

REPORT TO COUNCIL

SUBJECT

Biological Constraints and Opportunities Analysis for the Sunnyvale Landfill and Baylands Park and Protecting Burrowing Owl Habitat on City Facilities (Study Issue)

BACKGROUND

On December 17, 2013, staff presented to Council a feasibility study for establishing a community farm for children, Animal Assisted Happiness (AAH), and alternative recreational uses at the Sunnyvale Landfill (Landfill)(2013 Council Study Issue DPW 13-13, Attachment 1 and Council Report 13-311, Attachment 9). The study analyzed four different uses, each with different levels of feasibility and intensity. The study focused on key elements including infrastructure requirements, access, parking, compatibility with the Landfill, constructability, and cost. Council considered the feasibility of the different land uses and gave authorization to further evaluate the technical feasibility of constructing low impact park enhancements such as shade structures, benches, water fountains, and trail connections at the landfill. In addition, since the landfill was not a feasible location for AAH, Council directed staff to explore Baylands Park (Baylands) as a possible location.

As part of community input and Council discussion a number of concerns were highlighted regarding the existing animal habitat at the Landfill and the possible effects of constructing park enhancements and AAH. To address those concerns, Council directed that a habitat protection plan for the park and Landfill be completed prior to considering or moving forward with new uses at the sites. On March 25, 2014 Budget Modification No. 33 in the amount of \$50,000 was approved by Council to fund a Biological Constraints and Opportunities Analysis at both the Landfill and Baylands (Attachment 2).

Staff went out for a Request for Proposals in August 2014, and after negotiations with the highest ranked firm, it was determined that the previously unfunded study for 2013 Council Study Issue DPW 13-15 (Attachment 3), Protecting Burrowing Owl Habitat on City Facilities, could also be completed within the \$50,000 budget. This report summarizes the results of those two studies.

Staff recommends that Council Approve Alternatives 1, 2 and 3.

The Parks and Recreation Commission considered this item on March 11, 2015 and recommends that Council Approve Alternatives 1, 2 and 3 (Attachment 10). The Sustainability Commission considered this item on March 16, 2015 and recommends that Council Approve Alternatives 2 and 3 (Attachment 11).

EXISTING POLICY

General Plan, Chapter 3, Goal LT-8 - Adequate and Balanced Open Space

- Provide and maintain adequate and balanced open space and recreation facilities for the benefit of maintaining a healthy community based on community needs and the ability of the

City to finance, construct, maintain and operate these facilities now and in the future.

General Plan, Chapter 3, Goal LT-9 - Regional Approach to Open Space

- A regional approach to providing and preserving open space and providing open space and recreational services, facilities and amenities for the broader community.

Council Policy Manual, Chapter 3, Goal 3.2H - Environmental Management

- Manage the closed Sunnyvale Landfill in a manner that protects the public health and safety and the environment, promotes enjoyable public use of the site, and assists in the achievement of other goals of the Environmental Management Solid Waste section.

ENVIRONMENTAL REVIEW

The study issues and analyses are not considered projects under California Environmental Quality Act (CEQA) as they involve only feasibility or planning studies for possible future actions which the Council has not approved, adopted, or funded (Section 15262 of Title 14 of the California Code of Regulations). If Council directs staff to proceed with development and/or construction of a community animal farm or park enhancements, the appropriate CEQA analyses will be required.

DISCUSSION

Biological Constraints and Opportunities Analysis

The purpose of this Analysis is to study the possible impacts of placing Animal Assisted Happiness (AAH) at Baylands as well as installing park like improvements at the Landfill. H.T. Harvey and Associates (HTH) was hired by the City to perform this analysis, which includes the following items:

- Habitat areas and Inventory of species using the sites.
- Locations within Baylands where AAH can be located while minimizing impacts to sensitive habitat.
- Areas of the Landfill where park enhancements could be implemented.
- Opportunities for habitat and species enhancement, preservation and protection.

Baylands Park

Baylands consists of seven different habitat areas (Attachment 4). Five of the areas are non-sensitive habitats: grassland; landscape; ornamental woodland; barren; and developed. The two other areas are considered sensitive wetland habitats. These sensitive areas include the freshwater marsh and seasonal wetland, both of which are likely to be considered waters of the U.S./State. There is one sensitive plant species, Congdon's tarplant, which is located in the grassland, and several sensitive animal species (salt marsh harvest mouse, salt marsh wandering shrew, Bryant's savannah sparrows, burrowing owls, loggerhead shrikes, and white-tailed kites) that are found in various areas of the park. There are also numerous migratory birds that use certain areas of the park for foraging and resting habitat during the spring and fall migrations.

