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Technical Advisory Committee Members

City of Carmel-by-the-Sea
Marnie Waffle

City of Del Rey Oaks
Dino Pick

City of Monterey
Kimberly Cole

City of Pacific Grove
Anastazia Aziz

City of Sand City
Aaron Blair

City of Seaside
Kurt Overmeyer

County of Monterey
Carl Holm

Monterey Peninsula Airport District
Dan Johanson

MPWMD Contacts:
General Manager,
David J. Stoldt

Water Demand Manager,
Stephanie Locke

Executive Assistant,
Arlene Tavani

AGENDA
Technical Advisory Committee (TAC)
Of the Monterey Peninsula Water Management District

Thursday, February 13, 2020, 8:30 am
District Conference Room, 5 Harris Court, Building G, Monterey, CA

Call to Order

Comments from Public

The public may comment on any item within the District's jurisdiction. Please limit your comments to three minutes in length.

Review of Committee Charge by Stephanie Locke

Action Items – *Public comment will be received on all Action Items. Please limit your comments to three minutes in length.*

1. Elect Committee Chair and Vice Chair
Action: The committee will receive nominations for Chair and Vice Chair and elect the officers.

Discussion Items – *Public comment will be received on all Discussion Items. Please limit your comments to three minutes in length.*

2. Discuss Near-Term Water Needs for Housing
3. Overview of District Strategies for Water for Housing

Adjourn

Staff reports regarding these agenda items will be available for public review on Friday, February 7, 2020, at the District office and agency website. After staff reports have been distributed, if additional documents are produced by the District and provided to the Committee regarding any item on the agenda, they will be made available at 5 Harris Court, Building G, Monterey, CA during normal business hours. In addition, such documents will be posted on the District website at mpwmd.net. Documents distributed at the meeting will be made available in the same matter.

Upon request, MPWMD will make a reasonable effort to provide written agenda materials in appropriate alternative formats, or disability-related modification or

accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. MPWMD will also make a reasonable effort to provide translation services upon request. Please send a description of the requested materials and preferred alternative format or auxiliary aid or service by 5 PM on Monday, February 10, 2020. Requests should be sent to the Board Secretary, MPWMD, P.O. Box 85, Monterey, CA, 93942. You may also fax your request to the Administrative Services Division at 831-644-9560, or call 831-658-5600.

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TECHNICAL ADVISORY COMMITTEE

REVIEW OF COMMITTEE CHARGE BY STEPHANIE LOCKE

Meeting Date: February 13, 2020

From: David J. Stoldt,
General Manager

Prepared By: Arlene Tavani

CEQA Compliance: This action does not constitute a project as defined by CEQA guidelines.

SUMMARY: Shown below is the charge to the Technical Advisory Committee that will be reviewed at the meeting.

CHARGE TO THE MPWMD TECHNICAL ADVISORY COMMITTEE (TAC) *Adopted by the MPWMD Board on January 24, 2008*

1. Primary Function

The Technical Advisory Committee (TAC) considers topics referred by the Board related to water use and consumption within the Monterey Peninsula Water Management District and reviews policies under development to ensure that they reflect the interests of the land use jurisdictions located within the District's boundaries. The TAC provides technical advice and recommendations to the District's Board of Directors and staff and serves as technical advisors to the Policy Advisory Committee (PAC).

2. Process

The TAC meets as needed to provide a forum for in-depth deliberation and discussion and to provide recommendations and direction to staff on issues related to water demand management and water conservation. The TAC meets the definition of a "legislative body" as defined by the Brown Act; therefore, all meetings shall be noticed and open to the public in compliance with the Brown Act.

3. Composition and Structure

- a) The TAC is comprised of a member representing each land use jurisdiction (i.e. the Monterey Peninsula Airport District, County of Monterey, and each city located within the boundaries of the MPWMD).
- b) A quorum of five (5) TAC members shall be required for an official meeting to be conducted. Action may be taken by majority vote of those TAC members present.
- c) The chair and vice chair of the committee shall be elected by the members of the TAC annually, or biennially at the first meeting conducted in the calendar year.

