

SOUTH FORK WATER BOARD
MINUTES OF BOARD MEETING
February 13, 2014

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

Board Members Absent: John Kovash, West Linn Mayor, Vice Chair

Staff Present: John Collins, SFWB General Manager
Kim Brown, SFWB Staff
Mark Cage, SFWB Staff
Christopher Crean, SFWB Legal Counsel

Others Present: Wyatt Parno, Oregon City/SFWB Finance Director
Ernie Platt, Sunrise Water Authority

General Board Meeting

(1) Call to Order

Chair Neeley called the meeting of the South Fork Water Board to order at 6:09 pm.

(2) Public Comments

There were none.

(3) Consent Agenda

(A). Approval of the Minutes of the January 9, 2014 Board Meeting

Board Member Carson corrected Page 2, stating that the bracketed phrase in the first paragraph, and “[retain?]” at the end of her comments should be deleted.

Board Member Carson moved to approve the Consent Agenda as corrected. **Board Member Mumm** seconded the motion, which passed unanimously.

(4) Appointment of Budget Officer

(5) Appoint Citizen Representatives to the South Fork Budget Committee

(6) Approval of Fiscal Year 2014/15 Budget Schedule

Board Member Jones moved to accept the General Manager's recommendations regarding Agenda Items 4 through 6. Board Member Smith seconded the motion, which passed unanimously.

(7) Business from the Manager

1) City of Oregon City Right-of-Way Franchise Fee Discussion

John Collins, SFWB General Manager, explained that South Fork had a financial responsibility to comply with the new ordinance regarding right-of-way fees passed by the City of Oregon City which would result in about a three percent overall increase in the SFWB budget. Knowing that fee increases are capped in both cities, he and Mr. Parno worked to implement and pay the fee with minimal impact to either city's water rates.

Wyatt Parno, Oregon City Finance Director, provided a brief background on the Oregon City ordinance pertaining to right-of-way rights and fees, which he believed was a reasonable and appropriate approach in terms of managing rights-of-way. He distributed and reviewed an analysis which illustrated how the new fee would be paid in 2014 and implemented into the budget thereafter. Compliance with the new law began January 1, 2014 with a deferral of payment provided until July 1st. Mr. Collins' idea to borrow money from Oregon City had enabled South Fork to establish some reserves through debt savings, in addition to other General Fund reserves achieved by good management practices. Directing the Board to Page 2, he noted the total right-of-way usage charge in 2014 was \$42,000, which would be paid with South Fork's reserves without any increase to either city this year. Mr. Collins had suggested phasing in a 1 percent increase to South Fork's rate over the next three years to minimize the fee's impacts; a 1 percent rate increase starting July 2015 would generate \$24,000.

Mr. Collins stated in his budget message, he would describe maintaining a base revenue increase of 2.5 to 3.5 percent, which was appropriate for maintaining South Fork system and development, plus an additional 1 percent to accommodate the right-of-way fee.

Board Member Jones stated South Fork was paying the franchise fee, part of which comes from West Linn ratepayers, but the entire franchise fee went to Oregon City. West Linn also pays a franchise fee of \$5,000 to \$6,000 a year for its water transmission line from SFWB to West Linn. He questioned why Oregon City ratepayers would not simply absorb the fee because the money basically came back to Oregon City. Also, the IGA indicated that extraordinary surcharges were to be allocated to parties in proportion to the benefit. West Linn receives no benefit from this fee, but Oregon City gets 100 percent of the benefit.

Board Member Smith noted that West Linn was a half-partner in South Fork, and West Linn's water ran through the infrastructure located in Oregon City's right-of-way. If the situation was reversed, Oregon City would be paying West Linn for using their right-of-way.

Board Member Jones replied the only equitable approach would be for West Linn to pass a similar ordinance.

