

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – MARCH 8, 2010
CITY HALL CONFERENCE ROOM - 5:00 P.M.

Mayor Peters called the meeting to order at 5:00 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney

CLOSED SESSION

MOTION: Councilmember Winholtz moved the meeting be adjourned to Closed Session. The motion was seconded by Councilmember Smukler and unanimously carried. (5-0)

Mayor Peters read the Closed Session Statement.

CS-1 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY TRANSACTIONS. Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to two (2) parcels.

- Property: Chorro Valley Property.
Negotiating Parties: Chorro Valley Property Owners and City of Morro Bay.
Negotiations: Water rights.
- Property: Vacant Lot/Corner of Coral/San Jacinto.
Negotiating Parties: Paul Saint Hilaire and City of Morro Bay.
Negotiations: Voluntary Purchase and Sale.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:50 p.m.

MOTION: Councilmember Grantham moved the meeting be adjourned. The motion was seconded by Councilmember Borchard and unanimously carried. (5-0)

The meeting adjourned at 5:50 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2010
VETERANS MEMORIAL HALL - 6:00 P.M.

Mayor Peters called the meeting to order at 6:10 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Bridgett Kessler	City Clerk
	Rick Algert	Harbor Director
	Rob Livick	Acting Public Services Director
	John DeRohan	Police Chief
	Dan Doris	Building Official
	Gene Lehotsky	Associate Planner
	Tim Olivas	Police Commander
	Mike Pond	Fire Chief
	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 Schultz reported the City Council met in Closed Session, and no reportable action under the Brown Act was taken.

Mayor Peters requested to add to the agenda an emergency Item D-2 as follows:

D-2 CONSIDERATION OF SENDING CORRESPONDENCE TO CONGRESS-
WOMAN LOIS CAPPAS REGARDING FUNDING FOR WEST COAST
GROUNDFISH CATCH SHARE MANAGEMENT PROGRAM AND KEY
ISSUES FOR LOCAL FISHING COMMUNITIES

MOTION: Councilmember Grantham moved the City Council add Item D-2 to tonight's agenda. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2010

PUBLIC COMMENT

Jeff Eckles, President of Morro Bay 4th, Inc., announced a benefit would be held at Tokyo Joe's Sushi on March 23rd to help fund the 4th of July festivities. He also announced upcoming meetings and fundraisers.

Virginia Hiramatsu announced a Relay for Life event would be held on August 7th; she said there will be a meeting for those who would like to learn more on March 9th and the following Tuesday evening there will be a meeting for team captains.

D'Onna Kennedy announced her candidacy for City Council in the Primary Election that will be held on June 8th.

Gina Dorrington stated she is the Operations Manager for Perc Water at the Santa Paula Water Recycling Facility. She urged the City Council and community to take time to research the options of its Wastewater Treatment Facility. Ms. Dorrington stated she has watched the City struggle through the facility design phase and violation period and millions of dollars spent on design while incurring violations; and, fortunate enough to witness her company [Perc Water] come to Santa Paula with a unique solution and design built operate finance solution, and now they are two months away from starting up the brand new water recycling facility for the community of Santa Paula. She said she would like to present the City of Morro Bay with another alternative for its wastewater treatment.

Nate Owen stated he is the Vice-President of Construction for Perc Water and has built five facilities for Perc Water. He listed the reasons of why the City should take a second look at the direction it is heading towards, and why the City should exhaust all other options prior to making any commitments to enter into a design contract which is where the City is currently heading towards. Mr. Owen stated Perc Water is a design, build, operate firm and their buildings are aesthetically and odor pleasing; they guarantee water quality, costs, and schedule of construction.

Nancy Johnson thanked those who contributed to the Chuck Meissner Memorial Bench. She also announced her candidacy for City Council in the Primary Election that will be held on June 8th.

Joan Solu announced the Del Mar Elementary School Art Auction and Barbeque will be held on March 24th

Jamie Irons announced there will be a volunteer trail clean-up at Morro Bay State Park on March 14th.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2010

Mayor Peters closed the hearing for public comment.

