



## **PAJARO VALLEY WATER MANAGEMENT AGENCY**

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**Board of Directors Meeting**  
May 19, 2010, 7:00 pm

**City Council Chambers**  
275 Main Street, 4<sup>th</sup> Floor  
Watsonville, CA

### **BOARD MEETING MINUTES**

#### **1. Call to Order**

- 2. 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, 275 Main Street, 4<sup>th</sup> Floor, Watsonville, CA, at 7:07 p.m. by Chair Imazio.

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

Board Members Absent: Cavanaugh

Staff Members Present: Mary Bannister, General Manager (GM)  
Veronica Barboza, Administrative Analyst (AA)  
Others Present: Anthony Condotti, Agency Counsel  
Richard Shanahan, Proposition 218 Special Counsel

#### **3. Pledge of Allegiance**

- 4. Oral Communications:** Joe Pendry inquired on the status of the underground water report.

- 5. Director Comments:** Director Imazio reported on her attendance at Spring ACWA Conference.

- 6. General Manager Comments:** GM reported on her attendance from the Spring ACWA Conference as well. She stated that she met with staff from the Bureau of Reclamation in regards to the Title XVI Funding.

- 7. Counsel Report:** None

#### **8. Consent Agenda**

- A. Approve April 21, 2010 Minutes
- B. Approve Financial Reports for April 2010
- C. Approve Disbursement Ledger for April 2010
- D. Receive Grants Update
- E. Extension of Contract Term with the Nature Conservancy

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

**AYES:** Imazio, Eiskamp, Dobler, Osmer, Koenig  
**NOES:** None  
**ABSENT:** Cavanaugh  
**ABSTAIN:** None

**9. Discussion and/or Action Items**

A. Consider Proposed Settlement Agreement and Mutual General Release between PVWMA and Pajaro Sunny Mesa CSD: Counsel stated that over the past several months, a working group comprised of the General Manager and Directors Osmer and Dobler has engaged in a fruitful discussions with a similar contingent from Pajaro Sunny Mesa CSD, in an effort to put the rest over two (2) years of litigation- initially filed by Pajaro Sunny Mesa challenging the current \$80/acre-foot augmentation charge. He stated that the proposed terms of settlement are as follows:

- PVWMA to make an initial payment to Pajaro Sunny Mesa CSD in the sum of \$264,408.00. This sum represents the following:
- Payment to Pajaro Sunny Mesa CSD in the amount of \$250,000 for legal fees and costs;
- Payment to Pajaro Sunny Mesa CSD in the amount of \$126,301 as the refund due pursuant to the Stipulated Settlement; and
- Payment from Pajaro Sunny Mesa CSD in the amount of \$111,893 for the past due augmentation charges.

Counsel stated that staff recommends approving the proposed settlement agreement and mutual general release and authorizing the General Manager to execute on behalf of the Agency

Public Comments:

Harold Griffith said he was happy to hear that the Agency and Pajaro Sunny Mesa CSD have come to an agreement and settled.

After Board discussion, the following action was taken:

◆ Motion by Director Koenig to approve Settlement Agreement and Mutual General Release between PVWMA and Pajaro Sunny Mesa CSD as presented. Motion carried by the following roll call vote:

- AYES:** Imazio, Dobler, Osmer, Koenig  
**NOES:** None  
**ABSENT:** Cavanaugh  
**ABSTAIN:** Eiskamp

B. Conduct Public Hearing for Preliminary Budget for FY 2010-2011: GM stated that the Board accepted the preliminary budget for FY 2010-2011 on April 21, 2010. Notices of availability were posted and published as required by the Agency Act and that the Board would conduct a public hearing on May 19<sup>th</sup> for consideration of the final budget for FY 2010-2011. She stated that, adoption of the final budget is required by the end of this fiscal year, June 30, 2010. Director Imazio then opened the Public Hearing at 7:20 pm. There were no public comments. Director Imazio closed the Public Hearing at 7:21 pm.

The Board approved by consensus to bring the final budget back for approval.

C& D. Public Hearing concerning proposed Ordinance 2010-01 Adjusting Delivered water Charges; evaluation of protests; consider approval of Ordinance: Counsel stated that in 2008, the Agency initiated an Ad Hoc funding Committee process in an effort to develop a Proposition 218 compliant rate structure. After nearly two years of the Committee process and input from the Board of Directors, the public and professional consultants, a recommended rate structure was developed. The recommended rate structure includes an increased delivered water charge. Counsel stated that the culmination of this process was the preparation of the Proposition 218 Service Charge Report (Report). The report identifies water user categories, anticipated use amounts, costs of service, allocates the costs to the water users, and proposes a rate increase.

