

Carlsbad is a great place that benefits from coastal geography. I have rarely heard someone say the city is poorly planned, has no real quality of life, or has deficient city amenities or services. The overall formula was good governance, city codes, and a culture of public interaction steadily applied over the past 30 years; not just the past 30 months.

Now the city attracts acclaim and attention from many far and wide. If you doubt that, just ask the Caruso development team.

True intelligence is knowing when to say No; and now Measure A provides that challenge to our community. For some time now I have sought to remain silent and vocally neutral on the south shore project until I cast my personal vote, but various forces and factors have made me take a public position.

My background: 18 years on the Carlsbad city planning staff; liaison role between an agency coalition and the community in setting a global precedent by eradicating *Caulerpa taxifolia* from Agua Hedionda Lagoon (AHL); authored various zoning ordinance sections including building height measurement and the Commercial/Visitor-Serving Overlay Zone; negotiated and secured open space and trails; elected as Chair of the city council-appointed citizens committee in 2006 regarding AHL south shore open space (Prop D property); two-term President of the AHL Foundation from 2006 through 2011; AHLF 2012 Volunteer of the Year; and current Board member with the AHL Foundation.

Since a lot is at stake, and a nearly 400 page document is on the table, I am unable to condense my thoughts to the 400 word range.

My thoughts:

- Prop D's covenant to the community: the Prop D vote of November 2006 that incorporated the citizens committee recommendations, and the city's follow-up implementing ordinance, did not alter the wide range of allowed land uses per the Open Space zone; when a future proposal is made, it would be carefully assessed via enhanced public interaction and city processing. At its fundamental core, this is being by-passed with Measure A.
- Avoiding the CEQA process via the initiative route because of time and lawsuits: regarding time, if the project had been submitted last Spring 2015, at this point it could be tracking to Coastal Commission with final construction approvals nearly in hand by the end of this year, assuming the project satisfied city, Coastal Commission and resource agency criteria. At this point the initiative route may not be delivering the desired timeframe initially contemplated. Regarding lawsuits and attorney costs which Measure A supporters have cited as making CEQA irrelevant and unnecessary, it seems hard to imagine attorney fees for a feared lawsuit could compare to the \$7+ million dollars documented to date as part of the project's campaign. More importantly, with the city acting as Lead Agency for CEQA processing, it would be the city attorney, city staff and

city resources defending any lawsuit, not the project applicant. Money was been an abundant resource in the campaign to support Measure A. Recognizing that the initiative process is legal does not mean it makes sense in all cases, or for Carlsbad's south shore lagoon property. Guns and alcohol are also legal, but do not always produce the best result for specific situations.

- Input provided by past city staff leaders: a past planning commission chair, a retired planning director, and a retired city attorney have voiced technical concerns with the plan only to be discredited. Many statements regarding the support for Measure A claim that current city staff have reviewed the plan and in fact the city council has a proven and historic reliance on city staff for input and recommendations. So the input of those who have provided technical guidance for planning commissions and city councils for a 25 to 30 year period is off base? Those who wrote and/or provided legal counsel for the city's Growth Management Plan, Proposition D and its implementing ordinance, and the region's first Habitat Management Plan suddenly have no credibility regarding elements of the south shore plan and Measure A?
- Public beach access lease termination: if Measure A passes, the underlying lease in place since the late 1950's that allows recreational use of lagoon surface waters and public access and use of the south shore beach will be terminated via staff and city council action with no public recourse or action. Why is this a necessary part of the plan? Please read Michael Holzmillers letter to the city council dated Nov 17, 2015 and follow-up post dated Jan 30, 2016. I can not summarize these technical issues any more clearly, and they should concern those who claim to have a concern about the lagoon and public access.
- The conceptual nature of the proposed project: even Measure A supporters agree that the current plan is conceptual and thus water-colored renderings are sufficient to pass judgement on the project; and that city staff will ultimately review the project for code compliance (and new specific plan compliance, which exempts it from various current code sections); this stuns me. For it verifies that the community has no specifics on the proposed development to provide a basis for their vote. Where is the grading plan to assess existing grade vs. finished grade to review the proposed land form changes and related building height parameters? Where is the site plan or architectural elevations that are drawn to scale for technical review? Real trust can be delivered when clarity and details are publicly provided, instead of reliance on conceptual images and mental visualizations.
- City's precedent of an open development review process: I hear many people bring up the Lego project which also went to a vote of the citizens. That project truly divided the city nearly in half. At least some of those present today were either not around or have forgotten the related details: that vote which passed at 54% Yes to 46% No was simply to allow Lego to submit an application to go

