



FINAL MINUTES
Regular Meeting
Board of Directors
Monterey Peninsula Water Management District
September 17, 2012

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

George Riley addressed the Board during Oral Communications. He announced that RatePayers First would conduct a town hall meeting on October 2, 2012 at 7 pm. The group is focused on the water supply development cost containment.

ORAL COMMUNICATIONS

On a motion by Director Markey and second of Director Byrne, the Consent Calendar items were approved unanimously on a vote of 7 – 0.

CONSENT CALENDAR

Approved.

1. Consider Adoption of Minutes of the August 20, 2012 Regular Board Meeting

Approved expenditures not-to-exceed \$13,500.

2. Consider Expenditure of Budgeted Funds for Software Maintenance Agreements

Approved.

3. Consider Adoption of Resolution 2012-12 Supporting Water Efficiency through Adoption of Best Management Practices Resources for Residential and Non-Residential Water Users

Approved.

Approved.

Approved not-to-exceed cost sharing expenditure of \$13,550.

Eric Sabolcise, Director of Operations for California American Water (Cal-Am), provided an explanation for high residential water bills and water leaks that have recently been reported in the media. A summary of Mr. Sabolcise's presentation can be viewed on the District's website and is available at the MPWMD office. Following the presentation, Mr. Sabolcise noted that Cal-Am's water meters have never been found to over-report water use. At the close of the public comment period, District staff was directed to schedule a meeting of the Water Demand Committee within ten days, so the committee could develop a recommendation for action the District might take on this issue. The Board should consider the recommendation on October 15, 2012.

The following comments were presented to the Board during the public comment period on this item. (1) **Tom Rowley** suggested that the tiered-rate structure be modified to account for average daily use, and allow for additional water use during dry periods when landscaping irrigation requirements peak. (2) **Dale Hekhuis** asked if there was any evidence that the tiered rates were unreasonably high. (3) **George Riley** stated that some Cal-Am customers experience a spike in water use one month, and their water consumption returns to a normal level the next month. (4) **Lindy Levin** recounted her experience working with Cal-Am and the California Public Utilities Commission (CPUC) to resolve a dispute over high water bills. She described this as an issue that affects the entire community and requested that the Board of Directors take action on this at its next meeting. (5) **Nelson Vega** suggested that the cost of excess water use resulting from unintentional leaks should be distributed among all ratepayers in the Monterey system, in order to terminate the financial penalty that results from those leaks. (6) **Walter Wagenhals** suggested that Cal-Am implement a procedure to alert a customer if water use is higher than normal. (7) **Richard Levin** explained that if a rate payer petitions the CPUC to adjudicate a Cal-Am billing issue, the customer must pay the disputed bill before the CPUC will intervene. He stated that it was

4. **Consider Adoption of Findings in Support of Board Decision re Appeal of David Beech -- Flores Well**
5. **Consider Adoption of Findings in Support of Board Decision re Appeal of David Beech -- Pisenti Well**
6. **Consider Extension of Cooperative Agreement with the United States Geological Survey for Streamflow Gaging in Water Year 2013**

**REPORT FROM ERIC SABOLCISE,
CALIFORNIA AMERICAN WATER**

unfair for the customer to pay the disputed amount in advance, and asked that the Board of Directors address that issue. (8) **Jay Roland** noted that according to Mr. Sabolsice, the tiered-rate system was established by Cal-Am to reduce water consumption. Mr. Roland opined that the Board of Directors or the CPUC should control water use; that should not be Cal-Am's responsibility. (9) **Janice Parisi** recounted her experience attempting to resolve a \$2,666 Cal-Am water bill. In her numerous contacts with Cal-Am call centers; she was never referred to local staff. Cal-Am finally acknowledged that the source of the high water bills was that her meter had been read incorrectly for five consecutive months. There was no leak on the property.

A summary of Mr. Stoldt's presentation is on file at the District office and can be viewed on the MPWMD website.

No report.

District Counsel Laredo stated that the Board discussed the items listed on the agenda. No reportable action was taken.

Director Lehman reported on her attendance at the September 13, 2012 Candidate Forum sponsored by WaterPlus. She noted that candidates for office in the cities of Seaside, Pacific Grove and Monterey were present as were candidates for Fifth District Supervisor.

GENERAL MANAGER'S REPORT

7. **Status Report on California American Water Compliance with State Water Resources Control Board Order 2009-0060 and Seaside Groundwater Basin Adjudication Decision**
8. **Update on Development of Water Supply Projects**

ATTORNEY'S REPORT

9. **Report on September 17, 2012 Board Closed Session**
 - Conference with Legal Counsel – Threatened Litigation (Gov. Code 54956.9 (b)) – One Case**
 - Conference with Legal Counsel -- Conference with Legal Counsel – Existing Litigation (Gov. Code 54956.9 (a))**
 - Application of California American Water to the CPUC (Application No. 12-04-019) – Monterey Peninsula Water Supply Project
 - Public Employee Performance Evaluation (Gov. Code 54957) – General Manager**

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

10. **Oral Reports on Activities of County, Cities, Other Agencies/Committees/Associations**

Director Markey offered a motion that was seconded by Director Lewis to adopt Ordinance No. 154 on second reading with one amendment: in Section 3, clarify the intent of the ordinance by insertion of the words “water credits shall be reinstated upon completion of water supply projects that legalize the water supply for the California American Water Monterey system.” The motion was adopted on a unanimous roll-call vote of 7 – 0. There was no opposition to a request by Director Lehman that additional language be developed that more clearly defined the term of water credits subject to this ordinance.

The following comment was directed to the Board during the public hearing on this item. **(1) Anthony Lombardo**, representing Quail Lodge, Bernardus Lodge and Carmel Valley Ranch Resort, expressed support for adoption of the ordinance with the proposed amendment.

