

**EUGENE WATER & ELECTRIC BOARD
EXECUTIVE SESSION
4200 ROOSEVELT BOULEVARD / VIRTUAL
May 7, 2023**

Commissioners Present: John Barofsky, Vice President; Sonya Carlson, Mindy Schlossberg, and John Brown, Commissioners

Commissioners Absent: Commissioner Matt McRae recused himself.

Others present: Frank Lawson, General Manager; Rod Price, Assistant General Manager; Deborah Hart, Assistant General Manager/Chief Financial Officer; Sarah Gorsegner, Business Continuity Manager; Brian Booth, Chief Energy Resources Officer; Julie McGaughey, Chief Customer Officer; Laura Cuccia-Nilsen, IT Support Specialist; Travis Knabe, Chief Information Officer; Holly Shugart, Administrative Assistant; Jennifer Connors, Communications & Marketing Supervisor; Anne Kah, Administrative Services Manager; Thomas Grim and Kevin Kiely of Cable Huston, John Quetzalcoatl Murray, Whole Community News

EXECUTIVE SESSION

The Executive Session was called to order at 5:00 p.m.

Pursuant to ORS 192.660(2)(h)

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.

Vice President John Barofsky adjourned the Executive Session meeting at 5:23 p.m.

Assistant Secretary

President

**EUGENE WATER & ELECTRIC BOARD
REGULAR SESSION
May 7, 2024
5:45 pm**

Commissioners Present: Matt McRae, President; John Barofsky, Vice President; Mindy Schlossberg, John Brown, and Sonya Carlson Commissioners

Others Present: Frank Lawson, EWEB General Manager; Rod Price, Assistant General Manager; Deborah Hart, Assistant General Manager/Chief Financial Officer; Lisa Krentz, Generation Manager; Aaron Balmer, Acting Financial Services Manager; Karen Kelley, Chief Operations Officer; Brian Booth, Chief Energy Resources Officer; Adam Rue, Rates Manager; Rob Freytag, General Accounting and Treasury Supervisor; Wallace McCullough, Engineering Supervisor.

REGULAR SESSION

Call to Order

President McRae called the meeting to order at 5:45 pm

Agenda Check

No changes to the agenda

Items from Board Members and General Manager [0:1:45]

Commissioner Barofsky toured the site for the new water treatment plant in Glenwood and spoke with the Oregon Fish and Wildlife Department. They heard from consultants on the impact the project may have on the environment and wildlife. He explained there were several studies done to ensure they could serve the community without creating a negative ecological impact on the watershed.

Commissioner Brown said on future agendas the City Manager would meet with the board to discuss the City's proposal to increase the EWEB bill for City Fees. He expressed concern over the cost to constituents and hoped for a fruitful conversation.

Mr. Lawson appreciated Commissioner Brown's perspective. He said under city code EWEB was required to collect Stormwater and Wastewater fees, but how those were handled and collected could be discussed at the meeting with the City Manager. Mr. Lawson added that it was Drinking Water Week and the board had been provided a consumer report.

Correspondence [0:8:00]

Mr. Lawson said there were two items of correspondence. The update on EWEB's compliance with Oregon's Renewable Portfolio Standard (RPS), and an update on EWEB's approach to EV charging equipment.

Public Input [0:11:32]

The following testimony was provided to the EWEB Commissioners: The Board neither endorses nor opposes or is responsible for the accuracy of the content of testimony, including any links or references provided.

Nina Beety an investigative writer from Monterey CA expressed opposition to smart meters, specifically stating the hacking risk and fire hazard.

Melinda Stone of Eugene, OR, expressed opposition to Smart Meters. Specifically stating the letters sent to her from EWEB seemed threatening and explaining her sensitivity to digital meters and their dirty energy.

Kathy Ging of Eugene, OR, expressed opposition to smart meters, specifically stating the fire danger of smart meters and the letters about turning off their services.

Alan Gormezano of Eugene, OR, spoke in opposition to smart meters, specifically stating the dangers of smart meters, the bias of the studies used by EWEB and the desire for a proper opt-out policy.

