

**October 7, 2022**

**To: Carlsbad Tomorrow Committee**

**From: Committee Member Steve Linke (Traffic & Mobility Commission)**

**Re: Open space and parks discussion follow-up**

At our last meeting, I raised several questions about open space and parks. As a follow-up, and after doing some additional research, I would like to provide the committee with the following information. We get a lot of communications to read, but please read the initial 1½-page **SUMMARY** below. For the brave of heart, optional **SUPPORTING ENDNOTES** follow.

## **SUMMARY**

### **40% open space**

- In 1986, staff planners estimated (behind the scenes) that Carlsbad would have about 37%-38% open space at build-out based on conditions that existed at that time.<sup>1</sup> However, the growth management ballot proposition adopted by voters that year was accompanied by a rather unequivocal “Argument in Favor” authored by the City Council (which had placed the item on the ballot) that its passage would “guarantee 40% open space.”<sup>2</sup>
- Note that staff has used a City Council “Argument in Favor” in the past to guide their interpretation of the legal intent of a related ballot measure, giving that significant weight.<sup>3</sup>

### **Park funding**

- The so-called “fact sheet” we received last meeting on parks is very misleading in its claims that park land acquisition and development can only be paid from the city’s General Fund, and that any such expenditure in excess of \$1 million requires a citywide vote.<sup>4</sup>
- At a minimum, park-in-lieu (PIL) fee<sup>5</sup> and public facility fee (PFF)<sup>6</sup> funds can be used for those purposes, and tens of millions of dollars have been spent, or are currently programmed to be spent, on parks through those funding mechanisms.
- In addition, Proposition C (adopted citywide by voters in 2002) creates an exemption from the \$1 million General Fund limit for “open space” projects. Staff has claimed that the Proposition C exemption applies only to “natural open space,” but the word “natural” does not appear anywhere in the ballot measure itself, the City Attorney’s Impartial Analysis, or the City Council’s Argument in Favor of the measure.<sup>7</sup>
- The State has a very specific legal definition of “open space” for city planning purposes, which comprises several categories of land, including land for parks, in addition to natural open space.<sup>8</sup> The City of Carlsbad has also followed this definition.<sup>9</sup>
- Also, the City Council (which placed the item on the ballot) specifically cited “parks” as an example in the very first sentence of their “Argument in Favor” of passage of Proposition C, supporting that legislative intent.<sup>10</sup>

- Further, the ballot measure itself included the exemption for “trail linkages and open space,” and the General Plan in effect at the time had multiple policies promoting the creation of trails within parks and making connections between the parks with trail linkages<sup>11</sup>—all consistent with an intended ability to use Proposition C to fund all types of open space projects (parks and natural), as well as trail linkages to connect all of those spaces.

#### **Veterans Memorial Park’s satisfaction of the current park standard**

- The justification to divide the substantial acreage of Veterans Memorial Park (formerly Macario Canyon Park) equally into all four quadrants was made in 1986, when the plan was to create a regional-scale park with substantial active areas and facilities—including, apparently, an amphitheater.
- However, the park’s final design, which was based on more recent public input, includes only a fraction of active recreation area—with the vast majority being passive areas and inaccessible open space.<sup>12</sup>
- In the transportation study, staff concluded that the park will not really generate new general park use trips—rather, it will basically just redistribute some existing trips from other nearby parks.<sup>13</sup> The Planning Commission went to great lengths to defend that study, highlighting how the park changed into one that is going to function more like a small neighborhood park, rather than a community or regional park.<sup>14</sup>
- Therefore, while it will be a wonderful park, it is not reasonable for the city to continue to argue in 2022 that it will serve a significant citywide role and to split its substantial acreage (most of it passive/off-limits) among all four quadrants to meet the park performance standard, while simultaneously arguing, for transportation impact purposes, that the park will largely be acting like a neighborhood park.

On all of these issues, what is actually legally required, and what this committee wishes to recommend going forward, are open topics. However, in order for our committee to make informed and transparent recommendations to the City Council, we need to be provided with reasonable, accurate, and unbiased information to guide us.

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## **SUPPORTING ENDNOTES**

### **40% open space**

**Endnote 1:** Vice Chair Mike Howes' July 22, 2022 "Growth Management Background & History" communication to the committee.

