

Loss Of Redevelopment Funds Hinders SB 375

State Funding Raid Undermines Projects That Would Reduce VMTs

BY JOSH STEPHENS

Redevelopment agencies in California are often asked to carry a heavy load: fighting blight, promoting economic development, transforming brownfields, and creating communities. Now add to that list the modest task of combating global climate change – at the very moment when they have fewer funds than they have had in decades.

Senate Bill 375 seeks to reduce California’s greenhouse gas emissions through the coordination of land use and transportation planning. But the state’s most recent \$2 billion raid on redevelopment funds is merely the latest shift of funds away from redevelopment agencies, many of which were already coping with lean budgets.

“Planning and redoing land uses is certainly an important piece of reaching 375,” said Greg Devereaux, county administrative officer of San Bernardino. “But in many markets the type of development – smart growth development, denser development – needs assistance to make it work in the market.” Devereaux was formerly Ontario’s city manager and a member of the SB 375 Regional Targets Advisory Committee.

Much of that assistance would, under normal economic circumstances, likely come in the form of redevelopment monies – agencies that are almost always focused on exactly the kind of high-density, mixed-use, infill development required to meet SB 375’s goals.

“I think that redevelopment is probably going to be the most important tool to implementing SB 375,” said Andy Agle, Santa Monica Director of Housing and Economic Development. “Their core mission is about compact infill development in already developed areas. The agencies have already done so much to push that type of smart development.”

“Southern California...has some of the most severe pollution problems and the highest traffic congestion problems in the county,” said Don Spivack, Deputy Chief of Operations and Policy at the Los Angeles Community Redevelopment Agency, which has project areas surrounding existing and planned rail stations throughout the city. “Hand-in-hand with the expansion of the

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The Promise, And Perils, Of Alignment

insight
WILLIAM FULTON

A couple of weeks ago, Shelley Poticha, the Obama Administration’s point person on smart growth, gave a high-profile talk to a big Urban Land Institute crowd in Los Angeles. Her message, plain and simple, was that it’s time for what she called “alignment.”

As everybody knows, the federal government spends tons of money on all kinds of things associated with planning and development – highways, public transit, housing of all kinds, air and water quality regulation, economic development projects and on and on and on. But nobody at the federal level thinks about how the funneling of all that money actually affects communities – which neighborhoods are strengthened, which are not, what the spatial pattern of spending is, whether all

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The Federal Transit Administration had admitted the entire 9.3-mile stretch of Los Angeles Metro's proposed "Subway to the Sea" for preliminary engineering studies. Boxer said that the admission of the entirely bodes well for Metro's innovative "30-10" financing plan, which seeks an upfront federal loan that would be paid off over 30 years by the Measure R county sales tax.

Nearly three decades after Rep. Henry Waxman (D-Los Angeles) sponsored legislation that banned federal funding for further tunneling in Los Angeles – purportedly to appease haughty Hancock Park residents worried that undesirables would invade their neighborhood via subway tunnels – the announcement is a resounding show of support for the subway extension and marks a major step towards its realization. Los Angeles Metro had expected that DOT would admit the extension for study in segments. Boxer said that the admission of the entire line – and the attendant implication that the feds are ready to chip in for it – "is as close to a miracle as it gets" in federal transportation politics. Sen. Barbara Boxer said upon announcing the FTA's decision.

The extension – officially called the Purple Line – will extend from the subway's current terminus at Western and Wilshire and extend through mid-Wilshire, West Hollywood, Beverly Hills and Westwood.

The engineering studies admission marks "a significant first step" towards realizing the 30-10 plan, according to Michael Turner, Metro's government relations manager for state affairs.

The board of the Los Angeles County Metropolitan Transportation Authority unanimously gave the go-ahead to an environmental impact report and feasibility studies analyzing alternatives to extend the 710 freeway 4.5 miles from its 710's current terminus at the 10 Freeway northward to the 210 Freeway. The extension has been opposed bitterly by residents of South Pasadena who are have been opposed to the taking of hundreds of homes. A tunnel, estimated to cost several billion dollars, is among options that Metro is expect-

ed to consider. The \$59 million EIR is expected to take three to five years to complete. The studies will evaluate a wider range of alternatives that have been considered in the past.

Governor Arnold Schwarzenegger has announced the appointment of Cindy McKim as director of the California Department of Transportation (Caltrans).

"Cindy McKim is committed to improving our roads and infrastructure to meet the needs of future generations," said Gov. Schwarzenegger in a statement. "With many years of experience with Caltrans, she understands the impact that our transportation system has on businesses and job creation. Cindy shares my desire to see California grow and change to meet the needs of an ever growing population."

McKim has served at Caltrans since 1985, most recently as chief deputy director, a position she has held since 2009. Prior to that, she held the positions of chief financial officer from 2004 to 2009, accounting division chief from 2001 to 2004, supervising transportation planner from 1999 to 2001, acting director for the administrative service center in 1999, assistant director for the administrative service center from 1996 to 1999, deputy director for rail, transit and aeronautics from 1992 to 1996, chief for the division of rail from 1990 to 1992, chief for the division of mass transportation from 1988 to 1990 and assistant director for management and policy planning from 1985 to 1988.

The San Diego Planning Commission approved last month a 20-year master plan for managing 50 miles of storm drains in order to reduce flooding in Mission Valley. The plan, estimated to cost \$30 million over the life of the project, is intended to streamline management and obtain federal and state approvals for all aspects of the plan all at once rather than seek individual approvals over time. Environmental groups have criticized several elements of the plan – including its removal of sediment and vegetation from storm channels – and have appealed to the San Diego City Council to reject the Planning Commission's decision.

The California Air Resources Board has scheduled seven public workshops in July across Cali-

fornia on setting regional targets under SB 375. SB 375 requires ARB to establish greenhouse gas emission reduction targets for passenger vehicles and light trucks for 2020 and 2035 within the state's 18 metropolitan planning organizations. The schedule is as follows:

- Wednesday, July 14 Sacramento
- Tuesday, July 20 Los Angeles
- Wednesday, July 21 San Diego
- Wednesday, July 21 Oakland
- Thursday, July 22 Riverside
- Thursday, July 22 Fresno
- Friday, July 23 Ventura

Questions regarding these meetings should be directed to Justin Paddock of the State Implementation Plan and Local Government Strategies Section at (916) 322-0342.

