

**Rivergrove Water District**  
**Minutes-Regular Board Meeting**  
**January 23<sup>rd</sup>, 2017**

Chair DeVries called the Rivergrove Water District regular board meeting to order at 7:37 AM at 17661 Pilkington Rd, Lake Oswego. Commissioners DeVries, Patterson, and McDowell were present. Commissioners Roth and Johnson excused. District Manager DJ Ezell and Finance Manager Dan Zimmerman were also present. Public Sean Foushee and Gary Buford were present.

**Public Comments:** Mr. Foushee stated the reason that they are here is to discuss getting water service to a property in the County.

Mr. Buford clarified that Rivergrove Water District has a six inch water main running through the property north to south tax on lot 800 which is adjacent to the Rivergrove boundary. (It was pointed out on the map the location of the property.) They would like a service connection to serve that. That lot is a legal lot of record for as long as he has owned it about 40 years. Mr. Foushee would like to build on it so they would like a water service and because the water line is running through the property they would like to connect to that point. They would likely use pressure assistance to generate more pressure. But they are far enough down he thinks they should get 20 pounds of pressure the way it is.

Chair DeVries asked if that would be below grade or below our reservoirs? Ans.-yes

Mr. Foushee noted he talked with Rivergrove District Engineer and knows that an Engineering analysis needs to be done. They would like to not put the cart before the horse. They understand and would like to not spend all that money on Engineering to find out that it works and then come back to the Board and find out that the District would not serve them. They would like to get the Board's commitment of service with their ability to give the District the proper Engineering that is required. He would work with Mr. Buford and the District's Engineer Jim Helton whom he talked with about it.

DJ asked if Mr. Buford would do the Engineering for a property he is selling to Mr. Foushee? Isn't that a conflict of interest?

Mr. Buford stated that the point is that he is a professional registered Civil Engineer in Oregon. Regardless of conflict of interest he could provide Engineering services and really there is nothing to speak of. The District has the standard details of a water service.

DJ noted that she spoke with Jim and that Mr. Foushee talked with him also. Jim stated that they would have to have the Engineering Information prior to the Board agreeing to serve as there is no concrete, written, or engineering backup to support what pressure would be supplied. Twenty psi at all times is the minimum that the District needs to meet by State rules.

Mr. Buford stated that he would imagine that they could re-pressurize the water which is pretty simple and they would make direct connection to the main per the District standard details and they would be looking at an exterritorial connection.

Chair DeVries asked how many homes were they looking at to be on that lot? Answer from Mr. Foushee and Mr. Buford was one.

Chair DeVries asked Mr. Buford concerning his other property up the hill was he looking into developing it? Mr. Buford stated that he toyed with the idea. They do not have anything planned at this time.

Commissioner Patterson asked where they would be getting water for those houses? Mr. Buford just restated that he had owned the property since 1974.

Chair DeVries stated that part of the issue is that is a transmission main. He is not a water Engineer just a volunteer. He relies on the District Engineer to coach us on what that means. Essentially what

that means is that the main feeds an entire system below it and is very vulnerable. As a general statement we haven't allowed taps on transmission mains. If something happens that jeopardizes the customer's downstream. That is a resiliency issue. We don't want to sacrifice the customers below for one lot, not even in our District, up on the hill. In the Board's preliminary review and notes are available to you it doesn't look good for that being the best place to get service.

Commissioner Patterson asked what are all of your options for water? Also the District has set a policy where if you want water you come in for an application and our Engineer reviews that so that he can give advice to the Board on the technical issues. She felt like they are trying to circumvent that.

Mr. Buford stated that application has been made. DJ stated no it hasn't. Mr. Buford asked Mr. Foushee if he had done an application? Mr. Foushee stated no he hadn't. He told Mr. Buford they did not apply due to what was going on. He wanted to know first if they would approve it. The last time he talked with DJ he didn't want to go through the process of submitting an application without the knowledge of somebody accepting it. That is why they came to this meeting.

DJ stated that she did ask Mr. Foushee after the first contact with him to submit an application for a pre-application conference but he didn't want that until he knew that he would get water.

Mr. Buford understood that he had applied. DJ stated no because we have a fee of \$500 this should pay for expenses to have our Engineer here. Mr. Foushee felt it might be his fault because he had misunderstood.

Chair DeVries stated no worries but our application process relies heavily on our Engineer for technical advice and he costs money and that is funded through the application process.