**Endnote 2:** The growth management measure Proposition E (Attachment A) was placed on the ballot by the 1986 City Council and focused on:

...ensuring good traffic circulation, schools, parks, libraries, open space and recreational amenities...

It is notable that the "Argument in Favor," which was co-authored by the very councilmembers who placed the measure on the ballot, focused specifically on the 40% open space argument—not mentioning any of the other public facilities that were included in growth management:

Proposition E...guarantees that we will always be a low density residential community with 40% open space...

**Endnote 3:** It is also notable that, at the [1/26/2021 City Council meeting](#) (Item #12), staff cited council's official ballot "Argument in Favor" of 2002's Proposition C in their interpretation that General Fund money cannot be used to fund parks. So, staff clearly considers "Arguments in Favor" to hold significant weight in the interpretation of the intent of such ballot measures.

### **Park funding**

**Endnote 4:** Bullet points from "Fact Sheet: Community Interest in a Ponto Public Park, City of Carlsbad Community Development":

- Funding for park acquisition, development and maintenance must come from the General Fund, which was not included in the Fiscal Year 2022-23 budget (funds from park-in-lieu fees or Community Facility District #1 fees are restricted and cannot be used).
- Citywide voter approval would be required under Proposition H, a Carlsbad-specific law that requires voter approval for any capital improvement projects that cost more than \$1 million in general funds, even if the city already has the money on hand.

**Endnote 5:** Availability of PIL funds was acknowledged in the "Carlsbad Tomorrow: Growth Management Citizens Committee: Recent Committee Questions & Responses" document received by the committee yesterday (October 6, 2022).

**Endnote 6:** More significantly, public facility fees (PFF) can be used. In fact, here are three examples of parks that have been assigned a significant amount from the PIL and PFF funds, according to the Capital Improvement Program Dashboard:

- Village H Dog Park and Trail: \$0.9 million PFF (Attachment B)
- Robertson Ranch Park Development: \$2.5 million PIL + \$12.6 million PFF (Attachment C)
- Pine Avenue Park Community Center: \$2.2 million PIL + \$10.1 million PFF (Attachment D)

**Endnote 7:** The claim that usage of General Fund amounts greater than \$1 million without a citywide vote is also specious. Voters adopted Proposition C in 2002 (Attachment E), which makes exceptions to the \$1 million limit for certain specific projects and other broad categories of projects. The broad categories are “trail linkages and open space.”

**Endnote 8:** [California Government Code Section 65560\(h\)](#) describes several categories of land defined as “open space.” Subsection (3) describes park open space: “Open space for outdoor recreation, including...areas particularly suited for park and recreation purposes...” Other categories include Subsection (1) open space for preservation of natural resources (i.e., “natural open space”), Subsection (2) open space for managed production of resources (e.g., forests, farms, and fisheries), etc.

**Endnote 9:** The City of Carlsbad follows this State definition in its [Open Space, Conservation, and Recreation Element](#) of the General Plan. That element also clearly lays out how both natural open space and open space for recreational use both fall under the definition of open space:

Open space is one of Carlsbad’s principal defining features and serves several different purposes. Many open spaces are conserved as natural habitat. Other open spaces fulfill both habitat conservation and recreational needs, or are specifically designated for recreational use.

**Endnote 10:** Four of the five members of the 2002 council (Mayor Lewis and Councilmembers Kulchin, Finnila, and Nygaard) supported placing Proposition C on the ballot (then-Councilmember Hall was opposed). All four of those in favor were designated to co-submit the official written argument in favor of the ballot measure (Attachment E). The very first sentence cites parks and roads as examples, and then it goes on to explain that adoption of the proposition will allow the city to fund such facilities in advance of, or instead of, developer funding:

The Growth Management Plan {GMP} requires developers, not existing residents and businesses to pay for new facilities such as parks and roads. Unfortunately, the money is not collected from developers until development occurs. This means that the construction of facilities may lag behind need. This proposition allows the City to advance funding for certain projects ahead of developer funding, and invest additional tax revenues to enhance public benefit or construct projects that would not be a developer responsibility.

The citizens likely wanted to avoid filling every empty parcel with residences and commercial buildings, and they were not parsing “open space” into “natural” vs. “parks” vs. other types. And, given the argument in favor, they were expecting parks to be funded.

