



WILLOW GLEN NEIGHBORHOOD ASSOCIATION

POSITION PAPER **Monday, 18 March 2019**

SUBJECT: WGNA Position Paper opposing the Hope Village Relocation Proposal at the site of Willow and Lelong Streets.

TO: Santa Clara Valley Water District (SCVWD)

OUR POSITION: The Willow Glen Neighborhood Association (WGNA) strongly urges the Santa Clara Valley Water District (SCVWD) to deny the requested permit and the use of this site for Hope Village or any similar homeless transitional housing projects.

The proposed relocation is at a commercially zoned site that was contaminated with hazardous materials for approximately 60 years in a flood zone bordering the Guadalupe River. This is a residential neighborhood that already has a significant amount of illegal homeless encampments surrounding it that are creating substantial problems in our community. These problems include but are not limited to crime in and around the encampments, with pollution and littering in the rivers and surrounding river beds and bike paths.

The community is facing severe problems due to the current homeless problems in the area. They want these problems solved, they don't want to sanction further homeless encampments.

The WGNA strongly urges that the City of San Jose blocks this relocation; that the City does not partner up with the County of Santa Clara; nor that it authorizes any public funding since the County is requesting the City to bear half of the estimated cost at +3 million dollars.

In summary, the WGNA is opposed to the relocation of the homeless tent village for the following reasons:

– There is an overwhelming public opposition by the Willow Glen community as voiced during the 3/13/19 community meeting where they expressed their grave concerns about the additional negative effects which include increased crime and pollution in



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the neighborhood because we already have a vast number of homeless encampments creating critical problems.

– The installment of a homeless tent encampment, and the expansion thereof, has severe negative impacts on our public streams and poses a severe safety risk to the proposed residents, which is especially given that it would be located in a severe flood zone, as well as the contradictory message the SCVWD would be sending to the public by permitting homeless encampments in the very locations that it has sought to prevent.

– The illegal and unsanctioned nature in which Hope Village was first sighted could lead to even more similarly unsanctioned occupations on SCVWD sites, as well as the lack of oversight of residents and the surrounding area at large by the unregulated Hope Village and comparable projects.

– A tent encampment is not legally permitted under the Shelter Crisis Act and therefore subjects the City, County and SCVWD (and, by extension, taxpayers) to substantial possible legal/financial exposure; as moreover, to date, this has been an unsanctioned project with no apparent legal analysis as to its compliance with the Shelter Crisis Act.

– The severe lack of governmental transparency on this issue, including minimal public hearings, and little or no community outreach; the failure to consider and hear about the other possible, non-residential County sites (e.g., the Fairgrounds or Civic Center) in that process; and the failure of the county to have the necessary financial backing or approval of the City of San Jose (which are a stated condition precedent to the project going forward.)

**** Continued — See next pages****



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The City of San José is not following its own Open Government policy: "The City of San José is committed to open and transparent government and strives to consistently meet its community's expectations by providing excellent service in a positive, timely, and transparent manner. It is the duty of City government to serve the public, reaching its decisions and conducting its activities in full view of the public."
[See <http://www.sanjoseca.gov/opengovernment>]

While the WGNA opposes the relocation, the WGNA supports efforts to help solve the homeless problem in our community. As part of its efforts to advocate on behalf of our community and its residents, the WGNA has put substantial time and energy into the homeless problems plaguing our community. The WGNA has organized clean-up initiatives in the areas that are connected to our wetlands and adjacent to the rivers and streams because they have been severely impacted by the proliferation of homeless encampments, the opioid crisis, and the spread of toxic waste. We have organized our own Blight to Bright street clean-up projects for several years, as well as sponsored and supported Steve Holmes' launch of the South Bay Clean Creeks Coalition since the spring of 2013. The WGNA also supports our long-time board member Archie Moore, who also works with Hope Village and Martha's Kitchen and a number of other agencies, whereas we've sponsored and supported the launch of Archie's Army to assist with the plight of the homeless, seniors citizens, and veterans.

The problems associated with the homeless in the community have become so chronic and insurmountable that over the last few years there has been a growing concern about the safety of anyone that volunteers to do the cleaning of trash out of streams, including those persons who live nearby or use the Guadalupe River Trail and the connecting systems. The safety hazards include firearms and other weapons; pathogens from human waste and intravenous needles; hazardous industrial waste and materials; sharp and fragmented materials; aggressive dogs and anti-social persons.

The Guadalupe River Trail from West Virginia Street to Willow Glen Way is the worst of the violent and hazardous areas. This is because of two gangs, Megan's List offenders, parolees, and



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methamphetamine (meth) users. At that, we already receive many complaints about the bikeways and trail connector, "Willow Street Crossing at Lelong Street", and this proposal makes those worries much more profound and worse, creating a deterrent for commuting and recreational users, aside from Safe Routes to School.