On a motion by Director Byrne and second of Director Markey, Resolution No. 2012-13 was adopted on a unanimous vote of 7 – 0.

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

On a motion by Director Pendergrass and second of Director Lehman, the October through December 2012 Quarterly Water Supply Strategy and Budget was adopted on a unanimous vote of 7 – 0. Director Lehman requested that at a future meeting, staff present a detailed report on water production/ consumption in the Laguna Seca Subarea.

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

Director Brower offered a motion that was seconded by Director Pendergrass, to adopt Option 5 from the September 17, 2012 memorandum submitted by David Stoldt at the meeting, and direct staff to proceed with a plan for establishment of the Citizen’s Oversight Panel. Option 5 states that based on case law and legal opinions, the petition is invalid because it is flawed, and collection of the water use charge should continue. The motion was approved on a vote of 6 – 1. Directors Brower, Pendergrass, Byrne, Markey, Lehman and Lewis voted in favor of the motion. Director Potter was opposed.

The following comments were directed to the Board during the public comment period on this item. **(1) Nelson Vega** advised the Board to schedule a public vote on the funding issue and then accept the voters’

PUBLIC HEARINGS

11. **Consider Second Reading and Adoption of Ordinance No. 154 Tolling Water Use Credits Affected by State Water Resources Control Board Order WR 2009-0060**

12. **Consider Adoption of Resolution 2012-13 Modifying Rule 162 -- Regulatory Water Production Targets for California American Water Systems**

13. **Consider Adoption of October through December 2012 Quarterly Water Supply Strategy and Budget**

ACTION ITEMS

14. **Consider Action to be Taken with Respect to Monterey Peninsula Taxpayers Association Referendum Petition**

decision. (2) **Tom Rowley**, Vice President of the Monterey Peninsula Taxpayers Association (MPTA), disagreed with the staff conclusion that the petition was invalid. He advised the Board to “take the high road” and adhere to the request of those who signed the petition. (3) **George Riley**, Citizens for Public Water, suggested that the Board take a strong position in favor of water supply development at the lowest cost in order to establish the basis for a water supply charge, and then revisit the Proposition 218 process. (4) **Walter Wagenhals** asked the Board to submit the funding issue to the voters. (5) **Kevan Stone** urged the Board to rescind the water use charge ordinance, begin the process again and allow the public to participate.

Director Brower offered a motion that was seconded by Director Pendergrass to approve the following.

(1) Adopt the recommendation of the Water Supply Planning Committee outlined in the revised staff report. (2) Authorize the General Manager to modify the filing to the CPUC in conjunction with the Monterey Peninsula Regional Water Authority (MPRWA), including: (a) items 1 and 6 from Category B should be moved to Category A.; and (b) the recommendation on Financing will be modified to state that Cal-Am shall accept the District’s decision as to the lowest cost financing portfolio or structure. (3) Regarding Ownership, include an Option A – In recognition of a requirement by the County of Monterey for public ownership of a project, the MPWMD should be designated as the project owner; and an Option B – text presented in the revised staff report. The motion was approved unanimously on a vote of 7 – 0.

15. **Discuss and Recommend District Position on Cal-Am Application Regarding Governance, Ownership and Finance**

The following comments were directed to the Board during the public comment period on this item. (1) **Jason Burnett**, Mayor of Carmel-by-the-Sea, member of the MPRWA, and participant on the MPRWA Ad Hoc Committee on Governance, Financing and Ownership. He urged the Board to modify its submission to Cal-Am and the CPUC to be consistent with the recommendation adopted by the MPRWA. He noted that should the District adopt a recommendation that differs from that of the MPRWA, there would be an opportunity for MPRWA to consider conformation of their filing to agree with the MPWMD recommendation. He also suggested that the proposed desalination source wells could be publicly owned. (2) **Dale Hekhuis**, Peninsula Water Ratepayers Alliance, proposed that any recommendation on financing include a requirement that should a water project fail, any prior public expenditures related to that project be returned to the ratepayer. He requested that in exchange for the ratepayers’ advance contribution of \$99 million, they should receive project ownership shares of \$99

million that would be deposited with the MPWMD. He asked that this recommendation be incorporated into the request for public agency participation. (3) **Doug Wilhelm** expressed agreement with comments presented by Dale Hekhuis. He requested that a cover letter be attached to the MPWMD filing to the CPUC that states the District has not yet taken a position that Cal-Am should be the desalination project water supplier. (4) **Tom Rowley**, MPTA, opined that the District's action on agenda item 14 was "overreaching" and will prevent it from building consensus in the community on water supply. He stated that the MPRWA has established itself in the community as the only credible, consensus building entity. (5) **George Riley**, Citizens for Public Water, urged the Board to recommend public ownership and financing in its filing to the CPUC. (6) **Roger Dolan** encouraged the Board to propose public ownership of a desalination facility under MPWMD leadership, in conjunction with the MPRWA. (7) **Dan Turner** spoke in support of the Board's action on agenda item 14, and recommended that the District own and finance a water supply project.

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

The Chair requested that Committee Reports be brought back for Board review at the October 15, 2012 meeting in order to respond to a concern of Director Byrne.

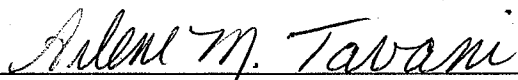
The meeting was adjourned at 9:45 pm.

INFORMATIONAL ITEMS/STAFF REPORTS

16. Letters Received
17. Committee Reports

18. Carmel River Fishery Report
19. Water Conservation Program Report
20. Monthly Allocation Report
21. Monthly Water Supply and California American Water Production Report

ADJOURNMENT


Arlene M. Tavani, Deputy District Secretary