

## STAFF REPORT

To: Board of Directors

From: Rick Koon, General Manager

Date: 04/17/19

**History:** At the January 2016 meeting, the Board adopted revisions to the Company's Will Serve Policy requiring Board approval of all Conditional and Final Will Serves. Additionally, the revisions also established guidelines for Staff to evaluate all proposed projects based on State Water Subcontracts for water availability, Water Usage, Wastewater Usage, Number of Shares allocated, and the proposed Project Improvement Plans.

- In May of 2018, SMMWC Staff met with representatives of Avila Beach Resort ("ABR") to discuss the requirements for submittal and review of the conceptual layout for the Avila by the Sea project. This meeting established the scope of work required for SMMWC review and that all costs for incurred by SMMWC in its review of the project will be reimbursed to SMMWC by ABR.
- In June of 2018, a reimbursement agreement was signed by both parties and a deposit of \$5,000 was received. (see attachment #1).
- In August of 2018, ABR delivered to SMMWC a preliminary Water and Wastewater System Capacity Evaluation by Wallace Group. In order to aid SMMWC staff in the review of this memorandum, SMMWC hired Water Systems Consulting ("WSC") and their engineer Dylan Wade. WSC has never had ABR as a client and Dylan has previously prepared reports for SMMWC. Over the next several months, meetings were held with ABR and WSC as the project design was revised.
- In February 2019, SMMWC received a formal request from Avila Beach Resort for a Conditional Will Serve Letter for the "Avila by the Sea" Project. (see attachment #2). Additionally, SMMWC was given revised plans and a revised preliminary Water and Wastewater System Capacity Evaluation by Wallace Group.
- Throughout February and March of this year several meetings were held between SMMWC, ABR and WSC to correctly define service locations, pipeline locations and usage calculations and their consistency with SMMWC Master Plans.
- In April 2019, a final version of the preliminary Water and Wastewater System Capacity Evaluation by Wallace Group was issued. This version contains the revisions as requested by SMMWC and WSC. (see attachment #3)
- **It is important to note that SMMWC is developing a Conditional Will Serve based on the plans and reports received to date. Any changes in, or modifications to, the plans during the San Luis Obispo County's permitting process will require an additional review by SMMWC.**

**Discussion:** Staff has received the ABR's request for a Conditional Will Serve for Avila by the Sea. ABR has been a shareholder of SMMWC's since its creation and presently holds 141 shares. Currently, 6 of the 141 shares are active, and the other 135 shares are for ABR's proposed additional facilities. All of the proposed additional facilities are within the SMMWC service area designated as Parcel Four in the SMMWC By-Laws.

The proposed additional facilities include 60 hotel suites, 35 bungalows, 36 cottages, and 4 other guest units. The plan also includes the renovation of the existing lodge by converting the existing pro-shop to a lobby and modifying the existing restaurant/bar (no increase in capacity). Additional project components include a new spa facility, cafe, addition of conference rooms as well as 24 platform tent campsites using chemical restrooms.

The Company's 1995 Master Plan and the revised 2006 Master Plan, included water and wastewater allocation estimates for the build-out of the Avila Beach Resort based on the projected use of certain facility types. The newly proposed facility types shown on the plans and addressed in the memorandum are consistent with those projected facility uses outlined in the Master Plans. On 4/10/19 SMMWC received additional information regarding ABR entitlements from Paul Metchik (see attachment #4).

**State Water:**

In March 1993, the Golf Course entered into a State Water subcontract with the Company for 13.5 acft of State Water. In March 2001, the owner of Tract 1484, the Apple Orchard property, and Rossi entered into an "Assignment and Assumption of Rights under Agreement Regarding State Water Surcharges" which transferred Tract 1484's remaining 6.78 acft of State Water to the Golf Course property. Per the SMMWC subcontracts, this agreement was approved by the SMMWC Board of Directors in March 2001. (see attachment #5)

These two State Water subcontracts entitle ABR to 20.28 acft of State Water. Which ABR has paid their proportionate costs to date. In order to determine the how the total contracted water amount (20.28acft) is distributed, each State Water contract includes Exhibit E – Water use Factors. Meetings between SMMWC, WSC and ABR established the water use figures per Exhibit E to be used in Wallace Group's Capacity Evaluation. (see attachment #6 for the use factors applicable to the project.) Using these use factors, the Wallace Group's Capacity Evaluation estimates the total water use for the proposed Avila by the Sea project to be 20.26 acft per year. (see attachment #7)

**Recommendation:** Staff recommends the Board accept the "Preliminary Water and Wastewater System Capacity Evaluation by Wallace Group" dated 04/09/19, with following condition included in the Conditional Will Serve:

- Any changes in, or modifications to, the plans during the San Luis Obispo County's permitting process will require an additional review by SMMWC.

