



**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, May 15, 2023

CLOSED SESSION AT 5:00 P.M.

Chair Adams called the meeting to order at 5:00 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 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*)
and Fran Farina, Esq. (*appeared via Zoom*).

None.

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

None.

**PUBLIC COMMENT ON THE CLOSED
SESSION AGENDA**

District Counsel Laredo read the Board into Closed Session.

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

The Board recessed into Closed Session at 5:04 p.m.

RECESS TO CLOSED SESSION

REGULAR SESSION AT 6:00 P.M.

Chair Adams called the meeting to order at 6:01 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
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. Michael Bear: Questioned how Cal-Am's liabilities and assets are incorporated into the District's appraisal of the Monterey Peninsula Water Utility System. Baer stated there is a strong likelihood the company will go before the CA Public Utilities Commission to recover its costs (in liabilities and assets) and may present an added cost to ratepayers.

No further comments were directed to the Board.

Chair Adams introduced the matter. Riley pulled Item No. 3 for a comment. *No further items were pulled from the Consent Calendar.*

CONSENT CALENDAR

In response to Director Riley, Stoldt stated the Board will consider refinancing or pay-off options on the District's Mechanics Bank loan at its Special Meeting on Thursday, May 25, 2023 (Budget Workshop). Stoldt mentioned the Water Supply Charge (WSC) collection through April 2023 is approximately 80-90%; and noted the meeting materials presented in the Board Packet for Item No. 3 demonstrates a WSC collection of 60% through March 31, 2023.

A motion was offered by Director Riley with a second by

Director Anderson to approve Consent Calendar Item Nos. 1 through 6. The motion passed by voice vote of 7-Ayes (Adams, Oglesby, Eisenhart, Anderson, Paull, Riley and Edwards), 0-Noes and 0-Absent.

Approved the meeting minutes of the Special Board Meeting on Monday, April 3, 2023 and Regular Board Meeting on Monday, April 17, 2023.

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

Received and filed Third Quarter Financial Activity Report for Fiscal Year 2022-2023.

Approved the Third Quarter Fiscal Year 2022-2023 Investment Report.

Approved the expenditure of \$4,800 for the work identified in Exhibit 5-A: Statement of Work with ETech Consulting, LLC. Funding for this work is included in 26-05-781155 (Best Management Practices).

Authorized the General Manager to enter into a contract with Radiant Landscaping, Inc. to provide landscape maintenance services at the Santa Margarita ASR Facility in the amount not to exceed \$10,455, less a credit for removing pest control from the Scope of Work.

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 May 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, but not limited to:

1. Briefly covered the Monterey Peninsula Water Resources System (MPWRS) from October to April Water Year (WY) 2023 and discussed the difference between the Targets/Actuals for the Carmel River Basin.
2. Water Projects and Rights from October to April WY 2023: PWM Recovery actuals have been realized [Target: 2,335 Acre Feet (AF); Actual: 2,675 AF]. Table 13 actuals have been realized [Target: 0 AF; Actual: 410 AF].

1. **Consider Adoption of Minutes of the Special Board Meeting on Monday, April 3, 2023 and Regular Board Meeting on Monday, April 17, 2023**
2. **Consider Adoption of Treasurer’s Report for March 2023**
3. **Receive and File Third Quarter Financial Activity Report for Fiscal Year 2022-2023**
4. **Consider Approval of Third Quarter Fiscal Year 2022-2023 Investment Report**
5. **Consider Approval of Expenditure of Funds for Additional Functionality Improvements to the Accela Database**
6. **Consider Recommendation to Authorize the General Manager to Enter into a Contract with Radiant Landscaping, Inc. to Provide Landscape Maintenance Services**

GENERAL MANAGER’S REPORT

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

3. On Monthly Production for Customer Service for Cal-Am (WY 2023): Recorded total demand is at 4,936 AF and lower than WY 2022.
4. On Monthly Recorded Rainfall at the San Clemente Rain Gage (WY 2023): Reported 34.61 inches of precipitation through April 2023 and 169% of long-term averages.
5. On Daily Rainfall Recorded at San Clemente Rain Gage (WY 2023): Reported approximately 35 inches for the Water Year.
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): Reporting 314% of long-term average; Rainfall at 169% of long-term averages; and Usable Storage is 102% of long-term average.
8. Displayed ASR Injection Summary Well WY2023 both for Daily Injection and Cumulative Injection to Date: Noted cumulative injection will continue through May 2023 and projected final total will come under 1,700 AF.