The City of San Jose has initiated a study to determine the feasibility of building a "pod car" rapid transit system to link key downtown sites and transit nodes, including Mineta Airport, Caltrain, future BART stations, and the convention center. The "ultra personal rapid transit system" would consist of a track and individual cars that riders could direct to the destination of their choice. A similar system is being installed at London's Heathrow Airport; it is expected to travel at 25 MPH and emit no pollution. The Santa Clara Valley Transportation Authority has authorized a \$4 million study for the system. The system is initially estimated to cost \$200 million and could be operational by 2015.

The United States Supreme Court has announced its refusal to review the City of Los Angeles' challenge to Kern County's Measure E, the successful 2006 ballot initiative that banned the dumping of sewage sludge on land owned by the L.A. Department of Water and Power near Bakersfield. The Supreme Court's refusal lets stand a 9th Circuit decision [↖] in favor of the county. That ruling held that the city lacked federal standing because the transfer of sludge did not take place across state lines and therefore was not subject to the U.S. Constitution's interstate commerce clause. Since 1999, the city has been sending roughly 450,000 tons – CONTINUED ON PAGE 3



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of biosolids annually to Green Acres Farms, where it is used as fertilizer on 4,700 acres of cropland. Los Angeles city attorneys have vowed to continue to challenge Measure E; if U.S. District Court Judge Gary Feess decides to send the claims to state court. Los Angeles claims that the measure violates the California Integrated Waste Management Act.

The owners of the massive 1940s Parkmerced development in San Francisco announced last month that they would default on their \$550 million mortgage. As with similar mega-developments across the country – not notably New York City’s Stuyvesant Town – the economic downturn left owners essentially owing more than the property was worth. The 3,221-unit, 115-acre development near the city’s southern boundary is owned by a partnership of Stellar Management and the Rockpoint Group, which bought the property in 2005. They are seeking to restructure their debt and continue with plans to nearly triple the number of units at Parkmerced.

An environmental group filed a suit that would prevent UC Santa Cruz from embarking on a 10-year plan to more than double its student population. The university hopes to build housing to serve up to 19,500 new students on the north side of its campus. The university has filed an application with the Local Agency Formation Commission to get approval for the extension of water and sewer services to the new residential complex, which would use an estimated 150 million gallons of water per year. Opponent Community Water Coalition’s suit contends that the City of Santa Cruz, and not the university, must file the application because the city owns the water and sewer infrastructure. The city and university have already agreed to the terms of the university’s Long Range Development Plan,

and they have jointly asked the Santa Cruz Superior Court to throw out the lawsuit. A hearing is set for June 29.

The City of Huntington Beach will vote July 19 on whether to annex the unincorporated surf enclave of Sunset Beach. With a population of 1,200 and a land area of only 85 acres, Sunset Beach has existed for over 100 years on a spit of land between Huntington Beach and Seal Beach, and it has been administered largely by volunteers. A recent study commissioned by Sunset Beach residents indicates that it could be solvent as its own city, and community members have filed an application with LAFCO. However, a Huntington Beach study suggests that annexation would net the larger city upwards of \$200,000 annually. LAFCO is currently reviewing both studies. If the Huntington Beach City Council votes for annexation, it would override Sunset Beach’s incorporation efforts.

Jack Kyser, the Los Angeles County Economic Development Corporation’s (LAEDC) Founding Economist, today announced his retirement effective June 30 after nearly 30 years as a major commentator on the L.A. County economy, land use, and development. Kyser will retire from full time work, but will remain as a consultant to the organization.

The LAEDC’s economic research department, the Kyser Center for Economic Research, will continue under the leadership of Chief Economist, Dr. Nancy Sidhu, to provide critical economic analysis and insight on topics related to the L.A. County economy, as well as produce unbiased analytical research about the industry sectors leading the Southern California five-county economy.

“It was the right time to retire as the department has never been stronger in terms of its economic research capabilities than it is now,” said Kyser in a statement. “The department is in good hands under Nancy’s leadership. She has done an extraordinary

job leading the team and will continue to provide important analyses, opinions and interpretations about the region.”

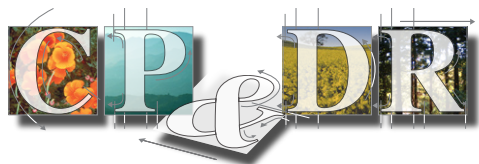
The U.S. Environmental Protection Agency (EPA) is issuing up to \$10 million in grants for initiatives that are developed and implemented by local governments to reduce greenhouse gas emissions. Under the Climate Showcase Communities program, EPA expects to award approximately 25 cooperative agreements ranging from \$100,000 to \$500,000, with roughly 5 percent of the funds (\$500,000) being made available specifically for tribal governments.

Local governments, federally recognized Indian tribal governments, and inter-tribal consortia are eligible for grants to create sustainable community actions that can be used elsewhere, generate cost-effective greenhouse gas reductions and improve the environmental, economic, public health, and social conditions in a community. A 50 percent cost share is required for recipients, with the exception of tribal governments and intertribal consortia, which are exempt from matching requirements under this grant.

The grant program is administered by EPA’s Local Climate and Energy Program which is an initiative to assist local and tribal governments to identify, implement, and track policies and programs that reduce greenhouse gas emissions within their operations and surrounding communities.

During the grant program, EPA will offer training and technical support to grant recipients, and share lessons learned with communities across the nation. This is the second round of funding for the Climate Showcase Communities program. In 2009, EPA selected 25 projects to receive \$10 million in grants.

Proposals are due by July 26 at 1 p.m. Grants are expected to be awarded in February 2011. ■



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legal digest

Composting Facility Must Consider Adding A Roof

Open-Air Waste Plant Requires Further Alternative Analysis

BY CORI M. BADGLEY

The environmental impact report for a proposed human waste composting facility in San Bernardino County has been rejected by the Fourth District Court of Appeal for failure to examine an alternative facility that would be enclosed rather than open-air, as proposed. In addition, the court ruled the county should have completed a water supply assessment for the project.

This appellate court's decision explores the meaning of "infeasibility" of alternatives under the California Environmental Quality Act (CEQA), as well as what constitutes a "project" under SB 610 (Water Code, § 10910 *et seq.*). In this case, the court found that the EIR for the proposed open-air composting facility did not satisfy the informational purposes of an EIR in relation to air quality alternatives and water supply.

