

BRANDT-HAWLEY LAW GROUP

IN THE MATTER OF:)
)
 SAN JOSE CITY COUNCIL)
 AGENDA ITEM SEC. 2.3(A))

Tuesday,
 August 13, 2013

Live Tape

(The following transcript was transcribed from an official digital recording provided by Brandt-Hawley Law Group to Heritage Reporting Corporation.)

CITY COUNCIL MEMBERS:

- CHUCK REED, Mayor
- PETE CONSTANT, District 1
- ASH KALRA, District 2
- SAM LICCARDO, District 3
- KANSEN CHU, District 4
- XAVIER E. CAMPOS, District 5
- PIERLUIGI OLIVERIO, District 6
- MADISON NGUYEN, District 7
- ROSE HERRERA, District 8
- DONALD ROCHA, District 9
- JOHNNY KHAMIS, District 10

1 P R O C E E D I N G S

2 MAYOR REED: Item 2.3(a) first, then we'll
3 get around to 2.7. I have a couple dozen people who
4 want to speak on 2.3(a). We'll take public testimony
5 at this time. Martha Heinrichs, Jeff Moore, come on
6 down, please. Martha Heinrichs, Jeff Moore, Larry
7 Ames.

8 I think it will pick your voice up. Just go
9 ahead. We'll adjust the sound to make sure it works.

10 MS. HEINRICHS: I'm Martha Heinrichs with
11 the Friends of the Willow Glen Trestle.

12 I am very interested in the historical
13 aspect of this 92-year-old railroad trestle because it
14 is an important representation of our local history
15 during the period when our county was known as the
16 Valley of Heart's Delight. I note that the historical
17 report for this project has never been included in an
18 environmental document for public comment and review.

19 I'm looking forward to reviewing the supplemental
20 initial study, the supplemental mitigated negative
21 declaration, and the historical analysis within the
22 study.

23 For much less money than a catalog-ordered
24 bridge this trestle could be simply preserved to add
25 charm and interest to the Three Creeks Trail and would

1 be a landmark that San José would be proud of. Thank
2 you.

3 MAYOR REED: Jeff Moore, Larry Ames, and
4 Bruce Tichinin.

5 MR. MOORE: Hi. My name is Jeff Moore. I
6 want to encourage you to proceed with the steel bridge
7 option on the trestle. As I understand it, you have
8 funding in place, and that I encourage you to go ahead
9 and use the funding that's available. You have a
10 well-defined project. I've seen the City Department's
11 presentation on it. It looks great. I encourage you
12 to go ahead with that project rather than risking
13 losing the money by not having a defined plan ready as
14 this one is to use it. Thank you.

15 MAYOR REED: Larry Ames, Bruce Tichinin, Bud
16 Beatty.

17 MR. AMES: Yes. Hi. I'm Larry Ames.

18 This here is a picture of the Willow Glen
19 Trestle as viewed from the planned Los Gatos Creek
20 Trail to where it connects to the Three Creeks Trail.

21 The city's plans and the 2004 initial study and
22 mitigated negative declaration used this trestle for
23 the planned trail connection, adding a new deck and
24 railing on the top.

25 The city's 2012 engineering report says that

1 after patching a couple posts and replacing a few
2 sashes and braces the structure is just fine. We can
3 even consider adding a midstream viewing platform, as
4 has been done in a number of other trestle restoration
5 projects around the country.

6 And then in March, so as not to lose a Prop.
7 40 grant, the city rushed to assign that grant towards
8 replacing this trestle instead, counting on being able
9 to do that by the grant's deadline.

10 However, you'll have to supplement or redo
11 the old initial study negative declaration since now
12 it will be working within the sensitive riparian
13 habitat. There is a required period for open public
14 review and comment followed by hearings I believe at
15 Planning Commission and/or City Council. And just as
16 with the recent Penitencia Creek project, there may be
17 delays as environmental compliance is assured, and
18 then you have to wait for getting the actual permits
19 from the Cal. Department of Fish and Game.

20 Please do not risk losing the Prop. 40
21 grants here. Please reassign it to some other worthy
22 project within the city, and also don't endanger
23 funding of local parks to cover the loss that might
24 happen in case you do miss the deadline there.

25 I'd like to point out that quite a few of

1 the number of people came out in the middle of the day
2 here to talk about this trestle, to be here and
3 support it. We in the community will have to live
4 with whatever gets built here, so we want to have a
5 really good project here. We'd like to work with you
6 to create a truly iconic trail connection. Thank you.

7 MAYOR REED: Bruce Tichinin, Bud Beatty,
8 Scott Lane.

9 MR. TICHININ: Good afternoon. It's nice to
10 see all of you again. My message to you today, my
11 respectful advice is you're presently on the right
12 track. You're doing a good job. Stay the course.

13 Four years ago the Three Creeks Trail was an
14 abandoned dream. Since that time this Council and the
15 community have made truly remarkable progress, but now
16 it's proposed that you direct the staff to cease its
17 work on replacing the trestle with a bridge that will
18 make the vital connection between the Three Creeks
19 Trail and the Los Gatos Trail and that you allocate
20 the \$1.2 million in state grant for that project to a
21 different project.

22 It's not disputed that if you follow this
23 advice there will be insufficient funds even to make
24 the trestle usable and that that vital trail
25 connection will be indefinitely delayed. I believe

1 that it will also devastate the ongoing efforts to
2 complete the trail by acquiring the eastern alignment.

3 What I've outlined shows that the trestle
4 supporters believe that the trestle is more important
5 than the trail, as their leader has publicly said.

6 The trestle proponents are sincere, well-intentioned,
7 and passionate. But you need to be fair to everyone.

8 Continue being fair to the whole city by making the
9 connection between the two trails without delay.
10 Continue being fair to the often underserved and
11 equally deserving but neglected east side by not
12 delaying acquisition of the eastern alignment.

13 You're on the right track. You're doing a
14 good job. Stay the course. Thank you.

15 MAYOR REED: Bud Beatty, Scott Lane, Taisia
16 McMahan -- I'll work on that.

17 MR. BEATTY: Hi. I'm Bud Beatty, past
18 president of San José VPA.

19 San José is a city that is filled with brass
20 plaques and facades and things that speak to what once
21 was here. You have a chance today to actually keep
22 something that is here. Let people see what wonderful
23 things were built in the past and how they were done.

24 We already have many of the single span steel
25 bridges. They are not a work of art. They're not

1 intended to be. They're just something to get
2 something from one place to another.

3 The trestle is something more than that. It
4 shows the history. It's an interesting structure.
5 It's built out of some of the last Douglas firs that
6 were cut locally. It's a wonderful thing. There was
7 also money that was given by the Water District, and
8 the real intention of that money was to preserve the
9 trestle, not to demolish it.

10 MAYOR REED: Okay. Thank you. Scott Lane,
11 Taisia McMahon, Bill Rankin.

12 MR. LANE: Mr. Mayor, City Council, thank
13 you very much for your time. I appreciate it very
14 much. Scott Lane, speaking for myself, not for any
15 board positions I may be on.

16 This is actually viewed to be a win-win
17 position here. I am an absolute trail advocate. I
18 wouldn't be speaking here if I wasn't for alternative
19 transportation.

20 Originally, this \$1.8 million fund was
21 actually for a different district. It was actually
22 for District 7 use. We are very much -- I lead many
23 bike rides. I personally have helped grow bike rides
24 and San José Bike Party that have literally led
25 thousands of people, especially in the east side, to

1 be involved. The highest use of bicycle ridership is
2 among the lower rungs of the economic ladder, partly
3 by choice, partly by necessity.

4 The Three Creeks Trail, when you combine
5 that with the Five Wounds Trail, I heartily want that
6 to be purchased as quickly as possible. It is a J-
7 loop trail that will provide 6.5 miles from 280 all
8 the way around, around a wonderful business
9 entertainment district. That is near Happy Hollow
10 Park and the ball fields and San José Ice. It will
11 then go up past Five Wounds BART Station, which is an
12 amazing 17-acre facility, and then to the barriers of
13 BART Station. It is a stunning achievement that will
14 be able to be used for OBAG grants, et cetera. This
15 is going to be an amazing trail.

16 The trestle has always been told that that
17 is the centerpiece of this trail. It is being ripped
18 out. For years this was going to be the case. The
19 concern here is, frankly, how much time is to do this.
20 Rajeev Hada, Project Engineer, Public Works Engineer
21 in the city of Palo Alto, says about the Newell Road
22 Bridge timeline, "Our tentative plan is to start
23 construction in 2015 and have all the permits and
24 final documents by the end of 2014."

