

AGENDA ITEM: \_\_\_\_\_ A-1 \_\_\_\_\_

DATE: \_\_\_\_\_ April 12, 2012 \_\_\_\_\_

ACTION: \_\_\_\_\_

**JOINT MEETING  
CITY OF MORRO BAY AND CAYUCOS SANITARY DISTRICT  
WASTEWATER TREATMENT PLANT  
(UNDER JOINT POWERS AGREEMENT)**

**MINUTES**

**CAYUCOS SANITARY DISTRICT  
BOARD OF DIRECTORS:**

Robert Enns, President  
Hal Fones, Vice-President  
Shirley Lyon, Director  
Michael Foster, Director  
Dan Chivens, Director

**CITY OF MORRO BAY CITY COUNCIL  
MEMBERS:**

William Yates, Mayor  
Noah Smukler, Vice-Mayor  
Carla Borchard, Councilmember  
George Leage, Councilmember  
Nancy Johnson, Councilmember

**MEETING DATE:**

6:00 p.m., Thursday, January 12, 2012

**HOSTED BY:**

City of Morro Bay

**MEETING PLACE:**

Multi-Purpose Room  
Community Center  
1001 Kennedy Way  
Morro Bay, CA 93442

**CALL TO ORDER AND ROLL CALL**

Mayor Yates called the meeting to order at 6:00 p.m. and asked the record to show all Council members are present. President Enns asked the record to all Cayucos Sanitary District Board members present with the exception of Director Michael Foster.

Morro Bay staff members present were Andrea Lueker, Rob Livick, Rob Schultz, Bruce Keogh, Dylan Wade and Cindy Jacinth. Also present was JPA WWTP Project Manager Dennis Delzeit.

Cayucos Staff members present were Bill Callahan and District Counsel Tim Carmel.

**PUBLIC COMMENT PERIOD**

Members of the audience wishing to address the governing bodies on Morro Bay-Cayucos Wastewater Treatment Plant (WWTP) business matters may do so at this time. By the conditions of the Brown Act, the governing bodies may not discuss issues not on the agenda, but may set items for future agendas. When recognized by the Chair, please come forward to the podium and state your name and address for the record. Comments should be limited to three minutes.

Director Michael Foster arrived at 6:05pm

Mayor Yates opened Public Comment period:

- Marla Jo Bruton, resident of Morro Bay, questioned the insurance status of the WWTP.
- Barry Branin, resident of Morro Bay, addressed the contract with MWH to build the WWTP stating it needs to be terminated and stated the lobbyist contract is inappropriate.

Mayor Yates closed Public Comment period.

Yates asked staff to respond to Ms. Bruton's inquiry. Susan Slayton, Administrative Services Director responded that the WWTP does have current insurance and is in good standing.

## **A. CONSENT CALENDAR**

### **A-1 MINUTES OF NOVEMBER 10, 2011 JPA MEETING**

Director Fones asked to correct the minutes to reflect the correct motioner and seconder regarding his motion on page 3.

**CAYUCOS MOTION:** Fones made a motion to approve the minutes as corrected. The motion was seconded by Lyon and passed unanimously (5-0)

**MORRO BAY MOTION:** Borchard made a motion to approve the minutes as corrected. The motion was seconded by Smukler and passed unanimously (5-0)

## **B. OLD BUSINESS**

### **B-1 STATUS REPORT ON UPGRADE PROJECT AS OF JANUARY 1, 2012**

#### **Recommendation: Receive the Status Report and direct staff accordingly**

Dennis Delzeit presented the status report.

Councilmember Smukler discussed with Delzeit the reactivation status of the lobbyist consultant due to the cost.

Delzeit responded that in contact with two former Coastal Commissioners, it was advised to engage the lobbyist services early due to the complexity of the project.

Director Foster questioned why the consultant contract has been started so early without the decision makers involved first. Delzeit described the presentational materials that the lobbyist would prepare and present for Coastal Commissioners and staff in order to educate the Commissioners on the WWTP project and the major issues involved.

Foster stated the staff report implies that we have already reached our conclusions and asked Delzeit to use less subjective language.

Yates discussed with Delzeit the timing for the consultant's services. Delzeit clarified he has asked Ms. McCabe to resume services effective January 1, 2012 in order to allow enough time prior to the April 12<sup>th</sup> de novo hearing date.

Mayor Yates opened Public Comment period.

