July 27, 2004

TO: MAYOR and CITY COUNCIL

FROM: Katherine Gong Meissner, City Clerk

SUBJECT: ADOPT A RESOLUTION SUBMITTING TO THE CITY OF STOCKTON QUALIFIED VOTERS A BALLOT MEASURE REQUIRING THE CITY OF STOCKTON TO ADOPT A GREENBELT MASTER PLAN FOR LAND BETWEEN THE CITIES OF LODI AND STOCKTON

RECOMMENDATION

That the City Council adopt a resolution:

1. Submitting to the City of Stockton qualified voters a ballot measure seeking voter approval of an ordinance requiring the City of Stockton to adopt a Greenbelt Master Plan on or before Dec. 31, 2005 and to establish a Financing Implementation Plan to provide funds to compensate property owners affected by the Greenbelt Master Plan;

2. Directing the City Clerk to take steps necessary to add the measure to the Consolidated November 2, 2004, General Election and cause the measure to be printed;

3. Directing the City Attorney to prepare an impartial analysis of the measure;

4. Authorizing the San Joaquin County Registrar of Voters to conduct the election; and

5. Authorizing the City Manager to appropriate the funds necessary to pay the cost of placing the measure on the election ballot.

DISCUSSION

Background

At the regular council meeting of July 20, 2004 Councilmember Ruhstaller requested that a measure entitled “The Greenbelt Initiative” submitted by proponents Larry Ruhstaller and Gary Podesto, be placed on the July 27, 2004 Council agenda for discussion and action. (filed with the City Clerk and attached) The measure would require the City of Stockton to adopt a Greenbelt Master Plan which would lead to the establishment of a Greenbelt between the City of Lodi and the City of Stockton and a
financing mechanism to assure affected property owners would receive just compensation.

Should the Council place the measure on the November 2, 2004 ballot, the deadline for receiving arguments (not to exceed 300 words) will be August 13, 2004 at 5:00 p.m. and the deadline for receiving rebuttals (not to exceed 250 words) will be August 23, 2004 at 5:00 p.m.

CEQA

This Greenbelt Ordinance Measure, if approved by the voters, will lead to the adoption of a Greenbelt Master Plan which will be covered by an EIR. The submittal of this measure to the voters is exempt from CEQA pursuant to CEQA Guidelines, Sections 15061(b)(3) (general exemption for activities where there is no possibility for a significant effect on the environment); 15262 (statutory exemption for activities involving feasibility or planning studies for possible future action); and 15306 (categorical exemption for activities involving information collection).

FINANCIAL SUMMARY

The estimated cost of adding the measure to the November 2, 2004 ballot is approximately $25,000 to $40,000 (based on recent estimates) and will require a transfer from the General Fund. The estimated cost is over and above the general election costs for the run-off candidates in Council Districts 2, 4, and 6, which is already scheduled for the same ballot.

Respectfully submitted,

KATHERINE GONG MEISSNER
CITY CLERK

Attachment
KGM:kr

MARK LEWIS
CITY MANAGER
RESOLUTION SUBMITTING THE STOCKTON GREENBELT ORDINANCE MEASURE REQUIRING THE CITY OF STOCKTON TO ADOPT A GREENBELT MASTER PLAN TO THE CITY'S QUALIFIED VOTERS AT THE NOVEMBER 2, 2004, GENERAL MUNICIPAL ELECTION; REQUESTING THE SAN JOAQUIN COUNTY BOARD OF SUPERVISORS TO PROVIDE FOR THE CONSOLIDATION OF A MUNICIPAL MEASURE ELECTION WITH THE STATE'S DIRECT GENERAL ELECTION; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE; AUTHORIZING ARGUMENTS AND THE FILING OF REBUTTAL ARGUMENTS FOR OR AGAINST THE MEASURE; AUTHORIZING THE CITY MANAGER TO APPROPRIATE THE NECESSARY FUNDS FOR THE COST OF PLACING THE MEASURE ON THE ELECTION BALLOT; AND DIRECTING THE CITY CLERK TO TAKE THE STEPS NECESSARY TO PLACE THE MEASURE ON THE BALLOT.

