

Distributed on:

OCT 26 2010

City Manager's Office

Sent to Council:



Memorandum

**TO: HONORABLE MAYOR
AND CITY COUNCIL**

FROM: Nadine Nader

SUBJECT: Early Council Packet

DATE: October 26, 2010

Approved

Date

10/26/10

EARLY DISTRIBUTION COUNCIL PACKET FOR NOVEMBER 9, 2010

Please find attached the Early Distribution Council Packet for the November 9, 2010 Council Meeting.

3.x Airport Commercial Paper Program Letter of Credit Extension

Recommendation: Adopt a resolution to authorize the negotiation, execution and delivery of the amendment to the Second Amended and Restated Letter of Credit and Reimbursement Agreement by and among the City, JPMorgan Chase Bank, N.A., Bank of America, N.A., and Dexia Credit Local, acting through its New York Branch, related to the City of San José Airport Commercial Paper Program in order to extend the term of this agreement, remove Dexia Credit Local as a party to the agreement, reduce the amount of available credit, and to authorize other related actions. CEQA: Not a project, File No. PPIO-066, Agreements/Contracts (New or Amended). (Finance)

TO BE DISTRIBUTED SEPARATELY

4.x Reorganization of Penitencia No. 77, McKee No. 136, McKee No. 135, and Capitol No. 57.

Recommendation: Adopt resolutions ordering the reorganization of the following territories:

- (a) Penitencia No. 77: An approximately 119 gross acre County island generally bounded by both sides of Golf Drive, the west side of Toyon Avenue, both sides of Penitencia Creek Road and both sides of Gridley Street and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation, and Area No. 01 (Library Services) County Service.

- (b) McKee No. 136: An approximately 31 gross acre County island generally bounded by Patt Avenue to the north, McKee Road to the south, North White Road to the east, and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation, and Area No. 01 (Library Services) County Service.
- (c) McKee No. 135: An approximately 64 gross acre County island generally bounded by Gay Avenue to the north, North Capitol Avenue to the west, Alum Rock Avenue to the south, and a line approximately 950 feet southwesterly of North White Road to the east and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation, and Area No. 01 (Library Services) County Service.
- (d) Capitol No. 57: An approximately 127 gross acre County island generally bounded by Florence Avenue to the north, South White Road to the east, Story Road and Lower Silver Creek to the south, and South Capitol Avenue to the west and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation, and Area No. 01 (Library Services) County Service.

CEQA: The environmental impacts of this project were addressed by a Final EIR entitled, "San José 2020 General Plan," and certified on August 16, 1994, by the City of San José City Council. Council Districts 4 and 5. SNI: East Valley/680. (Planning, Building and Code Enforcement)

5.x Funding Recommendations for New Park Facilities.

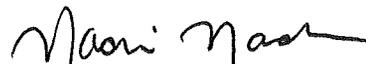
Recommendation: Adopt a resolution to:

- (a) Implement a pilot program, through December 31, 2011, to authorize staff:
 - (1) To proceed with the development of any new park, trail or recreational facility for which there is (1) an appropriation of all funding necessary for the full development of the project including design and construction for all improvements and amenities set forth in the City Council approved master plan for that project and (2) identification of funding for a three-year park establishment period; and
 - (2) To proceed with the development of any new park, trail or recreational facility for which there is (1) an appropriation of funding for the design and construction of the project for all improvements and amenities set forth in the City Council approved master plan for the project and (2) a "donation" agreement for all work during the three-year park establishment period; and
 - (3) To use parkland fees and Construction & Conveyance taxes to fund a three-year park establishment period as part of the full cost of the development of any new park, trail or recreational facility, provided that including such funding does not prevent funding the design and building of a new park, trail, or recreational facility identified as an "existing" or "Priority 1" project in the adopted Greenprint Update.

- (b) Modify the park maintenance exemption to the City's prevailing wage requirements approved by the City Council on February 12, 2008 to include any "donated" park establishment period services or park maintenance by a developer or other entity with, or without, an interest in a development in the City, provided that the donation is for a minimum of two years and meets the other conditions set forth in the memorandum.

CEQA: Not a Project, File No.PP10-068, General Procedure and Policy Making. (Parks, Recreation and Neighborhood Services)

These items will also be included in the Council Agenda Packet with item numbers.



NADINE NADER

Assistant to the City Manager



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: October 19, 2010

Approved

Date

10/25/10

COUNCIL DISTRICTS: 4&5
SNI AREAS: East Valley/680

SUBJECT: REORGANIZATION/ANNEXATION TO THE CITY OF SAN JOSE OF THE FOLLOWING COUNTY ISLANDS:

PENITENCIA NO. 77: AN APPROXIMATELY 119 GROSS ACRE COUNTY ISLAND GENERALLY BOUNDED BY BOTH SIDES OF GOLF DRIVE, THE WEST SIDE OF TOYON AVENUE, BOTH SIDES OF PENITENCIA CREEK ROAD AND BOTH SIDES OF GRIDLEY STREET;

MCKEE NO. 136: AN APPROXIMATELY 31 GROSS ACRE COUNTY ISLAND GENERALLY BOUNDED BY PATT AVENUE TO THE NORTH, MCKEE ROAD TO THE SOUTH, AND NORTH WHITE ROAD TO THE EAST;

MCKEE NO. 135: AN APPROXIMATELY 64 GROSS ACRE COUNTY ISLAND GENERALLY BOUNDED BY GAY AVENUE TO THE NORTH, NORTH CAPITOL AVENUE TO THE WEST, ALUM ROCK AVENUE TO THE SOUTH, AND A LINE APPROXIMATELY 950 FEET SOUTHWESTERLY OF NORTH WHITE ROAD TO THE EAST; AND

CAPITOL NO. 57: AN APPROXIMATELY 127 GROSS ACRE COUNTY ISLAND GENERALLY BOUNDED BY FLORENCE AVENUE TO THE NORTH, SOUTH WHITE ROAD TO THE EAST, STORY ROAD AND LOWER SILVER CREEK TO THE SOUTH, AND SOUTH CAPITOL AVENUE TO THE WEST.

RECOMMENDATION

It is recommended that the City Council adopt resolutions ordering the reorganization of the following territories:

Penitencia No. 77: An approximately 119 gross acre County island generally bounded by both sides of Golf Drive, the west side of Toyon Avenue, both sides of Penitencia Creek Road and both sides of Gridley Street and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation, and Area No. 01 (Library Services) County Service.

McKee No. 136: An approximately 31 gross acre County island generally bounded by Patt Avenue to the north, McKee Road to the south, North White Road to the east, and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation, and Area No. 01 (Library Services) County Service.

McKee No. 135: An approximately 64 gross acre County island generally bounded by Gay Avenue to the north, North Capitol Avenue to the west, Alum Rock Avenue to the south, and a line approximately 950 feet southwesterly of North White Road to the east and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation, and Area No. 01 (Library Services) County Service.

Capitol No. 57: An approximately 127 gross acre County island generally bounded by Florence Avenue to the north, South White Road to the east, Story Road and Lower Silver Creek to the south, and South Capitol Avenue to the west and the detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation, and Area No. 01 (Library Services) County Service.

OUTCOME

Upon completion of the annexation/reorganization proceedings and certification by LAFCO, the territories designated Penitencia No. 77, McKee No. 136, McKee No. 135 and Capitol No. 57 shall be annexed into the City of San Jose and would be served by City of San Jose facilities and services.

BACKGROUND

The City Council voted unanimously to initiate these annexations as part of Phase 3 of the County Island Annexation program on October 5, 2010. No one spoke in support of or in opposition to the initiation of the subject annexations.

In addition to initiating the annexations on October 5, 2010, the City Council in separate actions approved the corresponding Planning Director-initiated Prezonings (File Numbers C10-012, C10-013, C10-014, and C10-015) for each of the Alum Rock pockets. The purpose of the Prezonings

HONORABLE MAYOR AND CITY COUNCIL

October 19, 2010

Subject: Penitencia No. 77, McKee No. 136, McKee No. 135, and Capitol No. 57

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was to assign City of San José zoning districts to the areas prior to annexation, consistent with the City of San Jose General Plan, existing uses, and other factors.

