

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 12, 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:	Edward Kreins	Interim City Manager
	Joe Pannone	City Attorney
	Jamie Boucher	City Clerk
	Susan Slayton	Administrative Services Director
	Rob Livick	Public Services Director
	Amy Christey	Police Chief
	Steve Knuckles	Fire Chief
	Joe Woods	Recreation & Parks Director
	Scot Graham	Planning Manager

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

CLOSED SESSION REPORT – Mayor Jamie Irons reported that with regards to the Closed Session Item heard at the August 8, 2014 Special Closed Session Meeting, Government Code Section: Public Appointment – City Manager that the City Council unanimously selected and appointed a new City Manager, David Buckingham.

CLOSED SESSION REPORT – Interim City Attorney Joe Pannone reported that with regards to Closed Session Items: Conference with Labor Negotiators regarding Morro Bay Firefighters’ Association, Morro Bay Police Officers’ Association, Service Employee’s International Union, SEIU Local 620, Management Employees, and, Confidential Employees; Public Employee Appointment re: City Manager; and, Conference with Real Property Negotiator re: portions of APN No. 066-331-039 (Lila Keiser Park, Cal Poly Storage, Fisherman Gear Storage and nearby areas) the Council did not take any reportable action pursuant to the Brown Act.

MAYOR AND COUNCILMEMBERS’ REPORTS, ANNOUNCEMENTS & PRESENTATIONS

PUBLIC PRESENTATIONS

The Morro Bay Community Foundation President Jeff Eckles presented the City Council with a check in the amount of \$36,694. This money is reimbursement for scholarships awarded local youth for their participation in Morro Bay Recreation & Parks activities. The Community

Foundations' goal/mission is to raise funds for families of children who can't afford to have their children participate in recreational activities – children are our most valuable resource in the community.

The Mayor and City Councilmembers presented Employee Service Pins to individual employees for their 10, 15, 20, 25 and 30 years of service.

PUBLIC COMMENT

Lorraine Farrell from Morro Bay Hat Company presented the Morro Bay Business report. She introduced this new business which is located at 875 Embarcadero, in front of Otter Rock Café. They created the business to enhance the City of Morro Bay as well as to provide residents and tourists alike, attractive hats that will provide protection from the sun. They also have hats for children. In addition to hats, they sell flip flops, scarves, bags, leggings and jewelry. She presented a variety of hats they sell – all of which are easily folded and packed into a suitcase; most are water repellent. Councilmembers acted as models for many of them. She hopes to see people stop by.

Neil Farrell thanked both the Recreation & Parks Department and the Public Services Department for some parking lot striping on Front Street that he had called in about and has since been fixed.

Betty Winholtz announced the annual Yard Sale being held at the Methodist Church this coming weekend; the sale goes from 8am-2pm.

Ken Vesterfelt announced that a Ford F10 group will be showing their vehicles at Tidelands Park this coming Saturday. This is a free event. He also thanked the employees for their many years of service.

Joan Solu, as part of the Morro Bay 50th Committee, thanked the Founders Day Picnic Committee and volunteers for such a wonderful event. She also announced the Morro Bay 50th Dahlia Day Parade being held on Saturday, September 6th. She is hoping for participation from the Councilmembers. This is a free, family friendly, fun event.

Betty Forsythe thanked the Chamber, Merchant's Faire and all the people who help keep businesses successful. She works at Fabulous Finds and continuously sees people coming into town from all over wanting to be here because there is so much to do. She also said it's wonderful to have unity in the community again.

Nancy Castle provided a status on the Monday evening dinners. The Lions, St. Tim's, St. Peters, Circle of Friends and Rock Harbor all volunteer their time to provide these meals. Sun n Buns provide cookies and Rock Harbor Espresso provides coffee. Donations are accepted and appreciated. They are serving up to 60 people a night. The meals have expanded to now include the last Wednesday of every month at St. Tim's. She announced that EBAC and the Chamber of Commerce are sponsoring a Resource Fair on October 26th; they will present opportunities to volunteer on a wide variety of organizations.

