



Agenda Item: 11.D
Date of Meeting: February 23, 2026
Department: Public Works

STAFF REPORT

To: City Council
From: Nora Gamino
Subject: **Consideration of Draft Amended and Restated Joint Powers Agreement for the Bishop Area Wastewater Authority**
Prepared On: February 19, 2026
Attachments: Current BAWA JPA
Draft Amended and Restated BAWA JPA
Ad-Hoc Committee Meeting Minutes

Background/History:

The proposed Amended and Restated Joint Powers Agreement (JPA) is the culmination of a multi-year policy discussion regarding the future governance of the Bishop Area Wastewater Authority (BAWA) and the potential addition of the Bishop Paiute Tribe as a Member Agency.

Discussion of the Tribe becoming a formal member of BAWA began several years ago, with the Tribe's first formal request to join the Authority presented at a BAWA Board meeting on January 16, 2024. Following that request, the BAWA Board held a series of policy discussions regarding potential Tribal inclusion and its implications for BAWA's governance and operations, including meetings on May 7, 2024 and September 17, 2024. After continued discussion and consideration, the BAWA Board, at its December 17, 2024 meeting, voted to initiate the formal process to add the Bishop Paiute Tribe to the JPA.

Following that direction, each of the three agencies, the City of Bishop, Eastern Sierra Community Service District (ESCSA), and the Bishop Paiute Tribe, identified their respective representatives and alternates to serve on an ad-hoc JPA Revision Negotiations Committee. The purpose of this committee was to negotiate and recommend revisions to the JPA that would both accommodate the addition of the Tribe as a Member Agency and update the agreement to reflect BAWA's evolving regional role.

Prior to convening the ad-hoc committee, legal counsel for each agency was engaged to conduct an initial legal review of the existing JPA and to identify key legal and policy issues associated with revising the agreement. This legal review process was largely completed around August 2025.

The ad-hoc committee met between October and December 2025 to review the JPA section-

by-section, incorporate legal counsel feedback, and develop consensus recommendations on core policy and governance issues, including the Authority's purpose, board composition and voting thresholds, funding and cost-sharing concepts, land and asset ownership, and provisions necessary to support the Tribe's participation, including a limited waiver of sovereign immunity.

The current draft Amended and Restated JPA represents the committee's negotiated working draft and is now being presented to each Member Agency's governing body for feedback and consideration. Following receipt of comments from the governing bodies, the ad-hoc committee will reconvene to review that feedback and, as necessary, negotiate and refine the agreement before a final version is presented to each agency's governing body for formal consideration and approval.

Analysis/Discussion:

The ad-hoc JPA Revision Negotiations Committee met on October 9, November 13, and December 11, 2025 to review the agreement section-by-section, incorporate legal counsel feedback, and reach consensus on key policy and governance issues. The committee used these meetings to (1) refine the Authority's purpose, (2) design a governance structure that ensures balanced representation, (3) discuss funding and cost-sharing concepts, (4) address land and asset ownership considerations, and (5) finalize provisions necessary for the Tribe's participation, including a limited waiver of sovereign immunity. The resulting draft reflects the committee's consensus positions and is now being advanced for governing body consideration.

Key changes in the amended and restated JPA:

1. Addition of the Bishop Paiute Tribe as a Member Agency.
The revised JPA expands BAWA from a two-party agreement (City and ESCSD) to a three-party regional authority by adding the Bishop Paiute Tribe as a full member. This change updates definitions, notice provisions, and governance sections to reflect three participating agencies.
2. Governance structure and voting thresholds.
The Board of Directors is expanded to six members, with two representatives from each Member Agency. The agreement introduces a Supermajority requirement (five of six votes) for Board actions and defines a Supermajority as the quorum. These changes were the result of deliberate discussion about avoiding tie votes and ensuring that major decisions require broad, cross-agency consensus.
3. Broadened, future-focused purpose of the Authority.
The prior JPA listed a series of specific projects (e.g., irrigation system, land acquisition, ponds, monitoring wells). The amended JPA replaces that project list with a broader "umbrella" purpose: to jointly plan, finance, design, construct, operate, maintain, and manage regional wastewater treatment and disposal facilities and related infrastructure. The committee intentionally selected this approach to avoid constraining BAWA's mission to a fixed list of projects and to better support long-term regionalization efforts.
4. Funding and cost-sharing framework (policy direction).
The committee discussed the need for a clear and equitable approach to funding BAWA's administrative and project costs, including reference to models used by other regional JPAs (such as ESCOG). While the JPA retains annual budget approval as the primary mechanism for allocating costs, the committee reached conceptual agreement on a base administrative contribution shared among the three agencies and continued use of the budget process for project-specific allocations. This preserves flexibility while

establishing an expectation of equitable participation.

5. Land and asset ownership framework.

The committee evaluated multiple options for how land and future assets should be owned and what would occur upon withdrawal or dissolution. Based on legal input, the group concluded that BAWA holding land and future assets jointly is the most practical long-term structure, and the draft JPA reflects this approach.

6. Limited waiver of sovereign immunity and venue provisions.

Because the Tribe is a party to the agreement, the amended JPA includes a detailed, limited waiver of sovereign immunity for the specific purpose of enforcing the agreement, along with defined venues for dispute resolution. This provision was flagged for legal review in October and subsequently approved by the Tribe's counsel and accepted into the draft. This is a substantive legal addition necessary to ensure enforceability of the agreement among all parties.

In combination, these changes transform BAWA from a project-focused, two-party arrangement into a three-party regional governance entity with a broader mission, a larger and more balanced board, and higher consensus thresholds for decision-making. The revised JPA reflects both the technical and policy discussions of the ad-hoc committee and is intended to provide a durable governance framework for the planning, development, and operation of a regional wastewater treatment system serving the Bishop area.

Impacts to Council Goals and Strategic Planning Priorities:

Objective 3.6 of the Strategic Plan specifically calls for establishment of a new JPA that includes the Bishop Paiute Tribe as a member.

Budget Impacts:

This item is not associated with a specific budget action. Any future financial commitments related to BAWA governance, administration, or capital projects would be subject to separate Council review and approval through the budget process.

Legal Review:

City Attorney Pucci has reviewed this item and finds that the recommended action complies with the law.

Recommended Action:

Provide direction and comments on the draft Amended and Restated BAWA Joint Powers Agreement for return to the ad-hoc committee.

Approved By: Ethan Aukee 2/19/2026

Approved By: Robin Picken 2/19/2026

Approved By: Pam Foster 2/19/26

Approved By: