

## **Legislative Advocacy Positions**

### **1. Affordable Housing and Homelessness**

Cities across the state have struggled to address the growing affordable housing and homelessness crisis as housing prices continue to soar. The Silicon Valley, in particular, has one of the most expensive housing markets in the country due to the technology industry's growth as an employment engine. In an effort to address the lack of affordable housing, both the County and the State have taken significant measures to provide much needed support to local jurisdictions. In November 2016, Santa Clara County residents approved the 2016 Measure A Affordable Housing Bond (Housing Bond), a \$950 million general obligation bond that will create new affordable rental and homeowner housing opportunities. The Housing Bond is part of an ongoing effort to: 1) increase affordable housing opportunities for our community's most vulnerable and poorest residents; and, 2) to prevent and reduce homelessness throughout Santa Clara County. The Housing Bond builds on key policy shifts and communitywide partnerships that occurred over the last five years. The City of Santa Clara is partnering with the County on multiple development projects in order to access Measure A resources and to reach some of our community's most vulnerable and poorest residents.

At the State level, Governor Brown signed the 2017 Legislative Housing Package that aimed to help alleviate the affordability crisis by streamlining housing development (SB 35, AB 73, and SB 540); increasing accountability of Cities and enforcement housing goals (AB 678, SB 167, AB 1515, AB 72, AB 1387, SB 166, and AB 879); and creating and preserving more affordable housing (SB 2, SB 3, AB 1505, AB 1521, and AB 571). The California Department of Housing and Community Development is still in the process of gathering input from stakeholders, including local municipalities, on how to integrate and implement these new laws.

In response to AB 1505, the City of Santa Clara acted to ensure the availability of affordable housing to moderate, low, very-low and extremely-low income households through the adoption of the Affordable Housing Ordinance and Impact Fees. The new requirements will include a combination of inclusionary requirements for residential projects and impact fees for smaller projects and nonresidential projects to provide a steady stream of affordable housing units and income to fund the provision of affordable housing projects across the City.

Since the dissolution of Redevelopment Agencies, the City of Santa Clara's two main sources of funding for affordable housing are from the federal Community Development Block Grant (CDBG) and HOME Investment Partnerships Act Program (HOME) entitlement grants. The federal entitlement grants are used to promote affordable housing, rehabilitate substandard housing, build new park facilities, provide

neighborhood improvements, remove barriers to the handicapped, and fund public services for low and moderate income residents. While the City of Santa Clara passed its Affordable Housing Ordinance in January 2018, which will provide new permanent funding through inclusionary requirements, in-lieu fees for residential development, and impact fees for non-residential projects, it is unlikely that the City will collect substantial funds during the first year or two due to the approved implementation and phase in for the requirements and fees. Thus, Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME) continue to be significant sources of funding for the City. Earlier this year, there were proposals to cut federal funding programs such as CDBG, HOME, and the Section 8 voucher program, which would have greatly impeded the City's affordable housing goals. Fortunately, the U.S. Department of Housing and Urban Development budget was not cut for FY 2018-19, but City staff should continue to monitor federal funding for housing.

City advocacy efforts will focus on encouraging the State and federal government to provide more resources (funding, legal authority, technical support, streamlining of burdensome administrative requirements associated with federal funding, etc.) to local governments to address local housing needs. At the State level, the City will encourage the State to engage in constructive dialogue with local governments to seek realistic solutions to local fiscal challenges and challenges in meeting local affordable housing goals, rather than adopting measures that reduce local control and are mainly punitive in nature. At the federal level, the City will focus on increased federal funding for affordable housing and community development programs for local governments; preserving and strengthening the low-income housing tax credit (LIHTC) program and federal tax exemptions for private activity bonds (PABs); preserving federal tax exemptions for state and local taxes including state and local property, sales, and income taxes, and maintaining federal tax exemptions for mortgage interest payments on primary residences (at least). Elimination or weakening of the LIHTC and/or PAB programs and/or SALT and mortgage interest deduction could have significant negative impacts on affordable housing production, first-time home buyers, local and state governments' fiscal health, and the stability of the California housing market.

## **2. Engagement with the Federal Aviation Administration Regarding Airplane Noise**

The City continues to track air noise activity on multiple fronts and from multiple sources that impact our residents. In Santa Clara, the source of air noise comes from various activities from regional international airports, general aviation airports, and Moffett Federal Airfield. Ultimately, the Federal Aviation Administration (FAA) is primarily responsible for air traffic control and our region continues to advocate for air noise mitigation.

