

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



D. I
Contra
Costa
County

DATE: JULY 18, 2006

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 2006/80 CALLING FOR ELECTION ON NOVEMBER 7, 2006 FOR THE 2006 VOTER-APPROVED CONTRA COSTA COUNTY URBAN LIMIT LINE (COUNTYWIDE) (COUNTY FILES: 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 for the November 7, 2006 General Election.

CONTINUED ON ATTACHMENT: YES SIGNATURE Dennis M. Barry

RECOMMENDATION OF COUNTY ADMINISTRATOR RECOMMENDATION OF BOARD COMMITTEE
 APPROVE OTHER

SIGNATURE(S): Julie Guca

ACTION OF BOARD ON 07/18/06 APPROVED AS RECOMMENDED OTHER

ADDENDUM ATTACHED

VOTE OF SUPERVISORS

UNANIMOUS (ABSENT 0)

AYES: _____ NOES: _____

ABSENT: _____ ABSTAIN: _____

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

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

cc: CAO
Clerk of the Board
County Counsel
Mayor/City Manager (19 Cities)
Chair, CCTA
S. Weir, County Clerk

ATTESTED 07/18/06
JOHN CULLEN, CLERK OF THE BOARD OF SUPERVISORS AND COUNTY ADMINISTRATOR

BY [Signature], DEPUTY

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RECOMMENDATIONS –continued

2. RECEIVE public comment on the 2006 Voter-Approved Contra Costa County Urban Limit Line ballot measure proposed for the General Election on November 7, 2006.
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 authorizing an election on the 2006 Voter-Approved Contra Costa County Urban Limit Line ballot measure for the November 7, 2006 General Election (see Resolution No. 2006/80, under Attachment "A").
5. DIRECT the County Clerk to conduct the election on the 2006 Voter-Approved Contra Costa County Urban Limit Line ballot measure pursuant to the California Elections Code. This election shall be held at the time of the General Election on November 7, 2006.

FISCAL IMPACT

Should the Board adopt Resolution No. 2006/80 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 ballot for November 7, 2006 General Election, which covers the costs for preparing and printing ballot pamphlets.

BACKGROUND / REASONS FOR RECOMMENDATION

On May 16, 2006 the Board of Supervisors received a report from the Community Development Director on the 2006 Voter-Approved Contra Costa County Urban Limit Line ballot measure proposed for the November 7, 2006 General Election. At the May 16, 2006 meeting, the Board accepted a staff report and analysis on potential additional ballot measure elements as presented by Supervisor Mary Piepho, and received public testimony on the additional ballot measure elements. The Board also reviewed a timeline of steps or milestones that need to be completed in order to place the measure on the ballot for the November 7, 2006 General Election. The Board at the May 16, 2006 meeting re-affirmed its desire to bring the ballot measure forward to a countywide election for the November 2006 General Election, gave staff final direction on additional key elements to be included in the proposed ballot measure, and, on advice from staff, directed that the CEQA Initial Study/Checklist and Notice of Intent To Adopt A Negative Declaration for the ballot measure be re-circulated for public review and comment since the measure had been modified from the proposal that was previously presented to the Board on March 7, 2006.

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BACKGROUND / REASONS FOR RECOMMENDATION -continued

Based on the Board's directives from the meetings of May 9 and May 16, 2006, the 2006 Voter-Approved Urban Limit Line ballot measure would ask voters at the November 7, 2006 General Election to approve amendments and updates to both the General Plan and the County Ordinance Code that would include the following elements:

- Extend the term of the Urban Limit Line for another 20 years to the Year 2026;
- During the extended term (Yr. 2006 to Yr. 2026) of the Urban Limit Line require voter approval to expand the Urban Limit Line boundary by more than 30 acres;
- Retain procedure 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;
- 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 a 20-year housing and jobs needs for Contra Costa County;
- 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; and,
- Adopt a new Urban Limit Line Map which reflects the following specific changes:
 1. Incorporate the City of San Ramon's voter-approved General Plan Land Use and Urban Growth Boundary Map, approved on March 2, 2002;
 2. Incorporate the City of Antioch's voter-approved Urban Limit Line map, approved on November 8, 2005;
 3. Incorporate the City of Pittsburg's voter-approved Urban Limit Line map, approved on November 8, 2005;
 4. Locate 27 acres for a proposed public playfield as part of the Gateway development in Orinda on the inside of the Urban Limit Line;
 5. Locate 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 Road area near Walnut Creek on the outside of the Urban Limit Line;
 6. Locate the approved Alhambra Valley Ranch residential subdivision (Subdivision Map #6443) near the Martinez city limits inside the Urban Limit Line and make corresponding adjustments placing waterfront area in the City of Martinez outside the Urban Limit Line, as recommended by the Martinez City Council;
 7. Locate certain parcels along Marsh Creek Road in the unincorporated area of Clayton fully inside the Urban Limit Line where the existing line splits these parcels.

