



# The VOICE

Your independent news source

Greater Shasta County, CA

Volume II, Issue III

www.shastavoices.com

August 2008

### Did you know...

- The following candidates took out papers to run for **Redding City Council** in the November 2008 election:
  1. Gary Cadd
  2. Jim McDilda
  3. Dick Dickerson
  4. Ken Murray
  5. Russell Hunt
  6. Edwin Wood
  7. Victoria "Missy" McArthur
  8. Terry Oxley
- The Cypress Avenue Bridge construction project will cause key intersections on Cypress Avenue at Hartnell Avenue, Hemsted Drive, Park Marina Drive, and Athens Avenue to be closed for two consecutive three-day weekends, from Friday at 6 p.m. until Monday at 6 a.m. on **September 6-8, and September 13-15**. Detour signage should be up and operating during this period of time. This was the preferred alternative to closing these key intersections for weeks on end.

### Inside this issue:

Special Fees and Assessments or Taxes?	1
Shasta County User Fees Increase by 394%	2
Police Facility Funding Back on Agenda 8-19-08	2
CalTrans Tries Again to Condition 'Fix 5'	2
Shasta County Impact Fees Effective 7-6-08	3
Dan Walters Commentary from SV Annual Event	4

## Special Fees and Assessments or Taxes? Two-thirds vote of residents required according to California Supreme Court

**Excerpts Reprinted from "Engineering a Change" by Sophie N. Froelich, an attorney partner in the San Francisco office of Nossaman, July 25, 2008.**

This month, a California Supreme Court decision changed the way special assessments can be levied and challenged. Special assessments that are applied evenly to all parcels within a district now run a high risk of being viewed as special taxes requiring a two-thirds vote of residents within a local agency's jurisdiction, and any assessment challenged in court will now be subject to independent judicial review. The decision will likely have far-reaching implications for local governments and special districts that depend on special assessment funding.

The unanimous decision, Silicon Valley Taxpayers Association Inc. v. Santa Clara Open Space Authority, 2008 DJDAR 10675, was handed down July 14. It clarified the standard of judicial review for assessments and held that **any assessment will be reviewed de novo by a court**. Further, it revised the substantive law underlying assessments, by, among other things, rejecting traditional methods of apportioning assessments and making it clear that any benefits that accrue to all properties within the special benefit assessment district are no longer considered "special benefits" unless the engineer's report shows that the particular benefit accrues to particularized parcels.

Proposition 218, a voter initiative amending the California Constitution, passed in 1996. Among other things, Proposition 218 dictates that, before a local agency levies an assessment, the agency must follow certain procedural steps concerning notice to all property owners and balloting. Proposition 218 also imposes substantive requirements for assessments, including that each assessment be imposed only for a "special benefit" conferred on particular property, and that the assessment imposed on any given parcel be in proportion to the special benefit conferred on each parcel. It also requires that an engineer report be prepared to justify the special benefits assessed on each property. Finally, in any legal action contesting the validity of an assessment, Proposition 218 shifts the burden of proof to the agency to demonstrate that the properties in question receive a special benefit over and above the benefits conferred upon the public at large, and that the amount of the assessment is proportional to the benefits conferred on the particular property.

The court expressly rejected the proportionality analysis in this case because it was based on a projected annual budget for a program, rather than on a calculation of the cost of the particular public improvement to be financed by the assessment. Such funding would at best be called a tax or a special tax, and not an assessment. In this case, the assessment funded an agency's ongoing operations, costs and budget.

This Silicon Valley case will make it harder to justify and defend assessments in the future for agencies that levy assessments benefiting all within their particular jurisdictions, as opposed to assessments that benefit particular parcels of property.

Based on this ruling, local officials in the Shasta County area will now certainly need to re-evaluate recent decisions on special "fees" and proposals for special taxes that have been disguised as "fees" to avoid a two-thirds vote of residents within their jurisdictions.

## Shasta County Increases Planning Division User Fees by 394%

As if implementing new impact fees beginning July 6th in unincorporated areas of Shasta County isn't a difficult enough financial hurdle for consumers to overcome, the County Supervisors voted to also increase user fees in the Planning Department by 394% at its August 5th meeting.

Current user fees for such things as administrative permits, general plan amendments, parcel maps, tract maps, use permits, and zoning permits bring about \$391,385 per year in revenues to the Planning Division. The last planning fee increase was in 1995. Traditionally, the budget included 50% general fund dollars and 50% user fees. With a 3 step increase **beginning this month**, the fees revenue will increase to \$1,543,918 by July 1, 2010. The Planning Division will be completely fee supported by 2011.

When asked by Mary Machado, the only speaker at the public hearing on this subject, why no input was gathered from the public and development community before the proposal to raise these fees was brought before the Supervisors for approval, Russ Mull, Director of Resource Management, said "because it's a personnel matter that normally doesn't require public input."

It remains to be seen if the market can bear yet another 394% increase in costs of doing business. Stay tuned.

## Redding City Council Will Have Full Agenda for August 19, 2008 Meeting *Police Facility Funding Discussion to be Continued*

The July 1st Redding City Council meeting began at its scheduled time of 7:00 p.m. and ended at about midnight. The agenda was packed, participants were tired, and many just couldn't stay long enough to hear what they had come to the meeting for in the first place. The Council knew then that there would not be a meeting on July 15th, and the meeting on August 5th would begin early and be abbreviated to allow participation in National Night Out.

So, the next Council meeting scheduled for August 19th at 7:00 p.m. is certain to have another packed agenda. There will be a mid-year budget review, which is sure to draw questions from the general public. City Manager Kurt Starman also mentioned that the Police Facility Funding issue will be back on this agenda. Many people did not feel they were given a fair opportunity to speak up on this agenda item at the Council meeting held July 1st.

Of course, the actual agenda will not be posted and available to the general public until Friday, August 15th at 4:00 p.m. It is subject to change up until the very last minute. We suggest that anyone interested in attending the meeting check the City's website ([www.ci.redding.ca.us](http://www.ci.redding.ca.us)) on August 15th after 4:00 p.m. The home page gives you access to the agenda, along with supporting documentation.

## CalTrans Tries Again to Condition a Project For a Future "Fix 5" Fee

On July 1, 2008 (as we wrote in the July issue of *The VOICE*), a request made by CalTrans to condition projects to participate in "Fix 5" or similar regional fee programs to fund I-5 mainline improvements was **turned down** by the Redding City Council. Since the proposed fee program is not in place, making such a condition would cut off the legal rights of property owners to contest such a fee, and it would be unfair from any perspective to ask a landowner to agree to such a condition. It is inappropriate and highly premature to even refer to the fee in development conditions at this time.

The very next week, however, on July 8th, CalTrans again appeared, this time at a Redding Planning Commission meeting, and repeated their request to condition a project that was up for approval to participate in the unapproved but proposed "Fix 5" fee program to fund I-5 mainline improvements.

This time, the request by CalTrans was ultimately not addressed by the Commissioners because of other issues that caused a delay in voting on the project at hand. But, it is sure to come back again when the project is brought back to the Planning Commission for approval.

The question now becomes, can the Planning Commission reverse a decision made by the City Council? And, if so, on what grounds? The City Council appoints the Commissioners, and their authority and responsibilities are outlined in Chapter 18 of the Redding Municipal Code. The responsibilities listed continually refer to making recommendation to the City Council. According to Development Services Director Jim Hamilton, "if the Council has stated a position on a topic, the Commission will follow that position, but they are not legally obligated to do so *unless* the Council has adopted codified language establishing a specific standard of prohibition. Since there is no codified prohibition to a "Fix 5" condition, the Commission could choose to honor a request from CalTrans for a "Fix 5" condition if they felt it was necessary to make the findings for approval of a project. The applicant would have the ability to appeal the Commission's condition directly to the Council." Perhaps this situation will cause that "codified prohibition" to be established.

Perhaps this situation will cause that "codified prohibition" to be established.

## *Shasta County Development Impact Fees Effective July 6, 2008* Building in the County comparable to building in the City of Redding

Development impact fees are now in effect in the unincorporated areas of Shasta County, and will be assessed on permits with an application date of July 6, 2008 or later. All typical building fees, plan check, well, and already existing Department of Public Works (DPW) traffic fees still apply. On residential homes, you may wait until final inspection by completing and signing the "Deferred Development Impact Fee Acknowledgement" form rather than paying the fee at issuance of the permit. Commercial projects are required to pay the fees at permit issuance.

How much do you have to pay to build in Shasta County? The rate varies depending on residential or commercial, and square footage as well as the area of the County the project is located. During the first year, only 34% of the fee is being collected and will adjust each July over the next two years until it reaches 100%. In addition, an adjustment based on inflation will occur in May each year.

Here is a chart showing the County fees at 100%, and comparing them to the fees currently being assessed in the City of Redding, for a 2000 square foot single-family dwelling. Certain fees charged in Redding are not charged in the County because those services are not provided by the County. These include water and sewer fees, and park fees.

### Estimated Fees for a 2000 square foot single-family dwelling

<u>City of Redding</u>		<u>Unincorporated Shasta County</u>	
Building Fees:	\$ 2,798	Building Fees:	\$ 4,906
Development Fees:	\$ 10,466	Main Fee:	\$ 4,701
Park	\$ 3,764	Public Protection	\$ 1,646
Elec. Service	100	Public Health	749
Fire Dept.	602	Library	133
Storm Drain	840	Sheriff Patrol	789
Citywide Traffic	5,160	General Govt.	1,165
Sewer Fee:	\$ 6,517	Animal Control	219
Water Meter:	\$ 96	Fire Fee (CDF):	\$ 1,459
Water Connect:	\$ 6,488	Countywide Traffic:	\$ 800
Technology Surcharge:	\$ 140	SCR Traffic:	\$ 1,049
School Fee:	<u>\$ 5,940</u>	School Fee:	<u>\$ 5,940</u>
<b>TOTAL FEES</b>	<b>\$ 32,445</b>	<b>TOTAL FEES</b>	<b>\$ 18,855</b>

If you were to subtract the water and sewer fees (\$13,101) from the City of Redding's totals, or conversely add the cost of a septic system and well to the Shasta County totals since they do not provide those services, you would find that it will cost about the same amount of money to build in Shasta County as in the City of Redding. Both jurisdictions also charge additional traffic impact fees in certain designated areas. In Redding, you will need to **add \$4,058 in traffic fees** to build in the North Redding Traffic Benefit District (Oasis Road area). In Shasta County, you will need to **add as much as \$5,326 in traffic fees** to build in the South County TIF area around the Deschutes Interchange. There are maps of these specific areas available in each jurisdiction defining just which properties must pay the higher traffic fees.

