



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Barry Ng
Harry Freitas
Angel Rios, Jr.

SUBJECT: SEE BELOW

DATE: May 12, 2015

Approved

Date

5/12/15

COUNCIL DISTRICT: 6

SUBJECT: ACTIONS RELATED TO THE THREE CREEKS TRAIL PEDESTRIAN BRIDGE PROJECT

RECOMMENDATION

- (a) Rescind Resolution No. 76904, which was adopted on January 14, 2014, approving the mitigated negative declaration and the mitigation monitoring and reporting plan for the Three Creeks Trail Pedestrian Bridge Project, and withdraw approval of the Project based on the mitigated negative declaration.
- (b) If the Council confirms that the associated item on the Three Creeks Trail Trestle Bridge is not a historic landmark, then:
 - (1) Adopt a resolution certifying the final environmental impact report for the Three Creeks Pedestrian Bridge Project and making findings related to significant impacts, mitigation measures and alternatives, and adopting a mitigation monitoring and reporting program identified in the final environmental impact report for the preferred alternative of replacing the existing structure with a new pedestrian bridge, all in accordance with the California Environmental Quality Act (CEQA); and
 - (2) Affirm the Three Creeks Trail Pedestrian Bridge construction contract with Gordon N. Ball and proceed with implementing the project contingent upon the Superior Court's determination that the City has complied with CEQA.

OUTCOME

Approval of these recommendations will allow the City to proceed with implementing the Three Creeks Trail Pedestrian Bridge project if the Superior Court determines that the City has conducted environmental review in accordance with CEQA.

EXECUTIVE SUMMARY

After a decade of negotiations, the City acquired land for the Three Creeks Trail (a corridor of about 7.5 acres along a 0.9-mile distance from Lonus Street to Minnesota Avenue) in December 2011. On four separate occasions - March 26, 2013; April 9, 2013; August 13, 2013 and January 14, 2014, the Mayor and Council approved actions (or agreed to not re-consider actions) related to the removal of the existing trestle bridge and replacement with a new free-span bridge over Los Gatos Creek. In July 2014, the Santa Clara County Superior Court ordered the City to withdraw the project approval and to prepare an Environmental Impact Report for the proposed project. The existing bridge is in a poor state of repair. Staff previously recommended, and continues to recommend, removal of the trestle bridge and replacement with a new structure for the following key reasons: (1) Uncertainty of construction costs and timeline for rehabilitation; (2) Annual resources for inspection and maintenance would be considerably more for rehabilitation; (3) Risk of loss of critical trail system access is high for rehabilitation; and (4) Over \$1,000,000 in time limited grant funding would likely be lost if the city were to switch courses and work on rehabilitating the structure. Further information regarding the project and the EIR is provided in the remainder of this memorandum.

BACKGROUND

The City of San José has developed about 57 miles of urban off-street trails. The distance and interconnectivity of trail systems helps provide recreation and bike commuting options for trail users. San Jose has a very high rate of trail commuting (55% along Guadalupe River Trail) because of long-distance and interconnected trail systems.

One of the significant urban off-street trails currently under development is the proposed and partially master planned (western alignment) Three Creeks Trail. The Three Creeks Trail is located along a former railroad corridor and would extend from Lonus Street (Los Gatos Creek Trail) to Coyote Creek Trail, thus interconnecting important trails. A critical component of the Three Creeks Trail is a crossing at Los Gatos Creek that would connect the trail with the Los Gatos Creek Trail.

The City acquired the land for the Three Creeks Trail (a corridor of about 7.5 acres along a 0.9-mile distance from Lonus Street to Minnesota Avenue) in December 2011. The acquisition process took about 10 years, with effort spent on securing grants, negotiating partnership agreements, working with the State to oversee site clean-up, and manage all aspects of a real

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estate transaction. The purchase included the trestle structure within Los Gatos Creek between Lonus Street and Coe Avenue.