BACKGROUND / REASONS FOR RECOMMENDATION -continued

Attached for the Board's consideration is Resolution No. 2006/80 which approves a ballot measure for the November 7, 2006 General 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.

Also attached for the Board's consideration is the re-circulated 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").

The written public comments received during the noticed review period on the proposed 2006 Voter-Approved Urban Limit Line ballot measure for the November 7 2006 General Election and/or the re-circulated CEQA review are provided for the Board's consideration (See Attachment "C"). Two comment letters were submitted at the end of the 30-day review and comment period, which concluded on Monday, June 26, 2006. These comment letters include:

- William Kirkpatrick, Manager of Water Distribution Planning, East Bay Municipal Utility District (EBMUD), June 23, 2006 – This letter requests the County consider extending the term of the Urban Limit Line to year 2030 to align with Association of Bay Area Governments (ABAG) and EBMUD planning horizons; in reference to proposal asking voter's to approve alignment of the County Urban Limit Line map to the San Ramon's voter approved General Plan and Urban Growth Boundary map, the letter expresses EBMUD's opposition to providing service to areas outside of the EBMUD Ultimate Service Boundary and attaches relevant EBMUD Board policies; and, the letter asks that non-substantial modifications be made to the County's Urban Limit Line map such that the line conform to areas (mainly residential) that are currently urbanized and being served by EBMUD.

Staff Analysis: The comment letter asks for a change in the ending year for the term of the Urban Limit Line, Yr. 2030 instead of Yr. 2026, it describes current EBMUD Board policies related to their Ultimate Service Boundary, and it asks that the County's Urban Limit Line conform to areas that are currently urbanized and being served by EBMUD. These comments do not raise concerns related to the environmental effects of the proposed ballot measure, nor do they raise concerns with the conclusions from the Initial Study/Checklist that the ballot measure will not result in any significant impacts on the environment.

- Victor Carniglia, Deputy Director of Community Development, City of Antioch, June 23, 2006 – This letter comments on the potential land use implications for the County and the cities should the ballot measure be approved.

Staff Analysis: The comment letter is concerned that the proposed ballot measure and the accompanying CEQA Initial Study/Environmental Checklist do not provide a definition for urban and non-urban uses. The commenter is advised that the ballot measure does not propose to amend or change the existing definition of urban and non-urban land uses in the General Plan as incorporated in the Land Use Element.

BACKGROUND / REASONS FOR RECOMMENDATION -continued

The comment letter also questions why the County has not updated a Year 2000 inventory on the distribution of urban and non-urban land uses, and it suggests that the 65/35 standard has been reached. The commenter speculates that the 65/35 standard may be exceeded in future in the event that more development is allowed by the County on Bethel Island, and suggests that the 65/35 standard may affect development plans for cities that choose to adopt the County's Urban Limit Line if approved by voters. The commenter is advised that the ballot measure does not impose the 65/35 land preservation standard on the cities (the 65/35 requirement, which originates from voter approval of Measure C-1990, only applies to the County), and the commenter is further advised that the ballot measure does not propose to amend or change the existing General Plan land use designations and policies (or zoning regulations) for future development on Bethel Island, which limits new residential development on-island to one dwelling unit per parcel. Also, the commenter does not provide evidence that the 65/35 standard has been or will be exceeded.

The comment letter does not raise substantial concerns related to the environmental effects of the proposed ballot measure, nor does it offer evidence that is contrary to or conflicts with the conclusions from the Initial Study/Checklist that the ballot measure will not result in any significant impacts on the environment.

