

# Redevelopment Cleanup Bill Sparks Relief, Outrage Among Cities

BY JOSH STEPHENS

**FOR MANY CITIES** that have endured the painful process of dissolving their redevelopment agencies, the bloodletting has begun anew.

Last week, the legislature passed, and Gov. Jerry Brown signed, Assembly Bill 1484, a budget trailer bill meant to clarify aspects of the dissolution of redevelopment agencies and liquidation of their assets. AB 1484 salvages billions of dollars worth of bond funds, protects certain loans between cities and former redevelopment agencies, and gives cities a degree of control over bond proceeds and properties owned by former redevelopment agencies.

“Given that the legislature in their wisdom decided to eliminate redevelopment, at least we’re getting a few more crumbs,” said Robert Zur-Schmiede, deputy director of Development services at the City of Long Beach.

For some, however, AB 1484 is a Trojan horse, which essentially gives the Department of Finance the key to cities’ coffers. AB 1484 requires

that, as of July 12, cities relinquish local taxing entities’ share of the 2011 property tax distribution that had gone to redevelopment/successor agencies. Cities that did not make full pass-through payments to their respective taxing entities were required to make up the difference.

“While we welcomed cleanup legislation for the redevelopment dissolution bill, there are many provisions in AB 1484 that require us to complete numerous additional steps and add layers of approval that further complicate and greatly lengthen the dissolution process,” said Victorville City Manager Doug Robertson.

For many public officials, AB 1484 is the nearly unthinkable culmination in a series of efforts by which Sacramento has exacted money from local redevelopment. But whereas previous actions, including old Educational Revenue Augmentation Fund payments and the dissolution of

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## Is California Experiencing ‘The Great Inversion?’

**insight**  
WILLIAM FULTON

**ANECDOTALLY, THE ANSWER IS CLEARLY YES.** But it’s a little hard to say based on the data that’s available.

*The Great Inversion* is the title a new book by Alan Ehrenhalt, the longtime editor of *Governing* magazine and author of several insightful books about cities. (Full disclosure: Ehrenhalt was my editor at *Governing* for 20 years.) His thesis is that American cities are becoming more like European cities, with the rich folks living at the center and the poor and working-class folks living on the edge. The book includes case studies of more than a dozen American cities – but none from California.

Adding to *The Great Inversion* publicity was a re-

cent, highly publicized study by William Frey, the noted demographer at the Brookings Institution, who concluded that cities grew faster in population than suburbs between 2010 and 2011. Frey’s study included 51 metropolitan areas with a population above 1 million people, including California’s “Big Four” metros – Los Angeles, San Diego, the Bay Area, and Sacramento. Frey’s implication – repeated ad nauseum by urban boosters in the Northeast and Midwest – is that, after 60 years of population decline, older central cities are finally adding people. And, by extension, wealth and vitality as well.

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## STATEWIDE

**THE DREAM OF HIGH-SPEED RAIL** in California lives on. By a slight, partisan majority, the Senate voted to approve funding for initial construction of the statewide system. The approved state funding for 130-mile leg, from Fresno to Bakersfield, plus improvements to the Bay Area's Caltrain and Los Angeles' Metrolink, will cost \$8 billion (the federal government is contributing \$3.3 billion to the initial leg); the entire system is estimated at \$68 billion. The project got only 21 votes in the Senate, the minimum needed to pass. Even Democratic senators have balked at the project's cost and at possible problems with alignments and revenue estimates. Shortly after the vote, the California High Speed Rail Authority released a revised environmental impact report for the initial leg.

**ACCORDING TO A REPORT** published by the University of Wisconsin, wealthy counties dominate a list of the healthiest counties across California. The 56-county ranking was assessed based on a variety of indicators of good health, including access to medical care and healthy foods, the prevalence of harmful habits such as smoking and drinking, and premature death. Wealth is a "powerful factor" in determining health due to its impact on citizens' access to safe neighborhoods, fresh and nutritious food, health services, and time for engaging in recreational activities that enhance physical wellbeing. The effect of these factors aggregated over time seems to reduce mortality among those who can afford a higher standard of living. Even small projects started by the community can foster a "culture of health," such as encouraging commutes via bicycle with new bikes. According to Dr. Marc Schenker of UC Davis, largely agricultural Yolo County ranked seventh on the list due to the influence of a large young adult population at UC Davis, despite a disproportionately lower mean income. Trinity, Del Norte, Siskiyou, Tehama and Lake counties ranked as the least healthy.

**THE NATION'S FIRST** detailed analysis of climate change preparedness found that California ranks in the top category of states that have plans for dealing with risks associated with climate change. Ben Chou, water policy analyst for the Natural Resources De-

fense Council, authored the report titled, "Ready or Not: An Evaluation of State Climate and Water Preparedness Planning," which is supplemented by an interactive map on the NRDC website. He named California as a leader in the field for its set of policies on marine species and ecosystem protection, air pollution, and preparation for sea level rise. Examples include the California Global Warming Solutions Act (AB 32) from Gov. Arnold Schwarzenegger's administration and the Water Conservation Act passed in 2010. States including Texas, Alabama, Indiana and the Dakotas are ranked in the lowest category as they have yet to formally address the issue of climate change preparedness and it is simply not "on their radar." The results of the study mirrored climate change politics since the lowest ranked states were in the interior, where climate change skepticism is most widespread, although authors emphasized that it should not be a "partisan issue."

**GOV. JERRY BROWN** recently announced several appointments to the Business, Transportation and Housing Agency. Brian Annis, 43, of Sacramento, has been appointed deputy secretary for transportation at the. Annis has served in various positions for the Senate Committee on Budget and Fiscal Review, including deputy staff director since 2010, principal consultant from 2005 to 2010 and consultant from 2004 to 2005. Russia Chavis, 29, of Sacramento, has been appointed deputy secretary for housing and real estate. Chavis has been a fiscal and policy analyst at the Legislative Analyst's Office since 2009. Ronda Paschal, 49, of Sacramento, has been appointed deputy secretary for legislation. She has been deputy secretary of state for legislative and constituent affairs at the Office of the Secretary of State since 2007.

**THE PLANNING AND CONSERVATION LEAGUE** recently filed litigation in Superior Court (Alameda County) challenging the constitutionality of Assembly Bill 900 (Buchanan and Gordon). Under AB 900, judicial review of selected large-scale projects brought pursuant to the California Environmental Quality Act (CEQA) must bypass the superior court and be brought directly in the courts of appeal; the appellate courts would have no choice but to clear their regular appellate dockets to act as trial courts in these special

cases. PCL contends that this requirement violates the separation of powers between the legislature and courts. AB 900 attempts to exclude the superior courts and Supreme Court from that constitutionally granted jurisdiction. "Under the California Constitution, in CEQA suits the courts alone are empowered to govern their dockets and decide which cases are so extraordinary as to bypass the superior court and burden the appellate courts to act as trial judges," said PCL's attorney on the litigation, Tony Rossmann, in a statement. "By overstepping their authority, and requiring the courts of appeal to hear cases that have been selected by the political branches of government, the legislature has created an unlevel playing field for citizens, and disabled the courts from prioritizing cases on their merits."

## NORTHERN CALIFORNIA

**FORT ORD**, the former military base in Monterey County, has been designated by President Obama as a national monument, thus protecting 7,200 acres of its popular recreation area on the Central Coast of California. Under presidential decree and rare invocation of the Antiquities Act, a management plan to "preserve it in perpetuity" must be developed and all mining or geothermal development avoided. On the other hand, 86 miles of hiking, bicycling, and horseback riding trails will remain open for recreation. Since 1994 when the fort was closed by the military, the space has not been abandoned but instead transformed by Cal State Monterey Bay, which converted some buildings to classrooms and housing, and local nonprofit organizations that utilized some office space. Fort Ord sees more than 100,000 annual visitors.

**THE SAN FRANCISCO GIANTS** have released a rough proposal for development of 27 acres on the San Francisco waterfront between AT&T Park and Mission Bay. Currently a parking lot, the site would be redeveloped with a mix of 1,000 residential units, 1.7 million square feet of office space, 25,00 square feet of retail space, 8 acres of open space, and a 2,000-space parking structure. Team officials say that they want the development to include unique, locally-grown establishments and not generic chain stores.

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**THE SAN FRANCISCO BOARD OF SUPERVISORS** revised the Planning Code that created three categories for 13 restaurant definitions and established procedures for operating bars and restaurants. The three categories will be Restaurant, Limited-Restaurant, and Bar. A Restaurant is defined as any restaurant that serves food and any alcohol for on-site consumption. A Limited-Restaurant serves food but not any liquor for on-site consumption. A bar serves alcohol for on-site consumption. The new legislation will simplify owning eateries. For example, before the amendments, a bagel shop owner could sell bagels but could not heat them because he did not own a permit to use a toaster on the premises.

**CIVIC LEADERS** in the South Bay portion of the Bay Area have announced a campaign to raise \$1 billion in public and private funds for protection against what they have described as a potential Katrina-style flood. Much of the prime real estate in the area lies near sea level and could be inundated in the event of an earthquake and/or sea-level rise. The money would be used to construct levees and restore protective tidal marshes.

**SAN FRANCISCO OFFICIALS** are promoting a project to reinvigorate the Fillmore district. The plans will emphasize the neighborhood's historic past as a national jazz mecca that housed the stars such as Ella Fitzgerald, Billie Holiday and Charlie Parker. In recent years, the community's small businesses and residents were displaced due to redevelopment. Officials are hoping the plans will increase tourism, decrease vacancy rates and promote street life.

**THE SAN JOSE PLANNING COMMISSION** has approved a plan to toughen the city's restrictions on payday lenders. The new proposal will require a quarter-mile distance (up from the previous 500 feet) between payday lending institutions. Also, new businesses will be prohibited from entering low-income census tracts. City staff is currently deliberating on a

numeric limit on the number of payday lenders. The stricter proposal will combat the growing number of lending organizations procuring exorbitant interest rates of up to 460% annually. Payday borrowers tend to be low-income workers or people dependent on public benefit checks. These high interest rates take advantage of these borrowers and force them to incur a succession of growing debt.

## CENTRAL CALIFORNIA

**THE PACIFIC LEGAL FOUNDATION**, a Sacramento-based nonprofit law firm, filed a federal lawsuit in attempt to remove a beetle from the endangered species list in order to avoid unnecessary costs towards their conservation. The valley elderberry longhorn beetle is native to the Central Valley. Its placement on the endangered species list forces landowners to relocate or replant them during projects for development and flood control, which can be costly. Despite the recovery of the beetle from its previous "Threatened" status under the Endangered Species Act, its protection has continued, and the plaintiff group comprised of seven property owners, levee maintenance agencies and farm bureaus is determined to save thousands of dollars in habitat protection for a species that allegedly no longer needs protection, although claiming that the lawsuit was its last resort. When the group approached the Fish and Wildlife Service with its notice of intent to sue, the Service responded that it did not have adequate resources to assess and delist within the 12-month time frame.

**GREEN APARTMENT COMPLEXES** in the Yolo County city of Woodland will be targeted towards local farm workers. The Sacramento/Yolo Mutual Housing Association is planning the Spring Lake community, a zero-net energy municipal. The complex will provide affordable green energy housing for agricultural workers and low-income families. Funding for Spring Lake comes from a \$30,000 grant from the Yocha

Dehe Wintun Nation, the city of Woodland, the US Department of Agriculture's Rural Development Housing Service, the California Department of Housing and Community Development. The complex will comprise of 101 units with two-, three-, four- bedroom apartments between Pioneer Avenue and Farmer's Central Road. 60% of the apartments will prioritize farm workers and their families. The cost of the nonprofit housing association is estimated to be around \$17 million.

