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**W 3**

**STATEWIDE (SAN FRANCISCO)  
SR. DEPUTY DIRECTOR'S REPORT**  
for the  
*August Meeting of the California Coastal Commission*

Date: August 10, 2009

## MEMORANDUM

**TO:** Commissioners, Local Government Officials and Interested Parties  
**FROM:** Charles Lester, Senior Deputy Director  
**SUBJECT:** **Public Correspondence for LCP Workshop Agenda Item W3**

Following is the correspondence received as of the morning of August 10, 2009 for the August 12, 2009 LCP Workshop.

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# The Beacon Foundation

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## Item W 3

Workshop

August 5, 2009

Dear Commissioners, Staff, and Moderator Reilly:

The Beacon Foundation is a non profit environmental organization. For the past sixteen years we have focused on protection of the coastal zone of Ventura County.

### 1. The "Workshop" Cannot Properly Be An Action Item.

In April 2008 The League appeared before the Commission seeking creation of a special subcommittee made up of Commissioners, Commission staff and League representatives that would meet in private. The Commission properly declined but indicated a public workshop might be appropriate. That idea evolved into the present format that is flawed and troubling. In this "workshop" local government participants will interact with Commissioners and present talking points privately honed in advanced. The public is only a spectator. It is allowed two time limited "instant" response opportunities totaling less than an hour.

The Commission staff report fails to analyze consistency of the local government collaboration proposal with the Coastal Act. Nor does the staff report discuss the proposal impact on public participation in Commission decisions. Commissioners are left to spontaneously react to a prepackaged local government presentation.

The agenda seems to anticipate an action outcome of identifying "... next steps for taking collaborative actions...." A workshop cannot properly be an action item. We call upon Moderator Reilly and Commission staff to foreclose departure from this limitation.

### 2. Pursuit of Local Government Special Treatment.

If local government consistently and effectively protected coastal environmental resources there would, arguably, be no need for a Coastal Commission. Local government failures to do so are legion. The People adopted the Coastal Act to impose uniform coastal protection requirements. Public support of Commission enforcement of the Act has never faltered.

This workshop as an effort to gain approval of special treatment for development projects approved at the local level. It is a fundamental change in the relationship of the Commission to local government and to the public that would require legislation.

The proponents of this workshop have chosen words carefully. Their stated objective is improve "communication" and "cooperation". These words are stand-ins for city and county frustration with the Coastal Commission. There is a widespread local government misconception that the Commission "interferes" with local land use decisions. The workshop culminates years of lobbying to re-set decision making in favor of local government.

The workshop proponents seek a fast track for Coastal Commission approvals without remedying or even recognizing present deficiencies in local level compliance. It is apparent

from observation and from materials provided for this workshop, that many local governments lack an understanding of Coastal Act obligations. For example, the League's member survey, asked those with a certified LCP whether they have "gone through a scheduled 5 year review." Seven cities, 25 percent of respondents, answered "Yes." In fact, only four jurisdictions, less than 7 percent of LCP's more than five years old, have ever undergone a periodic review. Periodic reviews are the Act's mechanism to review and assess local government compliance with certified LCP's and to recommend corrective actions.

Here are some principal issues not addressed in League workshop materials:

- The Need for Periodic Review of LCP/PWP Compliance by Local Government.
- The Need for Local Government to Pro-actively Apply the Coastal Act in Project Approval and to Refrain From a "Stop Us If You Can" Approach To LCP/PWP Amendment Submissions
- The Need for Submission of Comprehensive rather than Project Driven Piecemeal LCP/PWP Amendments.

### **3. Collaboration Violates the Coastal Act.**

Commission staff is properly and actively open to meet with applicants and others interested in proposed actions that are before the Commission. This process is actively used by cities and counties but they now see it as ineffective and seek something different. They identify the key element in the new approach as "... collaboration between local governments and commission staff early on in the process to increase efficiency." This is envisioned as an "early" process (maybe even a pre submission process?) where local government and Commission staff craft a project and jointly support Commission approval. Such a process is expressly prohibited by PRC Section 30335.1:

"The commission shall provide for appropriate employees on the staff of the commission to assist applicants and other interested parties in connection with matters which are before the commission for action. The assistance rendered by those employees shall be limited to matters of procedure and shall not extend to advice on substantive issues arising out of the provisions of this division, such as advice on the manner in which a proposed development might be made consistent with the policies Specified in Chapter 3 .... [emphasis added]

### **4. Local Government and Commission Goals are not Coterminous.**

Encouraging state/local cooperation is an ideal of the Coastal Act. However, there are fundamental practical differences in the mission of the Coastal Commission and local government. These differences make "collaboration" not only contrary to statute but to public policy.

Upholding the Coastal Act is the singular goal of the Coastal Commission. For local governments, observance of Coastal Act requirements is just one of its responsibilities. Not infrequently, local government gives higher priority to other goals. These priorities may include competition with other localities for private developer projects and reliance on new development to fund government operations.

Increasingly local government is a coastal land developer. This can take the direct form of government projects on public land or leases of public land for private development. In the latter situation, local government is in collaboration with a private developer. The local government comes before the Commission as a conduit of its chosen developer's plans.

The local government often seeks to short circuit the approval process by presenting a piecemeal project driven LCP amendment. Commission materials provided for this workshop indicate that some 34 percent of LCP amendments currently pending are project driven. Amendments that are project driven often lack adequate consideration of cumulative impacts and do not address the project as part of a comprehensive local coastal plan.

Local government's role as a developer may create a conflict of interest with Coastal Act and may dilute the local government sense of responsibility for Coastal Act compliance.

##### **5. Collaboration Undermines Public Involvement.**

The keystone of the Coastal Act is public participation. PRC Section 30006 states:

"The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation, and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunities for public participation."

In defining Commission "duties," PRC Section 30339 requires the Commission to:

" (a) Ensure full and adequate participation by all interested groups and the public at large in the commission's work program."

Creating a new collaboration process runs contrary to public participation. How would the public even know that such a process was underway? The public would be left with an opportunity to be heard at the formal Commission hearing after the local government and Commission staff collaborated on an outcome. Recommendations of Commission staff need to be its independent judgment and not the results of collaboration with any applicant.

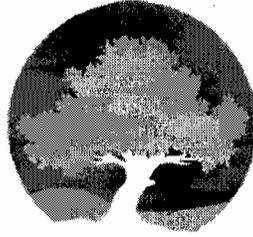
PRC code Section 30336 provides:

"The commission shall, to the maximum extent feasible, assist local government in exercising the planning and regulatory powers and responsibilities provided for by this division where the local government elects to exercise those powers and responsibilities and requests assistance from the commission...."

The assistance to local government encouraged by the Coastal Act is different from the collaboration now sought. What is sought is impermissible special treatment and an inside track.

For The Beacon Foundation

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Lee Quaintance, Secretary



**environmental**  
DEFENSE CENTER

August 6, 2009

Ms. Elizabeth Fuchs  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105  
[efuchs@coastal.ca.gov](mailto:efuchs@coastal.ca.gov)

**VIA EMAIL**

**Re: Public Workshop on Improving the Local Coastal Planning Process –  
Item W3**

Dear Ms. Fuchs:

This letter is submitted on behalf of the Environmental Defense Center (EDC). The EDC is a non-profit, public interest law firm that represents community organizations in matters affecting California's coastal environment, particularly in Ventura, Santa Barbara and San Luis Obispo Counties. The EDC protects and enhances the environment through education, advocacy and legal action.

*Topic I: Improving the LCP Process*

We appreciate that the Commission is taking this opportunity to improve the Local Coastal Plan (LCP) process. As documented in the Background Material for this Workshop, most adopted LCPs are significantly out of date, many having been certified by the Commission as far back as the 1980s. By law, LCPs are supposed to be reviewed and updated at least every five years.<sup>1</sup> Whatever actions the Commission can take to reverse this situation are welcome. Several LCPs in our service area are woefully out of date. The City of Oxnard's LCP, for example, was certified in 1985. Since then, the City has gone through at least one comprehensive General Plan update, and it is currently in the process of another comprehensive General Plan update. The City has yet to update the Oxnard LCP, however, and we are concerned that the City has no concrete plan to do so. In addition, in 2001, the Commission identified each of the three Counties in our region as a high priority for updating their LCPs.

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<sup>1</sup> Pub. Res. Code § 30519.5.

While we understand that the Commission's staff resources are limited, one suggestion to improve the troubling lag in LCP updates would be for Commission staff to work with local jurisdictions as General Plan updates are being developed to provide detailed feedback about the coastal portions of the Plan and compliance with the Coastal Act. What we have seen in our jurisdictions is that General Plans are updated that include areas within the coastal zone, even though LCPs are not. Again, Oxnard is a current example. The City is considering adoption of a 2030 General Plan, but has not proposed a concurrent update of its 1985 LCP even though a critical portion of the City (including the environmentally sensitive and threatened Ormond Beach wetland area) is located within the coastal zone. Commission staff attention to local General Plans could facilitate local attention to Coastal Act requirements and encourage local jurisdictions to move forward with an LCP update along with any General Plan update.

