

Meeting Date:

3/9/10

AGENDA REPORT

City of Santa Clara, California

Agenda Item #

631 / 431
RDA

Santa Clara



Date: March 9, 2010

To: City Manager for Council Information and Executive Director for Agency Information

From: Director of Planning and Inspection

Subject: Schedule A of City Noise Ordinance, SCCC Section 09.10.040

The Resolution of CEQA Findings provided in the agenda reports for the Council and the Redevelopment Agency contains reference to "Schedule A" of the City's ordinance regulating noise and vibration. This ordinance addresses regulation fixed noise sources as they may affect nearby properties, based upon zoning classifications. The definition in this section states: "Fixed noise, sound, or vibration source" means a stationary device which creates sound or vibration while operating in a fixed or stationary position, including, but not limited to, residential, agricultural, industrial, and commercial machinery and equipment, pumps, fans, compressors, air conditioners, and refrigeration equipment.

This table of noise limits for fixed sources is referenced on page 36 of the CEQA Findings resolution and is found in Section 4.10 of the Draft EIR document. A councilmember has asked that this Schedule A be provided for all Council/Agency members this evening as reference material.

Kevin L. Riley, AICP
Director of Planning and Inspection

APPROVED:

Jennifer Sparacino
City Manager

Documents Related to this Report:

- 1) *Schedule A of Section 09.10.040 of the City Code*

9.10.040 Noise or sound regulation.

It shall be unlawful for any person to operate or cause to allow to be operated, any fixed source of disturbing, excessive or offensive sound or noise on property owned, leased, occupied or otherwise controlled by such person, such that the sound or noise originating from that source causes the sound or noise level on any other property to exceed the maximum noise or sound levels which are set forth in Schedule A, as follows:

Schedule A Exterior Sound or Noise Limits		
Receiving Zone Zoning Category	Time Period	Noise Level (dBA)
Category 1		
Single-family and duplex residential (R1, R2)	Commencing at 7:00 A.M. and ending at 10:00 P.M. that evening	55
	Commencing at 10:00 P.M. and ending at 7:00 A.M. the following morning	50
Category 2		
Multiple-family residential, public space (R3, B)	Commencing at 7:00 A.M. and ending at 10:00 P.M. that evening	55
	Commencing at 10:00 P.M. and ending at 7:00 A.M. the following morning	50
Category 3		
Commercial, Office (C, O)	Commencing at 7:00 A.M. and ending at 10:00 P.M. that evening	65
	Commencing at 10:00 P.M. and ending at 7:00 A.M. the following morning	60
Category 4		
Light Industrial (ML, MP)	Anytime	70
Heavy Industrial (MH)	Anytime	75

Except as otherwise provided in this chapter, the noise or sound standards for the various zone districts as presented in this Schedule A shall apply to all such properties within a specified zone, as designated on the most recent update of the official zoning map of the City. For planned development, agricultural or mixed zoning site, the most restrictive noise standard for the comparable zone district, as determined by the Director of Planning and Inspection, shall apply. (Ord. 1588 § 1, 6-14-88. Formerly § 18-26.4).

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6B.1, 6B.2/

4B/RDA

Joint Council and Redevelopment Agency Public Hearing

March 9, 2010

- Council & Agency** Adoption of CEQA Findings related to 49ers Santa Clara Stadium Project
 - Council** Adoption of General Plan Amendment #72
 - Agency** Recommendation to Council regarding Bayshore North Redevelopment Plan Amendment #20
 - Council** Direction to Prepare an Ordinance to Amend Bayshore North Redevelopment Plan
-

Environmental Considerations

2009

- Jul 30** Draft EIR circulated 45 days, plus extension
- Nov 18** PC recommendation to Certify EIR
- Dec 8** CC Certification of EIR
- Dec 15** Citizen Initiative comes forward; no Council action taken on EIR

2010

- Mar 9** GPA & RDA Amendments require CEQA Findings of Impacts, Mitigation Measures, MMRP; Overriding Considerations
-

Environmental Considerations

Certified 49ers Santa Clara Stadium Project EIR

- Is an informational document that assesses Stadium Project's environmental impacts
 - Addresses all components and actions of the Project, including the subject General Plan and Redevelopment Plan Amendments
 - Outlines mitigation measures that could lessen or avoid impacts
 - Identifies impacts that would not be mitigated
 - Identifies alternatives to the proposed project
-

Environmental Considerations

In order to approve project, decision makers must:

- Acknowledge and accept the full appraisal of facts and opinions expressed in the EIR
 - Consider alternatives and articulate reasons to accept or reject them
 - Identify overriding economic, legal, social, technological and environmental considerations that outweigh adverse effects
 - Ensure that identified mitigation measures are applied, implemented and enforceable
-

Environmental Considerations

CEQA Process for Future Stadium Actions

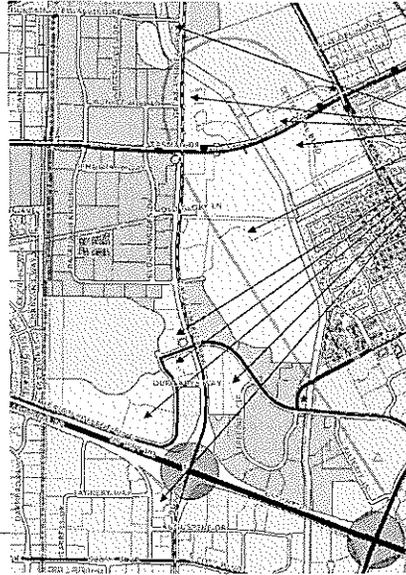
- CEQA Findings and Alternatives, Overriding Considerations and the MMRP are based upon the Project as described in the Final EIR
 - The General Plan and Redevelopment Plan do not contemplate a project different than that described in the Final EIR
 - Any refinements in the Project going forward may add or modify conditions that implement mitigation measures
-