**A PROPOSAL BY THE CITY OF ELK GROVE** to expand by 8,000 acres is being challenged by a coalition of environmental groups and the Environmental Council of Sacramento. The county commission will review the potential environmental impact of Elk Grove's expansion and redistribute a modified report. The new document will respond to the comments and criticisms of the original draft such as biological and agricultural resource issues and growth-inducing effects. Environmental leaders also criticized the original proposal's failure to address the Cosumnes River Preserve, the increased flood risk to Delta communities and the consequences of expansion on the long-deferred South Sacramento Habitat Conservation Plan. The proposal will be funded by the City of Elk Grove and written by Sacramento County LAFCO.

## SOUTHERN CALIFORNIA

**A STUDY BY PROFESSOR MARLON BOARNET**, of the USC Sol Price School of Public Policy, reveals the role of attitude in 2,125 Angelenos' decision-making about walking in their neighborhoods. In particular, it was found that subjects could be split into two groups: the walking-oriented and those harboring negative feelings toward walking. The latter group held steadfast to their habits, even those living in pedestrian-friendly neighborhoods with walkable access to services. The study found that disincentives to walking (such as high crime rates and the "corridor" structure

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of some communities) reinforced the negative attitudes of this group, whereas the same disincentives had a lesser impact on those with a positive outlook. The study concluded that planners must take the next step in addressing people's attitudes while they work on improvements in the "built and social environment." Retrofitting old neighborhoods may coax pre-disposed walkers out of their automobiles, but further research is needed to understand how best to influence non-walkers, according to Boarnet. He also emphasizes the importance of improving communications between public health professionals and urban planners, since the subject matter lies at the intersection of the two areas of expertise.

**A TENTATIVE "PACT"** between the city of San Diego and TY Investment Inc. will lease 64.3 acres along the San Diego River of the 106.6 acres owned by the city, acquired in 1933 for the dredging of the river and construction of a reservoir (that was never built) and gave way to golf course development. The lease will be on a month-to-month basis, generating more than \$237,000 annually. Terms for TY Investment include a payment of \$150,000 a year for 20 years, although payments for the two decades thereafter shall be determined by "future fair market value." The agreement also gives rights to the San Diego River Conservancy to develop a public trail on the riverbank, although the city of San Diego reserves its rights to monitor water quality and levels of natural surface and groundwater.

**BIKE NATION HAS AGREED** to a private investment of \$16 million in Los Angeles, where it will install 400 bicycle rental stations and 4,000 bicycles around downtown Los Angeles, Hollywood, Playa del Rey, Westwood, and Venice Beach. Bike-share stations will be added over the next 18 to 24 months despite "tough economic times" when public investment in a bike-share program is difficult, shifting the stage to private funding. The investment by Bike Nation has a minimum contract of 10 years and an estimated patronage of 100,000 according to the Mayor's announcement at CicLAvia, Los Angeles' occasional event for bicyclists and pedestrians. Similar programs already exist in Washington D.C., Denver, Montreal, and a handful of European cities, and a smaller version of the program is set to open in Anaheim later this year. The bicycles will be affordable and equipped with GPS technology, partly as a theft-prevention measure but simultaneously opening up opportunities for mobile interactions, such as smartphone apps to easily locate bikes.

**THE LOS ANGELES CHAPTER** of the American Institute for Architects (AIA) is laying groundwork for a Center for Architecture and Urban Design Los Ange-

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les, similar to those run by AIA chapters in New York, Dallas and Seattle. According to Nicci Solomons, Executive Director of the Los Angeles chapter of AIA, the primary goal of the new Center is to "engage the public and the industry regarding architecture and urban design," and provide a "collaborative space" for related local organizations. The Center will bring together the general public and specialists in an open forum of communication and interaction. A location has not yet been chosen.

**DEVELOPER MARCH GLOBAL PORT**, which had 10 years to build at least two airport or aviation-related developments occupying 30 acres combined at the former March Air Force Base in Riverside County, has been forced to default, fined, and given misdemeanor charges. Since July 2001, March had developed one building and an aviation fueling operation that has experienced a hazardous oil spill. An investor was willing to pay \$400,000 to extend the agreement by an extra year, but even so the developer had troubles coming to agreement, and negotiated with March Joint Powers Authority for at least three years with no consensus on a new development agreement. Part of the controversy revolves around March Global Port's deliberate misleading of the public in the approval phase by presenting wrong flight maps and operating a hazardous jet-fuel operation.

**THE LOS ANGELES DEPARTMENT** of City Planning has approved two new ordinances designed to streamline planning citywide. The Multiple Approvals Ordinance permits applicants to be heard concurrently by multiple city departments that must approve a given project and imposes common deadlines on all departments. The Core Findings Ordinance standardizes the findings that developers must present to different departments and therefore seeks to eliminate redundant or conflicting findings. Both ordinances are intended to streamline an approvals process that has long inspired derision from developers. They are part of a larger effort to comprehensively revise the city's Planning and Zoning Code, which was last overhauled in 1946.

**IN A LAWSUIT AGAINST A WIND ENERGY PROJECT** in Kern County, environmentalists argue that Southern California's growing wind energy industry is a danger to the endangered condors. In April, the Center for Biological Diversity, Defenders of Wildlife and the Sierra Club filed a federal lawsuit against the US Bureau of Land Management to prevent the proposal for a 100-turbine North Sky River wind project in the Tehachapi Mountains. Pine Tree, an existing wind farm near the North Sky River site, has reportedly killed at least eight golden eagles and environmentalists fear that the blades of turbines will harm endangered California condors. Wind-power advocates cite that no condors have been killed.

**OFFICIALS AT BURBANK'S BOB HOPE AIRPORT** approved two 30-year bonds for \$82.7 million to pay for a new rental car and parking facilities for a new regional transportation center. Officials hope that these projects will merge public transit and rental car facilities together to improve customer service. The bonds will be used to build a parking structure and new rental car facilities for a \$108.9-million transit center. Revenue (about \$81.6 million) from rental car companies will repay the bonds. The airport authority, passenger facilities charges and a \$1-million federal grant will pay for the rest of the project's cost (about \$26 million). Stage 1 of the proposal will involve a regional transportation center with a combined rental car facility, a transit station, a "moving sidewalk" and a new parking garage. Stage 2 will entail a new pedestrian bridge over Empire Avenue that connects to a Metrolink station and a redesigning of parking lots bordering to the airport.

**SIX FLAGS MAGIC MOUNTAIN** theme park, located in northern Los Angeles County, is accused of polluting the Santa Clara River. Allegations of water contamination were contained in a letter by a coalition of environmental groups to the theme park. The groups contend that Magic Mountain has been soiling the river systems with high volumes of runoff that carry bacteria, metals, toxins, and sediments among other pollutants. The groups plan to sue Six Flags for water pollution violations if it does not considerably reduce containments from entering the waterway between Ventura and Oxnard. The theme park's response stated a concern for improving the storm water procedure. Water runoff samples taken from the amusement park exposed high levels of copper, zinc, aluminum, iron, lead, and titanium as well as the existence of mercury, oil and bacteria. Possible causes for the pollution include excess from the park's irrigation system, the water used to rinse its midway, overflow from the waterpark and debris from the roller coasters and thrill rides. The amusement park may potentially be penalized \$37,500 for each day of violation. In the last decade, the theme park has paid over \$1 million in pollution violation fines.

**TAX CREDITS AND OTHER INCENTIVES** for struggling businesses will go into effect with the new Harbor Area enterprise zone. The new policy will go beyond the Los Angeles city and include the unincorporated Los Angeles County areas of Rancho Dominguez, Firestone, Watts, Willowbrook and Huntington Park. The new zone is intended to help the Property Owners Business Improvement District invigorate the San Pedro Avenue commercial business corridor and its historic downtown. The recalibrated boundary removed some residential areas and now focuses more on commercial and industrial strips.

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The new zone provides employer-hiring credits (up to \$37,440 over five years per year for each eligible employee), sales and use tax credits for equipment purchases, less parking requirements, lower interest on loans, business expense deductions and department of water and power rate discounts.

**WITH AN EYE TOWARD EFFICIENCY**, an Orange County grand jury is arguing to eliminate 27 special districts in the county. The Orange County grand jury reports that the separate governments are independent of one another and are not held accountable of their fiscal actions by the County of Orange or the State of California. According to the grand jury, these local entities engendered annual budgets totaling over \$718,000,000 and have undue access to funds larger than \$866,000,000. The grand jury is advocating for these special districts to be taken out of the county government tax system, consolidated by other agencies or privatized. The grand jury argues that these governments are inefficient and unnecessary, and should not be allowed to use tax dollars to fund their operations.

**SAN DIEGO COUNTY WATER AUTHORITY** will revive a proposal to transfer water directly from Imperial County and decide on a long-term plan for desalinating seawater in Carlsbad. The projects are part of the water authority's efforts to expand its water provisions and become more independent from the Metropolitan Water District of Los Angeles. The contentious relations between the two water suppliers have led to costly projects such as the \$400,000 plan to deliver water from Imperial irrigator to San Vincent near Lakeside and bypass MWD pipes for a portion of the local supply. The water authority's new 30-year contract will bind the agency to water purchases that are far higher than those of Metropolitan's. The plant's completion would produce enough water for 112,000 homes per year. Unfortunately, the rising prices of wholesale water are an obstacle towards the department's much-desired independence from MWD. The water authority sued MWD in 2012 for its growing water rates, arguing MWD's water prices were illegally arranged to penalize San Diego County for transferring water through Metropolitan pipes and subsidizing its water clientele through other resources.

**THE CITY OF SANTA CLARITA** will become the third largest city in Los Angeles County under a proposal to annex 10 square miles of land. The Los Angeles County Local Agency Formation Commission is considering applications for seven parcels of land that would increase the city's population of 177,500 by about 25,870 people. Copperstone, Elmsere Canyon and Soledad Commons were annexed on July 1st and North Copper Hill, Norland Road, South Sand Canyon

and Vista Canyon/Fair Oaks Ranch/Jakes Way/Sand Canyon are projected to be annexed by December 1st. The city and county will need to work out issues of property tax transfers and the consolidation will need to undergo a two-step process with LAFCO for approval.

**THE SOUTHERN CALIFORNIA** Association of Governments recently hosted the sixth annual Compass Blueprint Recognition Awards. Glendale's Safe & Healthy Streets Plan won the President's Award for Excellence. The plan installed over 230 bicycle racks and created a 3.5-mile. The second recipient of the President's Award for Excellence is the Western Riverside Council of Governments Home Energy Renovation Opportunity Program. The \$325 million plan produced 4,000 new jobs, 13,500 residential and 15 million kilowatts of energy savings. The Orange County Transportation Authority 4th Supervisorial District Bikeways Collaborative won for Mobility. La Mirada's Imperial Highway Specific Plan and Irvine Business Complex each won awards for Livability. La Quinta's Wolff Waters Place Affordable Housing Complex, which created affordable, below-market price living units for disadvantaged tenants, won for Prosperity. Long Beach's 4th+Linden Adaptive Reuse Project revived several dormant buildings in an economically vulnerable part of downtown Long Beach and won for Sustainability. The Artesia Boulevard Corridor Specific Plan redeveloped underutilized sites for residential and business purposes and won for Livability. Chino's 2025 General Plan won for Sustainability by identifying housing types and developing them without a public subsidy.