Nursery Products LLC, the real party in interest, proposed to develop a composting facility on a 160-acre parcel in the Mojave Desert, outside of Barstow. The facility would have the capacity to handle approximately 400,000 tons of green plant material and "biosolids" from wastewater treatment plants annually. There are two residences within three miles of the Nursery Products site; otherwise, the closest residences are eight miles away in the town of Hinkley. The project was nonetheless challenged on multiple environmental and procedural fronts from by the Center for Biological Diversity and a group called Helphinkley.org at virtually every stage of San Bernardino County's administrative review process. The state Department of Health Services and the

Mojave Water Agency also raised questions. Still, the San Bernardino County Board of Supervisors approved the project and certified the EIR in February 2007.

The Center for Biological Diversity and Helphinkley.org sued, and the trial court agreed with them on two issues: (1) the EIR failed to adequately analyze an alternative for an enclosed facility that would limit the dissipation of odors and pollutants from the site and further mitigate air quality impacts; and (2) the project required a water supply assessment pursuant to Water Code §§ 10910 through 10915 and CEQA. Nursery Products that decision.

The crux of the project opponents' argument relating to air quality was that the County of San Bernardino failed to analyze an alternative that could mitigate the air quality impacts of the proposed open-air composting facility, namely by making it an enclosed facility. The backdrop of petitioners' argument was the EIR's conclusion that "even after implementation of feasible mitigation measures, an open-air composting facility would have a significant adverse impact on air quality." Additionally, although the EIR failed to extensively analyze the alternative of an enclosed facility, the EIR acknowledged that an enclosed facility "is estimated to reduce VOC [volatile organic compounds] and ammonia emissions by 80%."

In spite of the potential reduction in emissions, the EIR found that the enclosed facility alternative was both economically and technologically infeasible. According to the appellate court, the EIR relied exclusively on a memorandum by Geoffrey Swett, an environmental consultant with Arcadis G&M, for its finding of economic infeasibility. The court ruled the EIR's reliance on the

memorandum ill-founded for several reasons: (1) the memorandum discussed only one example – of an enclosed facility in Rancho Cucamonga – but provided no explanation as to why the proposed project would be similar to that example; (2) the Department of Health Services pointed to other examples of enclosed composting facilities that appeared to be working; and (3) the memorandum failed overall to provide facts to support its conclusory assertion that Nursery Products could not get private financing for the more expensive enclosed operation.

Quoting *Uphold Our Heritage v. Town of Woodside*, (2007) 147 Cal.App.4th 587, 599 ([see *CP&DR Legal Digest*, March 2007]), Presiding Justice Judith McConnell wrote, "What is required [for a finding of economic infeasibility] is evidence that *additional* costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project." For these reasons, the appellate court ruled that the record did not support the conclusion of economic infeasibility.

As to technological infeasibility, the EIR merely contained a statement that there is no electricity at the proposed site and no electric lines within one mile, and, therefore, an enclosed facility would be technologically infeasible. According to the court, this statement did not amount to substantial evidence supporting a finding of technological infeasibility. The court ruled that the EIR should have discussed the cost of bringing electricity to the site, not simply the fact that there was currently no electricity.

On the issue of water supply, the appellate court rejected Nursery Products' argument that, by failing to raise the specific issue of a water supply assessment under SB 610, the petitioners had

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not exhausted their administrative remedies. The court held that although the petitioners did not cite specific statutes, they adequately raised the issue, and they had asked about water supply and the project's water needs during the county's review process. The court held that they therefore had exhausted their administrative remedies.

Addressing the substantive issue of whether a water supply assessment (WSA) was necessary, the appellate court held that the composting facility qualified as a "project" under SB 610, and, therefore, a water supply assessment was required. Under § 10912 of the Water Code, a "project" requiring a WSA includes a "proposed industrial, manufacturing, or *processing plant*, or industrial park ... occupying more than 40 acres of land." The appellate court found that the plain meaning

of "processing plant" includes an open-air composting facility because the dictionary definition of "plant" includes "the *land*, as well as building, machinery and fixtures used in carrying out a trade or industrial business." Thus, the proposed composting facility, despite its rudimentary infrastructure (essentially a pile of waste), constituted a project under SB 610 and a WSA was required.

Nursery Products additionally argued that no WSA was necessary because the composting facility would not connect to a public water system. Nursery Products relied upon *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099 ([↗]) see *CP&DR Legal Digest*, January 2009), in which the court stated that a WSA is required only if a public water system is impacted. The Fourth District in this case disagreed with *Gray's* interpretation of the statute on the grounds that SB

610 specifically contemplates what occurs if a public water system is *not* impacted (see Water Code, § 10910(b)). According to the Fourth District, the only inquiry is whether the proposed development constitutes a "project" under §10912. Because the composting facility was a project, SB 610's requirements applied. ■

■ The Case:

Center for Biological Diversity v. County of San Bernardino, No. D056648, 2010 DJDAR 7694. Filed May 25, 2010.

■ The Lawyers:

For Center for Biological Diversity: Helen Kang, Golden Gate University Environmental Law & Justice Clinic, (415) 442-6693.

For Nursery Products, LLC: Lisabeth Rothman, Brownstein, Hyatt, Farber, Schreck, (310) 500-4600.

Cori Badgley is an attorney with the firm of Abbott & Kinderman, LLP.

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these funds are working at cross-purposes. The same is almost always true in states – especially here in California, where the state is now basically requiring locals to pursue smart growth while at the same time taking away funding for both redevelopment and public transit.

"We are actually talking about how we align and leverage and focus our monies into communities so that they are used more powerfully," Poticha told the ULI crowd. "So they are more effective and not just dribbled out into a bunch of stuff that doesn't add up to anything in particular."

Surely, this is planner Nirvana. For decades, planners have been talking alignment in one form or another, especially here in California. We all know, for example, that it would be tremendously powerful to line up all state spending in pursuit of particular growth goals – spending transportation money only on projects that support an efficient regional growth strategy, for example – but it's been almost impossible to actually implement this. In Maryland, former Gov. Parris Glendening, the father of smart growth, proved that such alignment can be powerful – though fleeting if not accompanied by permanent institutional change. In California, SB 375 takes a baby step toward aligning regional land use strategies by mandating Regional Transportation Plans.