General Plan Amendment No.72

Proposed Changes to *Tourist Commercial* Designation:

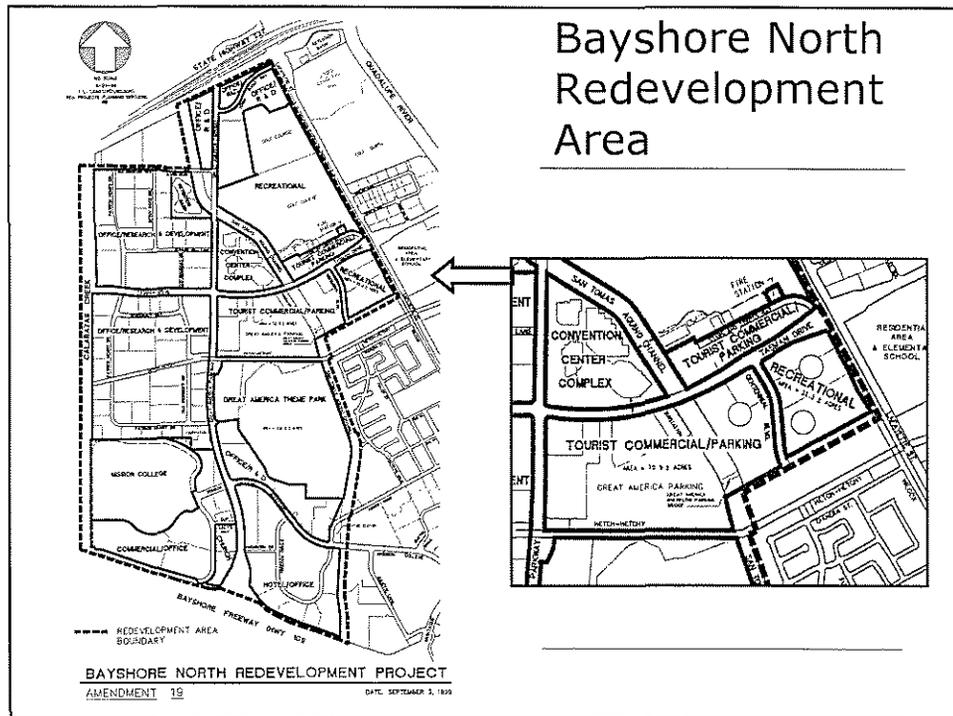
1. Expand Specified Uses to Include Stadiums, Arenas, Sports and Cultural Facilities
 2. Allow Increased Building Height
 3. Allow Increased Building Coverage to 75 percent or more for special facilities
 4. Encourage Shared Parking
-

General Plan Land Use Map Detail



Height of Existing Buildings and Structures Within *Tourist Commercial* Designations

Hyatt Hotel (Convention Center)	154 feet
Great America Theme Park Rides	
Gyro SkyTower	206 feet
Giant Drop Zone	225 feet
Xtreme Skyflyer	184 feet



Bayshore North Redevelopment Area Plan Amendment No.20

Proposed Text Changes to the Bayshore North Redevelopment Project Areas:

1. Allow Boundary Adjustments between the Recreational Area and the Tourist Commercial Area, on the South Side of Tasman Drive, on both sides of Centennial Boulevard
2. Expand Specified Uses for Recreational Areas to Include Recreational Facilities
3. Expand Specified Uses for Tourist Commercial and Parking Areas to Include Stadiums and Arenas
4. Allow Increased Height for a Stadium up to 200 feet

Height of Existing Buildings and Structures Within Redevelopment Project Area

Within the **Tourist Commercial** General Plan Area:

Hyatt Hotel (Convention Center) 154 feet

Great America Theme Park Rides

Gyro SkyTower 206 feet

Giant Drop Zone 225 feet

Xtreme Skyflyer 184 feet

Within the **Office/ R&D** General Plan Area:

McCandless Office Towers 160 feet

Tishman-Speyer Office Towers 165 feet

Regency Office Tower 165 feet

Next Steps

- Notice of Determination (NOD) filed on General Plan and Redevelopment Plan Amendment Approvals
 - March 30: Council 1st Reading of Ordinance Adopting Redevelopment Plan Amendment #20
 - April 20: Council 2nd Reading/Adoption of Ordinance Adopting Redevelopment Plan Amendment #20
-

Staff Recommendation

- Council** and **Agency** Make Necessary CEQA Findings, Make Overriding Considerations, Adopt MMRP
 - Council** Adopt GPA #72
 - Agency** Recommend Adoption of RDA Plan Amendment #20
 - Council** Direct Preparation of Ordinance to Adopt RDA Amendment
-

3/9/10

6B.1, 6B.2/

4B.1 RDA

Santa Clara Plays Fair

www.SantaClaraPlaysFair.org

P.O Box 6244 Santa Clara, CA 95056-6244

Madame Mayor, Santa Clara City Councilmembers and City Staff, thank you & good evening. I'm Bill Bailey and I have lived in Santa Clara for 20 years. I'm the Treasurer of Santa Clara Plays Fair<dot>org. All of us are volunteers.

