

SOUTH FORK WATER BOARD
MINUTES OF BOARD MEETING
October 14, 2010

Board Members Present: Alice Norris, Oregon City Mayor, Chair
John Kovash, West Linn Mayor, Vice Chair
Jody Carson, West Linn Board Member
Daphne Wuest, Oregon City Commissioner
Scott Burgess, West Linn Board Member
Rocky Smith, Oregon City Commissioner

Board Members Absent: None

Staff Present: John Collins, SFWB General Manager

Others Present: John Junkin, South Fork Attorney, [Schroeder Law Offices](#)
Alice Richmond, West Linn Resident
Janelle Sisson, Gladstone Resident

General Board Meeting

(1) **Call to Order**
Chair Norris called the meeting of the South Fork Water Board (SFWB) to order at 6:03 p.m.

(2) **Public Comments**
No public comments.

Consent Agenda

(A). Approval of the Minutes of the June 10, 2010 Board Meeting

Board Member Burgess corrected a typo on in the middle of the paragraph on Page 1 to state, “20 or 30 special districts providing water parts, sewer and fire...” [[might check, was not certain](#)]

Board Member Carson moved to approve the **June 10, 2010 SFWB meeting minutes as corrected**. **Board Member Burgess** seconded the motion, which passed **unanimously**.

Chair Norris welcomed newly elected West Linn Mayor, John Kovash, is serving as Vice-Chair of the SFWB

(3) **Public Hearing to Consider Modifications to SFWB System Development Charges**

John Collins, SFWB General Manager, reminded that in June of this year a new Master Plan update was adopted by the Board that included the adoption of a new

Capital Improvement Plan. [Due to significant upgrades](#) the methodology for calculating System Development Charges (SDCs) was revisited and the fees increased. [Future](#) residents of Oregon City and West Linn would see an increase of about \$11.00 per residential meter, from \$1,349 and to \$1,360.

He explained that meters are installed [and charged](#) by size. Residential meters were used as an example because West Linn and Oregon City are basically residential neighborhoods. The SDC increase was about 8.8% or 9% overall, which would apply to commercial meters as well. The increased SDCs had been publicized for 90 days prior to the public hearing. As General Manager, he recommended holding the public hearing and adopting the new SDCs. He confirmed that the [Seattle Inflationary Index Average](#) had been included in the calculation.

Vice Chair Kovash confirmed that [this](#) reflected the full cost of SDC fees for new development, which was of interest to many people.

Board Member Burgess noted that even with the increase, West Linn would have the lowest water rates in the region. If the increase passed in November, West Linn would still have the second to the lowest rates. [\[delete?\]](#)

Chair Norris opened the public hearing for Resolution 10-04 at 6:09 p.m. and called for public comment. Hearing none, she closed the public hearing.

Board Member Smith moved to approve Resolution 10-04. Board Member Burgess seconded the motion, which passed unanimously.

Mr. Collins stated that he had a couple brief phone conversations with Ernie Platt of the Home Builder's Association, and since Mr. Platt was not present for the hearing and did not send comments, he believed that represented his acceptance of the SDCs.

(5) **Clackamas River Water Providers Presentation – Kimberly Swan, Christine Hollenbeck**

Kimberly Swan, Water Resources Manager. Clackamas River Water Providers, reviewed the accomplishments of last year, the status of various projects and the events and programs promoting water conservation through the Clackamas River Water Providers as presented in the CRWP Annual Report. Also included was the Drinking Water Protection Plan for the Clackamas River. This document provided a roadmap outlined a variety of ways to be engaged in a watershed, as an advocate, partner, and steward, and also addressed the financing needed to implement changes. She sought the Board's feedback about the Plan.

Christine Hollenbeck Water Conservation Program Coordinator Clackamas River Water Providers, reviewed the work of the various committees that she sits on or chairs and their contributions overall to the water conservation programs.

