

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JANUARY 28, 2014
VETERAN’S MEMORIAL HALL – 6:00P.M.

PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Susan Slayton	Acting City Manager
	Anne Russell	Interim City Attorney
	Jamie Boucher	City Clerk
	Amy Christey	Police Chief
	Joe Woods	Recreation & Parks Director
	Eric Endersby	Harbor Director
	Rob Livick	Public Services Director
	Cindy Jacinth	Associate Planner

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 – Interim City Attorney Anne Russell reported that with regards to the four Closed Session Items: Government Code Section, 54957(b)(1), Public Employment with regards to the Interim City Manager and Interim City Attorney; Government Code Section 54956.8, Property Transactions regarding Lease Site 30W-33W, Bay Front Marina, water lease adjacent to 201 Main Street and Lease Site 141, United States Coast Guard located at 1279 Embarcadero; Government Code Section 54956.9(d)(1), Conference with legal Counsel – Existing Litigation with regards to two matters; and, Government Code Section 54956.9(d)(2), Conference with Legal Counsel – Anticipated Litigation with regards to five matters; no reportable action under the Brown Act was taken.

MAYOR AND COUNCILMEMBERS’ REPORTS, ANNOUNCEMENTS & PRESENTATIONS

PUBLIC PRESENTATIONS – None

PUBLIC COMMENT

Jennifer Redman, President of the Morro Bay Chamber of Commerce stated that despite the economic challenges they faced last year, they are very committed to the health and vitality of the organization in this community. They have been successful in recruiting several new board members representing a cross section of our community. Their focus is on being a strong voice for the business community in several ways: creation of action oriented committees; improving

the content and quality of our events, speakers, mixers, forums and networking ways; and collaborate with other organizations with similar goals. They are working with City staff for needs they can help fulfill; ie: sign ordinance. They are directly assessing membership to determine their needs to strengthen their business as well as to provide information back to Council. They are thankful for the building which helps them with their incubators and Chamber office and they ask for Council's continued support.

Rosalie Valvo stated that she spent many Thursday afternoons at the Farmers Market talking to people trying to persuade them not to sign the recall. She hopes now that the recall efforts are not moving forward, that we can get back to what we are supposed to be doing – put aside the past few months and move forward together.

Garry Hixon feels that everybody is doing a great job this year. He spoke during public comment at the City of San Luis Obispo last week. He is promoting his two songs on U-tube. He's glad for all of our tourism.

Judy Salamacha was totally overwhelmed and honored at the Citizen of the Year award she received at Morro Bay's 50th Celebration Event. She feels it is her responsibility to look deeper to see what more she can do. There are many people who have moved to Morro Bay and who want to get involved. She hopes we continue to expand a culture where those who have been here and those who are new, can contribute equally.

Kathy Ryan serves on the Food Group, a sub-committee of EBAC. Their goal is to provide home cooked meals to anyone in need on Monday evenings at the Veteran's Hall. The first night they served 10 meals; 2 weeks later they served 30 meals and feel it will continue to grow. They have no mechanism to fundraise and as such, hopes the fee waiver request can be approved retroactively back to January 1st so that funds can be used for food.

John Headding brought to the City's attention the fact that CHC was pulling out of Morro Bay. His involvement with this situation has continued; he met with the CEO of their organization who indicated that they would consider coming back to Morro Bay in the future. He also encouraged those who have yet to get their flu shot, it's not too late.

Garry Johnson stated that at the last Council meeting, a speaker stated how happy they were with the vision the City was going. He is not; however, if he were to hear the vision, maybe he would be able to follow it. He continues to be concerned as he feels there is no plan, the City has spent tens of thousands of dollars, and the City has been turned upside down. He also thanked the Recreation & Parks Department teens who helped with the Morro Bay 50th Celebration event.

Bob Keller stated that the majority is behind the Council.

Bernadette Pekaric stated that it was ridiculous that the last Council meeting went past midnight. She feels that Council meetings should be concluded by 10pm.

The Public Comment period was closed.