In June 2017, the Cities Association of Santa Clara County (CASCC) received a Congressional request from Representatives Eshoo, Khanna and Panetta asking the CASCC to take a leadership role in forming a regional aircraft noise roundtable. The CASCC formed an Ad Hoc Committee to build the framework of forming a roundtable that works for the region. The roundtable, conceived to include the 21 local jurisdictions of Santa Clara and Santa Cruz Counties, will work together with San Francisco Airport, Minéta San José Airport, and the FAA, and address the growing concern of aircraft noise.

At the CASCC Board of Directors meeting on June 14, 2018, the Ad Hoc Committee presented their recommendations to form a Santa Clara/Santa Cruz Airport Roundtable. The Committee recommended a number of items, including a resolution for Board approval, proposed by-laws, Memorandum of Understanding (MOU) for the Roundtable, and draft resolutions for participating jurisdictions.

At the July 17, 2018 meeting, Council adopted a resolution for Santa Clara to participate in the Santa Clara/Santa Cruz Airport Community Roundtable and approved the appropriation of funds for the City's participation. While the City does not have direct authority over air space, City staff will continue to work with regional agencies and federal representatives and authorities to mitigate the effect on our residents.

### **3. Environmental Regulatory and Conservation Issues**

Continued interest in environmental issues at both the state and federal levels will likely result in legislation and changes in regulations that could significantly impact the City. Monitoring and advocacy efforts will be geared to ensuring that emerging legislation is in alignment with the City's interests in providing sustainable services to its residents. This Legislative Advocacy Position summary focuses on several environmental issues, which can potentially impact our residents including and not limited to energy and water supply, clean air and bay, flood protection, and recycling.

#### *California Environmental Quality Act Reform*

The 2014 California legislative session involved considerable discussion regarding substantive reforms to the California Environmental Quality Act (CEQA). CEQA is recognized as an important tool for ensuring public disclosure of potentially significant environmental impacts and for ensuring that adequate mitigation measures are included to reduce or avoid these impacts. Growing concerns have been expressed, however, that some groups are using CEQA inappropriately to delay a project, and often the opposition is not truly predicated on environmental concerns. Environmental impact reports are increasingly challenged in the courts. Along with causing significant project delays, cities must commit considerable staff resources and incur substantial financial costs to defend these legal challenges. While CEQA reform has been a topic of regular

discussion with numerous revisions enacted since the law was passed in 1970, the revisions have generally been incremental and ineffective in streamlining the CEQA process.

The 2014 legislative session expected significant CEQA reform, however, an overall CEQA reform proposal did not proceed and SB 731 was introduced, which proposed CEQA reform specific to infill projects. In the last days of the session, SB 731 was shelved and SB 743 was approved. SB 743 includes provisions modifying the expedited judicial review provisions for environmental leadership projects, and adopting some streamlining provisions for infill projects in transit priority areas. SB 743 removes parking, transportation Level-of-Service (LOS), and aesthetics standards as grounds for legal challenges against project developments in urban infill areas. These standards are most commonly used in CEQA litigation to slow or terminate a new development project. The standards will remain in place to demand a higher threshold for green-field developments. It is expected that additional CEQA reform will be necessary in the future.

#### *Clean Energy and Energy Conservation*

The City, and its electric utility Silicon Valley Power (SVP), actively engages in energy policies that move the residents and businesses toward a cleaner future ensuring reliable, affordable and sustainable power, with effective local accountability as a fundamental requisite. Preserving local decision-making and authority ensures that the best interests of the community are taken into account, actions are tailored to local priorities, and it is key to the goal of delivering reliable, affordable and sustainable power. Locally elected representatives are more responsive to the needs of our community as decisions are made through a public process, allowing customers to directly participate in the decision making.

The City will continue to engage in discussions, legislation, and policy, regarding energy related issues including renewable energy, energy efficiency and conservation, resiliency, smart grid solutions, energy storage, distributed energy and transportation electrification, among other things. The City has had an Environmental Stewardship and Renewable Portfolio Standard Policy Statement since 2008. The City advocates for policies that remain technology feasible and neutral, and avoids policies that choose specific technologies or energy procurement mandates that can lead to increased customer costs while discouraging innovation. The City supports legislation that remove barriers to the electrification of buildings and transportation and legislation that provides regulatory streamlining of reporting and other actions.

#### *Green House Gas (GHG) Emission Reductions*

Sustainability is an important goal for the City. The City monitors legislation that may have a regional and local impact on greenhouse gas emissions to advocate for effective and equitable approaches to emissions reduction especially to California Air Resources Board's (CARB) identified Disadvantaged Communities

(DAC) and the Bay Area Air Quality Management District's (BAAQMD) identified Community Air Risk Evaluation (CARE) communities.