Sabrina Seigel of Eugene, OR, expressed opposition to smart meters, specifically stating the threatening letters from EWEB and explained the health dangers of smart meters to her and others. She read a letter from a physician who requested EWEB allow her to keep her analog meter.

Stephen Joncus, an attorney for local constituents, expressed opposition to smart meters, specifically stating that EWEB violated Americans with Disabilities Act (ADA) rules by not allowing a proper opt-out.

Dennis Hoerner of Eugene, OR, Ward 3, expressed opposition to smart meters and showed a photograph taken by his neighbor where he spoke with a technician and two security guards were hidden around the corner. He said the incident caused him severe anxiety along with the letters from EWEB on disconnection of service.

Wanda Meck of Eugene, OR, expressed opposition to smart meters, specifically stating the radiation from smart meters caused her health issues and the lack of a proper opt-out.

Cindy Allen of Eugene, OR, Ward 2, expressed opposition to smart meters, specifically stating there was a study done on the dangers of smart meters and requested a proper opt-out policy. She mentioned specific videos she sent to the board.

Joshua Korn of Eugene, OR, expressed opposition to smart meters and the letters received from EWEB, specifically stating he would appreciate real discussion on smart meters and their impact on the community.

Tana Shepard of Eugene, OR, Ward 8, thanked EWEB for their support and funding for the 4J School District, she invited them to come to the EV Challenge. She said she's been at many schools over the last month to teach about drinking water and gave an update on her program.

Commissioner Carlson asked for the date and time of the EV challenge so it could go on her calendar.

President McRae thanked everyone for their testimony.

BOARD ACTION ITEMS [0:52:28]

Approval of Consent Calendar – A (Minutes and Routine Contracts)

1. April 2, 2024 Minutes

MOTION: Commissioner Brown moved to approve Consent Calendar A.
The motion passed unanimously 5:0.

Approval of Consent Calendar – B (Nonroutine Contracts and Other Consent Items)

CONTRACTS

2. **Cascade Water Works** – for a Water Intake Pump and Motor Rebuild at the Hayden Bridge raw water intake pump station. \$536,000 based on Formal Invitation to Bid.
3. **Eco Services Operations Corporation** - for Liquid Aluminum Sulfate to be utilized at the EWEB Hayden Bridge Water Filtration Plant. \$800,000 (over 5 years) based on Direct Negotiation (after survey of market pricing).
4. **Harris SmartWorks** – for a contract and additional funds for Meter Data Management (MDM) integration with SAP (EES project). Original contract amount \$122,000 plus increase of \$125,000 for resulting cumulative total of \$247,000 based on Direct Negotiation.
5. **HDR Engineering, Inc.** - for the Day Island Water Line Crossing Feasibility Study. \$683,000 based on Formal Request for Proposals.
6. **Lighthouse Energy Consulting** - for Demand-Side Potential Assessment Consulting Services. \$200,000 based on Formal Request for Proposal.
7. **Sensus USA Inc.** - for RNI software integration with SAP as part of the EES Project. \$175,000 based on Direct Negotiation.
8. **Tyndale Enterprises, Inc.** - for the purchase of Flame Resistant (FR) Apparel. \$650,000 (over 5 years) based on Formal Request for Proposal.

RESOLUTIONS

9. Resolution No. 2406 - Electric Bond Supplemental Resolution.

MOTION: Commissioner Brown moved to approve Consent Calendar B.
The motion passed unanimously. 5:0.

Items removed from Consent Calendar

none

Updates to Customer Fees, Rates and Charges [0:53:22]

Deborah Hart, Assistant General Manager and CFO; and Adam Rue, Rates Manager; gave a presentation on the Customer Fee, Rates, and Charges recommendations via PowerPoint and answered questions from the board.

Commissioner Brown felt they were going in the wrong direction by doubling water hook-up fees during a housing crisis. He requested it be revisited for affordability for developers and perhaps an incremental increase would better serve the community.

