AGENDA ITEM SUBMITTAL

Meeting Date: December 18, 2013
To: Board of Directors
From: Mike Markus
Subject: CONSOLIDATION DISCUSSIONS WITH THE MUNICIPAL WATER DISTRICT OF ORANGE COUNTY

SUMMARY

In August 2013 the Board formed a special ad-hoc committee to consider issues relating to the possible consolidation of Orange County Water District (OCWD; District) and the Municipal Water District of Orange County (MWDOC). The members of the District’s ad-hoc committee are Directors Anthony, Bilodeau, Dewane and Sarmiento. MWDOC’s representatives are Directors Barbre, Clark and Thomas. Three meetings between the two ad-hoc committees have occurred. The District ad-hoc committee has not had the opportunity to report back to the entire Board to discuss the outcome of those meetings or to discuss any “next steps” to assist in future consolidation discussions.

Attachment(s):
- Side by Side Comparison of Agency Powers
- MWDOC Principles of Consolidation
- OCWD Principles of Consolidation

RECOMMENDATION

Adopt the OCWD Principles of Consolidation and continue discussions with MWDOC regarding a consolidation between the two agencies.

BACKGROUND/ANALYSIS

The ad-hoc committees from MWDOC and the District were formed to engage in discussions to assess the feasibility of having a single Orange County water agency that would help manage the entire water resource needs of the county. The two ad-hoc committees have met three times. Before any significant work effort is undertaken in considering all the detailed issues relating to consolidation of the two organizations, the Board needs be briefed to provide input for the ad-hoc committee. This report will detail what has been discussed at the first three meetings and also outline what some of the future items for discussion could be.
Meeting No. 1 (August 29, 2013)

The members agreed at the onset of the meeting that the question as to why the agencies should consider consolidation at this time needed to be answered. It was agreed that the consolidation would result in good governance, would save money (over time), and a unified Board could be more effective in managing water resources in the County. It was also acknowledged that there would be specific challenges regarding governance and that legislation would be necessary to create a newly consolidated agency. The committee discussed the following issues:

1. It was agreed that any consolidation effort would preserve all of the rights, membership and privileges that Anaheim, Fullerton and Santa Ana have as members of the Metropolitan Water District (MWD) of Southern California.

2. The name of the consolidated agency was discussed and it was agreed that it should be the “Orange County Water District”. The reason behind this was that the District has a long accomplished 80 year history, worldwide reputation in groundwater management and recycled water and has a tremendous brand.

3. The number of divisions in a consolidated agency was discussed and it was agreed that broadly speaking, if the District eliminated one of its divisions and added two South County divisions, that a newly created agency with 11 divisions would be fairly balanced population wise with approximately 300,000 per division (with the exception of Fullerton). The matter of whether all the Directors would all be able to vote on “basin” or “non-basin” issues or if the divisions would have to be separated into “basin” or “non-basin” divisions was not fully vetted. The Committee felt that those details could be handled at a later date, but that an 11 division agency seemed to be the optimal size.

4. The formation of the new organization was also discussed and it was agreed that it would have to be done legislatively. The following alternatives were discussed:

   a. Amend the District Act, folding in any powers that MWDOC possesses and the District does not.
   b. Amend the legislation forming MWDOC under the Municipal Water Code folding in any powers the District possesses and MWDOC does not.
   c. Create a new statute incorporating the powers of both agencies.

The MWDOC Directors indicated they could not agree to amending the District Act because of the perception that they were being “taken over”. They suggested that the attorneys from each agency list the powers of each agency to see where overlap would exist and use that as a basis for new legislation. Both sides agreed to have the attorneys from each agency coordinate and draw up a comparison document to be discussed at the next meeting.

Meeting No. 2 (September 26, 2013)

The following items were discussed at the second meeting;
1. The MWDOC Directors indicated they had conferred with their other Board members and decided that the name of the consolidated agency should not be the “Orange County Water District”, but would have to be a different name, which could be decided at a later date.

2. The MWDOC Directors said that they had conferred with their other Board members and decided the number of divisions for the new agency should be between 11 and 15, but that could be decided at a later date.

3. The attorneys from each agency reviewed the powers of OCWD and MWDOC (attachment) and identified the “gaps” in powers that would have to be incorporated into any potential new legislation. The attorneys were directed to start drafting legislation for a newly consolidated agency.

Meeting No. 3 (November 26, 2013)

Before any discussions ensued regarding the status of the work product being produced, the District Directors indicated they needed to report back to the full Board to advise them of what was being discussed to receive their input regarding the process.

December 10, 2013 MWDOC Board Action

The MWDOC Board met on December 10th and adopted a “Principles of Consolidation” document which is attached. The principles relate to MWDOC’s desired or preferred outcome regarding existing rights and liabilities, governance, organization and powers in consolidating the two organizations.

Next Steps

Adopt the OCWD Principles of Consolidation and schedule a follow-up meeting of the two ad-hoc committees to further discuss the consolidation of the two agencies.

PRIOR RELEVANT BOARD ACTION(S)

August 7, 2013 – Formed Board Ad-hoc committee to consider consolidation with MWDOC
OCWD PRINCIPLES OF CONSOLIDATION

General
The overriding basis for consolidation decisions is “the best interest of the citizens of Orange County,” the best management of regional water resources and the most effective and efficient organization.

Existing rights & liabilities
The consolidation will not change existing groundwater or surface water rights.
Existing financial liabilities will remain with the currently responsible agencies.
The rights and representation of the Three Cities will not change. They retain their status, seats and voting power as MWD agencies.

Governance
The Board of Directors will be elected from defined geographic divisions (except for Directors appointed by the Three Cities).
Divisions will be independently developed to reflect the “community of interest” being the retail water service boundaries to the maximum extent possible.
The total number of Directors will be reduced from existing combined total of the MWDOC and OCWD boards. The general preference would be for a Board with eight elected directors, plus three directors from the Three Cities, for a total of 11 directors. The preference is for all elected directors to vote on all matters.
The Three Cities will each retain one Director.

Organization & power
The consolidation will require state legislation.
In order to maximize the effectiveness and ease of the consolidation, the OCWD Act should be modified to incorporate any powers that MWDOC currently possesses, but OCWD does not. The consolidated organization will retain the name of the Orange County Water District.
The existing legislative powers of both MWDOC and OCWD should be maintained in the new legislation. Powers should not be increased or decreased.