

**MONTEREY REGIONAL WATER  
POLLUTION CONTROL AGENCY**

**\* \* \* AGENDA TRANSMITTAL FORM \* \* \***

<b>MEETING DATE:</b>	NOVEMBER 28, 2011
<b>AGENDA ITEM:</b>	7 - A
<b>AGENDA TITLE:</b>	CONSIDER RECOMMENDATION TO STUDY ALTERNATIVE GOVERNANCE STRUCTURE(S) FOR THE REGIONAL WATER PROJECT
<b>Consent ( ) Action ( X ) Informational ( )</b>	
<b>CONTACT:</b>	KEITH ISRAEL, GENERAL MANAGER
<b>Phone:</b>	883-6176 and 883-6133

**DEPARTMENT SUMMARY AND REQUESTED BOARD ACTION:**

At the October 2011 Board meeting, in their support of comments by citizens earlier that evening, Directors Bachofner and Downey urged the MRWPCA Board to initiate a study regarding potential formation of a Joint Powers Agency (JPA) that could develop a locally governed alternative to the Regional Water Project. Their rationale was that this Agency's successful track record in delivering major infrastructure projects puts it in a very good position to assist in the development of new community water supplies within the tight compliance deadline of the state's Cease-and-Desist Order, should progress on the Regional Project continue to be halted by civil lawsuits, financing impediments, and fallout from conflict-of-interest criminal charges and on-going FPPC investigation.

Subsequently, the MRWPCA Board Chair received a November 7 letter from Mayors Garcia and Pendergrass, on behalf of the Monterey County Mayors Association, which requests that this Agency "begin exploratory discussions" with the Mayors' Association for possibly "expanding" our existing Joint Powers Agreement (JPA) to provide a proven governance "vehicle" for delivery of alternative water supply projects (Attachment A).

On November 10, your Recycled Water Committee (RWC) met to discuss the letter from the Mayors and consider this policy matter, and unanimously recommended (Chair Calcagno abstained) that the Board direct staff as described in the RWC's minutes/report that is the preceding agenda item. Two members of the public further commented to the RWC that they supported this proposed concept.

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Agency staff has drafted a proposed reply to the Mayors' Association letter for the Board's consideration and approval (Attachment B). Acceptance of the Mayors' request and approval of the RWC's recommended action, are consistent with by MRWPCA's long-term past efforts directed toward assisting in achievement of a reliable replacement water supply for the Monterey Peninsula. The specific facts supporting this justification include:

- 1) MRWPCA's existing JPA and state statutes authorize and encourage the Agency to undertake wastewater reclamation, including indirect reuse of recycled water, as detailed in the Legal Counsel report which was discussed at the March 2011 Board meeting;
  - 2) In order to achieve its "Zero-Discharge-to-Monterey Bay" long term policy goal, for more than a decade the Agency Board has actively pursued the Urban Recycled Water and Groundwater Replenishment Projects that, respectively, will reduce potable demand and directly increase available water supplies for the Monterey Peninsula;
- and
- 3) Through its approval of the January 2009 MOU with the Monterey Peninsula Water Management District, the Agency has committed to support and cooperate on development of both entity's respective water supply augmentation projects, "...and in all matters in which a joint interest may exist, to the maximum extent feasible."

In accordance with the discussion at the RWC meeting and subsequent direction by the Board, staff could over the next 45 days develop several conceptual governance options, including but not limited to the concept of expanding the Agency's existing JPA and other feasible governance models that could serve as a delivery structure for an alternative water supply solution for the Monterey Peninsula.

As recommended by the RWC, the MRWPCA Chair has been requested to nominate an Ad Hoc Board Committee. This committee could work with staff in advance of the RWC receiving an update on this matter at its January meeting or per discussion and direction received at the November 28 Board meeting.

