

SEAL ROCK WATER DISTRICT
MINUTES OF THE Regular Board Meeting
April 11, 2019

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6 Call Regular

7 Board Meeting: Commissioner Rob Mills called the regular board meeting to order at 4:00 p.m., Thursday,
8 April 11, 2019.
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10 Present: Commissioner Glen Morris, Treasurer; Commissioner Rob Mills, member; Commissioner
11 Saundra Mies-Grantham, Secretary; Commissioner Karen Otta, member. Staff: Adam
12 Denlinger, General Manager; Joy King, Office Manager. Jeff Hollen, Legal Counsel. See sign
13 in sheet for public attendance.
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15 Excused Absences: President John Garcia

16 Announcements: None

17 Public Comments: None
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22 Agenda Calendar: Items on the consent calendar are Invoice Lists for March/April 2019;
23 March 14, 2019 Regular Board Meeting Minutes; March 28, 2019 Special Work Session
24 Board Meeting Minutes; March/April 2019 Financial Report/Invoices to approve; USDA
25 Project Monitoring Report No. 42; and General Manager's Report. Commissioner Karen Otta
26 motioned to approve the Consent Calendar. Motion was seconded by commissioner Glen
27 Morris. Motion carried 4 – 0.

28 City of Waldport

29 Presentation: District staff have been working with City of Waldport representatives and engineers to
30 discuss alternatives to provide connection between both systems to provide emergency
31 source water. The District received an invitation to attend a field tour with representatives
32 from the City of Waldport and ODOT to explore the option of sleeving a pipe through the
33 raceway below the driving deck of the Alsea River Bridge. With the permission of ODOT and
34 guided by ODOT representatives a team of City, District, ODOT, and engineers walked the
35 raceway underneath the bridge from both sides and concluded that there is ample space to
36 consider a pipeline through the bridge to connect both Systems.
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38 Scott Andry, City of Waldport Public Works Director, Christopher J. Brugato, P.E. from
39 WesTech Engineering, and Mike Faught, Manager of Oregon Operations of Dig Deep did a
40 presentation to share the City of Waldport Local Economic Opportunity Fund Grant Project
41 with the Board. The overall purpose is to develop Waldport's Industrial Park and to ensure a
42 resilient water supply for Waldport and the Mid-Coast Region. With the help of Dig Deep, the
43 City of Waldport received a \$55,000 grant to do a study to determine the feasibility of
44 constructing water interties between Southwest Lincoln County Water District and Seal Rock
45 Water District. The study also includes developing a list of capital improvement projects with
46 recommended budget for the interties, but the grant doesn't include the development of
47 formal agreements between the agencies. The assumptions would be that the interties will be
48 used for emergency only, that it will convey water for both directions, the water will be for
49 system wide distribution, the operation is manual, it will have back up power and the
50 equipment would be in a building. The basic intertie schematic would be similar to the intertie
51 between the District and the City of Newport. The City of Waldport needs a copy of the
52 District's Master Plan, key district staff for contact and help in reviewing the draft report and to
53 provide feedback. The draft report will be available by the end of May and the final report by
54 late June.

55 The City of Waldport's PWD, Scott Andry shared that in meetings he had attended there's a
56 concern of how the City will support other communities in case of fire and other emergencies
57 that will need water. Having interties will benefit the coastal communities.

58 Adam Denlinger as a co-convenor of the Mid-Coast WPP recognized the City of Waldport
59 and other community water suppliers throughout the region for their willingness to consider
60 and recognize the profound benefits of establishing a network of alternative water suppliers.

61 Decision Items:
62 Settlement
63 Agreement:

64 The General Manager (GM) presented before the board staff report seeking consideration
65 and a motion to approve a settlement agreement over the recalculated water rate provided by
66 the City of Toledo in late January of this year. And to consider capital cost prior to October
67 30, 2017. Staff has included a long list of email exchanges attached to this staff report related
68 to this topic.

