



10602 S.E. 129th Avenue, Happy Valley, OR 97086-6218  
tel: 503.761.0220 • fax: 503.761.7406  
www.sunrisewater.com

Board of Commissioners Special Meeting  
**Wednesday, May 9, 2018 – 6:00 p.m.**

AGENDA

CALL REGULAR MEETING TO ORDER

- Pledge of Allegiance
- Approval of Agenda

PUBLIC COMMENT

Please sign the attendance sheet. Members of the public are welcome to speak for a maximum of three minutes. Public comment provided at the beginning of the agenda will be reserved for comment on special presentations, letters and complaints. Public comment related to specific agenda items must be held until the board addresses that item.

1. DISCUSSION ITEMS

- 1.1 Board Candidate Interviews
  - a. Gary Barth
  - b. Stan Tempchin
- 1.2 NCCWC Water Rights
- 1.3 Financial Guarantee Required by City of Happy Valley for Reservoir 11 Project

2. STAFF REPORTS

- 2.1 Manager's Update

3. BOARD BUSINESS

- 3.1 Board Business

ADJOURN

**POSTED PER REQUIREMENTS, MAY 4, 2018.**

The meeting site is accessible to persons with disabilities. Requests for an interpreter for the hearing impaired should be directed to Cindy Wolff at 503-761-0220 or cwolff@sunrisewater.com at least 48-hours in advance.

# SUNRISE WATER AUTHORITY

## REGULAR BOARD MEETING

**May 9, 2018**

**SUBJECT** Board Candidate Interviews

<b>BOARD ACTION REQUESTED</b>	(1) Conduct second interviews of the two finalists (2) Discuss and select a candidate
<b>EFFECTIVE DATE</b>	May 9, 2018

**PRINCIPAL STAFF PERSON** Cindy Wolff, Administrative Assistant

**DOCUMENTS ATTACHED** None.

**Summary**

**BACKGROUND** The recent resignation of Commissioner Steve Gaschler created a vacancy on the Board for the Zone 2 representative. The Board directed Staff to issue a general public solicitation for candidates. The notice was sent to all customers within the zone, and published on Sunrise’s website and Facebook page. Five citizens applied for the vacancy and all five applicants were interviewed by a select group of Board members (search committee) on April 16 and 18. The search committee narrowed the candidate pool to two finalist.

**ANALYSIS** The two finalist are Gary Bath and Stan Tempchin. The two finalist are expected to appear before the Board for interview by the entire Board. The Board intends to select one of these candidate to fill the vacant Zone 2 position.

**OPTIONS** NA

**STAFF RECOMMENDATION** Decision made at Board’s discretion.

# SUNRISE WATER AUTHORITY

## REGULAR BOARD MEETING

**May 9, 2018**

**SUBJECT** NCCWC IGA and Water Rights

<b>BOARD ACTION REQUESTED</b>	Open discussion regarding the NCCWC IGA and water rights
<b>EFFECTIVE DATE</b>	May 9, 2018

**PRINCIPAL STAFF PERSON** Wade Hathhorn, General Manager

**DOCUMENTS ATTACHED** Memo from General Manager Outlining NCCWC Water Rights

**Summary**

**BACKGROUND** The ongoing creation of a new Intergovernmental Agreement (IGA) for the North Clackamas County Water Commission (NCCWC) outlines assignment of various key assets, including water rights. Historically, Oak Lodge and city of Gladstone transferred their water rights to the NCCWC (and Sunrise) totaling 48.9 MGD – 40 MGD was from Oak Lodge’s permit and the other 8.9 MGD came from Gladstone in a combination of permits and a certificate. A summary of these rights is attached.

**ANALYSIS** The attorneys representing the member agencies are working on final revision to the proposed new NCCWC IGA. One of the items of interest is the proposed language surrounding “dissolution of the NCCWC.” Under dissolution, the water rights are distributed to the parties based on prior agreement: Oak Lodge would get 20.5 MGD from a combination of their original permit and permits from Gladstone; Sunrise would get 22 MGD from Oak Lodge’s permit; and Gladstone would get 6.4 MGD from a combination of the remaining Oak Lodge permit and the city’s original rights (including the 2.6 MGD certificate).  
  
