CP&DR

CALIFORNIA PLANNING & DEVELOPMENT REPORT VOL. 23, NO. 12 – DECEMBER 2008

A Bush administration proposal to streamline the Endangered Species Act has met with stiff opposition from California environmentalists and state Attorney General Jerry Brown. A November letter signed by Senior Assistant Attorney General Ken Alex and Deputy Attorney General Tara Mueller to the U.S. Fish and Wildlife Service accuses the agency of "flouting the public review process" as it rushes toward "a decision apparently already reached."

In August, the Department of the Interior published a proposed regulation for implementing Section 7 of the Endangered Species Act (ESA). The rule would prevent greenhouse gas emissions from being considered an impact on species and their habitats. It also would eliminate the requirement that the Fish and Wildlife Service or the National Marine Fisheries Service independently review the impact of federally approved mining, logging and power plant projects on protected species. Instead, the agencies approving the projects would study the species impacts.

inbrief

Interior received roughly 300,000 comments on the proposed regulatory changes but reportedly took only four days to review comments before concluding the changes would not necessitate an environmental impact statement. One of the comment letters came from the California attorney general, who apparently felt ignored.

"Despite the department's contentions and protestations that the proposed regulations are modest in breadth, scope and impact, in fact they could have profound impact on the species and habitat that the ESA is designed to protect," states the latter from Alex and Mueller. They argue the federal government must complete an environmental impact statement before adopting the regulations.

A proposed 400,000-square-foot convention center and 2,000-room resort hotel that was supposed to anchor the redevelopment of Chula Vista's waterfront is dead, but the demise of the convention center and hotel could open up the site to potential development of a San Diego Chargers football stadium. The Chargers have been seeking a location for a stadium and related commercial development and have considered two other sites in Chula Vista.

Nashville-based Gaylord Entertainment notified City of Chula Vista officials in mid-November that the company was "discontinuing its plans" to – CONTINUED ON PAGE 5

Voters Show Slow-Growth Tendency

Farmland Protections Win; Anti-Development Initiatives Rejected

BY PAUL SHIGLEY

Balloting on local land use measures during the general election provided the usual mixed-bag of results, but also a number of surprises. Overall, slow-growth forces won 22 of 39 classifiable elections.

Despite the poor economy, the electorate demonstrated a willingness to spend money and even raise taxes for transit, roads and schools. When considering specific growth measures, voters in growth-wary Santa Monica rejected an initiative to limit non-residential development, while voters in the growth battleground of Beverly Hills narrowly supported a condominium and hotel development. In Solano County, voters reversed themselves and offered widespread support for extension of a 1990 initiative protecting agricultural land and open space. In Redwood City, voters rejected two competing measures that would give them direct control of proposed bayshore development.

The results of other elections were more true to form. Redondo Beach voters maintained their skepticism of infill and redevelopment by approving a tight growth-control initiative. Napa County voters extended a landmark agricultural land initiative for 50 years. In the development-friendly cities of Oxnard and San Marcos, initiatives that sought to limit growth failed to get even 40% approval.

Nearly all of the growth measures appeared on – CONTINUED ON PAGE 12

Could Obama's Urban Policy Embrace Regional, Suburban Issues Too?

insight WILLIAM FULTON

No president in more than 40 years has been better positioned to reshape American urban policy than Barack Obama. But the new president faces three challenges in dealing with urban policy.

First, Obama must focus most of his domestic policy attention on reviving the economy, so he'll have to wrap urban policy inside his approach to the economy.

Second, in order to succeed, Obama must tackle a broad range of policy issues that deal with human settlements, not only central cities. He will have to find a way to incorporate transportation, economic development, housing, environmental protection, and a whole host of other things into an "urban" policy that is – CONTINUED ON PAGE 16

inside

editor's note

Gauging elections after they are over is seldom easy, especially when an election involves a citizen initiative. What does the initiative really do? Why did people vote for it? Did growth opponents win?

Whenever reporters ask Bill Fulton or me to characterize the overall results of an election like the one on November 4, we inevitably work the term "mixed bag" into our response. We are able to draw broad conclusions – voters in coastal urban areas decide on growth initiatives and referendums far more often than inland voters – but we usually have a tough time generalizing about the overall results of initiative and referendum elections, because growth politics are extremely local. All we see is nuance.

Still, we want to provide analysis, because direct democracy on planning and development issues is not going away. Local elections mean something. Thus, we do our best to characterize ballot measures as "slow growth" or "pro growth." After we tally up results, we can report, as we do on Page 1, that one side or the other had an edge.

However, determining whether a ballot measure intends to slow or stop growth – or conversely intends to encourage or authorize growth – is more art than science. A referendum on an approved project (Measure H in Beverly Hills) is obviously a slow-growth measure. The intent is to stop a development. Initiatives that prevent development of certain types or in defined locations without subsequent voter approval (Redondo Beach Measure DD) also fall squarely into the slow growth camp. A measure that proposes a specific project (Proposition B in the San Diego area) is overtly pro growth.

A touch of gray, however, shades initiatives that lock in agricultural zoning (Measure P in Napa County, Measure T in Solano County). Yes, the initiatives block most development in unincorporated areas, but advocates argue they are simply guiding growth to cities that can handle it. Sometimes that's a sincere argument, sometimes it's not. We define Measures P and T as slow growth because, unless voters say otherwise in the future, they sharply limit building on hundreds of thousands of acres. (Bonds to fund acquisition of open space fall into the same camp.)

What of things such as Berkeley's Measure KK, which sought to prevent creation of bus rapid transit lanes? We classified this as slow growth because the initiative backers' intent was to halt AC Transit's proposed BRT lane on Telegraph Avenue. Initiative backers oppose that dense development could line the BRT route in the future.

Then there are city-crafted alternatives to slow-growth initiatives, such as Pleasanton's Measure QQ. Some alternative measures poke a thumb in the eye of slow-growth advocates, some are deliberately vague, and some are genuine compromises. We declined to characterize Measure QQ because it appeared to walk a fine line.

So, the results of the November 4 election? We'd say it was a mixed bag. ■

– PAUL SHIGLEY

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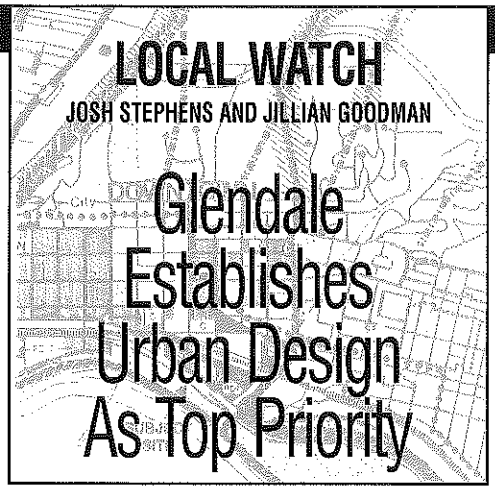

LOCAL WATCH

JOSH STEPHENS AND JILLIAN GOODMAN

Glendale Establishes Urban Design As Top Priority

When Pasadena first began to transform its moribund downtown into Southern California's premier urban destination, neighboring Glendale took a more cautious approach to urban renewal, which is to say that it did very little.

Twenty-five years after Pasadena began its ascent into urban planning textbooks, Glendale, with a population of 207,000, residential neighborhoods stretching from the San Gabriel foothills to the flats of Los Angeles, and a downtown that resembles an edge city more than an Old Town, has plodded along with a decidedly conservative approach to planning.

"There's no sense of arrival in Glendale," said former Pasadena development administrator Marsha Rood. "Glendale has beautiful neighborhoods and homes, but the downtown is a little too single-use driven."

"They fell behind [and] kind of missed the boat on a number of trends," said Glendale area real estate broker Roobik Ovanesian.

Until now.

After the recent opening of Americana at Brand, the latest ersatz-urban shopping extravaganza from developer Caruso Affiliated, Glendale is turning to a more genuine approach to the public realm. Under Director Hassan Haghani, the Glendale Planning Department is not promoting more mega-developments but rather intends to enhance existing urban character with the establishment of its own Urban Design Studio.

"As a city, Glendale has been more comfortable with a slow, steady evolution without branding itself," said Principal Urban Designer Alan Loomis.

The studio formally convened in May, when urban mobility expert Michael Nilsson joined a team that already included Loomis, urban designer Stephanie Reich, and historic preservationist Jay Platt. The team has been working to bridge the gap between design and planning.

"The city had been struggling with a lot of issues that they had been trying to address through process and codes for two decades," Haghani said. "When you get to the bottom of it, what the communities are demanding is design-related. You need to infuse the planning field with that."

Until Haghani became director early in 2007, the Planning Department had focused primarily on zoning and had little to do with aesthetics. Haghani said the new strategy not only has the support of the City Council but was mandated when the council authorized an update of the general plan in July 2007.

"We wanted to use a design-based plan as a practical tool," Haghani said. "We didn't want to shoot from the hip every time."

The studio is already working on a new update of the general plan in which a form-based strategy and attention to aesthetics and neighborhood context will take precedence. Loomis and his colleagues will also function as city-sponsored consultants to help developers and architects meet the new design guidelines, whether for a second-story addition, the restoration of a ranch-style house, or the next Americana. The studio intends to make the relationship between developers and the city less adversarial, more predictable, and more focused on the substance of design rather than on the complexity of codes.

"The four of us all come out of consulting firms in the private sector, so we act in a very entrepreneurial, proactive way," said Loomis. "We're easier than hiring a consultant, because we're always here, when you might have to wait a couple days or a week get responses [from a consultant]."

Haghani said early results have been mixed, depending on the type of project. "The larger projects that tend to have the more sophisticated architectural teams respond very quickly and very well," he said. "Sometimes it takes a little more work with the homeowner who wants to build a dream home to explain why we're being restrictive about design concepts."

Everything except for small residential additions, minor façade remodels and buildings of less than 10,000 square feet in redevelopment areas is subject to review by one of two design review boards. Ultimate approval authority rests with the City Council. Loomis said he wants to help developers conceive of projects that will meet with approval rather than languish in negotiations and redesigns.

"It's not just about streamlining the process, it's about getting a better product," said Platt.

"We are challenging the architects who work here to produce better work than they might have been accustomed to when they came to Glendale five or ten years ago," said Loomis. "We're trying to push Glendale into that echelon of cities like West Hollywood, Beverly Hills, Santa Monica, Pasadena, where architects want to do their best work."

Ovanesian said the design studio members will provide "a major benefit to developers" because they understand the community and the context of individual neighborhoods.

New projects will be nestled within an amiable collection of Craftsman houses, postwar homes, dingbats, and commercial strips that has never had a unifying theme. The studio seeks to capitalize on this diversity of styles and forms by addressing design on a fine-grain, individual basis without throwing a blanket over the city's 30 square miles.

