



SAN FRANCISQUITO CREEK
JOINT POWERS AUTHORITY

Notice of Regular Meeting of the Board of Directors

Thursday, September 22, 2022

3:30 P.M.

Due to the risk of COVID-19 transmission, this meeting will be held remotely via video/teleconference pursuant to Government Code Section 54953(e) (Assembly Bill 361). Members of the public may observe or participate in this meeting by joining the meeting online through the Zoom link provided below or by joining the meeting with a telephone by dialing the Zoom teleconference number provided below.

You may provide public comment during the meeting: (1) by using the chat function and typing your question or comment, (2) if you are joining online, by selecting the raise your hand function and speaking when called upon, or (3) if you are joining by phone, by pressing*9 to raise your hand and *6 to mute/unmute yourself and to speak. If you experience technical problems with the Zoom meeting, please contact the Clerk of the Board at the phone number or email listed at the bottom of this Agenda.

If you require an accommodation pursuant to the Americans with Disability Act, please contact the Clerk of the Board at the phone number or email listed at the bottom of this Agenda by 10:00 am on the day of the meeting.

You are invited to a Zoom meeting.

When: Sep 22, 2022, 03:30 PM Pacific Time (US and Canada)

Register in advance for this meeting:

https://us02web.zoom.us/meeting/register/tZ0ude2hqDksGtJsOE7fM45lqZr7gT4Kk_wy

After registering, you will receive a confirmation email containing information about joining the meeting.

Agenda

1. CALL TO ORDER AND ROLL CALL
2. APPROVAL OF AGENDA: Changes or additions to the agenda.
3. PUBLIC COMMENT: *Individuals may speak on a non-agendized topic for up to three minutes.*

REGULAR BUSINESS

Members of the Public may speak on any agenda item for up to three minutes

jpa@sfcjpa.org * 750 Menlo Ave. Suite 250. Menlo Park, CA 94025

SFCJPA.ORG



SAN FRANCISQUITO CREEK
JOINT POWERS AUTHORITY

4. CONSENT AGENDA

- A. Consider adopting a resolution (22-09-22-A) reconsidering the circumstances of the COVID-19 state of emergency and making findings to authorize public meetings to be held via teleconferencing pursuant to Government Code Section 54953(e).
- B. Review and consider resolution (22-09-22-B) adopting the FY 22/23 Salary Schedule

5. INFORMATION ITEMS

- A. Executive Director's Report
- B. SFCJPA 2022 Comprehensive Plan Update - Planned Release for Public Comment on Monday, September 26.

6. CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Name of case: Peter Joshua v. San Francisquito Creek Joint Powers Authority, et al.
San Mateo County Court of Appeal Case No. A163294, San Mateo County Superior Court No. 19CIV06305

7. BOARD MEMBER COMMENTS, INFORMATION ITEMS, REQUESTS and ANNOUNCEMENTS (Information only)

8. ADJOURNMENT

PLEASE NOTE: Board meeting Agenda and supporting documents related to items on the agenda can be viewed online by 3:30 p.m. by Monday September 19, 2022, at sfcjpa.org -- click on the "Meetings" tab near the top.

SFCJPA REGULAR BOARD MEETING

SEPTEMBER 22, 2022



SAN FRANCISQUITO CREEK
JOINT POWERS AUTHORITY

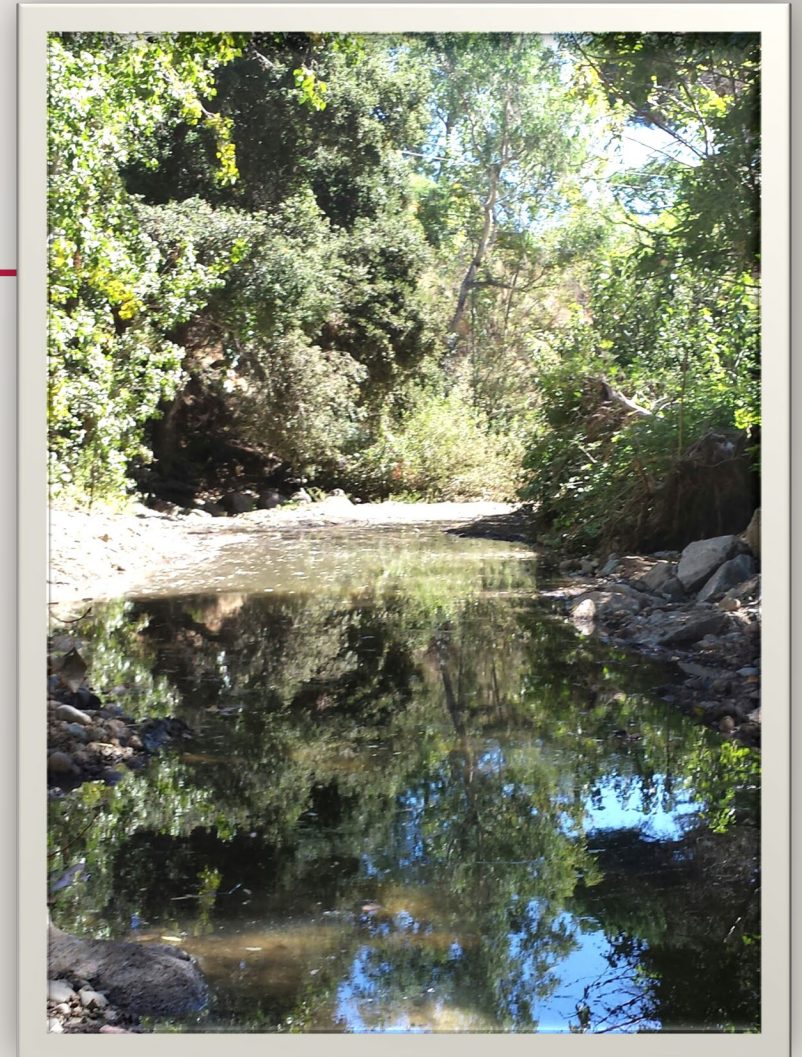
AGENDA

MEMBERS OF THE PUBLIC MAY SPEAK ON ANY AGENDA ITEM FOR UP TO THREE MINUTES

1. ROLL CALL

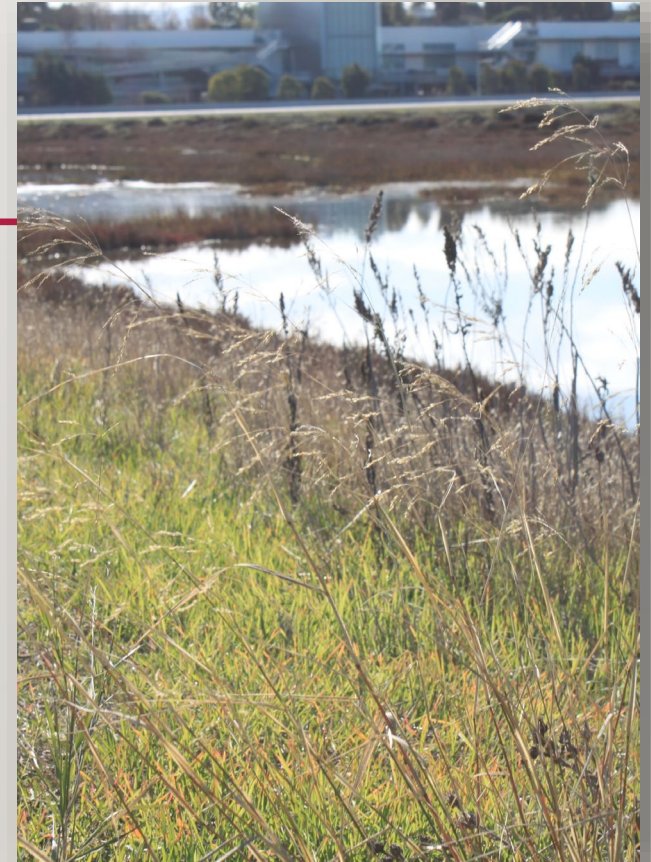
2. APPROVAL OF AGENDA: CHANGES OR ADDITIONS TO THE AGENDA.

3. PUBLIC COMMENT: INDIVIDUALS MAY SPEAK ON A NON-AGENDIZED TOPIC FOR UP TO THREE MINUTES ON A TOPIC WITHIN THE SFCJPA'S JURISDICTION.