At this point, it is anticipated that the expense involved in engaging outside technical and legal expertise to assist staff can be accommodated within existing Agency budget availability. Staff anticipates that out-of-pocket review costs over the next 45 days would not exceed \$20,000.

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<b>FINANCIAL IMPACT:</b>	( X ) Yes ( ) No
<b>FUNDING SOURCE:</b>	N/A
<b>BUDGET RECAP:</b>	N/A
<b>PRIOR BOARD ACTIONS:</b>	N/A
<b>ALTERNATIVES:</b>	N/A
<b>COMMITTEE REVIEW AND ACTION:</b>	RWC discussed response to Mayors' letter at the November 18, 2011 committee meeting.
<b>MANAGER RECOMMENDATION:</b>	Concur with staff recommendation. Recommend Approval.
<b>ATTACHMENTS:</b>	<ol style="list-style-type: none"> <li>1. Letter from the Mayors' Group dated November 7, 2011.</li> <li>2. Draft response to the above noted letter.</li> </ol>
<b>RECOMMENDED MOTION:</b>	<p>Consider Recommendation to Study Alternative Governance Structure(s) for the Regional Water Project:</p> <ol style="list-style-type: none"> <li>1. Approve the proposed reply to the Mayors' November 7 letter and authorize Board Chair Stefani to sign it;</li> <li>2. Endorse the approach and timetable described above that staff and legal counsel propose for preparation of the water supply governance alternatives report recommended by the RWC.</li> </ol>

**4. CONSIDER AN EXPANDED MRWPCA ROLE IN DEVELOPING A NEW MONTEREY PENINSULA WATER SUPPLY**

Mr. Israel noted that at the October Board meeting there were public and Board member comments encouraging the Agency to expand its role to help expedite a water solution. We were also part of the Monterey Water Forum when Cal Am evaluated water options should the regional desal project be further delayed.

Mr. Israel reported that on November 7 we received a letter from the Mayors' Association requesting that we consider expanding our JPA to look at alternative water projects for the Monterey Peninsula. The letter cited our "success while maintaining a strong governance model thereby allowing decisions to be made, which keep the best interests of the ratepayer a priority" and specifically requested that we begin "exploratory" discussions with their association as soon as practical.

Mr. Israel stated that staff could evaluate various options to the Mayors' request: modify our current JPA, develop a new JPA, and/or consider other options to facilitate a backup plan for a sustainable water supply for the Monterey Peninsula.

Ms. Downey added that she is pleased this is being discussed so that a plan of action could be started. Rather than a "back up," she suggests an "alternative" plan - whether the regional desalt project proceeds or not, we should have our GWR project as another option for the Peninsula.

**Ms. Downey moved that this committee recommend to the Board to 1) look into formulating a JPA or other alternative to provide governance for Monterey Peninsula water projects; 2) to determine if this agency could oversee construction of the desal plant; and 3) to consider if financing for the water projects could be done through a public funding mechanism subject to Proposition 218. She added that this should be addressed as soon as possible and that staff come to the Board with a conceptual plan that can be implemented.**

Chair Calcagno called for **Public Comments:** Mr. Dale Hekhuis stated he was very gratified to see this item on the agenda. He stressed the importance of a game plan and encouraged the Committee to be a part of the vehicle to move a project forward. He asked what the preferred project would be and what financing would be available and noted there ought to be a fast track approach for the non-desal project components. He stated this is a first-rate development and was glad to see the leadership starting to emerge - a most welcome development.

Ms. Downey asked Mr. Hekhuis if he felt these discussions should remain at the Mayors' level, and he responded he and others strongly recommend that it is time for the city councils to play a role in the governance as they have suggestions about where our water planning efforts are going.

Mr. Israel noted that previously staff has been vague about a leadership role because our Board has not taken an official position to develop this type of governance. He felt that staff could certainly develop a plan for the Board's consideration and could do some preliminary work for consideration as soon as for the November Board meeting.

