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City of Pacific Grove
Joint Planning Commission/City Council Water Issues Committee

June 10, 1996

TO: Mayor, City Council, City Manager
FROM: Councilmember Bob Davis, Chair, Joint Planning Commission/City Council
Water Issues Committee
SUBJECT: Policy Recommendations, Retrofit of Public Facilities

Monterey Peninsula Water Management District **Ordinance 75** [Attached] allows water saved through toilet retrofits and other permanent water saving methods at publicly owned and operated facilities to be credited to the allocation of the jurisdiction.

The City Council has directed the Water Issues Committee to recommend policies to be considered when such retrofitting is proposed for City and other public facilities. Following are the unanimous recommendations of the Committee as adopted on June 7, 1996:

- 1) The City of Pacific Grove shall maintain the water allocation categories established in Municipal Code Section 11.68--Residential, Commercial, Governmental, and Community Reserve.
- 2) The City shall strive to ensure that all water credits gained through retrofit of City facilities or other public facilities within its jurisdiction shall be retained as part of the City's water allocation.
- 3) The City of Pacific Grove shall be involved in all water fixture retrofit projects undertaken under WMD Ordinance 75 per provisions of that Ordinance.
- 4) Water credits obtained through retrofit of City or other public facilities shall be used and allocated per Chapter 11.68 of the Pacific Grove Municipal Code or other applicable City regulations.
- 5) Water credits which are created through retrofitting of city facilities or other public facilities within the City's jurisdiction shall be allocated initially to the category "Community Reserve." Following periodic analysis of demand for additional water credits in the Residential, Commercial or Governmental water allocation categories, water credits may be transferred by the City Council from the Community Reserve to one of these categories pursuant to Municipal Code Chapter 11.68. However, the City Council should strive to assure that the Community Reserve always retain no less than one acre foot of water.
- 6) The Committee recognizes that the creation of water credits through retrofit may be costly. The Committee believes that the City should recover all costs associated with these actions. Initially, the City shall begin by pursuing water credits that can be sold to the end users at a price which is equivalent to Water Management District charges. At such time this

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is no longer possible, the cost of water to those requiring it shall rise accordingly and additional City Council action will be necessary to set an appropriate price.

7) The City shall recognize and acknowledge that any ordinance and/or policy created by the Monterey Peninsula Water Management District and/or order from the State Water Resources Control Board could supersede all of the City's attempts to make water available for public benefit.

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ORDINANCE NO. 75

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT ALLOWING PUBLIC WATER CREDITS

FINDINGS

1. This ordinance shall amend the process by which the Monterey Peninsula Water Management District expands the water allocation of local jurisdictions.
2. This ordinance amends existing standards and procedures for the tracking of water credits and shall amend the Rules and Regulations of the District.
3. This ordinance shall allow both retrofit credits and other water credits to be transferred to a jurisdiction's general allocation.
4. The following District Rule shall be added by this ordinance: Rule No. 25.7, ("Public Water Credits").

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: Short Title

This ordinance shall be known as the Public Water Credit Ordinance of the Monterey Peninsula Water Management District.

Section Two: Statement of Purpose

The Monterey Peninsula Water Management District enacts this Ordinance to modify the standards for the issuance of water permits during this time of limited water supply. This Ordinance shall allow water saved through toilet retrofits and other permanent water saving methods at a publicly owned and operated facility, to credit an allocation of one or more jurisdictions.