69 For the record, the District has attempted on several occasions to settle the rate for 2020
70 through negotiation, however, this effort was punctuated by the City's position that the District
71 must first concede to, and officially accept through Board action, an increase in the water rate
72 for 2019. Staff, through consultation with the District's legal counsel, maintains that the
73 District should receive some consideration for agreeing to raise the contract rate for 2019, as
74 the contract does not allow rate changes throughout the year for any reason.

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76 The District also attempted to settle the 2020 rate with a proposed option for settlement which
77 included a 7.44% increase for 2020, however, system improvements initiated by the Board in
78 the last 3-years have reduced the overall demand for source water. Performance data
79 indicates that demand is trending down, signifying that the District's percentage used in the
80 methodology for calculating the rate annually will be lower than that which was proposed. As
81 a result, this option was removed from consideration.

82
83 On March 14th the District Board was provided the opportunity to consider proposed
84 settlement options as a full Board for the first time, as an information and discussion item and
85 to take any public comment. The Board of Commissioners directed staff to analyze this item
86 further and bring it back to the April 11th regular meeting for consideration and formal action.

87
88 At the direction of the Board, staff has conducted a thorough internal evaluation, along with a
89 thorough review of the lengthy exchange of information between the City and the District over
90 the past two years. Staff believes it's important to recognize that at no time during
91 negotiations with the City over proposed settlements has the District negotiated unfairly or
92 opposed the City's demand to adopt a recalculated rate. District staff maintains that approval
93 of any settlement is a function of the Board and negotiations for settlement should
94 incorporate fair and balanced benefit to both parties.

95
96 Appropriately considered, the action by the City places the District in the unfortunate position
97 to engage in settlement discussions with the City by no fault of the District. Staff believes it's
98 important to remind the Board and the City that these incidents provide an intense distraction
99 from the District's mission and demand staff time and unnecessarily consume District
100 resources to settle the legal issues raised by the City.

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102 In closing, City staff presented the attached settlement agreement to the City Council at the
103 February 27, 2019 work session as a discussion and information item only. Council approved
104 adoption of the settlement agreement on March 6, 2019, at their regular meeting, with an
105 effective date of May 1, 2019. This settlement agreement is included with the staff report for
106 Board consideration.

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108 If it pleases the Board staff is also including the following possible options for consideration
109 and action. Staff would like the Board to know that these options do not limit the Board from
110 contemplating other actions not included in this staff report:

- 111 A. Approve settlement option adopted by the City of Toledo on March 6, 2019.
- 112 B. Reject proposed settlement options and direct the District's legal counsel to pursue
113 further negotiations with Toledo that provide fair and balanced benefit for both parties.
- 114 C. Reject proposed settlement options and direct the city to seek other remedies, to include
115 those subject to the terms and conditions of the 2012 water purchase agreement under
116 Dispute Resolution.
- 117 D. Consider approving HACH invoices, District share totaling: \$2,323.68.

