



To: San Juan County Council
cc: Pete Rose, Randall K. Gaylord
From: Common Sense Alliance
Date: July 13, 2010

Re: Continuing Bias and Predisposition in the Planning Department Undermines Public Confidence in Land Use Policy Making

We believe that two current documents demonstrate continuing predisposition and bias on the part of the County's Department of Community Development and Planning ("Planning Department"). Please consider our comments on each.

1. Prioritized Planning Tasks (7-7-2010)

Notwithstanding the clear and unambiguous statements by the Council Chair during the Special Joint Meeting of the County Council and the Planning Commission on June 10, 2010, and in other public forums regarding the status of the CAO resulting from the Citizen Committee process, the Planning Department is apparently still intent upon implementing that document based on Line 6 of its Prioritized Planning Tasks for 2010, which states with respect to updating critical areas ordinance: "**Committee draft completed**, wetland study underway." (Emphasis added.) This insubordination and the resulting continuing waste of taxpayer resources and perpetuation of confusion regarding the CAO update process must cease if there is to be any hope of public confidence in a fair and proper process. As it stands, any reasonable member of the public viewing the inconsistent messages from the Council and the Planning Department must ask what is really going on and what is the County's real intent? The County Council should address this continuing problem immediately.

2. Request for Proposals for Assistance with Completion of the Critical Areas Ordinance (CAO) Update and Completion of the Comprehensive Shoreline Master Program (SMP) Update

The Request for Proposals for Assistance with Completion of the Critical Areas Ordinance (CAO) Update and Completion of the Comprehensive Shoreline Master Program (SMP) Update ("RFP"), which we understand is to be published July 14, 2010, reflects the continuing bias and predisposition

on the part of the Planning Department and reflects an intent to conduct the county's SMP update in a manner that is inconsistent with fundamental principles of Home Rule.

We submit that the following elements and omissions from the RFP reflect this improper intent and should be promptly corrected to enable the public to have confidence in the process that is planned for the SMP update:

1. Abdication of County Responsibility to Contractor

According to the RFP the contractor will be responsible for developing:

- Public participation plan
- Countywide shoreline goals
- Shoreline environmental policies, regulations and standards

These are core legislative functions reserved to the County Council. The most that a contractor can properly be asked to do is to **recommend** a course of action, presumably with reference to the rationale and data supporting the recommendations and discussing other alternatives and minority reports. The Planning Department, however, would have the contractor frame the policy question and the issues for debate by instead drafting proposals for approval by the Council. Although, as a matter of law, such policies can only be adopted by action of the County Council, allowing the proposal to be developed before becoming involved in the process is inconsistent with the County Council's responsibility to represent the interests of the people of San Juan County.

2. "No New Data" for SMP Update Position.

We do not understand why the RFP makes so much of the no new data position. First, why shouldn't new data be considered if it is available, credible and relevant to the issues presented? Second, one can reasonable ask: if we were not going to consider new data, what basis would there be to believe that any changes would be necessary. Most important, however, is that notwithstanding the statement that "no new data or original research is expected to be generated as part of the update process," the Planning Department in fact does intend to consider new data and research generated since the last SMP Update—it just wants to limit that data to specific data sets it has selected prior to the public process. (RFP at page 2; see Exhibit B to the RFP.) It appears that this time the Planning Department and its favored special interest representatives are seeking not only to control the agenda, but also the data itself. Over half of the data sets upon which the Planning Department wishes rely appear to have been prepared by representatives of special interests.

If this bias were not already clear enough, please note that while planning characterizes the data sets to be considered as "Existing Data Sets" a review of the list in Exhibit B to the RFP reveals that at least one of these data sets is not in fact existing, but will be "available by September 2010." We ask: When does the public get an opportunity to review, challenge or augment the data upon which future of our community may depend? Apparently never, since the Planning Department would fix the data for consideration in the SMP Update prior to any public process regarding the matter. This is patently inconsistent with any notion of fair process and home rule.

3. **No Conflict of Interest Inquiry**

Finally, absent from the RFP is any request for disclosure of potential conflicts of interest by the applicants and any intent to consider objectivity and independence in evaluating responses to the RFP. Surely, these are questions that should be asked of anyone seeking to have a significant role in such an important policymaking process. What should a reasonable citizen conclude from this omission: carelessness, cooptation by special interests or malfeasance? We would like to assume this is simply an oversight that will be corrected promptly by the County Council, but we understand the risks of assumption in public policy matters and politics. Accordingly, we ask: Which is it?

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Thank you for the opportunity to raise these important issues affecting public confidence in County government.