



## OFFICE OF MAYOR CARMEN MONTANO

City of Milpitas

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May 15, 2023

Ms. Kathy Watanabe  
Chair, Treatment Plant Advisory Committee  
City of San Jose City Hall  
200 E Santa Clara St., Room T1734  
San Jose, CA 95113

via E-mail:  
kwatanabe@santaclaraca.gov

**RE: Postponement of May 18, 2023 Treatment Plant Advisory Committee Meeting**

Dear Ms. Watanabe,

I am writing to respectfully request that the Treatment Plant Advisory Committee (TPAC) meeting scheduled for May 18, 2023, be postponed to June 2023.

As you are aware, the City of Milpitas, West Valley Sanitation District, Cupertino Sanitary District, Burbank Sanitary District, and CSD 2-3 (collectively, the Tributary Agencies) are challenging the basis for San Jose and Santa Clara, as co-owners of the Regional Wastewater Facility, to impose charges for a broad scope of capital project, operations, and maintenance costs. The Tributary Agencies have invested years of effort trying to have these concerns addressed, including via the filing of administrative claims with TPAC consistent with the terms in the Master Agreement.

Due to the inability of the parties to reach a resolution of this dispute, the Tributary Agencies filed a lawsuit in Santa Clara Superior Court in 2018. The jury trial for that lawsuit commenced on April 10 and is continuing to this day. I understand that a verdict will likely be reached by late May or early June.

Given the breadth of the issues in dispute, neither the Co-Owners nor the Tributary Agencies, are in a position to meaningfully participate – much less vote – in a TPAC meeting that is anticipated to address capital projects, contracting, and/or budgetary matters that are currently the subject of the trial proceeding before a jury. The jury's verdict will be highly relevant to the parties' respective positions on these matters. For that reason, the only option is to postpone the May 18 meeting to allow the jury the opportunity to decide the important issues at stake.

If the Co-Owners do not agree to postpone the TPAC meeting until June, I do not see another option than to decline to participate out of deference to the ongoing litigation and the juror's anticipated verdict

Sincerely,

Carmen Montano  
Mayor, City of Milpitas

C: Ms. Kerrie Romanow, City of San Jose  
Mr. Gary Welling, City of Santa Clara  
Mr. Richard Tanaka, Burbank Sanitary District Consultant  
Mr. Barry Ng, CSD 2-3



May 16, 2023

[via electronic mail]  
Ms. Carmen Montano  
Mayor, City of Milpitas

Re: Response to Postponement of May 18, 2023 Treatment Plant Advisory Committee Meeting

Committee Member Montano,

I am writing in response to a letter from the City of Milpitas dated May 15, 2023 seeking to defer TPAC consideration of the 2023-2024 Proposed San Jose-Santa Clara Water Pollution Control Plant Operating and Maintenance Budget and 2024-2028 Proposed San Jose-Santa Clara Water Pollution Control Plant Capital Improvement Program (“RWF Budget”) noticed for the May 18, 2023 Treatment Plant Advisory Committee meeting (“TPAC”).

Pursuant to the Master Agreement, all agencies are provided by March 1, the preliminary budget materials and 5-year Capital Improvement Program forecast. Each fiscal year, we provide this information to you so that each agency may take the appropriate action to ensure adequate funding for their contribution to the ongoing safe operation of the San Jose- Santa Clara Water Pollution Control Plant. The May 18, 2023 meeting date and time was also noted at the April 13 meeting adjournment. All materials for the May 18, 2023 meeting were provided by May 11, 2023.

San Jose will consider its Sewer Service and Use Charges on June 6, 2023 which is based on the RWF Budget. The City Charter requires adoption of a balanced budget by June 30th each year. I am informed that your agencies have similar requirements and have already approved the FY23-24 sanitary sewer service rates as part of their annual budget process. The Master Agreement requires the City, as the Administering Agency, to seek TPAC recommendation on the RWF Budget prior to San Jose City Council consideration. For the reasons stated above, we cannot grant your request to defer and look forward to you attending to represent your agency.

Respectfully,

*Kerrie Romanow*

Kerrie Romanow  
Director, Environmental Services  
City of San José

cc:

Kathy Watanabe, City of Santa Clara  
Karen Hardy, City of Santa Clara  
David Cohen, City of San José  
Dev Davis, City of San José  
Domingo Candelas, City of San José  
Kip Harkness, City of San José  
Rowena Turner, West Valley Sanitation District  
Patrick Kwok, Cupertino Sanitary District  
Gary Welling, City of Santa Clara  
Richard Tanaka, Burbank Sanitary District  
Barry Ng, County Sanitation District 2-3  
Jennifer Maguire, City of San José  
Rosa Tsongtaatarii, City of San José