



REGULAR MEETING AGENDA

Date: 4/13/2021
Time: 5:00 p.m.
Location: [Zoom.us/join – ID# 999 7836 0656](#) Location (Closed Session)
[Zoom.us/join – ID# 949 9073 4521](#) (Regular Session)

NOVEL CORONAVIRUS, COVID-19, EMERGENCY ADVISORY NOTICE

On March 19, 2020, the Governor ordered a statewide stay-at-home order calling on all individuals living in the State of California to stay at home or at their place of residence to slow the spread of the COVID-19 virus. Additionally, the Governor has temporarily suspended certain requirements of the Brown Act. For the duration of the shelter in place order, the following public meeting protocols will apply.

Teleconference meeting: All members of the City Council, city staff, applicants, and members of the public will be participating by teleconference. To promote social distancing while allowing essential governmental functions to continue, the Governor has temporarily waived portions of the open meetings act and rules pertaining to teleconference meetings. This meeting is conducted in compliance with the Governor Executive Order N-25-20 issued March 12, 2020, and supplemental Executive Order N-29-20 issued March 17, 2020.

- How to participate in the regular meeting
 - Submit a written comment online up to 1-hour before the meeting start time:
menlopark.org/publiccommentApril13 *
 - Access the meeting real-time online at:
[Zoom.us/join](#) – Meeting ID 949 9073 4521
 - Access the meeting real-time via telephone at:
(669) 900-6833
Meeting ID 949 9073 4521
Press *9 to raise hand to speak

*Written public comments are accepted up to 1-hour before the meeting start time. Written messages are provided to the City Council at the appropriate time in their meeting.

- Watch meeting:
 - Cable television subscriber in Menlo Park, East Palo Alto, Atherton, and Palo Alto:
Channel 26
 - Online:
menlopark.org/streaming

Note: City Council closed sessions are not broadcast online or on television and public participation is limited to the beginning of closed session.

Subject to Change: Given the current public health emergency and the rapidly evolving federal, state, county and local orders, the format of this meeting may be altered or the meeting may be canceled. You may check on the status of the meeting by visiting the City's website www.menlopark.org. The instructions for logging on to the webinar and/or the access code is subject to change. If you have difficulty accessing the webinar, please check the latest online edition of the posted agenda for updated information (menlopark.org/agenda).

According to City Council policy, all meetings of the City Council are to end by midnight unless there is a super majority vote taken by 11:00 p.m. to extend the meeting and identify the items to be considered after 11:00 p.m.

Closed Session ([Zoom.us/join](https://zoom.us/join) – ID# 999 7836 0656)

- How to participate in the closed session
 - Submit a written comment online up to 1-hour before the meeting start time:
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A. Call To Order

B. Roll Call

C. Closed Session

- C1. Closed session conference with labor negotiators pursuant to Government Code §54957.6 regarding labor negotiations with the American Federation of State, County, and Municipal Employees Local 829 (AFSCME) and Confidential employees; Service Employees International Union Local 521 (SEIU); Menlo Park Police Sergeants Association (PSA); Menlo Park Police Officers' Association (POA); and unrepresented management

Attendees: City Manager Starla Jerome-Robinson, Assistant City Manager Nick Pegueros, City Attorney Nira F. Doherty, Human Resources Director Theresa DellaSanta

- C2. Conference with city attorney – anticipated litigation
Claimant: Hardeep Singh Aulakh
Claimant: The Pierce Survivor's Trust
Authority: Government Code Section 54956.9(e)(3)

D. Adjournment

Regular Session ([Zoom.us/join](https://zoom.us/join) – ID# 949 9073 4521)

E. Call To Order

F. Roll Call

G. Study Session

- G1. Direction on the draft 2021 urban water management plan and draft water shortage contingency plan ([Staff Report #21-071-CC](#)) ([Presentation](#))

[Web form public comment received on item G1.](#)

Recess

H. Report from Closed Session

I. Public Comment

Under “Public Comment,” the public may address the City Council on any subject not listed on the agenda. Each speaker may address the City Council once under public comment for a limit of three minutes. Please clearly state your name and address or political jurisdiction in which you live. The City Council cannot act on items not listed on the agenda and, therefore, the City Council cannot respond to non-agenda issues brought up under public comment other than to provide general information.

[Web form public comment received on item I.](#)

J. Consent Calendar

- J1. Accept the City Council meeting minutes for March 16, 22, and 23, 2021 ([Attachment](#))

- J2. Receive and file City Council and advisory body annual attendance report for March 2020 – February 2021 ([Staff Report #21-068-CC](#))

[Web form public comment received on item J2.](#)

- J3. Extend terms of various advisory bodies, extend recruitment application deadline, and postpone interviews and appointments of various advisory bodies ([Staff Report #21-075-CC](#))

[Web form public comment received on item J3.](#)

- J4. Approve City Council Policy #CC-21-022 amending the City Council approved “Anti-Harassment and Non-Discrimination Policy”; City Council Policy #CC-21-023 establishing an “Anti-Bullying Policy” ([Staff Report #21-076-CC](#))

K. Regular Business

- K1. Authorize the city manager to address immediate and critical staffing needs for child care program supervision ([Staff Report #21-073-CC](#)) ([Presentation](#))

[Web form public comment received on item K1.](#)

- K2. Adopt Resolution No. 6620 to approve amendments to the salary schedule as of April 13, 2021 ([Staff Report #21-077-CC](#))

[Web form public comment received on item K2.](#)

K3. Direction on cost recovery policy (City Council Procedure #CC-10-001), library overdue fines and recreation user fees ([Staff Report #21-050-CC](#)) ([Presentation](#)) – continued from March 9, 2021, March 23, 2021, and April 6, 2021

K4. Approve framework for use of American Rescue Plan Act funds ([Staff Report #21-070-CC](#)) ([Presentation](#)) – continued and updated from March 23, 2021 and April 6, 2021

[Web form public comment received on item K4.](#)

L. Informational Items

L1. City Council agenda topics: April – May 2021 ([Staff Report #21-072-CC](#))

L2. Library and community services facility, program, and event reactivation ([Staff Report #21-078-CC](#))

L3. Update on the Transportation Management Association feasibility study's implementation plan and next steps ([Staff Report #21-074-CC](#))

[Web form public comment received on item L3.](#)

L4. Housing element advisory committee formation update ([Staff Report #21-079-CC](#))

M. City Manager's Report

N. City Councilmember Reports

O. Adjournment

At every regular meeting of the City Council, in addition to the public comment period where the public shall have the right to address the City Council on any matters of public interest not listed on the agenda, members of the public have the right to directly address the Council on any item listed on the agenda at a time designated by the chair, either before or during the City Council's consideration of the item.

At every special meeting of the City Council, members of the public have the right to directly address the City Council on any item listed on the agenda at a time designated by the chair, either before or during consideration of the item. For appeal hearings, appellant and applicant shall each have 10 minutes for presentations.

If you challenge any of the items listed on this agenda in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Menlo Park at, or prior to, the public hearing.

Any writing that is distributed to a majority of the City Council by any person in connection with an agenda item is a public record (subject to any exemption under the Public Records Act) and is available by request by emailing the city clerk at jaherren@menlopark.org. Persons with disabilities, who require auxiliary aids or services in attending or participating in City Council meetings, may call the City Clerk's Office at 650-330-6620.

Agendas are posted in accordance with Government Code Section 54954.2(a) or Section 54956. Members of the public can view electronic agendas and staff reports by accessing the City website at menlopark.org/agenda and can receive email notification of agenda and staff report postings by subscribing to the "Notify Me" service at menlopark.org/notifyme. Agendas and staff reports may also be obtained by contacting City Clerk at 650-330-6620. (Posted: 4/8/2021)



STAFF REPORT

City Council

Meeting Date:

4/13/2021

Staff Report Number:

21-071-CC

Study Session:

Direction on the draft 2020 Urban Water Management Plan and draft Water Shortage Contingency Plan

Recommendation

Provide direction on the draft urban water management plan (UWMP) and draft water shortage contingency plan (WSCP) that must be submitted to the Department of Water Resources (DWR) by July 1. Staff is seeking direction to confirm:

1. UWMP should include San Francisco Utility Commission's (SFPUC) supply reliability data with the Bay-Delta Plan
2. UWMP should include Bay Area Water Supply and Conservation Agency's (BAWSCA) equal drought cutbacks across each of the BAWSCA member agencies (for cutbacks greater than 20 percent)

Pending the City Council's direction, the public hearing to adopt the 2020 UWMP and WSCP is tentatively scheduled for May 25 before the July 1 submittal deadline, unless the deadline changes.

Policy Issues

Menlo Park Municipal Water (MPMW) is a city-owned water service provider for a portion of the City of Menlo Park. The City Council acts as the governing body for MPMW and is responsible for ensuring the financial stability of the water system including setting customer rates, approving capital plans and other expenditures, and declaring a drought (by adopting a drought stage as outlined in the WSCP, which is included in the UWMP.)

Background

MPMW supplies water to approximately half of the City (Attachment A) or approximately 19,000 residents through almost 4,400 service connections. MPMW purchases all of its water from SFPUC. MPMW has one emergency well located at the City's Corporation Yard at 333 Burgess Drive that is pending approval from the State Water Resources Control Board (State Water Board), and once permitted, will be able to provide up to 1,500 gallons per minute of water when normal supply is reduced or unavailable.

San Francisco Public Utilities Commission (SFPUC)

The SFPUC owns and operates the regional water system (RWS.) Its major water source originates from spring snowmelt in Yosemite National Park and flows down the Tuolumne River to storage in Hetch Hetchy Reservoir. The Reservoir then feeds into an aqueduct system delivering water 167 miles by gravity to Bay Area reservoirs and, ultimately, to San Francisco and BAWSCA agencies, also known as the Wholesale Customers, for delivery to Bay Area customers. The Hetch Hetchy Watershed provides approximately 85 percent of the RWS supply. The remaining 15 percent of the supply is drawn from local surface waters in the Alameda and Peninsula watersheds. Attachment B is a map showing the RWS.

During shortages up to a 20 percent reduction, the City's water supply agreement with SFPUC describes how water would be divided between SFPUC retail customers and Wholesale Customers as a whole (Tier One Plan) and between each of SFPUC's 26 Wholesale Customers (Tier Two Plan.)

Bay Area Water Supply and Conservation Agency (BAWSCA)

The City is a member agency of BAWSCA, a special district that represents the interest of 26 cities, water districts, and private utilities that are long term purchasers of wholesale water from SFPUC. Attachment C illustrates the BAWSCA service area and member agencies. The City's water supply agreement with SFPUC authorizes BAWSCA to represent the interest of the 26 Wholesale Customers collectively. BAWSCA is actively engaged to ensure that SFPUC meets its contractual obligations so that sufficient water supply is available to each Wholesale Customer during normal and multiple dry years.

Bay-Delta Plan

The State Water Board oversees the San Francisco Bay/Sacramento-San Joaquin Delta Estuary Water Quality Control Plan (also known as the Bay-Delta Plan) which establishes water quality control measures and flow requirements for beneficial uses in the watershed. Updating the Bay-Delta Plan began in 2009, and the State approved it in December 2018. It requires keeping 30 to 50 percent of watershed runoff in the lower San Joaquin River and three tributaries – Tuolumne, Merced and Stanislaus rivers – from February to June to help increase salmon population, thus reducing the amount of water for San Francisco and BAWSCA agencies. The Bay-Delta Plan is scheduled to go into effect in 2023.

If the Bay-Delta Plan is implemented, SFPUC will be able to meet the Wholesale Customers' projected water demands, except there would be supply shortages in drought years. Drought years are described as "single" or "multiple" dry years to reflect the severity and duration of a drought. Implementing the Bay-Delta Plan will require rationing in all single dry years and multiple dry years. To help offset long-term impacts, SFPUC is actively pursuing an Alternative Water Supply Program to provide new regional and local water supply and storage projects.

Attachment D provides a timeline of key activities relating to the Bay-Delta Plan. Key highlights include:

- In 2017, BAWSCA submitted a comment letter to the State identifying significant impacts to member agencies (Attachment E.)
- The City also submitted a letter in 2017 (Attachment F) detailing specific water supply impacts including up to 50 percent reductions under drought conditions for multiple consecutive years if the Bay-Delta Plan was approved.
- In 2019, more than a dozen lawsuits (including SFPUC) have been filed challenging the State Water Board's adoption of the Bay-Delta Plan, including a legal challenge filed by the federal government, at the request of the U.S. Department of Interior, Bureau of Reclamation.
- Governor Newsom indicated his strong support for negotiated voluntary agreements to resolve the issues as an alternative to the Bay-Delta Plan. SFPUC and two irrigation districts developed voluntary agreements to address both the environmental need for water and the Bay Area's need for water supply reliability. One of the voluntary agreements, the Tuolumne River Voluntary Agreement (TRVA) has been submitted to the State Water Board for review, and BAWSCA is active in encouraging the State to perform their evaluation. Attachment G contains a March 9 statement from Nicole Sandkulla, Chief Executive Officer of BAWSCA, about the need for the State to analyze the TRVA as an alternative to the Bay-Delta Plan.

Staff and BAWSCA representatives will be present at the April 13 City Council meeting to provide additional information about the Bay-Delta Plan and TRVA as well.

Urban water management plan (UWMP)

DWR (California Water Code, §10610-10656 and §10608) requires urban water suppliers prepare UWMPs every five years. These plans must assess the reliability of water sources over a 20-year planning period considering future demands, growth, and population to ensure that adequate water supplies are available to meet existing and future water needs for up to five consecutive dry years. Every urban water supplier that either provides over 3,000 acre-feet of water annually, or serves more than 3,000 service connections is required to submit an UWMP. MPMW meets these requirements. Calwater also is required to submit a UWMP for its area of service that includes part of Menlo Park.

The City Council adopted the 2015 UWMP in June 2016 (DWR extended the submittal deadline), see Attachment H. The 2015 UWMP evaluated shortages for up to three consecutive dry years and includes a WSCP, which describes demand management measures and lists specific City actions and regulations/prohibitions the City could implement for four drought stages (up to 10 percent, up to 20 percent, up to 30 percent, and up to 50 percent reductions.)

New requirements for the 2020 UWMP include evaluating shortages for up to five consecutive dry years and the WSCP must consist of six drought stages (up to 10 percent, up to 20 percent, up to 30 percent, up to 40 percent, up to 50 percent, and greater than 50 percent reductions.) The City must adopt both the 2020 UWMP and WSCP and submit them to DWR by July 1 in order to be eligible for State grants, loans and drought assistance. It should be noted that the City distributed the Proposition 218 notice for proposed water rates at the end of March and it included drought surcharges corresponding to these six drought stages.

On April 21, 2020, the City Council approved an agreement with EKI to develop the 2020 UWMP and WSCP. EKI worked closely with planning and public works staff to compile the necessary data, and the draft report is underway.

Urban water suppliers are required to notify local governmental agencies and other water suppliers in the area at least 60 days before the public hearing that they are considering revisions to its UWMP and WSCP. On February 16, the City emailed notices to local agencies and MPMW water customers. The City’s UWMP webpage (Attachment H) also provides up-to-date information on developing the 2020 UWMP and WSCP.

Analysis

Water supply reliability

During normal non-drought years, MPMW is expected to have adequate water supplies to meet its projected demands through 2040. Table 1 shows that MPMW’s projected demands through 2040, which includes population and employment growth from the City’s General Plan, are less than MPMW’s Individual Supply Guarantee (ISG) from SFPUC. Additional growth anticipated from upcoming planning efforts, including the latest regional housing needs allocations from the Association of Bay Area Governments and the City’s Housing Element update, will include an additional evaluation of water supply needs.

Table 1: Projected water demands					
20-year projections	2020	2025	2030	2035	2040
MPMW ISG (million gallons, mgd)	4.456	4.456	4.456	4.456	4.456
MPMW projected demand (mgd)	2.869	3.549	3.682	3.864	4.060
Percent of total ISG	64.4%	79.7%	82.6%	86.7%	91.1%

SFPUC provided water supply reliability data to all Wholesale Customers with the Bay-Delta Plan for the next five years. As SFPUC’s Tier Two Plan for individual agencies was not designed for RWS shortages greater than 20 percent, BAWSCA provided a refined methodology to allocate RWS supplies during projected future single dry and multiple dry years in the instance where the supply shortfalls are greater than 20 percent. The revised methodology developed by BAWSCA allocates the wholesale RWS supplies as an equal percent reduction that would be applied across all agencies. The proposed equal reduction is the best available way to calculate the reductions at this time and does not result in deeper cutbacks to MPMW customers than any other agency. BAWSCA’s allocation method is only intended to serve as the preliminary basis for the 2020 UWMP supply reliability analysis, and does not in any way imply an agreement by BAWSCA member agencies as to the exact allocation methodology. BAWSCA member agencies are in discussions about jointly developing an allocation method in the event that SFPUC is not able to deliver its contractual supply volume, and its cutbacks to the RWS supply exceed 20 percent. This process could take up to two years, and all the BAWSCA member agencies will have to adopt the revised Tier Two allocation method in order for it to go into effect.

The resulting supply reliability impacts to BAWSCA member agencies with implementation of the Bay-Delta Plan through year 2040 are shown in Table 2. If implemented, MPMW will see SFPUC supply shortages in single dry years or multiple dry years upward of 50 percent and will need to implement rationing. Numerous uncertainties remain in the implementation of the Bay-Delta Plan, and it is unknown if the State Water Board will adopt a voluntary agreement in the future. Therefore, the water supply shortfalls in Table 2 likely represent a worst-case scenario in which the Bay-Delta Plan is implemented. Given that the Bay-Delta Plan is currently adopted by the State, staff recommends including these projections in the 2020 UWMP, and many other BAWSCA agencies have recently confirmed that they plan on doing the same. The values shown in Table 2 are the most current projections available as of midday April 9, 2021. However, SFPUC and BAWSCA are continuing to update the projections, and therefore, they may continue to change before UWMP adoption.

Table 2: Percent cutback to the wholesale customers with Bay-Delta Plan

20-year projections	2020	2025	2030	2035	2040
Normal non-drought years	0%	0%	0%	0%	0%
Consecutive first dry year	0%	-36%	-36%	-36%	-37%
Consecutive second dry year	0%	-45%	-45%	-46%	-46%
Consecutive third dry year	-47%	-45%	-45%	-46%	-46%
Consecutive fourth dry year	-47%	-45%	-45%	-46%	-52%
Consecutive fifth dry year	-47%	-45%	-45%	-50%	-52%

Note: In the UWMP, these BAWSCA percent cutbacks will be applied to water use within MPMW’s service area.

SFPUC also provided water supply reliability projections without the Bay-Delta Plan, which likely represents a highly optimistic water supply reliability outcome. These projections indicate that without the Bay-Delta Plan, SFPUC would be able to supply 100% of projected RWS demands in all years through 2040. The large disparity in projected water supply reliability between these two scenarios demonstrate the current uncertainty. Given the current uncertainty, the City could update its water supply reliability assessment before the 2025 UWMP update if significant new information becomes available. Table 3 shows MPMW impacts with and without implementation of the Bay-Delta Plan for the next five years. The City’s UWMP will also include a discussion of the water management actions taken by MPMW, BAWSCA, and SFPUC to

address the projected shortfalls.

Staff is seeking City Council confirmation that the UWMP should include SFPUC’s supply reliability data with the Bay-Delta Plan, but also discuss supply reliability without the Bay-Delta Plan in the text for context, and show BAWSCA’s equal drought cutbacks for the BAWSCA member agencies (for cutbacks greater than 20 percent.)

Table 3: MPMW supply reliability and drought cutbacks, with and without Bay-Delta Plan

5-year projections	2021	2022	2023	2024	2025
Demand for BAWSCA drought allocations (mgd) ^{1,2}	2.92	2.93	2.93	2.93	2.93
Available supply <u>with</u> Bay-Delta Plan (mgd)	2.92	2.76	1.55	1.55	1.55
% Drought cutback ³	0%	-6%	-47%	-47%	-47%
Available supply <u>without</u> Bay-Delta Plan (mgd)	2.92	2.76	2.76	2.76	2.76
% Drought cutback	0%	-6%	-6%	-6%	-6%

Notes:

1. MPMW’s individual supply guarantee (ISG) is 4.456 mgd.
2. BAWSCA used MPMW’s fiscal year 2021-2022 projected demands (2.93 mgd) to calculate drought allocations, and applied the same cutbacks for subsequent dry years.

In the UWMP, these BAWSCA percent cutbacks will be applied to water use within MPMW’s service area.

Water shortage contingency plan (WSCP)

The WSCP, a component of the 2020 UWMP, outlines proposed shortage response actions (City responses and corresponding regulations/prohibitions) for each of the required six drought stages. It provides flexibility for the City Council to incorporate additional regulations/prohibitions based on any future emergency water regulations adopted by the State Water Board or drought-related actions imposed by SFPUC.

Attachment I shows proposed shortage response actions (responses and regulations/prohibitions that the City would implement) for each of the six drought stages, including State Water Board mandatory regulations that are currently in effect.

Next steps

EKI will incorporate City Council’s feedback and develop the draft 2020 UWMP and WSCP. DWR requires the City notify local agencies and MPMW customers when the public review draft is available, however, there is not a required minimum time period to allow public review. Staff anticipates the public review draft will be available in late April, therefore allowing approximately four weeks for public review before the May 25 public hearing. The City Council must hold a public hearing, adopt both the 2020 UWMP and WSCP, and submit them to DWR by July 1. Staff is seeking City Council confirmation to schedule the public hearing for May 25. Table 3 provides a timeline.

Table 3: 2020 UWMP and WSCP timeline	
Date	Description
April 13	City Council study session (this meeting) to discuss the 2020 UWMP and WSCP
Late-April	Draft 2020 UWMP and WSCP available for public review. Staff will notify local agencies and MPMW water customers that the draft documents are available on the City's UWMP webpage
May 25	Public hearing to adopt the 2020 UWMP and WSCP
July	Final 2020 UWMP and WSCP will be available on the City's UWMP webpage. Staff will notify local agencies and MPMW water customers that the final documents are available on the City's UWMP webpage

Impact on City Resources

No additional appropriations or resources are requested to prepare the 2020 UWMP and WSCP, but feedback provided by the City Council during the study session will help staff complete the UWMP and WSCP to support MPMW's long-term resource planning to ensure that adequate water supplies are available to meet existing and future water needs.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

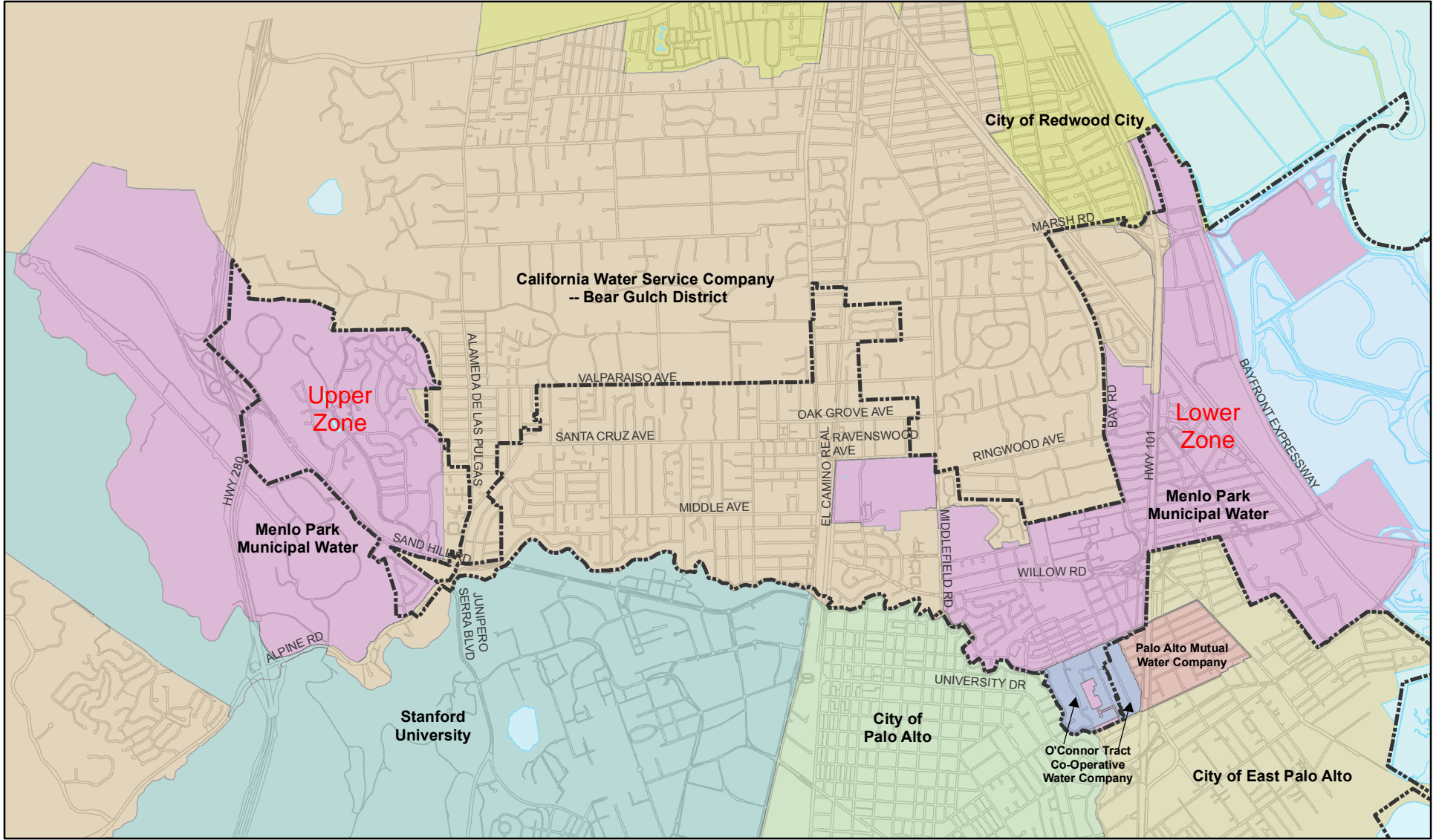
Attachments

- A. MPMW service area map
- B. SFPUC Regional Water System map
- C. BAWSCA member agency map
- D. Timeline of Bay-Delta Plan key activities
- E. BAWSCA 2017 comment letter to the State Water Board identifying Bay-Delta Plan significant impacts to agencies
- F. City 2017 comment letter to the State Water Board detailing specific Bay-Delta Plan supply impacts
- G. BAWSCA (Nicole Sandkulla, CEO) March 9 statement about the need for the State to analyze the TRVA as an alternative to the Bay-Delta Plan
- H. Hyperlink - Urban Water Management Plan - menlopark.org/watermanagementplan
- I. Proposed WSCP drought stages and shortage response actions

Report prepared by:
 Pam Lowe, Senior Civil Engineer

Staff Report #: 21-071-CC

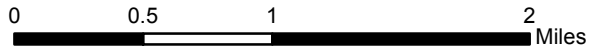
Report reviewed by:
Christopher Lamm, Assistant Public Works Director



- | | |
|-------------|--|
| City Limits | Water Provider |
| Travel Ways | California Water Service Company – Bear Gulch District |
| Water | City of East Palo Alto |
| | City of Palo Alto |
| | City of Redwood City |
| | Menlo Park Municipal Water |
| | Stanford University |
| | Palo Alto Mutual Water Company |
| | O'Connor Tract Co-Operative Water Company |



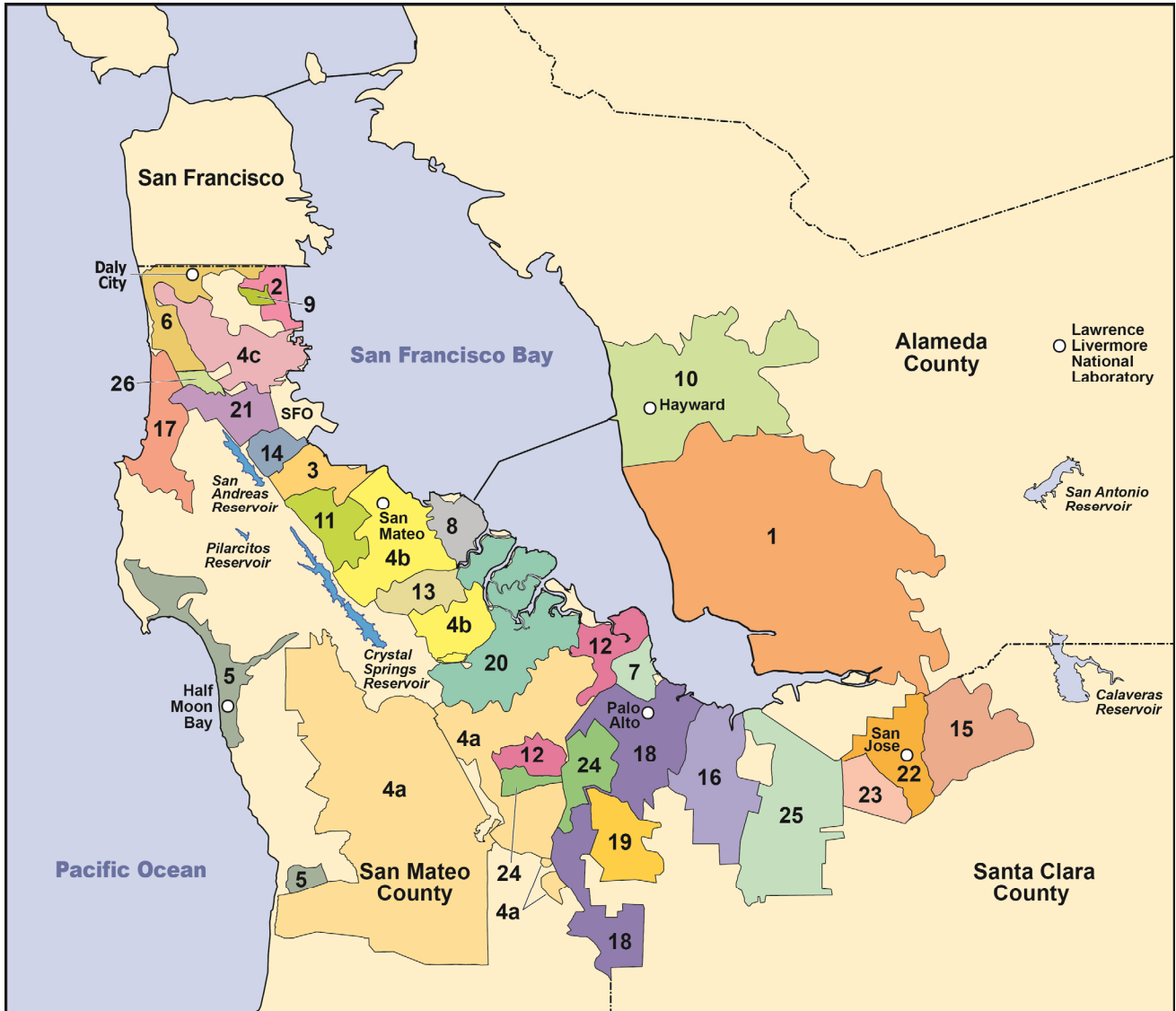
Water Agencies Within and Surrounding Menlo Park



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San Francisco Regional Water System Map





Legend

- | | |
|---|--------------------------------------|
| 1 Alameda County Water District | 13 Mid-Peninsula Water District |
| 2 City of Brisbane | 14 City of Millbrae |
| 3 City of Burlingame | 15 City of Milpitas |
| 4a CWS – Bear Gulch | 16 City of Mountain View |
| 4b CWS – Mid-Peninsula | 17 North Coast County Water District |
| 4c CWS – South San Francisco | 18 City of Palo Alto |
| 5 Coastside County Water District | 19 Purissima Hills Water District |
| 6 City of Daly City | 20 City of Redwood City |
| 7 City of East Palo Alto | 21 City of San Bruno |
| 8 Estero Municipal Improvement District | 22 San Jose Municipal Water System |
| 9 Guadalupe Valley MID | 23 City of Santa Clara |
| 10 City of Hayward | 24 Stanford University |
| 11 Town of Hillsborough | 25 City of Sunnyvale |
| 12 City of Menlo Park | 26 Westborough Water District |

Sources: BAWSCA, San Mateo County General Plan

Bay-Delta Plan Phase 1 and Voluntary Agreement Timeline

2009	Current Bay Delta Water Quality Control Plan Phase I (Plan) Update Begins
2013	<p>Release & Review of Draft Phase I Plan and CEQA Document</p> <ul style="list-style-type: none"> • BAWSCA comment letter identifies water supply impacts to BAWSCA agencies • SFPUC comment letter identifies significant impact & inadequate CEQA compliance
2016	<p>Revised Draft Phase I Plan & CEQA Released (Sept.)</p> <ul style="list-style-type: none"> • Governor Brown urges State Board to be open to VA to resolve Bay Delta issues & appoints Babbitt to lead negotiations
2017	<p>Review & Comment on Revised Draft Phase I Plan</p> <ul style="list-style-type: none"> • State convenes monthly VA “Babbitt” negotiations; BAWSCA not allowed to participate • BAWSCA comment letter identifies significant impacts to BAWSCA agencies • All BAWSCA agencies submit comment letters detailing specific water supply impacts • SFPUC comment letter identifies significant impacts & inadequate CEQA compliance
2018	Final Phase I Plan Adopted (Dec.)
2019	<p>Lawsuits Filed on Adopted Phase I Plan</p> <ul style="list-style-type: none"> • Governor Newsom reinitiates VA discussions • SF joins lawsuit against State Board on adoption of Phase I Plan (Jan.) • BAWSCA intervenes in lawsuit against State Board (March) • CNRA/CEPA provides VA progress report (July)
2020	CNRA/CEPA announce a Framework for VAs (Feb.)

Source: BAWSCA



COMMENTS ON THE 2016
DRAFT REVISED SUBSTITUTE ENVIRONMENTAL DOCUMENT IN
SUPPORT OF POTENTIAL CHANGES TO THE
WATER QUALITY CONTROL PLAN FOR THE
SAN FRANCISCO BAY-SACRAMENTO SAN JOAQUIN DELTA
ESTUARY: SAN JOAQUIN RIVER FLOWS AND SOUTHERN DELTA
WATER QUALITY



BAWSCA Member Agency Service Area

MARCH 17, 2017

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March 17, 2017

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814-0100
commentletters@waterboards.ca.gov

RE: BAWSCA Comments on the 2016 Draft Revised Substitute Environmental Document In Support of Potential Changes to the Water Quality Control Plan for the San Francisco Bay-Sacramento San Joaquin Delta Estuary: San Joaquin River Flows and Southern Delta Water Quality

Dear Ms. Townsend:

The Bay Area Water Supply and Conservation Agency (BAWSCA) submits the following comments regarding the *Draft Revised Substitute Environmental Document In Support of Potential Changes to the Water Quality Control Plan for the San Francisco Bay-Sacramento San Joaquin Delta Estuary: San Joaquin River Flows and Southern Delta Water Quality* (hereinafter referred to as "2016 Draft SED" or "SED") issued by the State Water Resources Control Board (State Board) on September 15, 2016. In addition, BAWSCA incorporates by reference the March 16, 2017 *Comments by the City and County of San Francisco (CCSF) to the Draft Substitute Environmental Document in Support of Potential Changes to the Bay-Delta Plan* (CCSF SED Comments) as well as individual comment letters of wholesale agencies represented by BAWSCA (the "Wholesale Customers").

BAWSCA supports the objectives of the Bay-Delta Plan and is committed to working with other stakeholders to protect water quality in the Bay-Delta Water Quality Control Plan for humans, fish, and other wildlife; understands the difficult task faced by the State Board; and supports the "Alternative to promote the expansion of natural fall-run Chinook salmon and *Oncorhynchus mykiss* populations in the lower Tuolumne River while maintaining water supply reliability" proposal put forth by the San Francisco Public Utilities Commission (SFPUC) as a means to accomplish the benefits for the Tuolumne River needed to restore and sustain the long term health of the Bay Delta.¹

I. BAWSCA'S INTEREST IN THE 2016 DRAFT SED

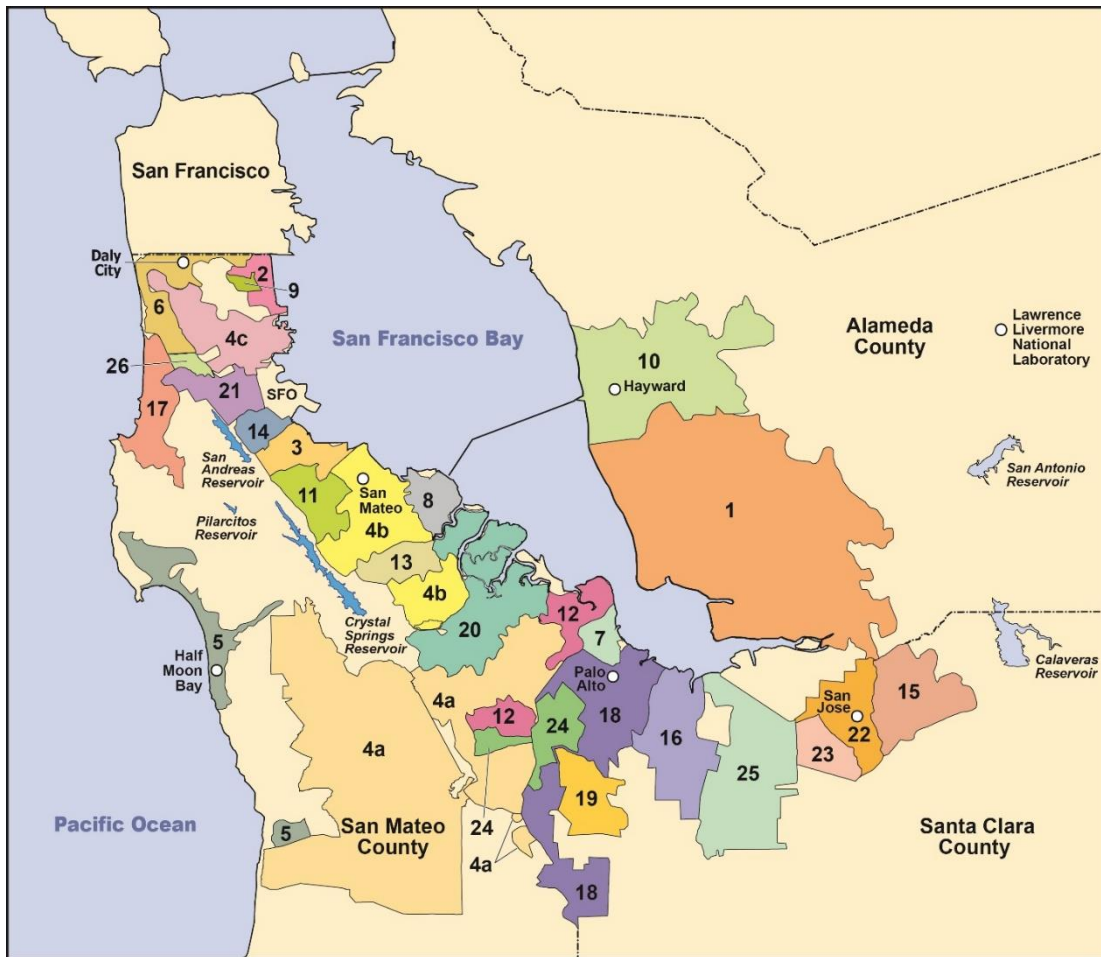
BAWSCA is a special district that represents the interests of twenty-four cities and water districts and two private utilities that are long term purchasers of wholesale water from CCSF's Regional Water System ("RWS"), including water originating on the Tuolumne River.²

¹ See *Comments by the City and County of San Francisco (CCSF) to the Draft Substitute Environmental Document in Support of Potential Changes to the Bay-Delta Plan* (CCSF SED Comments), *Alternative to promote the expansion of natural fall-run Chinook salmon and Oncorhynchus mykiss populations in the lower Tuolumne River while maintaining water supply reliability* (SFPUC Alternative).

² Wat. Code, § 81300 et seq.; State Water Resources Control Board, California Environmental Protection Agency, *Draft Revised Substitute Environmental Document In Support of Potential Changes to the Water Quality Control Plan for the San Francisco Bay-Sacramento San Joaquin Delta Estuary: San Joaquin River Flows and Southern Delta Water Quality* (September 2016) Appendix L, p. L-6 (hereinafter "2016 Draft SED").

BAWSCA's governing board includes representatives from each of its twenty-six member agencies and these twenty-six agencies are hereinafter referred to as "BAWSCA agencies." Through the BAWSCA agencies, the water purchased from CCSF is redistributed to over 1.78 million people and over 40,000 businesses and community organizations in Alameda, Santa Clara and San Mateo counties. BAWSCA, the BAWSCA agencies, and the 1.78 million customers relying on the RWS have a clear interest, individually and collectively, in a reliable water system and in the 2016 Draft SED. Figure 1 illustrates the BAWSCA service area and agencies.

Figure 1: BAWSCA Member Agency Service Area

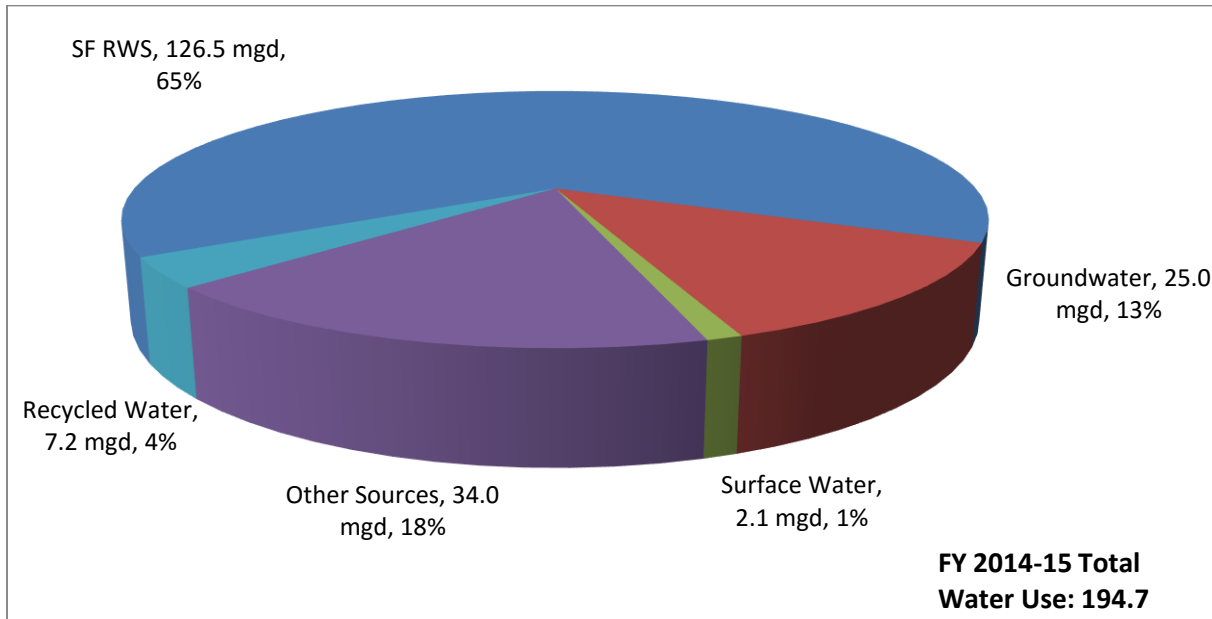


Legend

- | | | |
|-----------------------------------|-----------------------------|-----------------------------------|
| 1 Alameda County Water District | 9 Guadalupe Valley MID | 19 Purissima Hills Water District |
| 2 City of Brisbane | 10 City of Hayward | 20 City of Redwood City |
| 3 City of Burlingame | 11 Town of Hillsborough | 21 City of San Bruno |
| 4a CWS – Bear Gulch | 12 City of Menlo Park | 22 San Jose Municipal Water |
| 4b CWS – Mid-Peninsula | 13 Mid-Peninsula Water | 23 City of Santa Clara |
| 4c CWS – South San Francisco | 14 City of Millbrae | 24 Stanford University |
| 5 Coastside County Water District | 15 City of Milpitas | 25 City of Sunnyvale |
| 6 City of Daly City | 16 City of Mountain View | 26 Westborough Water District |
| 7 City of East Palo Alto | 17 North Coast County Water | |
| 8 Estero Municipal Improvement | 18 City of Palo Alto | |

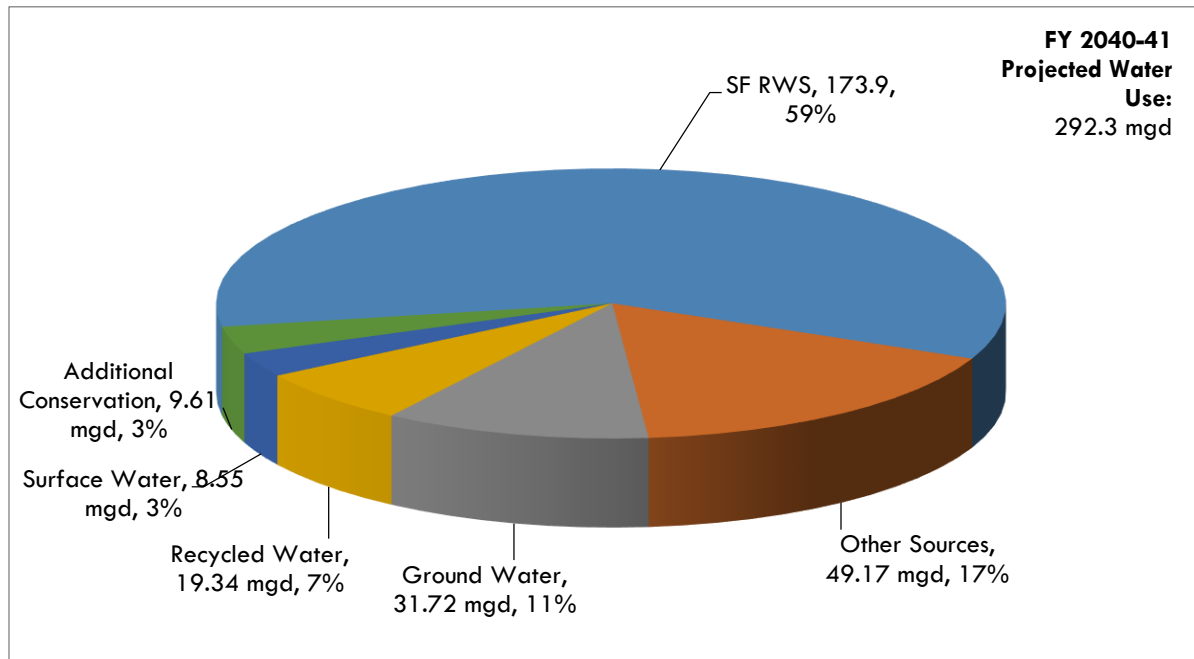
Source: BAWSCA FY 2014-15 Annual Survey

Figure 3: BAWSCA Fiscal Year 2014-15 Total Water Use by Source



Source: BAWSCA Annual Survey FY 2014-15

Figure 4: BAWSCA Projected Fiscal Year 2040-41 Total Water Use by Source



Source: BAWSCA Annual Survey FY 2014-15

The water supplies currently available to the BAWSCA agencies are limited, and reliability is affected by several issues including policy decisions, hydrologic conditions, regulatory actions, climate change, and other factors.⁵ CCSF policy decisions have limited the water supplies currently available to the BAWSCA member agencies. As part of the Water System Improvement Plan (WSIP), Program Environmental Impact Report (PEIR), CCSF evaluated and unilaterally selected the Phased WSIP Variant as the preferred alternative. The Phased WSIP Variant included full implementation of the proposed WSIP facility improvement projects to ensure that public health, seismic safety, and delivery reliability goals are achieved, but limited RWS deliveries to 265 million gallons per day (mgd) in normal water years. Specifically, as part of the Phased WSIP Variant, in October 2018, the SFPUC made the unilateral decision to limit the water supply available from the RWS to the BAWSCA member agencies to 184 mgd until at least until 2018. For purposes of water supply planning, BAWSCA has assumed that deliveries from the RWS to the BAWSCA member agencies will not be in excess of 184 mgd, through 2040. This assumption is consistent with what the SFPUC has stated in public documents.⁶

In October 2008, SFPUC adopted an 80 percent level of service (LOS) goal for the RWS. Based on the drought allocation formula used in the 2009 Water Supply Agreement between San Francisco and the BAWSCA Wholesale Customers (Attachment H, Water Shortage Allocation Plan, the "Tier 1 Plan"), assuming a full system demand of 265 mgd (184 mgd for the Wholesale Customers), a drought event that creates a 10 percent RWS shortfall corresponds to an average 17 percent cutback to the Wholesale Customers, in aggregate, while a 20 percent system-wide shortfall corresponds to an average 28 percent cutback to Wholesale Customers.⁷ In addition, the allocation varies for each BAWSCA member agency (i.e., under a 20 percent system-wide shortfall, some agencies could receive a cutback of up to 40 percent to their RWS supply, while some receive less than the 28 percent cutback).⁸ Lastly, the existing drought allocation plans apply to shortages of up to 20 percent system wide, due to a recognition of the severe impacts among communities in cases of shortages that exceed 20 percent. The drought plan allows for the parties to agree to adjustments to the drought allocation plan in such a circumstance.

Based on the information presented in BAWSCA's 2015 Long-Term Reliable Water Supply Strategy Phase II Final Report (Phase II Final Report), the drought year water supply needs for the BAWSCA member agencies in 2040, with 20 percent shortage conditions on the RWS, is anticipated to be 43 mgd, which corresponds to a 26 percent shortage to the Wholesale Customers, in aggregate.⁹ The results presented in the Phase II Final Report assume that only RWS supplies are impacted and there is no shortage on agencies' other

⁵ Bay Area Water Supply & Conservation Agency, *Long-Term Reliable Water Supply Strategy Phase 1 Scoping Report*, (May 27, 2010) at p. 2-6, available at http://bawasca.org/uploads/userfiles/files/BAWSCA%20Strategy%20Final%20Report%202010_05_27.pdf (hereinafter "BAWSCA Phase 1 Scoping Report").

⁶ San Francisco Public Utilities Commission, *Draft May 2016 2040 WaterMAP: A Water Management Action Plan for the SFPUC*, (May 2016) at p. 4.

⁷ See Declaration of Matt Moses in *Support of Comments by the City and County of San Francisco to the Draft Substitute Environmental Document in Support of Potential Changes to the Bay-Delta Plan* (Moses Decl.), attached as Appendix 2, see Attachment 1 to the Moses Decl., *SFPUC Analysis of Proposed Changes to Tuolumne River Flow Criteria*, Matt Moses, P.E., Water Resources Engineer, San Francisco Public Utilities Commission, March 2017 (referred to as "SFPUC Analysis of Changes to Flow Criteria"), Table 2 at p. 10; see also Water Supply Agreement Between The City And County Of San Francisco And Wholesale Customers In Alameda County, San Mateo County And Santa Clara County, July 2009 (WSA), Attachment H, "Water Shortage Allocation Plan," hereafter referred to as the "Tier 1 Plan," available at <https://sfwater.org/modules/showdocument.aspx?documentid=8632>.

⁸ BAWSCA Phase II Final Report at p. 2-8, available at http://bawasca.org/uploads/userfiles/files/BAWSCA_Strategy_Phase_II_Final_Report_Feb_2015.pdf

⁹ BAWSCA Phase II Final Report at p. 2-8.

supplies. This assumption is incorrect as proven during the most recent/current drought. For example, State Water Project (SWP) supplies were also cutback (5% allocation was unprecedented) concurrent with the cutbacks on the RWS, this resulted in certain BAWSCA member agencies relying more heavily on the RWS supplies, which in turn impacted the rest of the BAWSCA member agencies. Moreover, under drought conditions where the alternative flows proposed in the 2016 Draft SED impact water supplies from the LSJR, local water supplies that are part of the RWS, as well as individual BAWSCA agencies alternative water supplies, will also be negatively impacted by a drought.

b. The SED Alternative Flows Will Have A Significant Impact On BAWSCA

LSJR Alternatives 2, 3, and 4 in the 2016 Draft SED include an unimpaired flow range, (*i.e.*, 20 percent, 40 percent, and 60 percent respectively), between February and June, all of which would have a severe impacts on the RWS. The 2016 Draft SED defines “[u]nimpaird flow” as “the flow that would accumulate in surface waters in response to rainfall and snowmelt, and flow downstream if there were no reservoirs or diversions to change the quantity, timing, and magnitude of flows.”¹⁰ When compared to the baseline, the results show that increased instream flow requirements on the Lower Tuolumne River potentially required as a result of water quality certification associated with FERC relicensing, and required under Phase 3 of the SED proposed to implement the Bay-Delta Plan changes through water rights actions, would have the greatest impact on CCSF water supply during a drought. The flow requirements would also negatively impact the water bank account balance at New Don Pedro Reservoir. Reductions in the water bank account balance are replenished in average years; however, the results show that during multi-year droughts the balance is further diminished under the LSJR Alternatives.¹¹

Specifically, implementation of LSJR Alternatives 3 or 4 would cause severe water shortages in the RWS service territory during a sequential year drought.¹² The 2016 Draft SED estimates that, assuming a reoccurrence of 1987-1992 hydrology at a 2010 baseline RWS demand of 226 mgd¹³, the average annual additional water supply reduction CCSF could experience if the State Board implemented a 40 percent unimpaired flow objective on the Tuolumne River would be 119,000 AF/year for each year of a 6-year drought.¹⁴ However, the water supply reduction to the RWS, as calculated by the SFPUC water supply operations models, would be far greater.¹⁵ In addition, the supply available to the Wholesale Customers under the Tier 1 Plan would be a subset of the total available to the RWS.¹⁶

Per the SFPUC’s analysis, under a 40 percent unimpaired flow objective, the RWS supply would be reduced by 129,884 AF/year for each of the 6 years, resulting in a loss of an additional 10,884 AF/year, or 65,304 AF in total for the 6-year period beyond the water supply reduction identified in the 2016 Draft SED.¹⁷ Figures 5 and 6 illustrate the reductions in RWS supply for the Wholesale Customers during a repeat of the historic 6-year drought sequence for three unimpaired flow objectives presented in the 2016 Draft SED for two different demand scenarios.

¹⁰ 2016 Draft SED at p. 3-5.

¹¹ 2016 Draft SED, Appendix L, at p. L-20.

¹² See SFPUC Analysis of Changes to Flow Criteria Tables 2-4 at pp. 10 -12; See also Tier 1 Plan, *available at* <https://sfwater.org/modules/showdocument.aspx?documentid=8632> .

¹³ 2016 Draft SED, Appendix L, at p. L-5.

¹⁴ 2016 Draft SED, Appendix L, at p. L-21, Table L.4-2.

¹⁵ SFPUC Analysis of Changes to Flow Criteria, Table 3 at p. 11..

¹⁶ See Tier 1 Plan

¹⁷ SFPUC Analysis of Changes to Flow Criteria, Table 3 at p. 11.

Figure 5: Wholesale Customer Cutback Percentage at Current (Pre-Drought) Demands of 223 MGD during Historic 6-Year Drought Sequence for Three Unimpaired Flow Objectives

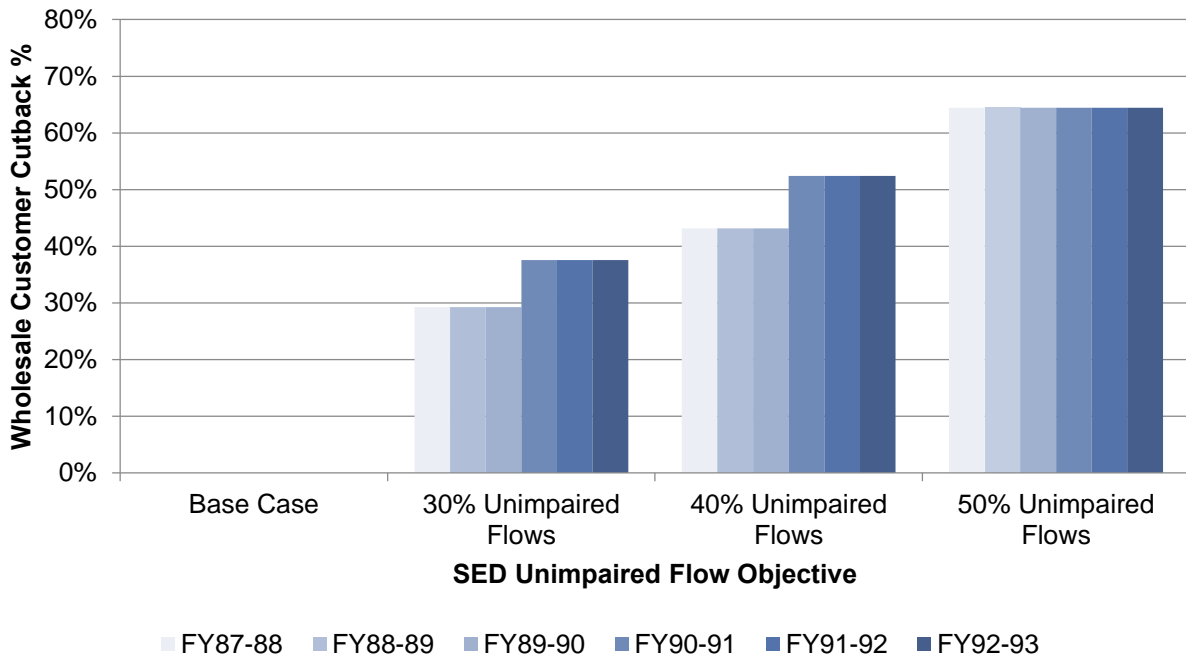
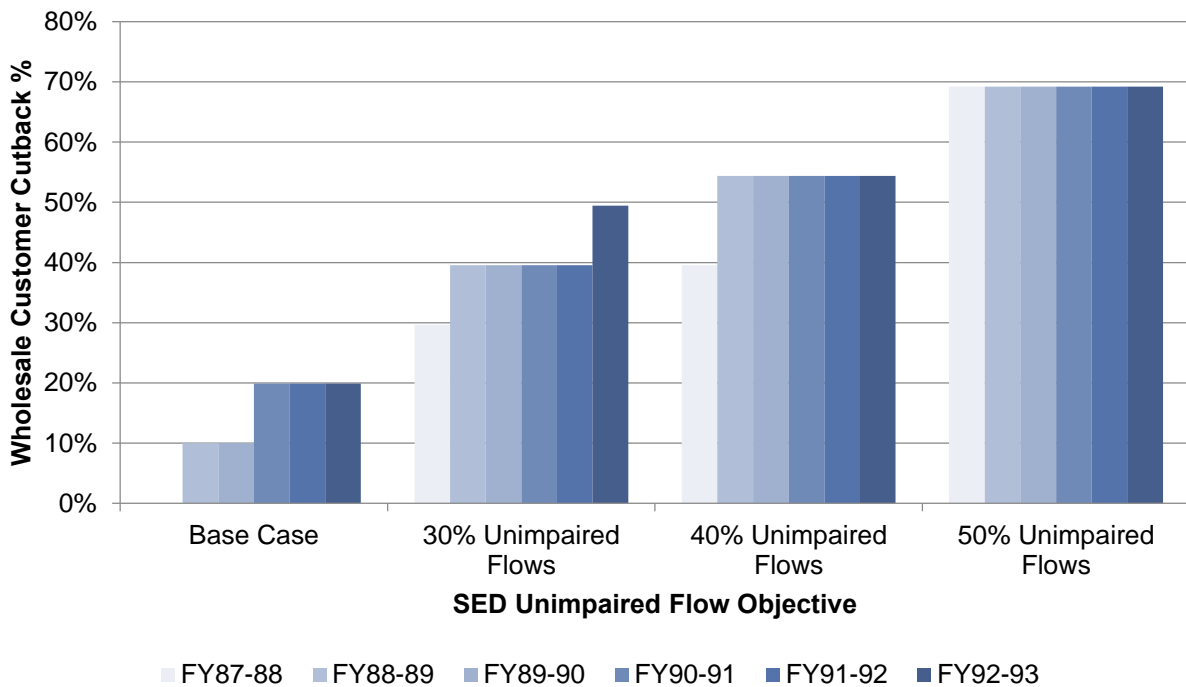


Figure 6: Wholesale Customer Cutback Percentage at Full System Demands of 265 MGD during Historic 6-Year Drought Sequence for Three Unimpaired Flow Objectives



Assuming the full system demand of 265 mgd, this reduction in RWS supply would result in a 46 percent reduction in deliveries to Wholesale Customers for the first year of the drought, and a 59 percent reduction in deliveries in each of the subsequent 5 years. (See Figure 6). Further, using the same assumptions and level of demand, under a 50 percent unimpaired flow objective, the deliveries to the Wholesale Customers would be cutback by 72 percent in each of the 6 years of the drought. In addition, in this scenario, drought cutbacks would be three times as frequent as the current, base case conditions in the RWS.¹⁸

Shortages to the Wholesale Customers would also be significant when current (pre-drought) deliveries are assumed. (See Figure 5). For example, using system-wide annual deliveries of 223 mgd, which is equivalent to Fiscal Year 2012-2013 RWS demand, if a 40 percent unimpaired flow objective were implemented on the Tuolumne River, the RWS deliveries to the Wholesale Customers would be cutback by 43 percent during the first 3 years of the drought, followed by 52 percent reductions in deliveries for the next 3 years. Using the same assumptions and level of demand, implementation of a 50 percent unimpaired flow objective on the Tuolumne River would lead to cutbacks to the BAWSCA agencies of 64 percent in each of the 6 years of the drought.¹⁹

BAWSCA member agencies did an exceptional job at conserving water during the recent drought, achieving an overall savings of 27 percent in Fiscal Year 2015-2016, as compared to 2013. Even using this level of reduced water use of 175 mgd in the RWS service territory during the recent drought, high levels of rationing would still be required under the SED. Using the same set of assumptions, if the State Board implemented a 40 percent unimpaired flow objective on the Tuolumne River, the deliveries to Wholesale Customers would be reduced by a further 21 percent during the first 3 years of the drought, and followed by 33 percent cutbacks in the next 3 years. In this scenario, a 50 percent unimpaired flow objective would lead to a cutback of deliveries to the Wholesale Customers of an additional 40 percent in the first 3 years of the drought, and by 62 percent in the next 3 years.²⁰ As described in detail below, demand hardening from past conservation efforts would lessen the effect of additional conservation, thereby increasing the overall impacts from the proposed water supply reductions.

The 2016 Draft SED acknowledges the impacts to CCSF's water supply but, as discussed throughout this Letter, insufficiently analyzes these impacts. In acknowledgement of impact to the RWS, the 2016 Draft SED states that “[i]t is reasonable to assume . . . that CCSF’s water supply from the Tuolumne River could be reduced because (1) SFPUC would have less available water supply to divert under CCSF’s water rights, or (2) more flows would be released to comply with the irrigation districts’ FERC license, potentially leaving SFPUC with less water.”²¹ The Draft 2016 SED identifies three “potential actions SFPUC could take to replace reductions in water supply resulting under the LSJR Alternatives: (1) Water transfer; (2) In-Delta diversion(s); and (3) Water supply Desalination Project.”²² Yet, the Draft 2016 SED concedes the specific ultimate effect on CCSF's water supply cannot be determined.²³ Specifically, the 2016 Draft SED concedes that “the largest uncertainty involves how water supply for the CCSF and other areas served by the [SFPUC] could be affected.”²⁴

¹⁸ SFPUC Analysis of Changes to Flow Criteria, Table 2 at p. 10; Tier 1 Plan.

¹⁹ See SFPUC Analysis of Changes to Flow Criteria, Table 3 at p. 11; Tier 1 Plan.

²⁰ See SFPUC Analysis of Changes to Flow Criteria, Table 4 at p. 12; Tier 1 Plan.

²¹ 2016 Draft SED, Appendix L, p. L-22.

²² 2016 Draft SED, Appendix L, p. L-22.

²³ 2016 Draft SED, Appendix L, p. L-1.

²⁴ 2016 Draft SED, Executive Summary, at p. ES-29.

Imposition of LSJR Alternatives 3 or 4 also impacts the SFPUC's ability to take on San Jose and Santa Clara as permanent wholesale customers with a combined current demand of 9 mgd. Currently, San Jose and Santa Clara are temporary, interruptible customers of the SFPUC under the 2009 Water Supply Agreement. In order to make San Jose and Santa Clara permanent customers, the SFPUC would need to develop water supplies to enable them to provide permanent individual supply guarantees to the two cities. The significant water supply reductions that would occur to the RWS and the probability of SFPUC not being able to meet the 184 mgd water supply assurance to the wholesale customers under the LSJR Alternatives 3 or 4 would have to be considered by the SFPUC before permanent status was granted to the cities.

Overall, the SED proposes substantial changes to flow objectives for the Tuolumne River. These changes are anticipated to result in reduced surface water available for diversions, thereby causing significant, potentially unavoidable impacts to water supply. These significant impacts to water supply would lead to significant rationing of the water supply available to the BAWSCA member agencies during droughts.

II. SUMMARY OF BAWSCA'S COMMENT LETTER

- BAWSCA supports the objectives of the Bay-Delta Plan to protect water quality in the Bay-Delta Water Quality Control Plan for humans, fish, and other wildlife.
- However, the 2016 Draft SED fails to adequately analyze the impacts the Bay Area and BAWSCA's member agencies who provide water originating in the Tuolumne River to 1.78 million customers. LSJR Alternatives 2, 3, and 4 in the 2016 Draft SED include an unimpaired flow range, (*i.e.*, 20 percent, 40 percent, and 60 percent respectively), between February and June, which would cause water shortages to the RWS and would have a severe impacts on the RWS which are not adequately analyses in the SED.
- The Draft 2016 SED fails to consider and analyze the reasonably foreseeable actions of the BAWSCA member agencies as provided in their publically available Urban Water Management Plans; including:
 - Increased reliance on groundwater, surface water supplies, and imported water;
 - Inability to conserve additional water as a result of past conservation efforts and demand hardening; and
 - Severe rationing and moratoriums on new development.
- The 2016 Draft SED fails to adequately analyze the reasonably foreseeable reduction in the water supplies and the resulting significant impact on the Bay Area's economy.
- The 2016 Draft SED impermissibly assumes that the significant water supply impacts to the RWS service territory that would result from imposition of LSJR Alternatives 3 and 4 could be completely mitigated by CCSF's development and/or procurement of the replacement water supplies identified in the 2016 Draft SED. Specifically, based on BAWSCA's experience, it is unreasonable to assume a Delta transfer can be completed to supply the volume of water necessary to reduce water supply impacts and at the costs presented in the 2016 Draft SED.

- The 2016 Draft SED fails to adequately analyze increasing Bay Area population growth and housing needs, the impacts from displaced low-density growth, and the environmental costs of foregoing smart growth development.
- As discussed in further detail below, the 2016 Draft SED is not supported by substantial evidence, does not consider all reasonably foreseeable impacts, and should not be adopted by the State Board

III. BAWSCA'S ANALYSIS OF THE SED

Prior to adopting the 2016 Draft SED as a state regulatory program, the State Board must perform an environmental analysis that identifies all significant or potentially significant adverse environmental effects and include an analysis of the reasonably foreseeable environmental impacts, reasonably foreseeable mitigation measures, and reasonably foreseeable alternative means of compliance.²⁵ The CCSF SED Comments includes a comprehensive alternative (SFPUC Alternative) focusing on improving fish populations while better protecting water supply reliability. The SED analysis must "take into account a reasonable range of environmental, economic, and technical factors, population and geographic areas, and specific sites."²⁶ However, as discussed in further detail below, the 2016 Draft SED is not supported by substantial evidence, does not consider all reasonably foreseeable impacts, and should not be adopted by the State Board.

The 2016 Draft SED must also comply with the Porter-Cologne Water Quality Control Act (Porter-Cologne Act). In particular, the State Board must consider a number of factors in establishing the water quality objectives contained in the 2016 Draft SED, including but not limited to "(a) [p]ast, present, and probable future beneficial uses of water[;] (b) [e]nvironmental characteristics of the hydrographic unit under consideration, including the equality of water available thereto[;] (c) [w]ater quality conditions that could reasonably be achieved through coordinated control of all factors which affect water quality in the area[;] (d) [e]conomic conditions[; and] (e)the need for developing housing within the region."²⁷ Moreover, under the Porter-Cologne Act, the State Board must "consider costs of compliance" when establishing water quality conditions.²⁸ However, as discussed in further detail below, the State Board failed to comply with the Porter-Cologne Act in establishing the water quality conditions under the 2016 Draft SED.

a. The 2016 Draft SED Is Inadequate Because It Entirely Fails To Analyze The Reasonably Foreseeable Actions Of The Individual BAWSCA Member Agencies In Response To Reduced Availability Of Water

The 2016 Draft SED fails to consider all reasonably foreseeable environmental impacts, mitigation measures, or alternative means of compliance.²⁹ Most notably, the State Board entirely failed to account for the reasonably foreseeable actions of the 26 BAWSCA agencies in response to the reduced available water supplies and increased costs to the RWS attributable to the decreased flows proposed in the 2016 Draft SED. While the 2016 Draft SED concedes

²⁵ Pub. Resources Code, §§ 21159, subd. (a)(1)-(3), 21159.2; Cal. Code Regs., tit. 23, § 3777.

²⁶ Pub. Resources Code, § 21159(c); Cal. Code Regs., tit. 14, § 15187.

²⁷ Wat. Code, § 13241.

²⁸ *City of Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4th 613, 623 [26 Cal.Rptr.3d 304, 310, 108 P.3d 862, 867].

²⁹ Pub. Resources Code, § 21159; Cal. Code Regs., tit. 23, § 3777; Cal. Code Regs., tit. 14, § 15187.

that impacts to municipal service providers must be analyzed,³⁰ it failed to actually analyze such impacts to CCSF and its wholesale customers, the BAWSCA member agencies.³¹ Rather, the 2016 Draft SED only considers CCSF's potential actions in response to decreased flows to meet water supply demand,³² including a water transfer between SFPUC and the irrigation districts,³³ in-delta diversion by SFPUC³⁴ and a SFPUC desalination project.³⁵ As discussed below, these actions are not reasonably foreseeable and not likely to occur.

The State Board has a statutory obligation to carefully evaluate the recommendations of concerned local agencies during the process of formulating or revising state policy for water quality control.³⁶ Without considering the reasonably foreseeable impacts, mitigation measures, or alternative means of compliance of the BAWSCA agencies independent from CCSF, the 2016 Draft SED is inadequate and the impacts analysis is not supported by substantial evidence, or reasonable inferences predicated on fact.³⁷

i. The SED Did Not Consider The BAWSCA Agencies' Urban Water Management Plans, Which Represent The Reasonably Foreseeable Actions Of BAWSCA Agencies In Responding To Decreased Supply

Under the Urban Water Management Planning Act, many BAWSCA agency must prepare an Urban Water Management Plan (UWMP) for submittal to the Department of Water Resources (DWR) every five years.³⁸ The UWMPs provide the long-term resource planning of each agency and ensure that adequate water supplies are available to meet existing and future needs.³⁹ Not only are such plans publicly accessible, the DWR must actively review the submitted plans to ensure compliance with the Water Code and report out to the Legislature on the status of California's planning efforts.

In analyzing the impacts of the proposed water shortages identified in the 2016 Draft SED, the State Board should have considered those reasonably foreseeable actions of the BAWSCA agencies as presented in the UWMP and failure to do so renders the analysis inadequate as it is not based on substantial evidence.⁴⁰ Specifically, the 2016 Draft SED fails to assess the significant environmental impacts that would result if the CCSF were compelled to drastically reduce water deliveries throughout the RWS service territory in response to the State Board's implementation of a 30, 40 or 50-percent unimpaired flow objective on the Tuolumne

³⁰ 2016 Draft SED, at p. 13-49 ("While substantially reducing existing surface water supplies of service providers can be considered an impact, the extent to which service providers are affected is a function of their ability to use existing alternative supplies (e.g., groundwater) or develop alternative water supplies.")

³¹ 2016 Draft SED, Executive Summary, at p. ES-29, (State Board expressly concedes that "the largest uncertainty involves how water supply for the CCSF and other areas served by the [SFPUC] could be affected.")

³² 2016 Draft SED, Appendix L, at p. L-5.

³³ 2016 Draft SED, Appendix L, at p. L-22 – L-23.

³⁴ 2016 Draft SED, Appendix L, at p. L-23 – L-24.

³⁵ 2016 Draft SED, Appendix L, at p. L-24 - L-25.

³⁶ Wat. Code, § 13144 ("During the process of formulating or revising state policy for water quality control the state board shall consult with and carefully evaluate the recommendations of concerned federal, state, and local agencies.")

³⁷ Pub. Resources Code, § 21159, subd. (c).

³⁸ Wat. Code, § 10610 et seq.

³⁹ Wat. Code, §§ 10610.2, 10610.4.

⁴⁰ See *Chawanakee Unified School Dist. v. County of Madera* (2011) 196 Cal.App.4th 1016, 1029, as modified on denial of reh'g (July 19, 2011) [EIR failed to consider reasonably foreseeable impacts of construction on the physical environment beyond the school facilities]; see also *County Sanitation Dist. No. 2 of Los Angeles County v. County of Kern* (2005) 127 Cal.App.4th 1544, 1586 [27 Cal.Rptr.3d 28, 57] ["Predicting the physical changes a project will bring about is an inescapable part of CEQA analysis."]; see also *Planning and Conservation League v. Department of Water Resources* (2000) 83 Cal.App.4th 892, 919, as modified on denial of reh'g (Oct. 16, 2000) ["CEQA does compel reasonable forecasting."]; Pub. Resources Code, § 21168.5.

River. This critical omission constitutes an abuse of discretion because the 2016 Draft SED failed to proffer any justification for why these impacts are not significant under CEQA, and, in fact failed to present any analysis whatsoever regarding such impacts.⁴¹

This section analyzes the reasonably foreseeable actions BAWSCA agencies may take in response to water shortages and the current conservation efforts of BAWSCA agencies as detailed in the UWMPs. For further detail of the reasonably foreseeable actions of BAWSCA agencies, including information on the local supplies, surface and groundwater, and potential transfers, increased imported water, rationing, and development moratoriums, please refer to the BAWSCA agencies' comment letters separately submitted and incorporated herein by reference.

BAWSCA Agencies' Would Respond To Water Shortages With Foreseeable Actions That Were Not Adequately Analyzed In The SED.

The 2016 Draft SED assumes that the only impact to the BAWSCA agencies would be economic costs of securing additional water supplies as a result of shortages; CCSF would pass through its costs to BAWSCA agencies for obtaining an alternative supply. Specifically, the Draft 2016 SED assumes in the regional impact assessment that CCSF would pass the costs to its retail customers in the form of a temporary rate surcharge and to its wholesale customers, *i.e.*, BAWSCA agencies, in the form of higher wholesale water rates. In turn, Wholesale Customers must pass their higher costs to their retail customers through a temporary rate surcharge.⁴²

What the SED failed to consider is that the BAWSCA agencies would not necessarily purchase water at an increased cost from CCSF. Instead, the BAWSCA agencies reasonably foreseeable actions, as put forth in the UWMPs submitted to the DWR, include taking other steps to avoid the increased cost, such as fully utilizing local supplies (*e.g.*, surface water and groundwater) and finding alternative, less costly supplies than what CCSF could offer. Already about one-third of the BAWSCA agencies' supply is from alternative sources outside of CCSF's RWS, including water recycling, local groundwater and desalination. Figure 3 illustrates the BAWSCA agencies water supply portfolio for Fiscal Year 2014-2015 and Figure 4 illustrates the projected water supply sources going forward. Reliance on alternate supplies would increase as a result of the reduced flows proposed in the Draft SED.

⁴¹ Pub. Resources Code, § 21168.5 (emphasis added) [explaining that standard for judicial review of non-adjudicative decisions involving CEQA “shall extend only to whether there was a prejudicial abuse of discretion. *Abuse of discretion is established if the agency has not proceeded in a manner required by law* or if the determination or decision is not supported by substantial evidence.”]; Pub. Resources Code, § 21100, subd. (b)(1) [requiring lead agencies to prepare EIR for any project that they propose to carry out or approve that may have a significant effect on the environment that includes a detailed statement setting forth “[a]ll significant effects of the proposed project.”]; Pub. Resources Code, § 21159, subd. (a)(1) [requiring agencies to perform environmental analysis at time of adoption of performance standard that must include “[a]n analysis of the reasonably foreseeable environmental impacts of the methods of compliance”; Cal. Code Regs., tit. 23, § 3777, subd. (b)(2) [requiring that a draft SED prepared by the State Board include “identification of any significant or potentially significant adverse environmental impacts of the proposed project.”.]

⁴² 2016 Draft SED, Appendix L, at p. L-28.

Figure 7 summarizes the BAWSCA agencies' foreseeable responses to a water shortage derived from the UWMPs, which should have been considered in the 2016 Draft SED.

Figure 7: BAWSCA Agencies' Foreseeable Responses to 50 Percent Shortages



- At least 9 BAWSCA agencies⁴³ would increase reliance on local groundwater, increasing the probability for groundwater basin overdraft, saltwater intrusion, and land subsidence.
- Two BAWSCA agencies⁴⁴ would rely on more local surface water supplies, which could be greatly depleted or completely unavailable during times of drought.
- Two BAWSCA member agencies⁴⁵ would seek to acquire new water supplies.
- Many BAWSCA member agencies would implement a development (e.g. "no new hook up") moratorium which would cause economic impacts and impacts from displaced growth and urban sprawl.

⁴³ ACWD, Daly City, East Palo Alto, Milpitas, San Bruno, Santa Clara, Sunnyvale, Stanford, as stated in 2016 Draft SED comment letters; Palo Alto, per 2015 UWMP.

⁴⁴ Coastside CWD and Stanford, as stated in 2016 Draft SED comment letters.

⁴⁵ ACWD and Hayward, as stated in 2016 Draft SED comment letters.

More specifically, the 2016 Draft SED fails to analyze the environmental impacts that would result from increased reliance on the existing local water supply of the BAWSCA agencies as well as other foreseeable responses to reduced flows. As can be seen from Figure 3, the BAWSCA agencies already have a diverse supply portfolio, including water recycling, local groundwater and desalination. Increased utilization and reliance on these alternative sources could have negative environmental impacts, and such impacts were not analyzed. The 2016 Draft SED entirely fails to consider any impacts that would result from BAWSCA agencies increased reliance on local supply.

Two BAWSCA agencies include in their UWMPs developing or utilizing currently unused local groundwater supplies, under water supply shortages predicted by the alternative flows in the 2016 Draft SED. For example, the City of Palo Alto currently sources 100% of its potable water supply from the RWS, but maintains a network of emergency wells that could be utilized in the event of a drought. The use of groundwater by Palo Alto in the event of a drought could cause undesirable effects to the groundwater basin, such as overdraft, subsidence, and sea water intrusion. Other agencies, such as the City of Santa Clara and the City of Sunnyvale, use local groundwater as a part of their supply, and in the event that supplies from the RWS were drastically cutback, those agencies could be compelled to use significantly more groundwater, potentially leading to undesirable effects in the groundwater basin. These foreseeable impacts, even if indirect, must be analyzed by the SED.

Financing alternative supplies is a significant endeavor, as evidenced by, Alameda County Water District (ACWD), which has invested over \$100M in innovative alternative water supplies and water management practices including brackish groundwater desalination, water use efficiency, conjunctive use groundwater recharge facilities, and off-site groundwater banking.⁴⁶ ACWD has also made significant investments to enhance its operation on Alameda Creek, a source of local surface water, for the restoration of steelhead (*Oncorhynchus mykiss*) fishery.⁴⁷ Those expenditures are significant, yet much greater investment would be required of ACWD if the SED moved forward as proposed.

In addition to putting additional stress and impacting local water supplies as a result of shortages, BAWSCA and its member agencies will likely look at potential water transfers and imported water supplies to make up the deficiency in the RWS. BAWSCA has authority to purchase and transfer water⁴⁸ and has considered water transfers in the past to address short-term drought reliability and long-term water needs. Below in Section III.b.i. we provide a detailed description of BAWSCA's past efforts to transfer water into the RWS and the multitude of issues that arise with such a transfer. Likewise, ACWD has imported water supplies from the SWP and has effectuated transfers in the past. ACWD has indicated that, as a result of the potential reduction in water supply resulting from the SED, it will deplete its groundwater bank in Semitropic requiring the need to acquire new additional water supplies for purposes of banking to ensure reliable supplies during droughts.⁴⁹ Yet, the 2016 Draft SED fails to analyze the environmental impacts resulting from BAWSCA or any member agencies' purchase and transfer of water supplies. Further, the SED fails entirely to consider competition, including competition with CCSF, for any available supplies and for the use of available capacity in facilities to provide water to the Bay Area.

⁴⁶ See ACWD Comment Letter on the 2016 Draft SED.

⁴⁷ See ACWD Comment Letter on the 2016 Draft SED.

⁴⁸ Wat. Code, § 81420.

⁴⁹ See ACWD Comment Letter on the 2016 Draft SED.

BAWSCA Agencies Already Conserve The Maximum Amount Of Water.

The 2016 Draft SED does not take into account the water conservation efforts already in place for BAWSCA agencies. As discussed in Section I.b. above which details the actual impact on the RWS supply available to the BAWSCA agencies imposed by the various flow Alternatives, the 2016 Draft SED would have severe consequences given the BAWSCA member agencies may not be able to conserve beyond the existing levels. Moreover, the 2016 Draft SED fails to analyze the limited, additional yield available from increased water efficiency, conservation efforts to already low per capita water usage throughout the RWS service territory, and the effect of demand hardening.

Specifically, BAWSCA member agencies have implemented various conservation programs resulting in dramatic water conservation for the region. For example, BAWSCA's Regional Water Conservation Program ("Conservation Program") assists the member agencies in meeting water efficiency goals and supports supply reliability for the agencies' customers through a range of regional water conservation measures and initiatives. The Conservation Program includes a core program for general landscape education, water-wise gardening website, and public information and a subscription program funded by the participant agencies. The subscription program includes rebates for high-efficiency toilets, clothes washers, turf replacement, and rain barrels; free high-efficiency sprinkler nozzles; indoor and outdoor water-efficient fixture giveaways; three school education programs; residential water use reports; and large landscape audits. Since Fiscal Year 2001-2002, BAWSCA's Regional Water Conservation Program has expended a total of \$10,674,530 on water conservation actions.⁵⁰

In addition, BAWSCA member agencies directly implement a variety of water conservation measures outside of BAWSCA's conservation programs and 8 agencies implement conservation programs through the Santa Clara Valley Water District ("SCVWD"). These include measures similar to those offered in the BAWSCA Regional Water Conservation Program as well as rebates for irrigation equipment upgrades, graywater systems, commercial upgrades, high-efficiency urinals, and submeters; household water audits; and individual household water budgets.

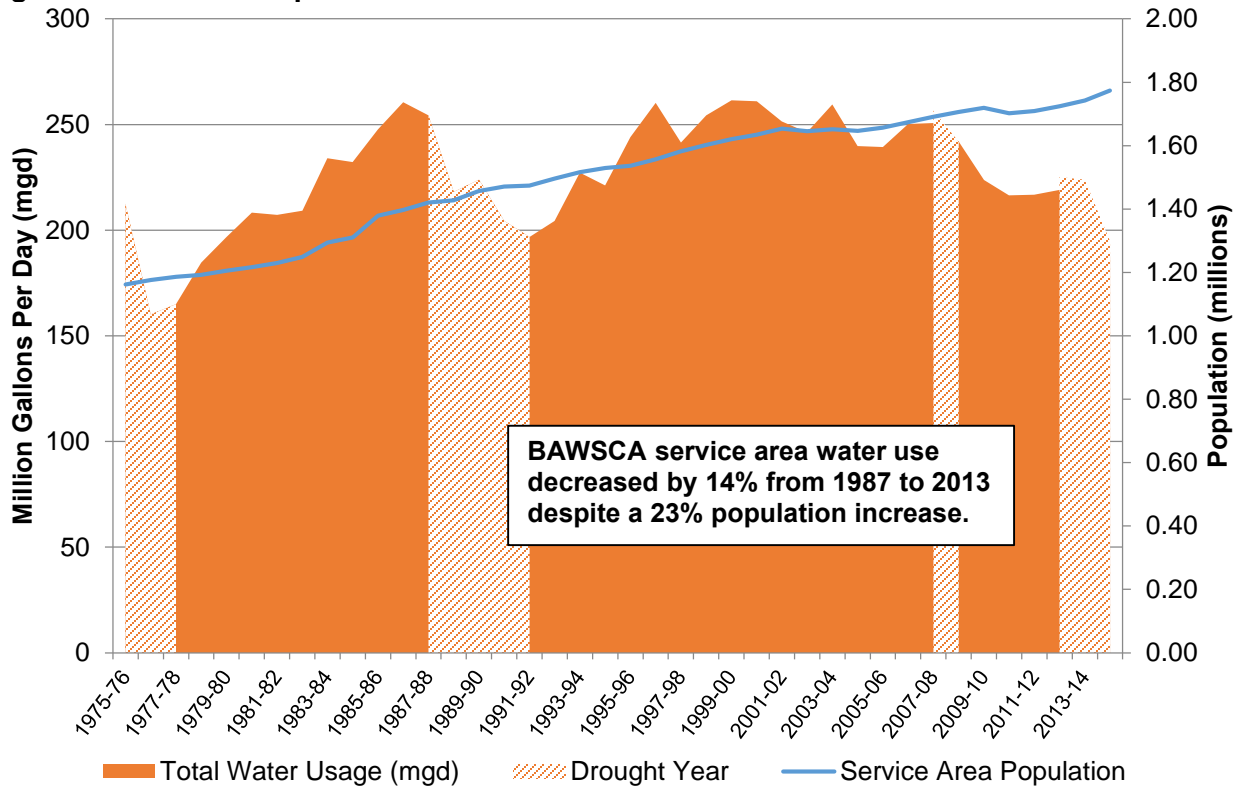
The collective effect of these conservation efforts renders the BAWSCA member agencies among the most efficient water users in California. Despite increasing population growth in the Bay Area, total water use and BAWSCA member agency wholesale purchases from the RWS have remained flat.

Figure 8 illustrates that even prior to the recent drought, the BAWSCA service area water use decreased by 14% from 1987 to 2013, despite a 23% population increase.⁵¹ Since 1986, the residential per capita use decreased 36 percent, from 101.5 gallons per capita per day (GPCPD) in Fiscal Year 1985-1986 to 79 GPCPD in Fiscal Year 2012-2013, which was the last fiscal year before drought rationing occurred.

⁵⁰ Bay Area Water Supply & Conservation Agency, BAWSCA Annual Water Conservation Report: FY 2014-2015, available at http://bawasca.org/uploads/userfiles/files/FY14-15_BAWSCA%20WCP%20Annual%20Report.pdf (hereinafter "BAWSCA FY 2014-15 Annual Survey").

⁵¹ BAWSCA FY 2014-15 Annual Survey.

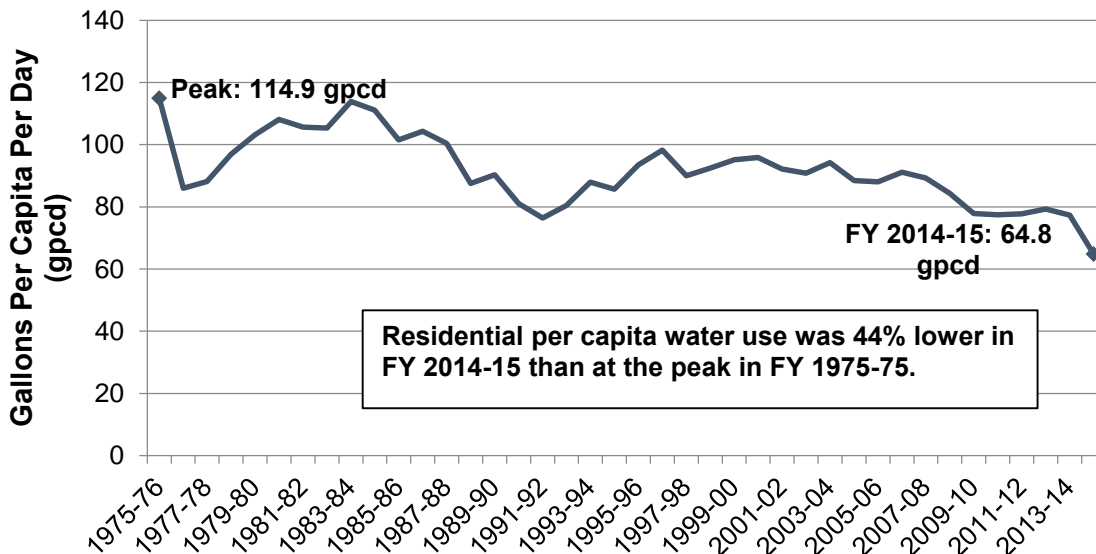
Figure 8: BAWSCA Population and Water Use – 1975 to 2015



Source: BAWSCA FY 2014-15 Annual Survey

Figure 9 illustrates the decline in per capita water use in the BAWSCA service area through time. Residential per capita use was a very low 64.8 GPCPD in Fiscal Year 2014-2015, due to the mandatory rationing imposed in response to State and local conditions.⁵²

Figure 9: BAWSCA Residential Per Capita Water Use – 1975 to 2015

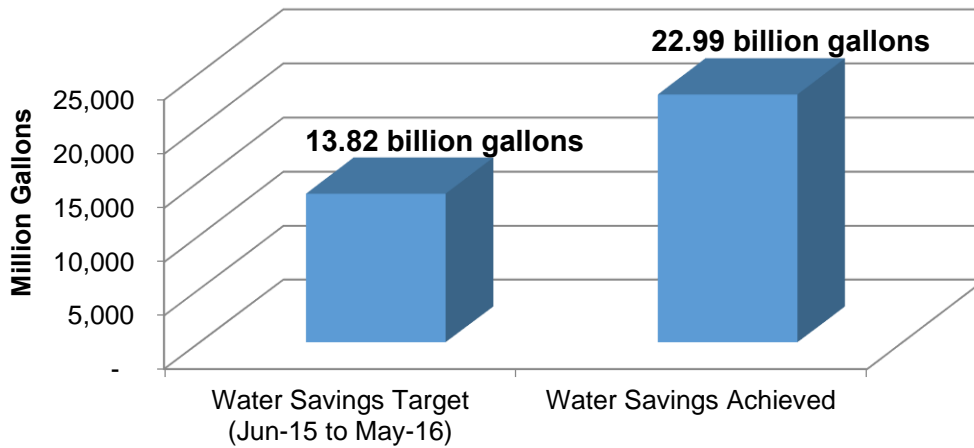


Source: BAWSCA FY 2014-15 Annual Survey

⁵² BAWSCA FY 2014-15 Annual Survey.

With regard to the recent conservation efforts triggered by the drought, Figure 10 illustrates that during the 12-month period for which the State-assigned conservation standards were in effect, BAWSCA agencies achieved a 27 percent reduction in total water use compared to the same months in 2013, saving 23.0 billion gallons or 166 percent of their 15 percent collective savings target. By comparison, total statewide reduction in water use for the 12-month period was 24.5 percent, and the total statewide reduction target was 25 percent.⁵³

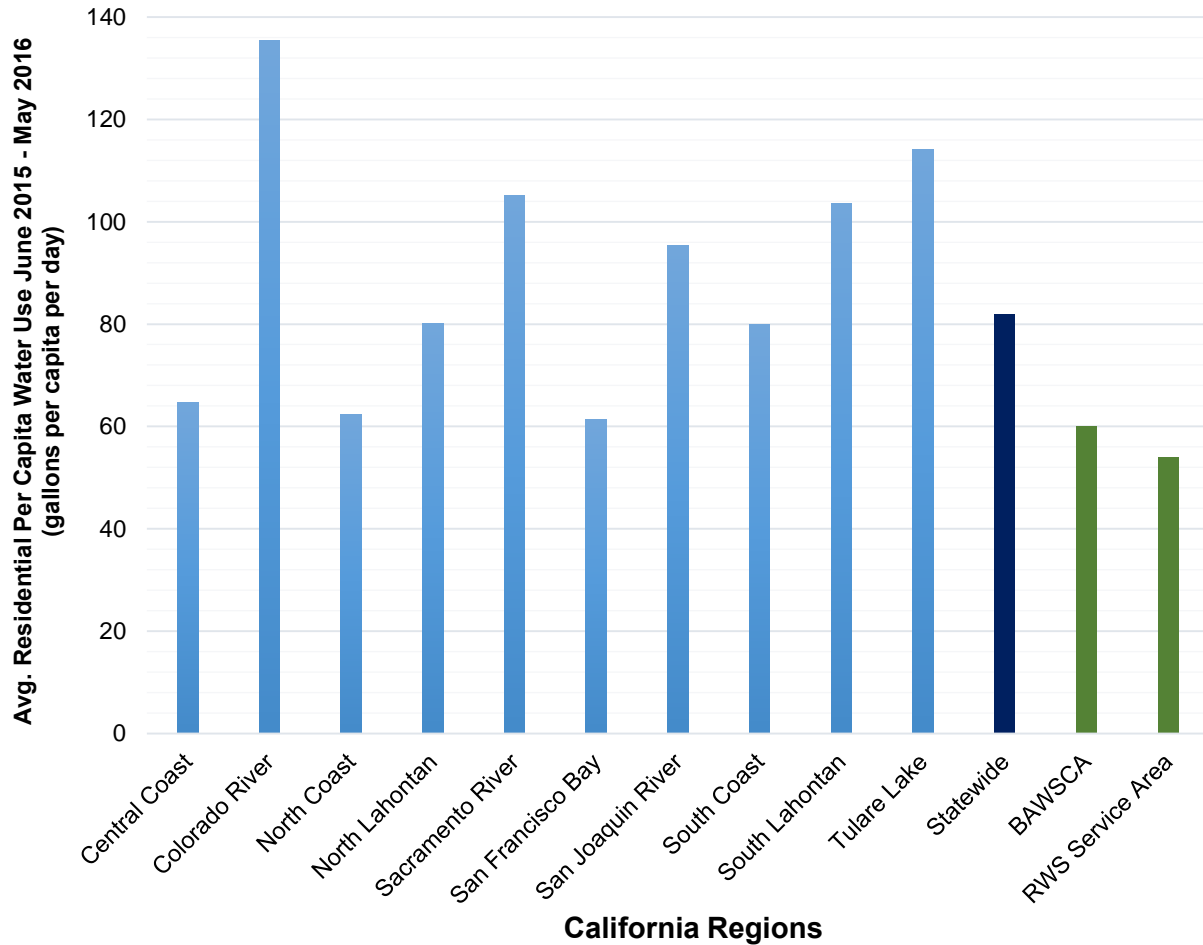
Figure 10: Cumulative BAWSCA Water Savings Target versus Savings Achieved for June 2015 to May 2016 State Water Resources Control Board Compliance Period



⁵³ State Water Resources Control Board, *Statewide Water Conservation Grows to 28 Percent in May; Urban Water Suppliers 'Stress Test' Data Under Review* (July 6, 2016) available at http://www.waterboards.ca.gov/water_issues/programs/conservation_portal/docs/2016jul/pr070616.pdf.

Figure 11 illustrates the average residential per capita use in the BAWSCA service area as compared with the average residential per capita use within the State of California overall and the Bay Area overall. Information depicted on Figure 11 applies to the state mandated conservation period from June 2015 through May 2016.

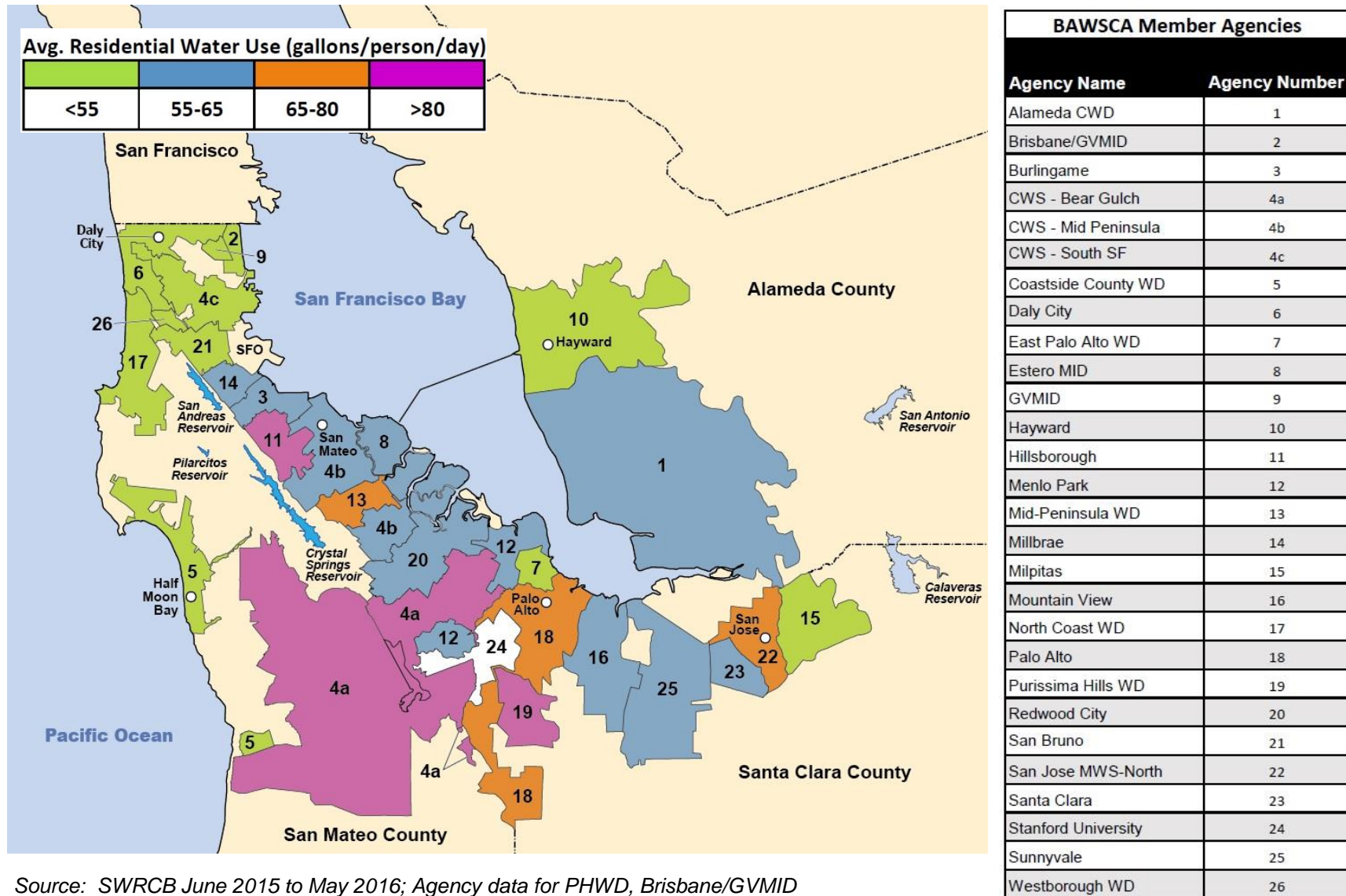
Figure 11: Average Residential Per Capita Water Use by Region June 2015 through May 2016 in Gallons per Capita per Day



Source:
http://www.waterboards.ca.gov/water_issues/programs/conservation_portal/conservation_reporting.shtml

Figure 12 illustrates the range in per capita usage in individual agencies in the BAWSCA service area during the mandatory conservation period.

Figure 12: Average Residential Customer Water Uses 60 Gallons per Day in BAWSCA Service Area



Source: SWRCB June 2015 to May 2016; Agency data for PHWD, Brisbane/GVMID

In addition to its aggressive conservation actions, BAWSCA completed the Regional Water Demand and Conservation Projections Report in 2014 (“Demand Report”), which quantified the passive and active water conservation savings potential for each BAWSCA member agency through 2040.⁵⁴ Passive conservation savings are those achieved from the installation of water-efficient fixtures required by current plumbing code and building code standards. Active conservation savings are those savings achieved through programs implemented and funded at an agency or regional level, such as rebate programs or installation of advanced metering infrastructure. The Demand Report projected that the BAWSCA agencies will achieve an additional 35 mgd of passive and active conservation savings between 2014 and 2040, and this would partially offset water demand increases associated with projected population and employment increases of 27 percent and 31 percent, respectively, over the same period.⁵⁵

Specifically, the SED neglected to analyze the hardening of demand in the service area, a resulting effect of the agencies' long term effective and sustained conservation programs. Water conservation activities “harden” demand since they incorporate continuous water savings into baseline demands. Therefore, the next increment of water use reduction becomes significantly more difficult to achieve. As discussed in more detail in Section III.a.ii, demand hardening makes droughts harder to bear, such that increased rationing may have significant economic and lifestyle impacts. The 2016 Draft SED, as part of the Regional Impact Analysis, indicates that residential customers could decrease water use in response to water price increases.⁵⁶ However, it failed entirely to analyze the impacts resulting from increased reduction of flows in light of demand hardening.

Given the BAWSCA agencies' customers' current low water use and the conservation and local supply projects already existing or built into the agencies' projections of demand, as detailed in the Demand Report, it is not feasible for BAWSCA agencies to further reduce demand for RWS water. The 2016 Draft SED is entirely devoid of analysis on whether the region can handle such reduced flows in light of the region's current and projected use, including any analyses of the potential impact.

Moreover, as described in detail in the Comments by the City and County of San Francisco, increased conservation and rationing throughout the RWS would result in significant environmental impacts that the 2016 Draft SED did not analyze, such as negatively impacting greenspaces.⁵⁷ The substantial loss in park vegetation, landscaping, and trees resulting from the increased rationing would adversely impact aesthetic and recreational resources, increase the risk of urban wildfires, and adversely impacts to habitat in urban forests and natural areas. That point is of particular concern to some of the BAWSCA member agencies, such as the City of Hillsborough, which has a significant canopy of mature trees and has concerns that limiting water supply could adversely impact that canopy. Similarly, Mountain View noted in their

⁵⁴ Bay Area Water Supply & Conservation Agency, Regional Water Demand and Conservation Projections: Final Report (September 2014) *available at* <http://bawasca.org/uploads/userfiles/files/BAWSCA%20Demand%20and%20Conservation%20Projection%20FINAL%20REPORT.pdf>. (hereinafter “BAWSCA Final Report, September 2014”).

⁵⁵ BAWSCA Final Report, September 2014, at p. 5-1 to 5-4.

⁵⁶ 2016 Draft SED at p. L-29.

⁵⁷ CCSF SED Comments, Argument I (“The Draft 2016 SED Must Analyze the Environmental and Economic Impacts of the Most Reasonably Foreseeable Method of Compliance by San Francisco: Reductions in Deliveries throughout the RWS service territory for the current and projected population through 2040”), Subsection F (“Increased rationing by San Francisco and throughout the RWS service territory would result in significant environmental impacts that the Draft 2016 SED did not analyze.”), pp. 32 – 37.

comments to the SED that potential impacts could include loss of landscaping and trees throughout their community. It is reasonable to assume that the loss of trees, vegetation and other landscaping would also exacerbate the effects of urban heat islands, thereby increasing energy consumption for cooling during elevated summertime temperatures and resulting in increased emissions from power plants due to this additional electricity generation.

BAWSCA Agencies Would Likely Implement Rationing And Restrictions/Moratoriums On New Connections.

The 2016 Draft SED failed to analyze the impacts from rationing of water in the Bay Area in drought conditions under LSJR Alternatives 3 or 4 and possible additional rationing necessary under Alternative 2. Water Code section 353 provides,

When the governing body has so determined and declared the existence of an emergency condition of water shortage within its service area, it shall thereupon adopt such regulations and restrictions on the delivery of water and the consumption within said area of water supplied for public use as will in the sound discretion of such governing body conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection.

Water Code section 356 provides that “[t]he regulations and restrictions may include the right to deny applications for new or additional service connections, and provision for their enforcement by discontinuing service to consumers willfully violating the regulations and restrictions.”

Under CEQA, certain large-scale residential, commercial or industrial development projects require the preparation of a Water Supply Assessment (“WSA”).⁵⁸ The WSA is part of the EIR process and is intended to assist local governments in deciding whether to approve proposed projects.⁵⁹ If the projected water demand of the proposed project was not accounted for in the most recently adopted UWMP, or the public water system has no UWMP, the WSA must discuss whether the public water system’s “total projected water supplies available during normal, single dry, and multiple dry water years” for a 20–year period will meet the “projected water demand [for] the proposed project,” taking into account the agency’s “existing and planned future uses, including agricultural and manufacturing uses.”⁶⁰ Significantly, if the WSA does not identify sufficient available water, then the lead agency must include that determination in its findings in the EIR for the project.⁶¹

Based on the history of BAWSCA agencies’ actions during past droughts, it can be reasonably assumed that some agencies would require increasing levels of rationing and may ultimately need to impose a moratorium on new development if LSJR Alternatives 3 or 4 were

⁵⁸ See Wat. Code, § 10912 (defining “Project” to mean a proposed large-scale residential, commercial or industrial development, *i.e.*, “residential development of more than 500 dwelling units”; “shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor space”; “commercial office building employing more than 1,000 persons or having more than 250,000 square feet of floor space”; “hotel or motel, or both, having more than 500 rooms”; “industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area”; “mixed-use project that includes one or more of the projects specified in this subdivision,” or, a “project that would demand an amount of water equivalent to, or greater than, the amount of water required by a 500 dwelling unit project.”); *see also* Cal. Code Regs., tit. 14, § 15155, subd. (a)(1) (similarly defining a “water-demand project”).

⁵⁹ Pub. Resources Code, § 21151.9; Cal. Code Regs., tit. 14, § 15155, subd. (e) (lead agency shall include water assessment in the EIR); *O.W.L. Foundation v. City of Rohnert Park* (2008) 168 Cal.App.4th at 576.

⁶⁰ Wat. Code, § 10910, subd. (c)(3).

⁶¹ Cal. Code Regs., tit. 14, § 15155, subd. (e).

implemented and a sequential year drought occurred. It is also feasible that water rationing could occur if Alternative 2 was implemented.

For example, as described in the BAWSCA member agency UWMPs and highlighted in the member agencies' comment letters on the 2016 Draft SED, 12 of BAWSCA's 26 member agencies have specifically stated in their SED comment letters that they'd be forced to impose a moratorium on new connections at the level of shortages prescribed by the 2016 Draft SED, which would be greater than a 50 percent reduction during multi-year droughts for many of the agencies. All agencies would impose water rationing to comply with shortages described above in Section I.b. that would result from implementing the SED. Such actions are reasonably foreseeable and should have been analyzed because the actions are included in various planning documents of the BAWSCA agencies, such as the UWMPs.

These impacts were not considered in the 2016 Draft SED, including the economic impacts and impact from displaced growth and urban sprawl resulting from the widespread moratorium on building in the BAWSCA service area. Moreover, imposition of a development moratorium by BAWSCA agencies during a water shortage emergency, and under circumstances in which significant rationing had already been implemented, would be consistent with the State Board's own practice.⁶² The State Board should have considered such planning documents and analyzed the reasonably foreseeable actions of the BAWSCA agencies.

ii. The 2016 Draft SED Fails To Consider The Public Health Impacts Caused By Shortages

The California Legislature has made clear that public health and safety are of "great importance" in CEQA's statutory scheme.⁶³ For example, Public Resources Code section 21083(b)(3) requires a finding of a "significant effect on the environment" whenever "[t]he environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly." No single definition exists for the volume of water necessary to meet basic water needs.⁶⁴ California policy dictates that all humans have a right to water adequate for human consumption, cooking, and sanitary purposes.⁶⁵ Prior State Board emergency regulation established an exemption from a prohibition on diverting water, under specified circumstances, up to a maximum of 50 gallons per capita daily in order to meet "minimum health and safety needs."⁶⁶ The Water Efficiency Act of 2009 identifies 55 GPCPD as a provisional conservation standard for "indoor residential water use" by 2020.⁶⁷ The mean indoor household use in California was 63 GPCPD in 2007-2009.⁶⁸ Dr. Peter Gleick, founder of the Pacific Institute, identifies 200 liters per person per day, or 52 GPCPD, for solely drinking, sanitation, bathing

⁶² See State Water Board Issues Moratorium on New Water Connections, *available at* <http://www.dailydemocrat.com/article/ZZ/20141105/NEWS/141103990> (explaining that in 2014 the SWRCB "slapped" 22 water districts with development moratoriums due to lack of adequate water supply).

⁶³ Pub. Resources Code, §§ 21000, subdvs. (b), (c), (d), (g); §§ 21001(b), (d); *California Bldg. Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 386.

⁶⁴ Feinstein, Laura, Phurisamban, Rapichan, Ford, Amanda, Tyler, Christine, and Crawford, Ayana, *Drought and Equity in California, Pacific Institute and The Environmental Justice Coalition for Water* (January 2017) at p. 28 http://pacinst.org/app/uploads/2017/01/PI_DroughtAndEquityInCA_Jan_2017.pdf

⁶⁵ Wat. Code, § 106.3.

⁶⁶ Cal. Code Regs., tit. 23, § 878.1, subds. (a)-(b) [operative March 30, 2015 and repealed Dec. 29, 2015]

⁶⁷ Wat. Code, § 10608.20, subd. (b)(2)(A)).

⁶⁸ DeOreo, William B., Peter W. Mayer, Leslie Martien, Matthew Hayden, Andrew Funk, Michael Kramer-Duffield, Renee Davis, James Henderson, Bob Raucher, and Peter Gleick. 2011. "California Single-Family Water Use Efficiency Study." Aquacraft Water Engineering and Management, *available at* <http://water.cityofdavis.org/Media/PublicWorks/Documents/PDF/PWWater/Documents/California-Single-Family-Home-Water-Use-Efficiency-Study-20110420.pdf>.

and cooking in moderately industrialized countries.⁶⁹ Homes equipped with best available technologies and high-efficiency appliances and fixtures are estimated to use 32 GPCPD.⁷⁰ These numbers do not take into consideration outdoor water use.

Prior to the recent drought, average residential per capita water use for the BAWSCA service area was 79.3 GPCPD. Per the SFPUC's analysis, under a 50% unimpaired flow objective at a RWS demand of 223 mgd, maximum shortages to single-family residential and multi-family residential customers for the Wholesale Customers would be 50% and 41%, respectively. As a result, BAWSCA average per capita water use would be limited to approximately 41.6 GPCPD. However, residential customers of those BAWSCA agencies that are on the lower end of the BAWSCA residential per capita use range, in particular those agencies without access to alternative water supplies, would face more significant limits to residential per capita use. It is anticipated that several BAWSCA agencies would need to limit residential water use to 25 GPCPD or less, which is substantially lower than minimum indoor water use requirements for homes equipped with best available technologies.

BAWSCA agencies required to prepare UWMPs have analyzed the water supply impacts of a 50 percent shortage as part of the preparation of their UWMPs. As described above in Section I.b., assuming current normal-year water demands, BAWSCA agencies collectively would be subject to a 43 percent reduction in RWS supplies during the first year of a drought as a result of the proposed 40 percent unimpaired flow objective in the SED. In addition, during a 6-year extended drought, the BAWSCA agencies collectively would see a 43 percent cutback during the first three years and a 52 percent cutback in RWS supplies for the last three years of drought. Thus, the 15 agencies that receive 100% of their potable supply from the RWS would be subject to these shortages for their overall water supply. These agencies, and likely others who are subject to drought shortages in their alternative supplies, would be subject, even under current, pre-drought demand conditions, to greater than 50 percent supply shortages as a result of the SED Alternatives 3 or 4.

Fifty percent reduction in supply from the RWS would make it impossible for some communities in the wholesale service area to deliver a minimum of 50 gallons per day to their residents, even if they were to completely shut off water to commercial and industrial customers, such as schools, hospitals, and parks. A community without any functioning industry, hospitals or public institutions, is not sustainable. In their SED comments, 11 of the 26 BAWSCA member agencies have specifically cited health and safety concerns due to lack of potable water supplies resulting from shortages, described above in Section I.b., due to implementation of the SED. It is likely that the remaining BAWSCA member agencies could also have similar health and safety concerns, due to the fact that all face challenges associated with the impact of shortages.

The Bay Area cannot be expected to continue to thrive with such low water usage, and the impact to public health and safety on the 1.78 million residential customers and over 40,000 businesses in the BAWSCA member agency service area was not adequately analyzed in the 2016 Draft SED.

⁶⁹ Peter H. Gleick, Basic Water Requirements for Human Activities: Meeting Basic Needs, Water International, 21 (1996) Table 9, p. 88., [available at http://pacinst.org/app/uploads/2012/10/basic_water_requirements-1996.pdf](http://pacinst.org/app/uploads/2012/10/basic_water_requirements-1996.pdf).

⁷⁰ DeOreo, Heberger, Matthew, Heather Cooley, and Peter H. Gleick. 2014. "Issue Brief: Urban Water Conservation and Efficiency Potential in California." Pacific Institute and the Natural Resources Defense Council, June. <http://pacinst.org/app/uploads/2014/06/ca-water-urban.pdf>

b. It Is Not Reasonably Foreseeable That The Significant Water Supply Impacts To The RWS Could Be Completely Mitigated By San Francisco's Development And/Or Procurement Of The Replacement Water Supplies

The 2016 Draft SED impermissibly assumes that the significant water supply impacts to the RWS service territory that would result from imposition of LSJR Alternatives 3 and 4 could be completely mitigated by CCSF's development and/or procurement of the replacement water supplies identified in the 2016 Draft SED. This assumption is not supported by substantial evidence or reasonable inferences predicated on fact.

i. The 2016 Draft SED Incorrectly Assumes That CCSF Could Effectuate Water Transfers To Purchase The Requisite Volume Of Replacement Water From The Modesto And Turlock Irrigation Districts

The State Board's assumption that CCSF would be able to mitigate water supply impacts to the RWS service territory by purchasing the requisite volume of replacement water from the Modesto Irrigation District (MID) and the Turlock Irrigation District (TID) (collectively referred to as the "Districts") is not supported by substantial evidence, or reasonable inferences predicated on fact.

Under the Wheeling Statutes a public agency may not be denied the use of the unused capacity of water conveyance facilities, if fair compensation is paid for its use.⁷¹ However, the wheeling statute does not address the sources of supply or supply availability, just conveyance capacity. In a practical sense the transfer of water is limited by competition for any unused capacity and the purchase price of the water. These limiting factors make transfers impractical in times of drought.

The 2016 Draft SED acknowledges the uncertainty of such transfers. For example, the Draft SED concedes that "[t]he number and location of surface water transfers that entities would undertake in response to surface water reductions as a result of approving the LSJR Alternatives *is speculative and unknowable*."⁷² Moreover, the 2016 Draft SED specifically identifies that transfers from Districts to CCSF are unreliable, noting that in 2012, "the MID Board of Directors rejected a proposal for long-term transfers to SFPUC. This rejection makes future temporary drought transfers uncertain."⁷³ The SED further acknowledges that "[a] possible water transfer between SFPUC and irrigation districts relies on numerous unknown variables (e.g., willingness of irrigation districts to enter into a transfer agreement, the price of the water, and the volume of water needed)."⁷⁴ And, even if a transfer could be effectuated, "it cannot be predicted whether and how CCSF and the Districts would agree to apportion responsibility for meeting future flow requirements."⁷⁵ As discussed in section III.a above, in the event a water transfer is unsuccessful, CCSF and each BAWSCA agency's responses are reasonably foreseeable as outlined in each agency's UWMP. Thus, the State Board's lack of analysis concerning what is reasonably foreseeable to occur should a transfer not be effectuated could have and should have been analyzed in the 2016 Draft SED.⁷⁶

⁷¹ Wat. Code, § 1810.

⁷² 2016 Draft SED, at p.16-9 (emphasis added).

⁷³ 2016 Draft SED, Appendix L, at p. L-20.

⁷⁴ 2016 Draft SED, Appendix L, at p. L-22.

⁷⁵ 2016 Draft SED, Appendix L, at p. L-13.

⁷⁶ See *Chawanakee Unified School Dist. v. County of Madera* (2011) 196 Cal.App.4th 1016, 1029 [126 Cal.Rptr.3d 859, 868], as modified on denial of reh'g (July 19, 2011) [EIR failed to consider reasonably foreseeable impacts of construction on the physical environment beyond the school facilities]; see also *County Sanitation Dist. No. 2 of Los*

Based On BAWSCA's Experience, It Is Unreasonable To Assume A Delta Transfer Could Be Completed.

The information and conclusions presented in the 2016 Draft SED are not consistent with BAWSCA's experience with water transfers, which have proven difficult. BAWSCA has been investigating the possibility of water transfers to meet member agencies' long term water reliability needs since 2002, when BAWSCA's predecessor began working on a Water Transfers Work Plan.⁷⁷ BAWSCA continues to work on the implementation of water transfers as a part of its Long-Term Reliable Water Supply Strategy, which has been ongoing since 2010.⁷⁸ For example, the Long-Term Reliable Water Supply Strategy Phase IIA Report identified water transfers from sources (sellers) outside the BAWSCA service area as a promising option to address the dry year reliability needs of the BAWSCA member agencies.⁷⁹

As part of the Long-Term Reliable Water Supply Strategy, BAWSCA evaluated several options for the source of supply and conveyance to the BAWSCA agencies, which are the two critical components of any transfer aside from identifying a willing seller. BAWSCA considered two options as a transfer supply source: (1) the Sacramento Valley, north of the Delta and (2) the San Joaquin Valley, in and south of the Delta. For supplies originating outside of the Bay Area, there are limited existing conveyance facilities that could be used to wheel water to the BAWSCA member agencies. The potential options evaluated include: State Water Project (SWP) and Central Valley Project (CVP) facilities; SFPUC-SCVWD emergency intertie and SCVWD facilities; and with SFPUC-East Bay Municipal Utilities District (EBMUD)-City of Hayward Emergency Intertie (Hayward Intertie) and EBMUD facilities.

Significant work has been done by BAWSCA in trying to implement a pilot water transfer in partnership with EBMUD and others since the publication of the Long-Term Reliable Water Supply Strategy Phase IIA Report. In May 2012, EBMUD identified water projects to meet its future dry year water supply needs including the newly completed Freeport Regional Water Project (FRWP) that diverts water from the Sacramento River and conveys it to EBMUD's service area. In September 2012, EBMUD and BAWSCA entered into a Memorandum of Understanding to prepare the BAWSCA–EBMUD Short-Term Pilot Water Transfer Plan.⁸⁰ The purpose of the Pilot Plan was to evaluate the feasibility of partnering as buyers on long-term water transfer projects to improve future water supply reliability for the respective agencies. The Pilot Plan, published in September 2013, studied the potential to conduct a one-year pilot water transfer of 1,000 AF in a future dry-year when EBMUD is planning to operate the Freeport Regional Water Project (FRWP).

As shown on Figure 13, a water transfer involving EBMUD and BAWSCA would involve purchasing water from a willing seller, diverting the water using the FRWP intake, conveying the water through the FRWP facilities, the U.S. Bureau of Reclamation's (USBR) Folsom South

Angeles County v. County of Kern (2005) 127 Cal.App.4th 1544, 1586 ["Predicting the physical changes a project will bring about is an inescapable part of CEQA analysis."]; see also *Planning and Conservation League v. Department of Water Resources* (2000) 83 Cal.App.4th 892, 919, as modified on denial of reh'g (Oct. 16, 2000) ["CEQA does compel reasonable forecasting."]; Pub. Resources Code, § 21168.5.

⁷⁷ Bay Area Water Users Association, [BAWSCA's predecessor agency], Water Quality Evaluation for a Dry Year Water Transfer (June 30, 2003).

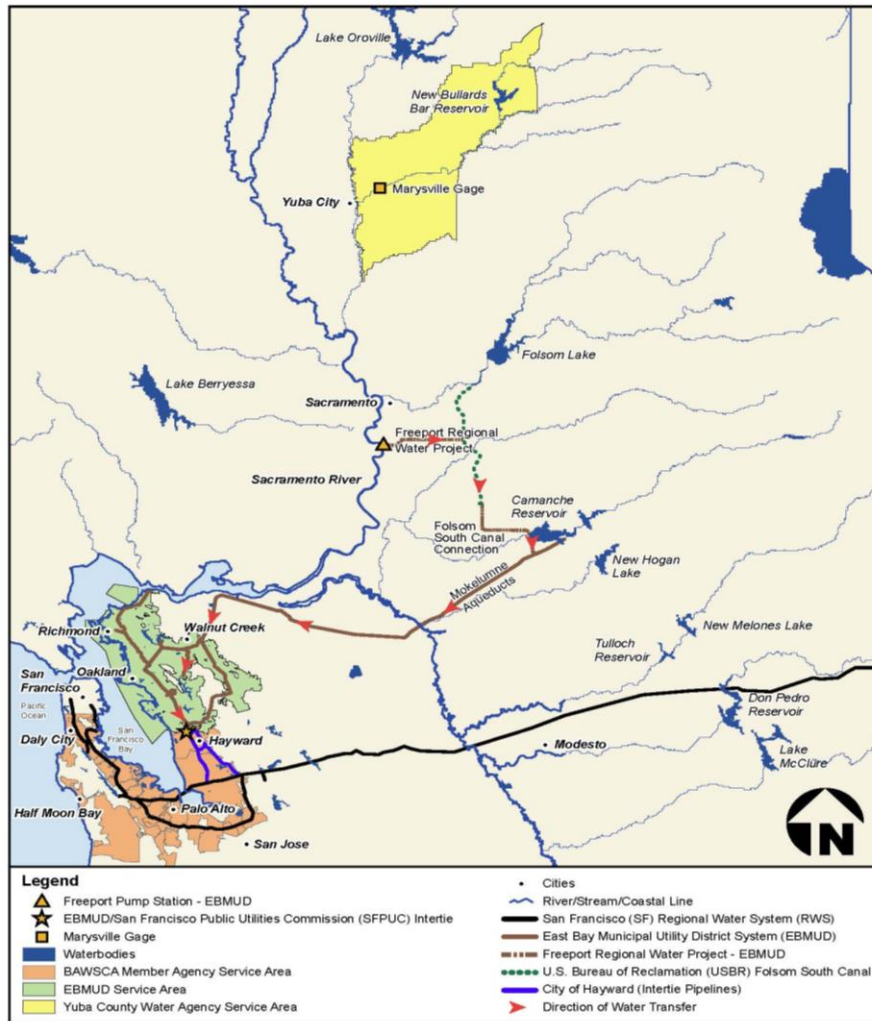
⁷⁸ BAWSCA Phase I Scoping Report.

⁷⁹ BAWSCA's 2015 Technical Memorandum: BAWSCA-EBMUD Pilot Water Transfer Phase II Pilot Plan (hereinafter "BAWSCA-EBMUD Technical Memorandum"). Available starting at p. 61 of the following: http://bawasca.org/uploads/agendas/15_07_16_Agenda_FINAL_PACKET.pdf

⁸⁰ BAWSCA-EBMUD: Short-Term Pilot Water Transfer Plan (September 19, 2013) available at http://bawasca.org/docs/BAWSCA-EBMUD%20Water%20Transfer%20Plan_Final%20Sept.pdf (hereinafter "BAWSCA-EBMUD Pilot Water Transfer Plan").

Canal, and EBMUD's raw water and treated water distribution systems, and delivering the transfer water to the BAWSCA service area via the Hayward Intertie, located in the City of Hayward (Hayward), which is jointly owned by EBMUD and the SFPUC. Transfer water delivered from EBMUD through the Hayward Intertie would be directly used by Hayward in lieu of taking delivery of a like amount of water from the RWS.⁸¹ It was assumed, based on seasonal availability of transfer water, that BAWSCA would have at most six months of water transfers per year.⁸²

Figure 13: BAWSCA-EBMUD Water Transfer Map



Source: BAWSCA's Long-Term Reliable Water Supply Strategy Phase II Final Report, February 2015.

⁸¹ BAWSCA-EBMUD Pilot Water Transfer Plan; BAWSCA-EBMUD Technical Memorandum.

⁸² BAWSCA-EBMUD Technical Memorandum.

The recent historic drought highlighted challenges for water transfer implementation and resulted in BAWSCA unable to implement a pilot water transfer.⁸³ For example, BAWSCA encountered the following challenges as detailed in the EBMUD-BAWSCA Technical Memorandum:

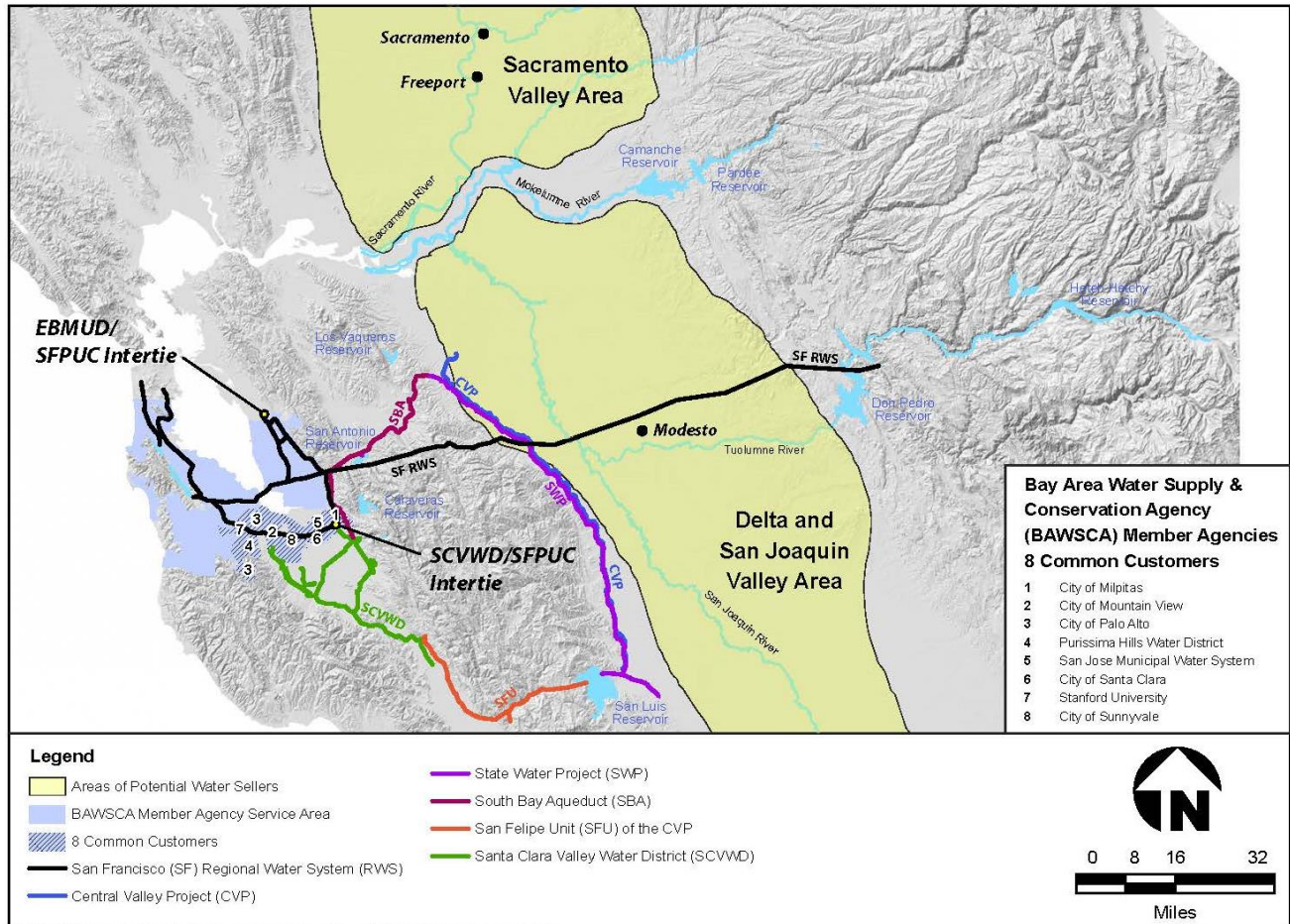
- Access to capacity is a serious issue in drought years, as EBMUD may need to use the entire capacity of the FRWP to deliver their own supplies.
- During the drought conditions, sellers may have less supply to sell, increasing the competition for purchase of transfer water and increasing the price of transfer water.
- Transfer water is only available at certain times of the year, based on agency availability and environmental constraints, which may not correspond to the time when capacity is available to transfer the water.
- The availability of transfer water changes with type of water year (i.e., wet or dry), adding complexity to scheduling a water transfer to BAWSCA.
- Drought conditions created difficulty for agencies in getting Warren Act contracts from the USBR for use of the Folsom South Canal, as USBR staff prioritized water transfers to CVP contractors and areas in critical drought conditions.
- Drought conditions increased the requirements for both State and Federal environmental compliance analyses that are prerequisite to implementing a water transfer.
- There was not sufficient time to complete all the required regulatory approvals and environmental reviews. One-year transfers that require State approval are exempt from CEQA, however, federal approval and National Environmental Policy Act requirements of the USBR have no similar statutory exemption.
- Wheeling costs through the EBMUD system are higher than anticipated during Phase I of the Pilot Plan.
- During the extreme drought conditions, BAWSCA and EBMUD could be competing for the purchase of the same water supplies and potentially the same conveyance capacity.

A similar water transfer study is planned between BAWSCA and the Santa Clara Valley Water District (SCVWD) to explore the benefits of partnering on future water transfer projects to improve long-term and dry year water supply reliability in each of their service areas. Figure 14 illustrates the potential path of water from SCVWD to BAWSCA agencies.⁸⁴

⁸³ BAWSCA-EBMUD Technical Memorandum.

⁸⁴ BAWSCA-EBMUD Technical Memorandum

Figure 14. BAWSCA-SCVWD Water Transfer Map



Source: BAWSCA's Long-Term Reliable Water Supply Strategy Phase II Final Report, February 2015.

Similar to the BAWSCA-EBMUD transfer described above, there are challenges with a potential SCVWD-BAWSCA transfer. More specifically, agreements take time to negotiate (water transfer agreements, intertie use agreements, conveyance and treatment agreements, etc.); environmental considerations and permitting concerns are significant (i.e., the level of environmental documentation is proportional to the complexity of the transfer proposed); the timing of the transfer is subject to agency-specific constraints regarding available capacity, the period when transfer water is available, etc.; the cost of the transfer must be weighed against the needs, willingness, and/or ability to pay of the recipient of the water; and finally there are political considerations as well as public outreach that often needs to be taken into account. All told, it takes considerable time and effort to negotiate even what may be considered a straight-forward transfer.

