

TRUCKEE MEADOWS WATER AUTHORITY  
MINUTES OF THE MAY 21, 2009  
MEETING OF THE BOARD OF DIRECTORS

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The Board of Directors met on Thursday, May 21, 2009 at Sparks Legislative Council Chambers, 745 Fourth St., Sparks, Nevada. Chairman Carrigan called the meeting to order at 8:03 a.m.

1. ROLL CALL

Members Present: Dave Aiazzi\*, Mike Carrigan, Bob Cashell\*, Mike Cate, John Breternitz as alternate for Bob Larkin, Geno Martini and Tom Young.

2. PLEDGE OF ALLEGIANCE

Led by Member Martini

3. PUBLIC COMMENT

There was no public comment.

4. APPROVAL OF THE AGENDA

**Upon motion by Member Martini, second by Member Cate,  
which motion duly carried by unanimous consent of the  
members present, the Board approved the agenda.**

5. APPROVAL OF THE APRIL 15, 2009 MINUTES

**Upon motion by Member Martini, second by Member Young,  
which motion duly carried by unanimous consent of the  
members present, the Board approved the April 15, 2009  
minutes.**

Chairman Carrigan opened the public hearing.

6. PUBLIC COMMENT ON ANY OF THE THREE ISSUES

There was no public comment.

7. DISCUSSION AND REQUEST FOR ADOPTION OF RESOLUTION #144: A  
RESOLUTION TO ADOPT THE FINAL BUDGET FOR FISCAL YEAR 2009-2010  
AND THE FIVE-YEAR CAPITAL IMPROVEMENT PLAN

Jeff Tissier presented the final budget and addressed the changes made since the tentative budget was presented in February 2009. Operating Revenues were increased due to the Board decision to postpone the January 2010 conversion of flat rate customers to metered billing to June 2010 or later. Operating Expenses were reduced to reflect the negotiations with the bargaining unit which resulted in eliminating incentive pay and keeping wages flat in FY2010. Employee

Benefits decreased by over \$.3 million dollars as TMWA funded the Voluntary Employee Benefit Association and TMWA will use the long term rate of return that is provided by the Retirement Benefit Investment Fund (RBIF); however, the savings garnered from that will be offset by increased Public Employees Retirement System (PERS) contributions. A decrease in Supplies Expense of \$.3 million dollars due to a 25 per cent contribution reduction to the Truckee River Fund which was offset by increased State Engineer fees for filing water permits as mandated by AB 480. Capital spending was increased \$1.7 million because of the Board's approval to move forward with engineering on the groundwater treatment plant in Sparks and a carry-over project from FY2009 – the Valley Road Main Replacement. The outstanding debt component is still over \$.5 million and there is an outstanding \$68 million short-term note with a current weighted average interest rate of 0.5 per cent. Unrestricted cash is expected to be \$68 million at the beginning of the fiscal year 2010 which will be a critical element to maintaining TMWA's Letter of Credit and current credit ratings with its rating agencies.

**Upon motion by Member Cate, second by Member Martini, which passed by unanimous consent of the members present, the Board adopted Resolution #144: a Resolution to adopt the final budget for Fiscal Year 2009-2010 and the Five-year Capital Improvement Plan**

8. SECOND/FINAL READING, DISCUSSION AND REQUEST FOR ADOPTION OF RESOLUTION #145: A RESOLUTION TO ADOPT REVISIONS TO TMWA RULES 1 THROUGH 6

John Erwin presented the revisions to TMWA Rules 1 through 6, which when adopted will streamline language, make content relevant to today's operating environment, and implement applicable cost recovery mechanisms. No comments were received since the amendments to the rules were posted on April 9, 2009.

