



City of Lafayette

City Council

Agenda

Date: August 8, 2022

Time: 6:00 pm

Location: **Teleconference Meeting** – Watch on the City of Lafayette’s YouTube Channel at <http://bit.ly/LoveLafayetteYouTube>

To protect public health, this meeting is being held in accordance with AB 361, Government Code section 54954(e)(1)(A). Given the proclaimed state of emergency and the Contra Costa County Health Officer’s recommendation for social distancing for public meetings, which is also consistent with Cal OSHA requirements for social distancing, the City will be conducting public meetings via video/teleconferencing and there will be no physical location available for this meeting. To participate in the City of Lafayette’s public meetings and provide public comment during the COVID-19 public health emergency, please follow these steps:

1. **Watch or Listen:** Meetings are broadcast on the City of Lafayette’s YouTube Channel: <http://bit.ly/LoveLafayetteYouTube>. Archived, on-demand video of each meeting is maintained on the channel as part of the public record.
2. **Submit Comments Before the Meeting:** Members of the public can provide public comment by sending an e-mail to cityhall@lovelafayette.org for City Council meetings no later than noon the day of the meeting. Those e-mails will be distributed to City Council, the City Manager, and the City Attorney, and will be posted as part of the public record.
3. **Live Remote Public Comments:** Members of the public may submit live public comment via [Zoom conferencing](#) by using the link below. You must download the Zoom app or software. Zoom meetings can be accessed by telephone, computer, or smart device. When the Mayor invites public comment for the item on which you would like to comment, please use the "raise hand" feature (or press *9 if connecting via telephone only) to alert staff you have a public comment to provide. Each speaker is allowed three (3) minutes to speak. Any graphic a speaker wishes to use as part of public comment must be emailed to cityhall@lovelafayette.org for City Council meetings by 3:00 p.m. the day of the meeting.
4. At the time and date of the meeting, please click this URL to join the webinar: <https://us02web.zoom.us/j/81549077147?pwd=c3JydUd0c21ad1F1VUkxekttZGxadz09>
Passcode: **597341** or join by phone: Dial **1 669 900 9128**; Webinar ID: **815 4907 7147**
Passcode: **597341**

Agenda on page 2

Agenda August 8, 2022

- 1) Call to Order 6:00pm
- 2) Roll Call
- 3) Adoption of Agenda
- 4) Public Comments 6:00pm (for items not on the agenda)
- 5) Closed Session
 - A. **CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION**
Initiation of litigation pursuant to Gov. Code section 54956.9(d)(4)- 1 potential case
 - B. **Conference with Real Property Negotiators (Gov. Code Section 54956.8)**
Property: 990 Moraga Road (APN 243-222-023)
Negotiators: Niroop K. Srivatsa, City Manager, Tracy Robinson Administrative Services Director and Joe Kuvetakis, John Cumbelich & Associates
Negotiating Parties: Scott Haislet and Charles Kolb, Representing Property Owners
Under Negotiation Price and terms of payment
 - C. **Conference with Real Property Negotiators (Gov. Code Section 54956.8)**
Property: 3533 Plaza Way (APN 243-222-019)
Negotiators: Niroop K. Srivatsa, City Manager and Tracy Robinson, Administrative Services Director and Joe Kuvetakis, John Cumbelich & Associates
Negotiating Parties: Paddy Kehoe, Representing Property Owners
Under Negotiation: Price and terms of payment
- 6) Public Comments 7:00pm (for item not on the agenda)
- 7) Presentations
Tracy Robinson, Administrative Services Director
Introduction of new employees – JB Juarez, Code Enforcement Officer, Justin Bodily, Recreation Coordinator and Carolyn Franck, Planning Department Assistant
Recommendation: Receive and file.
- 8) Consent Calendar
 - A. **Minutes – July 25, 2022**
Recommendation: Approve.
 - B. **Resolution 2022-50 Allowing for Video and Teleconference Meetings During the COVID19 State of Emergency under AB 361**
Recommendation: Adopt Resolution 2022-50.
 - C. **Contract with Sher Edling LLP for specialized legal services related to the City’s claims for relief from damages from PCBs and/or other contaminants**
Recommendation: Authorize the City Manager to execute a contract for specialized legal services with Sher Edling LLP.
 - D. **Award of Construction Contract for First Street Rain Garden Project, No. 014-9722**
Recommendation: 1) Award a construction contract to Grade Tech in the amount of \$546,883 for

the First Street Rain Garden Project, No. 014-9722. 2) Authorize a transfer of \$93,000 from the fund 14 fund balance. 3) Authorize a transfer of up to \$229,683 from the 2023 CIP budget 014-620-906.

E. Request for authorization to transfer \$31,252 of SB 1383 Local Assistance Grant money to RecycleSmart

Recommendation: Authorize redistribution of California Department of Resource and Recycling (CalRecycle) SB 1383 Local Assistance grant funds, in the amount of \$31,252 to Contra Costa Solid Waste Authority (RecycleSmart) to perform SB 1383 compliance activities on behalf of the City of Lafayette in the RecycleSmart Service Area.

F. Potential Acquisition of 990 Moraga Road (APN 243-222-023) and 3533 Plaza Way (APN 243-222-019)

Recommendation: Receive and file.

9) Old Business

10) Staff Report

11) Public Hearings

A. **Renata Robles, Senior Planner**

City of Lafayette 6th Cycle Housing Element Environmental Impact Report

A draft and final environmental impact report (EIR) has been prepared for the 6th Cycle Housing Element Update, including the growth stemming from the housing plan and opportunity sites identified in the document to accommodate the mandated Regional Housing Needs Allocation of 2,114 assigned to Lafayette, plus a buffer, which total of 3,095 units. The draft and final EIR can be found at www.lovelafayette.org/CEQA.

Recommendation: Conduct the public hearing, review the EIR, and continue to the September 12th consent calendar to adopt Resolution 2022-51, approving certification of the 6th Cycle Housing Element EIR.

12) Items Removed from Consent Calendar

13) Council / Commission Reports

A. Councilmembers report on activities and consideration of matters a Councilmember wishes to initiate for placement on a future agenda.

B. **City Manager's Update**

Recommendation: Receive and file.

C. **Mayor Gerring**

Request to recognize August 31st as International Overdose Awareness Day in Lafayette

Recommendation: Approve the proclamation recognizing August 31st as International Overdose Awareness Day In Lafayette.

14) Written Communications

15) Adjournment

I, Joanne Robbins, declare under penalty of perjury that this agenda has been posted at least 72 hours in advance of a Regular Meeting and 24 hours in advance of a Special Meeting at the Lafayette City Offices,

3675 Mt. Diablo Blvd., Suite 210, Lafayette, CA. in the glass case and on the City **website** <https://www.lovelafayette.org/>.

Agendas and packets shall be made available at least 72 hours in advance of regular meetings and 24 hours in advance of special meetings at the Lafayette City Offices, 3675 Mt. Diablo Blvd, Suite 210, Lafayette, CA. and on the City **website** <https://www.lovelafayette.org/>.

Any writings or documents pertaining to an open session item provided to a majority of the City Council less than 72 hours prior to the meeting, shall be made available at the Lafayette City Offices, 3675 Mt. Diablo Blvd., Suite 210, Lafayette, CA and on the City **website** <https://www.lovelafayette.org/>.

All comments received by the close of the public comment period will be available after the meeting as supplemental materials and will become part of the official meeting record. Please note that due to the remote nature of the meeting, the City of Lafayette cannot guarantee that the network or its site will not experience technical interruptions. To ensure that the City Council receives your comments, we strongly encourage you to submit your comments in writing in advance of the meeting.

Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132). Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such request to Joanne Robbins, City Clerk at (925) 284-1968 as soon as possible before the meeting.



City of Lafayette
 City Council
 DRAFT Meeting Minutes

Teleconference Meeting – Watch on the City of Lafayette’s YouTube Channel at July 25, 2022
<http://bit.ly/LoveLafayetteYouTube> Submit public comments to cityhall@lovelafayette.org 7:00 p.m.
 before or during the meeting.

To protect public health, our residents, officials, and staff, and aligned with the Governor’s recent executive order N-29-20, certain teleconference requirements of the Brown Act have been suspended, including the requirement to provide a physical location for members of the public to participate in the meeting. Here is how to participate in the meeting and provide public comment:

- 1) **Watch or Listen:** Meetings are broadcast on the City of Lafayette’s YouTube Channel: <http://bit.ly/LoveLafayetteYouTube>. An archived, on-demand video of each meeting is maintained on the channel as part of the public record.
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- 4) **Join the Meeting Remotely:** Use the links below to join the meeting and provide remote live audio public comment.

<https://us02web.zoom.us/j/86936502044?pwd=OTdjckRJRJTU3VVM0xta0Q5NWpWZz09>

Passcode: **502333** or join by phone: Dial **1 669 900 9128**; Webinar ID: **869 3650 2044**

Passcode: **502333**

1. CALL TO ORDER

Mayor Gerringer called the Regular City Council meeting to order at 7:00 p.m. via teleconference.

2. ROLL CALL

Present: City Council: Mayor Gerringer; Councilmembers Candell, Dawson and Kwok

Absent: Vice Mayor Anduri

Staff Present: Niroop Srivatsa, City Manager; Lt. Ben Alldritt, Chief of Police; Mike Moran, Public Works and Engineering Director; Suzanne Iarla, Communications Analyst; Mala Subramanian, City Attorney; Joanne Robbins, City Clerk

3. ADOPTION OF AGENDA

ACTION: It was M/S/C (Dawson/Candell) to adopt the agenda. Vote: 4-0-1 (Ayes: Gerringer, Candell, Dawson, and Kwok; Noes: None; Absent: Anduri).

4. PUBLIC COMMENTS - (for Items Not on the Agenda)

KIM ROBINSON said she is a Lafayette mom, attorney and has lived in town for 6 years. She began a project after Uvalde with some friends called, "The Morning Bell Project". This is an awareness-raising and donation-raising community quilt where individuals can purchase squares and they can design the squares with images or words that reflect their connection to anti-gun violence in schools. Gun violence has not gone away, and she wants to keep it visible. She wants to share the project and possibly engage the Council for ways this could become more visible. The quilt supports teachers, school staff, kids and others affected by this issue. She would welcome any feedback and hopes the Council will engage with her on this.

MARY ANN HOISINGTON asked if Mayor Gerringer could turn up her microphone.

5. PRESENTATIONS

A. Lt. Ben Alldritt

Police Department Report

Recommendation: Receive and file.

Police Chief Ben Alldritt announced they are hosting a virtual Town Hall this Thursday night on Emergency Preparedness and he gave a PowerPoint presentation covering Police Department activities from January to June 2022. He reviewed calls for service, traffic citations, police reports, arrests, felony persons crimes, property crimes, traffic collisions, return of the Citizen's Academy this fall, Emergency Preparedness Commission activities and projects, purchase of a Command Post truck, Active Shooter Drill to be held in November, distributed radios to each Lafayette school, school and event safety, and focus on emergency preparedness activities, and said he will make the PowerPoint presentation available on the City's website.

Councilmembers asked, and Chief Alldritt responded to brief clarifying questions regarding report statistics.

Mayor Gerringer opened the public comment period, and there were no speakers.

Mayor Gerring and Councilmembers thanked Chief Alldritt for his presentation and community work.

6. CONSENT CALENDAR

Mayor Gerring announced Item 6D has been requested by the public to be removed from the Consent Calendar. She asked if there were any other requests for removal of items or public comments, and there were none.

A. Minutes

1. **June 13, 2022**
Recommendation: Approve.
2. **June 27, 2022**
Recommendation: Approve.
3. **July 12, 2022**
Recommendation: Approve.

B. Resolution 2022-45 Allowing for Video and Teleconference Meetings During the COVID19 State of Emergency under AB 361

Recommendation: Adopt Resolution 2022-45.

