

EUGENE WATER & ELECTRIC BOARD
REGULAR BOARD MEETING
EWEB BOARD ROOM
500 EAST 4TH AVENUE
AUGUST 3, 2010
6:30 P.M.

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

Others Present: Roger Gray, Debra Smith, Debra Smith, Judy Chase, Clay Norris, Dave Koski, Dick Varner, Felicity Fahy, Jeannine Parisi, Jim Wiley, Cathy Bloom, Lance Robertson, Jennifer Joule, Jill Hoyenga, Mark Freeman, Megan Capper, Tom Buckhouse, Brian Connors, Jared Rubin, Mike Logan, Mark Oberle, Lisa McLaughlin, Steve Mangan, Tom Williams, Gary Lentsch, Lisa Bean, Suzanne Adkins, EWEB staff; Kimberly Young, City of Eugene minutes recorder.

AGENDA CHECK

President Brown called the meeting to order. He noted that he was commencing the meeting 15 minutes early and would call for public input again later in the meeting. There were no changes to the agenda.

PUBLIC INPUT

President Brown called for public input. There was no one present who wished to offer comment.

APPROVAL OF CONSENT CALENDAR

Commissioner Cunningham pulled the May 18, 2010, minutes for a correction.

Commissioner Cassidy removed Item 2 from the Consent Calendar.

Commissioner Cassidy, seconded by Commissioner Cunningham, moved to approve the remaining items on the Consent Calendar. Without objection, President Brown deemed the motion passed unanimously.

ITEMS REMOVED FROM CONSENT CALENDAR

Commissioner Cunningham referred to paragraph 5 on page 4 of the May 18 regular meeting minutes and offered the following replacement sentence: "Commissioner Cunningham encouraged Mr. Gray and the executive management team to bring back a recommendation that included both Tier I, the initial tier of the AMI, plus the more expensive tier, for the board to chose."

President Brown encouraged commissioners to work out changes to the minutes with staff prior to the meeting so that the item could be dispensed with quickly and corrections placed on the record.

Commissioner Cunningham, seconded by Commissioner Cassidy, moved to adopt the amended minutes of May 18. The motion passed unanimously.

In response to a question Commissioner Cassidy about the board authorization for the amount of money involved in item 2, Ms. Smith recalled the \$3.5 million in question was part of the board's reserve transfer, which occurred on May 18. She clarified that the funding involved would underwrite the costs of the initial engineering assessments for steam customers.

Responding to a question from Commissioner Ernst, Mr. Logan said that the PeaceHealth facilities had not been included in the initial contract because the organization indicated it planned to move forward on its own.

Speaking to the bidding process, Commissioner Ernst referred to an e-mail communication from Mr. Logan that identified the top three bidders for the contract, and said the extreme discrepancies in the bid amounts suggested to her the same information was not communicated to all the bidders. She asked how EWEB could have received such a low bid from one contractor, McKinstry Essention, Inc., while the other top two bidders were so much more expensive but all three were working from the same scope of work. She referred to the Request for Proposals, which stated that the successful bidder had to look at potential funds that might become available through the American Recovery and Reinvestment Act (ARRA). The contract update made it appear that "now, McKinstry is now going back to do that," and EWEB would be paying the firm more to do so. She asserted that cost should have been included in the original contract. Commissioner Ernst suggested that EWEB would be spending as much on the contract as it would have had it accepted one of the other bids. She suggested those bidders had the impression "they were including all that stuff" that McKinstry was being paid extra for and reiterated that EWEB had failed to communicate the proper scope of work to the bidders.

In response to Commissioner Ernst's concerns, Ms. Smith said the language in the RFP language was intended to clarify the need for the reports to be sufficient to be used to apply both for the Department of Energy moneys as well as other potential funding sources. It was not until after the project was underway that staff realized the opportunity reflected in the contract amendment existed. EWEB did not have the staff available to meet the time line. She acknowledged it was a change in scope from the original RFP but EWEB decided to move forward with the amendment because it was using rate payer dollars and trying to meet minimum standards.

Commissioner Ernst stated that she would not usually "pick a contract apart" but she asserted she had been approached at meetings by people representing the other bidders and in general conversation, the subject had come up, and they could not believe there could be such a discrepancy in the bid amounts. She believed that EWEB had an interest in seeing the bids be closer, and if there was such a discrepancy, she suggested it should be a "red flag" that the other bidders did not comprehend the scope of work.

Commissioner Cunningham asked Commissioner Ernst if she was acquainted with the unsuccessful bidders. Commissioner Ernst acknowledged she knew some of the them but did not associate with them on a non-business basis. Commissioner Cunningham believed that Commissioner Ernst's remarks suggested she should disqualify herself from the vote as she appeared to be attempting to get the bids thrown out in order to favor her acquaintances in violation of her oath of office.

