

AGENDA NO: A-2

MEETING DATE: 6/11/2013

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MAY 28, 2013
VETERAN’S MEMORIAL HALL – 6:00P.M.

PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Jamie Boucher	City Clerk
	Amy Christey	Police Chief
	Eric Endersby	Harbor Director
	Susan Slayton	Administrative Services Director
	Joe Woods	Recreation & Parks Director
	Rob Livick	Public Services Director
	Rick Sauerwein	Capital Projects Manager

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

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE

CLOSED SESSION REPORT – City Attorney Robert Shultz reported that City Council met in Closed Session on the following items: Government Code Section 54956.8, Property Transactions instructing City’s real property negotiator regarding the price and terms of payment for the purchase, sale, exchange or lease of real property as to three parcels: Vacant Lot/Corner of Coral/San Jacinto; 887 Atascadero Road; and 307 Morro Bay Blvd. No reportable action under the Brown Act was taken.

MAYOR AND COUNCILMEMBERS’ REPORTS, ANNOUNCEMENTS &
PRESENTATIONS
PUBLIC PRESENTATIONS

PUBLIC COMMENT

Jason Scheer spoke advertising the opening of their new restaurant, The Grill Hut, located at 3118 No Main Street. It is a family owned bbq restaurant that offers take out, eat in, and catering. All their meat is fresh, never frozen, and all their recipes are family produced. They are open Sunday, Monday, Tuesday and Thursday from 11am-8pm; Friday and Saturday, 11am-9pm; and closed Wednesdays. They hope everybody comes out and gives them a try.

Barry Brannin spoke regarding a closed session item, the vacant lot/corner of Coral/San Jacinto. He stated that property was originally supposed to be a Fire Station but now has been subdivided into developable lots. The City has recently gone through the Cloisters annual assessment and he hopes that if this property is sold, that each parcel would be subject to the Cloister assessment amount as they should share in the cost.

Roger Ewing spoke in support of Item D-3, request from the Morro Bay Citizen's Tree Committee for the listing of Landmark Trees. This process has taken many years and he is pleased that PWAB is recommending all 20 trees. He is glad that we can once again call ourselves a Tree City. He publicly thanked Councilmember Noah Smukler, Wally McRea and Taylor Newton as the energy behind this movement.

Richard Sadowski followed up on the property at Coral and San Jacinto. He stated that Jeff Edwards was a facilitator for Shea homes. He also attended the Brown Act Study Session and wanted to let the public know that District Attorney Shea is the first responder to Brown Act violations. Also, in 2007 he co-wrote a report on the shortcomings of the current JPA agreement with Cayucos. He feels that to move in a reasonable direction, the City needs to protect its citizens as currently there is a risk of the sewage coming into the City from Cayucos.

Ken Vesterfelt spoke on the very successful car show that was held the first weekend in May. He especially thanked David Owens for putting on the BBQ and John Lewan and the Police Explorer Unit for all their help. There were 532 vehicles on the street of which only 8% were from within the County. He also stated that Dennis Gage said that the event was well organized and that the City is a gem. His television show taped during the car show will tape next April.

Lynda Merrill also spoke on Item D-3 thanking the Tree Committee for their efforts to bring awareness to these spectacular trees. Some of the unfunded mandates in Item A-3, the annual update on current legislative bills pending in Sacramento, scare her. She also spoke on Item A-5, the status report on the MMRP for the existing wastewater treatment plant stating that no doubt, we need to keep the old plant functioning, it's too bad it will be so expensive. And finally, she spoke in support of Item A-7, a Resolution supporting increased funding to the California Coastal Commission to support enhanced local coastal plan planning and updates.

Jim Davis advertised an upcoming event, the 3rd Annual Veteran's Benefit to support the Veteran' Shuttle Bus. It is being held on Sunday, June 23rd from 1-4pm. The event will feature a bbq, live music, and a silent and live auction. All funds go towards the support of the shuttle bus.

Bill Martoney announced the passing of his long time neighbor, Eleanor Kolb.

Adrienne Harris, Executive Director of the Morro Bay Natural Estuary Program stated that they have the finalized comprehensive management plan completed and on the website for the Morro Bay Estuary and Watershed. (www.mbnep.org) She also thanked all the community members who commented on this document as well as City staff. They also have the best management practices for harbor maintenance, boating and projects that they have been working on with City staff for many years.

