

**AGENDA NO: A-1**

**MEETING DATE: 05/22/2012**

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – MAY 8, 2012  
VETERAN’S MEMORIAL HALL – 6:00P.M.

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

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

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS & PRESENTATIONS

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

PUBLIC COMMENT

Haylie Bright, Marketing Director for Perry’s Parcel & Gift located at 785 Harbor, presented the Morro Bay Business report. Perry’s is a locally owned and operated business that used to be the Morro Bay Mail Center. They are your “One-Stop-Shop” location where you can find a full service business solution center - faxing, copying, packing and shipping, notary, secure shredding, secure mailboxes and much more. They are also Morro Bay’s best kept secret for gifts for all ages. Please visit their website at [www.perrysparcel.com](http://www.perrysparcel.com) to learn more.

Susan Brown, Manager at MV Transportation, advertised the upcoming trolley season. They are also looking for one more summer trolley driver. Morro Bay Transit is also offering Free Bus Rider Training classes for seniors. The next one is being held on Wednesday, May 23<sup>rd</sup> at 1pm at the Senior Center.

Hank Roth thanked all those responsible for helping sponsor the wonderfully attended Morro Bay Kite Festival. He also stated that the Writers Conference is in town.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – MAY 8, 2012  
VETERANS MEMORIAL HALL - 6:00 P.M.

Garry Johnson reminded everybody that the absentee ballots went out on Monday, May 7<sup>th</sup>. He thanked those involved with the car show, especially those that helped the Bay Cruisers feed the early arriving participants.

Betty Winholtz addressed 3 issues in the staff reports – safety, fiscal responsibility and planning management. Regarding Item A2, Resolution Approving Matching Funds for the 2012 BTA Grant Application, she spoke on bike planning stating that she feels the report is incomplete as there is a map that shows the suggested crossing in front of the high school but doesn't have a map of the beach tract which is also being asked to be considered and approved. She is opposed to where the bike lane is being proposed in front of the high school due to safety concerns. She also spoke on Item A3, Request to Approve a Response to the Grand Jury Regarding City Employee Vacation and Sick Leave Accumulation Pay, stating that we have unfunded liability of sick leave hours at a half million dollars and there is nothing in the report that states that this will be corrected. She also spoke on Item A4, Annual Reporting on the Morro Bay Tourism Business Improvement District and Scheduling of a Public Hearing, which shows that the TBID overspent their budget and she questioned how that can happen without it coming back to the Council. And finally spoke on Item D2, Confirmation of Goals from the 2012 Goal-Setting Workshop, where it states we will be starting our streets rehabilitation project right away. She wants to know how we will be dealing with the Resolution passed that states that there will be no construction after Memorial Weekend.

Cathy Novak spoke on Item D1, Discussion on Local Sportfishing Businesses. She feels it's important to pool our resources and offer assistance so that these businesses can make it into the future. She proposed some short and long term goals that she shared. Her short term goals were as follows: 1) reduction in mooring and/or dockage fees; 2) allow for quarterly or semi-annual payment of fees; 3) additional signage on the waterfront and allow for the potential of a small temporary building that can be used as a satellite location. For the long term she proposed Council discuss the possibility of locating a sport fishing and tackle shop on an existing lease site just south of the South T-Pier that could be "co-op'ed" and be comprised of the local owner operator boats joining forces together under one roof. This would relocate sport fishing operations to one area; provide an opportunity for multiple businesses to consolidate overhead costs; and, provide a public-private partnership with the fishing industry.

Jeremiah O'Brien thanked everybody involved for their support of the fishermen – "we couldn't have done it without you" and "you have made all the fisherman in town happy".

Joan Solu commended Council on taking a look at the PERS 2-Tiered benefit structure with the employee groups. She then spoke on Item A3 stating that Council should address the employee's ability to accumulate unlimited sick leave hours. She feels sick leave hours should be capped at a certain number of days which would stem the flow of cash going out. She encouraged Council work with staff to come up with ideas and solutions. She also asked for Council's support on Item A4, approving the planned Public Hearing date for the May 22<sup>nd</sup> Council meeting. She also stated that the TBID was not over budget and that the TBID's efforts have brought in 7% more revenue in TOT Tax and asks for Council's continuous support.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – MAY 8, 2012  
VETERANS MEMORIAL HALL - 6:00 P.M.

