

June 21, 2021

Midcoast Community Council
PO Box 248
Moss Beach, CA 94038-0248

The City is in receipt of your letter dated May 26, 2021 to the City and others regarding the Sewer Authority Mid-Coastside litigation. We understand and empathize with the Midcoast Community Council desire to see speedy resolution of the dispute among Member Agencies of the Sewer Authority Mid-Coastside (SAM). Clearly there are many opinions circulating within the community, many of which do not reflect a full understanding of the dispute and the City's request for declaratory relief from the Court. While I do not identify and correct each of them here, please know that the City does not accept the facts as stated in your letter.

The funding disagreement centers on an estimated \$20 million project to replace, in its entirety, the sewer main system (Intertie Pipeline System) that delivers wastewater from the Montara Water and Sanitation District (Montara) and El Granada Community Services District (Granada) to the SAM wastewater treatment plant in Half Moon Bay. The City has and will continue to fund regular operations and maintenance of all SAM facilities, including the IPS. Our disagreement is simply about who pays for capital replacement of the Intertie Pipeline System (IPS) now that it has reached the end of its operational life.

The SAM JPA states that each member agency must fund capital improvements *in proportion to its share of the benefit received*. This protects members (and their sewer ratepayers) from funding projects from which they derive no benefit. Granada and Montara receive 100% of the benefit from the IPS project, while the City of Half Moon Bay receives no direct benefit. In fact, when the IPS was originally built, Granada and Montara solely funded its construction (aside from state and federal grants). At that time, the City was correctly assigned no benefit from the IPS project, and thus no burden to fund it. The replacement of that IPS is no different – each member agency must fund the project in proportion to the benefit each receives.

Nevertheless, the Granada and Montara Boards expect the Half Moon Bay ratepayers to subsidize the cost of the IPS project. It is the City's legal obligation (under Proposition 218) to ensure that City sewer rates reflect costs of service and that City ratepayers are not asked to subsidize other ratepayers. Despite our disagreement on the funding methodology, the City has voluntarily agreed to pay a portion of the IPS replacement costs (under protest) pending resolution of the litigation, consistently with our shared goals of environmental protection. In essence, the City and its ratepayers have extended an interest-free loan of many millions of dollars to our SAM partners and their ratepayers over the last several years.

Your letter “calls for an end to wasteful spending in continuing a lawsuit that divides the community, and for a new commitment to expend our energies and money to explore ways for the Coastside to cooperate in designing infrastructure that will serve the future.” The City agrees, and has always maintained that settlement would be preferable to litigation. As described in the attached October 2020 press release and Op-Ed, the three parties began formal mediation in September 2018 in an attempt to settle the dispute and avoid litigation. Since then, City officials and staff have devoted countless hours toward achieving an equitable resolution of the IPS funding issue. In August 2019, with the help of retired Monterey County Superior Court Judge Richard Silver the parties tentatively agreed to terms that would settle the IPS funding dispute and other governance issues affecting SAM. The City subsequently sought to reach final agreement on the terms and amended JPA.

Unfortunately, following 18 months of mediated settlement negotiations, Granada and Montara reneged on the settlement terms and chose to pursue resolution in Court. The settlement and compromise tentatively agreed would have put environmental protection at the forefront while improving SAM’s financial accountability and governance. While we consider each of the Member Agencies partners and collaborators at SAM, we cannot allow our sewer ratepayers to subsidize the ratepayers of Montara and Granada.

As always, we appreciate the volunteer work of the MCC Board and your interest in the matters of SAM. We appreciate the opportunity to respond and hope this sheds some additional light on the matter for you and residents of the midcoastside.

Sincerely,



Debbie Ruddock
Vice Mayor, City of Half Moon Bay
Vice Chair SAM Board of Directors



Deborah Penrose
Council Member, City of Half Moon Bay
Director SAM

Attachments:

City of Half Moon Bay Press release dated October 8, 2020
Op-Ed “Half Moon Bay Must Protect Ratepayers”

Tentative Settlement with City on Sewer Authority Mid-Coastside Rejected by Granada Community Services District and Montara Water and Sanitary District

Half Moon Bay, CA – On October 8, 2020, the City of Half Moon Bay informed the Santa Clara County Superior Court that the Granada Community Services District (Granada) and Montara Water and Sanitary District (Montara) have failed to formally approve the terms of a tentative settlement between those parties and the City, reached under formal mediation in August 2019, and that the City would unfortunately have to seek relief through the courts. The judge set this matter for a trial setting conference on March 9, 2021. It is anticipated that a trial date will be set for late summer 2021.

