

# CALIFORNIA PLANNING & DEVELOPMENT REPORT



May 1990

William Fulton, Editor & Publisher

Vol. 5, No. 5

## June Ballot May Provide Mandate for Rail Transit

The future of rail transit in California will largely be determined in the June statewide election, when voters will have the chance to create — or deny — a sweeping mandate for rail.

Together, Propositions 108, 111, and 116 would provide rail projects around the state with at least \$6 billion in funding — and possibly more if local governments opt to spend their share of Proposition 111 money, earmarked for traffic mitigation, for rail systems. “That’s more money for rail than ever before in the history of California,” said Assembly Transportation Chairman Richard Katz, a Democrat from the San Fernando Valley and co-author of Prop. 111.

But if the three ballot measures are defeated, Katz suggested, “policy makers will look at that as a referendum on rail as an alternative,” added Katz. Several key rail projects would be thrown off the tracks. In the Bay Area, expansion of the BART system would be in doubt. And in Southern California, rail critics would point to the election results as proof of their contention that a political constituency for rail transit in the region does not exist. (CP&DR, January 1990.)

Prop. 111 is the comprehensive gas-tax increase package, which would raise \$18.5 billion over 10 years for transportation purposes and has the bipartisan *Continued on page 6*

## Santa Cruz Debates Downtown Reconstruction

Last October’s earthquake dramatically altered the landscape of downtown Santa Cruz — and now, apparently, it is changing the political landscape there as well.

The city’s left-leaning political leaders say economic prosperity is a top priority in reconstructing the downtown area, and they claim they will set aside some of downtown Santa Cruz’s traditional social agenda in order to achieve that goal. In particular, city officials seem willing to redesign the decimated Pacific Garden Mall — downtown’s focal point — so that it will better accommodate commercial interests.

Social activists in Santa Cruz have long argued — with the support of most political leaders — that the Pacific Garden Mall should be regarded not just as a business district, but also as a public space where transients, homeless, and others are welcome. But the city also relies on the mall’s tax revenue to fund many of its ambitious social programs. And city officials say they must rely on private capital to rebuild the mall because public funds are not available.

“I’ve come to the point of believing that the real purpose of a downtown is commercial,” said Mayor Mardi Wormhoudt. “While we have to build a downtown that maintains the scale and human values we had before, we also have to rebuild a downtown that’s prosperous.” *Continued on page 7*



<b>Update</b>	
Deukmejian signs airport land-use bill .....	Page 2
<b>Elections</b>	
April results mixed on growth issue .....	Page 3
<b>Court Cases</b>	
Appellate court upholds Oxnard fee .....	Page 4
Granny flat may be denied sewer hookup .....	Page 4
Property tax assessment on TDRs upheld .....	Page 4
CEQA doesn’t apply to Wine Train .....	Page 5
<b>Deals</b>	
Why did Maguire get First Street Project? .....	Page 8
<b>Briefs</b> .....	Page 2

## BRIEFS

**S.F. Okays Chinatown Park Purchase**

San Francisco will pay more than \$400 per square foot for a plot of Chinatown land that will become a new city park.

The Board of Supervisors has approved purchase of the 13,000-square-foot Cathay Mortuary property for \$5.7 million. The price is one of the highest ever for park land in San Francisco.

The supervisors approved acquisition of the site by eminent domain in 1987, but the Daphne family, which owns the mortuary, resisted. The family filed a lawsuit under the California Environmental Quality Act, claiming that an environmental impact report was required before the eminent domain could proceed. However, the Court of Appeal in San Francisco ruled that the mortuary does not have cultural significance and therefore an EIR was not required. (CP&DR, February 1989.)

**Pomona Auto Dealer Wants Loan From City**

Tax-rich auto dealerships are important to almost any city. But does the City of Pomona want Will Nix Ford badly enough to loan \$750,000 to Nix's son so he can buy out his father?

Will Nix Jr. claims that Ford Motor Co. has ordered him to move his dealership to a more visible location, perhaps in a neighboring city. In order to raise the funds to move, however, Nix wants to buy out his father, who provided much of the money permitting Nix to buy the dealership in the first place.

As collateral, Nix has offered his house, a 1986 Lamborghini, and his stock ownership in the dealership. The dealership generates \$255,000 a year in tax revenue for the city.

**More Planners Go Private**

For the third time in the last two years, a high-ranking official in the fast-growing city of Lancaster has resigned to join a homebuilding company.

Community Development Director Steve Harding accepted a job with the Larwin Co. only a few weeks after the company secured

approval for a controversial major subdivision in Lancaster.

Harding's predecessor, Kyle Kollar, now works for Kaufman & Broad, while former City Manager James Gilley now works for Mid-Valley Real Estate in Lancaster.

Meanwhile, in Sacramento, nine of the city's 30 professional planners have resigned in the last year. Many have moved on to jobs in the area's booming real estate industry. But the *Sacramento Bee* reported that many of the departed planners had criticism for City Manager Walter Slipe and Michael Davis, the city's director of planning and development.

**Bob Hope Will Sell Land for Parks**

Apparently hurt by accusations of greed, entertainer Bob Hope has agreed to sell 5,700 acres of land to the Santa Monica Mountains Conservancy at a below-market price.