The 49ers' Environmental Impact Report, at 4,400 pages, is just as bad this evening as it was in November. In an additional 163 pages, you're admitting this evening that you have no intention of fixing any of the negative impacts of that stadium - even though the 49ers continue to demand an upfront public subsidy of \$114,000,000 for that substandard development.

Concerning the "Statement of Overriding Concerns" which appears on pages 65 and 66 of the Agenda Report: You provide not one single dollar sign which would justify any of its claims. Unaddressed is the creation of no-benefit stadium jobs paying easily less than \$10,000 per year. Unaddressed is the fact that the construction jobs disappear in five years - but that Santa Clarans will pay for their creation for forty years. **But worst of all is the false claim of a return to the City's General Fund. City Staff stated very clearly last June 2 that the upfront stadium subsidy from the RDA WILL COST OUR GENERAL FUND \$67,000,000.**

As for the Plan Amendment itself, the increase in lot coverage from 25% to 75% is simple favoritism. The 49ers can't "plop" a 14-acre stadium on a 17-acre site any other way. If a resident from this same Zip Code came to you with a development 200 feet high and with a 75% footprint, they'd be laughed out of the Planning Commission long before they ever came here.

Redevelopment policy is specifically designed to eliminate blight. But here, you are rationalizing the creation of blight – *at the same time you refuse to talk about the money that it will cost us.*

Santa Clara Plays Fair urges that you reject both Agenda Items 6B1 and 6B2. Thank you.

3/9/10

6B-1, 6B-2/
4B.1 RDA

A Citizen's Perspective, Part 2: Should the San Francisco 49ers and the City of Santa Clara Collaborate on the Building of a New Sports Stadium?

By

Erlinda Anne Estrada, M.L.I.S.

On May 22, 2007, as a concerned Santa Clara resident, qualified researcher and Information Competency instructor, I presented to the Santa Clara City Council a paper I wrote entitled, "A Citizen's Perspective: Should the San Francisco 49ers and the City of Santa Clara Collaborate on the Building of a New Sports Stadium?"

In this paper I expressed a number of serious concerns about the proposed project. After an extensive review of the literature and details of the project I concluded that there were higher, more pressing priorities for our community than spending public funds and using public lands for a stadium with questionable returns.

Revisiting this question recently I realized that, three years and a new *Stadium Term Sheet* later, my conclusion has not changed. Santa Clara voters should reject the measure on the June 8, 2010, ballot that would add Chapter 17.20, entitled "Professional Football Stadium Ground Lease," to the Code of the City of Santa Clara. In other words, we should "just say no" to the stadium project.

My reasons are as follows:

1. In new peer-reviewed research, experts on economics and public policy strongly concur that projections of benefits provided by a stadium to a community are often inaccurate and unrealistic, and that public subsidy of such projects should be avoided.
2. This project will result in a \$67 million loss to our City's General Fund, monies that pay for City services like firefighters, police officers, and our libraries. The return on investment to the City of Santa Clara will be negative.
3. The over \$440 million public contribution by Santa Clara to this stadium project is exorbitant and unprecedented. This includes:
 - o A City-funded subsidy of \$114 million to the 49ers organization
 - o A \$330 million debt obligation that the Santa Clara Stadium Authority will incur as part of the City's contribution

Santa Clara has traditionally not subsidized a private corporation, and should not do so now.

4. The true costs for the financing, construction and operation of the proposed stadium are not detailed in the *Stadium Term Sheet* provided by the City of Santa Clara and are not known. The revenue stream is speculative. We are voting on an incomplete plan.
5. This project reduces the City's commitment to affordable housing by \$6 million. It will also have significant, negative, unmitigated environmental impacts that will adversely affect the quality of life for Santa Clarans and the surrounding communities for decades to come.

1. Projections of stadium benefits are unrealistic

There now exists almost twenty years of research on the economic impact of professional sports franchises and facilities on the local economy. The results in this literature are strikingly consistent. No matter what cities or geographical areas are examined, no matter what estimators are used, no matter what model specifications are used, and no matter what variables are used, articles published in peer reviewed economic journals contain almost no evidence that professional sports franchises and facilities have a measurable economic impact on the economy (Coates and Humphreys 302).

The above quotation is from a paper written by experts in 2008 that studied a large body of peer-reviewed sports economic literature. So why the discrepancy between what the economic experts say and what the consultants and stadium supporters say?

According to numerous studies, academic economists and consultants differ in their opinions because the economists look at the data objectively, while paid consultants often paint a rosy, inaccurate picture to promote whatever franchise or facility they are hired to review.

As Van Deventer observes:

Advocates of the new facilities argue that there are economic benefits to the community that would not otherwise be possible without the stadiums. In other words, the stadiums will bring much needed revenues to local businesses. This is simply not true....Essentially advocates for sports stadiums amount to special-interest groups. The objectives of these groups benefit only a few people but we all pay the price....The taxpayer funds the project and receives no new benefit from it.

Coates and Humphreys, in their article "The Stadium Gambit and Local Economic Development," say that:

There are strong reasons to doubt the accuracy of the estimated benefits claimed by economic impact studies....These studies ask the question: what will happen if a new franchise and stadium enter this community? The results invariably reflect the desires of those who commission them, and advocates of stadiums and franchises typically produce impact studies that find large economic impacts, translated as benefits, from building a stadium or enticing a team to enter the city.