Alternatively, Oak Lodge has asked for all of its original rights to be returned (totaling 8.9 MGD). The NCCWC Board agreed in concept, noting this would only occur in the event of dissolution and that the capacity of the remaining rights to be distributed to Oak Lodge and Sunrise exceed the capacity of the plant (with further restrictions to points of diversion at the plant and CRW).

Assuming this change is approved by the respective Boards/Council, the parties would receive the following water rights upon dissolution of the NCCWC:

- a. Oak Lodge: 17.5 MGD of their original permit\*
- b. Sunrise 22.5 MGD of Oak Lodge's original permit\*
- c. Gladstone: 8.9 MGD of the entire original permits/certificate

(\*Based on dissolution under the Second Amended NCCWC IGA). This detail is presented for informational purposes only regarding the on-going work on the NCCWC IGA. No formal action is necessary, unless there is greater consensus to oppose the proposed change.

**OPTIONS**

NA

**STAFF  
RECOMMENDATION**

Open Discussion

# Memo

To: Sunrise Board of Commissioners  
From: W. Hathhorn, General Manager  
cc:  
Date: May 9, 2018  
Re: NCCWC Water Rights

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Historically, Oak Lodge and city of Gladstone transferred water rights to the NCCWC (and Sunrise) totaling 48.9 MGD – 40 MGD was from Oak Lodge’s permit and the other 8.9 MGD came from Gladstone in a combination of permits and a certificate. In the existing NCCWC IGA, Sunrise receives 18.9 MGD of these rights – 15 MGD from Oak Lodge’s permit and 3.9 MGD from Gladstone permits. The NCCWC plant is operated on the remaining 30 MGD of rights – 25 MGD from Oak Lodge’s permit and 5 MGD from Gladstone rights (including a 2.6 MGD certificate).

In 2006, the NCCWC conducted operations to document “beneficial use” of 21.3 MGD under the Oak Lodge permit, this “certification” was later reversed by Oregon Water Resources Department following the state’s ruling in the “Cottage Grove” case, which requires all certificated withdrawals be subject to the state’s “fish persistence” standard following the passage of HB 3038 in 2005 (note this is one year before the certification test was performed by the NCCWC). This ruling pushed the certification of the NCCWC water right back to its previous “c-date” in 2000 which “proved up” on only 12.6 MGD. In any case, the NCCWC has been trying to “protect” (through certification) as much of the original Oak Lodge water right as possible – it’s the most senior (and valuable) of the rights held by the NCCWC (except the 2.6 MGD certificate once owned by Gladstone).

Notwithstanding, a number of questions have come up regarding the language in the proposed 3<sup>rd</sup> Amended IGA related to allocation of water rights to the parties under Dissolution which states (Section 6.5):

- (iii) Upon dissolution, the water rights of the NCCWC shall be distributed as follows:
  - a. Oak Lodge: 15.5 mgd from Permit S-35297, 3.9 mgd from Permit S-46120 and 1.1 mgd from Permit S-43170
  - b. Sunrise: 22 mgd from Permit S-35297;

- c. Gladstone: 2.5 mgd from Permit S-35297, 2.6 mgd from Certificate 79828, and 1.3 mgd from Permit S-46120 shall go to Gladstone.

This allocation comes from similar language in the existing IGA, see First Addendum to the Second Amended IGA), Section 6(a), which states:

“The Parties have transferred a total of 48.9 MGD of water rights permits and applications to the Commission. Upon termination of the Addendum No. 1 or dissolution of the NCCWC with the first phase of the facility expansion completed, but the second phase not completed, the Parties shall be deemed to be the owners of 25MGD of Clackamas River water rights held by the Commission for use at the site. The share of ownership for each party shall be in the same proportions as its undivided ownership in the Commission. In addition to its partial ownership of the 25 MGD, Sunrise shall also be deemed the owner of 10 MGD of the remaining 23.9 MGD and Oak Lodge shall be deemed owner of 10 MGD of the remaining 23.9 MGD and Gladstone shall be deemed the owner of 3.9 MGD. Gladstone’s share of water rights shall include those Clackamas River water rights certificated at the time of this Addendum given to the Commission by Gladstone (2.6 MGD).”

