

EUGENE WATER & ELECTRIC BOARD  
REGULAR SESSION-AMENDED  
EWEB BOARD ROOM  
500 EAST 4<sup>TH</sup> AVENUE  
APRIL 5, 2011

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

Commissioners Absent: John Simpson, Vice President

Others Present: General Manager Roger Gray, Debra Smith, Patty Boyle, Susan Eicher, Tom Buckhouse, TiaMarie Harwood, Leslie Kidd, Sheila Crawford, Mark Freeman, Kathleen Engstrom, Wendi Schultz-Kerns, Clay Norris, Richard Jeffryes, Mariya Nikiforova, Lance Robertson, Lisa Bean, Lisa McLaughlin, Mike McCann, Gary Lentsch, Michelle Martin, Adam Rue, Harvey Hall, Taryn Johnson of the EWEB Staff; Wade Hicks, minutes recorder.

President Brown convened the regular meeting of the EWEB Board of Commissioners at 7:30 p.m.

**Agenda Check**

President Brown confirmed there were no additions or revisions to the agenda.

**Public Input**

President Brown briefly reviewed the rules for public comments.

**Will Rutherford** spoke in his capacity as chairperson of the Clearwater Coalition on the McKenzie River and praised EWEB staff for their response to a windstorm on March 13. He noted that EWEB's efforts to restore services after the outages caused by the storm had been exemplary.

President Brown closed the public comment period and opened the meeting to responses from Board members.

Commissioner Cunningham added that the Board had received several comments in praise of EWEB's response to the March 13 service outages.

General Manager Gray responded to Mr. Rutherford's comments and briefly described the extent of the damages and the subsequent service restoration efforts.

**Approval of Consent Calendar**

Commissioner Cassidy requested that Item 10 (Resolution No. 1115) of the consent calendar be pulled for the purposes of further Board discussion.

Commissioner Cunningham requested that Item 9 (Resolution No. 1120) of the consent calendar be pulled for the purposes of further Board discussion.

Commissioner Ernst, seconded by Commissioner Cunningham, moved to approve the Consent Calendar for April 5, 2011. The motion passed unanimously, 4:0.

### **Items Removed from Consent Calendar**

Commissioner Cunningham, seconded by Commissioner Ernst, moved to approve EWEB Resolution No. 1115, Western Generation Agency EWEB Board Appointment. The motion passed unanimously, 4:0.

Commissioner Cassidy indicated that he did not intend to support any motion to adopt Resolution No. 1120 and believed that the provisions of the resolution represented office policy that was not in the purview of the EWEB Board of Commissioners.

President Brown responded to Commissioner Cassidy's comment and believed that Resolution No. 1120 represented a major change in EWEB policy and that it was necessary that the Board be involved in any discussions or actions regarding the resolution.

Commissioner Ernst noted her agreement with Commissioner Cassidy's previous comment and believed that provisions of the Resolution as implemented under the general manager might be limited by any actions taken by the EWEB Board. She suggested that staff might bring the matter to the Board for further discussion at a later meeting.

Ms. Smith noted that staff probably agreed with Commissioner Ernst's comment but noted that the current policy had a long history of Board approval of any rate actions including any miscellaneous fees and charges.

Commissioner Cassidy noted his concern of how the provisions of the Resolution would directly affect EWEB customers.

Ms. Smith maintained that EWEB staff needed to be accountable for setting and enforcing rate policies and procedures.

Commissioner Cassidy alternatively suggested that he might call a motion to rescind the previous policy regarding the Board's approval of rate actions.

Commissioner Cunningham called a point of order and noted that the Board approval policy referred to by Ms. Smith and further referenced by Commissioner Cassidy was not formally a part of Resolution No. 1120.

Commissioner Cunningham discussed possible scenarios where new EWEB customers might or might not be assessed deposits. Mark Freeman responded to Commissioner Cunningham and noted that the provisions of the Resolution regarding deposits would not be retroactive and further described how the provisions of the proposed policy might operate.

The Board members and staff briefly discussed the current deposit and rate policies and how those policies might be affected by the provisions of Resolution No. 1120.

Commissioner Ernst reiterated her comment that it was not in the Board's purview to discuss the implementation of deposit and other rate policies represented in the resolution.

Commissioner Cunningham, seconded by Commissioner Ernst, moved that Resolution No. 1120 be continued to the April 19, 2011 EWEB Board of Commissioners meeting so that Commission Simpson might be included in the discussions regarding it.

Commissioner Cassidy offered a friendly amendment to Commissioner Cunningham's previously stated motion that the customer service policy and procedures represented in Resolution 1120 and also the current policies be reviewed by the Board. Commissioner Cunningham did not accept Commissioner Cassidy's friendly amendment but further noted that he would not object to Commissioner Cassidy placing his friendly amendment on a future meeting agenda as a board member comment.

