



Council Agenda Report

FROM: Kimberly Cole, AICP, Community Development Director

SUBJECT: Authorize Letters to the Monterey Peninsula Water Management District, Monterey One Water, Governor of the State of California, State Water Resources Control Board, California Department of Housing and Community Development, and Association of Monterey Bay Area Governments Regarding the City's Water Supply Needs for New Housing (Not a Project under CEQA per Article 20, Section 15378 and General Rule Article 5 Section 15061)

RECOMMENDATION:

That the City Council authorize letters to be sent to the Monterey Peninsula Water Management District, Monterey One Water, State Water Resources Control Board, and Association of Monterey Bay Area Governments regarding the City of Monterey's water supply needs to build the required housing to meet the Regional Housing Needs Allocation. In addition, the letters request the various agencies adopt resolutions requesting the State Water Resources Control Board lift the Cease and Desist Order since all illegal diversions from the Carmel River ceased December 31, 2021 so developers can set new water meters and work within the Monterey Peninsula Water Management District credit system. The letter to the State Water Resources Control Board requests that the Cease and Desist Order be lifted since all illegal diversions from the Carmel River have ceased December 31, 2021.

VALUE DRIVER:

The City Council has adopted a strategic priority to:

Champion regional and local efforts to secure adequate, affordable, and sustainable water sources for the city, now and into the future. The Council recognizes that access to a dependable supply of fresh water is a significant gating factor that impacts the City's ability to provide affordable housing and promote economic vitality consistent with the goals described in the City's General Plan.

POLICY IMPLICATIONS:

Sending letters to the Governor and the agencies mentioned above reaffirms the City Council's commitment and passion for providing affordable housing for its residents and workforce.

FISCAL IMPLICATIONS:

There is no direct financial impact from sending the letters.

ENVIRONMENTAL DETERMINATION:

The City of Monterey staff determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 ("CEQA Guidelines), Article 20, Section 15378(b)(5)). In addition, CEQA Guidelines Section 15061 includes the

general rule that CEQA applies only to activities that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action is a report on PY2015-16 CDBG funded activities and this matter has no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

ALTERNATIVES CONSIDERED:

The City Council may choose to modify or not send the attached letters.

DISCUSSION:

Background

Understanding the Governor's and the California State Legislature's expressed priorities for affordable housing and understanding the City's own needs for an increased supply of affordable housing units, the City has been at the forefront of implementing policies that allow housing developers to build additional housing units. This agenda report is designed to raise awareness with the State's elected leader, Governor Gavin Newsom, for his leadership to coordinate response with his subordinate State agencies such as the State Water Resources Control Board (SWRCB) and the Housing and Community Development (HCD) agencies to allow projects to move forward, which maximize the development of affordable housing units.

In 1995, the State Water Resources Control Board adopted Order WR 95-10. Among other matters, the order found that California American Water (Cal Am) was diverting about 10,730 acre-feet per annum of water from the Carmel River without a valid basis of right and directed that Cal Am should diligently implement actions to terminate its unlawful diversion. Over the years, there have been multiple amended orders. The most recent order (2016) stated, "Cal-Am shall diligently implement actions to terminate its unlawful diversions from the Carmel River and shall terminate all unlawful diversions from the river no later than December 31, 2021." The order established a reduction in diversions over time, as reflected in Table 1. The last illegal diversion was required to be terminated on December 31, 2021.

Although the last illegal diversion has been ceased, the region continues to be subject to the Cease and Desist Order until a new water supply is operational for multiple years.

Table 1
Effective Diversion Limit if All Milestones Missed, No Other EDL Adjustments

Water Year	Effective Diversion Limit if All Milestones Missed, No Other EDL Adjustments
2015-2016	8,310 AFA
2016-2017	7,310 AFA
2017-2018	6,310 AFA
2018-2019	5,310 AFA
2019-2020	4,310 AFA
2020-2021	Legal Limit

Source: State of California State Water Resources Control Board Order WR 2016-0016

To build new housing in compliance with the State housing goals, property owners must obtain new water connections and additional water supply.

