



CITY OF EL PASO DE ROBLES

"The Pass of the Oaks"

CITY COUNCIL MINUTES

Tuesday, April 4, 2006 7:30 PM

**MEETING LOCATION: PASO ROBLES LIBRARY/CITY HALL
CONFERENCE CENTER, 1000 SPRING STREET**

**PLEASE SUBMIT ALL CORRESPONDENCE FOR CITY COUNCIL PRIOR
TO THE MEETING WITH A COPY TO THE CITY CLERK**

7:30 PM – CONVENE REGULAR MEETING

CALL TO ORDER – Downstairs Conference Center

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL Councilmembers Jim Heggarty Gary Nemeth, Duane Picanco, Fred Strong, and Frank Mecham

PUBLIC COMMENTS

- Joel Peterson, Chairman of the Design Committee, Downtown Paso Robles Main Street Association, announced the publication of the second edition of "Self Guided Walking Tour of Historic Buildings – El Paso de Robles, California" booklet.
- Chuck Miller announced upcoming events at the Estrella Warbird Museum: May 8, 2006 the first annual golf tournament; and a fly-in event on May 15th.

AGENDA ITEMS TO BE DEFERRED (IF ANY)

City Manager Jim App reported that Item 11 will be continued until May 2, 2006.

PRESENTATIONS – None

PUBLIC HEARINGS – None

CONSENT CALENDAR

Mayor Mecham called for public comments on Consent Calendar items. There were no comments from the public, either written or oral, and the public discussion was closed.

1. Approve City Council minutes of March 21, 2006
D. Fansler, City Clerk
2. Approve Warrant Register: Nos. 61032—61216 (03/17/06) and 61217—61454 (03/24/06)
M. Compton, Administrative Services Director
3. Proclamation honoring Thomas P. Morgan Jr., M.D. on the dedication of the Conference Room of the Founder's Pavilion at Twin Cities Community Hospital in his honor, and recognition of his outstanding service and commitment to the City of Paso Robles.
F. Mecham, Mayor
4. Read, by title only, and adopt Ordinance No. 913 N. S. amending the Zoning Map Established by Reference in Section 21.12.020 of the Zoning Code (Title 21) – Rezone 05-005 Erskine Industrial Park (Adopt ordinance amending the land use designation of a 28-acre site located at the eastern terminus of Wisteria Lane, East of Golden Hill Road, north of Highway 46 East, from Parks and Open Space [POS] and a portion of Agriculture [AG] to Planned Industrial [PM])
FIRST READING MARCH 21, 2006
R. Whisenand, Community Development Director
5. Read, by title only, and adopt Ordinance No. 914 N. S. amending the Zoning Map Established by Reference in Section 21.12.020 of the Zoning Code (Title 21) – Rezone 05-003 Willhoit – Estrella Associates (Adopt ordinance amending the land use designation of a 5-acre site located on the south corner of River Oaks Drive and Experimental Station Road from Commercial/Light Industrial [C3] to Residential Multi-Family, Apartment – Planned Development Overlay [R3-PD])
FIRST READING MARCH 21, 2006
R. Whisenand, Community Development Director
6. Read, by title only, and adopt Ordinance No. 915 N. S. amending the Borkey Area Specific Plan (SPA 05-003) Willhoit – Estrella Associates (Adopt ordinance amending the land use designation in Neighborhood 3, of a 5-acre site located on the south corner of River Oaks Drive and Experimental Station Road, from Commercial to Multi-Family Residential, 12-units per acre.)
FIRST READING MARCH 21, 2006
R. Whisenand, Community Development Director
7. Read, by title only, and adopt Ordinance No. 916 N. S. amending the Zoning Code (Title 21) at 405 and 411 14th Street – Duck. (Adopt ordinance adding an Office Overlay [OP] at 405 and 411 14th Street.)
FIRST READING MARCH 21, 2006
R. Whisenand, Community Development Director
8. Read, by title only, and adopt Ordinance No. 917 N. S. amending the Zoning Map Established by Reference in Section 21.12.020 of the Zoning Code (Title 21) – Rezone 05-007 – City Initiated (Adopt ordinance adding a Planned Development Overlay [PD] on the northeast corner of Charolais Road and South River Road to allow reduced lot sizes while providing right-of-way for future improvements at the intersection.)
FIRST READING MARCH 21, 2006
R. Whisenand, Community Development Director
9. Adopt Resolution No. 06-049 authorizing the recordation of Tract 2594 and authorizing the Mayor to execute Subdivision Improvement Agreement guaranteeing construction of the subdivision

