

MENDOCINO CITY COMMUNITY SERVICES DISTRICT
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Minutes of December 4, 2019

Special Meeting was called to order by Vice President Hauck at 7:00 p.m. at the Community Center of Mendocino, 10525 School Street, Mendocino. Present were Directors Hauck, Kerstein and Rice. Director Schwartz was absent. District Superintendent Mike Kelley and Secretary(s) Jodi Mitchell and Jeannée Christ were present.

1. Agenda
2. Call to Order
3. Comments Regarding Items not on Agenda – None
4. Public Hearing

Director Hauck opened the Public Hearing to consider Resolutions of Intention to adopt the Groundwater Extraction Permit Ordinance and the Water shortage Contingency Plan.

Resolution No. 2019-261 - A Resolution on Intention to Adopt the Groundwater Extraction Permit Ordinance

This was read by Mike Kelley.

Public Comment

A request was made by Steven Gomes for a copy of the Assembly Bill 786, and asked that it be read aloud. Superintendent Kelley responded that Water Authority was governed by California Water Code Section 10700-10717. Attorney Jackson indicated that the bill's Legislative Council's Digest had no relevancy to the proposed Resolution and AB786 was codified into the Water Code Section. Steven Gomes wanted the public to hear the Legislative Council's Digest and he read it aloud. Mr. Gomes gave his opinions on his interpretation of AB786, which he noted authorized the District to operate as a water replenishment District, subject to approval of the voters, and suggested that MCCSD should have a municipal water system.

Attorney Momsen discussed a press release and the letter MCCSD sent to registered voters, which discussed the scheduled hearing and new adoption of the Ordinance and Water Shortage Contingency Plan.

Attorney Momsen said he had sent a letter on December 3, 2019. The letter was acknowledged as received by Attorney Jackson and he said he had not had time to review the correspondence prior to the meeting. The letter, including attachments, was more than 24 pages. Attorney Jackson would respond to the letter within the next few days.

Steven Gomes claimed the Groundwater Extraction Permit Ordinance was written to protect the existing well owners and was not written to declare droughts and restrict property owners to their water rights.

Mr. Gomes said the AB786 authorized the District to operate as a water replenishment District, subject to approval of the voters, and suggested the MCCSD should have a municipal water system. The MCCSD determined in 1990 that the development of a municipal water system was not feasible for the community, since the community could not afford it, and there was no water source to be secured after many studies and public meetings.

It was argued by Mr. Gomes and others, that properties East of the Highway, with acreage, should not be subject to restrictions, unlike downtown, which they thought should be based on actual water use and not the number of rooms in a house or business. Attorney Jackson clarified that all allotments were based on the District's water use standard and the standards applied to all users within the District boundaries. Attorney Momsen said, in his opinion, there was an "open aquifer. Attorney Momsen discussed how the aquifer was not contained and if groundwater was not extracted it would

discharge over the headlands because there was no basin. Vice President Hauck said that was a point of Groundwater Management.

Jean Arnold, Jovan Jelic, and Chet Anderson supported the MCCSD's efforts to protect the community's water supply and moderate all uses according to the Water Use Standards.

Attorney Momsen claimed that the Ordinance adopted in 2007 by MCCSD added triggers to the Groundwater Extraction Permit requirements, such as sale of real property. They didn't feel there was proper notification at that time, and claimed that there was a procedural flaw in adoption of the Ordinances. New regulations contained in that Ordinance mandated all property owners to get a Groundwater Extraction Permit in 2014 during a declared drought, and that regulation was challenged. Attorney Jackson said there was public notice and a public meeting regarding the Water Shortage Contingency Ordinance. Attorney Jackson clarified that the courts upheld the legal authority to impose limits on Groundwater Extraction, however the Appellate Court thought the Ordinances should follow the procedures in Government Code Section 6066, with registered voter notification and two hearings.

Attorney Jackson confirmed that more than 50% of registered voters not property owners were needed to protest the Ordinances or Water Shortage Contingency Plan. As stated in the press release dated 11/15/19, "If more than 50% of the registered voters that reside in the District oppose the amendment to the Groundwater Extraction Permit Ordinance or adoption of the Water Shortage Contingency Plan or adoption of the Water Shortage Contingency Plan Ordinance, no further action to individually amend or re-adopt one of them is permitted for one year."

Otto Rice commented that he was basically opposed to the Ground Water Management Programs, specifically that MCCSD can enter private property to read the water meter. He did not want anyone entering his property.

Staff recommended approval of Resolution of Intention to Adopt the Groundwater Extraction Permit Ordinance.

MOTION Kerstein/Hauck To approve the Resolution of Intention 2019-261 as described in the resolution.

ROLL CALL VOTE AYES: Directors Hauck and Kerstein
 NOES: None
 ABSENT: Director Schwartz
 ABSTAIN: Director Rice

6. Resolution No. 2019-262 – A Resolution of Intention by the Mendocino City Community Services District to Adopt the Water Shortage Contingency Plan

This was read by Mike Kelley.

There were no comments nor questions.

Staff recommended approval of Resolution of Intention to Adopt Water Shortage Contingency Plan.

MOTION Kerstein/Hauck To approve the Resolution of Intention 2019-262 as described in the resolution.

ROLL CALL VOTE AYES: Directors Hauck and Kerstein
 NOES: None
 ABSENT: Director Schwartz
 ABSTAIN: Director Rice

7. Resolution No. 2019-263 – A Resolution of Intention by the Mendocino City Community Services District to Adopt the Water Shortage Contingency Plan Ordinance

This was read by Mike Kelley.

Discussion by Steven Gomes, Jean Arnold and Attorney Jackson regarding majority protest and how one protests. Steven Gomes suggested website addition with e-mail response capability; discussion followed regarding difficulty of this in determining whether someone is a registered voter and the likelihood of fraud.

MOTION Kerstein/Hauck To approve the Resolution of Intention 2019-263 as described in the resolution.

ROLL CALL VOTE AYES: Directors Hauck and Kerstein
 NOES: None
 ABSENT: Director Schwartz
 ABSTAIN: Director Rice

13. Adjourn to Closed Session

a. Personnel Matter – Pursuant to Government Code §54957

The regular meeting was resumed and the report out of closed session was that the Board discussed Personnel replacement of the retiring District Superintendent.

The meeting adjourned at 9:05 p.m.

Respectfully submitted,



Jodi Mitchell, District Secretary



Jeannée Christ, District Secretary