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119 Commissioner Glen Morris motioned to approve the Settlement Agreement. Motion was
120 seconded by Commissioner Saundra Mies-Grantham. Motion was opened for discussion.
121 Commissioner Morris read the letter he wrote pointing out some of his concerns. He pointed
122 out that in negotiating, it is important for both sides to obtain something. It appears to him and
123 his constituents that there is something for the City and nothing for SRWD except higher
124 rates. He is concerned that the City is not considering the benefits of SRWD piping that
125 already exists that can be used in the future if the City is considering to serve as a regional
126 provider. Also, the Cascadia event is a known event but the timing is unknown. The City's
127 water supply is subject to being eliminated by a tsunami by virtue of its location on the Siletz
128 River. The District is constructing a system that is engineered to withstand a tsunami, and if
129 part of it fails, it can be quickly reconstructed. He is concerned that the City is not considering
130 the well-being of its citizens and not working to maintain good relations with those other
131 providers to protect their citizens in the event of a disaster. The proposed agreement does
132 not address any of those concerns therefore, he is going to vote NO. If the proposed
133 settlement agreement is modified addressing those concerns, he could then support the May
134 1 implementation date. He also proposed to assign the settlement agreement negotiation to
135 the District's legal counsel, Jeff Hollen since the duties of the GM to the project and related
136 support have become the highest priority. (see attachment 60 for the complete letter).
137 Commissioner Rob Mills asked what the result would be of voting no on the Settlement
138 Agreement? The GM explained that the City can continue to negotiate to increase the rate or
139 not negotiate and the rate remains the same and continue using the 2012 contract
140 methodology for the Jan 2020 to Oct 2020 rates. After Oct 30, 2020, the City could charge
141 the District outside district rate. The GM had discussed the district's water needs after Oct 30,
142 2020, with the City of Newport PWD, if the District's project is not completed by then. The
143 PWD indicated that they should be able to provide water to the District for a few months.
144 Commissioner Mills indicated that he is uncomfortable with the contingencies of a no vote.
145 Commissioner Saundra-Mies Grantham expressed that in negotiation it should be a give and
146 take situation, but she has not seen any consideration for the District. Commissioner Karen
147 Otta agreed to what has been discussed. For the record, commissioner Mills expressed that
148 his experience as part of the negotiating team for the 2012 contract and the recent settlement
149 agreement, he feels that both parties were addressing common interest that is beneficial for
150 both agencies. Commissioner Mills opened the motion to approve the Settlement Agreement
151 to increase the rate from \$3.24 to \$3.89 per 1,000 gallons. Commissioner Glen Morris voted
152 no, commissioner Karen Otta voted no, commissioner Saundra Mies-Grantham voted no, and
153 commissioner Rob Mills voted no.

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155 It was the consensus of the board to appoint Jeff Hollen to negotiate with the City of Toledo
156 the Settlement agreement for calendar year ending December 31, 2019, and to adjust the
157 rate for January 2020 to October 30, 2020, and the rate after October 30, 2020.

158
159 Motion was made by commissioner Glen Morris to approve the invoices submitted by the City
160 of Toledo for capital improvements in the amount of \$2,323.74, which precede the October
161 30, 2017 notice of termination. Commissioner Karen Otta seconded the motion. Motion
162 carried 4-0.

163 Discussion and
164 Information Items:
165 Easement Makai
166 Road District:

167 Lincoln County Ordinance LCC6.380 included with staff report affects all of the operations in
168 special road districts where the water district accesses surfaced roads and road right-of-way.
169 Paragraph 7 is the operative language which requires permission from road districts. Also
170 included with staff report is a copy of ORS 758 and 368 which provides the District with
171 authority to construct and maintain water facilities in the public right-of-way except within
172 cities. The District's legal counsel has recommended developing a permanent easement with
173 all road districts in the SRWD boundary, which allows the District to maintain facilities without
174 additional permission for repairs of existing utilities, and all future permitted utilities. The
175 easements would not need to describe the location of current water lines but just refer to
176 them as the existing lines. For any future (new) cuts across roads, the District will need to
177 get permission in advance, but not develop another easement. Paragraph 9(d) requires
restoration of the road surface, and the easement would reference that obligation. Draft

178 easement language is also provided with staff report for consideration by the Board and the
179 Makai Special Road District.
180 Mr. Tom Ryan, Makai Road District President attended the meeting and shared that he had
181 discussed the draft repair and replacement easement with the Makai Board and they came
182 up with concerns they want to be incorporated in the contract. The address on the easement
183 should change to the correct address. The following items are their concerns – Who is the
184 inspector on the project, time designation for work, project notification to Road District, proper
185 compacting of the soil, emergency access during construction, and a customer who is
186 concerned of flooding in his basement as a result of the construction. The GM explained that
187 the USDA Documents are very thorough in addressing concerns of the people living in the
188 project area and that the GM will make sure that all the road district's concerns will be
189 included in the contract.
190

