

**MINUTES OF THE
SAN JOSÉ/SANTA CLARA
TREATMENT PLANT ADVISORY COMMITTEE**
City Hall, Council Chambers
Thursday, May 19, 2016 at 4:30 p.m.

1. **ROLL CALL**

Minutes of the Treatment Plant Advisory Committee convened this date at 4:33 p.m. Roll call was taken with the following members in attendance:

Committee Members: Jose Esteves, Pat Kolstad, Patrick Kwok, Sam Liccardo, Pierluigi Oliverio, Dave Sykes, Magdalena Carrasco (alternate), Teresa O'Neill (alternate)

Absent: Committee Members: Manh Nguyen, Steven Leonardis

2. **APPROVAL OF MINUTES**

A. April 14, 2016

Item 2.A. was approved to note and file.

Ayes – 6 (Esteves, Kolstad, Kwok, Liccardo, Oliverio, Sykes)

Nays – 0

Absent – 3 (Carrasco, Leonardis, O'Neill)

3. **UNFINISHED BUSINESS/REQUEST FOR DEFERRALS**

4. **DIRECTORS REPORT**

- A. Directors Report (verbal)
- Monthly Progress Report

Assistant Director Ashwini Kantak presented a PowerPoint presentation highlighting major milestones for two capital improvement projects.

5. **AGREEMENTS/ACTION ITEMS**

Items 5.A. through 5.I were heard after Section 6, Other Business and Correspondences.

- A. Approval of an Ordinance Designating Additional Public Right-of-Way for Zanker Road

Staff Recommendations:

- (1) Consider the Addendum to the Plant Master Plan EIR; and
- (2) Approve an ordinance designating approximately 27,000 square feet along the west side of Zanker Road, located over a portion of the San José/Santa Clara Regional Wastewater Facility, as public right-of-way and accept the newly-dedicated right-of-way into the City's street system as part of

Zanker Road to allow for construction-related traffic improvements on Zanker Road.

This item is scheduled for consideration by the Santa Clara City Council on May 24, 2016, and the San José City Council on June 7, 2016.

Committee Member Esteves inquired if the intent of the newly-dedicated right-of-way is temporary. Principal Engineer John Cannon responded that the intent for the right-of-way was to be temporary, however when the right-of-way is no longer needed it will need to go through a street vacation process.

David Wall spoke on this item.

On a motion made by Committee Member Kwok and a second by Committee Member Oliverio, TPAC recommended approval of staff's recommendations for Item 5.A.

Ayes – 7 (Carrasco, Esteves, Kolstad, Kwok, Liccardo, Oliverio, Sykes)

Nays – 0

Absent – 2 (Leonardis, O'Neill)

B. 7995 – Master Consultant Agreements with Brown and Caldwell, AECOM Technical Services, Inc., and Black & Veatch Corporation, for General Engineering Services for the San Jose- Santa Clara Regional Wastewater Facility Capital Improvement Program

Staff recommendation: Approve Master Consultant Agreements with Brown and Caldwell, AECOM Technical Services, Inc., and Black and Veatch Corporation to provide general engineering services at the San José-Santa Clara Regional Wastewater Facility from the date of execution to June 30, 2021 in a total amount not to exceed of \$5,000,000 each, subject to the appropriation of funds.

This item is scheduled for consideration by the City Council on May 24, 2016.

Chair Liccardo had a question about the ranking and scores, specifically why Brown & Caldwell was considered least favorable from a cost standpoint, but ranked highly on the overall ranking. Assistant Director Ashwini Kantak clarified that the selection was mainly based on qualifications, and cost was a minor component.

David Wall spoke on this item.

On a motion made by Committee Member Kwok and a second by Committee Member Oliverio, TPAC recommended approval of staff's recommendations for Item 5.B.

Ayes – 7 (Carrasco, Esteves, Kolstad, Kwok, Liccardo, Oliverio, Sykes)
Nays – 0
Absent – 2 (Leonardis, O’Neill)

C. Report on Bids and Award of Construction Contract for 7382 – Digester and Thickeners Facilities Upgrade Project at the San Jose- Santa Clara Regional Wastewater Facility

Staff Recommendations:

(a) Adopt a Resolution

- (1) Approving the Digester and Thickener Facilities Upgrade Project Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program (File No. PP15-055).
- (2) Reporting on bids and award of construction contract for the 7382- Digester and Thickener Facilities Upgrade project to the low bidder, Walsh Construction Company II, LLC, to include the base bid less Revocable Item No. 5, in the amount of \$107,925,000, and approve a 12.5 percent construction contingency in the amount of \$13,490,625.
- (3) Authorizing the Director of Public Works to execute one or more change orders in excess of \$100,000 for the duration of the Digester and Thickener Facilities Upgrade project, not to exceed the total contingency amount approved for the project.

