Meeting Date:

Santa Clara

2001

5/24/11

# AGENDA REPORT

City of Santa Clara, California

Agenda Item#

50.1



DATE:

May 18, 2011

TO:

City Manager for Council Action

FROM:

Elizabeth H. Silver, Interim City Attorney

**SUBJECT:** 

Adoption of Ordinance No. 1887 adding Chapter 17.25 (entitled "Bayshore North Project Enhancement Authority") to Title 17 (entitled "Development") to "The Code of the City of Santa Clara, California" which establishes the Bayshore North Project Enhancement Authority, specifies its purposes, designates Authority Officers and provides for related administrative

matters

## **EXECUTIVE SUMMARY:**

Ordinance No. 1887 adding Chapter 17.25 (entitled "Bayshore North Project Enhancement Authority") to Title 17 (entitled "Development") to the City Code, which establishes the Bayshore North Project Enhancement Authority ("Authority"), specifies its purposes, designates Authority Officers and provides for related administrative matters, was passed for the purpose of publication ("passed to print") on May 10, 2011. Pursuant to City Charter Sections 808 and 812, proposed Ordinance No. 1887 was published on May 18, 2011 and copies were posted in at least three public places. This action to authorize the establishment of the Authority does not constitute a project under the California Environmental Quality Act (CEQA) and therefore, no formal environmental review is required. (CEQA Guidelines, Sec. 15378(b)(5).)

This ordinance will become effective on June 23, 2011. A Special Meeting of the Bayshore North Project Enhancement Authority, as well as special meetings of the City Council and the Redevelopment Agency, will be held on June 28, 2011, to consider adding the Bayshore North Project Enhancement Authority as a member to the Joint Powers Agreement that established the Santa Clara Stadium Authority.

## ADVANTAGES AND DISADVANTAGES OF ISSUE:

There are no known disadvantages at this time.

## **ECONOMIC/FISCAL IMPACT:**

There is no cost to the City other than administrative staff time and expense.

## **RECOMMENDATION:**

That the Council adopt Ordinance No. 1887 adding Chapter 17.25 (entitled "Bayshore North Project Enhancement Authority") to Title 17 (entitled "Development") to "The Code of the City of Santa Clara, California" which establishes the Bayshore North Project Enhancement Authority, specifies its purposes, designates Authority Officers and provides for related administrative matters.

Elizabeth H. Silver

Interim City Attorney

APPROVED:

Jennifer Sparacino

City Manager

Documents Related to this Report:

1) Ordinance No. 1887

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### ORDINANCE NO. 1887

AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA, ADDING CHAPTER 17.25 (ENTITLED "BAYSHORE NORTH PROJECT ENHANCEMENT AUTHORITY") TO TITLE 17 (ENTITLED "DEVELOPMENT") OF "THE CODE OF THE CITY OF SANTA CLARA, CALIFORNIA"

## BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, this ordinance is enacted pursuant to the City's powers under section 400 of the Charter of the City of Santa Clara, California, and Sections 5(a) and 7 of Article XI of the California Constitution.

NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

**SECTION 1**: That a new Chapter 17.25 (entitled "Bayshore North Project Enhancement Authority") is added to Title 17 (entitled "Development") of "The Code of the City of Santa Clara, California" to read as follows:

## "Chapter 17.25

## BAYSHORE NORTH PROJECT ENHANCEMENT AUTHORITY

Sections	

## Article I. General Provisions and Definitions

17.25.010	Public uses and purposes.
17.25.020	Legislative finding and declaration.
17.25.030	Purpose.
17.25.040	Municipal affair.
17.25.050	Effect of chapter upon other law.
17.25.060	Application of planning, zoning, etc., laws and ordinances.
17.25.070	Partial invalidity.
17.25.080	Effect of definitions.
17.25.090	Authority.
16.20.100	Obligee of authority – Obligee.
17.25.110	State public body.
17.25.120	Project.

Ordinance/Bayshore North Project Enhancement Authority

Rev: 02-03-11; Typed: 05-05-11

## Article II. Bayshore North Project Enhancement Authority

17.25.130 17.25.140 17.25.150 17.25.160 17.25.170 17.25.180 17.25.190 17.25.200 17.25.210 17.25.220 17.25.230 17.25.230 17.25.240	Establishment. Resolution of need for Authority to function. Evidence of establishment and authorization. City Council as Authority and Officers. Meetings – Vote necessary to act. Meeting expenses. Administrative expenses. Reports. Financial statements. Failure to function – Suspension of Authority. Restoration of Authority. Termination of Authority and Winding up affairs.
	Article III. Powers
17.25.250 17.25.260 17.25.270 17.25.280 17.25.290 17.25.300 17.25.310 17.25.320 17.25.330 17.25.340 17.25.350 17.25.360 17.25.370	Corporate powers.  Acquisition and disposal of property – Projects – Insurance.  Maintenance and management.  Establishment and operation of property.  Receipt and expenditure of funds.  Investments.  Borrowing.  Exercise of powers.  Necessary or convenient acts.  Use of services and facilities of City.  Managing agency agreements.  Grants and loans for public purposes.  Contributions from City Prohibited
	Article IV. Revenue Bonds
17.25.380 17.25.390 17.25.400	Bonds.  Power to borrow and issue bonds – Nature of bonds.  Limited Liability.
	Article V. Rights of Obligees
17.25.410	Enforcement of rights.

Ordinance/Bayshore North Project Enhancement Authority Rev: 02-03-11; Typed: 05-05-11

Article I. General Provisions and Definitions

17.25.010 Public uses and purposes.

Planning, maintaining, improving, protecting and promoting the sound economic

development of the area of the City located within the Bayshore North Project Area and the

performance of all undertakings incidental or advantageous thereto are public uses and purposes for

which public money may be spent and are governmental functions.

17.25.020 Legislative finding and declaration.

The Council finds and declares as follows:

(a) That it is the policy of the City of Santa Clara to protect and promote the sound economic

development of the area of the City of Santa Clara within the Bayshore North Project Area and the

general welfare of the inhabitants through the employment of all appropriate means.

(b) That such means may include leasing property for construction and use of a facility for

professional sporting and other events as well as other development.

(c) That the anticipated increase in the population of the City demands that the City take

action to ensure opportunities for economic development within the City of Santa Clara.

(d) That employment opportunities for the residents of the City of Santa Clara are vital to the

City's future peace and prosperity.

(e) That for these reasons this chapter is necessary in the public interest for the promotion of

the public health, safety and general welfare of the residents of the City of Santa Clara.

17.25.030 Purpose.

It is the purpose of the Council in enacting this chapter to expand opportunities for economic

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growth within the area of the City within the Bayshore North Project Area, including opportunities

for facilities for professional sporting and other events.

Ordinance/Bayshore North Project Enhancement Authority

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17.25.040 Municipal affair.

The activities set forth in SCCC 17.25.010 are a municipal affair, necessary and appropriate

to a municipal corporation and the general welfare of its inhabitants, and not prohibited by the

Constitution of the State of California nor by the City Charter.

17.25.050 Effect of chapter upon other law.

This chapter shall not affect any other provision of law relating to the same or a similar

subject but provides an alternative method of procedure governing the subject to which it relates, and

it shall not abridge, modify or otherwise affect the right of the City to exercise any power given to it

by the Constitution or any other law.

17.25.060 Application of planning, zoning, etc., laws and ordinances.

Authority projects are subject to the planning, zoning, sanitary, and building laws,

ordinances, and regulations applicable to the area in which they are situated. In the planning and

location of any facility, the Authority is subject to any and all officially adopted plans for the

development of the area in which the Authority functions to the same extent as if it were a private

entity.

17.25.070 Partial invalidity.

If any provision of this chapter, or its application to any person or circumstance, is held

invalid, the remainder of the chapter, or the application of such provision to other persons or

circumstances, shall not be affected thereby.

17.25.080 Effect of definitions.

Unless the context otherwise requires, the definitions set forth in this Article govern the

construction of this chapter.

17.25.090 Authority.

"Authority" means the public corporation created by Article II of this chapter.

17.25.100 Obligee of Authority – Obligee.

"Obligee of the Authority" or "obligee" means any of the following:

(a) Any bondholder or trustee for any bondholders.

(b) Any lessor demising to the Authority property used in connection with a Project or

any assignee of all or part of such lessor's interest.

(c) The State of California or the United States, or any agency of either, when a party to

any contract with the Authority by which aid or a loan is given or made to the Authority.

17.25.110 State public body.

"State public body" means the State of California, or any city, city and county, county,

district, authority, or any other subdivision or public body of the State of California.

17.25.120 Project.

"Project" means any acquisition, improvement, construction, or undertaking of any kind

authorized by this chapter.

Article II. Bayshore North Project Enhancement Authority

17.25.130 Establishment.

There is in the City a public body corporate and politic known as the Bayshore North Project

Enhancement Authority of the City. The Authority shall be a public entity separate and apart from

the City and any other entity or agency which is controlled by or is otherwise related to the City.

