



PAJARO VALLEY WATER MANAGEMENT AGENCY

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Board of Directors Meeting
City Council Chambers

June 20, 2007; 7:00 p.m.
250 Main Street, Watsonville, CA

BUSINESS MEETING MINUTES

- 1. Call to Order, Roll Call of the PVWMA Directors, and Pledge of Allegiance:** The Regular Board Meeting of Pajaro Valley Water Management Agency was called to order in the City Council Chambers, 250 Main Street, Watsonville, CA, at 7:00 p.m. by Chair Dobler.

Board Members Present: Dobler, Eiskamp, Imazio, Cervantes, Koenig, Osmer

Board Members Absent: Kegebein

Staff Members Present: Bruce Laclergue, General Manager (GM)
Linda Contreras, Administrative Division Manager (ADM)
Veronica Barboza, Administrative Analyst (AA)

Others Present: Anthony Condotti, Counsel

- 2. Oral Communications.** Joseph Pendry inquired as to the resolution between the City and Agency on two cost issues (land purchase and SCADA/control instrumentation) related to the Recycled Water Facility.
- 3. Director and General Manager Comments.** In response to Mr. Pendry's above inquiry, the GM stated that the SCADA/control instrumentation costs were appropriate, but that the Agency is opposed to reimbursement to the City of any land purchase costs. The GM stated that Item 6.C. Staff Reports, was being pulled from the agenda.
- 4. Consent Agenda.** Director Osmer stated that the Administrative/Finance Committee recommended approval of the financial reports.
 - A. Approve Minutes of May 16, 2007
 - B. Approve Minutes of June 6, 2007
 - C. Approve Disbursement Ledger for May 2007
 - D. Approve Financial Reports for May 2007

◆ Motion by Director Osmer to approve the Consent Agenda as presented. Motion carried by the following roll call vote:

AYES: Dobler, Eiskamp, Imazio, Cervantes, Koenig, Osmer

NOES: None

ABSENT: Kegebein

ABSTAIN: None

- 5. Discussion and/or Action Items**

- Consider Resolution 2007-12, Continuing Billing at \$160/Acre-Foot Until Final Legal Determination of the Agency's Validation Action. The GM summarized the adjustments the Agency made to operations in response to the recent Court of Appeals reversal decision in the validation action. The Agency intends to complete construction on the Coastal Distribution

System and the Recycled Water Facility projects with reliance upon grant funding. In addition, a rate stabilization reserve has been established. The GM recommended approval of Resolution 2007-12, in light of the Board action on June 6th to Petition the Supreme Court. Director Eiskamp objected on the grounds that this resolution was redundant because until the appeals have become finalized, the augmentation charge is \$160/AF based on approved Board ordinances. Director Osmer supported the approval of the resolution because it clarifies the augmentation charge rate. After public comment, the Board directed Staff to continue billing at the current \$160/AF and the following action was taken:

◆ Motion by Director Osmer to approve Resolution 2007-12 as presented. Motion failed by the following roll call vote:

AYES: Imazio, Koenig, Osmer
NOES: Dobler, Eiskamp, Cervantes
ABSENT: Kegebein
ABSTAIN: None

- B. Consider Resolution 2007-13, Creating a New Reserve Account of \$4 Million Dollars to be held for Possible Distribution After a Final Legal Determination is Rendered on the Agency's Validation Action. The GM initiated discussion, stating that the Agency need the funds collected through the \$160 A/F augmentation charge for ongoing construction. Staff recommends establishing a \$4 Million rate stabilization reserve in the event that the Court of Appeals reversal decision in the validation action is upheld. Director Eiskamp urged that the reserve fund be set at a higher level of \$13 Million. After public comment, the Board continued its discussion, with differing Directors' estimations on the correct level of the reserve fund. It was agreed that the Agency does not have the resources to set aside a significantly larger reserve than \$4 Million and still meet the present cash flow requirements for construction over the next few months. The Board directed Staff to return with an updated financial model at a later meeting. After discussion, the following action was taken:

◆ Motion by Director Koenig to approve Resolution 2007-13, as presented. Motion carried by the following roll call vote:

AYES: Dobler, Imazio, Cervantes, Koenig, Osmer
NOES: Eiskamp
ABSENT: Kegebein
ABSTAIN: None

- C. Consider Approval of Final Budget for FY 2007-2008. The GM summarized previous Board action on this budget and explained that the May 21st Court of Appeal reversal on the validation action had necessitated a re-examination of the budget assumptions. The ADM presented a detailed report of proposed budget reductions totaling approximately \$500,000. Director Osmer stated that the Administrative Finance Committee had reviewed the proposed budget reductions. After discussion, the following action was taken:

◆ Motion by Director Koenig to approve the Final Budget for FY 2007-2008, with the approximately \$500,000 in reductions and the rate stabilization reserve of \$4 Million. Motion carried by the following roll call vote:

AYES: Dobler, Imazio, Cervantes, Koenig, Osmer
NOES: None
ABSENT: Kegebein
ABSTAIN: Eiskamp

D. Consider Resolution 2007-14, Certifying Compliance with State Law with Respect to the Levying of General and Special Taxes, Assessments, and Property Related Fees and Charges.