**Public Comments:** Mr. George Riley stated he felt this Agency is in a unique position and that the timing is right. He felt the mayors had done a disservice to the community with the confidentially agreement and so there is concern that if this stays at the Mayors' level, it may not be as broad based you will want it to be. This agency has a great structure where the cities are represented and this can help keep the process going. Although some of the public contentiousness around the Water Management District (WMD) has fallen away and the group now seems to work together, he stated that this agency, as the lead agency, is even more paramount and more justified.

Discussion followed about the funding sources and tax basis of the MWD. Mr. Wellington commented that they have a fee that is a surcharge on the Cal Am bill and also have fees for services provided when building out and adding

additions - fixture changes and inspection charges. The District is very supportive of the GWR and hopes to provide funding in the next fiscal year.

Mr. Israel noted that staff would like to respond to the Mayors' letter and be able to formulate a conceptual plan to move forward. He suggested an internal committee with Board members could provide insight and direction for staff. Board Chair Stefani acknowledged that suggestion and stated he would chair an Ad Hoc Committee for this purpose and assign two RWC members to participate. Ms. Downey noted she would amend her motion to include formation of the Ad Hoc Committee to read as follows:

**RECOMMENDATION: On an amended motion by Ms. Downey, seconded by Mr. Allion, the RWC recommends that the Board consider 1) formulating a JPA or other alternative to provide governance for Monterey Peninsula water projects; 2) to determine if this agency could oversee construction of the desal plant; and 3) to consider if financing for the water projects could be done through a public funding mechanism subject to Proposition 218. Additionally, Chair Stefani will appoint an Ad Hoc Committee that will include two members of the RWC to work with the Mayors' Group in developing alternative governance options. [Chair Calcagno abstained]**

Mr. Bachofner noted he was not in attendance when the Mayors' Group prepared the letter, but is very pleased that they did. He noted only that he wish it had been more concrete and directional and encourages this Board to move reform forward quickly in order to get a good result. He agreed with Ms. Downey's comment that there needed to be better communication within the city councils about these issues.

Discussion followed about the meeting called by Mr. Heitzman, General Manager of MCWD, to discuss formation of an O&M Committee for the desal project. Ms. Garcia stated that no mayors attended - it was city managers and other staff level officials who attended this closed meeting.

At 4:00 pm, with no further business, Chair Calcagno adjourned the meeting until the next regularly scheduled RWC meeting on January 12, 2012, at 3:00 pm.

November 7, 2011

Mr. Ron Stefani, Chair  
Monterey Regional Water Pollution Control Agency  
5 Harris Court, Building D  
Monterey, CA 93940

Dear Mr. Stefani:

At the November 4, 2011 meeting of the Monterey County Mayors Association, it was unanimously decided to forward a recommendation to the Board of Directors of the Monterey Regional Water Pollution Control Agency (MRWPCA) requesting an item be agendaized at its earliest opportunity to discuss the possibility of expanding the MRWPCA JPA.

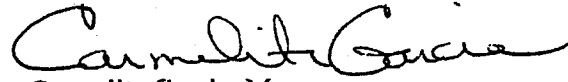
As you are aware, the Regional Desalination Project continues to be bogged down with a variety of issues and there seems to be no real sense as to when they will be fully resolved. In the meantime, steps are being taken by a number of groups and individuals to keep the momentum going via public forums discussing the history of the current situation, examining alternatives, and considering what role other key agencies can play to ensure the Peninsula's water needs are met and it is not devastated with the implementation of the SWRCB 95-10 CDO. Questions and concerns abound about how any alternative water project(s) both in existence and proposed can move forward and via what governing body.

At our November meeting, discussion focused on "options" for an existing "vehicle" from which alternative projects could be undertaken. It was thought that this could best be accomplished by expanding a current agency with "Joint Powers" authority and one that has a record of successful water project operations. We feel that MRWPCA has demonstrated this success while maintaining a strong governance model thereby allowing decisions to be made, which keep the best interests of the ratepayer a priority.

