

AGENDA ITEM: A-1

DATE: January 13, 2011

ACTION: Approved as Corrected

**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
R.H. Bud McHale, Vice-President
Harold Fones, Director
Michael Foster, Director
Shirley Lyon, Director

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

Janice Peters, Mayor
Carla Borchard, Vice-Mayor
Rick Grantham, Councilmember
Noah Smukler, Councilmember
Betty Winholtz, Councilmember

MEETING DATE:

6:00 p.m., Thursday, November 18, 2010

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 Peters called the meeting to order at 6:05 p.m. and asked that the record show all Council members are present. President Enns stated Shirley Lyon is absent and all other members of the Cayucos Board are present.

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

Cayucos Staff members present were Bill Callahan, Lou Brookins, 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.

Mayor Peters opened the Public Comment period.

- Jack McCurdy, Morro Bay resident, announced that the Coastal Commission has submitted comments on the design and upgrade of the WWTP project which can be accessed on the SLO Coast Journal website and read some highlights of the Commission's written comments. He urged all to read the Commission's comments.

- Barry Brannon urged the Board to put a moratorium or suspension on the present contract in consideration of the comments from the Coastal Commission's letter.

Hearing no further comment, Mayor Peters closed the public comment period.

A. CONSENT CALENDAR

- 1 Minutes of October 14, 2010 JPA Meeting – Recommend approve.
- 2 Minutes of September 16, 2010 JPA TAC Meeting – Recommend approve.
- 3 (WWTP) Operations Report through September, 2010 – Recommend receive and file

MORRO BAY MOTION: Borchard made a motion to approve Consent Calendar Items A1-3. Grantham seconded and the motion passed unanimously (5-0).

CAYUCOS MOTION: McHale made a motion to approve Consent Calendar Items A1-3. Fones seconded and the motion passed unanimously (4-0).

B. OLD BUSINESS

- 1 Status Report on Upgrade Project as of November 10, 2010 – Recommend receive and provide direction to staff.

Dennis Delzeit gave a status report discussing the milestone schedule of activities for the upgrade project and noted the public comment period expiration date of 11-4-10 for the Draft Environmental Impact Report (DEIR) was extended one week later in order to allow receipt of the Coastal Commission's comments.

Board members discussed the status of the DEIR and the receipt of the Coastal Commission's letter dated 11-12-10 including:

- Whether the Planning Commission will have a second meeting in December and whether staff will respond to public comment received on the DEIR prior to the Planning Commission meeting. Livick clarified yes, he will respond to all comments submitted and clarified there will be a Planning Commission meeting on the third Monday of December.
- Whether the Board should continue to pay ESA's contract since the DEIR was not acceptable to the Coastal Commission. Board members discussed waiting to see the response prior to making a decision. Foster questioned the status of not-to-exceed contracts when the consultant bills for additional services.
- Delzeit clarified that additional work requested that is not known at time of contract signing is eligible for additional payment. Livick also noted that costs to re-do the DEIR would not be included in the contract and clarified that would be considered additional work because the DEIR produced by the consultant was based on the direction of the Board.

Delzeit continued his report to explain the State Revolving Loan Fund requires an adopted and approved Urban Water Management Plan in which the City is required to participate in the Urban Water Conservation Council. Delzeit and Wade clarified that the City did not join the Conservation Council in 2005, but is submitting an alternate plan to show that the City will exceed the conservation requirements of the plan.

C. NEW BUSINESS

- 1 Presentation of FY 08-09 Audit for the WWTP –Recommend accept
Susan Slayton, Administrative Services Director introduced the auditor Bob Crosby for discussion.

Crosby summarized the audit report and the individuals sections of the report and thanked everyone for their

assistance.

MORRO BAY MOTION: Borchard moved to accept the 08-09 Audit as submitted. Grantham seconded and the motion carried unanimously (5-0).

CAYUCOS MOTION: McHale moved to accept the 08-09 Audit as submitted. Fones seconded and the motion carried unanimously (4-0).

2 Discussion on JPA Policy concerning the public comment period at meetings – Recommend receive and provide direction to staff.

Schultz gave a staff report providing the Board with information regarding the Brown Act noting that the majority of public agencies have a public comment period both at the beginning of the agenda and before each agenda item. Schultz explained that Morro Bay's policy has been to hold public comment only at the beginning of the meeting.

Board members discussed whether to add additional public comment periods prior to each agenda item in addition to the beginning of the meeting and whether changing the City's policy would cause meetings to run too long.

