

MEASURE E

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE E

This initiative ordinance proposes to remove from dedication as parkland a 10 acre parcel of land located in Byxbee Park for the exclusive purpose of building a processing facility for organic waste.

Palo Alto Charter, Article VIII limits the use of property owned or controlled by the City and dedicated as parkland. Dedicated parkland may only be used for park, playground, recreation or conservation purposes. Dedicated parkland may not be sold or used for non-park purposes unless a majority of the electorate vote to undedicate the property.

Byxbee Park consists of 126 acres previously used as a municipal landfill. The ordinance would remove a 10 acre parcel ("Site") from dedication as parkland for the exclusive purpose of building a facility for converting yard trimmings, food waste, other municipal organics and/or sewage sludge from the regional wastewater treatment plant by biological and/or other equally environmentally protective technology ("Compost Facility"). The ordinance includes a Site diagram and legal description.

The ordinance makes changes to several local planning documents and specifies certain development criteria for the Site. First, it amends the Site's Comprehensive Plan designation from Public Parks to Major Institutions/Public Facilities. Second, it amends the Baylands Master Plan to clarify that a compost site could be located on the Site and that the final grading plan for Byxbee Park may be revised to accommodate the new Compost Facility. Third, the ordinance amends the description of Public Facility in the zoning ordinance to clarify that a public agency may enter into a lease with another party. This would allow the City to lease the Site to a third party for exclusive use as a Compost Facility while retaining site ownership. Fourth, it mandates that the Compost Facility should include all feasible methods for mitigating any significant environmental impacts identified during environmental review, including visual, sound and odor impacts and specifies that access to the Compost Facility shall be by Embarcadero Way.

While the ordinance would re-zone the Site to Public Facilities, the only permitted use would be a Compost Facility as defined in the ordinance. Other uses which are generally allowed in areas zoned as Public Facilities would not be allowed at the Site. As a result, the land would sit fallow unless and until a Composting Facility were built.

The ordinance authorizes but does not require the City to build and operate a Compost Facility at the Site. If the Site is not utilized as a Compost Facility within 10 years of passage of the ordinance, the ordinance authorizes the City Council to re-dedicate the Site as parkland. This ten-year limitation only applies to the City Council. The electorate could vote to rededicate earlier.

A vote "For the Ordinance" will undedicate the Site as parkland and adopt the changes to the planning documents affecting the Site. A vote "Against the Ordinance" will retain the Site as dedicated parkland.

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE E - Continued

This ordinance will become effective if a majority of those voting on the measure vote in favor.

Dated: August 23, 2011

/s/ Molly S. Stump
City Attorney

COMPLETE TEXT OF MEASURE E

PALO ALTO GREEN ENERGY AND COMPOST INITIATIVE

The people of the City of Palo Alto do ordain as follows:

FINDINGS

1. The 126-acre Palo Alto Landfill is scheduled to close in 2012, and is currently designated as part of Byxbee Park.
2. The closing will terminate the current composting operation at the landfill. Ceasing local composting will cause significant environmental impacts, as Palo Alto ("the City" herein) will have to haul yard trimmings and food waste to locations outside the City for disposal or composting, thereby generating greenhouse gases and depriving Palo Altans of both yard trimming drop-off and local compost.
3. The incineration of sewage sludge residues at Palo Alto's regional wastewater treatment plant also generates significant greenhouse gases and creates a hazardous ash residue now disposed of in the Central Valley.
4. These adverse environmental impacts can be substantially reduced by applying biological conversion technologies.
5. Such technologies would also generate renewable energy and high-quality compost, as well as achieve substantial savings by avoiding the cost of natural gas to operate the incinerator.
6. Revenue for the City could be generated through the sale of renewable energy and compost, fees for receipt of organic materials, and savings in fuel purchases. Funding for construction could come from sources other than the General Fund.
7. Locating the facility next to the wastewater treatment plant, as recommended by Palo Alto's Blue Ribbon Task Force, would avoid transport of sewage sludge and allow other savings. There is no other suitable location in the City.
8. The facility would require that a small portion of the former landfill not yet developed as usable parkland, about ten acres, be removed from park dedication.
9. The Council may compensate for the aforesaid removal by dedicating other areas of equal or greater acreage to parkland.
10. No funding currently exists for development of Byxbee Park. The Council could use the revenue generated as described in Finding 6 for that purpose.