"We have almost every kind of urban condition in Southern California except an airport and a beach," said Platt. "We don't have vision of what that product is going to be, and I don't think we want to have a vision of that. We want to be surprised. We want creativity to rule the day."

Transportation planner Nilsson's work involves a downtown mobility plan, plus bike plans and pedestrian plans that are intended to create more intimate relationships between developments and their streets.

All of these changes will be incremental, and no single one of them – even in downtown – is intended to transform the city. The biggest project in the pipeline is Verdugo Gardens, a 24-story mixed-use apartment tower slated for downtown.

The real innovation may lie in the integration of urban design into the city's political culture. With the studio, Haghani and the city are making an effort to wake up the city and give it a sense of identity. This approach is something that Dana Cuff, architecture professor and director of cityLAB at UCLA, said may be the next step in the evolution of planning, as attention increasingly turns away from grand projects and greenfield development to infill and rehabilitation of the existing built environment.

"My feeling is the next phase – the post-suburban phase of urbanism – is much more likely to be a designer's problem than a planner's problem," said Cuff. "When you zoom in closer, the specificity of the problems swamps abstract ideas." ■

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ENVIRONMENT WATCH

PAUL SHIGLEY

Studies Urge State To Prepare For Inevitable Climate Change

Two recently released studies warn that California is not moving quickly enough to prepare for climate change, while a third study found that the San Diego region is not adapting. Meanwhile, Gov. Schwarzenegger signed an executive order directing state agencies to study the situation and recommend actions rapidly.

A study authored by University of California, Berkeley, researchers David Roland-Holst and Fredrich Kahrl determined that the public and private sectors face billions of dollars in annual losses if they do not prepare for extreme weather events, rising sea level and increased wildfire, and that $2.5 trillion in real estate assets will be at risk.

A separate assessment prepared by the Public Policy Institute of California (PPIC) found that while water agencies and electric utilities have begun to take steps to adapt to the changing climate, entities responsible for coastal resources, air quality, public health and ecosystem vitality are lagging.

"To be most effective, California policymakers should develop an integrated climate policy, one that considers efforts to reduce greenhouse gas emissions and strategies for climate change adaptation in tandem," PPIC researchers Louise Bedsworth and Ellen Hanak recommended.

Both the UC Berkeley researchers, who prepared their report for the nonprofit organization Next 10, and PPIC credited the state and local entities for leading the way in mitigating climate change. However, both also urged greater research on the likely impacts of climate change and best ways to prepare. Schwarzenegger's executive order appears to be a step in the recommended direction. The order:

- Directs all state agencies to begin considering immediately potential sea level rise, increased storm surges and coastal erosion between 2050 and 2100 when planning construction projects. The order exempts routine maintenance and projects planned for the next five years.
- Orders Resources, the Business, Transportation and Housing Agency, and the Office of Planning and Research (OPR) to assess by mid-February the transportation system's vulnerability to sea level rise.
- Directs OPR and Resources to "provide state land use planning guidance related to sea level rise and other climate change impacts" by May 30, 2009.
- Gives Resource's existing Climate Action Team and a slew of other state agencies until June 30, 2009, to prepare a climate adaptation strategy for water, ocean and coastal resources, infrastructure, biodiversity, working landscapes and public health. This adaptation strategy "will be coordinated with California's climate change mitigation efforts."
- Directs state agencies to work with the National Academy of Sciences to prepare a sea level rise assessment, and issue a final report on the state's vulnerability by December 2010.

All three independent reports cite scientific studies that predict the climate will continue to change for the next 100 years even if societies around the world begin reducing greenhouse gas emissions. Mitigation, however, could reduce climate change impacts.

The Next 10 report, "California Climate Risk and Response," focuses on the potential economic impacts of climate change. "While multiple studies have been conducted assessing the economic impacts of [the California Air Resource Board's AB 32] scoping plan, to date, there has been limited economic analysis of California's climate risk – the impacts of climate change if the state continues business-as-usual – or of the adaptation needed to cope with unavoidable climate change," the report says. The report makes four core findings:

- Damage from climate change if no action is taken could amount to tens of billions of dollars per year in direct costs, and even more in indirect costs.
- Mitigation and adaptation may be executed at a fraction of this cost.
- The political challenges may be greater than the economic ones.
- Although there is a high degree of uncertainty regarding what adjustments are needed, "policymakers must have better visibility regarding climate risk and response options."

With the Sierra snow pack expected to decline by 30% to 80% toward the end of the century, and with continued population growth predicted, Roland-Holst and Kahrl say, "Effective climate response may require a complete re-appraisal of rules governing the state's water entitlements and private use."

The conclusion is roughly the same for electricity production and distribution, which will be challenged by higher temperatures and more people living in warmer inland areas – both of which exacerbate the need for air conditioning. The researchers found that $500 billion of highway, sea port and airport assets are at risk.

"What is needed right now is capacity at the state and local level for better assessment and incorporation of this information into strategic planning," the report concludes. "California can turn the threat of climate change into a growth opportunity with the right policy leadership."

The PPIC report makes some of the same observations regarding threats, responses to date and opportunities. Bedsworth and Hanak also find that some mitigation and adaptation measures are in conflict. For example, water recycling and desalination are adaptations to a less stable water supply, but they increase energy usage. "Conversely," the researchers write, "planting shade trees can lower home cooling needs, but this may come at the expense of higher water use. Similar water issues can arise for biofuels production."

Called "Preparing California for a Changing Climate," the PPIC report makes six recommendations for "state and local institutions":

- Improve the basic science on climate impacts.
- Help frontline actors, such as local governments, interpret the science.
- Determine where early actions are needed.
- Refine existing adaptation tools and experiment with new ones.
- Strengthen the incentives for coordinated federal, state and local actions.
- Make legal and regulatory adjustments.

"Local land use decisions (zoning, building codes) have implications for adaptation across a wide spectrum: habitat, water and energy use, and susceptibility to floods and wildfires, to name a few," the report says.

Another report, prepared by a collection of researchers and scientists for The San Diego Foundation, found that San Diego County is "uniquely threatened." The report cites threats such sea level rise and increased storm surge, a less dependable water supply, a longer fire season and invasion of fire-prone invasive species, loss of rare species, and increased loss of life from heat waves, which the report notes "have claimed more lives over the past 15 years than all other declared disaster events combined." At the same time, San Diego County is expected to prepare for a 50% population increase to 4.5 million by 2050. ■

■ Resources:

"California Climate Risk and Response," www.next10.org/research/research_ccrr.html
"Preparing California for a Changing Climate," www.ppic.org/main/publication.asp?i=755
"San Diego's Changing Climate: A Regional Wake-Up Call," www.sdfoundation.org
Governor's Executive Order S-13-08: www.gov.ca.gov/executive-order/11036/

brief

– CONTINUED FROM PAGE 1

develop the convention center, hotel and ancillary retail uses on 32 acres.

"We have been unable to overcome perhaps the biggest hurdle of the project – funding the enormous infrastructure costs associated with the bayfront redevelopment in a manner that will generate adequate financial returns for Gaylord, the port and the city," Gaylord Senior Vice President Bennett Westbrook wrote in a letter to Chula Vista Mayor Cheryl Cox and Port of San Diego President Bruce Hollingsworth.

The city and the Port District have been working on a master plan for the 550-acre Chula Vista bayfront since 2003. The port controls most of the area, which includes extensive brownfields, an aging power plant, sensitive wetlands, warehouses and a harbor. The plan envisions a wide variety of uses (see *CP&DR Local Watch*, October 2006), but the Gaylord proposal was the cornerstone because it would provide up to $700 million in infrastructure funding and improvements.

The city, the port district and Gaylord began negotiating in 2005, but the project appeared to founder. The parties missed several deadlines for finalizing the development deal, Gaylord experienced difficult talks with trade unions, and the city's chief negotiator, Laurie Madigan, resigned amid charges of a potential conflict of interest (she was later cleared of any wrongdoing and the city paid her legal bills). Meanwhile, Gaylord opened a similar project in Prince George's County, Maryland, and broke ground on one in Mesa, Arizona. The Chula Vista bayfront planning process grinds on with the review of a 10,000-page environmental impact report.

SunCal Companies filed for federal bankruptcy protection for two Southern California projects in November – the Marblehead development in San Clemente and a 45-story condominium tower proposed for Los Angeles's Westside. Since the failure of Lehman Bros., which had invested about $2.5 billion in SunCal projects, the privately held Irvine-based developer has sought bankruptcy protection for about 20 projects in California.

None of the other projects, however, has a history to match Marblehead's. Since the 1970s, developers have attempted to build thousands of homes, shopping centers and even the Nixon presidential library on the 250-acre bluff top site. Environmentalists and San Clemente residents successfully fended off proposals before finally reaching a compromise with the landowner, the Lusk Company. In 2003, the Coastal Commission approved a plan that designates about half the site as open space and parkland while accommodating 313 houses and a 675,000-square-foot commercial center. SunCal later bought the project and began grading in 2007, but construction has largely stopped.

The 177-unit condo tower on Santa Monica Boulevard was designed by French architect Jean Nouvel and intended for upper-end buyers desiring a Westside location. In 2006, SunCal outbid Donald Trump, paying $110 million for the 2.4-acre site. Although Nouvel's drawings for a slender glass tower with greenery ringing the floors have received attention, SunCal has not gotten entitlements for the project.

The Desert Hot Springs City Council has formally voted to end all consideration of the 2,000-unit Palmwood Golf Club housing and resort development and has decertified the project's environmental impact report. For years, Desert Hot Springs was a holdout in the creation of a multiple species habitat conservation plan for the Coachella Valley, largely because the plan designated the 1,700-acre Palmwood site for conservation (see *CP&DR Environment Watch*, April 2006).

However, the project has run into numerous hurdles, including litigation filed by environmentalists and feuding among project investors. In addition, new Desert Hot Springs city officials changed the city's position and began negotiating into the habitat plan, which was finalized in June.

Four dams on the Klamath River, including three in California's Siskiyou County, could be removed by 2020 under an "agreement in principle" signed in November by the Department of the Interior, state officials in California and Oregon, and utility company Pacificorp.

Indian tribes, fishermen, local governments in Humboldt County and environmentalists have sought dam removal for years because the structures block access to historic salmon spawning grounds and alter the river's natural flow. In 2001, Klamath Basin farmers and federal officials engaged in a physical standoff when the Bureau of Reclamation wanted to release more water to aid fish. The following year, the bureau provided more water to farmers, leading to poor downstream conditions and a huge die off of salmon while they migrated upriver.

