



MILPITAS CITY COUNCIL MEETING AGENDA

TUESDAY, OCTOBER 20, 2015

**455 EAST CALAVERAS BOULEVARD, MILPITAS, CA
6:00 P.M. CLOSED SESSION • 7:00 P.M. PUBLIC BUSINESS**

SUMMARY OF CONTENTS

I. CALL TO ORDER/ROLL CALL by the Mayor(6:00 p.m.)

II. ADJOURN TO CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to California Government Code §54956.9(d)(1) – cases:

- 1) County of Santa Clara, et al. v. Milpitas Economic Development Corporation, et al.; Sacramento County Superior Court, Case No. 34-2013-80001436; and, Successor Agency to the Milpitas Redevelopment Agency, et al. v. John Chiang, et al.; Sacramento County Superior Court, Case No. 34-2013-8001508
- 2) U.S. Equal Employment Opportunity Commission v. City of Milpitas; U.S. District Court, Northern District of California, Case No. 15-CV-04444
- 3) Casagrande v. City of Milpitas, Santa Clara County Superior Court, Case No. 1-15-CV-280605
- 4) SCS Development Company v. City of Milpitas, Santa Clara County Superior Court, Case No. 115CV283902

III. CLOSED SESSION ANNOUNCEMENT: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote or abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)

V. INVOCATION (Councilmember Barbadillo)

VI. APPROVAL OF COUNCIL MEETING MINUTES – October 6, 2015 (2 meetings)

VII. SCHEDULE OF MEETINGS – COUNCIL CALENDARS - October and November 2015

VIII. PRESENTATIONS

- Proclaim October as Filipino Heritage Month
- Thanks to those who helped at the Filipino-American Month event on Saturday, October 10 – “Delano Manongs” film showing at Barbara Lee Senior Center
- Proclaim October as CPR Awareness Month
- Proclaim Help Mentally Challenged People Days October 17-18, 2015 by the Knights of Columbus: St. Elizabeth Council #8747 and St. John Council #5796
- 2015 Neighborhood Beautification Awards to Property Owners

IX. PUBLIC FORUM

Members of the audience are invited to address the Council on any subject not on tonight’s agenda. Speakers must come to the podium, state their name and city of residence for the Clerk’s record, and limit their remarks to three minutes. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. However, the Council may instruct the City Manager to place the item on a future meeting agenda.

- X. ANNOUNCEMENTS**
- XI. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**
- XII. APPROVAL OF AGENDA**
- XIII. CONSENT CALENDAR (Items with asterisks*)**

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a member of the City Council, member of the audience, or staff requests the Council to remove an item from or be added to the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar. If removed, this item will be discussed in the order in which it appears on the agenda.

XIV. PUBLIC HEARING

- 1. Hold a Public Hearing and Adopt a Resolution for Summary Vacation of a Portion of the Public Service Utility Easement (PSUE) along the Northerly Projection of Railroad Court Parallel to Union Pacific Railroad (Staff Contact: Steven Machida, 408-586-3355)**

XV. REPORTS OF MAYOR AND COMMISSION

- * 2. Consider Mayor's Recommendations for Re-appointments to City Commissions (Contact: Mayor Esteves, 408-586-3029)**
- 3. Receive Presentation from the Library Advisory Commission and Accept the Work Plan for 2016 (Staff Contact: Bill Ekern, 408-586-3273)**

XVI. NEW BUSINESS

- * 4. Authorize Staff to Attend Out of State Training for Milpitas Fire Department's Personnel Management Program (Staff Contact: Rick Frawley, 408-586-2824)**
- * 5. Consider a Request from the Milpitas Rotary Club to Waive City Fees for its Annual Pumpkin Patch to be Held Starting October 16, 2015 at 1331 E. Calaveras Blvd. Parking Lot (Staff Contact: Mary Lavelle, 408-586-3001)**
- * 6. Authorize Mayor's Response Letter to the 2014-15 Santa Clara County Civil Grand Jury Final Report "A Slow Rising Emergency – Sea Level Rise" (Staff Contact: Tom Williams, 408-586-3050)**

XVII. ORDINANCE

- * 7. Waive the Second Reading and Adopt Ordinance No. 240.4 Removing Supplemental Water Penalties per State Law (Staff Contact: Nina Hawk, 408-586-2603)**

XVIII. RESOLUTION

- * 8. Adopt a Resolution Amending the Classification Plan to Add an Assistant City Engineer Position and an Assistant Transportation Planner Position, and Approve a Budget Appropriation of \$125,0000 from the General Fund and Transit Area Impact Fees Fund (Staff Contact: Steven Machida, 408-586-3355)**

XIX. AGREEMENT

- * 9. Approve the First Amendment to the Fee Credit Agreement for Transit Area Specific Plan Public Facilities and Public Improvements with Milpitas Station (San Jose) Venture (Staff Contact: Bill Ekern, 408-586-3273)**

XX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, NOVEMBER 3, 2015**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.ci.milpitas.ca.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on the City website. Phone 408-586-3040

All City Council agendas and related materials can be viewed online here:
www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp(select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Current Vacancies on

Economic Development Commission (alternate member)
Sister Cities Commission (2 vacancies)
Veterans Commission (2 vacancies)

Commission application forms are available online at www.ci.milpitas.ca.gov at Milpitas City Hall.
Contact the City Clerk's office at 408-586-3003 for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at 408-586-3001 or send an e-mail to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the City Council Chambers for all meetings in that facility.

AGENDA REPORTS

XIV. PUBLIC HEARING

1. **Hold a Public Hearing and Adopt a Resolution for Summary Vacation of a Portion of the Public Service Utility Easement (PSUE) along the Northerly Projection of Railroad Court Parallel to Union Pacific Railroad (Staff Contact: Steven Machida, 408-586-3355)**

Background: In 1976, as a part of the vacation of North Main Street (formerly San Jose-Oakland Road), the City was granted a Public Service and Utility Easement (PSUE) sixty-six feet wide along the northerly projection of Railroad Court and parallel to the Union Pacific Railroad. The Santa Clara Valley Transportation Authority (VTA) has acquired a portion of this property to construct a power substation and other facilities to serve the BART - Silicon Valley Berryessa Extension (SVBX) and needs the area clear for construction and land title reasons.

For the past five years, there have been no public utilities located in the easement within the VTA acquisition area and there are no planned utilities to be constructed in this same easement. Upon further review, staff determined that there is no need for the remaining easement area of the parcel, with the exception of a 10-inch strip adjacent to the existing Railroad Court right-of-way line. Therefore, staff recommends the City vacate the easement. A map containing the parcel information and dimensions of the easement in question is provided to City Council (with resolution in the agenda packet).

Section 8333(a) and (c) of the Streets and Highways Code authorizes the City Council to summarily vacate public service utility easements which are no longer necessary when the easements have been superseded by relocation and no other public facilities are located within the easement. Notice requirements for the public hearing and summary vacation have been met by advertising in the local newspaper and by physically posting the site with notices, per requirements of the Streets and Highways Code.

California Environmental Quality Act: This action is exempt from CEQA as there will be no physical change to the environment

Alternative: If the vacation is not executed, the City will retain the easement.

Fiscal Impact: None.

Recommendations:

1. Open the public hearing.
2. Move to close the public hearing, following any comments.
3. Adopt a resolution for the summary vacation of a portion of the Public Service Utility Easement (PSUE) along the northerly projection of Railroad Court Parallel to Union Pacific Railroad.

XV. REPORTS OF MAYOR AND COMMISSION

- * 2. **Consider Mayor's Recommendations for Re-appointments to City Commissions (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor Esteves recommends the following appointments:

Arts Commission: re-appoint Nicole Phan to a new term of three years to a term that will expire in September 2018.

Recycling and Source Reduction Advisory Commission:re-appoint Kashmir Gill to a new term of three years that will expire in October of 2018.

Sister Cities Commission: re-appoint Peter Chang to a new term of three years that will expire September 2018.

Recommendation: Receive Mayor's recommendations and move to approve re-appointments to three City of Milpitas Commissions.

3. Receive Presentation from the Library Advisory Commission and Accept the Work Plan for 2016 (Staff Contact: Bill Ekern, 408-586-3273)

Background: This is a report from the Library Advisory Commission to provide information to the City Council regarding the planned work plan for 2016.

Recommendation: Receive a presentation from the Library Advisory Commission Chair at the City Council meeting, and move to accept the LAC's Work Plan for 2016.

XVI. NEW BUSINESS

*** 4. Authorize Staff to Attend Out of State Training for Milpitas Fire Department's Personnel Management Program (Staff Contact: Rick Frawley, 408-586-2824)**

Background: The Milpitas Fire Department utilizes the Kronos Inc. Telestaff personnel management program. This program tracks daily shift balancing, scheduling, overtime dissemination, leave usage, payroll, and customizable reports. Milpitas Fire Department Administration is requesting to send administrative personnel for training at the Kronos, Telestaff Conference to maximize the utility of the program. The conference will be held November 16-18, 2015 in Las Vegas, NV.

Fiscal Impact: None. There are sufficient funds within the fire department training budget.

Recommendation: Authorize out of state travel for Milpitas Fire Department administrative staff to attend the Kronos Inc. Telestaff conference in Las Vegas from November 16-18, 2015.

*** 5. Consider a Request from the Milpitas Rotary Club to Waive City Fees for its Annual Pumpkin Patch to be held Starting October 16, 2015 at 1331 E. Calaveras Blvd. Parking Lot (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: The City Clerk received a "Donation or Fee Waiver/Reduction Request Application Form" from the Milpitas Rotary Club on September 28. The Rotary Club applied for a Special Event Permit through the Planning Department, and it will be considered separately for approval by the Planning Commission Subcommittee. At this time, the club is requesting that the City Council waive all City fees charged for its annual Pumpkin Patch.

City Fees for Pumpkin Patch are:

Special Event permit application – Planning Dept.	\$250.00
Fire Marshal's inspection permit + fees:	\$523.77
Electrical Permit from Building official	\$199.88

Fiscal Impact: \$20,000 was approved and included in the FY 2015-16 City budget for City Council's Unallocated Community Promotions. If the current fee waiver of \$973.65 is granted, then \$17,096.17 would be the remaining balance for the fiscal year.

Recommendation: Consider the request from the Milpitas Rotary Club and move to approve fee waiver for Planning, Fire, and Building fees totaling \$973.65 related to the Pumpkin Patch scheduled October 16 – November 2, 2015.

- * 6. **Authorize Mayor’s Response Letter to the 2014-15 Santa Clara County Civil Grand Jury Final Report “A Slow Rising Emergency – Sea Level Rise” (Staff Contact: Tom Williams, 408-586-3050)**

Background: On October 5, 2015, the City of Milpitas received the 2014-2015 Santa Clara County Civil Grand Jury final report on “A Slow Rising Emergency – Sea Level Rise.” The Grand Jury listed a finding and a recommendation in regards to Milpitas Climate Action Plan not addressing sea level rise, which requires a response from the City of Milpitas, pursuant to California Penal Code §933.05, for finding one and recommendation one. Staff recommends authorizing the Mayor to send the letter of response (draft in agenda packet) in reply to the Civil Grand Jury final report. The letter is due to the Grand Jury on October 23, 2015.

Recommendation: Authorize the Mayor to send the proposed response letter regarding the issue of sea level rise and city response to the Santa Clara County Civil Grand Jury.

XVII. ORDINANCE

- * 7. **Waive the Second Reading and Adopt Ordinance No. 240.4 Removing Supplemental Water Penalties per State Law (Staff Contact: Nina Hawk, 408-586-2603)**

Background: This ordinance - to remove a penalty section of the water conservation ordinance adopted earlier in 2015 - was introduced by the City Council on October 6, 2015. Ordinance No. 240.4 is now ready for its second reading and adoption.

Recommendation: Waive the second reading and adopt Ordinance No. 240.4 removing supplemental water penalties per state law.

XVIII. RESOLUTION

- * 8. **Adopt a Resolution Amending the Classification Plan to Add an Assistant City Engineer Position and an Assistant Transportation Planner Position, and Approve a Budget Appropriation of \$125,0000 from the General Fund and Transit Area Impact Fees Fund (Staff Contact: Steven Machida, 408-586-3355)**

Background: There is an emerging increase in the work load in the Engineering Land Development Division, primarily due to an increase in in-fill development project submittals and associated construction in the Transit Area Specific Plan (TASP) area. The complexity of these projects requires the skills of a licensed engineer to manage submittals and the review process as well as coordinating with developers and engineers. A more experienced engineer is better equipped to manage the division workflow, provide staff supervision, coordinate with department managers and staff, and to provide assistance to developers to meet submittal timelines while maintaining project review protocols. The Assistant City Engineer will also assist the City Engineer with budget preparation, complete special projects assigned, manage various Capital Improvement Program projects, attend Planning Commission meetings, assist with staff training and attend various outside agency meetings representing the City’s interests.

The Engineering Department also includes the Traffic Engineering Division. This division is responsible to evaluate the City’s traffic system design, construction and operations to ensure a safe and reliable street system. Similar to the workload in the Land Development Division, the Traffic Division has experienced an increased work load as a result of in-fill development. Typical assignments will include long range transportation planning, approve trip inventory

database, scoping and review of traffic impact analysis for new/redevelopment projects, tracking of regional grant opportunities and grant administration.

Fiscal Impact: There will be no fiscal impact to add an Assistant City Engineer, as the existing funded but unfilled Principal Civil Engineering position will be defunded and the balance of the funding is available in the Department's Fiscal Year 2015-16 operating budget. The Assistant Transportation Planner position will require an appropriation from the General Fund and from the Transit Area Impact Fees fund in the amount of \$125,000.

Recommendations:

1. Adopt a resolution amending the Classification Plan adding one Assistant City Engineer in the Engineering Land Development Division and one Assistant Transportation Planner in the Engineering Traffic Division.
2. Approve a budget appropriation from the General Fund and the TASP fees fund in the amount of \$62,500 respectively for the Assistant Transportation Planner into the Engineering Traffic Division budget.

XIX. AGREEMENT

- * 9. Approve the First Amendment to the Fee Credit Agreement for Transit Area Specific Plan Public Facilities and Public Improvements with Milpitas Station (San Jose) Venture (Staff Contact: Bill Ekern, 408-586-3273)**

Background: In 2014, the City Council approved a Fee Credit Agreement with Milpitas Station Venture relating to fees and improvements required within the Transit Area Specific Plan. A portion of these credits is tied to the completion of undergrounding or relocating PG&E overhead utility lines. This relocation was to be completed prior to Certificate of Occupancy for the 90th unit of the project. Because of complications with the relocation process and requirements of PG&E, the developer has not been able to relocate the overhead electric lines. Milpitas Station Venture is selling the property to another developer and both parties are seeking some relief in the timing requirement so as to enable the new developer to proceed with construction of the final phase of this development. The developers have requested the Fee Agreement be modified to allow the work to be completed prior to issuance of the certificate of occupancy for the final residential unit or building in Tentative Map No. 10037. No other condition of the agreement is proposed to change.

Fiscal Impact: None.

Recommendation: Approve the First Amendment to the Fee Credit Agreement for Transit Area Specific Plan Public Facilities and Public Improvements with Milpitas Station (San Jose) Venture.

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, NOVEMBER 3, 2015**

October 2015						
S	M	T	W	T	F	S
	4	5	6	7	1	2
11	12	13	14	15	8	9
18	19	20	21	22	16	17
25	26	27	28	29	23	24
				30	31	

December 2015						
S	M	T	W	T	F	S
			1	2	3	4
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

MILPITAS CITY COUNCIL CALENDAR

November 2015

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1 4:00 PM -City Milpitas Unified School District Joint Communication Meeting (CM & MG) 7:00 PM -Parks, Recreation & Cultural Resources Commission (GB)	2	3 6:00 PM -Closed Session 7:00 PM -City Council	4 7:30 AM -Santa Clara VTA Northeast Group (JE) 7:00 PM -Community Advisory Commission (CM)	5 5:30 PM -Santa Clara VTA Board of Directors (JE) 5:30 PM -Milpitas Chamber of Commerce Board (DG) 7:00 PM -Bicycle Pedestrian Advisory Commission (CM)	6	7
8 4:00 PM -Economic Development Commission (CM)	9	10	11 9:00 AM Veterans Day City Event All City Departments closed for Holiday 	12 4:00 PM -Santa Clara VTA Policy Advisory Committee (CM) 4:30 PM -Treatment Plant Advisory Committee (JE) (San Jose) 7:00 PM -Cities Assoc of SCC (JE) 7:00 PM -Youth Advisory Commission (DG)	13	14
15 7:00 PM -Telecommunications Commission (GB) 7:00 PM -Library Advisory Commission (CM) 7:00 PM -Arts Commission (DG)	16	17 6:00 PM -Closed Session 7:00 PM -City Council	18	19 10:00 AM -Santa Clara VTA Congestion Management Program & Planning Committee (JE) 7:00 PM -Bay Area Water Supply Conservation Agency (Foster City-JE) 7:00 PM -Emergency Preparedness Commission (MG)	20	21
22	23	24	25	26 and 27 THANKSGIVING DAY All City Departments closed for Holiday 		28
29 7:00 PM Outdoors at Civic Center: Holiday Tree Lighting & Celebration 	30					

September 2015						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

November 2015						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

MILPITAS CITY COUNCIL CALENDAR

October 2015

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1 September 30 to October 2 –League of California Cities Annual Conference (JE / CM) 5:30 PM -Santa Clara VTA Board of Directors (JE)	2 Sept 30 to October 2 – League of Cal Cities Annual Conference (JE/CM)	3
4	5 10:00 AM -SVRT Program Working Committee (JE) 7:00 PM -Parks, Recreation & Cultural Resources Commission (GB)	6 5:30 PM -Joint Meeting City Council +Planning Commission 7:00 PM -City Council	7 5:30 PM -Veterans Commission (DG) 7:00 PM -Community Advisory Commission (CM) 7:00 PM -Youth Advisory Commission (DG)	8 4:00 PM -Santa Clara VTA Policy Advisory Committee (CM) 4:30 PM -Treatment Plant Advisory Committee (JE) (San Jose) 6:00 PM - Youth Advisory Commission – “YAC Attack” Conference – Campbell Community Center 7:00 PM -Cities Assoc of SCC (JE)	9	10
11	12 4:00 PM -Economic Development Commission (CM)	13	14 6:30 PM – Planning Commission Subcommittee 7:00 PM -Planning Commission	15 12:00 PM -Santa Clara VTA Congestion Management Program & Planning Committee (JE)	16	17 10:00 AM to 4:00 PM Milpitas Veterans Commission - 3 rd Annual Car Show
18	19 7:00 PM Telecommunications Commission (GB)	20 6:00 PM -Closed Session 7:00 PM -City Council	21	22 5:30 PM -Milpitas Chamber of Commerce Board (DG)	23 11:00 AM -Milpitas Oversight Board	24
25	26	27 1:30 PM -Senior Advisory Commission (JE) 6:00 PM -Recycling & Source Reduction Advisory Commission (GB)	28 12:00 PM – Santa Clara Valley Water Commission (CM) 6:30 PM – Planning Commission Subcommittee 7:00 PM -Planning Commission	29 12:00 PM -Terrace Gardens Board of Directors (DG) 1:30 PM -Santa Clara County Library District Joint Powers Authority (CM) 6:00 PM -Sister Cities Commission (MG)	30	31 

***Draft* MEETING MINUTES
CITY OF MILPITAS**

Minutes of:	Special Joint Meeting of the Milpitas City Council and Planning Commission
Date:	Tuesday, October 6, 2015
Time:	5:30 PM
Location:	Milpitas City Hall Committee Room 455 E. Calaveras Blvd.

CALL TO ORDER

Mayor Esteves called the joint meeting to order at 5:33 PM.

ROLL CALL

CITY COUNCIL: Mayor Esteves, Councilmembers Barbadillo, Giordano and Grilli

PLANNING COMMISSION: Chair Mandal, Commissioners Ciardella, Lien, Madnawat, Maglalang, Sandhu and Alternate Member Mohsin

ABSENT: Vice Mayor Montano, Commissioner Morris

Staff present included City Manager Tom Williams, City Attorney Chris Diaz, City Clerk Mary Lavelle, Planning Director Bill Ekern and Economic Development Manager Edesa Bitbadal

**PLEDGE OF
ALLEGIANCE**

Mayor Esteves led all in the Pledge of Allegiance to the flag.

Mayor Esteves welcomed all the Planning Commissioners to this joint meeting. Planning Commission Chair Sudhir Mandal offered his thanks to the Mayor, who took up the offer and idea to meet together, which came from the entire group of Commissioners.

Public Forum speakers:

Rob Means, Milpitas resident, announced a conference in spring of next year 2016 on podcars.

Cary Matsuoka, Superintendent of Milpitas Unified School District, stated that as the City prepared to begin the process of creating a new General Plan, schools wanted to be involved. Where schools locate was very important.

Councilmember Giordano suggested on timing for the agenda that maybe the group should plan to spend ten minutes per item on the agenda, so as to finish prior to 7:00 PM, when the City Council needed to move upstairs for its regular meeting.

Understanding Council Priorities

Mayor Esteves reported that priorities have been approved by City Council, especially the Capital Improvement Program (CIP) which was a priority and should be implemented in that year. In terms of development, the focus was on housing in the Transit Area Specific Plan (TASP) and the MidTown Specific Plan areas.

City Manager Tom Williams announced that the core City services of public safety, traffic, parks and open space, and maintenance of infrastructure were critical. Land use decisions by the Planning Commission must take into account the jobs /housing balance as most important right now. The City enjoyed a 1.9 jobs to population ratio at this time. Business attraction and retention were key. A water augmentation program and maintaining affordable water rates were critical. Integrity of ordinances and the processes of the City Council were important and a top priority.

Councilmember Giordano agreed the jobs/housing balance was a key factor. She did not realize that figure was provided to decision makers or did not recall. She felt there was a need for the Council and the Commission to look at the same data and same things when making decisions.

Mayor Esteves said that was why the city hired a new Economic Development Manager. The city did not want to lose job sites and that's why no residential building was allowed in some industrial areas.

Councilmember Grilli was bothered by a recent potential project brought to Council for the Serra Center. That area, if built, would be 80% residential and was not really good for the balance.

Councilmember Barbadillo said it was a good term – jobs / housing balance - as a concept. At Town Center, the Council voted to have no residential there.

Chair Mandal felt that some topics were interrelated, for him.

Commissioner Madnawat felt the jobs/housing balance was a good idea on a macro level. Yet, it was hard to implement for one specific project. "Mixed use" was a concept that the Commission struggled with, when projects were brought before the Commission, so it would be prudent to define. If a site was vacant for a long period, then such definition may not apply.

Mayor Esteves remarked that when the General Plan and Zoning were established, it should not be arbitrarily changed based on the market only. Preserve industrial and commercial zones, he urged.

Councilmember Giordano asked if the Economic Development Manager came to Commission meetings to give presentations and Commissioner Maglalang said no.

Commissioner Sandhu said when the Commission made decisions, the main item considered was the staff reports with facts to consider. He asked to make those as explicit as possible.

Planning Director Mr. Bill Ekern confirmed that every staff report from the Planning Department contained findings to relate to the recommendation for a decision by the Planning Commission.

Commissioner Maglalang felt it was hard to implement the General Plan. The City was "client driven" as in a developer/applicant. Fix the General Plan and he recommended putting on the ballot every 6 – 8 years. He mentioned lobbyists hired by developers, too.

The Mayor explained that the General Plan was going to be in process for a major update, the first one since 1994, after lots of review and discussion to be scheduled.

Councilmember Giordano asked about the mixed use ratio. It should be more defined. Mr. Ekern responded that there was no magic number to make a particular project work. She felt it should be a policy, to firmly adhere to. Mr. Ekern said there could be profound economic impacts, and with strict imposition, there must be a strong economic analysis.

Commissioner Madnawat said overall, they talked about the Transit Area Specific Plan with no grocery store and lots of traffic. Mayor Esteves responded the grocery store was coming, as part of the plan.

Economic Development Manager Edessa Bitbadal reported that she worked routinely with Planning Department staff, always including economic development input on all reports to Commissioners. In the future, it could be called out more on the staff reports. She often spoke with interested developers about best use of land and regarding the financial responsibilities of the city.

Commissioner Maglalang wanted to know more specifics of what the Council desired to see built in the City, i.e. for mixed use, in front or back of a property, or other design features.

Chair Mandal said on every large project before the Commission, questions were asked about schools and impact to schools. But then the topic was not taken any further.

Superintendent of Schools Cary Matsuoka replied that for any development proposal, the Milpitas Unified School District received figures from its demographer to learn how many students would be added to the district. Staff would then err on the side of the highest possible estimate. He would commit to getting good information to the City and then MUSD had to turn it into costs of building new facilities.

In terms of the TASP area, Mayor Esteves noted the projection was for 7,000 new homes over the build-out of the area. Not all would occur next year, but over the term of the Plan. The Mayor agreed with the Commission Chair that some projects were far from schools, so there was not a worry about where students would go. Biggest growth right now was in the TASP area (not MidTown).

Councilmember Grilli remarked, that in the TASP, all those students would eventually impact middle schools and high schools. That there was no plan to build new ones was a fact to consider.

Councilmember Giordano asked how much schools should weigh in. A more in-depth analysis would need to be done. Long term impacts needed to be figured out to educate deeper on the impacts of a development project.

Commissioner Madnawat commented that decision makers always needed factual findings to make decisions. Perhaps there was a need to “slow down” as regards development.

Councilmember Giordano asked the Planning Director what other cities did in terms of schools with new projects. He replied: same as Milpitas. By law, all developers must pay school impact fees based on the size of a given project, and impacts got addressed in the EIR or mitigation report. This topic of the developer fees should be on agenda of the City Council, she replied.

Commissioner Lien wanted to know how the City was doing at this time in terms of class size numbers and any over crowding. Mr. Matsuoka responded that capacity was at 98% at most school sites while class sizes were fine, based on staff ratios.

Chair Mandal recalled an update to the General Plan two years ago. For the new update planned, he asked what was the time frame. Mr. Ekern explained the budget for starting the comprehensive General Plan review was on the Council’s agenda this date, and then it would be a three-year process to complete the new document, after many meetings and opportunities for input.

Vision for the Future

Councilmember Giordano reported to Commissioners that the City was in progress completing a new Strategic Plan, as a great tool. The major concern would be traffic, she felt. The whole picture on traffic was most critical for the future.

Mayor Esteves responded that traffic was both local and regional. Some projects were ongoing with Santa Clara Valley Transportation Authority (VTA) and Caltrans as a result.

A local shuttle bus was good idea, Mr. Madnawat agreed with the Mayor and it should start soon, i.e. do not wait until BART station opens.

Chair Mandal said the TASP and MidTown plans were not producing results of seeing people walking, biking and using transit. In fact, there were more cars and traffic with all the new housing.

Councilmember Giordano asked Commissioners if they felt they were weighing in on the future vision of the City. She wanted to hear more from them as to weighing in stronger on the vision of the City and maybe more meetings to do that were needed.

Chair Mandal said, yes, have more of these joint meetings, as needed. He wanted to hear from Council and to share remarks. He reported that staff reports from Planning Department were excellent and that Commissioners needed to ask more questions.

Mayor Esteves mentioned other topics including: executive homes on Barber Lane, the Pacific Mall, keeping roads up with a high Pavement Condition Index, a clean city, a diverse community and other elements form the vision for a good quality of life in Milpitas.

Commissioner Sandhu said the City needed more opportunity for new churches or temples or gurdwara. Mayor Esteves replied with comments about appropriately zoned land throughout the City.

Roles in Implementation of Strategic Vision

City Manager Williams reported that staff and City Council would work closely with the Planning Commission as the Strategic Plan was implemented.

Mayor Esteves asked if the Commissioners had any comments on their roles.

Chair Mandal felt as a group, they were doing really well with really good staff reports. He wanted to open the horizon a little bit. Provide the idea on what the City Council's vision was and where city was going. He knew it was good to hear that the General Plan was going to be updated with their input.

Commissioner Madnawat reported that the new Planning Director was very good about asking if Commissioners had questions before the meetings began. He always tried to learn more.

Councilmember Barbadillo confirmed the Planning Commission Chair's thoughts on the staff reports on which decisions shall be based. More data would help decision makers, with pros/cons, as he had asked for from City staff. Being objective along with integrity on all decision making was important.

Commission Alternate Member Mohsin reported she was happy to participate in the joint session. The biggest issue to her was traffic and there was a need for transit within the City.

Mayor Esteves invited comments from the audience. Mr. Tom Valore wanted to know how various plans mentioned inter-related and how they were followed.

Finally, the Mayor thanked all for their presence at this joint meeting, especially Commissioners whom he thanked for their input and important work on land use decision making.

The joint meeting-study session was adjourned at 6:56 PM.

*Meeting minutes respectfully submitted by
Mary Lavelle, City Clerk*

***Draft* MEETING MINUTES**
CITY OF MILPITAS

Minutes of: Joint Meeting of Milpitas City Council
and Economic Development Corporation

Date: Tuesday, October 6, 2015

Time: 7:00 PM

Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

CALL TO ORDER

Mayor Esteves called the meeting to order at 7:00 PM. The City Clerk noted the roll.

PRESENT: Mayor Esteves, Councilmembers Barbadillo, Giordano and Grilli

ABSENT: Vice Mayor Montano

PLEDGE

Boy Scouts Troop No. 92 presented the flags and led the pledge of allegiance.

INVOCATION

Councilmember Barbadillo read aloud a prayer.

MEETING MINUTES

Motion: to approve minutes of September 15, 16 and 22, 2015 City Council meetings

Motion/Second: Councilmember Grilli/Councilmember Giordano

Motion carried by a vote of:

AYES: 4

NOES: 0

ABSENT: 1 (Montano)

SCHEDULE OF MEETINGS

Motion: to approve the Council Calendars/Schedules of Meetings for October 2015

Motion/Second: Councilmember Giordano/Councilmember Barbadillo

Motion carried by a vote of:

AYES: 4

NOES: 0

ABSENT: 1 (Montano)

PRESENTATIONS

Mayor Esteves presented the following:

- Proclaimed *Fire Prevention Week* for October 4 – 10, 2015, accepted by Milpitas Fire Marshal and Deputy Chief Albert Zamora.
- Commended Friends of the Milpitas Library, in celebration of National Friends of the Library week in October, for all their support of the Milpitas Library, accepted by Linda and Dana Arbaugh along with Judy Duffy.
- Commended Rob Devincenzi, long time editor and publisher of The Milpitas Post newspaper, upon his departure from Milpitas for a new assignment.

PUBLIC FORUM

Peter Munoz, Gilroy City Councilmemberr, invited all to the annual Silicon Valley Turkey Trot event on Thanksgiving morning. He especially urged the Council to participate in the Mayor's cup race. This was a great event put on by the Silicon Valley Leadship Group and Summerhill Homes, with funds raised for the Housing Trust and other non-profit groups. He provided flyers for the event to the City Clerk.

Robert Marini, Milpitas resident, talked about the City sending out another notice after one that didn't count (regarding utility rates). What was the City getting for the contract with RMC Water

and Envorniment, he wanted to know. The City also planned to spend \$180,000 for a contract with Singer Associates, so he asked what the City was getting for this expenditure.

Rob Means, 1421 Yellowstone Ave resident, mentioned the recently adopted plastic bag ban. There was less conversing about its environmental impacts. He quoted the ill effects of the disintegrating plastic and thanked the City Council for adopting the ban at the last meeting.

Frank DeSmidt, Milpitas Rotary Club, announced a lunch fundraiser offered by the Kiwanis the following week, October 13 – 17, at the Outback Steakhouse restaurant. Tickets cost \$15.00 each and funds raised would go to help the needy in Milpitas.

Voltaire Montemayor, Milpitas resident, said the fire alarm was in the right position, the City had a good library and each Thursday night he expected to have the Milpitas Post in his driveway. He said there was a need for another high school.

Jezzell Delfina, Crater Lake neighborhood resident, had safety concerns for the performing arts building. She wanted to address the park issue and advocated keeping it (displaying a recent edition of the Milpitas Post newspaper). The City needed to collaborate on the park design. She also referred to Comcast cable rates and telecommunications.

Councilmember Giordano responded that she had recently mentioned the performaing arts center at the Milpitas Arts Commission meeting, and hoped to discuss this topic soon.

ANNOUNCEMENTS

Councilmember Giordano congratulated three of her elected official colleagues voted in as one of best elected officials by readers of The Milpitas Post: Mayor Esteves along with Councilmembers Grilli and Barbadillo.

Mayor Esteves announced a free health fair on Sunday, October 11 from 8:00 am to 3:00 pm at St. John's Church Pavalkis Hall on Main Street with lots of free services and information offered to participants. Also, October is Filipino American Heritage Month, and a group offered free film screening of "Delano Manongs" on October 10 from 2–5 PM at the Barbara Lee Senior Center.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Diaz asked City Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. No conflicts or contributions were reported.

APPROVAL OF AGENDA

Motion: to approve the agenda, as submitted

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Montano)

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted with *asterisk), as amended

Councilmember Barbadillo asked to remove agenda items no. 9 (resolution - ammunition), no. 10 (resolution – purchase vehicles), no. 14 (CalRecovery contract) and no. 18 (Singer Associates) from consent.

Councilmember Giordano recommended removing items no. 11 and no. 12 (Agreements with RMC Water and Environment Inc.), per public comment.

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Montano)

- * 3. Odor Report Update Received the update of the odor control report.
- * 4. Commission Appointments Approved the following as recommended by Mayor Esteves:
- Arts Commission
Appointed Doris Roth as voting member to a term that will expire in October 2017.
Appointed Marsha Tran as Alternate No. 1 to a term that will expire in October 2016.
Appointed Christina Driggers as Alternate No. 2 to a term that will expire in Oct. 2017.
Newly appointed Luqiang Shu as Alternate No. 3 to a term that will expire in October 2016.
- Community Advisory Commission: newly appointed Vishal Gandhi as Alternate No. 4 to a term that will expire in January 2016.
- Economic Development Commission: newly appointed Anna Wang as the real estate voting representative to a term that will expire in April of 2018.
- Youth Advisory Commission: all YAC terms would expire in September of 2016.
Moved Alternate No. 1 Christie Maly to a seat as a regular voting member.
Moved Alternate No. 2 Emerald Gilana to the seat as Alternate No. 1.
Newly appointed Jenna Zarbis as Alternate No. 2.
Newly appointed Madeline Cacao as Alternate No. 3.
Newly appointed Amanda Jimenez as Alternate No. 4.
- * 5. Establish and Appoint Members to City Council Subcommittees Authorized the formation of three Ad Hoc City Council Subcommittees: Land Use and Transportation, Joint Use, and Facilities Naming Subcommittees; and appointed members to those and the Finance Subcommittee.
- Land Use Transportation Subcommittee: Mayor Esteves, Chair & Councilmember Barbadillo, Member
Joint Use Subcommittee: Mayor Esteves, Chair & Vice Mayor Montano, Member
Facilities Naming Subcommittee: Vice Mayor Montano, Chair & Councilmember Grilli, Member
Finance Subcommittee: Vice Mayor Montano, Chair and Councilmember Indihar-Giordano, Member
- * 6. Request for report Directed staff to conduct a study and bring back to City Council a gender and ethnicity pay equity policy or ordinance that would include both the City of Milpitas as an employer and the agencies with which the City contracts; as well as City compliance with Senate Bill 358, if signed into law.
- * 7. Donation from Republic of Korea to Library Accepted the donation gift of \$2,500 to the Milpitas Public Library and the spending plan, as recommended by the Library Advisory Commission.
- * 8. New CIP for General Plan Established a Capital Improvement Project for the City of Milpitas General Plan Update Project in the amount of \$2,100,000 and appropriated \$1,200,000 to this project in FY 2015-16.
- *13. Amendment No. 6 Approved Amendment No. 6 to the consultant agreement with Schaaf & Wheeler to extend the term to October 31, 2016 for Storm Drain/Stormwater Program Documentation Review for the Silicon Valley Rapid Transit (BART) Program Berryessa Extension, Project No. 4265.
- *15. Storm Management for Pace project Approved and authorized the execution of a Storm Management Operation and Maintenance agreement for Pace Development at 324 Montague Expressway, Project No. 2762.

***16. Award Bid to ACCO**

1. Awarded the bid to ACCO Engineered Systems, Inc. and authorized the City Manager to execute an agreement with ACCO for citywide HVAC Maintenance and Repair Service with for the not-to-exceed amount of \$300,000 for the first year and the annual not-to-exceed amount of \$187,527 for the remaining four years of the contract, for a total amount of \$1,050,108 during the five year term.
2. Authorized the Purchasing Agent to extend the term of the agreement annually for the next four years with an annual price increase per the terms of the agreement and without further City Council action, except for appropriation of funds.

***17. Amendment No. 1 to
Purchase and Sale Agreement**

Approved the first amendment to the Purchase and Sale Agreement between the City of Milpitas and Milpitas Unified School District to extend the escrow closing date, regardless McCandless property in the Transit Area Specific Plan area.

PUBLIC HEARINGS

1. Water Rates

City Engineer Steven Machida provided history on the City of Milpitas rates for water utility service, the recent City of San Juan Capistrano court decision, tiered versus uniform rates, the water rate study update, allowable method for calculating rates, and the new schedule for notices to rate payers and the scheduled hearing in December, per Proposition 218.

Mr. Doug Dove of Bartle Wells Associates addressed the Council about the draft report on water rates prepared for the City. The Mayor and Councilmembers asked various questions for clarification of facts during his presentation.

Councilmember Barbadillo asked if there was a way to subsidize the increased costs for wholesale water. The City Manager replied only from the General Fund and he did not recommend doing that.

Councilmember Giordano asked how the proposed new rates (at this meeting) compared to what was proposed last spring. Staff replied that overall, uniform rates would be a little higher for many residential customers. Mr. Williams remarked that lower quantity users would pay a bit more while higher quantity users would pay less overall when uniform rates were applied compared to current tiered rates.

Mayor Esteves asked when a bond funding issue would occur. That could be authorized by the City Council at the December 15 council meeting, the City Engineer replied.

Next, Mayor Esteves opened the public hearing for comments.

Robert Marini, Milpitas resident, questioned the \$1.2 million cost for the water rate study and outreach efforts planned. He questioned costs for the status report and various items listed on the proposed budget for water service. He then quoted data in the water rate study report and asked for all information to be printed on mailed notice to customers.

Voltaire Montemayor, Milpitas resident, commented on the listed costs for water service, which he agreed with.

(1) Motion: to close the public hearing, after hearing two speakers

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of:

AYES: 4
NOES: 0
ABSENT: 1 (Montano)

Mayor Esteves remarked that the bulk of the increase comes from the increase in the wholesale costs to procure water from the City's suppliers.

City Attorney Diaz read aloud the title of Ordinance No. 120.47, “An Ordinance of the City of Milpitas Amending Chapter 1 of Title VIII of the Milpitas Municipal Code Relating to Water Service Charges.”

(2) Motion: to waive the first reading beyond the title of Ordinance No. 120.47

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Montano)

(3) Motion: to introduce Ordinance No. 120.47

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Montano)

(4) Motion: to authorize mailing of the Proposition 218 notice of public hearing on rate increase proposed and set December 15, 2015 as the public hearing date

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Montano)

2. Water Conservation Ordinance

Public Works Director Nina Hawk reviewed this ordinance requested a “housekeeping” matter for the City Council. Recently on June 16, City Council adopted an urgency ordinance for measures to be taken related to the drought, which included financial penalties. The recent court decision regarding City of San Juan Capistrano (on tiered water rates) yielded an outcome including the fact that penalties could not be attached to any tiered rate structure for water utility. Meanwhile, non-financial penalties were noted, and the Director reported that the City had reached 32% savings since the Governor’s declaration.

The proposed ordinance at this meeting would remove the 10% penalties attached to the City’s tiered rates, required due to the court’s decision.

Councilmember Giordano asked staff, in what time frame the 32% savings covered. Ms. Hawk replied that was determined in August, over a three months’ period of savings versus the base year of 2013.

Next, Mayor Esteves opened the public hearing for comments.

Robert Marini, Milpitas resident, said the City was punishing people based on the size of pipe coming in to the building of the homeowner. He complained about how the fee was charged, regardless of the amount of water used.

Voltaire Montemayor, Milpitas resident, said removing the supplemental water penalty would be great.

(1) Motion: to close the public hearing, after hearing two speakers

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Montano)

Councilmember Barbadillo asked the City Attorney about changed language in the ordinance, specifically on penalties for when the overuse of water occurred. Staff reviewed the text of the ordinance with him.

City Attorney Diaz read aloud the title of Ordinance No. 240.4, "An Ordinance of the City Council of the City of Milpitas Amending Chapter 6 of Title VIII of the Milpitas Municipal Code Relating to Supplemental Water Use."

(2) Motion: to waive the first reading beyond the title of Ordinance No. 240.4

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Montano)

(3) Motion: to introduce Ordinance No. 240.4

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Montano)

UNFINISHED BUSINESS

One item was approved on consent calendar.

REPORTS

Four items were approved on consent calendar.

NEW BUSINESS

One item was approved on consent calendar.

RESOLUTIONS

9. Resolution related to ammunition for Police Dept.

Councilmember Barbadillo asked if all information was considered before preparing the recommendation and asked staff to make a brief presentation.

Police Chief Pangelinan and Purchasing Agent Chris Schroeder explained the process for an RFP and the rationale for the sole sources purchase needed for the bullets that police officers use at Milpitas Police Department, including for training purposes.

Motion: to adopt Resolution No. 8504 approving the sole source purchase of ammunition for the police department from San Diego Police Equipment Company, Inc., Adamson Police Products, Inc. and Miwall Corporation for a combined annual not-to-exceed amount of \$57,000

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Montano)

10. Resolution related to Purchase of City Vehicles

Councilmember Barbadillo requested more detailed reasons on the need for the purchase of the vehicles for City staff, as recommended.

Purchasing Agent Chris Schroeder explained the mandate in the Police Memorandum of Understanding for replacement of police vehicles at certain mileage points, noting the safety and heavy use of the vehicles by officers. Police Chief Pangelinan also explained so many cars were needed out in the city, and what was the ideal. The action on the agenda for was for replacement of current vehicles, not simply buying new additional ones.

Councilmember Barbadillo asked what happened to the proceeds of the sales of used cars that go out to Public Surplus. Finance Director Emma Karlen answered that by stating the funds go into the equipment replacement fund.

Mayor Esteves invited comments from the audience.

Resident Voltaire Montemayor said it was a need, and to be current on equipment. He did not police cars slower and needing replacement.

Resident Jezzell Delfino said it was good that there was great tracking of such equipment, and working effectively. She suggested a used vehicle for the meter reading function, not a new purchase.

Mayor Esteves asked about green vehicles, if any. Mr. Schroeder replied there were no specifications for those at this time. City Manager Williams replied that police cars were yet not produced yet that were “green” fueled.

Motion: to adopt Resolution No. 8505 authorizing the purchase of seven city vehicles from the National Auto Fleet Group for the not-to-exceed amount of \$265,617.53 through a cooperative procurement contract, per Milpitas Municipal Code on cooperative purchasing

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Montano)

AGREEMENTS

11. Amendment No. 3 to Agreement with RMC

Four items were approved on consent.

Resident Robert Marini addressed the Council and said it seemed like every year the city was approving more funding for help from RMC. He asked what was City getting for the \$170,000 and were other contractors considered.

City Engineer Machida referred to page 8 on the water rate report for the response. This current agenda item was not related to the water rate study (in earlier report). That firm served to provide staff augmentation on utility reviews, plan checking, running water model software and coordinating city responses on documents for new development plans.

Mayor Esteves clarified this item was for only \$40,000 (not an amount questioned by Mr. Marini).

Motion: to approve Amendment No. 3 to the consultant services agreement with RMC Water and Environment, Inc. for Utility Engineering Support for \$40,000 and extend the term through June 30, 2016

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Montano)

12. Amendment No. 6 to Agreement with RMC

Resident Robert Marin asked again about the use of the same company for the same services and whether or not other firms were considered for the contracted service.

City Engineer Machida responded that that yes, the City did go out for on-call Engineering Services with a Request For Proposals (RFP). Six firms were interviewed that responded to the RFP. Staff determined the one with the best fit, working on both water and sewer utility services, and RMC was selected.

Motion: to approve Amendment No. 6 to the consultant services agreement with RMC Water and Environment to extend the term to October 31, 2016 for support on the Silicon Valley Rapid Transit (BART) Program Berryessa Extension, Project No. 4265 and various city capital projects

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Montano)

14. Amendment No. 3 to Agreement with CalRecovery

City Engineer Steven Machida explained this was the odor expert hired since 2004 to understand the process around Newby Island expansion and odors. The consultant served as expert witness for the City and provided recommendations on how to mitigate odors from Newby Island landfill and the Water Pollution Control Plant. The recommended amendment was for work related to sewer pump station data to be provided to BAAQMD. He responded to questions from Mayor Esteves and Council member Barbadillo

Motion: to approve Amendment No. 3 to the consultant services agreement with CalRecovery, Inc. to increase the compensation by \$105,000 for technical odor support services and approve a budget appropriation of \$130,000

Motion/Second: Councilmember Barbadillo/Councilmember Giordano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Montano)

18. Agreement with Singer Associates, Inc.

Robert Marini, Milpitas resident, asked what services the company would provide to the City. He suggested it could help on the notice of utility rate (water) increase and to improve that notice by including how calculations were made.

Councilmember Barbadillo had the same concern as the resident (speaker above). He felt there might be duplication of service going on, for example with some of the work being accomplished by the Economic Development Manager, and possibly other city staff doing those tasks already.

City Manager Williams explained the need for this communications firm to be hired to help the city with public information and communication, often performed in other cities by a Public Information Officer. It could be done more efficiently this way (versus hiring an-house staff person) to do a much better effort at outreach with the media and the public. The company could work on a quarterly newsletter and an annual report, along with improved press releases going out.

Councilmember Giordano noted a factor of growing pains with so much activity in the city recently, especially with development efforts, so this was a good step to hire this person to help the city with media and community relations.

Councilmember Grilli supported this effort and liked the idea of focusing on the

positive activity of the City and getting the message out.

Mayor Esteves asked if a Request for Proposals was necessary. Mr. Williams replied the City could do so but was not required. The Mayor asked if other cities in the South Bay had similar firms hired or in-house staff and he wanted to know about other clients of the recommended firm. Mayor Esteves strongly urged bringing the support of the senior management team explicitly to the selected firm.

Motion: to authorize the City Manager to enter into an agreement with Singer Associates, Inc. in the amount not to exceed \$120,000 (for the remainder of Fiscal Year 2014-15) and to seek the involvement of City department directors (senior management team)

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 3
NOES: 1 (Barbadillo)
ABSENT: 1 (Montano)

JOINT MEETING of EDC and CITY COUNCIL

Mayor Esteves called the joint meeting of the Economic Development Corporation and City Council to order at 10:23 PM. Four members were present (Vice Mayor absent).

CONSENT CALENDAR

Mayor Esteves asked staff to explain the recommended action first, before voting on the motion. City Attorney Diaz summarized terms of the litigation settlement, having to do with five city properties and options to purchase those. City Manager Williams explained that the City Council had moved assets from the City to the Economic Development Corporation, prior to dissolution of the Milpitas Redevelopment Agency several years ago. This was essentially a “housekeeping” action by the EDC and City Council on the agenda this evening.

Councilmember Barbadillo asked for additional explanation and information to be clear on the City Council’s vote on this action, to which the City Manager responded.

Motion: to adopt the joint meeting consent calendar item (agenda item no. 19 below)

Motion/Second: Board/Councilmember Giordano / Board/Councilmember Grilli

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Montano)

Resident Robert Marini came to the podium to ask questions about the parcel next to the Milpitas Library and its potential use as a park. He wanted to know if that parcel would be purchased to make that land a park. City Manager Williams replied, stating the current General Plan designation and the zoning for that parcel.

***19. Five Memorandums of Termination of Option**

Authorized the City Manager and the Milpitas Economic Development Corporation President to execute five Memorandums of Termination of Option to purchase the five properties (listed below), which will then be recorded with the County of Santa Clara Recorder’s Office.

1265 N. Milpitas Blvd. – Corporation Yard
1325 E. Calaveras Blvd. – Milpitas Sports Center and open space
86 and 230 N. Main Street – vacant land
540 S. Abel Street – Cracolice Building

ADJOURNMENT

Mayor/Chair Esteves adjourned the Joint City Council and Economic Development Corporation meeting at 10:32 PM.

*Meeting minutes respectfully submitted by
Mary Lavelle, City Clerk*

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS SUMMARILY
VACATING A PORTION OF THE PUBLIC SERVICE UTILITY EASEMENT (PSUE) ALONG
THE NORTHERLY PROJECTION OF RAILROAD COURT AND PARALLEL TO
UNION PACIFIC RAILROAD**

WHEREAS, California Streets and Highways Code Section 8333(a) authorizes the City Council to summarily vacate public service utility easements that are no longer necessary when the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation; and

WHEREAS, California Streets and Highways Code Section 8333(c) authorizes the City Council to summarily vacate public service utility easements that are no longer necessary when the easement has been superseded by relocation or determined to be excess by the easement holder; and

WHEREAS, the Santa Clara Valley Transportation Authority (VTA) has acquired a portion of this easement to construct a power substation and other facilities to serve the BART – Silicon Valley Berryessa Extension (SVBX) project and requires that the area be cleared of easements for construction and land title reasons; and

WHEREAS, no public utility facilities are currently located, nor have been located within the past five years, on the public service utility easement area to be vacated; and

WHEREAS, City Utility Engineering staff has determined that the VTA acquired portion of the public service utility easement area to be vacated is excess, since there are no current and future City and public utility needs; and

WHEREAS, City Utility Engineering staff has further determined that the remaining parcel area, with the exception of a 10-inch strip adjacent to the existing Railroad Court right-of-way, of the public service utility easement to be vacated is also excess, since there are no current and future City and public utility needs; and

WHEREAS, the City Council intends to summarily vacate a portion of the PSUE as depicted on **Exhibit A** (Legal Description) attached to this Resolution, pursuant to California Streets and Highways Code Sections 8333 (a) & (c) and under the procedures provided for in Section 8335.

NOW THEREFORE, the City Council of the City of Milpitas hereby finds, determines and resolves as follows:

1. The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. Based on the foregoing, the City Council hereby makes the following findings:
 - a. The portion of the public service utility easement (PSUE) described and depicted in **Exhibit A** is an excess easement area and is not required now or in the future for public utility facility purposes.

- b. The portion of the public service utility easement (PSUE) described and depicted in **Exhibit A** has had no public utility facilities located within it for a period of at least five consecutive years preceding this summary vacation.
3. Based upon the findings made in this Resolution and the provisions of California Streets and Highways Code Section 8333 (a) & (c), the City Council does hereby order that the subject portion of the public service utility easement (PSUE), as described and depicted in **Exhibit A** is Summarily Vacated.
4. The City Clerk is hereby directed to record with the Santa Clara County Recorder's Office this Resolution, including **Exhibit A** hereto.
5. The Excess public service utility easement (PSUE) area vacated herein as described and depicted in **Exhibit A** will no longer constitute a public service utility easement (PSUE) for public utility facilities.

PASSED AND ADOPTED this _____ day of _____, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

LEGAL DESCRIPTION
PUBLIC UTILITY EASEMENT VACATION
APN: 022-31-030

REAL PROPERTY situated in the City of Milpitas, County of Santa Clara, State of California, being a portion of the permanent easement and right-of-way reserved in Resolution No. 2626, recorded August 13, 1976, in Book C214, Page 614, Official Records of Santa Clara County, also being a portion of Parcel Two of the Individual Grant Deed, recorded August 13, 2004, in Document No. 17948078, Official Records of Santa Clara County, being more particularly described as follows:

BEGINNING at the northwest corner of Parcel 1 as shown on the Parcel Map recorded December 3, 1984 in Book 536 of Maps, Page 32, Official Records of Santa Clara County;

Thence along the westerly line of said Parcel 1, also being the easterly line of said Parcel Two, South 09°02'42" East, 838.44 feet to beginning of a non-tangent curve to the left, parallel with and 10 feet northerly of the northerly right-of way line of Railroad Court;

Thence southwesterly along said non-tangent curve, having a radius of 80.00 feet, the radial of which bears North 11°55'00" West, through a central angle of 58°10'23" for an arc length of 81.23 feet to the westerly line of said Parcel Two;

Thence along said westerly line, North 09°02'42" West, 1142.65 feet to the southwesterly line of the parcel of land described in the Grant Deed recorded July 14, 2008, in Document No. 19916630, Official Records of Santa Clara County;

Thence along said southwesterly line, South 23°07'47" East, 271.19 feet to the **POINT OF BEGINNING**.

Containing an area of 64,842 square feet, more or less.

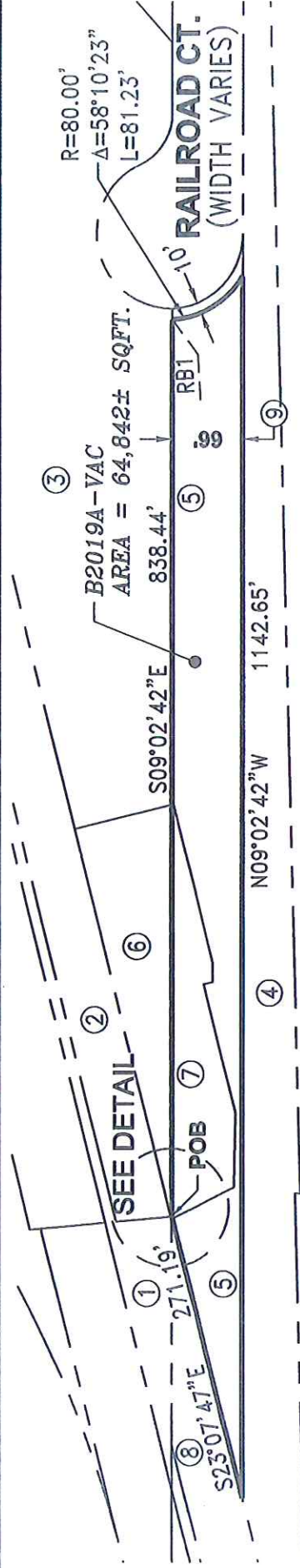
Plat Exhibit attached and by this reference made a part hereof.

