



**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

Monday, March 20, 2023

CLOSED SESSION AT 5:00 P.M.

Chair Adams called the meeting to order at 5:01 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
Karen Paull – Division 4 (*Appeared via Zoom*)
Ian Oglesby – Mayoral Representative (*Joined at 5:05 p.m.*)

ROLL CALL

Directors Absent: Director Eisenhart – Division 3

General Manager Present: David J. Stoldt (*Appeared via Zoom*)

District Counsel Present: David C. Laredo, Esq. (in-person), Fran Farina, Esq. (*appeared via Zoom*) and Michael Laredo, Esq. (*appeared via Zoom*) with De Lay and Laredo

Special District Counsel Present: Doug Dennington, Esq. with Rutan and Tucker (*Appeared via Zoom*)

Consultants Present (Appeared via Zoom – virtually):
John Mastracchio and Bill Stannard with Raftelis Financial Consultants, Inc.

No additions and corrections.

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

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

**PUBLIC COMMENT ON THE CLOSED
SESSION AGENDA**

1. Ron Cheshire: Addressed the Board on a ruling entered by Judge Panetta favoring the Monterey Peninsula Taxpayers Association (MPTA) suit

against the District. He advised the Board to refrain from appealing and to appeal only if the District is certain that it will prevail.

2. John Tilley: Recalls that at the onset of the Measure J proposal and at public forums held at the Middlebury Institute of International Studies and the Unitarian Church individuals were informed potential cost as it relates to the Measure would be non-existent. In addition, he mentioned that at another public forum the District mentioned that it had budgeted for and has observed costs for the Measure continue to mount. Tilley urged the District to stop its pursuit of Measure J and to reevaluate its budget resulting from Judge Panetta's decision on the Water Supply Charge. Lastly, he requested the District; that in its continued pursuit of public ownership of the Monterey Water System to be fully transparent with the public on a failed attempt to take over the Monterey Water System.
3. Tom Rowley, Vice – President with the MPTA: Read an excerpt of Judge Panneta's decision and asked the Board to direct staff to desist collecting the Water Supply Charge on property tax bills.

No further comments were directed to the Board.

District Counsel Laredo read the Board into Closed Session.

Chair Adams recessed the Board to Closed Session at 5:09 p.m.

CLOSED SESSION

CS 1. | CONFERENCE WITH REAL PROPERTY NEGOTIATORS (GOVERNMENT CODE SECTIONS 54954.5(B), 54956.8/

DISTRICT REPRESENTATIVE: DAVID STOLDT / NEGOTIATION AFFECTING PROPERTIES HELD BY CALIFORNIA AMERICAN WATER COMPANY

CS 2. | CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION [§ 54956.9(A)], (MONTEREY PENINSULA TAXPAYERS ASSOC. V. MONTEREY PENINSULA WATER MANAGEMENT DISTRICT) – MONTEREY COUNTY SUPERIOR COURT, CASE NO.: 21CV003066

RECESS TO CLOSED SESSION

REGULAR SESSION AT 6:00 P.M.

Chair Adams called the meeting to order at 6:08 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 (*Appeared via Zoom*)
Ian Oglesby – Mayoral Representative

ROLL CALL

Directors Absent: None

General Manager Present: David J. Stoldt

District Counsel Present: David C. Laredo, Esq. (in-person), Fran Farina, Esq. (appeared via Zoom) and Michael Laredo, Esq. (appeared via Zoom) with De Lay and Laredo

The assembly recited the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

Joel G. Pablo, Board Clerk read an addition to the agenda as provided for by Sections 54954.2 of the California Government Code:

ADDITIONS AND CORRECTIONS TO THE AGENDA

To consider allowing Director Paull to participate remotely for Emergency Cause reasons in accord with the Ralph M. Brown Act and AB 2449 (Rubio).

David J. Stoldt, General Manager read an addition to the agenda as provided for by Sections 54954.2 of the California Government Code:

Add Under Action Items:

Item No. 14-B: To authorize the General Manager to enter into a contract amendment with Raftelis Financial Consultants in an amount not-to-exceed \$60,000 to update the rate study related to Measure J activities.

No further additions and corrections were made to the published meeting agenda.

A motion was made by Mayoral Representative/Director Oglesby with a second by Director Edwards to add the following additions and corrections to the published meeting agenda:

First Addition:

To consider allowing Director Paull to participate remotely for Emergency Cause reasons in accord with the Ralph M. Brown Act and AB 2449 (Rubio).

