



# MINUTES

## SPECIAL MEETING OF THE HEMET CITY COUNCIL

February 2, 2012

6:30 p.m.

[www.cityofhemet.org](http://www.cityofhemet.org)

City of Hemet Council Chambers  
450 E. Latham Avenue

Please silence all cell phones

### Call to Order

Mayor Youssef called the meeting to order at 6:30 p.m.

### Roll Call

PRESENT: Council Members Franchville, Krupa, Mayor Pro Tem Foreman and Mayor Youssef

ABSENT: Council Member Smith

**Council Member Franchville moved and Council Member Krupa seconded motion to excuse Council Member Smith. Motion carried 4-0.**

OTHERS PRESENT: Deputy City Manager Orme, City Attorney Vail and City Clerk McComas

The City Council conducted Item No. 2 at this time.

### Work Study

1. Groundwater Management Plan - Eric Vail, City Attorney

\_\_\_\_\_ Discussion regarding these items, with possible direction to staff \_\_\_\_\_

**Eric Vail, City Attorney**, gave the City Council a powerpoint presentation on the Groundwater Management Plan (GWMP). Mr. Vail noted that the term "Hemet" refers to the City's water utility system area only, not the entire city. Hemet is using more groundwater than is safe for the Basin. The past and the planned demand on the groundwater resources exceeds the supply, creating an "Overdraft". This overdraft will cause irreparable damage to the groundwater resources, if not addressed. The GWMP addresses the overdraft. Mr. Vail displayed a map of the "San Jacinto Watershed". The San Jacinto Watershed covers 728 square miles including: the San Jacinto Valley, the surrounding mountains and the San Jacinto River. The Watershed is recharged by the San Jacinto Basin and the Hemet Basin. There are 4 Primary Zones in the Management Area: Canyon, Upper Pressure; Hemet North; and Hemet South. All of these zones are part of the San Jacinto Watershed. Mr. Vail displayed a map of the Management Area. The Management Players include: Public Water Purveyors; Private Pumpers; Municipal Utilities; and the Soboba Band of Luiseño Indians. There are five sources of water supply: groundwater; surface water; recycled water; imported water; and return flows. There are three sources of water demand: agriculture; urban; and the Soboba Band of Luiseño Indians. The factors that effect the supply are: ground & surface water; and recycled & imported water. Mr. Vail displayed a graph showing the Annual Management Area Water Supplies for the years 1984 to 2004. As well as a chart showing the surface water diversion and groundwater production system for the Hemet/San Jacinto Groundwater Basin. The total average annual supply for the years 1984 to 2004 was approximately

68,000 AFY. The factors affecting demand are: historical trend that shows an increase in demand; all communities are projecting continued residential and commercial growth; and agricultural demand assumed not to exceed 25,000 AFY for initial period. Mr. Vail showed a map of the 1998 Land Use and a map of the Projected 2025 Land Use. Graphs were displayed showing EMWD's, LHMWD's, San Jacinto's, Soboba Tribes, and Hemet's Historical and Projected Water Demand for the years of 1984 to 2020. A graph was displayed showing the Annual Groundwater Production, by Management Zone. The reported Average Annual Demand is 66,200 AFY, the GWMP is using 68,000 AFY for planning purposes. The reported Projected Additional Future Demand is 11,800 AFY, the GWMP is using 14,000 AFY for planning purposes. Safe Yield is the long term, average quantity of water supply in the Management Area that can be pumped without causing undesirable results, including the gradual reduction of natural groundwater in storage over long-term hydrologic cycles. The estimate for Safe Yield is between 40,000 and 45,000 AFY. Mr. Vail explained the Safe Yield versus Demand. Bottom line is that Hemet is pulling more water out of the ground than can safely be pulled out. The basins have been mined water for decades, it is likely to ruin the water resource which has costs involved. Mining and overdraft changes the hydrostatic pressure, the compaction of soil and the capacity to store water. The specific problem with an overdraft is the higher pumping costs, the depletion of surface water, degrading of the water quality and the land subsidence. The only solution is to manage the basins for the future. Hemet has been part of a collaborative process since the early 1990's. The Soboba Claim/Suit started in 1995. The Water Policy Committee was formed in 1998. The resolution of the Soboba Claim & Law Suit is the mechanism used to assist with the overdraft. The actual reduction of overdraft will be dealt with by: gradual programmed reduction of groundwater production; recharge groundwater; and increase availability of other supply sources. The agencies will collaboratively manage the basins. Implementation will include the settlement with the Soboba Tribe. The Soboba Tribe filed damage claims for \$70 million against EMWD and LHMWD for infringement of tribal water rights alleging historical interference and unauthorized use of tribal water. In 2000, the Soboba Tribe sued MWD in Federal Court regarding damage to tribal water rights allegedly due to MWD tunnel drilling etc. MWD, EMWD and LHMWD denied any damage, interference or wrongful use of Tribal water. Parties began litigation and negotiation with assistance of the United States Government. In 2004, the Soboba's, MWD, EMWD & LHMWD reached a settlement in principle, the settlement required review and approval by Federal agencies and Congress. In 2008, The Federal agencies, Congress and the President approved the settlement. The parties are continuing to resolve. The Soboba's must approve the GWMP. The particulars of the Soboba Settlement spell out the Tribal Water Rights, EMWD & LHMWD's Obligations, the U.S. Government Assistance, as well as MWD's Obligations. The Physical Solution will require approval of the Stipulated Judgment and the Water Management Plan. As well as the approval of the implementing agreements to include: Phase 1 Facilities Agreements; EMWD/MWD Agreements; and In-Lieu Agreements. The City's are not part of the Claim or Law Suit, however they are implicated. The City's will pay their pro-rata share in funding the infrastructure. The City's will share in the benefits of the Settlement. The "Physical Solution" is the court decreed method of managing the water supply to maximize the reasonable and beneficial use of the waters, to eliminate the overdraft, to protect the prior rights of the Soboba Tribe, and to provide for the substantial enjoyment of all water rights recognizing their priorities. The Court has