25 Also, regarding the trestle and its

1 timeline, "If the construction documents are all ready
2 now and the environmental documents are all cleared
3 now, their permitting process for the Fish and Games,
4 Santa Clara Valley Water District, U.S. Corps of
5 Engineers and other permits, all filed separately,
6 should be complete within six months."

7 This was also concurred with Kevin Murray,
8 Project Manager of San Francisquito Creek, Joint
9 Powers Authority --

10 MAYOR REED: Sorry. Your time is up. Sir,
11 your time is up.

12 MR. LANE: Thank you very much.

13 MAYOR REED: Taisia McMahan, Bill Rankin,
14 Roland LaBrun.

15 MS. MCMAHON: Good afternoon, Honorable
16 Mayor and Council Members. My name is Taisia McMahan,
17 and I'm the president of Save Our Trails. I'm
18 speaking on behalf of the board. They approved this
19 statement this Monday.

20 A link across the creek is an absolutely
21 essential component of the trail system. Save Our
22 Trails recognizes the existence of strong support in
23 the community for preserving the existing structure,
24 but we acknowledge the difficulties with its
25 preservation as outlined in the engineer's report. If

1 a solution could be found that would (a) ensure that a
2 repaired trestle would survive further fire or
3 vandalism, (b) meet the requirements of the various
4 permitting agencies, and (c) preserve the RZH funds
5 allocated to the project, we would gladly support it.

6 But if such a solution cannot be found, then
7 Save Our Trails will continue to support replacing the
8 trestle with a permanent structure, one which will
9 provide a safe and enduring link in the city's growing
10 network of trails. Thank you.

11 MAYOR REED: Bill Rankin, Roland LaBrun,
12 Nancy Capps.

13 MR. RANKIN: Mayor Reed and members of the
14 Council, I'm Bill Rankin and I'm speaking today as a
15 resident of San José in the North Willow Glen
16 neighborhood. Thank you for the opportunity to speak
17 with you today.

18 The trail connection over Los Gatos Creek at
19 Three Creeks Trail is a vital link in San José's trail
20 system and must be completed. This is paramount for
21 the future of Three Creeks Trail and its potential to
22 connect miles of existing trails within San José and
23 beyond. I do believe a brand new bridge is better
24 than no bridge at all. What I find hard to believe is
25 we can't find a solution that would allow us to use

1 the grant money in question to save the trestle and
2 its historic link to the Valley of Heart's Delight.

3 From the beginning I've been conflicted
4 about this decision, as many of you might be. My
5 feelings have ranged from ambivalence to passion to
6 doing whatever it take to make this connection, scared
7 of losing the grant money, and coming to the
8 realization that we as a society will bulldoze
9 anything for the sake of progress.

10 I know you have a hard decision in front of
11 you. We all know very many people are tugging you in
12 very different directions. We also know that this
13 link in the trail is vital for the future of Three
14 Creeks Trail. This connection must be made. I just
15 hope it can be made by saving this link to our past by
16 saving the trestle. Thank you.

17 MAYOR REED: Nancy Capps, Roland LaBrun,
18 David Wohl.

19 MS. CAPPS: Hi. My name is Nancy Capps, and
20 I'm a resident of San José and I'm here speaking for
21 myself as a taxpayer, a person who doesn't like to
22 waste money, and a person who doesn't like to waste
23 resources.

24 I am speaking in support of keeping the
25 trestle. It was built originally to carry very heavy

1 loads, trains and engines, and from the reports, it
2 indicates that it is very structurally sound at this
3 time, and it seems like it would be a waste of money
4 and resources to simply just tear it down, just to
5 tear it down and replace it with something else when
6 it's very usable and would be usable in the future.

7 It would have great historic value. It's
8 something unique to add to the trail. It isn't more
9 important than the trail, but it's something that
10 would be a nice feature for the trail. And I would
11 ask you to consider the points that Larry Ames has
12 made. He's done a lot of work and done a lot of
13 investigation, and he makes some very good points.
14 Thank you.

15 MAYOR REED: Roland LaBrun, David Wohl,
16 Helen Chapman.

17 MR. LABRUN: Good afternoon. Thank you for
18 the opportunity. I'm speaking in strong support of
19 the Rules Committee memo and the subsequent staff
20 memo, and I'm going to give you one more reason and
21 I'll be closing off with a 32-second video that speaks
22 a million words is a reason why the Washington State
23 Department of Natural Resources is systematically
24 removing all creosote structures from waterways.
25 Thank you.

1 (Video playing.)

2 FEMALE VOICE: This first phase of the
3 project is focused on removing the railroad trestle
4 that goes across Woodard Bay. All the pilings will be
5 removed and that will, first of all, get the toxic
6 creosoted pilings out of the waters, but it will also
7 help restore some of the more natural flow of Woodard
8 Bay itself where Woodard Creek comes down into the bay
9 and then flows out into Henderson Inlet. The other
10 structure that we're focusing on is the pier.

11 (Video ends.)

12 MAYOR REED: David Wohl.

13 MR. WOHL: Sir, this matter has been
14 extensively discussed through various city committee
15 meetings. I want to hold out Council Member Oliverio
16 as being very pro trail-oriented. He's also listened
17 very intently to his constituents about this. Our
18 city engineer's reports also are to be held in highest
19 regards. I have every faith in our city engineer with
20 reference to this particular issue.

21 I believe this trestle is bucolic in nature.

22 However, it's a sitting time bomb for environmental
23 issues and fire. Should that trestle catch on fire,
24 who knows how many homes around that area could be
25 burned.

1 Also, there's no talk about community
2 involvement in getting down into the creeks and
3 removing the vegetation and ongoing protection of that
4 trestle from those that would start a fire. So I
5 think that this issue, although it's very painful for
6 people who like myself would like to see the retention
7 of this bridge, it is untenable at this time or any
8 other time due to its age, infestation with termites,
9 environmental damage to the receding waters, and other
10 structural aspects that I am not competent to talk on
11 with reference to the expertise of our city engineer.

12 Thank you.

13 MAYOR REED: Helen Chapman, Brian Grayson,
14 Jack Nedo.

15 MS. CHAPMAN: Good afternoon, Mayor and
16 members of City Council. Helen Chapman, former chair
17 of San José Parks Commission, member of the Committee
18 for Green Foothills.

19 The sum of the whole is greater than its
20 parts. I interpret this to mean while each group,
21 partner, or organization may have their own direction,
22 the greatest accomplishment is when partners work in
23 unison toward a common goal.

24 San José is full of beauty and uniqueness.
25 The problem is sometimes that beauty is hidden from

1 plain view. We've lost some of our history to
2 complacency. Our treasures as we let them sit idle
3 gradually deteriorate because we don't have the time
4 or the dollars to give them the attention they
5 deserve.

6 The right thing to do is to bring our
7 partners together, explore all possibilities, and
8 challenge ourselves to create opportunities for the
9 future. We can check the box to say, yes, we've done
10 this, or we can stop, pause, and ask ourselves have we
11 done absolutely everything we can to make this a
12 better project and one that is supported and enjoyed
13 by the greatest segment of the community.

14 With your leadership and direction today,
15 you can move this project from one of confrontation to
16 one of collaboration, and I thank Tai from Save Our
17 Trails for coming forward today and joining with us to
18 find solutions. Thank you.

19 MAYOR REED: Brian Grayson, Jack Nedo, Jim
20 Carter.

21 MR. GRAYSON: Thank you. Brian Grayson,
22 Preservation Action Council.

23 We support the restoration of the trestle
24 for many of the reasons you've already heard today and
25 will hear from other speakers. There's not really a

1 need for a discussion about whether or not it's
2 historic because of the question about whether it has
3 official historic designation. The city has
4 acknowledged that their historic inventory is
5 incomplete and there are many structures that would
6 likely be eligible for historic designation that are
7 not listed, and this trestle could well be one of
8 those if those surveys are ever completed. Given the
9 trestle's age and linked to the past, common sense
10 tells us that it is historic.

11 There is cumulative impact every time you
12 scrape the landscape of one of our historic
13 structures. Every time that happens you erase another
14 chapter of San José's history. We urge you not to do
15 that again. Thank you.