improvements with an established deadline of April 4, 2007; and adopt Resolution No. 06-050 annexing Tract 2594 into the Landscaping and Lighting District No. 1. (Applicant: Golden Hill Business Park, LLC. Tract 2594 is a 48-lot subdivision of a 15.55-acre site, located in the area of the Wallace Industrial Park, north of Highway 46E, east of Oakwood Drive and south of Tractor Way. Since the required public improvements have not been completed, the applicant has signed an agreement guaranteeing the construction of these improvements within a one-year period. Applicants have signed a petition and voted in favor of annexation into the L&LD.)

R. Whisenand, Community Development Director

- 10.** Adopt Resolution No. 06-051 accepting 50-foot right-of-way for road purposes. (Applicant Eagle Energy, Inc. Applicant requested occupancy of a service station and convenience store located at 2400 Golden Hill Road, and constructed street widening improvements along Golden Hill Road as part of the conditions of approval. The road improvements have been completed and are now ready for inclusion to the City's street system.)

R. Whisenand, Community Development Director

Consent Calendar Items Nos. 1 - 10 were approved on a single motion by Councilmember Heggarty, seconded by Councilmember Strong, with Councilmember Picanco abstaining on Warrant Register Items Nos. 061150, 061153, 061381, 061383 and 061438 and Mayor Mecham abstaining on Warrant Register No. 061196.

Motion passed by the following unanimous roll call vote:

AYES: Heggarty, Nemeth, Picanco, Strong, and Mecham

NOES:

ABSTAIN:

ABSENT:

DISCUSSION

- 11.** **Request to Remove Oak Trees (OTR 05-008 – Cardinale/Morris)**

R. Whisenand, Community Development Director

Consider a request for tree removals on a 28,500 square foot R2 zoned site located on the south side of 4th Street, west of Oak Street. The site currently consists of three existing parcels oriented in an east/west manner. The applicants have submitted a Lot Line Adjustment 04-0181 requesting to orient the lots in a north/south direction; removal of the trees is requested to provide additional area for development. (CONTINUED FROM JANUARY 21, 2006.)

Mayor Mecham opened the public hearing. There were no comments from the public, either written or oral, and the public discussion was closed.

Councilmember Strong, seconded by Councilmember Heggarty, moved to continue the oak tree removal OTR 05-008 to Tuesday, May 2, 2006.

Motion passed by unanimous voice vote.

12. Chamber Business Expo at the Paso Robles Airport

M. Williamson, Assistant to the City Manager

The City of Paso Robles is partnering with the Paso Robles Chamber of Commerce to bring the 2006 Business Expo to the Paso Robles Airport on Wednesday, April 12th, and an oral update of the event status will be provided at the Council Meeting.

Meg Williamson, Assistant to the City Manager presented a status report of the event. Mayor Mecham opened the public hearing. There were no comments from the public, either written or oral, and the public discussion was closed.

Mayor Mecham, seconded by Councilmember Heggarty, moved to receive and file the Chamber Business Expo Update.

Motion passed by unanimous voice vote.

13. Chandler Ranch Area Specific Plan - Project Management Services (Robert Lata)

J. App, City Manager

Consider amending the December 6, 2005 Consultant Services Agreement with Robert Lata for the Chandler Ranch Area Specific Plan (CRASP) project management through to completion of the CRASP.

Mayor Mecham opened the public hearing. There were no comments from the public, either written or oral, and the public discussion was closed.

