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BOS Hearing -- February 23, 2016; Items #10 and #11. Draft Ballot Questions

1 message

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Mon, Feb 22, 2016 at 4:06 PM

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Attached you will find a letter from Alliance for Responsible Planning concerning the proposed draft language for the ballot questions for the Purple and Yellow petitions on the June, 2016 ballot.

Thank you for the opportunity to provide comments on these important issues.

Alliance for Responsible Planning

**Final Letter to BOS re Ballot Question June 2016 Measures.pdf**

620K

Alliance for Responsible Planning

February 22, 2016

Hon. Ron Mikulako, Chair
Hon. Shiva Frentzen
Hon. Brian Veerkamp
Hon. Michael Ranalli
Hon. Sue Novasel
El Dorado County Board of Supervisors
330 Fair Lane, Building A
Placerville, California 95667

Re: Board Meeting on February 23, 2016
Agenda Item #10, Legistar File #14-1054 – Adoption of the “Ballot Question”
language for the Traffic and TIM Fees measure (Yellow Petition)
Agenda Item #11, Legistar File #14-1470 – Adoption of the “Ballot Question”
language for the Land Use Policy and Zoning measure (Purple Petition)

Honorable Members of the Board of Supervisors,

We appreciate the opportunity to provide comments on the “ballot question” language for the two initiatives appearing on the June, 2016 ballot. These are important issues, and we believe voters should be properly informed about the nature of proposed changes.

Elections Code section 10403 requires a *ballot question* to conform to code provisions “governing the wording of propositions submitted to the voters at a statewide election.” Elections Code section 9051 provides that in a statewide election the ballot title and summary of an initiative or referendum must be a “true and impartial statement of the purpose of the measure in such language that the ballot title and summary shall neither be an argument, nor be likely to create prejudice, for or against the proposed measure.”

The Traffic and TIM Fee Measure (Yellow Petition)

Among other changes, this ballot measure would revise adopted Measure Y policies (General Plan Policy TC-Xa, 1 through 3), and add four new paragraphs (4 through 7). One of the more noteworthy changes requires that “[a]ll necessary road improvements **shall be fully completed** to prevent cumulative traffic impacts from new development from reaching Level of Service F during peak hours...**before any form of discretionary approval can be given to a project.**” This provision does not differentiate between residential and other project types.

The proposed ballot question on the Yellow Petition provides:

"Shall the ordinance be adopted amending the El Dorado County General Plan to (1) change when and how El Dorado County mitigates impacts to traffic levels of service, (2) impose restrictions on use of tax revenue and mitigation fees and on formation of infrastructure financing districts, and (3) require El Dorado County to make findings of compliance with those policies prior to approving any residential development project of five or more units, as more fully described in the proposed ordinance?"

The draft ballot question language appears insufficient and misleading in two respects. First, the description in subsection (1) omits significant information about the nature of the proposed changes, instead using broad language "change when and how" the county "mitigates impacts to traffic". Subsection (3) compounds the problem by mentioning a single provision (from paragraph TC-Xa, #7 of the initiative) requiring a finding of compliance with these policies prior to approving "any residential development project of five or more units..." The "findings" requirement is one of a handful of provisions contained in the initiative petition – and is no more or less important than others such as the use of mitigation funds for road maintenance. *It does not warrant special emphasis.*

The initiative language on its face (TC-Xa 3) **prohibits approval of any discretionary project unless all necessary road improvements have been fully completed.** It does not differentiate between residential developments and other discretionary projects. Residential projects requiring findings of compliance prior to approval (TC-Xa 7) are a **subset** of the larger universe of **discretionary projects that cannot be approved unless road improvements have been completed.** As written, the language of the ballot question leaves voters with the impression that the reach of the measure is narrower, and that it only implicates residential development projects of five units or more.

We recommend the ballot question be modified to read as follows:

"Shall the El Dorado County General Plan be amended to (1) require El Dorado County to ensure that all necessary road improvements, as described, are fully complete before giving any form of discretionary approval to a project, (2) impose restrictions on use of tax revenue and mitigation fees and on formation of infrastructure financing districts?"

This language addresses the "bear in the living room" – the requirement that no discretionary project of any kind can be approved unless all road improvements to avoid LOS F

have been completed. This initiative is a significant departure from existing policy in this material respect, and the question should be put directly to the voters.

The Land Use Policy and Zoning Measure (Purple Petition)

We provided detailed comments on changes proposed by the Purple Petition, in a letter to the Board of Supervisors dated November 19, 2014 (see #7 of Legistar File #14-1470) prior to adoption of the TGPA/ZOU; those comments are incorporated here by reference. A principal purpose of this initiative is to amend the General Plan Land Use Designations (LUDs) to conform the General Plan to old zoning: "1. Where a Land use designation is inconsistent with current zoning, the Land use designation shall be amended to match existing zoning."

The proposed ballot question language for the Purple Petition provides:

"Shall the ordinance be adopted to (1) add, amend, or delete fifteen distinct policies in the El Dorado County General Plan concerning land use, agriculture, mixed use, cultural and historical resources, and water supply and (2) preclude El Dorado County from approving any future discretionary project until it implements twelve enumerated General Plan policies related to community design guidelines, cultural and historical resources, water supply, and scenic corridors, as more fully described in the proposed ordinance?"

The ballot question language above describes "policies" that would be added, amended or deleted, but makes no reference to the core issue – changes to the General Plan Land Use Designations shown on the Land Use Maps. These are not "policy changes" – the Land Use changes represent a different General Plan. **The ballot question posed to voters should disclose that the proposal would amend General Plan Land Use Designations – there is no other official notice that will be given to inform landowners that their land use and property rights could be impacted.**

We recommend this ballot question be revised as follows:

"Shall the ordinance be adopted to (1) amend the El Dorado County General Plan Land Use Designation of any parcel that is inconsistent with current zoning so that the Land Use Designation matches the existing zoning, (2) add, amend, or delete fifteen distinct policies in the General Plan, and (3) preclude El Dorado County from approving any future discretionary project until it implements twelve enumerated General Plan policies, all as more fully described in the proposed ordinance?"

El Dorado County Board of Supervisors
February 22, 2016
Page 4

The Purple Petition raises many more questions than it answers; some of these are discussed at length in our November 19, 2014 letter written prior to adoption of the TGPA/ZOU. It stands state Planning and Zoning law on its head by changing the General Plan to conform to zoning.

In short, both of these initiatives appear to be the latest attempts designed to gut the voter approved 2004 General Plan.

Very truly yours;

ALLIANCE FOR RESPONSIBLE PLANNING

[sent electronically via email]

Enclosures