

## EXHIBIT B

FINAL MINUTES  
Regular Meeting  
Board of Directors  
Monterey Peninsula Water Management District  
May 21, 2009

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

### CALL TO ORDER/ROLL CALL

*Directors Present:*

Kristi Markey, Chair -- Division 3  
Regina Doyle, Vice Chair -- Division 4  
Alvin Edwards -- Division 1  
Judi Lehman -- Division 2  
Bob Brower -- Division 5  
David Pendergrass -- Mayoral Representative  
David Potter -- Monterey County Board of Supervisors  
(arrived at 7:35 PM)

*General Manager present:* Darby Fuerst

*District Counsel present:* David C. Laredo

The assembly recited the Pledge of Allegiance.

### PLEDGE OF ALLEGIANCE

The following comments were directed to the Board during Oral Communications. (1) **Sheri Damon**, representing Security National Guarantee (SNG), advised the Board that a front-loading agreement had been submitted to District staff that addressed how water would be conveyed through the California American Water (CAW) Distribution System to SNG property for the proposed Monterey Bay Shores Ecoresort project. She stated that SNG is committed to meeting with District staff to work through water supply issues in order to safeguard against any unnecessary expenditure of public funds on litigation expenses. (2) **George Riley**, representing Citizens for Public Water, urged the Board of Directors to be more assertive in efforts to gain membership on the management group advocating for development of the Water for Monterey County Coalition's regional water supply project.

### ORAL COMMUNICATIONS

On a motion by Director Pendergrass and second by Director Edwards, the Consent Calendar was approved on a vote of 6-0. Directors Brower, Doyle, Edwards, Lehman, Markey and Pendergrass voted in favor of the motion. Director Potter was absent for the vote.

### CONSENT CALENDAR

Approved.

1. Consider Adoption of Minutes of the April 20, 2009 Regular Board Meeting

Approved.

Approved.

Approved.

Approved.

Approved.

Mr. Anthony advised the Board that Robert MacLean, incoming President of California American Water, attended the District's May 14, 2009 Open House. He noted that Mr. MacLean has met with local, elected officials and is fully engaged with the local water issues. Mr. Anthony announced that the California Public Utilities Commission (CPUC) issued a proposed decision on the CAW application for a rate increase. The proposed decision drastically reduced the amount of money CAW had requested for infrastructure repairs. He explained that repairs to delivery pipes in the Seaside area is still CAW's highest priority, but only half of the proposed infrastructure improvements can be funded under the preliminary decision.

Henrietta Stern, Project Manager, presented the report. An outline of Ms. Stern's presentation is on file at the District office and can be viewed at the District's website.

Stephanie Pintar, Water Demand Manager, presented the report. An outline of Ms. Pintar's report is on file at the District office and can be viewed at 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 October 1, 2008 through May 21, 2009, CAW production from the Carmel River was 449 acre-feet under the production limit of 6,427 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 428 acre-feet under the production limit of 1,614 acre-feet established by the Seaside Groundwater Basin Adjudication. Production from the Laguna Seca Subarea was 94 acre-feet over the production limit of 167 acre-feet established by the Seaside Groundwater Basin

2. **Consider Expenditure of Budgeted Funds for Preparation of Water Intake Study for the Sleepy Hollow Steelhead Rearing Facility**
3. **Consider Expenditure of Budgeted Funds to Purchase Portable Equipment for Public Outreach Efforts**
4. **Consider Authorizing General Manager to Contract with WaterWise Consulting, Inc. to Complete Landscape Water Audits and Budgets**
5. **Consider Approval of Third Quarter Fiscal Year 2008-09 Investment Report**
6. **Consider Adoption of Treasurer's Report for March 2009**

#### **PRESENTATIONS**

7. **Monthly Report from California American Water General Manager, Craig Anthony**
8. **Water Supply Project Alternatives Update**
9. **Water Conservation Program Report**

#### **GENERAL MANAGER'S REPORT**

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

Adjudication. Therefore, total CAW production from the Seaside Basin was 334 AF under the adjudication limit of 1,781 AF. Mr. Fuerst noted that the production limits do not reflect the 10 percent reduction in pumping that was implemented according to the Seaside Groundwater Basin Adjudication decision. CAW must reduce pumping from the Seaside Basin by 390 acre-feet in 2009. The reductions were imposed May 7, 2009 and will extend through September 30, 2009, the end of the Water Year.

