

Public finance lifeline may be forming for new towns like Jurupa Valley

BY LARRY SOKOLOFF

California’s youngest city, which has fought for survival since its formation, is still in critical condition, but lately there are signs it has moved off life support.

Jurupa Valley, a Riverside County city of 95,000, was expecting death by disincorporation earlier this year because it could not replace a lost source of funding for new towns. But the city has been able to postpone plans to disincorporate for another year due to increased tax revenue and budgetary changes. And hopes have emerged for its longer-term future via state-level efforts.

The City Council voted to disincorporate in January 2014, with the expectation that within two years they would complete the first official unmaking of a California city since the 1970s. (See prior CP&DR coverage in the December monthly issue and online at <http://www.cp-dr.com/node/3427>.) But now, city officials are saying they have enough money to last until the third quarter of 2016, when the city’s payments for services are due to Riverside County.

The city is still looking to Sacramento for its longer-

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insight
WILLIAM FULTON

Will SGC money pay for planning or implementation?

Last Friday in San Diego, Gov. Jerry Brown signed the first cap-and-trade appropriation bill as part of the state budget. This means that the Strategic Growth Council will now have \$130 million to dole out next year for smart growth planning and related activities – many times more than ever before – and that number is expected to grow rapidly in the years ahead.

Coming on top of the SGC’s recent award of \$16 million in local planning grants, the cap-and-trade appropriation news means

it’s a good time to take a look at how the SGC has doled out its money over the last few years and what the impact has really been.

Up to now, SGC’s grants program has been funded primarily by the \$90 million for planning contained in Proposition 84, the 2005 initiative that was advertised as the “Safe Drinking Water Act.” (The \$16 million allocated by the SGC at its meeting on June was the last of the \$90 million, so the cap-and-trade money came along just

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LOCUS report focuses attention on 'WalkUP' price premium

"Walkable urban places" or "WalkUPs" became an instant buzz word with the release in June of a new report by LOCUS, the real estate development and investor advocacy organization of Smart Growth America. As discussed on the CityLab (formerly Atlantic Cities) site at <http://bit.ly/T7maRu>, the report said 558 WalkUPs exist in the 30 largest U.S. metro areas. It focused on demand for more such areas, saying they tend to have higher GDPs per capita and house more young college graduates, and office space within them "commands a 74 percent rent-per-square-foot premium over rents in drivable suburban areas." The report is at <http://www.smartgrowthamerica.org/locus/foot-traffic-ahead/>.

San Jose approves Diridon Plan for Caltrain/HSR hub

The San Jose City Council has approved a plan for a 250-acre terminal in downtown San Jose, immediately to anchor the Caltrain from San Francisco, and eventually to welcome both a BART extension and the statewide High-Speed Rail line. The plan calls for massive office, commercial, residential and hotel space. The plan is at <https://www.sanjoseca.gov/index.aspx?NID=1743>. *Streetsblog SF* reported at <http://bit.ly/Tetx8> that the final version adopted requirements that press the nearby SAP Center sports arena to reduce spectators' reliance on cars, and included, as a goal, the much-debated restoration of nearby Los Gatos Creek as a public amenity. The *Silicon Valley Business Journal* has details at <http://bit.ly/1vUIE6G>.

San Pablo Avenue Specific Plan would reknit East Bay suburban corridor

The San Pablo Avenue Specific Plan, a joint project by the towns of El Cerrito and Richmond, went public for comment June 3 with comments due July 21. The *Mercury News* has a summary at <http://bit.ly/1xBuetW>. The detailed plan text and EIR material is at www.el-cerrito.org/spaSP. Goals of the plan include a form-based code, complete streets plan and infrastructure review with a goal of increased attention to public use of outdoor space. A hearing on the proposal is set for July 9. See <https://bikeeastbay.org/node/11774>.

Moscone Center expansion plans announced

A \$500 million plan to expand San Francisco's Moscone Center, mostly upward along Howard Street, was announced to the public in detail June 23 (See <http://bit.ly/1pyUV9>). Due to objections before the Planning Commission, the design includes changes to make it more approachable from the neighborhood. For details and links to the massive EIR see *Curbed SF* at <http://bit.ly/1oH715k>. Minutes of the June 5 Planning Commission meeting aren't posted yet but the agenda is at <http://www.sf-planning.org/index.aspx?page=3835> with a note that comments would be accepted until June 16. The *SF Business Times* described earlier commercial hopes for the plan at <http://bit.ly/1n350NX>. The official expansion site is at <http://mosconeexpansion.com/>. The Yerba Buena Neighborhood Consortium, which has roots in the 40-year-old conflict over demolitions at the

site, posted criticisms at <http://bit.ly/1s2753s>, including an argument that the plan did too little for existing pedestrian safety and sidewalk crowding. Architecture critic John King reviewed the latest proposed changes to the design for the *SF Chronicle* as of June 18 at <http://bit.ly/1mbGo37>, calling them major improvements on a design that, as first conceived, did not fit its setting as well.

Statute of limitations bars college tree-cutting protest

California's First District Court of Appeal ruled June 17 that community college administrators were within their rights to have more than 200 trees cut down on the College of San Mateo campus. In an opinion heavy on procedural history, the court found the challenge brought by Citizens for a Green San Mateo was time-barred because the group did not raise it until they saw the trees being cut, by which time 30-day and 180-day deadlines to object under Public Resources Code § 21167 had passed. The case is *Citizens for a Green San Mateo v. San Mateo Community College District*. The online docket is at <http://bit.ly/1pydQF3>, opinion at <http://www.courts.ca.gov/opinions/documents/A137612.PDF>. *San Mateo Daily Journal* coverage at <http://bit.ly/1jdLiN8>, detailed legal discussion by Miller Starr Regalia's "CEQA Developments" blog at <http://bit.ly/1I7f8CW>.

SF utility boxes exempted from CEQA

The First District issued a publication order May 30 for its April ruling upholding CEQA exemptions for 726 AT&T utility boxes to be installed on San Francisco sidewalks. The case

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is *San Francisco Beautiful v. City and County of San Francisco*, opinion at <http://www.courts.ca.gov/opinions/documents/A136546.PDF>.

Water bond vote fails; reconsideration likely

With the June 26 deadline for legislative ballot measures approaching, the SB 848 water bond proposal by Sen. Lois Wolk failed to obtain a two-thirds majority in the California Senate on June 23. The *LA Times* has details at <http://lat.ms/Tsj5vF>. The day before, Senate President Pro Tem Darrell Steinberg told interviewer Conan Nolan on the LA area's KNBC-TV (<http://bit.ly/1sy3xq9>) that polling showed a bond measure would fail with voters if it funded a north-south transfer of California water through the Delta tunnel project, so he was advocating for Wolk's measure, which funded other types of projects. The Association of California Water Agencies predicted reconsideration and further negotiations would follow. See <http://bit.ly/1pcBYKE>. Online, the Maven's Notebook weblog and its linked Twitter account are following the issue closely.

LA Metro offers new Union Station plan ideas

Added ideas for the "master plan" to renovate LA's historic Union Station and surround it with new structures and amenities went public in a presentation June 5, in preparation for a board of directors meeting June 18 of the LA County Metropolitan Transportation Authority (Metro).

The plan follows Metro's 2011 repurchase of the station and surrounding property from Catellus, which had owned it since 1990: <http://www.greatamericanstations.com/Stations/LAX>.

The current proposal provides for closer bike and pedestrian connections to surrounding neighborhoods and expanded local transit, and also looks forward to "anticipated future arrival of high speed rail" with plans for a separate terminal to welcome that

fabled beast if it ever arrives.

Curbed LA has a summary at <http://bit.ly/1o84YJP> and Metro's own announcement page is at <http://www.metro.net/projects/la-union-station/>. The text actually released on June 5 appears to be a collection of slides rather than a dense narrative. Metro's own summary appears at <http://bit.ly/1wYbYKQ> including a grand rendering of the proposed complex "in the future after the Master Plan is implemented." Proposals in the main presentation slide set at http://media.metro.net/projects_studies/lausmp/lausmp_presentation_2014_... include a call to expand territory covered by the 1996 Alameda Specific Plan, including east to the LA River and south as far as First Street.

Capitola may adopt General Plan update

The city council in the coastal town of Capitola holds a hearing July 26 to consider adoption of its proposed General Plan Update. The Santa Cruz Sentinel reports at <http://bit.ly/1v2yv5F> that emphases include the 41st and Bay Avenue commercial corridors, tensions between new and old development, parking and sustainability. See <http://www.planccapitola.com/> for details.

Stockton starts General Plan update process

Stockton's City Council has authorized the start of a two-year general plan update process as the city recovers from its 2012 bankruptcy. Officials said the focus would be on economic development downtown and in the south of the city. See <http://bit.ly/117AyQk> for details from the *Stockton Record* and <http://bit.ly/1nCyJwb> for the city's planning process documents.

SB 1129 post-redevelopment cleanup bill still in play

The Assembly Local Government Committee has passed Sen. Steinberg's SB 1129, a bill to help successor agencies make new

commitments to projects and use bond proceeds once they have received findings of completion from the state. For the League of California Cities analysis and tracking page, see bit.ly/R32Jc8. The official bill tracking page is at <http://bit.ly/1yKvf3y>.

San Francisco's Ellis Act bill fails in committee

After squeaking through the State Senate, Sen. Mark Leno's SB 1439 bill to restrict San Francisco evictions under the Ellis Act was defeated June 18 in the Assembly. The bill had appeared to enjoy massive support from venture capital investor Ron Conway and members of his Sf.Citi tech industry civic coalition, as shown by the long lists of tech business endorsements appearing in legislative analyses at <http://bit.ly/Pp54wc>. The bill was generally opposed by rental landlords' organizations and the California Building Industry Association. For details see the *San Francisco Chronicle* at <http://bit.ly/1q5frfV>.

Milpitas settling its redevelopment disputes

The city of Milpitas is reportedly near settling its especially difficult post-redevelopment disputes with the State Department of Finance. The City Council approved a settlement June 17 calling for the city to pay over \$41 million to the state and make sales and transfers of properties whose ownership had been uncertain in light of disputed relations among the state, city, and successor agency. The *Mercury News* has details at <http://bit.ly/1IOzeHS>.

AB 32 scoping plan gentler than courts on GHG cuts?

There's a smart CEQA question from the environmental firm of Stoel Rives on its weblog at <http://bit.ly/1hxBDWz> – in the new AB 32 scoping plan update, are the envisioned cuts to greenhouse gases (GHG) as deep as those endorsed by California courts? The authors of the item, Thomas Henry and Bao Vu, suggest

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the update's figures effectively call for a 16% reduction in GHG below "business as usual". That is less than called for by a recent unpublished appellate court analysis: March 20 CEQA decision on Newhall Ranch, *Center for Biological Diversity v. Department of Fish & Wildlife*. The lawyers ask in their analysis, if a project "only" reduces GHG by 16% in alignment with the terms of the new scoping plan, might it be environmentally careful enough to satisfy a court's CEQA review? The Newhall Ranch case is at <http://www.courts.ca.gov/opinions/documents/B245131.PDF>. Section IV(G) starts at Page 92 of the PDF. For context on that case see <http://www.cp-dr.com/node/3461>. The AB 32 scoping plan update (9.7 MB download) is at <http://bit.ly/1IVsJAL>.

Judge blocks Riverside-Figueroa "Landbridge" plan

A June 2 hearing before an unsympathetic judge ended an attempt to preserve the Riverside-Figueroa Bridge over the LA River for reuse on the model of New York's "High Line". A campaign led by nonprofit Enrich LA and architects RAC Design Build had sought to turn the 1927 structure into a "Landbridge" bike and pedestrian amenity. But per an indignant account from *LA Streetsblog*, Judge James Chalfant treated the effort as coming too late in a planning process that had already arranged to demolish the bridge, and refused to stop demolition of the structure. See <http://bit.ly/SsgZey> for *Streetsblog* and <http://lat.ms/1jNj0s3> for the *LA Times* report.