San Jose Rangers and Police Officers are reluctant to patrol the encampment areas because of personal safety concerns, as well as they are unenthusiastic in providing security for volunteers that help clean up the streams or nearby recreational trails. In the past years of public austerity, we have worried about the level of staffing in emergency services, adequate resources, and apparatus, plus the ability to promptly respond or routinely patrol.

San Jose Police will be clearing out the 40 to 50 recreational vehicles, vans, trailers and cars that surround Hope Village; whereas, neighbors near the currently proposed site have suffered from significant property and vehicle crimes, multiple arsons, etc., because many of the homeless have started fires that catch on to the surrounding vegetation, fences, and infrastructure. In the overall venue or network of homeless individuals that are living in open environments, it is difficult to determine the activity, association, and accountability.

Hope Village residents are primarily older or middle-aged women, and this proposal puts many of them in an unsafe, insecure environment that is subject to criminal behavior, as much as it will be challenging to mitigate. For that matter, it is neither appropriate for many of the men, who could also be vulnerable or less resilient.

The WGNA opposes the Santa Clara Valley Water District allowing this property to be used for this tent encampment.

It is contrary to The Santa Clara Valley Water District's mission, which is to "provide Silicon Valley safe, clean water for a healthy life, environment, and economy."



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Santa Clara County's urban ecology and public watershed include a fragile system of streams that are elaborate and unique, as much as that many of them are densely vegetated. We have all seen that the impact of homeless encampments on the riparian environment has become insurmountable, as it produces tons of trash and debris that we are constantly excavating with no end in sight. This also includes the removal of natural vegetation, soil erosion, brush fires, infrastructural damages, bio-waste, hazardous materials, etc. Of course, this also impacts fish and wildlife through poaching, the dumping waste into streams, and exhaustive destruction of the habitat. The accumulation of waste has been so catastrophic that we often have to remove debris that blocks the flow of water, threatening fish and wildlife, as well as that these activities that are associated with these encampments can erode the banks of streams, thereby resulting in an increased risk of flooding as we saw with Coyote Creek. When many of them lived in The Jungle, this environmental disaster contributed to the problems with the Coyote Creek flood.

Substantial amounts of the SCVWD budget are being used to mitigate pollution, toxins and other abuses to the watershed, plus the other negative effects associated with homeless encampments in and around our rivers and creeks (e.g., promoting watershed clean-ups and reclamation, etc.). Does the SCVWD want to project a message that it supports encampments around our creeks and rivers? Sanctioning this encampment would defeat SCVWD's mission and purpose attracting more encampment to creekside properties.

The site at Willow Street and Lelong Street, which is proposed for the Hope Village tent encampment, is in a Federal Emergency Management Agency (FEMA) designated "Special Flood Hazard Zone - A" along the Guadalupe River; plus, there is a "Special Flood Hazard Zone - AO" with a depth of 2 feet of rising waters on the remaining portions of the site. Recently, as of last February 13th, heavy rains caused an evacuation order for the current proposed site. Thus, this location poses a severe safety risk to residents. Should the SCVWD be sanctioning the placement of people in a flood zone? Aside from the real risk of human tragedy, the SCVWD should not be taking on the potential liability associated with permitting a project like this in a



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clear flood zone, and which surely cannot be mitigated through insurance policies.

As defined in the District's "Water Resources Protection Manual", there needs to be a standard of a 100-foot riparian corridor setback, as well as a slope stability setback. The purpose of that is to (1) protect, preserve, or restore riparian habitats; (2) limit the creation of new impervious surfaces within Riparian Corridor setbacks to minimize flooding from urban runoff, and control erosion; (3) encourage the design of urban ecologies that are friendly to fish and wildlife. This will be difficult at the proposed site.

[See: <https://www.valleywater.org/contractors/doing-businesses-with-the-district/permits-for-working-on-district-land-or-easement/water-resources-protection-manual>]

The Hope Village relocation plan is an incomplete and poorly planned project that does not have the necessary funding, and this entails substantial improvement and construction that have not been properly evaluated or considered. This proposed land use would require fencing improvements or other devices and measures to make the site secure. The existing chain-link fencing is inadequate because it can be easily cut in just a few minutes with wire cutters or similar tools. Since the site is significantly larger than where Hope Village is currently situated, it will be a larger area to contain, and more vulnerable to continuous damage of the fencing along its length. Those damages to the infrastructure will often go unnoticed and demand constant supervision or mitigation. Similar to what we have seen in other areas, this will require constant and costly repairs. For example, CalTrans has installed and frequently repairs vast lengths of chain-link fencing that is situated adjacent to our highways and streams; but then later to replace this with more expensive walls or barriers that also have an environmental impact.