C. Resolution 2022-43 Establishing the Rate of Tax Levy to Provide for Payment of Principal and Interest on Series 2011 and Series 2016 General Obligation Refunding Bonds During Year 2022-2023

Recommendation: Adopt Resolution 2022-43.

E. Reallocation of ARPA Funds

Recommendation: Reallocate \$50,000 of ARPA funds previously designated to Small Business Technical Assistance to the Shop Local eCard Program and reconsider funding for technical assistance once 2nd tranche of funds is received.

F. Potential Acquisition of 990 Moraga Road (APN 243-222-023) and 3533 Plaza Way (APN 243-222-019)

Recommendation: Schedule a closed session to discuss price and terms of payment for the two properties.

G. Resolution 2022-44 Approving Assessment of Unpaid Nuisance Abatement totaling \$49,900 and directing Contra Costa County to assess this property (1183 Glen Rd., APN 245-080-004-6)

Recommendation: Adopt Resolution 2022-44 levying assessment for unpaid nuisance abatement costs incurred at 1183 Glen Road in the amount of \$49,900.

H. City Council Legislation Committee: 2022 Bills of Local Importance – AB 1985 (Rivas), AB 2449 (Rubio) , and SB 6 (Caballero); Legislative Update and Bill Matrix

Recommendation: Approve the Legislation Committee's recommendations and authorize the Mayor to sign and submit letters. Accept the legislative update and bill matrix.

ACTION: It was M/S/C (Candell/Dawson) to adopt Consent Calendar Items A.1, A.2, A.3, B, C, E, F, G and H. Vote: 4-0-1 (Ayes: Gerring, Candell, Dawson, and Kwok; Noes: None; Absent: Anduri).

7. **OLD BUSINESS** – None.

8. **STAFF REPORTS**

A. **Lt. Ben Alldritt**

Contra Costa County Animal Services Department Agreement

Recommendation: Authorize the City Manager to execute an updated agreement with the Contra Costa County Animal Services Department (Animal Services).

Police Chief Alldritt introduced Contra Costa County Animal Services Director Beth Ward and Public Information Officer Steve Burdo. He stated this contract was presented to all cities and to date, many have already approved it. There are no special amendments another city may have received which came up in discussions over the last month. Of note, their prior contract was in 2006 and has been extended year to year. The goal is to allow for more transparency, funds to be returned to cities via the next year's contract and reduction of fees if they have a surplus, and the staff report outlines the services the department provides.

Beth Ward, Director, CCC Animal Services, said the only point added is the aspect around a Side Letter developed by the City of Pleasant Hill to provide clarification in one of the sections of the agreement. It clarifies for their Councilmembers the expectations in the section, but she confirmed all agreements are the same for each city.

Councilmember Candell voiced support of the contract especially the goal of additional transparency. She questioned Priority 3 calls relating to dead animals and the County's response time.

Director Ward stated their officers are in the field 7 days a week. Field Utility Workers pickup deceased animals who are in the field 7 days a week 365 days a week. Ideally, the response time is in that 24-hour period, and this does not include hours where staff is not on duty which is from 9PM to 8 AM 7 days a week.

Steve Burdo, Public Information Office, added that if a call came in on a Saturday night, the clock would start ticking at 8AM that Sunday morning.

Councilmember Candell asked if this new contract will serve Lafayette well and she asked if any areas are particularly weaker or stronger than others in terms of service.

Chief Alldritt said in looking at concerns that have come to him and the Council, the weak link has been the dead animal pickup. They can attest as to what they are legally required to do versus what they are trained to do in their staffing levels to meet service expectations. He thinks this will be an on-going challenge due to staffing levels which are spread thin. This contract was to set expectations more clearly, benchmark and clarify an increase in cost with a clause that allows for reimbursement in the following year contract.

Director Ward emphasized their Field Utility Worker allows their officers to focus on officer-related tasks and allows them to use the workers to focus on the deceased animal pickups which they are hoping to see an increased response time in those situations.

Councilmember Kwok said he was pleased to see the number of requests to be incorporated into the agreement were responded to. He noted concerns from the public include the standard of care, Animal Care Coordinators are helping to facilitate adoption, and how the agreement addresses injured wildlife and animals such as deer when other agencies need to respond.

Director Ward clarified the standard of care was added into the agreement through discussions with residents and city staff and it was important for them to be held accountable through the guidelines. They indicate they would adhere to the guidelines set by the national and state standards and it is their goal to provide the best level of care.

Regarding the Care Coordinators, many life-saving efforts are being made and they needed staff to be focused on life-saving measures such as behavior, foster programs, transfer partner programs, and in the past they never had staff that could focus on those programs which is now incorporated.

Regarding injured wildlife animals, this was a difficult conversation and decision for their staff as well as city partners. For years, they have responded to injured wildlife, but it was never in their mandate to perform. When looking at realistic cost levels, they made a decision to keep the response as a separate issue because this falls under the California Department of Fish and Wildlife.

They have spoken with police to determine if they can respond or whether they can wait for Fish and Wildlife to perform the service. They are working with partner organizations and said the Town of Moraga has created a Wildlife Watch program, working with Fish and Wildlife to help educate residents as to what to do, and they hope to develop similar programs with other cities.

Councilmember Dawson said last year they had wild boars, the coyote that bit multiple people, and injured deer. She supported more information about Wildlife Watch by Moraga, and she asked how Fish and Wildlife's responses are.

Chief Alldritt said he would defer to residents who could provide better feedback, as calls are not routed to the Sheriff. He knows they are spread thin, have been good partners with the Sheriff and were quick to step in regarding the coyotes, but based on thin staffing levels they must work in a triage model. The Wildlife Watch was launched via Moraga Police Department which he described, and they talked about the program coming into Lafayette, but again, resources are low.

Mayor Gerring said now they are considering adoption of the contract, having an outreach that lets people know will be important. She thanked Chief Alldritt for a thorough staff report and thanked Animal Control staff and constituents for participating in the process.

Mayor Gerring opened the public comment period, and there were no speakers.

ACTION: It was M/S/C (Dawson//Kwok) to authorize the City Manager to execute an updated agreement with the Contra Costa County Animal Services Department (Animal Services). Vote: 4-0-1 (Ayes: Gerring, Candell, Dawson, and Kwok; Noes: None; Absent: Anduri).

9. PUBLIC HEARINGS – None.

10. ITEMS REMOVED FROM CONSENT CALENDAR

D. Award of Construction Contract for Mt. Diablo Boulevard at Mt. Diablo Court Intersection Improvement Project, No. 014-9723

Recommendation: Award construction contract to Ray's Electric in the amount of \$644,716.60 for the Mt. Diablo Boulevard at Mt. Diablo Court Intersection Improvements Project No. 014-9723.

Public Works and Engineering Director Mike Moran said he was available to answer questions and could speak to concerns raised from residents. As background, this is a traffic signal project. It was a project to be primarily paid for by a development at the end of Mt. Diablo Court. There was an MOU that was created over a decade ago and several years ago, there was an agreed amount a developer would contribute because it is very difficult to make a turn out of Mt. Diablo Court onto Mt. Diablo Boulevard at many times of the day due to traffic. It is a 35-mph zone. There is a curve heading eastbound and a change in elevation, making the line of sight very difficult.

Some concerns residents have that they want other things on the east end and couldn't the City skip it down and just done a traffic signal project. He is happy to speak to that, but the contribution from the developer and the total price is about two-fold. They got \$440,000 from the developer and the cost is close to \$900,000 for the signal. They were working with dollar and construction values that have been pretty dated.

Some specific concerns were the decorative streetlights. There are two for this project; one in each of the center medians that will be the nose coming into the signal which is not an extravagant amount and adds to the safety lighting near the center of the intersection where there will be a crosswalk on the west side. It is also in alignment with the DSP and the decorative streetlights to the east from the townhomes put in several years ago, as well as matching the Park Hotel's. So, they are already in alignment of what has been installed to the east and west of this location.

Another item of particular concern is irrigation and landscaping and he has a small amount of funding as part of this contract. There are other areas at the east end where others would like more landscaping added, particularly along business frontages, and it is simply opportunity with the signal project. A valid comment is the fact they are also in a drought, but they are adding just a bit to a nose of an existing median and a little bit at another nose.

The City is also taking advantage of trenching as part of a traffic signal and putting in a sleeve and irrigation main that can tie to an adjacent active and live irrigation system to the east that has capacity at their controller station which is very different than adding a new meter and doing a new irrigation system. This is another opportunistic item and staff is very cognizant of the drought and water conservation, which he described and recommended the Council approve the project.

Mayor Gerring opened the public comment period.

CHERYL MACDONALD thanked Mr. Moran for the report and said they went through many of the items in person with Mr. Moran to see things in person. The Council has been engaged with pedestrian and bike safety and he concern is with the lighting. Having light focused down on to the crosswalk is very important and she asked the Council to think about putting lighting facing down and not just light facing up.

SHERRIN FARLEY asked if there is any idea how much that crosswalk is going to be utilized as a crosswalk and asked if the lights that are embedded in the pavement similar to the two crosswalks by BART could be added depending on the use of the crosswalk. She also thinks it is important to have the crosswalk lit as much as possible for drivers to see pedestrians and bicyclists.

Mr. Moran referred to more downward lighting and said they do have safety lighting as part of the traffic signal as well as two decorative lights. One would add to the middle of the crosswalk that would cross Mt. Diablo Boulevard on the west side.

Regarding crosswalk use, this will probably not be used much now, but when the Park Hotel was fully running people would notice cars were parked continuously on the north side along the freeway fence because it is staff or valet parking. If conditions existed like this again, this crosswalk would be used rather than go up all the way to the center of the hotel. Most people will take the shortest route and rather than jay walking, hopefully this location would provide a safer crossing because it is signalized.

Lastly, they would not propose embedded lights or flashing beacon crossings at a traffic signal because the signal is already the highest standard for protection. However, like any signal, when crossing pedestrians should not always count on a vehicle to stop.

ACTION: It was M/S/C (Candell/Dawson) to award construction contract to Ray's Electric in the amount of \$644,716.60 for the Mt. Diablo Boulevard at Mt. Diablo Court Intersection Improvements Project No. 014-9723. Vote: 4-0-1 (Ayes: Gerring, Candell, Dawson, and Kwok; Noes: None; Absent: Anduri).

11. COUNCIL/COMMISSION REPORTS

A. Councilmembers report on activities and consideration of matters a Councilmember wishes to initiate for placement on a future agenda.

Councilmember Kwok reported on events this Thursday: 1) Get Ready for Wildfire Season Town Hall from 6 to 7 p.m. via Zoom; and 2) a 7 to 8:30 p.m. event by the DEIB Committee which is the 5th in a series called, It Takes a Village which will be in person at the Library at the Don Tatzin Hall on Thursday.

He also reported on a June 30th meeting he had with Con Fire with Chief Broschard and Deputy Chief Aaron McAlister regarding getting ready for this year's fire season and the topic of a new fire station that could accommodate a ladder truck, which he described, and Chief Broschard agreed to stay in touch with the City Manager on planning needs.

Councilmember Dawson provided an update on the ARPA Subcommittee, which she described.

Mayor Gerring reported that Coffee with the Mayor will be held on Friday at 8:00 a.m. via Zoom, sponsored by the Chamber of Commerce.

B. City Manager's Update

Recommendation: Receive and file.

City Manager Niroop Srivatsa reported last week the development at 210 Lafayette Circle had their lottery for the two BMR units and the Planning Director served as witness. One unit is 1/1 unit which is moderate income and the price is \$519,000 and the other is a 2/1 unit with a price of \$581,000. The next lottery will be for the Lennar project on Mt. Diablo and Dolores Drive.

C. Vice Mayor Anduri and Councilmember Kwok
Resolution 2022-46 Appointing a Member to the Creeks Committee
Recommendation: Adopt Resolution 2022-46.

Councilmember Kwok reported that he and Vice Mayor Anduri recommend existing member David Clark to continue a new two-year term.

Mayor Gerring opened the public comment period, and there were no speakers.

