

Minutes
CHINO BASIN WATERMASTER
ADVISORY COMMITTEE MEETING

September 16, 2010

The Advisory Committee meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga CA, on September 16, 2010 at 9:00 a.m.

ADVISORY COMMITTEE MEMBERS PRESENT WHO SIGNED IN

Appropriative Pool

Mark Kinsey, Chair	Monte Vista Water District
Marty Zvirbulis	Cucamonga Valley Water District
Dave Crosley	City of Chino
Raul Garibay	City of Pomona
John Mura	City of Chino Hills
Anthony La	City of Upland
J. Arnold Rodriguez	Santa Ana River Water Co.
Mohamed El-Amamy	City of Ontario
Josh Swift	Fontana Union Water Company
Robert Young	Fontana Water Company
Tom Harder	Jurupa Community Services District

Agricultural Pool

Robert Feenstra	Ag Pool - Dairy
Jeff Pierson	Ag Pool – Crops
Nathan Mackamul	State of California – CIM

Non-Agricultural Pool

Kevin Sage	Vulcan Materials Company (Calmat Division)
Scott Burton	City of Ontario

Watermaster Staff Present

Ken Manning	Chief Executive Officer
Joe Joswiak	Chief Financial Officer
Danielle Maurizio	Senior Engineer
Ben Pak	Senior Project Engineer
Sherri Lynne Molino	Recording Secretary

Watermaster Consultants Present

Michael Fife	Brownstein, Hyatt, Farber & Schreck
Scott Slater	Brownstein, Hyatt, Farber & Schreck

Others Present Who Signed In

Bill Kruger	City of Chino Hills
Ron Craig	City of Chino Hills
Steven Lee	Reid & Hellyer
Tom Love	Inland Empire Utilities Agency
Ryan Shaw	Inland Empire Utilities Agency
Terry Catlin	Inland Empire Utilities Agency
David De Jesus	Three Valleys Municipal Water District
Eunice Ulloa	Chino Basin Conservation District

Chair Kinsey called the Advisory Committee meeting to order at 9:01 a.m.

AGENDA - ADDITIONS/REORDER

Mr. Manning noted there is a separate handout regarding future Watermaster meeting dates on the back table.

Mr. Sage asked for the Consent Calendar items be separated and have separate votes for A, B, and C.

I. CONSENT CALENDAR**A. MINUTES**

1. Minutes of the Advisory Committee Meeting held August 18, 2010

Motion by Craig/Mura, second by Young, and by majority vote (95/5) – Non-Agricultural Pool voted no on item A

Moved to approve Consent Calendar item A, as presented

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of July 2010
2. Watermaster Visa Check Detail for the month of July 2010
3. Combining Schedule for the Period July 1, 2009 through July 31, 2010
4. Treasurer's Report of Financial Affairs for the Period July 1, 2010 through July 31, 2010
5. Budget vs. Actual July 2010 through July 2010

Motion by Zvirbulis, second by Craig/Mura, and by majority vote (95/0/5) – Non-Agricultural Pool abstained

Moved to receive and file Consent Calendar item B, as presented

C. WATER TRANSACTION

1. **Consider Approval for Notice of Sale or Transfer** – Monte Vista Water District will purchase 1,000 acre-feet of water from the City of Upland. This purchase is made first from the City of Upland's net underproduction in Fiscal Year 2009-10, with any remainder from the Excess Carryover Account – Date of Notice: July 2, 2010
2. **Consider Approval for Notice of Sale or Transfer** – Fontana Water Company will purchase 10,000 acre-feet of water from the City of Upland's annual production right, then any additional from Excess Storage – Date of Notice: July 2, 2010
3. **Consider Approval for Notice of Sale or Transfer** – Chino Basin Watermaster will purchase 500,000 acre-feet of water from West Valley Water District (WVWD). The transfer will be made from WVWD's storage account – Date of Notice: July 2, 2010
4. **Consider Approval for Notice of Sale or Transfer** – Monte Vista Water District will purchase 4,000 acre-feet of water from the City of Upland. This purchase is made first from the City of Upland's net underproduction in Fiscal Year 2010-11, with any remainder from the Excess Carryover Account – Date of Notice: July 29, 2010

