

REGULAR MEETING
Seaside Groundwater Basin Watermaster
February 7, 2007

MINUTES

I. CALL TO ORDER

Chairman Rubio called the meeting to order at 1:32 p.m. in the Seaside Community Center at Soper Field, 220 Coe Avenue, Seaside.

II. ROLL CALL

City of Seaside – Mayor Ralph Rubio, Chairman
Laguna Seca Subarea Landowner – Director Bob Costa, Vice Chairman
Monterey Peninsula Water Management District – Director Michelle Knight, Secretary
City of Monterey – Vice Mayor Jeff Haferman
City of Sand City – Mayor David Pendergrass
California American Water Co. – Director Steve Leonard
City of Del Rey Oaks – Mayor Joseph Russell
Coastal Subarea Landowner – Director Paul Bruno
Monterey County/Monterey County Water Resources Agency – Curtis Weeks (alternate for Supervisor Jerry Smith, District 4)

III. APPROVAL OF MINUTES OF January 17, 2007 Regular Meeting

CEO Evans advised the Board of a correction: Director Lehman (alternate for Director Knight) voted no on the motion regarding the alternative presented for providing consulting services for Management and Implementation of the Basin Monitoring and Management Program (“BMMP”).

**Moved by Mayor Pendergrass, seconded by Mayor Russell, and
unanimously carried, to approve the Watermaster January 17, 2007,
Regular Meeting minutes as corrected.**

IV. REVIEW OF AGENDA

There were no changes to the agenda.

V. PUBLIC PARTICIPATION/ORAL COMMUNICATIONS

There were no questions or comments from the public.

VI. CONSENT CALENDAR

A. Request approval for payment of January, 2007 bills

Contract Compensation—CEO	\$5,700.00
Reimbursable—General	1,143.36

**Moved by Director Leonard, seconded by Director Weeks, and
unanimously carried, to approve the payment of bills.**

VII. OLD BUSINESS

A. COMMITTEE REPORTS

1. TECHNICAL COMMITTEE

Report on Seaside Basin Groundwater Recommended Approach – Martin Feeney

Mr. Martin Feeney, Consulting Hydro geologist, reviewed orally the documents submitted to Ms. Diana Ingersoll dated January 12, 2007, regarding the recommended approach to the groundwater modeling component of the BMMP. Ms. Ingersoll stated that the Watermaster Technical Advisory Committee (“TAC”) reviewed the documents and concurred with the recommendations made by Mr. Feeney.

The Board discussed with Mr. Feeney the basis of the recommendations including past modeling efforts and numerical engine models used. If any groundwater modeling is done, Vice Mayor Haferman supported using the simplest approach initially given the uncertainties inherent in the development of the model then adding depth to the model as data is forthcoming.

Moved by Director Leonard, seconded by Director Costa, and unanimously carried, to accept Mr. Feeney’s recommended approach to use, with minor refinements, the existing groundwater model (Durbin) to serve Watermaster’s immediate needs and meet the requirements of the judgment and, after stated refinements are completed by the Court deadline of March 27, 2007 at a cost estimate of \$50,000, to adopt the Durbin model as the “interim groundwater model.”

2. BUDGET/FINANCE COMMITTEE

No current report.

VIII. NEW BUSINESS

A. Board Policy on Reimbursements for Consultants

CEO Evans reviewed orally the submitted memo recommending that the Board adopt a policy that allows reimbursement of expenses for consultants, agents or any outside persons only upon prior approval by the Board of Directors or their designated representative. Mayor Rubio inquired if, for example, all public agencies will be paid to furnish data for the BMMP, as was the case with MPWMD. CEO Evans stated that the policy was developed for the particular case of the groundwater modeling meeting representative reimbursement. Director Leonard requested that the policy be developed to encompass any case where money is spent including emergency situations where authority is delegated to the CEO. The policy should also address the timing issue: Give limited authority to the CEO for situations in which the Board is unable to act expeditiously. Director Weeks requested that the words, “designated representative” be stricken from the policy. Further, he suggested that the policy at hand not include Director Leonard’s requests, nor a dollar limit, but a separate policy be developed for approval of expenditures based on parameters recommended by the CEO.

Moved by Director Weeks, seconded by Director Leonard, and unanimously carried, to adopt a policy that allows reimbursement of expenses for consultants, agents or any outside persons for any and all collaborative and contractual outside services only upon prior approval by the Board of Directors.

B. Appointment of a Watermaster Treasurer

Moved by Vice Mayor Haferman, seconded by Director Leonard, and unanimously carried, to accept Vice Mayor Haferman's offer to assume the position of Watermaster Treasurer.

