

**CLACKAMAS RIVER WATER BOARD OF COMMISSIONERS
REGULAR BOARD MEETING
March 14, 2019**

COMMISSIONERS PRESENT:

Hugh Kalani, President
Sherry French Secretary
Naomi Angier, Treasurer
Rusty Garrison
David McNeel

STAFF PRESENT:

Todd Heidgerken, General Manager
Karin Holzgang, Executive Assistant to the Board

CRW Employees: Chief Financial Officer, Carol Bryck; Chief Engineer, Adam Bjornstedt; Engineering Manager, Joe Eskew; IT Manager, Kham Keobounnam; Emergency Manager, Donn Bunyard; Human Resources Generalist, Adora Campbell; Water Distribution Supervisor, Jason Labrie; Betty Johnson; Water Resources Manager, Rob Cummings

COMMISSIONERS ABSENT: 0

VISITORS: Bob Steringer (Legal Counsel), Mona Kalani, Kenneth Sernach, Gary Kerr, Debbie Noble, Tonya Reed, Lynn Fisher, Tammy Stevens, Chris Hawes, Jessica Sernach

Call Work Session to Order

Commissioner Kalani called the meeting to order at 6:00 pm. The pledge of allegiance was recited.

1. Commissioner Communications-

- None

Work Session Adjourned at 6:02 pm

Call Regular Meeting to Order

Commissioner Kalani called the meeting to order at 6:02pm

MOTION: Commissioner Angier move to approve the agenda as presented. Commissioner French seconded the motion

MOTION CARRIED 5-0

Ayes: Angier, French, Kalani, Garrison, McNeel
Nays: None
Abstentions: None

Public Comment:

Debbie Noble-

- ☐ I am assuming the Backbone projects went out to bid?
- ☐ How many bids were received?
- ☐ Was the contract awarded to the lowest bidder?
- ☐ Did any of the bids received give anyone pause to think the 24 million bonded money might be too low?
- ☐ Were the contracts awarded with a not to exceed and were there any exceptions?
- ☐ I assume the contractors were aware of the not to exceed
- ☐ When was the issue of the overages in the amount of what looks like 25% of the bond amount discovered and when was the issue raised?
- ☐ I assume there were change orders issued, when were those approved? Were those approved before or after the costs were incurred? What is the approval process for change orders and was that followed? Have all of the additional dollars been paid out? What funds were they paid out of? I would be curious the exact adjusting journal entries if any?
- ☐ When were the 2017/2018 financial statements issued?
- ☐ Has a supplemental budget been prepared
- ☐ Were there any procedures or protocols not followed in this process?
- ☐ Will the incurrence of additional costs and the payment thereof affect our rates as tax payers? When would expect those rates to be affected?
- ☐ Has the ability of CRW to obtain additional bond funds been affected given the impact this might have on your financial position especially your current financial and cash position?
- ☐ I am very interested in what caused the overages, because 25% is substantial?
- ☐ Are there any additional overages still to come since many of the projects are still not completed? Or do you feel you have a handle on the overages?
- ☐ Is there any chance the estimates were intentionally low? Would CRW have been able to get the bond financing for a higher amount?
- ☐ How much of the bond is supporting growth vs. existing rate payers?

Commissioner Kalani addressed that most of the items staff will need to respond to. He did tell Ms. Noble that the issue was discovered two weeks ago and that is when the Board found out about the issue.

- ☐ What is the status of the change orders for the overages? Have they been paid?

Comm. Kalani stated Mr. Heidgerken would be the one who could respond to this question. *Mr. Heidgerken said that CRW has paid for everything that has been incurred.*

- ☐ Asked what the amount is that has been paid to date? *Was told by Mr. Heidgerken that amount is 18,509,000. Asked what the estimate for the entire project is and told 29, 240,000.*
- ☐ So the 6 million dollar overage is all that you foresee happening going past and forward? *Mr. Heidgerken responded that is correct.*
- ☐ Who is doing the estimating for the remaining total for this phase, hopefully someone better at doing estimating? Is it the person who did the original estimating or is it someone different?

Ms. Bryck responded that the original estimates were done in 2015 and it is now 2019 and in the mist of this CRW has completed their Water System Master Plan which identified changes to some of the original thoughts on many of the projects so rather than building something that would be inadequate we have expanded a couple of the projects to meet the needs of the district.

- ☐ That would be normal to go through operating budget vs. an additional bond? *Ms. Bryck explained this would be out of the capital budget and there are sufficient resources in the reserves to accommodate the changes*
- ☐ Are all of the changes from the Master Plan in the current budget? *Ms. Bryck responded that we are at the end of the current biennial budget cycle and the numbers in the budget were what the costs were anticipated to be over two years ago when the BN 17-19 budget was approved and the Water System Master plan information was only available after the budget was completed. Staff will be asking the Board to approve a supplemental budget at the March 25th Special Meeting.*
- ☐ When did CRW start preparing the Water System Master Plan?