Motion by Young, second by El-Amamy, and by unanimous vote

Moved to approve Consent Calendar item C, as presented

II. BUSINESS ITEMS**A. PEACE II AGREEMENT AND PHASE III DESALTER EXPANSION**

Mr. Manning a workshop regarding the resolution was held recently and at that workshop Counsel Slater introduced some of the legal issues that are contained in the whereas of the resolution, Mr. Wildermuth discussed the technical issues related to the areas of pumping, subsidence, and water quality, and Mr. Safely discussed commitments that Western Municipal Water District had to the entire expansion process and the expansion partnership. Mr. Manning stated staff will be bringing this item through the Watermaster process in October for approval. Mr. Manning thanked staff, counsel, and all the parties involved in this process for the time and effort dedicated to resolving this matter. Mr. Manning stated Counsel Slater is available now for questions that were not presented at the workshop or have come up since the workshop took place. Mr. Manning noted this item is for information only and staff is not seeking action today;

it will be coming back through the process next month. Chair Kinsey offered comment on the documents presented in the meeting package and how it has been presented at the meetings and at the workshop and noted the parties and their council representation will need to thoroughly examine the documents prior to it coming back in October. Mr. Manning stated staff and counsel are available for any clarification if any of the members need further explanation. Chair Kinsey encouraged committee members or individual pool members to contact Scott or Ken in a timely manner. Mr. Craig offered comment on the important issue regarding the replenishment obligation and a discussion on this matter ensued. Counsel Slater stated the documents are essentially not new, they have been circulating for some time now and have already been signed off on, however, getting questions and/or concerns submitted promptly will assist staff in providing complete documents more rapidly for all to review prior to the October meetings.

No action was taken.

III. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. September 24, 2010 Hearing

Counsel Fife stated at the courts request that hearing has been continued until October 8, 2010 and that notice is available on the back table. The hearing will remain the same and will address the Non-Agricultural Pool's motion for a Judgment amendment and for the approval of the Recharge Master Plan. Counsel Fife stated the judge has previously asked to have a certain amount of education, as was provided to Judge Wade, in a more condensed version which will bring the new judge up to speed on some of Watermaster issues. Counsel Fife reviewed some of the information which will be provided at the October 8th hearing to Judge Reichert.

2. Non-Agricultural Pool Appeal

Counsel Fife stated there is no new information to report on this item than what was presented at the Pool meetings.

B. ENGINEERING REPORT

1. Basin Plan Amendment Update

Mr. Manning stated this presentation was given at the Pool meetings and will be given at the Watermaster Board meeting next week. Mr. Manning noted there is a letter available on the back table from Watermaster to the Regional Board requesting reconsideration in requests for modification in the amount of monitoring currently being performed. During a recent meeting with the Regional Board, it was noted this request, as it was denied at first, will be put back on the table for consideration.

C. CEO/STAFF REPORT

1. Legislative Update

Mr. Manning stated the budget process is still at a standstill. Mr. Manning stated there is a lot of legislation to be signed on the governor's desk for him to sign. Mr. Manning commented on AB2304.

2. Recharge Update

Mr. Manning noted there is no change in the recharge update report since the Pool meetings and there is a copy of the most recent spreadsheet on the back table for review.

3. GRCC Recharge Improvement Activities Ahead of Recharge Improvement Implementation

Mr. Manning stated this presentation was given by Mr. Pak at the recent Pool meetings and the presentation will be given at the Watermaster Board next week. A brief discussion regarding this item ensued.