David J. Stoldt, General Manager provided an update on Pure Water Monterey. Stoldt mentioned pre-bid conferences and site-walks were held on Tuesday, May 9th, 2023 for two projects: (1) Advance Water Purification Project Expansion-six general contractors attended; and (2) Injection Wells Phase 4- five general contractors attended. He commented approval of construction contracts is slated for July 31, 2023 with a projected two-year construction period.

Simona Mossbacher, Human Resources Coordinator / Contract Specialist presented via MS PowerPoint entitled, “FEMA/OES Update” and answered Board questions. *A copy of the presentation is available at the District office and can be found on the District website.* Mossbacher provided a brief overview to include, but not limited to: (1) Federal Emergency Management Agency (FEMA) and California Office of Emergency Services (Cal OES) process/workflow and noted that the District is in the tail end of the process; (2) Current Ongoing and Completed Projects due to Disasters Occurring in January 2023 and March 2023; (3) 406 Mitigation efforts the District would like to implement include: backflow preventer, install emergency sump pump and waterproof 2-3 feet of building; (4) Provided an Overview of Project Estimated Costs, FEMA / CAL OES Cost Share and noted that the District’s share is minimal; (5) FEMA Costs Adjustments; and (6) Timeframe: 6 months to complete Emergency Work: July

8. Update on Water Supply Projects

9. Overview of the FEMA / CAL Office of Emergency Services Reimbursement Process / Outcomes

14, 2023 AND 18 months to complete Permanent Work: July 14, 2024. Mossbacher estimates reimbursements to total approximately \$190,000. *In response to Eisenhart*, Mossbacher stated the District is accounting for reimbursement purposes the hours worked by management and general employees.

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

- (1) Michael Baer: Praised the District for its work on the Carmel River, on transparency and the work being done on this matter.

No further comments were directed to the Board.

David J. Stoldt, General Manager announced the District is seeking both Director and public input on the District website. He stated comments can be directed to comments@mpwmd.net, the General Manager and/or Board Clerk.

He announced that on April 17, 2023, the Los Padres Dam and Reservoir Alternatives and Sediment Management Study was posted and is available for review on the District website.

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

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

Laredo mentioned the District's motion to vacate judgement in MPTA v. MPWMD has been set for May 19, 2023. He stated if the motion is denied or if no formal action is taken the District will have an opportunity appeal.

- (2) MPWMD v. Local Agency Formation Commission of Monterey County; *Monterey County Superior Court Case No. 22CV000925*

Laredo mentioned a hearing and trial will go before Judge Wills on August 7, 2023.

- (3) MPWMD, Marina Coast Water District and the City of Marina v. California Coastal Commission; *Monterey County Superior Court Case No. 22CV004063*

Laredo commented the matter is pertaining to

10. Request Input on District Website

REPORT FROM DISTRICT COUNSEL

11. Report on Pending Litigation

Coastal Commission's approval of Cal-Am's Coastal Development Permit. Laredo made known a Case Management Conference has been set for August 22, 2023 to discuss the status of the Administrative Record.

On July 14, 2023, a hearing will be held on the Coastal Commission's demurrer to its fourth clause of action that alleges due process defects by not allowing the public access to certain materials.

Laredo provided a verbal status update on three (3) proceedings before the CA Public Utilities Commission:

- (1) Valuation and Rulemaking Proceeding on Water Utility Acquisition (CPUC Case R 22-04-003): A 3rd Workshop addressing ratepayer impacts of utility acquisition is scheduled for June 13, 2023.
- (2) General Rate Case (CPUC Case 22-07-001) before Administrative Law Judge (ALJ) Rambo: He noted District testimony has been provided and rebuttal testimony was submitted by Cal-Am. An Alternative Settlement Conference has been scheduled for May 25, 2023 and a mandatory status conference has been set for June 9, 2023.
- (3) Water Purchasing Agreement Relating to the Pure Water Monterey Expansion Project (CPUC Case No. A.21-11-024) before ALJ Robert Haga: Laredo commented ALJ Rambo has joined Haga in the proceedings. Laredo mentioned that has been an inquiry as to next steps and next phase in the proceedings to address supply v. demand and water needs of the Peninsula. The matter has not been calendared.

District Counsel Laredo and David Stoldt, General Manager fielded questions from Director Edwards on District costs and liabilities in its pursuit of Measure J. Laredo stated the District has been operating and has been paying for the its own legal expenses on a pay as you go method. He provided an overview of potential costs and liabilities if the District should prevail or lose in a bench trial; or if the District does not continue its pursuit on its acquisition attempts.

