

Santa Clara City Council Meeting
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To: Santa Clara City Council
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These are points which need to get into the open before the Santa Clara City Council decides to finally embark on the road to housing on BAREC.

1. "We can't withhold zoning arbitrarily, unless you want to subject this City to a lawsuit that will bankrupt it...and, it's just not going to happen, and I'm sorry to say, that's just the reality of it." (Taken from a Mahan quote at April 26, 2005 City Council meeting) Mayor Mahan is a practicing attorney and, therefore, she should know better. Her statement is not true. According to Jeff Crone with the California Department of General Services, which is in charge of selling BAREC, "The State has never challenged a city on a zoning issue." Dan Potash, the State's consultant in charge of selling BAREC, is in agreement. He stated that if the city of Santa Clara does not want housing on BAREC than they do not need to do this. BAREC's land use is 100 percent up to them. Also, according to the Metro article: "Palo Alto land-use attorney and former Atherton Mayor James Janz says the city could easily argue that it needs to keep the area as open space. Janz believes a developer is unlikely to sue the city for withholding zoning because doing so would jeopardize future business. He adds that he has never heard of a state suing a locality for this reason."

2. Another Mayor Mahan quote in "The Valley" section of the San Jose Mercury News (Jan., 29, 2006): "We have to be reasonable in allowing rezoning; we can't withhold entitlements unreasonably, especially when we can't offer a good alternative."

Mayor Mahan is wrong. There is an alternative that will keep BAREC as agriculturally zoned open space and use it to improve environmental education in the county and city of Santa Clara (see www.savebarec.org for plan). A non-profit has made an offer to purchase BAREC and the UC Santa Cruz Department of Agroecology and Sustainable Food Systems and the Life Labs programs have offered to help recreate the same programs at BAREC as are at UC Santa Cruz. The county has only one week of environmental education in K-12, the worst record in the Bay Area.

3. The Santa Clara City Council has also allowed two of their Councilmembers (Matthews and Dierdon) to make motions and vote on the future of BAREC even though they knew that they had received campaign money from the State's consultants in charge of selling BAREC. According to one Santa Clara City Councilperson: "Tom

Shanks of the Markula Center at the University helped the City along the 'ethical' process to our awards. This is no longer the same 'ethical' City Council. The shadow of 'money influence' reaches out far and further than before."

4. Since BAREC is on the boundary of San Jose and Santa Clara and since both the county and San Jose are desperately needing open space in this area, why are the two cities not working together to keep BAREC in open space? In a letter to the Santa Clara City Council Fundraiser extraordinaire Director Ted Smith of the Silicon Valley Toxics Coalition stated: "Because of its history and location, the potential to bring federal, state, and private foundation money to your City is tremendous." Why are you not doing everything in your power to find ways to save BAREC? Why are you ignoring the offers by the community and local foundations to help you with this process?
5. Why are legislators allowing developers to control the direction of our Valley's jobs and land use? To keep a healthy economy our elected officials should encourage many kinds of land usages and not only repetitious infill housing everywhere. BAREC as open space is an example of such land use diversity. In discussing this possibility Ted Smith of the Silicon Valley Toxics Coalition wrote: "The permanent jobs this would create and the good it could bring would far outweigh a housing development that will only make it look like the rest of our paved over Valley and become a drain on the City's economy. The work done on the property could send out new little business ideas all over Santa Clara and enrich it for years to come." According to Environmental Professor Terry Trumbull on Comcast TV in October 2004: "Housing is a dead bang loser for income. In the United States we have gone from 5th to 48th in the most efficient use of our tax money."
6. Why is the City of Santa Clara not practicing democracy and using public funds to disseminate community opinions inaccurately or not at all? In the City's Spring 2006 issue of Inside Santa Clara, a City government publication, you state: "Efforts to locate a nonprofit organization able to invest in the land have been unsuccessful." Yet, the City Council and the State have refused to discuss the issue with VIVA, a nonprofit which has made an offer to purchase BAREC and refused to discuss a price that would be fair given BAREC remaining agriculturally zoned and for the public good. This issue gives only the City's opinion and leaves no place for the community's desires or opinions.
7. Why is the City of Santa Clara not listening to its professional staff or the community? Following are examples of ways it has not: (a) According to Mayor Mahan: "In the summer of 2002 our City did a study of where to place Santa Clara's required housing for the next five years. This study showed that BAREC was not needed for this required housing." (b) In the Fall of 2002 the State was preparing a BAREC housing EIR and the City was meeting with the State to discuss BAREC housing without community involvement. After these events in December and January

the City scheduled community meetings supposedly to discuss the community's opinion. These meetings had standing room only attendance. (c) In late January the Santa Clara Planning Commission voted unanimously to keep BAREC in 12 to 17 acres of open space.

8. Historical Issue: In the Summer of 2003 at a Santa Clara Historical Commission meeting Santa Clara's historian, Lorie Garcia, stated: "BAREC is so important to the City and region that it should be placed on the National Historical Registry." We are filing the papers to register BAREC for the National Historical Registry.
9. Historical Issue: Santa Clara is one of the State's first "Certified Local Governments" and as such a preservation plan must be in place. It must also provide local historical surveys to support community preservation. With regards to BAREC it has not fulfilled this obligation. It was clear from the first BAREC City Council meeting in early February 2003 that the City Council was not listening to the community, had made up their mind without public discussion, and has not been willing to work with the community regarding a compromise. The Council made a motion to turn 16 acres of BAREC into housing that was seconded before they began discussion about BAREC's future. This makes it clear that City Council meetings have been held without the community and Brown Act violations have taken place.
10. The chemical Dieldrin is on the BAREC land and adjoining private gardens in concentrations three times greater than EPA allows. Dieldrin when airborne can cause cancer and its life is hundreds of years. The State plans to clean up BAREC by removing the top two feet of only the worst contaminated soil and taking it off site. The City appears to be allowing this so housing can take place more quickly. Moving the soil and construction equipment on soil deeper than two feet will make the soil airborne again and bring back cancers into the community. Note that there are already a great number of people in the community with cancer or who have had cancer. The community is doing the research on this issue and the City and State are ignoring the problem. Why is the City of Santa Clara so unconcerned about this issue?

I hope you have the time to consider these issues before you release the BAREC Preliminary Environmental Impact Statement.

Sincerely,

Kathryn Mathewson