

**Rivergrove Water District
Board of Commissioners Special Meeting Minutes
December 10, 2021, 4 p.m.**

A special meeting of the Board of Commissioners was held this day via remote teleconference at 17661 Pilkington Road. Chair Roth presided over the meeting and other attendees included: Commissioners Johnson, Magura, Patterson, and Howell, and General Manager Janine Casey.

1. Call to Order: Commissioner Roth called the December 10th 2021 Special Meeting to order at 4:00 p.m.

Chair Roth:

Okay, let's call to order the Special Meeting of the Rivergrove Water District. The first thing I'm going to do is make a change to the agenda. We had several requests to have public comment moved from the end of the meeting to the beginning. As far as I am concerned, that is a valid point. People can make their comments and stay around if they wish. If not, they don't have to sit through the entire meeting. So, what we're going to do is start with opening remarks and an explanation of the procedures, and a review of the criteria that we've seen before. Then we will move on from that.

Commissioner Magura:

Public comment?

Chair Roth:

Public comment will come after that.

Commissioner Magura:

Yeah, okay.

2. Opening Remarks:

Chair Roth:

Okay. So, this is an internal Board governance proceeding regarding a specific chain of events and Board relations. The Board is not considering evidence, testimony or comments regarding Commissioner Patterson's character, past record, et cetera, because such considerations are not relevant to the specific issues and conduct being considered today.

Chair Roth:

The censure process criteria are the ones that were presented at our last meeting. And the criteria for censure that we have used is, has the Board member violated the law? Number two, has the Board member violated district policy, i.e. the Board Policy Handbook? And number three, has the Board member violated the Oath of Office? Then, under consideration of the evidence that's presented, is there sufficient evidence in the record to justify censure based on the criteria above? The Board needs to consider the quality and weight of the evidence. Is the evidence credible and reliable? What is the nature of the evidence, i.e. personal account, real time documentation, official District record. And, does Commissioner Patterson's response raise concerns that the evidence may be incomplete, insufficient or unreliable? So using those criteria, we will go ahead.

3. Conflict of Interest Disclosure:

Chair Roth:

I think what I'm going to do is ask for number three ahead of the public comments. And that is a disclosure of any conflict of interest. Does any of the Board commissioners have a conflict of interest to disclose?

Commissioner Patterson:

No.

Mr. Carlisle:

I will just say, this is Joe Carlisle on behalf of Commissioner Patterson. I think this came up at the October 25th board meeting. And I just want to state for the record that Commissioner Patterson does not have any conflict of interest to disclose, because the definition of conflict of interest is whether a commissioner has a financial stake, whether a gain or loss at issue in the matter, and since it's a voluntary unpaid position, she does not fit the definition of conflict of interest.

Chair Roth:

Yes. I agree with you. Thank you. So, we've gotten that out of the way.

4. Public Comment:

Chair Roth:

Public comment. Bonnie, did you have anything to say?

Ms. Bonnie Robb:

You know, I was sort of hoping that-

Chair Roth:

Could you state your name and address for the record here?

Ms. Bonnie Robb:

Sure. Bonnie, B-O-N-N-I-E Robb, R-O-B-B. 18782 Benfield Avenue, Lake Oswego, Oregon 97035. So my comments are based on the packet of information that I picked up that all of the directors have. I was hoping perhaps comment would come after the information was presented, but I'll go ahead if that's your preference. I was sort of hoping, maybe public comments could come in during open discussion. But if that's your preference, I'll proceed.

Chair Roth:

I'm uncomfortable splitting up comments to before and after. We need to decide one or the other. And not have that. So if you're okay with that, Bonnie. Oh, and by the way, what we have chosen to do is limit our comment time to three minutes.

Ms. Bonnie Robb:

Sounds familiar.

Chair Roth:

Yes. It's directly stolen.

Ms. Bonnie Robb:

Yeah. So I just want to, as a Water District user, community member for the last 20 years, I'm only going to just comment about what I've reviewed in the documents. There may be more that is presented by Mr. Carlisle and by Mr. Shropshire. What I see is, how is this action of censure actually warranted? I know many people who serve on multiple boards. I have in the past, and posing a question or asking for information. Sometimes I think those lines can get blurred. And I just question if this is the best remedy to take on.

Ms. Bonnie Robb:

I did not see in the records really any substantial evidence of intentional wrongdoing. This seems to be a very extreme measure with really very little grounds to stand on, to move forward with this. And I even do question the authority that the Board has to actually censure someone. And lastly, I'll make it brief. It's disturbing, that's a strong word, to see the use of the customer's funds in this type of situation. It just seems capricious and arbitrary. And I think there could have been an easier remedy for this situation. And I'll close my comments with that.

Chair Roth:

Thank you. Who else do we have here? Who would like to comment? Is there anyone?

Ms. Lisa Volpel:

I'll just make the comment that I agree with Bonnie, that this seems kind of-

Chair Roth:

Could you please identify yourself?

Ms. Lisa Volpel:

I'm Lisa Volpel. I live at 5655 Kenny Street, and we've been here about 40 years. So, or my husband has. Long time.

Chair Roth:

Okay, go ahead, Lisa.

Ms. Lisa Volpel:

I would just say that I agree that this seems to be... I haven't read all the documentation. I'm here to gather more information. But from what I have heard, it seems to be extreme. And not a good use of rate payer monies. So that's all I have to say. Thank you.

Chair Roth:

Okay. Thank you. Anybody else? Well, hearing no one.

Commissioner Magura:

You're muted, sir. There was someone at the bottom there. You're muted, sir.

Mr. Edwin Thompson:

Yeah. Jim, turn on your microphone.

Mr. Jim Strovink:

How's that? Thank you everyone. My name is Jim Strovink. I reside at 5144 SW Centerwood Street, and I have resided also in the area for about 40 or more years, my wife and I, Janice, and we very much appreciate the Rivergrove Water District. And very much so the service that Sherry Patterson has provided, as an advocate for all of us here and a conscientious member of this community. And I'd like to hear more about everything that's presented as well.

Mr. Jim Strovink:

I understand there's been a situation that's evolved that you folks felt that warranted a censure. And I too disagree with that, unless you have something else to put on the table here of some value, evidentiary purposes. And it just seems like a waste of time and monies at this point in time, for something that doesn't warrant that. So I'd like to hear more. That's why I dialed in here just to hear it, because I'm pretty appalled as to the current situation. It's unfortunate, and we all have a lot more to do in life than spending money needlessly. So I hope that we can come to some logical resolution here, satisfy everyone. So I just want to hear, that's why I'm here. I want to hear more, and I haven't heard much at this point. God bless you for trying. And so let's see what we got. That's the end of my statement.

Chair Roth:

Okay. Thank you, Mr. Strovink. Anyone else?

Ms. Malia Gibbons:

I tuned in a little late. I'm not sure what you're asking.

Chair Roth:

What we're asking is if you have testimony that you'd like to offer. You need to provide your name and address. And then you're free to comment for a three-minute period of time.

Ms. Malia Gibbons:

Well, thank you.

Chair Roth:

Did you wish to comment?

Ms. Malia Gibbons:

Yes, please.

Chair Roth:

Okay, go ahead.

Ms. Malia Gibbons:

My name's Malia Gibbons. I live at 19130 SW Red Wing Court, 97035. I moved in here about 1982 or '83, and I've known Sherry Patterson for quite a number of years. And when I was informed about this, I was startled. I did not think that the pettiness that seems to be happening in the world where everyone is so pitted against each other and the inability to work something out was happening in my tiny little water department. And I just really had to come in here. I actually took off work today, because it was that important for me to put my voice in my own community and just say, "Don't let this happen here." All this sort of pettiness is a disease. It's something really when we're cultivating the inability to get along and work things out, rather than working things out.

