



APPROVED
July 27, 2009
(As revised, page 3)

MINUTES
of the Regular Meeting
Monterey Regional Water Pollution Control Agency
Board of Directors
June 29, 2009

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 Calcagno at 7:02 p.m., on Monday, June 29, 2009 in the Board Room at 5 Harris Court, Building D, Monterey, California.

2. ROLL CALL

BOARD MEMBERS PRESENT:

Lou Calcagno, Chair	Monterey County, Supervisor
Gloria De La Rosa, Vice Chair	Salinas, Mayor Pro Tem
Ramiro Cortez	Boronda County Sanitation District
Ron Stefani	Castroville Community Services District
Joe Russell	Del Rey Oaks, Mayor
Kenneth Nishi	Marina Coast Water District, Member
Libby Downey	Monterey, Councilmember
Chris Orman	Moss Landing County Sanitation District
Dan Cort	Pacific Grove, Councilmember
Dave Pendergrass	Sand City, Mayor
Ralph Rubio	Seaside, Mayor Pro Tem
Vacant – Ex-Officio	U.S. Army, Representative

BOARD MEMBERS ABSENT:

None

MRWPCA STAFF PRESENT:

Keith Israel	General Manager
Brad Hagemann	Assistant General Manager
Rob Wellington	Legal Counsel
John Tiernan	Director of Admin Services, Deputy GM
Tom Buell	Director of Finance

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Bob Holden
Kelly Cadiente
Lindsay Synstebly
James Dix
Betty Nebb

Principal Engineer
Accounting Supervisor
Customer Service Supervisor
WWTP Operations Manager
Executive Assistant

OTHERS PRESENT:

Bjorn Lundegard – City of Seaside
Carl Niizawa – City of Salinas
Noelle White – Assembly Member Monning
Morgan Christopher – Ol' Factory Café, Sand City
Wayne Downey

3. PLEDGE OF ALLEGIANCE

Chair Calcagno asked Mr. Rubio to lead the Pledge of Allegiance.

4. PUBLIC COMMENTS

At 7:04 p.m., Chair Calcagno asked for Public Comments – none were presented.

5. CONSENT AGENDA

Mr. Nishi asked to pull Items B, I and J from the Consent Agenda. Chair Calcagno asked him to address Item B. Mr. Nishi stated he was unable to attend the Special Board Meeting on June 8 and Mr. Burns attended on his behalf. Chair Calcagno noted that the correction would be made to the minutes.

Regarding Items I and J, Mr. Nishi stated that based on current economic conditions, he has concern approving salary increases. Other entities, including MCWD, did not give any increases in salary and so he stated he would be unable to support the resolutions. Mr. Wellington noted the increases are included in existing employee MOUs representing the fourth year of the four-year agreement for three employee groups. Discussion followed regarding the increase and where that increase is reflected in the budget. Mr. Tiernan noted that the Wages and Salaries category, which includes the COLA increase, increased 1.59% over last year's budget. Ms. Downey asked if the bargaining groups were asked to forego increases and Mr. Tiernan responded that discussions did take place. The group did agree to delay a salary survey that was due under the MOU, and staff worked to find additional ways to reduce costs determining that two staff positions would not be refilled.

Mr. Rubio asked about revenue shortfall and an increase in general fund expenditures. Mr. Tiernan explained that although some revenue categories are down slightly, our expenses have increased 0.7% (less than 1%).

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Mr. Rubio and Ms. Downey both were concerned that salary increases were not appropriate when many other districts and cities were having to make such drastic cuts. Mr. Russell stated that loss of revenues for others does impose cost-cutting measures; however, we're dealing with this agency & it appears that recommendations of staff are perfectly in order.

Mr. Nishi asked about a rate increase and stated that the amount of revenue generated should be going into the reserves. He continued by stating that 14 years of no rate increase is not appropriate. Mr. Pendergrass asked to clarify the rate increase history and Mr. Tiernan confirmed that for 12 years there were no increases, but we have had small increases 4 out of the last 5 years.

