

MPOs, ARB Hone In On SB 375 Emissions Targets

Bottom-Up Approach Yields Draft Of GHG Targets By Region

BY JOSH STEPHENS

As national debates about climate change have raged and federal action has grown ever more unlikely in the shadow of – take your pick – economic woes, mid-term election jitters, and the blackening of the Gulf of Mexico, the State of California last week edged closer to implementing its own land use based program to curtail climate change. Per a June 30 deadline stipulated in Senate Bill 375, the staff of the California Air Resources Board (ARB) released its draft regional targets for carbon emissions reductions.

The targets are based on what participants have said is an extraordinarily sophisticated scenario planning and modeling.

“This body of work...is the most comprehensive, sophisticated regional planning work...for global warming that has happened anywhere in this country and possibly anywhere in the world,” said Mike McKeever, executive director of SACOG and RTAC member.

The state’s four largest metropolitan planning organizations will have to aim for per capita emissions reductions between 5% and 10%

of 2005 levels by 2020. Because of unique challenges in the Central Valley, the eight largest MPOs there have been assigned “placeholder” targets of 1 - 7% per capita for both 2020 and 2035.

For the target date of 2035, ARB staff referred to the ranges devised by each of the so-called “big four” MPOs: the Metropolitan Transportation Commission (MTC) of San Francisco, the Sacramento Area Council of Governments (SACOG), the San Diego Association of Governments (SANDAG), and the Southern California Association of Governments (SCAG). MTC and SCAG were assigned placeholders of 3-12% while SANDAG and SACOG received placeholder targets of 5-19% and 12-17%, respectively. Executives of all four MPOs have informed ARB staff that more analysis and scenario planning is necessary before settling on specific targets for 2035.

The targets outlined by ARB to comply with SB 375 are independent of the goals set by the state’s other major climate change law, Assembly Bill 32. – CONTINUED ON PAGE 8

SB 375 And AB 32 Math Doesn't Add Up

insight
WILLIAM FULTON

Now that the California Air Resources Board has released its draft targets for greenhouse gas emissions reduction under SB 375, it’s time to do some math. What follows is nerdy and a little dense, but it’s important – and planners need to be able to follow the bouncing ball on 375.

The bottom line is that the math doesn’t yet add up – and that’s because what AB 32 calls for and what California’s regional planning agencies think is realistic don’t line up with each other.

In the so-called “Scoping Plan” (see *CP&DR Blog*, October 2008) – the master plan for reducing emissions under AB 32 – released at the end of 2008, ARB concluded that the state would have to reduce emissions by 100 million metric tons of CO2 equivalent between – CONTINUED ON PAGE 7

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The U.S. Army Corps of Engineers and the state Department of Fish and Game have released a revised draft environmental analysis of the effect that the massive Newhall Ranch development will have on the waterways and habitats of the Santa Clara River watershed. Approved by the Los Angeles County Board of Supervisors in 2003, the 12,000-acre, 20,000-unit development will involve the construction of numerous bridges, culverts, and other projects that will impact waterways, plant life, and wildlife. The environmental analysis proposes ways to minimize these impacts. The document, <http://www.dfg.ca.gov/regions/5/newhall/>, is available for public comment until July 19. [↩]

The Federal Transit Administration has issued its approval of a 10-mile extension of the East Bay line of Bay Area Rapid Transit. The segment would run from Alameda to the Berryessa area on the northern edge of San Jose. FTA approval now makes the \$2.1 billion project eligible for up to \$900 million in federal aid. If the funding comes through, the extension could break ground in 2012 and be running by 2016.

The city council of Cloverdale, in Sonoma County, has announced its intention to place a measure on the November ballot that would ask voters to set an urban growth boundary. Cloverdale, population 8,200, is currently the only city in the county that does not have such a boundary. At issue is the question of how far south the boundary should extend and whether city services should be extended to the town of Asti, two miles to the south. Environmental groups fear that the extension of services would spur growth in Asti and create sprawl. The Cloverdale Planning Commission recently voted, 3-2, in favor of the Asti extension.

A hearing officer for the California Public Utilities Commission has tentatively approved an at-grade crossing and a heretofore-unplanned station stop at Farmdale Avenue for the Expo light rail line in Los Angeles. The Farmdale crossing has been the subject of intense debate, with community members expressing concerns that an at-grade crossing would endanger students from adjacent Dorsey High School. Administrative Law Judge Maribeth A. Bushey has recommended speed

restrictions and other safety measures. Her recommendation still requires official CUP approval, expected by the end of July. The crossing is the last planning piece impeding the completion of Phase I, from downtown Los Angeles to Culver City. Construction is well underway and expected to be completed by next year.

A proposed wine tasting room and small production facility on one acre of a 1,200-acre vineyard in Knights Valley requires a full EIR, according to a ruling by Sonoma Superior Court Judge Robert Boyd. The case came before Boyd when environmental groups sued developer Jackson Family Enterprises and the Sonoma County Board of Supervisors on the grounds that the development would threaten wildlife and the water quality of a nearby creek, which is a tributary of salmon-rich Redwood Creek. The Board of Supervisors had approved the project, 4-1, last year. Pending appeal, Jackson now can revise its project or go forward with a full EIR of the project as proposed.

Wary of a deal that would fast-track a proposed downtown Los Angeles football stadium, the Planning and Conservation League has launched a vocal lobbying campaign to discourage lawmakers in Sacramento from waiving full CEQA review. Though the stadium is in only the earliest planning stages, it would be developed by AEG, the group that owns Los Angeles' Staples Center, and built in the South Park neighborhood of downtown. Though AEG representatives have not confirmed their intent to see a CEQA exemption, PCL contends that the company has hired lobbyists for just that purpose. A competing stadium proposal for the City of Industry, by developer Majestic Realty, was granted an exemption [↩] last year over the protests of environmental and community groups. PCL says that it has enlisted over 80 groups to sign its petition, including the Sierra Club and Natural Resources Defense Council.

<http://www.cp-dr.com/content/new-stadium-craze-sweeps-state>.

The City of Oakland sponsored the first of what is likely to become a series of Sunday street closures called Oklavia. For four hours the city shut down two miles of major streets through downtown, Uptown, and Old Town, allowing only bicycles, pedestrians and vendors to take to the

streets in place of cars. The event drew its name from the famous every-Sunday Ciclovía events in Bogotá, Columbia. Future Oklavias are planned but not yet scheduled.

