

AGENDA ITEM: A-1

DATE: August 11, 2011

ACTION: APPROVED

**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, May 12, 2011

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 6:05 p.m. and asked that the record show all Council members are present. Robert Enns stated all members are present with the exception of Vice-President Hal Fones.

Morro Bay Staff members present were 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 Lewis Brookins and District Counsel David Hirsch.

Mayor Yates introduced Susan McCabe who introduced herself and her involvement with the project.

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 Yates opened Public Comment:

- Jeff Pinak, resident of Oceano and Chair of the Surfrider Foundation, spoke about the importance of water and alternate technology used by other treatment plants such as water recycling and reuse. Mr. Pinak passed out Surfrider's statement of key environmental considerations and encouraged a redesign of the plant.

- Evelyn Morgan, representative of Solar Funding Solution asked if the Board would entertain a proposal to design and build a wastewater facility at an alternate location. Mayor Yates directed Ms. Morgan to contact staff since public comment is not intended to be a two way conversation.
- David Nelson, resident of Morro Bay, stated other options are available and expressed concern over the high cost of the upgrade project.
- Gary Hixson, resident of Morro Bay expressed support for the WWTP but expressed concern about the sea otters.
- Joe Wallick, resident of Morro Bay stated local problems require local people and stated the JPA needs community involvement.

Mayor Yates closed public comment period.

Yates responded that there is community involvement to get the sewer built as low as possible.

Foster stated the public comments he has heard in the meetings have been helpful and have influenced his opinion on the way this project is going and thanked the public for taking the time to come.

A. CONSENT CALENDAR

1 MINUTES OF APRIL 14, 2011 JPA MEETING

2 WWTP OPERATIONS REPORT THROUGH MARCH, 2011

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

CAYUCOS MOTION: Fones made a motion to approve the Consent Calendar. Chivens seconded and the motion passed unanimously (5-0).

B. OLD BUSINESS

1 STATUS REPORT ON UPGRADE PROJECT AS OF MAY 1, 2011

Recommendation: Receive the Status Report and direct staff accordingly

Dennis Delzeit presented the status report.

Smukler asked Delzeit to clarify the terms of his contract regarding the time spent with the Coastal Commission process.

Smukler asked about anticipated adjustment to contract based on the Coastal Commission process and whether a secondary option can be proposed to scale back some of your time to avoid a change order since other consultants will be hired.

Delzeit responded that the terms of his contract are on an as-needed basis and the amount of his workload varies monthly. Delzeit said his workload varies month to month and the advantage of his contract is he is only paid when there is work performed.

2 DISCUSSION OF COASTAL LAND USE AND ADVOCACY CONSULTANT (CLUAC) STATUS REPORT

Delzeit presented the staff report and introduced consultant Susan McCabe.

He stated staff is asking to suspend McCabe's contract until the point when staff will need Ms. McCabe's assistance with the additional technical studies. Under fiscal impact, Delzeit anticipates there could be savings of \$62,500 assuming a potential 5 month hold on the contract.

Delzeit and Yates had discussion regarding the length of the process which could take a year and that Coastal Commission hearings are typically scheduled as close to the jurisdiction as possible.

Board members discussed:

- Whether initiating a resumption of that contract would take JPA Board approval. Delzeit responded yes.
- What the process is if an alternatives analysis identifies an alternate site as best. McCabe responded that if another site is demonstrated as environmentally superior, that would be the Board's decision to move forward with that.
- Foster agreed with Delzeit's recommendation but stressed that the project be suspended until such time as it is reinstated by Board authority and not staff.
- Whether projects which hire a consultant are more successful than those who do not hire a consultant. McCabe clarified her role and services offered in guiding a jurisdiction through the process.

Foster discussed with McCabe:

- The Coastal Commission's decision to require an alternatives analysis. McCabe responded the Coastal Commission was lacking information needed to make an informed decision, so the Coastal Commission decided to require an alternatives analysis. At this point, no one knows what the outcome will be.
- Foster asked McCabe for the definition of an environmentally preferred site. McCabe explained the Coastal Commission will consider policies contained in the Coastal Act in determining whether this is the best project.
- Whether Ms. McCabe has a conflict of interest. McCabe responded that the process identified in the scope of work is a very transparent process. Coastal Commission staff will give a very rigorous and independent analysis. McCabe stated her job is to make sure the alternatives analysis is presented in a manner consistent with what the Coastal Commission is looking for.

