

VALLEY WATER LISTENING SESSION

July 25, 2024

SUMMARY OF INPUT FROM ADVOCATES AND NONPROFIT SERVICE PROVIDERS WHO SUPPORT UNHOUSED AND UNSHELTERED PEOPLE

1. Concern that the proposed Water Resources Protection Zones Ordinance takes the wrong approach and is not needed.

Stakeholder Input:

- *Overall approach is backwards. Don't sweep encampments first. Housing needs to be provided before the Ordinance goes into effect.*
- *We need housing before the Ordinance goes into effect. We need to house people, then clear the creeks.*
- *The Ordinance will be unenforceable because people need a place to move to. The issue will shift to scatter in neighborhoods.*
- *There are no shelters, transitional, or interim housing for people to move to and stay if they are swept from the creeks.*
- *Valley Water should not use the stick method. We need to see alternative, more humane options instead of criminalizing unhoused people.*
- *There should be no sweeps, fines, or jail. Remove the threat and stick. Everything should be voluntary.*
- *The behavior that is being reported at encampments is already against the law and can be enforced with existing laws.*
- *Valley Water should use data collection that informs solutions, such as tracking seasonal trends of when fires are occurring. Conduct data collection that informs solutions (e.g., track seasonal trends for what part of the year fires are occurring).*

Valley Water Staff Response:

The intent of the Water Resources Protection Zones Ordinance (Ordinance) is to reduce the environmental impacts of encampments, ensure Valley Water field staff safety, and respond to community concerns. Valley Water must act now to achieve these objectives, and the Ordinance will be one tool within a suite of collaborative and solutions-based efforts.

Encampments and encampment-related activities that violate basic standards of public health and safety must be addressed as a matter of urgency. Implementation of the Ordinance will enable Valley Water to better manage encampment impacts while continuing to work with local agencies to implement strategic, community-wide plans and develop policy and funding approaches to contribute to long-term solutions to unsheltered homelessness within Santa Clara County.

Valley Water has an obligation to protect its field staff whose workplace is in and along waterways, and whose work is critical to maintaining flood protection and water supply infrastructure and meeting regulatory requirements. The continued presence of encampments of unsheltered people on lands where Valley Water holds property rights threatens Valley Water's ability to carry out its mission and ensure the safety of its staff.

Over the last several years there has been an increase in the number of staff security incidents associated with unsheltered people living on Valley Water property, including physical violence, armed threats of violence, verbal assaults and physical intimidation, vicious dog encounters, and fire-related occurrences. Compounding the severity of these dangerous incidents is a rise in drug activity among the unsheltered people residing on Valley Water property, as evidenced by an increasing rate of overdoses and drug arrests.

It should be noted that existing laws *have* been applied to violent offenders, most of whom, even in the case of firearms offenders, served minimal sentences and then returned to Valley Water property where many had further dangerous interactions with our staff. To truly protect staff, Valley Water must ensure that bad actors are not allowed to be present on Valley Water property and given potential opportunities to interact with staff conducting work there. Valley Water acknowledges that not all unsheltered people living on Valley Water lands pose safety threats. However, a lack of information puts Valley Water in a reactive position as it tries to respond to individuals who do pose a threat. Legal, administrative, and logistical barriers prevent Valley Water from gathering personally identifiable information about people living illegally on its lands and ensures that staff are exposed to the *potential* of safety threats occurring each time their work brings them to areas where encampments are present.

Regarding fire prevention, the inherent unpredictability of encampment-generated wildfires negates the ability to proactively prevent them through identification of seasonal or other patterns. If encampment-related fire activity continues to occur on Valley Water property, the significant risk of wildfires and associated property damage, environmental degradation, bodily injury, or loss of life will persist.