WHEREAS, on July 20, 2004, Gary Podesto and Frank L. "Larry" Ruhstaller ("Proponents") submitted a measure entitled "The Greenbelt Initiative" to the City Council for consideration at the next meeting; and

WHEREAS, on July 27, 2004, the City Council considered the measure which would require the City of Stockton to adopt a Greenbelt Master Plan for land between the Cities of Stockton and Lodi on or before December 31, 2005, and to establish a Financing Implementation Plan to provide funds to compensate property owners affected by the Greenbelt Master Plan; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

Section 1. The City Council finds that the submittal of this Greenbelt Ordinance Measure to the voters at the November 2, 2004, election is exempt from CEQA pursuant to CEQA Guidelines sections 15061(b)(3) (general exemption for activities where there is no possibility for significant effect on the environment); 15262 (statutory exemption for activities involving feasibility or planning studies for possible future action); and 15306 (categorical exemption for activities involving information collection).

Section 2. The City Council hereby submits the Stockton Greenbelt Ordinance Measure required adoption of a Greenbelt Master Plan to the qualified electors of the City of Stockton at the November 2, 2004, General Municipal election in the form attached hereto as Attachment 1.
Section 3. Pursuant to Article 2 of the State Constitution and Elections Code section 9215, the City Council hereby orders that the following question shall be submitted to the qualified electors of the City of Stockton at the General Election of November 2, 2004:

<table>
<thead>
<tr>
<th>Measure _______</th>
<th>Stockton Greenbelt Measure</th>
<th>Yes _______</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot;Shall the City of Stockton be required to adopt a Greenbelt Master Plan on or before December 31, 2005, and to establish a Financing Implementation Plan to provide funds to compensate property owners affected by the Greenbelt Master Plan?&quot;</td>
<td></td>
<td>No ________</td>
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Section 4. The San Joaquin County Board of Supervisors is requested to provide for the consolidation of a municipal measure election with the State's November 2, 2004, direct general election.

Section 5. The City Clerk is authorized to call for arguments and the filing of rebuttal arguments for or against the measure (deadline for direct arguments: August 13, 2004, at 5 p.m.; deadline for rebuttal arguments: August 23, 2004, at 5 p.m.).

Section 6. The City Attorney is hereby authorized and directed to prepare an impartial analysis of the measure. The impartial analysis shall be limited to 500 words or less.

Section 7. The City Manager is directed to appropriate the funds necessary to pay the City's cost of placing the measure on the election ballot.

Section 8. The City Clerk is directed to take the steps necessary to place the measure on the ballot and cause the measure to be printed.

PASSES, APPROVED and ADOPTED ____________________________.

ATTEST:

GARY A. PODESTO, Mayor
of the City of Stockton

KATHERINE GONG MEISSNER
City Clerk of the City of Stockton
To the Honorable Clerk of the City of Stockton: We, the undersigned, registered and qualified voters of the City of Stockton, hereby propose an initiative measure to create a Greenbelt whose objectives will be to protect existing open space and farming operations between Stockton and Lodi, to protect farms from new and oppressive regulations, and to promote the agricultural industry and open space. We petition you to submit this measure to the City Council for adoption without change, or for the submission of this initiative to the voters of the City of Stockton at the earliest regular or special election for which it qualifies.

The measure provides as follows: **The Greenbelt Initiative.** The people of the City of Stockton do hereby ordain as follows:

**Section 1. Purpose and Findings.**

A. **Purpose.** The purpose of this Initiative is to facilitate a Greenbelt by preserving agricultural and open space lands between the Cities of Stockton and Lodi.

