

CITY OF WILDOMAR PLANNING COMMISSION AGENDA

Commission Members:
Chairman Harv Dykstra; Vice-Chairman Stan Smith
Michael Kazmier; Robert Devine ; Veronica Langworthy

REGULAR MEETING

WEDNESDAY, JANUARY 18, 2012 AT 7:00 P.M.

Council Chambers, Wildomar City Hall, 23873 Clinton Keith Road, Wildomar, CA 92595

CALL TO ORDER - 7:00 PM

ROLL CALL

FLAG SALUTE

PUBLIC COMMENTS

This is the time for citizens to comment on issues not on the agenda. Under the provision of the Brown Act the Planning Commission is prohibited from discussing or taking action on items not on the agenda. Each speaker is asked to fill out a "Public Comments Card" (located on the table by the Chamber door) and give the card to the Planning Commission Chairperson prior to the start of the meeting. Lengthy testimony should be presented to the Planning Commission in writing (8 copies) and only pertinent points presented orally. Comments are limited to three (3) minutes per speaker. The Commission encourages citizens to address them so the questions and/or comments can be heard.

APPROVAL OF AGENDA AS SUBMITTED

1.0 CONSENT CALENDAR

All matters listed under the Consent Calendar are considered routine and will be enacted by one roll call vote. There will be no separate discussion of these items unless members of the Commission, the public, or staff request specific items be removed from the Consent Calendar for discussion and/or separate action.

1.1. Planning Commission Meeting Minutes:

- Approval of the December 7, 2011 Planning Commission Meeting Minutes.

2.0 PUBLIC HEARINGS:

2.1 Zoning Ordinance Amendment No. 11-04:

A City Initiated Zoning Ordinance Amendment amending Chapter 17.216 (Plot Plans) of the City of Wildomar Zoning Ordinance to revise the provisions for the Approval Period and Extension of Time for Plot Plans.

RECOMMENDATION:

Staff recommends the Planning Commission adopt PC Resolution No. 12-01 entitled:

“A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WILDOMAR, CALIFORNIA RECOMMENDING CITY COUNCIL ADOPTION OF AN EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER SECTION 15061(B)(3) OF CEQA AND APPROVAL OF ZONING ORDINANCE AMENDMENT NO. 11-04 AMENDING CHAPTER 17.216.070 (PLOT PLANS) OF THE CITY OF WILDOMAR ZONING ORDINANCE”

3.0 GENERAL BUSINESS ITEMS:

3.1 City of Wildomar Multi- Use Trails Discussion:

Planning Commission review and consideration of the addition of trail names to the existing City of Wildomar Multi-Use Trails Map , Adopt-A-Trails Program, and Criteria for the Trails Commissioner.

RECOMMENDATION:

Staff recommends the Planning Commission take the following three actions:

1. Adopt PC Resolution No. 12-02 entitled:

“A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WILDOMAR, CALIFORNIA RECOMMENDING CITY COUNCIL APPROVAL OF THE ADDITION OF TRAIL NAMES TO THE EXISTING CITY OF WILDOMAR MULTI-USE TRAILS PLAN MAP.”

2. Adopt PC Resolution No. 12-03 entitled:

“A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WILDOMAR, CALIFORNIA RECOMMENDING CITY COUNCIL ADOPTION OF THE ADOPT-A-TRAILS PROGRAM”

3. Adopt PC Resolution No. 12-04 entitled:

“A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WILDOMAR, CALIFORNIA RECOMMENDING CITY COUNCIL ADOPTION OF THE CRITERIA FOR THE TRAILS COMMISSIONER”

3.2 **California Cable Board Park Study Session/Presentation:**

A study session presentation by Mr. John Clemmons (Applicant) on a proposal to build a cable board ski park in the City of Wildomar located on the west side of Kilarney Lane approximately 250 feet south of Baxter Road.

3.3 **Election of New Planning Commission Officers:**

Planning Commission consideration to elect a new Chairperson and Vice-Chairperson for the 2012 calendar year in accordance with the City of Wildomar Planning Commission Bylaws.

PLANNING DIRECTOR'S REPORT

This item is reserved for the Planning Director to comment or report on items not on the agenda. No action by the Planning Commission is needed.

ASSISTANT CITY ATTORNEY'S REPORT

Assistant Attorney's discussion of two publications from the Institute for Local Government as follows:

- Understanding AB 32's Impacts on Local Government: A Local Official's Guide.
- Understanding California's Sustainable Communities and Climate Protection Act of 2008 (SB 375): A Local Official's Guide.

PLANNING COMMISSION COMMUNICATIONS

This portion of the agenda is reserved for Planning Commission business, for the Planning Commission to make comments on items not on the agenda, and/or for the Planning Commission to request information from staff.

FUTURE AGENDA ITEMS

ADJOURNMENT

The City of Wildomar Planning Commission hereby adjourns to its next regularly scheduled Planning Commission meeting on February 1, 2012.

RIGHT TO APPEAL:

Any decision of the Planning Commission may be appealed to the City Council provided the required appeal application and the \$964 filing fee is submitted to the City Clerk within ten (10) calendar days preceding the Planning Commission's action on any given project.

REPORTS:

All agenda items and reports are available for review at Wildomar City Hall, 23873 Clinton Keith Road, Suite 201, Wildomar, California 92595. Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda (other than writings legally exempt from public disclosure) will be made available for public inspection at City Hall during regular business hours. If you wish to be added to the regular mailing list to receive a copy of the agenda, a request must be made through the Planning Department in writing or by e-mail.

ADDITIONS/DELETIONS:

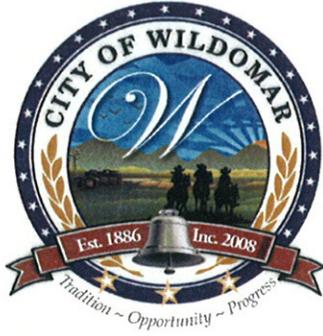
Items of business may be added to the agenda upon a motion adopted by a minimum 2/3 vote finding that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the agenda being posted. Items may be deleted from the agenda upon request of staff or upon action of the Planning Commission.

ADA COMPLIANCE:

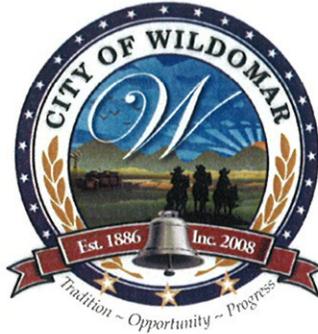
If requested, the agenda and backup materials will be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans With Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Any person who requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may request such modification, accommodation, aid or service by contacting the Planning Department either in person or by telephone at (951) 667-7751, no later than 10:00 A.M. on the day preceding the scheduled meeting.

POSTING STATEMENT:

On January 11, 2012, a true and correct copy of this agenda was posted at the three (3) designated places: 1) Wildomar City Hall, 23873 Clinton Keith Road; 2) United States Post Office, 21392 Palomar Street; and 3) Mission Trail Library, 34303 Mission Trail Road.



1.0 CONSENT CALENDAR



**CITY OF WILDOMAR
PLANNING COMMISSION MEETING MINUTES
FROM THE REGULAR PLANNING COMMISSION MEETING
OF DECEMBER 7, 2011**

CALL TO ORDER

The regular meeting of the Wildomar Planning Commission was called to order by Planning Commission Chairman Dykstra at 7:00 P.M. at Wildomar City Hall, Council Chambers.

ROLL CALL

Present: Harv Dykstra, Chairman
Stan Smith, Vice-Chairman
Michael Kazmier, Commissioner
Robert Devine, Commissioner
Veronica Langworthy, Commissioner

Absent: None.

Staff Present Matthew Bassi, Planning Director
Thomas Jex, Assistant City Attorney
Debbie Lee, City Clerk
Frank Oviedo, City Manager

FLAG SALUTE

Commissioner Langworthy led the flag salute.

PUBLIC COMMENTS

None.

1.0 CONSENT CALENDAR

All matters listed under the Consent Calendar are considered routine and will be enacted by one roll call vote. There will be no separate discussion of these items unless members of the Commission, the public, or staff request specific items be removed from the Consent Calendar for discussion and/or separate action.

1.1. Approval of the November 2, 2011 Planning Commission Minutes

Vice Chairman Smith motioned to approve the November 2, 2011 Planning Commission Minutes as submitted. Motioned seconded by Commissioner Langworthy. Motioned Carried, the following vote resulted:

AYES: Devine, Dykstra, Kazmier, Langworthy, Smith
NOES:
ABSENT:
ABSTAIN:

2.0 PUBLIC HEARINGS

2.1 Zoning Ordinance Amendment No. 11-02:

Director Bassi made a brief presentation to the Planning Commission.

Planning Commissioner Devine asked Planning Director Bassi for clarification that section "A" and "B" are now "B" and "C".

Director Bassi responded in the affirmative

Planning Commissioner Devine asked Director Bassi what had happened to the old "C" section.

Director Bassi that it was basically a repeat of section A so it was deleted from the draft Ordinance.

Chairman Dykstra opened the public hearing.

Ms. Anna Hoover, Cultural Analyst for the Pechanga Indians, expressed concerns that the ordinance would eliminate the requirements of SB 18 which requires local agencies to meet with the Local Indian tribe on certain projects. She also requested that the amendment be continued to later date so they could review the draft Ordinance in more detail.

Director Bassi responded that the ordinance does not affect the requirements of SB 18 since it is a State law that Wildomar has no authority to change or modify. Mr. Bassi further stated that a continuation of the Commission's decision was not necessary.

Ms. Brenda Tomaras, legal counsel for the Pechanga Indians also expressed the same concerns as Ms. Hoover as asked for the Commission to continue action on the agenda item. She also commented that she spoke to Mr. Thomas Jex, Assistant Attorney, about the draft ordinance and thanked him for taking the time in explaining the ordinance.

Ms. Michelle Fahley, consultant to the Pechanga Indians, also expressed the same concerns as Ms. Hoover as asked for the Commission to continue action on the agenda item.

Assistant City Attorney Jex commented that he spoke to Ms. Tomaras regarding the draft ordinance amendment and the "Receive and File" process and explained that the City inherited process from the County upon incorporation.

Seeing no other comments, Chairman Dykstra closed the public hearing.

Commissioner Devine asked for clarification if any project that is subject to SB 18 and the Tribe's consultation will ultimately be reviewed by the City Council.

City Attorney Jex replied in the affirmative.

Chairman Dykstra asked City Attorney Jex if he could provide examples of how the neighboring cities address the "Receive and File" process.

Assistant City Attorney Jex indicated that he was not aware of any process like the City's "Receive and File" procedures. He further commented that the draft ordinance has specific provisions for appeals of Commission and Director's decisions and elimination of the "Receive and File" process would not affect that.

Director Bassi also commented that he and Assistant City Attorney Jex would be available to meet with the Tribe's representatives before the City Council meeting to provide clarification on the draft ordinance, and re-iterated that there was no need to continue the agenda item.

Vice Chairman Smith motioned to adopt PC Resolution No. 11-10. Motion seconded by Commissioner Devine. Motion carried, the following vote resulted:

AYES: Devine, Dykstra, Kazmier, Langworthy, Smith
NOES:
ABSENT:
ABSTAIN:

2.2 Zoning Ordinance Amendment No. 11-03:

Director Bassi made a brief presentation to the Planning Commission.

Commissioner Devine asked staff if there was any micro-brewery project presently being reviewed by the Planning Department.

City Manger Frank Oviedo commented that there is a potential applicant who wishes to propose a micro-brewery in the MSC zone, but due to the entitlement process it would be too costly for the business owner to move forward. In addition, Mr. Oviedo further elaborated on the evolution of the industry as well as its growing popularity.

Vice Chairman Smith commented the City is at a disadvantage that the surroundings cities already have something in place for this demand.

Commissioner Devine asked staff what type of revenue would this business bring to the City

City Manager Oviedo responded it will bring an amenity to the community and tourism.

Vice Chairman Smith asked if this business would bring on-site sales.

City Manager Oviedo responded in the affirmative.

Commissioner Langworthy asked City Manager Oviedo clarification if these uses would be permitted in existing buildings.

City Manager Oviedo responded in the affirmative.

Chairman Dykstra opened the public hearing.

Seeing no comments, Chairman Dykstra closed the public hearing.

Vice Chairman Smith commented he approves of anything the City can do to expedite future growth for the City is fine. Chairman Dykstra commented he agrees with Mr. Smith's previous comment.

Vice Chairman Smith motioned to adopt PC Resolution No. 11-15. Motion seconded by Commissioner Devine. Motion carried, the following vote resulted:

AYES: Devine, Dykstra, Kazmier, Langworthy, Smith
NOES:
ABSENT:
ABSTAIN:

3.0 GENERAL BUSINESS ITEMS

3.1 Plot Plan No. 09-0280 – Extension of Time.

Director Bassi made a brief presentation to the Planning Commission.

Vice Chairman Smith asked Director Bassi when the Moratorium on RV's and Self-Storage facilities will expire.

Director Bassi responded that the Moratorium is due to expire on January 12, 2012 and that staff is working with the City Manger on bringing a status report to the City Council at the January 11, 2012 meeting.

Commissioner Devine commented that when the project was first discussed at the Planning Commission there were conversations between the Commission and the applicant that facade changes were to be made. Mr. Devine further added that he did not see those changes reflected on the elevations provided to the Commission this evening.

Director Bassi responded that when the project is submitted for plan check review, staff will impose those conditions and verify that the required façade changes will take place.

Commissioner Devine further commented that when the Planning Commission first looked at this project there was conversations that the applicant would consider looking into the drainage of neighboring properties to minimize run-off onto the surrounding parcels; primarily to the west.

Director Bassi responded that staff will look into the Conditions and will have the applicant clarify this during public comments.

Chairman Dykstra opened up the public comment portion and asked the applicant if they had any comments.

Mr. Jim Bach, Markham Development Management Group, confirmed that the elevation exhibits provided in the agenda packet do not show the façade modifications agreed upon from the original Commission meeting. He did affirm that the facade changes will be made on the construction documents during the plan check process.

Seeing no further comments, Chairman Dykstra closed the public comments.

Commissioner Devine motioned to adopt PC Resolution No. 11-11. Motion seconded by Vice Chairman Smith. Motion carried, the following vote resulted:

AYES: Devine, Dykstra, Kazmier, Langworthy, Smith
NOES:
ABSENT:
ABSTAIN:

Planning Directors Report.

Director Bassi asked the Commission if anyone was planning to be absent for the December 21, 2011 Commission meeting as staff could schedule a project for review. If not, it could be rescheduled to the January Commission meeting.

Vice Chairman Smith mentioned that he would not be present for the December 21 meeting, and preferred that the Trails discussion be rescheduled until the January 2012 meeting so he could be present.

It was agreed by the Commission that the December 21 meeting should be cancelled.

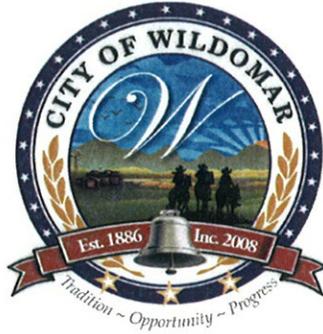
Director Bassi also commented that the Oak Creek Canyon residential project had been submitted and that the project will come before the Commission next year for review and consideration.

Director Bassi further mentioned that he will be leaving on vacation from December 22 to January 3, but there would still be planning staff available for public inquiry and Planning Commission assistance.

Planning Commission Communications:

No Commission communications were expressed.

Seeing no further questions or communications, Chairman Dykstra adjourned the December 7, 2011 Planning Commission meeting at 7:54 P.M.



2.0 PUBLIC HEARINGS

CITY OF WILDOMAR – PLANNING COMMISSION

Agenda Item # 2.1

PUBLIC HEARING

Meeting Date: January 18, 2012

TO: Chairman and Members of the Planning Commission

FROM: Matthew C. Bassi, Planning Director 

SUBJECT: Zoning Ordinance Amendment No. 11-04:

Planning Commission consideration of a City-Initiated Zoning Ordinance Amendment to the Zoning Ordinance to revise Section 17.216.070 (Plot Plans) related to Approval Periods and Extensions of Time for Plot Plans.

RECOMMENDATION:

Staff recommends the Planning Commission adopt PC Resolution No. 12-01 (Attachment A) entitled:

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WILDOMAR, CALIFORNIA RECOMMENDING CITY COUNCIL ADOPTION OF AN EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER SECTION 15061(B)(3) OF CEQA AND APPROVAL OF ZONING ORDINANCE AMENDMENT NO. 11-04 TO AMEND SECTION 17.216.070 (PLOT PLANS) OF THE WILDOMAR ZONING ORDINANCE RELATED TO APPROVAL PERIODS AND EXTENSIONS OF TIME FOR PLOT PLANS

BACKGROUND:

On November 10, 2010, the City Council, upon recommendation of the Planning Commission, approved Zoning Ordinance Amendment No. 10-06 modifying the provisions for time extensions related to Conditional Use Permits (Chapter 17.200). The primary focus of this amendment was to grant the Planning Director the authority to approve a time extension for Conditional Use Permits. Prior to the amendment, the Planning Commission had the authority to grant a time extension. If the Conditional Use Permit was approved by the City Council, along with a legislative action such as a change of zone, the Council had the authority to approve a time extension.

The purpose of the Council's decision to grant the Planning Director the authority to approve time extensions was based on the current economic challenges affecting the City (this has not changed in the last year). In addition, the time frame to review and approve a time extension was significantly reduced, as well as the total cost to the

applicant to process the time extension. The amendment also included specific findings that had to be made by the Planning Director in order to approve a time extension.

DISCUSSION:

Since adoption of the Zoning Ordinance Amendment No. 10-06, the economic challenges facing the City are much the same today. In keeping with the concept and intent of the amendment for a Conditional Use Permit, the Planning Department, in consultation with the City Managers office, felt it would be beneficial to amend the provisions for time extensions related to Plot Plans in the same manner as Conditional Use Permits.

To that end, Zoning Ordinance Amendment No. 11-04 is a proposal to amend Section 17.216.070 related to Plot Plans. The draft ordinance attached to PC Resolution 12-01 (Attachment A) establishes an initial two (2) year time frame for an approved Plot Plan to commence operation and construction. In addition, the applicant will have the ability to request up to three (3) additional one-year time extensions with maximum Plot Plan time frame of no more than five (5) years.

The proposed draft ordinance gives the Planning Director the authority to approve a time extension provided the Plot Plan meets the following findings:

- 1) The project remains consistent with General Plan;
- 2) The project remains in conformance with the requirements/standards of the Zoning Ordinance;
- 3) The project remains compatible with the surrounding area, and
- 4) The time extension request is filed at least 30-days prior to the expiration date of the Plot Plan.

The specific amendments to Section 17.216.070 are outlined below:

“17.216.070 Approval Period

- A. Plot Plan Approval and Construction. All Plot Plans granted pursuant to this chapter, including those previously approved by the County of Riverside prior to the incorporation of the City of Wildomar, shall be valid for two (2) years following the approval of the Plot Plan, unless the Plot Plan as granted specifies a different time period, and shall be null and void unless the use commences or the approved Plot Plan is extended by request of the applicant or successor in interest under the provisions of this chapter. Notwithstanding any condition of approval that may be attached to an approved plot plan approved prior to the effective date of the ordinance codified in this chapter, the five year time period specified in this section shall apply to all such plot plans that have not yet become null or void, or have expired. For the purposes of this chapter, the term "commence use" means either the beginning of substantial construction of facilities for the use that is authorized, which construction must thereafter be

pursued diligently to completion, or the actual occupancy of existing buildings or land under the terms of the authorized use.

- B. Request for Extension of Time. If the use approved by the plot plan has not commenced within the two-year period identified in subsection A above, the applicant, or such successor-in-interest, may prior to the expiration date, request a one-year (1) extension of time in order to commence the approved use of said plot plan approval. If extensions of time are granted, the total time allowed to begin construction or commence the use approved by the plot plan shall not exceed a total period of five (5) years as calculated from the original effective date of the plot plan approval. A request for an extension of time shall be made at least thirty (30) days prior to the expiration date. The request shall be submitted on application forms provided by the Planning Department and shall be filed with the Planning Director, accompanied by the application fee set forth in the City's adopted fee schedule. The request shall also include a detailed written explanation by the applicant outlining the reasons and circumstances why such extension of time is necessary.
- C. Grant of Extension of Time by the Planning Director. Within thirty (30) days of the filing of a request for an extension of time for an approved plot plan, the planning director shall make a determination. An extension of time may be granted by the planning director upon a determination that valid reasons exist for the failure of the applicant, or such successor-in-interest, to implement the plot plan permit within the required period of time outlined in subsection A above, and that the request is consistent with the terms and conditions set forth in 17.216.070.D. Extension of time requests that are in compliance with the specified extension approval criteria contained in this ordinance may be approved, conditionally approved, or denied by the planning director without public notice or hearing. The planning director shall render the decision on the requested extension in writing. No extension shall be considered valid unless a written decision has been provided by the planning director.
- D. Criteria to Approve an Extension of Time. Approval of any extension of time by the planning director for an approved plot plan shall only be granted if all of the following conditions are met:
1. The approved plot plan permit remains consistent with the adopted general plan.
 2. The approved plot plan remains in conformance with the requirements of the zoning ordinance.
 3. The setting and local circumstances of the approved plot plan have not changed in such a way to make the previously approved plot plan incompatible or inappropriate with the surrounding area.

4. The request for the extension of time was filed at least 30-days prior to the expiration date of the plot plan.
- E. Appeal of the Planning Director Determination. Extension of time requests that are determined by the planning director not to be in compliance with the criteria of Section 17.216.070.D, may be appealed by the applicant, or such successor-in-interest, to the planning commission pursuant to the provisions of Section 17.216.060. Appeals must be filed with the city clerk no later than ten (10) days following a determination by the planning director.
- F. Appeal Hearing before the Planning Commission. Any appeal of an extension of time request that the planning director determines is not in full compliance with the specified extension approval criteria contained in Section 17.216.070.D shall be heard by the planning commission at a noticed public hearing conducted in conformance with the public notice and hearing requirements specified in this chapter. The planning commission shall have discretion to approve, deny or approve with additional conditions the requested extension of time.
- G. Appeal of the Planning Commission Determination. Extension of time requests that are determined by the planning commission not to be in compliance with the criteria of Section 17.216.070.D, may be appealed by the applicant, or such successor-in-interest, to the city council pursuant to the provisions of Section 17.216.060. Appeals must be filed with the city clerk no later than ten (10) days following a determination by the planning commission.
- H. Appeal Hearing before the City Council. Any appeal of an extension of time request that the planning commission determines is not in full compliance with the specified extension approval criteria contained in Section 17.216.070.D shall be heard by the city council at a noticed public hearing conducted in conformance with the public notice and hearing requirements specified in this chapter. The city council shall have discretion to approve, deny or approve with additional conditions the requested extension of time.

ENVIRONMENTAL ASSESSMENT:

A review of the potential environmental impacts was conducted for the proposed Zoning Ordinance Amendment. This evaluation indicated no potential for impacts on the environment. The Planning Department therefore, recommends the Planning Commission recommends the City Council find and determine that the proposed Zoning Ordinance Amendment related to time extensions for Plot Plans has no potential to impact the environment. The proposed Zoning Ordinance Amendment does not alter the existing requirements that specific development projects must comply with the provisions of the California Environmental Quality Act. Consequently, the proposed Zoning Ordinance Amendment is exempt from CEQA review pursuant to Section 15061(b)(3) which states that if an activity is covered by the general rule that CEQA

applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

REQUIRED FINDINGS:

- A. The proposed Zoning Ordinance Amendment to the Zoning Ordinance is consistent with the City of Wildomar General Plan.

The proposed amendment to the Zoning Ordinance is consistent with the City of Wildomar General Plan. The proposed revision to the provisions for time extensions related to Plot Plans will not affect the review and processing of specific development applications as the approval authority for such projects will remain unchanged. In accordance with the City of Wildomar Zoning Ordinance, a person, or applicant, will still have the right to file an appeal on any decision related to the review and processing of development applications made by the Planning Director and Planning Commission. Further, the proposed revision to the Zoning Ordinance is consistent with and, will further the provisions of General Plan, and will not impact the public health, safety and general welfare of the residents of Wildomar.

STAFF RECOMMENDATION

Staff recommends the Planning Commission adopt PC Resolution No. 12-01 (Attachment A) recommending City Council adoption of an Exemption from CEQA per Section 15061(b)(3) and approval of Zoning Ordinance Amendment No. 11-04.

Respectfully Submitted,



Matthew C. Bassi
Planning Director

ATTACHMENTS:

- A. PC Resolution No. 12-01
Exhibit 1 – Draft City Council Ordinance

ATTACHMENT A

PC Resolution No. 12-01

PC RESOLUTION NO. 12-01

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WILDOMAR, CALIFORNIA RECOMMENDING CITY COUNCIL ADOPTION OF AN EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER SECTION 15061(B)(3) OF CEQA AND APPROVAL OF ZONING ORDINANCE AMENDMENT NO. 11-04 TO AMEND SECTION 17.216.070 (PLOT PLANS) OF THE WILDOMAR ZONING ORDINANCE RELATED TO APPROVAL PERIODS AND EXTENSIONS OF TIME FOR PLOT PLANS

WHEREAS, the City of Wildomar Planning Commission has the authority in accordance with the provisions of the Wildomar Zoning Ordinance to take action on the proposed Zoning Ordinance Amendment No. 11-04; and

WHEREAS, on January 7, 2012, the City published a legal notice in "The Californian", a newspaper of local circulation notifying the general public of the holding of a public hearing for the proposed Zoning Ordinance Amendment to be considered by the City of Wildomar Planning Commission; and

WHEREAS, on January 18, 2012, the City of Wildomar Planning Commission held a noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to, the proposed Zoning Ordinance Amendment No. 11-04, and at which the Planning Commission considered the proposed Zoning Ordinance Amendment.

NOW THEREFORE, the Planning Commission of the City of Wildomar, California does hereby resolve, determine and order as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

The Planning Commission hereby recommends that the City Council find and determine that the proposed Zoning Ordinance Amendment related to time extensions for Plot Plans has no potential to impact the environment. The proposed Zoning Ordinance Amendment does not alter the existing requirements that specific development projects must comply with the provisions of the California Environmental Quality Act. Consequently, the proposed Zoning Ordinance Amendment is exempt from CEQA review pursuant to Section 15061(b)(3) which states that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 2. REQUIRED FINDINGS.

- A. The proposed Zoning Ordinance Amendment to the Zoning Ordinance is consistent with the City of Wildomar General Plan.

The proposed amendment to the Zoning Ordinance is consistent with the City of Wildomar General Plan. The proposed revision to the provisions for time extensions related to Plot Plans will not affect the review and processing of specific development applications as the approval authority for such projects will remain unchanged. In accordance with the City of Wildomar Zoning Ordinance, a person, or applicant, will still have the right to file an appeal on any decision related to the review and processing of development applications made by the Planning Director and Planning Commission. Further, the proposed revision to the Zoning Ordinance is consistent with and, will further the provisions of General Plan, and will not impact the public health, safety and general welfare of the residents of Wildomar.

SECTION 3. PLANNING COMMISSION ACTIONS.

The Planning Commission recommends the City Council take the following actions:

1. Notice of Exemption. That the City Council make a determination that Zoning Ordinance Amendment No. 11-04 is exempt from environmental review in accordance with Section 15061(b)(3) of the CEQA Guidelines and direct the Planning Director to file a Notice of Exemption with the Riverside County Clerk; and
2. Adopt an Ordinance. That the City Council adopt an Ordinance approving Zoning Ordinance Amendment No. 11-04 attached hereto and incorporated herein by reference as Exhibit 1 to this Resolution.

PASSED, APPROVED AND ADOPTED this 18th day of January, 2012, by the following vote:

AYES.

