



FINAL MINUTES
Regular Meeting
Board of Directors
Monterey Peninsula Water Management District
August 15, 2016

The meeting was called to order at 7:00 pm in the MPWMD conference room.

CALL TO ORDER/ROLL CALL

Directors Present:

Jeanne Byrne – Chair, Division 4
Robert S. Brower, Sr. – Vice Chair, Division 5
Brenda Lewis – Division 1
Andrew Clarke – Division 2
Molly Evans – Division 3
David Pendergrass – Mayoral Representative
David Potter – Monterey County Board of Supervisors
(arrived at 7:03 pm)

Directors Absent: None

General Manager present: David J. Stoldt

District Counsel present: David Laredo

The assembly recited the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

Evans requested that Consent Calendar item 2 be pulled for separate consideration, and Chair Byrne announced that Consent Calendar item 3 was continued to a future meeting.

ADDITIONS AND CORRECTIONS TO AGENDA

No comments were directed to the Board during Oral Communications.

ORAL COMMUNICATIONS

On a motion by Brower and second of Pendergrass, Consent Calendar item 1 was approved on a vote of 7 – 0 by Brower, Pendergrass, Byrne, Clarke, Evans, Lewis and Potter.

CONSENT CALENDAR

Approved.

1. **Consider Adoption of Minutes of the July 18, 2016 Regular Meeting of the Board of Directors**
2. **Consider Extension of Cooperative Agreement with the United States Geological Survey for Streamflow Gaging in Water Year 2017**
3. **Consider Approval of Changes to the District's Organization Chart**

On a motion by Evans and second of Brower, an expenditure of \$14,700 was approved on a vote of 7 – 0 by Evans, Brower, Byrne, Clarke, Lewis, Pendergrass and Potter.

Continued to a future meeting of the Board.

A summary of General Manager Stoldt's report is on file at the Water Management District's office and can be viewed on the agency website. He noted that as of July 31, 2016, production from the Monterey Peninsula Water Resources System was 16.7% below the target. For the period of October 1, 2015 through July 31, 2016, rainfall totaled 106% of long-term average. For the same time period, unimpaired flow totaled 67% of long-term average, and storage totaled 103% of long-term average.

A summary of General Manager Stoldt's report is on file at the Water Management District office and can be viewed on the agency website. He announced that SWRCB Order 2009-0060, the Cease and Desist Order (CDO), was modified in July 2016 by Order 2016-0016. The SWRCB had proposed that production levels over the next 6 years be set below 2014-15 system demand. Due to input submitted by the Water Management District, Cal-Am, other agencies, Peninsula businesses and organizations, the SWRCB agreed to increase the annual production limits to be in-line with 2013-14 system demand. However, the SWRCB also established annual milestones toward development of a water supply project. If any milestone were to be missed, the production limit would be decreased by 1,000 acre-feet. Stoldt reviewed progress on development of the desalination project component of the Monterey Peninsula Water Supply Project and the Pure Water Monterey Project. He announced that the Public Utilities Commission has issued preliminary approval of the financing agreement that would precede construction of the Monterey Pipeline needed for efficient operation of desal, ASR and the Pure Water Monterey projects. The Monterey Peninsula Water Supply Project schedule anticipates delivery of water from Pure Water Monterey by March 2018, and March 2020 for the desalination project. Stoldt also reported on the sources of water from the Carmel Basin that were used to battle the Soberanes fire, and to support firefighters living in temporary encampments. Water use was monitored by Cal-Fire, and much of the water used was from metered sources. Water used to fight the Soberanes Fire will not be counted against the CDO water production targets.

No report.

Counsel Laredo reported that for both items 3 and 4, a status report was given, general direction was provided to the Board, and no specific reportable action was taken on either item.

GENERAL MANAGER'S REPORT

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

5. Update on Development of Water Supply Projects

6. Report on Drought Response

ATTORNEY'S REPORT

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

3. Conference with Labor Negotiators (Gov. Code 54957.6) Agency Designated Representatives: David Stoldt; Suresh Prasad and Cynthia Schmidlin

Employee Organization: General Staff and Management Bargaining Units Represented by United Public Employees of California/LIUNA, Local 792
Unrepresented Employees: Confidential Unit

4. **Conference with Legal Counsel – Existing Litigation (Gov. Code 54956.9 (a))**
Monterey Peninsula Water Management District v. California Public Utilities Commission (California American Water Company) (Case S208838)

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

No reports.

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

PUBLIC HEARINGS

9. **Consider Appeal of Decision to Issue Water Permit #34741 for 150 Sea Foam, Monterey, (APN 011-462-039)**

Exparte communications reported. Pendergrass, Byrne, Brower and Potter reported that they were contacted by Anthony Lombardo. Evans received an email from Gina Pompey but she did not read it. Clarke also received an email from Gina Pompey.

Brower offered a motion to deny the appeal. The motion was seconded by Pendergrass and failed on a roll-call vote of 3 – 4. Directors Brower, Pendergrass and Potter voted in support of the motion. Voting in opposition were Byrne, Clarke, Evans and Lewis.

Clarke moved to grant approval of the appeal based on the following: water fixtures that were shown in the original building permit; no subsequent permit was issued as confirmed by City of Monterey staff; statements from Sandra L. Randazzo, Trustee for the Robert Bullock Trust; and visual evidence provided that there was a single showerhead in one of the bathrooms. The motion was seconded by Evans. No action was taken.

