



RESOLUTION NO. 159-2017

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

WHEREAS, on June 7, 2016, the voters of the County passed Measure E, entitled “Reinstate Measure Y’s Original Intent – No More Paper Roads,” and became effective on July 29, 2016, ten days after the County certified the results of the election; and

WHEREAS, Measure E enacted a series of amendments to the current version of the 2004 El Dorado County General Plan: A Plan for Managed Growth and Open Roads; A Plan for Quality Neighborhoods and Traffic Relief (“General Plan”) and included implementation statements; and

WHEREAS, on July 29, 2016, Alliance for Responsible Planning initiated an action in the El Dorado County Superior Court challenging the constitutionality and validity of Measure E and proponents of Measure E, Save Our County and Sue Taylor, subsequently intervened as respondents (*Alliance for Responsible Planning v. El Dorado County Board of Supervisors, et al.*, PC-20160346); and

WHEREAS, on July 20, 2017, the trial in *Alliance for Responsible Planning v. El Dorado County Board of Supervisors, et al.* came before the Court in Department 9, the Honorable Warren C. Stracener presiding; and

WHEREAS, on July 31, 2017, Judge Stracener issued a Ruling on Submitted Matter adopting the Court’s written decision titled “ALLIANCE FOR RESPONSIBLE PLANNING v. EL DORADO COUNTY PC-20160346 Petition for Writ of Mandate and Declaratory Relief” dated July 20, 2017; and

WHEREAS, judgment was entered in part in favor of Petitioner in that the Measure E amendments to policies TC-Xa 3, TC-Xa 4, TC-Xa 6, and TC-Xf of the General Plan and Implementation Statement No. 8 of Measure E were unconstitutional or invalid; and

WHEREAS, judgment was entered in part in favor of Respondents in that the Measure E amendments to policies TC-Xa 1, TC-Xa 2, TC-Xa 5, TC-Xa 7, and TC-Xg of the General Plan and Implementation Statements Numbers 1, 2, 3, 4, 5, 6, 7, and 9 were constitutional and valid; and

WHEREAS, on September 1, 2017, the Court entered its Judgment Granting Petition for Writ of Mandate; and

WHEREAS, on September 20, 2017, the County was served with the Peremptory Writ of Mandate ordering that within 60 days from the service of the Writ of Mandate, the County shall strike the text of Measure E amendments to Policies TC-Xa 3, TC-Xa 4, TC-Xa 6, and TC-Xf from the General Plan and restore those policies to the language in effect immediately prior to the July 29, 2016 effective date of Measure E; and

WHEREAS, the Peremptory Writ of Mandate ordered the County to add the text of Implementation Statements 1, 3, 4, 5, 6, and 7 to the Transportation and Circulation Element of the General Plan; and

WHEREAS, Petitioner and Measure E Proponents in *Alliance for Responsible Planning v. El Dorado County Board of Supervisors, et al.* agree that, in order to comply with the Writ of Mandate, the County must strike certain sunset language in the General Plan that was rendered moot by the provisions of Measure E that the Court upheld and identify the upheld policies as remaining in effect indefinitely unless amended by voters.

NOW, THEREFORE, BE IT RESOLVED that the County of El Dorado Board of Supervisors hereby approves and adopts the following amendments to the General Plan pursuant to the Peremptory Writ of Mandate dated September 1, 2017:

Policy TC-Xa Except as otherwise provided, the following TC-Xa policies shall remain in effect until December 31, 2018 indefinitely, unless amended by voters:

3. Developer paid traffic impact fees combined with any other available funds shall fully pay for building All necessary road capacity improvements shall be fully completed to prevent to fully offset and mitigate all direct and cumulative traffic impacts from new development from reaching Level of Service F during peak hours upon any highways, arterial roads and their intersections during weekday, peak-hour periods in unincorporated areas of the county before any form of discretionary approval can be given to a project. This policy shall remain in effect until December 31, 2018.

4. County tax revenues shall not be used in any way to pay for building road capacity improvements to offset traffic impacts from new development projects. Non-county tax sources of revenue, such as federal and state grants, may be used to fund road projects. Exceptions are allowed if county voters first give their approval. intentionally blank (Resolution XXXX, October 24, 2017)

6. Mitigation fees and assessments collected for infrastructure shall be applied to the geographic zone from which they were originated and may be applied to existing roads for maintenance and improvement projects. intentionally blank (Resolution XXXX, October 24, 2017)

TABLE TC-2
EL DORADO COUNTY ROADS ALLOWED TO OPERATE AT LEVEL OF SERVICE F
(Through December 31, 2018)

Policy TC-Xf

At the time of approval of a tentative map for a single family residential subdivision of five or more parcels that worsens (defined as a project that triggers Policy TC-Xe [A] or [B] or [C]) traffic on the County road system, the County shall do one of the following: (1) condition the project to construct all road improvements necessary to maintain or attain Level of Service standards detailed in this Transportation and Circulation Element based on existing traffic plus traffic generated from the development plus forecasted traffic growth at 10-years from project submittal; or (2) ensure the commencement of construction of the necessary road improvements are included in the County's 10-year CIP.

For all other discretionary projects that worsen (defined as a project that triggers Policy TC-Xe [A] or [B] or [C]) traffic on the County road system, the County shall do one of the following: (1) condition the project to construct all road improvements necessary to maintain or attain Level of Service standards detailed in this Transportation and Circulation Element; or (2) ensure the construction of the necessary road improvements are included in the County's 20-year CIP.

Policy TC-Xg

Each development project shall dedicate right-of-way, design and construct or fund any improvements necessary to mitigate the effects of traffic from the project. The County shall require an analysis of impacts of traffic from the development project, including impacts from truck traffic, and require dedication of needed right-of-way and construction of road facilities as a condition of the development. This policy shall remain in effect indefinitely unless amended by voters.

2016 Measure E Implementation Statements

1. This measure is not applicable within the jurisdictions of the Tahoe Regional Planning Agency and the City of Placerville.
2. intentionally blank (Resolution XXXX, October 24, 2017)
3. All 2004 General Plan Traffic Impact Mitigation Fees for all projects shall be paid at the building permit stage.
4. No Traffic mitigation fee shall be required for remodeling of existing residential units including adding a second kitchen, shower or bath in the house or garage that were built pursuant to a valid building permit from the County of El Dorado.
5. Tenant Improvements of existing buildings shall receive T.I.M. fee credit for prior use, unless the new use is less impacting, then there shall be no fee required.
6. Mobile homes on permanent foundation shall be subject to the single-family residential fee.
7. Second dwellings as defined under County Code Chapter 130.80.020 shall be subject to the multi-family fee.
8. intentionally blank (Resolution XXXX, October 24, 2017)

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 24th day of October, 2017, by the following vote of said Board:


Attest:
James S. Mitrison
Clerk of the Board of Supervisors

By: 
Deputy Clerk

Ayes: Ranalli, Veerkamp, Hidahl, Frentzen, Novasel
Noes: None
Absent: None


Vice-Chair, Board of Supervisors
Michael Ranalli

I CERTIFY THAT:
THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.
Attest: James S. Mitrison, Clerk of the Board of Supervisors of the County of El Dorado, State of California.

By: 
Kim Dawson, Sr. Deputy Clerk

Date: 10/27/2017