How much water is needed to comply with the draft requirements?

RHNA: A Roadmap to Nowhere?

The Association of Monterey Bay Area Governments (AMBAG) recently assigned the City a Regional Housing Needs Allocation (RHNA) of 3,654 housing units, including 1,177 very low income, 769 low-income, 462 moderate-income, and 1,246 market-rate. The State of California Housing and Community Development Department (HCD) is currently reviewing the RHNA allocation, but City staff anticipates it will be approved. The City will then be required to update its housing strategy as expressed in the Housing Element and provide adequate zoning for these units to be constructed between June 2023 and December 2031. Assuming a mix of one and two bath units, the City conservatively estimates the water need at 367 acre-feet (See Table 4). If the City or regulating agencies want all two-bedroom/two-bathroom units to prevent future overcrowding, the water need would be 406 acre-feet.

Without additional water, the RHNA goal of planning for 3,654 additional housing units will be impossible and remain just an aspirational goal.

Table 2
New Housing Required
between June 2023 – December 2031
Regional Housing Needs Allocation (RHNA)

Housing Unit Type	Housing Units
Very Low Income	1,177
Low Income	769
Moderate Income	462
Market Rate	1,246
Total	3,654

Table 3
Minimum Water Needed to
Construct One Housing Unit with a Kitchen, Bathroom and Laundry Room

Fixture Type	One Bedroom/Bath Units				Two Bedroom/Two Bath Units			
	Fixture Unit Value	# of Fixtures	Estimated Fixtures	Estimated Acre Feet	Fixture Unit Value	# of Fixtures	Estimated Acre Feet of Water	Estimated Acre Feet
Washbasin	1	1	1	.01	1	1	1	.01
Toilet, Ultra Low Flush (1.6 gallons per flush)	1.3	1	1.3	.013	1.3	2	2.6	.026
Bathtub with Showerhead	2	1	2	.02	2	2	4	.04
Kitchen Sink with optional Dishwasher	1.5	1	1.5	.015	1.5	1	1.5	.015
Clothes Washer	1	1	1	.01	1	1	1	.01
Landscaping	n/a	n/a	n/a	.01	n/a	n/a	n/a	.01
Total			6.8 fixtures	.078	8.8		10.1 fixtures	.111

Source: <https://www.mpwmd.net/regulations/water-permits/residential/residential-fixture-units/table-1-residential-fixture-unit-count/>

Table 4
Estimated Water Need to
New Housing Required to be Constructed between 2023 - 2031

Regional Housing Needs Allocation	Housing Units	Assuming ½ of Required Units are One Bed/One Bath (.078 acre-feet per unit) and ½ of Units are Two Bed/Two Bath (.111 acre-feet per unit)		Total Water Need (acre-feet)
Very Low Income	1,177	588 units * .078 af = 46 af	587 units * .111 af = 65 af	111
Low Income	769	385 units * .078 af = 30 af	384 units * .111 af = 43 af	73
Moderate Income	462	231 units * .078 af = 18 af	231 units * .111 af = 26 af	44
Market Rate	1,246		1,246 units * .111 af= 139 af	139
Total	3,654	94 af	273 af	367

Source: City of Monterey, Community Development Department

Charting a Path Forward

Multiagency cooperation is needed to obtain water and ensure that the desperately needed housing is constructed by the 2023 deadline. The City is requesting the Council authorize the following letters to outline the City's challenge:

1. Send letters to Monterey One Water and Monterey Peninsula Water Management District informing them of the amount of water needed to meet the draft Regional Housing Needs Allocation, inquire if the proposed project will provide that water, and ask when the water will be available understanding that the City's deadline is 2023. If the water is unavailable by 2023, when can the City anticipate the water for housing purposes? Furthermore, the City requests that Monterey One Water and MPWMD pass a resolution requesting that the State Water Resources Control Board immediately lift the Cease and Desist Order since the illegal diversions have ceased.
2. Send a letter to the State Water Resources Control Board informing them of the amount of water needed to meet the draft Regional Housing Needs Allocation, update them on the lost opportunities for affordable housing construction, and asking them to immediately lift the Cease and Desist Order since the illegal diversions have ceased. If the CDO is lifted, developers could set new water meters and work within the Monterey Peninsula Water Management District credit system.
3. Send a letter to the Association of Monterey Bay Area Governments updating them on the water needed to construct the recently assigned RHNA. Furthermore, the City requests that AMBAG pass a resolution requesting that the State Water Resources Control Board immediately lift the Cease and Desist Order since the illegal diversions have ceased.
4. Courtesy copy the Governor of California and the California Department of Housing and Community Development