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 MINUTES FOR THE SPECIAL CLOSED SESSION CITY COUNCIL MEETING HELD ON JANUARY 9, 2014; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE SPECIAL CLOSED SESSION CITY COUNCIL MEETING HELD ON JANUARY 14, 2014; (CITY ATTORNEY)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING HELD ON JANUARY 14, 2014; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-4 APPROVAL OF MINUTES FOR THE SPECIAL CLOSED SESSION CITY COUNCIL MEETING HELD ON JANUARY 17, 2014; (CITY ATTORNEY)

RECOMMENDATION: Approve as submitted.

A-5 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA CALLING A PRIMARY MUNICIPAL ELECTION TO BE HELD ON TUESDAY, JUNE 3, 2014 FOR THE PURPOSE OF ELECTING CERTAIN OFFICERS OF SAID CITY; AND REQUESTING THE BOARD OF SUPERVISORS OF SAN LUIS OBISPO COUNTY TO CONSOLIDATE SAID ELECTION WITH THE CONSOLIDATED DISTRICTS ELECTION TO BE HELD IN THE COUNTY ON TUESDAY, JUNE 3, 2014; AND OTHER ELECTION MATTERS AS REQUIRED BY LAW; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution 10-14.

A-6 RESOLUTION NO. 09-14 ADOPTING THE CITY OF MORRO BAY INVESTMENT POLICY AND DELEGATING AUTHORITY TO THE CITY TREASURER TO INVEST IDLE FUNDS; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 09-14

A-7 RESOLUTION NO. 08-14 AUTHORIZING SUBMISSION OF RURAL TRANSIT FUND GRANT APPLICATION; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 08-14.

A-8 AWARD OF BASE BID CONTRACT FOR MORRO BAY NORTH T-PIER REPAIR PROJECT # MB-2013-H1; (HARBOR)

RECOMMENDATION: Award of the North T-Pier Repair Project # MB-2013-H1 contract to Associated Pacific Constructors of Morro Bay in the base bid amount of \$532,500.

A-9 RESOLUTION NO. 11-14 AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO A 2013/2014 BOATING SAFETY AND ENFORCEMENT EQUIPMENT GRANT CONTRACT WITH THE STATE OF CALIFORNIA DIVISION OF BOATING AND WATERWAYS IN THE AMOUNT OF \$11,000 FOR PURCHASE OF A NEW HARBOR PATROL VESSEL TRAILER (HARBOR)

RECOMMENDATION: Adopt Resolution 11-14.

Mayor Irons opened up the public comment period for items on the Consent Calendar.

Lori French urged the Council to approve the North T-Pier project as it is vital to their business. She would also like to see you repair the Harbor Patrol Boat.

The public comment period for the Consent Calendar was closed.

Councilmember Leage pulled Item A-8.

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

A-8 AWARD OF BASE BID CONTRACT FOR MORRO BAY NORTH T-PIER REPAIR PROJECT # MB-2013-H1; (HARBOR)

Councilmember Leage pulled this item for some clarification on why there was such a difference in submitted bid costs. Harbor Director Eric Endersby stated that the apparent low bidder, Associated Pacific Constructors is a local company so they didn't have the relocation costs that the other firms who bid would.

MOTION: Councilmember Smukler move to approve Item A-8 of the Consent Calendar as presented. The motion was seconded by Councilmember Nancy Johnson and carried unanimously 5-0.

As it was too early to begin Public Hearings, Council requested to hear Item D-4.

B. PUBLIC HEARINGS

B-1 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM FUNDING RECOMMENDATIONS FOR 2014/2015; (PUBLIC SERVICES)

Associate Planner Cindy Jacinth presented the staff report.

The public comment period for Item B-1 was opened.

Julianne McAdam spoke representing the Senior Nutrition Program of SLO County. She said that there is an ever increasing need for free hot noon-time meals to the senior citizens of Morro Bay and feels it's important for the City to support this program. These meals help keep our elderly healthy and independent; they would appreciate any funding possible.

The public comment period for Item B-1 was closed.

Councilmember Christine Johnson stated that these initial funding discussions and decisions were made back in November, 2013. She stated that while the Senior Nutrition Program benefits many, the maximum community benefit would be to fund the Pedestrian Accessibility Project. It is a tough balance.