Meanwhile, the City of Los Angeles is planning a similar event called CicLAvia. From 10am to 3pm on September 12th, seven miles of streets will be closed from East Hollywood to Hollenback Park in East Los Angeles. After assessing the strengths and weaknesses of this year's inaugural event, CicLAvia plans to hold a half-dozen events in 2011 in locations throughout the Los Angeles area.

In an effort to ward off conflicts of interest between the California High Speed Rail Authority and several cities through which the planned \$42 billion rail network would pass, State Sen. Alan Lowenthal (D-Long Beach) has introduced legislation that would prohibit local elected officials or appointed transportation commissioners from serving on the CAHSRA board. The proposal would have the effect of banning both Anaheim Mayor and OCTA board member Kurt Pringle and Los Angeles Metro Board Member Richard Katz. Lowenthal says he fears that local officials will be beholden to their local agendas. Anaheim has proposed the use of \$200 million in HSR funds to build a multimodal hub in the city. Lowenthal's legislation would create a CHSRA board modeled on that of the California Transportation Commission.

Sponsored by the Southern California Association of Governments, the fourth annual Compass Blueprint Awards has conferred the City of Ontario with its President's Award for Excellence for the city's general plan. Also receiving honors in four individual categories were the City of Monrovia for its Station Square Transit Village (Mobility), the Housing Authority of the City of Los Angeles for its Jordan Downs Public Housing Development (Livability), Imperial Valley College for its Expansion, Mobility, and Sustainability Program (Prosperity), and the City of Calabasas for the Las Virgenes Creek Restoration (Sustainability). The Sustained Leadership Awards were presented to the City of Anaheim for the Anaheim Regional Transportation Intermodal Center (ARTIC); the City of Santa Monica for the Land Use and Circulation Element (LUCE); and the City of Rialto for the Crossroads Mixed-Use Project. ■



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Infill Exemption Applies Only To Incorporated Cities

Alameda County Housing Project Requires Full EIR

BY LESLIE Z. WALKER

The First District Court of Appeal determined that the California Environmental Quality Act exemption for infill development applies only to projects within the limits of an incorporated city.

Abiding strictly by rhetoric in the CEQA guidelines referring to “city limits” rather than a broader conception of urbanized area, the court rejected Alameda County’s use of the infill exemption for a small housing project in an area bordering Hayward that is urbanized but not incorporated.

In 2006, developers YT Wong and SMI Construction filed an application with the Alameda Planning Department to merge two parcels in the unincorporated Fairview area into a single parcel of approximately two acres and then to subdivide the two-acre parcel into 12 lots. Single-family homes were proposed for each of the 12 lots.

The Alameda County Planning Commission approved the development based on the exemption in CEQA Guidelines § 15332. Fairview residents Fred and D’Arcy Tomlinson argued the county should prepare an environmental review of the project, which was within a half-mile of Interstate 580, because of concern over cumulative traffic impacts. They appealed the Planning Commission decision to the Board of Supervi-

sors. The board affirmed the approval and the Tomlinsons filed a lawsuit. The Alameda County Superior Court rejected the Tomlinsons’ claims.

The appellate court considered two issues: 1) whether Public Resources Code § 21177 required the Tomlinsons to exhaust their administrative remedies before filing suit; and 2) whether the project at issue qualified as in-fill development for the purposes of Guidelines § 15332. The appellate court concluded that the Tomlinsons were not required to exhaust their administrative remedies because the exhaustion requirement in Public Resources Code § 21177 does not apply to exemption determinations. In so holding, the court said its function was to interpret the statute, and the meaning of the statute affects more than just the county.

The appellate court next considered the meaning of Guideline § 15332, which categorically exempts infill development if, among other things, the “proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.” The Tomlinsons argued the project, proposed for the unincorporated area of Alameda County, could not qualify for the infill exemption because it was not proposed within “clearly demarcated (and commonly accepted) legal boundaries of a municipality” and thus was not “within the city limits.” The county claimed the subdivision was proposed for an “established urban

area” because it was in an obviously urbanized area within one-half mile of Interstate 580, and § 15332 had to be read more broadly to promote infill within urbanized areas.

Reading the statute to give independent effect to both the requirement that a project occur “within city limits” and that the project be “substantially surrounded by urban uses,” the appellate court found that a project had to be within established city boundaries to qualify for the exemption. The appellate court further found that the phrase “urbanized area” is defined in the CEQA guidelines, so if the secretary for resources wanted to use that phrase, he could have and would have. Instead the guidelines specify “within city limits.” According to the court, this strongly suggests the secretary intended a different meaning for “within city limits.”

The county argued that such a narrow reading frustrated the goal of the exemption. The court however, refused to place the policy of promoting infill ahead of the explicit requirements of CEQA, finding such policy judgments are outside the purview of the court. ■

■ The Case:

Tomlinson v. County of Alameda, No. A125471, 2010 DJDAR 9247. Filed June 18, 2010.

■ The Lawyers:

For Tomlinson: Sabrina V. Teller, Remy, Thomas, Moose & Manley, (916) 443-2745.

For the county: Manuel F. Martinez, associate county counsel, (510) 272-6700.

For the developers: Richard K. Abdalah, (408) 252-5211.

ceqa

Aesthetics Not Enough To Trigger CEQA Review

BY CORI M. BADGLEY

In approving a redevelopment project that relies on a 20-year-old environmental impact report, the City of San Diego was not

required to conduct supplemental environmental review on the issue of climate change, where the only discretionary action for a project was limited to project aesthetics, the

Fourth District Court of Appeal has ruled.

One of the threshold questions in any review under the California Environmental Quality Act is — CONTINUED ON PAGE 4

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whether the project requires discretionary action or approval by the prevailing governmental entity. If not, then CEQA does not apply and no environmental review is required. In this case – involving Manchester Pacific Gateway’s plan to develop 3 million square feet of office, hotel, retail and museum space on former Navy property along the downtown San Diego waterfront – the Fourth District addressed this threshold question in the context of supplemental environmental review of climate change impacts under Public Resources Code § 21166. The court held that because any discretion on the part of the City of San Diego was limited to aesthetics only, there was no discretionary action to trigger supplemental environmental review of climate change impacts.

The genesis of this case goes back to a time before hardly anyone had even heard of climate change. In 1990, the city entered into a development agreement with the United States regarding a redevelopment project in downtown San Diego for which an EIR was subsequently certified. One of the requirements of the development agreement was that the developer submits its construction documents to the Centre City Development Corporation (CCDC), an arm of the city government charged with implementing downtown redevelopment projects. This case involved the CCDC’s review of construction documents in 2006 and 2007 – created more than 15 years after the development agreement was executed. The CCDC, and subsequently the City Council, determined that

no supplemental environmental review was required, even though the original EIR makes no mention of climate change impacts. A group called the San Diego Navy Broadway Complex Coalition brought a lawsuit challenging the city’s determination.

