

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 23, 2011
VETERANS MEMORIAL HALL - 6:00 P.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
	Bridgett Kessling	City Clerk
	Janeen Burlingame	Management Analyst
	Susan Lichtenbaum	Harbor Business Manager
	Rob Livick	Public Services Director
	Tim Olivas	Police Chief
	Mike Pond	Fire Chief
	Susan Slayton	Administrative Services 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 – there was no Closed Session report.

PUBLIC COMMENT

James Bueno, Morro Bay High Football Coach and varsity football team members offered to support the community and asked the community to come out to the football games this season; they presented Council with t-shirts supporting the team as the 12th man.

Harbor Patrol Supervisor Becka Kelly presented a Certificate of Appreciation to Scott Baksic for his efforts in upgrading and maintaining the Harbor Department's beach wheelchair used by disabled people at no charge to enjoy the coastline, and also used in beach rescues. She also thanked Mobility Masters for their assistance in supplying all the parts needed at their cost to upgrade the wheelchair.

Robert Davis, representative of the San Luis Obispo Bike Club, announced the 40th Annual Lighthouse Bike Ride will be held on September 24th and will go between Piedras Blancas and Cuesta College. He said the Bike Ride is held to raise funds for local high school and college scholarships and to support local charities.

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Mr. Davis stated this year the Bike Club is donating more than \$55,000 that will go towards scholarships but also Morro Bay Police Department Community Volunteers and the Morro Bay 4th of July Committee for bike valet parking at the bike parade. He said they also support the Central Coast Mountain Bikers who build and maintain trails in Morro Bay and Montana de' Oro State Parks.

Annie Clapp, owner of the Chablis, announced the different events held on the Chablis. She said she and her husband also own the Morro Bay Coffee Company which features fresh baked pastries.

Tom Martin, owner of Morro Bay Garbage Service, announced "Clean Up Week" will be held on the week of September 12th - 16th.

Betty Winholtz addressed Item D-2 (Resolution 62-11 Amending the City of Morro Bay Advisory Boards Handbook and By-Laws) stating the high expectations noted on page 6, "Knowledge of the Community Marketplace, Process, Objectives, and Laws", may discourage people from applying to an Advisory Board; this paragraph should be rewritten or removed. She also addressed Item D-1 (Resolution No. 59-11 Adopting Revisions to the Master Fee Schedule) stating this item should have been scheduled as a public hearing; she referred to page 6 noting the appeal fee of \$250 should be set as a one-time fee; under the Harbor Department, the annual parking fee of \$100 at Tidelands – she said this fee defeats the purpose and encourages people to stay for long periods of time. Ms. Winholtz addressed Item A-4 (Ratification of Council Action on June 28, 2011 Pertaining to Resolution 45-11 Establishing a Three Year Moratorium for the Payment of Development Impact Fees for Commercial and Mixed Use Projects Within a Commercial Zone District) stating the Development Impact Fees as proposed is going to impact City services and infrastructure in a negative way.

John Solu announced that in the month of June, Morro Bay had the highest increase in occupancy in San Luis Obispo County. He also expressed disappointment with the distribution of negative flyers to tourists relating to sea otter awareness.

Garry Johnson also expressed disappointment with the flyers that were distributed regarding sea otter awareness. He referred to Item A-5 (Proclamation Declaring September 25 – October 1, 2011 as "Wildlife Awareness Week") which covers not only sea otters but all wildlife in Morro Bay.

John Barta addressed the upcoming Sign Ordinance Workshop which he will not be able to attend; he requested Council consider introducing the presentation that he prepared on the Sign Ordinance from his past term on the Planning Commission at this Workshop.

Susan Stewart, Chair of the Community Promotions Committee, gave an update on the Committee's activities.

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Craig Schmidt announced the upcoming Visitor Center Open House and Workshop scheduled for September 7th and 8th, and the 5th Annual Avocado/Margarita Festival scheduled for September 17th.

Roger Ewing stated the City Council should not have abandoned the recognition of the Sea Otter Awareness Proclamation. He said tourism is based on admiring the bay and its living life.

Mayor Yates closed the hearing for public comment.

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 THE MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF AUGUST 9, 2011; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 RESOLUTION NO. 60-11 ADOPTING THE CITY OF MORRO BAY TRAVEL POLICY; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 60-11.

A-3 APPROVAL OF SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT REQUEST FOR CITY PUBLIC, EDUCATION AND GOVERNMENT ACCESS FUNDS; (PUBLIC SERVICES)

RECOMMENDATION: Approve the San Luis Coastal Unified School District's June 28, 2011 request for \$14,525 in Public, Education and Government Access funds for the purchase equipment for the Morro Bay High School video production studio.

