

July 7, 2006

Re: Status of the Initiative and the Referendum Campaigns

Dear Members and Friends of LandWatch:

The Butterfly Village/Rancho San Juan Referendum and the Community General Plan Initiative are making their way toward the November ballot. The Courts have NOT yet made the decision to put these measures on the November ballot, but we are hopeful that they will. We need to have court orders in hand by the end of August, in order to get the measures on the November ballot. **We have just four months before the election – that's why we are asking for your support now. I hope you will make as generous a contribution as you can to each of these campaigns.**

As you remember, in late February the Monterey County Board of Supervisors voted against placing the Community General Plan Initiative on the June ballot. Then in April, they voted to remove the Butterfly Village/Rancho San Juan Referendum (Measure C) from the June ballot. In both instances LandWatch Monterey County and our allies filed litigation to challenge Monterey County's blatant violation of the California Election Code. But Monterey County government has another dirty deal up its sleeve!

After disenfranchising the 16,000 citizens who signed the petitions to put these measures on the ballot, the Board is rushing to adopt the fourth draft of the General Plan Update (GPU4). This plan will turn Monterey County into a sprawling suburban nightmare. GPU4 expands the Rancho San Juan Community Area boundaries well beyond the original plan rejected by 76% of Monterey County voters last November. GPU4 makes clear what we have known all along – Butterfly Village is merely the first phase of Rancho San Juan, a gargantuan project that will dump more than 70,000 additional daily car trips onto Highway 101 and local roads.

The City of Salinas, Prunedale and North County aren't the only communities threatened by GPU4. It targets Carmel Valley, the Highway 68 corridor, and River Road as major growth centers, and it calls for hundreds of homes on the Jefferson Ranch. Perched just outside Marina's urban growth boundary to the north, Jefferson Ranch will undermine the decision made by Marina's citizens to balance growth with common sense.

GPU4 will cause gridlock on many of our most traveled roadways, it will threaten already tenuous water supplies, and result in paving over thousands of acres of productive farmland. These horrible impacts will reverberate throughout the county.

GPU4 is a recipe for disaster. It is clear that the only way to get a good General Plan is to let the people decide. That will happen when the court returns the people's right to legislate directly by putting the Community General Plan Initiative back on the ballot!

Both the Referendum and the Initiative are making progress toward the November ballot. On June 22, thirteen judges of the Federal Ninth Circuit Court “reheard” the controversial *Padilla* decision. Decided in November 2005, the *Padilla* ruling turned more than 30 years of legal precedent on its head. For the first time, a the court categorized recall petitions as “election materials” which extended the multi-language requirements of the Federal Voting Rights Act to petitions circulated by private citizens.

After the November decision, the attorney generals from five states formally requested the Ninth Circuit to rehear and reverse the decision, which is already creating chaos in the California electoral process. Indeed, **the Padilla decision was used as the basis for taking recall, referendum and initiative measures off the ballot in five California counties, including our own RSJ Referendum and the Community General Plan Initiative.**

It is highly unusual for appellate cases to be reheard. We are hopeful, now that the thirteen judges have read the briefs and heard the oral arguments at the rehearing, that the court will soon reverse *Padilla*. Then it can turn its attention to our appeal to have our initiative put on the ballot, something the Federal Ninth Circuit Court said it would not tackle until it decided what to do about *Padilla*. We need a court order by the end of August, in order to get the initiative on the November ballot. The timing is tight. If we miss the August deadline, our success in court will force a special election, which must be scheduled 90 days after the order.

The timeline for the Rancho San Juan Referendum has fewer hurdles. When the County illegally removed the Referendum from the ballot, LandWatch and the Rancho San Juan Opposition Coalition filed a lawsuit to force it back on. The County anticipated using *Padilla* to rationalize pulling Rancho San Juan from the ballot. Several weeks after the County removed our Referendum from the ballot, the Federal 9th Circuit Court ordered the *Padilla* decision “vacated” pending the outcome of their rehearing. In other words, *Padilla* can’t be cited in any new decisions.

The County argued that the District Judge should not hear our Rancho San Juan case until after the Federal Ninth Circuit Court issues its new decision on *Padilla*, but the District Judge denied that request. He received our preliminary motion on July 3rd. He will receive the opposition arguments on July 10th and our reply motion on July 17th. After reviewing the briefs, it is possible that the District Judge could decide to delay his decision until after the Ninth Circuit decides *Padilla*. However, since the higher court vacated *Padilla*, that is unlikely.

Furthermore, even before *Padilla* was vacated, a District Judge in LA County refused to invalidate a referendum petition under the Voting Rights Act, even though the same judge invalidated an initiative petition based on *Padilla*. The rationale for refusing to invalidate referendum petitions, as distinguished from recall and initiative petitions, is that referendum petitions must be circulated and turned in within 30 days of the decision they seek to overturn. In the case of a referendum, it would be impossible to comply with the multi-language requirement of the Voting Rights Act. Under the California Election Code, private citizens would have to translate legislation (sometimes hundreds of pages long) into multiple languages (as many as five or more languages in some jurisdictions), circulate the petitions, collect enough signatures and submit them – all within 30 days.

The Rancho San Juan Referendum and the Community General Plan Initiative are tied closely together. While the importance of the General Plan is clear to LandWatch members, many voters do not really understand the significance of the General Plan. They do understand, however, that developments like Butterfly Village/Rancho San Juan are a tremendous threat and should be stopped. Indeed, 76% of the electorate understood that threat when it rejected Rancho San Juan (Measure C) at the ballot box in November 2005. We need to make sure the electorate understands that Butterfly Village is truly the first phase of Rancho San Juan and we need to resoundingly defeat this horrible project again. Doing so will help secure victory for the Community General Plan Initiative, especially if the Referendum makes it to the ballot before the Initiative.

Similarly, a victory on the Referendum alone will not stop massive and irresponsible development in the Rancho San Juan area until our Initiative is adopted. Only the Initiative can stop the radical pro-growth majority of the Board of Supervisors from approving yet another version of Rancho San Juan. **We have to pass both the Referendum and the Initiative! That is why it is so important that we raise money for both campaigns.**

The developers of Rancho San Juan and the opponents of the Community General Plan Initiative have at stake development interests worth hundreds of millions of dollars. They will make big investments in these campaigns. We don't have to raise as much money as our adversaries, but we do need to raise enough to get our message to the voters. Our opponents have the resources to raise very large contributions. Our grassroots effort depends on smaller contributions from regular citizens. That's why we have to start early. We just can not wait until the Courts make their final decisions. Please send what you can now.

Enclosed are two remit envelopes describing how to make out your payments for each of the campaigns. Please be as generous as you can and **do NOT write your checks to LandWatch. Make your checks out to the Rancho San Juan Opposition Coalition and the Community General Plan Committee.**

Together, we will prevail! Thank you.

Very truly yours,

Chris Fitz, Executive Director
LandWatch Monterey County

PS: Your contributions to the Rancho San Juan Opposition Coalition and the Community General Plan Committee are NOT tax deductible.