ACTION: It was M/S/C (Kwok/Candell) to adopt Resolution 2022-46 appointing David Clark to the Creeks Committee. Vote: 4-0-1 (Ayes: Gerring, Candell, Dawson, and Kwok; Noes: None; Absent: Anduri).

D. Councilmembers Kwok and Dawson
Resolution 2022-49 Appointing Members to the Emergency Preparedness Commission
Recommendation: Adopt Resolution 2022-49.

Councilmember Kwok stated after an interview process, he and Councilmember Dawson recommend existing members Michelle Heckle and Sherry Hoover and new candidate William Pigeon.

Mayor Gerring opened the public comment period, and there were no speakers.

ACTION: It was M/S/C (Dawson/Kwok) to adopt Resolution 2022-49 appointing Michelle Heckle, Sherry Hoover and William Pigeon to the Emergency Preparedness Commission. Vote: 4-0-1 (Ayes: Gerring, Candell, Dawson, and Kwok; Noes: None; Absent: Anduri).

12. WRITTEN COMMUNICATIONS

A. Designation of Voting Delegate and Alternate for Cal Cities Annual Conference September 7-9, 2022.
Recommendation: Appoint a voting delegate and alternate for the Cal Cities Annual Conference September 7-9, 2022.

Mayor Gerring proposed the members of the League of California Cities Council liaisons be the primary and alternative voting delegates, herself and Councilmember Candell. She noted Councilmember Kwok will be attending the conference, as well.

Mayor Gerring opened the public comment period, and there were no speakers.

ACTION: It was M/S/C (Candell/Kwok) to appoint Mayor Gerring as voting delegate and Councilmember Candell as alternate for the Cal Cities Annual Conference, September 7-9, 2022. Vote: 4-0-1 (Ayes: Gerring, Candell, Dawson, and Kwok; Noes: None; Absent: Anduri).

13. CLOSED SESSION

Mayor Gerring opened the public comment period (for Closed Session items only).

JANA COREY, representing the Park Theater Trust, said they are very supportive of the discussion regarding this item and expanding the vision for the downtown area.

Mayor Gerringer adjourned to Closed Session at 8:51 p.m. to consider the following matters:

A. Conference with Real Property Negotiators (Gov. Code Section 54956.8)

Property: 990 Moraga Road (APN 243-222-023)

Negotiators: Niroop K. Srivatsa, City Manager and Tracy Robinson Administrative Services Director

Negotiating Parties: Scott Haislet and Charles Kolb, Representing Property Owners Under Negotiation Price and terms of payment

B. Conference with Real Property Negotiators (Gov. Code Section 54956.8)

Property: 3533 Plaza Way (APN 243-222-019)

Negotiators: Niroop K. Srivatsa, City Manager and Tracy Robinson, Administrative Services Director

Negotiating Parties: Paddy Kehoe, Representing Property Owners Under Negotiation: Price and terms of payment

RECONVENE REGULAR MEETING

Mayor Gerringer adjourned Closed Session and reconvened the regular meeting at 9:28 p.m.

Mayor Gerringer announced there was no reportable action taken in Closed Session and gave direction to staff to return on both items.

14. ADJOURNMENT – 9:30 p.m.

APPROVED:

Teresa Gerringer, Mayor

ATTEST:

Joanne Robbins, City Clerk

**BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE
IN THE MATTER OF:**

Resolution Allowing for Video and)
Teleconferencing Meetings during the)
COVID-19 State of Emergency under)
AB 361)

Resolution No. 2022-50

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a State of Emergency for COVID-19; and

WHEREAS, AB 361 was recently passed by the State Legislature and signed by Governor Newsom and went into effect immediately and allows the City Council to continue to meet virtually until such time as the Governor declares the State of Emergency due to COVID-19 over and measures to promote social distancing are no longer recommended; and

WHEREAS, on September 20, 2021, the Contra Costa County Health Officer issued recommendations for safely holding public meetings and strongly recommends on-line meetings and if in-person meetings need to occur, the County Health Officer recommends social distancing of six feet of separation between all attendees; and

WHEREAS, in light of this recommendation, the City Council desires for itself and for all other City legislatives bodies that are subject to the Brown Act to continue to meet via video and/or teleconference; and

WHEREAS, pursuant to AB 361 the City Council will review the findings required to be made every 30 days.

NOW THEREFORE, the City Council does hereby resolve and finds on behalf of itself and all other City legislative bodies: (1) a state of emergency has been proclaimed by the Governor; (2) the state of emergency continues to directly impact the ability of the City Council’s legislative bodies to meet safely in person; and (3) local officials continue to recommend measures to promote social distancing.

PASSED AND ADOPTED by the City Council of the City of Lafayette at its City Council meeting held on August 8, 2022 by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

ATTEST:

APPROVED:

Joanne Robbins, City Clerk

Teresa Gerringer, Mayor



City of Lafayette
Staff Report
City Council

Meeting Date: August 8, 2022

Staff: Mala Subramanian, City Attorney

Subject: **Contract with Sher Edling LLP for specialized legal services related to the City's claims for relief from damages from PCBs and/or other contaminants**

Background

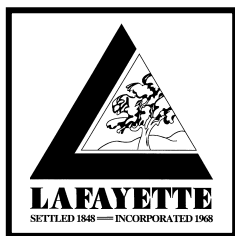
The City has the potential to recover damages caused by contamination from Polychlorinated Biphenyls (PCBs), which are a group of manufactured chemicals that have been determined to have harmful and carcinogenic effects on fish, wildlife and humans. Sher Edling LLP specializes in representing cities and public agencies in such environmental cases.

Discussion

Under the proposed contract, the City will engage Sher Edling to provide legal services in support of the City's claims for relief in connection with damages sustained by the City as a result of actual or threatened contamination related to PCBs and/or other contaminants. The firm is being engaged on a contingency fee basis, with any amount due based upon whether there is a recovery in the litigation.

Recommendation

Authorize the City Manager to execute a contract for specialized legal services with Sher Edling LLP.



City of Lafayette Staff Report

City Council

Meeting Date: August 8, 2022

Staff: Matt Luttrupp, Engineering Services Manager

Subject: Award of Construction Contract for First Street Rain Garden, No. 014-9722

Background

The 2022 Capital Improvement Program includes the First Street Rain Garden. This project will construct a bio-retention basin to treat stormwater runoff from a portion of Golden Gate Way and provide residents with a passive park to gather in, with views of the creek, and educational signs showing how bio-retention facilities improve the water quality of our creeks and the bay. Staff advertised for the project and received four bids. The low bidder subsequently withdrew his bid leaving three bids. Staff now seeks City Council action to award the construction contract to the second lowest bidder.

Bid Results and Discussion

Bid Results. The following three bids were received on July 14:

1. Parkson Construction Co	\$420,500.10 (Bid Withdrawn)
2. Grade Tech, Inc	\$546,883.00
3. Cazadoro Construction, Inc	\$569,505.00
4. Kerex Engineering, Inc	\$809,791.00

The engineer's estimate was \$450,000.

Although the low bid for the project was lower than the engineers estimate it contained several errors that cast doubts on the contractor's ability to complete the project. Upon reflection, the contractor elected to withdraw his bid due to several bidding errors. The next lowest bid was approximately 22% higher than the engineers estimate but within 5% of the next lowest bidder. Although the bid prices received were not favorable, staff believes that they are competitive and reflect the inflationary climate that we are currently in.

Project Budget and Expenses

Project expenses are projected as follows using the lowest bid:

Design & Advertising	\$	50,500
Construction contract	\$	546,883
Contingency (10%)	\$	55,000

Construction Inspection		By staff
Construction Testing	\$	5,000
Construction Staking	\$	<u>10,000</u>
Total net expenses	\$	667,383

The original project had a budget of \$344,700, resulting in a shortfall of \$322,683.

The funding for the project has been derived from several sources. In 2018 the City of Lafayette applied for and received a \$189,700 Measure WW Urban Creeks Grant from the East Bay Regional Park District for the construction of this project with all of the funding being dedicated toward the construction costs. The grant stipulates that the City must complete the project by December 31, 2025. On September 14, 2020 the City Council allocated an additional \$55,000 in funding from fund 14 to hire consultants to expedite the completion of the required design work for the project. Subsequently the Parks, Trails and Recreation Committee agreed to provide the project with an additional \$100,000 in funding from fund 012, Park Facilities. This funding was included in the City’s FY 2022-23 Proposed Budget and Workplan.

Staff has identified the following options for the Rain Garden Project:

Option 1 – Reject all bids and rebid the project next year

The City has until 2025 to construct the project without the loss of Measure WW funds. The project can be rebid in early 2023 to take advantage of the typically more competitive bidding environment that exists early in the season. Although this may reduce the bid prices, there is also the risk that inflation will continue to be an issue and the bids received may be the same or higher than the current bid. As such staff does not recommend this option.

Option 2- Eliminate the lighting in the park to reduce the cost

The scope of work could be reduced to eliminate the lighting in the park. During the design process it was determined that providing lighting in the park for at least a portion of the evening would increase the useability of the park and add to the overall character of the corner. That said this is a design element that could be eliminated without a significant impact on the primary purpose of the rain garden. This change in scope will reduce the cost by \$59,300 leaving a budget shortfall of \$263,383.

Option 3- Fully fund the project

The initial measure WW grant funding for this project was obtained by the Creeks Committee in 2018 with additional funding contributed by the Lafayette Parks, Trails and Recreation Committee in 2021. Although the low bid for this project is higher than expected there is strong support for the construction of the Rain Garden. Therefore, staff has identified the following additional funding sources that may be used to fully fund the project:

1. The Capital Improvement Project Fund 14 has a surplus balance of \$93,000 that can be reallocated to the Rain Garden Project.
2. The 2023 CIP program budgeted \$670,000 for design consulting services. Staff has received proposals for the required design work where our consultant was able to reduce the required survey work for the projects realizing a costs savings. In addition, Staff has determined that several of the smaller projects can be designed in house by staff for an additional cost savings. It is estimated that a cost savings of \$390,000 over what was originally budgeted can be realized. The remaining Rain Garden Project shortfall of \$229,683 can be filled with the surplus design funds from the 2023 CIP program that has already been funded.

Fiscal Impact

A transfer of \$93,000 from the Fund 14 surplus as well as a transfer of up to \$229,683 from the 2023 CIP Program budget will be required to fully fund the project.

Recommendations

Staff recommends City Council action to:

- 1) Award a construction contract to Grade Tech in the amount of \$546,883.00 for the First Street Rain Garden Project, No. 014-9722.
- 2) Authorize a transfer of \$93,000 from the fund 14 fund balance.
- 3) Authorize a transfer of up to \$229,683 from the 2023 CIP budget 014-620-906

From: ALISON HILL <alisonrhill@comcast.net>
Sent: Saturday, August 06, 2022 7:41 AM
To: cityhall, Srivatsa, Niroop, Luttropp, Matt
Cc: Wei-Tai Kwok, Gina Dawson, Teresa Gerringer, Candell, Susan, carl.anduri@gmail.com, Katayanagi, Jonathan
Subject: Rain Garden Project, Agenda Item8D, City Council Meeting August 8
Attachments: Rain Garden.docx

Please see my attached comments on this agenda item. I do plan to attend the meeting. Thank you.

Alison Hill

CAUTION: This email has been originated outside the organization.

To: Lafayette City Council
Niroop Srivatsa, Lafayette City Manager
Matt Luttropp, Engineering Services Manager

From: Alison Hill

Subject: City Council Meeting August 8,
Agenda Item 8D, First Street Rain Garden Project

I am in agreement with the concept of the Rain Garden and the importance of improving the area at the corner of Golden Gate Way and First Street.

However I am concerned about the cost involved, and more particularly the number of plants being proposed and their watering schedule.

