

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

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:

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

MINUTES

MEETING DATE:

6:00 PM Thursday, February 10, 2011

HOSTED BY:

Cayucos Sanitary District

MEETING PLACE:

Cayucos Veterans Hall
10 Cayucos Drive
Cayucos, CA 93430

CALL TO ORDER AND ROLL CALL: President Enns called the meeting to order at 6:03 PM

Morro Bay City Council present were Mayor Yates, Vice-Mayor Noah Smukler, Councilmember Carla Borchard, Nancy Johnson and George Leage.

Cayucos Sanitary District Board members present were President Robert Enns, Vice-President Hal Fones, Directors Shirley Lyon, Michael Foster and Dan Chivens.

Morro Bay staff present were Bruce Keogh, Rob Livick, Dylan Wade and JPA WWTP Project Manager Dennis Delzeit. Cayucos staff present were District Manager Bill Callahan, District Council Tim Carmel and District Engineer Jon Hanlon.

President Enns introduced the new Cayucos Director Dan Chivens who was nominated after the resignation of Bud McHale who moved from the area. Chivens gave a brief statement on himself and what he sees his role on the JPA Board will be.

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.

President Enns opened public comment and stated former Morro Bay Councilmember Rick Grantham wished to say a few words.

- Grantham spoke on his concern for this project going forward and relayed the dilemma of friends living in Los Osos, their diminished property values and uncertainty of the future. Stated he doesn't want to see the Los Osos situation happen in Morro Bay and Cayucos.
- Richard Sadowski – Stated he thought spending money on a lobbyist was a waste of money and there had already been plenty of misspending on this project. Wants the JPA to stop ignoring the planetary crisis we're in and look forward in their design and move into the 21st century.

- Barry Branin – Thanked JPA and staff for their work and hoped they'd make the right decision. Don't take the attitude of Us versus Them.
- Steve Hennigh – Stated he was not associated with Surfrider and filed his appeal based on his business. Would like the points in his appeal looked at and alternative locations investigated. We need to make better decisions.
- Robert Staller – Why not hire a consultant to look at alternate site locations, and look for a company with a better reputation than MWH
- John Barta- Item C1 is a no-brainer, we need an advocate to represent the WWTP before the Coastal Commission. A Plan B (Agenda Item C2) is essential
- Marla Jo Bruton – Disappointed with audience turnout. She has been attending these meetings since 2005 and more than just secondary treatment is needed; we owe it to the community. We can do better than what is currently proposed.

Hearing no further comments President Enns closed public comment.

A. CONSENT CALENDAR

1. Minutes of January 13, 2011 JPA Meeting – Recommend approve.
2. WWTP Operations Report through December 2010 – Recommend receive and file

President Enns asked for a motion to approve the consent calendar.

MORRO BAY MOTION: Borchard made a motion to approve Consent Calendar Items A1 & A2 as presented. Smukler 2nd. Motion passed (5-0)

CAYUCOS MOTION: Fones made a motion to approve Consent Calendar Items A1 & A2 as presented. Foster 2nd. Motion passed (5-0)

B. OLD BUSINESS

1. Status Report of Upgrade Project as of February 2, 2011 – Recommend receive and provide direction to staff.

Delzeit presented an overview on the status of the project and reported that due to the appeals received by the Coastal Commission and his subsequent conversation with the RWQCB, we can be considered for a time extension on the project. A written request for time extension is in process. The RWQCB in its review and consideration for a time extension will look at what is being done by the City and District to expedite the delays. Proposals were solicited from experienced lobbyists to assist in the appeals process with the Coastal Commission; this will be discussed further in agenda Item C1. RFP's were issued to MWH and Carollo for alternative methods to achieve full secondary treatment, which also is discussed further in agenda Item C2. Delzeit further reported that all other project schedules were pending until the outcome of the appeals process

Foster questioned Delzeit on who gave the direction to interview advocacy consultants.

Delzeit replied that staff was being proactive and took it upon themselves to interview advocates.

