

FINAL MINUTES
Regular Meeting
Board of Directors
Monterey Peninsula Water Management District
June 16, 2008

The meeting was called to order at 7:05 PM in the District Conference Room.

CALL TO ORDER/ROLL CALL

Directors Present:

Judi Lehman, Chair – Division 2
Kristi Markey, Vice Chair -- Division 3
Regina Doyle – Division 4
Bob Brower – Division 5
David Pendergrass – Mayoral Representative

Directors Absent:

Alvin Edwards – Division 1
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.

ORAL COMMUNICATIONS

On a motion by Director Markey and second by Director Pendergrass, the Consent Calendar was approved with the exception of item 6 that was deferred to the July 21, 2008 Board meeting. The motion was approved unanimously on a vote of 5 – 0. Directors Brower, Doyle, Lehman, Markey and Pendergrass voted in favor of the motion. Directors Edwards and Potter were absent.

CONSENT CALENDAR

Approved.

1. **Consider Adoption of Minutes of the May 19, 2008 Regular Board Meeting and May 22, 2008 Special Meeting/Board Workshop**

Approved.

2. **Consider Adoption of Resolution 2008-12 Authorizing an Amendment to Contract with Public Employee Retirement System to Convert to Single Highest Year**

Approved.

3. **Authorize Expenditure of Budgeted Funds to Contract for Limited Term Field Positions**

Approved.

4. **Consider Expenditure of Budgeted Funds to Amend Contract with Golden State Planning and Environmental Consulting to Assist with Water Distribution System**

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| Approved. | 5. | Permit Program
Consider Expenditure of Budgeted Funds to Amend Contract with Pueblo Water Resources to Provide Hydrogeologic Review for Water Distribution System Permits |
| Deferred to the July 21, 2008 Board Meeting. | 6. | Consider Expenditure of Budgeted Funds to Renew a Two-Year Legal Services Agreement with DeLay and Laredo C |
| Approved. | 7. | Consider Approval of Additional Costs for Sleepy Hollow Steelhead Rearing Facility Electrical System Upgrades |
| Approved. | 8. | Receive Technical Report on Alternative Steelhead Counting Technology |
| Approved. | 9. | Consider Adoption of Resolution 2008-10 Establishing Article XIII (B) Appropriations Limit for Fiscal Year 2008-2009 |
| Approved. | 10. | Consider Adoption of Resolution No. 2008-11 to Authorize Transfer Between Funds |
| Approved. | 11. | Receive and File Third Quarter Financial Activity Report for Fiscal Year 2008-09 |
| Approved. | 12. | Consider Adoption of Treasurer's Report for April 2008 |

Henrietta Stern, Project 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. In response to a question from the Board, General Manager Fuerst explained that the District has identified a site for a second Aquifer Storage and Recovery Project well (Phase 2) and will be contacting the landowner about developing the site. District staff met with staff of the State Water Resources Control Board (SWRCB) regarding submission of a petition for change to secure an additional water right for the Phase 2 project.

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, 2007 through June 10, 2008, CAW production from the Carmel River was 44 acre-feet under the production limit established as a result of SWRCB Order 95-10. During the same time period, production from the Coastal Subareas of the Seaside Basin was 329 acre-feet under the production limit established as a result of the Seaside Groundwater Basin Adjudication. Production from

PRESENTATIONS

13. **Water Supply Project Alternatives Update**

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 Decision**

the Laguna Seca Subarea through June 10, 2008 was 124 acre-feet over the production limit. The adjudication decision allows CAW to combine its production from all subareas within the Seaside Groundwater Basin. Consequently, CAW's production from all subareas within the Seaside Groundwater Basin through June 10, 2008 was 205 acre-feet under the adjudication limit. In response to questions from the Board, General Manager Fuerst stated that in 2007, the Ryan Ranch system utilized 70 acre-feet of water. Of that amount, 60 acre feet was produced from the Carmel River system and transferred to Ryan Ranch. The transfer was needed because a treatment plant in the Ryan Ranch area malfunctioned. That situation has been corrected. However, the current concern is that wells in Ryan Ranch cannot produce enough water to meet peak demands. A small amount of water was transferred from Carmel Valley to Ryan Ranch in June 2008, which is allowed under the permit conditions for the Ryan Ranch Water Distribution System.