Second Addition:

Authorize the General Manager to enter into a contract amendment with Raftelis Financial Consultants in an amount not-to-exceed \$60,000 to update the rate study related to Measure J activities.

The motion passed on a roll-call vote of 6-Ayes (Edwards, Riley, Paull, Anderson, Adams and Oglesby), 0-Noes and 1-Absent (Eisenhart).

Chair Adams opened public comment and limited public comments to two (2) minutes in length. *The following comments were directed to the Board:*

ORAL COMMUNICATIONS

In-Person Public Comment

1. Tom Rowley, Vice- President with the MPTA: Thanked the Board for meeting in a public setting and in-person.
2. Evan Jacobs with California American Water: Expressed his disappointment that the District is still pursuing Measure J. He requested the Board to explore and reevaluate if it is still feasible for the District to continue with its condemnation efforts. He noted that the District to date has spent approximately \$2.5 million dollars and with the latest add-on to the Board meeting agenda of an additional \$60,000 in expenditures. He cited and briefed the board on past takeover proceedings and costs attempted by the City of Claremont and Town of Apple Valley. He concluded by remarking that the collective efforts of the company and the District are better served in providing new water supplies, protecting the Carmel River and to provide for new housing development.

Comments Made Via Zoom:

3. John McPherson, Executive Director with Sustainable Ag and Energy (SAGE): Asked the District to provide the rationale for its continued pursuit of Measure J or the potential acquisition of Monterey Water System owned and operated by California American Water with the rate-payers.
4. Melodie Chrislock, Executive Director with Public Water Now: Believes the District's efforts and costs in its pursuit of Measure is well-justified. She stated Cal-Ams recent activities in refusing to sign the Amended / Restated Water Purchasing Agreement for the Pure Water Monterey – Expansion and briefly described the situation at the California Public

Utilities Commission (CPUC) proceedings that resulted and granted the company approximately \$71 million in cost recoveries.

5. Susan Schiavone: Provided notice that Measure J was a voter approved initiative that requested the District to pursue acquisition of the Monterey Water System owned by Cal-Am, *if feasible*. Schiavone provided the reasons for her continued support of public ownership with recent actions by Cal-Am to include: refusal to sign the Amended and Restated Water Purchasing Agreement due the company's need to request cost recovery guarantees from the CPUC, continued customer rate-hikes and stalling progress on the Pure Water Monterey – Expansion. She stated she supports the District and its continued pursuit of Measure J.
6. Tammy Jennings: Concurs with Schiavone and Chrislock's comments. She believes if voters now were asked and presented with a similar initiative to Measure J that it would receive overwhelming support. She urged the board to continue their efforts in acquiring Cal-Am.
7. Michael Baer: Questioned if the Water Purchasing Agreement has been executed by the company to allow Monterey One Water to obtain a loan. He addressed mismanagement concerns with Aquifer Storage and Recovery Unit. Lastly, he questioned if the Slant Wells in Marina, CA should be made part of the Cal-Am offer.

Written Public Comment Received

8. E-mail Correspondence received from John McPherson dated Monday, March 20, 2023 at 6:06 p.m., Subject Line: Agency is Outside of Measure J Authority. *A copy of the letter is available at the District office and can be found on the District website.*

No further comments were directed to the Board.

Chair Adams introduced the matter.

A motion was offered by Director Edwards with a second by Director Riley to approve Consent Calendar Item Nos. 1 through 3. The motion passed by roll-call vote of 6-Ayes (Adams, Oglesby, Anderson, Paull, Riley and Edwards), 0-Noes and 1-Absent (Eisenhart).

Approved the meeting minutes of the Regular Board Meeting on Monday, February 13, 2023

CONSENT CALENDAR

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

February 13, 2023

Adopted the January 2023 Treasurer’s Report and financial statements, and ratification of the disbursements made during the month.

Approved the Memorandum of Agreement and authorize up to \$46,500 inclusive of a 10% contingency.

