



AGENDA NO: A-4

MEETING DATE: May 8, 2018

**THE FOLLOWING PUBLIC CORRESPONDENCE
WAS RECEIVED BY THE CITY COUNCIL
FOLLOWING POSTING OF THE AGENDA**

Dana Swanson

From: Jamie Irons
Sent: Monday, May 07, 2018 1:00 PM
To: Dana Swanson
Subject: Fwd: Agenda Item A-4 Ordinance Limiting the Number of Vacation Rentals
Attachments: 5-8-18 ltr_CC re Title 17 amendments.docx; ATT00001.htm; Chapter 17.64 – AMENDMENTS_MORRO BAY MUNICIPAL CODE.doc; ATT00002.htm

Sent from my iPhone

Begin forwarded message:

From: Cynthia Hawley [REDACTED]
Date: May 7, 2018 at 11:56:51 AM PDT
To: John Heading <jheading@morrobayca.gov>, Marlys McPherson [REDACTED], Matt Makowetski <mmakowetski@morrobayca.gov>, Jamie Irons <jirons@morrobayca.gov>, Robert Davis <rdavis@morrobayca.gov>
Cc: Scott Collins <scollins@morrobayca.gov>
Subject: Agenda Item A-4 Ordinance Limiting the Number of Vacation Rentals

This letter is also attached below for better formatting.

Dear Mayor Irons and City Council Members,

Limiting the number of vacation rentals is in fact regulating the use of land. As such it requires an amendment of the Title 17 Zoning Ordinance, which, as you know, is part of the General Plan Local Coastal Program. Mr. Graham made this clear by contacting the Coastal Commission staff about this issue, as he stated at the April 24th meeting, and by the Commission staff's apparent concern that the amendment is not being treated as a land use issue.

Below are the requirements for amendment of the Zoning Ordinance linked to the City Municipal Code sections. The text from the Morro Bay Municipal Code Zoning Ordinance is attached.

This Council has made it clear that it wishes to include public participation in its decisions and these required procedures are *the mechanism* by which public participation is carried out. When these procedures are sidestepped, public participation in the decision making process – a statutory right under the Coastal Act – is eliminated and denied.

The amendment process must be formally initiated. Both the City Council and the Planning Commission have the authority to initiate the procedure for amending the Zoning Ordinance. Section 17.64.030.

The Planning Commission must set a date for a public hearing. When the process is initiated the Planning Commission sets a date for a public hearing. Section 17.64.040.

The public hearing must be noticed in multiple ways. Section 17.64.050.

The Planning Commission must provide a report and recommendation. The Planning Commission hearing may be continued and after the close of the hearing the Planning Commission is required to make a report of

its findings and recommendations. The report must include a list of people who testified at the hearing and the Planning Commission's findings. Section 17.64.060.

The report must be sent to the City Council. Within 60 days (which may be extended) of the Planning Commission's decision, a copy of the report must be sent to the City Council. Section 17.64.060.

The City Council must provide a public hearing. On receipt of the report and recommendation, the City Council must hold a noticed public hearing and may adopt the proposed amendment within one year. Section 17.64.070.

The amendment must be certified by the Coastal Commission. No amendment of Title 17 is legally effective until it has been certified by the Coastal Commission and until the City has carried out post certification procedures. Section 17.64.080.

As it happened in your unlawful approval of the Downtown and Embarcadero Plans without the proper procedures, your staff is again recommending that you approve this land use ordinance as if it is not part of the General Plan Local Coastal Program. Concealing it as an amendment of the permitting ordinance and approving it as an agenda item would be a transparent evasion and denial of public participation in a contested land use decision.

Finally, under no circumstances is an ordinance amendment to be approved as a consent agenda item. Under municipal code section 2.08.060, ordinances other than Title 17 ordinances are to be introduced as new business and taken up for passage under unfinished business. Not as a consent agenda item.

You, as City Council members, are responsible for knowledge of the law and for carrying out the law. Every time you take action in violation of the law the people in Morro Bay lose respect and trust in your ability to govern and to manage the City. Please deny the recommended action and direct staff to facilitate the required process for amendment of the Zoning Ordinance.

Sincerely,

Cynthia Hawley, Attorney

Chapter 17.64 – AMENDMENTS

17.64.010 - Initiation and adoption.

Except as otherwise provided in this chapter, any amendment to this title shall be initiated and adopted as other ordinances are amended or adopted.

(Ord. 445 § 3 (part), 1995)

17.64.020 - Chapter application.

Any amendment to this title which changes any property from one district to another district, or imposes any regulation upon property not theretofore imposed, or removes or modifies any such regulation, shall be initiated and adopted as hereinafter set forth in this chapter.

(Ord. 445 § 3 (part), 1995)

17.64.030 - Initiation procedure.