In November of 2006, the City and County entered into a Settlement Agreement to resolve disputes related to development of the County Fairgrounds site and development under the City's North San Jose Area Development Policy. As a part of that Settlement Agreement, the City agreed to review and consider the annexation of County territory that are 150 acres or less. Unincorporated islands are governed by and receive services from the County even though they are completely or substantially surrounded by the City of San Jose. While not agreeing to any particular outcome or decision on any specific annexation proposal, the City did agree to make good faith efforts to process those annexations for City Council consideration by April 15, 2011. These proposed annexations have been reviewed and processed pursuant to the agreements reached by the City and County in that Settlement Agreement.

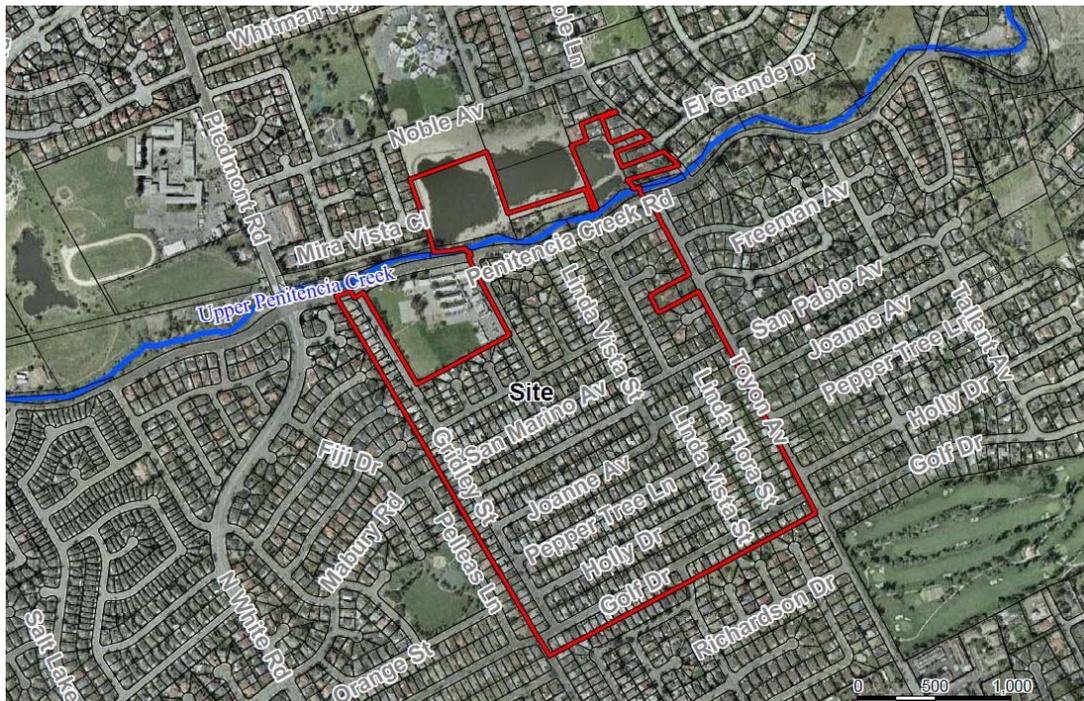
On April 26, 2006, the City Council voted to proceed with a County Island Annexation Program that involves the annexation of all unincorporated County pockets less than 150 acres in size. The program has resulted in the annexation of 42 County islands comprising approximately 900 acres and 9,000 residents thus far. The annexation of the subject areas comprise 4 of the 5 County pockets proposed for annexation in 2010 in the program's third and final phase that includes approximately 445 acres and 7,500 residents. The fifth pocket for consideration is Cambrian No. 36, which is analyzed in a separate Memorandum to the Council. Approximately 1,400 acres will be annexed including 17,000 residents if all the proposed annexations within the County Island Annexation Program are approved.

ANALYSIS

County Pocket Descriptions

Attached to this memorandum is a map depicting the close proximity of all four pockets. Individual descriptions and aerial views are presented below.

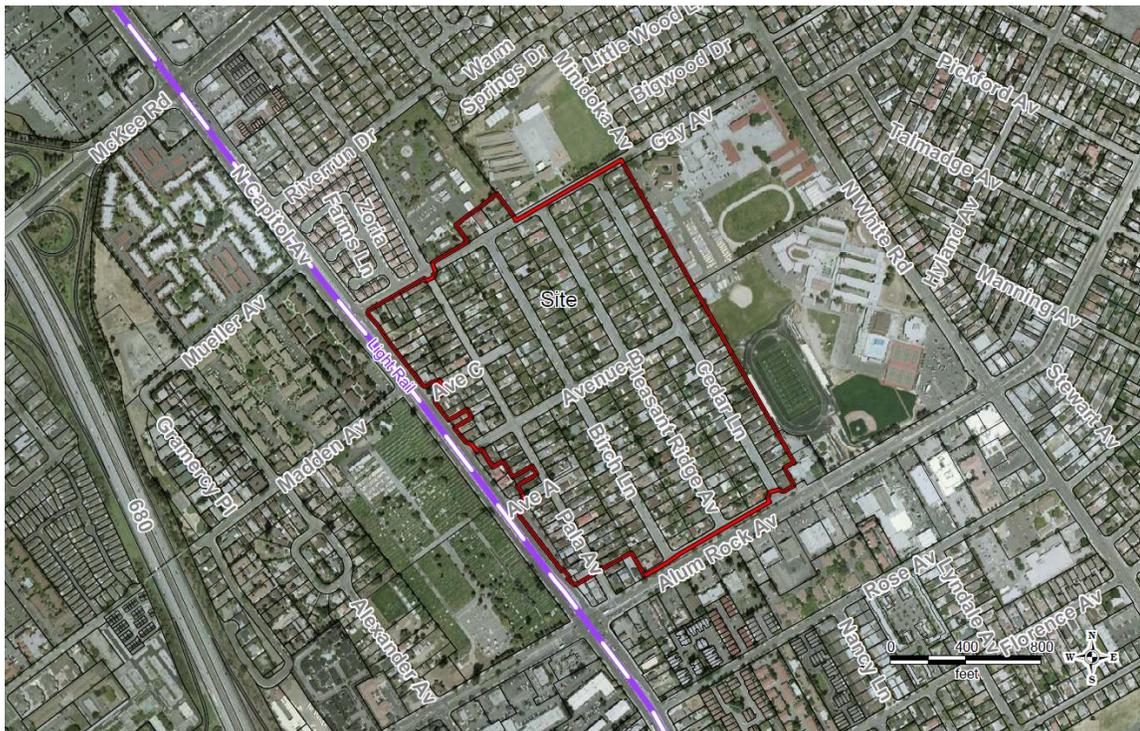
Penitencia No. 77: The 119-acre County pocket consists of approximately 630 individual parcels which are primarily developed with single-family residences. Other uses in the pocket include the Penitencia Creek Trail and Santa Clara Valley Water District property north of Penitencia Creek Road. The site is adjacent to the Toyon Elementary School to the north, single-family residences in the County to the east, south and west. The area east of the subject pocket is part of a larger unincorporated area and San Jose surrounds the remaining portion of the pocket. The Prezoning that corresponds to Penitencia No. 77 is file number C10-012.