Brian Stacy thanks the Mayor and Council and Rob Schultz for the letter written on the Seismic Study. He also spoke on Item A5 and asked that if we add to the grant, that the association formed would give local fisherman the opportunity to participate and have a vote.

John Barta also let the public know that the absentee ballots are out – the election has begun. He states that 53% of Morro Bay voters vote absentee. He feels the most important issue is the WWTP and that there are some candidates who have avoided taking a stand on that issue. He encouraged voters not to cast their ballots for somebody who won't stand up and take a stand.

Susan Stewart is pleased to see we have included developing an Economic Development Program on the City's Goal Setting workshop. She thinks it would be a great use of Community Promotions Committee dollars. While tourism is an important part of the community, we were founded with ranching, farming, fishing and it was actually incorporated because of the power plant. We need to hopefully develop a program that would bring in light industry that could help facilitate head of household wage earner jobs.

Mayor Yates closed the public comment period.

A. CONSENT CALENDAR

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

A-1 APPROVAL OF CITY COUNCIL MINUTES FOR THE REGULAR MEETING OF APRIL 24, 2012; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 RESOLUTION APPROVING MATCHING FUNDS FOR THE 2012 BTA GRANT APPLICATION; (PUBLIC SERVICES)

**RECOMMENDATION: Adopt Resolution.**

A-3 REQUEST TO APPROVE A RESPONSE TO THE GRAND JURY REGARDING CITY EMPLOYEE VACATION AND SICK LEAVE ACCUMULATION PAY; (ADMINISTRATION)

**RECOMMENDATION: Approve and send attached response letter to the Presiding Judge of SLO County Superior Court and the Grand Jury.**

A-4 ANNUAL REPORTING ON THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT AND SCHEDULING OF A PUBLIC HEARING; (ADMINISTRATIVE SERVICES)

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – MAY 8, 2012  
VETERANS MEMORIAL HALL - 6:00 P.M.

**RECOMMENDATION: Set the date for the public hearing to be held on May 22, 2012 in order to continue the MBTBID activities and assessments.**

A-5 AUTHORIZATION TO AMEND THE GRANT AGREEMENT FROM THE NATURE CONSERVANCY FOR SUPPORT OF FORMATION OF A COMMUNITY FISHING ASSOCIATION TO ADD \$50,000 TO THE GRANT; (ADMINISTRATION/HARBOR)

**RECOMMENDATION: Authorize an amendment to add \$50,000 to the existing grant from The Nature Conservancy (TNC).**

A-6 AMENDMENT NO. 2 TO THE LEASE AGREEMENT FOR LEASE SITE 78-81/78W-81W, LOCATED AT 701 EMBARCADERO, BETWEEN THE CITY OF MORRO BAY AND VAN BEURDEN INVESTMENTS; (CITY ATTORNEY)

**RECOMMENDATION: Adopt Resolution No. 20-12 approving Amendment No. 2 to the Lease Agreement for Lease site 78-81/78W-81W between the City of Morro Bay and Van Beurden Investments.**

A-7 REQUEST FOR APPROVAL OF AMENDMENT #2 TO THE LEASE AGREEMENT FOR LEASE SITE 122-123/122W-123W (HARBOR HUT, 1205 EMBARCADERO); (CITY ATTORNEY)

Item A-7 was pulled from the agenda prior to the meeting and will be heard at a future meeting.

Councilmember Smukler pulled Items A-2, A-4 and A-5 and Councilmember Borchard pulled Item A-3 from the Consent Calendar.

**MOTION:** Councilmember Johnson moved the City Council approve Items A-1 and A-6 of the Consent Calendar. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

Councilmember Smukler pulled Item A-2 questioning the location and safety of the proposed bike path and crossing. Public Services Director Rob Livick answered that this location will offer the best direct connection to the 2 bike paths.

