

**MONTEREY PENINSULA REGIONAL WATER AUTHORITY
(MPRWA) SPECIAL MEETING MINUTES
Monday, July 23, 2012**

1. CALL TO ORDER

The special meeting of the Monterey Peninsula Regional Water Authority was held in the City Council Chambers at Seaside City Hall, on the above stated date at the stated hour of **6:03 p.m.** President Della Sala called the meeting to order.

2. ROLL CALL AND INTRODUCTIONS

Roll call was taken and a quorum established with the following members in attendance:

1. Jerry Edelen, Del Rey Oaks
2. Felix Bachofner, Seaside – Vice-President
3. Jason Burnett, Carmel
4. Chuck Della Sala, Monterey – President
5. Carmelita Garcia, Pacific Grove (*arrived at 6:15 p.m.*)
6. David Pendergrass, Sand City

3. PLEDGE OF ALLEGIANCE

Director Edelen led the Directors and public in the Pledge of Allegiance.

4. REPORTS FROM MEMBERS OF THE AUTHORITY BOARD AND STAFF

Director Edelen reported the bank account balance of the Authority to be at \$14,505.88. In the City of Pacific Grove, there was discussion on whether or not to remain part of the JPA. Director Edelen testified and Mayor Sue McCloud was present and testified as well. Their decision was to remain part of the JPA. It was a very good Council meeting and a good discussion. The Council of Pacific Grove decision was to remain part of the JPA and passed unanimously.

President Della Sala asked Director Edelen if there were any outstanding bills that have not been paid and to Director Edelen's knowledge, the answer was no.

No Staff Reports

5. RECEIVE REPORT FROM THE TECHNICAL ADVISORY COMMITTEE AND PROVIDE DIRECTION, AS NEEDED

Mr. David Stoldt reported that he is the new 3rd chairman of TAC. He updated the Authority primarily on the Request For Proposals (RFP) process. He reported the Thursday before the 4th of July, a RFP was submitted to 12 potential firms. There were no proposals received by the 13th. By the request of TAC, Mr. Stoldt talked to 9 of the 12 consultant firms. Many firms had more than one explanation to why they had not submitted a RFP. One of the firms moved to Southern California and did not think they could service the client competitively; insufficient availability of staff over limited

timeframe; conflict of interest with existing clients or prospective clients; desire to pursue impending work for Cal-Am as a more lucrative client; uncertainty over creating new conflicts in “squirrely” Peninsula water politics (4 firms); risk associated with Peninsula water politics (3 firms); lack of prior relationship with JPA- typically only responds to RFPs with pre-existing relationship (2 firms); appeared costs would be an issue, but would not be the lowest bid (2 firms); the other 4 firms claimed they did not see the RFP, it got lost and they ran out of time, or were on vacation. It wasn’t one single issue or failure of the RFP process, City of Seaside staff should be commended on doing a great job.

Summary of Issues: Will meet with 3 firms, 2 located in Oakland, 1 firm located in Oxnard. Recommendations for the Board are to re-open the process, negotiate, or ask for letters of interest and work on a time frame.

Other TAC matters

Update on Cal-Am regarding progress on their application and extended offer on the Desal Agreement to return to the first meeting that will be held in August to provide an update.

Director Burnett asked Mr. Stoldt if there is a recommendation of action he could provide to the Board in regards to the RFP.

Mr. Stoldt stated in response to Director Burnett’s question that it would be ideal to have interested consultants attend the workshops, but not necessary to have one on board. Attending the workshops would help the consultant be up to speed and they would learn what is required for testimony.

Mr. Stoldt commented a couple of changes being made to the Qualitative Risk Assessment. At some point, those changes will be available to the Board.

President Della Sala opened public comment, seeing none public comment was closed.

6. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

President Della Sala opened the meeting to public comment.

Mr. Dale Hekhuis, representing Monterey Peninsula Repair Alliance, suggested an idea to identify the best components referred to as building blocks from each of the 3 competing water proposals that could make for a better project overall. To summarize, these building blocks include water production building blocks and administrative/management building blocks and consider public financing to achieve lowest possible costs to the Monterey Peninsula Water Management District.