Engineering Services Manager, Matt Luttropp, presented the plans to the Parks, Trails and Recreation Commission, I believe at our May 25 meeting, though I am unable to find a clear record of this. Mr. Luttropp mentioned at the time that he had some concern about the number of plants proposed. Included in the proposal is twice daily watering. I also expressed concern about the number of plants and the watering schedule.

I subsequently asked Mr. Luttropp for copies of the proposal so I could study it more thoroughly, but have not received them. I have located them attached to the agenda for the May 25 PTR Commission meeting, but I am unable to print them so I can study them in more detail.

Following are my concerns.

First, I am concerned about the large number and type of plants. Native California plants will be used, which is wise in this area and time of drought. However, this is a small area with a significant hardscape area, so the space available for planting is small. It would be better to use fewer plants and allow them space to grow. The suggested plants will grow larger and spread and will require significant maintenance. Do we have someone knowledgeable about native plants to do this? It would be better to have fewer plants and less maintenance.

Second, twice daily watering was mentioned. Most California plants, especially if native to this area, are accustomed to dry summers and wet winters. Native plants are best planted in fall before the start of the expected rainy season. New plantings need water for the first couple of years until they are established, but this amount and continuing use of water seems both unnecessary and contradictory to the use of native plants. In this time of drought we should not be committing ourselves to using large amounts of water.

We have members of our community who are knowledgeable about native plants and others who are master gardeners. Perhaps they should be involved in this and other projects involving native plants. I suggest that the planting plan and watering schedule be looked at more closely before finalizing this project.



City of Lafayette Staff Report City Council

Meeting Date: August 8, 2022

Staff: Joshua Muller, Assistant Planner

Subject: Request for authorization to pay \$31,252 of SB 1383 Local Assistance Grant money to RecycleSmart.

SUMMARY

The City of Lafayette was awarded \$36,767 from CalRecycle as part of their SB 1383 Local Assistance Grant program. The City applied for these moneys on behalf of RecycleSmart, the Joint Powers Authority for Lafayette's solid waste collection. RecycleSmart will handle the bulk of SB 1383 requirements and will use this grant money to help Lafayette maintain compliance with the law. Lafayette will hold back 15% of the awarded funds (\$5,515) to cover administrative costs related to SB 1383. Staff recommends that the City Council AUTHORIZE payment of California Department of Resource and Recycling (CalRecycle) SB 1383 Local Assistance grant funds, in the amount of \$31,252 to Contra Costa Solid Waste Authority (RecycleSmart) to perform SB 1383 compliance activities on behalf of the City of Lafayette in the RecycleSmart Service Area. In this capacity, RecycleSmart will be a subrecipient of the grant funding awarded to the City.

PROJECT DESCRIPTION

In January 2022, CalRecycle announced a one-time grant program meant to aid jurisdictions in the implementation of the SB 1383 Regulations. The grant term is from April 2022 through December 2024. On behalf of RecycleSmart, the City of Lafayette applied and has been awarded funding in the amount of \$36,767, which is a population-based allocation. RecycleSmart will use this grant funding to assist with the implementation of regulation requirements associated with SB 1383, including but not limited to the following tasks and programs:

- Capacity Planning
- Collection
- Edible Food Recovery
- Education and outreach (this includes organic waste & edible food recovery)
- Enforcement and Inspection
- Program Evaluation/Gap Analysis
- Procurement Requirements
- Record Keeping

The grant provides for the option of allocating funds for administrative costs, which will not be remitted to RecycleSmart. Lafayette has allocated 15% of the awarded grant (\$5,515) toward administrative costs and will use this money to cover staff work on SB 1383 compliance.

FISCAL IMPACT

There will be no impact to the General Fund. The full cost of payment to RecycleSmart is covered with CalRecycle SB 1383 Local Assistance grant funding.

RECOMMENDATION

Staff recommends that the City Council AUTHORIZE redistribution of California Department of Resource and Recycling (CalRecycle) SB 1383 Local Assistance grant funds, in the amount of \$31,252 to Contra Costa Solid Waste Authority (RecycleSmart) to perform SB 1383 compliance activities on behalf of the City of Lafayette in the RecycleSmart Service Area.

ATTACHMENTS

1. Invoice request from RecycleSmart for payment of \$31,252 of the awarded grant money.
2. Correspondence from Judith Silver, Senior Waste Prevention and Recycling Manager at RecycleSmart.



1850 Mt. Diablo Blvd., Ste 320
Walnut Creek, CA 94596
(925) 906-1805

INVOICE

Date: July 1, 2022
Invoice: 07012022-2
Due Date: August 1, 2022

Bill To:

City of Lafayette
Attn: Joshua Miller
3675 Mount Diablo., #210
Lafayette, CA 94549

DESCRIPTION	AMOUNT
Transfer of CalRecycle Grant Award for SB 1383 services to be conducted by RecycleSmart on behalf of the City of Lafayette.	\$31,252.00
Total Due:	\$31,252.00

From: Judith Silver <judith@recyclesmart.org>
Sent: Tuesday, June 21, 2022 2:30 PM
To: Muller, Joshua
Subject: RE: transfer of SB 1383 grant funds - Lafayette

Hi Joshua,

Thanks,

To confirm, the amount will be for \$31,252. I think it's likely that you will have to go to your Council to recognize the funds. I'm preparing an invoice which I'll send in a day or two as an example.

Thanks!!!!

Member Actual	Lafayette
Awarded	\$ 36,767
To RecycleSmart	\$ 31,252
% held back	15%
amount held back	\$ 5,515

Judith Silver
Judith@RecycleSmart.org

From: Muller, Joshua <JMuller@ci.lafayette.ca.us>
Sent: Friday, June 17, 2022 5:12 PM
To: Judith Silver <judith@recyclesmart.org>
Subject: RE: transfer of SB 1383 grant funds - Lafayette

Good afternoon Judith,

Lafayette has received the check from CalRecycle. I believe the way the City can transmit the funds to RecycleSmart is for me to submit a payment request to pay out the grant money less the portion set aside for administrative costs. This would be a check sent via mail to RecycleSmart. Greg gets back from a well-deserved vacation next week so I can confirm it with him and the City Manager. I would be happy to set up a call next week to discuss it as well.

Best regards,
Joshua Muller
(he/him)
Planning Technician
City of Lafayette
Direct: (925) 299-3205 | Main: (925) 284-1976
www.lovelafayette.org

From: Judith Silver <judith@recyclesmart.org>
Sent: Thursday, June 16, 2022 1:44 PM
To: Muller, Joshua <JMuller@ci.lafayette.ca.us>
Subject: transfer of SB 1383 grant funds - Lafayette

Hi Joshua,

It is my understanding that you have received the SB 1383 grant funds from CalRecycle. I'd like to begin the conversation about how to get the funds, less the amount you are withholding, to our agency. What will that entail?

Do you want to set up a brief call? Let me know how we should proceed.

Also, should I should be in touch with someone else in Lafayette about this, just let me know who.

Thanks!

Judith

Judith Silver

Senior Waste Prevention and Recycling Manager

RecycleSmart

1850 Mt. Diablo Blvd., Suite 320

Walnut Creek, CA 94596

Phone: 925-906-1801 x 104

Judith@RecycleSmart.org

www.recyclesmart.org



CAUTION: This email has been originated outside the organization.

CAUTION: This email has been originated outside the organization.



City of Lafayette
Staff Report
City Council

Meeting Date: August 8, 2022

Staff: Tracy Robinson, Administrative Services Director
Niroop K. Srivatsa, City Manager

Subject: **Potential Acquisition of 990 Moraga Road (APN 243-222-023) and 3533 Plaza Way (APN 243-222-019)**

The City Council considered the purchase of two properties at 990 Moraga Road and 3533 Plaza Way in closed session on July 25. The two subject parcels have sufficient value and potential for the City to discuss acquiring them to achieve the vision of the Plaza Way Overlay, provide additional public parking, and be considered for other civic uses. The matter was continued to the August 8 closed session.

Recommendation

Receive and file.



City of Lafayette
Staff Report
 City Council

Meeting Date: August 8, 2022

Staff: Greg Wolff, Planning Director
 Diana Elrod, Housing Consultant
 Luke Evans, Environmental Consultant
 Renata Robles, Senior Planner

Subject: **6th Cycle Housing Element Update - Environmental Impact Report**

SUMMARY

The purpose of this report is to provide an overview of the process, timeline, and documents prepared pursuant to the California Environmental Quality Act (CEQA) for the City of Lafayette 6th Cycle Housing Element Update. The Planning Commission and City Council must both review the [Final Environmental Impact Report \(Final EIR\)](#) prior to certification of the EIR by the City Council. Certification is the means by which the City affirmatively states the EIR, which is comprised of both the Draft and Final EIR, is adequate under CEQA and has appropriately analyzed the potential environmental impacts of the growth in the Housing Element Update as required by CEQA.

The City submitted its [initial draft 6th Cycle Housing Element Update](#) (HEU) to the [State Department of Housing and Community Development](#) for review on June 30th. Certification of the Final EIR is not required as part of this initial submission, but is needed prior to 1) submission of the City's final, adopted Housing Element prior to January 31, 2023, and 2) adoption of new zoning and objective design standards for the BART parking lots pursuant to AB 2923. Staff plans to bring draft BART zoning & development standards to the Planning Commission in August and thus the Final EIR is before the Council now.

This report summarizes the CEQA review process for the HEU and the purpose and contents of the Final EIR. Staff finds the EIR satisfies environmental review required under CEQA and recommends the City Council certify the document. At this meeting, the Council should hold a public hearing, review the EIR, and continue the matter to the September 12th consent calendar to adopt Council Resolution 2022-51, certifying the Housing Element Update EIR.

THE "PROJECT"

State law requires the City to have and maintain a General Plan with specific contents to provide a vision for the City's future, and inform local decisions about land use and development, including issues such as circulation, conservation, and safety. The City's current General Plan was adopted in 2002 and

contains eight chapters or “elements,” including one about housing. Over the past two years, the General Plan Advisory Committee, Planning Commission, and City Council have been working to update the Housing Element to address expanded state requirements surrounding planning for housing development, production, and preservation. Environmental review is required as part of this process to understand the potential environmental impacts that could occur as a result of the housing envisioned in the HEU and what measures can be taken to mitigate those potential impacts. For the purposes of environmental review, the “Project” is the Housing Element Update, and the plan for accommodating housing growth set forth therein, as described in more detail in the [Notice of Preparation and the EIR itself](#).

CEQA OVERVIEW

The California Environmental Quality Act requires lead agencies to conduct an analysis of potential environmental impacts before taking action to approve most types of discretionary projects. The CEQA analysis undertaken for the HEU will inform the public and decision makers of the potential environmental impacts of the Project and project alternatives analyzed in the EIR. While the State Department of Housing and Community Development must review and ultimately certify the Housing Element Update, it does not review, comment on, or require any specific decisions to be made on the basis of the EIR.

The Housing Element Update identifies sites for potential development to accommodate a mandated Regional Housing Needs Allocation of 2,114 assigned to Lafayette, plus a buffer, which total of 3,095 units. The City’s environmental consultant, ESA, Inc., conducted the environmental analysis required by CEQA. Please see the [August 16, 2021 Planning Commission staff report](#) for additional background on the types of EIRs and overall relationship between the Housing Element update process and the EIR.

BART Transit-Oriented Development (TOD)

Under AB 2923, signed into law in 2018, new minimum zoning standards will apply to the Lafayette BART parking lots as of July 1, 2022 to encourage transit-oriented development (TOD) near the station. The HEU and zoning changes resulting from the rezoning of the BART lots were evaluated as part of the EIR because the BART parking lots were identified as an opportunity site to accommodate new residential development. Because the buildout pursuant to AB 2923 TOD standards was included in the HEU EIR, a separate environmental analysis does not to be prepared to upzone the parking lots to the AB 2923 TOD standards. If/when an actual development project is proposed at the BART parking lots, that project will be subject to CEQA environmental analysis at the time the application is considered and before action on that development project.