Mr. Collins noted both Ms. Swan and Ms. Hollenbeck have done an incredible job, following the direction of five different managers. To get the document to this stage and through the Technical Committee took a lot of work. It was a great effort.

Board Member Burgess complimented Ms. Hollenbeck and Ms. Swan on the complexity of the report, noting that a lot of data was shown. He asked if there was any way to understand what impacts had resulted or the amount of water saved.

Ms. Swan explained too many variables existed to get accurate numbers. Based on public billings, water usage was down this summer. The summer was not hot, so how could the cause for the decrease in water usage be determined? Tracking the results of education programs is difficult. The different billing and SCADA systems used by the two cities presented another variable. West Linn has better technology and was positioned to gather better data than Oregon City. With the correct data captured, a statistician would need to be hired to crunch the numbers

Mr. Collins offered that upon recalculating two cycles of SDC's, five years ago and then this year, the [per capita](#) use of water consumption per household had decreased.

Board Member Carson believed that long term trends were the way to measure. The five year trend showed water consumption decreasing. What do the trends show over ten years? Was there a gradual decrease, even though there were ups and downs? Measuring over longer periods would indicate if it was making a difference.

Ms. Swan clarified that the ads about water conservation are from the Regional Water Consortium of which South Fork is a member and that many ads featuring conservation are featured through different sponsors. She then presented a Drinking Water Protection Plan

Chair Norris recalled when she was first on the Board, they tackled leaks and was amazed at how much water was saved just from that. The Drinking Water Protection Plan and outlined projects are impressive and getting results is extremely important.

Ms. Swan stated they would like to receive feedback by the end of the year to begin preparing a working document for the elected officials. Input was requested about how to prioritize projects; where should money be allocated, [agricultural people, septic systems, and so on](#). What priorities should they emphasize for Oregon City and West Linn in the next few years, rather than ten years from now? These decisions would guide the decisions of the next few years. For example, if land acquisition and land use management are high priorities for the Board, then [CRW](#) would shift to other priorities.

Chair Norris stated evaluating sewer lines over the Clackamas River for potential leakage should be a high priority as well as inspection and maintenance, if that was not happening now.

Ms. Swan responded that may not be happening with frequency and may not be something she can tell the cities to do. Much was ascertaining if they can assert pressure; Clackamas County was responsible for areas within the basin. Could [CRW](#) pressure them to do a better job? Perhaps CRW could help provide the funding needed to do more of what they should be doing.

Board Member Burgess suggested updating the logo with the tagline, “working together to take care of our drinking water” or “protect our river and care for our drinking water.” There are more concerns than just the drinking water. He asked if a concentrated focus had been done on pesticides and herbicides in the parks. Many open areas of grass run off dump into open ditches rather than pipes and then dump into the rivers.

Ms. Swan explained that herbicide and pesticide reception are channeled through the Clackamas River Basin Council. There was not enough staff. Ms. Hollenbeck takes the message out every day when she out in the community, but they are mostly focused in the watershed at this point. No conservative efforts have been directed at city parks.

Ms. Hollenbeck added CRW can make certain that the parks people are taking the right education classes. They are required to have licenses, certifications and continuing education. We could provide funding to help with classes through the conservation program.

Board Member Burgess advised that the Board could direct the Parks Departments in West Linn and Oregon City to participate in education or training if areas were lacking. CRW could assess if additional education was needed.

Ms. Hollenbeck stated she did not have the expertise but she could open a conversation and see if they can determine what they need. They may be looking for some assistance. She would learn how the pesticides, irrigation and water uses are being handled

Board Member Burgess noted the biggest water users were the cities and the school districts. People are concerned about the rates increasing and citizens also pay for schools and parks, who are big water users. They have tried to do a good job in terms of conservation, but perhaps more could be done in those areas. He referred to Exhibit D, Youth Education Program presentations and asked if those presentations were somehow tied to population or volume of water used as a means of identifying when or where to give more presentations.

