

FINAL MINUTES  
Regular Meeting  
Board of Directors  
Monterey Peninsula Water Management District  
July 19, 2010

The meeting was called to order at 7:00 p.m. in the District Conference Room.

**CALL TO ORDER/ROLL CALL**

*Directors Present:*

Regina Doyle, Chair -- Division 4  
Bob Brower, Vice Chair – Division 5  
Alvin Edwards – Division 1  
Judi Lehman – Division 2  
Kristi Markey – Division 3  
David Pendergrass – Mayoral Representative  
David Potter – Monterey County Board of Supervisors  
(arrived at 7:40 p.m.)

*General Manager present:* Darby Fuerst

*District Counsel present:* David C. Laredo

The assembly recited the Pledge of Allegiance.

**PLEDGE OF ALLEGIANCE**

No comments were directed to the Board during Oral Communications.

**ORAL COMMUNICATIONS**

On a motion by Director Pendergrass and second of Director Lehman, the Consent Calendar was approved unanimously on a vote of 6 – 0. Director Potter was absent.

**CONSENT CALENDAR**

Approved

1. Consider Adoption of Minutes of the 6/21/2010 Regular Board Meeting

Approved

2. Consider Expenditure of Budgeted Funds to Purchase Water Conservation Print Material

Approved

3. Consider Expenditure of Budgeted Funds to Purchase Water Conservation Signage for Towel/ Linen Reuse Program and Restaurant Signage Requirement

Approved

4. Consider Expenditure of Budgeted Funds for School Retrofit Program

Approved

5. Consider Expenditure of Budgeted Funds for Professional Services by Waterwise, Inc. to Conduct Water Audits of MPWMD Schools Not Supplied by California American Water

Approved

6. **Consider Expenditure of Budgeted Funds to Contract with Zone 24/7 for Database Enhancements to Accommodate Changes Resulting from Adoption of Ordinance No. 144 (An Ordinance that Expands the Rebate Program to Include Graywater Reuse and Other Technologies)**

Approved

7. **Consider Adoption of Resolution 2010-09 -- Amending Fees and Charges Table -- Rule 60**

Approved

8. **Consider Adoption of Resolution 2010-10 – Authorizing a Line of Credit with Bank of America**

Approved

9. **Proposition 84 Planning and Implementation Grant Applications (A) Consider Approval of Resolution 2010-11 in Support of Filing Proposition 84 Planning Grant Application (B) Authorize the General Manager to Enter into Grant Agreements (C) Consider Expenditure of Budgeted Funds to Retain Consultants for Professional Services to Prepare Grant Application**

Approved

10. **Consider Expenditure of Budgeted Funds for Sleepy Hollow Steelhead Rearing Facility Stand-by Generator Maintenance Service with Quinn Power Systems for Fiscal Year 2010-11**

Approved

11. **Consider Expenditure of Budgeted Funds for Repairs to Intake Pump #2 at Sleepy Hollow Steelhead Rearing Facility**

Approved

12. **Consider Approval of Treasurer's Report for May 2010**

An outline of Mr. Anthony's report is on file at the District office and can be viewed on the District's website. He reported that non-revenue water use had increased over the past two months. However, this was found to be attributed to incorrect categorization of water from the Aquifer Storage and Recovery project (ASR). He estimates that non-revenue water use over the past twelve months will be 8 percent. Mr. Anthony reported that a transmission

**PRESENTATIONS**

13. **Monthly Report from California American Water General Manager, Craig Anthony**

pipeline designed to move ASR water from Seaside to Monterey should be completed sometime between December 2010 and June 2011.

Stephanie Pintar, Water Demand Manager, presented a report that is on file at the District office and can be viewed on the District's website. In response to a question from the Board, Ms. Pintar explained that the Monterey County Health Department does not allow installation of greywater toilet flushing systems because they do not comply with State standards that require filtration and disinfection.