NOES:

ABSENT:

ABSTAINED:

Harv Dykstra
Planning Commission Chairman

ATTEST:

Matthew C. Bassi
Planning Director/Minutes Secretary

APPROVED AS TO FORM:

Thomas Jex, Assistant City Attorney

EXHIBIT 1

Draft City Council Ordinance

ORDINANCE NO. ____

A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA ADOPTING AN EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER SECTION 15061(B)(3) OF CEQA AND APPROVING ZONING ORDINANCE AMENDMENT NO. 11-04 TO AMEND SECTION 17.216.070 (PLOT PLANS) OF THE WILDOMAR ZONING ORDINANCE RELATED TO APPROVAL PERIODS AND EXTENSIONS OF TIME FOR PLOT PLANS

THE WILDOMAR CITY COUNCIL DOES ORDAIN AS FOLLOWS:

SECTION 1: Environmental Findings

The City Council hereby finds and determines that the project consisting of a Zoning Ordinance Amendment related to time extensions for Plot Plans has no potential to impact the environment. The proposed Zoning Ordinance Amendment does not alter the existing requirements that specific development projects must comply with the provisions of the California Environmental Quality Act. Consequently, the proposed Zoning Ordinance Amendment is exempt from CEQA review pursuant to Section 15061(b)(3) which states that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 2. General Plan Consistency Findings

The proposed amendment to the Zoning Ordinance is consistent with the City of Wildomar General Plan. The proposed revision to the provisions for time extensions related to Plot Plans will not affect the review and processing of specific development applications as the approval authority for such projects will remain unchanged. In accordance with the City of Wildomar Zoning Ordinance, a person, or applicant, will still have the right to file an appeal on any decision related to the review and processing of development applications made by the Planning Director and Planning Commission. Further, the proposed revision to the Zoning Ordinance is consistent with and, will further the provisions of General Plan, and will not impact the public health, safety and general welfare of the residents of Wildomar.

SECTION 3: Amendment to the Zoning Ordinance

Section 17.216.070 of the City of Wildomar Zoning Ordinance is hereby deleted in its entirety and re-adopted to read as follows:

17.216.70.1 Approval Period

- A. Plot Plan Approval and Construction. All Plot Plans granted pursuant to this chapter, including those previously approved by the County of Riverside prior to the incorporation of the City of Wildomar, shall be valid for two (2) years following the approval of the Plot Plan, unless the Plot Plan as granted specifies a different time period, and shall be null and void unless the use commences or the

approved Plot Plan is extended by request of the applicant or successor in interest under the provisions of this chapter. Notwithstanding any condition of approval that may be attached to an approved plot plan approved prior to the effective date of the ordinance codified in this chapter, the five year time period specified in this section shall apply to all such plot plans that have not yet become null or void, or have expired. For the purposes of this chapter, the term "commence use" means either the beginning of substantial construction of facilities for the use that is authorized, which construction must thereafter be pursued diligently to completion, or the actual occupancy of existing buildings or land under the terms of the authorized use.

- B. Request for Extension of Time. If the use approved by the plot plan has not commenced within the two-year period identified in subsection A above, the applicant, or such successor-in-interest, may prior to the expiration date, request a one-year (1) extension of time in order to commence the approved use of said plot plan approval. If extensions of time are granted, the total time allowed to begin construction or commence the use approved by the plot plan shall not exceed a total period of five (5) years as calculated from the original effective date of the plot plan approval. A request for an extension of time shall be made at least thirty (30) days prior to the expiration date. The request shall be submitted on application forms provided by the Planning Department and shall be filed with the Planning Director, accompanied by the application fee set forth in the City's adopted fee schedule. The request shall also include a detailed written explanation by the applicant outlining the reasons and circumstances why such extension of time is necessary.
- C. Grant of Extension of Time by the Planning Director. Within thirty (30) days of the filing of a request for an extension of time for an approved plot plan, the planning director shall make a determination. An extension of time may be granted by the planning director upon a determination that valid reasons exist for the failure of the applicant, or such successor-in-interest, to implement the plot plan permit within the required period of time outlined in subsection A above, and that the request is consistent with the terms and conditions set forth in 17.216.070.D. Extension of time requests that are in compliance with the specified extension approval criteria contained in this ordinance may be approved, conditionally approved, or denied by the planning director without public notice or hearing. The planning director shall render the decision on the requested extension in writing. No extension shall be considered valid unless a written decision has been provided by the planning director.
- D. Criteria to Approve an Extension of Time. Approval of any extension of time by the planning director for an approved plot plan shall only be granted if all of the following conditions are met:
1. The approved plot plan permit remains consistent with the adopted general plan.
 2. The approved plot plan remains in conformance with the requirements of the zoning ordinance.

3. The setting and local circumstances of the approved plot plan have not changed in such a way to make the previously approved plot plan incompatible or inappropriate with the surrounding area.
 4. The request for the extension of time was filed at least 30-days prior to the expiration date of the plot plan.
- E. Appeal of the Planning Director Determination. Extension of time requests that are determined by the planning director not to be in compliance with the criteria of Section 17.216.070.D, may be appealed by the applicant, or such successor-in-interest, to the planning commission pursuant to the provisions of Section 17.216.060. Appeals must be filed with the city clerk no later than ten (10) days following a determination by the planning director.
- F. Appeal Hearing before the Planning Commission. Any appeal of an extension of time request that the planning director determines is not in full compliance with the specified extension approval criteria contained in Section 17.216.070.D shall be heard by the planning commission at a noticed public hearing conducted in conformance with the public notice and hearing requirements specified in this chapter. The planning commission shall have discretion to approve, deny or approve with additional conditions the requested extension of time.
- G. Appeal of the Planning Commission Determination. Extension of time requests that are determined by the planning commission not to be in compliance with the criteria of Section 17.216.070.D, may be appealed by the applicant, or such successor-in-interest, to the city council pursuant to the provisions of Section 17.216.060. Appeals must be filed with the city clerk no later than ten (10) days following a determination by the planning commission.
- H. Appeal Hearing before the City Council. Any appeal of an extension of time request that the planning commission determines is not in full compliance with the specified extension approval criteria contained in Section 17.216.070.D shall be heard by the city council at a noticed public hearing conducted in conformance with the public notice and hearing requirements specified in this chapter. The city council shall have discretion to approve, deny or approve with additional conditions the requested extension of time.

SECTION 4. Effective Date of the Ordinance

This Ordinance shall take effect and be in full force and operation thirty (30) days after its second reading and adoption.

SECTION 5. Severability

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections,

subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. City Clerk Action

The City Clerk shall certify to the adoption of this ordinance and shall cause the same to be published in accordance with law.

ENACTED AND ADOPTED this ____ day of _____, 2012.

Ben Benoit
Mayor

APPROVED AS TO FORM:

ATTEST:

Julie Hayward Biggs
City Attorney

Debbie A. Lee, CMC
City Clerk

State of California)
County of Riverside)
City of Wildomar)

I, Debbie A. Lee, City Clerk of the City of Wildomar, do hereby certify that the foregoing Ordinance was introduced and first read on the ____ day of _____, 2012, and had its second reading at the regular meeting of the Wildomar City Council on the ____ day of _____, 2012, and was passed by the following vote:

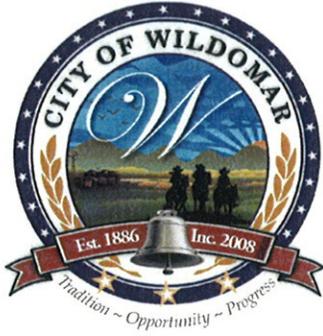
AYES:

NOES:

ABSTAIN:

ABSENT:

Debbie A. Lee, City Clerk



3.0 GENERAL BUSINESS ITEMS

CITY OF WILDOMAR – Planning Commission
Agenda Item PH 3.1
PUBLIC HEARING
Meeting Date: January 18, 2012

TO: Planning Commission
FROM: Gary Nordquist, Assistant City Manager
SUBJECT: City Trails Program

STAFF REPORT

RECOMMENDATION:

That the Planning Commission recommends the City Council adopts the following:

1. Adopt PC Resolution No. 12-02 entitled:

“A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WILDOMAR, CALIFORNIA RECOMMENDING CITY COUNCIL APPROVAL OF THE ADDITION OF TRAIL NAMES TO THE EXISTING CITY OF WILDOMAR MULTI-USE TRAILS PLAN MAP.”

2. Adopt PC Resolution No. 12-03 entitled:

“A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WILDOMAR, CALIFORNIA RECOMMENDING CITY COUNCIL ADOPTION OF THE ADOPT-A-TRAILS PROGRAM”

3. Adopt PC Resolution No. 12-04 entitled:

“A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WILDOMAR, CALIFORNIA RECOMMENDING CITY COUNCIL ADOPTION OF THE CRITERIA FOR THE TRAILS COMMISSIONER”

BACKGROUND/DISCUSSION: As part of the City’s incorporation process, the City assumed the County’s General Plan which included planned trails within the Wildomar community. The map presented to the commission for review is this original planned trails system with a few updates. This map delineates the “open” from the “planned” trails. Additionally, this map has been enhanced with “Trail Names” as recommended by the Wildomar Historical Society, the Pechanga Committee and the Wildomar Community Council Trails sub-committee. No new trails are included in this map as that would require a general plan amendment to the circulation element. Future additions/expansions to the trail system will be presented for consideration as general plan amendments.

While under control of the Riverside County Regional Park and Open-Space District system, the Wildomar Community participated in the Adopt-A-Trail program. With the incorporation of the City, the County no longer administers this program and it recommended by the community that the program be reinstated and administered by the City. This program was designed to engage community organizations that want to make a difference by volunteering their time to help keep trails safe and clean. Organizations that provide maintenance and clean up to a segment of a trail for a one-year period were rewarded with a sign posted on their portion of the trail which recognizes the organization and the appreciation of their efforts.

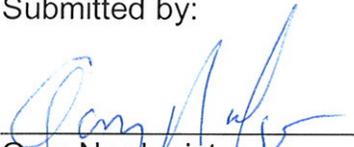
As the City develops the various facets of this Trails program, the usage and special events could best be coordinated by the City with the City Council appointing a Trail Commissioner to oversee the trails program and the Adopt-A-Trails program.

FISCAL IMPACT: Costs would be limited to staff time and map printing.

ALTERNATIVES:

1. Take no action.
2. Provide staff with further direction.

Submitted by:



Gary Nordquist
Assistant City Manager

Approved by:

Frank Oviedo
City Manager

Reviewed by:

Tom Jex
City Attorney

Attachments

- A) City of Wildomar- Multi-Use Trail System with Trail Names
- B) Wildomar Historical Society Historic Trail Names and Pechanga Cultural Resources Letter and Email.
- C) Adopt-A-Trail Program Guidelines

PC RESOLUTION NO. 12-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WILDOMAR, CALIFORNIA RECOMMENDING CITY COUNCIL APPROVAL OF THE ADDITION OF TRAIL NAMES TO THE EXISTING CITY OF WILDOMAR MULTI-USE TRAILS PLAN MAP

WHEREAS, on July 1, 2008 the Wildomar Community of Riverside County incorporated as a City and adopted Riverside Ordinances and General Plan and ;

WHEREAS, the circulation element of the General Plan included unidentified multipurpose trails throughout the City of Wildomar and;

WHEREAS, the residents, Wildomar Civic groups, the Wildomar Historical Society, and the Pechanga Cultural Resources have participated in providing names to the trails within the city as attached in Exhibit A.

NOW THEREFORE, the Planning Commission of the City of Wildomar, California does hereby resolve, determine and order as follows:

RECOMMENDING CITY COUNCIL OF WILDOMAR CONSIDER APPROVING OF THE ADDITION OF TRAIL NAMES TO THE EXISTING CITY OF WILDOMAR MULTI-USE TRAILS PLAN MAP

PASSED, APPROVED AND ADOPTED this 18th day of January 2012, by the following vote:

AYES.

NOES:

ABSENT:

ABSTAINED:

Harv Dykstra
Planning Commission Chairman

ATTEST:

Matthew C. Bassi
Planning Director/Minutes Secretary

APPROVED AS TO FORM:

Thomas Jex, Assistant City Attorney

City of Wildomar Historical Trail Names and Map Location

Pieter van de Bovenkamp (HT-E-01)
Whitney Water Trail (HT-E-02)
Cody Diep Trail (HT-E-03)
Mary Simmons Trail (HT-E-04)
Hampton Hirst Trail (HT-E-05)
Alma Patterson Trail (HT-E-06)
Bob Buster Trail (HT-E-07)
Jerry Jolliffe Trail (HT-E-08)
Jon Rodarme Trail (HT-E-09)
Henry Lillie Trail (HT-E-10)
Wildomar Independence Trail (HT-E-11)
Ed Studor Trail (HT-E-12)
Iva Keegan Trail (HT-E-13)
De Jong Family Trail (HT-E-14)
Veterans Memorial Trail (HT-E-15)
Alvin Jamieson Trail (HT-E-16)
Turner Family Trail (N-S-03)
Wibel Family Trail (N-S-02)
Matthews Family Trail (N-S-02A)
Old Cemetery Trail (N-S-26)
Wildon Trail (HT-W-01)
1885 Wildomar Land and Water Company Trail (HT-W-02)
' I\$wut Trail (HT-W-03)
Tukwut Trail (HT-W-02)
Torbett Family Trail (HT-W-03)
Payoomik Trail (HT-W-04)
Paa\$uku Trail (HT-W-05)
'Ataaxum Trail (HT-W-06)
Mary Soules Trail (HT-W-07)
Andrew Defani Trail (HT-W-08)
Wilks Family Trail (HT-W-09)
Nichols, Joseph Trail (HT-W-10)
Pearson Family Trail (HT-W-11)
Brown Family Trail (HT-W-12)
Ben and Fanny Taylor Family (HT-W-13)
Margaret C. Graham Trail (HT-W-14)
Forbes-McGee Trail (HT-W-15)
Madison, Chaney Trail (HT-W-16)
Embree Family Trail (HT-W-17)
Justin T. Hunt Memorial Trail (HT-W-18)

PC RESOLUTION NO. 12-03

“A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WILDOMAR, CALIFORNIA RECOMMENDING CITY COUNCIL ADOPTION OF THE ADOPT-A-TRAILS PROGRAM”

WHEREAS, the City has within its boundaries over 90 miles of trails, and plans to continue adding miles of trail; and

WHEREAS, the citizens of Wildomar desire to enjoy the benefits of the citywide trail system; and

WHEREAS, since the incorporation of the City, July 1, 2008, no City program currently exists for neighborhoods and civic groups to “adopt” sections of the citywide trail system; and

WHEREAS, neighborhood and civic groups have approached the City wanting to volunteer their time and resources to improve and maintain sections of the citywide trail system; and

WHEREAS, the City wants to promote a feeling of pride and ownership of the citywide trail system with its connected neighborhoods; and

WHEREAS, a volunteer program would achieve those objectives while enabling the City to continue constructing more trail miles; NOW, THEREFORE,

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF WILDOMAR:

THE PLANNING COMMISSION OF THE CITY OF WILDOMAR, CALIFORNIA RECOMMENDS THE CITY COUNCIL OF WILDOMAR CONSIDER THE ADOPTION OF THE ADOPT-A-TRAILS PROGRAM.

PASSED, APPROVED AND ADOPTED this 18th day of January 2012, by the following vote:

AYES.

NOES:

ABSENT:

ABSTAINED:

Harv Dykstra
Planning Commission Chairman

ATTEST:

Matthew C. Bassi
Planning Director/Minutes Secretary

APPROVED AS TO FORM:

Thomas Jex, Assistant City Attorney

PC RESOLUTION NO. 12-04

"A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WILDOMAR, CALIFORNIA RECOMMENDING CITY COUNCIL ADOPTION OF THE CRITERIA FOR THE TRAILS COMMISSIONER"

WHEREAS, the City with the development of the trails programs has a need to efficiently coordinate the activities;

WHEREAS, the Commissioner would be appointed to a two year term by the City Council of Wildomar; and

WHEREAS, the Commissioner would be a Wildomar Resident with knowledge of the trail system and city civic organizations; and

WHEREAS, the Commissioner would be held to the same ethical standards as other City officials and employees; and

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF WILDOMAR:

THE PLANNING COMMISSION OF THE CITY OF WILDOMAR, CALIFORNIA RECOMMENDS THE CITY COUNCIL OF WILDOMAR CONSIDER THE ADOPTION OF THE ADOPT-A-TRAILS PROGRAM.

PASSED, APPROVED AND ADOPTED this 18th day of January 2012, by the following vote:

AYES.

NOES:

ABSENT:

ABSTAINED:

Harv Dykstra
Planning Commission Chairman

ATTEST:

Matthew C. Bassi
Planning Director/Minutes Secretary

APPROVED AS TO FORM:

Thomas Jex, Assistant City Attorney

Attachment

A

City of Wildomar
 Established In 1886
 Incorporated July 1, 2008

Wildomar Was

City Council
 As of This Date

Marsha Swenson, Mayor
 Ben Benick, Mayor Pro Tem
 Bob Cashman, Council Member
 Bridgette Moore, Council Member
 Timothy Walker, Council Member

City of Wildomar

Multi-Use Trail System Adopt-A-Trail Map

Community/Regional
 Countryside/Roadside
 Creekside Trail System

2012-2017

City of Wildomar
 Community/Regional
 Roadside Multi-Use Trails

Trail Name	Trail Type	Trail Length (mi)	Trail Status
1. ALPINE	Regional	1.00	Open
2. ANTELOPE	Regional	1.00	Open
3. BAYVIEW	Regional	1.00	Open
4. BIRCH	Regional	1.00	Open
5. BIRCH	Regional	1.00	Open
6. BIRCH	Regional	1.00	Open
7. BIRCH	Regional	1.00	Open
8. BIRCH	Regional	1.00	Open
9. BIRCH	Regional	1.00	Open
10. BIRCH	Regional	1.00	Open
11. BIRCH	Regional	1.00	Open
12. BIRCH	Regional	1.00	Open
13. BIRCH	Regional	1.00	Open
14. BIRCH	Regional	1.00	Open
15. BIRCH	Regional	1.00	Open
16. BIRCH	Regional	1.00	Open
17. BIRCH	Regional	1.00	Open
18. BIRCH	Regional	1.00	Open
19. BIRCH	Regional	1.00	Open
20. BIRCH	Regional	1.00	Open
21. BIRCH	Regional	1.00	Open
22. BIRCH	Regional	1.00	Open
23. BIRCH	Regional	1.00	Open
24. BIRCH	Regional	1.00	Open
25. BIRCH	Regional	1.00	Open
26. BIRCH	Regional	1.00	Open
27. BIRCH	Regional	1.00	Open
28. BIRCH	Regional	1.00	Open
29. BIRCH	Regional	1.00	Open
30. BIRCH	Regional	1.00	Open
31. BIRCH	Regional	1.00	Open
32. BIRCH	Regional	1.00	Open
33. BIRCH	Regional	1.00	Open
34. BIRCH	Regional	1.00	Open
35. BIRCH	Regional	1.00	Open
36. BIRCH	Regional	1.00	Open
37. BIRCH	Regional	1.00	Open
38. BIRCH	Regional	1.00	Open
39. BIRCH	Regional	1.00	Open
40. BIRCH	Regional	1.00	Open
41. BIRCH	Regional	1.00	Open
42. BIRCH	Regional	1.00	Open
43. BIRCH	Regional	1.00	Open
44. BIRCH	Regional	1.00	Open
45. BIRCH	Regional	1.00	Open
46. BIRCH	Regional	1.00	Open
47. BIRCH	Regional	1.00	Open
48. BIRCH	Regional	1.00	Open
49. BIRCH	Regional	1.00	Open
50. BIRCH	Regional	1.00	Open

Walk Through History on Wildomar's Countryside and Creekside Multi-Use Trails

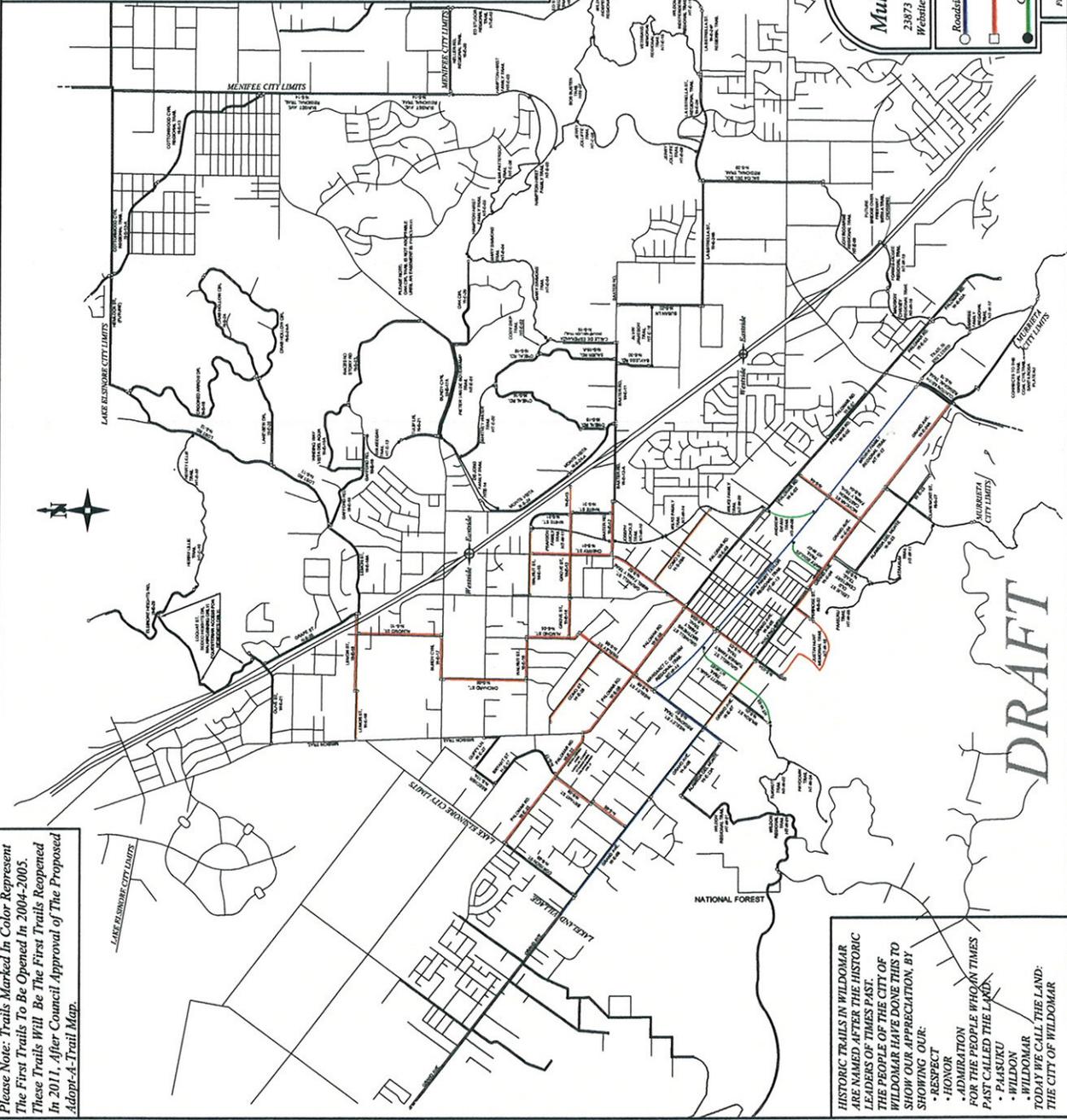
Trail Name	Trail Type	Trail Length (mi)	Trail Status
1. ALPINE	Regional	1.00	Open
2. ANTELOPE	Regional	1.00	Open
3. BAYVIEW	Regional	1.00	Open
4. BIRCH	Regional	1.00	Open
5. BIRCH	Regional	1.00	Open
6. BIRCH	Regional	1.00	Open
7. BIRCH	Regional	1.00	Open
8. BIRCH	Regional	1.00	Open
9. BIRCH	Regional	1.00	Open
10. BIRCH	Regional	1.00	Open
11. BIRCH	Regional	1.00	Open
12. BIRCH	Regional	1.00	Open
13. BIRCH	Regional	1.00	Open
14. BIRCH	Regional	1.00	Open
15. BIRCH	Regional	1.00	Open
16. BIRCH	Regional	1.00	Open
17. BIRCH	Regional	1.00	Open
18. BIRCH	Regional	1.00	Open
19. BIRCH	Regional	1.00	Open
20. BIRCH	Regional	1.00	Open
21. BIRCH	Regional	1.00	Open
22. BIRCH	Regional	1.00	Open
23. BIRCH	Regional	1.00	Open
24. BIRCH	Regional	1.00	Open
25. BIRCH	Regional	1.00	Open
26. BIRCH	Regional	1.00	Open
27. BIRCH	Regional	1.00	Open
28. BIRCH	Regional	1.00	Open
29. BIRCH	Regional	1.00	Open
30. BIRCH	Regional	1.00	Open
31. BIRCH	Regional	1.00	Open
32. BIRCH	Regional	1.00	Open
33. BIRCH	Regional	1.00	Open
34. BIRCH	Regional	1.00	Open
35. BIRCH	Regional	1.00	Open
36. BIRCH	Regional	1.00	Open
37. BIRCH	Regional	1.00	Open
38. BIRCH	Regional	1.00	Open
39. BIRCH	Regional	1.00	Open
40. BIRCH	Regional	1.00	Open
41. BIRCH	Regional	1.00	Open
42. BIRCH	Regional	1.00	Open
43. BIRCH	Regional	1.00	Open
44. BIRCH	Regional	1.00	Open
45. BIRCH	Regional	1.00	Open
46. BIRCH	Regional	1.00	Open
47. BIRCH	Regional	1.00	Open
48. BIRCH	Regional	1.00	Open
49. BIRCH	Regional	1.00	Open
50. BIRCH	Regional	1.00	Open

City of Wildomar
 Multi-Use Adopt-A-Trail Map

33873 Clinton Keith Rd., Suite 201 Wildomar, CA 92595
 Website: cityofwildomar.org Phone: 951-677-7751

Regional
 Countryside and Creekside: Multi-Use Trails
 Community: Multi-Use Trails
 Roadside: Multi-Use Trails
 Historic: Multi-Use Trails

Map by Gary Ancker
 Printed Mapping: 4/20/10 Copyright © 2010 by Gary Ancker



Please Note: Trails Marked in Color Represent The First Trails To Be Opened In 2004-2005. These Trails Will Be The First Trails Reopened In 2011, After Council Approval of The Proposed Adopt-A-Trail Map.

HISTORIC TRAILS IN WILDOMAR ARE NAMED AFTER THE HISTORIC LEADERS OF TIMES PAST. THE PEOPLE OF THE CITY OF WILDOMAR HAVE DONE THIS TO SHOWING OUR:

- RESPECT
- HONOR
- ADMIRATION FOR THE PEOPLE WHO ON TIMES PAST CALLED THE LAND.
- PAISUKU
- WILDONAR

TODAY WE CALL THE LAND: THE CITY OF WILDOMAR

Attachment B

City of Wildomar Historical Society

Historical Trail Names

Specific Trails:

**Bob Buster Trail*

(HT-E-07)

Our County Supervisor who encouraged and guided us to City hood.

**Cody Diep Trail*

(HT-E-03)

Cody was the first child born in the new City of Wildomar on July 1, 2008.

**Ed Studor Trail*

(HT-E-12)

Ed was a member of the County Transportation department. He was instrumental in establishing the first Roadside Adopt -A-Trail program. Ed was named Man of the Year 2004 by MAC. He helped the Community in obtaining traffic control in Wildomar, (Stop signs and Traffic lights) Including the traffic light in front of the library. Ed retired in 2005. (Information provided by Gary Andre, Sheryl Ade.

**Jerry Jolliffe Trail*

(HT-E-08)

Jerry was instrumental in helping with and promoting the Wildomar Trail system. He was also involved in the Roundtable talks between County of Riverside and the Citizens of Wildomar to help establish a General plan for the new City of Wildomar.

**Jon Rodarme Trail*

(HT-E-09)

Jon was a member of the Wildomar Incorporation Now committee. He was a staunch City-hood supporter who spoke at numerous LAFCO and Murrieta City Council meetings.

He was known for his humorous speeches against the Murrieta annexation attempt. Jon spent countless hours securing signatures for the petition drive.

**Justin T. Hunt Memorial Trail*

(HT-W-23)

Justin graduated from Elsinore High School in 2000 and joined the Marines in Oct. of 2002. Justin was killed in Iraq on July 6, 2004 and he now rests in Wildomar Cemetery.

**Old Cemetery Trail*

(N-S-26)

This is the site of the original Cemetery.

**1887 Overlook Trail*

(HT-W-06)

This is the trail on the 1887 Promotional Map with Collier & Graham viewing Wildomar from a rock)

**Pieter van de Bovenkamp*

(HT-E-01)

Member of MAC and Chamber, involved in WIN and the Farm. Killed riding a bike on Bundy Canyon.

**Whitney Water Trail*

(HT-E-02)

Whitney Water—"Advertised as fresh daily since 1959"—probably the second oldest business in Wildomar.

**Wildomar Independence Trail*

(HT-E-11)

To honor Cityhood on July 1, 2008 and the struggle it took reach our goal.

**1885 Wildomar Land and Water Company Trail*

(HT-W-02) Established in 1886 to bring irrigation water and domestic water to the Town of Wildomar. (Along the Old Roads to the West). Remains of pipes, tools, and Machinery are still in the hills today.