**THE CITY OF MALIBU** recently prevailed in a lawsuit against Santa Monica Mountains Conservancy's plan for overnight camping sites in its city. SMMC's plan had the backing of the Coastal Commission; however, the court decision significantly put a limit on the Commission's ability to interfere with city planning decisions and gave more Malibu jurisdiction over local land use policies. The City Council banned overnight camping in fear of potential fires – a vote to which Coastal Commission objected. The Coastal Commission tried to support SMMC's proposal with the Local Coastal Program Amendment Override, a seldom-used tactic. The three-judge Court of Appeal's ruling decided that Malibu will be able to develop policies and work with the Conservancy in regards to creating parks and trail systems. SMMC and the Mountains Recreation & Conservation Authority states are still committed to increasing public access to Malibu public parks and plan to re-file the previous Coastal Commission-approved proposal.

—Compiled by  
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# legal digest

## County's Oak Woodlands Plan Cannot Sidestep EIR Process

*In the most recent fee mitigation case, the Third District Appellate Court held that a county was required to prepare a tiered EIR*

BY KATHERINE J. HART

In 2004, the El Dorado County Board of Supervisors adopted a general plan. With that plan, the county adopted a programmatic environmental impact report (PEIR). The PEIR indicated that the development contemplated under the county's new general plan would have significant and unavoidable impacts on the county's oak woodland habitat and wildlife. The 2004 general plan identified two policies – options A and B – to assist in mitigating the impacts to oak woodland habitat.

Option A required that all projects impacting 10 acres or more of oak woodlands to replace lost habitat onsite at a 1:1 ratio. Option B required the development and implementation of an integrated natural resources management plan on or before 2009. The purpose of Option B was to provide an alternative to the 1:1 onsite mitigation required under Option A, and would allow developers to pay a conservation fee to mitigate impacts to oak woodland habitat.

The county adopted an oak woodland management plan (a portion of the integrated management plan) and Option B's fee program in 2008 based on a negative declaration. The county tiered the negative declaration off its 2004 PEIR, finding that there would be no significant environmental impacts that had not been previously analyzed in the 2004 PEIR and that the oak woodland management plan was consistent with the county's 2004 general plan.

The petitioner, the Center for Sierra Nevada Conservation, filed a writ of mandate challenging the board's approval of the oak woodland management plan and mitigation fee as a violation of CEQA and the county's 2004 general plan. The trial court denied the petition and the Center appealed.

### Discussion

The Third District Court of Appeal considered whether CEQA required an EIR to be prepared before the county adopted its oak woodland management plan and corresponding Option B mitigation fee program.

In reversing the trial court and granting the petition, the appellate court held that a tiered EIR was required because the 2004 PEIR did

arbitrarily selected certain oak woodlands for protection and excluded others. For instance, the management plan focused on valley oak woodlands (3,400 acres), but not woodlands comprised of value of blue oaks (42,000 acres) or interior live oaks. However, the 2004 PEIR did not differentiate between oak species; it merely stated that all oak woodland habitats in El Dorado County are important.

Oak woodlands in El Dorado County.



GARY WHITTON

not adequately study the potential impacts of the oak woodland management plan and fee program. Specifically, the court held that “the 2004 program EIR did not assess how any mitigation measures other than Option A could lessen the impacts of development on the county's oak woodlands.” (*Id.* at p. 1175.) The court noted that “[a]lthough the 2004 program EIR called for an Option B to be developed, it provided no guidance as to the fee rate or use to be made of the fees collected.”

The court also noted that it appears that in conceiving its oak woodlands plan, the county

Thus, adopting the oak woodland plan focusing only on valley oaks had the effect of excluding a majority of oak woodlands in the county from the mitigation measures to be funded by the Option B fee. As such, the appellate court concluded that “such discretionary action required an EIR to inform the County for the environmental consequences before it adopted the oak woodland management plan.”

Second, the appellate court found the 2004 PEIR never determined which measurement

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## >>> Revised EIR Must Analyze Different Conservation Plans

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metric for the conservation of oak woodlands should be used. Would the woodlands be measured by tree canopy cover or by total area (including the space between the canopies)? The county's selection of the canopy measurement method (identified in its initial study) would undoubtedly result in a significant difference in the amount of habitat to be preserved depending on whether the woodland being measured was open savannah or dense forest. Furthermore, the methodology would impact the amount of the fee to be paid under Option B to mitigate the loss of the oaks on their properties. In sum, the court said the measurement methodology should have been reviewed by an EIR.

Third, the appellate court discussed the Option B fee rate and usage for conservation purposes. It noted that the 2004 PEIR never set a fee rate or ascertained the type of parcel that would be required to pay the fee prior to development. Moreover, the record reflected different scenarios for the use of Option B funds (e.g., easement acquisition, fee/easement mix, and purchase of fee title to oak woodlands for preservation), the impacts of which were never studied in the Program EIR. Additionally, while the 2004 PEIR highlighted the importance of connectivity among preserved oak woodlands, the County deferred the issue until the other components of the integrated plan

were developed. Therefore, in acknowledging that Option B funds would not be spent on connectivity corridors (e.g., Highway 50 corridor), the oak woodland management plan was inconsistent with the 2004 Program EIR and its emphasis on protecting connectivity of habitat.

Fourth, the appellate court addressed whether the county could defer environmental review of the oak woodlands management plan until such time as the entire integrated management plan is adopted. As expected the appellate court held that environment review must precede project approval. "The county's approval of the oak woodland management plan had the effect of allowing developers to pay a mitigation fee instead of preserving a substantial population of trees onsite."

Finally, the appellate court held that the county's adoption of the negative declaration violated CEQA because evidence in the record supported a fair argument that significant effects will occur due to the oak woodland management plan and fee program. The 2004 Program EIR concluded that even with mitigation measures (e.g., Options A and B), impacts on oak woodlands would be significant and unavoidable. The County argued that precisely because the 2004 Program EIR contemplated impacts to oak woodlands as significant and unavoidable, the adoption of the oak woodland management plan would have no greater ad-

verse environmental impact, and thus, no EIR was required to be prepared.

In what was no doubt a *déjà vu* moment, the appellate court recounted its holding in *Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 354 – mainly, that CEQA calls for an evaluation of a project's impacts on the environment based on existing physical conditions, not on an existing general plan. Because the 2004 Program EIR did not discuss details of the Option B mitigation fee program (e.g., the fee rates, collection, usage, etc.), the court held that CEQA required the County to prepare a tiered EIR for its oak woodland management plan that includes a fee program prior to adoption of the plan. ■

*Katherine J. Hart is an attorney with the Sacramento law firm of Abbott & Kindermann, LLP.*

### ► The Case:

*Center for Sierra Nevada Conservation v. County of El Dorado* (2012) (January 20, 2012, No. C064875), 202 Cal.App.4th 1156

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## Implementation of Water Allocation Can Go Ahead with Old EIR

### *Imperial Irrigation District prevails over industrial users claiming unfair allocation*

BY WILLIAM W. ABBOTT

**IN NOVEMBER 2006**, the Imperial Irrigation District, based upon a negative declaration, adopted an Equitable Distribution Plan (EDP). The plan was designed to provide for the equitable apportionment of water to users in the event of a supply/demand imbalance. The governing board approved the plan, which provided for a straight-line method of allocation among agricultural users during shortfall peri-

ods. Agricultural users were the largest users in the district, with industrial users making up a small percentage of the remainder.

In 2007, IID adopted regulations implementing the EDP which provided more detail on allocations to non-residential users, including industrial. In adopting these regulations, the district relied upon the 2006 negative declaration. In 2008, the district adopted amended regulations, further refining the regulations. Language was added pertaining to new industrial water contracts. The district again relied upon the prior negative declaration, and relying in part on CEQA Guidelines 15162, concluded that no new environmental

review was required.

The petitioners then filed a CEQA challenge. The trial court denied the petition, determining that *Benton v. Board of Supervisors* (1991) 226 Cal.App.3d 1467 was controlling, and under the traditional substantial evidence test (as compared to the fair argument test), ample evidence supported the district's decision to rely upon the prior CEQA document. Petitioners dismissed their other claims without prejudice, then appealed.

At the outset, the appellate court wrestled with the effect of the dismissal without prejudice of the remaining claims, asking whether

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# >>> Agricultural, Industrial Water Users Face Off in Suit

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or not there was a final judgment subject to appeal. Concluding that there were no remaining claims, the appellate court would treat the judgment as final and proceeded to consider the merits of the appeal.

On the merits, the plaintiffs/ appellants first argued that Guideline Section 15162 was invalid as it facially applied to both EIRs and negative declarations, whereas the enabling statute, Public Resources Code section 21166 only pertains to EIRs. Relying on *Benton*, the appellate court rejected this challenge. Shifting next to the substantive CEQA claims, the appellate court applied the substantial evidence in assessing the IID's determination that there had not been a substantial change in the project requiring additional CEQA review. This is a factually intensive inquiry, and the appellate court compared the 2008 revisions to the regulations adopted in 2007.

The primary area of legal debate centered on whether the 2008 amendments changed the priority of industrial users to the detriment of agricultural users. As a matter of regulatory interpretation, the appellate court concluded that the 2008 changes did not materially affect the priorities established in 2007. Pointing to the allocation of water to an industrial (geothermal) project in 2008, the opponents also argued that there had been a change in circumstances surrounding the project, necessitating an EIR. As framed by the opponents, the granting of the contract for a user of 6,000 or more annual acre-feet, in conjunction with the alteration in priorities, constituted the type of changed circumstances under CEQA necessitating an EIR. Having determined that there was no material change in allocation priority between 2007 and 2008, the court rejected this argument as well.



TOM GRUNDY

Rows of lettuce extend into the distance on an Imperial Valley farm.

## Comment

Picking the right second (or third) generation CEQA document requires a thorough understanding of the initial action along with the relationship of the second action to the first, and probably a little bit of luck. *Abatti* involved the evolution of a policy to an implementing regulation followed by a later regulation. The passage of the statute of limitations on the intermediate regulation positioned the district to take full advantage of Guidelines Section 15162. In contrast, consider the very recent scenario in *Center for Sierra Nevada Conservation v. County of El Dorado* (2012) 202 Cal.App.4th 1156 where the lead agency was challenged in its transition from a general plan policy to an implementing regulation, and the appellate court rejected the use of a negative declaration following the earlier EIR. ■

*William W. Abbott is a partner in the Sacramento law firm of Abbott & Kindermann, LLP.*

### ► The Case:

*James Abatti v. Imperial Irrigation District* (April 26, 2012, D058329) \_\_\_ 205 Cal. App. 4th 650 ; 2012 Cal.App. LEXIS 496

### The Attorneys:

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# New Light Rail Line Opens Up World of TOD Possibilities

BY JOSH STEPHENS

It's **NOT QUITE** the Golden Spike, but the completion of Phase I of the Los Angeles Expo Line light rail marks a momentous occasion in the history of westward rail expansion.

Built on an old trolley right-of-way, the Expo Line connects downtown Los Angeles with the Westside via rail for the first time in decades. Whereas Los Angeles' old Pacific Electric Railway had been built in virgin territory in order to spur new development, the Expo Line is but a filament, woven into built-up neighborhoods. Expo-adjacent neighborhoods are no streetcar suburbs, however. Now that the Westside once again has the "T," efforts to figure out the "OD" have only just begun.

The opportunity to explore a whole new typology on the Westside has planners and developers excited – and anxious.

