



# Agenda

CITY CLERK'S OFFICE

DATE 6/28/16 TIME 2:05 PM

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**PUBLIC UTILITIES COMMITTEE  
MEETING  
CITY HALL  
CITY COUNCIL CHAMBERS  
WEDNESDAY, JULY 6, 2016  
REGULAR MEETING – 5:00 P.M.**

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF CONSENT AGENDA
5. APPROVAL OF MINUTES FROM THE JUNE 1, 2016 PUC MEETING

**INFORMATIONAL ITEMS**

6. Capital Improvement Projects Status Report. (Nick Schiavo & Isaac Pino)

**CONSENT – ACTION CALENDAR**

7. Update on Current Water Supply Status. (Alex Puglisi)
8. Wastewater Management Division Monthly Update. (Shannon Jones)
9. Update on Financial Status of Wastewater Management Division. (Shannon Jones)
10. Environmental Services Division Monthly Update. (Shirlene Sitton)
11. Resolution No. 2016-25: Preliminary Report and Recommendations for Stormwater Policy Update. (Melissa A. McDonald)

Sustainable SF – 6/15/2016

Finance Committee – 7/5/2016

Public Utilities Committee – 7/6/2016

Public Works Committee – 7/11/2016

Water Conservation Committee – 7/12/2016

River Commission – 7/14/2016

City Council – 7/27/2016

12. Request for approval of Award of Bid # '16/37/B for FY 2016/2017 City Wide Water Utility Pavement Restoration Contract, CIP # 3052 to TLC Plumbing & Utility for the contract period of 327 days, beginning August 8, 2016 for the amount of \$200,000.00 exclusive of NMGR. (Bill Huey)

Public Utilities Committee – 7/6/2016

Finance Committee – 7/18/2016

City Council – 7/27/2016

13. Request for approval of Amendment No. 2 and Consent to Assignment of Power Purchase Agreement from MLH Cripple Creek Solar, LLC to Dissigno Holdings, LLC and the City of Santa Fe (Convention Center) dated November 30, 2011. (Nick Schiavo)

Public Utilities Committee – 7/6/2016

Finance Committee – 7/18/2016

City Council – 7/27/2016

14. Request for approval of Amendment No. 2 and Consent to Assignment of Power Purchase Agreement from MLH Cripple Creek Solar, LLC to Dissigno Holdings, LLC and the City of Santa Fe (Wastewater Compost Facility) dated November 30, 2011. (Nick Schiavo)

Public Utilities Committee – 7/6/2016

Finance Committee – 7/18/2016

City Council – 7/27/2016

15. Request for approval of Award of Bid No. '16/45/P to Louie Cordova, LLC for field and drafting services to assist with on-going water main replacement projects for the amount of \$50,000 exclusive of NMGR. (Dee Beingessner)

Public Utilities Committee – 7/6/2016

Finance Committee – 7/18/2016

City Council – 7/27/2016

16. Request for approval of Award of Bid No. '16/41/B to Associated Asphalt for the purchase of asphalt hot mix for the Transmission & Distribution Section for the amount of \$35,000 exclusive of NMGR per fiscal year for four (4) years beginning with FY 2016/2017. (Len Montoya)

Public Utilities Committee – 7/6/2016

Finance Committee – 7/18/2016

City Council – 7/27/2016

17. Request for approval of Award of Bid No. '16/42/B to Southwest Landscaping for the purchase of base course, ¾" crushed grey gravel and concrete sand for the Transmission & Distribution Section for the amount of \$35,000 exclusive of NMGRS per fiscal year for four (4) years beginning with FY 2016/2017. (Len Montoya)  
Public Utilities Committee – 7/6/2016  
Finance Committee – 7/18/2016  
City Council – 7/27/2016

### **DISCUSSION AND ACTION**

18. Request for consideration for approval of a Memorandum of Understanding between the City of Santa Fe and Santa Fe County to provide City of Santa Fe Wastewater and Water Service to the St. Francis South Large Scale Mixed-Use Project. (Stan Holland)

Public Utilities Committee – 7/6/2016  
Finance Committee – 7/18/2016  
City Council – 7/27/2016

19. Discussion and possible action for the Potential Purchase of 140.1831 Acre-Feet/Year Pre-1907 Middle Rio Grande Water Rights. (Andrew Erdmann)

Public Utilities Committee – 7/6/2016  
Finance Committee – 7/18/2016  
City Council – 7/27/2016

### **MATTERS FROM THE PUBLIC**

### **MATTERS FROM THE CITY ATTORNEY**

### **MATTERS FROM STAFF**

### **MATTERS FROM THE COMMITTEE**

**NEXT MEETING: Wednesday, August 3, 2016**

**ADJOURN**

**CITY CLERK'S OFFICE AT 10:05 AM FIVE (5) MINUTES BEFORE  
THE MEETING DATE.**

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PUBLIC UTILITIES COMMITTEE MEETING  
Wednesday, July 6, 2016

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**MINUTES OF THE  
CITY OF SANTA FE  
PUBLIC UTILITIES COMMITTEE  
Wednesday, July 6, 2016**

**1. CALL TO ORDER**

A meeting of the Public Utilities Committee was called to order by Councilor Christopher M. Rivera, Chair, at approximately 5:00 p.m., on Wednesday, July 6, 2016, in the Coronado Room, Santa Fe Community Convention Center, 201 W. Marcy Street, Santa Fe, New Mexico.