To do the ‘math’ here, you have to put the original pieces together: Oak Lodge put in 40 MGD from Permit S-35297 and Gladstone put in 8.9 MGD (5.2 MGD from Permit S-46120; 2.6 MGD from Certificate 79828; 1.1 MGD from Permit S-43170). The 40 MGD from Permit S-35297 is to be split 25 MGD by ownership (48% Sunrise; 42% Oak Lodge; 10% Gladstone), which gives 12 MGD to Sunrise 10.5 MGD to Oak Lodge; and 2.5 MGD to Gladstone, with the remaining 15 MGD from Permit S-35297 to be combined with the 5.2 MGD from Permit S-46120; 2.6 MGD from Certificate 79828; and 1.1 MGD from Permit S-43170, totaling 23.9 MGD of remaining rights. Gladstone gets 3.9 MGD of this 23.9 MGD of which 2.6 MGD is to come from its original Certificate 79828 and 1.3 MGD from Permit S-46120 (which is the most senior of the remaining rights from its original holdings). The latter was done in favor of Gladstone (but it also held those rights originally). So, Gladstone would get a total of 6.4 MGD of rights (2.5 from Permit S-35297; 2.6 MGD from Certificate 79828; and 1.3 MGD from Permit S-46120)

This leaves 15 MGD from Permit S-35297, 3.9 MGD from Permit S-46120, and 1.1 MGD from Permit S-43170 to be split by Sunrise and Oak Lodge. In the Second Amended IGA (before Gladstone), the 15 MGD from Permit S-35297 was split (under dissolution) by 10 MGD to Sunrise and 5 MGD to Oak Lodge. This ‘appears’ to be the same 10 MGD that is supposed to go to Sunrise under the First Addendum, giving it a total of 22 MGD. Oak Lodge gets the remaining 5 MGD from Permit S-35297 and the other remaining rights totaling 5 MGD (3.9 MGD from Permit S-46120 and 1.1 MGD from Permit S-43170), giving it a total of 20.5 MGD.

However, depending on how you interpret the Second Amended IGA and its First Addendum, the remaining 20 MGD rights (15 MGD from Permit S-35297, 3.9 MGD from Permit S-46120, and 1.1 MGD from Permit S-43170) could be split ‘equally’ between Oak Lodge and Sunrise in a variety of ways. The method cited here acknowledges the additional language between the parties under the Second Amended IGA.

More recently, Gladstone has asked to revise the proposed language for dissolution to allow for a return of all of its original water rights if the NCCWC were to actually dissolve. The NCCWC Board has agreed in concept noting the change affects only a portion of the most junior (and least desirable) of the rights held by the NCCWC (which is authorized under a permit that will likely never become a certified right). The change would return all of Gladstone’s 8.9 MGD of rights (including its 2.6 MGD certificate) upon dissolution of the NCCWC and the remaining Oak Lodge permit would be split\*: 17.5 MGD to Oak Lodge and 22.5 MGD to Sunrise (\*this follows the language outlined in the Second Amended IGA, prior to Gladstone).

**SUNRISE WATER AUTHORITY**

**REGULAR BOARD MEETING**

**May 9, 2018**

**SUBJECT** Happy Valley Financial Guarantee for Reservoir 11

<b>BOARD ACTION REQUESTED</b>	Approve “set aside” of \$475,763 to fund performance guarantee required by the City of Happy Valley for Reservoir 11 Project and related stockpiling.
<b>EFFECTIVE DATE</b>	May 9, 2018

**PRINCIPAL STAFF PERSON** Wade Hathhorn, General Manager

**DOCUMENTS ATTACHED** Happy Valley Fee Letter for Reservoir 11 Project  
Happy Valley Fee Letter for Armstrong Circle Stockpiling

**Summary**

**BACKGROUND** Approval to construct Reservoir 11 is subject to City of Happy Valley Land Use, Design and Building code. The City has conditioned permitting on a number of issues, one of which includes a “performance guarantee” for the reservoir construction and related temporary stockpiling of soil. These performance guarantees serve as a “bond” to cover the potential costs to restore or repair improper or incomplete construction of the reservoir and stockpiling. The performance bond for the reservoir is for an amount of \$453,150 and \$22,613 for the stockpiling, totaling \$475,763.