"There are opportunities that exist along Expo that don't exist along other proposed or recently constructed alignments in California," said Abigail Thorne-Lyman, Director of the Center for Transit-Oriented Development at the transit advocacy group Reconnecting America, which published a major report on TOD in Los Angeles County in 2010. "But there's these issues of equity that need to be somehow addressed and mitigated."

On its eastern end, the Expo Line serves ideal destinations: downtown and the University of Southern California, with over 50,000 students and staff. The Expo Line cuts transit travel time between downtown and USC to seven minutes from almost a half-hour. On the north side of campus, a massive planned residential and retail complex, The Village, is being touted by USC officials as a 10-minute walk from the two stations.

Heading west, the Expo Line presents seemingly ideal opportunities for transit-oriented development. Residents who live along the line might never have to endure the 10 Freeway ever again. A second phase is expected to connect to Santa Monica in 2015.

"The Expo Line Phase I has significant opportunities for the whole area and significant opportunities in terms of increasing the housing stock for the area and opportunities to make the Expo stations regional hubs for housing development," said Faisal Roble, senior city planner for the city's Southeast Region.



STEVE HYMON / METRO

A train stops at the La Cienega station of Los Angeles' new Expo Line light rail line. The line runs through built-up neighborhoods whose density complicates efforts to introduce new transit oriented development.

Los Angeles City Council Member Bernard Parks, whose district includes much of the Expo Line's route, envisions mixed-use development at higher densities than the area currently has. He said he supports zoning changes to allow more mixed use development and higher elevations. Currently, land use in the area is segregated, with commercial strip malls clustering at major intersections and residential neighborhoods off the major boulevards.

Roble estimated that Phase I, which cost \$930 million to construct, could prompt the development of up to 6,000 new housing units in the area by 2030.

However, South Los Angeles offers few easy places to put any new development, much less 6,000 units. Simply put, vaunted TOD's like Oakland's Fruitvale Station or Walnut Creek's Contra Costa Centre have are difficult to insert into the urban fabric of South Los Angeles. Thorne-Lyman equated Expo with San

Francisco's 3rd Street line, a streetcar-style line that runs through the low-income area of Bayview-Hunters Point.

Unlike many of the great east-west boulevards in Los Angeles, the line's namesake, Exposition Boulevard, is a secondary thoroughfare fronted largely by relatively low-density residential uses and even some light industrial uses, such as auto yards and recycling centers. The line's six stations between USC and its current terminus at the intersection of Venice and Robertson boulevards do not have ready-made urban villages.

"In terms of the retail and office development, the opportunities are limited precisely because the stations along the Expo Line probably cannot compete with the adjacent downtown districts that we have," said Roble. Roble added that commercial development will likely include "neighborhood-oriented retail uses and

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# >>> Parcel Assembly Holds Key to Expo Line TOD

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small offices, such as doctors offices, dentist offices and others that the community relies on a daily basis.”

Inserting new development will, therefore, be incremental and subtle.

“I think the community fully endorses development as long as development is not overdone...as long as it’s bringing amenities to the general public,” said Los Angeles City Council Member Bernard Parks, who represents much of the area through which Expo passes. “I don’t think we’ll have a drastic change in the types of communities in the district.”

The main challenge is that of finding parcels large enough to make transit-oriented development – either mixed use or wholly residential – worthwhile. Developers could attempt to assemble parcels, but in order to get the acreage they would need, they might have to negotiate with dozens of small landowners.

“There’s a lot of small, teeny parcels and there’s all this weird industrial property, and it certainly seems like it could be refurbished, but that’s going to be a challenge,” said Hornstock.

This process will, of course, have to take place without the assistance of a redevelopment agency.

“With the fall of redevelopment, we’ve lost a significant tool in the process to assemble large enough properties together to make it meaningful and worthwhile to do a larger-scale project,” said Tom Wulf, a senior vice president at Lowe Enterprises. Wulf’s firm has a development agreement in place for a large mixed use development, including a hotel, 150 residential units, and nearly 200,000 square feet of office space, at the Culver City terminus.

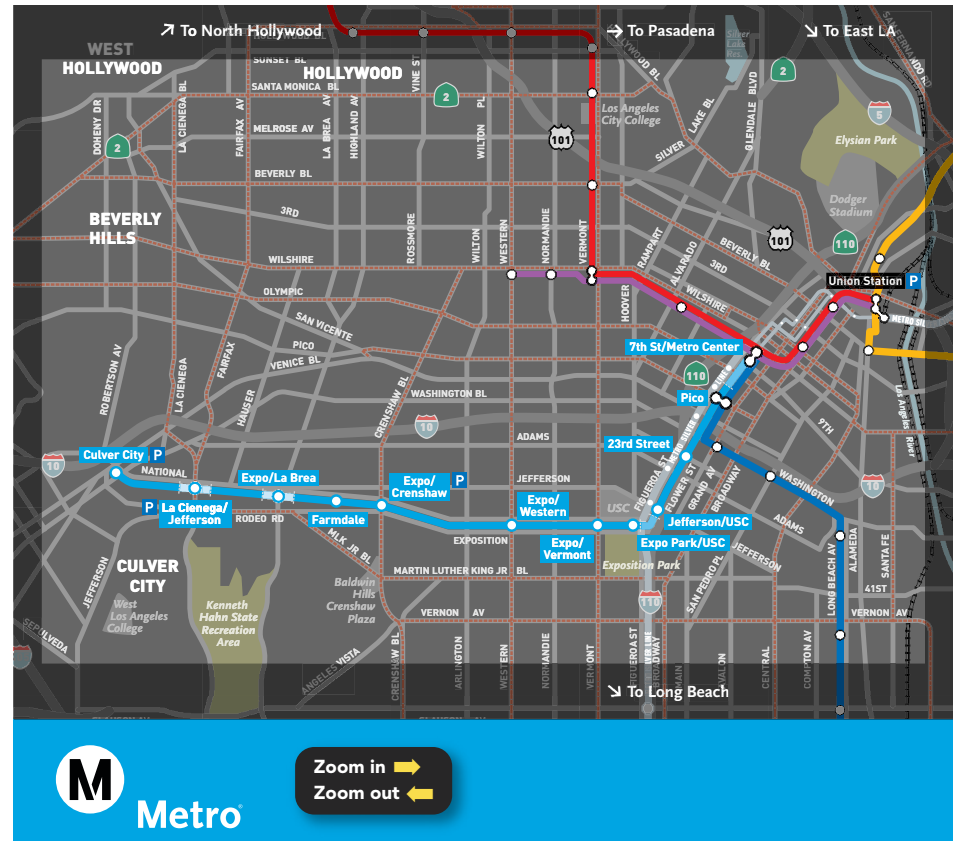
(Several other major TODs are planned for the Culver City end of the line, where larger parcels have been available and the city has been aggressively promoting development.)

Moreover, Roble said that many of the lots directly adjacent to the line are relatively shallow. So, he said, much of the new development associated with the line could take place several blocks from the line itself.

The Los Angeles Department of City Planning has been developing what it calls a Community Plan Implementation Overlay (CPIO) District, which superimposes certain rules on TOD-friendly areas – generally a quarter-mile radius around a station – without changing the areas’ respective community plans. These overlay zones are going in around dozens of transit stations in the South LA planning area, including existing Blue Line and Green Line stations.

Mindful of community opposition to rampant development, planners have devised incentives to promote what they consider beneficial, neighborhood-serving uses – and to gently nudge-out nuisance uses. Roble said, for instance, that a development that includes a health clinic or that installs extra greenery will get certain perks, such as allowances for in-

(By contrast, Metro has been a major developer along the Red Line, where the agency has considerable landholdings.) Metro has developed a grant program to help local planners develop and implement TOD plans around its stations, and Los Angeles has received \$3.1 from that program to draft a specific plan for Expo.



COURTESY METRO

creased density.

“We will look at elements that have inhibited place-making, such as recycling, tire shops, all the nuisance uses that plague our corridors will now be regulated through the CPIO,” said Roble. “The beauty of this overlay zone is that it’s a focused element within that community, as opposed to a specific plan that would be very comprehensive.”

Roble said that the CPIO will not prohibit unwanted uses but rather will control them by imposing maximum numbers of “placemaking-inhibiting” uses in a given area and making sure that they are spread out.

Though it controls some small parcels along the line, the Los Angeles Metropolitan Transportation Authority has taken only a tangential role in promoting TOD around Expo.

“Funding is to promote any kind of regulatory change that supports transit oriented development,” said Jenna Hornstock, Deputy Executive Officer and Countywide Planning at Metro. “It could be an amendment to an existing plan, a specific plan....anything like that.”

Metro officials hope that increased development will equate with higher ridership. However, they acknowledge that, no matter how much TOD is built, not everyone will be riding the train.

“While we’re super-excited about the Expo Line and, I think, over time it’s going to alleviate traffic, any time you bring in density to the really congested Westside people are going to say you’re bringing in more traffic,” said Hornstock.

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## >>> Expo Line Beckons Mixed-Income Housing

### DESIGN GLITCHES ADD PRECIOUS MINUTES TO EXPO TRIP

**MANY OF THE YOUNG URBAN PLANNERS** in Los Angeles live exactly where you'd expect them to live: the dense, colorful, decidedly urban neighborhoods in and around downtown Los Angeles. They ride bikes and take trains and, in many ways, live the life that they are trying to design.

Then there's me. I live on the Westside. So the Expo Line light rail, currently running from downtown to Culver City and, eventually, to Santa Monica -- is as close to a godsend as I'll see in my lifetime. (I'm not holding my breath for the subway.)

While you just need to look at a map to see that the line, in whole, serves us Westsiders nicely, I can't help but lament that Metro botched up some important details. It's important to remember that the speed of a transit line doesn't depend only on how fast the rolling stock moves but rather on the speed, ease, and comfort of the entire trip, door to door.

Put together, Expo suffers some annoyances that could turn off discretionary riders:

- Los Angeles Times architecture critic Christopher Hawthorne has already excoriated the "aggressively banal" design of Expo's stations; I can hardly improve on his assessment. The platforms and their canopies are flimsy, spare, and forgettable. The "weaving" metaphor is both untrue (South LA and the Westside are not quite a big, happy, multicultural families), and it's incomprehensible in the design. You should watch out anytime architecture is based on a metaphor—and an untrue one, at that.

- Though Metro's otherwise convenient parking structure at the La Cienega/Jefferson station sits on a major corner, it has only one driveway. And it allows drivers to exit in only one direction: eastward. The problem is, anyone who's going to be parking there will naturally be heading anywhere but east, meaning that everyone has to do a confusing, and perilous, three-point turn on to side streets.

- The La Cienega platform hovers tantalizingly at eye-level with the parking structure's third floor. Yet, the absence of a bridge (albeit an expensive one) means that commuters have to go down a set of stairs, cross a street, and climb up more stairs to get to the platform.

- Inexplicably, Expo's ticket machines are not located on the platforms. Some don't even seem to be located in the same zip codes as the platforms. Metro them at street-level for elevated stations and some of the machines for at-grade stations are across the street. Since Metro's light rail trains run on an honor system, latecomers have every incentive to jump the turnstile, as it were, if they're in even the slightest hurry.