### **Water Usage – Domestic:**

The Company's 1995 Master Plan estimated that the projected water use for the Avila Beach Resort to be 36.2 acft per year. SMMWC and WSC have asked ABR to provide calculations for water use based on SMMWC's current distribution system and the design of the new water infrastructure. Average Daily Demand, Maximum Daily Demand, System Pressures and Flow Pressures for the Project as well as residual pressures within the existing SMMWC distribution system were calculated by the Wallace Group and checked by WSC for code compliance (see attachment #8).

- Average Daily Demand, Maximum Daily Demand were based on a use of 89.3 gal/day/unit. This is consistent with the San Luis Bay Inn where the historic usage is 83 gal/day/unit.
- Systems pressures are shown to be well above the minimum 20 psi that is required. Therefore pressure reducing valves will be required on all buildings and private water distribution lines.
- Fire Flow Pressures are shown to be well above the minimum Cal-Fire requirements which are dependent upon the type of construction materials used, occupancy and if fire sprinklers are required. Therefore ABR shall provide SMMWC with Cal-Fire approval prior to the construction plans being permitted.

**Recommendation:** Staff recommends the following conditions be included in the Conditional Will Serve and be completed prior to issuance of the Final Will Serve:

- Incorporate San Luis Obispo County Permit water usage guidelines and install low flow fixtures and other water saving devices as required.
- Show locations of pressure reducing devices for all building and private water distribution lines. Pressure reducing devices shall be maintained by ABR and not SMMWC.
- ABR shall provide SMMWC with Cal-Fire approvals prior to SMMWC approving the construction plans.

### **Water Usage – Irrigation:**

ABR proposes no water from the SMMWC potable water distribution system is to be used for irrigation purposes.

**Recommendation:** Staff recommends the following conditions be included in the Conditional Will Serve and be completed prior to issuance of the Final Will Serve:

- SMMWC will not supply any potable water for irrigation purposes.

### **Wastewater Usage:**

The Company's 2006 Master Plan estimates that the wastewater generated by the Avila Beach Resort area to be 23,850 gpd based on 85% of potable water usage being recovered as wastewater. Additionally, the Lift Station 2/3 agreements limit the Peak hourly flow from the ABR project to no more than 80 gpm. SMMWC and WSC have asked ABR to provide wastewater flow calculations assuming a 90% recovery factor to estimate Average Daily Flow in gpd and gpm, Peak Hourly Flow in gpm and analyze how the current collection system will function with the addition of the project. The Wallace Group's Capacity Evaluation calculated the projects Average Daily Flow to be 18,598 gpd, the Peak Hourly Flow at 77.5 gpm. SMMWC and WSC have checked the calculations and agree with these findings (see attachment #9). Based on the proposed estimated flows the project will add 23% to the total daily flow to the treatment facility. Once Avila by the Sea is built, the total flow to the plant would be just below an average of 100,000gpd and well within the permitted average flow of 150,000gpd.

**Recommendation:** Staff recommends the following conditions be included in the Conditional Will Serve and be completed prior to issuance of the Final Will Serve:

- The combined Peak hourly flow from the ABR project shall not exceed 80gpm.

### **WasteWater Usage – Miscellaneous:**

The Avila by the Sea project includes 36 Cottages with deck spas and four pools for swimming. For the units with spas, ABR proposes to install a gray water capture/cistern system for the spa water so no water will be disposed of into the SMMWC wastewater collections system.

For the pools, ABR proposes that any pool draining operations would be done during off peak hours. Although not specified in the Evaluation, SMMWC would also like to limit the draining operations to not exceed the 80gpm.

Additionally, SMMWC and WSC have identified potential wastewater usage impacts due to the events held on the property. Currently ABR brings in numerous Porta-Potties to service the wastewater needs of the events. In order to insure this practice continues, provisions should be made to allow the SMMWC Board to place a wastewater surcharge on ABR for incidental use during any event.

**Recommendation:** Staff recommends the following conditions be included in the Conditional Will Serve and be completed prior to issuance of the Final Will Serve:

- All spas in units will be separately connected to a gray water capture/cistern system and not drain into the SMMWC wastewater collections system.
- Prior to any pool draining operation, ABR will give SMMWC 24 hour notice.
- All pool draining operations will be done during off peak hours
- All pool draining operations shall not exceed 80gpm.
- ABR shall furnish SMMWC a report at the end of each event providing evidence of the use of Porta Potties. This report shall include the number of Porta Potties and the gallons of wastewater removed.
- SMMWC Board shall institute a Surcharge rate for additional wastewater discharged to our system. This Surcharge shall be applied for usage above normally expected flows from the ABR property or if ABR fails to report the wastewater removed for any event.

