



**Final Minutes
Special and Regular Meeting
Board of Directors
Monterey Peninsula Water Management District**

Meeting Location: District Office, Main Conference Room
5 Harris Court, Building G, Monterey, CA 93940 AND
By Teleconferencing Means- *Zoom*

Monday, July 17, 2023

CLOSED SESSION AT 5:00 P.M.

Chair Adams called the meeting to order at 5:05 p.m.

CALL TO ORDER

Directors Present:

Mary L. Adams, Chair – Monterey County Board of Supervisors Representative
Amy Anderson, Vice Chair – Division 4 (arrived at 5:27)
Alvin Edwards – Division 1
George T. Riley – Division 2
Marc Eisenhart – Division 3
Karen Paull – Division 4
Ian Oglesby – Mayoral Representative

ROLL CALL

Directors Absent: None

General Manager Present: David J. Stoldt

District Counsel Present: David C. Laredo, Esq. (*in-person*)

None.

**ADDITIONS AND CORRECTIONS
ON THE CLOSED SESSION AGENDA
BY DISTRICT COUNSEL**

None.

**PUBLIC COMMENT ON THE
CLOSED SESSION AGENDA**

CLOSED SESSION

District Counsel Laredo lead the Board into Closed Session.

**CS 1. Conference with Legal Counsel
– Existing Litigation
(§54956.9(d)(1)) (Monterey Peninsula Water Management District v. Local Agency Formation Commission of Monterey County); Monterey County Superior Court) – Case No. 22CV000925**

**CS 2. Conference with Legal Counsel
– Existing Litigation
(§54956.9(d)(1)) (Monterey
Peninsula Taxpayers Assoc. v.
Monterey Peninsula Water
Management District) – Case
No. 21CV003066**

The Board recessed Closed Session at 5:59 p.m.

RECESS TO CLOSED SESSION

REGULAR SESSION AT 6:00 P.M.

Chair Adams called the meeting to order at 6:06 p.m.

CALL TO ORDER

Directors Present:

Mary L. Adams, Chair – Monterey County Board of Supervisors Representative
Amy Anderson, Vice Chair – Division 4
Alvin Edwards – Division 1
George T. Riley – Division 2
Marc A. Eisenhart – Division 3
Karen Paull – Division 4
Ian Oglesby – Mayoral Representative

ROLL CALL

Directors Absent: None

General Manager Present: David J. Stoldt

District Counsel Present: David C. Laredo, Esq. with De Lay & Laredo

The assembly recited the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

None.

**ADDITIONS AND CORRECTIONS
TO THE AGENDA**

Chair Adams opened Oral Communications; *the following comments were directed to the Board:*

ORAL COMMUNICATIONS

- (1) Tom Rowley, Vice-President of the Monterey Peninsula Taxpayers Association: The Board could show leadership by sunsetting the Water Supply Charge as mandated by its own Ordinance and is obligated to sunset the charge and follow through with its fiduciary duties and the public is seeking leadership on this matter.
- (2) Melodie Chrislock: Attended the Salinas Valley Chamber of Commerce (SVCC) meeting held by California American Water (Cal Am) on July 17. She expressed concerns with the nature of the meeting and questioned why Cal Am would be explaining the Monterey Peninsula Water Supply

Projects and Desal to Salinas.

- (3) Michael Baer: Encouraged the Board to consider investing time to determine what kind of system the District could be eventually buying given the age of the system and no maintenance records available.
- (4) Susan Schiavone: Responded to Tom Rowley’s concerns with regards to the Water Supply Fee and stated that due to legality issues, there may be constraints with designating the Water Supply Fee for water supply until a decision is made by the California Public Utilities Commission (CPUC) that would allow the Fee to sunset. Ms. Schiavone stated the July 17 Cal Am meeting was disassembling with a lot of vague information and lack of answers.

No further comments were directed to the Board.

Chair Adams introduced the matter.

A motion was offered by Director Anderson with a second by Director Oglesby to approve Consent Calendar Item No. 1. The motion passed by voice vote of 7-Ayes (Adams, Oglesby, Eisenhart, Anderson, Paull, Riley and Edwards), 0-Noes and 0-Absent.

