

MINUTES
CITY COUNCIL AGENDA
November 14, 2014
5:30 PM
SPECIAL CITY COUNCIL MEETING

CALL TO ORDER **5:30PM**
ROLL CALL Keller, Benson, Robustellini, Aiello and Hammond
OTHERS C. Tyhurst, J. Bray, L. Feris (MWCD) and J. Sprague

PUBLIC COMMENTS: NONE

SPECIAL MEETING AGENDA:

1. Discussion/possible action regarding Little Shasta River Diversion.

Mayor Keller opens the meeting and turns it over to the City Engineer, Jim Bray.

Bray inquired if the council had received a copy of his recent email with the attachment, which would be the topic of his discussion during this special meeting.

Bray said that he requested this meeting so he could provide a summary of the facts and present circumstances to the City Council as he understood them and for the council to consider the use of the Little Shasta River diversion.

Bray said the pertinent facts and circumstances at this time are:

The City of Montague relies on the MWCD to supply water to the City's holding ponds from Lake Shastina (formerly Dwinnell Reservoir) during the summer months and from the Little Shasta River during the winter months. The MWCD has and still does, take very seriously its part of maintaining reliable water supplies to the City throughout the year. As the present council you are aware in time of drought and especially in recent years the MWCD has had to make significant sacrifices to keep the City in water.

The MWCD is currently in the process of amending their permit for diversion of the Shasta River, and the provision of the municipal water to the City is an integral part of that amendment. It is important that the City continues to be covered under the MWCD permitting. The Little Shasta River has been the City's winter water supply since at least the late 1920's and the water right of 2.3cubic feet per second is held by the MWCD. The original adjudication is specific as to the use of the water for industrial, municipal, and domestic uses within the Town of Montague, and later decree added other uses. Water from the Little Shasta is diverted into the canal at a point above the Little Shasta Church and flows by gravity through the district canal to the city. The Little Shasta River Water Right is the only source of winter supply from the City at this time. The MWCD has historically utilized the little Shasta River diversion from November until the flows in the Little Shasta River become too low in the spring (typically ending in March to May, depending on the water year).

The MWCD and the City were advised that there is ample water at the point of diversion to allow for the diversion at this time, and we were also advised that the district has verified with the local water-master that this is legally allowable. The MWCD has made the repairs and adjustments necessary to turn the water into the canal at any time. However, the flow in the lower reaches of the Little Shasta River is presently 4 to 5 cubic feet per second, which is considered critically low for the spawning salmon presently in the stream. We do not know why the water is not making it thru the valley to the lower reaches of the river. Although the MWCD has always been sensitive to the maintenance of adequate in-stream flows for the fisheries, the MWCD does not consider it advisable to exercise the right to divert from the Little Shasta at this time.

Bray continues, the City's holding ponds are running low and will need to be replenished sometime next week (November 17th -21st, 2014). Once the ponds are filled it should provide ample water to carry the City through to Christmas and possibly thru the 1st of January.

As you are aware the MWCD has been involved in litigations and negotiations with respect to fisheries and other beneficial in-stream uses of the water for the past several years. These litigations have been very costly, threatening the financial solvency of the MWCD. In addition, reducing the already critical low flows at a time when the conditions of the amended permit are under consideration could have serious adverse consequences in the permitting process.

Since the City now has the alternative of pumping from the Shasta River because of the recently completed Drought Relief Project, the MWCD has proposed to utilize this alternative in lieu of diverting from the Little Shasta River. It was the understanding of the City, and of the State Office of Drinking Water staff and of Chris Tyhurst and myself that the pipeline project was intended to be used only until the Little Shasta River could be diverted.

Continuing Bray says that at last Thursday, November 6th Chris Tyhurst asked me to show him the drain locations on the new pipeline from the Shasta River, so that he could drain it down for the winter to prevent freezing. I called the MWCD consultant on the project to ask if he had any objections with this, and was advised that we should not drain it down until after the possibility of using it was discussed at the next MWCD board meeting. Chris and I attended that meeting on Tuesday evening, November 11th and were advised by the board that the MWCD intended to forgo the diversion of the water right on the Little Shasta and for the district to utilize the new pump to deliver water to the City for some indefinite period of time, perhaps into January 2015.

