
CONFERENCE REPORT

CONFERENCE DATE: November 5, 2009

REPORT NO: One

PROJECT: UNLOC 2009 Annual Meeting

Final Version
Corrected 2/28/10

LOCATION: Rabobank, 1070 Main St, Cambria

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DISCUSSION: Meeting convened at 1:15 following registration of members. Deryl Robinson handed out an agenda that is the basis for the following discussions. Following the formal meeting at 2:30, Greg Sandors, CCDS Board member provided an update on current CCDS business and issues.

Annual Meeting:

Introduction of Board Members

1. Current Board members in attendance:

- Deryl Robinson, President,
- Jim Ensley, Treasurer
- Paul McDonnell, Member
- Jim Spencer, Member

Request for Board volunteers, including Board Secretary

1. Board Secretary: Spencer offered to fill that position for the coming year.
2. Invitation extended to other participants who might want to join the board. None volunteered.

Voting for Board members

1. Previous board members all agreed to serve this coming 2009-2010 year:
 - Deryl Robinson, President
 - Mike Dill, Vice President
 - Jim Ensley, Treasurer
 - Paul McDonnell, Member
 - Jim Spencer, Secretary
 - Dale & Brenda Rutherford, Members
 - John Rensch, Member
2. The board slate was unanimously approved by the attendees.

President's Update on UnLoc activities:

Desalination Plant:

1. There is a signed agreement with the Corps of Engineers to implement the project's testing phase.
2. The test wells at Santa Rosa Beach are about 3 weeks behind schedule with drilling expected to commence in early 2010.
3. The \$3 million cumulatively paid by CCSD to date has been agreed by the Corps to meet the 25% local match requirement against the original \$10 million allocation which has escalated to the current estimate (without solar) of \$12 million.
4. If a solar (photovoltaic) power source is added to power the plant, it will increase the cost to \$15.1 million. This may require an additional approximately \$2.8 million from CCSD
5. Estimated construction schedule by the Corps:
 - a. 2012 completion best case
 - b. 2015 completion worst case

Build-out Reduction Plan:

3. The current plan using the CCSD water wait list is 4,650 buildable lots (including those already built on.)
4. Adding the County wait list would require increasing the cap to 5,250 lots (equivalent to the treatment plant and well permit caps).
5. There are approximately 660 lots on the CCSD water wait list
6. There are approximately 400 additional lots on the County wait list.
7. There are an estimated 1,750 otherwise buildable parcels that are not on either wait list. These are the ones most likely needing to be retired and bought out.
8. Discussion of means of financing the buy out of 1,750 lots:
 - a. Utility rates: This would place some of the cost burden of retiring empty lots on the existing homeowners who have benefited from the open space. But voters have rejected water/sewer rate increases that include financing of lot retirements via utility bills through use of Proposition 218.

- b. CCSD Lot owners: The current direction is to place the entire cost burden on the 660 CCSD list owners (1,060 owners if the county list is added). The average retired lot value has been estimated at \$43,000. If bought out solely by the 660 CCSD lot owners as a condition of developing their lots, the current estimated fee is \$50-60,000 per lot.
 - c. Tax Increment Financing: A third option was introduced: This would require a local 2/3rds voter approval. It would not increase local property tax rates, but rather would reallocate a portion of the future incremental increases in taxes collected toward the creation of an Open Space District composed of retired lots.
 - i. If approved, the new tax increment rules would apply each time a property changes hands or has an improvement resulting in a reassessment, such as new construction or remodel construction. (it is unknown whether minor remodels requiring permits such as reroofing would fall under this).
 - ii. Contact has been made with County Supervisor, Bruce Gibson, who is in support. Discussions are ongoing with County staff and CCSD.
9. Discussion of the number of lots likely to be released in the first year and following years following completion of the desalination plant and lifting of the moratorium:
- a. First year: 125 lots. This assumes CCSD, County and Coastal Commission will issue permits in recognition of those lots over the past 7 years that might already have been permitted development if the moratorium weren't in effect.
 - b. The current number of "deferred allocations" had grown to approximately 145. However they were allowed to expire and there are presently no official deferred allocations.
 - c. If the county does not recognize the "banked numbers", at the current 1% growth rate, the number of lots likely to be released in the first year would be 37.
 - d. At the current county-wide Growth Management Ordinance allowable 2.3% growth rate, the number would be 67 lots.
 - e. If a lot owner whose wait list number comes up and wishes to defer to a later year, they will have two deferrals before having to go to the bottom of the wait list.
 - f. The cost projections for paying for the CCSD share of the desal plant require 125 connections the first year.
 - g. It estimated 22 years to build out the 660 lots on the CCSD water wait list based on the presently reduced allowable 1% growth rate for Cambria.