Potter offered a substitute motion to continue the item and schedule an onsite inspection by staff based on new information provided at the August 15, 2016 hearing, and to take into consideration the comments by Cal-Am regarding the appropriateness of issuing the permit in relation to issues raised about compliance with the CDO. The motion was seconded by Brower and approved on a unanimous vote of 7 – 0 by Potter, Brower, Byrne, Clarke, Evans, Lewis and Pendergrass.

Byrne offered an amendment to the motion, suggesting that the Board of Directors and staff participate in the site visit. Potter and Brower accepted the amendment. The motion was approved on a unanimous vote of 7 – 0 by Byrne, Potter, Brower, Clarke, Evans, Lewis and Pendergrass.

The following comments were directed to the Board of Directors during the public hearing on this item. **(a) Eric Sabolcise**, Director of Operations for California American Water, recommended that the Board affirm the appeal. He expressed concern that to install a sub-meter at 150 Sea Foam that is sourced from a meter at the adjacent lot at 149 Spray could be a violation of the moratorium on new connections.

Comments from the appellant Jamie Fields. She stated that several individuals have confirmed that four showerheads and an additional utility sink were not installed at the property at the time of sale. She asserted that the additional water fixtures were installed following the sale of the home, without benefit of a water permit. She requested that the Board support the appeal.

Comments from Mike Churchill, of Anthony Lombardo and Associates, attorney for the applicant Ryan T. Hogan Family Trust. Mr. Churchill stated that the appellants asserted they had been advised in the past that the vacant lot at 150 Foam could not be developed. Mr. Churchill maintained the appeal was filed in order to prevent development that would block the appellants' viewshed. He requested that the Board deny the appeal.

Public comment: **(b) Mark Costanza**, co-appellant, stated that the value of the lot was based on its status as undevelopable. He urged the Board to approve the appeal. **(c) Dr. Joseph Foyo** stated that in 2014 he attended an open house at the property at 149 Spray and saw one showerhead in each of the two bathrooms. At that time, the Realtor advised him that no water credits were available for the adjacent empty lot. **(d) Jack Sperry** stated that he was a good friend of the previous owner of the house at 149 Spray. He had been in the home several times and had observed only one showerhead in each of the two bathrooms.

Appellant's rebuttal to comments received. Jamie Fields stated that her intent was not to prevent construction at 150 Sea Foam. Rather, her intent was to ensure that the rules regarding permitting new water use were followed. She proposed that the property owner defer construction until water would be available from a desalination project. She noted that if water credit were available to the lot, its value would have been higher than was previously established.

Plaintiff's rebuttal to comments received. Mike Churchill stated that the Board was obligated to develop credible findings, and that substantial evidence was submitted to support a denial of the appeal.

Public comment: (e) **Carolyn Elliott** stated that the issue was the availability of water for the vacant lot, not preservation of a viewshed. She noted there were other vacant lots that owners could not build on until water was available. (f) **At the request of Alan Cleaves**, District staff read into the record a letter submitted on 8/15/16 by Mr. Cleaves requesting that the Board grant the appeal. **Chair Byrne closed the public hearing.**

On a motion by Brower and second of Evans, Ordinance No. 172 was adopted on a unanimous vote of 7 – 0 by Brower, Evans, Byrne, Clarke, Lewis, Pendergrass and Potter. No comments were directed to the Board during the public hearing on this item.

Potter offered a motion to adopt Urgency Ordinance No. 173. The motion was seconded by Brower and approved on a unanimous vote of 7 – 0 by Potter, Brower, Byrne, Clarke, Evans, Lewis and Pendergrass. No comments were directed to the Board during the public hearing on this item.

Brower offered a motion that was seconded by Pendergrass, to adopt the policy outlined in the staff report, and to direct that staff should prepare an ordinance reflecting changes in the District Rules and Regulations as a result of the adopted policy. The motion was approved unanimously on a vote of 7 – 0 by Brower, Pendergrass, Byrne, Clarke, Evans, Lewis and Potter. No persons addressed 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 8:35 pm.

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10. **Consider Second Reading and Adoption of Ordinance No. 172, An Ordinance of the Monterey Peninsula Water Management District Amending Regional Water Efficient Landscape Requirements in Compliance with the California Code of Regulations, Title 23, Division 2, Chapter 2.7, California Model Water Efficient Landscape Ordinance**
11. **Consider Adoption of Urgency Ordinance No. 173, Suspending Authority to Accept Water Permit Applications for New Connections Based Upon the Paralta or Pre-Paralta Allocations**


ACTION ITEMS

12. **Consider Approval of Policy that will Address Monterey County General Plan Requirements for Carmel Valley Alluvial Aquifer**

INFORMATIONAL ITEMS/STAFF REPORTS

13. **Letters Received**
14. **Committee Report**
15. **Monthly Allocation Report**
16. **Water Conservation Program Report**
17. **Carmel River Fishery Report**
18. **Quarterly Carmel River Riparian Corridor Management Program Report**
19. **Monthly Water Supply and California American Water Production Report**

ADJOURNMENT


Arlene M. Tavani, Deputy District Secretary