

ROCKWOOD WATER P.U.D.
MINUTES, SPECIAL MEETING OF THE BOARD
30, AUGUST 2004
Rockwood Water Boardroom

Board members present: Sandra Ramaker, Herb Brown, Stephen McElroy, Larry Dixon.

Staff present: Harvey Barnes, District Manager (DM); Chris Shaw, Conservation & PR Coordinator (CPRC).

Guests present: Fran Hyson, Jeanne Orcutt, Kim Anderson.

President **Herb Brown** called the meeting to order at 7:00 p.m.

APPROVAL OF THE AGENDA

Stephen McElroy moved to approve the agenda. Larry Dixon seconded the motion. The motion was approved; none opposed.

RESOLUTION 04/05-002

DM Barnes explained that Sunrise Water Authority (SWA) raised a legal issue at a work session with the Clackamas County Board of Commissioners regarding the District's attempt to annex part of a city. To avoid any legal problems the boundaries have been amended with this resolution so that no part of any city is included in annexing Clackamas River Water District (CRW); approximately 30 parcels of land were removed from the previous legal description. He noted that the properties were originally included as they had been annexed but were not legally withdrawn by cities that were unable to serve them. The resolution amends Exhibit A which outlines the boundaries.

Herb Brown asked about the annexed city areas. **DM Barnes** replied that there were a few lots in Gladstone and Oregon City that had been annexed but not withdrawn.

Fran Hyson asked for further explanation of the issue and why a special meeting was called. She asked if it had to do with Sunrise Water Authority's claim or lawsuit. **DM Barnes** explained that SWA threatened claim with the Clackamas County Board of Commissioners; the boundaries need to be amended slightly to avoid a legal challenge. **Fran Hyson** asked why Rockwood is doing this instead of CRW. **DM Barnes** explained that we are amending the boundaries we intend to annex into our district; we are not amending the current boundaries of CRW.

Fran Hyson commented that the annexation issue is confusing and that she was under the impression that the District received the boundary information from CRW regarding what would be included. She stated that since Sunrise is filing a claim with the Clackamas County Board of Commissioners, it should be CRW that adjusts the boundaries – not Rockwood. **DM Barnes** explained further that there is no question on whether or not CRW can have parts of a city inside its boundaries; the legal question raised by SWA is whether or not a PUD can annex parts of a city into its boundaries. We're just amending the portion that we intend to annex into our District.

Fran Hyson asked, aren't those already included in the Clackamas District? She commented on how confusing it is. **DM Barnes** replied that we are going to include every portion of CRW except those parcels annexed by cities. **Ms. Hyson** asked if those are the ones SWA is objecting to. **DM**

Barnes replied yes. **Ms. Hyson** commented that it doesn't make sense. She stated that it should be clarified; if the city has annexed but not withdrawn them - it's too confusing. She then asked **DM Barnes** if he notified CRW about it. **DM Barnes** replied yes; CRW provided the new boundaries.

Ms. Hyson commented on CRW not attending the meeting tonight to find out the outcome. **DM Barnes** replied that it's a fairly simple resolution. **Ms. Hyson** commented that she is still trying to get a clear explanation. **DM Barnes** asked what part she didn't understand. She replied the part about what he said regarding the boundaries having to be changed. She then asked **DM Barnes** to clarify.

DM Barnes reiterated that the parcels annexed but not withdrawn by the cities were originally included in the CRW territory to be annexed. Rather than face a legal argument about whether those areas annexed by cities can be annexed into the PUD, those areas are being taken out. **Ms. Hyson** asked about CRW's opinion on it. **DM Barnes** replied that they are in favor of it, noting that they provided the amended boundaries that we intend to annex.

Fran Hyson commented that she was under the impression that the reason CRW was trying to get this on the ballot was to keep from losing these areas that were annexed into the cities. **DM Barnes** replied that they've already been annexed into the cities but just haven't been withdrawn. **Ms. Hyson** asked the opinion on that. **DM Barnes** replied that cities don't have to withdraw them. **Ms. Hyson** asked if they go back to CRW.

DM Barnes explained that CRW will still provide service but the areas will not be included in the District's attempt to annex CRW. **Ms. Hyson** asked CRW's opinion on this. **DM Barnes** replied that they are fine with it; it's what they suggested the District do. He stated that the District is attempting to solve the legal question by not attempting to annex about 30 parcels of land. **Ms. Hyson** asked if one of them was the industrial area they were talking about. **DM Barnes** replied no.

Jeanne Orcutt stated that our District was part of Gresham and part of Portland but hadn't been withdrawn yet and we were able to form the PUD. She expressed concern that she has not received any answer from **DM Barnes** in writing that the people within Rockwood Water District do not get a right to vote on this. She referred to her mention at the last meeting of ORS 198.855, which seems to give them a vote. She added that if she doesn't hear from **DM Barnes**, she'll have to contact the Clackamas County Commissioners.

DM Barnes replied that he's instructed the District's attorney to prepare a written statement regarding ORS 198.855. He indicated that **Ms. Orcutt** is welcome to contact the Clackamas County Board of Commissioners. **Ms. Orcutt** stated that ORS 198.855 says the County Board shall order an election to be held in the territory and the County Board also shall order the Board of the affected District to hold an election on the same day.

DM Barnes replied that she is not reading all of 198.855 and that she is taking one section out of context with the rest. He referred to Chapter 261 that states how property or territory is to be annexed into a PUD. He added that since state law has always maintained that more specific rule rules, then we go with Chapter 261 because it speaks specifically about PUDs, not about local government of special districts in general.

Ms. Orcutt commented that she doesn't think it states that the citizens don't get a right to vote. She noted that at the front of chapter 198, it says it does apply to PUDs. She commented further that she wants an opinion on it. **DM Barnes** replied that he will provide at the next regular board meeting an opinion for the Board.

Ms. Orcutt noted that the reason she is asking about it is a different opinion was provided by the attorney in a handout she received at a CRW meeting and at the last meeting DM Barnes stated it was incorrect. **Sandra Ramaker** commented that she talked with attorney Clark Balfour about the statement at the bottom of the handout and he clarified that it had to do with forming a new PUD or if CRW should file for it by petition.

Jeanne Orcutt commented that she thought the District was going to get advice from a different attorney than Clark Balfour because he can't represent both districts. **DM Barnes** replied that at this point there is no conflict of interest adding that we have a long ways to go before we consider hiring additional attorneys. **Ms. Orcutt** commented that if they are supposed to submit it to a vote within our District and they don't do it, it could foul it up even if they approve it.

Fran Hyson commended CRPC Shaw for her work in preparing the minutes.

Board discussion followed. **Larry Dixon** commented on CRW providing service to the 30 parcels as out of district clients. **DM Barnes** explained that it would be through some sort of agreement with the cities affected. **Herb Brown** noted that CRW covers 58 square miles so it's only a very small part of the territory.

Sandra Ramaker moved to approve resolution 04/05-002. Stephen McElroy seconded the motion. The motion was approved; none opposed.

ADJOURNMENT

Sandra Ramaker moved that the meeting be adjourned. Larry Dixon seconded the motion. The motion was approved; none opposed.

The meeting was adjourned at 7:20 p.m.

Secretary