### Topic II: Improving Coastal Management Through LCPs

The Commission should also encourage and facilitate local jurisdiction attention to managing coastal impacts from sea level rise. Over the past century, mean sea level has risen eight inches along the California coast, and climate scientists expect even greater increases in the next few decades as a result of global warming. Under medium to medium-high greenhouse gas emissions scenarios, mean sea level along the California coast is projected to rise from 1.0 to 1.4 meters by the year 2100. The Pacific Institute, a nonpartisan research institute, has recently finalized its report, *The Impacts of Sea-Level Rise on the California Coast*, an analysis prepared for three California state agencies.<sup>2</sup> The Pacific Institute analysis is the first comprehensive look at the risks associated with future sea-level rise on populations, infrastructure, and ecosystems along the entire California coast. The Pacific Institute website includes maps showing the coastal flood and erosion hazard zones from its study.<sup>3</sup> The maps also display the coastal zone boundary.

The information in the Pacific Institute report heavily underscores the need for local jurisdictions to update their outdated LCPs to account for increased coastal flooding and erosion risks, and to identify and implement coastal management policies that can avoid and mitigate climate change effects. We have attached comments that the Pacific Institute prepared addressing the City of Oxnard's draft 2030 General Plan, as an example of the planning a local jurisdiction could do to manage for sea level rise impacts.

In addition to the reference material provided by the Pacific Institute, the California Natural Resources Agency has just released its draft California Climate Adaptation Strategy.<sup>4</sup> The document includes material relevant to local coastal planning, including an entire chapter devoted to ocean and coastal resources, and the Agency has

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<sup>2</sup> Heberger, Matthew et al. 2009. *The Impacts of Sea-Level Rise on the California Coast*. Mar. Available at [www.pacinst.org](http://www.pacinst.org).

<sup>3</sup> [http://www.pacinst.org/reports/sea\\_level\\_rise/maps/](http://www.pacinst.org/reports/sea_level_rise/maps/)

<sup>4</sup> California Natural Resources Agency. 2009 California Climate Adaptation Strategy Discussion Draft. Aug 3. Available at <http://www.climatechange.ca.gov/adaptation/>.

August 6, 2009

Ms. Fuchs re Improving the Local Coastal Planning Process

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recommended that communities with LCPs amend their plans to “assess climate change impacts, identify areas most vulnerable to these impacts, and to develop reasonable and rational risk reduction strategies using the Draft California Adaptation Strategy as guidance.”<sup>5</sup>

The Commission should assist local jurisdictions by compiling and providing best available information regarding sea level rise and sea level rise impacts on coastal areas. In addition, the Commission should prepare a template of LCP provisions regarding sea level rise issues that could be provided to local jurisdictions. The template could identify examples of policies and recommended best practices to manage concerns such as increased flooding, erosion, and wetland migration.

Thank you for considering our comments.

Sincerely,



Karen M. Kraus  
Staff Attorney

Attachment

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<sup>5</sup> California Natural Resources Agency 2009. Executive Summary at 9.

**TO:** Christopher Williamson, Senior Planner, City of Oxnard  
**FROM:** Matthew Heberger and Dr. Peter Gleick, Pacific Institute  
**SUBJECT:** Comments on City of Oxnard's Draft 2030 General Plan Update  
**DATE:** June 18, 2009

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The City of Oxnard's Draft 2030 General Plan Update should be updated to take into consideration the latest projections of sea level rise, which will increase risks from flooding and erosion. The Plan should be improved by changing planned land uses to better reflect the community's environmental and sustainability goals. The city has the opportunity to take the lead by implementing proven coastal management policies, restoring wetlands, and preparing for climate change.

In this memo, we suggest policies that Oxnard should adopt, and land use designations that, when slightly modified, will help the community to adapt to sea level rise and mitigate some of the effects of global warming. Addressing these risks now will protect human life and property and preserve the environment.

We have previously submitted comments on the Draft EIR for the General Plan Update in a memo dated May 22, 2009; these comments are relevant to the overall General Plan document as well, and we incorporate them here by reference.

### ***Sea Level Rise***

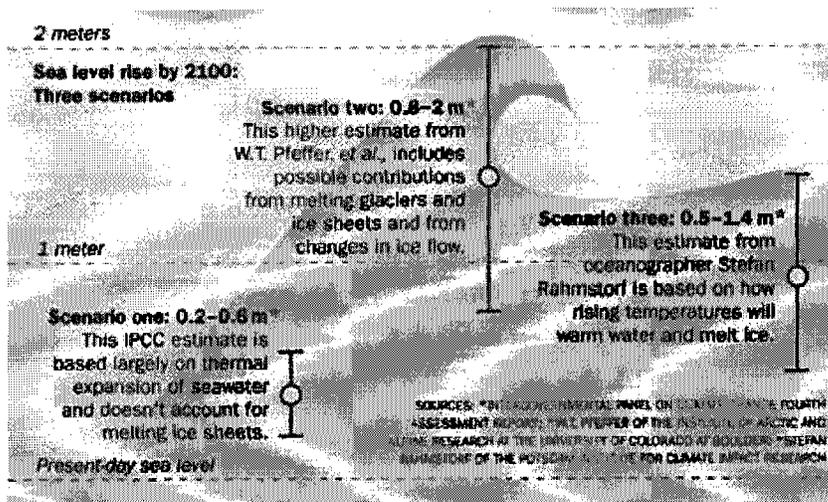
Recent scientific studies have predicted higher sea level rise than previously projected. The 2007 IPCC Report<sup>1</sup> took an extremely conservative approach, and estimated that seas could rise from 0.2 to 0.6 meters by 2100 (8 inches to 2 feet). The IPCC scenarios accounted only for the thermal expansion of the world's oceans, and did not consider increased volume from melting of ice sheets in Greenland and Antarctica.

In 2007, oceanographer Stefan Rahmstorf published a report in *Science* estimating possible sea level rise of 0.5 to 1.4 meters (1.6 to 4.6 feet) by 2100. In September 2008, W.T. Pfeffer of the University of Colorado at Boulder's Institute of Arctic and Alpine Research estimated that increased ice melt could cause oceans to rise by 0.8 to 2 meters by 2100 (2.6 to 6.6 feet). The range of projected sea level rise is shown below in Figure 1, from Science News<sup>2</sup>.

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<sup>1</sup> Intergovernmental Panel on Climate Change, 2007 Assessment Report. This document represents the consensus statement of hundreds of scientists. It does not contain new research, but summarizes existing work published in peer-reviewed scientific journals. Due to its writing process and number of authors, extreme or dissenting views are not included, and its contents are a conservative and carefully worded consensus view.

<sup>2</sup> Science News, February 28th, 2009; Vol.175 #5 (p. 24),  
[http://www.sciencenews.org/view/feature/id/40789/title/First\\_wave](http://www.sciencenews.org/view/feature/id/40789/title/First_wave)



The State of California adopted Rahmstorf's higher value of 1.4 meters for its statewide assessment of climate impacts (Cayan et al., 2009). In his article, Rahmstorf warned, "the possibility of a faster sea-level rise needs to be considered when planning adaptation measures, such as coastal defenses, or mitigation measures designed to keep future sea-level rise within certain limits."

In March 2009, the Pacific Institute released the report, "Impacts of Sea Level Rise on the California Coast", the most comprehensive assessment to date on the effects of sea level rise to California. In this report, we estimate that increased flood damages put up to \$100 billion worth of buildings at risk of a 100-year flood by the year 2100.

Oxnard has stated goals to "include best-available information regarding possible sea-level rise in the next revision of the Local Coastal Program" (SC-2.1) and "ensure that all new coastal developments take rising sea levels into consideration and take steps to minimize risk of damage or loss to life and property" (SC-2.3)

The city should use best-available information on sea-level rise for ALL planning decisions. Recent research published by the State of California shows that global warming and sea level rise will have more of an impact on coastal communities than was anticipated even a few years ago.

Actions that communities take to minimize the negative impacts of climate change will generally be less expensive today than in the future. Development in low-lying coastal areas will increase both exposure to flooding hazards and erosion hazards described by the authors. Beach loss becomes much more likely when the shoreline cannot retreat naturally and encounters built-up areas.

The city has an opportunity to lead by adopting a "no regrets" climate change adaptation policy. This means planning future development and designing structures in a way that limits the exposure of its citizens to future risk, and protecting natural ecosystems and cultural resources now and in the future. These policy options are not adequately addressed in the General Plan. Below we note some specific gaps.

## ***Flooding***

Risks due to coastal flooding will increase with sea level rise. This is related to Goal **ICS 13.1** on page 4-16 of the General Plan Update: "100-year floodplain: Discourage development, major infill, and structural improvements (except for flood control purposes) within the 100-year floodplain as regulated by FEMA."

