



OFFICE OF THE CITY MANAGER

November 17, 2003

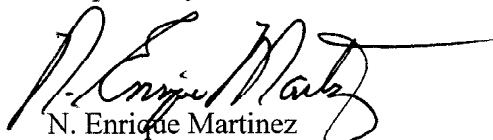
TO: City Council
FROM: City Manager
SUBJECT: **Requests for Legislation for 2004 Legislative Session**

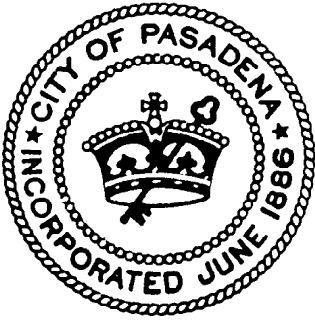
On November 4, 2003, the Legislative Policy Committee reviewed the attached report and recommended forwarding the staff recommendation to City Council with the following changes:

- 1) Delete the Phase II Construction Authority
- 2) Include specific issues to be resolved under worker's compensation.

Staff is preparing an updated list of the workers' compensation issues that impact the city most significantly.

Respectfully submitted,


N. Enrique Martinez
Assistant City Manager



Agenda Report

November 17, 2003

TO: City Council
THROUGH: Legislative Policy Committee (11/4/03)
FROM: City Manager
SUBJECT: Requests for Legislation For 2004 Legislative Session

RECOMMENDATION:

It is recommended that the City Council approve requests for legislation for the following issues:

1. Repeal of unfunded mandates;
2. Amendment of the Blue Line Construction Authority;
3. Amendment of priority criteria for funding of soundwall projects;
4. Establishment of a multi-disciplinary team to recommend systems reform of the state workers' compensation system; and,
5. Re-establishment of local control over land use.

BACKGROUND:

At this time every year state legislators ask the city for requests for new legislation for the coming session. Legislators can sponsor only a small number of bills each year and choose carefully among suggestions from their constituents. The intent of this process is to raise issues specific to the city (or cities in general) that can be solved only by state legislation. If selected for sponsorship, the legislators will work directly with staff and the city's lobbyists to draft a bill.

Staff recommends the following four priorities for new legislation:

1. Repeal/Avoidance of Unfunded Mandates

Although fiscal stability is the primary concern of local governments, this year's state budget deficit eliminates the possibility of asking for legislation that would provide additional funding to cities. Instead, staff recommends asking for the repeal of existing and prevention of new unfunded mandates thereby reducing costs to cities. The city would like to see legislation to repeal/avoid increases to the following unfunded mandates:

a) 4850 Leave for Public Safety

Public Safety employees are entitled to a full-paid leave of absence without loss of salary for the period of disability, but not exceeding one year, if disabled by injury or illness arising out of or in the course of their duties. This benefit is paid in lieu of

temporary disability or maintenance allowance and is non-taxable. Proposals have surfaced in recent years to extend 4850 leave. Any increase in the time frame would be a potentially tremendous financial hardship for the city for every additional lost time claim filed.

b) Binding Arbitration for Public Safety

Binding arbitration affects a complete surrender of any right of the city to ultimately decide on compensation issues for the city's employees. This lack of control could result in tremendous cost increases. Of further concern is the expense and timeliness of the arbitration process, and the unresolved issues of how operations should proceed while issues in dispute work their way through an arbitration process that may take many months.

c) 90% PERS Retirement Benefit for Public Safety

In 1999 the legislature increased the maximum retirement benefit for public safety from 75% to 85% and again in 2001 to 90%. While it takes additional years of service to achieve this higher benefit, it nonetheless has resulted in higher PERS costs. By mandating benefit levels, the State undermines the ability and the responsibility of the City Council to negotiate pay and benefits for its employees, at a level appropriate for the local circumstances. Ultimately, the city loses control over employee costs, which make up approximately 80% of the city's General Fund Budget.

d) Employer Paid Health Insurance for Part-time Employees

SB2 was signed on Oct. 5, 2003. The new law will initially require employers with 50 or more workers to pay 80 percent of health care premiums. It also includes a provision that will force businesses with 20 or more workers to pay once the legislature passes an additional tax credit. Costs to the city will be \$250,000.

e) Prevailing Wage for Affordable Housing Projects

Beginning on Jan. 2, 2002, any private project that receives a public subsidy in any form must pay construction workers the "prevailing wage." Known as SB975 (2001), the law includes a waiver for affordable housing that expires at the end of 2003. Without such a waiver, it is anticipated that the prevailing wage requirement will increase the cost of affordable housing from 15 to 30 percent and will result in a significant reduction in new housing projects.

f) SCAQMD Requirements

The South Coast Air Quality Management District requires permits and fees for a variety of equipment including diesel engines over 50 brake horsepower, hot water pressure sprayers, and hepa filter vacuums. Total cost to the city for these permits is \$12,000 annually.