**ANALYSIS** The City said the performance guarantee could be established through a performance bond in the name of the City, restricted cash set-aside at a bank or a check made out to the City. The oddity here is that the “scope of work” the City has requested be bonded is already bonded in the construction contract for the reservoir. Sunrise requires a performance bond for 100% of the construction cost.

Staff first chose to explore a restricted cash set aside in our bank account. Wells Fargo was uncertain as to how to proceed based on the paperwork provided by the City (the most similar banking vehicle Wells Fargo has seen is a cash collateralization process and they are still reviewing if that can be modified and used for this purpose, along with analyzing the associated costs). Staff reached out to Columbia Bank on this and on a line of credit for future reserve requirements and their only response is that all services and pricing would be dependent on an existing banking relationship which would be best procured through an RFP process. Staff checked with the state’s LGIP, but that is outsourced to a third party that

only does investing and is not able to provide the needed service. Current interest at the LGIP is 2.1%, so transferring funds out and losing interest on \$475,763 over 2 years would cost \$19,982 in lost interest. Staff then inquired about obtaining a bond but the bond agents indicated the project had already been fully bonded and that a separate bond for the same work was “highly unusual” (in fact they had never heard of such a request involving two public agencies). The bond experts said the proper way to do this was to name the City as an additional “obligee” on the bond. Unfortunately, the City refused to accept that method.

The remaining approach is to send the City a check for the entire amount (to be held without interest over the construction period) or to investigate further the possibility of a restricted bank deposit at Wells Fargo or another institution.

**OPTIONS**

Staff has requested our legal counsel work with City legal representatives to find an appropriate solution.

**STAFF  
RECOMMENDATION**

In the event an alternative approach cannot be agreed on by the City, staff will need authority to create a special restricted bank account to deposit an amount equal to the City’s requested performance bond.

Mayor  
Honorable Lori Chavez-DeRemer

City Manager  
Jason A. Tuck, ICMA-CM



April 20, 2018

Sunrise Water Authority  
Elizabeth Edgar  
10602 SE 129<sup>th</sup> Avenue  
Happy Valley, OR 97086

**Re:** Sunrise Water Authority Reservoir No. 11, DR-21-17  
Performance Guarantee and Final Construction Fees

The City's review for this project is underway. Before permits can be issued, the City will need to receive a performance guarantee for the project and the final construction fees.

### **PERFORMANCE GUARANTEE**

The onsite performance guarantee for this project is based upon the total improvement costs for onsite grading, erosion control, and wall construction. The required guarantee for onsite work is 25% of the Engineer's estimate. The offsite performance guarantee for this project is based upon the total improvement costs for work within the City's public right of way. The required guarantee for offsite work is 125% of the Engineer's estimate.

*Total performance guarantee based upon:*

Onsite Engineer's estimate x <b>25%</b> = \$ 1,571,347 x 25%	\$ 392,837
Offsite/public right of way Engineer's estimate x <b>125%</b> = \$ 48,250 x 125%	\$ 60,313

**TOTAL TO SECURE** **\$ 453,150**

### **PERMIT FEES**

The permit fees for the City's site plan review and inspection are based upon the total construction value for the on-site improvements and the improvements in the public right-of-way. The total construction costs of the project are as follows:

**Total Construction Value** **\$ 1,548,250**

Per the City of Happy Valley Conditions of Approval and Resolution 11-08, the permit fees for the Sunrise Water Authority Reservoir No. 11 site are:

16000 SE Misty Drive, Happy Valley, Oregon 97086-4288  
Telephone: (503) 783-3800 Fax: (503) 658-5174  
happyvalleyor.gov

**Site Development Permit Fee**

Public Improvements

$(\$800) + (7\% \text{ of Construction Value}) = (\$800) + (7\% \times \$48,250) = \$ 4,177.50$

Site Work

$(\$28,500) + (2.5\% \text{ of Construction Value}) = (\$28,500) + (2.5\% \times \$1,500,000) = \$ 66,000.00$

**ESC Permit Fee**

$(\$500 + ((2 - 1 \text{ ac}) \times \$100)) = \$ 600.00$

**Right of Way Permit Fee**

$(\$300 \text{ or } 5\% \text{ of R/W Const. Est.}) = \$ 2,412.50$

LESS plan review deposit paid \$ 5,500.00

**BALANCE DUE \$ 67,690.00**

**OTHER PERMIT ITEMS**

The City will require a certificate of insurance naming the City as additional insured from the contractor prior to scheduling a pre-construction meeting.