*Wildon Trail

(HT-W-01)

The first name given to Wildomar by Collier and Graham. The "mar" was added in 1887.

*Veterans Memorial Trail

(HT-E-15)

To honor all the men and women who have served our country. Civil War vets include early pioneers William Collier & Abram Matthews. Later many of our boys served in WWI and WWII. Including all wars to date.

Please note: The wording of the above mentioned trail, will need some Council input, so we as a City do not offend any Veteran after the WWII era to current date.

Historic Families and People of Wildomar

**Alma Patterson Trail*

(HT-E-06)

Miss Patterson, was the first school teacher when Wildomar school opened in Sept. of 1886. (Wildomar pamphlet, pg. 4)

**Alvin Jamieson Trail*

(HT-E-16)

The first minister of the United Presbyterian Church in 1887. Alvin and his family are mentioned many times in the local newspapers. He moved his family to Love-land, Co. in early 1900.

**Andrew Defani Trail*

(HT-W-13)

Andrew was a blacksmith as indicated on the 1887 Promotional Map. A sad story appeared in 1889 when his mother died resulting with his brother, George, committing suicide.

**Ben and Fanny Taylor Family*

(HT-W-18)

Trail Ben & Fanny, Ben moved to Wildomar about 1906 as a widower with a young daughter to farm 3000 acres for William Collier. Fanny Soules came to teach school in the fall of 1906. They married in 1907 and had three children. Ben & Fanny lived the rest of their lives in Wildomar. They are buried in Wildomar Cemetery along with two of their children (Frank and Ellen Hazard) and Fanny's mother (Mary Soules).

**Brown Family Trail*

(HT-W-17)

Dr. Oscar Brown brought his young family to Wildomar in 1897.

*De Jong Family Trail

(HT-E-14)

The De Jong family has been operating a diary for over 50 years. Probably the oldest operating business in Wildomar.

*Embree Family Trail

(HT-W-22)

Ezra, Ann & family—Moved to Wildomar in 1886 where Ezra and son, Albert, registered to vote on Oct. 2, 1886. Ezra opened a store in Feb. of 1887, a sketch of which appears on the 1887 Promotional Map. The store sign reads, "E. Embree & Co., Groceries & Hardware, Post office." Another son, William, was awarded the contract to build the Public Library in Oct. of 1887. Ezra lived in Wildomar for 13 years.

*Forbes-McGee Trail

(HT-W-20)

Forbes—James, Lucinda & family. The family arrived in Wildomar in 1892. James was born in Scotland and was a farmer. Son, Andrew, purchased the second cemetery lot in the new cemetery but there are no records to indicate if James' was buried there after his death on March 16, 1898. McGee—David & Lucy (Lucy was the daughter of James & Lucinda Forbes) David was a Civil War Veteran who lived in Wildomar by 1896. David served on the committee to move the cemetery and purchased lot #8. By 1900 the McGee's had moved away.

*Hampton Hirst Trail

(HT-E-05)

Isaac Hampton was an early pioneer. He moved his family from Kansas to Wildomar by the summer of 1887. Isaac was a liveryman. His second wife was Elizabeth Hirst, daughter of James and Anna. James Hirst came to Wildomar in Sept. of 1885. James was a beekeeper, real estate salesman and a school trustee. The Hirst name appears on two buildings on the 1887 Promotional Map.

*Henry Lillie Trail

(HT-E-10)

According to the Wildomar pamphlet produced by William Collier and Margaret C. Graham in 1892, page 3, "The first purchaser of land was Henry Lillie. He is also the latest buyer in this locality, having recently added twenty acres to his original purchase, paid for out of his crop of deciduous fruit that present season."

**Iva Keegan Trail*

(HT-E-13)

Taught at Wildomar Elementary School for over 20 years. Kept list of teachers and other history items.

**Madison, Chaney Trail*

(HT-W-21)

Madison Chaney and his wife, Jane, were miners in the area when William Collier made his first trip to the area. Madison was a very colorful character and lived in Wildomar (Chaney Hill) near the Murrieta border for many years.

**Margaret C. Graham Trail*

(HT-W-19)

Margaret Graham, Collier, One of our founders and a well known author of books and magazine articles.

**Mary Simmons Trail*

(HT-E-04)

Mary Simmons, Mary Simmons was the first girl born in Wildomar. She grew up to marry Dean Fletcher. Mary was born in Oct. 8, 1890 and died in 1974. She is buried in Wildomar Cemetery along with her mother and uncle, William Wilkinson, who lived to be almost 102.

**Mary Soules Trail*

(HT-W-12)

Mary was the mother of Fanny Soules Taylor. Mary, a widow, followed Fanny to Ca. with her two sons from Michigan in 1908. Mary lived on Central Street with her sons, Neil & Roy. For many years Mary ran a boarding house and also helped to care for the ill. Mary was known for her cooking abilities. Mary is buried in Wildomar Cemetery.

*Matthews Family Trail

(N-S-02A)

Abram & Mary, Abram served for the Union during the Civil War. Residents of Wildomar in 1888, Abram served as postmaster starting in 1902 and also for ten years as the station agent for the Santa Fe Railroad. Abram also was in charge of the cemetery for a period. There were numerous items in the local newspapers about the Matthews. Abram & Mary are buried in Evergreen Cemetery, Riverside.

*Nichols, Joseph Trail

(HT-W-15)

Joseph was the train agent who committed suicide in 1889. His grave wasn't moved to the current cemetery until 1979.

*Pearson Family Trail

(HT-W-16)

David and Anna moved their family to Wildomar in 1885 from Cedar County, Iowa. The family is mentioned many times in the local newspapers. One son, George (he was the second boy born in Wildomar), became the first county surveyor in 1893. By 1895 the family had moved to Los Angeles except for George. In 1900 George was living in Riverside and working as a civil engineer for the county. In 1910-30 he was living in Los Angeles County and still employed as a civil engineer. (Note: There is a notation on the 1887 Promotional Map, "Presented by Alida Pearson, Resident of Wildomar, 1886-1894. Alida was the daughter of George and Anna.)

*Torbett Family Trail

(HT-W-07)

William and family moved to Wildomar from Illinois. Early in 1894 they were growing apricots and strawberries. William passed away in 1917 and is buried in Wildomar Cemetery. His sons, Carl and Harry continued to live here as listed on the 1930 census.

*Turner Family Trail

(N-S-03)

Wyman, Elizabeth and Dave-Too many reasons to list-store, ran post office for 38 years (both Wyman & Betty were postmasters), Betty was also on the School and Cemetery

boards, the land for fire station #61 was donated by Dave Turner in memory of his father Wyman.

*Whitney Water Trail

(HT-E-02)

"Advertised as fresh daily since 1959"—probably the second oldest business in Wildomar.

*Wibel Family Trail

(N-S-02)

John, Mary, Henry-The Wibel family was living in Wildomar by 1890. Henry, the son of John & Mary, was the chairman of the committee to move the cemetery to its present location. Henry purchased lot #1 and his father, John, was most likely the first person buried at the new location. Mary was also buried there in 1912.

*Wilks Family Trail

(HT-W-14)

Richard, Fannie & family immigrated from England with four children, lived in Michigan & Kansas before coming to Wildomar by 1895. The family was mentioned often over the years in the local newspapers. Tragedy struck when one of the sons, Valentine, was killed in a hunting accident. The family had a long history of being a prominent pioneer family and son, Thomas, became known as the "hay king" of the valley. A son of Thomas, Arthur, was caretaker at the cemetery and took care of the trees planted in 1927 which are still standing on Palomar. All six of the original family members are buried in Wildomar Cemetery.

Historic Indian Names

*'\$wut Trail

(HT-W-03)

Means Wolf in the Luiseno language (see note below)

*Tukwut Trail

(HT-W-04)

Tukwut, means Mountain Lion in the Luiseno language (see note below)

*Qaasil Trail

(HT-W-05)

Qaasil, means White Sage in the Luiseno language (see below)

*Kukuul Trail

(HT-W-08)

Kukuul, means Burrowing Owl in the Luiseno language (see below)

*Payoomik Trail

(HT-W-09)

Payoomik, In the Luiseno language means "to the West" referring to the Juaneno. (see note below)

*Paa\$uku Trail

(HT-W-10)

Paa\$uku, Luiseno name for the Wildomar area meaning "the place of the Elk"; similar to the Juaneno name, Paa, Nu Ukut, meaning "the place of the springs and Dwarf Bison." (see note below)

*'Ataaxum Trail

(HT-W-11)

Means The People in the Luiseno language and refers to the Luiseno (see note below)

*Luiseno language

The \$ sign in the Luiseno language stands for what linguists call a "retroflex s". The sound it represents is when you curl the tip of your tongue up to the roof of your mouth and say "sh". We don't really have any sounds like that in English. The closest would be when you tell someone to be quiet "sh".

The above Luiseno names and information were supplied and approved by the Pechanga Cultural Resource Department.



PECHANGA CULTURAL RESOURCES
Temecula Band of Luiseño Mission Indians

Post Office, Box 2183 • Temecula, CA 92593
Telephone (951) 308-9295 • Fax (951) 506-9491

**City of Wildomar
Butterfield Multi-Use Trails Inc.**

Names for Trails in Luiseño provided on 9/16/10 by the Pechanga Cultural Resource Department.

HT-W-04: **túkwut** [TOOK-whut] mountain lion.

HT-W-09: you have “payomkawichm” in which the correct spelling is **payóomkawichum** [pie-YOME-kah-whi-chum], which means “Western People” not necessarily just the Juaneño. We were thinking “payóomik” would be a better name which just means “to the west”.

HT-W-03: **'iSwut** [ISH-whut] wolf.

HT-W-05: **Húnwut** [HOON-whut] bear.

HT-W-08: **kukúul** [koo-KOOL] Burrowing Owl.

HT-W-10: “PAA NU UKT” should be **páaSuku** [PAH-shoe-koo] meaning place of the elk. This is a place name close to the city of Wildomar.

HT-W-10: “ATAAHUM” should be **'atáaxum** [ah-TAH-hum] the people.

Other suggestions: we can also incorporate some native uses if you like.

hunúuva-t [hoo-NEW-vaught]: yucca

kóoolul [KOOL-ool]: manzanita.

Qáašil [KAH-shill]: white sage

Šivéela [sh-VAY-la]: Sycamore.

'aváaxat [ah-VAAH-hot]: cottonwood.

moníivol [mo-NEE-vol]: tracks.

Please contact the Pechanga Cultural Resource Department if you have any questions.

Chairperson:
Genevieve Arenas

Vice Chairperson:
Mary Bear Magee

Committee Members:
Evie Gerber
Darlene Miranda
Bridgett Barceño Maxwell
Aurelia Marruffo
Richard B. Searce, III

Director:
Gary DuBois

Coordinator:
Paul Macarro

Cultural Analyst:
Anna Hoover

Monitor Supervisor:
Jim McPherson

Attachment C

City of Wildomar

Adopt -A -Trail Program

2012

Appendages A thru G

Roadside Adopt-A-Trail Program

Introduction

Many rural areas in the City of Wildomar have experienced growing demand for official trail designations. Development is restricting the use of areas that have traditionally functioned as Community Trails, even though these areas may have never been officially designated or dedicated for trail purposes. As new development occurs, the General Plan Trails Element is being implemented which requires the dedication and improvement of trail easements and the establishment of funding mechanisms for trail maintenance. However, in established rural communities, where new development projects are less likely to occur, the City of Wildomar is encountering increasing demand to designate trails within public road rights of ways.

While both pedestrians and equestrians can legitimately use public road rights of way, most shoulder areas have not been prepared for trail utilization and there are no existing mechanisms for trail maintenance within the public road rights of way. The City of Wildomar has been approached by some community based service organizations that would be willing to provide trail maintenance. The City feels that there are areas where official designation and joint use may be appropriate, with community support. As such, it is proposed that the City of Wildomar establish a Adopt-A-Trail Program, as outlined herein.

Adopt-A-Trail Program promotes civic pride and responsibility and provides an opportunity for individuals, organizations, and businesses to take a more active role in their community. The program allows the use of public road rights of way, as appropriate, for trail usage and provides trail maintenance within road rights of way at no additional cost to the City. City of Wildomar resources are limited to initial start up shoulder preparation, program oversight and normal ongoing routine shoulder maintenance. The Adopt-A-Trail Program results in the official designation and signage of trails in rural and urban communities and enlists the support of local community interests to provide trail maintenance.

Background

The County Regional Parks and Open Space District, faced with the same dilemma of trail demand versus funding availability, operates a similar Adopt-A Trail Program. In addition, the Transportation Department has had its own Adopt-A-Road Program for a number of years which is geared toward litter removal and clean up of the shoulder area of County Roads. We have borrowed several elements from both programs for inclusion of the City of Wildomar Adopt-A-Trail Program, including reporting, monitoring and safety elements.

Applicability

The City of Wildomar Adopt-A-Trail Program shall apply only to locations where trails are designated on the officially adopted City of Wildomar General Plan Trails and Bikeway System. City staff shall determine the viability of a trail designation for any legible trail locations nominated for adoption. Factors to be considered in such review shall include: width of shoulder, obstructions such as utilities, street trees and encroachments, width of drainage/bridge structures, condition of the shoulder area (i.e. slopes, drainage, soil/rocks, etc.), traffic volumes, and safety factors. Upon determination that a trail qualifies for the Adopt-A-Trail Program, City staff will work with the Trail committee to identify the scope of maintenance to be performed.

Scope of Activities

The City of Wildomar Adopt-A-Trail Program is intended to provide trail maintenance and litter removal for designated trails located within public road rights way adjacent to City Maintained roadways. Participants in the program agree to remove litter, including horse droppings, at least four times per year and provide maintenance at least once per year for a four-year period on a particular trail segment. Specific requirements may vary depending upon the trail location. Maintenance will include, but is not limited to: cutting back vegetation, weed removal, filling small holes, disposal of horse droppings, removal of fallen trees, and trimming overhanging branches. City staff will determine the appropriate scope of maintenance in cooperation with the trail sponsor.

Upon issuance of a Adopt-A-Trail Permit, the City will perform an initial clean up and dress up the shoulder area to be designated for trail utilization and install appropriate trail markers, in coordination with the Trail Committee. At such time, the Cites Public Works Department, staff will identify any specific maintenance concerns or issues.

Permit Procedures

A no fee standard encroachment permit would be executed by those interested in the

program allowing access to the public right-of-way. It will be a four-year non-transferable permit. In addition, a hold harmless agreement must be executed by the permittee. The permittee will then perform trail maintenance with its own people, through a hired contractor, or may financially sponsor a work crew.

Safety

The City will review the adopt-ability of each location to minimize risk. Areas will not be able to be adopted if any of the following is present:

Work area is unsafe without traffic control.

Roadside so narrow that participants would be required to work within the Roadway.

Visibility is too restricted.

High speed traffic is too heavy or too close.

Terrain is too rugged or too steep.

Vegetation too dense.

Site conditions are unsuitable for volunteer work crew?

Trail maintenance and litter pickup are allowed only in the unpaved shoulder area and are not allowed upon bridges, culverts, or structures of any kind. Work is limited to daylight hours and cannot be conducted on holiday weekends or within twenty-four hours preceding a holiday weekend.

In addition to the above in the event that weather or other adverse circumstances arise that constitute a hazard to the workers, the work shall be immediately discontinued.

Finally, if the workers are minors, there must be one adult supervisor per five minors. No one under the age of 14 will be allowed to be a participant. Minors must have a permission slip waiving liability signed by their parent or legal guardian.

Program Guidelines and Orientation

Prior to any work being conducted, it is the responsibility for the permit sponsor to discuss and review the Cities safety rules as well as permit conditions with the volunteers.

Each participant shall attend a safety orientation, based on City-provided handouts, conducted by the permittee spokesperson prior to entering the right-of-way. The orientation shall consist of discussion and explanation of the safety requirements. Individuals must participate in a permittee sponsored safety orientation at least once during each calendar year during which work is authorized.

Cities Commitment

The City will provide up to twenty (20) mesh vests per each location as well as trash bags. Additional bags will be available from the coordinator.

The City will also provide a sign on each end of the travel way identifying the location as an Adopt-A-Trail facility and the group/organization/or individual responsible for the trail maintenance and litter pick up, thus providing community recognition for those groups which participate. The City will develop a handout for the Trail Committee which details safety rules and conduct a Trainer program to go over the program details. In addition, the City will provide permit conditions, tips for working outdoors, and pick up and disposal of trash bags after an area has been cleaned, provided the clean up frequency is no more than once a calendar quarter. The City would consider a frequency less than once a quarter on a case by case basis.

Permittee's Commitment

The permittee is responsible for trail maintenance and litter pick up for (4) four years. The permittee is responsible to maintain at the very minimum a 1/4 mile stretch of City-maintained roadside. (See Adopt-A-Trail Map for selection of trails) In addition, the permittee is responsible for insuring its group? Compliance with all safety and permit requirements as well as periodically reviewing said requirements with participants.

Liability/Exposure

The permittee shall execute a hold harmless agreement. The agreement will indemnify and hold harmless the City from any and all claims, demands, actions or liabilities or loss. The permittee is also required to obtain a no-fee encroachment permit.

Summary

The Adopt-A-Trail program provides a valuable service to the community, while encouraging individuals and groups to be more involved in their local community.

The program augments the existing trail system and provides a mechanism for trail maintenance within public road rights of way. Thus such joint use can be accommodated, while allowing the City Public Works to concentrate its primary responsibilities of road safety and roadway maintenance. The program increases the level of shoulder

maintenance and litter removal, improving the aesthetics of the City at a minimum cost and creates a partnership between the community and the City of Wildomar.

Getting Started

If you are interested in participating in the program, please contact the City of Wildomar at (951) 677-7751. We would be pleased to send you additional information and the necessary forms.

City of Wildomar

Adopt -A -Trail Program

APPENDIX A

GENERAL INFORMATION ADOPT-A-

TRAIL PROGRAM: Is fun, educational and worthwhile. Provides for community trails. Promotes civic responsibility. Saves taxpayer dollars. Lets you help cleanup and beautify City roads in an area mutually agreed to by your organization and City. Provides you, your organization or company prominent recognition.

OPPORTUNITIES FOR:

Individuals Organizations Businesses

PARTICIPATE BY:

Performing trail maintenance and litter removal.

Or financially sponsoring special programs. High school work programs.

Traffic ticket work to pay program.

(Inmate/probationer) litter crew.

IT'S YOUR CHOICE:

Do the work with your own people. Hire a contractor.

Sponsor financially.

YOUR REWARDS:

Satisfaction Public recognition Civic pride

YOUR COMMITMENT:

Provide trail maintenance and litter removal for four years on a minimum of a 1/4 mile

stretch of City-maintained roadside or Flood Control Access Roads. Follow all safety and permit requirements.

OUR COMMITMENT:

We loan you up to a maximum of 20 orange vests. We issue the permit at no charge. We pay for and install recognition sign(s).

We provide trash bags. We will pick up trash bags provided the cleanup frequency is not more than once a quarter.

We will provide advanced warning signs and other necessary traffic control devices.

RECOGNITION SIGNS:

Are placed at the beginning of your litter project in each direction of traffic.

May vary in size according to the local situation.

The decision to place signs, their size, and location are at the sole discretion of the City of Wildomar.

Recognition on the sign is limited to your name and logo or insignia -no products may be identified.

HOW TO GET STARTED:

Select the location you want, and then contact : City of Wildomar Community Services Department at (951) 677-7751. Discuss the Trail location and project with the City. If your area is available and safe for adoption, apply for a free permit. Allow about 2 months for sign placement. Notify City before each work event. Review and follow safety requirements. Perform the work satisfactorily.

AREAS MAY NOT BE ADOPTABLE BY VOLUNTEERS IF:

They are already adopted Access to work areas is unsafe. The work area is unsafe without traffic control. The shoulders or roadside are so narrow that participants would be required to work

Within roadway. Visibility is too restricted. Construction or other work is underway or planned. Traffic is too heavy or too close and fast moving. Vehicle road runoff potential is too high. Terrain is too rugged or too steep. Brush or vegetation is too dense. Site conditions are unsuitable for your group's age level or experience.

PERMIT RENEWALS:

Renew your Adopt A Trail permit as many times as you want. You cannot transfer your permit to others.

SAFETY:

The program depends on the common sense and responsibility of individual Participants.

Participants must realize they are working in a potentially hazardous environment and diligently follow all safety requirements.

Selection of adoptable locations minimizes risk.

YOUR PERMIT:

Read, understand and conform to the provisions in your permit. Provide a copy of the safety requirements to each participant.

Conduct an initial safety meeting and discussion before you begin your project and least once a year.

Review safety requirements with your group each time before going out.

Each work group must have a copy of the permit and safety requirements with them on the roadside.

Participants hold the City harmless for death, injury or property damage.

SAFETY GEAR AND CLOTHING:

Participants should understand the importance of and insure that sufficient drinking water is available. Wear orange vests whenever you are out on the roadside-put them on ahead of time. Wear long pants and sturdy shoes or boots. Light-colored clothing, long-sleeve shirts and sunscreen are suggested.

ACCESS AND PARKING:

Vehicles used to transport workers; equipment or materials to work areas may be parked on the right-of-way if they are parked completely off the pavement, at least six feet from the traffic lane. Consolidate people to minimize vehicles.

Never park on a bridge or any other structures.

Do not park in grassy areas where your vehicles exhaust system could start a fire or in muddy areas where vehicles could become stuck.

Do not use your emergency flashers when parked.
If you are working some distance from your car, display your permit or a note indicating Adopt-A-Trail Crew at Work on your vehicles windshield for Highway Patrol identification.

Improperly parked vehicles may be ticketed or towed by the Highway Patrol.

When you leave a work site in your vehicle, use your signals, consider the speed of traffic, wait for an adequate gap in traffic and pull onto the pavement carefully, once on the pavement, accelerate swiftly and smoothly.

WHEN ON FOOT:

1 Exit and enter your vehicle on the side away from traffic whenever possible.

Walk and work facing oncoming traffic whenever possible -be alert and keep an eye on traffic. Do not walk on the roadway, shoulders or bridges. Never work in the median. Use caution when crossing roads.

WORK HABITS:

Do not work on holiday weekends or 24 hours before holiday weekends. Do not work when it is raining or foggy or when the road is wet or icy. Discontinue your work at least one hour before sunset. Do not touch potentially hazardous materials such as powders, chemicals,

weapons, sharp objects or dead animals. Avoid over-exertion and drink plenty of water. Do not consume alcoholic beverages or drugs before entering, or while on the Right-of-way.

City of Wildomar

Adopt -A -Trail Program

APPENDIX B

PERMIT CONDITIONS

Permittee is authorized to enter City right-of-way at least four (4) times per year for the purpose of trail maintenance and litter removal.

Permittee shall notify City, five (5) working days prior to start of any work. Litter-bags and vests may be obtained by contacting Cities representative.

Work may only be conducted between a half hour after sunrise and a half hour before sunset daily.

Work shall not be conducted on holiday weekends, or within twenty-four (24) hours preceding a holiday weekend unless specifically authorized.

Courtesy signs indicating organization's name will be furnished, installed and maintained by City for the term of this permit, in advance of the work area.

Litter pick up shall not be performed within six (6) feet of the traveled way, within center dividing medians, upon bridges, culverts, or structures of any kind.

Traffic control is prohibited by this permit except for shoulder closure, which may be authorized by City Representative.

Permittee's work shall be subordinate to operations, which City may conduct and shall not interfere with City work.

If weather or other adverse circumstances cause a public hazard, work shall be immediately discontinued.

Personnel performing work under this permit shall wear safety vests, while on City road Right-of-Way.

Work shall not be initiated prior to briefing on safety procedures by City Representative.

Permittee shall designate a spokesperson that shall represent the group. In addition, one (1) adult supervisor shall be assigned for each five (5) minors. No minor less than 14 years of age shall be allowed to participate.

Participant's personal vehicles shall be legally located off the traveled way so as not to interfere with the free flow of traffic or pedestrians and obey all parking regulations.

Permit is valid for two (4) calendar years from date of issue and may be renewed upon receipt of an appropriate application.

It is understood and agreed by the permittee that the doing of any work under a permit shall constitute an acceptance of the provisions of the permit and all attachments. The Encroachment Permit or a copy thereof shall be kept at the site of the work and must be shown to any representative of the City or any law enforcement officer on demand.
WORK SHALL BE SUSPENDED IF PERMIT IS NOT AT JOB SITE AS PROVIDED.

Each individual shall attend a safety orientation conducted by the permittee prior to entering the right-of-way. The orientation shall include a discussion and explanation of the safety requirements. Each attendee shall sign and date a safety requirements training verification sheet (See Appendix E).

Individuals must participate in a permittee sponsored safety orientation at least once during each calendar year when work is authorized. The City of Wildomar and its officers and employees shall not be liable for any death, injury or property damage claim which arises from any cause related to this program. If any claim arises out of the foregoing, the permittee shall defend, indemnify and hold harmless the City of Wildomar and its officers and employees from same. Permittee shall enter into a Hold Harmless Agreement.

The permit may be canceled by City for non-conformance with any permit conditions or failure to adhere to direction given by City Representative.

City of Wildomar

Adopt -A -Trail Program

APPENDIX C

PERMIT APPLICATION

Tracking _____

Date: _____

Application for Encroachment Permit

The undersigned hereby applies for a permit to excavate, construct and otherwise encroach on City of Wildomar Road right of Way or Flood Control Access road as follows:

Description of work and installation to be maintained. Attach and refer to map or other documents.

Name and trail number and specific location:

Applicant will state accurately, the location of work to be performed, giving Trail Number and street name:

In consideration of Granting of this Application, the applicant agrees to:

1. Indemnify, defend and save the city, its authorized agents officers, representatives and employees, harmless from and against any and all penalties, liabilities or loss resulting from claims or court action arising out of any accident, loss or damage to persons or property happening or occurring as approximate result of any work undertaken under the permit granted pursuant to this application.
2. Remove or relocate an encroachment installed or maintained under this permit. Upon written notice from the City of Wildomar.
3. Notify the City at least 48 hours in advance of the time when work will be started and on completion of the work. Immediately notify the City of such completion in writing.
4. Comply with all City ordinances and amendments thereto, and all terms and conditions of the permit. All applicable rules and regulations of the City of Wildomar and other public agencies having jurisdiction.
5. The permittee shall accept full responsibility for complying with Federal, State and City environmental laws. Receiving any necessary environmental clearances and/or permits prior to commencing any work as authorized by this permit.

Name of Applicant: _____

Authorized Signature: _____

Mailing Address: _____

Contact: _____

Phone: _____ Email: _____

City of Wildomar

Adopt -A -Trail Program

APPENDIX D

HOLD HARMLESS AGREEMENT

City of Wildomar

Adopt -A -Trail Program

HOLD HARMLESS AGREEMENT

This agreement is entered into as of this day of, 20_____ by and between the City of Wildomar, California (hereinafter City and _____ (Hereinafter Permittee)

RECITALS

WHEREAS, in order to promote civic responsibility and community pride, the of Wildomar

Has established a Adopt-A-Trail program to allow the use of public road rights of way for trail

Usage and provide for trail maintenance and litter removal along some City roads; and Flood Control Access Roads.

WHEREAS, Permittee wishes to adopt a trail through the Adopt-A-Trail Program, which Procedures include the execution of a hold harmless agreement;

NOW, THEREFORE, the parties agree as follows:

1.

2.1. Permittee will comply with all conditions for the of Wildomar Adopt-A-Trail Program Permit as set forth in Exhibit A, and incorporated herein by reference.

2. Permittee agrees to indemnify and hold harmless the City of Wildomar from any and all claims, demands, actions, liabilities or loss which may arise from or as the result of death, injury or damage to persons employed by volunteering or acting on behalf of the Permittee. If any claim arises out of the foregoing, the Permittee shall defend, indemnify and save harmless the City, its officers, agents, and employees from any and all demands, claims, liabilities or other expenses of any nature whatsoever arising directly or indirectly form the issuance of the Permit.

Permittee _____ Print Date: 20 _____

Permittee _____ Signature Date: 20 _____

City of Wildomar

ADOPT-A-TRAIL PROGRAM APPENDIX E

PERMISSION SLIP FOR MINORS

Minors participating in the Adopt-A-Trail Program must be at least 14 years of age. It is the permittee's responsibility to provide at least one adult supervisor for every five minors. Minors must be closely supervised at all times while working in road rights of way and must undergo the safety orientation as all other participants.

