

CITY OF MORRO BAY
PLANNING COMMISSION
SYNOPSIS MINUTES

(Complete audio- and videotapes of this meeting are available from the City upon request)

Veteran's Memorial Building
Regular Meeting, 6:00 p.m.

209 Surf Street, Morro Bay
Monday, July 6, 2009

Vice-Chairperson Bill Woodson
Commissioner Gerald Luhr

Chairperson Nancy Johnson

Commissioner Michael Lucas
Commissioner John Diodati

Bruce Ambo, Secretary

I. CALL MEETING TO ORDER

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

II. PLEDGE OF ALLEGIANCE

Rob Schultz led the Pledge of Allegiance.

III. ROLL CALL

Chair Johnson asked that the record show that Michael Lucas was absent, but did provide his comments via email.

Staff Present: Bruce Ambo, Rob Schultz, Christine Rogers.

IV. ACCEPTANCE OF AGENDA

MOTION: Luhr, Woodson 2nd to accept the agenda as presented.

Mr. Woodson asked whether the Redevelopment Feasibility Study should be a Public Hearing item due to Staff request in the report. Chair Johnson confirmed it may be opened for public hearing under New Business and conducted a voice vote. VOTE: 4-0

V. DIRECTOR'S REPORT/WRITTEN COMMUNICATIONS

Ambo reported at the June 22, 2009 City Council:

- Adopted the Budget at a special meeting on June 29th. Minor Budget revisions will be forthcoming from the Finance Director. Will return with a conforming resolution.
- Approved an update to Master Fee Schedule Resolution.
- Heard a report on the Economic Stimulus Funding, Approval of \$480K for the North Main Street Improvement Project.
- Authorized hiring of a Fire Fighter and a Water Systems Supervisor.

VI. PUBLIC COMMENT

None.

Mr. Woodson reported a better than expected turnout for the WaterFest event.

Chair Johnson announced the Director of Maintenance of Recreation & Parks is looking for volunteers to adopt pocket parks for maintenance activities.

VII. CONSENT CALENDAR

- A. Approval of minutes from hearing held on June 1, 2009.

Mr. Woodson asked that Page 2 be revised to read....”Requirements for formation of a Design Review Committee shall include an outside architectural firm for the review process.”

MOTION: Diodati, Woodson 2nd to approve minutes as revised. VOTE: 4-0

VIII. PRESENTATIONS – None

IX. FUTURE AGENDA ITEMS

- A. Planning Commission interpretation on decks in the front yard setback and what elements are allowed on them.
B. Gates on the Embarcadero Harborwalk
C. Downtown Visioning

X. PUBLIC HEARINGS

- A. **Site Location:** Area in the bay between Acacia and Barlow
Applicant: City of Morro Bay
Request: : Discussion/Interpretation of General Plan/Local Coastal Plan Policies and Zoning Regulations Relating to the Location and Placement of Commercial and Recreational Facilities in the Bay in the Area of the City West of Main Street between Acacia and Barlow
CEQA Determination: Statutory exemption 15262 (feasibility and planning studies)
Staff Recommendation: Provide interpretation
Staff Contact: Rob Schultz, City Attorney, 772-6200

Rob Schultz reviewed the purpose of the discussion, to evaluate the area generally to clarify current policies and ordinances. City Council is seeking an interpretation of the General Plan, Local Coastal Plan and Zoning Ordinance in order to provide guidance when applications for uses are submitted in this area.

Historical actions were reviewed as follows:

- 1983 - Zoning Map designation - R-1 SFR (Single-Family Residential), PD (Planned Development) and WD (Waterfront District)
- 1983 - Local Coastal Plan designation - Area B, MU (Mixed Use) combining neighborhood and visitor service uses, stating the area shall be for recreational boating fishing rather than for commercial boating and fishing and that existing coastal and coastal dependent uses shall be maintained.
- 1983 - Planning Commission requested to change to mixed use Area B to strictly residential. The Planning Commission recommendations were to leave it as a mixed use harbor area, adopting a PD overlay.
- 1984 - City Council changed the properties above the bluff from MU to R-1, and below the bluff made it WD- PD and R-1 PD, adding policies that stated all existing residential and commercial establishments in the area shall be considered conforming, existing commercial uses above the bluff shall not be permitted to expand.

