

AGENDA NO: A-1

MEETING DATE: 09/11/2012

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – AUGUST 28, 2012
CITY HALL CONFERENCE ROOM - 5:00 P.M.

Mayor Yates called the meeting to order at 5:00 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
	Susan Slayton	Administrative Services Director

CLOSED SESSION

Mayor Yates adjourned the meeting to Closed Session.

Mayor Yates read the Closed Session Statement.

CS-1 GOVERNMENT CODE SECTION 54957.6; CONFERENCE WITH LABOR NEGOTIATOR:

Conference with City Manager, the City's Designated Representative, for the purpose of reviewing the City's position regarding the terms and compensation paid to the City Employees and giving instructions to the Designated Representative.

The meeting adjourned at 5:25pm.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 28, 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
	Susan Slayton	Administrative Services Director
	Mike Pond	Fire Captain

Mike Lewis
Rob Livick
Eric Endersby
Joe Woods

Interim Police Chief
Public Services Director
Harbor Director
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

Keith Taylor presented 2 Reserve Firefighters, Dylan Kessner and Joe Rawson, with a \$500 scholarship each for their continued fire studies. These scholarships are made available through the sale of bricks at the new Fire Department. The sales will continue through Labor Day.

Karen Croley, a member of the Community Pool Foundation, spoke on the continued need for a local pool for our MBHS swimmers and water polo players, for recreational opportunities as well as lap swimmers. They are focusing on fundraising to build a pool and information can be found on their website located at MorroBayPool.org.

Robert ‘Red’ Davis spoke on behalf of the Morro Bay Friends of the Library who are excited about their upcoming remodel of the Library. Construction is scheduled to begin next spring. It is their goal to have a library that reflects the uniqueness of Morro Bay. They have raised over \$266,000 to date and continue to take donations. Their next book sale is scheduled for Saturday, November 3rd at 9am.

Mark Shaffer advertised the Fun Ride Program which has now come to Morro Bay. Fun Ride is the green way to drive. They have a Honda Insight available at Bank of America. You can join as a member, then go on-line (myfunride.com) and utilize a vehicle for \$7.50/hr which includes fuel. Now through the end of September, the \$30 annual membership fee is waived.

Robert Bacon, a resident of the Cloisters, spoke on Item D1, Discussion on the Formation of a Cloisters Advisory Board, hoping that Council takes no action and instead allows the incoming Council taking office in December make this decision. If that doesn’t occur, then he recommends that this Advisory Board meet 3 times a year – April (meet with contractor), May (make recommendations as to what should be placed in the bid) and June (make recommendation on the hiring of the contractor to perform the maintenance).

Craig Schmidt requested that the Chamber of Commerce be housed at 695 Harbor as that location has office space for what they hope to be a Business Resource Center. It can house the Chamber, its staff, Economic Development Coordinator, Agency Partners to service clients in the Morro Bay area and would allow for the establishment of a Morro Bay Business Incubator

serving up to 4 start-up businesses at a time, all for a minimal cost. This could also be a temporary location for the Library's public area while they are doing their renovations.

Betty Winholtz spoke on Item D-4, Update from the California State Lands Commission Hearings regarding Seismic Testing, encouraging Council to take advantage of the opportunity to have our voices heard before the California Coastal Commission as well as the California Fish and Game Commission as this is a very critical issue to the fisherman and the people who live here.

Richard Sadowsky agreed that the seismic testing is a very important issue for the whole Estero Bay. He also feels there was liquefaction damages to the Cayucos Collection System as a result of the 2003 earthquake and the County Supervisors as well as City staff have ignored this situation. He also feels there are many falsehoods in the rebuttal to the Coastal Commission's staff report.

Dawn Beattie spoke regarding the formation of the Cloisters Advisory Board. She is not in favor of creating such a board as she is more concerned with performance. She feels there are already a number of channels to communicate to and with the City.

Marla Jo Bruton wanted to ensure that we provide updates when the JPA meetings will be help so that people are aware this very large project is ongoing. She also is fearful that seismic testing will have an adverse effect on marine mammals.

