



**Final Minutes
Special and Regular Meeting
Board of Directors
Monterey Peninsula Water Management District
Monday, November 14, 2022**

As a precaution to protect public health and safety, and pursuant to provisions of AB 361 (Rivas), this meeting was conducted via Zoom Video/Teleconference only.

CLOSED SESSION

Chair Paull called the meeting to order at 5:01 p.m.

CALL TO ORDER

Directors Present via Zoom:

Karen Paull, Chair – Division 4
Mary L. Adams, Vice Chair – Monterey County Board of Supervisors Representative
Alvin Edwards – Division 1
George Riley – Division 2
Safwat Malek – Division 3
Amy Anderson – Division 5
Clyde Roberson – Mayoral Representative

ROLL CALL

Directors Absent: None

General Manager Present: David J. Stoldt

District Counsel Present: David C. Laredo and Fran Farina with De Lay and Laredo

None.

ADDITIONS AND CORRECTIONS TO THE AGENDA BY DISTRICT COUNSEL

Chair Paull opened public comment. No comments were directed to the Board.

PUBLIC COMMENT ON THE CLOSED SESSION AGENDA

District Counsel Laredo read the Board into Closed Session.

CLOSED SESSION

CS 1. Conference with Legal Counsel – the board will confer with District Counsel to review two matters of pending litigation pursuant to Government Code §54956.9.:

a. Monterey Peninsula Taxpayers' Association, Inc., a California nonprofit corporation; and Richard J. Heuer, III, an

individual, Plaintiff v. Monterey Peninsula Water Management District, a California public agency; and DOES 1 through 10, Defendant. Superior Court of California, County of Monterey; Case No.: 21CV003066

b. California American Application to Execute the Water Purchase Agreement, re: Pure Water Monterey Expansion. California Public Utilities Commission Case No.: A.21-11-024

CS 2. Public Employee Performance Evaluation, (Pursuant to CA Gov Code Sec. 54957 of the Government Code) - Title: General Manager

The Board convened into Closed Session.

CONVENE TO CLOSED SESSION

Chair Paull called the meeting to order at 6:00 p.m.

CALL TO ORDER

Directors Present via Zoom:

Karen Paull, Chair – Division 4
Mary L. Adams, Vice Chair – Monterey County Board of Supervisors Representative
Alvin Edwards – Division 1
George Riley – Division 2
Safwat Malek – Division 3
Amy Anderson – Division 5
Clyde Roberson – Mayoral Representative

ROLL CALL

Directors Absent: None

General Manager Present: David J. Stoldt

District Counsel Present: David C. Laredo and Fran Farina with De Lay and Laredo

The Assembly recited the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

None.

ADDITIONS AND CORRECTIONS TO THE AGENDA

Chair Paull opened public comment.

ORAL COMMUNICATIONS

The following comments were directed to the Board:

Alan Lehman: Feels that District Rules and Regulations No. 24-A-3 (2nd Bathroom Addition) places a restriction and discourages the creation of Accessory Dwelling Units. He urged the board to consider changes to the language found in the Rule.

Written Public Comment Submitted:

Susan Schiavone dated Monday, November 14, 2022, re: Urging the Board to Oppose the California American Water Desal Project. A copy of the presentation is available at the District office and can be found on the District website.

No further comments were directed to the Board.

Chair Paull introduced the matter. Director Edwards pulled Item No. 4 from the consent calendar for separate discussion and consideration by the Board. No further requests were made by the Board and the public to pull matters off the consent calendar.

CONSENT CALENDAR

A motion was made by Director Anderson with a second by Director Roberson to approve the Consent Calendar Item No. 1 through 3 AND 5 through 7. The motion passed by roll-call vote of 7-Ayes (Adams, Roberson, Anderson, Paull, Malek, Riley and Edwards), 0-Noes and 0-Abstain.

Item No. 4

Director Edwards requested staff to provide a verbal status report and cost expenditure specifics on the project.

David J. Stoldt provided introductory remarks.

Thomas Christensen, Environmental Resources Manager mentioned that the approval of the matter will allow the District and its contractor to conduct maintenance work for the rearing channel at the District's Sleepy Hollow Steelhead Rearing Facility and described work to be done in detail.

