



Agenda Report

19-1457

Agenda Date: 1/29/2019

REPORT TO COUNCIL

SUBJECT

Action on 2019 Legislative Advocacy Positions

BACKGROUND

On October 9, 2018, Council adopted Resolution No. 18-8611 to approve a Legislative Advocacy Position (LAP) Policy along with seven LAPs for 2018. The purpose of the LAP Policy is to establish clear guidelines for advancing City goals and positions through legislative review and advocacy at the regional, state, and federal levels of government and to provide guidance for City officials who serve on regional, state, and national boards, committees, and commissions when they are asked to review public policy matters and issues. The LAP Policy requires Council to adopt or update the LAPs at the beginning of the calendar year to identify specific legislative priorities outside of the legislative guiding principles listed below:

- Support the League of California Cities and National League of Cities positions on priority bills that benefit Santa Clara
- Protect local revenue sources and prevent unfunded mandates
- Protect and/or increase funding for specific programs and services
- Protect and/or increase local government discretion
- Advance approved policies such as the City's Statement of Values, the General Plan, or the Climate Action Plan

DISCUSSION

Due to the 2018 LAPs being adopted recently in October, many of the existing LAPs only required minor updates as summarized below. The Engagement with Federal Aviation Administration Regarding Airplane Noise and Regional Transportation Issues LAPs required no changes. Updates to the other LAPs are summarized below and changes tracked in redline (Attachment 2).

Staff recommends that Council approve the attached 2019 LAPs (Attachment 3) to provide staff with direction on future legislation.

Affordable Housing and Homelessness

In November 2016, Santa Clara County residents approved the 2016 Measure A Affordable Housing Bond, a general obligation bond that will create new affordable rental and homeowner housing opportunities. The City 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, increasing accountability of cities and enforcement housing goals, and creating and preserving more affordable

housing. 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.

The City of Santa Clara is committed to being a leader at the local level in providing affordable housing as well as making a fair share contribution to the overall need for housing production within the Silicon Valley and continues to proactively take concrete steps to realize new housing production within the City.

Recommended Updates: Staff recommends updating this LAP to highlight the City's position to providing affordable housing and creating new housing production.

Engagement with Federal Aviation Administration Regarding Airplane Noise

In Santa Clara, the source of air noise comes from various activities from regional international airports, general aviation airports, and Moffett Federal Airfield. The Cities Association of Santa Clara County formed an Ad-Hoc Committee to build the framework of forming a regional aircraft noise roundtable that will work together with San Francisco Airport, Mineta San José Airport, and the Federal Aviation Administration (FAA) to address the growing concern of aircraft noise. 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 FAA is primarily responsible for air traffic control and the City does not have direct authority over air space, the City will continue to work with regional agencies and federal representatives and authorities to mitigate the effect of airplane noise on our residents.

Recommended Updates: No updates

Environmental Regulatory and Conservation Issues

There are various environmental issues at both the state and federal levels that will likely result in legislation and changes in regulations that could significantly impact the City. Monitoring and advocacy efforts will be geared towards ensuring that emerging legislation is aligned with the City's interest in providing sustainable services to its residents. Topics of interest include:

- California Environmental Quality Act Reform
- Clean Energy and Energy Conservation
- Forest Management/Wildfire Mitigation Plans
- Green House Gas (GHG) Emission Reductions
- Lead Testing of Drinking Water in California Schools
- Prohibition of Oil Drilling off the California Coast
- Recycling and Solid Waste Diversion
- South Bay Salt Ponds Restoration Project
- South Bay Shoreline Study
- Urban Runoff Pollution Prevention
- Wastewater Regulation

Recommended Updates: Staff recommends to include a new topic of interest, Lead Testing of Drinking Water in California Schools as required by State law, removing the paragraph on Water

Supply because the topic is already reflected in a separate LAP (Regional and State-wide Water Supply and Conservation), and editing the City's position on Forest Management. Staff also made minor edits to a couple topics of interest (Prohibition of Oil Drilling Off of the California Coast and Wastewater Regulation) to reflect legislation that was passed since the original LAP was adopted in October.

Local Authority over Wireless Telecommunications Facilities and Cable Services

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 restricting local authority over placement and requiring local agencies to complete review of projects within a specified time period. Proposed legislation, such as the STREAMLINE Small Cell Deployment Act (S. 3157), and recent Federal Communications Commission rulemaking 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.

The FCC also released a Second Further Notice of Proposed Rulemaking in September 2018 that sought to address how local franchising authorities (LFAs) can regulate incumbent cable operators and cable television services. If adopted, the proposed rules will likely have significant impact on cable franchise fees, public, educational, and government access television (PEG) channels, and other common cable-related obligations in cable franchise agreements. The proposed rules will allow all cable-related, in-kind contributions, other than PEG capital costs and build out requirements, to be treated as "franchise fees" subject to the 5% franchise fee cap that a LFA may collect from a cable operator for any twelve-month period. This will have negative impacts on the City as the City's Municipal Cable Channel 15 is considered a government access channel and this holding appears to allow cable operators to deduct the value of franchise requirements, such as PEG channel capacity, connections to programming origination points, and complementary cable services to schools and other public buildings, from their cable franchise fee payments. The proposed rules will also prohibit LFAs from regulating the non-cable services offered over cable systems, other than I-Nets, and prohibit LFAs from regulating the facilities and equipment used in the provision of these non-cable services. While the proposed rules are ambiguous, they can be interpreted to allow certain cable operators to construct and install facilities and equipment for non-cable services in the right-of-way without any local regulation or compensation.

