

This meeting has been noticed according to the Brown Act rules. This agenda was posted on Wednesday, September 6, 2017.



Technical Advisory Committee Members

City of Carmel-by-the-Sea
Marc Wiener

City of Del Rey Oaks
Vacant

City of Monterey
Todd Bennett – Chair

City of Pacific Grove
Anastazia Aziz

City of Sand City
Todd Bodem – Vice Chair

City of Seaside
Kurt Overmeyer

County of Monterey
Vacant

Monterey Peninsula Airport District
Shelley Glennon

MPWMD Contacts:
General Manager,
David J. Stoldt

Water Demand Manager,
Stephanie Locke

Executive Assistant,
Arlene Tavani

AGENDA
Technical Advisory Committee (TAC)
Of the Monterey Peninsula Water Management District

Wednesday, September 13, 2017, 9:00 am
District Conference Room, 5 Harris Court, Building G, Monterey, CA

Call to Order

Comments from Public

The public may comment on any item within the District's jurisdiction. Please limit your comments to three minutes in length.

Action Items – *Public comment will be received on all Action Items. Please limit your comments to three minutes in length.*

1. Consider Adoption of April 16, 2016 Committee Meeting Minutes
Action: Review and approve April 16, 2016 committee meeting minutes.

2. Elect Committee Chair and Vice Chair
Action: The committee will consider electing a Chair and Vice Chair.

Discussion Items – *Public comment will be received on all Discussion Items. Please limit your comments to three minutes in length.*

3. Discuss Water Permitting Considerations for Auxiliary Dwelling Units

4. Update on Development of Water Supply Projects

Questions from Committee Members to MPWMD Staff – *Public comment will be received.*

Adjourn

Staff reports regarding these agenda items will be available for public review on Thursday, September 7, 2017, at the District office and website. After staff reports have been distributed, if additional documents are produced by the District and provided to the Committee regarding any item on the agenda, they will be made available at 5 Harris Court, Building G, Monterey, CA during normal business hours. In addition, such documents will be posted on the District website at mpwmd.net. Documents distributed at the meeting will be made available in the same matter.

Upon request, MPWMD will make a reasonable effort to provide written agenda materials in appropriate alternative formats, or disability-related modification or

accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. Please send a description of the requested materials and preferred alternative format or auxiliary aid or service by 5 PM on Friday, September 8, 2017. Requests should be sent to the Board Secretary, MPWMD, P.O. Box 85, Monterey, CA, 93942. You may also fax your request to the Administrative Services Division at 831-644-9560, or call 831-658-5600.

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TECHNICAL ADVISORY COMMITTEE

ITEM: ACTION ITEM

1. CONSIDER ADOPTION OF APRIL 16, 2016 COMMITTEE MEETING MINUTES

Meeting Date: September 13, 2017

**From: David J. Stoldt,
General Manager**

Prepared By: Arlene Tavani

CEQA Compliance: This action does not constitute a project as defined by CEQA guidelines section 15378.

SUMMARY: Attached as **Exhibit 1-A** are draft minutes of the April 16, 2016 committee meeting.

RECOMMENDATION: Upon review, the committee should adopt the minutes by motion.

EXHIBIT

1-A Draft Minutes of April 16, 2016 Committee Meeting



EXHIBIT 1-A

DRAFT MINUTES

**Technical Advisory Committee of the
Monterey Peninsula Water Management District**

April 21, 2016

Call to Order

The meeting was called to order at 10:00 am in the Conference room at the offices of the Monterey Peninsula Water Management District.

Committee members present:

City of Carmel-by-the-Sea	Catherine Tarone
City of Monterey	Todd Bennett, Chair
City of Pacific Grove	Anastazia Aziz
City of Sand City	Todd Bodem, Vice Chair (arrived at 10:06 am)
City of Seaside	Tim O'Halloran
Monterey Peninsula Airport District	Shelley Glennon

Committee members absent:

City of Del Rey Oaks	Daniel Dawson
County of Monterey	Rob Johnson

Staff members present:

David J. Stoldt, General Manager
Stephanie Locke, Water Demand Division Manager
Arlene Tavani, Executive Assistant

Comments from the Public: No comments.

Action Items

- 1. Consider Adoption of March 17, 2016 Committee Meeting Minutes**
On a motion by Aziz and second of Bennett, minutes of the March 17, 2016 committee meeting were approved on a unanimous vote of 5 – 0 by Aziz, Bennett, Tarone, Halloran and Glennon. Bodem, Dawson and Johnson were absent for the vote. No comments were directed to the committee during the public comment period on this item.