Reed- Car Wash being built by her home, concern about the environmental impact. After contacting other agencies they were encouraged to reach out to Clackamas River Water. Todd suggested contact WES and CRW staff will get the contact information to Ms. Reed.

Agenda Item 1.0 Consider approval of Board Goals for the General Manager

MOTION: Commissioner Angier move to approve the 2019 Board Goals for the General Manager. Commissioner Garrison seconded the motion.

MOTION CARRIED 4-1

Ayes: Angier, French, Garrison, Kalani
Nays: McNeel
Abstentions: None

Agenda Item 1.5 Backbone Project Program Examination

MOTION: Commissioner French move to engage Moss Adams to perform a programs examination of the Backbone Project and authorize the General Manger to execute a contract for those services with a not-to-exceed expense of \$20,000. Commissioner McNeel seconded the motion

Mr. Steringer explained the difference between a forensic audit versus an examination of the Backbone program. Moss Adams staff provided an explanation that a forensic audit is for evidence in a criminal proceeding or if there is concern of fraud this is not the case for this situation.

Commissioner Garrison, discussed the value received on projects for the dollars spent but is concerned at the errors in the estimating. Was concerned about spending \$18,000 for this work after already spending \$35,000 on an audit.

Commissioner French, explained that she was concerned about the underfunding but impressed with the manner in which staff handled the situation by finding a solution and taking the time to explain in depth the scope of the issue and provide answers to questions. These discussions were conducted with pairs of commissioners and staff. She brought up the idea that a larger percentage of contingency be applied to future project.

Commissioner McNeel - He is embarrassed about this situation, stated that the 6 million dollars to pay for the underfunded amount of the phase 1 backbone project would come out of the "checkbook" and not out of bond proceeds spread over a bunch of years. This will have an impact on the rate. If there is another problem there will be six million dollars less to throw at the problem. The direction of this Board has always been to quit living out of the checkbook and keep the checkbook for "rainy day stuff" when there is a problem to fund a CIP project.

Commissioner Angier- Stated that two of the staff members who were involved in the initial estimates are now retired and no longer at CRW, she noted staff did not bring this up but that she was doing this on her own.

Commissioner Garrison echoed the need to have larger contingencies built into project estimates going forward.

MOTION CARRIED 5-0

Ayes: Angier, French, Garrison, Kalani, McNeel
Nays:
Abstentions: None

Consent Agenda

- CA-1: Gross Payroll and Account Paid for January 2019
- CA-2: Cash Position and Transfers January 2019
- CA-3: Declaration of surplus property
- CA-4: Moore Development LLC Invoice

MOTION: Commissioner McNeel moved to approve the Consent Agenda as presented.
Commissioner Garrison seconded the motion.

MOTION CARRIED 5-0

Ayes: Angier, French, Garrison, Kalani, McNeel
Nays:
Abstentions:

Agenda Item 2.0 General Manager Report

CRWSC Meeting was held on Monday March 11, 2019- topics included

- Accepting the annual audit
- Discussing how to approach a future water supply agreement.
- The partners in the NCCWC, which includes SWA are essentially deferring to the NCCWC to coordinate their future water supply planning.

- So, the question became, would it make sense to have a water supply agreement within the CRWSC or would it be better to have a water supply agreement between CRW and the NCCWC?
 - If the thought it an agreement between the NCCWC and CRW makes more sense, then is there a need for the CRWSC?
 - The CRWSC Board suggested that both the CRW and SWA Boards should discuss in the next few months and the two general managers should begin to outline what steps would be involved if there was a desire to pursue a CRW/NCCWC agreement and how would functions under the CRWSC be accomplished.
 - The desire was to continue the discussion in June at the next CRWSC meeting.
- Misc. Updates not in the Report:
 - March 25th will be a Special Meeting (supplemental budget), Work Session (Budget 101 and State of the District Report) and Executive Session (GM Review). Budget committee members will be invited.
 - Supplement Budget Notice – Enclosed in your folder is the notice that will appear in the paper advertising the hearing that will be held on March 25 to consider the supplemental budget. The supplemental budget request will be to just appropriate the remaining Revenue Bond Proceeds (including interest accrued) to allow the remaining funds to be used on the phase 1 backbone project. There is \$3,000,000 unappropriated in the Revenue Bond Proceeds Fund. This amount will be enough to pay for phase 1 backbone expenses estimated for this year. There will not be a need to appropriate additional funds from the Capital Reserve Fund as originally suggested. As part of the original 2017-2019 budget process, funds from the Capital Reserve Fund were already allocated to the CIP Bond Construction Fund in anticipation of contributions from Sunrise Water Authority. The result was the entire Revenue Bond Proceeds were not originally appropriated. Carol will be reviewing this information in greater detail at the Supplemental Budget Hearing on the 25th. The supplemental budget request will be to appropriate the remaining Revenue Bond Proceeds that includes the interest accrued.
 - Bond Proceeds Fund Spending Target: CRW has spent 85.1% of Series 2016 Revenue Bond proceeds on work performed by our contractors, consultants, and internal staff through February 2019 on the seven Phase 1 projects, General Administration and some property acquisition costs for Phase 2. We have been monitoring spending of the bond proceeds and were unsure if we would meet the 85% threshold within the three year “temporary period”. I want to report that the 85% spend has been met so we will not be required to provide ongoing arbitrage reporting to the Federal Government for the life of the bonds.
 - CRW's new Redland Reservoir #3 is now online. This will allow us to now take Redland Reservoir #2 offline in order to allow the contractor to transition to the retrofitting project for that tank.

