

Opinion: Daly's ghost haunts El Dorado County

By Larry Weitzman

Before Terri Daly got the job as El Dorado County assistant chief administrative officer and then CAO, she was the CAO of Amador County working her way up from assistant CAO to CAO. She cost Amador County about \$20 million in a bad lease deal which I wrote about four years ago. When Daly was terminated by EDC as CAO, she received a severance package worth about \$200,000 of which \$153,000 was cash.

During her failed tenure, besides hiring her friends and giving out budget busting 15 percent raises, she was advised by the auditor controller that "Nexus" studies were required for all of EDC's Mitigation Fee Act districts and that a failure to do so could create a huge county liability. Both ACAO Kim Kerr and principal analyst Mike Applegarth failed to follow through on these studies, which were clearly within their task purview. Daly didn't cause them to happen either. That's where the buck stops.



Larry Weitzman

Later CAOs, Pam Knorr and Larry Combs, who also knew of the county's failure to file these Nexus studies, didn't take care of business, either, ignoring repeated requests from the county auditor to comply with the MFA. Combs on Nov. 17, 2015, told the board it was not a problem.

In March 2015, I wrote the first column stating EDC was out of compliance with all of the MFA districts and needed to refund all fees collected. But it wasn't going to happen. Even after the Walker v. San Clemente decision, which said no five-year Nexus study, refunding the unexpended money is mandatory, did nothing to light a fire under CAO Combs or the Board of Supervisors. At that same Nov. 17, 2015, meeting, County Counsel Robyn Drivon told the Board that the case didn't apply to EDC and EDC had nothing to worry about. Then ACAO and now County Counsel Mike Ciccozzi echoed her sentiments and wrote a long memo of double talk that the MFA requirements and Walker wouldn't apply to EDC.

By Nov. 17, 2015, Walker was the law in all of California as the Supreme Court had chosen not to hear the case.

A month or so later, the Austin v. EDC, et al case was filed against the county for a refund of most MFA fees totaling \$32 million. Now County Counsel Mike Ciccozzi told the board not to worry, effectively saying I got this handled. EDC will win this case. EDC hires Abbott and Kindermann, a big Sacramento law firm, for its defense. El Dorado Hills CSD hires its own counsel. Guess who is making all the money, that's right, the lawyers and Ciccozzi doesn't have to pay the bills. You, the taxpayers do, and they are now estimated to be well more than \$300,000.

While EDC has openly admitted that it has violated the MFA in several official documents, Abbott and Kinderman base their entire defense on the statute of limitations (SOL). The SOL is a legal principle that says in this case if you wait too long after your claim arises, you lose your right to sue. The Austin case was filed in December 2015, while most of the Nexus studies were due in 2013, so it was two years or so after the claimed Nexus reports were supposed to be filed as required under the MFA. The county and El Dorado Hills CSD through their lawyers claimed the law was a one-year SOL or at best a three-year SOL bases on certain code sections Code of

Civil Procedure (CCP) 338 and CCP 340. The plaintiffs said if there is a statute, it is a four-year SOL as the Walker case said.

But because the county keeps collecting fees and dispersing funds under the MFA, that the SOL keeps getting “tolled” or restarted each time the county collects a new fee. If not, then why ever file a Nexus study, wait a year and if no one notices – which was the case here. The County doesn’t ever have to file one and can operate with impunity. Such an idea would violate the filing requirements and would flaunt the intent and protections specifically provided by the MFA for the public.

While the ruling isn’t final, the El Dorado County Superior Court has rendered a well-reasoned 44-page tentative ruling on the issue and it doesn’t look good for the defendants, EDHCSD and EDC. The court’s tentative decision at page 28 summarizes its reasoning for the decision and makes several statements as will be quoted below throughout the entire decision: “Section 66001(d)(2) mandates the governmental agency to refund all funds held in an account or impact mitigation fund where the local agency fails to meet its mandatory duty to make findings every five years. That duty to refund is not limited to money on deposit in the account or fund as of the date of default in making the required five-year findings. Therefore, it is reasonable to construe that statute as imposing a continuing requirement to refund all funds collected after that date until the required findings are made. Such a construction would provide the Local Agency with a continuing incentive to make the findings despite the passage of the date to make such findings and support the legislative intent to impose the five-year findings requirement in order to prevent a local agency from collecting and holding a development fee for an extended period of time without a clear and demonstrable plan to use the fee for the purpose it was imposed.”

