

TO: BOARD OF SUPERVISORS
FROM: DENNIS M. BARRY, AICP
COMMUNITY DEVELOPMENT DIRECTOR



D.4
Contra
Costa
County

06 APR 24 AM 10:46

DATE: MARCH 7, 2006

SUBJECT: PROPOSED 2006 VOTER-APPROVED CONTRA COSTA COUNTY URBAN LIMIT
LINE BALLOT MEASURE (COUNTYWIDE) (COUNTY FILE: GP#06-0001 AND ZT#06-
0001)

SPECIFIC REQUEST(S) OR RECOMMENDATION(S) & BACKGROUND AND JUSTIFICATION

RECOMMENDATIONS

1. ACCEPT a report from the Community Development Director on the proposed 2006 Voter-Approved Contra Costa County Urban Limit Line ballot measure.

CONTINUED ON ATTACHMENT: YES SIGNATURE Dennis M. Barry

RECOMMENDATION OF COUNTY ADMINISTRATOR RECOMMENDATION OF BOARD COMMITTEE
 APPROVE OTHER

SIGNATURE(S): Julie Green

ACTION OF BOARD ON March 7 2006 APPROVED AS RECOMMENDED OTHER

SEE ATTACHED ADDENDUM

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MINUTES OF THE BOARD OF SUPERVISORS ON THE DATE SHOWN

VOTE OF SUPERVISORS
 UNANIMOUS (ABSENT IV)
AYES: _____ NOES: _____
ABSENT: _____ ABSTAIN: _____

Contact: P. Roche, CDD-Adv. Plng. (Ph #925-335-1242)

cc: CAO
Clerk of the Board
County Counsel
County Clerk (Elections Dept.)
Mayor/City Mgr.- (each of 19 cities in CCC)
Chair, CCTA

ATTESTED March 7 2006
JOHN CULLEN, CLERK OF THE BOARD OF
SUPERVISORS AND COUNTY ADMINISTRATOR

BY [Signature], DEPUTY

Background Material (Voluminous) can be e-mailed to you upon request.
Direct your request to Jane Pennington at:
jpenn@cob.cccounty.us

RECOMMENDATIONS –continued

2. RECEIVE public comment on the proposed 2006 Voter-Approved Contra Costa County Urban Limit Line ballot measure.
3. ADOPT a Negative Declaration of Environmental Significance that the proposed 2006 Voter-Approved Contra Costa County Urban Limit Line ballot measure would not result in any significant impacts on the environment by finding that the environmental review prepared for the proposed ballot measure is adequate pursuant to the California Environmental Quality Act (CEQA) and DIRECT staff to file the CEQA Notice of Determination with the County Clerk.
4. ADOPT Resolution No. 2006/80 calling for an election on the 2006 Voter-Approved Contra Costa County Urban Limit Line for the June 6, 2006 Primary Election (see Resolution No. 2006/80, under Attachment "A").
5. DIRECT the County Clerk to conduct the election pursuant to the California Elections Code. This election shall be held at the time of the primary election on June 6, 2006.

FISCAL IMPACT

Should the Board adopt the Resolution authorizing an election the County will be responsible for bearing the cost for this election. Elections Code section 13001 provides that all expenses authorized and incurred in the preparation and conduct of elections shall be paid by the County. The County Elections Officer has provided an estimate of at least \$110,000.00 to place this measure on the 2006 Primary Election, which covers the costs for preparing and printing ballot pamphlets.

BACKGROUND / REASONS FOR RECOMMENDATION

On July 12, 2005 the Board of Supervisors authorized staff from Community Development and County Counsel to draft an Urban Limit Line ballot measure for the June 2006 Primary Election and to initiate the CEQA review process on the proposed ballot measure. The Board directed that the ballot measure should ask voters to approve amendments and updates to both the County Ordinance Code and the General Plan that would:

- Extend the term of the Urban Limit Line to the Year 2026;
- Require voter approval, in addition to 4/5 approval by the Board, to expand the Urban Limit Line boundary by more than 30 acres;
- Retain procedures for changes to the Urban Limit Line under 30 acres based on a 4/5 vote of the Board after holding a public hearing and making one of the seven findings currently enumerated in the County Ordinance Code;