Mr. Schultz stated Staff interpretations:

- Anything below the bluff in the Mixed Use Area B remains part of the Waterfront District. The purpose of the Waterfront District is to provide for the continued mixture of visitor service and harbor dependant land uses in appropriate waterfront areas.
- Coastal Land use policies allow commercial uses on the Bay in the City west of Main Street between Acacia and Barlow. Staff is split on whether commercial fishing is allowed in this area. There are sections addressing priority but no specific prohibition.

Mr. Schultz indicated the initial issue to decide is whether commercial fishing is allowed in the area, and also to find and make clear differential between commercial and industrial uses. The interpretation clearly allows for commercial uses, but some guidance is required on which uses are appropriate for the Bay.

The following points were reviewed during the discussion:

- Commercial Fishing is defined as vessels that have been documented by Fish and Game (DFG).
- Service Commercial is the most likely identified use for the area as it addresses uses to be located carefully with respect to residential neighborhoods.
- The proposed tug project will be processed through the Planning Commission, requires a Conditional Use Permit, and is currently on hold pending the interpretation on allowable uses to establish the appropriate process.
- If a commercial use has lapsed, it would be required to process a new commercial use permit. A determination could be made that the previous Waterfront use is grandfathered in.
- Commercial fishing is clearly defined. Policies allow for other commercial vessels besides commercial fishing. The tug use proposed does not require DFG documentation. There have been comments that Industrial uses should not be defined as commercial.
- Policies prioritize recreational boating but do not prohibit commercial fishing uses. In evaluating projects, the Planning Commission could decide to wait for proposals with a more appropriate use.
- Tables in the Municipal Code carry the same legality and power as text.
- Historically issues in this area are noise related, parking, traffic, etc.

Mr. Schultz addressed the agreement to demolish the dock in this area, clarifying that this is a water lease, not a land lease. A future business proposal would have to include replacement of the dock, wharf or pier or some other viable business. The settlement agreement was to provide for the demolition of the dock within a specified time frame. If not completed, funds will be returned. Rehabilitation would be extensive. Schultz clarified that a future lease would not have to be with adjacent property, but that access could be an issue.

Chair Johnson opened the Public Hearing.

Dorothy Cutter – Spoke in opposition of commercial uses and felt the existing policy was adequate.

Jane Heats, Resident acting as Attorney representing Martony and Pekarek – Spoke in opposition of commercial uses. Urged the Commission to read the governing law, consider the issue carefully and to tell the Council it was intended that commercial vessels tie up North of Tidelands, and recreational vessels to the South.

Jim Phillips, Resident, Harbor Advisory Board member, speaking as an individual – Spoke in support of commercial uses and urged the Commission to keep areas along the waterfront available for commercial uses. Felt that while definitions are ambiguous at times, there is a distinction.

Ray M. Kellegote, Resident – Spoke in opposition of commercial uses. Felt it was illegal and against the community’s initiative.

Phil Hill, Resident – Spoke in support of commercial uses and said there is an opportunity to take advantage of natural resources with eco tourism. Stated the area has limited land access and as a “Safe Refuge Harbor” must have a haul out facility to work on boats.

Ken Holb, Resident - Spoke in opposition of commercial uses. He did not feel financial impact would outweigh impacts to the surrounding neighborhood. Felt the Harbor Department was not sensitive to noise impacts and the City does not provide adequate oversight.

Bill Martony, Resident – Spoke in opposition of potential project’s proposed use. This area of the bay is for recreational boating priority due to changes in the neighborhood becoming less commercial. Did not understand why mariculture is not being considered. He felt the Commission should uphold Coastal policy.