Mr. Foushee stated but if the process it sounds like the 6 inch main we could go through the application process does it make a difference if potentially, not that it has been discussed in greater detail, if there were more lots up there? Does that change anything?

Commissioner Patterson stated the fact that Mr. Buford owns more lots up there and might need more water is this a step in that direction? Right now all we are doing is talking about theory and it is very hard to give you an opinion on theory when we have a very defined application process.

Mr. Foushee said he would have absolutely submitted he's sorry.

Commissioner Patterson said and you are welcome to. Then the Engineer can give us advice. And what you do in the first step could also influence if you come back and want ten more homes services. And her other question is and she will tell them in advance so through their application process they can clarify. What are all of your options for water service up there in addition to Rivergrove Water? Mr. Foushee noted that it would be possible to put in a well.

Chair DeVries asked if they could get City of LO water up there? Mr. Buford stated that they could get City water up there no problem but they are not in the City. The land they have held it since 1974. Mr. Foushee came along and wanted this particular lot and they are looking for one connection period. So it is not a matter of future land, not a matter of subdividing or partition, not a matter of anything. Right now it is a matter of one connection and since the main is running through the lot they thought it would be the easiest to tap the main, make a service connection, repressurize, and have water service.

Commissioner Patterson noted but then this sets a precedent.

Mr. Buford continued Tracy Baron had a three lot partition on what used to be Don Olson's land. He was in the City but the agreement was that Rivergrove Water District would provide water to the three parcels of that partition. Those parcels are higher than this tax lot 800. They would have less pressure than this lot. This was approved by the City and the Water District. It was agreed to by the Water District.

Chair DeVries asked DJ to point out where the lots were going to be?

DJ stated that the land is within our District boundaries and they would have tapped the main at the top of Olson Ct. but each one of the houses were required to have at their water service individual booster stations and backflow protection installed by the developer and maintained by the owner of the residences.

Chair DeVries asked if it happened? DJ noted no it did not she thought LO was still working on approving the placement of the septic line. They didn't like it crossing our water transmission main. Mr. Foushee stated that it should have happened but there were financial issues and conflict with a partnership. Mr. Foushee stated that his people analyzed the property at Don Olson's for partitioning and they came up with it made no financial sense to dig on that steep of a slope and build houses. Chair DeVries didn't remember that project?

DJ noted that the developers went through the process. They applied we held a preconstruction meeting Jim reviewed the plans and did approve what was submitted. It was not put before the Board. But both he and DJ felt that the entire project made no sense financially which was in agreement with the applicant's Engineers at the meeting.

Commissioner McDowell asked if Mr. Buford's property was in the Urban Growth Boundary? Mr. Buford answered yes they are within the Metro Urban Growth Boundary.

Mr. Foushee stated that he has heard a couple things. That the Board is nervous about connecting to a main line for one house that could affect many. He can submit an application.

Mr. Buford stated as an Engineer he is not nervous about connecting to a main line. Because a main line is almost just like another line in the development.

Chair DeVries stated that they will rely on our District Engineer's analysis before anything.

Commissioner Patterson noted that the soils up there is also subject to landslides. So we have to look at the Geology along with other issues.

Mr. Buford stated that Geological report was done years ago and in his opinion and many opinions it is maybe not technically right. Mr. Foushee stated that any soils at a slope greater than 20% or more is subject to landslide.

Mr. Buford stated that bottom line is that Hilltop road has been there many years and there has never been a slide. They have owned the land since 1974 and there has never been a slide.

Commissioner McDowell noted that we actually have a landslide resting against one of our reservoirs and we are trying to deal with that. DJ stated that happened in the 70's and it is behind the District's reservoir #3.

Mr. Foushee stated that he would assume that no matter what he would get a report done by Rapid Solutions that would cover the Geologic conditions. He doesn't want to build a house that is going to slide down the hill. They are going to do their analysis and due diligence on anything like that. So far they don't have to do an infiltration test that the City of LO is requiring on any site they are building. On conflict of interest for Mr. Buford, he is a registered Engineer, and he has a code of ethics to follow. They will give the District their facts from the engineering side of things. Then the District's Engineer will review that.

Chair DeVries asked Mr. Foushee to go through the application process and then the Board can look at it from a critical eye from our Engineer.

Mr. Foushee asked about the application? He said he will fill out the application and get it back today. He asked what exactly should go with the application?