_____ has my permission to participate in the
(Minor's Name)

Adopt-A-Trail Program. I understand that it is my responsibility to provide adequate insurance coverage for my child. I further release City of Wildomar and its employees, representatives and agents from liability and agree to hold them harmless for any death or injury which may do to participation in the activities associated with the Adopt-A-Trail Program.

(Parent or Legal Guardian) (Signature) (Date) (Please Print)

EMERGENCY INFORMATION

In case of an emergency contact: _____

Daytime Phone Number: _____

City of Wildomar

Adopt -A -Trail Program APPENDIX F

TRAIL WORK REPORTING FORM WORK

PROJECT CONTACTS _____

GROUP, CLUB or INDIVIDUAL:

GROUP LEADER:

ADDRESS:

PHONE: _____

TRAIL NAME/LOCATION:

Instructions: Fill in date. Describe the work accomplished. Record the total number of people participating. Record the hours per day (including meetings with managing agency, safety briefing, travel time to and from the project, and hours worked). Multiply People by hours to get Total Hours. Add daily totals to Total Hours for multi day projects.

Work Record

BRIEFING _____

SAFETY
TALK _____

EQUIPMENT

CHECK _____ FIRST

AID KIT _____

WATER _____

TRAIL MAINTENANCE SAFETY

Thank you for volunteering. For your safety and that of others, please follow these safety rules. Always wear safety vests. Face oncoming traffic and keep an eye on traffic.

Insure that a first aid kit is available and appropriately stocked. Maintain at least 8-10 feet between you and other workers, both when working and when walking along the trail.

Do not carry tools on your shoulder. Carry at your side, on the downhill side of the trail. If you stumble, drop the tool safely away from yourself. When using tooling, check around for clearance. Avoid swing tools overhead. Make sure tools are in good working order prior to the start of the project. Do not use tools that have defects in the handles, do not operate properly, or show signs of any potential safety problems.

When using a tool, insure that you have a firm grip on the tool. Assume a balanced and comfortable stance.

Always make sure that you have a good grip on your tool. Gloves that are wet or muddy can lead to slippage.

When tools are not in use, place them away from the roadway with handles pointed toward the trail.

When passing other workers on the trail, announce that you are coming through. Wait for them to acknowledge and stop work before you pass.

Make sure when cutting overhead branches or moving rocks, make sure that they will not fall and hit someone or land in the adjacent roadway.

When lifting heavy objects, ask for assistance. Don't try to prove yourself. Be aware of your surroundings in the work area. Identify areas that have poor footing, overhanging vegetation, loose rock, etc. Insure that the work area is safe.

Advise others of any hazards encountered, such as loose footing, poison oaks, snakes, bees or ticks.

Always use appropriate safety gear. Eye protection is required when operating power equipment or when flying debris is present.

Take regular breaks to avoid overheating and exhaustion. Sit down, drink plenty of water, and find some shade. Stow tools safely away from the trail and roadside when not in use. Stop work at least one hour before sunset.

City of Wildomar

Adopt -A -Trail Program

APPENDIX G

SAFETY REQUIREMENTS FOR PARTICIPANTS

City of Wildomar

Adopt -A -Trail Program

Safety Requirements for Participants

This program depends upon the common sense and responsibility of participants. Participants must realize that they are working in a potentially hazardous environment and must diligently follow all safety requirements. While on the trails, remember: **SAFETY FIRST!!!**

Protect yourself and others:

When working on roadside trails, face oncoming traffic as you work and keep an eye on traffic. Be prepared to move quickly, if necessary. Stay off of the roadway itself.

Cease work at least one hour before sunset.

Do not attempt to remove materials that you suspect may be toxic or hazardous. Items to avoid include: powders, chemicals, smelly substances, suspicious packages, chemical drums or containers, weapons, syringes or hypodermic needles, and dead animals. Notify the City of Wildomar's Public Works Department coordinator or the Sheriff of the location weapons or suspected toxic substances.

Do not attempt to compact trash bags. Injuries from broken or jagged objects may occur.

Always wear City provided safety vests while on roadside trails.

When working on roadside trails, do not run, throw objects or engage in horseplay or other activities that maybe a distraction to drivers.

Wear long pants and heavy leather boots with ankle support. Light-colored clothing, long sleeve shirts, gloves, hats and sunscreen lotion are recommended. Avoid overexertion. Drink plenty of water, especially on warm humid days.

Do not consume alcoholic beverages or drugs before entering, or while on the trail.

Watch your footing and stay off of steep slopes, drainage's facilities or other places from which you might fall.

Be alert for places where snakes may be found. Also be alert for stinging

insects and poisonous plants, i.e. poison oak, etc.

Always follow safety instructions on any power tools such as weed eaters, chainsaws, etc.

Always be aware of your surroundings, particularly the location of other crew members when operating any tools or swinging hand tools such as axes, hoes and picks.

A First Aid kit must accompany all work crews. The first aid shall include the following items:

Band aids

Gauze pads

Tape

Ammonia inhalant

Large wrap bandage

Scissors and Tweezers

Antiseptic cream or spray

Wire cutters or pliers

Flashlight with fresh batteries

Emergency thermal blanket

Always dispose of trash bags properly. Take out whatever you bring in. I _____ have read and understand the foregoing safety (Print Name) requirements and have attended a safety orientation this date. I hereby accept the responsibilities of this permit and agree to save harmless the City of Wildomar, its officers, agents and employees from any and all demands claims, liabilities or other expenses of any nature.

(Signature) _____ (Date) _____

CITY OF WILDOMAR – PLANNING COMMISSION

Agenda Item # 3.2

GENERAL BUSINESS

Meeting Date: January 18, 2012

TO: Chairman and Members of the Planning Commission

FROM: Matthew C. Bassi, Planning Director 

SUBJECT: Planning Application No. 11-0282:

A study session presentation by Mr. John Clemmons (Applicant) for a proposal to construct a Cable Ski Park located in the City of Wildomar.

RECOMMENDATION:

The Planning Department recommends the Planning Commission Receive and File the presentation by Mr. John Clemmons.

DISCUSSION:

The Planning Department received a Pre-Application (Project No. 11-0282) several months ago for a proposed cable ski park proposing to be located on the west side of Kilarney Lane, just south of Baxter Road (Attachment 1). The cable ski park will operate fully on a cable/pulley system and will not include any motorized boats, or other vehicles. The applicant has also proposed an 18-hole putting course in the center of the lake that will be accessed via a tunnel from the main parking area.

Staff provided the applicant with a number of design review comments, including but not limited to, requirements for signage, street dedications/improvements and the processing of an Environmental Impact Report. The project will also require a Parcel Merger/Parcel Map, General Plan Amendment, Change of Zone, and Conditional Use Permit. No formal applications have been submitted as of the date of this report.

Staff felt that this proposed project could be a significant development opportunity for the City, thus, we asked Mr. Clemmons if he would prepare project development pamphlets and make a power point presentation for the Planning Commission. As this is intended as a study session, the Planning Commission is limited in its discussion and can only provide feedback to the applicant regarding the Pre-Application.

Staff has provided a copy of the proposed development materials for Council review (Attachment B). Mr. Clemmons will also go into more detail about the proposed project during his power point presentation.

STAFF RECOMMENDATION

The Planning Department recommends the Planning Commission Receive and File the presentation by Mr. John Clemmons.

Submitted by:



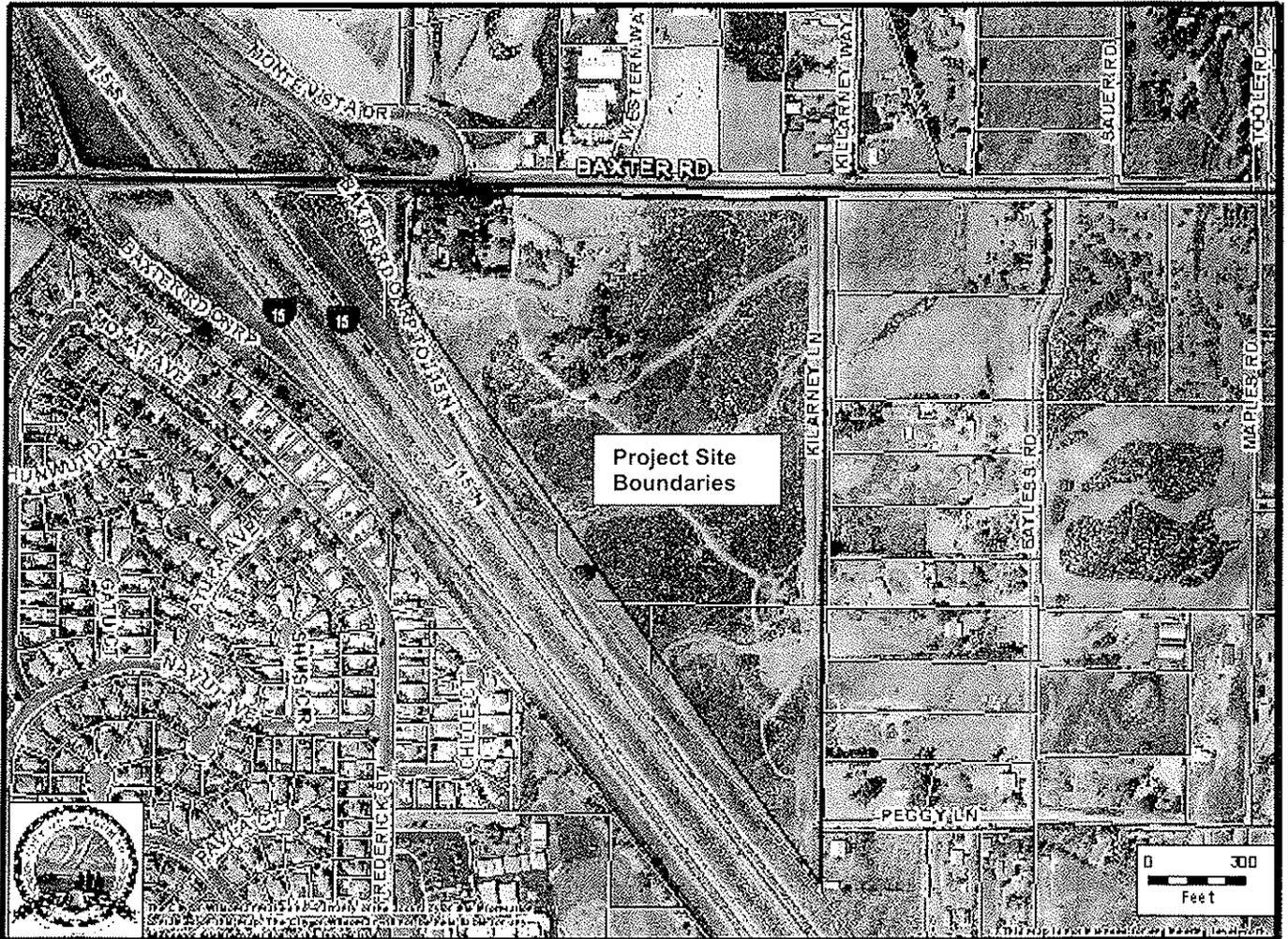
Matthew C. Bassi
Planning Director

ATTACHMENTS:

- A. Aerial Photo Exhibit
- B. Project Presentation Materials (Under Separate Cover).

ATTACHMENT A

Aerial Photo Exhibit



ATTACHMENT B

Project Presentation Materials (under separate cover)

OPPORTUNITY

California
Cable Board Park

PRESENTED BY

John Clemmons
(714) 904-3735
jclemmons@airsling.com

WHAT IS A CABLE PARK?

California Cable Board Park Wildomar, California

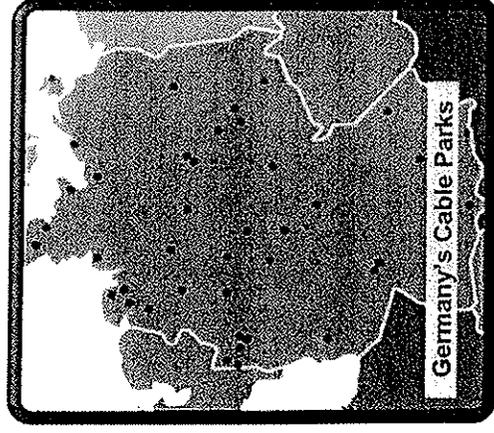
What is cable boarding? Cable boarding is simply wakeboarding with a moving cable instead of a moving boat. The cable ski system is definitely the coolest addition to the extreme sports list because it combines wakeboarding without the need for a expensive boat.

How many cable parks are there? There are over 188 cable parks all over the world including 60 parks in Germany alone! The parks can also be found in Asia, Australia, and many other European countries. Currently, there are only ten in the United States and many more on the drawing board due to the advent of wakeboarding.

So how does it work? How do you ski without a boat? Suspended in the air by a series of towers, the overhead cable rotates around a lake. Along the cable are a number of carriers from which ski ropes will attach and pull a rider or skier around the lake.

Why is Cable Boarding getting so popular? Because most people will be able to afford it. It is much less expensive than most extreme sports. Cable Parks are clean, efficient, quiet, and environmentally friendly. For riders it means affordable recreation with no expensive boat, no gasoline, no maintenance, no set-up, no clean-up, and much less risk to your body. All this while enjoying more riding time and still being able to learn the skills, thrills, and tricks involved with wakeboarding and waterskiing. Nice concept, don't you think?

Germany is smaller than California
82 Million People Live in Germany
40 Million People Live in California
There are over 60 parks in Germany
Currently there are 0 in California!!



www.CaliforniaCableBoardPark.com

California
Cable Board Park

California's #1 Family Cable Board Park



- Full Cable Park
- 18 Hole Putting Course
- Restaurant & Patio
- Outdoor BBQ
- Rental Shop
- Training Lake
- Zip Line To Island
- Picnic Areas
- Biking/Jogging Trails
- Under Water Tunnel
- Parking For 250+ Vehicles
- And More!

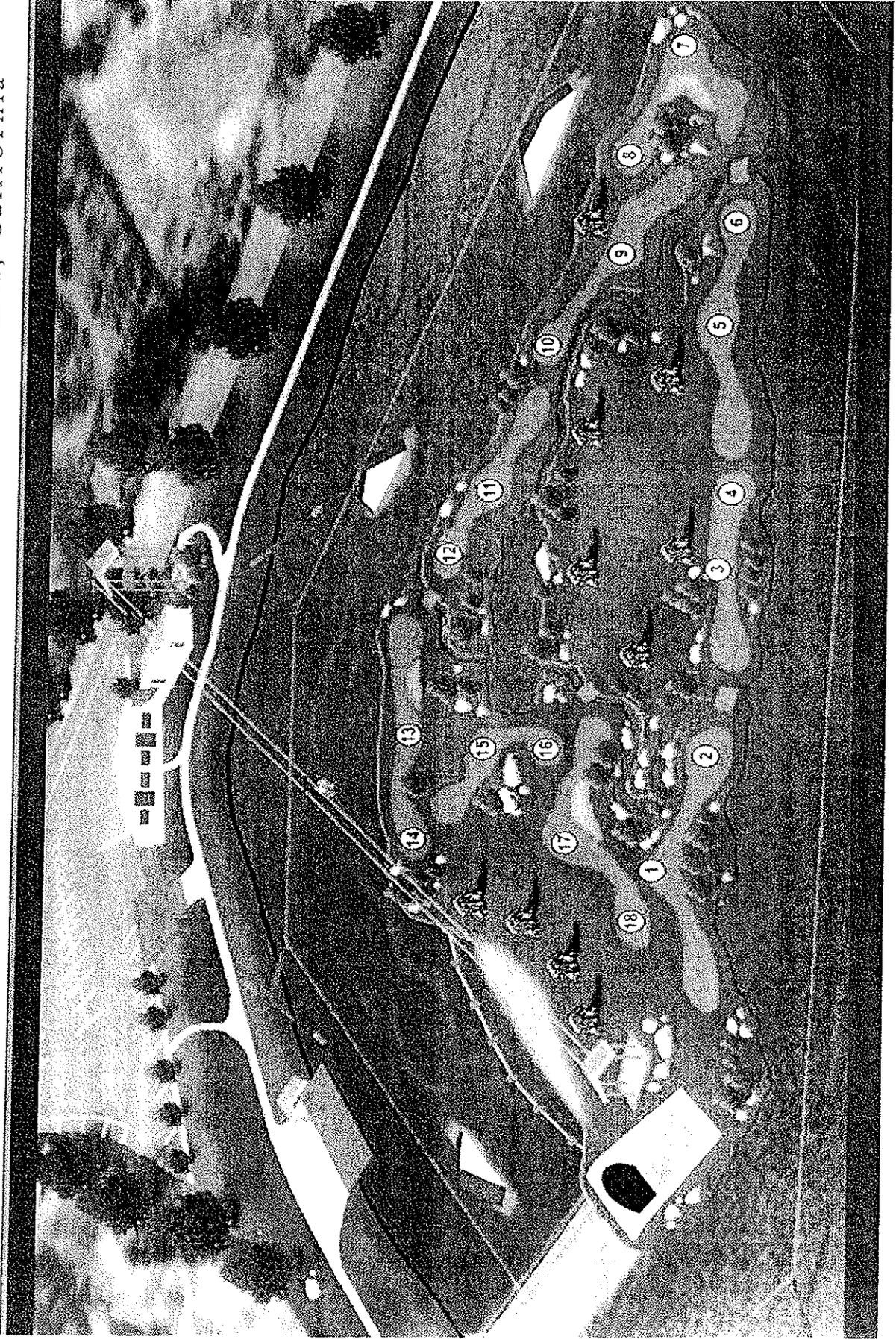
Our Goal is to build the best Cable Park in the United States

Heavenly Valley Fwy

© 2001 California

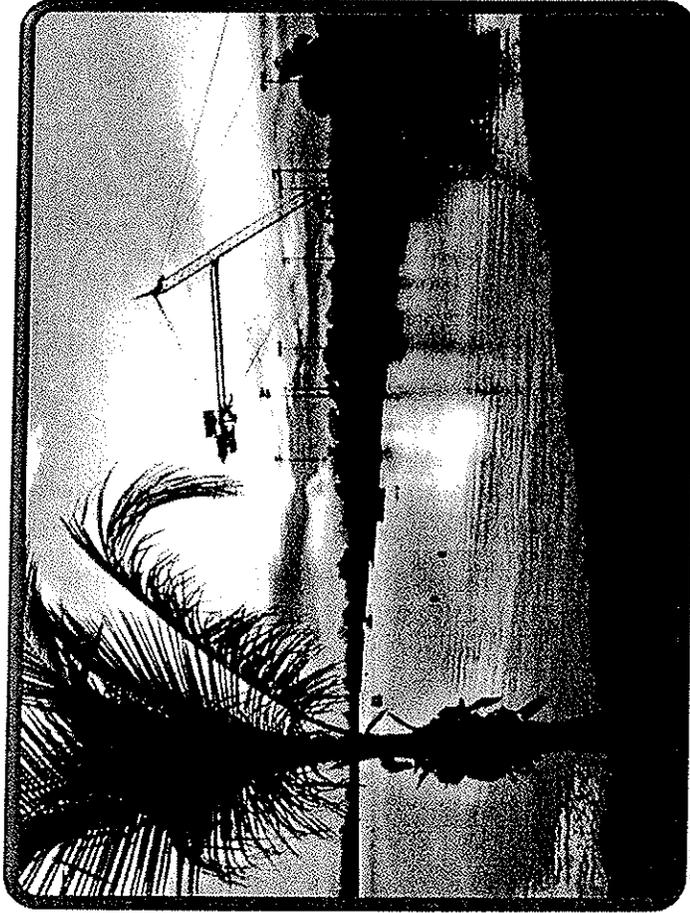
California Cable Board Park
Wildomar, California

PUTTING COARSE



California Cable Board Park
Wildomar, California

FREEWAY SIGN



Family Cable Board Park

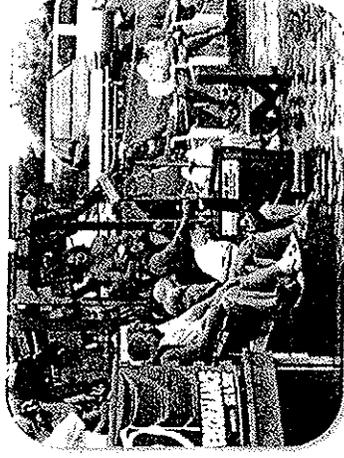
WHAT IS A CABLE PARK?

California Cable Board Park Wildomar, California

What happens if you fall? You simply swim to shore and walk back to the starting dock. The distance is short and time is minimal before you're out on the water riding again.

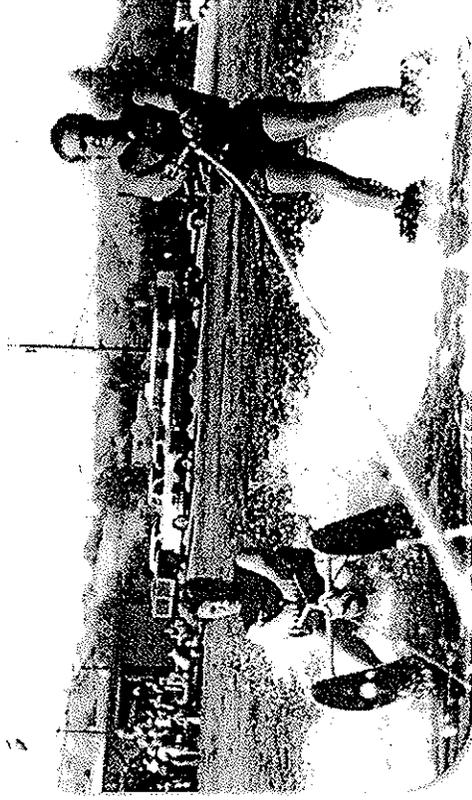
How many people can ride at the same time? Anywhere from six to twelve or more people, depending on the size of and the number of carriers on the particular cableway. The beauty and value of cable is that it opens up wakeboarding to the masses, thanks to the reduced costs of running and the higher number of people it's possible to pull at any one time. With cable's ability to tow many people at the same time, groups of people can be catered to much more easily than behind a boat.

What's the potential for future growth of the sport? Because more and more people are finally discovering its many efficiencies and environmental advantages, there is absolutely no question that cable wakeboarding has a terrific future! The market potential for construction of more cable parks around the world, particularly in China, the United States, Europe, South America, and other developing regions is absolutely HUGE!



What Kind Of Special Events Will Be Offered?

1. Special Olympics & Disabled Soldier Day
2. Military Appreciation Day
3. Fireman & Police Appreciation Day
4. Girls Learn To Ride Day
5. Underprivileged Children's Day
6. Ski Shows (Wakeboard, Hydrofoiling, etc)
7. Learn to Ski FOR FREE Day



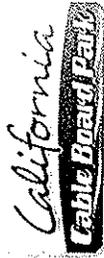
John Clemmons CO-Founder Special Olympics Water-Ski Division

MEET THE TEAM

California Cable Board Park
Wildomar, California

John Clemmons, CEO Operations Manager

John Clemmons has 10 years experience in research and development with cable ski systems. In the early 1980's, J.C. Enterprises and Banana George Blair was an organization to develop cable water ski parks in Southern California. John was responsible for managing budgets, proposal preparation, and presentations. As Operations Manager, he will be responsible for the proper training of staff, Quality Control, implementing safety programs, hiring and training cable operators, cleanliness, and overall operations of the park.



John Cranny, Management – Cable Operator

John Cranny has a Master's Degree in Business, was the CEO of MB Boats for five years, and is skilled in technology, sales, and administration. He is a resourceful, efficient, motivated, and an optimistic team player. He will help manage the day-to-day operations of the cable park.



Tod Egelund, Construction Manager

Tod Egelund oversees construction for Sudweeks Development. He recently completed construction of the Newport Commons Business Park in Menifee CA, a retail value of over 10 million dollars. Tod is vital in the design, engineering and building process. He has been in the construction industry for over 15 years and has gained valuable knowledge from his experiences. Tod is well versed on current construction practices and is quite thorough, understanding the value of quality work and expecting the same from all who work with him. Tod is an expert hydrofoiler, wake boarder, and snow boarder.

Kai Fusser, Consultant for Cable Design and Construction

Kai Fusser brings over 18 years of experience with cable water ski systems and offers skills to design parks including all amenities. Kai is known for the turnkey installation of cable ski systems, extensive training of personnel, and providing exceptional technical and managerial experience in the beginning phases of business operation. Kai has been a consultant for the design, operation, and construction of parks in Laguna Del Mar, Isla de Margarita, Venezuela, Texas Ski Ranch in New Braunfels, KC Water Sports, in Kansas City, KS, and Wet'n Wild in Orlando, FL. Mr. Fusser has a Masters degree in Nautical Engineering and Business from the University of Oldenburg, Germany.



M E E T T H E T E A M

California Cable Board Park
Wildomar, California

Jade Works, CEO Integrity Golf Course Construction

Integrity Golf strives to be a different kind of golf course builder. We know that being a part of a successful project is the result of a successful relationship between the contractor, the architect, and the owner. Forming this bond is our primary goal on each new project. We hope that the more projects we undertake and complete, the better our reputation becomes

INTEGRITY

GOLF COURSE CONSTRUCTION

Herb O'Brien, CEO Consultant for Pro-Shop and Marketing

Herb O'Brien is known as an icon in the industry of water sports. O'Brien International began in 1966 when he began making water skis in his garage. He is now one of the industry's leaders in sales. With the creation of wakeboarding in the early 1980's, Herb was one of the first to build a prototype. This brought the creation of the incredibly successful H.O. Sports, Inc. Together with O'Brien International, H.O. Sports, Inc., lead the industry with over 40 million each in annual sales each year. Herb will assist us in the design, layout and operation of the pro-shop. He will be helpful in contributing towards marketing ideas, promotions, and design as well.



Mike Murphy, CEO Promotions and Marketing Consultant

Over the past four decades, the efforts of Mike Murphy have influenced countless people across the globe in the sport of waterskiing. He continues to expand his influences today with cutting edge inventions for the water skiing population. Mike has participated in ski shows all over the world and has been a champion in several different arenas. He is the creator of the original Sky Ski, and navigated a successful business that created high performance hydrofoils and accessories. Mike will assist in promotions, networking, and advertising.



Matt Haskin, Real Estate and Finance

Matt Haskin has worked in the field of real estate development and finance for the past 15 years. Using his intimate knowledge of the capital markets as well as private equity sources, he has successfully secured funds with both debt and equity for dozens of projects ranging from multi-family housing, retail centers, business parks and resort developments.



CONCLUSION

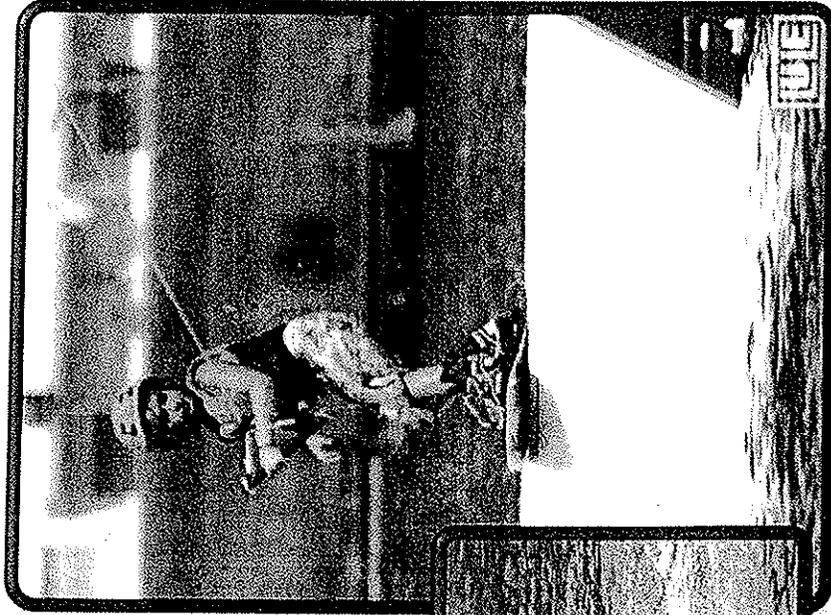
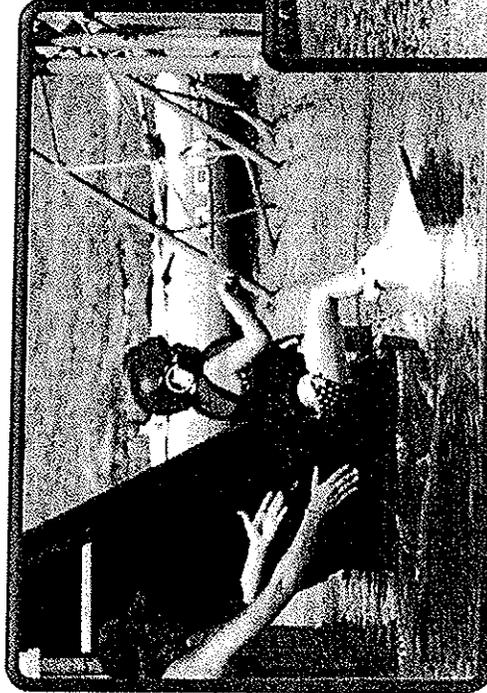
California Cable Board Park
Wildomar, California

We look forward to discussing this opportunity with you personally. Feel free to contact us if you need any additional information.