Ms. Malia Gibbons:

I have a lot to say about that. Anyway, I support Sherry. I've seen what she's done over the years. She's a true advocate for all the people here. And I think overall, what I would like to see with the whole water Board is more transparency. There's so many things going on that are just not okay in the world. And sometimes people have a tendency to not be conscious, to really take into consideration the deeper outcome of some of these things that go on.

Ms. Malia Gibbons:

And I really think that this censorship would be a devastating, it would really divide the people in the community and the water department. It's that serious. And I do not. And I want to say again, do not, like the money that I pay to get used for frivolous things like this. I am just livid about it. And if it goes on, I'll tell you, I will never stop talking about how wrong this is to use taxpayer money, to pay for legal fees for something that really should be able to be worked out. If you people on the Board can't get it together to find some sort of common harmony and work things out without using our money for legal fees, you need to resign. Thank you.

Chair Roth:

Thank you for your comments. Anyone else?

Mr. Edwin Thompson:

I'd like to say something.

Chair Roth:

Okay.

Mr. Edwin Thompson:

My name is Edwin Thompson. I live at 5150 SW Dawn Street. Bought this house in 1977. My parents moved to the Rivergrove Water District on Timbergrove Court in 1969, when I was a teenager. And I always remember my father saying that the main reason he moved here was the quality of the water. And they moved from downtown Lake Oswego, where at the time it was Bull Run water. And my dad, for years before he passed away, raved about the quality of Rivergrove water. I'm here in support of Sherry Patterson, who's been very active in the community since I can remember. Our children grew up together and she's in my estimation, one of the highest-quality people involved in the Water District, the Fire District, earthquake preparedness, on and on and on. It's her passion and her integrity and her honesty are right up there at the top of human ability. That's all I have to say.

Chair Roth:

Thank you. Is there anyone else who wishes to comment?

Mr. John Harrell:

Yes, I would like to comment if I may, please.

Chair Roth:

Could you identify yourself, please?

Mr. John Harrell:

Yes. My name is John Harrell, I'm at 18810 SW Reao Court, 97035. I have a very poor internet connection so I apologize if I'm jumbled. If I need to, I can disconnect my camera so that the audio is improved. I would like to echo the comments and observations of the individuals that have previously provided public comment. Like the majority of the individuals who have provided the comment, I have known Sherry since probably 1984 or '85. Was with her son and we [inaudible] and vet things through to the extent of her abilities. And I think it's an egregious use of public resources, time, money, and taxpayer money to go after such an action as to censure an individual on the Board. And from the research that I've done, I don't even know if the Board has the right. Because it's not in the current Board Policy Handbook that the ability to censure one Board member [inaudible] over [inaudible] member is in [inaudible] within the Board policies. So I urge all the Board members to [inaudible]-

Commissioner Magura:

You're breaking up.

Mr. John Harrell:

That we can [inaudible] towards the use that it needs to be, [inaudible] whether that's new hydrants or, whether that's new hydrants or -[inaudible]

Chair Roth:

Mr. Harrell, we're missing an awful lot of what you're saying. Could you turn off your camera, please? Thank you. Now let's-

Mr. John Harrell:

Yeah, I apologize. I [inaudible] have a very poor signal.

Chair Roth:

Could you go back?

Mr. John Harrell:

Is that any better?

Chair Roth:

Yes, it's better. Could you go back to, "I would encourage you to," and then after that everything broke up pretty badly.

Mr. John Harrell:

Sure. So I would encourage the Board to work, to look hard at the evidence, as I mentioned. And I don't know if this was cut off. The handbook, provide [inaudible]-

Chair Roth:

You're cutting out again.

Mr. John Harrell:

The Board can lead. Okay. I apologize for the poor signal strength. I urge the Board to vote no on this. So you can move forward and get to the business at hand, maintaining our quality water as well as improving our infrastructure as we're able to. Thanks.

Chair Roth:

Okay. It looks like he has muted himself. So thank you, Mr. Harrell. Anybody else?

5. Presentation of Record:

Chair Roth:

Hearing no other comments from the public, the basis of our censure complaint is based on the following. During the regular board meeting of April 29th, 2011, the current lease agreement with Rivergrove Water District has with our landlord, Mr. and Mrs. Thomas Gregoire was discussed. Presented at this meeting, which was included in the Board package you received seven days prior to the meeting, was a copy of a letter from the owner's representative, informing us that the building at 17661 Pilkington Road was structurally sound. Further discussion ensued on the pending repairs the owner had planned for the building, as well as possible rental options we could consider in the area, in the local area. After thorough discussion, the Board agreed not to pursue the structural engineering report as we were satisfied with the information that Ms. JNeanne Gregoire-Theus, the property manager for Mr. and Mrs. Thomas Gregoire provided in her letter.

Chair Roth:

We proceeded to vote to extend the lease at the current location, which was passed by a majority vote. In early May, the District received a complaint from Ms. Gregoire-Theus stating that you personally contacted her by telephone. And this is referring to Sherry. Presented yourself as a representative of the Rivergrove Water District and Lake Grove Fire Department, and requested a copy of the contract report from the structural engineer commissioned by the property owner. You did not have authority from the Rivergrove Water District's Board of Commissioners to do this. As an elected member of the Rivergrove Water District's Board of Commissioners, your personal decision to contact Ms. Gregoire-Theus was without approval of the Board and in direct violation of the Board Policy Handbook adopted April 19th. In specific, section 1.2, Powers of the Board, subsection A, specifically stating, "Board members have no individual powers separate from the powers of the Board, and have no authority to act individually without delegation of authority from a quorum of the Board. Likewise, no individual Board member may speak for or on behalf of the Board or District, except as authorized to do so by an official Board action as recorded in the official minutes, guidelines or policies of the District." At the regular board meeting held on June 28th, 2011, the Board discussed the progress of the building renovations and repairs. During this discussion, you were specifically asked if you'd made any attempt to contact Ms. Gregoire-Theus. You replied, "No."

Chair Roth:

This was not true and a direct violation of the Board Policy Handbook, section 1.11, Procedures During Board Meeting, subsection B, paragraph three which reads, "Commissioners will at all times act ethically and with integrity, comply with all laws and Board policies applicable to public officials, including government ethics law." Please be advised that the Board of Commissioners is concerned, and has lost confidence in your ability and willing to carry out your responsibilities as a member of the Rivergrove Water District's Board of Commissioners in a manner consistent with your obligation of integrity and loyalty to the District and without engaging in self-dealing and conflicts of interests. The Board will discuss this matter with you at a meeting scheduled for July 26th, 2021, and decide if a resolution of censure is appropriate in this matter. In accordance with ORS 192.660 (2)(b), we will be discussing this in executive session unless you exercise your right

to an open meeting. And Sherry has chosen to exercise her right for an open meeting, which is why the public is currently here. Then if-

Commissioner Magura:

Sorry to interrupt here. You misspoke a little while ago, and it was pointed out by Grant that you said 2011 when you should have said 2021.

Chair Roth:

2021. Yes.

Commissioner Magura:

Yeah. Just to correct the date. Sorry for the interruption.

Chair Roth:

Okay. No, that's fine. Thank you for correcting me. Then, Sherry has been given the opportunity to provide any information that she chooses to share. And we have decided, based on our discussions, that we were going to go ahead and vote for the possibility of censure due to the fact that this was not the first time this has happened, and we are concerned that this could have, and may still, cause us to lose our lease. Those are the issues that that I choose to present.