- Grantham suggested the City Council's policy for public comment periods be utilized for JPA meetings. Borchard and Smukler spoke in favor of maintaining flexibility.
- Winholtz spoke in favor of having public comment both at the beginning and at each agenda item. Foster agreed with Winholtz noting that the public should have a full opportunity to comment.
- Peters suggested a time limit be established in order to not prolong the meeting. McHale agreed with Peters.
- Enns spoke in favor of having public comment after each topic is presented, which allows the public to get the benefit of hearing the staff report and getting a better understanding of the information presented that perhaps might change a person's comment.

Mayor Peters opened the Public Comment period.

- Nancy Bast, resident of Morro Bay, agreed with Chairperson Enns and noted that additional public comments can help to stimulate debate.
- Richard Margetson, resident of Cayucos agreed with Enns and stressed consistency for public comment issues, noting that the Brown Act was set up to facilitate public comment not hinder it. Margetson spoke against having public comment reduced to less than 3 minutes.

Hearing no further comment, Mayor Peters closed the Public Comment period.

Board members continued discussion on whether to expand public comment opportunities and whether the time limit of three minutes should be decreased in the interest of maintaining focus on agenda business.

Smukler agreed with the importance of having three minutes and inquired if it would be legal to defer one's three minutes to another speaker. Schultz responded that this could be included in the policy if the Board decided.

Peters asked if the Council would like to delay a decision on changing Public Comment since the Council is changing with the next JPA meeting and asked Cayucos for their preference.

Enns said he was satisfied with Cayucos' existing policy. McHale noted some jurisdictions' policy is to require

a motion by 9:45pm, to allow for a continuance of the meeting.

3 Discussion and Consideration to Form a Citizens Advisory Committee and Financial Risk Assessment Committee

Keogh noted no staff report was prepared as this is a joint staff and Board discussion. Foster clarified his position that the JPA have a subcommittee for a Citizens Advisory Committee and Financial Risk Assessment Committee in order to have proper oversight of costs.

Board members discussed whether to form a committee by taking applications from interested community members and whether enough qualified applications could be received due to the technical nature.

Borchard spoke against having additional committees formed and favored instead having a second JPA meeting each month instead. Grantham and Peters also spoke against forming another committee.

McHale and Enns stated they were not in favor of forming another committee.

Foster noted his objection to the Technical Advisory Committee was due to the wide number of issues it covers.

Mayor Peters opened the Public Comment period:

- Barry Brannon, resident of Morro Bay, stated the public's dissatisfaction is with the results that staff has brought to the JPA Board and expressed concern that staff stated they would approve the DEIR.
- Richard Margetson, noted there is financial expertise in the community that could favorably benefit the Board through applications submitted.
- Piper Riley, resident of Los Osos, stated this is a repeat of where Los Osos was. She encouraged the Board to take seriously the Coastal Commission's letter even if it is signed only by staff.

Hearing no further comment, Mayor Peters closed the Public Comment period.

MORRO BAY MOTION: Winholtz moved to form a financial subcommittee and take applications from both Cayucos and Morro Bay to form a five member committee on finances. Smukler seconded the motion.

Motion failed 3-2. Borchard, Grantham and Peters opposed.

No motion put forth by Cayucos.

4 Schedule Next Joint Meeting and Agenda Items

Foster expressed concern regarding the Coastal Commission's letter and the need to take action to control costs by setting another meeting. Carmel noted since Foster's comments are not an agenda item, the Board cannot take any action tonight on the Coastal Commission staff letter. Carmel clarified the environmental and permitting process involves the Planning Commission who makes a recommendation to the City Council. Cayucos has very little involvement in the certification and permitting process.

Smukler agreed with the need to set another meeting to discuss the Coastal Commission's 11-12-10 letter. Winholtz agreed. Livick said that the comments will be ready in time for the next JPA meeting in December. Carmel clarified that that will be a role for the City Council but not the joint Board, stating that the City Council is the entity that certifies the environmental impact report, not Cayucos.

Peters asked if the December JPA meeting can include an agenda item which would be review of staff response

to the DEIR comments. Carmel and Schultz advised against this due to a concern that due process might be tainted if the JPA hears this item prior to the Planning Commission making its recommendation.

Smukler suggested an agenda item to determine the expense of ratepayer funds at this moment and how that affects the process. Delzeit clarified the design process will not get fully underway until permits are received so therefore the project will not incur significant design costs until then.

Another agenda item Smukler asked for is Dylan Wade's site analysis in order to evaluate the information. Wade clarified the DEIR includes the Chorro Valley as a site alternative which was a prototypical example.

Board members determined the next JPA meeting will be 6:00 p.m. on December 9th, 2010 in Cayucos.

Grantham noted this is his last meeting as a Board member and thanked everyone for the experience. Peters also commented that she appreciated being able to work through the issues and work together and said thank you very much.

ADJOURNMENT

Peters adjourned the meeting at 7:51 p.m.

Minutes Recorded by:

Cindy Jacinth, Morro Bay Public Services Dept.