

SOUTH FORK WATER BOARD
MINUTES OF BOARD MEETING
September 12, 2013

Board Members Present: John Kovash, West Linn Mayor, Chair
Rocky Smith, Oregon City Commissioner
Jody Carson, West Linn Councilor
Betty Mumm, Oregon City Commissioner
Mike Jones, West Linn Councilor

Board Members Absent: Doug Neeley, Oregon City Mayor Vice Chair

Staff Present: John Collins, SFWB General Manager
Christopher Crean, SFWB Legal Counsel

Others Present: Alice Richmond, West Linn Resident

General Board Meeting

(1) **Call to Order**

Chair Kovash called the meeting of the South Fork Water Board to order at 6:00 p.m.

(2) **Public Comments**

There were none

(3) **Consent Agenda**

(A). Approval of the Minutes of the May 9, 2013 Board Meeting

Board Member Betty Mumm moved to approve the Consent Agenda. Board Member Rocky Smith seconded the motion, which passed unanimously.

(4) **SFWB Emergency Response Plan Update**

John Collins, SFWB General Manager, stated that to be in compliance with the Patriot Act, South Fork recently updated their Emergency Response Plan, which he distributed to the Board. The work was done in house, saving SFWB \$20,000 to \$40,000, and he commended Kim Brown, South Fork's technical writer, for doing an excellent job on the Plan with some guidance from Staff and himself. The Emergency Response Plan contains an emergency contact list, including up to date contacts for Oregon City, West Linn, the media and vendors. It also includes South Fork's annual self-assessment, and protocols. He confirmed that the compliance review was done as a courtesy by Lee O'Dell at CH2M Hill. He agreed to pass on the Board's appreciation to Mr. O'Dell.

(5) **CRW Supply and Rate True Up Discussion**

John Collins, SFWB General Manager, explained that a few years back, South Fork and CRW had a dispute about rates and went to court. As part of the settlement agreement with CRW, SFWB set its rates in a three-year period and a big component of the rates are cost of materials, services, and supplying water. This year, Fiscal Year 2012-2013, was the first year a true up was done. The true up was reviewed by Christopher Crean and sent to HDR as part of the rate analysis. The rate charged was \$0.89 per 100 cubic feet, but should have been closer to \$0.81 or \$0.82 because South Fork saved more than \$300,000 in the budget. CRW would receive about \$50,000 back in credits

for their bill going forward for next year. CRW uses about 16% of SFWB's total water production. South Fork and Oregon City are reviewing the final numbers and will meet in a few weeks to discuss them. SFWB is contractually obligated to pay the true up.

Mr. Collins confirmed CRW serves the unincorporated part of Oregon City that receives water as an independent water district. He indicated the areas CRW serves on a displayed Water District Map with a brief history about how certain areas on the map now receive water service.

Chris Crean SFWB Legal Counsel, confirmed that SFWB had the authority to withdraw those areas annexed into Oregon City from CRW and service them directly but hydrological and engineering issues exist in some of areas.

Mr. Collins stated the second issue was that CRW has been working on a plan to facilitate bringing pipe over from the Sunrise Water Authority into this area. He noted on the 2009 Existing Distribution System map where a new Carver Bridge was being built adding that a pipe would also be installed that would allow CRW to take water from Sunrise, and provide water across the river to. An email in the board packet from Mr. Moore explained what will happen over the next few years. The water would be produced in the CRW treatment plant and sold to Sunrise; CRW would simply trade water despite a possible conflict as described in the pipeline B construction agreement. CRW will take about two years to complete the bridge and serve about 200 households through that pipe.

- Mr. Moore's email did explain that an additional \$7 million in infrastructure must be constructed for CRW to serve that whole area, and ultimately, SFWB would lose that area as a wholesale customer. While that would result in a financial impact, losing those customers could potentially be positive because it would take some of the demand off of South Fork's system and definitely delay some capital projects allowing more time to save and collect SDCs.
- At a meeting he and Mr. Crean attended in Oregon City, the managers for CRW and Sunrise discussed an ORS 190 Agreement and it was apparent that they were seeking boundary protection as a water authority.