4. Discussion on Closed Session Rules for Policy Manual

Mr. Manning stated this item was placed on the agenda because Counsel Fife was asked to coordinate this item amongst the attorneys for all of the three separate Pools. Counsel Fife has had dialog with them and he will be reporting on the progress of this matter. Counsel Fife noted there are two handouts being distributed presently; one is page 19 from the Watermaster Rules & Regulations and the other is page 5 from the Appropriate Pool Rules & Regulations with regard to closed sessions. Counsel Fife stated there has been a significant increase in more closed sessions occurring at the Pool level than in the past history. Counsel Fife noted in some instances for the past several months, almost all the business of the Pools are being conducted in closed session. Counsel Fife stated he was tasked to provide an analysis of what the rules are for the Pools and to make a recommendation as to what the rules should be. Watermaster counsel does not represent the Pools and the Pools do have certain autonomy from the Watermaster Board and it is not for the Board, or especially Watermaster counsel, to make any dictates to the Pools or to interpret their rules. Counsel Fife stated what was done to perform this analysis, was to conduct a survey of the Pools; each Pool now is individually represented by counsel. Counsel Fife stated he did address each Pool counsel and inquired what their rules were which applied to their individual Pools. Counsel Fife stated he has communicated with each of the Pool counselors in preparation for this meeting and noted he will be reporting the feedback received by them; this process is not complete and will continue. Counsel Fife referenced section 2.6 from the Watermaster Rules & Regulations and section 2.06 from the Appropriate Pool Rules & Regulations and noted each of the Pools has their own set of Rules & Regulations; however, in each of the Pools regulations section 2.06 is identical. Counsel Fife noted the Watermaster Rules & Regulations clearly speaks on confidential sessions and specifically authorizes Watermaster to hold a confidential session and defines the boundaries and the procedures associated with those confidential sessions. The Watermaster document also authorizes the Advisory Committee to hold confidential sessions on any matter authorized by its own resolution. Counsel Fife stated with regard to the Pool's confidential sessions in their documents, it is a very different. The only definition in the Pool rules about meetings is section 2.06 titled Public Meetings, and it states that regular or special meetings shall be open to the public; arguably, the rules do not authorize the Pools to go into closed session at all. Counsel Fife noted the Pools have been going into closed sessions and the question being presented is, on what basis for holding their closed session? Counsel Fife stated the feedback from the Appropriate and the Agricultural Pool counselors was that in practice, they follow Watermaster Rule 2.6 even though 2.6 only apply to specifically to the Watermaster Board; this was conveyed as binding their Pool. Counsel Fife stated this item was described as a Policy Manual item and it may be appropriate in the Policy Manual or in the Pool's Rules & Regulations to revised them to put a version of 2.6 into those rules or into the Policy Manual so that all are clear as to what the rules are and are presently being followed by the Appropriate and the Agricultural Pool. Counsel Fife noted there has not been any verbal feedback provided by the Non-Agricultural Pool counsel; however, an email was recently received which stated, the Pool is authorized under the Judgment to enact its own rules. Chair Kinsey stated he believes this exercise is to come up with a consistent way of holding closed sessions. A lengthy discussion regarding Counsel Fife's report ensued. Counsel Fife stated anything that does not make a change to the Judgment, can be done without going to the court. Mr. Feenstra offered comment on this matter and inquired as to why this question is being raised now. Counsel Fife stated nobody is imposing a rule; the question presented to the Pool's counsel was, what are the rules your Pool is following? Counsel Fife stated my report was on the feedback received back from the Pool's counselors. Mr. Manning stated he has mentioned at past meeting that Watermaster is in the process of putting together a revised Policy Manual and in the revised manual there will be a section on meetings for the Pools. The Policy Manual which is in place presently is interpreted that the Pools rules are not being followed or are being deviated from in how closed sessions are to be conducted, reported out, etc. Mr. Manning stated staff wants the correct interpretation by each of the Pools as to what rules are being used to go into closed session incorporated into the new

Policy Manual for complete transparency. Counsel Slater offered history on closed session rules and noted section 2.06 was heavily negotiated and is a very strict interpretation of what can be held in closed session because the Watermaster Board is a decision making entity to adjudicate rights under the decree. Counsel Slater stated each of the Pools has the right to confer with their lawyers in closed session and there is no intention to infringe upon your right to confer with your lawyer in closed session. The interest of Watermaster is to have a consistent report out mechanism in place so the Pools receive the proper and complete information to make a decision when the time is appropriate. It is the consistency and how the messages are communicated between and among the Pools is the goal for uniformity and not to condition any Pool's ability to confer in confidence with your counsel. A discussion regarding the mention of the Brown Act during Counsel Fife's presentation and the mention in the Rules & Regulations that all meetings are to be in an open forum ensued. Chair Kinsey stated this is an attempt to have all the Pools follow the same criteria.