John Clemmons

(714) 904-3735

Jclemmons@airsling.com



CaliforniaCableBoardPark.com

CITY OF WILDOMAR – PLANNING COMMISSION

Agenda Item # 3.3

GENERAL BUSINESS

Meeting Date: January 18, 2012

TO: Chairman and Members of the Planning Commission

FROM: Matthew C. Bassi, Planning Director

SUBJECT: Election of Officers for Calendar Year 2012:

Action by the Planning Commission to elect a new Chairperson and Vice-Chairperson for the 2012 calendar year.

RECOMMENDATION:

The Planning Department recommends the Planning Commission elect a new Chairperson and Vice-Chairperson in accordance with Section 2 of the Planning Commission bylaws.

DISCUSSION:

In accordance with Section 2 of the Commission bylaws, election of a new Chairperson and Vice-Chairperson shall occur at the first regular meeting of the Planning Commission in December of each year. As staff was not prepared for this agenda item at the December 7 meeting, the Planning Department is now requesting the Commission move forward with this action. The Chair and Vice-Chair can serve more than one term and there is no right of succession, nor a minimum time of service as a Planning Commissioner.

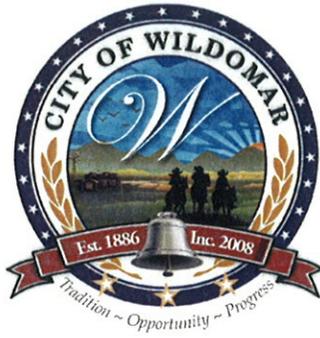
It is recommended that the current Chairperson (Harv Dykstra) take the lead on this action by first requesting a nomination for the new Chairperson and then taking a vote of the Commissioners. Second, by requesting a nomination for the new Vice-Chairperson and then taking a vote of the Commissioners.

The new Chairperson and Vice-Chairperson will then reside at the next regularly scheduled Planning Commission meeting scheduled for February 1, 2012.

Submitted by:



Matthew C. Bassi
Planning Director



ASSISTANT CITY ATTORNEY REPORT



Understanding California's Sustainable Communities and Climate Protection Act of 2008 (SB 375): A Local Official's Guide

11/23/10

The Institute prepared this analysis of SB 375 to help local officials understand how the law applies to their cities and counties. We welcome feedback regarding what additional topics could be included in the frequently ask questions section, as well as any areas in the explanation that could be clearer. Comments may be transmitted via the following:

- Email to info@ca-ilg.org (put "SB 375 Guide Comments" in the subject)
- Fax us to 916.444.7535
- Mail to 1400 K Street, Suite 205, Sacramento, CA 95814

To view this document online, visit www.ca-ilg.org/SB375LegalAnalysis.

The Institute for Local Government's mission is to promote good government at the local level with practical, impartial and easy-to-use resources for California communities.

Check out the Institute's website (www.ca-ilg.org) for resources in the following areas:

- Public service ethics
- Public engagement
- Intergovernmental conflict resolution
- Sustainability and climate change
- Healthy communities
- Land use
- Local government 101

The Institute is the 501(c)(3) research affiliate of the California State Association of Counties and the League of California Cities.

Acknowledgments

Special thanks to the following individuals who provided peer review of this publication:

- Christopher Calfee, Best, Best & Krieger
- Thomas D. Jex, Burke, Williams & Sorensen
- David Snow and Ginetta Giovinco, Richards, Watson & Gershon

All decisions about the final content and formatting of this publication were made by the Institute for Local Government.

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About This Guide

A key premise of the Institute for Local Government's sustainability program efforts is the value of *voluntary* action by local agencies to undertake sustainability policy initiatives. These include policies that will reduce greenhouse gas emissions, conserve energy and other natural resources, save money, and improve the health of local communities and their residents.

Toward that end, the Institute has developed a number of policy resources designed to help local officials evaluate what makes sense in their individual communities in these areas. See [www.ca-ilg.org/climate practices](http://www.ca-ilg.org/climate_practices).

Local agencies act within the policy context, however, of state and federal laws. For example, reducing greenhouse gas emissions is a priority at the state level in California. As a result, it is helpful for local officials as they ponder their own initiatives, to understand how state policy affects these areas.

This guide examines how the **Sustainable Communities and Climate Protection Act of 2008** (sometimes known by its legislative identity: SB 375)¹ specifically affects local agencies. The idea is, with this knowledge in hand, local agency officials can evaluate

- 1) How the state law affects their local agencies, and
- 2) What additional sustainability activities may make sense for their local communities.

This guide focuses on the greenhouse gas emissions reduction aspect of SB 375. SB 375 also made important changes to housing element law which this guide will not be addressing. The Institute hopes to find funding to also offer resources to local officials on the housing element-related aspects of SB 375.

Companion Resource

Another law, **California Global Warming Solutions Act of 2006** (sometimes known by its legislative identity: AB 32),² is worthy of local officials' attention as it relates to sustainability and greenhouse gas emissions reduction. For the Institute for Local Government analysis of that law's impacts on local agencies, see www.ca-ilg.org/AB32LegalAnalysis.

SB 375 Overview

"SB 375" is a state law enacted in 2008 relating to regional land use and transportation planning policies. Its formal name is The Sustainable Communities and Climate Protection Act of 2008.³ It is a complex law, affecting a number of regional planning activities.

This legal analysis explains, in plain language terms, what SB 375 means for metropolitan planning organizations and county and city officials and how it relates to other laws promoting sustainability. Specifically, this guide explains the following:

1. The policy background against which SB 375 was adopted.
2. The metropolitan planning organizations' obligations to prepare: a) a "sustainable community strategy" and if necessary b) an "alternative planning strategy."
3. How SB 375 connects local environmental analyses required under the California Environmental Quality Act to regional transportation plans.
4. How city and county officials and their constituents can influence the regional planning process.

At the end, the guide also answers frequently asked questions and offers a glossary of key terms relating to SB 375.

In the most general terms, SB 375 requires regional transportation planning agencies (called "metropolitan planning organizations") to carry out planning with California's statewide greenhouse gas emissions goals in mind.⁴ More specifically the state's 18 metropolitan planning organizations must adopt plans that, if implemented, will help each region achieve their respective target for reducing greenhouse gas emissions from automobiles and light trucks.⁵ The California Air Resources Board, using a detailed public process, sets each region's regional greenhouse gas reduction targets.⁶

What Is a “Metropolitan Planning Organization”?

Metropolitan planning organizations are creatures of federal law.⁷ They are regional agencies whose decision-makers are local elected officials: city council members and members of boards of supervisors from the region.⁸

The Federal Highway Administration Act requires that urban areas have such decision-making bodies to carry out continuing, cooperative, and comprehensive multimodal transportation planning processes.⁹ These processes must include developing a metropolitan transportation plan and a transportation improvement program (“TIP”) that “encourages and promotes the safe and efficient development, management and operation of surface transportation systems....”¹⁰

Metropolitan planning organizations receive federal and state funds for region-wide transportation projects.¹¹

In California, the four largest metropolitan planning organizations are: Southern California Association of Governments (SCAG, which includes the counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, Ventura and their cities); San Diego Area Association of Governments (SANDAG which includes San Diego county and its cities); SACOG (El Dorado, Placer, Sacramento, Sutter, Yolo and Yuba and 22 cities within those counties); and the Metropolitan Transportation Commission (which includes the nine counties of the San Francisco Bay Area and the cities within those counties).¹²

See table on page 11 for a list of metropolitan planning organizations in California.

Understanding the Policy Context in Which SB 375 Was Adopted

Greenhouse Gas Reduction Targets and Policies

As early as 2005, California set ambitious goals to reduce greenhouse gas emissions. That year, Governor Arnold Schwarzenegger issued Executive Order S-3-05, which set goals for reducing greenhouse gas emissions to

- 1) 1990 levels by the year 2020, and
- 2) 80 percent below 1990 levels by 2050.¹³

The following year, **AB 32, The Global Warming Solutions Act of 2006**, provided a policymaking framework for achieving greenhouse gas reductions to meet the state's goals. AB 32 gives the California Air Resources Board (sometimes referred to as either CARB or the ARB) the authority to administer the law through a variety of tools, including the authority to regulate "sources"¹⁴ of greenhouse gas emissions that contribute to climate change.

Passenger vehicles and light trucks are two of the "sources" of greenhouse gas emissions subject to Air Resources Board regulation.¹⁵ In fact, such vehicles account for 30 percent of the greenhouse gas emissions in California.¹⁶

The Air Resources Board has taken regulatory steps to encourage cleaner vehicle technologies and increased use of low-carbon fuels to reduce greenhouse gas emission reductions from automobiles and light trucks.¹⁷ However, these measures alone cannot achieve the overall transportation-related reductions needed to achieve the state's goal to reduce California's greenhouse gas emissions to 1990 levels by the year 2020.¹⁸

SB 375 supplements these steps with measures to achieve further reductions in greenhouse gas emissions from transportation sources.¹⁹ SB 375 is predicated on the premise that greenhouse gas reductions from the regional plans required by SB 375 will result in Californians driving fewer miles as a consequence of changed land use patterns and improved transportation systems. These reduced vehicle miles driven by Californians will in turn result in reduced greenhouse gas emissions.²⁰

Who Is on the Air Resources Board?

The Air Resources Board (ARB) is part of the California Environmental Protection Agency. The ARB consists of 11 individuals appointed by the Governor on the basis of their demonstrated interest and proven ability in the field of air pollution control and their understanding of the needs of the general public in connection with air pollution problems.

- Six members must meet specific qualifications related science, medicine, and engineering.
- Two of the six are members of the public.
- Five members must be from regional air quality management or air pollution districts throughout the state. Because of the membership of these districts, this means that these five members have tended to be city and county elected officials who serve on specified air district boards.²¹

Land Use Planning Laws

Counties and cities begin the land use decision-making process by adopting and keeping up to date a “general plan.” A general plan is the comprehensive, long-term plan that guides the physical development of land within city and county borders.²² A general plan addresses many subjects including land uses, noise, transportation, conservation, housing, open-space, and public safety.²³

The general plan guides land use decisions, as well as decisions about the other subjects addressed in the general plan.²⁴ In addition, only cities and counties have the legal authority to approve what will be built on a vacant piece of property, how a building in need of rehabilitation will be transformed, and whether a piece of property is suitable for commercial, industrial, or residential use, as long as those decisions are consistent with the local agency’s general plan.²⁵

SB 375 does not change existing law that gives cities and counties land-use decision making authority.

California’s housing element law requires each city and county to adopt a housing element which explains how the city or county will accommodate its fair share of its area’s regional housing need.²⁶ The fair share number is referred to as a “regional housing needs allocation” (sometimes referred to by its acronym “RHNA”). A city or county’s regional housing needs allocation is allocated to it by its council of governments in its regional housing allocation plan.²⁷ A community’s regional housing

needs allocation number represents its fair share of the regional housing need for all economic segments of the community.

Federal Transportation Planning and Air Quality Policies

SB 375 ties into federal air quality and transportation planning requirements.

Federal law requires metropolitan planning organizations to prepare and adopt a **regional transportation plan** (sometimes referred to by its acronym "RTP").²⁸ Among other elements, a regional transportation plan includes a transportation improvement program which is a list of capital and non-capital transportation projects for the region and a financial element which explains how the region will allocate state and federal funds to these projects.

A metropolitan planning organization must review and update its regional transportation plan at least every four years in air quality nonattainment and maintenance areas; in attainment areas, the cycle is at least every five years.²⁹ Federal law explains what the plan must contain.³⁰ In addition, its regional transportation plan must conform to the regional transportation plan guidelines adopted by the California Transportation Commission.³¹

When a metropolitan planning organization in a non-attainment area adopts its plan, it must make a "conformity determination" in accordance with the Clean Air Act and the Environmental Protection Agency transportation conformity regulations.³² The purpose of the "conformity determination" is to ensure that federal funding and approval are given to transportation plans, programs, and projects that are consistent with the air quality goals in the federal Clean Air Act. These goals are established in a state implementation plan, which is adopted by the Air Resources Board.³³

"Conformity" means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of air quality goals.³⁴ A conformity determination must be based upon "the most recent planning assumptions"³⁵ in force at the time the conformity analysis begins. The determination must satisfy the requirements of the law using the planning assumptions available at the time the conformity analysis begins.³⁶ Assumptions must be derived from the estimates of current and future population, employment, travel, and congestion most recently developed by the metropolitan planning organization.³⁷

The federal government's approval process looks for land use and transportation decisions that will actually occur. Thus, under existing federal law, a regional transportation plan that projects air quality improvements must show how land use and transportation policies will achieve those improvements.³⁸

What Is A "Greenhouse Gas?"

Under AB 32, a "greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride."³⁹ AB 32 is based upon the premise that greenhouse gases pose a serious threat to the economic well-being, public health, natural resources, and the environment in California."⁴⁰

Key Elements of SB 375: Regional Greenhouse Gas Reduction Targets, Sustainable Communities Strategies and Alternative Planning Strategies

Background

Three key planning components make up SB 375's efforts to reduce regional transportation-related greenhouse gases:

- Preparation and adoption of regional greenhouse gas reduction targets;⁴¹
- Preparation of a sustainable communities strategy to achieve the target, which becomes part of the regional transportation plan;⁴²
- Preparation of a supplemental strategy (and "alternative planning strategy") if the sustainably communities strategy does not achieve the reductions called for in the regional targets.⁴³

This section explains each component, as well as the parameters for Air Resources Board review of the metropolitan planning organizations' strategies.

Regional Greenhouse Gas Emissions Reduction Targets

SB 375 directs the Air Resources Board to establish greenhouse gas emissions reduction targets for each of the state's metropolitan planning regions by September 30, 2010.⁴⁴ To help develop the regional targets, the Air Resources Board appointed a "Regional Targets Advisory Committee" comprised of 21 members with representatives from metropolitan planning organizations, air districts, local agencies, transportation agencies, the public, as well as representatives from homebuilders, environmental, affordable housing and environmental justice organizations.

As part of the regional target setting process, each of the major metropolitan planning organizations⁴⁵ recommended targets for its region for 2020 and 2035.⁴⁶ At this writing, the Air Resources Board staff is proposing targets that mostly agree with those proposed by the four largest metropolitan planning organizations. The exception is the 2035 target for the southern California area.

What If a Region is Not in One of the 18 Metropolitan Planning Organizations Covered in SB 375?

SB 375 covers the 18 metropolitan planning agencies in California, which account for the overwhelming majority of California residents, but not all. Other areas have county transportation planning agencies that also prepare and adopt regional transportation plans directed at achieving a coordinated and balanced regional transportation system.⁴⁷ These transportation plans have a number of elements, including a financial element.⁴⁸

In those financial elements, SB 375 requires both metropolitan planning organizations and county transportation planning agencies to consider certain financial incentives for cities or counties that have specified kinds of farmland, open space, habitat and park areas.⁴⁹ SB 375 also requires transportation planning agencies to consider financial assistance to counties relating to policy decisions for growth to occur within their cities.⁵⁰

Moreover, cities and counties outside of the boundaries of the 18 metropolitan planning organizations may still voluntarily adopt policies and programs to reduce greenhouse gas emissions through their land use and transportation planning activities. See www.ca-ilg.org/ClimatePractices for informational resources relating to that option.

Sustainable Communities Strategy

SB 375 requires metropolitan planning organizations to each adopt a “sustainable communities strategy” for the region.⁵¹ The purpose of the strategy is to explain how the region will achieve its assigned greenhouse gas emission reduction target, if there is a feasible way to do so.

The sustainable communities strategy must do the following things:

- Identify the general location of uses, residential densities, and building intensities within the region;⁵²
- Identify areas within the region sufficient to house all the population of the region over the course of the planning period;⁵³
- Identify areas within the region sufficient to house an eight-year projection of the regional housing need for the region;⁵⁴
- Identify a transportation network to service the transportation needs of the region;⁵⁵

- Gather and consider the best practically available scientific information regarding resource areas and farmland in the region;⁵⁶ and
- Provide a forecasted development pattern for the region, which, when integrated with the transportation network, and other transportation measures and policies, will reduce greenhouse gas emissions from automobiles and light trucks to achieve, if feasible,⁵⁷ the greenhouse gas emission reductions target approved by the Air Resources Board.⁵⁸

The process must include the public participation plan for development and adoption of the sustainable communities strategy (see discussion on page 16 for more information about the public participation process).⁵⁹

Information about the procedure for adopting, and contents of, a sustainable communities strategy can be found in the regional transportation plan guidelines adopted by the California Transportation Commission.⁶⁰

Alternative Planning Strategy

If a sustainable communities strategy is unable to achieve the region's greenhouse gas emissions reductions target, a metropolitan planning organization must prepare an "alternative planning strategy" which does the following:

- Demonstrates how the greenhouse gas emissions target would be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies;⁶¹
- Identifies the principal impediments to achieving the targets within the sustainable communities strategy;⁶² and
- Describes how the development patterns, measures and policies in the alternative planning strategy are the most "practicable" choices for achievement of the targets.⁶³

In addition, the strategy may include an alternative development pattern for the region that includes each of the components required to be included in the sustainable communities strategy described above.⁶⁴

The alternative planning strategy is not part of the regional transportation plan. Thus, the contents do not need to be "internally consistent" with the other elements of the regional transportation plan, such as the funding provisions. The federal law applicable to regional transportation plans continues to apply, "except to the extent that

compliance will prevent achievement of the greenhouse gas emission reduction targets."⁶⁵

California Metropolitan Planning Organizations⁶⁶

Metropolitan Planning Organization	Counties
Association of Monterey Bay Area Governments	Monterey, San Benito, Santa Cruz
Butte County Association of Governments	Butte *
Council of Fresno County of Governments	Fresno *
Kings County Association of Governments	Kings *
Kern Council of Governments	Kern *
Madera County Transportation Commission	Madera *
Merced County Association of Governments	Merced *
Metropolitan Transportation Commission/ Association of Bay Area Governments	Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, Sonoma **
Sacramento Area Council of Governments	El Dorado, Placer, Sacramento, Sutter, Yolo, Yuba
San Diego Association of Governments	San Diego
San Joaquin Council of Governments	San Joaquin *
San Luis Obispo Council of Governments	San Luis Obispo
Santa Barbara County Association of Governments	Santa Barbara
Shasta County Regional Transportation Planning Agency	Shasta
Southern California Association of Governments	Imperial, Los Angeles, Orange, Riverside, San Bernardino, Ventura ***
Stanislaus Council of Governments	Stanislaus *
Tulare County Association of Governments	Tulare *

Key:

* Two or more of these counties may work together to develop regional goals and/or multiregional sustainable communities strategy or alternative planning strategy. If goals are adopted, then each individual sustainable communities strategy must be consistent with goals.⁶⁷

** In the Bay Area, the responsibility for the sustainable communities strategy/alternative planning strategy is split between the Association of Bay Area Governments and the Metropolitan Transportation Commission.⁶⁸

*** In the Southern California Association of Government region, sub-regions may adopt sustainable communities strategies for inclusion in the region's sustainable communities strategy.⁶⁹

Air Resources Board Review of Sustainable Communities Strategies and Alternative Planning Strategies

Each metropolitan planning organization must submit its sustainable communities strategy and alternative planning strategy (if one is adopted) to the Air Resources Board for review. The Air Resources Board's authority to review the both plans is limited⁷⁰ to "acceptance or rejection of the ...determination that the strategy submitted would, if implemented, achieve the greenhouse gas emission reduction targets established by the state board."⁷¹

If the Air Resources Board determines that a region's submitted sustainable communities strategy would not achieve the targets, then the metropolitan planning organization must revise its initial sustainable communities strategy or adopt an alternative planning strategy and submit/re-submit, as appropriate.⁷² The key is for one of the strategies to achieve the region's greenhouse gas reduction targets.⁷³ The sustainable communities strategy remains a part of the regional transportation plan even if it does not achieve the region's targeted greenhouse gas reductions.

SB 375 and the California Environmental Quality Act

To provide an incentive for local agencies to conform their general plans and zoning to their region's sustainable communities strategy, SB 375 offers "streamlined" environmental review processes under the California Environmental Quality Act.⁷⁴ SB 375 does not otherwise require a city or county's general plan to be consistent with the sustainable communities strategy or alternative planning strategy.

About the California Environmental Quality Act

The California Environmental Quality Act (sometimes referred to by its acronym "CEQA")⁷⁵ is a state law which requires that state and local governments evaluate public and private projects to determine whether they will have a significant impact on the environment.⁷⁶ If significant impacts are identified, then the California Environmental Quality Act requires that state and local governments determine whether measures can be imposed on the projects which reduce the significant impact.⁷⁷

General Eligibility for Streamlined Review

Under SB 375, certain housing development projects with access to public transit are eligible for partial or full California Environmental Quality Act exemptions.⁷⁸ SB 375 refers to these projects as "transit priority projects" (sometimes referred to by the acronym TPPs).⁷⁹

In order to qualify as a transit priority project, the project must be consistent with an "accepted" sustainable communities strategy or alternative planning strategy.⁸⁰ "Accepted" means that the Air Resources Board has accepted the metropolitan planning organization's determination that the strategy would achieve the region's greenhouse gas emission reduction targets.⁸¹

The transit priority projects must also be at least 50 percent residential and must have a net density of at least 20 units per acre and be located within one-half mile of a major transit stop or high quality transit corridor.⁸²

Eligibility for Complete Exemption

To be entirely exempt from California Environmental Quality Act review, the “transit priority project” must meet numerous requirements. These include but are not limited to:

- Being adequately served by existing utilities,
- Meeting certain stringent energy efficiency and water conservation standards,
- Not impacting wetland or wildlife habitats
- Not impacting historic resources
- Includes affordable housing in the project or pays an in lieu fee; or provides public open space equal to or greater than 5 acres per 1,000 residents;
- Not exceeding eight acres or 200 residential units.⁸³

A transit priority project that meets these criteria (and others specified in SB 375) is called a “sustainable communities project.”⁸⁴ Such a project may proceed through the project review process without further environmental review under the California Environmental Quality Act.

Eligibility for Partial Exemption

If a transit priority project does not meet the detailed standards to qualify as a “sustainable communities project,” (and hence complete California Environmental Quality Act exemption), the project may still be eligible for streamlined environmental review.

To be eligible for such streamlined review, the project must incorporate all feasible mitigation measures, performance standards, or criteria set forth in prior applicable environmental review documents.⁸⁵ A transit priority project that meets these criteria (and others specified by SB 375) is eligible to be reviewed under a process called a “sustainable communities assessment.”⁸⁶

Unlike a full environmental analysis, a sustainable communities assessment need *not* include an analysis of the following aspects of the project:

- The project’s growth-inducing impacts;

- Cumulative or project-specific impacts from car and light-duty truck trips on greenhouse gas emissions or the regional transportation network; or
- Reduced residential density alternatives to address such project impacts.⁸⁷

The new “sustainable communities assessment” is similar to the California Environmental Quality Act’s mitigated negative declaration. Both require the agency approving the California Environmental Quality Act document to:

- 1) Adopt findings that all potentially significant or significant effects required to be identified in the initial study have been identified and analyzed; and
- 2) With respect to each significant effect, find that changes or alterations have been required in or incorporated into the project that avoid or mitigate the significant effects to a level of insignificance.⁸⁸

However, the California Environmental Quality Act’s requirement to evaluate the cumulative or project-specific impacts from passenger cars on greenhouse gas emissions may make it challenging to adopt a mitigated negative declaration.⁸⁹ The “sustainable communities assessment” addresses this challenge by relying on the project’s consistency with the region’s sustainable communities strategy or alternative planning strategy and bypasses this hurdle. This may create an incentive for project consistency.

General Note on Greenhouse Gas Analysis under the California Environmental Quality Act

The State of California provides guidance on what must be included in an environmental analysis; this guidance is known as the “CEQA Guidelines.”⁹⁰ In 2007, SB 97 amended the California Environmental Quality Act to require the guidelines to address greenhouse gas emissions.⁹¹ The changes to the guidelines have been made and became effective on March 18, 2010.

Local Officials' Roles in SB 375

Local Agency Officials Serve on Governing Boards of Metropolitan Planning Organizations

Each metropolitan planning organization is governed by a board of locally elected city council members and members of boards of supervisors.⁹² See sidebar on page 11 for the composition of metropolitan planning organizations.

Public Participation Requirements for Regional Transportation Plans

Under state and federal law, metropolitan planning organizations must adopt and implement a public participation plan for their regional transportation plans.⁹³ These requirements predate SB 375.

The goal of the public participation plan is to provide opportunities for those interested in the regional transportation plan to be involved. The plan must provide "a process for providing citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with reasonable opportunities to be involved in the metropolitan transportation planning process."⁹⁴

SB 375's Additional Public Participation Requirements

In addition to these requirements, the public participation plan for development and adoption of the sustainable communities strategy required by SB 375 must include all of the following:

- Outreach to encourage the active participation of a broad range of stakeholder groups in the planning process.
- Consultation with congestion management agencies, transportation agencies and transportation commissions.
- Informational meetings in each county within the region for members of the board of supervisors and city councils on the proposed sustainable communities strategy and alternative planning strategy, if any. The purpose of these meetings is to early input from locally elected officials including key land use and planning assumptions.⁹⁵

- Workshops in each county throughout the region to provide the public with the information and tools necessary to provide a clear understanding of the issues and policy choices.
- Preparation and circulation of a draft sustainable communities strategy and alternative planning strategy (if one is prepared) not less than 55 days before the regional transportation plan is adopted.
- At least three public hearings on the draft sustainable communities strategy and alternative planning strategy.⁹⁶

Resource for Further Information

Understanding SB 375: Public Participation Requirements describes the minimum public participation requirements regional and local agencies must meet in developing their transportation and housing plans under SB 375. This guide is available at www.ca-ilg.org/SB375andPublicParticipation.

Many agencies have chosen to go beyond these minimum requirements, particularly in the development of "regional blueprints," or long-range visions for growth that involve extensive public engagement efforts. For more information on tips for public participation in regional planning, visit www.ca-ilg.org/sb375PublicEngagement.

Frequently Asked Questions

1. *What are the differences between sustainable communities strategy and the alternative planning strategy?*

A sustainable communities strategy is a required element of regional transportation plans prepared by each of the 18 metropolitan planning organizations. Its goal is to achieve the region's target for reductions in greenhouse gas emissions by integrating land use planning and transportation improvements and programs.

A sustainable communities strategy must be included in the regional transportation plan whether or not it achieves the targeted reductions in greenhouse gas emissions.

An alternative planning strategy is prepared only if the sustainable communities strategy does not achieve the targeted reduction in greenhouse gas emissions. An alternative planning strategy must achieve the targeted reductions. An alternative planning strategy is not part of a regional transportation plan, however.

2. *Why Would a Sustainable Communities Strategy Not Meet Regional Greenhouse Reduction Targets?*

Two provisions of federal law may make it difficult—despite a metropolitan planning organization's best efforts—for a sustainable communities strategy to achieve the targeted greenhouse gas emissions reductions.

- A. **Reconciling Federal Requirements with State Aspirations:** Under the federal Clean Air Act, a metropolitan planning organization may not adopt a regional transportation plan (required by the federal Clean Air Act) unless it determines that the plan conforms to the national ambient air quality standards for ozone and carbon monoxide.⁹⁷ This determination must be based upon "the most recent planning assumptions."⁹⁸ These assumptions come from city and county general plans. Air quality professionals call this a "conformity determination."

The sustainable communities strategy is a part of the regional transportation plan. This means that if local planning assumptions do not (yet) support the changes that will be required to reduce vehicle miles traveled to achieve the targeted greenhouse gas emission reductions, then the conformity determination cannot be made.

- B. **Funding Availability:** Federal law does not permit a regional transportation plan to include a transportation project in the transportation implementation

plan unless the metropolitan planning organization is able to identify a likely source of funding for the project. Transportation and air quality planners call this a "financial constraints analysis." This means that if funding is not available for transportation projects that would be necessary to achieve the targeted greenhouse gas emission reductions, those projects cannot be included in the transportation implementation plan.

