

ORDINANCE No. 87

**AN URGENCY ORDINANCE OF
THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
ESTABLISHING A COMMUNITY BENEFIT ALLOCATION
FOR THE PLANNED EXPANSION OF THE
COMMUNITY HOSPITAL OF THE MONTEREY PENINSULA**

FINDINGS

1. On January 21, 1997, the City of Monterey granted various land use approvals to Community Hospital of the Monterey Peninsula ("CHOMP"), including a rezoning and a Planned Community Plan ("CHOMP Master Plan") for the modernization of hospital facilities at CHOMP. The CHOMP Master Plan will be implemented in two phases. The first phase involves modernization of the hospital's cancer treatment facilities and the relocation of these facilities into new and remodelled space on the north side of the existing Hospital. This will allow the replacement of existing equipment with state-of-the-art equipment and technology which requires additional space. The second phase involves the upgrading and relocation of the hospital's intensive/coronary care unit, relocation of the inpatient surgery rooms, relocation of the emergency department, and relocation of certain support facilities. The CHOMP Master Plan also includes design features, including improved backup utility systems and relocation of computer systems, which will provide for increased levels of emergency self-sufficiency and support which will enhance the ability of CHOMP to continue providing acute care services during a major disaster.
2. Implementation of the CHOMP Master Plan will result in an increase in water use of approximately 3.41 acre feet ("AF") for phase one and approximately 14.87 AF for phase two, for a combined total of approximately 18.28 AF. CHOMP and the City of Monterey have requested that the District create a special community reserve water allocation from the District for the implementation of the CHOMP Master Plan.
3. CHOMP, a non-profit public benefit corporation, is the sole provider of acute care hospital services on the Monterey Peninsula and provides important medical care services to the community and to residents of the Monterey Peninsula Water Management District ("District"). The implementation of the CHOMP Master Plan is essential to upgrade CHOMP facilities in a manner consistent with current technology and hospital standards, to improve the level of regional medical services available in the coming years, to meet the changing health care demands of the community, to enhance the efficiency of hospital operations, and to provide for additional beds in the hospital's intensive care/critical care unit. Compliance of the new facilities with current hospital construction codes and standards, including seismic standards, will enhance the ability of CHOMP to withstand earthquake damage from a major seismic event.

4. In addition to review by the City of Monterey, the CHOMP Master Plan is required to undergo review by two state agencies. Pursuant to state law applicable to construction of acute health care facilities, CHOMP has made an application to the Office of Statewide Health Planning and Development ("OSHDP"). The plans for the implementation of phase one of the CHOMP Master Plan have undergone their first review by OSHDP. In addition, the California Coastal Commission must approve issuance of a Coastal Development Permit ("CDP") before implementation of the CHOMP Master Plan can begin. Under the provisions of the California Coastal Act and the regulations promulgated thereunder, the Coastal Commission may require assurances of a water allocation before it will accept an application for a CDP. CHOMP is in the process of preparing the application for the CDP for submission to the Coastal Commission. OSHDP will not grant final approval for any phase of the CHOMP Master Plan until the availability of a water allocation is assured and may withhold approval until the Coastal Commission has issued a CDP. Because of the lengthy procedures required under state law to obtain the necessary approvals for improvements to hospital facilities such as those included in the CHOMP Master Plan, any delays in the process will postpone and possibly prevent the needed hospital improvements.
5. Timing of the phasing of the implementation of the CHOMP Master Plan is critical and must be carefully planned and carried out to avoid the interruption of daily hospital operations. Implementation of the first phase of the CHOMP Master Plan is scheduled to begin in the summer of 1997. Site preparation and foundation work for phase one must be completed in the summer to avoid problems and further delays which may occur if such work is delayed into the rainy season. In order for work to begin in the summer of 1997, CHOMP must commence the bid solicitation procedure and begin entering into construction contracts in the near future. CHOMP requires certainty of the availability of a water allocation before it begins the bid solicitation process and before further processing of the necessary permits and approvals can occur.
6. The timely implementation of the CHOMP Master Plan will provide a substantial public benefit to the community and is necessary for the protection of the public health and safety of the residents of the District. Delays in the implementation of the CHOMP Master Plan will result in the wasteful use of community health care resources by imposing additional costs on CHOMP, will postpone or prevent the modernization of hospital facilities, will postpone or prevent improvements in the level of health care service provided in the community, and will adversely affect the public health and safety of the residents of the District.
7. If this special community reserve allocation for the benefit of CHOMP is delayed, further approvals required for implementation of the CHOMP Master Plan will not occur in a timely manner and implementation of the CHOMP Master Plan would be seriously

jeopardized. Critical upgrading of hospital facilities and the resulting improvements in the level of medical care that would be available to the community in the future may never occur or may be delayed indefinitely. This would result in a substantial harm to the public health, safety and welfare. In addition, other important public benefits of the CHOMP Master Plan related to traffic circulation, habitat restoration, and open space preservation, will be lost.

8. The foregoing circumstances constitute a public urgency and an immediate allocation of water for the implementation of the CHOMP Master Plan is necessary to ensure timely implementation of the CHOMP Master Plan, to prevent the wasteful use of community health care resources, to preserve the public health, safety, and welfare, and to prevent the loss to the residents of the District of a substantial community benefit.
9. The District's enabling act gives the District the powers which are expressly granted by the act as well as such implied powers as are necessary and proper to carry out the objects and purposes of the District. The enabling act also grants additional powers to the District, including but not limited to the following powers:
 - a. to do any and every lawful act necessary in order that sufficient water may be available for any present and future beneficial use or uses of the residents of the District;
 - b. to establish rules and regulations to protect the public health in the operation of the works of the District;
 - c. to conserve and utilize water for any purpose useful to the District.
10. The District Board has established a goal of conserving 15 percent of the water demand projected for the year 2020. This translates to a long-term conservation goal of approximately 3,900 AF based on the 2020 water demand of 26,000 AF projected at the time the goal was established, though actual 2020 demand is now anticipated to be less than 26,000 AF. Since this goal was adopted, the District has conserved approximately one-half of the long term conservation goal, or approximately 1,800 AF ("Conservation Savings"). The amount of water necessary to meet the needs of the hospital project (18.25 AF) represents one percent of the Conservation Savings.
11. The purpose of the conservation goal is to conserve the District's water resources for implementation of measures to protect the public health, safety, and welfare. An allocation to CHOMP for implementation of its CHOMP Master Plan from the Conservation Savings is consistent with this purpose in that the allocation will permit the

timely implementation of the CHOMP Master Plan for the benefit of, and to protect, the health, safety and welfare of the residents of the District.

