

**MINUTES OF THE
SAN JOSÉ/SANTA CLARA
TREATMENT PLANT ADVISORY COMMITTEE**
San José City Hall, Virtual
Thursday, January 14, 2021 at 4:00 p.m.

1. ROLL CALL

Minutes of the Treatment Plant Advisory Committee convened this date at 4:00 p.m. Chair Liccardo called for Roll Call. Roll call was taken with the following members in attendance:

Committee Members: David Cohen, Dev Davis, John Gatto, Karen Hardy, Sam Liccardo, Carmen Montano, Paul Resnikoff, Dave Sykes, Kathy Watanabe

2. APPROVAL OF MINUTES

- A. November 12, 2020
- B. December 10, 2020

Action: On a motion made by Committee Member Gatto and a second by Committee Member Davis, TPAC recommended approval of items 2.A and 2.B.

Ayes - 9 (Cohen, Davis, Gatto, Liccardo, Montano, Resnikoff, Sykes, Watanabe)
Recuse - 1 (Hardy)
Nays - 0

3. UNFINISHED BUSINESS/REQUEST FOR DEFERRALS

4. DIRECTOR'S REPORT

- A. Director's Report (verbal)
 - CIP Monthly Reports
 - November

ESD Assistant Director, Napp Fukuda addressed the committee directing them to the November CIP Monthly Report, providing updates on wildlife at the facility, and on-going construction of the new headworks project. He called attention to the Plant Capacity Report and the informational memorandum on the Tributary Agencies Ownership Interest in RWF provided by the City Attorney's Office in response to requests made at the December 10 TPAC meeting. Assistant Director Fukuda also recognized retiring Public Works Deputy Director John Cannon for all his work and successful projects at the RWF. Committee Member Gatto asked about the report on the

Tributary Agencies Ownership Interest in RWF. Senior Deputy City Attorney Jennifer Pousho responded to his questions and confirmed the Tributary Agencies do not have a fee interest in RWF lands as further described in the informational memorandum.

5. **AGREEMENTS/ACTION ITEMS**

- A. Second Amendment to Master Consultant Agreement with Kennedy/Jenks Consultants, Inc. for Engineering Services on the 7448 – Filter Rehabilitation Project at the San Jose-Santa Clara Regional Wastewater Facility
Staff Recommendation:
Approve a Second Amendment to the Master Consultant Agreement with Kennedy/Jenks Consultants, Inc. for design and engineering services for the Filter Rehabilitation Project at the San José-Santa Clara Regional Wastewater Facility, extending the term of agreement from June 30, 2023 to June 30, 2025 and increasing the maximum total compensation from \$4,950,000 to an amount not to exceed \$7,500,000, subject to the appropriation of funds.

There was no presentation on this item. Staff was available for questions.

Chair Liccardo asked for a motion on item 5.A.

Action: On a motion made by Committee Member Montano and a second by Committee Member Watanabe, TPAC recommended approval of item 5. A.

Ayes – 9 (Cohen, Davis, Gatto, Hardy, Liccardo, Montano, Resnikoff, Sykes, Watanabe)
Nays – 0

- B. Construction Contingency Increase for the 7418 – Cogeneration Facility Project at the San Jose – Santa Clara Regional Wastewater Facility and Appropriation Amendments
Staff Recommendation:
- a) Approve a \$1,900,000 increase to the owner-controlled construction contingency for the 7418 – Cogeneration Facility Project (“Project”) for a revised contingency in an amount not to exceed \$10,188,000.
 - b) Adopt a resolution authorizing the Director of Public Works to negotiate and execute amendments to the Design-Build Contract (Contract) to include additional work and services required to complete the Project or requested by the City, pay for costs resulting from the COVID-19 pandemic and increase the Guaranteed Maximum Price (GMP) from \$91,172,000 to \$93,072,000.
 - c) Adopt the following 2020-2021 Appropriation Ordinance Amendments in the San Jose-Santa Clara Treatment Plant Capital Fund:
 - (1) Decrease the Nitrification Clarifier Rehabilitation appropriation to the

Environmental Services Department by \$1,900,000; and
(2) Increase the Energy Generation Improvements appropriation to the Environmental Services Department by \$1,900,000.

There was no presentation on this item. Staff was available for questions. Public Works Deputy Director, John Cannon responded to questions from Committee Member Gatto.

Chair Liccardo asked for a motion on Item 5. B.

Action: On a motion made by Committee Member Gatto and a second by Committee Member Davis, TPAC recommended approval of item 5. B.