Neither the conformity determination nor the financial constraints analysis apply to the alternative planning strategy because the alternative planning strategy is not required to be part of the federal regional transportation plan. Thus, it is not subject to the federal law that regulates the contents of the regional transportation plan.

3. *What role does the Air Resources Board have in the implementation of SB 375?*

SB 375 gives the Air Resources Board two specific jobs.

- A. The Air Resources Board establishes the greenhouse gas emission reduction targets for each region served by a metropolitan planning organization. A draft of these targets was published on August 9, 2010. The final regional targets must be adopted by September 30, 2010. SB 375 specifies a process the Air Resources Board must follow in setting the regional greenhouse gas reduction targets.
- B. The Air Resources Board performs a limited review of each metropolitan planning organization's adopted sustainable communities strategy or alternative planning strategy. The Air Resources Board may only accept or reject a metropolitan planning organization's determination that the plan will achieve the region's target. The Air Resources Board may not issue conditional strategy approvals or otherwise interfere in any way with local decision-making. The Air Resources Board's review must be completed within 60 days.

4. *What impact, if any, does SB 375 have on transportation funding?*

SB 375 makes explicit existing authority⁹⁹ which allows a metropolitan planning organization to impose policies or conditions on transportation funding.

As an operational matter, SB 375 requires the regional transportation plan to be internally consistent. This means that the "action element" and the "financial element" of the regional transportation plan must be consistent with the sustainable communities strategy, since the sustainable communities strategy is part of the regional transportation plan.

As a consequence, decisions about transportation funds allocations must be consistent with the sustainable communities strategy, the strategy's proposed development patterns, and its transportation policies.

5. *What changes does SB 375 make to the housing element law in order to integrate housing and transportation planning?*

The main change made by SB 375 is to lengthen the housing element adoption cycle from five years to eight years. This means that instead of adopting a housing element every five years, SB 375 permits cities and counties to adopt housing elements every eight years.

The reason for the change is that regional transportation plans in non-attainment areas are adopted every four years. Adopting a housing element every eight years will allow the regional allocation of housing need to align with the development pattern and transportation policies included in the sustainable communities strategy.

Metropolitan planning organizations in areas that are in compliance with the federal Clean Air Act can choose to adopt a regional transportation plan every four years to make it easier for them to coincide with the new eight-year housing element period.

6. *Must a city or county amend its general plan to conform to the sustainable communities strategy or alternative planning strategy?*

No. Nothing in SB 375 requires a city or county to change its land use policies or decisions.

However, two parts of SB 375 *encourage* a city and county to do so.

- A. The provisions related to California Environmental Quality Act streamlining for transportation priority projects require that the transportation priority project (transit priority projects) receiving streamlined review be consistent with a sustainable communities strategy or alternative planning strategy that has been determined to achieve the greenhouse gas emissions reductions targets.

The idea is that streamlined California Environmental Quality Act review is attractive to local agencies or the development community, or both, and would therefore provide an incentive to bring the general plan in alignment with the sustainable communities strategy.

- B. A metropolitan planning organization's transportation funding decisions must be consistent with the sustainable communities strategy. Therefore, for a city or

county transportation project to be eligible for funding, it must be consistent with the sustainable communities strategy. Note that this is true whether or not the sustainable communities strategy achieves the targeted reductions in greenhouse gas emissions.

As a result, if a county or city wants to take advantage of streamlined environmental review or be eligible for transportation project funding through the regional transportation planning process, it might decide to make the necessary changes to its planning policies in order to be consistent with the metropolitan planning organization's strategy for reducing greenhouse gases.

7. *What is the relationship between SB 375 and AB 32 (the Global Warming Solutions Act of 2006)?*

AB 32 established the overall legal and policy framework to reduce California's greenhouse gas emissions to 1990 levels by the year 2020. The Air Resources Board may regulate sources of greenhouse gas emissions to achieve this goal. Sources include passenger vehicles and light trucks. The Climate Scoping Plan adopted by the Air Resources Board as part of its AB 32 duties specifically refers to SB 375 as part of the strategy for reducing greenhouse gas emissions from passenger vehicles and light trucks.

SB 375 is a separate law that requires metropolitan planning organizations to create strategies to achieve the state's greenhouse reduction targets through regional transportation planning and funding. It also offers streamlined review under the California Environmental Quality Act as an incentive for project proponents and counties and cities to conform their planning decisions to the region's strategies.

8. *Is there anything that can be done if a city, county, environmental organization or other person is dissatisfied with the sustainable communities strategy or alternative planning strategy?*

There are three ways sustainable communities strategy could be subject to legal challenge:

- (1) SB 375 requires the sustainable communities strategy to include certain specific information. If, for example, the sustainable communities strategy fails to include "areas within the region sufficient to house all the population of the region,"¹⁰⁰ then a challenge would ask a court to order the metropolitan planning organization to adopt a sustainable communities strategy that meets SB 375's statutory requirements.¹⁰¹

- (2) SB 375 requires a metropolitan planning organization to adopt a public participation plan for development of the sustainable communities strategy and alternative planning strategy that includes certain specific elements.¹⁰² If the metropolitan planning organization fails to adopt a public participation plan, or if the plan does not, for example, include “outreach efforts to encourage the active participation of a broad range of stakeholder groups in the planning process,” then a challenge would ask a court to order the metropolitan planning organization to adopt a sustainable communities strategy that meets SB 375’s statutory requirements.¹⁰³
- (3) Prior to adopting a sustainable communities strategy, the metropolitan planning organization must quantify the reduction in greenhouse gas emissions projected to be achieved by the sustainable communities strategy and identify the difference, if any, between the amount of the reduction and the target for the region established by the state board.¹⁰⁴ If substantial evidence in the record fails to support the metropolitan planning organization’s quantification, a challenge could be brought pursuant to section 1094.5 of the Code of Civil Procedure asking a court to order the metropolitan planning organization to rescind its findings.
9. *SB 375 requires that the “... sustainable communities strategy must set forth a forecasted development pattern for the region, which, when integrated with the transportation network, and other transportation measures and policies, will reduce the greenhouse gas emissions from automobiles and light trucks to achieve, if there is a feasible way to do so, the greenhouse gas emission reduction targets approved by the state board.”¹⁰⁵ What does the phrase “if there is a feasible way to do so” mean?*

“Feasible” is defined in SB 375 almost identically to the definition of “feasible” in the California Environmental Quality Act.¹⁰⁶ It means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.¹⁰⁷

The requirement of feasibility is one of the differences between a sustainable communities strategy and an alternative planning strategy. The alternative planning strategy must describe how the greenhouse gas emission reduction targets would be achieved by the alternative planning strategy, and why the development pattern, measures, and policies in the alternative planning strategy are the most “practicable” choices for achievement of the targets.¹⁰⁸ The alternative planning strategy is not subject to the “feasible” test.

10. *What if a metropolitan planning organization disagrees with the Air Resources Board about whether or not its sustainable communities strategy (or alternative planning strategy) achieves the regional targets?*

The Air Resources Board's review of a sustainable communities strategy or alternative planning strategy is limited to acceptance or rejection of the metropolitan planning organization's determination that the strategy submitted would, if implemented, achieve the greenhouse gas emission reduction targets established for the region. If the board rejects the decision of the metropolitan planning organization, then the metropolitan planning organization must revise its strategy or adopt an alternative planning strategy and resubmit to the Air Resources Board.

There are two potential sources of disagreement between a metropolitan planning organization and the Air Resources Board:

- A. If the Air Resources Board were to require that certain revisions be made in the sustainable communities strategy/alternative planning strategy, the Air Resources Board would be exceeding its statutory authority. The metropolitan planning organization would have the option of bringing an administrative mandate action to have a court so state.¹⁰⁹
- B. If the Air Resources Board rejected the metropolitan planning organization's determination that the sustainable communities strategy or alternative planning strategy would achieve the region's target for greenhouse gas reductions, the issue is whether the Air Resources Board's decision is based on substantial evidence. If the metropolitan planning organization believes not, it would have the option of bringing an administrative mandate action to have a court resolve the disagreement.¹¹⁰

11. *Is there a way a metropolitan planning organization can enhance the likelihood of Air Resource Board approval of its sustainable communities strategy?*

The metropolitan planning organization must submit a description to the Air Resources Board of the technical methodology it intends to use to estimate the greenhouse gas reductions resulting from its sustainable communities strategy/alternative planning strategy.¹¹¹ The Air Resources Board must respond to the metropolitan planning organization in a timely manner. The response must include a specific description of any aspects of the methodology it concludes will not yield accurate estimates of greenhouse gas emissions and suggest remedies. If a metropolitan planning organization can work together with the Air Resources Board to agree upon an acceptable technical methodology, there is less likelihood that the Air Resources Board will disagree with the metropolitan planning organization's ultimate conclusion.

Glossary

Air Resources Board: The California Air Resources Board is a state agency is comprised of representatives of regional air quality management districts and air pollution control districts (who are city and county officials), the automotive industry; physician member, the legal community, and three public members.¹¹² Its director is appointed by the Governor.¹¹³ Some of its major regulatory areas include climate change (including AB 32 implementation), energy and mobile sources of air pollution and particulate matter, smoke management; and toxics.¹¹⁴ The Air Resources Board also has some responsibilities in the implementation of SB 375.¹¹⁵

Alternative Planning Strategy: The alternative planning strategy must be prepared by a metropolitan planning organization if the sustainable communities strategy is unable to reduce greenhouse gas emissions to achieve the greenhouse gas emission reduction targets established by the Air Resources Board.¹¹⁶ The alternative planning strategy shows how those greenhouse gas emission targets would be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies.¹¹⁷ The alternative planning strategy is a separate document from the regional transportation plan, but it may be adopted concurrently with the regional transportation plan.¹¹⁸

California Environmental Quality Act (acronym CEQA-- pronounced "See-qwa"): The California Environmental Quality Act is a state law which requires that state and local governments evaluate public and private projects to determine whether they will have a significant impact on the environment.¹¹⁹ If significant impacts are identified, then the California Environmental Quality Act requires that state and local governments determine whether measures can be imposed on the project which can mitigate the significant impact.¹²⁰

Greenhouse Gas (GHG): This is a term used to refer to all of the following gases: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Greenhouse gases are measured in tons or million metric tons of carbon dioxide equivalents (sometimes indicated as MMT CO₂e).¹²¹

Metropolitan Planning Organization: A metropolitan planning organization is "the policy board of an organization created and designated to carry out metropolitan transportation planning."¹²² It is a regional organization governed by locally elected officials but is a creature of federal transportation law.¹²³ An metropolitan planning organization is the recipient of federal and state funds for region-wide and local transportation projects.¹²⁴ In turn, it determines which transportation projects will receive those funds.

The four largest metropolitan planning organizations are: Southern California Association of Governments (acronym: SCAG and covering the counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, Ventura and their cities); San Diego Association of Governments (acronym: SANDAG and covering San Diego counties and cities); Sacramento Council of Governments (acronym: SACOG and covering El Dorado, Placer, Sacramento, Sutter, Yolo, Yuba and twenty-two cities in those counties); and Metropolitan Transportation Commission (acronym MTC and covering the San Francisco Bay Area, including the nine counties and cities within that region).¹²⁵

Regional Housing Needs Allocation (acronym: RHNA--pronounced "Rē'-na"): Regional housing needs allocation is the fair share of the regional housing need for all economic segments of the community.¹²⁶ Each city and county in a region receives its allocation of the regional housing need from the council of governments for that region.¹²⁷ California law related to housing elements requires that each city and county include an inventory in its housing element that identifies sites that can accommodate its regional housing needs allocation.¹²⁸ If the inventory of existing sites cannot accommodate the need, then the housing element must include a program to re-zone sites to accommodate the need.¹²⁹

Regional Transportation Plan: A regional transportation plan is an action-oriented and pragmatic plan that presents clear, concise policy guidance to local and state officials about achieving a coordinated and balanced regional transportation system.¹³⁰ The regional transportation plan is adopted by metropolitan planning organizations and transportation planning agencies and is subject to both state and federal law.¹³¹

Statewide Greenhouse Gas Emission Limit: The maximum allowable level of statewide greenhouse gas emissions in 2020 as determined by the Air Resources Board.¹³² In December 2007, the Board approved the 2020 emissions limit of 427 million metric tons of carbon dioxide equivalent of greenhouse gases.¹³³

Sustainable Communities Strategy: The sustainable communities strategy is a mandatory element of the regional transportation plan which, when integrated with the transportation network and other transportation measures and policies, will reduce the greenhouse gas emissions from automobiles and light trucks in the region, if there is a feasible way to do so, to achieve the greenhouse gas emission reduction targets approved by the Air Resources Board.¹³⁴

The sustainable communities strategy identifies the general location of uses, residential densities, and building intensities in the region; identifies areas within the region sufficient to house all the population of the region; identifies areas within the region sufficient to house an eight-year projection of the regional housing need; identifies a transportation network to service the transportation needs of the region; gathers and

considers the best practically available scientific information regarding resource areas and farmland; and considers the state housing goals.¹³⁵

Endnotes

¹ The Sustainable Communities and Climate Protection Act of 2008 amended the Government and Public Resources Codes. Specifically it amended sections 65080, 65400, 65583, 65584.01, 65584.02, 65584.04, 65587, and 65588 of, and added sections 14522.1, 14522.2, and 65080.01 to, the Government Code. With respect to the Public Resources Code, it amended section 21061.3 of that code, added section 21159.28 to that code, and added Chapter 4.2 (commencing with Section 21155) to Division 13 of that code.

² That law added division 25.5 (commencing with section 38500) to the California Health and Safety Code, relating to air pollution (specifically greenhouse gas emissions).

³ See Section 5 of Chapter 354, Statutes of 2009 ("Chapter 728 of the Statutes of 2008 shall be known and may be cited as the Sustainable Communities and Climate Protection Act."), available at http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0551-0600/sb_575_bill_20091011_chaptered.html.

⁴ See Cal. Gov't Code § 65080(b)(2)(A).

⁵ See Cal. Gov't Code § 65080(b)(2)(B).

⁶ See Cal. Gov't Code § 65080(b)(2)(A)(i).

⁷ 23 U.S.C. § 134; 28 C.F.R. § 450.104.

⁸ 28 C.F.R. § 450.310.

⁹ 28 C.F.R. § 450.310.

¹⁰ 23 C.F.R. § 450.300.

¹¹ 23 C.F.R. § 450.308.

¹² With the exception of the Metropolitan Transportation Commission, each of the other major metropolitan planning organizations are also the councils of governments for their region. In the Bay Area, duties are split between the Association of Bay Area Governments (the council of governments) and the Metropolitan Transportation Commission (the metropolitan planning organization).

¹³ Executive Order S-3-05 Order #1, available at <http://gov.ca.gov/executive-order/1861/>.

¹⁴ AB 32 defines "greenhouse gas emission source" to mean "any source, or category of sources, of greenhouse gas emissions whose emissions are at a level of significance, as determined by the state board, that its participation in the program established [by AB 32] will enable the state board to effectively reduce greenhouse gas emissions and monitor compliance with the statewide greenhouse gas emissions limit." See Cal. Health & Safety Code § 38505(i).

¹⁵ See Cal. Health & Safety Code § 38505(i).

¹⁶ See Section 1(a) of SB 375, Chapter 728, Statutes of 2008, available at http://info.sen.ca.gov/cgi-bin/pagequery?type=sen_bilinfo&site=sen&title=Bill+Information.

¹⁷ 13 Cal. Code of Regs. § 2260; 17 Cal. Code of Regs. §§ 1961, 1961.1.

¹⁸ See Section 1(c) of SB 375, Chapter 728, Statutes of 2008, available at http://info.sen.ca.gov/cgi-bin/pagequery?type=sen_bilinfo&site=sen&title=Bill+Information.

¹⁹ Nothing in SB 375 reduces the authority of the Air Resources Board under AB 32 to adopt regulations to reduce greenhouse gas emissions from automobiles and light trucks through altering driving patterns. Pages C-74 through C-82 of the AB 32 Scoping Plan is called "Regional Transportation-Related Greenhouse Gas Targets." This section of the plan notes that SB 375 "reflects the importance of achieving significant additional greenhouse gas reductions from changed land use patterns and improved transportation to help achieve the goals of AB 32."

²⁰ See Section 1(c) of SB 375 (Chapter 728, Statutes of 2008), available at http://info.sen.ca.gov/cgi-bin/pagequery?type=sen_bilinfo&site=sen&title=Bill+Information.

²¹ Cal. Health & Safety Code § 39510 (specifying that of the five members from regional air districts, one must be a board member from the South Coast Air Quality Management District, one a board member from the Bay Area Air Quality Management District, one a board member from the San Joaquin Valley Unified Air Pollution Control District, one a board member from the San Diego County Air Pollution Control District, and one a board member of any other district.)

²² See Cal. Gov't Code § 65300.

²³ See Cal. Gov't Code § 65302.

²⁴ *Leshar Communications, Inc. v. City of Walnut Creek*, 52 Cal. 3d 531, 540 (1990); *Neighborhood Action Group for the Fifth District v. County of Calaveras*, 156 Cal. App. 3d 1176, 1183 (1984).

²⁵ See Cal. Const. art. XI, § 7.

²⁶ SB 375 also made changes to housing element law. The changes that have a direct impact on the climate change goals of the bill and are discussed in the guide. See, for example, the answer to frequently asked question 5 on page 21. Changes made to the required contents of the housing element are not directly related to the climate change goals of the bill and are not included as part of this guide.

²⁷ See Cal. Gov't Code 65584.05. There are twenty-five councils of governments in California. A council of governments is a joint powers authority of cities and counties established to perform certain mandates imposed by the federal and state governments.

²⁸ 23 C.F.R § 450.306.

²⁹ 23 C.F.R. § 450.322. A "non-attainment area" means any geographic region of the United States that has been designated by the federal Environmental Protection Agency as a nonattainment area under section 107 of the Clean Air Act for any pollutants for which National Ambient Air Quality Standards (NAAQS) exist. See 23 C.F.R. § 450.104.

³⁰ 23 U.S.C. § 134(h); 23 C.F.R. § 450.322(f).

³¹ See Cal. Gov't Code § 65080(d).

³² 23 C.F.R. § 450.322(l); 40 C.F.R. § 93.104.

³³ See Cal. Health & Safety Code § 39602 (designating Air Resources Board as the state agency responsible for the preparation of the state implementation plan required by the Clean Air Act (42 U.S.C., Sec. 7401 and following). See also 40 C.F.R. § 52.220 (California's State Implementation Plan).

³⁴ 23 C.F.R. § 450.104.

³⁵ See also Cal. Gov't Code § 65080(b)(2)(B).

³⁶ 23 C.F.R. § 450.104.

³⁷ 40 C.F.R. § 93.110. See discussion in conjunction with Frequently Asked Question No. 2.

³⁸ 40 C.F.R. § 93.110.

³⁹ See Cal. Health & Safety Code § 38505(g).

⁴⁰ See Cal. Health & Safety Code § 38501(a).

⁴¹ See Cal. Gov't Code § 65080(b)(2)(A).

⁴² See Cal. Gov't Code § 65080(b)(2)(B).

⁴³ See Cal. Gov't Code § 65080(b)(2)(I).

⁴⁴ On August 9, 2010, the Air Resources Board staff published "Proposed Regional Greenhouse Gas Emission Reduction Targets for Automobiles and Light Trucks pursuant to Senate Bill 375." The Staff Report will be considered by the Air Resources Board on September 23, 2010.

⁴⁵ Those organizations are SANDAG (San Diego Association of Governments); SCAG (Southern California Association of Governments); MTC (Metropolitan Transportation Commission); and SACOG (Sacramento Council of Governments).

⁴⁶ See Cal. Gov't Code § 65080(b)(2)(ii). The links to the recommendations forwarded by each of the metropolitan planning organizations can be found on the ARB website at <http://www.arb.ca.gov/cc/sb375/mpo/info.htm>.

⁴⁷ See Cal. Gov't Code § 65080(a). See also Cal. Gov't Code §§ 29532, 29532.1 (relating to funding for such agencies, which is the code section Government 65080(a) cross references).

⁴⁸ See Cal. Gov't Code § 65080(b)(4).

⁴⁹ See Cal. Gov't Code § 65080(b)(4)(C), which says:

The metropolitan planning organization or county transportation agency, whichever entity is appropriate, shall consider financial incentives for cities and counties that have resource areas or

farmland, as defined in Section 65080.01, for the purposes of, for example, transportation investments for the preservation and safety of the city street or county road system and farm to market and interconnectivity transportation needs. The metropolitan planning organization or county transportation agency, whichever entity is appropriate, shall also consider financial assistance for counties to address countywide service responsibilities in counties that contribute towards the greenhouse gas emission reduction targets by implementing policies for growth to occur within their cities.

See Cal. Gov't Code § 65080.01(a) and (b), for definitions of "resource areas" and "farmland."

⁵⁰ See Cal. Gov't Code § 65080(b)(4)(C) (requiring planning agencies to "also consider financial assistance for counties to address countywide service responsibilities in counties that contribute towards the greenhouse gas emission reduction targets by implementing policies for growth to occur within their cities.")

⁵¹ See Cal. Gov't Code 65080(b)(2)(B).

⁵² See Cal. Gov't Code § 65080(b)(2)(i). A sustainable communities strategy and alternative planning strategy does not regulate the use of land. See Cal. Gov't Code § 65080(b)(2)(j).

⁵³ See Cal. Gov't Code § 65080(b)(2)(B)(i).

⁵⁴ See Cal. Gov't Code § 65080(b)(2)(B)(ii). See Cal. Gov't Code § 65080(b)(2)(F), requiring that the council of government's regional housing needs allocation plan be consistent with the sustainable communities strategy. This means that the housing needs allocation plan must be integrated into the metropolitan planning organizations' sustainable communities strategy which seeks to achieve the targeted reductions in greenhouse gas emissions. Prior to SB 375, the housing needs allocation plan did not need to take into account the impact of the allocation of housing units throughout the region on greenhouse gas emissions.

See Cal. Gov't Code 65584.05.

⁵⁵ See Cal. Gov't Code § 65080(b)(2)(B)(iv).

⁵⁶ See Cal. Gov't Code § 65080(b)(2)(B)(v). See Cal. Gov't Code § 65080.01 for definitions of "resource areas" and "farmland."

⁵⁷ See Cal. Gov't Code § 65080.01(c) (defining "feasible").

⁵⁸ See Cal. Gov't Code § 65080(b)(2)(B)(vii).

⁵⁹ See Cal. Gov't Code § 65080(b)(2)(F).

⁶⁰ See <http://www.dot.ca.gov/hq/tpp/offices/orip/rtp/index.html>

⁶¹ See Cal. Gov't Code § 65080(b)(2)(H).

⁶² See Cal. Gov't Code § 65080(b)(2)(I).

⁶³ See Cal. Gov't Code § 65080(b)(2)(H)(iii).

⁶⁴ See Cal. Gov't Code § 65080(b)(2)(I).

⁶⁵ See Cal. Gov't Code § 65080(b)(2)(H)(iv). For further information on the interaction between the federal law and SB 375 requirements, please see frequently asked question 2 on page 19.

⁶⁶ This chart is taken from the paper prepared by the California State Association of Counties entitled "SB 375 (Steinberg): Addressing Greenhouse Gas Emissions from the Transportation Sector via Regional Transportation Plans."

⁶⁷ See Cal. Gov't Code § 65080(b)(2)(M).

⁶⁸ See Cal. Gov't Code §§ 65080(b)(2)(A)(i), (ii), (iii), (v), (vi) (ABAG's responsibilities) 65080(b)(2)(A)(viii) (MTC's responsibilities), 65080(b)(2)(A)(vii) (joint responsibilities).

⁶⁹ See Cal. Gov't Code § 65080(b)(2)(C).

⁷⁰ For example, the state Department of Housing and Community Development is charged with determining whether a city or county's housing element substantially complies with the housing element law. The Air Resources Board's review is limited to whether the sustainable communities strategies or alternative planning strategy achieve the reduction targets in accordance with the methodology used to measure emission reductions.

⁷¹ See Cal. Gov't Code § 65080(b)(2)(I)(ii).

⁷² See Cal. Gov't Code § 65080(b)(2)(j)(iii).

⁷³ See Cal. Gov't Code § 65080(b)(2)(I)(iii).

⁷⁴ See Cal. Pub. Res. Code §§ 21155, 21155.1, 21155.2, and 21155.3.

⁷⁵ See Cal. Pub. Res. Code § 21000 and following.

⁷⁶ See Cal. Pub. Res. Code § 21000 and following.

⁷⁷ See Cal. Pub. Res. Code § 21000 and following.

⁷⁸ See Cal. Pub. Res. Code § § 21155.1 and 21155.2.

⁷⁹ See Cal. Pub. Res. Code § 21155.

⁸⁰ See Cal. Pub. Res. Code § 21155(a).

⁸¹ See Cal. Gov't Code § 65080(b)(2)(J)(ii).

⁸² See Cal. Pub. Res. Code § 21155.

⁸³ See Cal. Pub. Res. Code § 21155.

⁸⁴ See Cal. Pub. Res. Code § 21155.1.

⁸⁵ See Cal. Pub. Res. Code § 21155.2(a).

⁸⁶ See Cal. Pub. Res. Code § 21155.2.

⁸⁷ See Cal. Pub. Res. Code § 21155.2.

⁸⁸ 14 Cal. Code of Regs. § 15074.

⁸⁹ 14 Cal. Code of Regs. § 15126.

⁹⁰ See Cal. Pub. Res. Code § 21083. The CEQA Guidelines are codified at 14 Cal. Code of Regs. § 15000 and following and are available online at: <http://www.califaep.org/resources/Documents/FINAL%20CEQA%20Handbook%20HighQuality.pdf> (2010 CEQA Statute and Guidelines).

⁹¹ See Cal. Pub. Res. Code § 21083.05. Appendix G to the CEQA Guidelines is the Environmental Checklist Form, used by public agencies to meet the requirements for an initial study when the criteria set forth in the CEQA Guidelines have been met. Appendix G includes a new Section VII – Greenhouse Gas Emissions and asks: “Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?” and “Would the project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?”

⁹² 23 C.F.R. 450.322.

⁹³ 23 C.F.R. 450.210.

⁹⁴ 23 C.F.R. § 450.322.

⁹⁵ See Cal. Gov't Code § 65080(b)(2)(E).

⁹⁶ See Cal. Gov't Code § 65080(b)(2)(E).

⁹⁷ 40 C.F.R. § 93.104(b).

⁹⁸ 40 C.F.R. § 93.111.

⁹⁹ See Cal. Gov't Code § 65080(b)(2)(B)(vii).

¹⁰⁰ See Cal. Gov't Code § 65080(b)(2)(B)(iii).

¹⁰¹ Such a challenge would be brought pursuant to section 1085 of the Code of Civil Procedure.

¹⁰² See Cal. Gov't Code § 65080(b)(2)(F).

¹⁰³ Such a challenge would be brought pursuant to section 1085 of the Code of Civil Procedure.

¹⁰⁴ See Cal. Gov't Code § 65080(b)(2)(H).

¹⁰⁵ See Cal. Gov't Code § 65080(b)(2)(B)(vii).

¹⁰⁶ 14 Cal. Code of Regs. § 15364.

¹⁰⁷ See Cal. Gov't Code § 65080.01(c).

¹⁰⁸ See Cal. Gov't Code § 65080(b)(2)(H)(iv).

¹⁰⁹ See Cal. Civ. Proc. Code § 1094.5.

¹¹⁰ See Cal. Code Civ. Proc. § 1094.5.

¹¹¹ See Cal. Gov't Code § 65080(b)(2)(I).

¹¹² See Cal. Health & Safety Code § 39510.

¹¹³ See Cal. Health & Safety Code § 39511.

¹¹⁴ See Cal. Health & Safety Code § 39003.

¹¹⁵ See Cal. Gov't Code § 65080(b)(2)(A).

¹¹⁶ See Cal. Gov't Code § 65080(b)(2)(I).

¹¹⁷ See Cal. Gov't Code § 65080(b)(2)(I).

¹¹⁸ See Cal. Gov't Code § 65080(b)(2)(I).

¹¹⁹ See Cal. Pub. Res. Code § 21080.1.

¹²⁰ See Cal. Pub. Res. Code § 21155.

¹²¹ See Cal. Health & Safety Code § 38505(g).

¹²² 23 U.S.C. § 134; 23 C.F.R. § 450.104.

¹²³ 23 C.F.R. § CFR § 450.300 (implementing the Federal Highway Administration Act and requiring that a metropolitan planning organization be designated for each urbanized area to carry out a continuing, cooperative, and comprehensive multimodal transportation planning process; the process must include the development of a metropolitan transportation plan and a transportation improvement program (TIP) that "encourages and promotes the safe and efficient development, management and operation of surface transportation systems....").

