

From: [Joel Pablo](#)
To: [Dave Stoldt](#); dave@laredolaw.net; [Fran Farina \(fran@laredolaw.net\)](mailto:fran@laredolaw.net); [MPWMD-BoD All](#)
Cc: [Sara Reyes](#)
Subject: Letter from Rudy Fischer, FW: For the Board
Date: Tuesday, January 25, 2022 9:09:50 AM

Good Morning, Board Members, General Manager, District Counsel Laredo and Farina:

Please see below e-mail from Rudy Fischer.

Joel G. Pablo
Board Clerk
Monterey Peninsula Water Management District
Phone: 831-658-5652

-----Original Message-----

From: Rudy Fischer <rudyfischer@earthlink.net>
Sent: Tuesday, January 25, 2022 9:05 AM
To: Joel Pablo <Joel@mpwmd.net>
Cc: Eileen Sobeck - SWRCB <Eileen.Sobeck@waterboards.ca.gov>; jepp@waterboards.co.gov;
michael.lauffer@waterboards.co.gov; Steven Westhoff - SWRCB , , <Steven.Westhoff@waterboards.ca.gov>;
<john.ainsworth@coastal.co.gov>
Subject: For the Board

Ladies and gentlemen;

At your January 21, 2022 goal setting meeting you considered the section of the Brown Act which deals with remote meetings. I would urge you to comply with all aspects of the Ralph M. Brown Act (Cal. Gov. Code sections 54950 – 54963). This includes the provision that “All meetings of District legislative bodies are open and public, so that any member of the public may attend, observe, and participate when District legislative bodies conduct business.” I believe that also means that a majority of the board should never gather for deliberations, to discuss agreements, or make decisions ahead of time without the public having an opportunity to be present.

In other words, no majority or quorum of you should be discussing and agreeing on an item or direction unless it is in a public meeting. I would also remind you that if you discuss or agree on a direction or action and discuss it with someone not on the board and that person relates your intentions to others on the board, that becomes a serial Brown Act violation. Because many of you are members of an advocacy group which the Fair Political Practices Commission (FPPC) recently fined and listed as a Political Action Committee, I would urge those members to abide strictly to the conditions of the Ralph M. Brown Act. It is easy to get in the mode of talking to other members of an advocacy group (or a Political Action Committee) to plan strategy but, when serving on a public body, it is also inappropriate.

As board members, you have a duty to look out for the interests of the public you represent; as well as the goals of the Monterey Peninsula Water Management District – not the goals of Public Water Now. I believe that some of you sometimes confuse the two a bit. You can ask your attorney to be sure, but I believe that acts that can be characterized as collusion - in any form - are illegal.

This is not an accusation; just a reminder.

Having worked with your attorney in the past, I know that he is capable of advising you as either a group or individually as to how this affects your actions.

Also, at the January 21, 2022 meeting, you adopted several goals which I think are valuable to review and comment

on; especially to “Provide a safe, reliable, sustainable, diversified, affordable, legal water supply to the Monterey Peninsula Region.”

I heartily agree with that goal and believe that you – and the public - will be well served by focusing on developing new and additional water sources, such as supporting and partially funding the expansion of Pure Water Monterey. As you know, I was heavily involved in the initial start of that plant, and I endorse this action 100%.

Other goals included “Implement the Board’s policy to use available User Fee revenue to (i) pay down the Mechanic’s Bank loan, (ii) repay other District reserves used for water supply projects, and (iii) sunset a portion of the Water Supply Charge.”

I would hope that you work diligently to sunset the Water Supply Charge. I realize that some may wish to keep this in place as a means of getting additional funds for other (unrelated) projects, but I do not believe that is what it was intended for.

Some other goals which you developed have some troubling aspects to them. Here I am addressing:

- a. Complete the LAFCO process and, if necessary, seek judicial review of LAFCO decision in 2022.
- c. Develop a public awareness campaign and/or survey in 2022.

Your General Manager was recently quoted as saying that the acquisition of the local operations of Cal Am was “mandated” by Measure J. I do not believe that is quite accurate. Measure J states that the acquisition should be pursued “if feasible” – with feasibility not well defined. There are still questions whether the price of acquiring Cal Am is really feasible, though it may be and you have decided so based on the service territory boundaries you have selected.

Unfortunately, however, spending the fairly substantial funds needed to accomplish that acquisition will not actually create one drop of new water - and that is what we really need!

But feasibility may also include legal feasibility, and LAFCO has put a question on that aspect.

I do not believe it is in anyone’s best interest for a small regional body to pursue legal action against a body which has a larger scope of interests and territory to consider simply to try and get its way. But I believe that LAFCO, in its decision, has also given hints as to what the MPWMD can do to move forward, and I would urge the MPWMD to address them and then go back to seek a different ruling.

They had several very specific concerns – such as the stranded communities which would be left high and dry by the acquisition as proposed. But those territorial boundaries were the result of a certain amount of “cherry picking” to at least some extent. So, fix that, get a new valuation of the acquisition and cost of running that adjusted territory and – if still considered feasible – go back to LAFCO and seek a better outcome.

I would also like to take this opportunity to remind the board members that for well over 40 years the MPWMD has had several goals:

1. To increase the water supply to meet community and environmental needs
2. To assist California American Water in developing a legal water supply
3. To protect the quality of surface and groundwater resources and restore the Carmel River environment
4. To manage and allocate available water supplies and promote conservation AND, only with the relatively recent passage of Measure J
5. To evaluate the feasibility of acquiring the local water company.

I know that the majority of Public Water Now’s efforts are to pursue this last goal, but all of the goals above are ones that MPWMD board members should be pursuing. It seems to many people that you have been focusing on goal number 5 to the detriment of all of the other – older and more important - goals

We remain under the Cease-and-Desist Order (CDO) the state imposed on us because you still have not fully met the first four goals. I would like to see us achieve all of these goals, so I believe it is now time for you to stop playing games for Public Water Now political reasons, and work on ways to develop new sources of water for the Monterey Peninsula.

We still have vacant lots which cannot be built upon because of the CDO. Developers are having to go to extremes to find work-arounds for projects. We now have new and larger RHNA numbers being promulgated by the state of California and given to the cities through AMBAG. And we still have a need to find a way to provide more – and more affordable – housing.

Also, is the goal of a public awareness campaign and/or survey in 2022 meant to help the MPWMD and Monterey Peninsula residents – or PWM? I think residents, city officials, AMBAG, the state, and the State Water Resources Control Board (SWRCB) know what your agency needs to do. I fear a survey may be slanted in such a way as to simply justify to yourselves the way you are going about it. Obviously that isn't working. Maybe the SWRCB should design the survey?

As you absorb the goals you have set for yourselves, it might be a good time to sit back and reflect how you as a group can work to accomplish all the goals of the MPWMD. After that reflection I sincerely hope you will start working with others to make something work to develop new and additional water.

All the best,

Rudy Fischer

Pacific Grove City Councilman 2010-2018

Board of Directors, Monterey One Water 2013-2018 Board Chair, Monterey One Water 2016-2018 Rudy

Fischer(831) 236-3431