Walk and Roll – Safe Routes to Schools Training Session

Please find enclosed information with regard to the training session to be held in the Sunnyvale's community center on November 16, 2011. This is the first of several educational sessions carried out under the Vehicle Emissions Reductions Based at Schools (VERBS) Grant Program.

Don't miss this opportunity to learn about implementing a program at your school

First in a series of 5 meetings

Walk and Roll

Safe Routes to School in Santa Clara County

Want to learn more about getting your Safe Routes to School Program started?

Don't miss this great opportunity to network with others implementing a program. You will receive your Safe Routes to School Manual, some jump start activities that require very little work, resources materials and more....

Prizes and Refreshments too!

Next meeting: January 13 and January 18, 2012
Topic: Walking School Buses and Bicycle Trains

For Safe Routes to School
Staff and Parent Coordinators,
Other Interested Staff and Parents.....
Bring a team of people from your school !!!

Session 1 offered twice—9:30 am to 11 am
Wed. November 9, 2011 in San Jose OR
Wed. November 16, 2011 in Sunnyvale

Sunnyvale Location:
Sunnyvale Community Center
550 East Remington Drive
Sunnyvale, CA

San Jose Location:
Sobrato Center for Nonprofits
1400 Parkmoor Avenue
San Jose, CA

All are Welcome, but RSVP Required to
Alice Kawaguchi,
Phone: (408) 793-2733
E-mail: Alice.Kawaguchi@phd.sccgov.org

The Safe Routes to School in Santa Clara County Program is provided by funding from Santa Clara Valley Transportation Authority (VTA) and the Metropolitan Transportation Commission (MTC) with support from the County of Santa Clara and the City of Sunnyvale.

BPAC E-mail Messages and/or Letters

Enclosed is a copy of e-mail messages covering requests and/or relevant information received after circulation of the agenda packet of the October 20th, 2011 BPAC Meeting.

From:
To: <JWitthaus@ci.sunnyvale.ca.us>
CC: <helguendy@ci.sunnyvale.ca.us>,
Date: 11/10/2011 3:52 PM
Subject: Fwd: Re: Safe Routes to School question

Hi, Jack-

I mentioned to Heba that I was concerned about one line in the writeup for Study Issue DPW 12-02 (15 mph school zone speed limit). She suggested I send the information to you, since you are in charge of study issue rewrites. The line in question is in Section 4:

"The study will require research into the issue of the City implementing enforceable speed limits beyond those allowed by the California Vehicle Code."

My understanding was that the legislative change allows cities to establish the 15 mph limit (provided the other conditions are met) without going beyond what is allowed by the CVC. I asked CABO legislative analyst Alan Wachtel about it, and his response is copied below (naturally, any legal question can never be answered with a simple Yes or No!).

Anyway, it looks like cities do have specific authorization to implement this without exceeding any CVC limits. Of course, just as with any citation, a speeding motorist can challenge the ticket, and may be more likely to get it dismissed if the speed limit is established without an engineering and traffic survey, so there also seems to be no difference in enforceability. Regardless of whether this item is handled as a study issue or an operational issue, my concern is that the language above may cause it be perceived as more exceptional than it should be, and therefore less likely to happen.

Thanks for your attention!

*****

From :
To : I
Subject : Re: Safe Routes to School question
Date : Wed, Nov 09, 2011 03:44 PM

wrote:
> So here's my question: Is the staff report accurate in claiming the 15
> mph school zone speed limit goes beyond what is allowed by the CVC, or
> is the San Francisco press release correct that cities are authorized
> to implement it?

AB 321 of 2007 (Nava) rewrote §22358.4 of the Vehicle Code, including adding the following subdivision:

> (b) (1) Notwithstanding subdivision (a) [requiring an engineering and
> traffic survey to reduce speed limits below 25 mph] or any other
> provision of law, a local authority may, by ordinance or resolution,
> determine and declare prima facie speed limits as follows:
> (A) A 15 miles per hour prima facie limit in a residence district,
> on a highway with a posted speed limit of 30 miles per hour or slower,
> when approaching, at a distance of less than 500 feet from, or
> passing, a school building or the grounds of a school building,
> contiguous to a highway and posted with a school warning sign that
> indicates a speed limit of 15 miles per hour, while children are going
> to or leaving the school, either during school hours or during the
> noon recess period. The prima facie limit shall also apply when
> approaching, at a distance of less than 500 feet from, or passing,
> school grounds that are not separated from the highway by a fence,
> gate, or other physical barrier while the grounds are in use by
> children and the highway is posted with a school warning sign that
> indicates a speed limit of 15 miles per hour. . . .

