

AGENDA NO: A-1

MEETING DATE: 10/09/2012

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 25, 2012
VETERAN’S MEMORIAL HALL – 6:00P.M.

Mayor Yates called the meeting to order at 6:00 p.m.

PRESENT:	William Yates	Mayor
	Carla Borchard	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Jamie Boucher	City Clerk
	Rob Livick	Public Services Director
	Mike Lewis	Interim Police Chief
	Mike Pond	Fire Chief
	Susan Slayton	Administrative Services Director
	Eric Endersby	Harbor Director
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS & PRESENTATIONS

CLOSED SESSION REPORT – City Attorney Robert Shultz reported that City Council met in Closed Session and no reportable action under the Brown Act was taken.

PUBLIC COMMENT

Brett Bishop, Operations Manager for Aero Seal of California located at Miners Hardware in Morro Bay, presented the Morro Bay Business Report. As a new business in town, he first wanted to thank Morro Bay for developing a Green Building Program. Aero Seal is a process for improving the efficiency in ventilation systems and is offered to both home and business owners. The process will help stop energy waste and could save up to 30% in costs as well as provide cleaner indoor air. They are holding an Open House on October 4th from 530-730pm.

Steve Buffalo spoke on behalf of the Morro Bay Harbor Festival inviting everybody to next weekend’s big event. He boasted there will be 23 wineries, 7 breweries, 8 restaurants and a great line up of entertainment as well as free activities for children.

Michele Jacquez spoke on behalf of TBID regarding Item D-2, TBID’s Request for Additional Funding. She hopes that Council will grant their request of \$58,500 for marketing and up to \$10,000 for site improvements to the new Visitor’s Center. She stressed that TBID was in place

to market the entire City and her hopes are that with these funds, their strong marketing efforts would continue. She also advertised this weekend's Savor the Central Coast event.

Nancy Castle spoke on behalf of AGP, requesting those having presentations as a part of their public comment; please bring them on flash drives. She also invited the public to attend the Annual BBQ at St. Peters by the Sea where they will be holding their 50th Anniversary of the Church and "Parish House" dedication. In addition, there will be a bbq, crafts, music and an art show.

Jim Davis announced an event happening this Sunday, September 30th at the Morro Bay Veteran's Hall – "Veteran's Express Shuttle Benefit Concert". The event goes from 130-430pm and supports Ride-on Transportation for Veteran's to get to Santa Maria and even Los Angeles for their doctor appointments. Red Skunk Band and the Louie Ortega band will both be performing. Food and drinks will also be available for sale.

Steve Eckis, the City's liaison with the Morro Bay Pups, spoke on Item D-4, the draft Aggressive Animal Ordinance. Morro Bay Pups supports this effort as it will enhance the safety of both animals and people. He looks forward to speaking with staff regarding enforcement issues and the role the Morro Bay Pups may be asked to play.

Linda Merrill objected having the City spend money to educate people on the value of tourism. She also thanked Councilmember Smukler on the update of the Seismic Imaging Project.

Marc Tognazzini spoke regarding the Coalition put together called COAST – Citizens Opposing Acoustical Seismic Testing - which they hope will end the efforts of PG&E to perform these tests. He also felt it important for people to speak with Supervisor Gibson and State Senator Blakeslee who are supportive of the project.

Mandy Davis, also spoke on behalf of the Coast Alliance. They have been getting support from all up and down the State. There will be a rally that includes a Flotilla held on Saturday, October 6th @ 2pm at the public launch ramp finishing at Coleman Park. The beauty of this Alliance is that it encompasses a very diverse group of "users" and "preservers". She then went on to read the position statement of the Coastal Alliance. She requested the City send a representative to the next Department of Fish and Game meeting and ask them to NOT issue the permit.

David Nelson agreed that money should not be spent to teach residents about tourism. He also backs what Mandy Davis and Marc Tognazzini said and hopes the City will step up as this problem is more important than how our comments came across. He also spoke on Item D-1 stating that the contractor should not be allowed to receive a waiver of his low income housing requirements.

Suzanne Moyer, a Cayucos resident, spoke behalf of keeping the WWTP where it is. The Coastal Commission staff report doesn't reflect the information provided to them. She stated that the current plant is not on ocean front property and the upgrade of the site wouldn't change or affect the character of the surrounding area. She also questioned how people were going to be able to afford the plant.

Althea Starvo is bothered by the number of letters that the paper has printed questioning the City's lack of vision in their attempts to keep the WWTP in the same location. She is equally concerned that people aren't looking at the true costs. We are aware it needs upgrading but hopes it does not get moved.

Jim Hayes, former City employee of the WWTP and Collection Department has read the letters written by the 2 elected Councilmembers neither of which makes sense to him. There are no facts in either letter that support moving the plant. It is his opinion that moving the plant will be the biggest, most expensive lapse in judgment in Morro Bay history.

Aaron Ochs, Managing Editor of The Rock spoke on the Seismic Testing issue. He feels this test is a \$64 million dollar redundancy. He went on to say that there were over 44,000 emails sent to the Department of Fish and Game opposing the project. It's very gratifying to see that beauty can come from conflict as the community is coming together over this issue. It's also good to see objective balance come into the discussion.