Ms. Swan explained that the teachers select the topics they were interested in and call CRW for a presentation.

Mr. Collins asked the Board to send their comments to him by the end of the year and he would consolidate them in one document and forward it to Ms. Swan.

(6) **Discussion of 2001 Joint Operation Plan**

John Collins, SFWB General Manager, distributed the IGA Cooperative Agreement for Construction of Water Transmission Line [Pipeline B]. He explained that in January, he and **Mr. Werks** were talking with the General Manager of CRW, Lee Moore, and two other CRW representatives. Negotiating a settlement for the wage structure came up, which they noted needed to be addressed. Additionally, Mr. Moore stated that they would like to talk about the Joint Operation Plan. At that time, Mr. Collins had not seen the Joint Operation Plan. After doing research, he found the Board had approved the Plan in 2001 as a condition of the acceptance of the contract for

construction, Pipeline B Agreement. Earlier this summer, the CRW Board sent a letter directly to this Board, surpassing contact with Mr. Collins and requesting a meeting.

He met to discuss the Joint Operating Plan with North Clackamas County Water Commission Manager Dan Bradley, Sunrise Water Authority Manager John Thomas, and the manager of the Clackamas Urban Water. He told them that the 9½ year old document was never acted upon to his knowledge. The agreement states that the managers will meet once per year to oversee this agreement, that either the manager or his designee **will work** and that the committee will put a representative to oversee efficiencies and other items, optimizing the use of all plants, the major pump stations for power consumption, which was the purpose of the Joint Operating Plan. A decade has passed without actually implementing the plan.

At that meeting they established that the documents were approved together, so that did not seem to be an issue. Mr. Moore also agreed that the documents were approved together that he did. The Construction Agreement clearly calls out that the South Fork Water Board will supply all water to Clackamas River South, up to a two million gallons a day average.

He told Mr. Moore and the others at the meeting that since this document was virtually a decade old that he would seek guidance from the Board as to what energy and what our level of activity should be put into this. He did not believe that answer set well with Mr. Moore because one week later Board members received the letter from the CRW Chair requesting the meeting to discuss the Joint Operation Plan. He believed there was some concern that South Fork was not going to participate.

In looking at the Plan and the three water managers, he believed it was a bit idealistic. If South Fork were to receive water from North Clackamas, per se, it would need to be conveyed through Clearwater No. 2 and new Clearwater No. 3, which changes the dynamics. There are different water qualities, PH's and chlorine involved. South Fork spent \$40,000 on a tracer study required by the State requirement when Clearwater No. 3 was built, and South Fork would have to do that physical test every time the dynamics of the treatment plant changed. Logistically there would also be some issues.

If the intent was about working together and the pipeline being basically an emergency supply line, South Fork has done a good job of keeping that functional. For example, water was purchased during the shutdown in December 2008 and **the facility** was offline for five weeks, so having that pipeline was important.

The foundation of the Construction Agreement was used when water was needed in December 2008.

There might also be some advantages to purchasing chemicals together.

As part of the Agreement, South Fork agreed on the two million gallons a day average. Once their needs surpassed that average, this pipeline would be used in a debit and credit system with North Clackamas County Water Commission to serve the additional water that they would need at that time.

In recently updated Master Plan, South Fork anticipated usage up to that two million gallon a day average, so there might be merit in continuing.

He cautioned as a treatment professional and logistically, that if South Fork ever wanted to exchange water, serious issues would need to be addressed by water professional engineers and hydrologists.

Almost ten years ago when the pipeline was being constructed, North Clackamas County Water Commission had a single source, a slow treatment system with a slow sand filtration. They were not able to treat their water under high turbidity and had since added membrane technology to produce a great tasting drinking water. They have the most advanced treatment techniques for that. He was not sure North Clackamas would want South Fork's water because their water tastes better.

He sought needed direction from the Board about how to proceed.

