

ORDINANCE NO. 152 OVERSIGHT PANEL

ACTION ITEM

1. CONSIDER ADOPTION OF JULY 11, 2019 AND AMENDED APRIL 1, 2019 COMMITTEE MEETING MINUTES

Meeting Date: October 10, 2019

From: David J. Stoldt
General Manager

Prepared By: Arlene Tavani

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

SUMMARY: Draft minutes of the amended April 1, 2019 committee meeting (**Exhibit 1-A**) and the July 11, 2019 committee meeting (**Exhibit 1-B**) are attached.

RECOMMENDATION: Review the minutes and adopt them by motion.

EXHIBIT

1-A Draft Amended Minutes of April 1, 2019 Committee Meeting

1-B Draft Minutes of July 11, 2019 Committee Meeting



EXHIBIT 1-A

AMENDED DRAFT MINUTES

Amendments shown in bold red text

Ordinance No. 152 Oversight Panel of the Monterey Peninsula Water Management District *April 1, 2019*

Call to Order The meeting was called to order at 3:05 pm in the conference room at the offices of the Monterey Peninsula Water Management District.

Committee members present:

Bill Bluhm
John Bottomley
Patie McCracken
Susan Schiavone
John Tilley

MPWMD Staff members present:

David J. Stoldt, General Manager
Suresh Prasad, Administrative Services Manager
Arlene Tavani, Executive Assistant

District Counsel Present:

David Laredo

Committee members absent:

Jason Campbell
Paul Bruno

Other persons present:

Karen Paull, scheduled to be appointed to the committee on April 15, 2019, attended the meeting but did not participate in the discussion.

Comments from the Public:

No comments were directed to the committee.

Action Items

1. Consider Adoption of November 15, 2018 Committee Meeting Minutes

On a motion by Bluhm and second of Tilley, the revised draft minutes were adopted with the correction to Item 5: replace "\$407,000" with "\$400,000 to \$700,000." The motion was adopted on a vote of 5 – 0 by Bluhm, Bottomley, McCracken, Schiavone and Tilley.

2. Approve Draft 2018 Oversight Panel Annual Report to the MPWMD Board of Directors

On a motion by Tilley and second of Bluhm, the committee approved submittal of the report to the Board of Directors with minor corrections. The motion was approved on a vote of 5 – 0 by Tilley, Bluhm, Bottomley, McCracken and Schiavone. **Committee members were encouraged to provide any additional corrections to the General Manager by Friday, April 5, 2019**

During the discussion of this item, Stoldt reported that a portion of the Water Supply Charge (WSC) will fund the cost to conduct the 2018 election on Measure J/Rule 19.8, and could be made available for preparation of the Feasibility Study required by voter approval of the measure. Elements of the Measure J process that must be paid by the District are not discretionary expenditures; therefore, those expenses are not constrained by the 15% limit on overhead costs for the Water Supply Charge. The District's reserve fund is at \$12 million but those reserves are also slated for other purposes including payment of the Rabobank loan and pension benefits and liabilities. Reserve funds may not be sufficient to fund all costs related to Measure J going forward. Special counsel has opined that the WSC could be used to fund legal fees associated with eminent domain proceedings and acquisition costs, if needed.

The committee members made the following comments. (a) Questioned the legality of paying for preparation of the Feasibility Study from the WSC, considering that expenditures from the WSC for overhead are limited to 15 percent. (b) Should you define feasibility before spending WSC proceeds on the Feasibility Study? (c) Based on the legal argument submitted by staff, I don't see how the water board could not use, or want to use, they have a right to use these funds to do what they want to do. (d) There is a difference between sufficiency of water supply and ownership of the water system. The WSC addresses supply and Measure J applies to ownership. This is an advisory committee and the Board should receive that message.

3. Approve 2019 Committee Meeting Schedule

On a motion by Bluhm and second of Schiavone, the 2019 meeting schedule was approved on a unanimous vote of 5 – 0 by Bluhm, Schiavone, Bottomley, McCracken and Tilley.