UnClog Suit Explanation:

1. Gregg Berge whose property is on the County list had received a Conditional Use Permit from the county. When he went for a CCSD water/sewer connection, he didn't receive a response from CCSD. He then sued CCSD. Court ruled him a "potential user" and sided with CCSD. However he appealed noting that CCSD's failure to respond in writing (denying the water connection) left CCSD open for a lawsuit. It is currently under appeal and a decision is expected in 60 days. The basis of his lawsuit is a "taking" of property by CCSD through its denial of service.
2. UnLOC's Board has decided not to join the UnClog suit. However it is watching the outcome of this suit with interest, especially the premise of "taking" of property which may apply to UnLOC owner properties if the desal or other options fail. *[February 2010 update: The appeal was denied.]*

Treasurer's Report:

1. Jim Ensley noted there were 22 dues paying members over the past year and who gave an average of \$150.
 - a. One donor however, Paul McDonnell, gave \$10,000. He was congratulated for his generosity.
2. Current bank balance as of September 30, 2009 is \$13,544.

3. The net income during the period of October 1, 2008 through September 30, 2009 was \$10,067 (\$13,447 gross income less \$3,380 expenses).
4. The \$3,880 expenses were mainly for legal advice and cost of postage, etc.

Q&A

1. Question about the origins of the moratorium?
 - a. This is covered in Section 350 of the state water code, inadequate water supply.
 - b. Noted the moratorium is by definition “temporary”. This should legally counter positions by opponents of growth that it be made permanent. However the word “temporary” does not define a time limit.
 - c. Water shortage was one of the two bases for the moratorium: Fire codes typically require a certain duration and water flow to meet fire protection requirements that may assume more than one fire at a time. The Stewart Tank and Pine Knoll tanks are near completion, or completed. Their completion may satisfy this aspect of the moratorium.
2. Question about living off the grid with self composting toilets and harvesting rainwater?
 - b. Would require revisions to the current County Health Code.
3. One member noted his property tax bill contains an assessment for the State Water Project. How can this be possible, since Cambria is not on the State Water Project?
 - b. Suggested investigating this further.
4. URLO (United Residential Lot Owners).
 - a. A remaining trustee of URLO wants to close out their approximately \$17,000 in funds and donate them to UnLOC.
 - b. This was an organization whose purpose was similar to UnLOC: to provide representation of lot owners in Cambria. That organization closed its doors and its mission was taken over by UnLOC.
 - c. Noted that CCCC is a predecessor to URLO as well. The \$17,000 was possibly collected during that organization’s existence as well. It would be impossible to trace all the original donors in order to redistribute the money in that fashion.
 - d. URLO’s bylaws require use of the funds for legal action if required to bring water to Cambria.
 - e. Agreed to investigate UnLOC accepting the donation.