**Upon motion by Member Martini, second by Member Young, which passed by unanimous consent of the members present, the Board adopted the Board adopted Resolution #145: A Resolution to adopt revisions to TMWA Rules 1 through 6**

9. SECOND/FINAL READING, DISCUSSION AND REQUEST FOR ADOPTION OF RESOLUTION #146: A RESOLUTION TO ADOPT REVISIONS TO TMWA CUSTOMER RATE SCHEDULES TO BE EFFECTIVE THE FIRST BILLING CYCLE IN JUNE 2009

John Erwin presented the rate changes as calculated by customer class and reviewed the edits to the various rate schedules made since the April 15, 2009 meeting. He reported the Standing Advisory Committee has held numerous workshops and meetings to review the details of the cost of service study and unanimously endorsed staff recommendations, supporting also the Board's position at its April 2009 meeting to look to increase rates by 4.5 per cent overall effective the first billing cycle in June 2009 and also increase rates in June 2010 by 4.4 per cent overall subject to a Board and SAC review in early 2010. The SAC also concurred with staff's recommendation and the Board's finding at the April 2009 Board meeting that conversion of flat

rate customers to metered billing be delayed from January 2010 and recommended the conversion be made no earlier than June 2010.

**Upon motion by Member Martini, second by Alternate Breternitz, which passed by unanimous consent of the members present, the Board adopted Resolution #146: A Resolution to adopt revisions to TMWA Customer Rate Schedules to be effective the first billing cycle in June 2009.**

Chairman Carrigan closed the public hearing

10. DISCUSSION AND POSSIBLE DIRECTION TO STAFF REGARDING  
LEGISLATIVE ACTIVITIES

Steve Walker, TMWA Contract Lobbyist reported on the following bills:

*AB119 Requires the Truckee Meadows Regional Plan to include policies that are based on identified and sustainable water resources within Washoe County. This bill has been sent to the Governor for signature.*

*AB147 Requires local governments to grant preference to local bidders bidding on certain contracts for goods or services. Modifications specific to contracts of \$50,000 have been made and the bill will now go to the Senate.*

*AB416 Requiring the State Engineer or a person designed by him to conduct an inventory of a basin before approving an application for an interbasin transfer of groundwater. This bill has passed through the Assembly and will now go to the Senate.*

*AB442 Prohibiting local governments from expending money for lobbying activities. This bill is dead.*

*AB480 Makes various changes relating to fees collected the State Engineer. This bill has been sent to the Governor for signature. These fee increases have been incorporated into the TMWA budget.*

*SB311 Requiring the fluoridation of water provided by certain public water systems and water authorities of certain counties. Mike Pagni, Legal Counsel, reported that TMWA had proposed an amendment to this bill to add a vote of the people prior to implementing fluoridation. Mr. Pagni stated it has been the policy of the State of Nevada for the past 42 years that the citizens in every county have the right to vote on whether to fluoridate their water, but the bill would deny these rights to Washoe County citizens. TMWA asked that the same voting rights be granted to the constituents in Washoe County, and TMWA also proposed a technical cleanup on the legal issues related to delivery of water to wholesale customers. As written, the bill would require that all water delivered by TMWA be fluoridated, but at the same time would prohibit TMWA's wholesale customers from delivering TMWA fluoridated water to their customers. This created a Catch-22 situation where TMWA is mandated to fluoridate the water but the wholesale customers are prohibited from delivering fluoridated water. Mr. Pagni noted that some voting rights were added through an amendment by Senate Finance Committee, but the timing of the*

vote proposed was problematic. If passed as written, the citizens would not have a right to vote on whether fluoridation should be implemented until four months after fluoridation was already implemented. As a result, the cost to implement fluoridation would be incurred before the people had a right to vote to decide whether or not they wanted to incur those costs, and substantial portions of these costs would not be able to be reimbursed. Mr. Pagni said that both he and Mr. Walker were informing legislators that millions of dollars of stranded costs would be borne by TMWA customers even if they decide to vote against this because of the timing issues with the vote. Mr. Pagni asked for direction from the Board.

Chairman Carrigan stated that the way the legislature has structured the timing of the vote, the ballot question is worded in an unusual way and the result would be that a “NO” vote is actually voting yes for fluoride and a “YES” vote is actually voting no for fluoride. He said the amendment TMWA had proposed is straightforward and clear – should the water be fluoridated – Yes or No. It is important that if the people are going to vote, they understand what they are voting on. Chairman Carrigan directed Mr. Pagni to take a neutral position if the two TMWA proposed amendments are approved with a November vote of the people and a clearly stated ballot question. Vice Chairman Aiazzi stated if this legislation passes, the Legislature should be challenged as this is very specific legislation.

Member Martini asked about the cost to remove fluoride from the water. Mr. Pagni replied that he understands the cost is several multiples of the cost to fluoridate water; however, no one other than TMWA has testified on this bill as yet. Member Martini stated there are implications with Truckee Meadows Water Reclamation Facility (TMWRF) and that TMWRF had provided information to the Senate Finance Committee about the potential impacts which could be significant if the fluoride was required to be removed. Vice Chairman Aiazzi stated that if SB 311 passes, TMWA will require all its wholesale customers pay the cost to remove fluoride from the water: the cost would not be borne by TMWA customers; or TMWA would need to discontinue delivery of water to wholesale customers. TMWA will pass on the full cost to the wholesale customers to remove fluoride. Mr. Pagni also clarified that the costs of a vote by the people will be borne by Washoe County as it will be an advisory question on the county ballot.

Mr. Walker requested the Board discontinue meetings of the Legislative Subcommittee as there is no more legislation to be discussed.

**Upon motion by Vice Chairman Aiazzi, second by Member Martini, which motion duly carried by unanimous consent of the members present, the Board suspended meetings of the Legislative Subcommittee.**

**Upon motion by Member Martini, second by Member Cashell, which motion duly carried by a vote of 6 to 1 with Vice Chairman Aiazzi dissenting, the Board opposed SB 311 with its current language; but voted to take a neutral position if the Legislature accepts the two amendments proposed by TMWA, which are 1) a vote by the people of Washoe County is taken prior to implementation of fluoride with clear language used for the ballot question and 2) a clarification on the legal**

aspects of the wholesale issue.

11. DISCUSSION AND POSSIBLE BOARD APPROVAL OF THE RENEWAL OF THE INTERLOCAL AGREEMENT FOR ADMINISTRATIVE SERVICES TO THE WESTERN REGIONAL WATER COMMISSION (WRWC).

Mark Foree stated that TMWA has been providing these services to the WRWC for the past year and proposes to continue providing services through 2011. Services include: posting agendas, preparing board packets, insuring minutes are recorded, etc. Services are provided at no cost to the WRWC except as specifically provided in the proposed agreement.

**Upon motion by Vice Chairman Aiazzi, second by Member Cashell, which motion duly carried by unanimous consent of the members present, the Board approved the renewal of the interlocal agreement for administrative services to the WRWC.**

12. DISCUSSION AND ACTION ON THE TMWA GENERAL MANAGER POSITION

Chairman Carrigan reported that it was the unanimous decision of the General Manager Search Committee to appoint Mark Foree as General Manager. The Board unanimously voiced its opinion that Mr. Foree has done a wonderful job as Interim General Manager. He has dealt successfully with issues like damage to the system by earthquakes, labor negotiations and a rate increase, and he works well with the Board and employees. The Board received many calls from employees and the community voicing their support for the appointment of Mr. Foree as General Manager with no negative comments. A discussion regarding the term of the contract ensued with the conclusion that a three year contract term was preferred by the Board. The Board requested that Chairman Carrigan negotiate the contract with Mr. Foree and bring it back to the Board for ratification. Mr. Foree thanked the Board for the vote of confidence stating he thought the nine month trial period was good for both the Board and him. He thanked Lori Williams for recommending him for the interim position and thanked the management team, the employees and the community for their support.