The Global Warming Solutions Act of 2006 (AB 32), requires California to reduce its GHG emissions to 1990 levels by 2020, and set the frame work for 40% reduction from 1990 GHG levels by 2030 and 80% reduction targets from 1990 GHG levels by 2050. The City supports a comprehensive approach to climate policy that optimizes GHG reductions across multiple sectors (transportation, electricity, buildings, etc.). The City advocates for the flexibility to optimize the portfolio of GHG emission reduction opportunities identified in the City's Climate Action Plan and include new renewable energy procurement, energy efficiency, demand response, smart grid solutions, energy storage, emission trading, among other actions to the portfolio. The City's Climate Action Plan is heavily reliant on Silicon Valley Power to implement and further accelerate greenhouse gas reductions.

#### *Prohibition of Oil Drilling off the California Coast*

In 2017, the President's administration announced its intent to allow additional offshore drilling around the United States, including a location in the Pacific Ocean along the Northern California coast. Offshore drilling is widely considered to carry significant risk to the environment and to worker safety. Additionally, the resourcing of additional fossil fuels is at odds with the climate protection goals of California and Santa Clara.

In response to the administration's proposal, the California Senate and Assembly introduced nearly identical bills, AB 1775 and SB 834, that ban new offshore drilling by prohibiting the State Lands Commission from issuing new leases for oil-related infrastructure in the state's coastal waters. The California legislature is expected to finalize and pass the bills by August 2018. It is in Santa Clara's interest to support and complement State efforts to oppose allowing additional oil drilling off the California coast.

#### *Recycling and Solid Waste Diversion*

In September, 2015, the California Air Resources Board (CARB) announced its intent to ban landfill disposal of food waste and other organics by 2025 in hopes of further reducing methane emissions from landfills. SB 1383, signed into law by Governor Brown on September 19, 2016, reinforced CARB's focus on diverting organics from landfill. The bill establishes 2014 disposal as a baseline, then sets a state target of reducing disposal 50% by 2020 and 75% by 2025. As of late 2017, CalRecycle is drafting regulations to implement the organics diversion provisions of SB 1383. The most recent draft regulations as released in May 2018 are intensive requiring inspection/enforcement, public education and outreach. They are also more prescriptive in terms of food recovery and color coding of bins.

However, creating the composting and anaerobic digester infrastructure needed to process the additional food waste will require overcoming significant statewide funding, siting and land use and environmental permitting challenges. A key issue is the need for a realistic, market-driven definition of “organics.”

It is in the City’s interest to continue to monitor the progress and implementation of these efforts as they relate to its utility functions of wastewater, water, and solid waste management and to the City’s greenhouse gas reduction goals and approaches. In 2018, staff will continue to monitor these efforts and advocate for funding, regulatory streamlining, and market-based incentives to enable creation and maintenance of the facilities needed to reach state and local goals.

#### *South Bay Salt Ponds Restoration Project*

The salt pond conversion project, to restore the salt ponds to their natural ecosystem and provide flood protection, is ongoing. A large amount of fresh water enters the San Francisco Bay from wastewater treatment plants in South Bay cities, including Santa Clara. These inputs of freshwater are included in the hydrodynamic modeling work conducted to evaluate the impact of alternatives on such things as salinity, water quality, and water levels. Project partners, such as the California State Coastal Conservancy, the California Department of Fish and Game, the U.S. Fish and Wildlife Service, Santa Clara Valley Water District, Alameda County Flood Control and Water Conservation District, and the U.S. Army Corps of Engineers, and members of the public are collaborating to implement the first phase of the current restoration plan. The project needs to be tracked, due to its proximity and possible impact on the Regional Wastewater Facility, which Santa Clara jointly owns with the City of San Jose.

#### *South Bay Shoreline Study*

Shoreline areas along San Francisco Bay will risk damages from coastal flooding, with potential impacts to human health and safety, due to future sea level rise. The South San Francisco Bay Shoreline Project is a congressionally authorized study by the US Army Corps of Engineers together with the Santa Clara Valley Water District and the State Coastal Conservancy to identify and recommend flood risk management projects for Federal funding. The Corps is looking at projects that will reduce flood risk, restore some of the region's lost wetlands, and provide related benefits such as recreation and public access. This project, and other Bay Area resiliency planning efforts, should be tracked into ensure that Santa Clara’s infrastructure and community assets are considered and protected as the Bay Area plans and constructs resiliency projects. Santa Clara has supported Measure AA funding for the South San Francisco Shoreline Study. The San Jose/Santa Clara Regional Wastewater Facility is a critical facility which is co-owned by the City of Santa Clara located on 2,600 acres serving 1.4 million people and Silicon Valley businesses. This facility, along with the Silicon Valley Advanced Water Purification Center, is located in the area of the study as posing significant risk to tidal flooding. Both of these facilities would benefit from the construction of a coastal levee and habitat restoration.

