

# California Cities Desire Streetcars

## Retro Transportation Becomes New Trend In Downtown Revitalization

BY JOSH STEPHENS

If a new generation of transportation advocates and federal officials has their way, California will soon have miles of brand-new rail lines, strategically sited to enliven cities, increase real estate values, and whisk passengers several whole blocks at speeds of... nearly 20 miles per hour.

High-speed rail, it's not. But \$40 billion, it's not either.

While the state plans for its proposed high-speed rail network, a raft of California cities are pursuing a more twee type of rail travel. Ubiquitous in the early 20<sup>th</sup> century, trolleys and streetcars are emerging as a newly popular form of intra-city transit. But even the staunchest rail buffs admit that transportation is only part of the benefits that over three dozen cities across the country – and more than a few in California – are seeking.

The streetcar bandwagon, which has picked up dozens of cities nationwide, including Los Angeles, Oakland, Sacramento, and Santa Ana, is fueled not only by nostalgia but also by new attitudes about both urbanism and transportation planning.

In transportation terms, streetcars play the same role as downtown shuttle buses – they are “circulators” connecting places in close proximity to one another. Many planners see streetcars not as transportation projects at all and are instead “place-making” devices, according to Maureen Pascoe, capital improvement manager for the City of West Sacramento. Pascoe is in charge of the Riverfront Streetcar Plan, which is being developed in cooperation with the City of Sacramento.

“The (transportation) paradigm is changing from mobility to accessibility,” said Gloria Ohland, the Los Angeles-based author of *Street Smart: Streetcars and Cities in the Twenty-First Century*. “Accessibility is really about things like streetcars...so you can be in one place and have access to a lot of things without having to drive from point A to point B.”

Streetcars have been proposed for downtown Los Angeles’ Broadway, which is lined with underutilized historic buildings. The effort is supported with up to \$10 million in redevelopment funds and Los Angeles County Metro released a request – CONTINUED ON PAGE 9

# Local Voters Statewide Opt For Compact Development

BY JOSH STEPHENS

Local voters in the Nov. 2 California election were not necessarily “pro-growth” or “anti-growth” but rather seem to have embraced smart growth like never before. They expressed subtle but clear preferences for preserving open space while accepting compact development. Urban growth boundaries were a big hit, and several infill plans and projects were approved while anything that would have led to encroachment on greenfields or urban fringes was shot down. – CONTINUED ON PAGE 8

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**The massive Tejon Mountain Village** projects crossed another legal threshold this month. Kern County Superior Court Judge Kenneth Twisselman upheld Kern County Supervisors' 2009 approval of the 5,082-acre resort and residential development in the mountains between Los Angeles and Bakersfield. Environmental groups, including the Center for Biological Diversity, had sued on the grounds that the supervisors had certified an inadequate EIR. The current plan for Tejon Ranch emerged from a landmark agreement between the Tejon Ranch Co., environmental groups, and local officials in 2007.

**A 100-page audit of the Sacramento** Community Development Department has revealed that the agency failed to collect \$2.3 million in building fees and to comply with city and state building regulations. In particular, the report highlighted the Community Development Department as having carried on with scant oversight or written policies. Presented with these findings, the Sacramento City Council is attempting to determine if these failures were simply a product of a lax "agency culture" or if they represent deliberate patronage of certain developers. Just last year, the former head of the development department, Bill Thomas, resigned after having been placed on paid leave. Additionally, another employee was suspended and transferred for approving building permits in a restricted Federal flood zone. In response, the city is launching an internal personnel investigation and plans to release its finding in the next month.

PDF: [http://www.cityofsacramento.org/auditor/documents/CommunityDevelopmentDepartment\\_Audit\\_2010.pdf](http://www.cityofsacramento.org/auditor/documents/CommunityDevelopmentDepartment_Audit_2010.pdf)

**A month after the landmark debut** of CicLAvia – which saw 100,000 pedestrians and cyclists descend on 7.5 miles of closed streets – several Los Angeles councilmembers are jockeying to host another in their own districts. The eponymous community group that hosted the event is already planning another for spring of 2011 along the same route as the October event, which followed a path connecting Hollywood to Boyle Heights through Downtown. However, with plans in the works to host up to six CicLAvias a year, public

input has been vigorous. On an LA Streetsblog poll, a plurality of respondents (38%) voiced support for a 16-mile "Wilshire All the Way!" route, connecting Downtown LA to the Pacific Ocean along the City's most historic boulevard. Such a route would pass by cultural landmarks like the LA County Museum of Art and the La Brea tar pits, while connecting the Miracle Mile district, Beverly Hills, Westwood, and Santa Monica.

**Transportation officials in San Francisco** have unveiled pilot plan proposals for congestion pricing in the city. Planners at the San Francisco Transportation Authority have recommended that the city charge motorists for driving in certain parts of the city at certain times of day. Under proposal, motorists would incur a \$6 charge for driving in the city's northeast sector between 3:30 p.m. and 6:30 p.m. Other charges would be incurred for crossing city limits in certain places. The plan would be designed to complement the city's new SFPark parking and congestion management pilot projects. The charges are proposed for six-month or year-long trials no earlier than 2015. They would be the first congestion pricing programs in the United States.

**Sacramento Mayor Kevin Johnson** has announced his desire to explore combining the city with the numerous unincorporated communities of Sacramento County, revisiting an idea that has been floated off and on through several administrations. Such an annexation would more than double the state capital's population to just over one million residents, making it the tenth largest city in the United States and third largest in California. By consolidating government agencies, such as police and fire departments, taxpayers would potentially save money and streamline layers of bureaucracy, according to Johnson. Despite these pros, many residents in unincorporated Sacramento County neighborhoods don't particularly identify with the city proper and want little to do with the big city. Johnson said he plans to continue to gauge support for the proposal with an eye to setting up a commission to study it in detail.

**Gov. Schwarzenegger removed** an obstacle that will allow a Long Beach courthouse with a reputation for overcrowding and poor security to be replaced with a new 545,000 square foot facility. The Assembly Bill authored by Bonnie Lowenthal

(D-Long Beach) will allow the State to bypass paying a possessory interest tax (to itself) on the project. Having to do so could have delayed the groundbreaking and increased costs by several million dollars. To get the badly-needed project off ground, even with belts tightening in Sacramento, the state plans to enter into a public-private partnership both to construct the facility and to manage it. Long Beach Judicial Partners, a frontrunner for the contract, would design, build, and maintain the courthouse over the course of 35 years, with the State acting as its tenant, thus helping to spread out the costs to the public.

**The Anaheim City Council voted 3-2** to move forward with a plan that would almost double the residential and commercial space in the Platinum Triangle, adjacent to Angels Stadium. The updated plan for the 820-acre area calls for residential use to increase from 10,200 units to nearly 19,000 units and commercial space to go from 2.3 million square feet to 4.9 million square feet. Office space would nearly triple, from 5 million to 14.3 million square feet. The decision followed a public hearing at which dozens of residents expressed concerns about the neighborhood's ability to absorb the added development. Concerns ranged from overcrowding of schools to the lack of affordable housing in the plan. Only a small fraction of the Platinum Triangle plan has been built so far. City officials do not envision full build-out for 20-30 years.

