

FINAL MINUTES
Regular Meeting
Board of Directors
Monterey Peninsula Water Management District
August 16, 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 (Joined the meeting by telephone at approximately 7:20 p.m., following completion of agenda item 11.)
David Pendergrass – Mayoral Representative
David Potter – Monterey County Board of Supervisors

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 Edwards and second of Director Pendergrass the Consent Calendar was approved unanimously on a roll-call vote of 6 to 0. Directors Brower, Doyle, Edwards, Lehman, Pendergrass and Potter voted in favor of the motion. Director Markey was not present for the vote.

CONSENT CALENDAR

Approved

1. Consider Adoption of Minutes of the July 19, 2010 Regular Board Meeting

Approved

2. Consider Adoption of Resolution 2010-12 – Congratulating the Association of California Water Agencies on its Centennial Anniversary

Approved

3. Consider Adoption of Procedure for Selection of Board Representative to the Seaside Basin Watermaster

Approved

4. Consider Expenditure of Budgeted Funds to Contract with Spot Water Management to Conduct Certified Landscape Irrigation Auditor (CLIA) Training in the MPWMD

Approved

Approved

Approved

Approved

Approved

Approved

A summary of Mr. Anthony's report is on file at the District office and can be viewed on the District's website. He reported that the week of August 23, 2010, Cal-Am will begin replacement of water mains in the Hidden Hills area and that Cal-Am continues its ongoing water main replacement effort in the City of Seaside. Mr. Anthony stated that on September 7, 2010, the Monterey Peninsula School Board will consider Cal-Am's request for an easement to facilitate development of an aquifer storage and recovery test well at Seaside Middle School. He advised Cal-Am customers to call Customer Service at 888-237-1333 with questions about water bills, or to report leaks. Or to contact him at 831-234-8184.

Director Markey joined the meeting by telephone at approximately 7:20 PM, following completion of item 11.

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.

Henrietta Stern, Project Manager, presented the report. It is on file at the District office and can be viewed on 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 May 31, 2010, through July 31, 2010, Cal-Am production from the Carmel River Basin

5. **Consider Expenditure of Budgeted Funds to Contract with the California Conservation Corps for Fall 2010 Vegetation Management Activities**
6. **Consider Expenditure of Budgeted Funds to Contract with DHDettman to Provide Support on Sleepy Hollow Steelhead Rearing Facility Priority Tasks**
7. **Consider Expenditure of Budgeted Funds to Purchase Compact Hybrid Sedan**
8. **Consider Ratification of Expenditure of Budgeted Funds to Purchase Microsoft Office 2010 Upgrades and Microsoft Sharepoint 2010 Server Software**
9. **Consider Approval of Fourth Quarter Fiscal Year 2009-10 Investment Report**
10. **Receive 2008-09 Mitigation Program Annual Report**

PRESENTATIONS

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

12. **Water Conservation Program Report**

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

GENERAL MANAGER'S REPORT

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

was 1,291 acre-feet under the production target of 8,479 acre-feet established as a result of State Water Resources Control Board (SWRCB) Order 95-10. Production from the Coastal Subareas of the Seaside Basin was 246 acre-feet under the production target of 2,297 acre-feet established by the Seaside Groundwater Basin Adjudication. Production from the Laguna Seca Subarea was 145 acre-feet over the production target of 186 acre-feet established by the Seaside Groundwater Basin Adjudication. Therefore, total Cal Am production from the Seaside Basin was 101 AF under the adjudication target of 2,483 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.

Decision

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

ATTORNEY'S REPORT

16. 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. 10-07-007 – 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)

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

The Directors had nothing to report.

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

Motion #1 – On a motion by Director Brower and second of Director Edwards, the Board on a unanimous roll-call vote set aside the March 26, 2009 Findings of Denial. Directors Brower, Doyle, Edwards, Markey, Lehman, Pendergrass and Potter voted in favor of the motion.

Motion #2 – Director Brower offered a motion to adopt the staff recommendation to: (1) adopt the Findings of Approval; (2) approve Application #20080915MBS and authorize issuance of MPWMD Permit #M10-07-L4; (3) adopt the Conditions of Approval as outlined in the staff report; (4) do not incorporate proposed Condition #33 into the Conditions of Approval; and (5) file a Notice of Determination with the Monterey County Clerk. There was no second to the motion.

Motion #3 – Director Markey offered an alternate motion that was seconded by Director Pendergrass to: (1) adopt the Findings of Approval; (2) approve Application #20080915MBS and authorize issuance of MPWMD Permit #M10-07-L4; (3) adopt the Conditions of Approval as outlined in the staff report, with the addition of Condition #33 presented by staff at the meeting; and (4) file a Notice of Determination with the Monterey County Clerk. The motion was approved unanimously on a role-call vote of 7 – 0 by Directors Brower, Doyle, Edwards, Markey, Lehman, Pendergrass and Potter.