17.25.140 Resolution of need for Authority to function.

The Authority shall not transact any business or exercise any powers unless and until the City

Council by resolution declares that there is a need for the Authority to function in the City.

17.25.150 Evidence of establishment and authorization.

In any suit, action, or proceeding by or against or in any manner relating to the Authority, the

Authority shall be conclusively deemed to have become established and authorized to transact

business and exercise its powers upon proof of the adoption of the resolution by the City Council

declaring the need for the Authority to function.

17.25.160 City Council as Authority and Officers.

The members of the City Council shall constitute the members of the governing body of the

Authority. Upon adoption of a resolution pursuant to SCCC 17.25.140, the members of the City

Council shall have all the rights, powers, duties, privileges, and immunities vested by this chapter in

the governing board of the Authority. The Mayor shall serve as the Chairperson of the Authority and

the Vice Mayor shall serve as the Vice Chairperson. The City Manager, City Attorney, Director of

Finance and City Clerk shall serve as the Executive Director, Authority Counsel, Treasurer and

Secretary of the Authority, respectively.

17.25.170 Meetings – Vote necessary to act.

The governing board of the Authority shall hold a regular meeting at least once a year at such

time, date and place as specified by resolution of the governing board. All meetings of the governing

board shall be subject to the provisions of the Ralph M. Brown Act of the State of California. The

vote necessary to take action shall be the same as that required for the City Council to take similar

action.

17.25.180 Meeting expenses.

Members of the governing board of the Authority shall not receive any compensation for

attending meetings of the governing board.

17.25.190 Administrative expenses.

Notwithstanding the provisions of Section 17.25.370, the Authority may contract with the

City for the provision of administrative services, provided the Authority reimburses the City for the

full cost of such services.

17.25.200 Reports.

Annually, the Authority shall prepare a detailed report of all its transactions, including a

statement of all revenues and expenditures.

17.25.210 Financial statements.

At least once annually, the Authority shall prepare a statement of all its financial affairs,

audited by independent certified public accountants. The statement shall be made available in the

office of the Authority's Treasurer for public inspection.

17.25.220 Failure to function – Suspension of Authority.

If within four years after the adoption of a resolution declaring the need for an Authority to

function in the City, the Authority has not issued bonds, or entered into any contract, the City

Council by resolution may declare that there is no need for the Authority to function in the City.

Upon the adoption of such resolution, the offices of the members of the Authority become vacant

and the capacity of the Authority to transact business or exercise any power is suspended until the

City Council again adopts a resolution declaring the need for the Authority to function.

17.25.230 Restoration of Authority.

Upon the termination of any such suspension by the adoption of such resolution declaring the

need for the Authority to function, proceedings for the organization and activation of the Authority

shall be had and taken as if such resolution were the original resolution declaring need for a

Bayshore North Project Enhancement Authority to function provided for by SCCC 17.25.140.

17.25.240 Termination of Authority and Winding up affairs.

The City Council, by adoption of a resolution declaring there is no need for an Authority to

function, may order the dissolution of the Authority if the Authority has no outstanding bonded

indebtedness, and if the unanimous written consent of the members of the governing body of the

Authority is first obtained. Thereafter, the City Council may wind up the affairs of the Authority

including taking title to all property of the Authority for the benefit of the City.

Article III. Powers

17.25.250 Corporate powers.

In order to achieve the purposes set forth in Article I, the Authority may:

(a) Sue and be sued, have a seal, and make and execute contracts and other instruments

necessary or convenient to the exercise of its powers.

(b) Make, and from time to time amend and repeal, bylaws and regulations not

inconsistent with this chapter to carry into effect the powers and purposes hereof.

(c) Select and appoint or remove such permanent and temporary agents and employees,

as it requires, and may determine their qualifications, duties, and compensation. The powers of the

Authority under this article are subject to all limitations and rights applicable to similar employment

by the City, unless by the resolution adopted pursuant to section 17.25.140, the City Council

otherwise determines.

17.25.260 Acquisition and disposal of property – Projects – Insurance.

The Authority may:

(a) Purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or

otherwise, any real or personal property within the area of the City within the Bayshore North Project

Area, or any interest in, or improvements on, such property by any means by which the City is

authorized to do so.

Sell, lease, exchange, transfer, assign, encumber (by mortgage, deed of trust, or (b)

otherwise) or otherwise dispose of any real or personal property or any interest in such property.

(c) Insure any of its real or personal property or operations against risks or hazards.