Discussion Items

4. Review of Revenue and Expenditures of Water Supply Charge Related to Water Supply Activities

Suresh Prasad, Administrative Services Manager, reviewed Exhibit 4-A – Water Supply Charge Receipts and responded to questions. He also reviewed Exhibit 4-B – Water Supply Charge Availability Analysis and responded to questions.

5. Discuss Performance of Reinstated District User Fee, To Date

Prasad reviewed the chart titled MPWMD User Fee Revenue Collections FY 2018-2019 and responded to questions. Stoldt advised the committee that in the coming year, staff will have two years of actual User Fee receipts in order to estimate future User Fee collections. Staff can then evaluate when sufficient fees could be available to pay the Rabobank loan and sunset all or a portion of the Water Supply Charge. However, it may not be desirable to reduce the Water Supply Charge until the financial responsibility associated with the Measure J process is fully determined.

6. Discuss Actions Related to Rule 19.8 – Development of the Feasibility Study on Public Ownership of the Monterey Peninsula Water System

Brief comments from Stoldt on this item, as it was discussed under Item 2.

Other Items

7. Water Supply Project Update

Stoldt provided an update on the status of California-American Water Company's desalination project. He noted that the next milestone to be met is that construction begin by September 30, 2019. In the event that construction of the desalination project is delayed, the District and Monterey One Water are considering funding an investigation into the expansion of the Pure Water Monterey Project.

Adjourn: The meeting was adjourned at 4:15 pm.

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EXHIBIT 1-B

DRAFT MINUTES

**Ordinance No. 152 Oversight Panel of the
Monterey Peninsula Water Management District
July 11, 2019**

Call to Order The meeting was called to order at 10 am in the conference room at the offices of the Monterey Peninsula Water Management District.

Committee members present:

John Bottomley
Paul Bruno
Jason Campbell
Birt Johnson, Jr.
Patie McCracken
Karen Paul (arrived at 10:09 am)
John Tilley

MPWMD Staff members present:

David J. Stoldt, General Manager
Arlene Tavani, Executive Assistant

District Counsel Present:

Fran Farina

Committee members absent:

Bill Bluhm
Susan Schiavone

Comments from the Public:

No comments were directed to the committee.

Action Items

1. Consider Adoption of April 1, 2019 Committee Meeting Minutes

No action taken. The committee requested that additional information be incorporated into the minutes and that they be resubmitted at the next meeting.

Discussion Items

2. Review of Revenue and Expenditures of Water Supply Charge Related to Water Supply Activities

General Manager Stoldt reviewed Exhibit 2-A – Water Supply Charge Receipts. He noted that the report did not reflect a \$1,406,903 payment received after the report had been published. The updated total was \$3,337,566. He explained that the District budgets Water Supply Charge (WSC) receipts as if they are submitted monthly, but they are actually received three times per year.

He also reviewed Exhibit 2-B – Water Supply Charge Availability Analysis. He noted that the last column in the chart showed fund balances as of March 31, 2019, which did

not reflect May and June. He also stated that this chart reflected the portion of the WSC placed in the water supply fund, and also expenditures from that fund. The District has established three cost centers: mitigation, water supply and water demand.

He explained that Cal-Am had commitments from the State for full funding of the desalination project from Clean Water and State Drinking Water revolving funds at a low interest rate of approximately 2.2%. There are questions as to whether under this plan Cal-Am will be subject to payment of the alternative minimum tax. If State revolving funds are used to finance the project, the District will likely not follow-through on issuance of ratepayer relief bonds because the borrowing costs would be higher than for State revolving fund loans. However, the District must decide if it should spend \$150,000 budgeted for up-front work to prepare for issuance of ratepayer relief bonds, or if it should hold off on the up-front work until it is known if Cal-Am will receive revolving fund loans. The concern is that if the District is not prepared for issuance of ratepayer relief bonds, and Cal-Am does not ultimately qualify for State revolving fund loans, the only alternative will be traditional corporate debt with interest that could be as high as 5%.