Affordable Housing - Lost Opportunities

In terms of upcoming development, the City continues to lose out on housing development opportunities. While the City's implementation of new policies is working and have attracted experienced and solvent developers, the inability of the SWRCB to respond to requests made by the City and the Monterey Peninsula Water Management District has led to a significant reduction in the scopes of the projects. Stated differently, while the State's legislature and the Governor have repeatedly prioritized increasing the supply of affordable housing opportunities, the SWRCB remains tone-deaf to the requests expressed by the City, the Monterey Peninsula Water Management District, Senator Laird, and housing advocates.

The following example documents what our rental community is losing:

The Garden Road area allows 405 new housing units. The City received applications to construct housing at four sites along Garden Road. The initially anticipated unit count was 298 units if the City could obtain additional water from the Water District's reserve category. The District conditionally allocated reserve water; however, the State Water Resources Control Staff indicated it would violate the Cease and Desist Order unless the project used no more water than it did before the rezoning. As a result, this opportunity was lost, and projects were reduced to 180 units consistent with the onsite water credits/use. This represents a loss of 118 units, which could have housed between 300 and 400 residents.

Table 5
Garden Road Housing Opportunities

Address	Original Application - # of Units	Downsized Projects due to Water	Project Status
2000 Garden Road	72	34	AR Preliminary and Final Permit Approved
2300 Garden Road	64	64	ARC Review Scheduled on 3/16
2560 Garden Road	63	25	Application Incomplete 2/2022
2600 Garden Road	99	57	AR Preliminary Review Permit Approved
Total	298	180	

There is no quick fix to reverse this fate. The projects were re-scoped, and plans were redrawn. Costs borne by the developers have been incurred.

The City has also inventoried its properties for affordable housing projects. Four sites were identified for 100% affordable housing projects, and a Request for Proposal was released. The City has selected two affordable housing developers for Exclusive Negotiating Agreement (ENA) discussions. These developers can potentially build 150 units that are 100% affordable

housing. However, these sites do not have adequate-sized water meters or supply for the housing to be constructed.

In sum, there have been 118 affordable housing units lost as a result of water unavailability for the Garden Road area, and 150 low-income units are in abeyance.

Conclusion

The City needs to obtain a water supply to fulfill the Council's strategic initiative to "*champion regional and local efforts to secure adequate, affordable, and sustainable water sources for the city, now and into the future.*"

In pursuit of this initiative, staff recommends the City Council authorize the attached letters are sent to the appropriate agencies. As described in this agenda report, the issues surrounding water and affordable housing are complex. In the future, the City may benefit from hiring a lobbyist with experience advocating for municipalities at the varying levels of state government: the Governor's Office, state agencies, and the state legislature.

KC

Attachments: 1. Letter to Association of Monterey Bay Area Governments
2. Letter to Monterey Peninsula Water Management District
3. Letter to Monterey One Water
4. Letter to State Water Resources Control Board

e: Gavin Newsom, Governor of the State of California
Senator John Laird, 17th Senate District
Assemblymember Mark Stone, 29th Assembly District
State of California Housing and Community Development Department
Maura Twomey, Association of Monterey Bay Area Governments
Housing Outreach List
Land Watch
State Water Resources Control Board
Paul Sciuto, Monterey One Water
Dave Stoldt, Monterey Peninsula Water Management District
Esther Malkin, Renters United
Housing List

Writings distributed for discussion or consideration on this matter within 72 hours prior to the meeting, pursuant to Government Code § 54957.5, will be made available at the following link:
<https://monterey.org/Submitted-Comments>