

**Rivergrove Water District
Board of Commissioners Special Meeting
Friday, April 15, 2022**

A special meeting of the Board of Commissioners was held this day via remote teleconference. Chair Roth presided over the meeting and other attendees included: Commissioners Johnson, Magura, Patterson, and Howell. General Manager Janine Casey was in attendance as well as Mr. Tommy Brooks, Esq., from Cable Huston, and Mr. Mark Knudson, from Special Districts Association of Oregon.

1. **Call to Order:** The meeting was called to order at 4:33 pm.
2. **Public Comment:** No public attended.
3. **New Business:**

a. Introduction of the District's Legal Representative from Cable Huston: Mr. Tommy Brooks, Esq

Mr. Brooks: I am part of the team of folks here at Cable Huston, and we have a municipal practice. And you may know some of the people here, Clark Balfour is someone I work with closely, who's been doing special districts for quite a while and is one of the reasons why I came to Cable Huston as a fresh law student, actually in 2006. It's the only place I've worked. In part, I've wanted to stay here for so long because of the municipal practice that we have, and specifically with special districts.

Mr. Brooks: Another person on our team, my colleague, Laura Westmeyer, has been here for a few years and together we do a lot of general council and special council work for special districts of all kinds and even some cities and counties. And it runs the gamut from building projects and infrastructure stuff to the general governance with public records and public meetings.

Mr. Brooks: Laura and I even do hearings officer work for different counties. She does it on the enforcement side, I do it on the land use side. So, we really have a real broad range of skills that we try to collectively bring to the table. Sorry that Laura couldn't actually join us tonight. Janine met her earlier today. She and I will be really the primary points of contact, but behind us, we have just about every skill set that you would need for running a municipal entity from employment stuff to real estate litigation. It just, you name it, and we've probably got an expert who's been doing it for a number of years. So, it's one of the things we like to sell ourselves as is, we're full service, but people like Laura and I also really like the general counsel work and the day-to-day stuff. And so that's us. We're happy to be here, happy to get started and see how we can help you guys.

Chair Roth: Thank you. Does anybody have questions? Mr. Brooks has his, let's see, get through here, has some information about him in tab number three, and that would be a little bit about his contract or his terms of engagement with the District. So, take a few minutes and read through that.

Chair Roth: Then if we have any other questions, we can ask them at a later time. There also is a letter to Jordan Ramis thanking them for their service and letting them know that we have secured other legal representation. We were 25 years with them and after a while, sometimes it's just time for a change. So that's why we ended up with Cable Huston.

b. District Volunteers – Clackamas County Coordinating Committee (C-4)

Chair Roth: The other thing we have to do in new business is the Clackamas County Coordinating Committee. C4 is a conglomeration of groups that meet with Clackamas County to share information amongst all of the groups. There are cities, there are special districts, there are other governmental entities. It's a fair-sized group. And they're also a citizen participation group. We were asked, and this is a rotating deal, that each water district has some time as chair or as the representative to the coordinating committee. So, our turn has come up and we were asked for any volunteers. We were fortunate enough to have two volunteers, Grant and Jim. I will go in on Tuesday night as the voting representative for this meeting and present the nominee. After that, the nominee will take over and I will have no further role.

Commissioner Magura: Chris, this is Larry.

Chair Roth: Yes.

Commissioner Magura: Just a quick question for you. Has the Rivergrove Water District served in this capacity before?

Chair Roth: I don't believe so.

General Manager Casey: No. It was a position created and, when it was created, it was filled for the longest time by a commissioner from Clackamas River until he passed away. Clackamas continued to have a fill-in and then they realized they needed to open it up to the other water districts. Hence, the email traffic started back in March when I notified the Board that they were looking for volunteers.

Commissioner Johnson: Chris.

Chair Roth: Jim.

Commissioner Johnson: Are you sure it's just Rivergrove? Because I look at this email that's in our packet and it also says the others who have expressed interest are Sherry French of Clackamas River Water and Gary Bartho of Sunrise Water Authority so, I don't think we're the only considerations.

Chair Roth: Okay. [crosstalk] I did not see that.

General Manager Casey: That is correct. When I forwarded our two names, Todd and Trent stated it would help if you could narrow that down. Hence, that is the purpose of the meeting- [crosstalk].

Commissioner Patterson: Is there a way I can increase the volume? [crosstalk]

General Manager Casey: ... because the committee is going to meet on April 19th.

General Manager Casey: Commissioner Patterson, could you mute please? Your mic, Commissioner Patterson, could you please mute your mic?

General Manager Casey: So that is why the... Thank you so much. That is why there was an urgency of this meeting so, we can send our candidate forward. They are meeting on April 19th to vote.

Chair Roth: Would each of you like to give just a really quick summary of why you'd like to do this and what you think you bring to it? Grant, do you want to start?

Commissioner Howell: Sure. I'll go first. Yeah. I'm interested in serving, representing not only Rivergrove Water District, but all the Clackamas County Water Districts on the C4 committee. My reasons for that are, I feel like I've been well-engaged in district business. I have a strong background in the needs of public utilities and I feel like I would bring that knowledge and that awareness to work together with other committees and other parts of the county to further our cause of providing reliable water service for customers.

Chair Roth: Thank you. Jim.

Commissioner Johnson: I mean pretty much the same. The thing about C4 is it's an intergovernmental organization and my whole career has been intergovernmental. I'm also a member of the Clackamas Water Conservation District Board of Directors. I've spoken before C4 many times in my professional capacity. I crosscut across all the different governmental issues in Clackamas County professionally. I think I have the background where I could represent the water districts and make sure they have a strong voice in the C-4 group.

Commissioner Johnson: I just wanted to say welcome to Tommy, by the way, Tommy, you and I have run into each other before in the land use world.

Mr. Brooks: Yeah. Okay. I recognize your name, Jim.

Commissioner Johnson: Yeah.

Chair Roth: Okay.

Chair Roth: Looking to see here. So, I guess the fairest way to do this is to take a vote on the choices, Grant and Jim. Yes, Jim.

Commissioner Johnson: I just had one question. Why do we have to just submit one name is my question, I guess, but I guess we can only submit one name per district or whatever. I didn't really totally understand why both names couldn't be forwarded and then the whole C4 group could choose. Anyways, that's my question.

General Manager Casey: I did forward both names and Trent and Todd got back with me and said that they wanted us to pair it down, that each district had an opportunity to send one person. They felt that it was uneven if some districts were allowed to submit more than one. They wanted us to play by the same set of rules they gave all the other districts. I have that email traffic and I put the latest email in the Board binder. The latest email in your package is where Todd notified the other water districts and stated Rivergrove is going to meet and narrow it down to one. I thought that was more than enough reference that this is at their request that we provide one candidate. I hope that answers your question.

Commissioner Johnson: Oh, it does. I just think that they would be lucky to get either one of us.

General Manager Casey: Right and they will be. If you noticed in your message, they're going to elect a primary and an alternate. I also learned that Gary Bartho from Sunrise has decided to drop out. I just got that message in today when I was going through my messages. So, that didn't change anything for them. The person that we forward will be either the primary or alternate since now there will only be two candidates once Rivergrove elects.

Chair Roth: So, they have had two candidates from other districts, but they have only forwarded one.

General Manager Casey: Correct. Every district was asked to forward one name. I forwarded the two names and I did put in the email that both are eager and would be outstanding candidates. They emailed me back, that's great. I don't know how it changed, but they came back saying, no, you need to pick one representative to go forward. Those were their rules.

Chair Roth: So, let's put this up for a vote and those in favor of Grant, please either raise your hand or say aye.

Commissioner Patterson: Aye.

Chair Roth: Okay. And those in favor of Jim?

Commissioner Magura: Aye.

Chair Roth: Aye.

Commissioner Johnson: (Raised his hand)

Chair Roth: So that was three to one. Grant, you didn't want to vote?

Commissioner Howell: I'll abstain from voting on this, yes.

Vote Results: The District representative going forward to the C-4 committee is Commissioner Johnson since Commissioners Roth, Magura, and Johnson voted for Commissioner Johnson and Commissioner Patterson voted for Commissioner Howell. Commissioner Howell abstained.

Chair Roth: Okay. So, it appears that Jim will be our choice as representative, and then we could nominate Grant as a backup.

Commissioner Howell: So, to be clear, Chris, I don't think I would be nominated as backup. I believe that C4 would select from the candidates, someone else who was put in the running for the position to be designated as an alternate, to be clear.

General Manager Casey: Correct.

Chair Roth: Okay.

General Manager Casey: He's absolutely correct.

Chair Roth: Okay. Well, Mr. Johnson it looks like it's yours.

Commissioner Johnson: Well, to the next level.