SCAQMD also mandates that all new vehicle purchases be low emission vehicles and prohibits the purchase of diesel fueled vehicles. As vehicles are replaced, these requirements will cost the city between \$30,000 and \$60,000 per vehicle and an additional \$225,000 for the creation of a fuel site. Existing diesel vehicles must be fueled with low sulfur fuel in the meantime, which costs the city an additional \$25,500 annually.

Finally, SCAQMD recently changed their policy on remote fills without advance notice to cities and is charging the city \$34,640 in fines and penalties for not complying quickly enough. It will cost the city an additional \$300,000 to comply with the new policy.

g) Water Testing Procedures

A variety of new water testing regulations have resulted in significantly increased workloads and a need for additional staff. While the city supports the need for high quality water, the new regulations are not based on scientific finding and require unreasonable testing procedures and standards to be met. Revision of these regulations to meet scientific basis would result in lower treatment costs and increased resource availability without impact to water quality.

h) Congestion Management Plan

Every year the city must complete a Congestion Management Plan (CMP) consisting of several dozen pages of forms and data analysis using a unique points system. The CMP was created under Proposition 111 which increased gas tax revenue and mandated that the CMP forms be completed in order to receive state and federal funds. The forms and the unique data analysis required are not used for any purpose other than to qualify for funding. Since adequate traffic data is already maintained by the city, the goal of measuring and documenting congestion could be achieved without this lengthy bureaucratic process.

2. Phase II Construction Authority

During the 2003 legislative session Assembly member Carol Liu sponsored AB 712 to change the name of the Blue Line Construction Authority to the Metro Foothills Gold Line Construction Authority and to increase the composition of the construction authority to 15 members by adding members from the City Councils of the Cities of Arcadia, Monrovia, Duarte, Irwindale, Azusa, Glendora, San Dimas, La Verne, Pomona, and Claremont. The bill would also provide for the appointment of one member representing the San Bernardino Associated Government instead of the San Gabriel Valley Council of Governments. The bill did not pass out of committee. The city would like to see this bill reintroduced.

3. Soundwalls

The process for prioritizing soundwall projects needs to be changed to allow the flexibility to address areas of greatest community concern and highest decibel reading. In 1998, the responsibility for soundwall projects was transferred from Caltrans to the MTA. The MTA changed the prioritization criteria to focus on HOV related projects first, which exhaust all available funding. Projects of community concern, frequently with higher decibel readings, will not qualify for funding for an unknown number of years. The city would like to see legislation to amend the priority criteria for soundwalls.

4. Workers' Compensation

Several pieces of legislation were signed this year in an attempt to improve the State's workers' compensation system. While this package is a first step, it doesn't solve the cost crisis still facing employers. This year's legislation was the result of many individual efforts seeking to resolve specific issues. It lacked an overall systems approach necessary to affect comprehensive reform. A multi-disciplinary team looking at system overhaul rather than piecemeal solutions could develop a more efficient reform package.

The city would like to see legislation to create this team. The Chamber of Commerce has taken a similar position and would work together with the city on this issue.

5. Local Control of Land Use

Several pieces of recent legislation have infringed on the city's control of local land use. The city would like to see legislation to remove the following:

Provisions for 2nd Unit Restrictions – AB 1866

This legislation acts to supersede local controls over land use issues by requiring approval of certain types of uses irrespective of unique local conditions. Further it acts to restrict local public input and review by limiting the circumstances under which these land uses could be denied.

Provisions for density bonus – AB 1160

This legislation allows affordable housing developers to request waiver of development standards and restricts the circumstance under which these requests for waivers could be denied. As such this legislation supersedes local discretion and land use controls, which are generally established to maintain quality of life standards.

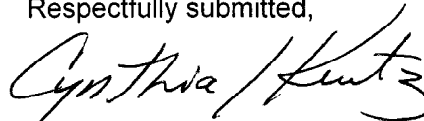
Review of Housing Elements –

Review and certification of the Housing Elements of local General Plans acts to supersede local land use controls in a way that does not account for unique local conditions. In addition, this provision serves to expose local government to added costs associated with the defense of Housing Elements from frivolous lawsuits.

FISCAL IMPACT:

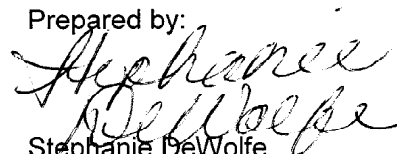
The potential fiscal impacts of these legislative issues cannot be quantified at this time.

Respectfully submitted,



Cynthia J. Kurtz,
City Manager

Prepared by:



Stephanie DeWolfe
Assistant to the City Manager