Roger Ewing spoke on the presentation made Monday night on the improvement of our Public Safety communication skills. He applauds the staff that participated to make this happen. We will have a communication capability that's 21st century and will be of great benefit to the City of Morro Bay. He made a special shout out to Interim City Manager Ed Kreins who had the foresight to pursue this endeavor, we should be proud of his leadership.

Alex Beattie complimented Council for putting the Primary process up for a vote. He hopes the people of Morro Bay pass this measure. He also spoke on the water rate schedule and thinks we need a schedule that rewards those who save water and encourages better use of our water. He also hopes we move rapidly towards getting an outdoor pickle ball court in Morro Bay.

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 CITY COUNCIL MEETING HELD ON JULY 7, 2014; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE SPECIAL CLOSED SESSION CITY COUNCIL MEETING HELD ON JULY 8, 2014; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF MINUTES FOR THE CITY COUNCIL MEETING HELD ON JULY 8, 2014; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-4 APPROVAL OF MINUTES FOR THE SPECIAL CITY COUNCIL MEETING HELD ON JULY 17, 2014; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

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

RECOMMENDATION: Receive and file the report.

A-6 WATER RECLAMATION FACILITY (WRF) PROJECT STATUS AND DISCUSSION; (PUBLIC SERVICES)

RECOMMENDATION: Receive and file the report.

A-7 APPROVAL OF THE AMENDMENT TO GRANT AGREEMENT BETWEEN THE CITY OF MORRO BAY AND SOUTH BAY COMMUNITY POOL ASSOCIATION; (RECREATION & PARKS)

RECOMMENDATION: Review and approve the proposed Amendment to the Grant Agreement between the South Bay Community Pool Association (SBCPA) and the City of Morro Bay.

A-8 A RESOLUTION MODIFYING THE MAKE-UP OF THE WATER RECLAMATION FACILITY CITIZEN'S ADVISORY COMMITTEE (WRFCAC); (ADMINISTRATION)

RECOMMENDATION: Approve Resolution 53-14.

A-9 APPROVAL OF SUBLEASE ON A PORTION OF LEASE SITE 86/86W, LOCATED AT 801 EMBARCADERO, BETWEEN 801 EMBARCADERO LLC AND PETRINA-DE COCK, INC. DBA VIRG'S LANDING AND CENTRAL COAST SPORTFISHING; (HARBOR)

RECOMMENDATION: Approval of the sublease as presented.

The public comment period was opened for the Consent Calendar; seeing none, the public comment period was closed.

Mayor Irons pulled Item A-6 from the Consent Calendar.

MOTION: Councilmember Christine Johnson moved the City Council approve Items, A-1, A-2, A-3, A-4, A-5, A-7, A-8, and A-9 from the Consent Calendar as presented. The motion was seconded by Councilmember Smukler and carried unanimously, 5-0 with Councilmember Leage abstaining on item A9 only, due to a conflict of interest.

Ayes: Irons, C. Johnson, N. Johnson, Leage, Smukler

No's: None

Abstain: Leage on Item A-9 only due to a conflict of interest.

Mayor Irons pulled Item A-6 in order to get a status report from Project Consultant John Rickenbach. Public Services Director Rob Livick stated that the CMC process is taking longer than anticipated to get the evaluation done; more agencies in the mix complicates matters; the County has approved the scope of work to evaluate CMC so we are now ready for the design consultant to begin that work. Mr. Rickenbach briefly went over where we've been and where we plan on going. In May, the Council selected Rancho Colina as a primary site but also requested we study a regional plant concept at the CMC site. They are also wanting to ensure the report presented is thorough and objective, especially with regards to water rights, water reclamation, timing and logistical issues, and costs. The citizen's advisory committee has been formed and will be meeting soon. He presented a list of consultants that each have their own area of expertise that they are working with regarding various aspects of the project. Each needs

to prepare and present their information which then needs to be put together into a fully scoped report which they now hope to be able to bring back to Council in November.