After the trial court dismissed the coalition’s petition on several grounds, the group appealed on one issue: whether a supplemental EIR was necessary to evaluate the project’s impacts on climate change. Instead of focusing on the “new circumstances” test under Public Resources Code § 21166, the appellate court focused on the issue of whether the CCDC’s review of the construction documents constituted discretionary action. A discretionary action would trigger the need for supplemental environmental review.

The court assumed, and the parties acknowledged, that the CCDC’s review required some amount of discretion, limited only to the subject of aesthetics. Relying on *Friends of Westwood v. City of Los Angeles*, (1987) 191 Cal.App.3d 259, and *Leach v. City of San Diego*, (1990) 220 Cal. App.3d 389, the court held that supplemental environmental review of climate change impacts was not required because the city and CCDC’s discretion only extended to aesthetics.

The court rejected the coalition’s argument that aesthetics are part of CEQA’s definition of the environment, and that it was of no consequence that the CCDC’s consistency reviews centered on aesthetic issues.

The court cited *Friends of Westwood* and *Leach* for the proposition that environmental

review is not required when the governmental entity has no authority to shape the project in a way to mitigate for environmental damage. Without the authority to modify the project, environmental review is meaningless.

“The fact that the CCDC could arguably exercise discretionary authority to alter the aesthetics of the Project so as to make the Project consistent with the development agreement does not demonstrate that the CCDC had the authority to modify the Project in accordance with a proposed updated EIR so as to reduce the impact of the Project on global climate change,” Justice Cynthia Aaron wrote for the court.

This case seems to extend the reasoning in *Friends of Westwood* and *Leach* to the next level. Under the court’s analysis, it appears that when it comes to supplemental environmental review, the threshold issue is whether the governmental entity retains any discretion in relation to those impacts that would be evaluated in a supplemental EIR. In this case, the coalition appealed only on the issue of climate change impacts. Perhaps, if the coalition’s arguments had centered on aesthetics, the court’s analysis of discretionary action would have differed. ■

■ The Case:

San Diego Navy Broadway Complex Coalition v. City of San Diego, No. D055699, 2010 DJDAR 9096. Filed June 17, 2010.

■ The Lawyers:

For the coalition: Cory Briggs, (909) 949-7115.
For the city: Heather Stroud, deputy city attorney, (619) 533-5872.
For Manchester Pacific Gateway: Steven Strauss, Cooley, Godward, Kronish, (858) 550-6006.

cal supremes

Cal Supremes Uphold Semi-secret Ballot In Prop 218 Vote

BY WILLIAM W. ABBOTT

A unanimous California Supreme Court has upheld a trial court’s decision to reject a challenge to a Proposition 218 election for a storm drainage fee, thus reversing a decision by First District Court of Appeal.

The state high court ruled the Marin County Flood Control and Water Conservation District maintained the requisite level of voting secrecy in accordance with the 1996 “Right to Vote on Taxes Initiative,” which requires voter approval for certain local fees.

The ruling was the first for the government in a string of three Proposition 218 cases the court has decided in the past two

years. In *Silicon Valley Taxpayers Assn., Inc. Santa Clara County Open Space Authority*, (2008) 44 Cal.4th 431 (see *CP&DR Legal Digest*, Vol. 23 No. 11, November 2008), the state Supreme Court threw out an open space assessment because it provided only general, rather than parcel-specific, benefits. *Bonander v. Town of Tiburon*, 46 Cal.4th 646 (see *CP&DR Legal Digest*, Vol. 22 No. 4, April 2007) did not directly implicate Proposition 218, but the decision appeared to make Proposition 218 challenges easier to pursue. The latest decision upholds procedures similar to those that other local government agen-

cies employ when conducting Proposition 218 elections in which votes are weighted according to the assessment amounts for individual parcel owners.

In 2007, the Marin County Flood Control and Water Conservation District considered levying a storm drain assessment – averaging \$125 per parcel – to fund flood control improvements in the Ross Valley. In compliance with Proposition 218 (Article XIII D of the California Constitution), the district board adopted protest provisions, conducted a public hearing, and directed mailing of notices to property owners. – CONTINUED ON PAGE 5

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At the conclusion of the hearing, the Board determined that there was not a majority protest, and called for a special election. The Board decided to conduct a mail-only election. The materials sent to the voters consisted of a single piece of cardstock, with instructions on one side and the ballot on the other. The ballot side displayed name and address of the voter, the amount of the annual fee, the statement of the question to be voted on, and designated spaces for the voter’s printed name, signature and the date.

The election procedures adopted by the board provided that upon receipt, ballots would be put in a lock box, with access permitted only by the clerk and deputy clerk. The instructions provided that the clerks would not disclose how particular voters voted except by court order.

With this procedure in place, the voters narrowly passed the measure, 3,208 to 3,143. Over 1,700 ballots were invalidated for lack of signatures.

Ford Greene, a property owner within the district, filed suit, and other interested parties intervened in the litigation. One of Greene’s contentions was that the requirement that the voter sign the ballot violated Article II, Section 7 of the California Constitution pro-

viding for secret balloting. The trial court rejected the argument, but was reversed by the Court of Appeal. The Supreme Court took the case to resolve the potential conflict between the secret balloting provisions and the elements of Proposition 218 calling for voter-specific information as part of the voting process.

To resolve the potential conflict, the Supreme Court reviewed the history of Proposition 218, as well as follow-up legislation adopted in 1997 and 2000. Notably, the 2000 legislation addressed the secrecy question in part, but it did not require the full secrecy associated with general elections. Recognizing that Proposition 218 elections for assessments call for weighted voting based upon the liability to the voter, review of the specific ballot information particular to each voter was necessary.

Although the appellate court ruled that the Marin district could have maintained a higher level of secrecy for the storm drainage fee election, the Supreme Court concluded that actions taken by the district were consistent with both Proposition 218 and the implementing legislation. The full voter secrecy mandated by Article II, Section 7, do not apply to the facts involving a Proposition 218 election, the court concluded. ■

■ The Case:

Greene v. Marin County Flood Control and Water Conservation District, No. S172199, 49 Cal.4th 277, 2010 DJDAR 8390. Filed June 7, 2010.

■ The Lawyers:

For Greene: Ford Greene, in pro per; (415) 258-0360.
For the district: Michael G. Colantuono, Colantuono & Levin, (530) 432-7359.

