



City of Malibu

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April 13, 2010

Mountains Recreation & Conservation Authority
Attn: Board Secretary
5750 Ramirez Canyon Road
Malibu, CA 90265

Re: Item No. XII, April 14, 2010 Governing Board Meeting

Dear Chair Lange and Members of the Governing Board,

Thank you for considering a special provision in the Authority's Park Ordinance under Section 3.19 with regard to the Malibu Parks Public Enhancement Plan-Public Works Plan (the Plan). However, we would like to point out that solely amending the ordinance in response to campfire usage within the Plan does not ensure that campfires will be prohibited on the Authority's property within the City of Malibu. The reasoning is similar to that provided by Mr. Dash Stolarz in his Malibu Surfside News correspondence published April 8, 2010. Mr. Stolarz notes, "*Simply put, an ordinance of the Mountains Recreation and Conservation Authority cannot trump the California Coastal Commission...*" (attached).

Therefore, it is our understanding that regardless of what provisions are included in the Authority's Park Ordinance, the possibility remains that the California Coastal Commission could still grant authority to the Executive Officer to issue special permits for campfire usage under the Plan.

If the intention is to prohibit the use of campfires and/or the authorization of campfires by the Executive Officer, without limitation, on all Authority property within the City of Malibu, this should be clearly stated in the Project Descriptions for both the Plan and its accompanying Environmental Impact Report. That way, there can be no doubt that campfires would be prohibited under "*...any permit or plan adopted by the California Coastal Commission within the jurisdiction of the City of Malibu, including, without limitation, the Malibu Parks Enhancement Plan-Public Works Plan.*"

In addition, prohibiting the use of campfires and/or authorization of campfires by the Executive Officer, without limitation, should be explicitly listed in the modified Authority's Park Ordinance under Sec 3.19 -- Special Provision Applicable to the Property of the Authority within the City of Malibu.

On a separate note, we are concerned that the public has not been given an opportunity to review the proposed modifications to the Authority's Park Ordinance since the proposed language is absent in the accompanying one-page staff report for this item (Item No. XII). The staff report reads,

"Materials for this item will be delivered under separate cover." It is important to promote transparency in the Authority's public review process and I encourage the Board to consider making these items available for adequate public review before a decision is made.

Thank you for your consideration in these matters.

Sincerely,



Vic Peterson
Community Development Director
City of Malibu

encl: Surfside News Letter to the Editor, Dash Stolarz., April 8, 2010
Surfside News Article, April 1, 2010
MRCA Staff Report, Agenda Item No. XII, April 14, 2010

TOWN FORUM

LETTERS to the EDITOR CAMPFIRES

Editor:

Re: City Official Condemns Campfires Were a Goal of Conservancy Park Plan from the Beginning (April 1, 2010). To be clear, campfires have never been intended as part of the Santa Monica Mountains Conservancy/Mountains Recreation and Conservation Authority Malibu Public Access Enhancement Plan-Public Works Plan, nor is there any intention for the Conservancy or Mountains Recreation and Conservation Authority to permit park uses not allowed under the Plan in Malibu.

Simply put, an ordinance of the Mountains Recreation and Conservation Authority cannot trump the California Coastal Commission. However, to respond to the concerns of the Malibu city official, and residents who may have been confused by his misunderstanding, the Mountains Recreation and Conservation Authority board, at its April 14, 2010 meeting, will introduce an amendment to the Authority's Park Ordinance, to wit:

Sec. 3.19. Special Provision Applicable to Property of the Authority within the City of Malibu. The Authority finds that special provisions are necessary for property within the City of Malibu in order to reassure the public that this ordinance is not intended, nor shall it be construed to, supersede any provision of any permit or plan adopted by the California Coastal Commission within the jurisdiction of the City of Malibu, including, without limitation, the Malibu Parks Public Access Enhancement Plan-Public Works Plan.

The Conservancy and Mountains Recreation and Conservation Authority want the residents of Malibu to know we are responsive to their concerns.

Dash Stolars
Director of Public Affairs

PERSPECTIVE

Editor:

I read, with some enthusiasm, the responses by Mr. Grossman and Ms. Martin to my letter regarding the public access related to the rock revetment work on Broad Beach. I want to issue a reply, although belated, that expresses my final thoughts on the subject.

