



MINUTES
of the Regular Meeting
Monterey Regional Water Pollution Control Agency
Board of Directors
May 20, 2002

1. CALL TO ORDER

The Regular Meeting of the Board of Directors of the Monterey Regional Water Pollution Control Agency was Called to Order by Chair Shirrel at the earlier hour of 5:00 p.m. on Monday, May 20, 2002, in the Board Room of the Administrative Offices at 5 Harris Court, Building D, in Ryan Ranch.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

BOARD MEMBERS PRESENT:

Peggy Shirrel, Chair	Moss Landing County Sanitation District
Morrie Fisher, Vice-Chair	Pacific Grove
Ramiro Cortez	Boronda County Sanitation District
Carlo Cortopassi	Castroville Service Area 14
Jack D. Barlich	Del Rey Oaks
Tom Moore	Marina Coast Water District
Theresa Canepa	Monterey
Judy Pennycook	Monterey County [7:02 p.m.]
Gloria De La Rosa [5:05 p.m.]	Salinas
David Pendergrass	Sand City
Dewey J. Baird	U.S. Army - Ex-Officio

BOARD MEMBERS ABSENT:

Darryl Choates	Seaside
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STAFF PRESENT:

Keith Israel	General Manager
Robert Wellington	Legal Counsel
Robert Jaques	Director of Engineering Planning and Technology
John Tiernan	Director of Administrative Services
Dan Mizerski	Director of Wastewater Facilities

Tom Buell Director of Finance
Deborah Fortune Executive Assistant
More than 25 MRWPCA Employees

OTHERS PRESENT: Yolanda Stowbunenko
 Les Turnbeaugh -
 City of Monterey
 Leo Havener -
 City of Salinas
 Linda Tripoli, Esq. -
 Curiale, Dellaverson, Hirschfeld, Kraemer, & Sloan

AUDIENCE: 5

4. CONSENT AGENDA

ACTION TAKEN: On a motion by Mr. Fisher, seconded by Mr. Barlich, with no comments, the Board unanimously approved the Consent Agenda (Items A through H), as follows:

- A. Approve Minutes: Regular Meeting – April 29, 2002**
- B. Receive Financial Statements - March 2002**
- C. Receive Comparison Percentage of Budget Expended Through April 2002 vs. 2001**
- D. Receive Check Register – April 2002**
- E. Receive Plant Flows and Effluent Quality for Connected Agencies, Plus Flow Charts for Fort Ord and Marina – April 2002**
- F. Receive Actual vs. Budgeted Fiscal Year 2001/02 Expenditures for the Capital Improvement Program and Capitalized Equipment Fund**
- G. Receive Actual vs. Anticipated Fiscal Year 2001/02 Revenues from Capacity Charges**
- H. Approve Chemical Bid for Ferrous and Ferric Chloride**

5. PUBLIC COMMENTS

[At 5:02 p.m., Chair Shirrel opened Public Comments.]

Three comments were received on issues not on the agenda, as follows:

1. Yolanda Stowbunenko (Larry Stowbunenko's wife) - Requested Board feedback regarding better opportunities for employee input and communication.

2. Kit West (an MRWPCA employee and General Employees' Association president) - Spoke regarding concerns for employee welfare and working environment, as well as management support of purchasing policies.

[At 5:05 p.m., Mrs. De La Rosa entered the meeting room.]

3. Karl Klein (MRWPCA employee) - Expressed concern regarding the last Pipeline article regarding efficiency and worker safety. He also suggested that a Board statement regarding safety be added to the safety policy manual.

[At 5:08 p.m., Chair Shirrel closed Public Comments.]

6. COMMITTEE REPORTS AND RELATED ACTION ITEMS

A. BUDGET/PERSONNEL COMMITTEE

1. **Receive and Approve Committee Minutes/Report - Thursday, May 9, 2002, 2002**

ACTION TAKEN: On a motion by Mr. Fisher, seconded by Mr. Barlich, with no comments, the Board unanimously approved the May 9, 2002, Budget/Personnel Committee Minutes/Report and committee recommendation(s), as follows:

- That, as a separate item, the Board adopt Resolution No. 2002-08, Authorizing Amendment to the MRWPCA PERS Retirement Contract from 2% at 60 to 2% at 55.

