



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Nadine N. Nader

**SUBJECT:** SEE BELOW

**DATE:** April 8, 2008

Approved

Date

4/8/08

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**SUBJECT: STATUS REPORT ON SANTA CLARA VALLEY HABITAT  
CONSERVATION PLAN [Transportation and Environment Committee  
referral 04/07/08 – Item (e)]**

On April 7, 2008 staff presented a status report on the Santa Clara Valley Habitat Conservation Plan to the Transportation and Environment Committee.

Upon motion by Council Member Liccardo, and seconded by Council Member Chirco, the Transportation and Environment Committee accepted the status report and requested the report to be cross-referenced to the April 22, 2008 Council agenda for full Council consideration. Attached is the report that was presented to the T&E Committee.

NADINE N. NADER  
Agenda Services Manager

Attachment



# Memorandum

**TO:** TRANSPORTATION &  
ENVIRONMENT COMMITTEE

**FROM:** JOSEPH HORWEDEL

**SUBJECT:** SEE BELOW

**DATE:** March 26, 2008

Approved

*Paul Kuntz*

Date

*3/27/08*

**COUNCIL DISTRICT:** City-Wide  
**SNI AREA:** All

**SUBJECT: SANTA CLARA VALLEY HABITAT PLAN - PROGRESS, STATUS & KEY ISSUES REVIEW**

## RECOMMENDATION

Review progress, status and key issues and provide comments for the continued preparation of the Draft Santa Clara Valley Habitat Plan. Staff recommends that the Santa Clara Valley Habitat Plan be agendaized as a separate item for City Council discussion on the April 22, 2008 meeting agenda.

## OUTCOME

The Transportation and Environment Committee's and the City Council's comments and direction on the seven key policy issues will allow staff and consultants to continue with the preparation of the Draft Santa Clara Valley Habitat Plan.

## BACKGROUND

To promote the recovery of endangered species while accommodating planned development, infrastructure and maintenance activities, the Local Partners, consisting of the City, Santa Clara Valley Transportation Authority, Santa Clara Valley Water District, Santa Clara County and the cities of Gilroy and Morgan Hill, are preparing a joint Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP). The Santa Clara Valley Habitat Plan (Plan) is being developed in association with the U.S. Fish & Wildlife Service (USFWS), California Department of Fish & Game (CDFG), and the National Marine Fisheries Service (NMFS) and in consultation with stakeholder groups and the general public to protect and enhance ecological diversity and function within more than 500,000 acres of southern Santa Clara County. The final Plan will provide a framework for the Local Partners and landowners to complete projects while protecting at-risk species and their essential habitats, some of which only occur in Santa Clara County.

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In 2001, the USFWS and CDFG, as part of their approval of a series of local development projects, including the Coyote Valley Research Park project and the associated Highway 101 interchange at Bailey, required the then four Local Partners (County, VTA, SCVWD & City) to commit to undertake the habitat planning effort. The Plan was required so that local agencies could address the cumulative and indirect effects of future private and public sector development and operations projects on federal and state listed endangered species.

Subsequent discussions among the four Local Partner agencies led to a Memorandum of Understanding approved in 2004. The MOU establishes the organizational structure of the Plan effort, including the Management Team and the Governing Body Liaison Group. By 2005, the cities of Gilroy and Morgan Hill had joined, and the NMFS agreed to participate regarding endangered fish species that are under their jurisdiction. A Planning Agreement between the Local Partners and the USFWS and CDFG was approved in October 2005, at which time it was agreed that the Habitat Plan would be both a Habitat Conservation Plan under federal endangered species law and a Natural Community Conservation Plan under state law.

Detailed work on what has become known as the Santa Clara Valley Habitat Plan began in 2004 with the development of a work program and initial hiring of consultant resources. Jones & Stokes is the lead consultant for biological work and preparing the Plan. A 24-member Stakeholder Group, which includes, among others, landowners and representatives from environment, business, and agriculture, has been meeting monthly since November 2005. Representative Local Partner elected officials participate as part of the Governing Body Liaison Group, which meets every two months to review and provide guidance on issues to be acted on by the respective elected bodies. The City is currently represented on the Liaison Group by Councilmember Chu and formerly by Councilmember Chirco. Councilmember Williams currently represents the VTA Board.

The work plan schedule calls for the release of a Draft Habitat Plan for public review in early 2009 and adoption of the Plan later in 2009. Prior to completing preparation of a Draft Plan, the Liaison Group decided it to be prudent that the Local Partner elected bodies review and provide direction focused on seven key policy areas. As such, each of the Local Partners is taking the attached Summary of Key Policy Issues information to their elected body. Local Partner review is scheduled to be completed by the end of April 2008. Consideration by the San Jose City Council is scheduled for April 22, 2008. The Liaison Group will meet on May 8, 2008 to review the Local Partner comments and provide guidance to the staff and consultant team. In addition to Local Partner consideration, discussion of numerous issues with the three Wildlife Agencies (USFWS, CDFG and NMFS) is occurring concurrently.

The Santa Clara Valley Habitat Plan website is [www.scv-habitatplan.org](http://www.scv-habitatplan.org).

## **ANALYSIS**

The Habitat Plan evaluates the likely biological impacts on special status species and their habitat from future public and private sector development activities, including operation and maintenance of public facilities. The Plan will facilitate compliance with federal and state endangered species regulations as part of future development review processes. It is important to note that the Habitat

Plan does not eliminate the legal requirements for environmental review, approve any public or private development or projects, or impose any new land use regulations.