Mayor Peters called for a break at 6:58 p.m.; the meeting resumed at 7:08 p.m.

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 MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF FEBRUARY 22, 2010; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

MOTION: Councilmember Winholtz moved the City Council approve the Consent Calendar. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 CONSIDERATION OF AN AMENDMENT TO MORRO BAY MUNICIPAL CODE TITLE 5 ADDING CHAPTER 5.50 ESTABLISHING REGULATIONS AND PROCEDURES ENTITLED “MEDICAL MARIJUANA COLLECTIVES AND COOPERATIVES; (CITY ATTORNEY)

City Attorney Robert Schultz stated in June 2005, staff recommended the City Council enact an interim urgency ordinance imposing a moratorium on medical marijuana dispensaries until staff had an opportunity to propose regulations. The interim urgency ordinance was not adopted by Council and staff was directed to allow medical marijuana dispensaries pursuant to our current municipal code. Pursuant to Council direction, medical marijuana dispensaries were allowed in the City of Morro Bay in the C-1 District by obtaining a business license and with a minor use permit in the MCR District under the category of “drugs”. Based upon Council’s action, in 2006, the City approved a medical marijuana dispensary at 780 Monterey Street. This location was in the General Commercial zoning district. Staff issued a business license since the sale of drugs (in this case medical marijuana) was an allowable use in the General Commercial zoning district. In 2007, an application was received for the establishment of a Medical Marijuana Dispensary at 2840 Main Street. This location is in the Mixed Commercial/Residential zoning district, so a minor use permit was required. Staff issued a minor use permit since the sale of drugs (in this case medical marijuana) was an allowable use in the Mixed Commercial/Residential zoning district. The minor use permit was appealed to the

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2010

Planning Commission. While the appeal was pending, the City Council declared a moratorium on medical marijuana dispensaries. In 2008, after reviewing the current status of federal and state law and the associated risks and possible consequences of establishing an ordinance allowing medical marijuana dispensaries, the City Council instructed the City Attorney to prepare an ordinance that would eliminate the possibility of storefront medical marijuana sales in the City. Pursuant to Council's direction, Ordinance No 547 was enacted in 2009. However, Ordinance 547 had a sunset provision and expired in October 2009. During discussions on Ordinance 547, the City Council expressed interest in considering an ordinance that would establish provisions for locating and regulating medical marijuana dispensaries (MMDs) within the City of Morro Bay. The City's Attorney's Office has developed a possible approach to locating and regulating MMDs which entails specifying the zoning districts in which MMDs may be established and developing regulations governing the procedures to be followed in applying for, permitting, revoking and renewing a license required to operate an MMD. The draft ordinance is based upon the City Attorney Office's review of both adopted and draft ordinances of several jurisdictions that allow MMDs or are considering allowing MMDs. It represents a comprehensive examination of potential impacts and sets forth detailed requirements for the operators of an MMD. The City Attorney's office has attempted to draft an ordinance that suits the scale of Morro Bay by providing the possibility of a single medical marijuana dispensary under specific circumstances. The use of the license process will allow greater control by the City should the dispensary be found to be a nuisance. Mr. Schultz recommended the City Council review the staff Report and draft Regulations and Procedures entitled "Medical Marijuana Collectives and Cooperatives", and direct staff to return with this item for Introduction and First Reading with any changes suggested by Council.

Mayor Peters opened the hearing for public comment.

The following people spoke in support of medical marijuana dispensaries being approved to be located in the City of Morro Bay: Rich Donald, Warren Sarvis, Linda Hill, John Gay, Austin Connella, Bryce Prunte, Kent Connella, Adam Vincent and Allie Brown.

The following people expressed opposition to medical marijuana dispensaries being allowed in the City of Morro Bay: Jack Barrett, Jim Ross, Arby Kitzman, Barry Brannon, and Andrew Wilkie.