**2. ROLL CALL**

**MEMBERS PRESENT:**

Councilor Christopher M. Rivera, Chair  
Councilor Signe I. Lindell  
Councilor Joseph M. Maestas  
Councilor Ronald S. Trujillo  
Councilor Renee Villarreal

**OTHERS PRESENT:**

Nick Schiavo, Public Utilities Director  
Marcos Martinez, Assistant City Attorney  
Melessia Helberg, Stenographer

There was a quorum of the membership present for conducting official business.

**NOTE: All items in the Committee packet for all agenda items are incorporated herewith to these minutes by reference. The original Committee packet is on file in the Public Utilities Department.**

**3. APPROVAL OF AGENDA**

Nick Schiavo, Director, Utilities Department, said Santa Fe County has requested that Item#18 be removed from the Agenda, to be postponed to the next meeting of the Committee on August 3, 2016.

**MOTION:** Councilor Trujillo moved, seconded by Councilor Villarreal, to approve the Agenda as amended.

**VOTE:** The motion was approved unanimously on a voice vote.

**4. APPROVAL OF CONSENT AGENDA**

**MOTION:** Councilor Maestas moved, seconded by Councilor Trujillo, to approve the following Consent Action Calendar as amended.

**VOTE:** The motion was approved unanimously on a voice vote.

**CONSENT – ACTION CALENDAR**

- 7. UPDATE ON CURRENT WATER SUPPLY STATUS. (ALEX PUGLISI)**
- 8. *[Removed for discussion by Councilor Maestas]***
- 9. *[Removed for discussion by Councilor Maestas]***
- 10. ENVIRONMENTAL SERVICES DIVISION MONTHLY UPDATE. (SHIRLENE SITTON)**
- 11. *[Removed for discussion by Councilor Maestas]***
- 12. REQUEST FOR APPROVAL OF AWARD OF BID #16/37/B FOR FY 2016/2017 CITY WIDE WATER UTILITY PAVEMENT RESTORATION CONTRACT, CIP #3052 TO TLC PLUMBING & UTILITY FOR THE CONTRACT PERIOD OF 327 DAYS, BEGINNING AUGUST 8, 2016 FOR THE AMOUNT OF \$200,000, EXCLUSIVE OF NMGR. (BILL HUEY) Committee Review: Public Utilities Committee 07/06/16; Finance Committee – 07/18/16; and City Council - 07/27/16.**
- 13. *[Removed for discussion by Councilor Villarreal]***
- 14. *[Removed for discussion by Councilor Villarreal]***
- 15. REQUEST FOR APPROVAL OF AWARD OF BID NO. 16/45/P TO LOUIE CORDOVA, LLC, FOR FIELD AND DRAFTING SERVICES TO ASSIST WITH ON-GOING WATER MAIN REPLACEMENT PROJECTS FOR THE AMOUNT OF \$50,000 EXCLUSIVE OF NMGR. (DEE BEINGESSNER) Committee Review: Public Utilities Committee 07/06/16; Finance Committee – 07/18/16; and City Council -07/27/16.**
- 16. REQUEST FOR APPROVAL OF AWARD OF BID NO. 16/41/B TO ASSOCIATED ASPHALT FOR THE PURCHASE OF ASPHALT HOT MIX FOR THE TRANSMISSION & DISTRIBUTION SECTION FOR THE AMOUNT OF \$35,000 EXCLUSIVE OF NMGR PER FISCAL YEAR FOR FOUR (4) YEARS BEGINNING WITH FY 2016/2017. (LEN MONTOYA) Committee Review: Public Utilities Committee 07/06/16; Finance Committee – 07/18/16; and City Council - 07/27/16.**

17. REQUEST FOR APPROVAL OF AWARD OF BID NO. 16/42/B TO SOUTHWEST LANDSCAPING FOR THE PURCHASE OF BASE COURSE, 3/4" CRUSHED GREY GRAVEL AND CONCRETE SAND FOR THE TRANSMISSION & DISTRIBUTION SECTION FOR THE AMOUNT OF \$35,000, EXCLUSIVE OF NMGR, PER FISCAL YEAR FOR FOUR (4) YEARS BEGINNING WITH FY 2016/2017. (LEN MONTOYA) Committee Review: Public Utilities Committee 07/06/16; Finance Committee – 07/18/16; and City Council -07/27/16.

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**END OF CONSENT – ACTION CALENDAR**  
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5. APPROVAL OF MINUTES FROM THE JUNE 1, 2016 PUC MEETING

**MOTION:** Councilor Maestas moved, seconded by Councilor Trujillo, to approve the minutes of the PUC meeting of June 1, 2016, as presented.

