



PROVO MUNICIPAL COUNCIL

Joint Meeting with the Metropolitan Water Board

12:30 PM, Tuesday, May 28, 2019

Room 310, City Conference Room

351 W. Center Street, Provo, UT 84601

Agenda (0:03:20)

Roll Call

The following elected officials, members of the Metropolitan Water Board, and staff were present:

Council Chair David Harding, conducting
Councilor Gary Winterton
Councilor George Stewart
Councilor David Sewell
Cliff Strachan, Council Executive Director
Mayor Michelle Kaufusi, arrived 12:40 PM
Wayne Parker, CAO
Isaac Paxman, Deputy Mayor
Brian Jones, Council Attorney
Robert West, City Attorney
Richard Brimhall, Metropolitan Water Board
Dave Decker, Public Works Director and
Metropolitan Water Board member

Wood Miller, Metropolitan Water Board
Dennis Weir, Metropolitan Water Board
Cindy Richards, Metropolitan Water Board
Dan Johnson, Metropolitan Water Board Manager
John Mabey, Water Rights Attorney
Jon Shutz, Water Rights Attorney
Jimmy McKnight, Public Works Financial Analyst
Shane Jones, Water Engineer
Ryan York, Water Sources Manager
Gary Calder, Water Resources Division Director
Bryce Mumford, Policy Analyst
Elizabeth VanDerwerken, Council Exec. Asst.

Excused: Councilors Kay Van Buren, George Handley, and David Knecht

Prayer

The prayer was offered by Dan Johnson, Provo Metropolitan Water District Manager.

Business

1. A presentation and review of aquifer storage and recovery (19-056) (0:04:39)

Dave Decker, Public Works Director, introduced the topic of aquifer storage and recovery (ASR). He highlighted growth projections in the 2013 water master plan, as well as information regarding the City's water rights (including springs, wells, river/surface water, and surface storage). Mr. Decker noted that the City's wells have shown significant decline since they were constructed in the 1970s and 80s. Graphs detailing annual projected production requirements assume that all the water it shows will be available, when that may not actually be the case (due to well water level decline or other factors). Mr. Decker noted that a 2012 study by Hansen Allen & Luce of areas of north Utah County indicated similar levels of decline in wells. This study was one of the main reasons that the State Engineer eliminated the ability to exchange surface water for groundwater.

Mr. Decker explained that ASR was recommended throughout Utah County in a 1978 study; this issue is not new, nor is it unique to Provo City. While cost estimates from the 1978 study are outdated, there are many possibilities for Provo to use groundwater to shore up the aquifer.

Mr. Decker highlighted a 1987 agreement between Provo City, Central Utah Water, and the Provo Metropolitan Water District which established Provo City's water storage rights in the Jordanelle Reservoir. The construction of Jordanelle Reservoir resulted in much opposition, and this agreement was the result of litigation over Morse Decree water rights on the Provo River. Essentially, the agreement grants the City storage rights in Jordanelle, but the City must first direct water there to utilize the storage. Provo City has only one water right, Lost Lake, which originates above Jordanelle, and it would take at least a decade of using that water right (assuming ideal conditions) to fill the 10,000 acre-feet of storage in Jordanelle. Since initiating the process in 2014, about 3,000 acre-feet has been filled over a five-year period. In Mr. Decker's opinion, the dispute over Provo River water rights was never truly resolved, despite the agreement.

The State Engineer has recently put the City on notice regarding the forthcoming general water rights adjudication in Utah County, which will once again bring these disputed water rights to the forefront. Mr. Decker explained that the adjudication process was considered litigation, and served as a way for the State Engineer to take inventory of existing water rights. If Provo did not have compelling and thorough documentation that the City's water rights were used and needed, those water rights could be taken away. John Mabey, Mabey Wright & James Attorneys, shared additional comments on the adjudication process, which was a court procedure which would ultimately end in a new decree of the Provo River system water rights.

Mr. Decker outlined the timeline for the adjudication and explained generally how the process works for individual property owners and the City. The process allows ample time for any entity or individual with a possible claim to file their claim to be recognized during the adjudication proceedings. As the State has recently completed adjudications in Salt Lake, they have discovered hundreds of water rights that have been abandoned or that were unknown; ultimately the process allows the State Engineer to update their database, records, and to take stock of water rights in the state and in a particular area. The rights and usage of irrigation companies are also considered. As the nature of water resources shift, the availability of certain water rights may have to be adjusted accordingly. Older water decrees, such as the Morse Decree on the Provo River, tend to lack specific details as to how water rights have been allocated. Typically water rights are assigned a priority date or class during the adjudication. The State Engineer intends to minimize impacts to water operations during the process and to maintain water distributions as much as possible. This particular phase of the adjudication process will focus on only tributaries of Utah Lake.

Councilor Gary Winterton asked about the expected growth of Provo and Utah Valley generally and whether this is factored in during the adjudication proceedings. Mr. Decker explained that both Provo City and the Metropolitan Water District of Provo are considered public water suppliers; as of 2008, the Utah State Legislature determined that the water rights of public water suppliers are protected from forfeiture. It was felt that cities have acquired water rights to meet the demands of future growth and that their water rights should not be curtailed or reduced based on existing/current use; the rights are needed to meet the needs of anticipated future growth.

Mr. Winterton asked about water rights of private property owners, such as a farmer. Mr. Mabey outlined several elements of the adjudication process and how it concerns private property owners. Mr. Winterton asked about the City's water storage and the current status. Ryan York, Water Sources Manager, shared updates on the spring runoff and projected flows.

Regarding the initial request for a closed session, Mr. Decker explained that there were a number of water rights which needed to be discussed in separate closed sessions of the Council and Metropolitan Water Board; a joint closed meeting may be appropriate after that point if needed. Some water rights were owned by just one entity, but discussion of jointly owned water rights would be critical for both groups. ***Presentation only.***

Closed Meeting

2. The Municipal Council will consider a motion to close the meeting for the purposes of holding a strategy session to discuss pending or reasonably imminent litigation, and/or to discuss the purchase, sale, exchange, or lease of real property, and/or the character, professional competence, or physical or mental health of an individual in conformance with § 52-4-204 and 52-4-205 et. seq., Utah Code. ***No closed meeting was held.***

Adjournment

Adjourned by unanimous consent.