5. Auction Oversight Committee
Mr. Manning stated the Auction Oversight Committee is going to meet on September 28, 2010.
6. Assessment for Regional Board Fine
Mr. Manning stated this item was on the agenda for the Appropriative Pool and they have formed a sub-committee who is working on whether or not they are going to enact a different fine schedule than what Watermaster traditionally assess. This item is for information only.

D. INLAND EMPIRE UTILITIES AGENCY

1. MWD Update
Mr. Shaw stated in October the Metropolitan Water District is going to be adopting their Integrated Regional Plan (IRP) which has been a very long process. Mr. Shaw stated at the end of 2012 there is going to be discussions on Tier I and Tier II rate structures.
2. Peace II SEIR Schedule
Mr. Shaw stated the Peace II SEIR is finalized and is being taken to the IEUA board on October 6, 2010 for approval and adoption.
3. Growth Projection Workgroup
Mr. Shaw stated growth projections are needing to be seriously reviewed and a working group has been put together to discuss what types of projections are appropriate; two workshops have already taken place and the next one will be on September 21, 2010.
4. UWMP Update
No comment was made regarding this item.
5. Monthly Water Use Report
No comment was made regarding this item.
6. State and Federal Legislative Reports
Mr. Shaw stated SB1478 is on the governor's desk for signature. Mr. Shaw commented on what this bill is about.
7. Community Outreach/Public Relations Report
No comment was made regarding this item.
8. IEUA Monthly Water Newsletter
No comment was made regarding this item.

E. OTHER METROPOLITAN MEMBER AGENCY REPORTS

Mr. DeJesus offered comment regarding a San Diego law suit that Metropolitan is fighting and Three Valleys Municipal Water District has joined that law suit as an individual agency and encouraged other parties to join in this important rate structure issue.

IV. INFORMATION

1. Cash Disbursements for August 2010 as of August 25, 2010
No comment was made regarding this item.
2. Newspaper Articles
No comment was made regarding this item.

V. COMMITTEE MEMBER COMMENTS

No comment was made regarding this item.

VI. OTHER BUSINESS

No comment was made regarding this item.

VII. CONFIDENTIAL SESSION - POSSIBLE ACTION

Pursuant to the Advisory Committee Rules & Regulations, a Confidential Session may be held during the Watermaster Pool meeting for the purpose of discussion and possible action.

No confidential session was called.

VIII. FUTURE MEETINGS

Thursday, September 16, 2010	9:00 a.m.	Advisory Committee Meeting @ CBWM
Thursday, September 23, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM
Monday, October 4-5, 2010	7:30 a.m.	CBWM Strategic Planning Conference - Frontier
Thursday, October 7, 2010	1:00 p.m.	Appropriative Pool Meeting @ CBWM
Thursday, October 7, 2010	2:30 p.m.	Non-Agricultural Pool Conference Call Meeting
*Friday, October 8, 2010	10:30 a.m.	CBWM Hearing @ Chino Courthouse
Thursday, October 14, 2010	9:00 a.m.	Agricultural Pool Meeting @ IEUA
Tuesday, October 14, 2010	10:00 a.m.	Peace II Resolution Workshop @ CBWM
Thursday, October 21, 2010	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, October 21, 2010	9:00 a.m.	Advisory Committee Meeting @ CBWM
*Thursday, October 21, 2010	11:00 a.m.	Water Quality Meeting @ CBWM
Thursday, October 28, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM

*** New Dates**

The Advisory Committee meeting was dismissed by Chair Kinsey at 9:55 a.m.

Secretary: _____

Minutes Approved: October 21, 2010