2:30 PM Meeting with Greg Sanders, CCSD Board Member:

1. Reviewed the history of the moratorium and progress toward lifting it:
 - a. Moratorium began in 2001 due to two causes related to fire protection:
 - i. #1 Insufficient water storage for fire fighting – only 750,000 gallons. This also included inadequate water line capacity, especially for combating wild fires.
 - ii. #2 Insufficient water supply – relying mainly on ground water in two aquifers: Santa Rosa Creek and San Simeon Creek.
 - b. Unfortunately, too many intent-to-serve letters were given out in previous years. This resulted in an over-built situation of water demand versus supply.
2. The Water Master Plan was the first step toward defining solutions to the inadequate water infrastructure which included:
 - a. 2003 first phase water tank construction at Pine Knolls (2 new tanks to replace existing). Intended to be in excess of 1 million gallons. 18 month delay of construction by Coastal Commission due to tank location. Solved by relocating and reducing tank sizes by about 300,000 gallons.

- b. Additional water storage accomplished by building an additional tank at Stewart Street.
 - c. Water pump station upgrades at the rodeo grounds to improve water flow.
 - d. The Fire Marshal has indicated that once the above are completed they will be willing to certify that #1 is satisfied.
3. Under #2 water supply, the Water Master Plan recommended a desalinization plant as the best option.
 - a. CCSD Board has decided to turn the desal project over to the Army Corps of Engineers.
 - b. Noted that all 5 board members are in support of the desal option.
4. The current focus of attention is on Congress for funding.
 - a. Federal legislation authorizes up to \$3 million in credit for monies already spent toward the 25% local match. The monies already spent by CCSD is expected to be certified in February as meeting the match.
 - b. The Army Corps of Engineers has also procured \$2.5 million of stimulus money and there is a need to start spending it.
 - c. CCSD Board voted a \$160,000 match toward a geotechnical investigation.
 - d. Because the project is federal, county and local permits are no longer needed, saving the project some money.
 - e. An increase in the funding authorization is being sought. It will go from the original estimate of \$10.3 million to \$20.6 million.
5. A coastal permit is still required from the Coastal Commission for federal projects.
 - a. Coastal Commission has reviewed and approved other recent desal projects along the coast.
6. The proposed desal plant location has been moved from the mouth of San Simeon Creek to Santa Rosa Creek.
7. The geotechnical investigation is to test the feasibility of avoiding an open ocean water intake system -- which can be bad for marine life.
 - a. It will test the feasibility of an intake pipe system located in the sediment below the water (25' ±) through use of perforated pipes and filters.
 - b. Core samples are to be taken at the mouth of the creek bed to determine the best location that provides sufficient flow.
 - c. The Corps is very enthusiastically supporting what could be a prototype for future environmentally friendly desal installations.
 - d. The geotechnical work is expected to take a few weeks. Once done, the detailed engineering drawings for the plant can begin.
8. Q&A to Mr. Sanders:
 - a. What are the other desal plants under consideration? A. Carlsbad (which is an open seawater system utilizing the existing SDG&E power station cooling water loop) and Sand City.
 - b. What is your view of the proposed Open Space District funded with tax increment financing? A. We are meeting with County Supervisor Gibson. The county is in an exploratory mode. Right now the ball is in CCSD's court.
 - c. Can you comment on the flow of local tax dollars to the county? A. The higher average priced properties in Cambria have resulted in about four times the dollars flowing to the county than the reverse.
 - d. How many intent-to-serve letters does CCSD expect to issue in the first year after the moratorium is lifted? A. Our plan according to our financial model is to issue 125 intent-to-serve

letters in the first year. There is some support for that in the county, but it is not a current priority. Because the economy is down, CCSD has suffered financially. Water revenues in particular are down. 125 building permits will generate sufficient revenue and will make us "whole". However current permit fees are very low and are likely to be increased.