12. As part of its voluntary water conservation program, CHOMP has implemented or is considering implementation of measures to lower water use at CHOMP. CHOMP is seeking water credits from the District for these past and future retrofit and water conservation measures. These measures include an upgrade of the pumping and filtration system on the hospital's Koi pond, an upgrade in the hospital's walk-in cooler refrigeration system, and a cooling tower retrofit. These projects are expected to result in significant water savings. These measures may enable CHOMP to offset much of the water allocated to CHOMP by this special community reserve, but the achievement of these near-term conservation savings at the hospital is not certain or guaranteed.
13. CHOMP is also implementing a program to retrofit all bathroom and rest room fixtures, including toilets, showerheads and faucets, which will result in significant water savings. CHOMP will not be eligible for water credits for this program under current District regulations. This program is anticipated to be completed in 1998. While the amount of water to be saved is not subject to precise calculation at this time, water consumption of the new fixtures will be substantially less than that of existing fixtures. For example, toilets installed under this program will use approximately 54 percent less per flush than existing toilets. Under this program, there will be further substantial reductions in water use compared to existing water use at CHOMP, which will contribute to augmenting the conservation savings.
14. The special community benefit allocation approved by this ordinance will result in water use in the District which will not exceed the limits in water use determined by the District to be available without significantly depleting groundwater resources.
15. In acting on CHOMP's request for a special community reserve allocation, the District is acting in a very limited capacity. The District does not have land use approval jurisdiction with respect to the implementation of the CHOMP Master Plan. The land use approvals have been adopted by the City of Monterey, the jurisdiction with primary land use approval authority with respect to the CHOMP Master Plan. The District is vested with the authority to make an allocation from the Conservation Savings to ensure realization of the public benefit and protection of the public health, safety and welfare to be provided by implementation of the CHOMP Master Plan. As discussed in the following findings, the special community reserve allocation created by this ordinance will ensure the availability of water for modernization, replacement and reconstruction of existing CHOMP facilities where the new and renovated structures will be located on the same site as the structures or portions of structures being replaced and where the new structures will have substantially the same purposes and capacities as the structures replaced. Therefore, the

District has determined that its action with respect to this Ordinance is categorically exempt from the California Environmental Quality Act ("CEQA") as a Class 2 exemption under CEQA Guidelines section 15302.

16. California Public Resources Code section 21084 contains a legislative mandate that certain classes of activities shall be exempt from CEQA because they have been determined not to have a significant effect on the environment. Section 21984 requires the Secretary of the Resources Agency to include in the CEQA Guidelines a list of classes of projects which have been determined not to have a significant effect on the environment and which shall therefore be exempt from CEQA. As discussed CEQA Guidelines section 15300, the Secretary for Resources has responded to the mandate contained in section 21084 by expressly finding that certain classes of projects set forth in sections 15301 et seq. of the CEQA Guidelines are categorically exempt from the requirements of CEQA.
17. Section 15302 of the CEQA guidelines sets forth a Class 2 categorical exemption for projects which involve replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. Section 15302 includes as examples of Class 2 projects those involving replacement or reconstruction of existing schools and hospitals to provide earthquake resistant structures which do not increase capacity more than 50 percent and the replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity.
18. The CHOMP Master Plan will result in modernization, improvement, relocation, replacement and reconstruction of existing CHOMP facilities and services in new and existing structures on the CHOMP site and will result in facilities and structures with substantially the same purposes as existing CHOMP facilities. The replacement facilities will continue to provide the same health care services currently being provided by CHOMP, including cancer, heart, stroke, and emergency patient care, as well as support operations. However, the new facilities will be upgraded over existing facilities to meet the spatial demands of current health care technology and equipment and to meet current hospital construction codes and standards (including current seismic standards). The new facilities will also include improved backup utility systems which will enhance the ability of CHOMP to be self sufficient and to continue operation in a major emergency affecting public utilities. In addition, the existing hospital departments, facilities and services will be relocated and reconfigured to improve and enhance the efficiency of hospital operations and the delivery of the patient care. The cancer treatment facilities will be relocated to new and remodeled structures on the CHOMP site currently occupied by other hospital functions, including the Cardiopulmonary-Wellness Program, Payroll and Employee Health. The intensive care/coronary care unit, inpatient surgical suite and emergency department will be relocated from their current locations to the replacement structure

(South Pavilion) to be built during implementation of phase two of the CHOMP Master Plan. Diagnostic Radiology services will be consolidated from three separate locations to a single location in the space to be vacated by inpatient surgery, emergency and the intensive/coronary care unit. Existing parking spaces lost due to construction of the South Pavilion will be replaced by new parking capacity in the South Pavilion. Existing hospital functions will continue under the implemented CHOMP Master Plan without significantly increasing the number of patients to be served.

19. After implementation of the CHOMP Master Plan, the hospital will have substantially the same capacity as the existing hospital. Implementation of the CHOMP Master Plan will increase the hospital's current capacity of 174 beds by no more than 10 beds. These additional beds will result from the relocated intensive care/coronary care unit, which will contain a maximum of 10 beds more than the existing intensive care/coronary care unit. No other additional beds will result from implementation of the CHOMP Master Plan. There will be no increase in the number of surgery rooms in the relocated inpatient surgical suite. The relocated cancer treatment center will be larger to accommodate new equipment, but will still contain the same number of linear accelerators for treatment as the existing cancer facilities and will therefore not result in a substantial increase in patient capacity. The existing emergency department is undersized for efficient and comfortable accommodation of current patient flows. The relocated emergency department will be larger to allow it to better accommodate patient flow. This will improve the ability of CHOMP to serve emergency patients more comfortably, though a substantial increase in the number of patients to be served is not anticipated. This increase and the increase in beds in the intensive care/coronary care unit are the only increase in patient capacity which will result from implementation of the CHOMP Master Plan and are insignificant in comparison to existing patient flows at CHOMP. Under full implementation of the CHOMP Master Plan, an increase in staff of approximately 20 positions over existing staffing levels is anticipated, an increase of less than two percent. Implementation of the CHOMP Master Plan will result in an increase in total square footage of only 17,070 square feet for phase one and 74,360 square feet for phase two as compared to the total square footage of the existing hospital of 300,398 square feet. Only 51,000 square feet of the new space under the CHOMP Master Plan will constitute new clinical function space. Because the current medical technologies, techniques, and standards which the CHOMP Master Plan is designed to meet require greater floor area per patient than exist in the hospital's older construction, the increase in square footage does not correspond directly to an anticipated increase in capacity. For example, the area of each replacement operating room in the new surgery unit is required to be more than twice that of existing operating rooms. In addition, the replacement intensive care/coronary care unit will provide 650 square feet for each patient bed compared to 450 square feet per bed in the existing intensive care/coronary care unit.

20. As set forth in the previous findings, the improvements which this special allocation will serve involve the replacement and reconstruction of existing hospital facilities located on the same site as the facilities being replaced and the new facilities will have substantially the same purpose and capacity as the facilities being replaced. For these reasons, the District explicitly finds that approval of the special community reserve allocation for the benefit of CHOMP is exempt from CEQA as a Class 2 categorical exemption.
21. The District Board was presented with analysis and discussion of the allocation from the District's Conservation Savings. This analysis and discussion is contained in the Staff Report on this Ordinance. The District Board has reviewed and considered the information contained in the Staff Report and has concluded that this information is adequate for use by the District in considering this Ordinance.
22. The information and analysis contained in the Staff Report and the record supports the applicability of the Class 2 categorical exemption in accordance with CEQA and CEQA Guidelines.
23. Under Rule 22 of the District's meeting rules, adoption of this urgency ordinance requires the affirmative votes of five members of the Board. Rule 22 also requires the Board to review this urgency ordinance no later than one year from its effective date and to determine whether the ordinance should remain in effect without change, be amended, or be repealed. For the purpose of this ordinance, Rule 22 has been suspended and does not apply.
24. Creation of the special community reserve allocation of 18.28 AF for the benefit of CHOMP shall cause the annual production limit for the Cal-Am water system to be 17,640.81 AF per year (equivalent to metered sales of 16,405.95 AF per year). The non-Cal-Am production limit from the Monterey Peninsula Water Resource System shall remain unchanged at 3,045.71 AF per year.

