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Home > Opinion > Slop

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The Aguirre Accusation Factory

Published: Wednesday, January 24, 2007 10:36 PM PST

I've been waiting quite a while for the great war to break out between the mayor and City Attorney Mike Aguirre.

I don't have to wait anymore.

Aguirre just told me, on the record, that the mayor's land-use chief, Jim Waring, was corrupt.

Sounds like a shot over the bow to me.

It was, of course, such a reckless and baseless descriptor with which to label someone who hasn't been tried, convicted or even investigated that I made him repeat it. I wanted to make sure he said it on the record and in exactly the way I thought he had.

He said Waring and the developer of a tall building near the Montgomery Field airport were corrupt.

"I'm accusing them of corruption, absolutely," he said.

If you read [this statement from Aguirre](#) closely Tuesday, along with the *U-T* [article](#) that his comments begat Wednesday, you would have seen that he said it more or less in that piece too.

After seeing his statement come in Tuesday night, and then the article the next morning, I thought about posting just a paragraph about how it was reckless for him to expressly accuse people of committing crimes like that.

But then I actually talked to him.

There is little doubt that there's a substantial problem with the building Sunroad is constructing near Montgomery Field. The Federal Aviation Administration, CalTrans and several other organizations have expressed their dismay at the hazard the building's height creates. The company was warned not to build it higher than 160 feet, yet Sunroad bizarrely continued to build.

Obviously there are some serious disagreements about what's going on and what rules apply.

The city, led by Waring, decided to let Sunroad continue to do specific work on the project.

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Waring told me he wanted to allow the company to protect its property -- to weatherize it -- while the dispute was handled. He said the city ensured that, by letting the company proceed, it wasn't giving away any legal rights to eventually force the company to make changes to the structure.

"If Sunroad had not agreed that they would not claim any form of legal reliance or claims predicated on the additional work they did, we would not have allowed them to do any more work," Waring said.

That may not have been the right decision. It seems like a legitimate complaint that Waring and the city should have locked down the property and forced Sunroad to cease its activities when all this came to light after Aguirre got a letter about it from the state in October.

It is also legitimate to note, however, that Aguirre's office had all this information in June 2006 and didn't act on it either. I asked Aguirre about that too. If his office was aware of the issue, why didn't he do anything about it before the structure was built to the height that now is so objectionable?

"An office can't have awareness," he said. "When I personally became aware of it, I directed that certain actions be taken immediately."

Got that? His delay on the issue was just an innocent product of the bureaucracy. Others, though, are held to a higher standard.

Here was Aguirre's statement Tuesday:

City Attorney Michael Aguirre is requesting the U.S. Attorney to open a criminal investigation of individuals connected with the construction of a tall building near Montgomery Field that both federal and state authorities have said pose a safety hazard to pilots and the public.

This, of course, means nothing logistically. If all Aguirre wanted to do was get the U.S. attorney's attention on a particular issue, he could have called her and left it at that. This statement was his way of calling people criminals publicly.

"There has been a willful disregard for federal and state laws and for the safety of people," Aguirre said at a press conference, according to the *U-T*.

And here's Aguirre's statement again:

Despite all of the actions taken, Sunroad continued to complete the building at the prohibited height of 180 feet -- under the guise of "weatherizing" the building which the City's Development Services Department approved by letter on December 21, 2006.

He told me to read "Jim Waring" in place of Development Services Department.

You don't have to be a genius to understand exactly what he's trying to imply. He's saying Waring and the city officials who didn't stop Sunroad's construction were colluding with the company to commit an illegal act.

It's as severe a charge one can make about a city official.

When I asked him about this, he said I was putting words in his mouth.

I said that he called them "corrupt." How was I supposed to take it?

"It is part of the culture of corruption in the city of San Diego that people think that complying with the law is some kind of optional policy choice to make. That's why we have so many problems," Aguirre said.

I said that a public law enforcement official like him can't call someone corrupt without it having more significant legal implications than that.

You just can't say that. Unsubstantiated accusations of corruption from a person in a position like Aguirre's -- however nuanced -- have the potential to ruin lives. They enact punishments before the accused has had a chance to even absorb the charge.

"Every day, hundreds of people come to work at the city of San Diego trying to solve these problems. It's outrageous and unconscionable to allege crimes by anyone simply because we don't bow down to his world view," Waring told me.

And what about the mayor?

Spokesman Fred Sainz said Aguirre had crossed a line when he called Waring corrupt.

"It's indefensible that he should toss around such offensive words about an individual who is dedicated to the public good especially when he has no proof to offer," Sainz said. "The only thing we can trust is that Aguirre uses those words so much and against so many people that they lose their meanings."