Gary Christianson stated he doesn't have an opinion on locating a medical marijuana dispensary in Morro Bay; his comment was for Council to consider the implications of marijuana being illegal.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2010

Susan Stewart stated she believes medical marijuana should be safely and legally available as a prescribed drug according to state law; however, she expressed concern with some of the language in the draft ordinance, and with the possible location of a dispensary in the 800 block of Main Street. She referred to Section 5.50.060(C.1) states the dispensary should not be located within 500 feet of an existing school, public parks, etc..., and noted this could affect the ability of herself and businesses in the area to hold art and music classes for children, or provide locations for birthday parties, weddings, etc.

Joan Solu requested Council be especially careful of where a dispensary would be located, and she also requested Council consider if the tax base will fully cover the increased pressure on the City services.

Mayor Peters closed the public comment hearing.

Councilmember Grantham stated this will happen one day because there is money to be made by the owners and by the government. He said the federal government currently classifies marijuana as a Class One narcotic, and federal government trumps state laws. There is a current delivery service that is unregulated and will deliver marijuana to patients, and physicians can prescribe Marinol tablets through a normal pharmacy. Councilmember Grantham stated he does not consider the 800 block of Main Street a suitable location for a MMD. He said he would like a Council sub-committee to work with stakeholders to ensure this issue works out the right way.

Councilmember Winholtz stated this ordinance has good guidelines that need to be tightened up regarding location. She said she is appreciative that the City is willing to meet this need.

Councilmember Smukler stated this is the time to regulate an unregulated industry. He said he supports a sub-committee with staff members and stakeholders involved. Councilmember Smukler stated local sourcing and quality control need to be included in order to be able to track and ensure safe, quality medicine as well as know where the sources are coming from and provide a responsible service. He expressed concern with locating a MMD in the C-1 zoned location.

Councilmember Borchard stated she is not supportive of placing a risk in this community until federal and state laws are met.

Mayor Peters stated she supports proceeding with a sub-committee working with staff and stakeholders in order to proceed in a safe manner.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2010

MOTION: Mayor Peters moved the City Council establish a sub-committee to work with stakeholders on locating a medical marijuana dispensary in Morro Bay; and, to bring back an ordinance within 60-90 days. The motion was seconded by Councilmember Smukler and carried with Councilmember Borchard voting no. (4-1)

MOTION: Mayor Peters moved the City Council appoint Councilmember Smukler and herself as sub-committee members, and Councilmember Grantham as alternate. The motion was seconded by Councilmember Smukler and carried with Councilmember Borchard voting no. (4-1)

Mayor Peters called for a break at 8:20 p.m.; the meeting resumed at 8:25 p.m.

B-2 CONTINUED DISCUSSION ON THE FISCAL YEAR 2010/2011 BUDGET
AND PRIORITIES; (ADMINISTRATION)

City Manager Andrea Lueker stated the City Council approved the budget calendar at their February 8, 2010 City Council meeting. As part of that discussion the City Council approved and encouraged additional opportunities to receive public comment in regard to the budget. In addition to general comments the Council is interested in members of the public answering two specific questions: 1) In these difficult budget times, what City services are most important to you; and 2) What do you value most about Morro Bay. Staff will collect all the comments/responses and provide that information to the City Council at their first budget/goal workshop scheduled for March 16th and 17th. Ms. Lueker recommended the City Council open the public hearing to receive comments in regard to the fiscal year 2010/2011 budget; no further action is recommended.

Mayor Peters opened the hearing for public comment.

Joan Solu stated she enjoys the safe clean environment and community of Morro Bay to raise her children. She requested Council not cut youth services in the Recreation & Parks Department; open the Teen Center as a Youth Center; and requested Council not cut funding in Community Promotions Committee or Visitor Center budgets.

Mayor Peters closed the public comment hearing.