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Section Three: Water Users Affected

A. Systems and Water Users Affected. The transfer of public water credits allowed by this Ordinance shall originate from publicly owned facilities in each of the following water distribution systems deriving their source of supply from the Monterey Peninsula Water Resource System:

- California-American (Cal-Am) Water Company, and all Cal-Am sub-units including Water West and Rancho Fiesta Mutual
- Seaside Municipal
- Bell/Vandevort
- Clark/Wells Fargo
- Fair Weather
- Old River Ranch
- Los Robles Road
- Rancho San Carlos Road
- Riverside Park
- Shulte/Jones
- - Selle
- Sleepy Hollow Mutual Potable
- any water system which derives its source of supply from one or more subunits of the Monterey Peninsula Water Resource System

Section Four: Definitions

A. Unless the context specifically indicates otherwise, the following phrases shall be given the definitions set forth below for the purpose of this Ordinance:

1. "Public Water Credit" - shall mean an amount of water saved by permanent quantified reduction in water use at a publicly owned and operated facility. Public Water Credits shall include toilet retrofits and any other means of permanently reducing water demand at a public facility.

2. "Public" - shall mean a facility owned and operated by a public agency.

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B. Unless the context specifically indicates otherwise, all words and phrases used in this Ordinance shall be given definitions as set forth in Rule 11 of the District Rules and Regulations, or as set forth in Ordinance No. 59.

Section Five: Application for Public Water Credits

The following shall be published in the District Rules and Regulations as Rule 25.7, Public Water Credits:

A. A jurisdiction shall request consideration of public water credits by making a written request to the District. The request shall identify the property, the types of water savings proposed, and a contact person. Projects may be sponsored by more than one jurisdiction.

B. District staff (1) shall verify that the water use reductions are permanent, and (2) shall quantify the amount of credit available. Credit shall be granted for reductions caused by both toilet retrofits and other credits as outlined in Rule 25.5. Fifteen-percent (15%) of the water saved will be deducted before the credit is applied to an allocation. No time limit shall be applied to the use of public water credits allowed by this Ordinance.

C. When the public water credit is less than 5 acre-feet, the jurisdiction(s) may elect to postpone accounting for the required fifteen-percent 15% reduction until the next allocation becomes available. Requests for postponement must be made in writing to the District.

D. Upon completion of the proposed retrofit and verification by District staff, the jurisdiction(s) shall be credited for the amount of water saved according to the procedure outlined in Rule 25.5. Credit may include water saved through toilet retrofits. Credits are not available for retrofits which occurred prior to the effective date of this ordinance.

E. The transfer of a public water credit to an allocation shall not affect the connection charge assessed for a water permit. Water permits for all debits to an allocation will continue to require payment of connection charges for all increases in use.

Section Six: Effective Date

This Ordinance shall be given effect at 12:01 a.m., May 17, 1995.

Section Seven: Review and Sunset Provision for this Ordinance

The standards enacted by this Ordinance to allow public water credits shall not have continuing effect, but shall have a sunset date of July 1, 1998, unless the District allocates a new supply of water, in which case this Ordinance may be rescinded by action of the District's Board of Directors.

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Section Eight: Publication and Application

The provisions of this Ordinance shall cause the republication and amendment of the permanent Rules and Regulations of the Monterey Peninsula Water Management District. 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 provision 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

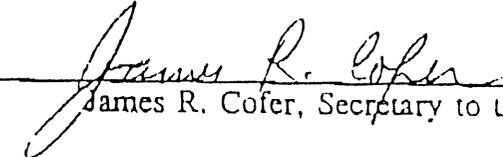
If any subdivision, paragraph, sentence, clause or phrase of this Ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforcement of the remaining portions of this Ordinance, or of any other provisions 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 Heuer, and second by Director Haddad, the foregoing Ordinance is adopted upon second reading this 17th day of April, 1995, by the following vote:

- AYES: Directors Farina, Hughes, Heuer, Pendergrass, Karas and Haddad
- NAYS: None
- ABSENT: Director Burkleo

I, James R. Cofer, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing is a full, true and correct copy of an Ordinance duly adopted this 17th day of April, 1995.

Witness my hand and seal of the Board of Directors this 24th day of April, 1995.