The 2016 Draft SED fails to account for any of the challenges to a water transfer that BAWSCA experienced directly, as described above. These same challenges would be faced by the SED proposed CCSF water transfer. Thus, the proposed large-scale water transfer from the Districts to San Francisco cannot be considered a reasonably foreseeable method of compliance by San Francisco with the LSJR Alternatives.⁸⁵

⁸⁵ Pub. Resources Code, § 21159, subd. (a); Cal. Code Regs., tit. 23, § 3777, subd. (b)(4).

BAWSCA Agencies Have Also Had Difficulties With Planning And Implementing Water Transfers.

ACWD, as part of developing their own water transfer agreements and use of the South Bay Aqueduct (SBA), has evaluated the potential available capacity for transfers of additional supply through the SBA and has identified a limited capacity, with a variable and narrow time window, to transfer surplus, non-ACWD supplies, through the SBA during droughts and normal years. In ACWD's SED comment letter, they provide a discussion that sheds further light on the complexity of executing a transfer during droughts, citing a recently failed transfer opportunity:

ACWD also questions the notion within the SED that any water supply shortfall can simply be mitigated with water transfers. Water transfers are temporary in nature, unpredictable in cost and quantity, complicated to obtain and implement, and are dependent on regulatory approvals. During the recent drought, and despite the State Water Resource Control Board's support (which we greatly appreciated), ACWD and the Contra Cost Water District were unable to execute a transfer of 5,000 AF of our own, secured water supply. Despite having all regulatory approvals, the Central Valley Project and State Water Project Coordinated Operations were not willing to execute the transfer due to temporary and unpredictable Delta flow conditions. By the time suitable conditions returned, the permits had expired. Given the uncertainties of water transfers, ACWD does not believe that dependence on unsecured transfers is a responsible approach to meet the needs of customers during normal, dry, and multiple dry water years.⁸⁶

Based on the limited ability of the BAWSCA member agencies (with the exception of ACWD) to be able to purchase transfer supply from the State Water Project (SWP) system, and the potential capacity limitations on transfer through the SBA, it is highly unlikely that the SBA could be used by BAWSCA to transfer purchased supply from the Sacramento Valley, Delta, or San Joaquin Valley to the other member agencies.⁸⁷

ii. The 2016 Draft SED Incorrectly Assumes that the Irrigation Districts Would Agree to Transfer the Required Volume of Water at the Assumed Price

The SED concedes that the "assumed price is key to the analysis, and is derived based on a review of recent water purchases involving both MID and TID, as well as by other agricultural districts in California."⁸⁸

The total costs associated with suggested transfer in the 2016 Draft SED must be determined, including purchase, possible storage, transfer, or wheeling and distribution costs to the BAWSCA member agencies. These costs will vary depending on the type and location of the supply source, and the agreements and infrastructure required to wheel the transfer supplies to the BAWSCA service area. Based on BAWSCA's experience, the costs may be higher if there are contract requirements requiring payment for supply even if the supply is not taken every year, or maintaining wheeling capacity through other agency water systems.⁸⁹

⁸⁶ See ACWD's SED Comment Letter.

⁸⁷ BAWSCA Phase I Scoping Report.

⁸⁸ 2016 Draft SED at pp. 20-48; see also 2016 Draft SED at pp.16-7, 16-8 (identifying water transfers between other water agencies that occurred in 2002-2004 and 1997-2005, and concluding that based on this information, "a reasonable cost of \$1,716 per acre-foot is assumed for a [Environmental Water Account] contract sale or \$310 per acre-foot for a long-term transfer.").

⁸⁹ BAWSCA Phase I Scoping Report.

Moreover, other agencies (including BAWSCA and its member agencies) would compete with CCSF for available supplies resulting in increased prices.

Based on BAWSCA's experience, the 2016 Draft SED assumed cost of \$1,000 per acre foot is not realistic for purchase and conveyance of transfer water. When BAWSCA began investigating water transfers, the price of water alone, not including associated wheeling and distribution costs, was estimated to be between \$75 and \$275 per acre foot. When the drought hit and BAWSCA began negotiations with water agencies, the price increased to \$450 per acre foot in 2014 and \$500 per acre foot in 2015 for the same supply. Based on the data gathered during 2015, the cost of water and cost of conveyance was estimated to be up to \$2,300 per acre foot to transfer approximately 1,000 acre feet to BAWSCA via EBMUD, FRWP and the City of Hayward, which includes the RWS cost of distributing the transfer water. BAWSCA staff is willing to discuss with State Board staff in detail the limitations BAWSCA has experienced in attempting to purchase water and facilitate a transfer into the RWS.

Finally, the 2016 Draft SED improperly incorporates WSIP PEIR environmental analysis of a potential 2 mgd transfer with Districts and states that a larger water transfer would undergo project-level CEQA review at time it is proposed.⁹⁰ An accurate, stable, and finite project description is an indispensable component of an informative and legally sufficient EIR.⁹¹ A "project" is the "whole of an action" that has the potential to result in a physical change to the environment "directly or indirectly".⁹² An agency cannot chop up a project into pieces to avoid analyzing and discussing in the EIR the sum of environmental impacts resulting from the project.⁹³ The impacts of the proposed transfer must be fully evaluated in the 2016 Draft SED. For further analysis regarding the deficient analysis contained in the 2016 Draft SED concerning large-scale transfer, please see CCSF SED Comments, starting on page 80, incorporated herein by reference.

iii. It Is Not Reasonably Foreseeable That CCSF Could Develop The Identified In-Delta Diversion Facility

The State Board's assumption that CCSF would be able to mitigate water supply impacts to the RWS service territory by developing the identified in-Delta diversion facility and associated infrastructure is not supported by substantial evidence, or reasonable inferences predicated on fact. The environmental review of the in-Delta diversion facility improperly relies on the analysis in the WSIP PEIR. The Draft WSIP EIR found that "because of numerous institutional and regulatory uncertainties associated with this alternative (largely dependent on how and where the SFPUC would purchase the water), it is unknown if this alternative could achieve the WSIP level of service goals for delivery and water supply reliability.⁹⁴ Therefore, since this alternative would have uncertain water supply reliability and an unknown ability to reduce impacts on Tuolumne River resources, as well as significant additional environmental impacts, it was eliminated from further consideration."⁹⁵

⁹⁰ 2016 Draft SED, Appendix L, at p. L-23.

⁹¹ Cal. Code Regs., tit. 23, § 15124.

⁹² Cal. Code Regs., tit. 23, § 15378(a).

⁹³ *Christward Ministry v. Superior Court* (1986) 184 Cal.App.3d 180, 193

⁹⁴ San Francisco Planning Department, City and County of San Francisco, Water System Improvement Plan, Program Environmental Impact Report (October 2008), at 9-126, available at <http://sf-planning.org/sfpuc-negative-declarations-eirs>, (hereinafter "Water System Improvement Plan, Program Environmental Impact Report")

⁹⁵ Water System Improvement Plan, Program Environmental Impact Report at pp. 9-125 to 9-126.

For further description of why the In-Delta diversion facility is highly speculative and not reasonably foreseeable, please see the CCSF SED Comments.⁹⁶

iv. It Is Not Reasonably Foreseeable That San Francisco Could Develop A Desalination Plant

The SWRCB's assumption that San Francisco would be able to mitigate water supply impacts to the RWS service territory by developing a 56,000 AF/year desalination plant located at Mallard Slough is not supported by substantial evidence, or reasonable inferences predicated on fact. For a further description of why a desalination facility is highly speculative and not reasonably foreseeable, please see the CCSF SED Comments.⁹⁷

c. The 2016 Draft SED Fails To Adequately Analyze The Reasonably Foreseeable Reduction In The Water Supplies And The Resulting Significant Impact On The Bay Area's Economy

The 2016 Draft SED incorrectly assumes that SFPUC would replace water supplies rather than impose shortages, despite having information that this is unlikely. The 2016 Draft SED restricts the impact analysis to the unlikely development of new water supplies, despite acknowledging that shortages would be more expensive and without analyzing the resulting economic impact to the Bay Area from reduced water supplies. Implementation of LSJR Alternatives 3 or 4 would cause severe water shortages in the RWS service territory during a sequential year drought.⁹⁸

i. The 2016 Draft SED Contains An Inadequate Economic Analysis

The 2016 Draft SED contains an inadequate economic analysis in Chapter 20, and although it acknowledges the requirement to include economic considerations when establishing water quality objectives under Water Code section 13241,⁹⁹ it qualifies this requirement by the lower level of detail required by a programmatic CEQA document:

The economic analysis presented in this SED will help inform the State Water Board's consideration of potential changes to the 2006 Bay-Delta Plan related to LSJR flow and southern Delta water quality objectives. Any project-level changes to water rights or other measures that may be needed to implement any approved updates to the 2006 Bay-Delta Plan will be considered in subsequent proceedings and would require project-level analysis, as appropriate. Therefore, the economic analyses presented in this chapter, which also summarize results from resource analyses presented elsewhere in this SED and its appendices, are limited by the programmatic nature of this document.¹⁰⁰

A thorough economic analysis is required under Water Code section 13241.¹⁰¹

⁹⁶ CCSF SED Comments at pp. 95-97

⁹⁷ CCSF SED Comments at pp. 86-95.

⁹⁸ See SFPUC Analysis of Changes to Flow Criteria, Table 2-4 at pp. 10-12.

⁹⁹ 2016 Draft SED at p. 20-1.

¹⁰⁰ 2016 Draft SED at p. 20-3.

¹⁰¹ *City of Arcadia v. State Water Resources Control Bd.*, 191 Cal. App. 4th 156, 176 [Cal. App. 4th Dist. 2010] ["Water Code section 13241 does impose obligations that can be enforced by a writ of mandate," separate and apart from any CEQA requirement or cause of action."].

In general, within the BAWSCA service area, the first 20 to 30-percent of water supply reductions can be borne by the residential sector alone.¹⁰² The economic losses from these shortages are experienced as welfare losses by the consumer, and manifest as consumers not being able to receive the water supply reliability that they have paid for through their water rates. Over time, these welfare losses result in dissatisfaction by customers with their respective local water providers and City Councils because they are paying for something – water supply reliability – that they are not receiving.¹⁰³

Significantly, as described in more detail below, once water shortages reach a level that can no longer be borne by the residential sector alone, further water supply reductions require water rationing by the commercial and industrial sectors that, in turn, manifest in the form of reduced economic output and job losses. The threshold at which water supply reductions can no longer be solely absorbed by the residential sector – a point that will necessarily vary depending on the alternative water supplies available to each BAWSCA agency – represents a critical juncture.

As detailed above in Section I.b., implementation of LSJR Alternatives 3 or 4 would cause severe water shortages in the RWS supply during multi-year droughts. Agencies' other water supplies would also be subject to reductions during multi-year droughts. These water supply reductions would be too severe to be borne by only the residential sector, so there would also be cutbacks on water supply to the commercial and industrial sectors. These major shortages to the commercial and industrial sectors would result in significant losses of jobs and economic output in the BAWSCA service area.

Assuming the full system demand of 265 mgd, a recurrence of 1988 hydrology, and a 40 percent unimpaired flow on the Tuolumne River; the incremental impacts anticipated in the BAWSCA service area (over and above those that would occur in the base case) would be the loss of 71,315 jobs and loss in economic output of over \$36 billion.¹⁰⁴ Similar major losses would occur each year of a multi-year drought. Over a six-year drought sequence that mimics the 1987-1992 drought, incremental job losses would total 374,886 and incremental loss of economic output would total more than \$199 billion in the BAWSCA service area alone, using the same assumptions for water demand.¹⁰⁵ Figures 15 and 16 illustrate the anticipated incremental loss of jobs and loss in economic output, respectively, over a recurrence of the 6-year drought sequence, assuming a full system demand of 265 mgd.

¹⁰² CCSF SED Comments, pp. 28-32.

¹⁰³ CCSF SED Comments, pp. 28-32 and “*Bay Area Socioeconomic Impacts Resulting from Instream Flow Requirements for the Tuolumne River*,” The Brattle Group, prepared by David Sunding, Ph.D., attached as Appendix 3 to the CCSF SED Comments (referred to as the “2017 Socioeconomic Impacts Analysis”).

¹⁰⁴ See 2017 Socioeconomic Impacts Analysis, Tables 9 and 11 at pp. 10-11.

¹⁰⁵ 2017 Socioeconomic Impacts Analysis, Tables 9 and 11 at pp. 10-11.

Figure 15: Annual Incremental Job Losses to Wholesale Customers at Full RWS Demands of 265 MGD during Historic 6-Year Drought Sequence for Three Unimpaired Flow Objectives

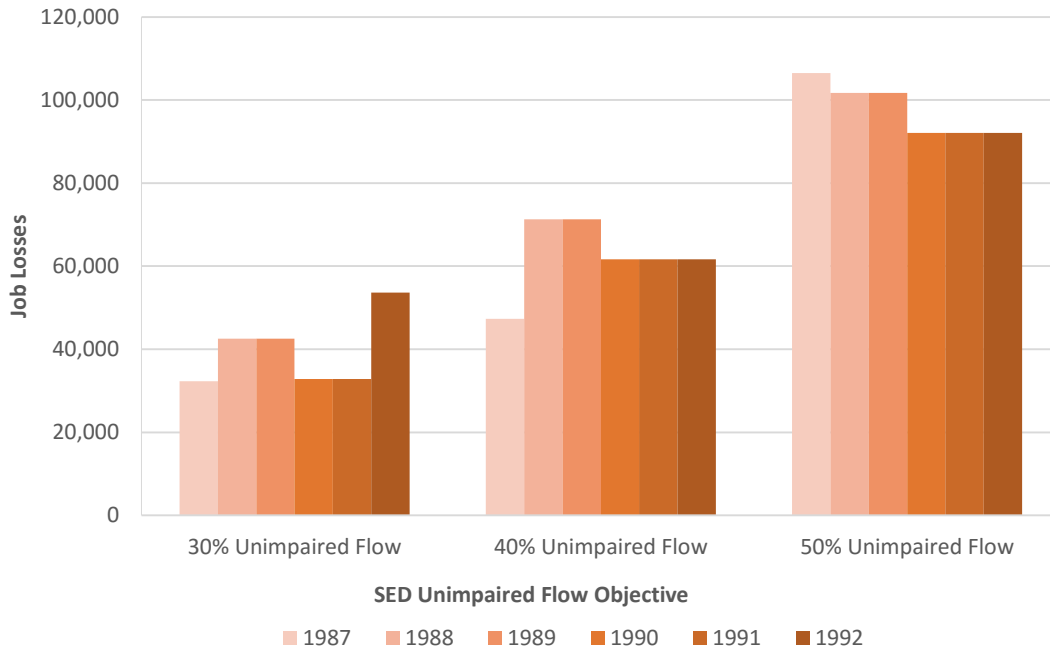
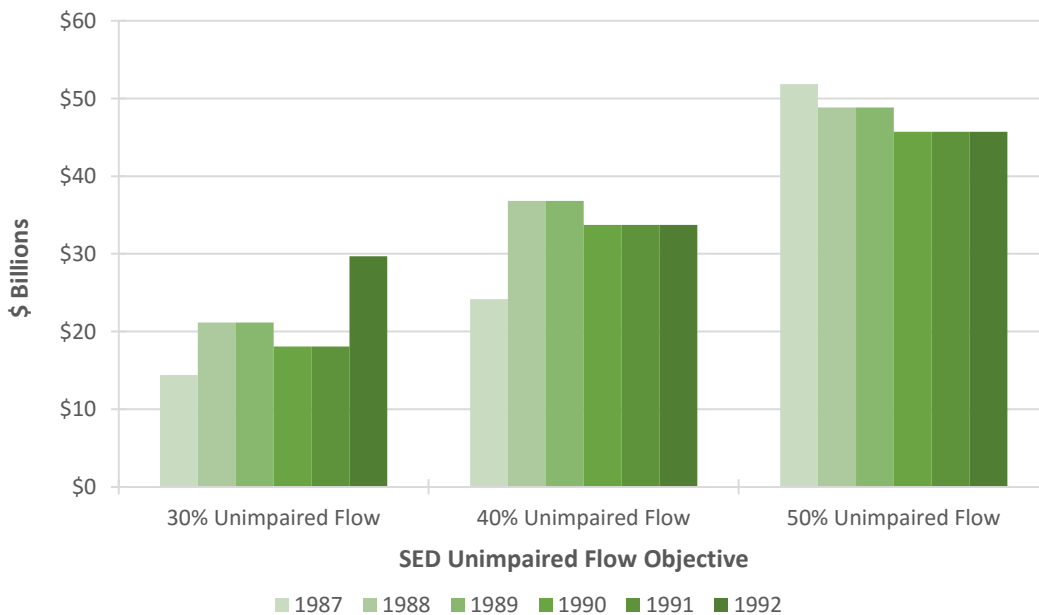


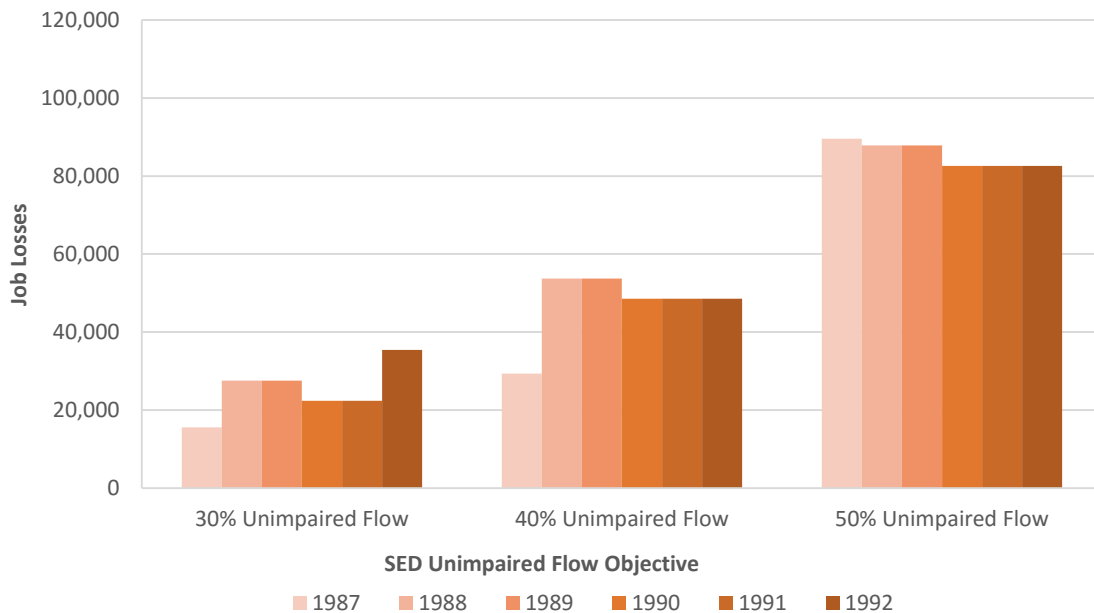
Figure 16: Annual Incremental Economic Output Losses to Wholesale Customers at Full RWS Demands of 265 MGD during Historic 6-Year Drought Sequence for Three Unimpaired Flow Objectives



Assuming the current (pre-drought) system demand of 223 mgd, a recurrence of the 1988 hydrology, and a 40 percent unimpaired flow mandated by the SED: the incremental impacts anticipated in the BAWSCA service area (over and above those that would occur in the base case) would be the loss of 53,729 jobs and loss in economic output of over \$18 billion. Similar major losses would occur each year of a multi-year drought. Over a six-year drought sequence that mimics the 1987-1992 drought, incremental job losses would total 282,368 and incremental loss of economic output would total more than \$98 billion in the BAWSCA service area alone, using the same assumptions for water demand.¹⁰⁶

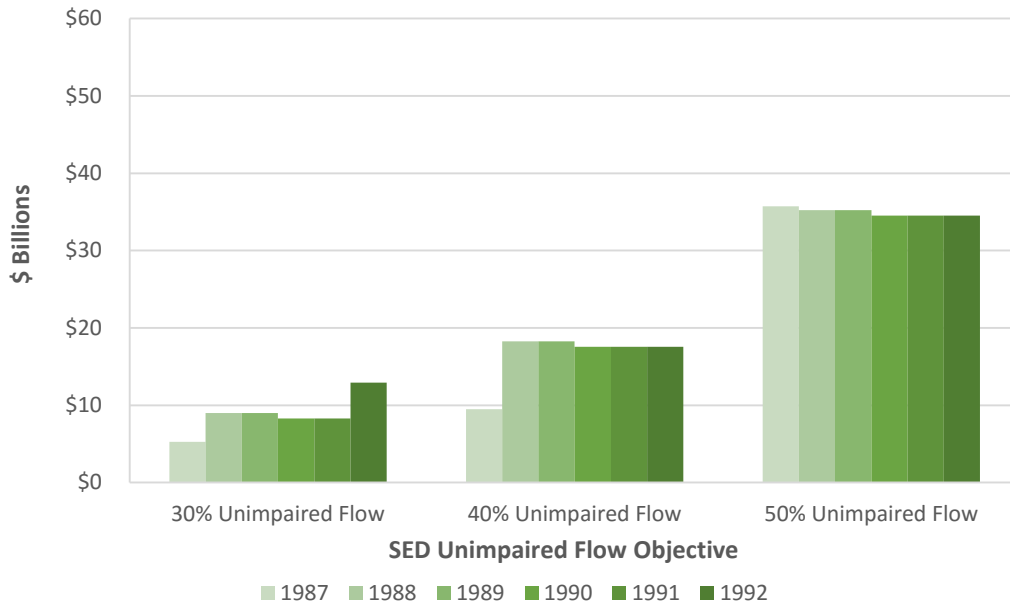
Figures 17 and 18 illustrate the anticipated incremental loss of jobs and loss in economic output, respectively, over a recurrence of the 6-year drought sequence, assuming a RWS demand of 223 mgd.

Figure 17: Annual Incremental Job Losses to Wholesale Customers at Current (Pre-Drought) RWS Demands of 223 MGD during Historic 6-Year Drought Sequence for Three Unimpaired Flow Objectives



¹⁰⁶ 2017 Socioeconomic Impacts Analysis, Tables 8 and 10 at pp. 10-11.

Figure 18: Annual Incremental Economic Output Losses to Wholesale Customers at Current (Pre-Drought) RWS Demands of 223 MGD during Historic 6-Year Drought Sequence for Three Unimpaired Flow Objectives



Economic and job losses would be even greater if a 50 percent unimpaired flow was mandated on the Tuolumne River, as shown in Figures 15, 16, 17, and 18.

ii. The 2016 Draft SED Fails To Consider The Economic Impact To BAWSCA Agencies' Rates

The 2016 Draft SED fails to analyze the economic impacts resulting from BAWSCA agencies' reasonably foreseeable actions to the proposed reduced flows. The Draft 2016 SED failed to analyze the impacts from increased competition due to the shortages and how prices will be inflated by a drought and reduced flows available to supply the Bay Area.

Wholesale water rates are based upon the Wholesale Customers' collective share of the expenses incurred by CCSF in delivering water to them on the basis of proportional annual use. This collective share of expenses is defined as the "Wholesale Revenue Requirement." Wholesale rates are set prospectively based on the budget of the Wholesale Revenue Requirement and estimates of water purchases in the following fiscal year. After the close of each fiscal year, the difference of the actual costs allocable to the Wholesale Customers and the amounts billed to the Wholesale Customers for that fiscal year will be posted to a "balancing account". The amount in the balancing account shall be taken into consideration in establishing the following year's wholesale rates. As such, if total water deliveries by CCSF decrease, the effective water rate (\$ per acre-foot) will increase.

SFPUC's water rates for its 27 wholesale customers derive from the Water Supply Agreement executed in 2009 between the SFPUC and the Wholesale Customers.¹⁰⁷ Based on the 2009 Water Supply Agreement, Wholesale Customers pay a proportionate share of RWS operating expenses, debt service on bonds sold to finance regional system improvements, and other regional system improvements funded from current revenues, along with the repayment of previously constructed capital assets that were not otherwise fully depreciated.¹⁰⁸ In general, costs are apportioned to Wholesale Customers based on proportionate water use, and rates are reset annually to cover costs as mandated by the 2009 Water Supply Agreement.¹⁰⁹ Based on SFPUC wholesale water costs, costs for other water supplies, and other budgetary conditions faced by the 27 agencies that purchase water from SFPUC, each wholesale customer then sets the retail water rates for the end-use customers (e.g., residential, commercial, and industrial).¹¹⁰

For the BAWSCA Agencies, rates will need to increase by 6% in the 2016 Draft SED's 30% unimpaired flow case, by 9% in the 40% unimpaired flow case, and by 15% in the 50% unimpaired flow case.¹¹¹ Although raising water rates is seen by state regulatory agencies and some environmental organizations as a viable method to encourage lower water use, water agencies must approach the rate setting process with considerable planning and care. State law requires utilities to notify all property owners in writing of proposed rate changes well in advance and to hold a public hearing to receive protests. It also requires water charges to be limited to the actual cost of service, and hence using rates to manage drought supplies is complicated.¹¹² For water utilities that are in the midst of performing cost-of-service studies, taking any rate action is subject to legal scrutiny until and unless those studies are completed (and/or considered current).

Even with these significant rate increases, the BAWSCA agencies will be forced to make heavier use of balancing accounts and other financial reserves to cope with the budgetary instability caused by less reliable water supplies.¹¹³ Agencies may find themselves having to cut operating expenses (laying off workers for example) and / or delaying needed capital spending aimed at maintaining their water systems to counter that instability.¹¹⁴

d. The 2016 Draft SED Fails To Adequately Analyze Increasing Bay Area Population Growth And Housing Needs, The Impacts From Displaced Low-Density Growth, And The Environmental Costs Of Foregoing Smart Growth Development

Notwithstanding a reduction in water supplies projected in the 2016 Draft SED, the Bay Area faces substantial projected increases in employment and population between now and 2040.¹¹⁵ As the housing market has recovered from the recession, thousands of new workers

¹⁰⁷ The SFPUC has individual wholesale contracts with 27 agencies, 26 of which are BAWSCA members. The Cordilleras Mutual Water Company ("Cordilleras MWC") is also a wholesale customer of the SFPUC but is not BAWSCA member. (San Francisco Public Utilities Commission, City and County of San Francisco, 2015 Urban Water Management Plan (June 2016) at p. 2-2).

¹⁰⁸ Water Supply Agreement Between The City And County Of San Francisco And Wholesale Customers In Alameda County, San Mateo County And Santa Clara County, July 2009 (WSA) *available at* <https://sfwater.org/modules/showdocument.aspx?documentid=8632>

¹⁰⁹ *Id.*; 2016 Draft SED, Appendix L, at p. L-10.

¹¹⁰ *Id.*; 2016 Draft SED, Appendix L, at p. L-11.

¹¹¹ 2017 Socioeconomic Impacts Analysis at p. 12.

¹¹² Cal. Const., arts. XIII C, XIII D.

¹¹³ 2017 Socioeconomic Impacts Analysis at p. 12.

¹¹⁴ See California water prices set to rise next year: Fitch (Reuters, August 18, 2015) <http://www.reuters.com/article/us-california-water-rates-idUSKCN0QN1PH20150818>

¹¹⁵ Memorandum to the Joint MTC Planning Committee/ABAG Administrative Committee at 2 (September 2, 2016).

have been attracted to the high-paying tech economy of the Bay Area.¹¹⁶ The resulting increase in housing costs has not only had a direct economic impact on many Bay Area families, it has also increased incentives to build on greenbelt land, with development proposals on open space and farmland on the periphery of the Bay Area.¹¹⁷ If affordable housing is not located close to these high demand jobs, people will commute from a distance where there are less expensive homes.¹¹⁸ ("Affordability" refers to households' ability to purchase essential goods such as food, housing, transportation and healthcare.¹¹⁹) As discussed below, the costs of urban sprawl are hidden, and include more than increased transportation costs.¹²⁰

i. The 2016 Draft SED Fails To Adequately Analyze Bay Area Population Growth And Resulting Displaced Low-Density Growth From The Proposed SED Alternative Flows

An EIR must discuss any inconsistencies between the proposed project and applicable general plans, specific plans and regional plans.¹²¹ Plan Bay Area was adopted by the Association of Bay Area Governments ("ABAG") and the Metropolitan Transportation Commission ("MTC") in 2013 in accordance with "The California Sustainable Communities and Climate Protection Act of 2008" (California Senate Bill 375 ["SB 375"], Steinberg), which requires each of California's 18 metropolitan areas – including the Bay Area – to reduce greenhouse gas emissions from cars and light trucks.¹²² SB 375 directs "the Bay Area and other California regions [to] develop a Sustainable Communities Strategy (SCS) – a new element of the regional transportation plan (RTP) – to strive to reach the greenhouse gas (GHG) reduction target established for each region by the California Air Resources Board."¹²³ SB 375 also "requires regions to plan for housing that can accommodate all projected growth, by income level, so as to reduce the pressures that lead to in-commuting from outside the nine-county region."¹²⁴ Plan Bay Area 2013 is the region's first RTP subject to SB 375.¹²⁵

Although Plan Bay Area 2013 has multiple performance targets, "[t]wo of the targets are not only ambitious—they are mandated by state law."¹²⁶ The first mandatory target addresses climate protection by requiring the Bay Area to reduce its per-capita CO₂ emissions from cars and light-duty trucks by 7-percent by 2020 and 15-percent by 2035.¹²⁷ "The second mandatory target addresses adequate housing by requiring the region to house 100 percent of its projected population growth by income level."¹²⁸ In order to help achieve the Bay Area's GHG emissions

¹¹⁶ At Risk: The Bay Area Greenbelt: 2017 Greenbelt Alliance at pp. 7 - 8. (2017) *available at* <http://www.greenbelt.org/at-risk-2017/>

¹¹⁷ At Risk: The Bay Area Greenbelt: 2017 Greenbelt Alliance at 3.

¹¹⁸ At Risk: The Bay Area Greenbelt: 2017 Greenbelt Alliance at 29.

¹¹⁹ Todd Litman. 2015. "Understanding Smart Growth Savings: Evaluating Economic Savings and Benefits of Compact Development, and How They Are Misrepresented By Critics." Victoria Transport Policy Institute *available at* http://www.vtpi.org/sq_save.pdf at p. 16.

¹²⁰ At Risk: The Bay Area Greenbelt: 2017 Greenbelt Alliance at 29.

¹²¹ Cal. Code Regs., tit. 14, § 15125(d); *Joshua Tree Downtown Business Alliance v. County of San Bernardino* (2016) 1 Cal.App.5th 677, 695, review denied (Oct. 12, 2016.)

¹²² Plan Bay Area: A Strategy for a Sustainable Region, July 18, 2013, Association of Bay Area Governments, Metropolitan Transportation Commission, *available at* <http://mtc.ca.gov/sites/default/files/0-Introduction.pdf> ("referred to below as "Plan Bay Area 2013"), at p. 4.

¹²³ Plan Bay Area 2013.

¹²⁴ Plan Bay Area 2013 at p. 99.

¹²⁵ Plan Bay Area 2013 at p. 4.

¹²⁶ Plan Bay Area 2013 at p. 5.

¹²⁷ Plan Bay Area 2013 at p. 4-5.

¹²⁸ Plan Bay Area 2013 at p. 5; *See also* Plan Bay Area 2013 at pp. 19, 43 (explaining that SB 375 requires that the Bay Area identify a land use pattern for projected growth (from a 2010 baseline year) that will, *inter alia*, house 100-percent of the region's projected 25-year population growth by income level (very-low, low, moderate, above-moderate) without displacing current low-income residents.)

reduction and housing targets, Plan Bay Area 2013 identifies a land use pattern that “directs new growth within locally adopted urban growth boundaries to existing communities along major transit corridors.”¹²⁹

Due to the high cost of housing in the region, for decades “an ever-increasing number of people who work in the Bay Area” have been compelled “to look for more affordable housing in the Central Valley or other surrounding regions.”¹³⁰ To address this incongruity, Plan Bay Area 2013 calls for the majority of projected growth to occur in Priority Development Areas (“PDAs”) that are “transit-oriented, infill development opportunity areas within existing communities”¹³¹

Plan Bay Area 2040 is the update to Plan Bay Area 2013, in which the ABAG and the MTC revised regional growth forecast in the Draft Preferred Scenario projects by an estimated additional 1.3 million jobs and 2.4 million people in the Bay Area by 2040. This population increase will require over 800,000 housing units in the Bay Area.¹³²

The 2016 Draft SED fails to account for this population growth and the resulting impacts from water supply shortages to the Bay Area caused by the alternative proposed flows. Not only is there a failure to account for impacts from population growth and increased housing needs as projected by Plan Bay Area as required by Cal. Code Regs., tit. 14, § 15125(d), the 2016 Draft SED fails entirely to account for displaced growth as a result of water shortages to the Bay Area and development moratoriums.

An EIR must discuss growth-inducing impacts from a project.¹³³

Depending on the circumstances, a government agency may reasonably anticipate that its placing a ban on development in one area of a jurisdiction may have the consequence, notwithstanding existing zoning or land use planning, of displacing development in other areas of the jurisdiction.¹³⁴

CEQA broadly defines the relevant geographical environment as “the area which will be affected by a proposed project.”¹³⁵ Consequently, “the project area does not define the relevant environment for purposes of CEQA when a project’s environmental effects will be felt outside the project area.”¹³⁶ Indeed, “the purpose of CEQA would be undermined if the appropriate governmental agencies went forward without an awareness of the effects a project will have on areas outside of the boundaries of the project area.”¹³⁷

¹²⁹ Plan Bay Area 2013 at pp. 43, 45.

¹³⁰ *Id.* at 99; *id.* at p. 45 (noting that “past trends saw the outward expansion of urban growth in the region and spillover growth in surrounding regions”); See also Draft 2016 SED, at pp. 11-12 (“spillover from the Bay Area is causing growth stress in the San Joaquin Valley as commuters seek affordable housing. Over the past 35 years, the northern San Joaquin Valley, including San Joaquin, Stanislaus and Merced Counties, has experienced explosive growth in the numbers of workers who commute north and west out of the valley each day. By 2010, that was estimated to be about 24 percent of workers working outside their county of residence with about 46,000 heading towards the Bay Area”).

¹³¹ *Id.*

¹³² Memorandum to the Joint MTC Planning Committee/ABAG Administrative Committee at 2 (September 2, 2016) available at <http://planbayarea.org/the-plan/Draft-Preferred-Scenario.html>

¹³³ Pub. Resources Code, § 21100(b)(5); 14 CCR § 15126(d).

¹³⁴ *Muzzy Ranch Co. v. Solano County Airport Land Use Com'n* (2007) 41 Cal. 4th 372, 383. (“*Muzzy Ranch*”).

¹³⁵ Pub. Resources Code, § 21060.5.

¹³⁶ *County Sanitation Dist. No. 2 of Los Angeles County v. County of Kern* (2005) 127 Cal.App.4th 1544, 1582–1583; *Muzzy Ranch*, 41 Cal.4th 372, 387.

¹³⁷ *Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 369.

The 2016 Draft SED plan area encompasses the areas where the proposed plan amendments apply to protect beneficial uses. For example, the LSJR flow objectives would require flows in the salmon-bearing tributaries of the LSJR below the rim dams on the Stanislaus, Tuolumne, and Merced Rivers, and the mainstem of the LSJR between its confluence with the Merced River and downstream to Vernalis to protect fish and wildlife beneficial uses in those reaches.¹³⁸ The Bay Area is considered outside of the plan area. The 2016 Draft SED failed to evaluate the likely environmental impacts from increased population and housing needs in the Bay Area while experiencing a decreased water supply proposed by the SED's alternative flows.

The imposition of a moratorium on development in the BAWSCA service area would exacerbate the existing housing issues and further push housing growth out of the high-density areas of the Bay Area to the eastern and southern most portions of the Bay Area and to the western San Joaquin Valley. Most of the region's farmlands and natural areas that are threatened by sprawl are in communities at the edges of the region, such as southern Santa Clara County, eastern Contra Costa County, and Solano County.¹³⁹ As explained by ABAG and MTC, past development trends saw the outward expansion of growth within the Bay Area and spillover of growth into surrounding regions, including the Central Valley.¹⁴⁰ The 2016 Draft SED recognizes that the spillover from the Bay Area will be to San Joaquin Valley, but fails to analyze the environmental impacts from such spillover.¹⁴¹

Section 13241 of the Water Code requires suitable consideration of "[t]he need for developing housing within the region" and the current analysis in the 2016 Draft SED does not meet this obligation. The 2016 Draft SED discusses growth-inducing impacts, concluding that the potential effects of the LSJR and SDWQ Alternatives on growth would not directly or indirectly foster economic, population, or housing growth; remove obstacles to growth; or facilitate or encourage other such activities.¹⁴² However, it fails to consider the effects of displaced growth as a result of reduced water supplies to the Bay Area, specifically to the RWS.

ii. The 2016 Draft SED Fails To Analyze The Environmental Harm From Foregoing Smart Growth Strategies And Encouraging Urban Sprawl

The California Department of Finance forecasts that, by 2030, more than 44 million people will live in California, an increase of 30% over the State's population in 2000.¹⁴³ These people will live somewhere. With an anticipated increase in employment and population in the Bay Area, the resulting moratorium on development from the anticipated reduced water supplies in the 2016 Draft SED would result in displaced growth. The individuals filling the increasing number of jobs will need to commute from their homes to their jobs. As a result, it is reasonable to expect that housing development will be pushed to farmlands and open space conservation areas, which are currently threatened by sprawl in response to the Bay Area's affordable housing crisis.¹⁴⁴ This likely includes land in the periphery of the Bay Area (outside of the RWS), and eastward into western San Joaquin Valley.¹⁴⁵

"Smart Growth" is a development philosophy based on creative development strategies that prioritize the preservation of the environment and critical ecosystems, improving water and

¹³⁸ 2016 Draft SED, Executive Summary, at p. ES-5.

¹³⁹ At Risk: The Bay Area Greenbelt: 2017 Greenbelt Alliance at p. 29.

¹⁴⁰ Plan Bay Area 2013 at pp. 42, 45, 99.

¹⁴¹ 2016 Draft SED at pp. 11-12.

¹⁴² 2016 Draft SED at pp. 17-70.

¹⁴³ Cal. Dept. of Finance Projections available at <http://www.dof.ca.gov/>.

¹⁴⁴ At Risk: The Bay Area Greenbelt: 2017 Greenbelt Alliance at p. 29.

¹⁴⁵ 2016 Draft SED at pp. 11-12.

air quality, and leveraging existing development to create compact, transit-oriented development with diverse housing choices.¹⁴⁶ Comprehensive Smart Growth policies create neighborhoods where high quality walking, cycling, public transit and carsharing services allow households to minimize their vehicle ownership and use.¹⁴⁷ Smart Growth tends to increase economic development, including productivity, business activity, property values and tax revenues.¹⁴⁸ Smart Growth can positively affect housing affordability by supporting more affordable housing types and can reduce development fees and taxes for more compact development, reflecting the lower costs of providing public services.¹⁴⁹

The Bay Area has adopted Smart Growth strategies to protect the environment, preserve public health, and to build more diverse communities. Bay Area residents have consistently chosen Smart Growth approaches over suburban sprawl and displaced growth. In 2014 alone, six Bay Area cities either rejected measures that would have curtailed Smart Growth strategies or approved measures to reinforce Smart Growth approaches.¹⁵⁰ Displaced growth, largely low-density and dispersed, would have different and far greater impacts than those associated with the high-density, infill development in the existing RWS area.

In the Bay Area 293,100 acres of natural and agriculture land are at risk from sprawl development over the next 30 years as a result of existing increased housing costs and incentives to build on green belt land around the region. The most acute threat exists to 63,500 acres that will likely be developed in the next 10 years.¹⁵¹ The existing threats to these natural and agriculture land as a result of urban sprawl and the resulting environmental impacts that will be exacerbated as a result of water shortages to the RWS were not adequately analyzed in the 2016 Draft SED. The Bay Area has a total of 2.3 million acres of agricultural land, 1.8 million acres of lands that provide water resources (watersheds and wetlands), and 2.5 million acres of lands that function as wildlife habitat, corridors, and areas rich in biodiversity. Not only were the environmental impacts resulting from development of this land not considered in the 2016 Draft SED, but the SED failed entirely to consider the reduced environmental benefits from forgoing smart growth while encouraging urban sprawl.

¹⁴⁶ See EPA web page entitled "What is Green Infrastructure?", available at <https://www.epa.gov/green-infrastructure/what-green-infrastructure> (explaining that "Green infrastructure uses vegetation, soils, and other elements and practices to restore some of the natural processes required to manage water and create healthier urban environments. At the city or county scale, green infrastructure is a patchwork of natural areas that provides habitat, flood protection, cleaner air, and cleaner water. At the neighborhood or site scale, stormwater management systems that mimic nature soak up and store water.").

¹⁴⁷ Todd Litman. 2015. "Understanding Smart Growth Savings: Evaluating Economic Savings and Benefits of Compact Development, and How They Are Misrepresented By Critics." Victoria Transport Policy Institute at p. 3 available at http://www.vtppi.org/sq_save.pdf.

¹⁴⁸ Understanding Smart Growth Savings: Evaluating Economic Savings and Benefits of Compact Development, and How They Are Misrepresented By Critics. Victoria Transport Policy Institute at p. 29.

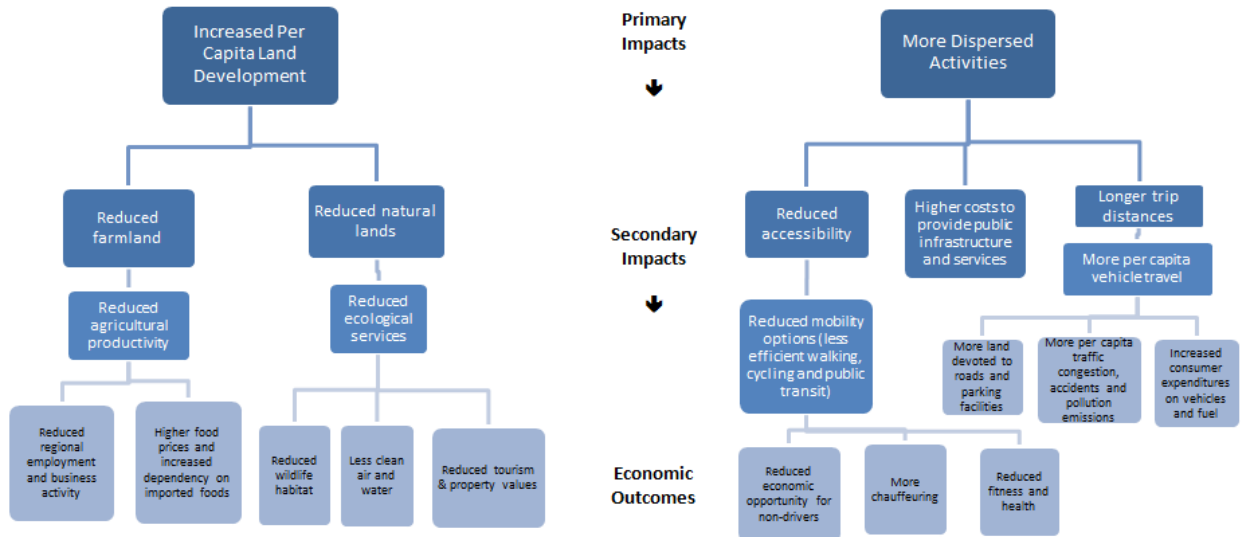
¹⁴⁹ Understanding Smart Growth Savings: Evaluating Economic Savings and Benefits of Compact Development, and How They Are Misrepresented By Critics. Victoria Transport Policy Institute. at p. 16.

¹⁵⁰ San Francisco Bay Area Planning and Urban Research Association (SPUR), Bay Area Voters Approve Smart Growth, Reject Sprawl, November 12, 2014 available at <http://www.spur.org/news/2014-11-12/bay-area-voters-approve-smart-growth-reject-sprawl> .

¹⁵¹ At Risk: The Bay Area Greenbelt: 2017 Greenbelt Alliance at pp. 3, 8.

Urban Sprawl has two primary impacts: 1) it increases per capita land consumption, and 2) it disperses development, which increases the distances between common destinations, increasing the costs of providing public infrastructure and services, and the transportation costs required to access services and activities.¹⁵²

Figure 19: Sprawl Resource Impacts



Source: *Understanding Smart Growth Savings Evaluating Economic Savings and Benefits of Compact Development, and How They Are Misrepresented By Critics*, 27 February 2017, Todd Litman, Victoria Transport Policy Institute

As shown in Figure 19 the primary impacts have a number of secondary impacts and economic costs including reduced agricultural production and ecological services; increased infrastructure and transport costs borne by governments, businesses and households; reduced economic productivity, reduced economic opportunities for disadvantaged people; more traffic congestion and accidents, higher per capita energy consumption and pollution emissions, plus reduced public fitness and health. The 2016 Draft SED fails to adequately analyze the impacts of this displaced low-density growth.

The California Legislature recognizes the social and environmental values of green infrastructure.¹⁵³ The proposed reduced flows in the 2016 Draft SED will cause displaced growth and suburban sprawl, forgoing the numerous benefits of the Smart Growth strategies favored by residents of the Bay Area. Smart Growth strategies, and compact development in particular, have numerous environmental benefits. The benefits from natural landscapes include: 1) clean, plentiful drinking water, 2) protections from floods and storms, 3) food production and food security, 4) building and medicinal materials, 5) carbon storage and climate

¹⁵² Understanding Smart Growth Savings: Evaluating Economic Savings and Benefits of Compact Development, and How They Are Misrepresented By Critics. Victoria Transport Policy Institute at p. 5

¹⁵³ See Gov. Code, § 65593(d) ["[I]andscapes are essential to the quality of life in California by providing areas for active and passive recreation and as an enhancement to the environment by cleaning air and water, preventing erosion, offering fire protection, and replacing ecosystems lost to development."].)

regulations, 6) recreation and tourism, health benefits from clean air and recreational opportunities.¹⁵⁴

Potentially significant project effects on energy consumption, human health, water quality, air quality, and, more specifically, greenhouse gas emissions, must be analyzed under CEQA.¹⁵⁵ The 2016 Draft SED does not compare the impacts of displaced growth with the impacts of planned Smart Growth strategies in San Francisco and its immediate adjacent neighboring communities.

Displaced Growth Outside The RWS Service Area Will Impact Water Quality and Water Supplies.

The CEQA Guidelines require identification of project effects that will substantially degrade water quality.¹⁵⁶ Impacts to water supply and water quality from displaced urban sprawl would include: 1) wasted water from less efficient pipes required to serve low-density suburban areas, 2) water pollution from increased driving as particles from tailpipes, tires, and breaks are deposited on roadways, leaving a toxic residue that is captured and washed into waterways by rainfall, 3) and increased stress on the water supplies of hotter inland counties, which already have substantially higher per-capita water use than the Bay Area.

"Roads and parking lots can account for as much as 70 percent of the total impervious cover in most urban areas and can easily capture pollution from vehicles."¹⁵⁷ Based on data collected by the National Stormwater Quality Database, "open space shows consistently low concentrations of all pollutants and other constituents examined"¹⁵⁸ In contrast, residential areas have the highest concentrations of dissolved and total phosphorus and high levels of fecal coliform.¹⁵⁹ "Highway drainage has the highest concentrations of total suspended solids, chemical oxygen demand . . . oil and grease, and ammonia."¹⁶⁰ Compact development reduces the amount of impervious surface, which results in less stormwater runoff.¹⁶¹ Urban sprawl threatens open spaces and, in turn, harms water quality.

Urban sprawl also has the potential to impact local drinking water supplies, which as discussed above, will already be stressed as a result of the reduced flows anticipated in the 2016 Draft SED. The farmlands and natural areas within the Bay Area that are at risk from sprawl capture rainwater and replenish the region's groundwater supplies. 46 billion gallons of water are at risk from potential development in the Bay Area's natural areas and farmlands.¹⁶² Floodplains, in particular, protect water quality, reduce sedimentation, and reduce flood risk on other properties by storing and better conveying floodwaters.¹⁶³ As drought conditions and water scarcity becomes the norm, the Bay Area will become more reliant on its local water

¹⁵⁴ At Risk: The Bay Area Greenbelt: 2017 Greenbelt Alliance at p. 27.

¹⁵⁵ Pub. Resources Code, § 21100(b)(1); Cal. Code Regs., tit. 14, § 15064.4(b).

¹⁵⁶ See CEQA Environmental Checklist Form, Appendix G, VIII(f), available at http://resources.ca.gov/ceqa/guidelines/Appendix_G.html.

¹⁵⁷ EPA. 2013. "Our Built and Natural Environments: A Technical Review of the Interactions Among Land Use, Transportation, and Environmental Quality" at 51 available at <https://www.epa.gov/sites/production/files/2014-03/documents/our-built-and-natural-environments.pdf> (hereinafter "A Technical Review").

¹⁵⁸ A Technical Review.

¹⁵⁹ A Technical Review.

¹⁶⁰ A Technical Review at p. 52.

¹⁶¹ <https://www.epa.gov/smartgrowth/smart-growth-and-water> .

¹⁶² At Risk: The Bay Area Greenbelt : 2017 Greenbelt Alliance at p. 28.

¹⁶³ Batker, D., Schwartz, A., Schmidt, R., Mackenzie, A., Smith, J., Robins, J.. 2014. Healthy Lands & Healthy Economies: Nature's Value in Santa Clara County at p. 13. (2014) available at http://www.openspaceauthority.org/about/pdf/NaturesValue_SCC_int.pdf .

resources.¹⁶⁴ Low-density development threatens the 1.2 million acres of watershed and groundwater infiltration zones.¹⁶⁵ Reduced urban sprawl development will help prevent the common harms to our water resources, such as saltwater intrusion in rivers and aquifers and land subsidence.¹⁶⁶

As discussed above, a number of BAWSCA agencies will depend more on local groundwater supplies as a result of the predicted water supply shortages in the 2016 Draft SED. Not only will these groundwater supplies be impacted as a result of potential over use, but the anticipated urban sprawl may impact the quality of this water source. "For example, a study of how land use affects water quality of an aquifer in east-central Minnesota found that sewered residential and commercial or industrial areas had higher concentrations of total dissolved solids – including calcium, potassium, sulfate, and magnesium- relative to agricultural, unsewered residential, or undeveloped areas."¹⁶⁷ Undeveloped Bay Area lands catch and filter rain, replenishing groundwater supplies. But this service is threatened by development; if lands are paved over, they cannot collect water.¹⁶⁸ Groundwater is a critical issue in California's long drought where groundwater is a source of drinking water. The reduced groundwater infiltration and impacts to water quality will negatively impact local agencies ability to achieve groundwater sustainability in compliance with the Sustainable Groundwater Management Act (SGMA).¹⁶⁹

Displaced growth outside of the RWS service area will not only impact water quality, but will also put increased stress on water supplies. People living in the hotter inland counties have substantially higher per-capita water use than those living in more urbanized coastal areas. Unlike the Smart Growth within the RWS service area, characterized by dense, compact housing, inland areas generally have single family homes on large lots. These larger lots have higher water use--especially outdoor water use. In fact, outdoor water demand for typical residential lots in an inland area is between two and three times higher than in the more compactly developed areas that make up most of the RWS service area.¹⁷⁰

The 2016 Draft SED does not adequately analyze the environmental impacts of low-density development, specifically to water quality and water supplies, driven by displaced growth.

Displaced Growth Outside Of The RWS Service Area Will Create Increased Air Pollution, CO₂ Emissions And Global Warming.

In looking at the increasingly dramatic effects of climate change, Smart Growth strategies, which focus on energy-efficient buildings, compact development, and preserving open space, can mitigate the effects of climate change by reducing vehicle use and emissions

¹⁶⁴ Madsen, J., Being Smarter About Land Use Can Help Fight Against Drought, San Jose Mercury News, November 11, 2015, available at <http://www.mercurynews.com/2015/11/11/jeremy-madsen-being-smarter-about-land-use-can-help-fight-against-drought/> .

¹⁶⁵ Madsen, J., Being Smarter About Land Use Can Help Fight Against Drought, San Jose Mercury News, November 11, 2015.

¹⁶⁶ Deborah L. Myerson. 2002. "Water and the Future of Land Development" at p. 2 (2002) available at http://uli.org/wp-content/uploads/2012/07/Water_LandDev.ashx_.pdf .

¹⁶⁷ EPA. 2013. "Our Built and Natural Environments: A Technical Review of the Interactions Among Land Use, Transportation, and Environmental Quality" at p. 53 available at <https://www.epa.gov/sites/production/files/2014-03/documents/our-built-and-natural-environments.pdf>

¹⁶⁸ At Risk: The Bay Area Greenbelt : 2017 Greenbelt Alliance at p. 28.

¹⁶⁹ Wat. Code, §10720.

¹⁷⁰ San Francisco: Public Policy Institute of California. Hanak, Ellen, and Matthew Davis. 2006. "Lawns and Water Demand in California." California Economic Policy available at http://www.pplic.org/content/pubs/cep/EP_706EHEP.pdf

and by sequestering CO₂.¹⁷¹ The CEQA Guideline on Determining the Significance of Impacts from Greenhouse Gas Emissions provides that a lead agency should attempt to "describe, calculate or estimate" the amount of greenhouse gases the project will emit, but recognizes that agencies have discretion in how to do so.¹⁷²

People driving to the fringes of the Bay Area and inland counties will increase vehicle miles traveled as employees are required to drive long distances from their homes to their places of employment. Sprawling development is "car-dependent" and residents not only must make long commutes to work, but drive more to meet daily needs.¹⁷³ People living in these areas will rely on their vehicles for both commuting and everyday responsibilities.¹⁷⁴ "More than 38 percent of national carbon monoxide emissions and 38 percent of nitrogen oxide emissions come from highway vehicles."¹⁷⁵ Sprawl also impacts air quality trends. A 2008 study found that "most sprawling cities were found to experience over 60% more high ozone days than most compact cities."¹⁷⁶

A 2007 Urban Land Institute Study found that "compact development has the potential to reduce [vehicle miles traveled] per capita by anywhere from 20 to 40 percent relative to sprawl."¹⁷⁷ Specifically, as it pertains to vehicle emissions, people living in highly walkable communities drive 26 fewer miles per day than people living in sprawling communities.¹⁷⁸ Smart growth could, by itself, reduce total transportation-related CO₂ emissions from current trends by 7 to 10 percent as of 2050.¹⁷⁹ If 60 percent of growth is directed to compact development, this would save 85 million metric tons of CO₂ each year as of 2030.¹⁸⁰ Smart Growth also reduces per capita energy consumption and pollution emissions by reducing infrastructure requirements, building energy use and vehicle travel.¹⁸¹

Furthermore, to reduce greenhouse-gas emissions, it is critical to increase opportunities for public transportation. Clearly the number of miles driven impacts air pollution, but "the amount of infrastructure needed to accommodate cars contributes to air pollution regardless of the number of miles driven. A study that computed the lifecycle emissions of sulfur dioxide and PM₁₀ for cars showed that adding parking lot construction and maintenance to the calculations raises emissions by as much as 24 percent and 89 percent respectively.¹⁸² Energy use in road construction was found to equal "the energy used by traffic on the road for one to two years."¹⁸³ Prioritizing opportunities for public transportation and foregoing sprawl should minimize these

¹⁷¹ EPA at <http://www.epa.gov/smartgrowth/smart-growth-and-climate-change>.

¹⁷² Cal. Code Regs., tit. 14, § 15064.4(a); *Center for Biological Diversity v. California Dept. of Fish and Wildlife* (2015) 62 Cal.4th 204, 217, as modified on denial of reh'g (Feb. 17, 2016).

¹⁷³ At Risk: The Bay Area Greenbelt: 2017 Greenbelt Alliance at p. 29.

¹⁷⁴ At Risk: The Bay Area Greenbelt: 2017 Greenbelt Alliance at p. 29.

¹⁷⁵ EPA. 2013. "Our Built and Natural Environments: A Technical Review of the Interactions Among Land Use, Transportation, and Environmental Quality" at 58 available at [<https://www.epa.gov/sites/production/files/2014-03/documents/our-built-and-natural-environments.pdf>]

¹⁷⁶ Brian Stone Jr. 2006. "Urban Sprawl and Air Quality in Large U.S. Cities." *Journal of Environmental Management* 86 (2008) 688-698 at p. 689 available at http://urbanclimate.gatech.edu/pubs/Urban%20Sprawl%20and%20AQ_Stone2.pdf .

¹⁷⁷ Urban Land Institute, *Growing Cooler: The Evidence on Urban Development and Climate Change*, at p. 1.7.2 (2007) available at https://www.nrdc.org/sites/default/files/cit_07092401a.pdf .

¹⁷⁸ Urban Land Institute, *Growing Cooler: The Evidence on Urban Development and Climate Change*, at p. 17 (2007) available at https://www.nrdc.org/sites/default/files/cit_07092401a.pdf .

¹⁷⁹ *Growing Cooler: The Evidence on Urban Development and Climate Change*, at p. 21.

¹⁸⁰ *Growing Cooler: The Evidence on Urban Development and Climate Change*, at p. 21.

¹⁸¹ Understanding Smart Growth Savings: Evaluating Economic Savings and Benefits of Compact Development, and How They Are Misrepresented By Critics. Victoria Transport Policy Institute available at http://www.vtpi.org/sq_save.pdf at p. 27

¹⁸² Technical Review at p. 58.

¹⁸³ Technical Review at p. 58.

impacts. Public transportation ridership depends upon population and job concentration near transit stops. Both of which would be adversely impacted by displaced growth. Land within walking distance of public transportation is precious. Such a scarce resource should be fully utilized and leveraged.

The Bay Area's lands store 111 million tons of carbon, helping to regulate and protect the climate.¹⁸⁴ Development in natural lands in the Bay Area will result in a release of carbon into the atmosphere and reduced ability to sequester carbon. As an example, 750,000 acres of oak forest and woodland are at risk of elimination by 2040.¹⁸⁵ In Santa Clara County alone, oak forests and oak woodlands sequester 3,577,048 metric tons of carbon.¹⁸⁶ Development that eliminates oak forest and woodland areas in Santa Clara and other counties will result in a release of the carbon sequestered by these trees and will reduce our ability sequester carbon in the future. Displaced growth and urban sprawl into the Bay Area's greenbelt places at risk landscapes that store more than 6 million metric tons of carbon. The development of these lands would release the equivalent amount of carbon as putting 1.3 million cars on the road every year.¹⁸⁷

The 2016 Draft SED must analyze these air quality impacts.

Displaced Growth Outside Of The RWS Service Area Will Impact Wildlife And Recreation Preservation.

Under CEQA, the lead agency must analyze potentially significant adverse environmental effects resulting from loss of open space, forests, habitat and agriculture.¹⁸⁸ Compact development better protects open space, parks, and critical ecosystems than disjointed, reactionary preservation approaches. While preserving critical land, reactionary preservation approaches create small conservation areas, which do not function well as wildlife corridors and are not as accessible to residents.¹⁸⁹ One of the four comprehensive objectives of Plan Bay Area 2013 is to conserve open space, natural resources and agriculture lands in the region by concentrating new development in existing urban areas and locally adopted urban growth boundaries.¹⁹⁰ To this end, Plan Bay Area 2013 identifies "over 100 regionally significant open spaces about which there exists broad consensus for long-term protection but which face nearer-term development pressures."¹⁹¹ Rather than a preservation strategy that protects the "last" of an important open space area, Smart Growth strategies create and preserve more valuable and functional open space areas.¹⁹²

¹⁸⁴ At Risk: The Bay Area Greenbelt: 2017 Greenbelt Alliance at p. 27.

¹⁸⁵ Tom Gaman, 2008. "An Inventory of Carbon and California Oaks." California Oak Foundation at 5 available at <http://californiaoaks.org/wp-content/uploads/2016/04/CarbonResourcesFinal.pdf> .

¹⁸⁶ Tom Gaman, 2008. "An Inventory of Carbon and California Oaks." California Oak Foundation at 2 and 4.

¹⁸⁷ At Risk: The Bay Area Greenbelt: 2017 Greenbelt Alliance at p. 28. (2017); California Landscape Conservation Cooperative, U.S. Geological Survey. 2014. California Basin Characterization Model. https://ca.water.usgs.gov/projects/reg_hydro/projects/dataset.html

¹⁸⁸ Pub. Resources Code, § 21100(b)(1); see also Appendix G of the CEQA Guidelines [requiring lead agency to identify potentially significant adverse environmental effects resulting from conversion of farmland to non-agriculture use.].) available at http://resources.ca.gov/ceqa/guidelines/Appendix_G.html .

¹⁸⁹ EPA at <https://www.epa.gov/smartgrowth/smart-growth-and-open-space-conservation> .

¹⁹⁰ Plan Bay Area 2013 at pp. 42, 45.

¹⁹¹ Plan Bay Area at p. 45.

¹⁹² EPA at <http://epa.gov/smartgrowth/smart-growth-and-open-space-conservation>.

Under CEQA, a “potential substantial impact on endangered, rare or threatened species is per se significant.”¹⁹³ At present, 293,100 acres of natural and agricultural lands in the Bay Area “are at risk of sprawl development over the next 30 years. . . . The total land at risk is about 458 square miles, nearly 10 times the size of San Francisco.”¹⁹⁴ “Habitat destruction and degradation contribute to the endangerment of more than 85 percent of the species listed or formally proposed for listing under the federal Endangered Species Act.”¹⁹⁵ When urban development results in loss of open space, forests, and natural habitats, both plant and animal species are at risk as they are pushed out of their natural habitats. Coyote Valley in Santa Clara County functions as a rare and critical corridor for wildlife including coyotes, bobcats, and foxes.¹⁹⁶ In Alameda County, development on wetlands threatens endangered salt march harvest mice, birds, and burrowing owls.¹⁹⁷ Contra Costa County is home to 41 percent of the Bay Area's at-risk Critical Habitat and is home to burrowing owls, kit foxes, and other species.¹⁹⁸ The future of these and other rare species depends on the counties' growth decisions.”¹⁹⁹

The 2016 Draft SED fails to include any analysis of the reasonably foreseeable loss of open space, forests, habitat and agriculture that will result from displacement of growth in the urban core in the Bay Area assuming CCSF is responsible for bypassing flows in compliance with LSJR Alternatives 3 or 4.

Failure To Analyze The Impacts Of Displaced Growth Outside Of The RWS Ignores The Economic Benefits That Result From High Density Development.

Communities built on farm land and natural areas pay more for infrastructure and services including water, roads, sewers, libraries, parks and recreation, and governance. For example, annual per-household costs for roads can be 4,000 percent more in sprawling areas than in dense communities. Further, services cost more and serve fewer. A fire station in a low-density neighborhood serves just one-quarter of households at four times the cost of one in a more compact neighborhood.²⁰⁰ The cost of infrastructure for compact neighborhoods can be as much as 20-50% less than low density areas.²⁰¹ More compact development reduces the length of roads and utility lines, and travel distances needed to provide public services such as garbage collection, policing, emergency response, and school transport.²⁰² Additionally, compact housing can be served by shorter water pipes, resulting in less lost water due to leaking pipes.²⁰³

Furthermore, developing in farm land and natural areas eliminates the natural value and benefit that these farm and natural areas currently provide. In Santa Clara County, a recent comprehensive study added up the economic value provided by the county's natural

¹⁹³ Cal. Code Regs., tit. 14, § 15065(a)(1); *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449, as modified (Apr. 18, 2007).

¹⁹⁴ At Risk: The Bay Area Greenbelt: 2017 Greenbelt Alliance at p. 3.

¹⁹⁵ EPA. 2013. "Our Built and Natural Environments: A Technical Review of the Interactions Among Land Use, Transportation, and Environmental Quality" at p. 53 available at <https://www.epa.gov/sites/production/files/2014-03/documents/our-built-and-natural-environments.pdf> .

¹⁹⁶ At Risk: The Bay Area Greenbelt: 2017 Greenbelt Alliance at p. 21.

¹⁹⁷ At Risk: The Bay Area Greenbelt: 2017 Greenbelt Alliance at p. 11.

¹⁹⁸ At Risk: The Bay Area Greenbelt: 2017 Greenbelt Alliance at p. 13.

¹⁹⁹ At Risk: The Bay Area Greenbelt: 2017 Greenbelt Alliance at p. 13.

²⁰⁰ At Risk: The Bay Area Greenbelt: 2017 Greenbelt Alliance at p. 30

²⁰¹ "Close to Home: The Benefits of Compact, Walkable, Transit-Friendly Neighborhoods." at 4 (2016) available at <http://www.pembina.org/reports/closetohome-final.pdf> .

²⁰² Todd Litman. 2015. "Understanding Smart Growth Savings: Evaluating Economic Savings and Benefits of Compact Development, and How They Are Misrepresented By Critics." Victoria Transport Policy Institute at p. 12, available at http://www.vtpi.org/sg_save.pdf .

²⁰³ EPA at <https://www.epa.gov/smartgrowth/smart-growth-and-water> .

landscapes. It found that the benefits people obtain from ecosystems—filtering water, growing food, providing recreation opportunities, and more—are worth up to \$3.9 billion per year. The county's natural capital—the infrastructure that provides these benefits—is worth up to \$386 billion.²⁰⁴

There are also social costs related to greater reliance on vehicles associated with low-density development. These social costs include air pollution, GHG emissions, noise pollution, increased traffic congestion and delays, and vehicle collisions.²⁰⁵ A 2006 study found that the social costs of road transportation in Canada cost \$39.82 billion in that year.²⁰⁶ The cost of air pollution and GHGs alone in 2006 was \$17.81 billion.

