



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

Rely on us.

TO: Commissioners Schlossberg, Brown, Carlson, Barofsky and McRae
FROM: Rod Price, Chief Operations Officer; Karen Kelley, Water Division Manager
DATE: February 19, 2021
SUBJECT: Americas Water Infrastructure Act - Emergency Response Plan
OBJECTIVE: Information Only

Issue

America's Water Infrastructure Act of 2018 (AWIA) required all community water systems serving populations greater than 3,300 persons to conduct an all-hazards Risk and Resilience Assessment and develop or update an Emergency Response Plan. EWEB certified completion of the Risk and Resilience Assessment (RRA) on March 30th, 2020, and the Emergency Response Plan (ERP) on September 29th, 2020; these documents are for official use only and exempt from public disclosure as defined under Oregon Law Statutes (ORS) 192.345 and 192.355.

Background

AWIA required all community water systems, serving populations greater than 100,000 persons, to include the following criteria in their RRA:

- Resilience of water infrastructure system components,
- SCADA/cyber security (of automated systems),
- Monitoring practices,
- The financial infrastructure,
- Use, storage, or handling of various chemicals by the system,
- The operation and maintenance of the system, and
- Evaluation of capital and operational needs for risk and resilience management (optional).

In response to the findings in the RRA, AWIA required all community water systems to include the following criteria in their ERP:

- Strategies and resources to improve the resilience of the system, including the physical security and cybersecurity of the system.
- Plans and procedures that can be implemented, and identification of equipment that can be utilized, in the event of a malevolent act or natural hazard that threatens the ability of the community water system to deliver safe drinking water.
- Actions, procedures, and equipment which can obviate or significantly lessen the impact of a malevolent act or natural hazard on the public health and the safety and supply of drinking water provided to communities and individuals, including the development of alternative source water options, relocation of water intakes, and construction of flood protection barriers.
- Strategies that can be used to aid in the detection of malevolent acts or natural hazards that threaten the security or resilience of the system.

EWEB certified completion of the RRA and the ERP, to the Administrator of the Environmental Protection Agency (EPA), and is now in the process of planning and implementing mitigation measures identified by the RRA and enhancing the ERP.

Discussion

EWEB retained Carollo Engineering to complete the ERP updates as required by AWIA and work with EWEB to enhance the ERP to the best in industry. As part of the ERP enhancement, the Carollo Team is working collaboratively with EWEB to comprehensively revise EWEB's ERP, beyond the mandated requirements of AWIA, in coordination with EWEB's resiliency initiatives. As part of the ERP enhancement process the following work has been completed:

- Numerous teleconference workshops with the Carollo team to review progress.
- Preparation of a project improvement implementation plan for the RRA mitigations measures. These projects will be incorporated in future Water CIPs and operational work plans.
- A review of best in industry ERP documents to serve as a baseline for the organizational structure of EWEB's enhanced ERP.
- Development of a useful and actionable ERP with the following improved attachments:
 - Risk Communications Plan
 - Public Notice and Press Release Templates
 - Pandemic Response Plan (Developed by EWEB)
 - Emergency Response Standard Operating Procedures
 - ICS Tools, Contact Lists and Equipment Inventory
 - Emergency Water Supply Plan (Developed by EWEB)

EWEB staff and consultants are reviewing final drafts and will be completing the enhanced Emergency Response Plan in April 2021.

As part of the work for the RRA, a cyber security assessment was completed. This was timely considering the recent cyber security attack on a water treatment facility in Oldsmar, Florida. EWEB's cyber security assessment found EWEB's water system can benefit from cyber security practices used in EWEB's electric utility division. While we continue to strive to improve our system security, it is worth noting that the problems identified in the Oldsmar Florida case do not exist at EWEB. EWEB meets all the recommendations from the Federal Bureau of Investigation that came from the Oldsmar investigation thus far. In addition, a team from EWEB involving Cyber, Water Operations, Enterprise Risk, Physical Security, Information Systems, and Communications are proactively developing public notice talking points based on lessons learned from the attack on Oldsmar's water supply.

Recommendation/Requested Board Action

None. This is an information only item. If the Board has any questions please contact Karen Kelley, Water Division Manager at 541-685-7153 or karen.kelley@eweb.org.



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

Rely on us.

