



SUPPLEMENTAL

COUNCIL AGENDA: 3-14-06

ITEM: 7.1

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: John Stufflebean

SUBJECT: SEE BELOW

DATE: 3-10-06

Approved

Date 3/10/06

SUPPLEMENTAL

Citywide

SUBJECT: APPROVE THE TRANSFER OF ONE MILLION GALLONS OF TREATMENT PLANT CAPACITY FROM WEST VALLEY SANITATION DISTRICT TO THE CITY OF MILPITAS

REASON FOR SUPPLEMENTAL

At its March 7, 2006 public meeting the Council deferred the item above for one more week and directed staff to return with additional information regarding any potential impact this transaction could have on land development within the City of San Jose. This supplemental memorandum will describe the development impact issues that were considered in making this recommendation.

DISCUSSION

The San Jose/Santa Clara Water Pollution Control Plant is co-owned by the Cities of San Jose and Santa Clara and operated by San Jose staff under agreements with Tributary agencies who are members of the Treatment Plant Advisory Committee (TPAC). The total operational processing design capacity of the Plant is 167 million gallons per day (mgd). The San Jose/Santa Clara contract with the Tributary Agencies establish their capacity rights in the Plant. The present treatment capacities of Milpitas (12.5 mgd) and West Valley Sanitation District (13.052 mgd) were fixed in 1983 when the Plant was expanded to its present capacity. The total capacity assigned to all Tributary Agencies under the San Jose/Santa Clara contracts is 34.542 mgd. San Jose and Santa Clara share the remaining 132.098 mgd, under a formula that is based on their respective assessed property values, as specified in their original 1959 joint powers. San Jose and Santa Clara rent a very small amount of their shared capacity to County Sanitation District 2-3 (04-05 rental allocation to CSD 2-3 was 1.574 mgd.)

The agreements with the Tributary Agencies establish a procedure for dealing with transfers of "excess pooled capacity" from one party to another. On January 11, 2006 the Board of Directors

of the West Valley Sanitation District voted to designate one million gallons of the District's capacity as excess pooled capacity, signaling its desire sell one million gallons of its capacity to one or more of the other parties. On January 17, 2006, the Milpitas City Council approved the purchase of the full one mgd at the \$6,989,992 price established by West Valley.

Under the Master Agreements, if more than one party wants to purchase designated excess pooled capacity, TPAC is authorized to allocate the available capacity among the requesting parties "in a manner to most closely achieve the same planning horizon for both parties." San Jose staff is recommending against any San Jose purchase of the available West Valley capacity.

San Jose's 2005 allocated capacity was 108.896 mgd, while its 2005 Peak Week Flow was only 76.120mgd. All of these numbers are based on the 167 mgd design capacity of the Plant. Staff, having reviewed the land development projected over the next several years determined that San Jose should have sufficient capacity for fifteen to twenty years. Milpitas has advised Staff that it believes that it may exceed its current available capacity within ten to fifteen years.

The other critical analysis that went into bringing the recommendation to approve the transfer forward was evaluating the scenario in which a regulatory agency could impose a flow cap significantly below the Plant's design capacity. A cap of 120mgd was threatened in the early 1990s, but has not been an issue for several years. The City worked with the Regional Water Quality Control Board to substitute programmatic action plans in-lieu of the threatened flow cap. These plans implemented many water conservation efforts, as well as major water recycling project within the tributary area. Staff does not believe that another flow cap is likely. Flows have been down for various reasons including the change in the customer base from water intensive uses such as canneries and manufacturing to research and development, as well as water conservation efforts in general.

An analysis was conducted using the 120mgd peak flow threatened by the Regional Board in the early 1990s as an example. In that situation the Tributary Agency agreements state that, "Any changes in Plant capacity which either increase or decrease the capacity of the Plant, resulting from any means whatsoever, shall be proportioned to each agency including San Jose and Santa Clara, in accordance with [the then existing capacity allocations of the parties.]".

A 120 MGD flow cap would represent a 28.14% reduction of total capacity from 167mgd, with the following impact on Milpitas and San Jose:

- Milpitas would be reduced to 8.98mgd without this transfer; with it the number would be 9.7mgd. The 2005 Peak Week flow for Milpitas was 9.358mgd.
- San Jose capacity would be reduced from 108.896mgd to 78.24mgd without the transfer. San Jose's 2005 Peak Week flow was 76.120.

Again, Staff feels the risk of a flow cap is low. At its February 9, 2006 meeting, TPAC unanimously approved recommending that the San Jose City Council approve the transfer of

3-14-06

Subject: Transfer of One Million Gallons of WPCP Capacity from WV Sanitation to the City of Milpitas

Page 3

capacity from West Valley Sanitation District to the City of Milpitas.