C. Annual Report to Court for Year 2006

CEO Evans reviewed orally the submitted draft Annual Report for Year 2006, developed by Attorney Sandra Dunne, to be filed with the Court by February 15, 2007. (In subsequent years the report will be filed November 15th.) The Report includes quarterly pumping data from parties and producers; data provided by MPWMD was used in lieu of data not yet received from certain producers and parties. As additional information, Director Costa will provide to Watermanster water use data for the quarter October through December 2005 from producers Laguna Seca, Golf Ranch, Bishop, and McIntosh. Director Leonard stated that the water use term of calendar year should be stated consistently in the Report. Footnotes in the Report should indicate that water usage in subsequent years would be based on a water year (October 1 through September 30). CEO Evans noted the stated carry-over credits: Cal-Am with 140 acre-feet under-production from Laguna Seca Subarea, DBO Development 49 acre-feet, and Granite Rock 27 acre-feet. Alternative producers are not entitled to carry-over credits or transfers of water.

The submitted schedule of administrative costs for 2006 reports an incorrect total of \$36,651.07 and should be corrected to reflect \$41,148.93.

Ms. Dunne explained for the Board the replenishment assessment schedule for Standard Producers included in the report. Cal-Am exceeded the Natural Safe Yield as a Standard Producer and will be assessed the amount of \$2,106,652; the City of Seaside exceeded the Natural Safe Yield and will be assessed the amount of \$168,668 with an additional Operating Yield Over Production Assessment of \$50,940. These assessments are based on the Court's most recent order regarding assessment calculations. Production information provided by MPWMD was used to obtain the over-production amounts. Per the Judgment, Watermaster is to declare at the beginning of the water year whether there is replenishment water available so the parties are on notice whether they can or cannot pump over the operating yield of the Basin. The Judgment was not filed until March 2006 and no such declaration was made for the initial year of the Judgment so the parties were unaware whether they could or could not pump over the Operating Yield, therefore, it is unclear whether the City of Seaside actually violated the Judgment during 2006. Ms. Dunne felt it important that the Court be aware that the over production occurred and

why so as not to appear that Watermaster was disregarding the Decision. She suggested agendaizing the declaration of replenishment availability at the next Regular Board Meeting. Generally speaking, the assessments are to be used to purchase replenishment water and to support replenishment projects. Director Leonard requested that specific goals for assessment expenditures be discussed in the near future. Director Bruno inquired if the under production by Alternative Producers could be documented to show water saved from pumping. Ms. Dunne will develop a more comprehensive worksheet that will include that information. She stated that the under-production by the Alternative Producers is part of the Natural Yield that the Standard Producers are entitled to use.

Ms. Dunne recommended that the annual report include the water quality monitoring report for 2006 prepared by Mr. Joe Oliver, MPWMD, as an attachment. Attorney Don Freeman suggested approving the draft Annual Report with no substantive changes to be made in preparation of the final report. If any substantive changes are made, the report would come back before the Board for approval.

Regarding item B of the Report, Mr. Oliver noted that MPWMD, in coordination with Cal-Am, did inject and store, under the MPWMD temporary water right, 411 acre-feet into the Basin as part of a test program and that the information should be characterized in the Report. Director Leonard's interpretation of the judgment is that Cal-Am and MPWMD should have requested storage rights of the injected water in order for it to be included in the replenishment calculations. Attorney David Laredo stated there is a distinction between groundwater storage for which there is a right to extract and use at a later time and just merely reporting the fact of groundwater storage. For this phase of the program, it appears that the 411 acre-feet of water injected and stored does not relate to a later right to extract. MPWMD in conjunction with Cal-Am is in the process of obtaining a water right from the State Water Resources Control Board that would allow water brought over from Carmel River to be injected into the Basin to be pumped at a later time. Once approved by the State Board, the parties would need to come before the Watermaster Board for approval of storage rights and later extraction. Mr. Freeman recommended noting in the Report the injection of the 411 acre-feet and including a footnote that a possible credit adjustment may need to be determined by the Board at a later time. Mr. Laredo and Director Leonard requested documentation of the Aquifer Storage and Recovery Program ("ASR") process for a clear understanding of the elements of the process, such as where the water comes from (Carmel River), as a more defined project phase and related storage rights progress. Director Leonard requested that the CEO rely on Mr. Oliver to develop the ASR process description to communicate to the judge that Watermaster is taking action in the ASR field. Mr. Oliver submitted a revised table of 2006 groundwater production to be included in the Report showing Sand City's production of .5 acre-feet.

Moved by Director Leonard, seconded by Vice Mayor Haferman, and unanimously carried, to approve the Annual Report for Year 2006 under the following conditions: The term "calendar year" is to be used for the operating production basis; a notation is to be made of the MPWMD/Cal-Am 411 acre-foot test injection with a footnote indicating that a future

replenishment assessment credit to Cal-Am may be in order; the documented ASR process provided by Mr. Joe Oliver is to be included; a notation is to be made stating that violation of Over Production is to be addressed by Declaration of the 2007 replenishment amount as an agenda item at the next Regular Board Meeting; and Board and legal review of the final Report will be made prior to submission to the Court by a Watermaster legal representative.