Mr. Crean explained that Oregon City has the authority to withdraw anything inside its boundaries from CRW's service areas and serve it directly. As Oregon City expands, it is important to ensure that South Fork serve those new residents. Sunrise is a water authority not a water district, and territory cannot be withdrawn from a water authority, so their boundary is much more secure than CRW's. CRW has been trying to achieve the status of a water authority for a long time. They tried to convert themselves into an authority six or seven years ago but were defeated. Now, they are trying to enter into an agreement with Sunrise to create a third entity, similar to how South Fork was created by Oregon City and West Linn. CRW believes they can delegate Sunrise's protection against boundary withdraws to this third entity, thereby solidifying CRW's boundaries. This new third entity would have a combined boundary.

- CRW's boundary is right up against Oregon City's boundary. The issue is that there are significant urban reserves designated outside of Oregon City which the city is expected to grow into in the next 50 years. If CRW's boundary cannot change, as the city grows those areas will continue to be served by CRW rather than Oregon City.
- South Fork has communicated this concern to CRW and drafted a letter to pinpoint the concerns. South Fork also proposed in a meeting that from an engineering perspective, there are areas that make sense for South Fork to serve and other areas that make sense for CRW to serve, which should be the basis for drawing boundaries. However, it might take a couple years for the necessary study to be completed, and CRW was unwilling to wait that long because of the \$7 million in infrastructure and them wanting to lock in their boundaries. South Fork would formally and continue to express the concern and see what happens.

Chair Kovash asked who would make the decision about the boundary protection.

Mr. Crean explained that CRW's plan was to ask the court to validate the caveat of the 190 Agreement contract, including that portion. If they did, South Fork would intervene and be a party to the lawsuit to argue its case. If CRW did not file a claim in court, South Fork would seek a review of the contract before the court to see if the statute allows them to shift the boundary protection authority to CRW.

Mr. Collins confirmed that matters had calmed down for the CRW Board, noting several board member positions had changed. A year ago, both SFWB and Oregon City sent letters that put on record how each entity felt about this issue, and it was important to reiterate that.

Mr. Crean added if it moved forward, they may have to take whatever action was necessary to protect South Fork's and Oregon City's interests. He noted that no one was hiding anything; it was clear that CRW wants to protect their revenue base and South Fork wants to protect the City's ability to serve city residents in the future.

Mr. Collins added the City Manager for Oregon City, David Frasher, was attending every meeting and was very clear about the City's concerns. Oregon City's attorneys were working on the matter as well. South Fork was not in it alone; they were all working together.

(6) **Business from the Manager**

1) South Fork Water Board Water Management and Conservation Plan Update

John Collins, SFWB General Manager, stated that Water Resources was very comfortable with proposed Plan, but the agency said that they would review it when they could. This might be a mixed blessing because once the water rights are confirmed, every agency must submit a new Water Management Conservation Plan within three years. The delay could be a courtesy in that Water Resources were waiting for SFWB's water rights to be confirmed, allowing South Fork five years before the next required update. South Fork met its deadline for the update, which went through the public process and was now two years old, but the plan has been caught up in Water Resources waiting to be adopted.

2) Discussion of Energy Savings Partnership with Enernoc

John Collins, SFWB General Manager, explained that South Fork was working with Enernoc, a consultant for PGE, on a way to save energy and capacity for PGE and money for South Fork. South Fork is a big enough utility that it could shift its load in power. Enernoc's proposal estimated that South Fork would receive a \$128,310 credit over a five-year plan. If the contract is signed, at no expense to South Fork, three new meters would be installed and tied into a portal that is expressed in real time. PGE will call the plant and ask to reduce power. If South Fork is able to reduce power, South Fork will be paid approximately \$0.50 per kw hour for every kw that is saved. Participation will be easy for South Fork in the winter.

- On the surface, it seems like a good program and South Fork could save a lot of money. The first year, South Fork would receive a \$10,400 capacity payment, which is based on the potential ability to reduce, just for agreeing to try the program; even if power is never reduced, South Fork keeps the payment.
- Enernoc evaluated the plant's power records to see what South Fork normally ran in cycles for the last 12 months. Based on the potential of reduction, Enernoc would give South Fork

\$10,400 for participating. When South Fork has actually reduced power, then an additional payment would be received for the actual load reduced.