BACKGROUND / REASONS FOR RECOMMENDATION -continued

- Incorporate procedures to review the Urban Limit Line based on a 5-year cycle, beginning after voter adoption, and require a review of the Urban Limit Line boundary 10 years from voter approval (Year 2016) based on a land supply review to determine whether there is sufficient capacity to meet 20-year housing and jobs needs for Contra Costa County;
- Provide for the automatic commencement of a review of the Urban Limit Line in the vicinity of the tideland portion of the Concord Naval Weapons Station if the United States Department of Defense determines to surplus this land area, allowing this review to occur outside the 5-year and 10-year review cycles;
- Retain the 65/35 land preservation standard and retain protections for the County's prime agricultural land by maintaining the 40-acre minimum parcel size for prime soils and limiting uses to agricultural production or uses incidental to agricultural production;
- Adopt a new Urban Limit Line Map that reflects four specific changes (items 1,2,4, and 6 from the amendments to the "Mutually Agreeable Urban Limit Line", as proposed by Councilwoman Amy Worth, City of Orinda):
 1. Incorporate the City of San Ramon's voter approved General Plan Land Use and Urban Growth Boundary Map;
 2. Locate 27 acres for a proposed public playfield as part of the Gateway development in Orinda on the inside of the Urban Limit Line;
 3. Locate the 38 acres of the Pine Creek Detention Basin parcels owned by the Contra Costa County Water Conservation and Flood Control District in the North Gate area on the outside of the Urban Limit Line;
 4. Locate the approved and built Alhambra Valley Ranch residential subdivision (Subdivision Map #6443) on the inside of the Urban Limit Line and make corresponding adjustments placing portions of waterfront area in the City of Martinez outside the Urban Limit Line, as recommended by the Martinez City Council.

Subsequent to the Board's direction in July 2005, Urban Limit Line ballot measures for the cities of Antioch, Brentwood, and Pittsburg were placed on the ballot for the Special Election held on November 5, 2005. The Urban Limit Line ballot measures were passed by the voters in the cities of Antioch and Pittsburg. Staff has prepared the County's proposed 2006 Voter-Approved Urban Limit Line Map to reflect the Urban Limit Line boundary in the cities of Antioch and Pittsburg based on the outcome of the November 2005 elections conducted in those two cities.

Attached for the Board's consideration is Resolution No. 2006/80 which approves a ballot measure for the June 6, 2006 Primary Election (see Attachment "A"). It includes the complete ordinance language for the ballot measure and the new Urban Limit Line map as they would appear in the voter pamphlet.

BACKGROUND / REASONS FOR RECOMMENDATION -continued

Also attached for the Board's consideration is the CEQA review document prepared for the 2006 Voter-Approved Urban Limit Line ballot measure in the form of the Notice of Negative Declaration and Initial Study/Checklist (See Attachment "B").

As a final matter, written public comments received to date on the proposed 2006 Voter-Approved Urban Limit Line ballot measure and/or the CEQA review are provided for the Board's consideration (See Attachment "C"). Comment letters received to date include:

- David Shuey, Mayor, City of Clayton (2/27/2008) - This letter requests the Board modify the proposed Urban Limit Line map in the ballot measure to include the City of Clayton's previous request to shift the ULL boundary in the Marsh Creek Road area.

Staff Analysis: The comment letter asks for a change in the ULL boundary in the vicinity of Marsh Creek Road. It does not raise concerns relating to potential environmental impacts with the proposed ballot measure.

- Bob Doran, President, Board of Directors, Town of Discovery Bay Community Services District (2/28/2006) – This letter comments on the County's need to plan more comprehensively for the Discovery Bay community and Far East County.

Staff Analysis: The comment letter does not raise concerns relating to potential environmental impacts with the proposed ballot measure.

- Lydia DuBorg, City Manager, City of Concord (2/28/2006) – The letter from the Concord City Manager makes two comments: 1) the City is requesting removal of the ballot measure's provision on the automatic review of the ULL boundary in the vicinity of the tideland portion of the Concord Naval Weapons Station because it is a remainder from earlier ULL discussions and is no longer relevant to the City; and, 2) the City is calling into question the adequacy of the Initial Study's analysis to support a "No Impact" associated with the change in the ULL boundary in the hills separating Concord and Pittsburg, and the City is requesting that the Initial Study be revised and re-circulated to incorporate mitigation measures that would apply to new visible ridgeline development in the area in question.