DJ asked if he had seen LO's preapplication meeting forms? They are pretty much identical.

Mr. Foushee asked about timing?

DJ stated when she has his information she will get it to Jim and then we would schedule a convenient time for everyone to attend the meeting.

Mr. Foushee asked then you have to submit drawings and the whole thing? That was what he was trying to avoid. Just like Lake Oswego then you have to submit the whole package.

DJ stated that she didn't know if it was all detailed. She got him the application.

Commissioner Patterson noted that our Engineer needs to analyze what their plan is. So you can't be so vague that there are surprises later on. You want to give full disclosure for the analysis by the District Engineer. She reminded them that when he comes out or does any work it costs the District money. That's the reason for the application fee.

Mr. Foushee noted that he didn't disagree it just would be nice when the application was submitted to have the Board's approval prior to doing all the work.

Chair DeVries noted but we need to have the Engineer's review before approval?

Mr. Buford said he is kind of questioning this. If you had a piece of land that was a lot of record and you wanted to have a service connection to serve that lot what engineering do you need to get that service connection for a lot of record. It kind of boggles his mind what are you really requesting the design of what?

Chair DeVries said the application information. He asked DJ what else are we asking?

DJ stated the basic question when she talked with Jim was he needed to see how they were going to install it and if it would meet the required psi. He wanted written confirmation that would be possible.

Chair DeVries stated that the Board has a system infrastructure that we have to protect for all of our customers. We have denied development applications that don't provide looping of mains.

Mr. Buford interjected but we are not doing a development.

Chair DeVries said that was just an example but why should we as a public agency incur expenses for your project?

Mr. Buford said you shouldn't have to. DJ/Dan spoke up and said we already have. Due to phone calls to our Engineer by Mr. Foushee we were charged for that. Mr. Foushee said he would pay for that.

Commissioner Patterson said that one of the reasons that in our design we try to make sure that our customers are served by more than one way to get our water to our customers. It is called resiliency and redundancy.

Chair DeVries suggested to end the discussion to proceed with the rest of the agenda items. He asked them to submit an application with information for our Engineer to review. Mr. Foushee asked about the timeline and approval process with additional discussion.

DJ asked if they have information on where the residence would be built? Mr. Foushee stated that he has a pretty good idea where his building envelope will be.

DJ noted that some of the information that will be needed is where the residence will be built and where the connection, service line, and meter will be installed. The meter would need to be set close to the road right of way for access to our staff for meter reading and maintenance.

Mr. Buford stated he felt the bottom line is will you allow a meter on that main. That's the question.

Chair DeVries stated you are not going to get an answer from this Board at this time until our Engineer reviews it.

Mr. Buford said so we would ask the Engineer? All of the rest of the stuff is very, very simple.

DJ noted that sometimes he has to consider frontage improvements on projects.

Mr. Buford says that there is no reason to go to the East with anything as the lot next to this one is on a well and this is an exterritorial request for water. DJ said just an example.

Chair DeVries restated that discussion on this needs to be continued at a later date.

Mr. Buford said that they will put the service line wherever the Engineer wants it and will abide by whatever else the Engineer requires. It is a very simple question. Do you want a service line connected on the main on that lot?

Mr. Buford and Mr. Foushee left the meeting at this time.

## CONSENT AGENDA

### **TAB 1: Minutes-December 19st, 2016 Regular Board Mtg.**

*Commissioner McDowell moved that we approve the December 19<sup>th</sup>, 2016 minutes as presented. Commissioner Patterson seconded. Motion passed. Commissioners Patterson, McDowell and DeVries voted aye. Nays-None.*

## UNFINISHED BUSINESS

**TAB 2: Old Gate Fence:** DJ noted that most of the fence improvements are done. She noted that some of the trees on Nelson's and Weinberg's are growing into the fence. This prevented the replacement of fabric and slats on Nelson's side. The fence remained and new slats were put in. A drainage improvement will be done in front of the fence.

Chair DeVries noted that he felt the District did its due diligence with the improvements and is successfully being a good neighbor. We can't do anything about their trees growing into the fence. Discussion continued on an encroachment issue with the trees and the sheds next to the fence.

Commissioner McDowell felt that is something we may want to look into encroachment into the setbacks. It may be worthwhile to get a survey done on that side to see if the sheds are encroaching on our property preventing us from doing our work. Issue tabled until a possible improvement proposal is in front of the Board.