Taylor Newton advertised the upcoming Green Light Eco-Faire being held this Sunday, June 2nd at St. Timothy's Church from noon – 5pm. The event is being sponsored by Eco Rotary. He also thanked those helping out and getting the Landmark Trees presented and passed. The point of a Landmark Trees is to educate our adults and children about the history and heritage of trees in our community.

Gary Hixon is still doing Mirror Vision, the Gary Tyler Moore Show and Ozzy Osbourne. He also thinks that everybody is doing a great job.

Mayor Irons closed the public comment period.

A. CONSENT AGENDA

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 CITY COUNCIL MEETING OF MAY 14, 2013; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 EXECUTION OF A GRANT AGREEMENT WITH THE NATURE CONSERVANCY FOR \$35,000 TO FINALIZE CREATION OF THE MORRO BAY COMMUNITY QUOTA FUND NON-PROFIT AND TO SUPPORT REGIONAL FISHING ASSOCIATION DEVELOPMENT; (ADMINISTRATION/HARBOR)

RECOMMENDATION: Authorize execution of the attached \$35,000 grant agreement with The Nature Conservancy (TNC) to provide staff and outside legal counsel support for formation of the Morro Bay Community Quota Fund (MBCQF) and support of regional fishing associations.

A-3 ANNUAL UPDATE ON CURRENT LEGISLATIVE BILLS PENDING IN SACRAMENTO; (CITY ATTORNEY)

RECOMMENDATION: Review this report and if there are any pending Legislative Bills that are of interest or concern, discuss them with your City Attorney.

A-4 APPROVAL OF TRACT MAP 3031 (1885 IRONWOOD AVE.) AND ACCEPT THE DEDICATION FOR A PUBLIC UTILITY EASEMENT (MORRO DEL MAR PROPERTIES LLC, SUBDIVIDER); (PUBLIC SERVICES)

RECOMMENDATION: Approve the Tract Map 3031 with the acceptance of associated Public Utility Easement.

A-5 STATUS REPORT OF A MAJOR MAINTENANCE & REPAIR PLAN (MMRP) FOR THE EXISTING WASTEWATER TREATMENT PLANT; (PUBLIC SERVICES)

RECOMMENDATION: Staff recommends that this report be received and filed.

A-6 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, SUPPORTING THE EFFORTS IN CELEBRATING THE CITY OF MORRO BAY'S 50TH ANNIVERSARY OF INCORPORATION; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution 31-13.

A-7 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, SUPPORTING INCREASED FUNDING TO THE CALIFORNIA COASTAL COMMISSION (CCC) TO SUPPORT ENHANCED LOCAL COASTAL PLAN PLANNING AND UPDATES

RECOMMENDATION: Adopt Resolution 30-13

Mayor Irons opened up the public comment period for items on the Consent Calendar; seeing none, the public comment period was closed.

Councilmember Smukler pulled Item A-2 and Mayor Irons pulled Item A-3 from the Consent Calendar.

MOTION: Councilmember Nancy Johnson moved the City Council approve Items A-1, A-4, A-5, A-6 and A-7 of the Consent Calendar as presented. The motion was seconded by Councilmember Christine Johnson and carried unanimously 5-0.

A-2 EXECUTION OF A GRANT AGREEMENT WITH THE NATURE CONSERVANCY FOR \$35,000 TO FINALIZE CREATION OF THE MORRO BAY COMMUNITY QUOTA FUND NON-PROFIT AND TO SUPPORT REGIONAL FISHING ASSOCIATION DEVELOPMENT; (ADMINISTRATION/HARBOR)

Councilmember Smukler pulled this item to allow Rick Algert the opportunity to provide status on this project.

MOTION: Councilmember Smukler moved the City Council approve Item A-2. The motion was seconded by Councilmember Nancy Johnson and carried unanimously 5-0.

A-3 ANNUAL UPDATE ON CURRENT LEGISLATIVE BILLS PENDING IN SACRAMENTO; (CITY ATTORNEY)

Mayor Irons pulled this item to ask the City Attorney questions and to speak on the recommendations. City Attorney Rob Schultz stated that he takes his lead from the League of California Cities. His primary concern is to review the bills that could bring loss of local control.

MOTION: Mayor Irons moved the City Council approve Item A-3. The motion was seconded by Councilmember Christine Johnson and carried unanimously 5-0.

B. PUBLIC HEARINGS - NONE

C. UNFINISHED BUSINESS – NONE

D. NEW BUSINESS

D-1 WATER RECLAMATION FACILITY (WRF) PROJECT STATUS AND DISCUSSION; (ADMINISTRATION)

City Manager Andrea Lueker presented the staff report/time line.