In the sports venue business:

- The LA City Council approved a "relatively meager \$300 million renovation" of its convention center that would leave out a sports stadium supported by the NFL: <http://bit.ly/1oPjS3B>
- The city's soccer team,

Sacramento Republic FC, teamed with a group of nonprofits to back a county sales tax hike for projects including a soccer stadium: <http://bit.ly/1hD1Gv7>

- On May 23, Judge Timothy Frawley, who has ruled in so many heavy-hitting Sacramento county court cases, threw out the current lawsuit against the Kings arena proposal, saying the suit's challenge to the arena term sheet was inappropriate because the term sheet was not binding. See <http://bit.ly/1kggsCO>.
- Sacramento Taxpayers Opposed to Pork (STOP) announced it was giving up its campaign for a referendum on the proposed Kings basketball arena, following a rebuff (also by Judge Frawley) some months before: <http://bit.ly/1ljKfzc>
- New opposition to the Sacramento arena proposal emerged in several forms. The *Sacramento Bee* reports at <http://bit.ly/TfUHN6> that opponents brought a CEQA challenge to the project in early June, questioning the constitutionality of SB 743, which provides special environmental review concessions to the project. The *Bee* reported at <http://bit.ly/1nCDLc8> that housing and environmental advocates were considering a separate lawsuit to seek larger mitigation contributions to housing, transit and small business.
- Oakland A's owner Lew Wolff announced he was close to signing a lease extension for the A's to stay in the Oakland Coliseum -- a deal that would further weight Oakland's stadium site choice decision toward the proposed "Coliseum City" model. See <http://bit.ly/1oPlpqq> for current coverage and <http://www.cp-dr.com/node/3476> for

Morris Newman's overview of the Oakland stadium venue choices.

- The *Oakland Tribune* reported on a blossom of real estate activity nourished by expectations for Levi's Stadium, soon to be home to the ex-San-Francisco 49ers: <http://bit.ly/1I2SpYi>

In Other News:

- Developer Larry Kelley announced a deal to buy and clean up the 240-acre Union Pacific rail yard in downtown Sacramento. The *Sacramento Bee* reported State Sen. Darrell Steinberg and U.S. Rep. Doris Matsui helped negotiate a deal on toxic cleanup responsibilities among Kelley's Downtown Railyard Venture LLC, Union Pacific as the last active industrial owner, and Inland American Real Estate Trust, which became the owner through a loan default by the immediately prior owner, developer Thomas Enterprises. See <http://bit.ly/1oPuvnd> for details.
- The *LA Times* reported on renewed neighborhood concerns about "mansionization" in homebuilding as the upper strata of the economy improve: <http://lat.ms/1qIF7ey>
- Further to LA planning woes, the City Council agreed to pay \$1.75 million in legal fees to the challengers who beat the new Hollywood zoning plan: <http://lat.ms/1nv3hmf>
- *Courthouse News* reports that Kings and Kern Counties, the city of Bakersfield, and three other parties have filed challenges to the EIR on the Fresno to Bakersfield leg of the California high-speed rail plan: <http://www.courthousenews.com/2014/06/09/68553.htm> ■

Commission approves West Oakland Specific Plan in angry meeting

BY MARTHA BRIDEGAM

Amid a dramatic show of organized public anger, Oakland Planning Commission approved the West Oakland Specific Plan on June 11. City staff, principally planner Ed Manasse, set out the plan's provisions for transit-oriented development, denser use of underused and blighted lots, separation of housing from heavy industry, concessions to second units and home businesses, and more specifically categorized rezoning – amid shouted objections and boos from a crowd who had marched to the meeting in a protest demonstration.

As chair Chris Pattillo reassured, “We can hear you,” Manasse attempted to tell activists they had been heard over the course of a six-year negotiation process, even presenting a slide with critics’ “Wreck the WOSP!” slogan and broken-insect cartoon. He said, “We’ve expanded the social equity and affordable housing recommendations, we have additional career pathway strategies for local residents, increased small business opportunities for local residents, youth development education and training, neighborhood retail, and we have additional protections for residents from displacement.”

“So we heard you,” he said. “We know your concerns, we know that there’s a lot of people that think that the neighborhood would be better off without a plan at all. That this project is somehow a secret conspiracy, a massive development project and that we are in fact encouraging gentrification and displacement. The plan is exactly the opposite to every – all of that and what we we are trying to do is to explain how that is not the case.” The crowd wasn’t buying it.

The crowd granted applause to speakers, whether activist or business-oriented, who said the plan was not ready for approval, unclear about funding sources for some goals, arbitrarily specific about some requirements and rezonings, and too accepting of upscale condominium development. Robbie Clarke of Causa Justa/Just Cause was among those cheered for saying the plan’s stated goals did not translate clearly enough into up-front guarantees of affordable

housing and jobs that would be genuinely available to existing residents.

Dominique Tan of the East Bay Housing Organizations said activists understood that goals such as inclusionary zoning requirements for developers to fund affordable housing needed to be imposed citywide, not one plan at a time, but she said they needed to happen soon because developers were continuing to build without such concessions.

Elaine Brown, a former leader of West Oakland’s own Black Panther Party, made an appearance to urge a one-year delay in the plan. She singled out “high in density, expensive housing units that would suck all the air out of” disadvantaged local residents’ futures, and called for a plan that would be less friendly to developers and less willing to cause displacement.

Strong though less voluble concern appeared for existing small businesses, especially where zoning changes were proposed.

Discussion later in the meeting, as some of the public fury subsided, included calls for a proposed tube to enclose the elevated BART train to reduce noise, and even for moving the BART line underground.

The *San Francisco Chronicle* reported on the scene at <http://bit.ly/1pylP54> and noted two arrests at the meeting. Late that night, according to the *East Bay Express*, a security camera showed masked people in black breaking the windows of the new Kilovolt Coffee shop in West Oakland. <http://bit.ly/1lv1k9K>.

The plan goes to City Council hearings and votes in July. The plan materials are at <http://www2.oaklandnet.com/Government/o/PBN/OurServices/Plans/index.htm>. The agenda and archived video of the dramatic June 11 meeting are at <http://www2.oaklandnet.com/Government/o/PBN/OurOrganization/PlanningZoning/o/Commissions/> ■

‘Ridge Project’ plan withdrawn at Bolsa Chica archaeological site

BY MARTHA BRIDEGAM

Based on archaeological findings, Native American heritage claims, a “Deny the Ridge” campaign and broad public objections, the Coastal Commission on June 12 discouraged property owner Signal Landmark into withdrawing its “Ridge Project” proposal to build 22 houses on Bolsa Chica Mesa in Huntington Beach. With the Commission leaning toward a “no” vote on the Land Use Plan revision needed for the project, Signal Landmark withdrew its project application, meaning any future construction plan for the site must start again with the local city council.

The action preserves natural habitats and protects ancient artifacts – and by many accounts, gravesites too – at a prehistoric village complex occupied as much as 9,000 years ago. Heard in the Huntington Beach City Council chambers, the agenda item was well attended and drew fervent speakers in opposition to the project.

Signal Landmark, working with developer Hearthiside Homes, had offered to mitigate construction on the five-acre “Ridge” site through an agreement to preserve open space on the adjacent six-acre “Goodell Property,” which it had an option to buy, plus disputed cultural mitigation proposals. Objectors’ letters described the Ridge and Goodell properties as the last two privately owned open-space parcels remaining out of a 30-acre area that, as a whole, showed archaeological signs of supporting dense settlements and receiving hundreds of burials in the distant past.

Signal Landmark has already obtained permits for two nearby housing complexes, known as Sandover (16 units, completed) and Brightwater (347 units approved, some as yet unbuilt). The Ridge property, if built up, would extend housing development into an unbuilt area north of the Bolsa Chica Ecological Reserve.

A Commission staff letter in the June agenda materials (at <http://documents.coastal.ca.gov/reports/2014/6/Th9a-6-2014.pdf>) said that when a staff report last December suggested the Ridge site had diminished cultural and habitat value, and recommended accepting the Goodell/Ridge land swap arrangement, arguments to the contrary poured in from scholars, public agencies, environmental

activists, Native American organizations and cultural preservation offices. Among these were expert opinions on the site’s archaeological importance and its value as habitat for raptors and other species, potentially including burrowing owls.

Additional issues raised and disputed included the width of buffers necessary around environmentally sensitive habitat areas (ESHA) and potential drainage effects on an ESHA area of eucalyptus. In this changing light, the staff began to place stricter conditions on their recommendation and the Commission postponed consideration of the matter at the city’s request. (See <http://lat.ms/1iDEb0b> and <http://bit.ly/1qnZU46>.) Commission staff later shifted their recommendation to oppose the project outright.

The richest discoveries of ancient settlement remains and burials have been outside the subject property at sites known as ORA-83 and ORA-85. ORA-83 is also called the “Cogged Stone Site” for its unique gearlike stone carvings, and is on the National Register of Historic Places. Project opponents’ letters said all of ORA-85 and most of ORA-83 had already been destroyed by development although a cemetery area of ORA-83 was preserved. Both ORA-83 and ORA-85 are on the Brightwater property, which was approved for development over strenuous opposition in 2008. A politically indignant account in the local Surf City Voice at <http://bit.ly/1ir2JiG> gives a sense of the chronology and controversy.

Disputed was whether a village site on the subject property, known as ORA-86, had value comparable to the other two sites, or whether the whole area including all three sites should be viewed as a single unit. Many critics of the project said yes, including members and supporters of several bands of Mission Indians, especially the Gabrielino/Tongva and Juaneño/Acjachemen, for whom the site has special cultural and spiritual significance.

The local “Orange Juice Blog” headed its report of the proposal’s withdrawal, “Most of HB Rejoices!” (<http://bit.ly/1INcZkv>) The Bolsa Chica Land Trust site announced simply, “Withdrawn!” (<http://www.bolsachicalandtrust.org>) ■

Coastal Commission Briefs

BY MARTHA BRIDEGAM

Garcia, as Mayor of Long Beach, must leave Coastal Commission

Robert Garcia, mayor-elect of Long Beach, must resign his Coastal Commission seat by September 13, according to the state Attorney General's office and the Coastal Commission. The *Long Beach Press-Telegram* (at <http://bit.ly/1q7RPhE>) and the *Long Beach Reporter* have the story in detail, and the typographically eccentric Long Beach Reporter site has posted copies of the relevant letters, by Assistant AG John Saurenman and the Commission's executive director, Dr. Charles Lester, at <http://www.lbreport.com/news/jun14/coastcom1.htm>. From the letters, the Attorney General's conclusion appears to be that, because Garcia is one of the six members appointed under Public Resources Code Sec. 30301(e), he must be a currently serving county supervisor or a city council member in the Coastal Commission district he represents. As Mayor, he would be neither. The news reports said he could serve on the Commission for 60 days after becoming Mayor, or until September 13. The *Press-Telegram* reported the State Senate Rules Committee would likely choose a successor "by the last week of this year's legislative sessions that begin Aug. 25."

Previews of difficult next steps

June, relatively speaking, was a lull in Coastal Commission business, making it possible to look back and ahead. The meeting looked forward to several expected challenges:

The Commission voted to postpone consideration of implementing ordinances to finalize the Marin County Local Coastal Plan (LCP), delaying action for up to a year without setting a definite next hearing date. This spring's other big unfinished LCP, for the Santa Monica Mountains, is expected to be finalized in July through consideration and approval of its implementing ordinances.