Lertwachara and Cochran studied the impact on the local economy of city-subsidized new sports franchises including teams from the NFL. They found that new teams, in fact, "have an adverse impact on local per capita income for U.S. markets in both the short and long run"(244).

The recent mailers sent to our community by stadium advocates contain wildly inflated claims of new jobs and economic impact should the stadium be built. Nowhere in the analysis of the stadium proposal (*Stadium Term Sheet*) that the City of Santa Clara has provided are these claims substantiated.

In an article about testimony before Congress regarding stadium financing, reporter Charles Pope from the *Seattle Post-Intelligencer* said:

The battle over public financing for new stadiums for the [Seattle] Sonics and other professional teams spilled onto Capitol Hill ... with critics insisting the practice is little more than an economic flagrant foul that usually benefits team owners rather than cities.

"Sports facilities are, on a dollar-for-dollar basis, among the worst investments that cities and states can make," analyst and author Neil deMause told the House Oversight and Government Reform Subcommittee.

DeMause's skeptical views dominated the hearing as other witnesses and lawmakers recounted examples of large public expenditures for professional teams failing to generate the number of jobs and public benefit that supporters claimed.

Stadium proponents also point to one time events like the Super Bowl, saying that their economic impact contributes greatly to the community. However, as Baade, Baumann, and Matheson point out:

Professional sports leagues, franchises, and civic boosters have used the promise of sports franchises, new stadiums and arenas, and all-star games or league championships as an incentive for host cities to construct new stadiums or arenas at considerable public expense. In the past, league-and industry-sponsored studies have estimated that mega-events such as the Super Bowl and all-star games increase economic activity by hundreds of millions of dollars in host cities. Similar studies claim that new stadiums or franchises also can have hundreds of millions of dollars of annual local economic impact. Our detailed regression analysis of taxable sales in Florida over the period from 1980 to mid-2005 fails to support these claims. New stadiums, arenas, and franchises, as well as mega-events, appear to be as likely to reduce taxable sales as to increase them.... While these results, like any econometric estimates, are subject to some degree of uncertainty, they clearly place doubt on boosters' claims of huge economic windfalls. Cities would be wise to view with caution economic impact estimates provided by sports boosters, who have a clear incentive to inflate these estimates. It would appear that "padding" is an essential element of many games both on and off the field.

Many studies also point out that:

- People have only so much money to spend on entertainment, especially in these lean economic times. The entertainment money that they spend at the stadium will be money that they won't spend elsewhere in the community (Zimbalist, Asselin). If the stadium provides for all the patrons' needs (like food, parking, entertainment), little money might be spent outside the stadium and, therefore, local businesses may not benefit.
- The main source of net spending is out-of-town visitors. "This number is usually small for professional sports teams (Zimbalist)." But if, as the 49ers and their boosters have claimed, most of their fans are from the south bay area, then they won't be spending their money on hotels, they won't be vacationing in Santa Clara, only visiting, and their spending will be limited to food (probably within the stadium itself), tickets, and parking.

- Conventioneers and business travelers would have been here anyway, so hotel revenues wouldn't necessarily increase because of the stadium.
- The team owners and players won't be contributing to Santa Clara's economy because they don't live here (Zimbalist).

So why are our City officials so enthusiastic about a project that will do little for our City?

Mayors, under pressure...and cajoled by local contractors, unions, lawyers, hotel, restaurant and real estate interests, among other political powers, tend to look favorably upon new stadium construction. They invoke images of city grandeur and new corporate headquarters moving to town. While it is conceivable that some cities are on the threshold of recognition and a sports team could lift them over the hump, such an effect is highly speculative and there **is** no case where it has actually taken hold in a significant way(Zimbalist).

In the City's *Stadium Term Sheet, Exhibit 6*, Keyser Marston Associates, the City's own consultants, estimate that the proposed stadium will create 515 full time equivalent jobs. The great majority of the jobs would be part-time, sporadic, un-benefitted, low-wage, non-union jobs, not the type of jobs that this city needs. People cannot support their families with these jobs. There is no provision to even provide these employees with a living wage.

Qwest Field in Seattle was picketed by local union workers because the majority of jobs there were non-union and filled by non-residents. There is no guarantee that Santa Clara residents will be hired at all for any of the stadium-related jobs, including construction.

Also of concern is that the stadium deal could backfire, leaving Santa Clarans on the hook for unforeseen expenses. According to Ken Belson of the *New York Times*, this is the case in Cincinnati, Indianapolis, Milwaukee, Columbus, Glendale, AZ, and Newark:

From New Jersey to Ohio to Arizona, the stadiums were sold as a key to redevelopment and as the only way to retain sports franchises. But the deals that were used to persuade taxpayers to finance their construction have, in many cases, backfired, the result of overly optimistic revenue assumptions and the recession....

In many of the cases the architects of the deals are long gone by the time the bill comes due.

Santa Clara has, up to now, been known for its sound fiscal policies and good management. But we are not the San Francisco 49ers, a multi-million-dollar organization that has at its disposal a cadre of highly-paid lawyers whose sole job is to craft a deal favorable to their organization. Can we be sure that the deal presented to us is as ironclad and unbreakable as the team wants us to think, and that there will be no "revenue bombs" waiting for us sometime in the future?

2. Negative Financial Impacts to Santa Clara for the Stadium Project

For this part of my research I am using the City of Santa Clara's own *Stadium Term Sheet*, part of the *Agenda Report May 29, 2009* presented to the City Council and the public on June 2, 2009, as well as the City's *Annual Budget 2009-2010*.

For this stadium project, the 49ers organization is represented by the 49ers Stadium Company, L.L.C. This entity was formed to shield the San Francisco 49ers Team from any financial liability for the building and operation of the stadium.

In an attempt to similarly shield the City of Santa Clara, the City is forming a joint powers authority organization called the Santa Clara Stadium Authority. This Authority would consist of the City and its own Redevelopment Agency. It would be run by the Santa Clara City Council, the City Manager, and the City Attorney.

The immediate question that came to my mind is, if the stadium is such a good deal, why are all entities trying to shield themselves from possible losses and liabilities?

An examination of the negative financial impacts of the stadium project makes this quite apparent.

General Operating Fund:

Santa Clara needs to increase the revenue flow to its General Operating Fund. According to the City's *Annual Budget 2009-2010*, the General Fund has suffered in recent years from less income from sales taxes and property taxes, and has been relying on its reserves to continue to pay for City services like police officers, firefighters, libraries, parks and recreation, streets, building maintenance, and many other programs and services that affect city residents. (10)

So how will the building of the stadium affect Santa Clara's General Operating Fund? According to the City's PowerPoint presentation on the *Stadium Term Sheet* given June 2, 2009, the return to the General Fund without a stadium would be +\$98 million (Attachment 1).

The General Fund return after investment with a stadium would be \$31 million (Attachment 1).

In other words, if the City builds the stadium the General Operating Fund stands to lose \$67 million in potential revenue.

"The 2% Transient Occupancy Tax equivalent included on every [hotel] room charge is a potential TOT opportunity cost to the City's General Fund"(Agenda Report May 29, 2009 7). What this means is that, if this money were not going to finance the proposed stadium, it could be going directly into the City's General Fund. By my calculations in an earlier paper presented to the City Council on March 18, 2008, this could finance personnel for the proposed Northside Library for many years. Or it could be used to provide relief from the City having to dip into its reserves to simply cover expenses.

Redevelopment Agency:

But it's not only the General Fund that will experience a negative return on investment. The City's Redevelopment Agency, if the stadium is built, stands to lose \$45 million. (Attachment 2)

It's interesting to note that redevelopment monies are treated by proponents of this project as if they are not taxpayer monies. This is false. According to the *Los Angeles Times*,

The Community Redevelopment Law of 1951 gave redevelopment officials the power to use a portion of property tax money to partner with private developers to encourage development of housing and commercial projects to improve blighted areas.

It is questionable whether one can consider the area north of Bayshore "blighted" or whether the construction of a stadium is proper use of redevelopment funds.

And redevelopment agencies divert property tax monies from schools and the city government.

According to a staff briefing paper for the Joint Informational Hearing of the California State Senate Housing and Community Development Committee,

A redevelopment agency keeps the property tax increment revenues generated from increases in property values within a redevelopment project area. When it adopts a redevelopment plan for a project area and selects a base year, the agency "freezes" the amount of property tax revenues that other local governments receive from the property in that area. In future years, as the project area's assessed valuation grows, the resulting property tax revenues --- the property tax increment --- go to the redevelopment agency instead of going to the underlying local governments [including schools and the city government].

The redevelopment agency will use the growing property tax increment revenues to finance its work, while the other local governments must be content with their allocations.

This "tax increment" is income that would be used to pay off bonds issued by the Agency to finance new redevelopment projects. But what if the tax increment falls short? There is no mention of this possibility in the *Stadium Term Sheet*, even though property values in Santa Clara have dropped considerably since this project was conceived. Will we borrow this money from the 49ers? Why hasn't the City provided us with updated information on this?

Electrical Substation Relocation:

In order for the stadium project to proceed, it necessitates the relocation of the Tasman Electrical Substation at a cost of \$20 million. This is not a project that needs to be done immediately as stadium proponents have claimed. In fact, according to Junona A. Jonas, the Director of Electric Utility for Silicon Valley Power in Santa Clara, "major rebuilds at Tasman [are] probably not scheduled for 10+ years" and that "other substations have priority." *Agenda Report May 29, 2007*)

The \$20 million for this unnecessary substation relocation will come from Silicon Valley Power Electrical Utility Enterprise Fund. At the End of fiscal year June, 2009, Silicon Valley Power had a Net Income LOSS of almost \$47 million (Dept. of Finance 8).

In fact, all of Santa Clara utilities' Enterprise Funds have been depleted necessitating rate increases effective in 2009/10 as follows:

- Electric Utility: 7%
- Water: 8.5%
- Sewer: 11.6%
- Garbage: .25%
- Residential Curbside Recycling: \$1.20 per household
- Recycle Water Rate: 3.3% ("2009-2010 Rate and Fee Impacts...")

Every resident in Santa Clara will feel the negative impact of these rate increases. Why should we also pay \$20 million for the unnecessary relocation of the Tasman Electrical Substation?

3. The \$440+ million public contribution to the stadium project by Santa Clara is exorbitant and unprecedented.

Judith Grant Long says that "If governments and taxpayers understood the real cost of public subsidies for major league sports facilities, they could make better investment decisions."

In Santa Clara's case this public contribution includes:

- o A City-funded subsidy of \$114 million to the 49ers organization
- o A \$330 million debt obligation that the Santa Clara Stadium Authority will incur as part of the City's contribution

This public contribution represents 47.4% of the total cost of the project.

