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# TRI-VALLEY TRANSPORTATION COUNCIL

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**Scott Perkins**  
TVTC Chair  
Vice Mayor  
San Ramon  
(925) 973-2544

**Monday, October 18, 2021**  
**4:00 p.m.**

Join Zoom Meeting  
<https://cityofsanramon.zoom.us/j/99196592238>

**Jean Josey**  
TVTC Vice-Chair  
Councilmember  
Dublin  
(925) 833-2530

Meeting ID: 991 9659 2238  
One tap mobile  
+16699006833,,99196592238# US (San Jose)  
+12532158782,,99196592238# US (Tacoma)

**Renee Morgan**  
Mayor  
Town of Danville  
(925) 918-3999

**David Haubert**  
Supervisor District 1  
Alameda County  
(925) 551-6995

On September 16, 2021, Governor Newsom signed Assembly Bill 361 (2021), which amended Section 54593 of the Government Code to allow local legislative bodies to continue to conduct meetings by teleconference under specified conditions and pursuant to special rules on notice, attendance, and other matters. Teleconference locations are not open to the public. For this meeting, there will be no physical location from which members of the public may observe/comment.

**Candace Andersen**  
Supervisor District 2  
Contra Costa  
(925) 957-8860

There will be no physical location for members of the public to participate in the meeting. We encourage members of the public to shelter in place and access the meeting online using the web-video communication application, Zoom.

**Brittini Kiick**  
Councilmember  
City of Livermore  
(925) 960-4019

Zoom participants will have the opportunity to speak during the Public Comment period (for topics not on the agenda), in addition to each of the items on the agenda.

**Karla Brown**  
Mayor  
City of Pleasanton  
(925) 931-5001

If you are submitting a public comment via email, please do so by **12:00 p.m. on Monday, October 18, 2021** to [lbobadilla@sanramon.ca.gov](mailto:lbobadilla@sanramon.ca.gov). Please include "Public Comment 10/18/2021" in the subject line. In the body of the email, please include your name and the item you wish to speak on. Public comments submitted will be read during Public Comment and will be subject to the regular three-minute time restriction.

**Members of the Public may participate and provide public comments to teleconference meetings as follows:**

If you have any questions related to the Tri-Valley Transportation Council meeting agenda, please contact Lisa Bobadilla, TVTC Administrative staff at (925) 973-2651 or email at [lbobadilla@sanramon.ca.gov](mailto:lbobadilla@sanramon.ca.gov)

Public testimony will be taken at the direction of the Chair and members of the public may only comment during times allotted for public comments. If you wish to request a disability-related modification or accommodation, please contact the Administrator by email at [lbobadilla@sanramon.ca.gov](mailto:lbobadilla@sanramon.ca.gov).

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# TRI-VALLEY TRANSPORTATION COUNCIL

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## AGENDA

1. Call to Order
2. Roll Call and Self Introductions
3. Public Comment
4. Consent Calendar
  - a. APPROVE Tri-Valley Transportation Council Board Meeting Minutes July 19, 2021\*
  - b. APPROVE Tri-Valley Transportation Council Board Meeting Minutes August 16, 2021\*
  - c. APPROVE Tri-Valley Transportation Council Special Board Meeting Minutes September 30, 2021\*
  - d. APPROVE Resolution No. 2021-12 authorizing the TVTC Treasurer to refund \$1,161.60 collected as the 80% fee to the City of Pleasanton
  - e. APPROVE Resolution No. 2021-13 making findings pursuant to Government Code Section 54953(e) (1) authorizing continued use of teleconference virtual meetings for all TVTC related legislative bodies.
5. Old Business
  - a. RECEIVE verbal update on TVTC Strategic Expenditure Plan (SEP) subcommittee meetings and next steps
6. New Business
  - a. RECEIVE verbal update on status of proposed TVTC Records Retention Policy
7. Informational Items
8. Adjournment

\* *Attachment(s)*

### Upcoming Meetings:

**TVTC SEP:** Subcommittee – Wednesday, October 27, 2021 – 4:00 p.m. AND Wednesday, November 10, 2021 – 4:00 p.m. – Zoom Teleconference

**TVTC TAC:** Wednesday, November 3, 2021 – 2:00 p.m. – Zoom Teleconference

**TVTC:** Monday, December 13, 2021 4:00 p.m. – Study Session – Zoom Teleconference

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# Item 4.a

## **DRAFT - MEETING MINUTES**

### **TRI-VALLEY TRANSPORTATION COUNCIL**

Zoom Teleconference Call

Monday, July 19, 2021

#### **1. CALL TO ORDER, ROLL CALL, AND SELF-INTRODUCTIONS**

The Tri-Valley Transportation Council (TVTC) was called to order at 4:01 p.m. by Chair, Scott Perkins, City of San Ramon.