- The ideal rail platform is no platform at all. In many European cities, you just step off the train where it stops. Maybe you have a bit of a curb to designate the stop and make egress easier. On the Expo Line, even the at-grade stations present a gauntlet for riders. For instance, the Pico Bl. platform funnels riders off the train in the wrong direction, backwards into wall of an adjacent building -- without any wayfinding to help riders to likely destination: the heavily trafficked Staples Center/Convention Center complex two blocks away. In fact, it's set up so that if you want to get to Figueroa Bl., you basically have to cross and re-cross the tracks and then jaywalk across Flower St.

- Finally, Metro has populated the Expo Line with what seems to be its most decrepit pieces of rolling stock. I don't think that Westsiders necessarily need rail cars straight out of the wrapper. But dingy, banged up, graffiti'd cars don't exactly complement an otherwise pristine line.

So if you park on the top floor of the La Cienega garage, fumble with your cash, and get turned around at Pico, you're going to be out of luck if you expect to arrive in time to see Andrew Bynum dominate some fool at the opening tipoff.

These complaints may be trifles for any given passenger, but, collectively, they are nontrivial in a business that operates on the margins and in volume. Compared to driving, a 10-minute savings might attract a slew of discretionary riders, whereas a 5-minute savings might not. On a potentially transformative project that cost almost \$1 billion, these are all solvable problems that would have made a promising piece of infrastructure that much more useful.

I'll gladly ride Expo when I can. But my Eastside friends know that they can still expect me to be late to the next downtown urban planning happy hour. I may need a few minutes to find parking.

—Josh Stephens

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Perhaps the most delicate issue facing planners is that of addressing affordable housing. The Expo Line runs through relatively poor neighborhoods filled with older housing stock. In a city with a chronic shortage of affordable housing, city officials are wary of anything that would displace existing residents. Some affordable housing advocates claim that TOD tends to push out less affluent residents -- who are often the most transit dependent -- and lead to gentrification.

"Do we keep the housing stock that's there to preserve the low-income residents or are there opportunities to develop something that's a higher-quality building stock or adding more units near transit in really location-efficient areas?" said Thorne-Lyman.

Parks said that he favors new commercial/residential mixed-use development, which can add amenities while maintaining the number of residential units.

He does not, however, want to be dogmatic about pursuing affordable housing.

"I think affordable housing is important," said Parks. "But I don't believe that you can build a community only with affordable housing. You don't have a community unless you have a balance."

Acknowledging that developers find it "excruciating" to seek entitlements and lobby for rezoning when they want to build high-density projects, Parks hopes that the CPIO and new community plans will make the area more welcoming to developers.

"I think developers are often looking for places that they can be certain about the development requirements and what can be built by-right," said Parks. ■

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# Strategic Plan, Grant Programs Drive SGC's Agenda

BY JOSH STEPHENS

**WITH FUNDING SCARCE** and plans large and small in abundance, the latest round of Sustainable Communities Grants and Urban Greening Grants awarded by the Strategic Growth Council come as welcome relief to cities, counties, and other agencies. Last month, the SGC announced that it would award \$24.6 million in Sustainable Communities Planning Grants and \$20.7 million in Urban Greening Grants. Both programs are funded by the clean water bond Prop. 84. *CP&DR* recently spoke with SGC Executive Director Heather Fargo about the grants and the myriad of projects that they will fund.

**CP&DR:** How strong were the proposals for the sustainability grants?

**HEATHER FARGO:** I was excited about the projects we recommended. There's quite a diversity of projects, both geographically and in what they're going to be doing. But they all seemed more sophisticated and further along than the first round of grants. I think it helped that we posted the application for what had been funded in Year One.

People are doing more collaboration, in part because we're requiring it for the grants, but I think it's working out for people. I think there's a lot of conversations about what people can do and how they can work together. Some of the MPO's are working on implementing their SCS's for cities and counties. It's very positive.

**CP&DR:** Do the SCS's make matters more urgent for applicants? Did it help put them in the mindset to do these kinds of projects?

**HF:** The SCS requirements certainly have motivated the MPO's. They have deadlines. The cities and counties are actually applying for things that will help them implement those SCS's. MPO's can do a great plan, but they don't have land use authority. So unless the cities and counties decide that it's a good idea and actually implement it, nothing happens.

We're seeing MPO's work side-by-side with cities and counties, we're seeing cities and counties wanting to work on a very wide range of things: active transportation, climate action plans, and economic development components of their general plans. This year we're funding the County of Tulare. They're going to be working on improving water systems to a number of communities in their county by connecting them to an existing wastewater system. So we're seeing some longstanding infrastructure issues that are being taken care of, which is very encouraging.

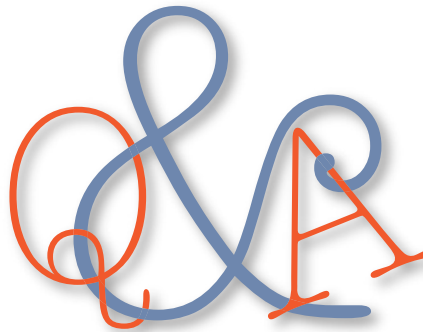
A few years ago people were not really ready to embrace the concept of climate change or the need for adaptation and were still in kind of a 'let's just build the subdivisions and move on' kind of mode. Now people are looking at their cities, downtowns and their neighborhoods and really thinking about how to make it work. I think the recession has given everyone some breathing room.

**CP&DR:** Did you get a sense of desperation or were there more applications from cities that are financially strapped?

**HF:** I'm not sure if there were more applications. I think it was actually fewer than last year. Certainly it's a very competitive program and there's a strong desire to get these funds. For many cities, general funds for planning are pretty scarce. The grants have allowed, I believe, people to keep staff on board. Some of the trends

we saw are that people are choosing to have their staff do the work, instead of consultants.

The advantage of growing that talent in-house and the ability to have people within your organization be able to follow through is very significant. You can have a consultant come in and do things, and that's not bad. But when departments use in-house staff, their knowledge improves...the models and tools that they have improve. So we're just seeing better planning.



WITH HEATHER FARGO



Heather Fargo, SGC  
Executive Director

**CP&DR:** Did anything change on your end?

**HF:** Not so much on the evaluations. We did change the method by which people applied. We had an online application instead of a paper form.

In some ways it made the application stronger because every question was there and you needed to fill it in. People couldn't skip sections. People thought more about SGC's different objectives and really did their best to either do something themselves or acknowledge that someone else is doing something. So maybe they weren't the ones working on water quality, but maybe someone else in the region was.

As for the actual projects themselves, people are looking at how they bring all these different things together. Merced, for example, is doing a programmatic climate action plan and implementing codes. They're trying to streamline their development review process and adopt a climate action plan in a unified design manual. So, for a city to have all of that in place, when someone does come forward who wants to do something, there's a lot of information readily available to keep the city on track and help the development community do the right thing.

**CP&DR:** How did the process of awarding Greening Grants resemble, or differ from that of the sustainability grants?

**HF:** One of the changes the urban Greening Grants made this year was a pre-proposal. Everyone could submit a 2-3 page proposal explaining what they wanted to do. Staff went through all of those – about 230 of them – and then gave certain projects the go-ahead. They told people not to submit if they're not going to be competitive, so they don't spend a lot of time on your application.

The Greening grants funded 50 projects, and 24 of them were over \$75,000. The small projects were not as competitive as we would have liked them to be. We actually had set aside \$2 million for projects that were under \$75,000 and we're funding \$600,000. They're good projects, but most of what we got were the larger projects. We funded 50 and the total was \$20,739,300.

Greening projects are just that: they're projects that are actual physical improvements. They're either putting in a trail system or stormwater bioswales or a tree-planting or community garden program. About 80% were in economically disadvantaged communities, which is a good thing. It's great to go into the core of Los Angeles and rip up asphalt and give students some turf to run on for a change. Some of the projects are within downtown areas and focusing on improvement and adding plazas, lighting and landscaping. Under Greening we also have a planning component: the City of Oxnard is doing a green Alleys Plan.

**CP&DR:** How hard it is to evaluate the impact of individual projects to decide if a project is deserving?

**HF:** It can be challenging. But the one advantage that you have with the greening

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## >>> SGC Adopts New Strategic Plan

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projects is that the staff actually goes out and visits the site. They see the neighborhood, they see the condition of the site beforehand. The people that are applying show up and explain it. It becomes a lot easier once you are there in person to say, “OK...this looked good on paper, but, boy, it’s not going to work for us.” It gives them a pretty good sense of what they’re looking for.

**CP&DR:** How many of the awards would you consider to be innovative, pilot project type of things, versus approaches that are tried-and-true but that these localities didn’t have the funding to pursue?

**HF:** It seems to me that, for every single one of these, somebody has done it somewhere around the world before. But applicants apply because, then, other small communities can do it too. They’re trying to be competitive but also trying to be as innovative as they can. That is one of the criteria. If you are innovative, then you end up being seen as a role model and potentially more fundable.

A fair number of them have components of innovation. And a lot of what is happening almost doesn’t seem innovative anymore. It’s not innovative to work with your public health office. But the reality is, when you look at health issues in conjunction with the environmental issues, that is happening in California but certainly not over the United States yet. A lot of these folks have brought in the business community or non-profits, or you’ve got the public works department working with the school district.

One innovating program is the Greening Grants people got their first signed agreement with the Los Angeles Unified School District. School districts aren’t eligible for grants, but one of the reasons why they’re not is that you want someone who is committed to open space, and even though some schools like that, if you lose a principal, the next summer, maybe they won’t water. They have to choose what their priorities are, and if you lose money, maybe the landscaping is it.

Overall, I think the program in and of itself is innovative. But we do get a lot of very interesting grants.

**CP&DR:** What are your hopes and expectations for Round III?

**HF:** There is about \$13 million left for the planning grants and \$18-\$20 million for the Greening grants. Greening we’re probably going to leave it as-is in terms of criteria and process. For the planning grants we’re going to take a step back and see if there’s some changes in the criteria we want to make or even looking at whether or not we want to change the categories of what we fund.

**CP&DR:** We’re going to look at whether there is

one part of the state we want to focus on. Is there a particular community that we really want to move forward, or is there a particular project we want to see?

**HF:** We want to make sure that SB 375 makes a difference. While the state is requiring the development of the SCS’s, there is no requirement for the cities or counties to follow through. The Southern California Association of Governments came in for a grant and their grant is going to be to help implement their SCS by providing general plan assistance to local jurisdictions and come up with monitoring tools so they can monitor the improvements of these cities and counties. The SCS’s are great, but unless a city or county follows through, it’s just a plan. So we are looking at whether there’s something else we might do. And of course we’ll have to have hearings or workshops to make sure that everyone has adequate input.

In light of not having redevelopment funds, there’s work going on in the legislature about redevelopment and how it might work. Part of what we’re trying to do is make sure that infill happens and inner cities are strengthened. There may be some component that might relate to that.

**CP&DR:** What are the highlights and what will it take to realize this plan?

**HF:** We did a strategic planning process and looked at the actual legislation, which outlines four main strategies for us to do. We came up with a series of 12 actions. Part of what we’d be doing is sustaining local governments and part working at the state level.

At the state level we’re looking at, how can we coordinate efforts between state agencies so that we can do better, both planning for sustainability and assisting local agencies to do the same. One of the things we’re working on particularly right now are the barriers to sustainable development and barriers to infill. We’re holding a series of meetings where we’re asking infill builders, what is keeping you from doing more? Are there barriers at the state level that we might be able to help with? Are these barriers local? What do we have to do to get more of the kind of sustainable development that we want in California.

Some of that is going to be a loss or lack of funding. Some of it is going to be local opposition. There’s a lot of things that we know about. We’re trying to figure out the priorities right now and how the state can help.