16 MAYOR REED: Jack Nedo, Jim Carter, Trey
17 Silva.

18 MR. NEDO: Good afternoon, Mayor Reed, City
19 Council members.

20 As a native of San José, I have become full
21 of pride with those things that we have saved that
22 represent the past. San José has been a city that
23 grew because of the railroads, because of the canning
24 industry, and the trestle is a living representative
25 of those times, and it would be sad, I think, if

1 future generations would see only a steel bridge there
2 instead of a special place which can make the city
3 special. Special places make cities special. To
4 confine everything to history park, I don't think that
5 does it. We have to have things where they were.

6 I would hate to see a child in the future
7 looking at some plaque on a steel bridge and asking,
8 "Daddy, what was a trestle?" when it could be right
9 there for the child to see and to feel. That's where
10 I'm coming from.

11 With each passing day I become more involved
12 with preservation. I've joined several local
13 preservation groups, and the main reason is because it
14 gives us pride, it gives us pride in our city. I
15 think that's the key word is pride, and so I trust
16 that you've given this some thought. I trust that San
17 José can turn around in terms of not being
18 preservation savvy.

19 In other words, I worry that a lot of you
20 are more interested in progress rather than
21 remembrance for future generations. I think it's
22 very, very important, and that's why it's such an
23 emotional issue, because it's really important. Okay,
24 thank you very much.

25 MAYOR REED: Jim Carter, Trey Silva, Chris

1 Roth.

2 MR. CARTER: Good afternoon. My name is Jim
3 Carter and I served with San José Fire Department for
4 just shy of 36 years, retiring a couple years ago as a
5 chief officer. I was born and raised in Willow Glen,
6 not far from this trestle I grew up, and I currently
7 do live and reside in the Willow Glen area.

8 There are several things that can be done
9 from a fire prevention standpoint to protect the
10 trestle after it's restored. Number one, clean up the
11 debris from around the foot of the trestle; apply fire
12 retardant to the trestle; implement a monitored smoke
13 and heat detection system; install a sprinkler system.

14 Additionally, there's been circulating
15 reference and videos of the trestle fires in
16 Sacramento and Texas. Comparing these trestle fires
17 to trestles here in San José is comparing apples to
18 oranges. Not only are those trestles much larger, the
19 firefighters in Sacramento and Texas had access
20 problems and water resource problems to complicate the
21 extinguishment of those trestles.

22 After the above fire prevention precautions
23 are taken regarding our trestle, I consider the risk
24 of this trestle from fire to be very low. I would be
25 happy to answer further questions you may have about

1 the security of the trestle. I would hate to see the
2 structure taken down and part of Willow Glen and San
3 José's history lost. Thank you.

4 MAYOR REED: Trey Silva, Chris Roth, Richard
5 Zapelli.

6 MR. SILVA: First of all, I don't know what
7 I'm doing here, but thank you for your two minutes.

8 My name is Dick Silva. I've been a resident
9 of the Valley of Heart's Delight, the seventh
10 generation here. My immigrants came from Austria,
11 Germany, Ireland, and Portugal. My great-grandmother
12 was one of the Daughters of the Golden -- Native
13 Daughters of the Golden West. That should give you a
14 little bit about my history here. I've also gone to
15 Bellarmine, flunked out of there. At my age, I wanted
16 to be a draft dodger and go to Canada, but I ended up
17 with a Marine Corps serial number 1672163.

18 My purpose here is let's stop playing
19 kicking the can, guys. I was down in that creek at
20 one time and I put the pennies on the train, and let's
21 just move forward. I believe in the system. You guys
22 are the ones that are making the decisions. You're
23 our city fathers. Be fathers and lead us. Thank you.

24 MAYOR REED: Chris Roth, Richard Zapelli,
25 Marie Anders.

1 MR. ROTH: Good afternoon, Mayor and Council
2 members. I simply wanted to come up here as a
3 District 6 resident, a Willow Glen resident, in
4 support of the current trestle bridge replacement.

5 I have a 2-year-old daughter who I look
6 forward to walking the Three Creeks -- the completed
7 Three Creeks Trail with her in the future. The bridge
8 has been neglected there for over 20 years, and I'm
9 really thrilled that the City of San José has finally
10 decided to do something about that, and we have great
11 staff on hand to plan and to execute.

12 And I look forward to also my daughter being
13 able to run on this trail as a high school student,
14 something that she wouldn't be able to do as the
15 trestle currently stands. No one could walk on it.
16 The trail is not complete. But thank you for your
17 support.

18 MAYOR REED: Richard Zapelli, Marie Anders
19 or Anderson, Jack Stallard.

20 MR. ZAPELLI: Good afternoon, Mayor Reed and
21 City Council members. I'm here representing the
22 Willow Glen Neighborhood Association and the Willow
23 Glen Business Association as well as members of the
24 Los Gatos Creek Cleanup.

25 I understand all the emotional parts being

1 fourth generation in San José, all the emotional ties
2 to the railroads. I grew up in this valley. I
3 understand what it's all about. But after reading the
4 studies, going down to the creek myself, taking
5 several photographs, sharing it with our board, having
6 an open discussion, our decision has been and still is
7 to support the recommendations made by city staff,
8 especially those latest drawings. They showed us what
9 ties more the history into the steel structure. I
10 think they're outstanding.

11 So the Willow Glen Neighborhood Association,
12 Business Association and Friends of Los Gatos Creek
13 all support the staff position. Thank you.

14 MAYOR REED: Marie Anderson, Jack Stallard.

15 MS. ANDERSON: Hi. My name is Marie
16 Anderson. I've lived in Willow Glen for over 28
17 years. I attended the Three Creeks Community Meeting
18 along with my family and neighbors. We are very
19 excited about the new bridge and we want to thank you,
20 City Council, for your previous vote support. Thank
21 you.

22 MAYOR REED: Jack Stallard.

23 MR. STALLARD: Members of the Council, my
24 name is Jack Stallard. I've lived in Willow Glen for
25 the past 47 years.

1 I recently attended a meeting showing the
2 design progress of the section of the Three Creeks
3 Trail stretching from Loness Avenue to Minnesota. The
4 new bridge design was shown and it carries a trestle
5 theme. The planned outlooks on each side of the creek
6 add flavor to that site. I thought that the design,
7 the bridge design was favorably received by the
8 attendees. I like the new bridge as well as the
9 various amenities planned along the trail and am
10 looking forward to using the new bridge, maybe as
11 early as next summer. Thank you.

12 MAYOR REED: That concludes the public
13 testimony. Staff, did you have anything you wanted to
14 add? This is the third time this has been in front of
15 the City Council. The train has left the station, but
16 this might be a bridge too far. I just want to give
17 the staff a chance to comment on it.

18 MR. CANO: Thank you. Matt Cano, Deputy
19 Director of Parks Recreation Neighborhood Services.
20 With me today is obviously Julie Edmonds-Mares, our
21 director, and Dave Sykes, Director of Public Works.

22 Really briefly. As was mentioned -- a lot
23 of this was mentioned in the comments, so I'll keep it
24 brief. The trail and the bridge was purchased by the
25 city with the help, tremendous help, of the Save Our

1 Trails organization and the Open Space Authority and
2 the County of Santa Clara in December of 2011. We did
3 at the time commission an engineering study so we can
4 evaluate what it would take and whether or not we
5 could restore the existing trestle.

6 The reasons we ended up where we're at today
7 are many, but the engineering study was not the final
8 decisionmaker. It was a tool that we used to inform
9 our decision. Some key points in our decision include
10 the annual maintenance and repair and unknowns at
11 retaining a trestle structure that has been restored
12 in the city's inventory of 130 miles of trails and
13 several bridges is something we simply cannot sustain
14 through the general fund, maintaining and being aware
15 and fixing and repairing something that unique.

16 The timeline for costs and replacement of
17 the -- the timeline and costs for restoring the
18 trestle would be much more uncertain as opposed to the
19 current recommendation we're moving forward with,
20 which is to replace the trestle.

21 The risks of it being out of service in the
22 future, as was mentioned by some of the speakers
23 today, this is an extremely vital link in the city's
24 trail and transportation network, connecting the Three
25 Creeks Trail System with the Los Gatos Creek Trail.

1 It's so important to our transportation system and we
2 want to make sure that we get it active as soon as
3 possible but also so that it continues to be active
4 for generations to come, and we truly believe that the
5 steel bridge replacement project will guarantee that
6 much more than the trestle restoration project.

