

FINAL MINUTES  
Regular Meeting  
Board of Directors  
Monterey Peninsula Water Management District  
May 21, 2012

The meeting was called to order at 7 pm in the District Conference room.

**CALL TO ORDER/ROLL CALL**

*Directors Present:*

David Potter -- Chairperson , Monterey County Board of Supervisors Representative  
David Pendergrass – Vice Chair, Mayoral Representative  
Brenda Lewis – Division 1  
Judi Lehman – Division 2  
Kristi Markey – Division 3  
Jeanne Byrne – Division 4  
Robert S. Brower, Sr., -- Division 5

*Directors Absent:* None

*General Manager present:* David J. Stoldt

*District Counsel present:* David Laredo

The assembly recited the Pledge of Allegiance.

**PLEDGE OF ALLEGIANCE**

The following persons addressed the Board during Oral Communications. (1) **George Riley**, representing Citizens for Public Water, noted that in its proposed filing to the California Public Utilities Commission (CPUC) re Application 12-04-019, the District included a statement offering its assistance to achieve the lowest cost to the ratepayers for the desalination component of a water supply solution. Mr. Riley requested that the District make this offer known to the Cities JPA. (2) **Carol Reeb** announced that on June 6, 2012, the State Water Resources Control Board will conduct a workshop to discuss future amendments to the Ocean Plan and the Enclosed Bays and Estuaries Plan addressing desalination facilities and brine disposal. She presented a written description of the meeting that is on file at the District office and can be viewed on the District's website. (3) **Nelson Vega** requested that the District coordinate with the Cities JPA and California American Water (Cal-Am) on development of a water supply project so that only one entity is working towards that goal. He reasoned

**ORAL COMMUNICATIONS**

that this would reduce the layers of bureaucracy that hinder progress and would be beneficial to the taxpayers. (3) **Bill Hood** requested that the directors speak on behalf of local ratepayers at the upcoming meeting of the CPUC regarding costs for the San Clement Dam Removal and Reroute Project.

On a motion by Director Pendergrass and second of Director Lehman, the Consent Calendar was adopted unanimously with an amendment to item 1 that the minutes of the April 20, 2012 note that Nelson Vega addressed the Board at that meeting. The motion was adopted on a vote of 7 – 0.

Approved with an amendment to the April 20, 2012 Special Meeting minutes, to state that Nelson Vega addressed the Board at that meeting.

During the public comment period on this item, Nelson Vega noted that the minutes of the April 20, 2012 meeting did not include all of the comments that he made at that meeting, specifically that he expressed opposition to the Board noticing the meeting to begin at 3:30 pm and then recessing until 5:30 pm. And also that he was outraged the Board took action on approval of the Memorandum of Understanding with the Monterey Regional Water Pollution Control Agency and Cal-Am on Joint Funding of A Groundwater Replenishment Project with only one member of the public present to comment on the issue. According to Mr. Vega, when he presented a comment at the meeting, it was unreasonable for the Board to request that he bring his comments to a close after only 3.5 minutes.

Approved.

Approved.

Approved.

Approved.

Approved.

## CONSENT CALENDAR

1. Consider Approval of Minutes of the April 16, 2012 Regular Board Meeting and April 20, 2012 Special Meeting of the Board
2. Consider Expenditure of Budgeted, Reimbursable Funds for Water Project 2 Aquifer Storage and Recovery (ASR) Well Construction
3. Consider Ratification of Decision to Decline Participation in California Association of Water Agencies Sponsorship Program for 2012
4. Receive Notice of Appointments to Carmel River Advisory Committee
5. Consider Adoption of Resolution No. 2012-05 Approving Membership in Association of California Water Agencies Joint Powers Insurance Authority
6. Receive and File Third Quarter Financial Activity Report for Fiscal Year 2011-12

Approved.

Approved.

A summary of Mr. Stoldt's comments is on file at the District office and can be viewed on the District's website. On a motion of Director Markey and second of Director Lehman the report was received on a unanimous vote of 7 – 0.

The report was received on a unanimous vote of the Board by motion of Director Brower and second of Director Byrne. Chair Potter requested that the Memorandum on Water Supply Needs titled Monterey Peninsula Water Supply System Sizing, be referred to the Water Supply Planning Committee which will decide if additional review or action is required by the Board.