Based on the identification and location of the species identified above, HTH studied the different areas to determine which may have the least impact on sensitive flora, fauna and wetlands for locating AAH. The area that exhibited the least impacts was an area in the northwestern portion of Baylands (Attachment 5) and is dominated by woodlands and landscaped areas. The best location in this specific area of the park was the Recycled Water Test Garden, which was set up to determine what plant species tolerated recycled water. The Test Garden is no longer active but the plant species are still in place. Migratory birds use the Test Garden moderately; however migratory bird activity is

highest in other portions of the park. The main advantages include avoiding waters of the US/State as well as sensitive species; any work in these areas would require extensive permitting and mitigation, if it is allowed at all.

It should be noted that Baylands is on Santa Clara County (County) property; however it is maintained and operated by the City of Sunnyvale. Per the City/County Agreement, the County leases the premises to the City for the purpose of providing public recreation opportunities, playground, preservation of wildlife habitat, and related activities consistent with the County's regional park system and the park master plan. If the City wishes to introduce a new use, the City needs to obtain the County Park and Recreation Department Director's advance written authorization. City staff has contacted the County regarding the possibility of locating AAH at Baylands. The County informed the City that this type of use would have to be presented to the County Board of Supervisors for approval.

Animal Assisted Happiness

City staff contacted AAH to verify they are still interested in relocating to Sunnyvale. AAH staff indicated they are still interested in pursuing the options; however they are also pursuing other options in the area such as Via West, which is a property off of Stevens Canyon Road operated by Via Services and owned by the County. Via Services is a private, non-profit organization dedicated to helping individuals with disabilities and special needs achieve greater self-sufficiency and lead richer lives. AAH has prepared some conceptual drawings and will be meeting with the County to see if they can relocate to Via West. AAH has also been talking with Full Circle Farms in Sunnyvale to determine if they are amenable to AAH relocating to this facility.

If Council approves the concept of AAH moving to Baylands, and the County provides written approval of the use, the next step would be for AAH to provide some concepts for how they would develop the area and an initial study would have to be prepared to determine what type of CEQA action would be required to move forward with the project.

Sunnyvale Landfill

The Landfill area was surveyed by HTH and three habitats were identified: grassland, ornamental woodland, and barren. No wetlands or other sensitive habitats are present and no sensitive plant species were observed on the site. Three special status bird species could potentially nest at the Landfill. Burrowing owls overwinter on the Landfill and were formerly known to breed in the grasslands on the West Hill. One or two pairs of loggerhead shrikes may nest in the ornamental woodlands and forage in the grasslands as well as a pair or two of white-tailed kites. There is also the low potential that the western pond turtle, a species of special concern, may nest on the northern face of the West Hill adjacent to the Lockheed Channel. Based on this information, construction of properly placed, low intensity use park enhancements such as small shade structures, benches, drinking fountains and trails would most likely not result in significant impacts under CEQA on any sensitive or regulated habitat. Field surveys would likely be required to make sure the areas are clear of burrowing owls and western pond turtles prior to construction.

The Landfill consists of four distinct areas; the West Hill, Recycle Hill, South Hill, and East Hill. All the areas of the Landfill are open to the public for recreational use except the East Hill. The area that receives the main use is the West Hill. Therefore, the West Hill may be less likely to support a breeding owl population because they would be deterred by people using the West Hill. Especially problematic is off-trail travel by cyclists, dogs and pedestrians. Although West Hill is the favored

location for park enhancements, it would also be possible to install enhancements in some areas on the other hills of the Landfill.

Previously, Debra Chromczak, the City's burrowing owl consultant, identified four habitat enhancement areas on the Landfill site. City Staff, HTH, and David Johnston of the California Department of Fish and Wildlife met at the Landfill to walk the various hills and discuss areas suitable for the park features as well as avoidance areas. Based on past experience and the site geography, it was recommended that the burrowing owl enhancement areas could really be reduced to three areas due to the heavy public use of the West Hill. The three areas included one on Recycle Hill, and two on the East Hill. It was also recommended that a 250 foot buffer area be included around these three areas so any disturbance is kept to a minimum (Attachment 6). Recommendations for habitat enhancement measures are included in the burrowing owl habitat suitability and opportunities portion of this report and in Attachment 7. If Council approves the concept of constructing low intensity use park enhancements on the Landfill, the next step would be obtaining a design consultant to prepare concepts and perform an initial study for CEQA.