NOW THEREFORE be it ordained as follows:

URGENCY ORDINANCE

Section One: Statement of Purpose

This ordinance shall create a special community reserve water allocation for the benefit of Community Hospital of the Monterey Peninsula ("CHOMP").

Section Two: Special Community Reserve Water Allocation

A special community reserve allocation of 18.28 acre-feet ("AF") of water shall be created exclusively for the benefit of CHOMP. This allocation shall be debited from the amount of water conserved to date under the District's Conservation Plan.

Section Three: Conservation Requirements

The creation of this special community reserve allocation for the benefit of CHOMP shall not be deemed to relieve CHOMP of any obligation to implement water conservation measures which it may have under any requirement of law. In addition, CHOMP shall take all reasonable steps necessary to investigate the feasibility and cost effectiveness of its planned walk-in refrigeration unit and cooling tower retrofit programs, and, if feasible and cost effective, to implement these measures to further reduce water use at CHOMP. Any reductions achieved by the implementation of either or both of these measures shall not be deemed to occur by reason of a District mandated or sponsored program for purposes of Rule 25.5(A)(1) of the District's Rules and Regulations.

Section Four: Annual Production and Sales Limit

Cal-Am's annual production limit shall be 17,640.81 AF. Of this, 16,405.95 AF shall be available for annual water sales to customers within the Cal-Am system due to system losses and unmetered consumption.

Section Five: Effective Date

This ordinance shall take effect at 12:01 a.m. on February 28, 1997, as an urgency ordinance necessary for the immediate preservation of the public peace, health and safety.

Section Six: Sunset Provision and Review Requirement

No later than one year from its effective date, the District Board shall review this Ordinance and shall determine whether the ordinance should remain in effect without change, be amended, or be repealed.

Section Seven: Definitions

The definitions of the terms used in this ordinance shall be those set forth in the District's Rules and Regulations. The term "District Reserve" in Rule 11 of the District's Rules and Regulations, and as that term is used elsewhere in the District's Rules and Regulations, shall mean the special community reserve allocation created by this ordinance.

Section Eight: Publication and Application

This Ordinance shall be read in conjunction with and compliment those provisions of the District's Rules and Regulations; provided however, that the provisions enacted by this measure shall take precedence and supersede any contradictory provisions of those rules. Section titles and captions are provided for convenience and shall not be construed to limit the application of the text.

Section Nine: Severability

If any subdivision, paragraph, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not effect the validity or enforcement of the remaining portions of this Ordinance, or of any other provision of the Monterey Peninsula Water Management District Rules and Regulations. It is the District's express intent that each remaining portion would have been adopted irrespective of the fact that one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

On motion of Director Haddad, and seconded by Director Burkleo, the foregoing ordinance is adopted as an urgency ordinance this 27th day of February, 1997, by the following vote:

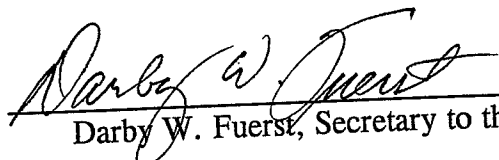
AYES: Directors Burkleo, Haddad, Pendergrass and Hughes

NAYS: Directors Ely and Ernst

ABSENT: Director Potter

I, Darby W. Fuerst, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing as a full, true and correct copy of an ordinance duly adopted this 27th day of February, 1997.

Witness my hand and seal of the Board of Directors this 27th day of March, 1997.


Darby W. Fuerst, Secretary to the Board

DRAFT

**AN URGENCY ORDINANCE OF
THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
ESTABLISHING A COMMUNITY BENEFIT ALLOCATION
FOR THE PLANNED EXPANSION OF THE
COMMUNITY HOSPITAL OF THE MONTEREY PENINSULA**

FINDINGS

1. On January 21, 1997, the City of Monterey granted various land use approvals to Community Hospital of the Monterey Peninsula ("CHOMP"), including a rezoning and a Planned Community Plan ("CHOMP Master Plan") for the modernization of hospital facilities at CHOMP. The CHOMP Master Plan will be implemented in two phases. The first phase involves modernization of the hospital's cancer treatment facilities and the relocation of these facilities into new and remodelled space on the north side of the existing Hospital. This will allow the replacement of existing equipment with state-of-the-art equipment and technology which requires additional space. The second phase involves the upgrading and relocation of the hospital's intensive/coronary care unit, relocation of the inpatient surgery rooms, relocation of the emergency department, and relocation of certain support facilities. The CHOMP Master Plan also includes design features, including improved backup utility systems and relocation of computer systems, which will provide for increased levels of emergency self-sufficiency and support which will enhance the ability of CHOMP to continue providing acute care services during a major disaster.
2. Implementation of the CHOMP Master Plan will result in an increase in water use of approximately 3.41 acre feet ("AF") for phase one and approximately 14.87 AF for phase two, for a combined total of approximately 18.28 AF. CHOMP and the City of Monterey have requested that the District create a special community reserve water allocation from the District for the implementation of the CHOMP Master Plan.
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4. In addition to review by the City of Monterey, the CHOMP Master Plan is required to undergo review by two state agencies. Pursuant to state law applicable to construction of acute health care facilities, CHOMP has made an application to the Office of Statewide Health Planning and Development ("OSHPD"). The plans for the implementation of phase one of the CHOMP Master Plan have undergone their first review by OSHPD. In addition, the California Coastal Commission must approve issuance of a Coastal Development Permit ("CDP") before implementation of the CHOMP Master Plan can begin. Under the provisions of the California Coastal Act and the regulations promulgated thereunder, the Coastal Commission may require assurances of a water allocation before it will accept an application for a CDP. CHOMP is in the process of preparing the application for the CDP for submission to the Coastal Commission. OSHPD will not grant final approval for any phase of the CHOMP Master Plan until the availability of a water allocation is assured and may withhold approval until the Coastal Commission has issued a CDP. Because of the lengthy procedures required under state law to obtain the necessary approvals for improvements to hospital facilities such as those included in the CHOMP Master Plan, any delays in the process will postpone and possibly prevent the needed hospital improvements.
5. Timing of the phasing of the implementation of the CHOMP Master Plan is critical and must be carefully planned and carried out to avoid the interruption of daily hospital operations. Implementation of the first phase of the CHOMP Master Plan is scheduled to begin in the summer of 1997. Site preparation and foundation work for phase one must be completed in the summer to avoid problems and further delays which may occur if such work is delayed into the rainy season. In order for work to begin in the summer of 1997, CHOMP must commence the bid solicitation procedure and begin entering into construction contracts in the near future. CHOMP requires certainty of the availability of a water allocation before it begins the bid solicitation process and before further processing of the necessary permits and approvals can occur.
6. The timely implementation of the CHOMP Master Plan will provide a substantial public benefit to the community and is necessary for the protection of the public health and safety of the residents of the District. Delays in the implementation of the CHOMP Master Plan will result in the wasteful use of community health care resources by imposing additional costs on CHOMP, will postpone or prevent the modernization of hospital facilities, will postpone or prevent improvements in the level of health care service provided in the community, and will adversely affect the public health and safety of the residents of the District.
7. If this special community reserve allocation for the benefit of CHOMP is delayed, further approvals required for implementation of the CHOMP Master Plan will not occur in a timely manner and implementation of the CHOMP Master Plan would be seriously jeopardized. Critical upgrading of hospital facilities and the resulting improvements in the level of medical care that would be available to the community in the future may never occur or may be delayed indefinitely. This would result in a substantial harm to the public health, safety and welfare. In addition, other important public benefits of the CHOMP

Master Plan related to traffic circulation, habitat restoration, and open space preservation, will be lost.