**Endnote 11:** Policies adopted in the 1994 General Plan Update.

Provide, if feasible, a Carlsbad Trail System to be owned and maintained by the City, and wherever possible, the trail system shall be used to provide linkage between park facilities.

Design and construct trails within parks to connect with the proposed Carlsbad Trail System as part of future park development.

#### **Veterans Memorial Park**

**Endnote 12:** See the [6/15/2022 Planning Commission staff report for Veterans Memorial Park](#).

**Endnote 13:** See Appendix I of the above-referenced staff report. Also note that the park is surrounded by the golf course and industrial areas to the south and Agua Hedionda creek to the north, so there is very little residential development within walking or easy biking distance.

**Endnote 14:** Watch Item #2 in the [6/15/2022 Planning Commission meeting video](#).

## ATTACHMENT A

### CITY OF CARLSBAD Proposition E

(This proposition will appear on the ballot in the following form.)

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**E** Shall an ordinance be adopted to provide as a part of the 1986 growth management plan that 1) NO DEVELOPMENT SHALL BE APPROVED by the City of Carlsbad unless it is guaranteed that concurrent with need all necessary public facilities be provided as required by said plan with emphasis on ensuring good traffic circulation, schools, parks, libraries, open space and recreational amenities; and 2) the City Council shall not approve residential development which would increase the number of dwelling units beyond the limit in said ordinance WITHOUT AN AFFIRMATIVE VOTE OF THE CITIZENS. The City may add additional public facilities. The City shall not reduce public facilities without a corresponding reduction in the residential dwelling unit limit.

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### ARGUMENT IN FAVOR OF PROPOSITION E

#### VOTE YES ON PROPOSITION E

Most people agree that the pace of growth in Carlsbad has been so fast that a moratorium on building was needed. The moratorium gave Carlsbad time to find an intelligent way to plan future growth. The result is Proposition E, which puts strict rules on the books--rules that can't change unless you, the voter, change them.

Proposition E puts a permanent cap on the total number of residential units that can be built in Carlsbad; reduces the overall density of the city and guarantees that we will always be a low density residential community with 40% open space. NO DEVELOPMENT SHALL BE APPROVED unless all required public facilities are provided up front.

Proposition E guarantees that the cost of needed public facilities will be paid by land developers and future homeowners--not by current Carlsbad taxpayers. Proposition E gives us controlled growth without increased taxes and without destroying our property values or beautiful community.

Proposition E was put on the ballot by the City Council and is endorsed by the Carlsbad Unified School District.

Now is the time to put strict limits on development and a cap on our future growth. Vote to preserve Carlsbad. VOTE YES ON PROPOSITION E

