

# CORBETT WATER DISTRICT

## APPROVED MINUTES

Special Meeting 1:05 p.m.

Thursday, October 21, 2004  
Corbett, Oregon

**Commissioners Present:** Bob Colclessor, Malcolm Freund, Ken Blanc, Lee Wyatt (by phone and then in person) and Robert Gaughan.

Also present were District Manager Frank Sterzinar and District Clerk Jamie Simms.

**Audience Members Present:** Erin Shea (*The Outlook*), Donna Colclessor, and Marc Caldwell.

Chairman Colclessor called the meeting to order at 1:05 p.m. at the Corbett Water District office.

Chairman Colclessor announced there would be no executive session. He read to the Board two letters from Marc Caldwell the Water Treatment Plant Operator. One letter stated the following: "when the Corbett Water District Board of Commissioners are discussing my insurance coverage for November and December 2004 they may do so in a public meeting." The second letter asked the Board to cover Marc's insurance cost for November and December.

### **Continued Health Insurance Coverage for the Resigning Water Treatment Plant Operator.**

Chairman Colclessor thanked Marc Caldwell for his fourteen plus years of service and he wished him the best in his endeavors.

Commissioner Freund said continuing insurance coverage is the individual responsibility and cannot be paid to the insurance company by the District. Marc Caldwell said that his request was above and beyond but he was hoping the Board would consider this option.

Frank Sterzinar said that if this was classified as severance pay, payroll taxes would have to be an issue. He suggested to the Board that they approve Marc Caldwell's request. He said that Marc would have to fill out a continuation form and then submit a bill to the District for reimbursement. The Board came to an understanding that the check could only be written as a reimbursement.

Commissioner Blanc asked Marc Caldwell if he was comfortable signing the separation agreement. Marc replied that he had a few concerns; he had not received his final pay and that the agreement stated he would relinquish all his rights. He questioned why former employees had not been asked to sign a separation agreement. Commissioner Freund said that what had occurred in the past had not been up to speed. He said that the Board was trying to do what was right and that it was not personal. Commissioner Freund said that Marc's final paycheck and final vacation accrual check have been signed.

Commissioner Wyatt asked Marc with whom he discussed the agreement. Marc's wife had looked at the agreement. Frank Sterzinar said that the form was a standard boiler plate document. He said that it had not been designed to remove Marc's rights, but to protect the District.

Commissioner Wyatt said the document was a contract and it would limit Marc's rights. She said that if Marc was uncomfortable signing the agreement then we should wait. Marc Caldwell said that he understood that the Board was trying to protect the District, but he did not understand what it had to do with his request. He said that he did not feel obligated to sign, because no past employee had done so. Commissioner Wyatt said no employee had previously made a request. Commissioner Wyatt replied that because Marc was asking the Board for something, they were asking for something in return.

Commissioner Wyatt and Freund said that the agreement was not personal but business practice and we are moving forward.

Commissioner Blanc asked if under item No. 4 when it states, 'employee waives re-employment,' if that meant that Marc could never be re-hired at the Corbett Water District. Commissioner Wyatt said questions like that should have been in executive session with the District's Attorney. Commissioner Freund said that the Board had not written the document so they could not answer the questions.

Frank Sterzinar said that it was the District's choice to go with the agreement and this is the way the industry is going, but he did not see Marc trying to harm the District.

Commissioner Blanc felt that nobody on the Board knew exactly what the document meant. Frank Sterzinar said that it could be discussed with the District's Attorney, but despite the agreement he felt that Marc Caldwell's request should be honored.

Commissioner Freund said that Marc had resigned giving adequate notice and had followed the rules in the employee handbook. He would like to compensate Marc by reimbursing his insurance, but he could not go forward without the document being resolved. Commissioner Freund asked Marc if he had the procedure for continuing coverage. Marc said that he had talked to the agent.

Commissioner Freund thought it would be best to hold an executive session to discuss the agreement. Frank Sterzinar would like for Marc Caldwell to be included. Commissioner Wyatt said that it would be inappropriate to have Marc present because the Board would be discussing potential litigation. If Marc was present it would void the attorney-client privilege. Frank Sterzinar said he had spoken to the District's Union Labor Attorney and they did not feel that this document could be considered potential litigation. Commissioner Gaughan said that he did not understand the document and he felt that both the Board and Marc needed to have it explained.

Chairman Colclessor announced that there would be an executive session Monday, October 25, 2004 at 10:00 AM to meet with the District's Attorney subject to legal opinion on ORS for executive session.

Frank Sterzinar questioned if the separation agreement could be discussed in executive session. He said that he was worried about a potential violation of Meeting Laws. Chairman Colclessor asked about the possibility of two Board members at a time discussing the document with the Attorney, thus eliminating a quorum. Commissioner Blanc said that he preferred that the Board discuss the document with the Attorney together to avoid misinterpretation. Chairman Colclessor asked if there was an ORS to cover the executive session. Frank Sterzinar replied that the ORS would be for potential litigation but he questioned if there was potential litigation in this situation.

Commissioner Wyatt moved to adjourn. Motion seconded by Commissioner Gaughan. Motion passed unanimously.

Meeting adjourned at 2:10 p.m.