- Carollo Engineers was selected to do the WTP Facilities Master Plan. This was a Qualifications Based Selection process so now that we have picked the firm the next step is to negotiate a scope and price. We hope to bring something to the Board at either your April or May meetings for consideration.
- A quick update on one of our CIP projects...Bradley Road Waterline. As a reminder this was a project where we worked with a developer to upsize a new waterline to a 12" main to address distribution needs in our Holcomb Pressure Zone that relied on an old 6" steel and Cast-Iron line that was undersized. The Board had approved an agreement where we would split (Roughly CRW 55/Developer 45) the costs associated with the project. CRW's contribution for the project was in three parts, first, we applied the fees for plan review and inspection of the Bradley Road waterline and the associated Abernathy Development, second, we are providing them an SDC credit for the "improvement" portion of the SDC and finally the remaining balance will be a payment to the developer who initially paid for the waterline project. The overall project cost was \$1,113,314 of which our share under the agreement was \$619,923. After SDC and CRW Fee credits, the remaining balance for CRW to pay is \$266,180.57. We included \$199,000 in the CIP Budget so this is more than we budgeted yet there are funds within the CIP to pay for this. The developer has provided detailed information to support the cost of the project. We are prepared to issue the payment on this project in accordance with the agreement, yet I wanted the Board to be aware of the status on this project. The District has taken possession of this waterline valued at the \$1,113,314.
- There are a couple of County projects that I wanted you to be aware of where there is a CRW interface,
 - County is preparing to do their work on the approaches to Carver Bridge. This will result in a 24-hr. closure of the bridge for up to 5 days. Not sure when this will happen yet substantial completion date is May 20th. Doesn't impact our infrastructure yet we do have projects in the area. Pre-construction meeting is next week.
 - The County is also assessing what to do with a slide that has closed SE Alder crest Road. We do have a waterline in the slide area that has exposed our pipe. We have proactively worked with the County to cut and cap our pipe to allow for work in the slide area to be conducted without interruption of service to our customers or risk the failure of the pipe as they continue to figure out how to stabilize the area.
- We do have our interagency coordination meeting set with Clackamas Fire District #1 on Monday, May 6 at 9 AM. Commissioners McNeel and Garrison are the CRW representative to this meeting. It will be held at the CFD Mt. Scott Fire Station. It's located at 9339 SE Causey Avenue in Happy Valley.

Public Comment:

Gary Kerr (rate payer & budget committee member)-Has been around CRW for the last 20 years and has concerns that estimates on projects from the master plan are

low. He would like to have additional information as a budget committee member on the projects listed in the plan. He would like to have a copy of the Water System Master Plan for budgeting purposes

Kenneth Sernach- Asked about Commissioner Angier's comment about the previous GM and Chief Engineer had a role in the project development and the estimates. Asked if the Board has looked at how the numbers are coming up with contract amounts for each of the project phases and compare those to the original estimates. Asked if the Board would investigate why the information of the costs to estimates just came to light in February.

Agenda Item 4.0 Commissioner Reports and Reimbursement Requests

None

Open meeting is adjourned at **6:51pm**

Karin Holzgang

From: Todd Heidgerken
Sent: Thursday, March 14, 2019 1:59 PM
To: Marty Walt; Carol Bryck
Cc: Naomi Angier; Sherry French; rgarrison@crwater.com; Hugh Kalani; David McNeel
Subject: RE: regarding Backbone Project update.

Mr. Walt,

Thank you for taking the time to comment. Just to make sure the Commissioner see your comments, we will print off your email in order to guarantee the Board member have it in their possession for tonight's Board meeting.

Sincerely,

Todd Heidgerken



Clackamas River Water

Todd Heidgerken

General Manager
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From: Marty Walt <mwalt@choicesins.com>
Sent: Thursday, March 14, 2019 1:49 PM
To: theidgerken@crwater.com; cbryck@crwater.com
Cc: nangier@crwater.com; sfrench@crwater.com; rgarrison@crwater.com; hkalani@crwater.com; dmcneel@crwater.com
Subject: regarding Backbone Project update.

