

**Hillside Federation
Newsletter
October, 2013**



www.hillsidefederation.org

CEQA under Seige

The California Environmental Quality Act (CEQA), which led the way for protection throughout the nation, has come under attack in Sacramento. Just as some large projects try to sneak through by “piecemealing” a little bit of the project at a time, so it appears that Sacramento is attempting to dismantle CEQA by “piecemealing”, removing a little piece of the law at a time.

The Planning and Conservation League (PCL) based in Sacramento has been carefully following legislation and gathering support for CEQA. This year PCL was able to defend the fort, but next year they expect the attackers to return with longer ladders to scale the walls. We urge all our member organizations to join CEQA Works, a coalition of Californians to prevent the legislature from weakening our state’s landmark environmental protection laws.

<http://ceqaworks.org>

The following is an excerpt from *PCL Insider*, September 26, 2013.

CEQA: 2013 From the End of the Telescope (or Through the Looking Glass?)

If you’re confused about where we are with CEQA “reform”, it’s no wonder given the dizzying pace in which the legislation session ended.

2013 started out with 28 CEQA-related bills - some good ([AB 380](#), Dickinson; [AB 543](#),

Agenda October 2, 2013 7:00 pm

- I. Call to Order
Guest Speaker: Daniel Tamm,
Office of the Mayor
- II. Approval of Sept. 4, 2013 minutes
- III. Officers’ Reports
 - A. President’s Report
 - B. Treasurer’s Report
- IV. New Business
 - A. 8150 Sunset project report -
Carol Sidlow, Steven Poster
 - B. Hollywood Sign Buses -
Lucy Gonzalez
- V. Old Business
 - A. Walnut vs. RAP Commission -
Dan Wright
 - B. Millennium Hollywood update -
George Abrahams
 - C. Curtis School update- Mark Stratton
 - D. 360 N. Stone Canyon update -
Steve Twining
- VI. Adjournment
Next meeting - Wednesday, Nov. 6, 2013

Pinz Bowling Center, next to Jerry’s Deli
12655 Ventura Blvd., Studio City 91604
CA 101 between Coldwater Canyon exit
and Laurel Canyon exit

Hillside Federation mission: To protect the property and the quality of life of the residents of the Santa Monica Mountains and other hillside areas of Los Angeles and its environs, and to encourage and promote those policies and programs which will best preserve the natural topography and wildlife of the mountains and hillsides for the benefit of all the people of Los Angeles.

Campos; [AB 953](#), Ammiano; [SB 617](#), Evans; and [SB 754](#), Evans were all PCL-sponsored or supported); some not so good; and many ambivalent or content-less (click [here](#) for more detailed breakdown). Mostly, though, it began with anticipation of a full-frontal assault on CEQA, to be led by Senator Michael Rubio and tempered by Senate President Pro Tem Darrell Steinberg; when Senator Rubio left office for a position with Chevron, this feared bill never appeared. Instead, our CEQA-strengthening bills ambled ahead, all now 2-year bills, and the reincarnated standards attempts floundered in their first committees (although they are still technically 2-year bills).

Senator Steinberg's [SB 731](#) was looking like it would be the great compromise bill on CEQA, with input from all sides and sufficient addressing of environmental concerns to the point where PCL was ready to stand up and be counted in support. Unfortunately, with 4 days left in the session, a gut-and-amend was introduced to allow the proposed Sacramento Kings basketball arena to be built by hook or by crook, with an almost complete elimination of injunctive relief. The Kings stadium bill, [SB 743](#) (Steinberg), barreled through the last minute committee hearings, picking up a large bi-partisan authorship. In the end, SB 731 was turned into a two-year bill, while SB 743 was amended at the last minute to incorporate some elements of SB 731 and other provisions the Governor had been angling for. Specifically, the legislation reforms how [traffic impacts are measured](#) (replacing the current Level of Service standard with approaches aimed at reducing vehicle trips). While this does represent a positive step to promote more infill

development, SB 743 did not incorporate the critically important counter-measures from SB 731 to assess and identify ways to minimize and mitigate the impacts of infill on existing communities, which had been sought by a large number of environmental, environmental justice and social equity groups.