Garry Johnson was offended by comments made at the prior meeting by a public speaker. He feels that all speakers should be afforded their first amendment rights. He wished that the opposition would please keep their remarks civil.

Aaron Ochs, managing editor of The Rock and co-host of Rock Talk hopes that Council approves the radio contract. He also stressed that the seismic testing would have adverse impacts on local fish, the economy, as well as many ripple down effects to local business.

Joan Solu and Karen Biaggini read a letter prepared by the Morro Bay Tourism Advisory Board and signed by many hoteliers requesting the City fund the TBID with an additional \$58,500 as well as step forward and split construction costs not to exceed \$10,000 for site improvements to the Visitor's Center relocation.

Ken Vesterfelt congratulated the Fire Department and the recipients of the \$500 scholarships. He also warned Council that there is land located at San Jacinto and Main that is being used as a walk-thru by many and is worried that land might be taken away as it has been done in the past. He also wants to bring the alley-way behind the Police Department to Council's attention as it is in disrepair.

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 AUGUST 14, 2012; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 REQUEST TO APPROVE A RESPONSE TO THE GRAND JURY REGARDING MEDICAL MARIJUANA; (CITY ATTORNEY)

RECOMMENDATION: Review the attached letter and authorize its submittal to the Grand Jury.

A-3 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, DIRECTING A TIMELINE FOR COMPLETION OF CAPITAL PROJECTS APPROVED BY COUNCIL; (CITY COUNCIL)

RECOMMENDATION: Adopt Resolution 45-12.

A-4 APPROVAL OF MANAGEMENT AGREEMENT BETWEEN THE CITY OF MORRO BAY AND ESTERO BAY COMMUNITY RADIO TO OPERATE A LOW POWER FM (LPFM) RADIO STATION;(CITY ATTORNEY)

RECOMMENDATION: Review and approve the Management Agreement between the City of Morro Bay and Estero Bay Community Radio (EBCR) to operate a “Low Power FM” (LPFM) Radio Station.

Councilmember Smukler pulled Items A-1 and A-4 from the Consent Calendar.

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

A-1 APPROVAL OF CITY COUNCIL MINUTES FOR THE REGULAR MEETING OF AUGUST 14, 2012; (ADMINISTRATION)

Councilmember Smukler pulled Item A-1 hoping to make the following addition to his comments on Item D-3 “Councilmember Smukler questioned the delivery truck restrictions and hoped to be able to explore conversation on that topic. He thinks that this would make for a good Business Forum topic. *He also requested that potential pilot project opportunities, including traffic flow and pedestrian promenade expansions be included in the review when the item returns to Council.*”

MOTION: Councilmember Smukler moved the City Council approve Item A-1 with the proposed amendment. The motion was seconded by Councilmember Borchard and carried unanimously 5-0.

A-4 APPROVAL OF MANAGEMENT AGREEMENT BETWEEN THE CITY OF MORRO BAY AND ESTERO BAY COMMUNITY RADIO TO OPERATE A LOW POWER FM (LPFM) RADIO STATION;(CITY ATTORNEY)

Councilmember Smukler pulled Item A-4 as he had questions about the insurance requirements of \$1,000,000 vs \$500,000 for liability insurance. He was concerned about the additional costs to the non-profit if the \$1,000,000 was required. He then questioned whether he should be recused from this item as he a non-voting member of the Board of Directors. City Attorney Rob Schultz felt that would be appropriate. Councilmember Smukler stepped down from the dais due to a conflict of interest.

MOTION: Councilmember Borchard moved approval of Item A4 however if changes to the insurance requirements occur and/or if the insurance costs became unaffordable for the non-profit, then the item would come back. The motion was seconded by Councilmember Leage and carried 4-0-1 with Councilmember Smukler abstaining.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 APPEAL OF MINOR USE PERMIT #UP0-240, COASTAL DEVELOPMENT PERMIT #CP0-294 AND PARKING EXCEPTION #AD0-043 FOR THE CONVERSION OF 820 SQUARE FEET OF COMMERCIAL SPACE TO A RESIDENTIAL UNIT AND A PARKING EXCEPTION TO WAIVE THE REQUIREMENT OF TWO COVERED AND ENCLOSED PARKING SPACES AND PROVIDING TWO OPEN AND UNCOVERED PARKING SPACES, LOCATED AT 2176 MAIN STREET (PINANARAN, APPLICANT); (PUBLIC SERVICES)

Public Services Director Rob Livick presented the staff report.