Staff Analysis: The comment letter from the City of Concord provides no substantial evidence that the ballot measure (the project) will have a significant environmental impact to support their claim the Initial Study is inadequate. In making its claim, the City's comment letter incorrectly interprets the County General Plan and County Zoning Code by assuming that because land is on the inside of the County's ULL it will inevitably be developed to an urban use. At page 3 of the Concord letter it is claimed that "since by allowing the ULL boundary adjustment, anticipated urban development would be facilitated in an area that currently does not allow it". Staff points out that the County General Plan makes it very clear that the fact a property is located inside the Urban Limit Line "provides no guarantee or implication that it may be developed during the lifetime of the General Plan".

BACKGROUND / REASONS FOR RECOMMENDATION -continued

The County General Plan expounds further on this policy at page 3-9 by explaining that "Development of property within the ULL would be restricted by the limitations imposed by the County's Growth Management Program, as well as by other General Plan limitations. In addition, those properties within the ULL that do not currently have land use designations that would permit urban development would have to apply for and obtain a General Plan Amendment re-designating the property with a land use designation permitting development." The action before the voters would not in any way change the County's General Plan land use designations or policies for the hills that separate Concord and Pittsburg.

Instead, the action voters are being asked to recognize in the County's Urban Limit Line map the decision by Pittsburg voters from the November 5, 2005 Special Election to establish a voter-approved Urban Limit Line for the City of Pittsburg. The voter-approved Urban Limit Line for the City of Pittsburg is consistent with the Principles of Agreement for establishing the Urban Limit Line as incorporated into the extension of the ½ cent transportation sales tax under Measure J, approved by voters countywide in November 2004, and asking the voters to approve a Contra Costa County Urban Limit Line map that reflects the vote in Pittsburg is also consistent with these principles.

Staff would not dispute that the action in the November 2005 Special Election by the voters in Pittsburg to approve an Urban Limit Line may result in an indirect significant impact on the environment, as discussed in the City of Concord's letter, but the subsequent action by the County to ask voters countywide to approve a new and revised County Urban Limit Line, which would recognize the November 2005 Pittsburg voter-approved Urban Limit Line, could not and does not cause an impact on the environment. The voters under the proposed ballot measure are being asked to incorporate into the County's Urban Limit Line map something that has already occurred - a ULL boundary approved by Pittsburg voters.

Concord's letter has not substantiated a causal relationship or link in terms of impact on the environment with the County's proposed action. The fact that the City of Pittsburg in February 2005 had circulated a subdivision map for a proposed residential development on a hillside site in the unincorporated area is immaterial. This area will remain designated as Agricultural Land (AL) under the General Plan and zoned for agricultural use under the County's jurisdiction until such time as it is annexed to the city.

Staff suggests that the City of Concord's understandable and valid concerns with the potential for visible ridgeline development on the hills that separate the two city boundaries would be more appropriately addressed to the City of Pittsburg, rather than the County, when Pittsburg pursues annexation of this land area.

BACKGROUND / REASONS FOR RECOMMENDATION -continued

- Donna Landeros, City Manager, City of Brentwood (2/28/2006) – The letter from the Brentwood City Manager requests that the proposed ballot measure’s Urban Limit Line map reflect the original Measure C-1990 ULL map in the location of the City’s Special Planning Areas (SPA) G, H, and R. The letter suggests that the original Measure C-1990 Urban Limit Line map is the City’s equivalent of a voter-approved Urban Limit Line.

Staff Analysis: The comment letter from the Brentwood City Manager does not raise substantive concerns relating to potential environmental impacts with the proposed ballot measure. Instead, the City asserts that the Urban Limit Line map that was originally included in the Measure C-1990 is still in effect. This position does not recognize that the County’s Urban Limit Line west of the city limits was lawfully modified in the Yr. 2000 by the Board of Supervisors as authorized by the voters under Measure C-1990. It should be noted that the City of Brentwood had joined in litigation against the County Board of Supervisors in an attempt to convince the courts to overturn this Yr. 2000 decision. The Board’s Yr. 2000 decision to modify the boundaries of the County Urban Limit Line was upheld both in the Superior Court and in the California Appellate Court.

