

**Tualatin Valley Water District**



**BOARD OF COMMISSIONERS  
1850 SW 170<sup>th</sup> AVENUE  
BEAVERTON, OR 97006**

**WORK SESSION AGENDA  
TUESDAY - MARCH 13, 2012**

**6:00 PM – 8:00 PM**

This meeting is accessible to persons with disabilities.  
Accommodations including listening devices are available  
upon request 48 hours prior to the day of the meeting by  
contacting the Executive Assistant, 503-642-1511

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3. ADJOURNMENT

**TUALATIN VALLEY WATER DISTRICT  
WORK SESSION AGENDA ITEM**

**MEETING DATE: MARCH 13, 2012**

**TITLE: RATE DESIGN WORKSHOP #2**

**ITEM:** A presentation will be given by Finance staff to present additional information on potential adjustments to the District's design of its water rates. During the presentation, staff will present answers to questions developed by the Board during the December 6, 2011 Work Session. These issues include:

- Fixed charges: Staff has created two additional scenarios to address the District's fixed charges based on questions from the Board.
- Private fire service charges: Staff will discuss recommendations to address questions raised by the District's current charges for private fire services.

**STAFF RECOMMENDATION:** Informational Item

**BUDGET IMPACT:** None at this time

**ADDITIONAL INFORMATION:** Paul Matthews, Chief Financial Officer, 503-848-3017, paulm@tvwd.org, or Tod Burton, Financial Planning, 503-848-3040, todb@tvwd.org

**ATTACHMENTS:** None

**APPROVING MANAGERS INITIAL:**

CHIEF EXECUTIVE OFFICER	_____	HUMAN RESOURCES	N/A
FIELD OPERATIONS	N/A	INTERGOV. RELATIONS	N/A
FINANCIAL SERVICES	_____	CUSTOMER SERVICES	_____
ENGINEERING SERV.	_____		

**TUALATIN VALLEY WATER DISTRICT  
WORK SESSION AGENDA ITEM**

**MEETING DATE: MARCH 13, 2012**

**TITLE: BOARD MEETING PUBLIC COMMENT PROCESS**

**ITEM:** During the January Board of Commissioners meeting, Commissioner Doane expressed interest in having a discussion of the public comment process used during Tualatin Valley Water District (TVWD) Board of Commissioners meetings. The primary issue revolves around the use of the public comment time on topics that are not germane to the work of the District or statements, offered either during an agenda item or public comment period, that are potentially defamatory or in which the facts are in question. An additional situation might involve comments that could be considered electioneering in nature.

Staff prepared the attached memo that provides background on the current process and provides some issues the Board may want to discuss. Incorporated in this memo are comments provided by Commissioner Doane.

**STAFF RECOMMENDATION:** There is no staff recommendation. This topic is for informational purposes only yet the Board is welcome to provide feedback to staff on expectation of how public testimony should be conducted.

**BUDGET IMPACT:** None

**ADDITIONAL INFORMATION:** Todd Heidgerken, [toddh@tvwd.org](mailto:toddh@tvwd.org), 503-848-3013

**ATTACHMENTS:** Copy of “Board Meeting Public Comment Process” Memo dated March 5, 2012

**APPROVING MANAGERS INITIAL:**

CHIEF EXECUTIVE OFFICER _____		HUMAN RESOURCES	N/A
FIELD OPERATIONS	N/A	INTERGOV. RELATIONS	_____
FINANCIAL SERVICES	N/A	CUSTOMER SERVICES	N/A
ENGINEERING SERV.	N/A		

# Tualatin Valley Water District



## Memo

**To:** Tualatin Valley Water District Board of Commissioners

**From:** Todd Heidgerken, Manager, Community and Intergovernmental Relations

**CC:** TVWD Management Team

**Date:** March 5, 2012

**Re:** Board Meeting Public Comment Process

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During the January Board of Commissioners meeting, Commissioner Doane expressed interest in including as a future work session topic a discussion of the public comment process used during Tualatin Valley Water District (TVWD) Board of Commissioners meetings. The primary issue revolves around the use of the public comment time on topics that are not germane to the work of the District or statements, offered either during an agenda item or public comment time, that are potentially defamatory or in which the facts are in question.