- d) The General Manager or other designated staff member(s) of the District shall provide support as appropriate.

4. Responsibilities of the TAC

- a) To meet as required on the call of the committee chair or a majority of committee members.
- b) To provide timely advice to the MPWMD staff and recommendations to the District Board of Directors on technical matters related to water demand management and conservation as it affects their jurisdictions.
- c) To undertake other tasks as designated by the Board.

TECHNICAL ADVISORY COMMITTEE

ITEM: ACTION ITEM

1. ELECT COMMITTEE CHAIR AND VICE CHAIR

Meeting Date: February 13, 2020

**From: David J. Stoldt,
General Manager**

Prepared By: Arlene Tavani

CEQA Compliance: This action does not constitute a project as defined by CEQA guidelines.

SUMMARY: The Technical Advisory Committee charge states that a Chair and Vice Chair shall be elected by the committee annually or biennially at the first meeting conducted in the calendar year. The TAC can determine if the newly elected Chair and Vice Chair will serve for a one-year or two-year term.

RECOMMENDATION: Elect a Chair and Vice Chair to the committee for the term of one or two years.

TECHNICAL ADVISORY COMMITTEE

DISCUSSION ITEM

2. DISCUSS NEAR-TERM WATER NEEDS FOR HOUSING

Meeting Date: February 13, 2020

From: David J. Stoldt
General Manager

Prepared By: David J. Stoldt

CEQA Compliance: Action does not constitute a project as defined by the California Environmental Quality Act Guidelines section 15378.

SUMMARY: The desalination component of the Monterey Peninsula Water Supply Project is expected to require 30 months to construct and start-up following issuance of a permit from the California Coastal Commission (CCC). On January 28, 2020 the CCC asked California American Water (Cal-Am) to withdraw its application and resubmit. Because the CCC prefers to have hearings in communities near its applicants, it could be as late as September before it hears the appeal for a Coastal Development Permit. Additionally, it is unclear whether the State Water Board will lift the Cease and Desist Order (CDO) immediately upon operations or require the project to demonstrate a year of operations first. Hence, it could be 3 or 4 years before the CDO is lifted, and there is always the specter of additional delays.

In order for local jurisdictions to meet their desire for housing starts in the interim period, the District is considering measures to make water available to the jurisdictions (see TAC agenda Item 3). What the District needs from each local jurisdiction is the following:

1. Jurisdiction assesses realistic number of units that can be permitted and built in the next 4-year period
2. Jurisdiction applies the District's factors from Table A, below, to each type of unit
3. Jurisdiction determines total water needed for housing during interim 4-year period
4. Each jurisdiction sends a letter to the District stating that if the District can make an allocation of water supply available, the jurisdiction would like XX acre-feet for use on housing during the next 4-year period; Include as an attachment the breakdown of anticipated units and water required.

We would like such letters by May 1st.

TABLE A

Water Factors for Housing

Type of Unit	Factor (Acre-Feet)
Single Family House (Urban)	0.20 AF
Single Family House (Rural)	0.30 AF
Multi-Family	0.12 AF
Accessory Dwelling Unit (ADU)	0.07 AF

Notes:

“Urban” means traditional 2 ½ to 3 bathroom home

“Rural” means unincorporated county estate with landscaping

“Multi-Family” means a mixture of 1- or 2-bathroom units combined in one or more buildings

These factors are a simple guide for estimating need. Water permits will be based on fixture unit count of actual project plans reviewed by the District.

TECHNICAL ADVISORY COMMITTEE

DISCUSSION ITEM

3. OVERVIEW OF DISTRICT STRATEGIES FOR WATER FOR HOUSING

Meeting Date: February 13, 2020

From: David J. Stoldt
General Manager

Prepared By: David J. Stoldt

CEQA Compliance: Action does not constitute a project as defined by the California Environmental Quality Act Guidelines section 15378.

SUMMARY: At its August 2019 meeting, the Board discussed actions it might take to make available water to the jurisdictions for their housing needs during the remaining years the Cease and Desist Order remains in effect, presently estimated at two to three years. Staff was instructed to bring detailed proposals to the October 1, 2019 Water Demand Committee and then to bring that Committee's recommendations to the Technical Advisory Committee (TAC).

