

AGENDA NO: V

MEETING DATE: 12/10/2012

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – OCTOBER 23, 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 Lewis	Interim Police Chief
	Mike Pond	Fire Chief
	Susan Slayton	Administrative Services Director
	Eric Endersby	Harbor Director
	Joe Woods	Recreation & Parks Director
	Bruce Keogh	WWTP Manager

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

Crystal Bergman, owner of the Treasures Antique Mall, presented the Morro Bay Business Report. Her business is located at 475 Morro Bay Blvd and features a 4200 square foot space that allows for 78 local vendors to display their antiques and vintage gifts. They are open 7 days a week, Monday thru Saturday from 10am-7pm and Sundays from 10am-5pm.

Commander Bryan Millard spoke on the current strength and responsiveness of our Morro Bay Police Department. He also thanked Interim Chief Mike Lewis for such a fantastic job of keeping the department pointed in the right direction during his tenure.

Michael Durrick spoke on the WWTP project. He asked Council and those watching at home to look on the City’s website for the study conducted by Dudek which provides the cost analysis of building the project at the existing site versus the Righetti site. He has concerns with the cost impacts on rate payers should the Regional Water Quality Control Board and the EPA choose

not to allow us to continue with our 301h waiver during the time it would take to construct the new plant. What the study doesn't consider are the possible fines for non-compliance that could and would be levied at up to \$10,000/day. He urged Morro Bay rate payers to read the report before making any decision on whether or not you support moving the plant to a remote location.

Garry Johnson spoke on a new website – Fogcutter News (Fogcutternews.org) which brings truth into the light. The stories are written by 5 columnists and feature articles of local interest. It is also a site where you can donate to our troops overseas. There are also links on the site that allow you to fill out and send in protest petitions for both the WWTP project as well as the PG&E Seismic Testing project.

Carol DeVore spoke on behalf of Womenade, a local 501(c)3 network of over 525 women who donate items, time and money to meet essential needs in San Luis Obispo County. These monies are one time help, as opposed to cash payments to individuals, for things like furniture, diapers, doctors/dentist appointments, groceries, etc... Since 2003, \$195,808 has been raised through donations and every single penny goes to help those in need.

Gwen Infante and Tyra Solomon, both members of Womenade, promoted a calendar that they are selling for \$21.50. The photography shoot was donated by Two Tall Studios with all monies from the sales going to benefit their organization.

Sandy Tannler spoke regarding the article that was printed in the Wall Street Journal about the WWTP project. She feels we are being manipulated, that the article is skewed with half-truths, and that the possibility of a tsunami is being used as a scare tactic. She is also fearful of the expense of moving an entire new infrastructure to a new location where the sewage would have to be piped uphill.

Betty Winholtz spoke on Item A-5, the contract with the Fiber Optic Company at North Point. She was pleased that the City was receiving benefits but was concerned that this will only benefit City government; she would like to see the \$50,000 go to a defined public good and not just to the general fund. She also spoke on Item C-2, the Reorganization of the Public Services Department. She feels the timing of this is poor as the new Council will be seated in 6 weeks and she feels they should have some input. She urges the Council postpone action on this item.

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 OCTOBER 9, 2012; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 ADOPTION OF ORDINANCE NO. 581 REPEALING, AMENDING, AND REENACTING CHAPTER 10.76 OF THE MORRO BAY MUNICIPAL CODE

ENTITLED COASTERS, ROLLER SKATES, SKATEBOARDS, SCOOTERS, EPAMDS AND SIMILAR DEVICES; (CITY ATTORNEY)

RECOMMENDATION: Adopt Ordinance 581.

A-3 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY IDENTIFYING LOCATIONS PROHIBITING THE USE OF COASTERS, ROLLER SKATES, SKATEBOARDS, SCOOTERS, EPAMDS AND SIMILAR DEVICES ON CERTAIN CITY SIDEWALKS ; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution 50-12.

A-4 ADOPTION OF ORDINANCE NO. 580 ADDING SECTION 7.04.170 MENACING AND AGGRESSIVE ANIMAL ORDINANCE TO CHAPTER 7.04 OF THE MORRO BAY MUNICIPAL CODE; (POLICE)

RECOMMENDATION: Adopt Ordinance 580.

A-5 APPROVAL OF LICENSE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND X2 TELECOM LLC FOR USE OF A PORTION OF THE NORTH POINT NATURAL AREA AND RIGHT OF WAY AREA FOR FIBER OPTIC CABLES; (CITY ATTORNEY)

RECOMMENDATION: Approve the license agreement with X2 Telecomm LLC for the use of a portion of the North Point Natural Area and right-of-way area for fiber optic cable.

A-6 RESOLUTION OF THE CITY COUNCIL OF CITY OF MORRO BAY APPROVING THE APPLICATION FOR GRANT FUNDS FROM THE FEDERAL RECREATIONAL TRAILS PROGRAM; (RECREATION & PARKS)

RECOMMENDATION: Adopt Resolution 51-12 authorizing staff to submit a grant application to secure funds from the Federal Recreational Trails Program for the Morro Rock Access Ramp project.