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

Councilmember Borchard pulled Item A-3 as she was concerned about the City's response to the Grand Jury, especially in items 9 and 10. She wants to feel comfortable that we are seeing the issues and moving towards resolving the situation. She knows that we need to address this through the negotiation process.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – MAY 8, 2012  
VETERANS MEMORIAL HALL - 6:00 P.M.

Councilmember Johnson said that during her attendance at the last month's Mayor's meeting, this report was a major item of discussion that needs to be addressed. The part that bothers her the most was that staff said that there is no fiscal impact.

Councilmember Smukler feels we should be taking a look at the unfunded liability and that staff's response letter was weak. He feels it is important to provide the citizens with an annual yearly reporting of these accumulations as well as strive to address a cap.

No motion was made on this item and instead, Mayor Yates instructed staff to return to the May 22, 2012 meeting with a stronger letter as well as come back with a public report, or a time frame that a public report will be made available, that addresses #10 of the Grand Jury request. All council concurred with this request.

Councilmember Smukler pulled Item A-4 questioning the over-expenditure of funds in the TBID Budget without Council's involvement. His concern is that it happened and it could happen again.

City Manager Andrea Lueker stated that these funds were specifically an accounting difference between an invoice with our prior marketing company and the City, which involved more with when items were received as opposed to being over budget. City Attorney Rob Schultz responded that this isn't abnormal as the City loans money to the TBID throughout the entire fiscal year because they haven't received funds from their TOT prior to that month. He also stated that this shouldn't be a problem starting in July, 2012 as with the 501 (c) 6 we won't be involved to the degree we currently are with their finances.

MOTION: Councilmember Smukler moved the City Council approve Item A-4 of the Consent Calendar. The motion was seconded by Mayor Yates and carried unanimously 5-0.

Councilmember Smukler pulled Item A-5 asking how to ensure that participation/involvement of the local fisherman would be equitable. Harbor Director Eric Endersby stated that is has always been the intent to involve all interested parties as this process moves forward.

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

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 RESOLUTION APPROVING THE ENGINEERS REPORT AND DECLARING THE INTENT TO LEVY THE ANNUAL ASSESSMENT FOR THE CLOISTERS LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (RECREATION & PARKS)

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – MAY 8, 2012  
VETERANS MEMORIAL HALL - 6:00 P.M.

Recreation & Parks Director Joe Woods presented his staff report stating that on April 10, 2012 the City Council adopted Resolution 16-12 which initiated the proceedings to levy the annual assessment to fund the maintenance of the Cloisters Park and Open Space. Staff was then directed to have an Engineer's Report prepared, detailing the estimated annual assessment for the parcel owners for fiscal year 2012/13. Staff is recommending that Council adopt Resolution 22-12 declaring the intent to levy the annual assessment for the maintenance of the Cloisters Park and Open Space as well as approve the Engineer's Report.

Councilmember Smukler is anxious to see monies being able to be put into a deferred maintenance and capital improvement account. Mr. Woods feels that outsourcing the maintenance should redistribute the monies spent which hopefully will realize savings which can then be put into a deferred maintenance account.

Councilmember Smukler says that the neighborhood wants to be able to see a financial accounting of the monies spent each year. Mr. Woods will be implementing informal community meetings once or twice a year.

Councilmember Borchard wondered if a list could be put together prioritizing the capital improvements projects needed to be done with the monies that were able to be accumulated. She would also like to see the feedback from the informal meetings that will be held to assess how the maintenance plan is working and how the contractor is performing.

Councilmember Johnson wondered when the RFP would be going out – she requested that it go out by May 22, 2012. Mr. Woods stated it was 85% complete. She also wondered when these community meetings would take place.

It was decided that there would be a Community Meeting held in Mid-September.

Mayor Yates opened the hearing for public comment.

