

Michele King

From: Alice Kaufman [alice@greenfoothills.org]
Sent: Monday, October 17, 2016 11:12 AM
To: Board of Directors; Barbara Keegan; Richard Santos; Nai Hsueh; Gary Kremen; John Varela; Linda LeZotte; Tony Estremera
Cc: shani kleinhaus; Eileen McLaughlin; Linda Ruthruff; Katja Irvin
Subject: Riparian Encroachment Policy (Agenda Item 2.5, 10/18/16 Board meeting)
Attachments: Joint letter enviro groups 10.17.16.pdf

Dear Chair Keegan and Directors,

Please find attached the comments of the Committee for Green Foothills, the Citizens Committee to Complete the Refuge, the Sierra Club Loma Prieta Chapter, the Santa Clara Valley Audubon Society, and the California Native Plant Society Santa Clara Valley Chapter on the above-referenced issue.

Thank you for your consideration of these comments

Alice Kaufman

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October 17, 2016

Board of Directors, Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

Re: Riparian Encroachment Policy

Dear Chair Keegan and Members of the Board:

The undersigned organizations respectfully submit these comments on the above-referenced matter. Our organizations represent thousands of residents in Santa Clara County who are concerned about environmental issues, including impacts to riparian corridors, habitat and water quality.

We request that the District retain the current policy regarding unauthorized riparian encroachments. The alternate process that is proposed by staff is contrary to the District Act, District policy, the Water Resources Protection Ordinance, and the District's mission to protect riparian resources. Encouraging the use of public land by private individuals or entities, even on a temporary basis, violates the District's responsibility to the public and sets a dangerous precedent as well as creating unequal treatment for encroaching landowners, not all of whom have the resources to negotiate a lease with the District. Furthermore, the process of determining eligibility and then negotiating, overseeing and eventually terminating those leases would require staff time and resources that ought to be spent on furthering the District's mission.

The District has an obligation to protect the public interest

The District Act grants the District the power to "hold, use, enjoy, sell, let, and dispose of" real property if "necessary or proper to carry out any of the objects or purposes of this act." Santa Clara Valley Water District Act, §5. The objects and purposes of the Act include flood protection, water supply management, and environmental protection. District Act, §4(c). Leasing District-owned land to private entities not in furtherance of any of these purposes but in order to provide a private benefit to those individual landowners, is not allowed under the Act.

The Water Resources Protection Ordinance requires an encroachment permit for any modifications, including grading, construction of structures, and removal or installation of vegetation. An encroachment permit may only be issued if the District finds that it meets a variety of conditions, including that it will be in the public interest. It is not in the public interest to allow private landowners to take over public lands, especially lands that the District owns specifically for the purposes of carrying out its mission.

The District is not a land use agency and does not engage in real estate transactions for purposes other than those embodied in the District Act. It would be a misuse of public funds for the District to devote staff time and resources to negotiating and managing real estate leases to private landowners for no other purpose than to benefit those landowners. Such an arrangement would also create an unequal situation with regard to those encroaching landowners who do not have the resources to enter into a lease with the District. It would set a dangerous precedent if the District were to establish a policy of leasing out its lands for private use and enjoyment. The District should focus on its official mission, part of which is the protection of riparian corridors from impacts such as those presented by encroaching development.

The District must protect riparian corridors

The Guidelines and Standards for Land Use Near Streams, developed by a collaborative of the District, the County of Santa Clara, all the cities within the County, and other stakeholders, states as part of its Model Enhanced Practices that the optimal riparian buffer zone is 40 to 150 feet from the top of bank or the outer dripline of riparian vegetation. The County of Santa Clara's General Plan includes a riparian setback of 150 feet from the top of the bank when a creek is in its natural state (100 feet if it is not). The City of San Jose's riparian setback buffer is 100 feet from the outer edge of riparian vegetation. The Valley Habitat Plan requires setbacks for Category 1 streams of 150 outside the urban service area, and 100 feet within it. All these policies are based on the principle that development close to streams is a bad idea.

As the Guidelines and Standards for Land Use Near Streams states:

A stream is more than just a channel for rainwater in its passage to the Bay. It is a complex, living system where the characteristics of the streambed – its composition, shape, and elevation drop – interact with the dissolved nutrients and organic matter in flowing water to create a dynamic environment rich with plant, animal, and fish life. . . . This high-moisture environment, which covers only a small percentage of the County's watershed, provides food and shelter for a greater variety of wildlife than any other habitat type. This zone is also critical as a migration corridor for many animals, especially where nearby development acts as a barrier to overland travel.

Enhancement and restoration of creeks and riparian areas is part of the District's mission. Protection of riparian areas is closely tied to flood prevention, as allowing development too near to stream banks results in increased erosion and risk of bank collapse, which then increases the risk of fluvial flooding. Erosion results in increased silt in the water, and increase of impervious surfaces as well as removal of streamside vegetation results in higher contaminant levels in stormwater runoff into streams, both of which impact water quality. Finally, as stated above, the habitat value of a creek corridor is greatly reduced when development and human activity intrudes into the riparian area.

We request that the District maintain its current policies with regard to unauthorized riparian encroachments and not pursue the proposed alternate policy to lease or swap District-owned property in creek corridors.

Sincerely,



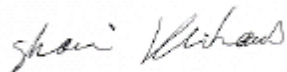
Alice Kaufman, Legislative Advocate
Committee for Green Foothills



Eileen McLaughlin, Board Member
Citizens Committee to Complete the Refuge



Katja Irvin, Water Committee Chair
Sierra Club Loma Prieta Chapter



Shani Kleinhaus, Environmental Advocate
Santa Clara Valley Audubon Society



Linda Ruthruff, Conservation Committee Chair
California Native Plant Society, Santa Clara Valley Chapter