17.25.270 Maintenance and management.

The Authority may acquire, construct, rent, lease, maintain, repair, manage and operate all or

any portion of any real and personal property. Leases may be negotiated without competitive bidding

or awarded after competitive bidding in such manner as may be established by the Authority.

Establishment and operation of property. 17.25.280

The Authority may do any act to acquire and maintain property within the area of the City

within the Bayshore North Project Area, to devote such property to uses and activities consistent

with the purposes of this chapter and to acquire and construct such improvements on property

owned, controlled, or operated by it as may be necessary or appropriate to such uses and activities.

17.25.290 Receipt and expenditure of funds.

The Authority may receive, control, and order the expenditure of any and all money and

funds pertaining to its facilities or properties, including but not limited to:

All revenue derived from operations of the Authority. (a)

The proceeds of all financial aid or assistance by the State of California or the Federal (b)

government.

The proceeds of assessments or special taxes levied by the City. (e)

The proceeds of all bonds issued pursuant to this chapter. (d)

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17.25.300 Investments.

The Authority may invest funds held in reserve, or sinking funds, or funds not required for

immediate disbursement, in property or securities in which cities may legally invest funds subject to

their control. No such investment shall be made in contravention of any covenant or agreement with

the holders of any bonds of the Authority issued and outstanding.

17,25,310 Borrowing.

The Authority may borrow money or accept financial or other assistance from the State, the

Federal government, or any other source for or in aid of any Project within its area of operation, and

to such ends may comply with any conditions attached thereto.

17.25.320 Exercise of powers.

The Authority may exercise all or any part or combination of the powers granted by this

chapter.

Necessary or convenient acts. 17.25.330

The Authority may do and perform any and all other acts and things necessary, convenient,

desirable, or appropriate to carry out the provisions of this chapter.

Use of services and facilities of City. 17.25.340

In order that there may be no unnecessary duplication of effort or expense, the Authority may

provide for the furnishing of services by, and the use of facilities of, any department, office or agency

of the City in lieu of, or in conjunction with, the direct provision by the Authority of services and the

use of facilities through employment or purchase or other means. The furnishing of such services and

the use of such facilities of any such department, office or agency shall be upon such terms and

conditions as may be approved by the Authority and the City Council, and subject to reimbursement

to the appropriate funds of the City for the reasonable value thereof.

17.25.350 Managing agency agreements.

Whenever the Authority determines that the management and operation of any facility

authorized hereunder is so complex and specialized as to require that it be accomplished by specially

qualified persons, it may make and enter into managing agency agreements with competent persons,

firms or corporations specially trained and experienced to render such services, subject to retention

of such controls over rates and use of the facility as are necessary or desirable to assure its operation

as a public authority.

17.25.360 Grants and loans for public purposes.

The Authority may make grants or loans of money or property to the redevelopment agency.

stadium authority, housing authority, parking authority or any other agency or authority of the City,

or to the City itself, to facilitate the accomplishment of any public purpose, subject to such terms and

conditions as may be established by the Authority and provided the governing board makes

appropriate findings that such grant or loan does not constitute a gift of public funds or violate any

statutory prohibition. Such public purposes may be carried out and accomplished by the entity to

which such grant or loan was made without limitation or restriction by reason of the existence of

such grant or loan, other than such as may be established by such terms and conditions.

17.25.370 Contributions from City Prohibited.

Notwithstanding any provision herein, the Authority may not accept any monies or property

from the City, whether denominated a gift, donation, contribution or otherwise.

Article IV. Revenue Bonds

17.25.380 Bonds.

As used in this chapter, "bonds" means revenue bonds issued pursuant to this article or under

any applicable general law of the State of California.

17,25,390 Power to borrow and issue bonds – Nature of bonds.

The Authority shall have power to borrow money to provide funds for any Project, including

without limitation funds for the purpose of making grants or loans pursuant to SCCC 17.25.360, and

to issue in its name revenue bonds to evidence the indebtedness created by such borrowing. The

bonds of each issue shall constitute special obligations, and evidence a special indebtedness, of the

Authority, which shall be a charge upon, and payable, both as principal and interest and as to any

premiums upon the redemption of any thereof, solely from, such revenues and funds as are specified

therein and in the proceedings for their issuance.

17.25.400 Limited Liability.

Neither the members of the governing board of the Authority nor any persons executing the

bonds are liable personally on the bonds by reason of their issuance. The bonds and other obligations

of the Authority are not a debt of the City, or any of its enterprises, the State or any of its political

subdivisions. The bonds do not constitute an indebtedness within the meaning of any constitutional

or statutory debt limitation or restriction.

