



PAJARO VALLEY WATER MANAGEMENT AGENCY

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Board of Directors Meeting
July 18, 2012, 5:00 p.m.

City Council Chambers
275 Main Street, 4th Floor
Watsonville, CA 95076

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, 4th Floor, Watsonville, CA, at 5:10 p.m. by Chair Imazio.

Board Members Present: Imazio, Cavanaugh, Eiskamp, Persoff, Osmer, Lynn and Vasquez

Board Members Absent: None

Staff Members Present: Mary Bannister, General Manager (GM)
Brian Lockwood, Staff Hydrologist (SH)
Laura Taay, Temporary Administrative Assistant (TAA)
Berta Rodriguez, Acting Administrative Assistant (AAA)

Others Present: Anthony Condotti (Agency Counsel)

3. Pledge of Allegiance

4. **Oral Communications:** None.

5. **Director Comments:** None.

6. **Counsel Report:** Counsel updated the Board on the status of the two pending cases in the Court of Appeals. The Court denied the Agency's motion to consolidate the two cases but the Court did rule that it would keep both cases on the same time track, but would decide each case separately.

7. **General Manager Report:** The Agency received a DWR Prop. 50 reimbursement payment in the amount of \$107,000. The Agency then paid out each sub-grantee as follows: \$5,000 to Action Pajaro Valley; \$35,000 to Pajaro River Reconstruction; \$10,500 to Soap Lake Floodplain, and \$35,000 to RCD, Erosion Control, and \$21,500 to the Agency for grant administration.

The State accepted the Agency's request for an extension of the Water Rights Permit on Harkins and Watsonville Sloughs, which permit includes a permit to use up to 2,000 acre feet per year of water from Harkins and Watsonville Sloughs.

The GM identified issues with accounting controls both in recommendations from our auditors during more recent events. GM has retained a third party CPA to investigate the issues identified and will report back to the Board.

Lastly, the GM reported on her recent attendance at a California Special District Association's General Manager's workshop which led her to conclude that it is time for the Agency to implement

and update some important policies and programs, for example, the Investment and Reserve policies as well as updating the Personnel Policy Manual, all of which will first be submitted to the Admin/Finance Committee for consideration. In addition, PVWMA should embark on the development of a Strategic Plan. At the workshop, the GM met several excellent facilitators who she thinks could be very helpful in the latter effort as well as with the Basin Management Plan process when the public engagements phase begins.

8. Consent Agenda

- A. Approve June 20, 2012 minutes.
- B. Approve June 28, 2012 minutes.
- C. Approved Financial Reports for May 2012.

The Chair requested that the June 20, 2012 minutes be removed from the Consent Agenda as the meeting was cancelled due to a lack of a quorum. The GM acknowledged that Margie Kay had requested a correction to her remarks during Oral Communications at the June 28th meeting as follows: Margie Kay stated at the June 25th meeting, Monterey County LAFCO had scheduled the protest hearing for the August Monterey County LAFCO meeting on Aromas Water District's Oakridge/Via Del Sol annexation and sphere of influence proposal.

Action: Director Lynn moved approval of the Consent Agenda without the June 20, 2012 minutes; the motion was seconded by Director Cavanaugh. Motion carried by the following voice vote:

AYES: Imazio, Cavanaugh, Eiskamp, Persoff, Osmer, Lynn, Vasquez.
NOES: None.
ABSENT: None
ABSTAIN: None.

9. Discussion and/or Action Items

A. Consider Approval of Award in the amount of \$28,000 to Bartlett, Pringle & Wolf for audit services for FY ending June 30, 201. Director Lynn stated Bartlett, Pringle & Wolf had satisfied the Board's concern contained in its recent RFP for auditing services by reassuring the Agency that while it had audited the Agency for the past five or six years, it sends a different auditor team each year, thereby providing the agency with the requisite fresh eyes and a new perspective. Director Osmer inquired whether the Admin/Finance Committee was recommending this action. The GM replied in the affirmative.