The city should not rely solely on FEMA's designations of flood risk as they do not reflect the risk that will exist in 2030. FEMA's Flood Insurance Rate Maps for the California Coast were prepared in the 1980s, and are due for re-study. Many coastal engineers are of the opinion that FEMA's maps actually underestimate the actual flood risk along the coast (Battalio et al., 2008), especially when future sea-level rise is incorporated. Mapping by the Pacific Institute<sup>3</sup> indicates that the city is increasingly at risk under sea level rise scenarios. Portions of the study area may be in the future 100-year floodplain, placing lives and property at risk.

The best way to avoid future flood damages is to avoid building in areas that will be flood-prone in the future. This is in line with the city's goal SH-4.1, Location of new development. The city should limit or avoid development in areas of Ormond Beach that may be vulnerable to coastal flooding in the future.

In order to help reduce future flood damages throughout the city, Oxnard should also consider adopting optional floodplain ordinances that are promulgated by FEMA under its "Community Rating System" program<sup>4</sup>. This is "a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum requirements." CRS includes policies to reduce flood damages, such as prohibitions against rebuilding or making substantial improvements to structures in the 100-year floodplain and preventing repetitive losses.

## ***Erosion***

Coastal erosion is a significant threat to any developments along the California Coast. There is a potential for an increase in coastal erosion with sea level rise. The neighborhoods which appear the most vulnerable to increased erosion include Oxnard Shores, Channel Islands Beach, Hollywood by the Sea, and Silver Strand. Developing inland areas that are not currently at risk of flooding, but will be at risk in the future, make this pattern of development likely.

Dunes provide protection from coastal flooding during winter storms, which are marked by high waves and surges. When dunes are eroded, it removes the first line of defense from flooding. This may be a particular hazard in the Ormond Beach area, which is fronted by low dunes. If these dunes are eroded, they will no longer block the energy of incoming waves, and flooding may extend further inland.

The natural inclination of property owners will be to construct walls or bulkheads or reinforce the shoreline to protect their property from damage. However, armoring comes with its tradeoffs. Such "hardening" prevents natural coastal processes from occurring and leads to beach loss and cuts off public access.

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<sup>3</sup> see [http://www.pacinst.org/reports/sea\\_level\\_rise/hazmaps/Oxnard.pdf](http://www.pacinst.org/reports/sea_level_rise/hazmaps/Oxnard.pdf)

<sup>4</sup> FEMA's Community Rating System Online Resource Center: <http://training.fema.gov/EMIWeb/CRS/>

The General Plan does not discuss coastal armoring that may be necessary or its economic or environmental cost. Seawalls built in the US in the last decade have cost from \$1,200 to \$8,000 per linear foot.

Diminishment or loss of beach would mean losing an important biological, cultural and recreational resource for Oxnard and the citizens of California. This is related to the General Plan's goal **ER-9.1**: "Protect the shoreline and views to and along the Pacific Ocean, recognizing their value as natural and recreational resources." This goal is in harmony with state law. The California Coastal Act (section 30211) mandates the preservation of public access: "Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation."

The city of Oxnard **should act now to prevent future shoreline hardening**. According to NOAA's Ocean and Coastal Resource Management office<sup>5</sup>, more emphasis is being placed on alternative shoreline management techniques including soft, non-structural, hybrid, or planning and policy approaches.

Oxnard should consider creating erosion control easements or overlay zoning to prevent shoreline armoring. Easements avoid the expense of land acquisition. An easement may be placed on individual properties or subdivisions, and may limit the types or size of erosion control structure, prevent the removal of vegetation, or otherwise forbid impairing natural shoreline processes. "Rolling easements" move with the shoreline as it changes over time, and may be appropriate given threats due to sea level rise. NOAA reports that rolling easements have minimal impact on property values, because they do not restrict land uses. Legal scholars have also determined that rolling easements are not likely to result in "takings" claims by landowners (Titus, 1998).

Progressive shoreline management policies have been adopted in South Carolina, Maryland, and elsewhere in California. An excellent overview of non-structural shoreline management measures can be found at NOAA's Coastal Management website:

[http://coastalmanagement.noaa.gov/initiatives/shoreline\\_ppr\\_overview.html](http://coastalmanagement.noaa.gov/initiatives/shoreline_ppr_overview.html)

It will be more effective to adopt these policies today, rather than after a crisis. It will make landowners aware that their structure may have to be relocated one day, and pre-empt future legal challenges. Further, it will allow for continued public access to the shore and preserve shoreline habitat.

### ***Wetland Migration***

Wetlands once covered vast areas of California, providing breeding grounds for fish and habitat for waterfowl and iconic species such as elk and the California Grizzly. In the last hundred years, the state has lost approximately 95% of the state's wetlands, with only a few isolated remnants on the Southern California coast (Carle, 2003).

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<sup>5</sup> <http://coastalmanagement.noaa.gov/shoreline.html>

Because most of Southern California's coastal wetland habitat has been lost, the marginal value of each acre of existing wetlands, *or each acre that could be created*, is very high. Areas slated for development in the Ormond Beach area are among the few undeveloped low-lying areas on the coast of southern California. The Ormond Beach area is one of the few sites where wetlands will be able to migrate upslope as sea levels rise. This means that coastal policies to protect wetlands must now be expanded to protect areas that could become wetlands in the future as sea-levels rise.

Wetland restoration relates to several of the goals stated in Section 5 of the General Plan Update, on Environmental Resources:

**ER-2.1** Restoration of Ormond Beach Wetlands

**ER-2.2** Protection of Sensitive Habitat

**ER-2.3** Promote Areas for Open Space

Figure 2 (a) shows the area that is likely to be submerged by high tides with a 55-inch sea-level rise<sup>6</sup> in the Ormond Beach area. Figure 3(b) shows planned land uses in the same area. Portions of this area are the "accommodation space" where wetlands will migrate in the future.

Areas beneath the future high tide are potential future wetlands. Farm fields surrounding the Ormond Beach Power Generating Plant have tremendous potential for supporting future wetland habitat. Leaving these areas undeveloped means they will be available to support wetland habitat in the future. Wetlands that cannot migrate upslope will be lost, leading to a decline of open space and natural lands along the coast, and loss of habitat for migrating birds and other wetland plants and animals. Resource protection is an appropriate designation for currently-undeveloped agricultural land in the Ormond Beach area.

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<sup>6</sup> These spatial datasets were developed by Heberger et al. (2009) for the study *Impacts of Sea Level Rise on the California Coast*, sponsored by three state agencies, and are available for download from: [http://www.pacinst.org/reports/sea\\_level\\_rise/data/](http://www.pacinst.org/reports/sea_level_rise/data/)

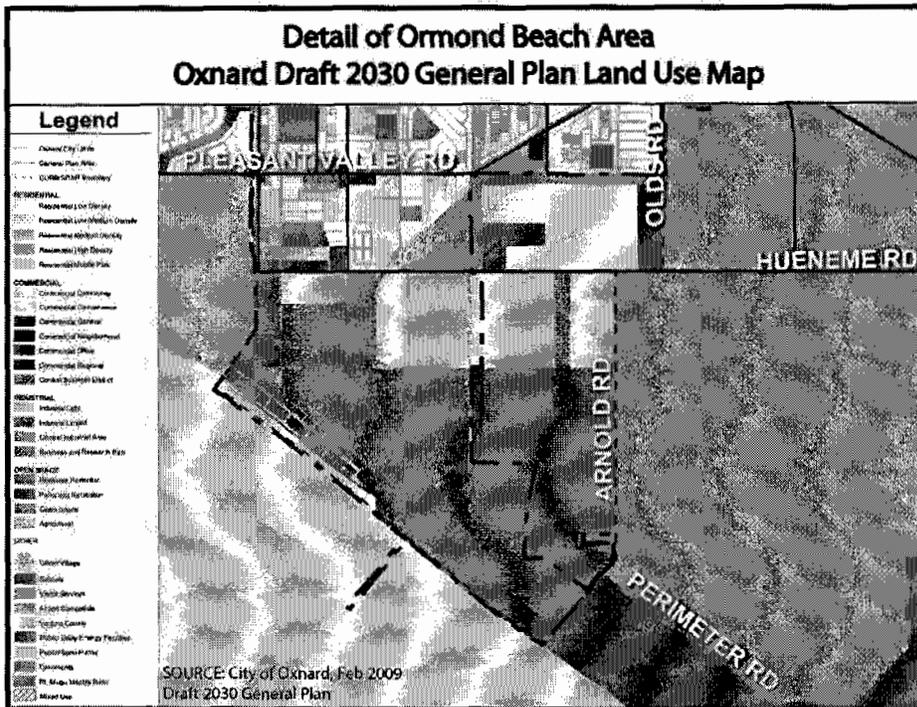


Figure 1 (a) Areas inundated by the unimpeded mean higher high water (MHHW) under a 55-inch sea level rise scenario (1.4 m or 4.6 ft) and (b) proposed land uses (from Figure 3-1 in the General Plan)

The areas shown in blue in the Figure 3 above are the most likely places for wetlands to become established in the future. Under the Draft General Plan, areas immediately adjacent to these areas have

been designated for industrial development. Placing industry immediately adjacent to natural areas would likely have a negative impact on the plants and animals that live there. Polluted stormwater runoff containing metals and hydrocarbons is a particular concern for birds and aquatic organisms. Oxnard should re-consider the wisdom of placing industrial areas next to conservation land and wetlands.