Since SVP owns and operates its own public power utility, it is even more alert to proposals that may impact its electric distribution system, if cable or telecommunication equipment is built on public power poles and/or streetlights. City staff will continue to advocate for local control of permitting wireless telecommunications and non-cable services facilities in the public right-of-way.

Recommended Updates: Staff recommends updating this LAP to include the City's position on cable services. In September 2018, the FCC released a Second Further Notice of Proposed Rulemaking that, if adopted, may impact the City's Municipal Cable Channel 15 and non-cable services facilities in the public right-of-way. The proposed rules will allow all cable-related, in-kind contributions, other than PEG capital costs and build out requirements, to be subject to the 5% franchise fee cap that a LFA may collect from a cable operator for any twelve-month period, prohibit LFAs from regulating the non-cable services offered over cable systems, other than I-Nets, and the facilities and equipment used in the provision of these non-cable services.

Regional and State-wide Water Supply and Conservation

The City is monitoring legislation and projects related to water supply and conservation, the Bay-Delta Plan Update, a proposed tax on drinking water, and improving the permitting process for flood risk reduction and dam safety projects. The 2012-2017 statewide drought prompted the State to establish new water conservation regulations and to pass new legislation, such as SB 606 and AB 1668, that aim to make water conservation a California way of life. There have been additional efforts to protect the State's water supply systems, such as the Bay-Delta Plan Update. The State Water Resources Control Board (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 SWRCB adopted amendments to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and the Final Substitute Environmental Document in December 2018. Phase II of the Bay-Delta Plan Update, which addresses the Sacramento River and its tributaries, is still in development. In general, partner agencies like the San Francisco Public Utilities Commission have the lead on the primary regional issues around the water supply. However, City staff attends many SWRCB and committee meetings in coordination with the partner 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. The City is also monitoring discussions of any potential drinking water tax. SB 623 was introduced last year and proposed to tax California residents 95 cents a month for water services to raise funds for disadvantaged communities that lack access to safe and affordable water and clean up contaminated water. The bill did not pass, but there have been subsequent efforts to pass a drinking water tax, such as SB 845.

City staff will continue to support and implement water quality, supply and conservation measures working in cooperation with partner agencies and oppose any future drinking water taxes.

Recommended Updates: Staff recommends editing this LAP to include recent updates about the Bay-Delta Plan and its potential impact on the City's water resources.

Regional Transportation Issues

Traffic congestion in the region has reached a new high. This increase in traffic congestion is correlated with the growing need to rehabilitate roads and promote alternative modes of transportation. Senate Bill 1, the Road Repair and Accountability Act of 2017, was signed into law in April 2017 and will invest \$54 billion over the next decade to fix roads, freeways and bridges in communities across California. Local efforts to promote and provide funding for alternative modes of transportation include 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. However, there have been efforts to repeal and challenge some of abovementioned legislation and projects, such as Proposition 6 on the November 2018 ballot, which would have repealed Senate Bill 1 if passed, and the Shark's lawsuits against the BART Silicon Valley Extension project.

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.

Recommended Updates: Reference to Proposition 6, which would have overturned the fuel tax increases dedicated for infrastructure improvements, was removed. The voters did not pass

Proposition 6, which was placed on the November 2018 ballot.

School Mitigation Fees

AB 2926 was signed into law in 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. 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.

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.

Recommended Updates: Staff recommends updating this LAP to reflect additional housing developments and projected number of housing units in the City.

PG&E Bankruptcy and State Wildfire Liability Legislation

On January 14, 2019, PG&E Corporation announced that it may file for Chapter 11 bankruptcy on or about January 29, 2019. California's largest utility is facing up to \$30 billion in liabilities related to wildfires and the San Bruno natural gas explosion. Recently, legislation has been introduced to consider the structure of PG&E, the liability of utilities to wildfire events, as well as other measures. Amid this background, it is important for Silicon Valley Power (SVP) to be active and informed by its own agreements with PG&E Corporation and its subsidiaries, the extended impact to all other energy market participants and the independent system operator, the impact to SVP partners in power generation and distribution, the implication for how risk is assigned to an electric utility, and the framework for establishing liability and risk. The outcome of any legislative actions will most definitely have implications for SVP to consider going forward.

Recommended Updates: Staff recommends updating this LAP to reflect City's interest in legislation in response to the utility bankruptcies and/or related changes to the state's inverse condemnation laws.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

FISCAL IMPACT

There is no fiscal or economic impact to the City other than administrative staff time and expenses.

COORDINATION

This report has been coordinated with Silicon Valley Power, the Community Development, IT, Public Works, Water and Sewer Departments, and the City Attorney's Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board

outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

RECOMMENDATION

Adopt the Legislative Advocacy Positions on Affordable Housing and Homelessness; Engagement with Federal Aviation Administration Regarding Airplane Noise; Environmental Regulatory and Conservation Issues; Local Authority over Wireless Telecommunications Facilities and Cable Services; Regional and State-wide Water Supply and Conservation; Regional Transportation Issues; and School Mitigation Fees.

Reviewed by: Walter C. Rossmann, Chief Operating Officer

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Legislative Advocacy Position Policy
2. 2019 Legislative Advocacy Positions - Redline Version
3. 2019 Legislative Advocacy Positions - Clean Version