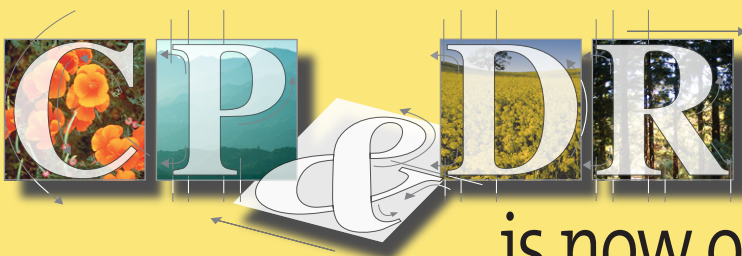


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When the San Fernando Valley portion of the City of Los Angeles attempted to form its own city in 2002, one of five names nominated for what would have been the nation's sixth-largest city was "Camelot." This for a region most famous for being the vapid home of Valley girls.

Although Measure F (see *CP&DR Insight* Vol. 16, No. 10, October 2001) failed on both sides of the hills that separate the Valley from the rest of Los Angeles, nearly a decade later a far less grandiose, but perhaps more pragmatic, solution has emerged to give a unified voice to the Valley and some of its neighboring cities.

Representing the nearly 2 million residents of Burbank, Santa Clarita, Calabasas, Glendale, the City of San Fernando, as well as the City of L.A.'s portion of the San Fernando Valley, the San Fernando Valley Council of Governments was officially approved as a joint powers authority by the Los Angeles County Board of Supervisors in May.

The approval follows nearly three years of preparations and negotiations, and supporters say that formal recognition of the Valley was long overdue.

"Many times I think people forget the Valley is here," said Robert Scott, project director of Valley think tank Mulholland Institute and longtime COG backer. "It's not their fault. The county of Los Angeles has a huge population, the city has a huge population, and the Valley isn't always at the top of the line. We feel we can perhaps do a better job."

Though the COG has no budgetary or regulatory power, its most tangible function will be to represent the Valley as a distinct subregion under the purview of the Southern California Association of Governments, the metropolitan planning organization that encompasses the five-county Los Angeles area.

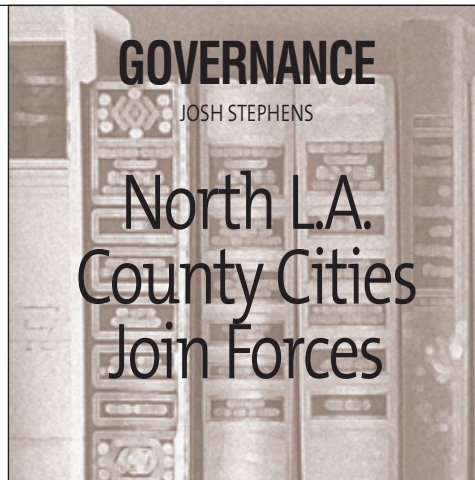
SCAG designated the Valley as a sub-subregion – within the still-larger subregion of Los Angeles County – several years ago, thus enabling the agency to better treat it as a distinct unit for the purposes of regional planning. The COG takes that designation a step further by becoming, essentially, a forum for regional planning and for the region to develop local strategies.

"Because a JPA is a public agency...it doesn't require another level of bureaucracy," said Scott. "It's just our same elected officials who are meeting in a different format, and that allows the folks from the San Fernando Valley...to get together and talk about Valley concerns."

COG participants have alluded to a range of issues related to planning and economic development that, they believe are crying out for coordinated regional strategies.

"The idea here would be to have cross-jurisdictional planning and then have...some agreement as to what the planning strategies might be so that we don't end up with incompatible uses right too close to one another, among other things," said Scott. "And maybe more continuity between jurisdictions in terms of even such things as themes and specific plans and the placement of certain types of uses."

Scott said that regional planning strategies to comply with climate change measures AB 32 and SB 375 will likely occupy some of the COG's agenda. SCAG Deputy Director Sylvia Patsouras said that the new COG can elect to serve as a formal delegate to the agency's Sustainable Communities Strategies planning process. However, she said "there is not much time left" for the COG to make those intentions known and that there will still be informal ways to participate. Scott



said that the COG does intend to serve as a formal delegate.

Otherwise, many COG supporters speak only in broad terms about what initiatives a unified Valley might pursue.

"Planning and transportation are key issues that we need to address," said Los Angeles City Council Member Dennis Zine, whose 3rd District covers the Valley's southwest portion. "The COG can work with SCAG and other entities to help bring about the research projects, the EIRs, and bring together how we can connect."

What the COG does not intend to do, however, is to turn the Valley into a mirror of the Los Angeles Basin. Though the region is not as suburban as some stereotypes suggest, Valley leaders say it will continue to cultivate different centers – such as the edge city of Warner Center and the respective downtowns of the smaller cities – rather than strive for a second downtown or become radically more urbanized.

"I think by design it wouldn't have a center to it; it has a very egalitarian structure," said Scott. "The idea is for each of the cities of course to maintain their identities and at the same time work together."

The independence of the COG's member cities is evident in its governing structure. The COG's board will include 13 representatives: one from each member city, one from each Los Angeles council district in the Valley, and one from the two supervisorial districts that include the Valley. According to the COG's JPA agreement, each representative has veto power over all official actions.

While this may be a recipe for futility, supporters say that the cities' common interests make gridlock unlikely. Michael Murphy, intergovernmental relations officer for the City of Santa Clarita, said that the structure provides an "opportunity to concentrate on those areas where there's mutual interest and hopefully mutual agreement."

One ribbon in particular ties together these disparate cities, which range from industrial Burbank to the gleaming outer suburb of Santa Clarita: Interstate 5. Valley boosters say that the combination of industrially zoned land plus rail and highway connections could make the Valley one of the next great hubs industry in the region.

"We see a lot of economic development opportunities in the sense that in this particular region there's a lot of overall economic development activity, particularly in aerospace, biotech and entertainment," said Murphy.

"The Valley has a lot of underutilized land for manufacturing," said Stuart Waldman, president of the Valley Industry and Commerce Association. "To add distribution centers, to add manufacturers, large warehouses and other businesses will be beneficial to all of us."

Valley leaders also hope to use the COG as a forum to plan for circulation within the Valley region and to, for the first time, coordinate transportation and land use planning among the cities. L.A. Metro's Orange Line busway already runs east-west through the Los Angeles portion of the Valley; and north-south lines have been proposed for several major corridors, as has an extension to Bob Hope Airport in Burbank.

