

SOUTH FORK WATER BOARD
MINUTES OF BOARD MEETING
February 8, 2007

Board Members Present:

Norm King, West Linn Mayor, Chair
Alice Norris, Oregon City Mayor, Vice Chair
Scott Burgess, West Linn Councilor
Daphne Wuest, Oregon City Commissioner

Board Members Absent:

Damon Mabee, Oregon City Commissioner
Mike Gates, West Linn Councilor

Staff Present:

John Collins, SFWB General Manager
Laura Schroeder, SFWB Attorney
Kim Brown, SFWB Staff

Others Present:

Alice Richmond, West Linn Resident

General Board Meeting

(1) Call to Order

Chair King called the meeting of the South Fork Water Board to order at 6:07 p.m.

(2) Public Comments

No Public Comments.

(3) Consent Agenda - Approval of minutes of the January 18, 2007 Board Meeting.

Board Member Burgess pointed out an error in the January 18, 2007 minutes in paragraph 8, second sentence. It should read: “additional *or larger* interties or emergency reciprocity.”

Chair King pointed out a typo on page 5, paragraph 8. The word “precious” needs to be corrected to read “previous”.

Board Member Burgess moved to approve the minutes of the January 18, 2007 Board meeting with the above corrections. Vice Chair Norris seconded the motion. MOTION CARRIED 3-0. Ayes: Burgess, Norris, King; Nays: None; Abstentions: Wuest.

(4) Appointment of Budget Officer

Chair King opened the floor to nominations for the SFWB Budget Officer for the 2007/08 fiscal year.

Vice Chair Norris nominated John Collins as Budget Officer for the fiscal year 2007/08 budget preparations of the South Fork Water Board. Board Member Burgess seconded the motion. MOTION CARRIED 4-0. Ayes: Wuest, Burgess, Norris, King; Nays: None.

(5) Approval of Fiscal Year 2007/08 Budget Schedule

John Collins introduced the proposed budget schedule which has been verified with Oregon City's Finance Director and is legally correct for public notification dates. The Budget Committee will meet in April in lieu of the regular South Fork Water Board meeting and the public hearing to adopt a budget will be held in May. A contingency meeting in June is also included in the schedule. Mr. Collins recommended the Board approve the fiscal year 2007/08 budget schedule as presented.

Board Member Burgess moved to approve the Fiscal Year 2007/08 Budget Schedule. Vice Chair Norris seconded the motion. MOTION CARRIED 4-0. Ayes: Wuest, Burgess, Norris, King; Nays: None.

(6) Appoint Citizen Representatives to the South Fork Water Board Budget Committee

John Collins stated that South Fork Water Board adheres to Oregon budget law which requires an equal number of citizens from each City on the Budget Committee. South Fork's citizen members serve a three-year term. Mr. Collins recommended the reappointment of the two outgoing budget committee members: Alice Richmond of West Linn, and Carol Kafader of Oregon City.

Vice Chair Norris moved to reappoint Alice Richmond and Carol Kafader for three-year terms as citizen representatives to the South Fork Budget Committee. Board Member Burgess seconded the motion. MOTION CARRIED 4-0. Ayes: Wuest, Burgess, Norris, King; Nays: None.

(7) Business from the Manager

John Collins said that after last month's discussion of water rights, South Fork attorney Laura Schroeder put together a memo highlighting South Fork's water right issues.

Laura Schroeder explained the purpose of the memo is to summarize the process for extension requests. Currently, for South Fork's extensions and permits, the process involves filing extensions and once the extensions are approved in form or completeness by the Oregon Water Resources Department (OWRD), they are sent to the Oregon Department of Fish & Wildlife (ODFW) to make a finding or recommendation.

Board Member Wuest asked for some background information since she is a new Board member.

Laura Schroeder clarified that in order to get water for South Fork, we have permits to withdraw water from the Clackamas River. Some of these permits have been developed in part. If a permit has not been developed completely, an entity must file for a water right extension. This process is

South Fork Water Board
Minutes of Meeting
February 8, 2007

an application to the Oregon Water Resources Department (OWRD) and is quite extensive. South Fork has filed for water right extensions over the past couple of years. During the time these extensions were filed, the law changed. Previously, municipalities would get extensions as a matter of course. Then WaterWatch brought a lawsuit against Coos Bay's extensions. That lawsuit went through the whole Court of Appeals process and the Court said Coos Bay cannot get an extension, and OWRD cannot approve it without an analysis. The next session of the Legislature passed HB 3038 which says that any extension request filed for a municipality and approved by OWRD is approved. Coos Bay then got their approval. But any extension request on file that has not been approved (by OWRD) will have to go through a new process. This process involves taking the extension request and sending it to the Oregon Department of Fish & Wildlife (ODF&W) for a determination regarding further development of the permit. ODF&W makes their determination on whether or not development of the permit will hamper the maintenance of endangered species.

