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## Awaiting the Sunroad 'Solution'

Published: Wednesday, May 23, 2007 10:22 AM PDT

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What should Ronne Froman say about the Sunroad controversy?

Last week, the mayor of San Diego [took "responsibility"](#) for the Sunroad controversy and directed his COO, Ronne Froman, to investigate. He also proposed a "solution" to the FAA and the Caltrans Division of Aeronautics.

As a pilot and aviation advocate, I wonder what that all means. Why the turn-around?

Only a month ago, the mayor was blaming the FAA. On April 10, the mayor said on TV that the "FAA never said a word until August of last year." That was wrong. His staff was aware of the FAA concerns as early as April 3, 2006 and corresponded with the FAA in June 2006 when Sunroad misled everyone about the height they were going to build.

My impression then was that the mayor was supporting the developer Sunroad by attacking the FAA.

Now he is proposing a "solution" to the FAA that lets the developer keep all 12 stories, all rentable square footage, involves minimal cosmetic changes, and keeps the elevator shaft and equipment on the roof in place. In exchange, he forces pilots to give up procedures that ensure safe landings in bad weather and causes low-flying planes to circle over our neighbors in Serra Mesa and Royal Highlands.

Instead of eliminating a hazard to air navigation, Sanders wants the "building reduced in size." Reduce the roofline by six feet, remove the sloping roof feature, and keep the equipment penthouse at 180 feet. He tells the FAA that "The equipment enclosure room constitutes only 15 percent of the overall roofline."

What a crock!

Didn't he know that the FAA determined in April 2006 that **any height above 160 feet** "will result in a substantial adverse effect" on air navigation? Like the slogan, "It's the height, stupid!" In August 2006, the FAA was sufficiently concerned that it was the Washington national office, not the region folks, that issued the determination of a hazard to air navigation. Think they would be okay with 15 percent?

I'm sure it was his staff that put this "solution" together. Soon after the first stop work order, Jim Warning was emailing with Steve Strauss, the Sunroad attorney from Cooley Godward, trying to work out an earlier compromise. That led to the "weatherizing" stop work order, which didn't stop much. I flew over the building on

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Wednesday, May 30, 2007 -- 1:23 pm

### Police Test Dates:

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Wednesday, May 30, 2007 -- 12:46 pm

### Sunroad Roundup:

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Tuesday, May 29, 2007 -- 7:42 pm

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Wednesday, May 30, 2007 -- 12:48 pm

LETTERS TO THE EDITOR

•  
 Wednesday, May 30, 2007 -- 4:18 pm

CAFÉ SAN DIEGO

Friday and saw big ventilation equipment installed. Creative interpretation of weatherizing!

So, Froman has her work cut out for her.

How can the mayor reward a campaign contributor, the city continue to enable developers to do what they want, and still appear to the voters that all is under control?

Did you know that Sunroad sold most of their land in the New Century Center to residential developers? Then they were left with fewer acres and wanted to build the same 1,000,000 square feet of office space. Having made a handsome profit on the land sale, they now changed their plans from low-rise offices to three high-rise 12, 14, and 16-story offices. Back in early 2005, their architects were careful to check that the zoning limits in Kearny Mesa of 45 feet would not interfere with their high-rise plans. Hope Ronne can explain how did all that happen?

(By the way, the same architects for Sunroad have admitted that they knew nothing of the federal regulations that govern height of obstacles around airports. They do now. The two photographs below were taken on Monday and reveal that Sunroad has installed ventilation equipment on the roof. Some work never stops!)



And closer:



And did you know that the city operates Montgomery Field and hence promises the FAA and Caltrans for each grant received that they protect the airspace around the airport? Yet, when the 2004 land use plan came out, they did nothing. And when a subsequent draft plan came out in 2005, the city wrote 93 pages in opposition to

⋮  
Wednesday, May 30, 2007 -- 12:15 pm

COMMENTARY: SLOP  
**'Most Likely' No**

**Broker:** If another government buys city property, could real estate pros get in on the transfer of assets and score a nice commission?

Tuesday, May 29, 2007 -- 3:16 pm

COMMENTARY: RICH  
TOSCANO

**Nerd's Eye Break:**

Rich Toscano's 'Nerd's Eye View' returns next month.

Friday, May 25, 2007 -- 4:18 pm

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protecting airspace and safety around airports! So instead, Sunroad got to use the 1996 land use plan that stops on the same street that the Sunroad building sits. No restrictions by the city. Even though they promised the FAA.

Hopefully, Froman's investigation can shed some light on the skewed value system that allows all of this to happen. That value system has encouraged city staff to placate and accommodate the developers. And it restricts limitations on development due to safety considerations or environmental impacts or sound fiscal management.

The saga continues. I'm looking forward to the next installment!

