

MINUTES OF A WORKSHOP MEETING OF THE BOARD OF DIRECTORS
OF THE VALLECITOS WATER DISTRICT
THURSDAY, AUGUST 29, 2019, AT 5:00 PM AT THE DISTRICT OFFICE,
201 VALLECITOS DE ORO, SAN MARCOS, CALIFORNIA

President Martin called the Workshop Meeting to order at the hour of 5:00 p.m.

Director Elitharp led the pledge of allegiance.

Present: Director Elitharp
Director Evans
Director Hernandez
Director Sannella
Director Martin

Staff Present: General Manager Pruim
Legal Counsel Gilpin
District Engineer Gumpel
Finance Manager Owen
Development Services Senior Engineer Scholl
Financial Analyst Arthur
Administrative Secretary Johnson

Others Present: Lutfi Kharuf, Associate, Best Best & Krieger

ADOPT AGENDA FOR THE WORKSHOP MEETING OF AUGUST 29, 2019

19-08-12 MOTION WAS MADE by Director Hernandez, seconded by Director Sannella, and carried unanimously, to adopt the agenda for the Workshop Meeting of August 29, 2019.

PUBLIC COMMENT

Michael Hunsaker, member of the public, addressed the Board stating he is the President of the Twin Oaks Valley Property Owners Association and expressed his concerns about groundwater storage. EWA is counting on this as part of its program to convert wastewater to recycled water. Groundwater storage and capacity have a checkered history in the county and city. This has been a farmland community for some time. Groundwater is heavily laden with fertilizers but more than that, wells have consistently failed in the area because of limited capacity. The use of groundwater underneath San Marcos is not reliable. History says it is very limited in capacity and this would pretty much obliterate any chance of using it as part of an EWA and North County effort to do water reclamation or recycling utilizing this questionable ground security. If reliability is an issue, this is not a viable option. He thanked the Board.

ITEM(S) FOR DISCUSSION

MODIFICATION OF WATER AND WASTEWATER CAPITAL FACILITY FEES

General Manager Pruim stated the purpose of the workshop was to discuss capital facility fees (cap fees). This item was discussed at the August 7, 2019 Board meeting at which the Board directed the item be continued to the October 2 Board meeting and that a workshop be held tonight. Two letters from Mr. Scaglione were received of which the Board was provided copies and will become part of the public record.

General Manager Pruim further stated staff is still in the process of working with legal counsel on the final cap fees considering information received at the August 7 Board meeting and other information received. Specific dollar amounts would not be presented; however, information would be presented regarding legal issues, the capital program in the Master Plan and how it drives cap fees, the methodology used to calculate cap fees, and the schedule for adoption of the cap fees. It is anticipated that the cap fees will be considered for adoption at the October 2 Board meeting.

General Manager Pruim introduced Lutfi Kharuf of Best Best & Krieger for discussion of the legal framework and considerations necessary before adopting a fee. Mr. Kharuf provided a presentation on the legal issues that are applicable to the adoption of capacity fees and charges as follows:

- Applicable Law
- Mitigation Fee Act
- Proposition 26
- Capacity Charges are not Development Impact Fees
- Growth Pays for Growth
- Legal Standard
- General Methodology

Mr. Kharuf stated the law allows capacity charges to be adopted to collect the proportional share of the District's existing infrastructure that has been oversized to accommodate future growth and to pay for new future construction of storage reservoirs, tanks, etc. that are of proportional benefit to the person or property being charged.