James R. Cofer, Secretary to the Board

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City of Pacific Grove
Joint Planning Commission/City Council Water Issues Committee

June 7, 1996

TO: Mayor, City Council, City Manager
FROM: Councilmember Bob Davis, Chair, Joint Planning Commission\City Council
Water Issues Committee
SUBJECT: Policy Recommendations, Transfer of Commercial Water Credits

Monterey Peninsula Water Management District **Rule 28** [Attached] provides that water credits may be transferred from one commercial use to another commercial use, the latter to have on file with the WMD a current and valid water permit application requesting intensification of a commercial use. A complete set of the final construction documents showing plans for accommodation of the intensified water use must be submitted to the WMD when the application for transfer of credits is turned in. Prior to WMD authorization of this type of water credit transfer, "the transfer must be approved (in writing)" by the home jurisdiction (city, county or airport district). The WMD has power of final approval. There is no mention of the sale of commercial water credits from one commercial use to another commercial use. The transfer of open space or residential water use credits is specifically prohibited.

MPWMD **Ordinance 79** [Attached], adopted September 18, 1995, modifies **Rule 28** by permitting commercial and industrial water credits to be transferred to "a jurisdiction's allocation," with the approval of the jurisdiction (city, county or airport district) and the WMD. Once transferred, "the use of credits resulting from a property-to-jurisdiction transfer[s] shall be at the discretion of the jurisdiction." Unstated is the understanding that once in a jurisdiction's allocation, water credits, at the option of the jurisdiction, may be re-transferred to residential, commercial, or governmental use. However, credits transferred to the jurisdiction's allocation may not originate from any residential or prior open space use. Again, there is no mention of the sale of water credits.

An effectively administered plan for the allocation of water resources is part of a vital City plan. Presently, there is insufficient water to serve all projected water needs in the City of Pacific Grove. For that reason, the Committee recommends that each of the water allocation categories established in Pacific Grove Municipal Code, Chapter 11.68.060, be studied to determine the appropriate allotments of water.

The City Council has directed the Water Issues Committee to recommend policies for implementation of the above referenced Water Management District Ordinances which permit the transfer of commercial water credits to a jurisdiction's allocation. Following are the recommendations of the Committee as adopted unanimously on June 7, 1996.

The Committee recognizes that there may be circumstances under which the transfer of commercial water credits to the City's allocation should be considered by the City Council.

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Some of these circumstances would be:

- A) If the water credits otherwise would be lost to the City's allocation, or
- B) If there is a clearly identified public benefit from the transfer.

In the event the City Council determines that a water transfer is appropriate, the following general principles should be considered by the City Council:

- 1) The City's projected water needs and the water presently available to it shall be a consideration in all proposed water credit transfers.
- 2) The transfer must be consistent with the City's General Plan and all current City water policies, procedures and regulations.
- 3) The future use and projected water needs of each property from which commercial water is proposed to be transferred shall be considered in any decision to permit such transfer. The City is not permitted under Water Management District Ordinance 79 to allow a property to be depleted of water, that is, to "go dry."
- 4) Any water credits acquired through commercial property to jurisdiction transfer per Ordinance 79 shall be assigned initially to the City's "Community Reserve" water category. Thereafter, the City Council may allocate such water credits to the Residential, Commercial, or Governmental categories as permitted under the Pacific Grove Municipal Code, Chapter 11.68, and other applicable City regulations.
- 5) The parties involved in negotiation for any proposed transfer of commercial water credits to the City's allocation shall be the owner of the water credits and her/his legal representative and a representative of the City and the City Attorney.
- 6) Beyond its recoupment of costs, the City should avoid contributing to the increased cost of water. The City shall use the Water Management District's combined connection costs and fees as the basis for determining a per-acre-foot price of water.