### ***Opportunity to Restore Historical Ecology***

In the Draft General Plan, Figure 3-1 shows that land use in the Ormond Beach area will be converted from agricultural to industrial. This would mean missing out on a unique opportunity to restore coastal wetlands in Southern California. We encourage the City of Oxnard to set aside more land for future wetland restoration by changing the planned land use of the tracts to the north and northwest of the Ormond Beach Power Generating Station to "Resource Protection".

The General Plan Background Report describes the unique potential for restoration in this area: "Ormond Beach is one of the **few remaining tracts** of undisturbed coastal habitat in Southern California. Under mixed public ownership, areas of the beach are currently being evaluated by the Coastal Conservancy for restoration of wetland and grassland habitats. Future plans for the area include a wildlife preserve, public nature trails, and an environmental education center." [emphasis added]

The city should consider the area within its historical ecological context, and in consideration of the important role wetlands once played in California's biodiversity. Griggs (2005) describes the area as follows: "The low barrier coast between Port Hueneme and Calleguas Creek fronts a series of salt marshes, salt flats, and lagoons that have been variously modified." (Trulio et al., 2007)

A news story<sup>7</sup> by KABC Channel 7 on May 28, 2009, highlighted the Ormond Beach wetland restoration, and interviewed community members who expressed strong support for cleaning up the site and creating a place for wildlife and recreation. We encourage the city to consider keep options for a full restoration open by designating land in this area for resource protection.

### **Wetlands and Climate Change Mitigation**

Wetlands are known to remove carbon from the atmosphere, offsetting emissions of greenhouse gases that cause global warming. In a summary of current knowledge on carbon sequestration, environmental scientists from San Jose State and the University of San Francisco concluded that "restoring tidal salt marshes is one of the most effective measures for sequestering carbon that we can take. Tidal marshes are extremely productive habitats that capture significant amounts of carbon from the atmosphere, large amounts of which are stored in marsh soils."

Constructing new wetland areas, and keeping open space to allow coastal wetlands to migrate landward with rising sea levels will help to mitigate global warming, a goal set forth in the General Plan as Goal SC-1.2: "Support Statewide Global Warming Mitigation" (page 2-9).

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<sup>7</sup> <http://blogs.venturacountystar.com/mlakin/archives/2009/05/a-toxic-wonderland.html>

## ***Recommendations***

Oxnard is uniquely poised to take a leading role in sustainable living and development.

Setting aside more land for wetland migration is a low-cost and common-sense strategy for managing some of the impacts of global warming and sea level rise. Preserving or even increasing the amount of wetlands will also help by removing carbon from the atmosphere, helping the offset greenhouse gas emissions.

Coastal wetlands are extremely valuable as habitat, flood control, water quality, and recreation. The Ormond Beach area is not only a prime candidate for restoring and enhancing natural wetlands, but it is also one of the few places on the Southern California coast where wetland plants and animals will be able to move upslope with rising sea levels. Filling in this landward "accommodation space" with roads, buildings, and people will prevent this from happening and likely lead to net wetland loss.

Further, residents on the coast will be exposed to increased flooding and erosion hazards, putting lives and property at risk. Oxnard can avoid these risks by limiting development in areas that will be vulnerable in coming years.

The inevitable response to these hazards will be to armor the coast with seawalls and revetments. While these protect property, they may lead to loss of beaches, and cut off public access and recreation. Oxnard should adopt non-structural coastal management policies that limit shoreline hardening, which will maintain shoreline habitat and ensure public access into the future.

We urge Oxnard to adopt policies to reduce overall risk rather than planning to create engineered structures at some point in its future. In this way, the overall risk to populations, economic interests, and natural ecosystems is likely to be reduced. Reiterate point about 100-year flood.

## ***References***

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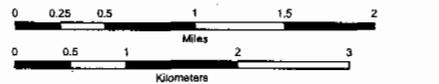


PACIFIC INSTITUTE

# California Flood Risk: Sea Level Rise Oxnard Quadrangle



- Interstate
- US Highway
- State Highway
- County Highway
- Current Coastal Base Flood (approximate 100-year flood extent)
- Sea Level Rise Scenario: Coastal Base Flood + 1.4 meters (56 inches)
- Landward Limit of Erosion High Hazard Zone at 2100
- Coastal Zone Boundary



### Adjoining Quadrangles:

1	2	3
4	5	6
7	8	

- 1: Ventura
- 2: not printed
- 3: not printed
- 4: Oxnard OE W
- 5: Camarillo
- 6: not printed
- 7: Point Mugu OE W
- 8: Point Mugu



This information is being made available for informational purposes only. Users of this information agree by their use to hold blameless the State of California, and its respective officers, employees, agents, contractors, and subcontractors for any liability associated with its use in any form. This work shall not be used to address actual coastal hazards, insurance requirements, or property values and specifically shall not be used in lieu of Flood Insurance Studies and Flood Insurance Rate Maps issued by the Federal Emergency Management Agency (FEMA).

Site Sources: US Geological Survey, Department of Commerce (DOC), National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), Coastal Services Center (CSC), Scripps Institution of Oceanography, White Systems and Associates, Inc. (WSA), US Department of Agriculture (USDA), California Coastal Commission (CCC), and National Aeronautics and Space Administration (NASA). Imagery from ESRI and iObot.

Created by the Pacific Institute, Oakland, California, 2008.  
Project funded by the California Energy Commission's Pacific Inland Energy Research Program, CalTrans, and the California Ocean Protection Council.

GAK coordinates:  
UTM Zone 11N meters  
NAD83 GCS degrees



Map extents match USGS 7.5 minute topographic maps

16



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August 6, 2009

Delivered via email and first class mail

California Coastal Commission  
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45 Fremont Street Suite 2000  
San Francisco, CA 94105  
efuchs@coastal.ca.gov

RE: Workshop on Local Coastal Programs

Honorable Coastal Commissioners,

These comments are submitted on behalf of the San Diego Chapter of the Surfrider Foundation. We believe that the Coastal Commission and Coastal Commission Staff, in the vast majority of the cases, have acted appropriately in requiring Local Coastal Programs (LCPs) to comply with the Coastal Act. However, all too often LCP amendments are proposed that are not consistent with the Coastal Act. In addition, they are often project-driven amendments specifically intended to approve a project that is inconsistent with the LCP. It is neither Coastal Commission Staff, nor the Coastal Commissioners that are to blame in delay in approval of LCP and LCP amendments, but the insistence of local jurisdictions in proposing LCPs that are less resource protective than the Coastal Act, and the failure to fund a fully operational staff.

**A. Local Coastal Programs May Be More Protective,  
But Not Less Protective than the Coastal Act.**

The California Coastal Act was intended to favor the protection of coastal resources over the economic development. The legislative findings for the Coastal Act state: "the permanent protection of the state's natural and scenic resources is a paramount concern to the present and future residents of the state and nation." (Coastal Act § 30001(b).) "Paramount" means the highest priority. Thus, although one of the goals of the Coastal Act is to balance development with natural resources, economic development is subordinate to the protection of the environment. (Coastal Act §§ 30001(d) & 30004(b).) This is seen throughout the Coastal Act. For example, Coastal Act § 30001.5(a) states that the purpose of the Coastal Act is to "protect, maintain and, where feasible, enhance and restore the overall quality of the coastal zone

environment," but is immediately followed by Coastal Act § 30001.5(b) which states that a major purpose of the Coastal Act is to "assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people." Coastal Act § 30001(d) states, "future developments that are carefully planned consistent with the policies of this division, are essential to the economic and social well being of the people". Coastal Act § 30007.5, the balancing provision, states, "in carrying out the provisions of the [Coastal Act] such conflicts should be resolved in a manner which on balance is the most protective of significant coastal resources." Thus, while a balance is necessary, such balance should be struck in favor of environmental protection.

To implement this framework for statewide protection of coastal resources and development, the Coastal Commission relies "heavily" on local jurisdictions to enforce the Coastal Act. (Coastal Act § 30004.) This is theoretically accomplished by requiring coastal counties and communities to prepare and adopt an LCP that is consistent with the Coastal Act. The Coastal Commission simply does not have the resources to act as a watchdog for the hundreds of developments that are proposed and approved in the Coastal Zone every year. It is critical for the Coastal Commission and Coastal Commission staff to ensure that local jurisdictions adopt an LCP that complies with all relevant policies of the Coastal Act.