Mr. Nelson Vega mentioned the conflicts of interest the Board has since both Vice-President Bachoffner and Director Pendegrass sit on other committees and that at some

point, the Board should address how to resolve the conflicts of interests. He also suggested that the Board talk to the County as a group and address the County of getting rid of the public ownership rule and get rid of restrictions if requirements are met.

Mr. Ralph Rubio suggested the Directors should cite if they've had or have not had any communications or meetings so that it's on record.

President Della Sala closed public comment.

7. APPROVAL OF MINUTES – NONE

8. BUSINESS ITEMS

A. Review Report on Legal and Administrative Services, Prepared by the City Attorney of Monterey, Carmel-By-The-Sea and City of Seaside, Donald Freeman.

(1) Provide Direction for Provision of Independent Legal Services (Action)

(2) Provide Direction on Administrative Staff Support (Discussion and/or Action)

Attorney Don Freeman reported there is a need for legal services and administrative services in order to have continuity to ensure the Water Authority are following the routine rules. In terms of Administrative Services, he indicated that Ms. Davi stated that the City of Monterey has proposed to charge approximately \$35,000 a year; In addition, she has also indicated that the City of Monterey at this time is not prepared to assume the responsibilities for providing legal services. She has sought a RFP, seeking legal counsel services for her office and she received bids ranging from \$250-\$350 per hour.

President Della Sala opened public comment. Seeing none, President Della Sala closed public comment.

Director Edelen spoke in favor of having administrative services and asked that the Agency consider qualified individuals who are willing to volunteer.

Director Burnett stated there are 3 roles that potentially need to be filled, the Administrative Services as described in the staff report, whether or not the Agency wants to have an Executive Director, and lastly, address the Legal Services position. There is no time to debate and delay, the Agency should accept the City of Monterey's offer and move forward. In matters addressing the Legal Services, an RFP should be issued.

Director Pendergrass spoke in favor of having Administrative Services and to issue a RFP for Legal Services.

Director Garcia spoke in favor of presentation and urged the Agency to take action.

M/S/C (BURNETT/DELLA SALA) 2 Motions made:

1. Request that Monterey provide a proposal for adoption at the next regular scheduled meeting to provide the services listed on the staff report 1-8 and bring proposal to Agency for adoption; 2. Issue an RFP for Legal Services describing the estimated work load of 10 hours per month. The motion carried unanimously.

B. Consider and Adopt Proposed Policy Statement for Authority Direction during the 2012-2013 Fiscal Year (Discussion and/or Action)

Presented by Fred Meurer, City Manager for the City of Monterey. He stated that if the JPA is to be involved in the water project, it will require concerted evaluation and analysis. It is recommend the Board stays focused on vision for future roles, and establish clear expectations of the JPA and its responsibilities in going forward.

Director Burnett stated the questions that (Board) need to be asked are, Do we want to get involved in where the water source comes from and whether we want to augment the source water such that there will be more water ultimately to be injected.

President Della Sala opened public comment.

A member of the public spoke in favor of Mr. Meurer's presentation. One thing he found missing from the presentation was the most economical way of providing water to the community.

Mr. Bill Hood spoke in favor of Mr. Meurer's report and suggested having staff provide feedback and analysis to the Board and public.

Mr. Nelson Vega questioned if it is going to be ran as a public agency or Cal-Am? He stated the ownership decision is an expensive decision. He suggested the CPCU taking private ownership out, otherwise it will be wasting a lot of public time and money. Let the Water Management District be responsible for the source of the water is provided.

Mr. George Schroeder commented that there is not enough emphasis on financing and on a public agency that represents all the water users.

Mr. John Ricci spoke in favor of the presentation and stated that the PUC is not entertaining any alternatives at the time. He stated that he is concerned of the potential rationing if the community is not unified. Hopes the Board supports an independent study that will study all 3 proposals.

