

**AMADOR WATER AGENCY
Board of Directors
Regular Meeting
October 9, 2008**

MINUTES

Directors Present: John P. Swift, President
Terence W. Moore
Paul Scott
Madonna Wiebold

Directors Absent: David S. Thomas

Staff Present: Jim Abercrombie, General Manager
Gene Mancebo, Manager of Engineering & Planning
Michael Lee, Financial Services Manager
Chris McKeage, Operations Manager
Barry Birge, Construction Manager
Ryan Bezerra, Agency Counsel
Cris Thompson, Clerk of the Board

CALL TO ORDER – President Swift called the meeting to order at 9:00 a.m.

ADDITIONS TO THE AGENDA – There were no additions to the agenda.

STAFF REPORTS - E&P Manager Mancebo, Financial Services Manager Lee, Construction Superintendent Birge and Operations Manager McKeage updated the Board on the various activities they have been involved in within their respective areas of responsibility and answered any questions from the Board. Manager McKeage also introduced Jacqueline Mercado as the new administrative assistant in the Operations department.

PUBLIC COMMENT – Mr. Bill Condrashoff addressed the Board regarding the comments he provided on Water Supply Assessments for both Wicklow Way and Gold Rush. He asked if there was more information to be given regarding his comments on the WSA's. Manager Abercrombie stated that the Agency was attempting to set up a meeting with Mr. Condrashoff to discuss the numbers and assumptions, separate from the meeting being scheduled with the City of Jackson.

Ms. Debbie Dunn addressed the Board and asked about adding a water element to the County's General Plan. She stated that Calaveras County has added this element to their General Plan. Manager Abercrombie stated that the Agency would be interested

in participating and support it, if the County was interested in adding this element to the General Plan.

Mr. Condrashoff suggested that this could be an item added to the Joint Water Agenda in the future.

CONSENT AGENDA

MOTION: It was moved by Director Moore, seconded by Director Wiebold and unanimously carried to approve the Consent Agenda.

AGENCY WATER SYSTEM

Sutter Creek Interim Wastewater Capacity Term Sheet

Discussion and Direction to draft amendment to the current contract between City of Sutter Creek and AWA based on the Sutter Creek term sheet

Manager Abercrombie briefed the Board on the draft interim term sheet before them today. He stated that committees from Sutter Creek and the Agency consisting of President Swift, Director Scott and Sutter Creek City Council representatives and staff met and worked to achieve an interim term sheet that will get the Agency by for the next several years until some of the future plans are firmed up with regards to wastewater disposal. Manager Abercrombie discussed the term sheet that was presented to the Board in February compared to the changes made to the term sheet before them today. Manager Abercrombie answered questions of the Board for clarification. Manager Abercrombie asked for direction to prepare an addendum to the current agreement with the City to implement the proposed terms. After discussion of the Board, President Swift stated that he was in favor of this term sheet; however he did express that he would like to see both Boards and staff continue to consider other options for disposal besides the ARSA system for long term planning. Director Scott also stated that he supported the draft term sheet.

MOTION:

It was moved by Director Scott, seconded by Director Moore and unanimously carried to give direction to staff to prepare an addendum to the current agreement with the City of Sutter Creek to implement the proposed terms.

Small Diameter Pipeline Litigation

Discussion regarding litigation on Addendum No.4 to the RFEIR for the Amador Water Transmission Project

Manager Abercrombie addressed the Board regarding the lawsuit. He stated that the item is listed in open session to keep the public informed, but asked that discussion among the Board regarding strategy occur in closed session. He stated that staff disagrees with the allegations of Ken Berry in previous meetings on which the lawsuit is based. He said that the Board has repeatedly stated that it wanted to respect property owners' desires about what to do with the portions of the canal on their properties when the Agency installs the small-diameter pipeline and abandons the canal. He stated that many of the property owners that the Agency has talked to prefer to see it covered up and that is what Addendum #4 is intended to allow. Manager

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Abercrombie stated that now, however, the Board needs to weigh the costs of doing this versus the legal impacts associated with fighting another lawsuit.

Director Moore stated that he had two comments to the litigation. Director Moore questioned why Mr. Condrashoff provided information for Mr. Berry's lawsuit when Mr. Condrashoff had been a member of PHAW when PHAW agreed that no member of PHAW would seek to stop any part of the project. Director Moore's second comment was that he believed that Mr. Condrashoff was offering unauthorized engineering work by indicating that there is a relationship between Amador Canal flows and Jackson Creek flows.

Mr. Ken Berry described his lawsuit and stated that he is the only party in the lawsuit and he is currently in pro-per. He stated that Mr. Condrashoff is not a party to the lawsuit and only provided the information which came from the Agency and the City of Jackson and his rain gauge. At Agency Counsel Bezerra's request, Mr. Berry confirmed that he is not represented by an attorney in the lawsuit, although he has spoken to an attorney about it.

Mr. Bill Condrashoff stated that the data in his declaration is public data and anyone could have presented the data. He also stated that he is not involved in the lawsuit and only provided the data to Mr. Berry.

Debate ensued regarding the PHAW lawsuit and expenses incurred in conjunction with that lawsuit. In addition there was lengthy discussion regarding the figures and conclusions arrived at by Mr. Condrashoff.

There was further discussion with Mr. Berry regarding the flows or lack of flows in the creek and the present lawsuit.

Mr. David Evitt asked if he was included in Manager Abercrombie's statement regarding the lawsuit.

The Board stated that they did not hear or assume that Mr. Evitt was a party to the lawsuit.

Mr. Al Reis of Sutter Creek addressed the Board regarding the lawsuit and flows in Jackson Creek. He asked that the Board take a look and re-evaluate and see what can be done to preserve the flow in Jackson Creek.

RECESS was called at 10:45 a.m. **SESSION** resumed at 11:05 a.m.

COMMITTEE MEETING REPORTS

Engineering Committee Meeting Report –Rescheduled

Proposal of the Engineering committee members meet with the sewer and water committee. Mike Daly left Manager Abercrombie a message regarding scheduling of the meeting. Manager Abercrombie said he would follow up after the Board Meeting.

AGENCY COUNSEL REPORT

State Legislative Report –No report

FUTURE AGENDA TOPICS- There were no items requested

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CLOSED SESSION was called at 11:22 a.m. for the following matters

- A. Pursuant to Government Code Section 54956.9(c) – Initiation of litigation- Ken Berry petitioner vs. Amador Water Agency Case No. 08-CV-5592
- B. Pursuant to Government Code Section 54957.6 -Conference with Labor Negotiators (Jim Abercrombie and Karen Gish) – Department Heads

OPEN SESSION RESUMED at 11:55 a.m. with direction given to staff

ADJOURNMENT –President Swift adjourned the meeting at 11:57 a.m.



Cris L. Thompson
Clerk of the Board of Directors

Approved: October 23, 2008

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