



AGENDA NO: CS-3

MEETING DATE: February 13, 2019

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

Dana Swanson

From: Sean Green [REDACTED]
Sent: Wednesday, February 13, 2019 9:02 AM
To: Council; Scott Collins; Eric Endersby; Dana Swanson
Cc: HAB
Subject: 2/13/19 Agenda Correspondence: Item CS-3

Council and staff,

Regarding the City's lease negotiation on the Coast Guard parcel(s), as well as any upcoming lease negotiations, please consider including language that encourages or requires public walkway beautification and tourist-friendly signage that benefits both the leaseholder and the City (often at very little cost). For this particular parcel, pedestrian-friendly signage ideas include:

- Military history of Morro Bay
- Coast Guard history on the west coast
- Coast Guard vessel names/specs here in MB
- This week's departure/arrival schedule

Additionally, please include lease language that encourages or requires proper trash enclosures made of aesthetically pleasing vertical dock lumber (or similar) and placement away from direct view or pedestrian foot traffic.

We love housing the Coast Guard here in Morro Bay, but this parcel currently marks the beginning of a pedestrian "dead zone" that often discourages tourists from venturing on toward the Rock and other northern Embarcadero amenities. Inexpensive pathway beautification and signage would go a long way toward closing that gap and advancing our long-term goal of a continuous, uninterrupted waterfront route in Morro Bay.

Sincerely,

Sean Green

Attached: Coast Guard parcel opportunities (5 images)







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AGENDA NO: A-1

MEETING DATE: February 13, 2019

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

Dana Swanson

From: B Doerr [REDACTED]
Sent: Thursday, February 07, 2019 4:38 PM
To: Dana Swanson; John Headding; Marlys McPherson; Robert Davis; Jeffrey Heller; Dawn Addis; neaumeyer@morrbayca.gov
Subject: Item A-1 for 2-13-2019 Agenda, Amendment to Minutes for 1-8-2019, A-4 Appointments

DATE: February 7, 2019

TO: Mayor Headding and Council, City Attorney Neumeyer, City Clerk Swanson

FROM: Barbara Doerr, Morro Bay Resident

SUBJECT: **A-1**, Request for Amendment to Draft Minutes for 1/8/2019, Agenda Item A-4, MAYOR PRO TEMPORE
APPOINTMENT OF REPRESENTATIVES ON DISCRETIONARY BOARDS, COUNCIL LIAISON ASSIGNMENTS AND COUNCIL SUB-COMMITTEES.

The purpose of this email is to request an amendment to the January 8, 2019 City Council meeting minutes, Agenda Item A-1.

I am asking that the following statement made by Mayor Headding at the meeting be included in the minutes.

"Please note, that I spent time with every Councilmember, over an hour with each of them, to discuss their desires. Many of them crossed over in their desires to be on certain committees."

The following quoted section of the draft minutes is approximately where Mayor Headding made the above statement,

and seems to fit as a location to insert an amendment. The location begins "Mayor Headding commented..." See Draft

Minutes below for the - MORRO BAY CITY COUNCIL MEETING – JANUARY 8, 2019.

"Mayor Headding closed public comment.

Council asked staff to respond to issues raised during public comment including the Surf Street staircase, cannabis permit approval process, concerns regarding employee termination, and status of the crosswalk request.

Mayor Headding commented on the proposed Council discretionary appointments." (Page CC_2019-02-13 Page 6 of 131)

It is important for the public to know, and the City record to reflect, that the list of appointment recommendations prepared by the Mayor for Agenda Item # A-4, was determined based on private meetings between Mayor Headding and each individual councilmember. Per the Mayor these meetings lasted about an hour each. I believe this to be a violation of the Brown Act, and for transparency it is important that the minutes reflect the process the Mayor and City Council used to make appointments. My comments do not apply to the appointment of Mayor Pro Tempore.

Thank you for considering my request to amend the draft minutes for January 8, 2019.

Thank you,
Barbara Doerr

Dana Swanson

From: B Doerr [REDACTED]
Sent: Tuesday, February 12, 2019 8:55 AM
To: Chris Neumeyer; Dana Swanson
Subject: Fw: Brown Act Violation at January 8, 2019 Council Meeting, Agenda Item A-4-

This email correspondence is intended for either Public Comment or A-1 on the 2-13-2019 Agenda for City Council.