Chair Norris understood the advantages to working together, but was a document required to do those things? The documents seemed so old, that something new should be constructed. They needed to consider what the advantages are to South Fork, the advantages to cooperation, and what work would need to be done. Those aspects that are advantageous to everybody are the ones that should be shared.

Vice Chair Kovash asked what validity a 10-year contract had that requires action, but that had never been enacted on.

Attorney Junkin noted he was involved in the case litigation rather late, and when he got involved, the parties had discovered that this document existed. He had met with Mr. Bradley at one point to ask him about the documents, as he was one of the signers, and he did not recall the document. Mr. Junkin stated it was a nice, feel good document that really had no teeth to the extent of remedies or requirements, just that the parties would cooperate. It called for certain things that had not happened, such as the vision of a joint operative plant core. He did not believe [the agreement](#) had any legal effect. South Fork could choose to implement a part of it or not. The document was so old, has never been enforced to date, and did not include remedies to enforce it, so South Fork did not have to implement it. Some things might be beneficial, but there are also things that are probably not technically feasible.

Chair Norris stated that if they did move forward, they could start with a new document. She asked what the advantages were to cooperate.

Board Member Burgess stated the Board should look to the water professionals for direction and a recommend about what to do. He added that it seemed to be an ulterior motive in terms of examining why South Fork [built \[inaudible\]](#).

Mr. Collins agreed it would be easier to start anew rather than try to fix the existing document. In speculating from comments heard, he believed the present [North Clackamas](#) Board believes they invested up to a million dollars in infrastructure and have not received any beneficial use. He noted that was not South Fork's issue and briefly reviewed the background regarding the improvements, noting he had explained this to [their board](#) several times.

Board Member Burgess noted an operating agreement was not needed for the joint purchase of chemicals. An agreement was critical when exchanging water to address any mixing issues, or compensation for testing of water damage results from mixing water. These were the issues that needed to be addressed.

Chair Norris understood the main reason for the agreement at this point, is to still be able to use Pipeline B if needed, because South Fork needs to go offline sometimes. Was an agreement necessary for that purpose?

Mr. Collins stated that South Fork has gone offline twice since 1958. He explained that CRW now wants to implement the Joint Operating Plan, which was the companion document to the Agreement. From CRW's perspective, this would be beneficial to everyone. Their Board has directed their general manager to try to engage this and see what the logistics would be and how it would work. In the [negotiations or settlement](#), CRW made every opportunity to offer South Fork a settlement contingent upon a Joint Operating Plan, rewriting the Agreement or a combination of both. In the end they settled, but South Fork would not make that contingent to this Agreement. South Fork did tell Judge Darling that South Fork would sit down and discuss it, that we would listen to them. Having made that statement in the settlement, he believed South Fork needed to be involved in a few discussions at least.

Board Member Wuest did not believe South Fork wanted to pursue the Joint Operating Plan and asked if the Board was comfortable with the Construction Agreement?

Mr. Collins responded that the Agreement was South Fork's security. CRW and Sunrise Water Authority are considering a Joint 190 Operating Agreement that may or may not protect CRW's [borders](#) under the Water Authority. **Mr. Moore** told South Fork that and shared it publically. One issue is that Sunrise Water definitely wants to maintain a good relationship with the SFWB. They will not breach this construction agreement and have stated so publically.

Chair Norris asked what would be the recommendation to move forward.

Mr. Collins recommended that the Board allow him to attend a few more meetings and to try to flush out the purpose and intent, and to see what a new agreement might look like to bring back for the Board's consideration. He did not want to do that without the Board's guidance and permission.

Attorney Junkin noted the Agreement was that South Fork shall provide two mgd's and much of [that has already been performed](#). It provided for the manner in constructing the Pipeline B and [continues to do some things](#). He clarified that the Pipeline B Document, which was an earlier document, had been completed for the most part. He did not see any language directing that a new Joint Operating Plan be developed.