7 As was mentioned, there is a state grant
8 that funds \$1.2 million of this project. We do have a
9 timeline of using those grant funds by spring of 2015,
10 and in order to keep those grant funds, they've been
11 extended already in the past, and we've heard from
12 many sources they cannot be extended again. We need
13 to keep on this same timeline on the project.

14 We are comfortable with this recommendation
15 for a more certain sustainable project, and as I
16 mentioned, this is an important part of our
17 transportation network. We do recognize the
18 significance of the existing trestle to the existing
19 community and the passion for those who want to
20 preserve it. We do recognize that and we do feel that
21 we will be able to recognize that as much as possible
22 in the design of the new bridge.

23 We had some community meetings prior to the
24 Council's original direction in March, and we've had
25 at least five community input sessions since that

1 time, and we will have one more in early September to
2 finalize the design of the new bridge that's going in.

3 With that, I'd like to turn it over to Dave
4 to see if he'd like to add anything.

5 MR. SYKES: Thanks, Matt. I think Matt's
6 summary is a very good one. I think it is important
7 to note that the shift that took place with staff's
8 thinking on this project through the course of the
9 planning process. Initially we commissioned the
10 engineering report to identify the things that we
11 would need to do to renovate and keep the bridge. It
12 was through that analysis that we became concerned
13 about what it was going to take to do that, and so
14 there a shift happened for us in terms of rethinking
15 that original thought process.

16 I do want to state that the rehab and
17 renovation work that is recommended in the engineer's
18 report to keep the trestle bridge is extensive, and
19 there comes with it some risks in terms of being able
20 to do that work as described in the report and to
21 certainly meet the schedules that have been described.

22 So I think the reason that we made that
23 shift is because we believe that the recommendation is
24 one that kind of factors in all of these
25 considerations, and through the rethinking that we've

1 done over the summer as the questions have come up,
2 our position is and the recommendation stays as it was
3 back in the springtime.

4 MAYOR REED: Thank you, Staff. It may not
5 have been apparent to our audience watching us on TV,
6 so let me just explain what we're talking about here.

7 We're actually discussing the minutes of the
8 Rules and Open Government Committee meeting of May 15,
9 2013, and one of the items on that agenda that's
10 reported out was a request to set a study session on
11 this trestle bridge. The Rules Committee declined to
12 do so, took no action, and so that's what's in front
13 of us today is that Rules Committee action, which is
14 why we're talking about this under the minutes portion
15 of the consent calendar.

16 Council Member Oliverio.

17 COUNCIL MEMBER OLIVERIO: Thank you, Mayor.
18 Thank you, Staff, for the summary and appreciate the
19 speakers from the public. Many of you add value in
20 many different ways, and that's appreciated. In the
21 end, though, and the way that things work out that a
22 decision must be made, and this falls on those that
23 have been vetted and elected by all the residents,
24 which is us on the City Council. So let me just say
25 I'd like to start at the beginning. Okay? Not when

1 the City Council discussed this item twice, heard
2 testimony from the public twice, and voted unanimously
3 twice to support the staff recommendation nearly five
4 months ago but rather starting with the railroad
5 company itself.

6 The railroad company for the purpose of
7 commerce took 95 telephone poles and sunk them into
8 the creek over a half-century ago, 95 telephone poles
9 treated with a chemical called creosote, a chemical
10 which has leached into the amphibian habitat for
11 decades, a chemical, when ignited, that sends a toxic
12 cloud into the air and in this case into an adjacent
13 neighborhood. Ninety-five chemically treated
14 telephone poles in the waterway does not win an
15 environmental award. The railroad company damaged
16 this riparian corridor and is certainly not an
17 environmental steward.

18 A structure like this would not be allowed
19 to be built today. The city would not approve it.
20 The Water District would not approve it. State Fish
21 and Wildlife would not approve it. Why? Because
22 clean water regulations have improved over time. In
23 fact, the city is currently working on a policy for no
24 development 100 feet from the creek, yet this manmade
25 structure is actually within the creek. As shown in

1 the video, other jurisdictions like Washington State
2 have been proactive in actually removing these
3 structures from the waterway.

4 Technical staff from the Water District and
5 the State Department of Fish and Wildlife are pleased
6 with the staff recommendation to remove the structure.

7 Removing the structure will allow for the restoration
8 of the riparian corridor with a new, safe, fire-
9 resistant bridge that will not impede the waterway
10 since it spans the creek from above. Removing the
11 structure eliminates a known and documented risk of
12 toxic smoke to the neighborhood and creates a
13 permanent connection linking two trails for 75 years
14 or longer.

15 The Council has heard testimony on this item
16 from Save Our Trails and the Willow Glen Neighborhood
17 Association, who both support the staff recommendation
18 and along with the greater community are pleased with
19 the progress made over the summer and look forward to
20 opening the new bridge in 2014.

21 Save Our Trails has conducted public
22 meetings for years on the trail. Save Our Trails has
23 and is the leading community advocate for this trail
24 and has adopted the trail and organized volunteer
25 cleanups. Likewise, the Willow Glen Neighborhood

1 Association has worked with Friends of the Los Gatos
2 Creek to clean up the creek in a very significant way.

3 Some individuals would like to preserve the
4 current structure even if it means delaying the
5 completion of this trail for unknown years. Though
6 they may have sincere hearts and can articulate their
7 passion well for the nostalgic structure, critics come
8 forward with no funding and thus the alternative is no
9 connection between these two creeks for many years to
10 come. There are no other funds besides these grant
11 funds available for this project today or in the
12 coming years.

13 We as a council vote on many things:
14 budget, ordinances, policy, land use. Rarely, if
15 ever, do we get a unanimous vote not once but twice on
16 an agenda item. Some believe that the entire City
17 Council did not read the staff recommendation on the
18 Council Agenda not once but twice prior to voting.

19 Now I know I read the information, and I
20 also know my council colleagues and their respective
21 staff are diligent in reviewing all agenda items on
22 the Council Agenda. So I know this is not the case
23 and that when the Council voted twice unanimously we
24 did so clearly understanding the staff recommendation
25 and the end goal, that we would have a new bridge paid

1 for by grant funds connecting two trails.

2 As we know, issues and concerns were raised
3 by a few individuals challenging the integrity of city
4 staff and the engineering experts we hired. Hearing
5 these concerns, I was strongly supportive of a sitdown
6 meeting between these individuals, including the
7 Director of Public Works, the Director of Parks, and
8 the civil engineer who wrote the report. However, I
9 was unable to personally attend this small group
10 meeting since the Council had a budget study session
11 that day.

12 After this small group meeting a memo I
13 authored went before the Rules Committee outlining the
14 various risks of delay or changing course but
15 potentially considering at that time another
16 engineering study focused on preservation of the
17 existing structure if it could be done for
18 significantly less than the current one to
19 \$1.1 million price tag.

20 The current engineering study did not take
21 bore samples of all the wood beams as it was a visual
22 inspection, and therefore unforeseen damaged wood
23 would likely increase the cost of preservation.
24 Spending \$1.1 million to preserve the structure,
25 assuming there are no hiccups, which would be rare as

1 rehabilitating a structure that is old and has not
2 been maintained for a decade could very well find
3 ourselves in the likely scenario with more wood damage
4 and subsequent higher costs, and a delay in completing
5 the project would jeopardize the grant.

6 The million dollar project could all go up
7 in smoke when a fire occurs. This would mean a
8 severed trail connection for countless years. Why
9 several years? Since the city does not have millions
10 of dollars sitting around to replace the burned wood
11 structure, plus the timing of when work is allowed in
12 the creek, summer only, and you must apply for permits
13 a year in advance.

14 At the Rules Committee meeting, we had
15 speakers for and against. City staff answered all the
16 concerns raised by speakers in a complete manner and
17 explained the details well. The Rules Committee did
18 not support taking this topic up again having recently
19 voted twice for the staff recommendation and no new
20 data was presented in opposition to the staff
21 recommendation.

22 Listening to the Rules Committee members'
23 comments, I personally could not disagree with my
24 colleagues' rationale. However, having heard city
25 staff answer the concerns raised at the Rules

1 Committee, I asked the city manager to have staff put
2 it in writing as an informational memo recapping the
3 concerns from the rules meeting, plus the previous
4 small group meeting held with these individuals and
5 our civil engineers. As I mentioned earlier, I was
6 unable to attend this small group meeting to observe
7 the discussions.

