



FINAL
MINUTES
Regular Meeting
Board of Directors
Monterey Peninsula Water Management District
February 21, 2019

Board Chair Evans called the meeting to order at 7:00 pm in the MPWMD conference room.

CALL TO ORDER/ROLL CALL

Directors Present:

Molly Evans – Chair, Division 3
Alvin Edwards, Vice Chair, Division 1
George Riley, Division 2
Jeanne Byrne – Division 4
Mary Adams – Monterey County Board of Supervisors Rep.

Directors Absent:

Gary D. Hoffmann, P.E. – Division 5
David Potter - Mayoral Representative

General Manager present: David J. Stoldt

District Counsel present: David Laredo

The assembly recited the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

Byrne moved and Riley seconded a motion to correct the title to agenda item 10 – remove the words “Activities in.” The motion was approved on a unanimous vote of 5 – 0 by Byrne, Riley, Adams, Evans and Edwards. Hoffmann and Potter were absent.

ADDITIONS AND CORRECTIONS TO AGENDA

The following comments were directed to the Board of Directors during Oral Communications. **(a) Mary Ann Carbone**, Mayor of the City of Sand City, submitted a letter dated February 20, 2019 that can be viewed at the District office or on the agency’s website. The letter outlined five issues of concern regarding implementation of Measure J. She requested that the General Manager provide a response. **(b) Dan Turner**, Monterey resident, proposed that California American Water’s (Cal-Am) desalination project will produce more water than is needed by the community at a high cost. He compared it to the Pure Water Monterey Project that will produce lower-cost water. He also suggested that Director Potter should resign from the Board. **(c) Paul Bruno**, Monterey resident, described the process followed to appoint Director Hoffmann to the Board as open and fair. **(d) Michael Baer**, Carmel Valley resident, stated that local business interests opposed Measure J and supported construction of a costly desalination plant because

ORAL COMMUNICATIONS

they benefit from California Public Utilities Commission (CPUC) oversight of the privately held water system. (e) **Jerry Edelen**, Del Rey Oaks resident, opined that Measure J supporter Director George Riley’s membership on the Board presented a conflict of interest. He urged the Board to not interfere with construction of the desalination project. *District Counsel Laredo stated that based on Director Riley’s past and future actions, he has no conflict of interest and there is no requirement that he recuse himself from voting.* (f) **Anna Thompson** – Carmel-by-the-Sea resident, urged the Board to approve expansion of the Pure Water Monterey project.

On a motion by Byrne and second of Adams, the Consent Calendar was approved except for item 3 that was pulled for separate consideration. The motion was approved on a vote of 5 – 0 by Byrne, Adams, Edwards, Evans and Riley. Hoffmann and Potter were absent.

Adopted.

Adopted.

Authorized the following: (a) contract with Pueblo Water Resources for \$261,445; (b) expenditure of \$15,000 for constructability review; (c) expenditure of \$20,000 for other project related expenses; and (d) a \$44,555 contingency. Motion of Riley and second of Byrne approved on a unanimous vote of 5 – 0 by Riley, Byrne, Adams, Edwards and Evans. Hoffmann and Potter were absent.

Approved expenditure of \$5,000.

A presentation narrated by Mr. Sciuto is on file at the District office and can be viewed on the agency’s website. In response to questions from the Board, Mr. Sciuto stated that if expansion of the Pure Water Monterey project were to be pursued, it would be most important to begin the environmental analysis soon. He advised that Pure Water Monterey with the expansion could produce 5,750 acre-feet of water, which is less than the 6,300 acre-feet of water that would be provided by the desalination project. He noted that source water available for expansion is secure into the future. Mr. Sciuto also announced that the Federal Bureau of Reclamation recently awarded a \$4.1 million grant for construction of the Pure Water Monterey project.

CONSENT CALENDAR

1. **Consider Adoption of Minutes of the January 23, 2019 Board Meeting**
2. **Consider Adoption of November 5, 2018 Administrative Committee Minutes**
3. **Consider Authorizing Funds for Santa Margarita ASR Expansion Engineering Services Water Supply**
4. **Consider Purchase of Internet License for Water Wise Gardening in Monterey County**

REPORT ON PURE WATER MONTEREY PROJECT FROM PAUL SCIUTO, GENERAL MANAGER MONTEREY ONE WATER

Mr. Stoldt advised that for the period ending January 31, 2019, 270 acre-feet of water had been diverted from the Carmel River for injection into the Seaside Basin, compared to 0 acre-feet for the same time period in 2018. He reported that for the period of October 1, 2018 through January 31, 2019, rainfall received was 13.4 inches or 120% of long-term average and 11 inches of rain was recorded in February. Unimpaired streamflow was at 135% of long-term average. As for Aquifer Storage and Recovery, 488 acre-feet had been injected by February 20, 2019.