TO: Commissioners Schlossberg, Brown, Carlson, Barofsky and McRae
FROM: Frank Lawson, General Manager
DATE: February 9, 2021
SUBJECT: Proposed Update to EWEB Bylaws
OBJECTIVE: Board Direction

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, including staff’s recommendations for administrative updates, were provided to Commissioners in the February 2, 2021 board packet.

Management requested that Commissioners review the Bylaws and provide any feedback to the Executive Assistant in preparation for the March board meeting. As of this writing, no Board members have indicated a desire for additional changes to the Bylaws. A copy of the proposed amendments to the Bylaws is attached herein for Commissioners’ final review and comments. At the March 2nd meeting, Board members are invited to voice their support for the changes as written, propose alternative language, and/or suggest additional modifications.

Based on the Board’s direction, the proposed amendment will be posted publicly for the required 14-day period and then placed on the April 6 consent calendar for Board action.

Recommendation

Review and provide direction on the Bylaws at the March 2 board meeting.

Requested Board Action

None at this time.

Attachment: EWEB Bylaws approved January 6, 2015 with staff’s 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.

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)

ARTICLE IX

Section 1.

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: February 19, 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 the legislature convened on January 25th and nearly 4000 bills have been introduced to date, the 2021 legislation is progressing very slowly. The legislature has already made two different multi-day pauses, once for concerns about civil unrest centered at the US Capitol and State Capitols and once for widespread and prolonged power and telecommunication outages caused by a devastating snow and ice storm in the North Willamette Valley.

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 the status of key legislation of interest to EWEB (bills from previous updates with no change in status since are not included here):

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

At the start of the session, it seemed improbable that the logistics of a virtual legislative session and looming pandemic/wildfire recovery priorities would be conducive to completing major clean energy legislation. The probability of clean energy legislation has increased somewhat though as an ad-hoc stakeholder work group, including EWEB, has been meeting twice weekly starting in February to evaluate the technical mechanics of how an enhanced Oregon clean energy standard would function.

While subject to major proposed revision, as drafted HB 2995 would require that 100 percent of electricity sold in 2035 and each subsequent calendar year to retail electricity consumers in Oregon be clean electricity. It would 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 defining in statute any "delivery" of electricity requirements, 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

This bill was scheduled for a February public hearing in committee but has been removed from the schedule for the time being.

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 unneeded and inappropriate, local governments are already well situated to determine what will work best for local procurement policies to meet community and infrastructure needs.

HB 5010 – Elimination of DOGAMI and LiDAR Program – Recommendation: OPPOSE

Governor Kate Brown's proposed biennial budget would reduce funding and positions at the Department of Geology and Mineral Industries (DOGAMI) and eliminate the agency in 2022, dissolved the agency's work into the Department of Environmental Quality (DEQ) and the Department of Land Conservation and Development.

DOGAMI's work, especially the agency's LiDAR (Light Detection and Ranging) program, is vital to Oregon's emergency preparedness and resiliency, including post-fire McKenzie River Recovery. LiDAR is a technology that uses light in the form of a pulsed laser to provide three-dimensional images of the surface of the earth. High quality, high density LiDAR collection along the McKenzie River this year would be extremely valuable to local agencies, including EWEB, working with DOGAMI to conduct a debris flow and landslide mapping and modeling analysis of the fire impacted area to understand the risks to infrastructure, homes, and water quality. These elements are

crucial to protecting lives and watersheds from landslides and water turbidity by informing effective plans to implement erosion controls.

EWEB staff, along with a plethora of local governments and members of the scientific community testified in front of the Way and Means Natural Resources Subcommittee as to the importance of DOGAMI and the LiDAR program. The testimony included conveying that a federal grant to pay for LiDAR work on the McKenzie had been denied by the US Geological Service due to the uncertainty about DOGAMI's future. The Ways and Means Natural Resources Subcommittee has since pledged not to disassemble DOGAMI and made a commitment to seek stabilization for the funding of the agency.

SB 333 – Hydrogen Study – Recommendation: SUPPORT

EWEB staff testified before the Senate Energy and Environment Committee on February 11th in support of SB 333 a bill that would direct state agencies to study the potential benefits to Oregon from Renewable Hydrogen.

EWEB staff view Renewable Hydrogen as potentially delivering multiple benefits and use cases in the region including but not limited to: decarbonization of multiple sectors, better utilization of intermittent renewable electricity generation, resource adequacy, clean energy storage for duration of weeks/months/seasons, and local resiliency for a Cascadia Subduction Earthquake and any other natural disaster or prolonged regional grid outage.

Recommendation/Requested Board Action

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