Mr. Collins stated that he read the staff report, and discussion from the minutes of March 2001, and that was how it was presented to the [CRW or South Fork Board](#) for their adoption.

Chair Norris stated that would be the intent according to the adopted minutes, but was anything different as far as the legalities.

Attorney Junkin replied that the 2000 construction has been performed. The Joint Operating Plan made no reference to going forward. In 2001, someone decided the

Joint Operating Plan was an intent to implement. The Pipeline B Agreement did not require a Joint Operating Plan. There is no teeth to it; there are remedies that no one followed.

Vice Chair Kovash stated that he would like to see staff work to determine what the Agreement and Joint Operating Plan meant and explore the alternates. He would agree to Mr. Collins attending additional meetings and returning with a recommendation based on those discussions. In the meantime, the Board could read the Agreement and perhaps provide more input as to its legalities and where South Fork stands.

Attorney Junkin reiterated that the pipe was in, and that the intent was furtherance of working together, but that was not required.

Chair Norris confirmed that South Fork's hands were not tied in moving forward.

Board Member Burgess said he was hearing that this was not required by the construction document but the water supply agreements being referenced were not in front of him. The Agreement was old, nobody remembered it, no one used it, and no one has followed it, yet South Fork has a transmission line that is supposed to do something. Someday water would, or has already gone through that pipeline and South Fork needs a Joint Operations Agreement to address mixing issues, who would turn on and off the water, whose water would be pumped in, and who would pay for any costs involved, such as testing.

He would like to write the agreement and know what issues are covered by the Joint Operation Plan, which has been negotiated, whether CRW agreed or not. He wanted to hear what Mr. Collins thought should be covered by a Joint Operating Agreement.

Board Member Carson stated that basically the Agreement should be thrown out. The other [partners](#) needed to be involved in forming an agreement around the operation of that pipe to identify when the pipe would be used, under what conditions and to describe the process. That needed to be reviewed in order to utilize Pipeline B for water going in either direction.

Mr. Collins stated that moving forward, he wanted to figure out everybody's agenda, namely the managers, and to make crystal clear to the group that South Fork is not interested in restructuring its delivery of water. Construction was in place, and all agreed why the pipeline was built, and who was using it.

The discussion regarded identifying impacts and proper management when the water was turned on. Other could bring issues to the table, but right now South Fork was just pushing forward on how to make this work.

Attorney Junkin noted that the Joint Operating Plan does discuss going forward by way of other agreements.

Mr. Collins summarized that at the meeting the documents were identified and CRW's management acknowledged that the Water Supply Agreement in Section D1 was the actual Construction Agreement and South Fork's responsibility. CRW also agreed that

the Water Supply Agreement in reference to the Joint Operations Plan was the Construction Agreement. He asked if it would be appropriate to express to CRW that the guidance from this Board was to proceed in negotiations and that a meeting with the elected was something they would like to see, whether or not any progress is made.

Chair Norris wanted to put that [meeting](#) off into the future, if necessary.

Mr. Collins stated that CRW bypassed the normal procedure and sent the letter to this Board. He asked how the Board would like to respond.

Chair Norris said that it would be good to have a letter in response from the Board stating that the South Fork Water Board has empowered the General Manager to negotiate the new contract and reserved the right to meet again in the future. She asked that a draft of the letter be circulated to the Board members and then [she](#) would sign it.

(7) **Business from the Manager**

- 1) Possible request from Clackamas River Water to purchase surplus winter capacity from South Fork

John Collins, SFWB General Manager, stated that CRW General Manager, Lee Moore had stated there were some water quality issues with the well and that one recommendation from their consultants was that the well may need to be flushed three times for it to be productive, which meant filling it full of water and then taking the water out, [known as](#) aquifer storage and recovery (ASR). They had discussed the possibility of selling water to CRW in the winter for the same rate they would sell surplus water for the commission or Lake Oswego so CRW could charge their well and run it out. There were several advantages for doing that. South Fork's sales to CRW would increase by 30% under the standard rate, providing South Fork an opportunity to capture some additional revenue. ASR was included in the Master Plan and this would fill the wells full of water, providing a redundancy of water and a potential savings of \$10 to \$15 million in infrastructure at this facility by having it in the ground.

