

FINAL MINUTES
Regular Meeting
Board of Directors
Monterey Peninsula Water Management District
January 27, 2011

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

CALL TO ORDER/ROLL CALL

Directors Present:

Robert S. Brower, Sr., Chair -- Division 5
Vacant -- Division 1
Judi Lehman -- Division 2
Kristi Markey -- Division 3
Regina Doyle -- Division 4
David Pendergrass -- Mayoral Representative

Directors Absent: David Potter, Vice Chair -- 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.

ORAL COMMUNICATIONS

On a motion by Director Markey and second of Director Lehman, the Consent Calendar items were approved unanimously on a vote of 5 – 0 by Directors Brower, Doyle, Lehman, Markey and Pendergrass. Director Potter was absent.

CONSENT CALENDAR

Approved

1. **Consider Adoption of Minutes of December 13, 2010, Regular Board Meeting**

Approved

2. **Consider Adoption of Resolution No. 2011-03 Suspending Receipt of Lawn Removal Rebate Applications until Rebate Program Funding is Renewed and Program Guidelines have been Revised**

Approved

3. **Consider Expenditure of Budgeted Funds to Contract for Temporary Clerical Help in the Water Demand Division**

Approved

4. **Consider Expenditure of Matching Funds for the Integrated Regional Water Management Plan Planning Grant**

Approved

Approved

Approved.

Chair Brower presented to Director Doyle a plaque that acknowledged her service as Board Chair in 2010.

Mr. Anthony reported that in December 2010, water use for residential customers subject to Tiers 4 and 5 totaled 29.8 acre-feet, which compares to the 5-year average of 64.7 acre-feet in December. Commercial water use represents 25 percent of all water use in the District. Since 2007, commercial water use has gradually come down, with the exception of the City of Monterey in which commercial water use increased slightly between Water Year 2010 and Water Year 2011. Water use in the Ryan Ranch system has been reduced significantly below Water Year 2007 levels. Mr. Anthony reported that Cal-Am inspected 200 miles of delivery lines and found 29 leaks. The goal is to inspect 600 miles of water lines, at a rate of 200 miles per year. The new Aguajito pipeline should be operational by mid-February. The pipeline allows delivery of water from the Seaside Wells and ASR to a broader area than Cal-Am was previously able to serve from those sources.

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. A summary 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 ending December 31, 2010, California American Water (Cal-Am) production from the Carmel River Basin was 18 acre-feet over the production target of 1,580 acre-feet established as a result of State Water Resources Control Board (SWRCB) Order 2009-0060. No water was produced from the Coastal Subareas of the Seaside Basin. Production from the Laguna Seca Subarea was 34 acre-feet over the production target of 53 acre-feet established by the Seaside Groundwater Basin Adjudication. Production from the City of Sand City Desalination plant was 55 acre-feet. Total Cal-Am production from the Monterey Peninsula Water Resources

5. **Review and Accept Independent Audit Report for Fiscal Year 2009-2010**

6. **Consider Approval of Annual Update of Investment Policy**

7. **Consider Adoption of Treasurer's Report for August 2010**

PRESENTATIONS

8. **Presentation to Outgoing Board Chair, Regina Doyle**

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

10. **Water Conservation Program Report**

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

GENERAL MANAGER'S REPORT

12. **Status Report on California American Water Compliance with State Water Resources Control Board Order 2009-0060 and Seaside Groundwater Basin Adjudication Decision**

System was 2,846 acre-feet, which is 243 acre-feet below the target of 3,089 acre-feet.

In response to a question from the Board, General Manager Fuerst explained that Cal-Am did not pump water from the Seaside basin in order to be in compliance with a condition set by the State Water Resources Control Board that limits Cal-Am pumping from the Seaside Basin during November and April, if flow is 40 cubic-feet-per-second in the Carmel River at Highway 1 bridge.

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

General Manager Fuerst reported that on December 14, 2010, Administrative Law Judge Maribeth Bushey issued a proposed California Public Utilities Commission (CPUC) decision recommending that the District's user fee not be reinstated on the Cal-Am bill. The loss of revenue would impair the District's ability to carry out environmental mitigation programs and complete the ASR project. The District has requested that the user fee be reinstated. The CPUC will likely consider the issue at its February 24, 2011 meeting.

Mr. Laredo reported that he provided an update to the Board of Directors on all matters listed on the agenda. No reportable action was taken.

13. Status Report on CPUC Proceedings Relating to the Regional Water Project

14. Status Report on Cal-Am Application 10-01-102 – Collection of MPWMD User Fee to Fund Carmel River Mitigation Program and Aquifer Storage and Recovery Project

ATTORNEY'S REPORT

15. Report on 5:30 pm Closed Session of the Board

3. Conference with Legal Counsel – Existing Litigation (Gov. Code 54956.9 (a))

- A. Application of California American Water Company to the California Public Utilities Commission Application No. 04-09-019 – Coastal Water Project
- B. Application of California American Water Company to CPUC 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. Application of California American Water Company to CPUC Application No. 10-09-018 – San Clemente Dam Removal
- G. Seaside v. California American Water (MBSE/Cal-Am Motion) (Appellate Court #HO34335; Superior Court Case No. M 66343)
- H. MPWMD v. State Water Resources Control Board; Superior Court Case No. 1-10-CV-163328
- I. California American Water v. State Water Resources Control Board, Superior Court Case No. M102097
- J. California American Water v. MPWMD (Ryan Ranch) (Superior Court Case No. M 101255)
- K. Sierra Club v. MPMWD, SNG & CAW, Real Parties (Sup. Ct. Case M 108149)