Any amendment of the nature specified in Section 17.64.020 may be initiated by:

- A. Filing a resolution of intention: **the filing with the city planning commission of a resolution of intention of the city council**;
- B. Passage of a resolution of intention: **passage of a resolution of intention by the planning commission**; or
- C. Filing of an application: filing with the planning commission of a petition of one or more record owners of property which is the subject of the proposed amendment or their authorized agents. An application for amendment shall be on a form designated therefore by the planning commission and shall be accompanied by a fee, as set by the city council.

(Ord. 445 § 3 (part), 1995)

17.64.040 - Hearing date.

Upon receipt of a complete application or resolution of intention of amendment, the planning commission shall set a date for a public hearing thereon, but not later than sixty days after the receipt of said application, or resolution, or after any required environmental determination. Where a development proposal is submitted with a request for zoning amendment, the hearing for said amendment shall be at or prior to a hearing for a coastal development permit or conditional use permit.

(Ord. 445 § 3 (part), 1995)

17.64.050 - Notice of public hearing.

Notice of public hearing shall be given pursuant to Government Code Sections 65090 and 65091 or as they may be amended.

- A. Notice Of Hearing. When a provision of this title requires notice of a public hearing to be given pursuant to this section, notice shall be published pursuant to Civil Code Section 6061 in at least one newspaper of general circulation within the jurisdiction of the local agency which is conducting the proceeding at least ten days prior to the hearing, or if there is no such newspaper of general circulation, the notice shall be posted at least ten days prior to the

hearing in at least three public places within the jurisdiction of the local agency. The notice shall include the information specified in Government Code Section 65094, and shall identify proposed amendments to this title as amendments to the local coastal program. In addition to the notice required by this section, a local agency may give notice of the hearing in any other manner it deems necessary or desirable.

- B. Notification Procedures. When a provision of this title requires notice of a public hearing to be given pursuant to this section, notice shall be given in all of the following ways:
1. Notice to Owner or Agent. Notice of the hearing shall be mailed or delivered at least ten days prior to the hearing to the owner of the subject real property or the owner's duly authorized agent, and to the project applicant.
 2. Notice to Local Agencies. Notice of the hearing shall be mailed or delivered at least ten days prior to the hearing to each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected.
 3. Notice to Real Property Owners Within Three Hundred Feet. Notice of the hearing shall be mailed or delivered at least ten days prior to the hearing to all owners of real property as shown on the latest equalized assessment roll within three hundred feet of the real property that is the subject of the hearing. In lieu of utilizing the assessment roll, the local agency may utilize records of the county assessor or tax collector which contain more recent information than the assessment roll. If the number of owners to whom notice would be mailed or delivered pursuant to subsection (B)(1) or (3) of this section is greater than one thousand, a local agency, in lieu of mailed or delivered notice, may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the local agency in which the proceeding is conducted at least ten days prior to the hearing.
 4. If the notice is mailed or delivered pursuant to subsection (B)(3) of this section, the notice shall also either be:
 - a. Published pursuant to Civil Code Section 6061 in at least one newspaper of general circulation within the local agency which is conducting the proceeding at least ten days prior to the hearing.
 - b. Posted at least ten days prior to the hearing in at least three public places within the boundaries of the local agency, including one public place in the area directly affected by the proceeding.
 - c. The notice shall include the information specified in Section 65094.
 - d. In addition to the notice required by this section, a local agency may give notice of the hearing in any other manner it deems necessary or desirable.

(Ord. 445 § 3 (part), 1995)

17.64.060 - Planning commission report and recommendation.

After the close of the public hearing or continuations thereof, the planning commission shall make a report of its findings and its recommendation with respect to the proposed amendment. The planning commission report shall include a list of persons who testified at the hearing, any staff report and a summary of the public testimony at the hearing, the findings of the commission and copies of any maps or other data and/or documentary evidence submitted in connection with the proposed amendment. A copy of such report and recommendation shall be transmitted to the city council within sixty days after the planning commission decision; provided, however, that such time may be extended with the consent of the city council or the petition for such amendment.

(Ord. 445 § 3 (part), 1995)

17.64.070 - Council hearing.

Upon receipt of the recommendation of the planning commission, the city council shall hold a public hearing thereon, giving notice thereof as provided by law. After the conclusion of such hearing, the city council may, within one year, adopt the proposed amendment or any part thereof set forth in the petition or resolution of intention in such form as the council deems desirable.

(Ord. 445 § 3 (part), 1995)

17.64.080 - Effective date of amendments.