No action was taken on this item.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2010

B-3 APPEAL OF THE PLANNING COMMISSION'S CONDITIONAL APPROVAL FOR A TENTATIVE PARCEL MAP AND COASTAL DEVELOPMENT PERMIT FOR A PROPOSED SUBDIVISION OF 3 RESIDENTIAL PARCELS [S00-101/CP0-321]; (PUBLIC SERVICES)

Associate Planner Genevieve Lehotsky stated on December 7, 2009, the Planning Commission considered the proposed application. Staff's recommendation was to deny the proposed subdivision exception request, which was to allow the access way (Agave Dr.) square footage to be included in the required lot square footage for single family residentially zoned lots and to revise the map reducing the requested three lots to two lots, which would allow the lots to meet the Subdivision Ordinance's requirements for the minimum lot size of 6,000 square feet for single family residentially zoned lots. On January 19, 2010, the project was once again brought before the Planning Commission. Pursuant to public testimony and Planning Commission discussion, a condition was placed on the project restricting the size of each residence to a maximum of 2,000 square feet, excluding the garage, with the second floor no more than 80% of the first floor square footage. This condition was placed on the project to ensure that future residences would not be of an excessive size in relation to the reduced size of each parcel which resulted from the subdivision exception request. In addition, the condition sought to prevent future homeowners from requesting variances or special exceptions due to the reduced size of the lots. Cathy Novak, on behalf of Dave and Dorene Stover, has appealed the Planning Commission's conditional approval, specifically Condition #14, which states: "The gross living area square footage allowed for each residence is 2,000 square feet total, excluding the garage, with the second floor no more than 80% of the first floor square footage". The appellant contends that the map is not a Vesting Tentative Parcel Map, only a Tentative Parcel Map, therefore the proposal does not require development plans or, in this case, building footprints as a part of the approval. As such, the Planning Commission does not have the authority to impose a condition related to future development since development plans are not a requirement of a Tentative Parcel Map. In addition, a condition was arbitrarily placed on the project by the Planning Commission which restricted the second floor of each residence to 80% of the first floor because there are currently no codified requirements to limit the size of the second floor of single family residences. Further, the appellant states that pursuant to Section 16-1.003B, nothing in the Subdivision Ordinance shall be read to limit the rights of the City to enact additional provisions concerning the division of land as are deemed necessary to protect the public health, safety and welfare and there is no nexus that can be made between restricting the size of the residences and protecting the public's health, safety, and welfare. Ms. Lehotsky recommended the City Council deny the appeal and uphold the Planning Commission's conditional approval of the project with the following modification: "Require an alternative condition that requires residences over 2,500 sq. ft., excluding a 400 sq. ft. garage, to be reviewed under a Conditional Use Permit consistent with Interim Urgency Ordinance No. 535."

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2010

Cathy Novak, representing the appellant, stated the homes were approximately 1,900 and 1,400 square feet. The exhibit used was intended as only an example to provide staff and the Planning Commission with sufficient information to analyze the subdivision design and lot sizes. However, the Planning Commission used this information to create condition #14 which reads, “Living Area: The gross living area square footage allowed for each residence is 2,000 square feet total, excluding the garage, with the second floor no more than 80% of the first floor square footage.” Ms. Novak stated the Planning Commission does not have the authority to impose a discretionary condition such as this because the individual home development plans are not a part of the project description or specifically allowed for consideration under any section of the Subdivision Ordinance for Tentative Parcel Maps. Because this project applied for an exception to the Subdivision Ordinance, it is being argued that by granting the exception the Planning Commission was allowed to impose additional conditions as part of the approval but the condition imposed should have been limited to the subdivision design and not the future home designs that were not a part of the project description. The City does not currently have any codified regulations that require the second floor of a single family home to be no more than 80% of the first floor square footage or limitations to gross living area square footage. The City previously had required homes in excess of 2,500 square feet to obtain Planning Commission approval where by the Commission had a nexus to request reductions in bulk, scale and mass of a project. Ms. Novak stated it is not the project applicant’s intent to maximize and build on every square inch of each of these parcels but rather to build a comfortable size home that meets their family needs. To this end and working towards a fair and just compromise, the applicant supports staff’s alternative condition that will require a Conditional Use Permit if the residences are over 2,500 square feet, excluding a 400 square foot garage, consistent with the City’s previous interim ordinance.

Mayor Peters opened the hearing for public comment.

Grant Crowl commended the Planning Commission by holding this project to the floor-to-area ratio.

Mayor Peters closed the public comment hearing.