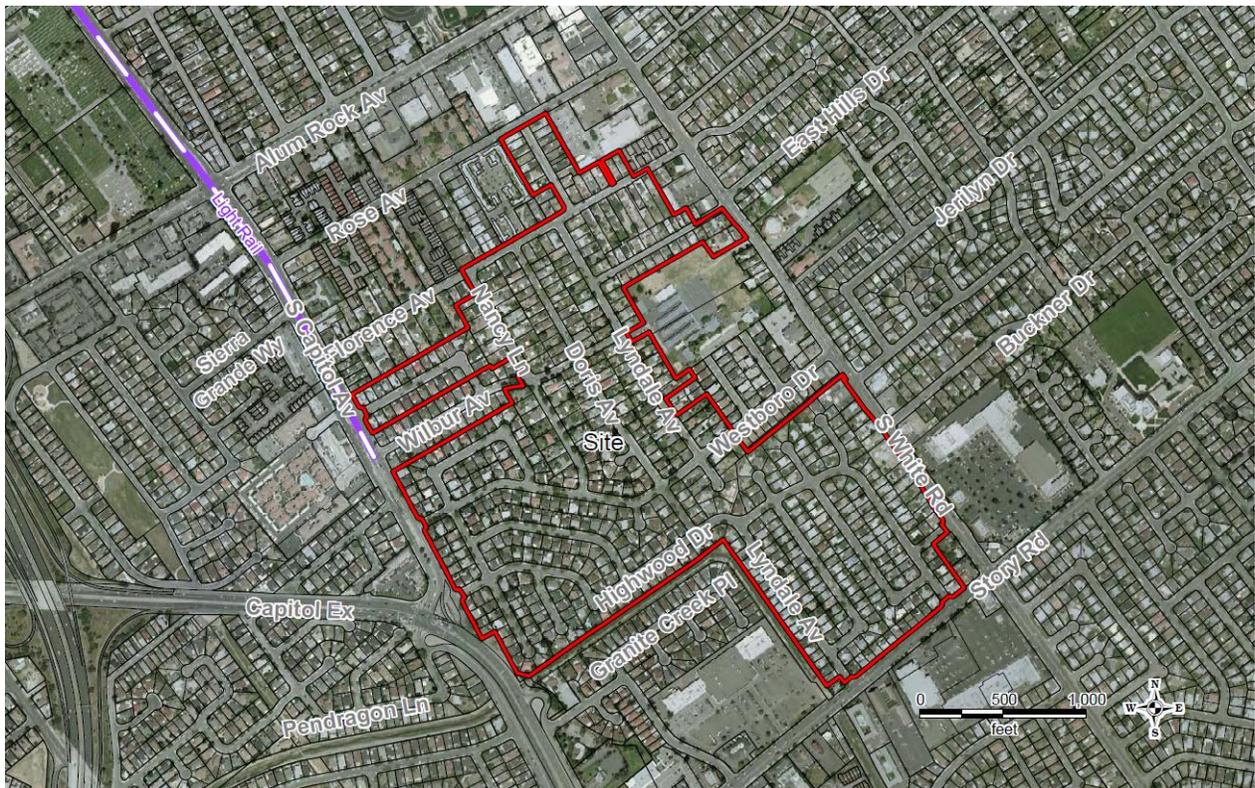
McKee No. 136: The approximately 31-acre County pocket consists of approximately 115 individual parcels which are primarily developed with single-family residences. Other uses in the pocket consist of multi-family residences on both sides of Alvieta Drive, between Francis Drive and N. White Road, including four four-plexes on the south side and two apartment complexes on the north side of the street. The pocket is surrounded primarily with single-family residences to the north; single and multi-family residences and commercial uses to the east; single-family residences to the south; and Sheppard Middle School to the west. The territory is completely surrounded by the City of San Jose. The Prezoning that corresponds to McKee No. 136 is file number C10-013.



McKee No. 135: The approximately 64-acre County pocket consists of approximately 260 individual parcels which are primarily developed with single-family residences. The subject area is surrounded by single-family residences and a school to the north; a cemetery and multi-family residences across N. Capitol Avenue to the west; commercial uses to the south; and James Lick High School to the east. This territory is completely surrounded by the City of San Jose. The Prezoning that corresponds to McKee No. 135 is file number C10-014.



Capitol No. 57: The approximately 127-acre County pocket consists of approximately 630 individual parcels which are primarily developed with single-family residences. There is an existing commercial use (pond supply) on the west side of White Road. The pocket is adjacent to residential uses and the Alum Rock Light Rail line to the west on South Capitol Avenue, commercial uses on the south side of Alum Rock Avenue, a mixture of commercial and residential uses to the east on White Road and commercial uses to the south of the pocket on Story Road. This territory is completely surrounded by the City of San Jose. The corresponding Prezoning for this pocket is file number C10-015.



Annexation Considerations

Annexation to San Jose of these and other islands of less than 150 acres as part of the County Island Annexation Program fulfills the long-standing policy of the City, County and Local Agency Formation Commission (LAFCO) that existing and future urban development should be located within cities. In addition, the County Island Annexation Program implements the Urban Service Area policies of the San Jose 2020 General Plan that encourage cooperative efforts to seek the annexation of urbanized County pockets within San Jose's Urban Service Area.

Annexation of County pockets would ultimately result in a more efficient delivery of urban services throughout San Jose by creating logical city boundaries, removing existing gaps in infrastructure and eliminating any duplication of services with the County of Santa Clara. These pockets will be "detached" from the special districts currently providing and/or funding service in the area including Central Fire Protection, County Lighting, County Sanitation, and Area No. 01 (Library Services).

While County policy and standard development practices would likely result in the eventual annexation of the island areas, the County Island Annexation Program reduces the administrative cost of these annexations for the City by taking advantage of the County's current commitment to facilitate annexations and the State's temporary streamlining of the annexation process.

General information applicable to most annexations in the County Island Annexation Program

- **Taxes.** There will be no change to the assessed valuation of property or tax rate as a result of annexation to the City of San Jose. Some assessments will change or will be eliminated (e.g., libraries, sewer, and street lighting), with the amount of applicable special assessments being comparable to what was paid in the County. Newly annexed residents will be subject to the City's transfer tax (\$3.30/1000) and utility user's tax (5%).
- **Streamlined Annexation Process.** The State has waived formal protest proceedings for unincorporated areas surrounded or substantially surrounded by cities, that are already developed and within their Urban Service Area, and are less than 150 acres in size. Staff has received comments of concern from residents and property owners regarding the limits placed on their ability to protest annexations as a result of the streamlined process.
- **County/City Permit Processes.** Under State law, no changes in zoning or general plan designations can be approved for two years after the annexation unless findings can be made that a substantial change has occurred. The County typically stops accepting new development permits about six weeks prior to the annexation initiation hearing. Those with valid building permits in the County can continue construction, and inspections will be conducted by the County. New development permits can be obtained from the City once the annexation is effective.
- **Zoning Regulations.** Staff has provided information to residents regarding development standards under the new zoning districts, as well as other policies and programs such as regulations for legal nonconforming uses and the secondary unit program.
- **Boundaries (school district, zip code, and real estate)** Annexation does not affect school district boundaries. Address and real estate listing boundaries are not determined by the City. There will be no change to the Zip Code since that is assigned independent of City boundaries. Staff cannot speak to the possibility of future changes in boundaries controlled by outside agencies or organizations.
- **Public Safety and Code Enforcement.** City of San Jose Police, Fire, and Code Enforcement will provide service to these areas once the annexation is effective.
- **Sidewalks, Sewers, and Lighting.** Upon annexation, residents should not expect the City to construct sidewalks or require construction of sidewalks until new development takes place or improvements are made within the public street right-of-way. The City also constructs sidewalks as part of street improvement projects funded through the City's Capital Improvement Program. San José does not have an assessment for street lights but

will take over responsibility for maintaining existing street lights and taking care of outages, malfunctions, and damages.

- **Streets.** County Roads and Airports has recently completed maintenance work for roads that are contained in the subject County pockets. This maintenance work is expected to last ten years. The City of San Jose will be responsible for future maintenance if the areas are annexed.
- **Collection of Garbage and Recyclables** Annexation into San José will result in an eventual change to one of the companies under contract with the City for garbage and recyclable collection services. The change will not occur immediately upon annexation. Customers will be notified in advance regarding the time at which their garbage collection services will change to the new company.

Information regarding these and other issues are addressed in the Annexation Answer Book which was made available to all residents and property owners, well in advance of the proposed annexation to the City of San Jose.

Required Findings

Before approving the reorganization proposals, the City Council is required to make certain findings as listed below. All required findings can be made as discussed below for each finding.

