

Declaring War

Phony Land Values and Early Arena Bond Sales

by Craig Powell

On Dec. 10, the city of Sacramento effectively declared war on the arena initiative, the measure that would give voters the final say on any taxpayer subsidy of a sports arena. A mere six hours after supporters of the initiative submitted 34,000 petition signatures to the city clerk to secure a spot for the initiative on the June 3 primary ballot, city treasurer Russ Fehr appeared before the city council to reveal a stunning new city strategy to unhorse the measure. Fehr said that the city now intends to accelerate the sales date of the proposed \$300 million arena bond from next summer, as originally planned and long touted, to just 14 days before June 3 election.

Why is the city now rushing to sell the bonds in May and not this summer as originally planned?

Because under California law, a ballot initiative cannot dislodge a pre-existing obligation of the city, even if the initiative qualifies for the ballot before the city incurs the obligation.

The plan, if allowed to stand, would disenfranchise Sacramento voters (assuming the initiative qualifies) from exercising their voting rights on the measure. Under pointed questioning by Councilmember Kevin McCarty, an opponent of the current arena subsidy plan, Fehr frankly admitted that the acceleration of the bond sale date was in response to the arena initiative.

I was present in the council chambers that night and was about to present Eye on Sacramento's critique of Fehr's arena financing plan when Fehr made his announcement. Not a single member of the seven-member council majority that supports the current arena subsidy plan expressed an objection. When my time came to address the council, I discarded my notes and informed the council that, for the first time, I was appearing before the city council angry. I then issued a warning, not to the council, but to the media and the public: "This city is about to steal an election." I challenged each member of the council to publicly pledge to oppose a May sale of the arena bonds, which would cheat Sacramento voters out of an election on the arena initiative.

I added that their failure to issue such a pledge could only be viewed by the public as evidence of their support of the city's plan.

On a personal note, I've always considered Russ Fehr to be a friend and one of the city's "good guys." (There are a number of them.) When he told me, EOS executive vice president Greg Hatfield and EOS director of research Dennis Neufeld three weeks previously that he would never be a party to a scheme to accelerate the bond sale date to May and cheat voters out of an election, we believed him. We digitally recorded his statements.

(We record all our meetings at city hall on technical matters—with city staff's consent, of course.) He said he was just two years from retirement and didn't need to play such games. Again, we believed him.

I'd taken to asking Fehr the schedule for sale of the arena bonds at all my meetings with him of late because we were aware that other city bureaucrats, specifically assistant city manager John Dangberg—whose sole job is to push through the arena deal—recently accelerated the timetable for council approval of definitive final agreements with the Kings owners on the arena subsidy, as well as approval of a final environmental impact report on the project. From March, when the council approved the term sheet on the arena deal, until a little over a month ago, the city consistently stated that a final EIR wouldn't even be completed until late spring of 2014, with council action sometime thereafter. Fehr has consistently stated that the bonds wouldn't be sold until the summer and perhaps the fall of next year.

So with Dangberg and other city officials pressing for early council approval of the deal, we knew that perhaps the only thing preventing the city from trying to kill the arena initiative by selling the arena bonds before the June 3 primary was Fehr's unblemished reputation for integrity and the pro-subsidy council majority's basic respect for fundamental principles of democratic self-governance.

Both were lost on the evening of Dec. 10.

Only councilmembers Kevin McCarty and Darrell Fong, to their credit, responded promptly with pledges to oppose an early bond sale. Regardless of where one stands on the arena subsidy or on allowing voters the final say on arena subsidies, it is difficult to comprehend how anyone, let alone an elected official, could have such contempt for democracy and self-determination as to support a scheme to use the timing of a bond sale to deprive voters of their constitutionally protected right to vote on a qualified ballot measure.

The pro-subsidy majority on the council is losing its moral legitimacy on this issue and, I suspect, the respect and trust of a large numbers of city voters.

As I noted in my column last month, one of the seven properties that the city hopes to give away to the Kings owners is a 60-acre parcel of undeveloped freeway frontage, commercially zoned land adjoining Haggin Oaks Golf Course. I noted that the city has been publicly claiming that the land has a value of just \$3.9 million (or \$65,000 per acre) while two prominent and respected local developers have privately estimated its value at \$15 million to \$18 million (or \$250,000 to \$300,000 per acre). The city has refused to obtain appraisals of the seven parcels that would protect taxpayers from an excessive giveaway. Instead, the city has been relying on a "broker's estimate" of values for the properties, which together are worth tens of millions of dollars.