continued jurisdiction. There are two components to the Physical Solution, the Stipulated Judgment and the Water Management Plan. The Physical Solution will: have a collective governance by the Watermaster; fix rights of public participants to pump groundwater free of charge; gradually reduce the amount of water pumped free of charge; require levy replenishment and administrative assessments; include the purchase of imported and other water; increase the capacity to replenish ground water; include various regulatory controls on the Basin; encourage conjunctive use projects; and provide an opportunity for Private Water Producers to join. The Physical Solution includes two documents with one purpose. The first document is the Stipulated Judgment. The Participants will file a friendly lawsuit with the Court. The Lawsuit is settled by the agreed upon or "Stipulated" Judgment. The Stipulated Judgment contains the Physical Solution. The Judgment also creates the Watermaster. The Court keeps continuing jurisdiction. The second document is the Water Management Plan. The agreed upon plan to implement the Judgment and the Physical Solution. The Plan adds depth, context and detail to the Stipulated Judgment. The goals of the Physical Solution and the Water Management Plan are to: eliminate overdraft and address the declining groundwater levels; provide for Soboba Tribe's paramount water rights; ensure reliable water supply; provide for planned urban growth; protect and enhance the water quality; develop a cost-effective water supply; maximize the reasonable and beneficial use of the waters; provide adequate monitoring for water supply and water quality; supersede the Fruitvail judgment and Decree; and provide for the substantial enjoyment of all water rights by recognizing their priorities. The Stipulated Judgment created a Watermaster to allow for Collective Governance. The 5 member governing board will: include one representative of each Public Participant; include one representative for all Private Pumpers; include one vote per representative; require majority and super majority voting requirements; have the authority to implement the Physical Solution and enforce the Stipulated Judgment; and have the powers stated in the Stipulated Judgment and the WMP. An Independent Advisor will be retained. Independent Legal Counsel will be retained. The Watermaster will contract with EMWD for certain services. The Base Production Rights are based on documented pumping from 1995 to 1999. Several adjustments were made to raw pumping data for operation activities of the agencies. The Base Production Rights are: EMWD 10,869 AFY or 33.7%; LHMWD 11,063 AFY or 34.2%; City of Hemet 6,320 AFY or 19.6%; City of San Jacinto 4,031 AFY or 12.5%. Mr. Vail explained the adjustments made for each agencies Base Production Rights. The Private Water Producers Production Rights collectively is 25,000 AFY. Their overlying rights are: reasonable & beneficial use; collaborative; and paramount, subject to prescription & other priorities. The Private Water Producers treatment in the WMP is: not adversely impact or affect the rights; not forced to be parties; and opportunity to join voluntarily & individual determination of production. The Goal is to reduce Adjusted Base Production Rights until they equal Safe Yield. The goal is: 1<sup>st</sup> year, 10% reduction of Base Rights; and 2<sup>nd</sup> to 6<sup>th</sup> years, maximum 5% reduction to Base Rights. Cumulative reduction over a 7 year period is 35%. The Watermaster will estimate the Safe Yield every 3-5 years. The Water Production is subject to assessments. The Administrative Assessments includes an initial \$50/AF on Adjusted Base Production Right pumped. Replenishment Assessments will be levied on each AF pumped in excess of the Participant's Adjusted Base Production Right. The Assessment is equal to the cost per AF of imported Water. The Components of the Cost include: cost of water; conveyance and recharge losses; transportation and energy