2. **Consider Adoption of Treasurer’s Report for January 2023**
3. **Consider Approving a Memorandum of Agreement to Share in the Cost of Installing a Groundwater Monitoring Well (Fort Ord 09 – Shallow)**

GENERAL MANAGER’S REPORT

David J. Stoldt, General Manager presented via MS PowerPoint entitled, “Status Report on Cal-Am Compliance with SWRCB Orders and Seaside Basin Decision as of March 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.*

Stoldt provided an overview of the slide-deck and the following points were made on the:

1. Monterey Peninsula Water Resources System (MPWRS) from October to January Water Year (WY) 2023: Actuals have not been realized due to: (a) More water being produced by Pure Water Monterey during the winter season; (b) Additional Table 13 Water Rights being produced from the river; and (c) Reduced irrigation demand.
2. Water Projects and Rights from October to January WY 2023: Pure Water Monterey Recovery [Actual: 1,875 Acre Feet (AF); Target: 1,630 AF] and Table 13 [Actual: 212 AF; Target: 0 AF] targets have been met.
3. On Monthly Production for Customer Service for Cal-Am (WY 2023): Customer demand is ahead by 154 AF from last year [WY 2022: 3,497 AF; WY 2023: 3,343 AF].
4. On Monthly Recorded Rainfall at the San Clemente Rain Gage (WY 2023): For Water Year 2023 actuals have been met and are ahead of historical averages. Stoldt noted with 20 days into March 2023, the District has recorded 4.15 inches of precipitation for the month.
5. On Daily Rainfall Recorded at San Clemente Rain Gage (WY 2023): Cumulative totals have been recorded at 31.4 inches or 50% over an entire year of long-term averages.
6. Displayed Rainfall Year Types: Bordering between a Wet and an Extremely Wet Year Type.

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

7. Displayed a graph on Estimated Unimpaired Carmel River Flow at Sleepy Hollow Weir (WY 2023): Flows at the river in January 2023 have exceeded averages for the year and expects the same for March 2023 when data is retrieved/recorded.
8. Displayed ASR Injection Summary Well WY2023 both for Daily Injection and Cumulative Injection for the year: Anticipates cumulative injection to reach 800 AF of stored water.

Stoldt believes a compromise has been reached with Cal-Am and the Public Advocates Office of the California Public Utilities Commission (CPUC) that would allow the company to sign off on the Water Purchasing Agreement. He stated the CPUC will take formal action at its April 6, 2023 meeting or thereafter and expects the proposed compromise and Cal-Am's Application for Rehearing to be discussed. He announced that the California Coastal Commission has released the written findings on Cal-Am's Coastal Development Permit, re: Monterey Peninsula Water Supply Project (Desalination).

Stoldt directed attention to his staff report and discussed expenditures with the Board. He commented that the process and proceedings that led to the approval of the Water Purchasing Agreement by the CPUC drove legal expenditures with Perkins Coie and Best Best and Krieger up. He stated the Monterey One Water Board had approved and authorized additional budgeted funds to assist in the proceedings with the CPUC.

David C. Laredo, District Counsel informed the Board on pending legal matters and answered Board questions.

In closed session related to **Agenda Item CS 1**, Conference with Real Property Negotiators (Government Code Sections 54954.5(b), 54956.8/ District Representative: David Stoldt / Negotiation Affecting Properties Held by California American Water Company

The Board met to discuss the matter. The Board has agreed to meet at a future Special Board Meeting to a date uncertain. No reportable action.

In closed session related to **Agenda Item CS 2**, Conference with Legal Counsel – Monterey Peninsula Taxpayers Assoc. v. Monterey Peninsula Water Management District (MPTA II) – Monterey Superior Court Case No. 21VO003066.

The Board agreed to continue the matter following the end of all open session agenda items on the March 20, 2023 meeting agenda.

5. Update on Water Supply Projects (Verbal Report)

6. Discussion on Pure Water Monterey Legal Expenses

REPORT FROM DISTRICT COUNSEL

7. Report from District Counsel and Report Out (if any) from the Closed Session Meeting on Monday, March 20, 2023

Post-Meeting Notation

The following action was taken on Closed Session (CS) Item No. 2 on the Monday, March 20, 2023 Special and Regular Board Meeting Agenda:

A motion was offered by Director George Riley with a second by Director Karen Paull, the Board authorized staff, General Counsel and Special District Counsel Michael Colantuono to prosecute an appeal of the March 3, 2023 order and judgement in MPTA II tendered by Judge Carrie Panetta. The motion was adopted by a roll call vote of 6-Ayes (Edwards, Riley, Paull, Anderson, Adams and Oglesby), 0-Noes and 1-Absent (Eisenhart).