Mr. Wellington reminded the members that they can not unilaterally open an existing contract with the employees. It can be done through negotiation and the process of "meet and confer." Usually it is done when furloughs or other cuts are being considered. It also requires a period of time to conduct the "meet and confer" before anything can be done.

Chair Calcagno commented that the salary issue is really a political situation.

ACTION TAKEN: On a motion by Mr. Pendergrass, seconded by Mr. Rubio, the Board approved the Consent Agenda, Items A through L as follows [nay votes cast by Mr. Nishi and Ms. Downey related to Items I and J]:

- A. Approve Board Meeting Minutes/Report for Regularly Scheduled Board Meeting of May 28, 2009**
- B. Approve Board Meeting Minutes/Report for Special Board Meeting of June 8, 2009 – [with correction]**
- C. Receive Financial Statements – May 2009**
- D. Receive Comparison Percentage of Budget Expended Through May 2009 versus 2008**
- E. Receive Check Register – May 2009**
- F. Receive Plant Flows and Effluent Quality for Connected Agencies, Plus Flow Charts for Salinas, Monterey Peninsula, Marina, Fort Ord, and Castroville for May 2009**
- G. Receive Actual vs. Budgeted Fiscal Year 2008/09 Expenditures for the Capital Improvement Program and Capitalized Equipment Fund**
- H. Receive Actual vs. Anticipated Fiscal Year 2008/09 Revenues from Capacity Charges**

- I. Approve MRWPCA Resolution No. 2009-05, Establishing Salary Classifications and Ranges for the General Employees' Association and Mid-Management Employees' Group for Fiscal Year 2009/10**
- J. Approve MRWPCA Resolution No. 2009-06, Establishing Salary Classifications and Ranges for the Management Employees' Group for Fiscal Year 2009/10**
- K. Approve Blanket/Open Purchase Orders to Vendors over \$35,000 for FY 2009/10**
- L. Approve Resolution No. 2009-07, Certifying Compliance with State Law with Respect to the Levying of General and Special Taxes, Assessments, and Fees or Charges Levied as an Incident of Property Ownership**

6. PUBLIC HEARINGS

A. Lien Hearing for Delinquent Sewer Service Billing

- 1. Approve MRWPCA Resolution No. 2009-08, Declaring Liens Against Real Property for Delinquent Sewer User Charges**
- 2. Approve MRWPCA Resolution No. 2009-09, Declaring Liens Against Real Property for Delinquent Sewer Capacity Charges**

Mr. Tiernan explained that unlike PG&E and other utilities, we are unable to stop services for delinquent accounts; therefore, the Health and Safety Code allows that delinquent user fees and capacity charges can be collected on the tax rolls. The yearly lien process that begins in February and goes through June, with notifications to customers, allows sufficient time to remit payments.

Mr. Tiernan explained that over a seven-year period, we will collect 99% of the outstanding accounts. In the first year, we usually collect about 75% of the amount. This year we currently have 3,077 accounts that are delinquent, or approximately .5% of our total accounts, equaling \$720,707. By the time these liens are recorded on July 23, the number will be reduced. There are four accounts for capacity fees that are delinquent.

Mr. Nishi asked if a Notice for Lien had to be posted in the newspaper and Mr. Tiernan stated that we publish the list in both the Herald and the Californian. Mr. Nishi then asked if the names had to be in alphabetical order. Mr. Wellington noted that one newspaper had listed the accounts by parcel number, and that it was also acceptable.

Mr. Cort asked if there was a redemption period or if the lien stayed with the property until the property is sold. Mr. Tiernan explained that for capacity fees, we try to set up some kind of payment process with the owner. If the amount is unpaid, it stays as a lien on the property and is paid when the property is sold.

ACTION TAKEN: On a motion by Mr. Rubio, seconded by Mr. Russell, the Board unanimously approved MRWPCA Resolution No. 2009-08, Declaring Liens Against Real Property for Delinquent Sewer User Charges and MRWPCA Resolution No. 2009-09, Declaring Liens Against Real Property for Delinquent Sewer Capacity Charges.