A-4 RATIFICATION OF COUNCIL ACTION ON JUNE 28, 2011 PERTAINING TO RESOLUTION 45-11 ESTABLISHING A THREE YEAR MORATORIUM FOR THE PAYMENT OF DEVELOPMENT IMPACT FEES FOR COMMERCIAL AND MIXED USE PROJECTS WITHIN A COMMERCIAL ZONE DISTRICT; (CITY ATTORNEY)

RECOMMENDATION: Ratify Council action of June 28, 2011 pertaining to Resolution 45-11 which established a three year moratorium on development impact fees for commercial and mixed use projects within a commercial zone district.

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A-5 PROCLAMATION DECLARING SEPTEMBER 25 – OCTOBER 1, 2011 AS
“WILDLIFE AWARENESS WEEK”; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

Mayor Yates pulled Items A-2 and A-5 from the Consent Calendar; Councilmember Smukler pulled Item A-4.

MOTION: Councilmember Borchard moved the City Council approve Items A-1 and A-3 of the Consent Calendar. The motion was seconded by Councilmember Johnson and carried unanimously. (5-0)

A-2 RESOLUTION NO. 60-11 ADOPTING THE CITY OF MORRO BAY TRAVEL POLICY; (ADMINISTRATIVE SERVICES)

Administrative Services Director Susan Slayton directed Council to two amendments to the Morro Bay Travel Policy: 1) under Section B – (General Provisions) 8. ... (for the current reimbursement rate, visit www.irs.gov, and search for mileage 2010~~XX~~); and 2) under Section B – (Meals) 7. A per diem allowance has been added as follows: 20% breakfast; 30% lunch; 50% dinner, and it is subject to receipts.

MOTION: Councilmember Johnson moved the City Council approve Item A-2 of the Consent Calendar as amended. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

A-4 RATIFICATION OF COUNCIL ACTION ON JUNE 28, 2011 PERTAINING TO RESOLUTION 45-11 ESTABLISHING A THREE YEAR MORATORIUM FOR THE PAYMENT OF DEVELOPMENT IMPACT FEES FOR COMMERCIAL AND MIXED USE PROJECTS WITHIN A COMMERCIAL ZONE DISTRICT; (CITY ATTORNEY)

Councilmember Smukler stated he would be voting in opposition to this item due to his concerns with the length and broadness of the moratorium.

MOTION: Councilmember Johnson moved the City Council approve Item A-4 of the Consent Calendar. The motion was seconded by Councilmember Borchard and carried with Councilmember Smukler voting no. (4-1)

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A-5 PROCLAMATION DECLARING SEPTEMBER 25 – OCTOBER 1, 2011 AS
“WILDLIFE AWARENESS WEEK”; (ADMINISTRATION)

Councilmember Smukler requested to add paragraph #3 as follows:

WHEREAS, our actions and lifestyle choices have positive and negative effects on ecosystems and wildlife; and

MOTION: Councilmember Smukler moved the City Council approve Item A-5 of the Consent Calendar as amended. The motion was seconded by Councilmember Leage and carried unanimously. (5-0)

Mayor Peters called for a break at 6:50 p.m.; the meeting resumed at 7:00 p.m.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 APPEAL OF THE PLANNING COMMISSION’S DECISION FOR A
TEMPORARY USE PERMIT TO ALLOW USE OF AN EXISTING DOCK
FOR SPORT AND COMMERCIAL FISHING FOR A PERIOD OF SIX
MONTHS (GAFCO/VIRG’S); (PUBLIC SERVICES)

Councilmember Leage stepped down due to a conflict of interest.

Public Services Director Rob Livick stated the applicant, owner of Great American Fish Company (GAFCO), has applied for an Administrative Temporary Use Permit for Virg’s Sport Fishing Company to locate their operation at the GAFCO’s lease site. During the 10-day comment and review period, a letter in opposition was received by the Public Services Department from neighboring business owners. The owners were concerned with the impacts that the project may have on parking for both the Embarcadero lease site parking lot and the Front Street parking lot. The opposition feels that patrons of the Virg’s Landing will utilize the parking stalls located directly in front of other businesses and due to the length of time they are gone while out fishing and using the parking stalls for the entire business day. On June 15, 2011 the Temporary Use Permit was heard by the Planning Commission at a public hearing. At this meeting it was the decision of the Planning Commission to approve the permit subject to Findings and Conditions of Approval. On June 23, 2011, the City of Morro Bay received an appeal on the permit filed by Leonard Willhite of 1124 Front Street, a neighboring business. The basis of his appeal is that the approval of UP0-319 was based on misinformation and Commissioner tampering. Mr. Willhite’s appeal makes this declaration but does not provide any documentation to substantiate this claim. Without documentation supporting this claim there is no basis to determine whether this claim has merit and warrant granting an appeal.

