

Planning Commission cuts down year-round rope for La Jolla Children's Pool

By Pat Sherman

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People for and against a year-round rope at Children's pool filled San Diego City Council chambers Sept. 27 as the city's Planning Commission deliberated the issue.

Despite the California Coastal Commission's unanimous July approval of a Coastal Development Permit to install a year-round rope separating humans and seals at Children's Pool beach in La Jolla, San Diego's Planning Commission drew a firm line in the sand Sept. 27, 2012, once again denying the year-round rope.

Planning commissioners voted against their own staff's recommendation to allow the year-round rope. Currently, the rope is up only six months a year, during the seals' winter pupping season.

After hours of public testimony on both sides of the issue, the commissioners unanimously reached the same conclusion they had in December 2010 — the rope prohibits beach access in violation of La Jolla's community plan.

The Planning Commission was technically hearing an appeal of the San Diego City Council's May 2010 approval of a site development permit to install and maintain the year-round rope, which is intended as a buffer between humans and seals.

Prior to the commissioners' deliberation, public interest attorney Bryan Pease, who filed the initial lawsuit on behalf of the Animal Protection and Rescue League, demanding the year-round rope, questioned why the issue was brought back before the Planning Commission.



Jim Fitzgerald, a board member with Project Wildlife and the lone La Jolla Community Planning Association board member who supports a year-round rope, said the year-round rope provides a reasonable and sensible buffer that protects both the seals and public access to the beach for swimming, diving and fishing.

“The City Council has already made the exact same findings that the Planning Commission is being asked to make,” Pease said. “The Coastal Commission also made the exact same findings in granting the coastal development permit. The City Council ... and the Coastal Commission are above the Planning Commission and the land use hierarchy. For the Planning Commission to make different findings based on the same facts would just be, I believe, an abuse of discretion.”

Joe Cordaro, a retired wildlife biologist assigned to study the seal issue at Children's Pool as an employee of the National Marine Fisheries Service, said he has attended countless meetings with people on both sides of the issue through the years.

“Yet here we are 20 years later still debating this issue, which is kind of frustrating,” he said.

Cordaro said it is important to keep the seal rope up beyond the pupping season, as molting — a one- to three-month process in which seals shed their furry coats — is an important period in the animals' lives, and begins after the last pup is weaned from its mother, at the beginning of summer.

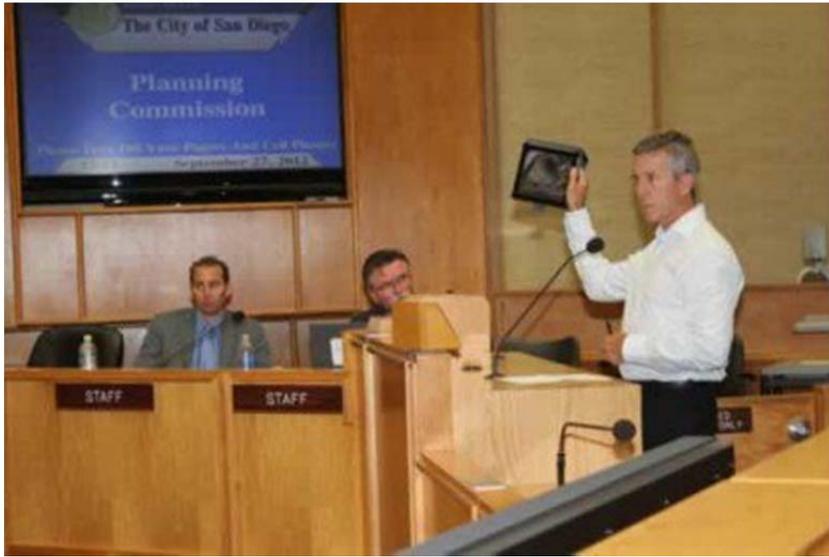
The current harbor seal population in California is about 30,000 to 40,000. The seals are neither a threatened, nor endangered species.