**Environmental groups in the Bay Area** city of Richmond have entered into an agreement with the Pomo Indians tribe that will pave the way for a Vegas-style casino and 1,100-room hotel. Following a legal settlement, the tribe will set aside 180 acres of the property as open space and parks at a cost of \$43 million in land acquisitions. Additionally, the agreement will extend and close gaps in the San Francisco Bay Trail, a 200-plus mile bicycle and pedestrian path. Before the project, and the attendant park set-aside, can go forward, the Richmond city government and the federal government must give it the green light. Voters in Richmond registered an advisory vote on November 2nd against the project. If approved, the casino would open in 2015.

**In the face of opposition from a coalition** of environmental groups, – CONTINUED ON PAGE 3



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a divided Ventura City Council voted last month to move forward with the annexation of 800 acres of privately owned grazing land for the purpose of redevelopment. Three councilmembers, including Mayor Bill Fulton (publisher of *CP&DR*), voted against the proposal citing various concerns: the lack of access to a fire-prone area, the degradation of wildlife habitat, its potential to create further sprawl, and the parcel's deliberate exclusion from Ventura's 2005 General Plan. The four council members who voted in favor of the plan argued that annexation would give the city greater control and create the opportunity to build large executive farmhouses needed to attract big businesses to the city. Civic groups in dissent included the Sierra Club, the Audubon Society, and Ventura Surfrider Foundation. Ultimately, the Local Agency Formation Commission will decide whether or not to approve the land transfer.

**After extensive debate, Tahoe National Forest** Supervisor Tom Quinn has released its Final EIR for its plan for managing the forest's network of roads and motorized trails. A rapid increase in the use of all terrain vehicles in the forest, both legally and not, forced the park to rework how it manages its transportation network. The plan will bring over 80% of the forest within a mile of one of the over-2,000 motorized paths. Providing the stated counterbalance is a restriction of motor vehicles in roughly 800,000 acres of the park. Additionally, the park management will open the shorelines of three reservoirs to private autos and legitimize some formerly illegal vehicle paths. The 45-day public comment period ends Dec. 3.

**The Orange County Flyers** minor league baseball team is seeking to privately financing construction

of a home stadium in Fullerton. Ideally for the Flyers, their new home would be the city-owned 7-acre Amerige Park. The plan for the stadium would involve replacing an existing diamond with a more comprehensive facility that could accommodate fans and concessions. That the team's typical attendance rarely tops 1,000 fans suggests that the stadium could be built at a scale appropriate for the small park. The team has expressed dissatisfaction with its current residence at Cal State Fullerton, citing issues with the price of parking at the campus and rent that is higher than what most local minor league teams pay.

**The John Muir Project** and the Center for Biological Diversity Wednesday submitted a petition to list the black-backed woodpecker as a threatened or endangered species under the California Endangered Species Act. The protection of this rare woodpecker species is likely to have large-scale implications for post-fire logging policies in California. Black-backed woodpeckers live primarily in "snag forests," areas that have experienced high-intensity fires that kill most or all of the trees in some areas. The groups say that many animals preferentially inhabit post-fire forests – and the black-backed woodpecker depends upon burned trees for food and nest sites. However, salvage logging after fires and fire suppression in remote backcountry areas have reduced the woodpecker's habitat to a fraction of what it once was in California. Consequently, the species once described as "numerous" in the state is now considered "rare." The protection of the black-backed woodpecker under the California Endangered Species Act may have significant implications for salvage logging on private property. A copy of the petition can be downloaded at [www.biologicaldiversity.org/species/birds/blackbacked\\_woodpecker/index.html](http://www.biologicaldiversity.org/species/birds/blackbacked_woodpecker/index.html).

**Last week, the company that brought LA Live** and the Staples Center to the Southland unveiled plans to add a another cornerstone to the South Park neighborhood of Downtown Los Angeles: a football and events stadium. At a luncheon hosted by the civic group Town Hall Los Angeles, Aschutz Entertainment Group (AEG) CEO Tim Leiweke regaled attendees with a plan to bring a \$1 billion, 78,000-seat stadium to Los Angeles – and with that hopefully a professional football team for the first time in fifteen years.

In addition to the stadium, the adjacent city-owned LA Convention Center would be reconfigured. The older West Hall would be demolished and replaced during the project, resulting ultimately in a doubling of convention floor space to roughly 1.4 million square feet. AEG has offered to secure the public bonds necessary to help the city pay for that part of the project. Leikweke also assured Angeles that the stadium would be privately financed.

If everything goes according to AEG's plan, entitlements would be secured by 2012 and construction would wrap up in time for the start of the 2015 football season. However, local advocacy groups are drawing attention to concerns about how to manage increased traffic to the area.

**Kaiser Ventures will appeal a Ninth Circuit Court** of Appeals ruling denying its bid to turn a defunct iron ore mine into a landfill to the U. S. Supreme Court. The August ruling held that Kaiser, a spinoff of the former Kaiser Steel Corp., had underestimated environmental impacts of converting the mine, which sits near Joshua Tree National Park. The appeal marks the last step in a 22-year effort to establish the Eagle Mountain Landfill. The mine's open pit would accommodate up to 20,000 tons of garbage per day for 50 years. ■



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# legal digest

## Religious School Must Abide By CEQA

### Environmental Review Doesn't Infringe On Religious Freedoms

BY WILLIAM ABBOTT

Divine purposes do not give developers a free pass to circumvent local zoning regulations.

The Second District Court of Appeal has ruled that Los Angeles County was entitled to a court order that prohibited a church from operating a school without a required conditional user permit.

The Sahag-Mesrob Armenian Church owns two parcels zoned R-1 (single-family residential) in the San Gabriel Valley. In May 2008, the church filed an application for a conditional use permit to operate an 800-student, K-12 school on the property. Four months later, the county received complaints that the school was operating in advance of the issuance of the conditional use permit and without California Environmental Quality Act review.

The county conducted an inspection, verified that the school was operating, and issued a notice of violation giving the school 15 days to cease operation. Within this 15-day period, the church applied for a "clean hands waiver" from the county, which would allow the school to remain open during the pendency of the use permit review and processing. The county denied the waiver request. The county then issued a final code enforcement

order directing that the school cease operating within 15 days. The church appealed this order, but the county denied the appeal. Following subsequent verification in late 2008 that the school was still operating, the county filed a code enforcement action and sought a preliminary injunction to close the school. Los Angeles County Superior Court Judge Jan Pluim granted the preliminary injunction, prohibiting the school from using the property until all necessary permits were in place. Sahag-Mesrob Armenian Christian School appealed.

