

DISTRICT MANAGER-ENGINEER
MARK THOMAS & COMPANY, INC.
RICHARD K. TANAKA

DISTRICT COUNSEL
ATKINSON • FARASYN, LLP.
HAROLD S. TOPPEL



BOARD OF DIRECTORS
WENDELL H. KERR, JR.
CHRISTOPHER C. LEE
STEVE C. ANDREWS
JOHN M. GATTO
WILLIAM A. BOSWORTH

20833 STEVENS CREEK BOULEVARD, SUITE 104
CUPERTINO, CALIFORNIA 95014-2154
(408) 253-7071 PHONE • (408) 253-5173 FAX
www.cupertinoSanitaryDistrict.com

October 7, 2010

Mr. John Stufflebean, Director
Environmental Services Department
200 East Santa Clara Street, 5th Floor
San Jose, CA 95113

Re: Resolution of the Cupertino Sanitary District Board Proposing Goals and Workshops regarding the Plant Master Plan Reconstruction and Land Use Alternatives

Dear Mr. Stufflebean:

At the meeting held on October 6, 2010, the Cupertino Sanitary District (CuSD) Board of Directors adopted the attached Resolution No. 1221 that defines and makes known the Board's position concerning the efforts for the Plant Master Plan. The Board respectfully requests Resolution No. 1221 be placed on the October 14, 2010 Treatment Plant Advisory Committee (TPAC) Agenda for discussion.

The CuSD Board is in agreement that the Plant requires rehabilitation of its aging infrastructure and the Master Plan lays out the foundation and sequence of the rehabilitation program. As a Tributary Agency, the CuSD is responsible for funding the capital improvements, identified by the Master Plan, and operations and maintenance expenses in proportion to our capacity rights. As such, the CuSD would like additional clarity on the definition of the project alternatives that are being considered, the financing plan for the plant improvements, land use alternatives and the land use economic benefits for the Tributary Agencies. In addition, the Master Agreements for all Tributary Agencies should be amended to reflect the new realities and revenue centers conceived by the Plant Master Plan.

To accomplish the above goals, the CuSD suggests that a series of workshops be conducted with all of the Tributary Agencies and consultants being used to develop the Master Plan to discuss, evaluate and decide how to implement and finance the Master Plan improvements.

I respectfully request that Resolution No. 1221 be included on the October 14, 2010 TPAC meeting. Please call me at your convenience if you have any questions or require further clarification.

Sincerely,

Richard K. Tanaka
District Manager-Engineer

Resolution No. 1221

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE CUPERTINO
SANITARY DISTRICT PROPOSING GOALS AND A WORKSHOP REGARDING
THE DEVELOPMENT OF THE SAN JOSE/SANTA CLARA WATER POLLUTION
CONTROL PLANT MASTER PLAN RECONSTRUCTION AND LAND USE
ALTERNATIVES

WHEREAS, the City of San Jose is the operator and co-owner of the San Jose/Santa Clara Water Pollution Control Plant, hereinafter known as the "Plant", constructed in 1956 at 700 Los Esteros Road, San Jose, and currently serving the sewage treatment needs of the 1,500,000 people and businesses of the South Bay; and

WHEREAS, the City of San Jose is completing a Plant Master Plan to rehabilitate and enhance this aging wastewater facility and to define beneficial uses for the 2,600 acres of Plant lands; and

WHEREAS, the Plant Master Plan is evaluating \$1 billion to \$1.5 billion of improvements to modernize the treatment and waste handling processes; produce energy from waste conversion, solar, and wind facilities; and produce other usable products from waste conversion; and

WHEREAS, the Master Plan is evaluating opportunities to use sections of the 2,600 acres of Plant lands, including designated bufferlands, for economic development including retail, light industrial, office and research and development; environmental restoration, owl habitat, wetlands, ponds, riparian habitat, and salt marsh habitat; and social uses including trails, parks and ballfields, and an education center or museum; and

WHEREAS, the Cupertino Sanitary District is a Tributary Agency to the San Jose/Santa Clara Water Pollution Control Plant; and

WHEREAS, as a Tributary Agency, the Cupertino Sanitary District participates in Plant land ownership in proportion to its purchased sewage treatment capacity rights and has an interest in the beneficial uses to be developed for this land; and