- Nancy Bast, resident of Morro Bay, asked what the bill to date has been from Dennis Delzeit.
- Richard Margetson, resident of Cayucos, questioned what the status of the meeting was in November with Coastal Commission staff.
- David Nelson, resident of Morro Bay, disagreed with the statement that we are on track and doing well. He addressed the status of the lobbyist and stated the JPA board are better lobbyists and stated the high cost of a lobbyist should not be paid when the JPA members could do the same thing.
- Marla Jo Bruton, resident of Morro Bay, addressed the status report and stated that most of the JPA members have no idea how long the WWTP time schedule is to complete the WWTP upgrade. Ms. Bruton expressed concerns about the community's ability to get this right stating this is not an upgrade project, but a new project, and will be required to use reclamation.

Mayor Yates closed Public Comment period.

Yates responded to the questions posed during Public Comment by asking Delzeit for his bill to date which is \$129,000. Yates also clarified that most major developments do use the services of a lobbyist.

### **C. NEW BUSINESS**

#### **C-1 PRESENTATION OF THE FY 2009/2010 WWTP AUDIT**

**Recommendation: Following consideration of this item, that the Council and District Board accept the report**

Susan Slayton, Administrative Services Director, introduced the auditor, Robert Crosby of Crosby and Company who presented a brief overview of the 2009/10 audit report.

Councilmember Borchard and Mayor Yates both requested that the audit be submitted sooner next time as this is for the period ending 6/30/2010.

Councilmember Smukler expressed concern regarding the insurance increase and whether this is a trend that would be seen annually. Slayton responded that insurance is based on the value of the property, with fluctuations in value noted in 2009 and 2010.

Director Foster addressed the flood walls and whether a credit will be received from the insurance company. Rob Livick stated a flood proofing certificate would be necessary and need to be presented to the insurance company.

Mayor Yates opened Public Comment period:

- Richard Margetson, resident of Cayucos, agreed with Councilmember Borchard stating the State Revolving Loan Fund will require up to date financials.
- Barry Branin, resident of Morro Bay, addressed the decrease in operating loss noting that it is startling to say we lost a little more money.
- Marla Jo Bruton, resident of Morro Bay, addressed the Cayucos owned land and that deferred maintenance would bring down the total cost of property that would benefit the CSD. Ms. Bruton urged the JPA to reevaluate the Joint Powers Agreement. Also, Ms. Bruton asked for the elevation level of the floodwalls at the WWTP.

Mayor Yates closed Public Comment period.

Yates asked Bruce Keogh to respond to Ms. Bruton's question. Keogh replied that the wall has been built around the head works and it is about 30 to 32 inches above grade.

Councilmember Smukler discussed the change in contractual and professional services and asked staff to clarify Mr. Brannin's question. Bruce Keogh responded he would have to research to say how those numbers changed.

Smukler continued discussion with staff regarding the definition for contractual services and whether the discrepancy between contractual and professional services could be due how the invoices are coded in accounts payable.

Director Foster questioned whether these expenses are due to extra consultant services.

Councilmember Smukler asked for a simple public memo to illustrate in order to answer Mr. Brannin's question.

#### **C-2 CONSIDERATION TO APPROVE FUNDING FOR MAINTENANCE ACTIVITIES FOR THE OCEAN OUTFALL**

**Recommendation: Following consideration of this item, that the Council and District Board approve funding for completion of maintenance activities on the ocean outfall**

Keogh presented the staff report and showed a short video of the ocean outfall visual inspection performed by Carson Porter Diving which presented exceptional water clarity.

Yates opened Public Comment and hearing none, closed Public Comment period.

**CAYUCOS MOTION:** Foster moved to approve funding for completion of maintenance activities on the ocean outfall. Chivens seconded and the motion passed unanimously. (5-0)

**MORRO BAY MOTION:** Borchard moved to approve funding for completion of maintenance activities on the ocean outfall. Smukler seconded and the motion passed unanimously. (5-0)

Mayor Yates called for a break and the meeting resumed at 720pm.

**C-3 CONSIDERATION AND DISCUSSION REGARDING AMENDMENTS TO DUDEKS CONTRACT FOR THE COASTAL APPEALS PROCESS**

**Recommendation: Following consideration of this item, that the Council and District Board approve the proposed amendments to Dudek's contract for the Coastal Appeals Process**

Delzeit presented the staff report including the status of the Coastal Commission staff feedback on the fine screening analysis noting the project is on schedule.

Discussion from Morro Bay included:

Councilmember Borchard asked Delzeit to clarify the \$17,000 study cost. Delzeit responded that additional information is needed for water reclamation and a comparative study.

Dylan Wade, Capital Projects Manager, responded that the scope for the reclaimed water study was originally excluded from the Dudek contract.

Councilmember Smukler discussed with Delzeit the option of an analysis of adaptive reuse and piping infrastructure which could be used in the case of Chevron site. Smukler stated a study of the piping infrastructure is important to consider.