The Commission also postponed action until August on San Diego's proposed LCP revision, which includes an amendment to the La Jolla Land Use Plan and a limit on access to Children's Pool Beach during seal pupping season. The Commission's Dr. Lester warned that a four-day Tuesday through Friday meeting schedule might be needed to hear the issue. Public interest

is high because it pits public use of the saltwater pool at the site, including disability access to the pool, against concern for seals using the beach as a haulout.

A further look toward the future was implicit in the Commission's field trip to the Banning Ranch in Newport Beach, a site of continuing active oil drilling, of mitigation work to fix damage to coastal scrub and, significantly, of a proposal for a 1,375-unit housing development. Since the development is locally opposed, it is expected to come before the Commission at some point. See <http://lat.ms/1oAAfO> and detailed local coverage at <https://www.newportbeachindy.com/state-officials-public-tour-banning-ranch/>.

Legislation: fire rings and access enforcement

The Commission heard warm public testimony in favor of AB 1102, a measure to protect beach fire rings against removal without a coastal development permit.

Even the mayor of Huntington Beach, Matthew Harper, put in a good word for beach bonfires, calling them a beach access issue: "It's too cold to go to the beach after dark unless you have a good beach bonfire to keep it nice and warm for you." The proposal, which is now before the State Senate, responds to a procedural wrangle of litigation and local legislation, described in the most recent bill analysis posted at <http://bit.ly/1lxoEiu>.

On a less cozy note, the Commission previewed legislative movement on AB 976, a bill proposed in 2013 to give the Commission power to impose fines. A few days later, on June 15, the Legislature's Natural Resources budget trailer bill, SB 861, adapted some of the AB 976 language to let the Commission impose fines for violations of public access provisions of the Coastal Act. (See <http://bit.ly/1na4EDS>.)

The Natural Resources budget bill also transfers regulation of drinking water from the State Department of Public Health to the State Water Resources Control Board.

"Issue of 'Substantial Issue'" is an Issue

Procedural arguments from the May session spilled into a June debate on three process questions: what power Commissioners have to shut down consideration of appeals; when neighbors

can appeal to the Commission over permits granted as of "principally permitted use" rights; and how to deal logistically with last-minute staff recommendations for appeals of local action that must be signed by two Commissioners to take effect. Lengthy discussions at the May and June meetings had no formal outcomes in the form of votes but there were a few informally established outcomes.

At the May meeting, Zimmer obtained agreement from Commission staff and counsel that, if a Commissioner disagrees with a staff recommendation to find that an appeal raises a "substantial issue", it is acceptable to ask questions of the staff and others before the traditional call for a show of hands to determine whether a substantial number of Commissioners disagree with the recommendation.

Commission staff prepared a detailed legal reference memo outlining Commission appeal procedure. The memo, which Zimmer suggested be distributed to all new commissioners, is available at <http://documents.coastal.ca.gov/reports/2014/6/W6d-6-2014.pdf>.

The June discussion of appeal procedure also addressed the logistical difficulty of providing two Commissioners' signatures, often requested on short notice, to support appeals that are recommended by Commission staff. The Commission has only a ten-working-day deadline to appeal any land-use decision by local authorities exercising LCP-delegated coastal permit authority. Commissioners complained they were sometimes invited to endorse appeals that they did not have time to read in detail. Commissioners Effie Turnbull-Sanders and Wendy Mitchell even implied it might be worth asking the Legislature to amend the Coastal Act to let staff initiate appeals on their own, while Commissioner Gregory Cox asked if staff could discuss *de minimis* project changes with proponents to bring them into compliance without formal procedure.

For a detailed account of that discussion see CP&DR's online edition at <http://www.cp-dr.com/node/3511>.

The June meeting's agenda, annotated with vote results, is at <http://coastal.ca.gov/meetings/mtg-mm14-6.html>. ■

State budget grants cap-and-trade funds to sustainability, housing

BY MARTHA BRIDEGAM

Governor Jerry Brown on June 20 signed a state budget including a compromise on use of cap-and-trade proceeds. The distribution provides considerable funding to the Governor's high-speed rail project but also more housing and sustainability money than he originally proposed.

The "Affordable Housing and Sustainable Communities" program will get \$130 million in the 2014-15 fiscal year, out of a total pot of \$872 million in cap and trade revenue. Then in future fiscal years starting with 2015-16, the same category is to receive 20% a year of the cap and trade proceeds as one of several continuous appropriations. Half of the 20% must go to affordable housing projects designed to reduce greenhouse gases -- or at least, that's stated for the years from 2015-2016 onward.

That result exceeds the \$100 million for "transit oriented development grants" proposed by the Governor last winter (see <http://bit.ly/1pbs4vt>) but is a compromise from earlier legislative proposals that had called for as much as \$400 million or 40% of cap-and-trade to fund a combination of transit, affordable housing and sustainability projects.

Bill Higgins of the California Association of Councils of Government (CALCOG) linked the results to the work of outgoing Senate President Pro Tem Darrell Steinberg, D-Sacramento. Higgins wrote on June 13: "Sustainable Communities and SB 375 related funding is the only thing to come out of the investment plan with the same commitment to ongoing funding as High Speed Rail. That is pretty significant. That is a direct result of Senator Steinberg's effort and leadership."

The cap-and-trade budget deal figures appeared first in a Budget Conference Committee handout late June 12, then were repeated in the Assembly floor report at <http://ow.ly/y2kOL>. The floor report said, "In addition, when the \$400 million General Fund Loan from the Cap and Trade fund is repaid, these funds are dedicated to High Speed Rail."

Despite Republican opposition to the high-speed rail portion, the same numbers held almost completely steady through the budget negotiations on the completion deadline day, Sunday, June 15. Reportedly, though, Sen. Kevin DeLeon (who has since been elected Senate President pro Tem to succeed Steinberg) publicly mentioned a plan to add "cleanup" language on high-speed rail.

The actual main 2014-15 appropriations bill, SB 852 (<http://bit.ly/1q6vfpw>), shows the cap-and-trade appropriations as expenditures from the "Greenhouse Gas Reduction Fund". Some amounts in that tally appear

smaller than stated in the floor summary because they are broken into separate parts: grants of funds to be administered and grants made directly to the agency that will administer the funds.

The continuous appropriations of cap-and-trade funds for future fiscal years passed as SB 862, (<http://bit.ly/1py6fJT>). That same bill adds two new members to the Strategic Growth Council, which is to administer the Affordable Housing and Sustainable Communities funds. The provisions call for one new member to be appointed by the Speaker of the Assembly and the other by the Senate Committee on Rules.

These two legislative appointees are to be added to an existing roster heavy on gubernatorial appointees: six state agency heads, the Director of State Planning and Research, and one member of the public appointed by the Governor, who is currently Robert Fisher of The Gap. If, as is likely, the new appointees are local elected officials, their membership on the board could create new complexities regarding conflicts of interest in allocation decisions.

The "Affordable Housing and Sustainable Communities" funding is to be allocated to the Strategic Growth Council, with the SGC to decide how to administer the "sustainable communities" funds apart from housing. SB 862 adds a new division, Sec. 75200 et seq., to the Public Resources Code to outline distribution criteria.

Projects to be funded would need to be consistent with state environmental priorities and "support implementation of an adopted or draft sustainable communities strategy or, if a sustainable communities strategy is not required for a region by law, a regional plan that includes policies and programs to reduce greenhouse gas emissions". Additionally they would need to fit on a list of project categories beginning with "Intermodal, affordable housing projects that support infill and compact development" and "Transit capital projects and programs supporting transit ridership."

The rest of the list is similar to categories proposed earlier in the session as part of the unsuccessful AB 574 (see <http://bit.ly/1kwfAu1>), but adds emphasis on infill, compact development, "improving connectivity and accessibility to jobs, housing, and services," and serving disadvantaged communities.

Under a separate heading, the Transit and Intercity Rail Capital Program and Low Carbon Transit Operations

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Budget: allocation details yet to work out

– CONTINUED FROM PAGE 8

get \$25 million apiece in the first fiscal year. From the second year onward they get more: 15% of the cap and trade money, of which 10% goes to transit and intercity rail, administered through CalTrans and the California Transportation Commission, and 5% goes to low-carbon transit operations, to be distributed via the State Transit Assistance formula and administered by CalTrans.

All projects must report their progress in reducing greenhouse gases to the SGC and the Air Resources Board. Since 25% of cap and trade funds must benefit disadvantaged communities. The bill calls for CalEPA to work with the Air Resources Board and hold at least one public workshop before identifying which are disadvantaged communities for purposes of the allocation. This involves a revision to the existing Health and Safety Code Sec. 39711 but it hangs on to the existing broad definition of the term in that statute.

A broader budget analysis by the Western Center on Law and Poverty noted that appropriations for housing included \$100 million for the Department of Housing's Multifamily Housing Program and \$10 million for rental

and utility assistance for drought-affected households. Further it noted the passage of the Prop 41 ballot measure authorizes \$600 million to house veterans and their families. Among minor benefit increases and liberalizations in the CalWORKs program (the new benefit will be \$703 per month for a family of three), a \$20 million appropriation is to provide "rapid re-housing" assistance.

The League of California Cities has a much more detailed analysis of the main budget bill and all the trailer bills for items relevant to local governments, available at <http://bit.ly/1q6I7Mo>. As the new cap-and-trade budget and allocation program develops in detail, it may be helpful to watch CALCOG's resource page at <http://www.calcog.org/index.aspx?nid=96> for postings of further key documents. Already, since the budget's approval, the page has posted an analysis of funding opportunities for transit agencies and a summary of the cap-and-trade piece of the budget from CALCOG itself. ■



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June 2014 election: results on land-use ballot measures

BY MARTHA BRIDEGAM

Below are a baker's dozen of picked results from June 3 local ballot measures affecting land use. Links are included here to more detailed county results pages.

A community plan near the shipyards in San Diego was defeated while a proposed waterfront height limit passed in San Francisco. South Lake Tahoe defeated paid parking kiosks, Half Moon Bay picked the go-slow option for a bridge repair, Monterey Park narrowly approved a small development project, Marin County approved a farmer's

market structure near the Frank Lloyd Wright civic center, and Lake County approved a sales tax for lake cleanup. Watsonville voted in a strict rule that puts future place-naming choices to a public vote.

California's statewide electorate passed ballot measures on veterans' housing and local government transparency. State-wide results are at <http://vote.sos.ca.gov/>. The Secretary of State's directory of county election offices is at http://www.sos.ca.gov/elections/elections_d.htm.

June 3 Election Results Tally

El Dorado County – City of South Lake Tahoe

Measure P: End a kiosk-based parking fee program in busy tourist areas. See <http://www.cityofslt.us/index.aspx?NID=743> and <http://www.smartvoter.org/2014/06/03/ca/ed/meas/P/>

Lake Tahoe News endorsement against: <http://www.laketahoenews.net/2014/05/editorial-vote-measure-p/>

Op-ed in *Tahoe Daily Tribune* in favor: <http://www.tahodailytribune.com/southshore/11300378-113/parking-measure...>

Election results at: <http://elections.edcgov.us/results.fwx>

Yes: 68.41% **No:** 31.59% **Percent Reporting:** 6 of 6 precincts

Lake County

Measure L: Increase sales tax in the county by a half-cent for 10 years to pay for the eradication of weeds, algae and invasive mussels from Clear Lake, the restoration of wetlands in the county and the improvement of water quality. Because it's a tax, a two-thirds vote is required. [http://ballotpedia.org/Lake_County_%22Healthy_Lake_Tax%22_Sales_Tax,_Measure_L_\(June_2014\)](http://ballotpedia.org/Lake_County_%22Healthy_Lake_Tax%22_Sales_Tax,_Measure_L_(June_2014))

Proponents' site: <http://savethelake.info/>

Critical semi-endorsement from Record-Bee outdoors columnist Terry Knight: http://www.record-bee.com/outdoors/ci_25805517/measure-l-beats-doing-not...