(b) Adopt the following 2015-2016 Appropriation Ordinance Amendments in the San José- Santa Clara Treatment Plant Capital Fund:

- (1) Decrease the Energy Generation Improvements appropriation to the Environmental Services Department by \$6,000,000;
- (2) Decrease the SBWR System Reliability and Infrastructure Replacement appropriation to the Environmental Services Department by \$4,692,000;
- (3) Decrease the Tunnel Rehabilitation appropriation to the Environmental Services Department by \$600,000;
- (4) Decrease the Ending Fund Balance – Unrestricted appropriation by \$17,253,000; and
- (5) Increase the Digester and Thickener Facilities Upgrade appropriation to the Environmental Services Department by \$28,545,000.

This item is scheduled for consideration by the City Council on May 24, 2016.

Program Manager Colin Page presented on this item.

Committee Members expressed concerns about bids being higher than the Engineer’s Estimate. Committee Member Kwok suggested re-bidding the project. He also indicated that staff should have been aware of the competitive construction market when they developed the Engineer’s Estimate six month ago. Assistant Director Ashwini Kantak shared the possible reasons for the high bids. Based on follow up with the general contractors, Ms. Kantak shared with the Committee that the initial estimates of the general contractors were in line with the Engineer’s Estimate and specialty

subcontractors' costs were significantly higher than expected by staff and even the general contractors. Public Works Assistant Director spoke about cyclical market conditions and the current bid environment. Based on the feedback from all the general contractors and a recognition of current market conditions, the additional costs to re-bid the project, the condition of the infrastructure, and the criticality of the project, staff recommended awarding the project instead of re-bidding.

David Wall spoke on this item.

On a motion made by Committee Member Kolstad and a second by Committee Member Oliverio, TPAC recommended approval of staff's recommendations for Item 5.C.

Ayes – 6 (Carrasco, Kolstad, Liccardo, Oliverio, O'Neill, Sykes)

Nays – 2 (Esteves, Kwok)

Absent – 1 (Leonardis)

D. Report on Bids and Award of Contract for the 6970 – Fiber Optic Connection Project at the San Jose-Santa Clara Regional Wastewater Facility

Staff Recommendation: Report on bids and award a construction contract for the 6970- Fiber Optic Connection Project to the second low bidder, Aegis ITS, Inc., in the amount of \$271,692 and approval of a 15 percent contingency in the amount of \$40,754.

This item is scheduled for consideration by the City Council on May 24, 2016.

David Wall spoke on this item.

On a motion made by Committee Member Esteves and a second by Committee Member O'Neill, TPAC recommended approval of staff's recommendations For Item 5.D.

Ayes – 7 (Carrasco, Esteves, Kolstad, Kwok, Oliverio, O'Neill, Sykes)

Nays – 0

Absent – 2 (Leonardis, Liccardo)

E. Agreement with the Santa Clara Valley Habitat Agency to Manage Burrowing Owl Habitat

Staff Recommendation: Adoption of a resolution authorizing the City Manager to Negotiate and execute an Agreement between the City of San José and the Santa Clara Valley Habitat Agency to manage the 201-acre burrowing owl habitat at the Regional Wastewater Facility for a term of five years.

This item is scheduled for consideration by the City Council on May 24, 2016.

David Wall spoke on this item.

On a motion made by Committee Member Oliverio and a second by Committee Member Carrasco, TPAC recommended approval of staff's recommendation for Item 5.E.

