



SAN FRANCISQUITO CREEK
JOINT POWERS AUTHORITY
sfcjpa.org

East Palo Alto, Menlo Park, Palo Alto, San Mateo County Flood Control District, and the Santa Clara Valley Water District

**Notice of Regular Meeting of the
SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY BOARD
City of Palo Alto Council Chambers
250 Hamilton Avenue, Palo Alto, California
Thursday, June 27, 2013 at 4:00 p.m.**

AGENDA

- 1) ROLL CALL
- 2) APPROVAL OF MEETING MINUTES – May 23, 2013 Board meeting
- 3) APPROVAL OF AGENDA
- 4) PUBLIC COMMENT – *Members of the public may speak for up to three minutes on items not on the Agenda. They may address the Board on any Agenda item when that item is considered by the Board.*
- 5) REGULAR BUSINESS – EXECUTIVE DIRECTOR’S REPORT
 - a) Discuss S.F. Bay-Highway 101 project construction planning
 - b) Authorize the Executive Director to develop and execute a Contract Amendment with HDR, Inc. to complete Plans, Specifications & Estimates for the S.F. Bay-Highway 101 project
 - c) Update regarding SFCJPA efforts to protect and enhance areas along the Bay
 - d) Public outreach update: June 6, 19, 27, and 29 public meetings and community events, and enhancements to the sfcjpa.org website
 - e) Schedule of upcoming Board meetings and a 2013 Board retreat
- 6) BOARD MEMBER MATTERS - *Non-agendized comments, requests, or announcements by Board members; no action may be taken.*
- 7) ADJOURNMENT

PLEASE NOTE: This Board meeting Agenda can be viewed online by 4:00 p.m. on June 24, 2013 at sfcjpa.org -- click on the “Meetings” tab near the top. Supporting documents related to the Agenda items listed above will be available at the same online location by 4:00 p.m. on June 25, 2013.

NEXT MEETING: Regular Board meeting, July 25, 2013 at 4:00 p.m., Menlo Park City Council Chambers.

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Chairperson Burt called the meeting to order at 4:03 p.m. at the City of East Palo Alto Council Chambers, East Palo Alto, CA.

DRAFT

1) ROLL CALL

Members Present: Director Burt, City of Palo Alto
Director Keith, City of Menlo Park
Director Schmidt, Santa Clara Valley Water District
Director Pine, San Mateo County Flood Control District

Members Absent: Director Abrica, City of East Palo Alto

JPA Staff Present: Len Materman, Executive Director
Kevin Murray, Staff
Miyko Harris-Parker, Staff

Legal Counsel Present: Greg Stepanicich

Others Present: Trish Mulvey, Palo Alto resident; Art Kraemer, Palo Alto resident;
Dennis Parker, East Palo Alto resident; Michael Mason, Menlo Park
resident; Joe Teresi, City of Palo Alto; Sharon Jones, City of East
Palo Alto; Saeid Hosseini, SCVWD; Jessica Ludy, Arcadis US;
Stephen Harris, Floodbreak

2) APPROVAL OF MEETING MINUTES – April 25, 2013

Director Keith made a motion to approve the April 25, 2013 Board meeting minutes. Director Schmidt seconded. The April 25, 2013 Board meeting minutes approved 4-0.

3) APPROVAL OF AGENDA

Director Pine moved approval of the April 25, 2013 Board agenda. Director Keith seconded. April 25, 2013 Board agenda approved 4-0

4) PUBLIC COMMENT

None

5) REGULAR BUSINESS

Authorize Executive Director to renew the office lease for one year at 615 B Menlo Avenue, Menlo Park

Mr. Materman asked the Board for authorization to renew the SFCJPA office lease for one year. Mr. Materman summarized the components of the lease agreement noting that there is an increase in the renewal and that staff did account for this increase within the approved 2013-14 SFCJPA Operating Budget.

Director Keith made a motion to authorize the Executive Director to renew the office lease for one year at 615 B Menlo Ave, Menlo Park. Director Schmidt seconded. Motion to authorize the Executive Director to renew the office lease for one year at 615 B Menlo Avenue approved 4-0.