**Customer request for Discount:** Chair DeVries stated that it looks like since the last Board meeting we informed her that we can't turn her sprinklers off. And other communication supplied by DJ and from PGE notes that during that time frame estimated there were no power outages that were reported.

Dan stated he responded after the meeting via email as this is the only means of contact we have for her. He asked her to update her contact information so that if there are issues we can better reach out to her in event that we need to do so. In response to her request that we possibility discount her \$800 water bill he informed her that we have a process for that and she would need to fill out a leak credit request application. We haven't received a response from our last email.

Chair DeVries asked do we know if she is getting our emails? Dan stated that he had some back and forth with her prior to this when he informed her of the sprinklers being on and she had responded to them. But we have had no response from this last email. Chair DeVries asked if he was sending them with a read receipt? Dan stated no. Chair stated that you might want to do that in the future. Dan stated that we are saving the correspondence from her and at this time her current water bill is late. She is not at the point of shut off but after the next billing she will be and historically she then sends more correspondence that is not cordial.

Commissioner Patterson asked so you haven't sent anything through the mail? Board consensus was that he send her a letter by certified mail and offer her some kind of solution in the letter that she can live with as she is on social security. Commissioner McDowell suggested that we send her a certified registered letter offering her an interest free payment plan per month that she can live with until it is paid off, maybe so that she pays it off within two years. Chair DeVries asked if there was a precedent for this. Dan stated that the only concern he had was that he gave a customer with low income or unreliable income a plan and she didn't pay the money as agreed. This customer came and paid parts of the bill and it was \$20 here and there and it just drug on. Chair DeVries asked if we could charge interest on the balance? DJ/Dan felt that we could but they felt that it wasn't worth it. Commissioner McDowell asked if we could put a lien on her house for \$800? Ans. No because we are a Special District. He also stated that the letter should go certified mail and offer her a solution that she can live with because she is on a fixed income like a long term interest-free pay off.

Commissioner Patterson said that he could have an agreement set up that she could agree to and sign. Note on the agreement that if X, Y, Z wasn't met include what would happen. And note that if X, Y, and Z doesn't occur she would also be responsible for the coverage of any Attorney fees. In the

payment plan advise her that the next step would be shut off of water service if a plan isn't agreed upon or goes into default. Commissioner Patterson remarked we really should send a letter as maybe she doesn't have a computer anymore. Commissioner McDowell noted that he wants us to be proactive and note that "we know she is on a fixed income, we know that this wasn't a leak, but an oversight. Here are some payment plan options that will hopefully not put your monthly budget at risk."

DJ asked what if Dan sends the letter and she won't sign for it? Board consensus is that we made a reasonable effort and we have the documentation of our effort. Dan asked could it be as simple as putting a copy of her email to us in and the copy of his email response that is in the Board Book and including a form for a leak credit? At this point emailing us and requesting a leak adjustment is not a formal request for a leak credit.

Commissioner Patterson stated that he could include a cover letter saying that since she has not responded to our email our second attempt is to send a certified letter to her and please respond within X number of days.

Dan explained he has done lately with those unsure of what the problem was that caused the leak. She is speculating a power issue was the cause. The formal application requires that she includes documentation or copies of repair. But if she was unable to provide that without us volunteering to her that she must to qualify then we can get her formal true response as to what happened. Her last bill was a usage of 8 units so her daughter shutting the sprinklers off must have fixed the problem. Chair DeVries noted that here's the deal: I don't think we want to go into the business of speculating what might have happened or could have happened. All we know is that her meter went spinning and she owes us \$800. If there is a mitigating circumstance per our leak adjustment policy that she can prove otherwise she owes us \$800. He liked Jim's comment last meeting this isn't an emotional decision-he feels bad she is an elderly woman on a fixed income-but this issue is about enforcing our policies and procedures. And we have to enforce our policies fairly and equally across the District. So that's the policy if she can prove otherwise we could adjust it. If she does not respond then she owes us \$800.

Chair DeVries said that in the letter he thought Dan should add to what he has there: Our records indicate that she owes us \$800 or whatever the number is and she has not responded with the required leak adjustment application and proof of repair. Include that we are willing to discuss a reasonable payment plan for her to bring her account up to date.