8 Staff followed up with my request from the
9 Rules Committee meeting with a six-page informational
10 memo detailing concerns and answers from both civil
11 and non-civil engineering staff. It is a concise
12 document that covers the topic well, and I, like my
13 colleagues, receive countless emails daily on a
14 variety of topics and challenges facing the City of
15 San José, and this item is no different.

16 I found most people signing a vague petition
17 or sending a form email did not have the background
18 information. Therefore, I sent the six-page
19 informational memo to those individuals that lived in
20 San José as many that sent the Council emails and
21 signed petitions do not even reside in San José. In
22 only one case did I get a response that was skeptical
23 of the informational memo, specifically on how much it
24 would cost to dismantle the wood structure. To this
25 very point I have found no credible source providing a

1 different dollar amount for deconstructing the
2 structure than is detailed in the engineering report.

3 So what does the memo cover? Six pages.
4 Here. It basically covers back when it was posted on
5 the -- when the report was posted on the agenda back
6 in February, it talks about the estimated cost for
7 retaining the wooden trestle are significantly higher
8 than for a replacement bridge, and annual maintenance
9 and inspection of trails and bridges are paid from the
10 general fund.

11 In addition, it talks about the
12 environmental permitting process; what to do since the
13 bridge is degraded; that the fact that it went through
14 the historic process, which is required by the state
15 and NEPA, that's a correct pronunciation or NEPA; and
16 that we've already looked at extending the grant and
17 were unable to. It goes over the engineering study,
18 the public outreach. Then it summarizes again that
19 the annual maintenance, cleanup, inspection costs to
20 retain the existing trestle bridge are significantly
21 higher than the cost of a replacement bridge.

22 It says that keeping the existing trestle
23 presents a significantly higher risk of the bridge and
24 trail system being out of service indefinitely because
25 of the potential for fire damage or continued

1 deterioration. Last I heard we had 10 fires in five
2 years, some next to the structure, some on the
3 structure. One arson. That this is a trail network
4 that we're trying to build; that we want to have this
5 connectivity; that the construction schedule to meet
6 the grant is far more reliable with the new bridge;
7 and that the uncertainty for construction costs is
8 much greater because we don't know the full extent
9 once you get into these projects of what's going on.

10 This summer while my colleagues might have
11 been away I've gone on several group tours led by Mr.
12 Ames. These are tours of the trestle and the creek
13 area. I did not speak at length to the group at large
14 during these tours as I preferred to listen. What I
15 heard was not totally one-sided but also did not
16 acknowledge many of the staff points, and I chose not
17 to debate.

18 During each tour there was a visible and
19 sizable homeless population in the creek area. There
20 have been encampments here since I was in high school,
21 and I do not see them going away anytime soon. These
22 encampments present an inherent fire danger to the
23 existing structure as the homeless cook where they
24 live, which is often directly underneath the
25 structure. The inherent fire danger is documented by

1 the fire department, but also one can see the visual
2 proof of past fires present in the charred wood in
3 several locations of the structure and even an empty
4 gas can, which I saw after an interview at the bridge
5 with reporter Damian Trujillo. The empty gas can was
6 also documented in a photo on the Willow Glen website.

7 Some on the group tour shared with me they
8 were disturbed with the encampments and that the
9 existing wood structure was less than what they
10 expected. I do not believe these people will be
11 coming back until there is a new bridge, and I'm going
12 to read to you a letter from Megan that sent us a
13 letter to the whole Council that went on the tour, and
14 she writes:

15 "Dear Council Members: My spouse and I own
16 a home that backs up to the Three Creeks Trail, less
17 than two blocks from the Willow Glen Trestle. We
18 strongly support the construction of the new steel
19 trestle and urge you to use the \$1.1 million in grant
20 money for this new bridge in Willow Glen.

21 "In May, we joined a tour of the trestle led
22 by individuals who wish to save the existing
23 structure. We found the existing trestle is an
24 eyesore, unsafe, dilapidated, and a fire hazard.
25 Though some argue for its beauty and hope for it to be

1 a grand entryway to Willow Glen, the existing trestle
2 is not visible from any streets in Willow Glen.
3 Additionally, the proposed design would not impede the
4 flow of the creek, which is home to an impressive
5 variety of wildlife, including Chinook salmon and
6 steelhead trout.

7 "We look forward to the completion of the
8 Three Creeks Trail, and that includes a safe steel
9 bridge over the Los Gatos Creek. Please keep the
10 funds raised for this new bridge in Willow Glen and
11 support the new steel structure."

12 Megan Jenson, who's actually also a
13 biologist by her occupation.

14 A new bridge will not remove the homeless
15 encampments, but it will remove a wooden structure
16 that has zero supervision from sunset to sunrise and
17 is itself fuel for fire. Certainly doing nothing for
18 years to come will only promote more encampments as
19 there's no way for the general public to use the trail
20 without a safe way to cross the creek on foot or by
21 bicycle.

22 Since Council voted unanimously we've had
23 four community meetings on the Three Creeks Trail, all
24 of which cover the topic of the new bridge. We had
25 great feedback on the trail master plan from attendees

1 with attendance as high as 100 people. At this
2 meeting, staff also provided Mr. Ames the floor for
3 the meeting. Mr. Ames was allowed to speak at length
4 and present his very own PowerPoint slides which were
5 in opposition to the staff recommendation. I did not
6 witness any outpouring from the audience embracing
7 going back but rather moving forward with a new bridge
8 so people could actually use the trail since it would
9 be connected.

10 After this meeting I received -- well,
11 actually I read in *The Mercury News* there was a letter
12 from someone that attended the meeting, and they
13 write, "Hello. My wife and I attended the Willow Glen
14 Trail Planning Meeting," and I want to be clear, this
15 is the meeting that Mr. Ames presented the PowerPoint
16 position -- presentation.

17 "Hello. My wife and I attended the Willow
18 Glen Trail Planning Meeting tonight. I know there are
19 some vocal advocates for the old trestle, but I trust
20 that you recognize there are plenty of other
21 constituents who support the proposed city plan of a
22 new steel bridge. I have to believe the design will
23 be in good taste, as all of the design elements
24 reviewed tonight clearly demonstrated. Any historical
25 value of the old wooden structure exists solely in the

1 minds of the romantics, who never go there, or the
2 retired railroad buffs, who have nothing better to do
3 than debate and obstruct. Please proceed if possible
4 with the new bridge. Thank you. George and Pamela
5 Amenosota."

6 I want to clarify. That was an email to me.
7 There's another letter I'll read to you that was
8 printed in *The Mercury News*.

9 This same community meeting also provided
10 the opportunity for Mr. Ames and others to have a
11 second sitdown discussion with the civil engineer who
12 wrote the report. This time I was able to observe the
13 conversation firsthand. What I saw were concerns and
14 issues raised and the civil engineer responding with
15 complete and very technical answers. However, it
16 seemed from my observation that no matter what was
17 said by the civil engineer, it was not trusted nor
18 accepted by the individuals opposed.

19 Mind you, this is the expert we hired and it
20 seemed to me in the presence of Public Works and Park
21 staff that the answers were complete.

22 Also presented by Mr. Ames during this
23 discussion were some new concept drawings of actually
24 adding on to the existing structure. However, these
25 new concept drawings are not part of the engineering

1 report, and the civil engineer said these design
2 changes would require an additional engineering
3 report, additional structural engineering, and
4 inevitably increase the cost significantly.

5 So now I'll read you the letter to the
6 editor that someone who attended that meeting as well
7 and they write:

8 "This past Wednesday I attended the third
9 workshop to discuss the Three Creeks Trail Master
10 Plan. The City of San José should be commended. They
11 presented a wonderful plan to replace the old trestle
12 across the Los Gatos Creek and other details for the
13 trail itself. We have lived next to the Los Gatos
14 Creek for 25 years in Willow Glen. We support the
15 City Council in its decision to approve a new bridge
16 at the Three Creeks Trail. It's time to move forward.

17 Steve Anderson."

18 And another letter from Jack Stallard, who
19 is here today, former president of the Willow Glen
20 Neighborhood Association. But you spoke, so I won't
21 read your letter to the editor.

22 But I will say that nostalgia can be a
23 strong emotion. I believe that the bridge is
24 nostalgic, but as covered in the report, it is not
25 historic. Some people in Willow Glen were nostalgic

1 about the former Willow Glen Library on Minnesota
2 Avenue. However, now we have a new library that is
3 good for the long term.