Chair Roth: Yes. You're the one who gets forwarded.

Commissioner Johnson: Well, thank you everyone, I guess.

Chair Roth: They used to have dinner, but they quit that.

Commissioner Johnson: I remember something that was an overnight thing.

Chair Roth: Oh, up at the mountain.

Commissioner Johnson: Oh, is the metro reserves thing? It was out at Camp Adams or something.

Chair Roth: Oh, okay.

Commissioner Johnson: Yeah. Anyways.

Chair Roth: On our next business- [crosstalk]

Commissioner Howell: Chris- [crosstalk]

c. Board Chair Voting Representative for Clackamas County Water Districts

General Manager Casey: I'm sorry, Chair Roth. The Board has to vote on who's going to be the voting representative for the Rivergrove Water District. Is it going to be you or is it going to be another commissioner? That has to be voted on.

Chair Roth: I would assume that it's the person who is there.

Commissioner Patterson: Excuse me, Chris. I can hear you, but I can barely hear Janine. Is there any way she can turn up the volume?

General Manager Casey: Is that better?

Commissioner Johnson: I can hear her fine.

Commissioner Patterson: I can hear you, Jim.

Commissioner Johnson: Yeah, I can hear Janine.

General Manager Casey: With the way the Board Policy Handbook reads, this committee hasn't been identified. Generally, it is the chair who would represent the District. Mr. Brooks, correct me if I'm wrong, that a vote is in order of who will represent the District on this issue, correct?

Mr. Brooks: Yeah. I think C4 is a weird entity and they're not one of your subcommittees. So, my understanding is that they've asked for the Chairs of all the Boards to make the decision. So, it's prudent for you guys to officially give that authority to Chair Roth, if she's going to be the one casting that decision or whoever it's going to be, just so that when they're at the C4 meeting, they can speak with some authority on behalf of this entity.

Commissioner Johnson: I would move that Chair Roth be given the authority to vote on behalf of the Rivergrove Water District.

Commissioner Magura: Second.

Chair Roth: Okay. Commissioner Johnson moved and Commissioner Magura seconded that I be the one to cast that vote. So, all those in favor, say aye.

Commissioner Johnson: Aye.

Commissioner Magura: Aye.

Chair Roth: Okay then- [crosstalk].

Commissioner Howell: Aye.

Commissioner Patterson: No.

Vote Result: A motion for Chair Roth to attend the C-4 Committee as the District's representative and nominate Commissioner Johnson was received and approved by a motion from Commissioner Johnson, seconded by Commissioner Magura, and passed by Commissioners Roth, Johnson, Magura, and Howell. Commissioner Patterson voted nay.

Chair Roth: Okay, it is four to one. And the motion passes. We are now going to move on to our Executive Session.

Commissioner Howell: Hey Chris.

Chair Roth: Yes.

Commissioner Howell: I'm sorry to interrupt you, but before we enter our Executive Session, I did have one question on the contract with Cable Huston real quick.

Chair Roth: Okay.

Commissioner Howell: For the last page, page three of the agreement, I see that Janine has signed it. Aren't you, Chris, supposed to sign it since you represent the Board and it's the Board's responsibility to retain legal counsel? You would be signing as representative of the Board because you're Chair, correct? So shouldn't this have your signature on it?

Chair Roth: I don't know.

General Manager Casey: The procedure is the general manager has authority to sign contracts in the amount up to \$75,000. At the last meeting, the Board moved the motion to hire Cable Huston. My capacity of signing the contract-

Commissioner Magura: Janine, can you speak a little louder please?

General Manager Casey: Sure. In my role of general manager, I have a spending capacity of \$75,000 to sign contracts. At the last meeting, the Board moved and passed a motion to hire Cable Huston. This signature on

the contract is an administrative process. If Cable Huston wants it rescinded and have Chair Roth sign it, we can do that.

Commissioner Johnson: That is exactly how I see it. The Board voted to hire Cable Huston and all Janine was doing is carrying out the Board's direction.

Commissioner Howell: Okay. It was my understanding from the bylaws that Chris would provide a representative signature of the Board for that decision and seeing that the Board's responsible for selecting and retaining legal counsel, it was my assumption that Chris would be signing that from our motion. But if there's no problem with it, then that's fine.

Commissioner Johnson: If there is a problem, I have no problem with us just having Chris sign a different one.