In response to questions from the committee, Stoldt explained that the District anticipates revenues of \$3.4 million and an additional \$2 million of property tax revenues that will also be allocated to the water supply fund for a total of \$6.7 million. Reimbursements could total \$575,000. Expenditures are estimated to be \$10,900,000 for water supply projects and \$7 million will not be reimbursed. The District spent \$8 million over two years on the Pure Water Monterey Project, but has received \$3.4 million from the WSC. Therefore, the District carefully monitors expenditures of WSC funds so that when reimbursements do flow in, they can be allocated correctly.

Stoldt explained that the District must spend \$2 million to place 3,000 acre-feet of PWM project water in reserve. The District's auditors have recommended that it be expensed as an asset because it must be set aside until it can be sold to Cal-Am for use in the case of a water shortage or breakdown at the facility.

Comments from the committee: (a) Requested to see a five-year estimate of projected expenditures from the WSC. *Stoldt stated that a five-year projection will likely be provided at the next meeting of the committee and it will illustrate how the WSC, or a portion of it, could sunset.* (b) If projects funded by the WSC have been deferred to 2019-2020, there must be unspent funds. What are they being held for? *Stoldt responded that reserves are set aside to pay off the Rabobank loan, unfunded pension liabilities and other needs. In addition there are some PWM costs that will require mediation to determine the share of cost between the District and MIW.* (c) Suggested that 50% of any WSC overage should repay the Rabobank loan. The PWM cost overruns should be paid from the WSC as they are related to water supply. The Measure J costs are not. *Stoldt confirmed that Measure J costs are allocated across all three cost centers – they are not paid exclusively from the water supply fund.*

3. **Discuss Performance of Reinstated District User Fee, To Date**

Stoldt reviewed the chart titled MPWMD User Fee Revenue Collections, and responded to questions. He stated that as water rates increase, User Fee collections also increase.

As some point, the amount of funds received will exceed the District's needs, which could prompt a temporary reduction in collection of the WSC and/or User Fee. Development of a five-year forecast of WSC and User Fee collections will help inform the District about the possibility of reducing collections, and payment of the Rabobank loan. If the User Fee were to be reduced or collection temporarily halted, there would be no requirement to conduct a Proposition 218 hearing to increase it again because 7.25% of the amount collected predates passage of Prop 218.

Comments from committee. (a) In FY 2017-18 the District collected \$5 million in User Fees, why was \$808,039 allocated to the water supply fund? *Stoldt explained that only a portion of the User Fee is allocated to the water supply fund.* (b) Suggest that the User Fee be allocated to pay off the Rabobank loan. (c) The District should consider a ramp-down of the WSC. (d) If you did not have the Measure J uncertainty, you could pay off the Rabobank loan and your pension liabilities, move forward and eliminate the user fee. (e) Recommend a ramp down of WSC collection.

Other Items

4. Water Supply Project Update

Mr. Stoldt reported that the first milestone is set for September 30, 2020, when Cal-Am must have begun construction of the desalination project. If Cal-Am prevails in its appeal before the California Coastal Commission of the Marina Coast Water District's denial of a permit, Cal-Am could proceed with work at the project site. Work could also begin if the County of Monterey issues a permit for the project. The PWM project was three months behind schedule but by October 1, 2019, the plant will be in operation.

The Feasibility Study is due to the Board on August 27, 2019; however, more time is likely to be needed which could delay delivery by one or two months. In response to a question from the committee, Stoldt stated that he believes there is a high likelihood that public ownership will be determined to be feasible. However, it must be proved to be highly feasible. If the issue passes the bench trial, the valuation goes to jury trial. If the system has a specific value today, and the jury agrees to a higher value, the savings achieved through public ownership could be minimized and public ownership could be determined as infeasible. At that point, \$1 million in legal services would have been spent and the process would be over. In order to determine feasibility, the top three criteria to be considered are governance, cost and quality of service.

Adjourn: The meeting was adjourned at 11.40 pm.