

# Opinion: EDC needs a real county counsel

By Larry Weitzman

Don Corleone, the godfather in the Mario Puzo novels, had a real consigliere, a lawyer who advised Corleone as to the ups and downs of his business and other moves. As a lawyer he stayed away from the violence of the family business, but as a lawyer and consigliere he advised the family with the pros and cons of all questions asked of him with honesty. Insincere advice or telling your boss something that didn't give him all the info could cost him (the consigliere) dearly.

El Dorado County has their own consigliere or sorts, but instead of telling his bosses the truth and fully explaining the pros and cons of every legal and quasi-legal situation, he tells his bosses who are the Board of Supervisors, not both sides of the issue, but what they want to hear to make them feel good, saying he will handle the problem but not explaining how. That happened when he was asked by the board if they could get their hands on \$6 six dollars sitting in the MC&FP (Missouri Flat Circulation and Finance Plan)? In open session Ciccozzi said effectively, no problem he will get it done, never explaining the sink holes that were before them.



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You see, the board wanted to look good and promise the public that they were going to add \$2 million to road maintenance,

“stealing” it from the MC&FP. Ciccozzi said he will handle it, no problem. The \$2 million was added to the road maintenance budget at the Sept. 27, 2016, final budget hearing, based on Ciccozzi’s promise.

Ciccozzi was flat out wrong and the \$2 million from the MC&FP never materialized as I wrote in October 2016 and never would materialize. According to the formation documents of the MC&FP, no one could touch any of the money except for those improvements specified by the MC&FP. County road maintenance was not one of them. Ciccozzi should have known that before he shot his mouth off. I knew the truth and so did many other people, including former Supervisor Jack Sweeney. He had the habit of reading everything.

That’s called bad lawyering and poor advice. Yet this guy continued as our county counsel. Ciccozzi is giving county counsels a bad reputation. And unfortunately, it sets a low bar for the dozen or so assistant county counsels in EDC.

Besides county counsel’s wasting of \$23,000 in a fruitless investigation which only enriched a San Francisco law firm while leaving a plethora of county pot holes unfilled, Ciccozzi told the board and probably anyone who would listen that the Austin case, which is a suit against the county for the refund of over \$32 million of illegally collected building fees under the guise of the Mitigation Fee Act, had no merit. First, he said the Walker case, which happens to be the law of California didn’t apply to EDC. Maybe Ciccozzi thinks we are part of the newly formed state of Jefferson. He was absolutely wrong on that one. And because the county has continued to collect MFA fees illegally, that \$32 million number is more likely \$50 million today.

Ciccozzi said that the money collected after the last five-year “Nexus” findings were protected for five years hence. Wrong again. The law clearly unambiguously said if a five-year Nexus study wasn’t filed timely with the Board of Supervisors,

the local agency as defined by the Mitigation Fee Act which in this case is EDC, the money on account had to be refunded no matter when they were collected. Ciccozzi said that when Diamond Springs Fire bought their new truck, since that money was spent within the five-year period, EDC who holds their MFA money, owed the money notwithstanding the failure to file a new five-year Nexus study. Absolutely wrong again. Either Ciccozzi doesn't want to tell the board the truth as it might not look good for him as he has been aware since 2013 that the non-filing of the five-year Nexus studies as required by MFA was a countywide problem or maybe he is just that bad of a lawyer. I would think the first supposition applies. But that makes him a bad lawyer for not doing the job of a lawyer, tell your client the pros and cons in a legal situation just like Tom Hagen (Robert Duvall) did in the "Godfather." He counseled his client on every side of every issue he was consulted on.

I have been led to understand I am not liked in the county halls for what I have written. I have learned that some county people say I don't know what I am talking about, whether it be the

MC&FP, the pension and budget problems or now the Austin case involving the MFA. The county has admitted in several places in official documents that it is in violation of the MFA, including in its audited financial statements of 2015 and 2016 at pages 63 and 73 in notes 13 and 14, respectively.

In the recent tentative ruling with respect to the Austin v. EDC, et al, which can be found online under El Dorado County Superior Court Dept. 9, see rulings of Oct. 20, 2017, the court clearly struck down the one possible defense that EDC claimed it had, the statute of limitations, which effectively was grasping for a straw. Their theory clearly didn't apply to the Austin case for a multitude of reasons (read the decision) although Ciccozzi still claims they are going to win on appeal. Unfortunately, the case will have to go to trial and judgment before an appeal can be filed, meaning hundreds of

thousands if not millions of dollars will be spent fighting this windmill. Perhaps the board should stop listening to Ciccozzi and get a real lawyer and find out the truth of their position. Better yet, perhaps the board members should read the court's tentative ruling, it is completely understandable. They are paying Ciccozzi about \$250,000 a year and 4th District Supervisor Michael Ranalli voted for a step increase of about \$10,000 for Ciccozzi not too long ago. Call that throwing good money after bad.

If you need a modern-day analogy, try Paul Manafort who was recently indicted for not registering as a foreign agent, money laundering and about a dozen other charges. Manafort's excuse is that they never enforce those laws. Only one person has been convicted of not registering as a foreign agent since 1966 is Manafort's excuse for not registering. Just like Ciccozzi, don't worry about violating the MFA, no one has ever enforced the laws, except now for the Walker case, very possibly the Austin case and those that follow. Ciccozzi made some not so brilliant decisions and told some whoppers (in this case quarter truths) to the board. He's lucky his boss wasn't a Corleone.

Ciccozzi's four-year contract is coming up for renewal. It is time for the board to look for a new county counsel. The one we have now is turning into their worst nightmare. If they don't the voters will know who to blame, Ciccozzi is appointed by the board, the board has to face the voters.

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