The same is true on the federal level – and the Obama Administration's alignment strategy is the very conscious realization of an alignment policy approach long advocated by Bruce Katz at the Brookings Institution's Metropolitan Policy Program and other smart growth advocates in Washington.

But maybe it's worth asking one dangerous question: When you get right down to it, does anybody really *want* alignment?

It's an amusing old axiom to say that the only thing people fear more than a federal government in disarray is a federal government that knows

what it's doing. Logical as alignment may be, it's also scary – threatening everybody's status quo, even the pro-smart growth local officials who ought to benefit from it. And so it might not last long.

There are several reasons why alignment has never been politically popular in Sacramento or Washington.

One is the natural inclination of lawmakers to focus on narrow issues one at a time. Even on the overarching issue of climate change and the pathbreaking SB 375, the Legislature has fallen into this trap. AB 32 calls for greenhouse gas emissions reduction across the board. Meanwhile, SB 375 charges the Air Resources Board with overseeing regional land use plans that reduce emissions from cars and light trucks. And if you're a community that wants to combine your emissions reduction efforts – energy, building, land use – too bad. SB 375 only deals with emissions from cars and light trucks. So if you go 100 percent solar, for instance, but still don't knock a single inch off your VMT, you're saving the world according to AB 32 but is still in violation of SB 375.

A second is a tendency by even the most innovative bureaucracies to silo themselves and their work. The longer you work in any bureaucracy, the more narrowly you tend to define your job.

The third – perhaps the most powerful – impediment to alignment is that the constituencies and stakeholders that surround an issue tend to take a narrow view as well. Highway folks lobby for highways. Transit folks lobby for transit. Housing folks lobby for money for housing. Air quality folks lobby for stronger air quality regulations. Stormwater folks lobby for stronger stormwater regulations.

Sometimes, the environmental advocates understand that money needs to back up regulation. So they might stretch themselves to lobby for housing or transportation money to be spent a certain way in order to help meet environmental goals. But in the

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Electionresults

Status Quo Prevails In Most Local Elections

Few definitive trends emerged in the handful of local land use ballot measures that were decided across the state yesterday. Voters in Costa Mesa, Mission Viejo, Pleasanton, Sutter Creek, and Brentwood maintained status quo with votes that either limited development or rejected new land use provisions. Meanwhile, Redlands voted to allow new big-box stores, Eastvale voted to exist as a city, and Santa Clara voted to allow and partially fund a football stadium that, when full, will add the population of a small city to the heart of Silicon Valley.

Please see complete results below, with links to *CP&DR's* preview coverage:

Football Coming to Silicon Valley

Measure J: 14,338 (58.17%) Yes, 10,310 (41.83%) No

The San Francisco 49ers can only hope that all of this wins are this decisive. Passing with over 59 percent of the vote, Santa Clara's Measure J all but clears the way for the 49ers to relocate from Candlestick Park to a new \$937 million stadium in the Silicon Valley City. Measure J includes a complex financing deal in which the city will contribute \$114 million – from redevelopment funds, utilities funds, and a new hotel tax – and over \$300 million in bonds will be raised by a public stadium authority. The 49ers will cover the rest of construction costs. The stadium will be built on a parking lot for Great America Theme Park, which is in the middle of the city's industrial and office district; city officials insist that the area's infrastructure can handle the 20,000 vehicles expected on game days. Supporters contend that the stadium will generate considerable direct revenues to the city's general fund and boost the local economy. Santa Clara Mayor Patricia Mahan said that the stadium "really is the culmination of 30 years of planning. It (realizes) a vision of what this area would become when it was just marshlands." If development proceeds according to schedule, construction will begin in 2012 and the stadium will be ready for the 2010 NFL season. Officials in San Francisco say they are ready to build a stadium at Hunters Point if the Santa Clara deal falls apart.

Big Box Stores Welcome in Redlands

Measure O: 1,806 (38.96%) Yes, 2,829 (61.04%) No

Bucking a trend of opposition towards big box stores, Redlands voters rejected Measure O, which would have banned retail developments with over 100,000 square feet of retail space. The measure was aimed directly at "big box" stores and specifically at a proposed Walmart Supercenter, which, Measure O supporters said, would harm local businesses and quality of life in the Riverside County city. The campaign to reject Measure O, buoyed by a large financial contribution from Walmart, contended that the new development would bring jobs and tax revenue to the city.

Mission Viejo Rejects "Right to Vote" Amendment

Measure D: 7,795 (37.6%) Yes, 12,954 (62.4%) No

Bucking a modest trend in Orange County, 61 percent of Mission Viejo voters voted against Measure D, which would have put almost all major projects in the city to a popular vote. Proponents of Measure D hoped to ensure that any projects that would deviate from the city's master plan would be put to public scrutiny. Business groups contended that the measure would chill development in the city, harm businesses, and subject developers to undue expenses. The measure would have required proposed projects to go through the city's traditional planning and approvals process and then finance a ballot measure.

Sutter Creek Voters Approve Mega-Resort

Measure N: 657 Yes, 641 No

A massive golf resort outside the Amador County town of Sutter Creek was defeated by eight votes in the initial count last week, but a recount and a tally of absentee ballots but Measure N over the top by 16 votes out of 1,298 cast. Measure N's passage allows for the development of Gold Rush Ranch and Golf Restort, a 935-acre development that will nearly double the population and land area of Sutter Creek. The planned development will include 1,300 homes, a golf course, timeshare condos, and a host of public services and amenities, including a park, fire station, a school, and 300 acres of open space. It is expected to be built over a span of 20 years.

Brentwood Rejects Expansion

Measure F: 4,115 (42.66%) Yes, 5,532 (57.34%) No

Brentwood, the booming exurb that marks the eastern edge of the Bay Area, will be booming a little bit less in the coming years. With all precincts reporting, 57 percent of Brentwood voters rejected Measure F, which would have expanded the city's urban limit line. The expansion would have set the stage for annexation of and development in an area of open space that buffers Brentwood (pop. 51,000) from the neighboring city of Antioch. The area to which Measure F referred has a developer agreement for the construction of 1,300 units of housing and would have included infrastructure improvements, open space, and other amenities. This is the third vote since 2005 in which Brentwood residents have voted against growth.

