

FINAL MINUTES  
Regular Meeting  
Board of Directors  
Monterey Peninsula Water Management District  
January 28, 2010

The meeting was called to order at 7:05 PM in the District Conference Room.

**CALL TO ORDER/ROLL CALL**

*Directors Present:*

Regina Doyle, Chair -- Division 4  
Bob Brower, Vice Chair -- Division 5  
Alvin Edwards -- Division 1  
Judi Lehman -- Division 2  
Kristi Markey -- Division 3  
David Pendergrass -- Mayoral Representative  
David Potter -- Monterey County Board of Supervisors

*Directors Absent:* None

*General Manager present:* Darby Fuerst

*District Counsel present:* David C. Laredo

The assembly recited the Pledge of Allegiance.

**PLEDGE OF ALLEGIANCE**

Director Markey offered a motion that was seconded by Director Brower, to defer to the February 25, 2010 meeting item 22, Consider Adoption of Resolution 2010-01 Expressing Support for the Proposed Monterey Regional Water Supply Program (Regional Project). The motion was approved unanimously on a vote of 7 – 0.

The following comments were received during Oral Communications. (1) **Todd Norgaard**, member of Carmel Valley Association Water Committee, read a statement on file at the District office regarding the Holman Ranch application before the Monterey County Planning Commission. He expressed agreement with a November 2009 comment letter submitted by the District to the County of Monterey recommending that an EIR be prepared that is focused on the project's water supply. (2) **Pete Fallon** expressed support for development of a water plan for Monterey County. He spoke against approval of applications for water distribution systems submitted by Chopin and Powell. Mr. Fallon stated that he would present additional comments during consideration of item 20.

**ORAL COMMUNICATIONS**

Director Markey offered a motion that was seconded by Director Edwards to adopt the Consent Calendar. The motion was approved unanimously on a vote of 7 – 0.

**CONSENT CALENDAR**

Approved

Approved

Approved

Approved

Approved

Approved

Approved

Approved

Approved

Approved

Chair Doyle presented a plaque to former Board Chair Markey and thanked her for serving as Chair in 2009.

Mr. Anthony's report included the following comments. (A) California American Water (Cal-Am) provides fire suppression service to 15 properties whose potable water source is not Cal-Am. No water use was recorded on those connections. Cal-Am is required to install a meter for fire suppression upon request. All fire suppression connections are metered. If water use is recorded, Cal-Am investigates the cause. The customer will be charged for the water used, if it is determined that the connection provided water for uses other than fire suppression. In most cases, water use is attributed to leaky valves. (B) Cal-Am has applied for permits with the City of Monterey and the County of Monterey to install pipelines that will improve the Cal-Am deliver system to benefit the Aquifer Storage and Recovery Project. The system improvements should be completed by the close of 2010. (C) Cal-Am is not pursuing development of the David Avenue Reservoir as a location to store recycled water because such a project would be cost prohibitive. (D) Approximately 1,000 acoustic listening devices are installed in the Carmel Valley area that allow Cal-Am to monitor the system for leaks. (E) Mr. Anthony reviewed the new rate schedule that will appear on

1. **Consider Adoption of Minutes of the December 14, 2009 Regular Board Meeting**
2. **Ratify Board Committee Assignments for Calendar Year 2010**
3. **Receive Report on Potential for Increasing Capacity of Los Padres Reservoir**
4. **Consider Expenditure of Budgeted Funds to Contract with A&N Technical Services, Inc. to Conduct a Technical Analysis of Non-Residential Water Use Factors**
5. **Review and Accept Independent Audit Report for Fiscal Year 2008-2009**
6. **Consider Approval of First Quarter Fiscal Year 2009-2010 Investment Report**
7. **Receive and File First Quarter Financial Activity Report for Fiscal Year 2009-2010**
8. **Consider Approval of Annual Update on Investment Policy**
9. **Consider Adoption of Treasurer's Report for August 2009**
10. **Consider Adoption of Treasurer's Report for September 2009**

**PRESENTATIONS**

11. **Present Plaque to Outgoing Chair, Kristi Markey**
12. **Monthly Report from California American Water General Manager, Craig Anthony**

customer bills beginning February 2010. A summary of his presentation is on file at the District office and can be viewed on the District's website. (F) The Sand City Desalination Plant is undergoing testing required by the Department of Public Health. Once the permits are granted, the project will be providing water to the community.

A summary of Mr. Israel's presentation is on file at the District office and can be viewed on the District's website. In response to questions from the Board, Mr. Israel stated that public outreach on the project will begin when more studies have been completed, and when issues are resolved on similar projects that are operational in other locations. The MRWPCA is presently focused on development of the Regional Urban Water Augmentation Project that is a component of Phase 1 of the proposed Regional Water Supply Project.