Development Services Senior Engineer Scholl presented information on how new facility requirements and proportionate costs relative to cap fees are determined which included:

- Capital Improvement Program
- Land Use
- Duty Factors
- Water Duty Factor Comparison with Past Master Plans
- Sewer Duty Factor Comparison with Past Master Plans
- Water and Wastewater Demand Projections
- Design Criteria – Water

- Design Criteria – Wastewater
- Creating a Capital Improvement Program (CIP)
- 2018 Master Plan Water and Wastewater CIP
- 2018 Master Plan CIP Cost Estimates
- Capital Facility Fee Determination
- CIPs Included in Capital Facility Fees Determination – Water
- CIPs Included in Capital Facility Fees Determination – Sewer
- 2018 Master Plan CIP Cost Estimates

Finance Manger Owen provided a brief summary of the methodology used in calculating the capital facility fee which is made up of the CIP expansion cost, existing debt, and existing shortfall divided by the growth projections in equivalent dwelling units (EDUs). The existing debt and shortfall are the result of costs that have not been recovered through EDUs collections to date.

District Engineer Gumpel discussed changes to the fee methodology since the August 7 Board meeting and the capital facility fee schedule. It is anticipated that the capital facility fees will be presented to the Board for adoption at the October 2 Regular Board meeting and that the new fees will take effect on October 3.

Michael McSweeney, representative for the Building Industry Association (BIA), addressed the Board stating that in discussions with staff, there's a disagreement about how the fees are determined and calculated. Mr. McSweeney provided copies of handouts for the Board and staff regarding information on the District's sewer expansion projects and the Land Outfall Siphon Section A project. He stated staff indicated that 100% of the that project is attributable to new development and provided information prepared by BIA's engineer which disputes this. The existing Siphon Section A is a 20-inch section that will be expanded to a 24-inch section of line that serves an average flow of 7.5 million gallons per day (gpd). Using staff's data, this calculates to 30,000 EDUs using 250 gallons gpd, and the District indicates actual EDUs as of 2014 are 37,646. The proposed new siphon section is a 30-inch pipe which has a capacity to build out which staff estimates to add an additional 27,600 EDUs. This is where the BIA disagrees. The current proposed fee is requiring the next 8,400 EDUs to fund 100% of this improvement that will have a capacity for at least 27,600 future EDUs. To be valid, the fee must demonstrate a reasonable relationship and proportional allocations of the estimated costs of the new facilities and new development is being asked to fund these facilities. If you look at the \$22.9 Million cost of this siphon divided by the 8,400 EDUs District Engineer Gumpel spoke about over the next 20 years, that will add capacity well beyond 20 years. When you look at the number of EDUs of additional capacity it brings to the District and you divide it, the cost per EDU drops by 75%. These are the type of specific disagreements the BIA is having with the District that they would like to get sorted out. The type of proposed cost increase is going to severely impact people's ability to purchase houses, and it directly affects his members and their ability to bring projects forward. It's such a high number, that the BIA is convinced that it's really going to curtail development.

Mr. McSweeney provided information regarding building permit activity since 1980 noting that in years 1999 through 2005 there was a lot of activity, the District put a lot in the ground during that time and made a lot of assumptions for growth. It then fell off the cliff, resulting in a shortfall. While you might not have the legal requirement of a development impact fee, they think it's incumbent upon the District to really look at this because the District is making a lot of assumptions about properties being developed to their full potential. There is a lot of expansion in the demand that staff is using to base their decisions on. There are a number of parcels which they're estimating, based on the zoning, will be 400 units. If it ever gets developed, you're looking at maybe 40. The argument they give back is they can only go by what the zoning says. But if you know going in, common sense tells you, they're never going to build 400 houses, we realize the standard we have to guestimate from is 400. There are a lot of these small excesses all the way through this. Regarding Meadowlark Reclamation Facility (MRF), before spending \$55 Million to put another pipe next to the existing pipe, which may or not be needed in the next 20 or 50 years, we need to look at how much inflow and infiltration that pipeline gets during wet weather. He believes MRF should be maximized to its full capacity and utilize that land outfall before sinking another \$50 Million into a pipeline. The District's design criteria is 7 feet per second. For most other districts, it's 8 feet per second, City of San Diego's is 10 feet per second. When you look at the need, especially for fire, it's not how many feet per second, it's pressure. When you take the most conservative approach it adds more cost to the overall system. He questioned the timeline presented for adoption of the new fees and the short time they will have to review the finalized revisions to the Capital Facility Fees Study when it is released on September 20. He would like more specifics on how these costs are estimated. None of the other districts that are served by Encina are having the same type of conversations as VWD and are not increasing their cap fees.

