

RULES COMMITTEE: 11/9/2022
Item: B.1
File ID: ROGC 22-472



Memorandum

TO: Honorable Mayor &
City Council

FROM: Toni J. Taber, CMC
City Clerk

SUBJECT: The Public Record
October 27 – November 3, 2022

DATE: November 9, 2022

ITEMS FILED FOR THE PUBLIC RECORD

Letters from Boards, Commissions, and Committees

Letters from the Public

1. Letter from Will Smith, dated October 28, 2022, regarding: Silicon Valley Residents for Responsible Development.
2. Letter from Martha O'Connell, dated November 2, 2022, regarding: Protect free speech - ask but do not require.


Toni J. Taber, CMC
City Clerk

FW: Silicon Valley Residents for Responsible Development

City Clerk <city.clerk@sanjoseca.gov>

Fri 10/28/2022 10:13 AM

To: Rules and Open Government Committee Agendas <rulescommitteeagenda@sanjoseca.gov>

 1 attachments (225 KB)

IBEW 332.pdf;

FYI

From: Joey Rezonable [REDACTED]**Sent:** Friday, October 28, 2022 9:28 AM**To:** The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>**Cc:** District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>**Subject:** Silicon Valley Residents for Responsible Development

Some people who received this message don't often get email from [REDACTED]. [Learn why this is important](#)

Good morning Mayor Liccardo,

Please see the attached communication from IBEW Business Representative Will Smith regarding the Silicon Valley Residents for Responsible Development.

Thank you,

Joey M. Rezonable

Office Manager

IBEW Local Union 332

*jmr/opei#29/afl-cio*

International
Electrical



Brotherhood
Workers

AFL-CIO

Local Union No. 332

Telephone: [REDACTED]

Fax: [REDACTED]

October 28, 2022

Mayor Liccardo and City Council
City of San Jose
200 E. Santa Clara St.
San Jose, CA 95113

Re: Environmental Achievements of Silicon Valley Residents
for Responsible Development

Dear Mayor Liccardo and Councilmembers:

I'm writing to you for the 5,000 San Jose residents of the Mechanical Craft Trade Unions who, as Silicon Valley Residents for Responsible Growth (SVRRD), advocate for housing projects that are both sustainable and promote equity.

SVRRD, and our Sister organizations, has participated in the California Environmental Quality Act ("CEQA") and land use entitlement process for a variety of residential, commercial, and industrial projects in Silicon Valley for many years. With the assistance of highly qualified experts, we have submitted comments on significant and unmitigated environmental and public health impacts that were previously overlooked in the CEQA documents. We then proposed enforceable mitigation measures to reduce these impacts, enhanced the public process through testimony at hearings before local and State decision-makers, and engaged in direct negotiations with project developers to lead to the adoption of additional mitigation.

Our participation has led to better and safer projects in the City and throughout Silicon Valley.

As highlighted below, public participation by Silicon Valley Residents and other local coalitions with union members has resulted in significant project improvements, including:

| <u>Project Name</u> | <u>Project Description</u> | <u>Our Participation</u> | <u>Our Accomplishments</u> | <u>Project Approval Date</u> |
|-----------------------------|---|--|-------------------------------------|------------------------------|
| Fourth and St. John General | 728 residential dwelling units, or 1 million square | • Commented on Negative Declaration | Environmental settlement agreement: | 2017 |

| <u>Project Name</u> | <u>Project Description</u> | <u>Our Participation</u> | <u>Our Accomplishments</u> | <u>Project Approval Date</u> |
|---|---|--|--|------------------------------|
| Plan Amendment (GPA) and Rezoning Project (120 North Fourth Street) | feet of commercial/office uses. | (ND). <ul style="list-style-type: none"> • Appeared before Planning Commission and City Council. • CEQA Lawsuit. • Settlement with project owner. | Hazards: <ul style="list-style-type: none"> • Phase II Environmental Site Assessment to assess extent of soil contamination. • Site Remediation Plan to remove contaminated soil. Air Quality: <ul style="list-style-type: none"> • Tier 4 construction equipment and Best Available Control Technology to reduce fugitive dust, toxic air contaminants, and nitrogen oxide. Greenhouse Gas ("GHG") Emissions: <ul style="list-style-type: none"> • Industry best practices to reduce energy consumption, providing bike racks and bike lockers, installing electric vehicle charging stations, and a subsidized transit program. | |
| Great Oaks Mixed-Use Project (Great Oaks Parkway & Manassas Road) | 720 residential units and 1.5 million square feet of commercial and office/research and development uses on 80 acres. | <ul style="list-style-type: none"> • Commented on Draft EIR (DEIR). • Settlement with project owner. | Environmental settlement agreement: Hazards: <ul style="list-style-type: none"> • Conduct soil sampling. • Remove contaminated soil under regulatory oversight before construction. Air Quality and GHG Emissions: <ul style="list-style-type: none"> • Use low-emission off-road construction equipment to reduce toxic air contaminants and GHG emissions. | 2014 |
| Redwood Tech at 101 (City of Morgan Hill) | 5-building industrial park on 29-acre site in City of Morgan Hill. No CEQA document prepared. | <ul style="list-style-type: none"> • Appealed Planning Commission approval to City Council. • Settlement agreement with applicant. | Environmental settlement agreement: Air Quality: <ul style="list-style-type: none"> • Use low-emission Tier 4 off-road construction equipment to limit fugitive dust and diesel emissions on the construction site. Noise: <ul style="list-style-type: none"> • Install noise-reducing sound barriers on the construction site. GHG Emissions: | 2021 |

| <u>Project Name</u> | <u>Project Description</u> | <u>Our Participation</u> | <u>Our Accomplishments</u> | <u>Project Approval Date</u> |
|--|--|---|---|------------------------------|
| | | | <ul style="list-style-type: none"> Develop GHG reduction plan. <i>Transportation:</i> <ul style="list-style-type: none"> Route trucks away from residential neighborhoods. Develop transportation demand program to reduce vehicle miles travelled during project operation. | |
| One South Market Project (1 S. Market Street) | 23-story mixed-use building with 312 residences, retail, parking. | <ul style="list-style-type: none"> Appealed Planning Director's project approval. | Additional \$400,000 in in-lieu inclusionary housing fees assessed against Project, for total of \$2,406,112 in in-lieu fees paid to City to facilitate affordable housing projects. | 2013 |
| Cambrian Park Mixed-Use Village Project (14200 and 14420 Union Avenue) | 229-room hotel, 305 apartments, 48 single-family homes, 25 townhomes, 180-person assisted living facility, commercial space, town square, public open space on 18-acre site. | <ul style="list-style-type: none"> Commented on DEIR. Appeared before Planning Commission and City Council. | FEIR revised in response to Silicon Valley Residents' comments as follows: <i>Air Quality:</i> <ul style="list-style-type: none"> FEIR analyzed air pollution from diesel generators, which was omitted in the DEIR. FEIR applied the correct air quality mitigation. <i>Transportation:</i> <ul style="list-style-type: none"> FEIR analyzed transportation impacts from all of the project's proposed residences, which was missing from the DEIR. <i>Noise:</i> <ul style="list-style-type: none"> FEIR strengthened noise mitigation measures to further reduce project's noise impacts on surrounding residences. | 2022 |
| Freedom Circle Focus Area and Greystar GPA (City of Santa Clara) | 2,500 dwelling units and 2 million square feet of additional office space beyond that allowed under the existing land use designation. | <ul style="list-style-type: none"> Commented on DEIR. | FEIR revised in response to Silicon Valley Residents' comments as follows: <i>Public Health:</i> <ul style="list-style-type: none"> City prepared Health Risk Assessment to analyze impacts from emissions of Diesel Particulate Matter. <i>Biological Resources:</i> <ul style="list-style-type: none"> Conducted new biological survey of project site. <i>Land Use:</i> <ul style="list-style-type: none"> Corrected | 2021 |

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|---|--|--|---|-------------------------------------|
| | | | inconsistencies in project's proposed GPAs and provided clarifying responses to ambiguities in the DEIR. | |
| Park View Towers Project (St. James Square Historic District) | 19-story building, 12-story building, 3-story building with 221 residential units, 18,000 sf commercial in . | <ul style="list-style-type: none"> • Commented on the CEQA Addendum to the Historic Landmarks Commission. | In response to coalition's comments, the Historic Landmarks Commission: <ul style="list-style-type: none"> • Prepared detailed analysis of historic Church restoration in accordance with historic resource guidelines. • Analyzed historic resources impacts of the Project on character of St. James Historic District. | 2018 |
| Raging Wire Data Center (City of Santa Clara) | 27-megawatt data center project with 11 back-up diesel generators on a 3-acre site. | <ul style="list-style-type: none"> • Commented on Mitigated Negative Declaration (MND). • Appealed approval to Planning Commission. • Settlement with applicant. | Environmental settlement agreement: <ul style="list-style-type: none"> • Required additional air quality and public safety measures; and • Reduced project's impacts above and beyond the mitigation required in the MND. | 2019 |
| 1111 Comstock Data Center (City of Santa Clara) | Demolish 23,765-sf building and construct 4-story, 10-MW data center building on 1.38-acre project site. | <ul style="list-style-type: none"> • Commented on MND. • Appealed approval to Planning Commission and City Council. • Settlement with applicant. | Environmental settlement agreement: <ul style="list-style-type: none"> • Implemented additional air quality, energy, and GHG emissions reduction measures to resolve the issues raised in the appeal; and • Reduced the project's impacts above and beyond the mitigation required in the MND. | 2020 |

As demonstrated by these examples, we have strengthened and improved many Silicon Valley projects through their public participation in the CEQA and land use process by:

- **Producing stronger environmental protections for numerous projects in and around the City.**
- **Lessening the adverse environmental and public health impacts of several projects by committing the developer to additional mitigation through environmental settlement agreements.**

- **Securing greater community benefits, including increased funds to facilitate much-needed affordable housing projects.**
- **Encouraging more informed public participation and decision-making in the City and throughout Silicon Valley.**

The California Supreme Court has emphasized that the “privileged position that members of the public hold in the CEQA process...is based on a belief that citizens can make important contributions to environmental protection and on notions of democratic decision-making.”