Consistent with such requirement, all LCPs must comply with and be consistent with the Coastal Act. (Coastal Act §§ 30004, 30108.6, 30512(c); *See, Yost v. Thomas* (1984), 36 Cal. 3d 561, 566). The Coastal Act is the primary law upon which the LCP is based. "The Coastal Act sets the minimum standards and policies with which local governments within the coastal zone must comply." (*Id.*) Local Governments may "adopt and enforce additional regulations, not in conflict with the Act, imposing further conditions, restrictions or limitations with respect to any land or water use or other activity which might adversely affect the resources of the coastal zone." (Pub. Res. Code 30005.) However, while an LCP can be more restrictive than the Coastal Act, it

cannot be less restrictive. (*Yost, supra*, 36 Cal. 3d at 572; see also, Pub. Res. Code § 30522.)

Despite the very clear case law and rules governing LCPs, there are many LCPs which are less protective of resources than permitted under the Coastal Act. For example, the adverse impacts of seawalls are well documented and identified as a major problem even before the drafting of the Coastal Act. (See California Coastal Plan (1975) at p. 18). Seawalls invariably result in the loss of the beach, through passive erosion and cumulative sediment loss.

Consistent with the resource protective intent, Coastal Act section 30253 explicitly states:

New development shall...Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Despite this explicit language, the Imperial Beach LCP certified by the California Coastal Commission actually requires the construction of seawalls for new development. (Imperial Beach LCP policy S-11, See also, A-6-IMB-07-53 (No substantial issue found for new development with seawall).)

Unfortunately, once an LCP or LCP amendment is approved and certified, unless challenged by an aggrieved person, it becomes the law, with a few minor exceptions. (Coastal Act section 30801) Essentially, if an LCP is approved that fails to comply with the public access or resource protective policies of the Coastal Act, the Coastal Commission has failed in its duty to ensure "to avoid long-term costs to the public and a diminished quality of life resulting from the misuse of coastal resources..." (Coastal Act section 30004(b).) The public suffers the consequences. And, while Coastal Act section 30519.5, requires review of all the LCPs every five years, the Coastal Commission has never, to our knowledge, required a

jurisdiction to bring a faulty LCP into conformance with Coastal Act. Poorly written LCPs present an ongoing problem to the public.

The only chance that the Coastal Commission and the public do have to review an LCP is when an LCP is proposed or an LCP amendment comes forth. The Coastal Commission must be diligent when reviewing LCPs and LCP amendments for consistency with the Coastal Act. Considering local jurisdictions' affinity for favoring development which results in immediate tax dollars, over long-term maintenance of low-cost visitor serving uses, this is not an easy task. Coastal Commission Staff must anticipate all the possible implications of the language in the proposed LCP or LCP amendment to ensure that it complies with the Coastal Act. Due diligence takes time and effort, and should not be rushed on such important matter. The long-term protection of the environment must be favored over short-term economic concerns.

**B. Many LCP Amendments Are Driven by Projects that Do Not Comply with the LCP.**

First, there are many LCP amendments that are minor and completely consistent with the Coastal Act which are not delayed by the Coastal Commission. Again, using *Imperial Beach* as an example, the recent LCP amendment for the eco-bike transportation plan was filed on April 24, 2009 and approved without conditions by the Coastal Commission on July 9, 2009. [LCP Amendment, IMB-MIN-1-09.] This is exactly the type of long-range planning that is appropriate for LCP amendments.

However, too many LCP amendments are proposed for development of projects that are inconsistent with the LCP. Even then, the vast majority of such amendments are approved, especially when not inconsistent with the Coastal Act. [See e.g., Santa Cruz County LCP Amendment No. SCO-MAJ-1-09 Part 1 (Seacliff Beach Hotel) [Approved June 2009].] Unfortunately, municipalities often attempt to change the LCP to permit a project inconsistent with the Coastal Act, not just inconsistent with the LCP.

A perfect example of an LCP amendment that was properly denied by the Coastal Commission was the City of Oceanside's Proposed LCP Amendment for the Oceanside Beach Resort and Pier Resort. (Oceanside LCPA 01-2001.) In such case, the City of Oceanside attempted to permit grading of "substantially disturbed" coastal bluff that no longer provided sand to the beach to permit a large hotel resort. (Staff Report, LCPA 01-2001, at 11 [dated May 23, 2002].) The Staff correctly noted that the proposed amendment ran counter to a number of different Coastal Act sections, including, Coastal Act sections 30210, 30211, 30212 etc... Importantly, it would have destroyed Oceanside's historic Band Shell, just south of the pier. In other words, the LCP amendment was inconsistent with the Coastal Act, and was properly rejected.

One of the most disturbing abuses of the LCP process was the Dana Point LCP Amendment for the Dana Point Headlands (Dana Point LCP 1-03.) Such LCP Amendment specifically permitted the destruction of 11.3 acres of Environmentally Sensitive Habitat Area (ESHA). Originally, Coastal Staff recommended denial of the LCP Amendment because of its inconsistency with Coastal Act section 30240, which states, "Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas." Unfortunately, the Coastal Commission determined that approving the LCP was justified because of historical plot maps, and various improvements such as increased beach access and off-site improvements to the water quality. (Dana Point LCP Findings Staff Report 01-03 [dated December 30, 2003] at 164.)<sup>1</sup>

Such actions were legally challenged by the Surfrider Foundation and Sierra Club. However, after the developer quickly bulldozed the ESHA during litigation, the Surfrider Foundation and Sierra Club dropped their lawsuit. It simply did not make sense to continue to spend resources on litigation when the ESHA that the Coastal Act was designed to protect was already destroyed. Surfrider considers the Dana Point Headlands project

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<sup>1</sup> Although technically, the Coastal Commission did not use PRC § 30007.5, it noted that various improvements and previous comments and entitlements brought the LCP amendment close to a point of conflict. (Staff Report, LCPA 01-03, at 164.)

one of the greatest failures of the Coastal Commission, and the public has not seen any benefit from the project.

Thus, the Coastal Commission does not always decide in favor of environmental protection, despite the dictates of the Coastal Act. Surfrider notes, however, that for many important land use decisions through-out the years, the Coastal Commission Staff and Coastal Commissioners have been the only check on local jurisdictions' attempts to sell the coast to the highest bidder. A few of the examples of "victories" for the Coast include the rejection of the LCP amendment for the headlands at San Simeon, which would have resulted in the development of a pristine headlands in northern San Luis Obispo County, and the more recent rejection of the LCP amendment for Pebble Beach which would have resulted in cutting down thousands of Monterey Pines.

#### CONCLUSION

The Surfrider Foundation does not believe that the LCP process is in need of fixing. What needs fixing is the Coastal Commission's budget. The Coastal Commission's mandate is the same whether the Coastal Commission is understaffed or not. Should the League of California Cities truly wish an expedited process, it should lobby the State Legislature for full funding of the Coastal Commission. Otherwise, it cannot complain when Coastal Staff does not have the resources to timely review and comment on LCP amendments which clearly violate various provisions of the Coastal Act. Coastal Commission Staff is complying with their mandate under the Coastal Act. In the San Diego Chapter's opinion, local cities and counties are not.

Sincerely,

  
Todd T. Cardiff, Esq.  
Advisory Board Member  
San Diego Chapter  
Surfrider Foundation

**Liz Fuchs**

---

**From:** Dave Grubb [DavidGrubb@sbcglobal.net]  
**Sent:** Friday, August 07, 2009 9:09 AM  
**To:** Liz Fuchs  
**Subject:** Re: Item W 3 - Workshop on Local Coastal Programs

Delivered via email

August 7, 2009

California Coastal Commission  
Attn: Elizabeth Fuchs  
45 Fremont St, Suite 2000  
San Francisco, CA 94105  
[efuchs@coastal.ca.gov](mailto:efuchs@coastal.ca.gov)

Re: Item W 3 - Workshop on Local Coastal Programs

Honorable Coastal Commissioners,

I am an active member of a number of organizations that work to protect coastal resources. I have had many opportunities to observe the coastal planning process in action, both at the local level and at the Coastal Commission.

By all accounts, an overwhelming majority of the people of California favor protection of OUR coastal resources. I have seen ample proof of that in the form of angry crowds overflowing city planning commission, city council, and Coastal Commission hearings.

Unfortunately, our elected officials and public employees are not doing a proper job of enforcing the law.

In my experience, some city planning commissioners and city planning staff people are not familiar with their LCPs or the Coastal Act. Even when they are, they sometimes fail to properly review projects for conformance with the law.

Several people on local city planning staffs have admitted privately that they sometimes allow bad projects to go forward because of threats of legal action by developers or political pressure. They prefer to let the Coastal Commission take the heat.

At a recent public hearing on a bad project in one of the cities in my area, there was open discussion among the planning commissioners about the threat of a lawsuit as being a valid reason to approve the project.

The reason we have a Coastal Act and Coastal Commission is because the local officials repeatedly showed that they were unwilling or unable to protect the coast. Too often they are still unwilling or unable to enforce the Coastal Act and their own laws and regulations as defined in their approved LCPs. Too often they seek to weaken or amend their own LCPs to allow bad projects to go forward.