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

**Director Potter arrived to the meeting just prior to the General Manager's report to the Board.**

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, 2009, through June 30, 2010 Cal-Am production from the Carmel River Basin was 1,143 acre-feet under the production target of 7,540 acre-feet established as a result of State Water Resources Control Board (SWRCB) Order 2009-0060. Production from the Coastal Subareas of the Seaside Basin was 179 acre-feet under the production target of 1,825 acre-feet established by the Seaside Groundwater Basin Adjudication. Production from the Laguna Seca Subarea was 122 acre-feet over the production target of 156 acre-feet established by the Seaside Groundwater Basin Adjudication. Therefore, total Cal Am production from the Seaside Basin was 57 AF under the adjudication target of 1,981 AF.

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.

District Counsel Laredo reported that he provided a status report to the Board on items A through J. No reportable action was taken.

**14. Water Conservation Program Report**

**15. Update on Development of Water Supply Project Alternatives Including Recycled Water**

**GENERAL MANAGER'S REPORT**

**16. Status Report on California American Water Compliance with State Water Resources Control Board Order 95-10 and Seaside Groundwater Basin Adjudication Decision**

**17. Status Report and Discussion of CPUC Proceedings Relating to California American Water's Coastal Water Project and the Regional Water Project**

**ATTORNEY'S REPORT**

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

**Conference with Legal Counsel – Existing Litigation (Gov. Code 54956.9 (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 PUC Application No. 10-01-012 – Mitigation Cost Reimbursement
- C. Application of California American Water Company regarding Reimbursement Balancing — CPUC Application No. 09-04-015
- D. Application of California American Water Company to CPUC Application No. 10-XX-XXX – General Rate Case
- E. Amended Application (U210W) of California American Water Company to CPUC Application No. 10-05-020 – Order Authorizing Moratorium in Monterey District
- F. Seaside v. California American Water (MBSE/Cal-Am Motion) (Appellate Court #HO34335; Superior Court Case No. M 66343)
- G. MPWMD v. State Water Resources Control Board; Superior Court Case No. 1-10-CV-163328
- H. California American Water v. State Water Resources Control Board; Superior Court Case No. M102097
- I. California American Water v. MPWMD (SWRCB/SNG) (Superior Court Case No. M 99622)
- J. California American Water v. MPWMD (Ryan Ranch) (Superior Court Case No. M 101255)

The Directors had nothing to report.

Director Brower offered a motion that was seconded by Director Markey to approve the first reading of Ordinance No. 144, amend language in Rule 141-D-10 outlined by staff in slide 8 of the Powerpoint presentation, and replace the words “shall occur” in Rule 141-D-10 with the words “must occur.” The motion was approved on a unanimous roll-call vote of 7 – 0. No comments were directed to the Board during the public hearing on this item.

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

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

**PUBLIC HEARINGS**

- 20. Consider First Reading of Ordinance No. 144 -- An Ordinance of the Monterey Peninsula Water Management District Amending the Rebate Program Amounts and Adding New Rebates for Graywater Irrigation Systems and Commercial, Industrial, and Institutional Retrofits**

Motion #1: Director Edwards offered a motion that was seconded by Director Brower to approve the staff recommendation to: (a) adopt the July 2010 Findings of Approval; (b) approve Permit #M10-07-L4 with Conditions of Approval; and (c) file a Notice of Determination with the Monterey County Clerk. The motion failed on a vote of 3 – 4. Directors Brower, Pendergrass and Edwards voted in favor of the motion. Directors Lehman, Markey, Potter and Doyle were opposed.