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Board Member Carson clarified West Linn did not sell water so it was an entirely different scenario. South Fork was paying the fee to Oregon City because the water lines run through Oregon City

Mr. Parno confirmed the franchise fee was based on total gross revenue. As far as the benefit, he explained that West Linn's pipeline was within Oregon City's rights-of-way so any repair or replacement of those lines was done by Oregon City crews. He noted the analysis showed Oregon City also had to pay the fee. The 2015 column on Page 2 showed West Linn's impact would be \$10,800 and Oregon City's impact would be \$14,000. He reiterated that paying the fee was the law. SFWB was located within the boundary of Oregon City and, like West Linn, South Fork's pipes were in Oregon City's rights-of-way. He confirmed the fee was being divided proportionately among everyone getting water from SFWB. The agreement with CRW was being renewed this year, so CRW would be paying their proportional share of the fee. Based on current water usage, noted on Page 2 of the analysis, West Linn would pay approximately 34 percent and Oregon City approximately 45 percent. The rate for the two cities would decrease slightly because CRW would be paying its share when the agreement is renewed.

Mr. Collins stated his biggest concern initially was that South Fork would be passing on an additional 6 percent increase. With the SDC reimbursement portion of the money, SFWB would allot more of what is allowed to pay off on debt to free up some reserves to minimize the increase to 1 percent. Four budget cycles from now, the cost would be completely assimilated into the budget without a lot of economic hardship.

Board Member Smith explained the fees were imposed because as a county seat, Oregon City had other infrastructure from both local and regional entities within its boundaries so that Oregon City residents have been subsidizing many different regional uses. For example, Oregon City's police department would respond if someone broke into South Fork. Franchise fees were one way to help address that gap.

Mr. Collins noted David Frasher had said this was a model ordinance by the League of Oregon Cities; such ordinances were becoming the norm. Chris Crean's firm drafted ordinance.

Chris Crean, SFWB Attorney, stated his firm had been advising Oregon City on the ordinance, but not West Linn. He explained if a controversy existed between West Linn and Oregon City, he could not advise either city, only SFWB, which must comply. Any separate arrangement between the cities was up to the elected officials and would be addressed outside the SFWB.

Mr. Collins confirmed that every utility operating within the Oregon City right-of-way had to comply with the law. South Fork met the application deadline, paid the \$50 fee, and was prepared to move forward in compliance with the law. He would be meeting with Chris Jordan and David Frazier to review and discuss the proposal for paying the franchise fee.

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Board Member Carson appreciated the analysis and the proposed solution to minimize the impact to water users. She asked for clarification on how the fees were calculated so she could respond to any questions.

Mr. Collins clarified the 6 percent was based only on the gross sales earned within the city limits of Oregon City. The calculation was not applied to revenues SFWB earned from West Linn.

Chair Neeley.... [inaudible]

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Mr. Parno responded there was a minimum for organizations that do not earn any gross revenues within rights-of-way in the Oregon City limits. West Linn qualified for that, for example, and could pay \$5,000 or \$6,000 as a minimum.

Mr. Collins believed it was as low as \$3,000. He confirmed that Board Members Jones and Mumm would attend the ACE Conference which would be held in Boston June 8th-12th.

(8) Business from the Board

Board Member Carson reported that the SDAO conference in Seaside was very informative, but about 30 percent of the attendees and presenters could not make it due to the snow storm. Except for the opening, all the sessions she attended were presented by lawyers and regarded some very complicated issues, including public meeting law, ADA, workmen's compensation, etc. While she has a better understanding of some of South Fork's liabilities, she was disappointed that some of the sessions she was interested in were not held.

Mr. Collins added it was a great conference for best practices because Board Members receive training and acquire points in the system. The conference also provides opportunities to socialize and learn from other water utilities, fire districts, library districts, etc.

(9) Executive Session –Adjourn regular meeting and convene Executive Session.

The February 13, 2014 regular meeting of the South Fork Water Board adjourned at 6:43 p.m.

- 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).

(10) Reconvene Regular Meeting if needed to take any action necessary as determined in Executive Session. The regular meeting was not reconvened.

Respectfully Submitted,

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