6. Presentation of Defense:

Chair Roth;

Mr. Carlisle, if you would like to present your information in defense, it's yours.

Mr. Carlisle:

Thank you, Chair Roth. I appreciate that. I understand I have a half an hour, is that correct?

Chair Roth:

Yes.

Mr. Carlisle:

Okay. Thank you. Good afternoon, everybody. I'm Joe Carlisle. I represent Commissioner Sherry Patterson in this matter. As many of you know, Commissioner Patterson has served on the Rivergrove Water District for many years and has been dedicated to its mission and purpose, which is to supply clean water to its customers. She's also a Director of the Lake Grove Fire District and is an active member of the local community.

Mr. Carlisle:

She serves in these capacities without pay, and only because of her love of this community. Despite this, she faces censure by this commission based on an allegation that she sought out important information without commission approval. As will be shown, there is a lack of any evidence to support the allegations lodged against her.

Mr. Carlisle:

Further, there was a prior situation in which a Rivergrove Water District Commissioner contacted the City of Lake Oswego regarding water sharing without commission approval, but was not censured and did not even face censure. There is also, the evidence will show, that the landlord who

Commissioner Patterson is alleged to have contacted, invited such contact, at least to the Fire District that shares the same building.

Mr. Carlisle:

The evidence will also show that the Water District lacks authority to censure or discipline a commissioner, a power which is actually left to the people. And finally, I think the evidence has already shown today that the public does not support censure. There certainly has been no evidence in the record that the public does support censure. Either by way of public comments today or by letters of support for censure. I think that's very important.

Mr. Carlisle:

Now, although the Water District has no written rules or procedure for censuring a commissioner, which is evidence of its lack of such power, the District's council has advised the commission to consider the following, which Chair Roth read earlier. Did the Board member violate the law? Did the Board member violate District policy? Did the Board member violate the oath of office? As is clear from the censure letter dated July 15th, 2021, that Chair Roth just read from, there are no allegations of a violation of law or of the oath of office. The only allegations relate to the alleged violations of Board policy.

Mr. Carlisle:

However, in at least one prior incidence of a similar alleged violation of Board policy, the commissioner was not censured. The District's counsel also advised that the commissioners consider whether there is sufficient evidence in the record to justify censure based on those above criteria. District council advised the commission to consider the quality and weight of the evidence. Is it reliable and credible? What is the nature of the evidence? Is it a personal account? Is it a real-time documentation? Is it an official District record? As will be shown, there is a total lack of reliable and credible evidence.

Mr. Carlisle:

What little information there is consists of an unsworn, undated, after-the-fact statement, full of hearsay. It isn't even signed. It is not a real-time documentation, nor are there any commission minutes or official District records to support the allegations. The District's counsel also advised the commission to consider whether Commissioner Patterson's response raises concerns that the evidence may be incomplete, insufficient, or unreliable.

Mr. Carlisle:

I propose to you that the evidence is in fact totally lacking and thus insufficient and unreliable. So, what is Commissioner Patterson accused of? I will read again from the letter that Chair Roth just read because I think it's very important for this to be clear what exactly is before this commission. And since it was just read, I will say that it's this. "In early May, the District received a complaint from Ms. Gregoire-Theus, as stating you personally contacted her by telephone, presented yourself as a representative of the Rivergrove Water District and Lake Grove Fire Department, and requested a copy of the contract report from the structural engineer commissioned by the property owner.

Mr. Carlisle:

You did not have authority from the Rivergrove Water District's Board of Commissioners to do this. As an elected member of the Rivergrove Water District's Board of Commissioners, your personal decision to contact Ms. Gregoire-Theus was without approval of the Board and in direct violation of

the Board Policy Handbook adopted April, 2019. In specific, Section 1.2, Powers of the Board, subsection A, specifically states, "Board members have no individual powers separate from the powers of the Board and have no authority to act individually without delegation of authority from a quorum of the Board. Likewise, no individual Board member may speak for or on behalf of the Board or District except as authorized to do so by official Board action as recorded in the official minutes, guidelines or policies of the District."

Mr. Carlisle:

It goes on to state, "At the regular board meeting held on June 28th, 2021, the Board discussed the progress of the building renovations and repairs. During this discussion, you were specifically asked if you had made any attempt to contact Ms. Gregoire-Theus. You replied, 'No.' This was not true and in direct violation of the Board Policy Handbook Section 1.11, Procedures During Board Meetings, subsection B, paragraph three, 'Commissioners will at all times act ethically and with integrity, comply with all laws and Board policies applicable to public officials, including government ethics law.'"

Mr. Carlisle:

So, those are the only allegations before the commission and thus its deliberations must be limited to those matters. And I'd like to address the second issue first. Despite the allegation that Commissioner Patterson was asked whether she contacted Ms. Theus, and her alleged response of no, there is no mention of either the question or the answer in the official minutes from that meeting.

Mr. Carlisle:

Further, the audio recording of that meeting was destroyed in violation of the public records law and the Board's own policy, specifically Section 2.8 of the Board's Policy states, "Board meeting recordings, if used, will be kept for a minimum of two years in accordance with the requirements of Oregon-revised statutes, Chapter 192." Further, Oregon administrative rule 166-150-0005 requires audio recordings to be kept for a minimum of one year after the official minutes are approved. That did not happen.

Mr. Carlisle:

To move forward with censure based on alleged statements for which there is no record, and the audio recording from the meeting was destroyed in violation of Board policy and state law is wholly inappropriate, to say the least.

Mr. Carlisle:

Further, the allegation in Chair Roth's July 15th letter lacks full context. Even if the question had been asked, which there is no record of, the context was in a Rivergrove Water District meeting. If Commissioner Patterson had answered no, again, which there's no record of, there is nothing to say it wasn't in that same context. That is, she did not attempt to contact Ms. Theus on behalf of the Water District. It could have been as a member of the Lake Grove Fire District Board.

Mr. Carlisle:

Indeed, as reflected in the letter from the Lake Grove Fire District, Commissioner Patterson had the full support and authority of the Fire District to contact Ms. Theus. And I'd like to read from that letter, which is part of the Board packet. It's dated November 18th, 2020, and it comes from Jonathan Harrell, the Board Vice President for the Lake Grove Fire District, and I'm reading in part.

Mr. Carlisle:

"Sherry has full support of the Lake Grove Fire District Board in regards to the action that she took to contact the landlord and request a copy of the structural engineering report. The Gregoire's have regularly communicated with our district administrator, Michelle Cushing. JNeanne Theus provided her personal contact information to the Fire District in the spring of 2021 with the request that if we have any questions or concerns, to reach out and contact her directly," which Sherry did.

Mr. Carlisle:

"We encourage our directors to complete all acts of due diligence to the fullest of their abilities, so the board can make informed decisions. The board was concerned about some of the repair activity, the qualifications and bond of the contractor, and the lack of permits that were obtained from the City of Lake Oswego when this work was performed. Sherry's service as a Lake Grove Fire District board member provides no support for any proposed actions from the Rivergrove Water District, and weighs against the censure, seeing that her actions were supported by the Lake Grove Fire District board."

Mr. Carlisle:

I'm not conceding that Commissioner Patterson did contact Ms. Theus or did so on behalf of the Rivergrove Water District or on the dates that are alleged. But if she had, she had the authority to do so as the Lake Grove Fire District director. It is also important to note that Ms. Theus invited such contact, which cast doubt on her alleged complaint, and alleged complaint for which there is no direct evidence.