2. **ADOPT RESOLUTION NO. 2002-08, AMENDING THE PUBLIC EMPLOYEES RETIREMENT SERVICE (PERS) CONTRACT TO 2% AT 55**

ACTION TAKEN: On a motion by Mrs. Canepa, seconded by Mr. Barlich, with no comments, the Board unanimously approved Resolution No. 2002-08, Amending the PERS Retirement Contract to 2% at 55.

B. RECYCLED WATER STORAGE COMMITTEE

1. **Receive and Approve Committee Minutes/Report - Thursday, May 9, 2002**
[Note: The posted item on this agenda was cancelled on May 9, 2002.]

7. ACTION ITEMS

A. RECEIVE AND REVIEW REPORT FROM STRATEGIC PLANNING SESSION

1. **Approve and Adopt New Strategic Planning Three-Year Goals (2002-2005)**

ACTION TAKEN: On a motion by Mrs. Pennycook, and seconded by Mrs. Canepa, with no comments, the Board unanimously approved the newly-developed Three-Year Strategic Planning Goals and One-Year Objectives (May 10, 2002 through April 30,

2003).

8. INFORMATIONAL ITEMS

A. Fort Ord Issues Update

Mr. Buell reported that positive negotiations continue with the Army, and more meetings are anticipated later in May.

To an inquiry by Mr. Fisher, Mr. Wellington confirmed that negotiations are with the Army, and that the transfer relative to capacity is with the Army. With the consent and understanding of the Army, they know that FORA may or may not be satisfied, but we're going to conclude our negotiations with the Army and then we'll see where FORA is on that matter.

B. Reclamation Project Status Report Update

There were no comments or questions.

9. STAFF REPORTS

A. General Manager/Legal Counsel

[Mr. Israel distributed a summary handout to the Board of Directors.]

Using transparencies, Mr. Israel summarized a response to Mrs. Stowbunenko's points presented at the April 29, 2002, Board meeting during "Public Comments." Namely, lack of employee representation; employee discussions with Human Resources discouraged over supervisors/managers; concern over employee morale and high medical claims; excessive legal costs on employee issues; and comments regarding the "HP Way" and the General Manager's April 2002 Pipeline article.

To an inquiry by Mr. Fisher, Mr. Israel stated that Human Resources is not an advocate for the employees once a grievance is filed. At that point, the position represents management, and therefore, is prohibited from other than professional involvement with the employee.

B. Department Head(s)

There were no further reports.

C. CELEBRATE SIGNING OF THIRD AMENDMENT TO THE 1992 AGREEMENT WITH MONTEREY COUNTY WATER RESOURCES AGENCY

Chair Shirrel publicly congratulated and applauded the past and present Board and staff for the passion, persistence, planning, patience and lots of Boardmembers questioning "why is it taking so long" that brought about the finalized amendment to the 1992 Agreement.

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Chair Shirrel gave special thanks for the cooperation of Sally Reid, Adrienne Grover, Judy Pennycook and the Board of Supervisors for their support in the final approval on this long-awaited amendment.

Mr. Israel announced that Granville Perkins was invited and unable to be present for this event, but wanted to make note of the influence he's had from the very beginning and through the process to get the water recycling project completed, and thus, making water available for urban use. Chair Shirrel noted that Granville Perkins worked with the growers, explaining and urging them to be on the ground floor with all the data, establishing our important connections to the Health Department.

[At 5:25 p.m., Chair Shirrel requested Mrs. Canepa to cut the cake as Ryan Shaw of Communication Planners took a photo to commemorate the event, as the Board of Directors applauded.]

10. CORRESPONDENCE

Mr. Israel noted there was one letter from FORA regarding resolution of the EDU transfer.

11. BOARD MEMBER COMMENTS

There were no comments or questions.

[At 5:27 p.m., a five-minute break was taken for cutting and distributing cake, whereupon seating was re-arranged for Item 12 on the Agenda, as Mrs. Tripoli took a seat next to Chair Shirrel.]

[At 5:34 p.m., Chair Shirrel re-convened the meeting.]