No amendment to this title shall be legally effective in the coastal zone until the following occurs: (1) the amendment is certified by the Coastal Commission; (2) the city, by action of its governing body, formally acknowledges receipt of the commission's resolution of certification including any terms or modifications which may have been suggested for final certification; (3) the city accepts and agrees to any such terms and modifications and takes whatever formal action is required to satisfy the terms and modifications; (4) the city agrees to issue coastal development permits for the total area included in the certified local coastal program; (5) the Executive Director of the Commission determines in writing that the local government's action and the notification procedures for appealable development are legally adequate to satisfy any specific requirements set forth in the Commission's certification order; (6) the Executive Director reports the determination to the Commission and the Commission does not object to the Executive Director's determination.

(Ord. 445 § 3 (part), 1995)



AGENDA NO: B-2

MEETING DATE: May 8, 2018

**THE FOLLOWING PUBLIC CORRESPONDENCE
WAS RECEIVED BY THE CITY COUNCIL
FOLLOWING POSTING OF THE AGENDA**

Dana Swanson

From: betty winholtz <[REDACTED]>
Sent: Monday, May 07, 2018 2:37 AM
To: Jamie Irons; Marlys McPherson; John Headding; Matt Makowetski; Robert Davis
Cc: Rob Livick; Dana Swanson; Scott Collins
Subject: agenda item b-2 north point assessment

Dear City Council:

A year ago I corresponded with you regarding my concerns regarding the North Point Natural Area assessment. The only change that has occurred in the last 12 months has been the exchange of the dumpster for a trash can. This was an appropriate change since the dumpster was being used by all kinds of people for dumping all kinds of stuff. Also, the parking lot may have been slurried; perhaps that is the \$300 expense under supplies?

Unfortunately, the accumulation of \$25,000 has not been spent maintaining the public area, contrary to what the staff report states, "Due to increased efficiencies, staff has been able to maintain the natural area with expenses not exceeding the assessment." From what I have witnessed "increased efficiencies" equals neglect. What has been maintained, as delineated on the financial page are staff wages and utility payments (which I assume are for electricity and water usage across the street from the houses only, not the parking lot/bench area).

"The cost estimates are based on the maintenance standards currently adhered to in existing parks within Morro Bay." The "cost estimates" have to be based on what occurs in other City parks because there is no sign of maintenance on North Point other than emptying the trash can. In addition, this statement implies that North Point is maintained to the same standard as our other public spaces. No other park looks as poorly as this one, and not because there is a lack of money: it has it's own accumulated \$25,000.

"Due to the small acreage, natural landscaping and little irrigation in the North Point Natural Area, the assessment amount collected is currently adequate to cover the costs of maintenance." Last year, I brought to your attention that what little, natural vegetation surrounding the parking lot had succeeded in surviving the drought (there is no watering) was mowed into dust. Staff stated to you this was a "miscommunication" and it would be rectified. It has not. The area is now covered in weeds rather than the natural brush that once grew there.

Attachment A claims these tasks are performed. They are not:

- planting hillside, erosion, NOT HAPPENED.
- Blow paths, THE PATH IS GRAVEL, THERE'S NOTHING TO BLOW.

--Paint beach access stairway, THE HAND RAILS ARE PLASTIC, PRE-PAINTED, THE STAIRS ARE WOOD AND GRAVEL.

--Pest/gopher control, I SHOULD HOPE NOT IN A "NATURAL AREA."

--Trim and spray path, AGAIN THE PATH IS GRAVEL, THERE IS NOTHING TO TRIM OR SPRAY.

This is a popular area for locals, county residents with dogs, and tourists who spot it from Highway One. May we please have some TLC?

Sincerely,
Betty Winholtz



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AGENDA NO: B-3

MEETING DATE: May 8, 2018

**THE FOLLOWING PUBLIC CORRESPONDENCE
WAS RECEIVED BY THE CITY COUNCIL
FOLLOWING POSTING OF THE AGENDA**

Dana Swanson

From: Dianne Buquet [REDACTED]
Sent: Monday, May 07, 2018 3:00 PM
To: Dana Swanson
Cc: rich buquet
Subject: Re: Agenda Correspondence 5/8/18 Council Meeting

TO: Mayor Irons and Council

FROM: Rich & Dianne Buquet

DATE: May 7, 2018

SUBJECT: May 8 City Council Regular Meeting Agenda Item B3 Annual TBID Report

We would like to submit comments regarding the proposed TBID assessment of Vacation Rentals and Recreational Vehicle Parks.

Tuesday, October 24, 2017 we attended the Discussion sponsored by TBID regarding the inclusion of Vacation Rentals and Recreational Vehicle Parks into the assessment district. At the conclusion of that meeting there was unanimous consensus from the Vacation Rental and Recreational Vehicle Park owners in attendance that the assessment proposed would not benefit any of us.