costs; facilities operations and maintenance costs; reserve for replacement; and other administrative costs. In 2012, the estimate was \$442/af (MWD) & \$60/af (EMWD). As pumping rights are reduced toward safe yield Participants will be required to pay more for replenishment assessments. The accounts and assessments will be administered and collected by EMWD, under contract with and subject to the policies set by the Watermaster. The funds will be maintained in separate restricted accounts. An annual independent financial audit will be conducted. The San Jacinto River Integrated Recharge and Recovery Program (IRRP) will be implemented to increase capacity to recharge the basin. The Groundwater Replenishment Program will be implemented. There will be direct replenishment of groundwater to store water for future use. The augmentation of imported or recycled water will be used to provide immediate increases in water supply and the associated decrease in groundwater pumping. The use of recycled water will be expanded. IRRP is the core of the Physical Solution. There are two phases in concept. It is designed to recharge imported water and extract groundwater at a capacity such that the following goals are met: 1) satisfy prior and paramount Soboba Tribe water rights; 2) offset the estimated 10,000 AFY overdraft in the Management Area; 3) provide an additional 15,000 AFY to help meet projected demand increases; and 4) provide as much as 45,000 AF of storage for conjunctive use/drought management. The Major Elements of the IRRP are: modifications to pump stations; construction of pipelines; design and construction of recharge basins; drilling extraction wells; installation of pumps and chlorination equipment in extraction wells; and design and drilling of monitoring wells. IRRP Phase 2 provides up to 15,000 af/yr of additional imported water for future demands of the Management Area. The estimated cost for IRRP is \$50 million. Various regulatory controls will be set on: exports from basin; water quality controls; impact of recharge; and recycled water. Public Participants may propose water supply projects to the Watermaster for consideration. The Watermaster may fund or reject. If rejected the sponsor agency may undertake the project provided it does not significantly impact the implementation of the WMP or interfere with ongoing groundwater production. The 7 Direct Recharge projects are: Buena Vista Flood Control Basin; Cienega; Fairview; Bautista Creek along Florida Avenue; Salt Creek between Lyon Avenue and State Street; Little Valley; and Bautista Flood Control Ponds. The 2 In-Lieu Recharge projects are: Recycled Water In-Lieu Project and Hemet-Simpson Conjunctive Use Project. The Private Pumpers have the opportunity to decide by a voluntary election to participate as Class A or Class B members or continue as Non-Participants. As Non-Participants, they can continue pumping groundwater for reasonable & beneficial uses. However, they are excluded from future participation in the Water Management Plan. Class A Participant is a party to the Stipulated Judgment, historical pumping and beneficial uses may continue. Pumping facilities are subject to metering, testing, water level and water quality sampling at no cost to the owner. Class A Participant can convert to Class B in the first 3 years after the Judgment, with payment of all past assessments. Class B Participant has all of the benefits and obligations of Class A plus the same pumping management terms as the water agencies. Their ABPR will be determined using the base period of 1995-1999. All Replenishment Water Assessments must be paid. The Private Pumpers Right is conditionally transferred to the appropriate public water agency. The Phase 1 Facilities Agreement is between EMWD, LHMWD, the City of San Jacinto and the City of Hemet. It's purpose is to fund, construct, operate, maintain facilities required for Phase 1 of the IRRP and allocate Soboba