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Appoint a representative to the Association of California Water Agencies Joint Powers Insurance Authority Board of Directors

Mr. Materman asked the Board to appoint a Board representative to the Association of California Water Agencies Joint Powers Insurance Authority Board of Directors. Mr. Materman explained that the ACWA/JPIA requires members, including the SFCJPA, to appoint a Board representative to the ACWA/JPIA Board of Directors, as well as an alternate which can be a staff member. Mr. Materman reminded the Board that this item had been agendized in the fall of 2012 when the Board appointed Miyko Harris-Parker as the alternate representative, but put off appointing a Board representative until 2013. Mr. Materman noted that Director Schmidt had been appointed as the Santa Clara Valley Water District's representative to the ACWA/JPIA and that ACWA has confirmed that a single person sitting on two Boards can represent both agencies on the JPIA.

Director Keith made a motion to appoint Director Schmidt as the Board representative to the ACWA/SFJPIA. Director Pine seconded.

Director Schmidt said that he would be happy to do it and noted that Santa Clara Valley Water District (SCVWD) does not have health benefits through ACWA and that he would look to SFCJPA staff to guide him on that topic.

Motion to appoint Director Schmidt as the Board representative to the Association of California Water Agencies Joint Powers Insurance Authority approved 4-0.

Discuss S. F. Bay-Highway 101 project construction planning

Mr. Materman and Mr. Murray provided the board with an update on the S.F. Bay-Highway 101 project construction planning. Mr. Materman told the Board that he and the City Managers of Palo Alto and East Palo Alto and the CEO of the SCVWD, along with staff from those agencies have been meeting to try to work on the issues necessary to get the project to construction, including cost estimates, inter-agency agreements, permitting, completing Plans, Specifications and Estimates (PS&E), and property and easement acquisition.

Mr. Materman told the Board that the this group has discussed the fact that previous project cost estimates are below current cost estimates now that we have a more complete picture of project elements and costs. We are developing an accurate project cost, which will ultimately be subject to contractor bids, and locating additional resources to cover that cost.

Mr. Materman told the Board that in order to complete the permitting process we have to have an approved project and that it can be done in two ways; 1) by approving the final design of the project including the Plans, Specifications and Estimates, or 2) by approving the Construction Management Agreement which outlines how the project will be built and by whom. Mr. Materman stated that the SFCJPA is working on both.

Mr. Murray told the Board that a draft of the Construction Management Agreement is being negotiated and is close to being done and is expected to be agendized for approval at the June or July Board meeting.

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Chairperson Burt asked for clarification on if the elected bodies of the member agencies need to approve the agreement and he noted that the City of Palo Alto would be having its last Council meeting before summer break on June 17.

Mr. Stepanicich explained that once the SFCJPA Board approves the Construction Management Agreement it should be sufficient to approve the Notice of Determination under California Environmental Quality Act. Mr. Stepanicich said that our concern is to make sure the SFCJPA has made a commitment to the project.

Mr. Materman told the Board that the project design firm, HDR, submitted a 95% design package in November 2012 on which all of the member agency staff provided comments. Mr. Materman said that the SCVWD did not consider the 95% design that HDR submitted to be of sufficient detail and completeness. Saeid Hosseini, SCVWD, concurred with Mr. Materman's statement. Mr. Materman told the Board that HDR has provided the SFCJPA with a draft scope of work for another round of refinement of the design that is outside of the scope of the current HDR contract. Mr. Materman said that there are unused funds within the HDR contract that we believe will cover this additional scope of work and he noted that the contract amendment was not yet complete.

Director Keith asked how much was available. Mr. Murray responded saying that the remaining amount of money is \$99,000. Mr. Murray said that using this money this would increase (by a relatively small amount) a gap in construction support funding, and conversations are on-going with SCVWD staff on how to fill this gap during the construction phase.

Mr. Materman and Mr. Murray provided a brief update on the property easement acquisitions saying that the SCVWD has been working on acquiring the temporary and permanent easements for the Santa Clara County side of the creek for the past 15 months and that on the San Mateo County side HDR recently provided CAD mapping layers to help determine the needed easements.