The following comments were received during the public comment period on this item. (1) **Carol Reeb** presented a chart titled Legally Available Water Supply in MPWMD Territory that depicted her assessment of how a small desalination plant and increased recycled wastewater production could meet community water supply needs. She stated that the low cost of recycled wastewater would be a benefit to the ratepayer and allow for construction of a smaller desalination plant. Ms. Reeb's chart is on file at the District office and can be viewed on the MPWMD website. (2) **George Riley** noted that the water production target adopted by the Cities JPA Technical Advisory Committee was 15,270 acre-feet of water per year. (3) **Nelson Vega** expressed support for development of a large desalination plant that could be operated at partial capacity, in order to insure that additional supply is available when needed, such as in the event of a drought or that the groundwater replenishment project (GWR) may not be on line quickly, or if there are environmental issues associated with that project. (4) **Bill Hood** stated that Cal-Am had offered to review the status of aquifer storage and recovery (ASR) and GWR in two years, in order to determine the appropriate size for a desalination project. He asked if the District had considered making a decision on the size of a desalination project. In response to the comments, Mr. Stoldt noted the following. The maximum production from groundwater replenishment should be 3,500 acre-feet, however; additional production may be identified in the future. Groundwater replenishment will reduce energy costs because it is one-tenth the cost of reverse osmosis. The focus has been to size a water supply project to meet the unlawful diversions identified by the State Water

7. Consider Approval of Third Quarter Fiscal Year 2011-12 Investment Report
8. Consider Adoption of Treasurer's Report for March 2012

#### GENERAL MANAGER'S REPORT

9. **Status Report on California American Water Compliance with State Water Resources Control Board Order 2009-0060 and Seaside Groundwater Basin Adjudication Decision**
10. **Update on Development of Water Supply Projects; Review Memorandum on Water Supply Needs**

Resources Control Board, in order to avoid delays due to land-use litigation associated with a larger project that would provide water for growth.

District Counsel Laredo reported that on April 20, 2012 the Board met in Closed Session to discuss MPWMD v. SWRCB; Santa Clara Superior Court Case No. 1-10-CV-163328 – Cease and Desist Order. He provided a status report to the Board, but no reportable action was taken. Mr. Laredo noted that the special meeting was called due to a Brown Act noticing issue with the closed session of April 16, 2012 and the Board needed to meet in preparation for a case management conference set for May 8, 2012. Regarding the May 21, 2012 Closed Session of the Board, Mr. Laredo stated that he provided a status report to the Directors on items 3.A through 3.F, but no reportable action was taken.

Director Byrne stated that the Board owed Mr. Vega an apology for the delay in the start time of the April 20, 2012 Special Board meeting.

Director Brower reported that he attended the May 8 – 12, 2012 Association of California Water Agencies (ACWA) Spring Conference. He noted that it is important for the District to participate in ACWA, because it provides opportunity to exchange ideas with directors of special districts from around the state. Director Markey announced that she and Director Lehman addressed the New Monterey Neighborhood Association regarding various issues affecting the District and the proposed Proposition 218 user fee. Director Byrne stated that she attended the April 4, 2012 Pacific Grove City Council

#### **ATTORNEY'S REPORT**

##### **11. Report on April 20, 2012 and May 21, 2012 Board Closed Sessions**

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

- A. MPWMD v. State Water Resources Control Board; Superior Court Case No. 1-10-CV-163328 -- Cease and Desist Order
- B. Application of California American Water Company to CPUC Application No. 10-01-012 – User Fee Collection; Cal-Am v. MPWMD: M113336
- C. Application of California American Water to the CPUC (Application No. 04-09-019) Coastal Water Project
- D. Application of California American Water to the CPUC (Application No. 10-09-018) San Clemente Dam Removal
- E. Application of Cal-Am to the CPUC (App. No. 12-04-019) – Monterey Peninsula Water Supply Project
- F. Richard & Sharlene Thum v. MPWMD; Superior Court Case No. M113598

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

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

meeting, the April 23, 2012 meeting of the Pacific Grove Chamber of Commerce, and the May 10, 2012 meeting of the Monterey Peninsula Republican Women's Club. She addressed each group on the proposed Proposition 218 user fee and received a favorable reception at all events. Director Lehman reported that she and Director Lewis spoke to the Seaside City Council on April 19, 2012 and on Seaside Rotary Club on May 21, 2012. Director Lehman also attended meetings of the Del Rey Oaks City Council on April 24, 2012, and the Sand City Council May 15, 2012.