Excluding the new Jets/Giants stadium, since 2002 there have been eleven stadiums either built or renovated. Most were financed by private funding and combinations of city-county-state funding. The only stadium that was built with private investment and *by a city alone* was the Dallas Cowboys' stadium. But the city of Dallas, with a population of 1.2 million, only provided 29% of the funding for this project. 71% was from private investment (EvolutionMediaCapital).

Details of Santa Clara's direct taxpayer subsidy for this project are as follows:

Redevelopment Agency funds:	\$42 million
Substation Relocation:	\$20 million
Parking garage for stadium:	\$17 million
Funds raised from an increase in local hotels' Transient Occupancy Tax:	<u>\$35 million</u>
Total Public Subsidy:	\$114 million (<i>Stadium Term Sheet</i>)

In addition, the Santa Clara Stadium Authority will incur a \$330 million debt obligation in order to finance construction and operation of the proposed stadium, bringing the minimum total contribution by the City of Santa Clara to \$440+ million.

Nowhere in the text of the ballot measure that Santa Clara residents will be voting on is this public contribution mentioned. These figures are buried deep within the *Stadium Term Sheet*.

But these figures do not include financing costs. For the Redevelopment Agency funds, the \$40 million is “exclusive of debt service and other financing costs and exclusive of payments to the City for certain development fee costs [estimated at \$2 million]” (*Agenda Report* May 29, 2009, 3).

Thanks to current financial conditions the Redevelopment Agency will not be able to meet its \$40 million obligation. It doesn't have enough money. Therefore the 49ers will “advance the difference up to the cap....The advance will carry an annual compound interest rate the lower of either the rate on a 30-year BB-rated corporate bond or 8.5%, which is reasonable to the risk assumed.” The amount the Redevelopment Agency will have to borrow from the 49ers is \$12 million (*Agenda Report* May 29, 2009, 4 and Exhibit 14).

The \$35 million in Transient Occupancy Tax collected from the hotels in the area will fall short, necessitating a \$20 million advance from the 49ers, again at 8.5% interest (*Agenda Report* May 29, 2009, 16).

Why do the 49ers consider the loan of these funds such a risk that they would charge the City such exorbitant interest?

More to the point, why would we enter into such a project in the first place if we do not have sufficient funds to finance it?

“The primary beneficiaries of subsidies are the owners and players, not the taxpaying public,” according to Baade (1996).

4. The true costs for the financing, construction and operation of the proposed stadium are not detailed in the *Stadium Term Sheet* provided by the City of Santa Clara and are not known. The revenue stream is speculative. We are voting on an incomplete plan.

According to Grant Long, “It is a myth that sports facilities' operating revenues repay construction debt. In reality, operating revenues are almost completely offset by significant ongoing public expenses that are obscured in complex lease agreements.”

I'm going to include in the following sections quotes taken directly from the *Agenda Report* May 29, 2009 by City Manager Jennifer Sparacino and Assistant City Manager Ronald Garratt and provided to the Santa Clara City Council on June 2, 2009, which gave highlights of the *Stadium Term Sheet*:

Operations

“The Stadium Authority will develop an annual stadium operating budget in cooperation with the 49ers and the 49ers will pay all operating expenses the team considers reasonable” (5).

Therefore the Stadium Authority will be dependent on the opinion of the 49ers as to whether the stadium operating expenses are “reasonable.” This is subject to arbitration.

The 49ers “maintain the right to the reasonable approval of the annual operating and capital budgets.” Any activities not agreed to in the budget by the team “will require a separate funding

source such as the Stadium Authority's Discretionary Fund (funded from a \$2 per ticket surcharge on all Non-NFL tickets) or the City's General Fund" (18).

So the team has the right to approve or disapprove of items in the annual operating and capital budgets. The City does not have financial control.

The City will ground lease its property to the Stadium Authority. The Stadium Authority will then lease the site to the 49ers Stadium LLC, who will then lease it to the 49ers team (12).

Therefore, any ground lease revenue will filter through the Stadium Authority, where it could potentially be eaten up in order to finance stadium operations.

Responsible companies like Great America pay ground lease rent directly into the City's General Fund each year. For Great America that is \$5 million per year. And the rent is not performance-based.

"A significant portion of the rent to the City is performance based, dependent upon the success of non-NFL events at the stadium, and is not guaranteed" (7).

This performance-based rent is predicated on 17 successful non-NFL events at the stadium each year (26 "event days"). Any income from these events is purely speculative, and any net proceeds will be split 50/50 between the Stadium Authority and the 49ers Stadium Company.

The City will get no revenue from NFL events. "49ers Stadium Company, the Team, any Second Team or their affiliates will receive all Team Revenue; and... Stadium Operating Revenue will expressly exclude all Team Revenue" (18).

"Events proposed by the Stadium Authority that the 49ers do not concur with can still be held by the Stadium Authority and are called Civic Events. Depending on the nature of the Civic Event, if it is not a revenue-producing event, the Stadium Authority can pay the loss from its Discretionary Fund or the General Fund can assume responsibility for the event" (13).

The number of events that the stadium can attract is partly dependant on whether or not Oakland A's owner Lew Wolff builds a new soccer stadium nearby in San Jose and a new mega-stadium complex in Fremont. Santa Clara would be in direct competition with these venues, as well as with HP Pavilion, for concerts and other events.