4 Others were adamantly opposed to the tearing
5 down of the old Blane's lighting building on Lincoln
6 Avenue to make way for a new retail and office
7 development, now home to Lew's Village, among others.
8 Because of this approval, Willow Glen now has a town
9 square. This new fountain area is constantly filled
10 with people both young and old alike, united in their
11 enjoyment of this enhanced open space.

12 I believe a year from now we will be
13 celebrating the opening of a new bridge, paid for by
14 grant funds and not the general fund, nor park funds,
15 which will mean we will not have to give up on
16 commitments made for other neighboring parks and even
17 the buildout of the trail.

18 I know the Council also received a letter
19 from the California Trolley Railroad Group. If this
20 group has a million dollars, then I'm all ears.
21 However, they do not. I contacted three board members
22 who are listed on the letter and they each said they
23 had never been asked about this issue.

24 The County of Santa Clara Board of
25 Supervisors on May 24 voted to have county park staff

1 work with city staff on this issue. The board present
2 acknowledged that this is 100 percent a city decision.
3 Since that vote in May county park staff reviewed all
4 the information and authored a report. The county
5 report actually validates the city staff work is
6 correct. The county validated the structure is not
7 historic. The county validated the structure has a
8 risk of fire danger. The county validated the grant
9 is expiring and cannot be extended. The county
10 validated the cost to maintain the existing structure
11 is higher than a new bridge. So this appears to me to
12 be third-party validation of the work that staff has
13 done.

14 In closing, if there are any vote change
15 today from the prior two unanimous votes, it would be
16 a mystery to the public since no new data has been
17 presented, nor has there been any change of the staff
18 recommendation. Those individuals opposed raised
19 concerns commonly know as FUD -- fear, uncertainty,
20 and doubt -- that would ultimately result in having no
21 trail connection for years to come.

22 Government entities, including San José,
23 have spent millions of dollars on this land and at
24 minimum given the current opportunity before us, we
25 should enable this land to be accessible for the

1 public now rather than waiting years as there are no
2 monies in the District 6 park funds to cover this
3 project. After today I'm hopeful those opposed will
4 lay down their quiver and cease with veiled threats to
5 stop the new bridge by interfering with the
6 environmental application.

7 Staff believes through their conversations
8 with state regulatory agencies that the timeline can
9 be achieved for environmental permits, dismantling the
10 wood structure, and actual construction of the new
11 bridge. The trail, this trail will provide joy to San
12 José residents for many years to come. However, only
13 once it's actually connected.

14 Staff, do you have any comments or feedback
15 on what I've said?

16 FEMALE VOICE: No additional comments.

17 COUNCIL MEMBER OLIVERIO: Okay, thank you.
18 And then, City Attorney, a motion on this to approve
19 the rules minutes, would that suffice?

20 MR. DOYLE: That would be consistent with
21 taking no action, yes.

22 COUNCIL MEMBER OLIVERIO: Yes, I'll make a
23 motion to approve the rules minutes.

24 MAYOR REED: All right. We have a motion to
25 approve the rules minutes. Council Member Rocha.

1 COUNCIL MEMBER ROCHA: Thank you, Mayor.

2 As far as the memo that I distributed, I'd
3 ask for somewhat of an update, so to speak, in terms
4 of the processes permitting engineering construction
5 documents. Would you mind speaking a little bit? I'm
6 not sure if the memo that Council Member Oliverio is
7 talking about couldn't have included that. Is the one
8 you're speaking about from May? May 17, is it that
9 one?

10 COUNCIL MEMBER OLIVERIO: There's a six-page
11 info memo.

12 COUNCIL MEMBER ROCHA: A six-pager --

13 COUNCIL MEMBER OLIVERIO: -- and then --

14 COUNCIL MEMBER ROCHA: -- from May 17. I
15 saw the info memo, but it was a six-page one.

16 COUNCIL MEMBER OLIVERIO: And then staff
17 issued another informational memo yesterday.

18 COUNCIL MEMBER ROCHA: Yes.

19 MR. CANO: Thank you.

20 COUNCIL MEMBER ROCHA: But the six-page one
21 you're talking about is from May?

22 COUNCIL MEMBER OLIVERIO: Yes.

23 COUNCIL MEMBER ROCHA: Okay, thank you.

24 MR. CANO: Thank you. Yes, the six-page
25 information memo is from May and we issued another

1 informational memo with an update on the community
2 process since May as well as the construction process.

3 COUNCIL MEMBER ROCHA: That was the one I
4 was more interested in was the construction.

5 MR. CANO: Sure. The construction, the
6 design is proceeding as well as the conversations with
7 the permitting agencies. The environmental documents
8 are under preparation as well. Those will be
9 published on the state clearinghouse as well as the
10 City of San José's website at least 60 days prior to
11 the Council award of the construction project.

12 We are expecting the construction award to
13 be presented to the City Council in April 2014, with
14 construction commencing in June and completing in the
15 fall of 2014.

16 COUNCIL MEMBER ROCHA: Construction in the
17 fall 2014?

18 MR. CANO: Correct.

19 COUNCIL MEMBER ROCHA: Okay. And there has
20 been some issues raised about environmental clearance
21 or additional environmental work that needed to be
22 done or should have been done. Can you speak a little
23 bit about that so I understand it better?

24 MR. CANO: Sure. The environmental
25 clearance for this project is underway right now, so

1 whether we would have gone with the option of
2 restoring the trestle or the current option of
3 replacing the trestle with the steel bridge, we still
4 need to do the environmental clearance work no matter
5 what.

6 COUNCIL MEMBER ROCHA: Can you talk about
7 what level of environmental review?

8 MR. CANO: Sure. This is anticipated -- let
9 me just make sure I'm correct -- this is anticipated
10 to be a mitigated negative declaration.

11 COUNCIL MEMBER ROCHA: Okay. So as far as
12 environmental review, that's more on the lower end
13 than the higher end, and that would have happened or
14 this level of review would have happened whether it
15 was renovating the current structure or a new one, or
16 would it have been a different review?

17 MR. CANO: Okay, we definitely would have
18 gone through the SECA process either way, and I would
19 say that yes, because either project requires us to go
20 into the creek and divert the creek essentially when
21 we're doing construction. So whether we would have
22 restored it or the current project to replace the
23 structure, it's still a significant amount of work in
24 the creek bed.

25 COUNCIL MEMBER ROCHA: Okay. And then as

1 part of this review, were we going to get a sense of
2 what potential mitigation issues we might have or
3 environmental issues we might have by removing the
4 current structure that are unforeseen at this point?

5 MR. CANO: Correct. Yes, that would happen
6 during this discussions with the permitting agencies
7 as well as the environmental review process, although
8 we have had discussions -- we have started discussions
9 with all the permitting agencies right now, and we
10 feel very comfortable that we've got a handle on all
11 the mitigations that are going to be necessary.

12 COUNCIL MEMBER ROCHA: A handle? I mean, we
13 talked about it the last time that there might be some
14 costs that were unforeseen, and that's typical of any
15 project, so that's not something --

16 MR. CANO: Sure. Yeah, there's definitely
17 unforeseen costs in any construction project and Dave
18 can maybe help me out, but we definitely feel there's
19 much, much less unforeseen costs with the trestle
20 replacement project than there would be if we were to
21 have proceeded with the restoration of the trestle.

22 MR. SYKES: Yeah, I think if I can add on.
23 You know, we've done our best to kind of look at both
24 scenarios. As Matt mentioned, in either scenario we
25 will need to get down into the creek area.

1 For the removal of the trestle, most of the
2 removal will be able to be done from the banks, but
3 the center piers we'll probably have to get into the
4 creek. On the renovation proposal, we will definitely
5 be down in the creek. It would require that we would
6 have scaffolding at every single bent, there's 13
7 bents, so we would be down in the creek for an
8 extensive period of time to renovate that bridge.

9 So either scenario presents generally the
10 same type of construction impacts if you will.
11 Obviously, in the scenario of replacing the bridge,
12 the long-term environmental impacts are less than
13 keeping the trestle bridge.