Commissioner Barofsky said he heard from owners and contractors that the scale of EWEB fees seemed untenable in the long term. He explained they could look at the rate stabilization fund, but more fees made it difficult for developers and individuals to build, which was a detriment to the housing crisis. He requested they look at anything they could do as a utility to foster ease to new construction.

Commissioner Schlossberg said the reason for the large increase was because charges had not been raised for so long which was an EWEB mistake and as it was their own error, it seemed unfair to suddenly put that mistake on the community. She agreed with phasing in the increase.

Mr. Lawson understood the mistake belonged to EWEB alone, but the community had benefitted from that mistake for ten years. He added they could look at some options for gradual increase.

Commissioner Brown felt they had done well keeping rates low, but this was an anomaly and for them to double rates on small affordable homes added to the overall costs and housing crisis.

Commissioner McRae requested some proposals for incremental increases on the water attachment charges. He asked if applying a CPI annually would be easier.

Ms. Hart said it could be a potential outcome as they looked at the fees. She said a few more customer fees will be incorporated in the next year so the fees list would grow longer.

Mr. Lawson said there were several different options, and they could do a specific analysis of cost.

Ms. Hart said they would be back next month with an option for gradualism on the water service installation charges and more information on the dark fiber costs.

Annual Reserve Fund Status and Transfers/Use of Reserves [1:23:56]

Deborah Hart, Assistant General Manager/Chief Financial Officer; Aaron Balmer, Acting Financial Services Manager; and Rob Freytag, General Accounting and Treasury Supervisor

gave an update on the Reserve Transfers and Targets via PowerPoint and answered questions from the board.

Commissioner Barofsky was in favor of the transfers but also referred to their policies which had targets for each one of these funds. He felt they needed to increase the funding in the electric and water rate stabilization, as those are the funds the board had the most control over and could use to employ gradualism.

Mr. Lawson said they recognized the volatility of the world they are in. The increased cost of raw materials meant they needed to look at everything in relation to financial resiliency. He said he understood the Board wanted to include the rate stabilization in their plans and to do so they needed revenue to come in over expenses, which meant higher rates.

Commissioner Barofsky said he hoped the fund could help them react to some of that volatility.

Mr. Lawson clarified that the balances shown in the meeting materials were from end of last year, and they should remove another \$12 million due to the losses in the first quarter.

Ms. Hart said the rate stabilization funds were unique in that they could put money in for future purposes and pull money out for debt services. She explained the deliberate choice to be over target to avoid borrowing.

Commissioner Carlson noted there were requests to increase some funds over others and asked for the reasoning behind it. She also asked about a past decision to not issue bonds and wanted to understand the process.

Mr. Balmer said the initial long term financial plan modelled going out for a bond issuance for the electric utility. There was a decision point before they brought a bond proposal to the board, he explained there were still bond proceeds left from 2020 that could be used for capital, and the interest rate environment at the time indicated interest rates were going down. He said a variety of factors led them to not borrow and they avoided \$2.5 million in interest due to that.

Commissioner McRae said he supported the transfers as proposed and they could do it as a consent item. He said they proposed an incremental change in rate stabilization and was curious if that created the amounts Commissioner Barofsky sought.

Ms. Hart said an extra increase in the targets, and their working cash position at the end of the first quarter would create rate pressure as they stood.

Commissioner Barofsky said he would still make that request and he wanted to put it in front of the board.

Mr. Lawson said they had upcoming budget discussions and requested Commissioner Barofsky allow them to go over those before talking about changing the targets.

Commissioner Barofsky agreed to having that discussion first, but noted the rate stabilization fund was the one the board had the most control over.

Ms. Hart said they would bring back a consent item.

Annual Capital Project Update [2:12:30]

Rod Price, Assistant General Manager, gave an update on the Capital Plan Projects via PowerPoint and answered questions from the board.

Conversation topics covered included Electric, Water, Generation and Shared Services capital projects, budget, supply chains and other risks, the Walterville project, power pole ice burden, and seismic standards.

Quarterly Strategic & Operational Report for Q1 [2:45:13]

Mr. Lawson gave an update on the Quarterly Report for Q1 via PowerPoint and answered questions from the board.