##### **TVTC Members in Attendance:**

Scott Perkins, Chair, Councilmember, San Ramon  
Jean Josey, Vice Chair, Councilmember, Dublin  
Renee Morgan, Mayor, Town of Danville  
David Haubert, Supervisor District 1, Alameda County  
Candace Andersen, Supervisor District 2, Contra Costa County  
Brittni Kiick, Councilmember, City of Livermore  
Karla Brown, Mayor, City of Pleasanton

##### **TVTC Staff in Attendance:**

Lisa Bobadilla, San Ramon  
PJ Dhoot, San Ramon  
Cedric Novenario, Pleasanton  
Sai Midididdi, Dublin  
Pratyush Bhatia, Dublin  
Andy Dillard, Absent  
Julie Chiu, City of Livermore  
Robert Sarmiento, Contra Costa County

##### **Others in Attendance:**

Lindsay D'Andrea, Meyers Nave, TVTC Legal Counsel  
Frederic Venter, Kimley Horn & Associates  
Michael Schmitt, Kimley Horn & Associates  
Matt Kelly, Contra Costa Transportation Authority  
Hisham Noemi, Contra Costa Transportation Authority  
Kristen Villanueva, Alameda County Transportation Commission

#### **3. PUBLIC COMMENT**

None

#### **4. CONSENT CALENDAR**

A. APPROVE TVTC Board Meeting Minutes April 19, 2021

B. APPROVE Resolution No. 2021-08 Contract Extension for Kimley Horn & Associates to August 31, 2021

**Motion to Approve Consent Items A and B by Supervisor Andersen; Second Vice Chair Josey**

**Approved (Ayes 7; Noes 0; Abstain 0)**

**5. OLD BUSINESS**

A. PARTICIPATE in Study Session regarding the Tri-Valley Transportation Council Nexus Study.

Ms. Lisa Bobadilla, TVTC Administrator introduced the item and articulated to the Board that they are not being asked to approve the Nexus Study. The Consultant Team will provide the Board with an update on the Nexus Study process, review the data gathered, analyze data, and provide summary of Study outcome. Board members will have opportunity to ask questions. Ms. Bobadilla stated that accepting the update for the Nexus Study does not adopt a new fee or prioritize the projects. Rather an update to the Fee, prioritization of the projects and funding allocations are included as part of the next phase of the process, which is the Strategic Expenditure Plan.

Ms. Bobadilla informed the Board that the Nexus Study process began about 2 ½ years ago and thanked the TAC members for their hard work to collate and gather information from each respective agency, review and comment on the technical memos submitted by the Consultant Team.

She stated that since the last Nexus Study in 2009, there have been significant changes at TVTC from how the Administration is handled, to new elected officials (Board members), and different staff members from agencies and the economy has changed. As a result, a Study Session to review what has transpired since 2009 to 2021 was justified. It provides the Board with opportunity to review what took place with the Study and the Strategic Expenditure Plan since 2009, what was done over the last 10 years and results of the current Nexus Study.

The Kimley Horn Consultant Team reviewed presented findings of the Nexus Study.

Mr. Michael Schmitt articulated that since 2008, there have been changes in the funding, planning and traffic conditions under which the Tri-Valley Transportation Development Fund (TVTDF) was originally developed. In addition, many of the original 22 projects have been completed and the TVTC has identified 23 new projects (List C) to be considered. Based on these factors, Mr. Schmitt stated that an updated Nexus Study has been prepared to support updates to the TVTDF.

With respect to forecast growth, Mr. Schmitt stated that new development in the Tri-Valley is forecasted to add 33,312 household and 63,947 jobs between 2018 and 2040. This growth will produce an increase of 57,596 average AM/PM peak hour trips.

Mr. Schmitt stated that projected project benefits, based on forecast projection, the vehicle hour of delay is expected to increase by 60 percent during the AM and 88 percent during the PM peak, with

the 38 improvement projects. He stated that the delay is expected to decrease by 15 percent during the AM peak and 23 percent during the PM peak when compared to the 2040 No-Build Scenario. In addition, these projects will result in other benefits to the Tri-Valley Area including improving roadway safety, improving roadway operations, and increasing bicycle ridership.

Mr. Schmitt informed Committee members that with a new updated fee, the total investment for projects eligible to receive TVTDF funding is estimated to be \$4.573 billion, where \$3.702 billion is unfunded. He also stated that an additional reduction was applied to account for external “cut-through” trips on roadway congestion projects. Future development within the Tri-Valley area is not responsible to pay for these cut-through trips since these trips are caused by growth outside of the Tri-Valley area. Therefore, it reduces the total unfunded cost to be covered by the maximum TVTDF to \$2.698 billion. He noted that this did not change the overall project costs.

Ultimately, the \$2.698 billion unfunded cost was allocated across future development land use type based on the proportion of forecast peak-hour trips to determine the Total Fee per Land Use. Then, the maximum fee schedule was determined by dividing Total Fee per Land Use by the 2020-2040 Growth as shown in Table E-1 of the staff report.

Mr. Schmitt stated that the maximum fee schedule shown in in Table E-1 of the staff report would generate sufficient revenues to fund the total unfunded cost of all selected projects. He noted that TVTC is not obligated to apply this fee schedule. As an example, TVTC past practice has been to set rates at approximate one-third of the maximum fee calculated. This was done with the 1995 and 2008 Nexus studies to help foster growth within the Tri-Valley area, while providing a regional funding source that could be used to match and help compete for Federal and State transportation grants and funding programs.

With respect to the methodology and approach, Mr. Schmitt provided an overview of the process. Travel demand forecasting was conducted using the current version of Contra Costa Transportation Authority Travel Demand Model (CCTA TDM). The use of the CCTA TDM is consistent with the previous 2008 Nexus Study. Based on the outcome of initial discussions with the TAC, the following steps were taken regarding the development of travel demand forecasts:

Travel demand forecasting was reaffirmed to be based on the latest version of CCTA travel demand mode. Land use assumptions for households and employment were broken down for the 2020 base and 2040 horizon years by jurisdiction and were distributed to member agencies for review.

**Mr. Schmitt summarized of the major milestones to date, is as follows:**

- October 2019 - TVTC approved the Nexus Study Project List (List C).
- April 2020 - TVTC adopted Resolution 2020-03 and awarded a Professional Services Agreement to Kimley-Horn (“consultant”) for the TVTC Nexus Study in the amount of \$172,930.
- October 2020 - TVTC received an update on the Nexus Study which included completion of the Nexus Study Scope of Work and Schedule, and completion of Growth Forecast refinements for

employment and population to calculate the increase in traffic demand attributable to forecasted growth within the Tri-Valley.

- January 2021 - TVTC received a verbal update from the consultant detailing the land use assumptions submitted by the member agencies.
- April 2021 - TVTC received a verbal updated from the consultant detailing the tasks completed, including the land use assumptions, travel demand model, and the performance evaluation.
- July 2021 - TVTC receive update on all completed tasks associated with the Nexus Study

Chair Perkins thanked the Consultant a team and TAC members for their work and opened up for questions.

CM Kiick inquired as to how the “end to end” trips are accounted for and how COVID related work from policies are accounted for. Mr. Schmitt responded that the travel demand model account for trip origin and destination, whereby in general it is an estimation. With response to COVID work from home, he indicated that the Nexus Study is a long range forecasting tool and the assumptions made with current Nexus Study can be revisited with an updated travel demand model expected to be completed in a few years.

CM Kiick also requested a summary of similar regional fee programs and that a timeline related to the Strategic Expenditure Plan be provided.

Mayor Brown stated that due to COVID, many high tech workers are still working from home and those trips may not be accounted for in the Study. She also stated her concern that the Nexus Study Maximum Fee amount will not cover total costs of all new projects.

Chair Perkins responded that new Project List (List C) is expensive; however TVTDF has not traditionally paid for 100% of project costs; rather the TVTDF has in the past, covered a portion of costs. Chair Perkins also stated that the prior Nexus Study and subsequent Strategic Expenditure Plan, the TVTDF was ultimately set at 35% of the maximum allowable rate vs. 100%.

Mayor Morgan requested status updated on the existing project list as some of the projects, approved on List A should be updated. For example, Vasco Road Improvements should be updated as well as I-580 projects. Mayor Morgan also requested the Innovate 680 projects be updated to reflect existing conditions and asked for the status update on the Bus on Shoulder Project.

Supervisor Haubert stated that a steep increase in the TVTDF would cause sticker shock and could impact adding new rural roadway projects. Chair Perkins responded that, at this time, no new project being added.

Vice Chair Josey inquired as to whether or not applying 35% maximum allowable rate to one project is legal.

Lindsay D'Andrea, Legal Counsel, responded that the 35% is a reasonable rate as the funds are allocated among several projects and the law does not apply to project vs. project, rather the Nexus Study states that there is a reasonable relation between the fees vs. projects.

Mr. Michel Schmitt responded that the project costs do not change and the fees collected are spread out among many projects.

Chair Perkins thanked the Committee for their questions. He acknowledged and thanked the work of the Consultant Team and TAC members. Furthermore, he reminded committee members of the timeline for the SEP adopting. A new fee structure will need to be approved by all 7 member agencies in 2022, for implement July 1, 2022.

Chair Perkins inquired as to who is interested in participating on a SEP subcommittee. Vice Chair Josey and CM Kiick agreed to participate on the SEP subcommittee.

## **6. NEW BUSINESS**

### **A. APPROVE Resolution No. 2021-06 – City of Livermore request to refund Tri-Valley Transportation Development Funds**

Ms. Julie Chiu presented the item. The City of Livermore issued a building permit to Mark Ives, the property owner of 809 El Rancho Drive on June 11, 2018. The permit was for a 375 square feet of a new detached secondary dwelling unit on his property. The total amount paid at permit was \$7,340.72. In addition to paying fees to the City of Livermore, Mark Ives was required to pay a Tri-Valley Transportation Development Fee (TVTDF) of \$1,783.25.

During the construction, Mark Ives was notified by PG&E that the new secondary dwelling unit was built on a PG&E easement and would need to be removed. In order to fiscally prepare for demolishing the secondary dwelling unit, which was not completely constructed, therefore Mr. Ives has requested a refund of \$1,783.25 from TVTC.

**Motion to Approve by Supervisor Andersen; Second by Mayor Morgan.  
Approved (Ayes 7; Noes 0; Abstain 0)**

### **B. APPROVE Resolution No. 2021- 07 Amendment to TVTC Bylaws.**

Ms. Bobadilla provide brief summary of item. The TVTC JEP A Section 3 – Governing Council outlines how the TVTC shall be governed, including the adoption of Bylaws. Specifically, Section 3.e – Bylaws stated that “The TVTC shall create and adopt, and from time to time amend, Bylaws as are necessary or convenient to achieve or facilitate the conduct of the Governing Council’s meetings and procedures.”

Ms. Bobadilla stated that the TVTC TAC, with input from TVTC legal counsel, prepared an amendment to the TVTC bylaws, including:

1. Making minor clarifications and corrections;



2. Adding Role and Responsibility of the TVTC Technical Advisory Committee; and
3. Adding Role and Responsibility of the TVTC Finance Committee.

**Motion to Approve by Supervisor Andersen; Second by Vice Chair Josey.**

**Approved (Ayes 6; Noes 0; Abstain 0)**

**7. INFORMATIONAL ITEMS**

Mayor Brown also inquired about changes to State Law impacting Brown Act and public meetings.

Lindsay D'Andrea, Legal Counsel, responded that the State is scheduled to consider changes to the Brown Act for virtual meetings in August.

Chair Perkins inquired as to the status of the TVTC Audit Subcommittee. Ms. Bobadilla responded that the Audit Subcommittee has consisted of the Chair, Vice Chair and one other member.

**8. ADJOURNMENT**

The meeting was adjourned by Chair Perkins at 4:40 p.m.

# Item 4.b

**DRAFT - MEETING MINUTES**

**TRI-VALLEY TRANSPORTATION COUNCIL**

Zoom Teleconference Call

Monday, August 16, 2021

**1. CALL TO ORDER, ROLL CALL, AND SELF-INTRODUCTIONS**

The Tri-Valley Transportation Council (TVTC) was called to order at 4:01 p.m. by Chair, Scott Perkins, City of San Ramon.

**TVTC Members in Attendance:**

Scott Perkins, Chair, Councilmember, San Ramon  
Jean Josey, Vice Chair, Councilmember, Dublin  
Renee Morgan, Mayor, Town of Danville  
David Haubert, Supervisor District 1, Alameda County  
Candace Andersen, Supervisor District 2, Contra Costa County  
Brittini Kiick, Councilmember, City of Livermore  
Karla Brown, Mayor, City of Pleasanton

**TVTC Staff in Attendance:**

Lisa Bobadilla, San Ramon  
Cedric Novenario, Pleasanton  
Sai Midididdi, Dublin  
Pratyush Bhatia, Dublin  
Andy Dillard, Absent  
Julie Chiu, City of Livermore  
Robert Sarmiento, Contra Costa County

**Others in Attendance:**

Lindsay D'Andrea, Meyers Nave, TVTC Legal Counsel  
Frederic Venter, Kimley Horn & Associates  
Michael Schmitt, Kimley Horn & Associates  
Matt Kelly, Contra Costa Transportation Authority  
Hisham Noemi, Contra Costa Transportation Authority

**3. PUBLIC COMMENT**

None

**4. CONSENT CALENDAR**

None

**5. OLD BUSINESS**

A. APPROVE Resolution No. 2021-10 Adopting the Tri-Valley Transportation Council 2020 Nexus Fee Update Study

Ms. Lisa Bobadilla thanked the Board members for participating in the July Fee Nexus Study “Study Session”. Furthermore, the Consultant Team incorporated edits and updated the document to reflect current project status. It should be noted that the Staff Report contains a chart that is incorrect. The Errata sent out earlier today reflect the correct info.

Ms. Bobadilla reminded Board members that adopting the Nexus Study today; the Board is not adopting a new Fee. The development of a new Fee, is the next phase, the Strategic expenditure Plan (SEP) phase. The Nexus Study does not set the fee, prioritize the projects or allocate funds to a project, the SEP will address those items. The SEP subcommittee of (Chair Perkins, Vice Chair Josey and CM Kiick), along with the TAC, will begin their work on the SEP.

The Kimley Horn Consultant Team of Mr. Michael Schmitt and Mr. Frederic Venter, reviewed the changes to the Nexus Study as recommended by the Board, including:

1. Updated data for Projects on List A and B reflecting current status.
2. Minor language changes for clarity and to provide additional background.

Ms. Schmitt articulated that with respect to the Association of Bay Area Governments (ABAG) Regional Housing Number Allocation (RHNA), TVTC TAC members, with input from TVTC Legal Counsel, recommend that the TVTC Adopt the Nexus Study with the housing forecast as-is and not include projected RHNA data.

Furthermore, given that the RHNA are not finalized at this time nor are they agreed upon by all TVTC agencies, it would be premature to include ABAG projections. Rather, staff and the Consultant Team recommends that the TVTC adopt the Nexus Study using the best available data at this time. During the SEP process, the housing forecast could be amended and RHNA data could be included, if warranted.

Mayor Brown inquired as to how Project List A, B and C are prioritized.

Mr. Schmitt responded that the Prioritization of Projects included in the SEP Phase.

**Motion to Approve by Mayor Morgan; Second by Supervisor Andersen**

**Approved (Ayes 7; Noes 0; Abstain 0)**

6. NEW BUSINESS

- A. APPROVE Resolution No. 2021-09 Amendment to the Professional Services Agreement between the Tri-Valley Transportation Council and Kimley Horn and Associates to Extend the Agreement, Add Additional Scope to Include an Updated Strategic Expenditure Plan and Increase Contract Amount to \$247,930 The last Strategic Expenditure Plan (SEP) update was completed in 2017.

Ms. Lisa Bobadilla, TVTC Administrator stated that the next phase of the Nexus Study process is to update and amend the Strategic Expenditure Plan (SEP).

The SEP shall include a list of Projects, the estimated project costs of each Project, revenue estimates for the TVTDF fees, as well as a prioritization plan and timeline for project delivery.” Furthermore, she stated given that Kimley-Horn & Associates (KHA) is familiar with the background information and Nexus Study methodology, which is integral to preparing the updated SEP AND the SEP is the next step in the Fee update/process, the TVTC TAC concurs that amending KHA’s current contract to include the SEP is appropriate and will provide TVTC with significant project efficiencies and associated cost savings. The cost savings are a result of KHA not increasing costs significantly.

In the alternative, TVTC could direct staff to issue a Request for Proposals (RFP) for the SEP work task. However, this alternative would likely result in an 8 to 12 week delay. The tasks required to implement this alternative would include the TAC creating a new Request for Proposal (RFP), circulating the RFP for a period of up to 6-8 weeks, reviewing Proposals, scheduling and interviewing Consultants, developing a recommendation, and presenting for review/approval to TVTC and ultimately entering into a new agreement with a Consultant to implement the SEP.

Ms. Bobadilla stated that KHA will attend six SEP meetings and three TVTC Board meetings.

**Motion to Approve by Mayor Morgan; Second by Vice Chair Josey.**

**Approved (Ayes 7; Noes 0; Abstain 0)**

**7. INFORMATIONAL ITEMS**

None

**8. ADJOURNMENT**

The meeting was adjourned by Chair Perkins at 4:27 p.m.

# Item 4.c

**DRAFT - MEETING MINUTES**

**TRI-VALLEY TRANSPORTATION COUNCIL SPECIAL MEETING**

Zoom Teleconference Call

Thursday, September 30, 2021

**1. CALL TO ORDER, ROLL CALL, AND SELF-INTRODUCTIONS**

The Tri-Valley Transportation Council (TVTC) was called to order at 2:46 p.m. by Chair, Scott Perkins, City of San Ramon.

**TVTC Members in Attendance:**

Scott Perkins, Chair, Councilmember, San Ramon  
Jean Josey, Vice Chair, Councilmember, Dublin  
Renee Morgan, Mayor, Town of Danville  
David Haubert, Supervisor District 1, Alameda County  
Candace Andersen, Supervisor District 2, Contra Costa County  
Brittini Kiick, Absent  
Karla Brown, Mayor, City of Pleasanton

**TVTC Staff in Attendance:**

Lisa Bobadilla, San Ramon  
Cedric Novenario, Pleasanton  
Sai Midididdi, Dublin  
Andy Dillard, Danville  
Julie Chiu, City of Livermore  
Robert Sarmiento, Absent

**Others in Attendance:**

Steve Mattos, Meyers Nave, TVTC Legal Counsel

**3. PUBLIC COMMENT**

None

**4. CONSENT CALENDAR**

None

**5. OLD BUSINESS**

NONE

## 6. NEW BUSINESS

- A. WAIVE STIPEND – Chair Perkins requested TVTC consider waiving the TVTC meeting stipend for the September 30, 2021 special meeting, given that the meeting is scheduled to address an urgent item related to changes in State Legislature addressing virtual meetings.

**Motion to Approve by Vice Chair Josey; Second by Supervisor Andersen.  
Approved (Ayes 6; Noes 0; Abstain 0)**

- B. APPROVE Resolution No. 2021- 11 to continue conducting remote teleconference meetings for all meetings of the legislative bodies of the Tri-Valley Transportation Council, pursuant to the authority set forth in AB 361 (Government Code Section 54953[e][1]), due to a proclaimed state of emergency and imminent risks to the health and safety of attendees if meetings are held in person.

Steve Mattos, TVTC Legal Counsel, informed TVTC board of the Governor’s declaration of a State of Emergency, AB 361 allowing local legislative bodies to continue to meet remotely after the expiration of Executive Order N-29-20. Under AB 361, TVTC will be allowed to continue to meet remotely when:

1. The local agency holds a meeting during a declared state of emergency;
2. State or local health officials have imposed or recommended measures to promote social distancing;
3. Legislative bodies declare the need to meet remotely due to present imminent risks to the health or safety of attendees.

Furthermore, If TVTC makes these findings, TVTC’s legislative bodies would continue to be held in the current remote manner with opportunities for the public to observe and address the legislative bodies in real time. TVTC would also be required to revisit these findings within every 30 days in order to continue teleconference meeting while the proclaimed state of emergency is in effect.

**Motion to Approve by Mayor Morgan; Second by Vice Chair Josey.  
Approved (Ayes 6; Noes 0; Abstain 0)**

## 7. INFORMATIONAL ITEMS

None

## 8. ADJOURNMENT

The meeting was adjourned by Chair Perkins at 2:52 p.m.



# Item 4.d

# TRI-VALLEY TRANSPORTATION COUNCIL

**Scott Perkins**  
TVTC Chair  
Vice Mayor  
San Ramon  
(925) 973-2544

**To:** Tri-Valley Transportation Council  
**From:** TVTC Technical Advisory Committee (TAC)

**Date:** October 18, 2021

**Jean Josey**  
TVTC Vice-Chair  
Councilmember  
Dublin  
(925) 833-2530

**Subject:** Refund of TVTC Fee to RSLE Enterprises, Inc (Gay 90's Pizza)

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**Renee Morgan**  
Mayor  
Town of Danville  
(925) 918-3999

## BACKGROUND

The City of Pleasanton issued a building permit to the RSLE Enterprises, Inc (Gay 90's Pizza) located at 288 Main Street on November 10, 2020. The permit was for a kitchen addition to the restaurant. The total amount paid at permit issuance was \$3,332.00. In addition to paying fees to the City of Pleasanton, RSLE Enterprises, Inc (Gay 90's Pizza) was required to a pay Tri-Valley Transportation Development Fee (TVTDF) of \$1,452.00.

**David Haubert**  
Supervisor District 1  
Alameda County  
(925) 551-6995

## DISCUSSION

The Joint Executive Powers Agreement ("JEPA") does not address the refund of the TVTC Fee. Section 6 of the JEPA discusses the application of the fee but not reimbursement. However, the JEPA acknowledges, consistent with the requirements of the Mitigation Fee Act, that the TVTC Fee is intended to mitigate the effects of new development.

**Candace Andersen**  
Supervisor District 2  
Contra Costa  
(925) 957-8860

Gay 90's Pizza determined the project was fiscally unfeasible and has cancelled the work. Therefore, RSLE Enterprises Inc, has requested a refund of permit fees paid to the City of Pleasanton, including the TVTDF.

**Brittini Kiick**  
Councilmember  
City of Livermore  
(925) 960-4019

Past practice has been to reimburse the developer for the 80% fees and recommend the local agency reimburse the 20% fees.

**Karla Brown**  
Mayor  
City of Pleasanton  
(925) 931-5001

## RECOMMENDATION

ADOPT TVTC Resolution 2021-12 authorizing the TVTC Treasurer to refund the \$1,161.60. collected as the 80% fee and the City of Pleasanton to refund the remaining \$290.40 from their local TVTC Fee account.

## ATTACHMENTS

- A. TVTC Resolution 2021-12
- B. RSLE Enterprises, Inc refund request

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**TRI-VALLEY TRANSPORTATION COUNCIL  
RESOLUTION NO. 2021-12  
A RESOLUTION OF THE TRI-VALLEY TRANSPORTATION COUNCIL  
REFUNDING \$1,161.60 IN TVTDF TO RSLE ENTERPRISES, INC**

**WHEREAS**, the Tri-Valley jurisdictions have joined together to form the Tri-Valley Transportation Council (TVTC) and entered into a Joint Exercise Powers of Agreement (“JEPA”) in 2013; and

**WHEREAS**, the TVTC adopted the Tri-Valley Transportation Development Fee (TVTDF) to fund all or part of the necessary transportation improvements identified in the Strategic Expenditure Plan; and

**WHEREAS**, the JEPA requires each local agency to levy the TVTDF on all development projects; and

**WHEREAS**, the City of Pleasanton collected the TVTDF on the RSLE Enterprises, Inc development project in the amount of \$1,452; and

**WHEREAS**, RSLE Enterprises, Inc relinquished their intent to construct the project and has requested a refund of the TVTDF; and

**NOW THEREFORE BE IT RESOLVED THAT:**

1. The Tri-Valley Transportation Council authorizes a refund to RSLE Enterprises, Inc in the amount of \$1,452. These funds are held in two separate accounts, \$1,161.60 held by the TVTC Treasurer and \$290.40 held by City of Pleasanton in the local TVTDF account.
2. The Tri-Valley Transportation Council authorizes the TVTC Treasurer to transfer \$1,161.60 in TVTDF funds to the City of Pleasanton
3. The City of Pleasanton will refund the full amount of \$1,452 to RSLE Enterprises, Inc, using the \$1,161.60 from the TVTC Treasurer and the \$290.40 held by City of Pleasanton in the local TVTDF account.

**PASSED, APPROVED AND ADOPTED** at the meeting of October 18, 2021 by the following votes:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
Scott Perkins, Chair  
Tri-Valley Transportation Council

**ATTEST:**

\_\_\_\_\_  
Lisa Bobadilla, TVTC Administrative Staff

**RSLE ENTERPRISES, INC.  
108 Stablewood Ct.  
Boerne, TX 78006**

August 9, 2021

City of Pleasanton  
ATTN: Melinda Denis, Planning & Permit  
200 Old Bernal Ave.

Pleasanton, CA 94566

RE: Permit # B200428  
Fees Refund

Ms. Denis

This letter is to formally request a refund of Permit Fees paid to the City of Pleasanton under Permit #B200428.

Above referenced permit was in anticipation of work to be done at the Gay 90's Pizza restaurant located at 288 Main Street, Pleasanton, CA. The proposed work has been cancelled permanently due to the fiscal unfeasibility of the project. The possibility of any future work will be assessed at a later date as the need arises.

The contractors that were listed for the cancelled work were:

Northpoint Construction, Brentwood, CA  
Dahlin Group (architect), Pleasanton, CA

Please make the refund check payable to:

RSLE Enterprises, Inc.  
108 Stablewood Ct.  
Boerne, TX 78006

Please confirm receipt of this letter and request.

Thank you,

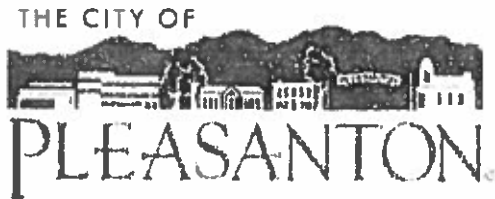


Robert L. Earnest  
President  
RSLE Enterprises, Inc.  
Cell: 925-918-2155

RECEIVED

AUG 12 2021

CITY OF PLEASANTON  
PLANNING DIVISION



City of Pleasanton  
 Community Development Department  
 200 Old Bernal Ave.  
 Pleasanton, CA 94566  
 (925) 931-5300

006430 0027 Amy S. 11/10/2020 01:14PM

PERMIT

Kitchen Addition Approved Partial 2020 Item: B20-0428 Affordable Housing Fee, Retail 2020	1,880.00
IVTDF Fee, Retail FY20-21	1,452.00
	----- 3,332.00
Subtotal	3,332.00
Total	3,332.00
CHECK	3,332.00
Check Number 004020	
	-----
Change due	0.00

Paid by: RSL& Enterprises

Thank you for your payment

CUSTOMER COPY

# Item 4.e

**TRI-VALLEY TRANSPORTATION COUNCIL  
RESOLUTION NO. 2021-13**

**A RESOLUTION OF THE TRI-VALLEY TRANSPORTATION COUNCIL MAKING  
FINDINGS PURSUANT TO GOVERNMENT CODE SECTION 54953(E)(1)  
AUTHORIZING CONTINUED USE OF TELECONFERENCE VIRTUAL MEETINGS  
FOR ALL TVTC RELATED LEGISLATIVE BODIES**

**WHEREAS**, all meetings of the legislative bodies of the Tri-Valley Transportation Council (“TVTC”) are open and public, as required by the Ralph M. Brown Act, Government Code Section 54950, *et seq.*, and any member of the public may observe, attend, and participate in the business of such legislative bodies;

**WHEREAS**, on March 4, 2020, Governor Newsom declared a State of Emergency as a result of the rapid spread of the novel coronavirus disease 2019 (“COVID-19”);

**WHEREAS**, on March 4, 2020, the Alameda County Health Officer declared a local emergency due to COVID-19;

**WHEREAS**, on March 17, 2020, the Alameda County Board of Supervisors adopted a Resolution ratifying the Health Officer’s Declaration of Local Emergency;

**WHEREAS**, on March 10, 2020, the Contra Costa County Board of Supervisors adopted a Resolution proclaiming a state of emergency to deal with the potential spread of COVID-19;

**WHEREAS**, on March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act (“Brown Act”) in order to allow local legislative bodies to conduct meetings telephonically or by other means, after which TVTC staff implemented virtual meetings for all meetings of legislative bodies within the TVTC;