Upstream of Highway 101 Environmental Impact Report update: Notice of Preparation, outreach and June 6, 2013 scoping meeting

Mr. Materman told the Board that this week we posted the Notice of Preparation (NOP) with the State Clearing House. Mr. Materman explained that with the submittal of the NOP, a 45-day public comment period is opened and during this time members of the public, stakeholders and other agencies can provide comments on the scope of the proposed project.

Mr. Materman told the Board that we are expanding public outreach and one way we are doing this is by enhancing the agency website. Mr. Materman said that the website will have an interactive map that allows users to click on a portion of the map to see updates and that there will also be a calendar that shows meetings and activities.

Director Keith shared that there had been concern amongst the attendees at the May 15 stakeholders meeting that there is not enough prior notice given for the meetings and events and that a number of the individuals present at the stakeholder meeting were willing to go door-to-door to get the word out to their neighbors.

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Mr. Materman provided the Board with a visual of the postcard that has been mailed out announcing the Public Scoping Meeting on June 6 at the East Palo Alto Academy in Menlo Park. Mr. Materman noted that a presentation will also be given at the Crescent Park Neighborhood Association meeting June 27 at the Lucy Stern Community Center, and that formal comments could be received at both meetings.

Director Keith noted that the City of Menlo Park will be having its annual block party on June 19 and that the City of East Palo Alto will be celebrating its 30-year anniversary on June 29 and that it would be great if the SFCJPA could have a table at both events.

Trish Mulvey, Palo Alto resident asked if the project EIR included the Newell Road Bridge. Mr. Materman responded saying that the EIR talks about the bridge but does not evaluate it at a project level. He said that the City of Palo Alto has initiated a separate EIR that will provide for construction of the Newell Road Bridge.

Presentation on a FEMA-certified automated flood barrier technology

Mr. Materman gave some background on FloodBreak and introduced the company's west coast representative, Stephen Harris. Mr. Harris provided to the board a brief presentation on the passive flood protection alternative, and described the types of projects that have used FloodBreak along with a physical model demonstration.

Director Keith asked how many of the flood barriers were currently installed. Mr. Harris responded saying around 300. Director Keith said that she was curious if there could be an application for Pope-Chaucer to reduce the neighborhood impacts. Mr. Materman replied saying that if something like this could allow us to not have to raise the bridge and the roadways directly adjacent to the bridge, then it is something to be considered. Mr. Harris said that in some cases the Floodbreak technology has worked in bridge closings and eliminated the need to raise bridges. Mr. Materman explained that the way this would work would be that the Floodbreak floodwalls would be installed across the bridge parallel to the creek on both sides and water would just go over the bridge and flow back into the creek downstream.

Dennis Parker, East Palo Alto resident, asked if the use of the flood barrier would be in addition to or in place of what is planned. Mr. Murray said that if the technology is used the bridges our still need to be replaced, though it could be used to reduce the scale of the bride re-design, and that more analysis would be needed to determine if it would be technically feasible. Mr. Materman said that we will continue to explore this and how it can be applied to Pope-Chaucer Bridge and other projects. Mr. Materman said another area where we can look at this type of technology is along the Bay levees where we have to figure out some way to cross Bayfront Expressway (Hwy. 84) or other crossings with an improved flood protection system.

Mrs. Mulvey asked if Newell could be considered. Mr. Materman responded saying yes.

6) BOARD AND ASSOCIATE MEMBER MATTERS - *Non-agendized comments, requests, or announcements by Board and/or Associate members, no action may be taken*

Director Keith asked if PG&E had gotten back to us regarding the heights of the new electric poles and towers. Director Keith invited everyone present to the City of Menlo Park Block party on June 19. Mr. Materman responded saying that we did receive a response from PG&E and it will be discussed at a future Board meeting.

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Joe Teresi, City of Palo Alto, gave the Board a brief update on the Newell Road Bridge project, saying that the City has spent the last few months working with the consultant and that the City received word from Caltrans that they approved the request to increase the amount of the grant to cover additional costs related to design and development of a full EIR.

7) ADJOURNMENT:

Chairperson Burt adjourned the meeting at 5:25 pm

Minutes Prepared by Clerk of the Board: Miyko Harris-Parker

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Executive Director's Report

With the help of Kevin Murray and Miyko Harris-Parker, I am pleased to submit the following:

a) Discuss S.F. Bay-Highway 101 project construction planning

At every Board meeting since the February 7, 2013 meeting, we have discussed the issues that must be addressed prior to beginning construction of the S.F. Bay-Highway 101 project, and I intend to continue this until we commence construction. Below are updates on key items we are pursuing at this time.