D. Replenishment Assessment Distribution

Chair Rubio requested that attachments provided in the Board packets have associated agenda items indicated at the top.

Moved by Director Bruno, seconded by Director Weeks/Knight, and unanimously carried, to authorize the CEO to levy 2006 Replenishment Assessments with the assessment amounts being subject to adjustments as authorized in the future by the Watermaster Board.

E. Contract with RBF Consulting for Work Plan Development

Sarah Hardgrave, RBF, reviewed the RBF memo dated February 2, 2007, submitted to Ms. Diana Ingersoll, TAC Chair, regarding the scope of work to identify revised BMMP priorities and key tasks, as well as scheduling and phasing recommendations considering work scope services awarded to Mr. Martin Feeney at the last Regular Board Meeting. Director Costa referred to a letter submitted to the Board by Attorney Eric Robinson, Kronick, Moskovitz, Tiedemann & Girard, dated February 7, 2007, regarding the re-scoping of the BMMP, stating a request by the Laguna Seca Alternative Producers ("LSAP") that any re-scoping of the BMMP retain all tasks concerning the collection and analysis of additional groundwater resource data for the Laguna Seca Subarea and southern Coastal Subarea. Mayor Russell supported the LSAP request. TAC Chair, Diana Ingersoll, stated that, upon award of a contract to RBF as recommended by TAC at the last Regular Board Meeting, a TAC subcommittee would be established that would work with RBF to re-scope the entire BMMP, including the scope of the request made by the LSAP. The TAC subcommittee would bring the re-scoped BMMP back to the Watermaster Board prior to the hearing scheduled by the Court in mid-March.

Moved by Director Costa, seconded by Director Leonard, and unanimously carried, to approve a contract and a budget increase and expenditure of approximately \$35,000 to retain the firm of RBF Consulting to develop a Work Plan for the re-scoping of the BMMP and submit the Work Plan to the Watermaster Technical Advisory Committee for presentation to the Watermaster Board for approval at the March 7, 2007 Regular Board Meeting.

IX. STAFF INFORMATIONAL REPORTS

A. Receive Fall 2006 Groundwater Quality Monitoring Report for MPWMD Seaside Basin Coastal Monitor Wells

Mr. Joe Oliver, MPWMD, stated that groundwater quality test data was gathered during the District's routine annual testing. As of last month, the existing coastal sentinel wells are now monitored quarterly and a report of that data will be available to the Board in the next two months. He stated that there are no signs of seawater intrusion from the existing network of wells.

The Board received Mr. Oliver's memorandum as informational.

B. Current Fiscal Year Financial Statements

The Board reviewed the submitted Financial Reports, to be provided to the Board on a monthly basis. Director Bruno inquired if assessment revenue would be invested once received. CEO Evans stated that currently revenues are placed in the City of Seaside Treasury; the Board may request that the money be invested and interest prorated to the Watermaster Fund. Director Leonard requested that monthly informational reports include timely Judgment items such as assessments, reports due, or deadlines approaching.

The Board received the Financial Reports as informational.

X. DIRECTOR'S REPORTS

Director Bruno stated that he had been appointed to the Community Advisory Committee for MPWMD.

Mayor Pendergrass inquired whether the Board of Directors is required to file Form 700. Mr. Freeman stated that the Board is not a public agency, but an arm of the Court, and the Judgment only refers to the Public Records Act and the Brown Act. The Board does need to establish its own Conflict of Interest Code at some point in time however there is nothing reportable at this time.

XI. EXECUTIVE OFFICER COMMENTS

CEO Evans stated that examples of contracts are being used to develop a contract for services with Martin Feeny to present to the Board at its next meeting. Chair Rubio requested that the elements being considered from sample contracts be made available to the Directors so that the Board could determine what type of contract would be appropriate.

CEO Evans will not be attending the March 7, 2007, Watermaster Regular Board Meeting; Laura Paxton-Dadiw will be attending to take the minutes, and Board packets will be prepared in advance.

The Soper Field facility has been booked by another organization on April 4, 2007, the date of the Watermaster Regular Board Meeting. Blackhawk Room at Oldemeyer Center and the Seaside City Hall Council Chambers are being considered as alternate locations. Any suggestions are welcome. Soper Field is reserved for all other Watermaster Regular Meetings for the remainder of 2007.

Due to the Watermaster administrative workload being greater than originally anticipated, CEO Evans requested an increase in administrative support services from Dadiw Associates. A periodic newsletter will be sent out by email to the Board and other interested parties on items of general interest. A milestone event calendar is being developed to provide deadlines, reports, and assessment dates. It will be sent via email. A copy of the contract and the work plan for the CEO position will be forward to the Board of Directors.

XII. ADJOURNMENT

There being no further business, Chairman Rubio adjourned the meeting at 3:05 p.m.