Mayor Irons hoped to begin moving this item to a monthly report, being heard at the second meeting starting in June.

Councilmember Christine Johnson would rather see this every two weeks, especially as more things are starting to happen.

Both Councilmembers Nancy Johnson and Leage felt hearing this once a month is plenty, especially given the fact that the agendas are so full.

Councilmember Smukler thought we should keep this flexible with the possibility of having a consent calendar item at the off-meeting which could then be moved to New Business if there is significant progress to announce.

There was a majority of Councilmembers requesting this be heard once a month, at the second meeting, with the understanding that if something major occurs, it would be brought up.

Public Services Director Rob Livick announced that there is a new Notify Me Module on the City's website for the WRF project that people can now enroll in.

Mayor Irons opened up the public comment period for Item D-1; seeing none, the public comment period was closed.

This report was received and filed.

D-2 HISTORY AND STATUS OF WATER RIGHTS ISSUES IN THE CHORRO VALLEY; (PUBLIC SERVICES/CITY ATTORNEY)

City Attorney Rob Schultz and Public Services Director Rob Livick presented the staff report.

Mayor Irons opened the public comment period for Item D-2; seeing none, the public comment period was closed.

Councilmember Smukler wants to ensure the Council is kept in the loop with use of outside counsel and costs of that use. He also announced that the NEP has grants with NOAH and Trout Unlimited to develop a water budget and stewardship plan for that area and they are very

interested in working with the City on this. He was happy with the presentation, it's important to respect the 1633 order; to work towards the stream gauge and get it installed to gather the data; and to honor our water delivery commitments out there. State water has been a blessing but has also caused us to lose track of our local sources/resources. This is a good reminder we need to try and be as self-sustaining/self-sufficient as possible. He is comfortable with staff's recommendation of moving forward carefully. He would also like to involve PWAB more in this; they can be used as a sounding board as updates become timely as well as provide community awareness.

Mayor Irons totally agrees with the use of PWAB as it will bring more attention of this to the public. We need to move forward with the stream gauge. He feels that Chorro Valley water needs to be looked at as part of our portfolio. He also wants to make sure we can protect and hopefully enhance our water portfolio.

Councilmember Christine Johnson also hoped that Council would keep abreast of outside counsel costs.

To summarize, this item will be brought back as a yearly update; staff is directed to work with the NEP to participate in their project; and this item should be brought to the PWAB.

D-3 RECOMMENDATION FROM THE PUBLIC WORKS ADVISORY BOARD REGARDING THE REQUEST FROM THE MORRO BAY CITIZEN'S TREE COMMITTEE FOR LISTING OF LANDMARK TREES; (PUBLIC SERVICES)

Public Services Director Rob Livick presented the staff report.

Mayor Irons opened up the public comment period for Item D-3.

Nancy Bast stated that trees are a miracle of nature. She congratulated PWAB and the Tree Committee for bringing this forward. She urged Council to accept the recommendation. She feels that an iconic grove of trees has been overlooked; she would like Council to put on the list for consideration of heritage status, the trees that are on the Jordan Terrace public right of way at Cerritos Peak.

The public comment period for Item D-3 was closed.

Councilmember Nancy Johnson wanted to ensure the public was aware that anybody can nominate a tree or group of trees for landmark status. This can be done via email, letter or phone call to the Public Services office along with the criteria of why they feel it qualifies as a Landmark Tree. The information would be then analyzed and forwarded to PWAB who would then forward their recommendation to the Council.

Councilmember Smukler presented the criteria for being declared a landmark tree which included significant habitat value, size and beauty, cultural heritage, age, agricultural significance, important functional role in City parks or City Planning, of special significance planted by early settlers, and depended on by indigenous cultures (Chapter 12.08 of the Code).

He also wanted to publicly recognize the three Tree Committee members Wally McRae, Bob Shriber, and Taylor Newton for all their work on putting this together. He hopes the landmark tree concept will be included in the Urban Forest Management Plan as well as include the expansion of a public education and awareness component into the plan. He also stated he'd had the opportunity to talk to the Historical Society who plans to incorporate these trees into their walking tour for the City's 50th Anniversary Celebration. He supports this and feels we should assist the Historical Society in the mapping and outreach effort. He would also like to try and identify sponsors for these trees to help with their care and maintenance.

Councilmember Leage also supports staff's recommendations and wanted to thank those involved.

Councilmember Christine Johnson would like to accept the entire recommendation from the committee and staff and say congratulations as well.

Mayor Irons acknowledged the great work from the Committee and staff as well.