Article V. Rights of Obligees

17.25.410 Enforcement of rights.

In addition to all other rights conferred on an Obligee and subject only to any contractual

restrictions binding upon him, an Obligee may:

By mandamus, suit, action, or proceeding at law or in equity, compel the Authority (a)

and its members, officers, agents or employees to perform every term, provision, and covenant

contained in any contract of the Authority with or for the benefit of the Obligec, to carry out all

covenants and agreements of the Authority, and to fulfill all duties imposed upon the Authority by

this chapter.

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(b) By suit, action, or proceeding in equity, enjoin any acts or things which are unlawful

and in violation of any of the rights of the Obligee.

The members, officers, agents and employees of the Authority are not personally liable for

damages caused by the performance or nonperformance of their duties under this chapter or any

contract or indenture made pursuant thereto."

**SECTION 2**: Savings clause.

The changes provided for in this ordinance shall not affect any offense or act committed or done or

any penalty or forfeiture incurred or any right established or accruing before the effective date of this

ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered

prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded

by the fee schedules adopted by the City Council.

SECTION 3: Constitutionality, severability.

If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held

by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision

shall not affect the validity of the remaining portions of the ordinance. The City Council hereby

declares that it would have passed this ordinance and each section, subsection, sentence, clause,

phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s),

sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

Ordinance/Bayshore North Project Enhancement Authority Rev: 02-03-11; Typed: 05-05-11

## **SECTION 4:** Effective date.

This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of "The Charter of the City of Santa Clara, California."

**PASSED FOR THE PURPOSE OF PUBLICATION** this 10<sup>th</sup> day of May, 2011, by the following vote:

AYES:

COUNCILORS:

Gillmor, Kennedy, Mahan, McLeod and Moore and

Mayor Matthews

NOES:

COUNCILORS:

None

ABSENT:

COUNCILORS:

Kolstad

ABSTAINED:

COUNCILORS:

None

ATTEST:

ROD DIRIDON, JR.

CITY CLERK

CITY OF SANTA CLARA

Attachments incorporated by reference: None

### CITY OF SANTA CLARA NOTICE OF PROPOSED ORDINANCE NO. 1887

AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA, ADDING CHAPTER 17.25 (ENTITLED "BAYSHORE NORTH PROJECT ENHANCE-MENT AUTHORITY") TO TITLE 17 (ENTITLED "DEVELOPMENT") OF "THE CODE OF THE CITY OF SANTA CLARA, CALIFORNIA".

### DATE OF ORDINANCE INTRODUCTION:

Tuesday, May 10, 2011

## PUBLIC HEARING ON ADOPTION OF PROPOSED ORDINANCE:

Tuesday, May 24, 2011, at 7:00 p.m., or as soon thereafter as the matter may be heard

# LOCATION OF PUBLIC HEARING CONCERNING THE ADOPTION OF THE PROPOSED ORDINANCE:

City Council Chambers, 1500 Warburton Avenue, Santa Clara, CA 95050. Written material on the subject of the ordinance may be submitted to the City Clerk's Office, 1500 Warburton Avenue, Santa Clara, CA 95050, no later than Thursday, May 19, 2011. Interested parties are invited to attend the public meeting to address the City Council on the matter on Tuesday, May 24, 2011

### TITLE AND SUMMARY OF ORDINANCE:

### ORDINANCE NO. 1887

AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA, ADDING CHAPTER 17.25 (ENTITLED "BAYSHORE NORTH PROJECT ENHANCEMENT AUTHORITY") TO TITLE 17 (ENTITLED "DEVELOPMENT") OF "THE CODE OF THE CITY OF SANTA CLARA, CALIFORNIA"

The proposed ordinance would authorize the City Council to adopt a resolution to create a new public entity called the Bayshore North Project Enhancement Authority. The new Authority would have the power to promote economic development in the Bayshore North Redevelopment Project Area, including providing opportunities for facilities for professional sporting and other events. The members of the City Council would serve as the board of the new Authority. They would not receive any compensation. The City Manager would be the Executive Director of the new Authority. The board would meet at least once a year at a time specified by resolution.

### POSTING LOCATIONS:

City of Santa Clara locations where the full text of the proposed ordinance is available for review:

- 1. City Clerk's Office, City Hall East Wing, 1500 Warburton Avenue, Santa Clara, CA
- 2. Central Park Library, Central Park Library 2635 Homestead Road Santa Clara, CA
- Mission Branch Library, 1098 Lexington Street, Santa Clara, CA Pub.: 5/18/2011