Ms. Jacinth stated that projects are often selected to be funded based on the maximum community benefit. She reiterated that the maximum available to spend on the Senior Nutrition Program would be \$7800.

Councilmember Nancy Johnson spoke up for the Senior Nutrition Program and would like to see us be able to pull some money from somewhere. We have many seniors in our City definitely in need.

Councilmember Smukler also advocates for Senior Nutrition but also sees the broader needs for the ramp and ADA closures. He likes Alternative #2 where the City designates approximately \$34,000 for the Pedestrian Accessibility Project and \$7,800 for Senior Nutrition.

Mayor Irons feels that in the past, especially looking at the County as a whole, the City has been very generous to the Senior Nutrition Program. Mayor Irons reminded Council that they were supportive of the full recommendation towards the sidewalk and street gap closures back in their November discussions.

MOTION: Councilmember Smukler moved approval of funding recommendation Alternative #2, allocating \$7,830 to the Senior Nutrition Program and to fund City Pedestrian Accessibility Project in the amount of \$33,934 with the program administration amount of \$10,441. The motion was seconded by Councilmember Nancy Johnson and carried unanimously 5-0.

MOTION: Councilmember Smukler moved to authorize adjustment of awards on a proportional basis upon final receipt of the 2014/15 funding allocation from the Department of Housing and Urban Development. The motion was seconded by Councilmember Nancy Johnson and carried unanimously 5-0.

B-2 A00-018; REVIEW OF AMENDMENTS TO TITLE 17 (ZONING ORDINANCE) OF THE MUNICIPAL CODE AND MASTER FEE SCHEDULE; (PUBLIC SERVICES)

Associate Planner Cindy Jacinth introduced Jaime Hill, Consultant with PMC who presented the staff report.

The City's 2009 adopted Housing Element establishes a precise and detailed plan for the use of land in the City, based on the General Plan and Local Coastal Plan. Amendments to the Zoning Regulations and Master Fee Schedule are necessary to implement that plan and remain in compliance with State and Federal Law. With the adoption of these updates, the City will be eligible for HCD's new streamlined process with the next Housing Element Update, required by June, 30, 2014. There are four new housing types that are recommended to be included in the Zoning Code: Emergency Shelters, Supportive and Transitional Housing, Single Room Occupancies and Employee Housing. Regarding Emergency Shelters, to implement Program 26.1, staff recommends adding a new section under General Regulations, Conditions and Exceptions to establish permitting requirements and requirements specific to them. They would be allowed by right in the Central Business District. Regarding Supportive and Emergency Housing, to implement Program 26.1 staff recommends adding new definitions for these uses and amend Section 17.24 to allow these uses in all zones allowing residential uses. State law is specific in that these uses must be allowed subject to only the same restrictions that apply to other residential uses of the same type in the same zone. Regarding Single Room Occupancies (SRO), that is a type of permanent housing intended to meet the needs of those with extremely low incomes. In the General Regulation Section of the Code, a permitting process and specific requirements of these units is established and would be allowed by right in C-1 and with a minor use permit in the MCR District. Regarding Employee or Agricultural Worker Housing, State law requires that farm worker housing be considered no different than any other agricultural activity in regards to permitting. There is also a revision recommended for reasonable accommodation. SB520, the Reasonable Accommodation Act, requires the removal of potential and actual constraints upon the development, maintenance and improvement of housing for persons with disabilities or provision of reasonable accommodation. To implement Program 23.3 it is recommended amending the code to specifically allow handicap ramps within required yards; adding a new section under General Regulations, Conditions and Exceptions to establish applicability and application and approval procedure for other exceptions needed for accessibility; and, adopting a new minimal processing fee for Reasonable Accommodation requests. Finally, to ensure that sites intended and designated for multi-family development are available for such uses, Section 17.24 would be amended to prohibit single family structures from being built, except in those circumstances that physical characteristics of the site would preclude multi-family development. The remaining code revisions pertain to the City's Affordable Housing, Density Bonus and Incentive Program. This entire section has been reorganized and expanded to provide greater direction and ease of implementation.

The public comment period for Item B-2 was opened.