2. Concern that the Ordinance implementation is unclear, and that an implementation plan is needed.

Stakeholder Input:

- *The Ordinance is a "one-size-fits-all" solution. Will it be countywide or just in hot spots?*
- *The Ordinance language is vague and doesn't say how it will be enforced.*
- *The Ordinance doesn't include an implementation process or timeline.*
- *The Ordinance should define what specific areas along creeks Valley Water is concerned about, target those problem areas, and then hold relevant stakeholders accountable.*
- *Valley Water should provide more specificity on the ordinance implementation, including an action plan and timeline for the implementation process as well as dates to evaluate the effectiveness of the Ordinance.*

- *Valley Water should consider a one-year pilot program and then evaluate its effectiveness.*
- *Valley Water should consider a phased approach; identify where unhoused people can go; use collaboration and partnerships and different phases; and only use law enforcement in select cases.*

Valley Water Staff Response:

Based on the feedback received from advocates and nonprofit service providers at the Listening Session, staff prepared an Ordinance Implementation Plan (Implementation Plan) that provides a framework and timeline for the implementation of the Ordinance. The Implementation Plan establishes priority levels to support a progressive implementation approach, clearly delineated procedures for education and enforcement, and built-in timelines for review, monitoring, and ultimate oversight by Valley Water’s Environmental Creek Cleanup Committee.

3. Concern for the potential criminalization of unhoused people and the need for compassion.

Stakeholder Input:

- *The Ordinance will criminalize people, not behaviors.*
- *The Ordinance is biased and blames the victim. It profiles and stereotypes unhoused people.*
- *The Ordinance will exacerbate disparities for vulnerable groups.*
- *The Ordinance will disproportionately target people of color and separate families.*
- *Unhoused people are people first with the same rights and dignity.*
- *Unhoused people don’t have money to pay fines. It will make them more impoverished. There is not enough capacity to house people in jail.*
- *Valley Water doesn’t have enforcement capabilities.*
- *Valley Water staff should go location by location and police themselves. They should choose who goes out into the creeks and police their own people.*
- *Valley Water staff should partner with nonprofits, advocates, and outreach teams when going into encampments. They should use advocates or camp contacts for safety and to ensure that dogs are on leashes. Valley Water staff should contact advocates prior to projects.*
- *Valley Water staff could have unhoused guides to help them.*
- *Valley Water staff has a lack of training on how to interact with unhoused people. For unhoused people, perception is everything.*
- *Valley Water needs to have dedicated outreach and build trust with the unhoused community.*
- *Valley Water staff should build and foster positive relationships with unhoused people.*

- *Valley Water staff should receive de-escalation and sensitivity, empathy, and compassion training as well as coaching on community relations.*
- *Valley Water staff should use an advocate or encampment contact as a liaison.*
- *Valley Water should do ride-alongs and meetups to meet unhoused people where they are and to talk to them and gather data.*

Valley Water Staff Response:

The intent of the Ordinance is not to criminalize unsheltered homelessness itself or to stigmatize unsheltered people. However, Valley Water must urgently address encampment-related activities and impacts that violate basic standards of public health and safety. The Ordinance Implementation Plan focuses on reducing the most harmful environmental, health, and safety impacts that encampment activity has on people living in encampments, Valley Water staff, and the broader community.

The Implementation Plan includes principles that will guide the application and enforcement of the Ordinance, including the following principles related to how unsheltered people will be treated: *1. People experiencing homelessness have the same civil rights as housed residents and deserve to be treated with dignity and respect. 2. Any relocation or removal of an encampment must follow clear procedures that respect unsheltered individuals' rights. Valley Water is committed to harm-reduction approaches to resolving problems associated with any particular encampment.* The Implementation Plan includes a progressive enforcement approach for violations of prohibited activities that states: *Valley Water is committed to non-criminal alternatives to enforcement, and to avoid citation and arrest wherever possible. While ensuring effective enforcement, Valley Water will delay or avoid pursuing infractions and misdemeanors and provide options to cure violations through positive actions such as education.*

The Implementation Plan also includes Encampment Condition Guidelines (Guidelines) that provide straightforward parameters by which encampment residents can minimize negative environmental, health, and safety impacts by promoting positive camping practices and discouraging harmful actions. Those who apply the Guidelines will be considered Low Priority for encampment removal actions under the Ordinance. As outlined in the Implementation Plan, Valley Water staff will conduct education and outreach to unsheltered individuals residing in encampments, informing them about the Guidelines on a real-time, continual basis when visiting encampment sites. Advocates and others who support unsheltered individuals residing in encampments on Valley Water property also will receive information and education on the Guidelines.

Valley Water is committed to harm-reduction approaches. Our field staff already receive mandatory training on “Calming & De-escalation Strategies.” Encampment Cleanup crew staff have developed working relationships with many encampment residents whom they encounter on a regular basis as staff conduct recurring cleanups countywide. While Valley Water staff seeks to have positive interactions with unsheltered people living in encampments as they perform their work operations, Valley Water is not a social services agency and staff is not trained to be social workers.

Safety concerns for field staff have led to increasing requests for police officer presence during work activities, at a cost of hundreds of thousands of dollars. Valley Water also provides up to \$340,000 per year under an agreement with the City of San José for police

to conduct patrols targeting criminal activities along local waterways, including Coyote Creek and the Guadalupe River. Valley Water does not possess police powers, and due to the number and type of dangerous situations staff encounter on a regular basis, it is infeasible to expect staff members to ensure their own safety by “policing themselves” or to rely on encampment guides to ensure safety.

4. The need for shelter and housing as the solution to encampments.

Stakeholder Input:

- *The Ordinance approach does not address the root cause of encampments.*
- *The Ordinance approach does not take Assembly Bill (AB) 1469 into consideration. Valley Water should use resources for housing and services to prevent homelessness under AB 1469.*
- *Identify alternatives such as shelter, safe parking, sanctioned encampments, and tiny homes.*
- *Offer housing to unhoused individuals, including safe sleeping sites like “SJ LUV” (“Lifting Up Lives”) and transformational campuses like “Haven for Hope” model.*
- *Identify Valley Water properties that can be used for safe sleeping sites, safe parks, managed camping, tiny homes under AB 1469.*
- *Valley Water should identify surplus properties to provide for unhoused people.*
- *Have sanctioned encampments in each district and use support from other districts to get them in every single district.*
- *Use the County fairgrounds or other County or city properties for relocation sites.*
- *Money is being funded into solutions that have not been working.*
- *Valley Water should redirect creek cleanup resources to housing people or giving them approved areas to occupy.*
- *Licensed social workers should be made available to transition people to acceptable temporary housing.*
- *Unhoused people should be grouped according to their lifestyle, specifically sober people wanting to stay sober should not be grouped with people that are not sober.*

Valley Water Staff Response:

Valley Water is committed to helping solve the regional shelter and housing crisis by collaborating with local agencies to provide land for the development of temporary and permanent housing. AB 1469 amended the Santa Clara Valley Water District Act to give Valley Water the authority to assist unsheltered people living along streams, in riparian corridors, or otherwise in its jurisdiction, in consultation with a city or the County of Santa Clara, to provide solutions or improve outcomes for the unsheltered individuals. Specifically, the law allows Valley Water the flexibility to use district land and a part of an existing ad valorem property tax for lasting encampment solutions.

Under the authority granted by AB 1469, staff is discussing with nonprofit organizations and local government agencies the use of specific Valley Water-owned properties for potential temporary and permanent supportive housing. Valley Water and the City of San José are in current negotiations to allow the City's use of Valley Water's two-acre property on Cherry Avenue to develop an Emergency Interim Housing site. The City of San José is evaluating four additional Valley Water properties for use as safe sleeping sites. Staff has met with other potential partners, both public and private, as Valley Water continues to seek opportunities to contribute to shelter and housing options. Staff is conducting a comprehensive assessment of Valley Water lands to identify viable properties for development and use as interim or permanent housing sites.

Over the long term, Valley Water will strive toward the goal of safely relocating all unsheltered individuals residing in encampments on Valley Water property into interim or permanent housing with access to support services, as these resources become available. However, as a water resources management agency, Valley Water's primary obligation is to carry out its mission to provide Silicon Valley safe, clean water for a healthy life, environment, and economy.