The failure of the 2016 Draft SED to consider the impacts of displaced growth as compared to growth in San Francisco and its neighboring communities does two things: (1) it fails to adequately identify significant impacts that must be considered as part of a decision, and (2) discounts the significant environmental benefits of the execution of Smart Growth strategies in the Bay Area and overlooks the comparative environmental harms of sprawl. The proposed reduction in water supplies to the Bay Area could result in a moratorium on development and negatively impact the implementation of the Bay Area's Smart Growth strategies. As the proposed water supply reduction likely will not impact the anticipated regional growth, this growth will be pushed out of the periphery of the Bay Area and San Joaquin Valley resulting in greater suburban sprawl and forgoing the environmental benefits of the Plan Bay Area and Smart Growth strategies.

iii. The 2016 Draft SED Fails To Analyze The Impacts Disadvantaged Communities in the Bay Area

The California Department of Water Resources defines disadvantaged communities (DACs) as communities with an annual median household income (MHI) less than 80 percent of the statewide average.²⁰⁷ As part of the development of the Bay Area Integrated Regional Water Management Plan (IRWMP) which was last updated in September of 2013, DACs were identified in three BAWSCA Member Agency service areas (East Palo Alto, Redwood City, and the City of Hayward) as based on 2010 U.S. Census track data.²⁰⁸

As officials from East Palo Alto highlighted in their comment letter to the SED, there is significant concern that, due to limitations on water supply, they will need to use fines and/or penalties to enforce lower water use, and that such practices could prove to be a significant burden to their lower-income residents.²⁰⁹ The City of Hayward detailed how the SED could negatively impact the economic health of area residents and businesses.²¹⁰ Redwood City

²⁰⁴ At Risk: The Bay Area Greenbelt: 2017 Greenbelt Alliance at p. 26; David Batker, Aaron Schwartz, Rowan Schmidt, Andrea Mackenzie, Jake Smith, and Jim Robins. 2014. "Nature's Value in Santa Clara County." Earth Economics and the Santa Clara Valley Open Space Authority *available at* http://www.openspaceauthority.org/about/pdf/NaturesValue_SCC_int.pdf.

²⁰⁵ David, Thompson. 2013. "Suburban Sprawl: Exposing Hidden Costs, Identifying Innovations." Sustainable Prosperity at p. 6 *available at* http://thecostofsprawl.com/report/SP_SuburbanSprawl_Oct2013_opt.pdf.

²⁰⁶ Bruno Jacques. 2011. "Estimates of the Full Cost of Transportation in Canada: An Overview. Mobility Pricing Conference at p. 20 *available at* http://www.transportfutures.ca/sites/default/files/FCL_Mobility_Pricing_2010.pdf.

²⁰⁷ California Department of Water Resources Disadvantaged Communities (DAC) Mapping Tool *available at* http://www.water.ca.gov/irwm/grants/resources_dac.cfm

²⁰⁸ Final 2013 Bay Area Integrated Regional Water Management Plan *available at*: <http://bairwmp.org/docs/2013-bairwmp-plan-update/2013-final-plan/final-bairwmp-2013>; DAC Maps for the Bay Area IRWM Subregions *available at* <http://bairwmp.org/dac/dac-info>

²⁰⁹ See East Palo Alto Comment Letter on the 2016 Draft SED.

²¹⁰ See City of Hayward Comment Letter on the 2016 Draft SED.

commented that the SED could result in displacement of jobs and residents to other parts of California.²¹¹ That displacement of residents would likely hit their low-income population to a greater degree.

Aside from the above noted impacts to identified DACs, in broader terms, the impacts of the SED on the regions lower income residents could be significant. ABAG is currently in the process of preparing their plans for the future growth of the Bay Area (through their Plan Bay Area 2040 efforts). Developed as part of their draft preferred land use scenarios, as released in the fall of 2016, it is noted that areas served by BAWSCA member agencies must allow for the inclusion of additional low income housing, particularly along key transportation corridors. Without that inclusion, low-income residents risk having to move outside of the region.²¹² Growth moratoriums that many BAWSCA member agencies have expressed they will need to implement to accommodate the SED directly limit the ability of the region to address those ABAG-proposed set-asides.

IV. CONCLUSION

Thank you for the opportunity to comment on the Draft Revised Substitute Environmental Document In Support of Potential Changes to the Water Quality Control Plan for the Bay-Delta: San Joaquin River Flows and Southern Delta Water Quality. BAWSCA supports the objectives of the Bay-Delta Plan and is committed to continuing to work with other stakeholders to protect water quality in the Bay-Delta Water Quality Control Plan for humans, fish, and other wildlife.

Sincerely,



Nicole Sandkulla
Chief Executive Officer/General Manager

cc: San Francisco City Attorney's Office
SFPUC

²¹¹ See Redwood City Comment Letter on the 2016 Draft SED.

²¹² Plan Bay Area 2040 Final Preferred Scenario Approved available at <http://planbayarea.org/news/news-story/plan-bay-area-2040-final-preferred-scenario-approved>



March 3, 2017

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
Cal/EPA Headquarters
1001 "I" Street, 24th Floor
Sacramento, CA 95814-0100
commentletters@waterboards.ca.gov

Re: Comment Letter – 2016 Bay-Delta Plan Amendment & SED

Dear Ms. Townsend:

We are submitting the following comments regarding the Recirculated Draft Substitute Environmental Document in Support of Potential Changes to the Water Quality Control Plan for the San Francisco Bay-Sacramento/San Joaquin Delta Estuary: San Joaquin River Flows and Southern Delta Water Quality (SED). In addition, we would like to incorporate by reference separate comments submitted by the Bay Area Water Supply and Conservation Agency (BAWSCA) and the San Francisco Public Utilities Commission (SFPUC) that provide more detail of the SED proposal's impact on our Menlo Park Municipal Water District (MPMWD) service area and the region.

Under the SED, the State Water Resources Control Board (SWRCB) proposes substantial changes to flow objectives for the Tuolumne River. These changes are anticipated to result in significantly reduced surface water available for diversions, thereby causing significant, potentially unavoidable impacts to water supply and the environment. Below we provide relevant information that the SWRCB must consider in conducting its analysis of the SED's impacts:

- As a wholesale customer of SFPUC that purchases 100% of its potable water supply from the San Francisco Regional Water System, water supply available to the MPMWD under the SED proposal could be reduced more than 50% under drought conditions for multiple consecutive years.
- MPMWD has made significant strides in water conservation in the past 10 years. Total water use decreased 31.5% from 3.25 million gallons per day (MGD) to 2.23 MGD.
- Based on our 2015 Urban Water Management Plan, a 50% cut to water supply would force MPMWD to take a number of significant actions including developing water budgets for all water accounts and notifying account holders, and not approving new potable water connections, new temporary meters or permanent meters, except under special circumstances.
- MPMWD serves water to 3,600 residential customers and over 250 businesses and other non-residential customers. Potential consequences of the SED proposal include health and safety concerns due to lack of potable supplies, major job losses, slower economic growth and delayed community development in our service area.

- Since outdoor use represents a relatively small proportion of our commercial, industrial, and institutional account water demand, commercial, industrial, and institutional customers generally have fewer opportunities to reduce water use without changing their operations or incurring significant economic impacts.
- MPMWD relies 100% on SFPUC water. MPMWD's only other emergency supply is via interconnections with adjacent water agencies. However, these adjacent water agencies also rely primarily on SFPUC water, so a 50% cut to SFPUC water would be detrimental to our system's ability to provide water to our customers.

In the light of these aforementioned impacts as well as those articulated in the BAWSCA and SFPUC comment letters incorporated here by reference, the MPMWD requests that environmental and economic impacts of any shortage on the San Francisco Regional Water System, and the associated lost jobs and delayed development, be fully and adequately analyzed as part of the SWRCB's proposed flow alternatives. Such full and adequate analysis should be given at least equal weight with all other elements of the SWRCB's subsequent deliberations and decision making.

Last, the Governor has indicated his strong support for negotiated voluntary agreements to resolve these issues. We request that the SWRCB provide adequate time for voluntary agreements to be reached amongst the stakeholders prior to any action on the SED. Please give this settlement process a chance for success instead of expediting implementation of the current proposal. We share BAWSCA's commitment to continue working closely with the diverse interests and stakeholders to develop that shared solution.

If you have any questions about this letter, please do not hesitate to contact me by phone at (650) 330-6725 or by email at jicmurphy@menlopark.org.

Sincerely,



Justin Murphy
Public Works Director



Statement from Nicole Sandkulla, Chief Executive Officer, about the Need for State Analysis of a Tuolumne River Voluntary Agreement (TRVA) as an Alternative to the Bay-Delta Plan to Protect the Water Needs of 1.8 Million Residents, 40,000 Businesses, and Hundreds of Communities in Alameda, San Mateo and Santa Clara Counties and for the Fish, Which also Depend on the River

March 9, 2021

In December 2018, the State Water Resources Control Board (State Board) adopted the Bay-Delta Plan (Plan) that includes more water to be retained in the Tuolumne River to protect fish and the environment.

The current Plan, however, would result in a very serious loss of up to 90 million gallons of water every day from the San Francisco Regional (Hetch Hetchy) Water System (System) that the water users BAWSCA represents under California law (AB 2058) rely on. They will suffer water reductions up to 50% during a drought like the recent 2014-2017 drought. Such water losses would result in unacceptable impacts on job growth, a slowdown in the economy, and health, safety and economic risks for people, businesses and our communities.

BAWSCA agrees that this problem must be addressed, but the present Plan seriously threatens the traditional water supply from the Tuolumne River for people, businesses and cities in the three counties, and they must be protected as well. That is why the Plan is unacceptable and requires a realistic alternative.

Fortunately, there is one--a thoughtful, science-based alternative--the Tuolumne River Voluntary Agreement (TRVA), developed by the Modesto and Turlock Irrigation Districts and the San Francisco Public Utilities Commission (the Agencies) that will avoid such a catastrophe.

The State Board has encouraged all parties, including the Agencies and other water providers, to work with the water-related California governmental departments to do necessary design and planning and introduce this reasonable alternative as part of a Bay-Delta watershed-wide, so-called "global voluntary-agreement package" for approval and implementation.

Recognizing that independent, voluntary-agreement discussions were happening, the State Board directed its staff to work with the involved entities to bring a voluntary agreement to the State Board for analysis and consideration.

This also is the time for the parties who depend on the Tuolumne River to support the Governor's voluntary-agreement alternative, as BAWSCA and many other parties do. Settlement discussions for the issues related to the Plan have continued since 2018. Costly and contentious lawsuits have been filed to reverse the State Board's order adopting the Plan. And the SFPUC has been discussing solutions with various interested parties for about a year and half but without any meaningful progress.

Taxpayer money is not required to finance the alternative. Water users will pay the costs in their water bills.

BAWSCA is increasing its efforts to protect the water users it represents in line with its legislative mandate.

Therefore, we ask the Governor to extend his leadership now to support a technical and environmental evaluation of the TRVA by the State Board as a desirable alternative to the adopted Bay Delta Plan. If improvements to the TRVA are needed, they should be proposed and analyzed by the State Board. It is a sensible way forward for fish, people and the California economy.

#####

Proposed WSCP Drought Stages and Shortage Response Actions

Shortage Level	Reduction	Shortage Response Actions	Prohibitions / Regulations
No Drought	None		<ol style="list-style-type: none"> 1. Hoses must be equipped with a shut-off valve for washing vehicles, sidewalks, walkways, or buildings. 2. Ornamental fountains shall use only re-circulated or recycled water. 3. Potable water shall not be applied in any manner to any driveway, sidewalk, or other hard surface except when necessary to address immediate health or safety concerns. 4. Potable water shall not be used to water outdoor landscapes in a manner that causes more than incidental runoff onto non-irrigated areas, walkways, roadways, parking lots, or other hard surfaces. 5. Potable water cannot be applied to outdoor landscapes during and up to 48 hours after measurable rainfall. 6. Potable water shall not be used to irrigate ornamental turf on public street medians. 7. Hotels and motels shall provide guests an option whether to launder towels and linens daily. Hotels and motels shall prominently display notice of this option in each bathroom using clear and easily understood language. 8. Restaurants and other food service operations shall serve water to customers only upon request during a period for which the Governor has issued a proclamation of a state of emergency. 9. Broken or defective plumbing and irrigation systems must be repaired or replaced within a reasonable period. 10. Recreational water features shall be covered when not in use. 11. Single-pass cooling systems on new construction shall not be allowed. 12. Other measures as may be approved by the State Water Resources Control Board or City Council Resolution.
1	Up to 10%	<ol style="list-style-type: none"> 1. Initiate public outreach to inform customers that there is a water shortage emergency. 2. Implement Stage 1 drought surcharge. 	<ol style="list-style-type: none"> 1. Continue with “no drought” restrictions and prohibitions except where superseded by more stringent requirements. 2. Newly constructed homes and buildings must irrigate with drip or microspray only. 3. Other measures as may be approved by City Council Resolution.

Shortage Level	Reduction	Shortage Response Actions	Prohibitions / Regulations
2	Up to 20%	<ol style="list-style-type: none"> 1. Continue with actions and measures from Stage 1. 2. Increase public outreach for added restrictions and prohibitions, and to provide information regarding fines or penalties for non-compliance. 3. Coordinate with BAWSCA, SFPUC, and other Menlo Park water agencies (California Water Service, O'Connor Cooperative Water Tract, East Palo Alto, Palo Alto Park Mutual Water Company). 4. Evaluate if participation in BAWSCA's subscription water conservation programs can be increased. 5. Train City staff and billing contractor customer service representatives how to respond to customer calls, reports and complaints. 6. Evaluate options to capture water during routine flushing of water mains. 7. Implement Stage 2 drought surcharge. 	<ol style="list-style-type: none"> 1. Continue with Stage 1 restrictions and prohibitions except where superseded by more stringent requirements. 2. Irrigating outdoor ornamental landscapes or turf with potable water is limited to no more than two (2) days per week on a schedule established by the Director and posted on the City's website, except for hand watering. Water customers may be granted an exception upon review and approval of a Drought Response Plan by the Public Works Director pursuant to such policies and procedures as may be established by the Public Works Director provided that such plan results in an equivalent or greater reduction in water use. 3. Hand watering must be with a continuously monitored hose fitted with an automatic shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use or monitored. 4. Other measures as may be approved by City Council Resolution.
3	Up to 30%	<ol style="list-style-type: none"> 1. Continue with actions and measures from Stage 2. 2. Increase public outreach for added restrictions and prohibitions, and to provide information how to report water waste to the City. 3. Increase public outreach to the top 10% water users in each customer category. 4. Coordinate with Police code enforcement to investigate water waste reports. 5. Request cooperation from Menlo Park Fire District to reduce fire training water use. 6. Implement Stage 3 drought surcharge. 	<ol style="list-style-type: none"> 1. Continue with Stage 2 restrictions and prohibitions except where superseded by more stringent requirements. 2. Permits for construction of new pools shall include a requirement that potable water shall not be used to fill new pools. 3. Vehicles may only be washed at vehicle washing facilities using recycled or recirculating water. 4. Other measures as may be approved by City Council Resolution.

Shortage Level	Reduction	Shortage Response Actions	Prohibitions / Regulations
4	Up to 40%	<ol style="list-style-type: none"> 1. Continue with actions and measures from Stage 3. 2. Increase public outreach for added restrictions and prohibitions. 3. Increase public outreach to the top 20% water users in each customer category. 4. Evaluate staff resources. May include hiring temporary staff or training additional City staff to assist with customer service and enforcement. 5. Reevaluate routine flushing of water mains except when necessary to address immediate health or safety concerns. 6. Consider increasing fines for multiple violations. 7. Implement Stage 4 drought surcharge. 	<ol style="list-style-type: none"> 1. Continue with Stage 3 restrictions and prohibitions except where superseded by more stringent requirements. 2. Irrigating outdoor ornamental landscapes or turf with potable water is limited to no more than one (1) day per week on a schedule established by the Director and posted on the City's website, except for hand watering. Water customers may be granted an exception upon review and approval of a Drought Response Plan by the Public Works Director pursuant to such policies and procedures as may be established by the Public Works Director provided that such plan results in an equivalent or greater reduction in water use. 3. Potable water shall not be used for construction or dust control. 4. Potable water shall not be used for commercial vehicles that provide street washing, sweeping or cleaning. 5. Other measures as may be approved by City Council Resolution.
5	Up to 50%	<ol style="list-style-type: none"> 1. Continue with actions and measures from Stage 4. 2. Increase public outreach for added restrictions and prohibitions. 3. Increase public outreach to the top 30% water users in each customer category. 4. Implement water waste patrols and increase enforcement. 5. Halt installations of new potable water meters (temporary or permanent) or meter upgrades except if a valid, unexpired building permit has been issued for the project; or the project is necessary to protect the public's health, safety, and welfare. 6. Halt issuing statements of immediate ability to serve or provide potable water service. 7. Consider increasing fines for multiple violations. 8. Develop water budgets for all accounts. 9. Use emergency groundwater well(s). 10. Implement Stage 5 drought surcharge. 	<ol style="list-style-type: none"> 1. Continue with Stage 4 restrictions and prohibitions except where superseded by more stringent requirements. 2. Water use shall not exceed water budgets established for each customer. 3. Hand watering outdoor ornamental landscapes is only allowed between designated hours, as determined by the Public Works Director. 4. Turf irrigation is prohibited at all times, including artificial turf. 5. Existing irrigation systems shall not be expanded. 6. Other measures as may be approved by City Council Resolution.

Shortage Level	Reduction	Shortage Response Actions	Prohibitions / Regulations
6	Greater than 50%	<ol style="list-style-type: none"> 1. Continue with actions and measures from Stage 5. 2. Increase public outreach for added restrictions and prohibitions. 3. Increase public outreach to the top 40% water users in each customer category. 4. Halt installations of new potable water meters (temporary or permanent) even if a valid, unexpired building permit has been issued for the project. 5. Consider increasing fines for multiple violations. 6. Increase water budget reduction requirements. 7. Implement other short-term emergency actions from the Emergency Response Plan. 8. Implement Stage 6 drought surcharge. 	<ol style="list-style-type: none"> 1. Continue with Stage 5 restrictions and prohibitions except where superseded by more stringent requirements. 2. Hand watering outdoor ornamental landscapes is prohibited at all times. 3. Other measures as may be approved by City Council Resolution.

Agenda item G1 Lynne Bramlett, Resident

It's more than time for the City to conduct a Federal Emergency Management Agency (FEMA) recommended Threat and Hazard Identification and Risk Assessment (THIRA) and a Stakeholder Preparedness Review (SPR). Menlo Park lacks a THIRA/SPR. We also lack other FEMA recommended preparedness plans. Completing the THIRA/SPR would give Council important information to assess hazards and risks in a holistic way.

Right now, you seem to be learning about threats and hazards in a piecemeal way. This leads to inadequate action, including proactively seeking grants to help mitigate against the hazards.

The topic of drought and potential water shortages is very scary. I only see one emergency well listed and it was listed as "pending approval." This is inadequate water storage.

The water coming from the Hetch Hetchy reservoir is also subject to serious disruption in the event of an earthquake and the USGS predicts that the Hayward fault is most likely to erupt next. What will the City do if that supply is cut off for days, weeks or maybe even longer?

The rising sea levels are also causing a rise in ground water levels. These can become contaminated due to mixing salt water with fresh and/or releasing toxins that previously were buried. This is a hazard that is only recently getting on the "radar screen" of planners. In some jurisdictions, the rising water levels have caused fires due to prior oil drilling or contaminants in the soil. My early research on the latter topic shows that this hazard applies to Menlo Park.

The water pressure levels also impact fire-fighting. As wildfires become more common, and more severe, this impact needs studying and a plan to address. Has the local Fire District weighed in on this topic? If not, why not?

Finally, most residents in Menlo Park (and especially our most vulnerable populations living in the Belle Haven community) do not have personal stores of water supplies. Should there be a disruption to the water supplies for three or more days, people may die. Trying to get water could also lead to civil unrest.

The potential water shortage, combined with the need to get personally prepared, could be the subject of a City-driven public awareness campaign. Most of us could do more to reduce unnecessary water consumption. Making it easier for residents to store water supplies would also help. Everyone should have emergency water supplies for at least 72-hours with two weeks or longer being recommended.

FEMA requires a THIRA/SPR for some grant funding. I've checked and the requirement does not apply to the BRIC grant funding, partly because FEMA wants to not put undue burdens on jurisdictions right now. However, the requirement for a THIRA/SPR by December 31, 2021 applies to some other grant funds that might be important to Menlo Park one day. A FEMA authorized agency is offering a seminar series on completing the online THIRA/SPR. These started in April and go through September. I signed up for all remaining ones. Please let me know if you want more information on how to sign up. At minimum, I believe that someone in the Staff organization should be learning how to complete the THIRA/SPR. I offer to help with this effort.

The background of the slide is a wide landscape photograph showing a river or stream winding through green, rolling hills. The sky is filled with large, white and grey clouds, suggesting a bright but slightly overcast day. The water in the foreground is a deep blue. A semi-transparent blue horizontal band is overlaid across the middle of the image, containing the main title and date information.

URBAN WATER MANAGEMENT PLAN STUDY SESSION

April 13, 2021 – Chris Lamm, BAWSCA, EKI



AGENDA

- Menlo Park Municipal Water
- SFPUC and BAWSCA's role
 - Supply reliability with the Bay-Delta Plan
- Urban Water Management Plan
 - Projected water demands
 - Projected water supply and reliability
 - Updated Water Shortage Contingency Plan (Drought Plan)
- Timeline



REQUESTED DIRECTION



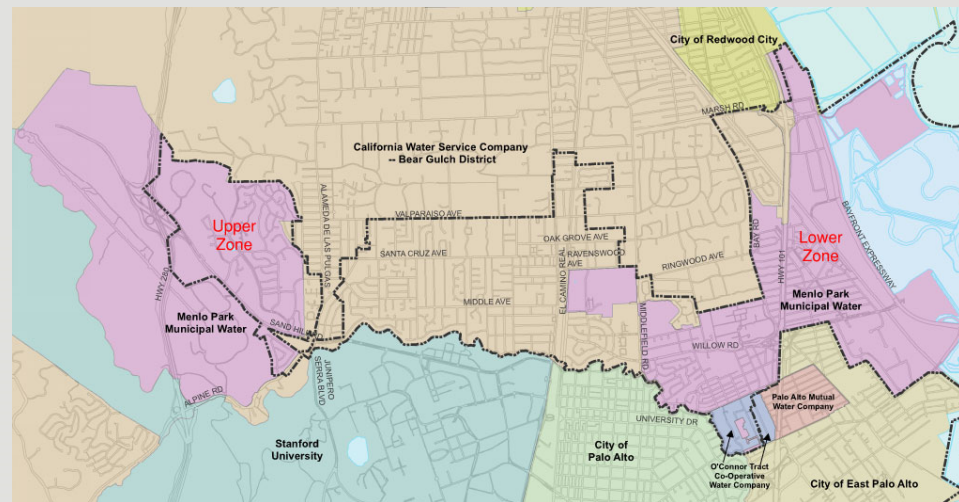
- Confirm including SFPUC's supply reliability data with the Bay-Delta Plan in the UWMP
- Confirm including BAWSCA's equal drought cutbacks across all agencies (for cutbacks greater than 20%) in the UWMP
- Confirm scheduling the public hearing on May 25 to adopt the UWMP and WSCP prior to the July 1 submittal deadline



MENLO PARK MUNICIPAL WATER



- 100% supply purchased from San Francisco Public Utilities Commission (SFPUC)
- Approx. 4,400 service connections
- Water service for half of the city
- SFPUC supply guarantee 4.456 MGD during non-drought periods





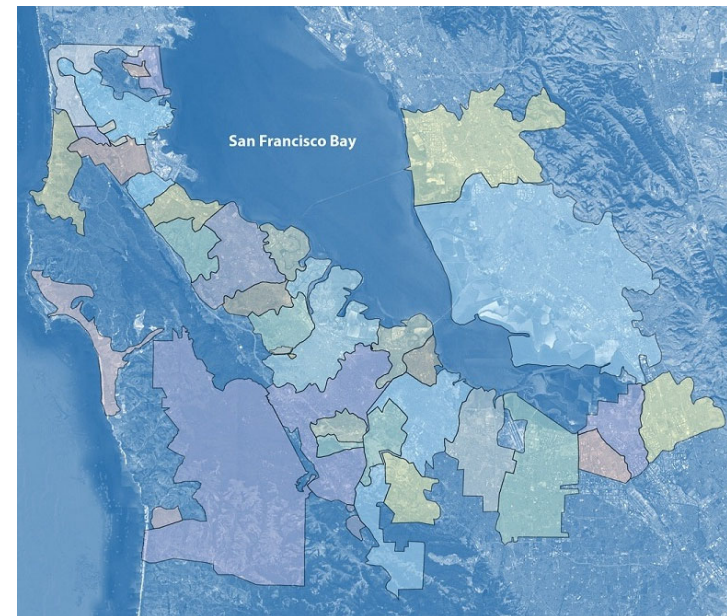
Bay Area Water Supply and Conservation Agency (BAWSCA)

Nicole Sandkulla, CEO/General Manager

What is BAWSCA? (Bay Area Water Supply and Conservation Agency)

A Special District representing the interests of:

- 26 water suppliers in San Mateo, Santa Clara, and Alameda Counties
- 1.8 million residents and over 40,000 businesses and community organizations
- All rely on the San Francisco (Hetch Hetchy) Regional Water System



BAWSCA's 26 Member Agencies

Alameda County

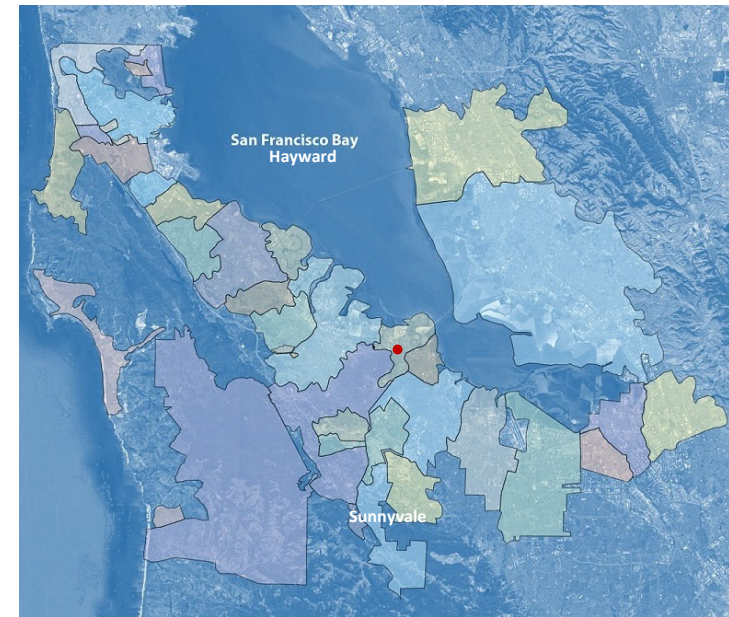
- Hayward, Alameda County WD

Santa Clara County

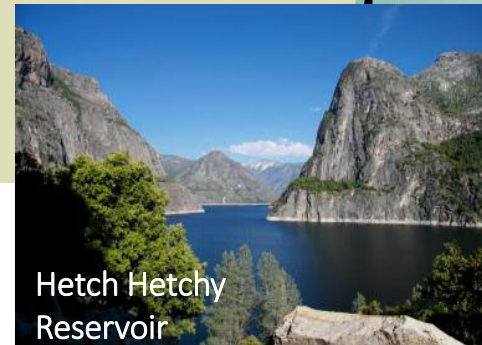
- Milpitas, San Jose, Santa Clara, Sunnyvale, Mountain View, Palo Alto, Purissima Hills WD, Stanford University

San Mateo County

- East Palo Alto, Menlo Park, Redwood City, Cal Water Service Company, Mid-Peninsula WD, Coastside County WD, Foster City (Estero), Burlingame, Hillsborough, Millbrae, San Bruno, Brisbane, Guadalupe Valley MID, North Coast County WD, Westborough County WD, Daly City



San Francisco Regional Water System



New State Regulations Result in Significant Water Supply Impacts to Regional Water System

- State Water Resources Control Board (State Board) establishes water quality objectives to protect beneficial uses of water in Bay-Delta
 - Water Quality Control Plan for the SF Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan)
- In 2009, the State Board initiated the Bay Delta Plan Phase 1 Update impacting the Tuolumne River
- State Board adopted Bay Delta Plan Phase 1 Update in Dec. 2018
 - State Board Plan includes a framework for voluntary agreements that meet or exceed the proposed objectives to protect fish and wildlife
- Adopted Bay Delta Plan requires significantly increased Tuolumne River instream flows
- Adopted Bay Delta Plan results in significant water supply impacts to customers that rely on Regional Water System
 - SF Retail Customers and BAWSCA member agencies' customers

Adopted Bay Delta Plan Requires Dramatically Increased Tuolumne River Instream Flows



Bay Delta Water Quality Control Plan Phase 1 (Plan) and Voluntary Agreement (VA) Timeline

2009

- Current Bay Delta Water Quality Control Plan Phase 1 (Plan) Update Begins

2013

- Release & Review of Draft Phase 1 Plan and CEQA Document
- BAWSCA comment letter identifies water supply impacts to BAWSCA agencies
- SFPUC comment letter identifies significant impact & inadequate CEQA compliance

2016

- Revised Draft Phase 1 Plan & CEQA Released (Sept.)
- Governor Brown urges State Board to be open to VA to resolve Bay Delta issues
- Governor Brown appoints Secretary Babbitt to lead VA negotiations

2017

- Review & Comment on Revised Draft Phase I Plan
- State convenes monthly VA “Babbitt” negotiations; BAWSCA not allowed to participate
- BAWSCA engaged directly with Secretary Babbitt and others on behalf of agencies
- BAWSCA comment letter identifies significant impacts to BAWSCA agencies
- All BAWSCA agencies submit comment letters detailing specific water supply impacts
- SFPUC comment letter identifies significant impacts & inadequate CEQA compliance

2018

- Final Phase 1 Plan Adopted (Dec.)

2019

- Lawsuits Filed on Adopted Phase 1 Plan
- Governor Newsom reinitiates VA discussions
- SF joins lawsuit against State Board on adoption of Phase I Plan (Jan.)
- BAWSCA intervenes in lawsuit against State Board (March)
- State Agencies (CNRA/CEPA) provide a VA progress report to State Board (July)

2020

- State Agencies (CNRA/CEPA) announce a Framework for VAs (Feb.)

Adopted Bay Delta Plan Significantly Increases Flow in Lower Tuolumne River

- Phase 1 Plan requires 40% of unimpaired flow be released **every year, whether it is wet or dry**, into Lower Tuolumne River from Feb-June
- Since 1971, Feb-June releases averaged 32% of unimpaired flow
 - Wet years it has been 60%+
 - Dry years it has been 10% or less
- SFPUC has expressed serious doubts about the Tuolumne River ecosystem benefits of the State Board's plan
 - Over 200 studies have been performed on the Tuolumne River since the early 1990s that the State Board did not utilize in their analysis
 - Does not reflect existing actual river conditions or the specific issues for the river that need to be addressed to provide desired ecosystem benefits

Potential Impacts of Adopted Bay-Delta Plan on San Francisco Regional Water System

- 20-30% rationing even at recent “drought” water demand
 - At 175 MGD, water demand in 2016 under State-mandated rationing, further rationing of 20-32% would be necessary
- 40-50% rationing at current or contract level water demands
 - Rationing in multiple dry years would be as high as 50% at demands from 223 MGD (current demand) to 265 MGD (contract level demand)
- The number of dry year shortages would double or triple
 - Existing system projected to have shortages 1 in 10 years
 - Frequency of dry year shortages would double in 175 MGD scenario
 - Frequency of dry year shortages would triple in 223 MGD scenario

Voluntary Agreement Proposal for Tuolumne River Supported by Science

- Over 200 studies have been performed on the Tuolumne River since the early 1990s that the State Board did not utilize in their analysis
- The SFPUC (and Wholesale Customers) and the Districts have spent \$25 million on studies on the Tuolumne River fishery in the last 5 years
- These studies provide significant information about the fishery on the Tuolumne River and what should be done to improve the fishery
- The proposal has significant technical support from the Tuolumne River studies
- The proposal includes a portfolio of measures to improve river ecosystems and increase natural salmon populations in the Tuolumne River including:
 - Functional flows
 - Restoring habitat
 - Reducing predation and managing aquatic weeds
 - Better managing hatcheries

Voluntary Agreements Provide Best Path Forward

- Governor Newsom providing critical leadership in negotiations
- CA Secretary of Natural Resources and Secretary of CA EPA leading negotiations
- We are working hard to move forward on voluntary, statewide agreements
 - No progress in the last year due to State/Federal litigation
 - Talks have been recently reinitiated
- BAWSCA continues its direct efforts in support of having the Tuolumne River Voluntary Agreement analyzed by the State Board as an alternative to adopted Bay-Delta Plan
- In the absence of settlements, unproductive litigation will prolong the situation and that won't help the environment or impacted communities

BAWSCA Actively Engaged in Securing Water Supply Reliability Given Identified Bay Delta Plan Impacts

BAWSCA Actions

- Regular reports to BAWSCA Board and member agencies
- Public comment to State Board and others
- Formal comments during environmental review processes
- Intervened in Bay Delta litigation
- Intervened in Don Pedro FERC proceeding

BAWSCA Advocacy Efforts with Others

- Engagement with State and local elected officials
- Engagement with State officials and staff
- Engagement with water customers (residents, businesses, others)

BAWSCA Advocacy Efforts with SFPUC

- Regularly reminding SFPUC of its contractual & legal water supply obligations to member agencies
- BAWSCA successfully urged SFPUC to initiate a new Alternative Water Supply Planning Program to develop new sources of water to meet its obligations
- BAWSCA supported \$288 M allocation in SFPUC's 10-year CIP for Alternative Water Supply Planning Program and regular reporting



EKI Environment & Water, Inc.

Anona Dutton, Vice President

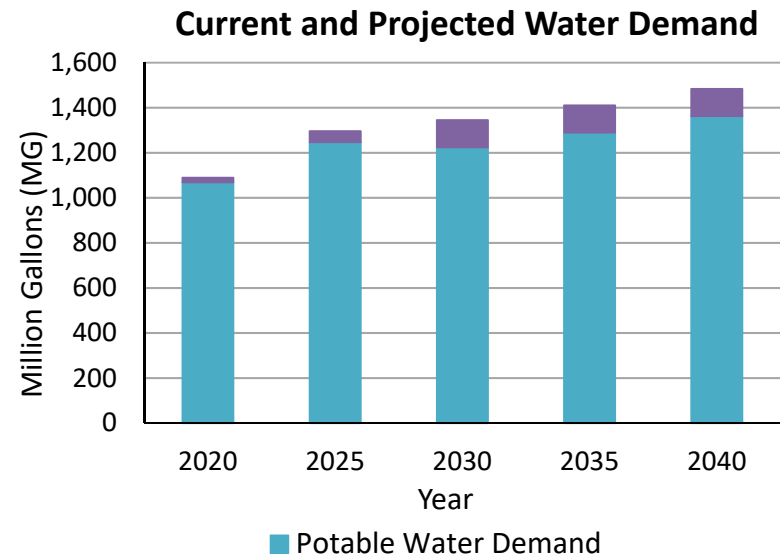
Tina Wang, Project Manager

PRESENTATION OUTLINE

- Projected Water Demands
- Projected Water Supply and Reliability
- Updated Water Shortage Contingency Plan (Drought Plan)

PROJECTED WATER DEMANDS

- Total water demands projected to increase 36% by 2040
- Projections account for future population and employment growth and conservation savings
- Residential per capita demand is approximately 55 gallons per day per capita (GPCD) over planning period
- Recycled water projected to serve 8% of total demand in 2040

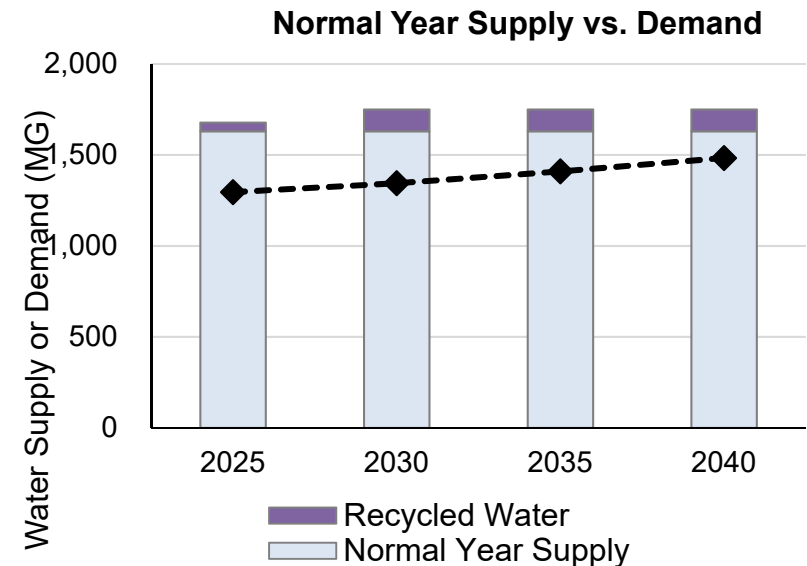


SFPUC PROVIDED WATER SUPPLY RELIABILITY PROJECTIONS

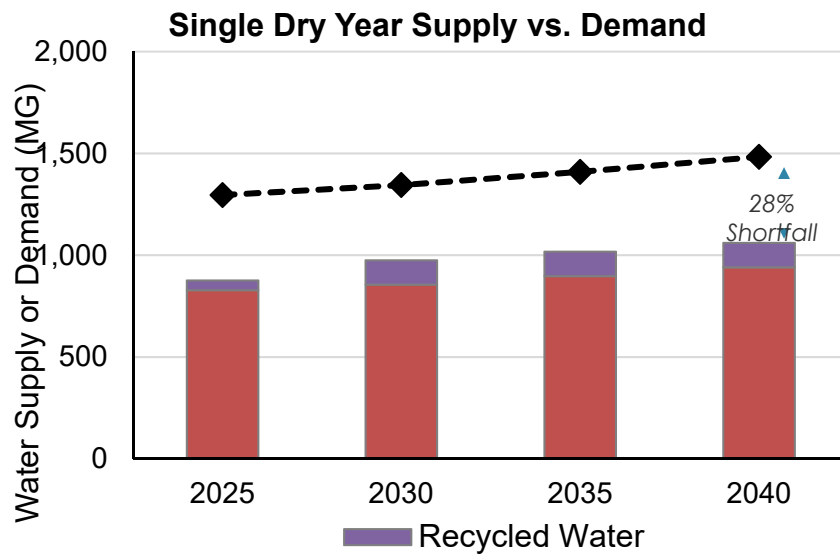
- City is 100% reliant on SFPUC RWS for potable water
- SFPUC provided multiple reliability projections under the Bay-Delta scenario, none of which meet their contractual Level of Service Goals
- No prescribed method to allocate water to wholesale agencies for shortages greater than 20%
- BAWSCA assumed equal percentage cutbacks for UWMP planning purposes

NORMAL YEAR SUPPLIES SUFFICIENT TO MEET PROJECTED DEMANDS

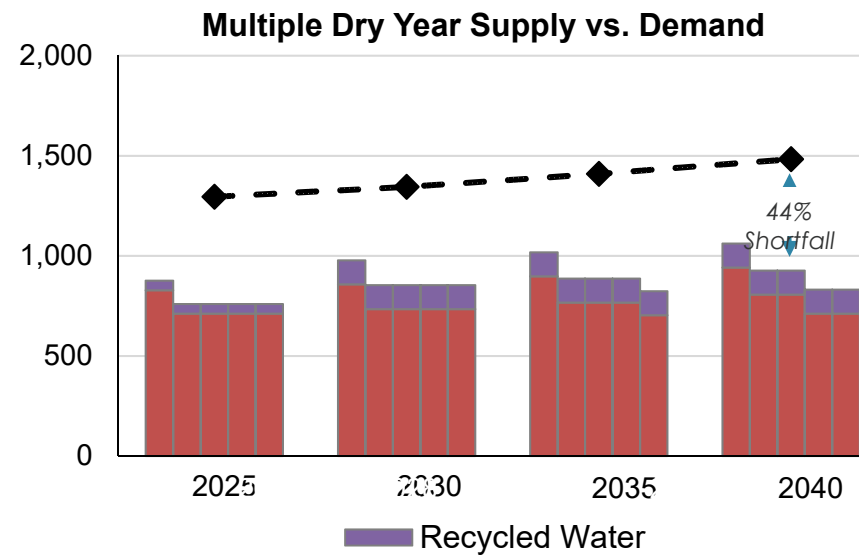
- City has a perpetual individual supply guarantee (ISG) of 4.456 million gallons per day (MGD) from SFPUC
- Recycled water projected to supply 48 MG by 2025 and 120 MG by 2030
- Groundwater is for emergency purposes only



>40% SUPPLY SHORTFALLS PROJECTED IN DRY YEARS



- Absent of recycled water, single dry year supply shortfall by 2040 is anticipated at 37%



- Absent of recycled water, multiple dry year supply shortfall by 2040 is anticipated at up to 52%

WATER SUPPLY/DEMAND MANAGEMENT STRATEGIES AND ACTIONS

- 2017 letter sent to State Board supporting alternatives to Bay Delta Plan
- Developing alternative supplies
 - Groundwater
 - Recycled Water
- Implementing water conservation programs
- Updating Water Shortage Contingency Plan
 - Proposed actions coordinated with Cal Water for similar messaging



March 3, 2017

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
Cal/EPA Headquarters
1001 T Street, 24th Floor
Sacramento, CA 95814-0100
commentletters@waterboards.ca.gov

Re: Comment Letter – 2016 Bay-Delta Plan Amendment & SED

Dear Ms. Townsend:

In the light of these aforementioned impacts as well as those articulated in the BAWSCA and SFPUC comment letters incorporated here by reference, the MPMWD requests that environmental and economic impacts of any shortage on the San Francisco Regional Water System, and the associated lost jobs and delayed development, be fully and adequately analyzed as part of the SWRCB's proposed flow alternatives. Such full and adequate analysis should be given at least equal weight with all other elements of the SWRCB's subsequent deliberations and decision making.

Last, the Governor has indicated his strong support for negotiated voluntary agreements to resolve these issues. We request that the SWRCB provide adequate time for voluntary agreements to be reached amongst the stakeholders prior to any action on the SED. Please give this settlement process a chance for success instead of expediting implementation of the current proposal. We share BAWSCA's commitment to continue working closely with the diverse interests and stakeholders to develop that shared solution.

- MPMWD has made significant strides in water conservation in the past 10 years. Total water use decreased 31.5% from 3.25 million gallons per day (MGD) to 2.23 MGD.
- Based on our 2015 Urban Water Management Plan, a 50% cut to water supply would force MPMWD to take a number of significant actions including developing water budgets for all water accounts and notifying account holders, and not approving new potable water connections, new temporary meters or permanent meters, except under special circumstances.
- MPMWD serves water to 3,600 residential customers and over 250 businesses and other non-residential customers. Potential consequences of the SED proposal include health and safety concerns due to lack of potable supplies, major job losses, slower economic growth and delayed community development in our service area.

City of Menlo Park 701 Laurel St., Menlo Park, CA 94025 tel 650-330-6600 www.menlopark.org

Public Works

WHAT ARE OTHER BAWSCA AGENCIES CONSIDERING?

- Further expand alternative supplies
- Increase water conservation
- Develop “water-neutral” growth policies
- Development moratoriums
- Closure of non-essential businesses during droughts

DROUGHT PLAN WATER SHORTAGE LEVELS

Shortage Level	Percent Shortage Range	Shortage Response Actions
No-Drought	N/A	<ul style="list-style-type: none"> Includes water waste prohibitions effective at all times.
1	Up to 10%	<ul style="list-style-type: none"> Declaration by the City Council upon the determination that the SFPUC or another governing authority (e.g., the SWRCB) has required a voluntary or mandatory reduction due to water supply shortages or an emergency. Includes implementation of mandatory restrictions on end uses, as well as agency actions and potentially supply augmentation.
2	Up to 20%	
3	Up to 30%	
4	Up to 40%	
5	Up to 50%	
6	Greater than 50%	

BASIS FOR SELECTION OF DROUGHT RESPONSE ACTIONS

- Focus on outdoor water use
- Focus on a few, simple actions to make messaging, enforcement, and compliance easier
- Provide flexibility to customers in meeting savings objectives
- Utilize emergency supply well(s) as supply augmentation during Stages 5 and 6 (shortages over 40%)
- Establish account-level water use budgets by sector during Stages 5 and 6
- Quantitatively assessed using Drought Response Tool

The screenshot displays the 'eki Drought Response Tool' interface. At the top, there are navigation tabs: Home, Input Baseline Year Water Use, Baseline Year Water Use Profile, Drought Response Actions, Estimated Water Savings, and Drought Response Tracking. The current view is '1 - Home' for 'Menlo Park Municipal Water'. Below this is a table for 'Enter Agency Information' with the following data:

Enter Agency Information	
Agency Name	Menlo Park Municipal Water
Total Population Served	17,780
Conservation Goal (%)	5%
Drought Stage	Stage 1
Number of Residential Accounts	3,577
Number of Commercial, Industrial, and Institutional (CII) Accounts	462
Number of Dedicated Irrigation Accounts	142
Baseline Year(s)	2019
Percentage of Residential Indoor Use During Minimum Month (%)	100%
Percentage of CII Indoor Use During Minimum Month (%)	100%
Comments	

Below the table is a 'Navigation' section with the following items:

Navigation	
USER'S GUIDE	Download and read the guide before using this Tool
1 - HOME	Enter agency information
2 - INPUT BASELINE YEAR WATER USE	Enter Baseline Year production and use
3 - BASELINE YEAR WATER USE PROFILE	Review and confirm entered information
4 - DROUGHT RESPONSE ACTIONS	Select Drought Response Actions and input estimated water savings and implementation rates.
5 - ESTIMATED WATER SAVINGS	Review estimated water production and compare estimated savings to conservation target.
6 - DROUGHT RESPONSE TRACKING	Track production and water savings against the conservation target.



TIMELINE



- April 13 City Council study session to discuss the 2020 UWMP WSCP
- Late April or early May Draft 2020 UWMP and WSCP available for public review. Staff will notify local agencies and municipal customers
- May 25 Public hearing to adopt the 2020 UWMP and WSCP
- July Final 2020 UWMP and WSCP available on the City's webpage. Staff will notify local agencies and municipal customers



REQUESTED DIRECTION



- Confirm including SFPUC's supply reliability data with the Bay-Delta Plan in the UWMP
- Confirm including BAWSCA's equal drought cutbacks across all agencies (for cutbacks greater than 20%) in the UWMP
- Confirm scheduling the public hearing on May 25 to adopt the UWMP and WSCP prior to the June 30 deadline



THANK YOU

Agenda item 1 Jay Siegel, Resident

My name is Jay Siegel and I'm a resident of Sharon Heights, District 5, and the Menlo Park Municipal Water district which is proposing a new three tier set of increasing water rates. The tiers were built on assumptions of household water consumption: Tier 1 assumes that individuals in a family each uses up to 55 gallons per day for normal indoor use; tier 2, excess indoor plus outdoor usage of up to 110 gallons per day per persons in the family; and tier 3 represents outdoor usage greater than the maximum of Tier 2. This comes from the "Final Water Rate Study," March 17, 2021.

The critical reality is that the water district's residential customers are not families but water meters. For single family residences this is not an issue – one meter measures the water usage of one family. However, for multi family residences – condominiums and apartments – this is a serious issue as one meter measures the water consumption of many families, depending on the size of the structure.

For example, I live in a condominium complex in Sharon Heights that has one meter for 57 families. I checked our condominium's water bill for this past March and this past August. In March our single meter measured 224 CCF of water consumption. Wow, that seems like a lot, however, there are 57 families in our complex so the average usage per family was only 3.9 CCF for the month – right in the middle of tier 1. In August our water consumption was 526 CCF or 9.2 CCF per family – right in the middle of tier 2. However, since the water district bills water meters not families, our meter was charged tier 3 rates for around 95% of our water consumption in March and August, and in fact every month throughout the year.

California is currently experiencing a drought and the likelihood that future droughts could be more severe due to climate change is significant. The water district has a six stage drought contingency plan that can be triggered by a declaration of a drought emergency by the Menlo Park City Council. Stage 1 through 6 require increasing reductions of water usage by customers. Let's look at Stage 3 as an example. A stage 3 emergency requires a total water use reduction of 30%. In a Stage 3 emergency, customers in tier 1 are required to reduce consumption by 2.0%, tier 2 by 5.5%, and tier 3 by 40.3%. Virtually all multi family residences' water meters will be in tier 3 for all 12 months even if the families behind those water meters are consuming at the rate of tier 1 or 2. This means that every family living in a multi family complex will have to reduce their water consumption by almost 7 times more than tier 2 single family residences.

Families living in apartments and condominiums have a smaller footprint in terms of land use and water consumption than families living in single family residences and should not shoulder a significantly greater water use reduction requirement.

Clearly the proposed rate structure is not "...the best compromise between fairness and the promotion of water conservation" for multi family residences in the Menlo Park Water district.

It is never too late to do the right thing. I urge the City Council to do the right thing and correct the proposed new water rates so they treat multi family residences fairly.

Thank you.

Note: I submitted an attached pdf to an email that is a more detailed background piece sent via city.council@menlopark.org. I hope this background pdf gets to all the council members and appropriate senior staff.



SPECIAL JOINT MEETING WITH THE MENLO PARK FIRE PROTECTION DISTRICT MINUTES – DRAFT

Date: 3/16/2021
Time: 5:00 p.m.
Location: Zoom.us/join – ID# 976 7090 9395 (Regular Session)
Teleconference (Closed Session)

Regular Session (Zoom.us/join – ID# 976 7090 9395)

A. Call To Order

Mayor Combs called the meeting to order at 5:06 p.m.

B. Roll Call

Present: Combs, Mueller, Nash, Taylor, Wolosin, Menlo Park Fire Protection District board members: Director President Jim McLaughlin, Director Vice President Chuck Bernstein, Directors Virginia Chang Kiraly, Robert Jones, and Robert Silano

Absent: None

Staff: City Manager Starla Jerome-Robinson, City Attorney Nira F. Doherty, City Clerk Judi A. Herren, Menlo Park Fire Protection District staff present include: Fire Chief Harold Schapelhouman, Administrative Services Manager Kathleen Jackson, General Counsel Steven Miller, and Clerk of the Board Michelle Kneier

C. Regular Business

C1. Purchase of City property by District

Mayor Combs introduced the item.

- Sheryl Bims spoke in opposition of emanate domain, requested information on the frequency of fire engine trucks from the Chilco Station, and on concerns related to the abandonment of the Chilco Station if purchasing is not an option

The City Council and the Menlo Park Fire Protection District (MPFPD) discussed the Chilco Street property and property values and City Council requested updated correspondence from the MPFPD related to the purchase.

The City Council and the MPFPD received clarification on the remodel timeline of station Nos. 4, 1, and 77, Station 77 average calls, Willow Road property and MPFPD interest, urgency of acquisition of Chilco Street property and current lease length, community outreach performed by the MPFPD, and life span of fire station facilities.

C2. Emergency services in Menlo Park

- Contract Between the City and the District
- Emergency operations center (EOC)
- Alerting system (LRAD)
- Default disaster plan (revocable by City at any time): District lead for first 12 hours

Web form public comment received on item C2.

Mayor Combs introduced the item.

- Lynne Bramlett spoke on emergency readiness expectations, required planning necessary for readiness, and in support of increased transparency.

The City Council and the MPFPD discussed COVID vaccine delivery and administration and default disaster plan and the initial leading organization(s).

The City Council and the MPFPD received clarification on the 2020 Menlo Park preparedness report, costs associated with MPFPD services in Menlo Park compared to other cities, MPFPD review of services report, and Menlo Park's relationship with Menlo Park Ready and expectations.

C3. Homeless encampments and the threat to community safety

Mayor Combs introduced the item.

- Kim Novello spoke on concerns that community safety is related to homelessness.

The City Council and the MPFPD clarified that the agenda title is not reflective of homelessness impacting community safety.

D. Adjournment

Mayor Combs adjourned the meeting at 7:02 p.m.

E. Closed Session

Call To Order

Mayor Combs called the meeting to order at 7:05 p.m.

Roll Call

Present: Combs, Mueller, Nash, Taylor, Wolosin,

Absent: None

Staff: City Manager Starla Jerome-Robinson, Assistant City Manager Nick Pegueros, City Attorney Nira F. Doherty, Outside Counsel Charles Sakai, Human Resources Director Theresa DellaSanta, Assistant Administrative Services Director Dan Jacobson, Public Works Director Nikki Nagaya,

Public Comment on these items will be taken before adjourning to Closed Session.

- E1. Closed session conference with labor negotiators pursuant to Government Code §54957.6 regarding labor negotiations with the American Federation of State, County, and Municipal Employees Local 829 (AFSCME) and Confidential employees; Service Employees International

Union Local 521 (SEIU); Menlo Park Police Sergeants Association (PSA); Menlo Park Police Officers' Association (POA); and unrepresented management

Attendees: City Manager Starla Jerome-Robinson, Assistant City Manager Nick Pegueros, City Attorney Nira F. Doherty, Human Resources Director Theresa DellaSanta

No reportable actions.

E2. Significant exposure to litigation pursuant to § 54956.9(d)(2):

One case (Attachment)

No reportable actions.

F. Adjournment

Mayor Combs adjourned the meeting at 9:00 p.m.

Judi A. Herren, City Clerk

NOVEL CORONAVIRUS, COVID-19, EMERGENCY ADVISORY NOTICE

On March 19, 2020, the Governor ordered a statewide stay-at-home order calling on all individuals living in the State of California to stay at home or at their place of residence to slow the spread of the COVID-19 virus. Additionally, the Governor has temporarily suspended certain requirements of the Brown Act. For the duration of the shelter in place order, the following public meeting protocols will apply.

Teleconference meeting: All members of the City Council, city staff, applicants, and members of the public will be participating by teleconference. To promote social distancing while allowing essential governmental functions to continue, the Governor has temporarily waived portions of the open meetings act and rules pertaining to teleconference meetings. This meeting is conducted in compliance with the Governor Executive Order N-25-20 issued March 12, 2020, and supplemental Executive Order N-29-20 issued March 17, 2020.

- How to participate in the meeting
 - Submit a written comment online up to 1-hour before the meeting start time:
menlopark.org/publiccommentMarch16 *
 - Access the meeting real-time online at:
[Zoom.us/join](https://zoom.us/join) – Meeting ID 976 7090 9395
 - Access the meeting real-time via telephone at:
(669) 900-6833
Meeting ID 976 7090 9395
Press *9 to raise hand to speak

(670) Written and recorded public comments are accepted up to 1-hour before the meeting start time. Written and recorded messages are provided to the City Council at the appropriate time in their meeting. Recorded messages may be transcribed using a voice-to-text tool.

- Watch meeting:
 - Cable television subscriber in Menlo Park, East Palo Alto, Atherton, and Palo Alto:
Channel 26
 - Online:
menlopark.org/streaming

Note: City Council closed sessions are not broadcast online or on television and public participation is limited to the beginning of closed session.

Subject to Change: Given the current public health emergency and the rapidly evolving federal, state, county and local orders, the format of this meeting may be altered or the meeting may be canceled. You may check on the status of the meeting by visiting the City's website www.menlopark.org. The instructions for logging on to the webinar and/or the access code is subject to change. If you have difficulty accessing the webinar, please check the latest online edition of the posted agenda for updated information (menlopark.org/agenda).

According to City Council policy, all meetings of the City Council are to end by midnight unless there is a super majority vote taken by 11:00 p.m. to extend the meeting and identify the items to be considered after 11:00 p.m.



SPECIAL MEETING AGENDA

Date: 3/22/2021

Time: 5:00 p.m.

Location: [Zoom.us/join](https://zoom.us/join) – ID# 977 3832 2183

Closed Session (Teleconference)

A. Call To Order

Mayor Combs called the meeting to order at 5:03 p.m.

B. Roll Call

Present: Combs, Mueller, Nash, Taylor, Wolosin

Absent: None

Staff: City Manager Starla Jerome-Robinson, Assistant City Manager Nick Pegueros, Deputy City Manager Justin Murphy, City Attorney Nira F. Doherty, Assistant City Attorney Joan Cox

C. Roll Call

D. Closed Session

Public Comment on these items will be taken before adjourning to Closed Session.

C1. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9:
(One potential case)

No reportable actions.

E. Adjournment

Mayor Combs adjourned the meeting at 5:39 p.m.

Judi A. Herren, City Clerk

NOVEL CORONAVIRUS, COVID-19, EMERGENCY ADVISORY NOTICE

On March 19, 2020, the Governor ordered a statewide stay-at-home order calling on all individuals living in the State of California to stay at home or at their place of residence to slow the spread of the COVID-19 virus. Additionally, the Governor has temporarily suspended certain requirements of the Brown Act. For the duration of the shelter in place order, the following public meeting protocols will apply.

Teleconference meeting: All members of the City Council, city staff, applicants, and members of the public will be participating by teleconference. To promote social distancing while allowing essential governmental functions to continue, the Governor has temporarily waived portions of the open meetings act and rules pertaining to teleconference meetings. This meeting is conducted in compliance with the Governor Executive Order N-25-20 issued March 12, 2020, and supplemental Executive Order N-29-20 issued March 17, 2020.

- How to participate in the meeting
 - Submit a written comment online:
menlopark.org/publiccommentMarch22*
 - Access the meeting real-time online at:
[Zoom.us/join](https://zoom.us/join) – Meeting ID 977 3832 2183
 - Access the meeting real-time via telephone at:
(669) 900-6833
Meeting ID 966 977 3832 2183
Press *9 to raise hand to speak

(670) Written public comments are accepted up to 1-hour before the meeting start time.
Written messages are provided to the City Council at the appropriate time in their meeting

Note: City Council closed sessions are not broadcast online or on television and public participation is limited to the beginning of closed session.

Subject to Change: Given the current public health emergency and the rapidly evolving federal, state, county and local orders, the format of this meeting may be altered or the meeting may be canceled. You may check on the status of the meeting by visiting the City's website www.menlopark.org. The instructions for logging on to the webinar and/or the access code is subject to change. If you have difficulty accessing the webinar, please check the latest online edition of the posted agenda for updated information (menlopark.org/agenda).

According to City Council policy, all regular meetings of the City Council are to end by midnight unless there is a super majority vote taken by 11:00 p.m. to extend the meeting and identify the items to be considered after 11:00 p.m.

**REGULAR MEETING MINUTES – DRAFT****Date:** 3/23/2021**Time:** 5:00 p.m.**Location:** Zoom**Regular Session****A. Call To Order**

Mayor Combs called the meeting to order at 5:04 p.m.

B. Roll Call

Present: Combs, Mueller, Nash, Taylor, Wolosin

Absent: None

Staff: City Manager Starla Jerome-Robinson, City Attorney Nira F. Doherty, City Clerk Judi A. Herren

C. Study Session**C1. National League of Cities' Race Equity And Leadership program (Staff Report #21-066-CC) (Presentation)**

Assistant Community Services Director Adriane Lee-Bird and National League of Cities' Race Equity and Leadership Director Leon Andrews made the presentation (Attachment).

- Lynne Bramlett spoke in support of a staff and city manager policy on roles, responsibilities, and procedures and in support of City Councilmembers being involved in events occurring in their Districts.
- Julie Shanson spoke in support of the REAL (Race Equity And Leadership) program.

The City Council received clarification on implementation of the REAL program without interrupting current service levels, how the program is administered with the various elements provided, and the REAL action plan and staff capacity.

The City Council discussed joint efforts with City and MPFPD (Menlo Park Fire Protection District) for at-home vaccines separate from County vaccine events, community and staff impacts with implementation of the REAL program, systemic racism within the Menlo Park staff and how to work through the racism and the lack of equity, and the benefits of the REAL training.

The City Council directed staff to move forward with the REAL training, providing dedicated personnel for this effort, and to return an action plan to City Council.

C2. Public engagement pilot program update (Staff Report #21-067-CC) (Presentation)

Web form public comment received on item C2.

Public Engagement Manager Clay Curtin made the presentation (Attachment).

- Julie Shanson spoke in support of increasing communication methods (e.g., flyers and office hours).
- Lynne Bramlett spoke in support of communications provided in more languages and engaging volunteers to assist with public outreach and engagement.
- Katie Behroozi requested that the City meet people where they are and observe where they are struggling.
- Jenny Michel spoke in support of increased public engagement.

The City Council received clarification on capturing lessons learned with TIERS (Think, Initiate, Engage, Review, Shift) and how to determine when to provide printed materials.

The City Council discussed focusing on what the public needs by asking the public, providing the public with information on policies, procedures, and projects that have been approved, prioritizing what is being sent to the public, possibly reinstating the Belle Haven newsletter and considerations for district newsletters, and district engagement compared to citywide engagement.

The City Council took a recess at 7:35 p.m.

The City Council reconvened at 7:59 p.m.

C3. Provide direction on the five-year capital improvement plan (Staff Report #21-062-CC) (Presentation)

Web form public comment received on item C3.

Public Works Director Nikki Nagaya made the presentation (Attachment).

- Adina Levin spoke in support of the transportation master plan and proposed capital improvement projects (CIP).
- Ranjeet Pancholy requested funding for CIPs at the 115 El Camino Real project.
- Katie Behroozi spoke in support of Citywide standards and increased transparency through the use of approved project principles.
- Chris MacIntosh spoke in support of the completion of the Bedwell Bay Front Park master plan.

The City Council received clarification on the Gatehouse fence repair and budget, tracking the history of projects, how grants are integrated with projects, City Council design review decision points, remaining grant funds, signal modification on Bayfront Expressway/Chilco Street and safety concerns, Downtown streetscape project budget and related projects, Measure T fund related to the park and recreation master plan, and combining undergrounding utilities and sidewalk projects.

The City Council provided direction to proceed with the proposed next steps for the Gatehouse fence repairs and undergrounding utilities in areas outside of downtown and noted the actions proposed address the questions raised by the City Council on February 23.

The City Council requested the addition of the original funding year to each project in the CIP, a prioritization criterion for reducing vehicle miles traveled (VMT) or consistency with the climate action plan (CAP), and consideration of Santa Cruz Avenue between University Drive and Arbor Road to

future undergrounding discussions to allow for wider sidewalks.

D. Report from Closed Session

No reportable actions.

E. Public Comment

None.

F. Presentations and Proclamations

F1. Proclamation: Denouncing Stigmatization, Racism and Xenophobia Against Asian American and Pacific Islanders (Attachment)

- Asian American and Pacific Islanders Caucus representative Wayne Lee spoke in support of the proclamation.
- Alice Hom spoke in support of the proclamation.

Mayor Combs read the proclamation (Attachment).

F2. Proclamation: Equal Pay Day (Attachment)

Mayor Combs read the proclamation (Attachment).

G. Commissioner Reports

G1. Finance and Audit Committee work plan progress report

The City Council continued item G1. to a future meeting.

H. Consent Calendar

H1. Accept the City Council meeting minutes for March 1 and March 9, 2021 (Attachment)

H2. Approve Resolution No. 6618 updating the City's conflict of interest code (Staff Report #21-060-CC)

Web form public comment received on item H2.

- Katie Behroozi spoke in opposition of the inclusion of advisory bodies to the City's conflict of interest code.
- Jenny Michel spoke in support of the inclusion of advisory bodies to the City's conflict of interest code.
- Karen Grove spoke in support of the inclusion of advisory bodies to the City's conflict of interest code.

The City Council received clarification on impacts to adding advisory bodies to the City's conflict of interest code and the effective date of the proposed filings.

The City Council discussed a form requiring only the reporting of real property in Menlo Park and the impact of Fair Political Practices Commission filings to current and new applicants of advisory bodies.

The City Council directed staff to create a form requiring only the reporting of real property in Menlo Park for advisory body members impacting land use, real property, and the housing element.

ACTION: Motion and second (Wolosin/ Taylor) to adopt Resolution No. 6618 updating the conflict of interest code without the inclusion of advisory bodies, create a form requiring only the reporting of real property in Menlo Park for advisory body members impacting land use, real property, and the housing element for City Council consideration, and inform current advisory body members and applicants of the upcoming agenda item, passed unanimously.

H3. Receive and accept the 2020 housing element annual progress report and the annual housing successor report (Staff Report #21-061-CC)

Web form public comment received on item H3.

- Lynne Bramlett spoke in support of the housing element annual review and recommended including a general plan review in parallel.
- Lauren Bigelow spoke on concerns with the amount of low and moderate income housing.

The City Council received clarification on disinvestment, below market rate in-lieu fees and annual reporting to include the job/housing calculations to use as a future benchmark.

The City Council directed staff to add disinvestment to the report and to include low, very low, and affordable housing to Table 1 in next report (Attachment).

ACTION: Motion and second (Nash/ Combs) to receive and accept the 2020 housing element annual progress report and the annual housing successor report, passed unanimously.