Councilmember Smukler would like to see how we could include trees other than those in the public right of way as part of the general plan update.

MOTION: Councilmember Smukler moved to approve, with the comments made, the 20 Landmark Trees. The motion was seconded by Councilmember Leage and carried unanimously 5-0.

D-4 DISCUSSION AND DIRECTION ON FUTURE EXPIRING LEASES AND CONSIDERATION OF PROPOSALS RECEIVED FOR LEASE SITES 30W-33W (COAKLEY – BAY FRONT MARINA), 34W (CRIZER), 35W-36W (VACANT), AND 37W (MEYER – MORRO BAY MARINA INC.); (HARBOR)

Harbor Director Eric Endersby presented the staff report.

Jay Coakley made his presentation; in 1947 when the State of California turned the lease sites over to the County, the bylaws stated that lease sites south of Tidelands Park should rent to upland owners as long as they are good tenants and in his opinion, they are good tenants. He also doesn't feel that combining the lease sites is a good idea as there won't be adequate parking and you will have to get a Coastal Permit which will be very hard. He is asking for a long term lease because at the end of the lease which is January, he doesn't want to have to remove the pier as it will prove to be very costly. He would rather keep it there and be responsible for pier maintenance and upkeep.

Bob Crizer is the current leaseholder of lease site 34W which is not contiguous with upland property. In that process they went thru creating easements for site access and the use of bathroom facilities, water and power. These easements went through and were acceptable to the City Attorney. Parking also came with the lease site. His proposal is a clear lease renewal based on good stewardship of the lease site. Records will reflect that he has met the lease requirements and has met them on time. He continues to maintain his lease, dock floats, updated fire

suppression system and rotten timbers. Best practices would allow him to provide new structures and have the City provide an automatic extension of the lease once he has made those improvements. He can't financially budget for these improvements without an automatic extension.

Bill Martoney spoke on behalf of lease sites 34W and 35-36W. Regarding 34W, he doesn't feel the lease for the site should be extended as the document is defective and flawed. That aside, this water lease site has always been attached to the land. He feels the restrooms haven't been maintained and he will replace the failing walkway. He also feels it makes common sense that along with having parking rights, to reattach to the land as it would be a much more usable scenario as well as eliminate lot of potential future legal issues. Regarding Lease Site 35-36W, he would like to move forward with the mariculture proposal. The side tie floating dock will be 120 foot long and will have 240 running feet of side tie floating capability. This can be used for multiple uses, it doesn't all have to be mariculture. This is not a complicated area; if you have upland property owners leasing the lease sites then your problem is solved; if you mix and match owners and outside leases you will create a can of worms.

Mayor Irons opened up public comment for Item D-4.

Nancy Bast spoke regarding the general policy of the City. She feels that a majority of the City's promotional monies are aimed at waterfront and associated businesses. One of her concerns is the City be compensated accordingly for the residents' promotional monies that go into the success of the Embarcadero businesses. The Embarcadero used to have a vast diversity of individual businesses. Now an entire block of lease sites can be bought and consolidated into one. The direction towards consolidations of lease sites has cost the City money as there was no financial certification of subleases. These and all lease sites should be used for the highest and best interest for the people of California. She asked what this Council's policy towards consolidation was.

Barry Brannin feels it obvious that the property owners immediately adjacent to the water lease can do the best job, provide public services and actually run a business. He urged Council to look at alternative uses other than boat slips; look for what the public wants; the City needs industry. He felt it important for the people who have the land lease to have the opportunity for the water lease sites.

Bernadette Pecarick, owner of the Cannery property, spoke regarding Lease Site 34W stating that they have the fire access to that entire area and Mr. Crizer doesn't, all he has is a fire hose. If there were a fire, it could be a huge liability to all the properties down there.

The public comment period for Item D-4 was closed.

Councilmember Leage feels these discussions should have taken place in Closed Session first before hearing it in open session because of the legal questions. He also believes that an upland owner should have the lease site which would then eliminate consolidation. He also feels that a master plan for the sites with the individual leaseholders for the entire area would be a good idea.

Councilmember Christine Johnson posed a general question to the Council – do we want to take a once in a lifetime view of this area. She felt it might be important to hear from the public and their vision for this area one more time before sending this to closed session.

Councilmember Smukler was ready to make some decisions this evening but is inclined to bring this back to the next meeting to hear from the public on the community's vision for the area. Council's first responsibility should be to take this new process calmly and provide the public input opportunities by posing the question to the community directly.