In researching this matter, we discovered that a four-acre parcel of developable property on the other side of Business 80 from the 60 acres, along Auburn Boulevard, is listed for sale by Ken Noack Jr. for \$4.2 million, or more than \$1 million per acre.

Well, the charade has been exposed. On Dec. 17 (after this story went to print), the council was to be asked to approve the sale of 9.15 acres of land adjoining the 60-acre parcel to Rapton Investment Group LLC. The Mel Rapton auto dealership currently leases the 9.15-acre property.

Its affiliate company has now agreed to buy it from the city for \$4,305,000.

How was the price determined? According to a city staff report, the city obtained an appraisal that found the site has an unimproved land value of \$4,280,000—\$467,760 per acre, or more than seven times the phony value placed on the 60 acres of land the city wants to give to the Kings owners.

Wanting to sell the Rapton land for a fair price, but knowing that public disclosure of the Rapton deal at the Dec. 17 council meeting would reveal the city's phony undervaluation of the adjoining 60 acres, city staff apparently decided to do what wrongdoers do when they're about to get caught. It appears that they are trying to cover up their deception by modifying the term sheet with the Kings owners and stripping out the 60 acres (claimed value: \$3.9 million) from the giveaway program and substituting in its place three smaller parcels of property downtown that staff claims is worth only \$3 million (again, with no appraisals).

Our Eye on Sacramento research uncovered another city sale of a parcel of land immediately adjoining the 60 acres in February 2011, this time to Chrysler. The city sold a 5.12-acre parcel of commercially zoned vacant land to Chrysler for \$2,336,224, or \$456,293 per acre. The council approved the sale on Feb. 22, 2011, and the staff report at the time noted that the city obtained an independent appraisal.

So city staff knew two years before they included the 60 acres in the arena deal that the fair-market value of this freeway frontage, commercially zone land, as established by the city's 2011 land sale to Chrysler, was more than \$450,000 per acre, not the \$65,000-per-acre phony value city staffers placed on the land for the arena deal. Values in the area have, if anything, risen since 2011 as the recent \$467,000-per-acre appraisal obtained in connection with the sale of the Rapton parcel demonstrates.

While city staff's cover story is that the change will foster quicker reuse or development of the three underutilized city-owned parcels, the circumstances and timing of the change strongly suggest that the city is actually playing a classic shell game of hide-the-pea to hide the actual land values from the public.

What does all this mean for the public? It means that city officials, upon whom we should be able to rely to faithfully and fairly disclose the true costs of the proposed taxpayer subsidy for the arena deal, appear to be engaging in an ongoing and evolving plan to deceive the public and significantly understate the nature and extent of the subsidy costs to the city and its taxpayers.

Meanwhile, the 34,000 petition signatures for the arena initiative have been subject to a “raw count” by the city clerk and delivered to the county registrar of voters to validate. To qualify, the registrar must find that at least 22,027 of the signatures are from registered city voters. Results of the count are expected in mid- to late January.

The mayor announced the formation of a new campaign committee to oppose the arena initiative, dubbed The4000. Two grass-roots groups—STOP (Sacramento Taxpayers Opposed to Pork) and Voters for a Fair Arena Deal—are at work retooling and reorganizing for what is sure to be a spirited campaign ahead, provided the city council backs down from its effort to derail local democracy by holding an early sale of the arena bonds.

The first salvo in the post-filing phase of the arena initiative campaign was fired by the opponents, who urged the city clerk and registrar to conduct a full count of the initiative signatures, as opposed to the standard, less expensive 3 percent sampling of the signatures, while simultaneously insisting that the STOP campaign pay for the resulting higher costs. STOP declined the offer while noting that the mayor filed more than 40,000 signatures for his initial version of the strong-mayor initiative five years ago, which was ruled unconstitutional by a court, without facing a demand that he pay for either the city’s validation costs or its legal fees incurred in the ensuing litigation.

If you would like to register your views on these issues to members of the city council, here is their contact information: Mayor Kevin Johnson (kjohnson@cityofsacramento.org; 808-5300); Angelique Ashby (aashby@cityofsacramento.org; 808-7001); Allen Warren (awarren@cityofsacramento.org; 808-7002); Steve Cohn (scohn@cityofsacramento.org; 808-7003); Steve Hansen (shansen@cityofsacramento.org; 808-7004); Jay Schenirer (jschenirer@cityofsacramento.org; 808-7005); Kevin McCarty (kmccarty@cityofsacramento.org; 808-7006); Darrell Fong (dfong@cityofsacramento.org; 808-7007); Bonnie Pannell (bpannell@cityofsacramento.org; 808-7008).

I’d like to thank Dennis Neufeld, EOS’s director of research, for his investigative assistance in the preparation of this column.

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