However, a key element to the donation deal is a land swap between Hope and the National Park Service that would permit construction of an access road to Hope's Jordan Ranch in Ventura County, which is proposed for development. Environmentalists oppose the land swap because it would permit construction of the road across what is now federal parkland.

Hope agreed to sell the 5,700 acres to the conservancy for about \$20 million. The largest parcel is the 4,300-acre Runkel Ranch, which straddles the L.A.-Ventura county line along the 118 Freeway.

**Roundup**

**Sam Farr**, D-Monterey, takes over chairmanship of Assembly Local Government Committee from longtime **Dominic Cortese**.... The City of Los Angeles may join other jurisdictions around the state by **hiring environmental impact report consultants directly**, rather than letting the developer do it.... San Francisco wants a **Twin Peaks property owner to lop off the top floor of an existing building** as a condition of approval on two adjacent structures.... Bloodied by its attempt to build the \$1-billion Sunterra resort project, **the Sunrise Co. has returned to Indian Wells will a proposal for 750 luxury homes**, oriented around a golf course, on the same site.

## CALIFORNIA PLANNING & DEVELOPMENT REPORT

is published monthly by  
Torf Fulton Associates

1275 Sunnycrest Avenue  
Ventura, California 93003  
(805) 642-7838

Subscription price: \$179 per year

Editor & Publisher:  
William Fulton  
Contributing Editors:  
Morris Newman  
Stephen Svete

ISSN No. 0891-382X

**We're Electronic!**

and you'll find us  
exclusively on

NEWS 10

For online access  
information call  
(800) 345-1301.

In PA or outside  
the U.S. call  
(215) 527-8030.

## THE BALLOT BOX

**April Elections Bring Mixed Results on Growth Issues**

The April municipal elections brought a mixed bag of voter sentiment on growth. In a rural Placer County city, a growth-control initiative was overwhelmingly rejected, while voters in Hayward turned down a large development. Meanwhile, in Orange County, Cypress voters approved a project of close to 2 million square feet, while San Juan Capistrano residents agreed to increase property taxes in order to buy parkland. Here's a rundown:

**Alameda County****Hayward**

Hayward voters overwhelmingly rejected a plan to build about 2,000 houses on Walpert Ridge, located in the hills above the California State University campus in Hayward.

The city council approved general plan amendments to permit the Walpert Ridge project last fall. However, a referendum was placed on the ballot by the Save the Ridge Committee. An attempt to kick the referendum off the ballot was overruled in February by the Court of Appeal in San Francisco. A trial judge in Alameda County had ruled that the referendum should not appear on the ballot because the petitions did not contain a caption explaining what the measure was. In the April election, Measure R was opposed 67%-33%.

**Los Angeles County****Culver City**

Voters in Culver City passed a citizen initiative restricting building height, but also elected a business-oriented council member over a candidate who ran on a slow-growth slate.

Voters approved Measure 1, an initiative restricting the height of buildings to 56 feet, by 61%-39%. Measure 2, a competing measure placed on the ballot by the city council, received 53% of the vote but was superseded by Measure 1. Measure 2 would have limited lot coverage, required traffic mitigation for any building over 43 feet high, and prohibited buildings from blocking views.

Voters returned Mayor Jozelle Smith to her seat on the City Council and also elected newcomer Mike Balkman, a member of the local Chamber of Commerce board of directors. Smith and Balkman triumphed over Tom Hammons, who was supported by two slow-growth council members who won in 1988.

**Hidden Hills**

Three city council members who supported construction of a controversial low-income housing project were defeated in the April election. The three incumbents lost by a 3-to-1 ratio in an election that drew a 59% voter turnout — a figure believed to be a city record.

Hidden Hills consists only of one gated subdivision near the San Fernando Valley. The senior citizen housing project is the result of a redevelopment lawsuit against the city, alleging that the city had used redevelopment improperly by using it to finance storm drain improvements. The legal settlement calls for annexation of 25 acres outside the Hidden Hills gates, on which a local builder would construct an office building, nine single-family homes, and a 48-unit senior citizen housing project.

**Orange County****Cypress**

Ending a long and acrimonious dispute, voters in Cypress overwhelmingly approved plans for a 1.8-million-square-foot high-rise project on the Los Alamitos racetrack property.

Under the proposal by a group of Sacramento developers, the development would take up only 75 of the property's 297 acres, leaving the rest in open space. A golf course closed in 1985 will be reopened.

A little over a year ago, Cypress voters rejected a plan by Hollywood Park Realty Inc., Los Alamitos's previous owner, for a 2.68-million-square-foot business park. The Hollywood Park proposal did not call for a reopening of the golf course. (CP&DR, November 1989.)

The new development proposal, however, passed with 86.4% of the vote.

**San Juan Capistrano**

Seventy-one percent of San Juan Capistrano's voters approved a property-tax increase that will permit the city to buy a 140-acre tract for parkland.

Measure D will raise taxes on the average home by about \$5.50 per month, raising a total of \$21 million in new tax revenue. The San Juan Citizens for Open Space spent about \$10,000 in support of the measure, while there was little organized opposition.

**Placer County****Lincoln**

Voters in this small community near Sacramento overwhelmingly defeated an initiative that would have blocked development on 15,000 acres of agricultural land.

Measure A, also known as the Greenbelt Initiative, received less than 15% of the vote in the April election. The initiative would have dealt with undeveloped property south of the Auburn Ravine, a creek that serves as the traditional city boundary. The bulk of the city's 6,500 residents live north of the creek.

**June Election Lineup**

The June 5 election will include several local ballot measures and political races that will help shape growth and development around the state. Among the most important are these elections:

- In **Sutter County**, voters will determine the fate of the 1,100-acre Southridge project, located in the foothills 45 miles north of Sacramento. The project would include two golf courses, a resort, and 625 homes. The property was zoned for recreational open space after voters approved a golf course in 1982.

- In fast-growing **Moreno Valley**, near Riverside, residents will vote on an initiative to restrict growth in the city to the statewide average. The initiative is virtually identical to the failed 1988 Riverside County initiative. However, development agreements guarantee developers the right to build thousands of houses, and city planners say the initiative would not affect the rate of construction for several years.

- In **Irvine**, competing ballot measures will determine the fate of several pedestrian bridges in the city. Measure B would support widening two bridges to allow auto traffic, while Measure C would keep the bridges open only to bicycles, pedestrians, and emergency vehicles.

- Land use has emerged as a leading issue in a supervisor's race in **Santa Clara County**. Retiring District 1 Supervisor Susanne Wilson, who represents a sprawling and mostly undeveloped area in the southern part of the county, has served as a swing vote on development issues. The four contenders include Michael Honda, a school trustee in San Jose; Carl Guardino, former top aide to Assemblyman Rusty Areias, D-Los Banos; Los Gatos Town Councilman Robert Hamilton; and Robert E. Winter, a former sheriff.

## UPDATE

**Amended Airport Land-Use Bill Signed**

Los Angeles County cities no longer have to submit land-use approvals to the L.A. County Regional Planning Commission.

Gov. George Deukmejian has signed AB 1288, which gives L.A. County cities a break from complying with airport land-use laws.

Under SB 1255, approved by the legislature last year, all counties have only until mid-1991 to prepare their long-overdue airport land-use plans. In the meantime, under SB 1255, local land-use actions affecting airports must be submitted to airport land-use commissions for approval. But many cities in L.A. County challenged the law's applicability when they discovered that SB 1255 apparently required them to submit their land-use actions to the L.A. County Regional Planning Commission for approval. (CP&DR, April 1990.)

SB 1288, sponsored by Sen. Robert Beverly, R-Redondo Beach, suspends the requirement that Regional Planning review airport-area land-use decisions by cities in L.A. County. The law also extends the deadline for completing airport land-use plans in L.A. County from June 30, 1991, to January 1, 1992, and suspends L.A. County cities from immunity against lawsuits arising from airport-area developments in the next two years. Such immunity was granted under SB 255.

## COURT CASES

### Appellate Court Upholds Oxnard Capital Improvements Fee

Oxnard's capital improvements fee on new development of all kinds has been upheld by the Court of Appeal in Ventura.

The Building Industry Association of Southern California had challenged the fee, saying it amounted to a "surcharge" on new development and therefore was illegal under the landmark case *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987). But the court said the fee was fair.

Oxnard's "growth requirements capital fee" required developers to pay 63 cents per square foot for new residential development, 33 cents per square foot for commercial or industrial development, and 3 cents per square foot for uncovered space in a new industrial development. The fee was meant to maintain the same ratio of public facilities to population that existed when the fee was placed into effect. Furthermore, the fee was pro rated according to patterns existing at the time. Thus, for example, the fee system assigned all costs for facilities such as the library and community center to residential projects, while the cost of shared facilities, including the civic center and parking lots, were divided on a pro rated basis among different uses in the city. Thus, for example, since residential development covered 74% of the total developed area of the city, 74% of the value of these shared facilities was assigned to residences. The size of the fees imposed on new development were derived from these assumptions.

The appellate court rejected the BIA's argument that this system constituted a "buy-in fee" which required new residents to buy into the cost of existing public facilities. The court also rejected the BIA's argument that the relationship between public facilities and the new development was not strong. "Although it may not be possible to quantify how much impact any particular development has on public facilities, cumulatively the effect of new development on public facilities is direct and obvious: the larger the city, the more public facilities it needs," the court reported.

In an unpublished portion of the opinion, the court also rejected the BIA's contention that the fee constituted a "special tax" under Proposition 13. In that portion of the decision, the court relied on *Russ Building Partnership v. City and County of San Francisco*, 199 Cal.App.3d 1496 (1987), an appellate court case that upheld San Francisco's transit impact fee. As with the *Russ* case, the court in the Oxnard case found that because the fees bore a relationship to the new development, then the fees did not constitute a special tax. However, because the Supreme Court did not authorize this portion of the Oxnard case for publication, it cannot be cited as precedent.

*The full text of BIA of Southern California v. City of Oxnard, No. B037716, appeared in the Los Angeles Daily Journal Daily Appellate Report on March 28, beginning on page 3316.*

### Granny Flat May Be Denied Sewer Hookup, Court Rules

A so-called "granny flat" may be denied water and sewer service, even though state law requires that the flat be approved under local zoning ordinances, the state Court of Appeal has ruled. The ruling could be an important blow to attempts by housing advocates to increase the housing supply by providing small apartments in single-family districts.

The Pebble Beach Community Services District was within its legal authority when it denied water and sewer service to a granny flat owned by Wallace and Peggy Getz, the Sixth District Court of Appeal ruled. "We conclude that the general, statewide policy which supports building senior housing must yield in this case to the competing state policy which mandates protection of ecologically fragile coastal waters and to the local land use plan which implements this policy," the court wrote.

Under state law, local zoning officials must allow construction of granny flats in single-family zones, subject to a conditional use permit. In this case, the Monterey County zoning administrator

approved the granny flat subject to the availability of sewer service. However, the Community Services District refused such service, saying that granny flats "are not included" in the land use plans for the area, which include both the Del Monte Forest land use plan and the local coastal plan.

In court, Getz argued that the local agencies had no power to withhold sewer service from a senior citizen unit that qualified for approval under the state law. But the appellate court disagreed. In fact, the panel of justices said, Getz's complaints "would be better addressed to the local land use planning and control agencies which oversee (the area), and which, in this case, saw fit to make the construction of senior housing of lesser importance than other development."

*The full text of Getz v. Pebble Beach Community Services District, No. H005715, appeared in the Los Angeles Daily Journal Daily Appellate Report on April 2, beginning on page 3513.*

### Property Tax Assessment on TDRs Upheld

Transferred development rights constitute "a most significant present, beneficial property interest" that are subject to property taxes, the Court of Appeal in Los Angeles has ruled.

The case involved a transfer of development rights in downtown Los Angeles supervised by the L.A. Community Redevelopment Agency. In 1983, Mitsui Fudosan (U.S.A.) Inc., which was planning to develop a major office building downtown, purchased TDRs totalling 490,000 square feet of space for \$8.2 million. Subsequently, the L.A. County Assessor increase Mitsui's base assessment by \$8.2 million. Mitsui had to pay increased property tax totalling \$266,000 between 1984 and 1986.

Mitsui sued and, in fact, won a summary judgment from L.A. Superior Court Judge Ernest G. Williams, who ordered the county to return the \$266,000. But the appellate court reversed Williams's ruling.

The question, according to the appellate court, was whether TDRs constitute "real property interests" whose value can be assessed when property changes hand. Mitsui tried to argue that it had purchased a type of zoning variance, but the court disagreed. "The transactions in the instant case bear all the hallmarks of a transfer of real property," the court wrote. "The owners of the donor parcels received valuable consideration, over \$8 million, in fact, in return for diverting themselves of a portion of their own property interests, interests which are now possessed and owned by Mitsui."

Mitsui also sought to link TDRs to other real property interests such as easements and water rights, but the court said this connection simply strengthened the county assessor's position.

*The full text of Mitsui Fudosan (U.S.A.) v. County of Los Angeles, No. B043779, appeared in the Los Angeles Daily Journal Daily Appellate Report on April 9, beginning on page 3799.*

## Most Local Governments Have Growth Control, Survey Reveals

Almost three-quarters of all local governments in California have imposed some form of growth control, according to a new survey of cities and counties in the state.

Furthermore, growth controls are not limited just to the Bay Area or certain parts of Southern California, according to the survey. These controls cover 78% of the land area of the state, including many parts of the Central Valley. "You don't have certain areas that are totally growth control and other areas that are not," said planner/researcher Madelyn Glickfeld, who coordinated the research effort.

Glickfeld's statistics are the first glimpse of a major survey of growth-control ordinances in California she has conducted in conjunction with League of California Cities and the County Supervisors Association of California. More results of the study will be presented at a UCLA Extension Public Policy conference in late July.

The survey elicited responses from all 58 counties and 386 of the state's 450 or so cities. In a presentation at the recent American Planning Association conference in Denver, Glickfeld described California as a patchwork of local growth controls that, together, shape statewide patterns. "This is California's *de facto* growth policy," she said.

The survey revealed that the enactment of growth-related ordinances is not strongly correlated with actual growth within the same jurisdiction. However, Glickfeld said, enactment of growth ordinances is correlated with regional growth. Thus, she suggested, local voters and local city councils typically enact local growth ordinances in response to regional pressure.

In her Denver presentation, Glickfeld revealed several other preliminary conclusions from the survey, including:

- The larger a city is, the more growth-restricting ordinances it is likely to have in place. The only exception to this pattern involves cities in the 250,000-500,000 population range — a category that includes such as cities as Oakland, Anaheim, Stockton, Sacramento, and Long Beach. "These are the cities that want to grow," Glickfeld said.
- The greatest concentration of growth-control ordinances is in the San Diego area, where almost 90% of all jurisdictions have

## COURT CASES

### Supreme Court Says CEQA Does Not Apply to Wine Train

The Napa Valley Wine Train project is exempt from review under the California Environmental Quality Act, the state Supreme Court has ruled.

In a 5-2 decision, the Supreme Court ruled that CEQA's statutory exemption covering "highway or rail rights-of-way ... already in use" extends to the Wine Train.