This description was prepared by me or under my direction in conformance with the Professional Land Surveyors Act. All bearings and distances are based on the North American Datum of 1983 (NAD83), Zone III, epoch 1998.5. All distances are grid distances. To convert grid distances to ground distances, multiply expressed distances by 1.00005333.

08.24.2015
Date




Julia MacRory, LS 7871
Survey and Mapping Manager

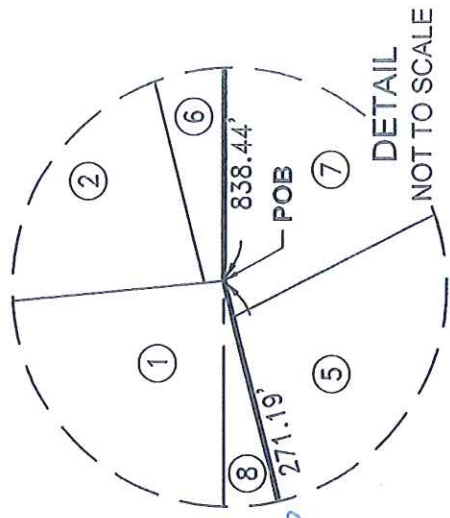


ALL BEARINGS AND DISTANCES SHOWN HERE ARE GRID AND ARE BASED ON THE NORTH AMERICAN DATUM OF 1983 (NAD83), ZONE 3, EPOCH 1998.5. MULTIPLY GRID DISTANCES BY 1.00003333 TO OBTAIN GROUND LEVEL DISTANCES.

LEGEND:

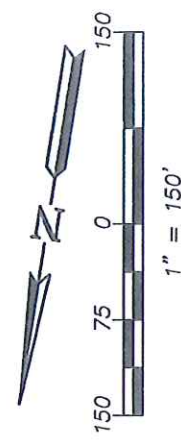
- POB = POINT OF BEGINNING
- RB = RADIAL BEARING
- SCVTA = SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
- SQFT. = SQUARE FEET
- UPRR = UNION PACIFIC RAILROAD

RADIAL BEARING TABLE	
LINE	BEARING
RB1	N11°55'00\"W



NOTES:

- ① APN 028-23-020, UPRR
211 M 22
- ② APN 028-23-011, UPRR
PARCEL 2, 700 M 45
- ③ APN 028-23-022
WALTON CWCA WRIGLEY CREEK 31, LLC.
DOC. NO. 20376344
PARCEL 1, 536 M 32
- ④ APN 022-31-030, BRIAN HORNER
PARCEL 1, DOC. NO. 17948078
- ⑤ APN 022-31-030, BRIAN HORNER
PARCEL 2, DOC. NO. 17948078
- ⑥ APN 028-23-023, SCVTA
DOC. NO. 22623984
- ⑦ APN 022-31-030, SCVTA
DOC. NO. 22938891
- ⑧ APN 022-31-031, SCVTA
DOC. NO. 19916630
- ⑨ VACATED MAIN STREET
C214 OR 614



PLAT TO ACCOMPANY LEGAL DESCRIPTION

B2019A-VAC

APN 022-31-030

CITY OF MILPITAS,
COUNTY OF SANTA CLARA, STATE OF CALIFORNIA



3331 NORTH FIRST STREET, BLDG. A
SAN JOSE, CA 95134-1806
PH. 408-321-5886 FAX 408-321-5880

SCALE: 1"=150'	Drawn By: H. BRASALI	Checked By: J. MacRORY	SHEET: 1 OF 1
DATE: 08-24-15			

2016 LAC Work Plan

3

	Regular Meetings	Attend local Library Conference	County Commissions Forum	JPA Library Fair	Essay Contest	National Library Week	Friends of the Library Book Sales	Make a Difference Day
January	X						X	
February			X	X				
March	X							
April		X				X		
May	X							
June							X	
July								
August								
September	X						X	
October					X			X
November	X							
December								3

City of Milpitas
Donation or Fee Waiver/Reduction Request Application Form
for Non-Profit Organizations

SEP 28 2015

RECEIVED

Complete this form and return it to Milpitas City Clerk

Please provide a copy of the IRS tax-exempt letter with the application.

Name of Organization: Rotary ClubIs there a Milpitas branch or affiliation? Milpitas Rotary ClubMailing Address: PO Box 360167Milpitas Ca 95086Contact Person: Cynthia Rick Telephone No. 408-439-0588Email Address: Cynthiarich@comcast.netWhat is your request? Donation Amount Requested Permit Fee ORFee Requested to be waived (type and \$ amount) 973⁰⁶Event date(s): Oct 16 - Nov 2What is the purpose of the event? Community Pumpkin Patch
FundraiserHow will the Milpitas community benefit from this event? Fun Farty Event where
Kid can Play & buy Pumpkins / play in jump House/mazeWhat % of the fund raising proceeds will benefit Milpitas community? 100%How will the City's contribution (if granted) be recognized in any publicity? Will be posted
as a sponsor on Advertising & Signage

Within 60 days after completion of the event for which a donation was received or a fee waiver/reduction was granted by the City of Milpitas, your organization will provide a written report to the City Clerk to include at minimum: number of participants, copies of all publicity of the event, any benefit to the community, amount of funds raised and an accounting of how the proceeds of the event will be dispersed.

Signature of Officer: [Signature]Date: 9/28/15Print Name & Title: Lawrence J Gardella / Board member



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service

TE/GE Division

1100 Commerce St., MC 4900 DAL

Dallas, TX 75242

AUG 7 2006

Rotary Club of Milpitas
P.O. Box 360167
Milpitas, CA 95035

Taxpayer Identification Number:

94-6108324

Form:

990

Tax Year(s) Ended:

June 30, 2004

Exemption under Section 501(c)(4)
of the Internal Revenue Code

Person to Contact/ID Number:

Brad Holz / 94-11910

Contact Numbers:

Telephone: (415) 522-6072

Fax: (415) 522-6059

Dear Sir or Madam:

Our examination of the information return(s) indicated above disclosed that your organization continues to qualify for exemption from Federal income tax. Accordingly, we accept the return(s) as filed.

However, our examination identified certain deficiencies that we are addressing in the enclosed addendum. Noncompliance with the requirements set forth in the addendum could result in penalties and/or loss of exempt status.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

IRS - Office of the Taxpayer Advocate
55 S. Market Street, Rm. 900
San Jose, CA 95113
Phone: (408) 817-6850
Fax: (408) 817-6851

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez

Marsha A. Ramirez
Director, EO Examinations

Enclosure:
Addendum



*6A

CITY OF MILPITAS
OFFICE OF MAYOR JOSE S. ESTEVES

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
PHONE: 408-586-3029, FAX: 408-586-3056, www.ci.milpitas.ca.gov

October 21, 2015

The Honorable Risë Jones Pichon
Presiding Judge
Santa Clara County Superior Court
191 North First Street
San Jose, CA 95113

Subject: Response to Final Grand Jury Report entitled, “A Slow Rising Emergency – Sea Level Rise”

Dear Judge Pichon:

This letter transmits the City of Milpitas’ response to the finding and recommendation contained in the 2014-2015 Santa Clara County Civil Grand Jury’s Final Report entitled, “**A Slow Rising Emergency – Sea Level Rise,**” based on City Council action approved on October 20, 2015. The City of Milpitas is required to respond to Finding 2 and Recommendation 2, and our response is as follows:

The City generally agrees with Finding 2 and Recommendation 2. That said, the City does intend to address the sea-level rise issue at a policy level in our General Plan update process, which is set to begin in 2016. From there, any subsequent affected plans/policies would then be updated to be in conformance with the updated GP, including the Milpitas Climate Action Plan (CAP). As a matter of fact, the City Council just approved on October 6, 2015 Council meeting a Capital Improvement Project funding assigned solely for the City’s General Plan Update.

The City of Milpitas is also committed to working with the United States Army Corps of Engineers (ACE) and other neighboring jurisdictions, on the South San Francisco Bay Shoreline Study.

Again we appreciate the opportunity to respond to the Grand Jury Final Report and appreciate the Grand Jury for preparing the report, which raises the awareness on this important topic. If you have any comments or questions, please contact Tom Williams, City Manager, at twilliams@ci.milpitas.ca.gov or (408) 586-3051.

Sincerely,

Jose S. Esteves
Mayor



2014-2015 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT

A SLOW RISING EMERGENCY --- SEA LEVEL RISE

Summary

The 2014-2015 Santa Clara County Civil Grand Jury (Grand Jury) received a complaint questioning three areas regarding expected Sea Level Rise (SLR) as a result of global warming. The three questions the Grand Jury was asked to investigate were:

- Is the current level of disaster planning sufficient to mitigate the expected effects, both immediate and long term, of global warming, specifically as it relates to SLR?
- What, if any, are the long range plans of Santa Clara County (County), cities, and some agencies within the county, for changing infrastructure elements and vacating lands that could be flooded by a one to two meter rise in sea level of San Francisco Bay (Bay)?
- What is being done to inform and educate private landowners whose land will be at risk of flooding from SLR?

The Grand Jury interviewed representatives from the cities in the County that abut the San Francisco Bay ("Bay") and have addressed SLR (Palo Alto, Mountain View, Sunnyvale, and San Jose) as well as other government entities. One city, Milpitas, indicated that it had not addressed this issue and, as a result, they were not interviewed. The purpose of the interviews was to determine what, if any, actions were being planned to confront and prevent the negative consequences of SLR.

The Grand Jury reviewed a great deal of information and many studies addressing SLR and found:

- The current flood control systems are not adequate to prevent flooding with the expected SLR,
- There is inconsistency among the cities and county that abut the Bay with regard to addressing the issue of SLR, and
- There are plans, overseen by the U.S. Army Corps of Engineers (Corps of Engineers), the Santa Clara Valley Water District (Water District), and the California State Coastal Conservancy (Coastal Conservancy), to address this issue.

It does not appear that every government entity in the county that should be addressing SLR is doing so. Some local governments have studied and published reports on the effect of SLR but others have not. Consequently, we have a disjointed approach within the county to address the ramifications of SLR.

Background

The Causes of Sea Level Rise

According to the National Geographic Society, there are three main reasons for the rise in the ocean's level. These are:

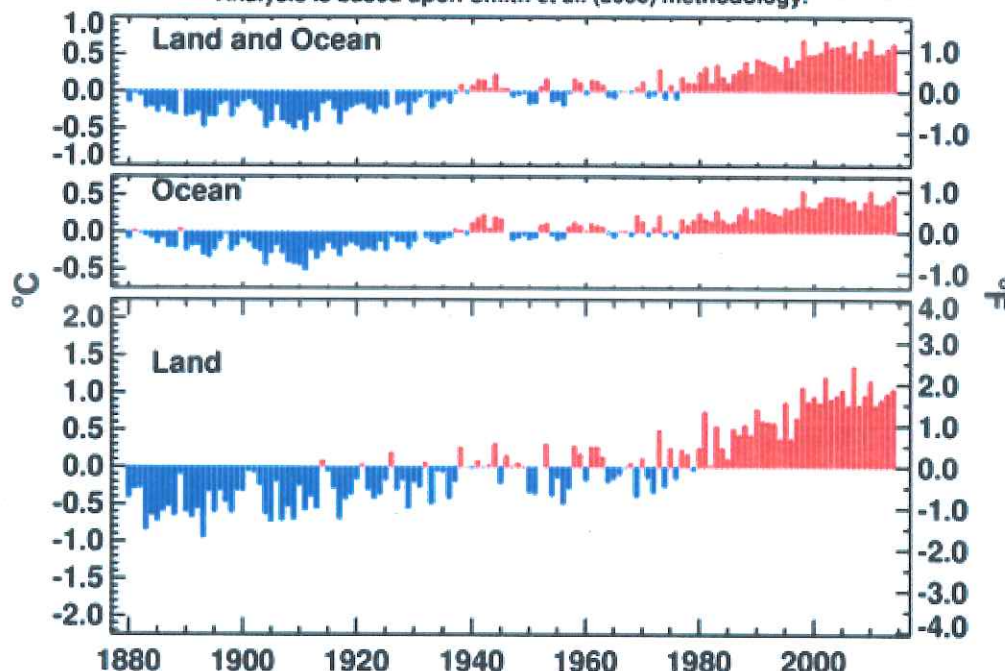
- **Oceanic Thermal Expansion.** When water heats, it expands, and when the oceans are constrained by land mass, the only direction the oceans can move is upward to inundate low lying regions of land,
- **Melting of Glaciers World-Wide and both Polar Ice Caps.** There is currently more ice melting in summer than is replaced by snowfall during winter, and
- **Ice Loss from Greenland and West Antarctica.** The winter snowfall on these land masses does not currently replenish the amount of ice that melts during summer.

The National Oceanic and Atmospheric Administration (NOAA) has tracked the rise in ocean temperature from 1880 to the present. As can be seen in the section titled "Ocean" in the following chart, it is evident that since 1880 the ocean's temperature is rising and has risen rapidly in the recent past.

Jan-May Global Surface Mean Temp Anomalies

NCDC/NESDIS/NOAA

Analysis is based upon Smith et al. (2008) methodology.



Studies of Sea Level Rise

Since 1987, there have been numerous studies conducted of the Bay and the effects of potential SLR. Some examples of these studies are:

- "Sea Level Rise: Predications and Implications for San Francisco Bay" [1987, Bay Conservation and Development Commission (BCDC)],
- "Assessing The Costs Of Adapting To Sea-Level Rise: A Case Study Of San Francisco Bay" (1990, Peter Gleick and Edwin Maurer, Pacific Institute),
- "Living with a Rising Bay: Vulnerability and Adaptation in San Francisco Bay and on its Shoreline" (2011, BCDC),
- "Sea-Level Rise: a Slow-Moving Emergency" (2014, California State Assembly Select Committee; Sea Level Rise and the California Economy),
- "The Impacts of Sea Level Rise on the San Francisco Bay" (2012, California Energy Commission's California Climate Change Center),
- "Evaluating Tidal Marsh Sustainability in the Face of Sea-Level Rise: A Hybrid Modeling Approach Applied to San Francisco Bay" (2011, Plus One),
- "The Impacts of Sea-Level Rise on the California Coast" (2009, Pacific Institute),
- "Sea Level Rise Study; Feasibility Report and Capital Improvement Program" [2012, City of Mountain View/Environmental Science

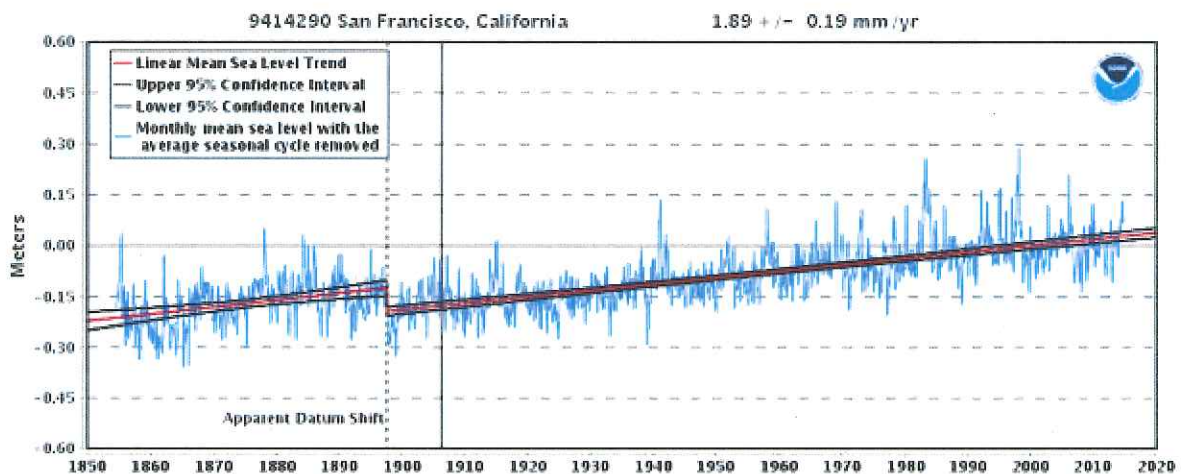
- Associates and Phillip Williams and Associates (ESA/PWA)], and “Adapting to Rising Tides” (2013, an ongoing study supported by the NOAA Coastal Services Center and the BCDC).

The studies consistently address a range of different projected rises in sea level through the end of the century. These ranges in SLR are estimated at 10 to 17 inches by 2050, 17 to 32 inches by 2070, and 32 to 69 inches by the turn of the century. The international scientific community now generally accepts these estimates of SLR.

Measuring Sea Level Rise in the Bay

On June 30, 1854, the United States Coast Survey, now known as the National Geodetic Survey (NGS), installed a self-recording tide gauge in the Bay. This station has measured the rise and fall of tides continuously since then, making it the nation’s oldest continually operating tidal observation station. The average of the high and low tides measures the current sea level.

The following chart displays the readings from the San Francisco tide gauge house and documents that the Bay level is rising.



Awareness of Sea Level Rise

The California State Assembly Select Committee on Sea Level Rise and the California Economy published a report in August of 2014 titled, “Sea-Level Rise: a Slow Moving Emergency.” In the introduction of this report it states:

The sea is rising. The Nation’s longest continuously operating gauge of sea level, at Fort Point in San Francisco Bay, recorded a seven-inch rise in the sea level over the 20th century. As a result of climate change and global warming, sea-level rise is projected to accelerate during the next century. Even if greenhouse gas emissions are reduced, residual warming of the ocean will cause seas to continue to rise. A 2012 report from the National Research Council found that the average sea-level rise projections for California are an additional 6 inches by 2030, 12 inches by

2050, and 36 inches (3 feet) by 2100. As a result of these projections, sea-level rise has been called a slow-moving emergency. **The Fact is that California is indeed facing an emergency.**

The International Intergovernmental Panel on Climate Change (IPCC), with 195 countries participating, is the leading authority on climate related SLR. Their mission is to study and monitor the effects of global climate change. Since 1990, the IPCC has released five "Assessment Reports." On November 1, 2014, the fifth Assessment Report (AR5) was released by the IPCC, which divided the "Observed changes in the climate system" into four entities. They are Atmosphere, Ocean, Cryosphere¹, and Sea Level.

