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Published on August 9, 2007

Did Waring Really Not Know?

By Don Bauder

October 12, 2006. Remember that date. Excuse me: *forget* that date. According to the late-June report by Mayor Jerry Sanders's purported Office of Ethics and Integrity, the City's real estate czar, Jim Waring, didn't learn that regulators objected to Sunroad Enterprises' dangerously tall Centrum 12 building until October 12 of last year. That assertion -- along with many others in the self-professed investigation -- is very leaky, as City documents show.

Back in April of last year, according to the alleged investigation, the City's Development Services Department first learned that the Federal Aviation Administration was concerned that Sunroad's planned building near Montgomery Field violated air safety standards.

But Waring supposedly didn't hear a peep. On June 19, the FAA officially stated that the building was too high for air safety. The word was passed to Gary Halbert, then director of the Development Services Department, by Tait Galloway, senior planner in the Planning Department. Galloway's note had an urgent tone: "The FAA wants the building height reduced to 160 feet.... This proposed project would affect flight operations at Montgomery and affect the City's ability to receive future FAA funding for Montgomery." Halbert met with several planners and was told that Sunroad would keep the building's height at 160 feet, thus staying within federal and state guidelines. On June 19, an e-mail saying that Sunroad would not exceed 160 feet was CC'd to Waring. Unless he routinely doesn't read his e-mails, he must have known something about the situation at that time.

On June 19 from 4:00 to 4:15 p.m., Waring met with Sanders and an aide. The following day, from 11:15 to 11:30 a.m., Waring and Halbert talked with Sanders. The City isn't saying what they discussed. Winnie the Pooh?

On July 6, Halbert huddled with Waring to turn in his resignation. "This investigation could not confirm any discussion between the two" about Sunroad's height problems, according to the so-called probe.

On July 27, Galloway wrote to Halbert, stating that Sunroad, despite the warnings, planned to complete the building at 180 feet, as the City had earlier said it could do. Galloway said that the FAA would therefore issue a notice of hazard for the project but would amend circling procedures for Montgomery Field.

On August 11, the FAA issued an official "Determination of Hazard to Air Navigation" in a letter to Sunroad. By this time, the building had already reached the taboo 180 feet. At the request of Sunroad official Tom Story (the former head of City land use), Sunroad executives and City bureaucrats immediately huddled on the problem. Notes reveal that at the emergency meeting, a Sunroad lawyer said the City must "balance airport issues with land use" -- a philosophical view that Waring would later expound on at length. Story pointed out that the structure was up and the floors were poured. On September 5, the group caucused again. But, we're supposed to believe, nobody told Waring, the boss.

On September 14, the California Department of Transportation wrote

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Sunroad, warning, "It is unlawful for you to proceed with construction." One County and three City agencies got copies of that letter. But nobody, we're told, informed Waring, who huddled with Sanders for an hour and a half on September 16. Maybe they talked about Harry Potter that time.

Then on October 10, the City's Airports Advisory Committee decided that the California Department of Transportation was right: Sunroad should not be allowed to finish the building. At last, Waring was informed, according to the purported investigation, which stated, "This appears to be the first substantive notification to Jim Waring concerning the height limitation."

It all smacks of hogwash. First, it makes no sense that high-level City bureaucrats were told by the federal government in April that a building defied safety standards; got official word in June of the violation; learned in July that Sunroad would flip the finger at the federal and state governments; got word in August of the official hazard designation; were informed in September that the building was illegal, but didn't tell the big boss until October.

I phoned Halbert, who is now deputy city manager of Santee. "I have moved on to the City of Santee," he said. "I would let the record [of the purported investigation] represent what it does." Does that mean, I asked him, that Waring was not informed of the egregious violations until October 12, as the report claims? He chuckled. No, he said, he is not necessarily agreeing that Waring didn't get the word until October 12. He chuckled again. In almost 45 years of financial journalism, I have heard such chuckles before. They have a special meaning.

Tellingly, during the period beginning in spring of 2006, Waring was helping Sunroad on another of its problems: the relocation of a Sempra Energy substation, a long-simmering feud between the utility and the developer. Sunroad wanted to construct homes, but the substation presented a danger to potential residents. Still, Sunroad resisted moving the substation to an area that it wanted to use for a Centrum 12 parking lot. Sunroad wanted the City to relieve it of the obligation to relocate the substation. During the meetings on the topic, Waring was on a first-name basis with Aaron Feldman, owner of Sunroad and major fund-raiser for Sanders.

On April 6, Halbert contacted a Sempra manager. A letter was being sent to Sunroad, explained Halbert. The letter had been first sent to Waring, "and he is making some edits," said Halbert.

Shortly, Feldman heard from Waring. He and Halbert would be happy to meet with Feldman, enthused Waring, who wanted the issue resolved at that meeting.

On April 17, Waring wrote to the Sempra official and said, "Gary [Halbert] and I will be meeting soon with Aaron Feldman. I saw Aaron last week and told him we had serious concerns with the substation. He indicated that he wants to come meet with us and explain why he thinks he has fulfilled his obligations." On May 11, there was a meeting among Sunroad and City officials. Attendees included Feldman, Story, Waring, and Halbert.