MARY H. CASLER

RICHARD J. CHICK

ANN J. KULCHIN

CLAUDE A. LEWIS

HOWARD C. HARMON



## Village H South Off Leash Dog Area and Trail Segment 5B

**Classification:** Capital Project

**Phase:** Design

**Score:** Medium

**Description:**

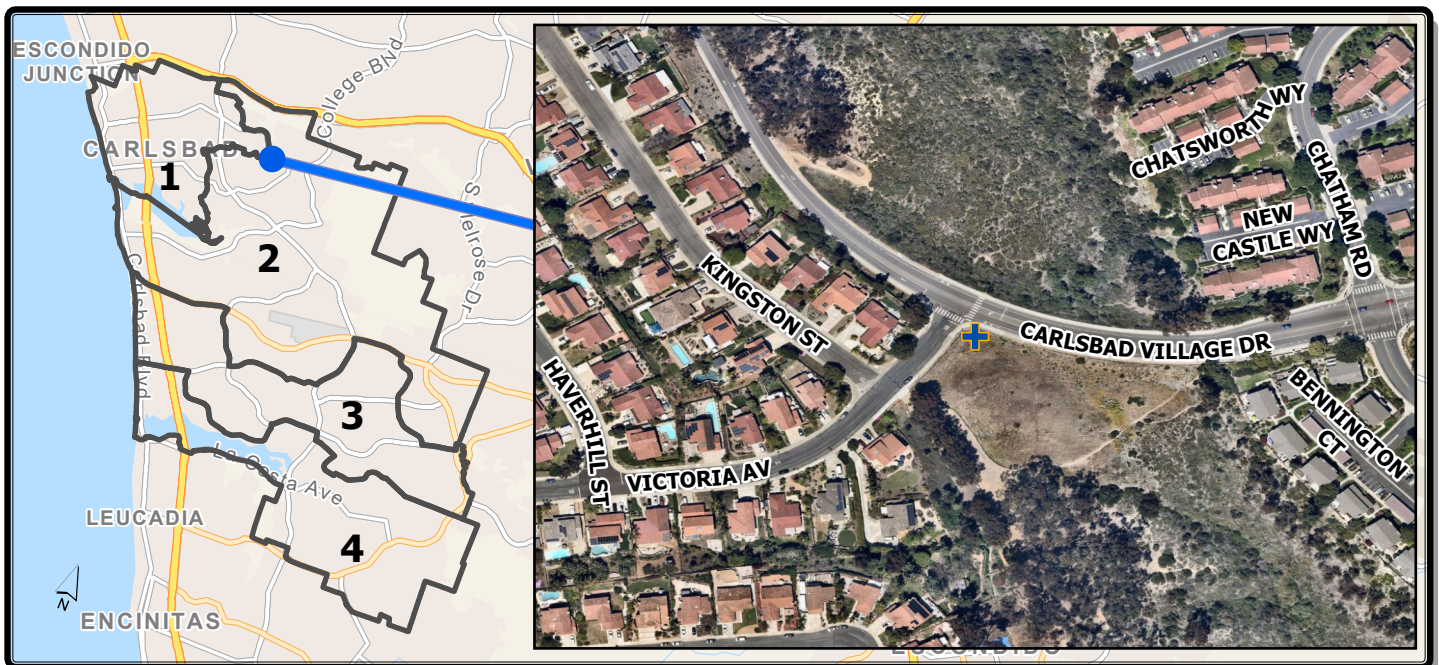
The City of Carlsbad took ownership of a 61-acre piece of property, bisected at the corner of Carlsbad Village Drive and Victoria Avenue, as part of a lawsuit settlement involving the Quarry Creek housing project. Taking into account community input, staff and Preserve Calavera created a conceptual plan to allow an off-leash dog area while protecting sensitive habitat preserves and providing for wildlife movement. The project anticipates approximately 1.0 acre of fenced, off-leash dog area, a parking lot and a prefab restroom. The project also includes the design and construction of the balance of Trail Segment 5B (Carlsbad Village Drive to Tamarack Avenue, as reflected in the Carlsbad Trails Master Plan.)

**Rationale:**

City Council directed city staff to "initiate public outreach to engage residents in the development of a plan to integrate an off-leash dog run as part of the Village H property."

Funding Source	Appropriation to Date	Year 1 Adopted Budget (2021-22)	Year 2 Planned (2022-23)	Year 3 Planned (2023-24)	Year 4 Planned (2024-25)	Year 5 Planned (2025-26)	Year 6-10 Planned (2027-31)	Year 11-15 Planned (2032-36)	Total
PFF	522,000	67,000	872,800						1,394,800
									0
									0
									0
									0
<b>Total Project Cost: 1,394,800</b>									