A major portion of the management and maintenance effort is devoted to activities that are associated with the control and conservation of vegetation, or the local flora and fauna. The need for vegetation control is driven primarily by safety issues, such as minimizing fire concerns, but as well as promoting the visibility of traffic, highway structures, and our



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fish and wildlife. Other reasons for vegetation management include: controlling noxious weeds and pests; disentangling invasive species and toxic waste that clogs the ecosystem; promoting good drainage to minimize stormwater runoff and erosion; and protecting pavement and roadway devices.

HOPE VILLAGE IS AN UNTESTED, UNREGULATED MODEL THAT DOES NOT CONFORM WITH THE SHELTER CRISIS ACT, WHICH IN TURN COULD OPEN SCVWD, THE COUNTY AND THE CITY TO LIABILITY.

Peter Miron-Conk lives in Willow Glen and founded and manages Hope Village. WGNA applauds Peter for his tireless efforts on behalf of the homeless. However, Peter aggressively challenged the San Jose Housing Department's decades-long policy of only permanent housing when San Jose and Santa Clara County did not have funds to build sufficient homeless housing.

He did so by occupying the current Ruff Drive location with the tent encampment, prior to having the proper County official approval that would meet all governmental standards. He admitted this at the 3/13/2019 WGNA meeting.

As of this time, the County needs City of San Jose partnership and funding of nearly \$1.5 million dollars to move ahead with the Tiny Homes portion of the project. The City of San Jose has not approved or even considered this publicly. The WGNA is also concerned that the County has not properly sought approval for this project, and in essence are putting "the cart before the horse". Ky Le admitted that the County is seeking to have half of the \$3 million dollar budget from the City of San Jose. The City has already spent millions on homeless programs and has not even had one single hearing on this issue nor brought any public input on it.

Given the unsanctioned occupation of the Ruff Drive property, this is a likely outcome for this site if the funding and city approval fails to materialize.

It is the position of the WGNA that the Hope Village tent encampment model is outside of what is authorized under the California Shelter Crisis Act (AB 2176, AB 932, codified as Cal Government Code Section 8698-8698.4) and that permitting this



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tent encampment to proceeds would expose the County, City and SCVWD to substantial liability. This was the position of the City of San Jose Sr. Deputy City Attorney Shasta Greene in her 11/30/2017 memo in which she concludes that in relation to AB2176, that "Tent camping is not within the scope of new and existing structures authorized for bridge housing by that bill."

This Shelter Crisis Act permits certain listed Counties and Cities to declare a "shelter crisis" and once declared, to provide emergency homeless housing. The Act specifically calls for use of existing structures; or, if building new structures, that they are hard-sides structures with specific requirements about size, electricity, locked doors etc. Hence, the "tiny homes" model furthered by the City. Assuming the housing is provided in compliance with the Shelter Crisis Act, the City and County can avoid general negligence and has less stringent requirements with housing and building codes, health and safety codes, landlord tenant-law, and even CEQA compliance.

Simply put, tent encampments are not legal under the act and should not be permitted.

The WGNA is committed to promoting open and transparent government. This has not occurred here.

The county and city have many properties that are more appropriate without many problems of the currently proposed site. As is evident in the County's public records on this issue, they fast-tracked this site with minimal public input particularly from the residents and provided no current public hearings or discussions on any 99 alternative sites that are actually owned by the county and not located in dense residential communities with existing homeless problems. Two sites to which Peter wanted to relocate Hope Village include the Santa Clara County Fairgrounds and the now-shuttered Civic Center property (former City Hall) of which, however, neither site was considered in any public meetings and certainly, no public meeting was had on why these sites were not considered.

In fact, the County does not even seem to have a clear criterion in selecting sites for this project.



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The City of San Jose is currently moving forward with two "tiny homes" project, both of which will be located in non-residential areas (VTA land) and they selected these sites only after substantial public debate and consideration of their location. We know of no evidence that the County has made any effort to consider the impacts of placing this site in a residential area.

CONCLUSION:

Concerning this property that is owned and controlled by the Water District, and given all of the above stated matters, the Willow Glen Neighborhood Association, along with many of the area residents, businesses, and community organizations strongly recommends that our government bodies do not lease this public property at Willow Street and Lelong Street to Hope Village, or any other homeless encampments or temporary housing.

The county, city, VTA, and water district have many properties that are more appropriate without many of the problems of the currently proposed site.

Best Regards,

Elizabeth Estensen
Board President

Rod Brittner
Second Vice President

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