President Brown noted that Vice President Simpson had specifically requested that Vice President Simpson's support of Resolution 1120 be entered into the record and further read Vice President Simpson's comment "I also wish to go on record as supporting Resolution 1120 even though I cannot cast my vote (yes) by proxy. President Brown, please read this into the record if this item is pulled from the consent calendar."

General Manager Gray noted that as a matter of governance the EWEB Board was the public utilities commission for the organization and that management could not change rates or assess late fees without Board approval.

General Manager Gray recommended that the Board approve Resolution 1120 as an action item but recognized that additional discussion with the input of Commissioner Simpson might be warranted.

Ms. Smith agreed that a review of the Board approved customer service policies might be warranted but cautioned against the Board collectively discharging its rate-setting responsibility. She further maintained that a comprehensive analysis of the matter could not be completed by the date certain referenced in the previously stated motion.

President Brown noted there had been a strong recommendation from the general manager to adopt Resolution 1120.

President Brown called for a vote on Commissioner Cunningham's previously stated motion. The motion failed, 2:2 (President Brown, Commissioner Ernst voting in opposition).

Commissioner Cunningham, seconded by Commissioner Ernst, moved to approve EWEB Resolution No. 1120 - Resolution approving revision to customer service policy and procedures - all utilities and electric, water and steam policies.

Commissioner Cunningham, seconded by President Brown, moved to amend Resolution 1120 to return the deposits collected in the previous six months.

Mr. Freeman referred to the previous Board and staff discussion regarding utility rates and noted that any persons residing in the same home were considered to share the same credit history of the individual that had been named on the account.

The Board members and staff briefly discussed how deposits for EWEB utility services might be assessed and applied for different types of customers.

Ms. Smith commented that with respect to the proposed policy as described in Resolution 1120 staff had identified an opportunity to make a change in the EWEB deposit policy that would prospectively

benefit a great number of customers. She added that the provision of a late fee into the resolution would keep the utility whole financially and would additionally place the burden of collections on those customers that had incurred the cost.

President Brown called for a vote on the previously stated motion.

Commissioner Cunningham called a point of order and asked President Brown to clarify his call for a vote.

President Brown repeated his call for a vote on the previously stated motion. The motion failed, 1:3 (Commissioner Ernst, President Brown, Commissioner Cassidy voting in opposition).

President Brown called for a vote on the previously-stated motion to approve Resolution 1120. The motion passed, 3:1 (Commissioner Cassidy voting in opposition).

### **Items from Board Members**

President Brown, responding to a request from General Manager Gray, confirmed that there were no members of the public who wished to offer additional comment or testimony.

Commissioner Cassidy reported that he had participated in a meeting of the Northwest Energy Coalition on April 4 but wished to hold his full report on the meeting until the next Board meeting with Vice President Simpson. Commissioner Cassidy noted from the meeting that that organization had recently been attempting to craft a position paper regarding biomass by May of 2011.

Commissioner Cassidy noted that an ODOT meeting he had attended regarding electric cars had been outstanding and that he had there participated in a discussion of how utilities might collect and store batteries as a means of storing surplus energy. He hoped that staff might investigate the matter further.

Commissioner Ernst responded to Commissioner Cassidy's comments and suggested that additional background information might be provided to EWEB's IERP group for further discussion.

Commissioner Cassidy anticipated that the need for further discussions regarding the use of electric cars in the community would increase in the near future.

Commissioner Cassidy, responding to a request for clarification from Commissioner Cunningham, stated that he would provide more detailed information regarding the Northwest Energy Coalition's position on biomass at a future Board meeting.

Commissioner Cunningham suggested that, similar to other governing bodies, the Board and staff members might conduct a flag salute and recite the pledge of allegiance at the beginning of each EWEB Board of Commissioners meeting.

President Brown reported that his appointment to the Northwest Public Power Board of Trustees had been tentatively approved. He noted that he planned to travel to Nevada to participate in the formal appointment process.

President Brown reported that he had recently received pictures of a dump that had been exposed along the McKenzie River about the EWEB water intake. He noted that he had requested General Manager Gray to provide an update regarding the Department of Environmental Quality's actions regarding the matter.

General Manager Gray reported that Vice President Simpson planned to carefully track the developments surrounding the Seneca biomass plant.

General Manager Gray responded to Commissioner Cassidy's comments regarding the ODOT electric vehicle presentation and assured the Board that staff intended to track that matter very carefully. He hoped that certain experiments involving EWEB customers and electric vehicles might be in place by the end of the year. He further discussed a variety of ways in which electric vehicle charging systems might be implemented.

General Manager Gray stated that staff would continue to follow up on the dump along the McKenzie River that President Brown had referenced. He stated that to the best of his knowledge no imminent threat to residents or wildlife along the McKenzie had yet been identified.

General Manager Gray, responding to Commissioner Cunningham's suggestion, stated that the Board might place a discussion regarding the flag salute on the next meeting agenda.

### **Correspondence**

General Manager Gray called attention to the legislative update memorandum from Ms. Smith and to the Carmen-Smith Relicensing update from Division Director Clay Norris.