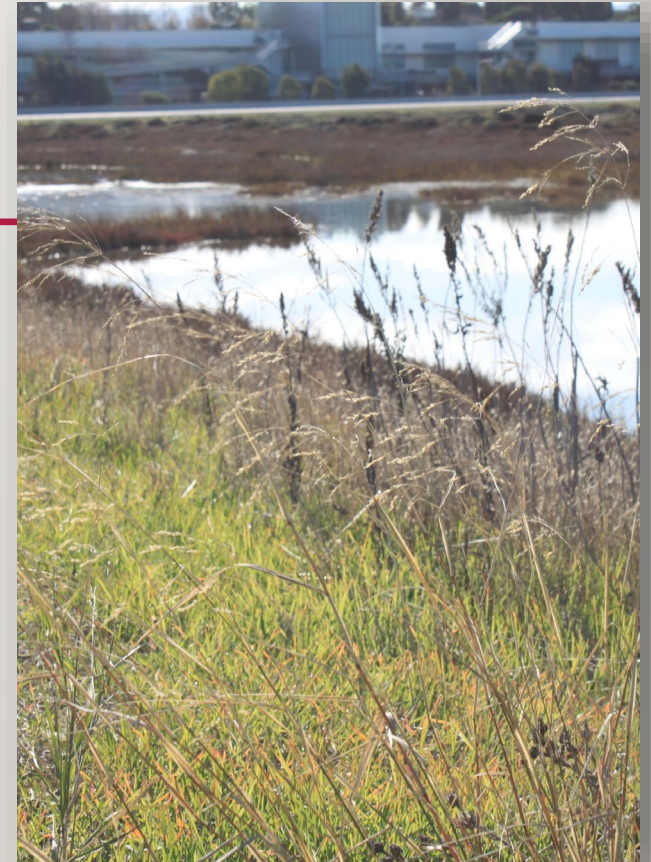
AGENDA ITEM 4 – CONSENT AGENDA

4.A. Consider adopting a resolution(22-09-22-A) reconsidering the circumstances of the COVID-19 state of emergency and making findings to authorize public meetings to be held via teleconferencing pursuant to Government Code Section 54953(e).



AGENDA ITEM 4 – CONSENT AGENDA

4.B. Review and consider resolution adopting updated Salary Schedule.



AGENDA ITEM – 5 INFORMATION ITEMS

5.A. EXECUTIVE DIRECTOR’S REPORT

REACH 2 PROJECT UPDATES

Top of Bank
Annual Maintenance Walk
CAP 205
Channel Widening Sites
Funding



REACH 3 PROJECT UPDATES

Woodard & Curran is preparing a cost/benefit analysis.

Will be featured on a board agenda later this year.



SAFER BAY PROJECT UPDATES

CEQA

Funding

Future MOU with City of East Palo Alto



ADMINISTRATIVE AND OPERATIONS UPDATE

- Office Move
- Member's Agreement update
- Conflict of Interest Policy update
- Emergency Preparedness



AGENDA ITEM – 5 INFORMATION ITEMS

5. B. 2022 COMPREHENSIVE PLAN UPDATE

**MONDAY, SEPTEMBER 26 – PLANNED RELEASE FOR
PUBLIC COMMENT**

PLEASE PROVIDE COMMENTS BY FRIDAY, OCTOBER 28

AGENDA ITEM 6 - CLOSED SESSION

6. A. CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION

(Paragraph (1) of subdivision (d) of Section 54956.9)

Name of case: Peter Joshua v. San Francisquito Creek Joint Powers Authority, et al. San Mateo County Court of Appeal Case No. A163294, San Mateo County Superior Court No. 19CIV06305

Report from Closed Session

AGENDA ITEM 7.

BOARD MEMBER COMMENTS and ANNOUNCEMENTS

Board members may share news, updates, and announcements and may request items for future agendas.






SAN FRANCISQUITO CREEK
JOINT POWERS AUTHORITY

Agenda Item 8

Adjournment

Thank you, everyone.



