

SOUTH FORK WATER BOARD  
MINUTES OF BOARD MEETING  
**December 9, 2010**

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

Board Members Absent: John Kovash, West Linn Mayor, Vice-Chair

Staff Present: John Collins, SFWB General Manager

Others Present: Brian Keicher, Project Manager, Children's Center  
Bob Cullison, City Engineer City of Oregon City Engineering  
Doug Neeley, Oregon City Commission, Mayor Elect  
Alice Richmond, West Linn Resident

**General Board Meeting**

**(1) Call to Order**

**Chair Norris** called the meeting of the South Fork Water Board to order at 6:08 p.m.

**(2) Public Comments**

**Alice Richmond** said she would miss Board Members Burgess and Wuest, as well as Chair Norris, and she hoped they stayed involved in South Fork and the community.

**(3) Consent Agenda**

(A). Approval of the Minutes of the November 18, 2010 Board Meeting

**Board Member Smith** moved to approve the November 18, 2010 SFWB meeting minutes, correcting Betty Mumm to be named as a newly elected ~~West Linn~~ Oregon City Councilor. Board Member Burgess seconded the motion, which passed unanimously.

**(4) Children's Center Easement Request to SFWB**

**John Collins, General Manager**, introduced Brian Keicher who was requesting a utility easement across South Fork property on behalf of the Children's Center. A slide was displayed showing the subject area.

**Brian Keicher, Project Manager, Children's Center**, reported the Children's Center was scheduled to open in March or April. He reviewed the conditions of the land use approval set forth by the City. Condition 10 required the Children's Center to request an easement from a neighboring property for a force main because it was clear that sewer needs to be pumped from the basement of the building since no opportunity for gravity flow exists. He described the route of the proposed sewer line, noting gravity routes had been identified that could

possibly be used in future. The necessary underground piping had been provided and grant easements prepared to accommodate those routes in the future. If the Board did not grant the easement, the alternative was for the force main to enter the street right-of-way (ROW) sooner, however this practice was not supported by engineers who prefer to keep private infrastructure on private property as much as possible. He confirmed that the Children's Center owned the property; Providence had transferred the deed at no cost.

**Bob Cullison, City Engineer**, explained that the City does not prefer having private utilities in the public ROW because the City responds to requests for locates when someone calls about digging to ensure they will not hit any electrical or gas lines, etc. With a private line, no one would expect the Children's Center to do a locate, so the line could be hit, which is of particular concern with a sewer force main.

**Board Member Burgess** confirmed the force main had no benefit to South Fork, but would not impede South Fork property or future development. He assumed South Fork would have some liability protection in case the line broke.

**Mr. Keicher** assured that if the easement request was granted, the attorneys would ensure both parties are protected. He explained why the request was for a 10-ft easement, but clarified that a 5-ft wide easement would be acceptable if the Board was more comfortable with a smaller easement. Additionally, the City required the Children's Center to install two irrigation meters for the landscaping, which would benefit South Fork. No document had been prepared regarding the easement at this time.

**Board Member Carson** confirmed no additional fences would be built along either side of the easement; the existing black chain-link fence was set about 1 ft back from the west property line. She asked about the potential risks since the pipe would not be that deep.

**Mr. Keicher** stated the force main would be as deep as or deeper than a typical underground power line. A tracer line would also be installed to aid with locates, which are generally done by most excavators on private properties as well. He reviewed the required street improvements, which included full street improvements to South Fork's frontage: curb, gutter, sidewalk, street trees and a driveway where the gate is located.

**Board Member Burgess moved for general approval of the easement request, subject to the negotiation of legal documents, and to authorize the General Manager to sign the final easement agreement. Board Member Smith seconded the motion, which passed unanimously.**

(5) **Quitclaim Deed to City of Oregon City**

**Bob Cullison, City Engineer**, explained the Children's Center surveyor discovered that no documents were available regarding the creation of Penn Lane. Typically, property owners deed a property to the governing jurisdiction for the ROW, but no such thing is mentioned in any of the adjoining properties' deeds. The properties' boundaries end at the edges of Penn Lane, exactly as wanted. The quitclaim encompasses the entire area of Penn Lane needed and essentially confirms that South Fork does not own the land and has no claim on it. The quitclaim legally releases the property completely to the City in order to completely designate it as a street.

**Board Member Burgess moved to approve the quitclaim deed request for the property adjacent to the Division Street pump station. Board Member Carson seconded the motion, which passed unanimously.**

**(6) SFWB Contract for Legal Services**

**John Collins, General Manager**, reviewed the background and process leading to the proposed three-year contract with Beery Elsner & Hammond, LLC (BEH) to provide legal services for SFWB. Attorney Chris Crean would act as the Board's general counsel and was available for questions.

Mr. Crean was excused from the room as the Board and Mr. Collins discussed changes to the contract, which were agreed upon as follows with additional comments as noted:

- "Drafting and reviewing ordinances" should be removed from Item I (C) 1 at the top of Page 2.
- Amend Item I (F) on Page 2 to state, "SOUTH FORK reserves the right ~~in appropriate situations~~ to retain separate outside counsel." There was no need to quibble about what was 'appropriate.'
- Amend Item VII (B) on Page 6 to indicate that South Fork must give a 30-day written notice when terminating the contract with BEH, and BEH must give South Fork a 90-day written notice if terminating the contract. Finding adequate legal counsel in 30 days could be difficult for South Fork.
  - As in the past, legal services from the two cities could be used to fill in if needed.
- Prior to Item IX, insert language requiring that BEH name its clients and inform the Board about any conflict of interest, and that the Board would ultimately determine if a conflict exists.

Chris Crean, Attorney returned to the room and Chair Norris reviewed the proposed changes.

**Mr. Crean** agreed to the changes as stipulated by the SFWB. His added comments included:

- With regard to contract termination, BEH was required to ensure SFWB was adequately represented until such time that South Fork secured new counsel.
- If any issue raised a potential conflict, the decision to waive that conflict or ask BEH not to represent South Fork on that matter was a policy decision of the Board. He related BEH's involvement with a number of Metro area jurisdictions regarding the 50-year urban and rural reserves, noting the firm was sensitive to conflict of interest issues and had no problem including such language in the contract.

The Board consented to have Chair Norris and General Manager John Collins review the language and, if acceptable, Chair Norris would sign the final contract.

**Board Member Burgess moved approval of the legal services contract as amended with final approval and signature by the SFWB Chair and General Manager. Board Member Carson seconded the motion, which passed unanimously.**

**(7) Business from the Manager**

**John Collins, General Manager**, presented plaques to Chair Alice Norris and Board Members Daphne Wuest and Scott Burgess in honor of their service on the South Fork Water Board.

**Board Member Carson** thanked Chair Norris and Board Members Wuest and Burgess for service on the Board, adding that she appreciated and would miss their depth of knowledge.

**Chair Norris** commented that she had helped shaped two general managers during her terms on the Board and was cognitive that South Fork was very well managed and in good hands. The legal pursuits over the last few years were important in setting a course for the future. She appreciated Mr. Collins' work, adding it was amazing to see how a professional can grow so fast into their job.

**Board Member Burgess** asked Mr. Collins to pass on their appreciation to the staff.

**(8) Business from the Board**

There was none.

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

The December 9, 2010 regular meeting of the South Fork Water Board adjourned at 6:55 p.m. No Executive Session was convened.

- a. To consider the employment or a public officer, employee, staff member or individual agent pursuant to ORS 192.660 (2) (a).
- b. To consider information or records that are exempt by law from public inspection pursuant to ORS 192.660 (2)(f)

**(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