General Manager Gray noted he had no Board calendar changes to discuss.

### **CM/GC Pre-Construction Contract for Carmen-Smith License Implementation**

Carmen-Smith License Implementation Manager Mike McCann reported that staff had requested Board approval for award of a CM/GC contract to the Wildish Building Company. He noted that six proposals had been received in response to the RFP but that the Wildish Building Company had clearly been considered the preferred agency.

Mr. McCann clarified that the contract under discussion was for pre-construction services only (scheduling, estimating, value engineering, constructability analysis, etc.) and was not to exceed \$90,000.00. Mr. McCann further stated that at the conclusion of the design phase the Wildish Building Company would submit a guaranteed maximum price for the remainder of the Carmen-Smith project for further Board consideration. Mr. McCann further clarified that a subsequent contract process might be implemented as an amendment to the CM/GC contract.

Commissioner Cunningham maintained that it might be more fair to have the Wildish Building Company submit quotes for a separate contract subsequent to the CM/GC process.

Mr. McCann clarified that EWEB would be free to terminate the contract if it did not ultimately agree with the guaranteed maximum price established by the Wildish Building Company. Mr. McCann further described how the contract and construction process for the Carmen-Smith powerhouse construction process might proceed.

Mr. McCann commented that at the Board's request EWEB might limit the amount of work that the Wildish Building Company might perform without Board approval.

Commissioner Cunningham indicated that he would support a motion to approve the award of the contract to the Wildish Building Company.

Mr. McCann, responding to a question from Commissioner Ernst, noted that complaint against EWEB's CM/GC process had been filed by an Oregon construction industry representative. He noted that EWEB's purchasing staff had responded to the complaint and had been attempting to resolve the matter.

General Manager Gray noted that EWEB had received clearance from its legal counsel regarding the CM/GC process.

President Brown declared a potential conflict of interest regarding the CM/GC process and noted that in recent years he had worked with the Wildish Building Company on independent contract.

Commissioner Cunningham, seconded by Mr. Ernst, moved to approve the Wildish Building Company contract for pre-construction services for the implementation of environmental improvement projects at EWEB's Carmen-Smith Hydroelectric Project. The motion passed unanimously, 4:0.

### **May 2011 Electric Rate Proposal**

Fiscal Services Manager Patty Boyle stated that the presentation materials pertaining to the 2011 electric rate proposals were not substantially different from those that the Board had previously reviewed.

President Brown asked the Board members if they had any new questions regarding the electric rate proposals since the Board's most recent meeting and public hearings regarding the matter.

Ms. Smith responded to a previous question from Commissioner Cunningham regarding the nature of the Board's authority to approve individual rate actions. Ms. Smith described how the Board's authority to approve rate actions had developed in relation to EWEB's ten-year budget planning cycle.

Commissioner Cunningham discussed his feelings regarding the electric rate proposal and noted his frustration that rate increases might be necessary to ensure the financial integrity of EWEB and the services it provided.

Ms. Smith responded to Commissioner Cunningham's comments and described how the Carmen-Smith Hydroelectric Project had related to the electric rate proposal.

Ms. Boyle, responding to a question from Commissioner Cunningham, stated that the provisions of the current electric rate proposal might reduce the need for EWEB to raise utility rates in the following year.

General Manager Gray briefly discussed how the actions of prior EWEB Boards had influenced the development of the current electric rate proposal and also discussed how the current proposal might affect discussions on the long term utility rate strategies of the organization.

Commissioner Ernst discussed her perceptions of how the proposed increases related to EWEB's strategic planning efforts.

Commissioner Cassidy described how he had discussed the proposed rate increases with members of the community and the reactions he had witnessed.

President Brown noted that he disliked raising the electric utility rates but understood the necessity for the rate increase.

Ms. Boyle noted that water districts had requested a change for the implementation date for the electric rate increase from May 1 to July 1. She noted that the rate schedules had been revised accordingly.

### **Second Public Hearing on Proposed Electric & Water Rate Increases**

President Brown opened the public hearing but noted that no members of the public were present to offer comments or testimony.

President Brown closed the public hearing.

### **May 2011 Electric Rate Increase Proposal**

Commissioner Cassidy, seconded by Commissioner Ernst, moved approval of EWEB Resolution No. 1113 (May 2011 Electric Rate Revision).

President Brown noted that the Board was ahead of schedule and confirmed that Commissioner Ernst, General Manager Gray and Mr. Boyle would stay until the scheduled end of the meeting to hear any additional public comments.

President Brown called for a vote on Commissioner Cassidy's previously stated motion. The motion passed, 4:0.

### **May 2011 Water Rate Increase Proposal**

Commissioner Cassidy, seconded by Commissioner Ernst, moved approval of EWEB Resolution No. 1114 (May 2011 Water Rate Revision). The motion passed unanimously, 4:0.

President Brown adjourned the meeting at 8:43 p.m.

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Assistant Secretary

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President