While the last minute gamesmanship left us all scrambling the last few days of session, the bigger CEQA picture looks copacetic. We staved off the worst plans to replace CEQA with a standards-based approach, and resisted pressure from powerful business interests to cut CEQA's meaningful provisions. A number of bills that would increase the public participation elements of CEQA are in a strong position to become law next year. Most importantly, through [CEQA Works](#) and other coalitions, we have turned our concern into cohesive action to protect this critical law.

Bringing an Issue to the Federation

If your organization has an issue to bring to the Federation, please complete the Request for Action form (available on the website www.hillsidefederation.org) with documentation and send it to president@hillsidefederation.org no later than 7 days prior to the meeting. This will help you organize your presentation so that our meetings can flow efficiently.

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Los Angeles, CA 90027
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www.hillsidefederation.org

PRESIDENT
Marian Dodge
CHAIRMAN
Charley Mims
VICE PRESIDENTS
Mark Stratton
Wendy-Sue Rosen
SECRETARIES
Carol Sidlow
Donna Messinger
TREASURER
Don Andres

ORGANIZATIONS:

Beachwood Canyon
Bel Air Knolls Property Owners
Bel Air Ridge Association
Bel Air Skycrest POA
Benedict Canyon Association
Brentwood Hills Homeowners
Brentwood Residents Coalition
Cahuenga Pass Property Owner
Canyon Back Alliance
Crests Neighborhood Assn.
Franklin Ave./Hollywood Bl. W.
Franklin Hills Residents Assn.
Highlands Owners Assn.
Hollywood Dell Civic Assn.
Hollywood Heights Assn.
Hollywoodland Homeowners
Holmby Hills HOA
Kagel Canyon Civic Assn.

Lake Hollywood HOA
Laurel Canyon Assn.
Lookout Mountain Assn.
Los Feliz Improvement Assn.
Mt. Olympus Property Owners
Mt. Washington Homeowners
Nichols Canyon Assn.
N. Beverly Dr./Franklin Canyon
Oak Forest Canyon Assn.
Oaks Homeowners Assn.
Outpost Estates Homeowners
Pacific Palisades Residents
Residents of Beverly Glen
Roscomare Valley Assn.
Shadow Hills Property Owners
Sherman Oaks HOA
Studio City Residents Assn.
Sunset Hills HOA

Tarzana Property Owners Assn.
Torreyson Flynn Assn.
Upper Mandeville Canyon
Upper Nichols Canyon
Whitley Heights Civic Assn.

CHAIRPERSONS

EMERITUS
Shirley Cohen
Jerome C. Daniel
Patricia Bell Hearst
Alan Kishbaugh
Gordon Murley
Steve Twining
Polly Ward

CHAIRMAN IN MEMORIUM
Brian Moore

Las Virgenes Homeowners Federation Defends CEQA



Our sister federation in the LA County area, Las Virgenes Homeowners Federations had been a strong defender of CEQA. President Kim Lamorie wrote a wonderful letter to Governor Brown explaining their opposition to proposed amendments to CEQA in SB 731. I am including it in the newsletter because Kim describes some of the most important elements of CEQA.

Marian

Dear Governor Brown:

We are writing in opposition to the proposal put forward by the Office of Planning and Research (OPR) to amend SB 731.

The Las Virgenes Homeowners Federation is an umbrella organization that has been serving homeowner associations in the Santa Monica Mountains for 45 years. Representing thousands of homeowners, we are opposed to “CEQA modernization”, and we join a multitude of other distinguished organizations – the Planning and Conservation League, the California Sierra Club, Center for Biological Diversity, Environmental Defense Center, Sierra Nevada Alliance, Coastal Conservation Network, Coastal Environmental Rights Foundation, etc. and their hundreds of thousands of residents - in respectfully urging you to protect CEQA’s core principles and not turn back the clock on California’s landmark environmental achievements.

We are deeply invested in the long-term prosperity and environmental protection of our great state and of the Santa Monica Mountains. We are passionate about preserving and protecting our environment so that future generations of Californians can enjoy a quality of life enhanced by clean air, clean water, sweeping open spaces, pristine ridgelines, wildlife and bountiful recreational opportunities.

We strongly believe that CEQA has never stood in the way of our state’s economic development; rather, it has helped make California attractive to high skilled workers essential to business interests.