The public comment period was opened up for Item A-6.

Betty Winholtz is disappointed in the continued expense for more and more consultants resulting in delays and expense. She wants to back off of so much study, make a decision and commit to it.

Roger Ewing is very strongly opposed to going to the CMC site. When we involve outsiders in something regionally we lose control at which point we lose the ability to gain the tertiary water. The main reason for going to tertiary was to guarantee Morro Bay water down the road; CMC would put a major dent in this process. We are wasting time; Colina is our best bet and gives us full control.

John Headding stated we have spent and/or committed approximately \$270,000 on consultants between February and June. He questioned Kestrel Consulting; he hoped it wasn't the same company he was familiar with as they probably wouldn't have the aptitude for this process. He also had previously requested and hoped he would have seen a Gantt chart routinely included with our reports. He isn't anti-consultant, just anti-over spending for consultants. He was surprised to hear that we are looking into CMC as a single cost item project.

Alex Beattie is disappointed at the speed that the study has progressed. He is surprised it took so long to get serious consideration on the CMC site. He encourages Council to compare the plants equally. The CMC plant comes close to where we can apply water to future users; other plants are below their potential water users so you'll have to build more infrastructure.

The public comment period for Item A-6 was closed.

MOTION: Councilmember Christine Johnson moved the City Council approve Item A-6. The motion was seconded by Mayor Irons and carried unanimously, 5-0.

Ayes: Irons, C. Johnson, N. Johnson, Leage, Smukler

No's: None

B. PUBLIC HEARINGS

B-1 APPEAL OF THE PLANNING COMMISSION DENIAL OF COASTAL DEVELOPMENT PERMIT #CP0-408 FOR DEMOLITION AND RECONSTRUCTION OF AN EXISTING SINGLE-FAMILY RESIDENCE AT 1000 RIDGEWAY AVENUE; (PUBLIC SERVICES)

Planning Manager Scot Graham presented the staff report.

Project Consultant Cathy Novak made a presentation on behalf of the applicant giving a brief description of the project, the specific revisions presented to the Planning Commission answering the appeal filed in December, as well as Commission and public comments, and City

policies and codes as they relate to this project and the current appeal. It is her hope that the Council will look at this project objectively. Staff initially reviewed the project for consistency with City codes and regulations and approved the administrative coastal development permit but the project was then appealed to the Planning Commission. She went on to discuss 4 points that seem to be driving this appeal: height; not in character with the neighborhood with size; or too big, bulk and scale; and neighborhood compatibility standards are subjective. Regarding height, the revised plans proposed height is now 2 feet below the maximum allowable height with the exception of 9 linear feet with is 18 inches below the limit. They can't excavate down any further without undesirable consequences because of the street slope and property elevations. If they dropped the floor elevation any further, the slope could cause a small car to bottom out; also it will affect the drainage pattern around the street, driveway and garage resulting in possible flooding issues. They don't feel the total square footage should be a factor because it is not a measuring standard under any City code or policy. It should be noted that the overall footprint of the revised house is smaller than the existing house. Additional points to be made: new design decreased the overall size by 1100 square feet from the original plan; 9 feet was taken from the length of house which expands the front and rear setbacks; the front and rear setbacks exceed the minimum City standards; garage wall was moved back 1 foot on the Ridgeway side; the house will be approximate 10 feet shorter in length than the home across Ridgeway; and if you pushed the house back for additional front yard setback, the house gets higher, not shorter. Regarding neighborhood compatibility, there is no clear standard or perimeters for this. The Planning Commission cited 2 policies from the Zoning Code and LCP as the basis for their finding. 17.48.190 states that the project should be visually compatible with the character of the surrounding area. Also used was LU-15 but neglected to include 2 additional programs which encourage flexibility in the application of development standards with regards to height, setbacks and building coverage and rigid enforcement of any one or all of them can result in unimaginative development. It is their belief that the applicant has met the neighborhood compatibility policies. They are requesting the Council consider all efforts that have been made and recognize this project was modified to meet Planning Commission requests; the appeal should be upheld and the project approved.

