



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

Rely on us.

TO: Commissioners Schlossberg, Brown, Carlson, Barofsky and McRae
FROM: Frank Lawson, General Manager
DATE: January 20, 2021
SUBJECT: Required Review of EWEB Bylaws
OBJECTIVE: Board Review

Issue

Article XII, Section 2 of the EWEB Bylaws states that “The Bylaws will be reviewed during the first three months following the swearing-in of elected commissioners.”

EWEB may amend the Bylaws after stated public notification and by a majority vote of the Board. The Bylaws were last amended on January 6, 2015 by Resolution No. 1502.

Discussion

A copy of the Bylaws is included as correspondence for the February 2, 2021 board meeting. Staff have recommended several administrative updates for your consideration. In particular, some numerical references to Eugene Code and Oregon Statute have become outdated.

Management requests that Commissioners review the Bylaws and provide feedback to Anne Kah, Executive Assistant by February 18, 2021. All responses will be provided in the form of a board backgrounder for the March 2nd meeting where Management will seek your direction on the proposed revisions. If the Board indicates a desire to amend the Bylaws, the proposed amendment will be posted publicly for the required 14-day period and then placed on the April 6th consent calendar for Board action.

Recommendation

Review and provide feedback on the Bylaws presented at the February 2nd board meeting.

Requested Board Action

None at this time.

Attachment: EWEB Bylaws approved January 6, 2015 with suggested edits displayed in red-lined format.

Eugene Water & Electric Board Bylaws

ARTICLE I

Section 1.

The name of this organization is the Eugene Water & Electric Board.

Section 2.

Authority for the powers and functions vested in the Eugene Water & Electric Board is established by Chapter 10, Section 44, of the [Charter of the City of Eugene](#), (1976), as amended.

Section 3.

The Eugene Water & Electric Board is defined as a political subdivision of the City of Eugene, a municipal corporation.

ARTICLE II

Section 1.

The principal purpose of the Eugene Water & Electric Board is to benefit the citizens of Eugene by providing water, electric and other physical energy services to its customers while maintaining cost based rates in accordance with ORS Chapter 225.

ARTICLE III

Section 1.

The Eugene Water & Electric Board shall comply with all applicable federal, state, and local laws and regulations relating to its activities.

ARTICLE IV

Section 1.

The Board is composed of five electors of the city who shall serve without pay.

Section 2.

~~Section 2.962 Eugene Code 2.966 (3) of Eugene City Ordinance 18106~~ provides that, "In 1978, and every fourth year thereafter, two members shall be elected to the Eugene Water & Electric Board, one from Wards 4 and 5 and one from the city at large. In 1980, and every fourth year thereafter, three members shall be elected to the Board, one from Wards 1 and 8, one from Wards 2 and 3, and one from Wards 6 and 7."

Commented [AK1]: Option 1: Re-number. 2.966 (3) contains the original verbatim statement with correct citation.
<https://eugene.municipal.codes/EC/2.966>

Option 2: Reference Eugene Code 2.175 which reads:
There is hereby created the Eugene Water & Electric Board, hereinafter referred to as the "board."

(2) The board is composed of five members, one from wards 1 and 8, one from wards 2 and 3, one from wards 4 and 5, one from wards 6 and 7, and one from the city at large, to be nominated and elected as provided in sections [2.964](#) and [2.966](#) of this Code. Nothing in this provision disqualifies, or shortens the term of office of, a member of the board.

(3) Each member shall serve without pay and hold no other city office while a member of the board.
<https://eugene.municipal.codes/EC/2.175>

Option 3: Simply refer to Eugene Code without the precise citation which may change over time.

ARTICLE V

Section 1.

The officers of the Board shall be president and vice president. The president and vice president will be elected annually. The Board shall appoint a general manager-secretary and fix ~~his/her~~ their compensation and conditions of employment. The general manager-secretary shall designate an assistant secretary, treasurer and assistant treasurer.

Section 2.

Consultants to the Board shall be approved by the Board upon recommendation by the general manager-secretary as provided by policy adopted by the Board.

ARTICLE VI

Section 1.

The function of the president is to preside over all meetings of the Board. The Board shall conduct meetings in accordance with Board policies. If the Board is unable to resolve procedural issues, the Board shall use Robert's Rules of Order. The president's role shall be primarily procedural, and the president shall have no greater vote on substantive matters than other members of the Board. The president will also represent the Board as required within the community and coordinate among the Board as necessary in the conduct of Board functions.

Section 2.

The function of the vice president is to perform the duties and responsibilities of the president in ~~his/her~~ their absence or as agreed upon by the Board.

Section 3.

