

SEWER AUTHORITY MID-COASTSIDE
Staff Report

Subject / Title

Discuss and Possibly Take Action on Proposed Recycled Water Meeting of Managers and Attorneys

Staff Recommendation:

Discuss and Possibly Take Action on Proposed Recycled Water Meeting of Managers and Attorneys

Fiscal Impact:

None.

Discussion/Report:

During the week of March 9, the City of Half Moon Bay Attorney Tony Condotti invited the SAM Manager and Attorney to a meeting to discuss recycled water. The proposed attendees at that time were the managers and attorneys for the City of Half Moon Bay and CCWD. Later, the managers and attorneys for GSD and MWSD were also invited. The meeting is in the process of being scheduled.

In response to this proposed meeting, Directors Boyd and Harvey requested this topic be agendaized for discussion by the SAM board.

Attached is correspondence from Director Boyd, MWSD President Perkovic, and Attorney Condotti on the matter.

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From: [Scott Boyd](#)
To: [John F. Foley III](#); [Ric Lohman](#);
[Jim Harvey](#);
Subject: Re: proposed CCWD + others meeting?
Date: Thursday, March 12, 2009 12:58:24 PM

Manager Foley,

Thank you for taking the time to speak with me this morning. I appreciate your interest in listening to and gathering information from both CCWD and HMB as to their legal theories.

After conferring with Dir. Harvey, we request that HMB's request for an interagency meeting of managers and attorneys be brought to the SAM board for discussion rather than happen as tentatively planned. We recognize the difficulties reaching consensus at the board level may well involve, yet are firmly convinced that this is a necessary step.

Sincerely,
Scott Boyd
Director

On Thu, Mar 12, 2009 at 12:33 AM, Scott Boyd <scottboyd.gov@gmail.com> wrote:

Manager Foley,

The meeting, the composition of the attendee list, at a time when the two agencies are in the midst of a delicate negotiation, raises all manner of concerns.

As a JPA, one member agency attempting to coordinate a meeting of the JPA's management and counsel with its own and that of an outside agency outside of the view of the board and the other member agencies, especially during this sensitive time, runs the risk of disrupting the very operation of the board.

The board has not met with counsel on this matter since requesting research in closed session, based on three CCWD representatives (two board members and the manager) threatening litigation.

I look forward to speaking with you in the morning. At the moment, I anticipate requesting that the proposed meeting be deferred pending SAM board consideration.

Sincerely,
Scott Boyd
Director

On Wed, Mar 11, 2009 at 11:26 PM, John F. Foley III
<john@samcleanswater.org> wrote:

Dir. Boyd,

Yes, I know of this meeting. The HMB City attorney approached SAM General Counsel Copeland and me to set-up a meeting to include the Managers and attorneys for SAM HMB and CCWD for the purpose of discussing recycled water. The meeting is tentatively scheduled for next Tuesday.

It's a little late in the day to call you now; I'll call you Thursday morning.

I've received another email on the matter, from MWSD President Perkovic, in which he expressed his concerns about the meeting.

Thanks

John F. Foley III
Manager

Sewer Authority Mid-Coastside
SAM

Celebrating 33 Years of Cleaning Water

(650) 726-0124
(925) 209-5672 Cell
(650) 726-7833 Fax
jack@samcleanswater.org
www.samcleanswater.org
1000 N. Cabrillo Highway

From: Scott Boyd [mailto:scottboyd.gov@gmail.com]
Sent: Wednesday, March 11, 2009 7:29 PM
To: John F. Foley III
Cc: Ric Lohman
Subject: proposed CCWD + others meeting?

I understand that Dave Dixon mentioned at their most recent meeting that he was setting up a meeting with other agency managers and attorneys.

Are you aware of this proposed gathering, and do you know which agencies he's intending to meet with? It wasn't clear from what I heard.