Election results at: <http://www.co.lake.ca.us/Government/Directory/ROV.htm>

<http://acm.co.lake.ca.us/elections/results/result26.htm#c9909>

Yes: 63.9% **No:** 36.1% **Percent Reporting:** 70 of 70 precincts **Note:** *The measure did not receive its required 2/3 vote.*

Los Angeles County – City of Monterey Park

Measure A: Approve a general plan amendment and a rezoning of commercial land to permit the Olson Co. to construct an 80-unit residential development on an undeveloped 9-acre parcel of land on Potrero Grande Drive near Resurrection Cemetery, just off the 60 freeway. The vote is required by a 1982 city ballot measure that requires voter approval for a change in land use designation. Olson is a Seal Beach-based developer specializing in townhome and small-lot-single-family infill projects. More information in the following City Council staff report: <http://www.ci.monterey-park.ca.us/AgendaCenter/ViewFile/Agenda/02192014-569>

Election results at: http://rrccmain.co.la.ca.us/14062043/2043_CITIES_Frame.htm

Yes: 52.45% **No:** 47.55% **Percent Reporting:** 24 of 24 precincts

>>> June 2014 election: results on land-use ballot measures

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Los Angeles County – City of Signal Hill

Measure U: Require a 2/3 vote for all “taxes, assessments and fees” and sunset them after 10 years. See <http://bit.ly/1wf6H1h>. Measure U is supported by a group called Signal Hill Community First (<http://www.signalhillfirst.org/>) The Long Beach Press Telegram reports supporters lost a challenge to the way the city presented the measure on the ballot: <http://bit.ly/1nkMTnX>. Just a few days before the election, disagreement continued on the measure’s scope, including whether it would apply to impact fees and other fees developed as part of the land-use process: <http://bit.ly/1rlExkb>. The city claims it will lose 13% of local tax revenue as a result of the measure.

Election results at: http://rrccmain.co.la.ca.us/14062043/2043_CITIES_Frame.htm

Yes: 34.30% **No:** 65.70% **Percent Reporting:** 6 of 6 precincts

Marin County

Measure B: Create permanent structures for a farmers’ market at Frank Lloyd Wright’s historic Marin Civic Center building. The Marin IJ supports the measure and recounts some history of the prior referendum that led to strict voter-approval requirements for changes around the Marin Civic Center building, at <http://bit.ly/1ns5gLk>. See also <http://www.smartvoter.org/2014/06/03/ca/mrm/meas/B/> and a snarkier appraisal of the plan (with some cinematic history of the Civic Center complex) at http://www.northbaybiz.com/Columnists/Only_in_Marin/Organically_Grown.php.

Election results at: <http://www.marincounty.org/depts/rv/election-info/election-results>

Yes: 81.14% **No:** 18.86% **Percent Reporting:** 157 of 157 precincts

Monterey County – Monterey Peninsula Water Management District

Measure O: Establish a policy preference in favor of a publicly owned water district. Opposed by Californian American Water. A court ruled the ballot description couldn’t say Measure O would guarantee public ownership and save money. See <http://www.cp-dr.com/node/3467> on that issue.

The county Supervisors voted to oppose it: <http://bit.ly/1oSKYKT>

Cal American has reportedly outspent proponents by 24 to 1: <http://bit.ly/1n9DUGH>

Election results at: <http://www.montereycountyelections.us/Election%20Result.htm>

Yes: 43.61% **No:** 56.39% **Percent Reporting:** 55 of 55 precincts

Riverside County – City of Desert Hot Springs

Proposition F: Raise parcel tax on vacant land within the city from \$29.80 to \$372.68 per acre, to be spent only on public safety services. Not strictly a land use measure but of interest as a municipal finance move because city officials placed it on the ballot to avoid a second municipal bankruptcy. See <http://www.pe.com/articles/city-695413-measure-council.html> and <http://www.cityofdhs.org/Elections>.

Election results at: <http://www.voteinfo.net/Elections/20140603/eresults/Election%20Result.htm>

Yes: 62.92% **No:** 37.08% **Percent Reporting:** 7 of 7 precincts

San Diego County – City of San Diego

Propositions B and C: Approve the City Council’s approval of the Barrio Logan Community Plan and associated changes in the zoning code. Industrial landowners placed the measures on the ballot after failing to reach a compromise with community-based organizations in the old neighborhood adjacent to the San Diego shipyards, where residential and industrial uses are intermixed. The issue is discussed at <http://www.cp-dr.com/node/3473>. Recent debate has centered on whether the city-approved plan would actually make air quality worse: <http://voiceofsandiego.org/2014/05/19/fact-check-clearing-the-air-in-bar...>

LA Times report of June 2: <http://www.latimes.com/local/la-me-barrio-logan-20140602-story.html>

Election results at: <http://www.sdvote.com/voters/results/results.shtml>

(Disclosure: William Fulton, publisher of CP&DR, is Planning Director for San Diego.)

Measure B:

Yes: 41.53% **No:** 58.47%

Measure C:

Yes: 39.50% **No:** 60.50%

Percent Reporting: 697 of 697 precincts

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>>> June 2014 election: San Francisco's Measure B passes

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City and County of San Francisco

Measure B: require a vote for all future height limit variances on the waterfront. The measure lost some of its point when the Warriors basketball team management gave up their contested effort to build an arena on Piers 30-32 near the Golden Gate Bridge, and instead picked an arena site farther south in Mission Bay near Third and 16th Streets. Considerable future development plans are still at stake, however, notably for the old Union Iron Works property at Pier 70. For Measure B see <http://www.sfgov2.org/index.aspx?page=4279> and <http://www.cp-dr.com/node/3443>. On the Warriors see <http://bit.ly/Q9kLbg>. On Pier 70, which for years was a backwater of warehouses, studios and car impound storage, see developer Forest City's plans at <http://pier70sf.com/> and artist Wendy MacNaughton's impressions at <http://pier70community.com/>.

Measure B proponents' page: <http://www.nowallonthewaterfront.com/news>

An opponent's argument: <http://urbanlifesigns.blogspot.com/2014/06/no-sea-of-parking-on-waterfro...>

Election results at: <http://www.sfelections.org/results/20140603/>

Yes: 59.42% **No:** 40.58% **Percent Reporting:** 597 of 597 precincts

San Mateo County – Half Moon Bay

Measure E: Allow the city to demolish the Main Street bridge and build a new, wider bridge that would include accessible walkways. Backed by the City Council.

Measure F: Conduct more modest renovations of the bridge and require any future attempt to demolish the bridge to be approved by voters. The measure would also make preservation of the “historical, visual, and physical integrity (including appearance and character)” of the bridge the official policy of the city of Half Moon Bay. Caltrans recently gave the bridge a sufficiency rating of 24 out of 100.

SMCounty Daily Journal pre-election coverage: <http://bit.ly/1qSd7mU>

Comment pro-F: <http://bit.ly/1kue3Jd> Comment anti-F: <http://bit.ly/1p4ZFrJ>

Fierce local chat page argument: <http://talkaboutwidget.hmbreview.com/topic.php?t=9611&c=4>

Election results at: <https://www.shapethefuture.org/elections/2014/june/>

Measure E:

Measure F:

Yes: 38.25% **No:** 61.75% **Yes:** 64.41% **No:** 35.59% **Percent Reporting:** 8 of 8 precincts

San Mateo, Santa Clara and Santa Cruz Counties

Measure AA: Issue \$300 million in bonds, to be paid off over 20 to 30 years, for habitat preservation, trails and visitor amenities in the Midpeninsula Regional Open Space District. Required a two-thirds overall vote. Supporters at http://www.openspace.org/news/bond_measure.asp say the final result across the three counties voting was “over 67%.” The vote was taken in parts of San Mateo and Santa Clara Counties and a small area of Santa Cruz County.

San Mateo County results: <https://www.shapethefuture.org/elections/2014/june/>

Yes: 66.28% **No:** 33.72%

Santa Clara County results:

http://results.enr.clarityelections.com/CA/Santa_Clara/51635/131405/Web01/en/summary.html

Yes: 68.81% **No:** 31.19%

Santa Cruz County results: <http://www.votescount.com/jun14/results.htm>

Yes: 50% **No:** 50%

Supporters claimed a favorable vote of over 67% across three counties.

Precincts reporting: San Mateo Co.: 200 of 200 Santa Clara Co.: 296 of 296 Santa Cruz Co.: 1 of 1

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>>> June 2014 election: Watsonville passes place-naming measure

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Santa Clara County – City of Los Gatos

Measure A: The “Albright Way Initiative” would authorize the appropriate changes in zoning and construction code regulations to allow a development project to go forward, creating two 65-foot tall buildings, two 50-foot tall buildings and a 35-foot tall parking garage at 90-160 Albright Way and 14600 Winchester Boulevard. The project is envisioned in part as an office for Netflix. Currently, the town’s General Plan limits construction in this area to only 35 feet in height. Opponents and proponents of the measure settled the essential disputes over the property’s future in March, making the initiative itself superfluous, but by then it was too late to withdraw the measure from the ballot. See http://www.mercurynews.com/los-gatos/ci_25284048/los-gatos-albright-way-... and <http://bit.ly/1puHMIP>, and see <http://www.cp-dr.com/node/3443> on the dispute over signature gathering that preceded the measure’s placement on the ballot.

Election results at: http://results.enr.clarityelections.com/CA/Santa_Clara/51635/131405/Web01/en/summary.html

Yes: 71.69% **No:** 28.31% **Percent Reporting:** 26 of 26 precincts

Santa Cruz County – City of Watsonville

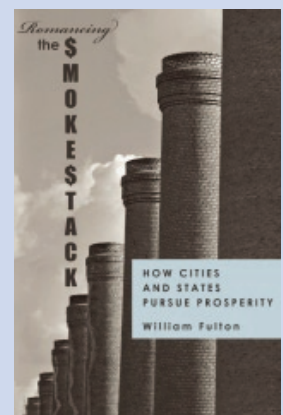
Measure J: Require a citywide election to decide on the new names of any public places, such as parks, public buildings, bridges, plazas, courtyards and airports. The name selection process would allow each of the seven City Council members to propose a name for the public place in question. The names would all be put before voters at an election, and the name receiving the most votes would become official. The measure emerged from a 2010 plan to name Watsonville Plaza for Dolores Huerta of the United Farmworkers. See <http://bit.ly/1nv8vPK>.

Election results at: <http://www.votescount.com/jun14/results.htm>

Yes: 64.55% **No:** 35.45% **Percent Reporting:** 17 of 17 precincts ■

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San Francisco, San Diego votes shaped waterfronts' futures in June election

BY LARRY SOKOLOFF AND CP&DR STAFF

Waterfronts constitute the defining features of the cities of San Francisco and San Diego. With the futures of these crucial landscapes at issue, voters in both cities weighed in on planning-related ballot measures in the June 3 election.

Voters in San Diego rejected community plan rezoning in the Barrio Logan neighborhood near the shipyards. In San Francisco, voters made it more difficult to raise building height limits along the city's mainly post-industrial waterfront. (Results from these and selected other land-use ballot measures are at <http://www.cp-dr.com/node/3502>.)

San Diego Measures B and C

Voters rejected San Diego's Propositions B and C by about a 3 to 2 margin, defeating a community plan update that would have restricted industrial uses in the 1,000-acre Barrio Logan neighborhood. About 5,000 people live in the mixed-use district, which has a long history of activism alleging harmful effects from nearby industrial activity.

Approved by a divided San Diego City Council in September 2013, the Barrio Logan community plan update was supported by environmental and neighborhood activists and by Democratic political figures including this winter's unsuccessful mayoral candidate, Councilmember David Alvarez.