**WHEREAS**, all legislative bodies of TVTC established remote meetings, which have allowed the bodies to continue to conduct TVTC business from remote locations while ensuring the public’s continued access to government meetings in a safe manner;

**WHEREAS**, on June 11, 2021, Governor Newsom issued Executive Order N-08-21, which terminated the provisions of Executive Order N-29-20 that allows local legislative bodies to conduct meetings telephonically or by other means effective September 30, 2021;

**WHEREAS**, on September 16, 2021, Governor Newsom signed Assembly Bill 361 (2021) (“AB 361”), which amended the Brown Act to allow local legislative bodies to continue to conduct meetings by teleconference under specified conditions and pursuant to special rules on notice, attendance, and other matters;

**WHEREAS**, AB 361, pursuant to Executive Order N-15-21, takes full effect on October 1, 2021 and requires the Board of Directors to make specific findings to continue meeting under special teleconference rules;

**WHEREAS**, in addition to finding the Governor has declared a State of Emergency pursuant to Government Code section 8625, such findings include that state or local officials have imposed or recommended measures to promote physical distancing, or, in the alternative, that the legislative body determines that meeting in person would present imminent risks to the health and safety of attendees;

**WHEREAS**, Governor Newsom has declared a State of Emergency due to COVID-19, the Counties of Alameda and Contra Costa have similarly proclaimed states of emergency, state and county officials have imposed or recommend measures to promote physical distancing, and TVTC has determined that meeting in person would present imminent risks to the health and safety of attendees;

**WHEREAS**, on August 3, 2021, in response to the emergence of the highly contagious Delta variant of COVID-19, which caused an increase in COVID-19 cases throughout the United States, State, the Alameda County and Contra Costa County Health Officers issued orders for nearly all individuals to wear masks when inside public spaces;

**WHEREAS**, the Centers for Disease Control and Prevention (“CDC”) continues to recommend physical distancing of at least six feet from others outside of the household;

**WHEREAS**, Title 8, Section 3205, subdivision (c)(5)(D) of the California Code of Regulations, promulgated by the Division of Occupational Safety and Health of the California Department of Industrial Relations (“Cal/OSHA”), requires employers to provide instruction to employees on using a combination of “physical distancing, face coverings, increased ventilation indoors, and respiratory protection” to decrease the spread of COVID-19;

**WHEREAS**, “Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace,” promulgated by the Occupational Safety and Health Administration (“OSHA”) under the United States Department of Labor, provides that “[m]aintaining physical distancing at the workplace for [unvaccinated and at-risk] workers is an important control to limit the spread of COVID-19” and recommends that employers train employees about the airborne nature of COVID-19 and importance of exercising multiple layers of safety measures, including physical distancing, and that employers implement “physical distancing in all communal work areas for unvaccinated and otherwise at-risk workers,” including physical distancing from members of the public, as a “key way to protect such workers”;

**WHEREAS**, due to the continued threat of COVID-19, TVTC continues to implement multiple layers of protection against COVID-19, including physical distancing, for the safety of employees and members of the public;

**WHEREAS**, TVTC recognizes the recommendations by state and local officials to use physical distancing as a layer of protection against COVID-19 and desires to continue to provide a safe workplace for its employees and a safe environment for the open and public meetings of all legislative bodies of TVTC;

**WHEREAS**, TVTC hereby finds that the presence of COVID-19 and the increase of cases due to the Delta variant present imminent risks to the health or safety of attendees should meetings of the legislative bodies of TVTC be held in person; and



**WHEREAS**, TVTC shall ensure meetings of all legislative bodies comply with the special teleconference rules under the Brown Act, as amended by Assembly Bill 361.

**WHEREAS**, on September 30, 2021, TVTC adopted a resolution authorizing the continued use of teleconference meetings pursuant to AB 361.

**NOW, THEREFORE, BE IT RESOLVED** by the Tri-Valley Transportation Council, as follows:

Section 1. Recitals. The above recitals are true and correct and hereby incorporated into this Resolution.

Section 2. TVTC hereby makes the following findings:

- a. TVTC has reconsidered the circumstances of the state of emergency;
- b. The state of emergency continues to directly impact the ability of the members to meet safely in person; and
- c. State or local officials continue to impose or recommend measures to promote social distancing.

Section 3. Remote Teleconference Meetings. All legislative bodies of TVTC are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public teleconference meetings in accordance with Government Code section 54953, as amended by Assembly Bill 361 (2021), and other applicable provisions of the Brown Act, in order to protect the health and safety of the public.

Section 4. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of November 17, 2021, or such time TVTC adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

**PASSED, APPROVED, AND ADOPTED** at the meeting of October 18, 2021 by the following votes:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Scott Perkins, Chair  
Tri-Valley Transportation Council



# Item 5.a

# Verbal Update

# Item 6.a

# Verbal Update