

NAPA COUNTY FINANCIAL OVERSIGHT COMMITTEE

SPECIAL MEETING MINUTES

804 First Street Napa, California 94559

Wednesday, June 6, 2012

5:30 P.M.

1. Call to Order; Roll Call.
Meeting called to order at 5:30p.
Members present: Genji Schmeder, Dorothy Phillips, Bernhard Krevet, Amanda Feliz, James Shupe, Conrad Hewitt and Carl Ebbeson
Members excused: James Barnes and Peter Murphy
Staff present: Tracy A. Schulze, Napa County Auditor-Controller and Julie Kirk, Administrative Support.
Counsel: Rob Paul, Deputy County Counsel

2. **Public Comment – In this time period, anyone may comment to the Committee regarding any subject over which the Committee has jurisdiction but which is *not* on today's agenda or request consideration to place an item on a future agenda. Time limitations will be three minutes per speaker. No action will be taken by the Committee as a result of any item presented at this time. Public comment on agenda items will be heard at the conclusion of staff reports and before the Committee's discussion. None presented.**

3. Discussion and possible action regarding report on Calistoga projects from ad hoc committee.
Genji Schmeder, chair, Measure A ad hoc committee, presented the ad hoc committee report.
Motion: Conrad Hewitt: To Approve Report.
Second: Bernhard Krevet: Unanimously approved.

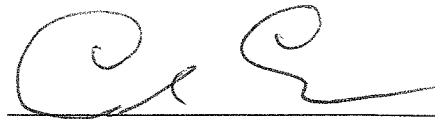
Genji Schmeder presented an amendment to the report.
Motion: James Shupe: To amend the approved report of the ad hoc projects committee as follows:
Amendment projects 6 (drainage improvement in southeastern Calistoga) and 7 (Kimball Dam improvements to restore fish population) were not adequately investigated by the ad hoc committee, so no conclusions about them can be made.
Second: Conrad Hewitt: Unanimously approved.

Motion: Conrad Hewitt: Accept Amended Report
Second: Amanda Feliz: Unanimously approved.

4. Distribution of Grand Jury Report on Measure A. Discussion and possible action regarding preparing responses to the Grand Jury Report. **No Action Taken.**

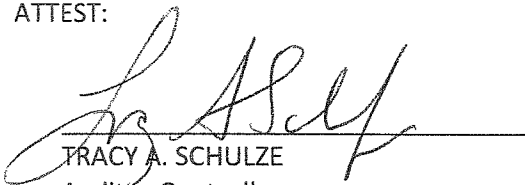
5. Members and staff reports and announcements.
 - Carl Ebbeson handed out an article about the Rutherford Reach Restoration Project.
 - Tracy Schulze, Napa County Auditor-Controller introduced her new administrative assistant Tiffany Mattice.
 - Bernhard Krevet announced the cancellation of the Friends of the Napa River event. The \$500 for expenses approved by the FOC members on May 2, 2012 will not be required.
 - Tracy Schulze informed members that the Annual Publication Committee had received a draft of the publication for the year ending June 30, 2011 and that she expects publication within the next couple of weeks. Preparation for the next publication for the year ending June 30, 2012 will start right away.

6. Confirm next meeting date of August 1, 2012. **Confirmed.**
7. **Adjourned until the next meeting on August 1, 2012.**



CARL EBBESON
Chairperson

ATTEST:



TRACY A. SCHULZE
Auditor-Controller
County of Napa



BY: Julie Kirk
Flood Control Staff

To: Napa County Measure A Financial Oversight Committee (FOC)

From: Genji Schmeder, chair, Adhoc Committee to address specific Measure A projects

