



City of San Antonio

Agenda Memorandum

File Number:20-1965

Agenda Item Number: 10.

Agenda Date: 5/7/2020

In Control: City Council A Session

DEPARTMENT: Public Works

DEPARTMENT HEAD: Razi Hosseini, P.E., R.P.L.S.

COUNCIL DISTRICTS IMPACTED: Council District 3

SUBJECT:

Real Estate Acquisition on behalf of SAWS: Declaration of public necessity for acquisition of real property to construct a water treatment facility (wetlands) to comply with United States Environmental Protection Agency (USEPA) requirements for Mitchell Lake.

SUMMARY:

Consideration of an ordinance, on behalf of SAWS, authorizing the acquisition through negotiation or condemnation, for project purpose of privately-owned real property located in County Block 4006 and declaring the project to be a public use project and a public necessity for the acquisition to construct a water treatment facility (wetlands) related to the Mitchell Lake Wetlands Water Quality Treatment Project located south of Mitchell Lake and east of Pleasanton Road in Council District 3.

This public use project is necessary for improvement of the sanitary water and sewer infrastructure system. Pursuant to enacted Texas Senate Bill (SB 18), this item requires City Council to initiate a motion authorizing the use of power of eminent domain, should it be needed.

BACKGROUND INFORMATION:

Mitchell Lake was constructed in 1901 as a component of a large-scale wastewater reuse project. The lake was used from the early 1900s to 1987 as a receiving water body for storing raw or partially treated groundwater-based sewage and treatment process residuals, which were used to irrigate crops. In 1973, COSA formally designated Mitchell Lake as a refuge for shore birds and water fowl. In 1987, with the completion of the Dos Rios Water Recycling Center, disposal of untreated or partially treated wastewater and treatment process

residuals into the lake ceased.

Currently, SAWS monitors the lake to ensure compliance with its Texas Pollutant Discharge Elimination System (TPDES) permit. During heavy rain events, it is difficult to control the water discharged from the lake resulting in SAWS being out of compliance. The USEPA issued an Administrative Order requiring steps to address permit non-compliance. The proposed solution must be completed by September 30, 2024.

SAWS engaged a nationally recognized wetlands firm to develop a solution that will ensure permit compliance, while protecting wildlife abundance and diversity, while also enhancing community resource opportunities. SAWS plans to construct approximately 115 acres of wetland to naturally purify water before discharge into receiving streams. The proposed solution has two major components: (a) modifications to the existing dam with the construction of a new spillway and (b) constructing treatment wetlands of approximately 115 acres below Mitchell Lake.

The Mitchell Lake Wetlands Water Quality Treatment Project in Council District 3 requires the fee simple acquisition of approximately 234.07 acres located within County Block 4006. The design phase will begin in 2020, and construction is expected to begin in early 2022 with completion in 2024. The current estimated construction cost for this project is \$67,000,000.

SAWS intends to use every effort available to obtain the required land rights for said project through good faith negotiations, but may require eminent domain if the negotiations are not successful. In order for SAWS to exercise its power of eminent domain, the City of San Antonio City Council must declare the project a public project. The City of San Antonio has the authority and power to exercise eminent domain (condemning property) under Article I, Section 17 of the Texas Constitution and Texas Local Government Code.

The property acquisition will be completed by SAWS. Approval of this ordinance is a continuation of City Council policy to determine and declare certain projects necessary for public purpose and public use, and authorize the acquisition of private property, by and through the SAWS Board of Trustees, for the public project by negotiation or condemnation.

ISSUE:

This ordinance, on behalf of SAWS, authorizes the acquisition through negotiation or condemnation, for project purpose of privately-owned real property located in County Block 4006 and declaring the project to be a public use project and a public necessity for the acquisition to construct a water treatment facility (wetlands) related to the Mitchell Lake Wetlands Water Quality Treatment Project located south of Mitchell Lake and east of Pleasanton Road in Council District 3.

The Mitchell Lake Wetlands Water Quality Treatment project is necessary to be in compliance with to comply with United States Environmental Protection Agency (USEPA) requirements. The Mitchell Lake dam reconstruction and development of wetlands will provide water quality treatment for releases of water from Mitchell Lake. The property acquisition will be completed by SAWS. Approval of this ordinance is a continuation of City Council policy to determine and declare certain projects necessary for public purpose and public use, and authorize the acquisition of private property, by and through the SAWS Board of Trustees, for the public project by negotiation or condemnation.

SAWS intends to use every effort available to obtain the required permanent land rights for said project through good faith negotiations, but may require eminent domain if the negotiations are not successful. In order for SAWS to exercise its power of eminent domain, the City of San Antonio City Council must declare the projects

as public projects. The City of San Antonio has the authority and power to exercise eminent domain (condemning property) under Article I, Section 17 of the Texas Constitution and Texas Local Government Code.

ALTERNATIVES:

City Council could choose not to approve this request and require SAWS to redesign the project, increasing costs and resulting in the failure to meet deadlines prescribed in the Administrative Order received from USPEA. Failure to meet deadlines will potentially subject SAWS to further enforcement actions related to the Administrative Order.

FISCAL IMPACT:

The passage of this ordinance will not have a financial impact on the City of San Antonio. Any condemnation costs, including awards, will be paid by or through SAWS.

The Mitchell Lake Wetlands Water Quality Treatment Project costs are funded from SAWS 2020 and 2022 Capital Improvement Program, Wastewater Core Business, Treatment Category.

RECOMMENDATION:

On behalf of SAWS, staff recommends approval of this request to authorize acquisition by negotiation or condemnation for the needed land interests for the Mitchell Lake Wetlands Project.

The Mitchell Lake Wetlands Project was reviewed and approved by the San Antonio Water System Board of Trustees on December 10, 2019.