Director Edwards: He shared that he attended the Seaside Groundwater Basin Watermaster meeting and announced that Mayor Oglesby was made Chair of the Watermaster. He commented that he attended the City of Seaside - City Council meeting and kept them apprised on water issues. Lastly, he listened in on the Recycled Water Committee with Monterey One Water.

Stoldt directed attention to Exhibit 9-A: Draft 2022 Annual Report and stated that a few non-substantive edits will be made by Phil Wellman with WellmanAd. He stated he is pleased with the final product and that following adoption of the Annual Report printed sets will be made available and distributed electronically. Lastly, he recommended approval of the matter.

Chair Adams opened public comment; *no comments were directed to the Board.*

A motion was offered by Director Riley with a second by Director Anderson to adopt the 2022 MPWMD Annual Report. The motion passed on a roll-call vote of 6-Ayes (Edwards, Riley, Paull, Anderson, Adams and Oglesby), 0-Noes and 1-Absent (Eisenhart).

Jonathan Lear, Water Resources Manager presented via MS PowerPoint entitled, “Consider Adoption of April through June 2023 Quarterly Water Supply Strategy and Budget for California American Water,” answered board questions and recommended approval of the matter. *A copy of the presentation is available at the District office and can be found on the District website.*

Chair Adams opened public comment; *no comments were*

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

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

PUBLIC HEARING

9. Consider Adoption of the 2022 MPWMD Annual Report

10. Consider Adoption of April through June 2023 Quarterly Water Supply Strategy and Budget

[CEQA Compliance: Notice of Exemption, CEQA, Article 19, Section 15301 (Class 1)
ESA Compliance: Consistent with the September 2001 and February 2009

directed to the Board.

A motion was offered by Mayor Representative/Director Oglesby with a second by Director Edwards to approve a proposed production strategy for the California American Water's Main and Satellite Water Distribution Systems, which are within the Monterey Peninsula Water Resources System for the three-month period of April through June 2023. The motion passed on a roll-call vote of 6-Ayes (Edwards, Riley, Paull, Anderson, Adams and Oglesby), 0-Noes and 1-Absent (Eisenhart).

Conservation Agreements between the National Marine Fisheries Service and California American Water to minimize take of listed steelhead in the Carmel River and Consistent with SWRCB WR Order Nos. 95-10, 98-04, 2002-0002, and 2016-0016.]

Maureen Hamilton, District Engineer provided an overview of her staff report, presented via slide-deck and recommended approval of the matter. Hamilton and Lear fielded and answered Board questions. *A copy of the presentation is available at the District office and can be found on the District website.*

Chair Adams opened public comment; *No comments were directed to the Board.*

A motion was offered by Director Riley with a second by Director Anderson to authorize the General Manager to enter a contract with Montgomery and Associates to provide a Tularcitos ASR Feasibility Study to the District for an amount not to exceed \$119,200. The motion passed on a roll-call vote of 6-Ayes (Edwards, Riley, Paull, Anderson, Adams and Oglesby), 0-Noes and 1-Absent (Eisenhart).

Larry Hampson, Project Manager provided an overview of his staff report, answered board questions, presented via slide-deck and recommended approval of the matter. *A copy of the presentation is available at the District office and can be found on the District website.* Directors shared concerns of the District's continued use of contingencies. Riley requested that in the future for six-figure contingencies for staff to provide a better explanation for the request.

Chair Adams opened public comment. *No comments were directed to the Board.*

A motion was offered by Director Edwards with a second by Director Anderson to authorize an additional \$100,000 in contingency funds for Sleepy Hollow Steelhead Rearing Facility Rehabilitation Project (Rehab Project). The motion passed on a roll-call vote of 6-Ayes (Edwards, Riley, Paull, Anderson, Adams and Oglesby), 0-Noes and 1-Absent (Eisenhart).

David J. Stoldt, GM provided an overview of the staff note/exhibit, answered board questions, and recommended approval of the matter.

ACTION ITEMS

11. **Consider Authorizing the General Manager to Enter into a Contract with Montgomery and Associates to Provide a Tularcitos Aquifer Storage and Recovery (ASR) Feasibility Study**

12. **Consider Approval of Additional Contingency Funds for the Sleepy Hollow Steelhead Rearing Facility Rearing Channel Rehabilitation Project**

13. **Consider Approval of District Legislative Advocacy Plan for 2023**

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

- (1) Susan Schiavone: Expressed that is happy to see that stormwater capture is being emphasized and efforts are being made at the Federal level.

No further comments were directed to the Board.