Alex Beattie, Resident – Spoke in opposition of commercial uses and complimented the Commission on providing full disclosure. Feels previous intent was clear. Coastal land use plan states mixed harbor uses shall be for recreational boat and fishing rather than commercial fishing.

Allen Hotstettler, Resident – Spoke in opposition of the potential proposed project. He said the Sylvester’s were required to move out of the area because the use was deemed incompatible with the residential neighborhood, stating those boats were 30 feet long. Wording states “mixed harbor uses shall”, which is not ambiguous.

Bernadette Pekarek, Resident – Spoke in opposition of commercial uses. Neighborhood is predominantly residential. City Council gave direction to address the zoning in the bay south of Tidelands Park only.

Bob Tefft, Resident – Felt the question should be whether any development should be allowed. Stated the area is designated as wetland by the Department of Fish and Game and as such requires a 200’ development buffer, which was not disputed in the Staff report.

Seeing no further comment, Johnson closed the Public Comment.

Are commercial uses allowed in this area?

Mr. Diodati felt it is not allowed and that the dispute was more related to what a commercial facility is.

Mr. Luhr expressed concern about losing the few remaining commercial uses that remain. Felt maritime uses should be preserved.

Mr. Woodson stated that based upon the intent of the previous actions, commercial fishing facilities are allowed in this area. He inquired as to the validity of wetland boundaries comments. Schultz was uncertain but confirmed the area is not designated as wetland under the General Plan or Local Coastal Plan and that Fish and Game would have to evaluate the issue with any proposal that may come forward.

Chair Johnson agreed that commercial fishing facilities are allowed based upon such uses in existence. Lapse of use may play a part in determining whether the use is “existing”.

Mr. Luhr stated a desire to retain the ability for the Commission to look at proposed projects for compatibility based upon current conditions.

Mr. Schultz clarified the Commission could make a determination that a previously existing use is still allowed. In making the grandfathering argument, the project must go through the land use process to achieve the determination. Ambo clarified there are some minor uses allowed, however any new uses would require Planning Commission review.

MOTION: Woodson, 2nd Luhr, that the Planning Commission answer the question, “Are commercial fishing facilities and uses allowable in this land area?” as Yes they are allowable in this land area, restricted to below the bluff. VOTE: 4-0

Mr. Woodson confirmed the water use was not included in the previous motion.

MOTION: Woodson, Luhr 2nd, state that this Commission recommends that, “Commercial fishing facilities and uses shall be allowable in the Bay area.” VOTE: 4-0

What types of commercial uses are allowed in this area? Should certain uses be classified as Industrial and therefore not allowed?

Chair Johnson read into the record Michael Lucas’s comments forwarded via email which is attached and made a part of this record.

MOTION: Woodson, Diodati 2nd that the Commission recommend to the City Council that, “Types of commercial uses that are allowed in this area will be determined on a case by case basis after environmental review.” VOTE: 4-0

Mr. Woodson inquired as to whether the definition of Industrial is clear. Schultz responded that industrial uses are not allowed. Could read “to define whether the use was Commercial or Industrial”.

MOTION: Woodson, Diodati 2nd that the Commission recommend to the City Council that, “Industrial uses are prohibited in this area. Whether a use is commercial or industrial will be determined on a case by case basis after environmental review.” VOTE: 4-0.

XI. OLD BUSINESS

A. Current Planning Processing List

Mr. Woodson asked for clarification regarding Number 5, Recreation and Parks – Temporary relocation of the Skate Park to the Teen Center. Schultz clarified that the relocation was to the Teen Center parking lot was to occur to save on maintenance costs and resulting in increase hours of availability.

XII. NEW BUSINESS

A. Strategic Plan for Managing the Greening Process

Request: Provide direction and recommendations for plan implementation.