In July 2017, Half Moon Bay filed a suit in the San Mateo Superior Court asking for “declaratory relief” – a judgment resolving legal uncertainties and affirming the rights, duties, and obligations of these three agencies, comprising the Sewer Authority Mid-Coastside (SAM) Joint Powers Authority, which provides wastewater treatment services for the City and the other two coastside communities. The suit stemmed from a dispute as to the SAM members’ respective responsibilities to pay the multi-million-dollar cost to replace the Intertie Pipeline System (IPS). The IPS serves as an extension of the local sewer collection systems of Granada and Montara and carries wastewater from those communities to the SAM treatment plant in Half Moon Bay. The IPS does not directly serve users in the city.

This dispute, at its core, is about protecting Half Moon Bay sewer ratepayers from subsidizing the cost of sewer infrastructure from which they receive no benefit.

“We’ve worked countless hours in good faith over several years toward an equitable solution as to sharing these costs,” said Councilmember and SAM Board of Director Debbie Ruddock. *“We’re deeply disappointed that Granada and Montara have chosen to reject the tentative settlement agreement we all reached together last year. We now have no option except proceeding through the court system.”*

Formal mediation among the SAM agencies began in September 2018. In August 2019, they tentatively agreed to terms that would settle the IPS funding dispute and other issues affecting SAM. Since then, the City has sought to reach final agreement on the terms and amended Joint Powers Agreement, and to have the SAM Board of Directors implement the term sheet. In addition to the City’s financial participation in improvements to the IPS, this settlement would have resulted in a significant update of the 40-year-old Joint Powers Agreement for the governance and operation of SAM, for the benefit of sewer ratepayers of all three agencies.

Half Moon Bay remains committed to the fundamental goal of protecting the environment in and around the community, while providing for sewer and wastewater treatment services to its residents who pay for those services.

“We remain confident that the court will agree that it is not the city ratepayers’ duty to subsidize its neighbors’ collection systems,” said Councilmember and SAM Board of Director

Deborah Penrose. "With the court's help, we will sort out the IPS dispute while maintaining focus on running SAM efficiently for the benefit of the coastal environment and ratepayers."

(boilerplate)

Half Moon Bay Must Protect City Ratepayers

Submitted by:
Debbie Ruddock
City Councilmember and SAM Boardmember

I sit as one of the City's representatives to the SAM board. On behalf of my colleague on the Board, Deborah Penrose, I submit the following Matter of Opinion to the Review.

“Half Moon Bay is committed to collaboration and compromise with its Sewer Authority Mid-Coastside (SAM) partners – to protect the environment, improve SAM’s financial accountability and governance, and modernize a 40-year old Joint Powers Agreement” (JPA).

That sentence was stated in an opinion article submitted to the Review by the City’s Mayor in January 2019. It was true then, and it is still true today. However, in the case of SAM, it takes three parties to collaborate and compromise - and El Granada Community Services District and Montara Water and Sanitary District ultimately do not share that sentiment.

The funding disagreement centers on an estimated \$20 million project to replace the sewer main system that delivers wastewater from the Montara and El Granada special districts to the SAM wastewater treatment plant in Half Moon Bay. The SAM JPA states that each member agency must fund capital improvements *in proportion to its share of the benefit received*. This protects members (and their sewer ratepayers) from funding projects from which they derive no benefit. Granada and Montara receive 100% of the benefit from this project, while the City of Half Moon Bay receives no direct benefit. Despite this fact, the Granada and Montara Boards expect the Half Moon Bay rate payers to subsidize the cost of the project.

For over three years, the City has negotiated in good faith to settle this disagreement. Settlement and compromise has meant focusing on protecting the environment and encouraging improvements to SAM’s financial accountability and governance. It also meant the City agreeing to pay for a portion of the project in the spirit of partnership and compromise. The agencies initiated formal mediation in 2018 and on August 29, 2019 a tentative agreement was reached. During the past year, the City has been leading the effort to finalize this agreement, in order to collaborate, compromise, and move on to a better future.

After a year of painstakingly revising the language contained in the JPA and SAM bylaws, and setting the parameters by which the City would pay a significant portion of a project from which it receives no direct benefit, the Montara and Granada Boards reneged on the settlement agreement. They have chosen to fight rather than compromise. Ultimately, this will cause the ratepayers for Montara and Granada to pay their fair share—but a share that is significantly more than in a scenario where the three agencies work together in partnership.

The irony, of course, is that under a single sewer district (a concept that many Coastsiders want and believe in) Half Moon Bay ratepayers would naturally share equitably in ALL costs. However, such an obvious concept is elusive: it requires the relinquishment of power and control. It requires collaboration and compromise. And those are concepts that the Montara and Granada Boards are apparently not willing to consider.