Submitted 5/8 to CC/PC joint mtg.

Testimony to the 5/8/2012 joint meeting of the Planning Commission and City Council
From: Reid Brockway
Subject: Known Topics list for ECA code update

I want to speak briefly about what our primary objective ought to be in this process. It sounds simple, but the objective ought to be to fix the inequities in the code, particularly the imbalance between environmental and human priorities, so that they do not impose a burden on our citizens for years to come.

Last November Staff characterized this process as a "tweak". It was asserted that our critical area regs are in pretty good shape, and a year should be sufficient time to fix what isn't. A number of us think that was a mischaracterization – that there are some significant problems in the code whose fix goes well beyond a tweak.

For example, the code has many quantitative requirements that are arbitrary and have no basis in science or law. These are things like mandating a 330 foot swath of restricted use thru a developed neighborhood in the vicinity of a watercourse regardless of the flow or whether it does or does not contain fish. Presently our code treats Ebright Creek and an intermittent drainage charged by rainwater the same if they both meet the crude definition of a Type F stream.

Another example is the stipulation that a stream buffer width can be reduced, thru buffer averaging, by no more than 50% whether the real band of influence along that stream is less than that or not.

The ECA code is full of these, what I call, "magic numbers". There are about 90 by my count. Most of these are not the products of scientific research or a legal mandate, they were merely arbitrary numbers chosen for convenience. Each of them should be assessed for its scientific and legal basis; some of us mistakenly thought that was part of what the consultant was being hired to do. Regardless, the magic numbers that are arbitrary should be replaced by meaningful criteria derived from explicit environmental objectives.

But we can see that isn't going to happen. Fortunately there is an alternative that provides relief for a fair number of these unrealistic and arbitrary requirements, and that is the mechanism of buffer delineation. I won't go into that now, but it is on the list of what the Commission is considering.

Now back to my main point. Early in this process a list was created of so-called Known Topics, along with a schedule. This list was prepared by staff without public involvement. It consists of eight items. Some are quite specific, such as standards for new trails in stream or wetland buffers. But most are not particularly definitive. This list can be used, along with the schedule argument, to avoid dealing with some of the real inequities that exist in the code. That should not be allowed to happen. But we have been told that the Known Topics list constitutes the defining marching orders as blessed by the City Council.

The time to fix the inequities in the code is now. They hamstring our ability to strike a balance between environmental and human concerns and promote disrespect for authority. They should not be left to burden our citizens for years to come. Let's take the Known Topics with a grain of salt and fix what's broken, not just tweak.

EXHIBIT NO. 122