

FINAL MINUTES
Regular Meeting
Board of Directors
Monterey Peninsula Water Management District
July 21, 2008

The meeting was called to order at 7 PM in the District Conference Room.

CALL TO ORDER/ROLL CALL

Directors Present:

Judi Lehman, Chair – Division 2
Kristi Markey, Vice Chair -- Division 3
Regina Doyle – Division 4
Bob Brower – Division 5
David Pendergrass – Mayoral Representative
David Potter – Monterey County Board of Supervisors

Directors Absent:

Alvin Edwards – Division 1

General Manager present: Darby Fuerst

District Counsel present: David C. Laredo

The assembly recited the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

Robert Greenwood, representing the Carmel Valley Association (CVA), introduced Todd Norgaard, a member of the CVA that will be attending the MPWMD Board meetings.

ORAL COMMUNICATIONS

Director Markey offered a motion to adopt the Consent Calendar, and specify that item 2 is adopted with the Administrative Committee recommendation to pay a reduced contribution of \$8,000. The motion was seconded by Director Doyle and adopted unanimously on a vote of 7 – 0. Directors Brower, Doyle, Lehman, Markey, Pendergrass and Potter voted in favor of the motion. Director Edwards was absent.

CONSENT CALENDAR

Approved.

1. **Consider Adoption of Minutes of the June 16, 2008 Regular Board Meeting**

Approved Administrative Committee recommendation to pay a reduced contribution of \$8,000.

2. **Consider Expenditure of Funds for Payment of Voluntary Assessment for Seaside Basin Watermaster Administrative Costs in Calendar Year 2008**

Approved.

3. **Consider Expenditure of Budgeted Funds For the Purchase of Integrated Technology Support Software**

Approved.

4. **Consider Expenditure of Budgeted Funds to Purchase Irrigation Equipment to Mitigate Impacts of Pumping from Lower Carmel Valley Wells**

Approved.

5. **Consider Expenditure of Budgeted Funds to Contract with Monterey Regional Water Pollution Control Agency for Public Outreach Assistance**

Approved.

6. **Consider Expenditure of Budgeted Funds to Renew a Two-Year Legal Services Agreement with DeLay and Laredo**

Approved.

7. **Consider Adoption of Resolution No. 2008-13 Establishing Administrative Hearing Guidelines of the Monterey Peninsula Water Management District**

Approved.

8. **Consider Authorization of Payment to Directors Brower, Lehman and Potter for Attendance at Meetings Related to Ordinance No. 135**

Approved.

9. **Consider Adoption of Treasurer's Report for May 2008**

Henrietta Stern, Project Manager, presented the report. An outline of the presentation is on file at the District office and can be viewed at the District's website.

PRESENTATIONS

10. **Water Supply Project Alternatives Update**

Jessica Griffiths presented the report. An outline of the presentation is on file at the District office and can be viewed on the District's website.

GENERAL MANAGER'S REPORT

11. **Jessica Griffiths of the Ventana Wildlife Society Reporting on Avian Monitoring on the Lower Carmel River**
12. **Update on Draft Cease and Desist Order Against California American Water and its Diversion of Water from the Carmel River**
13. **Status Report on California American Water Compliance with State Water Resources Control Board Order 95-10 and Seaside Groundwater Basin Adjudication Decision**

General Manager Fuerst presented the report. An outline of the presentation is on file at the District office and can be viewed at the District's website.

Darby Fuerst, General Manager, presented the report. An outline of the presentation is on file at the District office and can be viewed at the District's website. Mr. Fuerst reported that for the period of October 1, 2007 through July 15, 2008, California American Water (CAW) production from the Carmel River was 246 acre-feet under the production limit established as a result of SWRCB Order 95-10. During the same time period, production from the Coastal Subareas of the

Seaside Basin was 257 acre-feet under the production limit established as a result of the Seaside Groundwater Basin Adjudication. Production from the Laguna Seca Subarea through July 15, 2008 was 145 acre-feet over the production limit. The adjudication decision allows CAW to combine its production from all subareas within the Seaside Groundwater Basin. Consequently, CAW's production from all subareas within the Seaside Groundwater Basin through July 15, 2008 was 112 acre-feet under the adjudication limit.

District Counsel Laredo reported that during the closed session he provided status reports on all items and received general direction. No reportable action was taken.

ATTORNEY'S REPORT

14. Report on 5:30 PM Closed Session of the Board

- 3. Conference with Legal Counsel – Existing Litigation (Gov. Code 54945.9 (a))**
 - A. Application of California American Water Company to the Public Utilities Commission Application No. 04-09-019 – Coastal Water Project
 - B. Application of California American Water Company to the California Public Utilities Commission -- Application No. 07-02-023 -- Allowance for Funds Used During Construction (AFUDC) for its San Clemente Dam Memorandum Account
 - C. Application of California-American Water Company to California Public Utilities Commission for a Special Conservation Program and Design Modifications Rate in its Monterey District (Application No. 07-12-010) – Conservation Program Application
 - D. Application of California - American Water Company to California Public Utilities Commission for Authorization to Increase Revenues for Water Service in its Monterey District in the years 2009; 2010; and 2011 (Application No. 08-01-027) – General Rate Case
 - E. Application of California-American Water Company to Authorize Support Services for its Monterey District to the California Public Utilities Commission (Application No. 08-01-024) – General Office Case
 - F. Application of California American Water to the California Public Utilities Commission to Authorize Costs for the Long-Term Water Supply to be Transferred to a Balancing Account and a Requirement for Annual Review of