Chair Roth: Well, unless there's an issue, let's let the decision with Janine stand because she's likely to be the person who deals most directly with Cable Huston.

Commissioner Howell: All right.

Chair Roth: Does that answer your question?

Commissioner Howell: Yeah, it does. Thank you.

4. Executive Session:

Chair Roth: It is now 4:53 p.m. and we are going to go into Executive Session under ORS192.660(2)(a) and (f) to discuss or to consider the dismissal or disciplining of, or to hear complaints or charges brought against a public officer, employee, staff member, or individual agent.

5. Reconvene in Open Session/New Business:

Chair Roth: It is now 4:55 p.m. and we will reconvene in open session.

Hiring Practices & Authority

Chair Roth: It now has come to my attention that there are questions surrounding the Board's ability to hire employees.

General Manager Casey: Chair Roth, do you need to-

Chair Roth: Oh, need to leave the Executive Session.

General Manager Casey: Yes, ma'am.

Chair Roth: Okay. We will go out of Executive Session and no longer function under those ORS rules. It has come to my attention that there are questions surrounding the Board's ability to hire employees. I'd like to open a discussion on the Board's hiring practices and authority. Comments or questions?

Commissioner Patterson: I want, can you hear me?

Chair Roth: Yes.

Commissioner Patterson: Okay. I would like to know, we have a new attorney. You have the ability to speak with the attorney as well as Janine.

Chair Roth: Mm-hmm (affirmative).

Commissioner Patterson: And even with the previous attorney, both you and Janine had access. So, my question is, did either of you contact the attorney to ask, are there any issues that we need to be aware of if we are hiring the daughter of the office manager of our district? Did either of you contact and ask any questions about any peripheral issues that needed to be addressed if a relative was being hired?

Chair Roth: I did not. It was my understanding that I had the ability to hire under a situation, such as the one we found ourselves in, where Janine for a short while was the only functioning employee. Employee A was on vacation, Employee B had been terminated. There was no one to staff the office other than Janine. She could not be everywhere and doing everything. I had inquired of her, would her daughter be interested? I made that decision and I will stand by it. I think that this was an urgent situation. We have researched before and reached out to all kinds of temporary hiring agencies. They did not have qualified candidates who would work what we wanted for the hourly wage that we were willing to pay.

Commissioner Patterson: Okay. Chris, you have been a county employee, you've worked for government?

Chair Roth: Yes.

Commissioner Patterson: So, rules with governmental entities are certainly different than a privately-owned company.

Chair Roth: Yes.

Commissioner Patterson: Is that fair?

Chair Roth: Yes.

Commissioner Patterson: So, knowing not only that a position was needed to be filled, but the enmeshment of the relationship issue comes forward. Both of you could have picked up the phone and asked the attorney, we're thinking of hiring Janine's daughter. Are there any issues that we need to be aware of?

Commissioner Patterson: The fact that you had this didn't cost you money to find out, it didn't cost Janine money, but it did certainly show, would have shown diligence about an awareness of the mother-daughter relationship and having an employee who is being, she can't be supervised by the mother. And where in your scope of office, do you, are you authorized to be personally supervising an employee?

Chair Roth: That is one of the implied responsibilities, I think. I don't have the portion... Tommy, do you have the Board handbook that outlines the obligations and rights of a Board chair?

Mr. Brooks: I do have that. I just got it today and so I've not read through all pieces of it, but I have what I understand is the most recent version of that.

Chair Roth: Okay. I felt that this was a good deal, not only for Jorie, but for the District, because I hired her, I did the interview, and I am the one she reports to. She does not report to her mother.

Commissioner Patterson: She doesn't report to her mother, but you're- [crosstalk]

Commissioner Johnson: I have my hand up.

Commissioner Howell: ... her supervisor.

Chair Roth: Jim has a question and then Grant.

Commissioner Johnson: Well, I have a comment. I've been in government for 41 years. This is a very common practice hiring somebody without going out to public notice or going through any process in a temporary situation where you have a hardship situation. I've been involved in these types of things more than a dozen times over my career and it's very common. If it turns into a permanent position, then that person must apply and go through the process. It's opened up to everybody else, just like any other normal situation. But in emergency or temporary positions, this is very common and a very accepted practice. So, I totally support what Chair Roth did in this situation.

Commissioner Patterson: And the nature of the emergency is what?

Commissioner Johnson: The nature of the emergency- [crosstalk]

Chair Roth: There was no staff. [crosstalk]

Commissioner Johnson: ... is she, was in the office by herself. She had no help.