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MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT

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MONTEREY, CA 93942-0085 • (408) 649-2500
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MPWMD FACT SHEET

Commercial Transfers of Water Credits
(District Rule 28)

Water use credits for existing water use which has been allowed by the District on or after January 1, 1985, may be transferred from one property to another for commercial and industrial uses pursuant to Rule 28 of the District Rules and Regulations. Rule 28 is summarized below. *Open space and residential water use cannot be transferred.*

- * All proposed transfers must occur within the same jurisdiction. Transfers have no impact on a jurisdiction's water allocation.
- * All proposed transfers must have the same water company serving the properties.
- * Prior to authorizing a water credit transfer, the transfer must be approved (in writing) by the city, county or airport district.
- * Credits must originate from an existing commercial use and can only be transferred to another existing commercial use for purposes of intensification. Transfers cannot be applied to new water connections.
- * Prior to transfer, there must be a current and valid application for a water permit on file with the District for an intensification of use. *Credits cannot be "banked" for future use.*
- * All transfers of credit are subject to the limitations of District Rule 25.5, Water Use Credits. More specifically, all approved applications will be subject to a 15% minimum required reduction in use at the pre-transfer site. Specifically, the pre-transfer site will be required to meet the District's conservation codes prior to the transfer of credits. The only conservation requirement not currently affecting all existing businesses in the District is the requirement for ultra-low flush toilets (1.6 gallons-per-flush models).
- * The owner of the parcel from which the transfer originates must agree to the transfer. This is done by a written document that is recorded on the title of the property. The agreement confirms that the transfer is irrevocable, quantifies the remaining water use capacity on the pre-transfer site, and acknowledges that any intensification of water use on the originating site thereafter will result in additional permit fees and will be conditioned on the availability of water from the jurisdiction.

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- * Transfers may only occur with the approval of the District. The District has the sole authority to determine the amount of water which may be transferred from a site. If all prior water use is transferred from a site (due to demolition of all structures), the transfer will be completed only after the removal of the water meter (connection) and the recording of the deed restriction.
- * Transfers will not be approved by the District if the effect of the transfer causes the originating site to have insufficient water credits to meet the capacity requirements of the existing structures on the site. Sufficient water to meet the needs of the existing buildings on the originating site must remain on the property.
- * Before any water use credit transfer is processed, the appropriate processing fee must be paid. For transfers of less than one-half an acre-foot, the processing fee is \$250. For one-half to one acre-foot, the fee is \$500, and for transfers of more than one acre-foot, the fee is \$750.
- * Water needs for both sites are calculated by using Table II of Rule 24 (attached).
- * A copy of the deed restriction is available for review by contacting the District's permit office.

To begin the process:

Submit a permit application and cover letter that includes as much of the required information as possible. Include attachments (such as city approvals) as needed. Also enclose the appropriate processing fee and one complete set of the final construction documents. The approved plans will be returned.

A determination can be made earlier in the planning process, if necessary. Provide all requested information and fees except for the final plans and permit application. Although the transfer may be approved, no actual water credit transfer will occur until all documents have been received and reviewed.

..... *If you have questions, please call Stephanie Locke at 649-2500*

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ORDINANCE NO. 79

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT ALLOWING TRANSFERS OF COMMERCIAL WATER CREDITS INTO A JURISDICTION'S ALLOCATION

FINDINGS

1. This ordinance amends existing standards and procedures for the issuance of water connection permits and shall amend the Rules and Regulations of the District.
2. This ordinance modifies the transfer of water credits provision of the District's Rules and Regulations and allows a jurisdiction to transfer commercial water credits into a general water allocation.
3. The provision allowed by this ordinance is necessary due to limited new water supplies in the District. It will enable a jurisdiction to manage its local water resources more efficiently.
3. The following District Rule is amended by this ordinance: Rule 28 B (Property-to-Property Transfers of Water Use Credits for Commercial or Industrial Uses).

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: Statement of Purpose

The Monterey Peninsula Water Management District enacts this Ordinance as legal authority to modify existing standards pertaining to the transfer of commercial water credits. This ordinance shall modify the existing Rules and Regulations of the District.

Section Two: Water Distribution Systems Affected

This ordinance shall apply to each water connection (expansion / extension) permit issued by the District which is subject to an allocation system as outlined in District Ordinance No. 70. Transfers may only occur when the property from which the credit originates is within the same water distribution system as the jurisdiction's allocation.