Staff Contact: Christine Rogers, Housing Programs Coordinator

Bruce Ambo provided background regarding the impetus for compiling the Strategic Plan. Christine Rogers presented the Staff Report addressing Mandatory and Voluntary “greening” programs and activities. Discussion occurred relative to AB 811 District formation potential and the County’s evaluation of a countywide district and identified issues. Staff recommended that the City defer any decisions related to AB 811 pending the evaluation by the County of San Luis Obispo related to formation of a countywide district.

The Commission addressed the following points regarding AB 811 District formation:

- Countywide participation requires the adoption of an ordinance by the City Council.
- Other opportunities are being pursued in relation to funding for energy efficiency retrofits that may be available prior to any district formation.
- Monitoring of the County's progress will continue along with regular updates.
- Currently PG&E does not offer complimentary energy audits. Staff is working with PG&E and an identified contractor to improve availability of services rather than competing countywide.
- Water conservation is being evaluated through potential Gas Company participation.
- Fixed home assets (energy efficiency) are also part of the program, not just solar systems.
- Solar hot water heaters are also eligible and have a faster return on investment.
- General consensus of stakeholders is that formation is not appropriate for smaller jurisdictions based upon large reserve requirements and administrative burden.

Mrs. Rogers noted that it was not clear that Morro Bay would have an adequate participation base to support the program based upon current electrical use. In order to ensure there is not need to no draw on the general fund, interest rates and administrative fees are necessary, which impacts the return on investment. The temperate climate in Morro Bay reduces the number of households in the higher tiers. In participating with the County, residents will still have the opportunity to avail themselves of these resources, but the City will not bear the costs of formation, reserve requirements or administrative burden.

Recommendations for minor revisions to the plan were noted.

- 1) Eliminate duplicate reference to Walkable Communities on Page 11.
- 2) Add the Pedestrian Plan.

Mr. Ambo confirmed that the Coastal Commission has provided no response or feedback to date on the status of the General Plan or Local Coastal Plan. The City Council was reminded that the next meeting will be held locally. Mr. Schultz indicated the August meeting in San Francisco will specifically address Local Coastal Plans and opportunities to expedite that process. He clarified the City is not on the agenda for the Coastal Commission meeting scheduled Wednesday, July 8th at 10:00 am.

Mr. Ambo clarified the Bikeway Plan proposals will be surfaced to the Public Works Advisory Board for concept approval, allowing for public input. Chair Johnson noted there is also a Citizens Bike Committee.

MOTION: Woodson, Diodati 2nd, recommended the Planning Commission,

- 1) Receive and file this update of activities to be undertaken related to state, county, and/or local programs and updates to regulatory codes and standards; and
- 2) Defer any decision related to the formation of a City-wide AB 811 District pending the outcome of the County of San Luis Obispo evaluation regarding regional district formation.

VOTE: 4-0

- B. Question and Answers on the Redevelopment Feasibility Study and Redevelopment Plan Adoption Process
Request: Open the public hearing and invite the public to express any concerns, questions or suggestions, and forward to the City Council.
Staff Contact: Bruce Ambo, Public Services Director

Bruce Ambo presented the Staff Report addressing the following:

- Planning Commission recommendations on the Redevelopment Feasibility Study are not required. The item is being reviewed in an effort to promote community participation.

- July 13, 2009, the City Council will evaluate the activation of the Redevelopment Agency and Redevelopment Plan Adoption.
- Planning Commission will be asked to provide feedback on the Potential Project Area/Area of Interest, and to structure a Preliminary Redevelopment Area Plan.
- Planning Commission will be requested to provide a recommendation on the Draft Redevelopment Plan and adoption of the Environmental Impact Report.
- A review of meetings held to facilitate community input occurred.
- City Council has requested staff return with additional information on formation and operating costs, additional expenses, implementation and activities at its July 13, 2009, meeting.