Commissioner Patterson: What about she has assistance from Michelle Cushing who she's hired to help.

Commissioner Johnson: Michelle Cushing is not an employee of the Rivergrove Water District.

Commissioner Patterson: That's right. Was she given the opportunity to work additional hours for the District?

Commissioner Johnson: That is not our call. That was Chris's call and in a temporary position to hire whom she thought would fill the position, and I will stand by the Chair's taking that situation in an emergency situation.

Chair Roth: This is a limited-term contract. It ends in July and then Jorie walks away.

Commissioner Patterson: So it means her- [crosstalk]

Chair Roth: It's terminated.

Commissioner Patterson: And what are the dates specifically?

Chair Roth: She started in February and will end in July.

Commissioner Patterson: She started in February.

Chair Roth: Yes.

Commissioner Patterson: Okay. And this is April and we're just discussing this now?

Chair Roth: It was an issue that was noticed in our minutes, and I don't think anybody went into what was going on, but I did hire and I did say that.

Commissioner Patterson: And what about state law? And getting an attorney's advice?

Commissioner Johnson: Point of order. We've had people raising their hands. We need to be going through the process here in being recognized.

Chair Roth: Grant.

Commissioner Howell: All right. So, I have a few questions and a few observations with this. So, I have a copy of our Board bylaws in front of us currently. Section 2.3 of the bylaw states the duty of the Chair. It says you shall preside over all meetings, you shall sign on behalf all the Board contracts, deeds, and other similar documents that require signature. You shall appoint committees with subject to approval of the majority of the Board. You discuss issues concerning the organization with the water district manager. You help guide immediate Board actions with respect to organizational priorities and governance concerns. You review any issues of concern between the water district manager and the Board. You monitor financial planning, et cetera.

Commissioner Howell: Nowhere in our bylaws does it say that you are allowed, personally, to hire and supervise an employee of the District. Our Employee Handbook states that the Board of Commissioners has one employee, and that's Janine, the General Manager. Janine has hiring and firing authority for all other positions in the District, including temporary ones.

Commissioner Howell: We cannot act, as a Board, in our training with Mark, he suggested that we avoid taking any administrative action, such as supervising additional employees. It's completely inappropriate for you to act outside of your scope of responsibility as Board Chair and constituted it as an emergency. If this was an emergency, an emergency meeting should have been called and a quorum of the Board should have made this decision. This is not a decision that falls to you, solely as the Chair. You share responsibility with the rest of the Board to inform us of that issue so we can act accordingly.

Chair Roth: Mark, your name was invoked.

Mr. Knudson: It was and I certainly said what Grant said. Again, I was simply reiterating what is in your current bylaws and I'd acknowledge that I thought those were solid bylaws. And why I encourage you to go through a process of basically confirming your review and acknowledgement and commitment to adherence with those bylaws going forward. Somebody's going to have to remind me when we went through that process because I've lost track, but it seems to me that it was probably in the January and February time frame.

Chair Roth: Grant.

Commissioner Howell: So Chris, did you sign the affirmation that was passed in our February meeting for upholding and observing Board policies as stated in the handbook and as passed by Board resolution? Have you signed that form?

Chair Roth: Of course.

Commissioner Howell: Okay.

Chair Roth: So, is there some sort of sentiment in favor of a specific course of action?

Commissioner Howell: I mean, first of all, I sent you an email on March 29th with a series of questions regarding the nature of Jorie's employment with the District. When it was posted, when it was published, and how long the ad was circulated. I requested a copy of the ad. I requested how many applicants applied. Who were they, who else participated in the hiring process, et cetera. I've not heard a response from you for any of those questions. So, do you have responses you would like to submit to me or discuss in the meeting here?

Chair Roth: I was advised by a legal advisor not to answer those questions and not to engage in the discussion.

Commissioner Howell: Is this a personal legal advisor of yours or is this- [crosstalk].

Chair Roth: Yes.

Commissioner Howell: Okay. Very good.

Commissioner Magura: Well, I've been quiet here listening to what everyone is saying. I don't have any problem with what Chair Roth has done. We're a very small operation and clearly, we needed another body in the office for a while. This seemed like a reasonably good way to do it. The fact it's a temporary position that goes away in July, you're never going to find anybody that's going to have something that's going to go away in July starting now. So, I think maybe it skirts the specific letter of our regulations, but the spirit and the intent were notable. I say we just get on with it.