Notice of Preparation - July 30, 2021

A Notice of Preparation (NOP) advertises to relevant agencies and the public that an EIR will be prepared for a project and outlines what environmental topics will be analyzed. The notice provides for a 30-day review period where agencies and members of the public may comment on the proposed content of the environmental review. The NOP was published to the City’s website at www.lovelafayette.org/ceqa, on the Planning Commission’s meeting calendar, on the Governor’s Office of Planning and Research State Clearinghouse website (<https://ceqanet.opr.ca.gov/2021080038>) on July 30, 2021 and publicized in the City’s electronic and social media channels.

Draft EIR – February 18, 2022

A Draft Environmental Impact Report contains the analysis of potential impacts of a Project, measures to mitigate the impacts, and an analysis of alternative to the proposed Project. A Draft EIR is released and circulated for a minimum 45-day public review period for review and comments. The public review period for the HEU Draft EIR was open from February 18 to April 18, 2022 (60 days) and two public hearings were held by the Planning Commission to receive comments – on March 7, 2022 and April 4, 2022. In total, the City received 29 comments, which have been responded to in the Final EIR. A summary of findings from the Draft EIR is attached to this report.

Final EIR – July 13, 2022

The Final Environmental Impact Report, linked at the end of this report, consists of five components:

1. **Introduction:** Summarizes the scope of the Project under CEQA, public participation and review, and the contents of the Final EIR.
2. **Responses to Comments:** Includes both written responses to individual comments as well as master responses to multiple comments that shared similar concerns. Several comments voiced concerns surrounding emergency evacuation and the merits of the project and preferences for its implementation, for which two master responses were prepared.
3. **Revisions to the Draft EIR:** Lists revisions to the Draft EIR resulting from the comments.
4. **Mitigation Monitoring and Reporting Program:** Identifies mitigation measures for environmental impacts evaluated under CEQA.
5. **Appendices:** Supporting materials.

The Final EIR was published in mid-July and was reviewed by the Planning Commission on August 1st. The Commission reviewed the document and found it satisfied the environmental analysis required under CEQA. The Commission voted to recommend the City Council certify the EIR.

CERTIFICATION AND PROJECT APPROVAL

Certifying an EIR means the lead agency has found that the document meets the requirements of CEQA, in that it contains adequate and complete information about the potential Project impacts and that there has been a good-faith effort at full disclosure. Approval of a project is a separate consideration and action by the hearing body, though often certifying an EIR and approving a project at the same meeting. As discussed above, certification of the Final EIR should occur prior to the City Council's adoption of the final Housing Element Update, which staff anticipates in late 2022, given the City's obligations under AB 2923.

Timeline

The current timeline for Final EIR certification and adoption of the HEU and BART TOD zoning and standards is provided below and is subject to change.

- **August 1, 2022 PC** – Reviewed the HEU Final EIR; Recommended to CC to certify the EIR
- **August 8, 2022 CC** – City Council reviews the HEU EIR
- **August 15, 2022 PC** – Review of BART TOD standards; potential first reading of rezoning ordinance
- **September 12, 2022 CC**
 - Certify HEU EIR
 - Approve CEQA Findings and Statement of Overriding Consideration
 - Adopt Mitigation Monitoring and Reporting Program
 - Second reading and adoption of rezoning ordinance for BART TOD standards
- **Fall 2022** – Adoption of the Housing Element, pending revisions in response to HCD comments.

PUBLIC COMMENT

Staff received multiple public comments on this matter, which are attached to this report. Several public comments discussed the Project alternatives analyzed in the EIR, which are required under CEQA. Public comments on this matter received prior to noon on Monday, August 8, 2022 will be posted to the agenda on the City’s website and forwarded to the Council shortly after the deadline.

RECOMMENDATION

Conduct the public hearing, review the EIR, and continue the item to the September 12th consent calendar to adopt Resolution 2022-51, approving certification of the 6th Cycle Housing Element EIR.

ATTACHMENTS

1. Draft CC Resolution 2022-51 Certifying the Housing Element Update Environmental Impact Report
2. CEQA Draft Environmental Impact Report Summary
3. Public comment

LINKS

[6th Cycle Housing Element Update - Environmental Impact Report \(Draft and Final\)](#)
www.lovelafayette.org/CEQA

**BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE
IN THE MATTER OF:**

Resolution 2022-51 Certifying the Housing)
Element Update Environmental Impact)
Report)
_____)

Resolution 2022-51

The City Council of the City of Lafayette does resolve as follows:

RECITALS

WHEREAS, on July 30, 2021, pursuant to the California Environmental Quality Act (“CEQA”) and California Code of Regulations, Title 14, Chapter 3 (“CEQA Guidelines”), the City prepared a Notice of Preparation (“NOP”) of a Draft Environmental Impact Report (“EIR”) for the City of Lafayette 6th Cycle Housing Element Update that was circulated to and available for comment by local, state, and federal agencies and other interested parties between August 2, 2021 and September 2, 2021. Pursuant to CEQA Guidelines section 15083, the City held a public scoping meeting on the Draft EIR on August 16, 2021.

WHEREAS, on February 18, 2022, pursuant to CEQA and the CEQA Guidelines, the City prepared and circulated for public comment a Draft Environmental Impact Report (“Draft EIR”), State Clearinghouse No. 2021080038, for the Project.

WHEREAS, the public review period on the Draft EIR ran from February 18, 2022 to April 18, 2022, for a total of 60 days of review.

WHEREAS, the City’s Planning Commission conducted public hearings on March 7, 2022 and April 4, 2022 to receive verbal comments on the Draft EIR.

WHEREAS, on July 12, 2022, pursuant to CEQA Guidelines sections 15088 and 15089, the City released the Final EIR for the Project. The Draft EIR together with the Final EIR released July 12, 2022 constitutes the Final EIR (or “EIR”), pursuant to CEQA Guidelines section 15132.

WHEREAS, all of the documents referenced in the recitals above can be found on the City of Lafayette’s web site at www.lovelafayette.org/CEQA.

WHEREAS, the Planning Commission reviewed and considered the EIR pursuant to CEQA Guidelines section 15025(c) on August 1, 2022 and adopted Resolution 2022-10, recommending certification of the EIR to the City Council.

WHEREAS, before the City Council may consider approval of any or all of the Project activities it must first certify that the EIR has been prepared in compliance with CEQA and pursuant to requirements of CEQA Guidelines section 15090.

NOW THEREFORE, the City Council does hereby resolve and finds that it has reviewed and considered the EIR and Based on this review, and pursuant to CEQA Guideline section 15090, the Council hereby certifies the EIR and makes the following findings in support of certification:

- a) CEQA Compliance: As the decision-making body for the Housing Element Update, City Council has reviewed and considered the information contained in the EIR. The Board finds that the EIR was prepared in compliance with CEQA and that the City complied with CEQA’s procedural and substantive requirements.
- b) Independent Judgement of Lead Agency: The Council has independently reviewed and analyzed the EIR and finds that the EIR is an accurate and objective statement that fully reflects the independent judgement of the City.
- c) Review by Decision-Making Body: The EIR was presented to the Council, the decision-making body of the City. The Council reviewed and considered the information contained in the EIR prior to taking any approval actions concerning the Housing Element Update.

The City Council further finds that it has reviewed and considered the Draft EIR, the Final EIR, responses to comments and the full record associated therewith, including but not limited to the comments and submissions made to this City Council and the Planning Department's responses to those comments and submissions, and based thereon, hereby adopts and incorporates them by reference as though fully set forth herein.

CUSTODIAN OF RECORDS

The location and custodian of the documents and any other material which constitute the record of proceedings upon which the City Council made its decision is as follows: Secretary to the Planning Commission, City of Lafayette, 3675 Mount Diablo Boulevard, Suite 210, Lafayette, California 94549.

This resolution becomes effective upon its adoption.

The foregoing Resolution was PASSED AND ADOPTED by the City Council of the City of Lafayette at a regular meeting of said Council on September 12, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Joanne Robbins, City Clerk

Teresa Gerringer, Mayor



City of Lafayette
Housing Element Update
CEQA Draft Environmental Impact Report Summary
Published February 18, 2022

The City is preparing a program-level environmental impact report (EIR) to analyze potential physical environmental impacts of the Housing Element Update (HEU) pursuant to the California Environmental Quality Act (CEQA). This handout provides a summary of the process and schedule for preparation, public review, and certification of the EIR, as well as key issues analyzed in the EIR. Information provided here is intended as a high-level summary only, and readers are encouraged to review the Draft EIR for more information and analysis.

EIR Process and Schedule

The EIR process began with a 30-day public scoping period, during which the City invited comments regarding topics to be analyzed in the EIR. The comments received were taken into consideration during preparation of the Draft EIR, which will be circulated for a 45-day public comment period. During the comment period, the City will invite written and e-mailed comments on the contents of the Draft EIR and will hold a public hearing to receive oral comments. All substantive comments received prior to the close of the comment period will be responded to in a Final EIR which must be certified by the City Council before any decision to adopt the HEU.

- Notice of Preparation posted at the State Clearing House: August 2, 2021 (SCH# 2021080038)
- Public scoping period: August 2 through September 2, 2021
- Public scoping meeting at the Planning Commission: August 16, 2021
- **Draft EIR public comment period opens: February 18**
- Public hearing on the Draft EIR at the Planning Commission: March 7, 2022
- Public hearing on the Draft EIR at the Planning Commission: April 4, 2022
- **Draft EIR public comment period closes: April 18, 2022**
- Responses to comments issued and Final EIR certified: projected Summer/Fall 2022

What is a “Program-Level” EIR?

A program-level EIR is used to analyze adoption of planning documents like the Housing Element that will govern future development, and is more general than a project-specific EIR because the precise location, design, and timing of the individual development projects that will implement the Housing Element are unknown.

Program EIRs also provide an opportunity for adoption of program-wide mitigation measures needed to address potentially significant physical environmental impacts of the plan.

What is the Project Analyzed in the EIR?

The subject or “Project” being analyzed in the EIR is the adoption of a General Plan amendment, updating the City’s Housing Element and making any concurrent changes to other elements of the City’s General Plan such as the Land Use Element that are needed to maintain internal consistency. The Project, which is called the “HEU with Distributed Sites,” also includes adoption of any changes in zoning and/or development standards needed to implement the proposed changes to the General Plan. The Project was approved by the Planning Commission at its August 16, 2021 meeting.

Contents of the Draft EIR

The Draft EIR includes an introduction (Chapter 1), summary (Chapter 2), a Project Description (Chapter 3), and a description of the environmental setting, assessment of potential physical environmental impacts, and identification of mitigation to reduce or avoid significant impacts for a series of environmental topics (Chapter 4). The Draft EIR also includes an analysis of alternatives (Chapter 5), one of which is called the “Downtown Only Alternative,” which is analyzed in the same level of detail as the Project in Chapter 4. Other alternatives are discussed in Chapter 5. Other statutory requirements are addressed in Chapter 6. The Draft EIR also includes a list of preparers and appendices.

Summary of Findings

Please see below for some of the key issues identified in the Draft EIR and read the document yourself for a full list of potential impacts and mitigation.

Aesthetics

- Both the HEU with Distributed Sites and the Downtown Only Alternative would allow residential development that would be denser, greater in scale, and taller than existing buildings in their respective planning areas. While the HEU with Distributed Sites would affect a larger area, the Downtown Only Alternative would have higher densities within a smaller area.
- Based on recent changes in State law, the City’s review process for housing developments would be limited to considering “objective, quantifiable, written development standards, conditions, and policies appropriate to and consistent with” meeting the City’s Regional Housing Needs Allocation (RHNA) (Government Code Section 65589.5(f)).
- The Draft EIR concludes that the HEU with Distributed Sites and the Downtown Only Alternative could result in significant impacts on scenic vistas and could significantly degrade the existing visual quality of public views. Given the densities required for the City to meet its RHNA requirement, no mitigation measures are available to reduce these impacts, which are considered *significant and unavoidable*.