Costa Mesa: Fairgrounds to Stay As-Is

Measure C: 12,806 (87.7%) Yes, 1,790 (12.3%) No

An overwhelming majority of voters in Costa Mesa have voted to maintain the existing general plan designation for the Orange County Fair and Event Center. The fairgrounds are

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Eastvale To Incorporate, Pleasanton Preserves Ridgeline

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currently owned by the state, but an imminent sale means that the land will soon revert to local control and will be governed by the city's general plan. Measure C, which was approved with 87 percent of the vote, requires that any major changes to the property must be approved by popular vote. Update: as it turns out, the state may be backing away from its plan to sell the Orange County fairgrounds and ten other properties.

Eastvale Votes to Incorporate

Measure A: 2,679 (65.94%) Yes, 1,384 (34.0 %) No [↔]

Despite opponents' fears that incorporating in the midst of the recession would create a perennial financial burden for Riverside County's 27th city, a majority of voters in the enclave of Eastvale have voted in favor of incorporation. The new city lies between Norco and Ontario along Interstate 15 and has experienced a boom in population the past

decade. The area was previously home to dairy farms.

Pleasanton Rejects Development, Open Space

Measure D: 7,710 (46.30%) Yes, 8,941 (53.70%) No [↔]

With a mere handful of homes at stake in the latest version of a drama that has unfolded in the East Bay city of Pleasanton over the past decade, 54 percent of voters rejected Measure D. The measure would have approved the development of 51 luxury homes in the city's southeastern hills while preserving over 500 acres as open space. "Save Pleasanton Hills," which organized the campaign against Measure D, contended that the homes would impinge on the city's ridgelines, which gained formal protection through the approval of 2008's Measure PP. The land in question is zoned for up to 93 homes and it is expected that landowners will present further development plans. ■

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end, their desire to care about this is limited. Environmentalists are environmentalists and regulators are regulators. The bottom line is that they want regulations complied with, and they don't much care who foots the bill.

And lobbyists who focus narrowly on state and federal pots of money have even less motivation to think broadly. If you're a lobbyist for highway contractors – or for public transit contractors, for that matter – you're obviously not very interested in cross-cutting efforts that reduce the need for travel. You want more concrete poured, not less. If you're a lobbyist for housing – even affordable housing – you tend to think about money for housing. It takes a very broad-minded person to think about a poor or middle-income person's entire household budget and how public policy can reduce the need for travel as a way to increase money to pay the rent. Or, for that matter, whether people are willing to live in smaller places, which cost less money, if they are closer to work.

Then there's local government – which is usually where the alignment takes place. State and federal bureaucrats and their pots of money may be very compartmentalized, but typically local officials get creative. They

sort through all those pots of money searching for money they can use to do what they want to do anyway. Want a new park but only have money for stormwater management? Build a big, grassy, water-permeable surface (i.e. a park). The local agenda is not always "aligned," but alignment is more likely to occur at the local level, since local officials deal with real communities and real neighborhoods where they – and their constituents – can see how the pieces fit together.

However, as you can imagine, local officials (and remember that I am one myself) kind of like the idea that they are the ones doing the aligning. It's one thing to say that you are cherry-picking state and federal funds to put something together. It's quite another to say that you can't put a project together unless you comply with the state and federal government's idea of how things get aligned, rather than your own.

The lesson here is probably to provide some flexibility within the alignment – and then institutionalize the alignment as much as possible before you leave office. Gov. Glendening's reforms in Maryland didn't stick because they weren't completely institutionalized and his successor didn't buy into them.

So alignment may or may not work as a long-term planning and development strategy. But we in California would be well advised to figure out what Obama and Shelley Poticha mean by alignment and pitch our projects toward that notion over the next couple of years. ■



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SB 375 Relies On Redevelopment Funds

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metro system is making communities walkable...that helps to reduce greenhouse gases.”

However, this year, in the wake of a \$2.05 billion transfer of funds from the state’s redevelopment agencies to the Supplemental Educational Augmentation Fund (SERAF), monies to support that kind of development have all but evaporated.

“Redevelopment agencies will never have any ability to do long-term planning, make any investments where they can assure that the money is going to be there,” said John Shirey, executive director of the California Redevelopment Association.

The current funding take covers only this year and next year, and Assembly Speaker John Perez (D-Los Angeles) recently announced that he does not intend to seek further transfers.

“I have no interest in going after redevelopment money as a way to balance our budget this year,” Perez announced June 2.

That news, however, is not as good as it might seem for redevelopment agencies’ long-term prospects. Allowing redevelopment agencies to keep their tax increment in 2012 still does not solve a grave long-term problem for those agencies. Indeed, the very fact that the speaker refers to the choice of whether or not to take redevelopment funds points to an uncertainty that can devastate agencies’ planning strategies and their ability to float bonds.

“Who’s going to bond against an uncertain source?” said Devereaux. Adds Lisa Fall, administrative officer of the Long Beach Redevelopment Agency: “When we were going through the rating process, SERAF was clearly on the minds of the rating agencies.”

Redevelopment Needed to Implement SB 375

This crisis comes at the very moment when SB 375 is scheduled to go into effect, thus setting up another conflict between the state’s efforts to balance its budget – including similar transfers of transit funding – and

the implementation of SB 375. Eighteen of the state’s metropolitan planning organizations have been working on their Sustainable Communities Strategies, and draft targets of regional GHG emissions are due from the Air Resources Board at the end of this month. Final targets are to be released in September.

Though many planners and redevelopment officials express enthusiasm for SB 375’s goals and the types of development that the law promotes, they have widely lamented that it comes with virtually no funding assistance. SB 375 will offer a modest array of incentives but, officials say, they pale in comparison with the costs of assembling land, providing affordable housing, and providing infrastructure for infill developments.