While OPR’s intent may be to “improve” CEQA, its proposed amendment language would actually do a tremendous amount of damage to the important environmental protections it currently provides.

We strongly uphold that CEQA plays an essential role both in preserving California’s unparalleled natural resources and in [protecting the rights of residents](#) to weigh in on the land use decisions that most affect them.

The updated version of SB 731 released by Senator Steinberg already represents a compromise between groups seeking significant changes to the California Environmental Quality Act and conservationists, community groups, and organized labor. Any major departures from this compromise would have significant negative consequences for both our environment and our economy.

While we have serious concerns about OPR’s proposal as a whole, we bring to your attention the following particularly important examples of provisions that should be removed or modified:

1. [Remove Public Resources Code sections 21159.5 and 21082\(b\) and \(c\)](#), which would allow cities to set their own “environmental standards” and would eliminate the fair argument test.

Sections 21159.5 and 21082(b) and (c) would allow cities to adopt thresholds of significance based on an unlimited range of unspecified “environmental standards.” Under section 21159.5, if a city makes a finding, based on substantial evidence, that the environmental standard as applied to a project avoids that project’s significant effects, the city would not be required to prepare an EIR for the project. And under section 21082(b) and (c), if the Resources Agency adopts guidelines identifying standards

suitable for use as thresholds, the city could rely on unspecified information in the Resources Agency's rulemaking file as "substantial evidence" in support of the threshold.

These amendments reach well beyond the most radical proposed changes to CEQA by removing the "fair argument" test for most projects within incorporated cities. The "fair argument" test has been the heart of CEQA for decades. Applying the "substantial evidence" test in determining whether an EIR must be prepared is a radical departure from the current standard, which mandates an EIR when there is a fair argument that the project could create significant environmental impacts. Removing this test and allowing cities to set their own environmental standards would eviscerate environmental protections.

Section 21159.5 explicitly does away with the "fair argument" standard. Under that section, cities could avoid preparing an EIR simply by making a finding, based on "substantial evidence," that a project's compliance with the city's environmental standard avoids significant impacts to the environment. Moreover, although section 21159.5 grants cities carte blanche to draft their own environmental standards, it provides few parameters as to what should be included in such standards. It thus opens the door for cities to base their land use decisions on purported environmental standards that are essentially meaningless. And given section 21159.5's broad definition of key terms, this new approach would apply to almost any non-industrial project in any incorporated city, regardless of the project's size or effect.

Although section 21082(c) is more ambiguous, its references to "substantial evidence" in the state's rulemaking file could undermine application of the "fair argument" standard in every other project in the state.

2. Remove changes to Government Code section 65457, which would expand an already problematic exemption from CEQA.

OPR's suggested amendments to SB 731 would expand Government Code section 65457's exemption for residential projects consistent with a specific plan, as long as the Environmental Impact Report (EIR) for the specific plan was certified after January 1, 1980. Under OPR's new proposal, this exemption would extend to commercial and mixed-use development projects.

We urge you to remove this proposed change. As all CEQA practitioners know, an EIR prepared 30 years ago, before California adopted aggressive policies to confront climate change, is of very little utility. Because section 65457's exemption allows reliance on such stale environmental documents, it should not be expanded to exempt additional development projects.

* If anything, section 65457 should be amended to require that specific plan EIRs relied upon be no more than five years old.

Web Site

The Hillside Federation has a new web site, www.hillsidefederation.org.

One of the things we want to do is have live links to the web sites of all our member organizations. Please send us the link to your association's web site. In return, we ask that you post a link to the Hillside Federation web site on your web site.

You may also visit the web site for letters on positions taken by the Federation and past newsletters and minutes.

3. Remove Public Resources Code section 21167.8.5, which would undermine CEQA settlements and unnecessarily burden the courts.

OPR's suggested amendments to SB 731 include the addition of Public Resources Code section 21167.8.5, which requires court approval of settlements of CEQA lawsuits. While the change proposed in this section may be intended to encourage speedy resolution of CEQA-related disputes, it instead creates additional hurdles that would make it more difficult for settlements to be reached and increase burdens to the already over-taxed court system.