A-7 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA APPROVING AMENDMENT #4 TO THE LEASE AGREEMENT FOR LEASE SITE 102/102W LOCATED AT 1001 EMBARCADERO; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution 53-12.

A-8 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA APPROVING AMENDMENT #4 TO THE LEASE AGREEMENT FOR LEASE SITE 105.1W/105.2 LOCATED AT 1001 EMBARCADERO; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution 54-12.

A-9 RESOLUTION NO. 40-12 ADOPTING THE MEMORANDUM OF UNDERSTANDING WITH THE MORRO BAY POLICE EMPLOYEES AND RELATED COMPENSATION; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution 40-12.

Councilmember Borchard pulled Item A-5 from the Consent Calendar.

MOTION: Councilmember Borchard moved the City Council approve Items A-1, A-2, A-3, A-4, A-6, A-7, A-8 and A-9 of the Consent Calendar as presented. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

A-5 APPROVAL OF LICENSE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND X2 TELECOM LLC FOR USE OF A PORTION OF THE NORTH POINT NATURAL AREA AND RIGHT OF WAY AREA FOR FIBER OPTIC CABLES; (CITY ATTORNEY)

Councilmember Borchard doesn't want to see this money go to the general fund. Her thought is to put it towards a facility maintenance fund for technology improvements.

Councilmember Smukler agrees that designating the monies will allow tracking of where funds are spent.

MOTION: Councilmember Borchard moved to approve the license agreement with X2 Telecom LLC with the provision that an item be brought back to the next meeting stipulating where the money will be spent. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 APPEAL OF THE AMENDMENT OF CONDITIONAL USE PERMIT CUP-02-01 TO CONSTRUCT A SECOND STORY OFFICE/STORAGE AREA AT THE EXISTING HARBOR HUT, 1205 EMBARCADERO; (PUBLIC SERVICES)

Councilmember Leage had to step down from the dais due to a conflict of interest.

Public Services Director Rob Livick presented the staff report.

Appellant Betty Winholtz presented her arguments supporting her appeal of the project.

Cathy Novak, speaking as the representative for the applicant, presented her arguments in favor of upholding the Planning Commission's decision.

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

Councilmember Smukler was curious to hear from Public Services Director Livick staff's and the Planning Commission's opinion on why this wasn't an exception to Measure D.

Mayor Yates feels this that this addition provides ancillary benefit only; they are not adding restaurant space. In addition, this project provides public benefit as adding this office space adds square footage to the building which the City owns. He is in favor of upholding the Planning Commission's decision.

Councilmember Johnson agrees with Mayor Yates.

Councilmember Borchard stated that Council has been made fully aware, during the entire process of the lease site amendment process that this office space was proposed and Council approved it as such. It was vetted through the Planning Commission for the specifics.

MOTION: Councilmember Johnson moved to deny the appeal and uphold the Planning Commission's approval of the requested Amendment of Conditional Use Permit CUP-02-01. The motion was seconded by Councilmember Borchard and carried 4-0-1 with Councilmember Leage abstaining due to a conflict of interest.

C. UNFINISHED BUSINESS

C-1 UPDATE ON SIDEWALK UPGRADES ON THE EMBARCADERO BETWEEN BEACH STREET AND PACIFIC STREETS AND THE IMPACT TO PARKING; (PUBLIC SERVICES)

Public Services Director Rob Livick presented the staff report.

Councilmember Smukler is intrigued by this concept and feels it is worth looking at; during his time on Council, there has been a transition in thought of a lot of business owners from concern to now looking into support of making changes. He feels that a conversation would need to begin regarding the update of the Local Coastal Plan and circulation element. He is interested in exploring a pilot program in the area to look at what could work and would be most cost effective. He would like to hear formally from the businesses in the area as these improvements would need to be supported by the businesses – maybe the first step could be a business forum on this topic.

Mayor Yates has walked this area with Ron DiCarli, Executive Director of SLOCOG and feels that COG would be able to fund this; however, it could be a 2-3 year process. He agrees that businesses would need to be on board. He also feels that waiting for an LCP update would take too long. He feels that COG could supply design monies, maybe as much as 90%. He would like to see the process begin, write COG requesting money to begin the design phase.

Councilmember Leage agrees with Mayor Yates completely as he has been a proponent of this for a long time. He has personally talked to businesses on the Embarcadero and they feel that widening the sidewalk will help their businesses.

Councilmember Johnson agrees we need something and this could be our best chance. She agrees that moving forward seeing what SLOCOG can do for us is the most expedient and least expensive solution at this time.

Councilmember Borchard stated that not having signs on the sidewalks has greatly improved the flow for the limited space we have. As projects on the Embarcadero come forward, the new Council and Planning Commission needs to be mindful of sidewalk enhancement and upgrade possibilities.