Sunnyvale Burrowing Owl Habitat Suitability and Opportunities Report

Historically the habitats for burrowing owls in Sunnyvale have been generally located at the north end of the City on both City and Santa Clara County property. The areas on City owned land include the Water Pollution Control Plant, Landfill and adjacent levees. County owned property includes the Twin Creeks Softball Complex and Baylands Park, which is operated and maintained by the City. Baylands contains 72 acres of developed parkland and 105 acres of seasonal mitigated wetlands that are not accessible to the public and are dedicated to the protection of species including the salt marsh harvest mouse and burrowing owls. A burrowing owl was also sighted at Fairwood School during a construction project in 1994, and an artificial nesting mound was installed as habitat protection, but no owls have been spotted at this site since 1995. Due to the highly urbanized and fragmented landscape within the City's boundaries, few locations provide large expanses of grasslands suitable enough to support the burrowing owl. The Landfill and Baylands represent some of the last suitable burrowing owl habitat in the City. These are the only City owned or managed properties currently occupied by burrowing owls on a regular basis.

HTH was hired by the City to review the extent of burrowing owl habitat in Sunnyvale as well as review the existing wildlife and habitat management plans and provide guidance for any additional efforts to provide burrowing owl habitat protection. The City currently has wildlife and habitat management plans in place to ensure that burrowing owl habitats are adequately protected and maintained. The Parks Division leads this effort at locations other than the Landfill, which is managed by the Solid Waste Division. Public volunteers assist with implementing the wildlife management program, including habitat protection. Besides reviewing the areas currently occupied by burrowing owls, HTH also studied City owned properties to determine if there were any places of potential habitat. The three areas that were identified as potential habitat were the Sunnyvale Golf Course, Sunken Gardens Golf Course and Fairwood School.

HTH does not recommend implementing any additional habitat management or enhancement measures at Sunnyvale Golf Course, Sunken Gardens Golf Course, or Fairwood School due to minimal or no historical observation of burrowing owls and the presence of significant recreational use. For similar reasons, HTH also did not recommend any additional habitat management or enhancement measure at the active use portions of the Baylands. However, HTH is recommending continued or newly created habitat management and enhancement measures for the Landfill and

preserve portion of Baylands (Attachment 8).

HTH recommends that the City continue with burrowing owl monitoring and suggests including principles of adaptive management in the burrowing owl habitat management strategy. In order for this type of management to be implemented the City must first set goals and performance criteria for each site related to maintaining a certain number of either overwintering or breeding owls. The flexibility of an adaptive management approach would allow adjustments to be made over time to ensure the goals and objectives are being met. City staff will utilize the reports currently being prepared by Debra Chromczak to monitor the results of the new habitat management concepts being recommended for approval. Based on the results, staff will be able to determine if the improvements have been increasing the burrowing owl population or if modifications are required. In the future if the City has the desire to establish goals or performance criteria related to overwintering or breeding owls then these goals and criteria can be added to the management plan.

Board and Commission Review

The Parks and Recreation Commission considered this item on March 11, 2015 (RTC 15-0128). Commissioners voted 5-0 to recommend Alternatives No. 1, 2 and 3. 1) Direct staff to work with Animal Assisted Happiness if they choose to provide a proposal for locating their facilities at Baylands and the County is amenable to considering this type of use at the park; 2) Direct staff to submit a proposed project in the Capital Program for constructing low impact park enhancements and planting native perennial in various locations at the Landfill including installing additional artificial burrows at both the Landfill and Baylands preserve and providing other habitat enhancements for owls at the Landfill; and 3) Direct staff to incorporate into the operating budget additional costs, estimated to be \$10,000 for Baylands and \$25,000 for the Landfill, related to enhancement and management of habitat.

The Parks and Recreation Commission (PRC) discussed their support keeping the option open for AAH to locate a facility at Baylands. The PRC was also supportive for moving forward with installing park enhancements at the Landfill and improving the habitat for the burrowing owl at the Landfill and Baylands.

The Sustainability Commission considered this item on March 16, 2015 (RTC 15-0129). Commissioners voted 6-0 (1 Commissioner abstained) to recommend Alternatives No. 2 and 3. 2) Direct staff to submit a proposed project in the Capital Program for constructing low impact park enhancements and planting native perennial in various locations at the Landfill including installing additional artificial burrows at both the Landfill and Baylands preserve and providing other habitat enhancements for owls at the Landfill; and 3) Direct staff to incorporate into the operating budget additional costs, estimated to be \$10,000 for Baylands and \$25,000 for the Landfill, related to enhancement and management of habitat.

