

MINUTES

CORBETT WATER DISTRICT  
SPECIAL WATER BOARD MEETING

MARCH 24, 1998

The meeting was called to order at 7:30 p.m. by Chairman Bob Colclessner. All Board members, Jeff Grover, Jim Mastne, Joe Riehl and Henry Schwartz were present; all staff members, Jan Leckron, Torey Redfern, Randy Stark, Supt. Marc Caldwell and Dist. Clerk Carol Quinn were present. Also present were the District's lawyer, Peter Mersereau and visitors Steve Getty and Sandra Redfern. The purpose of the meeting was to get legal counsel on hiring policies in order to hire a superintendent to replace Vance Hubbard who resigned last October.

Mr. Mersereau told the Board he would be happy to answer questions regarding what kind of questions can be asked in an interview process, how to get to the interview process, anything relating to Executive Sessions and the Public Meetings law. He presented the Board with two Resolutions his office had prepared: the first one establishes a Hiring Policy for Corbett Water District that would apply in general to filling any position and the second one deals specifically with hiring of the Superintendent and includes criteria that would be used, the job description, etc. If the Board passes these or similar resolutions, the requirement of public meetings law should be met that would allow the Board to then meet in Executive Session to proceed with the hiring process. The date on the Superintendent resolution gives a closing date of March 31. In order to have the correct sequence, the policy should be in place and then the closing of the job application should occur. Mr. Mersereau recommended that the job be readvertised with a new closing. The applications that have been received should be held over and then reviewed with any new applications that may be received. Mr. Mersereau advised the Board that they have a great deal of flexibility with the hiring process as an employer. The Board can stop the whole process and start over from scratch. The Board has complete discretion to hire and fire. As a courtesy the people who have already applied should be advised that the time period has been extended and that their applications are being held for consideration. It is important that all applicants be treated the same.

The next step is the hiring process itself. The Board meets to review the applications in Executive Session. At that time the field may be narrowed to perhaps three people. The Board does not need negotiate salary until they have selected a finalist. At that time you sit down with that person and negotiate salary. However, since you may not be able to successfully complete the salary negotiations, you should wait to notify the other finalists. That way you can proceed with another finalist until a deal is made. Then the other applicants can be notified that the position has been filled. Mr. Mersereau stressed that it is important that when the Board notifies the Superintendent he has been selected the notice include the information that he is an "at will" employee. This means that either party can terminate the employment relationship at any time. An applicant can only be subjected to a drug test after the offer of employment has been made. The Board can inquire into an applicant's physical abilities only as they pertain to the job. You can only verify that the applicant can meet the physical requirements of the position. Personal, invasive types of questions in interviews are not permitted. Questions regarding prior or current drug use are prohibited.

There was some discussion concerning the time frame of advertising for the position. The help wanted ad could be placed in the March 28 issue of the Gresham Outlook and the new closing date could be April 3. This would meet the advertising requirements of the Hiring Policy.

Mr. Mersereau cautioned the Board to make an effort to avoid contacts with applicants during this hiring process. This protects against appearance of favoritism or bias. Do not talk about the hiring process or prospects of employment with applicants, their families or friends. Letters that the Board members receive regarding recommendations should be brought to the Board meeting and read and accepted as public comment. If a Board member has a personal friend who has applied for the position, it is important that all applicants be treated the same.

Whenever Board business is discussed it should be in the regular Board Meeting. If three members meet at a social gathering or anywhere else and discuss Corbett Water District business, it becomes an illegal meeting. Three members is a quorum. Many Boards discipline themselves to not get together outside of regular meetings because the temptation is great and the risk is strong to let business filter into the discussion.

The three most commonly violated aspects of the Public Meetings law are holding an open meeting without the proper notice, convening an Executive Session for an improper reason, and having improper individuals present in Executive Session who shouldn't be there. A fourth common violation is conflicts of interest particularly relating to financial situations. Mr. Mersereau advised that relatives of employees who serve on the Budget Committee are not necessarily a conflict of interest if they declare they are related to the employees.

The Budget Committee is bound by the same quorum and discussion rule. Since the Corbett Water District Budget Committee has 10 members, it takes 6 members to make a quorum. If six of the members meet, they must not discuss the budget. To avoid personal liability with these laws, rely on advise of counsel.

If the Hiring Policy Resolution is adopted. For the current application process, this policy must be followed. There can be changes made in the policy in future, but until then this is the policy that must be followed. Mr. Mersereau advised the Board to check references of the applicants if they had signed the waiver. A former employer may not give any information but references should at least be contacted. You can sometimes learn background information that you may not otherwise have access to. Mr. Mersereau suggested that no private investigation be performed. Only the people who have been given as references are allowed to be questioned because that is to whom the waiver applies. Previous employers giving references are usually very cautious in what they say.

An employee is given copies of the Employee Handbook. "At will" employment allows that the Board can terminate an employee. Usually a hearing is not required although it would be good to seek counsel for a specific case. To terminate or discipline an employee the Board would meet in Executive Session to discuss the complaint. An exception to this rule would be if the employee wanted to have an open session. The employee may or may not be invited into the Executive Session to give his/her side of the story but not necessarily during the Board discussion. After a consensus is reached, the Board reconvenes in regular meeting to vote on the termination or discipline. It is not necessary to give a reason for termination to an "at will" employee.

Mr. Mersereau suggested that Board members vote in open. However, some Boards do take a written ballot.

One of the ways the Board can handle the applications is to meet in Executive Session and come to a consensus of who should be interviewed after reviewing the applications. Or a sub-committee of two Commissioners could be appointed to review the applications and decide who should be interviewed. Then the Board can call an Executive Session for the purpose of interviewing the finalists. Then the Board comes to a conclusion of whom to hire. They then reconvene in open session and by motion and resolution the Board hires the individual. Executive Session protects applicants because the current employers may not be aware they have applied for another job. If the employer knew, he might fire the employee.

Sometimes the Board may vote on a motion that an offer for the position is going to be offered to a certain finalist who will be hired pending salary negotiations. Other times the finalist and the Board may have already reached agreement before the motion and announcement is made. Those applicants not being interviewed should be notified that they are no longer being considered for the position.

An "at will" employee has no recourse if he/she is terminated unless there is proof of discrimination or whistle-blower or federally protected civil right. In terms of performance, there is no recourse and no cause needs be given.

The Board can hire a Human Resource Company to process the applications if they choose. Board members get into trouble with personal liability when they get into off-duty incidents or when they are acting on their own personal agenda with vengeful types of things.

During the employment interview, it is not necessary that the exact same questions be asked as long as they pertain to the criteria. There has to be some caution in the wording of the questions. Sometimes one person will ask the same question in each interview. It is necessary to avoid the appearance of favoritism.

Mr. Mastne moved that the Board adopt the Resolutions prepared by Mr. Mersereau for the Corbett Water District Hiring Policy and for filling the Position of Superintendent with the date changed to April 3, 1998, as the last day for applications to be received. Also, that the position be advertised in the March 28 edition of the Gresham Outlook. Mr. Riehl seconded. Passed unanimously

Mr. Mastne moved that all those who responded to the previous job advertisement be advised of the extended time. Mr. Grover seconded. Passed unanimously.

The meeting was adjourned at 9:30 p.m.