AR5's opening sentence when addressing the issue of sea level is:

Over the period 1901–2010, global mean sea level rose by 0.19m (7.5") [0.17m to 0.21m] (6.7"-8.25"). The rate of sea-level rise since the mid-19th century has been larger than the mean rate during the previous two millennia.

The IPCC and the State of California (State) have indicated that a major consequence of climate change is Sea Level Rise.

Possible Sea Level Rise in Santa Clara County

"The South San Francisco Bay Shoreline Study" (Bay Shoreline Study) is produced by a consortium consisting of the Corps of Engineers, the Water District, and the Coastal Conservancy. The purpose of this study is to identify and recommend flood risk management and ecosystem restoration projects along the Bay to justify federal funding.

According to the Bay Shoreline Study calculations, the figure in Appendix B shows the effects of a 16 inch sea level rise (pink) and a 55 inch sea level rise (red). The Silicon Valley Leadership Group that addresses environmental programs and policies has stated: "A total of 257 technology companies located in the flood zone are at significant risk."

California and Local Governmental Responses to Sea Level Rise

California

Assembly Bill 32 titled "California Global Warming Solution Act" was passed and signed

¹ The cryosphere is those portions of Earth's surface where water is in solid form, including sea ice, lake ice, river ice, snow cover, glaciers, ice caps, ice sheets, and frozen ground.

on September 27, 2006. This bill directs the State to reduce greenhouse gas emission levels to that of 1990 and to accomplish this by 2020. The focus for most county governments has been on climate action plans and the creation of organizations within county governments, such as the Santa Clara County Office of Sustainability, to meet AB 32's goals. Again, the primary purpose of AB 32 is greenhouse gases and their reduction.

Unfortunately, no comparable act has been passed by the State nor has a government organization been established in the county to address SLR. Therefore, each local government entity that abuts the Bay is addressing SLR as they deem appropriate. The following is a brief description of how each of these local governments is or is not addressing SLR.

Palo Alto

The Grand Jury learned from interviews with the representatives of the City of Palo Alto (Palo Alto), and research, the following:

1. Palo Alto's focus is on sustainability, greenhouse gas reduction, and updating their Climate Action Plan. A little over a year ago, Palo Alto appointed a Chief Sustainability Officer to oversee the city's Climate Action Plan,
2. Palo Alto is unaware of actions being considered or taken to address SLR by the neighboring cities of Sunnyvale and Mountain View,
3. Palo Alto is a member of the San Francisquito Creek Joint Powers Authority, as is the Water District. Per their website, this authority leads projects along the creek and the Bay that reduce a proven flood threat (not a product of SLR) enhance ecosystems and recreational opportunities, and connect the communities. This joint powers authority recently began to look at different infrastructure alternatives to protect Menlo Park, East Palo Alto, and Palo Alto against extreme tides as a consequence of SLR, and working with other agencies to improve shoreline habitat, and
4. In August 2014, the City of Palo Alto released their "Threat and Hazard Identification and Risk Assessment." The report evaluates vulnerability and decides implementation measures based on the necessary capabilities to deal with the hazards and threats. SLR is not one of the hazards in this report, but flooding and severe winter storms are.²

² Threat and Hazard Identification and Risk Assessment, p.4

Milpitas

The City of Milpitas (Milpitas) has told the Grand Jury that it is not addressing SLR. It has a 100 page climate action plan, titled, "City of Milpitas: Resolution 8252: A Resolution of the City Council of the City of Milpitas adopting Negative Declarations and Climate Action Plan (5/7/2013)." The plan does not mention SLR, but only addresses greenhouse gas reductions.

Sunnyvale

The City of Sunnyvale (Sunnyvale) is in the very early stages of the SLR issue. Through interviews, the Grand Jury has learned the following:

1. As of April 2014, it has a Climate Action Plan that mentions adapting to SLR and the effects on Sunnyvale,
2. There is a lack of urgency or immediacy of action due not only to the lack of funds, but also a belief that SLR is so far in the future,
3. Officials of Sunnyvale told the Grand Jury that they are unaware of SLR plans being taken by their neighboring communities, and
4. Officials of Sunnyvale stated that they would like an organization to take a leadership role to coordinate everyone's efforts.

Mountain View

The City of Mountain View (Mountain View) has an extensive plan in place and is taking steps, mostly on its own, to address the threat of SLR. The Grand Jury has learned the following:

1. Mountain View appointed an Environmental Sustainability Coordinator who focuses almost exclusively on the potential impact of greenhouse gases,³
2. The threat of SLR is being addressed by the city through its Public Works Department. With the help of ESA/PWA, the department produced the "Shoreline Regional Park Community: Sea Level Rise Study: Feasibility Report and Capital Improvement Program," which addressed both the threat of SLR to the city as a whole and the threat posed in the salt ponds areas of the city. The latter, as proposed by the report, requires creating a gently sloped upland habitat transition area along the bay ward levee slope.⁴ Responsibility for designing levees in Mountain View's Action Plan area is assumed by the department working in consultation with the Water District, which, in turn, is working with the US Army Corps of Engineers,
3. The Bay Shoreline Study indicated that Mountain View was not a priority area, thus the city moved on its own in the expectation that

³"City of Mountain View: Climate Change: Environmental Sustainability Action Plans"

⁴ "City of Mountain View: Climate Change: Environmental Sustainability Action Plans," 12/18/2012, p. 2

- a future study might revise that assessment, and
4. The current proposals the city is addressing include:
- a. Charleston Slough and Palo Alto Flood Basin Levee Improvement,
 - b. Coast Casey North Levee Improvement,
 - c. Landfill Erosion Protection,
 - d. Lower Permanente Creek Levee and Floodwall Improvements,
 - e. Golf Course Facilities High Ground Augmentation,
 - f. Lower Stevens Creek Levee Improvements,
 - g. Coast Casey Pump Station Improvement,
 - h. Lower Permanente Creek Storm Drain Improvements,
 - i. Sailing Lake Access Improvement,
 - j. Sailing Lake Intake Pump Station Modification, and
 - k. Charleston Slough Tide Gates Improvement.⁵

NOTE: All of these areas are currently at risk due to the threat of flooding. That risk, however, increases when also threatened by SLR.⁶ The total estimated cost to complete the Mountain View projects is \$43 to \$57 million up front with an annual operating budget of \$117,000 to \$130,000 (in 2012 dollars). The City will fund these expenditures on its own.⁷

5. The Grand Jury was told that Mountain View would like more county-wide coordination in addressing the SLR issue.

San Jose/Alviso

Issues of SLR for the City of San José/Alviso are being coordinated by the Water District.

Santa Clara Valley Water District Response to Sea Level Rising

From 1929, with the formation of the Santa Clara Valley Water Conservation District, to 1952, with the establishment of the Santa Clara Valley Flood Control and Water Conservation District, there were several water districts in the county that were responsible for building reservoirs and recharging the underground aquifers. In 1952, the Santa Clara County Board of Supervisors merged these districts into the Santa Clara Valley Water Conservation District. They gave the district the task of protecting

⁵ Id. at 6-7

⁶ Id. at 9

⁷ Id. at 8

most of the County from flooding and providing water to the County residents. In the 1970s, this District was renamed the Santa Clara Valley Water District and given responsibility for flood control and water supply for the County.

The Water District was created by an act of the California Legislature, and operates as a State of California Special District, with jurisdiction throughout Santa Clara County. This act is the "Santa Clara Valley Water District Act."⁸

Per Section 4, the Santa Clara Valley Water District Act's primary purpose is "to authorize the district to provide comprehensive water management for all beneficial uses and protection from flooding within Santa Clara County." In doing so, the legislature made it clear that "it is the intent of the Legislature that the district work collaboratively with other appropriate entities in Santa Clara County in carrying out the purposes of this act."

The aforementioned Bay Shoreline Study is the Water District's response to SLR in the Santa Clara County. It is a countywide plan to address SLR along the entire coastline of Santa Clara County.

The Act gives the Water District "Powers" in order to carry out their purposes. Per §5.12., the Water District is given the power "To make contracts, and to employ labor, and to do all acts necessary for the full exercise of all powers vested in the district or any officers thereof, by this Act."⁹ The Water District has entered into at least four (4) joint committees and one joint powers authority." The four committees are:

- Joint Recycled Water Advisory Committee with the City of Palo Alto,
- Joint Recycled Water Committee with the City of Sunnyvale,
- Joint Recycled Water Policy Advisory Committee with the City of San José and the City of Santa Clara, and
- San Felipe Division Reach One Committee with San Benito County Water District.

The members of the San Francisquito Creek Joint Powers Authority are the Santa Clara Valley Water District, together with Palo Alto, East Palo Alto, Menlo Park, and San Mateo County Flood Control District.

The Grand Jury has learned through interviews the following:

⁸ See Santa Clara Valley Water District Act §60-1 et. seq.

⁹ Santa Clara Valley Water District Act §60-5(12).

1. The cities that abut the Bay have very little information about the Bay Shoreline Study,
2. Mountain View is addressing SLR independent of the Water District,
3. The Water District is part of a San Francisquito Creek Joint Powers Authority together with Palo Alto, East Palo Alto, Menlo Park, and San Mateo County Flood Control District, and
4. There is no joint power authority or any other agreement between the Water District and the cities of Milpitas, Sunnyvale, Mountain View or Palo Alto in regard to dealing with SLR in Santa Clara County.

The Cost of Not Addressing Rising Sea Level

Additionally, the Grand Jury was told that if the flood hits the water treatment plants in Palo Alto, Sunnyvale, and San José, the total value at risk more than doubles and up to a foot of water will cover Highways 101 and 237.¹⁰ There remain concerns of rising sea levels flooding additional lands near the Bay. Also, in the case of severe rainstorms, there is an additional concern, that because of a higher Bay level, there will be more flooding in the lower stream beds.

Response to Anticipated Sea Level Rise

At the time of the Grand Jury's investigation, the City of Mountain View and the Water District have been the most active in studying the possibility of SLR and are preparing to implement responsive projects to protect from such a possibility. Mountain View initiated a project that culminated in the publication on December 18, 2012, of "The Shoreline Regional Park Community (Shoreline Community) Sea Level Rise Study Feasibility Report and Capital Improvement Program (CIP)."

The Water District joined the Corps of Engineers and the Coastal Conservancy in creating a congressionally authorized study to develop projects to address the risks from flooding due to SLR and restoration of the wetlands. On December 18, 2014, the Corps of Engineers released their "Draft South San Francisco Bay Shoreline Phase I Study, Draft Integrated Interim Feasibility Study and Environmental Impact Statement/Report." On January 14, 2015, the Grand Jury attended a public meeting held by the Corps of Engineers, Water District, and Coastal Conservancy. The purpose of the meeting was to discuss the study and to receive input to the aforementioned draft report. Public comments were solicited.

The Grand Jury learned through the interview process that most cities wanted to maintain local control but believe that some county-level coordination would be helpful. As a result, the cities and other relevant agencies have a wide, often disjointed array of

¹⁰ <http://www.eenews.net/stories/1059974050>

responses to SLR demonstrating varying levels of commitment, efficiency, and staffing.

On September 17, 2014, the Grand Jury toured the Water District's San Jose/Santa Clara Regional Wastewater Facility in Alviso. During this tour, it was pointed out to the Grand Jury that some of the construction observed was being performed in order to relocate underground electrical facilities to above ground. This was being done to prepare for the anticipated effects of SLR, and indicated that there are currently active efforts within the County to prepare for the effects of climate related SLR.

Methodology

In preparing this report, the Grand Jury:

- Toured the San Jose/Santa Clara Regional Waste Water Facility and the Silicon Valley Advanced Water Purification Center in San José,
- Toured the Don Edwards San Francisco Bay National Wildlife Refuge in Alviso,
- Submitted a questionnaire and received answers from the U.S. Army Corp of Engineers, South Pacific Division, San Francisco District,
- Reviewed portions of the "Draft Interim Feasibility Report and Environmental Impact Statement / Report South San Francisco Bay Shoreline Phase I Study Santa Clara County, CA," December 2014,
- Reviewed portions of the City of Mountain View's Shoreline Regional Park Community Sea Level Rise Study Feasibility Report and Capital Improvement Program, December 18, 2012,
- On January 14, 2015, members of the Grand Jury attended a meeting held in Alviso for the public discussion of the Draft Interim Feasibility Report and Environmental Impact Statement / Report South San Francisco Bay Shoreline Phase I Study Santa Clara County, CA (cited above),
- Interviewed representatives from the following:
 - Santa Clara Valley Water District,
 - San Jose/Santa Clara Regional Waste Water Facility,
 - Santa Clara County Office of Sustainability,
 - Consulting firm AECOM,
 - Bay Conservation and Development Commission (BCDC),
 - California State Coastal Conservancy (Coastal Conservancy),
 - City of San José, Environmental Compliance Office,
 - City of Mountain View, City Staff,
 - City of Mountain View, Public Works Department,
 - City of Sunnyvale, Environmental Services Department,
 - City of Palo Alto, Office of the City Manager,
- A questionnaire was completed and returned to the Grand Jury by the Corps of Engineers, and
 - Conducted web searches and read articles in newspapers and other publications.

Discussion

To better comprehend Sea Level Rise and how it relates to Santa Clara County, an understanding of the relevant terms and concepts is necessary. The current chosen solutions to protect property within Santa Clara County is to construct dikes and levees along the Bay and to promote wetlands and marshes at the edges of the Bay.

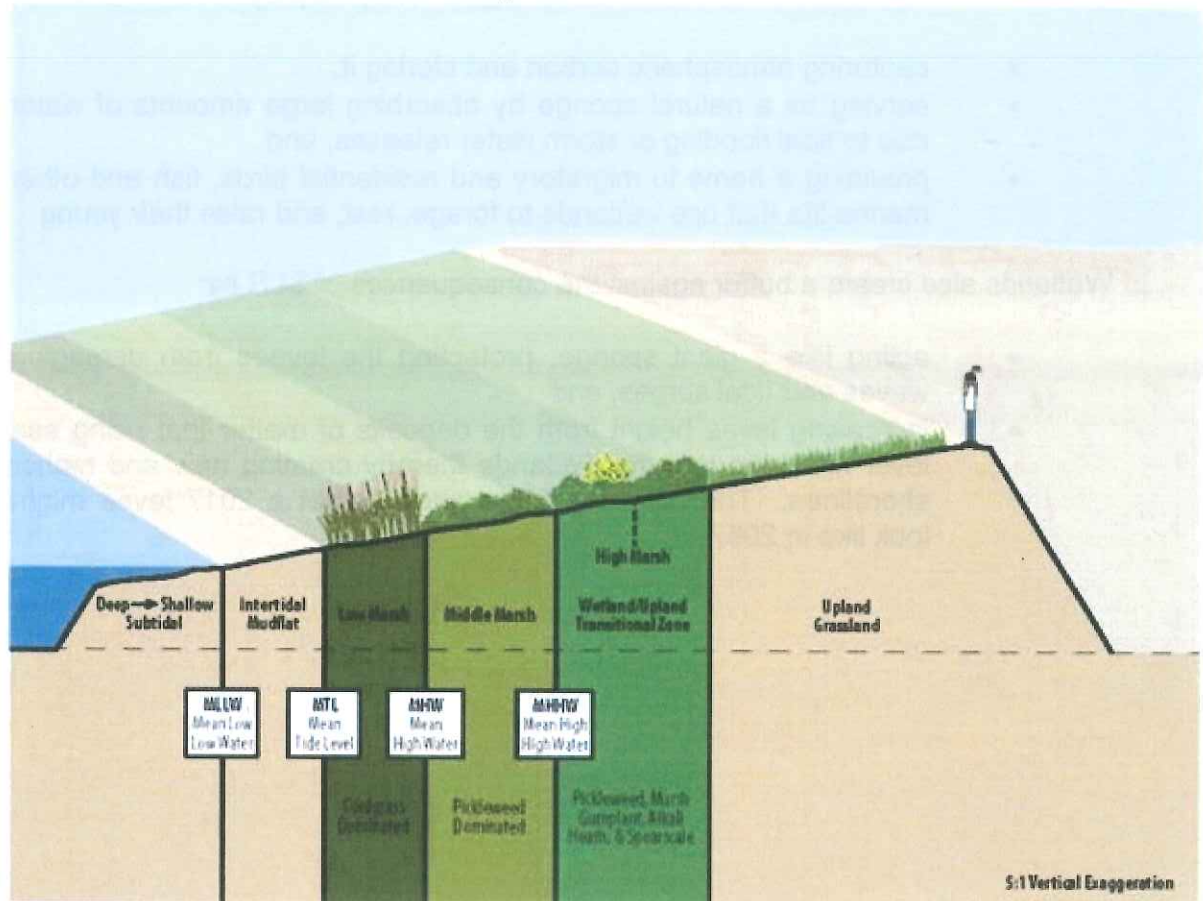
Dikes and Levees

Dikes and levees are walls that are made of stone, clay, and other earth materials. They are designed to hold back water from dry land. Dikes usually protect land that would otherwise be under water. Levees protect land that is usually above water but may be flooded at times.

The Bay Shoreline Study recommends building levees in Economic Impact Areas. See Appendix C. These areas were arbitrarily selected to describe portions of the Bay shore at risk for SLR. The first Economic Impact Area (EIA) that the study recommended to be addressed is EIA 11. Economic Impact Area 11 includes Alviso. Its homes, commercial and industrial facilities are generally located below sea level, and protected by salt pond levees.

When the project is completed, the new levees will be approximately 15 feet high which is about 5 feet higher than the current non-engineered levees that were built for the salt ponds. They will have a slope of 30 to 1 on the Bay side. This means that for every foot in height, the levee will extend 30 feet into the Bay. The following is a cross section of the proposed 30:1 levee.

