



Agenda Item: 11.A
Date of Meeting: September 23, 2024
Department: Public Works

STAFF REPORT

To: City Council
From: Matt Bullis
Subject: **Advantages and Disadvantages of the Bishop Paiute Tribe Joining the Bishop Area Wastewater Joint Powers Authority**
Prepared On: September 12, 2024
Attachments: Joint Power Authorities with Tribes as Members

Background/History:

The nine purpose statements of the Authority as defined in the BAWA Joint Powers Agreement are as follows:

1. To take all actions necessary to operate, maintain and improve both the existing irrigation system and create a new irrigation system.
2. Acquire and/or lease additional land from the City of Los Angeles DWP to increase acreage in the irrigable discharge area.
3. Design and construct a diversion structure to alleviate capacity concerns,
4. Pursue grant funding and financing options for future projects,
5. Fund storage pond improvements.
6. Construct additional monitoring wells.
7. Incorporate existing Bishop acreage into authority operated discharge area.
8. Collectively interact with regulatory agencies with oversight over both parties; and
9. Study the consolidation of the two wastewater treatment plants.

The following is an excerpt from The Ins and Outs of Joint Powers Authorities in California, by Paula C.P. de Sousa of BBK Law.

The Joint Exercise of Powers Act, as codified in California Government Code section 6500, governs Joint Power Authorities (JPAs). Under the Act, JPAs are restricted to use by public agencies only. However, the term public agencies can include, but is not limited to, federal government, the state and state departments, mutual water companies, public districts and recognized Indian tribes.

The Joint Powers Act allows public officials of two or more agencies who agree to create another legal entity to work on a communal problem and fund a project for a specific activity. The Act allows member agencies to negotiate their levels of participation, levels of commitment and structure of their own governing board.

Analysis/Discussion:

A record search revealed five Joint Power Authorities in California that include Tribes as signatory members of their respective JPA board. Additional information on each JPA is included in the attachments. These five examples range in levels of participation and financial contribution expected from each of the JPA signatories.

Because JPAs are formed for specific activities or projects, they can be uniquely tailored to meet the needs, capacity, and constraints of the partnering agencies. The advantages and disadvantages below have been developed considering the unique circumstances and purpose of BAWA.

Advantages

1. Increased Community Participation

The Tribe, as the Eastern Sierra Community Service District's (ESCSD) largest customer, is a key member of the community who is not currently represented on BAWA. Board membership allows the Tribe to have a voice in the wastewater planning process and allows them to participate in addressing critical wastewater issues affecting the community. Tribe participation increases community engagement and dialogue, adding civic value to the process. Adding new members expands the collective background knowledge and experience and brings new perspectives to the table.

2. Increases Grant and Funding Opportunities

The JPA was developed to pursue grants to fund future projects. Allowing Tribe participation in the JPA shows the State that BAWA is willing to cooperate on regional problems and include the whole community in the process. The Tribe also has access to other funding sources that are otherwise inaccessible to the City and ESCSD. Including the Tribe in the JPA may result in additional project grant funding for the wastewater treatment plant expansion. The State has a very favorable view of the inclusion of Tribes in projects as they look for increased community participation when issuing grants.

Additionally, to qualify for many funding opportunities, the communities served by the project must be considered disadvantaged (DAC) with a median household income (MHI) of less than 80% of the statewide or federal MHI, depending on funding source. Currently, the Tribe and the City qualify as DAC, however the District does not. Combining efforts and adding the Tribe, City, and District together in one application reduces the overall MHI group score and allows BAWA to qualify as a DAC.

3. Adding one seat creates a majority vote.

If the Tribe were granted a single seat on the board, it would allow for an odd number of votes making tied votes less of a potential issue. Currently the Board consists of four voting members, two from each agency. Having an even number of members does not allow for a tie-breaker vote. Adding one additional board member allows for a majority vote, breaking tie votes.

Disadvantages

1. Adding new members changes the current Board makeup.

The JPA was formed between the city and the ESCSD to share capital resources and to work together to build a new Wastewater Treatment Plant. Adding a new member to the JPA would

require adjustments to the current working arrangement to ensure that the new members feel accepted and included in the decision-making process.

2. Adding two seats does not create a majority vote.

If the Tribe were granted two seats on the board, there would be six total voting board members. Currently the Board consists of four voting members, two from each agency. Having an even number of members does not allow for a tie-breaker vote.

Economic Impacts:

None at this time.

Budget Impacts:

None at this time.

Legal Review:

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

Recommended Action:

Council consideration to recommend adding the Bishop Paiute Tribe as a signatory member of the Bishop Area Wastewater Joint Powers Authority.

Approved By: Ethan Aukee 9/18/2024

Approved By: Robin Picken 9/18/2024

Approved By: Deston Dishion 9/19/2024

Approved By: