

HOUSING, COMMUNITY & ECONOMIC DEVELOPMENT POLICY COMMITTEE

HIGHLIGHTS

Friday, June 15, 2012

Sacramento, CA

ATTENDANCE:

Members: Nassiff, Scott (Chair); Gomez, Victor (V.Chair); Allen, Mike; Aluzri, Mahdi; Buice, Eva; Chamberlain, Debbie; Conneran, Michael; Dadisho, Ed; Douglas, Farrah; Hanin, Scott; Heusser, D-B; Hutchins, Donald; Johnson, Ken; Kellner, Madeline; Kennedy, Ariana; Kennedy, Janet; McCullough, Kathryn; Morehouse, Carl; Murdock, Brett; Pontau, Donna; Rosa, Josh; Seamans, Susan; Silveira, Margaret; Stephens, Patricia; Strong, Fred

League Partners: Aeh, Ryan

Staff: Kirstin Kolpitcke, Legislative Representative

Special Order of Business: Post Redevelopment & State Budget Update

A general briefing with all of the present policy committee members was held before the individual committees met with their respective members.

League Executive Director Chris McKenzie welcomed the members to Sacramento and provided a status update on the pending FY 2012-13 state budget. At the time, there were nearly two dozen trailer bills pending, many of which included substantive policy changes but will not be reviewed by the germane legislative or fiscal committee.

Mr. McKenzie also reminded members that the Sacramento Superior Court was to review the League's case against the loss of city vehicle license fee (VLF) revenues in last year's budget, on the grounds the legislature acted unconstitutionally when those funds were channeled to state public safety grants.

In regards to the November 2012 elections, none of the policy committees will be taking action on the ballot measures until after the July Board of Directors meeting, where there will be an in-depth discussion, including which committees may review which ballot measures at the Annual Conference this September.

Legislative Director Dan Carrigg spoke next and provided an overview of the redevelopment issues cities are still dealing with as new trailer bill language is being crafted. He recognized the challenges that cities are facing since the Department of Finance brought in dozens of new staff from various other departments with varying backgrounds in redevelopment agency issues. And in the wake of the California Redevelopment Association folding, the League has made every effort to fill in as best they can to cover the void left by the CRA and their efforts. Throughout the spring, the League and a working group of city attorneys has met frequently to provide advice and suggestions on how to help cities work through the ROPS process. There is still much work to be done to clarify the current unwinding through the RDA successor agencies and as new trailer bill language is being developed.

In terms of the legislature, there were several very good attempts to bring about a positive resolution for what remained of redevelopment projects for cities. This included AB 1585 by Speaker John A. Perez, SB 986 by Senator Dutton, and SB 1335 by Senator Pavley. Unfortunately, these have been largely unsuccessful because of roadblocks in the Senate.

As of Friday, June 15 there were still no details on the redevelopment trailer bill. The Department of Finance version that came out earlier this year was fraught with problems and created confusing terms. The League's opposition efforts have had some effect. Assembly Members Joan Buchanan and Tony Atkins are closely reading city's letters to ensure they are making the best decisions possible.

Mr. Carrigg then addressed the current budget and the impact that Prop. 25, which reduced the vote threshold from two-thirds to a simple majority to approve the budget. Republican legislators are now excluded from the process. The budget is being put together behind the scenes between Democratic legislative leaders and the

Governor's office. Another game-changer from Prop. 25 is that Legislators now take seriously the prospect of forfeiting salary if they fail to pass a budget by June 15; recent litigation, however, filed by legislative leadership against the State Controller, concluded that the Legislature retained the sole authority to determine whether the adopted budget was balanced.

Fiscal Policy Consultant Michael Coleman briefly outlined the key factors impacting the budget discussions and the challenge of balancing a budget based on revenues that may not be approved until four months later. The Legislature's response is to include trigger cuts to nearly all areas of government if the Governor's tax measure does not pass, with K-12 Education taking the biggest hit.

Legislative Representative Natasha Karl shared the next steps for pension reform efforts. She said rumors point to a much more expedited timeline than we had previously heard. Some kind of reform may happen as early as June or the first week of July. The League has not seen details of the actual package but understood that several reforms will incorporate the Gov.'s 12-Point Pension Reform Plan and offer additional reforms. Key areas that will likely look different than the Governor's plan include a hybrid plan as well as cost sharing provisions. All major reforms will apply to new employees and not apply to current employees. Timing and plan details are not certain. Ms. Karl said she hoped to see details soon so that they can be analyzed and shared with members. Finally, Legislative Representative Jennifer Whiting gave the federal update on the challenges of enacting a transportation reauthorization bill and the work of the Congressional budget subcommittees. The transportation reauthorization discussions are progressing, but seem to have taken some steps backward last week. The current extension of SAFETEA-LU expires on June 30, 2012, and staff expects another extension to be required. Cities received a bit of good news on the Appropriations front when the House of Representatives Housing and Transportation Appropriations Subcommittee passed legislation enhancing appropriations for HUD and CDBG programs. Staff reminded cities of the mandatory across the board budget cuts enacted in the Budget Control Act last year, effective in January 2013. While Congress will likely intervene before the cuts become effective, action is not expected until after the November election.

Other positive news is that the Federal government is looking to loosen up regulatory requirements that are harmful or difficult for local agencies.

I. Welcome and Introductions

Vice-Chair Victor Gomez welcomed the committee members and members introduced themselves. Due to the cancellation of a flight in Ontario, several members, including the Chair, had to take a later flight.

II. Public Comment

There was no public comment.

III. State Legislative Update

- **AB 1897 (Campos)**- Food Element
- **AB 1627 (Dickinson)**- Vehicle Miles Traveled
- **SB 1498 (Emmerson)**- Local Agency Formation Commission: Powers
- **AB 2007 (Williams)**- Alcohol and Drug Abuse Counselors
- **Infill Builders Proposal**- Parking Standards: Transit-Intensive Areas
- **AB 2273 (Wieckowski)**- Common Interest Developments

Staff from the League provided a legislative update on bills that the HCED policy committee had taken positions on this year.

AB 1897 (Campos)- The League has a position of oppose unless amended on the bill, but has been working with the author's office on drafting findings for the bill. Once those findings are in print, the League will be neutral.

AB 1627 (Dickinson)- The League had an oppose position on the bill, but the bill was pulled from being heard in the policy committee and failed the first house policy committee deadline.

SB 1498 (Emmerson)- This was a League sponsored bill introduced to relax the requirements associated with last year's passage of SB 244 (Wolk). While the bill was never heard in committee, the League was able to get language in the Senate Governance and Finance Committee's omnibus bill (SB 1090) which clarifies that the mapping, planning, and identification of disadvantaged communities required under SB 244 is based on EXISTING information (such as the municipal service review) and jurisdictions are not expected to conduct surveys to gather new information.

AB 2007 (Williams)- The subcommittee of the HCED policy committee created to craft amendments to resolve the League's concerns and possibly support the bill met, but unfortunately, the sponsors of AB 2007 decided not to move the bill proposal forward this year.

Infill Builder's Proposal (AB 904, Skinner)- AB 904 was a gut and amend as of June 12, 2012. This measure is very similar to AB 710 (Skinner) from last year which was defeated on the Senate Floor last year. It is important for cities to be vigilant and send in their letters of opposition. There was a lengthy discussion from the committee members on this bill regarding the spillover effects of the measure and infill in general.

AB 2273 (Wieckowski)- This bill would require banks to record the sale of a property in a common interest development within 30 days after the date of the sale. This measure is intended to ensure that banks record foreclosures, making it easier for local governments and common interest development associations to locate the owner of a property.

The discussion was that banks don't want to flood the market with foreclosures, but rather leak them out slowly. Local governments are interested in getting these properties sold as quickly as possible. The issues are blight and public safety. Businesses are affected as well as other homes in the homeowners association. There was concern that there are no teeth in the bill to punish the banks for failure to record, but the committee felt that this was an important first step.

It was moved and seconded to support AB 2273. The committee approved the motion unanimously.

IV. Strategic Growth Council

Heather Fargo, the Executive Policy Officer with the Strategic Growth Council came in to talk about the activities of the Strategic Growth Council, its mission and their work on infill development. The Council is tasked with coordinating the activities of state agencies to assist state and local agencies in the planning of sustainable communities. They have just awarded the second of three rounds of grants for both greening and planning. They are also working on addressing barriers to infill development. The League has expressed concern that there are times where different state agencies are working specific goals that in the end conflict with one another. An example of this is the 200 year flood plan and wanting to encourage infill development. In addition, local governments need to make sure that incentives are used instead of mandates and that funding is identified first before moving forward with the policy. If anyone from the committee has more comments or suggestions on how barriers to infill development can be removed with the help of the Strategic Growth Council, contact Heather Fargo at Heather.Fargo@sgc.ca.gov

V. HSRA

Jennifer Whiting, League staff, provided a handout on the status of legislation, initiatives, and state and federal proposals that could impact High Speed Rail. Staff noted that most of the legislation is moving very slowly, if at all. Additionally, none of the initiatives are expected to qualify for the November 2012 ballot.