¹²⁴ 23 C.F.R. § 450.308.

¹²⁵ With the exception of the Metropolitan Transportation Commission, each of the other major metropolitan planning organizations (MPOs) are also the councils of governments (COG) for their region. In the Bay Area, duties are split between ABAG (the COG) and MTC (the MPO).

¹²⁶ See Cal. Gov't Code § 65584.05.

¹²⁷ See Cal. Gov't Code § 65584.05.

¹²⁸ See Cal. Gov't Code § 65583.2.

¹²⁹ See Cal. Gov't Code § 65583(c)(1).

¹³⁰ See Cal. Gov't Code § 65080(a).

¹³¹ See Cal. Gov't Code § 65080(a).

¹³² See Cal. Health & Safety Code § 38505(h).

¹³³ The Air Resources Board approved the limit by its Resolution 07-55 adopted December 6, 2007.

¹³⁴ See Cal. Gov't Code § 65080(b)(2)(B).

¹³⁵ See Cal. Gov't Code § 65080(b)(2)(B).



INSTITUTE FOR LOCAL GOVERNMENT

Promoting Good Government at the Local Level

Understanding AB 32's Impacts on Local Government: A Local Official's Guide

11/23/10

The Institute prepared this analysis of AB 32 to help local officials understand how the law applies to their cities and counties. We welcome feedback regarding what additional topics could be included in the frequently ask questions section, as well as any areas in the explanation that could be clearer. Comments may be transmitted via the following:

- Email to info@ca-ilg.org (put "AB 32 Guide Comments" in the subject)
- Fax us to 916.444.7535
- Mail to 1400 K Street, Suite 205, Sacramento, CA 95814

To view this document online, visit www.ca-ilg.org/AB32LegalAnalysis

The Institute for Local Government's mission is to promote good government at the local level with practical, impartial and easy-to-use resources for California communities.

Check out the Institute's website (www.ca-ilg.org) for resources in the following areas:

<ul style="list-style-type: none">• Public Service Ethics• Public Engagement• Intergovernmental Conflict Resolution	<ul style="list-style-type: none">• Sustainability and Climate Change• Healthy Communities• Land Use• Local Government 101
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All decisions about the final content and formatting of this publication were made by the Institute for Local Government.

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About This Guide

A key premise of the Institute for Local Government's sustainability program efforts is the value of *voluntary* action by local agencies to undertake sustainability policy initiatives. These include policies that will reduce greenhouse gas emissions, conserve energy and other natural resources, save money, and improve the health of local communities and their residents.

Toward that end, the Institute has developed a number of policy resources designed to help local officials evaluate what makes sense in their individual communities in these areas. See www.ca-ilg.org/climatechange.

Local agencies act within the policy context, however, of state and federal laws. For example, reducing greenhouse gas emissions is a priority at the state level in California. As a result, it is helpful for local officials as they ponder their own initiatives, to understand how state policy affects these areas.

This guide examines how the **California Global Warming Solutions Act of 2006 (sometimes known by its legislative identity: AB 32)**¹ specifically affects local agencies. The idea is, with this knowledge in hand, local agency officials can evaluate

- 1) What their agencies need to do to comply with state law, and
- 2) What additional sustainability activities may make sense for their local communities.

Companion Resource

Another law, **Sustainable Communities and Climate Protection Act of 2008** (sometimes known by its legislative identity: SB 375)², is worthy of local officials' attention as it relates to sustainability and greenhouse gas emissions reduction. For the Institute for Local Government analysis of that law's impacts on local agencies, see www.ca-ilg.org/SB375LegalAnalysis.

AB 32 Overview

"AB 32" is a state law enacted in 2006 relating to greenhouse gas emissions reductions. Its formal name is California Global Warming Solutions Act of 2006.³ It is a complex law, affecting a number of activities.

This legal analysis explains, in plain language terms, how AB 32 (and its implementation by the California Air Resources Board and other state agencies thus far) impacts local agency operations and policymaking in California. The analysis concludes with answers to frequently asked questions.

Legislative and Regulatory History

In 2006, the Legislature enacted and the Governor signed AB 32.⁴ AB 32 directs a state agency, the Air Resources Board, to develop a program to reduce by the year 2020 the amount of greenhouse gas emissions produced to the level of greenhouse gases that were produced in 1990. That law directs the Air Resources Board, to do three things:

- Establish a statewide greenhouse gas emissions limit to be achieved by 2020;⁵
- Identify the "maximum technologically feasible and cost-effective greenhouse gas emissions reductions" from certain sources or categories of sources of greenhouse gases;⁶ and
- Adopt rules and regulations that impose requirements upon these sources of greenhouse gases to achieve the statewide limit.⁷

The work of the Air Resources Board is ongoing. Some regulations to achieve the statewide greenhouse gas emissions limit have been adopted. AB 32 refers to these as "discrete early action items" (see sidebar on page 5). Other regulations have not yet been adopted. All regulations to achieve the statewide greenhouse gas emissions limit must be in place by January 1, 2011.⁸

What Is A "Greenhouse Gas?"

Under AB 32, a "greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride."⁹ AB 32 is based upon the premise that greenhouse gases pose a serious threat to the economic well-being, public health, natural resources, and the environment in California."¹⁰

Areas of Impact on Local Agencies

Three areas of Air Resources Board regulation have an immediate impact on cities and counties:

- Methane gas emissions reductions from municipal solid waste landfills; and
- Greenhouse gas emissions reductions from increased energy efficiency and use of renewable sources of electricity from municipally-owned electric utilities.
- Mandatory commercial recycling.

In addition to this regulatory activity, two other areas of Air Resources Board activity are of interest to local agencies:

- **Advisory Assistance:** The Air Resources Board has issued advisory assistance to local agencies to help them reduce greenhouse gas emissions from their own operations.
- **Land Use and Transportation Policy:** The Air Resources Board has weighed in on the importance of making a connection between land use and transportation policy.

After explaining the Air Resources Board's overall process for implementing AB 32, this guide explains each of the above impacts in more detail.

Who Is on the Air Resources Board?

The Air Resources Board (ARB) is part of the California Environmental Protection Agency. The ARB consists of 11 individuals appointed by the Governor on the basis of their demonstrated interest and proven ability in the field of air pollution control and their understanding of the needs of the general public in connection with air pollution problems.

- Four members must meet specific qualifications related science, medicine, and engineering.
- Two are members of the public.
- Five members must be from regional air quality management or air pollution districts throughout the state. Because of the membership of these districts, this means that these five members have tended to be city and county elected officials who serve on specified air districts.¹¹

Air Resources Board Activities in Implementing AB 32

When a bill becomes law, it creates a general state policy. Depending on the breadth and specificity of the policy, it then becomes the task of the executive branch of government to flesh out the specific measures necessary to accomplish the policy.

State agencies frequently accomplish this task by adopting regulations. To be legally valid, the regulations must be consistent with the law that they implement.¹² The regulatory process also creates opportunities for interest groups and the public to weigh in on the wisdom of various proposals.¹³ AB 32 is an example of a law in which the state Legislature directs a state agency, the Air Resources Board, to fill in the implementing details by adopting regulations.

For AB 32, these implementing details have several dimensions:

- **Statewide Greenhouse Gas Emissions Limit:** The Air Resources Board must adopt a statewide greenhouse gas emissions limit to reduce greenhouse gas emissions to 1990 levels by 2020.¹⁴
- **Mandatory Reporting:** The Air Resources Board must report and verify statewide greenhouse gas emissions on a yearly basis, beginning with the

sources or categories of sources that contribute the most to statewide emission levels.¹⁵

- **Reducing Greenhouse Gas Emissions:** The Air Resources Board must identify sources of greenhouse gases (or categories of sources) and then adopt regulations to achieve the "maximum technologically feasible and cost-effective" reductions of those emissions that are possible from those sources. The Air Resources Board must also monitor compliance with and enforce emission reduction measures it creates.¹⁶

"Early Action Items"

AB 32 directed the Air Resources Board to make a list available on June 30, 2007 of individual or "discrete early action" greenhouse gas emission reduction measures that could be implemented prior to full implementation of AB 32 on January 1, 2011.¹⁷ Statewide standards for reducing methane gas emissions at publically and privately owned municipal solid waste landfills were adopted as one of these "early action" measures.

The Air Resources Board adopted 44 such interim measures including:

- Fuel standards to reduce the "carbon intensity" of California's vehicle fuel by at least 10 percent by 2020. Low carbon fuels include bio fuels (such as ethanol and biodiesel) as well as hydrogen, electricity, and compressed natural gas;
- Restrictions on certain refrigerants for non-professional recharging of leaky automotive air conditioning systems;
- Reduction of greenhouse gases in consumer products used as propellants in aerosol products, tire inflators, electronics clearing, dust removal, handheld sirens, and other items;
- Tire inflation program to promote proper vehicle tire pressures (which increases fuel economy and hence reduces greenhouse gases). As owners of fleet vehicles, local agencies will be affected in the same way as other drivers when it comes to lower carbon fuels and will benefit from a redoubled effort to maintain proper tire pressures in vehicles;
- Reductions of perfluorocarbons (PFCs) from the semiconductor industry; and
- Providing an alternative source of power for cargo ships while they are docked in port.

These measures were incorporated into regulations that took effect January 1, 2010.¹⁸

Setting Greenhouse Gas Limits

On December 6, 2007, the Air Resources Board adopted the 1990 emissions level and 2020 statewide greenhouse gas emissions limit called for in AB 32.¹⁹ Prior to adopting the statewide greenhouse gas emissions limit, the Air Resources Board held four public workshops and nine technical discussions on its inventory of 1990 emissions. In addition, the Air Resources Board convened several technical workgroups on emissions estimates associated with electricity generation, cement, landfills and petroleum refining.²⁰

Achieving the limit means cutting approximately 30 percent from emissions levels projected for 2020, or about 15 percent from the 2010 level. On a per-capita basis, it means reducing the annual emissions of every man, woman, and child by 14 tons of carbon dioxide equivalents to reach a level of 10 tons of carbon dioxide equivalents per capita by 2020.²¹

Mandatory Reporting

On December 6, 2007, the Air Resources Board adopted a regulation requiring mandatory reporting of greenhouse gas emissions. Annual reporting is required of operators of cement plants, petroleum refineries of a certain size, operators of hydrogen plants with specified minimum emissions, operators of electricity generating facilities, retail providers of electricity to end users, and operators that produce in excess of 25,000 tons of CO₂ from stationary combustion sources.²²

Reducing Greenhouse Gases

Scope of Air Resources Board Authority

AB 32 defines the phrase "sources or categories of sources of greenhouse gases" very broadly. The definition includes:

*"...any source, or category of sources, of greenhouse gas emissions whose emissions are at a level of significance, as determined by the state board, that its participation in the program...will enable the state board to effectively reduce greenhouse gas emissions and monitor compliance with the statewide greenhouse gas emissions limit."*²³

This means that the Air Resources Board has authority to adopt regulations for a very wide range of residential, industrial, commercial, and governmental activities if emissions from those activities are at a "level of significance" as determined by the Air

Resources Board that their participation in the AB 32 program will reduce emissions consistent with the statewide limit.

Process

With the emissions reduction goal and mandatory reporting system in place, the work of the Air Resources Board then became determining how to achieve greenhouse gas emission reductions from a variety of sources or categories of sources of greenhouse gases consistent with the annual limit. To this end, AB 32 directed the Air Resources Board to prepare and approve a "scoping plan" by January 1, 2009 for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions by 2020.²⁴

In developing the "scoping plan," AB 32 requires the Air Resources Board to consult with all state agencies with jurisdiction over sources of greenhouse gases, including the Public Utilities Commission and the State Energy Resources Conservation and Development Commission on all elements of its plan that pertain to energy related matters.²⁵ The Air Resources Board was required to conduct a series of public workshops in regions of the state that have the most significant exposure to air pollutants, including communities with minority populations and communities with low-income populations.²⁶

On December 11, 2008, the Air Resources Board approved the Climate Change Scoping Plan required by AB 32.²⁷ Prior to approving the Climate Change Scoping Plan, the Air Resources Board and other state agencies involved with the process held extensive meetings on technical issues and policy proposals; public input was solicited other ways as well. According to the Board, 42,000 people submitted comments on the plan; these comments are posted online.²⁸

Resulting Policies

Key elements of the Climate Change Scoping Plan are:

- Expanding and strengthening existing energy efficiency programs.
- Achieving a statewide renewables energy mix of 33 percent for electricity generation.
- Developing a California cap-and-trade program.
- Establishing targets for transportation-related greenhouse gas emissions for regions throughout California and pursuing policies and incentives to achieve those targets.

- Adopting measures pursuant to existing laws including clean car standards and low carbon fuel standards.
- Creating targeted fees on high global warming potential gases and a fee to fund the administrative costs of state's long term commitment to AB 32 implementation.²⁹
- Adopting measures to increase commercial recycling.

The scoping plan must be updated every five years.³⁰

The Climate Change Scoping Plan includes a list of 69 measures for reducing greenhouse gas emissions.³¹ Some of the measures have been adopted as regulations by the Air Resources Board.³² Others will be adopted as regulations on or before January 1, 2011. Some measures are covered by existing laws or regulations already adopted by the Air Resources Board and other state agencies. Still other measures are advisory to various "sources or categories of sources of greenhouse gases."³³ Measures that are advisory do not have the force of law but rather are suggestions for voluntary behavior.

For those measures requiring further regulations, the Air Resources Board must adopt such regulations by January 1, 2011. These regulations would become operative beginning on January 1, 2012.³⁴ To meet these deadlines, the Air Resources Board is holding public hearings for each of the regulatory sectors covered.³⁵

AB 32 Implementation and Local Agencies

Three areas of Air Resources Board activity implementing AB 32 directly impact cities and counties:

- Reductions of methane gas emissions at city or county-owned municipal solid waste landfills;
- Reduction of greenhouse gas emissions from increased energy efficiency and use of renewable sources of electricity associated with the generation of electricity by municipal electric utility;
- Mandatory commercial recycling.

The first two areas affect some, but not all, cities and counties. Mandatory commercial recycling affects all cities and counties.

Solid Waste Landfills

State regulations require both private and public owners and operators of landfills that accept municipal solid wastes to install methane gas collection and control systems, if they have not already done so.³⁶ Those owners and operators who have existing methane gas collection and control systems must satisfy enhanced methane monitoring requirements to ensure that their system is operating optimally.³⁷ The reason solid waste landfills are regulated under AB 32 is because methane released from improperly managed landfills is a strong greenhouse gas.³⁸

The Air Resources Board has developed a "Landfill Emissions Tool Version 1.2" to help estimate emissions from landfills. The Tool is available for download at <http://www.arb.ca.gov/cc/landfills/landfills.htm>.

Municipal Electric Utilities

Electricity generation is the second largest source of greenhouse gas emissions.³⁹ Three main ways to reduce greenhouse gas emissions from energy generation are through:

1. Increases in energy efficiency by end users (such as business and residential customers);
2. Efficiencies in energy generation itself; and

3. Increasing the amount of energy produced by alternative sources, such as wind power, which do not generate as many greenhouse gases as conventional generating sources.⁴⁰

The Climate Change Scoping Plan outlines a wide range of measures designed to reduce greenhouse gas emissions related to energy.⁴¹ Some of the measures are based upon laws and regulations other than or in addition to AB 32.⁴²

An example is California's Renewable Portfolio Standard (also known as the RPS) adopted in 2002. It requires investor-owned utilities to have 20 percent of their generating capacity to come from renewable energy by a certain date.⁴³ Another law requires municipal electric utilities to set their own renewable portfolio targets.⁴⁴ State energy regulators⁴⁵ recommended in 2008 that the Air Resources Board require municipal electric utilities to meet a 20 percent renewable portfolio standard by 2017.⁴⁶

Besides identifying existing laws and programs that will reduce greenhouse gas emissions from energy generation, the Climate Change Scoping Plan includes a proposal to increase the Renewable Portfolio Standard to 33 percent. The proposal would apply to both investor-owned and municipal utilities. The Air Resources Board will consider the proposal in late September.⁴⁷

Mandatory Commercial Recycling

The Climate Change Scoping Plan includes a mandatory commercial recycling measure.⁴⁸ The goal of including increased business recycling in the Climate Change Scoping Plan is to reduce the amount of recyclable materials that are sent to a solid waste landfill and that potentially contribute to methane production.

Regulations Pending

In collaboration with another state agency, the Department of Resources, Recycling, and Recovery (the agency responsible for administering the state's solid waste laws known as CalRecycle), the Air Resources Board has published a draft of proposed regulations requiring commercial recycling.⁴⁹ CalRecycle will hold a workshop September 21, 2010 to receive input on the current version of the regulations.⁵⁰ The regulation timeline anticipates continuing the regulatory process through 2010, with final adoption of the regulations in 2011.

The *proposed* regulations require the following for businesses and cities and counties.

- By July 1, 2010, businesses (including multi-family housing with five units or more) that generate more than four cubic yards of waste and/or recyclables per week must either subscribe to a recycling service, send materials to a mixed

waste processing facility, or bring the recyclables to recycling facility themselves.⁵¹

- Effective July 1, 2012, every city and county must implement a commercial recycling program to divert solid waste generated by businesses that produce more than four cubic yards of solid waste and recyclables per week.⁵² The program may be implemented through adoption of a commercial recycling policy or ordinance, requiring a mandatory commercial recycling program through a franchise agreement or contract with a solid waste or recycling service provider, or requiring that commercial solid waste be sent to a mixed waste processing facility.⁵³
- The commercial recycling program must include education and outreach to covered businesses to insure that the program targets the appropriate components of the jurisdiction's commercial waste stream.⁵⁴
- The commercial recycling program must include identification and monitoring of businesses to assess if the businesses are subscribing to recycling services. If any business is not complying with the requirements, at a minimum, the local agency must notify the businesses that they are out of compliance.⁵⁵

The regulations authorize a city or county to do all of the following:

- Determine the specific material types included in the commercial recycling program;⁵⁶
- Include an enforcement component, specify design standards that specify storage space requirements for storage of recyclable materials, exemptions deemed appropriate by the jurisdiction for businesses not able to comply due to lack of storage space, non-generation of recyclable materials or lack of markets for recyclable materials;⁵⁷
- Enact a policy or program that goes beyond the minimum requirements included in the regulations, such as requiring all businesses to recycle, regardless of the quantity of solid waste generated.⁵⁸

Effect on Existing Local Commercial Recycling Programs

Some cities and counties already require commercial recycling. The proposed regulations do not require cities and counties that already require commercial recycling to implement a new or expanded program, as long as the local agency meets the education, outreach and monitoring criteria included in the regulations.⁵⁹ A city or

county must implement a commercial recycling program even if the jurisdiction has met its 50 percent per capita equivalent disposal target under AB 939.⁶⁰

Oversight by CalRecycle

CalRecycle will review the adequacy of a city or county's commercial recycling program as part of its periodic review of the jurisdiction's AB 939 program. In doing so, CalRecycle will consider whether the jurisdiction is "making a good faith effort" to implement its commercial recycling program.⁶¹

During its review, CalRecycle may include a number of factors in evaluating a jurisdiction's "good faith effort." These include

- The extent to which businesses have subscribed to recycling services.
- The extent to which the jurisdiction is conducting education and outreach activities to businesses.
- The extent to which the jurisdiction is monitoring business compliance and notifying those which are out of compliance.
- The availability of markets for collected recyclables.⁶²

Commercial Recycling Legislation Pending

At the end of the 2010 legislative session, the Legislature passed and sent to the Governor for consideration AB 737.⁶³ Among other provisions, AB 737 generally would put into law the proposed commercial recycling regulations being developed by CalRecycle. The Governor has until September 31, 2010 to sign or veto the bill.

Resources Available for Local Officials on Commercial Recycling Options

Information about commercial recycling resources and options is available on the Institute's website at www.ca-ilg.org/commercialrecycling. These resources include a sample annotated commercial recycling ordinance (<http://www.ca-ilg.org/samplecomrecycord>), examples of education materials, as well as past webinars offered by the Institute to assist cities and counties develop commercial recycling ordinances and education programs.

Information about the state's commercial recycling regulatory process, including the text of the proposed resolutions, is available at www.calrecycle.ca.gov/climate/Recycling/default.htm.

Local Agency Voluntary Efforts Encouraged

In the Climate Change Scoping Plan, the Air Resources Board refers to local agencies as “essential partners” in achieving California’s greenhouse gas reduction goals.⁶⁴ This is because of the influence and authority local agencies have over significant emission sources through their planning and permitting processes, local ordinances, outreach and education efforts, and operations.⁶⁵ The Climate Change Scoping Plan notes that “cities and counties will need to actively engage in implementing Scoping Plan measures at the local level and undertake other emission reduction actions that make sense for each community.”⁶⁶

The Scoping Plan also encourages local agencies to voluntarily adopt a reduction goal for municipal operations emissions to reduce greenhouse gas emissions by 15 percent from current levels by 2020.⁶⁷ To achieve such voluntary goals, the Air Resources Board encourages local agencies to use a “comprehensive approach” to reducing greenhouse gas emissions through their general plans or as part of a separate climate action plan. Key elements of any comprehensive plan should include:

1. Development of municipal and community-level greenhouse gas emissions inventories;
2. Adoption of local emissions reductions mechanisms and strategies;
3. Establishment of emission reduction goals; and
4. Development of an emissions reporting mechanism to track progress toward those goals.⁶⁸

To assist local agencies identify sources of greenhouse gas emissions produced by their facilities and operations, the Air Resources Board adopted the “Local Government Operations Protocol.”⁶⁹ This is a standardized set of guidelines to assist local agencies in quantifying and reporting greenhouse gas emissions associated with their public buildings, facilities, vehicles, wastewater and potable water treatment facilities, landfill and composting facilities, and other governments operations.⁷⁰

Resources Available for Local Officials on Voluntary Local Greenhouse Gas Reduction Options

Information about policy and operational opportunities for reducing greenhouse gas emissions locally is available at www.ca-ilg.org/climatepractices. This information includes a series of ten "best practice areas" along with options for local agencies to consider in each area. It includes links to resources on each option, as well as community stories describing other local agencies' experiences.

Transportation and Land Use: Action Deferred to SB 375 Implementation Process

“Transportation” is one of the “sectors” that is regulated as a “source of greenhouse gas emissions” in the Climate Change Scoping Plan.⁷¹ The Air Resources Board has the authority to regulate emissions from vehicles and light trucks because greenhouse gas emissions from the transportation sector are considered sources whose emissions are at a level of significance.⁷²

The Climate Change Scoping Plan explains that greenhouse gas emission reductions in the transportation sector will come from three strategies:

1. More efficient vehicles,
2. Lower-carbon fuels,⁷³ and
3. Reduction of vehicle use or vehicle miles traveled.⁷⁴

The Air Resources Board addresses the first two strategies as part of its regulatory authority over vehicle standards and fuel standards.⁷⁵

The number of vehicle miles traveled statewide increased about 35 percent from 1990 to 2007.⁷⁶ If current trends persist, vehicle miles traveled are expected to increase another 20 percent by 2020 and more than double between now and 2040.⁷⁷ The Air Resources Board envisions that emission reductions in this sector will be achieved through regulations, market mechanisms and land use policy.⁷⁸

One of the Climate Change Scoping Plan elements is Recommended Action T-3: Regional Transportation-Related Greenhouse Gas Targets.⁷⁹ The basis of Recommended Action T-3 is SB 375 (Steinberg) enacted into law as Chapter 728 in 2008. Senate Bill 375 requires ARB to develop, in consultation with metropolitan planning organizations, passenger vehicle greenhouse gas emission reductions targets for 2020 and 2035 by September 30, 2010.⁸⁰ Through the SB 375 process, regions will work to integrate development patterns, the transportation network, and other transportation measures and policies in a way that achieves greenhouse gas emission reductions while meeting regional planning objectives.⁸¹

According to the Air Resources Board, SB 375's implementation will be an important way of achieving significant additional greenhouse gas reductions from changed land use patterns and improved transportation to help achieve the goals of AB 32.⁸² The Air Resources Board calls for a partnership of local and regional agencies to create a sustainable vision for the future that accommodates population growth in a carbon

efficient way.⁸³ The Plan notes that integration of the sustainable communities strategies or alternative planning strategies with local general plans will be key to the achievement of these goals.⁸⁴ The Scoping Plan also includes suggestions for how the regions can meet their targeted reductions in greenhouse gas emissions.⁸⁵

More Detailed Analysis Available on SB 375

The Institute has prepared *A Local Official's Guide to Understanding California's Sustainable Communities and Climate Protection Act of 2008 (SB 375)* as a companion to this analysis of AB 32. The SB 375 guide explains, in plain language terms, what SB 375 means for metropolitan planning organizations and county and city officials, including how SB 375 relates to other laws promoting sustainability. Specifically, the guide explains the following:

1. The policy background against which SB 375 was adopted;
2. The metropolitan planning organizations' obligations to prepare plans: a) a "sustainable community strategy" and if necessary b) an "alternative planning strategy;"
3. How SB 375 connects local environmental analyses required under the California Environmental Quality Act to regional transportation plans; and
4. How city and county officials and their constituents can influence the regional planning process.

At the end, the guide also answers frequently asked questions and offers a glossary of key terms relating to SB 375. The guide is available at see www.ca-ilg.org/SB375LegalAnalysis.

Frequently Asked Questions

1. *Does AB 32 require cities and counties to reduce their levels of greenhouse gas emissions reductions?*

AB 32 itself does not *require* cities and counties to reduce levels of greenhouse gas emissions from their operations. However, AB 32 gives the Air Resources Board the authority to regulate “sources of greenhouse gas emissions” whose emissions are at a level of significance and, therefore, reductions from which will enable the Air Resources Board to help achieve the statewide greenhouse gas emissions limit.⁸⁶ The operations of cities and counties are “sources of greenhouse gas emissions.”⁸⁷ The Air Resources Board has the authority to identify and regulation which operations emit greenhouse gases at a level that should be reduced.

One such operation that the Air Resources Board has chosen to regulate is municipal solid waste landfills.⁸⁸ The Air Resources Board’s regulation relating to landfills took effect on June 21, 2010.⁸⁹ The regulations apply to both publically and privately owned and operated landfills.

The second operation that the Air Resources Board has chosen to regulate as a significant source of greenhouse gas emissions is electric utilities. The Air Resources Board will consider the adoption of regulations for municipal and publically-owned electric utilities on September 21, 2010.

The third area of Air Resources Board activity affecting cities and counties is mandatory commercial recycling.

Even if they are not required to do so, a number of cities and counties are voluntarily taking steps to reduce their greenhouse gas emissions and are encouraging their residents and businesses to do so. The Air Resources Board is also encouraging that cities and counties voluntarily to reduce emissions of greenhouse gases from their operations by 15 percent by the year 2020.⁹⁰

2. *What is the relationship between the Climate Change Scoping Plan and AB 32?*

AB 32 requires the Air Resources Board to prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions from sources or categories of sources of greenhouse gases by 2020.⁹¹ The Climate Change Scoping Plan is the Board’s “roadmap” for achieving the state’s 2020 emissions limit. It describes mandatory and voluntary measures to achieve the limit. The Climate Change Scoping Plan itself does not impose requirements to reduce greenhouse gas emissions. Rather, it identifies mandatory and voluntary measures and the timeline for their implementation.⁹²

3. *Does AB 32 take away or in any way interfere with local land use authority?*

No. There is no language in AB 32 that purports to preclude or direct land-use decision-making by cities and counties or that authorizes the Air Resources Board to make land use decisions.

Cities and counties enact laws pursuant to their "police power" authority under the California Constitution.⁹³ The source of cities and counties' authority to enact and enforce land use laws is the "police power."⁹⁴ In enacting and enforcing land use laws, California cities and counties do not rely on authority delegated by the general land use laws of the state or the federal government.⁹⁵

However, the Constitution imposes a significant limitation on the exercise of the "police power." Land-use laws (or any other law enacted under the police power) may not "conflict" with the general state laws.⁹⁶ A conflict exists if the local law duplicates or contradicts the state law, or enters an area fully occupied by the state law, either expressly or by legislative implication.⁹⁷

Ordinances of charter cities relating to matters that are municipal affairs may be valid even if they are in conflict with general state laws or even if state laws have been enacted to cover the same subject. In matters of statewide concern, however, charter cities remain subject to and controlled by applicable general laws.⁹⁸

Some state laws have preempted local land use authority. AB 32 charges the Air Resources Board with monitoring and regulating sources of emissions of greenhouse gases that cause global warming in order to reduce emissions of greenhouse gases.⁹⁹ Achieving greenhouse gas reductions from passenger vehicles is addressed by the Air Resources Board in the Climate Change Scoping Plan.¹⁰⁰ The Scoping Plan also states that it is important to achieve greenhouse gas reductions from changed land use patterns and improved transportation to help achieve the goals of AB 32.¹⁰¹ However, neither AB 32 nor the Scoping Plan direct cities and counties in how to change land use patterns or improve transportation.