Date: Tuesday 29 May 2012

Subject: Adhoc Committee report

A. Adhoc Committee History

The adhoc committee to address specific Measure A projects was formed during agenda item 10 of FOC regular meeting of 1 Feb 2012. Members appointed were Genji Schmeder (adhoc committee chair) and Carl Ebbeson. Choice of project or projects to address was delegated to the adhoc committee. The adhoc committee met on 14 Feb, decided to address all City of Calistoga (City) projects for appropriateness of Measure A funding, to base our examination on documents supplied by county counsel and county auditor, and to write a report by mid April. Documents examined were the filings for Napa Superior Court case 26-56480 (Reynolds v. City of Calistoga et al.) and the Napa county auditor's files on Measure A allocations for Calistoga. Interviews were conducted with Rick Thomasser, watershed and flood control operations manager of Napa County Flood Control and Water Conservation District (District); Dan Takasugi, public works director of City; Patrick Costello, water resources analyst of City of Napa; Mike Rippey, former Napa county supervisor and chair of District in most years from 1997 through 2006.

B. Measure A Section 8.

Measure A Section 8 addresses “approved projects” and procedures for determining and handling “replacement projects”. The following are excerpts:

‘The component of the Plan that involves the rest of the County must include the following projects which are designed to protect against flooding, improve water quality, preserve the integrity of ground water resources and/or stabilize water supply reliability for the existing Napa County population as of the effective date of this Ordinance. None of these projects are intended or designed to expand water capacity for growth and new development.

All of these projects shall be planned in accordance with the “Living River Guidelines” contained in the Community Coalition’s Flood Management Plan and

the Napa River Watershed Owners Manual of the Napa County Resource Conservation District. ...

City of Calistoga

1. Stabilization and enhancement of Kimball Reservoir which shall be for the purpose of flood protection and water supply reliability;
and
2. Flood protection and drainage improvements in the Grant Street area and other critical areas to protect residents and businesses from flooding. ...

In the event any project described in this Section is not economically or environmentally feasible, the legislative body having jurisdiction over the lands involved shall recommend to the Napa County Flood Control and Water Conservation District a replacement project. Only replacement projects that meet the criteria set forth in the first two paragraphs of this Section shall qualify and may be approved provided, however, that facilities for, or purchase of, North Bay Aqueduct or other water imported from outside Napa County shall not qualify as replacement projects. The Napa County Flood Control and Water Conservation District shall consider recommending approval of a replacement project to the Authority only after obtaining the recommendation of the Financial Oversight Committee and the Technical Review Committee. Approval by the Authority shall be in the form of an amendment to this Ordinance. Changes meeting the above criteria, to the extent permitted by law, shall not need a vote of the People ratifying the amendment.'

C. Measure A funded projects of City of Calistoga

The two approved projects are listed above and neither is “any project described in this Section [which] is not economically or environmentally feasible,”. Therefore the replacement project criteria and restrictions do not come into effect.

The amendment projects are these:

1. Stabilization and enhancement of Kimball Reservoir which shall be for the purpose of flood protection and water supply reliability (in fact, engineering study for complete dredging of the reservoir)

2. Flood protection and drainage improvements in the Grant Street area and other critical areas to protect residents and businesses from flooding (in fact, only Grant Street area work)
3. Fischer and Lake Streets culvert repair
4. Mount Washington 1.5 million-gallon water storage tank
5. Debt service on USDA loan for Kimball water facilities improvements
6. Drainage improvement in southeastern Calistoga
7. Kimball Dam improvements to restore fish population

Project 1 - Kimball Reservoir stabilization and enhancement (engineering study for complete dredging)

Kimball Reservoir (Reservoir) in the head watershed of the Napa River on Mount Saint Helena was built in 1939 and dam height was raised around 1948. Capacity has decreased from 409 acre-feet (af) to 312 af due to accumulated sediment and debris. Engineering analysis for dredging was conducted, but actual dredging work was recognized as yielding little benefit and posing environmental problems. City wrote in an Oct 2008 memo that the dredging project would be enormously challenging from an environmental and permitting perspective, not to mention property requisition challenges for dredge spoils disposal. In June 2009, City's public works director reported to City council, "In engineering studies, staff has determined that dredging Kimball Reservoir would not yield much benefit in terms of additional water storage and would face significant environmental challenges." In its June 2010 response to Napa County Grand Jury report, City wrote that it should not at this time increase Reservoir capacity because it was not fiscally justifiable. Despite these conclusions, the complete dredging project hasn't been cancelled nor has Authority deemed it infeasible. For five years reports from City to Authority have listed this amendment project as "on hold for other project priorities".

