

**MINUTES OF THE REGULAR MEETING  
OF THE BOARD OF COMMISSIONERS  
OF COAL CREEK UTILITY DISTRICT  
OF KING COUNTY, WASHINGTON**

**Held on December 13, 2017**

A regular meeting of the Board of Commissioners of Coal Creek Utility District was held at the District Office, 6801 – 132<sup>nd</sup> Place SE, Newcastle, Washington, on December 13, 2017. Commissioner Ric Anderson, Board President, called the meeting to order at 5:00 p.m. Commissioner Doug Kunkel, Board Secretary, was also in attendance. Commissioner Pam Martin had an excused absence. District Staff Robert Russell, General Manager, Patrick Martin, Operations Manager, and Anne Paige, Finance Manager, were present. Dave Hutley, consulting engineer, and John Milne, general counsel, were also present.

**APPROVAL OF AGENDA**

Commissioner Kunkel made a motion to approve the agenda. Commissioner Anderson seconded the motion, which carried unanimously.

**CONSENT AGENDA**

Approval of Minutes – Regular Board meeting – November 8, 2017

Collective Bargaining Agreement for signature (approved at November 8, 2017 Board meeting)

Renton Middle School – Water & Sewer – DEA – Final Acceptance

Commissioner Kunkel made a motion to approve the consent agenda. Commissioner Anderson seconded the motion, which carried unanimously.

**CITIZENS' COMMENTS / CONCERNS**

Gordon Bisset, a City of Newcastle City Councilmember, reported the City Council had approved a budget at the Council's December 5, 2017, meeting, and included funds in the budget

to assume payment for the street lighting system within the City. He advised there were State funds to convert the lighting system to LED lighting, and once the conversion was completed, the City would assume payment responsibility from the District. Puget Sound Energy owns the system but the District bills property owners benefitting from the system on PSE's behalf. The Commissioners welcomed the City to assume financial responsibility for the system.

### **KING COUNTY ROW RENTAL CHARGE**

Milne reported on the status of King County's imposition of a rental charge for utilities, like the District, to use County right-of-way for utilities. His office submitted a letter to the County on behalf of a group of districts, including the District, responding to a draft public rule prepared by County staff to implement the rental charge ordinance. He now expected County staff to consider public comment on the draft rule, and then adopt a rule which would then be effective thirty days later. As many districts oppose the rental charge, Milne invited the District to be part of group of districts, including the State Association, retaining his firm to challenge the ordinance and rule in court. He has provided the districts, including the District with a preliminary budget for the litigation.

Following discussion, Commissioner Kunkel made the motion to authorize the District to join the group of districts to challenge the ordinance and rule in court at a cost to the District not to exceed \$10,000 without the District's prior written approval; the District would also be a named plaintiff in the litigation. Commissioner Anderson seconded the motion, which carried unanimously. Milne will keep the Board further advised.

### **2018 ENGINEERING CONSULTANT RATES**

Hutley requested the Board approve his firm's proposed schedule of rates and charge for 2018 as set forth in a letter dated November 28, 2017, to the District. Following discussion,

Commissioner Kunkel so moved. Commissioner Anderson seconded the motion, which carried unanimously.

### **SNO-KING WATER COALITION 2018 MEMBERSHIP**

Commissioner Anderson and Russell recommended the District continue its membership in Sno-King for the year 2018 due to the benefits the District received in participating in that organization. Following discussion, Commissioner Kunkel made the motion to approve the District's continued membership in Sno-King for 2018 and to pay the membership dues of \$4,000. Commissioner Anderson seconded the motion, which carried unanimously.

### **PUBLIC HEARING – 2018-2020 WATER AND SEWER RATES**

Commissioner Anderson called the public hearing on the proposed adjustment of District water and sewer rates for the 2018-2020 period to order at 5:30 p.m. He stated the purpose of the hearing was to receive public comments on the proposed utility rate adjustments. The District's rate consultant, FCS Group (Consultant), had presented a study dated November 8, 2017, reporting on District water and sewer rates for the next five year period. The study considered the District's fiscal policies and revenue requirements. Although the prior study had predicted the need for a 2.0% water service rate increase in 2018, the Consultant had recommended the rate increase be deferred due to higher than expected revenue. However, the Consultant recommended the previously recommended rate increases of 2.0% for the years 2019 and 2020 still be implemented. With respect to sewer rates, similar to water rates, the prior study had predicted the need for a 3.5% sewer service rate increase in 2018. However, the Consultant recommended the rate increase be deferred in 2018 due to higher than expected revenue, but that increases of 2.0% for 2019 and 2.0% for 2020 be implemented.

