

AGENDA NO: A-1

MEETING DATE: 04/24/2012

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – APRIL 10, 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
	Mike Pond	Fire Chief
	Susan Slayton	Administrative Services Director
	Eric Endersby	Harbor Operations Manager
	Joe Woods	Recreation & Parks Director
	Manny Silva	Police Sergeant

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

Sharon Myer, President of the AAUW announced the 26th Annual Garden Tour being held on Sunday April 29th from noon-5pm. This is their big fundraiser and tickets are still available for \$10/each.

Carol Vogt, also of AAUW, announced April 17th as “Equal Pay for Women Day”. She stated that “we aren’t there yet but we are getting closer”.

Hank Roth, with the Morro Bay Chamber of Commerce, advertised the City’s upcoming events. April 22nd is the Blessing of the Fleet; April 28th & 29th is the MB Kite Festival; and, April 28th is the MB Parade. You can contact the Chamber of Commerce if interested in learning more.

Joe Yukich spoke on the “Moment of Silence”. He would like to see the City go back to saying a prayer at the beginning of each meeting.

Hal Abrams, Chairman of the Board for the MB Community Radio, spoke in support of item D-3, Support of Morro Bay Community Radio. He is looking for support from Council for placing

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the antenna at the Corporation Yard as well as garner support prior to submitting an application to the FCC.

Chanelle Channing spoke in support of the local Veteran's Support Group who will be hosting a potluck at the Morro Bay Eagles on April 17th. They will also be sponsoring a panel discussion of local Veteran's to discuss their history of and in Morro Bay.

Jeremiah O'Brien spoke in support of Item A-4 focusing on the City's continued opposition to the creation of a National Marine Sanctuary in the San Luis Obispo County Coastal Area as well as continued opposition to the expansion of the Monterey Bay National Marine Sanctuary into the San Luis Obispo County Coastal Area.

Brad Snook, Chair of the local Surfrider Foundation who has a coalition with the Sierra Club called the Marine Sanctuary Alliance. They have involvement because of the clean water aspects that a sanctuary can bring. They think they share a lot of the concerns with local fishermen and fishing heritage having to do with sustainable fishing and also clean water. He feels that tourism can benefit from the educational opportunities that a sanctuary can provide.

Lori French stressed that expansion of the sanctuary is a bad idea; it is bad for economics and bad for fishermen.

Brian Stacy also expressed his support for Council's opposition to the creation of a National Marine Sanctuary in the San Luis Obispo Coastal Area. He doesn't feel that any fishermen want a sanctuary. He also expressed concern about the upcoming Coastal Commission approval of the laying of a cable in our area. He went on to say that the PG&E Seismic study is already affecting the fisherman. And finally, he asked about the monies that he felt should have come to the City – they were a cut of the warm water settlement from PG&E.

Brent Cunningham, a Harbor Advisory Board member, local commercial fisherman and business owner, spoke about the stakeholder aspect brought up by a prior speaker. He feels that we have been down that road as fisherman so many different times and have never been given a fair shake on a stakeholder board.

Tom Roff, resident for 25 years and commercial fisherman for over 40 years feels that over time, sanctuary staff has usurped the original sanctuary document and lobbied for their own goals. He feels if we fall into the situation of being a part of the sanctuary and are usurped by Monterey, then we will lose our identity. We need to maintain our own local control.

Nancy Castle announced the upcoming Fundraiser Follies being held on Saturday, April 14th at the Veterans Hall with one show beginning at 2pm and another at 7pm.

Mayor Yates closed the public comment period.

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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 MARCH 13, 2012 AND MARCH 27, 2012; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY DECLARING APRIL 17, 2012 AS EQUAL PAY FOR WOMEN DAY; (CITY COUNCIL)

RECOMMENDATION: Adopt Proclamation.

A-3 A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY DECLARING THE MONTH OF APRIL “FAIR HOUSING MONTH”; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Proclamation.

A-4 RESOLUTION STATEMENT OF CONTINUED OPPOSITION TO CREATION OF A NATIONAL MARINE SANCTUARY IN THE SAN LUIS OBISPO COUNTY COASTAL AREA, AND CONTINUED OPPOSITION TO EXPANSION OF THE MONTEREY BAY NATIONAL MARINE SANCTUARY INTO THE SAN LUIS OBISPO COUNTY COASTAL AREA; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution 18-12.