Air Quality and Greenhouse Gas Emissions

- Construction and operation of individual development projects following adoption of the HEU with Distributed Sites or the Downtown Only Alternative could result in significant emissions of criteria pollutants for which the region is in non-attainment. Mitigation measures would reduce the emissions however the effectiveness of mitigation cannot be determined, so the impact is considered *significant and unavoidable*.
- Construction of individual development projects could also expose sensitive receptors to substantial concentrations of toxic air contaminants (TACs) and particulate matter (PM^{2.5}), however resulting health risks would be reduced to *less than significant* with mitigation requiring use of clean (Tier-4) construction equipment.
- The largest source of TACs and PM^{2.5} in the vicinity of the HEU planning areas is State Route 24, and existing receptors in the vicinity already experience health risks and PM^{2.5} concentrations above the cumulative thresholds. While development anticipated as part of the HEU would add to the existing emissions, given the small percentage of total risk and concentrations attributable to the projects, and that the projects would be

below project-level thresholds with the implementation of mitigation, the projects' contribution is not "considerable" and the cumulative impact would be *less than significant*.

- Greenhouse gas emissions would be reduced to *less than significant* with adoption of mitigation requiring all new multifamily development projects to be 100 percent electric and requiring compliance with electric vehicle requirements in the most recently adopted version of CALGreen Tier 2.

Biological Resources

- Implementation of mitigation measures would avoid and minimize impacts on special-status plant species, nesting birds, and roosting bats. Mitigation measures would also ensure avoidance of impacts on riparian habitat and sensitive natural communities, and on state or federally protected wetlands.

Cultural Resources

- While the City previously identified known and potential historic architectural resources in the plan areas for both the HEU with Distributed Sites and the Downtown Only Alternative, there are buildings within the plan areas that are age-eligible, but that have not been evaluated as potential historic resources. If these buildings are determined to be historic resources, their removal to accommodate new development would be a *significant and unavoidable* impact despite the adoption of mitigation requiring building evaluations and documentation. Mitigation would reduce potential impacts on archaeological resources to *less than significant*.

Transportation

- Future housing developments that are located more than one half mile from the Lafayette BART station will require a project-specific analysis of vehicle miles travelled (VMT) and may exceed significance criteria established by the Contra Costa Transportation Authority (CCTA). Mitigation measures would reduce the VMT, however the effectiveness of the mitigation cannot be fully determined, so the impact would remain *significant and unavoidable*.
- Based on changes in State law that were recently implemented via changes to the CEQA Guidelines, traffic congestion and delay, often represented by presenting intersection Level of Service (LOS), is no longer accepted as the basis for evaluating significant impacts under CEQA and is thus not included in the Draft EIR.
- Nonetheless, future housing developments would be subject to and designed in accordance with City standards and specifications which address potential design hazards including sight distance, driveway placement, and signage and striping. Also, the evaluation of a project's access and circulation could be required to incorporate analyses of intersection LOS and queuing consistent with City policies.

Public Services and Recreation

- Under CEQA, a significant impact related to public services or recreation would occur if a project would result in substantial adverse physical impacts associated with new or physically altered facilities, the construction of which could cause significant impacts. The need for new or altered facilities is considered for fire protection, police protection, schools, and parks.
- New fire and police personnel, vehicles, and equipment would be required to provide adequate response times to serve future development, although additional facilities are not expected to be required in either the HEU with Distributed Sites or the Downtown Only Alternative.

- Development per the HEU with Distributed Sites would accommodate approximately 970 new school-age children and development per the Downtown-Only Alternative would accommodate approximately 1,016 new school-age children, suggesting that some LAFSD and AUHSD schools would require facility updates to increase capacity over time. Any expansion of school facilities would require environmental review as they are identified. In accordance with State law, payment of school fees constitutes full and complete mitigation of school impacts from development.
- New residents resulting from the HEU would worsen the existing deficiency in the City's service-level objective for parkland of 5 acres per 1,000 residents. Development would be subject to the City's parkland dedication fee and park facilities fee, and park projects developed in the future would require environmental review.

Water Supply

- EBMUD adopted its 2020 Urban Water Management Plan (UWMP) and an associated Water Shortage Contingency Plan in June 2021. In adopting its 2020 UWMP, EBMUD has committed to managing water demand efficiently using its water supplies to protect both its customers and its water and natural resources, and making every effort to ensure the appropriate level of water service reliability is met given varied water demands during normal, dry, and multiple dry years.
- Development under the HEU with Distributed Sites scenario would be required to comply with the CALGreen Code, which requires that new construction use high-efficiency plumbing fixtures, such as high-efficiency toilets, urinals, showerheads, and faucet fixtures. For outdoor water use, the CALGreen Code requires that irrigation controllers be weather- or soil moisture-based and automatically account for rainfall, or be attached to a rainfall sensor

Wildfire

- Three areas planned for development in the HEU with Distributed Sites fall within a Calfire-designated Very High Fire Hazard Severity Zone: the BART parking areas, Deer Hill Corridor, and DeSilva Sites. To reduce the risk of wildfire, development in these areas would be subject to requirements of the Lafayette Fire Safety Ordinance and the Contra Costa County Fire Protection District Fire Code relating to emergency planning and preparedness, fire service features, building services and systems, access requirements, water supply, fire and smoke protection features, building materials, construction requirements, defensible space and vegetation management.
- The City's Emergency Operations Plan/Wildland Fire Evacuation Plan identifies key routes within the City that must remain open for purposes of emergency response and evacuation. The building code requires encroachment permits when construction activities encroach into the public right-of-way to ensure adequate traffic flow and keep routes open. Once constructed, residential development would not restrict or interfere with the flow of emergency vehicles or evacuation. Additional traffic volumes could be expected, and the City would be required to periodically update its emergency response and evacuation plans.

Alternatives

- As required by CEQA, the Draft EIR considers a “No Project” alternative in addition to the HEU with Distributed Sites and the Downtown-Only Alternative. The Draft EIR also describes alternatives that were considered and rejected for in-depth analysis, including an alternative that would *not* plan for housing sufficient to meet the City’s RHNA requirement.
- Significant impacts associated with the Downtown-Only Alternative would be the same as those associated with the HEU with Distributed Sites, although the Downtown-Only Alternative would affect a smaller geographic area, and would concentrate development, requiring higher densities.
- An alternative that would concentrate development sites within one-half mile of the BART station would affect a smaller geographic area than the HEU with Distributed Sites and would also concentrate development, requiring higher densities. This alternative would eliminate the significant and unavoidable impact related to VMT, but it would create other effects as it would push development north of Deer Hill Road into areas that would require significant upgrades to roadway and utility infrastructure.

How to Comment on the Draft EIR

As required under CEQA law, the public has a 45-day public comment period during which individuals may comment on the Draft EIR. Comments received during the public comment period **(February 18 and April 18, 2022)** will be responded to in the Final EIR.

Those interested in commenting on the Draft EIR may:

- Submit written comments to GeneralPlan@LoveLafayette.org through April 18, 2022
- Attend the public hearing on the Draft EIR at the Planning Commission on Monday, March 7, 2022 or Monday, April 4, 2022

Questions?

Please submit questions regarding the CEQA Environmental Impact Report to GeneralPlan@LoveLafayette.org.

From: East Bay for Everyone <info@eastbayforeveryone.org>

Sent: Friday, July 1, 2022 7:39 PM

To: housingelements@hcd.ca.gov

Cc: Robles, Renata <RRobles@ci.lafayette.ca.us>; General_Plan <GeneralPlan@lovelafayette.org>; Gerringer, Teresa <tgerringer@ci.lafayette.ca.us>; Anduri, Carl <canduri@ci.lafayette.ca.us>; Candell, Susan <scandell@ci.lafayette.ca.us>; Dawson, Gina <GDawson@ci.lafayette.ca.us>; Kwok, Wei-Tai <WKwok@ci.lafayette.ca.us>

Subject: Lafayette's position on the Housing Element draft

Hello, HCD reviewers,

Please find below a transcription of comments from Eliot Hudson at the May 23 meeting. Mr Hudson is an influential community member who was allowed by the Council to exceed his comment period by approximately 1 minute. Other members of the public were not allowed this opportunity.

Mr Hudson's comments will be helpful in your review because I believe that they represent the position of Lafayette's staff and elected officials with regards to the draft. At the beginning of the comment period for the Housing Element, in late 2020, Lafayette started out with a plan to rezone downtown for approximately 80 du/ac. Later in 2022 after response from the community they backtracked to avoid any changes to the zoned densities downtown on the south side of Highway 24.

Mr Hudson wants Lafayette to submit the bare minimum required to meet state law and count on HCD to rectify any issues in the draft. In our letter on May 23 we identify numerous problems with the draft. **This attitude from community members, the Planning Commission and City Council increases the importance of a thorough, and strict review from HCD.**

Kevin Burke

Comments were retrieved on July 1 from the meeting audio at this

URL: https://lafayette.granicus.com/MediaPlayer.php?view_id=3&clip_id=6217 The comments begin at 3:24:56 and you can hear two bells (to stop speaking) go off during the commentary.

Any errors in transcription are mine. Bold and parentheses are mine.

HUDSON:

The draft Housing Element for this meeting is improved in very substantial ways. I thank the Council for directing these improvements. It now references the language fo the vision and mission statement and brings the recommendations for zoning more in line with the long recommended positions of your citizens advisors, Mr. Eliot and Mr Lavoie, which are now being recognized to be reasonable. We're closer but we're not yet where we need to be to protect Lafayette while still complying with state law.

One of the most important things you heard tonight which was further clarified in response to questions from Councilmember Kwok, is that we actually have two meaningful periods for conversation with HCD. Councilmember Kwok asked if we only had 30 days between the two periods, but at that point we're not creating from scratch. We're adjusting a proposal that we're already reasonable based on HCD guidelines and actual approvals granted by HCD. There will also be time after the second 90 day period for reasonable adjustments. And as Mrs. Robles said there will be outreach to HCD even during the review periods.

So there's no reason to follow this faulty line of logic that we should over zone now in order to avoid the possibility of adjustments years down the road. We need to go to HCD with the positions that best protect Lafayette and then allow for these two 90 day periods for those conversations.

So there are still a few things that I would like to see changed in the draft. First of all, the community characterization is still not accurate. **Comments about the desire for more affordable housing and the cost of housing overstate that position** as you know from your surveys. "Housing is personal" statements need to be adjusted because the only meaningful statements are not from people who are currently seeking housing in Lafayette. They're also from people who have worked hard in the past to gain that housing.

The stories that are submitted need to reasonably balance the statements from your residents, not just those cherry-picked by staff. With respect to the actual numbers I again refer you to the work of Colin Elliott and Mr Lavoie. We have been proven to be right on many points staff previously resisted. With respect to BART, we should keep it at 75 units per acre and a yield of 100%. The ground floors will be suitable for low-income and very low-income. The current staff recommendation increases the size and density which will be opposed and hated by everybody in the neighborhood and will unnecessarily increase the mass of the building which is entirely inconsistent with the nature of Lafayette.

With respect to the upzoning of DaSilva (a property near Oakwood Athletic Club where the property owner expressed interest in additional density), that is not needed at this time. Again, **you cannot go back on unnecessary upzoning. The city should not forfeit valuable negotiating options in the future.**

Again, thank you for the improvements so far, please listen to Mr Elliott and Mr Lavoie, we can protect this town on a reasonable and legal basis.

CAUTION: This email has been originated outside the organization.

From: Robbins, Joanne
Sent: Monday, July 18, 2022 9:31 AM
To: Patricia Battersby
Cc: Wolff, Greg, Robles, Renata, Lara Chamberlain
Subject: FW: Letter for GPAC, Planning Comm, City Council
Attachments: GPAC Planning Comm 7.16.22.docx

Dear Ms. Battersby: Thank you for writing the City of Lafayette. Your e-mail is being forwarded to Mayor Gerring, Vice Mayor Anduri and Councilmembers Candell, Dawson and Kwok. I have copied the Planning Department staff on this reply and they will forward your message to the members of GPAC and Planning Commission.