Cathy Novak spoke bringing up potential and unintended consequences with the changes to the restrictions for single family homes within the R-3 and R-4 zoning districts. She feels this action is inconsistent with the City's subdivision ordinance for the compact in-fill development. The compact in-fill development projects are allowed only in multi-family districts. This type of subdivision utilizes the high density allowance under the City's General Plan to create individual small lot developments. If you are increasing density and want to include townhomes, condos or other small homes that can be individually owned, then clarification and allowances for this in the regulation need to be made.

The public comment period for Item B-2 was closed.

Councilmember Smukler is in favor of moving forward with this as it will help clarity and provide additional affordable housing units.

MOTION: Mayor Irons moved for introduction and first reading of Ordinance 584 included as Attachment "A", including findings and amendments to Title 17 (Zoning Regulations) of the Municipal Code and Master Fee Schedule, with revisions introduced tonight for consistency with the Local Coastal Program pertaining to the allowance of Supportive and Transitional housing in agricultural zones. The motion was seconded by Councilmember Smukler and carried 4-1-0 with Councilmember Nancy Johnson voting no.

Councilmember Nancy Johnson stated she was voting no until she has the opportunity to do more research in single family homes in the R-3 zone.

Acting City Manager Susan Slayton read Ordinance 584 by number and title only.

C. UNFINISHED BUSINESS

C-1 CITY COUNCIL ANNUAL MEETING SCHEDULE - 2014; (ADMINISTRATION)

Acting City Manager Susan Slayton presented the staff report.

There is a request by Council to move Council meetings to the 1st and 3rd Tuesdays of the month as well as move Planning Commission to the 2nd and 4th Tuesdays of the month.

Public Services Director Rob Livick stated that moving Planning Commission to Tuesdays would provide better noticing opportunities as well as provides staff an extra day if they are bringing something from Planning Commission to the City Council. There was continued concern voiced by staff that moving the City Council dates to the first and third Tuesdays of the month may cause a conflict with the RFP that went out for Interim City Attorney services.

Councilmember Nancy Johnson stated the biggest problem with changing the meeting is our timing. We are currently hiring an Interim City Attorney and an Interim City Manager followed by a regular City Manager. We are coming to the end of a session, we have an election in June, and we have a potential turnover of Council in January; as such, she feels we should wait to make any permanent changes. She could see adding the July meeting if it becomes necessary.

Councilmember Smukler stated that in going through a schedule change last time, there were some unintended problems to get through. He would rather address this through the Planning Commission meeting schedule and stick with our current City Council schedule for now. Seasonal, summer and winter breaks with just one meeting being cancelled is warranted and appreciated for a lot of different reasons. For now we should proceed with the status quo and get additional information.

Councilmember Leage doesn't see anything wrong with the way it is right now.

Councilmember Christine Johnson is concerned we are missing three meetings a year. We hear consistently that our meetings are going long and it is wearing on everybody. Going to a full July and an additional meeting in November may work. She does agree though that the July break provides for a nice break.

Councilmember Nancy Johnson said that additional meetings can be called as special meetings if warranted. She is also not opposed to having the second meeting in July.

Mayor Irons sees those 3 missed meetings a year as missed opportunities.

Councilmember Smukler doesn't want to force the decision right now; lets proceed with the status quo and wait for our City Attorney selection before we decide.

MOTION: Councilmember Nancy Johnson moved to continue with the current schedule and postpone any decisions on the schedule until at least June. The motion was seconded by Mayor Irons and failed 2-3 with Mayor Irons and Councilmembers Christine Johnson and Smukler voting no.

There was attempt at further discussion but Councilmember Leage called the question.

MOTION: Councilmember Smukler moved to postpone this decision until after we make a decision regarding the Interim City Attorney position. The motion was seconded by Councilmember Christine Johnson and carried 3-2 with Councilmembers Nancy Johnson and Leage voting no.

C-2 DISCUSSION AND CONSIDERATION OF HIRING A CONSULTANT TO HELP DEVELOP FUNDING SOURCES FOR WATER RECLAMATION FACILITY OPPORTUNITIES (ADMINISTRATION)

Acting City Manager Susan Slayton presented the staff report.