Under the agreement, the federal government has until March 2012 to assess the costs and benefits of dam removal. California agreed to put up $250 million for dam removal, while Pacificorp would pay $200 million through a 2% surcharge on ratepayers. In the meantime, Pacificorp will provide an additional $500,000 annually for salmon fishery restoration measures. The ultimate dam removal and river restoration project would require the passage of legislation in Sacramento, Salem and Washington.

Westlands Water District has until January 21 to submit a plan for discharging irrigation waste. The Central Valley Regional Water Quality Control Board recently set the deadline for dealing with one of the region's most troublesome environmental concerns.

Since Westlands first began providing farmers with Central Valley Project water during the early 1960, irrigation runoff has been a problem. The Bureau of Reclamation began constructing a 188-mile drain canal during the early 1970s but opposition from the Bay Area halted it in 1975 after only 85 miles had been built. The unfinished drain terminated in Kesterson National Wildlife Refuge. In the 1980s, biologists determined that an epidemic of bird death and deformity at Kesterson was the result of unusually high concentrations of selenium, an element that occurs naturally in the Westlands Water District soil. Selenium was picked up by the irrigation runoff flowing from Westlands into the drain, and grew more concentrated in Kesterson as water in the refuge's shallow lake and marshes evaporated in the summer sun. The Bureau of Reclamation shut down the drain in 1986.

In 2000, the Ninth U.S. Circuit Court of Appeals ordered the Interior Department to build a drain, but nothing has happened. With nowhere to flow, irrigation runoff is raising the level of, and fouling the quality of, groundwater to the detriment of farmers, wildlife and communities that rely on wells.

"We understand that the Bureau of Reclamation has the statutory duty to provide drainage service ... and that your district and Reclamation have been working on a resolution of this problem," says the letter from the water quality control board. ""However, due to the magnitude of the problem and no foreseeable agreement, we must turn to your district to address this problem."

Caltrans has launched a new website for the California Transportation Plan 2035. Rather than identifying projects, the CTP provides policy direction to the 44 regional transportation planning agencies. The existing CTP 2030 calls for an integrated, multi-modal transportation system. Scheduled for adoption in 2010, the new plan is expected to build on those principles while also addressing climate change.

The website is www.californiatransportationplan2035.org. ■

CP&DR Legaldigest

Cal Supremes: 'Circumstances' Provide Project Approval

West Hollywood Deal With Developer Required Prior Environmental Review

BY PAUL SHIGLEY

Government agencies that appear to commit themselves to a project through a conditional agreement and funding must first complete a California Environmental Quality Act analysis, even if the actual project approval comes later, the state Supreme Court has ruled. The circumstances surrounding the agreement matters as much as the agreement itself, the court determined.

In the case *Save Tara v. City of West Hollywood*, the court ruled unanimously that the city violated the California Environmental Quality Act (CEQA) by not preparing an environmental review for an affordable housing development prior to approving a conditional agreement to provide property and funding to a nonprofit housing developer. Although the agreement promised future environmental review, the court determined the city's agreement "coupled with financial support, public statements, and other actions by its officials committing the city to the development, was, for CEQA purposes, an approval of the project that was required ... to have been preceded by preparation of an EIR."

The decision may have major implications for redevelopment projects, new affordable housing, public-private partnerships and any other real estate project involving public participation. Public agencies might have to engage in environmental review earlier in the process or face additional litigation, even if an agreement is conditioned on subsequent environmental review.

The question for the court was this: When is CEQA triggered during a development process involving a conditional agreement? The court declined to provide a definitive answer, instead offering this guidance: "A CEQA compliance condition can be a legitimate ingredient in a preliminary public-private agreement for exploration of a proposed project, but if the agreement, viewed in light of all the surrounding circumstances, commits the pubic agency as a practical matter to the project, the simple insertion of a CEQA compliance condition will not save the agreement from being considered an approval requiring prior environmental review."

Michael Jenkins, West Hollywood city attorney, called the ruling a setback for all cities and proponents of affordable housing projects requiring public assistance. The standard adopted by the court is "completely vague" and leaves city officials wondering what they did wrong, he said.

"We didn't have a commitment, we had a conditional agreement," Jenkins said. "A commitment is a commitment, and if it's not a commitment, it's not a commitment."

Attorney James Arnone, who represents developer West Hollywood Community Housing Corporation, wrote that the decision is "significant because it dramatically expands what courts will consider in determining whether an agency has triggered CEQA. ... Courts did not previously rely on statements made by city officials to determine whether staff enthusiasm was tantamount to project approval."

In this case, though, the court cited public statements by the mayor and the city housing manager, as well as a city loan and the commencement of tenant relocation from the property in question as evidence the city "committed itself to a definite course of action."

Michael Zischke, of Cox, Castle & Nicholson in San Francisco, said the decision "will have fairly broad application" for real estate acquisition matters.

"I think it is going to make life more complicated for redevelopment projects and affordable housing projects because they often need some sort of preliminary agreement for the financing or for selecting the developer," said Zischke, co-author of *Practice Under the California Environmental Quality Act.*

But attorney Doug Carstens, who helped represent the *Save Tara* plaintiffs, described the ruling as "a cautionary note" for agencies that "live on the edge."

"They will have to get more cautious in timing environmental review. I think that will be a good thing," Carstens said. "If there's doubt, you should go ahead and do the review."

Attorney James Pannone, who provided an amicus brief on behalf of the League of California Cities, said the decision did not mark a major change in CEQA law and would impact primarily "those entities that aren't careful." Pannone was pleased the court cited his brief in concluding that "purchase option agreements, memoranda of understanding, exclusive negotiating agreements or other arrangements with potential developers, especially for projects on public land" are not automatically subject to CEQA. Justice Kathryn Werdegar wrote for the court, "CEQA review was not intended to be only an afterthought to project approval, but neither was it intended to place unneeded obstacles in the path of project formulation and development."

The case involves Laurel Place, a colonial-style mansion built about 85 years ago and divided into four apartments during the 1940s. The previous owner donated it to the city. In June 2003, the city signed an option agreement with West Hollywood Community Housing Corporation and WASET, Inc., that permitted the developers to apply for Department of Housing and Community Development (HUD) funding. Later that year, HUD awarded the developers $4.2 million to help pay for 30 to 35 units of very low-income senior housing through rehabilitation of Laurel Place and construction of a U-shaped apartment building around the mansion.

In May 2004, the city and developers signed a "conditional agreement for conveyance and development of property." A group of Laurel Place residents and project opponents called *Save Tara* (so named

because Laurel Place slightly resembles the mansion in "Gone with the Wind") filed a lawsuit. Opponents argued the city violated CEQA by not conducting an EIR before signing the agreement. In August 2004, the city amended the agreement, partly to make clear that the city would not avoid CEQA review.

Los Angeles County Superior Court Judge Ernest Hiroshige ruled against opponents because the city had not given final approval for the housing project. In a 2-1 decision, the Second District Court of Appeal ruled the city had violated CEQA (see *CP&DR Legal Digest*, April 2007). The court determined the May 2004 agreement "presents a project for which the planning in practical fact is complete. ... It is not a 'land acquisition agreement,' as [the] city contends." The city should have commenced the EIR process once HUD approved the $4.2 million grant, the court ruled.

The state Supreme Court then agreed to decide whether the agreement between West Hollywood and the developers constituted project approval under CEQA. While the appellate court based its decision largely on the extent of project details contained in the HUD grant application and the conditional agreement, those details appeared to matter little to the state Supreme Court. Instead, the high court examined the agreement and surrounding circumstance.

In the May 3 agreement, the city offered to provide the property and a $1 million development loan if certain conditions were met, including compliance with CEQA. However, the city manager could waive the conditions, and $475,000 of the loan (to fund an EIR and other permit fees) would be lost if the project were not completed. The August 9 agreement eliminated the city manager's ability to waive the CEQA condition. The court also found noteworthy an email from the mayor to residents in December 2003 announcing the HUD grant and describing the project; a city newsletter that said the city and the developers "will redevelop the property" with low-income senior housing and a pocket park; statements by the city's housing manager that the city had rejected alternative uses of the property and was committed to the housing project "as long as the developer delivers;" and a city relocation consultant's contact of Laurel Place tenants. Adding up all of these factors, the court decided the city had essentially approved the project.

"A public entity that, in theory, retains legal discretion to reject a proposed project may, by executing a detailed and definite agreement with the private developer and by lending its political and financial assistance to the project, has as a practical matter committed itself to the project," Werdegar wrote. "When an agency has not only expressed its inclination to favor a project, but has increased the political stakes by publicly defending it over objections, putting its official weight behind it, devoting substantial public resources to it, and announcing a detailed agreement to go forward with the project, the agency will not be easily deterred from taking whatever steps remain toward the project's final approval."

The court specifically declined to provide a bright line test to determine when CEQA is triggered. Instead, Werdegar wrote, "[C]ourts should look not only to the terms of the agreement but to the surrounding circumstances to determine whether, as a practical matter, the agency has committed itself to the project as a whole or to any particular features, so as to effectively preclude any alternatives or mitigation measures that CEQA would otherwise require to be considered, including the alternative of not going forward with the project."

However, Jenkins, the city attorney, argued that other facts prove the city did not commit itself in 2004. In October 2006, the city certified an EIR that listed the potential effect on the historic mansion as the only significant impact. As mitigation, the city required restoration of Laurel Place to Department of Interior standards. The City Council divided 3-2 on project approval – and only after downsizing the development to 28 units, ordering a reconfiguring of the project and ensuring a chauffeur's quarters were preserved, Jenkins noted.

"That's what is supposed to happen after you do an EIR. It was not a *fait accompli* by any means," Jenkins said. "The City Council could have rejected the project."

The city argued that the 2006 EIR made the *Save Tara* lawsuit moot, but the court rejected that argument. Instead, the court ordered the city set aside the project approval, and reconsider the 2006 EIR to ensure the discussion of alternatives was not limited by the 2004 conditional agreement and to determine if circumstances have changed.

Jenkins said the conditional agreement with the housing developer was "very typical" of those used by redevelopment agencies when a developer needs assurance that the agency will provide land for a proposed project. Also typical was the city's agreement to advance money for studies, he said.

"I'm not sure how [other cities] decide how not to make the mistake that West Hollywood apparently made. There is no bright line," Jenkins said. "As long as there is no clarity, it invites people to sue, so more of these projects get delayed by litigation."

But Carstens, one of *Save Tara's* lawyers, said the decision "would not cause more litigation if [cities] would proceed with environmental review."

The court also decided to review the matter independently, instead of considering whether substantial evidence supported the city's actions. In a footnote, the court disapproved previous instances in which courts may not have provided independent review of a CEQA procedural question. Carstens said this standard of review is favorable to plaintiffs. Other attorneys were divided on whether the court's independent review marked a legal departure. ■

- The Case:
  Save Tara v. City of West Hollywood, No. S151402, 08 C.D.O.S. 13695, 2008 DJDAR 16389. Filed October 30, 2008.
- The Lawyers:
  For Save Tara: Jan Chatten-Brown, Chatten-Brown & Carstens, (310) 314-8040.
  For the city: Michael Jenkins, Jenkins & Hogin, (310) 643-8448.
  For West Hollywood Community Housing Corporation: James Arnone, Latham & Watkins, (213) 485-1234.

initiatives and referendums

San Francisco Redevelopment Plan Prevented From Reaching Ballot

A referendum on a redevelopment plan for San Francisco's Bayview and Hunters Point districts will not appear on the ballot. The First District Court of Appeal upheld a Superior Court judge's ruling that referendum proponents violated elections law by not including a copy of the redevelopment plan in referendum petitions.

The referendum petition contained the ordinance adopting the plan, but the ordinance was mostly a series of findings. All of the key ingredients – such as boundaries, eminent domain provisions, affordable

housing and community development components – were in the plan, the court noted. Without being able to review the plan itself, petition signers would not understand what was at issue, the court concluded.

"[T]he focus and substance of the challenged measure was found in the text of the plan which, although incorporated by reference in the ordinance, was not attached to or included in the petition," Justice Sandra Margulies wrote for the court. This was a violation of the Elections Code.

The San Francisco Board of Supervisors approved the plan for the Bayview Hunters Point project area in mid-2006 after 10 years of planning and community outreach. The plan covers about 1,300 acres east of Highway101, near Candlestick Point. The area is largely African-American and one of the city's poorest. The plan devotes 50% of redevelopment tax increment to affordable housing, limits use of eminent domain, and emphasizes localized economic development and community enhancements (see *CP&DR Redevelopment Watch*, September 2006).

Bayview Hunters Point residents, however, have been skeptical of the city's intentions, fearing the city sought to gentrify the area at the expense of existing residents. After supervisors approved the redevelopment plan, a group called Defend Bayview Hunters Point Committee (DBHPC) circulated referendum petitions and gathered enough signatures to qualify the measure for the ballot. However, in September 2006, City Attorney Dennis Herrera advised the city clerk that the petition did not comply with Elections Code § 9238, which requires that each referendum petition contain "the text of the ordinance or the portion of the ordinance that is the subject of the referendum." The city clerk notified the DBHPC that she would not accept the petition. Referendum advocates went to court, but San Francisco Superior Court Judge Patrick Mahoney ruled for the city.

On appeal, DBHPC argued that Judge Mahoney had misconstrued § 9238 and relevant case law. The group argued that prior court rulings proved the group did not have to attach a document that was merely incorporated by reference in the ordinance to be voted on, nor did the group have to include an exhibit that was not physically attached to the ordinance.

In rejecting these arguments, the First District undertook an extensive discussion of the earlier cases. In *Metropolitan Water Dist. v. Marquardt*, (1963) 59 Cal. 2d 159, the state Supreme Court upheld the state's decision not to include the full text of the general bond law when placing a water bond on the ballot. The court accepted the state's approach because the omitted material was an existing law that would remain in place and because the general bond law "was entirely peripheral to the substance and purpose" of the water bond, Margulies explained. The situation with the redevelopment referendum was different.

In three appellate court cases, courts blocked referenda because the petitions lacked crucial exhibits of the ordinances in question. (The cases: *Billig v. Voges*, (1990) 223 Cal.App.3d 926; *Chase v. Brooks*, (1986) 187 Cal.App.3d 657; *Nelson v. Carlson*, (1993) 17 Cal.App.4th 732.)

"*Billig, Chase* and *Nelson* all found that exhibits incorporated into ordinances are part of the 'text' of the ordinance for referendum petition purposes," Margulies wrote.

The DBHPC argued that none of the cases involved an exhibit that was not physically attached to the ordinance, but the court said physical attachment was unimportant. In all of the cases, courts ruled "that lengthy or highly technical documents may not be omitted from the petition if they provide necessary information for prospective signers," Margulies wrote.

"Here, the critical text enacted into law by the ordinance was the text of the plan, not the printed words of the ordinance. The plan supplied vital information about the effect of the ordinance, including the boundaries of the redevelopment project area, the allowed use of and limitations on eminent domain, the development of affordable housing, the promotion of jobs and business opportunities for local residents, and the community's role in the planning process," Margulies continued.

"We don't hold here that all documents a local legislative body chooses to incorporate by reference in or attach to an ordinance must be included in a referendum petition. We hold only that when a central purpose of the ordinance is to adopt and enact into law the contents of an incorporated or attached document, a referendum petition of the ordinance does not satisfy Elections Code § 9238 unless it includes a copy of that document," Margulies explained.

The court rejected the argument that its interpretation of the statute would burden DBHPC's free speech by requiring petition circulators to carry around huge stacks of paper. "[T]he state's interest in ensuring that prospective signers understand what they are signing fully justifies the requirement," the court ruled. ■

■ The Case:
Defend Bayview Hunters Point Committee v. City and County of San Francisco, No. A119061, 08 C.D.O.S. 13374, 2008 DJDAR 15977. Filed October 21, 2008.

■ The Lawyers:
For DBHPC: Michael A. Grob, (916) 441-0996.
For San Francisco: Therese M. Stewart, city attorney's office (415) 554-4700.

initiatives and referendums

Santa Barbara County COG's Advocacy Of Tax Measure Upheld

The Santa Barbara County Association of Governments did not illegally campaign for a ballot measure to fund transportation projects, the Second District Court of Appeal has ruled.

By preparing a transportation plan and making presentations to member agencies and the public about the benefits of a proposed sales tax extension, the Association of Governments was simply performing its duty, the court determined. The Government Code and a key state Supreme Court ruling preventing campaign activities by public agencies concern measures that have been certified for the ballot – not measures that are only being drafted and proposed, the court noted.

The ballot measure in question – a 30-year extension of a half-cent sales tax in Santa Barbara County for transportation projects – passed with 79% voter approval in November. It is unclear what would have happened to Measure A had the Court of Appeal ruled for the opponents.

In 2007, the Santa Barbara County Association of Governments (SBCAG) began work on a new transportation expenditure plan. After examining funding options, SBCAG recommended preparation of a measure to extend the half-cent sales tax, which was originally approved in 1989 and scheduled to expire in 2010. The association hired a consultant to identify the best arguments for the tax, likely opposing arguments and strategies to win voter approval. Staff from SBCAG met with civic groups

to explain the plan and the importance of maintaining the sales tax beyond 2010.

In March 2008, a newly formed group called Santa Barbara County Coalition Against Automobile Subsidies sued SBCAG, arguing that the association's promotion of Measure A interfered with the electoral process and that the association improperly used public funds for a "government-sponsored political campaign." At the time the coalition filed the lawsuit, Measure A had not qualified for placement on the ballot.

A few weeks later, SBCAG filed a response, calling the coalition's lawsuit a SLAPP – a strategic lawsuit against public participation – that attempted to chill constitutionally protected activities. In June, Santa Barbara County Superior Court Judge Thomas Anderle upheld SBCAG's activities, finding they were within SBCAG's rights of free speech and petition.

On appeal, Measure A opponents first argued that government entities do not have free speech rights. The Second District Court of Appeal, Division Six, ruled otherwise. Government agencies and their representatives do have First Amendment rights and they are "persons" entitled to protection by the anti-SLAPP law (Code of Civil Procedure § 425.16), the court ruled.

Measure A opponents argued that SBCAG's use of public funds to advocate for the sales tax violated the state constitution and state law. The opponents based their constitutional argument on *Stanson v. Mott*, (1976) 17 Cal.3d 206. In *Stanson*, the state Supreme Court ruled the State Department of Parks and Recreation had improperly spent public funds to advocate the passage of a park facilities bond. Without clear legislative authorization, the court ruled in *Stanson*, "A public agency may not expend public funds to promote a partisan position in an election campaign."

However, the appellate court noted, *Stanson* and similar cases involved measures that had already qualified for the ballot – not the drafting of a measure. Here, SBCAG had been authorized by the Local Transportation Authority and Improvement Act to do exactly what the association had done.

"In essence," Justice Steven Perren wrote the court, "the [opponents'] complaint alleges that SBCAG was performing its statutory duty under the Act. SBCAG prepared a transportation expenditure plan and an ordinance necessary to place Measure A on the ballot in order to raise revenue necessary for the transportation program and projects set forth in the expenditure plan. It then circulated the plan to member agencies for approval, and made public presentations concerning the merits of the plan and extension of the county sales tax."

The statute at issue – Government Code § 54964 – also addresses only partisan activity regarding a measure scheduled for the ballot. The law "does not prohibit the expenditure of public funds by local agencies to propose, draft or sponsor a ballot measure, including expenditures to marshal support for placing the measure on the ballot, or to inform the public of need for a sales or use tax or bond offering to provide revenue to pay for public improvements," Perren wrote.

The court also rejected arguments that SBCAG violated the state Political Reform Act, which concerns campaign expenditures, and the federal Hatch Act, which specifically limits public employees' official activities. ■

■ The Case:
Santa Barbara County Coalition Against Automobile Subsidies v. Santa Barbara County Association of Governments, No. B209525, 08 C.D.O.S. 13599, 2008 DJDAR 16290. Filed October 28, 2008. Modified November 5, 2008 at 2008 DJDAR 16555.

■ The Lawyers:
For the coalition: Eugene Wilson, (805) 683-4648.
For SBCAG: Jordan Sheinbaum, county counsel's office (805) 568-2950.

initiatives and referendums

Court Supports Ojai City Attorney In Rejecting Invalid Ballot Measures

A state appellate court has sided with a city attorney who declined to prepare ballot titles and summaries for proposed ballot initiatives because they were unconstitutional. The court rejected the initiative backer's arguments that the city attorney acted too late, that judicial review at the "pre-petition" stage was inappropriate, and that a lawsuit filed by the city attorney was a SLAPP.

The two ballot measures would have directed the Ojai City Council to adopt an ordinance limiting chain stores and franchise operations, and to enact laws addressing the shortage of affordable housing. Because the measures did not propose specific legislation, however, they amounted to unconstitutional uses of the initiative power, the Second District Court of Appeal, Division Six, concluded. Because of the measures' obvious defects, Ojai City Attorney Monte Widders was under no obligation to carry out the typically ministerial task of preparing ballot titles and summaries for initiative petitions, the court ruled.

On August 21, 2006, Jeff Furchtenicht, an attorney who lives in Ojai, submitted two ballot measures to the Ojai city clerk. Rather than propose legislation, the measures directed the City Council to exercise its "informed judgment" to pass law related to chain operations and affordable housing. On September 1, 2006, Widders said he would not prepare ballot titles and summaries because the measures were invalid. Widders and Furchtenicht communicated but reached no agreement and Furchtenicht would not withdraw the measures. On September 25, 2006, Widders filed a lawsuit asking a court to declare the measures unconstitutional and to relieve him of his duty to prepare ballot titles and summaries.

Furchtenicht responded by arguing that Widders filed his lawsuit too late and that it was an impermissible SLAPP – a strategic lawsuit against public participation.

Ventura County Superior Court Judge Ken Riley rejected the SLAPP argument but ruled for Furchtenicht nonetheless because Widders did not file suit within 15 days of receiving the request for ballot titles and summaries. On appeal, the Second District determined there was no 15-day statute of limitations and ruled squarely for the city attorney.

Under Elections Code § 9203, a city attorney has 15 days to prepare a ballot title and summary for a proposed initiative. Widders took no action within 15 days, instead requesting that Furchtenicht withdraw the measures and rewrite them. When Furchtenicht refused, Widders went to court – 35 days after Furchtenicht submitted the measures. Furchtenicht argued – and Judge Riley agreed – that Widders had acted too late for the court to intervene. The Court of Appeal disagreed.

"There is simply no authority for the proposition that the 15-day time period referred to in § 9203 was intended to act as a statute of limitations on a city attorney's right to seek judicial relief from his or her duty to comply with the statute," Justice Steven Perren wrote for the unanimous three-judge appellate panel.

Furchtenicht and the Initiative & Referendum Institute argued judicial review before an initiative petition has even been circulated for signatures was inappropriate. But the court found that Furchtenicht had no constitutionally protected right to place invalid initiatives before voters. Because Widders "could not conceive of a ballot title and summary that would not be misleading to the voters," it was appropriate for him to seek judicial guidance, the court ruled.

Furchtenicht appealed the SLAPP ruling, arguing the trial court incorrectly decided that Widders's lawsuit was not related to Furchtenicht's constitutionally protected right to petition. But the Second District declined to consider the argument because the trial court had also found that Widders acted within his official duties, and Judge Riley said he would have ruled for Widders had he filed his suit within 15 days.

"We agree with the trial court's implicit finding that Furchtenicht's proposed initiative measures were an improper exercise of the electorate's initiative power," Perren wrote. "The initiative measures at issue here do not contain actual statutes or ordinances. Rather, they are in the nature of resolutions that declare policies without providing the specific laws to be enacted."

Thus, it was proper for Widders to seek judicial relief and his lawsuit was not a SLAPP, the court concluded. ■

■ The Case:
Widders v. Furchtenicht, No. B196583, 08 C.D.O.S. 13334, 2008 DJDAR 15925. Filed October 20, 2008.

■ The Lawyers:
For Widders: Katherine Stone, Myers, Widders, Gibson, Jones & Schneider, (805) 644-7188.
For Furchtenicht: Peter Eliasberg, ACLU Foundation of Southern California, (213) 977-5204.

rent control

Private Agreement Fails To Provide Escape From L.A. Rent Restrictions

A Los Angeles property owner who leased a multi-family dwelling could not collect a rent increase of more than about 3% per year, even if the tenant agreed to pay more. That is the most broadly applicable portion of a recent appellate court ruling in a nasty dispute between a landlord and tenant.

Tenant Andrew Gombiner and landlord Daniel Swartz appear to have been feuding off and on since January 1998, when Gombiner signed a two-year lease for a home on Sunset Plaza Drive in Los Angeles. The monthly rent was $3,500 for the first year, and $4,000 for the second. In June of that year, Gombiner sued Swartz for fraud for misrepresenting the residence as a single-family house. In fact, Swartz had converted the structure into a duplex; Gombiner leased the top portion, while Swartz resided in the lower unit. They settled in 2000 when Swartz paid his tenant $25,000, and Gombiner promised not to complain to any government authority about matters covered by the settlement. In July 2001, they signed an amendment raising the monthly rent to $5,900.

After a dispute involving repair of a broken water heater and late payment of rent, Gombiner sued his landlord for $83,400 in unauthorized rent increases. Los Angeles County Superior Court Judge Judith Abrams ruled that the property was subject to Los Angeles's rent stabilization ordinance, which limited annual rent increases to about 3%. The court's appellate department confirmed the ruling.

When Gombiner then stopped paying rent, Swartz filed an unlawful detainer suit. In a bifurcated trial, Los Angeles County Superior Court Judge Mary Ann Murphy ignored Judge Abrams's ruling and determined the rent stabilization ordinance in essence did not apply because Swartz and Gombiner had signed two agreements negotiated by attorneys. Murphy also ruled that as of November 2004, Swartz had converted the property back to a single-family house. In the second half of the trial, a jury found that Gombiner had breached the lease and settlement agreement by not paying rent and contacting the government. The jury ordered payment of back rent, damages, interest and attorney fees totaling $453,000.

The Second District Court of Appeal, Division Eight, ruled that Judge Murphy made several crucial errors stemming from her decision to ignore Judge Abrams's original ruling. Key among those errors was Murphy's ruling that the parties could by mutual consent exempt the property from the rent control ordinance.

"[A] landlord cannot, even with the tenant's acquiescence or by mutual agreement, circumvent that which the law prohibits. An agreement that violates the law is void and unenforceable," Justice Laurence Rubin wrote for the court.

Because of Murphy's incorrect ruling and subsequent erroneous jury instructions, the Second District sent the case back to Superior Court for a new trial.

In 2005, the city added a "nonwaiver provision" to the rent stabilization ordinance to make clear the law's applicability to all rented multi-family residences, except those built after 1978 and condominiums. The ordinance covers hundreds of thousands of housing units. As of July 2006, the maximum permitted rent increase is 4% annually. ■

■ The Case:
Gombiner v. Swartz, No. B196182, 08 C.D.O.S. 13711, 2008 DJDAR 16410. Filed October 29, 2008.

■ The Lawyers:
For Gombiner: Leo Schwarz, (818) 222-2888.
For Swartz: James Cooper, Levinson, Arshonsky & Kurtz, (818) 382-3434.

deals

MORRIS NEWMAN

Ontario's Hockey Lust: Too Much Too Soon?

Dear Miss California Planning,

My name is City of Ontario, but if you print my letter, could you kindly change my name to something more anonymous like ... Ms. C. of O.? (I want to avoid the prying eyes of sarcastic journalists, who like nothing more than to snark at young, vulnerable, economically viable cities.)

Here's my question: Do you think I've done anything wrong? I realize that what I did was very unusual, especially for a California city with a population of 173,000 on the western end of San Bernardino County. I have been told that I have behaved forwardly, even to the point, and here I hold my breath, of being "innovative." That kind of talk frightens me. At the same time, the very thought of my deed fills me with pleasure. And yet I lie awake tormented, asking: Have I done the right thing?

I keep going over in my mind every detail of the plan, looking for some flaw or fatal wrinkle – and yet I can't find one! It's all too perfect. I must tell you now, or I will burst: I have built a $150 million hockey stadium entirely with my own money, and I did so without selling bonds or going into debt. I sold land to a developer to raise the money!

There, I said it. And that's not all: I continue to own the arena and I'm going to rake in $12 million a year, or possibly more, on this baby. It's not just hockey, mind you, as much as I love to watch large men swatting each other with their enormous arm guards. (Swooners!) No, the sports facility is only the centerpiece of a 92-acre, mixed-use development being built by the Panatonni Corporation of Sacramento, with housing, retail and restaurants, known as Piemonte. (That's pronounced pee-MON-tay, by the way, not PIE-monty.) And the arena itself, far from being only for hockey, will double as a concert venue for name-brand concert attractions like ... oh, what's their names? Bruce Sticksteen? The Dixey Lips? Puff Diddle, the predominant hip-hug artist? (Note to self before mailing letter: Check those spellings. His first name might be Bryce.)

My sole tenant will be a billionaire corporation known as AEG (for Anschutz Entertainment Group) of Denver, Colorado. Mr. Philip Anschutz, who cut his teeth in railroad real estate, is just the smartest man in the world. He is the largest owner of movie screens in the country and claims to be the second largest concert promoter. Mr. Anschutz is also the owner or co-owner of sports teams, including the Los Angeles Lakers, the Los Angeles Galaxy soccer club and the newly minted Ontario Reign. (As in Inland Empire. Get it?) Mr. Anschutz is also a very fine developer who is currently building the splendiferous LA Live, a theater-sports-nightclub-hotel-restaurant extravaganza right in the heart of downtown L.A. We like to think of the Piemonte project as a small-scale version of LA Live. It's like the mini-SUV version.

You may think that I'm a ditz, but I've got a head for business. The hockey team will pay us $1 million a year in rent. In addition, Ontario – I mean, Ms. C. of O. – stands to make an additional $11 million in tax increment and sales tax revenue from the entire Piemonte project. And that's not a shabby return on investment. Wouldn't you do the same if you were in my shoes?

Still, I fret. Will journalists, especially Mr. You-Know-Who (he knows who he is) ridicule me for building a sports arena for a multi-billionaire who could buy the City of Ontario and still have enough left over to buy the Texas-Sized Breakfast at Mama's Daughter's Diner in Dallas? Oh, please, tell me what should I do?

– Inwardly Troubled in the Inland Empire

Dear Ms. C. of O.,

Please put your pretty little business head to rest. You have done nothing wrong. You are, in fact, the envy of all the cities around you. Not only are you job-rich, but you are also rich in land, which gives you the ability to wangle deals such as Hockey Heaven in Piemonte.

> **"The hockey-retail juggernaut is a brilliant play for the city."**

Yes, your business decision was audacious, almost unprecedented. Building a stadium for cash? Whoever heard of that? Plus, it must be acknowledged that many cities who build sports facilities or offer big cash incentives to team owners often come to regret it. (Think of another city whose name begins with "O".)

In fact, your act would have been reckless, foolhardy and downright ill-informed if you hadn't lined up that guaranteed rental income of $1 million a year. (Many cities with minor league hockey charge a lot less in rent for an 11,000-seat facility.) Don't worry about fuddy-duddies, much less journalists, scolding you for building palaces for rich people. You know perfectly well what you're doing.

The hockey-retail juggernaut is a brilliant play for the city: The games bring in couples who stroll before the puck drops, and then eat and drink afterwards, then stroll and buy a magazine or a mystery, then have a late-night coffee before going home. At which point, those older than 35 lie in bed and read their magazines. With your comparatively high median household income of $55,589, it's a win-win-win for the developer, the sports-team owner and the smarter-than-average city. The only losers are sore-heads, hockey haters and fiscal sticks-in-the-mud. Plus, those pesky journalists, who like nothing better than to drive your publicists clean out of their minds. If I were you, honey, I would ignore all of them. You're on the road to riches. Who cares what anybody thinks?