Councilmember Heggarty, seconded by Councilmember Strong, moved to authorize the City Manager to execute a Modification to Robert Lata’s Consultant Services Agreement for CRASP project management to eliminate the termination date specified in the “Term of Services” section of Exhibit A

Motion passed by the following roll call vote:

AYES: Heggarty, Nemeth, Picanco, Strong
NOES: Mecham
ABSTAIN:
ABSENT:

14. Angle Parking Amendment

D. Cassidy, Chief of Police

Consider adopting an ordinance to amend Subsection B of Municipal Code §12.32.080 pertaining to angle parking in the City. Currently this subsection does not prohibit a vehicle from backing into an angle parking space. This creates several identified safety issues and health concerns. Requiring vehicles to park with their front wheel nearest the curb will reduce these concerns.

Mayor Mecham opened the public hearing. There were no comments from the public, either written or oral, and the public discussion was closed.

Councilmember Nemeth, seconded by Councilmember Heggarty, moved to introduce for first reading Ordinance No. XXX N.S. amending Subsection B of §12.32.080 of Municipal Code and set April 18, 2006 as the date for adoption of said Ordinance.

Motion passed by the following unanimous roll call vote:

AYES: Heggarty, Nemeth, Picanco, Strong, and Mecham
NOES:
ABSTAIN:
ABSENT:

15. Pacific Waste Services – Agreement Amendment and Reimbursement for Regulatory and Holiday Costs

M. Compton, Director of Administrative Services

For the City Council to approve an amendment to the agreement with Pacific Waste Services, and a budget appropriation for reimbursement of regulatory and holiday expenses.

Making a declaration of conflict (the landfill being one of the Councilmember's business accounts), Councilmember Picanco recused himself from voting on Item No. 15 and left the room until deliberations were concluded.

Mayor Mecham opened the public hearing. There were no comments from the public, either written or oral, and the public discussion was closed.

Councilmember Heggarty, seconded by Councilmember Nemeth, moved to adopt Resolution No. 06-052 approving the revised second agreement with Pacific Waste Services for the remaining term of the agreement and a budget appropriation for \$255,800

Motion passed by the following unanimous roll call vote:

AYES: Heggarty, Nemeth, Strong, and Mecham
NOES:
ABSTAIN: Picanco
ABSENT:

Councilmember Picanco returned to his seat at the dais.

CITY MANAGER - None

CORRESPONDENCE - None

ADVISORY BODY COMMUNICATION -

COUNCIL COMMENTS –

Councilmember Strong presented his March 30, 2006 report from the League of California Cities Housing, Community & Economic Development Policy Committee. Included in his report was a sample letter that Councilmember Strong encouraged the City send to the State Legislature supporting infrastructure bond proposals for local street and road funding.

Councilmembers Nemeth and Heggarty commended City staff and the Chamber of Commerce on their cooperative efforts in developing the 2006 Business Expo at the Airport.

Ed Steinbeck, Planning Commissioner, thanked City Council for a successful joint meeting with City Council and Planning Commission members on April 3, 2006.

By unanimous voice vote, Council moved to adjourn from regular session at 8:15 PM.

ADJOURNMENT: to THE BUSINESS EXPO AT THE AIRPORT TERMINAL, 3:00 P.M., WEDNESDAY, APRIL 12, 2006 AT 4912 WING WAY, PASO ROBLES,
to THE REGULAR MEETING AT 7:30 PM ON TUESDAY, APRIL 18, 2006, AT THE LIBRARY/CITY HALL CONFERENCE CENTER, 1000 SPRING STREET

Submitted:

Deborah D. Robinson, Interim Deputy City Clerk
Approved:

THESE MINUTES ARE NOT OFFICIAL OR A PERMANENT PART OF THE RECORDS UNTIL APPROVED BY THE CITY COUNCIL AT A FUTURE REGULAR MEETING.

League of California Cities
Housing, Community & Economic Development Policy Committee
March 30, 2006

APR 03 2006

Embassy Suites, LAX, Los Angeles
Report to Paso Robles City Council by Councilman Fred Strong

CITY OF PASO ROBLES

[Our attorney, Steve, on Development Agreements was present for the meeting]

Legislative Advocate Dan Carrigg gave most of the reports at the beginning of the meeting.

The League Board of Directors has set the three highest priorities for this year as: Housing, Redevelopment and Infrastructure.

We have had an on-going committee meeting with the BIA and Homebuilders for about 18 months. Their group wants certainty on land availability, zoning and development rules. We stated that we want local control and NO nit picking State laws that look over our shoulders.