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

Nancy Bast stated the issue was compatibility; this is the 5th hearing and public review is happening only because a fellow resident appealed. The revised plan is too large. If the appeal is upheld, the public will be confronted by an enormous structure. There is no way to lessen the impact of architectural dominance with landscaping because little space is being left on the lot. She urged the Council to deny the appeal.

Alex Beattie stated that a picture is worth a thousand words and this picture isn't compatible with that neighborhood. The home is sitting on a corner lot by the State Park and will stand out like a sore thumb. He agrees with the denial. He also doesn't feel they deserved the parking exception they were granted in 2012; it's not standard policy to grant an exception for a project that hasn't been approved.

Betty Winholtz stated that the bulk comes from looking from the overhang on the 2nd floor. When there is a conflict in policies, the standard is to go with the more restrictive policy. In the

pictures, the way the renditions are taken is from the front porch of the house across the street; it's recessed and doesn't give a true picture of what the house will look like. In the General Plan, page LV3, it talks as to how one should review policies and should be taken into consideration. Also needing to be taken into consideration is page 230 of the Land Use Plan 2.6. There is also discussion on General Plan page 412 as to how to review these kinds of things; there may not be strict standards but there are guidelines.

Debbie Highfell said her biggest concern is the precedent this can set. LU-15 guideline speaks to low intensity appearance but this home doesn't reflect that. It's important we don't recreate what southern California has done. To her mind, this is a conspicuous consumption project.

David Rose doesn't want to offend anybody but is opposed to the proposed project as it has no place in the neighborhood because of the size that it is. This project doesn't protect the common interest of the neighborhood from outlier development. He doesn't want to see this as precedent setting. He has a concern that mansionization will ultimately impoverish everyone who lives there. He doesn't want to feel like we live in a large metropolitan neighborhood. He is in support of the creation of dwelling size guidelines. He is not opposed to a demo and rebuild, just not one this large.

Judy Walters has listened carefully and learned a lot about the project that she didn't know. She is very sincerely opposed to approving this project. This last year, she has visited 3 very wealthy cities, Mendocino, Carmel and Newport Beach and even there, with all their wealth; there is a feeling that they don't allow incompatible buildings.

Jerry Mullen stated that 75% of homes in Morro Bay are 1800 square feet. In this neighborhood, the average house is 1500 square feet. This house is 5100 square feet. He feels that math takes care of the bulk and size issue of this project.

Paul Cooney stated that looking at this project; it's a nice looking home in a neighborhood where there are anywhere from 3 story houses to 1200 square foot houses. He can't see how the home doesn't fit the neighborhood – there's nothing in that neighborhood that looks like anything else in that neighborhood. The building is well within code; that's what we have code for. The applicant should be allowed to build a home compatible to their desires and not the personal whims of a few people.

Kasey Caldwell stated that the first reason for denial is inconsistency with the zoning ordinance – the project is not visually compatible with the character of the surrounding neighborhood. The second reason for denial of the project is that it is not consistent with LUP LU-15, in place to maintain the character of our town. She feels the Planning Commission took great care in reaching their subjective decision. How can the concept of bulk, size and scale be anything but subjective? The plans for this house, as modified, at 5184 square feet were found to be too visually imposing for this neighborhood. In her research she has yet to find any City that has a clear definition for what neighborhood compatibility is; but she has found that most have clearly defined guidelines for the process of establishing whether a proposed project is compatible or not.

Christine Presnell totally supports the approval of the design, size and scale of the home. It's being proposed within the legal property set back and should be allowed. There are all kinds of houses in the neighborhood; these people have spent a great deal of money on the project. She feels custom homes would be an asset, not a deterrent.

Norm Williams stated that Ordinance 17.48.190 says you have to take into account scenic area standards. The garage was originally 1200 square feet and is now down to 1142 square feet; there are 5 bathrooms; this seems to be an enormous project. He urges Council to vote down this project and uphold the Planning Commission recommendation.