Responding to a question from President Brown, Mr. Buckhouse said that at the time PeaceHealth signed its contract with EWEB, it had no idea of its future plans but was willing to commit to a three-year deal. He said it could be possible that the hospital might want another six to eight months of service.

Mr. Farmer declared a perceived conflict of interest in regard to the matter as he was on the executive board of PeaceHealth.

Commissioner Cunningham, seconded by Commissioner Ernst, moved to approve the contract. The motion passed, 4:1:0 (Mr. Farmer abstaining from the vote).

President Brown returned to item 2, Public Input

PUBLIC INPUT

David Kame, representing the McKenzie River Guides Association, spoke in favor of the Goodpasture Island Boat Ramp, saying the boat ramp design was a good one and he believed it would serve the river-using public well. He thought the Goodpasture Island location was a superior location to Ike's Landing in terms of safety. He also thanked EWEB for the mitigation work that occurred to assist the migration of spring salmon and the work that was occurring at the diversion canal at Walterville.

President Brown thanked Mr. Kame for his remarks and noted that the process of locating the boat landing was a long time in coming to fruition.

ITEMS FROM BOARD MEMBERS

The board discussed a suggestion put forth by Commissioner Cassidy for improved communication between the board and Eugene City Council. President Brown agreed to represent the board before the council. Mr. Gray said he would determine if there were documents such as newsletters that the two organizations could share. Mr. Farmer urged a focus on "big picture" issues and suggested that EWEB consider written executive summaries that councilors could read at their leisure.

Commissioner Cunningham asked that the president, general manager, and legal counsel review e-mail correspondence between a commissioner and EWEB employee and suggested to Commissioner Ernst that she resign her position as she was able to act impartially. President Brown indicated he could only act at the direction of the general manager and legal counsel as he could not do nothing about personnel matters.

Mr. Gray indicated he could follow-up at the direction of the board. He said he would review board guidelines. President Brown said he was previously told that under board protocols, he was never to send an e-mail to employees other than the General Manager. Mr. Farmer agreed. He said that in the past, he had been referred by the manager to an employee, which could lead to direct communication between himself and that employee.

President Brown said that he and Mr. Gray had discussed the need to reaffirm existing protocols or create new protocols to guide such communication. He asked that the board adhere to existing protocols and confine their communication to Mr. Gray.

Commissioner Ernst said the e-mail communication had been directed to the general manager and copied to the employee in question. Commissioner Cunningham pointed out the e-mail greeted the employee in question by name.

Mr. Farmer suggested Mr. Gray review the difference between EWEB's bylaws and the City Charter. Mr. Gray noted that EWEB had two conflicting policies related to the issue and he thought that the board needed to establish protocols to reconcile the conflict. He thought the issue could be resolved by establishing standing protocols.

President Brown reported that the organization "McKenzie Masters" had taken up a collection to help with the operation and maintenance of Goodpasture Island Boat landing and suggested that the board engage in conversation with that group.

President Brown commended the general quality of EWEB employees.

Mr. Farmer reported that he attended the recent Northwest Public Power Association strategic planning meeting, which included discussion of the association's lobbying priorities. He noted he had scheduled a meeting between himself, the association's executive director, and Mr. Gray for later in the month.

CORRESPONDENCE

Mr. Gray called attention to the correspondence and updates included in the meeting packet.

With the concurrence of the board, President Brown again returned to item 2, Public Input.

PUBLIC INPUT

Tom Scott noted that the State tax credit for solar installations had been reduced, and hoped that EWEB could work to increase it. The State was providing less for PV than previous, although it had not changed the thermal credit. He said that EWEB gave 4,000 for a system that produced less than a solar thermal system and said he would like to see the thermal systems get bolstered to compete more effectively with PV and help the industry. He noted EWEB's provision of in heat pumps that also provided air conditioning and said that the Green Store

would not provide the product because people were using the product for air conditioning rather than to reduce their heating bill.

Commissioner Cassidy supported all that EWEB was doing in regard to alternative energy and conservation and hoped staff considered Mr. Scott's comments.

BOARD AGENDAS

Mr. Gray reviewed upcoming board agendas.

LEABURG BOAT LANDING – ENVIRONMENTAL DESIGN OPTIONS AND CONSTRUCTION CONTRACT APPROVAL

The board was joined by Mr. Wiley, FERC License Coordinator Brian Connors, and EWEB staff Lisa McLaughlin. Mr. Connors reviewed environmental design options for the boat landing and compared the design to the design approved by the board on April 20. He noted the cost for the revised design was about \$30,000 less than the design approved by the board. Responding to a question from President Brown, Mr. Connors indicated the total project cost was about \$1.7 million.