A third situation involved comments that could be considered electioneering in nature. The Board has adopted a policy regarding the distribution of information regarding local government bond and levy ballot measures (Article 1.10.180). During the discussion of this policy, Board members expressed their desire for the District not to be perceived as advocating on political issues. The Board took further steps and adopted a policy that prohibits the distribution of election information material by TVWD (refer to Article 1.10.180 (II)). Presumably this same standard could be applied to comments made during public testimony in order to be consistent with this approach.

### **CURRENT APPROACH:**

Included on the agenda for each Board meeting is a time for “Public Comment” on items on the consent agenda or items not on the agenda. Those wishing to make a comment are asked to complete a “Regular Meeting Testimony” form that requests information about the nature of the comment, information about the commenter and provides an opportunity to submit a written statement for the record. Public comments are limited to five minutes at the Board meeting yet it may be extended by the Board.

As you are aware, Board meetings are recorded (both by audio tape and video DVD). These recordings are then broadcast on public access television and made available on the TVWD web site for either listening or viewing. In addition, a live audio stream of the meeting is accessible

over the internet. The video recording and editing is provided by TVCTV. Editing of the video, which includes the insertion of graphics and captions (i.e. what that agenda item is or who is speaking), is performed during the meeting and a final DVD is provided to TVWD shortly after the conclusion of the meeting. TVWD doesn't perform any editing to the DVD other than converting it into a format that allows for viewing on the TVWD web site.

### **BACKGROUND:**

TVWD operates under state public meeting laws and establishes Board policies. Although the state public meetings law is not a "public participation law", the right of the public to attend meetings does not include the right to participate by giving testimony or comment. An exception to this is when the Board is:

- Considering employment of a public officer.
- Determining standards used in hiring a chief executive officer.
- Consideration of rates and budget.

The TVWD Board has adopted a policy that creates a time for public testimony (Article 1.10.100, Resolution No. 8-03). There is no additional guidance on how the Board conducts the public testimony process so the Board has considerable flexibility on how to incorporate the public testimony process in the meeting.

### **ISSUES TO DISCUSS:**

From existing Board policy, it is evident that the Board values public information from citizens and does not want to be perceived as an advocate on election related issues. Where there is a concern is when the public testimony is not germane to the District's business, is used for electioneering, or the testimony offers defamatory or factually incorrect information.

Some ideas the Board may want to discuss could include:

- Establishing limits so that testimony is germane to District business or relates to only those items on the agenda.
- Create a "disclaimer" that can be used clarify that comments may not reflect the views of the District.
- Prohibit certain types of testimony that could be considered electioneering.
- Modify the Board agenda to limit the portions of the meeting that are actually available for rebroadcast (entire meeting would still be recorded)

Although Commissioner Doane is not able to attend the Board work session, he has asked that the Board proceed with the discussion in his absence. He also provided comments that have been incorporated at the end of this memo.

Staff is seeking guidance on how the Board would like to incorporate public testimony opportunities. Since there is no written policy on how public testimony is to be conducted, the Board is free to provide input to staff. Any changes that might eliminate the inclusion of public testimony would require the Board to amend Article 1.10.100 during a future Board meeting.

### Comments Provided by Commissioner Doane:

I have three suggestions concerning public comments. The ideas are potentially mutually exclusive but perhaps not. I am ok with listening to whatever people want to say, but I am opposed to TVWD providing televisions access time to everybody who has an ax to grind.

- I am concerned about people using the public comment period for political purposes. To that end, as soon as the opponents or proponents of anything file an initiative petition or talk about filing an initiative petition on any topic, then the topic becomes political and I don't think we can allow it during the public access time. Same thing with candidates and bond issues. I think that we should have edit rights to the TV coverage to cut out people who talk on political matters. Maybe a blank screen with the words, "The topic being discussed is political in nature and inadmissible to be aired" under TVWD's rules. (Clark can put together the wording),
- I am concerned about people saying whatever they want about whatever they want and not necessarily expressing facts or truth. So I would like to have a moving banner on the bottom of the screen that is a disclaimer about veracity both during the public comment period and when the public is making comments on items on the agenda. Something like (Clark can put together the wording), "The opinions expressed are the opinions of the persons attending the TVWD Board meeting and not necessarily those of TVWD. TVWD has not investigated and thus cannot affirm the truthfulness of the statements being made."
- I think that the Board should commit to listening to the statements made during the Public Comment period, but not broadcast them. Editing would be easiest, but if we don't have editing ability, I propose that we open the public comment portion of the meeting at 7, take public comment until they are over or until 7:30 and close the public comment portion of the meeting. Then we open the televised meeting at 7:30.