

FINAL MINUTES
Regular Meeting
Board of Directors
Monterey Peninsula Water Management District
April 18, 2011

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

CALL TO ORDER/ROLL CALL

Directors Present:

Robert S. Brower, Sr., Chair -- Division 5
Dave Potter, Vice Chair – Monterey County Board of Supervisors (Arrived at 7:07 pm during Oral Communications)
Vacant – Division 1
Judi Lehman – Division 2
Kristi Markey – Division 3
Regina Doyle – Division 4
David Pendergrass – Mayoral Representative

Directors Absent: None

General Manager present: Darby Fuerst

District Counsel present: David Laredo

The assembly recited the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

The following comments were directed to the Board during Oral Communications. (1) **David Sweigert**, representing clients that hold water credits issued by the District, read a statement dated April 15, 2011 (on file at the District office and can be viewed on the District's website). He requested that the District and California American Water (Cal-Am): (a) interpret the Cease and Desist Order as allowing the use of water credits and water use credits at existing service addresses; (b) agree that "change in Zoning or Use" should apply only to substantial changes and not, to minor changes; and (c) urge the Board to use all due caution to avoid inadvertent expansion of the scope of the CDO. (2) **Todd Norgaard**, Carmel Valley Association, referred to a letter dated April 18, 2011. The letter outlined a request that the District develop a contingency water supply plan, in case the Regional Water Supply Project is delayed or not constructed. He requested that the District host a series of community meetings on potential water supply solutions. (3) **Andy Bell**, MPWMD Engineer, announced that he would retire in May 2011 after 24 years with the District. He read an excerpt from his

ORAL COMMUNICATIONS

letter of resignation that was complimentary to the Board of Directors and District staff.

On a motion by Director Pendergrass and second by Director Potter, the Consent Calendar was approved with the exception of item 5 that was pulled for separate consideration. The motion was adopted unanimously on a vote of 6 – 0.

Approved.

Approved.

Approved.

Approved.

On a motion by Director Markey and second of Director Lehman, the Board authorized the expenditure to contract for consultant services to complete design of the Sleepy Hollow Ford Removal and Bridge Replacement Project. The motion included a requirement that only Cathy Crossett Avila complete work associated with the Avila and Associates Consulting Engineers, Inc. contract. The motion was adopted unanimously on a vote of 6 – 0.

Approved.

Approved.

Approved.

Approved.

The report was presented by Catherine Bowie of California American Water (Cal-Am). She noted that combined water use in Tiers 4 and 5 for the month of March 2011 was 20.7 acre-feet, which was lower than the 5-year average of 31.5 acre-feet.

Catherine Bowie provided a brief report. She stated that the California Public Utilities Commission (CPUC) directed that Cal-Am and the District confer on the specifics of moratorium implementation, and then present a plan to the State Water Resources Control Board

CONSENT CALENDAR

1. Consider Adoption of Minutes of the March 21, 2011 Regular Board Meeting
2. Consider Adoption of Record from March 31, 2011 Board Special Meeting/Goal Setting Session
3. Consider Authorization to Retain Lead Labor Negotiator
4. Consider Expenditure of Budgeted Funds (reimbursable, exempt from spending freeze) for Purchase of Internet License for Water Wise Gardening in Monterey County
5. Authorize Expenditure of Reimbursable Funds (exempt from Board spending freeze) to Contract for Consultant Services to Complete Design of the Sleepy Hollow Ford Removal and Bridge Replacement Project
6. Receive and File District-Wide Annual Water Distribution System Production Summary Report for Water Year 2010
7. Receive and File District-Wide Annual Water Production Summary Report for Water Year 2010
8. Consider Approval of Treasurer's Report for January 2011
9. Consider Approval of Treasurer's Report for February 2011

PRESENTATIONS

10. **Monthly Report from California American Water General Manager, Craig Anthony**
11. **Report from Craig Anthony on California American Water Plans for Implementation of Moratorium on Water Connections for New and Expanded Water Use**

(SWRCB). Meetings between Cal-Am and the District have been scheduled.

Ms. Pintar, Water Demand Manager, presented the report that is available for review at the District office and on the District's website. In response to questions from the Board, she reported that one year ago a mailer was sent throughout the District that reminded property owners about the outdoor watering schedule. She also noted that in May 2010, the District sponsored a training session on installation of cistern systems. Another training session will be scheduled for 2011.

Andy Bell, Engineering Division Manager, presented the report. A summary is on file at the District office and can be viewed on 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 ending March 31, 2011, Cal-Am production from the Carmel River Basin was 233 acre-feet under the production target of 4,087 acre-feet established as a result of State Water Resources Control Board (SWRCB) Order 2009-0060. Production from the Coastal Subareas of the Seaside Basin was 175 acre-feet under the target of 270 acre-feet. Production from the Laguna Seca Subarea was 61 acre-feet over the production target of 89 acre-feet established by the Seaside Groundwater Basin Adjudication. Production from the City of Sand City Desalination plant was 127 acre-feet. Total Cal-Am production from the Monterey Peninsula Water Resources System was 5,337 acre-feet, which is 370 acre-feet below the target of 5,707 acre-feet.