**SUMMARY**

In summary, the following items are due prior to release of the approved plans:

- Performance guarantee in the amount of \$ 453,150
- Permit Fees in the amount of \$ 67,690
- Certificate of Insurance **naming the City as additional insured**

If you have any questions, please contact me at 503-783-3815.

Sincerely,



Carol A. Earle, P.E.  
City Engineer

cc Michael Walter, Economic & Community Development Director (via e-mail)  
Travis Warneke, Finance Director (via e-mail)  
Kara Kerpan, City Recorder (via e-mail)

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# FEE LETTER BREAK DOWN

SWA Reservoir No. 11, DR-21-17

## *Performance Bond Calculations*

Total on-site ESC & grading improvements based on the Engineer's estimate

### **Site Work**

Common Excavation	\$440,000.00
Import Backfill (less stockpile cost)	\$592,500.00
Boulder Excavation	\$147,000.00
Rock Excavation	\$62,500.00
Soil Nail Wall	\$252,000.00
Rock Wall	\$6,000.00
	<hr/>
	<b>\$1,500,000.00</b>

### **Erosion Control**

	<b>\$71,347.00</b>
Site Work	<hr/>
	<b>\$1,571,347.00</b>

### **Public (Right of Way) Infrastructure**

147th Avenue Base Rock	\$5,500.00
147th Avenue Paving	\$27,000.00
Demo & Restore Traffic Medians and Speed Bumps	\$15,750.00
	<hr/>
	<b>\$48,250.00</b>

Site Work @ 25%	\$392,836.75
Public Improvements @ 125%	\$60,312.50
	<hr/>
<b>TOTAL TO SECURE</b>	<b>\$453,149.25</b>

## *Construction Value (Based on Engineer's Estimate (On-Site Improvements))*

Grading	\$1,242,000.00
Walls	\$258,000.00
147th Restoration	\$32,500.00
Verlie Restoration	\$15,750.00
	<hr/>
<b>TOTAL CONSTRUCTION VALUE</b>	<b>\$1,548,250.00</b>

FEE LETTER BREAK DOWN  
SWA Reservoir No. 11, DR-21-17

*Construction Permit Fee Calculations*

**Site Development Permit Fee**

Public Improvements

$\$800 + 7\% \times \$48,250$  \$4,177.50

Site Work

$\$28,500 + 2.5\% \times \$1,500,000$  \$66,000.00

**Total Fee** \$70,177.50

**ESC Plan Review Fee**

$\$500 + 2 \quad -1 \quad \times \$100$  \$600

**Right Of Way Permit Fee**

$\$150 \text{ OR } 5\% \text{ of Right of Way Value}$  \$2,412.50

Less Plan Review Deposit \$5,500.00

**BALANCE DUE** **\$67,690.00**

Mayor  
Honorable Lori Chavez-DeRemer

City Manager  
Jason A. Tuck, ICMA-CM



April 20, 2018

Sunrise Water Authority  
Elizabeth Edgar  
10602 SE 129<sup>th</sup> Avenue  
Happy Valley, OR 97086

**Re:** SWA Armstrong Circle Stockpile, DR-21-17  
Performance Guarantee and Final Construction Fees

The City's review for this permit is underway. Before permits can be issued, the City will need to receive a performance guarantee for the development and the final construction fees.

### **PERFORMANCE GUARANTEE**

The onsite performance guarantee for this project is based upon the total improvement costs for onsite grading, erosion control, and wall construction. The required guarantee for onsite work is 25% of the Engineer's estimate.