A motion was made by Director Edwards with a second by Director Anderson to approve Item No. 4. The motion passed by roll-call vote of 7-Ayes (Adams, Roberson, Anderson, Paull, Malek, Riley and Edwards), 0-Noes and 0-Abstain.

Approved the meeting minutes of the MPWMD Board of Director's Special and Regular Board Meeting on Monday, October 17, 2022.

1. **Consider Adoption of Minutes of the Special and Regular Board Meeting on Monday, October 17, 2022**

Adopted Resolution No. 2022-32.

Adopted the July 2022 Treasurer’s Report and financial statements, and ratification of the disbursements made during the month.

Authorized the General Manager to enter into a contract with Tyman Construction for the Sleepy Hollow Steelhead Rearing Facility Rearing Channel Rehabilitation Project in an amount not-to-exceed \$643,000. Due to the unknowns associated with this work, staff is requesting approval of a contingency amount of \$96,500 (15% of the contract amount) for unforeseen circumstances and engineering consultant services for a total project cost of \$739,500.

Authorize District staff to purchase field uniforms for the Water Resources and Environmental Resources Division Field Staff at a cost not-to-exceed \$6,500.

Authorized District staff to enter into a contract for an amount not to exceed \$27,730 with Tierra Plain to build a public facing database web server for the District’s stream gage network and direct staff to make a midyear budget adjustment of \$3,730 to cover the difference between the budgeted amount and the cost of the product.

Adopted Resolution No. 2022-33.

David J. Stoldt, General Manager provided introductory remarks.

Stoldt presented a plaque to outgoing Director Malek and Mayoral Representative/Director Roberson for two years of exceptional service on the Board of Directors. The General Manager and Board Members thanked Malek and Roberson for their years of service to the board and as a public servant within the community.

Mayoral Representative/Director Roberson and Malek thanked everyone for their professionalism, friendship and wished the District well.

2. **Consider Adopting Draft Resolution No. 2022-32 Authorizing Remote Teleconferencing Meetings of All District Legislative Bodies for the Following 30 Days in Accord with the Ralph M. Brown Act and AB 361 (Rivas)**

3. **Consider Adoption of Treasurer’s Report for July 2022**

4. **Consider Approval of Funds and a Contract for the Sleepy Hollow Steelhead Rearing Facility Rearing Channel Rehabilitation Project**

5. **Consider Approving Budgeted Funds Not-to-Exceed \$6,500 to Purchase Field Uniforms for the Water Resources and Environmental Resources Division Field Staff**

6. **Consider Approving a Contract with Tierra Plan in an Amount Not-to-Exceed \$27,730 to Upgrade the MPWMD Stream Flow Data Portal to a Public Facing Database Web Server**

7. **Consider Adoption of Resolution 2022-33 Amending the Non-Residential Water Use Factor for Self-Storage Facilities**

PRESENTATION OF PLAQUE TO OUTGOING DIRECTORS: SAFWAT MALEK, DIRECTOR DIVISION 3 AND CLYDE ROBERSON, MAYORAL REPRESENTATIVE/DIRECTOR

GENERAL MANAGER’S REPORT

David J. Stoldt, General Manager presented via MS PowerPoint entitled, “Status Report on Cal-Am Compliance with SWRCB Orders and Seaside Basin Decision as of November 1, 2022” and answered board questions. *A copy of the presentation is available at the District office and can be found on the District website.*

8. Status Report on California American Water Compliance with State Water Resources Control Board Order 2016-0016 and Seaside Groundwater Basin Adjudication Decision

GM Stoldt provided an overview of the slide-deck and the following points were made on the:

1. Monterey Peninsula Water Resources System (MPWRS) for October Water Year (WY) 2023: Total targets for the system have not been actualized with one month into the WY. [Actual: 373 Acre Feet (AF); Target: 495 AF].
2. Water Projects and Rights for October Water Year 2023: Reported on PWM Recovery [Actual: 405 AF; Target: 310 AF] and Sand City Desal [Actual: 20 AF; Target: 25 AF]. Stoldt reported actuals for Sand City Desal may have been attributed to precipitation received in September 2022.
3. On Monthly Production for Customer Service for Cal-Am (Water Year 2023): Customer demand for the October 2022 is lower than what was reported on in October 2021.
4. On Monthly and Daily Recorded Rainfall at the San Clemente Rain Gage (Water Year 2023): Displayed graphs showing just a little over 2 inches of rain in October 2022.
5. Displayed graph on Estimated Unimpaired Carmel River Flow at Sleepy Hollow WEIR: (Water Year 2022). *No new substantial information to report on.*

