

Measure KK

Voter Approval of Exclusive Transit-Only and HOV/Bus-Only Lanes

| CITY OF BERKELEY MEASURE KK | |
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| Shall the initiative ordinance Requiring Voter Approval of Exclusive Transit-Only and HOV/Bus-Only Lanes be adopted? | YES |
| <u>Financial Implications:</u> \$250,000 - \$500,000 per designation plan such as for the currently proposed Bus Rapid Transit project, plus the cost of placing a designation plan on the ballot (\$15,000), and potentially, holding a special election, (about \$350,000 if conducted by mail, and more than \$700,000 if conducted with polling places). | NO |

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE KK

INITIATIVE ORDINANCE REQUIRING VOTER APPROVAL OF EXCLUSIVE TRANSIT-ONLY AND HOV/BUS-ONLY LANES

The proposed ordinance would require voter approval before the City of Berkeley could dedicate a public street or lane of traffic to “bus-only, transit-only, or high-occupancy vehicle-only use”. Voter approval would not be required for minor changes such as creating a new bus stop or temporary changes for special street events or “unique” circumstances.

The voter approval process would include preparation of a “designation plan”, which is defined as a comprehensive plan for the creation of the transit-only, or high-occupancy vehicle/bus-only lanes. The designation plan would be required to include information on the impacts of lane designation on drivers, pedestrians, bicyclists, businesses, parking and emergency access, and the fiscal impacts of each proposed lane or street designation, and specify how the designation plan could be modified.

Designation plans would be guided by the Planning Commission and such other commissions as the City Council deems appropriate, and would involve substantial public input, including public hearings.

The proposed ordinance would also purport to require amendment of the City’s General Plan Transportation Element to conform to the proposed ordinance.

The requirements for preparation of a designation plan and subsequent voter approval would increase the amount of time needed to approve exclusive lanes for the use of buses (also known as Bus Rapid Transit or BRT) which could place time-sensitive

outside funding sources at risk or prevent the City or other agencies from applying for available funding. The initiative would lead to increased costs to prepare the required plan, to place it on the ballot, and potentially to hold a special election if necessary to meet funding deadlines. The initiative would increase uncertainty in the BRT planning process and reduce flexibility in regard to project implementation should the voters approve a designation plan.

The proposed ordinance is a significant impediment to implementing General Plan goals and policies relating to promoting alternatives to automobiles and improving public transit.

It is not clear whether the voter approval requirement of the ordinance is lawful because it conflicts with California Vehicle Code section 21655.5 which appears to delegate the authority to create HOV lanes on City streets to the City Council.

Financial Implications

Each time a designation plan would be required to be placed on the ballot under this measure, the City would incur various costs. Preparation of a designation plan (such as for the currently proposed Bus Rapid Transit project) could cost approximately \$250,000 - \$500,000, inclusive of staff time. In addition, the cost of placing a designation plan on the ballot would be approximately \$15,000. If necessary to accommodate external funding deadlines, the cost of a special election would be about \$350,000 if conducted by mail, and more than \$700,000 if conducted in a standard fashion with polling places.

ARGUMENT IN FAVOR OF MEASURE KK

Vote for democracy -- YES on Measure KK.

Petition circulators reported overwhelming support for this measure and gathered 3240 signatures in just 6 weeks. Measure KK requires voter approval before Berkeley streets can be dedicated to bus-only use. Telegraph, Shattuck, University and Solano Avenues are threatened with massive reconstruction followed by major congestion.

Financial Implications: The claim that this measure will be costly is false. Simply leave our streets alone -- and this measure will cost **zero**.

Dedication of traffic lanes means losing use of portions of our streets without compensation. We pay for our streets. We should be allowed to use them.

AC Transit's current proposal benefits only AC Transit, which aims to spend hundreds of millions of taxpayers' dollars. By requiring voter approval, transit plans will have to benefit the public.

AC Transit's proposal for Telegraph Avenue eliminates local bus stops. This would create a hardship for many bus-riders, particularly the elderly and disabled. Ridership might actually decrease.

Most of the parking would be removed. The only suggested "replacement" has been metered spaces in neighborhoods. Local businesses would lose customers and some might be forced to close.

Travel time saved by dedicated lanes would be insignificant; energy savings nonexistent (Draft EIR). The proposed system is NOT "green."

A major redesign of our transit system should provide a clear benefit to the community; it should not occur merely because funding is available.

Berkeley has a strong tradition of requiring voter approval for major transit infrastructure.