South Fork has filed applications (for permit extensions) and OWRD approved them for completion and now ODF&W is doing consideration and will make a recommendation to OWRD. At this time, we do not really know what to expect. OWRD has the legal right to ignore an ODF&W recommendation. Every municipality that takes water from the Clackamas Basin has filed an extension request. This group got together and made a presentation to ODFW outlining the steps they have taken to improve conditions in the Clackamas River. In return, ODF&W basically said that they believe the group will harm the persistence of fish species and is asking for some form of mitigation; such as giving up part of a permit to the river or to only use the water during certain time etc.. Most likely what comes out of ODF&W will be a requirement that entities give up some of their water to the river. Again, OWRD can accept or reject the recommendation. Once OWRD issues their final determination, we (South Fork) can put our extension requests on hold; we can go to court; we can negotiate; we can withdraw; there are lots of options. Our position right now is to let the process run, which will take six months or longer. In the meantime, all municipalities are quite anxious because they need to deal with growth and don't think this process is workable. Some municipalities are out of permits to develop and are trying to find new water, while others like South Fork have plenty of permits to develop but have to go through the extension process.

John Collins said the Clackamas Water Providers were less than satisfied after the last meeting with ODF&W. However, just this afternoon ODF&W agreed to sit down and revisit this issue to find some common ground. Throughout the State of Oregon, municipalities are coming back to their elected officials and saying things are on the road to a train wreck and so there has been some pressure filtering back to the governing agencies (OWRD and ODF&W).

Laura Schroeder added that under HB 3038, the alternative process is for most cities to go straight to the legislature and forget dealing with the agencies. Nobody wants to see that because the agencies will not have any control and it will all become political.

Chair King asked who makes the decisions; the Commission or somebody on staff.

Laura Schroeder replied that it is supposed to be the Commission. Sometimes a public hearings officer makes the recommendation to the Commission. If contested, the director can make the initial decision or send to the Commission for a decision.

South Fork Water Board
Minutes of Meeting
February 8, 2007

Board Member Burgess mentioned that earlier Laura talked about the Governor and now about legislators; do we need to do anything in terms of letting the Governor's Office know about our position. Board Member Burgess also asked if Willie Tiffany (League of Oregon Cities) has worked on this.

John Collins replied that Willie Tiffany has worked on this issue until he was blue in the face and is on-point for our group. He will be at our meeting with the Oregon Water Utility Council (OWUC) on February 15th in Eugene to discuss this issue. The 'pay to play' plan has now gone by the wayside and Governor's Office is adamant about their position and they don't feel they have gained any headway. Representative Jensen has drafted a bill that will be moving forward that has our water right 3038 issue in it.

Laura Schroeder explained that agricultural use largely goes unmetered, although the State is allowed to meter them. Representative Jensen is proposing legislation that would force them to be metered and use that to deal.

Vice Chair Norris asked how unmetered users pay for water.

Laura Schroeder responded that while water is not paid for by the gallon, municipalities are required to monitor, meter and report water usage. Agricultural users pay for permits, but they are not required to report the amount of water withdrawn.

Vice Chair Norris asked to clarify if we know how much water is actually pumped out of the Clackamas River.

Laura Schroeder replied that while we do not know how much is actually pumped, the amount of water they are allowed to withdraw is limited to a certain amount. If OWRD hears a complaint that an agricultural user is taking more out, they do require a hearing. At this time though, they only act on complaint driven requests.

John Collins added that the Clackamas Basin Group has talked about it, and to the best of anyone's knowledge, not a single agricultural user on the Clackamas has a meter. Mr. Collins went on to explain that in his opinion, as far as permit extensions are concerned, the group of municipal users will meet again with ODF&W and possibly ask for an administrative hold which can last for a couple of years. To date, South Fork has put over 23 mgd to beneficial use so that volume of water is not on the table, it is ours. Since South Fork water rights are senior to all other users, if there are higher fish flow targets in the river, South Fork is not in a bad position and we may even be in a superior position with our water rights. Our senior rights may become priceless as the rest of the basin faces serious issues.

