

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

**Held on May 22, 2019**

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 May 22, 2019. Commissioner Kunkel, Board President, called the meeting to order at 5:00 p.m. Commissioner Ric Anderson, Board Vice-President, and Commissioner Pam Martin, Board Secretary, was also in attendance. District staff Robert Russell, General Manager, and Anne Paige, Finance Manager, were present. Bill Reynolds, consulting engineer, and John Milne, District legal counsel, were also present.

**APPROVAL OF AGENDA**

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

**CONSENT AGENDA**

Approval of Minutes – Regular Board Meeting of May 8, 2019.

Aldea 10 – Developer Extension Agreement – Water/Sewer Design Approval

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

**CITIZENS' COMMENTS/CONCERNS**

There were no citizens in attendance.

**CITY OF NEWCASTLE – 2019 PAVEMENT OVERLAY**

Russell reported the City of Newcastle was proceeding with its 2019 Overlay Program and had agreed to include District work for manhole and valve adjustments as part of the City's project.

The City would have its contractor perform the District work for economies of scale and work coordination, and the District would reimburse the City for the cost of the District work. The District's work was projected to cost approximately \$21,600. He recommended that District staff be authorized to enter into an agreement with the City to have the District's work performed as part of the City's overlay project work, and to reimburse the City for the cost of the District work. Following discussion, Commissioner Anderson made the motion to authorize the General Manager to enter into an agreement with the City to have the District's work performed as part of the City's overlay project work, and to reimburse the City for the cost of the District work. Commissioner Martin seconded the motion, which carried unanimously.

**CITY OF RENTON/CHRISTELLE RIDGE INTERIM SEWER SERVICE**

Russell reported that the City of Renton had approved the agreement authorizing the District to provide interim sewer service to the Christelle Ridge project. The property was located within the City's sewer service area, but it was not presently economically feasible for the City to provide sewer service to the property/project. The District was willing to provide interim sewer service to the property by agreement with the City, and by separate agreement with the property owner, until the City desired to provide sewer service. Following discussion, Commissioner Anderson made the motion to approve the interim sewer service agreement with the City of Renton and to authorize and direct the General Manager to sign the agreement on the District's behalf by the adoption of Resolution No. 1881. Commissioner Martin seconded the motion, which carried unanimously.

**JANITORIAL SERVICES**

Paige reported that District staff had reviewed the District's janitorial services, and due to poor performance by the District's current service provider, Paige requested authorization to

terminate the current services agreement to enter into a service agreement with a new vendor. She advised that she had undertaken a market survey and had obtained a proposal from Cascadian Building Maintenance, Ltd., to provide janitorial services for the District's office/operations center. Cascadian had submitted a proposal to provide services at a cost of \$565.00, not including tax, per month. Russell supported the termination of the current service agreement and the award of a new service agreement with Cascadian for the bid amount. Following discussion, Commissioner Martin so moved. Commissioner Anderson seconded the motion, which carried unanimously. Staff will now work with counsel to prepare a new services agreement with Cascadian, which Russell will sign on the District's behalf.

#### **ATTORNEY'S COMMENTS**

Milne reported on the status of the King County right-of-way rental charge litigation. He reported that the Supreme Court had granted direct review and that the appeal hearing may be scheduled for the Court's fall term. The district appellants' brief in response to King County's brief had been filed on May 15, 2019. King County will now have the opportunity to file a reply to the Districts' responsive brief. He also reported that several other entities and associations planned to file amicus briefs with the Supreme Court in support of the districts' appeal. He will keep the Board further advised.

Milne reported on the status of the appeal by several water-sewer districts of a City of Federal Way excise tax on the districts' revenues. He was hopeful the Supreme Court would grant direct review and also schedule an appeal hearing during the Court's fall term. He will keep the Board further advised.

Milne reported that his office had hosted the WASWD attorneys' group luncheon that day. The purpose of the meeting is for attorneys representing water-sewer districts to identify and

discuss current issues affecting water-sewer districts. Another meeting will be scheduled later in the year.

**ENGINEER'S COMMENTS**

Reynolds reported on the status of 580 tank improvements project. The project will be performed over the next two year period, with tank painting performed on a phased basis so that only one of the two tanks is decommissioned at a time.

**APPROVAL OF VOUCHERS**

The Board approved the Water/Sewer Maintenance Fund Voucher Nos. 838 to 871 – Accounts Payable in the amount of \$104,836.20.