Mayor Irons stated it was his hope that these groups would be able to help facilitate opportunities for other funding for our water reclamation facility.

Councilmember Nancy Johnson feels Council is jumping the gun; when you go out to look for grant funding you need to know what you are going to do with the money. As of yet, we don't have a plan or a location. She feels it important to answer that first; no one is going to give you money unless you know what you are going to spend it on.

Councilmember Leage agreed this was a premature request.

Councilmember Christine Johnson brought up Essential City Goal #1, Action Plan Key Task F) Pursue Alternative Funding (grants and loans) as well as Goal #10, Other Important Objectives – Leverage Outside Resources to Support City's Goals. The WRF project is an unprecedented project; as such, this is a timely discussion. She is leaning towards supporting a trip, not a retainer, with a group that is familiar with the elected officials in D.C. There are climate adaption funds available and worth looking into. She supports Ferguson because of their

structure and the fact it is a Washington D.C. trip. This would only be a first trip to investigate what is out there, who you talk to, how much they are worth, then they are due, etc.

Councilmember Smukler stated it is very important that we begin the introduction process. This will help inform our decisions as we move forward. He suggested that he and Mayor Irons, as a part of the technical wrf sub-committee, work with staff to develop a plan and get more information from the two firms as to the best timing for the trip. He feels we need more structure to fully move forward.

Mayor Irons has been told that you have to start because it takes time to build relationships and get a project on the radar. He would like to move forward on this; we have a unique project and we have a good opportunity to start now.

Councilmember Smukler doesn't think we should authorize funds tonight but instead work to refine the plan, bring back a presentation to inform the Council and public of the plan and direction.

Mayor Irons thinks we can and should approve a group tonight and still work on refining a plan instead of having to come to back to Council once more.

MOTION: Councilmember Smukler moved we request information from consulting firms to help with lobbying efforts with regards to funding for the wrf and that the JPA Technical Sub-committee work with staff to develop the plan to present the wrf project to potential funding sources and come back to Council with a recommendation on a consultant. The motion was seconded by Mayor Irons and carried 3-2 with Councilmembers Nancy Johnson and Leage voting no.

D. NEW BUSINESS

D-1 REVIEW OF STOP SIGN REQUEST FOR THE INTERSECTION OF MARINA AND FRESNO AND GENERAL POLICY FOR STOP SIGN INSTALLATION; (PUBLIC SERVICES)

Public Services Director Rob Livick presented the staff report.

MOTION: Mayor Irons moved to continue the meeting past 11:00pm. The motion was seconded by Councilmember Christine Johnson and carried 3-2 with Councilmembers Nancy Johnson and Leage voting no.

Councilmember Christine Johnson is in support of PWAB's recommendation for the installation of a stop sign at Marina Street and Fresno Avenue as well as the preparation and implementation of some sort of a citizen petition process for a neighborhood to have a traffic control device installed.

Councilmember Nancy Johnson stated that when you start putting up stop signs just because someone asks for it, you are asking for trouble. We have a lot of strange intersections in town.

If we have steps to take and a plan, we should stick to that. She likes the idea of cautionary signs but is not in favor of adding another stop sign.

Councilmember Smukler is in favor of adding the stop sign as requested but is more in favor of developing a stop sign policy and process. That gives the opportunity for neighborhoods to come together and work towards this. The neighborhood pays for the installation and the City pays for the maintenance.

Councilmember Leage doesn't feel this is an issue that should be in the hands of the City Council.

MOTION: Mayor Irons moved approval of D-1 with the recommended review of the particulars of the stop sign analysis for Marina Street and Fresno Avenue and approve the stop sign policy as presented in Attachment 2. The motion was seconded by Councilmember Leage and carried 4-1 with Councilmember Nancy Johnson voting no.

D-2 CONSIDERATION OF FEE WAIVER TO USE THE VETERAN'S MEMORIAL BUILDING FOR THE COMMUNITY DINNER PROVIDED BY THE MORRO BAY FOOD GROUP, A SUB-COMMITTEE OF THE ESTERO BAY ALLIANCE FOR CARE; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods presented the staff report.

The public comment period for Item D-2 was opened.