JOHN STUFLEBEAN

Director, Environmental Services

MILPITAS
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Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: John Stufflebean

SUBJECT: SEE BELOW

DATE: 2-8-06

Approved

Date 2-9-06

SUBJECT: APPROVE THE TRANSFER OF ONE MILLION GALLONS OF TREATMENT PLANT CAPACITY FROM WEST VALLEY SANITATION DISTRICT TO THE CITY OF MILPITAS

RECOMMENDATION

Approve Amendments to Agreements among cities of San Jose, Santa Clara, Milpitas and West Valley Sanitation District to reflect the transfer of one million gallons of capacity in the San Jose/Santa Clara Water Pollution Plant from West Valley Sanitation District to the City Of Milpitas.

BACKGROUND

On December 15, 2005, West Valley Sanitation District notified San Jose staff that a recent engineering study had confirmed that its capacity rights in the San Jose/Santa Clara Water Pollution Plant exceeded its projected demand for new sewer connections over the next 25 years. In the notice to San Jose, West Valley also expressed an interest in selling one million gallons of its excess capacity to the City of Milpitas.

On January 11, 2006, the Board of Directors of the West Valley Sanitation District voted to designate one million gallons of the District's capacity as "excess pooled capacity," pursuant to the terms of the Master Agreements for Wastewater Treatment among the cities of San Jose, Santa Clara and West Valley Sanitation District. West Valley further requested approval of the sale of this excess pooled capacity to the City of Milpitas, which is permitted under the West Valley Master Agreement, subject to the approval of the cities of San Jose and Santa Clara. On January 17, 2006, the City of Milpitas Council authorized the purchase of one million gallons of excess pooled capacity from West Valley Sanitation District

ANALYSIS

Under the Master Agreements or Wastewater Treatment among the cities of San Jose, Santa Clara and Milpitas and West Valley Sanitation s District, the District has 13.052 million gallons

per day of Treatment Plant capacity, and Milpitas has 12.5 million gallon per day of capacity. Both of these capacity allocations are based on the Treatment Plant's rated capacity of 167 million gallons per day average dry weather flow.

The City of Milpitas has determined that it needs to acquire additional wastewater treatment capacity in order to enhance its land development opportunities. West Valley Sanitation District has determined that it has excess capacity and has agreed to sell some of its excess capacity to Milpitas. In addition to transferring one million gallons of excess Plant capacity to Milpitas, West Valley and Milpitas are also proposing that their respective interests in Treatment Plant lands, which are based on the their contractual capacity rights, be adjusted to reflect the capacity transfer. West Valley and Milpitas staffs have mutually developed proposed terms, including price, for all interest being due to be transferred.

Although San Jose staff is reviewing the terms and conditions of the proposed transfer, under the terms of the Master Agreements, once an agency has determined that it has "excess pooled capacity," unless one of the Plant co-owners wants to purchase the excess capacity, negotiations of the terms and conditions of the sale is left up to the primary parties to the transaction. Based on review of projected development within San Jose, staff has determined that San Jose does not need to purchase the excess West Valley capacity at this time. San Jose and Santa Clara together share 130.524 million gallons in Plant capacity. The agency Master Agreements all contain provisions for proportionate spreading of any mandatory reductions in Plant flows. Under the 1959 joint powers agreement for operation of the Treatment Plant between San Jose and Santa Clara, the joint capacity is allocated on an annual basis in proportion to the ratio of joint owners respective average assessed property tax values. For 2005, San Jose's allocated capacity was 108.896 million gallon, while its 2005 Peak Week Flow for San Jose was 76.120 MGD on the corrected December TPAC capacity report. An expansion of the Plant for increased capacity will not be needed for fifteen to twenty years.

OUTCOME

The outcome of the proposed action will be a redistribution of one million gallons of the total Water Pollution Control Plant treatment capacity from West Valley Sanitation District to the City of Milpitas. There is no direct impact on the City of San Jose's available capacity.

PUBLIC OUTREACH

The City of Milpitas followed its normal procedure for public notification for actions scheduled to be taken by its Council.

HONORABLE MAYOR AND CITY COUNCIL

2-8-06

Subject: Transfer of One Million Gallons of WPCP Capacity from WV Sanitation to City of Milpitas

Page 3

COORDINATION

This memorandum has been coordinated with the City Attorney's Office. It is scheduled to be heard at the February 9, 2006 Treatment Plant Advisory Committee meeting.

COST IMPLICATIONS

There are no cost implications for the City of San Jose.

BUDGET REFERENCE

Not applicable

CEQA

Pending


JOHN STUFFLEBEAN
Director, Environmental Services