Discussion Items

- 2. Discuss Development of an Ordinance to Incorporate California State Model Water Efficient Landscape Ordinances into the District's Rules and Regulations**
Locke presented the document titled MPWMD Landscape Requirements (WELO) and advised the committee that the Water Management District's proposed ordinance will include the California State Model Water Efficient Landscape Ordinance. Jurisdictions could utilize the Water Management District's ordinance – it will not be necessary for jurisdictions to adopt their own ordinance or check other sources for the state mandated rules. The ordinance should be considered by the Board of Directors in June 2016. If the ordinance is adopted, the regulations will be posted to the District's website along with links to any additional rules established by the jurisdictions. The Water Management District will also provide printed materials to the jurisdictions for distribution to the public that will explain the WELO requirements. In response

to questions from the committee, staff stated the following. (a) The Water Management District plans to schedule a workshop on the State's WELO for local landscapers and residents. (b) If a project requires a grading plan, the District will refer processing of that plan to the jurisdiction. (c) Landscaped areas that consist of edible plants are not subject to the ordinance. (c) It is important that the jurisdictions' planning and building departments understand the regulations so they know when to refer applicants to the Water Management District.

3. Discuss Jurisdiction Assistance with Notification of MPWMD Requirements

Stoldt asked that each jurisdiction send a letter to the Water Management District requesting that the District adopt the regional ordinance, undertake the Landscape Documentation review, and perform the required annual reporting to the state. Stoldt distributed a sample letter that each jurisdiction could use as a template for its formal request.

Questions from Committee Members to MPWMD Staff : None

Adjournment – The meeting was adjourned at 10:26 am.

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TECHNICAL ADVISORY COMMITTEE

ITEM: ACTION ITEM

2. ELECT COMMITTEE CHAIR AND VICE CHAIR

Meeting Date: September 13, 2017

**From: David J. Stoldt,
General Manager**

Prepared By: Arlene Tavani

CEQA Compliance: This action does not constitute a project as defined by CEQA guidelines section 15378.

SUMMARY: The Technical Advisory Committee charge states that a Chair and Vice Chair shall be elected by the committee annually or biennially at the first meeting conducted in the calendar year. Chair Bennett was elected in November 2014 to a one-year term beginning in January 2015. Vice Chair Bodem was elected in February 2015. The TAC can determine if the newly elected Chair and Vice Chair will serve for a one-year or two-year term.

RECOMMENDATION: Elect a Chair and Vice Chair to the committee for the term of one or two years.

EXHIBIT

None

DISCUSSION ITEM

3. DISCUSS WATER PERMITTING CONSIDERATIONS FOR AUXILIARY DWELLING UNITS

Meeting Date:	September 13, 2017	Budgeted:	N/A
From:	David J. Stoldt, General Manager	Program/ Line Item No.:	N/A
Prepared By:	Stephanie Locke	Cost Estimate:	N/A

General Counsel Review: Yes

CEQA Compliance: This action does not constitute a project as defined by the California Environmental Quality Act Guidelines section 15378.

SUMMARY: MPWMD (District) requires separate Water Meters maintained by the Water Distribution System Operator for every User. A “user” is defined as a residence (i.e., Dwelling Unit), commercial enterprise, or industrial enterprise. Separate meters have been required for new Users since 1981. Separate meters promote conservation by giving each user accountability for their water use and it facilitates enforcement of water rationing. Tiered rates are specifically designed to send price signals to the individual water user.

The District’s separate metering requirement has applied to new single family residences and any self-sustainable secondary dwelling units (i.e., secondary units with a bathroom and kitchen). In response to recent increases in the number of Auxiliary Dwelling Units (ADUs) as a result of recently adopted legislation and disagreement between the Jurisdiction about how the District’s Rules apply, staff requested its legal counsel to review the matter and provide direction. Attached as **Exhibit 3-A** is that memo.

The memo concludes that the District does not fall within the definition of “local agency” as contemplated by the Wieckowski legislation. Even if a broader reading were applied, the restricted nature of the local water supply provides adequate justification to seek exclusion from the requirements.

DISCUSSION: The current moratorium on new connections within the California American Water system is problematic for ADUs that receive water from a Jurisdiction’s Paralta or Pre-Paralta Allocations. Water Permits that utilize these Allocations do not qualify for sub-metering under the District’s rules and are subject to the moratorium. ADUs that rely on Water Credits or the Public Credit Allocation likely qualify for sub-metering until the end of the Cal-Am moratorium. The exception would be an ADU that is located on the property where it could be subdivided or the ADU could potentially be sold separate from the main Dwelling Unit.