Action: Director Osmer moved approval of the contract and award for \$28,000 to Bartlett, Pringle & Wolf; seconded by Director Lynn. Motion carried by the following voice vote:

AYES: Imazio, Cavanaugh, Eiskamp, Persoff, Osmer, Lynn, Vasquez.
NOES: None.
ABSENT: None.
ABSTAIN: None.

- B. Consider Approval of Resolution 2012-07 Certifying Compliance with State Law with Respect to the Levying of General and Special Taxes, Assessments, and Property-Related Fees and Charges: The GM initiated discussion by reviewing the history of the management fee since 1984 pursuant to the Agency Act whereby each residential and business parcel within the Agency's jurisdiction is assessed on the counties' tax rolls. In order to enable the collection by the three counties which generates approximately \$360,000 per year for agency administration, the agency must prepare listings of the residential and business parcels and submit them to the three county assessors by August 1, 2012.

Director Eiskamp reiterated his long-standing opposition to the proposed collection of management fees on the grounds that the management fee is unconstitutional under Proposition 218 because it is a property-related charge that must be first approved by the voters, and that the management fee has never been approved by the voters.

Counsel stated that the management fee had been adopted in its present form in 1992, before the enactment in 1996 of Proposition 218 that became effective in 1997. Counsel then went over the recent legal challenges to both the augmentation charge and the management fee. Three cases were consolidated by the Court of Appeals, leading ultimately to a stipulated judgment rescinding the 2003 and 2004 increases to the augmentation charge and a court-ordered refund of approximately \$13M. Under the terms of the stipulated judgment, the parties agreed that any future challenges to the augmentation charge or the management fee were barred. Subsequently, Pajaro Sunny/Mesa Community Service District and Director Eiskamp filed separate legal challenges to the \$80 augmentation charge. The Court found that the stipulated judgment was binding upon all parties within the Agency's jurisdiction. The Court also rejected the Pendry challenge and found that it was barred by the stipulated judgment, statute of limitations bar, and the Agency's fees to be in compliance with Prop. 218. Counsel stated that as a result of all these court rulings, the Agency can legally continue to collect the management fee and that the legality of the management fee is on a more solid footing than in past years.

Director Eiskamp questioned whether Counsel's statements referred to whether the management fee can be further challenged or whether it is constitutional. Counsel responded that it was one and the same thing.

Action: Director Osmer moved approval of Resolution 2012-07; seconded by Director Cavanaugh. Motion carried by the following voice vote:

AYES: Imazio, Cavanaugh, Persoff, Osmer, Lynn, Vasquez.
NOES: Eiskamp.
ABSENT: None
ABSTAIN: None.

- C. Consider Approval of Agreement for Use of Well on parcel 052-581-06, for the amount of \$15,000/year, through December 31, 2016. GM reviewed the history of the Agency's use of the well on this property formerly owned by Gary Mine, and recently purchased by Hoover Farm, LLC. The Agency and the new owners have been in negotiations for continued use of the well. The GM further noted that the proposed agreement specifies an annual use fee of \$15,000/year with an additional per acre foot charge of \$205 for use over 75 acre-feet in a year, with a 5 year term and renewal provisions. Counsel had reviewed and approved the terms of the contract. It was also reviewed and recommended by the Board in closed session on June 28, 2012. Discussion followed, with Director Eiskamp objecting based on the reasons set forth of his June 27, 2012 letter to the Board which he thereupon made available to the public. The GM responded to Director Osmer and Cavanaugh's questions that

the Agency uses the well for blending and peaking supply, and that the Agency intends to keep it operational and maintained as a source of back up water supply.

Action: Director Osmer moved approval of Agreement; seconded by Director Cavanaugh. Motion carried by the following voice vote:

AYES: Imazio, Cavanaugh, Persoff, Osmer, Lynn , Vasquez.
NOES: Eiskamp.
ABSENT: None
ABSTAIN: None

Public Comment: Denis Klimor asked for clarification on the terms of the agreement, which was provided by the GM.