The Wine Train has been a controversial proposal in Napa County's wine-growing region, which has suffered more and more traffic congestion as wine tours have become more popular. The Wine Train is designed to give wine tourists an alternative to driving, but local residents have opposed it, fearing that it will bring even more tourists into the Napa Valley.

In 1988, several localities in the Napa Valley, along with the Napa Valley Vintners Association, filed a complaint with the state Public Utilities Commission, claiming that the Wine Train was subject to CEQA and asking that the PUC assert jurisdiction over the train. Subsequently, the PUC found that the Wine Train fell within its jurisdiction and prohibited the train from rolling until its backers complied with CEQA. At the same time, however, the Interstate Commerce Commission ruled that the PUC had no jurisdiction over the train.

### Types of Measures in Place, by City and County

	Cities		Counties	
	Number	%	Number	%
<b>Growth Control Measures</b>				
Population cap. ....	38	9.8	2	3.5
Housing cap. ....	43	11.1	7	12.1
Adequate infrastructure. ....	112	29.0	17	29.3
Downzoning. ....	106	27.5	15	25.9
Voter Control/upzoning. ....	17	4.4	2	3.5
Supermajority/upzoning. ....	10	2.6	1	1.7
Rezone res. land/ open space. ....	19	4.9	8	13.8
<b>Commercial/Industrial</b>				
Commercial cap. ....	13	3.4	1	1.7
Industrial cap. ....	12	3.1	1	1.7
Adequate infrastructure. ....	92	23.8	16	27.6
Rezone commercial land. ....	40	10.4	5	8.6
Building height. 100		25.9	12	20.7
<b>Planning Measures</b>				
Growth management. ....	43	11.1	8	13.8
Urban limit line. ....	56	14.5	23	39.7
Other/pending. ....	79	20.5	9	15.5

Source: MJG Inc.

passed at least one ordinance. The Bay Area was a close second with 82%. The figure for the Los Angeles area is 71% and for Sacramento 61%.

• The most popular growth ordinances for both counties and cities are (1) downzonings; (2) building height restrictions; and (3) ordinances that permit development only if adequate infrastructure is present. Each such measure has been adopted by 20-30% of all local government jurisdictions.

In the CEQA case, the Supreme Court relied on the statutory exemption involving rail lines. The majority opinion noted that in 1978, the legislature exempted from CEQA all passenger rail projects "already in use," and four years later broadened the exemption to include all "highway and rail rights-of-way." The court found that the Napa right-of-way was included in this provision even though regular Southern Pacific freight service had terminated in 1985. "Railroad tracks are relatively durable things," the court wrote. "Once a railroad company has made use of its right-of-way by constructing a line, it ordinarily makes sense to assume that the land is permanently dedicated to transportation." The court noted that the Wine Train had provided freight service for a vintner as recently as 1988.

In a dissenting opinion, Justice Marcus Kaufman concluded that the Napa line was not "already in use" when the PUC ordered the Wine Train to submit an environmental assessment. Justice Allen Broussard joined in the dissenting opinion.

*The full text of Napa Valley Wine Train Inc. v. Public Utilities Commission, No. S007919, appeared in the Los Angeles Daily Journal Daily Appellate Report on March 21, beginning on page 3030.*

## June Ballot May Provide Mandate for Rail Transit

Continued from page 1

support of the state's political leadership. Prop. 108 would authorize a \$1 billion bond issue for rail purposes, but its passage is dependent on the passage of Prop. 111. Prop. 116 is an initiative measure that would raise \$2 billion for rail transit through bond issues. Prop. 116 is similar to Proposition 70, the 1988 initiative that raised \$770 million for parkland acquisition, which was also sponsored by the Sacramento-based Planning and Conservation League.

Institutional support for all three ballot measures is broad, including both development interests and environmentalists. The California Building Industry Association withdrew support from Prop. 111 last winter but eventually agreed to back it. A recent California Poll found that voters supported Prop. 111 47%-39% — but only after they were told what it contains. Only 19% of those polled said they were familiar with the proposition. This statistic may not bode well for Prop. 111, since voters often vote against measures they are unfamiliar with.

Significantly, critics of the ballot measures rarely broach the issue of rail. Assemblyman Richard Mountjoy, R-Arcadia, said he opposes the three propositions because he opposes bonded indebtedness in general. Slow-growth activist Tom Rogers of Orange County opposes Prop. 111 not because of rail, but because he thinks the traffic-mitigation standards it proposes are too lax. And some conservatives are alarmed that Prop. 111 would amend the Gann spending limits, exempting capital expenditures and new gas tax revenues.

### What the Measures Contain

Proposition 111, the "Traffic Congestion Relief and Spending Limitation Act of 1990," proposes a doubling of the state gasoline tax, currently 9 cents per gallon. The tax would increase to 14 cents immediately and then increase 1 cent annually until 1994. The tax increase would provide \$18.5 billion over 10 years for a range of traffic improvements, street and highway maintenance and expanded rail service. Of that total, about \$3 billion is set aside for rail. Local governments would receive another \$5.5 billion for traffic mitigation and transit improvements, including rail.