The plan would have created a transition zone of commercial properties to serve as a buffer to separate residential uses from heavy industrial uses such as the shipyards. The buffer would have allowed existing businesses to remain. However, conditional use restrictions would have applied to new or expanding maritime supply businesses in the buffer zone. These proposed restrictions gave rise to fears that existing businesses would eventually feel constricted, and hence compelled to move elsewhere. Other goals of the plan included health and safety protections for residential areas and, controversially, new housing development. (See the U-T at <http://bit.ly/1ln0UxA> and <http://bit.ly/1ln5kV1>, *Voice of San Diego* at <http://bit.ly/RRKrdN> and <http://bit.ly/SKqTii>, *San Diego CityBeat* at <http://bit.ly/1os9h30>, and the *LA Times* at <http://lat.ms/Sodvtz>.)

Managers and proponents of industrial businesses in the area, prominently including the shipyards, questioned whether the measure was a first step toward de-industrializing the waterfront. Organized as the "Protect Our Jobs Coalition," they brought Measures B and C to the ballot as a means of challenging the Council's action. The ballot measures were phrased to ask whether the Council's resolution and ordinances updating the plan should be approved. Accordingly, the shipyard-affiliated group that had campaigned to place the measures on the ballot then campaigned for "no" votes on each of the measures.

The Environmental Health Coalition (EHC), which supported the community plan update, challenged the petitioners' signature-gathering tactics in court, but in April a judge allowed the measures to remain on the ballot. EHC then campaigned for a "Yes" vote

on the measures in an effort to preserve the community plan. (See CP&DR's coverage at <http://www.cp-dr.com/node/3473>.)

Proponents of the community plan, including Alvarez and other Democratic political figures, said the vote threw out a plan crafted after five years of community negotiation, and wondered about the precedent for future planning battles in the city.

City Council President Todd Gloria criticized the result in a Twitter thread at <https://twitter.com/ToddGloria/status/474295058477248512>, writing, "Money & lies used to undermine planning & democratic processes," and later, "A template has been created to buy a result that couldn't be achieved thru the community process."

Opponents of the community plan had argued that rezoning would lead to a loss of jobs by discouraging new or expanded marine supply businesses from operating where they could conveniently serve shipyards and the Navy. They also warned against the encroachment of housing on previously industrial land.

Shipyards argued that under the buffer plan, over 3,000 new residences could be built in the area. "A massive housing development in an industrial area will cause conflicts over noise, truck traffic, night time lighting, etc.," said a website for the campaign against the zoning changes. "Military experts tell us that these conflicts will threaten the future of the Shipyards." (See <http://www.abadplan.com/housing-too-close.php>.) On the San Diego Chamber of Commerce site at <http://bit.ly/1sfv13G>, similar phrases appeared as part of a more detailed argument against the plan, but put the number of housing units at "more than 2,000."

The opponents' ballot argument contended that approval of the propositions "would eliminate industrial land that suppliers need to support the shipyards and the Pacific Fleet." In May they also argued that the plan would expose more people to more air pollution by increasing housing development in the part of the neighborhood near the I-5 freeway.

Next steps for planning in the area are unclear. Local news reports describe the parties as looking toward new negotiations among neighborhood groups, business leaders, Council members, and Mayor Kevin Faulconer. For now the 1978 community plan for that area continues to apply. The Council cannot take up the same community plan proposal for 12 months but it can consider a substantially different plan.

"Barrio Logan is my home and my district, and I will immediately begin working on a new plan to protect it," Councilmember David Alvarez said in a statement after the vote. (See <http://www.10news.com/news/politics/barrio-logan-zoning-regulations-may-be-overturned>)

Likewise, Faulconer, speaking before the election, said at a press conference, "When these measures are voted down, it will be our opportunity to come together as a community to pass a

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>>> San Francisco, San Diego votes shaped waterfronts' futures

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plan that works to protect our families, to protect our economy.” <http://bit.ly/TY3Z1r>. The U-T reported June 15 that Faulconer and Alvarez would meet that day on the issue. <http://bit.ly/1sktmtC>

For the Barrio Logan Planning Department page, see <http://www.sandiego.gov/planning/community/cpu/barriologan/index.shtml>. The texts of Measures B and C and the text of the plan are at: <http://www.sandiego.gov/city-clerk/elections/city/140603.shtml>

San Francisco's Measure B

San Francisco voters continued to oppose waterfront high-rises by passing Measure B, which requires voter approval for any proposed building on Port of San Francisco land that would exceed existing height limits.

The port property subject to Measure B extends along 7.5 miles of the city's northern and eastern waterfront fringe from Fort Mason to the north edge of Hunter's Point, consisting mainly of piers and immediately adjacent inland parcels (See <http://www.sfport.com/index.aspx?page=2162>.) It includes post-industrial areas that are already full of new and part-built structures such as Mission Bay and Dogpatch, and also waterfront parcels along and beyond Islais Creek in the more recently development-targeted Bayview district.

Current height limits vary significantly, from “open space” zoning in some areas to authorizations for towers up to 105 feet on one parcel opposite Piers 30-32. Until now projects on Port property have been subject to permit approvals by the Planning Commission and Supervisors. (See <http://www.lwvsf.org/lwvsf-news/pro-cons-proposition-b-june-3-2014/>.) Additionally, permits from the San Francisco Bay Conservation and Development Commission (BCDC) are also likely to be required at the water's edge. (See <http://www.bcdc.ca.gov/permits/faqs.shtml>.)

San Francisco voters have a history of placing development controls on the city's waterfront, having turned down hotels and residential high-rises there in recent elections. In November 2013, they voted against Washington 8, a proposed 134-unit high-rise luxury condominium development in the city's Financial District. Proposition B was considered a way to widen gains in waterfront protection made in the earlier election.

The Sierra Club, which was a prominent supporter of Measure B, has posted a list of its own recent press appearances, including many on Measure B, at <http://sanfranciscobay.sierraclub.org/media/>. The official Measure B proponents' site is at <http://www.nowallonthewaterfront.com/>. They and other proponents of the measure argued that it was a means of asserting neighborhood control over areas that could otherwise be given over to profitable luxury development at the expense of public access, affordability goals, and neighborhood preservation. See, e.g., an op-ed by Sierra Club chapter chair Becky Evans and former City Attorney Louise Renne at <http://bit.ly/1pbrm31>.

Opponents of Measure B reacted to passage of the measure in part by arguing that it would worsen the city's housing affordability crisis by making waterfront housing more difficult to build. Among major presentations of this view, see CityLab's commentary by Kriston Capps at <http://bit.ly/1qnh96> and a commentary by Emily Badger in the *Washington Post* at <http://wapo.st/1kyrXdo>.

Patrick Valentino, a San Francisco attorney and spokesman for the No on B campaign, said that with the catchy slogan of “No Wall on the Waterfront” (coined in last November's 8 Washington campaign), supporters “got everybody focused on the ideas that [the result] would be a wall of large buildings, and that wasn't going to be the case.” Valentino said developers' proposals along the waterfront generally called for view corridors, slender buildings and parks.

As the *Chronicle's* John Coté noted at <http://bit.ly/1y3aZtq>, the notion of a “wall” is resonant in part because of past battles over waterfront construction farther west in the city. Valentino predicted that, with the measure passed, waterfront developers would focus first on getting voter approval for future projects, with the result being that residents wouldn't have the same kind of input that they currently have in shaping projects along the waterfront. Valentino further predicted that the height limits would encourage more short, wide buildings as a result, as with recent development in the city's massively rebuilt Mission Bay district.

Similarly, SPUR's Gabriel Metcalf told the *San Francisco Business Times* that with the waterfront height limits, the city

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>>> Waterfront: SF Measure B already affecting projects

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SAN FRANCISCO'S FORMER PIER 64N, ON A STRETCH OF EASTERN WATERFRONT SOON TO LOOK MUCH BUSIER.

could “look for short, squat buildings rather than tall slender ones.” (See <http://bit.ly/1pZhSr6>.)

Measure B's effects already visible

Before Proposition B passed, it had already influenced several high-profile proposals for waterfront development, as developers sought to comply with the expected height limits.

Proposals for the Port's areas of the waterfront no longer include the Golden State Warriors' proposal for a basketball arena on Piers 30-32. Opposition to that proposal at first provided the primary focus for Proposition B advocates, including former mayor Art Agnos. However, the team changed locations in April, purchasing a new site at Third and 16th Streets in Mission Bay that is still near the water but not under Port jurisdiction. (See *SF Chronicle* coverage at <http://bit.ly/Q9kLbg>; *Mercury News* interview with co-owner Joe Lacob at <http://bit.ly/1gP0VJv>; Warriors' statement at <http://on.nba.com/1rjUQcX>; Port of SF statement at <http://www.sfport.com/index.aspx?recordid=244&page=1497>.)

The San Francisco Giants had unsuccessfully sued to get the measure removed from the ballot because it was expected to limit a new mixed-use complex they hope to build on parking lots near their ballpark in Mission Bay (Pier 48 and Seawall Lot 337). The Giants eventually said they would modify their plan, according to the *SF Chronicle*. (See <http://bit.ly/1mYoRwt>, [<http://bit.ly/1loNmaH>, and <http://sf.curbed.com/tags/sea-wall-lot-337>.\)](http://</p></div><div data-bbox=)

However, development on the waterfront in space-strapped San Francisco is hardly going to stop. Other purposes will certainly be found for the area formerly offered to the Warriors. Mayor Ed Lee has reportedly offered a parcel just across the Embarcadero from Piers 30-32 to George Lucas for the “Cultural Arts” museum that he recently tried and failed to site at the Presidio. Although the piers themselves have height limits at 40 feet, that inland parcel is already zoned for height limits of 65 to 105 feet. (See <http://www.cp-dr.com/node/3505>.)

Another affected large mixed-use development plan is for the former Union Iron Works industrial complex on Pier 70, next to the recently condo-infilled, economically climbing Dogpatch neighborhood.

Without waiting for the June election, Pier 70's developer, Forest City, began circulating a ballot measure in May to seek a November vote on approval of a large construction and historic restoration project that would include structures as tall as 90 feet. See <http://bit.ly/1ndX7oY>.

[Disclosure: CP&DR Publisher Bill Fulton is Planning Director for the City of San Diego.] ■

legal digest

Court accepts proponent's economic evidence to approve full-scale landfill expansion

BY MARTHA BRIDEGAM

The California First District has issued a publication order for its April opinion allowing a 167-acre Potrero Hills Landfill expansion to go forward on the grounds that a reduced alternative was not “economically feasible.” In *SPRAWLDEF v. San Francisco Bay Conservation & Development Commission*, the appeals court overruled a Solano County judge to find local agencies properly approved the full-scale project.

The plan, by Waste Connections, Inc., called for moving Spring Branch, an intermittent watercourse in the “secondary management” grassland area of Suisun Marsh. At issue was whether the expansion had to reduce effects on the existing watercourse, or whether it could move Spring Branch to create greater economies of scale from a larger project.

Appeal was from a decision by the San Francisco Bay Conservation & Development Commission (BCDC) because that agency administers the Suisun Marsh Preservation Act, and from a decision by Solano County with respect to local protective planning rules. The Army Corps of Engineers had also reviewed and approved the project.

The opinion, by Justice Kathleen Banke, joined by Justice Sandra Marguiles and Justice Pro Tem Diana Becton, interpreted the Suisun Marsh Preservation Act as allowing application of CEQA case law on the concept of a “feasible alternative,” hence decided the matter essentially as a CEQA case.

In walking through CEQA cases on “feasibility,” the court identified the landfill case as comparable to *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490 in that clear evidence was provided to compare projects’ preferred and alternate versions. It highlighted evidence that the smaller landfill alternative, compared to the full-scale project, “would result in a 30 percent reduction in capacity and a 45 percent reduction in revenue.”