District Engineer Gumpel stated staff is reviewing the Capital Facility Fees Study to ensure that Mr. McSweeney's concerns such as proportionality are addressed. He clarified the following:

- The number for Phase 5 CIPs, except for the outfall and wastewater treatment, is not being divided by 8,400 EDUs; it's being divided by the ultimate buildout number of 27,640.
- The parallel outfall is in the \$50 Million range of which \$23 Million is being apportioned to development. The replacement for the existing outfall is not coming from development fees. It is a Phase 5 project and is divided by the 27,640 EDUs, not 8,400.
- The District does not have the right to change land use. A developer does not pay for maximum land use.
- MRF has a failsafe pump line that can handle an average of two million gpd. It is a small system that is not part of the land outfall system and does not pump into Encina for treatment. It is treated at MRF at a secondary level fit for ocean disposal.
- The first section of the parallel land outfall which takes sewer from VWD to Encina for treatment is a full parallel section to an existing line, not an upsized section. There are sections of the old existing line that cannot be paralld and will need to be replaced with a larger line.

- Vallecitos is the only growth agency served by Encina.

General Manager Pruim stated the Master Plan, approved in May 2019, is the foundational document used to calculate cap fees. Some of Mr. McSweeney's comments are from before the Master Plan was adopted. Staff is moving forward based on the approved Master Plan. District Engineer Gumpel stated that the BIA's legal counsel did not have any issues with the Master Plan or the costing in the Master Plan.

Development Services Senior Engineer Scholl responded to Mr. McSweeney's comment regarding design criteria being more attuned to pressure rather than pipeline velocity, stating the District includes both as components of the design criteria. The District uses the 7 feet per second criteria to help protect the system as high velocities could damage the system.

Regarding Mr. McSweeney's concern that the BIA will not have enough time to review and respond to the finalized revisions to the Capital Facility Fees Study when it is released on September 20, Legal Counsel Gilpin stated that by law, the District is only required to publish the new adjusted cap fees data 10 days before meeting. He believes many of Mr. McSweeney's concerns about allocation to new development and how EDUs are factored in have already been addressed.

Jim Simmons, member of the development community, addressed the Board stating he appreciated the fact that staff is relying on an approved Master Plan. He is reviewing the data carefully as to whether or not the conservative approach used is justified over the long run. Their objective is not to undermine the District's ability to try to provide service to customers who need it, but to make sure that it is equitable and applied as fairly as possible. He has several projects that are in the pipeline, one project that has been in the pipeline for 34 years and will be built; however, if this fee is implemented now, it will put that project in jeopardy. He asked how projects that are ready to go and financed are going to be dealt with in the application of this process. They are not happy with some of the numbers staff has used and will reevaluate and provide feedback on the final report. He asked what the difference is between wet and dry weather flows and what average flows are. That would help a lot in gaining an understanding of how much of this system is being used to handle that and how much of that is a maintenance issue versus an expansion issue. They appreciate the work staff has done on this and would like to be less conservative than staff, but they don't want them to underestimate the process either.

District Engineer Gumpel responded to Mr. Simmons' questions. The wet weather flows compared to the average flows are addressed in Chapter 7 of the Master Plan. For projects with final entitlements and annexations, the projects have to be part of the District and have a certain level of entitlement which staff is in the process of determining. If a project is not an entitled project or in the District, the District cannot collect fees. The risk to developers is that fees are non-refundable.