Mr. Tom Riley stated he is looking forward to deadlines established by water bureaucrats.

Mr. Dennis Ali reminded the Board on their statement of providing necessary leadership. He cautioned the Board to stay focused on their primary mission when they established the JPA.

Mr. George Riley stated that the worse thing the Board could do is to default to Cal Am.

Mr. Rick Riedl suggested considering grants as a financial alternative.

President Della Sala closed public comment.

Director Edelen commented to the Board to keep focused on the 3 alternatives and present to CPU the alternative the Board wishes to support.

President Della Sala summarized Director Edelen's comment, stating it doesn't matter if it's a public or private that delivers the water, just so that is done in the most cost effective matter.

Director Pendergrass commented on choosing the most cost effective water and presenting a unified political voice to support the alternate water project. In regards to public relations, press release should be released to inform the public about the Board's mission and what is being accomplished.

Director Burnett stated he supports public/private financing for lower cost water under the PUC Cal-Am option as long as it does not raise the EIR issue. He also stated that he does not agree with ownership by JPA. The Board needs to articulate a vision and be ready to make a motion to the PUC.

Director Bachoffner spoke in favor of Director Burnett's comments.

M/S/C (BURNETT/BACHOFFNER) motion to 1. Water Authority has not yet made a decision of which Desal project is the best to pursuit; 2. Water Authority's focus on ownership because of the connection between ownership and lower costs public financing including state revolving funds; 3. We plan to explore and ask the PUC and others to explore mechanisms for public ownership by the Monterey Peninsula Water Management District or other public agency not including the JPA and or pursue public/private partnerships that include public financing of at least part of the Desal plant in such a way that in doing so does not require a change in lead agency or a restart the EIR; 4. If a private entity owns the Desal plant we will support and will work to assist in securing public financings. The motion carried unanimously.

Fred Meurer asked the Board if they want to get involved in the fight over water rights, or for or against County Ordinance, State revolving funds and the legal issues presenting itself daily.

President Della Sala response was to stay out of matters that they can not legally do and focus on what they can, and that is influencing the CPUC.

Director Burnett agreed with President Della Sala's comment in terms of not being involved in legality issues/roles but to recognize the ownership motion that was carried unanimously in which it would avoid a legal fight.

There was a consensus among the Board to stay out of the State revolving funds and legal matters and costs.

Fred Meurer asked the Board if they simultaneously want their spokespersons on Thursday and Friday, if the opportunity arises, to pursue coverage of the alternative projects in the PUC supplemental EIR work.

President Della Sala asked that the CPUC do just that, it is important that they have an evaluation of the full range of the 3 projects. it is only fair to the other 2 proponents of the Desal projects.

Director Burnett agreed with President Della Sala's comments.

Fred Meurer continued on with the discussion on Cal Am, does the JPA want to take the position that they should simultaneously look at direct intake in case for any reason the rainy wells do not pan out.

President Della Sala answered yes in terms of looking at alternatives for slant wells; it is the Board's duty to put forth what is the best interest of going forward and making this project come in on time.

Director Edelen does not want to tell Cal Am how to do their job; they have engineers and they have the money and stated the Board should not get involved in Cal Am's internal function by telling them what they should or shouldn't do.

Director Burnett agreed with President Della Sala that the Board has an interest to make sure that there is a good contingency plan thru out such if there is technical hiccups, legal hiccups, anywhere thru out the operation that there is a plan B. Recommended that the Board include a general policy statement about making sure that there is contingencies for the key technical and legal questions

Director Bachoffner stated he was confused, he thought the Board was suppose to be considering the CPU application

Fred Meurer stated to the Board if they would like a staff recommendation, speaking on behalf of the City Managers, in suggesting what they ask the PUC on Thursday, that slant wells are high risk that there should be alternatives to be considered as part of the environmental process. The rainy wells are being looked at as an alternative to the slant wells by Cal Am right now, also know that rainy wells involve structures on the beach that may be difficult to get approved and may have public composition. Both Deepwaters and The People's Project has suggested intakes, both arguing that their direct intake on methodology and location will have minimum environmental impact and will avoid many of the fights that other direct intakes across the state have had in the past with the Coastal Commission. The staff recommends. For suggested comments for Thursday, continue to pressure PUC and Cal Am to look at the full range of the alternatives not just rainy wells and slant wells.

Director Pendergrass stated the Coastal Commission has to approve the project and to stay out of the process.

Director Garcia concurred with Director Edelen and Director Pendegrass comments.

Director Burnett stated suggestive language that could address some of staff recommendations; Water Authority encourages contingencies for the technical complexities such as the water intake and the legal questions so that the selected project is not delayed due to unseen events. He stated that it is a broad statement of not getting into the details of rainy wells versus slant wells versus direct intake.

M/S/C (BURNETT/BACHOFFNER) motion to have a policy that the Water Authority encourages contingencies for technical complexities such as source water intake and legal questions such as water rights so that the selected project is not delayed due to unforeseen events. The motion carried unanimously.

Fred Meurer asked the Board in terms of discussion with the PUC, does the Board want to ask/argue that they include evaluations of Deepwater and The Peoples Project as potential alternatives to Cal Am as they're doing their environmental evaluation of the project as it stands today; does the Board want the Staff to become anyway involved with the technical issues?

Director Pendergrass reminded the Board that there are MOU's that still exist and in doing so, interfering could cause problems.

The Board decided to stay away from the technical and legal issues

C. Consider and Adopt Proposed Budget for Authority for 2012-2013 Fiscal Year (Discussion and/or Action)

Presented by Interim City Manager, John Dunn. He stated the new total estimated expenses to be \$236,500 for the 2012-2013 Fiscal Year ; Not part of the recommendation but that City of Seaside and the City of Carmel be reimbursed for costs of staff services

Director Garcia asked if the staff position was budgeted into the expenses.

Director Edelen stated that he would like to see the bi-laws and provisions and mentioned that the tax payers should not be sharing the costs for analysis;

Director Burnett mentioned his effort is to see a structure or restructure of their proposal that it benefits the rate payer and that Cal Am shareholders gain less equity.

President Della Sala opened public comment.

Mr. Rudy Fisher suggested the JPA fund the independent study.

Mr. Nelson Vega asked the Board not to underfund the Authority.

Mr. Don Riley stated it is unfair as a tax payer to share part of the costs.

Mr. John Narigi spoke in favor of the Board to spend the \$80,000 and do the study correctly.

Ms. Sue McCloud asked for clarification on which fiscal year the budget is representing and asked for clarification on certain items.

President Della Sala closed public comment.

Vice President Bachofner stated that consideration should be given to the Cities of Carmel and Seaside for their provision of Administrative services for 7 months.

M/S/C (DELLA SALA/BURNETT) to approve and adopt budget of \$236,500 and the extra sum of \$7,950, for audit and insurance and that a letter be sent to the County to share some of the \$80,000 costs for the project evaluation study. The motion carried unanimously.

Director Burnett stated the City of Carmel will not push for the \$5,000 in administrative costs.

Director Bachoffner concurred with Director Burnett but stated he would have to consult internally before finalizing his decision.

D. Provide Guidance Including Project Governance to Attorney of Record Prior to Next Appearance Before the California Public Utilities Commission. (Action)

M/S/C (BURNETT/GARCIA) Water Authority has the policy that a public entity should be the decision maker of GWR and furthermore that the Water Authority would like to be considered as that decision maker. The motion carried unanimously.

E. Authorize Chair of MPRWA Technical Advisory Committee (TAC) to select a consultant to attend CPUC Workshop on Thursday, July 26 and Friday, July 27, 2012 (Discussion and Action)

There was no action made, it was mentioned it is not imperative to have a consultant attend the workshop.

President Della Sala opened public comment

Mr. Dave Stoldt spoke under public comment in stating to the Board that he has full confidence, if given the authority, to select the highest qualified.

Ms. Sue McCloud asked that the workshop be provided to the public to view on the City's websites.

President Della Sala closed public comment

F. Authorize Don Freeman to Attend CPUC Workshop on Thursday, July 26 and/or Friday, July 27, 2012. (Discussion and Action)

M/S/C (GARCIA/BURNETT) to approve authorization for Russ to attend the workshop on Thursday and Don Freeman to attend the CPUC Workshop on both Thursday, July 26 and/or Friday, July 27, 2012 and compensate his time spent at the workshop. The motion carried unanimously.

President Della Sala opened public comment.

Ms. Sue McCloud asked how could Don Freeman sit in on Friday if he has not sat in on the previous meeting.

Mr. Nelson Vega spoke in favor of the motion.

Don Freeman urged the Board to have Russ attend the workshop as well. Russ will only be available to attend Thursday's workshop. He clarified he does not charge for mileage, he only charges for his hourly rate which is \$350 per hour and if needed, hotel accommodations are also charged.

G. Consider and Approve Sending Letter to Monterey County Board of Supervisors Inviting Them to Join the Authority and/or to Consider Sharing in the Cost of the Consultant Study to Evaluate the Three Desalination Proposals.

Director Bachoffner motioned to send the letter with the exception that President Della Sala be referred as "President" and not Chair.

President Della Sala opened public comment.

Ms. Sue McCloud stated it is not the first invitation made and suggested changing the last sentence of the 3rd paragraph 'it is for this reason we wrote you initially to invite the Board to represent the citizens' to make clear it is not the first time that they have been invited and on the next paragraph where it states "upon request" to "if you are interested".

Mr. Fisher supported letter going to Supervisor Potter and pointed out in paragraph 3 a typo, correcting the word "custom" to customer water usage.

A member of the public stated it should be changed to address Dave Potter and Members of the Board instead of "Dear Mr. Potter".

President Della Sala closed public comment.

M/S/C (BERNETT/BACHOFFNER) to approve and send letter with changes mentioned by Mr. Fisher, changing custom to customer, adding a few words that was suggested by Sue McCloud for paragraph 3 after 'for this reason' and adding Members of the Board and then signing it on behalf of the Board. The motion carried unanimously.

H. Meeting Administration- August through October

Tom from the City of Pacific Grove stated it is not a wise decision, it is not the appropriate time right now to make a decision. Other Cities also stated they did not have enough staff to help out right now.

Vice-President Bachoffner volunteered City of Seaside for one more month.

John Dunn stated it is a tough time to keep up with the workload and volunteered for another month.

President Chuck Della Sala thanked the City of Seaside for volunteering staff for another month.

9. ITEMS FOR FUTURE AGENDAS (INFORMATION)

- Review Correspondence Letter dated July 17, 2012 from City of Pacific Grove for Discussion and/or Action
- Take action on proposal of City of Monterey Administrative costs of \$35,000 a year
- Job description for JPA Coordinator, identifying and specify the qualifications, skills, abilities, and experience required for the position
- Take action on RFP for a JPA Coordinator
- Define role for the Water Board Management Director

10. DETERMINE TIME AND PLACE OF NEXT MEETING

The next scheduled regular meeting of the Monterey Peninsula Regional Water Authority will be held at 6:00 p.m. on August 9, 2012 in the Seaside Council Chambers.

Director Bachoffner stated his concern of holding the meetings around the peninsula to give accessibility to the public.

President Della Sala stated it should be rotated quarterly.

John Dunn spoke on behalf of staff in terms of having a convenient setting where staff is comfortable with the audio.

11. CORRESPONDENCE

Letter dated July 17, 2012, from City of Pacific Grove.

Director Garcia suggested the item be moved to a future agenda item.

President Della Sala opened public comment, seeing none public comment was closed.

12. ADJOURNMENT

The meeting was adjourned at **10:10 p.m.**

Respectfully submitted,

Samantha Alcaraz
Acting Clerk

ATTEST:

Chuck Della Salla
Chair