– Miss California Planning

P.S. Can you possibly snag some complimentary golden circle tix to the Sticksteen show? Hubby's a big fan. ■

Oxnard, Santa Monica Reject Growth Measures

– CONTINUED FROM PAGE 1

ballots in urban coastal areas, reversing a modest recent trend that saw increasing ballot measure activity in inland areas. Not one growth measure appeared on the ballot in the Central Valley in November. The overall slow-growth victory rate of 56% was down a bit from November 2006, when voters went slow-growth in 26 of 42 (62%) elections (see *CP&DR*, December 2006). Four years ago, the pro-growth side won 16 of 31 ballot measures.

November 4 was a good day for transit. Los Angeles County voters backed a half-cent sales tax, with about two-thirds of revenues designated for transit improvements or operations. Voters in Sonoma and Marin counties approved a new sales tax to fund a commuter train through the two counties. Santa Clara County voters narrowly approved a one-eighth-cent sales tax increase to provide additional funding for a BART extension to San Jose. In a portion of the Alameda County Transit District, voters doubled a parcel tax to fund bus service. In Berkeley, voters rejected an initiative to block a bus rapid transit lane on Telegraph Avenue. And in West Sacramento, voters endorsed a plan to spend sales tax revenue on a new streetcar system.

Of course, state voters approved a $9.9 billion bond to start building a high-speed rail system. Also winning in November were sales tax extensions in Santa Barbara and Imperial counties, where transportation spending plans are geared more toward roads than transit.

In total, voters approved 47 out of 65 (72%) city, county and special district tax and bond measures requiring a majority vote, and backed 27 out of 52 (52%) measures requiring a two-thirds vote. "Across almost every category, approval rates of local revenue measures are as high or higher than those of similar measures since 2001," said Michael Coleman, a fiscal consultant to local government.

An amazing 86 out of 92 (93%) school bonds passed in November, providing a total of $22.2 billion for school construction. These measures included the Los Angeles Unified School District's $7 billion bond, which is the largest local school bond in history, the Los Angeles Community College District's $3.5 billion bond, San Diego Unified's $2.1 billion bond and Long Beach Unified's $1.2 billion measure. Of the six measures that failed, all but one were in relatively small, rural districts.

Coastal Growth Measures

Two of the most closely watched initiatives intended to limit development were in Oxnard and Santa Monica. Both lost.

The Oxnard initiative would have required voters to decide on any development project of at least 5 residential units or 10,000 square feet of commercial, retail or industrial space that was proposed within five miles of an intersection with a level of services worse than C. Essentially, Measure V would have put every project before voters. Worried about the implications of the initiative, the city commissioned a study by Economic & Planning Systems (EPS) that determined traffic conditions would deteriorate under Measure V because development that could fund mitigation would decrease. The city also rolled out its own comprehensive traffic mitigation plan during the weeks before the election.

Councilman and mayoral candidate Tim Flynn spearheaded the Measure V campaign. He discounted the EPS study as overly pessimistic and said voters would be willing to approve beneficial projects. Incumbent Mayor Tom Holden was a chief opponent. He was joined by the business community and organized labor, both of which argued the initiative would kill economic development. Opponents outspent proponents 80-to-1, and, in the end, nearly 62% of voters said no to the initiative. Holden won re-election with 57% of the vote.

In an interview with the *Ventura County Star*, Flynn blamed his losses on "a strange coalition of labor, the press and big developers who concocted a witch's brew and fed it to the public and they drank it."

In Santa Monica, the Residents' Initiative to Fight Traffic (RIFT) would have limited commercial development to a rolling five-year annual average of 75,000 square feet. In recent years, the city has permitted about twice that amount. In a city with slow-growth politics and heavily congested roadways, passage of the initiative was considered likely. However, an unlikely coalition emerged to defeat the measure. Developers and landowners, including Equity Office Properties of Chicago, Belle Vue Plaza, Macerich and Hines (which plans to build a 300,000-square-foot office complex on Olympic Boulevard) provided more than $700,000 to fight Measure T. They were joined by Terry O'Day, a planning commissioner and executive director of Environment Now, who served as the lead spokesman against the measure, as well as the politically dominant Santa Monicans for Renters' Rights and a majority of City Council members.

During the campaign, O'Day called RIFT a "broad brush solution" that would not improve traffic congestion and would have negative unintended consequences. Initiative proponents, on the other hand, pointed out that Santa Monica has about two jobs for every resident, and argued that the city should focus on additional housing. The measure failed, receiving only 44% of the vote.

In nearby Redondo Beach, voters chose a slow-growth initiative over the city's less restrictive alternative. The Building a Better Redondo initiative (Measure DD) requires voters to decide on any "major change in allowable land use," any project of more than 25 residential units or 40,000 square feet of floor area, and any project with a density of more than 8.8 dwelling units per acre. The City Council-backed alternative (Measure EE) would permit voters to decide on rezoning of residential, park and open space lands, as well as any proposal to increase the height limit in the coastal zone. Both measures passed, but Measure DD received about 2,800 more votes than the council's Measure EE and Measure DD will take effect.

For years, Redondo Beach officials have sought to redevelop the waterfront and the site of a power plant, as well as Torrance Boulevard. Those efforts, however, have met with stiff resistance and will apparently now need voter approval to move forward.

Smart Growth by the Bay

Three measures that could be characterized as "smart growth" passed in four Bay Area counties. Voters in Solano and Napa counties extended existing measures that prevent most development outside of city boundaries. Voters in Marin and Sonoma counties approved a quarter-cent sales tax to fund a commuter train that could induce transit-oriented development.

Solano County's Measure T is a 30-year extension of the Orderly Growth Initiative originally approved in 1990. Essentially, the initiative prohibits most development of land designated for agriculture, open space or watershed. Two years ago, voters narrowly rejected a 30-year extension of the policies when farmers and rural landowners organized in opposition, arguing that their evolving needs were not being considered.

After that vote, the county reached out to farmers and encouraged then to participate in an update of the general plan. The various interests began collaborating, the Orderly Growth Initiative was modified to permit some agricultural processing and tourism, and the general plan land use map was amended to permit development on the edge of cities and to eliminate a potential industrial park in a remote area along the Sacramento River. The Board of Supervisors adopted the general plan update but made the new plan contingent upon extension of the Orderly Growth Initiative. With no organized opposition, two-thirds of voters backed the measure.

"The biggest thing that happened during the two years was the general plan," said Nicole Byrd, a former Greenbelt Alliance field representative who served on a general plan advisory committee. "The farming community was very involved in the general plan process. There was a subcommittee that addressed agriculture that went out and talked to hundreds of farmers."

In adjacent Napa County, voters extended a similar initiative that prohibits development of agricultural land and watershed without voter approval. The 1990 initiative has become political bedrock, so there was very little campaign for or against the 50-year extension, which passed easily. Taken together, the Solano and Napa county extensions protect 980,000 acres, according to Greenbelt Alliance.

Greenbelt as well as the Sierra Club and other environmental groups endorsed the Sonoma Marin Area Rail Transit (SMART) District's quarter-cent sales tax to fund construction and operation of a train running 70 miles from Cloverdale in northern Sonoma County to Larkspur, where it could connect with ferry and bus service to San Francisco. While right-of-way and rails exist, the system is expected to cost $430 million to build and about $19 million in annual operating subsidies. The sales tax also will fund a $90 million multi-use path running along the length of the rail line.

Two years ago, a nearly identical proposal failed to receive two-thirds support, largely because less than 60% of Marin County voters backed the tax. But with higher gas prices, ever-increasing congestion on Highway 101, growing concern over climate change – and goodies like the recreational path, additional funding for train "quiet zones" at grade crossings and a more popular station site in Novato – enough voters changed their minds to pass the tax. The tax polled about 5 percentage points higher in Marin County and 3 points better in Sonoma County this time around.

Besides carrying about 5,000 passengers a day, the SMART train is expected to encourage transit-oriented development. Santa Rosa and Windsor have already moved ahead with such projects in anticipation of the train, and cities such as Petaluma have potential for development around downtown train stations.

Transportation Funding

Sales taxes for transportation fared very well in November. Los Angeles County's half-cent tax – expected to raise $40 billion over 30 years – passed despite being placed on the ballot at the last-minute and with a less-than-precise spending plan. Santa Clara County's eighth-cent tax was proposed specifically to provide additional funding for a BART extension, even though voters had already approved a half-cent tax partly to fund BART. The Santa Clara County measure appeared as if it would pass, although the margin was very close more than two weeks after the election. Extensions of existing sales taxes for transportation also passed in Santa Barbara and Imperial counties. Transportation taxes failed for a second time in Stanislaus and Monterey counties.

"All the measures that passed were in counties that have experience with sales tax measures," said Sarah West, of the Self-Help Counties Coalition. "The sales tax agencies have a positive history of delivering projects and the voters in those areas feel comfortable that a further investment in local transportation projects is a good investment that will be managed well."

In addition, West said, "Voters understand that the state is broke and realize they will have to contribute local funds to get the improvements they want."

Backers of the Los Angeles County measure emphasized projects such as the extension of the Expo Line from Culver City to Santa Monica, extension of the Gold Line from Pasadena to Azusa, and construction of a busway or light rail line into South Los Angeles. But the actual projects could evolve. Measure R divided up revenues this way: 35% for rail construction, 20% for highway construction, 20% for bus operations, 15% for local projects, 5% for rail operation, and 3% for Metrolink.

Transit fared well nationwide, as voters approved 23 state and regional initiatives that will provide $75 billion for transit systems, according to the nonpartisan research group Center for Transportation Excellence. The largest single measure was an $18 billion expansion of mass transit services in the Seattle area. ■

November Land Use Election Results

Alameda County

Alameda County Transit District, Area 1

In a victory for transit, voters doubled the parcel tax from $48 to $96 per year in portions of Alameda and Contra Costa counties to cover rising operating costs and decreased state funding.

Measure VV: Yes, 71.9% (2/3 required)

City of Berkeley

Berkeley voters overwhelmingly rejected an initiative that would have prohibited establishment of bus rapid transit (BRT) lanes. The initiative was a reaction to a proposal for a BRT lane on Telegraph Avenue that backers hope will spur transit-oriented development. Alameda County Transit's proposed $400 million BRT line would run 15 miles from San Leandro to Berkeley.

Measure KK: No, 76.7% (slow growth – no)

In a referendum election, a streamlined historic landmarks ordinance in Berkeley was rejected. The 2006 ordinance overhauled and relaxed a very restrictive historic preservation scheme that appeared to be in legal jeopardy.