The Sustainability Commission (SC) discussed their lack of support for locating AAH at Baylands. They felt that the AAH facility is not aligned with Baylands and that the open space area should be preserved. The SC discussed their support for installing park enhancements at the Landfill and for increasing the effort associated with trying to attract more burrowing owls to the Landfill and Baylands.

FISCAL IMPACT

Typically for improvements to park and recreational facilities, Park Dedication Fees would be used.

The total conceptual cost estimate for the low impact park enhancements project at the Landfill is \$1.1 million as identified in RTC 13-311. Ongoing maintenance costs associated with post-closure regulatory compliance at the Landfill are provided for in the Solid Waste Management Fund. There is currently no funding provided for the additional operating cost related to park-like enhancements or habitat enhancement beyond the current level of effort. Baylands Park is a park facility funded through the General Fund. Therefore, staff is recommending that funding for operational costs associated with these studies at the Landfill be appropriated from the Solid Waste Management Fund 20-Year Resource Allocation Plan Reserve and at Baylands be appropriated through the General Fund Budget Stabilization reserve. It is estimated that annual operational costs would increase by \$25,000 at the Landfill and \$10,000 at Baylands. Examples of the additional expense include more hand trimming of vegetation around owl burrows and hand mowing of portions of the landfill, maintenance of artificial burrows and special plantings and coordination with volunteers and the County.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

The City held a community meeting on December 11, 2014. Approximately 20 people were in attendance.

ALTERNATIVES

1. Direct staff to work with Animal Assisted Happiness if they choose to provide a proposal for locating their facilities at Baylands and the County is amenable to considering this type of use at the park.
2. Direct staff to submit a proposed project in the Capital Program for constructing low impact park enhancements (shade structures, benches, water fountains, trail connections etc.) and planting native perennials in various locations at the Landfill, including installing additional artificial burrows at both the Landfill and Baylands preserve and providing other habitat enhancements for owls at the Landfill.
3. Direct staff to incorporate into the operating budget additional costs, estimated to be \$10,000 for Baylands and \$25,000 for the Landfill, related to enhancement and management of habitat.
4. Provide other direction to staff as Council deems appropriate.

STAFF RECOMMENDATION

Alternatives 1, 2 and 3: 1) Direct staff to work with Animal Assisted Happiness if they choose to provide a proposal for locating their facilities at Baylands and the County is amenable to considering this type of use at the park; 2) Direct staff to submit a proposed project in the Capital Program for constructing low impact park enhancements (shade structures, benches, water fountains, trail connections etc.) and planting native perennials in various locations at the Landfill, including installing additional artificial burrows at both the Landfill and Baylands preserve and providing other habitat enhancements for owls at the Landfill; and 3) Direct staff to incorporate into the operating budget additional costs, estimated to be \$10,000 for Baylands and \$25,000 for the Landfill, related to enhancement and management of habitat.

BOARD/COMMISSION RECOMMENDATION

The Parks and Recreation Commission voted unanimously to recommend Alternatives 1, 2 and 3. The Sustainability Commission (SC) voted 6-0 (1 Commissioner abstained) to recommend alternatives 2 and 3. The SC did not support Alternative No. 1 based on their belief that Animal Assisted Happiness is not aligned with Baylands Park and that the open space should be preserved.

Prepared by: Craig Mobeck, Assistant Director of Public Works

Reviewed by: Manuel Pineda, Director, Public Works

Reviewed by: Lisa Rosenblum, Director, Library and Community Services

Reviewed by: John Stufflebean, Director of Environmental Services

Reviewed by: Robert A. Walker, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Study Issue DPW 13-13
2. Sunnyvale Baylands Park and Landfill Biological Constraints and Opportunities Analysis
3. Study Issue DPW 13-15
4. Habitat Map
5. Recommended Animal Assisted Happiness Location
6. Recommended Park Enhancement Avoidance Areas
7. Burrowing Owl Habitat Suitability and Opportunities Report
8. Habitat Management and Enhancement Measures
9. Hyperlink to Council Report 13-311
10. Excerpt of the March 11, 2015 draft meeting minutes of the Parks and Recreation Commission
11. Excerpt of the March 16, 2015 draft meeting minutes of the Sustainability Commission