



PAUL SMITH
PUBLIC SERVICES DIRECTOR

Public Services Department

Memorandum

Date: June 01, 2011
To: Mark LeCouris, City Manager
Through: Paul Smith, Public Services Director *PS*
From: Bob Robertson, Public Services Program Manager *BR*
Subject: Alternative Water Supply Project Status Update – **June 2011**

Below is a summary of the Alternative Water Supply Project status for **June 2011**. Please note that the status updates (i.e. new information) are provided in an underlined font below. Items from previous updates are included below (unformatted, plain text) to show the chronology of status updates.

I. Permitting

A. NPDES Discharge Permit (FDEP)

- The Public Meeting was held September 23rd 2009. FDEP and City Staff presented project information and background. There was no public comment.
- A resident of Tarpon Springs has filed a petition for an Administrative Hearing with the FDEP regarding the City's application for an NPDES permit. The petitioner has challenged the FDEP's decision to issue this permit and has requested an Administrative Hearing with an administrative law judge. During this hearing, the City will explain that we have met all the requirements of the FDEP (including passing toxicity testing, etc) and should therefore be granted this permit. Representatives from the FDEP would also be present at the hearing in defense of its decision to grant the City the discharge permit. The City and the FDEP remain confident that we will get this permit, but the schedule will be delayed as a result.
- The Administrative Hearing has been scheduled for September 13th and 14th, 2010.
- The Administrative Hearing was held on Sept 13th and 14th at City Hall. The Administrative Law Judge has not yet ruled on the case, but is expected to publish a ruling in the very near future.
- The Administrative Law Judge has ruled in the City's favor on all items of fact regarding the City's permit application. The FDEP, in turn, has granted the

City the NPDES permit. An appeal from the petitioner, Mr. Henry Ross, is possible.

- An appeal from the petitioner to the Second District Court of Appeals by Mr. Henry Ross is underway. Mr. Ross has filed his brief and the City has responded. A decision from the Court to dismiss or to hear the case has not yet been rendered.

B. Water Use Permit (SWFWMD)

- The SWFWMD issued a draft permit to the City on October 20, 2010, signifying that the City has met ALL technical requirements to receive this permit. The same City resident that opposed the NPDES permit (Henry Ross) petitioned this permit immediately. Staff is now working with the SWFWMD, City Attorney Tom Trask, and expert witnesses to prepare for an Administrative Hearing regarding the Petition. The case has been referred to the State of Florida Division of Administrative Hearings and an Administrative Law Judge has been assigned. The hearing is scheduled for January 18 and 19, 2011.
- The aforementioned Administrative Hearing was held on January 18, 2011 and was completed in one day. City staff and four City consultants (expert witnesses) testified that the City had met the conditions for issuance of this permit. Two SWFWMD staff members also testified that the City has met the conditions for issuance of the permit. Mr. Ross presented no witnesses, other than himself, to dispute the City's eligibility to receive this permit. A ruling from the judge could take up to four (4) months.
- The Administrative Law Judge has ruled in the City's favor on all items of fact regarding the City's permit application. In addition, the Judge also ruled that Mr. Ross failed to demonstrate his standing to challenge the permit. The SWFWMD Governing Board, in turn, has granted the City the Final Water Use Permit. An appeal from the petitioner, Mr. Henry Ross, is possible.

C. Environmental Resource Permit (FDEP)

- The City has received this permit.

D. PWS Components Permit (FDEP Construction Permit for Public Water Systems)

- The City has received this permit.

II. Progress Energy

- PEF's final comments have been received. The agreements are ready for execution after completion of an accurate legal description and finalization of payment agreement. As stated previously, the Easement Agreement requests a one-time \$10,000 payment to cover legal expenses and staff time in preparing the agreement. Progress Energy wishes to return this one-time payment to the City in the form of a donation to children's programs sponsored by the City.

- A legal description has been prepared and the documents have been modified accordingly. The documents are currently being reviewed by PEF for signature.
- The documents are currently being reviewed by PEF for signature.

III. Water Plant Design and Management

A. Land Acquisition and Wellfield

- Land acquisition is on track and ongoing. Staff recently secured approval from the Florida Communities Trust (FCT) for construction of four (4) production wells and associated transmission pipelines in the abandoned railroad corridor north of the Anclote River. The City will be required to repay the small amount of grant funds used to purchase the impacted portions of these properties. By agreement with the FCT, the City will extend the Pinellas Trail from its current terminus at the North Anclote River Park by approximately 5,300 feet (1 mile), creating a new terminus at L&R Industrial Blvd. The Trail extension will be funded by the Local Option Sales Tax ("Penny for Pinellas" funds) and will be constructed after the completion of the water plant.

B. Treatment Plant Design

- The Preliminary Design Report (PDR) is complete. This represents 30% design point and is used to acquire the PWS permit for facility construction (see above). The Design-build team (not yet hired) will finish the design and do the construction based on this document.
- Pipeline Design is nearly complete. Final design is on hold until well site acquisitions reach a necessary level of completion.
- Treatment Plant Design is complete to the 30% level as required by this portion of the project (for permitting).
- Pipeline design is currently being finalized based on land acquisition (i.e. well site locations).

C. Procurement

- Five design-build contractor teams have been pre-qualified through a CCNA RFQ process and are on stand-by awaiting the RFP from the City.
- CDM is currently preparing the Design Criteria Package and RFP on which the DB teams will base their bids.
- CDM has prepared a draft Design Criteria Package. City staff is currently reviewing the document.
- City staff has reviewed the Design Criteria Package and provided comments to CDM. CDM is finalizing the package and is preparing the RFP documents pending permitting progress.
- RFP documents have been drafted and will be reviewed by City Staff pending the completion of the Administrative Appeal process.

IV. Project Manager's Comments on Petitions and Schedule

- With all major permits in hand now, we are ready to begin limited construction of the Alternative Water Supply Project. The limitation to moving forward with full construction is the current appeal of the NPDES Permit filed by Mr. Ross. Staff has elected to move forward with small elements of construction, such as

monitoring wells, pipelines, and other limited project elements that can be completed using existing project funds. This accomplishes two important things: (1) it signifies the start of construction, and (2) it begins the reimbursement process from SWFWMD for portions of the Cooperative Funding Grant.

- Recently the SWFWMD Governing Board approved the dismantling of the Water Management Districts Basin Boards, including the Pinellas-Anclote River Basin Board (PABB). It was the PABB that approved and granted the \$20.1M cooperative funding grant for the City's project. I have received several assurances from the SWFWMD that this money has been encumbered and appropriated completely for our project and that the money is secured for our project.