According to an article by Bob Young in the *Seattle Times*, *Pollstar*, a publication that tracks the concert industry, "reported that half of the top-grossing concert tours of 2004 had audiences of 2,501 to 7,500." *Pollstar's* Editor-in-Chief Gary Bongiovanni said, "There seems to be a decreasing number of acts capable of selling out a major arena." Major concert revenue, therefore, is less likely.

A large stadium like the 49ers plan to build would be inappropriate for regular soccer games. Major League Soccer is pushing for smaller, dedicated stadiums for their teams. The Seattle Sounders general manager Adrian Hanauer, speaking of Qwest Field, a football stadium, said "There are benefits to a smaller venues....As MLS has more and more success, they lean more and more toward soccer-specific stadiums" (Massey).

Rutger's University professor Judith Grant Long concludes that the "revenue stream will vary depending on the facility type (arenas book more non-major league events than stadiums), the

local demand for events, and the local supply of public assembly facilities, and may vary substantially from year to year." These are not revenues the City can count on.

Other expenditures

"The Stadium Authority will fund a capital reserve" that includes:

an annual deposit to the Stadium Capital Expenditure Reserve in the amount of \$1.5 million, which "escalates 3% each year" for "replacements and improvements" to the stadium. Any of these monies not used will go to the 49ers Stadium Company (21).

I see nothing in the *Stadium Term Sheet* that addresses additional City-funded expenditures like grounds and street maintenance for the stadium area by City employees.

In the City's *Annual Budget 2009-2010*, the Convention Center Maintenance District was slated to spend \$1.4 million to "provide maintenance on all landscaping and exterior amenities to assure a safe environment while enhancing aesthetics and property value" (276). Surely the stadium area will require even more personnel to handle these responsibilities in the surrounding area, yet I see no mention of this.

Street maintenance, including curb, gutter and sidewalk maintenance and leaf vacuuming is not mentioned either.

These services are provided by City employees and are funded by the General Fund. Who will pay for the needed increase in these services? How will this adversely impact our General Fund?

Team Loyalty

What if the 49ers organization decides after a few years that playing at Santa Clara is no longer profitable, or if they receive a sweeter deal from some other city? The team will be gone and Santa Clara will be stuck with a stadium without a team. Oakland and San Francisco are good local examples of this.

According to *Baltimore Sun* reporter Jon Morgan in his book *Glory for Sale: Fans, Dollars, and the New NFL*, the major factor behind the move of NFL franchises from city to city is stadium economics, which has replaced fan allegiance and municipal loyalty as the basis for their decisions.

As *Seattle Post-Intelligencer* reporter Gregory Roberts said in 2006:

Unlike the Dallas Cowboys, the Seattle Seahawks have never been known as America's Team.

But they are the taxpayers' team.

So, for that matter, are the Pittsburgh Steelers, the Seahawks' opponent Sunday in Super Bowl XL.

And so are most of America's professional sports teams, as an industry of billionaire owners and millionaire performers follows a well-worn script for shaking loose public

money for hugely expensive stadiums: Threaten to abandon the team's longtime home, or entertain offers from other cities eager to build the team a new one -- or do both.

This is especially true here because the San Francisco 49ers will not change their name and the stadium name will go to the highest bidder. How will the City of Santa Clara be recognized as the stadium owner? Where's the glory and name recognition for us?

5. Negative Effects on Affordable Housing and the Environment

Affordable Housing

The commitment of [Redevelopment] Agency funding [to the stadium project] will reduce somewhat the ability for the Council to meet its 30% goal for affordable housing (mandatory 20% set-aside requirement plus the Council's voluntary goal of an additional 10% set-aside). It is estimated that the City's contribution to affordable housing will decrease by \$6 million (Agenda Report May 29, 2009, 7 and Attachment 3).

This reduction is not the direction our commitment to affordable housing should be going, especially in these challenging economic times when the need for affordable housing is greater than ever. How can the Council justify this decision? This will directly adversely affect lower income Santa Clara residents.

Negative Environmental Impacts

There are many negative environmental impacts that were outlined in the Final Environmental Impact Report for the proposed stadium.

Among the concerns are traffic, air quality, and noise.

Traffic:

The sections quoted below are from the *Draft Environmental Impact Report* for the proposed 49ers Stadium:

4.8.6 Conclusion

For possibly as many as eight times a year (four times for NFL events and four times for large non-NFL events that would occur on weeknights), the project could have a significant impact on up to 17 intersections during a weekday evening. Of those 17 intersections eight are in Santa Clara, six are in San José, one is in Sunnyvale, and two are in Milpitas. **(Significant Unavoidable Impact)**

On a maximum of 42 weekend days per year, the project could have a significant impact on up to two local intersections. Both intersections are in San José. This includes 20 NFL events and 17 non-NFL large events (some of which occur over multiple days). **(Significant Unavoidable Impact)**

For possibly as many as eight times a year, the project could have significant impacts on up to 17 freeway segments during a weekday evening. **(Significant Unavoidable Impact)**

In the Transportation Impact Analysis section, possible impacts of traffic to the Santa Clara Convention Center are not mentioned.

Certainly any event at the proposed stadium will adversely impact any conventions or trade shows at the Convention Center because many convention/trade show attendees drive to the Convention Center. Convention attendees often seek entertainment and food off the Convention Center premises. How attractive would such events be to promoters if they know their attendees are so grossly inconvenienced not only during game days but during other events that may be held at the stadium?

The response to my concerns? I received a letter from City Planner Kevin L. Riley.