WHEREAS, as a Tributary Agency, the Cupertino Sanitary District is responsible for plant capital improvement and operations and maintenance expenses in proportion to its purchased sewage treatment capacity rights and, therefore, has an interest in the economic feasibility of the Master Plan, development of Plant lands to provide Plant revenue, and implementation of efficient waste handling processes and energy production; and

WHEREAS, the method by which the Plant improvements to be implemented by the final Master Plan are to be financed needs to be defined and explained; and

WHEREAS, the City of San Jose has decided to be guided by the concept of sustainability, as defined as a balanced consideration of environment, economy, and equity, for this major regional public works project; and

WHEREAS, as a Tributary Agency, the Cupertino Sanitary District desires to define and make known its position concerning the Plant Master Plan efforts; and

WHEREAS, sewage treatment facilities such as the Plant were historically viewed as designed only to protect the public health; and

WHEREAS, there is an increased emphasis being placed on sewage treatment facilities such as the Plant to achieve increased, if not total, re-use of the materials that are received by such facilities; and

WHEREAS, improvements to the Plant that would maximize its use as a recycling and re-use facility would have the following benefits; (1) it would allow the Plant to be considered for resource recovery funding sources that would not be available for traditional sewage treatment facilities, (2) recycled products produced by the Plant could be used to generate new revenue sources to offset the capital costs and operating expenses for the Plant, (3) power generation could be optimized, and (4) the value of any leased or sold excess Plant lands would be enhanced.

NOW, THEREFORE, the Board of Directors of the Cupertino Sanitary District hereby finds, determines and resolves, as follows:

1. The Plant Master Plan effort should include an alternative with the goal of achieving increased, if not total, re-use of the materials that are received, treated and processed by the Plant, so as to emphasize that the Plant is a RESOURCE RECOVERY FACILITY.
2. Upon completion of the Plant Master Plan, new agreements with the Plant Tributary Agencies will be needed to reflect the new realities and revenue centers conceived by the Plant Master Plan, including, but not limited to, the financial benefits to the tributary agencies resulting from the sharing of revenues generated by the development and private use of Plant lands such as increased real property taxes and sales taxes generated by leased Plant lands.
3. The Financial Plan for the Plant Master Plan should include the following:
 - a. Revenue from economic land uses should be reinvested into fulfilling and expediting the goals of the Master Plan and minimizing/eliminating debt financing for Plant improvements; and
 - b. Ongoing revenues from energy production should be used to help offset ongoing maintenance and operation costs, thereby reducing rate increases to all tributary agencies.
4. Economic land uses should be implemented to maximize revenue for the Plant to the benefit of all tributary agencies.
5. City of San Jose social policies including, but not limited to, public art, should not be incorporated into the costs of the Plant Master Plan improvements shared by the Tributary Agencies.
6. Prior to selection of the various alternatives to be considered, the agencies using the Plant (namely, the City of San Jose, the City of Santa Clara, the City of Milpitas, the Cupertino Sanitary District and the West Valley Sanitary District) and the consultants being used to develop the Plant Master Plan should hold one or more workshops to discuss, evaluate and decide how best to incorporate and implement each of the aforementioned goals, and to discuss how the eventual Plant Master Plan improvements are to be financed.

PASSED AND ADOPTED this 6th day of October 2010, by the following vote:

AYES: Kerr Jr., Bosworth, Gatto, Lee and Andrews

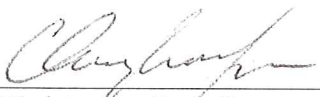
NOES: None

ABSENT: None

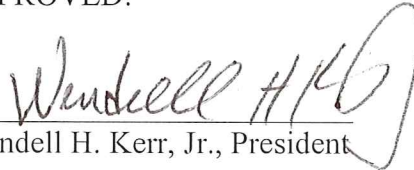
ABSTAIN: None

ATTEST: None

APPROVED:

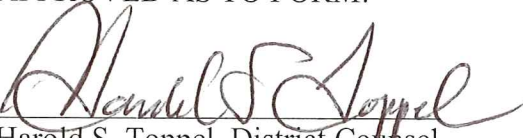


Christopher Lee, Secretary



Wendell H. Kerr, Jr., President

APPROVED AS TO FORM:



Harold S. Toppel, District Counsel