Reed Adamson stated it wasn't his intent to create this, before he even started the design process, he spoke with neighbors who were all in favor. They want to retire in Morro Bay. He wants to build a house for his family to visit. He is asking Council to allow them to build his house so he can retire here.

Peter Fresno stated that they chose to live in this neighborhood because he is a golfer. The heights are full of highly mixed homes, that's the trend of Morro Bay. You have people who buy smaller homes and they build up around them.

Treva Thorton feels this home will be an asset to our community. When they built their home 24 years ago, they built every inch they could possible use and still don't have enough room. We all have our own needs, she likes the variety of the homes in the neighborhood.

Ted Dumont addressed the fact that he wished that this wasn't causing contention in the neighborhood. He also brought up the possibility of them being able to add a 2nd unit on the property. He feels all should have equal say, regardless of their financial standing.

Roger Ewing reminded Council why we are here. This project was granted an 11 foot variance in 2012 without any public review. Variances have 3 requirements, none of which he feels were met. Common sense says that the home is too massive for this lot in this neighborhood. It's the wrong design, the wrong size, and the wrong scale. He supports the public services staff decision to deny the project.

Ruel Czach, the project architect, spoke about the applicants and the process they are going through at the City. When talking to the planning department, it was their understanding that the design met all the code requirements, and not once was a policy document that talks about meeting the character of the neighborhood brought up. When they discovered that the neighborhood had concerns, they made the best effort they could to correct the design which will cost the applicant as much as \$50,000. The type of false accusations that have been levied on the Adamsons have divided the neighborhood. He provided a survey conducted with neighbors within 700 feet of the project, 90% of those he talked to supported the project. This survey was presented to the Council.

John Heading stated that Morro Bay, like most cities, is a City of urban planning inconsistencies and exceptions that has led to significant variability and inconsistency from neighborhood to neighborhood. There has been no violation of significant building ordinances

that he has seen. He questioned, do personal property rights prevail in the sense of significant damage to neighbors, neighborhood and the environment – to which he answered yes. You cannot legislate morality. His sense is there is less damage to the neighbors, neighborhood and the environment than the property rights in this situation and the appeal should be upheld.

The public hearing for Item B-1 was closed.

Mayor Irons stated that the dilemma is that we have no clear and concise guidelines. We know we are in need of a General Plan and LCP update. There is a difference between too restrictive and definitively clear guidelines. Our community has spoken clearly on what they feel neighborhood compatibility is. He felt that the Planning Commission parking exception was the single most important mistake which exacerbated the size, bulk and scale of this project as it would have dictated a different house. He feels that part of Council's responsibility is to work with this applicant to come to a conclusion on how he can build his home; it would be a mistake to flatly deny it without some sort of direction.

Councilmember Nancy Johnson stated that what Council needs to do tonight is to decide whether the applicants should be allowed to build the home. She has heard that there are a lot of neighbors who like the house. She feels people should be allowed to build the house they want with the style they want. They have already made concessions to their design; it bothers her they aren't able to do what they were approved to do. We don't have box type or large tracts of homes here. Morro Bay is diverse, she hopes we can accept the diversity and allow them to build the house they want to and feel they need. They aren't asking for any exceptions.

Councilmember Smukler stated that in the absence of clear guidelines, we default to the process we are in now; part of that then becomes the trust that the process, the hearing and decision from Planning Commission, informed by staff and public comment, is a decision that has its merits. At this point he is in support of staff recommendation and the Planning Commission decision because of that. He knows that "a yes" is out there but worries that "a yes" won't be appropriate or available to get to tonight.

Councilmember Leage believes in property rights. There are a lot of older homes there; soon, people will be buying those homes and coming in to do the same thing. As long as he is within his rights, he should be granted the ability to build this house.