ENACTMENTS

1. Removal from Parkland.

The real property described below (the "Property" herein) shall be removed from dedication as parkland, for the purpose of building a biological conversion facility ("Facility" herein) to handle yard trimmings, food waste and/or sewage sludge from the regional wastewater treatment plant:

COMPLETE TEXT OF MEASURE E - Continued

"All that certain real property situated in the City of Palo Alto, County of Santa Clara, State of California and more particularly described as follows; commencing at a four by four fence post as shown on that Record of Survey filed with the Santa Clara County Recorder in book 258 page 4 and 5 on August 15th 1969; thence from said four by four fence post, South 88° 58' 50" East 415.54 feet; to a point on the southerly line of the Sewage Treatment Plant Parkland exclusion as said exclusion is shown on Exhibit A-2 of Section 22.08.020 of the Palo Alto Municipal Code, said point also being the True Point of Beginning for this description; thence from said True Point of Beginning the following four (4) courses and distances; south 36° 42' 20" East 209.06 feet; south 41° 31' 45" East 276.48 feet; south 53° 12' 33" East 180.61 feet; north 50° 22' 18" East 652.20 feet; thence North 41° 35' 41" West 633.72 feet to a point on said southerly line of the Sewage Treatment Plant Parkland exclusion; thence along said Sewage Treatment Plant Parkland exclusion, South 52° 42' 10" West 671.94 feet, to the True Point of Beginning."

An illustration of the Property is attached as Exhibit "A."

2. Plan Amendments.

The Comprehensive Plan, Baylands Master Plan, and Zoning Ordinance shall be amended to be consistent with the purpose described in Enactment 1.

3. Reversion

Ten years from the passage of this Initiative, the City Council may rededicate any portion of the Property not utilized for the purposes of this Initiative to parkland.

4. Mitigation

The Facility shall include the best available and practical methods for mitigating all visual, sound and odor impacts.

To avoid impacts on Byxbee Park, access to the Facility shall be by Embarcadero Way.

5. Severability

If any section of this initiative ordinance or part hereof is held by a court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, such section or part hereof shall be deemed severable from the remaining sections and shall in no way affect the validity of the remaining sections.

COMPLETE TEXT OF MEASURE E - Continued



ARGUMENT IN FAVOR OF MEASURE E

Forty years ago, before climate change was an issue, City Council dedicated our dump to be added to Byxbee Park upon closure, which happened in July.

Today's need for clean energy and the threats of climate change are the great issues of our era, demanding fiscally responsible action.

In this context, **the current plan for handling our organic waste no longer makes sense.** It includes:

- Hauling yard waste 53 miles away to Gilroy, emitting tons of greenhouse gases and incurring steadily higher fuel and disposal costs.
- Continuing to incinerate our sewage sludge, which uses over \$1 million worth of energy per year while releasing thousands of tons of harmful emissions.

Measure E offers a financially and environmentally sound alternative. It will enable the use of 10 acres of the former dump—only 8% of its 126 acres, right next to the sewage treatment plant—for the exclusive purpose of building a facility that converts our organic waste into compost and renewable energy. If City Council determines a new facility is not cost-effective, they may rededicate the land as park after 10 years, or sooner with a public vote.

Disposing of waste costs money: The question is which option would cost the least and be best for the environment. The Feasibility Study commissioned by City Council found that building a composting facility in Palo Alto would likely **save the City at least \$18 million dollars** over 20 years.

Other benefits:

- Reducing our greenhouse gas emissions by as much as 13,000 tons per year compared to the alternatives, the equivalent of taking 1,700 cars off the road or planting 1,000,000 trees.
- Producing enough local renewable energy to power 1,400 homes.

Help create a sustainable future for Palo Alto.

Vote YES on Measure E!

ARGUMENT IN FAVOR OF MEASURE E - Continued

www.pagreenenergy.org

/s/ Patrick Burt
Council Member, City of Palo Alto

/s/ Ellen Fletcher
Former Vice Mayor, City of Palo Alto

/s/ Donald Kennedy
President Emeritus, Stanford University

/s/ Dana Tom
Board Member, Palo Alto Unified School District

/s/ Peter Drekeimer
Former Mayor, City of Palo Alto

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE E

Vote NO on Measure E!

Palo Alto adopted a "sustainable future" in 1965 when voters dedicated all parks, including our Baylands, to protect them from industrial and public works developments.

Misleading Information. "Climate Change" is shamelessly being misapplied to sell us a waste processing plant in our Baylands - the same way High Speed Rail was used to sell us "low cost" transportation. Just like High Speed Rail, this proposed project will certainly exceed its cost and greenhouse gas projections, and will have unforeseen environmental impacts.

Exaggerated Greenhouse Gas Savings. All 32 waste disposal options analyzed generate greenhouse gases. The differences are minimal, ranging from -1134 to +2200 tons. Our waste hauler will take yard waste 6 miles to SMarT in Sunnyvale. Food scraps go 12 miles to San Jose. Only 3 trucks will go daily from SMarT to Gilroy. Our Compost Task Force found transportation GHG emissions a minor issue.

