

**REGULAR MEETING**  
Seaside Groundwater Basin Watermaster  
*December 5, 2007*

**MINUTES**

**I. CALL TO ORDER**

Chairman Rubio called the meeting to order at 2:45 p.m. in the Monterey Regional Water Pollution Control Agency Board room at 5 Harris Court, Building D, Monterey.

**II. ROLL CALL**

City of Seaside – Mayor Ralph Rubio, Chairman  
Laguna Seca Subarea Landowner – Director Bob Costa, Vice Chairman  
Monterey Peninsula Water Management District – (Alternate) Judi Lehman  
California American Water – Director Tom Bunosky  
City of Monterey – (Alternate) Les Turnbeaugh  
City of Sand City – Mayor David Pendergrass  
City of Del Rey Oaks – Mayor Joseph Russell  
Monterey County/Monterey County Water Resources Agency – (Alternate) Curtis Weeks  
Coastal Subarea Landowner – Director Paul Bruno

Chairman Rubio requested a moment of silence for the late Monterey County District 4 Supervisor, Jerry Smith

**III. APPROVAL OF MINUTES**

**Moved by Director Pendergrass, seconded by Director Russell, and unanimously carried, to approve the Watermaster Special Meeting minutes of October 17, 2007, with a correction requested by Director Bruno to section VIII.B.1 changing the wording from “...Laguna Seca Landowner Representatives...” to “...representatives from SNG Development, Inc...”**

**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**

<b>A.</b>	Contract Compensation – CEO for November 2007	\$5,100.00
	Reimbursable – General for November 2007	3,298.53
<b>B.</b>	Approval of Summary for Payments made in November 2007	\$36,143.17
<b>C.</b>	Current Year Financial Reports – Through November 30, 2007	

**Moved by Mayor Russell, seconded by Director Weeks, and carried, to approve the payment of bills and the current fiscal year financial reports. Director Lehman abstained due to her desire for more information on item VIII.A.1.a).**

**VIII. ORAL PRESENTATION** – None scheduled.

**VIII. OLD BUSINESS**

**A. COMMITTEE REPORTS**

**1. BUDGET/FINANCE COMMITTEE**

a) Mr. Ray Corpus, City Manager for the City of Seaside and Chair of the Watermaster Budget/Finance Committee, stated that the Budget/Finance Committee met and recommended the Board revoke the original “Employment Agreement” with Mr. Evans dated August 2, 2006 and approve the submitted proposed Professional Services Agreement between Watermaster and Dewey D. Evans dba DDEvans Consulting to provide services as Chief Executive Officer for Watermaster. The proposed agreement more clearly defines Mr. Evans’ position as that of an independent contractor and not an employee of the Watermaster. It is further recommended that, upon Board approval of the proposed agreement, an Internal Revenue Service Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding*, be submitted to IRS for its formal determination of Mr. Evans as an independent contractor under the agreement with Watermaster. Mr. Corpus clarified that the City of Seaside has been the fiscal agent for Watermaster since its establishment. The City keeps track of Watermaster funds receipts and disbursements using appropriate approval processes. All fiscal management of Watermaster funds is done in accordance with acceptable accounting practices for auditing purposes. The City of Seaside issues IRS Form 1099 for any compensation received by any Watermaster contractor as per IRS regulations. Mayor Russell felt Watermaster was protected by the indemnity provision in the proposed agreement that makes Mr. Evans responsible for any taxes owed, and that the Form SS-8 would be a definitive Federal determination of employment status. Director Bunosky interpreted the Form SS-8 instructions to mean that the IRS does not issue hypothetical determinations; Director Bruno stated that the Board’s approval of the proposed agreement would result in a request for a determination on current employment status. Director Lehman inquired whether the indemnification is present in the original agreement as well as the current one, and requested documentation that no past liability such as income tax, workers’ compensation or so forth exists with regard to Mr. Evans. Mr. Corpus was satisfied that Watermaster bore no tax liability regarding Mr. Evans. Director Lehman felt that the past agreement should be validated by the Board prior to entering into a new agreement. CEO Evans requested the exact nature of the documents being sought by Director Lehman. Chair Rubio responded to Director Lehman’s inquiry whether satisfactory answers would be provided for issues raised by a County representative and a Water District representative as to past practices, stating he was certain that her concerns would be addressed after she refers back to the two representatives to determine what exactly they are requesting. Director Bruno acknowledged and accepted Mr. Corpus’ statement that 1099s had been filed for all Watermaster contractors and Mr. Evans’ statement that he had paid all taxes he was responsible for relating to Watermaster. Chair Rubio noted that IRS Form

1099 filed by the City of Seaside for past compensation paid to the CEO would necessarily equate with Mr. Evans' income tax filing figures, and that Mr. Evans would assume responsibility for any income tax payments due.