-- RICK BEACH

## Reader Feedback

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Comments so far on this story:

### **Sake of Accuracy** wrote on **May 30, 2007 8:26 AM:**

"Howiek wrote on May 23, 2007 2:09 AM: "Just like the six-story parking garage at the east end of Lindbergh Field (owned by Ace Parking who really does own downtown San Diego.." Howiek, for the sake of accuracy, the parking garage is called Laurel Travel Center. It's never been owned or operated by Ace Parking. Rather, the owner is an entity based in NYC and the garage is operated by Ampco Parking, a NYSE listed company (ABM) based in Los Angeles."

### **Lou Cumming** wrote on **May 26, 2007 5:31 PM:**

"Here's an angle no one has commented upon as yet...who is the lending institution doing the construction loan financing, for surely, Sunroad (read Aaron Feldman) is not paying the cost of construction from its own cash flow? Now we have a loan on an incomplete building with the interest meter ticking away which will soon require the borrower to put more owner's cash into the deal to keep the loan to value ratio from getting too skewered. Did the lender screw up based on an erroneous appraisal? Did the appraiser miss the FAA requirements here? Does the appraiser have a good E&O insurance policy? Does the course of construction insurance policy have a clause that would make this building now uninsurable? We taxpayers better not be held accountable for monetary damages because the Marcela/Jim/Jerry Keystone Cop act carried on in the usual City department manner - SNAFU!!!!"

### **Peter D,?** wrote on **May 26, 2007 3:52 PM:**

"Ronne Fromm is going to conduct an in-depth investigation in re the Sunroad soap opera? And she was to have it completed in two weeks? Now, several weeks. Jerry changed his mind-again! Heck all she has to investigate is the Mayor's own office and staff. That should take no more than a day or so. Come on. We, the public,

already know what the result of that 'OBJECTIVE' hunt would be. This is an investigation that should be conducted by an unbiased, outside firm. And let the truthful fingers point where they may. We all know the quality of this administration. If Sanders is reelected many people are going to be very disappointed."

**Christopher Hall** wrote on **May 25, 2007 5:07 PM:**

"People, truly, the only thing greater than the pressure the developers have on Sanders is you, and finally the dikes broke. It took a long time, the flood waters rose, and finally the mayor was swept out to sea, or in this case he was swept inland; he was drowning in your contempt and he had to do something to save his waning political capital. He is like a child who won't necessarily do the right thing unless it benefits his direct interest -- but like a child, when the greater interest prevails, he caves in. This is the Sunroad vs. People of San Diego saga. He must perform for the developers and all the other business interests in town or he will get canned -- they will not support him. Remember Murphy saying he wouldn't go for re-election, but the Republicans said run -----cont"

**The Roaming Gnome** wrote on **May 24, 2007 5:49 PM:**

""Sanders takes responsibility"????? Does that mean he is going to reimburse Sunroad for this complete FUBAR from his Police pension? Of course not. His acceptance of responsibility is meaningless - the one that will pay for all this ineptitude are the San Diego TAXPAYERS. Sanders should just resign from office and save himself, his wife and his family any further embarassment just like Dick Murphy did."

**Paul Sanders** wrote on **May 23, 2007 11:00 AM:**

"SD Lawyer - I hope you are right, and you certainly have a lot more info than I do. Just that all too often we see the wrong thing done in the name of 'business'. Great letter to the Mayor, by the way, totally agreed with it."

**collision course** wrote on **May 23, 2007 8:11 AM:**

"One thing I'm wondering about that I haven't seen mentioned -- how in the world can the Mayor expect the public to have any faith in having his staff conduct an investigation on his staff? Is he a secret X-Files fan, wanting us to Trust Noone? Has he forgotten that City wide our populace voted against Bush Jr, twice? Oh, I'm sorry yes I made a mistake let me investigate myself and get back to you. Plulezzz."

**ian trowbridge** wrote on **May 23, 2007 8:05 AM:**

"Let's not forget like the mayor that he got \$3,600 to put in his campaign piggy bank from Sunroad executives. Sanders is Susan Golding in drag."

**Hope this clears things up.** wrote on **May 23, 2007 7:54 AM:**

"I think some of the confusion caused is that many posting here assume common-sense definitions of basic terms. This is fatal error when attempting to understand the actions and motivations of City Hall. For example, according to City Hall PUBLIC SAFETY = police officers and fire fighters ONLY (though your drinking water may become tainted and planes fall from the sky). It is also important to know the CITY ATTORNEY's motto, "It is far better to blame than to know." Which is very similar to the MAYOR's motto,

"It is far better to blame than to govern.""

**Curtis LeMay** wrote on **May 23, 2007 7:47 AM:**

"Scott: How much joy would there be in mudville if every pilot at Montgomery formed up in a V and dropped 200 lb. calling cards on Sunroad?"

**The Venerable Kamikaze** wrote on **May 23, 2007 7:46 AM:**

"Here's an analogy for you: Sanders' relation to power is that of the joystick and rudder bar in an airplane. The stick and rudder activate control much the way Sanders activates control. Both require inputs from other sources; the pilot controls the plane via the stick and rudder, Sanders has his handlers for similar functions. Sanders is further limited by being unaware of a throttle and is unable to read instruments. As for Sunroad, it should be lowered. Homeland Security has an interest in seeing important strategic assets preserved as Montgomery is one of them. The sooner the aviation community gets them on board to stop this dice game with people's lives, the better."