The appellate decision addressed the interface of local zoning regulation with the federal Religious Land Use and Institutionalized Persons Act (RLUIPA) (42 U.S.C. § 2000cc(a)-(b)). The first issue for the court was whether the county's requirement for a conditional use permit and the denial of the clean hands waiver violated RLUIPA's "substantial burden" test. Reviewing a number of decisions from other states, the unanimous, three-judge appellate panel concluded that the necessity for a conditional use permit and the denial of the clean hands waiver did not coerce or affect an individual's practice of faith and, therefore, was not an unreasonable burden.

"No Supreme Court case holds the failure to comply with a neutral zoning application process is a substantial burden on the exercise of religious freedoms," Presiding Justice Paul Turner wrote for the court.

The church argued that the county's denial of the clean hands waiver was improper because the county had granted 50 waiver requests from faith-based and non-faith-based entities. (The county had also denied 23 such requests.)

The county successfully argued that it had a sufficient factual basis upon which it could justify approving waivers for other applicants but denying this particular request. For one thing, the granted waivers were for activities in locations which would not have the same level of adverse impacts to surrounding uses as would the school. For another, the county had denied a waiver to a different church next to a residential neighborhood because of traffic and parking concerns.

"Thus, the clean hands waiver application in this case could be denied without violating the [RLUIPA] act. There is no evidence any other entity seeking to use the property would be treated any differently," Turner wrote.

A civil rights lawsuit filed by the church against the county remains pending in federal court. ■

■ The Case:

*County of Los Angeles v. Sahag-Mesrob Armenian Christian School*, No. B216888, 188 Cal.App.4th 851, 2010 DJDAR 14846. Filed September 22, 2010.

■ The Lawyers:

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### ninth circuit

## Anti-Tattoo Zoning Code Violates First Amendment

BY WILLIAM W. ABBOTT

A city ordinance effectively banning tattoo parlors oversteps constitutional limits pro-

tecting freedom of expression, the Ninth U.S. Circuit Court of Appeals has ruled.

A unanimous three-judge panel struck

down a City of Hermosa Beach zoning code prohibiting tattoo parlors because it violated the First Amend- — CONTINUED ON PAGE 5

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ment.

Although it may seem that tattoos are the provenance of modern day subcultures such as rock stars and motorcyclists, tattoos have been part of evolving culture around the globe for thousands of years, the court explained. City of Hermosa Beach, however, perceived tattoos' outlaw air and had adopted a zoning ordinance that precluded the operation of tattoo parlors.

Johnny Anderson, a tattooist operating in the City of Los Angeles, wanted to open a parlor in this neighboring beach city and ran headlong into the prohibition. In 2006, he sued Hermosa Beach, but the action was dismissed because Anderson had not availed himself of city administrative procedures for determining whether a tattoo parlor might be allowed as similar to other permitted uses.

Following case dismissal, Anderson filed a request with the city for such a determination. The city denied Anderson's request in June 2007. He then filed a 42 USC § 1983 civil rights claim, alleging violation of the First and Fourteenth Amendments. At the District Court level, the city successfully argued that tattooing was not a First Amendment protected activity. District Court Judge Christina Snyder reviewed the ordinance under the rational

basis test, and, on the basis of potential health risks, upheld the ban. Anderson appealed.

The Ninth Circuit reversed the lower court, finding, "The tattoo itself, the process of tattooing, and even the business of tattooing are ... purely expressive activities fully protected by the First Amendment." Accordingly, the scope of city regulation must be limited to reasonable "time, place and manner," the court determined. The court then addressed and rejected each of the city's arguments that the ban amounted to reasonable time, place and manner restrictions.

Perhaps the city's best argument was based upon public health. Tattooing involves the injection of ink into a person's skin. The required puncturing of the skin creates the potential for skin infection. State law requires every tattooist to register with county health departments. The Los Angeles County health department had one inspector, and not all establishments operating within the jurisdiction of the county had been inspected. The city asserted that the county's limited resources with which to inspect and regulate tattoo parlors for public health purposes was sufficient justification for an absolute ban.

The court held, however, that the city failed to provide sufficient justification that it could not otherwise accommodate public health

concerns while permitting a First Amendment protected activity. In other words, the ordinance was too broad.

"[A]lthough a total ban on tattooing might be the most convenient way of addressing the city's health concerns, the city has given us no reason to conclude that these concerns cannot be adequately addressed through regulation of tattooing rather than a total ban on tattoo parlors," Judge Jay Bybee wrote for the court. "Thus, particularly in light of the Supreme Court's historical 'concern with laws that foreclose an entire medium of expression,' we have little difficulty concluding that the city's ban is 'substantially broader than necessary to achieve the [city's] interest.'"

The city also argued that there were alternative means of communicating the same protected speech, such as printing on a tee shirt. The court concluded, however, that the permanent nature of tattoo ink carried a different message, and that there were no other equally effective communication media. ■

■ The Case:

*Anderson v. City of Hermosa Beach*, No. 08-56914, 2010 DJDAR 14319. Filed September 9, 2010.

■ The Lawyers:

For Anderson: Robert C. Moest, (310) 915-6628.  
For the city: John C. Cotti, Jenkins & Hugin, (310) 643-8448.

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**Deep in the heart of John Steinbeck** country, city folks, rural folks, farmers, businesses and everyone in between are still waging dubious battle over control of Monterey County land. After an 11-year process, a general plan update was unanimously approved by the county's Board of Supervisors on October 26.

But rather than lay out a vision for a bright new future, the approved update – which focuses growth on existing urban centers, limits growth in some areas with water shortages, and expands farmland – may turn out to be a magnet for lawsuits. Groups are lining up to sue, with several suits expected to be filed by the end of the year.

Contentiousness would be nothing new for the county. Two previous versions of the plan had come before the board in 2004 and 2007, only to fall apart. In 2004, the board rejected a city-centered growth plan. In 2007, county voters rejected an environmental group's general plan initiative, and they rejected the county's version of the plan update as well (see *CP&DR*, Vol. 22, No. 7, July 2007 [↗]).

Monterey County has all the ingredients for classic planning tussles: valuable agricultural land, scenic vistas near the oceans, wealthy residents who don't want to see more development, environmentalists who want growth in its cities, farmworkers who need housing, and chronic water supply issues. Put it all together, and common ground is difficult, if not impossible, to find.

"Both sides at the extremes are unhappy" with the latest plan, said Simon Salinas, who is chairman of the Board of Supervisors.

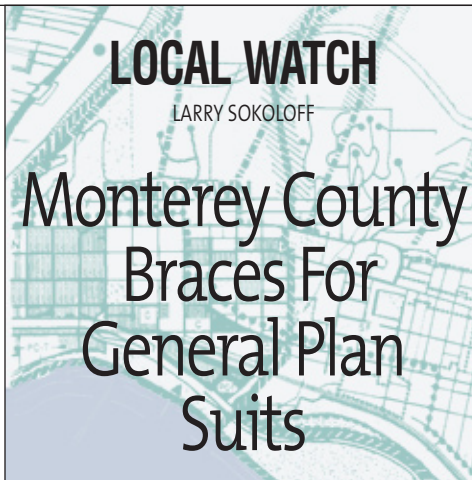
Salinas said that many groups in the county do support the updated plan – affordable housing advocates, cities, and developers. But environmentalists and agricultural groups may yet file lawsuits over the latest plan by the end of the year, delaying the plan from going forward.