### *Statewide Forest Management*

The City supports the modernization of vegetation and forest management practices for wildfire prevention and carbon sequestration. The City is supportive of biomass production for energy, forest thinning, and other activities to improve the health of forests damaged by infestation of bark beetles, plant pathogens, drought, or other hazards that exponentially increase wildfire dangers.

The City supports prohibitions on industrial clear-cut logging of forests in California. For the purposes of this issue, “clear-cutting” may be defined as any public or private forest management or timber harvest method in which sixty percent (60%) or more of cubic tree volume of any area greater than two and one-half (2 ½) acres is felled within any fifteen-year period; and “clear-cutting” also refers to any forest management or timber harvesting practice that results in the first image of a clear-cut forest. The Sierra Club reports that such deforestation degrades water quality in the areas where the activity takes place, impacts wildlife habitat, reduces the capacity for carbon sequestration as a greenhouse gas reduction strategy, and makes the impacted area less resistant to fire.

The City has broad interest in the impacts of forest management ranging from fire hazard to electric generation stations and transmission to the general negative impacts on watersheds and carbon sequestration. In 2015, the Lake County fires damaged the transmission lines from the Geysers generating units of which SVP is a partial owner. Rapid response, including use of Santa Clara line crew employees, brought the power back to the grid. However, approximately 9,400 megawatt-hours of renewable power was not available to the California power grid during that time, thus hindering the State’s ambitious GHG reduction goals. The City also recognizes that catastrophic wildfires are also a large source of GHG and black-carbon emissions and negatively offset the efforts of all agencies in reducing such emissions.

Currently clear cutting practices do not impact current water supply in Santa Clara. It is not allowed in the Hetch Hetchy watershed and it does not impact Delta supply.

### *Urban Runoff Pollution Prevention*

The City supports provisions of National Pollutant Discharge Elimination System permit regulations that are attainable and reflect local conditions and circumstances. Along the same lines, new regulations and/or permit requirements that include numerical limits for municipal urban runoff discharge should be opposed as infeasible and a very expensive way to address the problem. It is in the City’s continued interest to support urban runoff pollution prevention regulations, water conservation and recycling, and pollution controls that benefit the City. Policies by Regional Water Quality Boards should recognize

the goals of the Clean Water Act but apply an appropriate standard based on local circumstances.

#### *Wastewater Regulation*

The San Jose/Santa Clara Regional Wastewater Facility (RWF) is the largest advanced wastewater treatment plant in the western United States serving a population of over 1.4 million people and over 17,000 businesses across eight cities and the County. The RWF is also the largest discharger to the San Francisco Bay. The RWF is regulated by the National Pollutant Discharge Elimination System (NPDES) permit under the Clean Water Act administered by San Francisco Bay Regional Water Quality Control Board. The RWF has been successful in meeting the discharge requirements through capital improvements and source control programs. New regulations are focused on Contaminants of Emerging Concern, Toxicity, and Nutrient Reduction.

There are a number of wastewater regulations under consideration including: reissuance of the San Francisco Bay Nutrient Watershed Permit in 2019; potentially more stringent regulations for selenium loadings; more stringent regulations related to contaminants of emerging concerns; and proposed State Toxicity Plan expected in the Fall of 2018.

The RWF is also dealing with a number of air quality regulations that will be monitored closely that include: Bay Area Air Quality Management District's (BAAQMD) new rule, Rule 11-18, that is intended to assess and reduce human health risks associated with toxic air contaminant emissions from facilities in the Bay Area; the Greenhouse Gas Emissions cap and trade program authorized by AB-32 in 2006 is set to expire in 2020, the program will be extended through 2030 with adoption of SB-32 in 2017; Greenhouse Gas Emissions – BAAQMD Methane Rules, through treatment plant processes in the digesters at the plant, Rule 13-1 is intended to require facilities to find and eliminate large leaks. The rule is under development and is scheduled to be adopted later this year.

#### **4. Local Authority over Wireless Telecommunications Facilities**

The wireless telecommunications industry has made efforts to limit or preempt local control over placement of wireless facilities and supporting structures in and outside the rights of way. Several actions by federal and state lawmakers have resulted in: adoption of regulations and orders controlling local authority over placement, including through adoption of "shot clocks" requiring local agencies to complete review of projects within a specified time period. In 2009, the Federal Communications Commission (FCC) ruled that localities are presumed to have violated federal law if they fail to act on requests for placement of wireless facilities on existing structures within 90 days, or 150 days in other cases. In 2014, the FCC issued rules implementing a law passed by Congress in 2012 (the law is referred to as Section 6409). Section 6409 requires localities to act

within 60 days to approve requests for modifications of existing and previously approved wireless facilities which do not “substantially change” the physical dimensions of those facilities. The facility is “deemed approved” if the locality fails to act. This could for example, result in future wireless carriers adding up to three additional ground cabinets at any location where ground cabinets were previously approved, or adding a 10 foot, vertical extension to wireless facilities on or off the rights of way, even if the previous facilities were subject to height limits. There are important exceptions to the general rule but it is a significant limit on local authority. AB 57 was passed in 2015, which provides that if a local jurisdiction fails to act on a wireless telecommunication facilities application within the 90 or 150-day timeframes established by the FCC, the carrier may send the locality a notice that the permit has been deemed approved, and the locality bears the burden of going to court to defend its failure to approve.

The FCC has adopted rules in 2018 that effectively remove most federal protections against placement of small cells under the National Historic Preservation Act and the National Environmental Protection Act. In August 2018 it declared that “de jure” and “de facto” moratoria on deployment of wireline and wireless facilities “prohibit” deployment of telecommunications facilities, generally cannot be defended as reasonable right of way management, and are subject to preemption. The FCC’s examples of moratoria were not limited to laws that prohibit submission of permits pending adoption of local or state law revisions. Examples of “moratoria” include delays by municipally-owned utilities in acting on pole attachment applications; “freeze and frost” laws that prohibit trucks of certain weight from using roads during seasons when roads are most vulnerable; and overly broad suspension of permitting during emergencies, such as wildfires. Conceivably, limitations on right of way construction during peak periods of use could be challenged. The FCC is expected to act on industry requests that localities be limited to recovering incremental costs for use of the rights of way; and that localities be required to lease space on publicly owned infrastructure, including street lights, at cost. The FCC is also considering shortening shot clocks further, or declaring that the failure to act within a specified period results in the application being “deemed granted.”

At the state level, SB 649 was vetoed in 2017, but, if it had passed, the bill would have removed significant local authority over small cell telecommunications facilities within the public right-of-way. The bill would have established a uniform permitting process for small cell wireless equipment throughout the State, and would have fixed the rates local governments could charge for placement of small cell equipment on City owned property. Silicon Valley Power joined with other public power jurisdiction in California to strongly oppose SB 649 and continues to oppose any attempt to preempt local authority over the placement of wireless telecommunication facilities and access to broadband services. The FCC may very well adopt orders that have many of the same effects as the legislation would have had, if not vetoed.

In addition, the FCC created the Broadband Deployment Advisory Committee (BDAC) in 2017 to advise the Commission on how to accelerate the deployment of high-speed Internet access. Working groups within the BDAC, such as Competitive Access to Broadband Infrastructure, Removing State and Local Regulatory Barriers, and Model Code for Municipalities, have provided recommendations to the FCC. However, the BDAC was controlled by industry – most of the handful of municipal representatives resigned because the BDAC was unwilling to fairly consider municipal proposals. The recommendations that have issued are not favorable to localities, and may provide the foundation for further actions at the federal and state level.

On the congressional side, the Senate Commerce and House Energy & Commerce Committees held five FCC-related hearings in 2017. During those hearings, some witnesses and members of both committees claimed utility pole attachments are a “barrier” to the ubiquitous deployment of broadband technology. At several of those hearings, FCC Chairman recommended that, to foster widespread broadband deployment, Congress should extend FCC jurisdiction to include public power pole attachments. Senators Thune and Schatz introduced the STREAMLINE Small Cell Deployment Act (S.3157) in June 2018. The proposed bill has many of the same provisions that are being considered by the FCC, such as limiting local governments’ authority to deny wireless service facility permits and designating timeframes for local governments to approve requests. While the bill is important, the FCC’s actions, described above, present a much more immediate threat.