General Manager Casey: May I comment?

Chair Roth: Yes.

General Manager Casey: Tommy, am I allowed to comment?

Mr. Brooks: I think the Chair recognized you in this. I don't know what you're going to say. So, I think you should go.

General Manager Casey: I have hired an attorney to represent me in a matter. This situation was created by a shortage of manpower. I was very upfront with the Board on eight weeks running an ad for another operator, very upfront with the Board about the mandatory vaccine policy, and I was very upfront with the Board of a body that could come in. I believe the Board set a precedent years ago. Jim Barlow, who was the District manager, hired his son and directly supervised him. He worked here at the District for several years.

DJ Ezell, the former general manager, hired her husband, directly reported on him, and was responsible for all of his promotions and all of his salary increases from 1997 to 2019.

General Manager Casey: Chair Roth had the ORSs examined and the requirement is you cannot discriminate against family members. The only caveat to that is you cannot supervise them. Based on that criteria, being very thorough in the investigation, and past policy precedents that had been set in this District for over 20 years, Chair Roth thought she had that authority.

General Manager Casey: If that's not correct, then I would ask the Board how, for 20 years, the general manager supervised her husband, who she had a financial gain since they lived together and had co-mingled finances, which again is against ethics commission regulations. That's not the case with this. I would ask the Board, the entire Board, how was that allowed to happen. Is this being singled out against me personally? Is there a set of rules, I ask the Board, for Janine Casey, or is there a set of rules for any general manager in this position?

Chair Roth: Grant?

Commissioner Howell: You bet. So, I've only been a commissioner here for about nine months. So, I cannot speak to past or prior practices of the District as it did not fall under my purview. When I joined the Board, I took an Oath of Office and I was provided with a copy of the Oregon Government Ethics Guide for Public Officials. It does a wonderfully clear job of explaining who a public official is, what constraints they have to observe when employing family members or members of household. I'm assuming that's been provided to everyone and per our most recent policy resolution, all Board members should have reviewed that and signed saying they have. Correct? Am I correct in my assumption of that, Chair Roth?

Chair Roth: At one point or another, yes, we've all done that.

Commissioner Howell: Okay. And we- [crosstalk]

Chair Roth: We don't renew it.

Commissioner Howell: I'm sorry. The resolution we just passed was that we've affirmed that we've reviewed all the policies and we commit to adhering that.

Chair Roth: Yes.

Commissioner Howell: So, moving forward, we will be doing that annually, yes?

Chair Roth: Yeah, we have not done that annually in the past.

Commissioner Johnson: And there's no policy in the policy book that talks about hiring members one way or the other of a family.

Commissioner Howell: Our policy handbook doesn't have to address it because Oregon law does.

Commissioner Johnson: Oregon law doesn't say you can't hire family members. It says that a family member cannot supervise a family member.

Commissioner Howell: It also says that you cannot hire family members and I would argue that Chair Roth's desire- [crosstalk].

Commissioner Johnson: [inaudible]

Commissioner Howell: ... to hire Janine... I'm sorry, Jim, please don't interrupt me when I'm speaking. I would argue that Chair Roth's desire to hire Jorie would show that she has stepped outside of her responsibilities as Board Chair to do so. She was not authorized by the Board to take that action. Our bylaws are very clear about individual Board members and their responsibilities and the limits on what we can do. Chair Roth being chair, the exceptions to that are no different when it comes to hiring employees.

Commissioner Howell: Like I said, if this is a true emergency, in the January meeting, when it was brought up on the agenda, Janine had shared that she was looking for a part-time administrative assistant. In the February meeting, in our Board report, it was shared that that position had been filled. There was no detail on who the employee was, when they were hired, and what their effective pay date was. And it wasn't until I reviewed our payroll report that I learned that we had paid Jorie for at least two weeks' worth of wages with the check from Paychex before she was added to our payroll deduction.

General Manager Casey: When an employee is hired, I brief the Board the position's been filled. I would never fill that in with an employee's name. And that's based again, before your time, when that was made public on a hiring and the office receptionist was attacked. I am not going to get into employee issues.

General Manager Casey: Again, I have yet to receive an answer to my question. I understand Commissioner Howell you weren't on the Board, but there are four Board members on the Board that were during that time, not the entire time. So, in trying to be very transparent and thorough, a precedent was set for family members to be hired and, in violation of ethics code, to financially gain and supervise their respective family member. So, in trying to be above-board, I asked that question, why was that allowed? What is different now?