Adopted the meeting minutes of the Regular Board Meeting on Monday, June 20, 2023.

David J. Stoldt, General Manager presented a MS PowerPoint titled, “Status Report on Cal Am Compliance with SWRCB Orders and Seaside Basin Decision as of July 1, 2023” and answered Board questions. *A copy of the presentation is available at the District office and can be found on the District website.*

General Manager Stoldt provided an overview of the slide-deck, and the following points were made, but not limited to:

1. Briefly covered the Monterey Peninsula Water Resources System (MPWRS) from October to June Water Year (WY) 2023 and discussed the Carmel River and Seaside Groundwater Basin resource areas. The Carmel River Basin at 1,411 Acre Feet (AF) is about 500 AF over or under in June and now seeing normal production from the Carmel River Water Right.
2. Water Projects and Rights from October to June WY 2023: The District anticipates 900 AF of stored water to be taken out of the Basin. Pure Water Monterey (PWM)

CONSENT CALENDAR

1. **Consider Adoption of Minutes of the Regular Board Meeting on Monday, June 20, 2023**

GENERAL MANAGER’S REPORT

2. **Status Report on California American Water Compliance with State Water Resources Control Board Order 2016-0016 and Seaside Groundwater Basin Adjudication Decision**

Recovery, there was no recovery in the previous two months due to reaching the 3,500-delivery total for the Water Year and Fiscal Year. Sand City Desal showed productivity at almost full capacity for the month.

3. On Monthly Production for Customer Service for Cal Am (WY 2023): No water was derived from PWM Recovery. Seaside Basin is close to reaching its permitted amount. Demand is lower than last year by 289 AF.
4. On Monthly Recorded Rainfall at the San Clemente Rain Gage (WY 2023): Redundant from last month with rain reported in June.
5. On Daily Rainfall Recorded at San Clemente Rain Gage (WY 2023): Reported minimal change with less than 1/4 inch in June.
6. On Rainfall Year Types: Projections indicate and point towards an “Extremely Wet” year.
7. Displayed a graph on Estimated Unimpaired Carmel River Flow at Sleepy Hollow Weir (WY 2023): June exceeded the long-term average due to the Watershed still releasing the heavy winter rains.

David J. Stoldt, General Manager announced that at the July 5, 2023 Water Supply Planning Committee meeting, the Committee requested that Mr. Stoldt reprise a presentation he did for them to the full Board titled “Review of ASR Season Performance”. *A copy of the presentation is available at the District office and can be found on the District website.*

General Manager Stoldt provided an overview of the slide-deck, and the following points were made, but not limited to:

1. System Constraints on Aquifer Storage and Recovery (ASR) Injection:
 - 29 AF/Day with permitted access to the Monterey Pipeline
 - 26 AF/Day is current well capacity with Monterey Pipeline
 - 19 AF/Day with no constraints on the injection field
 - 18 AF/Day with Segunda Pipeline connected to Ryan Ranch and Bishop
 - 13 AF/Day with ASR-3 and ASR-4 used for recovery
 - 4.5 AF/Day when there are constraints on the Carmel Valley Wells
2. ASR Season in Review:
 - Presented chart displaying ASR Injected, Potential

3. Water Supply Projects

ASR with ASR-3 and -4 unavailable and Potential ASR with ASR-3 and -4 available

- Presented chart displaying issues that arose in December 2022 due to flooding and causing wells to go offline, increased customer demand due to preparation for the AT&T Golf Tournament and the Pearce well going down, leaks were caused or discovered as a result from testing the two new pump stations, Berwick well No. 8 went out while Pearce and Schulte wells were already out
3. Actual vs. Optimized Results:
- 167 AF lost due to flooding of Upper Carmel Valley wells
 - 118 AF lost due to Pearce and Schulte wells out and AT&T Golf demands
 - 264 AF due to leaks and maintaining tank levels while Pearce and Schulte wells out
 - 95 AF lost due to Berwick well No. 8 out
 - 528 AF due to other issues
 - 1,172 AF left for a variety of operational reasons
4. What Could Have Prevented the Constraints: Remedies and situations to avoid:
- Be ready earlier to avoid start-up hiccups
 - More lower valley redundancy built earlier to avoid flooded upper valley wells
 - Schulte, new Rancho Canada wells and pump stations online earlier would have helped with the Pearce well situation
 - New pump stations testing earlier to minimize leaks
 - Need for redundant Seaside Production wells and new Pure Water Monterey Expansion Extraction wells 1 and 2 to assist when ASR-3 and -4 are not available

General Manager Stoldt briefly discussed this item and directed the Board to Exhibit 4-A titled, Summary of Status of 2023 District Strategic Goals and stated good progress is being made. The Board and David Stoldt had a brief discussion.