**Location:** Southwest Corner of Carlsbad Village Drive and Victoria Avenue, Carlsbad CA 92010



Project location is approximate. Date Exported: 8/23/2021

Project Number: 4610





Capital Improvement Projects

Parks



## Robertson Ranch Park Development (Partial Funding)

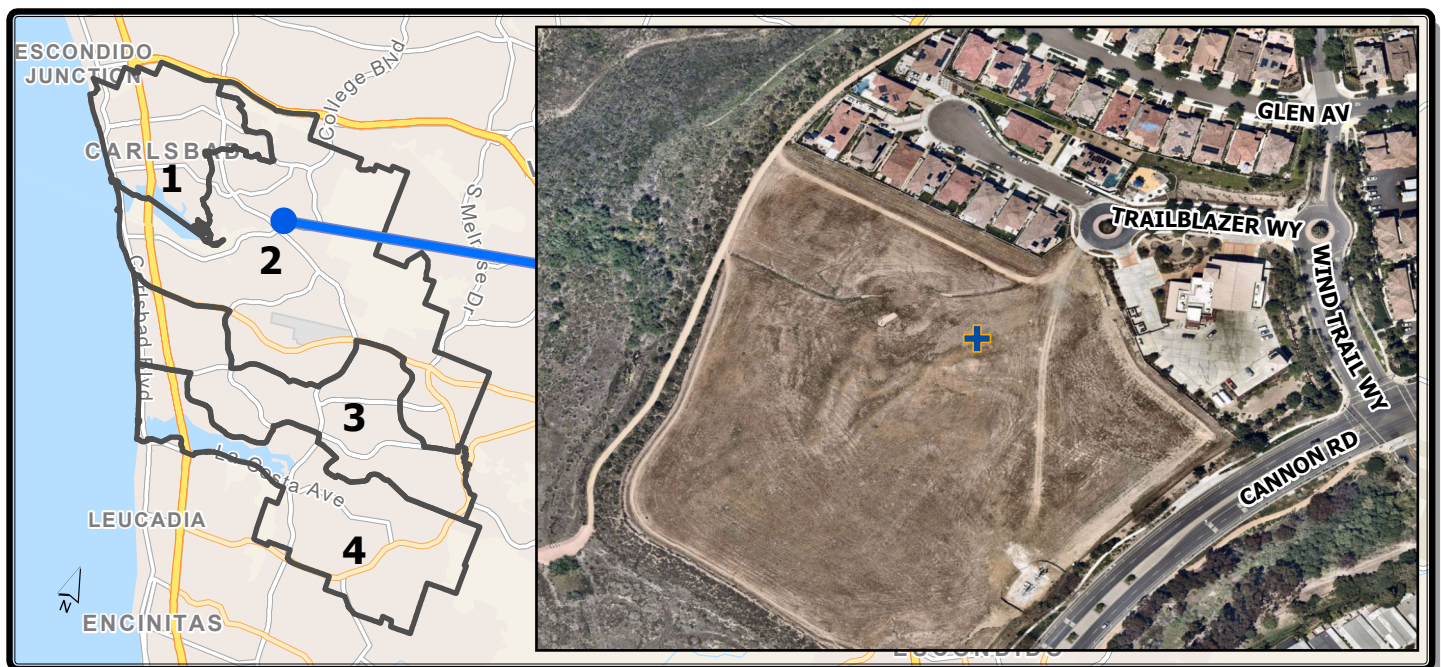
**Classification:** Capital Project**Phase:** Planning**Score:** Medium**Description:**

13 acre Special Use Area Park for sports field complex including restrooms and parking. Initial phase is to develop a concept plan for the site in conjunction with the adjacent Fire Station #3 project. Actual park development not slated until buildout and is currently partially unfunded.

**Rationale:**

Fifteen (15) acres will be developed to meet the City's guidelines for numbers of sports fields per quadrant.

Funding Source	Appropriation to Date	Year 1 Adopted Budget (2021-22)	Year 2 Planned (2022-23)	Year 3 Planned (2023-24)	Year 4 Planned (2024-25)	Year 5 Planned (2025-26)	Year 6-10 Planned (2027-31)	Year 11-15 Planned (2032-36)	Total
PIL-NE	400,000	200,000		2,450,000					2,850,000
PFF				12,592,000					12,592,000
									0
									0
									0