Of Bay Area cities, only Berkeley voted to underground BART. Berkeley rejected the plan for aerial tracks as "blighting" and detrimental to local businesses, and held an election to get it right. We should choose transit that would actually work before relinquishing rights to our streets. Vote yes on Measure KK.

s/KARL J. REEH

individually and on behalf of, President, Le Conte Neighborhood Assn.

s/DEAN METZGER

individually and on behalf of, President, Claremont Elmwood Neighborhood Association & Former Commissioner City of Berkeley, Zoning Adjustment Board

s/SHARON EIGE

individually and on behalf of, President Northeast Berkeley Association (NEBA)

s/MARTHA NICOLOFF

Co-Author - Neighborhood Preservation Ordinance

s/GALE GARCIA

Board member, Berkeley Architectural Heritage Association, Council of Neighborhood Associations

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE KK

The supporters of Measure KK say nothing about how to improve transit, reduce traffic, or protect our environment.

"Simply leave our streets alone," they say.

Measure KK's supporters make many false claims. Contrary to what they say, no decision has been made to reduce parking or curtail local bus service.

Measure KK advertises itself as pro-democratic. But it subverts the democratic process. Because the supporters of Measure KK were unable to get what they wanted

through the normal process of meetings and written comments that encourage public input, they put Measure KK on the ballot.

Improving public transportation is one of our best hopes for reducing greenhouse gas emissions and global warming. But Measure KK would jeopardize current and future plans that have great potential to provide fast, reliable, and efficient transportation alternatives. It would create long and costly delays.

In a July 8, 2008 report to the City Council, Berkeley's City Manager described Measure KK as "a significant impediment to implementing General Plan goals and policies relating to promoting alternatives to automobiles and improving public transit."

Measure KK ties the hands of our elected city leaders and makes it difficult for them to move ahead with transit improvements.

Measure KK is anti-government, anti-transit, and anti-environment.

It is completely out of touch with Berkeley values.

Join Mayor Tom Bates, the Sierra Club, the League of Women Voters and Berkeley City Councilmembers Max Anderson, Laurie Capitelli, and Linda Maio in saying No to Measure KK.

www.NoOnMeasureKK.com

s/HELEN K. BURKE

individually and on behalf of, Vice Chair, Sierra Club, Northern Alameda County Group

s/LONI HANCOCK

Assemblywoman, 14th District

s/NANCY SKINNER

Director, East Bay Regional Park District

s/PAT CODY

Co-founder, Cody's Books

s/JOHN STEERE

President, Berkeley Partners for Parks

ARGUMENT AGAINST MEASURE KK

Berkeley is known for our commitment to protecting the environment, including a General Plan policy to put "Transit First."

But Measure KK would change that.

Major transit projects are reviewed at many public meetings before the City Council decides whether or not to approve them. California law requires a detailed

environmental impact statement, and Berkeley's numerous boards and commissions give our elected officials many opportunities to consider all points of view. On top of this Measure KK would mandate an expensive election.

Requiring voters to second-guess our elected representatives on transportation decisions is a significant waste of time and money: up to two years of delay before a vote could be taken, plus the cost (up to \$1.2 million) of a possible special election and additional Measure KK planning, in addition to the planning already done.

Measure KK will produce costly delays, not better decisions.

That's why The League of Women Voters says No on KK.

Measure KK sets up a roadblock to transit improvements that will help us cut down on traffic and reduce emissions of the harmful greenhouse gases that cause global warming.

That's why the Sierra Club says No on KK.

Measure KK would also undercut implementation of Berkeley's "Green Initiative" (Measure G), approved by 81% of Berkeley voters in 2006. At a time when improved public transportation is one of the most important ways to reduce greenhouse gas emissions, we need to keep all transit options available, not create costly obstacles.

Berkeley is a world leader in protecting our environment. Let's keep it that way. No matter what you think about the proposed BRT project, Measure KK goes too far. Join Mayor Tom Bates and City Councilmembers Max Anderson, Laurie Capitelli, Linda Maio, and Kriss Worthington by voting No on Measure KK.

www.NoOnMeasureKK.com

s/MIRIAM HAWLEY

individually and on behalf of, Vice President League of Women Voters of Berkeley,
Albany & Emeryville

s/HELEN K. BURKE

individually and on behalf of, Vice Chair, Sierra Club No. Alameda County Group

s/THOMAS G. KELLY

Director, KyotoUSA

s/DAVE CAMPBELL

individually and on behalf of, President, Bicycle-Friendly Berkeley Coalition

s/PETER CALTHORPE

Principal, Cathorpe Associates

REBUTTAL TO ARGUMENT AGAINST MEASURE KK

Cast your vote for Democracy. Vote YES on Measure KK.

