

FINAL MINUTES

**Regular Meeting
Board of Directors
Monterey Peninsula Water Management District
June 12, 2012**

The meeting was called to order at 7 pm in the Regency Ballroom of the Hyatt Regency in Monterey.

CALL TO ORDER/ROLL CALL

Directors Present:

David Potter -- Chairperson , Monterey County Board of Supervisors Representative
David Pendergrass – Vice Chair, Mayoral Representative
Judi Lehman – Division 2
Kristi Markey – Division 3
Jeanne Byrne – Division 4
Robert S. Brower, Sr., -- Division 5

Directors Absent:

Brenda Lewis – Division 1

General Manager present: David J. Stoldt

District Counsel present: David Laredo

The assembly recited the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

The following speakers addressed the Board during Oral Communications. (1) **Nelson Vega** requested that the Board consider increasing its estimate of the amount of water that the community needs. He stated that a future desalination project should be sized 15 to 20 percent larger than anticipated to ensure water is available if there is an unexpected water production shortfall. (2) **Scott Dick**, resident of Carmel Valley, stated that according to MPWMD Rule 64, the 12.95 percent user fee currently charged on the California American Water Company (Cal-Am) bill should have been terminated by the Board. He estimated that the rate payers would be responsible for a total user fee of 20 percent if the additional 8 percent user fee was approved. (3) **Char Carter** expressed her intent to speak on the proposed user fee during the public hearing on that item. (4) **Barbara Smythe** expressed her intent to speak on the proposed user fee during the public hearing on that item.

ORAL COMMUNICATIONS

A summary of Mr. Stoldt's report is on file at the District office and can be viewed on the MPWMD website.

Mr. Stoldt noted that a new computer simulation model is being developed that will allow the District to develop an updated estimate of community water needs. He reported that the District's Water Supply Planning Committee determined that it would defer any action on conducting a review of the three desalination projects proposed for development, because the Monterey Peninsula Regional Water Authority may contract for preparation of a similar study.

No report presented by District Counsel.

No reports presented by the Directors.

Mr. Stoldt announced that all protest letters must be submitted by the close of the public hearing that evening. He noted that staff was available to assist any member of the audience with completion of a protest. Chair Potter stated that following the public hearing, items 4 and 5 would be continued to April 19, 2012. Following receipt of public comment, the public hearing was closed. Chair Potter thanked the speakers for their comments and encouraged them to attend the April 19, 2012 meeting.

The following comments were presented during the public hearing on this item. (1) **Rick Heuer**, representing the Board of Directors of the Monterey Peninsula Taxpayers Association (MPTA), announced that he delivered to the meeting 11,783 protests all of which were valid and submitted by homeowners within the District. He requested that the MPTA be given the opportunity to be present during the protest letter review, and to see all protests that had been rejected. (2) **Paul Bruno**, resident of Monterey, agreed that the District's activities must be funded, but he asserted that the Proposition 218 process followed by the District was neither fair nor transparent. (3) **Tom Rowley**, Vice President of MPTA, stated that the MPTA Board voted unanimously to send a protest form to all parcel owners so that they would have the opportunity to vote on the proposed user fee. He opined that the

GENERAL MANAGERS' REPORT

1. **Status Report on California American Water Compliance with State Water Resources Control Board Order 2009-0060 and Seaside Groundwater Basin Adjudication Decision**
2. **Update on Development of Water Supply Projects**

ATTORNEY'S REPORT

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

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

PUBLIC HEARINGS

4. **Consider Second Reading and Adoption of Ordinance No. 152 – Establishment of Annual Water Use Fee**