8. The foregoing circumstances constitute a public urgency and an immediate allocation of water for the implementation of the CHOMP Master Plan is necessary to ensure timely implementation of the CHOMP Master Plan, to prevent the wasteful use of community health care resources, to preserve the public health, safety, and welfare, and to prevent the loss to the residents of the District of a substantial community benefit.
9. The District's enabling act gives the District the powers which are expressly granted by the act as well as such implied powers as are necessary and proper to carry out the objects and purposes of the District. The enabling act also grants additional powers to the District, including but not limited to the following powers:
 - a. to do any and every lawful act necessary in order that sufficient water may be available for any present and future beneficial use or uses of the residents of the District;
 - b. to establish rules and regulations to protect the public health in the operation of the works of the District;
 - c. to conserve and utilize water for any purpose useful to the District.
10. The District Board has established a goal of conserving 15 percent of the water demand projected for the year 2020. This translates to a long-term conservation goal of approximately 3,900 AF based on the 2020 water demand of 26,000 AF projected at the time the goal was established, though actual 2020 demand is now anticipated to be less than 26,000 AF. Since this goal was adopted, the District has conserved approximately one-half of the long term conservation goal, or approximately 1,800 AF ("Conservation Savings"). The amount of water necessary to meet the needs of the hospital project (18.25 AF) represents one percent of the Conservation Savings.
11. The purpose of the conservation goal is to conserve the District's water resources for implementation of measures to protect the public health, safety, and welfare. An allocation to CHOMP for implementation of its CHOMP Master Plan from the Conservation Savings is consistent with this purpose in that the allocation will permit the timely implementation of the CHOMP Master Plan for the benefit of, and to protect, the health, safety and welfare of the residents of the District.
12. As part of its voluntary water conservation program, CHOMP has implemented or is considering implementation of measures to lower water use at CHOMP. CHOMP is seeking water credits from the District for these past and future retrofit and water conservation measures. These measures include an upgrade of the pumping and filtration system on the hospital's Koi pond, an upgrade in the hospital's walk-in cooler refrigeration system, and a cooling tower retrofit. These projects are expected to result in significant

water savings. These measures may enable CHOMP to offset much of the water allocated to CHOMP by this special community reserve, but the achievement of these near-term conservation savings at the hospital is not certain or guaranteed.

13. CHOMP is also implementing a program to retrofit all bathroom and rest room fixtures, including toilets, showerheads and faucets, which will result in significant water savings. CHOMP will not be eligible for water credits for this program under current District regulations. This program is anticipated to be completed in 1998. While the amount of water to be saved is not subject to precise calculation at this time, water consumption of the new fixtures will be substantially less than that of existing fixtures. For example, toilets installed under this program will use approximately 54 percent less per flush than existing toilets. Under this program, there will be further substantial reductions in water use compared to existing water use at CHOMP, which will contribute to augmenting the conservation savings.
14. The special community benefit allocation approved by this ordinance will result in water use in the District which will not exceed the limits in water use determined by the District to be available without significantly depleting groundwater resources.
15. In acting on CHOMP's request for a special community reserve allocation, the District is acting in a very limited capacity. The District does not have land use approval jurisdiction with respect to the implementation of the CHOMP Master Plan. The land use approvals have been adopted by the City of Monterey, the jurisdiction with primary land use approval authority with respect to the CHOMP Master Plan. The District is vested with the authority to make an allocation from the Conservation Savings to ensure realization of the public benefit and protection of the public health, safety and welfare to be provided by implementation of the CHOMP Master Plan. As discussed in the following findings, the special community reserve allocation created by this ordinance will ensure the availability of water for modernization, replacement and reconstruction of existing CHOMP facilities where the new and renovated structures will be located on the same site as the structures or portions of structures being replaced and where the new structures will have substantially the same purposes and capacities as the structures replaced. Therefore, the District has determined that its action with respect to this Ordinance is categorically exempt from the California Environmental Quality Act ("CEQA") as a Class 2 exemption under CEQA Guidelines section 15302.
16. California Public Resources Code section 21084 contains a legislative mandate that certain classes of activities shall be exempt from CEQA because they have been determined not to have a significant effect on the environment. Section 21984 requires the Secretary of the Resources Agency to include in the CEQA Guidelines a list of classes of projects which have been determined not to have a significant effect on the environment and which shall therefore be exempt from CEQA. As discussed CEQA Guidelines section 15300, the Secretary for Resources has responded to the mandate contained in section 21084 by expressly finding that certain classes of projects set forth in sections 15301 et seq. of the CEQA Guidelines are categorically exempt from the requirements of CEQA.

17. Section 15302 of the CEQA guidelines sets forth a Class 2 categorical exemption for projects which involve replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. Section 15302 includes as examples of Class 2 projects those involving replacement or reconstruction of existing schools and hospitals to provide earthquake resistant structures which do not increase capacity more than 50 percent and the replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity.
18. The CHOMP Master Plan will result in modernization, improvement, relocation, replacement and reconstruction of existing CHOMP facilities and services in new and existing structures on the CHOMP site and will result in facilities and structures with substantially the same purposes as existing CHOMP facilities. The replacement facilities will continue to provide the same health care services currently being provided by CHOMP, including cancer, heart, stroke, and emergency patient care, as well as support operations. However, the new facilities will be upgraded over existing facilities to meet the spatial demands of current health care technology and equipment and to meet current hospital construction codes and standards (including current seismic standards). The new facilities will also include improved backup utility systems which will enhance the ability of CHOMP to be self sufficient and to continue operation in a major emergency affecting public utilities. In addition, the existing hospital departments, facilities and services will be relocated and reconfigured to improve and enhance the efficiency of hospital operations and the delivery of the patient care. The cancer treatment facilities will be relocated to new and remodeled structures on the CHOMP site currently occupied by other hospital functions, including the Cardiopulmonary-Wellness Program, Payroll and Employee Health. The intensive care/coronary care unit, inpatient surgical suite and emergency department will be relocated from their current locations to the replacement structure (South Pavilion) to be built during implementation of phase two of the CHOMP Master Plan. Diagnostic Radiology services will be consolidated from three separate locations to a single location in the space to be vacated by inpatient surgery, emergency and the intensive/coronary care unit. Existing parking spaces lost due to construction of the South Pavilion will be replaced by new parking capacity in the South Pavilion. Existing hospital functions will continue under the implemented CHOMP Master Plan without significantly increasing the number of patients to be served.
19. After implementation of the CHOMP Master Plan, the hospital will have substantially the same capacity as the existing hospital. Implementation of the CHOMP Master Plan will increase the hospital's current capacity of 174 beds by no more than 10 beds. These additional beds will result from the relocated intensive care/coronary care unit, which will contain a maximum of 10 beds more than the existing intensive care/coronary care unit. No other additional beds will result from implementation of the CHOMP Master Plan. There will be no increase in the number of surgery rooms in the relocated inpatient surgical suite. The relocated cancer treatment center will be larger to accommodate new equipment, but will still contain the same number of linear accelerators for treatment as the existing cancer facilities and will therefore not result in a substantial increase in patient

