

# County to move forward with new \$390M jail

The plan is to also demolish Main Jail North and possibly parts of Elmwood Correctional Facility

**By Gabriel Greschler**

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In a major decision years in the making, Santa Clara County will move forward with a \$390 million new jail, despite public outcry from criminal justice reform activists who argued the facility will not increase public safety or address the widespread issue of mental health and drug addiction.

During a long and fraught meeting Tuesday, county supervisors approved the new jail in a narrow 3-2 vote, with Cindy Chavez and Susan Ellenberg voting against it.

The supervisors also voted down a proposal from Ellenberg that would have halted discussions of the jail proposal, with Otto Lee, Mike Wasserman and Joe Simitian voting against.

“It’s astonishingly disappointing for a number of reasons,” said Raj Jayadev, founder of the San Jose-based Silicon Valley De-Bug, an advocacy group that spearheaded the movement to stop the jail project. “First and foremost, these three Board of Supervisors (Lee, Wasserman and Simitian) just locked in Santa Clara County to investing in mass incarceration for decades to come. This wasn’t a singular policy decision around a temporary item.

This is a county investing its resources in the carceral system that undeniably targets and harms communities of color and those with mental and substance abuse issues.”

David Ball, a law professor at Santa Clara School of Law and a vocal opponent of the new jail, echoed Jayadev’s remarks.

“This is a reminder that Santa Clara (County) is not as progressive when it comes to criminal justice policy than many residents think they are,” said Ball, one of over a dozen law school professors and deans from surrounding universities who penned a letter to the county supervisors asking that they vote against the jail project.

“I don’t think this is the kind of decision in 20 years that we will say, ‘Wow, we really dodged a bullet there. We made the right decision,’ ” Ball said.

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South, which was razed in 2020. As part of the proposal, Main Jail North will be demolished and the county will reassess whether to tear down Elmwood Correctional Facility or just a portion of it.

County Executive Jeff Smith pushed for the new jail, arguing in part that facilities at Main Jail South and Elmwood are substandard. He also said that the overall cell

count of the county will be reduced with the new site, from roughly 4,000 today to 2,000 after Main Jail North is razed and Elmwood's future is reassessed. Though Smith said the county intends to try to lower incarceration rates as much as possible, he argued that there always would be a need for around 500 individuals to be held in custody in the county who are violent felons.

To tamp down worries surrounding mental health and drug addiction being neglected in the past, Smith said the new facility would devote resources to addressing those issues. According to Smith, the project will be paid for through lease revenue bonds — and not from the county's general fund. The arrangement is essentially a mortgage where the county will pay for the jail over a period of 30 years.

In an interview, Simitian said that Tuesday's vote addressed all of the obligations that the county has to its residents.

"I think our county has an obligation to keep the community safe," said Simitian.

"An obligation to treat the people in custody humanely. And follow the law."

Simitian said that the jail project was obscuring progress that the county has made in the area of criminal justice reform, like the fact that the overall population of inmates since 2014 has decreased from 4,386 to 2,271 in the first quarter of 2021, the latest data the county cites in its jail proposal.

"I think the construction of a new facility took on symbolic significance that overshadowed both some of the progress we've already made and some of the progress we can make with a more modern imagined facility," Simitian said.

He added, "I thought the great challenge of the conversation was that it was too often cast as an either/or when I thought ultimately we needed to build a new facility and expand our mental health offerings.

While Ellenberg's push to stop the jail was voted down, she was able to get a portion of her referral passed. As part of the jail project's approval, the county also will consider options in April to build a new mental health facility and expand funding and service slots for existing mental health and drug abuse care infrastructure.

"Though I am disappointed I wasn't able to persuade my colleagues to join me in opposing the construction of a new jail, there were a lot of wins for our county today," Ellenberg said in a statement. "We are going to continue to work towards alternatives to incarceration."

During public comment, which stretched from late morning until late afternoon Tuesday, almost every speaker strongly condemned the new jail project and voiced support for Ellenberg's proposal.

"Our jail system is broken," a woman who identified herself as Edie Washington said during public comment. "No charts or stats will change that fact."

The proposal for a new jail at the Main Jail North site has been in the works for several years. But in June 2020, after the murder of George Floyd and the subsequent calls for criminal justice reform, county supervisors began looking into alternative ideas to address mental health and drug addiction. The pivot led the

supervisors to launch focus groups led by EMC Research and W. Haywood Burns Institute to seek how the county's residents thought about the matter. EMC study found that only 10% of respondents wanted a new jail, 34% wanted the construction of a behavioral health facility, and another 34% wanted some combination of both. The Burns Institute study found a large swath of individuals against the new jail project and heavy scorn against conditions in existing facilities. However, the county administration in mid-November charged ahead again with the jail project, which aggravated activists who had thought the county had been considering a treatment center for mentally ill and drug addicted individuals. That effort was pushed off until this month, when Ellenberg contended that community members needed more time to discuss the issue, which had a 450-page-long proposal from the county administration.

The supervisors' vote comes at a particularly contentious moment for the county's jails and those who oversee them.

Last week, state Attorney General Rob Bonta announced that his office would be launching an investigation into the Santa Clara County Sheriff's Office and its management of the jails. The investigation comes after Simitian and Lee called for multiple outside authorities to dig into Sheriff Laurie Smith's handling of the jails. Simitian and Lee's request stemmed in part from cases like that of Andrew Hogan, a mentally ill man who was left unattended after inflicting wounds against himself in a jail transport van. The county later settled with Hogan and his family for \$10 million.

The sheriff is also under investigation through a civil grand jury probe that resulted in a formal corruption accusation that could lead to her ouster. Her first court appearance for the accusation was in mid-January. In August, as a result of the allegations against the sheriff, the board of supervisors declared a vote of no confidence in Smith — but she has rejected any calls for her resignation.

And on top of scrutiny toward the sheriff and jail oversight, hundreds of inmates have tested positive with the highly transmissible omicron variant over the last month, triggering a temporary hold on visitors.

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