League of Women Voters would not qualify as a non-partisan entity to verify the protests received, and that the task should be given to another independent entity. (4) **LeVonne Stone**, Fort Ord Environmental Justice Network, submitted a letter that is on file at the District office and available on the District's website. She expressed the following concerns about low-income ratepayers: (a) many did not receive the District's Proposition 218 mailer; (b) asked why they were not included in the decision making process on water supply; and (c) utility costs are on the rise, but personal income does not increase proportionately. (5) **David Beech**, resident of Monterey, stated that although he wanted to see the District succeed, he was opposed to the user fee. He described the Proposition 218 process as ill-advised, arrogant and disrespectful of the rate payers. He asked the Board to bring a legal challenge to the decision of Administrative Law Judge Bushey that ended collection of the user fee on the Cal-Am bill. (6) **Shar Carter**, resident of Monterey, alleged that the District had illegally followed the Proposition 218 process and that the proposed fee was a tax that required a vote of the electorate. She suggested that the District be disbanded in order save money that could be used for a water supply project. (7) **Walter Wagenhals**, resident of Monterey, submitted a written statement that is on file at the District office and can be viewed on the MPWMD website. He stated that there was overwhelming opposition to the proposed user fee, and the District should forego collection of the fee until a water supply project was developed. (8) **Tom Mancini**, customer of Seaside Municipal Water Company, stated that the community should have been made aware that areas outside of the Cal-Am service area would not be subject to the user fee. (9) **Steve Gorman**, resident of Pacific Grove, requested that the District abandon the Proposition 218 protest hearing process and develop another source of income. (10) **Bill Hood** expressed support for implementation of the Proposition 218 user fee. He urged the Board to assert leadership in development of a water supply project, as the District was the only agency that could facilitate public financing and provide public governance for a water project. (11) **George Riley**, Citizens for Public Water, stated that many parties had taken action on water supply but there was no coordinated effort. He suggested that the District conduct a mediated workshop where the parties involved could express their diverse views, come to agreement and avert the possibility of litigation. (12) **Noni McVeigh**, President of the Monterey County Association of Realtors (MCAR), requested that the Board deny Ordinance No. 152 and put the financing plan to a vote of the public. She stated that MCAR would stand with the District and assist with the effort to give all stakeholders the ability to weigh-in

on this issue. (13) **Nelson Vega** opined that many voters were disenfranchised from participation in the protest hearing because the protest notice was published in English only and protests could not be submitted by fax. He expressed opposition to the Proposition 218 protest process. (14) **Jeffrey Massey**, Attorney with Kronick, Moskovitz, Tiedemann and Girard, representing MCAR, spoke in opposition to the proposed user fee and the protest hearing process. He stated there was no law that allowed the District to impose the user fee on property owners that receive service from Cal-Am. (15) **Brian LeNeve**, resident of Carmel, expressed support for implementation of the user fee, due to the need to fund development of a water supply before 2016. (16) **Barbara Smythe**, resident of Monterey, said that she was unwilling to pay for a project until there was agreement between the parties involved on a preferred water supply project, and insurance that the selected project would be constructed. (17) **Martin Schmidt** opined that even if the appropriate number of protests was not received, the large number of protests submitted indicated strong public sentiment against the user fee; therefore, the Board should reconsider its proposal. (18) **Tony Peacock** stated that he did not receive a protest form for either of the two parcels he owns in Pacific Grove. He contacted the District office and requested that two protest forms be mailed to him, but had not yet received them. (19) **Robin Kubicek**, resident of Pacific Grove, spoke in opposition to the protest hearing process. (20) **Julio Sierra**, resident of Carmel Valley, expressed opposition to the user fee. He contended that the user fee should be related to actual water use, not meter size. (21) **Chuck Carter** advocated for dissolution of the Board of Directors. (22) **Roy Kaminski**, resident of Carmel Valley, stated there was excess useable storage in the Carmel River Basin, and the District should seek additional water rights to utilize that water. The first step would be to determine community water needs. (23) **Kevin Stone** maintained that it was neither fair nor legal to fund a water supply project on the back of property owners. He urged the Board to consider the facts and not move forward on adoption of Ordinance No. 152, nor reconvene another meeting to do so. He offered to partner with the District and provide resources to educate the voters if a public vote were scheduled. (24) **Julie Hood**, resident of Carmel, urged the Board to open dialogue with the MPTA and other organizations to solve the problem. (25) **Scott Dick** contended that with exclusion of the Laguna Seca Subarea from payment of the user fee, the District had established two benefit zones; therefore, an election would be required for establishment of a new fee. (26) **John Narigi, Coalition of Monterey Peninsula Businesses**, offered to meet with the MPWMD to discuss amendments to Ordinance No.