- D. Discuss ACWA Solicitation of Legislative Proposals for Consideration. The GM noted that while the Board and the community have over the years discussed the possibility of using augmentation charge funds for conservation efforts, the Agency's Act does not specifically call out conservation as an activity that may be funded by augmentation charges. The Agency has used management fees to fund conservation efforts in the past, but they are not adequate to fund a meaningful conservation effort. The proposed legislative action contemplates the addition of "**conservation and**" to the augmentation charge section of the Agency Act to allow the use of augmentation charge funds to support significant conservation projects. Discussion followed, with Director Imazio stating that she would be interested in engaging the community and other stakeholders to learn more about their opinion on this matter. Professor Samuel Sandoval, UC Davis consultant to the Agency, offered his views on how to measure water efficiency. Director Eiskamp stated that he is not opposed to conservation, but that the augmentation charge is proportional to cost. Director Osmer agreed that the Agency should find a way to fund conservation, but that, in his opinion, the public does not support any changes to the Agency Act at this time as it could potentially open the Agency Act to additional legislative amendments as was noted by the Santa Cruz County Farm Bureau when this was brought up in the past. Director Cavanaugh noted that the very people that complain that the Agency is not doing enough conservation are the ones who have depleted the management fee account by filing law suits. Nic Keiderling, member of the public, recommended that the Board wait until after the revised BMP currently in process is finalized to revisit this issue. Staff will not take any action on this matter at this time.

The Board recessed at 6:35 p.m., and reconvened at 7:10 p.m.

10. Basin Management Plan Update and Ad Hoc Basin Management Plan Committee.

The Chair, the GM and Director Cavanaugh, the Chair of the Ad Hoc BMP Committee opened discussion by first expressing their appreciation to the Ad Hoc BMP Committee Members for their valuable service and dedication over many months to investigate all practical projects and programs that contribute to the efficient and economical management of existing and supplemental water supplies. Tonight's presentation will serve to fully inform the Board of the BMP process and to provide a summary of the Committee's evaluation and recommendation of a preferred BMP scenario for inclusion in the 2012 BMP. Tonight's presentation will include a list of programs, their integral timing and costs, and their acceptance by the community.

Lou Carollo, Carollo Engineers, then walked the Board through each of the Committee's preferred programs, with attendant detailed explanations. Lou Carollo explained the Committee's methodology for each short-term and long-term project. Copies of his power point presentation were included in the Board packet as well as distributed to the public.

After the presentation, Director Cavanaugh noted that the budget shown for the BMP implementation does not consider additional grant funding that may be secured.

Public: Denis Klimov asked if cost calculations considered constant water use or increases in demand with time. Lou Carollo responded that the calculations consider conservation and the City's adherence to its Urban Water Management Plan. Under the conservation discussion, Dr. Samuel Sandoval noted that he's met with Dr. Caron with Hortau, as well as Michael Cahn with UC Ag Extension, and both, from differing technical approaches, generally supported the potential conservation savings that he had predicted.

Board Discussion. Director Eiskamp stated that the recommendation made a lot of sense, and was a much improved process over past efforts. He was pleased to see the very good attendance at the meeting, which was unusual.

Director Imazio referred to the figure showing the timeline and schedule and asked what decisions are needed to be made by the Board moving forward. Lou Carollo responded that the Board would need to decide if Scenario 3 is the right set of projects and programs to consider moving forward, and if so, the Board could approve the Notice of Preparation for the Environmental Impact Report in November, after further work is completed by the engineering team.

Director Osmer indicated that he has a number of questions. He has been involved in many planning efforts, and that the Committee has an investment in what they've recommended but there are hard questions yet to be answered. He also appreciated the work done by Carlton and Jarnigan in their conservation report (December 2011).

Director Osmer is concerned that it's early to go out to the public as the BMP is not fully formed enough. Also that we may lack the time to respond with the very tight timeline, should the public have criticism of the plan. Lou Carollo responded that the Committee is representative of the community and will stay involved. The public has multiple bites at the apple including the CEQA process, funding process and Proposition 218 election.

Director Eiskamp noted that the failure of the past plan was due to the inclusion of the import pipeline that could not be feasibly constructed. He strongly recommended going out to the public now to get early input. He noted that this is a conceptual analysis, and that cost and design are not set, however it is important to eliminate the "out there" unworkable projects.