Sub-metering allowed by the District requires that a Cal-Am Water Meter be installed within 90 days of the lifting of the moratorium on new Connections. ADUs subject to the metering requirement will be required to comply. Although it may be convenient to plumb the ADU into

the existing residential plumbing and install a sub-meter at that location, in the long run it may make more sense to tee off the existing water line near the Water Meter at the street and install a sub-meter at that location. This will facilitate compliance with the future metering requirement.

RECOMMENDATION: The Technical Advisory Committee should discuss the District's metering rule as it pertains to Auxiliary Dwelling Units. This requirement should be reported back to the Jurisdiction's Planning and Building Departments to ensure that staff is aware of the requirement and that an applicant receives correct information.

EXHIBIT

3-A

De LAY & LAREDO
ATTORNEYS AT LAW

Paul R. De Lay

David C. Laredo

Heidi A. Quinn

Frances M. Farina

Michael D. Laredo

Pacific Grove Office:
606 Forest Avenue
Pacific Grove, CA 93950
Telephone: (831) 646-1502
Facsimile: (831) 646-0377

Santa Barbara Office:
389 Princeton Avenue
Santa Barbara, CA 93111
Telephone: (805) 681-8822
Mobile: (831) 809-4209
[Email: fran@laredolaw.net](mailto:fran@laredolaw.net)

August 14, 2017

TO: Stephanie Locke

Cc: Dave Stoldt, Dave Laredo

FROM: Fran Farina

RE: California Accessory Dwelling Unit Law Prohibitions on Separate Utility Connections and Connection Fees or Capacity Charges

The Monterey Peninsula Water Management District (MPWMD or District) has requested an opinion on the effect of Senate Bill No. 1069 (Wieckowski) amending certain sections of the Government Code that became effective January 1, 2017. Specifically, the amendments encourage additional rental housing stock in single-family or multifamily residential zones by “prohibiting a local agency from requiring an applicant for this permit to install a new or separate utility connection directly between the unit and the utility or imposing a related connection fee or capacity charge.” MPWMD rules require accessory dwelling units (ADUs) (formerly known as “second units”) to be separately metered and pay a capacity fee for the additional fixture units installed.¹

Does the State Law Pre-empt MPWMD’s Rules?

If it were the State’s intent to pre-empt all providers of water and sewer, they would have broadened the definition to be more inclusive. For example, Government Code² §65589.7 (b) requires public agencies providing water or sewer services to adopt written policies and procedures with objective standards “for provision of services in conformance with this section.” The section deals with housing development projects affordable to very low, low-, or moderate-income households.

What is a Local Agency?

¹ If a Water Use Credit is available on the Site, this could reduce or eliminate the capacity fee.

² All references are to the California Government Code unless otherwise referenced.

EXHIBIT 3-A

In contrast to the text of §65589.7 (b) referring to “public agencies providing water or sewer services,” §65852.2 (j) (2) defines local agency as “*a city, county, or city and county, whether general law or chartered.*” [Emphasis added.] The amending language is within the “Local Planning” sections addressing Housing Elements and providing incentives for affordable housing.

MPWMD does not fall within this “local agency” definition. The plain language of the legislation applies only to those entities specifically identified and is not applicable to MPWMD.

MPWMD Rule 24

District Rule 24 requires residential water use to be calculated using a fixture unit methodology.³ §65852.2 (g) (2) states ADUs “shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.” Also, §65852.2 (g) (2) (A) specifies that certain ADUs cannot be required to install a new or separate utility connection directly between the ADU and the utility nor impose a related connection fee or capacity charge.

If it were determined that the District should comply, the current water restrictions imposed by the State Water Resources Control Board’s (SWRCB) Cease and Desist Order (CDO) should suffice to argue the deficiency of reliable water sources prevent compliance with additional demand. §65852.2 (a) (1) (A) identifies criteria for designating ADUs and list the “adequacy of water and sewer service.”

Under different circumstances, §65852.2 (g) (2) (B) can require a new or separate utility connection directly between the ADU and the utility which could be subject to a connection fee or capacity charge based on either the ADU size or the number of its plumbing fixtures.

A Sub-Metering Option

The District could carve out an exception in District Rule 23 to allow sub-metering for ADUs and specify what conditions are required for compliance. This approach is less costly than requiring a separate meter from the ADU to the utility, but allows for accurate counting of water use within the structure. The capacity fee for the new fixtures could be at the regular rate, a reduced rate, or even exempt like Rule 24.5.

Conclusion

The District does not fall within the definition of “local agency” as contemplated by the Wieckowski legislation. Even if a broader reading were applied, the restricted nature of the local water supply provides adequate justification to seek exclusion from the requirements. If the District Board wanted to make some accommodation, various options are available by amending the current rules.

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³ MPWMD Rule 24-A.