The website for environmental group Land-Watch Monterey County, calls the general plan "a deeply flawed document." Its website said "LandWatch opposes new policies which would permit cultivation on steep slopes, a practice prohibited since the 1980s," and claims the county has chosen to postpone dealing with long-term sustainable water supply issues. LandWatch officials declined to comment further for this story.

But many concerns about the plan's actual impacts are likely to be ironed out in the coming years. Both Sup. Salinas and Assistant County Planning Director Carl Holm say that implementing ordinances will spell out specifics from the 150-page plan.

One thing that the general plan doesn't touch is use of oceanfront property, always a hot button issue. That would get the Coastal Commission involved, explained Holm, who was the county's project manager on the general plan. So the plan looked only at other zones in the county that are located inland or on coastal plains.

Two notable parts of the new update are expected to impact parts of the county differently. One provision will limit housing subdivisions



in unincorporated parts of the north county where water supplies are limited. This area has drawn particular scrutiny because it is just over the hill from the employment centers of Silicon Valley and therefore is considered ripe for development.

And yet, Monterey County is still more oriented to crops than to computers. Another provision allows crops to be grown on slopes of over 25% grade, which is expected to allow more vineyards on hillsides in the foothills that extend south from Salinas.

"Compromises were made to development on slopes and on water use," Holm said.

The 25% slope issue is part of a long range plan to promote more tourism in the inland parts of the county, which is home to many of the county's vineyards. Tasting rooms, however, are currently clustered on the Monterey Peninsula where tourists to Monterey and Carmel are plentiful, Holm explained.

To compel tourists to visit inland areas, the general plan update allows for easier development of bed and breakfast inns and tasting rooms in the Salinas Valley. Supervisor Salinas said the general plan update will also facilitate agriculture-related construction, such as food processing plants, in the region.

Although environmentalists are concerned that crops might take over fragile hillsides, those concerns may be unfounded. Holm said most wine growers do not plan to grow grapes on slopes with more than a 25% grade. And anything beyond that threshold will require a use permit from the county. Holm said the new requirements for slope grading are based on studying what has been done in nearby grape growing regions of San Luis Obispo, Sonoma and Napa counties.

"Most viticulturists indicated it's not cost effective to go over 25 percent," he said.

But one agricultural leader said a blanket slope policy doesn't work for the vast county. "The one-size-fits-all mentality is pretty stone age," said Christopher Bunn, Jr., who is head of the land use committee of the Monterey County Farm Bureau.

Environmentalists, he said, "don't really care about slopes. It's a convenient way to shut down growth."

Bunn said that, on the whole, the new general plan is "not friendly to farming" because "a lot of these regulations and poli-

cies cost (farmers) more." He said that the Farm Bureau would meet soon to decide on litigation.

Several agricultural groups have threatened a lawsuit over the plan's requirement that most new construction include proof of a long-term water supply, according to the Salinas Californian newspaper. They contend that an annual \$3 million tax assessment for various water projects already confers on them certain long-term water rights that the general plan update would effectively trump.

Finally, Michael Stamp, an environmental attorney in Monterey, represents what he calls "citizen advocacy groups."

"We're still evaluating the situation," he

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“Many groups in the county do support the updated plan – affordable housing advocates, cities, and developers. But environmentalists and agricultural groups may yet file lawsuits.”

# Agricultural Policies At Issue In Monterey County

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said on November 10, when asked if litigation would be filed over the update.

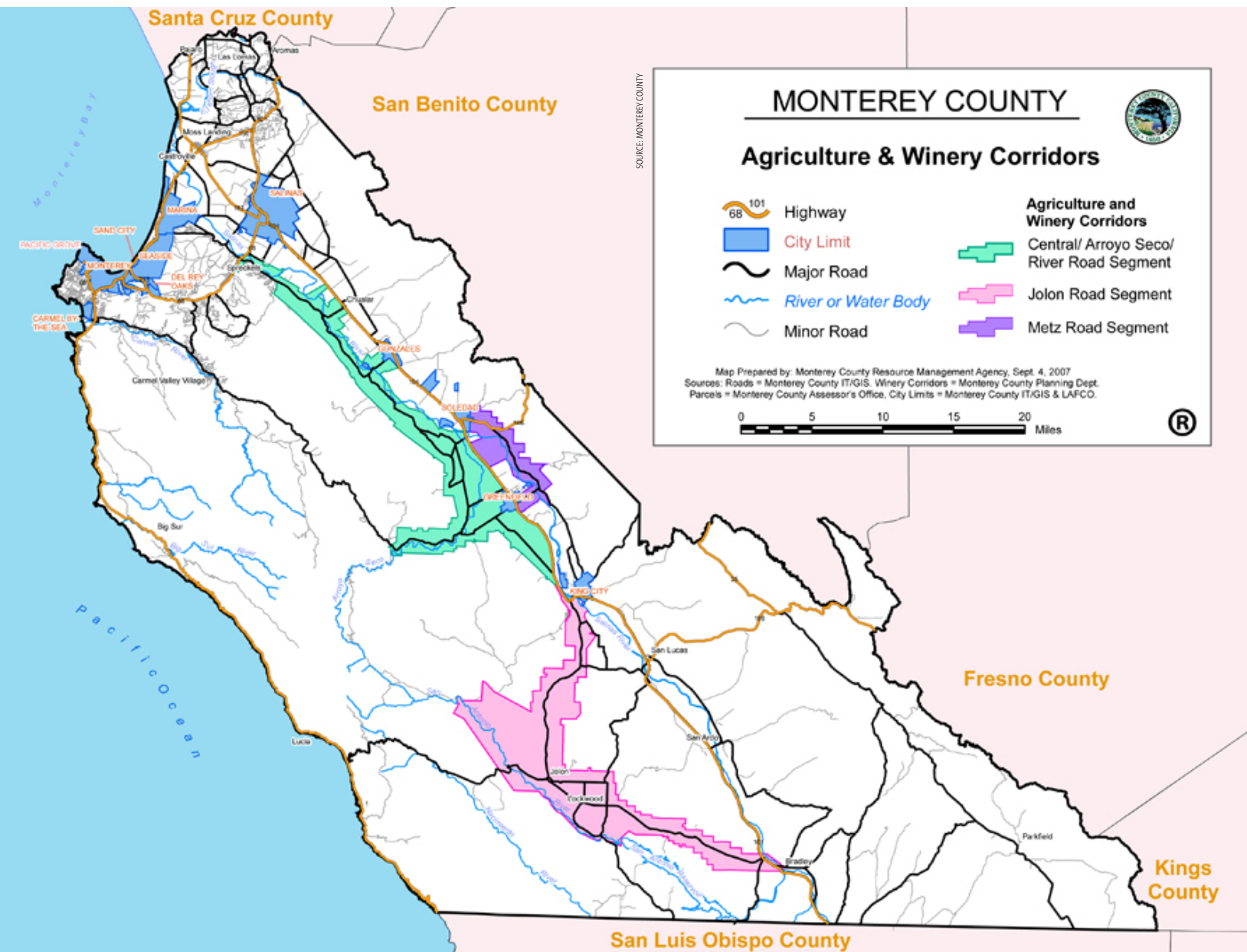
“If the general plan is challenged, the challenge could be quite successful,” said Carmel Valley attorney Richard Rosenthal, who is counsel for the Save our Peninsula Committee. Rosenthal said two top concerns with the update are inadequacies with traffic circulation and water issues. Rosenthal did not, however, indicate that his group would be filing lawsuits.