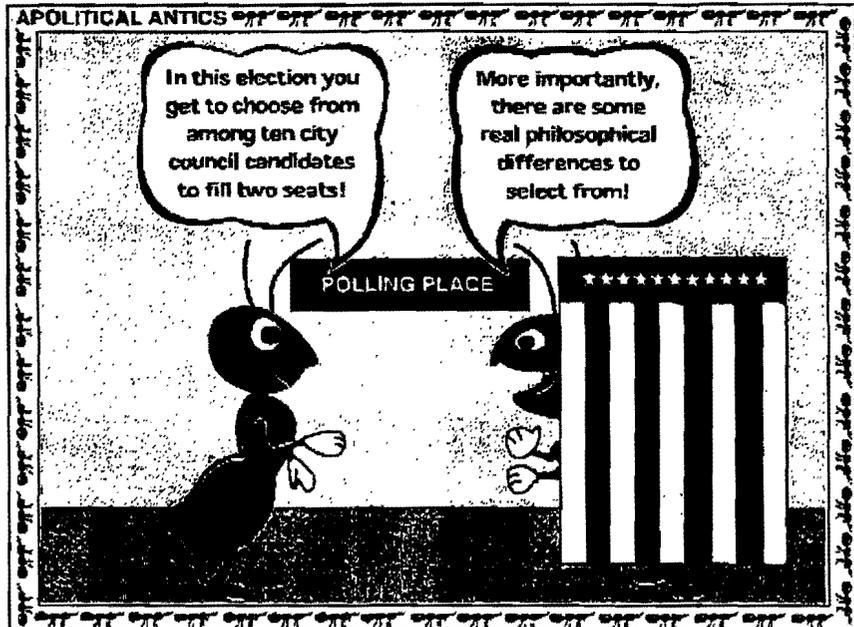
I do appreciate the points that were made by the two Broad Beach residents regarding the effort and cost they are experiencing to preserve "their" property on Broad Beach, and I do appreciate the fact that they pay some service to the concept that the "public" has at least some right, even if it's so generously granted by the residents, in access to the beach. However, I feel that the appropriate perspective through which to view the issue is more expansive (broader) than just public access in light of the revetment work.

The residents of Broad Beach must remember that they have built their homes not on terra firma, but on a habitat that is literally shifting beneath their feet. Fifty years ago, had we known what we know now about the symbiotic nature of sand and the larger beach ecosystem, they wouldn't have been issued a building permit in the first place. Although they've hired, at some cost I'm sure, learned engineers who are advising them on methods to keep their property from being swallowed up by the ocean, what is not being told to them—because it's a most unprofitable point—is that they've created their own problem.

Sand needs to move to maintain a robust beach, it behaves like a fluid. Sand can't flow properly, and beaches won't remain, when the sand is restricted by foundations, pilings, jetties, and most of all, revetments! So even if the revetment work manages to somehow preserve the property that they call "theirs", it will impact the larger beach ecosystem—perhaps at Zuma—in ways that I'm sure their engineers aren't considering.

They should also remember that they're not being taxed on the effects of the downstream impacts that the revetment work will cause, even though they should be. So while I understand that they feel they are doing a service to the public by building a revetment, granting access (when?), paying taxes on, and picking up human waste on "their"

(Letters are continued on page 15)



Publisher's NOTEBOOK

Official Street Savvy

Malibu rolled with the shock waves of two earthquakes—one in Baja, the other six miles off the local coast—last weekend, but those reverberations paled in comparison with the impact on the community of the death of a 13-year-old girl on Pacific Coast Highway barely a day after the fatality of a visitor at Broad Beach.

Hundreds shared their grief and love for this local child on social networks. Saturday's crash site was visited by an untold number of her peers, and people did not have to know Emily Rose Shane personally to be affected by the tragedy of a promising young life cut short.

We are reminded, as we have been too often in recent weeks, that Pacific Coast Highway is more than our community thoroughfare. It is a state highway and requires the kind of monitoring that road status warrants, and which people are starting to ask if it is getting now.

On Monday, I received well over a dozen telephone calls and emails asking why this stretch of state highway is not under the California Highway Patrol. It seems that Malibu's first city officials were essentially strong-armed by the Los Angeles County Sheriff's Department in that it refused to contract for law enforcement services, if it didn't get the contract (and reverse) for traffic control as well. Those were flush economic times, and the LASD could afford to play a waiting game until it got what it wanted. In 2010, the same agency needs every dollar it can find and might not afford to play so hard to get.