In other words, the SOL doesn’t run as long as the MFA

accounts remain active. It is similar to contract law where while there is a four-year SOL on a written contract, if there is ongoing activity under the contract, the SOL runs from the last activity under the contract. So, if you take out a 120-month loan and pay monthly for 72 months, and no other activity occurs like a statement from the lender, then the SOL would run from four years hence or the 48 months after the payments stopped (not four years from the date the contract was signed). In tax law, both federal and state, the statute for audit never runs until the return is filed, not three years from the date it was due (four years for a state income tax return). In the case of being defrauded, the statute doesn't start until the date the fraud is discovered, not from the date of the actual fraud.

The ruling is tentative and there will be oral argument scheduled for Dec. 1, but tentative rulings are hard to overcome, maybe harder in this case. Interestingly the defendants' right to appeal doesn't come until after the merits of the case are fully adjudicated. After reading several government documents, EDC has already admitted to its MFA violations. If the plaintiffs were to lose this demurrer, however, they would have an immediate right of appeal.

Terri Daly and her minions have left EDC facing perhaps a liability in excess of \$50 million as the collection of MFA fees and spending therefrom continued after the filing of the Austin case.

County Counsel Ciccozzi keeps telling the board not to worry. He has been telling the board since the Austin case, not to worry, the Austin case has no merit and the Walker case does not apply to EDC.

Ciccozzi's four-year county counsel contract is up for renewal in a few months and he is desperately trying for the gravity of the Austin case to not become apparent to the board. To rehire this guy considering his track record for giving advice

and his legal acumen based just on the Austin case would be a travesty. His ability as a janitor is good as he has been great at sweeping things under the rug.

And for Daly, she's got a fat cat job with the Yuba Water Agency. Daly also needs to be sued for her violation of her severance agreement and the return of at least \$153,000. Pam Knorr is up in Butte County pulling down a big paycheck. Robyn Drivon is now county counsel for Sacramento County and earned a gross of \$276,000 in 2016 and Larry Combs is or was a part time city manager for Auburn, still making about \$100,000 a year while pulling down over \$200,000 in pension payments.

Ah, the rewards for incompetence.

Larry Weitzman is a resident of Rescue.

A skier's struggle with depression

By Megan Michelson, Powder

The crash was classic Jackie Paaso. It was April, in Verbier, Switzerland, for the final stop of the Freeride World Tour. Paaso, a veteran competitor on the FWT and the 2016 winner on this venue, skied the top of the famous Bec des Rosses relatively conservatively, arcing fast, fluid turns and hitting a couple of tiny airs. The on-air announcer wondered aloud if she was going to step up her game.

I've known Paaso for years, but it's still hard to get a read on her. Like her ski style, her personality feels like one of extremes. Some days, she's warm and pleasant, a quiet girl in

the corner observing everything. Other days, she turns inward, closing herself off, while her penetrating and steely blue eyes reveal a crippling shyness.

Paaso tells me she has been keeping a secret for a long time—one she's hidden even from close family and friends—but she's ready to open up. For years, Paaso suffered from a devastating depression that nearly broke her and her ski career. Most don't know this side of her. The 35-year-old has always been good at hiding it.

Read the whole story

Finding solutions to chronic hip pain

By Robert Rupp

When medications and other treatments don't help your hip pain, you may have hip arthritis. Surgery to replace the hip joint may be the answer. An orthopedic surgeon who has experience with hip arthritis will understand your frustration with the pain and be able to help you get back to living your daily life.



Robert Rupp

What is hip arthritis?

Hip arthritis is an inflammation of the hip joint. Your hip is a ball in a socket. When you move your hip, the ball turns in the socket. When the natural cushion between the ball and socket wears away, you are left with bone on bone. As the bones move together, the pain begins. Your body cannot repair bone-on-bone pain or replace the lost cushion between the bones.

How do I know if I have hip arthritis?

Common symptoms include:

- Swelling
- Pain
- Stiffness
- Inability to get up, walk, or climb without pain

Hip arthritis can cause permanent hip joint changes. Severe hip arthritis pain can become steady and not go away. You may not be able to continue your daily activities.

What can I do to for my hip arthritis?

