

City Council Memorandum

City of Arts & Innovation

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE: MAY 24, 2016**
FROM: PUBLIC UTILITIES DEPARTMENT **WARDS: ALL**
SUBJECT: REPORT ON THE EXAMINATION OF NORTHSIDE PROPERTY
TRANSACTIONS FROM BAKER TILLY VIRCHOW KRAUSE, LLP

ISSUE:

The issue for City Council consideration is to receive a report from Baker Tilly Virchow Krause, LLP (Baker Tilly) regarding an examination of the propriety of Northside property transactions and an independent legal opinion regarding the application of Proposition 26, Proposition 218 and the Riverside Charter Section 1204 to the Northside Properties Transactions.

RECOMMENDATIONS:

That the City Council:

1. Receive and file the Reports on Northside Property Transactions dated January 12, 2016 (Attachment 1) and February 10, 2016 (Attachment 2);
2. Receive and file the Independent Legal Opinion on the Northside Property Transactions dated March 16, 2016 (Attachment 3);
3. Direct the City Manager or his designee to implement any recommendations proposed by the auditors in their report; and
4. Direct staff to provide a progress report back to the Finance Committee on future appraisals for similar transactions within City funds.

BOARD OF PUBLIC UTILITIES RECOMMENDATION:

On February 5, 2016, the Board of Public Utilities (Board) unanimously approved this item at their regular meeting. In addition to approving staff recommendations, the Board recommended directing staff to implement any recommendations proposed by the auditors in the report and for all Riverside Public Utilities' (RPU) land transactions be supported by an appraisal.

COMMITTEE RECOMMENDATION:

The Finance Committee met on April 13, 2016, the Finance Committee with Chair Soubrouse, Vice Chair Burnard and Member Perry present, to receive a report from Baker Tilly regarding the audit and an Independent Legal Opinion on the Northside property transactions. The committee unanimously approved to receive the report and forward the item to the City Council.

BACKGROUND:

Ongoing discussion about propriety and appropriateness of the Northside property transactions from certain members of the public resulted in requesting an examination of these transactions to be performed by an independent audit firm. On August 7, 2015, the Board approved the Professional Services Agreement with Baker Tilly for three projects. One of the three projects outlined in the scope of work related to an examination of Northside property transactions which included Pellisier Ranch, Ab Brown, Reid Park and the Riverside Golf Course properties. Baker Tilly has also been hired under a separate contract with the City to conduct the City-Council directed deep-dive financial audit and performance audit of RPU.

The examination was performed over the past several months and focused on determining the appropriateness and proper recording of all financial and loan transactions associated with the properties noted above; examination of property appraisals for reasonableness; and confirmation that proper title transfers occurred appropriately and were in compliance with state laws and the City Charter. The final report was to include an opinion on management's assertion that transactions were correctly recorded and supported by proper documentation. In addition, Baker Tilly was to provide their findings and also recommendations for best practices as it relates to property transactions. Two findings were identified in their report dated January 12, 2016 as follows:

1. During discussions with management and review of council minutes, it appeared the Ab Brown and Reid Park / Golf Course properties included water wells and other land associated with water property. It was unclear based on review of the detailed fixed asset listings if the land specific to the water fund was retained in that fund. Recommendation: *We recommend the City review its detailed fixed asset listings to ensure the specific property is recorded in the correct fund.*
2. During review of the transactions, we noted one instance when an independent appraisal was not performed. For the golf course property the City prepared a comparable property listing based on the best information on hand to determine a reasonable estimate of the fair market value of the property. Recommendation: *We recommend the City obtain an appraisal from an independent source for any property transfers, when possible.*

Staff agrees with the auditor's recommendations and outlined steps to implement their recommendations. The City's Administrative Policy is being updated to require a current appraisal from an independent source unless a Waiver Valuation is deemed necessary under California Department of Transportation (Caltrans) guidelines for simple valuations when the fair market value is estimated at \$10,000 or less.

During public comment at the February 5, 2016 Board meeting, questions arose regarding the firm's scope of work related to appraisals of the Pellisier Ranch property and if the property transfers were within all applicable laws and City Charter. Baker Tilly issued a supplemental report dated February 10, 2016 to address these questions. Their key findings from this report are as follows:

1. The City complied with the requirements of the City of Riverside Administrative Manual Number 08.003.00 Real Property Acquisitions in the transfers of all Northside properties. The Administrative Manual does not require appraisals to be made for transfers of property.

2. The City complied with the requirements of City Charter Section 1204 in the Northside Property transactions. Section 1204(e) allows the use of utility revenues for the capital expenditures of such utility. Land is a capital expenditure.
3. The City complied with the requirements of Proposition 218 in the Northside Property transactions. There is not a tax, property-related assessment or property-related fee imposed on the property.
4. The City complied with the requirements of Proposition 26 in the Northside Property transactions. There were no levies, charges or exactions involved with the transactions.

Due to legal questions from the Board and public comment during the February 5, 2016 Board meeting, the City engaged outside legal counsel Colantuono, Highsmith & Whatley, PC, to express an opinion regarding the application of Proposition 26, Proposition 218 and the Riverside Charter Section 1204 to the Northside Properties Transactions. The conclusion is that the property transfers complied with law.

Staff prepared Frequently Asked Questions (FAQ) documents for the Northside properties. The first FAQ is regarding questions pertaining to the Northside Properties (Attachment 4) and a follow up FAQ was prepared pertaining specifically to the former Riverside Golf Course (Attachment 5). These FAQs are posted on the City's website under the RPU webpage at:

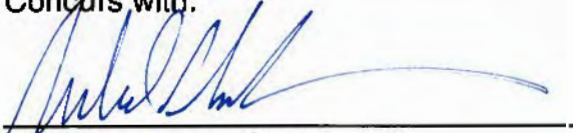
<https://www.riversideca.gov/utilities/pdf/2015/property-faqs.pdf>
<https://www.riversideca.gov/utilities/pdf/Former-Riverside-Golf-Club-FAQ.pdf>

FISCAL IMPACT:

There is no fiscal impact associated with this report.

Prepared by: Girish Balachandran, Public Utilities General Manager
Certified as to
availability of funds: Scott Miller, Interim Finance Director/Treasurer
Approved by: John A. Russo, City Manager
Approved as to form: Gary G. Guess, City Attorney

Concurs with:



Mike Soubirous, Chair
Finance Committee

Attachments:

1. Report of Northside Property Transactions, January 12, 2016
2. Report of Northside Property Transactions, February 10, 2016
3. Independent Legal Opinion, March 16, 2016
4. FAQ – Northside Property
5. FAQ – Former Riverside Golf Club Property
6. Constituent Email
7. Presentation