At the end of the 18 month period the discussions were aborted over irreconcilable differences. However, recently we have gone back to the builders with a scaled down package despite the fact that they are already pursuing legislation that is onerous to us.

We consider the density bonus laws to be a total mess. Next week [the week you are receiving this] the Lowenthal Bill, SB 1754, which is League sponsored is going before a Senate Committee which, I believe, is the Transportation and Housing Committee. [Bill attached, with "highlighting"]

On April 19 the Assembly Local Government Committee is hearing five Bills which could affect us. The League is supporting three and opposing two. Regarding AB2259, which allows LAFCO's to review urban expansions in unincorporated areas, I asked if it might also include Service District expansions adjacent to cities. I was told that Assemblyman Salinas is running for County Supervisor in Monterey County and would probably not entertain anything of that nature at this time.

Pending legislation, with my notes, is attached.

John Shirey, Executive Director of the California Redevelopment Association (CRA), gave an update on serious efforts regarding Eminent Domain.

An Initiative being presented as the "Protect Our Homes Initiative" is called "The Anderson Initiative" by CRA and the League. The author, Anita Anderson, is the same person who submitted the term limits initiative. She is funded in the amount of \$1.5 million by Howie Rich of New York. Her circulators are paid people and Shirey believes that this initiative will get enough signatures to qualify for the ballot.

This initiative will be challenged for appropriateness on the basis that it has more than one subject and purpose. It does MANY things which make it "bad law". It changes the purposes for which private property may be taken by eminent domain. It places "in doubt" the ability to

have public/private efforts [such as leasing of a landfill for management purposes]. It nullifies unpublished judicial opinions in eminent domain cases, which include at present all Superior Court decisions. It redefines just compensation. It will require just compensation for many other regulatory "takings", including down-zoning, height restrictions, environmental regulations, etc. It would require findings of blight on a parcel by parcel basis.

It will change government in California as we know it today.

Shirey said that HR 4128 is also "bad law".

The CRA and the League are trying to craft a more narrow "owner/occupied, single family home" protection initiative which could be presented to the Legislature for placement on the ballot as a choice instead of the Anderson Initiative.

On Tuesday, April 4, the Senate Judiciary Committee is hearing SB1206 (Kehoe) and the League will be opposing it as a very bad alternative. On April 18 all other eminent domain bills go to that committee.

Shirey also informed us about AB2122 (Jones) which requires a 50% set aside for affordable housing of all Redevelopment tax increment revenues.

Dan Carrigg gave us copies of the letters of support and opposition which the League has delivered to the legislature. Letters of support were presented on:

SB1764 (Lowenthal) Housing/Infrastructure Investment Districts

AB2503 (Mullin) Local-State Affordable Housing Matching Program

AB2468 (Salinas/Daucher) Housing Elements: Self-Certification

AB2484 (Hancock) Density Bonus: Relief for Higher-Density Zoned Parcels

AB2158 (Evans) Housing Allocations: Improved Coordination with LAFCO [co-supporter is CALAFCO]

AB3042 (Evans) Housing Allocations: Transfers Consistent With Regional Priorities

AB2259 (Salinas) LAFCO Reviews: Unincorporated Development/Unserved Territory

AB1795 (Bermudez) Residential Care Facilities: Licensure Applications: Local Notification

AB3005 (Emmerson) DSS Facilities: Siting Information

AB3007 (Emmerson) Alcohol and Drug Treatment Facilities

A letter of opposition was presented on SB1800 (Ducheny) 20-year Housing Land Supplies. We were also urged to oppose SB1206 (Kehoe) and SB1210 (Torlakson) which relate to eminent domain changes greatly limiting our ability to clean up blight.

We were also asked to write letters of support for the Infrastructure Bond Proposal for Local Street and Road Funding. A sample letter was provided [attached]. One of the blanks to be filled in is the amount of money that our city would receive under the proposed formula. The figure for Paso Robles is \$897,322.00. In our county that is the second highest local allocation. Only San Luis Obispo is higher at \$1,428,547.00. Atascadero would be just behind Paso Robles at \$885,513.