While most of the Three Creeks Trail corridor has been open as an *interim* trail, the trestle structure has not (see attachment – trestle photos). Due to the structure's poor state of repair at the time of acquisition, the City erected a 6 foot high chain-link fence in December 2011 to prevent public access and posted "no trespassing" signage. In September 2014 the City replaced the chain-link fence with a sturdier, tubular steel fence. Currently, timbers that once supported the trestle structure show signs of dry rot and are missing in places. Fire damage is evident, with charred timbers throughout the structure.

In October 2012, CH2M Hill, under contract with the City, prepared an engineering study that evaluated the trestle bridge and generally presented two options: one for repair of the trestle bridge and one for replacement of it with a clear span pre-fabricated steel bridge. The study was a *preliminary* engineering analysis that inspected portions of the structure in order to draw general conclusions about the structural elements and their condition and capacity to support loads and seismic activity. As this was a *preliminary* engineering analysis, it did not include the kind of comprehensive assessment that occurs during the design phase of a project. For this reason, it is not accurate to state that the findings of the preliminary analysis offer a high degree of certainty for predicting future costs of repairing the trestle bridge. If the structure is more deteriorated than assessed at key points, the costs would climb.

On March 26, 2013 (Council Agenda Item 5.1) and April 9, 2013 (Council Agenda Item 2.17), Council approved submitting grant applications seeking funding for the removal of the existing trestle bridge and installation of a new steel pedestrian bridge. On May 15, 2013, the City's Rules and Open Government Committee discussed the potential reconsideration of the prior actions on this project (Item G.5). However, this motion did not proceed due to a lack of a second.

On May 17, 2013, City staff sent an Informational Memo to Council to further clarify specific questions that had been raised by the community and the community outreach process that had been undertaken to date. The memorandum provided details regarding the factors that had led to staff's recommendation for removal of the existing trestle bridge, such as the annual inspection and maintenance costs, environmental benefits and long term trail connectivity.

On August 12, 2013, City staff issued another information memorandum which detailed the public outreach that had occurred to date on the project. On August 13, 2013, Council heard public comment about this project when the minutes for the May 15 Rules Committee meeting were before Council for approval (Item 2.3(a)). After discussion, the Mayor and Council approved the Rules Committee's recommendation to not re-consider the item.

On January 14, 2014, the Council adopted a resolution determining that the trestle bridge is *not* a historic resource and adopted the Mitigated Negative Declaration ("IS/MND") and the Mitigation Monitoring and Reporting Plan for the project consisting of demolishing the existing

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railroad trestle bridge and constructing a new steel clear span pre-fabricated pedestrian bridge. It also adopted a resolution authorizing the Director of Public Works to award the construction contract for the project.

The IS/MND adopted by the Council on January 14, 2014 updated a previous IS/MND (PP04-14) approved on June 28, 2004 for the Los Gatos Creek Trail Reach 4 project. The Los Gatos Creek Trail Reach 4 project included altering the trestle bridge to change its decking and to add fencing. It did not include work within the Los Gatos Creek channel. However, the IS/MND for the Los Gatos Creek Trail Reach 4 project also included an evaluation of whether the trestle bridge was a historic resource. That analysis also concluded that the trestle bridge was not a historic resource as defined under CEQA. When the Los Gatos Creek Trail Reach 4 project was constructed, it did not include the work on the trestle bridge because the process for acquiring the land from the former property owner wasn't complete.

On February 11, 2014, the Friends of the Willow Glen Trestle filed a lawsuit in Santa Clara County Superior Court alleging that the City has failed to comply with CEQA. The Friends of the Willow Glen Trestle disputed the conclusion of the IS/MND that the trestle bridge was not historic. They argued that the fair argument standard applied to the challenge of the IS/MND. The Court agreed that the fair argument standard did apply, and that a fair argument could be made that the trestle bridge was historic. During July, 2014, the Court ordered the City to withdraw the project approval and to prepare an Environmental Impact Report (EIR) for the proposed project.