Opponents' claim that Measure KK would mandate an expensive election, but it mandates only a "possible" ballot measure at a general municipal election (cost \$15,000). If our streets are simply left alone, Measure KK will cost NOTHING.

Opponents say "we need to keep all transit options available". Yet the massive reconstruction and permanent changes for dedicated lanes would preclude many other transit options, and would be costly to remove if unsuccessful.

Other traffic engineering improvements stand a greater chance of resulting in better transit than dedicated lanes.

Opponents claim that "improved" public transit reduces greenhouse gas emissions. But this would be true only if people actually use it. AC Transit's proposal for Telegraph Avenue would have almost identical stops as the existing 1R diesel buses have. These often travel empty. There is no guarantee that dedicated lanes would deliver any increase in ridership.

Currently, City Council members can give away the use of our streets "at will". Some seem poised to do so.

Increasingly, Berkeley residents voice frustration that the City Council does not represent us, does not listen to us. Measure KK is intrinsically democratic, requiring voter approval before the City Council can dedicate lanes of our streets to outside agencies. Since when is democracy "going too far"?

Please join with your neighbors in voting YES on Measure KK.

s/DEAN METZGER

individually and on behalf of, President, of CENA

s/PRAVIN VARAIYA

Professor and Researcher in Inst. of Transportation Studies, UCB

s/LAURIE BRIGHT

individually and on behalf of, President, Council of Neighborhood Assns.

s/AUSTENE W. HALL

Downtown Berkeley Association Board Member

s/ARLENE GIORDANO

Co-owner, Le Bateau Ivre

FULL TEXT OF MEASURE KK

The People of the City of Berkeley hereby ordain as follows:

Section 1: Title

The title of this ordinance shall be "Voters' Right to Approve Certain Major Transportation Changes."

Section 2: Findings and Purpose

The purpose of this measure is to enable the people of the City of Berkeley, by majority vote, to decide whether City streets or portions thereof shall be converted to transit-only or HOV/bus-only lanes, prior to dedication of such lanes.

The first goal of the City of Berkeley's General Plan is to "preserve Berkeley's unique character and quality of life."

Among competing visions for Berkeley's future, there is dispute over what policies or changes will best preserve our unique character and quality of life, especially in the areas of land use and transportation.

When a change is modest or uncontroversial, it is appropriate to rely on elected representatives to make these decisions, but if the change is significant or potentially harmful, the citizens should have the opportunity to decide their own future directly through the ballot.

Section 3. Provisions

A. No public street, or portion thereof, owned or controlled by the City, or agency thereof, shall be dedicated to a bus-only, transit-only, or high-occupancy vehicle (HOV)-only use without the Berkeley City Council first having submitted a designation plan (as defined herein) to the citizens for approval by a majority of registered Berkeley voters voting in a general or special election.

B. Exceptions:

1. Voter approval is not required to dedicate space reasonably needed for bus stops for the loading and unloading of passengers.
2. Voter approval is not required for temporary dedication of lanes for special events or unique circumstances.

Section 4. Definitions

For purposes of this ordinance, the following terms are defined:

A. "Designation" or "designation plan" refers to a comprehensive plan involving creation of transit-only or HOV/bus-only lanes on streets or portions of streets that were available to automobile, pedestrian, or bicycle use, or used for street plantings, prior to April 15, 2008. This plan shall include information by which a reasonable person can assess how the designation and use will affect them. The plan shall include but not be limited to specific information on such items as the physical features that will

impact drivers, transit riders, pedestrians, bicyclists, parking, neighborhoods, businesses, and emergency access, and the estimated fiscal impacts of the designation and use on the City and its taxpayers. The plan shall also specify legislative, administrative, and/or electoral methods for modifying the plan and its accompanying dedicated lanes.

- B. "Dedication" refers to the transfer of rights for exclusive use of high-occupancy vehicles, buses, or other transit on portions of streets that were available to automobile, pedestrian, bicycle, or street-planting use prior to April 15, 2008.

Section 5. Implementation

- A. The plan for the designation of lanes shall be guided by the Planning Commission and other commissions as the City Council deems appropriate, and shall be approved by the City Council. The designation planning process shall permit frequent and significant public input, including public hearings before the involved commissions and the City Council.
- B. Any City approval of transit-only or HOV/bus-only lanes, exclusive of the exceptions above, approved on or after April 15, 2008 that does not comply with this ordinance shall be declared null and void.
- C. The Berkeley General Plan Transportation Element shall be modified to be consistent with this ordinance.
- D. The terms of this ordinance shall be interpreted liberally to give full effect to the foregoing policies adopted by the people of Berkeley.

Section 6. Severability

If any part or provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are severable.