

in analysis 1 wk before

Bob McSeveney

From: Jonathan Clay <jclay@jgconsulting.com>
Sent: Thursday, May 14, 2015 3:29 PM
To: Bob McSeveney
Cc: Erin Gilbert
Subject: Re: Encinitas Legislative Discussion

~~Thanks for the update Bob... very interesting to watch.~~

Here is what we have done so far on the bill (we can put this into a memo for the City Council if that helps).

1) Erin did attend the Local Government hearing on AB 744. Since we got the letter the day before the hearing, we didn't testify. Late opposition is considered bad form - here's why... it doesn't give the Author or legislative staff time to review the issues raised and be able to respond. That said, we did talk to Assembly Maienschein's staff about the bill.

2) We also talked to Assembly Housing & Community Development Committee staff to get some background (since this was the first committee the bill was heard in, but the City hadn't taken a position yet). According to the chief policy consultant, only Encinitas has raised the issue of rounding down vs rounding up. She did mention that it's the committee's interpretation of state law that rounding up is the correct method of calculation. She offered to talk with our housing staff.

3) In relationship to why the City isn't being listed in the analysis, it's because the letters are getting there too late for policy committee. Generally, in order to be listed in the committee analysis, letters need to be into the committee staff a week prior (it can be sometimes sooner, but not a given). I would suggest that instead of the City sending the letters under the Mayor's signature, that once the first letter is sent, that we take over sending the letters to the committees in order to ensure timely delivery.

4) In terms of the Appropriations Committee, they don't list support/oppose. If a bill is slated for suspense (this is where bills are placed in a holding pattern due to costs), typically legislators "waive presentation", which means the bill goes to suspense with out the author presenting the bill. We checked with Assembly Chau's office to see what they intended to do... they waived presentation of the bill and let it go to suspense.

Finally, I am fine with coming down to speak with the Council to talk about the legislative process, legislative program, etc...

JC

On May 14, 2015, at 10:39 AM, Bob McSeveney <bmcseveney@encinitasca.gov> wrote:

Jonathan, Erin,

As part of our legislative program, I bring outgoing letters to city council for comment or approval. The item is always on the consent agenda. Last night a member of the public pulled the item off of consent and there were five speakers regarding AB 744 (Chau). Here is the link: http://encinitas.ericus.com/MediaPlayer.php?view_id=7&clip_id=1153. If you would like to

Stephanie Kaufmann

From: Kathy Hollywood
Sent: Monday, August 31, 2015 6:58 PM
To: Stephanie Kaufmann
Subject: Fwd: AB 744 and Legislative Counsel Opinion

Sent from my iPhone

Begin forwarded message:

From: Jace Schwarm <jschwarm@encinitasca.gov>
Date: August 31, 2015 at 5:37:55 PM PDT
To: Kathy Hollywood <khollywood@encinitasca.gov>
Subject: FW: AB 744 and Legislative Counsel Opinion

Here is the email that Bob McSeveney did not have for the public records request. David Meyer. Jeff had it. See below

Jace Schwarm
Department Manager II
Risk Management Department
jschwarm@ci.encinitas.ca.us
760 633 2636
760 717 5496 Cell
760 633-1228 Fax

-----Original Message-----

From: Bob McSeveney
Sent: Thursday, July 16, 2015 4:46 PM
To: Council Members
Cc: Jeff Murphy; Glenn Pruim
Subject: FW: AB 744 and Legislative Counsel Opinion

Mayor and Council Members,
Below is the oral opinion of Legislative Council that our lobbyist obtained through Senator Bates office.
Bob McSeveney

-----Original Message-----

From: Jonathan Clay [<mailto:jclay@jccconsulting.com>]
Sent: Thursday, July 16, 2015 2:56 PM
To: Bob McSeveney
Cc: Erin Gilbert
Subject: AB 744 and Legislative Counsel Opinion

Bob, wanted to report back to you on the outcome of the oral Legislative Counsel Opinion. As I

mentioned, we worked through Senator Bates office on securing a Legislative Counsel Opinion on how section 65915 (f)(5) handles rounding related to base density calculations. Due to the pending lawsuit with BIA (when we started the process with Legislative Counsel, the lawsuit was still pending), Legislative Counsel will only give an oral opinion.

In short, Legislative Counsel doesn't see any ambiguity in the law related to how density is calculated. Base density is determined by the underlying General Plan and its associated elements - landuse and housing elements. When a project proposes to use a "density bonus", then all associated density calculations are rounded up. If there is no "density bonus", then base density is based off the local general plan/ordinance.

I asked Legislative Counsel if there was ambiguity in how the law is applied... they felt no. I also asked if the original language in AB 744 related to rounding up was simply clarifying existing law... Legislative Counsel felt that the language that was in the bill and then removed was simply restating existing law.

Let me know if you have any questions.

JC