The other two main priorities are infrastructure planning at the state level: how do we make sure that when the state does its planning that it not only focuses on sustainability but also works with local government to make sure that they’re not creating yet another barrier.

The last of the priorities is trying to make sure that SB 375 is implemented and working with the MPO’s to make sure that that happens. They take the most

time because they’re pretty important.

The other things that we’re doing are also important, but they don’t take quite as much of our time. The grants programs, and the gathering of data are going to be made available to counties and cities free of charge so they can do better planning.

An outreach effort is also underway. We’ve contracted with UC Davis and they’ve subcontracted with the Institute for Local Government to make sure that we can share best practices. We’re developing a Sustainable Communities Learning Network so that people can talk peer-to-peer about what they’re doing and be able to steal ideas and borrow advice. Also, the Funding Wizard, at coolcalifornia.org, doesn’t need much from us except money, but that’s a resource for individuals and government to find out where the state and federal money is that relates to sustainability.

**CP&DR:** How much support do you have to achieve these goals, in terms of funding and staff? Is SGC well supported by this administration?

**HF:** SGC is definitely well supported by the administration. One of the most significant things is that secretaries of the agencies – who have many things they can do—do take the time to come to our meetings and they are engaged. Every agency has someone who’s assigned to work with us, at least on a part time basis. It would be even better if they could be full-time but the state is in a tough spot right now. For each one of these things that we’re working on we have staff from other state departments and agencies. So none of these are things that my staff and I are doing on our own.

For things like the barriers to infill, we’re talking with infill builders, with cities and counties, and with the American Planning Assoc. ULI – it’s not just us. ■

**EDITOR’S NOTE:** *The Strategic Growth Council announced at its meeting today that Fargo will be stepping down. Her departure date has not yet been set. This interview took place before word of her departure became known to CP&DR. Fargo had been promoted to executive director under former Gov. Arnold Schwarzenegger and, for the past year-and-a-half has worked under a council comprised largely of members appointed by Gov. Jerry Brown. Fargo was reportedly asked to step down by the council after a series of closed-door meetings over the past few weeks. Fargo previously worked in the California Dept. of Parks and Recreation and was mayor of Sacramento until losing to current Mayor Kevin Johnson in 2008.*

# San Diego Creates Public Corporation to Carry on Redevelopment

BY JOSH STEPHENS

**THE NEXT TIME A PADRE** hits one out of Petco Park or a tourist orders another round of Pacificos at a bar in the Gaslamp District, many San Diegans will thank the Centre City Development Corporation. If a new plan succeeds, future kudos will go to Civic San Diego.

While many cities will retain fond memories of their redevelopment agencies, few were so lauded as CCDC, which, along with its lower-profile sister organization, the Southeastern Economic Development Corp., employed a novel combination of redevelopment and regulatory power in order to revitalize downtown and southeastern San Diego, respectively.

With the demise of redevelopment, Civic San Diego – approved last week on a 7-1 vote of the San Diego City Council – combines the two nonprofit, public benefit corporations into a single entity. The boards of both corporations had previously voted in favor of the merger.

The new entity will initially receive nearly \$6 million in funding, largely from parking meter revenues and permitting fees. Civic San Diego will support 32 staff positions, down from the 58 at CCDC and SEDC. And it will continue to process land use entitlements in these two areas, just as it did before.

Civic San Diego's immediate tasks will center on the wind-down of redevelopment and the administration of approved projects. In the long-term, it will pursue a broad mandate to stoke economic development in its project areas. Eventually, Civic San Diego's purview could expand citywide.

"I think the merger is a smart move for the city, given the fact that redevelopment and our primary funding source to implement projects has been eliminated by the state," said Jeff Graham, CCDC's vice president of redevelopment.

If the city is to retain control over planned redevelopment projects, Civic San Diego will implement them in some of the city's neediest areas while also pursuing broader economic development goals.

"It's going to be a challenge," said Jerry Groomes, former president of SEDC. "But what it could mean is that we can continue to focus on this part of San Diego, the southeastern part, we can continue to implement those projects that are legally obligated or otherwise

approved."

Though it will not enjoy the largesse of tax-increment financing, Civic San Diego has a broad mandate to direct redevelopment in its project areas. Though Graham admitted that the details are "really a blur right now," Civic San Diego will, in broad terms, attempt to stoke private development and provide public infrastructure improvements just as redevelopment agencies did.

To accomplish this goal, the new organization will have to be single-minded, at least in its early stages.

"We have to go out and make our number-one priority finding new funding sources," said Graham.

While money may be scarce, city officials say that Civic San Diego will retain one crucial advantage over traditional redevelopment: the power to direct land use planning.

Considered unique among California's former redevelopment agencies, both CCDC and SEDC served jointly as their respective areas' redevelopment agencies and planning departments, with zoning and permitting powers independent of the City of San Diego Planning Division.

Developers say that this arrangement was ideal for redevelopment and will continue to serve Civic San Diego well.

"The beauty of CCDC has been that because it's an independent, separate corporation, they've been more nimble in terms of being able to process land use entitlements and development permits," said attorney Robin Madaffer, a former district chair for the San Diego/Tijuana Chapter of the Urban Land Institute.

To promote development downtown, CCDC implemented a master environmental impact report, which essentially created ex ante approvals so that developers would not have to shoulder the burden of conducting their own, individual EIRs.

"The planning power that generally is associated with the CCDC and the ability they had to expedite things downtown was due to the fact that they had an overall master EIR that allowed the fast-tracking of projects," said Groomes.

As well, by bundling redevelopment and planning under the same roof, planners and redevelopment staff could ensure that redevelopment

plans matched up with zoning codes and project approvals.

"It was critical in having being able to negotiate a public-private partnership with our redevelopment project managers for a particular project downtown and having, in the same shop, the planners and permitters who will be doing the design review and taking the project forward," said Graham.

By retaining those powers, Civic San Diego may continue to stoke development even without its predecessors' deep pockets.

"I think having Civic San Diego control its own planning functions for its geographical boundaries and be able to issue the permits gives it the ability to be more nimble and responsive," said Madaffer.

Last week San Diego Mayor Jerry Sanders reportedly told a group of business leaders that he hopes that Civic San Diego can expand citywide. He praised the organization's potential for efficiency and quickness in issuing permits. He also reportedly implied that the developers would feel comfortable doing business with Civic San Diego.

As cities across the state struggle to devise replacements for redevelopment, San Diego may have taken an early lead – and may provide a model for other cities.

"Being able to keep that in place is a light at the end of the tunnel in this whole redevelopment demise," said Madaffer. "It will be a model for the rest of the state to pick up the pieces and be able to implement the things that are important and the good things about redevelopment: economic stimulation, affordable housing." ■

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# Unexpected Opposition Dooms Parking Reform Measure

BY JOSH STEPHENS

EVER SINCE THE 2005 publication of UCLA professor Don Shoup's book, "The High Cost of Free Parking," the relaxation of parking minimums has been seen by many planners as the next best thing to manufacturing new land. Yet, the introduction of a bill that would enact a modest page from the Shoup playbook roused opposition from a surprising source: the American Planning Association.

Last month Assemblymember Nancy Skinner (D-Oakland) introduced, and then soon rescinded, Assembly Bill 904, which would have required cities to impose reduced parking requirements in transit-oriented areas. The goal of the bill, which been promoted primarily by the Infill Builders Federation (formerly Infill Builders Assoc.), was to promote the development of housing by reducing parking requirements and therefore making development less expensive in areas well served by public transit.

Among other provisions, the bill would have prohibited cities from imposing minimum parking requirements of more than one space per residential unit or 1,000 square feet of commercial space in "transit-intensive areas" – defined, with certain qualifiers, as areas within a half-mile of a major transit stop.

Both California APA and the League of California cities officially opposed the bill and are considered catalysts in its demise. The League contended that AB 904 would impose an untoward, uniform requirement on cities statewide. Dozens of cities opposed the bill, including many – such as Turlock, Chowchilla, and Shasta Lake – that do not even have high frequency transit, as it was defined in AB 904.

"The primary issue is that it's a one-size fits all statewide standard," said APA California Vice President for Policy and Legislation David Snow. "While APA supports the concept that this bill puts forward...from APA's perspective, a uniform standard from the state that doesn't take into account local considerations isn't the appropriate way forward."

APA California also contended that, by with lower parking requirements, cities would be less inclined to support transit and to support higher, denser infill development. APA California acknowledged that many cities want to "grow up and not out" and calls such a strategy "responsible." In that sense, the APA and Infill Builders Association would typically be considered natural allies.

"The APA's best-selling book is The High

Cost of Free Parking," said Mott Smith, a founding board member of the Infill Builders Association. "It's a bit weird that they would have this reaction." Shoup himself has publicly expressed his support for the bill.

Though Snow contended that the bill may have been unduly limiting, Shoup's thesis – shared by many of AB 904's supporters – is that many existing parking standards are arbitrary and inefficient, and therefore are limiting in their own right.

"It's a relaxation of restrictions, not an imposition of restrictions," said Smith.

A similar bill, AB 710 (also sponsored by Skinner), met its demise last year when the League of California Cities and some nonprofit housing developers raised two major objections: the bill would impose improper uniform standards statewide, and it could undermine the parking bonus provision of SB 1818, which promotes affordable housing.

Supporters say that this year's version (introduced as a gut-and-amend bill) was far more flexible than last year's. It enabled cities to opt out of the law if circumstances on the ground meet any of four criteria. Supporters also say that, on balance, reduced minimums would promote affordable housing by making the production of both market-rate and low/moderate-income housing easier.

Once California APA expressed skepticism about the bill, the ensuing struggle inspired a nearly instant, and unusually spirited, debate among land use professionals once Cal APA's email alert went out. Few bills in recent memory have created such debate among planners who consider themselves progressive.

"The recent decision by Cal APA to oppose progressive transformation may actually hint at a larger chasm that is emerging between two distinct schools of thought," said Will Wright, director of government and public affairs for the Los Angeles chapter of the American Institute of Architects. Wright characterized the debate as a "lively" one of "classic old school sensibility versus progressive thinkers."

Though many groups that did officially oppose last year's AB 710, California APA does not appear in the bill's list of official opponents, dated August 26, 2011. Snow claims that the group was involved with last year's discussions.

"We had conversations with the bill's authors," said Snow.

Snow said that California APA's opposition to AB 904 arose relatively suddenly because it

had not been privy to the bill language had not been able "to work in a thoughtful and productive manner to resolve issues with the infill proposal given the shortened period with which to work on the proposal."

Smith said that he bill includes provisions that were specifically designed to respond to concerns voiced last year. To opt out, cities would have to demonstrate one (or more) of the following in a transit-intensive area: insufficient walkability, insufficient transit, conflicts with existing parking standards designed to promote transit oriented development, conflicts with existing station-area plans that seek to reduce off-street parking.

"These certainly provide flexibility," said Snow. "I don't think they get us over the hurdle of having a statewide standard and imposing the burden."

In particular, Snow noted that cities would have to expend money and personnel in order to present findings and comply with the bill's Jan. 1, 2014 deadline.

"I think that this is shifting a burden to local governments at this point that this isn't necessarily the right time for that with all the other difficulties and issues that local governments are facing," said Snow.

Smith said, however, that findings could be made with "a few hours" of work, because the bill intentionally set a relatively low bar for opting out and supports local control. He countered that under current conditions, cities that do want to reduce their parking requirements often have to go to great lengths to do so.