By far the most controversial element of Proposition 111 has been the congestion-management provision, proposed by Katz. To qualify for funds, local governments would have to estimate and reduce future traffic congestion. This provision, which opponent Rogers claims is too lax, led CBIA to oppose the measure for a while.

Proposition 108, the "Passenger Rail and Clean Air Bond Act," would provide \$1 billion for specific rail projects. Because the bond issue is dependent on the passage of Prop. 111, the two ballot measures are often discussed as a single package. Prop. 108 is the first of three rail-bond issues; future initiatives in 1991 and 1992 would provide another \$2 billion.

Prop. 108 would benefit about 30 regional rail systems. Distribution of funds is weighted 60/40 in favor of Southern California.

Proposition 116, the "Rail Transportation Bond Act," is also a rail bond issue, but it is an initiative sponsored by Californians for Transportation Solutions, a project of the Planning and Conservation League. Prop. 116 would make \$1.99 billion general obligation bonds available to about 30 transportation districts.

Jim Knox, Prop. 116 campaign manager, said the funds will be distributed statewide on a per-capita basis. That impartiality suggests that the conservation group has learned a lesson from the knocks it received in the Prop. 70 campaign in 1988. In that initiative, PCL earmarked some money for the pet projects of activists who had aided the conservation group in collecting signatures for the initiative — inviting accusations of "park barrel politics." (CP&DR, September 1989.) Bond monies from Prop. 116 would be distributed by the California Transportation Commission.

### Rail Projects

The initiatives arrive at the ballot box at a time when an extraordinary number and variety of rail projects are being considered. Those projects range from privately sponsored rail lines linking Southern California with Las Vegas to visionary monorail projects. They include the following:

#### BART

The Bay Area Rapid Transit District (BART) plans to spend \$7 billion within the next 10 years. Plans call for 43 new stations, 140 miles of track, and four maintenance plants.

Planned extensions include a northeast extension from Concord to West Pittsburg; a southeast extension from Fremont to Warm Springs, near the Santa Clara County border; and an eastern extension from the Bay Fair station in San Leandro to Castro Valley and Dublin. Construction is expected to start in 1995 on these long-anticipated BART extensions.

In addition, BART plans to extend its system south to San Mateo County, in a novel arrangement that provides San Mateo with rail service but deprives it of decision-making power on the BART board of directors.

The extension would run south from Daly City to the Tanforan area in the City of San Bruno. BART officials are interested in connecting San Bruno to San Francisco International Airport, 1.5 miles to the east, with a people mover.

Under an agreement signed in March by BART and San Mateo County, the county will pay BART \$200 million for the privilege of connecting to the rail system. That money would go to fund construction of BART extensions. In addition, San Mateo will subsidize all operating costs beyond the fare box in its region. (Systemwide, BART recovers 48 percent of its costs from fares.)

San Mateo, however, does not get a seat on the BART board — a strategy which may spare the county up to \$600 million in costs. The BART Act holds that a county that votes itself into the BART district must impose a transit tax and assume a proportionate share of the original development costs.

#### Los Angeles Metro Rail

The first phase of Metro Rail — a 4.4-mile route linking downtown Los Angeles to Alvarado-Wilshire — is currently under construction. Completion is expected in September 1993.

The second phase of Metro Rail, the Alvarado-Hollywood route, could begin construction by the end of the year. Federal transit officials released the funds in March, although those funds were authorized by Congress two years ago.

Construction is not scheduled for the third phase, Hollywood-North Hollywood. And the crucial route that would connect Metro Rail with Santa Monica, originally set for Wilshire Boulevard, remains undecided.

A San Fernando Valley Metro Rail route was selected earlier this year by the Los Angeles County Transportation Commission. The route, a Southern Pacific right-of-way, would connect North Hollywood terminus of Metro Rail to Warner Center-Woodland Hills. Plans call for the North Hollywood-Van Nuys leg to be built as a subway. Also proposed are Metro Rail lines connecting Hollywood to Westwood, and downtown Los Angeles to Whittier.

#### L.A. County Light-Rail Projects

The first light-rail line, stretching from downtown L.A. to Long Beach, is expected to start operation in July. The north-south train links the Harbor region to downtown Los Angeles, where the line will connect with Metro Rail.

In South Los Angeles County, the Century Freeway light-rail line is under construction. The east-west line *Continued on page 7*

## Santa Cruz Debates Reconstruction of Downtown Mall

Continued from page 1

Downtown property owners remain skeptical, saying that the city council has merely paid lip service to the need for a business-oriented reconstruction of the mall. And right now, the mall's reconstruction is being held up by a bitter dispute over the future of the St. George Hotel — a large and historically significant building that was damaged in the earthquake. Historic preservationists say it can be saved, while the St. George's owner wants to tear it down. Other property owners are waiting to see what happens to the St. George before they proceed.

Prior to the earthquake, Santa Cruz had one of the most vibrant small-city downtowns in California. An eclectic combination of old buildings and shops, the downtown area accounted for retail sales of \$94 million in 1988, up from less than \$60 million in 1980. Most of this retail activity occurred on the mall, a three-block, pedestrian-oriented strip filled with plantings and shrubbery as well as stores. According to Wormhoudt, the city received about \$5 million a year in tax revenue from the area — 20% of the city's general fund revenues.