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Mr. Livick recommended the City Council deny the appeal and uphold the Planning Commission's approval of Temporary Use Permit #UP0-319, subject to the Findings and Conditions of Approval.

Leonard Willhite, appellant, stated his objection is with the application for the permit. He said the parking lot on Front Street is being over-burdened with parking from those going out on the boats while the lot across the street on the Embarcadero is not being used. He expressed opposition to the \$250 appeal fee that he had to pay. Mr. Willhite stated he has worked out an agreement with Virg's and said the City Council can allow their permit with conditions.

Cathy Novak, representing the applicant, stated after 57 years in the same location, Virg's moved their operations and since Morro Bay has a limited number of docks that can accommodate passengers and not interfere with the core of the Embarcadero, Virg's sought out a site that would be the least impactful and teamed up with GAFCO. The first concern of the appeal was in regards to whether this temporary use is subject to Measure D or if it is a continuation of a historic use and therefore allowed under Measure D. There has never been any intention to abandon the sport fishing use at GAFCO but over the years commercial fishing boats have been given priority for the dock space. Since GAFCO has had traditional uses with both commercial fishing and sport fishing operations, the Planning Commission determined that this proposed use is consistent with Measure D. The second concern of the appeal was in regards to parking. The Planning Commission determined this is a "historic use" and therefore, there is no intensification of the use and no new parking is required because it has already been provided for at the highest use. As for previous parking arrangements in contrast with today, there shouldn't be any significant changes. Virg's has made a concerted effort now and in the past to control parking. Virg's sends a person down to the parking lot to make sure people don't park in the lot in front of GAFCO and also directs them towards the northern end of the Front Street lot to leave room for the businesses at the south Front Street area. While any additional use of the parking lot may appear to be an impact on the businesses at the southern end, Ms. Novak proposed a possible solution to keep those spaces free from the all-day use by marking the south end spaces as four hour parking. She also noted the motel has overnight guests and suggested the possibility of using cones or something in that order. In conclusion, Ms. Novak stated that maintaining a sport fishing fleet is an integral part of Morro Bay's identity since it is a working harbor. Virg's works in concert with many other businesses in town by putting together promotional packages and bringing visitors to town.

Mayor Yates opened the hearing for public comment.

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Betty Winholtz stated since the appellant and applicant worked out an equitable solution, the Council should consider refunding the appellant his filing fee of \$250. She said Council received a letter from one business owner that addressed legal concerns regarding permitting that should be addressed. Ms. Winholtz stated equity between businesses and parking issues also need to be addressed.

Roger Ewing expressed support of this appeal; however, he applauds the mutual agreement that took place between the applicant and appellant. He also agrees the appeal filing fee should be refunded to the appellant. Mr. Ewing addressed fairness to all businesses, which he does not believe happened in this case.

Mayor Yates closed the hearing for public comment.

Councilmember Smukler stated he supports refunding the appeal filing fee to the appellant. He said he hopes some of the responsibilities of the agreement between the applicant and appellant falls upon the lease holder and not on the Front Street businesses.

Mayor Yates stated there are proposed plans for parking on Front Street in the future. He said the return of the appeal fee in this case is a unique request.

Councilmember Johnson stated this business has been on the Embarcadero for 30+ years and the Public Services Department should work out the parking. She said she does not support returning the appeal filing fee.

Councilmember Borchard stated she agrees with Councilmember Smukler that there needs to be shared responsibility on the impact of the parking. She said the appellant should have mentioned the agreement he made with the applicant during the Public Comment period instead of filing an appeal, paying the appeal filing fee, and wasting staff time. Councilmember Borchard stated she is apprehensive to refunding the appeal filing fee due to setting precedence.

MOTION: Mayor Yates moved the City Council deny the appeal and uphold the Planning Commission's approval of Temporary Use Permit #UP0-319, subject to the Findings and Conditions of Approval; and, refund the appeal filing fee of \$250 to the appellant. The motion was seconded by Councilmember Borchard and carried with Councilmember Leage abstaining. (4-0-1)

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B-2 RESOLUTION NO. 61-11 APPROVING MORRO BAY GARBAGE SERVICE
BASE YEAR RATE ADJUSTMENT APPLICATION REQUESTING AN
INCREASE TO SOLID WASTE COLLECTION RATES; (PUBLIC
SERVICES)

Management Analyst Janeen Burlingame stated the City Council adopted Resolution 48-01 approving the Garbage, Recycling and Greenwaste Franchise Agreement for collection service effective January 1, 2002 and setting the initial rates for collection for residential and commercial customers. On June 21, 2011 the City received from Morro Bay Garbage Service (MBGS) a Base Year Rate Adjustment Application with a request for an increase to the solid waste rates. Based on the calculations in the rate setting manual, the increase to solid waste rates would be 8.68%. However, MBGS felt that given the “fragile business climate” that a large increase may not be palatable and has proposed an alternative set of increases that over the next three years would eventually capture the 8.68%. Ms. Burlingame recommended the City Council adopt Resolution No. 61-11 approving Morro Bay Garbage Service’s Base Year Rate Adjustment Application and the resulting rate schedule contained therein.