Henrietta Stern, Project Manager, presented the report. An outline of Ms. Stern's presentation is on file at the District office and can be viewed at the District's website. Director Doyle requested that in future reports, the amount of Carmel River water injected through the Aquifer Storage and Recovery Project be presented as a percentage of the annual injection goal.

Stephanie Pintar, Water Demand Manager, presented the report. An outline of Ms. Pintar's presentation is on file at the District office and can be viewed at the District's website. Ms. Pintar reported that 333 water audits have been completed. Cal-Am and District staff are working to complete all required audits in February 2010.

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 of October 1, 2009 through January 24, 2010, Cal-Am production from the Carmel River Basin was 552 acre-feet under the production target of 3,080 acre-feet established as a result of State Water Resources Control Board (SWRCB) Order 95-10. Production from the Coastal Subareas of the Seaside Basin was 130 acre-feet under the production target of 1,050 acre-feet established by the Seaside Groundwater Basin Adjudication. Production from the Laguna Seca Subarea was 58 acre-feet over the production target of 62 acre-feet established by the Seaside Groundwater Basin Adjudication. Therefore, total Cal-Am production from the Seaside Basin was 72 AF under the adjudication target of 1,112 AF.

**13. Progress Report on Proposed Groundwater Replenishment Project from Keith Israel, General Manager, Monterey Regional Water Pollution Control Agency**

**14. Update on Development of Water Supply Project Alternatives Including Recycled Water**

**15. Water Conservation Program Report**

**GENERAL MANAGER'S REPORT**

**16. Status Report on California American Water Compliance with State Water Resources Control Board Order 95-10 and Seaside Groundwater Basin Adjudication Decision**

**ATTORNEY'S REPORT**

17. **Report on 5:30 PM Closed Session of the Board**
  3. **Conference with Legal Counsel – Existing Litigation (Gov. Code 54945.9 (a))**
    - A. Application of California American Water Company to the Public Utilities Commission Application No. 04-09-019 – Coastal Water Project
    - B. Application of California American Water Company to PUC Application No. 10-01-XXX –Mitigation Cost Reimbursement
    - C. Seaside v. California American Water (MBSE/Cal-Am Motion) (Appellate Court #HO34335; Superior Court Case No. M 66343)
    - D. MPWMD v. State Water Resources Control Board; Superior Court Case No. M102101
    - E. California American Water v. State Water Resources Control Board, Superior Court Case No. M102097
    - F. California American Water v. MPWMD (SWRCB/SNG) (Superior Court Case No. M 99622)
    - G. California American Water v. MPWMD (Ryan Ranch) (Superior Court Case No. M 101255)
  4. **Public Employee Performance Evaluation (Gov. Code 54957) -- General Manager**
5. **Adjourn to 7 PM Session**

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

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

On a motion by Director Markey and second by Director Brower, the Board adopted Ordinance No. 142 on second reading by a unanimous roll-call vote of 7 – 0.

During the public hearing on this item, Craig Anthony, California American Water, expressed support for adoption of Ordinance No. 142.

Director Markey offered a motion that was seconded by Director Lehman to adopt Ordinance No. 143 with the following amendments: (A) delete exception 7 listed on page 142 of the staff report; (B) amend exemption 1 to read “Any existing PUC water utility or any parcel that is outside of the CAW service area”; and (C) in exception 5, delete the words “in year 2009 that are nearing their 6-month State Permit Streamlining Act action deadlines.” In addition, the Rules and Regulations Review Committee should proceed to complete all work that must be done to bring this issue back to the Board for further action within 90 days.

Director Markey withdrew her motion with the consent of Director Lehman.

Director Brower made a motion to deny the adoption of Urgency Ordinance No. 143, and refer the ordinance to the Water Demand Committee for further study. The Rules and Regulations Review committee should also participate in the review. Before a new ordinance is presented for consideration by the Board of Directors, it should be reviewed by the Policy and Technical Advisory committees. The motion was seconded by Director Potter and adopted unanimously on a vote of 7 – 0.