ACTION: There was unanimous Council consensus to start dialogue with SLOCOG; letting them know what we would like to see happen as well as to request design money for enhancements.

**C-2 PUBLIC SERVICES DEPARTMENT - DEPARTMENT REORGANIZATION;
(ADMINISTRATION/PUBLIC SERVICES)**

Public Services Director Rob Livick presented his staff report.

Councilmember Smukler is feeling cautious about this request. While he agrees with most of the adjustments both in salary and increased duties, he has concerns that in the future, he is fearful of additional expansions in salaries. He wants to postpone the request for the Permit Technician moving back to a full-time position.

Mayor Yates is in favor of moving the Permit Technician position back to full-time as things have been moving much smoother in the last couple of months. He sees this as continued improvement.

Councilmember Johnson is happy with the new organizational chart as she feels it is a good plan, she would like to wait however until mid-year to look at moving the Permit Technician position from $\frac{3}{4}$ time to full-time.

Councilmember Borchard agrees with Councilmembers Smukler and Johnson and feels we should wait until mid-year for the new Council to make a determination on the $\frac{3}{4}$ time position based on the budget. She is also fine with the new reorganization. She called into question the approval of the filling of the vacant Collection System position; she thought that they hadn't approved refilling that spot.

MOTION: Councilmember Johnson moved to approve the Public Services Department Reorganization Plan with the exception of the Building Permit Technician moving from $\frac{3}{4}$ time to full time; require tracking business licenses so there is information available when it comes back; and pending confirmation that Council approved filling the Collection System Operator II position. The motion was seconded by Councilmember Smukler and passed unanimously 5-0.

D. NEW BUSINESS

D-1 DISCUSSION OF MORATORIUM ON BUILDING IMPACT FEES FOR COMMERCIAL AND RESIDENTIAL IMPACT FEE REDUCTION AND ADOPTION OF RESOLUTION 52-12 ESTABLISHING A REDUCTION FOR THE PAYMENT OF DEVELOPMENT IMPACT FEES FOR RESIDENTIAL PROJECTS; (CITY COUNCIL)

Councilmember Borchard presented the staff report noting that there is a correction in the Resolution that needs to be made in the date – it needs to say “...permit as of October 23, 2012 shall be eligible until July 1, ~~2013~~ 2014, for the residential projects impact fee waiver.” This only changes impact fees, it doesn’t change any other building fees. She stated that it is currently very cost prohibitive to build and is requesting that for the next 18 months, to only charge ½ of what they currently are.

Councilmember Johnson approves but wonders about limiting it to single family homes. Is it possible to include allowing this for projects of less than 8?

Councilmember Smukler is not in support of this as proposed. We currently have opportunities for us to help people construct new structures and smaller renovations. What we are doing here is giving a considerable amount and there isn’t a standard that we are asking them to comply with. He would be interested in pursuing if we could require they provide a higher standard of enhanced efficiencies.

Mayor Yates disagrees with Councilmember Smukler; the idea behind this is to spur construction. He also feels this is the same thing as waiving commercial impact fees. By doing this, it sends a message - there is a timetable as it won’t last forever.

Councilmember Smukler agrees that it is important to build new homes as well as renovate existing homes. But moving forward with this cuts back on the funding sources that allow us to accommodate new infrastructure improvements that we have been trying to move forward with. He feels that tying this into a higher standard makes more sense and provides us a sense of security that we won’t lose the quality of life that we are trying to provide.

Mayor Yates feels that impact fees are just another tax; it’s a revenue generation machine. He thinks that the trade off in losing the impact fees but gaining in property taxes and sales taxes will more than make up for the losses.

Councilmember Borchard reinforced that this isn’t a waiver of impact fees, it is a reduction of impact fees. In addition, this isn’t a subdivision development waiver; it is intended for single family residences.

Councilmember Smukler spoke about dual plumbing fixtures stating they are the wave of the future. He feels we should mandate that dual plumbing fixtures be installed for these types of requests as he feels it will be saving residents money in the long run when these fixtures become a requirement. Council consensus was not to trade a cost for a waiver of cost.

Councilmember Johnson feels it should be limited to single family residences or small 2 or 3 unit subdivisions. Councilmember Borchard is comfortable with 3 units.

MOTION: Councilmember Borchard moved for the adoption of Resolution No. 52-12 with the following change to the last “Whereas”, where the sentence now reads: **WHEREAS**, in furtherance of these goals, the City Council hereby desires to establish the following reductions to the payment of Development Impact Fees for single family residential projects **up to three units:...** as well as changes the eligibility date for the reduction of impact fee waiver on residential development until July 1, ~~2013~~ 2014. The

motion was seconded by Councilmember Johnson and passed 4-1 with Councilmember Smukler voting no.

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Borchard requested an item recommending earmarking the \$50,000 monies from X2 Telecom LLC to City's technology needs; there was unanimous Council consensus.

ADJOURNMENT

The meeting adjourned at 8:02 p.m.

Recorded by:

Jamie Boucher
City Clerk