

MINUTES OF THE REGULAR MEETING OF THE SEWERAGE COMMISSION - OROVILLE REGION

(Held at the Commission office on January 27, 2021 at 5:00 p.m.)

1. Call to Order ❖

Chairman Hatley called the meeting to order at 5:00 p.m.

2. Roll Call ❖

Commissioners present were Commissioners Fairbanks from the Lake Oroville Area Public Utility District, Pittman and Reynolds from the City of Oroville, and Latulippe and Hatley from the Thermalito Water and Sewer District. Commissioner Kuehner was absent. Staff present was Manager Sturdevant, Environmental Compliance Manager Salsi and Temporary Assistant to the Manager Ray Sousa.

3. Salute to the Flag ❖

Commissioner Hatley led Commissioners and staff in the salute to the flag.

4. Acknowledgment of Visitors ❖

Jeff Carter, TWSD Attorney, and Jayme Boucher, Manager of TWSD; Scott Huber, Attorney for the City of Oroville.

5. Board Meeting Minutes of the Regular Meeting held on December 16, 2020 and the Special Meeting of January 7, 2021.❖

Upon motion by Chairman Hatley to approve the minutes of the meetings, and second by Commissioner Fairbanks, the minutes of the December 16, 2020 regular meeting and the January 7, 2021 special meeting were unanimously approved.

6. Authorization of Warrants ❖

Commissioner Pittman met with Manager Sturdevant and checked the warrants earlier, and having found everything to be in order made a motion for their approval. The motion was seconded by Chairman Hatley. Warrants 26526-26579. in the total amount of \$143,755.79 from December 17, 2020 to January 27, 2021, including Commissioner fees and electronic fund transfers, were unanimously approved and ordered paid.

Commissioner Pittman mentioned that staff caught a large error in an invoice that was received and had it corrected prior to payment.

7. Fiscal Reports ❖

Manager Sturdevant stated the fiscal reports for December 2020 were in the packets for review. There were no questions and nothing further to report.

Chairman Hatley moved item number 11, Legal Services for the SC-OR Board of Commissions, to be heard at this time. See notes under item #11.

8. Resolution 01-21 (Investment of SC-OR Monies in L.A.I.F.) ❖

Manager Sturdevant explained that Resolution 01-21 is the annual resolution authorizing the investment of SC-OR funds into the Local Agency Investment Fund (L.A.I.F.). Because L.A.I.F. pays better interest we put our monies there.

A motion was made by Commissioner Reynolds to approve Resolution 01-21, authorizing Investments of SC-OR Monies into L.A.I.F., which was seconded by Commissioner Latulippe, and passed by the following votes: Reynolds – Aye, Latulippe – Aye, Fairbanks – Aye.

9. Annual Transfer of Funds in Accordance with Resolution 03-04 ❖

Manager Sturdevant said that Resolution 03-04 was created to pay back the monies we borrowed from ourselves for the original solar installation in 2002. Each year we pay back a portion of the savings received from the solar system. We have roughly \$400,000 left to pay back. SC-OR had been receiving its PG&E true-up bill in October, but since the solar upgrade we now receive it in the middle of February. His recommendation is to change the resolution to allow for this transfer after we receive the true-up bill from PG&E.

The consensus of the board was to bring this resolution back for consideration once the PG&E true-up bill is received in March.

10. Contract with Duke Sherwood Contracting for Demolition and Disposal of Caustic Building ❖

Manager Sturdevant said that the original estimate in 2014 from Duke Sherwood was \$9,669.00, but that was an estimate for demolition only. It did not include disposal, hauling or testing. He contacted two other companies for quotes, but did not receive a call back from either. He said that the first quote from Sherwood Contracting was for \$39,000.00, but after talking to Don Sherwood as to what SC-OR staff could do to get the cost down, the quote was amended to \$31,348.00. Commissioner Pittman asked what work the SC-OR staff would do to lower the cost. Manager Sturdevant said the quote included removing power, water, etc. We have disconnected the power, we will cap the water lines, and we will handle backfilling once the building is removed.

Commissioner Reynolds said that he thinks the price is only going to continue to go higher. He told Manager Sturdevant he did a great job in the negotiation of the contract, and it shows that a little bit of conversation can go a long way. Chairman Hatley said that Manager Sturdevant's history at SC-OR helped in negotiating that contract also.

Chairman Hatley made a motion to approve the contract with Duke Sherwood Contracting for the demolition and disposal of the caustic building at a cost not to exceed \$31,500. Commissioner Reynolds seconded the motion, and the motion passed by the following vote: Reynolds – Yes, Latulippe – Yes, Fairbanks – Yes.

11. Legal Services ❖

Chairman Hatley said that this item was again discussed at the Thermalito Water and Sewer District's (TWSD) board meeting, and it was determined they do not agree with hiring an attorney that is currently the attorney of another member entity. In their board's opinion the due diligence was not done at SC-OR to look for outside counsel. Commissioner Reynolds asked what the concern was of the TWSD board. Chairman Hatley said it was a conflict of interest. There needs to be a separation between legal services of member entities.