Measure A funding of \$185,000 (all dollar amounts rounded to thousands in this report) was allocated for this project, and \$126,000 was paid through fiscal year 2005/2006 (FY 05/06). (Dollar amounts in this report are rounded to thousands.)

Project 2 - Flood protection and drainage improvements in Grant Street area

Improvements in Grant Street area were completed by FY 06/07. Measure A funding of \$120,000 was reduced to actual payment of \$117,000.

Project 3 - Fischer and Lake Streets culvert repair

Authority made Amendment number 5 in June 2008 for repair of a crushed culvert on Fischer Street near Lake Street in City. Project is clearly included in approved project 2 as flood protection and drainage improvement in a critical area. It was completed in FY 08/09. Measure A funding of \$16,000 was reduced to actual payment of \$12,000.

Project 4 - Mount Washington 1.5 million-gallon water storage tank

Authority made Amendment number 6 in June 2009 to fund part of construction costs for the Mount Washington water tank (MW tank) and several years of loan payments for Kimball Water Facilities Improvement Project. In his June 2009 letter to City council, City public works director wrote, "There are 2 major utility projects that would greatly benefit from Measure A funding ... They are the Kimball Water Facility Improvement Project and the Mt. Washington Water Storage Tank Project." City had applied for federal economic stimulus funding for MW tank, but learned in May 2009 that it didn't compete successfully for a grant. City and Authority staff and board have handled MW tank project as an extension of approved project 1 for Reservoir.

There was intense discussion among City and District staff, including District legal counsel, to resolve questions about funding this project. District staff decided it would be appropriate, first as part of the whole system of water supply including

Reservoir, and second to increase City tank storage enough to allow emptying of Reservoir for periodic maintenance dredging or for seismic emergency. Also, a California Department of Public Health (CDPH) order was valid evidence that the new tank was intended for the needs of existing population and not for growth. All the difficult questions were resolved at staff level, and Authority board was given this description: "The purpose of this Project is in accordance with CDPH Compliance Order 02-03-96CO-003 and to provide enhanced water supply reliability. The 1.5 million gallon water storage tank shall be used to store water from Kimball Reservoir and other sources and enhance water supply reliability from Kimball Reservoir." The board approved the project on the consent calendar, unanimously and without discussion.

City and Authority believe that additional storage is needed to comply with a 1996 order by CDPH, which was supplemented in 1997 with the observations that capacity of City's existing tank was 200,000 gal deficient between 1991 and 1995 and that taking it out of service for repair would significantly impact operation of the water system. CDPH orders are irrelevant to Measure A, but the order is valid evidence that the MW tank is necessary for City's population and water use in the period when Measure A went into effect.

The tank will hold water from both City sources, Reservoir and North Bay Aqueduct (NBA), which brings State Water Project (SWP) water into Napa County. In actual practice, City of Napa manages SWP imports and pipes water from either county or outside-county sources to Calistoga as expedient. Last year, all the water sent by Napa to Calistoga really came from Napa's local reservoir Lake Hennessey, though it was charged to Calistoga's SWP allocation. Since 60 pct of water annually used by City of Napa comes from SWP, obviously Calistoga's demand for outside water results in some Napa county community using more SWP water. Calistoga's annual water use comes roughly half from Reservoir and half from outside. This proportion is expected to continue in future years, but cannot be precisely predicted.

What was the purpose of Measure A's prohibition of replacement projects involving outside-county water like SWP? In the opinion of Mike Rippey, former county supervisor who was chair of District during the years when Measure A was composed, it was to prevent enabling new growth and development through water imports.