Thanks,

Scott

From: [Paul Perkovic](#)
To: [John F. Foley III](#);
cc: [Clemens Heldmaier](#); [Dave Schricker](#);
Subject: Meeting March 17 between SAM / CCWD / HMB Managers and Attorneys
Date: Wednesday, March 11, 2009 9:20:01 PM

Jack,

I was just watching the MCTV broadcast of last night's Coastside County Water District meeting. I was rather startled when Dave Dickson announced that there would be a meeting next week - on March 17, I think he said - with CCWD, HMB, and SAM managers and attorneys to work on recycled water issues.

As President of the MWSD Board, I do not think it is appropriate for SAM and one member agency to meet with an outside agency to negotiate possible terms of recycled water delivery, without including the other member agencies. That is the purpose of open and noticed public meetings of the various boards. I am particularly concerned that the attorneys are invited, presumably so CCWD can press its case that direct sale by SAM to Ocean Colony Partners is not possible without CCWD's participation and cooperation, and perhaps so that HMB can back up the CCWD argument without interference by GSD or MWSD counsel.

As I stated at the last SAM meeting, MWSD is also a water purveyor in the Coastside region, and it is my opinion (as one MWSD Board Member) that MWSD should always be included in any discussions involving CCWD and its claim, if any, on recycled water from SAM - especially as it might relate to freeing up potable water supplies or determining financing arrangements.

My personal position is that MWSD contributes 20% of the flow that will produce recycled water, and that MWSD is entitled to 20% of the benefit derived from the use or sale of that recycled water. If CCWD proposes to substitute recycled water for potable water use by one of its existing customers, my personal position (which I will advocate strongly to the MWSD Board) is that MWSD's 20% share of the recycled water should be compensated by delivery to our district of the potable water that is freed up by the substitution. My alternative personal position is that MWSD ratepayers should be fully compensated for the primary and secondary treatment costs necessary to produce effluent ready for tertiary treatment and subsequent sale. Our full MWSD Board has not yet endorsed either or both of those positions, although we have had preliminary discussions so the concepts are being explored.

GSD and HMB receive water from CCWD and deliver wastewater to SAM that can directly benefit their ratepayers through reuse. MWSD ratepayers receive no benefit if CCWD increases its potable water supply using wastewater supplied from our district, or if an end-user of recycled water does not pay the full costs of producing

the product.

SAM management is not in an appropriate position to represent the significant interests of our District, our ratepayers, and our property owners in discussions with CCWD. I would ask that you include MWSD's General Manager and District Counsel in any meetings regarding recycled water that are held at the staff level with CCWD.

Thanks for understanding my concerns.

Paul Perkovic, President
Montara Water and Sanitary District

From: [Tony Condotti](#)
To: [Michael P. Dolder](#); [David Dickson](#); [Patrick T. Miyaki](#); jcopeland@sidley.com;
[John F. Foley III](#); CDuffy@Granada.ca.gov; Jonathan@wittwerparkin.com;
MWSD@Coastside.net; schrickerlaw@aol.com;
Subject: Meeting to discuss recycled water
Date: Monday, March 16, 2009 2:07:05 PM

I've been asked to reschedule the meeting currently set for tomorrow morning with CCWD, SAM and Half Moon Bay and to invite the managers and legal counsel for Montara WSD and Granada SD. Clemens Heldmaier is not available tomorrow so we will have to find another mutually convenient date. I would appreciate your letting me know whether you are interested in attending and, if so, your availability. I will schedule the meeting at the earliest opportunity when all parties who would like to participate are available. My availability for the next three weeks is:

Wednesday	March 18	except between 10:00 and 11:00 a.m.
Friday	March 20	any time
Monday	March 23	any time
Tuesday	March 24	except between 11:00 and 12:00
Wednesday	March 25	Except between 10:00 and 11:00
Thursday	March 26	after 10:00 a.m.
Friday	March 27	any time
Wednesday	April 1	except between 10:00 and 11:00 a.m. and after 3:00 p.m.
Thursday	April 2	any time
Friday	April 3	any time

Tony

Anthony P. Condotti

Atchison, Barisone, Condotti & Kovacevich

333 Church Street

Santa Cruz, CA 95060

(831) 423-8383

Fax (831) 423-9401