### **Project Plan Review:**

In February 2019, ABR submitted preliminary plans to SMMWC showing the horizontal layout of the proposed buildings and the locations of both the existing and proposed water and sewer lines. SMMWC and WSC have reviewed these preliminary plans which include the extension and relocation of the water and sewer lines within the project area. There is also the addition of several private lift stations. Originally the plans proposed SMMWC water and sewer lines crossing San Luis Creek. During review it was made clear that SMMWC facilities will not cross San Luis Creek. ABR redesigned the lines such that SMMWC will only maintain the lines in Blue Heron drive and that any private water and sewer line crossing San Luis Creek must be able to be isolated at Blue Heron Drive from the SMMWC system. Additionally the Project affects the buried electrical line to LS #2 which will have to be relocated by ABR.

**Recommendation:** Staff recommends the following conditions be included in the Conditional Will Serve, shown clearly on the construction improvement plans and be completed prior to the issuance of the Final Will Serve:

- SMMWC shall sign off on all Construction and Improvement plans.
- ABR shall replace any water or sewer mains as required by SMMWC due to Building layout or site grading.
- ABR shall install a new 8" water main along Blue Heron Drive connecting the existing water mains at Coffeeberry and the Maintenance area.
- New water meter service locations shall be placed adjacent to SMMWC main lines along Blue Heron Drive, Lupine Canyon Road and the relocated distribution line to tanks 100/200. All water service and fire service lines, including pressure relief valves, backflow preventers and fire hydrants, after the water meter shall be ABR maintained.

- New private sewer force mains shall install check valves and backflow preventers at their tie-in locations to SMMWC lines along Blue Heron Drive and Lupine Canyon Road.
- All private lift stations shall be equipped with flow meters and backup power and maintained by ABR.
- ABR shall replace and relocate the 480 volt electric line to Lift Station #2. Type of line and location to be approved by SMMWC.
- Lift Station #2 or its influent line shall be upsized to provide adequate flow and storage.

### **Share Allocation:**

In 2016 the Board approved the reallocation of the Shares for the Avila Beach Resort, Parcel 4 of our service area. This reallocation resulted in Parcel 4 having 135 undeveloped shares and 6 shares developed for a total of 141 shares. The 141 shares were issued to Parcel 4 Certificate #1456.

The number of shares issued to a parcel or project is based on the Company's bylaws Article II.

#### Section 4. STOCK APPURTENANT TO LAND.

Every owner of a lot or parcel of real property within the Service Area of the Company shall be entitled to purchase a total of one share for each: (1) separate residential unit including each (a) apartment unit which is properly zoned as an apartment unit and which is in fact used as such, (b) living unit of a community, condominium or other cooperative type of multiple living facility, which unit is occupied by, or designed to be occupied by, a separate house, and (c) separate "commercial unit" located on the lot or parcel owned, provided that each commercial unit, other than one leased by the owner of the entire lot or parcel, must be leased by a distinct party for a distinct commercial enterprise for such unit to constitute a "commercial unit" as such term is used in these Bylaws. ***In no event shall a shareholder be entitled to purchase shares in a number either more or less than the total of all residential units, hotel and motel rooms, and separate commercial units located on the owner's lot or parcel.***

SMMWC and WSC counted the proposed units on the plan and verified that, including the 6 shares allocated to existing development, the number of proposed units equals 135. 135 proposed plus 6 existing equal 141.

- 36 Cottages

- 60 Hotel/Inn Suites
- 1 Lodge Guest Unit
- 13 One Bedroom Bungalows
- 18 Two Bedroom Bungalows
- 3 Nest Villas
- 4 Three Bedroom Bungalows
- 6 Existing Buildings

SMMWC and WSC questioned ABR on the lack of shares for the Commercial Buildings/Spa/Restaurants. ABR provide additional explanation of the section of the Bylaws (see attachment #10):

(c) separate "commercial unit" located on the lot or parcel owned, *provided that each commercial unit*, other than one leased by the owner of the entire lot or parcel, *must be leased by a distinct party for a distinct commercial enterprise for such unit to constitute a "commercial unit"* as such term is used in these Bylaws.

In order to adhere to this Bylaw provision in the future, SMMWC feels that a recorded agreement between ABR and SMMWC be signed detailing this Bylaw section and that the cost of any new share(s) are based on the Shareholder Equity as shown in SMMWC's the most recently approved Financial Statement.

**Recommendation:** Staff recommends the following conditions be included in the Conditional Will Serve and be completed prior to the issuance of the Final Will Serve:

- ABR and SMMWC Board shall record an agreement regarding Bylaw Section 4 and the issuance of new shares if multiple entities own the facilities on Parcel 4. Including the provision that financial arrangements to purchase additional shares must be made prior to the signing of any lease or closing of any escrow.

**Recommended Final Action:**

Staff recommends the Board approve a Conditional Will Serve letter based on the conditions and mitigations as outlined in this Staff Report. See attachment #11- Draft Conditional Will Serve.