



COUNCIL AGENDA: 3-21-06
ITEM: 7.1

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: John Stufflebean

SUBJECT: SEE BELOW

DATE: 3-10-06

Approved

Date

3-13-06

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

On March 7, 2006, Council deferred this item for one 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 describes more fully the analyses of potential development and environmental impacts 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 under agreements with the Tributary Agencies that contract with the Plant for treatment of wastewater from their jurisdictions. The Tributary Agencies are members of the Treatment Plant Advisory Committee (TPAC), along with representatives from San Jose and Santa Clara.

Total operational processing design capacity of the Plant is 167 million gallons per day (mgd). The contracts between San Jose/Santa Clara and 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 Agreement. San Jose and Santa Clara rent a small amount of their shared capacity to County Sanitation District 2-3 (the FY 2004-05 rental allocation to CSD 2-3 was 1.574 mgd.)

The contracts 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 mgd of the District's capacity as excess pooled capacity, signaling its desire to sell this volume 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.

Land Use and Flow Cap

Prior to making its recommendation, the Administration reviewed two key issues: projected land development impact on flows and the potential for flow cap restrictions on Plant discharge.

Land Development: 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."

In 2005, San Jose's allocated capacity was 108.896 mgd, while its 2005 Peak Week Flow was only 76.120 mgd. Based on an analysis of land development projections, San Jose should have sufficient capacity for 15 to 20 years. Milpitas has advised staff that its projections indicate it could exceed its current available capacity within 10 to 15 years.

Flow Cap: A second critical issue is whether the Regional Water Quality Control Board or other regulatory agency could impose a flow cap significantly below the Plant's 167 mgd design capacity. During the early 1990s, for example, a 120 mgd flow cap was threatened by the State Water Resources Control Board based on salt marsh conversion appearing to result from the Plant's freshwater releases.

Based on significant changes in the South Bay's economy and water usage, explained in more detail below, the Administration cannot forecast a flow trigger to be a reasonable scenario any time soon. Nonetheless, staff conducted the following analyses based on the threatened 120 mgd cap:

- A review of the Tributary Agency contracts: These 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]."

- Calculation of flow reductions: A 120 mgd flow cap would represent a 28.14% reduction of total effluent discharge capacity from 167 mgd. As a result, Milpitas's capacity would be reduced from 9.7 mgd to 8.98 mgd without this transfer. By comparison, their 2005 Peak Week flow was 9.358 mgd. San Jose's capacity would be reduced from 108.896 mgd to 78.24 mgd without the transfer. San Jose's 2005 Peak Week flow was 76.120.

Changing Conditions

There are five key changes that have occurred in the South Bay over the past 15 years that lead the Administration to conclude that there is no reason to expect any regulatory agency to threaten a flow cap for San Jose.

- Action Plan: First, the City's response to the threatened flow cap in 1989 was to proactively develop and secure approval from the Regional Water Quality Control Board of the 1991 South Bay Action Plan to be implemented over a 10-year period. Implementation of this comprehensive plan by the City has resulted in the issuance of a Plant permit by the Regional Water Board that does not contain a flow cap, but instead sets forth conservation measures that are to be taken in phased steps should future Plant flows be found to be causing salt marsh conversion.
- Water conservation: Promotional campaigns and incentives aimed at reducing water usage among the commercial, industrial, residential and institutional sectors was a major thrust of the Action Plan. Some of these, such as the massive distribution of low-flow shower heads and later the installation of more than 200,000 ultra-low flush toilets, have resulted in permanent and ongoing water efficiencies. Rate structures, incentive programs and other City policies continue this effort today.
- South Bay Water Recycling: This regional recycled water distribution system was funded by San Jose, Santa Clara and the Tributary Agencies. The constructed pipeline now stretches 110 miles from the Plant to more than 500 customers including power plants, industry, landscapers, and government agencies in three cities. It continues to be a regional program, with the Water District now engaged in pursuing further expansions to the south of Metcalf Energy Center under the Cooperation Agreement with the City signed in 2002.
- Changing Industry: Water-intensive canneries are gone from San Jose, as are most high-tech manufacturing plants. In combination with the programs described above, this reorientation of the region's economy has placed the Treatment Plant below the 120 mgd flow trigger since 1998 when South Bay Water Recycling came fully online. The Plant's average dry weather effluent discharge in 2005 was 100 mgd, well below the 120 mgd threshold.
- Salt Marsh: The 2005 marsh assessment demonstrated that the salt marsh is no longer retreating, and may indeed be growing. In addition, the Federal government has purchased

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16,000 acres of salt ponds in the South Bay and the City has purchased 850 acres adjacent to the Plant. Stakeholder processes will be used in both cases to master plan their future usage.

Conclusion

Based on the analyses and review of changing conditions described above, the Administration has concluded that the transfer of one mgd from West Valley Sanitation District to the City of Milpitas is reasonable, and that San Jose has no need to purchase any portion of this excess pooled capacity.

This matter was discussed at the February 9, 2006, meeting of TPAC and was unanimously approved by the representatives of San Jose, Santa Clara and the Tributary Agencies.

for Walter A. Dray
JOHN STUFLEBEAN
Director, Environmental Services

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