On November 4, 2014, the Council adopted the Three Creeks Trail (Western Alignment) Master Plan which defines a paved and landscaped trail from Lonus Street to the Guadalupe River. The staff memo explained that, although the bridge project was not part of the master plan, it was of related interest to the community and so staff conducted additional outreach on the issue. The City conducted three public meetings for the trail system, and supplemented outreach at neighborhood and advocacy group meetings to discuss the rationale for the removal of the trestle and its replacement with a free-span truss bridge. Through this process, staff focused on four primary reasons for recommending removal of the existing trestle:

- 1) uncertainty of construction costs and schedule associated with rehabilitation of older structures,
- 2) resources required for annual inspection and maintenance, and potential supplemental costs for repairs of varying degrees,
- 3) risk to loss of trail system access due to fire or continued deterioration, and
- 4) time-limited grant funding opportunity to proceed with replacement bridge.

The master plan ensured preservation of the former railroad corridor as a public trail and staff worked with local historians and the community at large to define and develop content for

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interpretive signage along the trail, including recalling the railroad operators, the canning industry and the influence of the railroad on San Jose's development.

ANALYSIS

In response to the Court's order, the City has prepared an EIR for the Three Creeks Pedestrian Bridge project. The EIR is available on the City's website at:

<http://www.sanjoseca.gov/index.aspx?NID=2434>. The Draft EIR was circulated for Public Comment from January 28, 2015 through March 13, 2015.

The EIR compared the environmental impacts from the proposed project to a bridge retrofit alternative, where the existing trestle is covered with a concrete deck, and repurposed as a pedestrian bridge, and to a "No-Project" alternative, where the project area remains in its existing state, i.e. no retrofit of the existing bridge and no construction of a new bridge. The purpose of the alternatives analysis is to allow decision-makers an opportunity to weigh whether changes to a proposed project would lessen the environmental impacts.

The EIR compares the alternative of restoring the trestle to that of replacing the trestle in the following five categories: (1) hydrology and water quality, (2) land use, (3) transportation and traffic, (4) biological resources and (5) cultural resources. With the exception of cultural resources where the impacts of both projects would be the same, the current staff proposed project of replacing the trestle bridge with a free-span bridge is the environmentally preferable alternative in all categories.

Regarding impacts to the hydrology of the creek, under the proposed project, removal of the trestle to accommodate the new bridge would eliminate blockage that causes the water to back up at the trestle. This would result in a uniform water surface elevation through the study area, with no areas of raised elevations from debris blockage. A smoother and lowered water surface profile would increase the storm water system efficiency by increasing the channel capacity and allowing existing storm outfalls to drain surface streets during storm events.

From a land use perspective, the Retrofit Alternative would require higher operation and maintenance costs than the proposed project and, therefore, would not be fully consistent with the General Plan goals and policies regarding fiscally sustainable public infrastructure. The Retrofit Alternative also may pose greater environmental risks, which may not be fully consistent with General Plan goals and policies regarding environmental contamination, and wildland and urban fire hazards.

From a transportation perspective, when the bridge is operational, bridge closures may be needed during larger maintenance activities, to undertake future retrofit projects, and to repair fire damage of the trestle. These occasional closures would require trail users to take alternate routes across Los Gatos Creek, or would otherwise discourage trail use. For these reasons, the Retrofit Alternative would be less consistent with General Plan transportation and trail network goals

than the proposed project, and the proposed project would be the environmentally preferable alternative.

The biological impacts from the proposed project are also less than the bridge retrofit project, although only marginally. This is primarily due to the need to keep a 25-foot vegetation buffer around the wooden trestle. The loss of riparian canopy as a result of the vegetation buffer would lead to reduction in the habitat value of the creek. The comment letters argued for a vegetation buffer around the proposed steel bridge, but the City responded that vegetation buffers are not required for steel bridges per the American Railway Engineering and Maintenance Association Manual of Railway Engineering. The comment letters received did not change the conclusions of the alternatives analysis.

With regard to cultural resources, the EIR contains an extensive historic analysis of the trestle bridge by Stephen Mikesell, an Architectural Historian specializing in bridges and trestles. The historic analysis and the EIR concluded that the trestle does not qualify for either the State or National Registers of historic resource, and that the trestle bridge does not appear to meet the criteria for the City's historic landmark designation.