Proposed Ecotone with 30:1 Side Slopes Cross-Section at Year 2017¹¹



Note: Figure of a person on top of the levee is used to establish scale.

Wetlands and Marshes

Wetlands are areas such as swamps, marshes, and bogs where water covers the soil, or is at or near the surface of the soil year round. They serve as giant filters removing toxic pollutants and nutrient runoff that could damage the ecosystem of the Bay. Some scientists feel that wetlands are as important as coral reefs and rain forests. A marsh is a type of wetland, which does not have trees or shrubs, but rather has grasses, rushes, sedges, and reeds. A marsh provides vital habitat to many plant and animal species as well as protecting neighboring areas of land from flooding, and in the case of saltwater marshes, preventing excessive salinization. In addition to filtering out pollutants and

¹¹ An ecotone is a transition area between two biomes. It is where two communities meet and integrate. It may be narrow or wide, and it may be local (the zone between a field and forest) or regional (the transition between forest and grassland ecosystems).

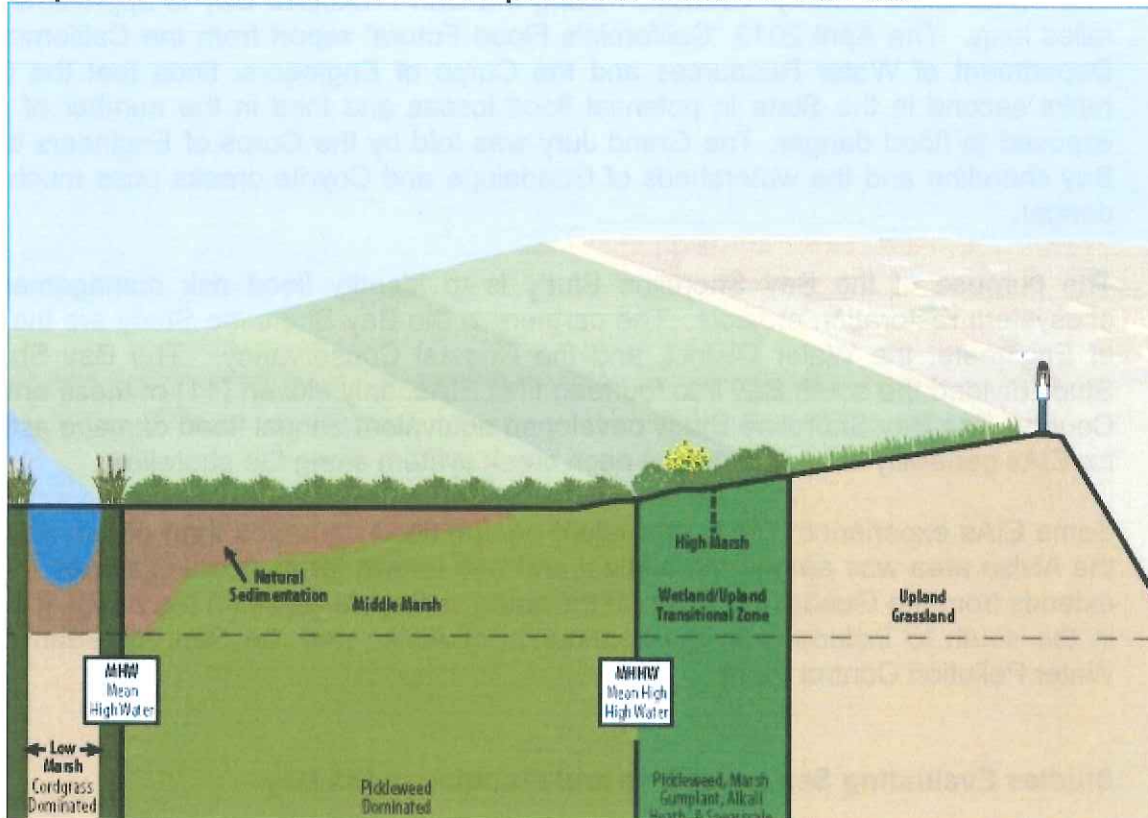
nutrient runoffs, wetlands have other advantages. They help by:

- capturing atmospheric carbon and storing it,
- serving as a natural sponge by absorbing large amounts of water due to tidal flooding or storm water releases, and
- providing a home to migratory and residential birds, fish and other marine life that use wetlands to forage, rest, and raise their young.

Wetlands also create a buffer against the consequences of SLR by:

- acting like a giant sponge, protecting the levees from damaging waves and tidal surges, and
- increasing levee height from the deposits of matter that rising sea level will bring into the wetlands thereby creating new and higher shorelines. The following figure shows what a 2017 levee might look like in 2067.

Proposed Ecotone with 30:1 Side Slopes Cross-Section at Year 2067



Note: Figure of a person on top of the levee is used to establish scale.

Benefit of Combining a Levee Project with a Wetland Restoration Project

In 2003, the 15,000 acre South Bay Salt Ponds were purchased from Cargill, Inc. by the federal government, the State of California, and the City of San José. These 15,000 acres are divided into three pond areas, the Ravenswood Ponds on the west shore of the Bay near Menlo Park, the Alviso Ponds that lie between the eastern edge of the Charleston Slough in Palo Alto to approximately 1 $\frac{3}{4}$ mile north of Coyote Creek in Milpitas, and the Eden Landing Ponds on the east shoreline of the bay near Hayward. The Federal stewardship of this property was placed in the hands of the U.S. Fish and Wildlife Service and the State stewardship of this property is in the hands of the California State Coastal Conservancy. The restoration of the south bay salt ponds is the largest tidal wetland restoration project on the West Coast and is aptly named the South Bay Salt Pond Restoration Project (Salt Pond Restoration Project).

In 2005, Congress authorized the Bay Shoreline Study. It was designed to coordinate the ecosystem restoration of the salt ponds (Salt Pond Restoration Project) with a flood risk management project in light of the SLR in the Bay. Therefore, completion of the project proposed by the Bay Shoreline Study could complete a significant portion of the Salt Pond Restoration Project in the Alviso area.

Consequences of the Bay Shoreline Study

The Santa Clara County “coastline” along the San Francisco Bay is approximately 15 miles long. The April 2013 “California’s Flood Future” report from the California State Department of Water Resources and the Corps of Engineers, finds that the County ranks second in the State in potential flood losses and third in the number of people exposed to flood danger. The Grand Jury was told by the Corps of Engineers that the Bay shoreline and the watersheds of Guadalupe and Coyote creeks pose much of the danger.

The purpose of the Bay Shoreline Study is to identify flood risk management and ecosystem restoration projects. The partners in the Bay Shoreline Study are the Corps of Engineers, the Water District, and the Coastal Conservancy. The Bay Shoreline Study divided the south Bay into fourteen (14) EIAs, only eleven (11) of these are in the County. The Bay Shoreline Study developed equivalent annual flood damage estimates for EIAs generally located between each creek system along the shoreline.

Some EIAs experience higher equivalent annual flood damages than others. EIA 11 in the Alviso area was among the highest and well known for its flooding issues. EIA 11 extends from the Guadalupe River (in the west) to Coyote creek (in the east). It extends in the south to include both the community of Alviso and the San Jose/Santa Clara Water Pollution Control Plant.

Studies Evaluating Sea Level Rise and Flooding in the Bay

In November 2013, the California Department of Water Resources and the US Army Corp of Engineers issued a joint report, titled, “California’s Flood Future.” Its purpose was to assess the level of flood exposure statewide, identify flood management issues, and develop recommendations to help address California’s flood risk. This report states that:

... continuation or acceleration of this sea level rise, in combination with changes in precipitation and runoff patterns, likely would result in an increase in flood events...

and

... projected increase in flood inundation in the San Francisco Bay under one scenario of sea level rise... could be significant, especially in the south Bay Area where there are high levels of urbanization.¹²

The draft produced by the Bay Shoreline Study consortium concurs with the California

¹² California’s Flood Future at 1-9 and the second quote is from pages 3-17.

Flood Future report. They both agree that there is currently a significant threat of major tidal flooding throughout the Alviso community, and this threat is projected to increase significantly over time because of SLR.¹³ Therefore, when the above mentioned partners in the Bay Shoreline Study were contemplating where to begin the project it was natural to select EIA 11.

In addition, the selection of EIA 11 means that the flood control project could be tied in with the Salt Pond Restoration Project. This project's goal is the restoration of approximately 15,000 acres of former industrial salt ponds into tidal wetlands for animal and fish habitat, recreational use, and flood protection. If the Bay Shoreline Study receives federal funding, then this would allow these federal funds to be leveraged with state and local funds to accomplish some, if not the entire Salt Pond Restoration Project.

The Bay Shoreline Study advocates the creation of a two pronged project in which flood protection (levee) is built while concurrently restoring tidal wetlands in the south Bay. The proposed levee will be approximately 3.7 miles long which is approximately 25 percent of the Santa Clara County coastline. The levee will run from Guadalupe River to Coyote Creek. It is planned to be at a height of 15.2 feet and have a slope of 30 to 1. The estimated cost of this first phase of flood protection for EIA 11 is \$162,630,000. This would be divided as follows; U.S. Fish and Wildlife \$39,712,000, Corps of Engineers \$52,371,000, and non-Federal \$70,547,000. The Water District and California State Coastal Conservancy (CSCC) are the non-Federal sponsors.¹⁴ After completing this phase, the partners would then turn their attention toward EIA 1 – EIA 10. It is estimated that to complete EIA 1 through EIA 10, the cost will be approximately \$400-\$500 million.

Conclusions

There has been a great deal of time and effort devoted to studying the effects of Sea Level Rise (SLR) in the San Francisco Bay. These studies continue today, as those in various scientific specialties learn more about the fact that the sea is rising.

The Corps of Engineers, the Coastal Conservancy, and the Water District are currently addressing SLR as partners in the consortium, the "South San Francisco Bay Shoreline Study." The consortium produced a document that addresses some critical issues for Santa Clara County. It addresses not only SLR, but also the restoration of the salt ponds and the preservation of native habitats.

¹³ Draft South San Francisco Bay Shoreline Phase I Study, Draft Integrated Interim Feasibility Study and Environmental Impact/Report, Phase I study report at S.10

¹⁴ Id. at S.4

If and when the South San Francisco Bay Shoreline Study recommended project for EIA 11, which includes Alviso, is completed, the county will have in place a levee and marshland, but these measures will only address the effects of SLR for the next few decades.

The Grand Jury reached the following conclusions:

- The cities of Palo Alto, Mountain View, and Sunnyvale want to retain control of SLR related efforts within their jurisdictions, but would like to have an organization assume responsibility for coordinating the plans and activities involved in addressing SLR.
- Within Santa Clara County, Milpitas has no plan to address SLR.
- The Water District, which is, by law, tasked with the responsibility for flood control in Santa Clara County, should take a sufficiently proactive leadership role in Santa Clara County's efforts to address SLR. They are participating in the South San Francisco Bay Shoreline Study, have active projects underway, and are best prepared and qualified for the role of coordinating efforts to coordinate SLR for Santa Clara County,
- Since the effects of SLR are not imminent, there is a lack of urgency in addressing this pending emergency. The scientific community, however, is giving long range future projections, indicating possibly devastating consequences in Santa Clara County. Nevertheless, the Grand Jury was told those consequences are seen by some jurisdictions as so far off in the future, that they have not seen a need to address its effects on the infrastructure and economy of Santa Clara County. The cities of Palo Alto, Mountain View, Sunnyvale, and Milpitas, as well as the Santa Clara Valley Water District should prioritize SLR at a higher level,
- As a consortium, the Corps of Engineers, the Coastal Conservancy, and the Water District are currently addressing SLR. The "South San Francisco Bay Shoreline Study" addresses not only SLR but also the restoration of the salt ponds and the preservation of native habitat. If the EIA 11 Alviso project is completed, the county would have in place a levee and marshland that would address the effects of SLR for the next few decades, and
- There has been very little dissemination of information about how the four cities within the County and the Santa Clara Valley Water District are addressing the effects of SLR. The Grand Jury was told this has led to a sense of complacency.

Findings and Recommendations

Finding 1

The cities of Palo Alto, Mountain View, and Sunnyvale want to retain control of Sea Level Rise related efforts within their jurisdictions, but would like to have an organization assume responsibility for coordinating the plans and activities involved in addressing Sea Level Rise.

Recommendation 1

The Santa Clara Valley Water District should take a more proactive role in coordinating with cities that will be affected by Sea Level Rise, unifying, integrating and directing efforts in Santa Clara County.

Finding 2

The City of Milpitas does not have a Climate Action Plan which addresses Sea Level Rise.

Recommendation 2

The City of Milpitas needs to develop a Climate Action Plan which addresses Sea Level Rise.

Finding 3

The City of Palo Alto's 2014 "Threat and Hazard Identification and Risk Assessment" did not identify the effects of Sea Level Rise as one of the hazards.

Recommendation 3

The City of Palo Alto needs to identify Sea Level Rise as a hazard in its "Threat and Hazard Identification Risk Assessment."

Finding 4

The Santa Clara Valley Water District, which is by law tasked with the responsibility for flood control in Santa Clara County, has not coordinated Santa Clara County's efforts to address Sea Level Rise and all of the cities in Santa Clara County that abut the Bay.

Recommendation 4

The Santa Clara Valley Water District should coordinate Santa Clara County's effort to address Sea Level Rise for all of the cities in Santa Clara County that abut the Bay.

Finding 5

According to the Santa Clara Valley Water District's website, since July 2012, it has held only one public meeting to share information about Sea Level Rise.

Recommendation 5

The Santa Clara Valley Water District should provide more information for the residents of Santa Clara County about Sea Level Rise.

