



**Regular Meeting of the Metro Commission
and Metro Wastewater JPA**

**9192 Topaz Way (MOC II) Auditorium
San Diego, California**

**May 5, 2017
DRAFT Minutes**

Chairman Jones called the meeting to order at 12:02 p.m. A quorum of the Metro Wastewater JPA and Metro Commission was declared, and the following representatives were present:

1. ROLL CALL

<u>Agencies</u>	<u>Representatives</u>		<u>Alternate</u>
City of Chula Vista	Steve Padilla		(No representative)
City of Coronado	Richard Bailey		(No representative)
City of Del Mar	Sherryl Parks	X	
City of El Cajon	Ben Kalasho	X	
City of Imperial Beach	Ed Spriggs	X	
City of La Mesa	Bill Baber		
Lemon Grove San District	Jerry Jones	X	
City of National City	Jerry Cano	X	Albert Mendivil
City of Poway	John Mullin	X	
County of San Diego	Dianne Jacob	X	Dan Brogadir
Otay Water District	Mark Robak	X	
Padre Dam MWD	Jim Peasley	X	
Metro TAC Chair	Greg Humora	X	

Others present: Metro JPA General Counsel Paula deSousa Mills, Assistant General Counsel Steve Martin, BBK Law; Metro JPA Secretary Lori Anne Peoples;; Rick Hopkins, Maria Kachadoorian – City of Chula Vista; Ed Walton – City of Coronado; Eric Minicilli – City of Del Mar; Yazmin Arellano and Dennis Davies – City of El Cajon; Kuna Muthusamy - National City; Augie Scalzetti - Padre Dam MWD; Mike Obermiller – City of Poway; Halla Razak, Edgar Patino, Amer Barhoumi City of San Diego Public Utilities

2. PLEDGE OF ALLEGIANCE TO THE FLAG

Commissioner Robak led the pledge.

3. PUBLIC COMMENT

None

4. ACTION: CONSIDERATION AND POSSIBLE ACTION TO APPROVE THE MINUTES OF THE REGULAR MEETING OF April 4, 2017

Chair Jones requested the minutes of the April 4, 2017 meeting be continued to the next regular meeting to allow for additional review by the Commission.

ACTION: Upon motion by Vice Chair Peasley, seconded by Commissioner Spriggs, the minutes were continued by unanimous vote.

5. **ACTION: CONSIDERATION AND POSSIBLE ACTION TO APPROVE AGREEMENT WITH CH2M HILL ENGINEERS, INC. FOR DESIGN ENGINEERING SERVICES FOR THE NORTH CITY METROPOLITAN BIO SOLIDS CENTER (MBC) IMPROVEMENTS**

Amer Barhoumi, City of San Diego, presented a brief Power Point presentation and provided a brief verbal overview of this component of North City Phase of Pure Water. The NCWRP will undergo an expansion to process additional wastewater flows and will experience higher biosolids flows. To accommodate the additional flows, upgrades and improvements to MBC are required. The project scope includes other recommended improvements driven by the Pure Water Program. He then covered the project scope including grit removal; biosolids thickening; anaerobic digestion, sludge dewatering and centrate pump station. Also, an aerial view of the proposed upgrades was provided as well as the centrate. Additional detail of the proposed contract was then provided beginning with the September 2016 advertising RFP for design engineering services; 3 firms submitted proposals; an interview panel of 4 City employees, 1 MetroTAC and 1 IROC member; CH2M Hill Engineers, Inc. was selected. Total contract amount \$5,051,090; contract duration 5 years.

Chair Jones stated that he had had concerns that some of this project should be charged to the Wastewater side so he requested Dexter Wilson go on a tour with the City of San Diego to review the plant and proposed upgrades.

Dexter Wilson stated he had indeed toured the MBC plant and reviewed the improvements which are being made to accommodate 52 mgd of secondary treatment. The amount of work being done for the advanced water purification facility is really not existent; it is basically replacing equipment that needs to be replaced. Right now there is a replacement project going on independent of Pure Water. Much of this work here could have been done independent of Pure Water just as a replacement project, so he is comfortable that this is being charged to the wastewater side.

Chair Jones thanked the City of San Diego for giving them time to address their concerns and allow Mr. Wilson to review this.

ACTION: Motion by Commissioner Mullin, seconded by Vice Chair Peasley, to approve the agreement with CH2M Hill Engineers, Inc. Motion carried unanimously.