Nancy Castle, with St. Peters and a member of the Food Group sub-committee, stated that we are a caring community and in fact have 50 years of caring; what their group has started is a giving program and an opportunity for service. To date they have attracted students, anonymous donations and individuals from all walks of life showing up ready to help. They are serving a need and want to serve as many residents who may not have money to make it through the month. She challenged the direct cost philosophy. She is hopeful the fee will be waived.

Linda Fidel read the Estero Bay Alliance for Care Mission Statement. She was privileged to attend the first 3 of the 4 dinners where they served home free, homeless and also those in need. She applauded the members of the community who just show up. This program is building community. The money for the food is coming out of people's own pockets and as such, hopes the City can help.

The public comment period for item D-2 was closed.

Councilmember Leage feels that this group is doing a wonderful thing out there and to please keep it up.

Councilmember Christine Johnson stated that there are ongoing discussions with Bank of America to set up an ongoing fund for donations to support food purchases. Over the holidays, Bank of America also collected funds from neighboring banks who donated those monies

towards direct food purchases; the relationship with this potential corporate partner is exciting. She thanked Mr. Woods and Chief Christey for their continued support of this effort.

Councilmember Nancy Johnson is happy to see the program, which was started with feeding people out at Lila Keiser Park, expanded to serving meals indoors.

Councilmember Smukler reiterated that St. Peters is still willing to provide the insurance coverage for the program. He feels that waiving these fees would be a gesture that we support their efforts and want to see the program grow. Direct costs are something we can look to getting paid eventually but at this point, waiving the fees is appropriate.

Mayor Irons is very interested in this program's success. Years ago the City had a program, Aid to Agencies, as part of the budget process and feels we should look at bringing that program back. There are other agencies that could be looking to address fee waivers as well. He would be supportive of fundraising efforts to keep the program going. He is supportive of the overall movement but is mindful of the costs and would like to revisit the Aid to Agencies policy and evaluate these requests at the beginning of the budget cycle.

Councilmember Christine Johnson stated it is her intent in supporting this is through the fiscal year.

MOTION: Councilmember Christine Johnson moved approval of the fee waiver for the use of the Veteran's Memorial Building retroactive to January 6th for the Community dinners provided by the Morro Bay Food group Subcommittee of Estero Bay Alliance for Care through the end of this fiscal year. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

Councilmember Smukler requested Mr. Woods track those costs to try and bring them down as much as possible which would help to inform Council with discussions in the future. Councilmember Nancy Johnson would also like Mr. Woods to include costs that the City is absorbing.

D-3 ADOPTION OF RESOLUTION NO 12-14 ASSIGNING LEASE SITE 30W-33W LOCATED AT 201 MAIN STREET TO BRUCE FOSTER AND DEAN MARCHANT AND APPROVAL OF A NEW 20-YEAR MASTER LEASE AGREEMENT FOR LEASE SITE 30W-33W BETWEEN THE CITY OF MORRO BAY AND BRUCE FOSTER AND DEAN MARCHANT; (HARBOR)

Harbor Director Eric Endersby presented the staff report. Based on the outcome of closed session, Mr. Endersby also presented a revised version of the Lease Agreement which he presented to Council.

Cathy Novak, representing Mr. Bruce Foster and Mr. Dean Marchant, gave a presentation on this item. She stated that staff has recommended changes in four sections of the draft lease that answer the City's concerns, the new buyers' concerns and also clarifies the language for the intent that staff had written in the draft lease. They support these modifications and respectfully request that Council does as well. There are three issues left. First, the tenants are asking for a