John McDonald, representing the applicant, presented their arguments in favor of overturning the Planning Commission's decision.

Mayor Yates opened the hearing for public comment.

Betty Winholtz quoted 2 Municipal Code Ordinances that directly relate to this item, Ordinance 17.40.070 – Combining Mixed Use Overlay, and 17.44.020 – Parking Facilities. The word “shall” in 17.40.070 stipulates that two or more zoning districts may be applied to the same property in mixed use areas combining commercial and residential designations, then the commercial district shall be the primary district and at least fifty percent of the gross floor area of the project shall be devoted to commercial or office space. The word “may” applies to residential uses which may be permitted in conjunction with the primary use, and shall be located on upper stories or to the rear of the primary use. Regarding 17.44.020, there also is no diagram of parking in the packet so you aren't able to know where the parking is going to go – it's about the quantity of spaces.

Mayor Yates closed the hearing for public comment.

Mr. Livick provided clarification on staff's interpretation of the codes as they have been applied.

MOTION: Councilmember Borchard moved approval of the appeal of Minor Use Permit #UP0-240, Coastal Development Permit #CP0-294 and Parking Exception #AD0-043 for the Conversion of 820 Square Feet of Commercial Space to a Residential Unit and a Parking Exception to Waive the Requirement of Two Covered and Enclosed

Parking Spaces and Providing Two Open and Uncovered Parking Spaces, Located at 2176 Main Street including conditions in Attachment #2. The motion was seconded by Councilmember Johnson and carried 4-1 with Councilmember Smukler voting no.

Councilmember Smukler feels that his interpretation of Ordinance 17.40.070 is more in align with the original Planning Commission's decision as at least 50% of the per site requirement of the gross floor area of the project is not being devoted to commercial uses.

C. UNFINISHED BUSINESS - None

D. NEW BUSINESS

D-1 DISCUSSION ON THE FORMATION OF A CLOISTERS ADVISORY BOARD TO MAKE RECOMMENDATIONS REGARDING CLOISTERS MAINTENANCE WORK; (RECREATION & PARKS AND CITY ATTORNEY)

Recreation and Parks Director, Joe Woods presented the staff report.

Councilmember Smukler disagrees with some of the Cloisters speakers as he feels this is a formal opportunity for the Cloisters residents to make comments and if this concept works, it will ultimately save time. He also felt it important to appoint a representative from both Indigo Circle as well as Emerald Circle.

Mayor Yates is leaning towards not giving this support. Mr. Woods has stepped up to the plate and the problems are getting fixed. He also doesn't sense support for this from the Cloisters residents.

Councilmember Borchard agrees with the quarterly meetings and could support continued quarterly meetings with staff without forming the official advisory board.

Councilmember Johnson feels that Ms. Beattie has done a good job on keeping staff moving forward. She could go either way. She also wants to ensure that Council is provided status reports and the budget to date at the end of the year so that Council knows beforehand, when talks are begun next year, what has happened. She would also like to see a performance report on the contractor at this same time.

Councilmember Leage doesn't believe we need an Advisory Board. No one is adamant about its formation and Mr. Woods and staff have done a good job in fixing things.

Councilmember Smukler feels it important that in going forward, we set up a structure that's understood and that would give the residents the ability to review the budget and engineer's report in a timely manner as well as having a strong performance evaluation of the contractor. If that can be satisfied informally without forming the board he could support this. He also feels a survey of the residents can prove helpful.

MOTION: Councilmember Smukler moved to direct staff to continue their communication with Cloisters residents to ensure a well-timed opportunity for review of the budget and Engineer's Report as well as a performance evaluation of the contractor

and report back to Council as necessary. The motion was seconded by Mayor Yates and carried unanimously 5-0.