I had hoped to make your meeting tonight, but as it turns out my better half had different priorities for me, so I thought I would try this. I would like the board to be aware that I do have concerns regarding my review of the power point presentation from February 28th 2019. To clarify let me say what I think I know;

1. From the time the bond is applied for and the funds are received can create a completely different scenario regarding costs of the projects.
 - a. So, the overruns I somewhat understand. I say somewhat because I am not looking at the bids and comparing to the original bids.

2. I understand infrastructure updates are the purpose of the bonds and are necessary to keep the quality of the product in an ever-expanding population.

What I don't understand is when the updated bids came in and I am assuming change orders followed, how was it decided to forge ahead with all the projects listed at once when the expenditures were over the allocated bond proceeds. My assumption is there are now contracts that must be fulfilled because of the obligations committed to. From the outside looking in, someone was not paying attention to the bottom line and how to best use the funds based on the assets received. My guess is now the rate payers will be making up that 25% over run. I say that because often you can't just take money from reserves as you have unexpected maintenance and improvement that could arise. Additionally, I believe that the bond market likes to see a certain % of money in your account to qualify for future bonds (which I am sure will be needed) for growth and upgrades. Again, not knowing all the internal workings it would appear the rate payers are the "easy button" for this fix.

Again, from the outside looking in I would like to know what the proposal is to make sure this never happens again. As a small business owner, we can only spend what the budget allows. I would think the water district in the interest of its subscribers would need to have the same fiscal responsibility. It should be apparent to everyone that whatever safe guards the water district thought they had in place they did not work and the topic needs to be visited to protect the rate payers. Additionally, in my world there needs to be some accountability in that system going forward. I guess I feel what is done is done, but if history is repeated that would be cause for urgent concern of all your subscribers. In the private sector, whoever is responsible for the oversight of this might be fired for the way this was handled, is my guess. Again, I don't know how it works in the public sector, but it is apparent something needs to change so this type of error is not replicated.

My hope would be this becomes a topic for our water board to discuss and fix. I look forward to reading about that in the minutes posted.

Thanks for your time.

Marty Walt
20470 S South End Rd
Oregon City, OR 97045

It has come to our attention that a business is in the process of developing a full-service car wash in our neighborhood, at the end of Cornwell. It will be as close as 25 feet to residential homes.

I have contacted OSU Extension Services, the EPA, SEPA and the DEQ. The Oregon DEQ Justice Coordinator directed us to share our concerns with Clackamas River Water.

None of these entities have any record of an environmental impact study having been performed for a car wash. This is alarming. What goes up, must come down. Car exhaust, chemicals, waxes, soaps, and acids will be carried by the wind or dripped from the undercarriages of cars, settling on nearby streets and property. Rainwater will carry it to our storm drains.

We visited Eco Car Wash situated similarly to how ours will be. The most notable difference is that the driveway to Eco Car Wash is located on 82nd, and the surrounding homes are structured within city blocks. The driveways to the proposed car wash in our neighborhood will be placed on residential streets, not 82nd. Our neighborhood has only two streets. Another notable difference is that Eco Car Wash is smaller in scale than the one proposed for our neighborhood.

We interviewed three households around the Eco Car Wash. The information they shared was alarming. They have soot covering their yards since the development of the car wash four years ago. The vegetation in their yards is suffering. The offensive odor of the soaps, waxes and exhaust can be detected not only from their yards, but inside their homes. They have irritated respiratory tracts and eyes. They do not feel safe growing their own food in their yards.

The DEQ and the EPA shared links to the CDC, the American Cancer Society, and The American Lung Association. The exhaust of the anticipated 100 cars per hour with idling times averaging 20 minutes will have deleterious consequences. We are already exposed to the exhaust from 82nd, Johnson Creek, and I-205.

The chemical used in the car wash should be studied. The tire shine product they use has led to the premature erosion of streets in Portland. The chemicals used have caused slip and fall situations. These chemicals cause irritation to eyes and respiratory tracts. These chemicals have the ability to travel through the air or drip from cars and settle on nearby streets and properties, harming their yards and eco systems.

Our neighborhood was built in the 40s and many of our residents have lived here their entire lives. Our children and grandchildren play in our streets. Many of us exercise outside and walk to local stores. Many of us grow our own food in our yards. Most of us frequent local creeks and rivers.

After hearing of soot covered yards, the smell of soaps acids and exhaust fumes being carried to homes throughout the neighborhood, chemicals and oils dripping from cars as they drive away, don't we owe it to our environment to determine if a car wash should be in close proximity to a neighborhood? Shouldn't we have a better understanding of what we are contaminating our streets, homes, and waterways with?