The concepts presented at the MPWMD meetings included the following:

- Create new Allocation from accumulated conservation savings (e.g. District Ordinance 87 for CHOMP in 1997)
- Reclaim recently expired Water Use Credits
- Seek voluntary forfeiture of existing Water Use Credits
- Ease transfers between Non-Residential and Residential Water Use Credit holders
- Consider allowing financial incentives for Water Use Credit transfers
- Develop a conservation offset program
- Allow Entitlements to be designated for a general place of use, freeing up potable supply elsewhere

As a result of Ordinance 168, the District currently has nine acre-feet (AF) in the District Reserve that could be allocated at the discretion of the District Board. The concepts above would result in additional water to the District Reserve, primarily targeted to housing. Before discussing the concepts in greater detail, there are a few key policy questions that should be answered:

1. How much water is needed in the next two to three year window for housing?
2. The District should not make land use decisions, so how do we allocate water to Jurisdictions for a stated purpose, without restricting a Jurisdiction's right to make its own decisions?
3. How do we address the "bang-for-the-buck" issue of water for 100% Affordable

Housing, versus market-rate housing with a 20% or 25% affordable set-aside, versus moderate income housing, versus need for simply more housing in general?

4. If the District adopts rules to facilitate housing, the same rules may also facilitate additional Non-Residential development in some instances (as discussed in the descriptions below) – is that a desired outcome?
5. What, if any, might be the response of the State Water Resources Control Board as it relates to Condition 2 of the CDO?

DISCUSSION: Below, each proposal is discussed in greater detail and background provided.

1) Create new Allocation from accumulated conservation savings: Through District programs and Cal-Am rate structures the community has achieved approximately 3,000 AF of annual reductions in water demand since the CDO was enacted in 2009. The Board has the option to simply recognize these savings, in part, as a Public Water Credit allocable to the Jurisdictions for their use. There is precedent for this approach in District Ordinance 87 in 1997.

In this proposal, the District would convene the TAC, request statements of interest regarding the Jurisdictions' perceived water Allocation needs for the next 2 to 3 years, and an indication of how they may choose to use the water, if and when developed by the District. The District would develop findings that there is urgent need for the Allocation, the conservation savings are significant, the proposed Allocation is a minimal portion of the savings, that reallocation of the savings will not significantly deplete water resources or exceed legal limits on water production, and develop CEQA findings that support the determination.

2) Reclaim recently expired water credits: Water Use Credits documented for property owners who have made retrofits or other forms of permanent abandonment of Cal-Am water usage inure to the property, yet expire in 10 years. The District could slightly modify its Rules and Regulations to state that upon expiration the District may place the credits in the District Reserve for reallocation to the Jurisdictions within one to two years. To assist with the CEQA analysis, the District could consider permanent retirement of 15% of the credits to benefit environmental flows on the Carmel River. As an example, at the end of 2019, 13.47 AF of credit will expire from 146 different properties. In 2020, it is only 4.132 AF over 62 properties. This approach, in effect, says a homeowner or business owner did not utilize its right to use a credit for previously utilized water, so the District will do so.

3) Seek voluntary forfeiture of existing Water Use Credits: There are 5,092 documented Water Use Credits comprising 224.4 AF outstanding within the District that expire between 2020 and 2029. The average credit is just under 0.045 AF. Most will go unused. This concept envisions a mass mailing to credit holders with a request that they waive or forego their rights to the credit. The positively responding credits would be added to the District Reserve for reallocation.

4) Ease transfers between Non-Residential and Residential Water Use Credit holders: Presently District Rule 28 is relatively restrictive regarding transferring a Water Use Credit. The current rule allows:

- A transfer from one property to another for Commercial and Industrial users between each other, but not from Non-Residential users to Residential or vice versa.
- Non-Residential Water Use Credits may be transferred back into a Jurisdictional allocation (However, there was litigation that has slowed this process, see below.)
- Residential credits cannot be transferred.
- Each land use Jurisdiction shall act as the lead agency under CEQA for such transfers.
- Transfers may only occur within a single Jurisdiction.
- Transfers must have the approval of the local Jurisdiction.
- The District shall not approve any transfer where money or other valuable consideration has been given (and violation is a misdemeanor).