-- [SCOTT LEWIS](#)

Reader Feedback

Comments so far on this story:

Rick Beach wrote on **January 30, 2007 7:40 AM:**

"As always, there is much more involved than one conversation or one article. For instance, Development Services Department modified the STOP WORK ORDER and allowed Sunroad to continue construction on the roof -- but no one seems to have written down what was agreed. That's convenient for the developer, and inconvenient when following the Federal and State laws. For a complete log of correspondence and media articles, see www.sdairfields.org"

ML wrote on **January 27, 2007 10:24 AM:**

"There is no trust between Aguirre's office and other City Department. In fact, many departments no longer go to the City Attorney's Office for legal advice, information, etc. The reasons are multi-fold (inconsistency, insanity, attorneys with no legal knowledge, lies, behavior, etc.). But the result is that

because of his lunacy the taxpayers need to be aware that they will be footing many a bill for lawsuits across the board because San Diego's City Attorney is not and cannot provide the services he's charged with performing. "

Anonymous wrote on **January 26, 2007 7:36 PM:**

"DP - Will Griffith was the head of Real Estate Assets; Jim Waring is in a different position than that one that did not exist under the City Manager form of government. At the very least, Mr. Griffith was never in charge of development services."

DP wrote on **January 26, 2007 3:32 PM:**

"Oh, please, Mr. Waring is nothing more than a more polished version of the last hack (Will Griffith) that had this position. Waring isn't looking out for the citizens of SD. He's an apologist/expediter for the development (Sanders contributors) crowd. I'm surprised he wasn't sitting with Fred Sainz leading the orchestrated clapping at the King Sanders, State of the City address."

Steve K wrote on **January 26, 2007 12:19 PM:**

"Well, I guess we've heard from the 'WE HATE MIKE CLUB.' What about the City beaurocrats and elected officials that plan on selling-off public property to create one time revenue. They're starting by GIVING AWAY air space."

Jim wrote on **January 26, 2007 8:39 AM:**

"Billy Bob...Aguirre did not handle the De La Fuente appeal. It was handled by outside council. Just because it happened on his watch doesn't mean he gets the credit. Secondly, Aguirre has already lost a major round in the pesnion lawsuits and his appeal will fail as well. He is not a very competent attorney and a worse administrator. He is costing the city millions in wasted litigation."

Jim Carter wrote on **January 26, 2007 6:23 AM:**

"Recklessly charming? Hey Billy Bob, FYI: Aguirre has already lost the pension case and the City of San Diego will NEVER file backruptey. They would be laughed out of backruptey court.

<http://www.mwscomp.com/movies/grail/grail-05.htm>"

Billy Bob Henry wrote on **January 25, 2007 9:35 PM:**

"I think Mike's record, although unorthodox, is just what the City needs. To everyone that says Mike is costing the City millions>> The De La Fuente case has ended and the \$150 Million Dollar Judgment has been thrown out-cannot deny that is a HUGE plus. If Mike loses the pension case (I doubt he will lose) then the ONLY option for San Diego is BK court-b/c there is no way to fix the pension mess short of a BK filing."

MO wrote on **January 25, 2007 3:00 PM:**

"Aguirre has his staff so busy doing crazy lunatic things

that they have no time doing what they are meant to do which is to provide meaningful legal advise to City staff. Wake up everyone! Aguirre IS the reason why we have not been able to move forward as a City. It's time for Aguirre to be recalled or disbarred! ENOUGH!"

MO wrote on **January 25, 2007 2:58 PM:**

"Once again Aguirre's irresponsible actions are costing the taxpayers of San Diego Thousands of dollars and potentially hundreds of thousands by exposing the City to further lawsuits on this matter. I'm happy to see that at least the grass roots press is starting to see Aguirre for what he is--an irresponsible lunatic who loves to create problems and not resolve them. It is my understanding that the building height has not changed since August and that Aguirre's office was actually consulted back in June BEFORE any permits were issued for the building. Where was he then?"

DM wrote on **January 25, 2007 1:15 PM:**

"I agree with Fred Sainz. Aguirre is losing credibility with every accusation he makes, seemingly on a daily basis. He must be held accountable for the consequences of his juvenile tirades. "

DG wrote on **January 25, 2007 12:08 PM:**

"While I cannot comment on Mr. Waring, I'd say that Development Services has had upper management acting on behalf of developers for a long time before Waring ever showed up. Seems to me that corruption in the planning process was much higher under the previous Administration, and at least this one is trying to improve things. Just look at how some community plans are being funded (like Otay) and kept out of the City's larger General Plan update -- tell me THAT didn't involve some money!"