**Upon motion by Member Cashell, second by Vice Chairman Aiazzi, which motion duly carried by unanimous consent of the members present, the Board appointed Mark Foree as General Manager and gave permission for the Human Resources Manager, an attorney and Chairman Carrigan to negotiate a three-year contract with Mr. Foree.**

13. REVIEW AND POSSIBLE BOARD APPROVAL OF MEMORANDUM OF UNDERSTANDING FOR THE DEVELOPMENT AND MAINTENANCE OF A TRUCKEE RIVER COORDINATED MONITORING PROGRAM AND REQUEST FOR AUTHORIZATION FOR GENERAL MANAGER TO EXECUTE THE MOU

Paul Miller reported that the Nevada Department of Environmental Protection (NDEP) took the lead in facilitating meetings among the multiple agencies interested in the health and quality of

the Truckee River. This Memorandum of Understanding is of benefit to TMWA because it is vital for TMWA to watch and monitor the health of the Truckee River.

**Upon motion by Vice Chairman Aiazzi, second by Member Martini, which motion duly carried by unanimous consent of the members present, the Board approved the Memorandum of Understanding for the development and maintenance of a Truckee River coordinated monitoring program and authorized the General Manager to execute the MOU.**

**14. DISCUSSION AND ACTION REGARDING PARTY WATER SERVICE ISSUES AND IMPLEMENTING SEPARATE BILLING AND/OR SERVICE CONNECTIONS FOR METERED SERVICE AT YORKSHIRE MANOR I AND II**

Kim Mazerres presented this item. TMWA is nearing the finish of installing meters on all residences and dealing with the difficult metering situations. Yorkshire Manor (YM) presents a complicated and complex metering problem. YM has 268 units that are located in 67 buildings across two different planned unit developments in Sparks (YM1 and YM2, built in the early 1970's with a single service line feeding each of those buildings). A meter was placed on each of those service lines and YM was asked how they wanted to be billed. Ms. Mazerres discussed the various options as presented in the staff report ranging from grandfathering YM in on the flat rate to spending hundreds of thousands of dollars both on TMWA's part and the resident's part to meter each of those units individually. She also stated that TMWA can separate and handle each planned unit development differently.

The situation at YM is an historical legacy problem that exists on a handful of condominium complexes and planned unit developments in TMWA's service area. These are not single family homes – this is a different type of service and type of unit - there are only a handful of properties that have these characteristics within our service area.

After working through all the different options with YM, even though it would save money to be billed on the metered rate, YM1 does not want to have the bills in the association's name and prefers to be left on the flat rate.

YM2 did suggest that with a change to their by laws, YM2 could take on being the recipient of these water bills, pay the metered rate and save approximately \$87 a month a building. However, there is a cost associated with changing the by-laws, and they have requested that TMWA pay for the change to their by-laws. Ms. Mazerres commented that this could set a precedent and recommended the Board not comply with their request and set this precedent. Ms. Mazerres also suggested that a rule change be made so when a unit becomes vacant, the property manager would inform TMWA who is the property owner so that water bill can automatically be put in that property owner's name because, at that point, even if nobody is living there, the property owner has the benefit of water service. With this rule change for this rate class, the only risk for TMWA would be if somebody defaults on the water bill.

Vice Chairman Aiazzi said he did not think it would be out of bounds for TMWA to pay for the by-laws change as TMWA would save money by not installing individual meters. He also

stated that TMWA make a one-time offer to pay for the by-laws change. If not accepted, the associations will remain on the flat rate and the option of installing meters at TMWA expense will be terminated. He also warned the customers that it is highly probable that in the future, the flat rate will accelerate at a faster rate than will the metered rate.

Joanne Parker, resident of YM1, commented that the irrigation and swimming pool water at YM1 is metered so she didn't see the need to constantly increase rates on the small amount of water used in their homes. She also stated that the manager of YM1 did not want to assume the responsibility of collecting money that TMWA should be collecting and that the residents would have to pay the manager more money to do more duties.