Bray said that he told the MWCD board that the City Council was not aware of this intent, and inasmuch as it involve the City's source of water supply, and inasmuch as the pumping costs could amount to several thousand dollars which the City's water rates do not support, and which the council has not authorized, he felt that the District should not proceed without the City Council's authorization. Bray said that if there are provisions in the agreement(s) between the City and the District which presently authorize the District to proceed to incur substantial non-budgeted costs to the City, he was not aware of it. Bray said that he had not studied the agreement(s) and was not qualified to do so, and recommended that the City Council contact their City Attorney and have legal counsel review the agreement(s).

Bray said because the city ponds are so low and need be refilled next week and there simply is not time to address the agreement(s). Bray believes that it would be appropriate for the MWCD and the City to

consider working together and with their respective attorneys, in the near future, to revisit the existing agreement(s) in light of the changes which have been taking place in the supply situation and the pending amendments to the District's permit(s). Bray said that it was his understanding that the recent agreement between the City and MWCD for use of the Drought Relief Project provides that the City will pay the power bill for the pump at the Shasta River when the MWCD utilizes the project facility to provide water for the City. Bray said the contemplated immediate use would, arguably, not be for that purpose, as there is ample water in the Little Shasta and the MWCD has every right to divert it for the City's use.

As Bray continues, he offers options and recommendations and as he sees it, the Council needs to immediately address the current question of the Little Shasta River Diversion.

One option the City has is to divert the Little Shasta River in accordance with the existing water right. He said this alternative would likely reduce the present critically low flows which could damage the current spawning run of the anadromous fish, which could adversely affect the MWCD permitting currently in progress. Bray said, unless the flows in the lower reaches of the river increase substantially in the next few days that he does not recommend this.

Secondly, Bray suggests, the City could authorize the MWCD to take whatever measures it deems necessary, and to bill the City (or not), for whatever electrical power costs are incurred, or to set some maximum amount the City would agree to pay, if the Drought Relief Pump was turned on. Again this would basically establish a contract, amending existing agreements, and there are too many legal implications and there is not enough time to work this out with the MWCD and the City and their respective attorneys with respect to the current need for water. Bray said that he could not recommend this.

Finally, Bray suggests, the City could concur with the MWCD that the best course of action is to forgo diversion of the Little Shasta River **for the immediate needs, on this one-time only basis.** The present low flow conditions are a direct result of the drought; the Drought Relief Project was implemented to provide the City with water in times of drought, and it could therefore be considered appropriate to utilize the facility for the immediate filling of the holding ponds, even though such utilization was never anticipated until late last week. And furthermore, the City could agree to reimburse the MWCD for some of the electrical power costs for the pumping.

Bray in closing said that it would be hopeful that the flow of the Little Shasta would recover by January 1st, 2015 and that this one-time authorization would be all that is required. The situation can be reviewed again at the January meeting of the City Council, if necessary. Bray recommended that the Council choose his final suggestion, as it is supportive of the MWCD desires and is consistent with the long-established cooperation between the MWCD (District) and the City. Bray further recommended that the City reimburse the District for some or all of the associated electrical power costs, which he expected to be on the order of \$500 to \$1000.

The council has questions for Bray and all discuss the matter further. Prior to making a motion the council was clear in their discussion that the city was not waiving any of its water rights by not diverting water from the Little Shasta River at this time.

The Council directed Chris Tyhurst and Jim Bray to draft a letter to the MWCD, (so it is in writing), that the City is not waiving any of its water rights by not diverting, and this is for this one-time only, and the City will pump from the Drought Relief Pipeline to fill the city ponds through December 2014, and the city will pay 100% of the electric bill costs incurred by the MWCD for this purpose. Because the costs of running the river pump are not budgeted, nor is it calculated into the city water rates, payment for this expense shall come from the drought emergency penalties collected and set aside for purposes such as this.

MOTION was made by Hammond that the City of Montague authorizes pumping water from the Shasta River on a one-time only basis and not to use our water right diversion from the Little Shasta River for this one-time only and agrees to pay for the amount of pumping costs (funds set aside from the drought penalties for such purposes).

Motion was seconded by Robustellini. The council voted unanimously to approve. Ayes, all.

Motion to adjourn the meeting made by Robustellini and seconded by Aiello. Ayes, all.

Adjourned: 6:05PM

ATTEST:

CITY OF MONTAGUE:

Janie Sprague, City Clerk

Jayne Keller, Mayor