Measure LL: No, 56.8% (yes = keep ordinance) (slow growth – yes)

Berkeley voters approved a $26 million bond to renovate, seismically retrofit and expand four branch libraries.

Measure FF: Yes, 68.0% (2/3 required)

City of Pleasanton

Voters approved competing growth measures – the citizen initiative PP and the City Council alternative, Measure QQ. Measure PP prohibits houses on slopes of at least 25% and within 100 vertical feet of a ridgeline, but it exempts any project of 10 or fewer units. Measure PP also tightens the definition of a housing unit, which is important because Pleasanton has annual and ultimate housing caps approved previously by voters. The City Council's Measure QQ requires the city to conduct a collaborative process to prepare a hillside and ridgeline protection ordinance within one year. Both measures will take effect, but it appears Measure PP's more stringent restrictions will effectively supersede Measure QQ's process.

Measure PP (citizen initiative): Yes, 59.5% (slow growth – yes)

Measure QQ (city alternative): Yes, 53.9%

East Bay Regional Park District

Voters approved a $500 million bond to acquire park-

land and develop facilities in the state's biggest park district.

Measure WW: Yes, 71.8% (2/3 vote required) (slow growth – yes)

Contra Costa County

City of Martinez

A $30 million bond to improve parks and recreational facilities, replace a swimming pool and expand the library won approval.

Measure H: Yes, 68.7% (2/3 required)

Town of Moraga

Voters rejected competing ballot measures concerning lightly developed hillsides and ridges. Measure K would have expanded an open space zoning district by 1,700 acres. Development would be limited to 10- or 20-acre parcels with severe grading restrictions. Meanwhile, Measure J – backed by landowner and developer David Bruzzone and cast as a development agreement – would have protected 320 acres as permanent open space but would have allowed housing development on about 130 acres that Measure K sought to preserve.

Measure J: No, 86.5% (pro growth – no)

Measure K: No, 56.1% (slow growth – no)

El Dorado County

Ten years ago, voters approved Measure Y, an initiative that sought to block development that did not fully mitigate its traffic impact. Measure Y sunsets this year. This time, voters approved a less-stringent, 10-year extension. It applies only to single-family subdivisions of at least five units, permits the Board of Supervisors on a four-fifths vote to craft exceptions, and allows spending of federal and state funds for roads serving new development.

Measure Y: Yes, 71.9%

Imperial County

By an overwhelming margin, voters approved a 40-year extension of a half-cent sales tax for transportation projects. The tax was scheduled to sunset in 2010. The extension is expected to generate $940 million, primarily for road improvements.

Measure D: Yes, 83.5% (2/3 required)

Los Angeles County

Voters backed a half-cent sales tax that would generate an estimated $40 billion over 30 years for transit and highway improvements. Passage of the sales tax also delays planned fare hikes for at least one year.

Measure R: Yes, 67.6% (2/3 required)

City of Beverly Hills

Voters narrowly rejected a plan approved in May to replace 217 rooms at the Beverly Hilton Hotel with a 170-room Waldorf Astoria and a conference center, construct up to 110 condominium units in two buildings of up to 18 stories, and provide 1,300 additional underground parking spaces. Officials estimate the project would generate $750 million for the city over 30 year. Opponents cited traffic as their primary concern.

Measure H: Yes, 50.1% (yes = project approval) (slow growth – no)

City of Long Beach

A special tax of $120 per residential unit to repay about $570 million in bonds for improvements to streets, storm drains, fire and police facilities, parks, libraries and health facilities failed.

Measure I: No, 47.8% (2/3 required)

City of Los Angeles

Measure B was an Article 34 election on low-rent housing. Voters have already approved development or acquisition of up to 3,500 units in each of the 15 City Council districts. Measure B modifies the program to make it eligible for certain state and federal funding sources.

Measure B: Yes, 59.4% (pro growth – yes)

City of Redondo Beach

Voters chose a slow-growth initiative over the city's less restrictive alternative. The Building a Better Redondo initiative (Measure DD) requires voters to decide on any "major change in allowable land use," any project of more than 25 residential units or 40,000 square feet of floor area, and any project with a density of more than 8.8 dwelling units per acre. The City Council-backed alternative (Measure EE) would have permitted voters to decide on rezoning of residential, park and open space lands, as well as any proposal to increase the height limit in the coastal zone.

Measure DD (citizen initiative): Yes, 58.5% (slow growth – yes)

Measure EE (city alternative): Yes, 50.1%

City of Santa Monica

Voters said no to the Residents' Initiative to Fight Traffic (RIFT), which would have limited commercial development to a rolling five-year annual average of 75,000 square feet. In recent years, the city has permitted about twice that amount.

Measure TT: No, 55.8% (slow growth – no)

City of South Pasadena

In a referendum, voters approved an amendment to a 32-year-old downtown redevelopment plan. The amendment clarifies that residential uses are permitted within the plan area. Residential use was ambiguous under the original plan. Primarily at issue was a proposed mixed-use redevelopment project that includes 60 residential units (see *CP&DR Places*, January 2007).

Measure SP: Yes, 55.4% (yes = plan amendment) (slow growth – no)

Marin and Sonoma counties

Sonoma Marin Area Rail Transit District

A quarter-cent sales tax to fund development and operation of a commuter train from Cloverdale in the north to Larkspur in the south passed in a second try. In 2006, the measure received more than two-thirds support in Sonoma County but failed because of lukewarm support in Marin County.

Measure Q: Yes, 69.1% (2/3 required)

Monterey County

A 25-year, half-cent sales tax for transportation came closer to passage this time, but still failed. In June 2006, 57% of voters backed a tax.

Measure Z: No, 37.9% (2/3 required)

Napa County

As expected, extension until 2058 of a 1990 initiative prohibiting development on agricultural land and watershed without voter approval won handily.

Measure P: Yes, 62.0% (slow growth – yes)

Nevada County

City of Grass Valley

Voters rejected two slow-growth measures – the Managed Growth Initiative (Measure Z) and the Limited Growth Initiative (Measure Y). Put forth by slow-growth advocates, Measure Z would have prohibited changes to the general plan's land use element without voter approval. The initiative could have forced a vote on several large development proposals that are inconsistent with the land use element. Backed by Mayor Mark Johnson, Measure Y would have placed a cap on housing units until 2020 and required voter approval of boundary changes and annexations.

Measure Y: No, 68.2% (slow growth – no)

Measure Z: No, 72.2% (slow growth – no)

Orange County

City of Irvine

The "Orange County Great Park Ratification and Improvement Act" keeps the City of Irvine in control of the park planned for 1,300 acres at the former El Toro Marine Corps base. Detractors, including two of five Irvine councilmembers and the Orange County grand jury, recommended creation of an independent board to oversee park development.

Measure R: Yes, 55.8%

Rossmoor

The proposed incorporation of Rossmoor, a 1,000-acre, 10,500-resident unincorporated island between Los Alamitos and Seal Beach, failed badly. Opponents argued that the proposed city, which has very little commercial development, could not support itself financially. Voters also rejected proposed utility taxes that would have helped fund a new city.

Measure U1: No, 71.7%

City of San Clemente

Voters approved a measure prohibiting rezoning or development of open space lands without voter approval. The measure follows on the heels of a February referendum vote blocking a condominium development on land now designated as open space, although it contains a private golf course. A much smaller majority backed the unrelated Measure W, an advisory vote on the LAB North Beach project. It is a proposed retail/restaurant/office/parking development on three acres of city-owned land.

Measure V (open space restrictions): Yes, 71.8% (slow growth – yes)

Measure W (LAB North Beach project): Yes, 53.4% (pro growth – yes)

City of San Juan Capistrano

Voters showed their support of open space by approving Measure X, which prohibits any change in designation of open space lands without voter approval, and Measure Z, which authorizes the sale of $30 million in bonds to acquire and enhance open space.

Measure X: Yes, 78.8% (slow growth – yes)

Measure Y: Yes, 70.3% (slow growth – yes) (2/3 required)

City of Seal Beach

An initiative to impose a 25-foot height limit on the Old Town area won easy approval.

Measure Z: Yes, 72.6% (slow growth – yes)

City of Yorba Linda

A City Council-sponsored measure to prohibit the use of eminent domain for economic development projects won.

Measure BB: Yes, 79.3% (slow growth – yes)

San Benito County

City of Hollister

An exemption from a 2002 voter-approved growth cap that limits housing development to 244 units per year won approval. Measure Y exempts the downtown area from the cap.

Measure Y: Yes, 52.0% (pro growth – yes)

San Bernardino County

City of Loma Linda

A measure ensuring permanent preservation of

1,675 city-owned acres in the South Hills for open space and recreation proved popular.
Measure T: Yes, 87.4% (slow growth – yes)

City of Needles
An advisory measure asked voters about a Fort Mojave Indian Tribe plan to build a casino on 300 acres of tribal land adjacent to Interstate 40, four miles west of town. Voters said, "Hit me."
Measure H: Yes, 73.0% (pro growth – yes)

San Diego County

Proposition A would have established a regional fire protection agency and imposed a $52 annual parcel tax to fund the agency; however, the measure failed to pass the super majority threshold. The issue is very high profile because large conflagrations have killed 27 people and destroyed more than 4,000 homes in San Diego County since 2003.
Proposition A: No, 36.7% (2/3 required)

City of Del Mar
Voters backed the Garden Del Mar specific plan – a mixed-use project with 20,000 square feet of shops and restaurants, plus 38 condominium-style offices and underground parking on a 25,000-square-foot vacant lot. The election was required by a 1986 initiative.
Measure G: Yes, 84.9% (pro growth – yes)

San Diego Port Authority
An initiative to amend the port district master plan to permit a private entity to build a 96-acre deck 40 feet above marine cargo facilities failed badly. The initiative's backers, businessmen Frank Gallagher and Richard Chase, said the deck could provide a site for a football stadium, a sports arena, a convention center expansion, parking or other amenities. Port district directors lost a lawsuit to keep the initiative off the ballot. Proposition B appeared on the ballot in the port authority's five member cities – San Diego, National City, Chula Vista, Imperial Beach and Coronado.
Proposition B: No, 70.4% (pro growth – no)

City of San Marcos
Voters rejected a slow-growth initiative and approved a far more modest city-backed measure regarding ridgeline development. Proposition O would have barred most land use designation changes without voter approval. The measure purported to be retroactive to July 23, 2007 in an attempt to block a 217-acre specific plan that seeks to create a dense, mixed-use downtown with extensive parkland (see *CP&DR Places*, September 2007). Voters passed Proposition N, a city-backed measure that will prohibit changes to the city's ridgeline protection overlay zone without voter approval.
Proposition N: Yes, 69.0%
Proposition O: No, 63.0% (slow growth – no)