Yates opened Public Comment on this subject:

- David Nelson of Morro Bay questioned the need for a consultant and expressed concern over the costs of a consultant before knowing what the project will be.
- Evelyn Morgan stated she is new to the City and expressed concern about the costs and also spoke against the hiring of consultants.
- Barry Branin of Morro Bay thanked the Board for putting this item on the agenda and encouraged the Board to suspend the consultant contract.

Mayor Yates closed Public Comment period.

Yates invited the public to contact him or Bruce Keogh, the Plant Manager, to learn about the WWTP. Keogh responded that monitoring data is available and gave his phone number for people to call him for a tour.

Yates asked McCabe to respond to the question of how many sewer plants she has worked on. She said none. He asked how many public agencies go to the Coastal Commission with a \$35 million sewer project without a consultant. She said none to her knowledge.

Smukler thanked the new faces who are getting involved and encouraged everyone to stay informed and involved and sign up on the City's website notify me feature and also gave the web address for Barry Branin's website.

Smukler stated his agreement with Board member Foster regarding the suspension of the McCabe contract and that it is very important for board to authorize resumption of the contract.

Yates asked Delzeit to clarify if he would need JPA approval to reinstate the contract. Delzeit said yes, reinstating the contract would require formal action.

Board members had discussion with Delzeit concerning the importance of maintaining flexibility with McCabe's contract during the interim period to allow staff to seek McCabe's assistance.

CAYUCOS MOTION: Fones moved to authorize the Project Manager to suspend the Agreement for Consultant Services with McCabe & Company, pursuant to Section 6(a), at such time as the collaborative process between McCabe, the Technical Consultant, MBCSD staff and Coastal Commission staff in finalizing the scope of the substantive content of the Alternatives Analysis is complete and preparation of the written report is underway.

Foster asked for clarification on the motion and asked what the process is that suspends and reinstates the \$12,500 retainer. Delzeit clarified and stated the process for suspension is when Delzeit, staff and the consultant have determined the work scope and begun the technical studies and the reinstatement process is also when Delzeit, staff and the consultant believe it is time to bring Ms. McCabe back to wrap up the final report.

Lyon seconded the motion. Motion passed 4-1. Foster opposed.

MORRO BAY MOTION: Borchard moved to authorize the Project Manager to suspend the Agreement for Consultant Services with McCabe & Company, pursuant to Section 6(a), at such time as the collaborative process between McCabe, the Technical Consultant, MBCSD staff and Coastal Commission staff in finalizing the scope of the substantive content of the Alternatives Analysis is complete and preparation of the written report is underway.

Smukler stated they are reviewing resumes from two teams with a lot of experience, and stressed we shouldn't layer consultant upon consultant.

Yates iterated his support for Ms McCabe and her importance to assisting with this project and need to have some faith in the process.

Johnson seconded the motion. Motion passed 4-1. Smukler opposed.

Yates called for a short break and resumed the meeting at 734pm.

C. NEW BUSINESS

1 SELECTION OF CONSULTANT TO PREPARE SUBSTANTIAL ISSUES STUDIES TO ADDRESS THE CALIFORNIA COASTAL COMMISSION APPEAL WITH CONSIDERATION TO AUTHORIZE STAFF TO NEGOTIATE A CONTRACT

Recommendation: Authorize staff to negotiate a final scope of services, schedule and fee and execute a contract with Dudek for the preparation of substantial issues studies for a fee not to exceed \$350,000.

Delzeit presented the staff report explaining the two proposals received from the consultants and gave an overview of the selection committee and how the Dudek was selected.

Smukler discussed with Delzeit:

- The draft scope of work and Delzeit stated the scope of work is continuing to be refined.
- The water reclamation update. Delzeit said that is an important element and expensive part. The water reclamation part will be expensive because will involve a lot of consultant hours.

Delzeit stated a preliminary reconnaissance study will be done in order to be cost effective for recommendations in study will be done during the rough screening process to try to minimize costs. He also noted that good communication is necessary between staff and JPA.

- The ranking and criteria applied to the analysis of alternative sites and how to fact check the analysis that is done. Dylan Wade replied that they anticipate the process will involve a lot of public collaboration. This

information will be brought back to the Board and noted the Coastal Commission staff will act as a peer review in order to make sure the analysis is done right the first time.

Smukler noted that it is important we are not giving undue benefit to the existing site because there is an existing wastewater treatment plant there.