President Martin asked for clarification of the Board's policy concerning payment of fees, stating that Vallecitos is the only water district that changed the policy for Mr. McSweeney. General Manager Pruim stated the District collects fees upon certificate of occupancy whereas before fees were collected at the time a project was approved. The delaying of fees for up to two years was added at the request of the BIA. Fees may be payed earlier at the fee in place at the time of payment. An entitled project already annexed to the District could pay the fee, but if they don't, they have to get to that level.

General discussion took place regarding the implementation of new fees. General Manager Pruim stated that if the cap fees are adopted at the October 2 Board meeting, there is not a mandatory 30- or 60-day delay to implement the new fees, it would be at the Board's discretion.

Development Services Senior Engineer Scholl stated the impacts of wet and dry weather flows is approximately an 11.5-million-gallon difference. If Mr. Simmons is concerned about certain developments and dry weather flow, he is welcome to request a study on the issue from the District; however, the District does not size its infrastructure for dry weather flows. The District sizes its infrastructure for the worst case scenario which is peak wet weather flow.

Michael Hunsaker, member of the public, addressed the Board stating he shares some of the BIA's interest in having a greater nexus. His concern it that there is insufficient buy-in for existing capacity that was paid for years ago for present development. He's interested in the San Marcos interceptor, reservoirs and how are they being accounted for in the present fees. They are talking about capturing precisely how much capacity that each development needs. He's for that too, but it has to be a totally transparent transaction. The 2015 Urban Master Water Plan does not show how the future water capacity is to be generated. How can that be included in the present capacity fees? If you are already at a deficit, why are these costs included? In the existing capacity, why is there not buy-in for these past investments made by existing rate payers and for this future development? He expressed his concerns regarding the Davia Village development not having enough meters and projections for EDUs and capacity, and that the EDUs and water consumption numbers do not add up.

Mr. Hunsaker further stated that existing rate payers cannot be charged extra because of a deficiency in capacity fees. The District cannot ask developers or rate payers to pay more than is required. There needs to far more accountability, precision in the buy-in and review of facility fees that were paid to determine why there are more credits for waste treatment than for water consumption. The outfall capacity and capacity of waste treatment is going to be a big issue as he believes there is not enough capacity now. He asked staff how raw sewage pumped to Encina is treated to levels that it can go into the ocean. Where does Encina have the capacity? Where does the wastewater go? Does it go into the ocean untreated? How is it treated and how is fecal matter and bacteria taken care of? He believes the existing rate payers have not been well served by the delay of new cap fees.

Director Hernandez responded to Mr. Hunsaker's comments regarding Encina stating Encina has never put a drop of sewage into the ocean. General Manager Pruim stated that Mr. Hunsaker's data is being misinterpreted and staff corrected some of Mr. Hunsaker's statements.

Marlene Walder, member of the public, addressed the Board stating San Diego has allowed the city to add mother-in-law or rental units to existing properties which will cause the sewer to reach maximum capacity in a shorter time than anticipated if many people do that. If we don't put in the bigger sewer lines now, it's going to cost us a lot more later. She doesn't think developers should have to pay for the whole thing, but someone has to, and it usually falls onto the builders. While she was living in Israel the sewers reached capacity, some of the lines broke and they hadn't even built out yet. The sewers became on top of the roads and crossed the streets. Twenty years later they're still there because it's almost impossible to dig up the streets to put sewer lines in under houses that have since been built. The above ground sewer system is an eyesore which is getting outdated, also a problem. She commended staff for planning ahead and putting in the larger sewer lines now.

President Martin thanked all who attended the workshop.

OTHER BUSINESS

None.

ADJOURNMENT

There being no further business to discuss, President Martin adjourned the Workshop Meeting of the Board of Directors at the hour of 6:44 p.m.

A Regular Meeting of the Vallecitos Water District Board of Directors has been scheduled for Wednesday, September 4, 2019, at 5:00 p.m. at the District office, 201 Vallecitos de Oro, San Marcos, California.

Hal J. Martin, President
Board of Directors
Vallecitos Water District

ATTEST:

Glenn Pruim, Secretary
Board of Directors
Vallecitos Water District