A-5 APPROVAL OF THE SERVICE RETIREMENT INCENTIVE PROGRAM FOR FISCAL YEAR 2012/13 BUDGET; (ADMINISTRATION)

RECOMMENDATION: Approve the Service Retirement Incentive Program.

Councilmember Smukler pulled Item A-4 from the Consent Calendar.

MOTION: Councilmember Johnson moved the City Council approve Items A-1, A-2, A-3 and A-5 of the Consent Calendar. The motion was seconded by Councilmember Borchard and carried unanimously 5-0.

Councilmember Smukler pulled Item A-4 as he had a concern with the 2nd “Whereas” from the bottom of the 2nd page that included reference to offshore oil but felt that if that paragraph were removed, he could support the Resolution.

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MOTION: Mayor Yates moved the City Council approve Item A-4 of the Consent Calendar with the removal of the second to last “Whereas” in the body of the Resolution. The motion was seconded by Councilmember Borchard and carried unanimously 5-0.

Mayor Yates called for a break at 7:04 p.m.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 577 AMENDING AND RENAMING MORRO BAY MUNICIPAL CODE CHAPTER 9.24 TO SECONDHAND SMOKING REGULATIONS; (CITY ATTORNEY)

City Attorney Rob Schultz presented his staff report. At the February 28, 2012 meeting, Council gave direction to staff to prepare a draft ordinance that would ban smoking in dining areas, entryways (reasonable distance), public events, recreation areas, service areas, sidewalks and streets, workplaces, city owned vehicles and licensed child care facilities. At the March 27, 2012 meeting, this draft ordinance was presented, comments were made and direction was given to return for first reading and introduction of the Ordinance. Ordinance 577 would enact a tobacco control Ordinance that is stronger than the protections provided by State and Federal Law and would focus further protections for indoor or enclosed places and outdoor public places. The Ordinance completely bans smoking in all public places; however, the Ordinance doesn't regulate smoking in private residential and multi-family properties and provides 3 major exceptions: designated unenclosed areas (smokers outposts), an unenclosed area in which no nonsmoker is present and due to the time of day or other factors, it is not reasonable to expect another person to arrive, and when a person is actively passing on the way to another destination and so long as smoke doesn't enter any enclosed area in which smoking is prohibited.

Mayor Yates opened the hearing for public comment.

Kathleen Carly, County of SLO, Health Promotion spoke in support of passing the Ordinance as well as provided statistics supporting the fact that smoking and second hand smoke is dangerous to a person's health.

John Barta, a lifetime non-smoker, felt that sometimes we go too far. We are a tourist town and he feels that limiting “no smoking” to indoor places and relying on common courtesy outdoors, should be enough.

Taylor Newton, who comes from a family of people who choose to smoke, applauds what the Ordinance is trying to do however in his personal opinion; he too feels that we are going too far. Common courtesy is an essential part of who we are and should be enough of a requirement. One of the things he loves about America is our freedom and “every time we talk about taking away freedom, it scares me”.

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Nancy Barta, who has asthma and can take up to 7 days to recover if overly exposed to certain smells, is very uncomfortable with the ban as she feels it is an invasion of privacy. She also feels it is not a very welcoming sentiment to our tourists.

Chanelle Channing spoke hoping that we don't do something that alienates our tourists. She also sees the difficulty in those who are trying to quit smoking. She stated that our rights to life, liberty and property have to do with our own bodies – she feels smoking is a victimless crime.

Mayor Yates closed the hearing for public comment.

Councilmember Borchard agrees that this is a very divided issue and that we don't need more regulations however she feels that she sees this Ordinance as very visitor friendly. She also sees this Ordinance as having a secondary benefit – the protection of our estuary.

Councilmember Johnson doesn't like seeing extra regulations either but sometimes they are necessary.

Mayor Yates agrees with most of the speakers. We are taking too many liberties away. While he acknowledges smoking is bad, he doesn't feel that smokers want to offend non-smokers. He also feels we can potentially lose tourists. He doesn't feel the Ordinance is about smoking, it's about regulating secondhand smoking on sidewalks.

Councilmember Leage spoke last meeting and will just be repeating himself. He has received a tremendous number of phone calls that say we don't need more regulations. He also is concerned about losing tourists; he feels we don't have a problem but instead are creating one.

Councilmember Smukler wanted to reinforce that fact that it needs to be remembered that this is a passive enforced regulation. It gives someone who is sensitive to the smoke the legal opportunity for enforcement. He is hoping that common courtesy will work for the most part. He does have some concerns about the signage and hopes the size of the required signs is modest.