- e. How does the Standard Oil water pollution issue and their settlement tie into this? A. The Standard Oil issue is separate from the moratorium. There are 2 aquifers that presently serve town, San Simeon Creek and Santa Rosa Creek watersheds. The leaking fuel tanks fouled part of the Santa Rosa aquifer. But together both aquifers generate only 850 acre-feet of water per year. Furthermore the town (Cambria) doesn't own the water. Upstream water users, mainly farmers, have the historic riparian rights and can take as much as they need. As they increase their water use, we are expecting that water availability from wells in Cambria to decrease.
- f. Where do you plan to store the desalinized water? A. Two options: #1 inject it directly into the water system, #2 inject it into the ground water aquifer.
- g. Will current citizens have the vote to tax themselves for these water improvements? A. Proposition 218 gives ratepayers the opportunity of a vote to protest rate increases. It took us 3 attempts at increasing water rates to get the current rate increase. It is by a simple majority. I was personally opposed to the first attempt at a rate increase. It was narrowly defeated the second time (it actually won, but the board voted to go back out), and won by a large margin the third time. Adding 665 more homes will be better for the community. But if I were you, I would be more hands-on in the community in order to get them approved.
- h. The 125 first year intent-to-serve letters: are these residential and commercial combined? A. No, residential only.
- i. How do you see financing the build-out reduction plan? A. The first proposed water rate increase addressed this by putting part of the cost on the existing ratepayers. This was rejected. Other alternatives now being studied include: 1) the creation of an open space district consisting of retired lots and paid for through tax increment financing, and 2) financing it all on the backs of the water wait list people.
- j. The 22 year build out reduction plan: are you depending on building out all of the lots in order to generate the needed revenues? A. Yes, however our assumptions were very conservative. The dollar estimates of retired lot land values are higher than the actual costs are likely to be. For instance voluntary lot mergers are absorbing more lots than expected and their merger costs have been lower. We had projected about 300 mergers to occur, but with the recent trends are now considering adding another 200. That will reduce the number needing to be bought out. CCSD is now absorbing the administrative costs of lot mergers. But the county is considering increasing its charges by \$600.
- k. Cynthia Hawley's lawsuit on behalf of Land Watch: what are your thoughts? A. I view it as a fellow attorney as outrageous. I've never seen anything as poorly prepared as this. It is a suit against the adequacy of the EIR done for the Water Master Plan. The suit alleges that the CCSD snuck in a provision via the EIR that would favor the desal plant option. We expect to have to spend about \$150,000 of our taxpayers money addressing this suit.
- l. Where can this whole thing (desal plant, etc) go off track? Who is watching that the Corps stays on track? Whose job is it to get this through? No one appears to be in charge at the Coastal Commission. A. It is a federal project; the Corps will be in charge; Congress is in charge of getting the funding. The CCSD Board and and Director (Tammy) are in charge; right now there is nothing for UnLOC to do. More money however may be needed. It may require a campaign to be passed by the rate payers. We may come back to you for help on that.
- m. What is the time line on the Desal Plant? A. It depends on a favorable geotechnical report. If Santa Rosa Creek is favorable, we should be done in 3 years, barring a court injunction. Here is the rough schedule:
 - i. 6 months for analysis (including the geotechnical testing and report)
 - ii. 3 years for preparation of working drawings and the plant construction

- n. If rate payers won't pay any \$ more, who will pay for the lawsuit? A. Under CEQA, a prevailing party can collect the legal costs. However the utility in this case cannot. So Cynthia is protected from that. Opponents to growth have in the past created a strategy of creating "grid lock" and starving the district of its funds.
- o. With the County Wait List properties, do you expect them to be included with intent-to-serve at some point in time? A. CCSD recognizes only the CCSD water wait list.
- p. How then does that not amount to a "taking"? A. Those lot owners will receive fair market value through the lot reduction program.
- q. But the County put us on their list and collected money from us. A. This issue is tied to the fear or unbridled growth. The cap has been set for Cambria at 4,360 dwelling units.
- r. When the desal goes to the Coastal Commission, will we the lot owners be allowed to attend?
A. Yes

Note: This report is prepared from notes taken during the project meeting. If anyone disagrees with their content, they should notify Spencer in writing within two (2) days after receipt of this report. In the absence of such notice, this report will be considered a true and accurate record.

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By e-mail