By requiring that any settlement agreement that includes “consideration from the respondent or real party” be approved by the court, this section imposes a new hurdle that would actually impede the ability of parties to reach speedy settlements. While those calling for this change decry “illegitimate” CEQA-related settlements, there is a dearth of statistical evidence to support such claims. Thus, this section would present a “solution” where, in fact, there is no evidence of a problem. Unless meaningful evidence of a real problem emerges –something beyond the anecdotal reports peddled by those who wish to see CEQA weakened – the Legislature should decline to impose this new burden on the courts and litigants.

Even if there were justification for court oversight of CEQA settlements, the proposed amendment goes too far. Proposed subsection (b) (2) requires petitioners to establish that their lawsuits were not commenced for an improper purpose, “such as to harass or cause unnecessary delay....” This provision implies that a settling petitioner bears the burden to show that its case was not frivolous. As long as the petitioner made the showing required by subsection (b)(1) (that the settlement advances CEQA’s policies), a showing of nonfrivolousness should not be necessary and adds an excessive burden on petitioners.

Similarly, subsection (b)(3) requires petitioners to establish that their attorney’s fees are reasonable under Code of Civil Procedure section 1021.5. This provision places an unnecessary burden on petitioners that could ultimately lead to fewer CEQA settlements: even after a case is settled, petitioners would still essentially have to prepare an attorney’s fees motion for the court. Such a requirement would undermine settlements, for agreed-upon fees can be much lower if a time-consuming attorney’s fees motion can be avoided.

4. Remove/Modify proposed changes to SB 731’s amendments to Public Resources Code section 21081.5, so as to ensure appropriate public notice of CEQA findings.

OPR would shorten the public review period for draft CEQA findings from 15 to 10 days. Given that CEQA findings can be voluminous, this change would deprive the public and other agencies of a meaningful opportunity to comment on a key CEQA document.

OPR’s changes would eliminate the requirement that members of the public— even those who commented on the draft EIR or specifically requested notice— be given any actual notice of the availability of the findings. Merely posting findings on a website, without notifying interested members of the public that they have been posted, is entirely insufficient.

* OPR should modify this position and require, at a minimum, that electronic notice be required for all parties who request such notice or who have commented on the draft EIR for a project.

Governor Brown, we respectfully ask that you reject OPR’s proposed amendments to SB 731. They will have significant negative consequences for our environment and economy.

Our state has always led the nation in environmental protection – it’s our legacy and we need to continue to ensure it.

Sincerely,
Kim Lamorie
President
LVHF
www.lvhf.org

Save these dates for Hillside
Federation meetings

November 6
December 12 -
Holiday Party
January 8, 2014
February 5
March 5

Hillside Federation
Draft Minutes
September 4, 2013

I. Call to Order

President Marian Dodge called the meeting to order at 7:15 pm. Members and guests introduced themselves. After introductions, Daniel Tamm, Mayor Garcetti's Westside Area representative, introduced himself and sat in on the meeting.

Presentation: 360 N. Stone Canyon Road

Victor Marmon, attorney for a neighbor, and Shawn Bayliss, CD-5 Planning Deputy, spoke on a variance application for a 50-foot high single-family dwelling at 360 N. Stone Canyon Road, which is 14 feet higher than the 36-foot limit under the Municipal Code. Mr. Marmon gave the history of the dispute. The Zoning Administrator initially denied the request for a variance on the grounds that none of the five mandated findings required for obtaining a variance could be made. The West Los Angeles Area Planning Commission (APC) denied the property owner's appeal and upheld the ZA's findings. Councilmember Koretz, however, assumed jurisdiction of the matter under Charter Section 245, overturning the APC ruling, and the City Council then returned the matter to the APC for reconsideration. The APC reconsidered the matter and again upheld the ZA's denial of the variance, ruling that the mandated variance findings could not be made. Councilmember Koretz again assumed jurisdiction under Charter Section 245 and the matter is scheduled to be heard by the PLUM Committee of the City Council on September 10, with the City Council scheduled to hear it the next day. Mr. Marmon argued that granting the requested variance, without an adequate factual basis for doing so, would set a bad precedent. He explained that the same applicant has another property in the area and is requesting a variance for 53 feet. He asked for the Federation's support in opposing the variance.