Delzeit responded they will be all in competition with one another and noted that the current Coastal Commission application is for the current site.

Johnson asked Delzeit to clarify:

- The process for making the final recommendations to the Coastal Commission.

Delzeit explained the process which includes bringing back the alternatives analysis report to the JPA Board for consideration and approval prior to submitting to the Coastal Commission. Delzeit also explained the hearing process formalities at the Coastal Commission hearing itself.

Smukler asked if the alternatives analysis becomes biased if it is based on the EIR and compliance with 2014 date. Delzeit stated we have an open ended time extension from the Regional Board with monthly updates to the Regional Board on the status of the upgrade project.

Foster responded upon reviewing the staff report and expressed that he has not received all information documenting the selection process of how Dudek was selected as the consultant.

Delzeit stated a numerical system matrix was not used but that the selection committee did mark up in detail our copies of the RFQ's. The review of the consultant's proposals included a page by page discussion and debate of and the consultants proposals.

Foster questioned the not-to-exceed nature of the contract without an agreed upon scope of work. Discussion continued between Foster and Delzeit regarding the differences between lump sum contracts compared to not-to-exceed.

Foster continued to discuss with Delzeit:

- The substantial issue analysis and whether there is an alternative project out there that is better within the rate parameters for the rate payers and that it should include an evaluation of what the alternative use of the existing site would be. Delzeit said that is in there.
- The reason for selecting Dudek. Delzeit clarified one of the reasons was their team's experience- the proposed project manager for Dudek is a former California Coastal Commission staffer. Dudek is able to provide most of the major services within their company whereas Sage would have to subcontract part of their services.
- Whether a local coastal plan amendment might be required in order to get approval from the Coastal Commission. Schultz clarified that might be a requirement in order to be in compliance whether at the current site or an alternate site.

Mayor Yates opened public comment period:

- David Nelson of Morro Bay expressed concerned that Dudek's proposal did not have sufficient public outreach and noted a discrepancy compared to Sage's proposal.
- Barry Branin of Morro Bay stated entire scope of work needs to be clearly identified before signing. Mr. Branin expressed concern that all the criteria needed are not present and stated the need to compare economics of why a site is good or not good.
- Jack Spangle of Morro Bay spoke in favor of asking the consultant directly about scope of work questions in order to decide which firm to select.
- Richard Margetson of Cayucos stated that the Los Osos CSD did not have a consultant when it went before the Coastal Commission. Mr. Margetson encouraged the Board to negotiate with consultants to lower the price.

- John Rickenbach of Sage Institute thanked the staff and noted they are local and would love the opportunity to work with the JPA.
- Betty Winholtz of Morro Bay agreed with the comments of Barry Branin stating that the economics are important and encouraged the JPA Board to remember the public who needs to be brought into the process and can give feedback.

Mayor Yates closed public comment.

Yates asked Delzeit to respond to public comment question regarding the draft work scope and the work scope that was in the proposal and noted McCabe will review the final work scope to make sure it is acceptable to both the public and the Coastal Commission.

Yates noted the work scope is a draft and asked Dennis to hold it up so the public could see. Yates also noted there will be two public workshops to allow the public to attend to provide input.

Smukler asked Delzeit how to make this more competitive and affordable and expressed concern that we are locking ourselves in. Delzeit replied that the consultant would be authorized to proceed in steps, not the whole \$350,000 up front.

Foster discussed with Delzeit the discrepancy in cost between the two consultants. Delzeit replied that by defining the work scope, some of the unneeded costs such as contingency and water reclamation study will be eliminated which will result in cost savings.

CAYUCOS MOTION: Fones moved to authorize staff to negotiate a final scope of services, schedule and fee and execute a contract with Dudek for the preparation of substantial issues studies for a fee not to exceed \$350,000.

Lyon seconded the motion. Motion passed 4-1. Foster opposed.

MORRO BAY MOTION: Borchard moved to authorize staff to negotiate a final scope of services, schedule and fee and execute a contract with Dudek for the preparation of substantial issues studies for a fee not to exceed \$350,000.

Johnson seconded the motion.

Smukler asked if motion could be delayed until next month's meeting. No support was present for Smukler's request.

Motion passed 4-1. Smukler opposed.

2 SCHEDULE NEXT JOINT MEETING AND AGENDA ITEMS

Delzeit said the next meeting is scheduled for June 9, 2011 in Cayucos.

ADJOURNMENT

Mayor Yates adjourned the meeting at 8:42p.m.

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