through the city process. That process unfolded under the oversight of Mayor Bud Lewis, and city staff review under the leadership of then city manager Ray Patchett. Their combined efforts eventually resulted in approval for Lego, but that approval contained a binding Development Agreement that protected the city in every significant regard with a performance schedule and benchmarks, reporting and monitoring criteria, financial penalties and enforcement. I have heard references to other specific plans in the city crafting specific development standards, but all of those went through public and CEQA environmental review, and established Statements of Overriding Considerations. In addition, a Commercial/Visitor-Serving Overlay Zone (Chapter 21.208) was drafted via nearly a dozen public community forums, and joint planning commission/city council workshops. The Overlay Zone established enhanced public review processes and specialized development standards like architectural review, increased parking and landscaped setback requirements, and reduced signage allowances. The Overlay Zone was imposed on specifically located commercial properties, including the subject 48 acre parcel. The current plan in Measure A exempts the project from this and other sections of the city's zoning ordinance, Title 21.

- **No Development Agreement:** as noted above, and putting aside the emotionally-framed issue of why trust can not be granted to a successful out-of-town developer, simple good business practice dictates clarity and performance; thus the lack of a Development Agreement as applied to Lego and the Poseidon desalination facility is for me, a huge hole in the Measure A package.
- **Position of support by the Agua Hedionda Lagoon Foundation:** I am often asked by friends in the water and around town why the AHLF supports Measure A. I respond that the Foundation has good intentions because they support the concept of trail systems on the south shore. Regardless of the fact that a vast majority of the land 'set aside' as open space in Measure A is already protected open space, there are too many conceptual or other items (like the lease termination noted above) to have the luxury of isolating focus on trails at the expense of realizing the reality of granting 15 years of sole control to a developer with a hand crafted specific plan that is not bound by a Development Agreement or functional equivalent. In addition, our allocated public input phase is delayed until Coastal Commission review which alters Prop D expectations by the community. Therefore I could not join in the support of Measure A with my valued and fellow Foundation board members (among those board members who did not have a conflict of interest and were able to vote on Measure A in the first place). I recorded the sole No vote on January 12, 2016 with regards to supporting Measure A by the AHL Foundation board of directors.
- **Overstated benefits:** the benefits of the project sound great on the surface, but any project put through the normal city process would come out at the end of it with the same or equivalent public benefits anyway. The desalination facility dedicated open space on the north shore of the lagoon and oceanfront coastal

bluffs for public use; trails would come out of any proposal looking at the lagoon's south shore, along with transportation improvements, water quality measures, etc. The Costco project on Palomar Airport Road approved years ago had to close between 4-6 PM on weekdays until all I-5 on-ramp improvements were finalized; this was not proposed by the developer but was accepted as an environmental mitigation measure and project condition of approval. This provides one example of the city process protecting quality of life. Any development project starts out with the gross acreage of its property and then reduces it via code-identified constraints to achieve its net developable acreage. Power line easement areas and environmental wetland buffers are examples of such constraints and this 48 acre commercially-zoned property always had an estimated net developable acreage of approximately 27 acres.

- Financially generated support: so much money to avoid the perceived perils of the normal city process must seem odd to many. If that does not seem odd to Carlsbad locals, then Yes on A is the obvious vote.
- What is right for Carlsbad: I have heard recent references to former Mayor Bud Lewis and his famous line he would often recite before casting his vote on a project. What was 'right for Carlsbad' was a determination borne out of the city process including staff review, public interaction, environmental review and resource agency consultation.

So in summary, and with apologies for the long text addressing a complex subject where the burden of technical review and the equivalent role of being a city staff planner and/or city traffic engineering expert was placed on the shoulders of every voting Carlsbad citizen, I wanted to outline my thoughts and conclude that I fail to find a way to support Measure A.

Eric Noel Munoz

31 January 2016