There are various linkages between the Plan and City of San Jose policies for land use planning and development, construction and operation of public infrastructure and parks, and other land use-related activities. The Plan's emerging Preferred Conservation Strategy is consistent with and supportive of the San Jose 2020 General Plan Greenline/Urban Growth Boundary and Natural Resources goals and policies. The implementation of a Habitat Reserve System will reinforce existing San Jose, Morgan Hill, and County policies to not allow the extension of urban/suburban development into hillside areas. City activities covered by the Plan include operation and maintenance work that has the potential for impacting endangered species (e.g., City road bridge repair and replacement work, roadside brush clearing, City Park trail work, etc.). These activities will not have to obtain individual project specific take permits from the Wildlife Agencies.

The potential biological impacts resulting from the covered activities of the Plan are defined more broadly than those typically identified for CEQA purposes and include habitat impacts. Habitat impacts are addressed in terms of acres of habitat negatively impacted. The Plan estimates the anticipated number of acres impacted by public and private development projects and operations over the 50-year life of the Plan. For all analyses, results were only considered to be impacts if the activity affected *natural* land covers (i.e., land covers not already developed), or agricultural and developed natural community land covers that may have some habitat value (i.e., golf courses/urban parks).

Urban development is one of the primary impact mechanisms considered in the Plan. The major impact of new urban development is conversion from natural to developed land covers. Urban development is assumed to result in permanent direct impacts because it is assumed that complete conversion of natural land covers would occur at project sites in urban areas. Urban development will also have indirect impacts on biological resources.

The impact analysis for urban development does not attempt to discern the impact of individual, separate activities, but rather assumes that all areas within the planning limits of urban growth (City's Urban Growth Boundary) for the three cities currently designated for urban development would be fully affected, with the exception of in-stream areas, over the 50 year permit term. The estimated combined total permanent impact from urban development activities for Gilroy, Morgan Hill and San Jose is approximately 15,000 acres. Of that total San Jose has approximately 1400 acres of urban development impacts.

The attached information provides a summary of the seven key policy issues. Specific questions are identified for each key policy topic, as well as the recommendation from the Management Team. Staff is seeking the Council's concurrence or other direction on each policy issue.

1. **Permit Term:** The permit term is the duration of the Plan as agreed to by the wildlife agencies in the Implementation Agreement. The recommendation is for 50 years, with all land acquisition completed by year 45.
2. **Covered Activities:** The covered activities will receive authorization for species take permits. Covered activities for the City are related to the implementation of the City's General Plan.

3. Preferred Land and Stream Conservation Strategy: The Habitat Plan includes analysis for three alternatives. The preferred conservation strategy attempts to provide an appropriate balance of enhancement or restoration of existing open space and streams with acquisition of new open space to assemble the habitat reserve system.
4. Habitat Plan-related Project Review Process and Conditions of Approval: Implementation of the Habitat Plan will require changes in the way the City currently processes public and private projects. The City will be required to apply habitat survey and evaluation requirements and conditions of approval identified in the adopted Plan. This may require the City to adopt appropriate policies and ordinances to implement the Habitat Plan.
5. Habitat Plan Costs: Estimating the full costs of the Habitat Plan is an essential step toward demonstrating adequate funding and is necessary to meet regulatory standards. The question is whether the correct cost principles been identified to guide the Plan.
6. Habitat Plan Funding: A key issue for the City and its customers is that the overall approach to funding the implementation of the Plan includes the imposition of impact fees to projects that may not have direct sensitive species impacts, or otherwise require take authorization. The fundamental issue is whether or not the identified funding strategy regarding the types and timing of fees is acceptable to the City.
7. Habitat Plan Implementation Entity: The Habitat Plan is required to have an organizational structure for implementation (i.e., special district, Joint Powers Authority, nonprofit). Although there will be continued discussion on this topic, staff needs to know if the Council has an initial preference for any particular organizational structure.

It is recommended that the Transportation and Environment Committee provide comments on the seven key policy issues identified in the attached material. The Committee's comments will be provided to the City Council for their review of the Habitat Plan issues on April 22, 2008.

### EVALUATION AND FOLLOW-UP

In early 2009, the Draft Habitat Plan and Environmental Impact Report/Environmental Impact Statement (EIR/EIS) are expected to be released for public review and comment. Progress reports to the Council may be provided as necessary and prudent for the timely public release of the draft documents.

### POLICY ALTERNATIVES

Not applicable.

### 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)**

Although this item does not meet any of the above criteria, the Habitat Plan's public outreach program has been thorough. In addition to monthly Stakeholder Group and bi-monthly Liaison Group meetings, several public meetings have been held since initiation of the Plan. Additional extensive outreach will be undertaken in conjunction with the public circulation of the Draft Habitat Plan and the accompanying EIR/EIS.

### COORDINATION

This project was coordinated with the Departments of Environmental Services, PRNS, Public Works and Transportation, City Attorney, County of Santa Clara, Santa Clara Valley Transportation Authority, Santa Clara Valley Water District, the cities of Morgan Hill and Gilroy, USFWS and CDFG.

### FISCAL/POLICY ALIGNMENT

This project is consistent with applicable San Jose 2020 General Plan policies, particularly the Greenline/Urban Growth Boundary Major Strategy and the Natural Resources goals and policies.

### COST SUMMARY/IMPLICATIONS

Not applicable.

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**CEQA**

This "review" is not a project under CEQA. An Environmental Impact Report/Environmental Impact Statement is being prepared for the Habitat Plan and will be publicly circulated in early 2009 in conjunction with public review of the Draft Habitat Plan.

  
JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

For questions please contact Darryl Boyd, Principal Planner, at 408-535-7898.

cc: Ken Schreiber, Program Manager, SCVHP  
David Zippin, Jones & Stokes

Attachments: Summary of Key Policy Issues  
Brochure