Mr. Carlisle:

Specifically on March 31st, 2021, Ms. Theus wrote to the Lake Grove Fire District, and this is also in the board packet, "We had a structural engineer from Miller Consulting Engineers evaluate the structural soundness of the Gregoire building on March 25th, 2021. His report includes no structural deficiencies. However, there are a few deferred maintenance and repair items to be addressed, including the front walkway, the decking and front facade leaks. If there are any questions, please feel free to contact me at the email or phone number listed below."

Mr. Carlisle:

And she in fact listed her phone number below. Then again, on June 8th, 2021, Ms. Theus wrote to the Lake Grove Fire District, to their director, Michelle Cushing, "Michelle, this is an update on the repairs being done to the Gregoire building on Pilkington Road. We were hoping for a two-week timeframe, however, as with any construction on an older building/house, one never knows what will be found when you remove siding, et cetera. We found a couple issues that need to be addressed and are in the process of doing so. We hope to have the upper decking finished by the end of this week, and siding and post repaired or replaced. Painting will commence next week. If there are any questions or concerns, please let folks know that they can email or call me and not the contractor."

Mr. Carlisle:

And she again provided her email and two different phone numbers. This contradicts the unsworn, undated, hearsay statements that has been presented by the Water District's manager, Ms. Casey, regarding Ms. Theus' complaint. I should also mention that as Chair Ross' July 15th letter alleges, "Commissioner Patterson is accused of personally contacting Ms. Theus and simply identifying

herself as a member of the Fire District Board and the Water District Board." As was raised in earlier public comment, that's a matter of transparency.

Mr. Carlisle:

Now, Commissioner Patterson has the right to contact anyone she wants to in her individual capacity, but identifying herself as a District commissioner, whether it's the Fire District or the Water District is appropriate transparency, and there's no prohibition under the Board policy or any other rule or law against her contacting someone in her personal capacity. Indeed, this issue arose in July 2019 when Commissioner Magura had contacted the City of Lake Oswego regarding the Water District's buying of water from the city.

Mr. Carlisle:

As reflected in the official minutes of that meeting, Commissioner Magura denied any wrongdoing and stated that he had the right to contact the city as an individual and was only investigating and not acting on behalf of the Water District. And I want to be clear, I don't disagree with Commissioner Magura's position with respect to himself in July 2019. And I think it's really important. I will read from those minutes. I think it's really important. He did not face censure. He wasn't censured. He didn't even face the possibility of censure at that time.

Mr. Carlisle:

Now, the July board meeting, July 24th, 2019 board meeting minutes, state, "Chair Roth stated that we do need to discuss the possible costs of buying water from LO. Commissioner Magura said he thought this might be a good time to discuss it. He has had an exploratory meeting with the City of Lake Oswego at the request of a number of his neighbors. Since he has been on the Board, they have asked him, 'What can we do about our water quality?'"

Mr. Carlisle:

"He met with Erica Rooney and Joel Komarek, and he wished to disclose that he and Joel have a long history working together, and another gal that is their water quality person. He asked them if it was possible to have Rivergrove get LO water. Their answer was yes, they have capacity. They gave him a new number based on their cost of service study." DJ, who was the water district manager at the time, stated, "Commissioner Magura, she had a question. This is one of the things that he needs to understand. He shouldn't be talking to them on his own without the authority of the Board and especially leaving DJ out of the loop. She has already gotten an email from Kyle Pettibone, the district's engineer, which she passed around that other than the fact that Kyle was CC'd on the email, it was addressed to Commissioner Magura and discussing the District's maps and asking for information."

Mr. Carlisle:

"Kyle asked DJ if she knew anything about it, and she had no idea why the LO map people would be sending an email to Commissioner Magura, requesting map information, and just CC'ing Kyle, the engineer. She insisted that he should not be meeting with LO authorities by himself proposing or suggesting, 'deals for the District.' The way the board is supposed to work is that a single board member does not do these things without giving the authority to do it from vote of the quorum of the board. He said he told Chris that he wanted to do that and that she said, 'Go ahead.' DJ stated "She is one person, one vote on the Board, not a quorum'. Commissioner Magura stated that 'she is the Chair'. DJ said, 'Not a quorum.'"

Mr. Carlisle:

And this is the really important part. "He felt that he has the authority to gather information," DJ stated, "Not in a private meeting with Joel and Erica about buying water from them. He wanted to make it very clear he made no representations that we wanted to do this. He simply wanted to gather information. And as a private citizen, his neighbors could have gone and had the exact same meeting. He has the exact same rights as anybody who buys water in our District."

Mr. Carlisle:

Commissioner Johnson said, "Hold on a moment. You do have that right as a citizen, but if you represented yourself as representing the District, he felt the manager needs to be there also." Chair Roth concurred that if it is for approval for a personal query, then it is okay. If it is representing the district, then it needs to have board approval.

Mr. Carlisle:

Notably, Commissioner Magura was not censured, nor did he face censure, nor should he have. And I'm not trying to advocate for that. But to treat Commissioner Patterson differently would be to subject her to a double standard under these circumstances. In the law, that is called an arbitrary and capricious standard, and is totally inappropriate.

Mr. Carlisle:

Further, she, like Commissioner Magura, is accused of simply investigating and not acting on behalf or trying to bind the Water District to an agreement. She should receive the same treatment as he did, which is to not be faced with censure. It's also important to consider the lack of evidence to support this first allegation against Commissioner Patterson, that she contacted Ms. Theus as a representative of the Water District. The only information about this allegation is contained in the undated, unsworn statement from the Water District's manager. It isn't even signed.

Mr. Carlisle:

As the Water District's council advised, the commission must consider the weight and quality of the evidence, and specifically the nature of the evidence. Is it a personal account? Was it made in real time? Is it an official District record? Ms. Casey's statement is not a personal account of the alleged call between Commissioner Patterson and Ms. Theus. It's hearsay, it's secondhand. It was not made in real-time. It is undated and was first presented in the Board packet for October 25th, 2021, a full six months after the alleged call supposedly happened.

Mr. Carlisle:

It is also not an official District record, such as minutes. Therefore, the commission give this statement no weight at all. Further, as district council advised, the commission should determine if the evidence is reliable and credible. I know that some on the commission don't believe that courtroom standards should apply in this context, but this statement lacks any reliability in that it is unsworn, undated, unsigned and full of hearsay.

Mr. Carlisle:

Regardless of whether we are in court or not, the commission should rely on only the best and highest quality evidence, and this is not it. I would believe that the Water District's customers would expect more than this as evidence to take such drastic action as censure. Now, the issue of whether the Water District even has the authority to censure, since I believe it should be clear from my statements today and from prior meetings and all of the letters and evidence I have presented that

are in the Board packet, that Commissioner Patterson disagrees with any of the factual basis. But the legal basis for censure was a point of contention at the October 25th meeting as well.

Mr. Carlisle:

And the Water District is a creature of statutes and therefore has limited powers. And those powers are limited by what the legislature has given to water districts as a general matter. It did not give any water district or any special district, any power to censure or discipline a commissioner or a district director. Instead, that power has been left to the people, which is how it works. The people can recall, the people can vote against somebody at the next election, they can come to meetings and disagree with the actions of a commissioner, but that is the power of the electors of the district. And to take away that power and to discipline and censure a commissioner by the commission itself is to usurp the power of the people. And it is wholly inappropriate.