Director Paull: Mentioned the Board has been briefed on numerous occasions on ongoing and long-term costs in the District's pursuit of Measure J.

Commenting to Mayor Oglesby, Director Riley stated that the Measure J campaign was forthcoming and transparent on potential costs win or lose for pursuing a public buyout.

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

1. Michael Baer: Thanked Counsel on the updates relating to pending litigation. Baer concurred with Riley’s comments. He questioned if the CPUC proceedings are open to the public and are soliciting public input. Baer inquired about the timeline for filing an application for eminent domain.

2. Melodie Chrislock, Executive Director with Public Water Now: Mentioned the continued risk and costs involved in not pursuing a public buyout and remaining with Cal-Am. Chrislock questioned and sought confirmation from District Counsel Laredo that regardless of the potential outcome arising from Measure J efforts that Cal-Am’s legal expenses will be paid for by the District.

3. Susan Schiavone: Expressed gratitude to the General Manager and District Counsel on their work on Measure J. She commented and confirmed organizers of the Measure J campaign provided costs information in pursuing a public buyout. No further comments were directed to the Board.

No further comments were directed to the Board.

In response to public comment, Laredo mentioned that CPUC proceedings are public hearings, and the public can view and participate virtually by Zoom. Lastly, Laredo confirmed regardless of the potential outcome arising from an eminent domain case Cal-Am can be awarded legal fees.

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

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

General direction was provided to the District Representative (Negotiator). No reportable action was taken.

Vice-Chair Anderson, Director Paull, Director Oglesby, Director Riley and Chair Adams: Commented and shared their experiences at the 2023 ACWA Spring Conference in

12. Reportable Action on Matters Listed Under Closed Session on Monday, May 15, 2023

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

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

Monterey, CA.

Director Edwards: Thanked the General Manager for being at the CPUC meeting held at the City of Seaside- City Hall.

Director Riley: Stated he attended a Special District’s Association of Monterey County meeting in April 2023.

David J. Stoldt, General Manager provided introductory remarks. Jonathan Lear, Water Resources Manager presented via MS PowerPoint entitled, “Status Report on Cal-Am Compliance with SWRCV Orders and Seaside Basin Decision as of May 1, 2023.” *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.*

Chair Adams closed the Public Hearing.

A motion was offered by Director Eisenhart with a second by Director Oglesby to receive a report on the available water supply and determine whether water-rationing triggers have been met and consider adoption of Resolution 2023 – 06. The motion passed on a voice vote of 7-Ayes (Edwards, Riley, Paull, Eisenhart, Anderson, Adams and Oglesby), 0-Noes and 0-Absent.

Thomas Christensen, Environmental Resources Manager presented via slide-deck and provided an overview of the following, but not limited to: provided background information; a project overview; its current status and stated testing will take place once the project is completed. *A copy of the presentation is available at the District office and can be found on the District website.*

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

- (1) Michael Baer: Thanked the District on their work on Sleepy Hollow.

No comments were directed to the Board.

No discussion was had on Informational Items.

PUBLIC HEARING

- 14. **Receive and Confirm Water Supply Forecast for Period of May 1, 2023 -- September 30, 2024 – and Consider Adopting Resolution 2023 - 06 to Amend Rationing Table XV-4**

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

DISCUSSION ITEM

- 15. **Update on Expenditure of Contingency Funds Used for the Sleepy Hollow**

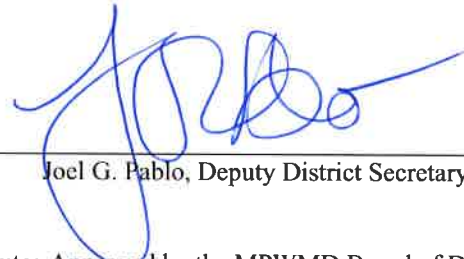
INFORMATIONAL ITEMS/STAFF REPORTS

- 16. **Report on Activity/Progress on Contracts Over \$25,000**

17. **Status Report on Measure J / Rule 19.8 Phase II Spending**
18. **Letters Received**
19. **Committee Reports**
20. **Monthly Allocation Report**
21. **Water Conservation Program Report**
22. **Carmel River Fishery Report for April 2023**
23. **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 adjourned the meeting at 7:45 p.m.

ADJOURNMENT



Joel G. Pablo, Deputy District Secretary

Minutes Approved by the MPWMD Board of Directors on Tuesday, June 20, 2023