B. Proposed Fiscal Year 2009/10 Budget

- 1. Staff Report on Proposed Budget**
- 2. Public Comments**
- 3. Approve 2009/10 Budget**

Mr. Tiernan stated the proposed budget was considered by the Budget/Personnel Committee and at the Board Meeting/Budget Workshop on May 28. We are not increasing user fees and, in fact, our rate continues to be very competitive statewide. Our sewer capacity fee did not increase last year, but will go up 7% this year based on an index that is part of the ordinance. With the increase, it will be \$2,923 – the state average for capacity charges is \$4,102. Mr. Nishi had requested some clarifications to the budget and those changes have been made. Our bottom line is the same as presented at the May 28 Budget Workshop with only a 0.7% increase (less than 1%). The budget is essentially at the same level as it was this past year.

Ms. De La Rosa announced that on behalf of the City of Salinas she would abstain on approving the budget because questions brought before the Budget/ Personnel Committee had not yet been resolved.

ACTION TAKEN: On a motion by Mr. Orman, seconded by Mr. Russell, the Board approved the Fiscal Year 2009/10 Budget [abstention by Ms. De La Rosa, nay vote cast by Mr. Nishi].

Mr. Orman expressed appreciation for what the staff did to create the budget and that it is essentially flat, with no increase. He also recognized that there may be significant capital needs in the future and, therefore, can't see that the budget can continue to be flat. He noted that Mr. Hagemann is working on an aggressive plan for equipment replacement and so in order to be sure capital needs are taken care of and that we can continue to employ the best and brightest, something is going to have to change.

Ms. Downey asked about Salinas' concern about the budget and Ms. De La Rosa responded that it has to do with capacity fees and questions we have asked to be resolved related to them. Mr. Wellington added that the Budget/ Personnel Committee had directed staff to come back with a report relative to the process and history of capacity fees. That information will be presented in a report to the Committee in August.

C. MRWPCA Ordinance for Capacity Charges

1. Adopt MRWPCA Ordinance No. 2009-03, Amending Ordinance No. 2000-02, in part, to change MRWPCA Sewer Capacity Charges

Mr. Tiernan explained the ordinance includes a construction cost index that determines increases to the sewer capacity fees. Last year the index went up only slightly and did not trigger an increase to our fees. However, over a two-year period, the increase is now at 7% and so the fee is increased by that amount. Although the ordinance could be changed in the future, staff is requesting approval of the capacity fee index.

Mr. Rubio questioned the language change noted in the Ordinance and Ms. Synstebly explained that although this language had changed in prior years, the change was not included in the codified ordinance. Staff noticed the omission and so this language is being included now to specify the square footage for low-income housing.

Ms. Downey asked why approve an ordinance that is likely going to be changed and Mr. Wellington stated we have an existing ordinance that provides for a formula by which the fee is established, something that is reviewed every year. Because Salinas has raised a question about capacity fees, the Budget/Personnel Committee will be reviewing the matter and may come back to the Board with a recommendation for some change in the coming year.

Chair Calcagno stated he would support approval of the ordinance in order to finalize and adopt the budget; however, he stressed the importance of addressing the issues raised by the City of Salinas.

To Mr. Nishi's question from a prior Board meeting, Mr. Wellington responded that there doesn't seem to be a code requiring only a certain percentage of capacity fees be spent on repair and replacement (R&R).

Mr. Rubio suggested it would be helpful to the members to see the existing ordinance. Mr. Wellington urged the members to proceed with approval of the ordinance at this time and request that staff bring back that master ordinance as a matter of information to the Board.

ACTION TAKEN: On a motion by Mr. Russell, seconded by Mr. Rubio, the Board approved the Fiscal Year 2009/10 Budget [Ms. De La Rosa and Ms. Downey abstained].

7. COMMITTEE REPORTS AND RELATED ACTION ITEMS

A. Budget/Personnel Committee

1. Receive Committee Recommendations from BPC Meeting of June 12, 2009

Item 1 – Review Investments and Debt Financing and Approve Investment Policy

Mr. Buell stated that discussion at the BPC meeting included the possibility of investing in Certificates of Deposit and explained government code allows investment of 30% of our portfolio (about \$3 million). Because our funds have to be collateralized, the rate drops by at 1%; however, some opportunity exists and staff will continue to research possible investment opportunities.