**VOTE:** The motion was approved unanimously on a voice vote

**INFORMATIONAL ITEMS**

6. CAPITAL IMPROVEMENT PROJECTS STATUS REPORT. (NICK SCHIAVO & ISAAC PINO)

Isaac Pino, Director, Public Works Department, and Nick Schiavo, Director, Public Utilities Department, presented information from their joint Memorandum of June 27, 2016, with attachments, regarding Capital Improvement Projects Status Report. Please see this memorandum for specifics of this presentation.

Mr. Pino said Public Works and Public Utilities have combined efforts to come up with a uniform reporting tool, so when you are looking at any department, you will see the same format.

Mr. Schiavo said he had held off entering the project he is working on which is the Hospital Tank replacement, but that information is now entered. He said it will be great to use this format which is the same as the one used by Finance.

*The Committee commented and asked questions as follows:*

- Councilor Villarreal asked the reason they added both the Original Budget, Current Budget, Contract Amount and Contract Expended. She said it makes sense to add the contract amount and how much has been spent, and asked how the original budget and current budget are different.

Mr. Pino said the original budget is set up at the beginning of the project. He said it may be necessary to amend the contract or do a change order to add something to the project, so that will start to change the budget, and this shows that difference. He said it seems that there is at least one change order or something that changes on each project. He said these are updated monthly at the request of the Finance Department, and they are now using Finance's format, and there will be supporting data to support the change and the action taken by the Committee and Council.

- Councilor Villarreal asked, with regard to the \$175.22 change to the WWTP Master Plan, if such change wouldn't affect the contract amount, because the cost has shifted. She wants to make sure if things change that the contract amount is changed so we are tracking the new amount.

Shannon Jones said sometimes changes are so small, and the GRT wasn't changed in the contract which was an oversight. He said it was staff's recommendation to absorb that amount in the existing budget, and not amend the contract.

- Councilor Maestas said the Percent Complete is the percent of work completed and it is totally independent of time elapsed.

Mr. Pino said the Percent Complete is related to the amount of money spent on this Report.

- Councilor Maestas asked if they have thought about adding Percentage of Work Completed.

Mr. Pino said that is kept with the project schedule information, but it easily could be added to this list. He said they are trying to keep the spreadsheet readable, noting they are contemplating another two other columns right now as well. For example, under Change Orders, some projects have 1-2 changes and some more than that. He said they might be able to fit that information under comments or status where the progress is and keep that on a separate sheet.

- Councilor Maestas said the burn rate will fluctuate more than the financial obligation rate, but it's good for him to have a reference. He said the schedule completion date helps, but he still has no idea how we're tracking in terms of percent of work completed.
- Councilor Maestas said there may be State appropriations and federal funds, and the City has a good reputation for never allowing those funds to lapse or come close. He asked how this information is tracked, and if it is separate from this CIP tracking report.

Mr. Pino said if you were looking at a listing of the Public Works projects, "it will identify under the 4<sup>th</sup> header there past the project title, there is federal, state, city and the funding source will come from there. We try never to get ourselves in a position where anything lapses. We work with FTA, FAA, FHWA and F-everything else."

- Councilor Maestas said there probably is no need to add it to this, but he wants to make sure that there is some internal mechanism to ensure we don't get close to lapsing.

Mr. Pino said, "We do. As a matter of fact, now that we've taken over Transportation and Transit, almost daily they're sending updates and requests for information, and keep this deadline. FTA is very diligent about making sure you remember that you data is due or that you draw request are due, or whatever. FAA is pretty much the same, and so are all the federal agencies. And the State doesn't lag behind really on that either. There's a lot of coordination going on between our Project Managers and their offices."

- Councilor Maestas said we got dinged on expenditure of bond money, noting the auditors told use all bond money should be spent within 5 years of the actual bond issue. He asked if we have any self imposed deadlines to force us to get all bond funding obligated in 5 years.

Mr. Pino said, "Let me tell you how we used to track it when we were doing CIP bonds, which we hope to be doing again in a couple of years. The CIP Bonds would come through and get the project approval from the Council for the total amount of the bond issue. And then working with Helene Hausman, we would determine which of the early projects we could get done in the first 3 years and what we would do in the following 3 years. We would only sell bonds for the projects we could finish in 3 years, and years was the threshold – start to finish closed-out projects. Then she would sell the rest of the bond issue and we would do those projects. So while on paper it might look like this bond issue lasted from 2010 to 2014-2015, but those were two bond issues separating the projects into two groupings so we could get all of them done within a 3 year threshold. And so that would probably be how we would approach it again when we do another bond issue. Her stuff was related to arbitrage more than anything else, because if we held onto the bond funds longer than 3 years, there were going to be issues around arbitrage."

- Chair Rivera asked if there a way of keeping track of change orders and the amounts as well.

Mr. Pino said, "We do, and that probably makes sense for a category to list here, just so you know where we are. I know that sometimes it seems overwhelming. It seems like we're coming every other month on a project with a change order. Art [inaudible] my project manager is how we can get that shown here."