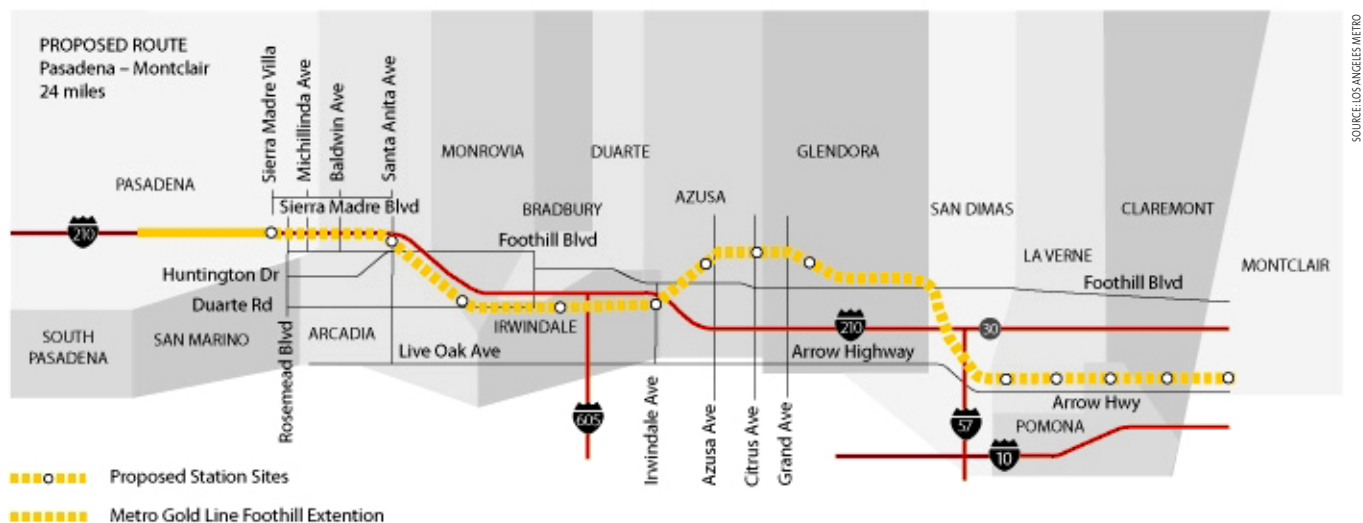
“(Compared to) the value of the incentives in 375...the cost of steel and parking decks in multifamily development far exceeds any regulatory relief that’s provided,” said Devereaux. So, without a steady stream of redevelopment funding, those targets may become ever more difficult to reach.

“These sorts of TOD, especially ones that are in redevelopment areas, are extremely difficult (to develop) in the first place,” said Pahule. “Some projects that we consider mission-critical are not able to move forward.”

Redevelopment assistance is crucial to SB 375 in large part because redevelopment agencies are already doing the sort of work that SB 375 calls for. They operate in established urban neighborhoods that, though economically depressed, can accommodate higher density development.

Redevelopment funds and planning have been at least partially responsible for the residential boom in many of California’s downtowns. Gary Gallegos, executive director of the San Diego Association of Governments and RTAC member, said that the creation of San Diego’s downtown development area was a “key to the success” of the addition of over 10,000 housing units there.

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The loss of local redevelopment funds threatens TOD projects along the 24-mile Gold Line Foothill Extension.

Ballot Measure Would Restore Funds For TOD

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“Most redevelopment areas are in the center cities,” said Gallegos. “In most of these cases there are very few instruments that one can use to sponsor the proper kind of change, whether from a planning point of view or a design/construction point of view.”

Moreover, many of the state’s redevelopment project areas encompass mass-transit systems, which continue to expand in part because they have funding for capital projects that was set aside before the economic crisis or that was approved in part as an economic stimulus. In the absence of redevelopment funds, many existing and planned rail lines will deliver passengers to parking lots and busy streets rather than gleaming new transit oriented districts.

TOD Projects Now On Hold

This dismal possibility is most palpable in the northern part of Los Angeles County’s San Gabriel Valley, which is scheduled to welcome the first phase of the Foothill Extension of the Gold Line light rail line by 2015 and the second phase by 2017. Cities including Azusa, Montclair, Monrovia, and the eight others along the 24-mile extension have each laid out plans to take advantage of the line. Now many of those plans are in jeopardy.

At the very least, officials say that almost every project in the pipeline will be delayed – and so will the environmental benefits.

Azusa’s 1,250-unit Rosedale development has been put on indefinite hold. The Monrovia Redevelopment Agency salvaged its 55-acre Station Square mixed-use project, but only by refusing to pay its SERAF payment. In doing so, it faces the “death penalty” of not being allowed to initiate any new projects until the payment is made.

“All of our redevelopment funds are tied up in buying properties and assembling land for...Station Square,” said Monrovia City Manager Scott Ochoa. If fully built out, Station Square could have as many as 3,500 units within walking distance of the Gold Line.

Meanwhile, in Sacramento, Chris Pahule, assistant director for community development at the Sacramento Housing and Redevelopment Agency, estimates that fully 70 percent of the stations along the region’s two light rail lines are encompassed by redevelopment project areas and may not be developed without redevelopment funding assistance.

“These sorts of TOD, especially ones that are in redevelopment areas, are extremely difficult (to develop) in the first place,” said Pahule.

In Santa Monica, redevelopment plans call for infrastructure improvements to enhance stations along the planned Expo Line, which will connect the coastal city with downtown Los Angeles. Agle said that many projects to add bike and pedestrian connections to Expo Line stations are already moving forward but that bigger projects may be stalled. The city’s redevelopment agency owns the land where the line will terminate and intends to build a major multimodal facility there – if it has the money.

Ballot Measure Would Prohibit Future Transfers

The California Redevelopment Association is currently sponsoring a ballot measure that, if passed in November, would prevent further transfers. Supporters of the measure say that it is crucial for regaining long-term stability and for ensuring that SB 375 can hit its long-term targets.

Some tense rhetoric underscores the conflict between the state and local agencies.

“If we lose the war, really all bets are off,” said Agle. “Goodbye to all of these really important projects and, I think, goodbye to having an important tool to implement SB 375.”

Many transit oriented developments would have to wait indefinitely and thus risking the possibility that SB 375’s benchmark years – 2020 and 2035 – will come and go while sustainable plans get supplanted by developments that are less than environmentally friendly. Unlike transit agencies, which can add or reduce service relatively easily, redevelopment deals in more permanent projects.

“If that land gets built on with the wrong kind of development, it’s not a matter of just waiting for the resources to be available,” said Devereaux. “That land is out of play for 40-50 years.”

Even though redevelopment agencies are not explicitly charged with mitigating GHGs, redevelopment officials say that they are acutely aware of the role that they can play in implementing SB 375, if and when they secure their coffers.

“As we update our policy documents, we’ve been paying close attention to make sure that we’ve been consistent with the goals of the legislation,” said Sacramento’s Pahule.