No report.

Mr. Stoldt referenced information provided in the staff note. He reiterated that competitive bidding is required for construction projects; however, sole sourcing is allowed for professional services contracts.

District Counsel Laredo reported that he provided a status report on agenda items 3.A and 3.B but no reportable action was taken. Regarding item 4, he provided a status report to the Board and on a motion by Byrne and second of Adams, the Board authorized General Counsel to retain three expert consulting firms in accordance with Regular Board meeting agenda item 14, and that details be held in confidence. The motion was approved on a vote of 5 – 0 by Byrne, Adams, Edwards, Evans and Riley. Hoffmann and Potter were absent.

Chair Evans reported that on February 6, 2019, she and General Manager Stoldt attended a hearing of three State Assembly subcommittees regarding a proposed water tax that would provide funding for water systems in disadvantaged communities. They also visited the offices of

GENERAL MANAGER'S REPORT

5. **Status Report on California American Water Compliance with State Water Resources Control Board Order 2016-0016 and Seaside Groundwater Basin Adjudication Decision**
6. **Update on Development of Water Supply Projects**
7. **Review of District Contracting Requirements**

ATTORNEY'S REPORT

8. **Report on 5:30 pm Closed Session of the Board**
 3. **Conference with Legal Counsel – Existing Litigation (Gov Code 54946.9 (a))**
 - A. Application of California American Water to CPUC (No. 12-04-019) – Monterey Peninsula Water Supply Project
 - B. City of Marina and Marina Coast Water District - Petitioners v CPUC - Respondent, California American Water, ET AL - Real Parties in Interest (No. S253585)
 4. **Conference with Legal Counsel - Pending and Threatened Litigation (Gov. Code 54956.9(b)) – Two Cases**

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

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

Assembly members Rivas, Stone and Caballero to update them on District projects and discuss the proposed water tax.

On a motion by Riley and second of Byrne, the Board adopted the first reading of Ordinance No. 181 and authorized preparation of a Notice of Intent to Adopt a Negative Declaration. The motion was approved on a roll-call vote of 5 – 0 by Riley, Byrne, Adams, Edwards and Evans. Hoffmann and Potter were absent.

Michael Baer, Carmel Valley resident, addressed the Board during the public hearing on this item. He asked if responsibility for flood control would apply to the area of extended influence. *Mr. Stoldt responded that the District has no flood control obligations on the Carmel River. The District is responsible for habitat protection and erosion control.*

General Manager Stoldt reviewed information provided in the staff report. He stated that eminent domain attorneys have recommended that in order to prevail at the bench trial, it may be best to demonstrate actual savings in cost of service relatively early. One option is that rates and charges would cover all costs. Franchise fees and utility user taxes would continue to be charged on the water bill. If a determination is made that public ownership is feasible based on cost of service, other public benefits will be considered such as local control, transparency and rate making. Until the feasibility study is underway, there is no information on cost of service.

The following comments were directed to the Board during the public comment period on this item. **(a) Doug Wilhelm**, Carmel-by-the-Sea resident, recommended that feasibility be determined by developing a baseline assumption of the cost with and without a desalination plant; and also to determine a start-up date and the costs before and after that date. **(b) Michael Baer**, Carmel Valley resident, stated that local control is an important factor for determining feasibility. It will also be necessary to determine the cost of public ownership with and without the desalination plant. **(c) Rick Heuer**, President of the Monterey Peninsula Taxpayers Association, stated that public ownership must provide savings to the ratepayer on day one. He supported implementation of the enterprise model. Rates should include the cost for administration, call centers, billing, and fully funded pensions and benefits. Fees should not be added to the property tax bill. **(d) Dan Turner**, Monterey resident, disagreed with the idea that when determining feasibility, the first priority should be savings at day one. **(e) Jeff Davi**, Chair-Coalition of Peninsula Businesses, requested an emphasis on transparency and disclosure in determination of feasibility. **(f) Marlene Fisher**, Carmel resident, stated that the determination of feasibility should be based on the

PUBLIC HEARINGS

- 10. Consider Authorizing a Notice of Intent to Adopt a Mitigated Negative Declaration and the First Reading for Ordinance No. 181 Amending District Rules and Regulations to Modify the Extent of Activities in the Carmel River Riparian Corridor (Subject to review according to California Environmental Quality Act Guidelines Section 15153 – Use of an EIR from an Earlier Project)**