The majority of these calls and emails express the opinion that the CHP's primary focus is traffic control. Several of them inquired whether there might have been a faster response when the four 911 calls made from Topanga to Webb Way about the behavior of Saturday's driver, if a CHP car was on the PCIH to respond?

In addition, some of these people maintain that CHPs often know local roads better. Possible case at point, as I drove down Kanan to PCH Saturday night, and waited in line at the roadblock, I heard a sheriff's deputy, and several well-intentioned civilians helping him out, toll drivers, including people who said they live just on the other side of the closure, to make a U-turn, go back up Kanan to Mulholland, take Mulholland to Decker, and Decker to PCH. Just as I inched toward the intersection, the deputy

walked over to his vehicle and went on his cell phone. I politely called out, said I was a member of the press with credentials and wanted to speak with him. I wanted to tell him that there is a five-minute shortcut west through Point Dume. Cell phone in his car, he responded, "I don't have time to answer questions. Keep moving."

As a result, mine was the lone car to turn left, then right onto Zumirez and head to Heathercliff. I encountered a steady line of eastbound traffic carefully snaking through the reverse route. Obviously, a deputy on the other side of the accident knew the detour that the deputy at Kanan apparently was too busy to hear about and possibly spare hundreds of drivers a lengthy excursion over canyon roads.

New Lost Hills Sheriff's Station Captain Joseph Stephen is scheduled to be at the Malibu City Council meeting next Monday night. That might be a good time for citizens with concerns about the PCH to bring them up.

ANNE SOBLE

The Malibu Surfside News
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Front PAGE

City Official Contends Campfires Were a Goal of the Conservancy Park Plan from the Beginning

■ Planning Chief Says There Are Discrepancies in DEIR

A Malibu municipal official has accused the Santa Monica Mountains Conservancy of making campfires a part of the park plan for trails and overnight camping.

"It appears that campfires were always intended to be part of the plan, yet were not acknowledged or analyzed in the Draft Environmental Impact Report," wrote Vic Peterson, the head of Malibu's planning and building department, in a scathing comment submitted for the Santa Monica Mountains Conservancy's Draft Environmental Impact Report for its Malibu Parks Public Access Enhancement Plan.

That perceived discrepancy in among several that are cited by the city official as not being analyzed in the DEIR, "which failed to take into account the kinds of activities that are allowed on other SMMC or Mountains Recreation Conservation Authority land."

"The fact that MRCA Ordinance No. 1-2205 was amended the same day that the plan Initial Study started circulation shows that the uses within the parkland were reasonably foreseeable," the Peterson comments go on to state.

The city official's response enumerates a host of activities that also are allowed on MRCA

land by special permit issued by the executive officer of the MRCA. They include campfires, alcohol, taking or collecting specimens, fishing, fireworks, off-leash dog areas, off-road vehicles, camping, commercial filming, flight hang gliders and parasailing.

"[all uses should be] analyzed... given [local] fire concerns."

A document footnote reiterates that the MRCA executive officer is the executive director of the SMMC who is Joe Edmiston.

The city has also attached as further evidence a letter from Edmiston about how a special-use-permit campfire "probably with a fire engine in attendance is possible for special occasions (like a weekly interpretative event)."

Peterson added, "It is understandable that the issuance of special use permits will help generate revenue needed to maintain

the MRCA's fire department and administrative offices, as well as fund programs, within Ramirez Canyon Park. It is also understandable why uses such as commercial filming and fireworks in public parkland need to be regulated. However, what is not fully understood is why the additional uses within MRCA were not acknowledged or analyzed in the project description and DEIR given the community's well-known fire concerns."

The head planner wrote about other perceived discrepancies with the project description, including that "emergency fire shelters" had not been adequately described and the DEIR fails to direct the reader to the information "buried in Appendix 1 as to the true function of these shelters as a 'last resort.'"

Also the Malibu planner noted "the fire truck sheds and their intended purpose has not been adequately described in the DEIR, which does not define if they are garages or mini-fire stations, or explain why they are necessary."

The proposed project, according to Peterson, does not provide a clear breakdown or analysis of impacts on Environmentally Sensitive Habitat Areas among other discrepancies.

BY BILL KOENEKER

La Paz Project in Civic Center Area Appears Closer to Final Approval

■ City Assessment of CCC Modifications of LCPA Next

The Malibu City Council is scheduled at its regular meeting on Monday, April 12, to consider the California Coastal Commission's modifications to the permits and entitlements for the La Paz commercial office center planned for the Civic Center.