Committee members also questioned the possibility of buying down part of our debt. Currently we have two bonds paying 4.5% to 5% and so it is difficult to find anyone willing to give up that return on investment. The only other loan that could be paid off is at 3.1% with only five remaining annual payments.

Regarding the investment policy, Mr. Buell stated there are three suggested changes to the policy: 1) recommendation to remove the one-year period for delegation of authority, 2) change in wording to comply with our reserve policy, and 3) change to our investment policy on CDs from 20% to 30%.

Some discussion followed regarding requirements on CDs: flexibility to withdraw, current rates and terms.

Item 2 – Confirm Schedule for Budget/Personnel Committee Meetings

The Committee reviewed meeting dates for the balance of the year (schedule was attached for Board review). Consensus of the members was to accept the new schedule.

ACTION TAKEN: On a motion by Mr. Rubio, seconded by Ms. Downey, the Board unanimously approved the Budget/Personnel Committee Minutes/Report of June 12, 2009 and the Committee recommendations as follows:

- **That the Board approve changes in the MRWPCA Investment Policy.**
- **That the Board note the revised schedule for Budget/Personnel Committee Meetings.**

B. Recycled Water Storage Committee

**1. Receive Committee Recommendation from RWC Meeting of
June 18, 2009**

**Item 1 – Update on Status of MOU's for the Monterey Regional Water Program
and Consider any Appropriate Follow-up Action**

Mr. Israel stated the Planning and the 3-Way MOU's that were approved by our Board on April 13 were approved by the Board of Supervisors at their meeting on June 16. Staff has provided the MOUs with highlighting to show changes and additions since the April 13 Board meeting. Mr. Israel proceeded through each agreement to note and explain the edits to the documents.

Ms. Downey commented these agreements are planning documents and do not refer to a project, as that could require a CEQA review. She also clarified that these agreements represent something different than the REPOG plan.

Chair Calcagno suggested the Board vote on each committee recommendation as they are discussed, and Mr. Wellington agreed that although the practice has been to approve committee recommendations when the minutes are approved, it would be acceptable to vote on each individual recommendation.

ACTION TAKEN: On a motion by Mr. Rubio, seconded by Mr. Cort, the Board unanimously approved the updated Cooperative Planning and Recycled Water Three-Way MOUs for the Regional Water Supply Program.

Item 2 – Approve Contract Amendment for Design Services for RUWAP (RMC)

Mr. Israel explained that the MRWPCA portion of the RUWAP includes a pump station and pipeline to transmit recycled water to our southern property line. RMC will incorporate RTP instrumentation system with the MCWD system and prepare construction drawings that include two pipelines that may need to be relocated. The design effort to accomplish these tasks will be \$18,838. Mr. Wellington added that this action would be consistent with what the Agency is committed to do based on the RUWAP agreement.

ACTION TAKEN: On a motion by Mr. Cort, seconded by Ms. Downey, the Board unanimously approved a contract amendment to RMC Water and Environment for \$18,838 to complete work on the MRWPCA portion of the RUWAP project.

Item 3 – Update on Status of State Revolving Fund Loan (SRF) for RUWAP

Mr. Israel stated both agencies applied for stimulus loans in early February. Since then it was decided that combining the two applications would make more sense

and would keep costs down. Since MCWD is the lead on the RUWAP, the MCWD Board has authorized their manager, Jim Heitzman, to sign and negotiate with the State Water Resources Control Board for this application. This information is provided to the Board – no action is needed.

Item 4 – Approve Funding for Legal Services Related to Participation in CPUC's Coastal Water Project

Mr. Israel stated that as a party to the Administrative Law Judge proceedings, our role has been to support the regional program. There is a series of meetings and discussions over the next several months that we want to monitor to be sure our support can continue. With assistance from our specialized legal firm, we will be able to stay abreast of these activities. Mr. Israel assured the Committee that if any kind of statement were to be submitted on behalf of the Agency, the Committee and/or Board would have an opportunity for review that material.