D-2 DISCUSSION ON THE PROCESSING AND LICENSING OF TEMPORARY USE PERMITS AND PUBLIC AREA USE PERMITS AND HOW IT RELATES TO NEW BUSINESS; (CITY ATTORNEY)

Councilmember Smukler presented the staff report stressing that it is clear to him that this is an area that needs cleaning up. He is not looking at stopping events but when we look at how well our current codes and ordinances are working, there isn't a plan for how well a local business can protect their rights. He is looking for a formal process.

Councilmember Johnson feels that there is a current process in place and that if a business is concerned with the current process, there is an avenue to complain.

Councilmember Borchard doesn't think there is a resolve for this. We invite vendors to enhance our events and hopes that the event organizers will be more cognizant of local businesses. Councilmember Johnson tends to agree that, "it is what it is".

MOTION: Councilmember Smukler moved to direct the City Attorney to evaluate ways to improve our Public Area Use Permit and Temporary Use Permit process as time allows. The motion was seconded by Councilmember Borchard and carried 4-1 with Mayor Yates voting no.

D-3 DISCUSSION AND RECOMMENDATION OF THE MORRO BAY CHAMBER OF COMMERCE BEING HOUSED IN A CITY-OWNED FACILITY; (ADMINISTRATION)

City Manager Andrea Lueker presented the staff report.

Both Mayor Yates and Councilmember Leage are in full support of this happening.

Councilmember Borchard is on the fence as she has concerns because they originally talked about surplussing that property. She was under the understanding that they would be housed at the Transportation building. Also, she is still unsure what their Economic Development Plan is.

Councilmember Johnson agrees with Councilmember Borchard and is waiting for their Economic Development Plan. She would like the Chamber to entertain a 1 year lease at the Transportation building feeling all activities can be done there as well.

Councilmember Smukler is fully in favor of this as it is clear that the Chamber has some really exciting ideas about what to do with the additional space in the building. He does feel that approval would be contingent upon approval of their Economic Development Plan.

MOTION: Councilmember Smukler moved approval in concept of the City leasing to the Chamber of Commerce the Fire Station Modular located at 695 Harbor with final approval contingent upon the approval of the lease as well as the Economic Development

Program. The motion was seconded by Mayor Yates and carried 3-2 with Councilmembers Borchard and Johnson voting no.

D-4 UPDATE FROM THE CALIFORNIA STATE LANDS COMMISSION HEARINGS HELD ON AUGUST 14 & 20, 2012 AND DIRECTION TO STAFF FOR FURTHER MONITORING OF THE SEISMIC TESTING FOR DIABLO CANYON; (ADMINISTRATION)

City Manager Andrea Lueker presented the staff report.

Mayor Yates's goal is to generate a Resolution strongly opposing the Seismic testing with enough time to get it to the California Coastal Commission as well as Fish and Game and State Lands. There was unanimous consensus of all Councilmembers for this action.

Councilmember Smukler also asked staff to evaluate options that the City could look at as well as possibly help those going through the claims process in an effort to help people through that confusing procedure. He feel that there will very likely be a rippling economic effect on local businesses. He also wanted to ensure that staff tailored their comments to the jurisdiction/focus group that the communications were being sent to. We need to try and build more public awareness about this situation.

Councilmembers Borchard and Smukler hope that we can place the link back to our website as well as a link to the claims process through PG&E.

MOTION: Mayor Yates moved to direct staff to institute items 1, 2 and 3 under discussion in the staff report adding environmental and cultural stakeholders to Item 2 and adding fish processing, fish landing docks and fuel docks to the beginning of Item 3b and to produce a Resolution strongly opposing the Seismic testing that is proposed by PG&E off our coast. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Borchard requested an agenda item discussing TBID's request for additional funding; all Councilmember concurred.

Councilmember Borchard requested the first Delayed Project Status report come to Council at the second meeting in September; Mayor Yates and Councilmember Johnson concurred.

ADJOURNMENT

The meeting adjourned at 8:41 p.m.

Recorded by:

Jamie Boucher
City Clerk