The following comments were directed to the Board during the public hearing on this item. (1) **Sheri Damon**, representing Security National Guarantee, concurred with the staff recommendation and revised conditions of approval. She expressed agreement with the determination of special counsel that letters submitted by Larry Silver on behalf of the Sierra Club following the July 19, 2010 public hearing should not be entered into the record as factual evidence. She also agreed with the determination that the Front Loading Agreement is not a project under CEQA. Ms. Damon urged the Board of Directors to adopt the staff recommendation and approve issuance of a permit. (2) **Larry Silver, representing the Sierra Club**, opined that

PUBLIC HEARINGS

- 18. **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**
 - A. **Set Aside March 26, 2009 Findings of Denial Pursuant to Superior Court Order (Case# M66343)**
 - B. **Make Final Determination on MPWMD Application #20080915MBS**

letters submitted by the Sierra Club following the July 19, 2010 public hearing should be considered legal arguments. He requested that the Board adopt a special condition of approval as outlined in his previous letters. He stated that specific language for the proposed condition would be provided to the Board following the meeting. (3) **Paul Bruno**, Vice Chair of the Seaside Basin Watermaster but speaking as an individual, urged the Board to approve the application. (4) **Kathy Anderson**, a resident of Seaside, encouraged the Board to work with Ed Ghandour, the project developer, and move forward on approval of the application. (5) **Paul Kephart** expressed support for approval of the application. (6) **Rick Alpers** urged the Board to move forward on approval of the application. (7) **Jordan Daniels**, a design instructor at Hartnell College and a principal with a green building construction firm but speaking as an individual, expressed support for approval of the application. (8) **Jennifer Sardina**, Executive Director of the Sustainability Academy, urged the Board to approve the application. (9) **Rick Ramrus** requested that the Board approve the application.

The meeting was recessed at 8:50 p.m. and reconvened at 9 p.m. Directors Markey and Edwards left the meeting during the recess and did not return.

Director Potter offered a motion that was seconded by Director Lehman, to adopt Ordinance No. 144 on second reading and direct staff to file a Notice of Exemption with the Monterey County Clerk. The motion was approved on a unanimous roll-call vote of 5 – 0. Directors Brower, Doyle, Lehman, Pendergrass and Potter voted in favor of the motion. Directors Edwards and Markey were absent.

During the public hearing on this item, Craig Anthony General Manager of California American Water, expressed support for adoption of the ordinance.

Director Potter offered a motion that was seconded by Director Pendergrass, to adopt the first reading of Ordinance No. 145 and direct staff to prepare a Negative Declaration for consideration on September 20, 2010. The motion was approved unanimously on a roll-call vote of 5 – 0. Directors Brower, Doyle, Lehman, Pendergrass and Potter voted in favor of the motion. Directors Edwards and Markey were absent.

The following comments were directed to the Board during the public comment period on this item. (1) **Craig Anthony**, General Manager of California-American Water Company, expressed support for the ordinance. (2) **John Bridges**, representing Shan Sales, expressed support for sections of the ordinance related to rainwater catchment systems.

19. Consider Second Reading and Adoption 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

20. Consider First Reading of Ordinance No. 145 -- An Ordinance of the Monterey Peninsula Water Management District Clarifying Regulations Pertaining to Permits, Conservation and Enforcement

Director Brower made a motion that was seconded by Director Lehman, to rescind the March 20, 2009 Notice of Violation and direct District staff to accept applications for new or intensified water use within the Hidden Hills Unit of the California American Water Distribution System effective August 17, 2010. The motion was approved unanimously on a vote of 5 – 0. Directors Brower, Doyle, Lehman, Pendergrass and Potter voted in favor of the motion. Directors Edwards and Markey were absent.

The following comments were directed to the Board during the public comment period on this item. (1) **Craig Anthony**, General Manager of California-American Water Company, expressed support for the staff recommendation. He noted that measures were in place to reduce water use in Hidden Hills such as water main replacement and tiered water rates. (2) **Dale LeClair**, owner of property in Hidden Hills, spoke in support of the staff recommendation.

Action on item 22 was taken early in the meeting, immediately following adoption of the Consent Calendar.

On a motion by Director Edwards and second by Director Potter, the Board agreed to defer this item to the next meeting at which all Directors will be in attendance. The motion was unanimously approved on a roll-call vote of 6 – 0. Directors Brower, Doyle, Edwards, Lehman, Pendergrass and Potter voted in favor of the motion. Director Markey was absent for the vote.

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

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

21. **Consider Lifting General Manager's March 20, 2009 Decision Regarding Hidden Hills Unit of California American Water Distribution System – Notice of Violation of District Rule 40-D and Suspension of Receipt of Applications for New or Intensified Water Use**

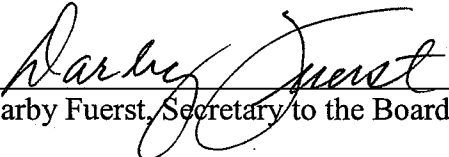
ACTION ITEMS

22. **Discuss Request of Director Brower to Consider a Revision to District Rule 25.5.C, Water Use Credits and On-Site Water Credits**

INFORMATIONAL ITEMS/STAFF REPORTS

23. **Letters Received**
24. **Committee Reports**
25. **Carmel River Fishery Report for July 2010**
26. **Water Conservation Program Report**
27. **Monthly Allocation Report**
28. **Monthly California American Water Production Report**
29. **Monthly Water Supply Status Report**
30. **Receive Semi-Annual Groundwater Quality Monitoring Report**

ADJOURN


Darby Fuerst, Secretary to the Board