5. The need for more support services to engage and benefit unhoused people living along waterways.

Stakeholder Input:

- *Educate the public that unhoused people are good people who are not at fault and that they are not all on drugs or alcoholics.*
- *Provide education and outreach to unhoused people with dedicated outreach teams.*
- *Provide education to Valley Water staff and to encampments.*
- *Educate unhoused people on the environment and safety.*
- *Valley Water staff should use pizza parties in encampments where there are issues to "break bread" and create camaraderie with encampment occupants.*
- *Valley Water staff should bring water and supplies every time they work in an encampment.*
- *Valley Water should provide more porta potties, trash/dumping receptacles, and wash/cleanup stations at encampments.*
- *Valley Water should provide portable showers on the south side of the County.*
- *Implement "Cash for Trash" Program.*
- *Have unhoused people be the ones to remove trash from the creeks, not Valley Water staff.*
- *Provide leadership training to unhoused people who are environmentalists at the creeks.*
- *Educate and employ unhoused people as creek stewards and have them partner with the people who are doing that work.*

- *Provide Valley Water jobs for unhoused people. Hire encampment occupants for cleanup.*
- *Valley Water should provide cleanup jobs to unhoused people and generally offer jobs to qualified individuals.*
- *Valley Water should reinvest money being spent on creek cleanups to hire unhoused people and to implement an education and outreach program.*
- *Valley Water should reinvest \$3.4 million of funding for cleanups into alternatives such as dedicated education and outreach teams for encampments, short term housing options, focus groups to gather input from encampments, and hiring people in encampments for cleanup.*
- *There is the need for better supportive services.*
- *Use focus groups to gather input from encampments to learn what types of resources they need.*
- *Provide sober programs to unhoused people.*
- *Intensive case management should be required and funded.*
- *Valley Water staff should provide fire extinguishers at encampments. They are inexpensive.*

Valley Water Staff Response:

Valley Water acknowledges that comprehensive support services are needed for unsheltered people living near waterways. However, as a water district, Valley Water’s ability to provide these services is limited.

Valley Water is not a social services agency and does not have authority to hire staff to directly provide outreach or other services, nor to gather personal or demographic data related to people living in encampments on its property. Valley Water does collaborate with local social service agencies to address the challenges posed by encampments and their impacts, including supporting the provision of outreach and other services by these agencies. However, providing direct support services—such as physical or mental health care services, employment support services, and counseling and case management—falls outside Valley Water’s scope as a water resources management and environmental stewardship agency. While Valley Water staff seeks to have positive interactions with unsheltered people living in encampments as staff performs its work operations, Valley Water does not have the authority or funding to supply provisions such as food, water, and hygiene products.

When an encampment removal is necessitated by associated risk factors, a key step of Valley Water’s encampment resolution protocol is to request that outreach providers visit unsheltered individuals residing in the encampment to offer services and/or available housing or shelter options. Within the City of San José, Valley Water coordinates these services directly through the City Housing Department. Valley Water also maintains an agreement with County of Santa Clara Office of Supportive Housing to support County outreach teams proactively visiting encampments on Valley Water property outside the City of San José. Additionally, in Fiscal Year 2023-2024, the Valley Water Board of Directors

voted to support a Portable Toilet Facilities Program, which provides portable toilets and wash stations at critical locations along local creeks.

As part of the Ordinance Implementation Plan, the Encampment Condition Guidelines provide straightforward parameters by which encampment residents can minimize negative environmental, health, and safety impacts by promoting positive camping practices and discouraging harmful actions. This includes trash-reduction recommendations and reinforcement through education by Valley Water staff. However, keeping pace with removing the significant amounts of trash, debris, and hazardous pollutants generated by encampments will continue to require the services of Valley Water's dedicated Encampment Cleanup crew, who have training on waste collection, hauling, and disposal, and the use of light and heavy equipment.