- Councilor Rivera said he doesn't want to make it too lengthy, because it's already a pretty large document, but it may be worthwhile to keep track of all change orders and the total costs.

#### **8. WASTEWATER MANAGEMENT DIVISION MONTHLY UPDATE. (SHANNON JONES)**

**MOTION:** Councilor Maestas moved, seconded by Councilor Lindell to approve this item.

**VOTE:** The motion was approved unanimously on a voice vote.

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**MOTION:** Councilor Maestas moved, seconded by Councilor Villarreal, to reconsider the previous approval of the Consent Action Calendar, as amended.

**VOTE:** The motion was approved unanimously on a voice vote.

**MOTION:** Councilor Maestas moved, seconded by Councilor Villarreal, to remove Item #9 for discussion and to approve the amended agenda as further amended.

**VOTE:** The motion was approved unanimously on a voice vote.

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### **CONSENT – ACTION CALENDAR DISCUSSION**

**9. UPDATE ON FINANCIAL STATUS OF WASTEWATER MANAGEMENT DIVISION. (SHANNON JONES)**

Councilor Maestas said in the Financial Overview there is \$1.8 million GRTs dedicated to this enterprise. He asked if it is pledged for some of the debt.

Mr. Jones said yes, the ½% GRT is dedicated for the bond payment entirely.

Councilor Maestas said in the third table on page 1 of his Memo, the O&M expenses went from \$11.8 million in FY 2014, to \$13 million in FY 2015, and asked the reason for the jump in expenditures.

Mr. Jones said in FY 14/15 the City expended \$1.9 million for a sewer rehabilitation which is the cause for the increase in maintenance.

**MOTION:** Councilor Maestas moved, seconded by Councilor Lindell, to approve this request.

**VOTE:** The motion was approved unanimously on a voice vote.

**11. RESOLUTION NO. 2016-25: PRELIMINARY REPORT AND RECOMMENDATIONS FOR STORMWATER POLICY UPDATE. (MELISSA A. McDONALD) Committee Review: Sustainable SF – 06/15/16; Finance Committee – 07/05/16; Public Utilities Committee 07/06/16; Water Conservation Committee – 07/12/16; River Commission 07/14/16; and City Council - 07/27/16.**

Councilor Maestas said this is a great report. He read the recommendations, and some are really ambitious. He said we don't have an assessment of all the stormwater infrastructure. He said a lot of the goals, such as creating a Flood Control Authority and integrating GIS, are great. However, he sees the

stormwater system as having some real fundamental needs. He said he would like to take a step back and do an assessment of the existing system and identify the exact GPS locations of all culverts. He has talked with Mr. Pino who told him we don't have a handle on the inventory of our stormwater system. He doesn't want to gloss over that and start pursuing a lot of the recommendations. His question is what is the plan to identify the existing system, and identifying some fundamental projects before we start creating a Flood Control Authority and all the aspirational recommendations. He asked if this has been discussed.

Melissa McDonald, RLA River & Watershed Coordinator said yes. She said the recommendations are broken down into 4 groupings on page 9 of the packet. The first is to do a GPS mapping of the current system. She agrees that is fundamental to any stormwater planning, and the reason is its own item. She said with the MS4 permit coming on line, it will be helpful to have mapping of all the inlets, outlets, piping, where the pollution is coming from and such. She also wants to be sure the Committee is aware that they just finished an Arroyo Assessment with the Santa Fe Watershed Association, an update from 2012, and goes through all of the ways the arroyos are being impacted by the stormwater. She can provide copies for the Committee.

Councilor Maestas said his frustration on the infrastructure side is we have great needs, but it's a best guess estimate. He said to make decisions for a mil levy for flood control or even increasing the Stormwater Fee, we need a sound basis. He said he is tired of dealing with rough numbers. He asked once they have identified all the features, what is the next step.

Ms. McDonald said she believes that is up to the Governing Body and the City Manager to direct staff to pursue that, commenting these are just recommendations based on a point in time where we are, but that is certainly an outcome they could pursue.

Councilor Maestas asked again what are the next steps, what's going to happen now.

Ms. McDonald said this is meant for the Committee to digest the information, and direct the City Manager and staff how you want them to proceed. She said the Committee needs to let staff know what you want them to focus on. She called the Committee's attention to Appendix B, which is another important element of the report. It basically will create a uniform way of looking at stormwater so there is no additional funding, it is about having each project manager to be on the same page. She said they tried to look at stormwater in the context of decreased budgets, and do things that were realistic. She said, "So while those bigger ideas are listed on the recommendations, there are some very practical things in there as well. And I think that Appendix B is a policy way of looking at how to handle stormwater on the public side of projects versus the private development."

Councilor Maestas said one of his issues was that we were using all of the Stormwater Fee revenues for Parks and Streets maintenance, and everything else but stormwater maintenance, but we're not doing that anymore. We have shifted those expenses to the General Fund. He asked if we are still doing the same level of street maintenance and street sweeping, because he was told we are charging Street Maintenance to ensure it improves the stormwater quality by sweeping the streets, and we don't want to jeopardize the discharge permit and it makes sense.