- PGE is required to offer this program by the regulatory agencies. PGE is sending a formal contract for South Fork to consider. If Mr. Crean is comfortable with contract, it will be brought before the Board next month for consideration.

Board Member Carson asked how likely it was that South Fork would be able to make the reduction.

Mr. Collins responded that reducing power would be very likely in the winter. Peak power consumption is in the early morning and evening, and they can run the plant and fill up in the off peak time, so when the call is made between 6 am and 8 am, South Fork could be off the grid during peak hours, resulting in a great reduction in power. Once South Fork changes its power cycles, next year's potential reduction could result in a \$30,000 capacity payment. During the winter, demand is down 40% of what it is during the summer, so South Fork would adjust the times to fill the plant before Enernoc asks for the reduction. South Fork will be able to reduce power, be totally off the grid, and get a huge credit back. During the summer it is different as the reservoirs must be kept at minimal levels, about which PGE was made fully aware. While the plant could not be shut down, once the cycles were defined, they might be able to bring power consumption to 70% capacity and get a load reduction for that 30%. John said he has reviewed the plant's operations and knows this could be done. The \$10,400 assumed that South Fork would run the plant the same way as last year, but that would not happen. South Fork would now adjust for peaks so the capacity payment for any potential load reduction has the potential to be even be higher.

Board Member Mumm asked if there would be any added stress to the machinery.

Mr. Collins answered there would be no added stress and no requirements for staff changes. He clarified that this plan focused on power usage at the pump stations and the plant.

- The key was to tweak the system to be running at 5 am and then taken off the grid when the call from PGE is received. He confirmed the goal was to be at maximum use right before the call from PGE. This would also change the capacity payment for the next year because South Fork would be putting more power into PGE's cycle where it was needed most and also reducing South Fork's power. There was no monetary obligation. If South Fork was unable to reduce power, PGE would take them out of the program.
- The next step was to have the contract approved by Mr. Crean's office and then get formal approval from the Board.
- Mr. Collins clarified that the program would save South Fork energy costs. South Fork would produce the same amount of water on a daily basis, but be paid back for a reduction in power usage.

Board Member Jones commented if there was ever a point where PGE paid more per kw hour during peak hours, which was happening in some places, South Fork would be set.

Board Member Carson asked about putting solar panels out on the plant's lawn.

Mr. Collins noted two solar surveys have been done but unfortunately for solar power potential, South Fork has too many trees on the property. Arbitrarily cutting down 30 or 40 trees was not a neighborhood friendly option.

3) Oregon City Franchise Fees for SFWB Transmission Lines

John Collins, SFWB General Manager, said he had spoken with David Frasher about franchise fees for South Fork's pipes. The cost estimate done by Oregon City Staff was \$16,000 to \$17,000. There is an opportunity for Oregon City to receive franchise fees from Comcast, which had a potential of around \$300,000 per year. West Linn also had a lot of pipe in Oregon City, so he speculated that they would be receiving franchise fee as well. West Linn has pipe from the Division Street pump station to the I-205 Bridge in the public right-of-way.

Chris Crean, SFWB Legal Counsel, updated the board that the water rights case has been scheduled for oral argument at the Court of Appeals in November. Given the number of lawyers in the case, and the fact that everybody gets the chance to talk, he expected that it would probably be 12 to 15 months for a decision after oral arguments.

Mr. Collins added that South Fork's argument would be coordinated with Lake Oswego and Oak Lodge and Mr. Crean was working together with their attorneys. The arguments are broken up into different pieces.

(7) **Business from the Board**

There was none.

(8) **Executive Session –Adjourn regular meeting and convene Executive Session.**

The September 12, 2013 regular meeting of the South Fork Water Board adjourned at 6:37 p.m. No Executive Session was held.

- a. To consider information or records that are exempt by law from public inspection pursuant to ORS 192.660 (2)(f).
- b. To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed pursuant to ORS 192.660 (2)(h).

(9) **Reconvene Regular Meeting if needed to take any action necessary as determined in Executive Session.**

Respectfully Submitted,

By Paula Pinyerd, ABC Transcription Services, Inc.
for John Collins, SFWB General Manager