Discussion from Cayucos board included:

Director Foster discussed with Delzeit the reason for the reclamation study and how that relates to Cayucos specifically. Foster questioned whether a reclamation study is within the scope of the CSD. Rob Livick clarified that the Coastal Commission wants to see a study of reclaimed water before approving a project.

Director Foster also addressed the McCabe contract and the costs of \$42,000 already spent. Delzeit responded that new material exists now that McCabe has not reviewed yet and now that a tentative de novo date has been set, it is important to bring her up to date.

Director Chivens questioned a potential second hearing in August and what the likelihood is. Delzeit responded there are no guarantees in the Coastal Commission appeal process since they have taken over jurisdiction of the coastal permit.

Mayor Yates opened Public Comment period.

- Barry Brannin, resident of Morro Bay, addressed issue of recycling. He stated we have received two letters from the Coastal Commission that instructed us what to do and in the process MBCSD chose not to follow that direction. Dudek's scope of work has proposed an infrastructure to handle 300acre feet per year but the City dumps 1300 acre feet per year into the ocean. He stated we need a scope of work that makes sense and

encouraged the JPA to analyze a process that will meet the Coastal Commission's request that will handle all the recycled product we have.

- David Nelson, resident of Morro Bay, stated the JPA is not asking the right questions and needs to do this right. He stated he agrees with Director Foster noting it seems like some of the work from the consultant will have to be redone. He stated the Coastal Commission will listen if you hand it to them, because this is costing a lot of money.
- Al Barrow, resident of Los Osos, and an affordable housing advocate, stated this is a low paying income community and controlling costs are critical. Barrow asked what the cost goal per month is going to be.
- Marla Jo Bruton, resident of Morro Bay, stated the meeting has been void of actual content and expressed concern regarding Delzeit's report as compared to the Coastal Commission's December 9, 2011 minutes. Ms. Bruton presented on overheard a website resource for the public to access online to obtain additional information. Bruton disputed the contents of Delzeit's staff report compared to the Coastal Commission's minutes.
- Richard Margetson, resident of Cayucos, addressed page 3 of 4 on Delzeit's report regarding the extra costs proposed by Dudek. Margetson questioned why the community is absorbing these costs and not the consultant.
- Dorothy Cutter, resident of Morro Bay, stated her understanding was the Coastal Commission staff has said the JPA cannot put the plant in the same location as the old location and wants to know where the new plant is going to go.
- Jack McCurdy, resident of Morro Bay, read from a letter dated December 8, 2008 from the Coastal Commission to the City which states the WWTP will be capable of tertiary treatment and resultant water would be discharged through ocean outfall which could be reclaimed for other uses. A November 12, 2010 letter from the Coastal Commission staff to the City stated the DEIR proposal does not include a plan for water reclamation that meets expectations. He spoke in favor of water reclamation and stated a majority of the JPA has avoided and obstructed compliance with the Coastal Commission requirements which has caused delays and wasted time and money.

Mayor Yates closed Public Comment period.

Mayor Yates asked Delzeit to respond to questions presented during Public Comment. Delzeit clarified that regarding 300 acre feet versus 1300 acre feet, the determination was made that 300 acre feet was a realistic target based on prior studies.

Wade also clarified that in 2010, the WWTP produced and used about 1,250 acre feet per year in 2010. 300 acre feet represents approximately one quarter of that demand or all of our outdoor demand. It would be against the law to reuse effluent for direct re-use, so disposal options would have to be considered outside the City. To offset potable water demand, 300 acre feet is what is a realistic number.

Councilmember Smukler stated it is clear from Coastal Commission comments, that they are expecting us to go beyond the 300 acre feet and if we limit scope to just 300 acre feet, then the requirements will be missed from Coastal Commission. He suggested expanding the scope and escalating it to consider all levels of reclamation quantities to make some decisions from that.

Director Foster stated it is difficult to estimate time on contracts regarding cost overruns. He suggested that rather than Dudek estimate costs but should instead ask for a fixed fee price from Dudek through to completion from Coastal Commission.

President Enns thanked both Dudek representatives and Delzeit for doing a good job. He stated the JPA does not control what questions the Coastal Commission asks or requires. Enns noted that through all the public questions asked, the

JPA has spent a lot of money answering these questions. He is happy with Dudek's performance and supports approving Dudek's request.

**CAYUCOS MOTION:** Fones moved to approve staff recommendation. Lyon seconded and the motion passed with Foster voting no. (4-1)

**MORRO BAY MOTION:** Borchard moved to approve staff recommendation. Johnson seconded and the motion carried unanimously. (5-0)

#### C-4 SCHEDULE NEXT JOINT MEETING AND AGENDA ITEMS

#### **ADJOURNMENT**

Mayor Yates adjourned the meeting at 8:05p.m.

Minutes Recorded by:  
Cindy Jacinth, Morro Bay Public Services Dept.