Councilmember Winholtz stated the subdivision ordinance is clear in that the minimum lot size is 6,000 square feet. She said when requesting an exception such as this, there should be some type of payback because there is a violation of the community’s standards. Councilmember Winholtz stated it was a direct intent of the Planning Commission to go from 2 lots to 3 lots in order to obtain affordability and something that would fit in that area.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2010

Councilmember Smukler stated he agrees with Councilmember Winholtz comments. He said he has no problem with the 2-lot development concept; however, he has concern with granting this exception without receiving the conditions that are important for the community in that area. Councilmember Smukler stated he supports upholding the Planning Commission decision.

Councilmember Borchard stated she supports the alternative condition and urgency ordinance as the guidelines.

Mayor Peters agreed with Councilmember Borchard regarding the alternative condition and urgency ordinance as the guidelines.

Councilmember Grantham stated he supports the right of the property owner, which would allow the alternative approach to this property.

MOTION: Councilmember Borchard moved the City Council deny the appeal and approve the alternative condition that requires residences over 2,500 square feet, excluding a 400 square-foot garage, to be reviewed under a Conditional Use Permit consistent with Interim Urgency Ordinance No. 535. The motion was seconded by Councilmember Grantham.

Mayor Peters stated she would consider restricting the houses to 2,000 square feet maximum and taking off the percentage.

VOTE: The motion failed with Councilmember Smukler, Councilmember Winholtz and Mayor Peters voting no. (2-3)

MOTION: Mayor Peters moved the City Council deny the appeal and uphold the Planning Commission's decision, with the modification to remove the 80% restriction on the second floor. The motion was seconded by Councilmember Winholtz and carried with Councilmember Borchard and Councilmember Grantham voting no. (3-2)

B-4 APPEALS OF THE PLANNING COMMISSION'S CONDITIONAL APPROVAL OF A MINOR USE PERMIT (UP0-255) TO CONVERT A UNIT FROM COMMERCIAL USE TO RESIDENTIAL USE; (PUBLIC SERVICES)

Associate Planner Genene Lehotsky stated there were two separate appeals filed on this project. The first appeal was filed by Grant Crowl based on the Planning Commission's decision to deny an appeal of a Minor Use Permit (UP0-255) allowing the conversion of a commercial unit to a residential unit. The appellant cites that granted request is not

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2010

consistent with City regulations. The second appeal was filed by Cathy Novak on behalf of the applicant, Michael Del Puppo, to request removal of a condition requiring an existing parking space, currently located behind a locked gate, to be made available for the tenants. The City Council should consider if the Planning Commission's decision to deny the previous appeal and uphold approval Minor Use Permit (UP0-255) allowing the use conversion was appropriate, if the residential use is appropriate for the surrounding neighborhood, and if the project is consistent with the Zoning Ordinance, General Plan and Local Coastal Plan. Ms. Lehotsky recommended the City Council deny the appeals and uphold the Planning Commission's approval of Minor Use Permit UP0-255 with either removal of the trash enclosure condition; or eliminate the parking space behind the building to allow for the trash enclosure.

Cathy Novak, representing the applicant, stated this project consists of six units total, five residential and one commercial. She said during the Minor Use Permit process, staff determined that the total number of parking spaces for this project required the applicant retain nine spaces. Originally, the appellant stated he assumed that the commercial operation is required by law to provide an ADA space. Ms. Novak stated the applicant responded to the Planning Commission that this project is not required by law to provide an ADA space however; they believe it is important to provide the special space and is doing just that. The appellant also contends that the ordinance requires an additional parking space to be used for guest parking. The applicant believes that staff has adequately addressed this in the report by concluding this change does not create a more intensive use and does not require more parking spaces than what already exists. The modification to a residential unit is a less intensive use as compared to commercial therefore under the code no additional parking is required. The second topic of this appeal is in regards to the residential to commercial ratios. The appellant is correct that this is a mixed use project in the MCR/R4 district. However, there are no current policies set by Council that places maximum or minimum percentages on the mix of uses. The appellant has argued that the LCP and Zoning Ordinance require a fixed ratio of commercial to residential uses. Ms. Novak stated this project is not a new or redevelopment project so it is considered an existing non-conforming structure and when it was originally constructed it was zoned differently and now they are trying to make this project conform to current codes that should only apply to a new or redeveloped building. She said under the MCR zoning designation and the Main Street Specific Plan, residential is an allowed use, and the Zoning Ordinance clearly states that the LCP should be used for exceptions to the ratio specific requirements in those areas of the City in which there is text specifically describing the mixed use relationship that should be allowed. In this particular area, the LCP states that a mixture of all uses as appropriate shall be encouraged and that the evaluation will be done on a case-by-case basis. Ms. Novak stated it is important to keep commercial properties to support the tax base, but if you have a commercial space and are not able to rent it because of the economy, it serves no