Various questions and concerns of the Board were addressed following the General Managers reporting.

Chair Adams opened public comment; *the following comment were directed to the Board:*

- (1) Michael Baer: Thanked David Stoldt for his presentation and commented on work that will need to be done on an aging infrastructure.
- (2) Tom Rowley: The Board needs to take into consideration on what is planned for future residential housing and water needs that follow

4. Progress Report on Strategic Goals Assigned to General Manager for 2023

with new construction. A group in Southern California called Our Neighborhood Views is working to pass a State constitutional amendment which will put local jurisdictions in charge of their housing and away from legislators.

No further comments were directed to the Board.

REPORT FROM DISTRICT COUNSEL

District Counsel Laredo provided a verbal status report on pending litigation to include the following:

5. Update on Pending Litigation

- (1) Monterey Peninsula Water Management District v. Local Agency Formation Commission of Monterey County (LAFCO); Monterey County Superior Court Case No. 22CV000925

Counsel Laredo mentioned a trial on the merits is set for August 7, 2023, before Judge Wills. It is anticipated that a decision will be issued at that time or shortly thereafter to determine what the status of the LAFCO decision was.

- (2) Monterey Peninsula Taxpayers Association II v. Monterey Peninsula Water Management District; *Monterey County Superior Court Case No. 21CV003066*

Counsel Laredo mentioned there is a companion case of the Monterey Peninsula Taxpayers Association against the District concerning the Water Supply Charge also known as the reverse validation action. That matter has been trailing while the primary action on the implementation of the sunset clause has been litigated. A case management conference before the Superior Court in this second matter is scheduled for August 4, 2023, and at that time will find out the timeline for the matter to be litigated.

District Counsel Laredo provided a verbal status update on three additional items pending litigation:

- (1) The District is involved in a lawsuit against the California Coastal Commission (Coastal Commission) titled *Marina v. California Coastal Commission* which is challenging Cal Am's Coastal Development Permit. The State of California on behalf of the Coastal Commission filed a demurrer challenging one of the causes of action that were set forth in that. That demurrer was scheduled to be heard

on July 14, 2023, but was dropped by the Coastal Commission two days before the hearing. The lawsuit stands as presented and will continue through the next step of the litigation process. A case management conference is scheduled for that matter for August 22, 2023, and at that time the Judge will be reviewing the status of the record production. It is anticipated that the record will not be produced until the end of this calendar year.

- (2) California Public Utilities Commission (CPUC) case challenging Cal Am's 2022 General Rate Case: The Administrative Law Judge (ALJ) has set eight days of hearings spread over five different weeks and scheduled to begin September 19, 2023.

Director Edwards asked District Counsel Laredo if an open discussion could occur for the Board to discuss filing a lawsuit against the CPUC on Supply and Demand, or if this would require a closed session, or can the Board even file a complaint if they wanted to.

In response to Director Edwards, Counsel Laredo responded if the matter is listed on the agenda, open discussion could occur and could also be discussed in closed session. He stated the Board could not likely file a complaint since the matter is not yet ready to be heard in a court of law but there are procedures that could be followed to compel the CPUC to push it along. He suggested this discussion be started in a closed session meeting and could be brought into open session.

Director Edwards asked Chair Adams if this matter could be placed on the next Closed Session meeting of the Board.

Director Paull followed with a question asking if at the next Closed Session meeting if that would be a good time to report on the CPUC case regarding the rule making of the acquisition.

Counsel Laredo stated it would be premature to have discussion at that time.