Settlement costs and benefits. Under the agreement EMWD's obligations are: finance construction costs; administer construction of facilities; operate and maintain facilities; and hold in trust for the benefit of Hemet, San Jacinto and LHMWD. The other parties obligations and benefits are: to pay apportioned costs of construction & financing; to pay apportioned cost of operation and maintenance; enjoy apportioned right to capacity in the facilities; and cap on construction expenses. The Agreement includes an Agreement to Purchase MWD water & unused Soboba water. Each party: pays its apportioned cost of purchasing the MWD water; pays its apportioned cost of the \$7 million payment to the Soboba Tribe; enjoys its apportioned share of MWD water; and enjoys its apportioned share of unused Soboba water. The EMWD/MWD Agreement provides low-costs water deliveries for the Soboba Tribe. The In-Lieu Project Agreements are designed to reduce the amount of groundwater production by delivering recycled or imported water to be used in lieu of local groundwater. The Supplemental Water Agreement is wrapped into the Physical Solution. The Groundwater Management Agreement is wrapped into the Physical Solution. The Physical Solution affects new and existing facilities. Each agency will continue to own its existing capital facilities. Each public agency pledges to: use its facilities to implement the WMP; on terms equitable to all parties; on terms consistent with obligations to its customers. According to Phase 1 IRRP, new facilities are owned by EMWD. EMWD holds them in trust for Hemet, San Jacinto and LHMWD. All agencies have the capacity and use rights equal to their allocated share of cost, for Hemet that is 19.6%. The alternatives to all of this is to mine the basins and go it alone.

**Council Member Franchville**, asked if the water quality changes as you get lower in the basin.

**Eric Vail**, yes, there is an increased concentration of nitrates and minerals as you draw deeper in the basin. If you exceed the water recharge, you will have to shut down the well. When you engage in a plan like this you have to look 25 years out. Mr. Vail continued his presentation with a powerpoint presentation regarding the Benefits and the Costs of Participation in the GWMP. The benefits of participating are : secure access to lower cost alternative water supply; protect & preserve the Hemet Basin; address the overdraft; implement a Basin Wide BMP; collective decision making & collaboration; and resolve Soboba Water Rights issues. Mr. Vail explained the major cost components. The Phase 1 Facilities Agreement Capitals costs are \$3,842,776. The City can pay a monthly payment of \$268,600 from July 2012 to July 2035 with one catch up payment of \$940,100. The Phase 1 Facilities Water Rights for Soboba will cost \$1,372,000 to be paid in one lump sum payment. Soboba will have the right to use water until 2035. Any additional water purchases after the 1,470 acre feet that is included in Hemet's share, will cost \$502/a.f. delivered to storage. This will cost approximately \$737,940 per year beginning in 2013. There will be an additional cost of \$325 a.f. to extract the water. The Four Agency Agreement Capital cost is \$515,104.00. The subsidy for Recycled Water for 2011 will be \$26,148, Hemet's share is \$5,125. Full subsidy is not in effect yet. The Judgment and Water Management Plan will include an Administrative Assessment. The assessment will be based on \$50 a.f. of BAPR pumped annually. Based on 5420 a.f. the annual cost will be \$210,000. A Replenishment Assessment is not anticipated for Hemet in the next 5 years. These costs are based on the following assumptions: no further adjustment in Phase 1 Facilities cost; payment of back up payment through 2012; no payment for purchased water in 2012; steady water use under Four Agency Agreement; pump actual

2010 production no full BAPR; do not incur a Replenishment Assessment; and initial year and ongoing year amounts may change based on reconciliation each fiscal year. Initial year costs \$2,597,992. Ongoing costs of \$1,222,540. There will be impacts on the Water Fund. There is no current indebtedness and the Fund can pay the initial costs. However, there is a need to assess the long-term capital requirements as well as ongoing costs. The City will have the ability to sell/lease purchased water to offset costs. There is also a potential to store and retain as an asset for future use. The cost of MWD water will increase over time. Extraction of water will add another \$325 per a.f. pumped. If the City does not use their full BAPR it will lower their administrative assessment, a carry over credit will build up over time.

**Rita Conrad, Finance Director**, The following Water Fund projections assume that operating costs and revenues remain flat and include the Departments estimated capital needs. Without Ground Water Management Costs, the estimated Fund Balance at June 30, 2015 will be approximately \$6.4 million. With Ground Water Management costs, the estimated Fund Balance at June 30, 2015 will be approximately \$63,000. Ms. Conrad explained the benchmark used by rating agencies. AA-Rating requires 266 days of cash on hand. AAA-Rating requires 623 days of cash on hand. On June 30, 2015 the days of cash on hand without the GWM would be 359, with the GWM would be 3. Either with or without the GWM costs the Water Fund is not projected to be at AAA rating. This could impact the Water Fund's ability to issue debt. The Water Fund can bear costs for one, possibly two years barring any need to issue debt or unexpected capital costs. However, reserves will be reduced by approximately \$7 million by the end of 2014. It is recommended that the Water Fund have a professional rate study done within the next year. It is possible that rate increases and/or rate structure change will be necessary.