**San Diego Lawyer** wrote on **May 23, 2007 7:42 AM:**

"Paul: I disagree, and believe Sunroad's claim that the City owes it because it issued a permit will fail. Sunroad might have a point if the FAA hadn't warned it, in writing, before the building came out of the ground, that 180 feet was illegal. Then, in June, 2006, Sunroad wrote the FAA, twice, and said we'll stay at 160 feet and keep it legal. Sunroad's attorney told several people the same thing. Then Sunroad snuck behind everyone's back and went to 180 feet. That's why it will lose. Also, an interesting note: when Sunroad's Vice President Tom Story was asked, at a public meeting, why Sunroad didn't re-ask the FAA for permission to go to 180 feet before doing so, he candidly said, "because we knew they'd say no.""

**San Diego Lawyer** wrote on **May 23, 2007 7:32 AM:**

"Tigershark: In the litigation we've learned the City does not issue certificates of occupancy for commercial buildings. It issues permits for interior tenant improvements, and once they're done and signed off, people can use the buildings. So, there has been a formal request to the City not to issue any permit for formal improvements. No response. No surprise."

**Paul Sanders** wrote on **May 23, 2007 6:55 AM:**

"One of the problems I see is that at the end of the day Sunroad will hold up its City permit and say that no matter how we got it, we got it and if now the City say we can't use it, the City has to pay us damages. I think that's why they can afford to fight it, they expect the City to pay for their 'harm' if/when they lose."

**Tigershark** wrote on **May 23, 2007 6:41 AM:**

"Just how is Sunroad going to get a Certificate of Occupancy from the City or insurance from anyone when they knowingly built past an FAA height limit? Anyone? That is the hammer the city has. No reducing to acceptable FAA limits, no certificate, no tenants, no income.....As for insurance, I suppose someone would write a policy, but at what cost?"

**Katheryn Rhodes and Conrad Hartsell, M.D.** wrote on **May 23, 2007 5:51 AM:**

"Since 1992, the Floor-Area Ratio (FAR) for all of Kearny Mesa is 0.50. In the 1997 EIR for the Master Plan, the overall FAR for the redevelopment is 0.32 to 0.42. Planning Area 1A (Retail/Entertainment – 3 Story height limit) was changed from Zone CA to Zone CC-1-3 when the Municipal Code was revised in 2000. The height limit for Planning Area 1A is still 3 stories. The height limit for Zone CC-1-3 is 45 feet. The area of the Sunroad lot is 1.47 Acres or 64,033.2 square feet. Plans show a total of 306,000 square feet for the building (not counting the Phantom Floor or the Penthouse/Utility Room). The Sunroad building's Floor-Area-Ratio (FAR) = 306,000 square feet / 64,033.2 square feet = 4.78. According to the approved plans, the Sunroad building is currently  $(4.78) / (0.5) = 9.56$  times or 956 percent"

**Fank Nitti** wrote on **May 23, 2007 5:41 AM:**

"C'mon. Let's get real. We all know who runs this city, developers and big business. As long as they continue to write those checks for campaign contributions, they are golden. Hopefully, Sunroad will force the city to end up buying the building from them. It would make a wonderful rooftop office for Mayor Sainz, Billy Bob Henry, and the rest of their political cronies."

**San Diego Lawyer** wrote on **May 23, 2007 5:39 AM:**

"Scott: As one of the lawyers working on the Sunroad case on the side of taking the building down to the FAA approved limit of 160 feet above the ground, I can tell you, without a doubt, the developer is spending a ton of money on the legal fight. You're right. A great deal of time and money would be saved if Sunroad would just do the right thing. Think how much would have been saved if Sunroad had done the right thing in the first place, and never violated the limits. We wouldn't even be on the Cafe this morning!"

**San Diego Lawyer** wrote on **May 23, 2007 5:23 AM:**

"Howiek: Yes, that parking structure near Lindbergh Field is a menace, but that's no reason to sit back and allow other menaces to be built. What is the Mayor thinking? One side of his mouth says public safety first, while the other side says let's give a break to this poor developer who knowingly broke the law, and was on written notice from the FAA that the proposed building would break the law if built. Hard to believe. Draw your own conclusions. This city has to be taken from the developers' grasp, and be run for the residents."

**Howiek** wrote on **May 23, 2007 2:09 AM:**

"Did anyone expect Sunroad to stop building? Of course not. Just like the six-story parking garage at the east end of Lindbergh Field (owned by Ace Parking who really does own downtown San Diego), it's just another obstacle that pilots will have to get used to!"

**Scott A McLachlan** wrote on **May 23, 2007 1:03 AM:**

"How much time and money would be saved if Sunroad would simply remove a story from the building? I'm sure that whatever litigation cost piling up by keeping it the current height would by far exceed the loss in rents of a single story, for the projected building life of 25 years. I'm sure that removing the OTHER Story will save a lot of \$\$\$ as well."

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