modification to Section 13.01 (D) which includes an installment agreement for the purchase of the boundary line adjustment (BLA) area. Also, the City appraised this property in May, 2012 and that value was set at \$8/square foot; they are requesting an addition to this section that clarifies that number. Second, regarding Section 13.01 (E) which imposes a deed restriction for a setback to be based upon the midpoint line. This deed restriction will create an extreme hardship to replace a damaged building, remodel or construct a new building. This setback can be set 10 feet from the midpoint line which will result in the loss of over 1,000 square feet of building area with the northern building alone. This setback deed restriction will deem this unlendable through the conventional loan process which minimizes the amount available for a loan. They are proposing that there be a deed restriction that limits any future buildings to the existing footprint within the BLA and to leave the wharf and parking area open. And finally, in Section 13.01 (F)(B), they have proposed language that gives both the City and tenants flexibility in the future for an expansion of the building footprint on the City owned Lot 20 for possible access or other benefits that may include the City or public. Regarding the BLA and water lease line, the current property boundary runs in a line down behind the building and continues at an angle which puts the property line basically in front of the neighboring property. The new buyers are proposing that the property line, BLA and the water lease run straight along the northern edge of the building and walkway which will clean up this triangle shaped property. In conclusion, the new buyers have agreed to most of the terms that the City has presented and are now at a point that we need to approve the lease with the modifications as presented to ensure this marina will stay and be restored.

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

Sandy Bean stated that this is about saving a marina. She noted that boundary disputes of this type arise for a good reason and court decisions have ruled in favor of the fee property owner when old buildings like these were built in good faith. She understands this is a difficult job for public agencies, but that both the owners and buyers have worked diligently to bring forth what you have here today. The new City lease and conditions have been approved, what happens in the future with the potential BLA agreement with State Lands or with future development are not conditions or a part of this water lease and can be dealt with in their own time.

Jay Coakley, current owner of the Bay Front Marina stated that there have been 3 surveys done on this property by the same surveyor and they are all different. He feels he owns the mean low tide. If this sale doesn't go through he won't take this lease.

Terry Simons is one of the unknowns here; he owns 2 boats in the marina and is a sub-tenant. He sees the City taking a strong interest in improving the lot for those of us who use the water resources. We have a new buyer coming in who wants to meet and confer and move forward with this property. He hopes we move forward with the lease and encourages you to approve it with the expectation there will be refinements over the next 20 / 40 years.

Bruce Foster, one of the partners hoping to purchase the Marina, thanked the Council for taking time to go visit and meet with Ms. Novak and Ms. Bean. They have worked extremely hard to get to this point and hopes we can move this forward with the proposed changes. He feels that with what we plan to do, the Marina can be one of the jewels of Morro Bay.

Patrick Manning stated there are 3 parts to talk about. This may just be a Marina to some people but it's where he keeps his boat and we need someone to come in and maintain it. He is concerned that by removing the building in an effort to increase public access, you will increase the need for public safety. If you change the building you will gut any use of the building.

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

Councilmember Smukler stated that this has been a complex discussion with a lot of back and forth which is warranted because we are talking about the sale of public property. His outstanding concern is the assessed value at \$8/square foot; he feels the boundary line adjustment could greatly increase the value to the upland property. He is hoping that State Lands is looking closely at this part of the process. It is good to see the lease address the life and renovation of the Marina, guarantee of public access as well as containment of further development. He doesn't think it's perfect but is willing to proceed and be in support of this.

Councilmember Nancy Johnson thanked the applicants and staff for all their work on this and feels she is ready to approve this and let them do what they need to do with their property.

Councilmember Leage is also ready to move forward.

Councilmember Christine Johnson asked staff what the zoning on this property was. Mr. Endersby stated it was waterfront/pd overlay; no residential units would be allowed. Mr. Livick stated a residential unit would only be allowed as a small caretaker unit with a use permit. She stated that Council has been focused on working to ensure we are entrusted with the State Lands and we protect these lands and be good stewards of them; while at the same time ensuring the Marina stays viable.

Mayor Irons stated this has been a very complex project. One of the better things the City has done is to require negotiations to begin 5 years in advance of the lease agreement expiration date. This site doesn't have that requirement and as such, personally he is feeling a bit rushed. He agreed we all want to maintain the Marina and see it revitalized. He has similar concerns about the lot line adjustment. On page 35, D) he also feels the square foot price needs more flexibility and is not in agreement with how it is worded; if we agree to adjust the lot line out, the value to the property changes. The way the zoning is, waterfront/pd overlay, he feels the pd overlay should stay within the boundaries that it is, zoning should stay with the existing lot line and if we agree to adjust the boundary line out, the pd overlay should stay with the lot line as its depicted currently. He feels we should be striving to have public access through Lot 20 which would mean removing the added language on page 36.