- 4. **Conference with Real Property Negotiators (Gov Code 54956.8)**
Property: 990 Coe Avenue, Seaside, CA 93955
Agency Negotiators: Darby W. Fuerst & David C. Laredo

- 5. **Public Employment, Position of General Manager (Gov. Code 54957)**

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

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

Director Lehman reported that on January 18, 2011, she attended her first meeting as Chair of the Special District's Association of Monterey County. Ms. Lehman requested that the MPWMD Board Chair and Vice Chair review a summary of costs incurred by the Monterey County Water Resources Agency (MCWRA) related to the Regional Water Supply Project. She submitted a staff report from the January 24, 2011, MCWRA Board of Directors meeting that requested an amendment to the contract for legal services with Downey Brand Attorneys, LLP. She also provided a summary of MCWRA expenditures related to the Regional Water Project incurred between 2004 and 2010. Director Lehman asked if MPWMD staff could provide an informational report on Regional Water Supply Project expenditures.

On a motion by Director Pendergrass and second of Director Doyle, Ordinance No. 147 was approved for second reading as presented, with minor corrections to California Water Code references. The motion was approved unanimously on a roll-call vote of 5 – 0 by Directors Brower, Doyle, Lehman, Markey and Pendergrass. Director Potter was absent.

No comments were directed to the Board during the public hearing on this item.

On a motion by Director Markey and second of Director Doyle, the Board unanimously selected Avery and Associates to conduct the recruitment for the General Manager position, for an amount not-to-exceed \$18,900. Directors Brower, Doyle, Lehman, Markey and Pendergrass voted in favor of the motion. Director Potter was absent.

No comments were directed to the Board during the public comment period on this item.

On a motion by Director Doyle and second of Director Pendergrass, the Board unanimously adopted Resolution 2011-01 as presented. Directors Brower, Doyle, Lehman, Markey and Pendergrass voted in favor of the motion. Director Potter was absent.

No comments were directed to the Board during the public comment period on this item.

On a motion by Director Doyle and second of Director Markey, the Board unanimously adopted Resolution 2011-02 with amendments that state: (1) the District will pay the postage for return of the actual voted ballots; (2) the Registrar shall be encouraged to place one or more drop boxes at central locations within the Voting Division; and (3) paragraph 13 shall be modified to state that "...should only one person file for candidacy, the county elections official shall cancel the election, and the Board of Supervisors of the County of Monterey shall appoint that candidate to fill the vacancy. Should no person file for candidacy, the county elections official shall cancel the election, and the Board of Supervisors of the County of Monterey shall appoint the candidate to fill the vacancy." Directors Brower, Doyle, Lehman, Markey and Pendergrass voted in favor of the motion. Director Potter was absent.

During the public comment period on this item, Tom Mancini stated that the number of ballots returned should be high, if the District were to pay postage for return of the completed ballots.

PUBLIC HEARINGS

- 17. Consider First Reading of Ordinance No. 147 – An Ordinance of the Monterey Peninsula Water Management District Amending Regulation XV, Expanded Water Conservation and Standby Rationing Plan, to Implement Water Banking in Stages 5 – 7 Water Rationing**

ACTION ITEMS

- 18. Consider Contract for Recruitment of General Manager**

- 19. Consider Adoption of Resolution 2011-01 Modifying Rule 162 -- Regulatory Water Production Targets for California American Water Systems**

- 20. Consider Adoption of Resolution 2011-02 -- Amending Resolution 2010-16 Calling for a May 3, 2011 Election in Voter Division 1**

On a motion by Director Markey and second of Director Lehman, the Board unanimously approved the reimbursement agreement that specifies Cal-Am will pay the MPWMD an amount not to exceed \$2,500,000 but shall not limit the MPWMD from incurring contingency costs and expenses of ten percent (\$250,000) which Cal-Am will pay. Directors Brower, Doyle, Lehman, Markey and Pendergrass voted in favor of the motion. Director Potter was absent.

During the public comment period on this item, Craig Anthony, representing Cal-Am, addressed the Board. He spoke in support of the agreement and stated that he was confident the cooperative relationship between Cal-Am and the District that has been maintained during development of the ASR project will continue.

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

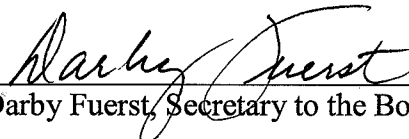
On a motion by Director Doyle and second by Director Markey, the meeting was adjourned at 8:35 pm.

21. **Consider Reimbursement Agreement between Monterey Peninsula Water Management District and California American Water for Construction of Seaside Middle School Aquifer Storage and Recovery (ASR) Well #1**

INFORMATIONAL ITEMS/STAFF REPORTS

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

ADJOURN



Darby Fuerst, Secretary to the Board