capacity. The existing emergency department is undersized for efficient and comfortable accommodation of current patient flows. The relocated emergency department will be larger to allow it to better accommodate patient flow. This will improve the ability of CHOMP to serve emergency patients more comfortably, though a substantial increase in the number of patients to be served is not anticipated. This increase and the increase in beds in the intensive care/coronary care unit are the only increase in patient capacity which will result from implementation of the CHOMP Master Plan and are insignificant in comparison to existing patient flows at CHOMP. Under full implementation of the CHOMP Master Plan, an increase in staff of approximately 20 positions over existing staffing levels is anticipated, an increase of less than two percent. Implementation of the CHOMP Master Plan will result in an increase in total square footage of only 17,070 square feet for phase one and 74,360 square feet for phase two as compared to the total square footage of the existing hospital of 300,398 square feet. Only 51,000 square feet of the new space under the CHOMP Master Plan will constitute new clinical function space. Because the current medical technologies, techniques, and standards which the CHOMP Master Plan is designed to meet require greater floor area per patient than exist in the hospital's older construction, the increase in square footage does not correspond directly to an anticipated increase in capacity. For example, the area of each replacement operating room in the new surgery unit is required to be more than twice that of existing operating rooms. In addition, the replacement intensive care/coronary care unit will provide 650 square feet for each patient bed compared to 450 square feet per bed in the existing intensive care/coronary care unit.

20. As set forth in the previous findings, the improvements which this special allocation will serve involve the replacement and reconstruction of existing hospital facilities located on the same site as the facilities being replaced and the new facilities will have substantially the same purpose and capacity as the facilities being replaced. For these reasons, the District explicitly finds that approval of the special community reserve allocation for the benefit of CHOMP is exempt from CEQA as a Class 2 categorical exemption.
21. The District Board was presented with analysis and discussion of the allocation from the District's Conservation Savings. This analysis and discussion is contained in the Staff Report on this Ordinance. The District Board has reviewed and considered the information contained in the Staff Report and has concluded that this information is adequate for use by the District in considering this Ordinance.
22. The information and analysis contained in the Staff Report and the record supports the applicability of the Class 2 categorical exemption in accordance with CEQA and CEQA Guidelines.
23. Under Rule 22 of the District's meeting rules, adoption of this urgency ordinance requires the affirmative votes of five members of the Board. Rule 22 also requires the Board to review this urgency ordinance no later than one year from its effective date and to determine whether the ordinance should remain in effect without change, be amended, or be repealed.

24. Creation of the special community reserve allocation of 18.28 AF for the benefit of CHOMP shall cause the annual production limit for the Cal-Am water system to be 17,640.81 AF per year (equivalent to metered sales of 16,405.95 AF per year). The non-Cal-Am production limit from the Monterey Peninsula Water Resource System shall remain unchanged at 3,045.71 AF per year.

NOW THEREFORE be it ordained as follows:

URGENCY ORDINANCE

Section One: Statement of Purpose

This ordinance shall create a special community reserve water allocation for the benefit of Community Hospital of the Monterey Peninsula ("CHOMP").

Section Two: Special Community Reserve Water Allocation

A special community reserve allocation of 18.28 acre-feet ("AF") of water shall be created exclusively for the benefit of CHOMP. This allocation shall be debited from the amount of water conserved to date under the District's Conservation Plan.

Section Three: Conservation Requirements

The creation of this special community reserve allocation for the benefit of CHOMP shall not be deemed to relieve CHOMP of any obligation to implement water conservation measures which it may have under any requirement of law. In addition, CHOMP shall take all reasonable steps necessary to investigate the feasibility and cost effectiveness of its planned walk-in refrigeration unit and cooling tower retrofit programs, and, if feasible and cost effective, to implement these measures to further reduce water use at CHOMP. Any reductions achieved by the implementation of either or both of these measures shall not be deemed to occur by reason of a District mandated or sponsored program for purposes of Rule 25.5(A)(1) of the District's Rules and Regulations.

Section Four: Annual Production and Sales Limit

Cal-Am's annual production limit shall be 17,640.81 AF. Of this, 16,405.95 AF shall be available for annual water sales to customers within the Cal-Am system due to system losses and unmetered consumption.

Section Five: Effective Date

This ordinance shall take effect at 12:01 a.m. on February 28, 1997, as an urgency ordinance necessary for the immediate preservation of the public peace, health and safety.

DRAFT

Section Six: Sunset Provision and Review Requirement

No later than one year from its effective date, the District Board shall review this Ordinance and shall determine whether the ordinance should remain in effect without change, be amended, or be repealed.

Section Seven: Definitions

The definitions of the terms used in this ordinance shall be those set forth in the District's Rules and Regulations. The term "District Reserve" in Rule 11 of the District's Rules and Regulations, and as that term is used elsewhere in the District's Rules and Regulations, shall mean the special community reserve allocation created by this ordinance.

Section Eight: Publication and Application

This Ordinance shall be read in conjunction with and compliment those provisions of the District's Rules and Regulations; provided however, that the provisions enacted by this measure shall take precedence and supersede any contradictory provisions of those rules. Section titles and captions are provided for convenience and shall not be construed to limit the application of the text.

Section Nine: Severability

If any subdivision, paragraph, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not effect the validity or enforcement of the remaining portions of this Ordinance, or of any other provision of the Monterey Peninsula Water Management District Rules and Regulations. It is the District's express intent that each remaining portion would have been adopted irrespective of the fact that one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

On motion of Director _____, and seconded by Director _____, the foregoing ordinance is adopted as an urgency ordinance this _____ day of _____, 1997, by the following vote:

AYES:**NAYS:****ABSENT:**

DRAFT

I, Darby W. Fuerst, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing as a full, true and correct copy of an ordinance duly adopted this _____ day of _____, 1997.

Witness my hand and seal of the Board of Directors this _____ day of _____, 1997.

DRAFT

Darby W. Fuerst, Secretary to the Board

FEB 26 1997

M.P.W.M.D.

Community Hospital of the Monterey Peninsula

February 25, 1997

Richard Ely, Chairperson, and Members
Board of Directors
Monterey Peninsula Water Management District
P.O. Box 85
Monterey, CA 93942

Re: Urgency Ordinance

Dear Mr. Ely:

On February 27, 1997, the Board of the Monterey Peninsula Water Management District will consider adoption of an ordinance creating a special community reserve allocation for the benefit of Community Hospital of the Monterey Peninsula. This allocation will allow Community Hospital to implement the Hospital's Master Plan which was recently approved by the Monterey City Council. The importance of the prompt enactment of this measure to Community Hospital and the people of the Monterey Peninsula cannot be overstated.

As you know, health care has been and will continue to be a rapidly evolving field. The move toward managed health care, new developments in medical technologies, and changing demands for health care services are just some of the trends which are challenging hospitals and other medical care providers in planning for the future. The Master Plan represents Community Hospital's response to these trends and constitutes the Hospital's plan for meeting the health care needs of the community in the next century. The Master Plan will allow Community Hospital to modernize certain facilities built over 30 years ago. New and upgraded facilities will meet contemporary hospital construction standards, including earthquake standards. These improvements will also provide improved design and additional space to accommodate current technologies and treatment modalities. At the same time, the Master Plan anticipates future developments and provides the Hospital with the flexibility to meet future needs.