From its inception, SB 375 was not designed to provide funding for implementation or to help cities comply with the plans set forth by the MPOs. The final report of the Regional Targets Advisory Committee notes that SB 375’s success depends on a complex web of market- and government-driven forces. It also acknowledges the challenges of promoting smart growth without dedicated state funding.

“The current state budget issues have diminished the ability of cities to address these deficiencies by reducing redevelopment funding,” states the report, which was published even before the funding take was finalized. “The most recent example of conflicting state policies is the disconnect between an emissions reduction strategy that encourages infill in built out areas and the current state budget that redirects the best source of funding for such development: redevelopment dollars.”

As redevelopment agencies across the state ponder their fate and scramble to keep projects afloat, the SERAF’s harm to not only redevelopment but also the state’s much-touted environmental efforts has become an ironic symbol of the tension between the state and local governments.

“Certainly the RTAC made that connection,” said Devereaux. “The report was available prior to the latest raid and the latest budget. If they weren’t aware, shame on them.” ■

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Lawmakers Might Stop The Insanity

The Legislature doesn't get credit for doing many things right these days, but lawmakers appear to be making at least one bipartisan strike for fiscal sanity.

In April, I called the Schwarzenegger administration's plan to sell 11 state office buildings in order to raise immediate cash "real estate insanity." [↩] I was only piling on to what the Legislative Analyst's Office and state Legislature staff members had concluded: Selling needed state-owned facilities and then leasing them back from private owners was a major money loser in the long term. The Legislative Analyst's Office estimated the governor's plan could cost the state an extra \$1.5 billion over 35 years. The move would also reverse a 40-year-old state policy of owning real estate whenever possible.

Last week, the Assembly approved AB 2605 by Assemblyman Hector De La Torre (D-South Gate), which would prevent the administration

from selling the office buildings without a 50-year cost-benefit analysis and the Legislature's consent. The Assembly vote was 68-0.

The bill is now in the state Senate, where it awaits assignment to a committee. It is possible the legislation will get stalled in budget negotiations, as the governor's most recent budget plan for the 2010-11 fiscal year anticipates \$600 million from the real estate sales. And we need to keep in mind that some legislative leaders are amenable to short-term fixes to the latest \$20 billion state budget deficit. Witness Speaker John Pérez's budget proposal that relies on \$9 billion in borrowing.

Still, the overwhelming, bipartisan vote in the Assembly suggests that even lawmakers who want to avoid hard budget decisions are unwilling to accept the governor's plan to trade long-term real estate assets for short-term cash.

– PAUL SHIGLEY | JUNE 10, 2010 ■

Gimmie A T! Gimmie An O! Gimmie a D!

HOLLYWOOD, June 4 – What's that spell?!? If you're a policy wonk, public official, or real estate developer and you were within earshot of Hollywood Boulevard yesterday, then you'd darn well better know.

The Urban Land Institute's LA chapter hosted its first-ever (and surely first of many) Transit Oriented Development Summit, and it was a pep rally worthy of Sue Sylvester's squad from "Glee." The event was a study in contradictions: on the one hand, everyone in real estate in L.A. County is chomping at the bit to capitalize on the county's \$40 billion of infrastructure investment that is expected to be realized in the next decade or two (or three). On the other hand, no one is quite sure where the money for all of the envisioned mixed-use, high-density is going to come from.

The enthusiasm for a new vision of urbanism was palpable – this from a group that has been known to promote the odd mall or subdivision. No one complained about dashing the American dream by promoting infill instead over McMansions and one-acre lots. I didn't hear anyone whine about how complicated it is to design unique buildings for unique sites rather than just crank out the same designs over and over again. Instead, we got doses of unabashed praise for economic, environmental, and quality-of-life benefits of place-based development that gets residents out of their cars and onto trains, bikes, and their own two feet.

It seems, in fact, that the suburban dream – of aerospace workers, orange farmers, and the Brady Bunch – is over in Southern California, and some say it's about time. It had a great run for, oh, the past seven or eight decades. But the financial crisis, the traffic crisis, cultural shifts, and political changes of heart mean that while the foreclosures mount in the hinterlands, dense, urban, mixed use – and, yes, transit oriented – development may be the only game in town.

I don't use "only" lightly. The dark side of this enthusiasm is that it masks a sense of desperation. How do you get 450 real estate professionals to a day-long event on a gorgeous Southern California Friday? It's easy when they – regrettably – don't have anything better to do. (The lunch line was rife with unfortunate conversations between erstwhile workaholics who are "taking time off" this year.) With the real estate market in the tank, the public sector incentives – among them laws like SB 375 and infrastructure investments like the Subway to the Sea – offer developers one of their few glimmers of hope.

SB 375 stood front-and-center in the day's sessions (see *CP&DR's* SB

375 Resources Page). If transportation funding such as L.A. County's \$40 billion Measure R provides the bones of smart growth in the state, SB 375 provides the muscle: the guidance and incentives for filling out development along the lines and around the station nodes. ULI took a canny approach to SB 375 by publishing an "Impact Analysis Report" touting profound economic benefits and making recommendations for its implementation. The report is clearly meant to combat the movement to suspend or curtail its implementation over the contention that it will be too expensive for local governments.

At the same time, public sector officials who are pushing smart growth and TOD are striking while once-hesitant developers are vulnerable (in reality, I think those who took a liking to smart growth long ago are in fact going to maintain their market leadership in this sector). And yet, it's not like cities have a bunch of redevelopment money or grants to toss around. The federal government has announced plans to fund sustainable planning (more on that in the next post), but, at the state level, vicious funding cuts and desperate cost-cutting strategies abound. Despite some scholarly rhetoric that was tossed around at the conference, the report is not a scholarly study, with nary a regression in sight; it's more like a collection of impressions, written in speculative language.

According to the report, SB 375 is all about efficiency, alignment, harmony, regionalization, and the whole buffet of lifestyle and economic benefits that smart growth purportedly brings. The report likens SB 375 with Title 24, the 1978 building code legislation that was originally met with dread but has helped the state develop a energy-efficient building stock. The report makes three major recommendations: 1) transit certainty; 2) funding for implementation efforts; 3) streamlining of CEQA. None of these statements is particularly revelatory. However, it's important to consider ULI's clout: if ULI supports SB 375 and, through events such as the TOD Summit, tells its members that SB 375 is worth supporting, then the benefits that it foresees may become self-fulfilling prophecies – at least that's what a great many people in California are banking on.