Chair Johnson requested additional comment on the inclusion or exclusion of the Power Plant. Mr. Ambo responded:

- Power Plant is declining at a faster rate than the remainder of the area which results in pulling down the tax increment financing due to being functionally obsolete.
- Given these conservative trends of decline, no positive cash flow would be realized until year six. If property is excluded, positive cash flow is experienced in year one.
- If the property is improved, modernized, etc., the City would benefit from those improvements, which are speculative at best.

Mr. Ambo also provided the following clarification:

- The Business District along Morro Bay Blvd. and Main Street were not included in the Potential Project Area. There is risk involved in adding areas that are not currently recommended based upon the analysis.
- Properties within the project area will experience property value increases only if the Assessor's Office increases property values, not necessarily as a result of inclusion.
- Proposition 13 will not be affected.
- Taxing entities are negatively impacted as they stand to get less of the tax increment based upon adopted formulas for pass through.
- Studies have found that for every \$1 of investment, \$7 of private investment may be realized, and that those funds generally pass through the community twice.
- RDA's have not been immune to the State budgetary crisis and some assumption of funds has occurred. However, should the economy not rebound at the estimated rates, the assumption percentages would be negligible in the initial years due to minimal tax increment accumulation.

Mr. Ambo addressed staffing, noting that no Executive Director is proposed to be hired initially. It will take some time to grow the tax increment, a minimum of five to eight years before any of funding will be available for activities. The current goal is to freeze the tax year before August 2010 to catch the 2009/10 base year. This process will take approximately 12 months time to accomplish.

Discussion specific to the Power Plant occurred as follows:

- The Power Plant is currently considered.
- Should the Power Plant owner pursue development the property value would go up and the City would benefit.
- It will be more difficult to add it at a later date. If we include it, we have no positive cash flow for six years. Conversely, if we exclude it we will lose the associated benefits. It can always be eliminated it at a later date.
- The Power Plant may have the potential to leverage RDA funds. Because the City stands to benefit from any improvements to the property, it would likely stand behind such a proposal.

- PG&E has discussed the potential to upgrade to a peak plant, as well as the potential to develop the property as a University. While this is not assured, the City would benefit should either occur.

Mr. Ambo indicated the current estimate for additional costs is approximately \$50,000 including the Environmental Impact Report, State Board of Equalization, Special Counsel, etc. A presentation will be made to the City Council next week. He clarified that the Consultants will credit \$44K if we proceed moving forward with formation within the time frame identified, utilizing them to assist the City in the process..

Chair Johnson opened the Public Hearing and seeing no community members present, closed the Public Hearing.

Mr. Ambo reviewed other jurisdictions in the county that currently have Redevelopment Agencies, Grover Beach, Atascadero, Pismo Beach, Paso Robles, etc. In all cases, the Executive Director was the City Manager.

MOTION: Luhr, Woodson 2nd, Planning Commission make a recommendation to the City Council to include the Power Plant and the Business District if feasible in the Redevelopment Agency.

Discussion specific to inclusion of the Business District occurred as follows:

- Adding the Business District could result in risking a challenge by the taxing entities. The inclusion of this area may not be of great concern as the district would improve over time as a result of the general community being enhanced and improved.
- The comparison communities have similar blight to parcel ratios. To include the district might put the entire project at risk as it will dilute those ratios. There is a potential for future annexation, based upon the appropriate analysis.

Mr. Woodson withdrew his second as he did not feel comfortable with his knowledge of the issue.

MOTION died for lack of a second.

Mr. Luhr indicated that he had attended the previous meeting and discussed the issue with the Consultants. His motion was based upon that input, and he felt it remained valid.

XIII. ADJOURNMENT

Chair Johnson adjourned the meeting at 9:45 p.m. to the next regularly scheduled Planning Commission meeting at the Veterans Hall, 209 Surf Street, on Monday, July 20, 2009 at 6:00 p.m.

Nancy Johnson, Chairperson

ATTEST:

Bruce Ambo, Secretary