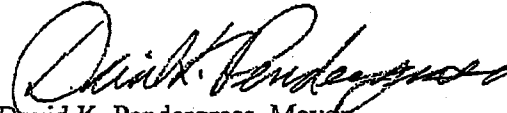
The Monterey County Mayors Association is requesting that the MRWPCA begin "exploratory" discussions with the Monterey County Mayors Association to discuss this potential model. MRWPCA currently has direct Peninsula representation on its Board of Directors except for Carmel-by-the-Sea, which is a member of the Carmel Area Wastewater District. In order to consider their membership, we might discuss bifurcating MRWPCA's functions into sewage and wastewater.

So that action can proceed as quickly as possible, the Peninsula Mayors are requesting that the above recommendation be placed on the earliest possible MRWPCA agenda. We would be happy to meet with you to discuss this idea and work with you to develop the agenda item.

Sincerely,



Carmelita Garcia, Mayor  
City of Pacific Grove



David K. Pendergrass, Mayor  
City of Sand City

cc: Keith Israel, General Manager MRWPCA  
Mayor Sue McCloud  
Mayor Chuck Della Sala  
Mayor Jerry Edelen  
Mayor Felix Bachofner





# Monterey Regional Water Pollution Control Agency

*"Dedicated to meeting the wastewater and reclamation needs  
of our member agencies, while protecting the environment."*

Administration Office:

5 Harris Court, Bldg. D, Monterey, CA 93940-5756  
(831) 372-3367 or 422-1001, FAX: (831) 372-6178

Website: [www.mrwPCA.org](http://www.mrwPCA.org)

November 29, 2011

Ms. Carmelita Garcia, Mayor  
City of Pacific Grove  
300 Forest Avenue  
Pacific Grove, CA 93950

Mr. David Pendergrass, Mayor  
City of Sand City  
1 Sylvan Park  
Sand City, CA 93955

Dear Mayors Garcia and Pendergrass:

Thank you for your November 7, 2011 letter, on behalf of the Monterey County Mayors' Association, requesting that the Monterey Regional Water Pollution Control Agency Board consider the possibility of expanding the Agency's existing Joint Powers Agreement. It is our understanding from your letter that the Mayors of the six Monterey Peninsula cities unanimously desire to explore a potential change in MRWPCA's legal powers, in order to provide a revised governance structure for the Regional Water Project should efforts on that project continue to be stalled.

The MRWPCA Board considered your request its November 28 regular meeting. I am pleased to advise you that the Board acted to accept your request, which includes forming an ad hoc board committee that would be available for some limited initial discussions with the Mayors on this subject and related governance options. In arriving at this decision, the Board concluded that engaging in such a dialog and process is entirely consistent with MRWPCA's long-term and on-going interest and involvement in assisting with the achievement of a reliable replacement water supply for the Monterey Peninsula.

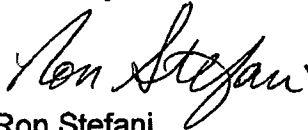
Joint Powers Authority Member Entities:

Boronda County Sanitation District, Castroville Community Services District, County of Monterey, Del Rey Oaks, Fort Ord, Marina Coast Water District, Monterey, Moss Landing County Sanitation District, Pacific Grove, Salinas, Sand City, and Seaside.

Mayor Carmelita Garcia  
Mayor David Pendergrass  
November 29, 2011  
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Our Board's representatives will contact you in the near future to initiate discussion on this critically important subject.

Sincerely,

A handwritten signature in black ink that reads "Ron Stefani". The signature is written in a cursive, flowing style.

Ron Stefani  
MRWPCA Board Chair

cc: Mayor Sue McCloud, Carmel-by-the-Sea  
Mayor Chuck Della Sala, Monterey  
Mayor Jerry Edelen, Del Rey Oaks  
Mayor Felix Bachofner, Seaside