The new tank will increase City storage capacity by over 125 percent (the existing Feige tank holds 1 million gal and is poorly pressurized below half full). Note that 1.5 million gal equals 4.6 af, a tiny portion of Reservoir capacity. It's not clear whether the MW tank is much larger than necessary and thereby may encourage new development and growth. But building MW tank at the minimum size satisfying the CDPH order might have been uneconomical for the long term because of the cost of expanding the tank later and the improbability of finding a good location for yet another tank. Also, allowing only Reservoir water in MW tank would severely narrow City's options for addressing water shortages since there would be no place to store imported water even overnight.

MW tank project is currently being built and is expected to cost about \$6,000,000. Measure A will fund \$2,700,000, of which \$1,497,000 has already been paid.

Project 5 - Debt service on USDA loan for Kimball water facilities improvements

As mentioned, Amendment number 6 also funded several years of loan payments to USDA. In his 2 June 2009 letter, City public works director wrote, "The Kimball Water Facilities Improvement Project was constructed in two phases. Phase I included the 3-mile pipeline replacement from the Kimball treatment plant down to Grant St. Phase II included water supply reliability improvements at the Kimball Water Treatment Plant. This work is essentially complete and was funded by a \$2.5 million low-interest loan and a \$1.0 million grant from the U.S. Department of Agriculture (USDA)." This project is a credible extension of approved project 1 for enhancing the distribution system for water from Reservoir, despite not directly enhancing or stabilizing the reservoir, and serving the purpose of supply reliability for water from Reservoir. Measure A funding of \$3,162,000 will cover debt service on the loan from 2009 through 2018, and \$922,000 has already been paid.

Project 6 - Drainage improvement in southeastern Calistoga

Authority made Amendment number 8 in October 2010 to fund drainage improvements in southeastern part of City to reduce flooding, install a bypass culvert, widen and shape a ditch, and replace two culverts with a bridge. Project is

clearly included in approved project 2 as flood protection and drainage improvement in a critical area. It was completed by September 2011, spending all its Measure A funding of \$600,000.

Project 7 - Kimball Dam improvements to restore fish population

Authority made Amendment number 9 in August 2011 to fund several improvements at Kimball Dam to help restore Kimball Creek fish population under order by California Department of Fish and Game (CDFG). Included are funds for construction of intake tower, drain valve and bypass structure, and for water rights protection. Whereas City was accused in a lawsuit of violating its CDFG stream alteration permit and thereby causing decline of the fishery, the case never got to court so we don't have City's response. Regardless of City's alleged culpability in degrading the fishery, restoration is in accord with the Living River Principles which are the basis of the Napa River flood project and Measure A. Also, the work is likely to stabilize Reservoir. Even protecting water rights fits within purpose of supply reliability. Measure A funding of \$1,100,000 was allocated and \$253,000 has been paid.

D. FOC's Need for Improvement

Our committee is the designated guardian of the public interest for Measure A, not only overseeing transfers of funds, but also evaluating appropriateness of the projects funded. We members should have alerted each other to the controversy over Calistoga projects and regularly monitored it from its first mention in the Calistoga press. Instead we learned about it only after it had developed into a lawsuit challenging Measure A funding, and we heard about it from citizen comments at our meeting last summer. It was prudent then to avoid open discussion of an issue already in court, but the unexplained dropping of the topic from the next meeting agenda further delayed our inquiry and action. Our job is to be on top of any issue with Measure A, to educate ourselves and to be ready to respond to or speak for the public. When we lag behind the curve, we fail in our duty to the public.

Our staff should inform the FOC of all Measure A agreements and amendments to agreements that are decided by Authority. This would be consistent with a spirit of more attentive FOC monitoring of Authority, as well as individual FOC member monitoring of community controversy involving the flood project.

Genji's amendment to motion to accept report of adhoc projects committee:

Amendment projects 6 (drainage improvement in southeastern Calistoga) and 7 (Kimball Dam improvements to restore fish population) were not adequately investigated by the adhoc committee, so no conclusions about them can be made.