Thank you, Barbara Doerr

From: B Doerr
Sent: Monday, February 11, 2019 4:17 PM
To: dswanson@morrobayca.gov; scollins@morrobayca.gov; Jheadding@morrobayca.gov; mmmpherson@morrobayca.gov; rdavis@morrobayca.gov; jheller@morrobayca.gov; Dawn Addis
Subject: Brown Act Violation at January 8, 2019 Council Meeting, Agenda Item A-4-

Date: February 10, 2019
To: Morro Bay Mayor & Councilmembers
From: Barbara Doerr, Morro Bay Resident

Subject: **Brown Act Violation** on January 8, 2019, Agenda Item A-4, Report from Mayor Headding to City Council, "SUBJECT: Appointment of Mayor Pro Tempore and Appointment of Representatives on Discretionary Boards, Council Liaison Assignments and Council Sub-Committees."

The purpose of this email is to express my concerns about the procedure (**private meetings**) used for the preparation of the Mayor's list of recommended appointments to County and/or regional committees/boards, Council Liaison Assignments, and Council Sub-Committees. First, **Brown Act violation** based on Mayor's private, individual meetings with each Councilmember. Second, the Mayor's "Council Report" (Item A-4) incorrectly quoted Section 6.1 from Council Policies & Procedures (P&P's). Third, the appointment process did not follow the procedures in Section 6.5 or correct 6.5 in the P&P's.

Before continuing I must acknowledge that a similar appointment report to Council was used by Mayor Irons for the 1-10-2016 Council meeting, and Iron's report similarly eliminated the reference to "6.5 for appointment procedures." In January 2012 Mayor Yates' report consisted of merely four sentences with a list of appointment recommendations attached. The public record does not reflect the process used to create the appointments lists.

First Issue – Brown Act Violation - Private serial meeting with five council members:

The Brown Act states:

“Section 54950. Declaration of public policy

*In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. **It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.**”*

“54952.2. (b) (1) A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.”

Mayor Heading acknowledged at January 8th Council meeting that his appointment recommendations list was based on his private discussions with each of the five Councilmembers. These private meetings are a violation of the Brown Act, a **serial meeting**. Only after the Mayor’s list was finalized, was it presented to the Council for approval in a public setting. No nominations were identified as coming from the “City Council” for sub-committees (3.13) appointments and/or for liaisons (6.2.1 “The City Council **shall** assign a Council liaison...””) as stated in the P&P’s. The P&P’s do not give this power to the Mayor. As a voter, I would like to know who my Councilmember nominated. However, these nominations were made in private meetings with the Mayor.

Mayor Heading acknowledged his private meetings at the 1-8-2019 meeting (quoted below) and I have requested that his statement be included in the January 8th draft minutes at the meeting of 2-13-2019 (A-1):

“Please note, that I spent time with every Councilmember, over an hour with each of them, to discuss their desires. Many of them crossed over in their desires to be on certain committees

The Mayor’s private meetings do not appear to fit the “Individual Contact Exceptions” in the Brown Act 54952.2(c)(1).

In contrast, the procedure used at the January 24th meeting by the Mayor and Council to make nominations and appointments to local City Commissions and Boards was done publicly. At the 24th meeting names of applicants were announced in advance, and ballots were openly cast by each elected official. The process used for local appointments follows: 1) the Mayor and each Councilmember used some kind of paper ballot, 2) privately filled in the ballot, 3) all forms were given to City Clerk, and, 3) individual votes for each member were announced publicly and votes publicly attributed to each elected official. I suggest a similar procedure be used for appointments to county regional bodies, liaisons, and sub-committees.

Although my Brown Act complaint is not presented in the form of a “cease and desist” letter, I would certainly appreciate a response.

Second Issue - Mayor’s Report incorrectly quoted Section 6.1, Council Policies & Procedures (P&P’s).

Actually, the Council Policies & Procedures (P&P’s) Section 6.1 recommends a method which could be in compliance with the Brown Act. It states: “(See 6.5 for appointment procedures).” However, this requirement/language is totally ignored by the City (staff and elected officials). When Section 6.1 is quoted by the Mayor, all reference to section “6.5” is eliminated.

The following quote was taken from Mayor Heading’s Report. However, I have taken the liberty of inserting the missing language. It is **yellow highlighted** and now the quote is exactly as shown in the Council P&P’s.

“DISCUSSION

The City Council Policies and Procedures Section 6.1 states:

“Annually the Mayor shall make appointments to a variety of County and/or regional committees and boards. One member of the Council shall serve as a voting representative and one member shall serve as alternate.” (See 6.5 for appointment procedures). “To the best of their ability, Voting Delegates shall reflect the majority view of the Council as a whole, rather than their own personal opinions.” (Page 1, Mayor’s Report A-4, 1-8-2019)

Third Issue - The appointment process used by Mayor Heading did not follow “appointment procedures” in Section 6.5.