Appendix A Documents Reviewed

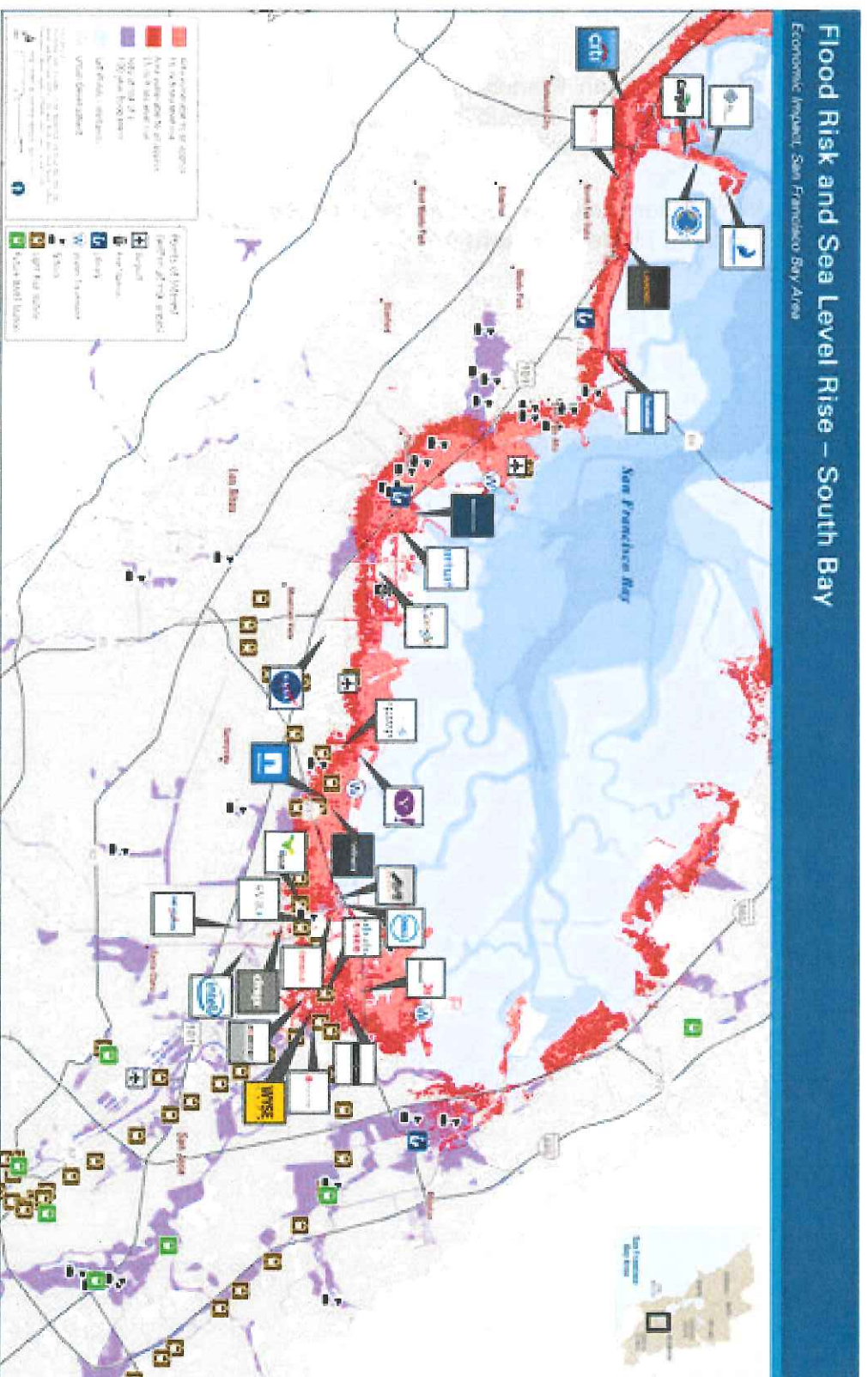
Documents/Articles/Maps

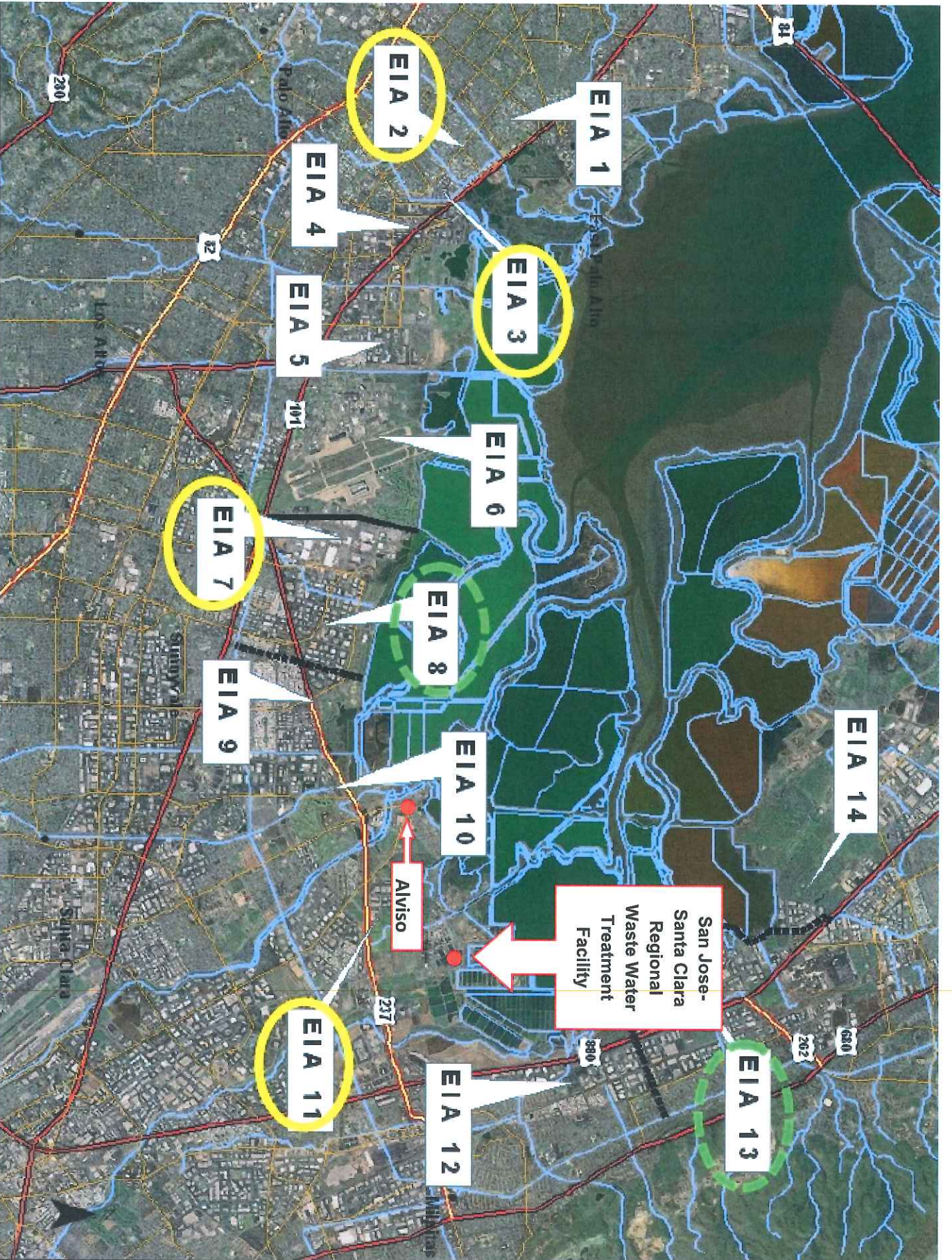
- Adapting to Rising Tides (BCDC, NOAA Coastal Service Center)
- Alviso to Artesian—Alignment 1 (Map)
- Artesian to Coyote—Alignment 1 (Map)
- As the Seas Rise, A Slow Motion Disaster gnaws at America's Shores (McNeill, Nelson, Wilson) (09/04/2014)
- Bay Area Plan: Regional Indicators (12/2011)
- California Adaptation Forum: Resilient Communities: Bringing Change to Life (08/19/2014)
- CAP Work Plan 2020 Implementation Matrix (12/04/2014)
- City of Milpitas: Resolution 8252: A Resolution of the City Council of the City of Milpitas Adopting Negative Declaration and Climate Action Plan (05/07/2013)
- City of Mountain View: Environmental Sustainability Action Plan (ESAP) (October 2008) and ESAP-2 (April 2012)
- City of Palo Alto: Threat and Hazard Identification and Risk Assessment (Prepared by Office of Emergency Services) (04/2014)
- City of Sunnyvale: Climate Action Plan (Prepared by PMC) (04/2014)
- City of Sunnyvale: Sunnyvale CAP Initial Study/Negative Declaration (Prepared by PMC for the City of Sunnyvale) (03/2014)
- Climate Change 2014: Synthesis Report (11/01/2014)
- Comparison of SLC Projections: San Francisco, CA NOAA Tide Gauge
- County of Santa Clara Office of the County Executive: Office of Sustainability (01/10/2012)
- Draft South San Francisco Bay Shoreline Phase I Study, Draft Integrated Interim Feasibility Study and Environmental Impact/Report

- Earthquake and Hazards Program (ABAG) (08/01/2014)
- Emergency Preparedness and Response: 10 Ways You Can be Disaster Prepared (02/13/2013)
- Glacial Melting In Antarctica Makes Continent The 'Ground Zero of Global Climate Change' (Henao and Borenstein) (02/27/2015)
- New Research May Solve Puzzle in Sea Level's Rise (01/14/2015)
- Obama Moves to Protect Against Flooding From Rising Sea Levels (01/30/2015)
- Office of the Press Secretary: The White House: Executive Order: Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input (01/30/2015)
- Preparing for California Climate Change: Climatologist Looks Back and Peers Forward (USGS)(03/24/2014)
- San Diego Union Tribune: Del Mar Council Agrees to Address Sea Level Rise, 03/11/2015)
- San Francisco Bay Conservation and Development Commission (BCDC)
- San Jose Mercury News: Beach Bummer; Climate Change Could Bring Bad News for Surfers as Days of Big-wave Riding May be a Thing of the Past, (02/24/2015), p. A1
- San Jose Mercury News: Judge Nullifies Project Report (1,000 Home Proposal (12/24/2014), p.B5
- Santa Clara County: Home Improvement and Performance Program: Final Report (prepared by ICF International)
- Shoreline Regional Park Community: Sea Level Rise Study: Feasibility Report and Capital Improvement Program (ESA, PWA with AMEC, HDR, SCI, and HT Harvey) (for the City of Mountain View (12/18/2012)
- County of Santa Clara Office of Sustainability - Silicon Valley 2.0 Project, January 2013 and is expected to be completed by June 2015
 - Silicon Valley 2.0 Project Schedule
 - Silicon Valley 2.0: A Regional Climate Change Adaptation and Climate Protection Initiative: Memorandum (08/22/2014)
 - Silicon Valley 2.0: A Regional Effort to Minimize the Impacts of Climate Change

- South Bay Salt Pond Restoration Project: Restoring the Wild Heart of the Silicon Valley
- The South San Francisco Bay Shoreline Study: Alviso Ponds and Santa Clara County Interim Feasibility Study (US Army Corps of Engineers, Coastal Conservancy, Santa Clara Valley Water District)
- Why Americans Are Flocking to Their Sinking Shores Even as the Risks Mount (Nelson, McNeill, Wilson) (09/17/2014)

Appendix B





This report was PASSED and ADOPTED with a concurrence of at least 12 grand jurors on this 11th day of June, 2015.

Elaine K. Larson
Elaine K. Larson
Foreperson

Wilma Faye Underwood
Wilma Faye Underwood
Foreperson pro tem

Joe A. Lopez
Joe A. Lopez
Secretary

James L. Cunningham, Jr.
James L. Cunningham, Jr.
Secretary pro tem

REGULAR

NUMBER: 240.4

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 6 OF TITLE VIII OF THE MILPITAS MUNICIPAL CODE RELATING TO SUPPLEMENTAL WATER USE

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of October 6, 2015, upon motion by Councilmember Giordano, and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Christopher Diaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, on April 1, 2015, the Governor of California issued an Executive Order requiring a Statewide mandatory reduction of potable water usage by twenty-five percent (25%) with enforcement regulations due to severe drought conditions; and

WHEREAS, on May 5, 2015, the State Water Resources Control Board adopted additional emergency regulations for Statewide urban water conservation requiring water retailers to implement additional conservation measures as part of its Water Shortage Contingency Plan; and

WHEREAS, on June 16, 2015, the City Council of the City of Milpitas declared the continuation of a water shortage for the year 2015 (Stage 2 of the Milpitas Water Shortage Contingency Plan) and added additional conservation measures as required by State law; and required the community to implement water conservation measures with a goal of reducing consumption by thirty percent (30%); and

WHEREAS, on June 16, 2015, the City Council of the City of Milpitas adopted Urgency Ordinance No. 240.3, amending Chapter 6 of Title VIII of the Milpitas Municipal Code to include penalties for customers who fail to limit their water use;

WHEREAS, the City never implemented the penalty water rates repealed by this Ordinance; and

WHEREAS, in the case of *Capistrano Taxpayers Association, Inc. v. City of San Juan Capistrano* the Court ruled that penalty rates for excessive water usage above-the-cost-of-service for the water may violate the requirements of Proposition 218 so that the City's penalty rates are likely to be unacceptable and they will be repealed prior to implementation by adoption of this Ordinance.

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. AMENDMENT OF MILPITAS MUNICIPAL CODE

Sections 7, 8 and 9 of Chapter 6 of Title VIII of the Milpitas Municipal Code are hereby amended to read as follows:

VIII-6-7.00 - Non-Compliance

Any violation of this Chapter shall be subject to the penalties provision set forth in Section I-1-4.09 (Penalty Provision), Section I-21 (Administrative Citation), Section VIII-1-6.10 (Discontinuance of Service), Section VIII-1-6.11 (Restoration of Service), or any other penalty provisions in the Municipal Code or State law.

VIII-6-8.00 - Applicability

The prohibitions and rationing requirements identified in this Chapter are not applicable to fountains, irrigation systems, cooling towers, and dual-plumb sites that use non-potable water such as recycled water.

SECTION 3. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 4. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
AMENDING THE CLASSIFICATION PLAN**

WHEREAS, the City of Milpitas has a Classification Plan adopted by Resolution No. 1626 on December 17, 1968, which has been from time to time previously amended, and which is in accordance with the Personnel Rules and Regulations of the City of Milpitas (Resolution No. 792, as amended); and

WHEREAS, amendments to the Classification Plan are necessary to account for changes within the organization, reductions in staffing, transfer of duties, new job responsibilities, and adjustments to salary ranges.

NOW THEREFORE, the City Council of the City of Milpitas hereby finds, determines and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. Resolution No. 1626, as amended, is hereby amended effective October 20, 2015, as follows:
 - A. The classification of "Assistant Transportation Planner" is added to the Classification Plan with a salary range of \$78,732 to \$95,700.
 - B. One (1) position of Assistant Transportation Planner is added to the Engineering Department's authorized position list for the purpose of performing a variety of professional level work in support of transportation planning programs.
 - C. The classification of "Assistant City Engineer" is added to the Classification Plan with a salary range of \$135,304 to \$165,130.
 - D. One (1) position of Assistant City Engineer is added to the Engineering Department's authorized position list for the purpose of assisting with the responsibilities of planning, supervising, and coordinating the engineering activities of the City's Land Development, Utilities and other engineering divisions.

PASSED AND ADOPTED this _____ day of _____, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

CITY OF MILPITAS

EFFECTIVE: August 2003
REVISED: October 2011
EEOC: Professional
FLSA: Exempt
UNIT: Unclassified
PHYSICAL: 1

Assistant City Engineer

Definition

The Assistant City Engineer (ACE) is responsible for planning, supervising and coordinating the engineering activities of the City's Land Development and Utilities Engineering as well as the Utilities Maintenance sections. Other section responsibilities may be added and/or deleted as required. In the absence of the City Engineer oversees the administration of all division programs.

Supervision Received and Exercised

Receives direction from the City Engineer. Exercises direct and indirect supervision over professional, technical, and clerical staff including civil engineers, public works inspectors, land surveyors, analysts, project managers, consultants and other staff members.

Typical Tasks and Essential Functions

Duties may include, but are not limited to, the following:

Participate in the development and implementation of goals, objectives, policies, procedures, and priorities for engineering sections and division.

Supervise, coordinate, and review all engineering activities.

Resolve more complex technical problems;.

Work closely and provide coordination with the departments or sections to provide efficient engineering services.

Prepare and direct the analysis and recommendations for utilities rates.

Work closely with the City Engineer and the Land Development Engineer to meet and discuss City requirements with developers, contractors, and engineers; review private development projects and propose developer conditions; negotiate development conditions;

Assist in the development and application of departmental policy, following general guidelines or professional and administrative standards in accomplishing assignments. Assist and direct the preparation of engineering recommendations to the Planning Commission and City Council, after considering alternatives, advisability, and conformance of proposals with applicable codes, rules, regulations and the law.

Perform project management of design and construction of the special projects.

Interpret and apply relevant codes, ordinances, rules, and regulations.

Meet and confer with developers, contractors, engineers and the general public relative to City policies, regulations, and procedures; coordinate discrepancies and problem situations with outside parties.

Prepare and/or review improvement agreements.

Administer and/or oversee the administration of contracts; review and approve all payments and billing for contracted services.

Review work with and present to the City Council, various Commissions, and City management showing alternative courses and making recommendations for policy decision.

Conduct Requests For Proposals to engage qualified consultants in contracts, and administering contracts, preliminary design, design, cost-estimating, scheduling, bidding and constructing, and reporting on all Capital Improvement Program projects.

Oversee land and easement acquisition activities, and development and administration of assessment districts.

Coordinate activities with other departments and divisions as appropriate.

Serve as staff to a variety of City and outside commissions, boards and committees as assigned.

Review and sign engineering drawings.

Conduct special engineering studies relative to assigned area of responsibility; prepare appropriate reports and analyses.

Perform field investigations, construction site field reviews, and inspections.

Progress reports shall be prepared and presented in both written and verbal format to the Council, City Manager and others and include updates on scheduling, budgeting, and issue resolution alternatives.

Hire, train, supervise, and evaluate employees.

Coordinate work with other departments or sections.

Perform other related duties as assigned

Minimum Educational Qualifications

A Bachelor's Degree from an accredited college or university in Civil Engineering.

License Requirements

Possess and maintain a current certificate of registration as a Professional Civil Engineer in the State of California; and a valid California Drivers License.

Experience Qualifications

A minimum of 6 years of significant and progressive Civil engineering experience, and three (3) years of this experience shall include supervision of professional engineers. Experience should include acting as the lead in the successful completion of major municipal public works programs, utilities and utility rate analysis, major capital improvement projects, including roadways, parks, utilities and related municipal improvements.

Knowledge, Skills, and Abilities:

Knowledge of:

Principles and practices of civil engineering, engineering management, and administration, as applied to the analysis, design, operations and design of city utilities, new development and municipal public works.

Practical knowledge and experience using computer programs such as spreadsheets, graphics presentation, CPM scheduling, and word processing.

City policies and procedures governing engineering operations, administration and municipal public works.

Applicable Federal, State and regional laws and regulatory codes related to utilities, development and construction.

Principles of organization, administration, budget, and personnel management.

Ability to:

Make and review complex engineering calculations and analysis;

Plan, organize, direct, and review the work of professional and sub-professional engineering personnel.

Interpret and apply applicable codes, ordinances, rules, and regulations related to development and construction

Interpret, review, and analyze development proposal, plans, and specifications.

Perform professional and technical support services relative to assigned area of responsibility.

Communicate effectively orally, and possess excellent writing skills, including public oral presentations.

Establish and maintain harmonious and effective work relationships with developers, contractors, engineers, City staff, and the general public.

Supervise, train and evaluate assigned staff.

Special Physical Requirements

Work is performed primarily in an office environment and exposure to outdoor elements when conducting field reviews at existing city facilities, proposed project sites and construction sites; extensive use of the telephone, radios, and computers with repetitive keyboarding; ability to walk on uneven ground; drive to various locations daily; ability to work safely in a hard-hat construction zone; some exposure to construction and Municipal public works related chemicals and products.

City Manager

Dare

Human Resources Director

Date

CITY OF MILPITAS
Effective: Feb 2001
EEOC: Professional
FLSA: Non-Exempt
Unit: Protech/Planning
and Code Enforcement
Physical: 1

JUNIOR/ASSISTANT TRANSPORTATION PLANNER

DEFINITION

Under direct supervision, perform a variety of professional level work in support of transportation planning programs and related services; to develop grant proposals and complete special projects and research; and to perform related duties as assigned.

DISTINGUISHING CHARACTERISTICS

Junior Transportation Planner— This is an entry-level class in the professional transportation planning series. This class is typically used as a training class in which the incumbents have a four year degree and limited work experience. The Junior Transportation classification is distinguished from the Assistant Transportation Planner by the performance of less than the full range of duties as assigned to the journey level class in this series. Incumbents work under immediate supervision while learning job tasks.

Assistant Transportation Planner— This is the journey level class in the professional transportation planning series. Incumbents work independently under general supervision. The Assistant Transportation Planner classification is distinguished from the Junior Transportation Planner by the performance of the full range of duties as assigned, independently with only occasional instruction or assistance as new or unusual situations arise. Positions in this class are flexibly staffed and are normally filled by advancement from the Junior Transportation Planner level.

SUPERVISION EXERCISED May exercise indirect supervision over intern staff.

EXAMPLES OF DUTIES - Duties may include, but are not limited to, the following:
Perform professional level work related to the field of transportation planning.

Assist in the review of Traffic Impact Analyses for new development.

Gather, compile and analyze a variety of technical traffic data; prepare and review assumptions with supervisor.

Update, maintain, and monitor citywide traffic related programs, databases, and summaries; provide traffic data, project assumptions, and other needed information to outside traffic consultants in accordance with established procedures.

Assist in the preparation of complex and technical staff reports with recommendations; compose memoranda and correspondence.

Design graphic displays; make presentations to the City Council, commissions, committees, and boards as assigned.

Research and develop grant proposals and applications for city transportation projects; assist in monitoring adherence to grant requirements, goals and objectives; assist in program evaluation.

Set up and maintain the transportation filing system.

Perform other related duties as required.

MINIMUM QUALIFICATIONS

Junior Transportation Planner

Knowledge of:

Principles and practices of transportation planning.