District Counsel Laredo reported that during the closed session he provided status reports on all items and received general direction. No reportable action was taken.

ATTORNEY'S REPORT

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

3. **Conference with Legal Counsel – Existing Litigation (Gov. Code 54945.9 (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 the California Public Utilities Commission -- Application No. 07-02-023 -- Allowance for Funds Used During Construction (AFUDC) for its San Clemente Dam Memorandum Account
 - C. Application of California-American Water Company to California Public Utilities Commission for a Special Conservation Program and Design Modifications Rate in its Monterey District (Application No. 07-12-010) – Conservation Program Application
 - D. Application of California -American Water Company to California Public Utilities Commission for Authorization to Increase Revenues for Water Service in its Monterey District in the years 2009; 2010; and 2011 (Application No. 08-01-027) – General Rate Case
 - E. Application of California-American Water Company to Authorize Support Services for its Monterey District to the California Public Utilities Commission (Application No. 08-01-024) – General Office Case
 - F. Application of California American Water to the California Public

Utilities Commission to Authorize Costs for the Long-Term Water Supply to be Transferred to a Balancing Account and a Requirement for Annual Review of that Account (Application No. 08-04-019).

- G. Application of California-American Water Company to the California Public utilities Commission for an Authorized Cost of Capital for Utility Operations for 2009 (Application No. 08-05-003)
 - H. State Water Resources Control Board Draft Cease and Desist Order WR 2008-00XX-DWR
 - I. MPWMD v. Nick Marotta, Jr., Gerda Marotta, and Does 1-100 -- Monterey County Superior Court Case No. M83498
 - J. MPWMD v. Roy Woods, Woods 1995 Trust, and Does 1-100 -- Monterey County Superior Court Case No. M83499
4. **Conference with Legal Counsel – Threatened Litigation (Gov. Code 54956.9(b))**
Sierra Club v California American Water (16 U.S.C §1538)

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

Director Brower reported that he met with the Carmel Valley Improvement Committee and provided them with an update on the District's activities. Director Lehman reported that on June 4, 2008 she participated in meetings of the Seaside Basin Watermaster, the MPWMD Legislative Committee and the Regional Plenary Oversight Group.

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

On a motion by Director Markey and second by Director Brower, the Board adopted the July through September 2008 Quarterly Water Supply Strategy and Budget on a unanimous vote of 5 – 0. Directors Brower, Doyle, Lehman, Markey and Pendergrass voted in favor of the motion. Directors Edwards and Potter were absent.

PUBLIC HEARINGS

- 17. **Consider Adoption of July through September 2008 Quarterly Water Supply Strategy and Budget**

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

Director Markey offered a motion to adopt the Fiscal Year 2008-09 MPWMD Budget and Resolution 2008-09 with two modifications: (1) \$5,000 of the \$25,000 budgeted for Hydrogeologic Impact Review will be used to update Water Demand Division procedures; and (2) \$65,000 will be added to the budget for public outreach activities. The Administrative Committee could consider reducing expenses elsewhere in the budget at mid-year review, to account for the \$65,000 increase. The motion was seconded by Director Doyle and approved unanimously on a vote of 5 – 0.

- 18. **Consider Adoption of Proposed Fiscal Year 2008-09 MPWMD Budget and Resolution 2008-09**

Directors Brower, Doyle, Lehman, Markey and Pendergrass voted in favor of the motion. Directors Edwards and Potter were absent.

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

On a motion by Director Brower and second of Director Markey, the report was received unanimously by the Board on a vote of 5 – 0. Directors Brower, Doyle, Lehman, Markey and Pendergrass voted in favor of the motion. Directors Edwards and Potter were absent.