San Francisco

Voters approved an $887 million bond to fund a seismically safe replacement for San Francisco General Hospital (Measure A). They very narrowly rejected establishment of an affordable housing trust fund with a minimum of $88 million in annual funding, including dedication of 2.5% of property tax revenues for 15 years (Measure B). They backed a charter amendment permitting the city to provide funds for development of a 65-acre project at Pier 70 (Measure D). And voters backed creation of an historic preservation commission (Measure J).
Measure A (hospital bond): Yes, 83.8%
Measure B (affordable housing): No, 52.4% (pro growth – no)
Measure D (Pier 70 development): Yes, 68.2% (pro growth – yes)
Measure J (historic preservation): Yes, 55.6% (slow growth – yes)

San Luis Obispo County

City of Atascadero
An initiative intended to block a proposed Wal-Mart Supercenter gained no traction. Measure D would have limited retail stores to 150,000 square feet, and would have limited stores with 5% of floor space dedicated to nontaxable goods (i.e. groceries) to 90,000 square feet. Wal-Mart has an application pending for a 146,000-square-foot store at Del Rio Road and El Camino Real. Voters also elected three City Council candidates who support the Wal-Mart project because of the sales tax it would generate.
Measure D: No, 67.8% (slow growth – no)

San Mateo County

City of Redwood City
Two land use measures concerning the bayfront that appeared somewhat similar both failed. Backed by environmental groups, Measure W would have prohibited development of open space, tidal plains and bayfront without two-thirds voter approval. The initiative was aimed at potential development of 1,400 acres of former salt flats owned by Cargill. The City Council-backed Measure V would have prohibited development of the Cargill property without majority voter approval.
Measure W: No, 62.8% (slow growth – no)
Measure V: No, 51.1%

Santa Barbara County

Extension of a sales tax for transportation for 30 years won approval. The existing half-cent tax is scheduled to expire in 2010. Two years ago, an extension of the tax failed to garner two-thirds voter support.
Measure A: Yes, 78.8% (2/3 required)

City of Buellton
Slow-growth advocates carried the election here. Measure E prohibits prior to 2025 the expansion of the city limits or the extension of sewer or water service beyond the boundaries without voter approval. Measure F would have imposed the same requirements but only through 2014.
Measure E: Yes, 68.9% (slow growth – yes)
Measure F: No, 76.7% (pro growth – no)

Isla Vista Recreation and Park District
Voters rejected a complicated land swap between the district and the Santa Barbara County Redevelopment Agency. Existing parks would have been lost but the end result would have been development of new park facilities, subterranean parking and a community center. A 1998 initiative required two-thirds voter approval for sale or transfer of the district's real property.
Measure D: No, 71.9% (2/3 required)

Santa Clara County

A one-eighth cent sales tax to provide additional funding for a BART extension to San Jose (Measure B) narrowly passed. The tax is in addition to an existing half-cent sales tax for BART and other transportation projects. Meanwhile, voters backed Measure A, an $840 million bond for seismic upgrades to the public hospital and to help build a replacement to the San Jose Medical Center, which closed in 2004. Measure C, a required advisory vote on the Valley Transportation Plan 2035, won approval. Measure D, which eliminates the requirement that future transportation plans be subject to advisory votes, also won.
Measure A (hospital bonds): Yes, 78.1% (2/3 required)
Measure B (sales tax): Yes, 66.8% (2/3 required)
Measure C: Yes, 69.7%
Measure D: Yes, 63.9%

City of Gilroy
A $37 million bond to construct a new library passed.
Measure F: Yes, 69.1% (2/3 required)

City of Morgan Hill
Voters narrowly said no to a proposal to modify a housing cap to permit development of 500 units in downtown.
Measure H: No, 50.04% (pro growth – no)

City of Palo Alto
Voters endorsed a $76 million bond to construct a new library and community center, and to renovate the existing main library and downtown library.
Measure N: Yes, 69.4% (2/3 required)

Solano County

The extension of a slightly modified version of the existing Orderly Growth Initiative until 2028, and ratification of an updated county general plan, won easy approval. Scheduled to expire in 2010, the Orderly Growth Initiative prohibits most development of agricultural lands and directs growth to incorporated cities.
Measure T: Yes, 67.7% (slow growth – yes)

Sonoma County

Sonoma Valley Health Care District
A $35 million bond to upgrade and seismically retrofit facilities won approval.
Measure P: Yes, 80.8% (2/3 required)

Stanislaus County

The latest attempt for a half-cent sales tax to fund transportation failed. The tax would have lasted 20 years and half of the revenue would have paid for repairing and upgrading city streets.
Measure S: No, 34.0% (2/3 required)

Ventura County

City of Fillmore
Voters in this small town were in slow-growth mood. Measure H was a referendum of a 51-unit housing development off Goodenough Road. Measure I limited development in the North Fillmore area to 350 housing units, instead of the planned 700.
Measure H: Yes, 60.5% (yes = no project) (slow growth – yes)
Measure I: Yes, 57.0% (slow growth – yes)

City of Oxnard
Measure V would have required voters to decide on any development project of at least 5 residential units or 10,000 square feet of commercial, retail or industrial space that was proposed within five miles of an intersection with a level of services worse than C.
Measure V: No, 61.5% (slow growth – no)

Yolo County

City of West Sacramento
A 20-year extension of a quarter-cent sales tax due to expire in 2013 was approved. Also winning was Measure U, which asked whether the revenue should be spent on levee improvements and construction of a new streetcar system.
Measure V (sales tax): Yes, 57.8%
Measure U (levees and streetcars): Yes, 64.9% ■

Insight

WILLIAM FULTON

– CONTINUED FROM PAGE 1

really about suburbs as well as cities.

And third, he's going to have to reshape urban policy without any money – or, at least, by using the money already in the budget in different and more creative ways.

Not since Lyndon Johnson has a president appeared so focused on urban America. Johnson was forced into action by the urban riots of the 1960s. Not only did he create the "Great Society" federal programs, he also consolidated federal housing and urban programs into the Department of Housing and Urban Development – then an agency central to the federal government but now considered an underfunded backwater.

Obama comes from a more urban setting – the South Side of Chicago – than any president in American history. On its face, his resume is that of not of a president-elect but that of the HUD secretary. Given his background as a community organizer, traditional HUD issues, such as urban poverty and local economic development in poor neighborhoods, clearly have great meaning to Obama. Indeed, one of Obama's first announcements after the election was the creation of an Office of Urban Policy in the White House.

But even this move – intended to show quickly and decisively that urban policy is important to Obama – underscores the challenges the new president faces, especially in integrating different federal programs and using urban policy to reach metropolitan-wide issues, not simply HUD-style issues of central cities.

The pervasive federal role in planning and development derives from a vast number of federal activities in many different agencies. By linking all these activities together, a president such as Obama could have enormous influence over growth patterns in communities all over the nation and everyday activities that result from those growth patterns.

Ultimately, Obama's record will probably be shaped not by HUD-type programs – which amount to a tiny amount of money in the federal context – but by how he wields the federal government's Big Carrot and Big Stick. The HUD programs are very important to central cities, but other programs have broader significance to how human settlements are organized across the landscape.

The Big Carrot is the federal transportation program – a carrot that, frankly, has not been so big lately. Funded by federal gas tax revenues, transportation spending is probably the biggest-ticket item available to Obama in shaping communities. In the campaign, Obama picked up on the agenda long pushed by the Brookings Institution Metropolitan Policy Program, which calls for coordinated federal spending on transportation infrastructure projects to reinforce metropolitan economies (see *CP&DR Insight*, October 2008).

However, the current federal program is overbooked – largely because gas tax revenues have been flat. So Obama's biggest opportunity here would be the big "public works" program currently being pushed by congressional Democrats – about $60 billion to $100 billion. This money could set the tone for growth patterns nationwide, but there will be tremendous pressure to spend it immediately for projects that states and regions already have in the hopper. Caltrans Director Will Kempton said the other day he has $1 billion in projects ready to go. Such a rush would seem to increase, rather than decrease, the likelihood of pork-barrel spending.

How Obama will use the Big Stick – federal environmental policy – is a little harder to discern. Most of the policy work done by his campaign focused on reducing greenhouse gas emissions and on energy policy. It's clear that these will be his highest environmental priorities, and he is likely to be deeply influenced by recent California experience on both, whether or not he appoints Californians such as Arnold Schwarzenegger and Air Resources Board Chair Mary Nichols to his cabinet.

A greenhouse gas emissions cap-and-trade program seems inevitable with Obama as president. But many questions remain unanswered. Such a program could provide the largest new revenue source for the federal government in a long time. Will Obama follow conventional thinking and push that money back into "clean coal" and alternative fuels? Or will he follow the smart growth party line and put more of the money into public transit and other actions that could alter growth patterns and reduce overall driving? Indeed, will Obama attempt to address the question of driving head-on – as the California greenhouse gas debate has suggested is necessary – or will he focus instead on technological fixes? A frontal assault on driving would be politically unpopular, but Obama could instead use the federal levers at the Department of Transportation, the Environmental Protection Agency and even the Interior Department to create powerful federal incentives for compact development patterns.

The rest of Obama's campaign environmental positions – on wetlands, land and water conservation, and the like – were little more than conventional Democratic boilerplate. But Obama will face significant challenges on these fronts once in office, thanks in large part to the legacy of President Bush. The Bush Administration has devoted a lot of effort, for example, to weakening the Endangered Species Act administratively, especially through last-minute "midnight rules."

Finally, there's economic development. In more ordinary times, this would mean a discussion of how Obama would approach the Commerce Department and, especially, the Economic Development Administration. But these are not ordinary times. Obama has made it clear that the economy is his highest priority, and "economic development" will clearly mean a wide range of policies. These could extend from a new approach to financial markets at the Treasury Department to additional encouragement for alternative and clean energy at the Department of Energy (which Obama, like all Democrats, touts as a major economic opportunity) to a revised strategy at the Commerce Department.

Obama's early actions also suggest that he is trying to grapple with the age-old federal question of how to get the executive branch all moving in the same direction. It's not clear yet whether the Office of Urban Policy will focus only on cities or, instead, on broader metropolitan issues, which is the Obama policy position. The latter approach would make the Office of Urban Policy an interagency clearinghouse. His decision to appoint Tom Daschle as both the Health and Human Services secretary and a White House advisor on health care suggests the new president is grasping for new ways to deal with this age-old problem.

There is little doubt that Obama, by nature and temperament, is America's first urban president. The question is whether he will be an effective urban president who can move the entire federal government in one direction. ■