The Board approved Water/Sewer Maintenance Fund – Payroll in the amount of \$20,800.00.

**FINANCE MANAGER'S COMMENTS**

Paige reported she received an audit report today. She will soon be submitting the District's 2018 financial statement to the State Auditor's Office.

Paige reported she will be ordering a new credit card scanner.

Paige reported she was responding to a public records request seeking employee demographics and commissioner compensation and expense information. She will keep the Board further advised.

**GENERAL MANAGER'S COMMENTS**

Russell reported the City of Newcastle had invited the District to sponsor various events, including Newcastle Days, throughout the year in consideration of a monetary contribution. The District and its programs would be promoted through various City events. He reported the District had previously been advised by the State Auditor's Office that the District could not make a

monetary contribution to the program, but had not provided explanation for the SAO position. The Board had directed him to check with the Auditor's office to see if the District could participate in the sponsorship program, and if the SAO position was that the District could not participate, to obtain an explanation for that position and report back to the Board. He reported the SAO had the concern that a financial contribution may constitute a gifting of public funds if the expenditure did not have a public purpose. The SAO had also provided a framework when determining whether transactions represent a gift of public funds, and suggested the District consult with its legal counsel to consider the framework.

It was Milne's opinion that the contribution would be lawful because there would be significant publicity for the District through sponsorship participation and would also provide a platform to promote District programs such as water conservation, water use efficiency, and the District's cross connection control program. These were fundamental District programs and promoted the fundamental purpose of the District. These programs were considered proprietary purposes by applicable case law (*Lane v. Seattle*; *Wenatchee v. Chelan County PUD*). Given the significant benefits to the District in participating with the City, another municipal entity, there was no donative intent and the contribution would not be a gift. *AGO 2009 No. 5*. Further, depending on the level of sponsorship selected, if the Board determined to participate, the monetary cost was not significant. Lastly, Milne noted the SAO had previously authorized the District to expend funds for membership in the Newcastle Chamber of Commerce because participation in that organization provided the District the opportunity to promote its purpose and its programs, similar to participation in the Newcastle events.

Following discussion, based on Milne's opinion an expenditure to participate with Newcastle to sponsor events was lawful, Commissioner Martin made the motion to authorize a

financial contribution of \$1,000. Commissioner Anderson seconded the motion, which carried unanimously.

Russell reported on a fiscal sustainability report recently prepared for the City of Newcastle that was available to the public. The report identified several options to raise revenue from the District and utility services for the City's benefit, including a utility tax on the District revenues, and the possible take-over of the District to allocate City overhead costs to the District. Russell noted the report erroneously noted a takeover would not require a vote. However, state law does provide for a citizen referendum on a proposed takeover. The report had also identified a fleet shared use agreement, but Russell felt that made no sense.

Milne noted that, because another attorney in his office serves as Newcastle City Attorney, he may have a conflict of interest in the future depending on what actions the City may take relative to the District. Therefore he recommended the District retain another attorney to advise the District in the future if the City takes future action adverse to the District.

Following discussion, Commissioner Anderson made the motion to authorize District staff to retain another attorney to advise the District if the City considers fiscal actions in the future potentially adverse to the District. Commissioner Martin seconded the motion, which carried unanimously.

#### **COMMISSIONERS' COMMENTS**

District staff responded to Commissioner Martin's questions regarding certain invoices submitted for Board approval.

Commissioner Martin reported on her attendance at the recent SPU Operating Board meeting.

Commissioner Martin reported on her attendance at the recent State Association Board meeting.

Commissioner Anderson reported on his attendance at the recent State Association Government Relations committee meeting.

Commissioner Anderson reported on his attendance at the recent State Association Conference and Training committee meeting.

Commissioner Anderson reported on his attendance at the recent State Association Board meeting.

**OTHER DISTRICT BUSINESS**

There was no further District business.


**ADDITIONAL CITIZEN'S COMMENTS**

There were no citizens in attendance.

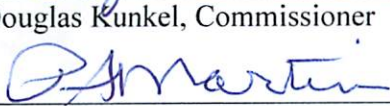
**ADJOURNMENT**

As there was no further business or persons to be heard, the meeting concluded at 6:40 p.m.

**BOARD OF COMMISSIONERS**

  
Richard Anderson, Commissioner

  
Douglas Kunkel, Commissioner

  
Pam Martin, Commissioner