If you think you have hip arthritis, you should see an orthopedic doctor to discuss your treatment options. Your doctor may recommend hip replacement surgery to lessen your pain and help you get back to normal daily living.

What is hip replacement surgery?

The procedure is called anterior hip replacement. The orthopedic surgeon will remove your worn-out hip joint and replace it with a new joint made of metal and plastic.

Anterior hip replacement surgery is different from the original hip replacement procedure. It offers many advantages:

- It is minimally invasive. The incision is smaller, and thinner needles are used during the surgery.
- The surgeon will not cut any muscles.
- The surgery is performed from the front of the body, not the backside of the hip. This approach better protects the hip joint.
- Your stay in the hospital will be shorter.
- You will have less pain after the surgery.
- You will feel more balanced when you stand up.
- You will have fewer restrictions after surgery, and you'll begin walking sooner.

You may be hesitant about having hip surgery. Take time to have a discussion with an orthopedic surgeon who can address your concerns. There are options to help you manage hip arthritis pain.

Robert Rupp is an orthopedic surgeon at Tahoe Orthopedics & Sports Medicine. In a wellness lecture on Nov. 1 he will be speaking for free about Minimally Invasive Treatments for Hip Pain at Lake Tahoe Community College's board room at 6pm.

Letter: Reasons for a yes on Measure C

To the community,

I have lived in South Lake Tahoe for 37 years and hope to live in this amazing place for many more years to come. In that

time I have not always been pleased with the way our city has spent its tax revenues, but in the last several years I believe there has been a concerted effort to control spending and to provide better oversight in the way these funds are used. That's why I am supporting Measure C.

Measure C will provide most of the funds necessary to repair our pothole filled roads without taking funds from other much needed areas of our city budget. The oversight built into Measure C will insure that the one-half percent sales tax revenue increase will be spent only for this very critical and needed road maintenance. This one-half percent sales tax increase will provide an opportunity for our tourists to pay about 75 percent of our road repair costs.

Tourists are the reason that many of us can live in this incredibly beautiful place, but they also put a heavy strain on our infrastructure. This slight tax increase helps us take care of our road repair needs with only about 25 percent of the cost coming out of our pockets. We need good safe roads for our families and our visitors and also to reduce erosion that could spoil our beautiful lake.

Measure C spreads the cost of road repairs fairly among all those who use the roads to enjoy the splendor of Lake Tahoe. Measure C makes sense for the future of South Lake Tahoe and its citizens.

Most sincerely,

Paul Bruso, South Lake Tahoe

Study: Media made difference in water conservation

By Karen Kaplan, Los Angeles Times

What does it take to get Californians to save water during a massive drought? Apparently, a lot of ink and newsprint helps.

Extensive news coverage of the state's historic drought prompted residents to conserve water, research out of Stanford University suggests. The more that major newspapers wrote about the drought, the more people in the Bay Area cut back on their personal water use, according to a report this week in the journal *Science Advances*.

Indeed, the overwhelming volume of news stories appears to have motivated Californians to conserve even before Gov. Jerry Brown ordered mandatory water restrictions on April 1, 2015.

[Read the whole story](#)

Tepid response to West Slope development

Developers who want to build more than 400 houses on the West Slope didn't receive much encouragement this month from El Dorado County supervisors.

While no action was taken at last week's public hearing, plenty of angry neighbors gave their two cents. The developer, True Life Companies, also gave an update on revisions to the project.

What was going to be a 605-unit subdivision called Dixon Ranch is now proposed to be 439 houses in what's called Generations at Green Valley. The project is off Green Valley Road in El Dorado Hills.

Originally there were to be 160 homes deed restricted for low-income seniors; now the idea is for 20 lots to be for affordable or moderate income homes.

Per county law, there must be a public hearing on housing projects before there is analysis of the project and the environmental impact report is prepared. This allows the public to weigh in sooner rather than later. It also gives the developer an opportunity to get feedback from the public and elected officials to then gauge whether proceeding is logical.

Supervisors voted down the project in February.

Even with the revisions, a big issue with this housing project is that it would necessitate an amendment to the General Plan in regards to density. Traffic is another concern.

The electeds, other than Supervisor Sue Novasel, were less than enthusiastic about the development. She is an advocate for more housing, especially affordable.