Commissioner Carlson inquired about receiving reimbursement for impacts from the ice storm.

Mr. Lawson said during a FEMA event, there were resiliency grants which may provide opportunities. He explained there were challenges because of the storm, but also there were challenges in the regulatory environment, and inflationary pressures which are more fundamental.

Commissioner Carlson asked if they had seen the challenges coming.

Mr. Lawson said they had a good presentation to the rating agency and, while there were some challenges, they were in a strong financial position to address those challenges.

Commissioner Brown noted the cost for energy efficiency and conservation for limited income residential was 10x more expensive than for regular residential. He asked if that was an outlier.

Mr. Lawson said that was generally the type of projects and the investment placed in them. He explained they wanted to have a discussion with the board to define the objective of the energy efficiency program.

Commissioner Brown said one of the discussions at the board level was the budget at 85% water and there was an argument for 90% and how long would it be before they would see water back at 80%.

Mr. Lawson said they created a contribution risk margin number and that represented 3 things. One of them was 90% water level, the other could be an impact on wholesale prices, or it could be consumption related. He said in the first quarter of this year they had all three of those issues. He said they could be conservative with budgeting which puts pressures on rates, but if they were too liberal, they took more risks.

Commissioner Brown asked if it was something they would monitor with climate change.

Mr. Lawson explained the climate change models didn't show a decrease in water, just a shift in when it would be abundant, which shifted when generation was available. He said there was some diversification of generation resources that could be looked at.

Commissioner Schlossberg asked about climate change and how many of the events were due to climate change. She wondered how they could consider climate change in their budget, so they weren't always playing catch up.

Mr. Lawson said they had to look at the role of resiliency, including resources, water conservation, and financial resiliency, in their long-term plan and to consider their resources and how they allocated them. Climate change was becoming more volatile. He said he had discussed with Mr. Price what they were doing to make themselves more resilient to the challenges in how they do their designs, forecasts, and select resources.

Mr. Lawson said it came back to the strategic plan they started in 2018 when they discussed customer confidence. He felt they were making good progress, and it was a prerequisite for other projects. He believed they needed to press the reset button on what they were going to prioritize in the next few years.

Commissioner Barofsky said they didn't want to chase grants just to get money, they wanted grants to meet strategic goals. He noted compliance was complicated, including the interaction between compliance they have control over and the compliance they don't have control over. He said they needed to have the people who know the rules and how to follow them.

Mr. Lawson said they have realized in the context of the workforce, having the assets, managing the assets, and putting them into effect was not the only thing they needed to consider. They had to have the right mix of people to be successful. He said there would be regulatory work thrown at them and they must be compliant as an organization.

Process for next GM Performance Evaluation [3:18:20]

Moved to the next meeting.

Future Board Agendas [3:19:29]

Mr. Lawson said commissioners had been provided some information on the river trip, and noted the two upcoming events were a pretty heavy load on staff. Given the fact customers could now dial into the board meetings, he proposed they look at an every other year scenario for the upriver meeting.

Commissioner Schlossberg felt the agenda for the upriver meeting was ambitious.

Mr. Lawson said they could ask staff about priority topics.

Commissioner McRae asked the board to consider Mr. Lawson's proposal.

The board wished to keep the upriver meeting every year.

Board Wrap Up [3:25:25]

Commissioner Barofsky said he received several frustrated calls from the community about construction downtown and much of that wasn't EWEB, but some of it was. He believed they needed to support communications and interaction with the community on the matter.

Mr. Lawson said he would make sure the right people were aware of it.

Commissioner Brown explained with staff and construction crews, timing was the most challenging aspect to navigate. He believed EWEB crews had been very professional.

Mr. Lawson said they take the feedback seriously and would ensure the right people received it.

