



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel
Katy Allen
John Stufflebean

SUBJECT: SEE BELOW

DATE: January 24, 2007

Approved:

Date:

1/27/07

COUNCIL DISTRICT: City-Wide
SNI AREA: All

SUBJECT: *Evaluation of Santa Clara Valley Water Resources Protection Collaborative Guidelines & Standards for Land Use Near Streams*

RECOMMENDATION

Adopt a resolution affirming that the City's current land use requirements, policies, and practices are consistent with the Santa Clara Valley Water Resources Protection Collaborative (Collaborative) *Guidelines & Standards for Land Use Near Streams* (Guidelines and Standards).

OUTCOME

Adoption of the proposed resolution by February 28, 2007 would fulfill the City's commitment, as a member of the Collaborative, to implement the Guidelines and Standards as appropriate in the City's development processes. The City would continue to implement the existing General Plan, policies, ordinances and design guidelines in the review and permitting of land uses near streams with the goals of protecting water quality and riparian habitat and reducing damage from runoff from streamside properties.

BACKGROUND

In 2003 the City of San Jose joined Santa Clara County, 14 other cities in the County, the Santa Clara Valley Water District, and other public and non-governmental organizations to form the Santa Clara Valley Water Resources Protection Collaborative. The Collaborative was formed with the goals of:

1. Identifying and addressing typical issues associated with development next to streams;
2. Developing clear, consistent guidance to property owners and developers about how to design and construct streamside development projects in a way that protects streams and streamside resources;

3. Clarifying and streamlining the permitting process for streamside property owners throughout the County; and
4. Developing Guidelines and Standards for streamside developments that focus on local control of the permitting process for these lands.

The *Guidelines & Standards for Land Use Near Streams*, published August 2005 are the product of the Collaborative's efforts to identify the best practices to protect stream resources in the context of land use and development approvals.

As part of the Collaborative, each jurisdiction within the County committed to determine the appropriate application of the Guidelines in their processes by February 28, 2007 so that, as of that date, they would be prepared to assume full permitting responsibility for all properties over which the District neither owned or had easement rights.

Currently the Santa Clara Valley Water District (District), under District Ordinance No. 83-2 has permitting authority for construction activity on all property within 50-feet of top of bank. As of February 28, 2007, District Ordinance No. 06-01 will become effective, which will limit District review and permitting authority for land uses near streams to District owned property and easements. Concurrently with approval of the revised jurisdictional ordinance, the District Board chose to adopt the District's *Water Resources Protection Manual* as its tool for implementing the Guidelines and Standards.

ANALYSIS

The Guidelines and Standards are grouped into 14 activity headings that include such topics as riparian planting, bank stability, erosion control, grading, trail construction and flood protection.

The City's existing policies, ordinances and design guidelines are consistent with and in many cases offer greater protection of streamside resources than the Guidelines and Standards.

The following General Plan policies provide the foundation for preservation and protection of riparian corridors in the City:

- Scenic Routes Policy #2
- Trails and Pathways Policy #3
- Riparian Corridors and Upland Wetlands Policy #1-8
- Bay and Baylands Policy #5
- Species of Concern Policy #1 and 2
- Urban Forest Policy #2 and 8
- Water Resources Policy #1 and 3-6
- Soils and Geologic Conditions Policies #4 and 7
- Earthquake Policy #7

- Flooding Policies #1-8

In addition, in December 2006, the City Council approved additions and clarifications to the General Plan to reinforce the City's on-going commitment to preservation and protection of water resources, as recommended by City staff and the Santa Clara Valley Water District.

The City's Zoning, Grading and Special Flood Hazard Area Ordinances and design guidelines include provisions for riparian corridor protection; however, the primary document that guides development in or near streams is the *Riparian Corridor Policy Study* approved by Council on May 17, 1994 (revised March 1999). The purpose of the Riparian Corridor Policy is to provide the City with the information necessary to identify and manage its riparian resources in a manner designed to achieve a balance among competing land uses (e.g., land development and habitat protection). The Riparian Corridor Policy includes development guidelines that closely align with those found in the Guidelines and Standards.

The Guidelines and Standards also include recommendations for practices to be used during development review. As recommended by the Guidelines and Standards, Planning staff is in the process of supplementing CEQA guidance to include further discussion of topics related to water quality and stream stability, and the City's development services team will continue the process of early project coordination and collaboration with the Santa Clara Valley Water District. Staff will also continue to refer projects to other regulatory agencies (e.g., Department of Fish and Game, Regional Water Quality Control Board) as appropriate.

At this time, no changes are being proposed to existing City policies as there are City policies, ordinances and guidelines currently in place that meet the intent of corresponding Guidelines and Standards. Consideration of development near streams would occur through existing processes and not through the creation of a new permit. Specifically, no changes are being proposed to the City's existing review and permitting of individual single-family properties. Individual single-family homes that are subject to discretionary review will continue to be subject to the Riparian Corridor Policy. The majority of single-family homes and single-family home additions will continue to only require a building permit.

POLICY ALTERNATIVES

Alternative: *Adopt the Guidelines & Standards as a stand-alone document.*

Pros: The Guidelines and Standards were developed for the diverse audience of planners, designers, engineers, decision makers, and citizens that make up the various jurisdictions and agencies of the Collaborative.

Cons: The City of San José's citizens, developers, consultants, staff and decision makers are familiar with the City's Riparian Corridor Policy, which has been in place since 1994 and aligns with the City's General Plan policies.

Reason for not recommending: Existing City policies are consistent with, or in many cases, offer greater protection of streamside resources.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

The consideration of the resolution itself does not involve policy or ordinance modifications. The policies and ordinances currently in place to protect water resources had public outreach during their development. In addition the Santa Clara Valley Water District performed public outreach for Ordinance No. 06-01.

COORDINATION

This memorandum was developed jointly by the Departments of Planning, Building and Code Enforcement; Public Works; and Environmental Services and coordinated with the Department of Parks, Recreation and Neighborhood Services; and the City Attorney.

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan policies and City Council policies.

COST SUMMARY/IMPLICATIONS

Staff will continuously evaluate the need for additional fees and resources to support this effort. If necessary, staff will prepare an investment proposal to add these resources through the City's standard budget process.

BUDGET REFERENCE

Not applicable.

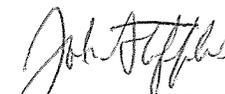
HONORABLE MAYOR AND CITY COUNCIL
January 24, 2007
Subject: Evaluation of SCVWRPC Guidelines & Standards
Page 5

CEQA

CEQA: Not a project.


JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement


KATY ALLEN, DIRECTOR
Public Works


JOHN STUFFLEBEAN, DIRECTOR
Environmental Services

For questions please contact Laurel Prevetti at 408-535-7901.