Project funding is currently in jeopardy because the USDOT has told legislators that if they don't commit significant funds to the project by the end of June, the federal government would rescind the federal funds. At this time, the legislature is not expected to take up the project funding as part of the main budget package, but it will be considered shortly afterwards.

Committee member Fred Strong presented some information on a goods movement project in Southern California.

This was an information item, and therefore no action was taken by the committee.

VI. Cap and Trade Revenues

Jennifer Whiting, from the League of California Cities, came in to speak to HCED's policy committee regarding the state's proposed Cap and Trade program. A key element of AB 32 is the state's Cap and Trade program that establishes a hard cap on 85 percent of the total statewide greenhouse gas emissions. The State Air Resources Board will issue emission allowances equal to the amount of allowable emissions over a given compliance period. Then, entities that are regulated under the program will be able to trade or buy and sell a portion of these allowances. The League posed a series of questions to the committee including:

1. Do you concur with staff's proposal to oppose AB 2404 (Fuentes)?
2. Do you support the concept of dedicating revenues derived from transportation fuels to transportation purposes?
3. Regarding the delivery process of revenues:
 - a. Should they be on a regional basis or available to individual cities or both? Does it depend on the program or industry the revenues are derived from?
 - b. What if the funds are connected to the completion of a Sustainable Communities Strategy or some other plan related to GHG emission reductions? Should those plans be certified or approved by a state agency?
4. Is annual or bi-annual reporting on programs and policies receiving funding from auction revenues appropriate? If not, why? What should happen if the programs funded by auction revenues don't achieve the results expected?

Committee members voiced concern that the revenues are overestimated. Some said that they don't support AB 32, but if the policy was going to be implemented this was the right path. They also supported the idea that any money should be returned to the area where it was generated. Members indicated that they would like to see funding go to cities directly, but agreed that the nature of the funding tended to lean toward a regional approach and they could support that also.

There was a motion and a second to oppose AB 2404. The committee approved the motion unanimously.

There was also a motion and a second to support a proposal dedicating revenues derived from transportation fuels to transportation purposes. The committee approved the motion unanimously.

VII. Marijuana

Jonathan Hobbs, Member of the League's Medical Marijuana Ad Hoc Committee and Shareholder of Kronick, Moskovitz, Tiedemann, and Girard spoke to the committee about the issue of medical marijuana and whether local jurisdictions have the ability to regulate, ban, or place a temporary moratorium on dispensaries. What can cities do? We don't completely know yet because several court cases are pending, but we do know that cities can enact laws "consistent with" the Compassionate Use Act. It is unclear what exactly "consistent with" means. The Legislature stopped short of giving jurisdictions the express authority to ban and instead passed legislation giving jurisdictions the ability to pass ordinances regulating the dispensaries. If the dispensaries violate the ordinances, then jurisdictions can move forward with sanctions.

The Compassionate Use Act, passed in 1996, authorizes individuals with certain medical conditions and their caregivers to cultivate, possess, and use marijuana upon the recommendation of a physician. SB 420 (Vasconcellos) was passed in 2004 and authorizes the issuance of identification cards to patients qualified to use medical marijuana. Ever since then dispensaries started popping up around the state.

In the case *City of Claremont v. Kruse* (2009), the courts upheld a moratorium on dispensaries since nothing in California law precludes a city from enacting and "enforcing zoning and business license

requirements” as to these types of land uses. The supporters believe this case allows jurisdictions to ban dispensaries while the other side says that you can temporarily ban them but not have a moratorium.

In the case County of Los Angeles v. Hill (2011), the courts determined that cities have the ability to regulate dispensaries but dodged the ban issue.

In the case of City of Riverside v. Inland Empire Wellness Center (2011), the courts ruled that jurisdictions can temporarily prohibit, ban completely, or regulate dispensaries and if the Legislature wants to change that they can.

In the case People v. G3 Holistic (2011), the courts ruled that cities may impose a total ban on dispensaries.

In the case Lake Forest v. Evergreen Holistic (2012), the courts ruled that cities can regulate, cultivation must be on site, but that cities may NOT impose a total ban.

In the case Pack v. Superior Court (2011), the courts determined that the permit process for dispensaries is preempted by federal law so local governments can ban because they cannot issue permits.

Because several of these cases contradict one another, and because the Supreme Court has taken up the City of Riverside case, the People case, Lake Forest case, and Pack case, jurisdictions will have a much better idea of what they can and can't do after the Supreme Court makes its ruling. The Attorney General has on its web site guidelines for medical marijuana patients and law enforcement. For a copy, please go to: <http://oag.ca.gov/news/press-releases/atty-general-brown-issues-medical-marijuana-guidelines-law-enforcement-and>

VIII. Next Meeting: January of 2013