"Countless cities throughout California would like to have more infill-friendly parking standards," said Smith. "This bill gives cities basically a gift certificate to accept relaxed parking standards if they want them."

"We don't want people to opt out of this capriciously," added Smith. "But at the same time we made the findings broad and inclusive so any city that legitimately wants to opt out."

Smith said that a piecemeal approach will not help individual cities, nor will it contribute to the statewide effort to reduce vehicle miles travelled in major metro areas. With the bill now dead, supporters of parking reform have vowed to continue to push the issue. ■

**EDITOR'S NOTE:** A version of this article was published online while AB 904 was still being discussed in the legislature.

## >>> State Can Garnish City Funds Under RDA 'Cleanup' Bill

— CONTINUED FROM PAGE 1

redevelopment itself, were based purely on tax increment money, AB 1484 garnishes funds from municipal sales and/or property tax revenues.

Because of this so-called “tax claw-back” provision, many local officials are incensed, claiming that AB 1484 is an unprecedented intrusion into local affairs.

“Draconian is an overused word and probably isn’t strong enough,” said Larry Kuhn, city manager of Vacaville.

The claw-back ties the fate of redevelopment agencies to that of their host cities in new, powerful ways. Redevelopment agencies had been wholly separate entities from their host cities, and the vast majority of host cities agreed to serve as successor agencies only because AB 1X 26 treated successor agencies as separate legal and financial entities. AB 1484 changes that relationship by forcing cities to pay assessments from their own tax bases.

“Had this type of penalty been included in the original dissolution bill, many cities would have thought twice about becoming the successor agency,” said Robertson.

DOF informed every city of its required payment — many cities owed nothing, while others owed in excess of \$10 million — on July 9, and the payment was supposed to be made by July 12. City officials have complained of the inordinately quick turnaround (as a trailer bill, AB 1484 was drafted and approved with relatively little public discussion), and many say that their assessed payments are much higher than they ought to be.

Many cities paid their assessments in order to avoid a penalty of 10% of the amount owed imposed by AB 1484. But they have done so under protest, thus reserving the right to challenge the amounts owed and possibly get refunds once DOF recalculates the amounts. McKenzie said that the League does not yet have an authoritative account of AB 1484’s assessments or cities’ responses statewide.

Even if some cities’ burdens are lightened, many will find themselves in dire financial straits.

“The real threshold of pain here is the potential to lose tax revenue and to pay fines when it’s such a hard time for cities and they’re already losing redevelopment,” said Larry Kosmont, a consultant who is working with

several cities on their dissolution process. “I think there will be some causalities.”

The bill received overwhelming support from Democrats in Sacramento. Sen. Alan Lowenthal was one of the few who objected.

“The claw-back should never have been approved,” said Lowenthal. “It turns an already difficult situation for the cities into one that is intolerable.”

Brown’s argument, however, is that the state’s budget woes are less tolerable still. The

“If you’re going to have a dissolution process, someone has to enforce it. It’s either going to be someone like the DOF or the attorney general. No one is going to like to be put in the position of sheriff.”

— Larry Kosmont, consultant

funds identified in AB 1484 would be dedicated to education and therefore indirectly relieve some of the state’s budget woes.

“County auditors are sending bills to successor agencies based on the calculations done by the state of dollars owed to counties, cities, schools, community colleges and special districts,” said Evan Westrup, spokesperson for the governor.

While almost everyone in the redevelopment community had clamored for a fix to the hastily drafted dissolution legislation, AB 1X 26, AB 1484 was not what they had in mind. AB 1484 includes many provisions — inserted nearly verbatim — from AB 1585 (Perez) and SB 986 (Dutton), which had broad support but failed in the legislature. The penalty provision and DOF control thereof was not, however, part of those bills.

“We said, fine, put a penalty in it for the successor agencies if they don’t follow the law, but we want a judge to stand in judgment not a department of state government that has

proven time and time again that their number-one agenda is to take as much money as possible,” said McKenzie. “It’s really unfair for everybody involved for DOF to play the role of judge, jury and administrator.”

McKenzie also suggested that garnishing city property and sales taxes was a violation of Proposition 22, the 2010 ballot measure that protects local government funds. AB 1484 would, therefore, be unconstitutional.

While cities see the penalties as excessive, DOF may have had little choice if it hopes to reap the estimated \$3 billion that dissolution was supposed to reap for the state this fiscal year and last year.

“If you’re going to have a dissolution process, someone has to enforce it. It’s either going to be someone like the DOF or the attorney general,” said Kosmont. “No one is going to like to be put in the position of sheriff.”

Since Brown first proposed redevelopment dissolution in January 2011, those estimates have been revised downward, with some saying that the state will net less than \$1 billion.

Then again, AB 1484 includes provisions that may confer significant benefits on cities and that undo some of the clunkier provisions of AB 1X 26. For cities whose books are in

order and do not owe anything to their taxing entities, AB 1484 is largely positive.

“I think it actually did some very good things for successor agencies and cities,” said Tiffany Bohee, interim executive director of San Francisco’s successor agency. “In San Francisco we didn’t have anything disputed on the two ROPS that we submitted...no dispute whatsoever. We worked very hard to comply with every aspect of the law before and after.” ROPS refers to “Recognized Obligation Payment Schedule,” the semiannual list of items that successor agencies must submit to DOF in order to receive state monies to pay for what they claim are legitimate debts left over from redevelopment activities.

Cities that are not quite so liquid as San Francisco have to muddle through a thicket of pros, cons, and pros that might actually turn out to be cons.

Cities’ ultimate fiscal liberation lies in what AB 1484 calls a “certificate of completion,”

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## >>> Trailer Bill Helps Cities Control Former RDA Properties

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which DOF issues once a successor agency has paid off all of the money it owes to the state and to local taxing entities; this includes the equivalent of the former 20% set-aside that it must pay into the Low-Moderate Income Housing Fund.

➤ Successor agencies do not have to conduct a fire sale to liquidate real property assets, as many had feared, and may retain properties for public purposes; those purposes can include redevelopment plans and even sale at a later date. Properties may be transferred to

one involved with RDA dissolution expects that AB 1484 will inspire litigation — on top of the rancor that it has already created.

“It’s a colossal house of cards. They’re not going to get the funds that they wanted, and, more importantly, poisoned the well of the relationship between the state and cities by over-reaching, by being punitive, and by being extremely disrespectful to their peers at the city level.”

Whether it is respected or not, the state has vowed to fight for the funds that it believes taxing entities should receive.

“The state is prepared to do what we need to do to make sure the law is administered effectively and that counties, cities, schools, community colleges and special districts receive the funds they should under law,” said Westrup, Brown’s spokesperson. ■

“It’s a colossal house of cards. They’re not going to get the funds that they wanted, and, more importantly, poisoned the well of the relationship between the state and cities ...”

— Chris McKenzie, League of California Cities

Upon receiving a certificate of completion, cities and successor agencies receive the following benefits:

➤ Loan agreements entered into by cities and former redevelopment agencies are considered enforceable obligations so long as oversight boards deem them to have been for legitimate public purposes. Critics had contended that cities had loaned money to redevelopment agencies — and vice-versa — in order to shield money from the state. But some note that these loans were intended to help cities and RDA’s avoid bonding or bank loans, which would have incurred higher interest rates.

➤ Bond proceeds from bonds issued by the end of 2010 may be used for the bonds’ original intended purposes, according to their bond covenants. The prospect of having to defease bonds — at considerable expense — was considered one of the more egregious oversights of AB 1X 26.

cities. Successor agencies must draft property management plans, to be approved by their oversight boards and DOF.

Some are nervous that the certificates of completion will not be as final as they seem, since DOF could veto items on cities’ certificates when they review cities’ ROPS requests. Many city officials, however, are delighted by the provisions in AB 1484, in part because it allows them to continue with a semblance of redevelopment.

“The long-range asset management plan is actually very good because it provides great flexibility for cities and successor agencies to identify which of their properties or assets they want to keep or dispose of pursuant to existing redevelopment plans or purposes,” said Bohee.

Kosmont noted that with cities being able to control the fate of their properties, “the state will get a better land use result.”

Regardless of those benefits, almost every-

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## >>> Insight: Is California Experiencing ‘The Great Inversion?’

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This phenomenon is clearly true in the older cities. Washington, D.C., for example has added close to 10% in population since 2000. So has Philadelphia. These population increases were unimaginable a decade ago, and the resulting vitality in city neighborhoods is palpable.

But California, as usual, is an anomaly, for several reasons.

First, our central cities have not been losing population over the past several decades. To the contrary – they’ve been gaining population, primarily because of immigration from other countries.

Second, unlike in the Northeastern and Midwestern cities, an increase in population does not necessarily mean an increase in wealth. New city residents in California have generally been poor immigrants living in old, high-density neighborhoods. These neighborhoods are now vital – but they are not rich.

And third, California defies conventional city-suburban categorization. Yes, you can try. But it is necessarily a coarse measurement. For example, the City of Los Angeles includes some very suburban areas in the San Fernando Valley – while unincorporated L.A. County includes some very urban areas in East and South L.A.

Still, some trends are obvious. Population is dramatically on the rise in places like downtown San Diego and downtown Los Angeles – traditional business districts that have recently added a large number of housing units. In San Diego, the addition has come about mostly through new construction; in L.A., by converting old office buildings into lofts and apartments. The results are significant. The population of Downtown L.A. has grown from about 10,000 to about 50,000 in the last 10 years.

It’s fashionable to pooh-poo the downtown numbers as statistically insignificant. At least in L.A.’s case, they’re not. The population of the entire City of L.A. – approaching 4 million residents at this point – has grown by a little over 100,000 in the last decade. And somewhere between a third and half of that growth has occurred downtown. In a metro area of more than 15 million people, an increase of 40,000 might seem like a drop in the bucket. But when concentrated in a small, job-rich and transit-rich area, it can make a huge difference in the way the region functions.

Larger population trends suggest that most of California’s big cities are at least holding their own in terms of population. And one thing that you can say about California’s big cities is that they are far older and more urban than their suburban counterparts.

For example, in the 2010 census, California counted 18 cities with a population of 200,000 or more – a pretty good definition of a big city. With the exception of Irvine, virtually all of them are older, gritty cities – including both recent cities to declare bankruptcy, Stockton (population 292,000 in 2010) and San Bernardino (population 210,000). Not all of these cities showed significant population gains between 2000 and 2010 – Santa Ana lost population (suggesting a leveling off of Latin American immigration) as did Oakland. Long Beach held even. Anaheim and Los Angeles showed modest gains. Only Irvine, Chula Vista, and inland cities saw significant increases. For a lot of these cities, the decennial numbers hide a big run-up in population in the first half of the decade because of the housing boom, followed by a significant decline in the second half of the decade after the bust.

But for the period 2010-2011 – when Frey

identified the overall trend nationwide – virtually all of these cities mirrored the national trend. Of the 18 cities in California with a population of more than 200,000, 15 grew faster than the state average – a remarkable feat in a state where population growth has been predominantly suburban for 70 years. The only three that grew slower than the state average were San Francisco (which still added 7,500 people), Los Angeles (which added 23,000), and Long Beach (which added 3,000).

In fact, even though overall state population growth in 2010-2011 was less than historic levels, all large – and, for that matter, medium-sized – cities gained population. The largest city in the state with a stagnant population for the year was Eureka in Mendocino County, which lost exactly one of its 27,318 residents. The largest city with a noticeable population loss was Susanville, in Lassen County, which lost close to 300 residents out of a population of about 17,700.