CONSEQUENCES OF NEGATIVE ACTION

The County Elections Official has previously informed the County that sufficient time is needed by that office to prepare, print, and distribute the ballot and voter pamphlets, particularly for those requesting absentee ballots. Eighty-eight (88) days is the minimum amount of time for the timely completion of these tasks. Adoption of a resolution on March 7, 2006 would provide the time for the County Clerk - Elections Department to complete these tasks. Failure to take action in approving the resolution on March 7, 2006 would mean that the 2006 Voter-Approved Urban Limit Line ballot measure could not be submitted to voters for the June 6, 2006 Primary Election.

Attachments (3 items)

1. Attachment “A”: Board Resolution No. 2006/80 – Resolution Calling For An Election On June 6, 2006 On Voter-Approved Urban Limit Line
2. Attachment “B”: Notice of Public Review and Intent To Adopt Negative Declaration and Initial Study/Checklist
3. Attachment “C”: Written Comments Received To Date

ADDENDUM TO ITEM D.4

March 7, 2006

On this day, the Board of Supervisors considered adopting Resolution No. 2006/105 calling for an election on June 6, 2006 for a voter-approved Contra Costa urban limit line.

Patrick Roche of the Community Development Department presented the staff report, noting that the language in the agenda packet materials incorporates those changes suggested by the Board in July of 2005. He said the Urban Limit Line the Board is being asked to submit to the voters incorporates the actions taken by voters or Antioch and Pittsburg who have approved their own urban limit lines for their cities.

Supervisor Piepho asked what the cost difference would be between placing the issue on the ballot as part of the June Primary or as part of the November General Election.

Steve Weir, County Clerk-Recorder, responded that because there will be a countywide June election, but because there is not normally a November primary, the June election would have the lowest cost impact on the County.

Supervisor Uilkema asked what would happen if the measure does not pass; particularly, which cities would still be in compliance, and what would the cities that were not in compliance then have to do?

Mr. Roche responded that at least four jurisdictions currently have voter-approved Urban Limit Lines bringing them into compliance with Measure J, and that perhaps the other cities in the County without Urban Limit Lines would have to go to their voters to approve a City-sponsored Urban Limit Line. The other possibility is that a cities could adopt the Urban Limit Line approved countywide.

Supervisor Uilkema asked what would happen if the line passed by a majority vote in some cities but not overall; would those cities where it passed by a majority then have a qualifying line?

Martin Englemann of Contra Costa Transportation Authority (CCTA) staff said that CCTA does not have a clear-cut answer. CCTA's legal counsel has advised that the one thing that *is* clear is that if the ballot passes countywide, and if it passed by the majority in a jurisdiction, that jurisdiction would then be in compliance. He said that if the measure fails countywide, the issue becomes less clear and could be problematic.

Supervisor Gioia noted there is an important distinction to be made. Passage by voters countywide of the measure sponsored by the Board would not make the Urban Limit Line *legally* binding for the cities. It would only be binding as it pertains to the determination of compliance with the Growth Management component to Measure J to remain eligible for return-to-source funds. He noted there have been discussions at the CCTA proposing that each city council pass a resolution stating their intention to comply with the Urban Limit Line, and that as long as they are in compliance with that resolution, they would then eligible for their return-to-source funds.

Supervisor Gioia asked for public comment. The following people addressed the Board:

- Julie Pierce, Councilmember of the City of Clayton, referred the Board to Clayton's February 22, 2006 letter. She summarized the City's request for a modification of the County's proposed urban limit line to incorporate number three of the "Worth Amendments" as presented at the February 26, 2005 Urban Limit Line (ULL) Conference. She said that since all nineteen cites agreed with Worth Amendment number three, she would think it would be appropriate for the County to honor it as well. She further noted that correspondence with LAFCO has indicated that if the County's Urban Limit Line is approved by voters as proposed without this amendment, LAFCO could be expected to hold

Clayton to that Urban Limit Line and would frown on a proposal from the City to annex the land in question.