H4. Adopt Resolution No. 6619 approving the final map for a condominium project located at 115 El Camino Real; accepting dedication of public service easements and right of way; authorizing the city clerk to sign the final map; and authorizing the city manager to sign the agreements required to implement the conditions of project approval (Staff Report #21-058-CC)

ACTION: Motion and second (Nash/ Wolosin) to approve items H1. and H4., passed unanimously.

I. Regular Business

I1. Approve the Complete Streets Commission 2020-2021 work plan (Staff Report #21-054-CC) – continued from March 9, 2021

Complete Streets Commission Chair Adina Levin made the presentation (Attachment).

The City Council discussed clarity on the charge and mission statement and engaging the public on the Dumbarton rail project.

ACTION: Motion and second (Wolosin/ Taylor) to approve the Complete Streets Commission 2020-2021 work plan, passed unanimously.

ACTION: By acclamation, the City Council extended the meeting past 11 p.m.

12. Authorize the city manager to negotiate a scope of work and fee and execute an agreement with the M-Group for the housing element (2023-2031) update and related work (Staff Report #21-065-CC) (Presentation)

Assistant Community Development Director Deanna Chow made the presentation (Attachment).

- Lynne Bramlett spoke on concerns of the inclusion of the social justice and environmental justice components.
- Jenny Michel requested more detail related to robust community engagement.

The City Council received clarification on additional tasks for the consultant, project design standards, project budget, and public engagement on all housing element projects.

The City Council discussed public engagement and a strong representation from each of the Districts.

The City Council directed staff to discuss with M-Group the Downtown specific plan.

ACTION: Motion and second (Mueller/ Wolosin) to authorize the city manager to negotiate a scope of work and fee and execute an agreement with the M-Group for the housing element (2023-2031) update and related work, passed unanimously.

13. Review 2030 climate action plan progress for goals No. 1 through No. 6 and provide direction to staff for 2021 implementation (Staff Report #21-064-CC) (Presentation)

Web form public comment received on item I3.

The City Council continued item I3. to a future meeting.

14. Direction on cost recovery policy (City Council Procedure #CC-10-001), library overdue fines and recreation user fees (Staff Report #21-050-CC) (Presentation) – continued from March 9, 2021

The City Council continued item I4. to a future meeting.

J. Informational Items

- J1. Temporary outdoor dining grant program update (Staff Report #21-053-CC) – continued from March 9, 2021

The City Council continued item J1. to a future meeting.

- J2. Belle Haven Neighborhood traffic management plan update and next steps – continued from March 9, 2021 (Staff Report #21-055-CC)

- J3. City Council agenda topics: April 2021 (Staff Report #21-057-CC)

The City Council continued item J3. to a future meeting.

J4. Request for proposals for installation of a renewable power microgrid at the Menlo Park Community Campus (Staff Report #21-059-CC)

J5. Recap of City Council direction on projects under consideration for 2021 priorities and work plan (Staff Report #21-063-CC)

- Ezio Alviti spoke in support of a quiet zone added to the goals and priorities.

J6. Update on American Rescue Plan Act funds (Attachment)

The City Council continued item J6. to a future meeting.

K. City Manager's Report

None.

L. City Councilmember Reports

None.

M. Adjournment

Mayor Combs adjourned the meeting at 11:37 p.m.

Judi A. Herren, City Clerk

NOVEL CORONAVIRUS, COVID-19, EMERGENCY ADVISORY NOTICE

On March 19, 2020, the Governor ordered a statewide stay-at-home order calling on all individuals living in the State of California to stay at home or at their place of residence to slow the spread of the COVID-19 virus. Additionally, the Governor has temporarily suspended certain requirements of the Brown Act. For the duration of the shelter in place order, the following public meeting protocols will apply.

Teleconference meeting: All members of the City Council, city staff, applicants, and members of the public will be participating by teleconference. To promote social distancing while allowing essential governmental functions to continue, the Governor has temporarily waived portions of the open meetings act and rules pertaining to teleconference meetings. This meeting is conducted in compliance with the Governor Executive Order N-25-20 issued March 12, 2020, and supplemental Executive Order N-29-20 issued March 17, 2020.

- How to participate in the meeting
 - Submit a written comment online up to 1-hour before the meeting start time:
menlopark.org/publiccommentMarch23 *
 - Access the meeting real-time online at:
[Zoom.us/join](https://zoom.us/join) – Meeting ID 966 7793 9576
 - Access the meeting real-time via telephone at:
(669) 900-6833
Meeting ID 966 7793 9576
Press *9 to raise hand to speak

(670) Written public comments are accepted up to 1-hour before the meeting start time. Written messages are provided to the City Council at the appropriate time in their meeting.

- Watch meeting:
 - Cable television subscriber in Menlo Park, East Palo Alto, Atherton, and Palo Alto:
Channel 26
 - Online:
menlopark.org/streaming

Note: City Council closed sessions are not broadcast online or on television and public participation is limited to the beginning of closed session.

Subject to Change: Given the current public health emergency and the rapidly evolving federal, state, county and local orders, the format of this meeting may be altered or the meeting may be canceled. You may check on the status of the meeting by visiting the City's website www.menlopark.org. The instructions for logging on to the webinar and/or the access code is subject to change. If you have difficulty accessing the webinar, please check the latest online edition of the posted agenda for updated information (menlopark.org/agenda).

According to City Council policy, all meetings of the City Council are to end by midnight unless there is a super majority vote taken by 11:00 p.m. to extend the meeting and identify the items to be considered after 11:00 p.m.



STAFF REPORT

City Council

Meeting Date: 4/13/2021

Staff Report Number: 21-068-CC

Consent Calendar: Receive and file City Council and advisory body annual attendance report for March 2020 – February 2021

Recommendation

This is an informational item and does not require City Council action.

Policy Issues

City Council policy requires an annual attendance report (Attachment A) for each advisory body and the City Council.

Background

For advisory bodies to function effectively and accomplish their respective goals and work plans, it is important that all members be active participants by attending the regularly scheduled monthly or quarterly advisory body meetings.

In accordance with City Council policy CC 19-0004 (Attachment B), a report regarding advisory body attendance annually reflecting data for the previous 12 months. This data is collected from the meeting minutes of each advisory body and the City Council.

Analysis

Before the posting of a meeting agenda, staff liaisons communicate with their respective advisory body members, to ensure a quorum will be met in order to properly conduct the advisory body meeting. In most cases, advisory body members advise the staff liaison in advance of their absence and typically, absences are due to pre-planned vacations or scheduled work travel and are considered reasonable. Overall, advisory body liaisons have reported the absences do not have a significant impact on discussion or deliberation of agenda items.

Because the City places a high value on the work of the advisory bodies and strives to provide sufficient support to all advisory body members in order to facilitate their work, removal from an advisory body appointment is rarely recommended and instead staff liaisons prefer to reach out to the advisory body member(s) falling in the 67 percent or below category to determine the reasons for the absences and assess the ability to continue in their advisory body service.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it proposes an organizational structure change that will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Attendance data for each advisory body and City Council
- B. CC-19-004 Commissions/Committees policies and procedures, roles and responsibilities

Report prepared by:
Judi A. Herren, City Clerk

CITY COUNCIL					Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb
Second and fourth Tuesdays of the month at 5 p.m.					2020	2020	2020	2020	2020	2020	2020	2020	2020	2020	2021	2021
	Sworn in	Total no. of meetings	Total meetings attended	Percentage attended												
Carlton, Catherine	12/13/2016	60	57	95.00%	9	6	9	6	4	4	4	7	4	4	*	*
Combs, Drew	12/11/2018	70	68	97.14%	8	6	8	7	4	4	4	7	5	5	5	5
Mueller, Ray	12/15/2020	70	68	97.14%	9	6	9	7	4	4	3	6	5	5	5	5
Nash, Betsy	12/11/2018	70	70	100.00%	9	6	9	7	4	4	4	7	5	5	5	5
Taylor, Cecilia	12/11/2018	70	69	98.57%	9	6	9	7	4	4	4	7	5	4	5	5
Wolosin, Jen	12/15/2020	11	11	100.00%	*	*	*	*	*	*	*	*	*	1	5	5

* not on City Council

- 3/3/2020 Carlton arrived at 5:20 p.m.
- 3/10/2020 Combs excused absence
- 5/5/2020 Combs excused absence
- 5/22/2020 Mueller arrived at 1:12 p.m.
- 6/18/2020 Carlton excused absence
- 7/16/2020 Carlton arrived at 9:15 p.m.
- 9/22/2020 Combs arrived at 5:18 p.m.
- 9/29/2020 Mueller excused absence
- 10/6/2020 Mueller excused absence
- 10/21/2020 Mueller arrived at 1:12 p.m.
- 11/11/2020 Combs recused
- 11/11/2020 Mueller exited at 11:19 a.m.
- 12/9/2020 Combs recused
- 12/9/2020 Taylor excused absence

COMPLETE STREETS						Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb
Second Wednesday of the month at 7 p.m.	Appointed	Re-appointed	Total no. of meetings	Total meetings attended	Percentage attended	2020	2020	2020	2020	2020	2020	2020	2020	2020	2020	2021	2021
Behroozi, Katie	5/3/2016	6/10/2020	8	7	87.50%					1	1	1	1	1	1		1
Cebrian, Jacquie	4/16/2019		8	7	87.50%					1	1	1	1		1	1	1
Cromie, John	4/16/2019		8	6	75.00%						1	1	1		1	1	1
Espinosa Petrice	6/10/2020		8	7	87.50%					1		1	1	1	1	1	1
Kirsch, William	5/7/2013	5/16/2017	8	6	75.00%					1	1		1	1		1	1
Lee, Lydia	5/6/2014	4/24/2018	8	8	100.00%					1	1	1	1	1	1	1	1
Levin, Adina	4/16/2013	5/6/2014 & 4/24/2018	8	7	87.50%					1	1	1	1		1	1	1
Meyer, Michael	8/20/2013	5/16/2017	8	8	100.00%					1	1	1	1	1	1	1	1
Wyatt, Isaac	6/10/2020		7	6	85.71%					1	1	1	1	1	1		*

* not on commission

March through June meetings cancelled due to COVID-19

7/8/2020 Cromie excused absence

8/12/2020 Espinosa excused absence

9/9/2020 Kirsch excused absence

11/12/2020 Cebrian excused absence

11/12/2020 Cromie excused absence

11/12/2020 Levin excused absence

12/9/2020 Kirsch excused absence

1/13/2021 Behroozi excused absence

1/13/2021 Wyatt excused absence

2/4/21 Wyatt resigned

ENVIRONMENTAL QUALITY						Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb
Third Wednesday of the month at 6 p.m.		Appointed	Re-appointed	Total no. of meetings	Total meetings attended	Percentage attended	2020	2020	2020	2020	2020	2020	2020	2020	2021	2021	
Elkins, Leah	10/13/2020			8	8	100.00%				1		1	1	1	1	1	1
Gaillard, Josie	4/16/2019			8	8	100.00%				1		1	1	1	1	1	1
Kabat, Tom	4/24/2018			8	8	100.00%				1		1	1	1	1	1	1
London, Janelle	5/3/2016	6/10/2020		8	8	100.00%				1		1	1	1	1	1	1
Martin, Deborah	6/22/2013	5/16/2017		8	8	100.00%				1		1	1	1	1	1	1
Payne, James	4/24/2018			8	6	75.00%				1		1		1	1		1
Price, Ryann	4/24/2018			8	7	87.50%				1		1	1	1		1	1

* not on commission

March through May meetings cancelled due to COVID-19

- 7/15/2020 meeting cancelled
- 9/16/2020 Payne excused absence
- 10/21/2020 London exited meeting at 7:31 p.m.
- 12/16/2020 Price excused absence
- 12/16/2020 Martin exited meeting at 6 p.m.
- 1/20/2021 Payne excused absence
- 1/20/2021 London exited meeting at 7:33 p.m.
- 2/25/2021 London exited meeting at 7:33 p.m.
- 2/25/2021 Price arrived at 5:12 p.m.

FINANCE AND AUDIT						Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb
Special meetings as needed at 5:30 p.m.						2020	2020	2020	2020	2020	2020	2020	2020	2020	2020	2021	2021
	Appointed	Re-appointed	Total no. of meetings	Total meetings attended	Percentage attended												
Combs, Drew	1/29/2019	12/15/2020	5	0	0.00%					**	**		**	**	**		
Keet, Theo	6/10/2020		5	5	100.00%					1	1		1	1	1		
Maguire, Shaun	7/16/2019		5	5	100.00%					1	1		1	1	1		
Mueller, Ray	12/12/2017	12/18/2019 & 12/15/2020	5	0	0.00%					**	**		**	**	**		
Royse, Roger	4/24/2018	6/10/2020	5	5	100.00%					1	1		1	1	1		
Shepherd, Ron	5/16/2017	4/16/2019	5	5	100.00%					1	1		1	1	1		
Westcott, Brian	6/4/2019		5	3	60.00%					1	1			1			

* not on committee

** not recorded

March through June meetings cancelled due to COVID-19

No September 2020 meeting

No January 2021 meeting

No February 2021 meeting

10/26/2020 Westcott excused absence

12/17/2020 Westcott excused absence

HOUSING						Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb
First Wednesday of the month at 6:30 p.m.		Total no. of meetings	Total meetings attended	Percentage attended	2020	2020	2020	2020	2020	2020	2020	2020	2020	2020	2020	2021	2021
	Appointed	Re-appointed															
Bigelow, Lauren	4/16/2019		8	7	87.50%					1	1	1	1	2			1
Conroy, Curtis	4/16/2019		8	8	100.00%	1				1	1	1	1	2			1
Grove, Karen	7/18/2017		8	8	100.00%	1				1	1	1	1	2			1
Horst, Rachel	4/24/2018		8	8	100.00%	1				1	1	1	1	2			1
McPherson, Wendy	4/24/2018		8	8	100.00%	1				1	1	1	1	2			1
Merriman, Nevada	5/16/2017		8	8	100.00%	1				1	1	1	1	2			1
Pimentel, John	6/10/2020		8	8	100.00%	1				1	1	1	1	2			1

* not on commission

April through June meetings cancelled due to COVID-19

3/4/2020 Bigelow excused absence

9/2/2020 Pimentel arrived at 6:45 p.m.

12/2/2020 meeting cancelled

1/6/2021 meeting cancelled

LIBRARY						Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb
Third Monday of the month at 6:30 p.m.		Appointed	Re-appointed	Total no. of meetings	Total meetings attended	Percentage attended	2020	2020	2020	2020	2020	2020	2020	2020	2020	2021	2021
Bunyangidj, Mayrin	6/10/2020			7	7	100.00%				1	1	1	1	1		1	1
Cohen, Alan	4/24/2018			7	7	100.00%				1	1	1	1	1		1	1
Ernhart, David	4/16/2019			7	7	100.00%				1	1	1	1	1		1	1
Guha, Sukanya	6/10/2020			7	7	100.00%				1	1	1	1	1		1	1
Hadrovic, Katie	4/24/2018			7	7	100.00%				1	1	1	1	1		1	1
Leep, Kristen	5/12/2015	4/30/2019		7	6	85.71%				1	1	1		1		1	1
Tran, Yen	6/20/2020			6	5	83.33%				1	1	1	1	1			*

* not on commission

March through June meetings cancelled due to COVID-19

12/21/2020 meeting cancelled

10/19/2020 Leep excused absence

11/16/2020 Leep arrived at 6:40 p.m.

1/18/2021 meeting cancelled

2/11/2021 Yen resigned

2/15/2021 meeting cancelled

1/25/2021 Guha arrived at 6:34 p.m.

1/25/2021 Leep arrived at 6:33 p.m.

PARKS AND RECREATION						Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb
Fourth Wednesday of the month at 6:30 p.m.		Appointed	Re-appointed	Total no. of meetings	Total meetings attended	Percentage attended	2020	2020	2020	2020	2020	2020	2020	2020	2020	2021	2021
Baskin, Jennifer	5/3/2016	6/10/2020	7	7	100.00%					1	1	1	1	1		1	1
Bryman, Marc	4/16/2019		7	7	100.00%					1	1	1	1	1		1	1
Diepenbrock, Peter	10/15/2019		7	7	100.00%					1	1	1	1	1		1	1
Harris, Christopher	1/28/2014	5/16/2017	7	7	100.00%					1	1	1	1	1		1	1
Johnson, Jennifer	5/3/2016	6/10/2020	7	7	100.00%					1	1	1	1	1		1	1
Payne, Dana	4/24/2018		7	4	57.14%							1	1	1			1
Staley Shenk, Sarah	5/16/2017		7	7	100.00%					1	1	1	1	1		1	1

* not on commission

March through June meetings cancelled due to COVID-19

7/22/2020 Payne excused absence

8/26/2020 Payne excused absence

9/23/2020 Staley Shenk arrived at 6:35 p.m.

9/23/2020 Payne exited at 8:01 p.m.

10/28/2020 Bryman arrived at 6:43 p.m.

11/25/2020 meeting cancelled

12/23/2020 meeting cancelled

1/27/2021 Payne excused absence

1/27/2021 Diepenbrock arrived at 6:39 p.m.

PLANNING						Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb
Twice a month on Mondays (varies) at 7 p.m.						2020	2020	2020	2020	2020	2020	2020	2020	2020	2020	2021	2021
	Appointed	Re-appointed	Total no. of meetings	Total meetings attended	Percentage attended												
Barnes, Andrew	5/3/2016	6/10/2020	22	21	95.45%	2	2	2	1	2	1		3	2	2	2	2
DeCardy, Chris	4/16/2019		22	21	95.45%	2	2	2	1	1	1	1	3	2	2	2	2
Doran, Michael	1/29/2019		22	22	100.00%	2	2	2	1	2	1	1	3	2	2	2	2
Kahle, Larry	10/15/2019		22	20	90.91%	1	2	2	1	2	1	1	3	2	2	1	2
Kennedy, Camille	4/24/2018		22	14	63.64%	2	1	1	1	1	1	1	2		1	1	2
Riggs, Henry	5/3/2016	6/10/2020	22	22	100.00%	2	2	2	1	2	1	1	3	2	2	2	2
Tate, Michele	4/16/2019		22	16	72.73%	1	2	1	1	2		1	1	2	2	1	2

* not on commission

- 3/9/2020 Khale excused absence
- 3/23/2020 Tate excused absence
- 4/20/2020 Kennedy excused absence
- 5/4/2020 Tate excused absence
- 5/11/2020 meeting cancelled
- 5/18/2020 Kennedy excused absence
- 6/22/2020 meeting cancelled
- 7/13/2020 DeCardy excused absence
- 7/13/2020 Kennedy excused absence
- 7/13/2020 Tate exited the meeting at 8 p.m.
- 7/27/2020 Kennedy arrived at 7:03 p.m.
- 8/10/2020 meeting cancelled
- 8/24/2020 meeting cancelled
- 8/31/2020 Tate excused absence
- 9/14/2020 meeting cancelled
- 9/28/2020 Barnes excused absence
- 10/5/2020 Tate excused absence
- 10/5/2020 DeCardy exited at item F2.
- 10/12/2020 Tate excused absence
- 10/19/2020 Kennedy excused absence
- 11/2/2020 Kennedy excused absence
- 11/16/2020 Riggs arrived at 8:10 p.m.
- 12/07/2020 Doran arrived at 7:15 p.m.
- 12/14/2020 Kennedy excused absence
- 1/11/2021 Kennedy exited at 11 p.m.
- 1/11/2021 Kahle excused absence
- 1/11/2021 Tate excused absence
- 1/25/2021 Barnes arrived at 7:07 p.m.

Commissions/Committees Policies and Procedures, Roles and Responsibilities

City Council Procedure #CC-19-0004
 Adopted March 05, 2019
 Resolution No. 6477



Purpose
To define policies and procedures and roles and responsibilities for Menlo Park appointed commissions and committees.
Authority
Upon its original adoption, this policy replaced the document known as "Organization of Advisory Commissions of the City of Menlo Park."
Background
<p>The City of Menlo Park currently has eight active commissions and committees. The active advisory bodies are: Complete Streets Commission, Environmental Quality Commission, Finance and Audit Committee, Housing Commission, Library Commission, Parks and Recreation Commission, Planning Commission, and the Sister City Committee. Those not specified in the City Code are established by City Council ordinance or resolution. Most of these advisory bodies are established in accordance with Resolution 2801 and its amendments. Within specific areas of responsibility, each advisory body has a primary role of advising the City Council on policy matters or reviewing specific issues and carrying out assignments as directed by the City Council or prescribed by law.</p> <p>Seven of the eight commissions and committees listed above are advisory in nature. The Planning Commission is both advisory and regulatory and organized according to the City Code (Ch. 2.12) and State statute (Government Code 65100 et seq., 65300-65401.)</p> <p>The City has an adopted Anti-Harassment and Non-Discrimination Policy (CC-95-001), and a Travel and Expense Policy (CC-91-002), which are also applicable to all advisory bodies.</p>
Section
<p><u>Relationship to City Council, staff and media</u></p> <ul style="list-style-type: none"> • Upon referral by the City Council, the commission/committee shall study referred matters and return their recommendations and advise to the City Council. With each such referral, the City Council may authorize the city staff to provide certain designated services to aid in the study. • Upon its own initiative, the commission/committee shall identify and raise issues to the City Council's attention and from time to time explore pertinent matters and make recommendations to the City Council. • At a request of a member of the public, the commission/committee may consider appeals from city actions or inactions in pertinent areas and, if deemed appropriate, report and make recommendations to the City Council. • Each commission/committee is required to develop an annual work plan which will be the foundation for the work performed by the advisory body in support of City Council annual work plan. The plan, once finalized by a majority of the commission/committee, will be formally presented to the City Council for direction and approval no later than September 30 of each year and then reported out on by a representative of the advisory body at a regularly scheduled City Council meeting at least annually, but recommended twice a year. The proposed work plan must align with the City Council's adopted work plan. When modified, the work plan must be taken to the City Council for approval. The Planning Commission is exempt from this requirement as its functions are governed by the Menlo Park municipal code (Chapter 2.12) and State law (Government Code 65100 et seq., 65300-65401.) • Commissions and committees shall not become involved in the administrative or operational matters of city departments. Members may not direct staff to initiate major programs, conduct large studies or establish department policy. City staff assigned to furnish staff services shall be available to provide general staff assistance, such as preparation of agenda/notice materials and minutes, general review of department programs and activities, and to perform limited studies, program reviews, and other services of a general staff nature. Commissions/committees may not establish department work programs or determine department program priorities. The responsibility for setting policy and allocating scarce city resources rests with the city's duly elected representatives, the City Council. • Additional or other staff support may be provided upon a formal request to the City Council. • The staff liaison shall act as the commission/committee's lead representative to the media concerning matters before the commission/committee. Commission/committee members should refer all media inquiries to their respective liaisons for response. Personal opinions and comments may be expressed so long as the commission/committee member clarifies that his or her statements do not represent the position of the City Council. • Commission/committee members will have mandatory training every two years regarding the Brown Act and

Commissions/Committees Policies and Procedures, Roles and Responsibilities

City Council Procedure #CC-19-0004

Adopted March 5, 2019

Resolution No. 6477

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parliamentary procedures, anti-harassment training, ethics training, and other training required by the City Council or State Law. The commission/committee members may have the opportunity for additional training, such as training for chair and vice chair. Failure to comply with the mandatory training will be reported to the City Council and may result in replacement of the member by the City Council.

- Requests from commission/committee member(s) determined by the staff liaison to take one hour or more of staff time to complete must be directed by the City Council.

Role of City Council commission/committee liaison

City Councilmembers are assigned to serve in a liaison capacity with one or more city commission/committee. The purpose of the liaison assignment is to facilitate communication between the City Council and the advisory body. The liaison also helps to increase the City Council's familiarity with the membership, programs and issues of the advisory body. In fulfilling their liaison assignment, City Councilmembers may elect to attend commission/committee meetings periodically to observe the activities of the advisory body or simply maintain communication with the commission/committee chair on a regular basis.

City Councilmembers should be sensitive to the fact that they are not participating members of the commission/committee, but are there rather to create a linkage between the City Council and commission/committee. In interacting with commissions/committee, City Councilmembers are to reflect the views of the City Council as a body. Being a commission/committee liaison bestows no special right with respect to commission/committee business.

Typically, assignments to commission/committee liaison positions are made at the beginning of a City Council term in December. The Mayor will ask City Councilmembers which liaison assignments they desire and will submit recommendations to the full City Council regarding the various committees, boards, and commissions which City Councilmembers will represent as a liaison. In the rare instance where more than one City Councilmember wishes to be the appointed liaison to a particular commission, a vote of the City Council will be taken to confirm appointments.

City Staff Liaison

The City has designated staff to act as a liaison between the commission/committee and the City Council. The city shall provide staff services to the commission/committee which will include:

- Developing a rapport with the Chair and commission/committee members
- Providing a schedule of meetings to the city clerk's office and commission/committee members, arranging meeting locations, maintaining the minutes and other public records of the meeting, and preparing and distributing appropriate information related to the meeting agenda.
- Advising the commission/committee on directions and priorities of the City Council.
- Informing the commission/committee of events, activities, policies, programs, etc. occurring within the scope of the commission/committee's function.
- Ensuring the city clerk is informed of all vacancies, expired terms, changes in offices, or any other changes to the commission/committee.
- Providing information to the appropriate appointed official including reports, actions, and recommendations of the committee/commission and notifying them of noncompliance by the commission/committee or chair with city policies.
- Ensuring that agenda items approved by the commission/committee are brought forth in a timely manner taking into consideration staff capacity, City Council priorities, the commission/committee work plan, and other practical matters such as the expense to conduct research or prepare studies, provided appropriate public notification, and otherwise properly prepare the item for commission/committee consideration.
- Take action minutes; upon agreement of the commission, this task may be performed by one of the members (staff is still responsible for the accuracy and formatting of the minutes)
- Maintain a minute book with signed minutes

Recommendations, requests and reports

As needed, near the beginning of City Council meetings, there will be an item called "Commission/Committee Reports." At this time, commissions/committees may present recommendations or status reports and may request direction and support from the City Council. Such requests shall be communicated to the staff liaison in advance, including any written materials, so that they may be listed on the agenda and distributed with the agenda packet. The materials being provided to the City Council must be approved by a majority of the commission/committee at a commission/committee meeting before submittal to the City Council. The City Council will receive such reports and recommendations and, after suitable study and discussion, respond or give direction.

Commissions/Committees Policies and Procedures, Roles and Responsibilities

City Council Procedure #CC-19-0004

Adopted March 5, 2019

Resolution No. 6477

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The city clerk shall transmit to the designated staff liaison all referrals and requests from the City Council for advice and recommendations. The commissions/committees shall expeditiously consider and act on all referrals and requests made by the City Council and shall submit reports and recommendations to the City Council on these assignments.

Public appearance of commission/committee members

When a commission/committee member appears in a non-official, non-representative capacity before the public, for example, at a City Council meeting, the member shall indicate that he or she is speaking only as an individual. This also applies when interacting with the media and on social media. If the commission/committee member appears as the representative of an applicant or a member of the public, the Political Reform Act may govern this appearance. In addition, in certain circumstances, due process considerations might apply to make a commission/committee member's appearance inappropriate. Conversely, when a member who is present at a City Council meeting is asked to address the City Council on a matter, the member should represent the viewpoint of the particular commission/committee as a whole (not a personal opinion.)

Disbanding of advisory body

Upon recommendation by the Chair or appropriate staff, any standing or special advisory body, established by the City Council and whose members were appointed by the City Council, may be declared disbanded due to lack of business, by majority vote of the City Council.

Meetings and officers

1. *Agendas/notices/minutes*

- All meetings shall be open and public and shall conduct business through published agendas, public notices and minutes and follow all of the Brown Act provisions governing public meetings. Special, canceled and adjourned meetings may be called when needed, subject to the Brown Act provisions.
- Support staff for each commission/committee shall be responsible for properly noticing and posting all regular, special, canceled and adjourned meetings. Copies of all meeting agendas, notices and minutes shall be provided to the City Council, city manager, city attorney, city clerk and other appropriate staff, as requested.
- Original agendas and minutes shall be filed and maintained by support staff in accordance with the city's adopted records retention schedule.
- The official record of the commissions/committees will be preserved by preparation of action minutes.

2. *Conduct and parliamentary procedures*

- Unless otherwise specified by State law or city regulations, conduct of all meetings shall generally follow Robert's Rules of Order.
- A majority of commission/committee members shall constitute a quorum and a quorum must be seated before official action is taken.
- The Chair of each commission/committee shall preside at all meetings and the vice chair shall assume the duties of the Chair when the Chair is absent.
- The role of the commission/committee Chair (according to Roberts Rules of Order): To open the session at the time at which the assembly is to meet, by taking the Chair and calling the members to order; to announce the business before the assembly in the order in which it is to be acted upon; to recognize members entitled to the floor; to state and put to vote all questions which are regularly moved, or necessarily arise in the course of the proceedings, and to announce the result of the vote; to protect the assembly from annoyance from evidently frivolous or dilatory motions by refusing to recognize them; to assist in the expediting of business in every compatible with the rights of the members, as by allowing brief remarks when undebatable motions are pending, if s/he thinks it advisable; to restrain the members when engaged in debate, within the rules of order, to enforce on all occasions the observance of order and decorum among the members, deciding all questions of order (subject to an appeal to the assembly by any two members) unless when in doubt he prefers to submit the question for the decision of the assembly; to inform the assembly when necessary, or when referred to for the purpose, on a point of order to practice pertinent to pending business; to authenticate by his/her signature, when necessary, all the acts, orders, and proceedings of the assembly declaring it will and in all things obeying its commands.

3. *Lack of a quorum*

- When a lack of a quorum exists at the start time of a meeting, those present will wait 15 minutes for additional members to arrive. If after 15 minutes a quorum is still not present, the meeting will be adjourned by the staff liaison due to lack of a quorum. Once the meeting is adjourned it cannot be reconvened.
- The public is not allowed to address those commissioners present during the 15 minutes the commission/committee is waiting for additional members to arrive.
- Staff can make announcements to the members during this time but must follow up with an email to all members of the body conveying the same information.

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- All other items shall not be discussed with the members present as it is best to make the report when there is a quorum present.

4. *Meeting locations and dates*

- Meetings shall be held in designated city facilities, as noticed.
- All commissions/committees with the exception of the Planning Commission, Finance and Audit Committee and Sister City Committee shall conduct regular meetings once a month. Special meetings may also be scheduled as required by the commission/committee. The Planning Commission shall hold regular meetings twice a month. The Finance and Audit Committee and Sister City Committee shall hold quarterly meetings.
- Monthly regular meetings shall have a fixed date and time established by the commission/committee. Changes to the established regular dates and times are subject to the approval of the City Council. An exception to this rule would include any changes necessitated to fill a temporary need in order for the commission/committee to conduct its meeting in a most efficient and effective way as long as proper and adequate notification is provided to the City Council and made available to the public.

The schedule of Commission/Committee meetings is as follows:

- Complete Streets Commission – Every second Wednesday at 7 p.m.
- Environmental Quality Commission – Every third Wednesday at 6:00 p.m.
- Finance and Audit Committee – Third Wednesday of every quarter at 5:30 p.m.
- Housing Commission – Every first Wednesday at 6:30 p.m.
- Library Commission – Every third Monday at 6:30 p.m.
- Parks and Recreation Commission – Every fourth Wednesday at 6:30 p.m.
- Planning Commission – Twice a month at 7 p.m.
- Sister City Committee – Quarterly; Date and time to be determined

Each commission/committee may establish other operational policies subject to the approval of the City Council. Any changes to the established policies and procedures shall be subject to the approval of the City Council.

5. *Off-premises meeting participation*

While technology allows commission/committee members to participate in meetings from a location other than the meeting location (referred to as “off-premises”), off-premises participation is discouraged given the logistics required to ensure compliance with the Brown Act and experience with technological failures disrupting the meeting. In the event that a commission/committee member believes that his or her participation is essential to a meeting, the following shall apply:

- Any commission/committee member intending to participate from an off-premise location shall inform the staff liaison at least two weeks in advance of the meeting.
- The off-premise location must be identified in the notice and agenda of the meeting.
- Agendas must be posted at the off-premise location.
- The off-premise location must be accessible to the public and be ADA compliant.
- The commission/committee member participating at a duly noticed off-premises location does not count toward the quorum necessary to convene a meeting of the commission/committee.
- For any one meeting, no more than one commission/committee member may participate from an off-premise location.
- All votes must be by roll call.

6. *Selection of chair and vice chair*

- The chair and vice chair shall be selected in May of each year by a majority of the members and shall serve for one year or until their successors are selected.
- Each commission/committee shall annually rotate its Chair and Vice Chair.

Memberships

1. *Appointments/Oaths*

- The City Council is the appointing body for all commissions/committees. All members serve at the pleasure of the City Council for designated terms.
- All appointments and reappointments shall be made at a regularly scheduled City Council meeting, and require an affirmative vote of not less than a majority of the City Council present.
- Before taking office, all members must complete an Oath of Allegiance required by Article XX, §3, of the Constitution of the State of California. All oaths are administered by the city clerk or his/her designee.
- Appointments made during the middle of the term are for the unexpired portion of that term.

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2. *Application and selection process*

- The application process begins when a vacancy occurs due to term expiration, resignation, removal or death of a member.
- The application period will normally run for a period of four weeks from the date the vacancy occurs. If there is more than one concurrent vacancy in a Commission, the application period may be extended. Applications are available from the city clerk's office and on the city's website.
- The city clerk shall notify members whose terms are about to expire whether or not they would be eligible for reappointment. If reappointment is sought, an updated application will be required.
- Applicants are required to complete and return the application form for each commission/committee they desire to serve on, along with any additional information they would like to transmit, by the established deadline. Applications sent by email are accepted; however, the form submitted must be signed.
- After the deadline of receipt of applications, the city clerk shall schedule the matter at the next available regular City Council meeting. All applications received will be submitted and made a part of the City Council agenda packet for their review and consideration. If there are no applications received by the deadline, the city clerk will extend the application period for an indefinite period of time until sufficient applications are received.
- Upon review of the applications received, the City Council reserves the right to schedule or waive interviews, or to extend the application process in the event insufficient applications are received. In either case, the city clerk will provide notification to the applicants of the decision of the City Council.
- If an interview is requested, the date and time will be designated by the City Council. Interviews are open to the public.
- The selection/appointment process by the City Council shall be conducted open to the public. Nominations will be made and a vote will be called for each nomination. Applicants receiving the highest number of affirmative votes from a majority of the City Council present shall be appointed.
- Following a City Council appointment, the city clerk shall notify successful and unsuccessful applicants accordingly, in writing. Appointees will receive copies of the City's Non-Discrimination and Sexual Harassment policies, and disclosure statements for those members who are required to file under State law as designated in the City's Conflict of Interest Code. Copies of the notification will also be distributed to support staff and the commission/committee chair.
- An orientation will be scheduled by the city clerk following an appointment (but before taking office) and a copy of this policy document will be provided at that time.

3. *Attendance*

- An Attendance Policy (CC-91-001), shall apply to all advisory bodies. Provisions of this policy are listed below.
- A compilation of attendance will be submitted to the City Council at least annually listing absences for all commissions/committee members.
- Absences, which result in attendance at less than two-thirds of their meetings during the calendar year, will be reported to the City Council and may result in replacement of the member by the City Council.
- Any member who feels that unique circumstances have led to numerous absences can appeal directly to the City Council for a waiver of this policy or to obtain a leave of absence.
- While it is expected that members be present at all meetings, the chair and staff liaison should be notified if a member knows in advance that he/she will be absent.
- When reviewing commissioners for reappointment, overall attendance at full commission meetings will be given significant consideration.

4. *Compensation*

- Members shall serve without compensation (unless specifically provided) for their services, provided, however, members shall receive reimbursement for necessary travel expenses and other expenses incurred on official duty when such expenditures have been authorized by the City Council (See Policy CC-91-002.)

5. *Conflict of interest and disclosure requirements*

- A Conflict of Interest Code has been updated and adopted by the City Council and the Community Development Agency pursuant to Government Code §87300 et seq. Copies of this Code are filed with the city clerk. Pursuant to the adopted Conflict of Interest Code, members serving on the Planning Commission are required to file a Statement of Economic Interest with the city clerk to disclose personal interest in investments, real property and income. This is done within 30 days of appointment and annually thereafter. A statement is also required within 30 days after leaving office.
- If a public official has a conflict of interest, the Political Reform Act may require the official to disqualify himself or herself from making or participating in a governmental decision, or using his or her official position to influence a governmental decision. Questions in this regard may be directed to the city attorney.

6. *Qualifications, compositions, number*

- In most cases, members shall be residents of the City of Menlo Park and at least 18 years of age.

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- Current members of any other city commission/committee are disqualified for membership, unless the regulations for that advisory body permit concurrent membership. Commission/committee members are strongly advised to serve out the entirety of the term of their current appointment before seeking appointment on another commission/committee.
 - Commission/committee members shall be permitted to retain membership while seeking any elective office. However, members shall not use the meetings, functions or activities of such bodies for purposes of campaigning for elective office.
7. *There shall be seven (7) members on each commission/committee with the exception of:*
- Finance and Audit Committee – five (5) members
 - Housing Commission – seven (7) members
 - Complete Streets Commission – nine (9) members
 - Library Commission – eleven (11) members
8. *Reappointments, resignations, removals*
- Incumbents seeking a reappointment are required to complete and file an application with the city clerk by the application deadline. No person shall be reappointed to a commission/committee who has served on that same body for two consecutive terms; unless a period of one year has lapsed since the returning member last served on that commission/committee (the one-year period is flexible subject to City Council's discretion.)
 - Resignations must be submitted in writing to the city clerk, who will distribute copies to City Council and appropriate staff.
 - The City Council may remove a member by a majority vote of the City Council without cause, notice or hearing.
9. *Term of office*
- Unless specified otherwise, the term of office for all commission/committee shall be four (4) years unless a resignation or a removal has taken place.
 - If a person is appointed to fill an unexpired term and serves less than two years, that time will not be considered a full term. However, if a person is appointed to fill an unexpired term and serves two years or more, that time will be considered a full term.
 - Terms are staggered to be overlapping four-year terms, so that all terms do not expire in any one year.
 - If a member resigns before the end of his/her term, a replacement serves out the remainder of that term.
10. *Vacancies*
- Vacancies are created due to term expirations, resignations, removals or death.
 - Vacancies are listed on the City Council agenda and posted by the city clerk in the City Council Chambers bulletin board and on the city website.
 - Whenever an unscheduled vacancy occurs in any commission/committee, a special vacancy notice shall be posted within 20 days after the vacancy occurs. Appointment shall not be made for at least 10 working days after posting of the notice (Government Code 54974.)
- On or before December 31 of each year, an appointment list of all regular advisory commissions/committees of the City Council shall be prepared by the city clerk and posted in the City Council Chambers bulletin board and on the city's website. This list is also available to the public. (Government Code 54972, Maddy Act.)

Roles and responsibilities

Complete Streets Commission (approved March 23, 2021)

The Complete Streets Commission shall advise the City Council on realizing the City's adopted goals for complete streets, vision zero, climate action plan, and provide input on major land use and development projects as it relates to transportation. The Complete Streets Commission's responsibilities would include:

- To advance the goals of the city's newly adopted climate action plan by making alternatives to driving safer and more attractive, namely by:
 - Reviewing the city's transportation master plan (TMP) and recommending the projects most likely to reduce vehicle miles traveled (VMT)
 - Providing input on major development projects such as the Menlo Park Community Campus, by looking at them through the lens of transportation accessibility, especially bicycle/pedestrian/public transportation accessibility
- Advise City Council on the implementation of the TMP.
- Continue to advocate for and advise the City Council on the planning and installation of the Middle Avenue pedestrian and bicycle rail crossing, and safe cycling/pedestrian infrastructure connecting the Burgess complex to the Middle Avenue corridor to Olive Street, and north on Olive Street to Hillview Middle School.
- Continue to support City Council in ongoing initiatives to improve access to Downtown and support downtown businesses.
- Continue to support the implementation of the Safe Routes to School strategy and advocate for complete streets.

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engagement, program continuity and engineering implementation.

- Continue to support City Council's role as a stakeholder with regard to regional multi-modal and transportation demand management programs projects to increase

Environmental Quality Commission

The Environmental Quality Commission is charged primarily with advising the City Council on matters involving environmental protection, improvement and sustainability. Specific focus areas include:

- Preserving heritage trees
- Using best practices to maintain city trees
- Preserving and expanding the urban canopy
- Making determinations on appeals of heritage tree removal permits
- Administering annual Environmental Quality Awards program
- Organizing annual Arbor Day Event; typically, a tree planting event
- Advising on programs and policies related to protection of natural areas, recycling and waste reduction, environmentally sustainable practices, air and water pollution prevention, climate protection, and water and energy conservation.

Finance and Audit Committee

The Finance and Audit Committee is charged primarily to support delivery of timely, clear and comprehensive reporting of the city's fiscal status to the community at large. Specific focus areas include:

- Review the process for periodic financial reporting to the City Council and the public, as needed
- Review financial audit and annual financial report with the City's external auditors
- Review of the resolution of prior year audit findings
- Review of the auditor selection process and scope, as needed

Housing Commission

The Housing Commission is charged primarily with advising the City Council on housing matters including housing supply and housing related problems. Specific focus areas include:

- Community attitudes about housing (range, distribution, racial, social-economic problems)
- Programs for evaluating, maintaining, and upgrading the distribution and quality of housing stock in the city
- Planning, implementing and evaluating city programs under the Housing and Community Development Act of 1974
- Members serve with staff on a loan review committee for housing rehabilitation programs and a first time homebuyer loan program
- Review and recommend to the City Council regarding the Below Market Rate (BMR) program
- Initiate, review and recommend on housing policies and programs for the city
- Review and recommend on housing related impacts for environmental impact reports
- Review and recommend on State and regional housing issues
- Review and recommend on the Housing Element of the General Plan
- The five most senior members of the Housing Commission also serve as the members of the Relocation Appeals Board (City Resolution 4290, adopted June 25, 1991.)

Library Commission

The Library Commission is charged primarily with advising the City Council on matters related to the maintenance and operation of the city's libraries and library systems. Specific focus areas include:

- The scope and degree of library activities
- Maintenance and protection of city libraries
- Evaluation and improvement of library service
- Acquisition of library materials
- Coordination with other library systems and long range planning
- Literacy and ESL programs

Parks and Recreation Commission

The Parks and Recreation Commission is charged primarily with advising the City Council on matters related to city programs and facilities dedicated to recreation. Specific focus areas include:

- Those programs and facilities established primarily for the participation of and/or use by residents of the city, including adequacy and maintenance of such facilities as parks and playgrounds, recreation buildings, facilities

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and equipment

- Adequacy, operation and staffing of recreation programs
- Modification of existing programs and facilities to meet developing community needs
- Long range planning and regional coordination concerning park and recreational facilities

Planning Commission

The Planning Commission is organized according to State Statute.

- The Planning Commission reviews development proposals on public and private lands for compliance with the General Plan and Zoning Ordinance.
- The Commission reviews all development proposals requiring a use permit, architectural control, variance, minor subdivision and environmental review associated with these projects. The Commission is the final decision-making body for these applications, unless appealed to the City Council.
- The Commission serves as a recommending body to the City Council for major subdivisions, rezoning's, conditional development permits, Zoning Ordinance amendments, General Plan amendments and the environmental reviews and Below Market Rate (BMR) Housing Agreements associated with those projects.
- The Commission works on special projects as assigned by the City Council.

Sister City Committee

The Sister City Committee is primary charged with promoting goodwill, respect and cooperation by facilitating cultural, educational and economic exchanges

- Develop a mission statement and program plan consisting of projects, exhibits, contacts and exchanges of all types to foster and promote the objectives of the mission statement
- Implement the approved program plan upon request of the City Council
- Keep the community informed concerning the Sister City program
- Advise the City Council on matters pertaining to any sister city affairs. Perform other duties as may be assigned to the committee by the City Council

Special advisory bodies

The City Council has the authority to create standing committees, task forces or subcommittees for the city, and from time to time, the City Council may appoint members to these groups. The number of persons and the individual appointee serving on each group may be changed at any time by the City Council. There are no designated terms for members of these groups; members are appointed by and serve at the pleasure of the City Council.

Any requests of city commissions or committees to create such ad hoc advisory bodies shall be submitted in writing to the city clerk for City Council consideration and approval.

Procedure history

Action	Date	Notes
Procedure adoption	1991	Resolution No. 3261
Procedure adoption	2001	
Procedure adoption	2011	
Procedure adoption	2013	Resolution No. 6169
Procedure adoption	2017	Resolution No. 6377
Procedure adoption	2019	Resolution No. 6477

Agenda item J2
Lynne Bramlett, Resident

This comment spans J2 and J3.

The data in J3 warrants a broader assessment as to whether changes should be made to the structure and composition of the City's Commissions and Committees. Why did so few apply for some commissions? Why none for others?

The attendance records in J2 also show a need for an assessment. Agenda Item J2 shows that two Commissioners resigned early and multiple other Commissioners arrived late and/or left early from Commission meetings. Could the reasons have to do with perceptions of the importance of the Commission itself and/or the importance of the agenda topics?

The two Council members on the Finance & Audit Committee show a "0" attendance record. When two members aren't present, it's very difficult to obtain a quorum. I have heard members of the FAC state that it's been a challenge to find a quorum due to having Council members on their Committee.

I suggest that Council form a subcommittee to consider possible modifications to the City's Commissions and Committees. Should Council agree with this suggestion, I suggest the following strategies which would also help to establish a regular source of data to inform Council decision-making.

1. Establish an "exit interview" strategy for those who leave early.
2. Establish a yearly survey of seated Commissioners/Committee members with the results reported annually to the City Council. Or hold a yearly "special joint meeting of the Council and all Commissions and Committees" as a way to annually collect "roundtable" data.
3. Conduct a review of the agenda topics over a 12-month period. See how many are in the categories of either "routine" business (such as approving minutes) or informational topics. Contrast this percentage of time with meaningful discussions of substance.
4. Research approaches used elsewhere.

I consider it vital for our local democracy to have residents involved in a meaningful way. Volunteers of today want meaningful service opportunities for a cause that they believe in. They dislike bureaucracy and they want to be empowered. I speak as someone reading multiple books right now on the topic of effective volunteer programs. The Commissions and Committees could be an important source of help to the Staff and to Council for its decision-making process. Please let me know if I can be of any help in compiling data on this topic for a Council subcommittee.



STAFF REPORT

City Council

Meeting Date: 4/13/2021
Staff Report Number: 21-075-CC

Consent Calendar: **Extend terms of various advisory bodies, extend recruitment application deadline, and postpone interviews and appointments of various advisory bodies**

Recommendation

Staff recommends:

- Extending current terms for members of the Complete Streets, Environmental Quality, Housing, Library, Parks and Recreation, Planning Commissions and the Finance and Audit Committee through May 31, 2021
- Extend recruitment application deadline through May 7, 2021
- Postpone interviews and schedule a special meeting for May 18, 2021, for Planning Commission
- Postpone appointments to the Complete Streets, Environmental Quality, Housing, Library, Parks and Recreation, Planning Commissions and the Finance and Audit Committee to May 25, 2021

Policy Issues

City Council Policy CC-19-004 (Attachment A) establishes the policies, procedures, roles and responsibilities for the City's appointed advisory bodies, including the manner in which members are selected. The City Council is the appointing body for all advisory bodies and members serve at the pleasure of the City Council.

Background

Annually, staff conducts a recruitment to fill advisory body vacancies that exist due to members being termed out, unexpected vacancies, and regular terms ending April 30. This recruitment period involves a two-month period of advertisements and announcements. Incumbent members who were terming out were informed of their ability to apply for reappointment.

Table 1 details the current vacancies and applications received. Please note that some applicants applied for multiple advisory bodies, therefore if they are selected to serve on one, they will not be eligible for others (e.g., if a Finance and Audit Committee applicant is appointed to the Finance and Audit Committee, the number of applicants decreases by one on the Planning Commission.)

Table 1: Vacancies to applicants		
Advisory body	No. of vacancies	No. of applications received
Complete Streets Commission (CSC)	3	4
Environmental Quality Commission (EQC)	1	1
Finance and Audit Committee (FAC)*	3	3
Housing Commission (HC)	4	5
Library Commission (LC)	2	-
Parks and Recreation Commission (PRC)	3	-
Planning Commission (PC)*	1	1
Total	17	14

* advisory bodies with multiple applications from one applicant

Analysis

Pursuant to City Council Policy CC-19-004, advisory body members must be residents of the City of Menlo Park and serve for designated terms of four years, or through the completion of an unexpired term or as otherwise designated. Residency for applicants are verified by the city clerk’s office. In addition, the City Council’s policy states that the selection/appointment process shall be conducted before the public at a regularly scheduled meeting of the City Council.

The recruitment period is open from February 1 through April 17. Advertising in print (newspaper), City’s website, online, social media, and through advisory body staff liaisons and City Council. At this time, the City has not received enough applications to fill all vacancies.

Impact on City Resources

Staff support for commissions and funds for recruitment advertising are provided in the annual budget.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. City Council Policy CC-19-004

Report prepared by:
 Judi A. Herren, City Clerk



Commissions/Committees Policies and Procedures, Roles and Responsibilities

City Council Procedure #CC-19-0004
 Adopted March 05, 2019
 Resolution No. 6477



Purpose
To define policies and procedures and roles and responsibilities for Menlo Park appointed commissions and committees.
Authority
Upon its original adoption, this policy replaced the document known as "Organization of Advisory Commissions of the City of Menlo Park."
Background
<p>The City of Menlo Park currently has eight active commissions and committees. The active advisory bodies are: Complete Streets Commission, Environmental Quality Commission, Finance and Audit Committee, Housing Commission, Library Commission, Parks and Recreation Commission, Planning Commission, and the Sister City Committee. Those not specified in the City Code are established by City Council ordinance or resolution. Most of these advisory bodies are established in accordance with Resolution 2801 and its amendments. Within specific areas of responsibility, each advisory body has a primary role of advising the City Council on policy matters or reviewing specific issues and carrying out assignments as directed by the City Council or prescribed by law.</p> <p>Seven of the eight commissions and committees listed above are advisory in nature. The Planning Commission is both advisory and regulatory and organized according to the City Code (Ch. 2.12) and State statute (Government Code 65100 et seq., 65300-65401.)</p> <p>The City has an adopted Anti-Harassment and Non-Discrimination Policy (CC-95-001), and a Travel and Expense Policy (CC-91-002), which are also applicable to all advisory bodies.</p>
Section
<p><u>Relationship to City Council, staff and media</u></p> <ul style="list-style-type: none"> • Upon referral by the City Council, the commission/committee shall study referred matters and return their recommendations and advise to the City Council. With each such referral, the City Council may authorize the city staff to provide certain designated services to aid in the study. • Upon its own initiative, the commission/committee shall identify and raise issues to the City Council's attention and from time to time explore pertinent matters and make recommendations to the City Council. • At a request of a member of the public, the commission/committee may consider appeals from city actions or inactions in pertinent areas and, if deemed appropriate, report and make recommendations to the City Council. • Each commission/committee is required to develop an annual work plan which will be the foundation for the work performed by the advisory body in support of City Council annual work plan. The plan, once finalized by a majority of the commission/committee, will be formally presented to the City Council for direction and approval no later than September 30 of each year and then reported out on by a representative of the advisory body at a regularly scheduled City Council meeting at least annually, but recommended twice a year. The proposed work plan must align with the City Council's adopted work plan. When modified, the work plan must be taken to the City Council for approval. The Planning Commission is exempt from this requirement as its functions are governed by the Menlo Park municipal code (Chapter 2.12) and State law (Government Code 65100 et seq., 65300-65401.) • Commissions and committees shall not become involved in the administrative or operational matters of city departments. Members may not direct staff to initiate major programs, conduct large studies or establish department policy. City staff assigned to furnish staff services shall be available to provide general staff assistance, such as preparation of agenda/notice materials and minutes, general review of department programs and activities, and to perform limited studies, program reviews, and other services of a general staff nature. Commissions/committees may not establish department work programs or determine department program priorities. The responsibility for setting policy and allocating scarce city resources rests with the city's duly elected representatives, the City Council. • Additional or other staff support may be provided upon a formal request to the City Council. • The staff liaison shall act as the commission/committee's lead representative to the media concerning matters before the commission/committee. Commission/committee members should refer all media inquiries to their respective liaisons for response. Personal opinions and comments may be expressed so long as the commission/committee member clarifies that his or her statements do not represent the position of the City Council. • Commission/committee members will have mandatory training every two years regarding the Brown Act and

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parliamentary procedures, anti-harassment training, ethics training, and other training required by the City Council or State Law. The commission/committee members may have the opportunity for additional training, such as training for chair and vice chair. Failure to comply with the mandatory training will be reported to the City Council and may result in replacement of the member by the City Council.

- Requests from commission/committee member(s) determined by the staff liaison to take one hour or more of staff time to complete must be directed by the City Council.

Role of City Council commission/committee liaison

City Councilmembers are assigned to serve in a liaison capacity with one or more city commission/committee. The purpose of the liaison assignment is to facilitate communication between the City Council and the advisory body. The liaison also helps to increase the City Council's familiarity with the membership, programs and issues of the advisory body. In fulfilling their liaison assignment, City Councilmembers may elect to attend commission/committee meetings periodically to observe the activities of the advisory body or simply maintain communication with the commission/committee chair on a regular basis.

City Councilmembers should be sensitive to the fact that they are not participating members of the commission/committee, but are there rather to create a linkage between the City Council and commission/committee. In interacting with commissions/committee, City Councilmembers are to reflect the views of the City Council as a body. Being a commission/committee liaison bestows no special right with respect to commission/committee business.

Typically, assignments to commission/committee liaison positions are made at the beginning of a City Council term in December. The Mayor will ask City Councilmembers which liaison assignments they desire and will submit recommendations to the full City Council regarding the various committees, boards, and commissions which City Councilmembers will represent as a liaison. In the rare instance where more than one City Councilmember wishes to be the appointed liaison to a particular commission, a vote of the City Council will be taken to confirm appointments.

City Staff Liaison

The City has designated staff to act as a liaison between the commission/committee and the City Council. The city shall provide staff services to the commission/committee which will include:

- Developing a rapport with the Chair and commission/committee members
- Providing a schedule of meetings to the city clerk's office and commission/committee members, arranging meeting locations, maintaining the minutes and other public records of the meeting, and preparing and distributing appropriate information related to the meeting agenda.
- Advising the commission/committee on directions and priorities of the City Council.
- Informing the commission/committee of events, activities, policies, programs, etc. occurring within the scope of the commission/committee's function.
- Ensuring the city clerk is informed of all vacancies, expired terms, changes in offices, or any other changes to the commission/committee.
- Providing information to the appropriate appointed official including reports, actions, and recommendations of the committee/commission and notifying them of noncompliance by the commission/committee or chair with city policies.
- Ensuring that agenda items approved by the commission/committee are brought forth in a timely manner taking into consideration staff capacity, City Council priorities, the commission/committee work plan, and other practical matters such as the expense to conduct research or prepare studies, provided appropriate public notification, and otherwise properly prepare the item for commission/committee consideration.
- Take action minutes; upon agreement of the commission, this task may be performed by one of the members (staff is still responsible for the accuracy and formatting of the minutes)
- Maintain a minute book with signed minutes

Recommendations, requests and reports

As needed, near the beginning of City Council meetings, there will be an item called "Commission/Committee Reports." At this time, commissions/committees may present recommendations or status reports and may request direction and support from the City Council. Such requests shall be communicated to the staff liaison in advance, including any written materials, so that they may be listed on the agenda and distributed with the agenda packet. The materials being provided to the City Council must be approved by a majority of the commission/committee at a commission/committee meeting before submittal to the City Council. The City Council will receive such reports and recommendations and, after suitable study and discussion, respond or give direction.

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The city clerk shall transmit to the designated staff liaison all referrals and requests from the City Council for advice and recommendations. The commissions/committees shall expeditiously consider and act on all referrals and requests made by the City Council and shall submit reports and recommendations to the City Council on these assignments.

Public appearance of commission/committee members

When a commission/committee member appears in a non-official, non-representative capacity before the public, for example, at a City Council meeting, the member shall indicate that he or she is speaking only as an individual. This also applies when interacting with the media and on social media. If the commission/committee member appears as the representative of an applicant or a member of the public, the Political Reform Act may govern this appearance. In addition, in certain circumstances, due process considerations might apply to make a commission/committee member's appearance inappropriate. Conversely, when a member who is present at a City Council meeting is asked to address the City Council on a matter, the member should represent the viewpoint of the particular commission/committee as a whole (not a personal opinion.)

Disbanding of advisory body

Upon recommendation by the Chair or appropriate staff, any standing or special advisory body, established by the City Council and whose members were appointed by the City Council, may be declared disbanded due to lack of business, by majority vote of the City Council.

Meetings and officers

1. *Agendas/notices/minutes*

- All meetings shall be open and public and shall conduct business through published agendas, public notices and minutes and follow all of the Brown Act provisions governing public meetings. Special, canceled and adjourned meetings may be called when needed, subject to the Brown Act provisions.
- Support staff for each commission/committee shall be responsible for properly noticing and posting all regular, special, canceled and adjourned meetings. Copies of all meeting agendas, notices and minutes shall be provided to the City Council, city manager, city attorney, city clerk and other appropriate staff, as requested.
- Original agendas and minutes shall be filed and maintained by support staff in accordance with the city's adopted records retention schedule.
- The official record of the commissions/committees will be preserved by preparation of action minutes.

2. *Conduct and parliamentary procedures*

- Unless otherwise specified by State law or city regulations, conduct of all meetings shall generally follow Robert's Rules of Order.
- A majority of commission/committee members shall constitute a quorum and a quorum must be seated before official action is taken.
- The Chair of each commission/committee shall preside at all meetings and the vice chair shall assume the duties of the Chair when the Chair is absent.
- The role of the commission/committee Chair (according to Roberts Rules of Order): To open the session at the time at which the assembly is to meet, by taking the Chair and calling the members to order; to announce the business before the assembly in the order in which it is to be acted upon; to recognize members entitled to the floor; to state and put to vote all questions which are regularly moved, or necessarily arise in the course of the proceedings, and to announce the result of the vote; to protect the assembly from annoyance from evidently frivolous or dilatory motions by refusing to recognize them; to assist in the expediting of business in every compatible with the rights of the members, as by allowing brief remarks when undebatable motions are pending, if s/he thinks it advisable; to restrain the members when engaged in debate, within the rules of order, to enforce on all occasions the observance of order and decorum among the members, deciding all questions of order (subject to an appeal to the assembly by any two members) unless when in doubt he prefers to submit the question for the decision of the assembly; to inform the assembly when necessary, or when referred to for the purpose, on a point of order to practice pertinent to pending business; to authenticate by his/her signature, when necessary, all the acts, orders, and proceedings of the assembly declaring it will and in all things obeying its commands.

3. *Lack of a quorum*

- When a lack of a quorum exists at the start time of a meeting, those present will wait 15 minutes for additional members to arrive. If after 15 minutes a quorum is still not present, the meeting will be adjourned by the staff liaison due to lack of a quorum. Once the meeting is adjourned it cannot be reconvened.
- The public is not allowed to address those commissioners present during the 15 minutes the commission/committee is waiting for additional members to arrive.
- Staff can make announcements to the members during this time but must follow up with an email to all members of the body conveying the same information.

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- All other items shall not be discussed with the members present as it is best to make the report when there is a quorum present.

4. *Meeting locations and dates*

- Meetings shall be held in designated city facilities, as noticed.
- All commissions/committees with the exception of the Planning Commission, Finance and Audit Committee and Sister City Committee shall conduct regular meetings once a month. Special meetings may also be scheduled as required by the commission/committee. The Planning Commission shall hold regular meetings twice a month. The Finance and Audit Committee and Sister City Committee shall hold quarterly meetings.
- Monthly regular meetings shall have a fixed date and time established by the commission/committee. Changes to the established regular dates and times are subject to the approval of the City Council. An exception to this rule would include any changes necessitated to fill a temporary need in order for the commission/committee to conduct its meeting in a most efficient and effective way as long as proper and adequate notification is provided to the City Council and made available to the public.

The schedule of Commission/Committee meetings is as follows:

- Complete Streets Commission – Every second Wednesday at 7 p.m.
- Environmental Quality Commission – Every third Wednesday at 6:00 p.m.
- Finance and Audit Committee – Third Wednesday of every quarter at 5:30 p.m.
- Housing Commission – Every first Wednesday at 6:30 p.m.
- Library Commission – Every third Monday at 6:30 p.m.
- Parks and Recreation Commission – Every fourth Wednesday at 6:30 p.m.
- Planning Commission – Twice a month at 7 p.m.
- Sister City Committee – Quarterly; Date and time to be determined

Each commission/committee may establish other operational policies subject to the approval of the City Council. Any changes to the established policies and procedures shall be subject to the approval of the City Council.

5. *Off-premises meeting participation*

While technology allows commission/committee members to participate in meetings from a location other than the meeting location (referred to as “off-premises”), off-premises participation is discouraged given the logistics required to ensure compliance with the Brown Act and experience with technological failures disrupting the meeting. In the event that a commission/committee member believes that his or her participation is essential to a meeting, the following shall apply:

- Any commission/committee member intending to participate from an off-premise location shall inform the staff liaison at least two weeks in advance of the meeting.
- The off-premise location must be identified in the notice and agenda of the meeting.
- Agendas must be posted at the off-premise location.
- The off-premise location must be accessible to the public and be ADA compliant.
- The commission/committee member participating at a duly noticed off-premises location does not count toward the quorum necessary to convene a meeting of the commission/committee.
- For any one meeting, no more than one commission/committee member may participate from an off-premise location.
- All votes must be by roll call.

6. *Selection of chair and vice chair*

- The chair and vice chair shall be selected in May of each year by a majority of the members and shall serve for one year or until their successors are selected.
- Each commission/committee shall annually rotate its Chair and Vice Chair.

Memberships

1. *Appointments/Oaths*

- The City Council is the appointing body for all commissions/committees. All members serve at the pleasure of the City Council for designated terms.
- All appointments and reappointments shall be made at a regularly scheduled City Council meeting, and require an affirmative vote of not less than a majority of the City Council present.
- Before taking office, all members must complete an Oath of Allegiance required by Article XX, §3, of the Constitution of the State of California. All oaths are administered by the city clerk or his/her designee.
- Appointments made during the middle of the term are for the unexpired portion of that term.

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2. *Application and selection process*

- The application process begins when a vacancy occurs due to term expiration, resignation, removal or death of a member.
- The application period will normally run for a period of four weeks from the date the vacancy occurs. If there is more than one concurrent vacancy in a Commission, the application period may be extended. Applications are available from the city clerk's office and on the city's website.
- The city clerk shall notify members whose terms are about to expire whether or not they would be eligible for reappointment. If reappointment is sought, an updated application will be required.
- Applicants are required to complete and return the application form for each commission/committee they desire to serve on, along with any additional information they would like to transmit, by the established deadline. Applications sent by email are accepted; however, the form submitted must be signed.
- After the deadline of receipt of applications, the city clerk shall schedule the matter at the next available regular City Council meeting. All applications received will be submitted and made a part of the City Council agenda packet for their review and consideration. If there are no applications received by the deadline, the city clerk will extend the application period for an indefinite period of time until sufficient applications are received.
- Upon review of the applications received, the City Council reserves the right to schedule or waive interviews, or to extend the application process in the event insufficient applications are received. In either case, the city clerk will provide notification to the applicants of the decision of the City Council.
- If an interview is requested, the date and time will be designated by the City Council. Interviews are open to the public.
- The selection/appointment process by the City Council shall be conducted open to the public. Nominations will be made and a vote will be called for each nomination. Applicants receiving the highest number of affirmative votes from a majority of the City Council present shall be appointed.
- Following a City Council appointment, the city clerk shall notify successful and unsuccessful applicants accordingly, in writing. Appointees will receive copies of the City's Non-Discrimination and Sexual Harassment policies, and disclosure statements for those members who are required to file under State law as designated in the City's Conflict of Interest Code. Copies of the notification will also be distributed to support staff and the commission/committee chair.
- An orientation will be scheduled by the city clerk following an appointment (but before taking office) and a copy of this policy document will be provided at that time.

3. *Attendance*

- An Attendance Policy (CC-91-001), shall apply to all advisory bodies. Provisions of this policy are listed below.
- A compilation of attendance will be submitted to the City Council at least annually listing absences for all commissions/committee members.
- Absences, which result in attendance at less than two-thirds of their meetings during the calendar year, will be reported to the City Council and may result in replacement of the member by the City Council.
- Any member who feels that unique circumstances have led to numerous absences can appeal directly to the City Council for a waiver of this policy or to obtain a leave of absence.
- While it is expected that members be present at all meetings, the chair and staff liaison should be notified if a member knows in advance that he/she will be absent.
- When reviewing commissioners for reappointment, overall attendance at full commission meetings will be given significant consideration.

4. *Compensation*

- Members shall serve without compensation (unless specifically provided) for their services, provided, however, members shall receive reimbursement for necessary travel expenses and other expenses incurred on official duty when such expenditures have been authorized by the City Council (See Policy CC-91-002.)