Councilmember Nancy Johnson also feels that a master plan for the area is important. She feels that going to closed to discuss this should be the first step as there are legal questions.

As there were questions to applicants, public comment was re-opened; seeing none, public comment period was closed.

Mayor Irons sees Lease Site 30-33W as something we can direct staff to go to the applicant and begin negotiations with unless we decide we want to consolidate.

Councilmember Smukler feels fairly confident that the community doesn't want consolidation in that area. He feels we can move forward with most of this as the proposals don't make much of a change.

There was Council consensus to move forward with negotiations on Lease Site 30-33W; in addition, Councilmember Smukler asked staff to explore public access, the vertical boardwalk concept and investment versus lease length.

There was Council consensus to move forward with negotiations on Lease Site 37W with a request for staff to consider public access, lease term versus investment, as well as evaluating some hazardous materials containment options.

Regarding Lease Site 35W-36W, Mayor Irons was hesitant to tie this lease site up if there isn't a viable project or something that will be followed through on. Before moving forward, it might be helpful to have more of a business plan.

Councilmember Leage still feels that having a master plan for the entire area would be very helpful. All the lease site holders could work together to provide an overall view.

Councilmember Christine Johnson felt that the concept of mariculture was intriguing and would like to see a strong robust business proposal before sending it on.

Both Councilmembers Nancy Johnson and Smukler thinks we need to move everything forward so staff can begin negotiations and would like to see more details on the proposal for 35W-36W.

MOTION: Councilmember Nancy Johnson moved to proceed to negotiations with upland owners on Lease Sites 30W-33W, 35W-36W, 37W and 34W. The motion was seconded by Councilmember Leage and carried unanimously 5-0.

D-5 REVIEW OF THE 2008 MANAGEMENT PARTNER STUDY (ASSESSMENT OF CITY ORGANIZATION AND FINANCIAL OPTIONS), INCLUDING PROGRESS ON THE 21 EXPENDITURE CONTROL STRATEGIES, 13 REVENUE CREATION STRATEGIES AND 4 LONG RANGE STRATEGIES AND PROVIDE FURTHER DIRECTION TO STAFF; (ADMINISTRATION)

City Manager Andrea Lueker presented the staff report.

Mayor Irons opened up public comment for Item D-5; seeing none, the public comment period was closed.

Mayor Irons thinks that revising this now is a good idea as we are entering into our budget process.

Councilmember Smukler feels it is important to have this discussion now so that if we want to do something, it can be addressed in the budget. He would want to know that what we spent would come back to us in value. He is cautious about throwing money at this when the City can discuss and move forward on many of these items ourselves.

Councilmember Christine Johnson wants/needs us to think about cost. If we need to reevaluate expenditures and revenues then we would possibly go in a different direction. She is very willing to look at a different study, possibly paying half as much, and using a different group with a different point of view.

Mayor Irons wants to be prudent with the investment we make so he understands the hesitation on Council's behalf. The ability to explore the 2008 version and do a self-check assessment every 5-7 years is very valuable.

Councilmember Smukler stated that 5 years is a long time, if we were to wait another year before we address this study, we will be able to see how some of these changes have worked; ie: new management of the lease sites and the economic development program. He feels good about deferring this until next year where we will have even more information and results to evaluate. He also feels regardless of what way Council goes, annual updates of this report will be valuable.

Councilmember Nancy Johnson concurs that annual updates and reviews are valuable. It is important though to look at revenue generating possibilities now. There needs to be discussion and public input on what is practical for citizens to do to increase revenues.

Councilmembers Leage states that Council talks about bringing more revenue into town but we don't talk about making it as easy as possible to bring business into town which he feels we are neglecting to do.

Councilmember Christine Johnson agrees which is why putting dedicated money into economic development and tourism marketing should show a payoff.

There was no motion or action taken on this item. It will be agendized for annual update/review as an informational item.

D-6 STATUS REPORT ON AMENDMENTS TO THE ZONING ORDINANCE (TITLE 17) AS IT RELATES TO SECTION 17.48.32 (SECONDARY UNITS), SECTION 17.44.020.1 (NORTH MAIN STREET COMMERCIAL AREA PARKING) AND SECTION 17.27 (ANTENNAS AND WIRELESS TELECOMMUNICATIONS FACILITIES; (PUBLIC SERVICES)

Mayor Irons opened up public comment for Item D-6; seeing none, the public comment period was closed.

This item was never heard and was continued to a future meeting.

E. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS - NONE

ADJOURNMENT

The meeting adjourned at 10:29pm.

Recorded by:

Jamie Boucher
City Clerk