This is only permitted on roads that have a maximum of two traffic lanes, and signs must be posted as specified.

A 15-mph speed limit might be hard to enforce in court, because without an engineering and traffic survey to justify it, motorists could still contend that their speed was safe for conditions (§22351(b)). But cities

post speed limits that are slower than the prevailing speed in an engineering and traffic survey all the time.

Heba,

I read the study issue, DPW 012-01, and have a couple of comments. First I'd like to thank James for his statement.

1. Section 8: Explanation.
This states that the ordinance would be a citable offense to be used by DPS. The nature of this ordinance is to take DPS out of the picture. It has been made clear that DPS can't follow through on cases of harassment because of the limited information. DPS has to witness the act. This ordinance drops this matter into the civil court system. How the remedies are actually arrived at won't affect DPS. As an aside, I think if I were harassed on the roads and could provide information I would make a police report, even though DPS is limited in what they can do without witnesses, just to have a formal record of the events.

2. Section 9: Staff recommendation.
As a one on one action this action will go to civil court. The burden of proof is lower than that of criminal court. It will be up to cyclists and cyclist organizations to create a data table listing this kind of behavior or take the initiative to hunt down witnesses to what ever the driver did. (Personally, I would suggest that cyclists ride with cameras and/or GPS units.)

I think that most of BPAC would agree that the wording of the explanation for this study issue is incorrect as to the intent.

Thanks

Ralph
BPAC Chair

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STUDY ISSUE DPW 12-01: Bicyclist Ant-Harassment Ordinance

Suggested Revisions are Highlighted Below

1. **What are the elements of the issue? What precipitated it?**

The study would investigate the adoption of a bicyclist anti-harrassment ordinance modeled after the City of Los Angeles' recently adopted ordinance. A bicyclist anti-harrassment ordinance would create a remedy in civil court for intentionally forcing or attempt to force a bicyclist from a roadway with the intent to injure or distract the bicyclist simply because they are bicycling. The bicyclist(s) alleging such behavior would be allowed to seek compensation from the perpetrator by filing a civil court action and would bear all costs of pursuing the case. The court would be authorized to award modest monetary damages and recompense of court and attorney fees to the successful litigant. Currently, these cases are very difficult to prove in criminal court due to:

1) the high evidentiary standards and "beyond reasonable doubt" requirement for criminal conviction.
2) The limited resources of the District's Attorney's office, which must focus on higher priorities.
3) Inability of police to cite offenders without personally witnessing such behavior.

This ordinance would create a private remedy subject to the lower evidentiary standards and finding requirements (i.e. preponderance of evidence) of civil court. This would provide an effective means for victims of harassment to be compensated and perpetrators to be penalized, which would deter such activity and promote the safety of bicycling on City streets.

8. Briefly Explain the potential costs of implementing the study results, note estimated capital and operating Costs, as well as estimated revenue/savings, including dollar amounts. Are there cost of implementation? No.

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Explanation

The ordinance would create a civil cause of action. The plaintiff (i.e. alleged victim of harassment) would bear all costs of pursuing legal action against the alleged harasser. No City funds, staff time, or resources would be expended.

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9. Staff Recommendation [staff decision needs to be reconsidered and rewrttten]

The rationale for a staff "drop" recommendation in the 10-6-11 document is based on a fundamental misunderstanding of the proposed ordinance and its workings. The rationale erroneously assumes that enforcement by DPS would be necessary and that the existing penal code is sufficient. In fact, there would no DPS involvement in the civil court process. The difficulty of using criminal means to address these incidents is described in the answer to No. 1 above. The City of Los Angeles found that existing criminal penalties are inadequate to address these types of incidents and same situation is present in Sunnyvale. The proposed ordinance

would not replace or in any way modify the current criminal mechanisms, but would add civil enforcement as an additional tool to discourage this dangerous behavior, at no cost to the City..

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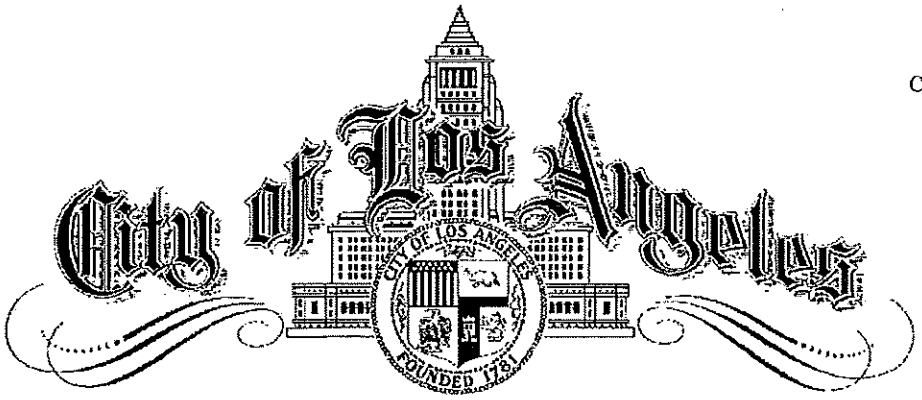
By BPAC member James Manitakos

City Hall East
200 N. Main Street
Room 800
Los Angeles, CA 90012

(213) 978-8100 Tel
(213) 978-8312 Fax
CTrutanich@lacity.org
www.lacity.org/atty



CARMEN A. TRUTANICH
City Attorney

REPORT NO. R11-0069

FEB 17 2011

REPORT RE:

ORDINANCE ADDING ARTICLE 5.10 TO CHAPTER IV OF THE LOS ANGELES MUNICIPAL CODE TO PROHIBIT HARASSMENT OF BICYCLISTS BECAUSE OF THEIR STATUS AS BICYCLISTS

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, CA 90012

Council File No. 09-2895

Honorable Members:

On November 10, 2010, your Honorable Body requested this Office to draft an ordinance to prohibit harassment of bicyclists because of their status as bicyclists. As requested, this Office has prepared and now transmits for your action the attached draft ordinance, approved as to form and legality.

Background and Summary of Ordinance Provisions

On November 10, 2010, the Los Angeles City Council requested this Office to draft an ordinance as described above, and the attached draft ordinance incorporates the requested provisions. The draft ordinance creates a civil cause of action for bicyclists who are harassed because of their status as bicyclists, and provides for an award of treble damages in an amount not less than $1,000, attorneys' fees and punitive damages.

CEQA Findings

The approval of the ordinance is not subject to California Environmental Quality Act (CEQA) because it is not a project as defined by CEQA, Pub. Res. Code Section 21065 and State CEQA Guidelines Section 15378(b), which state that a CEQA project is an activity that may result in a direct physical change in the environment or a reasonably foreseeable indirect change in the environment. Rather, the ordinance will simply create a civil cause of action for bicyclists who are harassed because of their actions as bicyclists.

Council Rule 38 Referral

The draft ordinance creates a civil cause of action and would not require enforcement by any City officer, board or commission, and accordingly Council Rule 38 does not require review of the ordinance by any such City officer or entity. Nonetheless, a copy of the draft ordinance was sent to the Los Angeles Department of Transportation and the Department believes that the draft ordinance accurately reflects Council's request.

Should you have any questions regarding this matter, please contact Deputy City Attorney Judith E. Reel at (213) 978-2021. She or another member of this Office will be present when you consider this matter and to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By

PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

PBE:JER:ac

M:\General Counsel (GC)\JUDITH REEL\REPORTS TO COUNCIL\Report re Prohibiting Harassment of Bicyclists

ORDINANCE NO. _____

An ordinance adding Article 5.10 to Chapter IV of the Los Angeles Municipal Code to prohibit harassment of bicyclists because of their status as bicyclists.

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:

Section 1. Article 5.10 is added to Chapter IV of the Los Angeles Municipal Code to read as follows:

ARTICLE 5.10
PROHIBITION AGAINST HARASSMENT OF BICYCLISTS

SEC. 45.96.00. FINDINGS AND PURPOSE.

After public hearings and receipt of testimony, the City Council finds and declares:

That the City of Los Angeles wants to encourage people to ride bicycles rather than drive motor vehicles in order to lessen traffic congestion and improve air quality;

That harassment of bicyclists on the basis of their status as bicyclists exists in the City of Los Angeles;

That existing criminal and civil laws do not effectively prevent the unlawful harassment of bicyclists because of their status as bicyclists;

That riding a bicycle on City streets poses hazards to bicyclists, and that these hazards are amplified by the actions of persons who deliberately harass and endanger bicyclists because of their status as bicyclists; and

That because people have a right to ride a bicycle in the City of Los Angeles and should be able to do so safely on City streets, it is against the public policy of the City of Los Angeles to harass a bicyclist upon the basis of the person's status as a bicyclist.

SEC. 45.96.01. DEFINITIONS.

The following words and phrases, whenever used in this Article, shall be construed as defined in this Section. Words and phrases not defined herein shall be construed as defined in Section 12.03 of this Code, if defined therein.

A. **Bicycle.** A device upon which any person may ride, propelled exclusively by human power through a belt, chain or gears, and having one or more wheels.

B. **Bicyclist.** A person riding a bicycle.

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SEC. 45.96.02. PROHIBITED ACTIVITIES.

A person shall not do or attempt to do any of the following:

A. Physically assault or attempt to physically assault a Bicyclist because, in whole or in part, of the Bicyclist's status as a Bicyclist.

B. Threaten to physically injure a Bicyclist because, in whole or in part, of the Bicyclist's status as a Bicyclist.

C. Intentionally injure, attempt to injure, or threaten to physically injure, either by words, vehicle, or other object, a Bicyclist because, in whole or in part, of the Bicyclist's status as a Bicyclist.

D. Intentionally distract or attempt to distract a Bicyclist because, in whole or in part, of the Bicyclist's status as a Bicyclist.

SEC. 45.96.03. REMEDIES.

A. Any aggrieved person may enforce the provisions of this Article by means of a civil lawsuit.

B. Any person who violates the provisions of this Article shall be liable for actual damages with regard to each and every such violation, and such additional amount as may be determined by a jury, or a court sitting without a jury, up to three times the amount of actual damages, or $1,000, whichever is greater, as well as reasonable attorneys' fees and costs of litigation. In addition, a jury or a court may award punitive damages where warranted.

C. Notwithstanding Section 11.00(m) of this Code, violations of any of the provisions of this Article shall not constitute a misdemeanor or infraction, except where such actions, independently of this Article, constitute a misdemeanor or infraction.

D. The remedies provided by the provisions of this Article are in addition to all other remedies provided by law, and nothing in this Article shall preclude any aggrieved person from pursuing any other remedy provided by law.

Sec. 2. Severability. If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance, which can be implemented without the invalid provisions, and to this end, the provisions of this ordinance are declared to be severable.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

JUNE LAGMAY, City Clerk

By _____
Deputy

Approved _____

_____
Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By Judith E. Reel
JUDITH E. REEL
Deputy City Attorney

Date February 16, 2011

File No. CF 09-2895

M:\General Counsel (GC)\JUDITH REEL\ORDINANCES & RESOLUTIONS\Ord - Harassment of Bicyclists.doc

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CRM - Answer Point: Public Works, BPAC

User Access Reminder Rule Staff Reminder
Add Request **Request** Report Help **HElguendy**

Find Criteria Find Clear

Req. # 18638

Req. #

Staff

Sort Req. # Desc

Find Result Prev Next

1 match found at 3:23:19 pm.

18638 . C . 10-17-11 . Would like to speak about traffic hazard

Action Reply Reassign Close with no reply **Reopen**

Request	18638 1 of 1 **Emailed reply to requester, status is Closed.**	**Status**	**Closed**
Assigned To	helguendy	**Priority, Contact**	Regular WebForm
From		**Receive Date**	10-17-11 12:21 pm
To	BPAC <helguendy@ci.sunnyvale.ca.us>	**Reply Needed**	**Yes**
Subject	Would like to speak about traffic hazards to pedestrians	**Close Date**	10-19-11 3:23 pm
Regarding Location	Intersection of Henderson & Lily		

Message Do I need advance agenda, or can this be brought up in open comments section. Can this intersection be addd to Agenda?.

Actions

Action	ReplyClosed
Date	10-19-11 3:23 pm
From	helguendy@ci.sunnyvale.ca.us - BPAC
To	
Subject	Re: Would like to speak about traffic hazards to pedestrians
Message	Dear Mr.

Thank you for submitting your inquiry. Please be advised that the agenda packet of the October 20th BPAC meeting was circulated prior to receiving your request, and it is not presently possible to include your request as part of the packet. I would encourage you to attend the BPAC meeting and bring your concerns to the attention of the Commission members during the public comments period which will later be included in the meeting minutes. The meeting will be held tomorrow, Thursday, in the West Conference Room of City Hall at 6:30 p.m. City Hall is located at 456 West Olive Avenue, Sunnyvale, CA 94086.

If not possible for you to attend, your message will automatically be included as part of the agenda packet of the November 17th BPAC meeting. In the meantime, I will be happy to investigate your request if you could call/e-mail me to provide some details regarding your concerns.

Thank you,
BPAC staff liaison
Heba El-Guendy
(408) 730-2713
helguendy@ci.sunnyvale.ca.us

Ratings

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BPAC Active Items List Update

The Commission's active items list is attached for your reference. Concerns regarding operational matters such as signal operations and bicycle detection are not individually listed, and will be regularly addressed during the BPAC meetings.

Bicycle and Pedestrian Advisory Commission

Active Items List

Item #	Item	OPR	Due Date (Approx)	Status	Last Updated
1	Bernardo Caltrain Under-crossing	Witthaus	TBD	Feasibility Study accepted by the City Council. Funds for 20% local matching funds must be identified before further project initiation. BEP Tier 1 update submitted. VTA will program 80% funds out to 2016 to allow for time to secure matching funds. Project update submitted for Valley Transportation Plan (VTP) 2035 consideration.	4/9/2009
2	Code of Ethics and Conduct	El-Guendy	Annual	Was reviewed and accepted by BPAC during the meeting of January 20th, 2011.	2/10/2011
3	Utility Bill Insert	El-Guendy	Annual	Was circulated in the September/October cycle, 2011.	11/11//2011
4	Bike to Work Day	El-Guendy	Annual	The event took place on May 12, 2011. BPAC members assisted the Moffett Park Business Group and Leadership Sunnyvale in staffing energizer stations within the City of Sunnyvale.	5/19/2011
5	Earth Day	El-Guendy	Annual	A number of events took place in celebration of Earth Day, one of which at Full Circle Farm on April 17 including live music, kids activities, contests and local food vendors.	6/8/2011
6	Health and Safety Fair	El-Guendy	Annual	The event took place on Saturday, April 30th from 11:00 a.m. to 3:00 p.m. BPAC members participated in the event.	5/19/2011
7	Curb Ramps, as well as Road Overlay, Slurry, Reconstruction & Chip Schedule	T. Pineda	Annual	Information only items were shared with the BPAC members during the meeting of March 17, 2011.	4/22/2011
8	Signage request - Entrance of Baylands Park	El-Guendy	TBD	A site meeting took place with staff of the City's Department of Parks and Recreation who are planning to install improved signage and pavement markings.	8/13/2010
9	Spare the Air Fair	El-Guendy	Annual	The event took place on May 18, 2010. A BPAC representative participated in the event.	6/11/2010
10	State of the City	El-Guendy	Annual	The event took place on Monday, July 4th from 10:00 a.m. to 2:00 p.m. at Washington Park. Following the Mayor's State of the City address, community awards were presented.	7/18/2011