Councilmember Christine Johnson is also a property rights advocate. The verbiage from the General Plan is there, while it doesn't give a great deal of direction, because it's there, it has to be recognized and discussed. She feels we are developing by appeal which doesn't seem to be the most efficient use of our time and our community. And she wants to see us address getting interim design standards. She also has concerns about staff decisions that were made when the folks walked in the door. Regarding LU-15, and because it is found in the General Plan, it is something we can't ignore.

Mayor Irons stated we haven't addressed updating our General Plan in many policy decisions including specific design standards or neighborhood compatibility; we know that and we are facing that. How can we get to yes; how can we deny this this when the applicant has used what

documents we have and haven't been able to get there? He is not in favor of approving the project as is, with the parking exception, as that was a mistake. He thinks this should go back to the Planning Commission, the Council shouldn't be designing this.

Councilmember Nancy Johnson stated that the applicants are trying to take an old house and make it meet their needs. Over 80% of the people in the neighborhood approve of this house, so how can we not say it's compatible. Yes, we need defined standards but we need to approve this tonight and allow him to move forward. She doesn't understand why we are doing this to people when the neighbors approve.

Councilmember Smukler stands by his comments earlier. There were some ideas added that could get us to yes and that could help address the compatibility issue; those would be up the applicant to consider. The historical context of how sensitive our neighborhoods have been regarding neighborhood compatibility should be forewarning enough that when wading into this situation, you are putting yourself into an area that warrants much more caution about how much size, bulk and scale you are bringing forward.

Councilmember Leage can't understand the parking exception holding this project up.

Mayor Irons stated we can approve it; we can deny it; or, we can work with the applicant for changes. He doesn't feel it's the right thing to do to deny it without some kind of guidance for them. He'd like to see design guidelines come out of this for this and future projects.

Councilmember Christine Johnson stated that in some ways we complain that our General Plan is 30 years old; but we've had the neighborhood compatibility wording for 30 years; this is something that folks before us thought was important enough to include. She can't ignore what is in the General Plan; we've had outreach to the community, and up until 2009 this was being discussed actively and direction was given to staff to get neighborhood compatibility guidelines done and we didn't.

Cathy Novak came to the podium and stated that at this late hour, they are unclear as to what the question is you are asking us. Parking exception? – there are drainage issues. It's too difficult to give yes or no answers on design changes on the fly. With direction as to what the Council was thinking, the Adamsons would be able to look at that and be able to respond. If anything, they would like to see the Council continue the item and that they should be dealing with Council regarding any type of changes on the project.

MOTION: Mayor Irons moved to go with staff recommendation to adopt Resolution 54-14, denying the appeal and upholding the Planning Commission denial of Coastal Development Permit #CPO-408 for 1000 Ridgeway Avenue. The motion was seconded by Councilmember Smukler and carried 3-2.

Ayes: Irons, C. Johnson, Smukler

No's: N. Johnson, Leage

B-2 HOLD A PUBLIC HEARING AND CONSIDER ESTABLISHING THE SOUTH BAY BOULEVARD UNDERGROUND UTILITY DISTRICT-CITY AREA; (PUBLIC SERVICES)

Public Services Director Rob Livick presented the staff report.

The public comment period / public hearing was opened; seeing none, the public comment period / public hearing was closed.

MOTION: Councilmember Smukler moved to approve Resolution 55-14, establishing the South Bay Blvd Underground Utility District within City limits. The motion was seconded by Mayor Irons and carried unanimously, 5-0.

Ayes: Irons, C. Johnson, N. Johnson, Leage, Smukler

No's: None

C. UNFINISHED BUSINESS - None

D. NEW BUSINESS - None

E. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

Mayor Irons requested Council direct planning staff to develop Interim Planning Guidelines / Neighborhood Compatibility Guidelines. Councilmembers Leage, Smukler and Christine Johnson concurred with this request.

Mayor Irons requested that staff provide Council a status report on the Planning Department (overview of projects, status of policies/plans, staffing, etc.) All Councilmember concurred with this request.

ADJOURNMENT

The meeting adjourned at 10:52p.m.

Recorded by:

Jamie Boucher
City Clerk