And that's where the enthusiasm comes in: no matter how great an idea TOD is, if the well runs any drier enthusiasm is all we're going to have left. Who knows? In an industry built partially on speculation, enthusiasm might just be enough.

– JOSH STEPHENS | JUNE 7, 2010 ■

Tipper and Al: When The Passion Froze Over [a dramatic conjecture in 1 act]

TIPPER and AL GORE have retired for the evening. They lie supine under the covers and are wearing pajamas, each with their respective monograms on the chest pockets.

AL "Honey, something's been on my mind...."

TIPPER "If it's dirty, please write it down. You know I don't like to hear smutty language."

AL (chuckling) "No, hon, nothing like that. Those fires are banked for the night. I'm just wondering if we blew enough insulation into this house."

TIPPER (lecturing tone) "Albert, we have 300 cubic yards of insulation in this house. Plus we live in Tennessee, not Wasilla. It's never below 50 degrees."

AL "I know, I know. It's just that this house is so... freakin' gi-normous. Sometimes I don't see you for days."

TIPPER "It's true. But, then again, it's not even the biggest on the block!" (cooly): "Did you miss me?"

AL (Aside) "That's a whole 'nother matter." (To TIPPER) "'Course I do, honey, 'specially after nine holes of golf in the Northeast Living Room. And sure I love it when you fix me a barbecue tofu sandwich after a long hike up the main staircase... It's just that something's been eating me...."

TIPPER (Aside) "A great white shark could eat half of you and you'd never miss it." (To AL) "We've been married 40 years, honey. You can tell me anything."

AL "Well, I'm sorry, hon, but your footprint's too big."

TIPPER (her eyes widen) "I don't know where those footprints came from!"

AL "You only have one footprint, darling."

TIPPER "Most people have two feet, Julep Tulip."

AL "Yes, but only one carbon footprint. And yours is the size of the Chickamauga Reservoir."

TIPPER "Oh! That footprint! I thought you were talking about some other kind of footprints...."

AL (alarmed): "What other footprints could there be, Smother Bunny?"

TIPPER (looking away from him): "Oh, you know. Those muddy footprints of size 18 boots that were found in my Northeastern Boudoir...."

AL "I don't like the sound of this."

PAUSE

TIPPER "I met someone..."

AL (in self-righteous anger): "You met someone?"

PAUSE

AL "Was he Vice President of the United States? A Nobel laureate? An Oscar winner? Did get more popular votes than George W. Bush in a presidential election?"

TIPPER "No. None of those. But he has a diesel-burning 18-wheeler, with three tail pipes, one for each greenhouse gas. He practices slash and burn agriculture in rain forests. He keeps a large herd of cows, and feeds them food that gives them gas. He has an old airplane without any wheels, propped up on blocks in the front yard, and he just loves to run the engine to see much fuel he can burn. He installed the seal on the Deepwater Horizon!"

AL (aghast) "Tipper, how could you?"

TIPPER "You were too busy reading Merleau-Ponty to pay attention to your wife. Well, I've been finding out who I am, exploring the inner me. And you know what I've learned about myself, Al? I love climate change deniers. They're bad boys, and I like bad boys. The haters on AM radio, the blowhards on FOX News that don't let you get a word in edgewise. Men who are

not afraid to decorate their cowboy hats with little tea bags hanging from the brim. Men who are... real Americans."

AL stares blankly.

TIPPER "You're too good for me, Al. I want to be dirty. To hell with sustainabilla-, or sustainabulla-. Hell, I can't even say the word."

AL "You could just say 'green building practices,' hon -"

TIPPER "Listen to me, Al. I want to be bad. I want to dig up every ancient deposit of carbon-based life forms and BURN it. I want the sky to turn black, while I cling to the hairy back of a man who's racing as 1000-cc hog, belching out enough particulate matter to kill all the deer in Tennessee."

AL "No, honey, that's wrong. That kind of behavior does not take the future into account."

TIPPER "What's the future ever done for us? What if the Mayan calendar turns out to be right, and we all go poof in 2011? You'll have saved the whole world for nothing. And think of all the fun we'll have missed."

AL "Honey, Camus says we must do what is morally right, whether or not our efforts succeed...."

TIPPER (using a husky voice): "Oh, Camus! God, what a good-looking man, with that trench coat, those mother-me eyes and the cigarette dangling out of the corner of his mouth. Oh, kill me, Meursault, kill me for no reason at all!"

AL "What happened to the church-going, marriage-affirming, gangsta-rap-hating, no dirty-talkin', stand-by-her-man Tipper? What happened to her?"

TIPPER "I've paid my dues. I'm done playing Number Two. It's time for me to be me. I want to pollute. I want to turn the whole Tennessee Valley into a landfill."

AL "Tell me this isn't happening! You'll do great damage to the environmental movement."

TIPPER "That's right, Al. I want to live, even if it means trashing your legacy...."

AL (attempting to regain his dignity) "Well, if that's how you feel about it, I'll prepare the text of a mass email..."

TIPPER (softly) "I'm sorry, hon. It's better this way."

(AL stands up stiffly, shakes TIPPER's hand, and leaves the bedroom. Enter GEORGE CLOONEY through the window, via grappling hook.)

CLOONEY (glimmering) "Well, that could have been worse. Still, you did lay it on a bit thick with the despoiling the earth stuff."

TIPPER "It was the only way I could tell him without hurting him...Despoil the earth? Hah! I can't even stand dirt under my fingernails. It costs a fortune to pay someone to clean them for me...."

CLOONEY "Well, darlin', are you ready to go?"

TIPPER "Oh yes, darling, yes."

CLOONEY "Well, OK now!" (He whistles, and a team of eight white horses appear, drawing an ornate carriage.) "Are you sure you're going to comfortable in a Hollywood mansion of only 20,000 square feet?"

TIPPER (rising from the bed) "If you are there, my prince, I can endure anything... Just get me out of this house, this endless house! I want to see the world again, the blue sky, the trees!"

CLOONEY "Well, you're the boss." He holds the carriage door open while Tipper gracefully climbs inside, followed by George. The horses start pulling the carriage off stage.

TIPPER "Are you sure you're not hungry, Georgie? I could make you a barbecue tofu sandwich...."

(FADE OUT)

- MORRIS NEWMAN | JUNE 3, 2010 ■