A brief discussion on the League's recommendations regarding infrastructure investment by

the State followed with a more detailed report presented in writing for our review. I can make that available to those who would be interested.

A discussion on matters pertaining to levies and their repair and enhancement followed.

The following day the Community Services, Public Safety, Employee Relations and the Revenue and Taxation policy committees met. Councilman Nemeth can report on Employee Relations and Councilman Heggarty can report on Revenue and Taxation.

The Public Safety Policy Committee spent a great deal of time on the State Budget as it relates to the Office of Homeland Security and the Office of Emergency Services. Mayor Tony Ferrara of Arroyo Grande made the presentation and the committee made his report an action item instead of a reporting item. The committee urged that Homeland Security be a sub-department of the Office of Emergency Services in order to avoid the kind of confusion and problems which happened in New Orleans. Ferrara's presentation was excellent and I would urge that we attempt to get him to give us a program at one of our study sessions.

Both the Public Safety and the Community Services committees dealt with preparation for a possible pandemic of Bird Flu. The caution was given that this could be very serious or it could become a "non-event" but we have the responsibility to be prepared for the worst case scenario.

The Community Services Policy Committee also heard a debate between the two sides concerning Proposition 82 regarding Preschool For All. Following the debate, a question and answer period and discussion, the committee voted to oppose the initiative with only one vote blocking a unanimous decision. The committee expressed a belief that the state has greater needs for the \$2.7 billion dollars this would cost the taxpayers.

The Revenue and Taxation Committee also reviewed this matter and came to the same conclusion with more division on the final vote.

*Next week
committee
hearing*

SB 1754 (Lowenthal) Housing/ Infrastructure Investment Districts

Summary: Creates a voluntary pilot-project with local-state partnership to provide high density housing through the creation of 100 housing/infill infrastructure investment districts statewide. The projects must be consistent with regional planning objectives and allow construction of more than 500 units of housing with average net density of 25-40 units per acre, with 15% of the housing affordable to low and moderate income families.

Establishing Districts: Under this proposal, each COG will develop criteria for the location of districts within its region based upon the following objectives: promoting infill development; protecting sensitive environmental and agricultural resources; encouraging efficient development patterns; encouraging transit-oriented development. A local government will submit an application to the COG that identifies where the district will be located and demonstrates how the location conforms to the criteria established by the COG. A district can be no larger than 100 acres and cannot be in a redevelopment zone.

Financing Approved by Independent Special District Each local government, that receives endorsement from a regional entity for the project's location, will develop a proposed infrastructure and financing plan which identifies any existing gaps in financing the infrastructure, affordable housing and services necessary to complete the high-density project in the proposed location. The local government then must submit the plan to a housing and infrastructure financing district for approval; the district is comprised of two members of the governing body of the council of governments; one member appointed by the State Infrastructure Bank; one member with professional training and experience in housing economics appointed by the COG; and one member with professional training and experience in government finance appointed by the COG.

The district is granted the authority to approve the use of tax-increment financing to fund any existing gaps in financing the infrastructure, affordable housing and services necessary to complete the high-density project in the proposed location. Only the local government applicant's property tax share and the necessary portion of the school's share of the property tax are affected. Any loss to schools is reimbursed through the General Fund (this is the state contribution to the project). Revenue can be used to support the production of housing within the district or infrastructure construction, expansion, modification and maintenance that serves the new housing within the district.

Local government contribution: In addition to their share of property tax increment for the project and the delivery of local services, the local government shall offer "by-right" approval (with design review) for housing constructed within a district. Housing must be constructed within five (5) years of receiving approval. 5% must be affordable to low income families; 5% to very low income families; and 5% to moderate-income families.

Accountability and Sunset: Once the district approves the financing for the project, the plan may be put into effect by the local government. Local governments must submit annual reports to the Bank on the progress of the project. The bank may conduct a financial audit to ensure accountability with the use of tax increment funds. Districts shall sunset twenty years after the effective date of the legislation, with an additional ten years for debt repayment.