5. *Conflict of interest and disclosure requirements*

- A Conflict of Interest Code has been updated and adopted by the City Council and the Community Development Agency pursuant to Government Code §87300 et seq. Copies of this Code are filed with the city clerk. Pursuant to the adopted Conflict of Interest Code, members serving on the Planning Commission are required to file a Statement of Economic Interest with the city clerk to disclose personal interest in investments, real property and income. This is done within 30 days of appointment and annually thereafter. A statement is also required within 30 days after leaving office.
- If a public official has a conflict of interest, the Political Reform Act may require the official to disqualify himself or herself from making or participating in a governmental decision, or using his or her official position to influence a governmental decision. Questions in this regard may be directed to the city attorney.

6. *Qualifications, compositions, number*

- In most cases, members shall be residents of the City of Menlo Park and at least 18 years of age.

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- Current members of any other city commission/committee are disqualified for membership, unless the regulations for that advisory body permit concurrent membership. Commission/committee members are strongly advised to serve out the entirety of the term of their current appointment before seeking appointment on another commission/committee.
 - Commission/committee members shall be permitted to retain membership while seeking any elective office. However, members shall not use the meetings, functions or activities of such bodies for purposes of campaigning for elective office.
7. *There shall be seven (7) members on each commission/committee with the exception of:*
- Finance and Audit Committee – five (5) members
 - Housing Commission – seven (7) members
 - Complete Streets Commission – nine (9) members
 - Library Commission – eleven (11) members
8. *Reappointments, resignations, removals*
- Incumbents seeking a reappointment are required to complete and file an application with the city clerk by the application deadline. No person shall be reappointed to a commission/committee who has served on that same body for two consecutive terms; unless a period of one year has lapsed since the returning member last served on that commission/committee (the one-year period is flexible subject to City Council's discretion.)
 - Resignations must be submitted in writing to the city clerk, who will distribute copies to City Council and appropriate staff.
 - The City Council may remove a member by a majority vote of the City Council without cause, notice or hearing.
9. *Term of office*
- Unless specified otherwise, the term of office for all commission/committee shall be four (4) years unless a resignation or a removal has taken place.
 - If a person is appointed to fill an unexpired term and serves less than two years, that time will not be considered a full term. However, if a person is appointed to fill an unexpired term and serves two years or more, that time will be considered a full term.
 - Terms are staggered to be overlapping four-year terms, so that all terms do not expire in any one year.
 - If a member resigns before the end of his/her term, a replacement serves out the remainder of that term.
10. *Vacancies*
- Vacancies are created due to term expirations, resignations, removals or death.
 - Vacancies are listed on the City Council agenda and posted by the city clerk in the City Council Chambers bulletin board and on the city website.
 - Whenever an unscheduled vacancy occurs in any commission/committee, a special vacancy notice shall be posted within 20 days after the vacancy occurs. Appointment shall not be made for at least 10 working days after posting of the notice (Government Code 54974.)
- On or before December 31 of each year, an appointment list of all regular advisory commissions/committees of the City Council shall be prepared by the city clerk and posted in the City Council Chambers bulletin board and on the city's website. This list is also available to the public. (Government Code 54972, Maddy Act.)

Roles and responsibilities

Complete Streets Commission (approved March 23, 2021)

The Complete Streets Commission shall advise the City Council on realizing the City's adopted goals for complete streets, vision zero, climate action plan, and provide input on major land use and development projects as it relates to transportation. The Complete Streets Commission's responsibilities would include:

- To advance the goals of the city's newly adopted climate action plan by making alternatives to driving safer and more attractive, namely by:
 - Reviewing the city's transportation master plan (TMP) and recommending the projects most likely to reduce vehicle miles traveled (VMT)
 - Providing input on major development projects such as the Menlo Park Community Campus, by looking at them through the lens of transportation accessibility, especially bicycle/pedestrian/public transportation accessibility
- Advise City Council on the implementation of the TMP.
- Continue to advocate for and advise the City Council on the planning and installation of the Middle Avenue pedestrian and bicycle rail crossing, and safe cycling/pedestrian infrastructure connecting the Burgess complex to the Middle Avenue corridor to Olive Street, and north on Olive Street to Hillview Middle School.
- Continue to support City Council in ongoing initiatives to improve access to Downtown and support downtown businesses.
- Continue to support the implementation of the Safe Routes to School strategy and advocate for comm

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engagement, program continuity and engineering implementation.

- Continue to support City Council's role as a stakeholder with regard to regional multi-modal and transportation demand management programs projects to increase

Environmental Quality Commission

The Environmental Quality Commission is charged primarily with advising the City Council on matters involving environmental protection, improvement and sustainability. Specific focus areas include:

- Preserving heritage trees
- Using best practices to maintain city trees
- Preserving and expanding the urban canopy
- Making determinations on appeals of heritage tree removal permits
- Administering annual Environmental Quality Awards program
- Organizing annual Arbor Day Event; typically, a tree planting event
- Advising on programs and policies related to protection of natural areas, recycling and waste reduction, environmentally sustainable practices, air and water pollution prevention, climate protection, and water and energy conservation.

Finance and Audit Committee

The Finance and Audit Committee is charged primarily to support delivery of timely, clear and comprehensive reporting of the city's fiscal status to the community at large. Specific focus areas include:

- Review the process for periodic financial reporting to the City Council and the public, as needed
- Review financial audit and annual financial report with the City's external auditors
- Review of the resolution of prior year audit findings
- Review of the auditor selection process and scope, as needed

Housing Commission

The Housing Commission is charged primarily with advising the City Council on housing matters including housing supply and housing related problems. Specific focus areas include:

- Community attitudes about housing (range, distribution, racial, social-economic problems)
- Programs for evaluating, maintaining, and upgrading the distribution and quality of housing stock in the city
- Planning, implementing and evaluating city programs under the Housing and Community Development Act of 1974
- Members serve with staff on a loan review committee for housing rehabilitation programs and a first time homebuyer loan program
- Review and recommend to the City Council regarding the Below Market Rate (BMR) program
- Initiate, review and recommend on housing policies and programs for the city
- Review and recommend on housing related impacts for environmental impact reports
- Review and recommend on State and regional housing issues
- Review and recommend on the Housing Element of the General Plan
- The five most senior members of the Housing Commission also serve as the members of the Relocation Appeals Board (City Resolution 4290, adopted June 25, 1991.)

Library Commission

The Library Commission is charged primarily with advising the City Council on matters related to the maintenance and operation of the city's libraries and library systems. Specific focus areas include:

- The scope and degree of library activities
- Maintenance and protection of city libraries
- Evaluation and improvement of library service
- Acquisition of library materials
- Coordination with other library systems and long range planning
- Literacy and ESL programs

Parks and Recreation Commission

The Parks and Recreation Commission is charged primarily with advising the City Council on matters related to city programs and facilities dedicated to recreation. Specific focus areas include:

- Those programs and facilities established primarily for the participation of and/or use by residents of the city, including adequacy and maintenance of such facilities as parks and playgrounds, recreation buildings, facilities

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and equipment

- Adequacy, operation and staffing of recreation programs
- Modification of existing programs and facilities to meet developing community needs
- Long range planning and regional coordination concerning park and recreational facilities

Planning Commission

The Planning Commission is organized according to State Statute.

- The Planning Commission reviews development proposals on public and private lands for compliance with the General Plan and Zoning Ordinance.
- The Commission reviews all development proposals requiring a use permit, architectural control, variance, minor subdivision and environmental review associated with these projects. The Commission is the final decision-making body for these applications, unless appealed to the City Council.
- The Commission serves as a recommending body to the City Council for major subdivisions, rezoning's, conditional development permits, Zoning Ordinance amendments, General Plan amendments and the environmental reviews and Below Market Rate (BMR) Housing Agreements associated with those projects.
- The Commission works on special projects as assigned by the City Council.

Sister City Committee

The Sister City Committee is primary charged with promoting goodwill, respect and cooperation by facilitating cultural, educational and economic exchanges

- Develop a mission statement and program plan consisting of projects, exhibits, contacts and exchanges of all types to foster and promote the objectives of the mission statement
- Implement the approved program plan upon request of the City Council
- Keep the community informed concerning the Sister City program
- Advise the City Council on matters pertaining to any sister city affairs. Perform other duties as may be assigned to the committee by the City Council

Special advisory bodies

The City Council has the authority to create standing committees, task forces or subcommittees for the city, and from time to time, the City Council may appoint members to these groups. The number of persons and the individual appointee serving on each group may be changed at any time by the City Council. There are no designated terms for members of these groups; members are appointed by and serve at the pleasure of the City Council.

Any requests of city commissions or committees to create such ad hoc advisory bodies shall be submitted in writing to the city clerk for City Council consideration and approval.

Procedure history

Action	Date	Notes
Procedure adoption	1991	Resolution No. 3261
Procedure adoption	2001	
Procedure adoption	2011	
Procedure adoption	2013	Resolution No. 6169
Procedure adoption	2017	Resolution No. 6377
Procedure adoption	2019	Resolution No. 6477

Agenda item J3 Lynne Bramlett, Resident

This comment spans J2 and J3.

The data in J3 warrants a broader assessment as to whether changes should be made to the structure and composition of the City's Commissions and Committees. Why did so few apply for some commissions? Why none for others?

The attendance records in J2 also show a need for an assessment. Agenda Item J2 shows that two Commissioners resigned early and multiple other Commissioners arrived late and/or left early from Commission meetings. Could the reasons have to do with perceptions of the importance of the Commission itself and/or the importance of the agenda topics?

The two Council members on the Finance & Audit Committee show a "0" attendance record. When two members aren't present, it's very difficult to obtain a quorum. I have heard members of the FAC state that it's been a challenge to find a quorum due to having Council members on their Committee.

I suggest that Council form a subcommittee to consider possible modifications to the City's Commissions and Committees. Should Council agree with this suggestion, I suggest the following strategies which would also help to establish a regular source of data to inform Council decision-making.

1. Establish an "exit interview" strategy for those who leave early.
2. Establish a yearly survey of seated Commissioners/Committee members with the results reported annually to the City Council. Or hold a yearly "special joint meeting of the Council and all Commissions and Committees" as a way to annually collect "roundtable" data.
3. Conduct a review of the agenda topics over a 12-month period. See how many are in the categories of either "routine" business (such as approving minutes) or informational topics. Contrast this percentage of time with meaningful discussions of substance.
4. Research approaches used elsewhere.

I consider it vital for our local democracy to have residents involved in a meaningful way. Volunteers of today want meaningful service opportunities for a cause that they believe in. They dislike bureaucracy and they want to be empowered. I speak as someone reading multiple books right now on the topic of effective volunteer programs. The Commissions and Committees could be an important source of help to the Staff and to Council for its decision-making process. Please let me know if I can be of any help in compiling data on this topic for a Council subcommittee.



STAFF REPORT

City Council Meeting Date: 4/13/2021
Staff Report Number: 21-076-CC

Consent Calendar: Approve City Council Policy #CC-21-022 amending the City Council approved “Anti-Harassment and Non-Discrimination Policy”; City Council Policy #CC-21-023 establishing an “Anti-Bullying Policy”

Recommendation

Approve City Council Procedure #CC-21-022 amending the City Council approved “Anti-Harassment and Non-Discrimination Policy”; City Council Procedure #CC-21-023 establishing an “Anti-Bullying Policy.” Upon City Council approval, City staff will notify affected bargaining unit representatives of the adopted policies and the opportunity to meet and confer over the procedures’ impact on work conditions

Policy Issues

State law requires the adoption, maintenance, and enforcement of a policy to protect employees, elected officials, and volunteers from harassment and discrimination in the course of their service to the City of Menlo Park.

Background

City Council adopted the current anti-harassment and non-discrimination procedure, #CC-95-001, in 1995. In 2017, the staff updated the procedure to conform with State regulation changes.

Analysis

Human resources policies are essential to ensure legal compliance and consistent and proper administration of city procedures. Best human resources practices include an annual review of City Council adopted personnel policies to ensure that its policies are legally compliant and consistent with best practices.

City staff worked with Liebert Cassidy Whitmore (LCW) to review and update the City Council adopted anti-harassment and non-discrimination policy to reflect changes in recent law by incorporating a more detailed definition of retaliation and protected activity and to update the language to set forth a legally compliant complaint procedure. Additionally, city staff worked with LCW on an anti-bullying policy, separated from the anti-harassment and non-discrimination policy as a complaint of bullying does not have to be based on a protected classification or activity.

The anti-harassment and non-discrimination policy and the anti-bullying policy expand nature of actionable conduct and the impacts and effects it may have against represented employees, the policies are subject to meet and confer with employee representatives. Consequently, because the proposed changes affect conditions of employment for City employees, the City has a duty to provide notice and an opportunity to meet and confer to the affected bargaining unit representatives in advance of implementing those changes.

In advance of providing an opportunity to meet and confer, city staff is requesting approval by city council of amended anti-harassment and non-discrimination policy and a new anti-bullying policy. If approved, city staff will provide an opportunity for meet and confer with our units over the approved changes.

Once the City and affected bargaining units complete the meet and confer process, State administrative regulations require that all supervisors receive the city's anti-harassment and non-discrimination policy. The City has historically defined "supervisor" as any elected or appointed city official, City employee, or volunteer who exercises supervisory control over another individual, regular or ad hoc as the supervisor or through the organizational hierarchy, to read and to acknowledge receipt of that policy. In addition, the regulations provide details regarding the proper training methods and recordkeeping of required sexual harassment trainings which the city is complaint in.

Impact on City Resources

It is not anticipated that recommended actions will result in the expenditure of any funds above those budgeted for personnel policies, procedures, and training.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it is a minor change that will not result in any direct or indirect physical change in the environment

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. City Council Procedure #CC-21-022 "Anti-Harassment and Non-Discrimination Policy"
- B. City Council Procedure #CC-21-023 "Anti-Bullying Policy"

Report prepared by:
Theresa DellaSanta, Human Resources Manager

Anti-harassment and Non-discrimination Policy

City Council Procedure #CC-21-022
Proposed April 13, 2021

ATTACHMENT A



Purpose
The purpose of this Policy is to: establish a strong commitment to prohibit and prevent discrimination, harassment, and retaliation in employment; to define those terms; and to set forth a procedure for investigating and resolving internal complaints. The City encourages all covered individuals to report – as soon as possible – any conduct that is believed to violate this Policy.
Policy
<p>The City has zero tolerance for any conduct that violates this Policy. Conduct need not rise to the level of a violation of law to violate this Policy. A single act can violate this Policy and provide sufficient grounds for discipline or other appropriate sanctions.</p> <p>Harassment or discrimination against an applicant, unpaid intern, volunteer, or employee by a supervisor, management employee, elected or appointed official, co-worker, member of the public, or contractor on the basis of race, religion, color, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), national origin, ancestry, citizenship status, disability, medical condition, genetic characteristics or information, marital status, age (40 or over), sexual orientation (including homosexuality, bisexuality, or heterosexuality), military or veteran status, or any other protected classification as defined below, will not be tolerated.</p> <p>This Policy establishes a complaint procedure by which the City will investigate and resolve complaints of discrimination, harassment and retaliation by and against covered individuals. The City encourages all covered individuals to report any conduct that they believe violates this Policy as soon as possible.</p> <p>This Policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.</p> <p>Disciplinary action or other appropriate sanction up to and including termination will be instituted for prohibited behavior as defined below.</p> <p>Any retaliation against a person for filing a complaint or participating in the complaint resolution process is prohibited. Individuals found to be retaliating in violation of this Policy will be subject to appropriate sanction or disciplinary action up to and including termination.</p>
Definitions
<p>A. Protected classifications: This Policy prohibits harassment or discrimination because of an individual’s protected classification. “Protected classification” includes race, religion, color, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), national origin, ancestry, citizenship status, disability, medical condition, genetic characteristics or information, marital status, age (40 and over), sexual orientation (including homosexuality, bisexuality, or heterosexuality), and military or veteran status, or any other basis protected by law.</p> <p>B. Policy coverage: This Policy prohibits discrimination, harassment or retaliation for the following reasons: 1) an individual’s protected classification; 2) the perception that an individual has a protected classification; or 3) the individual associates with a person who has or is perceived to have a protected classification.</p> <p>C. Discrimination: This policy prohibits treating individuals differently and adversely because of the individual’s protected classification, actual or perceived; because the individual associates with a person who is a member of a protected classification, actual or perceived; or because the individual participates in a protected activity as defined in this Policy.</p> <p>D. Harassment may include, but is not limited to, the following types of behavior that is taken because of a person’s protected classification. Note that harassment is not limited to conduct that City’s employees take. Under certain circumstances, harassment can also include conduct taken by those who are not employees, such as elected officials, appointed officials, persons providing services under contracts, or even members of the public:</p> <ol style="list-style-type: none">1. Speech, such as epithets, derogatory comments or slurs, and propositioning on the basis of a protected classification. This might include inappropriate comments on appearance, including dress or physical features, or dress consistent with gender identification, or race-oriented stories and jokes.

Anti-harassment and Non-discrimination Policy

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Proposed April 14, 2021

- 2. Physical acts, such as assault, impeding or blocking movement, offensive touching, or any physical interference with normal work or movement. This includes pinching, grabbing, patting, propositioning, leering, or making explicit or implied job threats or promises in return for submission to physical acts.
 - 3. Visual acts, such as derogatory posters, cartoons, emails, pictures, or drawings related to a protected classification.
 - 4. Unwanted sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment.
- E. Guidelines for identifying harassment: To help clarify what constitutes harassment in violation of this Policy, use the following guidelines:
- 1. Harassment includes any conduct which would be "unwelcome" to an individual of the recipient's same protected classification and which is taken because of the recipient's protected classification.
 - 2. It is no defense that the recipient "appears" to have voluntarily "consented" to the conduct at issue. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized or subjected to retaliation.
 - 3. Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. The fact that no one is complaining now does not preclude anyone from complaining if the conduct is repeated in the future.
 - 4. Even visual, verbal, or physical conduct between two individuals who appear to welcome the conduct can constitute harassment of a third individual who observes the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.
 - 5. Conduct can constitute harassment in violation of this Policy even if the individual engaging in the conduct has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual of the recipient's same protected classification would find it offensive (e.g., gifts, over attention, endearing nicknames, hugs, prolonged or frequent staring.)
- F. Retaliation: This policy prohibits discrimination, harassment, or retaliation because of an individual's protected activity. Protected activity includes: (1) making a request for an accommodation for a disability; (2) making a request for accommodation for religious beliefs; (3) making a complaint under this Policy; (4) opposing violations of this Policy; or (5) participating in an investigation under this Policy. Retaliation occurs when an employer takes adverse conduct against a covered individual because of the individual's protected activity as defined in this Policy. "Adverse conduct" includes but is not limited to: (1) disciplinary action; (2) counseling; (3) taking sides because an individual has reported harassment or discrimination, (4) spreading rumors about a complaint, (5) shunning and avoiding an individual who reports harassment or discrimination, or (6) making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination. The following individuals are protected from retaliation: those who make good faith reports of harassment or discrimination, those who associate with an individual who is involved in reporting harassment or discrimination, and those who participate in the complaint or investigation process

Complaint procedure

- A. A covered individual who believes he or she has been subjected to discrimination, harassment, or retaliation may make a complaint verbally or in writing and there is no need to follow the chain of command. Complaints may be made verbally or in writing to any of the following:
- 1. His or her immediate supervisor;
 - 2. Any supervisor or manager within or outside of the department;
 - 3. A department head; or
 - 4. A Human resources officer

Anti-harassment and Non-discrimination Policy

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- B. Any supervisor, management employee, or department head who receives a discrimination, harassment, or retaliation complaint must notify a Human resources officer immediately.
- C. Upon receiving notification of a discrimination, harassment, or retaliation complaint, the Human resources division shall complete and/or delegate the following steps:
 - 1. Provide the complainant with a timely response indicating that the complaint has been received and that a fair, timely, and thorough investigation will be conducted.
 - 2. Authorize and supervise a fair and thorough investigation of the complaint by impartial and qualified personnel and/or investigate the complaint. The investigation will afford all parties with appropriate due process and include interviews with: 1) the complainant; 2) the accused harasser; and 3) other persons who have relevant knowledge concerning the allegations in the complaint.
 - 3. Review the factual information gathered through the investigation to reach a reasonable conclusion as to whether the alleged conduct constitutes harassment, discrimination, or retaliation giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
 - 4. Report a summary of the determination as to whether this Policy has been violated to appropriate persons. If discipline is imposed, the level of discipline will not be communicated to the complainant.
 - 5. If conduct in violation of this Policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.
 - 6. Take reasonable steps to protect the complainant from further harassment, discrimination, or retaliation.
 - 7. Take reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.
- D. The City takes a proactive approach to potential Policy violations and will conduct an investigation if its officers, supervisors, or managers become aware that harassment, discrimination, or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.
- E. Option to report to outside administrative agencies: An individual has the option to report harassment, discrimination, or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH.) These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed on the internet, in the government section of the telephone book or employees can check the posters that are located on City bulletin boards for office locations and telephone numbers.

Confidentiality

Every possible effort will be made to assure the confidentiality of complaints made under this Policy to the greatest extent allowed by law. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. An individual who is interviewed during the course of an investigation is prohibited from attempting to influence any potential witness while the investigation is ongoing. Any individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except with his or her designated representative or as otherwise directed by a supervisor or the Human resources manager. Any individual who otherwise discusses the content of an investigatory interview will be subject to discipline or other appropriate sanction. The City will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

Training

The City will provide training to all employees in accordance with applicable Federal or State law.

Employees who act in a supervisory capacity and elected officials shall receive at least two hours of classroom or other effective interactive training and education regarding sexual harassment and the negative effects of abusive conduct. All managers and supervisors must receive at least two hours of training every two years. New supervisors must receive training within six months of being hired or promoted and then at least every two years thereafter.

Anti-harassment and Non-discrimination Policy

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Proposed April 14, 2021

All non-supervisory employees must participate in at least one hour of classroom or other effective interactive training and education regarding sexual harassment and abusive conduct within six months of assuming their positions.

Training will be presented by knowledgeable trainers or educators with expertise in the prevention of harassment, discrimination, and retaliation and will include: information and practical guidance regarding Federal and State statutory provisions concerning the prohibition against, and the prevention and correction of, sexual harassment; the remedies available to victims of sexual harassment in employment; practical examples aimed at instructing employees in the prevention of harassment, discrimination, and retaliation.

Responsibilities

Each non-manager or non-supervisor is responsible for:

- A. Treating all individuals in the workplace or on worksites with respect and consideration.
- B. Modeling behavior that conforms to this Policy.
- C. Participating in periodic training.
- D. Cooperating with the City’s investigations by responding fully and truthfully to all questions posed during the investigation.
- E. Taking no actions to influence any potential witness while the investigation is ongoing.
- F. Reporting any act, he or she believes constitutes harassment, discrimination, or retaliation as defined in this Policy, to his or her immediate supervisor, or department head, or a human resources officer.

In addition to the responsibilities listed above, each manager and supervisor is responsible for:

- A. Informing employees of this Policy.
- B. Modeling appropriate behavior.
- C. Taking all steps necessary to prevent harassment, discrimination, or retaliation from occurring.
- D. Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
- E. Monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
- F. Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
- G. Informing those who complain of harassment or discrimination of his or her option to contact the EEOC or DFEH regarding alleged Policy violations.
- H. Assisting, advising, or consulting with employees and the human resources director regarding this Policy and complaint procedure.
- I. Assisting in the investigation of complaints involving employee(s) in their departments and, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with City personnel rules, up to and including discharge.
- J. Implementing appropriate disciplinary and remedial actions.
- K. Reporting potential violations of this Policy of which he or she becomes aware, regardless of whether a complaint has been submitted, to the human resources division or the department head.
- L. Participating in periodic training and scheduling employees for training.

Anti-harassment and Non-discrimination Policy

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Dissemination of Policy		
All employees shall receive a copy of this Policy when they are hired. The Policy may be updated from time to time and redistributed with a form for the employee to sign and return acknowledging that the employee has received, read, and understands this Policy.		
Procedure history		
Action	Date	Notes
Draft procedure presented	April 4, 2021	
Procedure adoption		

Anti-Bullying Policy

City Council Procedure #CC-21-023
Proposed April 13, 2021



Purpose		
The purpose of this Policy is to: establish a strong commitment to prohibit and prevent workplace bullying and to set forth a procedure for investigating and resolving internal complaints .		
Policy		
In addition to prohibiting all forms of discrimination and harassment, the City also prohibits any form of “intimidation or bullying” in the workplace or elsewhere, such as at offsite events.		
Definitions		
Bullying: Bullying is the use of aggression with the intention of harming another individual. It can include any intentional written, visual, verbal or physical act, when the act physically harms the individual or damages his or her property; has the effect of interfering with an employee’s ability to work; is severe or pervasive; and creates an intimidating or threatening environment. Bullying comes in many shapes and sizes and can take many forms including, but not limited to, excluding, tormenting, taunting, abusive comments; using threatening gestures, pushing, shoving, punching, unwanted physical contact, or any use of violence; graffiti; name-calling, sarcasm, spreading rumors, teasing. Such conduct can also occur through the use of electronic or telephonic communications via the internet, email or chatroom; mobile threats by text messaging or calls; or use of cameras and video equipment. While discriminatory harassment may involve bullying, bullying is not limited to conduct against another person because of his or her membership in a protected classification.		
Complaint procedure		
The City will not tolerate bullying in any form. Any individual who believes that he or she is being or has been subjected to any form of bullying should immediately report this to his or her supervisor, department head, or Human Resources officer. In addition, any person who believes they have witnessed bullying and any person who has received a report of such conduct shall immediately report the conduct to their supervisor or other appropriate person in the chain of command.		
Any employee who is reported to be a perpetrator will be provided due process before any disciplinary action is taken. Individuals who violate this bullying policy may be subject to disciplinary action, up to and including discharge.		
Policy against retaliation		
No employee will be subjected to any form of retaliation for reporting an incident of bullying or participating in an investigation by the City or its representatives into allegations of bullying. Additionally, all employees have a duty to cooperate in connection with any investigation being conducted.		
Procedure history		
Action	Date	Notes
Draft procedure presented	April 4, 2021	
Procedure adoption		

**STAFF REPORT**

City Council
Meeting Date: 4/13/2021
Staff Report Number: 21-073-CC

Regular Business: **Authorize the city manager to address immediate and critical staffing needs for child care program supervision**

Recommendation

City staff recommends that the City Council authorize the addition of two (2.0) full-time equivalent employees for child care program supervision and one (1.0) full-time equivalent personnel to facilitate the overall strategic management, enhance interoperability of supervisory personnel across programs, and create career advancement pathways for internal staff talent, recruitment and retention. If approved, additional action is required to amend the City Council adopted salary schedule to include salary ranges for the library and community services manager and library and community services supervisor classifications.

Policy Issues

City Council sets policy and goals and provides direction to staff regarding municipal services to the Menlo Park community; and allocates resources to support and maintain city facilities and operations and provide services to residents.

Background

The library and community services department was created in June 2020 by merging two previously separate departments and eliminating one full-time department head position. The merged department is comprised of three major operational divisions: library services, recreation services, and child care and senior services.

Under child care, the department operates Belle Haven Child Development Center (BHDC) and Menlo Children's Center (MCC), which combined provide all-day child care for up to 156 preschool-aged children; two afterschool child care centers at MCC and Onetta Harris Community Center (OHCC) which combined provide out-of-school-time child care to up to 141 school-aged children; and summer camps for preschool and school-aged children.

Child care programs are regulated and licensed by the State of California and the County of San Mateo, and teachers and supervisory personnel are subject to professional licensing and permit requirements enforced by the state and county. The city's child care programs are currently at risk of falling out of compliance with these requirements due to chronic underinvestment in child care staffing, anticipated and unanticipated staff transitions, and a lack of qualified and licensed personnel to fill key supervisory roles at the child care sites.

Analysis

There is an immediate and critical need for qualified supervisory and management personnel in the city's child care programs. The library and community services department was severely impacted by operating budget and personnel reductions in fiscal years 2019-20 and 2020-21. The prolonged nature of the pandemic and attendant economic austerity measures, chronic underinvestment in child care staffing in past years, and recent and upcoming transitions of key personnel have compounded and deepened this impact.

The nature of the child care operation is such that the city's exposure to risk is elevated in the event of operational failure. If the immediate and critical staffing needs are left unaddressed, in light of staff transitions, burnout, medical and family leaves, and other staffing challenges, the child care programs will be at risk of operational failure due to a lack of qualified supervisory personnel at the child care sites.

Staff transitions

The assistant community services director announced her resignation effective April 15 to pursue a career advancement opportunity elsewhere. While this departure is a significant loss of organizational talent and leadership, it creates the rare opportunity to provide internal staff development and advancement opportunities and further advance the realignment of the merged department into a cohesive and synergistic operation.

The BHDC and MCC sites historically have been supervised by a combined four full-time employees – two recreation supervisors and two recreation coordinators – who possessed the qualifications and licenses to serve in those roles. Two recreation coordinator positions were frozen and one supervisor transferred out to another city department, leaving only one supervisor currently overseeing both sites, supported by personnel in acting or interim roles.

Child care is a high-intensity job. Recruitment and retention for teacher and supervisory roles are challenging. Key personnel are currently or soon will be leaving on extended family and medical leaves. Licensure and education requirements for child care employees limit the ability for existing personnel to step into child care roles, especially supervisory roles, in the event of staff departures.

Interim organizational structure

Organizational realignment of the library and community services department is ongoing and expected to continue to evolve and iterate through fiscal year 2022-23 with major milestones including:

- Critical and immediate needs in the child care program addressed
- Anticipated economic recovery including the American Rescue Plan to support rebuilding the organization's capacity to serve the community
- Operational efficiencies and synergies identified and implemented as the merged department pivots to post-pandemic operations
- Interim services implemented during construction and long-term new service models in preparation for the opening of the Menlo Park Community Campus in 2023.

Structural change is necessary to provide for proper supervision and overall strategic management of the child care operation. Additional staffing is needed to support child care with two full-time on-site supervisors reporting to a division manager. The restored capacity will create bandwidth for the division manager to also lead the senior center operation and social service programs desired by City Council, for example vaccine events and possibly special projects like the NLC REAL program. Opportunities for professional

development and advancement through interim, acting, and permanent assignments are created for current personnel.

During this critical interim period for the department, the intent is to build management and supervisory capacity internally with heightened support from an interim assistant community services director to be filled on an interim basis by the City's human resources manager. City staff recommends that City Council authorize the addition of 2.0 full-time equivalents at the library and community services Supervisor level and 1.0 at the library and community services manager level.

Impact on City Resources

No immediate budgetary impact on fiscal year 2020-21 due to the anticipated recruitment and selection period. If approved, the positions will be included in the fiscal year 2021-22 budget for a total annualized cost of \$523,700.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

None.

Prepared by:
Sean Reinhart, Library and Community Services Director

Reviewed by:
Nick Pegueros, Assistant City Manager

Agenda item K1 Lynne Bramlett, Resident

The April 12, 2021 Daily Journal had a recent column (A celebration of the Children) by Sue Lempert that focused on the critical importance of child care for working parents, and to the children themselves.

You are being asked to increase staff at the two MP-run child care centers. First, I gently ask if this sudden emergency could have been avoided. More importantly, I believe that the broader topic needs more information, and a more holistic, proactive and regional approach.

When child care is brought before Council, I think the topic should include all child care available within City limits, especially any form of child care/pre-school learning that is at least partly supported with taxpayer resources. For example, the report did not include details of the parent co-op at Nealon Park. While I understand that those parents run an independent program, their very nice buildings sit on City-owned land. What other child care exists, who does it serve, what are its costs, and is adequate?

The report could have included data related to the supply of child care in comparison with the demand. I realize that this kind of research takes time. However, if our advisory commissions had a broadened role some of those serving might enjoy doing this kind of research.

The report did not include any mention of working with the neighboring jurisdictions on a regional approach to the important topic of child care/pre-school education. Why not? I ask that regional approaches be considered as there could be economies of scale and/or possible leverage points. At minimum, Menlo Park would get a fresh perspective.

As an example, Ms. Lempert's paragraph four gave details about a San Mateo County "response team made up of 4Cs (Child Care Coordinating Council), First Five, San Mateo County, the San Mateo Office of Education, and the Silicon Valley Community Foundation" and how these groups worked together on solutions. The response team included Council Member Giselle Hale of Redwood City and Amourance Lee of San Mateo." Apparently, the group got CARES Act funds, and they started a "Child Care Relief Fund" to which a "broad spectrum of donors" contributed money and the County also contributed money. All combined, the group got a "total of \$5.3 million in grants" that "benefitted over 8,000 of the county's most vulnerable children."

The later Agenda topic L3 includes details of Manzanita Works which also takes an innovative and partnership-style approach to the needs of the commuter, including those of child care. It seems to me that some type of "systems thinking" would be beneficial to issues that are so inter-related. I also suggest finding out what factors led to the formation of the successful "response team" detailed in Ms. Lempert's column. Perhaps the conditions could be replicated in Menlo Park.



IMMEDIATE AND CRITICAL STAFFING NEEDS FOR CHILDCARE PROGRAM SUPERVISION

City Council Meeting – April 13, 2021



RECOMMENDATIONS

- Authorize the addition of 2.0 full-time equivalents at the library and community services Supervisor level and 1.0 at the library and community services Manager level.
- If approved, additional action is required to amend the City Council adopted salary schedule to include salary ranges for the library and community services manager and library and community services supervisor classifications.



CHILD CARE OVERVIEW

- BHCDC and MCC preschool: up to 156 preschool-aged children
- OHCC and MCC afterschool: up to 141 school-aged children
- Summer camps for preschool and school-aged children
- Regulated and licensed by State of CA and County of San Mateo
- Teachers and site supervisors subject to professional licensing and permit requirements
- Chronic underinvestment in childcare staffing
- Anticipated and unanticipated staff transitions
- Lack of qualified and licensed personnel to fill key supervisory roles

ANALYSIS



- Immediate and critical need for qualified supervisory and management personnel in childcare
- Department severely impacted by budget and personnel reductions
- Prolonged pandemic and economic austerity
- Childcare operation is such that the city's exposure to risk is elevated in the event of operational failure
- Recruitment and onboarding process can take 4-6 months
- If the immediate staffing needs are left unaddressed, the childcare programs will be at risk of operational failure due to lack of qualified personnel at the childcare sites



STAFF TRANSITIONS

- BHCDC and MCC sites historically supervised by a combination of four qualified full-time employees
- Recruitment and retention challenges
- Frozen positions, attrition, transfers out, interim/acting roles
- Family and medical leaves
- 17% operating budget and personnel reductions
- Assistant community services director resigned effective April 15
- Licensure and education requirements limit the ability for existing personnel to step into childcare roles in the event of further staff departures

INTERIM ORGANIZATIONAL STRUCTURE



Organizational realignment of the library and community services department is ongoing and expected to continue to evolve and iterate through fiscal year 2022-23 with major milestones including:

- Critical and immediate needs in the childcare program addressed
- Anticipated economic recovery including the American Rescue Plan to support rebuilding the organization's capacity to serve the community
- Operational efficiencies and synergies identified and implemented as the merged department pivots to post-pandemic operations
- Interim services implemented during construction and long-term new service models in preparation for the opening of the Menlo Park Community Campus in 2023.



RECOMMENDATIONS

1. Authorize the addition of 2.0 full-time equivalents at the library and community services supervisor level and 1.0 at the library and community services manager level.
2. Adopt Resolution No. 6620 to approve the following amendments to the salary schedule:
 - a. Add library and community services manager
 - b. Add library and community services supervisor



STAFF REPORT

City Council

Meeting Date:

4/13/2021

Staff Report Number:

21-077-CC

Regular Business:

Adopt Resolution No. 6620 to approve amendments to the salary schedule as of April 13, 2021

Recommendation

City staff recommends that the City Council approve the following amendments to the salary schedule:

1. Add library and community services manager
2. Add library and community services supervisor

Policy Issues

The City Council retains sole authority to amend the salary schedule and budget for full-time equivalent personnel (FTEs.)

Background

The City of Menlo Park's (City) salary schedule identifies job classifications that have been approved by City Council (e.g., accountant, administrative assistant) and the hourly rates of pay for each classification at each step. The requested change to the salary classification schedule establishes the ranges for two classifications necessary to support the library and community services department's ongoing development: library and community services manager and library and community services supervisor.

Analysis

Attachment A is the enabling action necessary to amend the City Council adopted salary schedule, Attachment C. Attachment B transmits positions contemplated as part of the upcoming budget to provide City Council a summary of requested FTEs submitted to the city manager for consideration as part of the city manager's proposed budget. Attachment D transmits the City Council's compensation policy for unrepresented managements classifications.

The library and community services manager (LCS Manager) is a management classification that provides leadership and management expertise to any one of the department's operational areas across multiple site locations. The classification operates both across operational areas within the department and across city departments as necessary to augment organizational capacity to advance City Council established goals and priorities. Consistent with the City's compensation practices for unrepresented management, Attachment D, the salary range for the LCS Manager falls in the M2 salary band which is \$121,835 to \$170,578.

The library and community services supervisor (LCS Supervisor) is a middle management classification responsible for supervision and management of human, financial, and infrastructure resources necessary to deliver programs, services, and events to the community in a coordinated manner. Consistent with past

practice for represented classifications, salary ranges for new classifications are set based on internal alignment to protect against salary compaction. With library and community services both possessing middle management classifications equivalent to LCS Supervisor, the senior librarian and recreation supervisor classifications, the recommended salary range for LCS Supervisor is recommended at the senior librarian level in recognition of the interoperability expectations of the position. Accordingly, the salary range recommended for LCS Supervisor is \$91,015 to \$109,716.

Impact on City Resources

The LCS Manager will not be filled before end of the fiscal year and therefore does not require a budget amendment for fiscal year 2020-21. The maximum annualized cost differential between a recreation supervisor and a LCS Supervisor is approximately \$6,000. If the City's two filled recreation supervisors transition to LCS Supervisors, the maximum annual cost is \$12,000.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Resolution No. 6620
- B. Memo to Starla Jerome-Robinson re: Summary of anticipated FTE requests for inclusion in the city manager's proposed fiscal year 2021-22 budget
- C. Hyperlink – Comprehensive salary schedule – effective 11/22/2020:
menlopark.org/DocumentCenter/View/26235/Menlo-Park-Salary-Schedule-20201122?bidId
- D. Hyperlink – City Council Staff Report # 18-051-CC: menlopark.org/DocumentCenter/View/16913/K2---Amend-Salary-Schedule?bidId

Report prepared by:
Theresa DellaSanta, Human Resources Manager

RESOLUTION NO. 6620**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
AMENDING THE SALARY SCHEDULE EFFECTIVE APRIL 13, 2021**

WHEREAS, pursuant to the Personnel System Rules, the City Manager prepared a Compensation Plan; and

NOW, THEREFORE BE IT RESOLVED that the following compensation provisions shall be established in accordance with the City's Personnel System rules.

BE IT FURTHER RESOLVED that any previous enacted compensation provisions contained in Resolution No. 6599 remain with the addition of two classifications provided in Table 1:

Table 1: Salary schedule additions					
Classification title	Minimum/ Step A	Step B	Step C	Step D	Maximum/ Step E
Library and Community Services	\$126,553		Open range		\$170,578
Library and Community Services Supervisor	\$91,015	\$95,392	\$99,937	\$104,716	\$109,716

BE IT FURTHER RESOLVED that the changes herein shall be effective April 13, 2021.

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the thirteenth day of April, 2021, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this thirteenth day of April, 2021.

Judi A. Herren, City Clerk



MEMORANDUM

Date: 4/8/2021
To: Starla Jerome-Robinson, City Manager
From: Nick Pegueros, Assistant City Manager
Re: Summary of anticipated FTE requests for inclusion in the City Manager's proposed fiscal year 2021-22 budget

The purpose of this memorandum is to transmit the full-time equivalent (FTE) personnel requests already identified for your consideration in the fiscal year 2021-22 budget. The positions are now

Following the city's budgeting practices, the City Manager's proposed fiscal year 2021-22 budget may or may not include any or all of the requests upon your review of City priorities, operational needs, and available financial resources. The City Council will consider the City Manager's proposed budget at their June 8 meeting and direct modifications to the proposed budget. At their June 22 meeting, City Council will take final action to adopt the fiscal year 2021-22 budget before the beginning of the new fiscal year on July 1. Annual costs below reflect fully burdened rates, i.e., base salary plus all retirement and fringe benefits incurred by the city for the new employee, plus payment of unfunded pension liabilities resulting from factors not attributed directly to the new positions.

Administrative Services

- **Finance and Budget Manager; 1.0 FTE; \$232,136 annual cost**
The addition of a Finance and Budget Manager position would build capacity in the City's financial discipline. The Finance and Budget manager would focus on stabilization of the finance team, including standardizing updated payroll, budgeting, and accounting processes implemented in recent years and providing leadership and management of the division.
- **Management Analyst II; 1.0 FTE; \$165,128 annual cost**
The addition of a Management Analyst II will help with supervision of payroll processing, treasury, and revenue management, including oversight of transient occupancy tax collections, cash receipts, and utility users' tax collections. In addition, the Management Analyst II will provide support to the Finance and Audit Committee as a liaison and support departments with budget-to-actual reporting.
- **Management Analyst I; 1.0 FTE; \$139,455 annual cost**
The addition of a Management Analyst I assigned to and paid for by Community Development to support the ongoing implementation of the department's Accela land management software. The position will provide user support, database management, and customer service. Additionally, this position will work with the IT division to manage land management information systems' support contracts, upgrades and feature roll-outs, and security.

City Manager's Office

- Neighborhood services coordinator; 2.0 FTE; \$278,910 annual cost**
 The transition to district elections has improved resident awareness of their directly elected City Councilmember. City Councilmembers are more regularly asked to intervene on matters within their district including code enforcement, planning and building services, and maintenance. The addition of two neighborhood services coordinators provides dedicated support for incoming requests, supports service departments in responding to requests, and supports the City's communications and public engagement efforts.
- Economic Development Manager; 1.0 FTE; \$227,314 annual cost**
 The City currently utilizes contract services to support the City's economic development efforts. The addition of an Economic Development Manager provides an internal resource capable of focusing on the needs of Menlo Park residents and businesses.

Community Development

- Plan Check Engineer; 1.0 FTE; \$169,154 annual cost**
 The City currently utilizes contract services to conduct the City's plan check requirements for building code compliance. The restoration of the Plan Check Engineer position provides an internal resource capable of focusing on the needs of Menlo Park residents and businesses and reducing permit issuance timelines.

Library and Community Services

The following anticipated staffing requests are in addition to the critical and immediate childcare-related staffing needs (3.0 FTE total) outlined in the 4/13 City Council staff report.

- Recreation Coordinator; 0.75 FTE; \$101,747 annual cost**
 The addition of a Recreation Coordinator will restore capacity needed to coordinate large scale community events such as block parties; issue special event permits; and administer programming for the Performing Arts Center and its grants.
- Librarian I/II; 1.0 FTE; \$135,469 annual cost**
 The addition of a Librarian I/II will restore capacity needed to coordinate library and literacy services to young children including story times, library book and media collection development, parent education, early childhood literacy, and access to library services for children with special needs
- Program Assistant; 4.0 FTE; \$421,772 annual cost**
 The addition of Program Assistants, two full time and four part-time positions, will restore capacity to reactivate City-run indoor youth and adult sports leagues; provide weekend and weekday evening programming at the Arrillaga Recreation Center; provide weekend and evening operating hours at Belle Haven Branch Library and Main Library; and support adaptive programming for children and

seniors who have disabilities or other special needs.

- **Information Technology Specialist I/II; 1.0 FTE; \$138,604 annual cost**
The addition of an Information Technology Specialist will provide critically needed capacity to coordinate and manage activities related to the support, deployment, configuration, and usage of departmental applications systems including the library enterprise technology platform and automated materials handling system; recreation registration technology platform; public computers and wifi access, and videoconferencing support for remote and hybrid community meetings and events. This position could be based in the LCS department, or alternately could be based in the IT division and embedded in LCS.
- **Temporary personnel; \$450,000 annual cost**
Restore temporary personnel budget to support library and community services operations – library hours, recreation services, facility rentals, senior center congregate meal preparation, and other operational and service needs.

Police

- **Police Officer; 2.0 FTE; \$308,358 annual cost**
The department recommends increasing patrol capacity with the addition of two (2.0) Police Officers thereby creating capacity to assign two existing trained Police Officers to resume a traffic enforcement specialty program. The goal of this personnel addition is to resume seeking out long-term traffic solutions that decrease the frequency and severity of collisions, address the needs of the community, including school zone enforcement, and support the safety of the traveling public. These officers will provide public education on bicycle and pedestrian safety, maintain a direct link to our engineering partners in Public Works, conduct specific enforcement related to high-risk collision factors, and partner with neighboring agencies to bring high-impact enforcement to the most impacted areas of the City. The patrol division previously enhanced services to the community by establishing a dedicated traffic unit with objectives meant to support long-term traffic solutions resulting in the education and increased safety of the traveling public. While traffic enforcement itself can be accomplished by any officer on patrol, specific attention to collision factors that impact our vulnerable community such as bicycle and pedestrian-related collisions require specific enforcement and education plans as well as dedicated collaboration with our City partners in Public works to address the comprehensive education, enforcement, and engineering dimensions required for improvement. The most recent published Office of Traffic Safety (OTS) data shows Menlo Park well below average safety compared to similar cities in bicycle and pedestrian collisions, speed-related collisions, fatal collisions, and hit-and-run collisions. In response to pandemic induced fiscal challenges, the fiscal year 2020-21 budget eliminated the City's traffic unit which consisted of four FTEs.
- **Police Records Specialist; 1.0 FTE; \$116,273 annual cost**
The department recommends increasing capacity in the records division to accommodate data collection mandates, community engagement, and public records act requests. The records division is currently staffed by two full-time employees; reduced as part of the fiscal year 2020-21 budget cuts from a previously authorized number of three. In 2021 and subsequent years, the

department anticipates ongoing capacity demands to enhance public transparency and community engagement. Statewide, the movement of offense classifications from the Uniform Crime Reporting standard to the California Incident-Based Reporting System (CIBRS, in compliance with the National NIBRS) quadruples the number of individual offense classifications resulting in significant workload. Additionally, enhanced police record-keeping for data collection and quality assurance will be required to the mandated Racial Identity Profiling Act (RIPA). The department has begun implementation of the new reportable information as required beginning January 1, 2022.

Public Works

- **Transportation Engineer; 1.0 FTE; \$181,145 annual cost**
 The department requests a Transportation Engineer and administrative reclassifications of two authorized FTEs to restore currently suspended services including processing neighborhood traffic requests and better align the positions in the division to support current and anticipated workload as the region recovers from the pandemic, with an emphasis on more mapping and improved tools to communicate work efforts visually. The administrative reclassifications transition an authorized Engineering Technician to Geographic Information System (GIS) Analyst and the Traffic Demand Management Coordinator to a Transportation Planner.
- **Senior Civil Engineer; 0.5 FTE; \$95,272 annual cost**
 The department requests the conversion of an existing 0.5 FTE provisional Senior Civil Engineer position to permanent, and increasing the FTE allocation from 0.5 to 1.0. The 0.5 FTE provisional position is currently budgeted to expire at the end of the 2021-22 fiscal year, but the need for this continued level of staffing has been identified through at least fiscal year 2024-25 due to the construction support needs for Menlo Park Community Campus (fiscal year 2022-23 completion anticipated), emergency water supply projects (fiscal year 2024-25 completion anticipated), and other potential parks and recreation projects identified in the citywide Parks and Bedwell-Bayfront Park Master Plans with the timing requirements of issuing and completing projects with Measure T bonds.
- **Heritage tree ordinance implementation and dedicated downtown maintenance team; 5.0 FTE; \$722,573 annual cost**
 The department requests the addition of five (5.0) FTEs to provide management, administrative and technical support necessary to implement the July 2020 heritage tree ordinance and improve maintenance services in the downtown area. With respect to the heritage tree ordinance implementation, these positions would also allow improved customer service and response times to tree removal or pruning applications. The ordinance put new regulations in place in July 2020, which has created an increased demand to explain regulations and follow up with applicants with questions or concerns on the process. With respect to downtown maintenance, City staff are evaluating staffing options to establish a dedicated maintenance team to enhance services in the Downtown. Currently, a combination of streets, parks and trees maintenance staff support various efforts downtown, including sign installation and maintenance, curb and pavement painting, sidewalk cleaning, lighting, banner installation, and maintenance of the

street closures. In order to support economic recovery efforts for downtown businesses and the street closure anticipated to be in place through January 2022, staff has identified the need for a dedicated presence of maintenance staff downtown. While in the conceptual stages, staff envisions the following personnel requests to advance these efforts.

1.0 FTE - Public Works Superintendent; \$244,370 annual cost

1.0 FTE - Management Analyst I; \$139,455 annual cost

3.0 FTE – Maintenance Worker; \$338,748 annual cost

5.0 FTE; \$722,573 annual cost

City Councilmember capacity requests

- Climate Action Plan
- Transportation
- Capital projects
- Planning
- Building
- Local hazard mitigation
- Emergency preparedness

Agenda item K2
Soody Tronson, Resident

Dear Honorable Council ...

The City of Menlo Park is completely out of control when it comes to employees and contractors, including the Police headcount.

The police force is already inflated. A few years ago the Police department increased its number of police using a 1.5 factor (police to residents calculations) with the justification that the increased Facebook employees require more police presence. That justification has already been debunked, as in how many Facebook employees frequent Menlo Park during the day. If the number of people during the day counts, how about all those who leave the City to work elsewhere?

Police are not the right choice for traffic enforcement. Second, traffic stops are best served by non-police personnel who don't carry guns. I am confident that you are all already aware of the national crisis with so many people, particularly BIPOC, being killed during traffic stops. If you need references I am happy to provide it.

As to other city employee headcounts:

1) are these "annual costs" inclusive of overtime and pension?

The City of Menlo Park is already not transparent on what it costs to employ its personnel. I have asked this before that the numbers on its website are just basic salary and don't include overtime and other perks as provided through Transparent California.

2) Has the City received a review of its employees/contracts versus other comparable cities by an "independent agency" that reports to the Council and not the city management? Such reports should be transparently available to the residents without asking.

3) What is not being done already that these new hires (e.g., coordinators or library personnel) will do? Furthermore, just because it was not done before does not mean that it shouldn't have been done before with existing personnel.

3) Is the City slated to become a key employer In the City of Menlo Park?

There appears to be no actual audit or checks and balances for the operation of the City itself. It asks, and it shall receive. Why, because nothing is easy to understand in the City.

Please stop this madness of hiring more people both in the City management and Police department.

Regards

A frustrated resident.

Soody Tronson

Agenda item K2 Morgan Ames, Resident

cities in the Bay Area and across the US are exploring ways to provide traffic enforcement and safety improvements without armed police. Berkeley has already approved such a measure, and similar measures have been under consideration in Oakland.

I strongly agree that traffic enforcement should be separated from the police department. Traffic stops, already the main point of contact between many people and police, can be especially dangerous and discriminatory for people of color, as research has demonstrated.

Prior to COVID, it appears that Menlo Park had relatively high collision rates, so the solutions we were using before the pandemic already weren't delivering the safety that they were supposed to.

I advocate for alternate solutions for road safety, including crossing guards and educational programming for school areas; additional speed bumps, turn restrictions, and other traffic calming measures along the lines of what have been partially implemented in the Willows; and more dedicated spaces for bicycles and pedestrians.

This is the moment to rethink what was previously not an effective policy. Menlo Park has the opportunity to be on the forefront of the Bay Area and the country on this topic.



STAFF REPORT – CONTINUED FROM ~~3/9/2021 3/23/2021 4/6/2021~~

City Council

Meeting Date: ~~3/9/2021 3/23/2021 4/6/2021 4/13/2021~~

Staff Report Number: 21-050-CC

Regular Business: **Direction on cost recovery policy (City Council Procedure #CC-10-001), library overdue fines and recreation user fees**

Recommendation

Staff recommends that the City Council:

1. Direct staff to eliminate library overdue fines in conjunction with the next update to the master fee schedule
2. Direct staff to develop a pilot program to provide additional need-based scholarships for recreation programs citywide
3. Direct staff to develop a pilot program to eliminate user fees for recreation programs whose target participants are Menlo Park residents ages zero to five
4. Amend the cost recovery policy by inserting a statement that prioritizes equity and access to library and recreation programs when determining user fees.

Policy Issues

City Council adopts fees to recover the cost for various city services to minimize the demand on general taxes for services that have an individual benefit. To guide the establishment of fees, the City Council adopted a user fee cost recovery policy, #CC-10-001, Attachment A. The user fees themselves are established by City Council in the master fee schedule. The City Council may set new fees, change fee amounts, or eliminate fees at its discretion, subject to applicable law.

Background

On February 23, City Council convened a public study session to discuss the cost recovery policy and provide direction to staff for potential equity-based revisions to the policy as it pertains to community access to library and community services programs. What follows is a list of key considerations voiced by City Councilmembers during the February 23 study session discussion. They are here listed in no particular order and are numbered solely for convenient reference:

1. Eliminate library overdue fines
2. Innovative/new approaches to equity are important and should be explored, however creating models that are sustainable, both economically and operationally, also is important
3. Scholarships and sliding scales help move toward equity and are worth doing, but are perceived by some as half-measures that do not of themselves achieve complete equity
4. Provide examples from other municipalities that prioritize/approach cost recovery through an equity lens
5. Provide details of current fee-assistance programs in the city - Beyond Barriers aquatics scholarships, etc.
6. Provide details of "pay what you can/ suggested donation" model, how would it work
7. Provide details of potential fiscal and/or operational impacts; explore alternative means to recover some

costs

8. Approach from the perspective that no resident should be denied service because they can't pay. This approach may be more suitable to some services than others
9. Consider increasing non-resident fees to offset cost recovery while reducing or eliminating resident fees
10. Focus less on cost recovery when making decisions about community programs and facilities; prioritize serving the community first
11. Consider the needs of residents of neighboring unincorporated areas who have Menlo Park street addresses and who primarily access services in Menlo Park
12. Solve problem/barrier of registration logjams (multiple users logging in at midnight to compete for limited registration slots.) Possibilities: lottery system, phased registration
13. Investigate options to facilitate affinity groups during registration, for example, children who live in different households and who want to participate in city programs together
14. Start with a pilot program that tests a no-fee model in a specific recreation program or set of programs focused on an objective already identified in the cost recovery policy - for example, health/wellness/movement programs for youth
15. Leverage any pilot project that is implemented now to serve as a testbed for programs in the Menlo Park community campus
16. Identify options for creating a community pass or membership card for residents to access services.

Analysis

City Council direction to staff

Based on the input provided to staff at the February 23, 2021 study session, staff has investigated a number of the potential changes to the cost recovery policy and the implications these would have on budgeting and programming, described in greater detail below.

Equity as a priority

The National Academy of Public Administration has defined the term “social equity” as, “The fair, just and equitable management of all institutions serving the public directly or by contract; the fair, just and equitable distribution of public services and implementation of public policy; and the commitment to promote fairness, justice, and equity in the formation of public policy.”¹

The City Council’s budget principles, most recently adopted for fiscal year 2020-21, include the following excerpts:

- “2. Provide City services and infrastructure that contribute to quality-of-life in Menlo Park
“c) Strive to balance the resources and requirements of each area of the City in an equitable manner through the use of equitable tools”

These principles as written are not in direct conflict with the City’s cost recovery policy, however the City Council may consider articulating these principles more clearly into the cost recovery policy. If directed, the cost recovery policy could be amended to explicitly prioritize equity and programming as goals for some service areas rather than target cost recovery amounts.

¹ <https://www.napawash.org/working-groups/standing-panels/social-equity-in-governance/>

Elimination of library overdue fines

On February 23, City Council expressed interest in eliminating library overdue fines, noting that several library jurisdictions within San Mateo County and in the Bay Area region have eliminated these fines in recent years. Studies undertaken in many of those jurisdictions have indicated that library overdue fines disproportionately impact low-income residents and communities of color, and that the administrative and staffing costs of tracking and collecting overdue fines typically exceed the value of the fines collected. For a local example, the San Mateo County Library system in 2018 completed a study which led to these conclusions and resulted in the elimination of library overdue fines in that jurisdiction (Attachment B.)

The City of Menlo Park fiscal year 2020-21 operating budget includes a projected \$42,000 in revenues from library fines, consistent with the actual amounts of library fines collected in recent fiscal years. (Attachment C.) Menlo Park library's processes for collecting overdue fines are essentially identical to those used by San Mateo County library before that jurisdiction's elimination of overdue fines and can be fairly estimated to have a proportionately similar administrative cost burden which would be eliminated if fines were eliminated. Should City Council so direct, staff will incorporate the elimination of library overdue fines in the next master fee schedule update tentatively scheduled March 23.

Equity in municipal recreation – current practices and emerging trends

The National Recreation and Park Association (NRPA) has taken steps in the direction of social equity, including by adopting a statement, "Social Equity and Parks and Recreation,"² that reads in part:

Our nation's public parks and recreation services should be equally accessible and available to all people regardless of income level, ethnicity, gender, ability or age. Public parks, recreation services and recreation programs including the maintenance, safety, and accessibility of parks and facilities, should be provided on an equitable basis to all citizens of communities served by public agencies. Social equity is a critical responsibility borne by every public park and recreation agency and the professionals that operate them. It is a right, not just a privilege, for people nationwide to have safe healthful access to parks and recreation.

The NRPA and its state-level counterpart California Park and Recreation Society stop short of recommending eliminating recreation user fees entirely, and instead recommend that low-income groups receive user fee subsidies in accordance with their ability to pay, while other groups should continue to pay user fees commensurate to the benefits they receive.³ The underlying principle and practice are that agencies set user fees to market rate and offer need-based subsidies on a case-by-case basis, and that full fare programs reflect the true cost of the programs and convey quality. In practice, this typically takes the form of scholarships and other application- and eligibility-based fee assistance programs.

Most municipal recreation programs impose user fees for general public access to recreation programming and typically seek to address equity concerns through scholarship programs that include an application process to assess and document each applicant's eligibility based on their income, their demographics or other factors. Most municipalities that offer some form of scholarship program require income verification either via pay stubs or W-2/ federal income tax return, while others accept any proof of public assistance, such as Medi-Cal, CalWorks, WIC or free and reduced school lunch.

² <https://www.nrpa.org/our-work/Three-Pillars/social-equity-and-parks-and-recreation/>

³ <https://www.nrpa.org/parks-recreation-magazine/2020/january/pricing-strategies-that-combat-social-injustice/>

Current scholarship / fee assistance programs in Menlo Park

Currently the City of Menlo Park offers subsidized programming aligned with its adopted cost recovery policy and master fee schedule at the Onetta Harris Community Center, Menlo Park Senior Center, Belle Haven Afterschool Program, and Belle Haven Child Development Center (BHCCD.) There are additional opportunities for fee assistance at the Onetta Harris Community Center, the gymnastics and aquatics program, and at the BHCCD.

At the Onetta Harris Community Center, the Belle Haven Community Development Fund (BHCCDF), an independent nonprofit, administers the one-to-one scholarship program which waives the \$25 class fee for youth recreation classes and provides a full subsidy for up to 8 participants in the Summer of Service Camp (SOS.) In administering the program, BHCCDF does not require the verification of income to receive the scholarship. Currently, City staff track the number of requested scholarships and invoices the BHCCDF for reimbursement. On average there are approximately 58 scholarships awarded per year.

At the Arrillaga Family Gymnastics Center, income-qualified residents receive the reduced hourly rate of \$5/hour from the normal \$16/hour. Applicants must submit recent pay stubs and W-2 forms to qualify. The program serves approximately 15 families per year.

At the Burgess Pool and Belle Haven Pool, which are operated by third-party provider Menlo Swim and Sport, the opportunity for fee assistance comes via scholarships administered by the Beyond Barriers Athletic Foundation. In 2019, 271 youth participants (not exclusively Menlo Park residents) received free swim lessons at both Burgess and Belle Haven pools. The Beyond Barriers scholarship can also be applied toward Menlo Swim and Sport's summer camp and the lifeguard certification program.

Pilot program to provide additional need-based scholarships for recreation programs citywide

In the absence of a citywide financial assistance or scholarship program, residents with a financial need are currently limited to participating in a relatively small selection of subsidized classes at Onetta Harris Community Center for their recreational needs. Classes at the Arrillaga Family Recreation Center, Gymnastics Center and Gymnasium are not financially accessible to some residents. To illustrate this point, a January 14th article in *The Almanac*⁴ about plans to build a new community campus in Belle Haven highlighted this comment by a college student who grew up in Belle Haven:

“As a little girl growing up in the neighborhood, she said, she would study the city's activity catalog, unable to participate in the programs at the Burgess center because they were too expensive; programs at the Belle Haven location were cheaper, but were also, in some cases, canceled.”

Additional scholarship opportunities would be a step toward lowering these barriers further. For example, a pilot program to provide additional scholarship options for recreation programs citywide. This could take the form of discounting recreation fee classes by 75 percent for residents showing proof of other public assistance. Municipal recreation professional associations recommend that participants pay a nominal fee toward the activity to promote attendance, however City Council can choose to waive even the nominal fee, if desired.

To help increase community participation and streamline the administrative burden of enrollment verification to the greatest extent possible, the city could seek partnerships with local school districts to proactively enroll all Menlo Park families who are enrolled in the districts' free or discounted school lunch programs into

⁴ <https://www.almanacnews.com/news/2020/01/14/residents-urge-facebook-to-preserve-belle-haven-history>

the city's scholarship program. However, coordination with school districts would likely still entail some administrative burden to city staff, student information privacy is subject to multiple protections, and school districts are under no obligation to participate in such partnerships.

In a proposed pilot program, qualified participants could potentially receive up to one class or activity per activity guide cycle, with a maximum yearly scholarship of \$250 per individual or \$500 per family, however City Council could set different limits, if desired. In such a program, scholarships could be made available to qualified enrollees until funds allocated to the scholarships are depleted. If remaining funds are available, participants could be eligible to apply toward other activities such as summer camps.

Reduced barriers and increased access to recreation programs will be especially vital during the transitional services period during the construction of the Menlo Park community campus. During that temporary time of limited program spaces, reducing fee-based barriers to participation in recreation programs throughout Menlo Park can help offset the impacts of the temporary loss of spaces for recreation programs in neighborhoods that have been historically impacted by redlining and other discriminatory practices of the 20th century that contributed to stark inequities in wealth, health, education, employment, and other vital outcomes that continue to affect residents of Menlo Park neighborhoods to this day.

Should the City Council direct staff to develop a pilot program to provide new scholarship options citywide, staff will develop the details of the pilot program for presentation to City Council in the context of the fiscal year 2021-22 budget deliberations.

Pilot program to eliminate resident user fees for recreation programs targeted to ages zero to five years

Arguably the most barrier-free option for all residents to participate in recreation programs regardless of ability to pay would be to eliminate resident user fees entirely for those programs. Such an approach would be consistent with the long-standing programming models of public libraries, including in Menlo Park, which historically do not charge user fees for participation in programs such as story time, arts and crafts, or classes such as English acquisition. In recent years, many public libraries have taken the additional equity-oriented step of eliminating library overdue fines because of the barriers to access that fines and fees are known to create for low-income residents and communities of color.

Should the City Council so desire, eliminating resident user fees in some recreation programs would be a further step toward eliminating barriers to access for all residents. For example, the City Council could direct staff to create a pilot program to eliminate user fees for Menlo Park residents who participate in recreation programs targeted to children ages 0-five years. Such a pilot program could focus on recreation programs for young children related to music, dance, movement and introduction to sports. The city annually collects gross revenues from user fees imposed on this set of early childhood recreation programs of approximately \$238,000; with net revenues after instructor payments of approximately \$103,000 (Attachment C.) This figure does not include revenues from child care, summer camps or gymnastics programs, which are not recommended for a pilot program to eliminate user fees at this time. Child care, summer camps and gymnastics are placed in a higher level of cost recovery in the cost recovery policy, involve more intensive and higher levels of care and investment, and are recommended to continue with the current model of user fees combined with need-based subsidies or scholarships on a case-by-case basis.

Should the City Council direct staff to develop a pilot program to eliminate resident user fees for recreation programs targeted to children ages zero to five, staff will develop the details of the pilot program for presentation to City Council in the context of the fiscal year 2021-22 budget deliberations.

Additional equity-based alternatives to recreation facilities and services user fees

Another example of an innovative, equity-driven pilot program would be a “Recreation Rx” program in partnership with a local nonprofit health provider such as Ravenswood Family Health Clinic. In an effort to promote wellness to our at-risk communities, the health clinic could be provided with a set number of “recreation prescriptions” or free class passes to distribute to patients who would benefit from fitness classes. For example, a resident at-risk of heart disease, suffering from diabetes or battling obesity. Recreation Rx could be redeemed at any City of Menlo Park facility for health and wellness classes. Should the City Council direct staff to develop a 12-month pilot program targeted to accessible health and wellness opportunities for all residents, staff will develop the details of the pilot program for presentation to City Council in the context of the fiscal year 2021-22 budget deliberations.

Cost recovery policy equity statement

The following statement has been adapted from the City of Menlo Park operating budget document and the National Academy of Public Administration’s definition of social equity, and is proposed to be incorporated into the cost recovery policy in section, “Process for establishing service fee cost recovery levels” (insertion shown inline in Attachment A):

The City of Menlo Park provides services and infrastructure that contribute to quality-of-life for all Menlo Park residents. In so doing, the City strives to balance the resources and requirements of each area of the city in an equitable manner for all residents, in all neighborhoods of the City. The City of Menlo Park prioritizes social justice in decisions that affect residents’ lives: the fair, just and equitable management of all institutions serving the public directly or by contract; the fair, just and equitable distribution of public services and implementation of public policy; and the commitment to promote fairness, justice, and equity in the formation of public policy.