Adjourn

Meeting adjourned at 9:15 pm

Recorded by Lydia Harvey, LCOG

Assistant Secretary

President

EWEB Board Consent Calendar Request

For Contract Awards, Renewals, and Increases

The Board is being asked to approve a new contract with **Miller Nash LLP** for **Legal Counsel for Human Resource Related Matters**.

| | | |
|--------------------------|---|-----------|
| Board Meeting Date: | June 4, 2024 | |
| Project Name/Contract #: | Legal Counsel for Human Resource Related Matters / 24-038-PSC | |
| Manager: | Kira Hutchens | Ext. 7629 |
| Executive Officer: | Rod Price | Ext. 7122 |

Contract Amount:

| | |
|------------------------------------|---------------------------------|
| Original Contract Amount: | \$600,000 |
| Additional \$ Previously Approved: | \$0 |
| Spend over last approval: | \$0 |
| Amount this Request: | \$600,000 |
| % Increase over last approval: | NA |
| Resulting Cumulative Total: | \$600,000 (over 5-years) |

Contracting Method:

| | |
|-------------------------------------|---|
| Method of Solicitation: | Formal Request for Proposals (RFP) |
| If applicable, basis for exemption: | NA |
| Term of Agreement: | 5-Years (August 1, 2024 – July 31, 2029) |
| Option to Renew? | No |
| Approval for purchases “as needed”: | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| Proposals/Bids Received (Range): | 5 (\$288 to \$484 per hour) |
| Selection Basis: | Highest Ranked Proposer |

Narrative:

Operational Requirement and Alignment with Strategic Plan

EWEB desires to enter into a professional services contract with Miller Nash LLP to provide guidance, representation, and legislative tracking in legal matters related to labor and employment, benefits and leave administration, workers’ compensation, and health/safety requirements. Miller Nash LLP will provide creative, strategic legal advice targeted to EWEB’s mission and work environment to ensure the most efficient use of Human Resources, prevent operational disruptions, and to help identify and address issues before they become costly lawsuits. Miller Nash LLP will help maintain a productive and successful workforce by assisting Human Resources in managing our policies and procedures and ensuring compliance with federal and state regulations governing all aspects of labor and employment.

Contracted Goods or Services

Miller Nash LLP is new to contracting with EWEB as Legal Counsel surrounding employment matters, but their large firm and extensive experience affords them a valuable perspective with regard to EWEB’s labor relations, personnel matters and workforce management practices. The firm has considerable breadth and depth of expertise in all

employment disciplines and particularly with respect to the public sector, having an impressive history of contractual relationships with numerous public employers who, like EWEB, are subject to the specific complexities of labor and employment law related to this sector.

Purchasing Process

Staff issued a Request for Proposals (RFP) in March of this year. Five (5) firms responded with written proposals. These proposals were evaluated based on criteria established in the RFP, including: Firm Background/Experience (20%), Breadth of Experience (20%), Relevant Issue Examples (10%), Other Information – Capability to Complete the Statement of Services (10%), Client References (10%), Peer References (5%), Pricing Proposal (25%), and Additional Services (Not Scored). Miller Nash LLP was determined to be the highest ranked proposer by the evaluation committee, with these criteria.

Proposals/Bids Received

| Vendor Name | City, State | Offered Price (Weighted Hourly Rate) | Ranking (for RFPs) |
|----------------------------------|------------------|--------------------------------------|--------------------|
| Miller Nash LLP | Portland, Oregon | \$377 per hour | 1 |
| Harrang Long Gary Rudnick P.C. | Eugene, Oregon | \$288 per hour | 2 |
| Ogletree Deakins | Portland, Oregon | \$484 per hour | 3 |
| Barran Liebman LLP | Portland, Oregon | \$450 per hour | 4 |
| Peck, Rubanoff, & Hatfield, P.C. | Portland, Oregon | \$291 per hour | 5 |

Prior Contract Activities

Miller Nash LLP has no prior relationship with EWEB.

ACTION REQUESTED:

Management requests the Board approve a contract with Miller Nash LLP for Legal Counsel for Human Resource Related Matters. Approximately \$130,000 was planned for these services in the 2024 Workforce Services budget of \$3.7 million. Variances will be managed within the budget process and Board policy.