At this time, local governments and municipal utilities throughout California are studying the impact of new technologies, such as small cells, to determine how to best align the public’s demand for wireless services with local zoning laws. If a city is unable to exercise its discretion over the permitting of small cells, the results can create significant issues for the community and electric utility operations, including, but not limited to, the following:

- Forced access to public and private property, and public utility easements such as electric substation infrastructure;
- Public safety issues if the city cannot determine if the small cell and associated equipment meet the safety standards for utility poles or other support structures;
- Worker safety issues due to the size and placement of the equipment on utility poles;
- Major aesthetic issues if small cell installations go unchecked. Small cells and their associated equipment can be bulky, create an inconsistent look, and substantially extend the height and size of a pole;
- Pole over-loading/failure issues if a City-owned pole does not have the capacity to serve a small cell; and

- Installation of small cells on historical landmarks.

These efforts continue to erode the City's ability to effectively regulate wireless telecommunications facilities and take away local authority on facilities that directly affect our City's residents. Since SVP owns and operates its own public power utility, it is even more alert to proposals that may impact its electric distribution system built on public power poles. City staff will continue to advocate for local control of permitting wireless telecommunications facilities in the public right-of-way.

## **5. Regional and State-wide Water Supply and Conservation**

The Water Quality, Supply, and Infrastructure Improvement Act of 2014, approved by the voters as Proposition 1 at the November 4, 2014, statewide general election, authorizes the issuance of general obligation bonds to finance a water quality, supply, and infrastructure improvement program. Santa Clara continues to encourage the California Water Commission to provide financial support to the Santa Clara Valley Water District and agency partners. The City supports projects like the Pacheco Reservoir Expansion Project that will provide critical environmental and water supply benefits to Santa Clara, San Benito, Monterey, and Santa Cruz Counties.

Additionally, the City of Santa Clara (City) operates 26 wells that tap the underground aquifers and make up about 62% of the City's potable water supply. The underground aquifers are replenished from local reservoirs by the Santa Clara Valley Water District (SCVWD) water recharge program. The remaining water is supplied by water imported from the SCVWD and the San Francisco Public Utilities Commission (SFPUC) through the Hetch-Hetchy Reservoir.

For certain approved non-potable uses, recycled water from the San Jose/Santa Clara Regional Wastewater Facility's South Bay Recycled Water (SBWR) facility is used. This highly treated water delivered through separate pipelines makes up about 16% of the water sales in the City. Recycled water offsets the use of potable sources in drought-prone California and is a reliable source for conservation of potable sources. The City continues to work closely with SBWR in order to increase recycled water supplies in order to meet existing demands within the City. Currently, SBWR is updating the Recycled Water Master Plan.

Specific items of interest include:

### *Water Supply and Conservation*

From 2012 through 2016, water supplies were strained due to the drought. Consistent with water conservation orders issued by Governor Brown, the City established its Water Shortage Contingency Plan (WSCP), as amended, to set water reduction targets ranging from 20%-30% and called upon the City's

residents and businesses to save water by reducing outdoor irrigation days and times, utilizing water-efficient practices, and discouraging wasteful uses of water. Residents and businesses collectively answered the call day in and day out, achieving water savings of over 30% in a single month during the peak of the drought.

Following the 2016-2017 winter season, which brought record levels of rain and snow, Governor Brown lifted the drought state of emergency in most California counties, including Santa Clara County. Though the statewide drought emergency may be over, Governor Brown noted that the next drought could be right around the corner and that conservation must remain a way of life in California. On July 18, 2017 due to improvements in water supply conditions and Governor Brown lifting the statewide drought emergency, Santa Clara City Council adopted a Resolution discontinuing the WSCP Plan 2 while setting a City-wide goal to maintaining a voluntary 10 percent reduction in water demands compared to 2013, in order to continue progress made in water conservation and make conservation a way of life. In addition, updates to Section 1.C of the City's Water Service and Use Rules and Regulations, Water Use Restrictions and Prohibitions were approved by Council. The City's Water Use Restrictions and Prohibitions section remain in effect at all times and continue to discourage wasteful uses of water.

AB 574 to expand the use of recycled water was signed into law in 2017. Existing uses of recycled water for non-potable uses has been well established. In December of 2016, the State Water Resources Control Board (SWRCB) released a study regarding direct potable reuse. Currently, there are no regulations in the United States at the federal or state level for direct potable reuse. The bill directs the SWRCB to set regulations for the use of recycled water for direct potable reuse. Santa Clara Valley Water District is interested in potable applications using wastewater resources from the San Jose/Santa Clara Regional Wastewater Facility.