152 such as: (a) addition of a sunset clause and (b) limit use of funds to specific projects. He expressed opposition to the protest hearing process. (27) **Michael Waxer**, Cañada Woods Water Company, thanked the District for providing confirmation that its customers were not served by Cal-Am and were therefore not subject to the proposed user fee. (28) **Michael Waxer**, speaking for himself, stated that the community supported the objective of the proposed user fee. He suggested that the District meet with the entities that have pledged their support and reach agreement on a plan to move forward. (29) **Kim DiBenedetto**, Past President of Monterey County Association of Realtors, submitted a protest form on behalf of the Association. She said the Government Code would allow the protest letter to be counted. (30) **George Schroeder**, questioned the integrity of the District's process for collection of the protest letters. He requested that an organization independent of the District be tasked to count the protest letters. He urged the Board to develop a 10,000 acre-foot desalination project before working on GWR and ASR. (31) **Michael Kovak** mentioned that local ratepayers would be responsible to pay the costs of the San Clemente Dam removal, in addition to a new water supply. (32) **Ron Weitzman**, President of Water Plus, congratulated MPTA and MCAR for working to collect protests. He described the District Board as arrogant. (33) **Sue McCloud** asked the parties to consider if prevailing on an issue would bring the community closer to agreement on a new water supply. If the answer was no, then it was time to compromise. (34) **Felix Bachofner**, Mayor of Seaside and Vice President of Monterey Peninsula Regional Water Authority, maintained that the District was not the only agency that could potentially fund groundwater replenishment and aquifer storage and recovery projects.

At 8:55 pm the meeting was recessed while District staff secured the protest letters that had been submitted that evening. The meeting reconvened at 9 pm.

No action. Continued to June 19, 2012.

No action. Continued to June 19, 2012.

On a motion of Director Brower and second by Director Markey, the July through September 2012 Quarterly Water Supply Strategy and Budget was adopted. All other agenda items were deferred to

5. **Consider Adoption of Resolution 2012-06 for Collection of Water Use Fee**
6. **Consider Second Reading and Adoption of Ordinance No. 153 -- Extending the Deadline for Existing Non-Residential Retrofits, Adding an Increased Rebate for Cistern Storage Capacity and Amending Definitions**
7. **Consider Adoption of July through September 2012 Quarterly Water Supply Strategy and Budget**

July 19, 2012 The motion was approved on a vote of 5 – 1. Directors Brower, Byrne, Markey, Potter and Pendergrass voted in favor of the motion. Director Lehman was opposed. Director Lewis was absent. No public comment was directed to the Board during the public hearing on this item.

No action. Continued to June 19, 2012.

No Action Items presented for Board consideration.

No action. Continued to June 19, 2012.

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No action. Continued to June 19, 2012.

No action. Continued to June 19, 2012.

No discussion. Continued to June 19, 2012.

8. Consider Adoption of Proposed FY 2012-2013 MPWMD Budget and Resolution 2012-07

ACTION ITEMS

CONSENT CALENDAR

9. Consider Approval of Minutes from March 28, 2012 Board Workshop and May 21, 2012 Regular Meeting of the Board
10. Consider Authorization to Renew Vehicle Maintenance Services Agreement with the City of Monterey for Five Years
11. Approve Implementation Plan for Rebate Program Within California American Water Service Area
12. Ratify Emergency Expenditure of Funds Approved by General Manager for Schulte Irrigation Well Repair
13. Consider Contract for Services to Update Canyon Del Rey Master Drainage Plan
14. Consider Adoption of Resolution 2012-08 Supporting MPWMD Application to California Department of Water Resources for Local Groundwater Assistance Grant Program
15. Consider Expenditure of Reimbursable Funds for Construction Support for Aquifer Storage and Recovery Project Well 4 at Seaside Middle School
16. Consider Adoption of Resolution 2012-09 Establishing Article XIII(B) Fiscal Year 2012-2013 Appropriations Limit
17. Consider Adoption of Treasurer's Report for April 2012

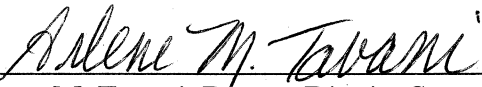
INFORMATIONAL ITEMS/STAFF REPORTS

18. Letters Received
19. Committee Reports
20. Carmel River Fishery Report for May 2012
21. Water Conservation Program Report

22. Monthly Allocation Report
23. Monthly Water Supply and California American Water Production Report

The meeting adjourned at approximately 9:05 pm, and was continued to June 19, 2012, at 4:30 pm in the District conference room.

ADJOURNMENT


Arlene M. Tavani, Deputy District Secretary

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