Shawn Bayliss, CD-5 Planning Deputy, explained that there was a previous discretionary approval to protect a stream on the property, which Koretz supported. The conditions imposed, according to Bayliss, included a 10-foot buffer zone, which he characterized as a unique condition that reduced the developable space on the lot. This is the hardship that Koretz believes

was created and it is the basis for his support for a variance allowing an over-in-height structure.

Charley Mims questioned the asserted justification for a variance, observing that hillside residents often have physical aspects of their properties that limit the extent to which their properties can be developed—that is not a hardship and it does not justify a variance.

Wendy Rosen said that the documents for the case state that the applicant had originally applied for a structure within the height limit and then changed the application to seek a variance. Additionally, she said that if the applicant believed the stream restrictions were too stringent, he should have appealed that decision, not applied for an unrelated variance. Steve Twining also expressed concern about the dangerous precedent that a variance would set.

Carol Sidlow noted that Councilmember Koretz has now imposed his authority under Charter Section 245 on at least five occasions during the past four years to overturn Planning denials. A court had recently overturned development rights granted due to Mr. Koretz's use of Charter Section 245 on a project on Stearns Drive. There was discussion about the frequent invocation of Charter Section 245 being a misuse of this authority.

MOTION: Steve Twining moved that the Federation support the twice-made decision by the APC and the decision by the ZA to deny a zone variance to permit a 50-foot structure because the Charter-mandated findings cannot be made and further that the Federation does not support Councilmember Koretz's actions to invoke twice Charter Section 245 to overturn the APC/ZA decisions. The motion passed unanimously. Members were encouraged to attend the PLUM hearing scheduled for Sept. 10th at City Hall.

II. Approval of July minutes - The July minutes were approved as written.

III. Officers Reports

A. President's Report - Marian Dodge

Marian provided an update on the City Mural Ordinance, which has lifted the ban on public murals but contains controls to prevent advertising. The Federation had submitted a letter that would have clarified the definition of commercial advertising, but the recommended language was not adopted. A working group is

being established by the City to address issues of implementation. The ordinance provides that residential areas may “opt in” to authorize murals in their neighborhoods, which provides more protection than an “opt out” system, which had been considered.

SB 31, a state statute allowing billboards along freeways outside stadiums, was passed without debate on the consent calendar, despite strong opposition from local community groups. The statute overrides local zoning regulations restricting billboards.

Marian, Wendy-Sue Rosen, Mark Stratton and Lois Becker attended meetings concerning the proposed consolidation of Planning and Building and Safety, which is being referred to as the “Development Services Department.” Attendance was relatively sparse in these “by invitation” meetings and comprised predominantly of development interests, with few community members. The lack of community outreach has been criticized, resulting in assurances that more meetings with broader community outreach will occur. The consensus of the Federation is that there is a long way to go and we will keep an eye on the process.

In the Hastain Trail (Franklin Canyon) litigation the judge recently ordered the defendant developer to pay the attorneys’ fees incurred by plaintiffs’ attorney Stephen Jones for his successful efforts to maintain open public access to the trail. The decision in that case is being appealed, so he will not receive the money until the appeal is resolved. Although the plaintiffs’ successful efforts were supported by the MRCA and its retained legal counsel, the MRCA is not eligible for an attorneys’ fees award because it is a public agency.

Chris Spitz is continuing to work with the City Attorney’s Office on revisions to the Above Ground Facilities (AGF) Ordinance regarding wind load and structural strength.

B. Treasurer’s Report - given by Marian in Don’s absence.

The Federation has 41 paid members. All bills have been paid.

The Holiday Party is set for Thursday, December 12, 2013.

IV. New Business

A. CEQA Legislation - Wendy-Sue Rosen

The proposed CEQA legislation is changing so quickly and frequently that we have no assurance what is and what is not included in the

latest draft. There is concern that CEQA protections for aesthetics, parking and traffic are in jeopardy, at least in so-called “infill areas,” which is also problematic because the term “infill” has not been clearly defined. Tim Pershing, of Assemblymember Bloom’s Office, said that the Las Virgenes Homeowners Federation had expressed similar concerns in a recent letter. Wendy Rosen moved that the Hillside Federation support the Las Virgenes Homeowners Federations’ position and the Board voted unanimously to do so and asked Tim to take that message back to Assemblymember Bloom.

B. Laurel Canyon Landslide Remediation - Carol Sidlow

Carol, Steven Poster, Cassandra Barrère and other Federation members attended a meeting conducted by CD 4’s Jonathan Brand regarding the remediation of the 2005 slope failure along the 1800 block of Laurel Canyon Blvd. Many left the meeting with more questions than answers. The City has given this slope remediation, which will involve the excavation of over 50,000 cubic yards of earth, a Categorical Exemption because, per the City Attorney, Michael Kaplan, this is an emergency. There was a consensus of concern expressed at the meeting that without proper mitigations in place, the negative public safety impacts to this major North/South ingress/egress area used by over 40,000 commuters in this High Fire Severity Zone must have thorough mitigations before the project begins as this is not a project that will be conducted by the City. Cassandra discussed the need for this project to be completed, but mitigations are necessary to accomplish this. Construction is unlikely to begin before March. George Stone, a property owner who lives under the slide, spoke to the issues of public safety due to the K-rails which have been in place since 2006 and his desire to have this landslide dealt with as soon as possible. Community members will work on mitigations with CD 4 prior to the haul route hearing which is TBA.

C. Ban of Rodenticides - Marian Dodge

The California Department of Pesticide Regulation closed its public comment period for its draft regulation banning second generation anticoagulant rodenticides (SGARs). There was much discussion of the dangerous effects of pesticides on wildlife.

MOTION: Wendy-Sue Rosen moved to encourage and support a City of Los Angeles effort to ban rodenticides. It was further moved to

support a similar County ban on rodenticides. The motion passed unanimously.

V. Old Business:

A. Curtis School - Mark Stratton

Curtis School has withdrawn their previous application and submitted a new Plan Approval application based on their original CUP, thereby eliminating the variance process, Design Review Board review, etc. There will be a hearing on 9/26 in Van Nuys before the City Planning Commission regarding this project.

B. Millennium Hollywood - George Abrahams

Lawsuits have been filed by community members and the W Hotel, and there is a possibility that Caltrans will also file suit. There are many due process violations. There appear to be ethics violations as well. Tim Pershing of Assemblymember Bloom's office contacted the state geological department to get them involved.

C. 8866-72 Wonderland Avenue - Steven Poster

Steven had a meeting with the Planning Department and LADBS regarding the proposed small lot subdivision with three properties (1100 square feet each). Recently, the applicant sent Steven a notice of removal of trees, although no building permit has been issued. Steven will follow up and keep HF informed.

VI. Adjournment

The meeting adjourned at 9:25 pm.

Carol Sidlow,
Recording Secretary

Members Present:

Beachwood Canyon	George Abrahams
Bel Air Skycrest	Mark Stratton
	Lois Becker
Brentwood Hills HA	Eric Edmunds
Brentwood Res. Coal.	Don Keller
	Tom Freeman
Cahuenga Pass POA	Patricia Weber
Canyon Back Allian.	Wendy-Sue Rosen
Franklin Hills Res.	Charley Mims
Hollywoodland	Lucy Gonzalez
Kagel Canyon	Kit Paull
Laurel Canyon Assn.	Cass Berrère
	Tony Tucci
Lookout Mountain	Steven Poster
	Carol Sidlow
Los Feliz Impvmt.	Marian Dodge
Resid. of Beverly Glen	Stephen Benson
Roscomare Valley	Steve Twining
	Shirley Cohen
Sherman Oaks HOA	Elke Heitmeyer
Studio City Res.	Claudia Freedle
Upper Mandeville	Elodie Lorenz

Guests Present:

Assembly Dist. 50	Timothy Pershing
Office of the Mayor	Daniel Tamm
CD 5	Shawn Bayliss
Marmon Law Office	Victor Marmon
Laurel Canyon	Michelette Barrère
	George Stone

**Mulholland Scenic Parkway
Design Review Board**

Meets 1st & 3rd Thursday of the month,
6:30 pm

Marvin Braude Constituents Service
Center 6262 Van Nuys Blvd. Van Nuys
1st floor conference room

What's happening in your
neighborhood?

Please send the Federation news of
your activities with photos so we can
share them with all our members.