“The county has a pretty rich history of land use litigation,” he said. Bunn, whose family company grows celery and cauliflower, said the 11 years of contention on the general plan update are due to “a very

polarized county. It has, he said, “sucked up a lot of time and money that we would have rather put into our businesses.” ■

■ Contacts:

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- Carl Holm, Assistant Planning Director, Monterey County, (831)755-5240.
- Richard Rosenthal, attorney, (831) 625-5193.
- Simon Salinas, Chair, Monterey County Board of Supervisors, (831)755-5033.
- Michael Stamp, attorney, (831) 373-1214.
- LandWatch [www.landwatch.org](http://www.landwatch.org)



‘Winery Corridors’ are intended to promote tourism in inland Monterey County.



# Electionresults

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Local election highlights include the following:

## *Smart Growth: Berkeley*

Smart growth scored a major victory in Berkeley, where the city's historic "no growth" attitude has eased. The approval of Measure R means that the city's downtown core can grow a little more dense and can rise a little higher, with the addition of up to three high-rises that would exceed the city's extant height limits. The vote embraces what may be a new vision for California cities and, in particular, a new vision of environmentalism. Groups including the Sierra Club supported the measure because it promotes transit-oriented density and a focus on the urban core. Opponents were concerned that it would ruin the city's character and was pandering to developers.

## *Sustainability: Irvine*

In a similar spirit, voters in historically auto-oriented Irvine approved a new environmental ethos for the city with the ratification of the Irvine Sustainable Community Initiative, which sets environmental goals for both the city and the beleaguered, delayed Great Park. The initiative calls for the city to promote green building, renewable energy, and alternative modes of transportation. The initiative complements the vision for density set out by the recently approved Irvine Business Complex plan (see *CP&DR Vol. 25, No. 15, August 2010* [↗]).

## *Projects & Plans: Menlo Park, Redondo Beach, San Diego, Saratoga*

In large part, local voters supported specific developments and development schemes. Voters in Menlo Park approved an enormous mixed-use development while voters in Redondo Beach approved a new vision and zoning scheme for the city's harbor area and waterfront. In San Diego, the Pacific Highlands Ranch development will be allowed to develop neighborhood amenities such as libraries and schools even in the absence of a planned highway. Meanwhile, a measure that would have limited building heights to two stories in Saratoga failed by a margin of less than 1%.

## *Urban Growth Boundaries: Cloverdale, San Ramon, Petaluma, & Santa Rosa*

Formerly the only city in Napa County without a UGB, Cloverdale embraced the trend and voted in its first UGB. Cloverdale is not known for growth pressures but the UGB may be a formal statement in favor of slow growth. Voters in San Ramon rejected a measure that would have expanded its existing UGB, and voters in Petaluma and Santa Rosa voted to extend the lifespan of their UGBs. UGBs are sometimes considered tools to promote higher-density growth within defined urban areas. However, by virtue of their rural locations, all at least three of the four UGB measures that appeared on local ballots appear to be intended to prevent greenfield development rather than promote urban infill.

## *College Expansion: Rancho Palos Verdes*

Perhaps the most contentious local battle the state centered on what was probably the smallest project. Marymount College in upscale, largely residential Rancho Palos Verdes appealed to voters in its quest to build a new dormitory and make other campus improvements. But even as the college spent over \$1 million to curry favor with residents, the city's vehement no-growth coalition roused voter sentiment against the college and defeated the measure.

## *Sutter County Food Processing, Agricultural, Recreation Combining District*

A more ambiguous situation in Sutter County led to an anti-growth vote. The county has been saddled with what many consider a white elephant of a parcel for the better part of three decades in the 1,800-acre Food Processing, Agricultural, Recreation Combining District – which for the better part of two decades has done none of the above. Measure V was supposed to give control of the parcel to the Board of Supervisors so that they would have the power to re-zone and redevelop the parcel to a higher and better use than its current vacancy. Sixty-eight percent of voters, however, were not willing to give them that sort of control; opponents feared that the board would eventually approve the development of homes on the parcel, so for now the site remains moribund.

## Statewide Measures

Voters statewide displayed nervousness about budget matters, voting against Prop. 21's vehicle fees and in favor of Prop. 26 (see *CP&DR blog Nov. 4, 2010* [↗]), which was advertised as a measure to rein in taxes. And in some cases, the status quo prevailed, as AB 32 was affirmed and recreational marijuana remains nominally illegal.

### *Prop 19: Marijuana*

And for everyone who wanted a little piece of Amsterdam at his or her corner coffee shop or that 5 x 5-foot plot of green in their backyard (See *CP&DR Vol. 25, No. 12, June 2010* [↗]). Take a drag and mellow out because 2012 is only two years away. This means that local governments are off the hook. Prop. 19 would have essentially forced every locality in the state to come up with its own marijuana policy. Many would likely have banned pot outright, but others were wrestling with how and where to permit large-scale cultivation and use.

### *Prop. 21: State Parks*

While Californians supported climate change legislation, local environments suffered a blow with the defeat of Prop. 21, which would have secured desperately needed funding for the State Parks system via an annual \$18 vehicle registration fee. It's unlikely that anyone takes pleasure in the disrepair of California's parks. However, even with the parks' economic value – and even with the sly juxtaposition of vehicles and nature – voters in these fragile economic times simply did not want a new fee and rejected it by a 60-40 margin.

### *Prop. 22: Local Transportation, Redevelopment Funding*

Local governments scored a dearly sought-after victory with the approval of Prop. 22, which secures local redevelopment and transportation funds against state borrowing or raiding. Groups such as the California Redevelopment Association and almost every transportation authority across the state lobbied vigorously for the passage of Prop. 22, lest this past year's \$2.05 billion transfer of local redevelopment funds to the state become de rigueur (see *CP&DR Vol. 25, No. 9, May 2010* [↗]). This may be bad news if you're trying to balance a budget in Sacramento, but voters seem to have gravitated towards its spirit of local control and relatively unambiguous allocation of funds.

### *Prop. 23: Jobs & Climate Change*

Likewise, with a chorus of planners and environmentalists speaking out against oil companies and others who promoted Prop. 23, Californians affirmed their desire to combat

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# Cities Hope Streetcars Will Stoke Development

— CONTINUED FROM PAGE 1

for proposals seeking firms to conduct an initial environmental study.