Data collection, research methods, and sources.

Survey techniques and practices.

Ability to:

Learn applicable federal, state and local policies and laws related to transportation planning.

Learn to retrieve and summarize transportation data from City Link or other computer system; operate office equipment including personal computers and peripheral equipment.

Learn to classify and maintain transportation filing system.

Establish and maintain effective working relationships with those contacted in the course of work.

Communicate effectively both orally and in writing.

EXPERIENCE AND TRAINING

Any combination of experience and training that would provide the required knowledge and abilities is qualifying. A typical way to obtain the required knowledge and abilities would be equivalent to a Bachelor's degree from an accredited college or university with major coursework in transportation planning, planning, civil engineering or a closely related field.

Assistant Transportation Planner

In addition to the qualifications for Junior Transportation Planner:

Knowledge of:

Applicable federal, state, and local laws and regulations.

Ability to:

Read and interpret site plans, engineering drawings and technical manuals.

Make oral presentations to a variety of groups.

Design and prepare graphic displays.

EXPERIENCE AND EDUCATION

Any combination of experience and education that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Two years of responsible planning experience comparable to that of a Junior Transportation Planner in the City of Milpitas.

Education:

Bachelor's degree from an accredited college or university with major coursework in transportation planning, planning, civil engineering or a closely related field.

Special Requirements: *Essential duties require the following physical abilities and work environment:*
Ability to work in a standard office environment.

Approved by:

City Manager

BUDGET CHANGE FORM

Type of Change	From		To	
	Account	Amount	Account	Amount
Check one:	100-2940	62,500	100-415-4111	95,700
☒ Budget Appropriation	100-3854	62,500	100-415-4131	22,652
☐ Budget Transfer			100-415-4133	1,388
			100-415-4135	479
			100-415-4161	4,781
	350-2931	62,500	350-3931	62,500

Explain the reason for the budget change:

Adopt a Resolution Authorizing the City Manager to Defund the Vacant Principal Civil Engineer Position in the Land Development Division, Approve a new Assistant City Engineer Position, Approve a new Assistant Transportation Planner Position and Approve a Budget Appropriation of \$125,000 from the General Fund and the Transit Area Impact Fee Funds (TASP). (Staff Contact: Steven Machida, 408-586-5533)

Background: There is an emerging increase in the work load in the Engineering Land Development Division, primarily due to an increase in in-fill development project submittals and associated construction in the TASP. The complexity of these projects requires the skills of a licensed Engineer to manage submittals and the review process and to coordinate with the developers and engineers. A more experienced Engineer is better equipped to manage the Division workflow, provide Staff supervision, coordinate with department managers and staff and provide assistance to developers to meet submittal timelines while maintaining project review protocols. The Assistant City Engineer will also assist the City Engineer in budget preparation, complete special projects assigned, manage various CIP projects, attend Planning Commission meetings, assist in Staff training and attend various outside agency meetings representing the City's interests.

The Engineering Department also includes the Traffic Engineering Division. This Division is responsible to evaluate the City's traffic system design, construction and operations to ensure a safe and reliable street system. Similar to the workload in the Land Development Division, the Traffic Division has seen an increased work load as a result of in-fill development. Typical assignments will include long range transportation planning, approve trip inventory database, scoping and review of traffic impact analysis for new/re-development projects, tracking of regional grant opportunities and grant administration.

Fiscal Impact: There will be no fiscal impact to add an Assistant City Engineer, as the existing funded but unfilled Principal Civil Engineering position will be defunded and the balance of the funding is available in the Department's Fiscal Year 2015-16 operating budget. The Assistant Transportation Planner position will require an appropriation from the General Fund and from the Transit Area Impact Fee Fund in the amount of \$125,000.

Recommendations:

1. Adopt a resolution adding one Assistant City Engineer in the Engineering Land Development Division and one Assistant Transportation Planner in the Engineering Traffic Division.
2. Approve a budget appropriation from the General Fund and the TASP fund in the amount of \$62,500, respectively, for the Assistant Transportation Planner into the Engineering Traffic Division Budget.

☒ Check if City Council Approval required.

Meeting: October 20, 2015

Itemization of funds, if needed:			Amount
Requested by:	Steven Machida, Engineering Director	Date:	

Department Head:	Steven Machida, Engineering Director	Date:
Reviewed by:	Finance Director: 	Date: 10/12/15
Approved by:	City Manager:	Date:
Date approved by City Council, if required:		Confirmed by:

FI/24786/V

Form 30-222 (Rev. 1/92)

**FIRST AMENDMENT TO
CITY OF MILPITAS FEE CREDIT AGREEMENT
FOR TRANSIT AREA SPECIFIC PLAN PUBLIC
FACILITIES AND PUBLIC IMPROVEMENTS**

This First Amendment to Fee Credit Agreement for Public Facilities and Public Improvements (“Amendment”) is entered into as of _____, 2015, by and between the City of Milpitas, a municipal corporation of the State of California (“City”), and Milpitas Station (San Jose) Venture, L.L.L.P., a Delaware limited liability partnership (“Developer”), in connection with that certain Fee Credit Agreement for Transit Area Specific Plan Public Facilities and Public Improvements, dated June 17, 2014, between City and Developer (“Fee Credit Agreement”).

WHEREAS, due to no fault of Developer, it has become uncertain as to if and when Pacific Gas and Electric Company (“PG&E”) will consent to and approve the relocation of the existing Joint Poles Nos. 2, 3 and 4 and associated electrical transmission lines to the east frontage of South Milpitas Boulevard, the parties have agreed to amend the Fee Credit Agreement as set forth below;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Developer hereby agree to amend the Fee Credit Agreement as follows:

1. Construction of Improvements Section 3 of the Fee Credit Agreement entitled “Construction of Improvements” is deleted in its entirety and replaced with the following:

Construction of Improvements Developer shall complete construction of the Improvements in accordance with the plans and specifications approved by City and in accordance with City standard construction specifications and this Agreement. All Improvements shall be completed (determined by filing a notice of completion) prior to issuance of the certificate of occupancy for the final residential unit or building in Tentative Map No. 10037, unless the City determines in its sole discretion to waive such condition; except that the PG&E transmission line and pole relocation to the east side of Milpitas Boulevard Improvements shall be required to be completed prior to the issuance of the certificate of occupancy for the last residential unit in the Project. In the event that PG&E does not consent to and approve (or advises in writing that it will not consent to and approve) the relocation by the time of construction of the last residential unit within the Project, Developer’s PG&E transmission line and pole relocation Improvement obligations shall no longer be required and Developer shall receive no Improvement Fee Credit for this Improvement and City agrees to release performance and labor and material bonds described in the Subdivision Improvement

Agreement in connection with the "Joint Pole and Electrical Transmission Lines Relocation." In the event the Improvements are not fully constructed and accepted by City as set forth herein, Developer shall be in breach of this Agreement and in addition to all other legal remedies available at law or equity, City may seek reimbursement from Developer for all credits provided under this Agreement including interest at the legal rate. Additionally, City may withhold any and all certificate of occupancy, building permit, map approval, or any other City approval or permit relating to the Project.

2. Continued Effectiveness. Except as amended above, the Fee Credit Agreement shall remain in full force and effect.

3. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to be effective as of the day and year first above written.

CITY OF MILPITAS:

DEVELOPER:

MILPITAS STATION (SAN JOSE) VENTURE,
L.L.L.P., a Delaware limited liability limited
partnership

By: _____
City Manager

By: Milpitas Station (San Jose) ASLI VI,
L.L.L.P., a Delaware limited liability
limited partnership, its sole general partner

Dated: _____, 2015

Attest:

By: Milpitas Station (San Jose) GP, LLC, a
Delaware limited liability company, its sole
general partner

By: _____
City Clerk

By: Avanti Properties Group II, L.L.L.P., a
Delaware limited liability limited
partnership, its sole member and manager

Approved as to form:

By: Avanti Management Corporation, a Florida
corporation, its sole general partner

By: _____
City Attorney

By: _____
Marvin M. Shapiro, President

Date of Execution: _____, 2015

MEETING MINUTES CITY OF MILPITAS

Minutes of: Regular & Special Meetings of Milpitas City Council
Date: Tuesday, October 20, 2015
Time: 6:00 PM Closed Session / 7:00 PM Open
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

CALL TO ORDER Mayor Esteves called the meeting to order at 6:00 PM. City Clerk noted the roll.

PRESENT: Mayor Esteves, Vice Mayor Montano, Councilmembers Giordano and Grilli

ABSENT: Councilmember Barbadillo was absent at roll call and arrived at 6:01 pm.

CLOSED SESSION City Council convened in Closed Session to discuss five litigation matters.

City Council then convened in Open Session at 7:08 PM.

ANNOUNCEMENT No announcement out of closed session.

PLEDGE Boy Scouts Troop No. 92 presented the flags and led the pledge of allegiance.

INVOCATION Councilmember Barbadillo read aloud a prayer to start the meeting.

MEETING MINUTES Motion: to approve the minutes of two October 6, 2015 City Council meetings, as amended

City Clerk Mary Lavelle announced edits to each set of meeting minutes:

- 1) on Study Session, Commissioner Larry Ciardella was absent (not present, as noted)
- 2) on Regular Meeting, page 2 near the top of the page, in reference to a luncheon fundraiser at Outback Steakhouse: it was hosted by Rotary Club (not Kiwanis, as noted)

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

SCHEDULE OF MEETINGS Motion: to approve Council Calendars/Schedules of Meetings for October and November 2015

City Manager Williams reported that the Treatment Plant Advisory Committee meeting in San Jose scheduled originally on November 12 was moved to November 19 at 4:00 PM.

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

PRESENTATIONS Mayor Esteves made several presentations at the meeting.

- 1) Commended those who celebrated *Filipino American Heritage month* at the Senior Center on Saturday, October 10. He offered thanks to those who organized a showing of the film "Delano Manongs" and heard remarks from the son of Larry Itliong, subject of the film. A proclamation for Filipino American Month was received by Councilmember Barbadillo.

- 2) Proclaimed CPR Awareness Month for October. Deputy Fire Chief Rick Frawley accepted the proclamation, and encouraged residents to visit local fire stations in Milpitas for drop-in “hands-on” CPR training on Saturday, October 24, 2015.
- 3) Proclaimed *Helping Mentally Challenged People Days*, October 16 – 17 by two Knights of Columbus Councils in Milpitas, whose representatives accepted the proclamations.
- 4) Presented to homeowners the Annual Neighborhood Beautification awards, as selected by the Community Advisory Commission.

At 8:00 PM, Mayor Esteves announced that all were welcome to a reception in the lobby to celebrate the Award winners and Filipino American Month. The meeting reconvened at 8:18 PM.

PUBLIC FORUM

Syed Mohsin, member of the Community Advisory Commission, announced that the CAC and Lions Club were holding an event on Sunday, October 25 at Seasons Marketplace on Landess, “Make A Difference Day” from 10:00 AM to 4:00 PM, with several city public safety staff. It was an open and free event for the community.

Two men, Milpitas residents, addressed the Council by requesting no contract renewal for Republic Services, deemed a public nuisance. They sought the closure of the landfill at Newby Island. One of the men felt the rate for garbage service was much too high, especially compared to neighboring communities and that odor from that site continued to be very bad.

Robert Marini, Milpitas resident, commented on the Prop. 218 Notice regarding water rates that was planned to go out to all ratepayers. He sought more information to be printed on the notice related to how rates were calculated.

Tom Valore, 670 Cardiff Place, wondered if one member would clarify what was appropriate communication for those interested in the hauling and disposal contracts, and the selection of winners of the contract award (re: RFP for solid waste services). He wondered how those communications could affect the outcome, and reach a fair conclusion.

Voltaire Montemayor, Milpitas resident, talked about his family in the Phillipines and that CPR could save a life, so it was important to learn.

ANNOUNCEMENTS

City Manager Tom Williams introduced the City’s new Human Resources Director Tina Murphy, who started her new assignment with the City on this date.

Mr. Williams asked Recreation Services Manager Renee Lorentzen to explain the online survey that started on this date for the proposed new McCandless Park, seeking input from residents. He also encouraged everyone in the community to participate in the survey and give their input.

Mayor Esteves mentioned the national Mayor’s challenge for water conservation in 2015. Good success was reported for Milpitas, with pledges made online.

Mayor Esteves also noted the unfortunate recent death of a young woman in the community. The family sought donations following her passing. He then read aloud the GoFundMe online information from the newspaper and asked staff to place this request on the website.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Diaz asked Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. None were reported.

APPROVAL OF AGENDA

Motion: to approve the meeting agenda, as submitted

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted with *asterisk), as amended

Vice Mayor Montano asked to remove agenda item no. 6 (grand jury response letter) from the consent calendar.

Mayor Esteves asked a question about the fee waiver request from the Rotary Club and City Clerk confirmed that it was the first and only fee waiver request from that organization this year.

Motion/Second: Councilmember Grilli/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

- *2. Commission Appointments Arts Commission: re-appointed Nicole Phan to a new term of three years to a term that will expire in October 2018.
- Recycling and Source Reduction Advisory Commission: re-appointed Kashmir Gill to a new term of three years that will expire in October of 2018.
- Sister Cities Commission: re-appointed Peter Chang to a new term of three years that will expire September 2018.
- *4. Out of State Training Authorized out of state travel for Milpitas Fire Department administrative staff to attend the Kronos Inc. Telestaff conference in Las Vegas from November 16–18, 2015.
- *5. Waive Fees for Pumpkin Patch Per request from the Milpitas Rotary Club, approved fee waiver of Planning, Fire and Building fees totaling \$973.65 for the Rotary's Pumpkin Patch scheduled October 16 – November 2, 2015.
- *7. Adopt Ordinance Waived the second reading and adopted Ordinance No. 240.4 removing supplemental water penalties per state law.
- *8. Resolution
- 1) Adopted Resolution No. 8507 amending the Classification Plan adding one Assistant City Engineer in the Engineering Land Development Division and one Assistant Transportation Planner in the Engineering Traffic Division.
 - 2) Approved a budget appropriation from the General Fund and the TASP fees fund in the amount of \$62,500 respectively for the Assistant Transportation Planner into the Engineering Traffic Division budget.
- *9. Amendment to Fee Credit Agreement - Milpitas Station Approved the First Amendment to the Fee Credit Agreement for Transit Area Specific Plan Public Facilities and Public Improvements with Milpitas Station (San Jose) Venture.

UNFINISHED BUSINESS

1. Public Hearing on vacation of Utility Easement
- City Engineer Steven Machida explained the reason that City Council was requested to approve the summary vacation of a Public Service Utility Easement at Railroad Court next to the Union Pacific Railroad. This was not property that the City would develop or use for any public services. It was to be acquired by Santa Clara Valley Transportation Authority, related to the BART extension project. Following the public hearing, the City Council was requested to adopt a resolution for this action.
- Mayor Esteves asked what would occur if the vacation was not executed, and what consequences for the city if the easement was maintained by the City. Mr. Machida responded to several questions from the Mayor and Councilmember Barbadillo on the disposition of the property and why the action was needed.
- Next, Mayor Esteves opened the public hearing for comments.

Robert Marini, Milpitas resident, inquired as to why the City did not sell this property to BART or VTA.

Voltaire Montemayor, Milpitas resident, said all the parties needed to talk: the City, VTA and BART. He urged the agencies to play it safe, and have no litigation.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 5
NOES: 0

Mayor Esteves said he would have to trust staff about this action to give away the land, the easement. He wanted it to be advantageous for the City.

(2) Motion: to adopt Resolution No. 8506 summarily vacating a portion of the Public Service Utility Easement (PSUE) along the Northerly Projection of Railroad Court and parallel to Union Pacific Railroad

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 5
NOES: 0

REPORT

One item was approved on the consent calendar.

3. Library Advisory Commission Work plan

Library Advisory Committee Chairman Elpidio Estioko addressed the City Council and first announced who all the members on the Commission were and displayed photos of the Commissioners, from the city website.

Five accomplishments by the Commission during the last year were highlighted. Those included adoption of a donation policy, construction of a four-tier donation board, library flyers about the programs, a Filipino memorial project mural and the essay contest for students.

Milpitas Librarian Steve Fitzgerald announced a very special art exhibit coming to Milpitas Library this fall due to a special grant by the Smithsonian Institution. The exhibit is titled "What it Means to be Human." The student essay contest will be tied in to the special exhibit later this fall, scheduled November 25 to December 13, 2015.

Vice Mayor Montano complimented the work of the Library Advisory Commissioners, where she served as the Councilmember liaison. She noted the Milpitas Library was the most utilized facility in the County.

Motion: to approve the report from the Commission Chair and adopt the Library Advisory Commission workplan for the coming year

Motion/Second: Vice Mayor Montano/Councilmember Grilli

Motion carried by a vote of: AYES: 5
NOES: 0

NEW BUSINESS

Two items were approved on the consent calendar.

6. Reply to Grand Jury

Vice Mayor Montano wanted to inform the public about climate change and its impact on slowly rising sea change. City Manager Tom Williams responded, with background on what the Grand Jury inquired about and City of Milpitas actions planned to deal with the impending rise over coming decades.

Motion: to authorize the Mayor to send the proposed response letter regarding the issue of sea level rise and the City's response to the Santa Clara County Civil Grand Jury

Motion/Second: Vice Mayor Montano/Councilmember Grilli

Mayor Esteves invited comments from audience.

Robert Marini, Milpitas resident, said there would be water intrusion. He asked if they knew about water subsidence, if drilling wells for water services that could occur and that would make it disastrous for residents.

Voltaire Montemayor, Milpitas resident, said sometimes there was a high tide, which would cause problems farther into the bay when there was heavy rain with high tides. There was a concern for flooding then.

Motion carried by a vote of: AYES: 5
NOES: 0

RESOLUTION

One Resolution was adopted on the consent calendar.

ORDINANCE

One Ordinance was adopted on the consent calendar.

AGREEMENT

One item was approved on the consent calendar.

ADJOURNMENT

Mayor Esteves adjourned the City Council meeting at 9:30 PM.

The foregoing minutes were approved by the Milpitas City Council on November 3, 2015.

**Mary Lavelle,
Milpitas City Clerk**