Both Vacation Rentals and Recreational Vehicle Park owners have their own distinct forms of marketing that is different from hoteliers. Vacation Rentals are marketed through Airbnb and charged for this service. Currently Vacation Rental owners pay:

- 10% TOT
- 1% County TMD
- 3% Airbnb

Inclusion into the TBIB would be an unnecessary expense with little if any benefit; therefore we support the alternative recommendation #2,

“Do not direct staff to review and evaluate inclusion of Vacation Rental and Recreational Vehicle Parks into the TBID Assessment District”.

Rich & Dianne Buquet

On Mon, May 7, 2018 at 2:51 PM, Dianne Buquet <[\[REDACTED\]](#)> wrote:

TO: Mayor Irons and Council

FROM: Rich & Dianne Buquet

DATE: May 7, 2018

SUBJECT: May 8 City Council Regular Meeting Agenda Item B3 Annual TBID Report

We would like to submit comments regarding the proposed TBID assessment of Vacation Rentals and Recreational Vehicle Parks.

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Inclusion into the TBIB would be an unnecessary expense with little if any benefit; therefore we support the alternative recommendation #2,

“Do not direct staff to review and evaluate inclusion of Vacation Rental and Recreational Vehicle Parks into the TBID Assessment District”.

Rich & Dianne Buquet

--
Dianne

Dana Swanson

From: Sean Green [REDACTED]
Sent: Tuesday, May 08, 2018 11:41 AM
To: Council
Cc: Dana Swanson
Subject: 5/8/18 - Council Agenda Correspondence - Item B-3

Council and Staff,

Please spend no further time and energy discussing TBID's latest recommendation to "direct staff to review inclusion of vacation rentals" (Item B-3 #3). Hastily devised by the TBID Board last month as a result of yet another failure to pass a motion itself, this most recent TBID recommendation asks Council to direct staff to do the very same cost/benefit analysis that City Manager Scott Collins and Tourism Manager Jennifer Little thoughtfully prepared and presented to TBID just a few months back--work that was rejected by TBID.

As a TBID boardmember myself (at-large), I have been consistently and disappointingly forced to leave meetings whenever this issue was brought up (as a result of my holding an active VR permit), which often reduced VR representation in these hotelier-only discussions from one to zero. In fact, twice, during TBID meetings where "Vacations Rentals" did not appear on the agenda, the Board attempted to push through a 3% assessment on the 250-300 parties not present. Thankfully, both times, one or more remaining Board members (because I was excluded) recognized the impropriety of the situation and acknowledged that a voluntarily assessment program created by hotels for hotels ought to listen to what non-hotels had to say before roping them involuntarily into the mix. Naturally, on the flip side, when VR owners were ever properly noticed, dozens turned out to voice dissent and confusion, and public opinion regarding lack of perceived value was heard loud and clear.

Rather than furthering the cause of a small handful of active hoteliers (who themselves are struggling to justify paying the highest BID amount in the entire county), please put the onus back on the TBID Board, if anyone, to prove its own worth. Council and Staff have enough on their plates with the land use and zoning portions of Vacation Rental management; to then burden the City Manager, Tourism Manager, Community Development Director, or anyone else with another project eerily akin to work that has already been turned away would seem a waste of City resources and destined to end up back on Council's plate in the same shape and form it appears today.

Thank you for your consideration,

Sean Green
Morro Bay, CA



AGENDA NO: C-1

MEETING DATE: May 8, 2018

**THE FOLLOWING PUBLIC CORRESPONDENCE
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Dana Swanson

From: betty winholtz [REDACTED]
Sent: Monday, May 07, 2018 3:41 AM
To: Jamie Irons; Marlys McPherson; John Headding; Matt Makowetski; Robert Davis
Cc: Dana Swanson
Subject: agenda item c-1 policies handbook

Dear City Council:

There are 3 new items added to this document to which I would like to comment:

"1.4.7

As soon as reasonably possible following each Council meeting, the City Clerk shall include a copy of the minutes, thereof, as a Consent Item for the agenda of a regular Council meeting"

The open-ended "as reasonably possible" is dangerous to fair government. It potentially violate deadlines for citizen complaints to be filed. It legally allows the discretion to not submit or approve an official record of a meeting for a long time. Without a definitive deadline, Council members won't have the language of a motion passed, should they be presented with a related topic before the minutes are approved and published. Council and public may not remember what comments they made long enough to judge whether their comments are reflected accurately in the minutes.

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"The Chair person is responsible for ensuring that the meeting follows parliamentary procedures, as described above."

I am under the impression that the parliamentarian and chair must be separate individuals. Perhaps this statement is trying to say that the chair should be familiar with parliamentary procedure in order to run a meeting.

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"once the City Council has made a decision on an issue an advisory board should not attempt to reconsider that issue or make an alternative recommendation to Council"

This has already occurred: Council ruled on downtown height limits, then the following week staff brought to the planning commission the same topic, albeit in a different document. This statement does not seem to be a reasonable expectation.

Sincerely,
Betty Winholtz



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