Sure 6.5 does not appear to apply to 6.1 appointments, but it is stated as the procedure to be used in the Council P&P's (6.1). The procedure used by the City Council for volunteer appointments to the local Boards and Commissions was done publicly. I suggest a legal opinion be obtained to ensure that all nominations, discussions and deliberations for all City appointments occur in public, and the Brown Act is not be violated.

The Mayor's report to Council states that Section 6.1 allows the Mayor to seek input from Councilmembers regarding appointments (see below). However, Section 6.1, quoted above, does not include the following advice nor does it enable private discussions.

“Consistent with Council Policies and Procedures Section 6.1, the Mayor may seek input from City Council regarding appointments to County and/or Regional Boards, but ultimately, the Mayor is responsible for the appointment of these positions. Attached for your review is a list of the proposed City Council Discretionary Appointments.” (Page 2, Mayor's Report A-4, 1-8-2019)

Even if there is a written policy (somewhere), it certainly could not imply private discussions or deliberations are OK as that would be a violation of the Brown Act. Where is this procedure written and when was it approved by the City Council?

In conclusion, my only goal is to ensure that the current private, “serial meeting” deliberation process for nominations and appointments is replaced with a public procedure like the one used on January 24th for City commissions and boards. Additionally, if the Mayor's appointments to regional bodies are absolute, why were his appointments followed by a vote of the City Council to approve? What would have happened if three Councilmembers had voted NO and the motion failed? Do the regional bodies require a council confirmation, and if so, why was the Council not informed?

I strongly believe, that when possible, the City must do more to be open and transparent, and not just minimally follow the Brown Act. Some cities have their own Sunshine laws. Many Brown Act manuals/guides provide interpretation of the law, but also warn that additional caution must be taken. This will better protect the interests of Morro Bay residents and improve Mayor/Council accountability.

Thank you for your consideration of my concerns and suggestions. I look forward to your response.

Sincerely,

Barbara Doerr

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AGENDA NO: A-4

MEETING DATE: February 13, 2019

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

Dana Swanson

From: betty winholtz [REDACTED]
Sent: Tuesday, February 12, 2019 8:10 PM
To: John Heading; Robert Davis; Marlys McPherson; Jeffrey Heller; Dawn Addis
Cc: Scott Collins; Dana Swanson
Subject: agenda item c-4

Dear City Council:

Your response to my letter does not address my points.

1. Your response on page 3, paragraph 1, speaks only to attendance at C-MANC. I addressed the inclusion of the WRF Program Manager, not a part of C-MANC. The WRF Program Manager is not mentioned in the description of the agenda item, is not mentioned in the Recommendation of the Staff Report, and is not mentioned in any other part of the Staff Report. His travel is an additional cost to the trip making it an additional cost to ratepayers. You did not address my concern of including for travel a fifth person who is not noticed in either the agenda description or Staff Report. It was unknown, unnoticed information to the Public that you acted upon.

2. Your response on page 3, paragraph 2, speaks to topics that the mayor will address while in Washington, D.C. "he plans to further promote the City's interests (schedule permitting). Doing so does not need express authorization from the City Council. In fact, to do so is to act in the City's best interests as the elected Mayor of Morro Bay." This may be true if the topics were not controversial. The two topics are an ocean wind farm and clean up of the power plant site.

Wind Farm--While the City Council has taken a formal stand promoting one wind farm developer over all others, there has been no hearing and therefore no information upon which the residents of Morro Bay can make comment about its support or not support for a wind farm, a major economic and environmental development

Power Plant Clean Up--The power plant site is privately owned. The Public has not been noticed what the City Council's intent is: buying the site, working with the owner, who is another wind farm developer, or what? There is no information upon which the Public can make comment on such a major development that has not been vetted. Therefore, what the mayor may be seeking is unknown to the Public.

In neither the Agenda description, the Recommendation of the Staff Report, nor any other part of the Staff Report is it mentioned that topics other than Harbor or WRF will be lobbied for in Washington, D.C. While the City Council may have given its blessing, the Public was not noticed that these were topics to be promoted, nor was any information offered in the Staff Report to which the Public could respond.

Your response is inadequate. Would you like another chance to cure or correct? If not, I will be passing this information onto the District Attorney.

Sincerely,
Betty Winholtz