Chair Jones stated that Item 6 would be heard after the Closed Session Item 15. Item 6 was actually heard after Item 11

6. **ACTION: CONSIDERATION AND POSSIBLE ACTION TO CONSIDER METRO POSITION ON CONSISTENCY CERTIFICATION BY CITY OF SAN DIEGO FOR ENVIRONMENTAL PROTECTION AGENCY NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FOR REISSUANCE OF SECONDARY TREATMENT WAIVER UNDER CLEAN WATER ACT SECTION 301(H), COVERING DISCHARGES FROM POINT LOMA WASTEWATER TREATMENT PLANT DISCHARGES OFFSHORE OF SAN DIEGO (MPD-SF)**

MetroTAC Chair Humora stated that the Coastal Commission Report was attached to the agenda and what they would like to discuss what if anything the JPA would like to say at the meeting/prior to the meeting and also to consult with the City of San Diego with respect as to how they plan to approach the meeting and make sure we are as consistent as possible with our approach.

Chair Jones inquired of Ms. Razak as to what the Cities position is going to be at the Coastal Commission and do they believe that the consistency certificate for the permit that was submitted by the City of San Diego is correct?

Ms. Razak stated that the consistency certificate is pretty consistent with what the Regional Board language was and in consultation with their attorney they are

comfortable that it is protective of our collective rate payer's rights. She has also had some ex parte communications with some of the Commissioners and they are very supportive and it seems to be going quite well.

Chair Jones then enquired as to the enforceable provisions language added at the Regional Board and how that works with the Coastal Commission.

Ms. Razak stated that the advice she received from the City Attorney is that the language protects the rights of the rate payers and that it really is not enforceable. So they will be supporting it as submitted.

Commissioner Baber inquired as to how the at the hearing the Environmental Community could take a position that was inconsistent to their cooperative agreement? Ms. Razak stated she would wait until Wednesday, concentrating on the final outcome.

General Counsel de Sousa Mills inquired as to whether in any of the City of San Diego's discussions with the Coastal Commissioners, there was any indication of whether the Coastal Commission itself will not concur with staff recommendation as it did back in 2009? Ms. Razak stated she did not get any indication that anything would be negative.

Chair Jones stated to be clear in his understanding that with regard to the enforceable provisions of the permit, the Coastal Commission really does not have in their purview to do the enforcement and that would be with the Regional Water Board. Ms. Razak stated she believed this to be true.

General Counsel de Sousa Mills stated that for the Commissions consideration is whether or not it wants to authorize someone to speak on the JPA's behalf to talk about the position and talk around the same language the Commission approved when speaking at the Regional Board meeting that it is behind the City of San Diego but that it is very invested in this cost allocation concept and secondary equivalency, if it wants to reiterate that previous position at the Coastal Commission.

Chair Jones stated he felt it was important to make them aware that the tie secondary equivalency is important to us. The Regional Water Board totally disregarded the secondary equivalency. According to the Regional Water Board Chair, in the mind of the Regional Water Board, they would never enforce secondary upgrades in San Diego and that is why the issue keeps getting put aside and so every 5 years we have to go through this.

Chair Jones stated he would be present at the Coastal Commission hearing if the need arose to speak.

Ms. Razak left the meeting at 1:37 p.m.

Chair Jones went on to state that the message he felt should be delivered was that they JPA supported the City of San Diego in their Pure Water Program and support moving forward with the Tentative Order and reinforce that the JPA participation in Pure Water is and always was predicated on obtaining secondary.

ACTION: Motion by Commissioner Baber, seconded by Commissioner Spriggs to authorize the Chair of the JPA to make comments if needed at the Coastal Commission meeting to ensure that the JPA's position with regard to support of the City of San Diego in light of the understanding that we are still going to have off ramps on Pure Water and that secondary equivalency is still the goal. Motion carried unanimously.

This item was heard after Item 5

7. METRO TAC/UPDATE REPORT

MetroTAC Vice Chair Davies reported that the TAC had spent time on the CH2M Hill item and approved it to be forwarded to the JPA. TAC also spent a lot of time on the item on this agenda as Item 9 Pure Water Facilities Working Group. The Working Group provided improvement suggestions which were well received by the City of San Diego and will be looked at in the future. They also received a presentation from the City of San Diego on Pure Water which will be brought to the JPA at their next meeting.

Item 10 was heard at this time.

8. POINT LOMA PERMIT RENEWAL UPDATE

MetroTAC Chairman Humora stated that Point Loma Permit was heard again by the Regional Board on April 12th. It was the meeting where they were expected to make a decision on approval of the permit. The majority of the discussion centered on whether or not the Pure Water Construction Facilities Schedule that had been added by the Regional Board Staff was an enforceable provision and part of the permit. Metro JPA and City of San Diego had attempted to put in clarifying language to state that those construction deadlines were not enforceable provisions of the permit, but the Regional Board members themselves tried very hard to ask their legal counsel and their staff to make those conditions enforceable permit provisions. He felt there was significant push back from Regional Board legal counsel and staff, the Regional Board Executive Officer basically said that they could not condition the permit for these construction activities as they do not have anything to do with the affluent limitations of the permit. There was quite a bit of back and forth testimony. They ended up drafting a sentence stating that this schedule is enforceable to the maximum extent allowed by law. We went into recess, came back and they voted 4-2 to include this sentence into the permit and then approved the permit moving forward with that language included. Both JPA and City of San Diego legal counsel do not feel that this language added into the permit makes these construction milestones as enforceable conditions. The Permit will go to Coastal Commission next week on May 10th.