The fact that the state has legislated on the same subject does not necessarily preclude a city or county from exercising its municipal power or authority. The county or city retains the prerogative to make additional regulations on the subject as long as the local agency's regulations are not inconsistent with the purpose of the state law.¹⁰²

Preemption occurs only where the Legislature has manifested an intention, expressly or by implication, wholly to cover the topic in statute (usually referred to as "occupying the field") so that any local regulations will necessarily be inconsistent with state law.¹⁰³ Although AB 32 "preempts" the field of reducing greenhouse gas emissions in order to

meet the 2020 goal, AB 32 does not preempt local land-use decision-making or require that land-use decisions be made to implement the goal.¹⁰⁴

4. *How does AB 32 affect city and county authority in solid waste and recycling?*

Cities and counties have two roles in solid waste and recycling:

1. They regulate collection of solid waste and recycling;¹⁰⁵ and
2. Some cities and counties own and operate collection services and municipal landfills.

With respect to the first role, state integrated waste management law addresses regulation of solid waste and recycling extensively as a general matter.¹⁰⁶ This law predates AB 32. It provides detailed standards and goals which a local agency must meet, while at the same time leaving decisions on how to meet those standards and goals to individual cities and counties.¹⁰⁷

The state's proposed mandatory commercial recycling regulations being prepared as a result of the Climate Change Scoping Plan¹⁰⁸ add to the level of regulation and will apply to all cities and counties' regardless of how they provide for solid waste and recycling collection services.¹⁰⁹ The Department of Resources, Recycling and Recovery, which administers the state's integrated waste management law, will be responsible for monitoring local agencies' compliance with the mandatory commercial recycling program.

However, as they now stand, the proposed regulations follow past practices of leaving it to the individual city or county to determine how best to meet the new commercial recycling requirements.¹¹⁰

With respect to the second role related to publically-owned municipal solid waste landfills, AB 32-related landfill methane control measures are of interest. These were one of the "discrete early action" items, which were adopted by the Air Resources Board in June 2009 and took effect January 1, 2010. These control measures set statewide standards for the installation and performance of active gas collection/control systems at uncontrolled municipal solid waste landfills. Publically (as well as privately)-owned and operated solid waste landfills must comply with the regulations.

5. *What happens if Proposition 23 passes in November 2010?*

Proposition 23 on the November, 2010 California statewide ballot would suspend AB 32 until the unemployment rate in California is 5.5 percent or less for four consecutive quarters.¹¹¹ Under Proposition 23, "suspending" AB 32 means that Proposition 23 would prohibit state agencies from proposing or adopting new regulations, or enforcing previously adopted regulations that would implement AB 32.¹¹²

What does this mean as a practical matter? The analysis turns on what state regulatory measures "implement AB 32." Courts read ballot measures according to the following rules:

- When a court interprets an initiative, if the language is not ambiguous, courts presume the voters intended the meaning apparent from that language. Courts may not add to the statute or rewrite it to conform to some assumed intent not apparent from that language.¹¹³
- In interpreting a voter initiative, a court applies the same principles that govern statutory construction, turning first to the language of the statute, giving the words their ordinary meaning.¹¹⁴
- When a court interprets an initiative, if the language is ambiguous, courts will look to statements of voter intent and ballot pamphlet arguments to resolve the ambiguity.¹¹⁵
- The initiative power is liberally construed to promote the democratic process.¹¹⁶

AB 32 added sections 38500 to 38598 to California's Health and Safety Code. If Proposition 23 passes, those sections would be suspended until the unemployment rate reached those specified in Proposition 23. Similarly, regulations adopted by the Air Resources Board based on the authority or directions in those sections of the Health and Safety Code would be suspended if Proposition 23 passes, as would any future regulations initiated as a result of AB 32.

Activities relating to climate change and reducing greenhouse gas emissions that implement laws *other than* AB 32 (in other words, laws other than those found in California Health and Safety Code sections 38500 to 38598) would not be affected by Proposition 23. Examples include:

- Vehicle fuel efficiency standards;¹¹⁷ and
- California Environmental Quality Act requirements relating to analyzing greenhouse gas emissions.¹¹⁸

Because these laws are not a part of AB 32 they would not be suspended by Proposition 23.

The Legislative Analyst estimates that more than one-half of the emission reductions from implementing the Climate Change Scoping Plan that are needed to meet the AB 32 greenhouse gas reduction goal would result from laws other than AB 32 and, therefore, not be suspended by Proposition 23.¹¹⁹

6. *Besides Proposition 23 are there other ways that implementation of AB 32 might be delayed?*

AB 32 gives the Governor the authority to adjust the deadlines for individual regulations to "the earliest feasible date" after the deadline established by AB 32. The Governor may exercise this authority "in the event of extraordinary circumstances, catastrophic events, or threat of significant economic harm." The adjustment period may not exceed one year unless the Governor makes an additional adjustment.¹²⁰

7. *Who enforces AB 32?*

The Air Resources Board monitors compliance with and enforces any rule, regulation, order, emission limitation, emissions reduction measure, or market-based compliance mechanism adopted by the Board.¹²¹ Violations are punishable by fines and injunctions.¹²²

8. *What is the relationship between AB 32 and the California Environmental Quality Act (CEQA)?*

AB 32 and the California Environmental Quality Act operate differently in how they affect the levels of greenhouse gases that are released into the atmosphere.

AB 32 is a wide-ranging measure that seeks to reduce the overall levels of greenhouse gas emissions. The Air Resources Board is responsible for developing regulations to implement AB 32 and for enforcing those regulations once they are adopted.¹²³ These regulations govern existing facilities and activities, as well as future facilities and activities. Whether a regulated entity is (or would be) in compliance with these regulations is one analysis.

Under the California Environmental Quality Act, local and state agencies analyze the impact of new projects on a variety of elements of the environment. The result of this analysis is whether a project will have a significant effect on the environment, including impacts related to greenhouse gas emissions generated by the project from transportation or energy consumption.¹²⁴ For example, a local agency may be pursuing

targets pursuant to a climate action plan where *any* additional greenhouse gas emissions result in a significant impact that needs to be mitigated.

If this is the case, public agencies must analyze whether steps can be taken that can mitigate the impacts identified. The environmental analysis helps decision-makers determine whether they want to approve the project or not.

This is a different analysis than whether a project would comply with the Air Resources Board's regulations--presumably the project would have to comply with the regulations in order to operate lawfully. The question an environmental analysis asks is whether, in spite of that compliance, there are alternative projects or mitigation measures that would reduce the impact of the project even further.

Thus, a project's emissions could still be significant even though they comply with state standards. Put another way, while compliance with AB 32 regulations may be considered among other factors in determining the significance of a project's emissions, such compliance is not determinative.¹²⁵

Glossary

Air Resources Board: The California Air Resources Board is a state agency is comprised of representatives of regional air quality management districts and air pollution control districts (who are city and county officials), the automotive industry; physician member, the legal community, and three public members.¹²⁶ Its director is appointed by the Governor.¹²⁷ Some of its major regulatory areas include climate change (including AB 32 implementation), energy and mobile sources of air pollution and particulate matter, smoke management; and toxics.¹²⁸ The Air Resources Board also has some responsibilities in the implementation of SB 375.¹²⁹

Alternative Planning Strategy: Under SB 375, an alternative planning strategy must be prepared by a metropolitan planning organization if the sustainable communities strategy is unable to reduce greenhouse gas emissions to achieve the greenhouse gas emission reduction targets established by the Air Resources Board.¹³⁰ For more information, see the Institute's guide on SB 375: www.ca-ilg.org/SB375LegalAnalysis.

California Environmental Quality Act (acronym CEQA-- pronounced "See-qwa"): The California Environmental Quality Act is a state law which requires that state and local governments evaluate public and private projects to determine whether they will have a significant impact on the environment.¹³¹ If significant impacts are identified, then the California Environmental Quality Act requires that state and local governments determine whether measures can be imposed on the project which can reduce the significant impact.¹³²

Climate Action Team (CAT): Established by Executive Order S-3-05 on June 1, 2005,¹³³ comprised of the representatives of the following state agencies: California Environmental Protection Agency; Business, Transportation and Housing Agency; Food and Agriculture; Resources; Air Resources Board; Energy Commission; Public Utilities Commission. The CAT coordinates statewide efforts to implement global warming emission reduction programs and the state's Climate Adaptation Strategy.¹³⁴

Greenhouse Gas (GHG): This is a term used to refer to all of the following gases: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Greenhouse gases are measured in tons or million metric tons of carbon dioxide equivalents (sometimes indicated as MMTCO₂e).¹³⁵

Greenhouse Gas Emission Source: Any source, or category of sources, of greenhouse gas emissions whose emissions are at a level of significance, as determined by the state Air Resources Board, that its participation in the AB 32 program will enable the state board for effectively reduce greenhouse gas emissions and monitor compliance with the

statewide greenhouse gas emissions limit.¹³⁶ The transportation sector and electricity generation account for the top two largest sources of greenhouse gas emissions.¹³⁷

Metropolitan Planning Organization: A metropolitan planning organization is “the policy board of an organization created and designated to carry out metropolitan transportation planning.”¹³⁸ It is a regional organization governed by locally elected officials but is a creature of federal transportation law.¹³⁹ A metropolitan planning organization is the recipient of federal and state funds for region-wide and local transportation projects.¹⁴⁰ In turn, it determines which transportation projects will receive those funds. Metropolitan planning organizations have substantial responsibilities under SB 375. For more information, see the Institute’s guide on SB 375: www.ca-ilg.org/SB375LegalAnalysis .

Regional Transportation Plan: A regional transportation plan is an action-oriented and pragmatic plan that presents clear, concise policy guidance to local and state officials about achieving a coordinated and balanced regional transportation system.¹⁴¹ The regional transportation plan is adopted by metropolitan transportation organizations and is subject to both state and federal law.¹⁴²

SB 375: Senate Bill 375¹⁴³ authored by Senator Darrell Steinberg that requires each of the 18 metropolitan planning organizations in California to include a sustainable communities strategy in the region’s transportation plan. The goal of the sustainable communities strategy is to achieve the greenhouse gas emissions reduction targets established for the region by the ARB. For more information, see the Institute’s guide on SB 375: www.ca-ilg.org/SB375LegalAnalysis.

Statewide Greenhouse Gas Emission Limit: The maximum allowable level of statewide greenhouse gas emissions in 2020 as determined by the Air Resources Board.¹⁴⁴ In December 2007, the Board approved the 2020 emissions limit of 427 million metric tons of carbon dioxide equivalent of greenhouse gases.¹⁴⁵

Sustainable Communities Strategy: The sustainable communities strategy is a mandatory element of the regional transportation plan which, when integrated with the transportation network and other transportation measures and policies, will reduce the greenhouse gas emissions from automobiles and light trucks in the region, if there is a feasible way to do so, to achieve the greenhouse gas emission reduction targets approved by the Air Resources Board.¹⁴⁶ For more information, see the Institute’s guide on SB 375: www.ca-ilg.org/SB375LegalAnalysis.

Endnotes

¹ That law added division 25.5 (commencing with section 38500) to the California Health and Safety Code, relating to air pollution (specifically greenhouse gas emissions). The Sustainable Communities and Climate Protection Act of 2008 amended the Government and Public Resources Codes. Specifically it amended sections 65080, 65400, 65583, 65584.01, 65584.02, 65584.04, 65587, and 65588 of, and added sections 14522.1, 14522.2, and 65080.01 to, the Government Code. With respect to the Public Resources Code, it amended section 21061.3 of that code, added section 21159.28 to that code, and added Chapter 4.2 (commencing with Section 21155) to Division 13 of that code.

² The Sustainable Communities and Climate Protection Act of 2008 amended the Government and Public Resources Codes. Specifically, it amended sections 65080, 65400, 65583, 65584.01, 65584.02, 65584.04, 65587, and 65588 of, and added section 14522.1, 14522.2, and 65080.01 to, the Government Code. With respect to the Public Resources Code, it amended section 21061.13 of that code, and added section 21159.28 to that code, and added Chapter 4.2 (commencing with Section 21155) to Division 13 of that code.

³ See Cal. Health & Safety Code § 38500 and following.

⁴ AB 32's enactment followed Governor Schwarzenegger's issuance of an executive order in 2005 establishing certain greenhouse gas reduction goals for the state. Executive Order S-3-05 Order #1, available at <http://gov.ca.gov/executive-order/1861/> (creating goals to reduce greenhouse gas emissions to 1990 levels by 2020 and to further reduce greenhouse gas levels to 80 percent below 1990 levels by 2050). The Governor's executive order was a statement of executive department policy issued pursuant to the authority granted in California Constitution Article V, section 1. AB 32 is the legislative implementation of the policy goals established in the executive order.

⁵ See Cal. Health & Safety Code § 38550.

⁶ See Cal. Health & Safety Code § 38562(a).

⁷ See Cal. Health & Safety Code § 38562.

⁸ See Cal. Health & Safety Code § 38562(a).

⁹ See Cal. Health & Safety Code § 38505(g).

¹⁰ See Cal. Health & Safety Code § 38501(a).

¹¹ Cal. Health & Safety Code § 39510 (specifying that of the five members from regional air districts, one must be a board member from the South Coast Air Quality Management District, one a board member from the Bay Area Air Quality Management District, one a board member from the San Joaquin Valley Unified Air Pollution Control District, one a board member from the San Diego County Air Pollution Control District, and one a board member of any other district).

¹² See Cal. Gov't Code § 11340 and following. A state agency, the Office of Administrative Law, is responsible for making sure regulations that are proposed are authorized by law, and are clear and necessary.

¹³ See Cal. Gov't Code §§ 11346 - 11348.

¹⁴ See Cal. Health & Safety Code § 38550.

¹⁵ See Cal. Health & Safety Code § 38530(b)(1).

¹⁶ See Cal. Health & Safety Code § 38580.

¹⁷ See Cal. Health & Safety Code § 38560.5.

¹⁸ See titles 13 and 17 of the California Code of Regulations. Title 13 includes regulations relating to mobile sources and fuels. Title 17 includes regulations relating to the other early action measures.

¹⁹ The statewide emissions limit adopted by the Air Resources Board is 427 million metric tons of carbon dioxide equivalent (MMTCO₂E) of greenhouse gases. The limit was adopted by Air Resources Board Resolution 07-55 on December 6, 2007.

²⁰ "California 1990 Greenhouse Gases Emissions Level and 2020 Emissions Limit," the Staff Report to the Air Resources Board, page 11, November 16, 2007 available at http://www.arb.ca.gov/cc/inventory/pubs/reports/staff_report_1990_level.pdf.

²¹ Climate Change Scoping Plan, page ES-1.

²² Climate Change Scoping Plan, page ES-3.

²³ See Cal. Health & Safety Code § 38505(i).

²⁴ See Cal. Health & Safety Code § 38561.

²⁵ See Cal. Health & Safety Code § 38561(a).

²⁶ See Cal. Health & Safety Code § 38561(g).

²⁷ See Air Resources Board Resolution 08-47.

²⁸ See <http://www.arb.ca.gov/lispub/comm/bccommlog.php?listname=scopingpln08>.

²⁹ See Climate Change Scoping Plan, at page ES-3.

³⁰ See Cal. Health & Safety Code § 38561(h).

³¹ A list of these measures including a timeline for implementation and whether they will be adopted by regulation or are only advisory can be found at http://www.arb.ca.gov/cc/scopingplan/sp_measures_implementation_timeline.pdf.

³² See Early Action Items on Page 8. More information about early action items is available at <http://www.arb.ca.gov/cc/ccea/ccea.htm>.

³³ See Cal. Health & Safety Code § 38505(i).

³⁴ See Cal. Health & Safety § 38562(a).

³⁴ See Cal Health & Safety § 38562(a).

³⁵ See Cal Health & Safety § 38562(a).

³⁶ 17 Cal. Codes of Regs. § 95464(a).

³⁷ Regulations affecting the operations of municipal solid waste landfills can be found at 17 Cal. Code of Regs. §§ 95460-95476. The regulations took effect on June 17, 2010.

³⁸ See CalRecycle Methane Capture Resource Page at <http://www.arb.ca.gov/cc/landfills/landfills.htm> and information at <http://www.calrecycle.ca.gov/lea/Conference/07Conf/Presentations/Day1/GlobalWarmng/Walker.pdf>.

³⁹ See Climate Change Scoping Plan, page C-88.

⁴⁰ See generally pages C-90 – C-96 of the Scoping Plan.

⁴¹ See pages C-87 – 126 of the Climate Change Scoping Plan for an excellent discussion of California's overall energy efficiency and renewable energy programs and how they relate to the Climate Change Scoping.

⁴² Examples include a law adopted in 2007 that requires the California Energy Commission to adopt minimum energy efficiency standards for general purpose lighting that will reduce electricity consumption by 50 percent for indoor residential lighting and by 25 percent for indoor commercial lighting, see Cal. Pub. Res. Code § 25402.5.4 and following, and a law that directs California's investor and municipally-owned electric utilities to invest in electricity generation systems that produce lower-carbon dioxide emissions. See Cal. Code of Regs. §§ 2900-13 and Cal. Public Utilities Code §§ 340-341.

⁴³ See generally Cal. Pub. Util. Code §§ 387, 390.1, 399.25 and 399.11 and following, and 635 and Cal. Pub. Res. Code §§ 25620.1, 25740, 25741, 25742, 25743, 25746, 25751, 25470.5, 25744.5. In 2002, SB 1087 enacted the initial RPS that required the 20 percent target to be reached by 2017. See Cal. Pub. Res. Code §§ 387, 390.1, 399.25 and 399.1. Subsequently, SB 107 changed the deadline to 2010. See Cal. Pub. Res Code § 25740. For more information, see <http://www.energy.ca.gov/portfolio/>; <http://www.cpuc.ca.gov/PUC/energy/Renewables/overview>.

⁴⁴ See Cal. Pub. Util. Code § 387 (a).

⁴⁵ The California Public Utilities Commission and the California Energy Commission.

⁴⁶ See California Energy Commission 100-2008-002-CMF.

⁴⁷ Proposed 17 Cal. Code of Regs. § 97006.

⁴⁸ See Climate Change Scoping Plan, at page C-161, Measure RW-3.

⁴⁹ The proposed regulations are available at <http://www.calrecycle.ca.gov/Actions/PublicNoticeDetail.aspx?id=177&aiid=183> - The proposed regulations are in Attachment 2 at bottom of the page.

⁵⁰ Information about the September 21 workshop is available at <http://www.calrecycle.ca.gov/Calendar/EventDetail.aspx?ID=2679&DS=ACES>.

⁵¹ See Proposed 17 Cal. Code of Regs. §§ 9XXX1(a)(4), 9XXX2(a); 9XXX3.

⁵² See Proposed 17 Cal. Code of Regs. § 9XXX3(a).

⁵³ See Proposed 17 Cal. Code of Regs. § 9XXX3(e).

⁵⁴ See Proposed 17 Cal. Code of Regs. § 9XXX3(g).

⁵⁵ See Proposed 17 Cal. Code of Regs. § 9XXX3(h).

⁵⁶ See Proposed 17 Cal. Code of Regs. § 9XXX3(b).

⁵⁷ See Proposed 17 Cal. Code of Regs. §§ 9XXX3(i).

⁵⁸ See Proposed 17 Cal. Code of Regs. § 9XXX2(c).

⁵⁹ See Proposed 17 Cal. Code of Regs. § 9XXX3(c).

⁶⁰ See Proposed 17 Cal. Code of Regs. § 9XXX4(c).

⁶¹ See Proposed 17 Cal. Code of Regs. § 9XXX4(c).

⁶² See Proposed 17 Cal. Code of Regs. § 9XXX4(c)(1), (2), (3), (4).

⁶³ For the text of AB 737, see http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0701-0750/ab_737_bill_20100820_amended_sen_v92.pdf.

⁶⁴ California Air Resources Board, AB 32 Scoping Plan, at page 26.

⁶⁵ California Air Resources Board, AB 32 Scoping Plan, at page 26.

⁶⁶ California Air Resources Board, AB 32 Scoping Plan, at page C-49.

⁶⁷ California Air Resources Board, AB 32 Scoping Plan, at page 27.

⁶⁸ California Air Resources Board, AB 32 Scoping Plan, at page 27.

⁶⁹ Available at <http://www.arb.ca.gov/cc/protocols/localgov/localgov.htm>.

⁷⁰ Available at http://www.arb.ca.gov/cc/protocols/localgov/pubs/lgo_protocol_v1_1_2010-05-03.pdf.

⁷¹ Climate Change Scoping Plan, at page C-74.

⁷² See Cal. Health & Safety Code § 38505(i).

⁷³ See 17 Cal. Code of Regs. §§ 95480-95489.

⁷⁴ Climate Change Scoping Plan, at page C-74.

⁷⁵ See 13 Cal. Code of Regs. § 2260; 13 Cal. Code of Regs. §§ 1961; 1961.1.

⁷⁶ Climate Change Scoping Plan, at page C-74.

⁷⁷ Climate Change Scoping Plan, at page C-56.

⁷⁸ Climate Change Scoping Plan, at page C-55.

⁷⁹ Climate Change Scoping Plan, at pages C-74-84.

⁸⁰ See Cal. Gov't Code § 65080(b)(2)(A).

⁸¹ See Cal. Gov't Code § 65080(b)(2)(B).

⁸² Climate Change Scoping Plan, at page C-74.

⁸³ Climate Change Scoping Plan, at page C-75.

⁸⁴ Climate Change Scoping Plan, at page C-75.

⁸⁵ Climate Change Scoping Plan, at pages C-80 - C-84.

⁸⁶ See Cal. Health & Safety Code § 38505(i).

⁸⁷ See Cal. Health & Safety Code § 38505(i).

⁸⁸ 17 Cal. Code of Regs. §§ 95460-95476.

⁸⁹ 17 Cal. Code of Regs. §§ 95460-95476.

⁹⁰ See Climate Scoping Plan, at page 27.

⁹¹ See Cal. Health & Safety § 38561.

⁹² The Scoping Plan Measures Implementation Timeline can be found at http://www.arb.ca.gov/cc/scopingplan/sp_measures_implementation_timeline.pdf.

⁹³ See Cal. Const. art. XI, § 7 ("A county or city may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws").

⁹⁴ See *DeVita v. County of Napa*, 9 Cal. 4th 763 (1995).

⁹⁵ *DeVita*, 9 Cal. 4th at page 765.

⁹⁶ See Cal. Const. art. XI, § 7.

⁹⁷ See *Morehart v. County of Santa Barbara*, 7 Cal. 4th 725, 727(1994); *Sherwin-Williams Co. v. City of Los Angeles*, 4 Cal. 4th 893, 897 (1993). When such a conflict occurs, it is said that the state law “preempts” the local law.

⁹⁸ See *City of Los Angeles v. Department of Health*, 63 Cal. App. 3d 473 (1976).

⁹⁹ See Cal. Health & Safety § 38510.

¹⁰⁰ Climate Change Scoping Plan, at page C-74.

¹⁰¹ Climate Change Scoping Plan, at page C-74.

¹⁰² *DeAryan v. Butler*, 119 Cal. App. 2d 674 (1973).

¹⁰³ *In re Hubbard*, 62 Cal. 2d 119, 126 (1964); *IT Corp. v. Solano County Board of Supervisors*, 1 Cal. 4th 81, 89 (1991); *Sherwin-Williams Co. v. City of Los Angeles*, 4 Cal. 4th 893, 897 (1993).

¹⁰⁴ The Climate Change Scoping Plan includes advice and suggestions about the role the local governments will play in the regional planning process to reach passenger vehicle greenhouse gas reduction targets at page C-75.

¹⁰⁵ See Cal. Pub. Res. Code §§ 40058 and 40059.

¹⁰⁶ See Cal. Pub. Res. Code § 40000 and following.

¹⁰⁷ See Cal. Pub. Res. Code § 40000 and following.

¹⁰⁸ Available at <http://www.calrecycle.ca.gov/climate/Recycling/default.htm>.

¹⁰⁹ See description of the proposed regulations at pages 13 - 15 of this guide.

¹¹⁰ See Proposed Regulation 17 Cal. Code of Regs. § 9XXX3(i).

¹¹¹ The text of Proposition 23 is available at:
http://ag.ca.gov/cms_attachments/initiatives/pdfs/i902_initiative_09-0104.pdf.

¹¹² Proposition 23 would add Section 38600(a) to the California Health and Safety Code.

¹¹³ See *People v. Superior Court (Pearson)*, 48 Cal. 4th 564 (2010).

¹¹⁴ See *People v. Florez*, 132 Cal. App. 314 (2005) *reh'g denied, re.v denied*.

¹¹⁵ See *Florez*, 132 Cal. App. 4th 314 (2005), *reh'g denied, rev. denied*.

¹¹⁶ See *Santa Clara County Local Transportation Authority v. Guardino*, 11 Cal.4th 220, 12 Cal.4th 344E (1995), *modified on denial of rehearing*.

¹¹⁷ Cal. Health & Safety Code §§ 42823 and 43018.5. After delay due to legal challenges, the U.S. Environmental Protection Agency granted California the authority to implement greenhouse gas emission reduction standards for new passenger cars, pickup trucks and sport utility vehicles on June 30, 2009.

¹¹⁸ Cal. Pub. Res. Code § 21000 and following.

¹¹⁹ The Legislative Analyst's analysis of Proposition 23 can be found at:
<http://www.voterguide.sos.ca.gov/pdf/english/23-title-summ-analysis.pdf>.

¹²⁰ Cal. Health & Safety Code § 38599.

¹²¹ Cal. Health & Safety Code § 38580.

¹²² Cal. Health & Safety Code § 38580.

¹²³ Cal. Health & Safety Code § 38560.

¹²⁴ Cal. Pub. Res. Code § 21083.05. In addition, the State of California provides guidance on what must be included in an environmental analysis; this guidance is known as the "CEQA Guidelines." In 2007, SB 97 (See Cal. Pub. Res. Code § 21083.05) amended the California Environmental Quality Act to require the guidelines to address greenhouse gas emissions. The changes to the guidelines have been made and became effective on March 18, 2010.

¹²⁵ 14 Cal. Code Regs. § 15064.7 encourages a public agency to develop and publish thresholds of significance which are identifiable, quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant. A public agency could develop and publish a threshold of significance which states that compliance with an adopted Air Resource Board regulation means the effect normally will be determined to be less than significant.

¹²⁶ See Cal Health & Safety Code § 39510.

¹²⁷ See Cal. Health & Safety Code § 39511.

¹²⁸ See Cal. Health & Safety Code § 39003.

¹²⁹ See Cal. Gov't Code § 65080(b)(2)(A).

¹³⁰ See Cal. Gov't Code § 65080(b)(2)(I).

¹³¹ See Cal. Pub. Res. Code § 21080.1.

¹³² See Cal. Pub. Res. Code § 21151.

¹³³ Executive Order S-3-05 can be found at <http://gov.ca.gov/executive-order/1861/>.

¹³⁴ http://climatechange.ca.gov/climate_action_team/index.html.

¹³⁵ See Cal. Health & Safety Code § 38505(g).

¹³⁶ See Cal. Health & Safety Code § 38505(i).

¹³⁷ Climate Change Scoping Plan, at page C-88.

¹³⁸ 23 U.S.C. § 134; 28 C.F.R. § 450.104.

¹³⁹ 23 C.F.R. §450.300 (implementing the Federal Highway Administration Act and requiring that a metropolitan planning organization be designated for each urbanized area to carry out a continuing, cooperative, and comprehensive multimodal transportation planning process; the process must include the development of a metropolitan transportation plan and a transportation improvement program (TIP) that "encourages and promotes the safe and efficient development, management and operation of surface transportation systems....").

¹⁴⁰ 23 C.F.R. § 450.308.

¹⁴¹ See Cal. Gov't Code 65080(a).

¹⁴² See Cal. Gov't Code 65080(a).

¹⁴³ http://info.sen.ca.gov/pub/07-08/bill/sen/sb_0351-0400/sb_375_bill_20080930_chaptered.pdf.

¹⁴⁴ See Cal. Health & Safety Code § 38501(h).

¹⁴⁵ California Air Resources Board Resolution 07-55, adopted December 6, 2007, available at http://www.arb.ca.gov/cc/inventory/1990level/arb_res07-55_1990_ghg_level.pdf.

¹⁴⁶ See Cal. Gov't Code § 65080(b)(2)(B).