14 COUNCIL MEMBER ROCHA: Okay, thank you.

15 As far as the public outreach process, my
16 experience, and forgive me if I missed a bunch of it,
17 and that's possibly the case because I was not engaged
18 as much on this issue as I have been post decision,
19 was not the lack of -- I would suggest that the public
20 outreach now has been more than prior to this
21 decision, and that may be typical of some projects or
22 it may be typical of all projects. But I kind of
23 feel, looking backwards now, that if we had had a bit
24 more public outreach in terms of the initial decision,
25 and again I'm not going to put that failure on

1 anybody, I have to point out that I made that decision
2 in looking in hindsight, I take full responsibility
3 for that decision, but I thought then hearing from the
4 community that we might have been better served if
5 we'd done more outreach on the front end than after.

6 That's not really something you need to
7 respond to unless you feel inclined, but that's just
8 me looking backwards on the issue and why I struggle
9 with this decision.

10 I for one am okay admitting that I may have
11 made a mistake. I have the integrity and capacity to
12 do that, so I also admit that I'm not perfect and 100
13 percent of my decisions looking backwards may not be
14 perfect, so that's my interest in raising this issue
15 was to make sure that I had the opportunity to hear
16 from you folks again going forward that we made the
17 right choice and I can be comfortable with that
18 because the last thing I want to do is make a decision
19 that I'm going to regret completely, so I appreciate
20 you taking the time not only today, and my colleagues
21 as well, but also in the community outreach process.

22 And as far as the update on the community
23 outreach process, the final design will go forward to
24 the community for a final meeting, so to speak?

25 MR. CANO: Correct. We're currently

1 scheduling that likely early September.

2 COUNCIL MEMBER ROCHA: And you're going to
3 do that at one meeting?

4 MR. CANO: Yes. We've already had -- we've
5 had three meetings already where we've presented
6 preliminary designs. The first two meetings, we
7 presented the same design, got feedback, and then at
8 the third meeting we presented some revised designs
9 and told the community that we would continue to
10 incorporate that and get their final feedback on the
11 designs in a meeting, which is currently being
12 scheduled for early September. So that would be the
13 final meeting.

14 COUNCIL MEMBER ROCHA: Okay. The -- well,
15 okay, I'll leave that one alone. And there's no
16 further public process as far as the Council's role?

17 MR. CANO: No, the next time the Council
18 would see this would be at the construction award
19 recommendation.

20 COUNCIL MEMBER ROCHA: And you put that out
21 for bid for different companies. Is there a long list
22 of companies that do this kind of work?

23 MR. SYKES: I think there will be enough
24 bidders to get competitive bids. It's not the type of
25 work that you'll see hundreds and hundreds of

1 contractors be able to do, but I think there's enough
2 companies out there that we'll be able to get
3 competitive bids.

4 COUNCIL MEMBER ROCHA: Okay. And then at
5 that point we're done, Council's engagement. All
6 right. I'm sure you're looking forward to that and
7 I'm sure a few of us up here as well.

8 And I didn't prepare any comments like my
9 colleague did, and again that wasn't for me a debate
10 over whether it was the right decision or not, the
11 right decision or who's right or who's wrong. I mean,
12 I also recall some comments in the past about coming
13 into these meetings with prepared comments and how it
14 was a failure on their part in some cases. The word I
15 struggle with a little bit with as well is critics,
16 and I'm also okay with folks having different opinions
17 or different priorities for their dollars, and I
18 wouldn't refer to them as critics. So thank you.

19 MAYOR REED: Council Member Liccardo.

20 COUNCIL MEMBER LICCARDO: Thanks, Mayor. I
21 wanted to thank all the people who are so passionate
22 about this on both sides have come out because that
23 passion in many ways has driven the buildout of our
24 trail system. We know that this grant and many other
25 efforts have really been -- have really depended in

1 many ways on critical community involvement, and I'm
2 grateful for folks on both sides of this.

3 I've spent a lot of time talking with Tai
4 McMahon about this issue as well as with Larry Ames
5 and many other members of the community who emailed
6 me, who called our office who don't live anywhere near
7 the bridge trestle obviously. This issue has struck a
8 cord for a lot of folks, including a lot of people who
9 care about the environment and historic preservation
10 and a lot of other issues.

11 I guess I just wanted to ask one question
12 that is still a little foggy in my mind about the
13 Prop. 40 grant. I know everyone is concerned about
14 losing the grant and needing to move forward in a
15 timely way. But this grant was originally a trail
16 acquisition grant, wasn't it?

17 MR. CANO: Yes. Most recently we had
18 planned on using it for the acquisition of the western
19 alignment of the Three Creeks Trail, but because of
20 the strict requirements of the state on requiring not
21 only appraisals but a double appraisal essentially and
22 the fact that we had -- the way we had negotiated the
23 purchase price with Union Pacific, we were not able to
24 meet the state's requirements to use this for
25 acquisition of the Union Pacific property.

1 COUNCIL MEMBER LICCARDO: Okay.

2 MR. CANO: So I don't foresee us being able
3 to do that.

4 COUNCIL MEMBER LICCARDO: Were there other
5 sites either for property or for easement where we
6 could have used this grant that would have built out
7 the Three Creeks Trail?

8 MR. CANO: For the Three Creeks Trail, no.
9 Any acquisition would have likely required working
10 with Union Pacific, and we tried and failed on using
11 this money last time around, and the construction of
12 the Three Creeks Trail is not ready yet because we're
13 just wrapping up the master plan.

14 COUNCIL MEMBER LICCARDO: Okay. That's
15 helpful to know. I guess, you know, I think Dave
16 Sykes' statement I think was very compelling to me,
17 that really the staff began this process looking for a
18 way to restore this bridge, and we obviously hired a
19 consultant to do the analysis, and when the analysis
20 came back, it became apparent that that wasn't a
21 feasible course for us, and I always found Dave to be
22 very credible on these kinds of issues, and he's had
23 plenty of challenging issues to deal with lately, so I
24 can appreciate that.

25 I actually had lots of misgivings about our

1 vote. I even talked to folks who I consider to be
2 historic preservation experts, people like Jim Salada,
3 and asked them, hey, give me your opinion. What I
4 haven't seen is anyone who has come forward and said,
5 I'm an expert, this is what I do for a living and,
6 hey, the data that the city has is wrong. And that is
7 something I've been very interested in seeing. I've
8 encouraged folks to bring that to me. I just haven't
9 seen it.

10 And so, as a result, I think many of the
11 concerns raised by my colleague, Council Member
12 Oliverio, are well-founded, and certainly by staff as
13 well.

14 I think the concern, though, that animated
15 many of my questions is something that Council Member
16 Rocha raised, which is around the process. I
17 appreciate Council Member Oliverio indicated that, you
18 know, of course our staffs and each of the council
19 members on the dais should have read the staff
20 recommendation on the council agenda and thoroughly
21 reviewed it before voting.

22 But if you look at Item 5.1 on March 26, and
23 it's an item just the direction alone is half a page
24 long. You actually don't see anywhere in that any
25 mention of a decision about the destruction or

1 demolition or restoration of a bridge. The closest it
2 comes is there's one line that mentions a Three Creeks
3 Trail pedestrian bridge development project, that
4 we're submitting grant applications for that purpose,
5 and obviously this was initially begun as I understood
6 it for restoration.

7 That development project as it's described
8 doesn't exactly tell the public what's going on very
9 clearly, and I don't mean that from the standpoint of,
10 hey, we didn't know what was going on, we had a report
11 to read. The problem is is as the public is notified
12 about what to be coming out for or not and what side
13 to align themselves on and whether to speak out.

14 You know, at that March 26 hearing, I went
15 and pulled the transcript and I actually spoke on it
16 and said, gee, I'm really pleasantly surprised that
17 all the dissent out there in the community seems to be
18 resolved because we had Mr. Delsom and Mr. Zapelli
19 come out and speak both in favor. We didn't have
20 anybody come out to speak in opposition. And I said I
21 know originally there were lots of folks who were
22 willing to chain themselves to this bridge, and I
23 think we've moved considerably to a place where we
24 recognize the need to simply move on and build a new
25 one.

1 The point is is that it wasn't obvious to me
2 that all of the work that's gone into this after the
3 Council vote, the extraordinary amount of outreach
4 would have been necessary if there had been perhaps a
5 little more checking in before the Council vote, and I
6 know there were neighborhood meetings and so forth,
7 but I'd much rather have this battle of wanting
8 opinions about experts and everything else here in
9 Council chambers than to hear about it third-hand in
10 sort of a game of telephone out in the community.

