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Unproductive Drama

Anointing Lester, Demonizing the Agency, and Getting Us Nowhere

Thursday, February 4, 2016

By Jana Zimmer

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This is in response to Phil McKenna's commentary on the California Coastal Commission controversy and to correct some grossly inaccurate assumptions it contains.

I served on the Coastal Commission from 2011-2015. I worked directly with Dr. Charles Lester in 2012 in drafting the performance review criteria, which have been used by the Commission, and participated in all his reviews through July of 2015. Unless the Commission and Lester both agree to waive confidentiality in these reviews, their content cannot be disclosed to the public. It is the law. It is up to the Commissioners now to weigh their ongoing issues with agency management against the good work that has been done in this transition period to determine whether it is time — for the good of the agency and the coast — to move to a different type of leadership for the next 40 years.

That said, I am extremely troubled that some of the environmental leadership in this state has resorted to black hat versus white hat, Trump-like tactics in their zeal to retain Lester at all costs. The issue is not whether retaining or terminating Lester will protect or destroy the coast. This is a false choice, and the polarization it has created is unnecessary and represents a missed opportunity to work together to strengthen the coastal program, not weaken it.

First, people should know that the procedures the Commission has followed are mandated by law. The Commission was required to give Lester 24-hours' notice of his right to ask for a public hearing. He received more than a month's notice, and the public has had ample time to weigh in prior to the hearing and will continue to participate at the hearing. So, the claim that this was a "sneak attack" is a prevarication.

Second, the public has been misinformed on the substance of the issues. The Commission stands accused of ignoring staff's independent expertise in order to give away land for development. **Has no one noticed that the top examples given of the current Commission's alleged "deviation" from the principles of the Coastal Act are all cases in which the Commission majority voted to follow the staff's independent recommendations for approval?**

The Edge — staff recommendation for approval unanimously followed. Security National Guaranty (SNG) — staff recommendation for approval followed. Broad Beach — staff recommendation for approval followed. Paradiso del Mare — staff recommendation for the Commission *not* to take jurisdiction over the permit followed.

Where does the threat to the coast lie when staff recommends approval of projects that are then deemed by a few self-selected watchdogs to be "bad" for the coast? And has no one noticed the cases in which the Commission's "failure" to defer to staff's recommendation actually resulted in more protection of coastal resources? The most recent example of that kind of courage and creativity — and, yes, independence — was the Commission's vote on SeaWorld.

I am particularly concerned that the Gaviota Coast Conservancy (GCC) and the Surfrider Foundation now claim that the entire Commission acted without integrity on the Paradiso appeal and about their pronouncement that "Lester was the only adult on the dais with the integrity and presence of mind to formulate a fair and legal path to the hearing of this issue. His insight and integrity was ignored."

First, GCC and Surfrider — and their lawyers — knew very well that the Commission was bound by a settlement agreement signed by Peter Douglas (yes, *that* Peter Douglas) in 2005, in which Douglas agreed that two houses would ultimately be approved on this portion of the property. So denial of the project was not an option. Period.

Second, they knew that Lester had authorized a very strong recommendation, supported by strong findings, that the Commission **should not** review the permit. They also knew — because I explained it to them in detail after the hearing — that in my view, the only relief they could obtain would be better permit conditions, which were achieved through amendments to Douglas's settlement agreement. I still believe that the Commission achieved better protection for this property and a better precedent for other Gaviota Coast properties than GCC will achieve in their litigation. Could I be wrong? Sure. But a tool of developers? Not really.

Third, they also should have learned by now to count to seven. There were not the votes on that dais to give them the result they sought, regardless of what I did. Finally, they should have read the rules, or consulted with the Chair on the amount of time they could expect to speak. The Commission's normal procedure on a substantial issue hearing is to provide three minutes per side. That is what they got. Again, people are free to disagree on whether the best possible result was achieved in this case. But anointing Lester and demonizing the Commissioners in this case and in this campaign is counterproductive.

I have no position on whether the Commission should retain Lester, since I have no information about the concerns that led the presumptive majority to take the steps that they did in January. However, I strongly believe that the environmental community needs to get on board with a "third way" of moving forward with implementing our stellar coastal protection program, regardless of the outcome of this drama. Respect the independence of the staff, yes. But respect the independence and input of Commissioners who are and have been your friends. If you don't, you may win this battle and lose the coast.

Jana Zimmer, longtime Santa Barbara resident and former deputy county counsel, served on the California Coastal Commission from 2011-2015.



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Rob Egenolf · a month ago

To those of us that care about and follow such things, what is truly missed most right now on the Coastal Commission is Jana's deep understanding, experience and her thoughtful, informed voice of reason. She cared about and communicated the purpose and intent of the Coastal Act better than anyone. Thank you for your years of service on the Commission Jana!

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