District Counsel Laredo stated that he provided a status report to the Board on all five items listed on the agenda. General direction was provided to Counsel. No reportable action was taken.

12. Water Conservation Program Report

13. Update on Development of Water Supply Project Alternatives Including Recycled Water

GENERAL MANAGER'S REPORT

14. Status Report on California American Water Compliance with State Water Resources Control Board Order 2009-0060 and Seaside Groundwater Basin Adjudication Decision

ATTORNEY'S REPORT

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

- 3. Conference with Legal Counsel – Existing Litigation (Gov. Code 54956.9 (a))**
- A. Application of California American Water Company to CPUC Application No.10-01-012 –Mitigation Cost Reimbursement
 - B. Application of California American Water Company to CPUC (Application No. 10-07-007) 2010 General Rate Case (2012-2014)
 - C. MPWMD v. State Water Resources Control Board;

Superior Court Case No. 1-10-
CV-163328

- D. Sierra Club v. MPWMD,
Security National Guaranty &
California American Water,
Real Parties (Superior Court
Case No. M 108149)
- E. Application of California
American Water Company
Regarding Reimbursement
Balancing – CPUC Application
No. 09-04-015

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

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

Director Markey reported that on April 17, 2011, she participated on a panel regarding local water issues sponsored by the Democratic Club of the Monterey Peninsula. She spoke about Water Projects 1 and 2, and the importance of the District's involvement in resolving community water issues. Director Lehman reported that the Special District's Association of Monterey County would meet on April 19, 2011. The guest speaker for the evening would be Mary Zeeb, Monterey County Treasurer.

Director Potter offered a motion that was seconded by Director Doyle, to approve the staff recommendation which directs that: (1) the Board determine that the site requires a Water Permit for two showerheads; (2) the appeal should be denied; and (3) the appellants be required to obtain permits for the two showerheads or remove them. The motion was approved unanimously on a vote of 6 – 0.

PUBLIC HEARINGS

17. **Consider Appeal of General
Manager's Decision to Require a
Water Permit for Two Showerheads
Pursuant to District Rule 20,
Permits Required -- 951 Coral
Drive, Pebble Beach (APN: 007-254-
005)**

The following comments were directed to the Board on this item. Following receipt of public comment, Chair Brower closed the public hearing. **(1) Opening statement of Margaret Thum**, representing William and Charlene Thum. She submitted a letter dated April 18, 2011, (on file at the District office, available on the MPWMD website) and referenced enumerated items 1 and 2 in her statement to the Board. The letter provided evidence as to why the Board should reverse the General Manager's decision to issue a notice of non-compliance on the Coral Drive property. **(2) Margaret Thum** continued review of the April 18, 2011 letter. She alleged that the District's fixture-unit method of determining water use capacity, connection fees, deed restrictions, and property inspections are in violation of the United States and California State constitutions. She requested that the District immediately cease counting residential water fixtures and assessment of connection fees. **(3) Margaret Thum** stated that the District's rules are confusing, and a reasonable person

cannot understand them. (4) **Chair Brower** read into the record a letter from Tony Sollecito dated April 16, 2011 (on file at the District office and available on the MPWMD website) requesting that the Board decide in favor of the Thums' appeal.

ExParte Communications -- Doyle reported that she received a telephone call from Ms. Thum. Ms. Doyle advised her that she would review the facts as presented by staff and make a decision.

On a motion by Director Potter and second of Director Brower, Ordinance No. 148 was adopted on a vote of 4 – 2. Directors Brower, Doyle, Pendergrass and Potter voted in favor of the motion. Directors Lehman and Markey were opposed.

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

On a motion by Director Markey and second of Director Potter, the Board voted to finalize and distribute the 2010 Annual Report. Before the report is distributed, staff should review the record of the Board's direction regarding quantification of the amount of water needed to replace unpermitted, unlawful diversions from the Carmel River, or production in excess of adjudicated rights in the Seawater Seaside Groundwater Basin. If the estimate shown on page 3, paragraph 4 of the report is incorrect, the report will be updated and distributed. The motion was approved unanimously on a vote of 6 – 0.

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

No Action Items were submitted for Board consideration.

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

18. **Consider Second Reading and Adoption of Ordinance No. 148 -- Amending the Rebate Program -- Adopting Guidelines for Lawn Removal**

19. **Consider Approval of Draft 2010 MPWMD Annual Report**

ACTION ITEMS

INFORMATIONAL ITEMS/STAFF REPORTS

20. **Letters Received**
21. **Committee Reports**
22. **Carmel River Fishery Report for March 2011**
23. **Water Conservation Program Report for February 2011**
24. **Monthly Allocation Report**
25. **Monthly California American Water Production Report**
26. **Monthly Water Supply Status Report**
27. **Quarterly Water Supply Project Status Report**
28. **Quarterly Irrigation Program and Riparian Projects Report**

- 29. **Quarterly Carmel River Erosion Protection and Restoration Projects Report**
- 30. **Quarterly Water Use Credit Transfer Status Report**

The meeting was adjourned at 8:15 pm.

ADJOURNMENT



Darby Fuerst, Secretary to the Board