Perhaps the League of Cities could provide some training on the Coastal Act, to help the member cities do a better job of upholding the law. That would go a long way toward reducing the workload on the Coastal Commission, and expediting the processing of permits and LCP Amendments.

David Grubb  
2233 Manchester Ave #1  
Cardiff By The Sea, CA 92007

8/10/2009

23

# *Citizens for the Preservation of Parks and Beaches*



August 6, 2009

**Delivered via email**

California Coastal Commission

ATTN: Elizabeth Fuchs

45 Fremont Street Suite 2000

San Francisco, CA 94105

[efuchs@coastal.ca.gov](mailto:efuchs@coastal.ca.gov)

RE: Workshop on Local Coastal Programs

Honorable Coastal Commissioners,

This letter is submitted on behalf of the Citizens for the Preservation of Parks and Beaches (CPPB) which sports thousands of members throughout San Diego North County; particularly Oceanside, California.

The CPPB was formed in 1998 by concerned citizens to retain and improve the level of beach access enjoyed by all who visit Oceanside's beaches. If it had not been for the careful oversight of the California Coastal Commission, a development approved at the local level (city council) in 1998 (Oceanside Beach Hotel) would have completely destroyed our coastal bluffs, closed our first named public roadway, and given public parkland at the beach to a developer for private uses. We will forever be grateful for the thorough knowledge Coastal Staff has of our LCP and their



California Coastal Commission

RE: Workshop on the LCP Process

August 6, 2009

Page 2 of 2

ability to sensibly balance development together with Coastal Act Policy.

The Citizens for the Preservation of Parks and Beaches does not believe that the LCP process needs to be changed; we believe the present process serves everyone well.

Sincerely,

*Shau Madrin Carolyn Krammes*

Citizens for the Preservation of Parks and Beaches

cc: files



August 6, 2009

Bonnie Neely, Chair, and Members  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

**Re: Item #3 on Wednesday, August 12, 2009 Agenda: Public Workshop on the Local Coastal Planning Process**

Dear Chair Neely and Members of the Commission,

Proposition 20 was enacted by the voters of California to protect the coast from “business as usual” in which local governments all too often made decisions without regard to protection of its irreplaceable environmental resources, and public access for all. Unyielding pressure from development interests threatened to destroy the very natural resources of the California coast that we all cherish.

The Coastal Act of 1976 mandates that each jurisdiction in the coastal zone develop a Local Coastal Program that meets the standards of Chapter 3 of the Coastal Act. Naturally, this legislative mandate created a tension between the Coastal Commission and many local governments, and this tension continues today. The Coastal Cities Issues Group, which has urged closer “cooperation” and “communication” between local governments and the Commission is just the newest manifestation of this tension. The Coastal Cities are urging more efficient and streamlined processes for LCPs and LCP Amendments. Committee for Green Foothills fears this is just a subterfuge to undermine the Coastal Act and the Commission’s mandate. A shocking number of local jurisdictions do not even have certified LCP’s –33 years after enactment of the Coastal Act. Clearly some jurisdictions do not want to embrace the planning and environmental protection requirements of the Coastal Act.

**San Mateo County is a success story, thanks to the voters**

San Mateo County was fortunate to have a Board of Supervisors that supported the Coastal Act when it was adopted by the Legislature in 1976. As a result, San Mateo County’s LCP was the first in the State to be certified – in 1981. However, shortly after certification, a new majority on our Board of Supervisors made it clear that they were openly hostile to many of the LCP policies, and began to approve a series of weakening LCP Amendments.

In 1986, alarmed by the erosion of the county’s strong coastal plan, citizens qualified the first ever county-wide initiative for the ballot. Measure A, approved by an overwhelming 63% margin, enacted 38 key policies of the LCP, and prohibited the Board of Supervisors from weakening or discarding these policies without voter approval.

In 1992, a developer-sponsored measure, Measure D, that would have exempted 862 acres of farmland (Johnston Ranch) outside the City of Half Moon Bay from LCP voter protections, was trounced by a 82% No vote, despite a ridiculously lopsided sum of money spent by its offshore

owners. The Johnston Ranch is now permanently protected from development thanks to its acquisition by the Peninsula Open Space Trust, a private land conservation organization.

In 1996, again frustrated by our elected officials support for the devastating freeway bypass of the unstable stretch of coast known as Devil's Slide north of Half Moon Bay, citizens again qualified an initiative, Measure T (the "Tunnel Initiative") which won by a landslide 74% margin.

Our elected officials in San Mateo County have gotten the message: "Don't mess with our Coast"! There have not been significant weakening Amendments to the Measure A policies since the voters spoke so clearly.

### **Challenges remain – particularly in the Midcoast**

Neither of the citizen initiatives addressed the serious constraints to development in the urban areas of Half Moon Bay and the unincorporated Midcoast area. There has never been a Periodic Review for the San Mateo LCP, so some issues that would have been more comprehensively addressed have become more urgent today. In 2000, the County Board of Supervisors initiated an LCP Update for the Midcoast that has taken an agonizingly long seven years to proceed through the local planning process. Despite the glacial time-frame, the Update does not yet adequately address the fundamental issue of cumulative impacts of new urban development, and the inadequacy of infrastructure to serve the buildout of the area.

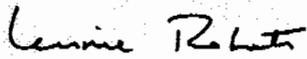
The coastsides' limited road, water, sewer, and other infrastructure are insufficient to serve the buildout of Half Moon Bay and the urban Midcoast. One of the most crucial limiting factors is water. Twenty years ago, County Board of Supervisors allowed individual private water wells to be drilled on small (5,000 square foot) lots in the urban Midcoast. This was a terrible decision from a public policy, public service, and environmental perspective. Today there are nearly 1,000 individual wells installed in the Midcoast on these small lots. Recent studies have concluded that several of the Midcoast's small groundwater sub-basins are in overdraft conditions during dry years. Many individual wells have marginal to poor water quality, yet the county has no program to ensure that water quality and quantity are sufficient once a well has been initially developed. Already some wells have failed, and it is only a matter of time before more dry up, or become unpotable. There is also significant potential for resource damage from continued or increased groundwater extraction. The Commission staff has proposed that the LCP Update be modified to include a new policy prohibiting private domestic wells within the urban/rural boundary unless authorized pursuant to a groundwater management plan incorporated into the LCP. The County is opposing this precautionary approach. While it would be easier to continue to look the other way, it is not acceptable to wait until environmental damage from salt water intrusion, and/or depletion of marshes, creeks and riparian areas, is evident before addressing this problem.

This is but one example of the continuing debate regarding the need to ensure through prudent coastal planning that infrastructure is sufficient to serve new development, and that there are not adverse impacts on coastal resources, nor upon the public's ability to access the coast.

It is clear that the job of educating our elected officials about the importance of the coast and its resources is never done. The Commission should not agree to measures that would undermine your program. If the Cities wish to improve efficiencies in the process, they should be strongly supporting more funding for the Commission.

On behalf of Committee for Green Foothills, I want to thank the Commission and particularly the Staff for your diligence in carrying out the mandate of the Coastal Act. Public support for coastal protection is often ignored or trivialized by decision makers at every level of government who are under constant pressure by well-funded development interests. As a former Regional Commissioner, I know how difficult this job is, but the importance of your work cannot be understated. The stakes are high, and always will be.

Sincerely,



Lennie Roberts, Legislative Advocate

**SANDRA GENIS, PLANNING RESOURCES**

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August 7, 2009

**W3**

Honorable Chairman Bonnie Ncely and Members of the Coastal Commission  
California Coastal Commission  
45 Fremont Street  
Suite 2000  
San Francisco, CA 94105-2219

**RECEIVED**

AUG 10 2009

CALIFORNIA  
COASTAL COMMISSION

Subject: Workshop: Improving the Local Coastal Planning Process, August 12, 2009

Dear Commissioners:

Thank you for the opportunity to comment upon issues related to improving the local coastal planning process. I hope the pending workshop will provide an opportunity for all parties to work together to improve coastal planning and adherence to the Coastal Act.

My comments are offered only on behalf of myself, although I am involved with a number of organizations dedicated to protecting coastal resources. I believe I can offer a unique perspective as a former local elected official for one community and staff planner for another coastal community. One of my proudest achievements as a staff planner was preparation of a comprehensive revision of the city's Local Coastal Program Land Use Plan which was approved after only one (!!!) Coastal Commission meeting. Key factors in that regard were hewing closely to the Coastal Act and working closely with Commission staff.

Another major factor was a city attorney who educated the city council as to Coastal Act requirements, so that the plan forwarded by the council was in conformance with the Act. Unfortunately, not all cities have senior staff willing or able to provide a clear and accurate explanation of State coastal requirements.

A review recent League of City's conference agendas revealed dozens of sessions regarding everything from public safety to youth programs to dealing with the press. Unfortunately, education regarding the Coastal Act or dealing with the Coastal Commission appeared to be lacking.