Jeff Carter, attorney for TWSD, stated that conflicts of interests are addressed in the *Rules of Professional Conduct* of the California Bar Association, Section 1.7, which prohibits a lawyer from taking on a matter where there is a direct conflict of interest without the consent of the clients. Where there is a possibility of conflict there must be a written disclosure of the potential conflict, and then a written consent of the client acknowledging the potential conflict and indicating that despite the conflict they consent to the representation. Mr. Huber is in a potential situation of, when advising both the City of Oroville and SC-OR, it could be viewed as trying to serve the interest of two masters. A lawyer owes loyalty and independent judgment to their client.

Attorney Huber said there is the possibility for conflict, and he will not compromise his integrity nor ethics. If there is a conflict, he will disclose it immediately. Conflicts don't happen often, and can be waived by the entities. Attorney Carter asked that if Mr. Huber was the attorney for TWSD and SC-OR, would the LOAPUD and the City wonder if he was favoring one side or the other.

Jayne Boucher, General Manager of TWSD, said that knowing that there is a potential of conflicts of interest, why put the SC-OR Commission in that position of having to seek outside counsel? He wondered why the SC-OR board has not done their due diligence in looking at other legal firms, instead of only looking at one firm that could have a potential conflict of interest.

Assistant to the Manager, Ray Sousa, said that he would lean towards hiring independent counsel. He gave some history of conflicts at SC-OR, and asked if SC-OR were to arbitrate the City, who would represent whom.

Commissioner Reynolds stated that SC-OR would hear first from Attorney Huber if there was a potential conflict. Commissioner Pittman said that the contract for legal services can be cancelled at any time if there is a conflict. He stated that the subcommittee had recommended Attorney Huber after doing their research.

Chairman Hatley asked if we needed a closed session to consider the contract with Attorney Huber. Attorney Huber said that it has already been agendaized and considered in closed session. There is no law that says the contract must be published, although most public agencies do publish them.

Manager Sturdevant said that his goal is to have the best legal representation at SC-OR, and if we do go with Attorney Huber and there ever were to be a conflict then we should have a plan in place to remedy the conflict.

Commissioner Fairbanks said that the LOAPUD Manager talked with their legal counsel, and the attorney from Minasian Law Firm that he spoke with said it is not too uncommon for attorneys to represent two entities with potential conflicts of interest.

A motion was made by Commissioner Reynolds to hire Cole/Huber Attorneys as representation to the SC-OR Board of Commissioners. The motion was seconded by Commissioner Fairbanks, and passed by the following votes: Reynolds – Yes, Latulippe – Yes, Fairbanks – Yes.

12. Manager's Report ❖

Manager Sturdevant stated there were no operational or maintenance issues this month. He reported that SC-OR held a JPA managers meeting, with representatives of all the member entities in attendance. They lined out some priorities that need to be addressed. Communication was at the top of the named priorities on the list. Future meetings are planned at least quarterly, more often if necessary. Commissioner Pittman said he would like to see each entity have a status board so we all know what is going on in the other entity's areas.

Manager Sturdevant reported that the organizational restructure that the Commissioners had asked him and the Assistant to the Manager to look into to assure there is redundancy in training, certification and knowledge for each position has been completed, and copies of the job descriptions for the three positions that have been changed to create that redundancy and a structural flow chart, were included in the packet. The finances have not yet been addressed. He will bring the salary recommendations to the next meeting that were part of the salary survey.

Chairman Hatley asked when Mikah would be able to take the grade VI certification test. Mikah said that he had applied to take the test last year, but because of COVID-19 all testing was cancelled. He has applied to take the upcoming test scheduled in April, and anticipates that he will be able to, but will not know until just a few weeks prior to the test date. Commissioner Pittman asked what happened to the Chemist position. Manager Sturdevant said that the Chemist position will be combined into the Environmental Compliance Supervisor position. They felt that the environmental compliance and laboratory testing were in the same category.

13. Visitor Comments ❖

Ray Sousa said that Glen has asked him stay to help him through creation of the 2021/2022 budget. He may be here another month or so.

Attorney Scott Huber thanked the commission for the vote of confidence in hiring him as their representation.

14. Commissioner and Staff Comments ❖

Chairman Hatley said that he has confidence in Attorney Huber, and welcomed him to SC-OR.

Commissioner Reynolds gave kudos to Manager Sturdevant for being easy to work with and gushed all over him (gross)!

Commissioner Pittman asked to have a subcommittee appointed to review the SC-OR policy manual in the near future. Ray Sousa stated that he has gone through the policy book and it is very solid.

15. Adjournment ❖

There being no further business, the meeting was adjourned at 6:22 p.m. to the regular meeting scheduled on February 24, 2021 at 5:00 p.m.

Respectfully submitted,



GLENN E. STURDEVANT, CLERK

Approved