Foster then asked why staff didn't take it upon themselves to look for alternate site locations for the WWTP?

Delzeit responded that the City and District had made it clear on the direction of this project based on the FMP and Amendments 1 and 2. That staff would continue down that road until a change in direction was given.

C. NEW BUSINESS

1. Discussion and Consideration to Hire an Advocacy Consultant to Assist with California Coastal Commission Appeals

Enns asked Carmel to give us some background and insight as to why a lobbyist would be needed.

Carmel explained that lobbyists could get you in the door of the Coastal Commission and get your side heard. The lobbyist generally has a prior working relationship with the Coastal Commission and staff and can get our position on the project across to them to balance the scales against the appeals. They're rates are high due to the nature of their work i.e. late hours, dinners etc.

Enns reported that the CSD Board of Directors met earlier in the day in a special meeting and they expressed concern over the fee and it not being tied to an hourly rate, what time frame does this fee cover, will there be more costs that come up?

Carmel responded that a flat fee can be better in a short term process, whereas some appeal processes go on for months with long gaps where not much time is devoted, in this instance you would be better suited to an hourly rate.

Yates asked Carmel – Can't a lobbyist also come back and let us know other items of contention i.e. strengths and weaknesses of our project and appeals?

Carmel responded yes, the lobbyist would let you know, formally or informally, where we stand with the commission as a whole and with individual commissioners. They will report to you on whatever level you choose, how they see the process is going and keep you educated on the process.

Smukler to Delzeit – Questioned the money for the lobbyist as an estimate and what might this number balloon to. Smukler expressed concern that the lobbyist may not get us anywhere after spending funds that could be used effectively elsewhere. He thought he recalled Delzeit saying he'd take us through the Coastal Commission process. Smukler stated that there were items that needed to be addressed, like alternative site analysis, and that we were spending money on this consultant position that's not going to get us anywhere.

Delzeit responded that the appeals process was not in the RFP for a Project Manager. He spoke with a former Coastal Commission member about the need for a lobbyist and this person stated that it's a necessary evil to get communications heard. The recommended consultant, Susan McCabe & Co., is a former Coastal Commissioner and her right hand person is a former staff analyst with the Coastal Commission.

Smukler asked what Delzeit's roll would be with the lobbyist process.

Delzeit responded that he would assist with providing what necessary information the lobbyist needed about the project. He clarified that he wouldn't need to spend a lot of time with the lobbyist; it would be up to the lobbyist, Council and Board to meet with the Coastal Commission in this process. His work would pick back up once the project moves forward.

Smukler then asked Delzeit where is the incentive for the consultant to give us accurate advice and counseling to end up with the necessary permits for the project.

Based on his own experience, the incentive for any consultant to get the job done is reputation. They live and die by reputation.

Borchard said she sees the benefit of a lobbyist but prefers the hourly basis.

Johnson stated she was on the Planning Commission and knows first hand the value of a lobbyist from past work. She is unsure if hourly or flat rate is the best.

Leage said necessary evil is best explanation for hiring a lobbyist. We need the experience on our side.

Yates concurs with Leage but would look to staff for hourly vs flat monthly fee recommendation.

Enns stated the consensus of the CSD Board was that hiring a lobbyist is the best way to get through the appeals process. Enns explained that we are not hiring a consultant to fight the concerns in the appeals, the consultant is to help us address the concerns get us going in the right direction.

Fones said he is always concerned about costs to ratepayers. Los Osos is a perfect example of a project gone wrong, with diminished property values and an uncertain future.

Foster thought the consensus of the CSD Board was to not hire a lobbyist. He feels the hiring of this consultant in another layer of unaccountability for results and is totally against it.

Lyon stated that the consensus was to hire an advocate to keep this project from dragging on as can happen when dealing with the Coastal Commission. She gave her backing of going forward with a lobbyist but voiced that she felt early accountability of results and costs were needed

Chivens concurred with Lyon.

