Moab City Council Agenda Item  
Meeting Date: July 13, 2021

Title: Water Resource Management Work Plan Workshop

Date Submitted: July 7, 2021

Staff Presenter: Carly Castle, Deputy City Manager; Chuck Williams, City Engineer

Attachment(s):

- Draft Water Work Plan
- Water Resources Management for the Moab Spanish Valley Water Providers Coalition Draft Scope of Work

Options: Discussion

Recommended Motion: N/A

Background/Summary:

The purpose of this workshop is to discuss a new approach to the City’s water resource management planning. This new approach will be guided by a Water Resource Management Work Plan, and it will include intensive coordination with other Moab Valley water providers and the state. Critical components of the Plan are new City ordinances and regulations that are necessary to secure and preserve our water supply.

WHY THE NEED FOR CHANGE IN HOW WE MANAGE OUR WATER RESOURCES?

The City, the Utah Division of Water Rights, and many other stakeholders have discovered that there is an impending issue regarding the groundwater situation in the Moab area, and there is merit to looking at this issue and seeking solutions in a proactive manner. Additionally, other changed conditions such as explosive visitor and residential growth, threats from climate change, ongoing drought, emerging threats and vulnerabilities to our watershed (such as fire and development pressures), and an aging City water infrastructure have led City staff to the conclusion that a more integrated, comprehensive approach to managing the Valley’s precious water resources is needed in order to ensure a water supply for residents and visitors.

REGULATORY BACKGROUND

The City operates within a legal, regulatory, and political framework that puts some limits on its discretion and ability to manage its water. A brief description of the elements of this framework is provided below:

A. Utah Constitution: Article XI, Section 6 of the Utah Constitution addresses municipal water rights and water sources. This section provides that a municipality “may not
directly or indirectly lease, sell, alienate, or dispose of any of [its] water rights or sources of water supply” and “shall preserve and maintain those water rights and sources of water supply to supply water to the municipality’s inhabitants and others within the municipality’s designated water service area.” In other words, the City may be constitutionally required to “preserve and maintain” its water rights and water sources to supply water to its inhabitants, and the City should avoid “disposing” of its water rights by determining not to use and develop its water rights and water sources.

B. Equal Protection. The U.S. Constitution and the Utah Constitution contain provisions safeguarding an individual’s right to equal protection under the law. Additionally, U.C.A. 10-7-14 provides that “Within the municipality’s designated water service area, a municipality shall provide service to all retail customers in a manner consistent with principles of equal protection; and apply restrictions on water use to all retail customers in times of anticipated or actual water shortages in a manner consistent with principles of equal protection.”

C. Regulatory Takings: A property owner within the City boundaries could claim a regulatory taking if the City were to deny the property owner the ability to use or develop the property in any meaningful way through ordinances. Regulatory taking claims would likely incorporate some of the other elements of this regulatory framework, including equal protection and constitutional obligations for water service. It is hard to predict the outcome of a regulatory taking claim because there are a lot of facts and factors that a court would have to weigh.

D. Alternatives are Required: Ordinances, regulations, or policies that restrict the provision of City water to a new development will likely require alternatives or options for a developer to mitigate the groundwater and water supply concerns that underly the proposed regulation to avoid concerns about the policy being arbitrary and capricious. For example, it would be prudent to include provisions in any potential regulatory regime that allow a developer to convey groundwater rights to the City that could be used to provide water to the new development. Other alternatives could include a developer providing additional system infrastructure (wells, water storage facilities, etc.) that add to the City’s ability to provide water for new development.

E. Safe Yield: Determining the “safe yield” of an aquifer rests the State Engineer, which is expressly stated in statute. The City does not have the authority to make this determination.

WATER RESOURCE MANAGEMENT WORK PLAN

Below is a brief description of a Draft Water Resource Management Work Plan that staff will discuss with the Council during the workshop. An outline of the plan can be found in the attachments to this staff report. The discussion will focus on the items that are in blue, as they are the major new initiatives that the City will focus on in the upcoming year. These items are most critical to ensuring the City has a high-quality, reliable, and resilient water supply now and in the future. The plan is organized into three sections: analysis, policy, and O&M.

A. Analysis: Refine Source Availability and Options
1. **Participate in Ongoing Research and Monitoring Efforts:** These efforts include groundwater monitoring efforts, as well as the Mid-Valley Hydrogeology research effort conducted with other government agencies.

2. **Conduct a Needs Assessment to Determine Current and Future Usage Scenarios:** The City will partner with Western Resource Advocates and the Babbitt Center for Land and Water Policy to conduct a needs assessment for the City’s water demand. The four key phases of this assessment framework are: (1) forming a core water and land use planning team, (2) assessing local conditions, (3) identifying local points of impact, and (4) taking action. Stage 2, the self-assessment, will lay the groundwork for the Project Accelerator and other high-priority integrated water and land use initiatives in Moab.

3. **Evaluate New Source Options:** New sources to be assessed will include groundwater and surface water options.

4. **Bifurcate Systems into Culinary and Secondary Water:** This effort will optimize the best use for the most appropriate sources of water.

**B. Policy: Resource Policy Development**

1. **Ordinance Development and Adoption:** The ordinances that staff recommend Council develop include a water shortage/emergency ordinance; a potential dedication or exaction system that requires certain developers to bring new, wet water to the City in order to develop projects of a certain size and impact; and landscaping standards.

2. **Conservation Measures:** These measures should include measures for City facilities, for residents, and for the Moab community’s many visitors.

3. **Valley-wide Interagency Coordination and Cooperation:** The Moab Valley water providers will formalize a water provider group consisting of the City of Moab, GWSSA, San Juan County, and Moab Irrigation Company to coordinate water conservation, management, and development efforts so that the water provision system in the valley is more cohesive and consistent amongst the big water users.

4. **Develop a Water Resource Management Plan:** The City of Moab, GWSSA, San Juan County, and Moab Irrigation Company should develop and implement a Water Resource Management Plan. The purpose of the plan is to ensure water availability for the residents and visitors to the Moab/Spanish Valley for the next 100 years. The plan will consider ground and surface water sources and uses, and the scope of work will be established by the four water providers. This plan will map out a series of projects that will ensure a safe yield of groundwater in the Valley is not exceeded, while providing a path forward to develop alternative water sources to guarantee adequate water supply to the Moab Valley. More information about this effort can be found as an attachment to this staff report.

5. **Participate in Water Resources Regulatory and Legal Activities:** These activities include maintaining legal strategies protecting the City’s water rights, using our lobbying efforts at the legislature to protect the City’s interests at the state level, and maintaining information exchange with state and federal agencies.

**C. O&M: Maintain and Optimize City Water System**

1. **Implement the 2021 Bond Package:** This effort is already underway.

2. **Operate and Maintain System**
3. Evaluate and Optimize System Redundancy
4. Maintain Regulatory Standing
5. Maintain Sufficient Revenue Stream