David J. Stoldt, General Manager provided a verbal status report on the current status of the Pure Water Monterey Expansion- Amended and Restated Water Purchasing Agreement (WPA) and the CA Coastal Commission’s hearing on Thursday, November 17, 2022 regarding California American Water (CalAm) Coastal Development Permit for their Monterey Peninsula Water Supply Project (desalination). He mentioned that: (1) California Public Utilities Commission has on their consent calendar for consideration approval of the WPA; and (2) the CA Coastal Commission will have a hearing and consider approval of CalAms Coastal Development Permit at the Monterey County Government Center (Board of Supervisors’ Chambers) in Salinas, California.

9. Update on Water Supply Projects

David J. Stoldt, General Manager stated he submitted a letter to the CA Coastal Commission on Friday, November 11, 2022 expressing concern that the Staff Report/Exhibits had insufficient supply and demand data and documentation from the District and a third-party expert witness. *A copy of the letter is available at the District office and can be found on the District website.* The General Manager sought direction from the Board on District messaging to the CA Coastal Commission. After much deliberation, the Board agreed that the District should express opposition to the approval of CalAms Application No. 9.20-0603 at the Coastal Commission hearing.

10. **Receive and Discuss the California Coastal Commission’s Hearing on Thursday, November 17, 2022 on California American Water Company’s Application No. 9.20-0603**

District Counsel Laredo reported out from Closed Session on Monday, November 14, 2022 at 5:00 p.m.

REPORT FROM DISTRICT COUNSEL

11. **Report on Closed Session**

CS 1. Conference with Legal Counsel – the board will confer with District Counsel to review two matters of pending litigation pursuant to Government Code §54956.9.:

- a. Monterey Peninsula Taxpayers' Association, Inc., a California nonprofit corporation; and Richard J. Heuer, III, an individual, Plaintiff v. Monterey Peninsula Water Management District, a California public agency; and DOES 1 through 10, Defendant. Superior Court of California, County of Monterey; Case No.: 21CV003066

No reportable action.

- b. California American Application to Execute the Water Purchase Agreement, re: Pure Water Monterey Expansion. California Public Utilities Commission Case No.: A.21-11-024

No reportable action.

CS 2. Public Employee Performance Evaluation, (Pursuant to CA Gov Code Sec. 54957 of the Government Code) - Title: General Manager

The Board met and set a Special Meeting for Monday, November 28, 2022 at 5:00 p.m. for continued discussions on the matter.

District Counsel Laredo reported that there will be a hearing on the matter on December 20, 2022 before Judge Panetta at the Monterey County Superior Court.

12. **Status Report on Monterey Peninsula Taxpayers' Association, Inc., a California nonprofit corporation; and Richard J. Heuer, III, an individual, Plaintiff v. Monterey Peninsula Water Management District, a California public agency; and DOES 1 through 10, Defendant. Superior**

Court of California, County of
Monterey; Case No.: 21CV003066

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

Director Edwards: Attended the Monterey One Water (M1W) meeting on October 28, 2022 and November 14, 2022, re: Meeting on Source Water. He expressed appreciation for the General Manager's presentation before the Seaside City Council on November 3, 2022 on Water Supply and Demand.

Director Paull: Attended a Citizens for Just Water public forum entitled, "Harms to Marina: Getting the FACTS about CalAm's Desalinization Project" where presentations were made by Marina Coast Water District General Manager (GM) Rem Scherzinger, Monterey One Water GM Paul Sciuto and MPWMD GM David J. Stoldt on October 27, 2022. She commended Stoldt for his excellent presentation made at the City of Marina public library.

Director Riley: Attended the 10/27/2022 Citizens for Just Water public forum and was pleased to see the number of people in attendance at the meeting. Informed the Board that he attended a CalAm public forum.

Director Adams: Mentioned her attendance at the Region 5 ACWA Tour in October 2022 allowing her to meet and interact with members of the Board of Directors of the Monterey County Water Resources Agency and Engineers from across the State. Adams commented on her participation in panel discussions and provided an opportunity to speak at the ACWA Region 5 Conference.