Laura Schroeder briefly explained about fish flow targets and river levels. These flow targets are based on the minimum flows needed in August for fish passage, which takes into consideration the species of fish along with climate and other historical data. Rivers such as the Umatilla and Molalla have much bigger issues because of their shorter length, lower flows, and warmer temperatures.

John Collins introduced the next issue under Business of the Manager. The national AWWA Annual Conference and Exposition (ACE) will be June 24th – 28th this year and will be held in Toronto, Ontario, Canada.

Board Member Burgess asked if there was money in the budget for Board members to attend.

John Collins replied that funds are available for a Board member to join him at the conference. The budget includes a couple of thousand dollars for Board education every year and it would be worth considering this conference. There will be other Board members from the Clackamas Basin attending this year's conference.

Both **Chair King** and **Vice Chair Norris** expressed an interest in attending the 2007 ACE conference.

Chair King asked if the Board wants to authorize two Board members to attend.

Board Member Burgess moved to authorize two South Fork Water Board members to attend the 2007 AWWA Annual Conference & Exposition in Toronto, Ontario, Canada. Vice Chair Norris seconded the motion. MOTION CARRIED 4-0. Ayes: Wuest, Burgess, Norris, King; Nays: None.

John Collins introduced the idea of a Clackamas Watershed Management Group (CWMG) 'Joint Water Resource Management and Conservation Program'. Over the past several years as part of the Clackamas Watershed Management Group, South Fork has funded a portion of activities in the Clackamas watershed. The funding is calculated as a percentage based on the amount of finished water produced. South Fork has an excellent conservation program and the person who administers this program is also South Fork's environmental coordinator. The five major entities in the Clackamas Basin (South Fork Water Board; City of Lake Oswego; Clackamas River Water; Sunrise Water Authority; North Clackamas County Water Commission) do not need five separate environmental coordinators and are interested in combining resources for greater efficiency and savings. This jointly funded position would involve a full time water resource manager (Kim Swan, South Fork Environmental Coordinator) and a full time water conservation person who will work under her direction. As Environmental Coordinator, Kim Swan is already active in these watershed projects and we are already paying her for these activities (through funding of the CWMG). This position would allow her to do this on a basin wide level and the savings would be significant. The goal behind this is to maintain and enhance South Fork's conservation program. South Fork now spends approximately \$140,000 per year for our Environmental Coordinator and our conservation program. With this joint effort of five entities paying for resource management, and three entities paying for conservation, the expense to South Fork would be approximately \$85,000 per year to maintain the same high level of service we currently have. It may be possible to better that number in negotiations with Sunrise Water Authority and North Clackamas County Water Commission by arguing that South Fork built this conservation program and they are benefiting from all of our hard work. Additionally, South Fork is already funding watershed activities as part of the Clackamas Watershed Management Group, so that portion is not an added cost. When all is said and done, South Fork will realize a minimum of \$40,000 per year in savings, and as much as \$55,000 per year for a total of over a half-million dollars in saving in the next 10 years.

This is a way for the basin to work together and realize significant savings as an economy of scale. Mr. Collins stated that he is very much behind this joint effort; he brought it to the table and

South Fork Water Board
Minutes of Meeting
February 8, 2007

created it and he would not be bringing it to the Board if it was a move backwards in conservation. The conservation program will still serve Oregon City and West Linn schools.

In the past week, Sunrise Water Authority and North Clackamas County Water Commission Boards have approved moving forward with this project. Both Lake Oswego and Clackamas River Water anticipate eventually stepping up to the plate for both conservation and resource management.

Mr. Collins added that he is not asking for a Board decision tonight; this is for information purposes only and will be brought to the Board for a decision at a later date.

Laura Schroeder asked who would supervise the resource manager.

John Collins replied that Kim Swan and the person working under her would report to the group of General Managers.

Vice Chair Norris asked who would physically house the joint program.

John Collins responded that he believed the most centrally located available spot would be at the North Clackamas County Water Commission treatment plant or at the Oak Lodge Water District office.

(8) Business from the Board

None

(9) Adjourn meeting

The February 8, 2007 meeting of the South Fork Water Board adjourned at 6:51 p.m.