RESOLUTION NO. 22-9-22-A

**A RESOLUTION OF THE SAN FRANCISQUITO CREEK JOINT POWERS
AUTHORITY RECONSIDERING THE CIRCUMSTANCES OF THE COVID-19 STATE
OF EMERGENCY AND MAKING FINDINGS IN CONNECTION THEREWITH TO
AUTHORIZE MEETINGS TO BE HELD VIA TELECONFERENCING PURSUANT TO
GOVERNMENT CODE SECTION 54953(e)**

WHEREAS, the Board of Directors (the “Board”) of the San Francisquito Creek Joint Powers Authority (the “Authority”) is committed to public access and participation in its meetings while balancing the need to conduct public meetings in a manner that reduces the likelihood of exposure to COVID-19; and

WHEREAS, all meetings of the Authority are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the Board conduct its business; and

WHEREAS, pursuant to Assembly Bill 361, signed by Governor Newsom and effective on September 16, 2021, legislative bodies of local agencies may hold public meetings via teleconferencing pursuant to Government Code Section 54953(e), without complying with the requirements of Government Code Section 54953(b)(3), if the legislative body complies with certain enumerated requirements in any of the following circumstances:

1. The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
2. The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
3. The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

WHEREAS, on March 4, 2020, Governor Newsom declared a [State of Emergency](#) in response to the COVID-19 pandemic (the “Emergency”).

WHEREAS, the Centers for Disease Control and Prevention continue to advise that COVID-19 spreads more easily indoors than outdoors and that people are more likely to be exposed to COVID-19 when they are closer than 6 feet apart from others for longer periods of time.

WHEREAS, due to the ongoing COVID-19 pandemic and the need to promote social distancing to reduce the likelihood of exposure to COVID-19, the Authority intends to hold public meetings via teleconferencing pursuant to Government Code Section 54953(e).

WHEREAS, to continue meeting remotely pursuant to Government Code Section 54953(e), an agency must make periodic findings that: (1) the body has reconsidered the circumstances of the declared emergency; and (2) the emergency impacts the ability of the body’s members to meet

safely in person, or state or local officials continue to impose or recommend measures to promote social distancing.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY DOES RESOLVE AS FOLLOWS:

1. The Recitals provided above are true and correct and are hereby incorporated by reference.
2. The Board has reconsidered the circumstances of the COVID-19 state of emergency and hereby finds that the state of emergency continues to directly impact the ability of the members to meet safely in person. As required by Government Code Section 54953(e)(3), the findings made pursuant to this Section 2 shall apply as of September 11, 2022 and shall cover the period of time until the next regular meeting of the Board.
3. The legislative bodies of the Authority may conduct their meetings pursuant to Government Code section 54953(e).
4. Staff is hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act. Such actions include returning to the Board within 30 days and every 30 days thereafter to make the findings required by Section 54953(e)(3).
5. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the Board of Directors of the San Francisquito Creek Joint Powers Authority this 22nd day of September, 2022, by the following vote:

San Francisquito Creek Joint Powers
Authority September 22, 2022,
Board Meeting Agenda Item 4.B.
Salary Schedule (updated)



SAN FRANCISQUITO CREEK
JOINT POWERS AUTHORITY

**Fiscal Year 2022-2023 Salary
Schedule (Updated 09/22/22)**

<u>Position</u>	<u>Annual Salary</u>
Executive Director	\$180,000.00
Senior Project Manager	\$134,843.25
Clerk of the Board/Finance & Administration Manager	\$116,483.46



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JOINT POWERS AUTHORITY
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RESOLUTION NUMBER 22-9-22-B

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY
Approving the UPDATED FY 2022-2023 SALARY
SCHEDULE**

BE IT RESOLVED by the Board of Directors of the San Francisquito Creek Joint Powers Authority that the Board of Directors hereby adopts the attached updated FY 2022-2023 salary schedule. Approval of the salary schedule certifies the salary increases of the SFCJPA staff members, as approved by the board in the 2022/2023 fiscal year budget.

Approved and adopted on September 22, 2022, the undersigned hereby certify that the foregoing Resolution was duly adopted by the Board of Directors of the San Francisquito Creek Joint Powers Authority.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Vice Chairperson

Date: 09/22/2022

Chairperson

Date: 09/22/2022

APPROVED AS TO FORM:

Legal Counsel

Date: 09/22/2022

Executive Director's Report, September 22, 2022

Project Updates

Reach 2 Project -

Potential Repair/Replacement of Existing Top-of-Bank Features – Proposals for the Supplemental EIR are due September 24. Staff will provide a report of the selected bidder and present the proposed contract to the Board at the October 23, Board meeting. Valley Water's assessment of existing structures is underway. More information about the potential scope of the necessary work will be available at next month's board meeting.