A motion was offered by Director Oglesby with a second by Director Riley to adopt the 2023 Legislative Advocacy Plan. The motion passed on a roll-call vote of 6-Ayes (Edwards, Riley, Paull, Anderson, Adams and Oglesby), 0-Noes and 1-Absent (Eisenhart).

Suresh Prasad, Administrative Services Manager/Chief Financial Officer provided an overview of his staff note, answered board questions and recommended adoption of the Mid-Year Fiscal Year 2022-23 Budget Adjustment. Prasad presented via MS PowerPoint entitled, “Consider Adoption of Mid-Year Fiscal Year 2022-2023 Budget Adjustment.” *A copy of the presentation is on file with District and can be viewed on the District website.*

14. Consider Adoption of Mid-Year Fiscal Year 2022 – 23 Budget Adjustment

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

- (1) Tom Rowley, Vice President with MPTA: Believes the District should update its financials following Panetta’s decision on the MPTA lawsuit against the District on the Water Supply Charge. He stated that the District should inform the Treasurer- Tax Collector (TTC) of the matter and ask the TTC to cease collection of the water supply charge.
- (2) Susan Schiavone: Questioned if parties in the MPTA suit against the District can appeal Panetta’s decision.

No further comments were directed to the Board.

District Counsel Laredo responded to public comment and mentioned that the District does not have the power to affect the property tax assessments for tax roll Fiscal Year 2022-23. Additionally, he shared the District will have an opportunity to affect the tax roll for FY 2023-24 and at the present time there is no further action to be made by District Staff or the Board.

A motion was made by Director Riley with a second by Director Edwards to adopt the proposed mid-year budget adjustment for Fiscal Year 2022-2023. The motion passed on a roll-call vote of 6-Ayes (Edwards, Riley, Paull, Anderson, Adams and Oglesby), 0-Noes and 1-Absent (Eisenhart).

David J. Stoldt, General Manager reminded the Board that the Board added Item No. 14-B and provided the rationale for the late add-on.

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

In-Person Public Comment

- (1) Evan Jacobs with California American Water: Informed the Board that this matter being considered may be a potential Brown Act violation as it was not properly notice and no supporting documentation was included in the agenda meeting materials.

No further comments were directed to the Board.

District Counsel Laredo addressed Jacobs comments. He informed the Board that it properly added the matter under Additions/Corrections. Laredo said that there is no need or requirement to provide a written report on any matter appearing on the Board agenda.

A motion was made by Director Edwards with a second by Director Anderson to Authorize the General Manager to Enter into a Contract Amendment with Raftelis Financial Consultants in an Amount Not-To-Exceed \$60,000 to Update the Rate Study Related to Measure J Activities. The motion passed on a roll-call vote of 6-Ayes (Edwards, Riley, Paull, Anderson, Adams and Oglesby), 0-Noes and 1-Absent (Eisenhart).

No further discussion was had on Informational Items.

- 14-B. Authorize the General Manager to Enter into a Contract Amendment with Raftelis Financial Consultants, Inc. in an Amount Not-To-Exceed \$60,000 to Update the Rate Study Related to Measure J Activities**

INFORMATIONAL ITEMS/STAFF REPORTS

- 15. Report on Activity/Progress on Contracts Over \$25,000**
- 16. Status Report on Measure J / Rule 19.8 Phase II Spending**
- 17. Letters Received**
- 18. Committee Reports**
- 19. Monthly Allocation Report**
- 20. Water Conservation Program Report**
- 21. Carmel River Fishery Report for February 2023**
- 22. 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

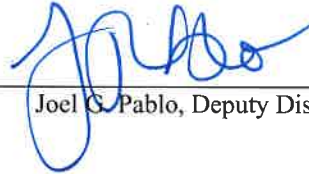
project; Exempt from Section 15307,
Actions by Regulatory Agencies for
Protection of Natural Resources]

There being no further business, Chair Adams

ADJOURNMENT

1. Adjourned the Opened Session at 8:29 p.m.
2. Recessed the Board into Closed Session at 8:29 p.m.
3. The Board Adjourned from Closed Session at 8:54 p.m.

[Verbal reportable action on the CS No. 2 will be provided by District Counsel on Monday, April 17, 2023 or can be found on Page 8 of 12 of the meeting minutes for Monday, March 20, 2023.]



Joel G. Pablo, Deputy District Secretary

Minutes Approved by the MPWMD Board of Directors
on Monday, April 17, 2023