**Prior to the public hearing on this item, the meeting was recessed from 9 PM to 9:08 PM.**

The following comments were directed to the Board during the public hearing on this item. (1) **Jason Reterrer**, Lombardo and Gilles, stated that staff should not be prevented from processing water distribution system applications for large lots. He requested that if the ordinance is adopted, Section 5 be amended to include an eighth exception that would read, “For applications on larger parcels that have undergone environmental review or have undertaken significant hydrogeologic analysis.” (2) **Sheri Damon** representing various landowners, stated there is no urgency to adopt the ordinance. She expressed support for the exceptions outlined on page 4 of Urgency Ordinance No. 143, as modified to exclude Public Utilities Commission regulated utilities and the coastal zone exemption. (3) **Jackie Zischke** expressed support for the list of exceptions and the proposed amendment to exemption 1 that would include the words, “any existing

## PUBLIC HEARINGS

19. Consider Second Reading and Adoption of Ordinance No. 142 -- An Ordinance of the Board of Directors of the Monterey Peninsula Water Management District Amending Regulation XV, the Expanded Water Conservation and Standby Rationing Plan
20. Consider Adoption of Urgency Ordinance No. 143 Temporarily Suspending Processing and Receipt of Applications for Water Distribution Systems in Fractured Rock Formations

PUC water utility.” (4) **Greg Linder** expressed support for the list of exemptions, especially number 6. (5) **John Bridges** stated that this ordinance should not be given urgency status. He requested that all applications and pre-applications described on Exhibit 20-B be processed. A ban on processing water distribution system permits should only apply to those new applications received after the Board takes action to suspend processing. (6) **Pete Fallon** spoke in opposition to the drilling of water wells in neighborhoods. He read a statement that is on file at the District office. (7) **Eric Dyer**, architect for applicant Chopin Enterprises, requested that the Board approve an exemption for projects that have been suspended due to the coastal zoning process. (8) **Michael Bono**, representing CGLLC on Los Laureles Grade, requested that the Board table consideration of this ordinance until conditions justify adoption under an emergency status. (9) **John McCombs** expressed opposition to adoption of Urgency Ordinance No. 143. (10) **Barbara Bierman** spoke in opposition to adoption of Urgency Ordinance No. 143. (11) **Gary Wiegan**, Civil Engineer, stated that there is no justification for adoption of an urgency ordinance. He requested that the Board take no action on Urgency Ordinance No. 143. (12) **Aaron Bierman**, expressed opposition to adoption of Urgency Ordinance No. 143. (12) **Kevan Stone**, Monterey County Association of Realtors, stated that the Association is not opposed to preparation of an analysis of fractured rock wells, but is opposed to adoption of an urgency ordinance. (13) **Michael Waxer**, representing Cañada Water Company that serves both Tahema and Monterra Ranch, expressed support for an amendment to exemption 1 that would allow processing of applications for any existing PUC water utility. (14) **Holly Bruce**, representing the Powell well application, requested that the Board: (a) vote to not adopt the ordinance, or (b) if it is adopted, include the list of exceptions. (15) **Mitzi Dallas** expressed opposition to the drilling of wells in fractured rock formations. (16) **Steve Dallas** spoke in support of Urgency Ordinance No. 143 that would allow a 120 day to period to study the issues related to drilling wells in granite rock. In addition, he requested that only applications submitted by Griggs, Trosky, Frumpkin and Guenther should be approved. All other applications listed on Exhibit 20-B should be subject to the processing suspension. (17) **Bill Burleigh** asked the Board to consider that there must be a valid legislative purpose and sound factual basis to adopt the urgency ordinance.

On a motion by Director Lehman and second of Director Markey, the Board received the update provide by staff on a unanimous vote of 7 – 0.

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

#### **ACTION ITEMS**

21. **Receive Update on Proposal to Implement Stage 3 Water Conservation to Reduce Outdoor Water Use**

Following the Pledge of Allegiance, Director Markey offered a motion that was seconded by Director Brower, to defer to the February 25, 2010 meeting item 22, Consider Adoption of Resolution 2010-01 Expressing Support for the Proposed Monterey Regional Water Supply Program (Regional Project). The motion was approved unanimously on a vote of 7 – 0.

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

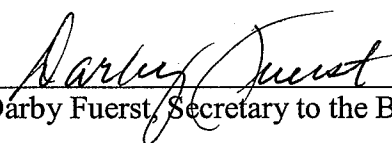
The meeting was adjourned at 10:05 PM.

22. **Consider Adoption of Resolution 2010-01 Expressing Support for the Proposed Monterey Regional Water Supply Program (Regional Project)**

**INFORMATIONAL ITEMS/STAFF REPORTS**

23. **Letters Received**
24. **Committee Reports**
25. **Carmel River Fishery Report for December 2009**
26. **Water Conservation Program Report for November 2009**
27. **Water Conservation Program Report for December 2009**
28. **Monthly Allocation Report**
29. **Monthly California American Water Production Report**
30. **Monthly Water Supply Status Report**
31. **Quarterly Water Supply Project Status Report**
32. **Quarterly Irrigation Program and Riparian Projects Report**
33. **Quarterly Carmel River Erosion Protection and Restoration Projects Report**
34. **Quarterly Water Use Credit Transfer Status Report**

**ADJOURN**

  
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Darby Fuerst, Secretary to the Board