Richard Ely
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It is important to stress that the Master Plan will not result in a significant increase in the Hospital's capacity. Under the Master Plan, existing services and facilities will be reconfigured and relocated within existing and new structures to meet current patient and equipment space requirements and to achieve enhanced efficiency in hospital operations. In addition, the Master Plan will result in better backup utility systems and in the relocation of computer systems which will provide for greater levels of emergency self-sufficiency and support and which will enhance the ability of Community Hospital to continue operations in the event of a major disaster.

The new structures included in the Master Plan are not designed to provide substantial increases in patient capacity, but are included to maximize design opportunities of the site and to allow the improvements under the Master Plan to proceed without significant interruptions in patient care. Experience shows that attempting to make modifications in hospital departments while those departments care for patients results in higher construction and operating costs and compromises optimal design. For this reason, existing hospital departments, including cancer treatment, intensive/coronary care and emergency, will continue as long as practicable in their current locations while new hospital space is constructed and existing space is renovated. When the improvements are completed, department operations will resume in their new locations with minimal disruption in the delivery of patient services.

Illustrative of the minor impact of the Master Plan on hospital capacity is the fact that the Hospital's current 174 bed capacity will be increased by a maximum of only 10 beds. The changes in the emergency department will enable the hospital to more comfortably and efficiently handle existing emergency patient flows without significantly increasing patient capacity. Our best estimate is that staffing levels will not increase more than 20 positions with implementation of the Master Plan, which amounts to an increase over current staffing levels of approximately 2 percent. This is indicative of the fact that the increase in floor area of the Hospital does not correlate directly to an increase in patient capacity. Rather, increases in floor area are required to meet new hospital construction codes and standards and to accommodate new equipment and technologies. Thus, the implementation of the Master Plan is to be viewed as upgrading and modernizing the existing Hospital to meet current standards and to better enable the Hospital to meet the future health care needs of the community.

Richard Ely
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The timing of the steps in the approval process and of the implementation of the various phases of the Master Plan is very important. Community Hospital has submitted an application to the Office of Statewide Health Planning and Development (OSHPD), the state agency with review and permitting authority over hospital improvements. OSHPD has performed its initial plan review of improvements related to the Cancer Center, the first phase under the Master Plan. Final approval by OSHPD must await approval of the Master Plan by the California Coastal Commission. Community Hospital is prepared to submit an application to the Coastal Commission, but it is our understanding that under applicable law and regulations the Coastal Commission may not accept an application and, alternatively, may not issue the necessary permit without assurances of the availability of utility services to the project. Consequently, an immediate assurance of a water allocation for the Hospital is necessary to move the permitting process forward.

In order to commence site preparation and foundation work for the Cancer Center in summer of 1997 as scheduled and to minimize the potential for weather-related delays in the fall of 1997, it is important that the approval process move forward as expeditiously as possible and that the Hospital initiate the bid solicitation process and enter into construction contracts soon. Delays in the approval process will very likely result in additional costs to Community Hospital and an expenditure of resources which are better used to enhance the level of health care in the community. Without an immediate assurance of the availability of water, the Hospital's ability to fully implement the Master Plan would be uncertain. This is particularly true in light of Measure A, the pending initiative measure which, if approved by the voters, could prevent any allocation of water for implementation of the Master Plan and thereby prevent its implementation altogether.

Community Hospital recognizes the importance of water conservation and has implemented various voluntary water conservation programs including the recent retrofit of the pumping and filtration system for the Hospital's Koi Pond. Community Hospital staff is currently working with Water Management District staff to explore further opportunities for water savings at the Hospital and will continue these water conservation efforts in the future. Any water savings realized from the conservation measures currently being discussed by Community Hospital and District staff would offset to some degree any increase in use which may result from implementation of the Master Plan.

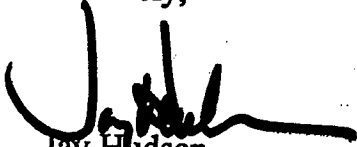
We believe that our goal of offering the highest quality of health care facilities and services at a reasonable cost is consistent with the goal of conserving and protecting the

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Page 4

water resources of the Monterey Peninsula. Your support of the proposed ordinance creating the special community reserve allocation for the benefit of Community Hospital is essential to allow us to continue our pursuit of these important objectives.

Community Hospital appreciates the Board's consideration of this important issue. Please do not hesitate to contact me with any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Hudson", with a stylized flourish extending to the right.

Jay Hudson
President / CEO

INITIATIVE ORDINANCE

of the

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

ESTABLISHING CERTAIN POLICIES, PROCEDURES, AND PRIORITIES FOR THE ORDERLY PRODUCTION OF AN ADEQUATE AND PERMANENT SUPPLY OF WATER AND THE EQUITABLE DISTRIBUTION THEREOF

WHEREAS, the people of the Monterey Peninsula Water Management District do hereby find and determine as follows:

1. The Monterey Peninsula Water Management District (District) has a limited water supply that is periodically subject to severe droughts resulting in rationing, and must not be wasted through unreasonable use; and
2. This precious resource is essential to protecting the unique life qualities, environment, and scenic values of the Monterey Peninsula; and
3. The State Water Resources Control Board (SWRCB) has recently ruled that a District water producer is illegally diverting water from the Carmel River basin; and
4. Lack of a legal, adequate and reliable water supply to meet the needs of the Monterey Peninsula remains a major issue that must be resolved; and

IN ORDER TO CONSERVE and foster the scenic values, environmental quality, native vegetation, fish and wildlife, and recreation on the Monterey Peninsula and in the Carmel River basin, and to prevent waste or unreasonable use of water supplies;

NOW, THEREFORE, the people of the Monterey Peninsula Water Management District do hereby ordain as follows:

1. Water shortage declared. A water shortage exists and will continue until and unless the following conditions are met: (a) illegal water diversions from the Carmel River Basin are eliminated; (b) a reliable water supply is guaranteed for the current District water users of record and; (c) adequate drought protection, as defined below, is assured. Therefore, as empowered and authorized by State Water Code, the District Board of Directors (Board) shall restrict water allocations as directed herein and as otherwise necessary to eliminate such shortage.
 - A. Adequate drought protection defined. For purposes of this ordinance, the District's drought protection goal, documented on page 45 of its report titled "1994-95 Annual Report for the Five-Year Mitigation Program," dated March 11, 1996, shall apply. Any change to this drought protection standard shall require approval by a majority vote of the public or by the unanimous approval of all voting members of the District Board taken after widely advertised public hearings.
2. Future distribution of District water regulated. No unallocated water known to exist as of February 29, 1996, nor any water made available in the future for allocation within the District, shall be allocated, committed or otherwise distributed until and unless the necessary conditions for ending the water shortage, specified in Section One above, are met.
3. Approval of service area expansions restricted. Until and unless the conditions specified in Section One, above, are fully met, the District Board shall not approve any annexation to within the purview of the District that would expand the present Cal-Am service area.
4. Water husbandry to be encouraged. The District Board shall aggressively promote and support efforts in the areas of water conservation, water reuse and reclamation; detection and elimination of leaks and other sources of water waste, and water fixture retrofitting. Restoration and protection of the Carmel River basin and adjoining areas shall continue.
5. Scope and funding of new water projects. Any evaluation of a new water supply project shall include all related ancillary costs including, but not limited to, costs of studies, infrastructure requirements, mitigation of adverse environmental impacts, and increases in community services. Such evaluations shall include a clear assessment of potential funding liabilities such as taxes, surcharges, and user-fees.