Major 2006 Housing/ Land Use Legislation

League Sponsored Housing and Land Use Bills

1. **SB 1754 (Lowenthal) Housing and Infill Financial Districts.** This bill would create 100 high-density housing infrastructure investment districts.
2. **AB 2503 (Mullin) Affordable Housing.** This bill would create Affordable Housing Trust Funds that would be dollar for dollar ERAF return for local contributions to affordable housing trusts. *helps*
3. **AB 2468 (Salinas/Daucher) Planning Housing Elements.** This bill would establish Housing Element Self-Certification where locals elect to zone affordable housing RHNA allocation "by right." *helps/alternative*
4. **AB 2484 (Hancock) Housing Development Housing: Density Bonuses.** This bill would provide an exemption from Density Bonus Law for parcels already zoned at high density. *addresses only one problem*
5. **AB 2158 (Evans) Regional Housing Needs.** This bill would require COG's to consult with LAFCO while developing RHNA allocation. *supposed to "improve" quality of decisions*
6. **AB 2572 (Emmerson) Housing Elements: Student Dormitories.** This bill would improve the development of the RHNA number. The bill currently addresses student housing. This will likely be a vehicle for larger discussion. *Transfer to other community w/ COG blessing*
7. **AB 3042 (Evans) Regional Housing.** This bill increases flexibility to transfer RHNA numbers between jurisdictions. *running for Supervisor in Monterey?*
8. **AB 2259 (Salinas) Local Agency Formation: Extension of Services.** This bill extends the sunset date on legislation advocated by the League in 2000, which permits LAFCO's to review urban expansions in unincorporated areas. This bill may also be a forum for stakeholder discussions about the past effectiveness of the law.

Group Homes Bills

1. **AB 3005 (Emmerson) Residential Care Facilities.** This bill requires the Director of Social Services (DSS) to consider comments from local governments on adjacent land use issues, prior to siting a new DSS six-or-fewer group home. *Bi-partisan effort*
2. **AB 3006 (Emmerson) Alcoholism or Drug Abuse Recovery or Treatment Facilities: Website Disclosures.** This bill would require ADP to maintain on its website a searchable database that would show the location of all alcohol or drug abuse recovery or treatment facility. *helps the Ft. hand know what the left hand is doing.*
3. **AB 3007 (Emmerson) Alcohol and Drug Treatment Facilities.** This bill would require that department deny any new application for an ADP if it determines that another ADP is less than 300-foot away. It also requires the department to notify local planning agencies. *applies same rule as for DSS facilities*
4. **AB 3008 (Emmerson) Substance Abuse.** This is a spot bill code sections pertaining to licensure of alcohol/drug abuse treatment facilities.

5. **AB 3009 (Emmerson) Prisoners.** This is also a spot bill on 'sex offenders' that may be used to address the parolee home issue.

6. **AB 1795 (Bermudez) Residential Care Facilities: Licensing Applications: Local Notification.** This bill requires proof that local governments have been notified, prior to issuing license for new DSS six-or-fewer facility.

*acknowledgement by local
govt agency →*

Major Bills of Concern

1. **SB 1800 (Ducheny) General Plans: Housing.** This measure requires all local governments to establish 20-year land supplies for housing. This is an extremely complex bill with many impacts on local land use authority.

2. **SB 1177 (Hollingsworth) Housing Density Bonus.** This bill further limits local option under density bonus law.

3. **AB 2922 (Jones) Redevelopment: Low and Moderate Income Housing Fund.** This measure requires a 50 percent redevelopment agency set aside for affordable housing.

4. **AB 2511 (Jones) Land Use: Housing.** This is a land use/housing measure with numerous restrictions on local land use authority.

5. **SB 1330 (Dunn) Housing Developments: Attorney's Fees.** This bill makes numerous changes to attorney fee provisions affecting housing development.

Sample Letter
Infrastructure Proposal for Local Street and Road Funding

March 29, 2006

(Your Legislator)
State Capitol, (Room)
Sacramento, CA 95814

RE: Infrastructure Bond Proposal: Local Street and Road Funding

Dear *(Your Legislator)*:

The City of *(enter your city name here)* is aware that negotiations regarding an infrastructure package for California continue among legislators and the governor. We support the adoption and implementation of a long-term capital investment plan to upgrade and repair the state's vital infrastructure that is essential to sustainable growth in California.