Tammy Woodick, president of YM2, stated YM2 was willing to accept the responsibility and pass on the savings to their homeowners through fees. As for people not paying, the association might have more control over that than would TMWA. In order to do this, a change in their by-laws must be made and the association does not have the reserve funds to pay for this change. She asked TMWA to share in these costs. She said that as the president of YM2, she was willing to say the association will take on that responsibility with a little bit of help from TMWA to offset some of the costs of changing the by-laws.

Mike Pagni, TMWA Legal Counsel, expressed his concern about setting a precedent of using TMWA funds to help resolve this type of issue.

The Board discussed the risks and benefits associated with having TMWA offset the cost of changing an association's by-laws. It was determined that TMWA could offer to pay the cost up to a maximum of \$10,000 and then recoup the money, with interest, over a period not to exceed three years. The money would not come out of rate payer money but would come out of the meter retrofit fund because it is in lieu of putting in meters.

Vice Chairman Aiazzi asked about installing meters in the future. Ms. Mazeres replied that meters are already installed on the service lines for each building and again said it was staff's recommendation to leave them on the flat rate but also leave them the ability to change to the metered rate by building anytime they might choose; otherwise, leave them on the flat rate and change our rates and rules so that we can make that happen.

The Board asked Ms. Woodick if YM2 would be willing to participate given the discussion today. She said she would need to discuss this with the YM2 association board but thought it would be a possibility.

Vice Chairman Aiazzi made a motion on Yorkshire Manor II that TMWA help them with the legal costs related to changes to their by-laws but recoup that cost over a three-year period. Mayor Martini seconded the motion.

Mr. Pagni asked for a clarification of the motion. Would that motion be conditional on getting the homeowner association members to vote to agree before we advance them any money that they would reimburse us. Vice Chairman Aiazzi said he thought about that but didn't feel it was necessary because YM2 is going to reimburse TMWA the cost whether they pass it or not under this motion. TMWA will raise their rates to recoup whatever money it costs even if they say no. Chairman Carrigan asked Vice Chairman Aiazzi if there would be a cap to the costs or if that

was unnecessary because the motion reads TMWA will recoup all costs. Vice Chairman said he would put a cap of \$10,000 to the costs TMWA would loan the association.

**Upon motion by Vice Chairman Aiazzi, second by Member Martini, which motion carried by a vote of 5 to 2 with Chairman Carrigan and Alternate Breternitz dissenting, the Board agreed that TMWA would advance an amount not to exceed \$10,000 to help Yorkshire Manor II change their bylaws and recoup that cost over a three-year period.**

Alternate Breternitz made a motion for YM1 to stay on the flat rate; Vice Chairman Aiazzi seconded the motion. Vice Chairman Aiazzi warned the homeowner association that the flat rate will continue to increase. He then asked if a time limit should be put on requests to change to the metered rate. As this association and the others with complex issues are meter-retrofitted, should TMWA begin to inform people of their options and set time limits to make billing choices? Ms. Mazeres said that was absolutely possible.

**Upon motion by Alternate Breternitz, second by Vice Chairman Aiazzi, which motion carried unanimously, the Board agreed to leave Yorkshire Manor I on the flat-rate.**

15. GENERAL MANAGER'S REPORT

Mark Foree informed the Board there would be no meeting in June 2009.

16. PUBLIC COMMENT

There was no public comment.

17. BOARD COMMENTS AND REQUESTS FOR FUTURE AGENDA ITEMS

Chairman Carrigan requested a special meeting with Legal Counsel if SB 311 passes.

18. ADJOURNMENT

With no further business to discuss, Chairman Carrigan adjourned the meeting at 9:14 a.m.

Approved by the TMWA Board of Directors in session on July 15, 2009.

Respectfully submitted,

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Corinne Cassell, Recording Secretary

\*Dave Aiazzi and Bob Cashell: present for items 10 through 18.