B. **Findings.** The people of the City of Stockton find that the adoption of The Greenbelt Initiative will (1) protect agricultural lands and agricultural operations; (2) establish a Greenbelt between Stockton and Lodi; (3) facilitate the preservation of open space; and (4) assure farmers that they will receive just compensation for the loss of their property rights. The People find that the Initiative promotes the health, safety, welfare, and the quality of life of the residents of Stockton, based upon the following:

1. **Promote a Greenbelt Between the City of Stockton and the City of Lodi.** This initiative requires the City of Stockton adopt a Master Plan which will establish a Greenbelt and retain agricultural operations and open space between the City of Stockton and the City of Lodi. This Master Plan will require farmers included within the Greenbelt to be justly compensated for their loss of property rights caused by the establishment and/or implementation of The Greenbelt Initiative.

2. **Reasonably Establishing Greenbelts, Preserving Farmland and Family Farms and Promoting Open Space.** A directly conflicting initiative (a) takes away the property rights of farmers without just compensation; (b) does not create a Greenbelt between the Cities of Stockton and Lodi; and (c) does not prohibit development on lands within the Greenbelt.

3. **The Greenbelt Initiative Controls over the Competing Initiative.** The People find, declare and intend that this Greenbelt
initiative shall control and shall be effective and the competing initiative entitled "Initiative Ordinance to amend the City of Stockton's General Plan by Establishing an Urban Growth Boundary" shall not control and shall be of no force or effect should each initiative receive a majority of votes cast at the general election in November 2004.

C. Effect of Greenbelt Initiative. To achieve the above-stated purposes, this Initiative would require the City of Stockton to (1) establish a Greenbelt between the City of Lodi and the City of Stockton; and (2) establish a financing mechanism to assure affected farmers would receive Just Compensation (which shall be determined by the highest and best use of the real property as if no greenbelt restriction were in place).

Section 2. Adoption of a Greenbelt Master Plan.

On or before December 31, 2005 the City of Stockton shall process, approve and adopt a Greenbelt Master Plan for the creation of a Greenbelt between the City of Lodi and the City of Stockton. The actual territory included in the designated Greenbelt area shall be established by the Greenbelt Master Plan and shall be located within the study area generally defined as the area one-half mile north and one-half mile south of Armstrong Road between Interstate Five and State Route 99. If the Greenbelt Master Plan is not approved and adopted on or before December 31, 2005 then the salary of the Mayor and members of the City Council shall be suspended until the Greenbelt Master Plan is approved and adopted.

Section 3. Policies Concerning the Greenbelt Master Plan.

The Greenbelt Master Plan shall include policies governing the implementation of the Greenbelt. At a minimum, these Greenbelt Master Plan policies may:

a) prohibit the City of Stockton from approving retail, industrial, commercial and/or residential uses within the designated Greenbelt area;

b) permit agricultural operations within the designated Greenbelt area;

c) permit non-commercial recreational uses within the designated Greenbelt area which are not in conflict with agricultural operations; and

d) adopt such other policies, not in conflict with this initiative, deemed appropriate to implement the Greenbelt Master Plan.
Prior to approving the Greenbelt Master Plan the City of Stockton shall prepare and certify (a) an Environmental Impact Report; and (b) a Financing Implementation Plan to provide funds to justly compensate farmers affected by the Greenbelt Master Plan.

Section 4. Implementation.

As provided in Elections Code section 9217, this Initiative shall take effect ten days after the date on which the election results are declared by the City Council.

Section 5. Severability and Interpretation.

This Initiative shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, sub-section, sentence, clause, phrase, part or portion of this Initiative is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Initiative, The voters hereby declare that this Initiative, and each section, sub-section, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, sub-sections, sentences, clauses, phrases, parts, or portions are declared invalid or unconstitutional. If any provision of this Initiative is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Initiative that can be given effect without the invalid sections, sub-sections, sentences, clauses, phrases, parts, or portions. This Initiative shall be broadly construed in order to achieve the purposes set forth herein.

Section 6. Amendment or Repeal.

Except as otherwise provided herein, this Initiative may be amended or repealed only by the voters of the City of Stockton.

Respectfully submitted,

FRANK L. "LARRY" RUHSTALLER

GARY PODESTO