Joan Solu, Chairperson of the TBID, spoke on Item D-2. TBID is proud to have been a part of that success of the record breaking TOT revenues for fiscal year 2011/12. Based on the numbers, she feels that the TOT revenues exceeded the projected revenues by \$176,000. With that in mind, she hopes that Council can fund the TBID an additional \$58,500 as well as split the costs for improvements to the new Visitor Center site up to \$10,000.

Ken Vesterfelt feels that there is a crisis in the Police Department as he states they are probably on track to lose more than ½ of the staff at the department. Most of the reason behind this is money. He is concerned about the health and safety of the citizens of Morro Bay.

Betty Winholtz spoke on Item D-1 feeling that there is no reason to grant an exception. The applicant hasn't shown a financial hardship. A developer has 3 options on how to provide low income housing; they must do one and he doesn't want to do any. To allow an exception at this point is unfair. She also said that it is Sea Otter Awareness Week and she went on to read a Resolution/Proclamation.

Roger Ewing also spoke on Item D-1 lending his voice in support of opposition to the requested waiver. He feels doing business in Morro Bay is a privilege and part of that means you have a responsibility; to have a developer come before you to ask not to honor that responsibility is wrong. To give exemptions to business owners is also wrong as these fees go towards the City's infrastructure. He also spoke on the Seismic Testing and feels that any issue putting Mandy Davis and Marc Tognazzini at the same table is an issue he can support.

Mayor Yates closed the public comment period.

A. CONSENT CALENDAR

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion.

A-1 APPROVAL OF CITY COUNCIL MINUTES FOR THE REGULAR MEETING OF SEPTEMBER 11, 2012; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 ADOPTION OF FAIR POLITICAL PRACTICES (FPPC) FORM 806 RELATING TO APPOINTMENTS OF COUNCILMEMBERS TO OUTSIDE COMMITTEES, BOARDS, AND/OR COMMISSIONS FOR WHICH COMPENSATION IS PAID PURSUANT TO CALIFORNIA CODE OF REGULATIONS §18705.5; (ADMINISTRATION AND CITY ATTORNEY)

RECOMMENDATION: Adopt the FPPC approved and required Form 806 listing all Council Appointments for which compensation is received as well as direct the City Clerk to post Form 806 on the City's website.

A-3 RESOLUTION NO. 39-12 ADOPTING THE MEMORANDUM OF UNDERSTANDING WITH THE MORRO BAY FIREFIGHTERS AND RELATED COMPENSATION; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution 39-12.

A-4 DELAYED PROJECT STATUS REPORT; (ADMINISTRATION)

RECOMMENDATION: Review the quarterly Delayed Project Status Report.

A-5 A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY DECLARING OCTOBER, 2012 AS "RIDESHARE MONTH"; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation

MOTION: Councilmember Borchard moved the City Council approve all items of the Consent Calendar as presented. The motion was seconded by Councilmember Johnson and carried unanimously 5-0.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES - None

C. UNFINISHED BUSINESS - None

D. NEW BUSINESS

D-1 DISCUSSION OF THE REQUEST BY 600 MORRO BAY LP FOR THE REMOVAL OF AFFORDABLE HOUSING DEED RESTRICTIONS AT 600 MORRO BAY BLVD AND TO ALSO WAIVE THE AFFORDABLE HOUSING IN-LIEU FEE; (ADMINISTRATIVE SERVICES)

Administrative Services Director Susan Slayton presented the staff report.

Public Services Director Rob Livick went on to say that affordable housing is a requirement of all housing projects of a certain size and was stipulated in the mitigated negative declaration and was a project condition. If the City Council chooses to waive this condition, he recommends that we amend their conditional use permit and bring it back to a duly noticed public hearing.

Councilmember Leage feels we should call for a public hearing with the intent to waive the fees.

Councilmember Smukler understands that the housing market has put this developer in a tight spot making this an awkward situation. But granting this could also open the door for a whole slew of these kinds of requests. A full waiver would dismiss our attempt at getting closer to our goal of affordable housing units. He wondered if it would be worthwhile to look at a valuation which might shift both of those moderate valued units to one very low unit which would then bring them more in line with the current market value.

Councilmember Johnson stated they had 3 options: 1) waive the whole thing which she isn't in favor of; 2) waive the deed restriction on the houses and require the developer to build 2 other deed restricted homes; or 3) pay the in-lieu fee. She feels they should move forward and waive the deed restriction on the 2 units and have the developer pay the in-lieu fees with staff working with the developer on a payment plan.

Councilmember Borchard asked where the value of the homes came from. Mr. Livick responded that the figure was estimated from the square footage of the units and the building permit value they paid which makes it high for today. Councilmember Borchard is not willing to waive the fees but is willing to work with the developer to find some sort of compromise.

Mayor Yates, based on the email received today, is willing to postpone the item in order to allow the City Attorney to work with the developer on other suggestions.

ACTION: It was the consensus of Council to postpone this item to allow the City Attorney to do research. It is hoped the Item can come back for discussion at the October 23, 2012 meeting.