But the October earthquake, epicentered only a few miles away, wreaked considerable damage on the downtown area. Close to half of all buildings downtown were either destroyed in the earthquake or razed afterward because of quake damage. Many downtown retailers are operating out of temporary pavilions near the mall, while most of the remaining buildings are fenced off and unoccupied. The area's two department stores, Gottshalk's and Ford's, both lost their buildings; Gottshalk's recently sold its property and may not return downtown.

In order to prepare for the reconstruction of downtown, the city has reactivated its redevelopment agency. But the agency has little financial power because there is little property tax revenue flowing into its coffers. The city may ask the state for permission to lower property appraisals in the downtown area, which would speed the creation of new property tax revenues that the redevelopment could capture.

Currently the city is wrestling with two sets of recommendations on how to redesign the mall. The Berkeley urban design firm of Lyndon/Buchanan Associates, hired by the city, called for an extension

of the "garden" concept, with low shrubbery and benches, that social activists support and downtown property owners dislike. A study team from the Urban Land Institute called for a "traditional streetscape" that would complement retail uses. The ULI panel said shrubbery or benches should not be included, "as these amenities invite after-hours usage which is inconsistent with the primary function of the mall itself."

There is nothing new about these two points of view. "This is the oldest and most classic fight in town," said Mayor Wormhoudt. But in the context of earthquake damage the political leaders say they are abandoning the garden. "To me there is a difference between a garden and an urban streetscape," Wormhoudt said. "When I think of urban areas I like, they're not garden-like."

But property owners say they have seen little action to support the rhetoric. "There's still a strong sentiment that the city council is not particularly responsive to the business community," said Ron Swenson, a property owner.

Both property owners and city officials say the uncertainty about the St. George is holding up reconstruction of the mall. Historic preservationists appear prepared to take the city to court to save the St. George if necessary.

The St. George is a large building, taking up a third of a block. It had been used as a residential hotel. Property owner Barry Swenson (Ron Swenson's brother) would like to tear it down. The National Trust for Historic Preservation wants to save it, claiming that

rehabilitation would cost less than new construction. City officials are trying to encourage Swenson to apply for a demolition permit, while at the same time resisting attempts by the state Historic Preservation Office to assert control over the building's future.

In last year's emergency session, the state legislature established a process permitting the Historic Preservation Office to review local controversies involving historic buildings damaged by the earthquake. According to Kathryn Burns, field officer for the National Trust for Historic Preservation in San Francisco, the intent of the law was to permit local governments to pass the political heat to the state in such situations.

## June Ballot May Provide Mandate for Rail Transit

Continued from page 6

will connect the Los Angeles International Airport with the Long Beach light-rail line in Norwalk.

- In January, the L.A. County Transportation Commission started negotiations with Southern Pacific and Santa Fe railroads to purchase two existing rail lines that would connect downtown Los Angeles to the City of San Bernardino, 60 miles to the east.

- A Wilshire-Inglewood light-rail line was recently proposed in a study prepared by Southern California Association of Governments (SCAG). The line would connect the dense Westwood area with Inglewood. Implementation is at least 15 years away.

### Monorail Proposals

Proposals for above-ground monorails have become popular in recent months, especially in Orange County. They include:

- A proposed line from Anaheim to John Wayne Airport. The Orange County Board of Supervisors and officials of six cities have endorsed an 18-mile monorail that would run between Disneyland and the regional air terminal. The system would connect to a proposed people mover linking Disneyland, the Anaheim Convention Center and Anaheim Stadium. In addition, "feeder" monorail systems for

the line are contemplated for the cities of Orange, Santa Ana, Costa Mesa, and Irvine.

- A half-mile monorail system connecting a new office development planned by McDonnell Douglas Realty Co. with John Wayne Airport. The system would be a prototype of the countywide system described above. The developer claims construction costs would run only \$8 million to \$15 million a mile.

- The Southern California Monorail Project, the most ambitious of all monorail proposals. This proposal would create 2,000 miles of elevated commuter rail spanning six counties in Southern California. A private group, also called Southern California Monorail Project, is circulating petitions to qualify an initiative for the November 1990 ballot. The initiative would add a half-cent sales tax in the six counties served by the system, with the intent of raising \$34 billion over 20 years. The system would be fully operative by 2010.

- A \$1.8 billion monorail on the Ventura Freeway between Universal City and Warner Center in the San Fernando Valley. L.A. County Supervisor Michael Antonovich hopes to revive this idea, which is his brainchild, but the Los Angeles County Transportation narrowly defeated a motion to endorse the plan in February.



## DEALS

### Why Did Maguire Get L.A. County's First Street Project?

Oh, to be a fly on the wall, just to overhear the negotiations between public agencies and private developers! Only a fly on the wall, for instance, knows exactly how Los Angeles County chose the developer on which to bestow the exclusive right to negotiate for the high-profile First and Grand project in downtown L.A.

Clearly, the county chief administrative office did nothing wrong in February when it recommended negotiating with Maguire Thomas Partners for the proposed 65-story office building on county-owned property. But some off-the-record sources are suggesting that some decision makers inside the county wanted Maguire all along, and were willing to wait until consultants came up with the answer that those county officials wanted to hear.