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

Director Brower offered a motion to adopt the Public Outreach Plan, including the outreach budget outlined in the staff report. The motion was seconded by Director Pendergrass and adopted unanimously on a vote of 5 – 0. Directors Brower, Doyle, Lehman, Markey and Pendergrass voted in favor of the motion. Directors Edwards and Potter were absent.

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

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

The meeting was adjourned at 8:20 PM.

ACTION ITEMS

19. Review and Discuss Alternatives for Financing MPWMD Water Supply Projects

20. Consider Adoption of Public Outreach Plan

INFORMATIONAL ITEMS/STAFF REPORTS

- 21. Letters Received**
- 22. Committee Reports**
- 23. Strategic Plan Update**
- 24. Carmel River Fishery Report**
- 25. Water Conservation Program Report**
- 26. Monthly Allocation Report**
- 27. Monthly California American Water Production Report**
- 28. Monthly Water Supply Status Report**

ADJOURNMENT

Darby Fuerst, Secretary to the Board

De LAY & LAREDO

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Paul R. De Lay
David C. Laredo

Heidi A. Quinn
Fran Farina, Of Counsel

June 2, 2008

Darby W. Fuerst
General Manager
Monterey Peninsula Water
Management District
P. O. Box 85
Monterey, California 93942

Re: Legal Services Proposal for Fiscal Years 2008/9 and 2009/10

Dear Mr. Fuerst:

At your request, I am pleased to forward the proposal of De Lay & Laredo to renew the existing legal services agreement for the Monterey Peninsula Water Management District commencing with the 2008-2009 fiscal year on July 1, 2008. I have been privileged to represent the Water Management District in the capacity of General Counsel continuously since March, 1979. During this time a close and frank working relationship has been established with you, the District Board of Directors, appointed officials, and staff. I hope that this relationship will continue.

This firm continues to specialize in the representation of public agencies. I propose to continue as the lead attorney for the Water Management District on substantially the same terms and conditions that have applied to the past two-year contract. The Water Management District presently receives both retained and extraordinary legal services from this firm. For each of the past twenty-four months, our firm has provided forty-five (45) hours of service at our retained service rate. In Fiscal Year 2007/8 this rate was one hundred eighty five dollars (\$185) per hour. Additional efforts beyond retained hours have been provided at the rate of one hundred ninety dollars (\$190) per hour.

In accord with past practice, we propose to renew this legal services agreement for a two (2) year term, ending June 30, 2010. In accord with past practice, the agreement may be terminated at any time during its term, without cause, by the affirmative vote of five (5) members of the Board.

We do not propose any change to the terms or conditions of our agreement other than to increase our rates by approximately 5%. Effective July 1, 2008, we propose to increase retained and extraordinary service rates by ten dollars (\$10) per hour, resulting in rates of one hundred ninety five dollars (\$195) and two hundred dollars (\$200) per hour for retained and extraordinary legal services, respectively. An identical modification is proposed to take effect July 1, 2009, with rates then at two hundred and five dollars (\$205) and two hundred and ten dollars (\$210) per hour for retained and extraordinary legal services, respectively.

The rationale for the proposed increase to rates is several fold. First and foremost, market rates for

Darby W. Fuerst
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legal services continue to exceed, by a large margin, the rates charged for our services. Secondly, we have experienced a variety of cost increases that exceed inflation, including increases to the cost of professional liability insurance and library maintenance.

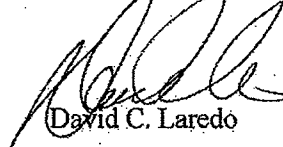
As you know, we rarely tender separate charges for support services, and then only with advance approval of the General Manager occasioned by extraordinary assignments. We shall provide you with advance notice and an opportunity to approve any cost expenditure which exceeds the sum of one thousand (\$1,000) dollars on your behalf.

Darby, I am proud of my length of service with the Water Management District, and am happy for this renewed opportunity to support you in your role as General Manager. As always, I enjoy working with your board and its staff. I look forward to maintaining and enhancing each of these relationships.

If you have any question, comment, or concern, do not hesitate to contact me.

Sincerely,

De LAY & LAREDO



David C. Laredo

DCL:wg