The historic analysis found that the trestle was only tangentially associated with the Santa Clara County fruit packing industry in that it is one piece of dozens of transportation networks. The trestle did not appear to be associated with the incorporation of the City of Willow Glen in any important way, because the incorporation of Willow Glen was precipitated by the proposed realignment of the Southern Pacific Railroad's 4th Street track, and not the building of the Western Pacific line. The trestle was also not representative of the grade separation movement, in that the trestle carries a railroad over a waterway, and not over a road, and so is not associated with the problem or the solution. Furthermore, there is no indication that the trestle is associated with a person important to the region's history, and the trestle itself does not represent an important example of building practices of a particular time in history, but is rather a slight variation on a typical open-deck pile-supported trestle. Because the trestle does not qualify for the State or National Registers, and does not appear to meet the criteria for the City's historic landmark designation, the EIR concludes that removal of the trestle would have no impact on historic resources.

The EIR notes that the Council is the decision-making authority in the City's historic landmark process, as set forth in the City Ordinance Code. The recommendation of the City's Historic Landmark Commission nominating the trestle bridge as a historic landmark also will be considered by the Council on its May 19 agenda, before it considers the recommendations on the pedestrian bridge project.

During the circulation period, the City received a total of 54 comment letters on the pedestrian bridge project. Public comments, City responses, and text changes that resulted from comments received are included in the First Amendment to the EIR. The Draft EIR and the First Amendment together constitute the Final EIR.

A number of the comment letters received during the circulation period were short and simply expressed support either for the new pedestrian bridge or for retaining and repurposing the trestle.

The bulk of the substantive comments disagreed with the conclusions of the historic report and questioned its adequacy. Comments received indicated that additional historic resources needed to be included in the report to have a complete picture of the value of the trestle bridge. As a result of the comment letters, additional information on the trestle bridge was incorporated into the historic report and the EIR. The additional information incorporated did not change the conclusions of the draft EIR, specifically that the project would not have any significant environmental impacts, and therefore recirculation is not required.

A smaller number of comment letters expressed concern regarding the removal of the trestle timbers from the creek bed and the possibility of releasing creosote from the timbers as a result of the removal process. The City responded that mitigation measures (Mitigation Measure BIO-1) have been added to minimize the release of creosote from pile removal. As an aside, the National Marine Fisheries Service (NMFS) submitted a comment letter supporting the removal of creosote-laden timbers, which in their opinion would improve habitat conditions for steelhead in Los Gatos Creek.

A number of comment letters also questioned the conclusions of the analysis of the various alternative projects. Because the EIR concludes that the trestle bridge does not qualify for historic landmark status, the EIR concludes that the bridge retrofit alternative would not change the impact conclusions for historic resources. Both alternatives would have no impact on historic resources.

Beyond the EIR, staff recommends proceeding with replacement of the bridge as the recommended option for the following key reasons:

1. **Construction costs/timeline:** Uncertainty for construction costs and schedule is much greater for rehabilitation than new construction. Additionally, staff has received indications from the three permitting agencies that they prefer to remove the trestle bridge from the waterway. This could cause significant project delays in receiving permits if the City were to change course and retain the trestle structure. In particular, the United States National Marine Fisheries Services (NMFS) has provided a letter in support of staff's proposal as it will remove the trestle's existing support piles and bridge abutments that contain channel flow and compromise habitat conditions for native fish in Los Gatos Creek.
2. **Annual oversight:** Annual maintenance, capital repair and inspection costs of retaining the existing trestle bridge are higher than the costs of a replacement. Maintenance, repair and inspection of the trestle would require an ongoing need for specialized equipment and environmental permits because of its location in Los Gatos Creek. At a minimum, maintenance would include the annual cleaning of leaf, wood, and flood debris within the

structure and from around the support piles located within the creek channel. This would also include annual inspections of the wooden structure and periodic repair of any deficiencies found in the structure. The in-creek maintenance and inspection would require environmental permits and a high degree of ongoing oversight by the City. The alternative steel and concrete replacement structure would require very little oversight, maintenance and inspection in comparison.