MOTION: Councilmember Johnson moved the City Council pass the Introduction and First reading of Ordinance 577 amending and renaming MBMC Chapter 9.24 to Secondhand Smoking Regulations by title and number only. The motion was seconded by Councilmember Borchard and carried 3-2 with Mayor Yates and Councilmember Leage voting no.

B-2 RESOLUTION NO. 16-12 INITIATING PROCEEDINGS TO LEVY THE ANNUAL ASSESSMENT FOR THE CLOISTERS PARK AND OPEN SPACE LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods presented his staff report. On January 26, 1998 Council adopted Resolution 10-98 which accepted the public improvements for Cloisters Tract 1996.

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Although the public improvements were completed, the developer was responsible for their maintenance for the one year warranty period with the City taking over the maintenance of the area on January 26, 1999. Resolution 16-12 has been prepared for Council review and adoption. The Resolution serves as the initiation of the annual assessment proceedings and orders an Engineer's Report detailing the proposed costs of the maintenance of the Cloisters Park and Open Space for the purpose of assessing private property owners. The Resolution also gives notice that a public hearing on the intent to levy the assessment, as well as review and accept the Engineer's Report, will be held on May 8, 2012.

Mayor Yates opened the hearing for public comment; seeing none, Mayor Yates closed the hearing.

Councilmember Smukler was glad to have the opportunity for the update on the maintenance contract and progress from the last meeting as it shows we are striving to fulfill our commitments and obligations. He is committed to holding up our end of the bargain for the maintenance side.

Councilmember Borchard met with Cloisters residents and heard that they had concerns about accountability as well as how their money has been used and is being used. She hopes that we will be outsourcing the Cloisters on-going maintenance in a more efficient and affordable way. She wants to include that each year the City provides a copy of accountability – a detailed listing of what they spent the money on. She would also like to see money be put aside for the prospect of being able to do some capital improvements that desperately need to be done out there.

Mayor Yates is conflicted as he appreciates the efforts that have been made but he has an issue with the fact that it is a public park that's being paid for by the Cloister's residents. He feels that all parks are for everybody and that Cloisters should be folded in with all the other City parks and be paid for out of the general fund. As such, philosophically, he cannot support this.

Councilmember Johnson discovered after her discussion with Joe Woods that there is a lot more that goes into maintaining the park than she realized. She agrees with Councilmember Borchard that we need transparency and need to come back with real information for citizens so we know by the dollar(s) spent, where the money is going – what percent goes to the public park and what percent goes to other areas out there that needs to be maintained. She will support this tonight with the contingency that that information comes back by the 3rd meeting as best as staff can.

MOTION: Councilmember Smukler moved the City Council adopt Resolution 16-12 ordering the preparation of an Engineer's Report detailing the expenses projected for fiscal year 2012/13 for the maintenance of the Cloisters Park and Open Space. The motion was seconded by Councilmember Borchard and carried 4-1 with Mayor Yates voting no.

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B-3 RESOLUTION NO. 17-12 INITIATING PROCEEDINGS TO LEVY THE ANNUAL ASSESSMENT FOR THE NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods presented his staff report. On December 9, 1996 the City Council adopted Resolution 89-96 which ordered the formation of the North Point Landscaping and Lighting Maintenance Assessment District and confirmed the yearly assessment of \$5,645. On January 13, 1997 the City Council adopted Resolution 01-97 which approved and accepted the on and off-site improvements for Tract 2110. By adoption of this Resolution, the City officially started the maintenance of the North Point Natural Area. Resolution 17-12 has been prepared for review and adoption. This Resolution serves as the initiation to the annual assessment proceedings and orders an Engineer's Report as well as gives notice that a public hearing on the intent to levy the assessment, review and accept the Engineer's Report will be held on May 8, 2012.

Mayor Yates opened the hearing for public comment; seeing none, Mayor Yates closed the hearing.

Councilmember Smukler questioned whether or not the maintenance of this site could also fall under the out-sourcing being discussed with the Cloisters property to which Joe Woods responded that he is considering folding this into the RFP for Cloisters. Councilmember Smukler also hoped to be able to put money aside to be put into a capital improvement account for the area.

Councilmember Borchard and Councilmember Johnson both agree that it would be good to fold this area into that maintenance RFP.