It would be inadvisable for Valley Water to redirect its encampment cleanup funding at this time. The amount of encampment-generated trash, debris, and hazardous material continues to increase each year, and Valley Water, as an environmental stewardship agency, has an obligation to keep up with its removal. In the most recent fiscal year, Valley Water's Encampment Cleanup crew removed over 1,000 tons of trash from Valley Water-owned lands. As housing and shelter options continue to come online, the need for encampment cleanups may be reduced in the future; Valley Water may be able to reassess its encampment cleanup funding level and redirect those funds to other solutions-based activities within its purview.

Finally, warming or cooking fires are not permitted on Valley Water lands and can be very unsafe. Valley Water cannot, through the provision of fire extinguishers, create an implication that any kind of fire activity is acceptable. Uncontained fires, toxic fumes, gases, and smoke can pose serious harm to the individual(s) creating the fire, the surrounding community, and the environment. Valley Water must insist that no fire activity occur anywhere on Valley Water property.

6. The need for collaboration, partnership, and funding for solutions.

Stakeholder Input:

- *There is not a single agency that can solve this alone. We need to be able to work together.*
- *We need to pool resources across jurisdictions to create places where unsheltered people can stay and receive services away from creeks until housing becomes available.*
- *Coordination is key. People with lived experience, advocates, service providers, law enforcement, neighbors, neighborhood leaders, public agencies (state, local, and regional) all need to come to the table to solve homelessness.*
- *Valley Water should use its political power to endorse, advocate for, and help pass the regional housing bond.*
- *Valley Water should look into Environmental Protection Agency (EPA) Community Change Grant. Twenty million dollars in funding is being given out for projects that improve the environment (150 grants available).*

- *Valley Water should consider forming a Joint Powers Authority (JPA) with the state, County, cities, and different agencies for a joint mission and shared advocacy in helping and serving our unhoused communities all over the county. The Joint Powers Authority should include funders and partners together.*
- *Valley Water should partner with nonprofits.*
- *Collaboration should focus on building relationships between service providers. There should be defined roles and a workflow for a better understanding of how the partnerships work.*
- *Valley Water should fine cities instead of unhoused people. There should be accountability for agencies.*

Valley Water Staff Response:

Valley Water collaborates with local agencies and other service providers to address the challenges posed by encampments and their impacts to waterways and water supply and flood risk reduction facilities, including supporting the provision of outreach and other services by these agencies and service providers. Valley Water coordinates with the City of San José and requests that City outreach teams visit encampments of unsheltered people on Valley Water property to provide outreach and offers of available housing or shelter. Further, Valley Water and the City of San José are working to extend their agreement to provide comprehensive services to unsheltered individuals living within the high-risk flood zones of Valley Water’s Coyote Creek Flood Protection Project footprint. Valley Water also maintains an agreement with County of Santa Clara to support County outreach teams visiting encampments on Valley Water property outside the City of San José.

Valley Water and the City of San José are finalizing a Letter of Intent to partner in holistically managing encampments on waterways throughout the City, including Valley Water priority areas and areas within the City’s stormwater Municipal Regional Permit discharge sites. Valley Water and the City will establish and implement a shared roadmap to secure sites for shelter and housing, identify areas for targeted relocation of encampments, and ultimately reduce the impacts of camping along waterways within the City of San José. Additionally, Valley Water either maintains or is pursuing Memoranda of Agreement with the County and other local municipalities to collaboratively manage the impacts of encampments on waterways.

Staff has begun to research the EPA Environmental and Climate Justice Community Change Grants Program and will conduct a more in-depth review to determine its viability as a potential funding opportunity. Staff previously considered the feasibility and interest in a JPA to address issues related to homelessness, however, such an entity may not be a part of the current local government strategy.

Valley Water is assessing other opportunities to leverage the expertise and relationships that advocates and service providers maintain with people living in encampments. Valley Water will continue to work with local partners and assist in efforts to find solutions to address unsheltered homelessness.

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