President Brown noted the damage to the riparian area by nearby development as well as the creation of illegal boat landings that required the removal of vegetation, sometimes through the illegal use of chemicals, and expressed frustration that EWEB was being held to a higher standard than other property owners.

President Brown thanked staff for its work on the design. He determined from Mr. Connors that the design changes did not impact the adjacent property. Mr. Connors said that property owner's major concern was about trees being planted near the property line, and EWEB planned to do tree planting away from the area and would install shrubs and a fence instead.

Mr. Wiley said that EWEB staff had noticed the public that the item was on the evening's agenda.

Commissioner Cassidy, seconded by Commissioner Ernst, moved to approve the design changes and the contract. The motion passed unanimously, 5:0.

CARMEN-SMITH MAJOR PROJECT AMENDMENT

Mr. McCann requested additional funding for the project to underwrite engineering design activities necessary for the successful implementation of the Carmen-Smith aquatics improvements package as contained within the 2008 Settlement Agreement. He said the required work could be done this year. The amendment did not change the overall cost projections but moved some expenses forward to 2010.

Mr. McCann provided a brief project update. Commissioners asked questions clarifying the information presented.

Commissioner Cunningham, seconded by Commissioner Cassidy, moved to approve the amendment. The motion passed unanimously, 5:0.

WESTATES FLAGMEN, INC., CONTRACT APPROVAL

Mr. Buckhouse requested approval of the contract. He provided some brief background on the contract. Commissioners asked questions clarifying the information presented.

Commissioner Cunningham emphasized the importance of local hiring. Mr. Buckhouse indicated the majority of flaggers were from the local area.

Commissioner Cassidy said the contracts raised questions for him such as why staff had not foreseen the additional expense and why the cost increased so much. Was the contract underbid? Was there waste? He said the board did not have the expertise to evaluate such things. He looked to the manager for guidance, saying he assumed that the expenditure was okay but he was bothered by having to review such an expenditure for the reasons previously stated. Mr. Buckhouse reminded the board that the contract was on a per unit basis, and EWEB was using the services and was not paying more per unit for what it was getting. He said that about 40 percent of construction crew time was initially anticipated to be working off the streets in new subdivisions, which required no flaggers at all, but EWEB had significantly increased the amount of work it was doing in the streets. EWEB did not return to the board on a multi-year contract unless it became necessary. Mr. Gray said the cost going forward was based on the prevailing wage; he believed that raised the question of whether EWEB should take on the service in-house, and staff was looking at that.

President Brown recalled that the board approved another contract that increased the total spent on flagging to \$2 million. Mr. Buckhouse concurred, and said that was maintenance work that, unlike work in the street, did not have to be compensated based on prevailing wages.

President Brown pointed out that people generally believed such employees were EWEB employees, and he did not think the contractor's employees reflected the correct image for EWEB. He suggested that minimum performance standards, such as not smoking on the job and not sitting in lawn chairs on the job, be included in future contracts. Mr. Buckhouse said that EWEB would take that into account when renegotiating the contract. Mr. Gray believed the behavior President Brown witnessed was in violation of the contract and asked that those witnessing such behavior contact him.

Commissioner Cunningham, seconded by Commissioner Cassidy, moved to approve the amendment. The motion passed unanimously, 5:0.

THE JERRY BROWN COMPANY, DELIVERY, AND CARD LOCK SERVICES FOR UNLEADED AND DIESEL FUEL CONTRACT APPROVAL

Mr. Farmer declared a conflict of interest because he did business with the company in question. He left the meeting.

Fleet Services Supervisor Gary Lentsch was present for the item. He provided some background on the request for board approval of a new price agreement contract for the purchase of fuel and services from The Jerry Brown Company.

Responding to a question from President Brown, Mr. Lentch clarified that only the foreman trucks for the line crews, not the crew trucks would be sent to the card locks, and they generally needed to be fueled only once weekly. There were seven card lock locations around the community. He described the wet fueling process, and acknowledged there would be some staff time involved. Mr. Brown said the practices of other fleets seemed entirely at odds with EWEB's. Mr. Gray suggested that it might be possible to combine that activity with another activity to reduce costs.

Commissioner Cunningham, seconded by Commissioner Cassidy, moved to approve the price agreement contract with The Jerry Brown Company. The motion passed unanimously, 4:1:0 (Mr. Farmer abstaining from the vote).

President Brown adjourned the meeting at 7:55 p.m.

Assistant Secretary

President