D-2 DISCUSSION ON THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT'S (TBID) REQUEST FOR ADDITIONAL FUNDING; (ADMINISTRATIVE SERVICES)

Administrative Services Director Susan Slayton presented the staff report.

Councilmember Smukler is interested in helping the transition especially in the first year as it will be the most challenging. He would like to see the Council postpone discussing and/or allocating the \$58,500 until midyear. While the numbers looks good at the moment he feels it needs to be looked at in context of the entire budget. He is very interested in pursuing the Visitor's Center expenditures. He isn't comfortable in this money coming from the reserves but maybe there could be an advance from next year's Visitor's Center monies and then revisit it at midyear with the possibility of being able to allocate additional funds at that time.

Mayor Yates doesn't see a problem with pulling the funds from the general fund. He doesn't see the \$10,000 as a problem and feels that staff should be allowed to determine where the money comes from. The sense is that more money is coming in than was budgeted, TOT is up, sales tax is up and property tax should be up. He feels we can allocate the \$58,500 and the \$10,000 from General Fund.

Ms. Slayton stated that while the TOT did out perform their projections, the other revenues haven't been reconciled which makes it impossible to see the entire budget picture. She also stated that there is unallocated Visitors Center money for the January – June operations.

Councilmember Borchard is amenable to the funding of the startup shared costs of the Visitor's Center. She is not in favor of dipping into the \$50,000 unallocated monies that more than likely will go to the Visitor's Center starting in January; she doesn't want to deplete those monies. She is also concerned, without seeing the agreement for the Visitor's Center, to allocate the \$58,500 now.

Councilmember Johnson agrees with the \$10,000 expenditure for the Visitor's Center and likes the concept of advancing the funds from the "future" Visitor's Center monies.

Councilmember Leage has always felt that the TBID was shorted money from the beginning and thinks they should get all of their requested money. We are taking a bigger risk if we don't allocate them these monies as everything is moving forward right now.

MOTION: Mayor Yates moved to allocate \$58,500 as well as \$10,000 for a total of \$68,500 from the General Fund to the TBID. The motion was seconded by Councilmember Leage and carried 3-2 with Councilmembers Borchard and Smukler voting no.

D-3 REPORT ON FINDINGS OF PLANNING STUDY COMMITTEE; (ADMINISTRATION)

City Manager Andrea Lueker presented the staff report.

Mayor Yates asked whether or not timeliness was addressed in the Committee's discussions. He is grateful this panel met. He is also opposed to charging a \$300 fee for a meeting as we should be more welcoming and should be willing to sit down with applicants to discuss proposed projects.

City Manager stated that the \$300 fee would then be credited back to the project once the project was pursued. And usually this type of meeting only would occur in larger projects.

Councilmember Smukler feels it's important for us to recognize that we will continue to run into the same wall when it comes to the planning process without having a General Plan and a Local Coastal Plan in place. He also thought it might be worth looking into smaller projects having to pay a smaller planning meeting fee.

ACTION: There was Council consensus to move forward with the findings from the Planning Study Committee as well as bring back a status report in 6 months or so regarding the progress made to date.

D-4 DISCUSSION OF DRAFT OF MENACING AND AGGRESSIVE ANIMAL ORDINANCE; (ADMINISTRATION)

City Manager Andrea Lueker presented her staff report. She also said that there shouldn't be a significant impact to the dog park. She went on to say that we are the last City in the County to adopt this Ordinance and if we want to continue with our working relationship with County Animal Regulation, we must move forward on this.

Councilmember Johnson's only concern was enforcement.

MOTION: Councilmember Borchard moved for approval of the draft Ordinance with the intent to bring it back for Introduction and First Reading at a future meeting. The motion was seconded by Councilmember Johnson and carried 4-1 with Mayor Yates voting no.

D-5 REVIEW OF DRAFT AMENDMENTS TO CHAPTER 10.76 OF THE MORRO BAY MUNICIPAL CODE ENTITLED COASTERS, ROLLER SKATES, SKATEBOARDS, SCOOTERS, EPAMDS AND SIMILAR DEVICES; (CITY ATTORNEY)

City Attorney Rob Schultz presented his staff report.

Councilmember Johnson wants to include "riders" being required to use bike paths and sides of streets and to be prohibited from using sidewalks.

There was Council consensus that the major concerns are bikers and skateboarders who "blow through" stop signs.

City Attorney Schultz reminded Council that under this Ordinance, all devices are allowed in all areas of the City unless the Council specifically prohibits their use and they can allow for or prohibit their use by Resolution as opposed to going through the Introduction, First Reading and Adoption process of an Ordinance.

MOTION: Councilmember Johnson moved for approval of the draft Ordinance with the addition of Coasters, Roller Skates, Skateboards, Scooters, EPAMDs and similar devices prohibited on sidewalks by Resolution, for Introduction and First Reading. The motion was seconded by Councilmember Leage and passed unanimously 5-0.

E. DECLARATION OF FUTURE AGENDA ITEMS - None

ADJOURNMENT

The meeting adjourned at 8:34 p.m.

Recorded by:

Jamie Boucher
City Clerk