Commissioner Patterson: We have a State rule right now.

General Manager Casey: Oh, you had a State rule then, Commissioner Patterson. This ethics commission rule has been in effect for years and years and years and years. Years.

Commissioner Patterson: And our attorney did not advise us of that.

General Manager Casey: So, I can go back, I'm sure, and look through all the meeting records and see where you consulted an attorney for Mrs. Ezell to hire Ricky Ezell and for her to supervise him and to control his promotions and pay increases.

Commissioner Johnson: Yeah. In fact, the only two Board members that were here during the hiring of both of those is Commissioner Roth and Commissioner Patterson. The other three of us were not here.

General Manager Casey: Correct. I understand, Commissioner Johnson. And I am in your- [crosstalk]

Commissioner Johnson: My point is, I totally understand what you're saying, Janine. Is there a double standard here? Is there a target just for our current manager? I don't know the answer to that. I, personally, we're going to have to probably develop this more in our handbook, but I personally think that Commissioner

Roth reacted to a situation that we had. She fixed that situation and it was nothing but to the benefit of the District.

Commissioner Howell: Chris didn't have the authority to do that. She does not have the authority to single-handedly hire employees, be they full-time, part-time, or anything of that nature. That authority does not lie solely with her, it lies with the entire Board or rather, I should say a quorum of the Board.

Commissioner Patterson: I would like to see a copy of the written job description and a copy of the employment agreement with Jorie Casey that was not provided in our packet.

Chair Roth: How do the rest of you feel about that?

Commissioner Howell: In seeing that you acted on behalf of the Board, I would be interested to see what you've agreed to financially involve the District in, Chris. I'd like to know how you're attempting to supervise Jorie and ensure that she's completing her tasks as needed and fulfilling the obligations of the position that she's been hired for. So, would you like to explain how you're supervising her and how much time you're spending on that?

Chair Roth: Quite frankly, I'm not spending a great deal of time because she is very self-motivated. She sees things that need to be done, and she does them and she does them extraordinarily well. She's done work on the website. She's done updating of forms. She's done all kinds of tasks that needed to be done that just simply weren't happening because no one had time.

Commissioner Howell: I'm not asking you to give me an update on her performance in the position. I'm sure that she's well-qualified for the position. I'm asking you, how are you supervising her? Are you signing her time sheets with hours worked?

Chair Roth: Yes.

Commissioner Howell: How are you verifying she's working those hours?

Chair Roth: Same way I verify signing anybody else's time sheet. I am assuming that they are trustworthy and when it says she's worked 20 hours, she's worked 20 hours.

Commissioner Howell: So, the other employees are supervised by Janine and Janine is responsible for administering their time sheets. You review and acknowledge them as part of your responsibilities for financial review, but Janine can't supervise her daughter. She can't report back to you about what time she's working. So, I'm dissatisfied with your explanation on that.

Chair Roth: Jim.

Commissioner Johnson: Well, actually, I am not dissatisfied because that's pretty standard operating procedure. I do a time sheet and I'm working at home five days a week during COVID, I'm doing a time sheet. My boss basically authorizes that I'm doing, as long as I'm getting my work done, that's all he's interested in. He's saying I'm putting the hours in.

Commissioner Johnson: We're not getting any place with this. I think that Grant and Commissioner Patterson, you have some points about it not being in the policy book. It was something that needed to be

taken care of. I think we need to amend our policy book, but I'm going to make a motion right now, a motion of confidence in the hiring decision that Chair Roth did, that this is going to be a limited time and it's not going to happen again until we address it in our policy book.

Commissioner Magura: I would second that motion. That seems like a good way forward.

Chair Roth: Any more discussion?

Chair Roth: Seeing none, those in favor of the motion, please say aye.

Commissioner Johnson: Aye.

Commissioner Magura: Aye.

Chair Roth: Aye.

Chair Roth: And those opposed?

Commissioner Patterson: No.

Commissioner Howell: No.

A motion was made to support the hiring action that Commissioner Roth took and from here on out we need to amend our policy book to address emergency situations was made by Commissioner Johnson, seconded by Commissioner Johnson, and passed by a vote from Commissioners Roth, Johnson, and Magura. Nays: Commissioners Patterson and Howell.