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Section Three: Modification of Rule 28 B "Property-to-Property Transfers of Water Use Credits for Commercial or Industrial Uses"

The following provisions in bold and underscore shall be added to Rule 24 B of the District's Rules and Regulations:

Property-to-Property and Property-to-Jurisdiction Transfers of Water Use Credits for Commercial and Industrial Uses. Water use credits for existing water use which has been allowed by the District on or after January 1, 1985, may be transferred from one property to another for commercial and industrial connections pursuant to this Rule. Commercial and industrial water credits may also be transferred directly into a jurisdiction's allocation. Open space and residential water use shall not be transferred. The following conditions shall apply:

- (1) Water use credit transfers shall only occur within a single jurisdiction. No inter-jurisdictional transfer shall be allowed. Property-to-property transferred water credits shall not have any impact on a jurisdiction's allocation. Property-to-jurisdiction transfers shall increase a jurisdiction's available allocation.
- (2) Water use credit transfers shall only occur within a single water distribution system. No inter-system transfer shall be allowed.
- (3) Water use credit transfers shall only occur with the prior approval of the city, county or airport district.
- (4) Water use credit transfers shall only be allowed from an existing commercial or industrial use, and must be applied to the intensification of another existing commercial or industrial use or added to a jurisdiction's allocation. Other than transfers which add to a jurisdiction's allocation transfer credits shall not originate from, or be transferred to any residential use. Transfer credits shall not derive from any prior open space water use.
- (5) Property-to-property water use credit transfers shall only be used for intensification purposes. New water connections shall not be issued based upon a property-to-property transferred water use credit.
- (6) Property-to-property commercial water use credit transfers shall only enable intensification of an existing commercial or industrial water use capacity, as proposed by a current application for a water permit. Transfers shall not provide water use capacity for new commercial or industrial water meter connections. Transferred water credits shall not be "banked" for future use at any new or different site.
- (7) The use of credits resulting from a property-to-jurisdiction transfers shall be at the discretion of the jurisdiction.

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- (8) All water use credit transfers shall originate only from prior documented commercial water use capacity and shall be subject to each and every limitation on the calculation of water use credits set forth in Rule 25.5.
- (9) All transfers of water use credits shall occur only by the written (and recorded) agreement of the owner of record for each parcel from which the transfer originates. This agreement shall confirm that the transfer of water credit is irrevocable, shall quantify remaining water use capacity required by the originating parcel(s), and acknowledge that any intensification of water use capacity on the originating site thereafter shall result in additional connection charge fees. If all prior water use capacity is transferred from a site (due to demolition of all structures on that site), the recorded agreement and notice shall consent to permanent removal of the meter connection from the originating site, and acknowledge that the placement of a new meter shall be limited due to unavailability of water.
- (10) Transfer of water use credits shall only occur upon approval by the District. The District shall have sole and exclusive authority to determine the water use capacity which cannot be transferred by reason of capacity requirements for the originating site. The District shall have sole and exclusive authority to determine the water use capacity requirements for the receiving site.
- (11) Transfer of water use credits shall not be approved by District staff if the effect of the transfer shall cause the originating site to have insufficient water credit to meet the water use capacity requirements of all existing structures on the transferring property site. If all prior water use is transferred from a site (due to demolition of all structures), the transfer shall be approved only upon the removal of the meter connection from the originating site, and the recordation of the notice specified above.
- (12) The effect of any approved water credit transfer shall be the irrevocable extinction of any right or entitlement to the actual water use, water use capacity, or water credit which has been transferred from the originating (transferring) site.
- (13) Before any water use credit transfer shall occur, the transfer fee required by Rule 60 for each originating site shall be paid by the applicant.

Section Four: Publication and Application

The provisions of this ordinance shall cause the republication and amendment of the permanent Rules and Regulations of the Monterey Peninsula Water Management District. This ordinance shall be read in conjunction with and complement 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 provision of those rules. Section titles and captions are provided for convenience and shall not be construed to limit the application of the text.