1. **The unincorporated territory is within the City's Urban Service Area as adopted by LAFCO.** The properties are within the City's Urban Service Area.
2. **The County Surveyor has determined the boundaries of the proposal to be definite and certain and in compliance with LAFCO Annexation Policies.** The County Surveyor has certified the boundaries of the reorganizations.
3. **The proposal does not split lines of assessment or ownership.** All affected parcels are being reorganized in their entirety.
4. **The proposal does not create island or areas in which it would be difficult to provide municipal services.** As proposed, the annexations will not create islands. The completion of reorganization proceedings would result in the elimination of four pockets of unincorporated territory.
5. **The proposal is consistent with the City's adopted General Plan.** The proposed annexations are consistent with the City's adopted San Jose 2020 General Plan in that existing and future urban development should be located within cities.
6. **The territory is contiguous to existing City limits.** The areas proposed to be reorganized are contiguous to the City limits.

EVALUATION AND FOLLOW-UP

City staff provides status updates on the County Island Annexation Program on the website dedicated to the program and in periodic updates to the City Manager's Office.

POLICY ALTERNATIVE

Alternative: Decide to not annex one or more of the subject County islands.

Pros: The City would not take on the financial and administrative responsibility of providing urban services to the area.

Cons: The area(s) would remain unincorporated, within the jurisdiction of the County of Santa Clara. Existing gaps in infrastructure and inefficiencies in the delivery of urban services inherent to unincorporated pockets would remain for the foreseeable future. The City of San José would not receive tax revenue from property in the unincorporated pockets whose residents utilize City facilities such as roads, libraries, parks, and community centers. There will continue to be an inequitable distribution of costs amongst all residents who benefit from City services and facilities.

Recommendation: Staff recommends ordering of all four annexations described in this memorandum.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 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)**
- Criterion 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)**

A notice of the public hearing was published, posted on the City's web site and distributed to the owners and tenants of all properties located within 300 feet of the project site. As annexations primarily affect the residents and property owners within the pocket, information on the County Pocket Annexation Program is available on the Planning Division's website describing the areas proposed for annexation and general information on what current County residents can expect upon the annexation of their property to the City of San José. The County Island Annexation Answer Book was sent to all residents and property owners within the areas scheduled be annexed in 2010

as a part of Phase 3 of the program. Staff has also been available to discuss the proposal with members of the public.

Public outreach and noticing was conducted in accordance with Council Policy 6-30: Public Outreach Policy. Staff held two community meetings on April 29, 2010 and May 6, 2010 with residents, property owners, and business owners of the subject County pockets. There were approximately 30 people in attendance at each meeting. Staff from the Police Department, Environmental Services Department, and Planning Department participated in the community meetings. In summary, the questions and concerns expressed in opposition to the annexation were in regards to the following issues:

- The inability of residents to protest or vote to stop the annexation under the streamlined process.
- Uncertainty as to the benefits of becoming a San Jose resident.
- The City's limited financial ability to annex additional pockets.
- A preference for the service provided by the Santa Clara County Sheriff over the San Jose Police Department.
- The mess created by on-street pickup of yard waste as allowed in the City.
- Concerns regarding the potential need to install sidewalks upon annexation.

Staff responded to these concerns by providing specific explanations that are consistent with the information contained in this memorandum.

COORDINATION

This effort was coordinated with the Department of Public Works, Department of Transportation, Fire Department, Police Department, Building Division, Environmental Services Department and the City Attorney. Staff from the relevant Departments meets on a regular basis regarding issues related to the County Island Annexation Program. The City provides regular updates to the County of Santa Clara on the status of the program.

FISCAL/POLICY ALIGNMENT

This project is consistent with the City Council's direction to initiate annexation of unincorporated islands of less than 150 acres.

COST SUMMARY/IMPLICATIONS

The annexation of this and other islands would remove existing gaps in infrastructure and inefficiencies in the delivery of urban services such as police and fire protection. Upon annexation, the City of San José receives tax revenue from property in these unincorporated pockets whose residents utilize City facilities such as roads, libraries, parks, and community centers. Incorporation

HONORABLE MAYOR AND CITY COUNCIL

October 19, 2010

Subject: Penitencia No. 77, McKee No. 136, McKee No. 135, and Capitol No. 57

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of these islands results in a more equitable distribution of costs amongst all residents who benefit from City services and facilities.

The City will incur operational costs to provide direct services to the area such as emergency services provided by the Police and Fire Departments, demands by residents and businesses for street maintenance, code enforcement, recreational and library services. The larger County islands were intentionally included as part of the third and last phase of the County Island Annexation Program (initiated in 4/2006) to allow sufficient time for City service providers to prepare to take responsibility for providing services in these areas. Planning staff has closely coordinated with staff from other departments to assist in their preparation to provide services to the area.

BUDGET REFERENCE

Not applicable.

CEQA

The environmental impacts of this project were addressed by a Final EIR entitled, "San José 2020 General Plan," and certified on August 16, 1994, by the City of San José City Council.

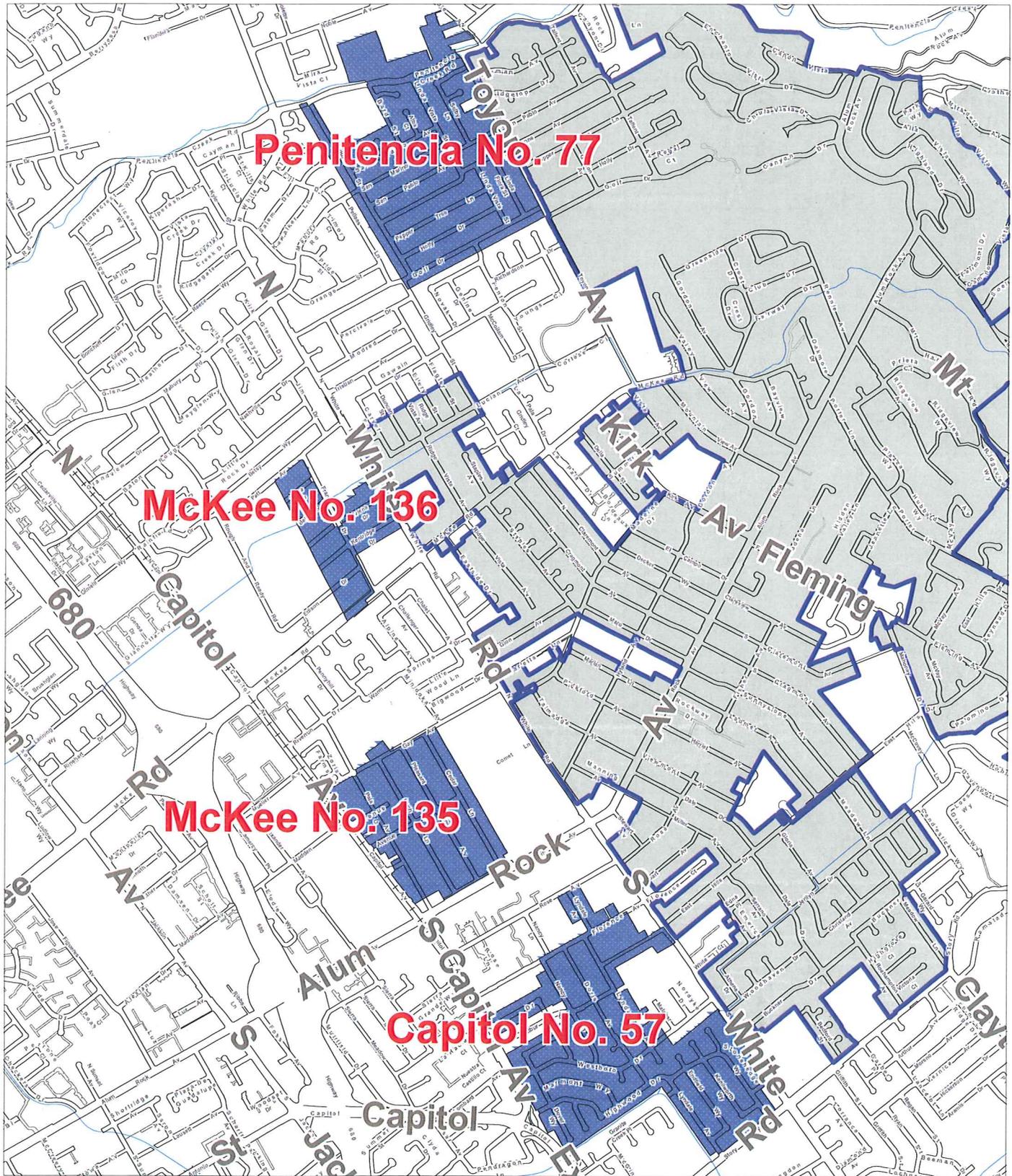
/s/
JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Richard Buikema, Senior Planner, at 408-535-7835.