Ayes – 7 (Carrasco, Esteves, Kolstad, Kwok, Oliverio, O'Neill, Sykes)

Nays – 0

Absent – 2 (Leonardis, Liccardo)

F. Execute a Purchase Order with Pipe and Plant Solutions, Inc.

Staff Recommendations: Adopt a resolution authorizing the City Manager to:

- (1) Execute a Purchase Order with Pipe and Solutions, Inc. (Berkeley, CA) to provide all labor and material to clean three anaerobic digesters at the Regional Wastewater Facility for the term June 7, 2016 through June 6, 2017, in an amount not to exceed \$339,067;
- (2) Approve a contingency of \$50,000 in the event that unanticipated issues are identified during the performance of the work; and
- (3) Exercise up to three additional one-year options to extend the term of the cleaning services for nine additional digesters that are scheduled for cleaning on a rotational basis through June 6, 2020, subject to the appropriation of funds.

This item is scheduled for consideration by the City Council on June 7, 2016.

David Wall spoke on this item.

On a motion made by Committee Member Oliverio and a second by Committee Member Carrasco, TPAC recommended approval of staff's recommendations for Item 5.F.

Ayes – 7 (Carrasco, Esteves, Kolstad, Kwok, Oliverio, O'Neill, Sykes)

Nays – 0

Absent – 2 (Leonardis, Liccardo)

G. Amendment to the Master Service Agreement with Hydrosience Engineers, Inc.

Staff Recommendation: Approve the First Amendment to the Master Agreement with Hydrosience Engineers, Inc. for engineering service to allow for future adjustments to rates and charges, and to increase the rates for Hydrosience Engineers, Inc. and subconsultants.

This item is scheduled for consideration by the City Council on June 7, 2016.

David Wall spoke on this item.

On a motion made by Committee Member Oliverio and a second by Committee Member Carrasco, TPAC recommended approval of staff's recommendations for Item 5.G.

Ayes – 7 (Carrasco, Esteves, Kolstad, Kwok, Oliverio, O'Neill, Sykes)

Nays – 0

Absent – 2 (Leonardis, Liccardo)

H. San Jose/Santa Clara Water Pollution Control Plant 2017-2021 Proposed Capital Improvement Program

Staff Recommendation: TPAC approval of the San Jose/Santa Clara Water Pollution Control Plant 2017-2021 Proposed Capital Improvement Program.

The San Jose/Santa Clara Water Pollution Control Plant 2016-2017 Proposed Capital Improvement Program is scheduled for Council consideration on June 14, 2016, and for adoption on June 21, 2016.

I. San Jose/Santa Clara Water Pollution Control Plant 2016-2017 Proposed Operating and Maintenance Budget

Staff Recommendation: TPAC approval of the San Jose/Santa Clara Water Pollution Control Plant 2016-2017 Proposed Operating and Maintenance Budget

The San Jose/Santa Clara Water Pollution Control Plant 2016-2017 Proposed Operating and Maintenance Budget is scheduled for Council consideration on June 14, 2016, and for adoption on June 21, 2016.

Items 5.H. and 5.I. were jointly heard.

Division Manager Linda Charfarous provided an overview with a PowerPoint presentation.

Committee Member Kwok expressed concerns about the \$1.4 billion capital costs inflating over 30 to 50 percent over the next the 10 years, especially with Digester and Thickeners Facilities Upgrade being 30 percent over the Engineer's Estimate.

Ms. Kantak responded that staff had managed the scope of the Digester project and gone through a thorough value engineering process to stay within budget and had put in place various controls and processes to manage project budgets, however it was challenging to control market conditions. Ms. Kantak shared that some of the current projects, such as the digester gas storage replacement project and emergency diesel generators project were under budget and over the life of the program they were anticipating costs to balance out within the overall program. Ms. Romanow added that monthly CIP reports are provided to show trends of expenditures and to increase transparency.

Committee Member Kwok inquired what the percentage break was between Operation and Maintenance versus the cost of Administration. Ms. Charfarous responded that the Administrative Services costs accounted for \$4.2 million out of \$85.6 million or approximately five percent.

David Wall spoke on Items 5.H. and 5.I.

On a motion by Committee Member Oliverio and a second by Committee Member Carrasco, TPAC recommended approval of staff's recommendations for Items 5.H. and 5.I.

Ayes – 5 (Carrasco, Esteves, Kolstad, O'Neill, Sykes)

Nays – 2 (Esteves, Kwok)

Absent – 2 (Leonardis, Liccardo)

6. OTHER BUSINESS/CORRESPONDENCE

A. Update on Task Force Discussions

Item 6.A. was heard after the Director's Report.

Committee Member Sykes provided a summary.

The task force comprised of six members: John Gatto (Cupertino Sanitary District), Jon Newby (West Valley Sanitation District), Nina Hawk (City of Milpitas), Chris De Groot (City of Santa Clara), Dave Sykes (City of San Jose), and Ashwini Kantak (City of San Jose).

Committee Member Sykes described the meetings as productive and two themes emerged:

- (1) More involvement desired by the Tributary Agencies
- (2) The owners- San José and Santa Clara- taking on more responsibility

Committee Member Sykes also reported that he advised the task force that a path forward might revolve around one of themes, but that it could not be both.

Chair Liccardo responded that he had a chance to review the May 2, 2016 letter from the Tributary Agencies and is concerned that PRA requests have hindered any sort of progress in resolving the claim. Chair Liccardo preferred that the focus be on helping the Tributary Agencies get the financing they need to pay for an equitable share of the cost for capital projects.

Senior Deputy City Attorney Rosa Tsongtaatarii indicated that 15,000 pages were provided in response to the 12 PRA requests. Ms. Tsongtaatarii added that progress was made in explaining to the opposing council and forensic accountant about what records were available.

Chair Liccardo suggested that a process guided by professional staff be in order. Moreover, he asked that the Tributary Agencies be specific on what concerns they have about documents, as rehabilitation needs for the RWF are time sensitive. Committee Member Esteves echoed Chair Liccardo's comment about reaching an equitable share; however, the purpose of the PRA request was to close the gap in transparency.

Chair Liccardo responded that the best remedy at this time would be move to forward with mediation. Assistant Director Ashwini Kantak mentioned that the terms of mediation are currently being discussed between the City Attorney's Office and the Tributary Agencies' counsel. Director Kerrie Romanow concluded that having a third party involved would be helpful in understanding what areas the Tributary Agencies and Owners needed to focus on.

B. Letter from the Tributary Agencies to Mayor Liccardo dated May 5, 2016

C. Letter from the Tributary Agencies to TPAC dated March 30, 2016

Director Kerrie Romanow reviewed Items 6.B. and 6.C. There were no questions or comments from TPAC.

7. STATUS OF ITEMS PREVIOUSLY RECOMMENDED FOR APPROVAL BY TPAC

A. Approval of a Design-Build Contract with CH2M Hill Engineers, Inc. for the Cogeneration Facility at the San Jose- Santa Clara Regional Wastewater Facility

Staff Recommendations:

- (a) Approve the design-build contract with CH2M HILL Engineers, Inc. for the Cogeneration Facility at the San José-Santa Clara Regional Wastewater Facility in an amount not-to-exceed \$5,655,000 for the performance of preliminary design services under the contract.
- (b) Approve a design contingency in the amount of \$565,000 for City-approved changes to the scope of preliminary design services.
- (c) Adopt a resolution authorizing the City Manager or his designee to:
 - (1) Negotiate and execute a definitive contract amendment with CH2M HILL to: (1) set a base guaranteed maximum price or lump sum amount in accordance with the contract, in an amount not-to-exceed \$82,884,000 for the design-build work to be performed following the preliminary design services; (2) set a schedule for completion and acceptance of the design-build work required by the contract; (3) define the technical specifications and guaranteed performance capabilities for the Cogeneration Facility; (4) establish any additional professional services required by the City for transitioning the Cogeneration Facility to City control after acceptance , and the fee to be charged therefore; (5) establish the insurance requirements for the design-build work; and (6) subject to review and approval by the City Attorney's Office, amend other terms and conditions of the contract that are necessary to accomplish the foregoing;

- (2) Negotiate and execute separate agreements and/or amendments to the contract to allow CH2M HILL to proceed with discrete portions of the design-build work prior to the City's execution of the definitive contract amendment in an amount not to exceed \$30,000,000, which amounts will be subject to the base guaranteed maximum price;
- (d) Approve a construction contingency in the amount of \$8,288,000 to pay for adjustments to the base guaranteed maximum price or if applicable, the lump sum amount, in accordance with the contract and to pay for the transition services after acceptance of the Cogeneration Facility.
- (e) Adopt a resolution authorizing the City Manager or his designee to:
 - (1) Execute change orders in excess of \$100,000 up to the amount of the design contingency for changes to the scope of the preliminary design services, and up to the amount of the construction contingency for adjustments to the base guaranteed maximum price or lump sum amount during the performance of the design-build work;
 - (2) Negotiate and execute the necessary regulatory permits and public utility agreements in excess of \$100,000 for the permitting, design, construction and inspection of utility connections associated with the new Cogeneration Facility, up to an aggregate amount of \$600,000.