12. HEARING ON GRIEVANCE APPEAL FROM GENERAL MANAGER'S DETERMINATION

Grievant-Employee is Information Systems Specialist Larry Stowbunenko

[Note: The Board of Directors' review is based solely on the proceedings and determination of the General Manager, included in the Agenda packet materials. No new evidence will be taken and no new testimony will be heard. Members of the public may speak, but comments shall be strictly limited to opinion and observation concerning the General Manager proceedings and determinations; comments directed to issues outside the scope of review (for example, comprising new evidence) will be deemed out of order]. Following the hearing, the Board will deliberate in Closed Session.

Chair Shirrel read the hearing information into the record. Mr. Stowbunenko gave affirmation that he would be representing himself. Also present, MRWPCA General Manager, Keith Israel, represented by MRWPCA Legal Counsel, Robert Wellington.

It was announced that Board will be advised by outside legal counsel specializing in public sector labor and employment matters, Linda Tripoli. Prior to receiving any public comment about this appeal, Chair Shirrel announced the outline for the process for the hearing, which would be followed by public comments, as follows:

This hearing is being conducted under MRWPCA Policy 301, which provides that the Board's review of this grievance appeal shall be based on the record of the proceedings before the General Manager and the final determination of the General Manager with no new testimony being taken. The parties and the Board have been provided with the following materials: A copy of the General Manager's Decision; a copy of Hearing Officer Stephanie Attigh's Decision and the record before her; a copy of the written argument of Mr. Stowbunenko and the General Manager; and, a copy of a cover memo from Ms. Tripoli outlining the process for tonight's hearing. Mr. Stowbunenko is the Grievant, and has the burden of proof regarding his grievance, and he will proceed first with his oral argument after any public comment. Then, Mr. Wellington will present his oral argument. After that, members of the Board may ask questions of the parties. Following that, the hearing will be closed and the Board will adjourn to Closed Session to deliberate. The Board will issue its decision within ten (10) working days of this date.

It was next noted that the Board would accept public comment directed at this Agenda item. The members of the public were reminded that pursuant to MRWPCA Policy 301, the Board's review is limited to the record before the General Manager, and that no new testimony may be heard by the Board. Therefore, members of the public are welcome to express their views and opinions about what the Board should and should not do with regard to the grievance appeal. However, comments cannot and will not be accepted which are in the nature of factual evidence which is not already in the record (as distributed to the Board). Such comments will be out of order and cannot and will not be considered by the Board.

[At 5:36 p.m., Public Comments, limited to three minutes each, were opened.]

As the only member of the public to comment, Mrs. Stowbunenko stated that this was a situation that should have been remedied earlier. She cited a personal toll on her husband and family due to the extra work involved. She felt that her husband had met his part of the agreement. And, that employees need reassurance that they are acknowledged by management and the Board.

[At 5:39 p.m., Chair Shirrel closed Public Comments.]

Chair Shirrel invited Mr. Stowbunenko to proceed with his (15-minute) oral argument.

[At 5:56 p.m., Mr. Stowbunenko concluded his oral argument.]

Chair Shirrel invited Mr. Wellington to proceed with (15-minute) oral argument on behalf of Mr. Israel.

[Mr. Wellington distributed a handout entitled, "Fairness Issues" to the Board.]

[At 6:13 p.m., Mr. Wellington concluded his oral argument on behalf of Mr. Israel.]

Chair Shirrel called for questions from the Boardmembers directed to members of the two parties.

Answers were provided by Messrs. Wellington, Israel, Tiernan, and Stowbunenko to questions from Mr. Fisher, Mrs. Canepa, and Mr. Moore.

[At 6:38 p.m., Chair Shirrel closed the Appeal Hearing and adjourned the meeting into Closed Session, whereupon all members of the public, staff, and Mr. Wellington left the meeting room. As announced in Chair Shirrel's opening comments, the Board's final decision would be submitted, in writing, within ten (10) working days.]

13. ADJOURNMENT

With no further business, the meeting adjourned at 6:?? p.m. to the Budget Workshop on Monday, June 10, 2002, at 7:00 p.m., followed by the next Regularly-Scheduled Meeting on Monday, June 24, 2002, at 7:00 p.m.

Keith E. Israel
General Manager/Secretary to the Board

Peggy Shirrel, Ph.D.
Chair of the Board of Directors

Date Passed: June 24, 2002