The City of Oakland would replace its Broadway Shuttle bus with a streetcar that would link Jack London Square to the rest of downtown and at least one BART station. Long Beach and Pasadena officials envision streetcars for their respective cities' historic downtowns. A streetcar has even been proposed for the edge city of Warner Center, in Los Angeles' San Fernando Valley.

Meanwhile, officials in West Sacramento see a streetcar as the catalyst that will enable it to share more of its big sister's vibrancy; its 1.2-mile segment would originate at City Hall, cross the Tower Bridge over the Sacramento River and connect with a system that the City of Sacramento is planning.

"Too many people (in Sacramento) think that the world ends at the Sacramento River," said Pascoe. "We really see ourselves as the other

side of downtown. We are right at the core of the region and we plan to develop."

Similarly, Santa Ana's proposed streetcar system would link the city's downtown with a regional transit hub in adjacent Garden Grove.

Each of these cities can look to San Francisco for inspiration. There, vintage streetcars have been running along Market Street and throughout the city continuously for over a century.

Unlike light rail lines, which dominated rail transit over the past two decades, streetcars travel at grade and usually in the flow of traffic, without dedicated rights of way. It is their integral role in the streetscape that, supporters say, make them sought-after tools for urban development and economic development.

"They can catalyze development because of their real and perceived sense of permanence," said Seal. "Once the developers see the tracks

laid in the asphalt they know the streetcar will be there for decades and know they can make large investments in dense, green, mixed use housing along the streetcar line."

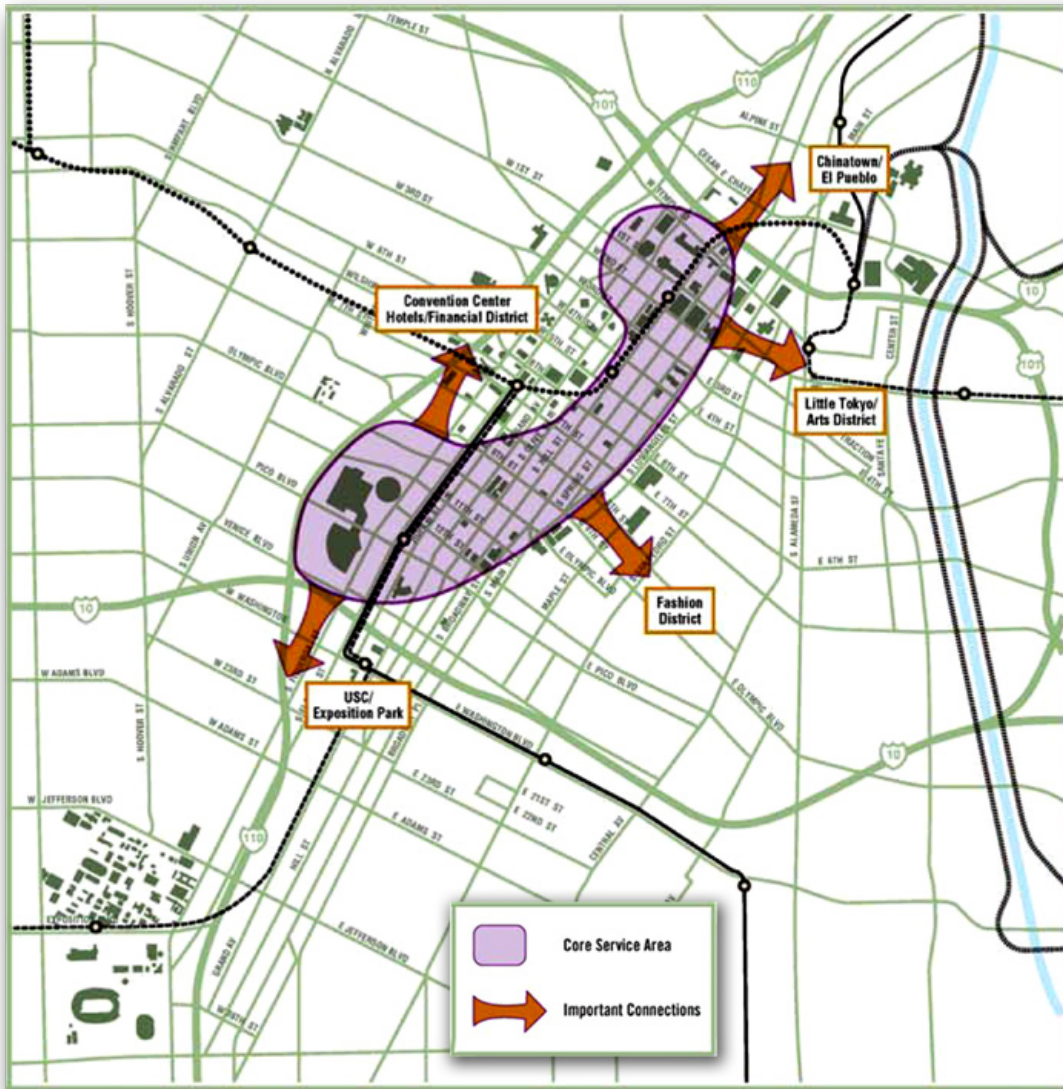
Long Beach City Councilmember Suja Lowenthal views her city's pursuit of a streetcar as a way to appeal to new transit riders who are attracted to fixed rail: "streetcars serve a different customer than buses, attracting more choice riders and tourists/visitors who are willing to travel on a rail system in an unfamiliar city."

By that same token, however, streetcars' most often-cited downside is that by traveling in the flow of traffic they cannot move any faster than the average bus or car. Moreover, transit planner and streetcar critic Jarrett Walker notes in a recent blog post, "Streetcars: An Inconvenient Truth," that for the cost of a streetcar system local businesses, property owners, and redevelopment agencies could invest in pavement upgrades, street furniture, and a myriad of other amenities that would enhance pedestrian life.

Moreover, streetcar systems do not tend to serve regional goals.

"It is a fad; it's always been a fad. That doesn't mean necessarily that it's a bad thing," said Lisa Schweitzer associate

— CONTINUED ON PAGE 10



A broad coalition of businesses and public officials envision a streetcar that will serve the Broadway corridor in downtown Los Angeles.

# Streetcars Pursue Federal, Private Funding

— CONTINUED FROM PAGE 9

professor of transportation at the USC School of Policy, Planning, and Development. “Because it’s not a commuter system....it’s not really something that’s going to change climate or alter air quality.”

It may, however, change the fortune of local landowners and urban boosters.

A 2008 report commissioned by Portland Streetcar contends that up to \$3.5 billion had been invested within two blocks of the alignment since the system began operating in 2001. Likewise, residential and commercial densities had increased, with over 10,000 new housing units and over 5 million square feet of new commercial space. The report notes, however, that the streetcar is just one element of a strategy to promote investment in the city’s core.

“More than streetcars being transit projects, they are really economic development projects with transportation benefits,” said Ohland. “They promote the whole local, sustainable, green trend. They would become such groovy neighborhoods with a streetcar.”