Dawn Beattie, resident of the Cloisters, thanked Mr. Woods, Council and staff for their work to date. She feels the issue is fairness; it is not fair for the Cloisters' residents to continue to pay for something everybody gets to use. She remembers hearing that once the area was built out, the developers assumed that the maintenance of the park would have reverted back to the City. She would like to see the Assessment overturned. If not and an RFP goes out, she realizes that the price may not be different but at least the job will get done. She stated that she would like to be involved in the RFP process.

Mayor Yates closed the hearing for public comment.

Councilmember Smukler is willing to uphold the assessment. He likes the concept of a neighborhood meeting and wants to see a budget report made available to the Cloister residents. He is happy to see that we are looking towards deferred maintenance. He also feels that the Cloisters community should have input on the RFP process prior to it going out.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – MAY 8, 2012  
VETERANS MEMORIAL HALL - 6:00 P.M.

Councilmember Johnson feels that we should be gathering information from the Cloisters community as the RFP is put together and thinks it's only fair to meet with them prior to putting it out to see what their expectations are.

Councilmember Borchard agrees with a lot of what both councilmembers said. She is hopeful that this is going to be a turning point for us and is confident there will be a different measure of accountability from Council. She is looking forward to making this a better process for everyone. She suggested doing an email notification to the Cloister's residents which could afford them the opportunity for input prior to the RFP goes out.

Mayor Yates stated that he will be voting against this Assessment as he always has (with one exception).

**MOTION:** Councilmember Borchard moved for adoption of Resolution 22-12 declaring the intent to levy the annual assessment for the maintenance of the Cloisters Park and Open Space and approving the Engineer's Report. The motion was seconded by Councilmember Smukler and passed 3-2 with Mayor Yates and Councilmember Leage voting no.

**B-2 RESOLUTION APPROVING THE ENGINEERS REPORT AND DECLARING THE INTENT 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 stating that on April 10, 2012, the City Council adopted Resolution 17-12 which initiated the proceeding to levy the annual assessment to fund the maintenance of the North Point Natural Area. Staff was also directed to have an Engineer's Report prepared, detailing the estimated annual assessment for the parcel owners for fiscal year 2012/13. Based on the Engineer's Report, the fiscal impact is estimated at \$5,645. It is staff's recommendation to adopt Resolution 23-12 declaring the intent to levy the annual assessment for the maintenance of the North Point Area and approve the Engineer's Report.

Councilmember Borchard wanted to be assured that this maintenance will be included in the RFP with the Cloisters property.

Councilmember Smukler wanted to be assured that we will be attempting to begin a deferred maintenance account for North Point Area as well.

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

**MOTION:** Councilmember Borchard moved for adoption of Resolution 23-12 declaring the intent to levy the annual assessment for the maintenance of the North Point Natural Area and approving the Engineer's Report. The motion was seconded by Councilmember Johnson and passed 4-1 with Mayor Yates voting no.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – MAY 8, 2012  
VETERANS MEMORIAL HALL - 6:00 P.M.

C. UNFINISHED BUSINESS – None

D. NEW BUSINESS

D-1 DISCUSSION ON LOCAL SPORTFISHING BUSINESSES; (ADMINISTRATION)

City Manager Andrea Lueker presented her staff report stating that she left the report vague so that the Council could brainstorm.

Councilmember Leage stated that the City has a problem on its hands. Sportfishing has been a business that has been in town since the 1940's and has been a big tourist draw for us. We are now down to 2 sportfishing boats. He feels that this is still a business that can be profitable. We are currently turning people away as there are not enough facilities to take people out. He feels we need to help these people stay in business. He feels that the Co-op idea is a terrific idea for the future but that we need to do something now.

Mayor Yates agrees and feels that the best idea, in the short term, is to put a temporary shack down on a parking lot at the Embarcadero as it would give visibility. He also expressed interest in making something happen fast.

Councilmember Smukler is hearing that a Co-op kind of operation would be equal opportunity as to who could use it. It would be fairly managed and hard for somebody to launch a campaign to try and scuttle that as it benefits all. It's also an opportunity for loading and unloading as well as offers some office space. He supported getting the current sportfishing businesses together along with the Harbor Department to begin working on getting this concept started.