Sewage Sludge Incinerator Argument Irrelevant. Palo Alto plans to retire its incinerator and process sewage sludge using modern technology on the Sewage Plant site. Most of the attainable green energy will come from that. **No parkland required.**

Uncertain Technology. Proponents' "benefits" rely on unproven technology that has never been used anywhere in the world for sewage sludge. This would require building a costly and technologically risky pilot plant. The next likely technology costs at least **\$33 million more** than Palo Alto's planned regional solution.

Don't give up irreplaceable parkland for this expensive, risky, and unnecessary experiment.

Vote NO on Measure E!

www.savethebaylands.org

/s/ Lanie Wheeler
Mayor 1996

/s/ Vicky Ching
President, Ming's

/s/ Mike Cobb
Mayor, 1986, 1990

/s/ Karen Holman
City Council Member

/s/ Emily M. Renzel
Councilmember 1979-91 and Coordinator, Baylands Conservation Committee

ARGUMENT AGAINST MEASURE E

VOTE NO. Don't undedicate 10 acres of our Baylands park. When the government looks to our parks for public works projects, and voters allow it, **NO park will ever be safe from such land grabs. Once irreplaceable parkland is gone, it's gone forever.**

VOTE NO. It costs too much. This industrial waste processing facility:

- costs up to \$169 million over 20 years
- has **NO** profits
- provides only 1% of city's power demand at a huge cost
- forces public service cuts and raises refuse rates far into future
- derails the city's future green processing of sewage sludge at its current facility

VOTE NO. Don't dig up old garbage.

- Over 2 million cubic feet of old garbage would be dug up
- This garbage would be spread on our remaining parkland
- **Excavated garbage would release tons of methane, a potent greenhouse gas**

VOTE NO. We already have a cost effective proven regional solution. Since 1992, over 80% of our refuse has been disposed of regionally. Less than 16% of our waste is expected to be processed by this facility. Our own waste hauler is building a modern processing facility just 12 miles away. **Why spend scarce public funds on a redundant facility here? Why sacrifice parkland and take huge financial risks** when we are part of an affordable regional solution? "Taking care of our waste locally" is impractical and unattainable.

VOTE NO. Don't undedicate 10 acres of our Baylands park. This initiative used misleading information. There is:

- **NO** project or approved design
- **NO** true cost estimate
- **NO** real source of funding
- **NO** comprehensive environmental review

This is a **dangerous land grab precedent** and it **reneges on park commitments** made to Palo Alto residents.

VOTE NO! Save the Baylands

www.savethebaylands.org

/s/ Sid Espinosa
Mayor, City of Palo Alto

/s/ Judith G Kleinberg
Mayor, 2006

/s/ Gary Fazzino
Former Mayor

/s/ Greg Schmid
City Council Member

/s/ Enid Pearson
Vice Mayor 1975 and Chair, Save the Baylands Committee

REBUTTAL TO ARGUMENT AGAINST MEASURE E

Opponents of Measure E use scare tactics and misinformation to distort the facts. Palo Alto voters can't be so easily fooled.

City Council commissioned an exhaustive feasibility study to determine the objective facts about processing our organic waste.

The report analyzed eight alternatives and found that building a composting facility in Palo Alto would produce the most renewable energy (valued at \$1.5 million per year), reduce the greatest amount of greenhouse gases, and likely save millions of dollars. The report is available at <http://tinyurl.com/PAGreenEnergy>.

Vote Yes. The site, referred to by opponents as "our Baylands park," is a recently closed dump right next to the sewage treatment plant. You can view photos at www.PAGreenEnergy.org.

Vote Yes. Opponents' claim that 80% of Palo Alto's waste is already being exported is misleading; that figure includes mostly non-recyclable trash. **A composting facility in Palo Alto could process 100% of our organic waste locally**, turning it into valuable resources for our community.

Vote Yes. Opponents base their argument on an oversized project that is unnecessary for Palo Alto's needs. It includes a rent charge that is eight times that proposed by the City's independent appraiser. A realistic project would save us \$1 million per year. **Refuse rates will be lower than with the alternatives.**

Measure E simply gives our City options to choose the best technology and design. A project will proceed only with Council approval after full environmental and economic review.

We can't afford to lose this once-in-a-lifetime opportunity.

Vote YES on E!
www.PAGreenEnergy.org

/s/ Larry Klein
Council Member and Former Mayor, City of Palo Alto

/s/ Walter V. Hays
Chair, Sustainable Schools Committee

/s/ Deborah D. Mytels
Former Executive Director, Peninsula Conservation Center Foundation

/s/ Stephen Levy
Director, Center for Continuing Study of the California Economy

/s/ Jim Burch
Former Mayor, City of Palo Alto