Attachment: Map

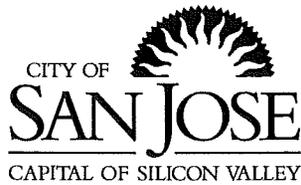
Alum Rock Area County Islands

County Island Annexation Program



 Pockets Proposed for Annexation

 Remaining Unincorporated Area



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Albert Balagso

**SUBJECT: FUNDING RECOMMENDATIONS
FOR NEW PARK FACILITIES**

DATE: 10-20-10

Approved

Date

10/26/10

COUNCIL DISTRICT: Citywide

RECOMMENDATION

Adopt a resolution to:

1. Implement a pilot program, through December 31, 2011, to authorize staff:
 - a. To proceed with the development of any new park, trail or recreational facility for which there is (1) an appropriation of all funding necessary for the full development of the project including design and construction for all improvements and amenities set forth in the City Council approved master plan for that project and (2) identification of funding for a three-year park establishment period; and
 - b. To proceed with the development of any new park, trail or recreational facility for which there is (1) an appropriation of funding for the design and construction of the project for all improvements and amenities set forth in the City Council approved master plan for the project and (2) a "donation" agreement for all work during the three-year park establishment period; and
 - c. To use parkland fees and Construction & Conveyance taxes to fund a three-year park establishment period as part of the full cost of the development of any new park, trail or recreational facility, provided that including such funding does not prevent funding the design and building of a new park, trail, or recreational facility identified as an "existing" or "Priority 1" project in the adopted Greenprint Update.
2. Modify the park maintenance exemption to the City's prevailing wage requirements approved by the City Council on February 12, 2008 to include any "donated" park establishment period services or park maintenance by a developer or other entity with, or without, an interest in a development in the City, provided that the donation is for a minimum of two years.

OUTCOME

Approval of the recommendations in this memorandum would provide a mechanism to remove the temporary hold placed on the construction of certain new parks and recreation facilities and provide an opportunity to move additional parks forward through future public-private partnerships.

EXECUTIVE SUMMARY

On February 9, 2010, the City Council approved staff's recommendation to delay 12 new park and recreation capital projects in order to avoid the impact of ongoing operations and maintenance costs to the general fund. In addition, as part of the 2010-2011 Capital Budget approval process, funding recommendations were aligned with the Greenprint priorities to build a foundation for future financial sustainability. Projects that have continued to move forward include:

1. Trail projects that advance the Green Vision goal of 100 miles of trails;
2. Infrastructure Improvement Projects that reduce maintenance and operations costs;
3. Land banking for future park development; and
4. Renovation of sports fields to artificial turf to reduce maintenance and operations costs and water consumption.

As part of the February 9th memorandum, staff stated that they would return to the City Council with a recommendation to proceed with a particular park project if at least three years of maintenance funding could be identified.

Based on staff's analysis of the various options, staff recommends implementing a pilot program which would allow staff to proceed with the development of new parks and recreation capital projects with the following criteria:

1. An appropriation is available with all funding necessary for the full development of the project and funding has been identified for a three-year park establishment period; or
2. An appropriation is available with all funding for the full development of the project and a "donation" agreement has been developed for all work during the three-year park establishment period; and
3. The parkland fees or Construction & Conveyance taxes (C&C) used to fund the three-year park establishment period do not prevent funding the design and building of a new park, trail, or recreational facility identified as an "existing" or "Priority 1" project in the adopted Greenprint Update.

Additionally, to enhance opportunities for public-private partnerships, staff is requesting a modification of the park maintenance exemption to the City's prevailing wage requirements approved by the City Council on February 12, 2008 to include any "donated" park establishment services or park maintenance by a developer or other entity with, or without, an interest in a

development, provided that the maintenance donation is for a minimum of two years and at no cost to the City. This exemption should provide more opportunities for partnerships to move many of the new facilities forward that are currently on hold due to the City's lack of ability to maintain them.

If Council approves the above recommendations, Newhall Park is the only facility that would move forward immediately under the pilot program. However, as discussed further in the Analysis section, Buena Vista Park expansion could also move forward as allowed under existing policy as staff is working with the community to develop a volunteer maintenance program which would result in a net zero General Fund impact. In addition, by modifying the prevailing wage requirements, additional opportunities may open up for developers to agree to enter into a "donation" agreement with the City for the park establishment period.

BACKGROUND

Project Status

On February 9, 2010, the City Council approved staff's recommendation to delay new park and recreation capital projects in order to avoid the impact of ongoing operations and maintenance costs to the General Fund. Thirteen projects are currently on hold, including eight public works park projects, four turnkey park projects, and one neighborhood center project. These projects are located in Council Districts 3,4,6,7 and 10 and shown in Attachment A. There were originally twelve projects placed on hold, however, Buena Vista Park expansion has been added to the list since that time.

Of the eight public works park projects, only four parks are fully funded for design and construction: Newhall Park, Buena Vista Park, Mabury/Commodore Park and Martial Cottle Community Garden. Of those four projects, one (Newhall Park) has completed the design phase and is ready to be bid for construction. Staff is still finalizing an agreement with the County of Santa Clara for the Martial Cottle Community Garden and the design process has not yet started for Mabury/Commodore and Buena Vista Parks. The other four projects (Antonio Balermino, Del Monte, Martin and West Evergreen) are not fully funded at this time.

Of the four turnkey park projects that the City currently has agreements with developers for, two projects (Pellier and River Oaks Park) have community and developer interest in proceeding. The other two turnkey projects (Montecito Vista and Riverview Park) are on hold pending the developer's ability to move forward.

The one neighborhood center project – Hoffman/Via Monte Neighborhood Center – is on hold pending identification of construction funding.

Recommendations Background

On April 14, 2010, Councilmembers Sam Liccardo and Pierluigi Oliverio submitted a memorandum to the Rules and Open Government Committee recommending a strategy to allow Newhall Park to be constructed without a negative operations and maintenance impact to the General Fund. On August 11, 2010, Councilmembers Liccardo and Oliverio submitted a second memorandum to the

Rules and Open Government Committee requesting that the recommendation be submitted to the City Council for "...a full and open discussion..." At this meeting it was determined that staff would return to the full City Council with a recommendation in late October 2010.

The strategy recommended in the two Rules and Open Government Committee memos is to establish a program that would allow Sobrato Group to receive a parkland fee credit up to the amount donated to City to pay for maintenance of Newhall Park. The Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) require developers to dedicate land for neighborhood and community parks, construct park or recreational improvements, pay a parkland fee in lieu of dedication or construction, or a combination thereof, to help meet the demand for neighborhood and community parkland generated by the development of new residential subdivisions. The PDO and PIO are consistent with the requirements and procedures for the dedication of parkland by housing developers as set forth in the California law known as the Quimby Act and the Mitigation Fee Act (Sections 66477 and 66000, respectively, of the Government Code).

Additionally, on February 12, 2008, as part of item 3.6 "Public/Private Partnership Case Study Wrap-Up and Recommendations," the City Council directed staff to prepare an amended Prevailing Wage Policy to, among other things, modify "City Council direction regarding maintenance agreements for City owned buildings, structures and ground facilities to provide an exemption for agreements for donated parks maintenance services (including landscaping, restroom cleaning, and other routine maintenance), when those services are paid for solely by the donor, subject to the following criteria:

1. Donors must not have been affiliated with a development application within two years prior or during the term of the partnership agreement, and agreements shall have durations of no less than two years; and
2. Staff shall consult with applicable labor organizations prior to entering into new parks maintenance donations or extensions of such agreements, and donations valued in excess of \$100,000 annually shall be presented to the City Council for approval."