The general manager-secretary shall report to the Board as a whole and is responsible for implementing policies and directions established by the Board. The general manager-secretary acts as chief executive officer of the organization and shall have all authority to: operate all utilities, hire, appoint, terminate or remove employees, organize and, as the general manager-secretary deems necessary, disband and reorganize departments, act as contracting and purchasing agent for EWEB and award contracts for which there is an appropriation (except as otherwise provided in EWEB Purchasing Policies), prepare budgets, and enforce resolutions of the Board. The general manager-secretary shall also be responsible for preparing reports requested by the Board, representing the utility to the public, other agencies and organizations, and performing such other duties as the Board directs. The general manager-secretary may lawfully delegate any or all of the responsibilities within ~~his/her~~ their authority.

ARTICLE VII

Section 1.

The organizational meeting of the Board will be held at the first regular meeting of each calendar year. The primary purpose of the organizational meeting is the election of Board officers and other routine annual business.

Section 2.

The Oregon form of government requires an informed public aware of the deliberations and decisions of public bodies and the information upon which such decisions were made. It is the intent that Board decisions be approved openly. Except as otherwise provided by law: all meetings of the Board shall be open to the public and all persons shall be permitted to attend, no quorum of the Board shall meet in private for the purpose of deciding on or deliberating toward a decision on any matter; an executive session may be held only for those purposes allowed by law (ORS 192.610-.690).

Section 3.

In accordance with applicable State and Federal laws. Commissioners shall not use or attempt to use their official position or office to obtain financial gain or avoidance of financial detriment. Commissioners shall follow requirements of state-applicable law as to announcing conflicts of interest or potential conflicts of interest and requirements for refraining from discussion, debate, or voting in matters where an actual conflict exists. Commissioners shall abide by state-applicable laws on gifts, pledges or promises of employment, personal gain through use of confidential information and prohibitions on representation of others before the Board. The Board may from time to time utilize Board policies or guidelines on conflicts of interest and other ethical standards (~~ORS 244.010-.390~~).

Section 4.

A commissioner shall not qualify for employment at EWEB while serving on the Board and for twelve months after serving on the Board.

ARTICLE VIII

Section 1.

A quorum shall consist of three members of the Board.

Section 2.

In order to pass a resolution, motion, or other measure, an affirmative vote of at least 3 commissioners (a majority of the 5 commissioner positions) is required.

ARTICLE IX

Section 1.

Commented [AK2]: The correct Statute is ORS 244-010-.400
Rather than listing an exact citation, which can change with time, we suggest omitting the statute and stating Commissioners shall follow "applicable" law, as this will encompass both state and federal law. (Federal ethics laws also apply in instances where EWEB accepts a Federal grant)

Should a vacancy occur on the Board, the remaining Commissioners will appoint a qualified elector to fill such vacancy. The appointment shall be made within 90 days. (Eugene Charter [Section 24](#))

Section 2.

Attendance at all meetings of the Board is required of Commissioners. Prior notification of absence should be given to the Board or the Secretary whenever possible. The Board shall have power to declare vacant the office of a member who shall absent ~~himself/herself~~ [themselves](#) from three consecutive regular meetings without an excuse satisfactory to the Board (Eugene Code 2.205).

ARTICLE X

Section 1.

The regular meeting of the Board will be held at 5:30 p.m. on the first Tuesday of each month, unless that Tuesday falls on or generally conflicts with a national holiday in which case the meeting may be on the next business day or on another Tuesday in that month. If an additional regular meeting is required, the general preference will be to hold that meeting at 5:30 p.m. on the third Tuesday of the month. The Board President and the General Manager-Secretary may reschedule these meetings, schedule additional meetings, or cancel any meeting of the Board by mutual agreement.

ARTICLE XI

Section 1.

All regular and special meetings of the Board shall be held whenever possible within the utility service district. (ORS 192.630(4))

ARTICLE XII

Section 1.

These Bylaws may be amended or altered by a majority vote of the Board. The proposed amendment or alteration shall be submitted to all other members of the Board in writing at least ten days before the meeting at which they are to be considered. For fourteen (14) days prior to the proposed adoption of any amendment or alteration, ~~a copy of the amendment or alteration~~ [it](#) shall be available ~~at the EWEB Headquarters~~ for public inspection ~~on EWEB's website during regular office hours~~. [A paper copy of the amendment or alteration shall be provided at no cost, upon request.](#) Notification of the proposed amendment or alteration, the time and place of the meeting at which the proposal is to be adopted, and notice of its availability for public inspection shall be published once in a newspaper of general circulation in the city of Eugene at least fourteen (14) days before the meeting at which the amendment or alteration is to be adopted, or shall be published or disseminated by such alternate method as will provide reasonable notice to the public of such proposal. At the meeting, reasonable opportunity for public comment will be afforded.

Section 2.

The Bylaws will be reviewed during the first three months following the swearing-in of elected commissioners.

Adopted: 01/12/79

Amended: 09/12/83; 03/25/91;

04/12/93; 06/09/97; 06/02/98; 05/17/05; 07/19/11; 06/04/13, 01/06/15.