The proposed recommendations were approved by the City Council on April 26, 2016.

B. Master Consultant Agreement with HDR Engineering, Inc. for the Engineering Services for the 7731 – Nitrification Clarifiers Rehabilitation Project at the San Jose- Santa Clara Regional Wastewater Facility

Staff recommendation:

- (a) Approve a master consultant agreement with HDR Engineering, Inc. to provide engineering services for the 7731 – Nitrification Clarifiers Rehabilitation Project at the San José-Santa Clara Regional Wastewater Facility from the date of execution through December 31, 2023, in a total amount not to exceed \$5,000,000, subject to the appropriation of funds.

The proposed recommendation was approved by the City Council on May 10, 2016.

C. Report on Request for Proposal for a Design and Construction Management System

Staff Recommendation:

- (a) Accept the report on the Request for Proposal for the purchase and implementation of a Design Construction Management System for the Capital Improvement Program at the San José- Santa Clara Regional Wastewater Facility, and adoption of a resolution authorizing the City Manager to:
 - (1) Negotiate and execute an Agreement with Bentley Systems, Inc. (Exton, PA) for the purchase and implementation of a Design and Construction Management System, including software subscription, implementation,

configuration, testing, training, and related professional services, taxes, maintenance and support for an initial five-year term commencing on or about May 1, 2016 and ending on or about July 31, 2021, with a maximum compensation not-to-exceed \$342,700 for the initial five-year term, subject to the appropriation of funds; and

- (2) Execute change orders to cover any additional requirements for a not-to-exceed contingency amount of \$100,000, subject to the appropriation of funds; and
- (3) Execute one-year options to extend the term of the Agreement to provide ongoing software subscription, hosting, and technical support services after the initial five-year term, subject to the appropriation of funds.

The proposed recommendations was approved by the City Council on April 26, 2016.

D. Review of the Emergency Action for the Replacement of Pond A18 Northern Gate Structure and Termination of Action

Staff Recommendations:

- (a) Review of the emergency action for the replacement of the Pond A18 northern gate structure at the San José-Santa Clara Regional Wastewater Facility; and
- (b) Adopt a resolution terminating the emergency declaration for the replacement of the Pond A18's northern gate structure.

The proposed resolution was adopted by the City Council on April 26, 2016.

E. San Jose- Santa Clara Regional Wastewater Facility Capital Improvement Program

Staff Recommendation:

- (a) Accept the semi-annual status progress report on the San Jose- Santa Clara Regional Wastewater Facility Program for the period July through December 2015.

The proposed report was accepted by the City Council on April 26, 2016.

F. Audit of South Bay Water Recycling

Staff Recommendation:

- (a) Accept the Audit Report on the efficiency and effectiveness of South Bay Water Recycling.

The proposed report was accepted by the City Council on April 26, 2016.

All items under Section 7 were approved to note and file.

Ayes – 7 (Carrasco, Esteves, Kolstad, Kwok, Oliverio, O'Neill, Sykes)

Nays – 0

Absent – 2 (Leonardis, Liccardo)

8. REPORTS

A. Open Purchase Orders Greater Than \$100,000 (including Service Orders)

The attached monthly Procurement and Contract Activity Report summarizes the Purchase and contracting of goods with an estimated value between \$100,000 and \$1.08 million of services between \$100,000 and \$270,000.

Item 8.A. was approved to note and file.

Ayes – 7 (Carrasco, Esteves, Kolstad, Kwok, Oliverio, O'Neill, Sykes)

Nays – 0

Absent – 2 (Leonardis, Liccardo)

9. MISCELLANEOUS

A. The monthly TPAC Meeting is June 9, 2016, at 4:30 p.m., City Hall, Room 1734.

10. OPEN FORUM

David Wall spoke.

11. ADJOURNMENT

A. The Treatment Plant Advisory Committee adjourned at 5:34 p.m.



Sam Liccardo, Chair
TREATMENT PLANT ADVISORY COMMITTEE