DISCUSSION ITEMS

- 11. Discuss Criteria for Development of the Feasibility Study on Public Ownership of the Monterey Peninsula Water System and Consider Scheduling a Future Meeting Date for Action**

bottom line on the bill, not just on rates. The comparison of costs under Cal-Am ownership versus public ownership should be based on costs at the time the changeover could occur. **(g) Anna Thompson**, Carmel resident, disagreed with the assertion that feasibility should be based on lower costs on day one. **(h) Paul Bruno**, Monterey resident, spoke in support of including the cost of the Cal-Am desalination project when determining feasibility. **(j) Melodie Chrislock**, Managing Director of Public Water Now, expressed the opinion that expansion of the Pure Water Monterey project would meet the community's water needs. Further, that project will cost less than desalination, and could result in cost savings early on as recommended by eminent domain experts. **(k) John Tilley**, Pacific Grove resident, stated that desalination should be included in the water supply solution and the cost assessed in the feasibility study. To delay construction of the desalination project in order to examine Pure Water Monterey expansion, could result in non-compliance with the cease and desist order. **(l) Susan Schiavone**, Seaside resident, spoke in support of Pure Water Monterey expansion as an alternative to the more expensive desalination project that has been delayed. The Pure Water Monterey expansion project could be included in the feasibility study. **(m) Peter Mountier**, Pacific Grove Chamber of Commerce, asked that the definition of "savings very early on" be specified. He expressed opposition to financing public ownership through property taxes. **(n) Kevan Dayton**, Government Affairs Liaison for the Monterey Peninsula Chamber of Commerce, urged the Board to publish the names of the consultants to be approved under Agenda Item 14, and to be open and public about the feasibility process. **(o) Judith Lehman**, recommended that the feasibility study analyze establishment of one rate structure for all water users. She noted that under the current rate structure, businesses pay a flat fee for water use but residents are not offered that opportunity.

On a motion by Byrne and second of Riley, agenda items 12 and 13 were deferred to the March 18, 2019 Board meeting, and item 13 would be presented as information only. The motion was approved on a unanimous vote of 5 – 0 by Byrne, Riley, Adams, Edwards and Evans. Hoffmann and Potter were absent.

Deferred to March 18, 2019 Board meeting as an informational item. See action under agenda item 12.

Byrne offered a motion that was seconded by Adams to authorize funding for District counsel's retention of experts: (1) valuation and cost of service study consultant - \$355,000; (2) investor-owned utility consultant - \$100,000; and (3) investment banker - \$30,000. The motion was approved on a unanimous vote of 5 – 0 by Byrne, Adams, Edwards, Evans and Riley. Hoffmann and Potter were absent.

12. Consider Options for Assignment of Rule 19.8 Responsibilities to Standing Committees or New Committees to be Established

13. Discuss Progress on One and Three-Year Strategic Planning Goals Adopted in 2017

ACTION ITEMS

14. Approve Authorization of Funds for District Counsel's Retention of Experts in Support of Rule 19.8 Analysis

The following persons addressed the Board during the public comment period on this items. **(a) Michael Baer** asked for an explanation as to how the action in open session was different from action taken in closed session. *General Manager Stoldt explained that in Closed Session the Board authorized the hiring of consultants subject to approval of funding under item 14 in open session.* **(b) Paul Bruno**, stated that the names of the consultants should be made public. **(c) Kevan Dayton**, Public Affairs Liaison for the Monterey Peninsula Chamber of Commerce, asked for an explanation as to why the names of the consultants were withheld. **(d) Dan Turner**, Monterey resident, opined that Cal-Am would compromise or discredit the consultants if their names were made public. **(e) Jeff Davi**, representing the Coalition of Peninsula Businesses, expressed support for the process outlined in the staff report. **(f) Mary Ann Carbone** stated that taxpayers would fund this effort; therefore, the consultants' names and scopes of work should be public information. *District Counsel explained that there is no requirement under law to conduct competitive bidding for professional services. The District anticipates future litigation. It is common practice not to reveal the names of experts that will advise our attorneys. There is a disadvantage to revealing the names of experts in advance. Under the advice of eminent domain counsel and special counsel, the Board directed that the consultants' identities not be revealed.*

There was no discussion of these items.

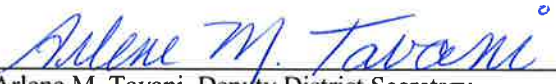
The meeting was adjourned at 9:35 pm.

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INFORMATIONAL ITEMS/STAFF REPORTS

15. Letters Received
16. Committee Reports
17. Monthly Allocation Report
18. Water Conservation Program Report
19. Carmel River Fishery Report for February 2019
20. Monthly Water Supply and California American Water Production Report

ADJOURNMENT


Arlene M. Tavani, Deputy District Secretary