COG supporters said that they were inspired to organize in part by the success of the powerful San Gabriel Valley COG, which has successfully lobbied for light rail and other transit projects.

"This is really an appropriate time for SFV to get involved in the discussion of the projects that are going to be included in that 2012 Regional Transportation Plan," said Patsouras.

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2010 and 2020 – from about 520 million metric tons to 420 million, or about a 20% cut. That would bring the state down to the same level of GHG emissions as 1990, which is the target set in AB 32 for the year 2020.

But ARB also concluded that, if no action were taken, GHG emissions would *increase* by 2020 to 590 million metric tons – meaning the state must cut 170 million metric tons from what otherwise would be emitted, given population and economic growth during that period. Thus, ARB concluded, to meet AB 32, the state would have to cut emissions by almost 30% from the “business as usual” scenario.

In the Scoping Plan, ARB also set a goal for the implementation of SB 375’s probable land use and transportation reforms. Recognizing that these will create mostly long-term benefits, ARB said SB 375 should deliver about 5 million metric tons of savings from the “business as usual scenario”. That’s only about 3% of the overall savings. And it’s a lot less than the reductions required by other key moves in the transportation sector, including the low-carbon fuel standards (16 million metric tons) and the increased gas efficiency standards (28 million metric tons). To put it another way, ARB is expecting to get almost 15 metric tons of savings out of technological improvements for every 1 metric ton of savings that comes out of a different land use pattern.

So, despite considerable carping on the part of local officials who are fearful that they can’t meet the standard, that would seem to be a pretty modest goal – “aggressive but achievable,” (see *CP&DR* Blog May 2010) as the SB 375 wonks keep saying. (Environmentalists wanted a target that would be double or triple that amount.)

But will the targets released the other day hit the goal? Let’s do more math.

After an enormous amount of wrangling at the Regional Targets Advisory Committee – and endless input by the regional planning agencies – the ARB staff has proposed a *per-capita* target of 5-10% by 2020 for the “Big 4” regional planning agencies – Sacramento, the Bay Area, Southern California, and San Diego. That means that emissions attributable to land use changes should go down 5-10 percent per person – not 5-10% overall. The targets for the Central Valley regional planning agencies were even smaller – between 1-7%.

Remember, under SB 375, emissions reductions pretty much equals reductions in vehicle miles traveled. So think about what this means: a 5-10% reduction in per-capita VMT over the next decade – in a state where per-capita VMT is already among the lowest in the nation.

Hard enough on its own terms. But don’t forget that California’s population keeps growing. The Department of Finance Demographics Research Unit projects that our state’s population will grow from 39 million today to 44 million by 2020 – an increase of about 13%.

So, summing things up ...

SB 375 is supposed to cut emissions by 5 million metric tons. ARB is saying the per-capita target for the vast majority of the state should be 5-10%. But the population is going up 13%.

If you’re wondering how the heck that works out to a net reduction in emissions, you’re not alone. It doesn’t. But it *does* reflect what the regional planning agencies in California think is realistic.

Here’s how Steve Heminger, the widely respected head of the Met-

ropolitan Transportation Commission in the Bay Area, summarized his agency’s situation in a communication to ARB: “Given that our RTP financially constrained expenditures for maintenance and operations will likely continue in the 80% range, the region will likely not be able to depend on massive infrastructure improvements to support GHG emission reductions. We can expect some modest reductions as a result of strategic expansion through priced Express Lanes and select transit corridors, and operational improvements that squeeze more capacity out of our existing transportation system.”

Most of the other major regional planning agencies had similar conclusions based on a variety of model runs and scenarios. Indeed, the lower targets for the Central Valley communities – where a lot of the car-oriented growth is likely to occur – will put more pressure on the coastal metros (plus Sacramento and the Inland Empire) – to reduce emissions.

And the current recession has actually made it *more* difficult to reduce GHG emissions, even though growth has slowed considerably. That may sound counter intuitive, but there’s a difference between

slower emissions growth and actually reversing the trend so that emissions go down. A recession will slow emissions growth, because recessions always slow VMT growth. But recessions also reduce the overall amount of change in the built environment. New TOD projects won’t get built. New transit lines won’t get built. And so there will be fewer changes that can give people alternatives to driving – or shorten trips.

So the bottom line is this: There’s no way California’s getting anything like 5 million metric tons of savings out of these targets.

But does this mean we should give up? Probably not, for two reasons.

First, it should be obvious to everyone that emissions reduction under AB 32 is a

zero-sum game. Every metric ton that you can’t get out of land use is a metric ton that has to come from somewhere else – most likely from somewhere else in the economy where powerful lobbyists (see *CP&DR Insight*, Vol. 22, No. 9, September 2007) are at work.

And second, as Hasan Ikhrata of the Southern California Association of Governments often says, SB 375 isn’t really a GHG reduction bill. It’s a land use planning bill – a way to force us to think more aggressively and comprehensively about how to address longstanding problems in the way our built environment is organized.

Ikhrata often makes this statement kind of ruefully – fearing, I think, that this reality gives the pavement crowd an excuse to push back against the planners. But he’s right. Reducing GHG emissions isn’t the only reason we should alter our built environment. But GHG emissions are a pretty good proxy for all kind of things. Fewer emissions means less energy consumed, which means less energy produced in environmentally destructive ways and less money going to purchase energy. It means less need for new highways, which are – again – not only environmentally destructive but also awfully blasted expensive for a state that’s bankrupt. And so forth.

All this may be moot in November, if Proposition 23 passes and AB 32 is suspended (see *CP&DR*, Vol. 25, No.7, April 1, 2010) – and/or if Meg Whitman is elected governor and decides to suspend AB 32 all on her own, as she’s threatening to do. In the meantime, however, California’s planners should keep trying to make the numbers add up – and figure out the “co-benefits” of SB 375. ■

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GHG Target-Setting Process Garnerers Praise

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While Jim Wunderman, executive director of the Bay Area Council and RTAC member, said that the targets were in line with expectations and that they could “probably be a little more ambitious,” the high-end targets for the Central Valley – even as placeholders – appear daunting to officials there.

“I think for most of us the belief is that the 7% qualifies as ambitious and probably not achievable,” said Andrew Chesley, executive director of the San Joaquin Council of Governments and RTAC member. “We want to work with ARB staff to identify and demonstrate targets that are achievable and are ambitious.”

The state’s six remaining MPOs, covering largely rural areas, were exempted from the target-setting process because of their small populations and limited planning resources.