3. **Risks of Failure:** Structural elements of the trestle would need to be repaired or replaced in order to establish structural integrity for reuse as a pedestrian and bicycle bridge. As the structure continues to age, however, staff anticipates that eventually repairs will no longer be sufficient to sustain the structure and removal would have to be considered. In addition, the trestle has a history of being set on fire, and just in the past five years, prior to the award of the construction contract, there had been two verified trestle fires and nine vegetation fires (Source: San Jose Fire Department). Creosote timber construction is very vulnerable to fire, and there is a substantial risk that the wooden trestle would have to be replaced if it burns. If this occurs, the bridge would likely be closed for several years until funding could be identified for a replacement structure. This would disrupt the Three Creeks Trail system for an unknown period, which would be a loss to the community.
4. **Grant Funding:** A significant portion of this project (\$1,400,000) is funded through a grant that expires in June 2015. Staff is working with State Senator Jim Beall to extend this grant for another year. However, if the trestle restoration process is chosen, it is likely that the City will not be able to utilize this grant funding due to an extended schedule and altered scope of work. This is in addition to any funding that would be lost if the current construction contract for the replacement project is canceled. Additionally, the City has secured and recently executed a \$1,000,000 Urban Greening Grant with the State of California which supports the design and construction of the master planned Three Creeks Trail improvements. A bridge crossing to support linkage to the Los Gatos Creek Trail and passage to Lonus Street is understood by the State to be part of the final project which is to be delivered by 2017. Not proceeding with the pedestrian bridge project may jeopardize that funding as well.

For the reasons stated above, staff is recommending proceeding with the project to construct a new steel clear span pre-fabricated pedestrian bridge contingent on the Court approving the EIR.

EVALUATION AND FOLLOW-UP

If the Council certifies and adopts the EIR and the re-affirms proceeding with the project to construct a new pedestrian bridge, the City is required to bring the EIR back to the judge who issued the order for the judge to determine that the City has complied with the requirements of CEQA.

PUBLIC OUTREACH

The City held a public scoping meeting on the EIR after the Notice of Preparation was issued, at the very beginning of the EIR process, and a public comment meeting during the circulation period for the Draft EIR. Approximately 30 people attended each meeting. People who attended either meeting have been updated by e-mail about the status of the EIR.

COORDINATION

This memo was coordinated the Budget Office and the City Attorney's Office.

COST SUMMARY/IMPLICATIONS

If the City decides to proceed with the project to construct a new steel clear span pre-fabricated pedestrian bridge and is able to do so on or before July 15, 2015, the remaining costs of doing so within the permitted construction window of June 15 – October 15 for work occurring below the top of the river bank is approximately \$1,500,000. There is sufficient funding in the 2014-2015 Adopted Capital Budget to complete the project. The total project is expected to be \$3,000,000, and funding is available in the Subdivision Park Trust Fund (Fund 375) and Construction and Conveyance Tax Fund: Council District 6 (Fund 384) and City-wide Parks Purposes (391) for this project. If the City is unable to proceed with the project until after July 15, 2015, the City might still be able to complete the project within the construction window by accelerating the construction work – but this would come at a significant increase in cost. The increased costs are difficult to estimate until a start date is known and the increased costs would be due to such things as overtime pay for the contractor and inspection staff, as well as expedited delivery costs. If the costs to accelerate the project are too steep, the project would be delayed at least until the summer of 2016.

If Council determines that the trestle bridge is a historic landmark, the EIR will need to be amended and re-circulated and staff will need to re-evaluate the City's ability to move forward. The EIR amendment and recirculation and the project evaluation, re-design and obtainment of permits will mean a delay of a minimum of 2-3 years before construction could occur. If it is decided to proceed with a retrofit of the existing trestle, the cost is unknown at this time because a detailed exploratory field analysis is needed to determine the final scope of work to meet the engineering standards for this type of structure.

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CEQA

Environmental Impact Report to be adopted.

/s/

BARRY NG

Interim Director, Public Works

/s/

HARRY FREITAS, Director

Planning, Building and Code Enforcement

/s/

ANGEL RIOS, JR.

Interim Director, Parks, Recreation and
Neighborhood Services

For questions please contact Matt Cano, Interim Assistant Director, at (408) 535-3580.

Attachment: Trestle Photos

Attachment – Existing Condition of Trestle