The project is crucial to a variety of powerful interests for a variety of reasons. The First and Grand site, across the street from the proposed Walt Disney Concert Hall, is the jewel in the county's real estate crown. Therefore, the office building will be the biggest and most lucrative element in the county's aggressive program of developing surplus property for profit.

Also, by providing the county with extra revenue, the First and Grand project may help resolve a long-standing dispute between the county and the City of L.A. over redevelopment funds. And finally, the county project is an urban design linchpin. The tower will stand amid a no-man's-land of asphalt parking lots that separates the high-rent office district from the forlorn and dog-eared Civic Center. Together with Disney Hall and a major hotel across the street, the office building promises to link two mutually isolated areas of downtown with glittery nightlife.

With so much riding on the high-rise tower, it was little wonder that the county was extraordinarily cautious about choosing a developer. The decision in favor of Maguire followed more than two years of evaluation that included a team of lawyers and at least three consulting firms.

To be sure, the county project was not for the faint-hearted. The project calls for 1.4 million square feet of office space on a location that is several blocks north of Third Street — the southern boundary of the "prestigious" area of downtown. That means that a developer takes a big risk in pioneering a location. That risk is doubled by the fact that when the project is completed in 1993, it could become a white elephant in a soft real estate market.

The steepness of the risk, perhaps, explains the poor response from developers to the county's request for proposals. Only two developers responded: Miller, Klutznik, Davis & Gray, a development and investment firm headed by Los Angeles financier Marvin Davis — and Maguire Thomas Partners, the Santa Monica-based firm headed by Rob Maguire II.

To evaluate the two proposals, the county started by hiring two consulting firms with which it often does work: Delao & Draughon (now Draughon & Associates) a La Mirada-based planning firm, and Kotin, Regan & Mouchly, a financial consulting firm in West L.A. The consultants examined financial and marketing proposals, as well as highly detailed site plans.

From the first, the Maguire and Miller Klutznik proposals "were pretty equal," said Jim Draughon of Draughon & Associates, adding, "It was difficult to weed through the differences." In terms of design, he said, the two developers were in a dead heat.

No one will talk on the record about the financial deals the two developers offered the county. But the course of events suggests that the Miller Klutznik proposal was financially superior.

In February 1989, almost a year after the county's request for proposals went out, the CAO's office hired two high-priced lawyers

to sort out the First and Grand situation: Richard Volpert of the Los Angeles office of Skadden Arps, and Richard Riordan, principal of Riordan McKinzie.

Both Volpert and Riordan are powers in their own right in L.A. real estate. Volpert, formerly of O'Melveny & Myers, is perhaps downtown's leading real estate lawyer. Most recently he has represented the county in its negotiations with the Disney Committee over the new concert hall and hotel on the county site across the street from proposed office building.

Riordan is an entrepreneur as well as a lawyer who owns at least two downtown parcels. He's also representing the county in its delicate negotiations with Mayor Tom Bradley over redevelopment funds.

Volpert says he and Riordan were hired essentially to break a deadlock. "Both proposals were excellent and both developers were qualified," he said. Significantly, Volpert and Riordan evaluated only financial and marketing proposals. And they, in turn, hired Kenneth Leventhal & Co., the Century City accounting firm, to go through the numbers again.

"There wasn't any one single factor" that decided the case for Maguire, he said. Instead, the decision took into consideration what he called "a terribly complex equation" of economic and marketing factors. "It would have been a good exercise for the Harvard School of Business."

Draughon acknowledged that there was indeed controversy inside the CAO's office as to which developer should win the project, but said that was not extraordinary. "There is never full concurrence" among decision makers when reviewing competing projects, he said. Consultants from different disciplines might value a project differently. "There are certain elements that people (might) weight more heavily than others."

Among the factors considered, he said, were the schedule of revenues flowing to the county over the 66-year ground lease, the type of financing that the developers had proposed, and the developers' own track record.

Miller Klutznik had developed Fox Plaza in Century City, one of the most successful and attractive office buildings in West Los Angeles. But there are hints that decision-makers inside County government favored Maguire. Maguire is an established downtown player, with four major buildings either built or in the pipeline. Maguire is famed for pre-leasing buildings, often willing to buy out leases — or buildings themselves — in order to attract tenants. Perhaps most important, given the parcel's urban design importance, Maguire has built a reputation as an "architect's developer," which concerns itself with urban design issues and site planning.

Draughon hinted that Maguire's ability to perform quickly may have been a deciding factor. "I think that the implementation schedule was being more readily achieved with (Maguire Thomas)," he said.

Victory must be particularly sweet to Rob Maguire. While still a fledgling developer in the late 1970s, his ambitious proposal for Bunker Hill was pushed aside by redevelopment officials in favor of a mediocre proposal from Cadillac Fairview. The Canadian firm was then the largest developer in North America. Redevelopment officials cited the safety of going with a big gun.

Today, Cadillac Fairview no longer exists and Maguire is the safe ride, the entity with both the reputation and the relationships. And those are the things that count most, perhaps, when the race is a dead heat. That's our guess, at least — unless the fly on the wall tells us otherwise.