We look forward to continuing to engage in the City’s land use and environmental permitting processes to encourage sustainable development in Silicon Valley and ensure a safe working environment for its members and Silicon Valley residents.

Sincerely,



**Will Smith
Business Representative IBEW**

cc: city.clerk@sanjoseca.gov; mayoremail@sanjoseca.gov; District1@sanjoseca.gov; District2@sanjoseca.gov; District3@sanjoseca.gov; District4@sanjoseca.gov; District5@sanjoseca.gov; District6@sanjoseca.gov; District7@sanjoseca.gov; District8@sanjoseca.gov; District9@sanjoseca.gov; District10@sanjoseca.gov

WS:jr/opei#29/afl-cio

Protect free speech - ask but do not require

martha O'Connell <[REDACTED]>

Wed 11/2/2022 2:48 PM

To: Rules and Open Government Committee Agendas <rulescommitteeagenda@sanjoseca.gov>; Agendadesk <Agendadesk@sanjoseca.gov>; martha O'Connell [REDACTED]; Taber, Toni <toni.taber@sanjoseca.gov>

[External Email]

Please post in the Public record section of the Rules Committee for next week

At the 11-2-22 meeting of the Rules and Open Government Committee, a member of the public stated that the City Council should **require** that citizens who want to speak provide their names. This is not the first time that such demands have been made.

I stand opposed.

See below - Watchtower Bible & Tract Soc'y of N.Y., Inc. v. Vill. of Stratton, 536 U.S. 150 (2002) below.

Additionally I comment:

Citizens should have the right to speak to their government without the prospect of opening themselves up to bullying and harassment for protected speech. I have been screamed at for comments I made at Rules and Council. I have witnessed two ladies being stalked down the corridors of City Hall after they made comments with which a "homeless activist" did not agree.

The Council has had to adopt a code of conduct for City meetings due to the abuse, screaming and veiled threats citizens have had to endure to petition their government.

I support any and all citizens who wish to give public comment anonymously to protect themselves from abuse, bullying, attempted public shaming, and stalking.

[A&A: Can ID Be Required to Make Public Comment? - \(firstamendmentcoalition.org\)](https://firstamendmentcoalition.org/)

Q: At City Council and Planning Commission meetings they have a sign next to the public-comment podium that says "Please state your name." I think it might even ask for address. I believe it is in violation of the Brown Act to require people to say their names. It is important in this community that people not have to state their name as an unfortunate individual who has done work for the city council has a blog in which he libels anyone who challenges the council. How can I get help in forcing the city council/planning council to stop acting as if stating one's name is a requirement to public comment?

A: Your basic question is whether the city council and planning commission may require individuals to state their name before speaking during public comment period. Unfortunately, the Brown Act is silent on whether a public agency may require speakers to state their name during public comment. See Gov't Code § 54954.3 (public testimony at regular meetings). Government Code section 54953.3 states that a member of the public cannot be required to register his or her name as a condition of attendance at a meeting, but does not state anything with respect to speaking.

However, the Supreme Court has recognized that there is a First Amendment right to speak anonymously. See, e.g., Watchtower Bible & Tract Soc'y of N.Y., Inc. v. Vill. of Stratton, 536 U.S. 150 (2002) (ordinance requiring those intending to engage in door-to-door advocacy of a political or religious cause to obtain and, upon demand, display permit, which contained one's name, violated First Amendment protection accorded to anonymous pamphleteering or discourse); Thomas v. Collins, 323 U.S. 516, 539 (1945) ("As a matter of principle a requirement of registration in order to make a public speech would seem generally incompatible with an exercise of the rights of free speech and free assembly"). It seems that this right to speak anonymously at city council meetings would be especially true since such meetings are considered to be public fora, for which members of the public have broad constitutional rights.

Meetings of legislative bodies, such as city council meetings, are regarded under First Amendment framework as "limited public forums." See *White v. City of Norwalk*, 900 F.2d 1421, 1425 (1990). Speech in a "public forum," which includes public spaces such as sidewalks and parks that have traditionally been used for conduct protected by the **First Amendment, can only be restricted if a high standard is met.** (The other end of the spectrum is the "non-public forum," or places not traditionally open to the public for speech or petition-related activities.

Restrictions in non-public forums need only be reasonable and are generally upheld.) "Limited public forums" that traditionally have not been made open to the public, but have become public forums for at least some purposes because the government body that regulates a particular area has made it available for use by the public — **such as a city council or planning commission meeting — command the same high standard that applies to public forums, so long as the conduct fits within the time or purpose for which the place has been made open.** See *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 45 (1983).

Thus, while it is likely not unconstitutional for the city council ask public speakers to state their names and addresses, you may have an argument that requiring them to state that information in order to speak would violate First Amendment principles.

If you are neutral in situations of injustice, you have chosen the side of the oppressor. If an elephant has its foot on the tail of a mouse and you say that you are neutral, the mouse will not appreciate your neutrality. — Desmond Tutu