However, Cordaro said, “The (federal) Marine Mammal Protection Act does not differentiate between a stable and a depressed population. Both populations are afforded equal protection under the law.”

When the seals first began moving from Seal Rock (located off the La Jolla coast) to Children's Pool beach in the early 1990s, Cordaro advised city officials that under the Marine Mammal Protection Act they could legally prevent the seals “from populating a beach where they've never been before ... and trying to make a foothold.”

“That's what we told the city of San Diego way back in the 1990s, that it had to have this beach for either people or for seals,” Cordaro said. “We didn't believe in a shared-use policy because we knew there would be problems, but the City Council didn't listen to our recommendations. That's really why we're here now.”

Now that the seals have established a rookery, there is no legal mechanism that provides local, state or federal agency the authority to remove the seals from the beach, he said.



Patrick Ahern with La Jolla Parks and Beaches, Inc. spoke in favor of the Lifeguard Union's alternate plan to establish a barrier of moveable boulders at Children's Pool.

“The seals are here to stay,” Cordaro said. “The rope barrier is the only viable short-term option. Continued harassment of the seals that interferes with pupping, molting and other haul-out related activities may cause irreparable or physiological harm to the animals and may result in private citizens being issued citations in excess of \$1,000 by National Marine Fisheries Service.

“Just because NMFS has not issued any harassment citations recently, does not mean that they will not issue them in the future,” he said.

Nevertheless, Planning Commission Chairman Eric Naslund said he still favors a policy allowing joint use by humans and seals, similar to what is currently in place.

“Maybe I’m Pollyanna, but I firmly believe in a policy of joint, shared use,” he said.

“Unfortunately,” Naslund added, “all this comes loaded with all sorts of bad behaviors on both sides of the equation. I’m not seeing very many heroes here. ... I’ve got to believe the seals are on the beach kind of laughing at us in a way. ...

“I want to believe there’s a way to do this so that we don’t have people standing at the top of a wall, screaming down at people with bullhorns, that we don’t have people poking and harassing the animals and causing them to flush into the water.”

Naslund said the year-round rope conflicts with several aspects of the La Jolla Community Plan, the prevailing document on land-use issues.

The rope that is up from Dec. 15 to May 15 currently allows a 3-foot opening along the east wall for divers and swimmers to access the water, which planning commissioners said is too small.

“That a rope that creates a barrier across 90-plus percent of the beach is somehow adequate access is hard to understand,” Naslund said. “I guarantee you that if a developer walked in here and said I’m going to shut down 97 percent of the beach and give you, the public, three feet to go back and forth to the water, there would be an absolute riot.”

La Jolla Community Planning Association (CPA) Vice- president Joe LaCava said the winter barrier also violates the La Jolla Community Plan, which was last updated in 2004. However, he said, “that is the compromise that has been made for the joint use of the beach. That’s the link between why you can support the current rope and oppose the year-round rope.”

LaCava suggested that the city continue staffing a ranger at Children’s Pool, as well implement a city-managed docent program to educate the public and assure people don’t wander too close to seals during the summer, when the seals are more scarce. “It protects the seals when they haul out and allows unfettered public use when they are not around,” LaCava said.

Patrick Ahern, board president of La Jolla Parks and Beaches, Inc., which advises the city on issues affecting La Jolla’s parks and beaches, spoke in favor of the lifeguard union’s plan to install movable boulders at Children’s Pool. This more permanent, physical and psychological barrier between humans and seals has gained some traction in the community since it was introduced earlier this year. The plan has been endorsed by both the La Jolla Community Planning Association and La Jolla Parks and Beaches.

Naslund said he felt the moveable boulders plan was “the most interesting solution” he has heard thus far.

“I have not thought this all the way through,” Naslund said. “There may be some legitimate problems with that ... but I’ve got to believe that something like that can be done.”

LaCava requested that the Planning Commission continue the hearing for six months and direct all the stakeholders to work together to explore variations on the lifeguard union's plan.

To watch the hearing in its entirety, visit:

http://granicus.sandiego.gov/MediaPlayer.php?view_id=8&clip_id=5531

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