

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kerrie Romanow
Nanci Klein

**SUBJECT: UPDATE ON POND A-18
SALE**

DATE: August 4, 2020

Approved

/s/ Jim Ortbal

Date

8/4/2020

INFORMATION

The attached information memorandum will be provided to the Treatment Plant Advisory Committee providing an update on the sale of Pond A-18.

/s/
KERRIE ROMANOW
Director, Environmental Services

/s/
NANCI KLEIN
Director, Office of Economic Development

For questions, please contact Jennifer Voccola-Brown, Sustainability and Compliance Division Manager, at (408) 975-2594 or Kevin Ice, Senior Manager, Real Estate Services, at 408-535-8197.

TO: TREATMENT PLANT ADVISORY
COMMITTEE (TPAC)

FROM: Kerrie Romanow
Nanci Klein

SUBJECT: UPDATE ON
POND A-18 SALE

DATE: August 4, 2020

INFORMATION

This memorandum is an informational update in response to TPAC's request for regular Pond A-18 sale updates. On February 13, 2020, staff informed the Treatment Plant Advisory Committee (TPAC) of an offer from Valley Water to purchase Pond A-18 and related easements. TPAC recommended that staff reject the offer and negotiate for a sale price that reflects the Pond A-18 fair market value and associated impacts the project places on the San José-Santa Clara Regional Wastewater Facility (RWF).

Per the direction of TPAC, City of San José and City of Santa Clara staff collaborated to deliver a counteroffer to Valley Water on March 6, 2020. Staff countered at \$22,477,000 for the fair value of Pond A18 and payments to reasonably offset the additional operational and capital cost impacts to the RWF resulting from the Shoreline Levee Project. The counteroffer did not include the value of project easements to be transferred as final easement requirements are not defined by Valley Water at this time. Valley Water delivered a response to the counteroffer on April 21, 2020, increasing their original offer by \$108,000 to equal \$13,886,000 for the easements and Pond A-18, and recommended that the City of San José and City of Santa Clara commission their own appraisal to substantiate a fair market value for the pond. Staff has been working with an appraiser and is in the process of obtaining an appraisal.

Staff analyzed Valley Water's response to the counteroffer and concluded that the proposed easements in the response—which are the same as the ones included in Valley Water's original November 22, 2019 offer package—are still not acceptable or fully clarified with currently available information. Staff has communicated during previous meetings with Valley Water and its partner agencies that the City of San José and City of Santa Clara cannot move forward with the proposed easements due to the operational impacts to the RWF. On May 27, 2020, City of San José staff delivered a letter to Valley Water, detailing proposed alternative easements discussed during the multi-agency RWF tour on February 27, 2020. The City of San José, City of Santa Clara, and Valley Water met on May 28, 2020 to further discuss the sale of Pond A-18, focusing on the explanation of additional cost impacts to the RWF, and again on July 8, 2020 to further clarify the costs and impacts to the RWF.

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Status of Shoreline Project-related issues:

- On June 17, 2020, staff presented an alternative design solution as it relates to the Final Effluent Pump Station (FEPS) Project for U.S. Army Corps of Engineers (USACE) consideration. In general, the proposal entails raising the levee walls along Artesian Slough which could provide mutual (construction, operational, and cost) benefits. USACE stated this solution does not appear procedurally feasible but is evaluating the overall cost and potential schedule impact for this solution. Staff is awaiting USACE's response.
- On July 7, 2020, staff submitted a request to the San Francisco Regional Water Quality Control Board for the extension of the Legacy Lagoons Closure Plan and completion of the Phase 2 Cleanup in accordance with the requirements of Order No. R2-2019-0026. No official response has been received yet.

City of San José staff will continue to coordinate with City of Santa Clara staff in ongoing negotiations. Negotiated terms of a sale would be brought to TPAC prior to final approval of the San José and Santa Clara city councils.

/s/
KERRIE ROMANOW
Director, Environmental Services

/s/
NANCI KLEIN
Director, Office of Economic Development

For questions, please contact Jennifer Voccola-Brown, Sustainability and Compliance Division Manager, at (408) 975-2594 or Kevin Ice, Senior Manager, Real Estate Services, at 408-535-8197.