Councilmember Smukler wasn't aware that the pd overlay would shift with the boundary and if it does, that changes things for him as he wants to protect the existing things as they are. Mr. Livick stated we would have to do a zoning amendment to remove those boundaries. Lot line adjustments, boundary line adjustments, subdivisions do not move zoning boundaries, it takes a General Plan zoning amendment to adjust that zoning boundary.

Councilmember Nancy Johnson is still ready to approve what is in front of us. We are spending a lot of time talking about nothing; the pd overlay is something the City is responsible for; the

property owner can't do anything, there's no point in putting something in about a pd overly; it's the City's protection that requires additional work to do anything different in that area. There's no way to hold the applicant responsible to include this in their contract.

Councilmember Smukler is concerned that we are locking ourselves into the assessment. Ms. Russell spoke with Ms. Novak and they provided some compromise language on page #35 under Article 13 Special Provisions Peculiar to this Lease Site D. "that read as follows: "...completed in May, 2012 at assessed value of \$8 per square foot **or other higher amount as valued by the State Lands Commission, subject to CITY and TENANT approval**, for the total square footage of..." Councilmember Smukler stated that the amended language on page #36 allows the potential for discussion of public access in the future but still keeps the ball in the City's court. Interim City Attorney Anne Russell feels the amended language in this paragraph isn't necessary and doesn't even deal with Lot 20, it deals with all buildings other than Lot 20 and recommends it be stricken. Councilmember Smukler can support that.

Councilmember Christine Johnson also supports that strike out as well as the amended language proposed on page 35 D.

MOTION: Councilmember Nancy Johnson moved adoption of Resolution 12-14 as presented with noted modifications from the City Attorney on page 35 and the strike out of language on page 36. The motion was seconded by Councilmember Leage and carried unanimously 5-0.

D-4 UPDATE ON THE CITY'S WATER SUPPLY; (PUBLIC SERVICES)

Public Services Director Rob Livick presented a power point on the status of the City's water supply. Mr. Livick stated that the City receives its water from the state water project, groundwater wells/brackish water reverse osmosis, sea water, and conservation. He went on to say that it is likely that our allocations from state water will fluctuate based on availability. The City has 3,072 acre feet of stored water to fall back on. With regards to our groundwater supply, the City has historically used this as our primary source of water but most recently, and especially with the nitrate problem as well as drought conditions, this has become problematic. Our groundwater is able to be used as feed water for brackish water reverse osmosis at the desal plant. The City is permitted for 645 acre feet per year of sea water/desalinization use. Our Coastal Permit for the saltwater wells and outfall expired in 1999; the City has made application to make the facilities permanent. Conservation is the City's least expensive source of "new" water. Current water use averages 117 gallons per person/ per day. The City has mandated Severe Water Supply Conditions with information on its regulation being sent out over the next couple of weeks. Mr. Livick stated that 2013 has been the driest calendar year in 119 years of California rainfall records prompting Governor Brown to declare a drought emergency on January 17, 2014.

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

Bill Martoney stated that it is important to recycle our water; some of the wells in the Morro Basin are already drying up. If the basin dries up, he feels their water rights are superior to ours.

With regards to the desal plant, there is a nan-filter which is a micro filter that works on very low pressure making it very economical. These filters should be available in the next 4-5 years.

Garry Johnson started his conservation 3-4 years ago when he purchased large trash cans which he uses to catch the run-off from the rain gutters. He uses this water to water his plants.

Bob Keller stated that the best way to conserve is when it hits people's pocket books.

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

There was no action taken as this was an informational item only.

E. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Smukler requested a discussion of water supply focused on enhanced water savings and incentives as well as further analysis of water bank scenarios as related to the drought; Mayor Irons and Councilmember Christine Johnson concurred.

Councilmember Christine Johnson requested a discussion of the development of an Aid to Agencies Policy prior to going into budget time; Mayor Irons and Councilmember Smukler concurred.

ADJOURNMENT

The meeting adjourned at 11:15pm.

Recorded by:

Jamie Boucher
City Clerk