- Jim Forsberg, Director of Planning and Economic Development, City of Concord, referenced a letter submitted by the Concord City Manager commenting on the proposed voter-approved Urban Limit Line ballot measure and environmental review prepared for the ballot measure. He reiterated the City of Concord's written comments requesting that Provision V. in the measure relating to the automatic review of the Urban Limit Line boundary in the vicinity of the tideland portion of the Concord Naval Weapons Station be removed because it is no longer relevant to the City. He also reviewed another City issue relating to the CEQA (California Environmental Quality Act) review prepared for the ballot measure. He stated the City's view that revising and recirculating the Negative Declaration/Initial Study prepared by the County for the proposed June 6, 2006 measure is necessary, because the Urban Limit Line proposed for voter approval countywide measure to be sponsored by the Board of Supervisors would reflect the boundary of the Pittsburg voter-approved Urban Limit Line. It is the view of the City of Concord that the environmental review prepared for the Board's proposed ballot measure did not fully evaluate the visual impacts associated with potential development in the vicinity of the hills separating Concord and Pittsburg city limits adjacent to the Concord Naval Weapons Station. He suggested that while revision and recirculation of environmental review to include such visual impacts would delay the election, it is the right thing to do.
- Seth Adams, Save Mount Diablo, noted the November 2005 election results of the Urban Limit Line ballot measures in Brentwood and Antioch. He stated that large amounts of money were spent in these campaigns to confuse the voters. He requested that the Board postpone until the General Election in November the countywide voter-approved Urban Limit Line ballot measure.
- Michael Sarabia, Bay Point resident, noted the ULL would be more likely to pass if the changes being proposed to the Board today are incorporated. and
- David Reid, Green Bay Alliance, suggested more work be done to make the Urban Limit Line more effective in controlling growth and traffic. He requested the Board delay the election until November to allow time for stakeholders to work with the County to develop the best possible line.

The following person provided written comment to the Board:

- Michael Sarabia, Bay Point resident, submitted additional comments via e-mail.

Chair Gioia returned the matter to the Board.

Supervisor Uilkema commented that the proposed Urban Limit Line ballot measure might not be ready for the June 2006 Primary Election, and urged the Board to postpone the item until the November 2006 election to allow time to answer the questions surrounding what the outcome of the vote will mean to the cities and the County in terms of Measure J compliance. She also said it will be important to look at the issues raised by the City of Clayton, and at whether the same issue also exists elsewhere in the County.

Supervisor Piepho agreed with Supervisor Uilkema, adding there are still many issues to be addressed and dialogue that still needs to occur in far East County, particularly with regard to infrastructure issues to serve Discovery Bay.

Supervisor DeSaulnier said he would like to find out from staff which services are precluded from the lots placed in question by the City of Clayton. He also cautioned against reading into this discussion that the Board intends to come back with major changes to the line, if any.

Dennis Barry, Community Development Director, noted for the Board that August 8, 2006 would be the very last date the Board could take an action and still make the deadline for the November 2006 election. He added that any modifications to the proposal will need to be done fairly quickly to enable determination of California Environmental Quality Act (CEQA) requirements. He cautioned that if an Environmental Impact Report (EIR) is needed, this would mean a delay in holding the election item until June of 2008 or beyond.

Supervisor Uilkema asked if the issues raised by Clayton were addressed in the CEQA review prepared by the County for this proposed ballot measure.

Mr. Barry responded that they were not.

Chair Gioia outlined four issues that he proposed the Board address:

1. How to incorporate what happened at the ballots in Antioch and Pittsburg;
2. The legal issues around what it will mean to have a CCTA-approved line;
3. The City of Clayton's request; and
4. Discovery Bay's infrastructure issues as referenced by Supervisor Piepho.

He said it seems the Board needs to address each of these issues separately, and that if there are any other issues, that they be brought to the table quickly.

Supervisor DeSaulnier suggested finding out as soon as possible whether or not an EIR will be required if the Board opts to grant the request of the City of Clayton.

Chair Gioia noted that the City of Clayton could also choose to go to the ballot on its own, as a line approved by the voters of the City of Clayton would fulfill Measure J compliance requirements.

Supervisor Uilkema made a motion that was seconded by Supervisor Piepho. The Board of Supervisors took the following action by a 4-0 vote, with Supervisor Glover absent:

DETERMINED not to submit to the County Elections Officer the proposed voter-approved Urban Limit Line ballot measure for June 6, 2006 Primary Election; and DIRECTED staff to return to the Board with a report on whether issues raised today can be addressed in time to meet the deadline for the November 2006 General Election.

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