Director Persoff noted that he enjoyed working with everyone and appreciated the work the Committee devoted to the process. He encouraged immediate use of the water out of College Lake that is now being lost to the river.

Director Osmer asked if there is anything further to the recommendation – so far there has only been a Power point presentation. He also asked for a clarification on whether the basin would be balanced by 2023 under Scenario 3 to which Mr. Carollo responded yes. He was surprised that storage at the treatment plant showed a yield and stated that it appeared to be double counting.

Kirk Schmidt, under public comments, reported in response that the starting point of the committee was that 2,000 acre feet/year is being delivered plus there will be additional deliveries in the future as part of the 12,000 acre feet needed. He noted that it will take significant work to implement the proposed scenario and that checks will be needed in the future to ascertain whether constructed projects are working up to expectation and/or additional projects are needed. The Board is now placed in a position of control based on knowledge which was not the case in the past. He would like to see a draft document soon, and recommended that the board adopt the committee recommendation and direct the consultants to move forward.

Director Cavanaugh thanked Kirk for the hard work he did on the committee and his clear and concise comments. Director Osmer asked that a meeting with the Ad Hoc BMP Committee be scheduled and done in a way that creates a forum for exchange.

Public Comments: Denis Klimov asked how solving 90% of seawater intrusion is defined. Lou Carollo responded that it stops seawater intrusion but does not reverse it. John Ricker said he had been involved with a lot of water planning in his long career and that he thought this BMP process was one of the best efforts he'd seen. He also noted that although the PVWMA's conservation program isn't proposed to be implemented until 2015, the Santa Cruz County Resource Conservation District is engaged in significant grant supported conservation efforts in the valley now.

11. Monthly Reports/Presentations

A. Project Operations Report

1. Receive 2012 Project Delivery Update. The GM distributed a Production Monthly Summary 2011 and 2012 and will present a more detailed report at a future meeting.
2. Receive Harkins Slough Project Update
 - a. Pump Station maintenance. The GM reported that the Agency was following up with reimbursement from Santa Cruz County for work done in November 2011.
 - b. January 2012 flooding. GM reported "Supervisor Ellen Pirie held another meeting of Stakeholders and Santa Cruz County Public Works. It was decided that the Stakeholder Group will meet during the rainy season and inspect the Pajaro River Mouth so that the County can perform the needed breaching before loss of life, property or the Agency's projects operations are threatened.

B. Board Committee Reports (agendas, minutes and packets from last meetings)

1. Administrative Finance Committee – covered above under Consent Agenda

C. Other Committee Reports

1. Pajaro Integrated Regional Water Management Plan Stakeholders Coordination Committee was convened and more information will be presented as their work gets under way.

12. Written Communication/Correspondences: The June to July 13, 2012 Chron was included in the board packet.

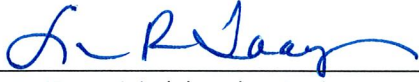
13. Future Meetings and Agenda Items

- A. Joint Meeting – Board of Directors and Ad Hoc Basin Management Plan Committee – Wednesday, August 1, 2012, 1:00 – 4:00 p.m., City of Watsonville Community Room, 275 Main Street, Fourth Floor, Watsonville.
- B. Water Quality Project Operations Committee — August 22, 2012, 3:00 p.m. – 4:00 p.m., PVWMA Conference Room, 36 Brennan Street, Watsonville, CA.
- C. Administrative/Finance Committee — September 11, 2012, 12:30 p.m. – 1:30 p.m., PVWMA Conference Room, 36 Brennan Street, Watsonville, CA.
- D. Board of Directors — September 19, 2012, 7:00 p.m., City Council Chambers, 275 Main Street, Fourth Floor, Watsonville, CA.

Other: The GM proposed another joint Board and BMP Ad Hoc Committee Meeting at the fairgrounds on August 8, 2012, starting at 6:00 p.m. She will survey members for availability and notify of actual meeting date, time, and location.

14. Future Agenda Items.

15. Adjourned at 9:10 p.m.



Laura R. Taay, Administrative Analyst

August 15, 2012

Date Approved