As a general policy, the District Board should, at the earliest practical opportunity, obtain the support of the electorate for any new water supply project. To this end, the board should seek voter approval before proceeding with any additional expenditure of public funds on a specific project before the costs related to such project exceed one-million dollars (\$1,000,000).
6. Transfers of permits. The District Board shall not approve transfer of permits or other authorizations related to the New Los Padres Dam project, obtained by the District as permittee, to any agency, company, individual, or other entity without voter approval.
7. Communications. The District shall advise Cal-Am, SWRCB, the state Public Utilities Commission, and all other cognizant agencies that all future water supply improvement projects, water allocations, and other related activities within the District boundaries shall be consistent with the policies and procedures specified herein.
8. Severability. If any provision, word, sentence, phrase, paragraph, part or section of this ordinance, or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this ordinance to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this ordinance are severable.

distribution system were upgraded. Capital improvements would include installation of a larger pipeline, increasing capacity at the Carmel Valley Filter Plant and construction of injection wells in Seaside Basin. Capital improvements to Cal-Am's system of \$1.4 million would enable delivery of 1,300 AF of Carmel River water into the Seaside aquifer in a year of average rainfall, in a wet year that number would increase to 2,500 AF. For capital improvement costs of \$2.5 million, water deliveries in a normal year would be 1,810 AF and in a wet year could reach 3,390 AF. For capital improvement costs of \$5 million, normal year water deliveries could be 2,430 AF and wet year deliveries could reach 4,530 AF. The capital cost estimates do not include improvements Cal-Am would make to the system without the injection/recovery project. The consultant concluded that the injection/recovery process looked "very promising" with an increased long-term basin yield of 1,500 AF or more, depending on capital improvements. No fatal flaws were identified in the study, but more study should be done to refine injection efficiency rates, and constraints and operational parameters associated with the Cal-Am distribution system. Several issues should be resolved including: regulatory issues regarding diversions from the Carmel River; utilization of Cal-Am facilities; location, ownership and operation of new facilities and economic issues.

Action taken on the following items is recorded in sequence as they appeared on the agenda, not in the order that they were considered by the Board.

Withdrawn by Director Haddad. A motion by Director Haddad and seconded by Director Burkleo to (a) adopt the Findings for the Urgency Ordinance and CEQA exemption, (b) adopt Urgency Ordinance No. 87 creating a special community reserve allocation of 18.28 AF for Community Hospital of the Monterey Peninsula; and (c) direct staff to file a Notice of Exemption with the appropriate agencies pursuant to CEQA.

Approved. A motion by Director Haddad and seconded by Director Burkleo to suspend MPWMD Meeting Rule No. 22, which requires that an urgency ordinance be adopted by five affirmative votes on a roll-call tally (two-thirds of the seven member

VI. PUBLIC HEARINGS

- A. Consider Approval of Ordinance No. 87 -- An Urgency Ordinance Establishing a Community Benefit Allocation for the Planned Expansion of the Community Hospital of the Monterey Peninsula

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VI. PUBLIC HEARINGS

- A. Consider Approval of Ordinance No. 87 -- An Urgency Ordinance Establishing a

Board). Motion was approved on a vote of 5 - 1, Director Ely was opposed and Director Potter was absent.

Approved. A motion by Director Haddad and seconded by Director Burkleo to: (a) adopt the Findings for the Urgency Ordinance and CEQA exemption with the following change, page 12 of the Board packet, Finding No. 23, add the following sentence at the end of the paragraph "For the purpose of this ordinance, Rule 22 has been suspended and does not apply"; (b) adopt Urgency Ordinance No. 87 creating a special community reserve allocation of 18.28 AF for Community Hospital of the Monterey Peninsula; and (c) direct staff to file a Notice of Exemption with the appropriate agencies pursuant to CEQA. Motion was approved on a vote of 4 - 2, Directors Ely and Ernst were opposed and Director Potter was absent.

The following comments were presented to the Board during the public hearing on this item. (1) **Dan Albert, Mayor of the City of Monterey**, read a letter from Sam Karas expressing support for adoption of Urgency Ordinance No. 87. He stated that allocating 18 acre-feet to Community Hospital of the Monterey Peninsula (CHOMP) for cancer treatment facilities would be a service to the entire community. The water should be allocated, so that the hospital would not be left in a bad position should Measure A be approved. (2) **Dan Albert, Mayor of the City of Monterey**, stated that water for improvements at CHOMP should come from a community reserve because the hospital serves the Monterey Peninsula region and the Monterey Peninsula Water Management District, not only the City of Monterey where it is located. In the past, the city councils within the Water Management District and the Monterey Peninsula Airport District Board supported creation of an allocation for improvements at CHOMP. He stated that the project met the District's proposed criteria to qualify for water from a community benefit allocation. (3) **Janice O'Brien**, representing the Protect Our Water Resources (POWR) Yes on Measure A Committee, urged the Board to take action to establish a community benefit reserve allocation in lieu of adopting Urgency Ordinance No. 87. She proposed the establishment of a community benefit resource based on a pro-rata assessment on all jurisdictions within the District. Ms. O'Brien reasoned that the reestablishment of a

Community Benefit Allocation for the Planned Expansion of the Community Hospital of the Monterey Peninsula

VI. PUBLIC HEARINGS

- A. Consider Approval of Ordinance No. 87 -- An Urgency Ordinance Establishing a Community Benefit Allocation for the Planned Expansion of the Community Hospital of the Monterey Peninsula

VI. PUBLIC HEARINGS

- A. Consider Approval of Ordinance No. 87 -- An Urgency Ordinance Establishing a Community Benefit Allocation for the Planned Expansion of the Community Hospital of the Monterey Peninsula

community benefit allocation would satisfy the requirement of CHOMP, and provide surplus water for future emergencies. Since there is no immediate need for the water, there would be ample time to develop a timetable for jurisdictions to comply with the requirement to contribute their portion of water to the community benefit allocation. This proposal would channel water from new demand to savings and would affirm the Board's commitment to responsible water management. She requested that the Board give serious consideration to an alternate approach to development of a community reserve allocation. (4) **Bob Davis**, Mayor Pro Tem of the City of Pacific Grove and Chair of the Pacific Grove Joint Planning Commission/City Council Water Issues Committee, spoke on behalf of Sandra Koffman, Mayor of the City of Pacific Grove. He expressed Mayor Koffman's strong support for the allocation of water to CHOMP because it is a regional facility that serves all persons within the District and it should not be allowed to fall behind in the area of medical technology. Mr. Davis explained that, though the Pacific Grove City Council had not discussed Urgency Ordinance No. 87, they had supported Ordinance No. 84 that required each jurisdiction to contribute water from a potential allocation for the creation of an allocation for CHOMP. The City of Pacific Grove had used all of its allocation from the Paralta Well and was allocating water recovered through retrofitting a golf course. He argued that there was a compelling need to approve the allocation because of time constraints and permit approvals needed prior to construction. Mr. Davis stated that Mayor Koffman joined him in urging the Board to allocate the full amount requested by CHOMP from the reserve, although the entire 18.28 acre-feet might not be used by the hospital. (5) **David Dilworth**, representing Responsible Consumers of Monterey, asked why the allocation was to be taken from the entire District and not the City of Monterey? He described the situation as "the emergency has no clothes." He questioned the need for an emergency ordinance and alleged that politics and improper actions appeared to be involved with the allocation proposal. Mr. Dilworth stated that the District did not have water to allocate to the hospital, and that there was ample water available in the City of Monterey's allocation to provide water for the expansion of CHOMP. Jay Hudson, Executive Director for CHOMP, had said that the Coastal Commission would not approve the expansion unless