11 You know, when it came back to Council on
12 April 9, I pulled it off the consent agenda, because
13 it was on the consent agenda at the time, again
14 there's nothing in the item that mentions the
15 demolition or destruction of a bridge. It's just an
16 agreement with CH2M Hill. And I pulled it off because
17 I had started to hear concern out there in the
18 community, and at that time, it was, you know,
19 emphasized, well, the Council has heard this and
20 debated this already, and clearly it really hadn't
21 happened in the context of a community that was out
22 here telling us, hey, we're really concerned about the
23 historic preservation issues and some of the other
24 issues associated with this bridge.

25 So I appreciate the fact that staff has put

1 in an enormous amount of work into this, and I
2 recognize that there were certainly community meetings
3 beforehand. I just can't help but wonder if we
4 wouldn't be spinning our wheels so much if we had had
5 this sort of hashed out in Council with all the
6 members of the community the first time, and that's
7 what has animated many of my concerns.

8 Nonetheless, as I said, I think ultimately
9 the final decision was the right one for the reasons I
10 think that Dave Sykes and others have articulated.

11 MAYOR REED: Now that it's 3:00 and we
12 haven't finished the consent calendar, I just want to
13 remind everybody that the original idea in the Rules
14 Committee was to have a study session. I think we
15 just had one, but we're still talking about it.

16 Council Member Kalra.

17 COUNCIL MEMBER KALRA: Thank you, Mayor, and
18 some of the questions of staff have already been asked
19 and I appreciate the staff's work on this, and I also
20 appreciate all the members of the community that come
21 out on both sides, are people that I think we all
22 respect and have gained credibility through the work
23 they've done for the community on both sides of the
24 issue, and I think that makes it challenging, makes it
25 even that much more challenging because we have people

1 who always -- it does matter when people that you
2 respect have differing opinions and you have to take
3 it -- certainly take that into account.

4 I do believe that, especially based upon
5 some of the timelines and the study of the staff, that
6 we are on the right course and the comments made by
7 Councilmen Rocha and Liccardo are well taken, and I
8 for one have never -- I'm always one to allow for
9 further public comment and debate.

10 There's always going to be a timeline.
11 There's a decision that has to be made and there's a
12 time for a decision to be made and that time is now.
13 But I'm glad that we've had the opportunity to discuss
14 this fully, and, you know, I haven't always -- I think
15 that this City Council and City Hall has done a very
16 good job of making our trail system a priority.

17 I don't always think that we've done the
18 best we can in terms of preservation or in terms of
19 protection or appearing in corridors and what have
20 you, and I've been vocal about that over the years,
21 and so I think that there are some legitimate concerns
22 that we have and should continue to have going
23 forward, particularly when it comes to preservation
24 and the priorities we have when it comes to
25 preservation, and I think in balance I think that the

1 decision the Council has made on this issue has been
2 correct, but I do take very seriously into account the
3 concerns about preservation as a whole and feel that
4 there is certainly still a lot more work to do in this
5 city, throughout the city in terms of making
6 preservation a priority.

7 In this case, I think it's particularly
8 regarding the analysis done by staff and the funding
9 in order to complete the trail, which I think is of
10 critical importance for us as a city in terms of many
11 of our goals, I think it's important for us to move
12 forward, but I do thank the public for the debate and
13 the discussion and allowing us hopefully next time as
14 these issues will continue to come up to have the
15 debate early and often so that we can come to what I
16 believe is the best decision on any given issue.

17 MAYOR REED: Council Member Herrera.

18 COUNCIL MEMBER HERRERA: Thank you, Mayor.
19 I know that the first time I heard about the
20 objections to this I was very moved. I'm very much
21 concerned about preserving historical buildings,
22 objects, things in our community that take us back and
23 memorialize our history because they help us know who
24 we are, and there's been a lot of lost opportunities
25 in San José to save things that are of historical

1 significance.

2 And so I was ready to go to bat with Larry
3 on this. I went to some meetings. I started to learn
4 about it. I didn't get enough evidence to make me
5 believe that we should go in a different direction,
6 and I wanted to because I was with you on wanting to
7 preserve this. But one thing I will say and I'm not
8 going to elaborate on all these things. I think
9 Council Member Oliverio covered a lot of the facts,
10 and Council Member Liccardo talked about the need to
11 continually improve our process, and I want to commend
12 staff on everything you've done in terms of the work
13 on this. We always can improve process and outreach.

14 I want to thank the community for coming
15 forward and all the varieties of opinions that you
16 hold. I have a great deal of respect for the folks
17 that have come today no matter where you stand on the
18 issue.

19 I guess I just want to suggest one thing,
20 and I don't know if this is possible, but is there a
21 way in this project to through photographs or through
22 art somehow retain at least the image of this trestle,
23 some way to incorporate that in the new bridge or the
24 surroundings? At least maybe have some tie to that
25 historic past? I don't know if that's possible, but

1 that's one thought that comes up for me.

2 And the second thing is there's lots of
3 other historic buildings and things that need
4 preserving in San José, and I hope members of this
5 group, this audience will be out there helping us save
6 those because there are other things that are
7 threatened that might be able to be preserved, and I
8 think we need a lot of effort in that regard, and I
9 really support the feeling and the passion of the
10 people here that really want to make sure that we
11 preserve these things. Thank you.

12 MAYOR REED: Council Member Rocha.

13 COUNCIL MEMBER ROCHA: Thank you, Mayor. I
14 just had one followup question for staff, and I forgot
15 to follow up on it.

16 Someone from my office did give you a call
17 earlier today with a question. I know it's a little
18 outside-the-box question. It was about leaving the
19 trestle in place and building the bridge, the new
20 bridge parallel to it and retaining some portion of
21 it. Did you have some further comments on that?

22 MR. CANO: Thank you for the question. What
23 I had mentioned earlier today was there's a few
24 concerns I would have with that. One is that we don't
25 own the right-of-way, sufficient right-of-way to do

1 that.

2 COUNCIL MEMBER ROCHA: And who does?

3 MR. CANO: I haven't confirmed that yet.

4 COUNCIL MEMBER ROCHA: Okay.

5 MR. CANO: I'm not sure.

6 COUNCIL MEMBER ROCHA: Who could it
7 potentially be?

8 MR. CANO: It could be the Water District.

9 COUNCIL MEMBER ROCHA: Any other parties
10 that --

11 MR. CANO: There's a lot of private property
12 along the Los Gatos Creek Trail, but I'm not sure if
13 it is right there or not.

14 COUNCIL MEMBER ROCHA: Okay.

15 MR. CANO: But it could be some private
16 property as well. It would also create a jog in the
17 trail, and it's unlikely we would be able to move
18 forward. Right now we've already started the process
19 of design, talking to the permit agencies, et cetera,
20 and a lot of that process, because we know where the
21 new bridge is going to go.

22 COUNCIL MEMBER ROCHA: What the footprint is
23 going to be, yes.

24 MR. CANO: The footprint, the shadowing on
25 the creek and everything like that. And then it would

1 leave the -- correct.

2 COUNCIL MEMBER ROCHA: So the jog or you
3 call it the sharp corner, couldn't you ease into that
4 given that we have, or would that also require some
5 additional land to bend it out a bit to make sure that
6 it's not a sharp corner?

7 MR. CANO: We haven't done analysis yet, and
8 I imagine if we kept the trestle and put a bridge next
9 to it, it would require additional land that we don't
10 own right now is my educated guess on that one. I
11 feel comfortable saying that.

12 COUNCIL MEMBER ROCHA: Okay. Thank you.
13 And that's one of the regrets that I have is not
14 having this full discussion and being as engaged as in
15 my opinion I should have been early on to ask some of
16 these questions on the front end as opposed to after
17 the fact, so thank you for your time.

18 MAYOR REED: That concludes the Council
19 discussion. We do have a motion on the floor. The
20 motion was to approve the Rules Committee minutes. On
21 that motion, all in favor? Opposed? No, none
22 opposed. The motion is approved. That concludes Item
23 2.3(a).

24 (Whereupon, the audio in the above-entitled
25 matter was concluded.)

CERTIFICATE

DOCKET NO.: N/A

CASE TITLE: San Jose City Council Agenda Item 2.3(a)

HEARING DATE: August 13, 2013

I certify that the foregoing is a true and correct transcript made to the best of our ability from a copy of the official electronic digital recording provided by Brandt-Hawley Law Group in the above-entitled matter.

Date: April 25, 2014

Joyce F. Boe

Heritage Reporting
Corporation
Suite 600
1220 L Street, N.W.
Washington, D.C. 20005-4018