### **TAB 3: Financial Report-Deposits Reconciliations and Board Report Checklist Beginning Fiscal 7/1/16**

Dan stated for the reconciliation with Quickbooks and CUSI he encountered \$90 higher in Quickbooks than in CUSI. Only thing he could think of is some kind of mislabeled deposit or some type of duplicated entry in Quickbooks because you can change information in Quickbooks but not in CUSI. He trusts the Water Sales number much more from CUSI than Quickbooks. Because of time restraint he searched for the \$90 amount as much as possible and did not come up with the solution. He then did an adjustment journal entry in Quickbooks and documented it in case the Auditor has any questions. He will still look for the possible cause. Everything else reconciled and with the adjustment in Quickbooks it made it reconcile for now. If he discovers the cause in Quickbooks he can apply another adjustment entry to fix it. But it is properly documented. The deposits reconciled.

Commissioner Patterson asked the fee amount that the District charges for pre-application meetings for Jim's time. DJ said \$500.

**TAB 4: December 2016 Bank Statements and Reconciliations** Dan stated everything is fine there. A high uncleared balance in checking but we wrote checks on the 30<sup>th</sup> of December so that accounts

for that balance. He is tracking expenses for the Generator in Capital Improvement Fund. He needs to do the transfer to the Capital Improvement fund for the December billing.

**TAB 5: Fiscal year 2016-2017-Budget vs. Actual**

Dan noted he didn't classify the lines 8466 and 8462 toward the Generator in the Capital Improvement Fund. We've transferred \$105,000 and he thought he would transfer \$15,000 from the December billing and then an additional \$15,000 in the next billings to complete what was budgeted for this fiscal year.

**Approve Financials/Pay Bills, Profit and loss by Class**

*Commissioner McDowell moved that we approve the financial report. Commissioner Patterson seconded. Motion passed. Commissioners Patterson, McDowell, and DeVries voted aye. Nays-none*

*Commissioner McDowell moved that we pay the bills and approve the bank statements.*

*Commissioner Patterson seconded. Motion passed. Commissioners Patterson, McDowell, and DeVries voted aye. Nays-none*

*All Board members present reviewed and signed the "Approval of Payment Form and Approval of reconciliations between CUSI and QuickBooks for Water Sales, Penalties and Water Deposits (including attached supporting documents)". And all Board members present reviewed and signed the form entitled Rivergrove Water District-Bank & LGIP Statements." Commissioner McDowell completed the "Financial report check list" for this meeting.*

**TAB 6: Pump Reads-Completion of District Report**

DJ noted that Ami from the State came out and took pictures of slump behind Reservoir #3. We have not heard any more after the submittal of the LOI. Should know more next month.

Chair DeVries asked if we had any broken pipes? DJ said some customers did but not us. (knock on wood). There were only some branches and a couple of trees that fell one across the (old) fence at Gate and one up at driveway to #2.

**Commissioner/Staff Comments:** Cascadia Subduction Zoning are we designing to that?

**Non-agenda items-**Master planning update for possible extraneous users outside the District?

**Commissioner to sign checks for the month:** Commissioner Patterson volunteered to sign checks for January-February. Shon will back up.

**Agenda Consensus for the February 27<sup>th</sup>, 2017 Meeting**

Insurance Renewal Report; Fran Update; LOI Update

**Chair DeVries adjourned the meeting at 9:01 AM.**

Respectfully submitted,

DJ Ezell,

Manager

Rivergrove Water District

These minutes are not verbatim and the meeting was tape recorded. The Tape Recorder was found to be inactive for the first portion of the meeting. Upon discovery it was fixed and the balance of the audio version is available on You Tube under Rivergrove Water. First section of the minutes of meeting was documented from notes.

**ORS 192.650 Recording or written minutes required; content; fees.** (1) The governing body of a public body shall provide for the sound, video or digital recording or the taking of written minutes of all its meetings. Neither a full transcript nor a full recording of the meeting is required, except as otherwise provided by law, but the written minutes or recording must give a true reflection of the matters discussed at the meeting and the views of the participants. All minutes or recordings shall be available to the public within a reasonable time after the meeting, and shall include at least the following information:

- (a) All members of the governing body present;
- (b) All motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition;
- (c) The results of all votes and, except for public bodies consisting of more than 25 members unless requested by a member of that body, the vote of each member by name;
- (d) The substance of any discussion on any matter; and
- (e) Subject to ORS 192.410 to 192.505 relating to public records, a reference to any document discussed at the meeting.