Annual Maintenance Walk – The annual multiagency maintenance walk occurred September 13 and 14. The purpose of the walk is to identify items such as downed trees and other large debris in the channel that could obstruct flows and pose a threat to public safety during large winter storm events. Items that need attention will be tagged and assigned to the appropriate entity for removal or modification. The City of Menlo Park and Grassroots Ecology also use this walk to assess the amount of trash in the creek in order to coordinate [Coastal Cleanup volunteer activities](#) in San Francisquito Creek on September 17, 2022. The annual creek walk is also a good opportunity for engineers and planners to see the creek channel and banks in their current condition.

USACE CAP 205 – The USACE CAP 205 process has been moving forward as part of the approved Tentatively Selected Plan milestone on July 5, 2022. USACE work is focused on drafting the Feasibility Report and other items that are part of the Corps process. The SFCJPA team recently provided input to the USACE Public Involvement Plan (PIP) as required for NEPA and coordinating with Stanford University to address USACE questions that are part of their evaluation of potential risks and cumulative impacts.

Channel Widening Sites – Our colleagues at Valley Water have been conducting additional design analysis on wall type options for widening sites. Based on more detailed evaluations of seismic, geotechnical, and potential hydraulic conditions, and with performance and community safety as the top priorities for screening and evaluating potential options, the current recommendation is to utilize sheet-pile walls supported by pilings, rather than soil nail walls. This combination sheet pile and shear pile wall will be more expensive than soil nail walls but will be more structurally reliable. The next step in analyzing this wall type will be to evaluate its constructability, given the constraints of the construction sites.

Summary of Reach 2 Project Elements and Status (new details in red)

Reach 2 Elements	Design	Permitting	Rights of Way	Utility Relocations	Construction Funding/costs
Status	50% - 90%	Work on potential optimization of widening sites to minimize impacts to trees, creek channel and property owners has been completed and recommendations have been reviewed and accepted by Valley Water.	Coordination ongoing between SFCJPA and Valley Water re. rights of way process. Additional right-of-way work will be necessary for future repair/replacement of existing top-of-bank features in Palo Alto. Letters to property owners have been mailed, and follow-up calls, and visits are underway.	Utility mapping underway. PG&E assigning a PM for coordination	The engineering cost estimates for the funding gap table are being updated by Valley Water.
This Month’s Update	Re. Top of Bank - V.W.’s surveying contractor has completed Site 5 and Top-of-Bank areas where we have PTEs. Determination made that top of bank structures <u>must be replaced</u> , rather than retrofit or repaired. We are just beginning to evaluate the	Draft permit documents submitted on July 13. Draft comments received on September 5, 2022, that we are working on updating the permit application. On August 23, 2022, the 1st District, Division 2 Court of Appeals issued their decision in the EIR appeal to their earlier decision to deny the legal challenge in <i>Joshua v. San</i>	No change from last month. Valley Water planning next steps for securing more PTEs.	No new information	The USACE Tentatively Selected Plan (TSP) milestone on July 5, 2022 was a success, with all USACE required approvals obtained. The SFCJPA supports the USACE selected TSP which is very similar to what was proposed in the EIR. If we take advantage of

San Francisquito Creek Joint Powers Authority
September 22, 2022, Executive Director’s Report