Though the Shasta County Supervisors voted to implement these fees, it is highly questionable as to whether or not a development impact fee can actually be charged for such things as government services, libraries, public health, public protection and animal control. When fees are paid for services, that's usually a tax by any normal definition. By charging fees, the County has exempted itself from the two-thirds vote needed to raise a tax to pay for these services. Future impacts of added roads for traffic, a need for fire facilities, and added sheriff's facilities to cover new areas easily fall into the category of legitimate impact fees. Other "services" do not. If complaints are lodged by those being asked to pay these "service" fees, ultimately they could be repealed. Unless and until that occurs, the County will continue to charge all of the fees listed above, regardless of their legitimacy.

## ***Hard-Hitting Commentary Delights Audience*** **Dan Walters Offers Entertaining Insight**

The first Shasta VOICES annual event held on July 17, 2008 featured keynote speaker, Dan Walters, syndicated columnist for the Sacramento Bee and 50 other newspapers. A diverse audience of those who live and work in the Shasta County area were treated to Dan's hard-hitting, thoughtful, and entertaining commentary on any and every subject having to do with the current economy and politics in California. He is always "in the know" on such topics, and presented the inside story of politics and policies.

The story began with a history lesson of California's powerful industrial economy in the 60's. By the 70's, the industrial plants were in decline, and largely dismantled. The emergence of a new economy began as we reinvented ourselves in such areas as the Silicon Valley with economies of trade, services, and communications. Since 1980, all of the job growth (40%) is in this new economy. California's \$1.5 trillion economy is the 8th largest in the world, with health care being the largest single component bringing in \$180 billion per year. The continuing demand for health care is changing the nature of work, education, and community patterns. There is also a dispersal of employment, which changes where people live and work.



After experiencing a population slowdown in the 60's and 70's, a new growth spurt occurred as California became the destination of choice for immigration. A new baby boom started in 1980 and continues today (after a downturn in the early 90's), with 1/2 of all babies born to immigrants. We gain 500,000-600,000 people each year, and they are still coming. We need more roads, houses, water, and 250,000 new jobs each year. With stagnant job growth over the last year, we have 250,000 more people on the unemployment line. And immigration has created a culture change. "This is the land of OZ, and we are not in Kansas anymore." California is the most diverse part of the world. It is unprecedented, and there is no other place like it. Court interpreters now speak 150 different languages. This diversity affects everything, creating social and political conflicts and stalemates on everything from jobs and education to water and transportation.

Out of all the conflict, there are four substantial interest groups with an agenda to impose regulations and costs on businesses: Environmentalists, plaintiff lawyers, consumer activists, and labor unions. They keep hundreds of lobbyists employed, which generates huge campaign funds. For example, our current Governor, who is pro-business, was successful in bringing about worker's compensation reform. In his years as governor, Arnold Schwarzenegger has saved businesses over \$100 billion in worker's compensation costs. But what happens in 2010 when a more than likely Democratic governor takes office? The "Big 4" interest groups have suffered years of frustration, and will no doubt throw money at campaigns for people such as Jerry Brown (the favorite at this point to run for governor).

Mr. Walters finished with a generous question and answer session for the audience: Regarding the local proposed "Fix 5" fees, he said I-5 mainline improvements should be paid by the State, given the importance of interstate commerce it generates for them; He feels it will be another year before new houses are being built again, with current foreclosures going first; He doesn't see manufacturing jobs rebounding because the cost structure in California is too high, and there are labor shortages of skilled manufacturing workers; AB32, the greenhouse gas reduction bill, takes advantage of global warming as a popular cause. Jerry Brown has sued all over for these issues, and uses the term "elegant density" to frame his cause; Battles over transportation and water are really battles over land development. Those opposing sprawl fight because they realize controlling this is a way of controlling land use; and lastly, the State budget is a human caused mess that began in 2000 with the implosion of the dot.com companies, and sales of stock that gave Sacramento a huge one time increase in revenues. They spent as if it would go on forever. The resulting mess may go on forever instead.

**Join Shasta VOICES today. We depend on membership and other contributions.**

If you are viewing this issue of "**THE VOICE**" on our website, click on the membership tab for information and to download a membership application or contributor form.

If you are reading from a printed copy, you can obtain more information by going to our website, or calling:

**[www.shastavoices.com](http://www.shastavoices.com)**

**(530) 222-5251**

Mary B. Machado, Executive Director