Councilmember Johnson wondered how much we would lose in revenue if we were to reduce dock fees for sportfishing and commercial fishing vessels. She also asked if the Harbor Department was willing to meet with the sportfishing people in an effort to get this project started. Harbor Director Eric Endersby stated that they definitely were available.

Councilmember Borchard is 100% supportive of the Co-op space but is worried that we are getting ahead of ourselves. She feels we are a year away from being able to have a Co-op.

Mayor Yates requested that Virg's, the Rita G and Mr. Endersby come back with a proposal to the May 22, 2012 Council meeting. All Council members concurred with this request. There was no motion made on this item.

D-2 CONFIRMATION OF GOALS FROM THE 2012 GOAL-SETTING WORKSHOP;  
(ADMINISTRATION)

City Manager Andrea Lueker presented the Goal Setting Workshop Outcomes and Success Factors for 2012 for Council's approval as presented by the goal setting workshop facilitator.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – MAY 8, 2012  
VETERANS MEMORIAL HALL - 6:00 P.M.

Councilmember Borchard is ready to start implementing and working towards implementing the goals – both short and long term.

Councilmember Johnson is also ready; in fact we have already started with some of them.

Mayor Yates is very pleased as well as this report articulates exactly where we were at the goal setting meeting.

Councilmember Smukler requested that Council and staff look at Goal #2 – Sustainability; third bullet – *Review of Disaster Preparedness Plan*. He would like to see the following change made on the Success Factor: “*Last review occurred in January, 2008 with plan adoption by Resolution No. 05-08. Next review schedule Winter 2013, if requested.*” He would like to see “if requested” stricken from the success factor language. He also wanted to ensure that staff is confident with our movement towards an Economic Development Plan. He is glad to see that we continue to stress fixing our streets and potholes.

MOTION: Councilmember Johnson moved for adoption of the Goal Setting Workshop Outcomes and Success Factors for 2012 with the one change on page 2, Objective 1, 3<sup>rd</sup> Bullet – strike the words “if requested”. The motion was seconded by Councilmember Lege and carried unanimously 5-0.

D-3 PUBLIC SERVICES DEPARTMENT - COLLECTIONS/WWTP DIVISION  
REORGANIZATION AND POSITION UPGRADE; (PUBLIC SERVICES)

Public Services Director Rob Livick presented the staff report requesting a reorganization of the Collections/WWTP Division with the current WWTP Division Manager taking over responsibility of the Collections Division. This action would also require a reclassification of the WWTP Manager into a higher range. This reorganization and associated personnel action allows the department to respond to State mandated and local programs in Wastewater Collections as well as eases the heavy workload in capital project management.

Councilmember Smukler asked if there would be any other implications to this move such as a future reclassification of other positions. And while this current request may cost \$6,300, will there be other associated costs involved with the upgrade such as merit increases.

Mr. Livick stated that they are attempting to create a more efficient department.

MOTION: Mayor Yates moved to approve the Public Services Department wastewater operation reorganization and authorize the associated reclassification of the Wastewater Division Manager. The motion was seconded by Councilmember Lege and failed 2-3 with Councilmembers Borchard, Johnson and Smukler voting no.

Councilmember Borchard can't support this due to the unknown costs of positions to be realigned; she wants to know the total costs of everything.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – MAY 8, 2012  
VETERANS MEMORIAL HALL - 6:00 P.M.

Councilmember Smukler and Councilmember Johnson concur – they can't support this without all associated costs.

MOTION: Councilmember Borchard moved staff to come back with more information regarding the reclassification and potential changes to pay structures. The motion was seconded by Mayor Yates and carried unanimously 5-0.

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Johnson requested an informational report, to be placed on the consent calendar, from the Police Department on skateboarding and its rules. Mayor Yates and Councilmember Borchard concurred.

ADJOURNMENT

The meeting adjourned at 9:08 p.m.

Recorded by:

Jamie Boucher  
City Clerk