A widely shared analysis by Deborah Rosenthal of Sheppard Mullin has noted that the court accepted the developer’s own cost comparisons and gave close attention to their details as the basis for the decision: <http://bit.ly/1n2Jqcs>

Pending since 2003, the landfill proposal has been through multiple environmental reviews, including one in 2009 that considered 20 different alternative plans. Initial legal challenges were brought under the heading “Protect the Marsh” but more recently by another group, SPRAWLDEF. David Tam, cofounder of SPRAWLDEF, is mentioned as a petitioner in the matter from the start.

Links:

- The case is at <http://www.courts.ca.gov/opinions/nonpub/A137619.PDF>
- The docket reflects the publication order, a currently pending request for correction/modification, and a petition for review: <http://bit.ly/1qkcs9D>

- Sierra Club on environmental concerns and some procedural history of challenges to the landfill, 2007: <http://sfbay.sierraclub.org/yodeler/html/2007/03/conservation8.htm>
- BCDC Scientific Panel Review of landfill expansion, 2007: http://www.bcdc.ca.gov/planning/potrero/proposed_potrero_hills_11.shtml
- Northern California Recycling Association collecting 2012 accounts of a prior stage in the challenge, including one account by petitioner David Tam: http://ncrarecycles.org/NNHotOffThePress2012_12
- SPRAWLDEF: http://sprawldef.org/about_us/history__mission_statement
- Potrero Hills Landfill: <http://potrerohills.com/>
- Waste Connections, Inc.: <http://www.wasteconnections.com/>
- BAAQMD Potrero Hills Landfill file: <http://www.baaqmd.gov/Divisions/Engineering/Title-V-Permit-Programs/Title-V-Permits/Solano/A2039/Potrero-Hills-Landfill-Inc.aspx>
- A blog-post with links by two editors of a recent UC Press collection on negotiated environmental management in this natural-looking but heavily reshaped ecosystem: <http://californiawaterblog.com/2014/05/01/planning-for-the-inevitable-at-suisun-marsh/> ■

State Supreme Court considers how soon the initiative process shuts out CEQA

BY MARTHA BRIDEGAM

California's Supreme Court heard oral arguments May 28 in *Tuolumne Jobs & Small Business Alliance v. Superior Court*, preparing to resolve a split between state appellate courts on when a developer's use of the ballot initiative petition process has demonstrated sufficient voter support to substitute for CEQA review.

The case most directly concerns a proposed Walmart expansion in the Tuolumne County town of Sonora. The outcome could have statewide effects on a tactic allegedly used by Walmart in several towns: qualifying a ballot measure for a costly special election as a way to pressure local officials into approving projects without detailed environmental review.

The potential effect, however, is not limited to large construction proposals. It would presumably affect the level of review required, and hence the practical choices available to a local legislative body, whenever an initiative petition was qualified for a measure that, if it had been proposed by municipal staff, would be required to undergo CEQA review.

Under Cal. Elections Code Sec. 9214, if 15% of a city's voters sign an initiative petition, the governing legislative body must either "adopt the ordinance, without alteration" or place it on the ballot.

In 2010, proponents of the Sonora Walmart expansion qualified an initiative for the ballot supporting a specific plan to authorize the project. The Council chose to adopt the text of the initiative as law rather than send it to a vote. In dispute was whether that decision required CEQA review.

The *San Francisco Daily Journal* reported the high court "appeared skeptical of arguments" supporting the prior ruling, by the Fifth District Court of Appeal, that CEQA review was

still required after the Sonora council adopted the petition. It said some more liberal justices appeared concerned about a process that could send through a project with neither a full election nor a CEQA review. But it said Justices Cantil-Sakauye, Corrigan and Werdegar challenged attorney John Lawrence, representing petitioner Tuolumne Jobs & Small Business Alliance (TJSBA), to explain how a CEQA review requirement could override authority written into the Elections Code by the Legislature.

TJSBA's counsel had written in their final brief to the high court that the "ploy" in Sonora of Walmart and its proponent James Grinnell "appears to be part of a larger statewide strategy to force financially downtrodden communities into approving their development projects without CEQA compliance, without discretionary review, and without an election by presenting approving the Initiatives as the lesser of two evils."

Accordingly TJSBA argued public policy should not allow CEQA review to be replaced by a presentation of 15% of a town's registered voters' signatures plus the sympathy of a local legislative body.

The "statewide strategy" claim in TJSBA's brief cited to a broken SFGate link, but apparently referred to a report by Will Evans of the investigative news project California Watch, published in the *San Francisco Chronicle* in 2011. Evans' report suggested Walmart had been whipsawing local governments by gathering signatures to pressure them into either approving a project verbatim as proposed, without CEQA review, or spending public funds on a special election. See <http://www.sfgate.com/bayarea/article/Walmart-wins-big-with-California-initiatives-2291127.php>.

The last pre-hearing brief by Walmart's

attorneys in the matter, of K&L Gates in San Francisco, accused TJSBA of "completely" ignoring legislative histories of the initiative process and of CEQA, and of using public policy arguments to distract from harm threatened by the Fifth District's position to the core functions of the initiative process and the core First Amendment rights of the voters who signed initiative petitions.

Grinnell's counsel complained further of "the use of an irrelevant newspaper article to somehow impune (sic) the motives of the Initiative proponent and the voters who signed the Initiative petition."

Walmart's and Grinnell's briefs argued that authority descending from *Associated Homebuilders, Inc. v. City of Livermore*, 18 Cal. 3d 582 (1976), established that once a proponent obtained a 15% signature tally for an initiative proposal, CEQA review requirements no longer applied to it. They argued this shut-out was constitutionally necessary to avoid second-guessing the wishes of the petition signers.

The Fifth District court, in its 2012 opinion, had called for more substantial review than a 15% voter approval: either a CEQA process or an election. That opinion, by Justice Rebecca Wiseman with concurrences by Presiding Justice Brad R. Hill and by Justice Stephen J. Kane, warned: "Developers' strategy of obtaining project approvals without environmental review and without elections threatens both to defeat CEQA's important statutory objectives and to subvert the constitutional goals of the initiative process."

According to the Fifth District, the Sonora council was already considering an EIR for the Walmart expansion, but put the approval vote on hold to consider

>>> State Supreme Court: CEQA versus Elections Code

– CONTINUED FROM PAGE 18

the ballot measure, and having adopted the ballot measure it did not approve the EIR. The Fifth District would have sent the matter back to the city for further environmental review.

(Evans' article viewing the Fifth District's Sonora decision as a setback for Walmart's statewide strategy is at <http://californiawatch.org/dailyreport/win-environmental-law-loss-Walmart-18670>.)

The Fourth District's 2004 opinion, by Justices Rylaarsdam, O'Leary and Fybel, had taken a directly contrary position in *Native American Sacred Site & Environmental Protection Assn. v. City of San Juan Capistrano* (2004) 120 Cal. App.4th 961. (See CP&DR's summary at <http://www.cp-dr.com/node/547>.) That decision treated the role of a city council, once presented with a qualified voters' petition, as merely ministerial -- a mandatory, automatic function, hence CEQA-exempt. The Fifth District opinion asked how that could be so if the council still held the power to choose between adopting the measure or placing it on the ballot. But the Fourth District opinion had asked how the council's function could be other than ministerial if the wishes of the petition signers were to be respected.

(The Burke, Williams & Sorensen firm in 2013 posted an analysis on the conflict of authority as it stood after the Fifth

District decision at <http://bit.ly/UIWsKa>. William Abbott of Abbott & Kindermann analyzed the case for CP&DR at <http://www.cp-dr.com/node/3298>.)

The Fifth District opinion interpreted a prior State Supreme Court case, *Friends of Sierra Madre v. City of Sierra Madre*, (2001) 25 Cal.4th 165, together with CEQA Guidelines Sec. 15378(b), as saying a referendum initiated by a petition – as opposed to one initiated by a public agency – could be a way past the trouble and expense of an EIR process under CEQA. Thence it took the backhanded implication that a petition without an election was not sufficient to substitute for the administrative review process. By the *Daily Journal's* account, Lawrence relied strongly on *Sierra Madre* at oral argument.

Grinnell's final reply brief had argued, on the contrary, that the *Sierra Madre* case addressed only the need for CEQA review of a city council's decision to place its own measure on a ballot. It argued the authority of a city council was not comparable to the reserved power of "the people" to "tear through the exasperating tangle of the traditional legislative procedure and strike directly towards the desired end" by bringing an initiative. And in such a case, it argued, the council acted only as "the ministerial agent of the electorate."

TSJBA argued, "The results of an election represent the will of the people. A petition signed by 15 percent of the voters does not."

Grinnell answered that the reserved initiative power "is not only manifest when an election is held," but also is manifested in "the right to have a duly-qualified, voter-sponsored initiative immediately passed by the local agency".

The parties' papers concluded with project proponents exalting the rights of petition signers to be heard and project opponents presenting CEQA as a shield for small-town officials against large companies.

The California Supreme Court docket for the case is at <http://bit.ly/Um828m>. The prior Fifth District decision is at <http://www.courts.ca.gov/opinions/revpub/F063849.PDF>. Links to full texts of briefs to the California Supreme Court are at <http://www.courts.ca.gov/25993.htm>. Readers may also be interested in the account of *Tuolumne* oral arguments and surrounding issues by Juliet Cho of Stoel Rives at <http://bit.ly/1yHbHNq>.

[Disclosures: Martha Bridegam worked briefly for a legal team suing Walmart on a personnel matter several years ago.] ■



Ninth Circuit overturns LA city vehicle habitation ordinance

BY MARTHA BRIDEGAM

Citing to sweeping, venerable core case law on the civil rights of individuals in public places, the Ninth Circuit on June 19 overturned Los Angeles' Municipal Code Sec. 85.02 statute against use of vehicles for habitation.

The ruling in *Desertrain v. City of Los Angeles* potentially reduces city governments' control over the uses and appearance of public spaces. On the other hand it enhances the ability of people who have lost conventional housing to use their vehicles for some of the purposes of a home, rather than face the riskier, more stereotypically "homeless" situations of lugging possessions by hand on city streets or relying fully on institutional shelters and services.

The Ninth Circuit opinion, by Judge Harry Pregerson, found the Los Angeles ordinance unconstitutionally vague on the grounds that "Plaintiffs are left guessing as to what behavior would subject them to citation and arrest by an officer," and that the ordinance encouraged arbitrary and discriminatory enforcement against homeless people.

The opinion reviewed the circumstances of four plaintiffs cited and arrested for allegedly living in their cars during a Venice-area enforcement campaign in fall 2010. (Seven plaintiffs are named in the caption, but a footnote explains that some received parking tickets while parked with disability placards, and the parties agreed those tickets were a mistake.)

In all of the described cases, the cited parties kept possessions in their vehicles, but two slept in their vehicles at night only while parked on private property by permission. A third, warned against sleeping in his car, "then began sleeping on the sidewalk, which is legal," and at times slept in a shelter. The fourth, when arrested, insisted he was not sleeping, but was told "that sleeping is not the only criteria for violating Section 85.02."

The opinion further recounted evidence of conflicting understandings among city officers about the meaning of the ordinance. It said that while legitimate health and safety issues were raised about the conditions in which vehicle campers were living, "some of the conduct plaintiffs were engaged in when arrested -- eating, talking on the

phone, or escaping the rain in their vehicles -- mimics the everyday conduct of many Los Angeles residents."

It concluded that the law "is so vague that it fails to give notice of the conduct it actually prohibits," and as interpreted by city police, was "incompatible with the concept of an evenhanded administration of the law to the poor and to the rich that is fundamental to a democratic society."

The opinion quoted at length from *Papachristou v. City of Jacksonville*, the exceptionally literary 1970 Supreme Court opinion by Justice William O. Douglas that overturned, as void for vagueness, old-style vagrancy laws that formerly authorized arrest for statuses such as unemployment and for ill-defined offenses such as "loitering".

