

**TANNER ELECTRIC COOPERATIVE  
BOARD OF DIRECTORS**

**Regular Meeting  
December 14, 2021  
3:00 p.m.**

**MINUTES**

The Tanner Electric Cooperative (TEC) Board of Directors met online in Regular Session at 3:00 p.m. on Thursday, December 14, 2021. Staff attended the meeting online from the boardroom at the TEC administration building in North Bend, Washington.

**I. CALL TO ORDER**

Board President, Mike Hodge, called the meeting to order at 3:06 p.m.

**II. ROLL CALL & PLEDGE OF ALLEGIANCE**

Roll call was taken, and the following were present online and participated by video conference:

President Mike Hodge  
Vice President Roger Guay  
Treasurer Paul Bay  
Secretary Susan Serrette-Egan  
Steve Nicholes  
John Saatela  
David McGoldrick

**Absent:** Carol Paschal and Dutch Siedentopf.

**Quorum:** A quorum was established.

**Staff Present:**

Steven Walter, Chief Executive Officer  
Nick Himebauch, Operations Manager  
Kevin Burns, Director of Finance  
Lisa Peabody, Executive Administrative Assistant  
Joel Merkel, General Counsel

### **III. APPROVAL OF THE BOARD MEETING AGENDA (Action Item)**

Motion: To accept the Board meeting agenda as presented. The motion was seconded and passed by a unanimous voice vote of all Directors participating by video conference as follows:

RESOLVED, that the December 2021 TEC Board meeting agenda be, and is hereby approved.

**Moved:** Roger Guay      **Second:** David McGoldrick      **Status:** Passed

### **IV. UNFINISHED BUSINESS**

#### **Receive the Consent Agenda (Action Item)**

Motion: To receive the consent agenda items for the December 2021 TEC Board meeting. The motion was seconded and passed by a voice vote of all Directors present and participating by video conference as follows:

RESOLVED, that the consent agenda as set forth in an attachment to the meeting agenda that was distributed to all the Board members be and is hereby received as presented.

**Moved:** Paul Bay      **Second:** Steve Nicholes      **Status:** Passed

#### **Approval of the Board Meeting Minutes (Action Item)**

The minutes from the previous meeting were included as an attachment to the agenda and distributed to the Board for review.

Motion: To accept and approve the TEC Board meeting minutes from November 18, 2021, as amended. The motion was seconded and passed by a unanimous voice vote of all Directors present and participating by video conference as follows:

RESOLVED, that the November 2021 TEC Board of Director's meeting minutes be, and are hereby approved.

**Moved:** Paul Bay      **Second:** Roger Guay      **Status:** Passed

**Approval of the Summary minutes for the *Ruralite* (Action Item)**

Motion: Move to approve the November Board meeting minutes as amended for the *Ruralite* magazine. The motion was seconded and passed by a unanimous voice vote of all Directors present and participating by video conference as follows:

RESOLVED, that the November 2021 minutes for the *Ruralite* be, and are hereby approved.

**Moved:** Roger Guay                      **Second:** Paul Bay                      **Status:** Passed

**V. FINANCIAL REVIEW – Mr. Kevin Burns (Action Item)**

**TEC Funds Disbursement List**

The Board reviewed the Checks, ACH and Wire Transactions for November.

**Monthly P & L**

Mr. Burns presented the monthly profit and loss reports to the Board.

Motion: To receive and file the Financial Reports as presented to the Board for November 2021. The motion was seconded and passed by a voice vote by all the Directors present and participating by video conference as follows:

RESOLVED, that the November Financial reports as presented be, and are hereby received by the Board without modifications.

**Moved:** Paul Bay                      **Second:** David McGoldrick                      **Status:** Passed

**VI. REPORTS**

**CEO Report – Mr. Steven Walter**

Mr. Walter prepared a verbal report to the Board and discussed the challenges of employee retention issues being faced by the NRECA, other cooperatives and trade organizations in our region due to the unceasing pandemic.

### **Operations Manager Report – Nick Himebauch**

Mr. Himebauch submitted a written report that was distributed to the Board as an attachment to the meeting agenda that included a current project update.

### **Personnel Committee –Mike Hodge, Chairperson**

Mr. Hodge reported that the committee met on December 1<sup>st</sup> to conduct the CEO annual performance review.

### **Finance & Audit Committee – Paul Bay, Chairperson**

Nothing to report

### **Policy & Bylaws – Dutch Siedentopf, Chairperson**

Chairperson was absent, nothing to report.

### **New Technology & Conservation –Roger Guay, Chairperson**

Nothing to report

### **Operations and Facilities – Steven Walter, Chairperson**

Nothing to report

### **Union Affairs – Steven Walter, Chairperson**

Nothing to report.

### **Youth Development – Susan Serrette-Egan, Chairperson**

The committee will meet after the first of the year to discuss scholarship recommendations for 2022.

## **VII. OTHER REPORTS**

### **General Counsel Joel Merkel**

On Friday December 10, 2021, the Superior entered an order determining that no remaining legal challenges by the utilities issues are currently "ripe" in their lawsuit challenging the King County ROW "rental fee." The Court's reasoning was highly technical. It did not reject the various utility claims. It merely reasoned that until negotiations between the utilities and the County are attempted and fail, the utilities have not actually been "harmed." The Court went on to reason that until the utilities have been "harmed" they lack "standing" to bring an lawsuit challenging the rental fee ordinance (Ord. 18403) or the Rule implementing the Ordinance (Rule 9-2) as it applies to them individually.

The Court held that the Ordinance and the Rule were "facially valid," however, because the County argued that the Ordinance and the Rule would merely be the basis of a "first ask" to each utility which the County may deviate from in calculating rent for each utility based on its circumstances. In short, the utilities and the County must first attempt to negotiate franchise terms individually before their remaining claims can be brought and heard. If negotiations fail, then the utilities could claim to be "harmed," which would give them "standing" to bring their challenges the Ordinance and the Rule. The utilities do continue to have a variety of challenges to the rental fee. The Court's order appears to merely put those claims on hold pending the outcome of negotiations between individual utilities and the County.

While Court's order did not actually dismiss the lawsuit, it is clear that March 2022 trial date is no longer on the Court's schedule as no issues are "ripe" to be considered at a trial in March. Thus, a trial will not be held in March; however, the Court's order left it somewhat unclear whether the unresolved issues in the lawsuit would remain pending during efforts to negotiate between the County and the utilities or be dismissed. In any case, if negotiations fail, the utilities will have the right to renew their legal challenges to the application of the Ordinance and the Rule "as applied" to them individually or as a group.

## **VIII. NEW BUSINESS**

### **TEC Tariffs**

The Board reviewed the TEC Tariffs as amended to reflect the \$4.00 per month project development adjustment as outlined and approved by the Board in the 2022 budgets.

**Motion:** To approve the revised tariffs as presented during the Board meeting on December 14, 2021. The motion was seconded and passed by a unanimous voice vote of all Directors present and participating by teleconference as follows:

RESOLVED, that the revised TEC tariffs be, and are hereby approved by the TEC Board of Directors on December 14, 2021.

**Moved:** Paul Bay

**Second:** Susan Serrette-Egan

**Status:** Passed

## **IX. ADJOURN TEC BOARD MEETING**

Following no further business, the Board President adjourned the December 2021 Board of Directors meeting at 3:53 p.m.

Following the regular meeting the Board met in an executive session to discuss the CEO annual performance and compensation evaluation.