On May 31, 2018, Governor Brown signed two bills, which built on ongoing efforts to "make water conservation a California way of life." SB 606 and AB 1668 emphasize efficiency and stretching existing water supplies in our cities and on farms. Specifically, the bills call for creation of new urban efficiency standards for indoor use, outdoor use, and water lost to leaks, as well as any appropriate variances for unique local conditions. The SWRCB is scheduled to issue regulations consistent with these bills no later than June 30, 2022. The specific requirements for urban and agricultural water supplies are:

- Each agency will annually, beginning November 2023, calculate its own objective, based on the water needed in its service area for efficient indoor residential water use, outdoor residential water use, commercial, industrial and institutional (CII) irrigation with dedicated meters, and reasonable amounts of system water loss, along with consideration of other unique

local uses (i.e. variances) and “bonus incentive,” or credit, for potable water reuse, using the standards adopted by SWRCB.

- Agencies must meet their water use objective. Those that don't may be subject to enforcement by the SWRCB. Starting in 2023, SWRCB may issue informational orders to Agencies that do not meet their water use objective, and may issue conservation orders beginning in 2025.
- The indoor water use standard will be 55 gallons per capita daily (GPCD) starting January 2025; the standard will become stronger over time, decreasing to 50 GPCD in January 2030.
- The outdoor water use standard will be based on land cover, climate, and other factors determined by the Department of Water Resources (DWR) and SWRCB. SWRCB will adopt the outdoor standard by June 2022.
- The water leaks standard will be set by SWRCB pursuant to prior legislation (SB 555, 2015) by July 2020.
- In addition, the DWR and SWRCB will work collaboratively to define performance measures for CII water use by October 2021. SWRCB will adopt the CII performance measures by June 2022.
- To enhance drought planning and preparedness, Agencies will also be required to update urban water management plans that specify reliability of water supply, define the Agency's strategy for meeting its water needs, including conducting annual “stress tests” of supply versus demand to ensure water service continuity assuming the five worst or driest years in the supplier's historical record.

#### *Bay-Delta Plan Update*

The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta) is a hub for the state's water supply system. SWRCB is in the process of developing and implementing updates to the Bay-Delta Plan to protect beneficial uses in the Bay-Delta watershed. The Bay-Delta Plan is being updated in two separated phases.

Phase I addresses flow requirements in the San Joaquin River watershed for the projection of fish and wildlife and salinity requirements in the southern Delta for the protection of agriculture. The final Substitute Environmental Document (SED) and proposed changes to the Bay-Delta Plan will be released for public review in the upcoming months.

Phase II addresses the reasonable protection of fish and wildlife beneficial uses in the Sacramento River and its tributaries, the Delta, the Mokelumne, Calaveras, and Consumnes rivers. The proposed Phase II changes to the Bay-Delta Plan include: new inflow requirements for the Sacramento River, its tributaries, and eastside tributaries to the Delta, the Mokelumne, Calaveras and Cosumnes rivers; new and modified Delta outflow requirements; new requirements for cold water habitat; new and modified interior Delta flow requirements; recommendations for complementary ecosystem protection actions that others should take; and adaptive management, monitoring, evaluation, special study,

and reporting provisions. In October 2017, the final Scientific Basis Report that identified evidence supporting potential changes to the Bay-Delta Plan was posted. SWRCB is planning to release a draft SED/Staff report for Phase II in the upcoming months.

The San Francisco Public Utilities Commission (SFPUC) is the primary lead with respect to the SED regulations in coordination with the Bay Area Water Supply and Conservation Agency (BAWSCA). In December of 2016, Santa Clara provided a comment letter to SWRCB related to the 2016 Bay-Delta Plan Amendment and SED. The comment letter highlighted the need to fully analyze the environmental and economic impacts of any shortage to the SFPUC system and associated lost jobs and potential delayed development.

In general, BAWSCA, SFPUC and SCVWD have the lead on the primary regional issues around the water supply. However, City staff attend many manager, SWRCB and committee meetings in coordination with the aforementioned agencies in order to stay current on water resource issues and initiatives as they progress, in order to lend support wherever needed by the suppliers and meet the requirements set forth by the new legislation.

All support for SFPUC issues should be coordinated with BAWSCA. In some cases, BAWSCA may have suggestions, or to coordinate efforts, for the suburban agencies to be sure to maintain a consistent and appropriate level of support, and any other involvement. The issue is being addressed in all areas of our State government. Support may involve meetings, letters, public testimony, and assignment of staff so that the City can best respond as a retailer, and work with our suppliers in the interests of the City's residential and commercial water consumers.

City staff will continue to support and implement water conservation measures working in cooperation with BAWSCA, SFPUC, and SCVWD.