**Mayor Pro Tem Foreman**, confirmed that the City pays for the water that it pumps, pays an administrative assessment to the Watermaster for the water it pumps, and a wheeling fee. Mayor Pro Tem Foreman asked if there is any way to recharge the basin.

**Mr. Vail**, there is an administrative assessment of \$50.00 per a.f. that is paid to the Watermaster. The City only pays the wheeling charge if we wheel water through their system. If the City wants a direct pumping line to the extraction wells, the costs would be borne solely by the City. Currently, there is no facility to recharge water in the Hemet Basin. That will need to be built. The Watermaster would pay for the facility and the City would pay 19.6% (Hemet's share) of the cost, not 100%.

**Council Member Franchville**, asked if these costs are based on EMWD purchasing the water or the City extracting the water.

**Mr. Vail**, these costs are based on leaving the water in the ground and not pulling it out. EMWD and LHMWD have told the parties that they will buy the City's water, because they have the need. That decision can be made at a later date. We might need some of that water, we might even exchange wheeling service for water. Water appreciates in value and will eventually pay for itself.

**Council Member Franchville**, a couple of years ago San Jacinto said that they did not want to participate. Where do they stand now?

**Mr. Vail**, the reason this has taken so long is due to the Cities unwillingness to jump in. Two years ago San Jacinto felt that they didn't want to participate, however now they are willing to participate. They don't want to pay level pay, they are going to do interest only payments and make larger payments in the future.

**Council Member Franchville**, obviously this is a costly decision, however water is very important to this valley. Moving forward and participating in the GWMP is necessary to secure water for the future.

**Mayor Youssef**, asked about the Water Rate Study.

**Ms. Conrad**, recommended that the bid process begin soon. The study might take as long as 6 months to complete.

**Council Member Krupa**, confirmed that if the City sells water to the other agencies, they can not export it. Council Member Krupa also confirmed that recycled water is still being considered.

**Mr. Vail**, the use of recycled water and conservation is very important, the water table can not be relied on from year to year. MWD also wants to store water in the Hemet Basin and that will give the City the opportunity to buy it in dry years. MWD is bringing recycled water to the south area of Hemet for their East Recreation Project. A member of the City Council will sit on the Watermaster Board and make decisions on the projects to be completed. We will have a weighted vote. Staff is looking for direction to bring back the agreements for City Council consideration.

**Mr. Vail**, the City has been reluctant to raise rates, it has been 5 years since its last increase. The aging system requires infrastructure improvements. If we do not participate, we will not have the money to pay for the improvements to save our water basin.

**The City Council gave direction to staff to move forward with a Water Rate Study.**

**The City Council gave direction to staff to bring back agreements for City Council consideration at a future meeting.**

The City Council moved to Closed Session at this time.

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## **City Council Business Consent Calendar**

2. **Recommendation by City Manager** - Amendment to Section 5.1 (Severance) of the Employment Agreement for the City Manager
  - a. Approve an amendment to Section 5.1 (Severance) of the Employee Agreement for the City Manager, extending said benefit an additional three (3) months for a total of nine (9) months.

**This item was removed from the Consent Calendar.**

## **Communications From the Public**

**Shellie Milne, Hemet**, expressed concern with the reported \$1 million dollars to be spent on the Town & Country Mobile Home Park and requested a breakdown of the costs.

**Eric Vail, City Attorney**, this project is on hold due to the recent RDA decision.

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The City Council returned to the Workstudy Session at this time.

## **Closed Session**

### **Notice of Opportunity for Public Comment**

There were no comments presented at this time.

The City Council recessed to Closed Session at 8:25 p.m.

3. **Conference with Legal Counsel - Anticipated Litigation**

One (1) matter of significant exposure to litigation pursuant to Government Code section 54956.9(b)

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Reconvened at 8:47 p.m.

## **City Attorney Closed Session Report**

4. **Conference with Legal Counsel - Anticipated Litigation**

One (1) matter of significant exposure to litigation pursuant to Government Code section 54956.9(b)

**The City Council received a briefing from the City Attorney. There was no additional reportable action.**

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## **Future Agenda Items**

There were no future agenda items requested at this time.

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## **Adjournment**

Adjourned at 8:48 p.m. to Tuesday, February 14, 2012 at 7:00 p.m.