Counsel further stated that the report was introduced to the Board on February 3, 2010 and further discussed at the February 17, 2010, March 3, 2010 and March 24, 2010 Board meetings. The Board approved the report at its March 24, 2010 meeting and directed staff to notice a public hearing for the delivered water charge increase. Counsel stated that in calculating the majority protest, the numerator is the number of proper timely written protests (one protest per identified parcel) and the denominator is 31, which is the total number of identified parcels subject to the charge. If the calculated percentage is greater than 50%, then there is a majority protest. If the calculated percentage is 50% or less, then there is not a majority protest. Director Imazio then opened the Public Hearing at 7:30 pm. There were no public comments. Director Imazio closed the Public Hearing at 7:31 pm. Staff reported that there were no written protest for Ordinance 2010-01 Adjusting Delivered Water Charges. After Board discussion, the following action was taken:

◆ Motion by Director Osmer to approve Ordinance 2010-01 Adjusting Delivered Water Charges as presented. Motion failed by the following roll call vote:

**AYES:** Imazio, Osmer, Koenig  
**NOES:** None  
**ABSENT:** Cavanaugh  
**ABSTAIN:** Eiskamp, Dobler

E & F. Consider Adoption of Proposed Augmentation Charge Ordinance No. 2010-02: Counsel discussed the proposed Ordinance, and reported that the Agency had received a box containing protest letters of the proposed adoption of the Augmentation Charge Ordinance from the Santa Cruz County Farm Bureau. Former Chief of Police Terry Medina oversaw the opening and counting of the protest ballots. He witnessed the protest ballots processed in an orderly systematic way. Counsel stated that the Augmentation Charge increase is being processed as a property-related service charge in accordance with Proposition 218. The proposed increase is subject to defeat by a majority protest and also requires landowner approval (based on weighted voting) at an election. The Board has adopted procedures and rules governing the public hearing, majority protest and election concerning the proposed augmentation charge increase. Counsel stated that in calculating the majority protest, the numerator is the number of proper timely written protests (one protest per identified parcel) and the denominator is 1,929, which is the total number of identified parcels subject to the charge. If the calculated percentage is greater than 50%, then there is a majority protest. If the calculated percentage is 50% or less, then there is not a majority protest. Director Imazio then opened the Public Hearing at 7:42 pm.

Public Comments:

- James King inquired as to what is a parcel and said he does not understand the weighting.
- Tim Silva stated that he was not notified of tonight's meeting. He said that where he lives, it is one parcel with three (3) well, would that be considered one vote or three?
- Nick Buliach expressed his concerns, stating that he felt that the board was not giving the public straight answers.
- Gonzalo Rodriguez stated that as a rural residential customer, he felt that it is unfair for him to pay augmentation charges, as he is a rural residential user not a commercial agricultural user.
- Diane Weatherholdt said that she was not notified of this public hearing.
- John Diffenbaugh said that he had attended the study of the aquifer by Dr. Andy Fisher at UCSC and stated that he supports the farmers in the Pajaro Valley.
- Guy George expressed his concerns, stating that "he trusts the directors individually, but does not trust the Agency" and asked if his protest will be verified.
- Jeff Taylor, (Candidate for U.S. Congress) suggested that the Agency look into buying the Salinas River, (as it is good for farmland). He said he felt that the board should delay this action and comeback with "better announcements" for those who were not notified.

- Aleksandra Howard said that she did receive a public hearing notice, but is expecting a ballot form as well.
- John Martinelli stated that in 1985, there were 5,500 acres of apples in the Pajaro Valley, and now there are only 2,200 acres. This means 3,300 acres were converted from very low water use orchards (0.75 af/year per acre) to berries which are intensive water users (2-4 af/year per acre). He recommends a multi-tiered rate structure, because a very strong incentive to conserve is needed. He asked if a tiered rate be subject to the requirements of Proposition 218.
- Skip Fehr asked if we are going to do anything about the people who didn't get a ballot. He said PVWMA does have the ability to limit water use.
- Dick Peixoto said that the Agency has done very little for all of the money spent. He said that the Agency is delivering waste eater to the delivered water customers that is saltier than anything in the ground. He added that College Lake pumped 350 af to the ocean in the last 17 days, which should be captured and used.
- Director Eiskamp stated that the proposed Ordinance does not comply with Proposition 218.