Enns opened Public Comment

- Betty Winholtz - Agrees with Foster, the figures are just not solid. The Coastal Commission has sent at least two letters telling you what you need to do to come into conformance that requires no interpretation, especially by an outside source. Asked JPA to reconsider hiring a consultant.
- Steve Hennigh – Thanked Foster for speaking up, doesn't want a bottle of Grey Goose vodka on our bill. Doesn't feel a lobbyist will save any money, it will cost time and money.
- Richard Margetson – Agrees with Foster. Grantham called the JPA the Dream Team – who better to represent the project to the Coastal Commission than our Dream Team. The commissioners will take calls from just about anyone, as proven before the first hearing on Los Osos. How do you get a lobbyist up to speed in reasonable time enough to keep costs at their lowest.
- Barry Branin – Coastal Commission will read everything, a lobbyist won't get us anywhere.

Enns closed Public Comment.

Smukler commented that he agrees with Foster too, and that we need to focus on alternative sites, not a lobbyist. If we do go forward with a lobbyist, we need an incentive and accountability and sound advice from this person.

Yates said that a lobbyist could give us advice either way, they could tell us that we to need go further with alternative site analysis, you never know. He has been to Coastal Commission meetings and has his own opinion on what they do.

Foster stated that his take from the earlier meeting was that Ms. McCabe would be hired for a fee to render an opinion on the success of the Coastal Commission.

Enns asked Delzeit about a conversation he had with Ms. McCabe

Delzeit explained that a preliminary analysis of potential outcome by Ms. McCabe is certainly something we can have her do, for a fee of course.

Enns asked Smukler if this is what he alluded to earlier.

Smukler responded that he would prefer to see the alternative site analysis but this is certainly a more prudent way to go about this.

Enns suggested that he would agree to hire Ms. McCabe to go through our materials, read the EIR and the appeals and give us advice on where we should go from there. This will give us a better understanding of whether or not we want to hire her to go forward in the process.

Yates suggested we put a cost ceiling on this of \$12,500 or get a quote on what it will cost to get this advice, if it's more than \$12,500, well then we can rethink it.

Fones has misgivings on hiring someone to tell use whether or not we should hire them. We either hire them or not, he feels we should hire the consultant.

Enns asked Carmel for some direction

Carmel explained that as Delzeit stated, you can terminate the contract in 10 days if need be, he feels we should enter into the contract and ask for a very focused assignment. Suggests that we negotiate an option of the lesser of \$12,500 or her hourly. Make her track her time and monitor her closely. If after an initial period of time, it looks like something we want to, we can do so or if not, all it takes one email to terminate the contract.

Leage says we need to go forward and hire them.

Foster asked if hiring a lobbyist is a total waste time, we need them to evaluate what we have and what we need. They need to give us their opinion as to what are our chances are of getting this through the Coastal Commission

Enns suggests a motion from Cayucos to have staff contact Susan McCabe and arrange a not-to-exceed contract of \$12,500 a month with a reporting of hours and expenses.

CAYUCOS MOTION: Fones motioned that we hire Ms. McCabe and that in the first month she report to Mayor Yates and President Enns on her potential for success. Her long-term goal will to be an advocate and her first job would be to advise the leadership. Lyon 2nd. Motion passed (4-1) Foster opposed.

Smukler asked if the reporting from Ms. McCabe could be done before the JPA

Mayor Yates said all information would be reported and shared with the entire Board and Council

MORRO BAY MOTION: Mayor Yates motioned that we hire Ms. McCabe and that in the first month she report to Mayor Yates and President Enns on her potential for success. Her long-term goal is to be an advocate and her first job would be to advise the leadership. Borcard 2nd. Motion carried (4-1) Smukler opposed.