The development agreement, zone changes and other conditions for approving the 100,000-plus-square-foot commercial center have to be approved by the city council and certified by the coastal panel.

The changes sought by the city and the applicant are contained in a Local Coastal Program Amendment.

On March 10, the commission approved modifications to the LCPA, which the city must consider and accept in order to obtain a final decision on La Paz.

The city sought to change the land use and zoning designation of two parcels from Community Commercial to a new proposed designation of Town Center Overlay, or TCO.

The commission, instead, offered modifications to the city's LCPA, saying it wanted the city to delete its request to remove the CC land use designation from the two parcels to use the new TCO designation and also amend Part C to add specific site regulations and add Part D, the development

agreement to another section and show the boundaries of the TCO on a map.

Commission policy states that after the city council acknowledges receipt of the commission resolution of certification, including terms and modifications and agrees to issue the coastal permits, then the council shall accept and agree to any of the commission's modifications.

After the council takes formal action on the modifications, the matter goes again before the Coastal Commission to review the city's actions and make a determination whether or not to certify the LCPA.

BY BILL KOENEKER

Longtime Point Dume Resident Is Seriously Injured in Canyon Crash

■ Son's Trial Terminated As a Result



RESCUE—A local search and rescue team member attaches lines connected to a fire engine front bumper to begin to assess ways to assist Denise Peak after her vehicle went over the side in Decker Canyon before noon on Saturday.

Longtime Malibu resident Denise Peak was seriously injured when her vehicle went over the side of Decker Edison Road on Saturday at 11:20 a.m.

According to Lost Hills Sheriff's Station Traffic Sergeant Phillip Brooks, for "an unknown reason...the vehicle drove off the road." Brooks said that stretch of roadway "is so heavily marked with tire skid marks, it may be impossible to completely reconstruct the vehicle's path."

Brooks said that the lack of impact to vegetation on the face of the cliff appears to indicate that the vehicle was traveling at a high rate of speed and launched straight out into the air before it dropped to the canyon bottom.

Peak is the widow of surfing doyen and local community activist Dually Peak who died last August. She reportedly suffered a broken leg and multiple contusions in the traffic collision.

Brooks said sheriff's deputies at the scene were "unable to interview [Peak] because of her negligent state after the accident."

Skyler Peak, the woman's 25-year-old son, who is one of the defendants in the paparazzi case that was set to be heard by a jury on Monday at the Malibu Court.

house, asked the court for a delay so he could assist his mother.

Judge Larry Mira declared a mistrial the same day. Peak's attorney Harland Braun said a judge has the discretion to take that action "if overwhelming cause makes it impossible for a defendant to give full attention to trial proceedings."

Skyler Peak and fellow Point Dume resident John Hildebrand, 31, are accused of bearing a paparazzi taking photos of actor Matthew McConaughey while he was surfing at one of the Riviera private beaches in June 2008.

The jury was stated in hearing opening statements on the allegations that Peak and Hildebrand threw Richard Altshuler's hamster into the ocean, seriously injuring him and damaging his photographic equipment, during the videotaped media that ensued.

The Los Angeles County District Attorney has made the high profile case a priority replete with multiple reschedulings since charges were filed in September 2008, even though misdemeanor cases with defendants who have no priors are often sent to hearing. The pair are due back in Malibu Superior Court on June 4.

BY ANNE SCORP

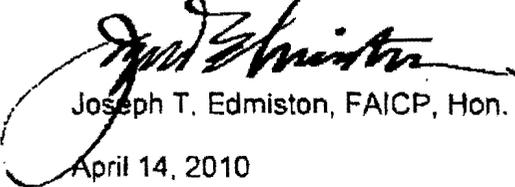


MOUNTAINS RECREATION & CONSERVATION AUTHORITY

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570 West Avenue Twenty-six, Suite 100
Los Angeles, California 90065
Phone (323) 221-9944

MEMORANDUM

TO: The Governing Board

FROM:  Joseph T. Edmiston, FAICP, Hon. ASLA, Executive Officer

DATE: April 14, 2010

SUBJECT: **Agenda Item XII: Consideration of adoption of an amendment to the Mountains Recreation and Conservation Authority Park Ordinance, as amended, regarding park rules and regulations, waive first reading and introduce amendment to said park ordinance entitled "An Ordinance of the Mountains Recreation and Conservation Authority establishing park rules and regulations, and prescribing the punishment for violations thereof.**

Materials for this item will be delivered under separate cover.