**Total Project Cost: 15,442,000****Location:** El Camino Real and Cannon Rd, access from Trailblazer Way

Project location is approximate. Date Exported: 8/23/2021

Project Number: 3801





Capital Improvement Projects

Parks



## Pine Avenue Park - Phase II (Community Building)

**Classification:** Capital Project**Phase:** Closeout**Score:** Medium

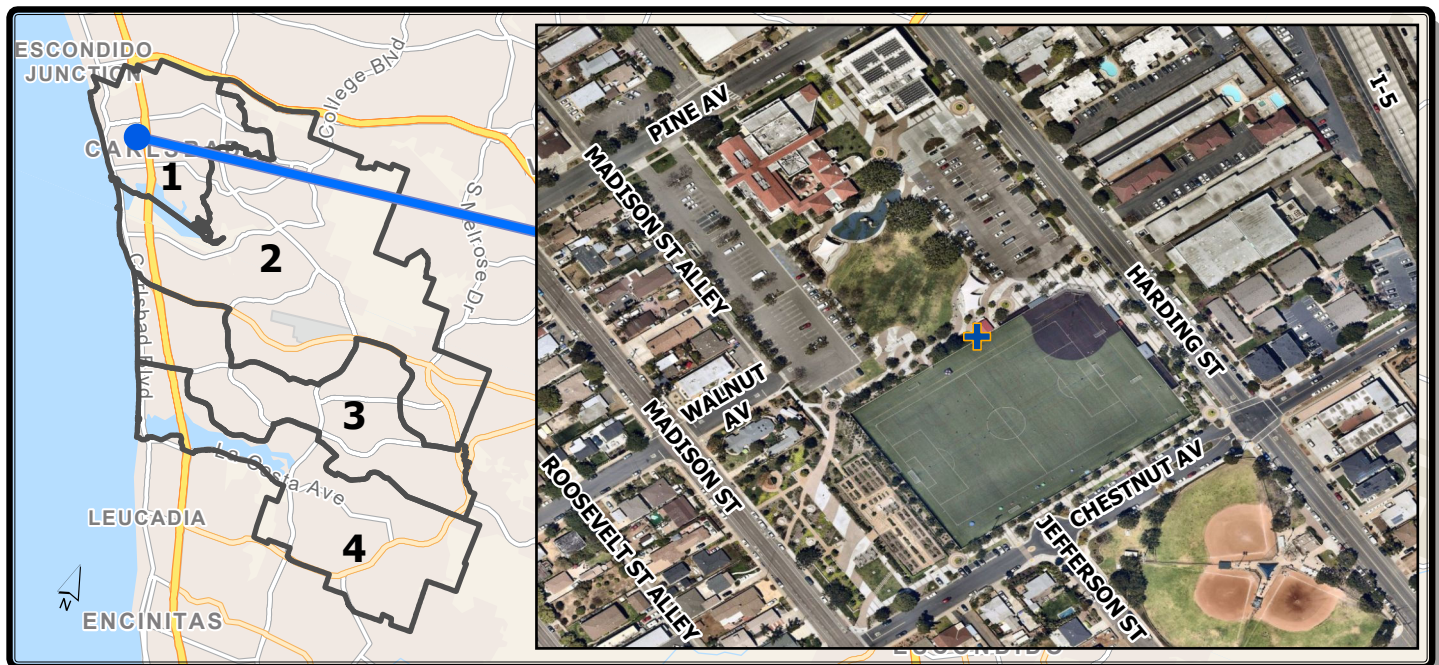
### Description:

Originally master planned in 2002 and revised in 2010 and 2011, the remaining elements for the park included a multi-purpose community center with gymnasium (18,000 S.F.) and community garden with rentable plots and ornamental garden. An updated master concept plan was approved in December of 2014 by City Council to build these remaining elements. Based on extensive community input and the parks needs assessment findings and priority rankings, Council approved 3 master plan updates for Pine, Aviara and Poinsettia Community Parks as part of a comprehensive action plan to guide priority development for park facilities for a five-year period. Construction of the park was concluded in May 2018. In FY 20, final warranty tasks will be addressed.

### Rationale:

Identified in the Parks and Recreation Element of the General Plan, and meets Recreation Facility Guidelines for one community center per quadrant.

Funding Source	Appropriation to Date	Year 1 Adopted Budget (2021-22)	Year 2 Planned (2022-23)	Year 3 Planned (2023-24)	Year 4 Planned (2024-25)	Year 5 Planned (2025-26)	Year 6-10 Planned (2027-31)	Year 11-15 Planned (2032-36)	Total
PIL-NW	2,197,000								2,197,000
PFF	10,016,040								10,016,040
PFF	123,300								123,300
									0
									0

**Total Project Cost: 12,336,340****Location:** 3333 Harding Street, Carlsbad

Project location is approximate. Date Exported: 8/23/2021

Project Number: 4603

## CITY OF CARLSBAD

## Proposition C

(This proposition will appear on the ballot in the following form.)

**PROP C**

Do the voters of the City of Carlsbad approve spending city funds from various sources including the General Fund in an amount over \$1 million to construct capital facilities including a swimming pool complex, trails linkages and open space, a City/Safety Training Facility and a portion of Cannon Road, east of College (Reach 4)?

This Proposition requires approval by a simple majority (50% plus one vote) of the voters to pass.