Ayes – 9 (Cohen, Davis, Gatto, Hardy, Liccardo, Montano, Resnikoff, Sykes, Watanabe)
Nays – 0

C. Legacy Lagoons Remediation Budget Action

Staff Recommendation:

Accept the following budget actions for the Legacy Lagoons Remediation Phase 2 project at the San José-Santa Clara Regional Wastewater Facility (RWF):

1. Adopt the following 2020-2021 Appropriation Ordinance amendments in the Sewer Service and Use Charge Fund:
 - a. Decrease the Transfer to the San Jose – Santa Clara Treatment Plant Operating Fund by \$23,241,040; and
 - b. Increase the unrestricted Ending Fund Balance in the amount of \$23,241,040.
2. Adopt the following 2020-2021 Funding Sources Resolution and Appropriation Ordinance amendments in the San Jose – Santa Clara Treatment Plant Operating Fund:
 - a. Decrease the Legacy Lagoons Remediation appropriation by \$36,800,000;
 - b. Decrease the estimate for revenue from Transfers and Reimbursements by \$23,241,040; and
 - c. Decrease the estimate for Revenue from Local Agencies by \$13,558,960.

There was no presentation on this item. Staff was available for questions. Assistant Director Fukuda and ESD Director Kerrie Romanow responded to questions from Committee Members Gatto, Montano, Watanabe and Chair Liccardo regarding the remediation order, mitigation and legacy biosolids. Chair Liccardo requested that the City Attorney's Office report to the City Council regarding compliance with the Water Board's remediation order prior to or at the time the item is considered by the City Council. Mayor Liccardo also asked the report be provided to the Santa Clara City

Council.

Chair Liccardo asked if there were any questions or comments from the Public. He recognized Dean Stanford.

Dean Stanford spoke about EPA funds being available for remediation efforts and suggested several other remediation options.

Chair Liccardo asked for a motion on Item 5. C.

Action: On a motion made by Committee Member Montano and a second by Committee Member Watanabe, TPAC recommended approval of item 5. C. including a report to City Council by City Attorney's Office regarding the question of authority of the Water Board.

Ayes – 9 (Cohen, Davis, Gatto, Hardy, Liccardo, Montano, Resnikoff, Sykes, Watanabe)
Nays – 0

6. **OTHER BUSINESS/CORRESPONDENCE**

- A. Annual Plant Capacity Report
- B. Informational Memorandum: Tributary Agencies Ownership Interest in RWF Lands

7. **STATUS OF ITEMS PREVIOUSLY RECOMMENDED FOR APPROVAL BY TPAC**

- A. Cooperation with South San Francisco Bay Shoreline Project, Cost Share Agreement with Valley Water, Declaration of Surplus, Transfer of Legacy Lagoons 16 – 19, and Transfer of Shoreline Project Easements

Staff Recommendation:

Adopt a resolution authorizing the City Manager, or his designee, to:

(a) Negotiate and execute a funding agreement with the Santa Clara Valley Water District ("Valley Water"), a Special District created by the Legislature of the State of California, for the Regional Wastewater Facility's ("RWF") payment of project betterment costs for the South San Francisco Bay Shoreline Project ("Shoreline Project"), in the amount of \$2,000,000, or half of total project betterment costs, whichever is less; and

(b) Declare the Legacy Lagoons 16-19 property (portion of APN 015-31-051) as "exempt surplus land" to the needs of the City pursuant to Cal. Gov. Code §54221(f)(1)(D); and

(c) Negotiate and execute an agreement for the transfer of the "exempt surplus land" of the Legacy Lagoons 16-19 property to Valley Water (portion of APN 015-31-051) in accordance with Cal Gov. §54221(f)(1)(D) and San Jose

Municipal Code §4.20.080; and
(d) Negotiate and execute an agreement for the transfer of project easements to Valley Water for Shoreline Project access, construction staging, and levee protection on RWF lands in exchange for compensation to be established by an appraisal completed by Carneghi, Nakasako, and Associates; and
(e) Negotiate and execute all other necessary documents to effectuate the transfer of the Legacy Lagoon 16-19 property and related project easements.

This item was deferred per Orders of the Day by City Council on December 15, 2020.

8. REPORTS

- A. Open Purchase Orders Greater Than \$100,000 (including Service Orders)
Monthly Procurement and Contract Activity Reports summarizes the purchase and contracting between \$100,000 and \$1.3 Million for Goods and \$100,000 and \$320,000 for Services

Chair Liccardo noted that there were no questions or comments for items in Sections 6. 7 or 8.

9. MISCELLANEOUS

- A. The next TPAC Meeting is on **February 11, 2021 at 4:00 p.m.**, Virtual Meeting.

10. OPEN FORUM

Chair Liccardo recognized a member of the public who wished to speak. Dean Stanford spoke in support of the trail around Pond A 18 and parks and recreational uses of available land addressed in the PMP.

11. ADJOURNMENT

The Treatment Plant Advisory Committee was adjourned at 4:42 p.m.



Sam Liccardo, Chair
TREATMENT PLANT ADVISORY COMMITTEE