2. Discussion and Consideration to Request Proposals from MWH and Carollo Engineers for Strategies to Achieve Full Secondary Treatment at the WWTP

Delzeit reported that as the appeals were received, the JPA team and staff sat down and focused on the general theme of the appeals. This theme was to locate alternative sites and based on the Cannon Associates study and the most recent EIR, the alternative site for the Chorro Valley was too costly and less desirable. The next course of action was to then look at ways to achieve full secondary treatment requirements as outlined in the RWQCB

Settlement Agreement and to obtain the discharge permit. RFP's were given to MWH and Carollo Engineers to identify engineering costs to come up with a rough conceptual design that will achieve this goal. Both companies provided written proposals; staff reviewed the proposals and concluded that MWH had a more focused proposal.

Of the four options provided for consideration on this item, staff recommends working with MWH and refining the scope of this alternative. Delzeit further explained, although MWH is headed in the right direction with their proposal, we need to work with them more and slow down this process pending the outcome of the appeals. We don't want to get ahead of ourselves and spend monies unnecessarily.

Foster thought this was good Plan B alternative but we should limit the scope to clarify this not intended to extend the life of the plant for 20-25 years but for 5-7 years with full secondary treatment, get our permitting and continue in the direction of a new plant.

Keogh stated the short term fix is viable, but we need to look at both short term and long term and examine the cost implications.

Mayor Yates asked Keogh if he was way off base on this thinking, but his understanding was that by going to full secondary treatment we would be good for 20 years.

Keogh responded that it depended on the extent of the work performed on the plant and that by going to secondary it may not encompass all of the plant. He compared doing this to driving an old car, where things are worn out, one thing gets fixed, it gets you a little farther down the road and something else wears out.

Mayor Yates remarked he has always been an advocate of full tertiary but that by going to secondary it would take the Coastal Commission out of the process and gets the gun away from our head in respect to the RWQCB permitting deadline. He continued explaining that he along with many others on the Board all want reclamation and this is something that we will work towards, for now we have to meet the deadlines presented. Even with full tertiary and reclamation, the outfall pipe will never go away, it's just not possible.

Smukler said we need an alternative site analysis and this proposal to buy more time just proves that. The more time we waste, the more money it will cost us and going to secondary treatment is just going to land us in the same spot we are in now. He is frustrated that we are resisting spending the money to obtain real alternative site analyses.

Leage stated that we need to take a serious look at the costs between an upgrade versus new construction.

Mayor Yates responded that to move the existing plant is going to cost \$10 million plus, he can't understand that thinking of moving the plant could be cheaper, doesn't make sense to him.

Smukler responded that we need a long-term life cycle cost analysis to show us the savings. His concern is that we are missing the potential for a better use for our existing site and we're looking at possible double spending. He is again frustrated that secondary treatment benefits none of our local industry.

Johnson responded on the alternative site issue and thought the studies provided us showed that this was the best site. And the issue regarding a "Higher Use" for this property keeps coming up, but in another breath the potential for flooding comes up. Which is it, prime property or flood zone?

Smukler replied that this is vital infrastructure for both our towns and to have damage to an alternative use at this site due to a disaster and not to vital infrastructure is less of a risk. Cannon study didn't focus on stand alone sites and this needs to done.

Enns stated that time constraints don't allow for infrastructure changes that are needed for an alternative site. He doesn't see how this could be done with all the processes, including environmental issue and studies that would then have to occur again and get this all completed and ready to advertise for construction bids by November 17, 2011. We can't do that, so a band-aid for full secondary is all we have. Enns asked Keogh about our current treatment percentages.

Keogh responded the majority of the time we reach full secondary, we would have to increase our biological treatment capacity to meet BOD levels and a lot depends on the flow rates into the plant.

Enns asked Dylan Wade how possible it would be to get this plant up to full secondary treatment.

Wade responded that it does depend on flow into the plant, he's not sure there's a band-aid big enough to achieve this during high flow events. Cost for this band-aid should be left to the experts to determine. You still have the risk of Coastal Commission finding substantial issues with the band-aid.