These developments often come right out of the smart growth pattern playbook, replete with mixed use buildings, pedestrian improvements, and even locally owned businesses that are, according to Ohland, sensitive to the unique character of historic urban neighborhoods.

Backers say that the investment potential and concentrate benefits enable them to seek private investment from local businesses and landowners who stand to capture the economic benefits of a streetcar line. Streetcar planners say that businesses and landowners have been receptive to ideas for schemes such as benefit assessment districts. LA Streetcar Inc.’s website notes that the private sector funded 30% of Portland’s line and nearly 50% of Seattle’s; the group seeks similar participation among stakeholders in downtown Los Angeles.

“All of the long-term studies of transit show that the main beneficiaries of public investment are the people who own land next to it,” said Schweitzer. “And if we know this, why can’t we find ways of moving some of this....increase in value up-front and allocating it across the lifetime of the investment?”

Streetcars’ fate may ultimately rest with the largesse of the federal government, which has of late, introduced new policies and funding criteria that embrace circulators and urban livability.

This year the Department of Transportation awarded its first round of Urban Circulator Grants, dedicated to helping cities improve their internal transit (including streetcars), bike, and pedestrian networks. These grants emerged out of a new partnership between DOT, the Department of Housing and Urban Development, and the Environmental Protection Agency. This partnership has led to a major shift away from typical transportation grants, which consider the worthiness of a transportation project based largely on its cost-effectiveness, based on travelers’ time savings, and towards a method of evaluation that takes into account broader neighborhood benefits.

“A few years ago it was very difficult, if not impossible, to get federal New Starts money for streetcars,” said Zach Seal, Broadway Streetcar Project manager for the City of Oakland. “Secretary of Transportation Ray LaHood tweaked the scoring system for rail projects and put less

weight on speed and more weight on things like quality of life and economic development.”

Sixty-five cities applied for the first round of Urban Circulator Grant funding, which was awarded this summer. \$130 million of the total \$293 million was dedicated to streetcar projects and Cincinnati, Chicago, St. Louis, and Charlotte, N.C., each snapped up \$25 million grants for new lines.

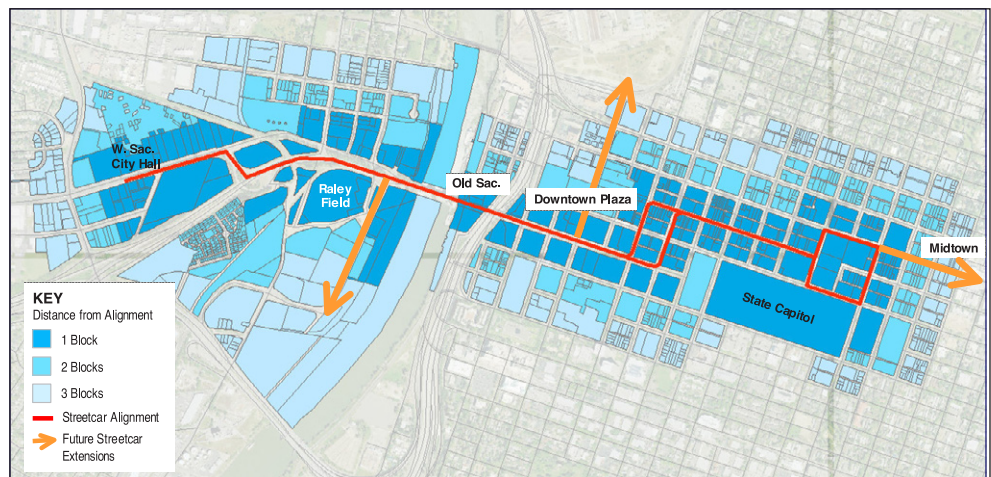
West Sacramento and Los Angeles applied in this summer’s round of funding but were both shut out. Those and other planned systems in California are estimated to cost roughly \$30 million per mile to build, plus several million per year to operate.

Seal attributes this competition to the fact that the grants have arrived a moment when there is massive “pent-up demand.” “There were 10-20 streetcar projects across the country sitting there waiting for this (funding) change to happen,” said Seal.

Those projects can still apply for grants from the Transportation Investment Generating Economic Recovery (TIGER) federal stimulus program; TIGER II grants are available through September 2012.

“There seems to be continued interest at the federal and state level to continue funding these systems,” said Lowenthal, who said that her city of Long Beach will apply for federal funds. “That being said, there may be changes to funding priorities as a result of the November 2 election.”

No matter what, it’s likely that new trolleys will be clanging modestly down California streets long before they get out-raced by bullet trains. ■



**Officials in West Sacramento hope that a streetcar line crossing the Sacramento River will knit the two downtowns together.**

■ **Contacts & Resources:**

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 Gloria Ohland, Author, Street Smart: Streetcars and Cities in the Twenty-First Century.  
 Maureen Pascoe, West Sacramento Capital Improvement Manager, (916) 617-4535.  
 Lisa Schweitzer, Associate Professor, USC School of Policy, Planning, & Development, (213) 740-3866.  
 Zach Seal, Broadway Streetcar Project Manager, City of Oakland; (510) 238-2937.

■ **Streetcar Proposals & Studies:**

Los Angeles: <http://www.lastreetcar.org/>  
 Santa Ana: [http://santaanatransitvision.com/fixe\\_guideway\\_project.html](http://santaanatransitvision.com/fixe_guideway_project.html)  
 Sacramento/West Sacramento: <http://www.riverfrontstreetcar.com/>

# Election *results*

— CONTINUED FROM PAGE 8

climate change. Whether AB 32, the Global Warming Solutions Act, will create the green jobs that then-Assemblymember Fran Pavely envisioned four years ago or undermine existing remains to be seen. The salvation of AB 32 also erases any concerns about the fate of SB 375. Although SB 375 was written to stand on its own, many have speculated that the defeat of AB 32 would undermine localities' efforts to promote compact development in accordance with SB 375.

## *Prop. 26: Taxes & Fees*

Finally, Prop. 26, whose supporters sought to close a tax policy

“loophole” that allowed localities to impose taxes under the guise of fees, gained approval by tapping into the same anti-tax sentiment that felled Prop. 21. Prop. 26 now limits cities' and local agencies' ability to both raise revenue and achieve policy goals by assessing fees that only required a simple legislative majority. Instead, Prop. 26 reclassifies these fees as taxes and thus requires a 2/3 super majority approval of local voters. Prop. 26 does exempt development impact fees, but is targeted at more generalized fees – possibly fees for General Plans – that do not explicitly tie the fee to an actual impact. ■



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## Proposition 26 Could Endanger General Plan Fees

The passage of Proposition 26 – which requires two-thirds voter approval for certain local fees – won't stop the gears of land use planning and development approvals from churning. However, it does turn traditional thinking on its head – a fee is a tax unless proven otherwise – and it's certain to lead to some litigation that might affect planning and development on the margins in California. At least that was the conclusion Wednesday of League of California Cities lobbyist Bill Higgins, who spoke at the California Chapter, American Planning Association, conference at La Costa Resort in Carlsbad.