Motion #2: Director Markey offered a motion that was seconded by Director Potter, to continue the item to the August 16, 2010 Board meeting. District staff was directed to confer with special counsel and the applicant on development of a response to the following questions: (a) is the front-loading agreement considered a project, and is an EIR required; (b) what impacts will the Monterey Bay Shores Ecoresort (MBSE) have on the Carmel River, will it cause an increase in pumping from the river; (c) where is the detailed operational analysis for the storage tanks, what mechanisms are in place to monitor actual water use at the MBSE and the amount of water stored to be used at the site, and what safeguards are in place should one of the water tanks develop a leak; and (d) who will pay for the water delivery infrastructure, i.e., water tanks and transmission pipes to supply the MBSE? Staff was directed to request that special counsel review confidential memos dated May 5 and May 6, 2010 and provide a summary of issues outlined in those letters appropriate for public review. Special counsel should also respond to issues raised in the letter from the Sierra Club dated July 17, 2010. The Board directed that if their action that evening were challenged in court, the issue would be continued until after the court action was resolved. The motion was approved on a vote of 4 – 3. Directors Lehman, Potter, Markey and Doyle voted in favor of the motion. Directors Brower, Edwards and Pendergrass were opposed.

The following comments were directed to the Board during the public hearing on this item. (1) **Sheri Damon**, representing the applicant, Ed Ghandour, asserted that all requirements of the District's Rules and Regulations have been met with regard to the application. She urged the Board to approve the application. (2) **Lauren Silver**, representing the Sierra Club, read a statement that is on file at the District office. He stated that the project will result in increased pumping from the Carmel River. He urged the Board to deny the application. (3) **Rick Ramrus** expressed support for approval of the application. (4) **Paul Bruno**, Vice Chair of the Seaside Groundwater Basin Watermaster and Vice President of Carmel River Watershed Conservancy, read a statement on file at the District office stating that the District Board should approve the application. He noted that the Seaside Groundwater Basin Watermaster supported the plan for distribution of water to the Monterey Bay Shores Ecoresort (MBSE). (5) **Kathy**

21. Consider Application to Amend California American Water Distribution System to Serve Monterey Bay Shores Ecoresort in Sand City; California American Water and Security National Guaranty, Co-Applicants; MPWMD Application #20080915MBS; APN 011-501-014

**Anderson** requested that the Board approve the application because the MBSE would provide jobs. **(6) Jennifer Sardina**, Executive Director of the Sustainability Academy, urged the Board to support the application. **(7) Rick Alpers** asked the Board to approve the application. **(8) Tim Miller**, representing California American Water, stated that the July 14, 2010 letter from the Sierra Club erroneously alleged that Cal-Am will increase its diversions from the Carmel River in order to serve the MBSE. He stated that as provided by the front-loading agreement, water appropriated to the MBSE through the adjudication process will be delivered by Cal-Am to the project. He urged the Board to approve the application. **(9) Jeff Condit** expressed support for the application as the MBSE would create green jobs and promote green building practices. **(10) Douglas York** urged the Board to approve the application because it would create green jobs. **(11) Sheri Damon** urged the Board to approve the application. She stated that no CEQA review is required for the front-loading agreement, and that the Superior Court judge ruled that the agreement would not cause environmental damage to the Carmel River.

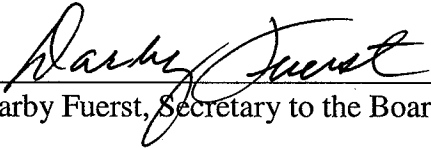
There was no discussion of the Informational Items/Staff Reports.

#### INFORMATIONAL ITEMS/STAFF REPORTS

22. Letters Received
23. Committee Reports
24. Carmel River Fishery Report for July 2010
25. Water Conservation Program Report
26. Monthly Allocation Report
27. Monthly California American Water Production Report
28. Monthly Water Supply Status Report
29. Quarterly Water Supply Project Status Report
30. Quarterly Irrigation Program and Riparian Projects Report
31. Quarterly Carmel River Erosion Protection and Restoration Projects Report
32. Quarterly Water Use Credit Transfer Status Report

The meeting was adjourned at 9:30 p.m.

ADJOURN

  
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Darby Fuerst, Secretary to the Board