SFein wrote on **January 25, 2007 11:57 AM:**

"I don't know who is right or wrong on the issue, however, I am always amazed that Aguirre is applauded by many people for his unsubstantiated accusations. Whether he is right or wrong, everyone should be accorded their right to be considered "innocent until proven guilty". And yes, even public employees/officials should be guaranteed that right! "

Pat Flannery wrote on **January 25, 2007 11:41 AM:**

"Sorry Scott, but it is you who has crossed the line - you are now advocating for Waring."

RDell'Orfano wrote on **January 25, 2007 10:15 AM:**

"Aguirre is like a bedeviled delinquent who has somehow stolen the ignition key for a monstrous bulldozer, and is steering crazily headlong into bystanders and buildings, with none willing to stop him from doing further damage, out of fear for his powerful parents(the taxpayers)."

Lynn Swanson wrote on **January 25, 2007 10:15 AM:**

"Aguirre has already ruined the lives and reputations of many good people doing just what Scott Lewis describes. It has been ongoing since his election in 2004. Another test of his incompetence is his losing record once things get to a court where real knowledge of the law is applied. Why only now when it applies to a 'high up' official, does the media care? Nice start, Scott, but why not sooner?"

Maura Larkins wrote on **January 25, 2007 9:41 AM:**

"Clearly, San Diego is a victim of corruption by public officials. It's about time someone started naming names. Although I agree that union leaders were justly accused of corruption, I have waited in vain for public officials to be named along with them. The union leaders didn't drive San Diego into debt all by themselves. Why should they alone be prosecuted?"

Dimples wrote on **January 25, 2007 9:35 AM:**

"My favorite article so far. Aguirre has "crossed the line" many times before, ruined a number of careers, cost the city millions in botched litigation costs, and will continue to do so. It's entertaining in a perverse way, and he calls attention to problems, but his approach is counterproductive. Mayor Sanders, the best mayor I've seen in 30 years, has done an amazing job of staying off Aguirre's radar. That will change. Mr. Mayor, Mr Lewis and all the good people of the city, employees, and media alike, break out the hard hats, here he goes again."

TA wrote on **January 25, 2007 9:01 AM:**

"ANON: WARING MAY BE THE ADMINISTRATIVE HEAD OF DEVELOPMENT SERVICES BUT HE CERTAINLY DOESN'T ACT IN THEIR STEAD IN MAKING DAY TO DAY DECISIONS CONCERNING STOP ORDERS AND PERMITS. IF YOU WANT TO ADD A ROOM ONTO YOUR HOUSE AND DEVELOPMENT SERVICES DENIES YOUR PERMIT JUST TRY TO GO TO WARING AND ASK HIS PERMISSION. NO, I'M AFRAID THAT THE DEVELOPERS STILL OWN THIS TOWN AND ALL THE POLITICIANS. AGUIRRE MAY BE A LOUDMOUTH BUT AT LEAST HE'S HONEST."

Anon wrote on **January 25, 2007 8:37 AM:**

"TA: Under the strong mayor form of government, Jim Waring is in charge of four city departments, including development services. So it's appropriate for him to be involved in discussions of issues in the departments he oversees."

Larry wrote on **January 25, 2007 8:05 AM:**

"Mike Aguirre can certainly use a lesson in holding his tongue, but the real problem is Waring. His preference toward developers at the expense of the common citizen is sickening. His willingness to circumvent valuable

(and legal) process in order to expedite land giveaways to his friends in the building industry is made more obvious with each new announcement from this administration. His disrespect for residents is so brazen, he thought he could get away with selling the land out from underneath people living in mobile homes, for God's sake. Waring has to go. "

DG wrote on **January 25, 2007 7:18 AM:**

"All in all, this issue about Montgomery has nothing to do with what Aguirre says. Sunroad and our city are corrupt when the build a building that could potentially harm people. Websters.."to change from good to bad in morals, manners, or actions". The actions of the developer and our city leaders are by no means good! Write about that!"

TA wrote on **January 25, 2007 7:13 AM:**

"THE QUESTION WHICH HAS BEEN OVERLOOKED IS WHY WAS THE MAYOR'S ASSISTANT INVOLVED IN AN ISSUE WHICH IS A MATTER FOR THE DEVELOPMENT SERVICES DEPARTMENT? DO ORDINARY CITIZENS GET THIS SERVICE OR JUST DEVELOPERS? THAT'S A LARGE PART OF SAN DIEGO'S PROBLEM.THE INSIDER CULTURE."

RW wrote on **January 25, 2007 6:51 AM:**

"Good article. Too bad it took you so long to call Aguirre for his unethical behavior. He has been calling fine individuals 'corrupt' since he took office and unfairly damaging reputations along the way. The media and a majority of the public have excused this behavior apparently because they believe Aguirre's "ends justified his means". The media has, in fact, been an enabler in this and has done little to hold Aguirre accountable. When will the media, the Mayor and the City Council take action which is long overdue?"

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