Helping Clackamas River Water with this ASR project and selling them winter water would accomplish do two things.

All the water in the Columbia basalts, meaning that whatever their successes or failures will be, goes a long ways towards judging what our successes or failures will be. South Fork's consultant, Geologist Bob Long, who wrote South Fork's water right extensions, explained that the basalts are basically the same ground formations [as ???](#) and [South Fork and CRW](#) have the same water quality issues, granted one may be better than the other. If South Fork sold CRW this water and were able to make three flushes and their water quality improves, it would prove that ASR will work and more importantly it validates that ASR would work for South Fork.

There would be a huge savings if we proceeded with our project and our chances for success would be greater. It was not a 100% guarantee that he will ask, but he definitely wanted to start the conversation. Mr. Collins stated that as the guy who will be responsible for the money and understood the significance

of validating whether ASR will work, it would be his recommendation to go forward.

Board Member Carson believed it sounded like it could be a win-win. It would be nice, too, to mend some bridges, and South Fork needed the money.

Mr. Collins requested a motion if the Board wanted to empower him with the ability to facilitate that offer into a binding deal, however, he would present the offer for the Board's consideration if they preferred.

Chair Norris stated it would probably be best to bring it back to the Board.

Board Member Burgess confirmed the Board was giving Mr. Collins positive direction to proceed.

- 2) Pending request for a quitclaim deed from the City of Oregon City for street improvements at the Division Street pump station. This would have no monetary impact on the South Fork Water Board.

John Collins, SFWB General Manager, stated that Oregon City needs a quitclaim deed for the boundary along South Fork's property line for the children's center at Division Street, which was now under construction. The road would be the main thoroughfare to that center and require a full street improvement. He did not think it was a lot of property. He was supposed to have a report to bring forward, but had not received it yet. Bob Coles was anxious to get this done so the street could be approved. The project would not encroach into the fence line or require moving fences. A few feet would be needed to put in a sidewalk as a part of the street improvement. He explained he wanted to give the Board a heads up that this was coming. Although Mr. Coles wanted it done tonight, without any documents they could only discuss the matter.

Board member Wuest requested that a map be brought back regarding the deed.

- 3) Oregon City approval of SFWB Master Plan and Conditional Use Application
John Collins, SFWB General Manager, explained that South Fork is doing a Master Plan with the City. A pre-application meeting was held and Oregon City accepted their application, which starts the 120-day land use clock for the City to approve or basically request additional work. The project should be pretty simple going forward. South Fork would have an approved layout for the buildings from Oregon City through the Master Plan. Nothing would be erected any higher than what already existed. The City might ask for sidewalks and improvements on the **Swan part** of the street. The facility should not increase traffic, which the City planner believes may be a reasonable explanation for exempting South Fork from that traffic **mitigation**. The consultants have been asked to provide a cost estimate for addressing any traffic impacts; it may be a fee. He did not anticipate a battle with the City, but traffic was the one area that may be an issue. Otherwise, the Master Plan should move forward and hopefully the Planning Commission would share his excitement for it.

(8) Business from the Board

There was none.

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

The December 10, 2009 regular meeting of the South Fork Water Board adjourned at 7:46 p.m. and the Board convened its Executive Session.

(A) To consider information or records that is exempt by law from public inspection pursuant to ORS 192.660 (2) (f)

(B) To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed pursuant to ORS 192.660 (2)(h).

(10) RECONVENE REGULAR BOARD MEETING IF NECESSARY TO TAKE ANY ACTION AS DETERMINED IN EXECUTIVE SESSION

Respectfully Submitted,

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