As a final matter related to the CEQA review for the proposed 2006 Voter-Approved Urban Limit Line ballot measure, the State Clearinghouse, Governor's Office of Planning and Research, submitted the Negative Declaration to selected state agencies for public comment. See attachment "D" for the confirmation letters from the State Clearinghouse. The only comment letter that the State Clearinghouse received was from Linda Fiack, Executive Director, Delta Protection Commission, dated June 27, 2006. The letter from the Delta Protection Commission reiterates their previous comments about the Commission's potential general planning authority within the Primary and Secondary Zones of the Legal Delta.

Staff Analysis: *The comment about the role and responsibility of the Delta Protection Commission in reviewing proposed local government actions or development projects within the Primary and Secondary Zones of the Legal Delta, as defined under the Delta Protection Act of 1992, is acknowledged. However, the commenter is advised that the proposed ballot measure would neither alter the boundary of the County's Urban Limit Line within the Primary Zone, nor amend existing General Plan land use designations and policies (or zoning regulations) affecting development within the Delta region of Contra Costa County, which is located in the Primary and Secondary Zones of the Legal Delta that fall within the jurisdiction of the Delta Protection Commission.*

The Delta Protection Commission's comments do not raise concerns related to the environmental effects of the proposed ballot measure, nor do they raise concerns with the conclusions from the Initial Study/Checklist that the ballot measure will not result in any significant impacts on the environment.

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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, including those requesting absentee ballots. While eighty-eight (88) days is the minimum amount of time allowed under the statute, the County Elections Official has previously testified before the Board that one-hundred and ten (110) days allows for a more reasonable amount of time for public notice, publishing the ballot arguments and rebuttals, and sending absentee ballots to military personnel serving overseas. Adoption of a resolution on July 18, 2006 calling for an election on November 7, 2006 would provide sufficient time for the County Elections Official to complete necessary tasks. Failure to take action on July 18, 2006 would likely compress the time necessary to complete necessary tasks for ballot preparation, and therefore would reduce the likelihood that a Voter-Approved Urban Limit Line ballot measure could be submitted to voters for the November 7, 2006 General Election.

Attachments (4 items)

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| Attachment "A": | Board Resolution No. 2006/80 – Resolution Calling For An Election On November 7, 2006 On The 2006 Contra Costa County Voter-Approved Urban Limit Line; and, proposed ballot measure language |
| Attachment "B": | Re-circulated Notice of Public Review and Intent To Adopt Negative Declaration and Initial Study/Checklist, November 7, 2006 General Election, Urban Limit Line Ballot Measure Sponsored by Contra Costa County Board of Supervisors |
| Attachment "C": | Written Comments Received During Noticed Review Period On Proposed November 7, 2006, 2006 Voter-Approved Urban Limit Line Ballot Measure and Re-circulated CEQA Review |
| Attachment "D": | Confirmation Letters from State Clearinghouse |

ADDENDUM to D.6
May 16, 2006

On this day, the Board of Supervisors considered adoption of Resolution 2006/80 calling for election on November 7, 2006 for the 2006 Voter-Approved Contra Costa County Urban Limit Line (ULL).

Patrick Roche of the Community Development Department introduced this item.

The Chair called for public comment, and the following people spoke:

- Mike Daly of the Sierra Club commended staff for working to create a line on which everyone can agree, but said he has a concern about potential for unintended consequences that could result in the development of unsupported projects.
- David Reid of the Greenbelt Alliance seconded concerns about potential unintended consequences that could create planning problems, and requested delaying the item one week to allow for time to work with staff to create better language.

Supervisor Glover said he agrees that the line that is currently in place is the line that the Board would like to keep, but suggested that what is presented in this item is what the voters have asked for.

Supervisor DeSaulnier suggested delaying the item for one week for discussion, being respectful of the voters' desires while also trying to ensure the quality of life, to return to the Board with any potential language that could clarify the Board's intentions.

Supervisor Glover clarified that the Board is not talking about changing staff's recommendation.

Supervisor Piepho suggested that what is before the Board has been driven by the voters all along, said that the process has been open and public, and noted her desire for the process to move forward.

By a unanimous vote with none absent, the Board of Supervisors took the following action:

DELAYED for one week the adoption of Resolution 2006/80 calling for election on November 7, 2006 for the 2006 Voter-Approved Contra Costa County Urban Limit Line (ULL), to allow staff to return to the Board with any potential language that could clarify the Board's intentions.