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2010

purpose to leave it sitting vacant. The applicant would prefer to keep this unit commercial and when the economy turns around and he has the opportunity, he plans to convert it back to commercial. Ms. Novak noted an appeal was filed on behalf of the project applicant of Condition #7 that requires the applicant to open the fence, relocate the garbage container and provide the required parking for Unit #1 in the space to the rear of the building, and she thanked staff for their agreement with the applicant that the only appropriate location for the trash/recycling receptacle is behind the building. Ms. Novak requested on behalf of the applicant, Council's support by denying the appeal.

Grant Crowl, appellant, stated he was uncomfortable and objected to having the two appeals combined as one. He said the appeals are two different issues and will convolute the process and the truth. Mr. Crowl stated his appeal refers to the entire project and the procedural issues of the Planning Commission appeal/hearing process. He said it is about an illegal conversion that did not get a proper review because it was converted illegally without a permit; the property owner only sought a permit after being reported to the City for his illegal conversion. The policy question is whether this is appropriate; the legal question is whether it is consistent with the Local Coastal Plan. This property is along north Main Street in a commercial area; it is flanked by commercial businesses both to the north and the south. Mr. Crowl stated the City Council has repeatedly said south of San Jacinto should remain commercial to support and enhance our north Main Street businesses and tax base. The purpose of the MCR district is "to broaden the range of commercial market opportunities." He said staff stated they reviewed this conversion of use as an existing project. What can no longer be used on this property is the "parcel-by-parcel" language that staff has interpreted into "case-by-case" from Mixed Use Area F; what can be used is Zoning Ordinance 17.24.110, mixed commercial/residential (MCR) district. Designation of the MCR zone with an R-1, R-2, R-3, or R-4 suffix will permit residential development according to the designated density and applicable development standards of this plan. Also applies is the North Main Specific Plan (17.40.110.C) which states: "Allowable uses are listed in the applicable primary zoning district." Finally, regarding parking, Zoning Ordinance 17.44.010A.1, "Facilities Required. For every structure erected or enlarged, and for all land devoted to a new use, and for any structure or land changed to a more intensive use that would require the provision of more parking spaces over what already exists, off-street parking spaces shall be provided in accordance with the requirement and standards of this chapter, a change, expansion or intensification of land use which would increase the number of parking spaces required as provided in this title shall be based only upon the number of spaces required for the change or expansion." This point was never fully understood by the commissioners because the decision became about trash cans, storage, fines and the economy and more. What was not addressed was a conditional use permit over the minor use permit it was given. It was generally agreed that it was an illegal conversion and because of the misinterpretation of Mixed Use Area F by changing the wording from parcel-by-parcel to case-by-case they overlooked the legal consistency and appropriate change of use.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2010

Mayor Peters opened the hearing for public comment.

Chuck Reasor addressed mixed use areas and their uses. He said that staff misconstrued the word “shall” and instead used the word “may” in this case. Mr. Reasor also said staff did not use the entire quote for mixed-use for Area “F” in making their decision.

Nancy Bast stated the \$250 appeal fee should be refunded to the appellant since he had to pay it twice.

Steve Semas stated there are many commercial buildings that are sitting vacant, and a property owner should be able to keep their property viable.

Mayor Peters closed the public comment hearing.

Councilmember Winholtz referred to Morro Bay Municipal Code Section 17.24.110 that refers to MCR/R-4, which shows that the ratio must comply. She also referred to Section 17.44 relating to parking spaces and a change in use, which is a part of this issue.