Pregerson was joined in the opinion by Judges Marsha S. Berzon and Morgan Christen. Their decision overturned a 2011 district court ruling that had backed the city and arresting officers in cross-motions for summary judgment. As a threshold matter, the Ninth Circuit found it proper to consider the plaintiffs' vagueness challenge to the ordinance, raised in the Plaintiffs' motion, although they did not raise the vagueness aspect of their constitutional argument until after filing their first amended complaint. The local district court had refused to consider the merits of the vagueness challenge.

Mark Ryavec, head of the Venice Stakeholders Association, and a campaigner against campers on Venice streets, complained to the *Los Angeles Times*, "It leaves people who are mentally ill, criminally inclined or lethal on your doorstep and removes any possibility the police can do anything about it."

The decision does not necessarily grant blanket permission to sleep in vehicles in all circumstances. Vehicular residents are potentially affected by many laws, including parking restrictions, vehicle codes, and disorderly-conduct statutes that prohibit many kinds of living activities on public property. It remains to be seen how much *Desertrain* may hold back the use of such additional measures. However, the case has already been recognized as having important effects throughout California. William Abrams, a consulting professor

at Stanford who has represented vehicular residents in Palo Alto, told a local paper he thought the holding "will apply completely if we were to have to go to court" over Palo Alto's ordinance against vehicle sleeping.

Activist attorney Carol Sobel, who represented the plaintiffs, told the KPCC radio station that since her clients did not sleep in their vehicles on public property, the case for them was principally about the ability to use vehicles on a public street in the daytime without being singled out for having certain kinds of property in their vehicles. She said in the radio interview that all four of her clients had been arrested under the invalidated statute, which was defined as a misdemeanor, and two lost their vehicles to towing. Asked whether tolerating vehicle habitation created sanitation concerns, or whether it reduced pressure to provide real housing, she said the answer to needs for sanitation and for housing wasn't to put people in jail.

Los Angeles City Attorney Mike Feuer told the press he would not appeal the decision but would seek to redraft the ordinance instead. He told the *LA Times*, "We need to make a break from the past ... and commit ourselves to grappling with the issues that create homelessness in the first place."

[Disclosure: Martha Bridegam has represented vehicular residents and people charged with "quality of life" offenses as a volunteer attorney in San Francisco.]

Links:

- Ninth Circuit *Desertrain* opinion: <http://cdn.ca9.uscourts.gov/datastore/opinions/2014/06/19/11-56957.pdf>
- *Papachristou v. City of Jacksonville*: <http://laws.findlaw.com/us/405/156.html>
- *LA Times*: <http://lat.ms/1nRqyz4>, <http://lat.ms/T3Akmm>
- KPCC (SoCal Public Radio): <http://bit.ly/1j4mW8G>
- AP: <http://bit.ly/1nwDyHr>
- *Guardian (UK)*: <http://bit.ly/1roYtQq>
- *Palo Alto Weekly*: <http://bit.ly/1lKKzsw>
- *Wall Street Journal*: <http://on.wsj.com/1rd9DYp> ■

Can an anti-speculation tax slow down Bay Area gentrification?

BY MORRIS NEWMAN

A coalition of San Francisco tenants' groups has won the needed four votes from county Supervisors to place an "anti-speculation tax" initiative on the city and county municipal ballot in November. The initiative, which would impose a 24-percent tax on investors who sell rental housing within five years of purchase, is the latest attempt of long-time city residents to beat back the waves of rising rents and housing values in what has become the nation's most expensive housing market.

The anti-speculation tax may carry an extra emotional charge for some of its supporters: a similar proposal was one of the last projects of legendary gay rights activist and San Francisco Supervisor Harvey Milk before he was assassinated in 1978. The umbrella group campaigning for this November's ballot measure, known as the Anti-Displacement Coalition, includes the San Francisco Tenants Union, Causa Justa/Just Cause, Eviction Defense Collaborative, Housing Rights Committee, and the Chinatown Community Development Center.

However sympathetically we may view the frustrations of working-class and middle-class people facing rapidly rising housing prices, it seems unlikely that either the initiative process or other political efforts can control gentrification and runaway real estate speculation. Part of the reason is the law and another part concerns the nature of cities and investment cycles.

Although nobody can predict elections, it is plausible, if far from certain, that the anti-tax initiative could squeak through in November. The city population has a plurality of renters, most of whom are unable to move from their rent-controlled units into other rental properties; in San Francisco, a one-bedroom unit can command \$3,500 in monthly rent.

Even for a non-lawyer like the present writer, the anti-speculation tax seems unworkable. One does not have to be a glassy-eyed supporter of property rights to realize that a 24-percent tax on a private investment is onerous. Even if foes of gentrification can see a clear public purpose in punishing short-term investors, the law probably does not.

Then there's the equity issue: Why would housing investors be subject to a punitive tax, while owners of other forms of investment

real estate would not share a similar burden? How would the law handle cases of mixed-use developments that combine housing with retail, office, childcare and health clinics? For example, would the law require the owner to pay a full 24 percent of the sale proceeds of a mixed-use property? Or could the owner negotiate a partial payment, based on some arcane formula, such as the percentage of the total square footage devoted to housing, perhaps, or the percentage of income that the rental housing units contribute to the total cash flow? And then there would be loopholes for people who inherited property and wanted to liquidate their estates within five years. What would stop those heirs from forming limited partnerships with real estate investors? And so on. Even if the law survived a constitutional challenge, which is unlikely, it would be full of loopholes as a piece of French lace.

The deeper problem is the nature of cities. Cities are dynamic places where change is axiomatic. The dirty secret is that cities live on money. Successful cities are those that are able to attract a steady flow of investment in private homes, rental housing, commercial space and public areas. In a sense, cities are fossil records of the periods of greatest investment, because those periods are when the greatest amounts of construction and re-construction occur. And current levels of investment, like it or not, make the difference between San Francisco and Detroit.

In a perfect world, cities would experience just enough investment to maintain property values while discouraging neighborhoods from deteriorating into slums. But investment is not rational, and the current phenomenon of investment in Bay Area housing is a case in point. This is an over-heated housing bubble.

Bubbles do not last. Real estate is cyclical by its nature: Bust follows boom every four or five years; the prolonged recession in recent years was a rare exception. Long-time Bay Area residents will recall that the Dot-Com Boom, the boom that promised to change the rules of the economy forever (alas for days gone by!) was followed by the Tech Wreck. That collapse in values left many offices and storefronts suddenly empty South of Market, together with tens of millions of square feet of office space in throughout the Bay Area and Silicon Valley. People lost their jobs or

could no longer afford to live in the Bay Area. At one point, San Francisco residential vacancies approached 10 percent.

The same fate awaits the current tech-driven housing bubble. Something will inevitably spoil the run-up in prices. For starters, technology is mercurial. Apple, Google, Oracle and Adobe, inconceivable as it sounds, may all lose market share and pull back at some time in the future. Intel and Microsoft, formerly viewed as bulletproof, have already lost ground; Blackberry and Nokia, market leaders in their time, are much diminished. Does anyone remember that Cisco Systems was the highest cap stock at one point?

Beyond the fortunes of technology, a national or global recession could dampen the market. So could, God forbid, the unexpected shifting of continental plates. The only certainty is that the market will cool and values will drop somewhat.

It's true that San Francisco has been Manhattanized and that the social cost is high. So far, it's proven difficult or impossible to legislate a certain kind of urban quality, at least in America. The law seems largely indifferent to urban quality, which can mean different things to different people. (Personally, I'm attracted to messiness, crowding and near-insoluble infrastructure problems, but I realize this is a personal taste.) Alas, the trickle-down theory, justly maligned in macro-economics, may be applicable to cities: Where there's money, there are exciting shopping streets, exciting new buildings and preservation, and hot new districts. And bountiful tax proceeds bring in public money for museums and parks.

In short, cycles of reinvestment and disinvestment are the cost of remaining a money-center city. As in nature, the presence of too many nutrients for one species may cause one part of an ecosystem to grow too quickly, to the detriment of a balanced system. That overgrowth, in turn, brings about a correction over time. The process, which may appear chaotic from short range, may look more orderly from a distance. It's true that the San Francisco of Alfred Hitchcock's *Vertigo* has become a theme park for the rich. I'm not particularly happy about it. On the other hand, I haven't booked a hotel room in Detroit for a long time. ■

>>> Jurupa Valley

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term salvation, hoping state legislators will approve a key bill and that Governor Jerry Brown will sign it into law. Local efforts to win Brown over have begun, including organizing schoolchildren to write to the Governor's dog.

What does all this mean for other California communities that want to incorporate? It means that the state hasn't completely righted itself following financial troubles that hit hard in 2011, and while something may be done for existing new towns, there is still not enough funding to help new cities get started.

"There's no mechanism to incorporate unless residents want to vote to immediately tax themselves," said Jurupa Valley City Councilwoman Laura Roughton.

In the halcyon days of old, cities could count on state Vehicle License Fees (VLF) to help pay some of their initial costs as they were created, before they developed their own tax bases to fund services. Those funds were wiped out for new towns in 2011 when Brown had the money diverted to prison realignment via that session's SB 89.

Jurupa Valley was hit hardest in 2011. The effective date of its referendum vote for incorporation fell two days after SB 89 went into effect, taking away expected revenue. "The rules were changed midgame, and it's amazing that it all happened," said Roughton. "The other three cities all got at least one

payment. We didn't get any."

If the current appeal to Sacramento feels like *deja vu*, there are good reasons. It's similar to an earlier legislative dance involving the Governor. Jurupa Valley and other new towns also sought state rescue money in 2012 under AB 1098, which Brown vetoed. A further attempt via SB 56 died in the Legislature in 2013. Nothing is certain this year either but the current proposal comes out of a different financial picture and is limited to aiding a few existing new towns — factors that may give it a better chance of becoming law.

Roughton said cityhood has been good for Jurupa Valley, despite all the financial hurdles. The city controls local land use, and its streets are cleaner, she noted.

Formation of cities helps the state meet other goals, such as providing affordable housing and creating density, said Dan Carrigg, legislative director of the League of California Cities. Incorporated cities also provide public safety improvements and planned communities, said Chuck Dalldorf, spokesman for Sen. Richard Roth, D-Riverside. Roth sponsored SB 56 and is the sponsor of the current bill to aid new towns, SB 69.

"If there's not a solution (to funding new cities), it's unlikely there will be incorporation again in California," Carrigg said.

Four cities in Riverside County, including Jurupa

AB 1521 would fund annexations

A companion measure to SB 69 is making its way through the State Legislature to help cities that, like Jurupa Valley, were hit by the 2011 budget cuts just when they had agreed to serve new areas, though with respect to annexations rather than incorporations.

AB 1521, sponsored by Assemblyman Steve Fox (D-Palmdale), would benefit cities that, as of 2011, had recently completed annexations of inhabited county lands and had been expecting state support for their increased service levels. It would commit state General Fund money to reinstate fee allocations that previously came from vehicle license fee (VLF) funds.

Lobbyist Jason Gonsalves, who represents several Riverside County cities, said the new legislation would provide \$4 million a year to cities to pay for service costs in those recently annexed areas.

AB 1521 differs from SB 69 in offering a future source of revenue for ongoing costs, as opposed to SB's 69 narrow focus on making up for past cuts to four Riverside County cities.

"It's not to restore funding lost, but to give them a way to cover services in areas they annexed," Gonsalves said.

VLF funds were taken from the cities in 2011 when the state sought new sources of revenue to pay for prison realignment. At the time, many of the affected cities responded by cutting public safety costs. A legislative analysis of the new bill said \$4 million in cuts affected a number of cities, including Chico, San Ramon, Santa Clarita, Temecula, Fontana, San Jose, Porterville, Tulare and Visalia, that had annexed inhabited areas.