*Total performance guarantee based upon:*

Onsite Engineer's estimate x **25%** = \$ 90,450 x 25% \$ 22,613

**TOTAL TO SECURE** **\$ 22,613**

### **PERMIT FEES**

The permit fees for the City's site plan review and inspection are based upon the total construction value for the on-site stockpile placement. The total construction costs of the project are as follows:

**Total Construction Value**      \$      **82,950**

Per the City of Happy Valley Conditions of Approval and Resolution 11-08, the permit fees for the SWA Armstrong Circle Stockpile site are:

16000 SE Misty Drive, Happy Valley, Oregon 97086-4288  
Telephone: (503) 783-3800 Fax: (503) 658-5174  
happyvalleyor.gov

**Site Development Permit Fee**

Site Work

(\$5,500) + (5% of Construction Value) =

$(\$5,500) + (6\% \times \$82,950) = \$ 9,647.50$

**ESC Permit Fee**

$(\$500 + ((2 - 1 \text{ ac}) \times \$100)) = \$ 600.00$

**BALANCE DUE \$ 10,247.50**

**OTHER PERMIT ITEMS**

The City will require a certificate of insurance naming the City as additional insured from the contractor prior to scheduling a pre-construction meeting.

**SUMMARY**

In summary, the following items are due prior to release of the approved plans:

- Performance guarantee in the amount of \$ 22,612.00
- Permit Fees in the amount of \$ 10,247.50
- Certificate of Insurance **naming the City as additional insured**

If you have any questions, please contact me at 503-783-3815.

Sincerely,



Carol A. Earle, P.E.  
City Engineer

cc Michael Walter, Economic & Community Development Director (via e-mail)  
Travis Warneke, Finance Director (via e-mail)  
Kara Kerpan, City Recorder (via e-mail)

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**FEE LETTER BREAK DOWN**  
 SWA Stockpile - Armstrong Circle, DR-21-17

*Performance Bond Calculations*

Total on-site ESC & grading improvements based on the Engineer's estimate

**Site Work**

Stockpiling		\$82,950.00
		<b>\$82,950.00</b>

**Erosion Control**

		<b>\$7,500.00</b>
	Site Work	<b>\$90,450.00</b>

	Site Work @ 25%	\$22,612.50
		<b>\$22,612.50</b>

	<b>TOTAL TO SECURE</b>	<b>\$22,612.50</b>
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*Construction Value (Based on Engineer's Estimate (On-Site Improvements))*

Stockpiling		\$82,950.00
		<b>\$82,950.00</b>

	<b>TOTAL CONSTRUCTION VALUE</b>	<b>\$82,950.00</b>
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*Construction Permit Fee Calculations*

**Site Development Permit Fee**

Site Work		
	$\$5,500 + 5.0\% \times \$82,950$	\$9,647.50
	<b>Total Fee</b>	<b>\$9,647.50</b>

**ESC Plan Review Fee**

	$\$500 + 2 - 1 \times \$100$	\$600
	<b>BALANCE DUE</b>	<b>\$10,247.50</b>

**SUNRISE WATER AUTHORITY**  
**REGULAR BOARD MEETING**

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**May 9, 2018**

**SUBJECT**                      Manager's Update

<b>BOARD ACTION REQUESTED</b>	For Informational & Discussion Purposes Only
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**PRINCIPAL STAFF**              Wade Hathhorn, General Manager

**DOCUMENTS  
ATTACHED**                      None

**Summary**

**RESERVOIR 11 UPDATE**      It appears we are nearing the completion of permitting. Unfortunately, the process with the City has been unnecessarily time consuming and expensive. We started the permitting process back in September of this past year. It has consumed hundreds of hours of staff time and cost more than \$60,000 in consulting fees along with nearly \$100,000 in permit fees to the City.

**SUNRISE WATER AUTHORITY  
SPECIAL MEETING  
WEDNESDAY, MAY 09, 2018, AT 6:00 PM**

NAME	AGENCY OR CITIZEN	SPEAKING? YES/NO	AGENDA ITEM	POSITION ON ITEM
1. <i>W R Blum</i>	<i>CRW</i>	<i>NO</i>		
2.				
3.				
4.				
5.				
6.				
7.				

**Speakers are to address the Chairman, not each other or the audience, and are expected to conduct themselves in an appropriate manner. The use of abusive or profane language shall not be allowed. No debate or argument between speakers and/or members of the audience shall be permitted. Each speaker is permitted to address Board for three minutes on any single agenda item.**