Councilmember Smukler stated the issue is the loss of commercial use along North Main Street, which can be a challenge to build back. He said he is not interested in this conversion.

Councilmember Grantham stated this request provides affordable housing in the City. He said parking is an issue, and as long as there is a commercial use there should be a handicap parking spot. Councilmember Grantham stated he would prefer the building in use and being maintained than vacant.

Councilmember Borchard stated she would rather have residential there than more commercial vacancies. She said she is willing to support the building in use and being maintained than vacant.

Mayor Peters stated North Main Street commercial uses are not working in this economy. She said she looks at this building and it looks like an apartment building. Mayor Peters stated she does not see the point of trying to make something happen when there is no demand at this time.

MOTION: Mayor Peters moved the City Council deny the appeal and uphold the Planning Commission’s approval of the approval of Minor Use Permit UP0-255; also, refund \$250 to the appellant, Grant Crowl. The motion was seconded by Councilmember Borchard.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2010

Councilmember Winholtz stated she is not supportive of the motion, but in support of the present businesses along North Main Street. She also said it is not right for the City Council to go against the City ordinances and allow a property owner to change a use because of an economic situation.

Councilmember Smukler stated he will not support this motion because North Main Street is the frontage of the City into the downtown and Embarcadero.

VOTE: The motion carried with Councilmember Smukler and Councilmember Winholtz voting no. (3-2)

MOTION: Mayor Peters moved the City Council remove the trash enclosure condition and eliminate the parking space behind the building to allow for the trash containers. The motion was seconded by Councilmember Borchard.

Mayor Peters withdrew her motion; Councilmember Borchard withdrew her second.

MOTION: Councilmember Winholtz moved the City Council uphold the Planning Commission's approval and deny the appeal. The motion was seconded by Mayor Peters and failed with Councilmember Borchard, Councilmember Grantham and Councilmember Smukler voting no. (2-3)

MOTION: Councilmember Grantham moved the City Council deny the appeal and uphold the Planning Commission's approval of Minor Use Permit UP0-255 by placing the trash receptacles behind the gate, and that the applicant will provide nine parking spaces. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

C. UNFINISHED BUSINESS – None.

D. NEW BUSINESS

D-1 POTENTIAL TOPICS FOR THE JOINT CITY COUNCIL/PLANNING COMMISSION MEETING; (PUBLIC SERVICES)

Acting Public Services Director Rob Livick stated in anticipation of the joint City Council/Planning Commission meeting on March 15th, the Planning Commission discussed potential topics at their March 1, 2010 meeting. The following are potential topics as prioritized by the Planning Commission: 1) presentation from the County on

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 8, 2010

Land Use Element Update Process plus time for questions and answers; 2) Downtown Visioning/Revitalization Plan plus time for questions and answers; 3) Pro/Con Analysis of City property; 4) Tree Replacement Policies and how that works with the Tree Committee; and, 5) request City to hire lobbyist to secure our General Plan and Zoning Ordinance. Mr. Livick recommended the City Council consider and discuss the potential topics for the March 15th joint City Council/Planning Commission meeting.

Council discussed the topics for discussion at the Joint City Council/Planning Commission meeting.

No further action was taken on this item.

D-2 CONSIDERATION OF SENDING CORRESPONDENCE TO CONGRESSWOMAN LOIS CAPPS REGARDING FUNDING FOR WEST COAST GROUND FISH CATCH SHARE MANAGEMENT PROGRAM AND KEY ISSUES FOR LOCAL FISHING COMMUNITIES; (HARBOR)

Harbor Director Rick Algert reviewed the draft letter regarding funding for the West Coast Groundfish Catch Share Management Program and key issues for local fishing communities and requested the City Council approve the sending to Congresswoman Lois Capps.

MOTION: Mayor Peters moved the City Council approve sending a letter to Congresswoman Lois Capps regarding funding for West Coast Groundfish Catch Share Management Program and Key Issues for Local Fishing Communities. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

E. DECLARATION OF FUTURE AGENDA ITEMS – NONE.

ADJOURNMENT

The meeting adjourned at 10:55 p.m.

Recorded by:

Bridgett Kessling
City Clerk