Item #	Item	OPR	Due Date (Approx)	Status	Last Updated
11	VTA Bicycle Expenditure Program (BEP)	Witthaus	Annual	Funds in the amount of $85,000 is being awarded to design and construct bike lanes on Pastoria Avenue between El Camino Real and Evelyn Avenue. The work also includes intersection improvements at El Camino Real, Iowa Avenue and Washington Avenue including signal modifications.	4/22/2011
12	Block Grants	Witthaus	Annual	Application was submitted for the redesign of Hendy Avenue between Fair Oaks and Sunnyvale Avenues in order to provide sidewalks, bike lanes, underground utilities, and other improvements. The project will receive approximately $2 million in BEP and Pavement Rehabilitation funds. Also an application was submitted for the construction of left-turn and associated signal at the intersection of Old San Francisco Road/Sunnyvale Avenue.	8/13/2010
13	Construction Zone Safety Complaints received	El-Guendy	Ongoing	Responses are provided via phone or e-mail communications. In some cases, the responses are provided verbally during the BPAC meetings and documented as part of the meetings minutes.	2/19/2008
14	Policy on Street Space Allocation	Witthaus	Ongoing	Coordination is ongoing based on the approved policy on street space allocation and relevant roadway resurfacing/construction projects (examples are Bordeaux and Remington Drives). CEQA clearance and General Plan amendment have been carried out to the policy.	9/10/2010
15	Bicycle Detection Complaints received	El-Guendy	Ongoing	Responses are provided via phone or e-mail communications. In some cases, the responses are provided verbally during the BPAC meetings and documented as part of the meetings minutes.	9/11/2008
16	Community Design and Transportation (CDT) - Planning Grant Program	El-Guendy	Annual	Application was submitted by January 13, 2011 for $75,000 excluding local match to conduct a feasibility study and develop a concept plan for the West Channel Trail corridor from Carribean Drive to Mathilda Avenue. The plan was recommended for funding.	2/10/2011
17	2011/12 Transportation Planning Grant Funds	Witthaus	Annual	An application requesting $157,500 grant funds was submitted to conduct the Four Cities Stevens Creek Bicycle and Pedestrian Corridor Feasibility Study.	4/22/2011
18	2009 State Safe Routes to Schools	El-Guendy	Annual	A grant application was submitted by April 15, 2009 to add safety and operational improvements in school areas Citywide. The City's application for $720k succeeded for Cycle 8, FY 2009/10. Project implementation is underway.	9/10/2010

Item #	Item	OPR	Due Date (Approx)	Status	Last Updated
19	2011 Federal - Cycle 3 Safe routes to Schools	El-Guendy	Annual	As a continued effort to the received state grant and to help establish citywide safe routes to schools, a grant application was submitted on July 15, 2011 for the amount of $820,000 to implement infrastructure improvements in areas of 20 public and private schools. A non-infrastructure application for the Cities of Sunnyvale and Campbell was submitted under TSCN of the County's Health Department. Both grant applications were approved for funding.	11/11/2011
20	Stimulus Package	Witthaus	Ongoing	Application for the Green Infrastructure Funding Grant was submitted to complete the design and implement the East Channel Trail (Application was denied)	9/10/2010
21	2010 Community Design and Transportation (CDT) - Capital Grant Program	El-Guendy	Annual	In response to the second call for projects, application was submitted on October 4th to complete design and construct the East Channel Trail. The project was recommended to receive grant funds in the amount of $595,200 in addition to the required local match of 20% ($148,800).	11/10/2010
22	Establishment of Bike Lanes on Mary Avenue	Witthaus	Ongoing	The BPAC requested adding this item on the list for the establishment of bike lanes on Mary Avenue between Fremont and Maude Avenues following the required review in accordance with the street space allocation policy. Conceptual planning and consultation are underway.	3/10/2011
23	Santa Clara Valley Water District Grant Programs	Witthaus	Annual	An application requesting the maximum allowable amount of $75,000 of Clean, Safe Creek Funds was submitted in March of 2011 to conduct the Four Cities Stevens Creek Bicycle and Pedestrian Corridor Feasibility Study (Application was denied).	6/8/2011
24	Sustainable Communities Planning Grant	Witthaus	Ongoing	Application was submitted on behalf of the Cities of Cupertino, Los Altos and Mountain View and lead by the City of Sunnyvale to conduct the Feasibility Study associated with the Stevens Creek Extension (Application was denied).	9/10/2010
25	Vehicle Emissions Reductions Based at Schools (VERBS) Grant Program	El-Guendy	Ongoing	Teaming with the Traffic Safe Communities Network (TSCN), an application for non-infrastructure initiatives was submitted on October 4th. The project was awarded funding of $1 million excluding local match which will be split between the City of Sunnyvale and the County of Santa Clara. About 80% of Sunnyvale elementary and middle schools will be evaluated. To kick off this grant, a Family Fun Bike Ride event took place at Las Palmas Park on May 21st.	6/8/2011