Ms. McDonald said she doesn't know the detail, and Dave Catanach or Ike Pino would be the people to ask about the features of drainage. She said she doesn't believe anything has been decreased, commenting they recently purchased new street cleaning equipment, and it is part of the MS4 permit. She can check and get that information to him.

Councilor Maestas said he believes we are a long way from doing another bond initiative, and reiterated the things he thinks we need to do before we consider a bond initiative in this regard.

Chair Rivera asked if they are seeking guidance on one of the recommendations, and if that needs to be done tonight.

Leroy Pacheco, Supervisor, Watershed & Trails, said they would like action. He said last night at Finance, the action was general concept approval, so there aren't specific projects. He said basically what they are asking is approval of the 4 broad recommendations as a starting point for updating the City's Stormwater Policy.

Chair Rivera said it a great report, and asked if there is an associated budget, noting there are some very large ticket items included.

Mr. Pacheco said he would like to add to the discussion, is that stormwater is a very broad topic and hits lots of departments and divisions across the City, as well as the private developers, noting stormwater is subject to EPA guidelines. He said the intent is to suggest the direction based on what the City has been doing for the last 20 years. Its approach has been progressive in the sense that we don't necessarily dump into the Arroyo Chamiso and the Santa Fe River, and looking at ways of retaining, detaining water before it hits those sources for pollution control, erosion control and water infiltration. He said the next step is to embrace infiltration as a City. The suggestions were to look at ways, for example, within the Public Works and other project tool kit to have sort of a checkoff list, and if that is possible. The funding source is how we might look for deeper funding. He said it is a very general recommendation and sets the tone for policy.

Mr. Pacheco continued, saying "The one item in the recommendation that does have a number that we can say, and it is a fundamental piece of information data we need, is the GIS update. He said we collect and have a lot of information. The GIS information isn't bad, we did ask people who use it, but it could be so much better. We are specifically calling out approximately \$150,000 to \$250,000 to update the City's GIS. Against, it would be general and it's not approval to here to a contract, it's just a general sense that would be the recommendation that has a financial contract, and would come into conversations later."

Chair Rivera said it's not so broad that you will have an idea of what your next steps would be.

Mr. Pacheco said staff has a pretty good handle on how to scope that out.

**MOTION:** Councilor Maestas moved, seconded by Councilor Villarreal, to accept the recommendations in the Report, with staff direction to come back to this Committee and reaffirm the Ordinance for the Stormwater Fee and uses for Stormwater Fees, and to prepare an annual insert in the water bills to explain the Stormwater Fee, its uses and how it relates to drinking water.

**VOTE:** The motion was approved unanimously on a voice vote.

**13. REQUEST FOR APPROVAL OF AMENDMENT NO. 2 AND CONSENT TO ASSIGNMENT OF POWER PURCHASE AGREEMENT FROM MLH CRIPPLE CREEK SOLAR, LLC, TO DISSIGNO HOLDINGS, LLC, AND THE CITY OF SANTA FE (WASTEWATER COMPOST FACILITY) DATED NOVEMBER 30, 2011. (NICK SCHIAVO) Committee Review: Public Utilities Committee 07/06/16; Finance Committee – 07/18/16; and City Council -07/27/16.**

Councilor Villarreal asked what are the implications once Cripple Creek assigns to Dissigno Holdings.

Mr. Schiavo gave a brief history of this issue for the members of the Committee. He said Cripple Creek owns and operates for a 20 year time period and we pay a fixed price for electricity over that term, noting we were able to get a good rate for electricity. He said MLH has expressed an interesting in selling these and other assets they have nationwide, and Dissigno is interested in purchasing those and continuing the contract, honoring the same interest rate and power purchase agreement price for the electricity, and do all the associated O&M.

Mr. Schiavo said the first scenario is if we continue the PPA through Dissigno, we will make an additional \$44,000 in interest over the 20 years, and save \$12,800, noting the total savings will be \$57,000. He said if the City decided to purchase the system in 2018, we could save roughly \$91,000, and the O&M would be on the City. At some point the inverters will need to be replace, thus his best estimate for the cost of inverters and replacement, with the upside of \$75,000. He is recommending we should allow the sale, and allow the transfer to happen, but the upside is not that great and he doesn't know it is worth the additional headaches for the City to taken ownership of the system.

Councilor Villarreal said, "It seems like it would be more money if we took it on for maintenance and replacement of equipment."

Mr. Schiavo said we have good luck with the system at Wastewater, noting at some point Sun Edison had to get the tracking back in order, but they haven't replaced the inverters. He said that system has been in place for about 5½ years. He said the photovoltaic systems really require a minimal amount of maintenance. The inverters have been solid for both systems since the beginning, and the panels are working well, so there isn't a whole lot of estimates. He just wanted to give his best estimate of "what we could look at."

Councilor Villarreal asked the risks in making this change.