On a motion by Director Markey and second of Director Lehman, Ordinance No. 150 was adopted on second reading by a unanimous roll-call vote of 7 – 0. No comments were directed to the Board during the public hearing on this item.

On a motion by Director Markey and second of Director Lehman, the first reading version of Ordinance No. 153 was approved on a unanimous roll-call vote of 7 – 0.

Nelson Vega addressed the Board during the public hearing on his item. He expressed a concern that water savings achieved by a property owner through installation of a cistern could eventually result in higher Cal-Am water rates. He asked if Cal-Am or the District could provide a guarantee that water savings from cisterns would not result in higher water rates.

On a motion by Director Pendergrass and second of Director Byrne, the Water Supply Forecast was received on a unanimous vote of 7 – 0. No comments were directed to the Board during the public comment period on this item.

Director Brower offered a motion that was seconded by Director Byrne, to approve the filing for party status with amendments to the last sentence on page 113 of the Board packet. The sentence should read, "MPWMD supports, in concept, the Groundwater Replenishment (GWR) and ASR components of the proposed project. MPWMD is ready, willing and able to lend its status and expertise as the public agency with authority on the Monterey Peninsula water supply to help the desalination component achieve the lowest cost impact to the ratepayers and implementation in a timely fashion." The motion was approved on a unanimous vote of 7 – 0. No comments were directed to the Board during the public comment period on this item.

#### **PUBLIC HEARINGS**

- 13. Consider Second Reading and Adoption of Ordinance No. 150 -- Amendments to Rule 21.A -- Noticing Requirements for Water Distribution System Well Capacity Testing**
  
- 14. Consider First Reading of Ordinance No. 153 -- Extending the Deadline for Existing Non-Residential Retrofits, Adding an Increased Rebate for Cistern Storage Capacity and Amending Definitions**

#### **ACTION ITEMS**

- 15. Receive and Confirm Water Supply Forecast for Period of May 1, 2012 through September 30, 2013**
  
- 16. Review Proposed MPWMD Filing for Party Status in CPUC Application 12-04-019**

The District's Chief Financial Officer/Administrative Services Division Manager, Suresh Prasad, presented the proposed budget to the Board of Directors and responded to questions. No action was taken.

During the public comment period on this item, Nelson Vega addressed the Board. He asked the following two questions. (1) Explain the difference between the \$3.7 million to be raised by the proposed user fee, and the \$1.2 reduction in the budget that would be required if the user fee cannot be collected. (2) Describe the source of expenditures for which the District will be reimbursed. In response, Mr. Stoldt explained that if the \$3.7 million in user fees is not received by the District, the immediate affect would be that \$2.5 million of direct capital costs would be suspended (contribution to GWR, completion of ASR, and operational studies). The \$1.2 million reduction represents direct costs related to project development such as staff services, supplies and utilities, an amount by which the budget must be reduced. Mr. Stoldt went on to explain that "reimbursements" can be defined as current year projects funded by current year revenues received from others. For example, rebates are issued by the District and Cal-Am provides a reimbursement. Another example is that Cal-Am reimburses the District for work completed at the Phase 2 ASR Project site.

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

Nelson Vega requested that District Counsel Laredo comment on the May 5, 2012 letter from John H. Dillon. However, at the suggestion of Chair Potter, Mr. Vega agreed to speak with Counsel following the meeting.

The meeting was adjourned at approximately 8:45 pm.

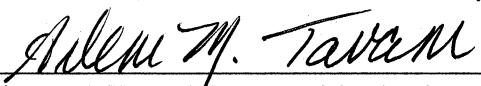
**17. Review Proposed MPWMD Budget for Fiscal Year 2012-2013**

**INFORMATIONAL ITEMS/STAFF REPORTS**

**18. Letters Received**

- 19. Committee Reports**
- 20. Carmel River Fishery Report**
- 21. Water Conservation Program Report**
- 22. Monthly Allocation Report**
- 23. Monthly Water Supply and California American Water Production Report**

**ADJOURNMENT**

  
Arlene M. Tavani, Deputy District Secretary