That day, Paul Robinson, Sunroad lawyer, wrote Waring, "The meeting turned out very well. I am optimistic an acceptable solution will be found. Thanks for getting us all together."

Waring then boasted, "The City is acting to encourage a solution."

So in the substation controversy, Waring dealt closely with Sunroad and its owner, Aaron Feldman, beginning in spring of 2006. Are we to believe that the gnawing subject of federal and state demands to limit the height of the Centrum 12 building never came up? Are we to believe that Waring was never told of the threat to aviation safety by Feldman, Story, or those City bureaucrats under him?

It's not going to fly.

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Comments

Posted by **Billy! Bob!! Henry!!!** on 08/8/07 @ 12:43 pm

>>>>Attendees included Feldman, Story, Waring<<< It seems these characters are turning out to be the "usual suspects" who are just in one big, cozy and open relationship- within the highest levels of City government. Tom Story is gone and I cannot wait until he is convicted. Waring, for whatever reason, should have been fired months ago but is still working for the City-why? Because Sanders has turned out to be a spineless jellyfish that rolls over for Feldman and company. Too late for Sanders to grow a spine now-his credibility is long gone with the citizens of San Diego, no goodwill left for Sanders to cash in on. For once it would be nice if Sanders did the right thing. On the bright side-things can only get better, because we cannot get any worse.

Reply by **Don Bauder**

"Spineless" is a euphemism. Both Sanders and Waring have dubious backgrounds, as Reader stories have pointed out. Sanders was a major investor in an enterprise along with William Robert Bradley, co-founder of Metabolife, user of Caribbean offshore tax havens, who pleaded guilty to tax evasion. Waring, meanwhile, did legal work for, and invested in real estate with, trusts set up by the late Vegas gangster Moe Dalitz. Waring was a known quantity when Sanders hired him, and Sanders was a known quantity, too. What's going in San Diego government is not blundering or incompetence. It's just the kind of chicanery you would expect from people with the background of Waring and Sanders. Best, Don Bauder

Posted by **Paul** on 08/8/07 @ 2:18 pm

Waring either didn't know about it and should be fired for incompetence, or he did know about it and should be fired for malfeasance. Neither has happened (or will happen), demonstrating clearly who Sanders works for. For what reason (both official and the real reason) did Halbert leave the city and his senior position and 27 years seniority (at the age of 47!?!?)?

Reply by **Don Bauder**

I agree with your observation -- either way, Waring should be in trouble, but probably isn't, because he was put in that position by the real estate developers, who run Sanders and most of city council. I ask the same question you ask: why would Halbert leave a very good job to go to Santee? Did he know too much? And is he the kind of person who can't abide the corruption of the Sanders administration? Bestd, Don Bauder

Posted by **Sunburned and peeling** on 08/9/07 @ 1:09 pm

The October 10 2006 City of San Diego Airports Advisory Committee (AAC) meeting (minutes available at www.sandiego.gov/airports/aac/index.shtml) was attended by Story and Sunroad lawyer Lichman: from the minutes, "Buzz Gibbs [AAC member] moved that the AAC authorize the Chair to send a letter to the City's Development Services Department to express opposition to the Sunroad Centrum 14 high rise building proposed in Kearny Mesa on the grounds that the height of the building is believed to create a hazard to air navigation in the vicinity of Montgomery Field Airport. The motion passed unanimously." Evidently it matters not what any entity (FAA, DoT) other than the city's committees say. Waring deftly recovers his hearing only when the people he owns speak and revolt. A bad case of willfull deafness,

in addition to dumbness and blindness. The AAC is governed by City of San Diego Manager: oops, that would be Sanders/Waring, these days.

Reply by **Don Bauder**

Yes, good analysis. Waring et al thought the FAA would alter flight patterns instead of insisting that the building be lowered. But the Sanders administration, like the Bush administration in Iraq, didn't have a backup plan in case it was wrong. Anybody with brains has a Plan A, Plan B, Plan C and Plan D. What does that say for San Diego? Best, Don Bauder

Posted by **paul** on 08/10/07 @ 9:05 am

Don, why are these stories of Waring et al only in the Reader and on blogs like Pat Flannery? I know that the U-T doesn't like to print anything negative about Sanders and co but what's up with Fox, NBC etc? Scandal normally sells, so I would think this would make great TV and news fodder. And, given that no one seems to care, will any of this really make a difference come the elections next year? Thanks as usual for the great articles.

Reply by **Don Bauder**

U-T is protecting Sanders. It knows if it digs into Waring's background and his current shenanigans, as the Reader has done, it would have to print things that would be contrary to its position on the editorial page. The two sections should actually be separate, but throughout the Sanders scandals, and the Aguirre smears, the news side and editorial side have worked together to spew lies or bury potential negative information. Best, Don Bauder

Sound Off

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