Once finalized, the targets will guide the MPOs’ Sustainable Communities Strategies, which are designed to link land use planning with transportation planning in order to foster development that ultimately reduces vehicle miles traveled. In the report that accompanied the draft targets, ARB staff acknowledged that the long-term nature of land use changes and the duration of the current economic recession will affect regions’ ability to implement new polices and realize SB 375’s intended benefits. The report indicated that “it will take several four-year RTP planning cycles for the land use forecasts and transportation investments to fully reflect the changes envisioned by SB 375.”

Participants have roundly praised the target-setting process with rhetoric not typically associated with public bureaucracies.

“The assistance they have offered, the partnerships (ARB) have developed with the regional agencies...has been nothing but positive,” said Chesley. “Hopefully we’ll be able to carry that through the implementation of SB 375.”

This ebullience nonetheless is set against criticism on both sides of the climate change argument. On the one hand, many public officials worry that the economy will make targets unattainable or that the targets will make local economies even worse.

“The MPOs have done some ambitious policies but we know they can do more,” said Amanda Eaken, policy analyst with the Natural Resources Defense Council and RTAC membr. “We still fail to see a real substantive shift of transportation funding to support improved land use patterns that the MPOs are calling for.”

Others say that this is an ideal moment to raise the state’s planning standards.

“We don’t have the luxury of doing C or B quality work,” said McKeever. “We owe the public A and A-plus quality work.”

Over the next month ARB is holding seven workshops across the state to receive feedback from stakeholders and agencies in advance of announcing final targets at the end of September. Those numbers will be expressed not as a range but rather as specific percentages that each MPO will be expected to achieve. To have assigned a more narrow

range or even tried to hone in on specific draft targets may have been premature and in contradiction with the collaborative nature of the target-setting process thus far.

“If they [had] jumped in...and said here’s a precise number for 2020 and 2035 for each of you, it really wouldn’t have been as respectful of that process,” said McKeever.

Final targets are expected to be different for the so-called “Big Four” and among the eight Central Valley MPOs, but they are expected to be uniform among members of both respective groups.

Targets for the Big Four

MPO Region	2020 Draft Targets	2035 Draft “Placeholder” Targets
MTC	5-10%	3-12%
SACOG	5-10%	13-17%
SANDAG	5-10%	5-19%
SCAG	5-10%	3-12%

SOURCE: LEAGUE OF CALIFORNIA CITIES

The release of the draft targets culminates a yearlong process of scoping, research, and discussion among the affected MPOs and the Regional Targets Advisory Committee, a diverse group of public, private, and nonprofit officials who made recommendations to ARB staff in a September 2009 report. The final draft targets come from a technical advisory committee that convened after the RTAC submitted its recommendations.

The mandate to focus on regional carbon emissions forced MPOs not only to develop more complex and sophisticated models than ever before, but also to share information and collaborate in previously unheard-of ways.

“The good news...is that there’s a good deal of true learning right now around the question of what a reasonable target is,” said McKeever. “We’re all pushing ourselves in harder and in different ways than we ever have in the past.”

ARB’s goal has been to produce “ambitious but achievable” targets that the respective regions can strive for through planning for and promotion more compact land uses, mixed uses, efficient allocation of housing, and coordination with regional transportation plans. For all the research that has gone into these strategies, a debate is likely to ensue over which end of the 5-10% range the ARB should settle on and whether that final number will hew too much towards ambition or not.

“What does all that mean? That’s a little bit mushier,” said McKeever. “In September they’re going to have to have a board action...they’re going to have to have some pretty clear idea on the staff side of much more precise recommendations.”

Even if the targets land on the high end – and even if metro areas can foster the intended land use changes by 2020 – one thing they are not expected to do is reduce overall carbon emis-

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ARB Looks To Public GHG Workshops

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sions. By striving for per capita changes in emissions, the targets allow for population growth, which, even with lower per-person vehicle miles traveled, may yet cause a rise in absolute amounts of CO2 released.

That problem will be particularly acute in the Central Valley regions, where a particularly bleak economy and a relatively high growth rate portend significant increases in absolute emissions.

“High-growth areas still tend have a greater propensity for creating (more) trips and creating longer trips,” said Chesley. “Our ability to make those reductions is somewhat hampered.”

This reason gave rise to the separate category for the Central Valley, which, according to Chesley, has such a backlog of entitled developments and such starkly different commuting patterns from the state’s more heavily urbanized areas that the region’s more modest placeholder targets are appropriate.

Whether SB 375 ultimately spurs emissions reductions in the Central Valley or in any of the other MPOs, participants in the target-setting process have roundly praised the ARB and its approach. The advisory process was designed to be bottom-up and based on each regions’ capabilities and expectations rather than on a draft target originating in Sacramento.

“At times you think that people are pursuing the Holy Grail,” said ARB Member and Riverside Mayor Ron Loveridge. “But SB 375 is a process. A process of regions looking at themselves and stakeholders and asking how best to direct incentives and resources for the future.”

ARB Board Member and San Diego County Supervisor Ron Roberts noted that the reduction of a global pollutant represents a new challenge for a board that has heretofore focused on localized air pollution.

“What we’re chasing is greenhouse gases...this is very different from what the Air Board has historically done with air pollution,” said Roberts. “If you did something with air pollution, benefit accrued to your area. You may incrementally do something that’s good for the planet,

but it doesn’t accrue to your area or to the state of California per se.”

“We really haven’t looked at regions as sustainable areas before,” said Loveridge.

In part because the ARB is entering such uncharted waters, participants in the target-setting process say they welcome the discussion that will continue through the end of July in the upcoming workshops. And yet, the ARB may find itself lobbied in all directions at once.

“You’ll have some folks that say that CARB didn’t go far enough, some folks that will say that this is going to be very difficult to achieve,” said Wunderman. “And you’ll probably have very few people who say they got it right.”

Even so, McKeever said that when SB 375 was being drafted in 2007 and 2008, the best ideas, and more aggressive standards, rose to the top through successive rounds of debate and discussion. He hopes the trend will continue in the workshops.

“The bill kept getting better as it got amended and negotiated out; it didn’t keep getting compromised and watered down,” said McKeever. “That’s what’s happening right now too.” ■

■ Contacts:

ARB Draft Targets Staff Report, June 30, 2010,

<http://www.arb.ca.gov/cc/sb375/sb375.htm>

Andrew Chesley, Executive Director, San Joaquin Council of Governments,

<http://www.sjcgog.org>, (209) 235-0600.

Amanda Eaken, Policy Analyst, Natural Resources Defense Council, www.nrdc.org,

(212) 727-2700.