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

Rely on us.

TO: Commissioners Schlossberg, Brown, Carlson, Barofsky and McRae
FROM: Jason Heuser, Public Policy and Government Affairs Program Manager
DATE: January 22nd, 2021
SUBJECT: 2021 State Legislative Session Update
OBJECTIVE: Information Only

Issue

The 2021 State Legislative Session convened on January 21st. This memo is to apprise the Board of the status in the legislative process of issues key to EWEB's adopted 2021 legislative agenda and legislative principles. Although committee hearings will not begin until the week of January 25th, over a thousand bills were released in the online Oregon Legislative Information System (OLIS) at the time of this memo and staff have begun reviewing bills of interest to EWEB.

Background

Prior to the start of each legislative session, the Board adopts general policy directives for advocacy at the Capitol, which guide the work of EWEB's lobbying activities. When political considerations test the applicability of those directives, the General Manager makes a determination as to whether a fundamental shift in direction is required. The Board may be asked to reaffirm its policy or direct staff to make necessary adjustments.

Discussion

The following is a summary of key legislation of interest to EWEB reviewed by staff thus far:

HB 2995 – 100 Percent Clean Energy Standard – Recommendation: AMEND

This legislation will require that 100 percent of electricity sold in 2035 and each subsequent calendar year to retail electricity consumers in Oregon to be clean electricity. It will also accelerate the deadline, to 2025, for investor-owned utilities to eliminate coal from Oregon's electricity supply.

HB 2995 is lacking in detail on the mechanics of 100 Percent Clean compliance obligations and would direct the Oregon Public Utility Commission and the Oregon Department of Energy to design much of the program in rulemaking. EWEB staff recommend that the legislation be amended to better define some key elements of the program in statute, including a definition of "qualifying non-emitting electricity" that more clearly delineates in statute the specific technologies that will qualify, especially legacy hydropower and nuclear electric generating units, rather than delegating that to

state agency rulemaking. Additionally, EWEB staff recommend an amendment to clarify “delivery” of electricity requirements in statute, using a standard that is consistent with the rules for determining a “bundled” renewable energy certificate in the Oregon Renewable Portfolio Standard (RPS) statute.

HB 2310 – Preemption of Local Authority on Water Pipe Materials – Recommendation: OPPOSE

Similar to legislation in the 2020 legislative session (HB 4043) HB 2310 is again brought forward by the American Chemistry Council and would preempt local governments from enacting, adopting, or enforcing any ordinance, resolution, rule or other law that prohibits, restricts or limits an evaluation, comparison or use of pipe or piping materials for a water project.

Oregon’s public drinking water and wastewater utilities have in some instances made restrictions on the use of piping materials for reasons as varied as: water conservation practices; leak detection and repair capabilities; natural disaster resiliency; pressurization concerns; asset management approaches to life-cycle costs; etc.

EWEB staff recommend a position opposing this legislation on the basis that it is entirely appropriate in these and other instances for local governments to determine what will work best for local community and infrastructure needs.

SB 287 – Utility Wildfire Mitigation Plans – Recommendation: SUPPORT

This legislation would require electric utilities to have and operate in compliance with a risk-based wildfire mitigation plan approved by the governing body of the utility using a wildfire risk assessment of utility facilities. The plan must be designed to protect public safety, reduce risk to utility customers and promote electrical system resilience to wildfire damage.

Utilities would be required to regularly update the risk-based wildfire mitigation plan and review and revise the utility facilities risk assessment on a schedule the governing body deems consistent with prudent utility practices. Utilities would be required to submit the first risk-based wildfire mitigation plan to the utility governing body no later than December 31, 2021 and would be directed to provide their plan to a statewide inventory maintained by the Oregon Public Utility Commission.

HB 2187 – Clean Fuels Revenue Mandate – Recommendation: MONITOR

This bill requires investor-owned and consumer-owned utilities to expend any revenues from participation as credit aggregator or credit generator (EWEB is both) in the Clean Fuels Program (CFP) on transportation electrification. It is unclear if this legislation will move forward if the current CFP rulemaking update is adopted by the Oregon Environmental Quality Commission soon. The proposed rules include a directive for electric utilities to use credit revenue for transportation electrification and send an annual report on the use of credit revenue by the utility to the Oregon Department of Environmental Quality.

HB 2188 – Clean Fuels Revenue Sharing with Public Purpose Fund Administrator – Recommendation: OPPOSE

This bill requires investor-owned utilities and consumer-owned utilities to transfer no less than 20 percent of revenue from monetization of clean fuels credits to a Public Purpose Fund Administrator

(i.e. Forth or Energy Trust of Oregon) to be spent for the purpose of transportation electrification. EWEB staff recommend opposition to this legislation as an unnecessary and inefficient diversion of funds from utility programs.

Recommendation/Requested Board Action

No action is requested at this time. This is a monthly informational update.