Director Imazio closed the Public Hearing at 8:17 pm. (Meeting went into a recess) Meeting was called back to order at 9:02 pm. Staff reported that there was a total of 291 written protests for Ordinance 2010-02 Adjusting Groundwater Water Charges. After Board discussion, the following action was taken:

◆ Motion by Director Osmer to approve Ordinance 2010-02 Adjusting Groundwater Water Charges as presented. Motion carried by the following roll call vote:

**AYES:** Imazio, Dobler, Osmer, Koenig  
**NOES:** None  
**ABSENT:** Cavanaugh  
**ABSTAIN:** Eiskamp

G. Consider Request for Exception to Water Export Ordinance 98-01 to Allow Aromas Water District Connection to Oakridge and Via Del Sol subdivisions: GM reported that the Aromas Water District had received a request from Monterey County Water Resources Agency to serve two (2) small subdivisions in North Monterey County located outside of the Agency's jurisdiction. They are the Via del Sol and Oakridge Subdivisions. GM stated that their combined water need is about 30 acre feet per year for 60 existing residents. There are currently no plans for additional developments. Because of poor quality or inadequate supply, many residents have been forced to have water delivered by tanker trucks for several years. GM stated that there is a compelling health and safety need associated with this request. GM said that the requested action potentially conflicts with two (2) of the Agency's ordinances, 98-1 and 98-2. In 2005, the Agency received a similar request from Aromas Water District. At that time, the Board determined that the export prohibition of Ordinance 98-2 implicitly authorized the granting of a waiver under circumstances substantially similar to those presented here, and approved an agreement authorizing Aromas Water District to extend water service to the Orchard Acres Subdivision.

Public Comments:

- Curtis Weeks of Monterey County Water Resources Agency said that there is need to export water to these residents, as there is a health and safety issue at hand.
- John Ramirez, Director of Monterey County Environmental Health said he is asking for support for the annexation water supply, as there is a safety issue.
- Dick Peixoto expressed his concerns asking how the Agency can even possibly consider annexation with Aromas Water District. The Agency does not have enough water.
- Andy & Mary Shakra said that they were shocked to hear about the proposed annexation. They asked the Board not to make any decision, need to collect more information and cited the Rancho Larios debacle.

- Susie Peterson stated that she is basically living without water, as a camper needs the help desperately.
- Christine Mose, an Oakridge resident is asking for assistance for water supply.
- Monterey County Supervisor Lou Calcagno said that the Agency should consider the proposed annexation.
- John E. Eiskamp, President of the Santa Cruz County Farm Bureau expressed his concerns about exporting water in an over drafted basin.
- Margie Kay emphatically asked that no new lots be approved and was concerned that Aromas Water District Board President was pushing for his subdivision approval.
- Kathy Chavez Miller was concerned that this be considered carefully.
- John Ricker with Santa Cruz County Environmental Health recommended demand neutral long use (no net increase in water use through conservation).

Director Imazio then closed Public Comments.

Director Koenig suggested that staff come back with a resolution or agreement. GM proposed that staff return with more information addressing the legal, political, and hydrological issues discussed for the next meeting. Board agreed by consensus.

**10. Written Communication/Correspondence:** April 2010 correspondences were in included in the board packet.

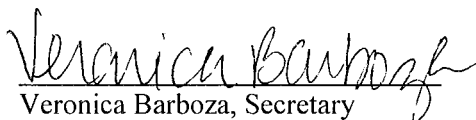
**11. Future Meetings and Agenda Items**

- A. Board Committee Reports
- B. Staff Reports
  - 1. Facility Operations Report: Postponed

**12. Future Meetings and Agenda Items**

- A. Water Quality and Project Operations committee Meeting- May 26, 2010, 3:00-4:00 pm, City of Watsonville Resource Center
- B. Technical Advisory Committee Meeting- May 28, 2010, 8:30-11:00 am, UC Extension Office, Freedom Blvd, Watsonville
- C. Administrative/Finance Committee Meeting- June 8, 2010, 4:00-5:00 pm, PVWMA Conference Room
- D. Board Meeting- June 16, 2010, 7:00 pm, City of Watsonville, 275 Main Street, 4<sup>th</sup> Floor

**13. Adjourned at: 10:56 pm**

  
 Veronica Barboza, Secretary

6-16-10  
 Date Approved