MOTION: Councilmember Borchard moved the City Council adopt Resolution 17-12 ordering the preparation of an Engineer's Report detailing the expenses projected for fiscal year 2012/13 for the maintenance of the North Point Natural Area. The motion was seconded by Councilmember Johnson and carried 4-1 with Mayor Yates voting no.

C. UNFINISHED BUSINESS - NONE

D. NEW BUSINESS

D-1 DISCUSSION ON THE PRESENTATION OF THE 2012/13 FISCAL YEAR BUDGET;
(ADMINISTRATIVE SERVICES DEPARTMENT)

City Manager Andrea Lueker gave a brief report requesting Council's direction on how they would like to see the 2012-2013 Budget presented.

Mayor Yates felt that last year's presentation, made during a regular City Council meeting as a public hearing, worked well.

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Councilmember Johnson sees the value of a public hearing / workshop concept. Presenting the budget in a workshop setting, taking a couple of hours, and allowing public input as well as hearing from staff would be preferable.

Councilmember Leage also felt that the process we used last year was perfect.

Councilmember Borchard felt that while last year's presentation worked, although she didn't feel there was enough transparency and public input.

Councilmember Smukler appreciates being able to hear from department heads as to their proposed expenditures. He feels that the budget is probably the most important thing we do and deserves some additional time.

Based on the comments from Council, Mayor Yates directed staff schedule a 2 hour budget workshop on June 12, 2012 from 4-6pm to include a public hearing component and short presentation from department heads (not to exceed 30 minutes in total); then bring back the budget, with all proposed revisions, for a public hearing and approval on June 26, 2012.

D-2 DISCUSSION ON THE PAPERLESS AGENDA CONCEPT; (ADMINISTRATION)

City Manager Andrea Lueker presented the staff report stating that over 75 California cities have gone to some form of paperless agenda reading devices for their City Councilmembers. The reading device of choice is the Apple iPad. Purchasing iPads with 16GB of memory has been found to be sufficient for the type of use the City is interested in. Should Council wish to move forward, there are several decisions that need to be made which include 1) how agenda materials would be distributed; 2) does the user want to make notes on the iPad; 3) who owns the device and what restrictions need to be placed on its use; 4) who should the iPads be purchased for; and, 5) if a mobile data capable iPad is purchased, then who purchases the data plan. Costs vary based on the iPad and range from \$400 -\$630/each plus any data plan charges, if required. Staff is also willing to look into purchasing laptops instead.

Mayor Yates is definitely in favor of this concept. He feels being able to take notes on the iPad is important and thinks that Council would operate using the same policies as the employees do. He also feels that it would be important to be able to bring the device home.

Councilmember Johnson is definitely in favor of this, she feels it's something whose time has come. She hoped that training would be provided.

Councilmember Borchard felt that the devices could/should be stored at the City. She wondered if the Planning Commission would be included in these purchases and/or could be shared if stored on-site. She would like to move forward with this as she feels there can be cost savings.

Councilmember Smukler had some concerns. He wondered how you would retain information from prior meetings as he would like to be able to follow and track agenda items as easily as he does now. He would also like to see some estimates of cost savings as it seems to him like this

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could cost the City money. He wants to be able to balance the ease and effectiveness of an iPad with the ease and effectiveness of the agenda and the cost would be weighed in on both of those.

Based on comments from Council, it was directed that staff provide additional information, as it was researched, in memo form and/or as an item to be discussed during the budget process.

D-3 CITY SUPPORT OF MORRO BAY COMMUNITY RADIO; (CITY COUNCIL)

Councilmember Smukler brought this item forward in order to get preliminary authorization dependent on final approval from the Public Services Director for locating the broadcast antenna at the City Corporation Yard. He also asked Council support for the drafting of a letter that would provide formal comment to the FCC for our application. He spoke of the need for approximately \$2000 to pay attorney and engineering fees for the application process. They have received some funds and are almost there but asked that if anybody is interested in supporting this venture in any way, to contact Hal Abrams at 772-1314.

Council was unanimously in favor of moving forward with this project and are ready to host the antenna.

MOTION: Mayor Yates moved for City Council support of the radio station, of hosting the antenna at the Corporation Yard, and for drafting of a letter of support to the FCC for the application. The motion was seconded by Councilmember Johnson and carried unanimously 5-0.

E. DECLARATION OF FUTURE AGENDA ITEMS - NONE

ADJOURNMENT

The meeting adjourned at 8:33 p.m.

Recorded by:

Jamie Boucher
City Clerk