Reach 2 Elements	Design	Permitting	Rights of Way	Utility Relocations	Construction Funding/costs
	full implications of this assessment.	<i>Francisquito Creek Joint Powers Authority Case: A163294.</i> The three panel judges denied the appeal and upheld their earlier decision that SFCJPA Board acted appropriately to certify the EIR in September 2019.			Corps funding for construction, we would no longer be able to use FEMA HMGP funding. (we cannot match federal money with federal money)
For Next Month (October 2022)	Select contractor for SEIR and initiate contract in October		VW will continue easement acquisition legal process for Santa Clara County parcels.	Continue coordination of utility relocation for overall project with PGE, not just Pope Chaucer Bridge. Develop cost estimates with utility companies.	
Potential Issues (& opp’s)	Exploring Site 5 designs w/ smaller project footprint.	Addition of fish migration elements could increase project footprint and costs	Negotiating with many private property owners.	Overhead power lines – or other utilities - could impact construction methods and costs. Underground utilities may limit design options.	In consultation with our DWR grant managers at the San Francisco Estuary Partnership, the SFCJPA determined that we will not move forward with the Round 1 grant. However, the SFCJPA will reapply for grant funding in Round 2,

San Francisco Creek Joint Powers Authority
September 22, 2022, Executive Director’s Report

Reach 2 Elements	Design	Permitting	Rights of Way	Utility Relocations	Construction Funding/costs
					with applications due October 10, 2022.

Milestone	By Jan '22)	By July August '22)	By Jan '23)	2023/2024 Construction/ Completion
Determination of Site 5 action (in progress)				
USACE FSCA and Feasibility Study				
Acquire land easements				
Permits acquired				
Funding agreement				
O&M agreement				
Final Design				
Bid and Award				
Construction of Newell Bridge				2023
Construction of Widening Sites				2024
Construction of Pope Chaucer Bridge				2025

Reach 2 Funding

The “Round 1” \$2.8M Prop. 1 IRWM grant - This grant for channel widening-related work (money from which would have been available this year) is no longer an option – as the project had to be free of any litigation *and* have permits in-hand by September. We are preparing to submit a grant request for funding in “Round 2” of IRWM funding, which is due October 10, 2022.

CalOES/FEMA HMGP grant for channel widening - Valley Water applied for this grant on behalf of the project prior to our entering into the Feasibility Cost Share Agreement for CAP 205 funding with the Corps of Engineers, which is also focused on channel widening. CalOES has issued another request for information, asking that we perform a Base Flood Elevation evaluation for every structure within the Creek floodplain. The requested turn-around time was very short. However, the requested information and analysis would require a year and significant consultant expense to accomplish. Together with Valley Water we have suggested other approaches to answering their questions. We believe our suggested methodology would not only be less expensive, but a more reliable method for estimating potential damages. Importantly though, we would not be able to accept both the HMGP grant and the \$10M in CAP 205 funding,

because federal funding cannot be used to match funding from another federal agency, so we are very likely to let this one go.

Funding Gap Update – Based on the most current project cost estimates, and the current known and highly-confident funding scenarios, I am estimating the present funding gap for Reach 2 to be \$18M+/- . However, this number will change as we learn more about the requirements of top-of-bank work. With this as a target number as a starting place, I will be framing a conceptual funding agreement structure for SFCJPA member staff colleagues' consideration and input over the next several weeks.

Reach 3 Upstream Detention

Our consultant, Woodard & Curran, is preparing cost/benefit analysis of the potential Boething Nursery site for upstream detention. This analysis will be on a future board agenda for a special presentation and discussion. Pending outcome of the cost analysis and board direction, we will pursue environmental studies this fall/winter.

SAFER Bay

CEQA - A [summary of comments](#) received on the NOP has been posted to the SFCJPA website. A NEPA Scoping Report with brief responses to comments is nearing completion and will be posted to our website in the next few weeks. Through our contracted Community-based Organization partners, a community advisory committee will be convened this fall. Tours of and briefings about the project are provided upon request.

The City of East Palo Alto and the SFCJPA are working on a Memoranda of Understanding for the implementation of the anticipated HMGP grant, as well as the San Francisco Bay Restoration Authority Measure (SFBRA) AA grant. We expect to present the draft Memoranda of Understanding at next month's board meeting for your consideration. Upon your satisfaction, the item will then be taken up by East Palo Alto's City Council.

SAFER Bay Funding

The San Francisco Bay Restoration Authority (SFBRA) Measure AA grant contract for \$1,000,000 was reviewed by legal, signed and signed by me on September 6, 2022. Staff and consultants are currently working on the required submittals, including a work plan and schedule so that this contract can be fully executed.