VI. PUBLIC HEARINGS

- A. **Consider Approval of Ordinance No. 87 -- An Urgency Ordinance Establishing a Community Benefit Allocation for the Planned Expansion of the Community Hospital of the Monterey Peninsula**

all utilities were obtained. Mr. Dilworth referred to a letter from the California Coastal Commission stating that previous correspondence from that agency to the District should not be construed as an indication that "an allocation from the District is the only way of meeting this requirement." Mr. Dilworth proposed that by allocating water to CHOMP, the District would make 18 acre-feet from the City of Monterey's allocation available for further development. He stated that Pacific Grove and the other cities should contribute towards a community benefit allocation for CHOMP. (6) **Kenneth Long**, resident of Pebble Beach and former member of the MPWMD Board of Directors, urged the Board to unanimously adopt Urgency Ordinance No. 87. He stated that the project would provide a regional benefit and that sooner or later all residents of the District might require services at CHOMP. He reminded the listeners that the City of Monterey received no tax revenues from the hospital, though all public safety services were provided by the City to CHOMP. (7) **Walter Keintzel**, resident of Monterey, learned through reading the EIR on the CHOMP project that the new cancer facility represented 21 percent of the entire clinic space expansion. He proposed that water for the clinic could come from retrofitting the koi pond, since it might provide 24 percent of the water needed for the entire expansion project. In addition, 1.3 acre-feet of water could be available from the demolition of the old California Department of Forestry fire station. Water for Phase II of the project could come from retrofit of the hospital's walk-in cooler. He concluded that there was no urgency situation and that if the ordinance were not approved, there was no danger of an impending health crisis. Mr. Keintzel expressed regret at CHOMP's decision to make this an issue in a political campaign. (8) **Gary Tate**, speaking as an individual, stated that all present at the meeting supported the CHOMP expansion and the only question was how to obtain water for the project. He accused the Board of making an irresponsible decision in 1995 when the community benefit reserve was dissolved. Mr. Tate described Urgency Ordinance No. 87 as impressive, and suggested that it should include a description of Ordinance No. 73 which dissolved the community reserve in 1995. He requested that the Board quantify the amount of water that would be saved through the retrofit of toilets at CHOMP. Mr. Tate suggested that water for CHOMP and other regional projects could be

obtained through reestablishment of the community reserve allocation of 34.7 acre-feet that was dissolved in 1995. (9) **Patricia Bernardi**, representing the Carmel Valley Property Owners Association (CVPOA), read a letter from the Association Chairperson, George Boehlert, expressing concern about the validity of the requirement for allocation of the full 18 acre-feet for the CHOMP expansion.

The CVPOA proposed that if the 18 acre-feet were allocated, Urgency Ordinance No. 87 should require that any and all water-related devices at the hospital be retrofitted, and that any part of the allocation that is not used by CHOMP be returned to the District.

Ms. Bernardi stated that the letter was written in advance of the Board meeting, and that many of the concerns expressed in the letter were addressed in the ordinance. (10) **Patricia Bernardi**, speaking as a private citizen, urged the Board to require the

jurisdictions to return to the District the 34 acre-feet of water they received in 1995 when the community reserve allocation was dissolved. (11) **Michael**

Waxer stated that it was difficult to sit in the audience and hear how some concepts, no matter how benevolent, could be viewed as conspiratorial.

According to Mr. Waxer, items prepared by staff for Board review are assumed to be technically accurate.

It is the Board's responsibility to infuse common sense into the process. He expressed confidence in the Board to use common sense when making a decision on this issue. (12) **Bill Wojtkowski**,

Community Development Director for the City of Monterey, thanked the staff for creating Urgency Ordinance No. 87, and expressed support for the requirement that CHOMP conserve water where possible. He explained that if the City of Monterey were to allocate 18 acre-feet of water to CHOMP, the result would be a building moratorium in the city.

By establishing the allocation for CHOMP, the District was allowing the project to proceed in a timely manner without causing a moratorium in the City of Monterey brought on by construction of a project that would provide no tax revenue to the city.

(13) **Bob McKenzie**, Coordinator of the Water Not Politics No on Measure A Committee, was disappointed that the proponents of Measure A did not express unequivocal support for CHOMP. He thanked Gary Tate for expressing support for CHOMP. He complemented staff on the structure of the ordinance. Mr. McKenzie announced that health services were important to the entire District and that the No on Measure A Committee supported approval

of Urgency Ordinance No. 87 without qualification or reservation. (14) James Bijari, stated that his wife had survived two bouts of cancer. He urged the Board to support Urgency Ordinance No. 87.

Approved unanimously. Motion by Director Burkleo and second by Director Hughes to adopt the amended MPWMD Budget for Fiscal Year 1996-97. Motion was approved on a vote of 6 - 0, Director Potter was absent.

No public comment was presented to the Board during the public hearing on this item.

The meeting was recessed at 9:50 PM and reconvened at 10 PM.

Approved unanimously. Motion by Director Pendergrass and second by Director Haddad to accept the policy statement. Motion approved on a vote of 6 - 0, Director Potter was absent.

The Board provided the following recommendations to staff on development of a conceptual ordinance establishing a District reserve for review at the April 21, 1997 Board meeting. (1) Delete reference to "non denominational projects"; (2) do not require jurisdictions to pay-back water they received when the previous community reserve allocation was abolished; (3) set the District reserve allocation at not less than 31.72 acre-feet, which is 50 acre-feet minus the 18.28 acre-feet allocated to CHOMP; (4) the portion of the 18.28 acre-feet not used by the hospital will remain in the District reserve; and (5) if the entire 50 acre-feet is not used, the remainder will be allocated to conservation savings, not allocated to the jurisdictions.

The following comments were presented to the Board during the public hearing on this item. (1) Lynn Levin, read a letter submitted by Lorita Fisher, president of the League of Women Voters of the Monterey Peninsula, expressing support for establishment of a community reserve water allocation. She described the proposal as a responsible approach to the expansion of water resources. (2) Gary Tate expressed support for the general policy proposed, and recommended creation of a 34.7 acre-foot community reserve allocation consisting of the 18.2 acre-feet allocated to CHOMP

VI. PUBLIC HEARINGS

- B. Consider Adoption of Amended MPWMD Budget for Fiscal Year 1996-97

VII. ACTION ITEMS

- A. Consider Approval of a Policy Statement Prohibiting the Future Allocation of Water Previously Set Aside for Drought Reserve from the Paralta Well and Recommending that a District Reserve for Regional Projects Providing Community Benefit be Established

VII. ACTION ITEMS

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