Mayor Yates opened the hearing for public comment.

Betty Winholtz stated there is no incentive in the proposal to reduce waste. She said there should also be more education on reducing waste involved in this program.

Mayor Yates closed the hearing for public comment.

MOTION: Councilmember Borchard moved the City Council adopt Resolution No. 61-11 approving Morro Bay Garbage Service’s Base Year Rate Adjustment Application and the resulting rate schedule contained therein. The motion was seconded by Councilmember Johnson and carried unanimously. (5-0)

C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS

D-1 RESOLUTION NO. 59-11 ADOPTING REVISIONS TO THE MASTER FEE
SCHEDULE; (ADMINISTRATIVE SERVICES)

Administrative Services Director Susan Slayton stated staff has prepared a resolution for the annual adoption of the proposed Master Fee Schedule for the 2011/12 fiscal year. She recommended the City Council review the proposed draft Schedule, make any revisions necessary, and adopt Resolution No. 59-11.

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Mayor Yates stated he will not vote in support of this Master Fee Schedule because it is nickel and diming and he does not support increasing Public Safety fees.

MOTION: Mayor Yates moved to deny the Master Fee Schedule for the 2011/12 fiscal year. The motion was seconded by Councilmember Leage.

Councilmember Smukler stated he will vote in opposition to this motion because he wants to avoid not approving any increases where the Fund becomes out of balance and then larger increases are necessary; and, minor increases are more palatable.

Mayor Yates stated Council should ask for the Master Fee Schedule to be brought back without it being an automatic annual report.

VOTE: The motion failed with Councilmembers Borchard, Johnson and Smukler voting no. (2-3)

MOTION: Councilmember Borchard moved the City Council adopt Resolution No. 59-11 with the amendment to maintain the appeal filing fee at a fixed fee of \$250. The motion was seconded by Councilmember Smukler and carried with Councilmember Leage and Mayor Yates voting no. (3-2)

D-2 RESOLUTION 62-11 AMENDING THE CITY OF MORRO BAY ADVISORY
BOARDS HANDBOOK AND BY-LAWS; (CITY ATTORNEY)

City Attorney Robert Schultz stated pursuant to City Council direction, staff has reviewed the Advisory Board Handbook and By-Laws and made corrections, deletions and amendments to more clearly define how each Advisory Board is currently working. In addition, staff has added By-Laws for the Planning Commission. If these are approved, staff will return with an Ordinance to delete Morro Bay Municipal Code 2.28 removing the Planning Commission from the Morro Bay Municipal Code. Mr. Schultz recommended the City Council adopt Resolution 62-11 which will update the City's Advisory Board Handbook and By-Laws and create By-Laws for the Planning Commission and allow for the streamlining of the City's Municipal Code.

Councilmember Smukler referred to special meetings and asked if they are considered a "consecutive meeting" in regards to absences.

Mayor Yates requested a motion to include amendments on pages 18 and 21 of the Advisory Board Handbook (Absence from Meetings) to read: "Absence of a Board Member from two (2) consecutive meetings or three (3) meetings in any consecutive 12-month period ..."

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MOTION: Councilmember Borchard moved the City Council adopt Resolution 62-11 updating the City's Advisory Board Handbook, with the amendments to pages 18 and 21 (Absence from Meetings), and By-Laws and creating By-Laws for the Planning Commission to allow for the streamlining of the City's Municipal Code. The motion was seconded by Councilmember Johnson and carried unanimously. (5-0)

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Smukler requested to agendize the consideration of an advisory board mixer; Council concurred.

Councilmember Smukler requested to agendize a discussion on Smart Meter installations in Morro Bay; Council concurred.

Councilmember Smukler requested to agendize a discussion on Morro Rock improvements; Council concurred.

Councilmember Smukler requested to agendize a discussion on Morro Rock trash can service; Council concurred.

Mayor Yates requested to agendize a discussion on appointing an alternate to the Air Pollution Control District Board; Council concurred.

ADJOURNMENT

The meeting adjourned at 8:20 p.m.

Recorded by:

Bridgett Kessling
City Clerk