191 Biological Opinion: On April 3rd, 2019 the District received a letter and the final Biological Opinion (BiOp)
192 provided by the United States Department of Commerce, National Oceanic and Atmospheric
193 Administration (NOAA) National Marine Fisheries Service (NMFS). The biological opinion
194 (BiOp), provided by NMFS concludes that the proposed action in the development of the
195 district's primary source water supply project on Beaver Creek is not likely to jeopardize the
196 continued existence of Oregon Coast coho salmon or result in the destruction or adverse
197 modification of designated critical habitat for this species. Conditions provided in the BiOp do
198 not affect the overall project cost and the District can expect to see these conditions identified
199 in the USDA-RD funding Letter of Conditions (LOC) in the near future. Both the letter and the
200 BiOp are posted on the District's website. Conditions provided in the BiOp are the same
201 conditions that the District is complying with under OWRD and DEQ requirements with
202 regards to the water rights on Beaver Creek. These conditions include continued monitoring
203 of water flow and water temperature. GSI Water Solutions will do the monitoring and will
204 handle the annual reporting. USDA's Public Notice Announcing the Availability of an
205 Environmental Assessment will be published in the local New-Times on April 12 and April 17
206 and will have a 14 days comment period. If there is no comment submitted, USDA will issue a
207 Notice of Finding of No Significant Impact (FONSI) for publication in the local newspaper.
208 USDA could release draft Letter of Conditions (LOC) by May. If all the requirements are met
209 on time, a contract document could be out to bid by June 1.

210 Decision Items:
211 Refinancing: At the direction of the Board, staff and USDA-RD have been evaluating the option to structure
212 refinancing of existing Cashmere Valley Bank Debt, LOC in the amount of \$1,616,500.
213 Financing through Cashmere Valley Bank includes interest-only payments for the first three
214 years, and 10-year repayment of principal and interest with annual payments of \$215,000
215 beginning 2019/2020, terms of this financing also include an adjustable interest rate.
216 Refinancing the LOC through a revenue bond will spread the repayment cost out from
217 10-years to 30-years at a fixed rate. Also, adding this refinancing with the USDA Loan
218 Application for Source Water funding will shorten the process of the refinancing since all the
219 requirements of the loan are already in place. All USDA needs to do is to amend the
220 application to add the refinancing. District staff received two SF-424 Application for Federal
221 Assistance from USDA. The loan amount without the refinancing is \$13,760,000 and the loan
222 amount with the refinancing is \$15,376,500. The signed District loan application will be
223 forwarded to USDA Federal Level for review and approval since the loan amount exceeds
224 what the USDA state level could approve. Commissioner Glen Morris motioned to approve
225 refinancing the Cashmere Valley Bank line of credit with USDA and authorize the GM, Adam
226 Denlinger to execute the necessary documents. Commissioner Karen Otta seconded the
227 motion. Motion carried 4 – 0.

228 WesTech Change
229 Order No. 1: Upon further review of the District's water treatment facility needs, it's necessary to add
230 sensors to the water treatment equipment to monitor chlorine level and pH level of the water.
231 Change Order No. 1 submitted by WesTech includes the addition of a chlorine analyzer, the
232 addition of a pH sensor, the addition of a pH and ORP sensor, and deletion of variable
233 frequency drives. This Change Order decreased the contract amount by \$32,770, decreasing
234 the contract from \$922,000 to \$889,230.
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Reports & Comments:
PUD/Consumer
Power Inc.:

There was an approved agreement between Central Lincoln PUD and Consumer Power Inc. (CPI) for PUD to provide the power needed to the District's Intake Facility which is located in the service area of CPI. That agreement has been reversed. CPI decided they will be able to provide the needed power for the District's Intake Facility. Adam Denlinger, GM visited CPI office to discuss the District's power needs and is confident that CIP will be able to provide the power needed for the intake facility.

Budget Committee Meeting is scheduled for April 18, 2019, at 6 pm. Commissioner Rob Mills will not be able to attend the meeting.

Adjournment:

Commissioner Glen Morris motioned to adjourn the meeting. Commissioner Rob Mills adjourned the meeting at 5:50 p.m.

Next Board Meeting:

April 18, 2019, at 6 p.m. Budget Committee Meeting. May 9, 2019, at 4:00 p.m. Regular Board Meeting.

Approved by Secretary

Date