Mr. Schiavo said currently MLH has been making its principal and interest payments regularly quarterly. If we allowed the sale, there is risk the new company may not be able to make the payments. He said his opinion the risk is relatively low, because there is a positive cash flow from the first month. He said if they fail to pay, the system is on our roof, and he would have to speak with Legal. He assumes if they don't pay we could take over the ownership.

**MOTION:** Councilor Villarreal moved, seconded by Councilor Lindell, to approve this request as recommended by staff.

**VOTE:** The motion was approved unanimously on a voice vote.

14. **REQUEST FOR APPROVAL OF AMENDMENT NO. 2 AND CONSENT TO ASSIGNMENT OF POWER PURCHASE AGREEMENT FROM MLH CRIPPLE CREEK SOLAR, LLC, TO DISSIGNO HOLDINGS, LLC, AND THE CITY OF SANTA FE (CONVENTION CENTER) DATED NOVEMBER 30, 2011. (NICK SCHIAVO) Committee Review: Public Utilities Committee 07/06/16; Finance Committee – 07/18/16; and City Council -07/27/16.**

Councilor Villarreal asked if there is anything different Mr. Schiavo would like to share.

Mr. Schiavo said because the initial cost was less, and there was more favorable electric rate through PNM, if we continue Scenario #1 gives an additional \$105,000 over the life of the contract. If we bought it we would be looking at a savings "even after what I'm putting in for monitoring and inverter replacement, about \$177,000." He said on this request, he is recommending the transfer, and that in two years the City consider purchasing it. He said in year 6 the cost of the system drops from \$315,000 to \$188,000.

Councilor Villarreal asked if we have to look at this every year.

Mr. Schiavo said no, if we allow the amendment we would not have to review it each year. He said, "My recommendation is that if we review it again after March 2018, and see if the Council is interested in purchasing it."

**MOTION:** Councilor Villarreal moved, seconded by Councilor Maestas, to approve this request.

**VOTE:** The motion was approved unanimously on a voice vote.

## **DISCUSSION AND ACTION**

18. **REQUEST FOR CONSIDERATION FOR APPROVAL OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SANTA FE AND SANTA FE COUNTY TO PROVIDE CITY OF SANTA FE WASTEWATER AND WATER SERVICE TO THE ST. FRANCIS SOUTH LARGE SCALE MIXED-USE PROJECT. (STAN HOLLAND) Committee Review: Public Utilities Committee 07/06/16; Finance Committee – 07/18/16; and City Council - 07/27/16.**

This item was removed from the agenda and postponed to the Public Utilities Committee meeting of August 3, 2016.

19. **DISCUSSION AND POSSIBLE ACTION FOR THE POTENTIAL PURCHASE OF 140.1831 AFY [ACRE FEET/YEAR] PRE-1907 MIDDLE RIO GRANDE WATER RIGHTS. (ANDREW ERDMANN) Committee Review: Public Utilities Committee 07/06/16; Finance Committee – 07/18/16; and City Council -07/27/16.**

Andrew Erdmann, Water Resources Specialist, presented information from his Memorandum of June 27, 2016, regarding the potential purchase of 140.1831 afy pre-1907 Middle Rio Grande Water Rights. Please see this Memorandum for specifics of this presentation.

*The Committee commented and asked questions as follows:*

- Councillor Maestas said we still have some issues with the State Engineer's Office with regard to water rights, putting our water rights to beneficial use. We talked several months ago about our Water Plan and if we need to revisit that to prepare for the continued challenge of putting our water rights to beneficial use and justifying our portfolio given population and such. He said it is difficult without the context of our 40 year plan, and secondly there is the issue of requiring additional water rights, being challenged in our supplemental well permit application. He asked Mr. Erdmann to address the reason this is advantageous to the City in the face of all that.

Mr. Erdmann agreed it would be good to have the Long Range Water Supply Plan in place before this opportunity came to the City. However, there is time pressure on the part of the seller who isn't interested in waiting for that to play out. He said, "If we were to acquire this right, and when we do acquire pre-1907 Middle Rio Grande rights, we transfer them into the Buckman well field where we hold them to use as offset. While we haven't proved up on the 4,865 afy associated with the City Wellfield Permit or the 10,000 afy listed with the Buckman Permit. He said to prove the Buckman, we are required to have offsets. He said the State Engineer says by pumping the wells, we're dropping the water table and reducing the supply, so we have to buy these water rights as offsets to reduce demand by the same amount.

Mr. Erdmann continued, saying in discussions with the State Engineer, one topic on the table, is the fact that they potentially are requiring us for proving up some of the existing rights. He said there is the possibility that we may need these rights to help prove out right elsewhere as we apply for new wells from which to withdraw our water, because it opens the permit to the State Engineer. It appears is the practice is to attach offsets based on that action.

- Councilor Maestas asked what is the 5-year running average for offsets.