Process Background

Since February 2010, PRNS Staff has engaged the community in two public meetings to discuss alternative ways to fund operations and maintenance. Meetings were held in June and August, and communities affected by park construction delays were noticed by email. Ideas discussed included soliciting corporate sponsorship of maintenance, homeowner organizations funding maintenance contracts and volunteers conducting routine maintenance activities. Residents living near the proposed Newhall and West Evergreen Parks testified at the Park and Recreation Commission and other public meetings held in June and September to express support for constructing parks in their neighborhoods.

On September 1, 2010, the strategy recommended in Councilmembers Liccardo and Oliverio's memos was presented to the Parks and Recreation Commission as an informational item. Commission members expressed concerns about long term impacts to a dedicated funding source

for capital parks and recreational projects through the PIO and PDO by providing a credit to a developer for donated park maintenance.

On September 17, 2010, PRNS staff presented Councilmembers Liccardo and Oliverio's memos as well as the option of an extended maintenance period to the monthly Developer's Roundtable meeting hosted by the City of San José Department of Planning, Building and Code Enforcement. The developers at the meeting thanked staff for the update but very little feedback was provided.

On October 6, 2010, the Parks and Recreation Commission (PRC) was provided a presentation on the alternatives discussed in the analysis section of this document and the PRC had an extended dialogue regarding the alternatives. The PRC felt that the recommendation from the Rules and Open Government Committee memos was intriguing but had concerns about the impact to the integrity of the PDO/PIO ordinances. They felt that going down this path could lead to unintended consequences in other neighborhoods by taking away opportunities for new park acquisition and development. They also felt that if the Council decided to pursue these options, they should be considered under very limited circumstances where there is a clear nexus and the money is not needed for other new Greenprint priority facilities. Overall, there were a wide variety of opinions on the commission and they ultimately, took action on the following recommendations to be forwarded to the City Council.

The PRC recommends that the City should continue to look at long term strategies for parks maintenance which include:

1. A request for an immediate consultation between the City Attorney's Office and the PRC regarding the integrity of the PDO/PIO ordinance;
2. The continued pursuit of a future ballot measure to increase the C&C Taxes and shift a larger portion of the funding to maintenance;
3. A request for additional time to research the advantages and disadvantages of all of the alternatives discussed in this memorandum.

The PRC also recommends that the City Council should be focused on the following in the short term:

1. Looking at Council policies on prevailing wage, volunteers and public private partnerships to determine if there are opportunities to revise these policies and make it easier to seek a partner for operations and maintenance;
2. Finding a way to immediately proceed with the construction of Newhall Park;
3. Continue to look at grants and donations;
4. Support the pilot program to include three years of park establishment period in the construction bid price as long as the funding for the park establishment period does not impact our ability to deliver Greenprint priority new parks and trails.

The votes above were unanimous, but some commissioners expressed concerns with item #4 above and its implication on the integrity of the capital funding sources.

ANALYSIS

Staff evaluated three main alternatives which would satisfy the February 9, 2010 direction to limit the impact to the General Fund for at least three years in order to move a new project forward. These alternatives included (A) providing a parkland fee credit, (B) using a pilot program for creation of a park establishment period, and (C) increasing the C&C funding available for park maintenance. As discussed below, staff recommends that the City Council adopt Alternative B.

Alternative A: Parkland Fee Credit Pilot Program

The Rules and Open Government Committee memorandum dated April 14, 2010 proposes to use a portion of the parkland fees paid by the Sobrato Group in June 2010 for their residential development, to fund maintenance of Newhall Park for possibly twenty years. This option would require a change to the Schedule of Parkland Fees & Credit resolution for the PDO and PIO to provide a parkland dedication obligation credit to developers for the amount donated to the City for park maintenance. For example, Sobrato paid approximately \$1.4 Million in parkland fees to the City for its residential development near Newhall Park. Under this alternative, City would place \$400,000 of the \$1.4 million in a fund to pay for 20 years of maintenance of Newhall Park using City personnel.

If Council elects to pursue this Alternative, staff recommends amending the Schedule of Parkland Fee & Credit resolution to establish the following parameters for a pilot program:

1. Full funding has been appropriated for design and construction of all improvements and amenities set forth in the City Council approved master plan for that project;
2. There is a source of funding identified to provide for at least three years of the park establishment period provided that the funding identified is not necessary to fund the design and construction of a new park, trail or recreation facility identified as an "existing" or "Priority 1" project in the adopted Greenprint Update.
3. Pilot program is voluntary for any developers who are willing to enter into a written parkland agreement with the City under certain terms and conditions discussed herein;
4. Developer receives credit on its parkland fee payment up to the amount donated to the City for park maintenance, at City's determination;
5. Developer's residential project paying the parkland fees must be within $\frac{3}{4}$ mile of the park to be maintained;
6. A minimum of 20 years maintenance must be funded out of the credited PDO or PIO fees.

Advantages of this alternative include:

- Allows certain projects to move forward: Currently, Newhall Park is the only eligible project;
- Might provide funding not only for the park establishment period but also for a sustained maintenance period of up to 20 years and, therefore, a delayed impact to the general fund.

Disadvantages of this alternative include:

- Impact to the Park Trust Fund as less money is available for City to provide parks, trails and recreational facilities;

- Difficult for City to continue to meet its General Plan goal of 3.5 acres of parkland per 1000 residents;
- Since it relies on new development fees coming into the City, it does not provide flexibility to move projects other than Newhall Park forward at this time. In addition, it is limited in its ability to move other projects forward in the future.

Alternative B – Pilot Program for Park Establishment Period

Historically, the City's General Fund has paid for work during the park establishment period. As noted above, for a project to move forward, a non-General Fund source must be identified to pay for this work. Based on staff's analysis of the alternatives and feedback received from stakeholders, staff is recommending a pilot program for a park establishment period to be in effect through December 31, 2011. This pilot program would allow projects currently on hold to proceed with design and construction as follows:

1. Staff can proceed with the development of any new park, trail or recreational facility for which there is (1) an appropriation of all funding necessary for the full development of the project including design and construction for all improvements and amenities set forth in the City Council approved master plan for that project and (2) identification of funding for a three-year park establishment period; and
2. Staff can proceed with the development of any new park, trail or recreational facility for which there is (1) an appropriation of funding for the design and construction of the project for all improvements and amenities set forth in the City Council approved master plan for the project and (2) a "donation" agreement for all work during the three-year park establishment period; and
3. Staff can use parkland fees and Construction & Conveyance taxes to fund a three-year park establishment period as part of the full cost of the development of any new park, trail or recreational facility, provided that including such funding does not prevent funding the design and building of a new park, trail, or recreational facility identified as an "existing" or "Priority 1" project in the adopted Greenprint Update.

The recommendation ensures that a proposed project does not move forward unless all necessary funding is in place for the full development of the project including design and construction of all master planned improvements and the three-year park establishment period. The park establishment period can either be funded as part of the construction contract using parkland fees or C&C taxes, or the City could enter into a donation agreement to provide all the work required during the three-year park establishment period.

In addition, the recommendation provides that additional parkland fees or C&C tax funding for the park establishment period should only be provided if it would not prevent providing funding for the design and construction of a new park, trail, or recreational facility identified as an "existing" or "Priority 1" project in the adopted Greenprint Update. This will ensure that the development or acquisition of new facilities is not impacted by moving these projects forward to construction.

Park Establishment Period

Typical public works construction contracts for park facilities include a standard 90-day “plant establishment period” and one year warranty. The 90-day “plant establishment period” and one year warranty are part of the development of the park. During the 90-day “plant establishment period,” the contractor is responsible to make sure the plants have grown, are healthy, and will be able to survive. Additionally, the one year warranty requires the contractor to warrant against any defective work or labor done or defective materials furnished for the project.

Actual field experience has shown that the 90-day “plant establishment period” and one year warranty are insufficient to monitor the ability of landscape areas to withstand the wear and tear imposed by public use and to make sure the park facilities, such as, play equipment, benches, lights, and walkways, are properly constructed in accordance with City specifications. Therefore, staff proposes to include a 3 year “park establishment period” that will be part of the development of park facilities and included as part the public works construction contract for park facilities. The three-year “park establishment period” would keep the contractor engaged during the time period where the park is initially used by the community and provide better assurance that the contractor will maintain responsibility for any defects that are observed during the first few years. For example, we have a park in the City which was constructed over five years ago and continues to have major issues with turf survival. If the City had kept the contractor obligated for a longer period of time, it is possible that oversights during the “park establishment period” could have required the contractor to repair or replace any defective facilities.