No change to the other fundamentals of the cost recovery policy is needed at this time unless City Council directs otherwise; implementation of the policy’s intent and any pilot programs can be expressed through updates to the master fee schedule.

Other recommended changes

Staff has incorporated the previous direction provided as well as minor streamlining changes into the proposed user fee cost recovery policy, City Council Procedure #CC-10-001, Attachment A. All changes are marked with “track changes” for clarity, and most notably include the addition of equity as a priority in the process of establishing service fee cost recovery levels, elimination of target cost recovery for some program areas, and the elimination of duplicative tables within the service category areas given their narrative direction.

Next steps

1. Master fee schedule public hearing – April 13, 2021. Staff will incorporate any cost recovery policy direction into the master fee schedule and hold a public hearing for adoption of new fees effective July 1, 2021.

Impact on City Resources

Programming decisions and revenue expectations are incorporated into the city manager’s proposed budget and will guide the development of the operating budget for fiscal year 2021-22. Staff capacity to

receive direction and incorporate changes to the cost recovery policy and master fee schedule are included in the amended fiscal year 2020-21 budget.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Proposed user fee cost recovery policy, City Council Procedure #CC-10-001
- B. San Mateo County Library – Recommendation for fine-free policy
- C. Program revenues

Report prepared by:

Dan Jacobson, Assistant Administrative Services Director
Adriane Lee Bird, Assistant Community Services Director
Sean Reinhart, Director of Library and Community Services



User Fee Cost Recovery

City Council [Procedure #CC-10-001](#)
[PROPOSED effective March 10, 2021](#)
 701 Laurel St., Menlo Park, CA 94025
 tel 650-330-6620

<p>Purpose</p> <p>A clear User Fee Cost Recovery Policy will allow the City of Menlo Park to provide an ongoing, sound basis for setting fees that allows charges and fees to be periodically reviewed and updated based on predetermined, researched and supportable criteria that can be made available to the public.</p>
<p>Background</p> <p>In 2005 the <i>Your City/Your Decision</i> community driven budget process provided community direction and initial information on approaches to cost recovery of services. In 2007, the Cost Allocation Plan provided further basis for development of a standardized allocation system by providing a methodology for data-based distribution of administrative and other overhead charges to programs and services. The Cost of Services Study completed in 2008 allowed the determination of the full cost of providing each service for which a fee is charged and laid the final groundwork needed for development of a values-based and data-driven User Fee Cost Recovery Policy. A draft User Fee Cost Recovery Policy was presented for consideration by the Council at a Study Session on February 10, 2009. Comments and direction from the Study Session were used to prepare this Fiscal Policy.</p>
<p>Policy</p> <p>The policy has three main components:</p> <ol style="list-style-type: none"> 1. Provision for ongoing review 2. Process of establishing cost recovery levels <ul style="list-style-type: none"> • Factors to be Considered 3. Target Cost Recovery Levels <ul style="list-style-type: none"> • Social Services and Recreation Programs • Development Review Programs • Public Works • Police • Library • Administrative Services
<p>Provision for ongoing review</p> <p>Fees will be reviewed at least annually in order to keep pace with changes in the cost of living and methods or levels of service delivery. In order to facilitate a fact-based approach to this review, a comprehensive analysis of the city's costs and fees should be made at least every five years. In the interim, fees will be adjusted by annual cost factors reflected in the appropriate program's operating budget.</p>
<p>Process of establishing service fee cost recovery levels</p> <p>The City of Menlo Park provides services and infrastructure that contribute to quality-of-life for all Menlo Park residents. In so doing, the City strives to balance the resources and requirements of each area of the city in an equitable manner for all residents, in all neighborhoods of the City. The City of Menlo Park prioritizes social justice in decisions that affect residents' lives: the fair, just and equitable management of all institutions serving the public directly or by contract; the fair, just and equitable distribution of public services and implementation of public policy; and the commitment to promote fairness, justice, and equity in the formation of public policy.</p> <p>The following factors will be considered when setting service fees and cost recovery levels</p> <ol style="list-style-type: none"> 1. Community-wide vs. special benefit <ul style="list-style-type: none"> • The use of general purpose revenue is appropriate for community-wide services while user fees are appropriate for services that are of special benefit to individuals or groups. Full cost recovery is not always appropriate. 2. Service Recipient Versus Service Driver <ul style="list-style-type: none"> • Particularly for services associated with regulated activities (development review, code enforcement), from which the community primarily benefits, cost recovery from the "driver" of the need for the service (applicant, violator) is appropriate. 3. Consistency with City public policies and objectives <ul style="list-style-type: none"> • City policies and Council goals focused on long term improvements to community quality of life may also impact desired fee levels as fees can be used to change community behaviors, promote certain

- activities or provide funding for pursuit of specific community goals, for example: health and wellness, environmental stewardship.
4. Impact on demand (elasticity)
 - Pricing of services can significantly impact demand. At full cost recovery, for example, the City is providing services for which there is a genuine market not over-stimulated by artificially low prices. Conversely, high cost recovery may negatively impact lower income groups and this can work against public policy outcomes if the services are specifically designed to serve particular groups.
 5. Discounted Rates and Surcharges
 - Rates may be discounted to accommodate lower income groups or groups who are the target of the service, such as senior citizens or residents.
 - Higher rates are considered appropriate for non-residents to further reduce general fund subsidization of services.
 6. Feasibility of Collection
 - It may be impractical or too costly to establish a system to appropriately identify and charge each user for the specific services received. The method of assessing and collecting fees should be as simple as possible in order to reduce the administrative cost of collection.

Target cost recovery levels

1. Low cost recovery levels (0%-30%) are appropriate if:
 - There is no intended relationship between the amount paid and the benefit received
 - Collecting fees is not cost-effective
 - There is no intent to limit use of the service
 - The service is non-recurring
 - Collecting fees would discourage compliance with regulatory requirements
 - The public at large benefits even if they are not the direct users of the service
 2. High cost recovery levels (70%-100%) are appropriate if:
 - The individual user or participant receives the benefit of the service
 - Other private or public sector alternatives could or do provide the service
 - For equity or demand management purposes, it is intended that there be a direct relationship between the amount paid and the level and cost of the service received
 - The use of the service is specifically discouraged
 - The service is regulatory in nature
 3. Services having factors associated with both cost recovery levels would be subsidized at a mid-level of cost recovery (30% - 70%).
- General categories of services tend to fall logically into the three levels of cost recovery above and can be classified according to the factors favoring those classifications for consistent and appropriate fees. Primary categories of services include:
- Social Services and Recreation Programs
 - Development Review Programs – Planning, and Building
 - Public Works Department – Engineering, Transportation, and Maintenance
 - Public Safety

Social Services and Recreation Programs

Master Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low-cost recovery (0-30%)	Mid-cost recovery (30-70%)	High-cost recovery (70-100%)
Parks				
Page-9	Dog Parks	X		
Page-9	Skate Parks	X		
Page-9	Open Space/Parks	X		
Page-9	Playgrounds	X		
Social Services				

	Senior Transportation	X		
Page-7	Senior Classes/ Events	X		
Page-11	Belle Haven School Age—Title-22		X	
Page-10	Menlo Children's Center—Title-22			X
Master Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low-cost recovery (0-30%)	Mid-cost recovery (30-70%)	High-cost recovery (70-100%)
Social Services—continued				
Page-11	Preschool—Title-22			X
Page-11	Preschool—Title-5		X	
Page-7	Second Harvest	X		
Page-7	Congregate Nutrition		X	
Page-11	Belle Haven Community School		X	
Events/Celebrations				
	City-Sponsored	X		
	City-Wide	X		
	Youth & Teen Targeted	X		
	Cultural	X		
	Concerts	X		
Facility Usage				
	City Functions (e.g. commissions)	X		
	Co-Sponsored Organizations	X		
Page-5,6,7	Non-Profit	X		
Page-9	Fields—Youth (non-profit)		X	
Page-9	Fields—Adult (non-profit)		X	
Page-9	Tennis Courts		X	
Page-10	Picnic Rentals—Private Party			X
Page-5,6,7	Private Rentals			X
Page-9	Fields—for-profit			X
Page-5,6,7,8,9,10	Contracted Venues—for-profit			X
Fee-Assisted Programs				
Page-8	Recreational Swim	X		
Page-8	Swimming Classes	X		

Page 8	Lap Swimming	X		
Page 7	Recreation Classes	X		
Page 11	Open Gym Activities	X		

Master Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low-cost recovery (0-30%)	Mid-cost recovery (30-70%)	High-cost recovery (70-100%)
Recreation Programs				
Page 11	Drop-In Activities		X	
Page 10,11	Camps & Clinics			X
Page 9	Youth Leagues			X
Page 10	Youth Special Interest			X
Page 10	Adult Special Interest			X
Page 12	Gymnastics			X
Page 6,12	Birthday Parties			X
Page 11	Adult League			X

Low Recovery Expectations

Low Recovery Expectations

Low to zero recovery is expected for programs in this category as the community benefits from the service. Non-resident fees if allowed may provide medium cost recovery.

In general, low cost programs or activities in this group provide a community wide benefit. These programs and activities are generally youth programs or activities enhancing the health, safety and livability of the community and therefore require the removal of a cost barrier for optimum participation. Recreation programming geared toward the needs of teens, youth, seniors, persons with disabilities, and/or those with limited opportunities for recreation are included. For example:

- Parks – As long as collecting fees at City parks is not cost-effective, there should be no fees collected for general use of parks and playgrounds. Costs associated with maintaining the City’s parks represent a large cost for which there is no significant opportunity for recovery – these facilities are public domains and are an essential service of City government.
- Social Services – There is no intended relationship between the amount paid and the benefit received for social service programs. Some programs are designed and delivered in coordination/partnership with other providers in Menlo Park.
- Senior Transportation – Transportation is classified as a low cost recovery program because there is no fee charged for the program and the majority of the seniors served cannot afford the actual cost of the service. Donations are solicited, but they are minimal. No fee should be established for this service, as it would threaten ridership and County reimbursements would be withdrawn.
- Senior Classes/Events – The primary purpose of senior classes and events is to encourage participation. The seniors served in these classes do not have the means of paying for the classes and are classified as “scholarship” recipients due to their low income levels. The classes should continue to be offered in collaboration with outside agencies which can offer them for free through state subsidies.
- Second Harvest – Monthly food distributions provide free food to needy families and so contribute a broad community benefit. The coordination and operation of the program is through the Onetta Harris Center staff with volunteers assisting with the distribution of food, to keep costs as low as possible.
- Events/Celebrations – Community Services events provide opportunities for neighborhoods to come together as a community and integrate people of various ages, economic and cultural backgrounds. Events also foster pride in the community and provide opportunities for volunteers to give back. As such, the benefits are community-wide. In addition, collection of fees isn’t always cost effective.
- Facility Usage – Safe and secure facilities for neighborhood problem-solving and provision of other general services support an engaged community and should be encouraged with low or no fees.
- Fee Assisted Recreation Programs – Activities with fee assistance or sliding scales make the programs affordable to all economic levels in the community. Organized activities, classes, and drop-in programs are designed to encourage active living, teach essential life and safety skills and promote life-long learning for broad community benefit.

Medium Recovery Expectation

Medium Recovery Expectations

Recovery of most program costs incurred in the delivery of the service, but without recovery of any of the costs which would have been incurred by the department without the service. Both community and individuals benefit from these services. Non-resident fees if allowed may provide high cost recovery.

- Belle Haven School Age – Title 22 - Licensed Child Care Program – Services to participants in this program are not readily available elsewhere in the community at low cost. The program provides broad community benefit in the form of a safety net for children in the community. Organized activities and programs teach basic skills, constructive use of time, boundaries and expectations, commitment to learning and social competency. Resident fees charged based on San Mateo County Pilot program for full day care that sets fees at no more than 10% of the family’s gross income.
- Preschool Title 5 – The Preschool Program is supported primarily by reimbursement of federal and state grants for low income children. Tuition and reimbursement rates are regulatory.
- Senior Lunches – Congregate Nutrition is classified as a medium cost recovery fee as it asks a donation coupled with a per meal reimbursement from OAA & State funds.
- Belle Haven School Community School – The Community School partners with various non-profit and community-based agencies to provide much needed services to the community – high quality instruction, youth enrichment services, after-school programs, early learning and a family center. Services are open to Belle Haven students, their families and residents of the surrounding neighborhood.
- Field Rentals and Tennis Courts – Costs should be kept low for local non-profit organizations providing sports leagues open to residents and children in the Menlo Park Schools that encourage healthy lifestyles and lifelong fitness. Opportunities exist to collect a reasonable fee for use to defray citywide expenses for tennis facilities and fields.
- Programs – Drop-in programs can be accessed by the widest cross section of the population and therefore have the potential for broad-base participation. Recreation drop-in programs have minimal supervision while providing healthy outlets for youth, teens and adults

High Recovery Expectations

High Recovery Expectations

Present when user fees charged are sufficient to support direct program costs plus up to 100% of department administration and city overhead associated with the activity. Individual benefit foremost and minimal community benefit exists. Activities promote the full utilization of parks and recreation facilities.

- Menlo Children’s Center School Age and Pre-school – Title 22 – Participation benefits the individual user.
- Picnic Areas – Picnic rental reservations benefit the individual but help defray the cost of maintaining parks benefiting the entire community.
- Facility Usage – Facility use is set at a higher rate for the private use of the public facility for meetings, parties, and programs charging fees for services and celebrations.
- Programs – Activities in this area benefit the individual user. Programs, classes, and sports leagues are often offered to keep pace with current recreational trends and provide the opportunity to learn new skills, improve health, and develop social competency. The services are made available to maximize the use of the facilities, increase the variety of offerings to the community as a whole and spread department administration and city-wide overhead costs to many activities. In some instances, offering these activities helps defray expenses of services with no viable means of collecting revenue e.g. parks, playgrounds, etc.
- Contracted Venues – (for profit) – Long term arrangements where a facility is rented or contracted out to reduce general funding expense in order to provide specialized services to residents.

Development Review Services

1. Planning (planned development permits, tentative tract and parcel maps, re-zonings, general plan amendments, variances, use permits)
2. Building and safety (building permits, structural plan checks, inspections)

Master's Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low-cost recovery (0-30%)	Mid-cost recovery (30-70%)	High-cost recovery (70-100%)
Planning				
Page 24	Appeals of Staff Decisions	X		
Page 24	Appeals of Planning Commission Decisions by Residents	X		
	Subsequent Appeals			X
Page 24	Temporary Sign Permits	X		
Page 23	Use Permits— Non-Profits	X		
Page 24	Administrative Reviews—Fences		X	
	Appeals of Planning Commission Decisions by Non-Residents			X
Page 23	Administrative Reviews—Other			X
Page 23	Architectural Control			X
Page 23	Development Permits			X
Page 23	Environmental Reviews			X
Page 23	General Plan Amendments			X
Page 24	Tentative Maps			X
Page 24	Miscellaneous— not listed elsewhere			X
	Reviews by Community Development Director of Planning Commission			X
Page 23	Special Events Permitting			X
Page 23	Study Sessions			X

Master's Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low-cost recovery (0-30%)	Mid-cost recovery (30-70%)	High-cost recovery (70-100%)
Planning—continued				
Page 24	Zoning Compliance Letters			X
Page 23	Signs and Awnings			X
Page 23	Use Permits—other			X
Page 23	Variances			X
Page 23	Zoning Map Ordinance Amendments			X
Building and safety				
Page 28-48	Solar Installations		X	
	Building Permits			X
	Mechanical Permits			X
	Electrical Permits			X
	Plumbing Permits			X
	Consultant Review			X
Low Recovery Expectations				
<p>Low Recovery Expectations</p> <p>Low to zero recovery is expected for services in this category to maintain open and accessible government processes for the public, encourage environmental sustainability and encourage compliance with regulatory requirements. Example of Low Recovery items:</p> <ul style="list-style-type: none"> • Planning – The fees for applicants who wish to appeal a Staff Decision or for a Menlo Park resident or neighbor from an immediately adjacent jurisdiction who wishes to appeal a decision of the Planning Commission is purposefully low to allow for accessibility to government processes. • Planning – Temporary sign permit fees are low so as to encourage compliance. • Building – The elimination or reduction of building permits for solar array installations is consistent with California Government Code Section 65850.5, which calls on local agencies to encourage the installation of solar energy systems by removing obstacles to, and minimizing costs of, permitting for such systems. 				
Mid-level Recovery Expectations				
<p>Medium Recovery Expectations</p> <p>Recovery in the range of 30% to 70% of the costs incurred in the delivery of the service reflects the private benefit that is received while not discouraging compliance with the regulation requirements.</p> <ul style="list-style-type: none"> • Planning – Administrative permits for fences that exceed the height requirements along Santa Cruz Avenue are set at mid-level to encourage compliance. 				

High Recovery Expectations

High Recovery Expectations

Cost recovery for most development review services should generally be high. In most instances, the City’s cost recovery goal should be 100%.

- Planning – Subsequent Appeals - The fees for applicants who are dissatisfied with the results of a previous appeal of an administrative permit or a decision of the Planning Commission should be at 100% cost recovery.
- Planning – Most of the Planning fees charged are based on a “time and materials” basis, with the applicant/customer being billed for staff time (at a rate that includes overhead cost allocations) and the cost of actual materials or external services utilized in the delivery of the service.
- Building – Building fees use a cost-basis, not a valuation basis, and are flat fees based on the size and quantities of the project.

Public Works Department – Engineering Transportation, and Maintenance

1. Engineering and Transportation (public improvement plan checks, inspections, subdivision requirements, encroachments)
2. Transportation (red curb installation, truck route permits, traffic signal repairs from accidents)
3. Maintenance (street barricades, banners, trees, special event set-up, damaged city property)

Master-Fee Schedule-Page #'s	General categorization of programs, Services, Activity, and facilities	Low-cost recovery (0-30%)	Mid-cost recovery (30-70%)	High-cost recovery (70-100%)
Engineering				
Page-25	Heritage Tree	X		
Page-25	Appeals to Environmental	X		
	Appeals to Environmental Quality Commission and City Council	X		
	Bid Packages	X		
Page-19	Plotter Prints		X	
Page-19	Encroachment Permits for City-mandated repair work (non-temporary)		X	
Page-25	Heritage Tree Removal Permits 1-3 trees		X	
Page-19	City Standard Details		X	
Page-20	Improvement Plan			X
Page-20	Plan Revisions			
Page-21	Construction Inspections			X
Page-20	Maps/ Subdivisions			X
	Real Property			X
Page-19	Abandonments			X
Page-19	Annexations			X

Page-21	Certificates of Compliance			X
Master Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low-cost recovery (0-30%)	Mid-cost recovery (30-70%)	High-cost recovery (70-100%)
Engineering—continued				
Page-20	Easement Dedications			X
Page-20	Lot Line Adjust/Merger			X
Page-19	Encroachment Permits			X
Page-19	Completion Bond			X
	Processing Fee			X
Page-25	Heritage Tree Permits after first 3 trees			X
Page-16	Downtown Parking Permits			X
Transportation				
Page-22	Red Curb Installation	X		
Page-22	Truck Route Permits	X		
Page-22	Traffic Signal Accident			X
Page-22	Aerial Photos			X
Maintenance				
Page-22	Tree Planting	X		
Page-22	Banners—Santa Cruz Avenue			X
Page-22	Barricade replacement			X
Page-22	Weed Abatement			X
Page-22	Special Event set-up— for-profit use			X
Page-22	Special Event set-up— for non-profits use		X	
Page-22	Damaged City property			X

Low Recovery Expectations

Low Recovery Expectations

Low to zero recovery is expected for services in this category as the community benefits from the service. In general, low cost services in this group provide a community-wide benefit. These services generally are intended to enhance or maintain the livability of the community and therefore require the removal of a cost barrier to encourage use. However, in some instances the maximum fee that can be charged is regulated at the State or Federal level and therefore the City fee is not determined by City costs (truck route permits, copies of documents). Examples of Low Recovery items:

- Maintenance – Tree Plantings is classified as a low cost recovery fee to replacement of trees removed due to poor health and to encourage new tree plantings.
- Transportation – Red Curb Installation is classified as a low cost recovery fee for support traffic/parking mitigation requests to address safety concerns of residents and businesses.
- Transportation – Truck Route Permits Fees – maximum fee set by State Law.
- Engineering – Heritage Tree Appeals is classified as a low cost recovery fee to insure that legitimate grievances are not suppressed by high fees.
- Engineering – Bid Packages are provided at a low cost to encourage bid submissions thereby insuring that the City receives sufficient bids to obtain the best value for the project to be undertaken.

Medium Recovery Expectations

Medium Recovery Expectations

Recovery in the range of 30% to 70% of the costs incurred in the delivery of the service. Typically, both the community and individuals benefit from these services.

- Engineering – Encroachment Permits for City-mandated repairs are classified as a medium cost recovery. Since the property owner is paying for the cost of construction but is required by ordinance to perform it promptly, a discounted fee for the permit is appropriate.

High Recovery Expectations

High Recovery Expectations

Recovery in the range of 70% to 100% when user fees charged are sufficient to fully recover costs of providing the service. Individual benefit is foremost and minimal community benefit exists. Most services provided by the Public Works Department fall in this area.

- Engineering – Encroachment Permits where the public right of way is used or impacted on a temporary or permanent basis for the benefit of the permittee. Debris Boxes are such an example
- Transportation – Traffic Signal Accident repair cost is the responsibility of the driver/insurer.
- Maintenance – Weed Abatement performed by Public Works staff to address ongoing code violation.
- Maintenance – Banners on Santa Cruz Avenue and El Camino Real.

Public Safety – Police Services

(Case Copies, False Alarms, Parking Permits, Abatements, Emergency Response, Background Investigations, Tow Contract)

Master Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low-cost recovery (0-30%)	Mid-cost recovery (30-70%)	High-cost recovery (70-100%)
Page-14	Case-Copies	X		
Page-15	Citation-Sign-Off-Residents	X		
Page-1,15	Document-Copies	X		
Page-14	Bicycle-Licenses	X		
Page-16	Overnight Parking Permits			X
Page-16	Residential Parking Permits	X		
Page-15	Property Inspection—Code Enforcement	X		
Page-15	Real Estate Sign Retrieval	X		
Page-14	False Alarm—Low Risk		X	
Page-15	Rotation Tow Service Contract		X	
Page-15	Repossession Fee		X	
Page-14	False Alarm—High Risk			X
Page-14	Good Conduct Letter			X
Page-14	Preparation Fees			X
Page-14	Research Fee			X
Page-14	Civil Subpoena Appearance			X
Page-14	Finger-Printing Documents			X
Page-15	Background Investigations			X
Page-14	Notary Services			X
Page-14	Vehicle Releases			X
Page-14	DUI—Emergency Response			X
Page-15	Intoximeter Rental			X
Page-15	Street Closure			X
Page-15	Unruly Gatherings			X
Page-18	Abatement			X

Low Recovery Expectations

Low Recovery Expectations

Low to zero recovery is expected for services in this category as the community generally benefits from the regulation of the activity. The regulation of these activities is intended to enhance or maintain the livability of the community. However, in some instances the maximum fee that can be charged is regulated at the State or Federal level and therefore the City fee is not determined by City costs (copies of documents).

Medium Recovery Expectations

Medium Recovery Expectations

Recovery in the range of 30% to 70% of the costs of providing the service. Both community and individuals benefit from these services.

- False Alarm – primarily residential and low cash volume retail. Alarm response provide a disincentive to crime activity. However excessive false alarms negatively impact the ability of prompt police response to legitimate alarms.

High Recovery Expectations

High Recovery Expectations

Recovery in the range of 70% to 100% when user fees charged are sufficient to recover costs of the service provided. Individual benefit is foremost and minimal community benefit exists. Items such as False Alarm, DUI Emergency Response, Vehicle Releases, Unruly Gathering, and Abatements are punitive in nature and the costs should not be funded by the community. Items such as Good Conduct Letter, Preparation Fees, Research Fee, Finger Printing, Background Investigations, and Notary Service primarily benefit the individual. 100% of the cost for services in these areas is typical.

- Overnight Parking Permits – the fee charged for One Night Parking Permits fall into Low Cost Recovery, however when combined with the fees collected from the issuance of Annual Permits the result is the program should achieve High Cost Recovery.
- Street Closure – primarily residential for activities within a defined area. This service is provided for public safety and therefore is provided at a rate below 100% cost recovery.

Library

(Library Cards, ~~Overdue Fines~~, etc.) – fees are primarily established by the Peninsula Library Service. No overdue fines will be charged.

Administrative Services

(Copying Charges, Postage, etc.) – fees are primarily set by regulations and are generally high cost recovery of pass-thru charges.

Procedure history

<u>Action</u>	<u>Date</u>	<u>Notes</u>
<u>Procedure adoption</u>	<u>March 9, 2010</u>	
<u>Procedure update</u>	<u>March 9, 2021 (Proposed)</u>	



To: JPA Governing Board
From: Anne-Marie Despain, Director of Library Services
Nicole Pasini, Deputy Director of Library Services
Date: September 12, 2018
Meeting: September 17, 2018
Re: Recommendation for Fine-Free Policy

Background

Libraries have historically charged fines for the late return of materials in an effort to incentivize timely return of materials and to raise revenue. Currently, San Mateo County Libraries fines for materials for adult patrons are assessed at \$0.25 per day, limited to a maximum late charge of \$8 per item, or the equivalent of 32 days late. When patron accounts owe more than \$15, the patron is blocked from checking out library materials.

In July 2016, San Mateo County Libraries introduced fine-free library cards for children and teens, and the first year brought great results. Children's circulation increased by 28% in the first year and another 18% in the second year, and registration for new library cards increased by 70% in year one and 12% in year two. Building on the success of fine-free youth cards and recognizing that late fines can be a significant barrier to library access particularly among individuals with low or fixed incomes or who have transportation issues, the Library implemented fine-free library cards for seniors age 62 and older beginning in January 2018. Currently, we have 20,000 patrons registered for senior cards and have seen an 8% increase in circulation in the first six months of the program.

Many public libraries across the nation are increasingly eliminating overdue fines in recognition that fines serve no positive purpose, instead acting as a significant and inequitable barrier to service. There is an increasing body of research and direct experience that supports the elimination of fines. Libraries that have moved to a more customer-focused policy have reported these key findings:

- Fines negatively impact library use, particularly by lower income people.
- Fines do not effectively incentivize on-time return of materials.
- Fine revenue is less than the cost of the staff time to collect fines.
- Elimination of fines results in higher use, increased customer satisfaction and improved staff morale.

These findings and the recent success of our fine-free youth and senior cards lead the Library to recommend the elimination of fines for late return of material.

Discussion

Unequal Impact

Our patrons are not unique in the unequal impact of fines on low-income communities. Both the Berkeley Public Library and Baltimore's Enoch Pratt Free Library reported that, prior to eliminating late fines, the majority of the residents blocked from using the library were from the poorest neighborhoods in their cities. Colorado State Library issued a White Paper in 2016 entitled, *Removing Barriers To Access*, that explored the impact of fines and fees on access to library services for children. This comprehensive study concluded that fines are punitive, not educational incentives, and the threat of accumulating fines for overdue materials is keeping low-income families away from libraries, or from checking out items to take home. Additionally, based on the research, fine-free policies are more user-friendly and will bring more community members into the library, especially low-income populations who need library services the most.

Late fines are a regressive penalty that more negatively impact lower income communities. 19% of East Palo Alto patrons and 13% of Bookmobile patrons, who largely live in unincorporated areas, had blocked accounts for fines above \$15, which exceed the 8% overall average for San Mateo County Libraries. Additionally, it is notable that in the last fiscal year, patrons from the East Palo Alto Library, Half Moon Bay Library and Bookmobile accounted for less than 11% of our circulation but accounted for approximately 45% of total money owed.

Incentivizing Returns

Library fines have not proven to be an effective deterrent to returning items late. In Columbus, Ohio, the library board eliminated overdue fines starting on January 1, 2017, when their data showed that fines did nothing to encourage the timely return of materials. The Colorado study agrees, finding that the profession has little empirical evidence that charging fines results in greater circulation of library materials or the return of items in a timely manner. Conversely, Vermont's Milton Public Library found that after doing away with fines, more people returned books on time and Illinois' Vernon Area Public Library noted that the average number of days items are overdue dropped 42 percent after eliminating fines. Six months after fines were eliminated at Colorado's High Plains Library District, 95% of materials were returned within a week of the due date.

Behavioral Economist Uri Gneezy at the University of California, San Diego, found that library fines are too small to be an effective deterrent, and without money in the mix, readers would be more likely to return books on time because they would feel it's the right thing to do. The vast majority of our patrons already return library materials in a timely manner. In a snapshot of our cardholders in July 2018, 74% of patrons owed no fines.

Revenue or Cost

Library material fees and fines are not a significant revenue source for San Mateo County Libraries and are declining with the increasing use of digital materials, and implementation of automatic renewals and fine-free youth and senior cards. Revenue from this source in FY 2017-18 was \$189,446, amounting to only 0.6% of total revenue. Current revenue estimates included in this year's budget are \$99,000. Even if fines are eliminated,

we would still maintain our current practice of billing patrons for lost or damaged items that are not returned 30 days after the due date and removing the bill from the patron's account when the items are returned.

Revenue attributed to overdue fines is small, but the staff time involved in collecting and depositing small amounts of fines is significant for libraries. San Rafael Public Library analyzed fine transactions and determined that each transaction requires approximately ten minutes of staff time when factoring in all the collecting, tracking and accounting of overdue fines. San Diego Public Library eliminated late fees in April after finding that it costs \$1,000,000 in staff time to collect an average of \$700,000 in fees each year. The Colorado study concluded that the administrative costs, including equipment and staff time, often equal or exceed the revenue earned from library fines and fees. San Mateo County Libraries have a strong history of maximizing and aligning staff resources towards high-impact, meaningful work that positively engages our community and promotes library resources and facilities; time spent collecting fines is not in alignment with these values.

Return on Investment

The return on investment for eliminating fines is high. Like San Mateo County Libraries, the Salt Lake City Public Library reported that when they eliminated fines, the library lost less than 1% of its budget in exchange for significant increases in use, including an 11% increase in circulation, an 11% increase in borrowers and a 4% increase in new card registrations. Every library contacted that eliminated late fines reported overwhelmingly positive responses from patrons, and most reported that people who stopped using the library for financial reasons returned.

Conclusion

Ample research suggests that fines do not serve their intended purpose of promoting the timely return of materials and instead create significant barriers to library access. Evidence also suggests that the small loss in revenue will most likely be offset by staff savings associated with the management of late fees, and would result in significant increases in library use, customer and staff satisfaction, and benefit to the community. Late fines are in opposition to our strategic goals of ensuring equitable access, creating welcoming experiences, and growing a culture of learning and participation. Based on the evidence and our mission and values, a new fine-free policy is recommended.

Fiscal Impact

Revenue from fines, fees and material replacement payments are currently estimated at \$99,000. A decrease of \$75,000 is included in the FY 2018-19 Final Adopted Budget to account for recent customer service enhancements and this recommended policy change.

Recommendation


Recommend JPA Library Governing Board direct staff to create a policy for approval that eliminates overdue fines for late return of library materials. Operations Committee members present at the September 11, 2018, meeting concurred with this recommendation.

Revenues. All recreation / community services programs

Program area	2018-19 audited actuals (\$ thousands)					2019-20 audited actuals (\$ thousands)				
	Revenues	Expenditures	Net General Fund subsidy/(surplus)	Cost Recovery Percent		Revenues	Expenditures	Net General Fund subsidy/(surplus)	Cost Recovery Percent	
Pre-School Childcare	2,446	2,950	504	82.9%		2,422	2,906	483	83.4%	
School-Age Childcare	533	761	228	70.0%		377	790	412	47.8%	
Gymnastics	1,257	1,167	(90)	107.8%		961	1,138	177	84.4%	
Contract Classes	715	968	253	73.9%		497	886	388	56.2%	
Seniors	367	623	256	58.9%		99	708	609	14.0%	
Youth Sports	527	536	8	98.5%		305	476	170	64.2%	
Adult Sports	178	352	174	50.5%		191	294	103	65.0%	
Neighborhood Services	109	591	483	18.4%		62	490	428	12.6%	
Aquatics	85	663	578	12.8%		85	575	490	14.7%	
Events & Concerts	59	479	419	12.4%		28	389	361	7.2%	
Community Facilities Services	362	295	(68)	122.9%		262	323	61	81.2%	
Total	6,639	9,385	2,746	70.7%		5,290	8,974	3,684	59.0%	

Revenues. Recreation programs for ages 0-5 years. FY 2018-19			
Location	Gross revenues (user fees)	Instructor payments	Net revenues
ARC	47,147	25,925	21,222
Gymnasium	188,878	109,010	79,867
OHCC	2,774	75	2,699
Total	238,798	135,011	103,788

Revenues. Library overdue fines	
Fiscal year	Revenues
2020-21 Budget	42,000
2019-20 Estimated actuals	42,000
2019-20 Adopted	42,000
2018-19 Actual	40,538
2017-18 Actual	63,846
2016-17 Actual	61,801
2015-16 Actual	59,171
2014-15 Actual	83,732
2013-14 Actual	101,307
2012-13 Actual	101,892



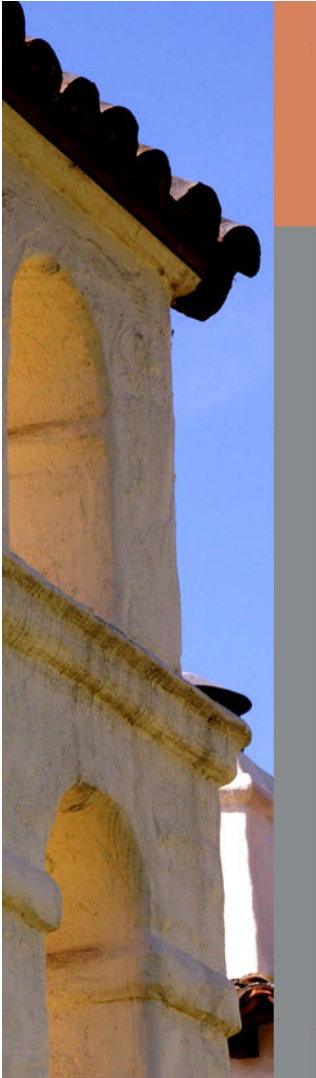
**COST RECOVERY POLICY - EQUITY STATEMENT, LIBRARY
OVERDUE FINES, RECREATION USER FEES**

City Council Meeting – March 9, 2020



RECOMMENDATIONS

- Amend the cost recovery policy to include new equity statement
- Eliminate library overdue fines
- Pilot: Citywide need-based recreation program scholarships
- Pilot: Suspend resident user fees for children ages 0-5 in music, dance, movement, and intro to sports
- Pilot: “Recreation Rx” – health and wellness “prescription” recreation passes for at-risk residents
- Pilot program details would be developed and presented for City Council approval in context of FY 2021-22 budget deliberations



PROPOSED EQUITY STATEMENT

The City of Menlo Park provides services and infrastructure that contribute to quality-of-life for all Menlo Park residents. In so doing, the City strives to balance the resources and requirements of each area of the city in an equitable manner for all residents, in all neighborhoods of the City.

The City of Menlo Park prioritizes social justice in decisions that affect residents' lives: the fair, just and equitable management of all institutions serving the public directly or by contract; the fair, just and equitable distribution of public services and implementation of public policy; and the commitment to promote fairness, justice, and equity in the formation of public policy.



LIBRARY OVERDUE FINES



- Multiple Bay Area library jurisdictions have eliminated library overdue fines
- Studies show that overdue fines disproportionately impact low-income residents and communities of color
- Administrative and staffing costs to track and collect fines exceed the value of the fines collected
- Projected library overdue fines revenue in FY 2020-21: \$42,000
- Master fee schedule update: April 13



NEED-BASED SCHOLARSHIPS



- Current need-based scholarship/ fee assistance programs
 - One-to-One Scholarship: Fee waivers, subsidies – 58 participants
 - Gymnastics: Reduced hourly rate – 15 participants
 - Aquatics: Youth swim lessons – 271 participants

- Pilot: Citywide recreation scholarships for income-qualified residents
 - Would reduce financial barriers to access
 - 75% fee reduction for residents who show proof of other public assistance
 - Nominal participation fee of 25%; can also be waived if desired by City Council
 - Qualified participants receive up to one class or activity per season
 - Maximum annual scholarship value \$250/individual or \$500/family
 - City Council can set different limits if desired



USER FEES – RECREATION PROGRAMS FOR CHILDREN 0-5 YEARS



- Pilot: Suspend resident user fees for recreation programs targeted to children ages 0-5 years
 - Would eliminate barriers to participation based on financial status
 - Similar precedent: Free public library programs – storytime, arts/crafts, language
 - Target population: Menlo Park resident children ages 0-5 years
 - Program focus: Music, dance, movement, intro to sports
 - Current approximate annual revenues: \$238,000 gross (user fees); \$103,000 net (after instructor payments)
 - Would not apply to childcare, summer camps or gymnastics which require higher levels of care and investment and are placed higher in the cost recovery policy.



RECREATION RX – HEALTH & WELLNESS PASSES



- Pilot: “Recreation prescriptions” in the form of passes to city programs focused on health and wellness
 - Would promote and facilitate wellness for residents in at-risk communities
 - Local nonprofit health provider could “prescribe” health and wellness programs to eligible patients
 - Passes would be redeemable for participation in city health and wellness programs.



RECOMMENDATIONS

- Amend the cost recovery policy to include new equity statement
- Eliminate library overdue fines
- Pilot: Citywide need-based recreation program scholarships
- Pilot: Suspend resident user fees for children ages 0-5 in music, dance, movement, and intro to sports
- Pilot: “Recreation Rx” – health and wellness “prescription” recreation passes for at-risk residents
- Pilot program details would be developed and presented for City Council approval in context of FY 2021-22 budget deliberations



STAFF REPORT – CONTINUED AND UPDATED FROM ~~3/23/2021~~ 4/6/2021

City Council

Meeting Date: ~~4/6/2021~~ 4/13/2021

Staff Report Number: 21-070-CC

Regular Business: Approve framework for use of American Rescue Plan Act funds

Recommendation

Staff recommends that City Council approve a framework for use of the American Rescue Plan Act (ARPA) funds, totaling approximately \$6.53 million, including:

1. Structural purposes such as regular staffing or one-time purposes such as transfers to private nonprofit groups
2. Expenditure timeline, including the total amount to be used in the fiscal year 2021-22 budget

Policy Issues

The City Council controls budgetary appropriations, including stimulus funds provided to mitigate the impacts of the COVID-19 public health emergency.

Background

The ARPA of 2021 was passed by both houses of the U.S. Congress and signed into law by President Biden March 11, 2021. The bill, intended to mitigate many of the worst effects of the COVID-19 pandemic, includes \$1.9 trillion in stimulus measures and ranges from targeting individual families, health care, affected sectors and government action. A longer discussion of the ARPA is provided in Attachment A.

Analysis

As the City Council considers the direct aid portion of the ARPA, approximately \$6.53 million, the major factors under consideration are the intended uses and the time frame under which the funds will be expended.

Intended use

The City Council has wide latitude for use of the funds, though some purposes such as pension payments, are restricted. The City Council may direct that the funds are used for structural or ongoing uses, such as authorizing staffing, or for one-time uses in recognition that the ARPA is one-time money, or some combination of purposes.

Structural use

The typical recommendation for one-time money is not for structural uses. However, the most recent recession experienced by the City included a fairly rapid return of lost revenues and there is a reasonable expectation that the post-pandemic recovery will behave similarly, particularly for transient occupancy tax (TOT or hotel tax), included in the most recent General Fund revenue forecast, Table 1. For this reason, the recommendation to not use one-time money for structural purposes is less strong.

Table 1: Five-year General fund revenue forecast						
Revenue category	Fiscal year					
	2020-21 estimate	2021-22 estimate	2022-23 estimate	2023-24 estimate	2024-25 estimate	2025-26 estimate
Taxes						
Secured property tax	28,214,354	29,674,402	30,071,706	31,056,234	37,634,954	35,675,459
Unsecured property tax	685,768	840,057	699,778	720,537	624,771	684,538
Other property taxes	1,418,871	1,719,257	2,251,197	2,367,208	2,158,517	2,831,782
Sales taxes	6,294,432	5,042,076	5,490,251	5,444,641	5,541,426	5,908,559
Hotel taxes	4,716,997	7,239,940	8,564,375	10,258,746	12,104,187	14,514,212
Other taxes	5,234,441	6,194,231	6,878,024	7,564,891	8,285,053	9,371,078
Licenses and permits	2,250,000	2,167,041	2,563,412	2,916,322	3,519,339	4,575,383
Fines and forfeitures	100,000	93,036	86,197	96,518	90,272	113,332
Use of money and property	2,476,696	1,203,651	816,249	1,079,324	805,320	970,495
Intergovernmental	1,134,239	1,124,353	1,208,171	718,891	537,790	551,350
Charges for services	8,863,033	9,953,605	10,022,775	12,882,503	13,541,679	14,675,106
Other	44,200	47,150	28,964	24,862	20,345	23,622
Stimulus	6,531,000	-	-	-	-	-
Total	67,964,031	65,298,801	68,681,099	75,130,678	84,863,652	89,894,916

One-time use

At the discretion of the City Council, one-time money may be used for discrete projects rather than structural uses. Examples may include updates to facilities to prepare for post-pandemic uses. This option may also be combined with the structural use.

Expenditure timeline

ARPA funds may be used any time between receipt, anticipated to be split evenly between the end of fiscal year 2020-21 and the beginning of fiscal year 2021-22, and December 31, 2024. City Council may direct funds to be used at any time during that time frame, so long as all funds are fully expended by the end date. Given the aforementioned likely return of structural revenues affected by the pandemic, City Council may direct a front-loaded use schedule in order to use ARPA funds as a temporary replacement for the lost revenue. Alternately, the City Council may direct staff to not incorporate ARPA funds into the fiscal year 2021-22 budget in anticipation of future identification of uses.

Next steps

1. City manager’s fiscal year 2021-22 proposed budget – May 7, 2021
2. Public hearing for fiscal year 2021-22 budget – June 8, 2021
3. Fiscal year 2021-22 budget adoption – June 22, 2021

Impact on City Resources

Direction received from City Council will be incorporated into the city manager's proposed budget and will affect the development of the operating budget for fiscal year 2021-22 and future years. Staff capacity to incorporate direction into the city manager's proposed budget is included in the amended fiscal year 2020-21 budget.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Hyperlink – Update on American Rescue Plan Act funds:
menlopark.org/DocumentCenter/View/27677/J6-20210323-CC-American-Rescue-Plan-Act-funds-update

Report prepared by:
Dan Jacobson, Assistant Administrative Services Director

Agenda item K4 Lynne Bramlett, Resident

The March 23, 2021 Brookings Institute online article, “How should local leaders use their American Rescue Plan funding” gives suggestions for spending the Rescue money:

1. The first is to create a team to generate ideas: The “elected officials – and the networks of civic, business, philanthropic, and community stakeholders that surround them – should take a three-pronged approach to using their ARP funding: stabilize, strategize and organize.” A team approach would generate more ideas, and it could “curate the ideas” and prioritize recommendations.
2. The second is to “organize” and to use a team approach to deploying the solutions. The article suggests creating a “Regional Recovery Coordinating Council of “public private partnerships that include small businesses, neighborhood leaders, social service agencies, philanthropic leaders and corporate heads. They would be tasked with aggregating and supplementing existing recovery plans, setting goals, recommending investments, and tracking results.”

A small stakeholder working group would generate more innovative ideas and help Council to avoid making quick decisions that “can exacerbate economic and racial inequality.” Council has until the “end of 2024 to spend all the funds.” The Rescue Plan funding process can help drive needed change towards generating more ideas and deploying them.

Menlo Park is also missing out on Grant money. We missed out on a City reply in response to Congresswoman Jackie Speier and Anna Eshoo’s request for projects for the “Community Project funding” through the BRIC grants. That’s not the only grant money we missed. The 2020 report, “Summary of Federal Grant Funding to the State of California,” shows how little Menlo Park obtained in comparison with some others. Just imagine what we could do with the \$32,264,490 that Yuba City got (population of 66,516) or the \$24,860,348 that Santa Monica got (population of 91,577).

I realize that the comparison is not apples-to-apples as I don’t know what grants the other jurisdictions obtained. However, the numbers show a startling comparison. The population numbers are from 2019 with online Census data. Please see the below. I also did a little additional research at the City of Sunnyvale’s job posting site while searching under "grant writer." Based on the jobs that pulled up, "funded by grants," it appears that Sunnyvale has at least five staff positions funded through grants. Again, this is preliminary data but it suggests that grant funding could be a most promising source of potential revenue.

- Menlo Park -- \$177,516 (population of 34,138)
- Pacifica -- \$2,643,686 (population of 38,984)
- Saratoga -- \$3,375,224 (population of 30,697)
- East Palo Alto -- \$5,133,020 (population of 29,593)
- Palo Alto -- \$1,067,350 (population of 66,573)
- San Leandro -- \$6,457,880 (population of 90,000)
- Sunnyvale -- \$13,871,936 (population of 152,770)



AMERICAN RESCUE PLAN ACT FUNDS

April 6, 2021



ARPA FUNDS FRAMEWORK

- Intended use of funds
 - Structural use, short-term replacement of lost revenue
 - One-time use, discrete projects or grants
- Expenditure timeframe
 - Fiscal year 2021-22
 - Fiscal years 2022-23 through 2024-25
 - Funds must be expended by December 31, 2024, fiscal year 2024-25



ARPA OVERVIEW

- Aid to households, states, municipalities, education, healthcare
- City of Menlo Park direct aid
 - \$6.531 million estimate
 - Based on population
- Wide latitude in use of funds
 - Replacement for lost revenue such as transient occupancy tax (TOT or hotel tax)
 - Investments in infrastructure
 - Aid to other organizations such as non-profits
 - May not be used for pension funding

INTENDED USE

- Structural purposes
 - Ongoing needs, such as service to the community suspended/reduced due to budget cuts
 - Replaced by return of structural revenues in future years
- One-time uses
 - Grants to other organizations
 - Discrete projects such as vaccination events
- Other considerations





EXPENDITURE TIMELINE

- Fund expenditure deadline: December 31, 2024
- Spans up to five fiscal years, 2020-21 through 2024-25
- Front-loading example
 - 60 percent fiscal year 2021-22, \$3.92 million
 - 30 percent fiscal year 2022-23, \$1.96 million
 - 10 percent fiscal year 2023-24, \$0.65 million
- Even expenditures example - \$150,000 per month
- Other – most urgent component is fiscal year 2021-22 amount



ARPA FUNDS FRAMEWORK

- Intended use of funds
 - Structural use, short-term replacement of lost revenue
 - One-time use, discrete projects or grants
- Expenditure timeframe
 - Fiscal year 2021-22
 - Fiscal years 2022-23 through 2024-25





STAFF REPORT

City Council Meeting Date: 4/13/2021
Staff Report Number: 21-072-CC

Informational Item: City Council agenda topics: April – May 2021

Recommendation

The purpose of this informational item is to provide the City Council and members of the public access to the anticipated agenda items that will be presented to the City Council. The mayor and city manager set the City Council agenda so there is no action required of the City Council as a result of this informational item.

Policy Issues

In accordance with the City Council procedures manual, the mayor and city manager set the agenda for City Council meetings.

Analysis

In an effort to provide greater access to the City Council's future agenda items, staff has compiled a listing of anticipated agenda items, Attachment A, through May 11, 2021. The topics are arranged by department to help identify the work group most impacted by the agenda item.

Specific dates are not provided in the attachment due to a number of factors that influence the City Council agenda preparation process. In their agenda management, the mayor and city manager strive to compile an agenda that is most responsive to the City Council's adopted priorities and work plan while also balancing the business needs of the organization. Certain agenda items, such as appeals or State mandated reporting, must be scheduled by a certain date to ensure compliance. In addition, the meeting agendas are managed to allow the greatest opportunity for public input while also allowing the meeting to conclude around 11 p.m. Every effort is made to avoid scheduling two matters that may be contentious to allow the City Council sufficient time to fully discuss the matter before the City Council.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

A. City Council agenda topics: April – May 2021

Report prepared by:
Judi A. Herren, City Clerk

Tentative City Council Agenda

#	Title	Department	Item type	City Council action
1	Finance and Audit Committee work plan progress report	ASD	Committee Report	Receive and file
2	Approve framework for use of American Rescue Plan Act funds	ASD	Regular	Approve
3	Labor relations - SEIU, AFSCME, POA, Unrepresented	ASD	Closed Session	Direction to staff
4	Master Fee Schedule update effective July 1, 2021	ASD	Public Hearing	Adopt resolution
5	Quarterly financial operations report	ASD	Consent	Receive and file
6	Quarterly investment report	ASD	Consent	Receive and file
7	ConnectMenlo community amenities	CA	Study Session	Direction to staff
8	ConnectMenlo community amenities subcommittee report	CA	Subcommittee report	Direction to staff
9	Revise community amenities resolution	CA	Regular	Adopt resolution
10	710 Willow Road appeal of use permit denial for alcohol sales	CDD	Public Hearing	Adopt resolution
11	Authorize CDD consultant contracts	CDD	Consent	Contract award or amend, Approve
12	BMR funding recommendations (from 2020 NOFA proposals)	CDD	Regular	Approve
13	Housing Element Overview and Establish Housing Element Advisory Committee	CDD	Regular	Approve, Direction to staff
14	2021 City Council priorities and work plan adoption	CMO	Regular	Approve
15	Advisory body appointments	CMO	Commission Report	Approve
16	Amendments to Recology Franchise Agreement Regarding Bulky Item Pick-Up	CMO	Consent	Adopt resolution
17	Approve EQC two year work plan	CMO	Regular	Approve
18	City Manager's proposed budget	CMO	Informational	No action
19	Midpeninsula Regional Open Space District-activities update	CMO	Presentation	No action
20	Proclamaion: Recognizing Ron Shepherd	CMO	Proclamation	No action
21	Proclamation: Mental Health Month	CMO	Proclamation	No action
22	Rate assistance update	CMO	Informational	No action
23	Approve Resolution No. XXXX requiring advisory bodies to complete real property form	CMO, CA	Consent	Adopt resolution
24	Redistricting body direction	CMO, CA	Regular	Direction to staff
25	Direction on cost recovery policy (City Council Procedure #CC-10-001), library overdue fines and recreation user fees	CMO, LCS	Regular	Approve
26	NLC REAL implementation plan	CMO, LCS	Regular	Direction to staff
27	Rebuilding LCS - Post-Covid Service Adaptation Plan	LCS	Regular	Direction to staff
28	5 year water rates	PW	Public Hearing	Adopt resolution
29	Middle Avenue (800 ECR) Purchase and sale agreement	PW	Consent	Approve
30	Proclamations: Pubic Works week & Bike to Work day	PW	Proclamation	No action
31	Ravenswood/Laurel signal improvements	PW	Consent	Contract award or amend
32	SF Creek - Approval of Bridge Design & Palo Alto Intertie Agreement	PW	Regular	Approve
33	Signing/stripping on-call program	PW	Consent	Contract award or amend
34	Parks capital projects and use of Measure T funds	PW, ASD	Study Session	Direction to staff

Library and Community Services



City Council
Meeting Date: 4/13/2021
Staff Report Number: 21-078-CC

Informational Item: Library and community services facility, program and event reactivation

Recommendation

No action is required of the City Council as a result of this informational item. The service levels outlined in this report will be incorporated in the city manager's proposed fiscal year 2021-22 budget.

Policy Issues

City Council sets policy and goals and provides direction to staff regarding municipal services to the Menlo Park community; allocates resources to support and maintain city facilities and operations and provide services to residents; and ratifies and/or rescinds local emergency orders.

Background

Most city-owned facilities have remained closed to indoor public access since March 12, 2020, by local emergency order. This precaution was and continues to be necessary to protect public health by minimizing opportunities for congregation, both public and employee. The development, manufacture, and distribution of multiple highly effective vaccines suggests that the threat of an overloaded local acute and intensive hospital care will soon pass. This raises the prospect of safely reopening city facilities to indoor public access in the foreseeable future. The necessary preparations will require significant investments of time and resources during a period when the organization's financial and personnel resources are extraordinarily limited.

For these reasons, city staff March 9, March 23, and April 6 advised the City Council and sought direction regarding recommended criteria to guide facility reopening, service restoration, and reactivation of programs and events (Attachment A.)

Analysis

Recent progress in the area of vaccine development and production gives reason to believe that the virus could be mostly suppressed in the United States by the end of calendar year 2021, and possibly months earlier in the Bay Area. Eligibility for vaccines has expanded dramatically in accordance with the State of California's expansion of eligibility to all adults ages 16 and older effective April 15, however the supply of vaccine doses and the pace of actual vaccinations are expected to lag behind this date by several weeks or longer. The Governor April 6 announced that the state's "color tier" system of restrictions will be retired June 15, contingent on sufficient doses of COVID-19 vaccine are available to all, hospital capacity isn't at risk of overload, and COVID-19 variants do not contribute to a new surge of cases.

Facility reactivations - prioritization and phase-in sequence

After it is deemed safe to reopen city facilities to indoor public access, phasing-in the facility and service reactivations over a period of several months is strongly recommended to ensure that facility reactivations

can be implemented safely and sustainably with limited operational capacity and resources. Most of the facilities will have been dormant for more than a year, and some facility modifications and service adaptations will be necessary to enhance safety and resiliency against the “long tail” of COVID-19 and potential future viral outbreaks. Due to significant reductions in staffing and operating budget made necessary by the economic downturn, the city lacks the operational capacity to safely reactivate all facilities and services at once.

Library and community services currently being provided to the community during the COVID-19 pandemic
The City of Menlo Park has continued to provide a wide range of services to the community during the pandemic. With a few exceptions, the vast majority of city services continue to be delivered in modified formats that do not include indoor public access to city facilities at this time.

City-owned outdoor parklands have remained open and accessible to the general public, with some limitations, throughout the pandemic. The aquatics centers, child care and afterschool care centers, skate park, tennis courts, athletic fields, and outdoor recreation programs and classes were reopened to limited public access in mid-2020. City-owned playgrounds were reopened to public access with limitations in the fall of 2020.

The senior center nutrition program delivers meals directly to homebound seniors and conducts regular wellness checks by telephone. The library provides curbside pickup services for residents to safely access library books and other materials. Recreation, fitness, health and wellness classes and community events are provided in all-outdoor or virtual formats.

Post-pandemic service adaptations and considerations for reopening facilities to indoor public access
Staff will provide more detailed evaluations of anticipated service impacts, potential alternative service delivery models, critical resource needs and other considerations, including a proposed public engagement strategy in the context of the fiscal year 2021-22 budget deliberations. What follows is a summary of key considerations for City Council’s awareness in advance of the budget deliberations.

Gymnastics. Due to the infeasibility of safely delivering this service during the COVID-19 pandemic, City Council suspended the gymnastics program operations in the fiscal year 2020-21 operating budget. Direction from City Council is needed regarding the desired service delivery model for this program going forward. The gymnastics program has been delivered by city personnel and well-used by the community in past years. However, it is uncommon for a municipal organization to directly operate gymnastics programs. Such programs are typically provided by qualified third-party operators or wholly by private sector facilities. City Council may wish to direct staff to seek requests for qualifications and/or proposals from third-party operators.

Senior services, youth center (afterschool child care), and Onetta Harris Community Center recreational services. These services will be implemented in alternative locations per the Menlo Park Community Campus (MPCC) interim services plan reviewed by City Council February 11, 2020 and in subsequent MPCC subcommittee discussions related to the MPCC project (Attachment B.)

Library services. Due to significant operating budget and staffing reductions in fiscal year 2019-20 and 2020-21, and absent a significant budget amendment in fiscal year 2021-22, staff estimates that library open hours would be reduced from pre-pandemic levels of 59 open hours across seven days per week at the Main Library and 55 open hours across seven days per week at the Belle Haven Branch library, to post-pandemic levels of approximately 40 open hours across five days per week at both locations.

Arrillaga Family Recreation Center. While budget reductions did not affect permanent full-time staff at either community center, if current County health restrictions were to be lifted, both community centers could run from 8 a.m. – 5 p.m. Monday through Friday. However, if the City Council desired to return to weekend and weekday evening programming (typically peak hours are from 3 p.m. – 8 p.m.), the temporary staff budget would need to be restored.

Youth and adult sports. With current resources, gym rentals could reopen from the hours of 8 a.m. – 5:30 p.m. Due to the fact that the main impact of budget reductions in this operational area affected temporary staff, the reactivation of City-run leagues could not be supported with the current budget. In order to return to full capacity, the temporary budget would need to be restored. This would support referees, league supplies and evening hours at the gymnasium.

Special events. Due to limits on congregate in-person events, large-scale special events were suspended during the pandemic and the operational and temporary personnel budgets eliminated in fiscal year 2020-21, including capacity to issue special event permits and administer programming for the Performing Arts Center and its grants. Additional budget and staffing capacity would be needed to restore these services to pre-pandemic levels.

Child care. The current and future operational needs of the child care program are discussed in more detail in a separate April 13 staff report.

Impact on City Resources

A significant impact of the fiscal year 2020-21 budget cuts that has yet to be fully realized is the reduction in staff capacity necessitated by the closure of facilities and elimination of many programs, services and events. Overall, the budget eliminated 15 percent of authorized full-time equivalent personnel and nearly all temporary personnel. For example, with current budgeted resources in library and community services, the City cannot return to pre-pandemic service levels absent a significant budget amendment. Staff will present a more detailed evaluation of anticipated service impacts, potential alternative service delivery models, critical resource needs and other key considerations, including a proposed public engagement strategy in the context of the fiscal year 2021-22 budget deliberations

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Hyperlink – City Council Staff Report #21-069-CC: “Approve criteria to guide facility reopening, service restoration, and reactivation of programs and events”: [menlopark.org/DocumentCenter/View/27831/H3-20210406-CC-Reopen-and-restore-services](https://www.menlopark.org/DocumentCenter/View/27831/H3-20210406-CC-Reopen-and-restore-services)
- B. Hyperlink – City Council Staff Report #20-025-CC: “Receive direction on interim service levels during

Staff Report #: 21-078-CC

construction of the Belle Haven community center and library”:
menlopark.org/DocumentCenter/View/24183/SS1-20200211-CC-SR-publish-late-slip-sheet

Report prepared by:

Adriane Lee Bird, Assistant Community Services Director

Nick Szegda, Assistant Library Director

Sean Reinhart, Library and Community Services Director

Reviewed by:

Nick Pegueros, Assistant City Manager



STAFF REPORT

City Council

Meeting Date:

4/13/2021

Staff Report Number:

21-074-CC

Informational Item:

Update on the Transportation Management Association feasibility study's implementation plan and next steps

Recommendation

This is an informational item and does not require City Council action.

Policy Issues

The development of a Transportation Management Association (TMA) supports the City's Transportation Demand Management (TDM) program guidelines and is listed as program CIRC-6.B in the 2016 general plan circulation element to "assist local residents, employees, students, and other community members in identifying and taking advantage of travel options between employment centers and rail connections, downtown and nearby cities."

Background

The development of a TMA was identified as one of the City Council's priorities in the 2019 work plan, and is a strategy in the adopted 2020 climate action plan. The goal of a TMA is to coordinate logistics and TDM services amongst multiple member businesses. Instead of an individual business providing TDM services for their employees, a TMA allows multiple businesses to share TDM resources and creates cost-efficiency, allowing smaller businesses to access some services that may otherwise not be affordable.

On July 16, 2020, staff presented five TMA model options for City Council to narrow down for further research in the feasibility study (Attachment A.) City Council provided direction to staff to advance research of the Citywide and the regional/sub-regional models, as both models would enable TDM services to be provided more efficiently and consistently to employees of smaller businesses.

However, as a result of COVID-19 and its impact on businesses as well as the launch of a new sub-regional organization, it was determined that creating a separate TMA, whether at the sub-regional or citywide level, would no longer be the most cost-effective and efficient strategy for the City. Instead, the City may be better served by adopting a hybrid model leveraging existing services and filling in gaps to ensure that all businesses have access to commute program planning and implementation services.

Several strategies are discussed to help the City achieve these objectives, all of which involve partnering with two existing regional/sub-regional organizations, as described further below. This informational item serves as an update of the work to date since July and the next steps leading to final recommendations and feedback from City Council in May 2021.

Analysis

Since July 2020 there have been many external factors that have impacted commute patterns and the transportation system. These changes have caused staff to reevaluate the strategy in recommending the Citywide or region/sub-regional TMA options at this time. Specifically, the ongoing COVID-19 pandemic, the Metropolitan Transportation Commission (MTC) telework policy requirements, and the start of Manzanita Works as a subregional TMA, have necessitated that the City's TMA feasibility study adapt to consider this new information.

The COVID-19 pandemic has delayed the physical return of employees to offices, along with many companies reevaluating telework and/or permanent remote work policies. It has also created the need for social distancing and resulted in some concerns with using public transit by riders with alternative means, resulting in sharp drops in ridership. As a result, many companies' attitudes toward telework and/or remote work policies has changed. The current sentiment and patterns are anticipated to continue to evolve and the long-term effects are yet to be known. However, reduced commuting could potentially reduce strain on congested transportation networks, thus reducing the need for alternative strategies and TMAs.

MTC, the Bay Area's nine-county metropolitan planning organization, is currently performing its quadrennial update to its long-range planning document, Plan Bay Area 2050. One component proposed in the Plan is a mandated telework policy. Under Strategy Environment (EN) 7 in the Plan, employers of 25 or more must have 40 percent of non-single occupant vehicle (SOV) trips coming from transit, bicycling, carpooling, telework, etc. As a point of comparison, pre-pandemic, the citywide non-SOV mode share for employees commuting to Menlo Park from the latest US census data is 20 percent, or closer to 30 percent if including telework. Based on these statistics, it will require about an additional 10 percent in non-SOV trips to achieve the EN7 mandate for Menlo Park.

The shift in telework attitudes and policies presents a potential decrease in the demand for a TMA-type organization. Since the start of the City's feasibility study in 2019, Manzanita Works has transitioned from regional collaboration and talks, into becoming an operating regional TMA. With its headstart on any City-related TMA actions, along with it creating collaboration across San Mateo and Santa Clara counties, it has great potential to be an effective organization. Additionally, some potential larger employers in a Citywide Menlo Park TMA may have already or are planning to join Manzanita Works. The lack of membership from larger employers, along with their commensurate membership dues, may not allow for the viability for a cost-efficient Citywide TMA. Therefore, the City creating a TMA would be duplicative of Manzanita Works' efforts, an inefficient use of resources, and potentially confusing to the public.

The hybrid approach

As a result of these developments over the last six months, the City's consultant on this project, Steer Group, has recommended a hybrid approach to implementation in order to offer the benefits of both the Citywide and regional/sub-regional TMA options, while also being fiscally responsible. These recommendations are detailed in the draft TMA implementation plan (Attachment B) and summarized in Table 1. Six possible strategies that support three key objectives are proposed for consideration. While these strategies are listed independently, strategies supporting objectives 1 and 3 are not mutually-exclusive (see Attachment B, Figure 3); they may also be phased over time.

Table 1: Implementation strategy summary	
Objective	Strategy
Objective 1: Endorse and support regional and sub-regional TDM efforts	<u>Strategy 1.1:</u> City joins Commute.org as a member <u>Strategy 1.2:</u> City encourages employers and developers to participate in Manzanita Works, when possible
Objective 2: Ensure TDM support is available for all businesses	<u>Strategy 2A:</u> City partners with Commute.org, who will provide contracted service to provide tailored education and engagement support to all Menlo Park businesses <u>Strategy 2B:</u> City sponsors small to medium-sized businesses to join Manzanita Works
Objective 3: City can serve as an example of an employer with a robust and collaborative TDM program	<u>Strategy 3.1:</u> City joins Manzanita Works to replace or supplement existing employer commuter benefits (such as the Caltrain Go Pass) <u>Strategy 3.2:</u> City promotes Commute.org’s full suite of free services to its employees

The end goal is to have both the City and employers achieve tangible shifts from single-occupant vehicle commutes to transit, bicycling and carpool/vanpool. This approach to innovating the commute through the hybrid strategies will reduce congestion and greenhouse gas emissions, which supports other City-led initiatives such as the general plan, transportation master plan and climate action plan.

While not all services of a TMA can be directly replicated with the proposed hybrid implementation strategies, they will still offer a majority of similar services and meet the objectives compared to the Citywide and regional/sub-regional TMA models. In lieu of a formally incorporated TMA, the City can capitalize on existing programs and organizations. This would give it the flexibility to pick and choose from various TDM strategies to deliver lower cost solutions to a greater audience (as provided by the benefit-cost analysis in Attachment B.)

Next steps and schedule

Table 2 summarizes the proposed next steps and schedule. Following this update to City Council, staff and Steer Group would present to the Complete Streets Commission in April 2021. Feedback from the Complete Streets Commission would be used to further refine recommendations to City Council, where staff will seek City Council approval of the final strategies, tentatively scheduled in May 2021. Following the City Council approval, the implementation plan would be incorporated into the final report in summer 2021.