Commissioner Howell: And Chris, I would like to append my reason for opposing this motion. My reason for opposing this motion is you do not have the authority under our accepted bylaws to hire employees or supervise them singularly in your role as Chair.

Chair Roth: And that should be filed where?

Commissioner Howell: Under the vote for the minutes.

Commissioner Johnson: It's in the minutes, this is not an Executive Session. It's in the minutes.

Commissioner Howell: I understand that. I want a very specific documentation of why I am voting no on this motion.

Commissioner Johnson: It should be there. It's in the minutes. We can make sure that in the next minutes, it's word for word if you like.

Commissioner Howell: I look forward to reviewing that.

Chair Roth: Anybody have anything else they want to talk about?

Commissioner Patterson: I would still like our attorney to explain to us how we can ignore the State rule of publicizing job opportunities by governmental entities. How can we ignore that rule?

Chair Roth: Tommy? Is that something you are-

Commissioner Johnson: Well, Tommy, let me say something and you react to that. It's my experience that when you're hiring temporary employees and the like, you do not have to go through the normal hiring process in terms of notification and the like, because it is temporary in nature. If it becomes a permanent position, then you have to go through the full-blown hiring process, do the advertising, and do all the like. That's been my experience.

Mr. Brooks: There are a lot of ins and outs in terms of basically either hiring employees versus acquiring personal services. Without knowing more, it's really hard to know which box this is going to fit in. I'm more than happy to come back to the Board with a primer on general practices. I haven't looked through your manuals yet, so I don't know what might already be in place. It might be as simple as pointing out to you guys what you already have in place and where this particular hire fits within that.

Mr. Brooks: I don't like to give legal advice in an open session, so I'm not going to respond specifically to the legal answer here, but I'm more than happy to work with Janine to come back and provide whatever level of information you guys want about hiring and whatever direction the Board gives for what kind of information you want.

Chair Roth: Okay. Well, there being nothing else, we will adjourn at 5:20. So thank you all for attending and participating.

Commissioner Patterson: Excuse me, Chris. I have a question.

Chair Roth: Sure.

Commissioner Patterson: What is the current status of Jorie Casey? If we're just learning, many months after you hired her, and were discussing this now, this certainly wasn't brought up in a timely manner. My question is, is she currently a valid employee? Have you provided a written copy of her job description? What type of employment benefits she is eligible for?

Chair Roth: She is not eligible for any employment benefits. She's part-time. She receives no time off, no benefits of any sort.

Commissioner Patterson: And does she have any kind of guarantee of minimum number of hours at all?

Chair Roth: No.

Commissioner Patterson: Okay. Thank you.

Chair Roth: Grant.

Commissioner Howell: Thanks Chris. I would just like to make one more statement before the Board from the end of our bylaws. Section 5.2 risk management insurance states that commissioners will be held personally liable in the event they have acted outside the scope of their duties as defined in Section 1 of the

Board policy where their conduct is not required to or cannot be indemnified by Rivergrove Water District. It also states that Board members will be held individually liable for conduct in violation of Oregon government ethics law. So, I would like to kindly remind you of that.

Chair Roth: Thank you. Anything else?

Commissioner Patterson: Yes, Chris, I do have a request.

Chair Roth: Okay.

Commissioner Patterson: If another event occurs in which you'll take on this position of your hiring due to an emergency, why are we waiting so many months? Are you able to communicate with the Board within 48 hours? Can you promise to do that?

Chair Roth: I am not going to make any promises right now.

Commissioner Patterson: I see. That's disappointing.

Chair Roth: Okay. We are adjourned.

Commissioner Patterson: Okay.

Commissioner Magura: Thank you.

Mr. Brooks: Nice meeting you all.

Commissioner Howell: Thanks for your time, Tommy. Appreciate it.

Commissioner Patterson: Thank you. Thank you, Janine.

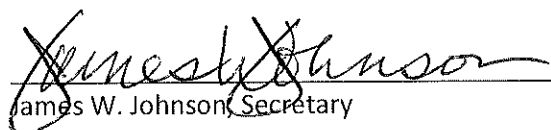
General Manager Casey: You're welcome.

General Manager Casey: I will end the meeting.

Chair Roth: Okay.

6. Adjournment: The meeting was adjourned at 5:26 p.m.

The next regular meeting will be held on Monday, April 25, 2022 at 4:30 p.m. via remote teleconference.


James W. Johnson, Secretary

5/2/2022
Date


Christine K. Roth, Chair

5/2/2022
Date