Mike McKeever, Executive Director, Sacramento Area Council of Governments,

<http://www.sacog.org>, (916) 321-9000.

Ron Loveridge, Mayor, City of Riverside; Board Member, Air Resources Board,

(951) 826-5551.

Ron Roberts, San Diego County Supervisor, <http://www.sdcounty.ca.gov/cnty/bos/sup4>;

Board Member, Air Resources Board, (619) 531-5544.

Jim Wunderman, Executive Director, Bay Area Council, <http://www.bayareacouncil.org>,

(415) 981-6600.

In these efforts, the COG will be looking to SCAG for research and technical assistance, and it will be looking to Sacramento for money. It will, in that sense, strengthen efforts that have long been underway by the region’s powerful business groups, the Valley Economic Alliance and the Valley Industry and Commerce Association.

“The Valley has taken a different attitude when it comes to being recognized and getting our fair share of the resources we’re all paying for,” said Zine. “This will help in that arena.”

Following the defeat of the secession movement, those two organizations launched aggressive campaigns to bolster the subregion’s economic base and to see that, in the absence of secession, Los Angeles city government gave the Valley its fair share. Since then, tensions have eased, and COG backers say that its formation may be a final, and relatively harmonious, chapter in an often tense relationship.



“It’s a positive outcome of a lengthy process that probably started as far back as 1920, where the Valley was seeking to have some sort of identity and not be lost in the shadow of a larger city,” said Scott. “The relationship is ten times better than what it was twenty years ago.” ■

■ Contacts & Resources:

San Fernando Valley COG Joint Powers Authority Agreement

http://www.cp-dr.com/sites/default/files/SFVCOG_JPA.pdf

Michael Murphy, Intergovernmental Relations Officer, City of Santa Clarita, (661) 259-2489.

Sylvia Patsouras, Deputy Director, Southern California Association of Governments,

[scag.org](http://www.scag.org), (213) 236-1806.

Robert Scott, Project Director, Mulholland Institute, <http://www.mulhollandinstitute.org/>

(818) 712-9500.

Stuart Waldman, President, Valley Industry and Commerce Association, <http://www.vica.com>

(818) 817-0545.

Dennis Zine, Council Member, Los Angeles City Council 3rd District, <http://cd3.lacity.org>

(213) 473-7003.

Housing Element Bill Stakes Grow Higher

A bill that would permit a lawsuit challenging a housing element to be filed at almost any time advanced through a state Senate committee earlier this week and is headed to the Senate floor.

Assembly Bill 602 passed the Senate Transportation and Housing Committee on a party-line vote of 6-3 vote, with Democrats in favor and Republicans opposed.

The partisan vote may have surprised some people, but it should not have. The politics of AB 602 are linked to crusading lawyers, state-directed planning of high-density housing and climate change mandates. No Republican wants to be associated with those things. But it's also true that the emergence of AB 602 during the last two weeks has created some odd alliances. The California Association of Realtors, the Silicon Valley Leadership Group and the Sierra Club support the measure; the California Building Industry Association, the California Chamber of Commerce and local government organizations oppose it. The politics are not simple.

Bill author Mike Feuer (D-Los Angeles) told the Senate committee the legislation would "return affordable housing law in California to what it was for the last 25 years."

As I reported last week [↗], Feuer and affordable housing advocates argue that an erroneous 2008 Court of Appeal decision changed the statute of limitations for lawsuits over a housing element from, essentially, anytime to 90 days after the element is adopted. Housing elements are intended to contain the land inventories and policies needed for a city or county to provide its fair share of new units for households of all income levels. The Department of Housing and Community Development reviews local housing elements, but there are few penalties for not having a housing element that HCD certifies as being in compliance.

The open-ended statute of limitations is necessary because not until a developer proposes an actual project – which may occur months or years after housing element adoption – can people determine the precise impacts of housing element land inventories and policies, explained Julie Snyder, policy director for the organization Housing California.

Maybe more importantly, said Snyder, is the threat of litigation that affordable housing advocates use to get local government officials to the negotiating table. That's a far more common approach than actual litigation,

she said. Snyder said fewer than 20 housing element lawsuits have been filed during the past 25 years.

But League of California Cities lobbyist Bill Higgins complained to the Senate committee that the bill does not distinguish between jurisdictions with HCD-certified housing elements, and those without. Under AB 602, a city could have adopted a certified housing element seven years earlier and still get sued over the adequacy of the element by a developer demanding a greater density bonus or waiver of development standards.

Building Industry Association lobbyist Allison Barnett pointed out that a housing element lawsuit may result in a moratorium on all housing construction, which does nothing to improve the housing stock and punishes innocent parties.

Still, committee Chairman Alan Lowenthal (D-Long Beach) made clear his support for the bill. "I've always felt we needed effective judicial enforcement of the law," he said of the housing element statute. "Access (to the courts) must be restored."

Negotiations among housing advocates, builders and local government representatives are ongoing, but I find it hard to believe everyone will reach agreement. The differences are too fundamental and, frankly, I think everyone has a fairly strong argument. Planners have a deep interest in this one because they are the ones who actually prepare and implement housing elements – and because of the SB 375 aspect.

As you probably know, SB 375 is the 2008 legislation that requires metropolitan planning organizations to prepare sustainable communities strategies (SCSs) which include regional land use plans, with the intent of reducing regional greenhouse gas emissions. However, SB 375 does not require city and county general plans to comply with SCSs. Thus, the housing element is seen as an essential tool (a stick, really) to ensure local governments actually implement SCS policies.

Here's how a Senate Transportation and Housing Committee analysis of AB 602 puts it: "[H]ousing element law is currently the only tool to get cities and counties to increase affordable housing densities needed to achieve the SB 375 regional greenhouse gas emission reduction targets. Without an effective way to enforce housing element law, the only tool to effectively ensure implementation of SB 375 at the local level is lost."

– PAUL SHIGLEY | JULY 02, 2010 ■

Thank You, Gail Goldberg

Back in 2005, after Con Howe stepped down from his longtime role as Los Angeles's planning director, my phone kept ringing off the hook with calls from people trying to help new Mayor Antonio Villaraigosa find a new planning director. Some wanted to know who I thought would be good; others wanted to bounce candidates off of me to see what I thought.

After about the eighth call, I realized something important. There was only one person on everybody's list. Astonishing, given the typical biography of a big-city planning director at the time, a 62-year-old woman from San Diego who hadn't even been a professional planner until the late 1980s. And so it was almost preordained that Villaraigosa was going to pick Gail Goldberg as his planning director.