Philosophically, Proposition 26 represents a huge change in the way California views fees and taxes. There's now a new definition of taxes: "Any levy, charge or exaction of any kind" imposed by the government, unless the fee falls within an exemption under the law. But the practical effect on planning may not be great.

Although television commercials made it seem as though all fees will be affected, in fact Proposition 26 has a very narrow target: *Sinclair Paint Co. v. Board of Equalization*, a 1997 court ruling that upheld regulatory fees on manufacturers of lead paint to pay for programs to assist children subject to lead poisoning. The intent of Proposition 26 is to outlaw fees imposed generally on an industry to pay for the mitigation of problems created by that industry's products, without tying the fees to specific impacts. In a nutshell, Proposition 26 takes the "special benefit" language

from assessments and applies them to fees.

"Proposition 26 requires proportionality accounting on an individual user basis," Higgins said. In that sense, it's not unlike current rules on development impact fees and other obligations imposed on developers. In fact, development impact fees are exempt from Proposition 26. So are administrative costs associated with running the government – but not, apparently, advanced planning and regulatory rulemaking, which would have to be paid for out of tax funds.

To that last point, Higgins said a broader question is whether other, more general fees imposed on developers – for example, a General Plan fee used to stockpile funds to update the General Plan – might get caught in Proposition 26's web.

More broadly, a variety of other fees that local governments rely on – though not in the planning and development arena – might be affected. For example, according to prominent municipal lawyer Michael G. Colantuono, franchise fees could be at risk. And municipal gas and electric rate increases – which were exempt from Proposition 218 – will now be subject to a two-thirds vote, even though rate increases for private utilities are not. Fees and rates covered by Proposition 218 are exempt from Proposition 26.

– BILL FULTON | NOVEMBER 04, 2010 ■

## Rich Rise Ever Higher Above Poor In Megacities

If I ever write a book about the crisis of the world's largest cities, this photograph from the Oct. 24 edition of the LA Times should be on the cover: A 27-story, 400,000-square-foot private home (!) built by a Mumbai billionaire Mukesh Ambani, reportedly the world's fourth-richest individual.

According to the Times story, Mr. Ambani's residence has both helipads and 168 parking spaces for a family of six. The home has prime views of both the ocean – and surrounding slums. No image could better distill the extremes of the modern mega-city than this bizarre building – looking like a Dagwood sandwich held together with enormous, diagonal toothpicks.

To my mind, this single image hints at all the issues pressing down on the world's mega-cities (think Beijing, Jakarta, Sao Paulo). Start with overpopulation and uncontrolled urbanism. Add to that extreme contrasts of wealth and poverty. With the extreme gap in income, the rich feel increasingly vulnerable, and house themselves in bunkers that dramatize social polarization.

Then add to that an inflated real estate market and construction without regard for environment (how many tons of greenhouse gases were pumped into the atmosphere from the trucks bringing materials to and from the site of Mr. Ambani's personal residence?). Add to that the "conspicuous consumption" of sheer volume; old-fashioned pashas went in for visual richness and ornament; today's fatcat just wants your

jaw to drop with the sheer amplitude of private Cartesian space. As for open space and pedestrian friendly streets... fuhgeddaboutit! They're too expensive, and there's no return on the rupee.

The slums, ironically, are the reverse mirror image of the Ambani residence: Granted, this has been said many times before, but the form of the modern city reflects labor economics of an industrial society—i.e. a perpetual oversupply of cheap labor, which must be fed and housed as cheaply as possible, so that people can live on low wages. Hey, the view of these shacks is great from the top floor, from which they appear almost ... picturesque (if you ignore the raw sewage running down the street, that is). None of these phenomena are new or surprising: What is remarkable here is the suddenness and the extremity that boom economies have brought to the world's densest cities.

But can the exploding cities of the global economy be made into habitable places? What set of incentives must be in place to make cities habitable in the most basic ways? And is there a tension between private enterprise and the effort to "green" the world's most populous cities? In any event, the apologists for the global economy should look at this 27-story home and ask whether superwealth is translating into a better life for people as a whole, or driving an even deeper wedge between rich and poor.

– MORRIS NEWMAN | NOVEMBER 09, 2010 ■

## Lessons From Auto Mall Hell

Here's the factoid of the week at the California Chapter, American Planning Association, conference:

Out of all the local sales tax declines since 2005, 40 percent are due to declining auto sales.

That's right: Local sales tax revenue in California has dropped \$600 million in the last five years. And of that amount, about \$245 million came from declining auto sales. This according to economic analyst Stan Hoffman, who also reported that about 10% of all dealerships have gone out of business and somewhere between 500 and 1,000 acres of prime urban real estate have opened up as a result.

Cities have depended on sales tax from auto sales for huge revenues in the last 20 years – but the auto industry is changing and it's hard to know how this is going to affect California cities in the long run.

The bottom line, according to several panelists who spoke to this topic at the CCAPA event on Tuesday, is that cities will never get all this tax revenue back. They can possibly prop up auto sales by opening up auto malls and auto strips to used-car dealerships, but in the long run most of the land – especially along the old commercial strips – will turn over to other uses.

The starkest tale told on Tuesday came from Whittier, which has had a strong group of auto dealers along Whittier Boulevard for generations. Here's what's changed since 2006:

- 7 of the city's 9 dealers have closed.
- Sales tax from auto sales has dropped from \$1.8 million to \$490,000 per year.
- Sales tax from auto sales has dropped from 24% of the city's sales tax to 9%.

Assistant City Manager Jeff Collier said Whittier has changed its Whittier Boulevard Specific Plan to permit used-car sales – at least temporarily – and is planning for intense commercial, housing, and

mixed-use nodes along the boulevard. But he described a lot of problems, including fragmented ownership, contamination cleanup from service areas (one cleanup cost almost \$1 million), and a lack of demand. Collier's takeaways:

- Don't accept the first new use that comes along no matter what it is.
- Understand the market so that you focus on development that's feasible, not aspirational.
- Don't expect all the tax revenue to be replaced and look for other revenue options elsewhere.

As the saga of declining auto sales and the impact on cities unfolds, a few wrinkles are becoming obvious. These include the following:

- Commercial boulevards are struggling more than freeway-close auto centers. The Tuesday panel told the tale not only of Whittier Boulevard but also Colorado Boulevard in Pasadena, which has similarly struggled.
- Microclimates matter. High-end dealerships in Pasadena have struggled – Maserati recently shut down – but as my blog from a couple of weeks ago indicated, luxury car sales along the boulevards on the Westside of L.A. are still really strong and dealerships are expanding.
- Especially along the boulevards, there are a lot of familiar landowner problems. In some cases, longtime property owners have such low costs that they're not motivated to redevelopment. In other cases, the auto brands are still paying on the lease even though the dealership has left – good for the landowner, bad for the city. And in some cases, complicated landowner circumstances make it more difficult to make anything happen. (Eric Duyshart of Pasadena told the story of one dealership where adjacent parcels were owned by the dealer's two ex-wives!)

– BILL FULTON | NOVEMBER 03, 2010 ■



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