**Moved by Mayor Russell, seconded by Director Costa, nay vote by Director Lehman, and carried, to revoke the "Employment Agreement" originally entered into on August 2, 2006 with Dewey D Evans to act as the Chief Executive Officer of the Seaside Groundwater Basin Watermaster and to enter into a Professional Services Agreement with Dewey D Evans dba DDEvans Consulting acting as an independent contractor to serve as the Chief Executive Officer, and to file a Form SS-8 with the Department of the Treasury Internal Revenue Service for employment status determination.**

b) The Board received the submitted memorandum and Replenishment Fund Budget Revisions from CEO Evans. In response to Director Bruno, Mr. Evans gave an update on payments made: The City of Seaside had paid the 2007 assessment of \$219,950.00 and had not been invoiced yet by Watermaster for the 2008 assessment of \$182,182.65. California American Water had not paid any assessment, but had indicated that its request for replenishment credit would be forthcoming and is anticipated to credit the entire \$4,395,406.11 balance of California American replenishment assessments to date.

**Moved by Director Costa, seconded by Director Turnbeaugh, and unanimously carried, to adopt the revised 2008 Watermaster Replenishment Fund Budget.**

## **IX. NEW BUSINESS**

### **A. COMMITTEE REPORTS**

- 1. TECHNICAL ADVISORY COMMITTEE** – Mr. Robert Jaques, Technical Program Manager, reviewed the submitted memorandum and proposed Scopes of Work developed for the Basin Monitoring and Management Program Phase 2 contractors Monterey Peninsula Water Management District, Monterey County Water Resources Agency, and RBF Consulting, Inc. and recommended the Board approve planned phase-type contracts for each based on the proposed Scopes of Work as presented with the stated not-to-exceed amounts for each. As the Program proceeds and upon approval of the Board, Watermaster will issue Requests for Services for any Phase 2 services not anticipated or covered under the submitted Scopes of Work.

**Moved by Director Turnbeaugh, seconded by Director Bunosky, and unanimously carried, to authorize the Chief Executive Officer to enter into contract for Seaside Basin Monitoring and Management Program Phase 2 services with Monterey Peninsula Water Management District for a cost not to exceed \$115,000.00, Monterey County Water Resources Agency for a cost not to exceed \$9,000.00, and RBF Consulting, Inc. for a cost not exceed \$18,000.00, based on the developed Scopes of Work using a phase-type contract format.**

**X. INFORMATIONAL REPORTS (No Action Required)**

- A. Timeline schedule of Milestone Dates (Critical date monitoring)
- B. Technical Action Committee (TAC) draft minutes of November 14, 2007 meeting
- C. Court Order dated November 26<sup>th</sup> to provide supplemental information regarding data collections referred to TAC for evaluation – CEO Evans reported receiving the Minute Order, a response to the Watermaster 2007 Annual Report submitted November 14, 2007, on November 27<sup>th</sup>. Mr. Jaques elaborated on the deficiency noted in the Watermaster 2007 Annual Report to Court regarding all active and inactive wells within the basin being required to provide quarterly water level data and all active wells being required to provide annual water quality analysis to Watermaster. Approximately 10 wells require water quality reporting and approximately 16 require water level readings that have not been conducted to date. Mr. Jaques stated that he would recommend to the TAC that the Watermaster provide to well owners field data collection resources on a reimbursable basis, and that he would present to the TAC at its next meeting several approaches for data collection. The February 28, 2008 date indicated on the Minute Order is the deadline for an action plan to be submitted to court. Mr. Jaques anticipated a TAC recommended plan of action for Board approval at the January 2, 2008 Board meeting.

**IX. DIRECTOR'S REPORTS**

Director Bruno may be late or absent for the January 2, 2008 Board meeting as he is returning from overseas.

**XII. EXECUTIVE OFFICER STATEMENTS**

CEO Evans clarified to the board that the Monitoring and Management – Operations Fund Budget includes a 20% contingency amount on all of the line items with the exception of the compensation for the Technical Program Manager, and not on just two budgeted items. Mr. Turnbeaugh acknowledged the clarification and there were no further questions or comments from directors.

Next TAC meeting is scheduled for Wednesday, December 12, 2007 at 1:30 p.m. at Seaside City Hall.

Written Board appointee confirmation documents are still needed from four of the Board representative parties. There is no stipulated date for the information to be submitted to Court however the Decision requires appointments be made in the month of November.

**XIII. NEXT MEETING DATE – JANUARY 2, 2008 at the Monterey Regional Water Pollution Control Agency (MRWPCA) Board meeting room at 5 Harris Court, Building "D" on Ryan Ranch in Monterey at 1:30 P.M.**

**XIV. There being no further business, Chairman Rubio adjourned the meeting at 3:25 p.m.**