Construction Management Agreement

Over the past several months, SFCJPA, East Palo Alto, (Santa Clara Valley Water District (SCVWD) and Palo Alto staffs have gone through several rounds of reviews and editing of a draft Construction Management Agreement (CMA), which details the roles and responsibilities of each of the parties during project construction. As drafted, the CMA would designate the SCVWD as the agency authorized and responsible for managing construction, and it would take effect upon approval of all project funding agreements. Staff has recommended that the legal counsels from each of the agencies work to finalize the CMA for approval of the governing bodies of each of the parties. There is urgency for the SFCJPA Board to approve the CMA because it would signify consent for the project's construction and thus allow the Board to approve the project and issue a Notice of Determination (NOD) under CEQA. The NOD is needed to secure regulatory permits to build the project.

SFCJPA General Counsel Greg Stepanicich will coordinate communications between the legal counsels of the member agencies involved. Our hope is that the CMA is ready for Board approval at our July 25 Board meeting. If that is the case, at that meeting I plan to request that the Board:

1. Approve the final Construction Management Agreement,
2. Issue a Final Approval of the project, and
3. Issue a Notice of Determination that the project EIR was prepared and certified pursuant to CEQA.

Project Funding

At the May 2013 Board meeting, I informed the Board that the total costs needed to complete the project would likely be greater than the funding contribution originally planned by the Santa Clara Valley Water District plus funds from East Palo Alto and the State grant to the SFCJPA. We recently reconstituted the Technical Advisory Committee of SFCJPA and member agency staffs, and Kevin Murray has met with this group to discuss construction coordination and funding. Additionally, I have met with the City Managers, CEO and staffs of our member agencies to identify strategies that meet the funding need. We are working to resolve this issue and have inter-agency funding agreements in place so that we can begin construction during a seasonal window allowed by regulatory permits once we have secured those permits.

Alternate Construction Schedules

While we are hopeful that construction permits will be issued by September 1 so that cross-channel utility work can take place in 2013, there are still issues that we are working through with the regulatory agencies to meet their demands. In order to prepare for the possibility that we will not secure these permits before mid-October when in-channel work is prohibited, we are initiating the development of an alternate, "Plan B" construction sequence. There are several construction elements that can be done ahead of securing project permits, such as East Palo Alto Sanitary District and PG&E work outside of the channel, and importing soils. Additional construction elements, such as building the new setback levee within the Palo Alto Golf Course, must wait for regulatory permits but can be built outside of the seasonal restrictions placed on in-channel work. This gives us the flexibility to alter the sequencing of construction by various agencies so that work can progress in 2013 even if permits are not secured by September 1. We will develop the alternate "Plan B" construction sequence over the next few weeks, and both schedules will be updated until we have definitive word regarding the timing of permits.

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b) Authorize the Executive Director to develop and execute a Contract Amendment with HDR, Inc. to complete Plans, Specifications & Estimates for the S.F. Bay-Highway 101 project

At the May 2013 meeting, I informed the Board that the funding made available through our contract with HDR, Inc. to complete 100% Design (known as Plans, Specifications and Estimates, or PS&E) had been depleted. The SCVWD will likely manage project construction and therefore must ensure that the PS&E can be clearly interpreted by the construction contractor to avoid confusion and additional costs during construction. Following their review of the 90% submittal, the SCVWD requested that HDR submit a 95% package to address newly identified issues and allow for another round of review before the completed package was delivered. This additional submittal, review and response was not scoped in HDR's contract, and thus created a funding shortfall for this task.

Also at the May meeting, I described a strategy to fund HDR's work in response to SCVWD comments on the 95% design and complete the PS&E utilizing unused monies within the HDR contract that we believe will cover this additional work. No money from the contract's Bidding and Construction Support Services task has been spent to date, though it will be needed at a later time from an alternate source. Our strategy is to transfer a portion of the funding from the Bidding and Construction Support Services task to the Plans Specifications and Estimates task. Some funding will need to remain to cover HDR support for the bidding process, as well as funds the SFCJPA has provided to the project from our Operating Budget. Significantly, the strategy proposed here would allow us to complete 100% design and prepare bid packages without incurring any new costs now. SFCJPA and SCVWD staff have discussed potential ways to fill the gap that will remain for construction support, and they are confident that the gap can be filled after bids are received and prior to the award of a contract.