As mentioned previously, the SFCJPA request to the SFBRA was partially funded. A request for additional funding was submitted to the SFBRA on July 29, 2022. This request is currently under review by the SFBRA, with the SFCJPA providing additional requested information to the SFBRA on September 9, 2022.

A National Fish and Wildlife Foundation grant application for ~\$3.7M was submitted at the end of June. We are still waiting on a decision.

We have received and signed the Measure AA funding agreement and are working on their requested documentation pre-requisites. Funding will follow submittal of those documents, which we anticipate will be complete by October.

We received confirmation on Friday, September 9, that FEMA/CalOES have approved funding for the SAFER Bay Project Phase 1 (geotechnical studies) for \$4.6M. We anticipate a grant kick-off meeting and associated signing of contract agreements to be scheduled in the next few months.

Neither East Palo Alto nor the SFCJPA has received any word regarding the PrepareCA grant for matching funds that had been applied for in February 2022.

Administration and Operations

Resolution of Joshua Suit – On August 23, 2022, we received the news that the appeals court decided in our favor and dismissed Mr. Joshua's appeal. According to RWG, the full cost for defending ourselves in this matter has been \$68,000 in legal staff time and \$1000 in court fees.

Members' Agreement - Conversations with member agency staff and legal counsels regarding the SFCJPA members' agreement continue. Questions and concerns are being addressed and resolved one-by-one. I envision this coming to the board for discussion in the fall.

Grant Opportunities/Funding – In general, we are watching closely as both State and federal budgets have directed significant funds towards infrastructure, and climate change adaptation. These funds will likely not be immediately available but will be programmed through applicable agencies and programs.

Office relocation - We have moved out of the Regus office space in Palo Alto and are now getting settled into the new offices at 750 Menlo Ave, Suite 250. Step-by-step we're getting our systems set up. So far, the transition has gone fairly smoothly. However, we are resolving a dispute with Regus regarding our lease termination.

Emergency Preparedness – Together with Chief Dueker, City of Palo Alto, and colleagues from our member agencies, we are planning to convene an in-person MAC workshop in early December (tentatively scheduled for December 6, 2022) which will include table-top exercises to refresh skills and relationships.

Conflict of Interest Biennial Notice and Update – Working with the team at RWG, we are updating the SFCJPA's information in the required Biennial Notice to the FPPC. Our

update has been transmitted to the FPPC. Once the FPPC approves our update the item will be on your agenda for acceptance.

Forward view of upcoming agendas

October 2022	SIER Contract East Palo Alto MOU Updated Conflict of Interest code Misc. SFCJPA Policy Updates
November 2022	Acceptance of 2022 Comprehensive Plan Special Presentation on Upstream Detention SFCJPA Members' Agreement (discussion)
December 2022	SFCJPA Members' Agreement (Further discussion or potential action) Proposed Reach 2 Funding Plan (discussion)

Agenda Item 5.B.

SFCJPA Comprehensive Plan 2022 Update – Monday, September 26 Planned Release for Public Comment

Background

The SFCJPA initially developed the Comprehensive Plan in 2020 to communicate our purpose and projects, and their context, to diverse audiences. Each year staff reviews and updates the Comprehensive Plan. This is an evolving document and will continue to be updated in response to changing conditions in the San Francisquito Creek and its watershed.

The 2022 Draft Update will be posted on the SFCJPA's website, announced in the SFCJPA's next newsletter, and released to the public and our broader stakeholder community for comment on Monday, September 26. Proposed updates will be shown in tracked changes. The 2022 Comprehensive Plan proposed update includes watershed-scale data elements to better align with the requirements of a U.S. Environmental Protection Agency 'Watershed Plan'. In the future, our goal is to have a U.S. EPA approved Watershed Plan, which will facilitate project regulatory compliance and any subsequent permit approvals.

The updated plan incorporates known existing data about the physical characteristics of the watershed that may be useful as baseline data. We are soliciting a longer, more detailed review from stakeholders.

Staff will integrate comments and feedback on the proposed draft Comprehensive Plan and bring the updated 2022 Comprehensive Plan to the Board in November.

Requested Action

Members of the board, our watershed partners, and the public are encouraged to comment. Comments on the 2022 Draft Comprehensive Plan are requested no later than Friday, October 28, 2022. Please send comments to Tess Byler at tbyler@sfcjpa.org.