

COMMITTEE ON LEGISLATION
MINUTES: November 13, 2006
1:00 PM

LEGISLATION

MEMBERS:

Chair: Young; Legislators: Stewart-Cousins, Rogowsky, Oros, Abinanti, Maisano, Myers

IN ATTENDANCE:

CEO: B. Randolph; **CA:** L. Trentacoste, S. Dolgin-Kmetz;
GUESTS: M. Shimsky, B. Strauss, A. Roberts, A. Dengler;
BOL STAFF: B. Bochow, S. Bass, M. Amodio

With a quorum present, the Committee on Legislation was called to order at 2:07 p.m.

ITEMS FOR DISCUSSION:

EMINENT DOMAIN

To initiate the discussion, Chairman Young pointed to a memo from Legislators Abinanti and Maisano, as well as a new memo from the County Attorney regarding eminent domain.

Stacey Dolgin-Kmetz and Linda Trentacoste from the County Attorney's office appeared before the committee to discuss the proposed legislation.

Legislator Maisano brought up four issues for discussion as they relate to the general principles guiding the legislation:

- 1.) Pre-emption – whether the County is pre-empted under state law;
- 2.) Timing and whether or not there is a required referendum;
- 3.) The right to private action; and
- 4.) More policy-oriented, that the County will not be a contributor in development projects wherein private property is taken for private use.

Ms. Trentacoste stated that there would have to be a permissive referendum because it is required under statutes relating to condemnation.

Legislator Rogowsky asked if the County has ever been the lead agency in condemning a private property for private use.

Legislator Abinanti reviewed the revised eminent domain legislation, whose original version was discussed in 2005. He stated that the ultimate purpose of the legislation is to provide the Board of Legislators with the power to make the determination on all matters—relating to eminent domain—where private property is taken for any use. In addition, the proposed legislation would restrict the use of eminent domain powers

only to facilitate genuine public uses, as well as, stipulate that action is necessary to protect the community from the harmful impacts of the unwarranted use of such condemnation in the taking of private property.

The committee then engaged in a brief debate over the determination of affordable housing as a public or private use.

In the legislation, affordable housing has been exempted by the provisions set forth in the law.

Alexander Roberts, Vice President of Community Housing Innovations (CHI) spoke about a letter of opposition to the proposed eminent domain legislation on the grounds that it is proposed that the exemption is subject to a two-thirds vote by the Board of Legislators. Mr. Roberts also stated that there are exploited processes of notice and compensation.

Legislator Maisano stated that the proposed law requires a two-thirds vote because there is usually a bonding vote on such affordable housing projects, which requires a two-thirds vote itself.

Deputy County Attorney Dolgin-Kmetz stated that the proposed legislation leaves out "for-profit" companies that are in the business of creating affordable housing.

Legislator Maisano asked Chairman Young to request a version of Section 3 of the proposed legislation to accommodate "for-profit" affordable housing organizations.

The committee asked for an analysis of the differences between accomplishing the goals of eminent domain reform through an act and a local law.

(Myers, Abinanti) move the Minutes of October 23, 2006. Motion passed 6-0.

(Rogowsky, Maisano) move to adjourn The Committee on Legislation. Motion passed 7-0. Committee on Legislation adjourned at 3:02 p.m.