9. PURE WATER PROGRAM UPDATE

Dexter Wilson stated that this update included discussions that the Pure Water Facilities Working Group of the TAC was having with City of San Diego staff and that they were trying to work together to ensure that any wastewater funds being spent to build treatment facilities, specifically secondary treatment facilities, would be utilized in any kind of scenario going forward, as we don't yet have secondary equivalency so are making sure that if they don't get it, these facilities will be fully utilizable, if we do get it we will get the same benefit from them and if there is a third alternative out there that none of us have considered, we could work these facilities into that scenarios. The City of San Diego has been very receptive to their ideas. He then ran them through some slides that showed how what is being built at North City could be integrated with various future options. A brief Power Point presentation was then made with Amer Barhoumi providing a brief verbal overview of the slides.

This item was heard after Item 7

10. IROC UPDATE

Commissioner Spriggs stated they had met on April 24th and it was a very full agenda. Mr. Helminski provided a lengthy presentation on the permit process and referred to the

newly added language to the permit having to do with staying to the construction schedule to the greatest extent permitted by law; Seth Gates provided a presentation on the Public Utilities Budget; the Public Utilities Department had to absorb a 3.5% budget cut which was part of a discussion on the water/wastewater and general fund. Commissioner Spriggs expressed concerns that Pure Water was one line item without any differences compared to the other more specific line items within the operating budget presentations. The CIP has a total of \$74 million for water and \$47 million for Pure Water and \$27 Million for Wastewater for FY 2018. Committee report outs were made and he commented on the serious nature of the JPA's concerns.

Item 8 was heard at this time.

11. FINANCE COMMITTEE

Finance Committee Chair Mullin stated that at their meeting he had been reelected as Chair and Jim Peasley as Vice Chair; changed the meeting schedule to 10 a.m. on the 4th Wednesday of the month and continue meeting at MOC. On the Social Media policy, the budget considerations came forward with three options, the least expensive being \$900/month. They declined this but requested a quote for a lower level of monitoring of social media only. They also reviewed the budget and it is tracking as intended and the Exhibit E Audits for FY 2015 and 2016 are coming forward and lastly he stated they would be meeting again this month.

Commissioner Baber arrived to the meeting at this time (1:05 p.m.)

Chair Jones requested Item 15 be heard at this time followed by Item 6 to accommodate several people who need to leave for other commitments.

12. REPORT OF GENERAL COUNSEL

General Counsel de Sousa Mills stated that at the last meeting she had commented on SB 496 recently was gutted and amended. 4/5th of it deals with limiting liability of design professionals and she wanted to make sure the PAs Legal Counsels are aware of it. It has already been signed into law. So now effective January 1, 2018, any agreements by public agencies and private owners, with a design professional (engineer, architect, landscape architect...) you can no longer have a provision in the agreement that would obligate them to provide an immediate duty to defend in the event there was a design claim brought against the owner. This is very frustrating as the person most capable to defend a design claim is the designer.

13. PROPOSED AGENDA ITEMS FOR THE NEXT REGULAR METRO COMMISSION/METRO WASTEWATER JPA MEETING OF JUNE 1, 2017

None

14. METRO COMMISSIONERS' AND JPA BOARD MEMBERS' COMMENTS

Commissioner Robak stated that in the Pure Water big picture, we had a valued engineering person in the past and inquired as to whether something like this needs to be done moving forward. MetroTAC Chair Humora stated that TAC had established the MetroTAC Pure Water Facilities Working Group recently and this was exactly what they were doing. They meet with San Diego staff and their consultants and dive deep into

details. The City of San Diego is listening and has already implemented some of the recommendations.

Case 1 of this item was heard after Item 11

Case 2 of this item was heard after item 14

**15. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION INITIATION OF LITIGATION PURSUANT TO PARAGRAPH (4) OF SUBDIVISION (D) SECTION 54956.9
NUMBER OF POTENTIAL CASES: 2**

At 1:05 p.m. General Counsel de Sousa Mills announced and the Commission would convene into Closed Session.

At 1:20 p.m. the Commission reconvened and General Counsel de Sousa Mills stated that no reportable action was taken on case 1.

The Commission heard Item 6 at this time.

At 1:45 p.m. General Counsel de Sousa Mills stated that the JPA would reconvene into Closed Session for Anticipated Litigation – Initiation of Litigation for 1 potential case.

At 2:02 p.m. the Commission reconvened and General Counsel de Sousa Mills stated that no reportable action was taken on this item.

15. ADJOURNMENT

At 2:03 p.m., there being no further business, Commissioner Jones declared the meeting adjourned.

Recording Secretary