Thus, there appears to be a void which the Commission may be able to fill without expenditure of significant resources. It would be helpful for the Commission to work with the League of Cities to develop a short education program for local officials regarding the Coastal Act and the State mandated roles of the Commission and local government. Perhaps former Commissioners such as Mr. Reilly or Mr. Nutter would be willing to help with such a program.

Local officials are to be applauded for their willingness to improve communications with the Coastal Commission, doubly so for those taking the time to attend the Commission workshop. At the same time, the Coastal Cities Issues Group should not necessarily be viewed as representative of all California cities.

The League of Cities consists of nearly five hundred cities. Approximately sixty of these are at least partially located in the Coastal Zone. Over four hundred cities are fully inland, but their citizens still have an appreciation for coastal resources and a desire to enjoy those resources.

The League of Cities has a governing structure that is open and public, much like meetings of the Coastal Commission. Agendas are posted, minutes are kept, and the public has opportunity for comment. League policy is established through an open process involving meetings of standing committees, sometimes involving long and spirited debate.

The CCIG does not operate in a similarly open fashion, as it is considered an ad hoc study group reporting to the Environmental Quality Policy Committee. The CCIG has no authority to act except at the behest of the Environmental Quality Policy Committee, after discussion of an agenda item in an open meeting. The CCIG may act as a conduit for communications, but cannot establish policy independent of standing League Policy Committees. The EQPC has provided very little discernible direction to the CCIG, except to improve communications.

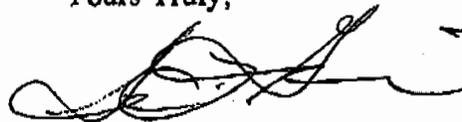
The lack of transparency regarding the CCIG is troubling. I requested a copy of the League approved work plan for the CCIG weeks ago and have yet to receive anything. The League provides no list of individual participants, only a list of cities located at least partially in the Coastal Zone. It is not clear whether participants are appointed to attend by their city or League chapter or are self-selected. At best there is a short report to the League's Environmental Quality Policy Committee. The closest to any real minutes was one written report dated February 18, 2008 indicating that twenty-two city officials had attended. There is no indication as to who these officials were or whether they represented twenty-two different cities or two. There is no indication as to how anyone voted, or if any votes taken at all. Thus, there is no way of knowing if the CCIG is truly representative of California cities in general or even all coastal cities.

I also believe that the Coastal Commission is often unfairly scapegoated. Staff planners defeated in efforts to explain the flaws in a plan championed by the mayor's college buddy may simply give up and state that the Coastal Commission would never approve it, casting blame elsewhere. Others go with the political flow, rather than provide a professional assessment consistent with State planning requirements, and blame the Coastal Commission when a development proposal falls apart. Others have never actually read the Coastal Act, merely stating that certain measures are required to satisfy the Coastal Commission, as if the Commission acted on its own, absent a regulatory structure.

Concern has been raised that LCPs are out of date or never completed. Many city general plans are similarly out of date, with some last revised in the 1970s. The sad truth is that cities have limited budgets and concentrate on urgent issues requiring immediate response. In addition, many city officials avoid controversial issues to the extent possible. Thus, an LCP will not be a priority. This is not the fault of the Commission or individual cities but the reality of municipal government.

Perhaps improved communication between cities and the Commission will lay certain misconceptions to rest. Any such communications must be conducted in an open, public manner for the benefit of all California residents and our coastal resources.

Yours Truly,



Sandra L. Genis



**CALIFORNIA FARM BUREAU FEDERATION**  
**NATURAL RESOURCES AND ENVIRONMENTAL DIVISION**

2300 RIVER PLAZA DRIVE, SACRAMENTO, CA 95833-3293 · PHONE (916) 561-5655 · FAX (916) 561-5691

August 7, 2009

*Via First-Class Mail & Email*

*efuchs@coastal.ca.gov*

California Coastal Commission  
**ATTN: Elizabeth Fuchs**  
45 Fremont Street Suite 2000  
San Francisco, CA 94105

**Re: Local Coastal Planning Process Workshop – Public Comment**

Dear Commissioners:

The California Farm Bureau Federation (“Farm Bureau”) would like to provide its comments on the Local Coastal Planning Process Workshop to be held August 12, 2009.

Farm Bureau is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the State of California and to find solutions to the problems of the farm, the farm home and the rural community. Farm Bureau is California’s largest farm organization, currently representing over 85,000 farm families and individual members in 56 counties. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California’s resources.

Farm Bureau has been monitoring the Local Coastal Program amendment and update processes of some coastal counties, most recently in Marin, and these have raised some concerns. Counties rely on the Coastal Commission staff for guidance and it is important that the Coastal Commission limit their comments to the mandates of the Coastal Act and not go beyond those limits.

**Respect Limits to the State’s Authority and the Powers of Local Governments**

Farm Bureau meets annually to consider and adopt its policies. This is truly a grassroots and statewide process. Ideas and suggestions for the policies originate during discussions between Farm Bureau members at various meetings and gatherings throughout the year. After consideration by a statewide committee, the policies are adopted by elected voting delegates of the member county Farm Bureaus at Farm Bureau’s annual meeting.

With respect to the California Coastal Commission, Farm Bureau has the following policy:

“We believe the authority of the California Coastal Commission relative to agriculture and agricultural practices should be rescinded and that authority returned to local government.” (Rev. 2003) *California Farm Bureau Federation 2009 Policies* – Policy No. 133.

With respect to the Coastal Commission’s responsibilities, Farm Bureau believes that local governments, familiar with the local agricultural history and current realities and the agricultural practices specific to their county or region, should determine the agricultural-related policies contained in their respective Local Coastal Programs. The Coastal Commission should respect this local process and not intervene to weaken any protections for agricultural resources.

Farm Bureau further believes that local governments should be encouraged to maintain their autonomy to craft policies with respect to agriculture that will serve as the means to accomplish Coastal Act legislation. Section 30500(c) of the Coastal Act expressly states that “[t]he precise content of each local coastal program shall be determined by the local government.” Of course, consultation with and approval by your Commission are required. *But* the Commission’s role is strictly limited to ensuring that an LCP is consistent with the Coastal Act. Section 30512.2(a) of the Act clearly states: “[T]he commission is not authorized by any provision of this division to diminish or abridge the authority of a local government to adopt and establish, by ordinance, the precise content of its land use plan.”

The reasoning behind the language in the statute is clear. Local elected officials understand far better than the Coastal Commission or its staff the needs of its own constituents – and, more importantly, their *rights*. Local elected officials, with the input of its constituents, are charged with making those policy choices that best suit the needs of their communities, while at the same time respecting the fundamental rights of their landowning constituents. However, in an effort to formulate a Local Coastal Program, local agencies rely heavily on the input from the Coastal Commission even when that input may not be entirely helpful. For example, Marin County, with a rich and significant agriculture industry, has been encouraged by Coastal Commission staff to adopt policies from the recently updated Malibu Local Coastal Program. This is problematic for several reasons, least of all because commercial agriculture within the City of Malibu is practically nonexistent. Each California County is unique and not often amenable to a “one-size-fits-all” approach to coastal zone planning. Please consider reducing this practice in the future.

#### **Cease Recommending that Counties Adopt Policies not Required by the Coastal Act**

“LCP Update Guides” published by the Commission, often recommend that counties incorporate a number of policies that are *not* required by the Coastal Act. Specifically, the April 3, 2007 Agricultural Resources LCP Update Guide (“the Guide”) contains very specific recommendations for the alleged purpose of preserving the agricultural economy and agricultural resources. However, as noted above, each county is different and a one-size-fits-all approach is

not always appropriate. Furthermore, it is not clear whether these recommendations were designed with input from the people most knowledgeable about preserving the agricultural economy and agricultural resources – namely, California’s farmers and ranchers. Since Counties rely on the Coastal Commission’s recommendations, it is imperative that the Coastal Commission meet with agricultural representatives and recommend specific policies that are appropriate for the jurisdiction. This approach will not only ensure that the recommendations are valid and reasonable, but will also reduce the likelihood of legal challenges.

Farm Bureau is specifically concerned with recommendations for preserving agricultural land through mandatory agricultural easements. Farm Bureau certainly supports voluntary agricultural easements, and any recommendations from the Coastal Commission should ensure these easements are *voluntary* and not a requirement of the Coastal Act. Furthermore, while the specific amount of land to be preserved depends on a number of factors (soil quality, water availability, etc.), any suggested preservation ratio should be proportional to the impact (i.e., acre per acre). Additionally, the Guide recommends that “policies and ordinances of your LCP should also prohibit land divisions, lot line adjustments, legalization of lots through certificates of compliance and development of nonconforming parcels that would undermine the viability of continued agricultural use.” This appears to misstate the standard set in Coastal Act section 30141(f) that allows for divisions of land as long as they do not “diminish the productivity of prime agricultural lands.” That is a very subtle, but important, difference.

Thank you for your consideration of our concerns. If Farm Bureau can provide any further information or clarification, please do not hesitate to contact us. We look forward to addressing with you in the future our other concerns regarding the agriculture components of Local Coastal Program updates and amendments.