Indeed, if there is a larger trend here, it is that the small cities are the ones losing ground in the California population competition these days. California cities below 50,000 – and especially those below 25,000 – are adding population at less than one-tenth the rate of larger cities.

Of course, none of these statistics can quantify the quality of urban life and whether it’s getting better for California city residents, whether affluent or poor. But one thing is clear: in keeping with the national trend, Californians are increasingly choosing to live in cities and especially in large cities. The bucolic suburb no longer appears to be the destination of choice. ■

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## APA Poll: U.S. Public Supports Planning – But What Kind of Planning?

RECENTLY, THE AMERICAN PLANNING ASSOCIATION proudly released the results of a recent poll entitled *Planning in America: Perceptions and Priorities*, which it commissioned indicating that Americans are overwhelmingly supportive of community planning. Given the state of national politics, it's no wonder that Americans are reserving their passions for local issues. Boss Tweed and Mayor Quimby are looking like angels by comparison.

Some of the results are beyond obvious – such as the fact that 77% of Americans “agree that communities that plan for the future are stronger” – while others could, if heeded, foretell profound changes for the profession.

Let's parse the obviousness. The report's lead finding is that 79% of Americans “support community planning.” What the other 21% have in mind, I have no idea. It's hard not to check “yes” to a question as dazzlingly broad as that one.

I'm trying to figure out what it means to “support community planning” – or what role actual urban planners would play in this process. First, “community planning” is not the same as “urban planning.” everyone loves communities, and they particularly love their own communities. But “community” extends to all sorts of formal and informal institutions: schools, organized religion, sports, businesses, ethnic and demographic connections, and indelible social networks. Professional urban planners, such as those who belong to the APA, can affect these institutions only indirectly. And it's certain that most stakeholders would not want planners to influence them.

More importantly for planners, this idea of “support” is hopelessly value-neutral. KKK members in the backwoods are probably equally passionate about their communities as hipsters in Williamsburg are. Stefanos Polyzoides can “support” community planning just as strongly as Ron Paul can. It's just that each are in favor of vastly different results. So, if you're an urban planner and you're looking to capitalize on all of this “support,” then you'd better hope that you're working in a homogeneous community whose stakeholders feel exactly the same way as you do.

Likewise, when over 60% of Americans across the political spectrum and in every type of settlement say that they want “more” planning. I'm not exactly sure what “more planning” looks like. Planning isn't measured in volume, like cake or gasoline. It's an set of approaches that are intended to lead to certain results. Even so, you really need to ask what kind of planning they want.

The poll's more substantive results reveal attitudes that may, I think, be unsettling most planners.

In case planners think that their job is to shape the built environment, they should think again. Out of either desperation or misunderstanding, the public thinks that their number-one job priority should be to effect job creation. Seventy percent of respondents said so. The next four priorities are as follows:

- Safety: 69%
- Schools: 67%
- Protecting neighborhoods: 64%
- Water quality: 62%

Unfortunately, only one of these things relates directly to urban planners, and that one thing suggests a rejection of progressive planning principles. The idea of “protecting” neighborhoods – as opposed to developing, improving, or enlivening them – implies a conservative desire to maintain the status quo. Stakeholders are certainly entitled to maintain their respective status quos, but I can't think of a planner worth his or her salt who would accept the status quo in 90% of the communities in this country. Like Clint Eastwood says, America has a lot of work to do. The poll even says so: 84% of respondents believe that their communities are getting worse or holding steady compared to five years ago. There's a contradiction afoot.

It seems that Americans really want two things that planners aren't necessarily inclined, or equipped, to create: stagnant communities and more money. Seventy-two percent of respondents say that their local communities aren't doing enough to encourage economic growth, and 75% say that “engaging citizens through planning is essential to job creation.” In other words, they're putting responsibility for a national economic crisis on to their local officials. (I suppose that's not surprising given that the rancor in Washington, D.C., has stifled national action.)

In some sense, the public has a point. Ever since the publication of Jane Jacobs' *Cities and the Wealth of Nations*, study after study has suggested that certain types of urban forms can create jobs. Those forms tend to center on density, diversity, transit, and interaction. In other words, Manhattan. But, time and again, social and political conservatives – the type who prefer the status quo – have rejected policies to

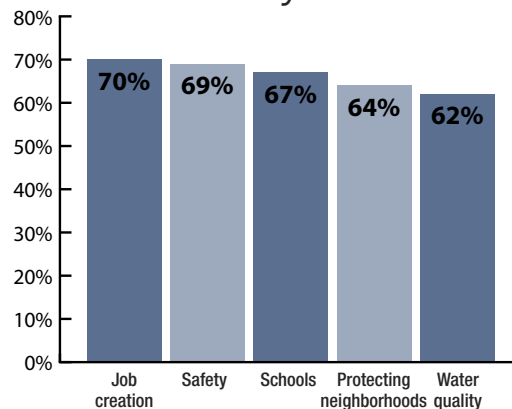
make places more dense and vibrant. So even if planners were to accept this burden, it's unlikely that the public would embrace the job-creating those urban strategies that are most likely to foster jobs.

Some of America's desires, however, are not so fanciful and are within planners' powers. Asked what makes an ideal community, half or more of respondents said having locally-owned businesses nearby (55%); the ability to grow old in the same neighborhood (54%); availability of sidewalks (53%); energy-efficient homes (52%); and availability of transit (50 percent). Interestingly, these desires are a far cry from “preserving neighborhoods,” since most neighborhoods have few or none of these components.

After attending April's APA conference and going to session after session about innovative planning techniques, I'm surprised that APA would publicize a report that, in many ways, undercuts the dreams of so many planners who are eager to implement contemporary planning ideas into their respective urban fabrics. The tone of the report suggests that APA is willing to follow popular sentiment, but I hope they don't give in to passivity. This desire for “more planning” – and even for economic growth – invites planners who can forcefully, and passionately explain what sort of planning can work best and how that approach can, directly and indirectly, create jobs.

If they can pull that off, then maybe those other 21% will come around.

### What Should Be the No. 1 Goal of Community Planners?



FROM APA'S *PLANNING IN AMERICA: PERCEPTIONS AND PRIORITIES*

## Climate Change Study Projects Which Places Will Beat the Heat — And Which Won't

**FOR THE PAST FEW MONTHS**, a supercomputer with UCLA researchers at its helm has been trying to figure out what the weather will be like in Los Angeles in the middle of the 21st century. You'd hope that somewhere in there it would find some good news. Maybe we'll get decades of consecutive weeks of 72-degree days, like Steve Martin reported in "LA Story"? Not so much.

The computer's human teammates from UCLA's Institute of the Environment and Sustainability announced yesterday that the Los Angeles of the not-so-distant future might, in many places, feel like the Phoenix of today. The glorious climate that has made the LA basin — and even its inland valleys for most of the year — one of the most liveable and energy-efficient areas in the world is going to become a thing of the past.

The study projects temperatures in geographic increments of 2.5 square miles and estimates the number of days above 95 degrees that each respective piece of the Los Angeles region will experience. So if you're planning on cooking an egg on a sidewalk in 2050, the study can tell you which sidewalk to choose.

Today, Palm Springs experiences 75 days of 95-plus degree heat; in 30 years, that number may increase to 119 — one-third of the year. Some parts of the San Fernando Valley will go from eight days to a full month. In downtown Los Angeles, they'll be loosening ties, with thrice as many days of 95-plus degree temperatures than today.

(To arrive at these numbers, UCLA's computer analyzed 25 climate change scenarios with 1 quintillion calculations over six months. That figure is so huge that I don't see much point in comparing it to anything else, like grains of sand on all the world's beaches. Let's just say that it's so big that it takes the world's fastest computers six months to do that many calculations.)

Supporters of the study describe its results — and the minute scale on which the results were calculated — as a way for Angelenos to apprehend the real effects of climate change. It is no longer a debatable, abstract possibility but, indeed, a nearly unavoidable reality that will hit every neighborhood in the city. This tangibility, they hope, will lead to action.

I heard this news the very same day that I read the Economist special report on the demise of the Arctic. (The Economist, like this publication, does not question the legitimacy of human-induced climate change.) The Economist reports that warming in the Arctic is advancing more quickly — and, potentially, with more devastating results than in any other part of the planet. I've rarely felt so helpless, and hopeless, as I did reading about devastation thousands of miles away and beyond any shred of my control: the extinction of polar bears and, most alarmingly, the 200 gigatons of icecap that Greenland is losing each year. Petroleum companies can't wait to bid for the rights to drill on tundra that will be liberated by disappearing ice.

Even if the Arctic is doomed, Los Angeles Mayor Antonio Villaraigosa has announced a comprehensive adaptation plan, called C-Change.LA. The program describes different adaptation strategies for the L.A. basin and the San Fernando Valley. Though Los Angeles commissioned the study, it's safe to assume that the statewide effects of climate change will be no less dramatic than they are in LA. And cities that don't yet have similar programs should probably be thinking about them.

As every planner in California knows, Senate Bill 375 is trying to ad-

dress matters at the state level. I think we all know that the 5-15% per capita reductions — that's per capita, not gross — isn't going to save a single polar bear. It's a symbolic gesture, but it's still a powerful one, on several levels.

On the practical level, California will at least get better cities, even as the asphalt melts at every doorstep. Living in denser neighborhoods, we Californians can at least enjoy each other's company in what may otherwise be a generation of misery. (We may, in fact, be living in the last, best times, depending how the coming catastrophe plays out.)

Even more importantly, SB 375 is an adaptation strategy wrapped in the guise of a mitigation strategy. My guess is that SB 375 garnered support because it holds the promise of making things better. That's a lot more pleasant than is the notion of merely trying to get along. It's the difference between curing a disease and just learning to live with the suffering.

Beyond SB 375's 2035 horizon, a different paradigm is going to have to set in. SB 375 quite would have every city figure out its own ways to grow more dense and take advantage of public transit and other transportation options. The future cannot be so democratic.

The UCLA study tells us that the L.A. region's complex geography will create wildly different scenarios throughout the city. Some places will become far less liveable than others. Predictably, the San Fernando Valley will broil, while the Westside will, as ever, remain tolerable. Except in Venice, which, depending how much the seas expand and storm patterns shift, might start to resemble its namesake. (The latest bit of news calls for 5-foot rises.) As such, it stands to reason that places that will experience more dramatic change need to think about more dramatic adaptation measures. We can imagine how similar studies would play out throughout California and across its violent topography.

None of this lamentation is to suggest that we Californians (and everyone else who drives cars and uses electricity) do not share some of the blame for creating this catastrophe. Then again, most of the damage took place long before anyone living was now born, and we have all inherited an economic and literal infrastructure that has all but forced us to perpetuate destructive habits. But now we know what we have wrought, and we know it in fine detail.

For as much as I've written about SB 375, I've rarely written on climate change itself. But as I write this and imagine what this nice July day will be like three decades hence, it's hard not to think about the other method that humans have cooked up for destroying the planet: nuclear weapons. In *The Fate of the Earth*, Jonathan Schell describes the morbid paradox that might actually keep the human race alive: the more we think about the horrors of nuclear war and the more we believe that nuclear war could happen, the less likely it is that anyone will actually push the button. Horror, he contends, will keep us safe. If only averting climate change was that easy.

Across this country, a plague of ignorance, indignance, and opportunism has condemned Los Angeles to its fate, and it surely has done far worse for many more places. The Arctic ice cap may be history, but at least Pacoima can cope.

— JOSH STEPHENS | JUNE 22, 2012 ■