Mr. Erdmann the difficulty with the 5 year offsets is that the offsets are incurred and they actually peak 5-7 years out in terms of the maximum of offsets we're going to have from a given year's pumping. They have been going down over the past several years because, since 2002, we've been relying very little on the Buckman Wells. Last year, we owed 890 afy, which is close to the total amount of water rights we hold. He expects that number to keep going down, because we're not pumping the wells very much so it might not be a problem. He said it's difficult to tease out exactly how much we would owe and how much we can pump in the next year because of the way they input the data. He said they are working on improving our modeling so don't have to rely on that.

- Councilor Maestas said he thought the previous water report indicated we have 15,000 afy in storage, and our San Juan/Chama rights are now perpetual. He asked if the State Engineer would say we have a lot in storage, a permanent allocation, and using San Juan/Chama is perfectly allowable offset. He asked why they would look favorably on acquiring these MRG water rights, versus just using San Juan/Chama water.

Mr. Erdmann said he doesn't know that the State Engineer's Office has a preference between those two sources. He said "We have a preference internally, because we would like to be able to divert and drink the San Juan/Chama water. Of course, we also would like to rest the Buckman Well, so are hoping we continue to get surface water and these offsets aren't required anytime soon, so that is where we will go. If we didn't have adequate offsets in terms of what we own in pre-1907 Middle Rio Grande rights and we pumped beyond what we could meet with those retired rights, we would have to use San Juan/Chama water and that would satisfy the State Engineer and that would be meeting the conditions of the permit."

- Councilor Maestas said the City conducted an affluent study, and he thinks it's in our best interest to use our effluent. He likes the idea of piping the effluent back down into the main stem and getting return flow credit. Whatever we get credit for is going to increase our diversion, and we potentially could be diverting even more San Juan/Chama water depending on our return flow credit. He said \$2.3 million is a lot of money, commenting it must be a great deal because you're recommending it, but he wants to make sure we understand the context of all these things that exist and with which we may be dealing in the near future.

Marcos Martinez, Assistant City Attorney, thanked Councilor Maestas for his valid points. He said, "One thing to amplify on what Andrew said, is if we did start associating certain groundwater pumping with the San Juan/Chama water because it exceeded the amount of offsets we had in native water rights, it basically would be tied to those groundwater effects for a long time because of the delayed and continued effects from groundwater points. I think you make some excellent points regarding treated effluent as an additional source we might be able to get return flow credits on."

Mr. Martinez continued, "I would like to say that I think that the price per acre foot is a little bit high in my estimation, and I think the action requested is actually intended to be somewhat neutral. Really just presenting the facts to the Committee, and say this is an opportunity that is available. However, it does cost a great deal of money. I think the price per acre foot is a little bit high and I would suggest that when we purchase larger purchases that the price per acre foot should actually fall. And so, I would wonder if also maybe could have direction from the Council, or direction from the Committee to go back to the sellers and maybe try to get the price to be a little bit lower. I think we're looking at some other potential purchases that are going to come in well below this, and they aren't quite as large."

Mr. Martinez continued, "So I think that would be an alternative to just simply moving this through the Committee right now, maybe going back to the sellers and saying that we think the price per acre foot is a little bit high. I think on the one hand it is a very large amount of water, but by the same token, it's sure to draw a lot of protests because it's so large. And I think we probably can get that cost down if we had the direction from this Committee to go back to the seller and try to negotiate that price down."

- Councilor Maestas said it is a significant increase. He said his final concern is the impact on the market. If the City purchase the water at this rate, it increases the market which will affect the cost of water required for development. This, potentially, could change the water market.

Mr. Martinez said, "Yes. I definitely think people regularly ask the City what the going price is in the City of Santa Fe. And we tell them it's \$13,500 per afy. This seller wants \$17,000 afy. Basically the water market would grow instantly."

- Councilor Maestas said his ultimate concern is the impact on the market, the cost of development, and the ripple effect it would cause. It is substantially higher, then the last acquisition we had of similar water right. He recommends a counter-offer, although he doesn't know an exact figure, but he thinks this is high.

- Councilor Villarreal asked from whom we are purchasing the water rights.

Mr. Erdmann said it was brought to the City by a broker, Glen Bogle, who has brought water rights to the City previously, but these water rights originated in the region of Socorro.

- Councilor Villarreal asked the funding source to purchase water rights.

Mr. Schiavo said the City has set aside \$600,000 a year for water rights purchases, but we use the cash balance to pay, and we wouldn't borrow any money.

Mr. Erdmann said the water rights were originally offered at \$18,500 per afy, so we did some negotiation with them prior to bringing this to the Committee, but they only were willing to reduce the cost to \$17,000 per afy.

- Councilor Villarreal asked what we can do to further reduce the cost.
- Chair Rivera asked if we have to purchase the whole amount, or can it be split up.

Mr. Erdmann said he understands they want to sell the whole package together, commenting, "I realize Marcos feels differently, but the seller feels the water rights are worth more per acre foot, given they are in a larger quantity. So they're not going to want to sell us a piece of that, because they believe it will lower the value of each part of what they're holding."

Mr. Schiavo asked Mr. Erdmann to update the status of the toilet retrofit purchases, where we sit in the water bank.