Milne then reported on the District's statutory authority to adjust utility rates to fully recover the cost of service. He also noted that notice of the public hearing had been published in the Seattle Times on November 27 and December 4, 2017, and had also been posted on the District's web site.

Paige then further reported on the Consultant's recommendations.

Commissioner Anderson then requested public comments on the proposed rate adjustments. As there were no public comments, he then closed the portion of the hearing for public comments.

The Commissioners then discussed the proposed adjustments. The Commissioners felt the study results and conclusions were good news for District ratepayers for no rate increases in 2018, and only modest increases in the two years thereafter. Commissioner Kunkel then made the motion to approve the proposed rate adjustments by the adoption of Resolution No. 1857. Commissioner Anderson seconded the motion, which carried unanimously. District staff will now prepare exhibit attachments with the adjusted rates for inclusion in the resolution and share the exhibits with the Board at the next regular meeting.

#### **ATTORNEY'S REPORT**

The attorney had no further report.

#### **ENGINEER'S COMMENTS**

The engineer had no further report.

#### **APPROVAL OF VOUCHERS**

The Board approved for payment Water/Sewer Maintenance Fund Voucher Nos. 2080 through 2098 in the amount of \$105,459.51.

The Board approved for payment Water/Sewer Maintenance Fund – Direct Deposit – Payroll in the amount of \$129,802.75.

**FINANCE MANAGER’S COMMENTS**

Paige reported the auditors from the Washington State Auditor’s Office who had recently completed an audit of the District recommended the District modify the District’s policy regarding the provision of District logo clothing and other articles of modest value to District employees to recognize their service to the District and its ratepayers. Therefore staff had prepared a resolution clarifying the District’s policy and authority to do so. Following discussion, Commissioner Kunkel made the motion to approve a modified policy to address the auditor’s recommendations by the adoption of Resolution No. 1858. Commissioner Anderson seconded the motion, which carried unanimously.

**OPERATIONS MANAGER’S COMMENTS**

Mr. Martin stated staff will report further to the Board in early 2018 regarding proposed policies related to accessory dwelling units and how such units should be treated for the purposes of determining capital connection charges and utility service rates and charges.

**GENERAL MANAGER’S COMMENTS**

Russell had no further report.

**COMMISSIONERS’ COMMENTS**

There were no commissioner comments.

**ADDITIONAL CITIZEN’S COMMENTS**

There were no additional comments from the citizen in attendance.

**EXECUTIVE SESSION – RCW 42.30.110 (1) (i) – 440 RESERVOIR RECOATING**

**PROJECT – POTENTIAL LITIGATION**

Hutley reported on the status of the 440 Reservoir Recoating project. Hutley reported he had discussed the District's position regarding the assessment of liquidated damages with the 440 Reservoir Recoating project contractor due to the contractor's completion of the project work approximately one year late. He had also sent a letter to the contractor regarding the issue. The contractor opposed the assessment of liquidated damages. The original project completion deadline was October 26, 2016, but the project work had not been completed until October 4, 2017. The District had incurred engineering, inspection, legal and District administrative staff time and expense in the approximate amount of \$53,000 due to the contractor's failure to timely complete the work. Hutley reported that, by contract, the District was authorized to assess liquidated damages of \$350 per day for late completion, totaling \$120,050. Therefore Hutley and Milne requested an executive session to further discuss the matter due to potential litigation. Commissioner Kunkel so moved on that basis. Commissioner Anderson seconded the motion, which carried unanimously. Before convening the executive session at 5:55 p.m., Commissioner Anderson advised the executive session would conclude at approximately 6:10 p.m. The Commissioners, District staff, Hutley and Milne then attended the executive session. At 6:10 p.m., the executive session concluded and open public meeting reconvened.

Following discussion, Commissioner Kunkel made a motion to only assess the project contractor liquidated damages in the amount of \$53,000 for the late completion of the project work, and not assess the full amount of liquidated damages of \$120,050 the District was entitled to assess under the project contract as an offer of settlement to the contractor; if the contractor rejected the District's proposed settlement offer, the District reserved the right to assess the full amount of liquidated damages as provided under the project contract. Commissioner Anderson seconded the

motion, which carried unanimously. Hutley will advise the contractor of the District's position by letter and phone call and keep the Board further advised.

**OTHER DISTRICT BUSINESS**

As there was no further business or persons to be heard, the meeting concluded at 6:15 p.m.

**BOARD OF COMMISSIONERS**



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Richard D. Anderson, Commissioner



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Douglas C. Kunkel, Commissioner