The measure might also encourage other cities to do infill annexations, Gonsalves said.

Although it would raise funding for cities throughout the state, AB 1521 hasn't won the support of the influential California State Association of Counties. According to legislative summaries it does have support from several city governments and county LAFCOs, and from the League of California Cities. AB 1521 passed the Assembly in May and goes to a State Senate Governance and Finance Committee hearing on June 25. ■

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>>> Jurupa Valley: changed legislative prospects

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Valley, incorporated around the time when VLF funding was cut off in 2011. They were left with huge debts, and had to cut services deeply. The other three cities, Eastvale, Menifee, and Wildomar, have also been active in the last few years’ efforts to recover money from the state that they planned on using for incorporation.

This year the state’s fiscal health has improved, and passage of Proposition 30 in 2012 injected \$6 billion into the state’s budget annually. Government leaders in Riverside County pointed to those events as reasons they might get state money to help them out of their financial mess.

A related reason has to do with reduced competition for funds.

In 2011, SB 89 created new claims on the VLF money by taking it away from new cities and giving it to counties to handle prison realignment, where state prisoners were returned to county jails as a way to decrease overcrowding. So when the AB 1098 proposal in 2012 sought to transfer VLF revenue back to new cities, it created competition for the same money that counties needed for realignment. Groups such as the California State Association of Counties opposed the bill. “We were concerned about undermining realignment revenues,” said Jean Hurst, a lobbyist for CSAC.

But as of the November 2012 election, Proposition 30 wrote into law that the VLF money would go to counties, Hurst said. The ballot measure allocated VLF funds to “public safety services” including realignment, so any fresh effort to help new cities had to be made separately from the use of VLF funds. SB 69 proposes to help the new cities out of the state’s General Fund, and CSAC is among its supporters.

Another key change between SB 69 and AB 1098 is that it provides money only to cities that incorporated before 2012. The bill would divide about \$15 million in start-up costs among Jurupa Valley and the other three newly incorporated Riverside County cities.

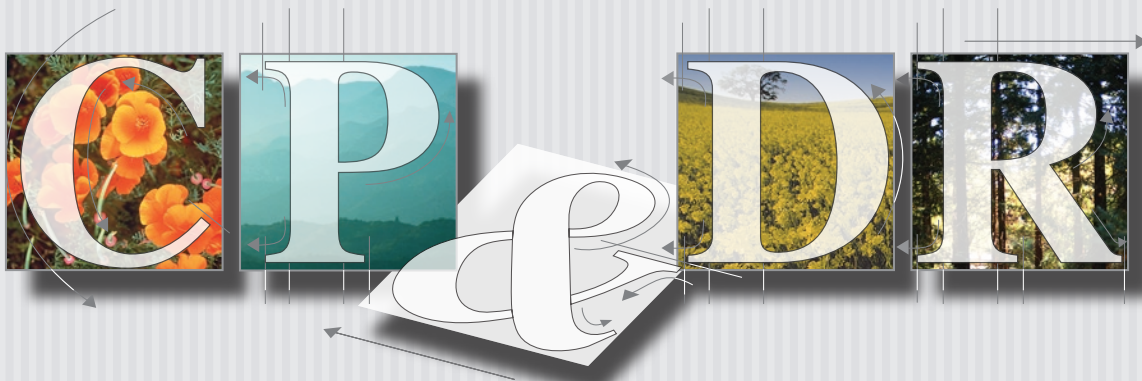
As initially conceived, Roth’s bill, SB 69, was written to provide funds for all newly incorporated cities that would formerly have been entitled to draw on vehicle license fees for their initial costs. That would have given all future new cities in California the same claims on VLF-substitute funding as the newest Riverside County cities. But recent negotiations narrowed the bill to apply only to cities that incorporated before 2012.

“It was strictly a cost issue,” said Roth spokesman Dalldorf. “We’ll have to do that after the four-cities bill.”

Roughton said Jurupa Valley expects to have more revenue because sales tax projections are higher, and new

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>>> Jurupa Valley: might stay a city after all

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residences are selling again in the city. Among other things, a new Walmart opened in the city in June.

The city is also taking tentative steps that show it might be around for a while. A new budget adopted in June adds \$2 million in new spending for what Roughton describes as “things... cities are required to do.”

New spending has been approved for studies the city is required to perform on developer fees, an interim general plan, and examining whether the city should hire its own staff (until now, all city employees have been contractors). The city also plans to increase spending on traffic officers, following several recent local traffic fatalities.

Jurupa Valley received a two-year extension from the state Office of Planning and Research on its general plan, which was due on at the end of 2013. The city is now funding what is being called an interim general plan. It should direct growth for three or four years, according to Roughton. The interim general plan needs to be completed at the end of 2015.

Despite the Jurupa Valley City Council vote to start disincorporation in January, there has been little followup on the process, other than a few meetings with Riverside County officials, Roughton said.

Hurst of CSAC said Riverside County officials have been helpful to the new cities. “They’re essentially floating them while this gets resolved in the legislature,” she said.

Roughton said the city has not been able to secure a meeting with Governor Brown, but Brown did acknowledge the four newly incorporated cities’ dilemma when he visited the county earlier in the year. He asked his staff to look into the concerns.

In the meantime, Roughton is trying to raise the Governor’s awareness of Jurupa Valley issues by getting

local school children to write to his dog. “It’s all very positive,” she said. “We’ve tried a ‘Letters to Sutter Brown’ campaign to Governor Brown’s dog.”

The letters “invited Sutter to come and visit. We have a dog park.”

Roughton said unlike other cities in the state, Jurupa Valley can’t declare bankruptcy. “We don’t have any unfunded pensions. We don’t have any debts that can be unstructured.”

SB 69 will next be heard in the Assembly’s Local Government Committee on June 25.

Links:

- CP&DR on Jurupa Valley’s 2011 incorporation: <http://www.cp-dr.com/node/2901>
- SB 89, passed 2011: <http://bit.ly/1nuB1i6>
- AB 1098, vetoed September 2012: <http://bit.ly/11JNoKl>
- League of CA Cities response with link to Gov. Brown’s veto message: <http://bit.ly/1ps1r5m>
- Prop 30, passed November 2012: <http://voterguide.sos.ca.gov/past/2012/general/propositions/30/analysis.htm>
- SB 56, died in Legislature, 2013: <http://bit.ly/1p6N6Q3>
- SB 69, currently pending: <http://bit.ly/1lhtBAX>
- SB 1521, currently pending: <http://bit.ly/1qCEuQQ>

>>> Will SGC money pay for planning or implementation?

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in time.) The SGC was created after Proposition 84 passed. The Legislature subsequently assigned it to distribute the funds in a way that encourages creation of “sustainable communities” under AB 32 – that is, communities expected to reduce greenhouse gas (GHG) emissions under California’s 2006 climate change law, which calls for significant GHG reductions by 2020.

The planning funds were doled out in three rounds – 2010, 2012, and 2014 – and in each case the SGC sliced the pie a different way. In 2010, for example, there was a set-aside for metropolitan planning organizations to do modeling. In 2012, there was a category for regional cooperation. In 2014, there was an environmental justice set-aside. (Disclosure: The City of San Diego, where I work, won one of the biggest grants in Round 1 and got one out of the two it applied for in Round 3.) A separate program funded planning and construction of “urban greening” projects.

Two external events over the past few years made the SGC grant program more important than it otherwise would have been. The first was the economic crash of 2008, which caused local governments’ general funds to shrink and thus made it more difficult for cities and counties to fund their planning efforts. The second was the end of redevelopment in 2012, which robbed local governments – mostly cities – of a funding source they had often used to do plans in specific neighborhoods.

Looking at the patterns, there’s no question that SGC grants have been used to fund local plans that the cities and counties might otherwise have funded on their own. This was especially true in the first and second grantmaking rounds, before general funds began to recover from the 2008 downturn. (Many of these planning efforts were also funded by similar grant programs from the state’s biggest metropolitan planning organizations, which have used either federal or local transportation funds for these programs.)

But in the most recent round, something interesting happened: Cities and counties weren’t seeking to use SGC grants to replace lost redevelopment planning funds, as one might expect. Instead, local governments and their nonprofit partners are focusing on implementation of previous plans – especially climate action plans – as well as transportation projects. Transportation plans received many grant awards in 2014 after getting virtually none in the first two rounds.

The big question, of course, is whether the SGC funds have encouraged cities and counties to undertake planning efforts focused on infill and transit-oriented development

efforts that they might otherwise not have undertaken with their own money. That’s the whole point of a grant program, after all – to give somebody money to do something they might *not* otherwise have done in order to achieve your objective.

It’s hard to know what cities and counties might otherwise have done if they had more money of their own. Even in the wake of the big economic downturn in 2008, an awful lot of local governments in California continued to start up general plan updates with money that they had squirreled away – but, of course, they had to focus on GHG reductions because of AB 32 and other state laws requiring them to do so.

All three rounds of grants have focused on a few basic themes, including:

1. District and corridor plans tied to transit-oriented or infill development.
2. Climate action plans or other efforts to reduce greenhouse gas emissions.
3. General Plan updates focusing on such topics as GHG reduction and healthy communities.

General plan updates and district or corridor plans are, of course, the bread-and-butter of local planning in California. And at the time of the first round, most cities and counties in California had realized they had to do some kind of climate action plan in order to comply with new state laws and emerging practices under the California Environmental Quality Act.

But here’s what’s interesting: While the district and corridor plans continued apace among grantees in SGC’s third round, the general plan updates and climate action plans slowed down. That’s probably because, by 2014, most cities and counties had updated their general plans to reflect the new emphasis on greenhouse gas emissions.

In place of General Plan updates and Climate Action Plans, cities and counties – and, in many cases, nonprofit partners working with them – focused on different things in Round 3, including:

1. Implementation of climate action plans and GHG reduction strategies.
2. Transportation plans and projects
3. Energy projects.

For example, a number of cities – including Goleta near

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UC Santa Barbara and the ever-hip City of West Hollywood – got grants to focus on bicycle and pedestrian projects. Several others got grants to focus on various aspects of energy. These were often partnerships at the county level, including in Santa Clara, Sonoma, Butte, Monterey, and Madera Counties. The energy projects ranged from examining community choice aggregation (the ability to use small-scale, community-based energy production to break the hold of big utilities on the energy system) to experimenting with fuel cell technology.

The focus on transportation and energy makes sense. Now that most local governments have big-picture plans in place for GHG emissions reduction, they actually have to produce – by switching to alternative energy sources, or by encouraging their residents to switch from driving to walking or bicycling. The shift to walking and biking – what has become known as “active transportation” – is an especially important component in meeting 2020 GHG targets because people can switch modes tomorrow, rather than waiting for big transit projects or major transit-oriented development.

But in the long run, GHG reductions after 2020 are likely to depend in large part on those longer-range plans – more transit stops and more development around those

stops. That’s why cities and counties are still getting a lot of money from the SGC – and from the MPOs in their own grant programs – for district and corridor plans. The built environment takes a long time to change.

So as SGC embarks on its huge new program with cap-and-trade money, it will be interesting to see whether this trend continues. Will SGC fund primarily implementation-type plans, such as zoning ordinances and bike/ped plans? Will there be yet more general fund updates to fund? Will corridor and district plans still be popular?

Or will SGC push the locals deeper into implementation? Assuming it has hundreds of millions of dollars available in the years ahead, SGC may place a greater focus on actual construction of hard infrastructure, such as bikeways and the public realm components of transit-oriented development projects. After all, with the end of redevelopment these projects are very hard to pay for.

Even though the cap-and-trade money is a drop in the bucket compared to redevelopment, the SGC may very well get pushed in the direction of using cap-and-trade money to build public realm amenities and infrastructure, not just funding plans. ■