The park will be open to the general public during this period and the City’s contractor would be responsible for all work during the “park establishment period.” General duties during the “park establishment period” will likely include inspection of the landscaped areas, play equipment, walkways, benches, fountains, restrooms, and other facilities to ensure they are all properly working, repair and replace any defective facilities, and other routine work during the inspection, including mowing of turf, weed control, sweeping, trash collection and overall turf and landscaping work, all to ensure development of the park facilities meet the specifications. While some of this work could be accomplished by City staff, it is being recommended that they be the contractor’s responsibility during the park establishment period in order to clearly delineate overall responsibility for the establishment of the park. If City crews and contractor crews were performing work simultaneously at the Park during the establishment period, it would not be an efficient use of resources and could cause confusion regarding responsibilities.

In order to provide funding for park establishment, the City would use Park Trust and C&C funding. Per the City’s Municipal code, both of these funding sources are eligible to be used for the development of new parks and thus, can be used for the park establishment period as this is being defined as part of the development of the park.

Advantages of this alternative include:

- Allows certain projects to move forward: Currently, Newhall Park is the only eligible project.
- Provides more flexibility for other projects in the future as C&C funding could be used as well as park trust funding to help fund park establishment;

- Enhances the overall quality of the project by having the contractor directly responsible during the park establishment period.

Disadvantages of this alternative include:

- Impact to the Park Trust Fund as less money is available for City to provide parks, trails and recreational facilities;
- Difficult for City to continue to meet its General Plan goal of 3.5 acres of parkland per 1000 residents;
- At this time, it only allows one project (Newhall Park) to move forward.

Alternative C: Pilot Program to Increase the Construction and Conveyance Tax (C&C) funding available for park maintenance

Currently 64% of the annual Construction and Conveyance tax funding received by the City is allocated to parks. Of this allocation, 15% can be used for maintenance and the remainder must be used for capital improvements. In January 2008, the City Manager submitted a memorandum to the Mayor and City Council entitled "City Manager's General Fund Structural Deficit Task Force Report." As part of this report, a consulting firm (Management Partners), analyzed whether or not the C&C taxes could be increased. It was also discussed whether or not a larger portion of the C&C could be used for maintenance. Ultimately, it was decided that either of these strategies would need to go to a citywide vote. While staff would like to reconsider this option in the future, it is not recommended at this time.

Expanded use of, and changes to, existing policies

One method to allow other projects to proceed in addition to Newhall Park is to look at the City's policies for partnerships. Changes to these policies could help bring more partnership opportunities to the table.

Prevailing Wage Policy

The City's prevailing wage policy requires the payment of prevailing wages to workers performing park maintenance. On February 12, 2008, as part of item 3.6 "Public/Private Partnership Case Study Wrap-Up and Recommendations," the City Council directed staff to prepare an amended Prevailing Wage Policy to, among other things, modify "City Council direction regarding maintenance agreements for City owned buildings, structures and ground facilities to provide an exemption for agreements for donated parks maintenance services (including landscaping, restroom cleaning, and other routine maintenance), when those services are paid for solely by the donor, subject to the following criteria:

1. Donors must not have been affiliated with a development application within two years prior or during the term of the partnership agreement, and agreements shall have durations of no less than two years; and
2. Staff shall consult with applicable labor organizations prior to entering into new parks maintenance donations or extensions of such agreements, and donations valued in excess of \$100,000 annually shall be presented to the City Council for approval."

As part of this memorandum, staff is requesting Council enhance opportunities for public-private partnerships by modifying the park maintenance exemption to the City's prevailing wage requirements to include any "donated" park establishment period services or park maintenance by a developer or other entity with, or without, an interest in a development in the City, provided that each of the following conditions exist:

- The work occurs on real property that is a part of the City's park inventory or is designated by the City as open space, or the work occurs on real property that is used by the City has a trail, whether or not the trail is improved;
- The donor agrees to perform the work at no cost to the City other than those costs associated with negotiating and approving a donation agreement, providing any needed access, approving a work plan, and inspecting and accepting the work;
- The donor agrees to provide the work for a minimum of two (2) years;
- Before the City enters into a donation agreement, or an extension of any such agreement, City staff consults with the applicable labor organizations, the neighbors surrounding the subject property, and any community groups with an interest in the subject property; and
- The City Council approves the donation agreement if the estimated value of the donated work exceeds the amount of the City Manager's authority set forth in San Jose Municipal Code Section 4.04.020, as it may be amended.

The proposed modification to the prevailing wage exemption would likely help (i) identify funding partners for work during the park establishment period and (ii) maintenance of parks and trail facilities in general. In terms of the first example, staff is in discussions with developers interested in proceeding with turnkey park projects and has explained that, in order to proceed, at least three years of the park establishment period must either be provided by the developer or identified through other means. However, this donation should not be reflected in the PDO/PIO credit provided to the developer as this would likely take away from the ability of the City to meet the General Plan goal of 3.5 acres of parkland per 1,000 residents and take away from the size or amenities of the turnkey park provided by the developer as part of the particular project. If the prevailing wage requirement was waived, it could increase the likelihood of a developer or other partner agreeing to fund the park establishment period for the facility. This could allow the future residents of the new developments to obtain their parks quicker than if the first three years of park establishment was reliant on the General Fund.

As for the second example on how the proposed exemption could help the City identify a partner to assist with park or trail maintenance, a Parks Foundation has recently been established in the City and they have begun fundraising effort for Parks and Recreation Facilities. If the prevailing wage exemption applied to donated parks maintenance, it could increase the possibility to get private partners to come to the table.

For these reasons, staff is recommending that Council modify its February 2008 prevailing wage exemption to make clear that the park maintenance exemption to the City's prevailing wage requirements includes (i) any "donated" park establishment period services, or (ii) "donated" park maintenance by a developer or other entity with, or without, an interest in a development in the City, provided that the donation is for a minimum of two years and meets the conditions set forth

above. If this recommendation is approved by Council, staff will immediately implement the new policy and discuss potential private/public partnerships with interested developers and other entities.

PRNS Volunteer Policy

Council Policy 3-1 “Parks, Recreation and Neighborhood Services – Volunteer Policy” currently allows volunteers to use “some power equipment in the completion of the designated project or service.” Under this existing policy, PRNS staff is planning on working with the City Attorney’s Office, City’s Risk Manager and the community surrounding the existing Buena Vista Park to implement a pilot program for expanded volunteer maintenance of the existing park and the park expansion. This expanded maintenance could include mowing turf, additional site cleanup and other activities. This volunteer program would occur under the guidelines of existing council policy and will be scoped out with the community during the design phase of the project. The goal of the volunteer program will be to result in a net zero impact to the General Fund from the expansion project. Buena Vista Park is the desired facility for this pilot program due to the small size of the future, expanded park (12,000 square feet). This program would be in alignment with PRNS’s core strategies to enhance partnerships with the community while continuing to deliver quality services. If an agreement can be reached with the community, staff is recommending to proceed with the project under an enhanced volunteer program.

Project Status

Based upon the above analysis, the below table lists the status of each “on hold” project and whether or not it is able to move forward at this time based upon the City Council’s acceptance of the staff recommendations. It should be noted that while only 12 projects were placed on hold as part of the February 2010 council action, there are 13 projects listed below as Buena Vista Park expansion has been added to the list.