### *SB 623*

SB 623, "Safe and Affordable Water Act" was proposed to have taxed California residents 95 cents a month for water services to raise millions for disadvantaged communities that lack access to safe and affordable water and clean up contaminated water. The bill was opposed by the Association of California Water Agencies (ACWA) because it would increase the cost of living for Californians and turn thousands of local water agencies into tax collectors for the State. In June 2018, legislative leaders dropped the tax initiative and agreed to spend \$5 million from the general fund to address lead in drinking water at child care centers. They also plan to allocate \$23.5 million from general fund for legislative actions related to safe drinking water initiatives. City staff received updates from ACWA through BAWSCA of which Santa Clara is a member agency. City staff will continue to work with partner agencies to oppose a drinking water tax.

### *SB 1301*

SB1301 proposes improvement to the permitting streamlining process for flood risk reduction and dam safety projects without compromising environmental protections. Approval of SB 1301 would assist with the current state understaffing by introducing a fee-for-service for permit applicants. This new service would help expedite review of environmental documents and provide timely feedback on impacts and mitigation to address conflicts with the projects. Ultimately, approval of the bill would mitigate permitting delays for flood protection and dam safety projects and promote collaboration between state and federal agencies.

## **6. Regional Transportation Issues**

In September 2017, the Metropolitan Transportation Commission (MTC) released its annual analysis of Bay Area freeway locations with the most weekday traffic congestion. The analysis found that weekday congestion around the region has reached a new high and listed the southbound U.S. 101 from Mountain View to San Jose in the afternoon commute as the third most congested freeway corridor in the Bay Area. Santa Clara residents and businesses alike have been impacted by increasing traffic congestion. Businesses, in particular, have mentioned that traffic congestion in the area was one of their main concerns during retention visits.

The increase in traffic congestion is correlated with the growing need to rehabilitate roads and promote alternative modes of transportation. SB 1, the Road Repair and Accountability Act of 2017, was signed into law on April 28, 2017. The legislative package will invest \$54 billion over the next decade to fix roads, freeways and bridges in communities across California. These funds will be split equally between state and local investments and will go towards road rehabilitation, congestion relief, trade corridor improvements, and improved transit/rail travel. SB 1 is in danger of being repealed by Proposition 6 on the November 2018 ballot. If passed, Proposition 6 will repeal any fuel tax increases that were enacted after January 1, 2017 and require voter approval for future fuel taxes and vehicle fee increases.

There have been local efforts to promote and provide funding for alternative modes of transportation such as the recent update to the City's Traffic Impact Fee program, the City's proposed Multimodal Improvement Plan, Bicycle Master Plan Update 2018, Pedestrian Master Plan, and Creek Trail Network Expansion Master Plan, and the VTA's BART Silicon Valley Extension. Some of these efforts have faced challenges, such as the Sharks' May and July 2018 lawsuits against the VTA's BART Silicon Valley Extension Phase II Project. The lawsuits have the potential to cause delay to the long-awaited BART project, which will eventually extend into Santa Clara.

City staff will continue to monitor and advocate for legislation and projects that will alleviate traffic congestion and promote alternative modes of transportation that benefit

our residents and businesses and support the City's commitment to environmental sustainability

## **7. School Mitigation Fees**

In 1986, the Governor signed into law AB 2926 (Chapter 887/Statutes 1986) which authorized school districts to levy development fees to pay for new school facilities and established the maximum fees that can be charged to developers that are building new residential and non-residential projects. This fee is updated every two years as adjusted for inflation. Once the maximum rate is set by the State, it is the responsibility for each school district to establish its own rate.

The school fees are earmarked for improving and expanding school facilities to serve the school-age population that would be generated from new development. Land values and construction costs have dramatically increased since 1986 and the current adjusted maximum rate does not adequately mitigate the school impacts from new development.

Santa Clara is committed to the ongoing production of needed housing within the City and multiple residential projects are now in progress within the City at different stages of development, such as at Santa Clara Square and Lawrence Station. Other proposed residential developments include the Tasman East Specific Plan, CityPlace, and the Kylli project. Together, these new developments are projected to generate over 10,000 new housing units in Santa Clara.

With increasing community concern over the ability of school districts to meet the facility needs for a growing school-age population, consideration should be given to increasing the allowable school mitigation fees. Cities and school districts are constrained by the amount set by the State, and the current rate does not adequately cover the cost for new facilities and enhancements to existing facilities. This places a formidable challenge on school districts to implement their school modernization programs while also responding to the pressures of increasing enrollment. The City would support efforts by the State Legislature and/or Allocation Board to increase the rates and/or inflation calculator to more realistically reflect current school facility costs, or consider other provisions to allow school districts to effectively mitigate the impacts of new development.