ACTION TAKEN: On a motion by Mr. Rubio, seconded by Mr. Russell, the Board unanimously approved funding for Remy, Thomas, Moose & Manley, LLP to help support the Regional Water Project before the Administrative Law Judge of the CPUC not to exceed \$25,000.

ACTION TAKEN: On a motion by Mr. Rubio, seconded by Mr. Cort, the Board unanimously approved the Recycled Water Committee Minutes/Report of June 18, 2009.

8. INFORMATIONAL ITEMS

A. Fort Ord Update

No questions or comments.

B. Reclamation Project Status Summary

Mr. Israel stated there are no changes except to report that the plant is working at full capacity producing as much recycled water as possible.

C. Strategic Planning Goals (2008-2011) and One-Year Objectives Update

Mr. Israel reported this is the first month since the Strategic Planning Workshop in May. There will be many more changes next month and in subsequent months as progress is made on the objectives.

9. STAFF REPORTS

A. General Manager/Assistant General Manager/ Legal Counsel

Mr. Israel announced plans were being made for a second Special Board/Ad Hoc Water Committee meeting to be held, tentatively, on July 9. It is hoped that the four MOUs will be approved by all parties by that time and can be presented and discussed at the meeting. The meeting is currently being scheduled for 7:30 pm as some members will be returning from CPUC hearings in San Francisco that day. The CPUC has scheduled Public Hearings in the Monterey area on July 13 and 14.

Chair Calcagno added that Monterey Peninsula Water Management District has been encouraged to join the group and member(s) of the North County Ad Hoc Water Committee will also attend in an effort to give a more complete regional appearance.

Mr. Israel stated the Special Board Meeting will be held at the Seaside Community Center on Coe Avenue. An agenda will be sent out prior to the meeting.

B. Department Heads

Nothing to report.

C. Presentation: Annual Summary of Plant Operations for January 1, 2009 – March 31, 2009 by James Dix, Wastewater Treatment Plant Operations Manager

Mr. Dix provided a presentation with graphs to illustrate plant operations during the last year. He stated that 2008 was a record year with regard to recycled water production – five billion gallons of recycled water were produced. Production lasted to the middle of December which was longest time period the RTP has stayed on line. It was due to the lack of rain and the water demand from the growers. Since 1999, MRWPCA has produced 40 billion gallons of recycled water. Mr. Dix provided a graph illustrating the discharge in the outfall in 2008 and the first three months of 2009. During peak recycle water production (April – August) very little water was going out the outfall. He continued with information about permit compliance and highlighted the approval from California Department of Public Health and the CCWB for the increased filter loading rate. The increase in the hydraulic loading rate is from 5 gallons per minute to 7.5 gallons per minute per square foot. That means on Sunday's when the plant experiences peak flows in the afternoon, we are able to capture all the flow. Chair Calcagno thanked Mr. Dix for his presentation.

10. BOARD MEMBER COMMENTS

Mr. Rubio thanked staff for all the hard work put into the MOUs and to the Chair for his leadership in getting the work completed. Chair Calcagno stated his appreciation to Mr. Rubio, Ms. Downey and staff for their participation. We have a

road map and have tested all the waters so we know where the rough spots are. If we continue to work together as a team, we can make it happen.

Ms. Downey expressed her pleasure to serve on the committee and appreciated the efforts of all.

Mr. Calcagno asked to clarify his position as Supervisor of District 2. Because the his District includes 40,000 people in the City of Salinas and takes in the major shopping areas of North Salinas, he stated he will have to comply with Salinas City staff and Council when they have issues regarding this agency. He noted it was important for him to notify the other Board members.

11. ADJOURNMENT

With no further business, Chair Calcagno adjourned the meeting at 8:27 p.m. to the next scheduled Special Board Meeting on July 9, 2009, at the Seaside Community Center, 220 Coe Avenue, Seaside, California.

/s/ Keith Israel

Keith E. Israel, General Manager
Secretary to the Board

/s/ Louis Calcagno

Louis Calcagno, Chair
MRWPCA Board of Directors