The District was sued twice in 2006 on Water Use Credit transfers in Seaside and Monterey (2.166 AF and 0.789 AF, respectively), and those amounts were even reduced by 15% for a set-aside for environmental flows on the Carmel River, as a mitigation. The District initially prevailed in Superior Court, but lost on appeal. Basically, the Court of Appeals found that that the California Environmental Quality Act (CEQA) findings must show that the cumulative impact of the transfer and future other transfers must not affect the environment. As a result, the District put the onus of CEQA review on the local jurisdictions.

The proposal would eliminate most of the restrictions cited above, allowing more free exchange. At this time, we may not be ready to allow a price-based transfer to happen, but it should be discussed. The District would need to modify its Rules & Regulations to take back responsibility for the CEQA findings and study the cumulative impacts, perhaps finding the likelihood of 5,092 Water Use Credit holders (at 0.045 AF per individual average credit, see above) joining together is minimal and the likely cumulative impacts have been mitigated. The District would also need to make a decision as to whether it would allow Residential and Non-Residential property-to-property transactions, property-to-Jurisdiction transactions, or instead should have all Water Use Credit transfers return back to the District Reserve.

Of note is that this approach could also facilitate commercial development through the use of transfers.

5) Consider allowing financial incentives for Water Use Credit transfers: See above. It is not staff's recommendation to pursue this proposal at this time. However, the District's Entitlement ordinances have created local markets for access to water at \$240,000 to \$250,000 per AF, hence it not a stretch to consider allowing arm's-length negotiated sale transactions of Water Use Credits.

6) Develop a conservation offset program: In 2018, the Water Demand Committee directed staff to begin to determine basic provisions of a water conservation offset program. An offset program would allow a developer of a proposed project in a Jurisdiction where an Allocation of water is

unavailable to invest in conservation savings elsewhere and use the credit created to “offset” the required water for the proposed development. At the meeting, the Committee stated its preference for a program where actual savings will occur, rather than paying into a mitigation bank to help pay for programs by the District to occur sometime in the future.

Several communities have water conservation offset policies. In fact, the District has envisioned such a program in its Rule 24. Section E of Rule 24 covers “Special Circumstances” and subsection 6.k. states what is expected of a developer if a project fails to stay under its calculated Water Use Capacity limit: *“Water use will be reviewed annually after occupancy. If actual water use exceeds the preliminary Water Use Capacity estimate during any annual review, the District will debit the Jurisdiction’s Allocation for the difference. At the end of the monitoring period, if the average annual water use exceeds the preliminary Water Use Capacity estimate, the District will determine whether the Jurisdiction shall transfer some of its Allocation to the Project, or whether the Applicant shall pay the cost of District-approved water conservation projects within the District or on the Project Site to establish Water Use Credits to offset the increased increment of water needed by the Project.”* (emphasis added) To date, the District has not formalized a process for how it would approve such projects.

It is not staff’s recommendation to pursue this proposal at this time.

7) *Allow Entitlements to be designated for a general place of use, freeing up Potable supply elsewhere:* Presently, all District approved Entitlement programs allow locally created water supplies to offset and “free-up” Cal-Am water to be used on new development. Examples include the Pebble Beach Reclamation Project, Sand City desalination, and the Pacific Grove Local Water Project, among others. This proposal would be to allow the District to separate the water entitlement from a particular Parcel within the Entitlement’s place of use and allow the District to simply designate that the purchased Entitlement is being used to meet general customer demand within the designated place of use, with no Parcel designation. The District would also declare a like amount of water is therefore “freed-up” within the Cal-Am system and could be made available to a Jurisdiction.

This approach would likely require a developer to become a buyer of an Entitlement, which may not be economically viable for Affordable Housing, but could foster market rate housing proposals and/or downtown revitalization projects.