Gail was one of Villaraigosa's early, big hires – at a time when he was selecting many formidable women for top jobs, including Cecilia Estolano at the Community Redevelopment Agency, Gloria Jeff at the Department of Transportation, and Mercedes Marquez at the Housing

Department. And now she is the last one of these women to depart [↗], following Estolano by only a few months.

There's a lot of loose talk around town today as to why Goldberg is leaving. Is she worn out? Did she tire of the endless budget-cutting, which has eviscerated her department more than anyone could have predicted only a couple of years ago? Did she clash with Deputy Mayor Austin Beutner, who was charged with reorganizing her department?

Soon enough we'll know the truth. But for the moment, let's acknowledge Gail Goldberg for the extraordinary person that she is – and for the remarkable work she did in both San Diego and Los Angeles.

And let's also recognize that even for a planning director as skilled as Gail, it's tough out there.

I don't think anybody could have done a better job running the planning departments in both these cities. And I don't think anybody is more frustrated than Gail with how it has all turned out – San Diego unable to truly realize the "City of Villages" vision – CONTINUED ON PAGE 11

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because of a lack of infrastructure money, and Los Angeles unable to realize the potential of a revived planning effort because of a budget meltdown that cost Gail her best senior people, who retired, and her most promising junior planners, who got laid off.

By now everybody in planning knows the inspiring story of Gail Goldberg – a stay-at-home mom who found herself a widow at 40 who went back to school, and then wound up as a brand-new assistant planner in the San Diego planning department at age 46. Remarkably, she became the city’s planning director only 13 years later – and the planning director in Los Angeles a few years after that.

In San Diego, Gail was the primary architect of the “City of Villages” concept – perhaps the quintessential node-oriented California planning concept, which called for new growth to be focused on existing neighborhoods in a village-like way. City of Villages emerged from an innovative public outreach process for which Gail became well-known, through which the city went to extraordinary lengths not just to get people out to meetings (like giving away television sets) but also to explain the true nature of the choices facing the City and its neighborhoods.

Implementing City of Villages has proven to be an overwhelming task [↖], as the city struggles both to update all of its community plans during dark budget times, but still hasn’t solved an apparently endless multibillion-dollar infrastructure deficit, without which the City of Villages plan probably can’t win the widespread political support required for implementation.

Los Angeles proved an even tougher nut to crack. L.A. was already far down the infill road when Gail arrived; half of the city’s new hous-

ing units were already being built on commercial strips, and new transit stops were popping up all over town. From current planning to GIS to advance planning, she had to pull the department out of the dark ages. Community plans – the bread-and-butter of advance planning – were old and vague and provided almost no guidance. She quickly turned things around, getting more money from Villaraigosa when nobody but public safety could do so, putting community plan updates on a rigorous schedule – and, perhaps most important, turning the department into a place where talented young planners actually aspired to work.

Through it all, Gail has always had a kind of homespun, motherly quality that endeared her to everybody. She often likened planning a city to planning a dinner party. “You have to make sure that everybody brings something different, and not everybody brings the same appetizer.” When she moved to L.A., she spent every Saturday touring a neighborhood with one of her enthusiastic young planners, almost as if she was attending their dance recitals.

And yet Gail was always tough enough to survive the rough-and-tumble politics of big cities, and in retrospect it’s clear that she was on the leading edge of a whole generation of outstanding big-city planning directors who are women. Socialite Amanda Burden in New York and funny-but-gritty Harriet Tregoning in Washington, D.C., have far different styles – but their mayors would have been less likely to appoint them if it hadn’t been for Gail.

Thank you, Gail Goldberg, for making two of California’s great cities better. And even though implementing your dreams is tough now, in the long run all your hard work will pay off.

– BILL FULTON | JUNE 30, 2010 ■

L.A. Planning Director Goldberg Announces Retirement

After four-and-a-half years at the helm of the Los Angeles Department of City Planning, Gail Goldberg has announced her retirement. In a letter [↖] to Mayor Antonio Villaraigosa, Goldberg, who arrived in Los Angeles after serving as planning director for the City of San Diego, cited major initiatives that she had championed at the department but wrote that ultimately she has “been long ready for retirement and new adventures.”

The first woman to head the department – and one of several early Villaraigosa hires who collectively obliterated the city’s glass ceiling – Goldberg succeeded longtime director Con Howe and promised to bring major reforms and fresh ways of thinking to a department that had been criticized as ossified and overly bureaucratic; a November 2005 audit by then-City Controller Laura Chick found “an agency cast in a time warp of past practices, old procedures and outdated technology” that was “mired in backlogs, often in violation of state law.” By contrast, Goldberg had enjoyed widespread acclaim in San Diego, where she promoted community-oriented planning under the mantle “A City of Villages.”

In her resignation letter, Goldberg wrote that she was most proud of initiatives to “Do Real Planning” – as opposed to merely process cases – even while by the end of her tenure the department was forced to cope with the equivalent of a 45% reduction in staff due to budget cuts. Goldberg oversaw the addition of the Office of Historic Resources and the Urban Design studio, in addition to many specific plans and special initiatives. Goldberg’s efforts to streamline the department met with mixed results. Downsizing forced the department to adopt more efficient structures, but in the process the department lost such veteran planners as

Jane Blumenfeld, who had guided the evolution of the city’s zoning code. However, the department under Goldberg was the subject of yet another scathing audit, this time by current Controller Wendy Greuel.

Greuel’s audit, from April, found that the department had implemented few of the recommendations made in Chick’s 2005 audit and that the department’s “cradle-to-grave” approach to permit processing – by which the process was to be vertically integrated and overseen by a single staff member – had consistently fallen short of its goals. That audit, which Greuel called “most disappointing,” also faulted the department for failing to fully implement the so-called “12-to-2” plan, by which the permitting responsibilities of 12 departments would be folded into those of two – to be led by City Planning.

Nevertheless, Goldberg has of late had to operate in a vastly different city than the one she joined in 2006. When she was hired, Los Angeles was at the height of its building boom, and plans for smart growth development and new ways of thinking – championed by both her and Mayor Villaraigosa – were taking hold in the city. The slowdown in construction and the subsequent loss of both revenues and general plan funds took their toll on the department. Nevertheless, Goldberg leaves a legacy of new programs and strategies, including greater attention to public engagement, pedestrian-oriented planning, bicycle planning, historic preservation, and restructuring of the department’s finances.

Goldberg’s last day on the job is expected to be before the end of July. No interim or permanent replacement has been announced.

– JOSH STEPHENS | JUNE 30, 2010 ■