Mr. Carlisle:

Now, when we were at the last meeting, the discussion of what's known, the arcane rule known as Dillon's Rule, came up as a basis for potential authority for the Board. We didn't have much time to discuss that. There's a detailed discussion of that in my December 1st letter, but I think it's important for the board to understand how Dillon's Rule works and the limits of that power. So, Dillon's Rule is-

Chair Roth:

Mr. Carlisle, if I could interrupt you, you have three minutes left.

Mr. Carlisle:

Okay. That's great. Well, what I will say is that Dillon's Rule, it also states that the power of a city or a county is limited to the authority provided by statute. It makes one exception to that. It gives some generalized authority to do what is necessary to carry out the purpose of the municipality. And then in this instance, if Dillon's Rule is applied to the water district, the purpose of the water district is to supply water, not to discipline its commissioners and engage in those sorts of actions. And what is it? The allegations against Commissioner Patterson have nothing to do with the supply of water to its customers. So, I will just leave it at that for Dillon's Rule. Dillon's Rule doesn't provide any support for the commission having authority to censure, and certainly the statutes and the Board policy lack any information that gives such power to the commission.

Mr. Carlisle:

I want to also make a point to say that from Commissioner Patterson's perspective, this appears to be more about censoring her, trying to prevent her from being vocal and expressing her views and her opinions and asking questions and making tough decisions, than it is about censoring her. Which is to censure is to state officially, as a reprimand, a disagreement with an action taken by somebody. And this appears to be aimed at censoring her prospectively, going forward, rather than censoring her from something that she allegedly did in the past, and I think that that is very, very important. And I also think that the allegations, where she has basically asked for really important information that I suspect your District customers would want to know and have you consider before renewing a five year lease, is really not something worthy of censure, should you have the power. And I think that it would really be much ado about nothing, considering the time and expense that has been spent on this.

Mr. Carlisle:

So with those considerations in mind, I would request that, on behalf of Commissioner Patterson, that the commission not move forward with censure at all, because it lacks authority. But if it still chooses to do so, that everybody vote against censure, and move forward. Otherwise, I think the commission sets a very dangerous precedent that anything and everything will be subject to censure, and then all of the national politics and divisive politics are going to creep into a water district, which is otherwise doing a good job of supplying water to its customers. Thank you for your time.

Chair Roth:

Thank you very much, Mr. Carlisle. Janine, can you let Jim in? He had computer problems and needs to log in again.

General Manager Casey:

He's in.

Chair Roth:

Okay, thank you.

Commissioner Johnson:

Yeah, I'm here, Chris.

7. Comments From and Questions of District Legal Counsel:

Chair Roth:

Steve, do you have any comments you would like to share?

Mr. Steve Shropshire:

Good evening commissioners and rate payers. It's Steve Shropshire, Jordan Ramis District Council. My role here tonight is largely to support the Commission in any questions you may have about the proceeding itself or the criteria. I think you've already heard, at the last meeting when we took up this matter, that Mr. Carlisle have a disagreement about district authority to act in the discipline of its own members. I'd be happy to address that further, if that's a concern or issue that any of the commissioners would like to hear more about. Otherwise, I will stand here and be happy to answer any questions you may have about the process or the nature of the evidence.

Chair Roth:

If you would like to go ahead with your comments, I would appreciate that.

Mr. Steve Shropshire:

Mine Chair Roth?

Chair Roth:

Yes.

Mr. Steve Shropshire:

Okay. So the base question here is whether a special district in Oregon has the organic authority to discipline its own board members internally. And I appreciate that Mr. Carlisle has done a good deal of research on this, and has presented his case as to why that's not the case. I have represented special districts across the state for over two decades, and in that time, it would be my experience

that if a board didn't have the ability to regulate itself and its members, then we would get exactly what Mr. Carlisle just suggested, which is an opportunity for mayhem to break out. Boards, by their very nature, and governmental entities, by their very nature, need to have some ability to self-regulate. And the ability to do so in this particular case comes from the district's organic statute, and Rivergrove Water District is a water district governed by and organized under Oregon revised statutes, Chapter 264.

Mr. Steve Shropshire:

And the statute by its nature is general in its authority, and the grant of authority is sufficient, certainly to allow the district, the board to self-regulate, essentially, in this case. You do not need to have a specific statute that tells you everything that you can do in order to run a district. That would be a very long statute indeed. Instead, Chapter 264, Sub 210 indicates that the district has the of power to do all acts and things that may be requisite, necessary, or convenience in carrying out the objects of the district. That includes governance of the district affairs. And so, while wise minds could certainly differ on this question, I don't believe that a court would have any problem upholding the district's ability to self-govern and to self-discipline.

Mr. Steve Shropshire:

I completely agree with Mr. Carlisle that the removal of a commissioner is the prerogative, in fact the obligation of the electorate, in the event of misconduct or simply dissatisfaction, but it is not taking any rights away from the electorate or the electors of a water district for the board to govern itself and to manage its own internal affairs. That's a bridge too far in this particular case. So as to the basic essence of whether the board has the ability to conduct a proceeding like this, it does, and I would be happy to answer any other questions with respect to Mr. Carlisle's presentation, if there are any. Or if the commissioners generally have anything, I certainly am available during comments to jump back in, if you wish.

Chair Roth:

Any of the commissioners have a question of Steve? Larry, you're on mute.

Commissioner Magura:

Pardon me. I'd just like to... A point of clarification, that maybe Steve would comment on, I noticed a few of the members of the public who commented and supported Sherry's position on this referred to taxpayer dollars being spent unwisely. And I would just like to point out that zero taxpayer dollars are under the control of the Rivergrove Water District Board. We are solely a rate payer organization, and our budget obviously includes line items for legal support, engineering support, and other supports. So it's unfair and incorrect to assume, to make any aspersions that taxpayer dollars are being unwisely spent, because there's no taxpayer dollars that we control.

Chair Roth:

Thank you. I did also have a comment, and that's a reminder, that we are not going to consider issues outside of the one clearly defined as the comments that Sherry made to JNeanne Theus. Whatever happened with Mr. Magura earlier is not relevant here, and the Board should not consider that in part of their deliberations. We have...

Mr. Steve Shropshire:

Chair Roth.

Chair Roth:

Okay. Yes?

Mr. Steve Shropshire:

Just a quick comment on that. I believe Mr. Carlisle didn't have a lot of time to speak this evening, but the gist of his comments, I believe, are directed at public entity's obligations to act consistently as they carry out their activities. Now, the record does not have anything significant about each of these circumstances. It's difficult to compare them on an apples to apples basis, to some degree, but Ms. Carlisle's not incorrect that public entities need to show a rational basis for departing from prior experience and practice, if they do so.

Mr. Steve Shropshire:

Now, one past event is hardly a pattern in practice. It is certainly indicative of the way that the Board has acted in the past, and so it is certainly, at least as a process matter, something that you could consider. It's not necessarily the substance of what occurred in the past, but rather just whether or not you're acting consistently with your past activities. Is that helpful?

Chair Roth:

Yes, thank you.

Mr. Carlisle:

And for what it's worth, that was, in fact, the intent of the presentation. It was not to raise an issue with Commissioner Magura himself, it was a consistency issue.

Chair Roth:

Okay, thank you.

8. Board Discussion:

Chair Roth:

Board discussion. Each commissioner will have five minutes during this time, so who wants to go first? Don't everybody rush at once.

Commissioner Magura:

All right, I'll go.