District Counsel Laredo reported that the Board met in closed session to discuss California American Water v City of Seaside et al. (Case No.: M 66343). No reportable action was taken by the Board. Regarding the May 18, 2009 closed session, the Board discussed CAW Applications to the PUC Nos. 04-09-019 and 08-01-027; SWRCB Draft Cease and Desist Order WY 2008-00XX-DWR and California American Water v City of Seaside et al. (Case No.: M 66343). On a vote of 6 – 0, the Board directed staff to file a notice of appeal in CAW v City of Seaside et al. Directors Brower, Doyle, Edwards, Lehman, Markey and Potter voted in favor of the motion. Director Pendergrass was not present for the discussion or vote on that item. Mr. Laredo noted that the appeal was filed on May 20, 2009. It will cause an automatic stay of the trial court's order after hearing. Therefore the June 1, 2009 hearing on the application of CAW for an amendment to its water distribution system to serve the Monterey Bay Shores Ecoresort has been cancelled.

District Counsel reported that the Board discussed items 3-A through 3-D, but no reportable action was taken. Regarding item 4, there was discussion but no reportable action.

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

#### **11. Report on May 1, 2009 and May 18, 2009 Closed Sessions of the Board**

#### **12. Report on May 21, 2009, 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. 09-04-015 – 2008 Coastal Water Project Construction Costs
  - C. Application of California American Water Company for an Order Authorizing a Special Conservation Program and Modifications to its Rate Design in its Monterey District, and Authorization to Increase its Rates for Water Service in its Monterey District – Conservation Program (Applications No. 07-12-

- 010, 08-02-018)
- D. Application of California - American Water Company for Authorization to Increase its Revenues for Water Service in its Monterey District in years 2009; 2010; and 2011 General Rate Case (Application No. 08-01-027)
- E. SWRCB Cease and Desist Order WR 2008-00XX-DWR
  
- 4. **Conference with Labor Negotiators (Gov. Code §54957.6)**  
Agency Designated  
Representatives: Rick Dickhaut, Cynthia Schmidlin, Darby Fuerst  
Employee Organization: General Staff and Management Bargaining Units Represented by United Public Employees of California/LIUNA, Local 792  
Unrepresented Employees: Confidential Unit
  
- 5. **Conference with Legal Counsel – Existing Litigation (Gov. Code 54956.9 (a))**  
California American Water v City of Seaside et al. (Case No.: M 66343)

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

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

Director Doyle reported that she attended a recent meeting of Sustainable Pacific Grove, where the topic of discussion was growing home vegetable gardens. She encouraged the group to be aware of water use in the garden. Director Doyle also attended the Pacific Grove Ad Hoc Water Sub Committee meeting as a non-voting member. Director Lehman attended the May 14, 2009 Annual MPWMD Open House, she commended staff on planning and conducting the event. Director Brower reported that he also attended the Open House.

**Director Potter arrived at 7:30 PM, just as the Board began the hearing on item 14.**

Director Edwards made a motion that was seconded by Director Brower to adopt the staff recommendation: (1) adopt the Findings of Approval, (2) approve Application #200810917DUN; (3) issue MPWMD Permit #S09-08-L4; and (4) file a Notice of Determination with the Monterey County Clerk.

**PUBLIC HEARINGS**

- 14. **Consider Approval of Application #20081017DUN to Create Dunning Water Distribution System; APN 013-321-010**

Director Edwards proposed an amendment to the motion that was seconded by Director Brower, to add a condition that defines the term “temporary.” The amended motion was approved unanimously on a vote of 7 – 0.

During the public hearing on this item, no comments were directed to the Board. However, during Board discussion, the applicant, Tom Dunnion, expressed agreement with the proposed amendment to the conditions.

Director Edwards made a motion that was seconded by Director Potter to: (1) continue this item for 30 days; (2) request that staff meet with CAW to develop a remedy for the violation, such as increasing the expansion capacity limit in the Hidden Hills system; and (3) continue the moratorium on receipt of applications for intensification of water use in the Hidden Hills system. The motion was adopted unanimously on a vote of 7 – 0.

The following comments were directed to the Board during the public hearing on this item. (1) **Craig Anthony**, CAW General Manager, presented three charts that illustrated his estimates of water use per connection in the Hidden Hills system. Mr. Anthony asserted that water use per connection was only 0.483 acre-feet, which exceeded the pro-rata expansion capacity (PREC) by 0.001 acre-feet, for a total of 243.5 units of water each year. He stated that the average water use for the top 10 water users in Hidden Hills consumed 714 units in a 12-month period. In addition the last 15 water permits issued by the District for the Hidden Hills area were estimated to use an average of 0.772 AF of water per year. Mr. Anthony stated that the local land use agency and the District are issuing permits for projects that exceed the PREC for the Hidden Hills area. He expressed concern that the water audits being conducted are in some instances recommending that water use could be increased on a property. He spoke in opposition to the water permit moratorium in the Hidden Hills system. (2) **Tim Miller**, CAW Legal Counsel, stated the District has no authority to continue the water permit moratorium because: (A) no condition or regulation exists that requires CAW to comply with the PREC; (B) CAW has a duty to serve its customers but has no independent authority to control the amount of water used by each customer; (C) the Seaside Basin Watermaster has authority over use of water in the Laguna Seca Subarea; and (D) the water permit moratorium creates an ad-hoc amendment to the CAW water distribution system

15. **Consider Appeals of 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**
  - A. **California American Water**

permit that was not properly noticed. He stated that CAW should not be required to correct a situation that was created when the land use agencies and the District approved projects with estimated water use that exceeds the PREC.