The GM explained that every year by August 1st, the Agency must file a resolution with the assessors of Santa Cruz County, San Benito County, and Monterey County in order for the counties to continue collecting the management fee pursuant to the Agency Act. Brief discussion ensued that included Agency Counsel's response to Director Osmer's question regarding the specific language in the Agency Act authorizing such action, and the ADM's reply to Director Imazio's question regarding how much each county charges the Agency for this service. After discussion, the following action was taken:

◆ Motion by Director Imazio to approve Resolution 2007-14, as presented. Motion carried by the following roll call vote:

AYES: Dobler, Imazio, Cervantes, Eiskamp, Koenig, Osmer
NOES: None
ABSENT: Kegebein
ABSTAIN: None

E. Consider Implementing a Proposition 218 Compliant Approval Process to Establish a Groundwater Charge.

The GM presented this process as a mechanism for the Agency to move forward in light of the Court of Appeals reversal opinion. He referenced Agency Counsel's supplemental memo dated June 20, 2007, and included in the Board packet, in which Agency Counsel had identified and discussed two approaches for Board consideration: 1) a majority protest, and (2) a two-thirds affirmative majority vote of the owners of parcels subject to the charges. The GM recommended approval of a majority protest process, based in large part upon Agency Counsel's memo, which concluded, based on statutory interpretation, that the majority protest process would be legally defensible, and would be the easier of the two processes for the Agency to implement. The GM further asked that the Board provide direction to Staff in developing a task force to help identify other revenue sources in the event the adverse ruling were upheld. Director Eiskamp took a firm opposite stance, believing it was premature to restrict the Board to just one approach, the majority protest process, without full consideration of all possible revenue proposals, including ones that would involve special taxes or assessment. Director Eiskamp referenced a letter from the Santa Cruz County Farm Bureau taking this same position. Agency Counsel reviewed how the financial provisions of the Agency's enabling legislation are structured. Discussion ensued among the Directors, and Agency Counsel's comments on the Court of Appeals decision, the differences between the two referenced processes, and if, or how, each is consistent with the Revised BMP.

Agency Counsel reiterated that these are substantive matters of policy wholly within the Board's jurisdiction to decide. The Directors then discussed options for getting more public involvement, including perhaps a town hall meeting, a public hearing meeting, a forum with a single issue to build community consensus and develop alternative financial mechanisms for funding the Agency's projects.

Public Comment.

- Darlene Din, speaking as a private citizen/City of Watsonville property owner, supported the concept of a community task force but not a majority protest approach. She stressed the importance of the Board's sole decision-making responsibility.
- Dave Cavanaugh, Santa Cruz County Farm Bureau, reiterated Darlene Din's suggestion for a task force in that it would help to build community consensus and make the process more equitable throughout Pajaro Valley. He also favored a more deliberative process, as the issues involved are complicated.
- Harold Griffith, agreed with the above two speakers. He stated that the citizens want a two-thirds voter approval so that the entire Pajaro Valley is involved in the outcome. In his opinion, that would ensure that the Agency would face no more litigation. Counsel pointed out that Mr. Griffith is a plaintiff in a pending lawsuit against the Agency.

Board Action. After more discussion, the Directors agreed to broaden their discussion of this item to all available options and continue discussion to the next meeting. They requested a more comprehensive staff analysis beyond the two approaches ("majority protest" and "majority vote"). The Board asked Staff to bring back recommendations on the creation of a community task force that would include its composition, with or without Director members, and level of Board oversight, among its components.

6. Reports/Information Presentations

A. Counsel Reports

1. Litigation update. Counsel reported that on June 14, 2007, the Sixth Circuit Court of Appeal had denied the Petition for Rehearing filed on June 5, 2007 by the opposing party.

B. Board Committee Reports. Director Osmer reported on the June 13, 2007 Administrative/Finance Committee meeting.

C. Staff Reports. None; this item was pulled from the agenda.

1. Project operations report
2. Basin Management Plan implementation report
3. 2006 BMP Construction Program update
 - a. Coastal Distribution System
 - b. Recycled Water facility
4. Water Conservation report
5. Consolidated Grants update

7. Written Communication/Correspondence

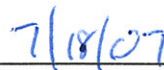
8. Future Meetings and Agenda Items

- A. Technical Advisory Committee – June 22, 2007, 8:30 am, Ag Extension
- B. Water Quality and Operations Committee – June 29, 2007, 2:00 pm, Wastewater Treatment Facility
- C. Strategic Planning/Public Outreach Committee- July 2, 2007, 3:00 pm, PVWMA Conference Room
- D. Board Meeting – July 4, 2007 - **Cancelled**
- E. Administrative/Finance Committee – July 11, 2007, 3:00 pm, PVWMA Conference Room
- F. Projects Committee – July 18, 2007, 4:00 pm, PVWMA Conference Room
- G. Board Meeting – July 18, 2007, 7:00 pm, Watsonville Council Chamber

9. Adjourned at 9:40 p.m.



Linda Contreras, Secretary



date approved