- that Account (Application No. 08-04-019).
 - G. Application of California-American Water Company to the California Public Utilities Commission for an Authorized Cost of Capital for Utility Operations for 2009 (Application No. 08-05-003)
 - H. State Water Resources Control Board Draft Cease and Desist Order WR 2008-00XX-DWR
 - I. MPWMD v. Nick Marotta, Jr., Gerda Marotta, and Does 1-100 -- Monterey County Superior Court Case No. M83498
 - J. MPWMD v. Roy Woods, Woods 1995 Trust, and Does 1-100 -- Monterey County Superior Court Case No. M83499
4. **Conference with Legal Counsel – Threatened Litigation (Gov. Code 54956.9(b))**
Sierra Club v California American Water (16 U.S.C §1538)

DIRECTORS' REPORTS (INCLUDING AB 1234 REPORTS ON TRIPS, CONFERENCE ATTENDANCE AND MEETINGS)

Director Markey reported that she attended the July 15, 2008 meeting of the Monterey County Special Districts Association. At the meeting, presentations were given on investment options for reserve funds, and Linda Tullett from the Monterey County Elections Office spoke on requirements for conducting elections. Director Lehman reported that in June and July 2008, she and Directors Brower and Potter participated in meetings with property owners that would be affected by proposed Ordinance No. 135.

15. **Oral Report on Activities of County, Cities, Other Agencies/Committees/Associations**

On a motion by Director Markey and second by Director Doyle, the Board unanimously approved the first reading of Ordinance No. 134 with the following clarifications: (1) the California American Water 7 percent unaccounted for water standard should not be modified; (2) Rule 165-F should state that upon declaration of Stage 5 a moratorium will immediately be implemented; (3) outdoor watering restrictions should be implemented at Stage 5; and (4) language in Rule 164, section B.1. regarding "superior, unimpaired water right" should be incorporated into Stages 6 and 7. The motion was adopted on a roll-call vote of 6 – 0. Directors Brower, Doyle, Lehman, Markey, Pendergrass and Potter voted in favor of the motion. Director Edwards was absent.

PUBLIC HEARINGS

16. **Consider First Reading of Ordinance No. 134 – An Ordinance of the Board of Directors of the Monterey Peninsula Water Management District Amending Regulation XV, the Expanded Water Conservation and Standby Rationing Plan**

The following comments were directed to the Board during the Public Hearing on this item. (1) **Sheri Damon** of Lombardo and Gilles, spoke on behalf of Stanley Powell of Kronick, Moskovitz Teidemann & Girard. Ms. Damon

requested that the Board amend Ordinance No. 134 as suggested in a letter from Mr. Powell dated July 17, 2008 (on file at the District office). (2) **George Riley**, representing Citizens for Public Water, requested that the CAW 7 percent unaccounted for water standard remain in effect.

On a motion by Director Markey and second by Director Doyle, the first reading of Ordinance No. 136 was unanimously approved with the following changes and clarifications. (1) Page 2 of the ordinance, item 9, delete the reference to Rule 11. (2) Page 3 of the ordinance, Rule 40 B.2.b., line 3, delete the words “is not in balance” and replace with the words “does not appear to be in balance.” (3) Page 3 of the ordinance, Rule 40.B.3, line 7, the word “preponderance” shall be deleted and replaced with the word “substantial.” (4) Page 4 of the ordinance, Rule 40.B.3, line 2, delete the words “credible expert evidence” and replace with “substantial expert evidence including that presented by”.....(5) Rule 40.B.2.a on page 3 of the ordinance and Rule 40.D.4 on page 5 of the ordinance should be amended by deleting the reference to “suspend receipt” of Expansion or Extension applications and replace with the words “suspend receipt and processing” of those applications. The motion was approved on a vote of 6 – 0. Directors Brower, Doyle, Lehman, Markey, Pendergrass and Potter voted in favor of the motion. Director Edwards was absent.

No comments were directed to the Board during the Public Hearing on this item.

Rick Dickhaut, Chief Financial Officer and Administrative Services Division Manager, presented the report. An outline of his presentation is on file at the District office and can be viewed on the District’s website. No action was taken by the Board on this item. No comments were directed to the Board during the public comment period on this item.

There was no discussion of the Informational Items/Staff Reports.

17. **Consider First Reading of Ordinance No. 136 – An Ordinance to Establish a Process to Authorize Adjustments to Water Distribution System Production and Connection Limits**

ACTION ITEMS

18. **Status Update on Process to Secure a \$2 Million Line of Credit to Fund Development of Water Supply Projects**

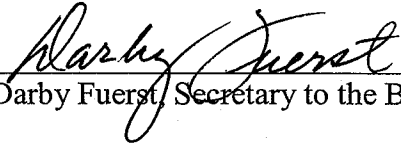
INFORMATIONAL ITEMS/STAFF REPORTS

19. **Letters Received**
20. **Committee Reports**
21. **Strategic Plan Update**
22. **Carmel River Fishery Report**
23. **Water Conservation Program Report**
24. **Monthly Allocation Report**
25. **Monthly California American Water Production Report**
26. **Monthly Water Supply Status Report**
27. **Quarterly Water Supply Project Status Report**
28. **Quarterly Irrigation Program and Riparian Projects Report**

- 29. **Quarterly Carmel River Erosion Protection and Restoration Projects Report**
- 30. **Quarterly Water Use Credit Transfer Status Report**

The meeting was adjourned at 8:55 PM.

ADJOURNMENT



Darby Fuerst, Secretary to the Board