Chair Roth:

Okay. Larry,

Commissioner Magura:

Thank you. And I'm speaking from my heart here, and these are my feelings regarding Sherry Patterson. And put it in context, our former fellow commissioner, John McDonald, called me shortly after I joined the Board with an admonition. He said, "Look out for Sherry Patterson, she is a loose cannon and has her own agenda." And we didn't go into many specifics beyond that, but I have been on the Board about two and a half years now, and in my time I've observed repeated instances where Sherry has tried to insert into our deliberations such irrelevant things as the need for us to plan for impacts related to... Well, three things. A failure of Scoggins Dam near Forest Grove, which is some 30 miles away from Rivergrove, two, planning for a Cascadia Subduction

Zone earthquake, the big one, as it's referred to, and the impacts of Senate Bill 2001, resolving in some land use changes that can increase the density in our area.

Commissioner Magura:

These are all interesting things, I suppose, to her, but they're irrelevant to the nature of the planning that we have to do to keep the water flowing and keep our pipes in reasonably good condition. And Sherry's actions go off in bizarre directions, and they run counter to the Board operating efficiently and in a good unified manner, and she is a classic example of a loose cannon. Sherry, your actual or perceived actions that brought us to this point today. This is a self-inflicted wound, you've done this to yourself. You have proven yourself to be disruptive of good order, and you're proven to be difficult to work with, so I no longer trust you or want to work with you.

Commissioner Magura:

Your actions during the Special Districts Association training session, the team building session on October 28th, were highly unprofessional and reprehensible. The allegations you made against our General Manager Casey were demeaning and totally without foundation. So I've had it. Sometimes you stay in a position longer than you should, and you may have done some good in the past, but it's easy to undo it by other actions. And I just find this, again, very sad. Thank you.

Chair Roth:

Next commissioner.

Commissioner Howell:

I'll speak.

Chair Roth:

Okay, Grant.

Commissioner Howell:

Alrighty. So as a newly elected commissioner of the board, I feel I have a fresh perspective on the board situation, seeing that I was elected and assumed office right before the censure resolution had been presented. So lack some of the context with what may have gone on previously, but these censure proceedings, I feel they've been drawn out, they've been costly for the District, and I would argue that they've exacerbated tensions between commissioners that serve on the Board and staff. What purpose does this serve for the District? Are we furthering the public good, or meeting the goals and mission of the District? Are we acting in the best interests of our employees and customers? These are some of the questions that I've asked myself when serving on the board.

Commissioner Howell:

This censure resolution only serves to discredit Commissioner Patterson for requesting information the district staff possessed and did not want to share. To my knowledge, there is no detriment or negative effect on the district from her individual action, and that brings me to my next question, is what are the effects of the censure resolution? There's no direct consequence that would impact Sherry's ability to serve as a commissioner. She can still act, including all rights and privileges to vote, and participate in district business, so what do we gain here by censuring her? We can say we disagree with her action, but I don't think it's going to have the intended effect that the board wants it to have, in my opinion.

Commissioner Howell:

Looking at censure in a broader scope, I also was kind of questioning what other policy making bodies have enacted censure resolutions. So in the entire history of the United State's House of Representatives, 24 members have been censured. In the United States Senate, nine members have been censured, and this is in the entire history of the United States. These acts in which they were censured for include selling military academy appointments, conviction of crimes, sexual misconduct, or extreme harassment of other legislators. Censuring is a very strong reprimand for situations to call for it, and the situation that's been described in this resolution I do not think rises to that level.

Commissioner Howell:

The Board Policy Handbook, SDAO, and the Oregon Revised Statutes, which govern special districts and water supply districts, provide no insight, mechanism, or regulation into any such activities. I can find no record or instance in which a special district has elected to reprimand a sitting commissioner by censuring them. As part of my onboarding with the district, I received training from SDAO as well as several references to all the necessary documents that are required for our Board Policy Handbook to serve as a commissioner. The SDAO handbook, in particular, highlights several points of an effective board, chiefly among them are striving to maintain a no secrets, no surprises operating norm. It also states that the effective board exhibits creative thinking, knows how to handle failure as well as success, encourages risk taking, and creates a climate of support for excellence. The effective board also assumes collective responsibility for the conduct, behavior, and effectiveness of the board.

Commissioner Howell:

In my opinion, I think the Board needs to move past this, we need to reestablish trust, and we need to work to better serve the public, our customers, and our employees. I believe the Board has started this process through SDO training, and I look forward to completing this and working together with the rest of the Board.

Chair Roth:

Thank you, Grant. Sherry or Jim?

Commissioner Johnson:

I guess it's my turn then, okay. This is a difficult situation, not in that I don't think that, based on the factors that we're required to review, that censure isn't merited, because when you look at the factors, I do believe the policy handbook has been violated. I do believe there's a track record of this. Larry did indeed have a situation in the past. He had no track record of doing that in the past, that was a first time situation for a new commissioner learning on the hand, so there's not that track record that is an issue here.

Commissioner Johnson:

Having said that, when you look at the evidence and you look at the factors, I think there is reason to consider censure. Whether or not we should go there, I'm not convinced. You've got to remember though, that a censure is a formal disapproval of an action, and it's pretty obvious to me that a lot of us disapprove of the actions that were taken here. It's one thing to go and ask for information, it's another... I serve on very various boards, I've worked in government for 41 years. When I go in front of another board or body, the first thing I say is, "I am here as an individual, not representing this board or that board or this agency that I work for." That was not presented in this case.

Commissioner Johnson:

And so I think that everybody has a lot to learn here, in terms of how they present themselves in public. I do disapprove of people going and not saying that they're not representing a district, when everybody knows that they're a member of that district or board, and that's something that people need to do a better job of that. I was glad to hear council Shropshire say what he said about the organic duties of a special district board. That's exactly correct, in my experience of 40 some years in government, you do have the ability to govern themselves.

Commissioner Johnson:

Bottom line, I haven't liked what's been happening here. I think that we need to speak as a group and not go out as individuals. I'm not sure that what has happened in Congress has anything whatsoever to do with this. It's nice to talk about censures at the national level, irrelevant. We're dealing with a water district, where we're trying to provide clean, safe water at a good price to our customers, and I sometimes wonder if members of this board are making much more of it. It's a mouthpiece for them, as opposed to just remembering, we should be more concerned about the day to day operations of this water district, not a lot of other things.

Commissioner Johnson:

We don't have the wherewithal to be doing all the great things that would be fun to do or great to do for earthquakes. We need to change pipes, update our system and the like, not get into worrying about all these outside issues that keep being brought up by various members of the Board. And so with that, I'm not sure how I will vote on a censure. I think the evidence is there, but I'm not sure that I want it to stir this up anymore, and the like, and for now, Chris, that's all I've got to say.

Chair Roth:

Okay, Sherry, did you wish to make a comment?

Commissioner Patterson:

Yes, thank you. First off, I served on both the Water District board and the Fire District board. Each entity was anticipating and trying to decide whether the lease, they wanted to support the lease renewal. So I was asking JNeanne Theus for information in behalf of Fire District board as well, which the same information would be then valuable for the Water District board.

Commissioner Patterson:

I do want to point out that asking for an engineering report, which on three separate occasions, I had asked Janine Casey for a copy of the report, knowing that she had it, she said, "No, I have promised the Gregoire's that I would not provide a copy to anyone." So that, with her saying no, knowing she had it in hand, I then initiated contact with JNeanne Theus, who had very generously communicated her openness and availability for information, et cetera, with the fire board. So representing two different entities in the same building, that engineering report is very important.