Response LL-1: The Stadium Authority and the City of Santa Clara would control the scheduling of events at the stadium and would work cooperatively with the Convention Center bureau regarding concurrent events at the stadium and the Convention Center. The City does not believe that scheduling conflicts will arise between the two venues.

This could be an interesting scheduling trick considering that football games will occur several weekends a year and the proposed 26 other "event days" would likely also occur on weekends, the very times that most Convention Center activities are held. Our Convention Center loses money now. The General Fund cannot afford to subsidize them even more.

Air Quality:

4.9.4 Conclusion

Even with full implementation of the proposed mitigation, the identified regional air quality impacts on event days would remain significant and unavoidable. Direct and indirect emissions of ROG, NOx and PM10 associated with build out and operation of the stadium would have to be reduced by up to 120 percent or greater on days with the busiest non-NFL events to mitigate the significance of the impact. Ultimately, the effectiveness of the mitigation is difficult to determine because it is dependent on the origin of the trips for each event. Therefore, it is concluded that this air quality impact can be reduced, but not fully mitigated through implementation of the proposed mitigation. **(Significant Unavoidable Impact)**

Noise:

The report states that the Operational Noise for stadium events would be significant and that "There are no feasible measures that would reduce noise levels generated by activities prior to, during, or after proposed events below median and background noise levels at nearby residential uses, and the impact would be unavoidable."

I would argue that this report *understates* the impact. Even now in the residential areas north of Agnew Road, there is significant noise on summer days from Great America. The wind carries voices, music, and screams from thrill-riders into the area at an annoying volume. I think it's unrealistic to think that there will be no events at the stadium while Great America is operating, so the noise levels in these neighborhoods will be even higher than suggested in the EIR. The EIR should have measured noise volumes during the summer, not just in December.

The response:

Response LL-2: Noise levels were measured in December to accurately represent ambient condition during the fall and winter and to provide a conservative baseline noise level that project noise levels could be compared against. This time period was selected because the stadium would be primarily used for football events during the fall and winter.

The EIR, therefore, failed to consider at all what the noise levels might be at other times of the year during, for example, the projected "26 event days."

Residents near the stadium would have to contend with traffic, air pollution, and high noise levels that will adversely affect the quality of their lives for 40 years.

Environmental concerns, however, will never be addressed because, by placing the 49ers backed initiative measure on the ballot in June, the EIR cannot be legally challenged under the California Environmental Quality Act.

Stadium Alternatives

To measure the true benefits of a new stadium, the apparent economic benefits must be reduced by the benefits that would have been produced by alternative uses of the same capital and land (Asselin).

Unfortunately, over the last three years since I wrote my first report, the City of Santa Clara chose not to explore any alternatives to the stadium project, alternatives that may have brought a greater financial return to City coffers or that may have provided a greater good for the majority of Santa Clara residents by improving their quality of life rather than diminishing it.

Conclusion

The City of Santa Clara has to defer projects of benefit to the entire city because there is not enough money available. Yet the City is willing to consider spending untold millions of dollars on a stadium that will benefit the billionaire owners of the 49ers organization at the expense of Santa Clara residents.

From my perspective, as a Santa Claran with no other interest than ensuring the best for my city, there are higher, more pressing priorities for our community than spending public funds and using public lands for a stadium with questionable returns.

Author biography:

I am a Santa Clara native. My family has over two hundred years of history here and in the surrounding area. I retired as the Interim Library Director at Mission College in 2005. I was also a faculty librarian there for many years and, as recently as this past semester, I taught a course on Information Competency. I've also been an instructor at Foothill College in their Library Technology program, at San Jose State University's Graduate School of Library and Information Science, and at UC Berkeley Extension. I have taught hundreds of students and the public how to effectively find, evaluate, and use information.

Economics

City General Fund Considerations

\$NPVs 2008-09

	One Team	Two Teams
MAX. General Fund Potential – No Stadium		
Cooperation Agreement repayment from TI	\$67 M	\$67 M
General Fund Property tax – if no SB 211	\$8 M	\$8 M
City land for stadium site	<u>\$23 M</u>	<u>\$23 M</u>
Total	\$98 M	\$98 M
General Fund Return After Investment with Stadium	\$31 M	\$67 M
As Percent of Estimated Maximum General Fund Potential Without Stadium	32%	68%

Economics

Return to Agency (NPV/2008-09)*

	<u>One Team</u>	<u>Two Teams</u>
Return to Agency		
Tax Increment From Stadium (including housing TI)	\$6 M	\$8 M
Investment (Excluding Garage): <i>\$42 M but NPV is \$36 M</i>	\$36 M	\$36 M
Net Return to Agency (Before Garage)	(\$30 M)	(\$28 M)
Garage Expense (40% allocation) <i>\$17 M but NPV is \$15 M</i>	\$15 M	\$15 M
Net Return to Agency (After Garage)	(\$45 M)	(\$43 M)

*Presented in terms of Net Present Value in 2008-09 based on a 6% discount rate

Economics

Projected Impact on Affordable Housing 30% Policy Target (Nominal Dollars)

No Stadium *With Stadium*

Projected 20% set-aside not including stadium (to 2026 Agency end date)	\$160 Million	\$160 Million
Projected 20% set-aside added by stadium	N/A	\$6 Million
Projected additional 10% set-aside (to 2016 legal limit)	\$29 Million	\$17 Million
Total Housing Funds	\$189 Million (Achieves 30%)	\$183 Million (Achieves 26%)
Net Impact	N/A	(\$6 Million)

Note: All figures are rounded to the nearest \$Million.

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