Table 2: Next steps and schedule	
Completion of tasks	Schedule
City Council meeting status update Deliverable: Informational item	April 13
Complete Streets Commission meeting Deliverable: Feedback on TMA objectives and implementation plan	April 14
City Council Meeting Phase 3: Approval of TMA objectives and implementation plan	Tentatively May
Deliverable: Final report	Summer 2021

Impact on City Resources

This feasibility study was funded by a \$100,000 contribution required as part of the Facebook campus expansion project development agreement. Additional staff resources and budget may be needed depending on which TMA implementation strategies are identified to move forward.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Hyperlink – TMA feasibility study, July 16, 2020, City Council staff report:
menlopark.org/DocumentCenter/View/25676/D1-20200714-CC-TMA-models-study
- B. TMA draft implementation plan

Report prepared by:
Nicholas Yee, Transportation Demand Management Coordinator

Report reviewed by:
Kristiann Choy, Acting Transportation Manager

Cost Benefit Analysis and Implementation Plan
April 2021

City of Menlo Park TMA Implementation Plan



City of Menlo Park TMA Implementation Plan

Prepared by:

Steer
800 Wilshire Blvd, Suite 1320,
Los Angeles, CA 90017
USA

+1 (213) 425 0990
www.steergroup.com

Prepared for:

City of Menlo Park
701 Laurel St.,
Menlo Park, CA 94025

23642101

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Appendices

- A Cost Benefit Analysis Results**
- B Sample Conditions of Approval Language for City Consideration**

Executive Summary

The City of Menlo Park is interested in studying the feasibility of a Transportation Management Association (TMA) to encourage the provision of amenities, services, and incentives to encourage non-drive alone commutes and reduce vehicle miles traveled (VMT) in the city. Following an Existing Conditions Study of current trends and challenges with implementing TDM strategies within the city and an Options Analysis to compare different potential structures for the TMA, Staff was directed to explore two models further: a Sub-Regional TMA and Citywide TMA.

As a result of COVID-19 pandemic and its impact on businesses as well as the launch of a new sub-regional organization, it was determined that creating a separate TMA, whether at the sub-regional or citywide level, would no longer be the most cost-effective and efficient strategy for the City. Instead, this report indicates that the City will be better served by adopting a hybrid model leveraging existing services and filling in gaps to ensure that all businesses have access to commute program planning and implementation services.

Based on the Existing Conditions Study and Options Analysis, three key objectives were identified:

1. The City should endorse and support regional and sub-regional TDM efforts;
2. The City should ensure TDM support is available and accessible to all businesses in Menlo Park; and
3. The City has an opportunity to serve as an example of a Menlo Park employer with a robust and collaborative TDM Program.

Several strategies are discussed to help the City achieve these objectives, all of which involve partnering with two existing regional/sub-regional organizations, Commute.org and Manzanita Works while ensuring dedicated support is available to Menlo Park businesses. Commute.org is San Mateo County's Transportation Demand Management Agency which provides free commute planning assistance to employers and incentives and resources to employees in San Mateo County. Manzanita Works is a non-profit organization bringing together regional stakeholders to tackle transportation and workforce-related challenges. By partnering with these organizations, the City would be able to cost-effectively achieve both objectives while ensuring that TDM efforts are advanced and standardized within the city.

1 Introduction

In the spring of 2019, the City of Menlo Park published a Request for Proposals seeking guidance on the development of a Transportation Management Association (TMA). While TDM exists in many worksites across Menlo Park already, the City was seeking support in the form of an organization that would help to leverage partnerships across the City and sub-region and support the provision of TDM service to a broader group of employers. The study was meant to explore four unique options for TMA structure, and compare their expected success in reducing citywide vehicle miles traveled, changing travel behavior, and supporting stakeholder engagement and partnerships.

Following an existing conditions study in which the Project Team analyzed current travel habits, interviewed large and small employers, and surveyed employees of select businesses regarding their transportation challenges, several key goals for the potential TMA were identified:

- Consistency in TDM implementation throughout the city;
- Leveraging existing services and programming for efficiency and cost-savings; and
- Facilitating regional and sub-regional coordination.

Using these data, the team conducted an Options Analysis to define the strengths and weaknesses of five potential TMA models. In July 2020, Council provided direction to proceed with conducting further analyses on two models: a Citywide TMA and Sub-regional TMA.

1.1 TMA Models Revisited

As the team began to consider implementation for the recommended options, it became apparent that neither might be the best course of action for the City. Since this study initiated, two major developments have emerged which influence the viability of these options:

1. The **COVID-19 pandemic** has significantly shifted the landscape in which people live, work and travel. Many businesses are experiencing funding constraints, and may not have the capacity to invest in TDM;
2. The **Manzanita Works** organization has become official, has developed and convened sub-regional consortiums and engaged further with Menlo Park stakeholders. There is now a clearer picture of how their membership structure and service offering works which were not available for this analysis when the project commenced.

Given these latest developments, the two TMA models, as originally presented to Council, may no longer be viable options. The below summary outlines these issues:

- **Citywide TMA:** The goal of a Citywide TMA is to provide TDM services, including TDM Plan and compliance support, resources, and incentives, to all Menlo Park businesses. Since these services are already available to San Mateo County businesses for free from Commute.org,

the role of this organization would largely be to connect Menlo Park employers to those resources. However, now that Manzanita Works has more officially been launched and established, it would be duplicative to create another entity to serve the same purpose. Employers participating in Manzanita Works - which charges membership dues - would be unlikely to pay additional fees toward a Citywide TMA, thus, threatening the ability of the TMA to be self-sustaining. Therefore, it would be more cost-effective to dedicate City resources toward promoting and connecting businesses to these existing services without the development of a new formal organization itself.

- **Sub-regional TMA:** With the promise of economies of scale and a regional collaboration, the sub-regional model may be enticing to employers. While Manzanita Works has fully launched and may serve this role, there remains a cost barrier for participation, especially for smaller businesses operating with limited budgets. Therefore, while it is sensible for the City to partner with Manzanita Works, this alone won't support the distribution of TDM services to the majority of employers in Menlo Park.

1.2 TDM Services Currently Available to Menlo Park Businesses

1.2.1 Commute.org

Commute.org is a Joint Powers Authority governed by a board of 18 elected officials, one from each of the 17 cities and the County of San Mateo. As San Mateo County's Transportation Demand Management Agency, its mission is to reduce the number of drive-alone vehicles traveling to, from or through San Mateo County by providing information and commute planning assistance to employees, employer programs, and city transportation demand management partnerships.

All San Mateo County employers have access to Commute.org's services, including:

- Assistance with Bay Area Commuter Benefits Program Compliance;
- Shuttle service;
- Guaranteed Ride Home;
- Vanpool and Carpool ridematching services and subsidies;
- Free Transit Ticket Program;
- Reward and Incentives Program;
- Employee commute program consultation;
- Employee transportation coordinator (ETC) support;
- On-site events (e.g., bicycle safety education); and
- Agency of Record.

Funded by the City/County Association of Governments of San Mateo County (C/CAG), the San Mateo County Transportation Authority (TA), the Bay Area Air Quality Management District (BAAQMD) and the Metropolitan Transportation Commission (MTC), the organization is a free service available to all employers in San Mateo County.

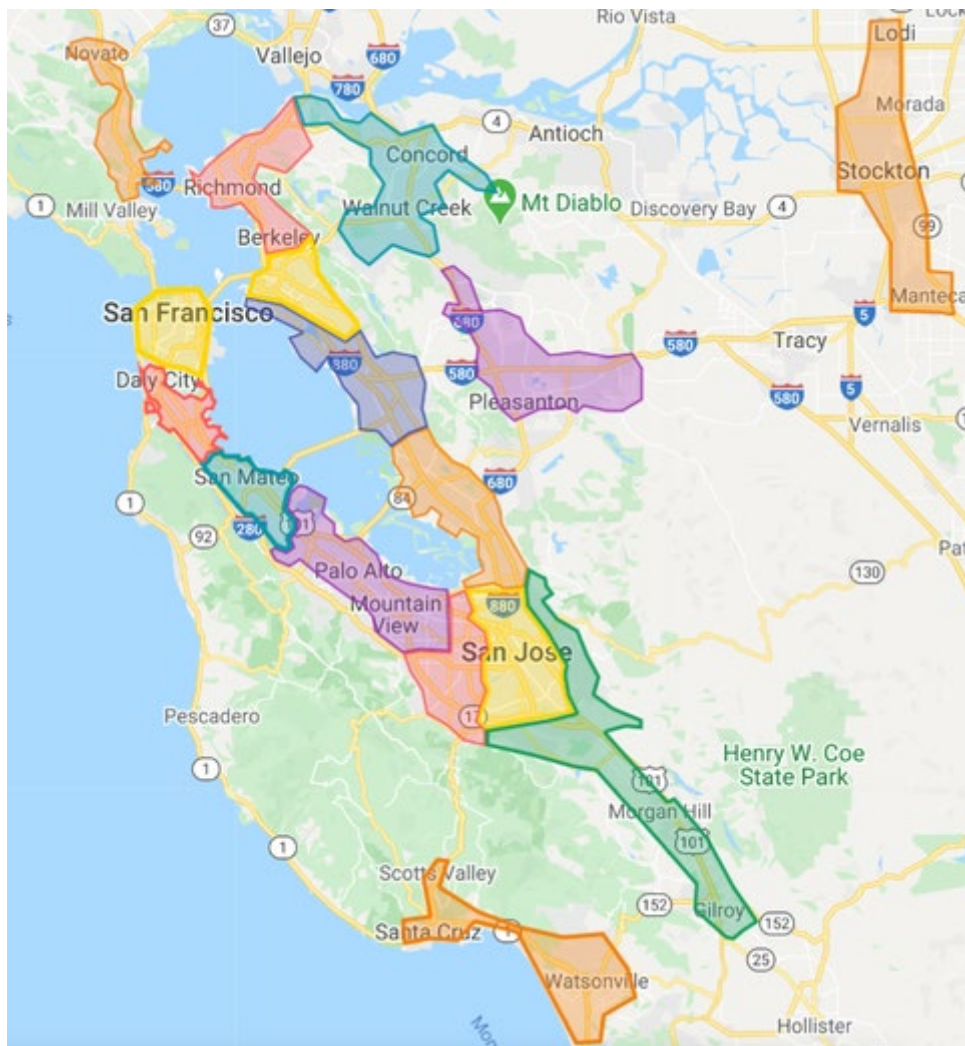
While the City has not joined Commute.org's Board, the City does leverage some of Commute.org's services for their own employees and Staff, such as promoting the Guaranteed Ride Home and incentives program.

1.2.2 Manzanita Works

Manzanita Works is a non-profit organization bringing together public and private partners in the region with the goal of improving the welfare of workers through increased access to transit, housing, food, and childcare. Launched in 2020, the organization has convened stakeholders in discussions about regional challenges, launched a free shuttle service to connect essential workers from, and will initiate a bikeshare feasibility assessment once funding has been secured.

While Manzanita Works is the overarching organization bringing together stakeholders and partners throughout the region, members are organized into employer-led consortiums based on geography to allow for more focused discussions and solutions. Because commutes may span multiple cities and counties, these sub-regions may cross county lines and jurisdictions. Menlo Park would fall under the Ravenswood Sub-Region, which encompasses the Mid-Peninsula from Sunnyvale in Santa Clara County to Redwood City in San Mateo County and would engage with peer cities and employers located within this sub-region.

Figure 1 Manzanita Works Sub-Regional Approach



The organization provides a forum for members and stakeholders to discuss current challenges and identify solutions and provides the connections and administrative support to bring them to fruition. For example, as a result of COVID-19 and state-mandated Shelter in Place Orders, there was both a reduced demand for employer-provided shuttles and an increased need to assist essential workers to their worksites. The organization led the effort in developing the agreement and process by which the employers are able to donate their unused shuttle vehicles to be used by essential workers. There are currently six routes connecting East Palo Alto to other Mid-Peninsula regions either directly or through connecting services.

Table 1 Current Essential Workers Shuttle Routes

	Route
Route 1A	Livermore to East Palo Alto
Route 4A	Richmond to East Palo Alto
Route 7A	Daly City to East Palo Alto
Route 9A	Hayward to East Palo Alto
Route 10A	Fremont to East Palo Alto
Route 14A	South San Jose to East Alto

As a member-based organization, businesses are required to join Manzanita Works and pay an annual fee based on the type of employer category under which they fall. The four are as follows:

1. Small business (less than 50 employees) & Service Sector (e.g., restaurants, hospitality, grocery, other food service, retail, janitorial, security)
2. Medium to Large Private Sector
3. Nonprofit Sector
4. Public Sector

While the fee structure may vary based on employer type and size, a rough cost estimate for a small employer with fewer than 50 employees would be \$2,000 per year for membership and outreach support.

The organization also offers a discount for public institutions wishing to join the organization and would be happy to provide further details regarding costs upon the City’s entering into a Mutual Non-Disclosure Agreement. In addition to the US Geological Survey which has approximately 400 employees, Manzanita Works is in negotiations with ten other public entities at various levels of governments to participate. Additional details will be available as the agreements are authorized and approved.

As part of membership to Manzanita Works, employers in the City of Menlo Park have access to:

- A “seat at the table” with the Ravenswood Sub-Regional ‘cohort’;
- Employee commute program consultation;
- Access to existing Essential Workers shuttle services;
- Developer agreement compliance support;
- Customized outreach and education; and
- Connection to free Commute.org services, including incentives, ridematching, and Guaranteed Ride Home.

1.2.3 Summary of TDM Services Available to Menlo Park Employers

Table 2 Summary of Available Services

Service	Commute.org	Manzanita Works
Assistance with Bay Area Commuter Benefits Program and Developer Agreement Compliance;	Free	Available to members
Shuttle service;	Marsh Road and Willow Road Shuttles managed by City of Menlo Park	Essential Workers Shuttle Available to Members (see Section 1.2.2)
Guaranteed Ride Home;	Free	Through Commute.org
Vanpool and Carpool ridematching services and subsidies;	Free	Through Commute.org
Free Transit Ticket Program;	Free	Through Commute.org
Reward and Incentives Program;	Free	Through Commute.org
Employee transportation coordinator (ETC) support;	Free	Through Commute.org
Employee commute program consultation;	Free	Available to members
On-site events (e.g., bicycle safety education)	Free	Available to members
Outreach and education materials	Free	Available to members
Agency of Record	Free	Through Commute.org
A “seat at the table” regional/sub-regional community	Free (City only upon joining the Board)	Available to members
Customized engagement strategy and implementation, including paid local advertising, direct mail, telemarketing, and canvassing;	\$100,000 annually for dedicated staff time	Available to members
Survey development, administration, and analysis	\$100,000 annually for dedicated staff time	-
Customized monthly eNewsletters	\$100,000 annually for dedicated staff time	-
Bikeshare system	-	Will conduct feasibility study
Direct partnership opportunities with sub-regional partners	-	Available to members
Advocacy on important topics and policies	Free (City only upon joining the Board)	Available to members

2 Revised Objectives

Given the recent developments, it is recommended that the City pursue neither of the options previously proposed as the sole solution to providing commuter services and amenities to employees in Menlo Park. Instead, this analysis has identified restructured recommendations based around three high-level objectives to further TDM implementation and support in the city, as well as several actions to assist with reaching each objective:

<ul style="list-style-type: none"> • Objective 1 • Endorse and support regional and sub-regional TDM efforts 	<p>Strategy 1.1: City joins Commute.org Board of Directors</p> <hr/> <p>Strategy 1.2: City encourages employers and developers to participate in Manzanita Works, when possible</p>
<ul style="list-style-type: none"> • Objective 2 • Ensure TDM support is available for all businesses 	<p>Strategy 2 (Option A): City contracts with Commute.org to provide tailored education and engagement support to all Menlo Park businesses</p> <hr/> <p>Strategy 2 (Option B): City sponsors small to medium-sized businesses to join Manzanita Works</p>
<p>Objective 3 Serve as an example of an employer with a robust and collaborative TDM program.</p>	<p>Strategy 3.1: City joins Manzanita Works to replace or supplement existing employee commuter benefits</p> <hr/> <p>Strategy 3.2: City promotes Commute.org’s full suite of services to its employees</p>

2.1 Objective 1 – Endorse and Support Regional and Sub-Regional TDM Efforts

Through analysis of Streetlight data, which uses anonymized location records from smart phones and navigation devices to show travel patterns, the Project Team found that many employees commute into the city from neighboring cities as well as across the Dumbarton Bridge. Because of the regional nature of commutes, as well as the need for inter-city travel options, coordination with neighboring cities, transit agencies, and regional bodies was identified as a key objective for the City.

The City Council has also expressed interest in facilitating coordination between the City of Menlo Park and regional/sub-regional partners toward advancing TDM implementation. As described above, the City of Menlo Park and its employers have access to two organizations that provide TDM services across San Mateo County and beyond, Commute.org and Manzanita Works. As such, rather than creating a TMA with a sub-regional focus, it would be more cost-effective and efficient for the City to partner with these existing regional/sub-regional organizations to provide TDM support and services to its businesses. Below is a high-level overview of how it is recommended that the City partner with each of these organizations to advocate for and advance TDM efforts within the city and region. While these strategies are listed independently, they are not mutually-exclusive and the City may choose to implement all of them.

2.1.1 Strategy 1.1: City joins Commute.org Board of Directors

As an alliance of 17 cities and the County of San Mateo, cities are invited to join the organization's board and help guide its programming free of charge. Commute.org is governed by a board of directors made up of elected officials from each of the 18 member agencies. The Board meets five times each year and are advised by two committees, the Supervisory Committee and the Finance Committee, comprised of member-agency staff. The Supervisory Committee meets monthly and the Finance Committee meets five times per year.

With representation on the Board, the City would have the ability to help guide the development of the organization's Strategic Plan, including ensuring that programming and services are aligned with the city's transportation goals and plans, and connect with peer cities and agencies.

While the City had previously taken steps toward joining the organization, those efforts were delayed. As such, given the increased interest in implementing and standardizing TDM strategies across the county, this would be an opportune time for the City to renew efforts to join and participate in these conversations.

On May 22, 2018, the City of Menlo Park brought before Council a recommendation to authorize the Mayor to sign a letter to request the City join Commute.org. However, the passing of Assembly Bill 1912 Public Employees' Retirement: Joint Powers Agreements: Liability presented challenges to Commute.org's ability to add new members and the effort was stalled.

Commute.org has since determined that AB 1912 would not present an issue and are able to allow new members to join the organization. As part of Commute.org's new Strategic Plan, one of their goals is to "complete the alliance" to bring in the remaining city (Menlo Park) and two towns (Woodside, and Portola Valley) into the JPA. Their next action is to draft Memorandums of Understandings (MOUs) with each city in the first quarter of Fiscal Year 2021 (July-September

2021). Once completed, the current Commute.org members will initiate the process of approving the new members.

It is recommended that the City continue pursuing membership with Commute.org by supporting in the drafting and approval of the MOU.

Costs

As Commute.org is fully funded, membership with Commute.org would not have a direct financial cost for the City.

The City would be asked to appoint a City Councilmember (and an alternate) to participate on the Commute.org Board of Directors. Should the Board request city staff to participate in the advisory committees, this may include approximately eight hours of staff time per month.

Benefits

Once part of the Commute.org Board, the City would be able to help guide TDM implementation in San Mateo County and advocate for city-specific needs.

2.1.2 Strategy 1.2: City encourages employers and developers to participate in Manzanita Works, when possible

The City should encourage businesses with the means to join Manzanita Works to do so. While certain large employers may voluntarily choose to participate due to the perceived benefits the organization would bring to their businesses, the City should also consider formalizing this through requiring Manzanita Works membership in Conditions of Approval and similar conditions as part of the entitlement process.

Members of Manzanita Works have access to the organization's benefits, including shuttle service, outreach support, and transportation counseling. By encouraging businesses to join, the City would be pushing for more standardized and consistent TDM implementation and reporting among the city's employers. In addition, these employers would benefit from gaining access to regional stakeholders to share best practices and identify partnership opportunities.

Costs

While employers would be required to pay membership dues to join Manzanita Works, the City would not incur any associated costs.

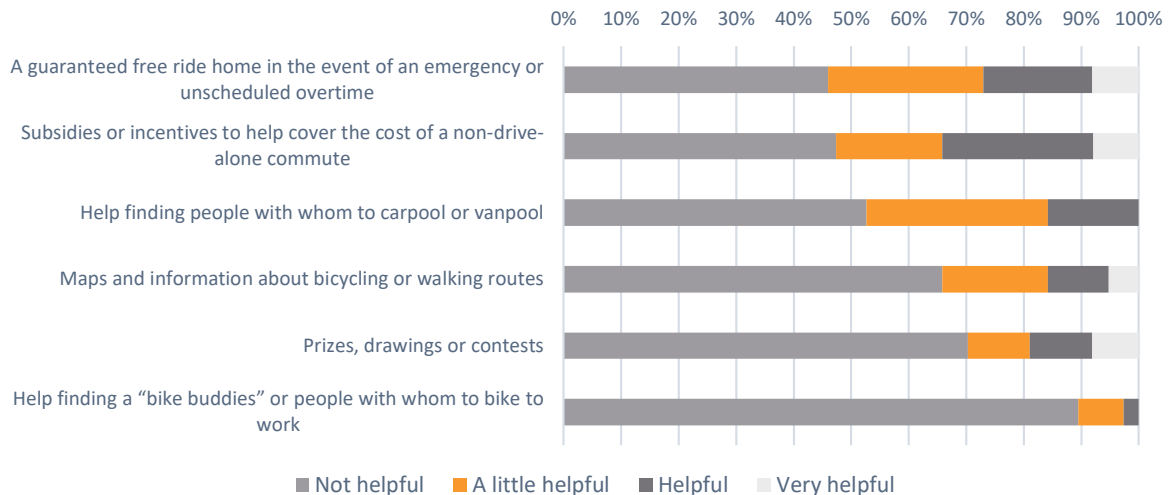
Benefits

By encouraging employers and developers to join Manzanita Works, there will be increased sub-regional collaboration and support for commuters.

2.2 Objective 2 – Ensure TDM Support is Available for All Businesses

Based on feedback received from the Chamber of Commerce, interviews with small business employers, and a survey to employees of small businesses gathered in Fall 2019, both employers and employees have expressed an interest in receiving more support for the provision of transportation information and resources as well as marketing assistance (see Figure 2). When asked, many were not aware of the fact that these services were already available free of charge from Commute.org.

Figure 2 "How useful would the following services be to you?" Survey Response



Since these services are already available to Menlo Park employers, the remaining gap lies in raising awareness and connecting employers to these organizations. While the City could choose to manage these education and engagement efforts itself, it would be most cost-effective to partner with the organizations themselves to provide more dedicated support to Menlo Park businesses. This would be especially helpful as businesses navigate the changing work schedule and commuting patterns, long-term work from home policy, and mode preferences related to recovery from the COVID-19 Pandemic.

There are two options proposed for advancing this objective. Given both options have costs associated, it is recommended that the City choose either Option A or Option B.

2.2.1 Strategy 2 Option A: City contracts with Commute.org to provide tailored education and engagement support to all Menlo Park developers and businesses

As uncovered during stakeholder interviews, many small businesses are not able to offer TDM benefits to their employees, either due to the lack awareness of available resources or the capacity to manage a TDM program internally. Therefore, while Commute.org services are available to all San Mateo County businesses for free, few small businesses are currently utilizing these services.

This gap in awareness, by both small employers and their employees, has been a limiting factor in distributing transit benefits, Guaranteed Ride Home, and other trip planning assistance to more employees in the city. Should the City enter into a contract with Commute.org to provide dedicated outreach and education support for all Menlo Park businesses, this will widen the group of employees who would benefit from Commute.org's services.

To provide TDM support, especially in education and engagement, to all Menlo Park businesses, the City could contract with Commute.org to provide a staff person who would dedicate half of their time (roughly 20 hours per week) exclusively to Menlo Park employers. In addition to providing information about existing Commute.org services (see Section 1.1.1), this dedicated staff member would:

- Develop an engagement strategy for varying tiers of employers, including paid local advertising, direct mail, telemarketing, and canvassing;
- Identify opportunities to incentivize engagement and program performance measures;
- Work with the City to identify target employers for engagement;
- Assist with survey development, administration, and analysis;
- Assist with Bay Area Commuter Benefits Program compliance (for employers with 50+ employees);
- Educate employers lead contacts on TDM programs and services available to them;
- Consult with employers to get them to next tier of engagement;
- Host online and in-person (when appropriate) forums for TDM program promotion;
- Customize monthly eNewsletters to include local content; and
- Maintain accurate accounts of engagement activities, communication, and information distribution.

In addition, this individual would provide quarterly updates on employer and employee participation, engagement efforts, and mode shift, to Staff and annual reports to City Council.

Costs

Commute.org has provided an initial cost estimate of **\$100,000** per year but would like to further refine the expectations for role of their dedicated staff before finalizing costs.

Benefits

Estimated 1,362.7 vehicles miles reduced daily during peak hours.

2.2.2 Strategy 2 Option B: City sponsors small to medium-sized businesses to join Manzanita Works

Due to the cost of membership into Manzanita Works, some businesses may not have the resources to participate. It is expected that small businesses (those with under 50 employees), in particular, may not have the capacity to join Manzanita Works on their own. Therefore, to ensure those businesses still have access to TDM support, such as shuttle service for essential workers, outreach and commute counseling, the City could choose to sponsor the cost of membership for small businesses and those in the service industry.

By sponsoring small employers and those in the service industry, the City would be expanding TDM services to businesses that would normally not have the resources nor the experience to lead these efforts themselves. As most small businesses are in the retail and hospitality industry, this investment would help extend TDM benefits beyond the typical office workers.

The City could sponsor an initial 50 businesses for a year and assess the impact on employee commute behavior, trip counts, and parking. The businesses could be selected based on interest, proximity to transit, geography, or other methods as determined by the City. Employers would then have access to:

- One-year membership in the Ravenswood Transit Consortium;
- Outreach and marketing support to create awareness and promote alternative modes of transportation;
- Conduct a needs assessment for bike commuting services and support for small and service sector employers in the consortium;
- Operational planning of bike commuting services and support for small and service sector employers in the consortium.

As a condition of participation, the employers could be asked, with assistance from Manzanita Works, to provide an annual summary of engagement activities and mode shift to the City.

Costs

Membership for small businesses with under 50 employees as well as service retailers costs approximately \$2,000 annually. The final cost to the City would, therefore, depend on how many employers the City wishes to sponsor. For the purposes for the Cost Benefit Analysis, it has been assumed the City would sponsor 50 small employers for an annual total of **\$100,000**.

Benefits

Estimated 197.4 vehicles miles reduced daily during peak hours for 50 employers.

2.3 Objective 3: Serve as an example of an employer with a robust and collaborative TDM Program.

The City currently provides transportation benefits to encourage its employees to use non-drive alone modes to commute to work, including \$75 commuter check for additional transit costs, \$1.50 per day transportation allowance for biking, walking, or carpooling to work as primary mode, on-site employee bikeshare, as well as two-week trial loans of e-scooters/e-bikes. In addition, the City participates in the Caltrain Go Pass Program, which costs \$75,000 per year to provide its employees with free rides Caltrain. While the program requires employers to purchase passes for all employees, based on 2020 utilization rates, only half of the City's employees take advantage of it.

As an employer in San Mateo County, the City also leverages and promotes several of Commute.org's services to its employees:

- Promotion of Commute.org's incentives program to reward employees for every sustainable commute trip and as part of large annual events such as the Commuter Challenge;
- Distribution of Commute.org materials (e.g. brochures, flyers, etc.) as part of New Hire Orientation and annual Employee Health Fair; and
- Guaranteed Ride Home Program.

The City has the opportunity to serve as a model providing an enhanced Commuter Benefits Program for its employees. By fully leveraging and collaborating with TDM partners, the City will be able to lead by example as it encourages other Menlo Park employers to do the same.

2.3.1 Strategy 3.1: City joins Manzanita Works to supplement its existing employee commuter benefits

As a member of Manzanita Works, the City would have a "seat at the table" to participate in the Ravenswood sub-region (which encompasses the Mid-Peninsula from Sunnyvale to Redwood City) as well as the wider regional discussions regarding ways to improve the quality of life for employees, including improving access to transportation options. This congregation of public and private sector partners provides not only an opportunity to guide TDM implementation in the region but to also identify cost efficiencies and partnership opportunities, such as shared shuttle service. It is important to note that because the City is joining as an employer, only the City and Staff would have access to the organization's services.

While the City provides Caltrain Go Passes to all City employees, only those living on the Peninsula (roughly half) are able to utilize it to travel to and from work. Therefore, the shuttles operated by Manzanita Work may offer a solution for those not served by Caltrain. Given the cost of both programs, it may not be feasible for the City to participate in both programs immediately. Acknowledging that Manzanita Works is a new organization still building out its membership base and participation would require additional funds from the City, the timeline for joining may be more measured. This additional time will allow the City to allocate the necessary funds and establish a working relationship with the organization. As Manzanita Works continues to expand, additional benefits and partnership opportunities may also arise between members at which point, the benefits of joining may outweigh those of participating in the Go Pass.

Manzanita Works prioritizes developing collaborative relationships with public entities to ensure programs align with city goals, regulations, and plans. Regardless of whether and when the City chooses to join the organization, Manzanita Works is committed to notifying the City of any upcoming projects prior to deployment as well as inviting the City to participate in workshops or presenting an idea requiring seed funding before its members. While the City would still retain a working relationship with Manzanita Works were it to choose to not join the organization, there remains a benefit for the City to be actively engaged in the discussions to identify gaps and opportunities for the organizations to explore.

Costs

In addition to staff time to represent the City, the City would be asked to provide an annual fee of \$75,000 which includes membership costs for a public sector entity and outreach support.

Benefits

Estimated 30 vehicles miles reduced daily during peak hours.

2.3.2 Strategy 3.2: City promotes Commute.org's full suite of services to its employees

Given the full suite of services available to the City free of charge of Commute.org (see Section 1.1.1), it is recommended that the City consult with Commute.org to identify ways to better leverage and promote Commute.org's services and programs. For example, the City could promote Commute.org's Vanpool and Carpool Programs, which provides incentives for commuters to start or join new vanpool or carpool, on the City's intranet and as part of New Hire Orientation. In addition, the City would also direct employees to Commute.org's Trip Planner or the 511 Ridematch System for assistance finding an open vanpool or carpool.

Acknowledging that Staff have limited capacity to actively promote these services year-around, there may be opportunities for Commute.org to assist the City putting forth a one-time effort (e.g., incorporating its full suite of services into the City's intranet) or developing a regular schedule for promotions (Commute.org could plan to host or participate in one event a year to raise awareness of the organization and educate employees on their options). The goal would be to make employees aware of their commuter options and benefits with minimal additional administrative burden placed on the City.

Costs

Since Commute.org's services are available businesses in San Mateo County for free, there are no additional costs associated with this strategy. However, there may be additional effort required on the part of City Staff to more actively promote and raise awareness of Commute.org's full suite of services.

Benefits

For the City, offering an enhanced Commuter Benefits Program to its employees may serve to encourage behavior change and reduce parking demand on City lots while also serving as an example of a Menlo Park employer investing in commuter benefits to help employees reduce their reliance on their vehicles.

2.4 Alignment with Regional and City Goals and Plans

“Menlo Park provides thoroughly-connected, safe and convenient transportation, adequate emergency vehicle access, and multiple options for people traveling by foot, bicycle, shuttle, bus, car, and train, including daily service along the Dumbarton Rail Corridor.”

-City of Menlo Park General Plan

This TDM Implementation Plan was designed to support the City’s goals to reduce vehicle trips and increase access to transportation options. The strategies identified here align with the City’s plans and policies, including:

- **General Plan, Circulation Element** – The Circulation Element of the General Plan describes the key issues and opportunities in the community. Program CIRC-6 B recommends the formation of a TMA to provide assistance to local residents, employees, students, and other community members in identifying and taking advantage of travel options between employment centers and rail connections, downtown, and nearby cities. Require new, large commercial and residential development to participate in the TMA was identified. While the formation of a TMA is no longer recommended, the strategies recommended in this report serve the same purpose of providing assistance, education, and support to help members of the community make informed decisions about how they travel.
- **Climate Action Plan** – The City’s 2030 Climate Action Plan (CAP) updated in 2020 calls for a 25% reduction in vehicle miles traveled (VMT) (Plan Item #4). The recommendations in the TDM Implementation Plan will not assist in reducing VMT by encouraging the use of alternative modes of transportation, including transit, carpool, vanpool, biking and walking, but would also help reduce congestion, lower GHG emissions, reduce the carbon footprint in Menlo Park.
- **Complete Streets Policy** – The Complete Streets Policy acknowledges the benefits and value for the public health and welfare of reducing vehicle miles traveled and increase transportation by walking, bicycling, and public transportation through the provision of supportive infrastructure.
- **Transportation Master Plan** – The draft TMP seeks to identify and prioritize key projects to implemented as a path forward to achieving the City’s General Plan goals of: Safety, Sustainability, Mobility Choice, and Congestion Management. By promoting and encourage the use of non-drive along modes, this Plan are in line with these goals.

By leveraging existing TDM programs, the City will be able to provide supportive services and amenities in the most cost-effective manner, allowing for more resources and funds to be redirected toward efforts to raise awareness and encourage adoption of non-drive alone modes of travel.

3 Cost Benefit Analysis

3.1 TRIMMS Model

A cost benefit analysis was conducted to weigh the costs and benefits of each strategy. The Trip Reduction Impacts of Mobility Management Strategies (TRIMMS) model was selected for this analysis as it allows for the estimation of a broad range of transportation demand initiatives in terms of reductions in VMT and congestion and provides program cost effectiveness assessment, such as net program benefit and benefit-to-cost ratio analysis.

Table 3 TRIMMS Model Outputs

Category	Description	Metrics
Impact of auto-drive alone travel	Calculates the impact of each drive-alone trip taken off the road as a result of the TDM intervention.	<ul style="list-style-type: none"> • Daily one-way trips • Daily VMT • Added daily delay (mins) • Gasoline consumption (gallons/day)
Changes in social costs	Calculates the changes in social costs in terms of daily dollar amounts. These are external costs imposed on society as a result of the mode chosen. For example, congestion costs consider the opportunity cost of time that could have been spent on other activities, such as work or leisure. These costs are in portion of the overall travel time and only take into consideration the portion of congestion costs generated by added delay to others.	<ul style="list-style-type: none"> • Air pollution • Congestion • Excess Fuel Consumption • Global Climate Change • Health and Safety • Noise Pollution
Program Benefits	Summarizes the analysis into a single number to assist with comparisons across strategies: Benefit to Cost Ratio (BCR)	<ul style="list-style-type: none"> • Annualized benefits • Annualized costs • Net benefit and benefit to cost ratio (BCR)

3.1.1 Considerations

As this analysis was conducted to assist the City in developing a plan for TDM advancement in the city, only costs to the City were considered in the analysis. Staff time as well as costs to employers were not taken into consideration. As a result, strategies in which there are no additional costs to the City (i.e., Strategies 1.1, 1.2, and 3.2) were not analyzed.

Furthermore, the TRIMMS model does not have the capacity to incorporate the intangible benefits of regional coordination, such as the ability to participate in regional forums, guide regional planning, and sharing of best practices. While the Benefit Cost Ratio (BCR) identified by the TRIMMS model provides a useful way to compare options, it should not be the only factor and each strategy should be considered in the context with less tangible benefits as well. Also, because Commute.org’s free services (e.g., Guaranteed Ride Home, transit subsidies, carpooling matching, etc.) would be available under all strategies, those services have been incorporated into each strategy.

3.2 Results

Below are the results to the Cost Benefit Analysis for the strategies under the three Objectives. Only strategies requiring additional costs (i.e., 2A, 2B, and 3.1) to the City were analyzed.

The Benefit-to-Cost Ratio (BCR) provides an economic assessment of how cost-efficient a TDM program is while producing positive benefits. A ratio equal to 1.0 indicates that for each dollar spent on the TDM program under evaluation there is a one-dollar return in terms of social benefits.

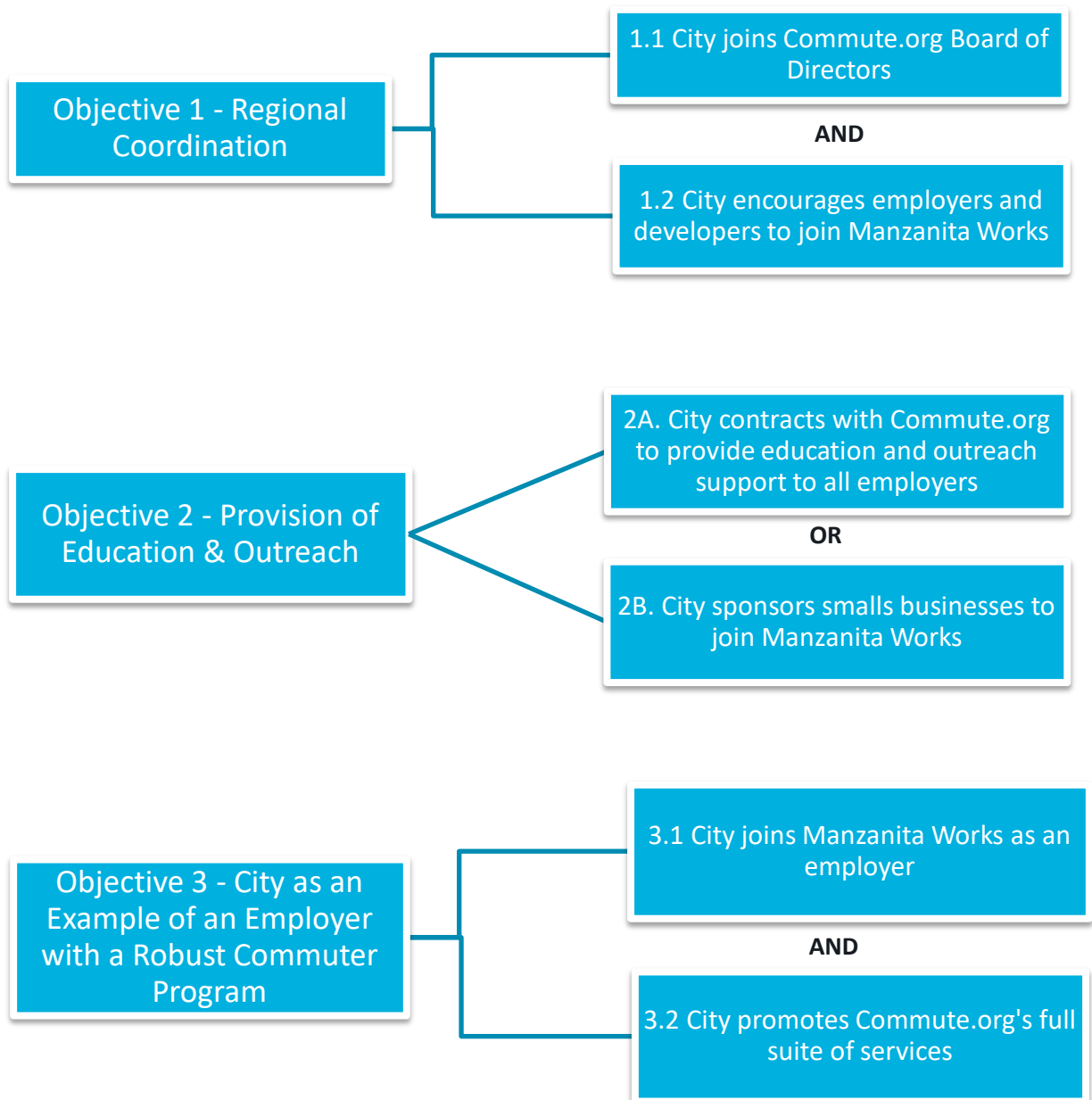
Table 4 Summary TRIMMS Results

Objective	Strategy	Costs	BCR
1. Endorse and support regional and sub-regional TDM efforts	1.1 City joins Commute.org Board of Directors	Free	N/A – Because it is difficult to quantify the value of regional coordination and \$0 costs, this objective was not analyzed using the TRIMMS model
	1.2 City encourages employers and developers to participate in Manzanita Works, when possible	Free	
2. TDM Support for All Menlo Park Businesses	Option 2A: City contracts with Commute.org to provide tailored education and engagement support to all Menlo Park developers and businesses	\$100,000	1.9
	Option 2B: City sponsors small to medium-sized businesses to join Manzanita Works	\$100,000	0.3
3. Serve as an example of an employer with a robust and collaborative TDM Program.	3.1 City joins Manzanita Works to replace or supplement existing employee commuter benefits	\$75,000	0.1
	3.2 City promotes Commute.org’s full suite of services to its employees	Free	N/A – Because there are no additional costs to the City other than staff hours, this strategy was not analyzed.

3.3 Recommendations

Based on the Cost Benefit Analysis, the following strategies are recommended for the City’s consideration. Because the strategies in Objectives 1 and 3 are not mutually-exclusive, the City could choose to implement all strategies, as indicated with an “AND” between the strategies. For Objective 2, however, it is recommended that the City selects either Option A or Option B, as indicated with an “OR” between the strategies.

Figure 3 Decision Tree for Objectives 1, 2 and 3



4 Implementation

This section discusses the steps needed to implement the strategies recommended in Section 2.3, including funding sources, timelines, and key roles and responsibilities.

4.1 Potential Funding Sources

Several of the recommended strategies include monetary contributions from the City. While the City currently collects fees for the management of several shuttle services, it would be insufficient to fund these proposed strategies and additional sources of funding will need to be identified. Below are several options for further consideration and exploration by the City:

4.1.1 Future Development Agreements and Specific Plan Requirements

Many large developments in the city have active development agreements (DAs) or TDM Plan requirements through the triggering of a Specific Plan related to providing services and amenities to support and encourage travel via alternative modes of transportation. These requirements range from the provision of shuttles to the installation of bike racks and lockers.

While existing plans cannot be altered, there is an opportunity to incorporate language to advance the proposed strategies into future Conditions of Approvals. For example, Conditions could include a requirement for the developer to sponsor their tenants to join Manzanita Works or pay into a fund to support the City's contract with Commute.org to provide dedicated education and engagement services citywide.

Refer to Appendix B for sample language for the City's consideration for incorporation into future Conditions of Approvals.

4.1.2 Restructured Shuttle Requirements

The City currently manages four shuttle services, two of which serve to connect the business parks along Marsh Road and Willow Road with the Caltrain station during commute hours. As previously mentioned, shuttle development fees are excised from certain developments to fund shuttle operations.

The City is interested in conducting a shuttle assessment study related to route optimization. As part of that study, there is an opportunity to consider alternative uses, cost-efficiencies with privately-operated shuttles, and review the fee structure. For example, if it has been determined that there is an existing privately-operated shuttle which could serve the same group of commuters, the study could explore the ability to partner with the operator to run a single, joint shuttle and reallocate the funds toward other TDM efforts.

4.1.3 Adjusted Parking Revenue

Based on a 2016 Parking Study of Downtown Menlo Park, there are a total of 1,602 parking spaces in Downtown, including 405 on-street and 1,197 off-street spaces. While most are not metered, 395 of the three-hour spaces in Plazas 1 and 5 may be used for a longer duration for a fee: \$1 per hour after the first three hours. Two types of parking permits are available: annual permits and temporary (daily) permits. As of 2016, 685 annual permits were available for purchase at \$592 and temporary permits cost \$10 per day. Since 2018, annual and day permit purchases have been on a downward trend, with 2020 being exceptionally low due to the suspension of parking enforcement due to the COVID-19 pandemic.

During the Existing Conditions process the Project Team asked small business representatives questions about their primary challenges to commute to work and their employee commute habits. Parking was identified as the second most important challenge for employees after traffic. Employees cited that parking is an issue for not only customers but also themselves as they oftentimes must decide between looking for a space in the neighborhood (which can be difficult) or in the on- and off-street lots with temporary free parking (which means they must move their vehicles every two or three hours). The high cost of an annual pass is also cost prohibitive for many retail and hospitality workers working in Downtown.

The City could consider undertaking another Parking Study to identify possible revenue streams to help fund TDM efforts within the City. Potential areas to consider include the feasibility of expanding permitted spaces or providing daily passes for employees which would generate revenue and open up the free parking spaces for customers, increasing the cost of a temporary permit, or adding meters to on-street spaces.

4.2 Implementation Plan

Based on the proposed recommendations in the previous section, the roles and responsibilities, timeline, and next steps are discussed for Objectives 1, 2 and 3.

4.2.1 Roles, responsibilities and timeframe

The table below summarizes the parties involved for each strategy and their potential tasks.

Table 5 Objective 1 Roles, Responsibilities, and Timeframe

Strategies	Roles	Responsibilities	Timeframe
1.1 City joins Commute.org Board of Directors	City Transportation Demand Management Coordinator	<ul style="list-style-type: none"> • Liaise with Commute.org to initiate steps to join the organization. • Provide Council with regular updates on progress on TDM efforts in the city. 	<ul style="list-style-type: none"> • Upon initiation of draft MOU by Commute.org (estimated July-September 2021)
	Menlo Park elected official	<ul style="list-style-type: none"> • Represent City at Board meetings. 	<ul style="list-style-type: none"> • Upon approval by Commute.org and at the next scheduled Board meeting
1.2 City encourages employers to join Manzanita Works	City Staff (Planning)	<ul style="list-style-type: none"> • Work with developers and employers during the entitlement and use permit process to incorporate participation in Manzanita Works into TDM Plans. • Review update to future Conditions of Approvals to include membership into Manzanita Works as an option. 	<ul style="list-style-type: none"> • Immediate (within next 6 months)
	Employers (Employee Transportation Coordinators)	<ul style="list-style-type: none"> • Engage with Manzanita Works for TDM support and submit trip count reports to City on an annual basis. 	<ul style="list-style-type: none"> • During entitlement process and as projects are occupied.

Table 6 Objective 2 Roles, Responsibilities, and Timeframe

Strategies	Roles	Responsibilities	Timeframe
2A. City contracts with Commute.org to provide outreach and education services to all businesses in Menlo Park	City Staff (Transportation Demand Management Coordinator)	Oversee contract, including: <ul style="list-style-type: none"> Regularly meeting with Commute.org to understand program reach and utilization. Providing direction on outreach efforts and priorities. 	<ul style="list-style-type: none"> Upon allocation of funds and finalization of membership
	City Staff (Planning)	<ul style="list-style-type: none"> Direct developers and businesses to Commute.org for questions or support during the TDM Plan development phase. 	<ul style="list-style-type: none"> Immediate (within next 6 months)
2B. City contracts Manzanita Works to provide outreach and education services to 50 employers	City Staff (Transportation Demand Management Coordinator)	Oversee sponsorship arrangement, including: <ul style="list-style-type: none"> Regularly meeting with Manzanita Works and employers to check in and receive updates. Review quarterly progress reports by participating employers. 	<ul style="list-style-type: none"> Upon allocation of funds and finalization of membership
	Employers	<ul style="list-style-type: none"> Appoint an Employee Transportation Coordinator (ETC) to liaise with Manzanita Works. Submit monitoring report on an annual basis to City. 	<ul style="list-style-type: none"> During entitlement process and as projects are occupied

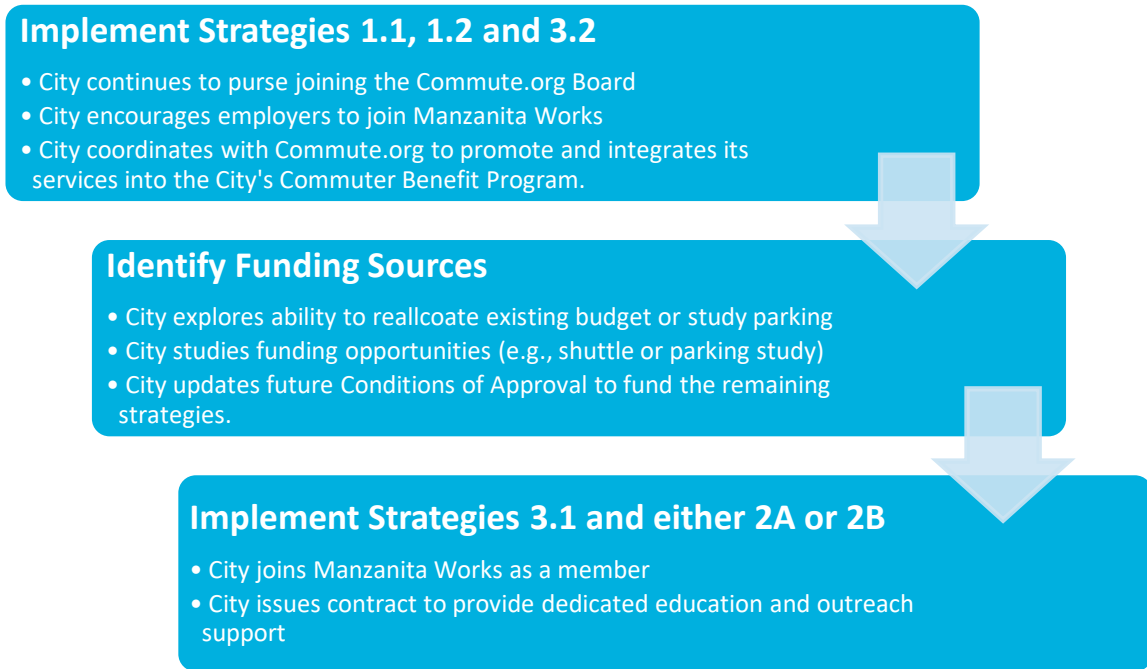
Table 7 Objective 3 Roles, Responsibilities, and Timeframe

Strategies	Roles	Responsibilities	Timeframe
3.1 City joins Manzanita Works as an employer, when able	City Transportation Demand Management Coordinator	<ul style="list-style-type: none"> Manage partnership with Manzanita Works, including attending consortium meetings and workshops. 	<ul style="list-style-type: none"> Upon allocation of funds and finalization of membership
3.2 City promotes Commute.org’s full suite of services to its employees	City Transportation Demand Management Coordinator	<ul style="list-style-type: none"> Consult with Commute.org to integrate Commute.org’s full suite of services into its existing Commuter Benefit Program; and Promote and market the program, as needed. 	<ul style="list-style-type: none"> Immediate (within next 6 months)

4.3 Implementation Process

While two of the strategies (1.1 and 1.3) do not require financial contributions by the City, the remaining strategies involve varying levels of funds before they can be implemented. As a result, rather than providing a timeline with discrete time periods, the graphic below outlines the steps in which these strategies may be implemented.

Figure 4 Phases of Implementation



A Appendix A – Cost Benefit Analysis Results

Table 8 Objective 2 Cost Benefit Analysis Results

Strategy	Impact to Drive Alone (Peak) <i>Negative value is a reduction</i>				Impact to Drive Alone (Off-Peak) <i>Negative value is a reduction</i>				Program Benefits <i>Positive value is a benefit</i>			
	Daily One-Way Trips	Daily VMT	Delay Reduced (mins, daily)	Gas Consump (gal/day)	Daily One-Way Trips	Daily VMT	Delay Reduced (mins, daily)	Gas Consump (gal/day)	Total Annual Benefits	Total Annualized Costs	Net Benefit	BCR
2A	-232.4	-1,362.7	-279.5	-75.7	-209.3	-1,227.4	-251.8	-68.2	\$189,076	\$100,400	\$88,676	1.9
2B	-33.7	-197.4	-40.4	-11.0	-30.3	-177.8	-36.4	-9.9	\$ 27,314	\$100,400	-\$73,086	0.3

Table 9 Objective 3 Cost Benefit Analysis Results

Strategy	Impact to Drive Alone (Peak) <i>Negative value is a reduction</i>				Impact to Drive Alone (Off-Peak) <i>Negative value is a reduction</i>				Program Benefits <i>Positive value is a benefit</i>			
	Daily One-Way Trips	Daily VMT	Delay Reduced (mins, daily)	Gas Consump (gal/day)	Daily One-Way Trips	Daily VMT	Delay Reduced (mins, daily)	Gas Consump (gal/day)	Total Annual Benefits	Total Annualized Costs	Net Benefit	BCR
3.1	-5.1	-30.0	-6.1	-1.7	-4.6	-27.0	-5.5	-1.5	\$4,138	\$75,300	-\$71,162	0.1

A1.1 Important Notes

- To understand the potential impact of each strategy, focus should be placed on Peak trips as the strategies discussed in this report target commute trips.
- To understand the full Program Benefits, focus should be placed on the BCR. These results combine both peak and off-peak results to show the full impact of each strategy. The individual numbers may be affected by off-peak results which show a smaller reduction in VMT and costs (see point above).

A1.2 Assumptions

The following assumptions were made to inform the data inputs into the model:

- **Commuters affected:** The model requires a number of *potential* commuters who would be affected by the TDM strategies, rather than the number of commuters who will change their behavior. The total number of employees in the city were calculated using the City’s list of businesses requesting business licenses.

Table 10 Menlo Park Employee Count Breakdown

	Employees	% Labor Force
City	287	1%
Small (first 50 employers with <50)	1,723	6%
Small (remaining)	1,481	5%
Medium (<213, >50)	7,465	25%
Large employers (Top 6 employers)	18,577	63%
Total	29,533	100%

Table 11 TRIMMS Model Inputs

	Total Employment
City	287
Option 2A (Potential population + City employees)	10,956
Option 2B (first 50 employers with <50)	1,723

- **Total Annualized Costs:** The model asks for the total cost of implementation on an annual basis. Of note, because this analysis is conducted for the benefit of the City to weigh the costs and benefits of each option, only costs paid by the City are considered. Costs for large employers to manage their own TDM program or participate in Manzanita Works as well as regional costs for Commute.org were not taken into account.

Table 12 Annual Costs to the City

	Annual Costs
Option 2A	\$100,000
Option 2B	\$100,000
Strategy 3.1	\$75,000

- **Program Duration:** Because the first-year start-up costs for both options are similar to their annual costs, the model is currently set for program duration of 1 year.

A1.3 Data Sources

Below is a table of the data sources used in the Cost Benefit analysis.

Table 13 TRIMMS Model Data Sources

Source	Data	TRIMMS Input Location
City of Menlo Park Business License List (FY 2019-2020)	<ul style="list-style-type: none"> • Employee count for all businesses operating in Menlo Park 	Program Analysis Details
City of Menlo Park Comprehensive Annual Financial Report (FY 2019-2020)	<ul style="list-style-type: none"> • City employee count 	Program Analysis Details
U.S. Census Bureau: American Community Survey (2018)	<ul style="list-style-type: none"> • Commute mode split for San Mateo County 	Site Parameters
Bureau of Labor Statistics: Occupational Employment Statistics Survey (2019)	<ul style="list-style-type: none"> • Total employment statistics by sector 	Site Parameters

B Sample Conditions of Approval Language for City Consideration

Below are sample texts for the City's consideration for use on future Condition of Approvals.

- Prior to issuance of a building permit for the Project, Developer shall develop and implement acceptable TDM measures satisfactory to the City's Transportation Division and either contribute [amount] to the City or partner with a third-party organization as approved by the City for Transportation Demand Management (TDM) education, and outreach support. The City shall deposit such monies into a separate restricted account to be used exclusively for TDM programs.
- "Developer and tenants shall comply with the applicable requirements of Transportation Demand Management (TDM) Program by developing and implementing TDM measures satisfactory to the City's Transportation Division and paying any applicable annual monitoring fee as required by the City. Developer and tenants shall also provide ongoing TDM outreach and education support by either paying the City [amount] toward the City's Outreach and Education account or contracting with a third-party organization as approved by the City. This includes, but is not limited to:
 - a. Committing to reduce vehicle miles traveled by 25 percent;
 - b. Developer shall, upon request, provide [specific TDM strategies (e.g., shuttle service or comparable alternative options)]."

Control Information

Prepared by

Steer
800 Wilshire Blvd, Suite 1320,
Los Angeles, CA 90017
USA
+1 (213) 425 0990
www.steergroup.com

Prepared for

City of Menlo Park
701 Laurel St.,
Menlo Park, CA 94025

Steer project/proposal number

23642101

Client contract/project number

Author/originator

Jenny Hong

Reviewer/approver

Julia Wean

Other contributors

Julia Wean

Distribution

Client:

Steer:

Version control/issue number

4

Date

4/6/2021

Agenda item L3
Lynne Bramlett, Resident

I read the staff and consultant report in detail and I also viewed the Manzanita Works website. I have also spoken with the CEO of Manzanita Works. I first met her about 2-3 years and I was most impressed with this capable young woman who so clearly had a heart for community service. I spoke with her recently to get an update on Manzanita Works. I left that meeting even more impressed with her vision and in how much the organization has achieved already.

In short, Manzanita Works appears to be a complete paradigm shift from “business as usual” approaches. I like their regional focus and their holistic focus. At minimum, I think that the Manzanita Works model is innovative enough for it to deserve at least 20 minutes of Council’s time in a focused presentation. Please give Manzanita Works your ear and let its CEO present its story without the filters.

I am concerned that the Staff and consultant Reports attempts to compare two organizations that aren’t apples-to-apples. The comparisons also included puzzling details or conclusions that I question. The most glaring problem was the way that the comparison did not consider all the many benefits that come with the Manzanita Works “whole commuter approach.” I also like the partnerships that Manzanita Works is building along with their clear interest in asking questions.

Over the years, I have seen staff reports come to Council that appear to present options in a narrow way as opposed to bigger picture thinking. These are no doubt easier to write. However, more holistic approaches seem like a time-saver in the long run. An additional benefit of joining Manzanita Works would be the benefit of getting new ideas from its partner organizations. That in itself would be very valuable.

I also see value in Manzanita Works from a disaster preparedness approach. The Federal Emergency Managers Agency (FEMA) recommends a “whole community approach” to preparedness planning. Manzanita Works brings organizations together that support the commuter. It’s not hard to imagine how beneficial that would be when disaster strikes. Those arrangements ahead of time would foster a faster disaster recovery later. A logical extension of Manzanita Works’ approach could be to help get formal agreements developed that pertain to post disaster need of stocked shelters and other emergency supplies that would help trapped commuters in Menlo Park and their families still at home.

I see that tomorrow the topic is going to the Complete Streets Commission for their input. This process seems rushed. I also ask if the Complete Streets Commission is the right group to holistically evaluate the merits of Manzanita Works in comparison with Commute.org.



STAFF REPORT

City Council Meeting Date: 4/13/2021
Staff Report Number: 21-079-CC

Informational Item: Housing element advisory committee formation update

Recommendation

This is an informational item and does not require City Council action. Staff will return to the City Council April 27 for a broader discussion on the housing element update. The intent of this information item is to keep the City Council and members of the public informed about the formation of a housing element advisory committee and the forthcoming selection process.

Policy Issues

The components of the housing element update will consider a number of land use, environmental and housing policies.

Background

The City is beginning its housing element (2023-2031) update effort. On March 23, 2021, the City Council authorized the city manager to negotiate a scope of work and fee and execute an agreement with the M-Group to lead the housing element update and related work. The City Council identified this project as a priority and has dedicated staffing and consultant resources to complete the multicomponent project by December 2022. Given the complexity and importance of the subject matter, the City Council has stressed the importance of community engagement, particularly with underrepresented populations. The process must be inclusive at all stages of the project to help ensure that all voices are heard. Like many past projects with citywide significance, the housing element update's scope of work also identifies the creation of an advisory group. While past advisory groups have been identified by various titles such as an Oversight and Outreach Committee (Transportation Master Plan), Advisory Committee (general plan) and Steering Committee (last housing element), their general purpose has been to help guide and provide feedback on particular topics or key decision points during the process and to serve as ambassadors of the project. With a strong emphasis on creating an inclusive process, staff recommends the formation of the Housing Element Community Engagement and Outreach Committee (CEOC) with its primary focus on engagement and outreach. The creation of this group is a critical first step in the process. Given the necessary time for recruitment and the time-intensive nature of housing element process, staff is recommending to commence recruitment following the April 13 City Council meeting. More details about the proposed advisory group is discussed in the Analysis section below.

Analysis

Housing Element Community Engagement and Outreach Committee Composition

To encourage public participation and reach the diverse populations that represent Menlo Park, staff

recommends the formation of the CEOC. This group is anticipated to be a 10-member group, comprised of Menlo Park residents who currently do not serve on the City Council, Planning Commission or Housing Commission. Because the City Council, Planning Commission and Housing Commission will have their own formal roles in the process, the goal is to open the CEOC to Menlo Park residents who currently do not have an official voice in the process. Separately, the City Council could consider establishing an ad hoc City Council housing element subcommittee if the City Council, itself, desires more direct involvement throughout the process. The City Council subcommittee could be formed concurrently with the CEOC. Ideally, the composition of the CEOC would reflect the City's different City Council districts and also represent a diversity of interests, expertise and characteristics, including gender, age, race, ethnicity and residential tenancy (renter or homeowner.) Staff believes focusing on community engagement and outreach will be the most productive and beneficial use of the advisory committee's time. As members of the community, each member will be able to share from their experiences and collaborate on how best to connect and learn from stakeholders in the community. Through broad outreach, we will be able to help inform the community about the project, and through meaningful engagement, the consultant team, staff, Commissions and ultimately the City Council will be able to learn from the community about what matters to them.

The CEOC would be a Brown Act body and is anticipated to have monthly meetings between May/June 2021 and November 2021, and check-in meetings as needed through the 20-month process. Meetings would likely occur Thursday evenings from 6 p.m. to 8 p.m. to avoid potential conflicts with other City Council and Commission meetings. It is anticipated that the meetings would occur remotely at first, but could transition to in-person sessions as it becomes safe to do so. However, depending on input from the CEOC on the community engagement plan, the schedule could be modified. A more-detailed project timeline is being developed and will be shared as part of the April 27 housing element discussion. In addition, the CEOC members are expected to be ambassadors of the project and would be encouraged to attend other public events. As directed by the City Council, the Committee members will be required to complete a real property disclosure form. As part of the application process, all prospective applicants will also be asked if they own property in Menlo Park, in addition to their main residence.

CEOC roles and responsibilities

The CEOC's overall purpose is to assist the City in ensuring a broad and inclusive community outreach and engagement process. Members will have an opportunity to help guide and provide feedback on the types and frequency of activities/events/meetings and the strategies and methods for communicating with the various stakeholders in the community. The committee would not provide policy guidance, though members are welcome to participate in planned events and meetings as individuals.

The primary responsibilities of the group would be to:

- Serve as an ambassador of the project and encourage people to participate in the process;
- Help guide and provide feedback on the community engagement plan; and
- Serve as a community resource to provide information to and receive input from the community on matters related to community engagement and public outreach.

The primary responsibilities of each member would be to:

- Identify effective ways to inform and engage the various stakeholders about the project;
- Commit to constructive dialogue, mutual respect and collaboration; and
- Share local knowledge.

Recruitment

The goal is to form a 10-member committee. Staff does not recommend more than 10 members given the

logistical issues, efficiencies in meeting management, and focused mission of the group. To be eligible to serve on the CEOC, the following criteria must be met:

- Resident of Menlo Park;
- Eighteen years and older; and
- Not currently serving on the City Council, Planning Commission or Housing Commission.

Interested applicants must complete an application, which will include both standard and demographic data questions, including:

- Name
- Address
- Age
- Person of color
- Housing tenure (renter or owner)

The intent of the additional demographic data is to assist the City Council in selecting a diverse group of residents to serve on the CEOC, although there are no formulas or ratios, except each City Councilmember would appoint one member from their district.

The application (in English and Spanish) is expected to be available on the City Clerk's webpage (Attachment A) by April 16. Staff plans to coordinate with the city clerk and the public engagement manager on advertising the recruitment. City Councilmembers and members of the public are also encouraged to share this information with their networks. The packet of applications would be posted on the website and distributed to the City Council for review and selection in May. The first CEOC meeting is tentatively scheduled for Thursday, May 27.

Selection process

As noted earlier, each City Councilmember would appoint one member to the committee for total of five members of the 10-person body. In its appointment, each City Councilmember should consider the following factors for each candidate:

- Ability to fully participate and meet the CEOC's responsibilities;
- Characteristics to help achieve a diverse group of individuals; and
- Responses provided to questions about their interest to serve.

Depending on the applicant pool size and resident location, there are various options to select the remaining five members of the group. It is anticipated that the five additional members would be selected at random by the City Council. To help ensure a geographic balance, applicants would be categorized by districts. If there are no or a limited number of applicants for a particular district, a person would be selected amongst the pool of applicants, but no more than three members shall be from any one district. Staff believes this process helps create an independent and representative process. Alternatively, the City Council or those members appointed by the City Council could also appoint the remaining members of the CEOC, if directed by City Council. The final selection methodology will be presented along with the pool of candidates to the City Council in May, at which time the City Council will be officially forming the CEOC.

Timeline and next steps

Staff is scheduled to return to the City Council on April 27 to provide a more formal introduction to the housing element update, seek input on the givens or principles of the housing element and to establish a common understanding of the goals and outcomes.

Impact on City Resources

On November 10, 2020, the City Council authorized up to \$1.69 million for the preparation of the Housing Element, including consultant services and partial funding for two full-time equivalents for the fiscal year 2020-21. On March 23, 2021, the City Council authorized the city manager to negotiate a scope of work and fee and execute an agreement with the M-Group for a fee, not to exceed \$982,000.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment. As part of the housing element update process, an environmental impact report (EIR) will be prepared.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

A. Hyperlink – City clerk’s advisory commissions and committees webpage: menlopark.org/commissions

Report prepared by:

Deanna Chow, Assistant Community Development Director

Report reviewed by:

Justin Murphy, Deputy City Manager