To transfer funds between tasks, the Board must authorize the Executive Director to develop and execute a contract amendment with HDR. Since there will be no commitment of new money through this amendment, the Board may authorize the Executive Director to negotiate the details of the amendment language and the scope of work to be completed. The Board can also authorize me to, with legal review, execute the amendment without reconvening the Board. A Funding Agreement between the SFCJPA, SCVWD and San Mateo County Flood Control District provides the monies for the existing HDR contract. After the HDR contract amendment is executed, HDR will continue work and deliver the final PS&E within the next few months.

Proposed Board action: Authorize the Executive Director to develop and execute a Contract Amendment with HDR, Inc. to complete Plans, Specifications & Estimates for the S.F. Bay-Highway 101 project.

c) Update regarding SFCJPA efforts to protect and enhance areas along the Bay

On October 11, 2012, the SFCJPA Board authorized me to sign an agreement with the City of East Palo Alto to fund approximately one half of the local share of a project to evaluate, design and complete an environmental review for new facilities to protect and enhance areas of Menlo Park and East Palo Alto along the Bay. The following week, the Board passed two resolutions authorizing me to sign agreements to accept \$1,320,375 from the State of California for the same purpose, and on January 24, 2013, the Board authorized me to sign an agreement with the City of Menlo Park to secure the other half of the required local match (the U.S. Fish & Wildlife Service is providing a small amount of matching funds as well).

Since January, we have set up the invoicing and reporting process with the State and worked with the two cities and others to develop a Request for Proposals for this work. We are awaiting final comments in order to finalize and release that RFP. At the Board meeting, we will describe the general terms and optional tasks contained within the RFP and the schedule to secure a consultant moving forward.

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d) Public outreach update: June 6, 19, 27, and 29 public meetings and community events, and enhancements to the sfcjpa.org website

As discussed at previous Board meetings, the SFCJPA has begun the process to prepare an Environmental Impact Report for our comprehensive project upstream of Highway 101. This EIR has project alternatives that would provide flood protection for the affected communities up to the 100-year flood event, as well as enhancements to the ecosystem and recreational opportunities that connect these communities to each other and to the creek. At the same time and as discussed above, within the next year we will begin construction on the S.F. Bay-Highway 101 project, embark on a process to design new protection and enhancements to areas along S.F. Bay, and continue the process to define a potential new finance district to pay for some of these improvements.

This activity requires robust public outreach to explain our overall objectives, the individual projects, and the relationship between projects, multiple agencies involved and funding sources. Equally important, we must communicate how the public can efficiently participate in the process to evaluate and choose alternatives. My goal is to provide comprehensive information, a single contact point, and consolidated public meetings.

At the March 28, 2013, we presented our Public Outreach Plan associated with the EIR of areas upstream of Highway 101. At this Board meeting, we will briefly discuss the public meetings we have held or will hold as part of the EIR Scoping process, and the community meetings we have and will participate in. We will also discuss the enhancements to the sfcjpa.org website since our last Board meeting that are intended to increase public understand of, and comments on, our work.

e) Schedule of upcoming Board meetings and a 2013 Board retreat

The next three Regular Board meetings are scheduled for July 25, August 22 and September 26. In addition to or in place of the August meeting, we hope to have a Board retreat to discuss:

- broad issues associated with the agency, including formally refining the SFCJPA's original stated Purposes to conform to the reality of current activities and needs of the agency and others,
- the draft of a Comprehensive Plan of SFCJPA activities being prepared by our EIR consultant, and
- potential modifications to agency policies.

We will build upon our previous discussions at – and following – the August 2011 Board retreat, especially in regards to the Purposes statement.

During this agenda item, we will discuss the timing of the Regular Board meetings and the Board retreat. While we will touch on the content of these meetings, we will have a more detailed discussion of this later.

Submitted by:



Len Materman
Executive Director