Project Name	Annual Impact	Ability to move forward
Projects Fully Funded for Construction		
Buena Vista Park Expansion	\$5,000	Partnership being explored to move forward with enhanced volunteer program to supplement incremental maintenance increase
Mabury/Commodore Park	\$110,000	Project cannot move forward at this time as no park establishment period funding identified
Martial Cottle Community Garden	\$46,000	Project cannot move forward at this time as no park establishment period funding identified
Newhall Park	\$20,000	Park establishment period funding is available, project likely to move forward if pilot program approved
Projects that are not fully funded for construction		
Hoffman Via Monte Neighborhood Center	\$201,000	These projects cannot move forward at this time as they are not fully funded for construction and
Martin Park	\$72,000	

Del Monte Park	\$73,000	no park establishment period funding is identified.
Antonio Balermينو Park	\$20,000	
West Evergreen Park	\$15,000	
Turnkey Park Projects		
Pellier Park	\$15,000	Funding available for Phase I construction but currently on hold pending completion of roadway realignment
Riverview Park	\$77,000	Currently on hold pending developer's schedule to move project forward
River Oaks Park	\$58,000	Developer has expressed interest in moving project forward pending identification of park establishment period funding
Montecito Vista Park	\$26,000	Currently on hold pending developer's schedule to move project forward

Newhall Park meets all the criteria in Alternative B as the park is fully funded for design and construction and staff has identified a source for the estimated \$60,000 for three years of park establishment from a recent Parkland Fee collection from the Sobrato Development Company. The Sobrato Development is located at 1270 Campbell Avenue less than 1/2 of a mile from the future Newhall Park and paid a parkland in-lieu fee of approximately \$1.4 Million in June 2010. The PDO and PIO require that use of the parkland fees must benefit the residents who paid the fees. The Greenprint Update 2010 sets forth guidelines which require that fees received for new housing units are spent on projects located within 3/4 of a mile for neighborhood serving facilities or three miles for community serving facilities. This Parkland Fee is not required for the development of any other park, trail or recreational facilities within the nexus of the collection as identified in the Greenprint Update so it could be a source to help with park establishment. However, even though Newhall Park is the only park that can move forward immediately under Alternative B, approval of the recommendations in this memorandum would open the door to other projects moving forward in the future.

Martial-Cottle Community Garden will be brought to the City Council for discussion at a later time along with a joint use agreement with the County of Santa Clara for approval. Mabury/Commodore Park is not eligible under criteria #2 as available funding sources can be used for the following Greenprint Priorities: (1) Rock and Oakland Area Park; (2) Penitencia Creek Trail; (3) Dog Park.

The four turnkey parks (Pellier, Riverview, River Oaks, and Montecito Vista) may proceed at a future date if the City and developer can agree upon a method for the developer to provide a donation for park establishment for a minimum of three years after construction. Discussions are currently underway with the developers regarding the construction schedules for River Oaks Park and Pellier Park.

EVALUATION AND FOLLOW UP

Staff will report back to the Mayor and City Council on an annual basis as part of the budget process and as needed when new funding mechanisms are identified which would allow for development of a particular park to continue.

POLICY ALTERNATIVES

Alternative #1: Move forward with park construction with no additional park establishment funding

Pros: This alternative would provide more parks for residents of the City.

Cons: This alternative would release the temporary hold on all parks capital projects with no funding allocated for park establishment of the facilities.

Reason for Not Recommending: This recommendation does not align with Council's direction to staff from February 2009 which was to proceed with the projects only if three years worth of maintenance funding was identified. This alternative is not recommended due to the significant impact it would have on staff's ability to maintain the existing parks inventory.

Alternative #2: Continue to defer park construction

Pros: Would defer impact to the General Fund.

Cons: No new parks will be available for residents of the City.

Reason for Not Recommending: The February 2010 Council memo recommending deferral of capital projects stated that City staff would report back on this policy as part of the regular budget process in Spring 2011 but return sooner if an alternative was identified to provide at least three years of maintenance for a particular park. Continuing to defer all park construction would have a positive impact on the general fund deficit but is counter to the recommendation from the February memo since an alternative has been identified for three years of park establishment funding.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 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)**
- Criterion 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 proposed Council action meets criteria numbers 2 and 3 above. A public hearing was held at the September 1st and October 6th, 2010 Parks and Recreation Commission meetings. The public provided testimony regarding the need to construct new park facilities, particularly in underserved areas where there are no parks within walking distance of residents. The item was also discussed at the Developer's Roundtable on September 17, 2010.

This memorandum will be posted on the internet for the November 9, 2010 City Council meeting, and residents who have expressed interest in the development of these facilities will receive an email informing them of this item on the City Council agenda.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office and the Department of Public Works.

FISCAL/POLICY ALIGNMENT

This Council item is consistent with Council approved Budget Strategy Memo General Principle #2, "We must focus on protecting our vital core City services."

COST SUMMARY/IMPLICATIONS

Attachment A provides an analysis of the potential operations and maintenance impact to the General Fund of proceeding with the recommended alternative. The attachment assumes that all projects are funded for construction within the next few years and assumes that each has an alternative mechanism for the first three years of funding. Following the first three years after construction, these projects would begin to impact the General Fund as shown in the attachment, if further alternative mechanisms are not identified beyond the three years. Any projects over \$100,000 in annual impact to the General Fund would be subject to certification by the City Council.

In addition, the recommended action could increase the estimated project delivery costs based on the maintenance period assigned to each park. For example, for the four projects which are fully funded, a three-year maintenance period could result in higher capital costs as follows:

- Newhall Park: \$60,000
- Buena Vista Park: \$15,000
- Mabury/Commodore Park: \$330,000
- Martial Cottle Community Garden: \$138,000

If the staff recommendation is approved, staff will work with the Council Offices in which the project resides and determine whether sufficient funding exists within the appropriation to proceed

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with design and construction or whether additional funding should be made available prior to commencement of design and construction. At a minimum, full funding for design, construction and the park establishment period should be available prior to proceeding with a project. Final cost estimates would be prepared and appropriation amounts would be approved by Council as part of a separate budget action.

BUDGET REFERENCE

Not applicable

CEQA

CEQA: Not a Project.

/s/

ALBERT BALAGSO
Director of Parks, Recreation and
Neighborhood Services

For questions please contact Matt Cano, Acting Deputy Director, at 408-535-3580.

ATTACHMENT A

IMPACT OF OPERATIONS AND MAINTENANCE COSTS ON GENERAL FUND IF ALL PROJECTS PROCEEDED WITH "BEST CASE SCENARIO" SCHEDULES

Council District	Park and Recreation Facility	Status	Earliest Delivery Date	Estimated Annual Maintenance Cost	O&M Impact to General Fund After 3-Year Park Establishment Period By Fiscal Year				
					2014-15	2015-16	2016-17	2017-18	2018-19
3	Martin Park	Partially funded	January 2012	\$72,000	0	\$72,000	\$72,000	\$72,000	\$72,000
	Newhall Park	Fully Funded	January 2012	\$20,000	\$10,000	\$20,000	\$20,000	\$20,000	\$20,000
	Pellier Park	Turnkey	January 2013	\$15,000	0	\$7,500	\$15,000	\$15,000	\$15,000
4	Mabury/Commodore Park	Fully Funded	January 2013	\$110,000	0	\$55,000	\$110,000	\$110,000	\$110,000
	Riverview Park	Turnkey	January 2014	\$77,000	0	0	\$36,000	\$77,000	\$77,000
6	River Oaks Park	Turnkey	January 2013	\$58,000	0	\$27,000	\$58,000	\$58,000	\$58,000
	Buena Vista Park Expansion**	Fully Funded							
	Del Monte Park	Partially Funded	*July 2015	\$73,000	0	0	0	0	\$73,000
7	West Evergreen Park	Partially Funded	*December 2013	\$15,000	0	0	\$7,500	\$15,000	\$15,000
	Antonio Balermimo Park	Partially Funded	*January 2015	\$20,000	0	0	0	0	\$16,600
10	Montecito Vista Park	Turnkey	January 2014	\$26,000	0	0	\$13,000	\$26,000	\$26,000
	Hoffman Via Monte Neighborhood Center	Partially Funded	*January 2015	\$201,000	0	0	0	\$100,500	\$201,000
	Marial-Cottle Community Garden	Fully Funded	January 2013	\$46,000	0	\$23,000	\$46,000	\$46,000	\$46,000
Total Negative Impact					\$10,000	\$204,500	\$377,500	\$539,500	\$729,600

*Based on the assumption of San Jose Redevelopment Agency budgeted funding being available in Fiscal Year 2013-14.

**Buena Vista Park Expansion was not originally part of the 12 projects placed on hold in February 2010 but has been added to the list since that time.