Livick pointed out that to make this project viable the repairs to the WWTP have to fall within maintenance and operation repairs parameters to qualify for Coastal Commission exemption. It would truly have to be a short term band-aid.

Foster asked Wade about the Hayashi property and viability for an alternative site.

Dylan responded that he believed the property straddled the city limits and local policy doesn't allow the conversion of prime ag land for the WWTP. His belief was that the basic analysis of alternative sites has already been done in the EIR and it was determined the current site was the best.

Foster responded can't we just do the alternative site analysis and get it over with, viable or not.

Livick answered Foster that this property was not viable. Not without changing the Local Coastal Plan General Plan and allowing the conversion of prime ag land to an industrial site.

President Enns called for a break at 7:58 PM

President Enns re-adjourned the meeting at 8:14 PM and opened Public Comment:

- Betty Winholtz commented if she were Cayucos she'd be upset that Morro Bay passed the EIR. To go forward with a Plan B at this stage is inappropriate. Disagrees with Mayor Yates, said that over the last six years the Board was drug into the tertiary process, they didn't want to go there. Final comment was she questioned the legality of this meeting due to the absence of Mr. Schultz, Morro Bay legal council.
- Barry Branin commented on Item B and questioned the possibility of getting a Coastal Commission permit for this.
- Richard Margetson stated that the lobbyist needs to keep the Coastal Commission from hearing Mayor Yates impressions of what goes on at their meetings, doesn't think they'd be very happy. We should find out where we are with the RWQCB and an extension before we start with a band-aid. Is concerned about staff's recommendation of using the same firm that got us in the situation we are in now with the Coastal Commission.
- Steve Hennigh commented that we should research alternative sites, the beach is for recreational use, not a WWTP.

CAYUCOS MOTION: Fones motioned that we defer consideration pending further analysis by staff and project manager. Lyon 2nd. Motion passed (5-0)

MORRO BAY MOTION: Borchard motioned that we defer consideration pending further analysis by staff and project manager. Johnson 2nd. Motion passed (4-1) Smukler opposed.

Mayor Yates proceeded to explain the absence of Morro Bay legal council at tonight's meeting.

3. Discussion and Consideration of Waiving the California Coastal Commission "49 Day" Hearing Requirement Due to the Appeal of the Local Coastal Permit for the WWTP

Livick presented his staff report and gave a brief overview of the 49 Day Hearing Requirement. His recommendation based on the appeals received, was there was substantial issue with the project and the 49 Day Hearing Requirement wasn't beneficial to anyone and in fact would use Coastal Commission staff time that wasn't necessary.

Borchard asked Livick when we would know which of the appellants would meet the appeal criteria.

Livick responded that all the appeals forwarded to us were valid appeals.

Borchard said she had tried to find information on who Morro Bay Farmers & Ranchers Ag Coalition was with no success.

Livick said they could raise this issue with the Coastal Commission staff and ask them to research this. He also forgot to mention Madeline Cavalieri, a Coastal Commission staffer, toured the WWTP and the alternative locations. Not much feedback was received from her on the locations.

Smukler asked about force majeure and any risk involved with the RWQCB thinking this is a way of extending time and not allowing a force majeure.

Delzeit responded their appeared to be no objection to this or to waiving the 49 day hearing requirement

Foster asked Livick if it was the staff recommendation to grant the waiver of the 49 day hearing and could this be looked at as an indication that we recognize there are substantial issues with the application.

Livick responded that yes, the recommendation was to grant the waiver and no, it was not an indication of guilt.

CAYUCOS MOTION: Fones motioned to waive the California Coastal Commission 49 Day hearing requirement due to the appeal of the Local Coastal Permit for the WWTP. Foster 2nd. Motion passed (5-0)

MORRO BAY MOTION: Borchard motioned to waive the California Coastal Commission 49 Day hearing requirement due to the appeal of the Local Coastal Permit for the WWTP. Johnson 2nd. Motion passed (5-0)

ADJOURNMENT –

President Enns adjourned the meeting at 8.33 PM