Sincerely,



**John R. Weech**  
Associate Counsel

cc: Dominic Grossi, President, Marin Co. Farm Bureau (Via Email: [dgrossi73@att.net](mailto:dgrossi73@att.net))  
Marin County Board of Supervisors (Via Email: [BOS@co.marin.ca.us](mailto:BOS@co.marin.ca.us))  
Marin County Planning Commission (Via Email: [MarinLCP@co.marin.ca.us](mailto:MarinLCP@co.marin.ca.us))



## Item W 3

August 7, 2009

Dear Commissioners, Staff, and Moderator Reilly:

Several environmental advocates from up and down the coast of California attended the April 2008 Coastal Commission hearing in Santa Barbara and testified before the Commission following comments from representatives of the League of Cities/Coastal Cities Issues Group (CCIG). I am a long-standing member of the Sierra Club and spoke that day. We all detailed our concerns about this group and their ongoing desire to circumvent the Coastal Act and the Coastal Commission process. Here we are again just a bit over a year later once again addressing this group's desire to receive special treatment as it pertains to development projects approved at the local level. It is very clear from just a cursory review of the materials this group provided that they are out of touch with the basics of the Coastal Act, and that their goal is to fast track all development projects without any concern for the protection and preservation of our finite coastal resources as mandated by the Coastal Act.

Although I am aware of troubling issues up and down the coast as they pertain to Coastal Act circumvention and project-driven LCPs by several local governments, I am not intimately involved with them and therefore unable to address them in detail. However, as a resident and concerned environmental advocate from the city of Laguna Beach, I would like to highlight one example since this "workshop" has been publicized from the Laguna Beach City Council dais as a meeting between 12 coastal city/county representatives and 12 Coastal Commissioners. It is unclear to many of us that will be attending the August 12<sup>th</sup> hearing if we will be provided with enough time to address our concerns. We are aware that we will be excluded from any dialogue. It has been made quite clear to us by individual members of the CCIG that their preference is no public comment at all.

Friday, August 14, 2009

**12. LOCAL COASTAL PROGRAMS (LCPs)** See AGENDA CATEGORIES.

**a. City Of Laguna Beach LCP Amendment No. LGB-MAJ-2-9 (Biological Resources Policies and Maps). Time Extension.** Public hearing and action to extend 90-day time limit to act on the City of Laguna Beach's request to revise and update Topics 8 (Vegetation and Wildlife Resources) and 9 (Watersheds and Watercourses) of the Open Space/Conservation Element portion of Local Coastal Program (LCP) land use plan by adding to the Biological Resource Value Map, and Major Watersheds and Drainages Courses Map, and related text to include the South Laguna and Laguna Canyon Annexation Areas. The amendment also proposes reorganization of Topic 8 policies in addition to new policy language. The addition of new topic, Topic 15 (Constraint Mapping), is also proposed. (KFS-LB)

Almost two decades ago, the Laguna Beach City Manager was directed by the City Council to amend the city's LCP and have the Coastal Commission certify South Laguna's watercourses and biological resources based on this area being newly annexed into the City of Laguna Beach. As you'll see from the agenda item above, this issue is once again on request for yet another time extension. Commission staff has patiently and methodically worked with Laguna Beach staff for several years on this problem area. During that time two Coastal appeals have been filed on monstrous coastal projects with enormous impacts to watercourses and biological resources. Both appeals were determined to have substantial issues by the Coastal Commission and both appeals were argued in Orange County court and lost due to the ongoing delay of the certification of this LCP amendment. The cost to the Coastal Commission and the public has been exorbitant, but the cost to finite coastal resources has been irreparable damage. Please see the attached photos of one of the projects referred to as Mar Vista to understand the incredible assault on our resources that are now gone forever. This spec estate is now floundering in this challenging economy and real estate down turn.

The environmental advocates in Laguna Beach are now forced to just stand by helplessly and witness impacts to watercourses and biological resources in South Laguna when it comes to new projects. They have no recourse without a certified LCP that includes these resources. An appeal may have substantial issue at the Commission, but it's bound to end up in an Orange County court, and Coastal Commission is bound to lose. This means the coast and our natural resources lose as well. This is just one example – there are many more.

The following is submitted as general topics of concern due to the time limit for public comment:

- The Coastal Act and LCP process is meant for a broader public. This is the Commission's statewide mission, and the fact that local governments don't, can't and won't ever be able to share this perspective is because they are inherently parochial. The Coastal Act stresses public participation which is not always embraced at the local level. Despite local government's frustration with the Commission's shared jurisdiction, the public appreciates and depends on the Commission's oversight of local government.
- CCIG is looking for a "model LCP" and something that offers "guidance and predictability." Complying with the Coastal Act would certainly provide the cities that are concerned about the LCP process with more than enough guidance and predictability. It's not about twisting the Coastal Act to fit into a project-driven LCP amendment. Our coast is not comprised of a one-size-fits-all type of decision-making. What works for Imperial Beach isn't going to work for Eureka, and who would want it to. Coming up with a one-size-fits-all model is not the direction to be taken if protection and preservation of coastal resources is the goal.
- CCIG continues to complain about a lack of communication and Commission staff coming in at the last minute to make changes to their amendments (yes, staff is mandated with complying with the Coastal Act). As a suggestion, perhaps these cities could find creative ways to insert Commission staff at critical points along the way, i.e. Planning Commission hearing, staff meeting, etc. There is no travel budget left for Commission staffers, so CCIG needs to come up with a way to get the Commission staff involved in their important meetings/hearings. It is unclear why CCIG is unable to schedule meetings at their respective Commission offices. I have personally had very productive meetings with staff when I have allowed them sufficient advance scheduling time. One individual from CCIG advised that this was not productive, nor a good use of time. Why not?
- CCIG also complains that due to Commission staff changes/edits to LCP amendments that it becomes very costly for them (costly for them to comply with the Coastal Act?). If what is submitted isn't consistent with the Coastal Act staff must make changes. CCIG needs to realize

they have Coastal Act constraints on what they can approve. Suggest that the cities concentrate on amendments that are not project-driven amendments that require the use of incredibly expensive lobbyists. The millions of dollars spent on private lobbyists to push through project-driven amendments could and should be spent on educating city planners on the Coastal Act.

- CCIG makes claims of wanting openness and better communication, yet their meetings don't appear to be open to the public. Locating online agendas is very difficult, and minutes don't appear to exist. Perhaps CCIG should work on making their own process public and communication would begin to flow. A recent agenda from their July 31, 2009 meeting in Newport Beach is attached. It would appear there isn't an opportunity for public participation.

- The agenda lists Coastal staff needing the proper equipment and technical support (section II). As everyone knows that's tried to send staff info online, they are limited to about a 1.5 MB email transmission. Where would CCIG suggest staff obtain funding to upgrade their computers when the present budget won't even allow for staff to work full time? Where might staff obtain funds to bring on additional technical and scientific staff, particularly given the local government's tendency to counter scientific staff with the hired guns provided and paid for by the applicants?

- The Coastal Act was designed to deal with and take into account competing interests. The CCC/LCP process allows for this in that it is all about public process. As stated previously, broad public process is the goal – not just local community public.

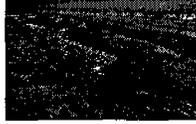
- CCIG representatives have stated that they are unable to keep up with the Commission with respect to Commissioner make up, decisions that change, etc. Again, they seek "predictability" from the Commission. Why is Commission make up any different than City Council or Board of Supervisor make up? As councilmembers and board members they are not bound by predictability and the Commission can't be either. Would strongly encourage the city leaders to attend more Commission hearings to watch, listen and learn. Alternately, if they are unable to attend they can watch the webcast or even refer to the webcast archives. How often do we see city representatives attending hearings unless they have a specific agenda item? How will the webcast be funded in the future, CCIG?

In closing, I will once again state that it is very unfortunate that the public will not have a greater opportunity to communicate during this upcoming agenda item next week. Given the CCIG's preference to not have any public input at all, we are all glad to have an opportunity to share in writing some of our thoughts. The Coastal Act and LCP process do not need to be "fixed." There is nothing broken, and there isn't a problem other than a handful of local electeds wanting to push forward development and ignore the protection and preservation of California's coastal resources. We ask the Coastal Commission to stand firm and continue to carry out the mandate of the California Coastal Act.

Sincerely,

Penny Elia  
Task Force Chair  
Sierra Club

**League of California Cities**  
**Coastal Cities Issues Group**



9:30 a.m. - 1:30 p.m.

Friday, July 31, 2009

Newport Coast Room, Newport Coast Community Center  
6401 San Joaquin Hills Road, Newport Coast, California

*Agenda*

1. Welcome and Introductions
2. Public Workshop Discussion Items:
  - Final preparation and planning for August 12, 2009 workshop with California Coastal Commission in San Francisco
  - Consideration of whether to engage in outreach to coastal environmental groups in connection with August 12 workshop
3. Other matters for consideration