We were recently made aware of an infrastructure proposal circulating by Senator Bob Dutton and the Senate Republican Caucus that would provide \$2 billion for city and county streets and roads. It is our understanding that this funding would be split with 50 percent to cities and 50 percent to counties, with a minimum of \$400,000 for each city.

In an analysis of the local street and road proposal prepared by the League of California Cities, it is estimated that the City of *(enter your city name here)* would receive *(put in estimate from attached worksheet)* in direct funding for transportation purposes.

The City of *(enter your city name here)* would be able to use this money immediately for *(list the types of traffic congestion relief, traffic safety, and other projects that could be funded, or partially funded with this money.)*

Again, we support investment in California's infrastructure and appreciate the Senate Republican proposal that would bring much-needed funding to our city for our local transportation needs.

Sincerely,

(Signature)

cc: Senator Bob Dutton
League of California Cities

The "Anderson Initiative"

Official ballot title: *Government Acquisition, Regulation of Private Property. Initiative Constitutional Amendment.*

The "Anderson Initiative" is one of four ballot measures seeking to restrict the use of eminent domain by public agencies that have been cleared for circulation by the Secretary of State. Proponents of the Anderson Initiative are now in the process of gathering signatures. Under the Secretary of State's guidelines for qualifying ballot measures, proponents have until early May to turn in the requisite number of valid signatures (598,105) to qualify for the November 2006 ballot or until mid-July to qualify for the June 2008 ballot.

Anderson Initiative Facts at a Glance

- Constitutional amendment would apply to all public agencies and utilities, and all state and local government property acquisitions.
- Would likely impact a wide variety of public projects including schools, roads and highways, dams, levees, and affordable housing.
- Would limit government's ability to adopt certain land use, housing, consumer, environmental and workplace laws and regulations, except when necessary to preserve public health or safety.
- The State's Legislative Analyst says the measure would have the following fiscal impacts:
 - Unknown, but potentially major future costs for state and local governments to pay damages and/or modify regulatory or other policies to conform to the measure's provisions
 - Unknown, but potentially major changes in governmental costs to acquire property for public purposes.
- If passed by voters, it could only be changed by another initiative.

Anderson Initiative Provisions

- **Prohibits use of eminent domain unless the property acquired is owned and occupied by a governmental agency.**
- **Redefines "just compensation"** – Redefines "just compensation" as the sum of money necessary to place the property owner in the same position monetarily, as if the property had never been taken. It is unclear what would be included to make the property owner whole, but presumably things such as lost income, relocation costs, and more. Redefines "fair market value" as the highest and best use the property would bring on the open market.
- **Changes requirements for property valuation** – If a property taken by the government is to be put to use at a higher value after acquisition, the property owner must be paid at the fair market value in accordance with the government's use. For example, if a city uses eminent domain to acquire agricultural land for a municipal airport (from which the city would receive revenues from commercial leases, for example), then the owner must be paid fair market value in accordance with the city's use. The owners would be paid this higher amount regardless of whether or not they could have achieved such a use under the applicable zoning, and regardless of whether other laws would have required them to dedicate a portion of the land.

Anderson Initiative Provisions (cont.)

- **Redefines “damage” to include many types of regulatory takings** – Redefines “damage” to include government actions that result in economic loss to private property, including many zoning practices such as down zoning or height restrictions, environmental regulations, affordable housing covenants, etc. Requires compensatory payment of these damages by implementing agency.
- **Requires blight determinations on a parcel-by-parcel basis** – Would require that blight findings be made on a parcel-by-parcel basis. Current law requires that a project area be declared blighted before eminent domain can be used, but it does not require every parcel in the area to be blighted.
- **voids unpublished eminent domain court decisions** – Would annul judgments in every eminent domain action that does not result in a published appellate opinion. Currently, most eminent domain decisions are not published because they are settled in Superior Courts, which never publish decisions. Only appellate decisions are published and even then they are not published in every case.
- **Pending eminent domain proceedings immediately subject to provisions** – Provisions of this initiative would take effect the day following the election and would apply to any eminent domain proceedings in which no final court judgment has been obtained. It is unclear how the provisions relating to damages would apply to regulations in effect at the time of enactment.