(3) **Russ Hatch** former operator of the Carmel Valley Mutual Water Company, stated that CAW is responsible for this situation because: (A) it should have requested a PREC for the Hidden Hills system that is similar that of the Pasadera development which draws water from the same aquifer as Hidden Hills; and (B) it has allowed system losses to continue at a high rate of 30 acre-feet per year. He described the District's decision to establish a water permit moratorium in the Hidden Hills system as arbitrary and capricious. He requested that the Board consider reducing the PREC in Pasadera, so that it could be increased in Hidden Hills. (4) **Gary Koifman** owner of property in the Hidden Hills area, commented that due to staffing shortages in the Monterey County Planning Department, his project has been held up for 3.5 years awaiting approval. He offered to provide information to the Hidden Hills property owners regarding installation of cisterns, in an effort to reduce water use. (5) **Roger Williams**, resident of Hidden Hills, requested that the water permit moratorium be lifted for a specific time period, so that CAW can address the unaccounted for water issue and the District can resolve the PREC. The Hidden Hills residents should also be involved in developing plans to reduce their water use. (6) **Following the public comment period, General Manager Fuerst** advised the Board that the charts developed by Mr. Anthony were based on consumption values in March and April 2009, not production values. He stated that if the March and April production values were applied to Mr. Anthony's calculations, the PREC would be 0.496 which exceeds the permitted PREC of 0.482 per year.

Director Brower offered a motion to continue the item for 30 days, or until the next scheduled Board meeting. The motion was seconded by Director Lehman.

Director Brower amended the motion, on the second of Director Lehman, to continue the item to the July 20, 2009 Board meeting. The motion was approved on a vote of 6 – 1. Directors Brower, Doyle, Edwards, Lehman, Markey and Potter voted in favor of the motion. Director Pendergrass was opposed.

During the public hearing on this item the applicant, LuAnn Meador, requested that the moratorium be lifted for those with projects in process. She supported continuance of the appeal. Gary Koifman also expressed agreement with the suggestion that the matter be continued.

On a motion by Director Brower and second by Director Edwards, the item was continued to the July 20, 2009 Board meeting. The motion was approved on a vote of 6 – 1. Directors Brower, Doyle, Edwards, Lehman, Markey and

B. **James Douglas Meador and LuAnn Meador**

C. **Gary E. Wiegand**

Potter voted in favor of the motion. Director Pendergrass was opposed.

During the public hearing on this item the applicant, Gary Wiegand, requested that the moratorium on water permits be lifted that evening. He expressed no objection to continuance of the appeal.

On a motion by Director Pendergrass and second by Director Edwards, Ordinance No. 139 was adopted, as presented, on a unanimous roll-call vote of 7 – 0.

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

No action was taken, as none was required. No comments were directed to the Board during the public comment period on this item.

Director Potter offered a motion that was seconded by Director Edwards, to adopt Resolution No. 2009-04. The motion was approved unanimously on a vote of 7 – 0.

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 10 PM.

16. Consider Second Reading and Adoption of Ordinance No. 139 – Amending the Rebate Program to Require a Refund when Water Savings from Rebated Fixtures are Reused for New or Intensified Uses

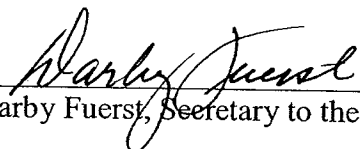
#### ACTION ITEMS

17. Receive and Confirm Water Supply Forecast for Period of May 1, 2009 – September 30, 2010
18. Consider Adoption of Resolution No. 2009-04 Expressing Support for Submitting an Application for Challenge Grant Program: Recovery Act of 2009 Water Marketing and Efficiency Grants

#### INFORMATIONAL ITEMS/STAFF REPORTS

19. Letters Received
20. Committee Reports
21. Carmel River Fishery Report for April 2009
22. Water Conservation Program Report
23. Monthly Allocation Report
24. Monthly California American Water Production Report
25. Monthly Water Supply Status Report
26. Semi-Annual Groundwater Quality Monitoring Report

#### ADJOURNMENT

  
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Darby Fuerst, Secretary to the Board

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