the Board reviewed ten in a month, he did not see how the Consent Calendar was a hindrance or a burden.

Mr. Case noted that staff had brought forth 82 contracts out of approximately 3,500 purchase orders per year. He added that this number did not include card purchases that were under \$5,000.

President Farmer surmised that the Board was reviewing approximately 3 percent of the contracts.

Vice President Brown pointed out that had the Board not had the chance to review the contract for the reconstruction of the Carmen-Smith houses, the need for more frequent inspections might not have been brought to light.

Commissioner Cassidy reiterated his feeling that the Board could question a contract even though it was already completed and that the same information was available to the Board. He felt it would be more efficient for staff if the process was changed.

Vice President Brown observed that the Board was not delaying the process. He also felt that it was not necessary for staff to be present; commissioners with questions could call them up on the phone.

Commissioner Ernst asked if waiting for Consent Calendar approval had ever caused a problem. Mr. Case said usually a delay occurred because the Board was not meeting or was holding a special session. General Manager Randy Berggren added that it had occasionally been a problem, but if staff was planning according to the agenda schedule it should not be an issue.

Commissioner Ernst did not feel she had enough experience on the Board to make a meaningful change to the policy. She wanted to continue having the same level of contract review the Board currently had, especially given that a new General Manager would be hired soon.

Commissioner Cunningham indicated that he would support increasing the threshold for contracts to \$100,000.

President Farmer recalled that the Board had gone through the policy four years earlier. He observed that they would have a difficult time changing the policy without adopting the Carver approach to governance. He thought it would be good to change how they dealt with contracts made with spouses of the Executive Management Team (EMT). He wanted to have notice of this type of relationship when reviewing contracts as it would be healthy for the organization and healthy for public perception.

Commissioner Ernst opposed allowing contracts to be made with spouses of employees.

Commissioner Cunningham felt secure that there were practices in place that prevented a conflict of interest from occurring. He wanted to ensure that there was disclosure of such a relationship before he voted on a contract. He added that he would like to include language in the policy that would give local businesses priority for contracts.

General Manager Randy Berggren offered to provide a backgrounder with information on why such a policy would not be allowable.

President Farmer reiterated his concern that a disclosure of a relationship that could be perceived as a conflict was integral for the protection of EWEB's reputation.

Vice President Brown concurred. He had been bothered, with respect to the contract they were referring to, that the lead staff person could not answer whether or not they could find someone to provide the service for less.

General Manager Randy Berggren wanted to be clear that the work that the person in question was hired to do was not in the contract scope for the documents that were bid as a part of the Roosevelt Boulevard project. He explained that the contracts were for work to provide data services to the new facility and to integrate the services with the current building site. He said if they had bid the contract out, they would have lost the familiarity that the individual who was awarded the contract had from his work with EWEB on the fiber optic system, the data center, and much of the communications networking capability that EWEB had.

Mr. Case related that generally staff was required to provide findings as to why one contract was selected over another one. He assured the Board that all contracts had a “number of different eyes” that looked at them. He noted that many times the findings did generate questions.

Commissioner Cassidy, seconded by Vice President Brown, moved to direct the General Manager to make the Board aware of contracts involving relatives of the Executive Management Team.

Vice President Brown underscored that he did not think there was anything wrong with the disclosure that had brought this issue to light. He just wanted to ensure the Board was aware of such relationships. He pointed out that commissioners were required to fill out a complete disclosure form.

Commissioner Cunningham indicated that he could not support a complete ban on contracts with relatives and spouses of EWEB given that the community was not overly large.

Vice President Brown suggested that the disclosures be kept to the same standards of immediate family as defined in the Oregon Revised Statutes (ORS).

Mr. Case asked when the Board would like to be notified of such connections. President Farmer responded that he was not sure if it needed to be disclosed at a meeting. He said any notice would be part of the public record. General Manager Randy Berggren suggested that such disclosure could be referenced under Correspondence.

Commissioner Ernst asked how many contracts had been made with people who had connections to employees. General Manager Randy Berggren could not remember any. Mr. Case stated that if a contract was solicited and responded to, bids were sealed and not opened until a certain time. He said there usually was not much competition.

In response to a question from Commissioner Cunningham, President Farmer clarified that the Board was not trying to hold staff to the state ethics statute.

The motion passed unanimously, 5:0.

### **CONTRACT FOR EUGENE SAND CONSTRUCTION, INC.**

Jim Wiley, Director of the Electric Services Division, introduced George Zaczek, Senior Engineer, and asked him to speak to the item.

Mr. Zaczek recommended that the Board vote to approve the contract. He thought it was a good bid. He pointed out that the company was local, would work as the main contractor, and specialized in this type of work.

Commissioner Cunningham, seconded by Vice President Brown, moved to approve the contract with Eugene Sand Construction, Incorporated in the amount of \$3,703,211. The motion passed unanimously, 5:0.

### **CONTRACT FOR WAUKESHA ELECTRIC SYSTEMS, INC.**

This item was pulled from the agenda.

### **BUDGET AMENDMENT NO. 10**

Mike McCann, Hydro License Project Manager, stated that the budget amendment sought to cover the anticipated contribution of two development partners in the communication system, Oregon Wireless Interoperability Network (OWIN) and AT&T. He said the funds were originally expected to be contributed in 2009, and the expenses were planned for 2009. Now it appeared that the contributions would not be made until 2010. He explained that the budget amendment would advance the project \$1.85 million from the Capital Reserve Fund and once the contribution was received, the money would be reimbursed to the reserve fund.

At General Manager Randy Berggren's request, Mr. McCann explained that OWIN was legislatively mandated and included the Oregon State Police, the Oregon Department of Transportation, and the Oregon Department of Forestry. He said it was in the state budget and the money had been allocated to the project. He related that the lesser share, \$250,000 from AT&T, was less certain; EWEB was in an earlier stage of the contract development with them. He underscored, however, that AT&T would "not get to play unless they pay" and it was highly interested in having cell coverage in the McKenzie Valley.

In response to a question from President Farmer, Mr. McCann stated that the OWIN money was expected in the first quarter and they anticipated that the AT&T money would come in the middle of the year.

General Manager Randy Berggren asked what the implication of not spending the money in the present and waiting for the reimbursement would be. Mr. McCann responded that contractors were "on board" now and they wanted to take advantage of a favorable climate for contracts.

In response to a question from Vice President Brown, Mr. McCann clarified that what was in the 2009 budget for EWEB's share was \$1.25 million and they expected the partners to

contribute \$1.85 million. He said they still expected to pay \$3.1 million for the project in 2009, they just did not expect the reimbursement to occur until 2010.

Vice President Brown, seconded by Commissioner Cassidy, moved to approve Budget Amendment No. 10, an amendment to the budget for Carmen-Smith communication system improvements. The motion passed unanimously, 5:0.

#### **BUDGET AMENDMENT NO. 11**

Mr. Buckhouse stated that the budget amendment was due to planning for the reservoir repairs to occur over two fiscal years, given that such projects had to be completed in the winter months, but the work was running ahead of schedule. He underscored that the overall project costs would not change; they just needed more money in 2009 and less in 2010.

President Farmer asked if EWEB employees were doing the work. Mr. Buckhouse replied that they were not. He added that the contract for the work was already out and the amount in the contract was not changing.

Vice President Brown, seconded by Commissioner Ernst, moved to adopt Budget Amendment No. 11, an amendment to the budget for the Willamette 975' Reservoir repair and seismic retrofit. The motion passed unanimously, 5:0.

President Farmer adjourned the Regular Board Meeting at 9:02 p.m.

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Assistant Secretary

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President