Chair Adams opened public comment; *the following comments were directed to the Board:*

1. Michael Baer: Asked District Counsel who is the presiding judge and what is the jurisdiction for the Coastal Commission case, and if the District were to buy out Cal Am would this

mean the absence of the CPUC with regards to water administration.

In response to public comment, Counsel Laredo mentioned that the Coastal Commission case has been assigned to Judge Wills. With respect to the CPUC, if the District does own the facilities, the District is not subject to the jurisdiction of the CPUC for rates and charges or capital investment, so the CPUC would no longer have any role with respect to the District's management of that system.

2. Marli Melton: Commented on the appeal of the Monterey Peninsula Taxpayers Association case with respect to the Water Supply Charge and stated this funding is very important to continue providing public benefit and continued work by staff.

No further comments were directed to the Board.

District Counsel Laredo reported out from Closed Session on the following matter:

CS 1. Conference with Legal Counsel – Existing Litigation (§54956.9(d)(1)) (Monterey Peninsula Water Management District v. Local Agency Formation Commission of Monterey County); Monterey County Superior Court) – Case No. 22CV000925

CS 2. Conference with Legal Counsel – Existing Litigation (§54956.9(d)(1)) (Monterey Peninsula Taxpayers Assoc. v. Monterey Peninsula Water Management District) – Case No. 21CV003066

General direction was provided along with discussion of options and alternatives which will be presented to litigation counsel for discussion with opposing counsel. No reportable action was taken.

Director Riley: Attended the Seaside Groundwater Basin Watermaster Replenishment Ad Hoc Committee meeting on July 5, 2023, to discuss the overdraft in the Seaside Groundwater Basin. The committee recommended that a consultant be retained to examine alternatives for source water and obtain cost estimates, if possible. He is eager to see the results of this effort.

Director Edwards: Attended a Zoom meeting on July 17, 2023, hosted by the Salinas Valley Chamber of Commerce (SVCC) to hear a presentation from Cal Am. Directors

6. Reportable Action from Closed Session on Monday, July 17, 2023

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

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

Paull and Riley and members of the public were also in attendance. He commented it was an interesting meeting. He also attended the City of Seaside Council meeting and provided the group with an update on ASR and other District activities. He also met with Councilman Dave Pacheco, with the City of Seaside, to discuss Measure J. July 20, 2023 is the Monterey One Water Recycled Water Committee meeting and encouraged the Board and public to attend.

Director Paull: Commented on the SVCC meeting and stated the presentation seemed to be targeted to people that had not been following the water supply situation on the Peninsula or did not know too much about it. She found it interesting that a lot of important things were not mentioned by Cal Am.

Chair Adams opened public comment; *the following comments were directed to the Board:*

1. Melodie Chrislock: Also attended the SVCC meeting and commented it might be a good idea for the District and Marina Coast Water District to give a presentation to the SVCC to fill in all the omissions that were made.

No further comments were directed to the Board.

Director Eisenhart requested that the Board provide general guidance to staff when other governmental bodies are referenced in meeting minutes, that those individuals be addressed properly. For instance, use of Judge Panetta and not only Panetta. The Board agreed to this and requested staff to follow this rule in the future.

No other discussion was had on Informational Items.

INFORMATIONAL ITEMS/STAFF REPORTS

8. **Letters Received**
9. **Committee Reports**
10. **Monthly Allocation Report**
11. **Water Conservation Program Report**
12. **Carmel River Fishery Report for June 2023**
13. **Monthly Water Supply and California American Water Production Report**
[Exempt from environmental review per SWRCB Order Nos. 95-10 and 2016-0016, and the Seaside Basin Groundwater Basin adjudication decision, as amended and Section 15268 of the California Environmental Quality Act (CEQA) Guidelines, as a ministerial project; Exempt

- from Section 15307, Actions by
Regulatory Agencies for
Protection of Natural Resources]
14. **Quarterly Water Use Credit
Transfer Status Report**
 15. **Quarterly Carmel River
Riparian Corridor
Management Program Report**

There being no further business, Chair Adams adjourned the meeting at 7:26 p.m.

ADJOURNMENT



Sara Reyes, Sr. Office Specialist

Minutes Approved by the MPWMD Board of
Directors on Monday, August 21, 2023