Mr. Erdmann he said we do use these for assets related to our pumping. We also use the water rights purchased to support the sale through the Water Budget Accounting Office. He said currently, and for years, we have been very close to the line in terms of crossing over from being in the black into the red on those sales. He said we did a number of toilet retrofit purchases authorized by this Committee, which has gotten us another 80 afy of water, which is great. That is about 5 years at our current burn rate for this resource, and if development steps up, maybe 2-3 years depending on the increase, so we have a bigger cushion than we have had in the past, which is less pressure than we've had in the past.

Mr. Erdmann continued, "I should also say too, that my intention was not to explicitly recommend this purchase, as much as to seek guidance on where I should go. So Marcos is right, that was why I intended to bring it. So if it reads that I'm really trying to encourage the Council to purchase that, that wasn't my intention."

- Chair Rivera asked if there are any other buyers interested in or willing to pay the \$18,000 per afy, or closer to \$17,000 per afy.

Mr. Erdmann said it depends on the threshold, and what the seller is representing about what may be available to them in terms of other potential buyers.

Mr. Martinez said, "My understanding is that right now, Santa Fe is paying more than any other municipality with the possible exception of Taos. So I think these sellers know that, I know they know that, and they've come to use with this pitch at this price for that reason. I would be happy to try to negotiate this down. I would recommend the \$17,000 per afy right."

- Chair Rivera said this is the largest purchase of water he's seen come through this Committee, although it is appealing to have that much water under our control.
- Councilor Trujillo asked the most we've ever paid per acre foot.

Mr. Martinez said, "Lately, in the Middle Rio Grande, we've just been paying \$13,500 per afy. We've gotten it as low as \$12,000 per afy. I think when the market was hot in 2006, we might have paid as much as \$16,000 per afy. So I don't think we've ever paid \$17,000 per afy for Middle Rio Grande rights."

- Councilor Trujillo said he remembers the \$16,000 per afy.

Mr. Martinez said, "And I think that's also the basis for our developer purchase price, is \$16,000 per afy, so we've never gone above that. And I really do think it may create a small bubble going this high."

- Councilor Trujillo said, "I'm fine with the recommendation to go back and renegotiate, but I actually don't want to pay anything over \$15,000 per afy, I really don't."

**MOTION:** Councilor Maestas moved, seconded by Councilor Lindell, to direct staff to go back and continue negotiations to try to get a lower price, and to defer to Marcos Martinez and counsel to come up with a good counter-offer.

**VOTE:** The motion was approved unanimously on a voice vote.

## **MATTERS FROM THE PUBLIC**

There were no matters from the public.

## **MATTERS FROM THE CITY ATTORNEY**

There were no matters from the City Attorney.

## ITEMS FROM STAFF

There were no items from staff.

## MATTERS FROM THE COMMITTEE

Councilor Maestas provided a brief update on NMML State Engineer's Task Force. He said they have been meeting to talk about several issues of concern to municipalities. Some of the concerns are the interpretation of the 40-year water planning rule, questioning water rights portfolios and questioning projections versus water per capita per day. He said other issues are the standing of protestants and the allowable change to a protest after initial filing and the supplemental well rule. There a number of issues they're trying to work out administratively to avoid legislative fixes. He said the Task Force has met twice with the State Engineer and Staff, and they are making great progress. He said Mr. Martinez and other City staff have been attending. He said it's going well and they will be meeting again on July 21, 2016. He said it is a low-key affair. The State Engineer wants to work directly with municipalities through the NMML. He said municipalities on the Task Force are Las Vegas, Red River, Gallup, Ruidoso, Santa Fe and Albuquerque.

Chair Rivera thanked Councilor Maestas for representing the City on the Task Force.

## NEXT MEETING: WEDNESDAY, JUNE 6, 2016.

Chair Rivera said he would like to hold the next meeting at the Buckman with a tour of that facility after the meeting. It was the consensus among the Committee that the meeting should start at 4:00 p.m.

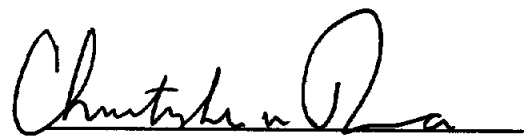
Councilor Maestas asked if we're just touring the treatment facility.

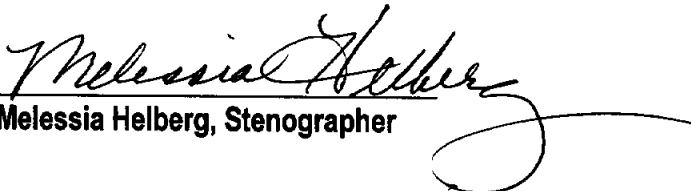
Chair Rivera said we're just going to tour the treatment facility.

Mr. Schiavo said he thinks the tour will take about 30 minutes.

## ADJOURN

There was no further business to come before the Committee, and the meeting was adjourned at approximately 6:10 p.m.

  
Christopher M. Rivera, Chair

  
**Melessia Helberg, Stenographer**