Commissioner Patterson:

We had quite a bit of water inundation in that building last year with some of the rains, et cetera. And as work was trying to be done with the City of Lake Oswego, my understanding is that you need to apply for a building permit, and there's a fee for that, and then the Lake Oswego engineer inspector comes out and inspects. That has not been done yet, to this day. So the water board went ahead and renewed the lease for the five years, of about \$60,000 commitment, and I had voted no against renewing the lease, knowing that we did not have the information on the building

inspection, et cetera, completed. So it's bewildering that this preemptive commitment was made by the majority of the water commissioners without the adequate documentation of the safety of the building inspector having reviewed the work. That's one of the key issues.

Commissioner Patterson:

And individually, we all have a duty to care about the reliability of information as well as the quality of work, because we do have the responsibility of providing a safe working environment for all of our employees and invitees. My concern is that the engineering report has not been shared with our other employees. Only Janine Casey apparently had privilege to read this. We need a safety committee with all of us so that we can identify issues. I was aghast that, at the initial censure meeting, that Janine Casey claimed I'm now costing the Water District \$450, because Kyle Pettibone was charging that for the phone call.

Commissioner Patterson:

I was aware that there was a six prong electrical outlet in the Old Gate well house,, two inches off the floor, uncovered, in which water can be exposed. And I had made a phone call to a previous employee, Brian Faust and asked him, "Brian, has this electrical outlet ever been an issue for you?" He says, "are you kidding me, Sherry? We got zapped all the time." Can you imagine? The anguish and anxiety in his voice. As a result of that risk, I picked up the phone and called directly Kyle Pettibone and asked him, "What is the total voltage on the six prong electrical outlet uncovered?" He said, "Well, could be low voltage." My concern is this. It was a life safety issue and I hope that by this time it has been corrected. I would like to know, with any of the commissioners know, whether or not it's been corrected. I would like to know from Janine Casey if it's been corrected, but it is a very serious safety issue. And I want to know the date it was corrected, who did it. And it's great to hear, and I hope to hear, that it has been corrected.

Commissioner Patterson:

So I would like an answer from Janine Casey and from you also, Commissioner Roth, as to whether or not that life safety issue has been corrected. I have made a point of not only looking at what obligations we currently have in dealing with water for current customers, but the significance of Senate Bill 2001 has a dramatic increase in demand for increased service. And every single city and utility needs to plan for this statewide opportunity that builders may have on replacing, traditionally the one home, for now three homes. That's a 200% change. So like it or not Mr. Magura, we still have to plan for and review, because we are looking at what is the city of Tualatin planning, the city of Lake Oswego planning, as well as Clackamas county? Because we do serve various entities.

Chair Roth:

Sherry, your time is up. It's been more than five minutes.

Commissioner Patterson:

Well, considering the amount of time that everybody has had to accuse me, I am absolutely shocked that you would not let me continue. I request additional time. And I do feel personally entitled to personal time when I personally have had to obtain special resources to deal with this divisive issue. It is not fair to not let me finish.

Commissioner Johnson:

Commissioner Patterson, your attorney had 30 minutes to discuss this. And then you're having additional time. We've advertised this as five minutes per commissioner. That's what was

advertised. I do not support us changing what has been advertised on the agenda and how that structure has been set. So I don't support any more time as an individual.

Commissioner Patterson:

That's very disappointing.

Commissioner Magura:

I concur with Commissioner Johnson.

Chair Roth:

If everyone has finished their statements, which it appears they have-

Commissioner Patterson:

I have not finished my statement Commissioner Roth.

Chair Roth:

You have used your time. You were given five minutes.

Commissioner Patterson:

I was stopped from finishing my statements.

Chair Roth:

I'm trying to be fair about this, but point blank, what is happening with Senate Bill 2001, or whatever it is, is not relevant to this discussion. We've strayed off the point. We had a very clear outline of what we were to discuss and we need to get back to that. If you would like a refresher on that, I would be more than happy to remind everybody that what we are considering is the record needs to consider the quality and weight of the evidence. The evidence is reliable and credible. The nature of the evidence, i.e. what is the nature of the evidence, i.e. personal account, real time documentation, or official record. And does Commissioner Patterson's response raise concerns that the evidence may be incomplete, insufficient, or unreliable? Anything that varies from that should not be part of our discussion.

9. Open Discussion:

Chair Roth:

Open discussion. Grant.

Commissioner Howell:

Yeah, Chris, I just had one quick question. In the criteria for censure, we have a line item three which says, "Has the board member violated the oath of office?" I was looking for the oath of office. It's not present in our Board Policy Handbook. Is there a copy that we can review?

Chair Roth:

Janine probably has-

Commissioner Howell:

I know I said it like six months ago, but I would like to review it for the record if that's all right.

Chair Roth:

Janine, can you get a copy of it?

General Manager Casey:

Yes. Everybody received, well as he said, took the oath of office and they've received a copy of their certificate. I can do that again, absolutely.

Chair Roth:

Thank you.

Commissioner Howell:

Thank you.

Commissioner Johnson:

Chair Roth?

Chair Roth:

Yes.

Commissioner Johnson:

Since that is not available currently, I would suggest that be provided to us to review and then we would take no action at this meeting.

Chair Roth:

Am I hearing any discussion from anybody else?

Commissioner Johnson:

Well, I'd like to hear what Steve has to say about that also.

Chair Roth:

Okay.

Mr. Steve Shropshire:

Couple comments. First is, if it is not in the board packet and you all have not otherwise been able to review it in the light of this particular situation, then I think that's one of the criteria and you need to be able to evaluate the conduct that's been complained of and the evidence in light of what the board oath document sets. In terms of scope, there were a number of different comments that strayed a bit. So I want to make it clear that the board chose to hold this proceeding on a very specific contextual set of facts. So I recognize that there have been difficult relations over the years and that you are, thankfully, I think taking good steps toward getting SDAO involved to help create a more productive board environment going forward.

Mr. Steve Shropshire:

But frankly, the Board has chosen not to look back in time or consider any conduct that Commissioner Patterson may have engaged in other than exactly that point in time last spring. So I understand that there's context for everybody's point of view. However, the comments that Commissioner Magura and Commissioner Johnson made probably strayed a little beyond the scope of what's in front of us today. Likewise, the comments by Commissioner Patterson strayed from the

scope of what's before us today. So I would ask all of you that, well, suggest, sorry, I'm not in position to ask. I would suggest that you be mindful of the limited scope of what you're here to consider in this proceeding. And I know, that's not easy. You do everything in context. It's sort of a tall order to be able to compartmentalize to the extent that you've chosen to do so in this proceeding, but that is what you've chosen.

Chair Roth:

Thank you, Steve.

Commissioner Howell:

Chris, if you would pardon me to step away for a moment. I do have a copy of my election certificate in my office. Do you mind if I go ran and grab that really quick and see if-

Chair Roth:

No, we've got time.

Commissioner Howell:

-I'd just like to review it. Please-

Mr. Steve Shropshire:

If I could offer a suggestion, and of course the Board may make its own decisions, but it's a one page document, as I recall, and perhaps Janine or one of the others of you could simply share a screen.

General Manager Casey:

Yes.

Mr. Steve Shropshire:

You could all look at it.

General Manager Casey:

Yes, I can actually go get the certificate and then can I read it? It's just two to three lines.

Commissioner Howell:

I think that would be sufficient. How does the rest of the Board feel about it?

General Manager Casey:

All right, let me go get it.

Commissioner Howell:

Thanks, Janine.

General Manager Casey:

Okay, can you hear me?

Chair Roth:

Yes.