Her colleagues, though, are more worried about the impacts to other public services, quality of life, and changes to the General Plan.

– *Lake Tahoe News staff report*

Nevada Grow mines data to help small businesses

By Mick Akers, Las Vegas Sun

A pilot program that began in 2015, made permanent by the Nevada Legislature this year, continues to help small businesses grow.

Nevada Grow provides small-business owners who are looking to expand with technical assistance and strategic research. Assembly Bill 94, sponsored by Assemblywoman Dina Neal, D-Las Vegas, was signed into law on June 8.

“Most businesses don’t know what they need,” Neal said. “We do an assessment about what they have going on, what type of business model they have. We tell them about the data and how it could help them figure out who’s in the neighborhood and what the saturation of area is.”

Read the whole story

Fiber art group starting at SLT Library

The South Lake Tahoe Library is starting a fiber art group.

It will meet on the first Friday of the month from 2-3pm.

The group is open to those who enjoy knitting, crocheting, embroidery, hand sewing and other fiber arts. Participants are likely to learn new tricks, are encouraged to share projects,

ideas, and stories with others.

Bring your current project or start a new one. All skill levels welcome.

The library is located at 1000 Rufus Allen Blvd., South Lake Tahoe.

Poll: Climate change responsible for wild weather

By Seth Borenstein and Emily Swanson, San Francisco Chronicle

After hurricanes Harvey, Irma and Maria blitzed the nation, most Americans think weather disasters are getting more severe and see global warming's fingerprints.

A poll from the Associated Press-NORC Center for Public Affairs Research finds that 68 percent of Americans think weather disasters seem to be worsening, compared to 28 percent who think they are staying the same and only 4 percent who say they are less severe.

And 46 percent of those who think it's getting worse blame man-made climate change mostly or solely for the wild weather, while another 39 percent say it's a combination of global warming and natural variability.

[Read the whole story](#)

Herb Wheeler – 1929-2017



Herb Wheeler

Herbert King Wheeler passed away peacefully on Oct. 28, 2017, in Reno with his wife, Donna, by his side. He was 88.

He was born April 10, 1929, at Morton Hospital in Taunton, Mass., to Charles Alden Wheeler and Marion King Wheeler. Herb spent his early and teen years in Mansfield, Mass., where he attended

Mansfield schools and was active in the scouting program and attained the rank of Eagle Scout.

In 1945, he transferred to Tabor Academy in Marion, Mass., where he graduated with the class of 1948. Herb attended Hobart College in Geneva, N.Y., and Babson in Wellesley, Mass.

He then joined the U.S. Navy, where he trained at Pensacola, Fla. He earned his Navy wings in April 1952. Herb flew fighters with VF-81 at Oceana, Va., and served on carriers USS Coral Sea and USS Antietam.

After release from the Navy he worked briefly in his father's

insurance business while continuing to fly with the Naval Reserve at NAS South Weymouth. Herb left the Naval Reserve with the rank of commander.

In 1956 Herb joined Trans World Airlines where he flew domestic and international routes for the next 31 years as first officer and later as captain.

He has made his home for 44 years in Zephyr Cove. He loved traveling and has visited much of the world while working and for pleasure with his wife, Donna. Herb loved flying his Lake Amphibian across the country and on several area lakes. He also spent many years boating on Lake Tahoe with Donna and many friends and family who joined them.

Herb particularly loved flying for the Navy and his career with Trans World Airlines where he accumulated nearly 22,000 flight hours.

He was a life member of the Association of Naval Aviation, Tail Hook Association, member and former president of the Military Officers Association Lake Tahoe Chapter, Sons in Retirement, Quiet Birdmen MEV Hangar, Crystal Bay Yacht Club, National Eagle Scouts Association, TWA Seniors and Pacific Northwest TWA Ambassadors.

Herb is survived by his beloved wife of 34 years, Donna, and four children from a previous marriage: Valerie Taylor (Jack), Kimberly Ludwig (Ray), Bradford Wheeler, Stephanie Putnam (Kevin) and 10 grandchildren.

His wishes are to be cremated and his remains interned in the Court of Honor at Happy Homestead Cemetery in South Lake Tahoe. He requests there be no memorial services and donations be made to a favorite charity in his memory.

He will be greatly missed by his family and many friends and hopes to be remembered for the good and happy times that were shared together.