**CITY ATTORNEY'S IMPARTIAL ANALYSIS**

**THE WAY IT IS NOW:** Existing federal, state or local law requires that each real property acquisition or capital improvement project go through an extensive budgeting and approval process. Depending on the nature of the acquisition or project, it can be financed by special funds, general funds, or a combination of both. Special funds are generated from special taxes or development fees, which can only be used for the purpose for which they were imposed. General funds are generated from general taxes or general fees, which can be used for any municipal purpose. Most real property acquisitions or capital improvement projects are paid for from special funds. However, real property acquisitions or capital improvement projects requiring the expenditure of over \$1 million from general funds are subject to Carlsbad Municipal Code Chapter 1.24, which requires a majority vote of the citizens for such expenditures.

**THE PROPOSAL:** The Proposal seeks voter approval under Carlsbad Municipal Code Chapter 1.24 for the expenditure of general funds over \$1 million to finance or help finance the construction of:

- A swimming pool complex;
- Trails linkages and open space;
- A City/Safety Training Facility;
- A portion of Cannon Road, east of College (Reach 4).

If approved by a majority vote, the City Council may authorize the expenditure of over \$1 million from general funds for the development of each of these projects. A majority vote does not require this expenditure but instead, authorizes the City Council to use this source of funds for these projects.

If Proposition B, which also appears on this ballot, is approved, then the City Council would have authority to spend general funds in excess of \$1 million on the specified projects, regardless of the outcome of Proposition C. If Proposition B is not approved, then the City Council would not have the authority to spend general funds in excess of \$1 million on the specified projects, unless this Proposition C is approved by the voters.

**A "YES" VOTE MEANS:** If you vote "yes", you wish to authorize the City Council to approve spending general funds in an amount over \$1 million to finance or help finance the specified projects.

**A "NO" VOTE MEANS:** If you vote "no", you do not wish to authorize the City Council to approve spending general funds in an amount over \$1 million to finance or help finance the specified projects.

**HOW PROPOSITION "C" GOT ON A BALLOT.**

At its August 6, 2002 meeting, the City Council voted to place Proposition C before the voters to decide whether general funds in excess of \$1 million should be used to finance or help finance the specified projects.

**FISCAL IMPACT:** Proposition C does not require the expenditure of general funds but instead authorizes the City Council to use general funds in excess of \$1 million to finance or help finance the specified projects. These specified projects have not been designed and their exact costs will be determined during the design, permitting, budgeting and public hearing processes.

**ARGUMENT IN FAVOR OF PROPOSITION C**

**THIS PROPOSITION CREATES NO NEW TAXES. IT ALLOWS THE CITY TO USE THE TAXES ALREADY RECEIVED IN A WAY THAT BENEFITS THE COMMUNITY.**

The Growth Management Plan (GMP) requires developers, not existing residents and businesses, to pay for new facilities such as parks and roads. Unfortunately the money is not collected from developers until development occurs. This means that the construction of facilities may lag behind need. This proposition allows the City to advance funding for certain projects ahead of developer funding, and invest additional tax revenues to enhance public benefit or construct projects that would not be a developer responsibility.

A YES vote on Proposition C will provide money for the following projects:

- **SWIMMING POOL COMPLEX** – a second swimming pool is needed now. Additional funds must be allocated to create a facility that will serve the needs of our community. A YES vote allows the City to allocate additional funds to this project.
- **TRAILS AND OPEN SPACE** – Carlsbad residents have repeatedly said that creating trails and preserving open space is their top priority. A YES vote will provide funding for both trail linkages and open space acquisition projects.
- **SAFETY TRAINING FACILITY** – The City's police officers and firefighters must constantly train to maintain a high degree of readiness. A YES vote will provide funding to build a facility to train our safety forces, and upgrade existing facilities and programs.
- **CANNON ROAD EAST OF COLLEGE** – This section of Cannon Road is needed to connect Cannon Road from Carlsbad to Oceanside. This will take traffic congestion off College Avenue in northeast Carlsbad and El Camino Real near Highway 78. A YES vote will provide money to complete this project.

We urge you to vote YES on Proposition C.

CLAUDE LEWIS  
Mayor

ANN KULCHIN  
Mayor Pro-Tem

RAMONA FINNILA  
City Council Member

JULIE NYGAARD  
City Council Member

**ARGUMENT AGAINST PROPOSITION C**

No argument against the proposition was filed in the office of the City Clerk.