Your comments will be considered as part of their deliberations when this item comes before them. We will also include your e-mail as part of the public record.

To stay abreast of this and other topics before the City, please sign-up for Lafayette's publications and e-notifications to receive meeting notices via e-mail here.

Again, thank you for writing the City of Lafayette. Please note that your correspondence to the City, including to Councilmembers and City Staff, becomes part of the public record and is disclosable under the California Public Record Act.

Joanne Robbins, CMC
City Clerk
City of Lafayette
3675 Mt. Diablo Blvd., Suite 210
Lafayette, CA 94549
925-284-1968
925-299-3210 (direct)

-----Original Message-----

From: Patricia Battersby <pb@patriciabattersby.com>
Sent: Saturday, July 16, 2022 2:42 PM
To: Robbins, Joanne <JRobbins@ci.lafayette.ca.us>
Subject: Letter for GPAC, Planning Comm, City Council

CAUTION: This email has been originated outside the organization.

To: JRobbins@ci.lafayette.ca.us

Please distribute to the Lafayette Planning Commission, Lafayette City Council, GPAC

As the housing element and EIR Draft are finalized, I would like to strongly suggest the following:

The Vision/Mission Statement must be adhered to in ALL elements of the General Plan. It needs to be included in ANY AND ALL documentation that is submitted to the State.

While we must tolerate the State's growth mandates, the Land Use Element still should contain prominent mentions and be consistent with the new Vision/Mission Statement approved by the Lafayette City Council. A huge majority of residents supported this in the Town Survey. Staff also needs to show support for the Statement.

Regarding the EIR Draft, please do NOT approve a final draft if it includes Happy Valley and the Glen as an Alternative Site. Our neighborhoods are well-established single family residential in a Very High Fire Severity Zone which CANNOT be mitigated, contrary to the EIR Draft. Absolutely no provision for safety and evacuation was provided in the EIR Draft.

The Glen (130 wood frame homes and many families, young and old) has one way out on a 15' narrow road, shared by N. Thompson neighbors. I have previously forwarded you the warning letter about wildfire concerns in the Glen by the Contra Costa Fire District. Contra Costa Fire District Chief has ranked Lafayette the most vulnerable city of its 19 jurisdictions, we are told.

Recently, our assigned evacuation route was totally blocked by an incident on Hwy 24. Loss of property and most critically loss of life are realistic and frightening possibilities. Having Happy Valley and the Glen on record as an Alternative Site is totally unacceptable.

Please remember an overwhelming majority of Lafayette residents are calling for preservation of the semi-rural residential character of our town. These decisions will impact our community for years to come.

Respectfully yours,
Patricia Battersby
3627 Happy Valley Glen Road

From: Robbins, Joanne
Sent: Monday, July 18, 2022 9:37 AM
To: roberta palumbo
Cc: Wolff, Greg, Robles, Renata, Lara Chamberlain
Subject: RE: Monday Meeting...please distribute this email letter

Dear Ms. Palumbo: Thank you for writing the City of Lafayette. Your e-mail is being forwarded to Mayor Gerring, Vice Mayor Anduri and Councilmembers Candell, Dawson and Kwok. I have copied the Planning Department staff on this reply and they will forward your message to the members of GPAC and Planning Commission.

Your comments will be considered as part of their deliberations when this item comes before them. We will also include your e-mail as part of the public record.

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Lafayette, CA 94549
925-284-1968
925-299-3210 (direct)

From: roberta palumbo <robertapalumbo@yahoo.com>
Sent: Sunday, July 17, 2022 1:10 PM
To: Robbins, Joanne <JRobbins@ci.lafayette.ca.us>
Subject: Fw: Monday Meeting...please distribute this email letter

Please distribute this email letter from 1191 Glen Road to:
GPAC, City Council, and Planning Commission

xxx Include in all documentation to the State our mission statement:
"MAINTAIN THE SEMI RURAL RESIDENTIAL CHARACTER OF LAFAYETTE."

xxx Remove Happy Valley and Happy Valley Glen as an alternative site.
THE AREA IS DESIGNATED A VERY HIGH SEVERITY FIRE ZONE.

xxxUnderstand this very important life and death safety issue:
THERE IS NO MITIGATION POSSIBLE FOR A HIGH SEVERITY FIRE ZONE

With Lafayette's increasingly HOT and DRY weather, please do not put into peril the residents of Happy Valley and Happy Valley Glen by making it impossible to flee the fires that we all know are in our future. More housing DENSITY just guarantees more DEATHS.

Sincerely submitted,
Roberta Palumbo, Arlene Woehl, Emmie Woehl

1191 Glen Road

CAUTION: This email has been originated outside the organization.

From: Robbins, Joanne
Sent: Monday, July 18, 2022 9:40 AM
To: Bob Marcus
Cc: Wolff, Greg, Robles, Renata, Lara Chamberlain
Subject: RE: EIR Draft

Dear Mr. Marcus: Thank you for writing the City of Lafayette. Your e-mail is being forwarded to Mayor Gerringer, Vice Mayor Anduri and Councilmembers Candell, Dawson and Kwok. I have copied the Planning Department staff on this reply and they will forward your message to the members of GPAC and Planning Commission.

Your comments will be considered as part of their deliberations when this item comes before them. We will also include your e-mail as part of the public record.

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Again, thank you for writing the City of Lafayette. Please note that your correspondence to the City, including to Councilmembers and City Staff, becomes part of the public record and is disclosable under the California Public Record Act.

Joanne Robbins, CMC
City Clerk
City of Lafayette
3675 Mt. Diablo Blvd., Suite 210
Lafayette, CA 94549
925-284-1968
925-299-3210 (direct)

From: Bob Marcus <bob@rgb.com>
Sent: Sunday, July 17, 2022 4:49 PM
To: Robbins, Joanne <JRobbins@ci.lafayette.ca.us>
Subject: EIR Draft

Please distribute to GPAC, City Council, Planning Commission

The State has its priorities and we have ours. There should be a way for us to keep from being steamrolled.

As a 35+ year resident of Lafayette, I would like to see some recognition in documentation to the State addressing our Mission Statement, which is to maintain the semi-rural residential character of Lafayette. Admittedly, we seem to be fighting a losing battle, but that doesn't mean we should just give up, even if some compromises must be made.

Specifically, we should remove Happy Valley and Happy Valley Glen as an Alternative Site in the EIR. I live in the Glen. It is a Very High Severity Fire Zone. My insurance rates have been raised twice by AAA, to almost three times what I had been paying. I am not sure AAA is even offering new policies.

Who assumes there is possible mitigation? How? At what cost? Boiler-plate statements about mitigation that is only *theoretically possible* should not be made. Otherwise, we are confusing fact and fantasy.

And, on a related matter, if wildfire risk mitigation is possible, then why aren't we seeing it?

CAUTION: This email has been originated outside the organization.

From: Robbins, Joanne
Sent: Monday, July 18, 2022 9:42 AM
To: donnwalklet@comcast.net
Cc: Wolff, Greg, Robles, Renata, Lara Chamberlain
Subject: RE: Additional comments prompted by insurance policy cancellations in the Glen and Happy Valley neighborhoods

Dear Mr. Walklet: Thank you for writing the City of Lafayette. Your e-mail is being forwarded to Mayor Gerring, Vice Mayor Anduri and Councilmembers Candell, Dawson and Kwok. I have copied the Planning Department staff on this reply and they will forward your message to the members of GPAC and Planning Commission.

Your comments will be considered as part of their deliberations when this item comes before them. We will also include your e-mail as part of the public record.

To stay abreast of this and other topics before the City, please sign-up for Lafayette's publications and e-notifications to receive meeting notices via e-mail [here](#).

Again, thank you for writing the City of Lafayette. Please note that your correspondence to the City, including to Councilmembers and City Staff, becomes part of the public record and is disclosable under the California Public Record Act.

Joanne Robbins, CMC
City Clerk
City of Lafayette
3675 Mt. Diablo Blvd., Suite 210
Lafayette, CA 94549
925-284-1968
925-299-3210 (direct)

From: donnwalklet@comcast.net <donnwalklet@comcast.net>
Sent: Sunday, July 17, 2022 6:49 PM
To: Robbins, Joanne <JRobbins@ci.lafayette.ca.us>
Cc: 'Glen Road Lafayette' <glenroadlafayette@googlegroups.com>
Subject: Additional comments prompted by insurance policy cancellations in the Glen and Happy Valley neighborhoods

Just to emphasize the points that I made below, I am hearing an increased amount of trepidation from the Glen neighborhood about policy cancellations because of the current wildfire risk. To further aggravate this situation by increasing housing density makes no sense.

Please remove Happy Valley and Happy Valley Glen as an Alternative Site in the EIR because we are now and in the future in a very high severity fire zone. There is NO possible mitigation.

Respectfully submitted,

Donn Walklet

3675 Nordstrom Lane

From: donnwalklet@comcast.net <donnwalklet@comcast.net>
Sent: Monday, May 02, 2022 3:01 PM
To: Robbins, Joanne <JRobbins@ci.lafayette.ca.us>; Planner <planner@lovelafayette.org>

Cc: Glen_Road_Lafayette@yahoogroups.com

Subject: Submission for planning discussion this evening. regarding wildfire threats aggravated by development in the Deerhill/Happy Valley corridor...

Below is my previous submission to the GPAC group. I would add that my observations regarding wildfire risk is further validated by the insurance industry's increase in homeowners' rates and policy cancellations in our local area. This action is primarily if not exclusively a result of the increased wildfire risk and will only be further aggravated by increased housing density.

Respectfully submitted,

Donn Walklet

3675 Nordstrom Lane

To: jRobbins@ci.lafayette.ca.us

Please distribute to GPAC, Lafayette City Council, and Staff

I am a twenty-four-year resident of the Glen neighborhood in the Deerhill/Happy Valley corridor of Lafayette. My career has included a focus on wildfire early detection and rapid response to minimize the potential of catastrophic impacts ([Donn Walklet | LinkedIn](#)).

Because of terrain and challenging access, this area is already an extremely high-risk environment for a wildfire catastrophe not unlike the community devastated during the recent Paradise wildfire. Indeed, we all should not forget the Oakland Hills fire thirty years ago which precisely mirrors the conditions in Lafayette North of Highway 24:

[Oakland Hills Firestorm - YouTube](#)

Another view from above (attached) is from a NASA infrared scanner showing over 3,000 buildings burning when the wildfire was completely out of control.

Accordingly, please do not consider opportunity sites in this High Fire Zone. The safety of our neighborhood is at risk!

Donn Walklet

3675 Nordstrom Lane

CAUTION: This email has been originated outside the organization.

CAUTION: This email has been originated outside the organization.

From: Robbins, Joanne
Sent: Monday, July 18, 2022 9:43 AM
To: Jeffrey Dieden
Cc: Wolff, Greg, Robles, Renata, Lara Chamberlain
Subject: RE: GPAC etc

Dear Mr. Dieden: Thank you for writing the City of Lafayette. Your e-mail is being forwarded to Mayor Gerring, Vice Mayor Anduri and Councilmembers Candell, Dawson and Kwok. I have copied the Planning Department staff on this reply and they will forward your message to the members of GPAC and Planning Commission.

Your comments will be considered as part of their deliberations when this item comes before them. We will also include your e-mail as part of the public record.

To stay abreast of this and other topics before the City, please sign-up for Lafayette's publications and e-notifications to receive meeting notices via e-mail [here](#).

Again, thank you for writing the City of Lafayette. Please note that your correspondence to the City, including to Councilmembers and City Staff, becomes part of the public record and is disclosable under the California Public Record Act.