Commissioner Howell:

Affirmative.

General Manager Casey:

It says, "I," and then, "state your name, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitutions of the State of Oregon, the laws thereof, and the charter and ordinances of the Rivergrove Water District, and that I will faithfully discharge the duties of Commissioner, according to the best of my ability."

Commissioner Johnson:

Thanks, Janine.

Commissioner Howell:

Yeah, thank you.

General Manager Casey:

You're welcome.

Commissioner Patterson:

Thank you.

General Manager Casey:

You're welcome.

Chair Roth:

Does that help anyone with their issues?

Commissioner Howell:

Yes, absolutely. Thank you.

Chair Roth:

Okay. So, Jim?

Commissioner Johnson:

Well, Chair Roth, I was going to try to bring this to a close somehow here. I have issue with how Commissioner Patterson handles herself representing the District or not representing of the District, but as it relates to this specific situation, I cannot support censure because we don't any evidence in this record. We all know of things, but we don't have any evidence in this record of a past pattern of practice, even though we all kind of realize historically this has happened, but there's no evidence in this record of that past pattern of practice.

Commissioner Johnson:

And then the fact that what Mr. Carlisle brought up about the audio recording. There's parts of the evidence missing in this record. And well, personally, I have issues with how things have been handled in the past or whatever. When we're looking strictly at the evidence in this record that we're dealing with tonight and the criteria for review, I cannot support a censure based on this record. I do have issues with how things have been happening at the Board. The training should go a long ways

towards dealing with that. But based on the lack of some of the evidence that I think would be needed to strengthen the record, I could not support a censure vote tonight.

Chair Roth:

Others?

Commissioner Howell:

I would concur with Jim regarding the evidence and the censure criteria that the Board approved on. I'm a pen and paper kind of guy and I really want to see a better focus on documentation in general. I think that whatever the Board chooses to do in the future and however we proceed, we really need to make sure that we have a good written record. So I cannot support a censure at this time, given the evidence that's been presented, weighing it against the criteria that we have.

Commissioner Johnson:

Chair Roth, I have a question for Steve. Steve, would a lack of a motion tonight just basically make this go away?

Mr. Steve Shropshire:

Jim, I believe you'll need to take a motion one way or the other.

Commissioner Johnson:

Okay, that's what I wanted to know.

Mr. Steve Shropshire:

No, it requires a vote one way or other either. And I would just suggest that it's posed as not necessarily a motion, but on the question of censure, aye in favor of censure or nay against is the way that you should structure that.

Commissioner Johnson:

Thanks, Steve.

Chair Roth:

Does anyone else wish to make a comment? Any other Board member?

Commissioner Magura:

Yeah, I can see the logic behind what Jim is saying, and I guess I reluctantly concur in it. And I hope Sherry can take this as a teachable moment and learn to maybe restrain some of her impulses in her future actions working with the Board. We need to be a cohesive body. We have huge, serious challenges facing us with our water distribution piping that we need to be thinking proactively on going ahead. There's huge opportunities with the recently passed federal infrastructure bill. There should be a lot of money coming to Oregon and some of it may have Rivergrove's name on it. I hope so. And with that, maybe Chair Roth, would you entertain a motion at this time?

10. Vote on Censure:

Chair Roth:

Yes.

Commissioner Magura:

I move that the motion to censor, censure, pardon me, Commissioner Patterson be removed.

Chair Roth:

Is there a second?

Commissioner Patterson:

Second.

Chair Roth:

All those in favor?

Commissioner Howell:

I'm sorry, are we going to have some discussion on the motion on the table first?

Chair Roth:

Okay.

Commissioner Howell:

Per Steve's advice, wouldn't it be simpler for Chris to call a vote or do we have to have a motion to approve of or not? Because Steve, pardon me, I just want to make sure that we're doing this correctly.

Mr. Steve Shropshire:

Yeah, I think you get there by different paths, but for the cleanest approach, I would just suggest Chair Roth, without a motion, just put the question, the purpose of the meeting, is to consider the question. And so my suggestion would just be that Chair Roth puts the question before the Board, shall the Board censure Commissioner Patterson, aye or nay?

Commissioner Magura:

I withdraw my motion then.

Chair Roth:

Okay. So you all heard Steve's phrasing, which I find completely acceptable. Yay, if you want to see the censure effort withdrawn. And Steve, your shaking your head no.

Mr. Steve Shropshire:

So it's, the question before the Board is whether to censure and a yes vote would be in favor of censure, a no vote would be against.

Chair Roth:

Okay.

Mr. Steve Shropshire:

That's my bad.

Chair Roth:

Listening to Steve's explanation better than mine, all those in favor.

Commissioner Johnson:

I think that we should... Janine, could you call a roll by name and each person vote?

General Manager Casey:

Yes, I can do that. Commissioner Magura.

Commissioner Magura:

Aye.

General Manager Casey:

Commissioner Howell.

Commissioner Howell:

Nay.

General Manager Casey:

Commissioner Johnson.

Commissioner Johnson:

No.

General Manager Casey:

Commissioner Patterson.

Commissioner Patterson:

No.

General Manager Casey:

Commissioner Roth.

Chair Roth:

To withdraw.

Mr. Steve Shropshire:

A no vote is a vote against censure and aye vote is against in favor of censure. Sorry, aye vote would be in favor of censure.

Chair Roth:

Aye.

General Manager Casey:

So the nays have it by a vote of three to two.

Chair Roth:

We have our direction.

Commissioner Magura:

We have any other business before us tonight?

Chair Roth:

No, we do not. And actually, we are two minutes ahead of schedule. So bring to a conclusion this sad and sorry incident. It is with no great pleasure that I voted aye on the measure or on the suggestion. We've got a lot of internal work to do and it's time to start on that. And Mark Knudson has already said he would be available for setting up a whole series of board meetings to deal with board internal mechanisms. We will go from there and thank you all for being here and happy holidays to all of you.

11. Adjournment:

Chair Roth:

I will adjourn the meeting at 6:34, 1 minute ahead of the schedule.

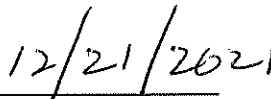
Commissioner Magura:

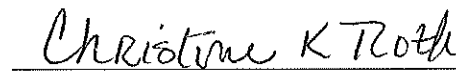
5:34 Chris.

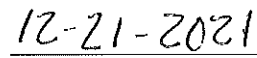
Chair Roth:

Or 5:34. I'm sorry. I can't tell time. So 5:34, we are done. Thank you all.


James W. Johnson, Secretary


Date


Christine K. Roth, Chair


Date

Special Meeting - 12/10/21

Attendees

Name (Original Name)	User Email	Total Duration (Minutes)	Guest
Janine Casey	jcasey@rivergrovewater.com	114	No
Christine Roth		111	Yes
Sherry's iPad		107	Yes
Steve Shropshire - Jordan Ramis PC (ServiceCenter)	service.center@jordanramis.com	104	Yes
Jim Johnson		1	Yes
Region 8 Zoom	asceregion8@gmail.com	102	Yes
Bonnie Robb	brobb2000@aol.com	101	Yes
12067946616		98	Yes
Joe Carlisle		96	Yes
Grant Howell (Granth)		96	Yes
Edwin Thompson		1	Yes
Michelle	lgfd.57@gmail.com	95	Yes
janicestrovink		92	Yes
Lisa (mark)		90	Yes
maliagibbons		85	Yes
Jon Harrell	firepapa18@gmail.com	84	Yes
iPhoneJim Johnson		1	Yes