Karen Paull, *Board Chair* introduced the matter and provided an overview of the staff note. Supervisor/Director Adams rescinded her request and requested for the Board to continue with the rotation schedule as set forth by the District's Meeting Rules.

By consensus, the Board agreed with continuing with the current rotation schedule.

David J. Stoldt, General Manager provided an overview of the staff note, answered Board questions and recommended board approval of the matter.

Chair Paull opened public comment; no comments were received by the Board.

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

ACTION ITEMS

14. **Consider, Discuss and Nominate a
Candidate to Board Chair and
Vice-Chair for Calendar Year 2023**
15. **Consider Approval of Amendment
No. 7 to the Cost Sharing
Agreement with Monterey One
Water for Pure Water Monterey
Expansion**

A motion was offered by Director Edwards with a second by Director Malek to approve Amendment 7 to the Cost Sharing Agreement with M1W for the Pure Water Monterey Project and execute per agreement with M1W and at the direction of the CFO and General Manager, subject to any non-substantive edits to the Agreement as a result of M1W subsequent adoption of the Amendment. The motion passed by roll-call vote of 7-Ayes (Adams, Roberson, Anderson, Paull, Malek, Riley and Edwards), 0-Noes and 0-Abstain.

Maureen Hamilton, *District Engineer* and Amon Gonzales, *Project Manager* provided an overview of the staff note, answered Board questions and recommended board approval of the matter.

Chair Paull opened public comment; no comments were directed to the Board.

A motion was offered by Director Riley with a second by Director Adams to: (a.) Authorize MPWMD to act as CEQA Lead Agency for the Los Padres Dam Outlet Modification Project, and (b.) Authorize the General Manager to enter into a reimbursement agreement with Cal Am in the amount not-to-exceed \$35,000 for the Los Padres Dam Outlet Modification Project CEQA Lead Agency work. The motion passed by roll-call vote of 5-Ayes (Adams, Roberson, Anderson, Paull and Riley), 2-Noes (Malek and Edwards) and 0-Abstain.

David J. Stoldt provided introductory remarks and reviewed the memorandum prepared by David C. Laredo, *District Counsel* with De Lay and Laredo on the Brown Act. Stoldt recommended for the Board to return to traditional Brown Act Rules. The Board heard from the General Manager and District staff on offering a hybrid model for greater public engagement to allow those members of the public to participate both remotely and in-person. The Board requested to have at least one hybrid meeting prior to February 28, 2022 when the California COVID-19 State of Emergency will end.

No further discussion was had on Informational Items.

16. **Consider Entering into a Reimbursement Agreement with California American Water and Act as Lead CEQA Agency for Los Padres Dam Outlet Modifications**

DISCUSSION ITEM

17. **Discuss Meeting Format for District Board and Committee Meetings**

INFORMATIONAL ITEMS/STAFF REPORTS

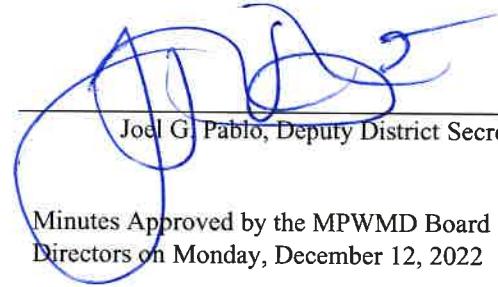
18. **Report on Activity/Progress on Contracts Over \$25,000**
19. **Status Report on Measure J / Rule 19.8 Phase II Spending**
20. **Letters Received and Sent**
21. **Committee Reports**
22. **Monthly Allocation Report**
23. **Water Conservation Report**

- 24. **Carmel River Fishery Report for October 2022**
- 25. **Monthly Water Supply and California American Water Production Report**

[Exempt from environmental review per SWRCB Order Nos. 95-10 and 2016-0016, and the Seaside Basin Groundwater Basin adjudication decision, as amended and Section 15268 of the California Environmental Quality Act (CEQA) Guidelines, as a ministerial project; Exempt from Section 15307, Actions by Regulatory Agencies for Protection of Natural Resources]

There being no further business, Chair Paull adjourned the meeting at 7:55 p.m.

ADJOURNMENT



Joel G. Pablo, Deputy District Secretary

Minutes Approved by the MPWMD Board of Directors on Monday, December 12, 2022