Joanne Robbins, CMC
City Clerk
City of Lafayette
3675 Mt. Diablo Blvd., Suite 210
Lafayette, CA 94549
925-284-1968
925-299-3210 (direct)

From: Jeffrey Dieden <diedenjd@gmail.com>
Sent: Sunday, July 17, 2022 8:12 PM
To: Robbins, Joanne <JRobbins@ci.lafayette.ca.us>
Cc: Melinda Dieden <melinda.dieden@gmail.com>
Subject: GPAC etc

Joanne - please pass this along to the Lafayette Planning Commission and Lafayette City Council members.

Dear GPAC Committee, Lafayette Planning Commission and Lafayette City Council:

I just went to our city website and found this - our City's Mission Statement - which I have copied as a reminder. Is City staff adequately adhering to these words: "with a semi-rural ambiance"? And will you?

Is it legal to submit plans to the state which ignore all aspects of our mission statement?

I appreciate your complicated work to properly and fairly create a plan for the future of Lafayette.

Respectfully,
Jeffrey Dieden
1118 Glen Rd, Lafayette, CA 94549

Mission Statement: (Adopted February 28, 2022)

Lafayette's vision is to be a welcoming, inclusive, safe, family-friendly city for residents and visitors alike, with excellent schools and a commitment to lifelong learning that respects and preserves its magnificent natural setting. We pursue this vision by engaging residents, community groups and business and property owners to work together with our city government to make Lafayette a highly desirable small-town community with a semi-rural ambiance that is guided by these principles:

- *Value everyone*
- *Support environmental sustainability*
- *Build and maintain effective infrastructure*
- *Improve safety for all modes of travel*
- *Protect and enhance our parklands, trails, hillsides, ridgelines, open spaces and creeks*
- *Support a vibrant downtown*
- *Maintain a fiscally responsible and transparent city government that encourages volunteer involvement on committees and commissions*

CAUTION: This email has been originated outside the organization.

From: Robbins, Joanne
Sent: Monday, July 18, 2022 10:57 AM
To: SCOTT ELLIOTT
Cc: dmpelliott@comcast.net, Wolff, Greg, Robles, Renata, Lara Chamberlain
Subject: FW: Letter Regarding Housing and EIR Draft
Attachments: GPAC Planning Comm Elliott July 2022.docx

Dear Mr. Elliott: Thank you for writing the City of Lafayette. Your e-mail is being forwarded to Mayor Gerring, Vice Mayor Anduri and Councilmembers Candell, Dawson and Kwok. I have copied the Planning Department staff on this reply and they will forward your message to the members of GPAC and Planning Commission.

Your comments will be considered as part of their deliberations when this item comes before them. We will also include your e-mail as part of the public record.

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Lafayette, CA 94549
925-284-1968
925-299-3210 (direct)

-----Original Message-----

From: SCOTT ELLIOTT <scottyelliott@icloud.com>
Sent: Monday, July 18, 2022 10:41 AM
To: Robbins, Joanne <JRobbins@ci.lafayette.ca.us>
Cc: Donna Elliott <dmpelliott@comcast.net>
Subject: Letter Regarding Housing and EIR Draft

Please see attached.

Scott and Donna Elliott

CAUTION: This email has been originated outside the organization.

To: JRobbins@ci.lafayette.ca.us

Please distribute to the Lafayette Planning Commission, Lafayette City Council, GPAC

As the housing element and EIR Draft are finalized, we want to make sure that all of the following is considered:

The Vision/Mission Statement that has been approved by the Lafayette City Council must be adhered to in ALL elements of the General Plan. It needs to be included in ANY AND ALL documentation that is submitted to the State.

While we must comply with the State's growth mandates, the Land Use Element still should contain prominent mentions and be consistent with the new Vision/Mission Statement approved by the Lafayette City Council. A huge majority of residents supported this in the Town Survey. Staff also needs to be supportive of the Statement and not rely on any outside influences or their own personal views.

Regarding the EIR Draft, please do NOT approve a final draft if it includes Happy Valley and the Glen as an Alternative Site. Our neighborhoods are well-established single family residential in a Very High Fire Severity Zone which CANNOT be mitigated, contrary to the EIR Draft. Absolutely no provision for safety and evacuation was provided in the EIR Draft. The Contra Costa Fire District Chief has ranked Lafayette the most vulnerable city of its 19 jurisdictions, we are told.

Recently, our assigned evacuation route was totally blocked by an incident on Hwy 24. As a result of Waze and other traffic apps, any time there is a backup on Highway 24, cars are sent to Happy Valley Road as an alternative. Loss of property and most critically loss of life are realistic and frightening possibilities. Having Happy Valley and the Glen on record as an Alternative Site is totally unacceptable.

Please remember an overwhelming majority of Lafayette residents are calling for preservation of the semi-rural residential character of our town. These decisions will impact our community for years to come.

Respectfully yours,
Scott and Donna Elliott
3644A Happy Valley Road
Lafayette

From: Robbins, Joanne
Sent: Monday, July 18, 2022 2:44 PM
To: Sallie Lovitt
Cc: Wolff, Greg, Robles, Renata, Lara Chamberlain
Subject: RE: Please keep us off the list

Dear Ms. Lovitt: Thank you for writing the City of Lafayette. Your e-mail is being forwarded to Mayor Gerringer, Vice Mayor Anduri and Councilmembers Candell, Dawson and Kwok. I have copied the Planning Department staff on this reply and they will forward your message to the members of GPAC and Planning Commission.

Your comments will be considered as part of their deliberations when this item comes before them. We will also include your e-mail as part of the public record.

To stay abreast of this and other topics before the City, please sign-up for Lafayette's publications and e-notifications to receive meeting notices via e-mail [here](#).

Again, thank you for writing the City of Lafayette. Please note that your correspondence to the City, including to Councilmembers and City Staff, becomes part of the public record and is disclosable under the California Public Record Act.

Joanne Robbins, CMC
City Clerk
City of Lafayette
3675 Mt. Diablo Blvd., Suite 210
Lafayette, CA 94549
925-284-1968
925-299-3210 (direct)

-----Original Message-----

From: Sallie Lovitt <sglovitt@comcast.net>
Sent: Monday, July 18, 2022 2:42 PM
To: Robbins, Joanne <JRobbins@ci.lafayette.ca.us>
Subject: Please keep us off the list

Please distribute my letter to members of the City Council, Planning Commission, GPAC

Dear Council, Commission, and Committee members,

Please remove Happy Valley Road, North Thompson Road, Happy Valley Glen, Happy Valley Dell and Deerhill Road from consideration as alternate sites for multi family housing.

I have written about my serious concerns about our location in a very high fire danger zone. My concerns are personal. My friend Pat escaped from her home in Hiller Highlands on the long winding two lane road out of her neighborhood, and my dad and stepmom evacuated their home at the bottom of Beechwood Drive, Oakland, all on the day of the devastating Oakland Hills firestorm of 1991.

Pat's home, of course, burned to the ground.

My dad, then aged 79, saved his modern, flat-roofed home on Beechwood Drive by carrying wound-up pairs of socks in his pockets, dragging up his garden hose, and climbing a ladder onto his roof, stuffing the socks into the tops of the downspouts, flooding the roof, and turning off the gas. They lost a patio chair strap to an ember. Beechwood Drive, a very long winding road, was decimated, burned to the ground, except for five homes at the bottom of the hill. My dad's next door uphill neighbors, on a cross street corner, risked staying home, planning to save themselves in their small pool, hosed their house down, and lost the top of their redwood tree to embers. The two houses below them survived. All just luck.

3,280 other families lost their homes. Twenty-five people lost their lives. It was a nightmare for many thousands in many ways for many years. Survivors say you never get over it.

Opening up our neighborhoods north of the freeway-with their narrow winding roads, rolling hills and canyons, trees, adjacent oak grasslands, and all of Briones-to the possibility of dense multi-family housing at and near our points of egress would be opening us up to a potential firestorm nightmare with added numbers attempting a hurried escape onto overcrowded and barely moving surface streets and freeway. We are not the right place for adding density.

Please remove us from consideration as an alternate area for dense development.

Most sincerely,

Sallie Lovitt

Sent from my iPad

CAUTION: This email has been originated outside the organization.

From: Salim Damerdji <sdamerdji1@gmail.com>
Sent: Monday, August 08, 2022 9:16 AM
To: cityhall
Cc: HousingElements@hcd.ca.gov, Keith Diggs
Subject: Letter on Lafayette's duty to AFFH in RHNA6.
Attachments: Lafayette.pdf

Dear Lafayette City Council:

Please see the attached letter from South Bay YIMBY regarding Lafayette's duty to AFFH in its 6th cycle Housing Element.

Best,
Salim Damerdji

CAUTION: This email has been originated outside the organization.



August 04, 2022

Dear Lafayette City Council:

We are writing on behalf of **South Bay YIMBY** regarding Lafayette's 6th Cycle Housing Element Update. As a regional pro-housing advocacy group, South Bay YIMBY works to ensure cities adopt housing elements that are fair, realistic, and lawful.

Per §8899.50(a)(1) of state code, Lafayette's housing element must affirmatively further fair housing, which entails 'taking meaningful actions... that overcome patterns of segregation.'

The City of Lafayette is uniquely positioned to affirmatively further fair housing, as Lafayette is a wealthy, exclusionary city that researchers with the Othering and Belonging Institute at UC Berkeley identify as highly segregated from the rest of the Bay Area. This socioeconomic segregation is caused by the exclusionary cost of housing in your community, where an average home, as of April 30th, costs \$1,903,000, which is only affordable to someone earning a salary of \$315,000, meaning **only the richest 3% of households can afford to settle down in your community**. It is thus no coincidence that your city is 78% whiter than the rest of the Bay, as well as 85% less black than the rest of the Bay Area. Sadly, your city's demographics have trended in an even less equitable direction, losing 25 black residents while gaining 542 white residents since 2010.

In a 2021 report entitled 'Exclusionary Zoning: Its Effect on Racial Discrimination in the Housing Market,' economic advisors for the White House outline how exclusionary zoning, like yours, causes segregation. Your exclusionary zoning pushes low income children to live in less resourced areas, which begets worse life outcomes from health to income. The research is clear: exclusionary zoning violates your duty to further fair housing.

To take meaningful actions that overcome patterns of segregation, we recommend you:

1. **End apartment bans in high opportunity areas.** This will give middle and working class families the opportunity to share in the resources your rich neighborhoods enjoy. As of 2020, **your city banned apartments in 98.3% of residential areas**, including in 99.4% of high opportunity residential areas.
2. **Accommodate 2690 low income homes in your site inventory.** While substantially larger than the floor of 943 low income homes required by RHNA, 2690 is the number of homes required to bring the proportion of low income families in your city in line with the rest of the Bay Area. While this number is large enough to be politically challenging, it will always be politically challenging to overcome segregation, as AFFH requires.

Thank you,

Salim Damerdji, South Bay YIMBY

Keith Diggs, YIMBY Law



City Council

Teresa Gerring, Mayor
 Carl Anduri, Vice Mayor
 Susan Candell, Council Member
 Gina Dawson, Council Member
 Wei-Tai Kwok, Council Member

Proclamation

WHEREAS, the Lafayette City Council does affirm and acknowledge the harm and hardship caused by drug overdose; and

WHEREAS, we recognize that the purpose of International Overdose Awareness Day is to remember loved ones lost to overdose and to end the stigma surrounding substance use disorder (SUD) and drug related deaths; and

WHEREAS, we resolve to play our part in reducing the toll of overdose in our community, which continues to claim the lives of community members every year and forever affects those who loved and cared about them; and

WHEREAS, we affirm that the people affected by overdose are our sons and daughters, our mothers and fathers, our brothers, and sisters, and deserving of our love, compassion and support and remembrance; and

NOW THEREFORE, I, Teresa Gerring, Mayor, on behalf of the City Council, along with the Contra Costa County Board of Supervisors, Contra Costa County MEDS coalition, the National Coalition Against Prescription Drug Abuse, BAART and other community partners do hereby proclaim August 31, 2022 as "International Overdose Awareness Day"

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the City Seal this 8th day of August 2022.

Teresa Gerring, Mayor