

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 25, 2015
VETERAN’S MEMORIAL HALL – 6:00P.M.

PRESENT:	Jamie Irons	Mayor
	Noah Smukler	Councilmember
	John Headding	Councilmember
	Christine Johnson	Councilmember
ABSENT:	Matt Makowetski	Councilmember
STAFF:	Susan Slayton	Administrative Services Director/ Acting City Manager
	Joe Pannone	City Attorney
	Dana Swanson	City Clerk
	Rob Livick	Public Works Director
	Scot Graham	Community Development Manager
	Cindy Jacinth	Associate Planner
	Eric Endersby	Harbor Director
	Amy Christey	Police Chief
	Steve Knuckles	Fire Chief

ESTABLISH QUORUM AND CALL TO ORDER

The meeting was called to order at 6:05pm

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

CLOSED SESSION REPORT - No Closed Session Meeting was held.

MAYOR AND COUNCILMEMBERS’ REPORTS, ANNOUNCEMENTS &
PRESENTATIONS

<https://youtu.be/9e28p5-O5JM?t=2m7s>

Mayor Irons read a letter into the record from Councilmember Makowetski requesting up to a 90-day leave of absence due to medical reasons.

PUBLIC PRESENTATIONS

<https://youtu.be/9e28p5-O5JM?t=6m56s>

SLO Rideshare Presentation

Peter Williamson, Employer Outreach Coordinator from SLO Rideshare presented information about events planned during Rideshare Week October 5 - 9, 2015.

The California Clean Power Presentation will be heard at the September 8, 2015 Council Meeting.

PUBLIC COMMENT

<https://youtu.be/9e28p5-O5JM?t=12m50s>

Hilary Hopkins of Placer Title provided the business spot. Placer Title is a full service title and escrow company with offices in San Luis Obispo, Paso Robles, Cambria and new location at 545 Main Street, Morro Bay. The company was founded in 1973 on a culture of taking care of their employees so their employees can take care of the customers.

Ivana Yeung, SLO County Planning Department, Housing and Economic Development Division, announced they are hosting a Needs/Fair Housing Workshop on September 8th at the Atascadero Library from 5-6pm, and September 15th at the Nipomo Library 5-6pm. This workshop is open to all to provide input and get information about projects coming to your area. More information is available at www.sloplanning.org.

Walter Heath, Morro Bay, announced a Citizens Beautification and Heritage Commission has been formed and will hold their first meeting on August 27th from 10-11:30am in the Studio Room at the Morro Bay Community Center. Topics include fall street tree planting, report on hidden history project, Highway 41 overpass mural project, BMX bike park update and design review, Adopt-a-Park recognition, and discussion of future projects. The public is welcome to attend.

Robert Davis, Morro Bay resident and Morro Bay in Bloom volunteer commented that while picking up litter in Centennial Parkway this past week, the amount of cigarette butts were extraordinary. He suggested signage informing the public that smoking is prohibited might alleviate the problem.

Rick Morse of Medmar Clinic located at 334 E. Olive Ave., Fresno, CA, provided information and sample ordinances regarding medical marijuana collectives and dispensaries.

Dawn Beattie, Morro Bay, asked Councilmember Headding to clarify his announcement regarding proper disposal of unused medications. Councilmember Headding indicated there are two safe ways to dispose of unused medications: 1) purchase a medication disposal system (charcoal packet) to safely dispose of unused medications in the trash, or 2) take unused medications to an authorized drop-off station (police station or one of the newly licensed pharmacies).

The public comment period was closed.

A. CONSENT AGENDA
<https://youtu.be/9e28p5-O5JM?t=31m22s>

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 AUGUST 11, 2015; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE CITY COUNCIL MEETING HELD ON AUGUST 11, 2015; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF VISITOR CENTER SERVICES CONTRACT & LEASE AGREEMENT FOR CITY-OWNED PROPERTY LOCATED AT 695 HARBOR STREET; (ADMINISTRATION)

RECOMMENDATION: Review and approve the proposed Visitor Center Agreement and Lease Agreement for 695 Harbor Street.

A-4 APPROVAL OF RESOLUTION NO. 59-15 URGING THE STATE TO PROVIDE NEW SUSTAINABLE FUNDING FOR STATE AND LOCAL TRANSPORTATION INFRASTRUCTURE; (PUBLIC WORKS)

RECOMMENDATION: Adopt Resolution No. 59-15.

A-5 APPROVAL OF RESOLUTION NO. 60-15 SUPPORTING THE CALIFORNIA EMERGENCY DROUGHT RELIEF ACT OF 2015 (S. 1894); (PUBLIC WORKS)

RECOMMENDATION: Adopt Resolution No. 60-15.

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

Councilmember Smukler pulled Item A-3 for a brief comment.

MOTION: Councilmember Headding moved the Council approve Items A-1, A-2 and A-4 and A-5 of the Consent Agenda. The motion was seconded by Councilmember Johnson and carried unanimously, 4-0.

A-3 APPROVAL OF VISITOR CENTER SERVICES CONTRACT & LEASE AGREEMENT FOR CITY-OWNED PROPERTY LOCATED AT 695 HARBOR STREET; (ADMINISTRATION)
<https://youtu.be/9e28p5-O5JM?t=32m23s>

Councilmember Smukler suggested modifying Item 8 on page 2 of the Visitor Center agreement to add language requiring the Chamber to include pertinent City and County governmental operations, such as transit information, in Visitor Center free mobile app.

MOTION: Councilmember Smukler moved to approve Item A-3 with Item 8 of the Visitor Center Agreement amended to include pertinent City and County governmental operation information on the Visitor Center mobile app. The motion was seconded by Councilmember Headding and carried unanimously, 4-0.

A brief recess was called at 7:14pm and the meeting reconvened at 7:22pm.

B. PUBLIC HEARINGS

- B-1 **CONDITIONAL USE PERMIT UP0-058 – REVISED CONCEPT PLAN/PRECISE PLAN APPROVAL FOR LANDSIDE IMPROVEMENTS (PHASE 2) ASSOCIATED WITH THE PREVIOUSLY APPROVED CONCEPT PLAN FOR HARBOR HUT, GREAT AMERICAN FISH COMPANY (GAFCO) AND MORRO BAY LANDINGS (FORMERLY KNOWN AS VIRG’S) REDEVELOPMENT PROJECT. PHASE 2 IMPROVEMENTS WILL INCLUDE DEMOLITION OF EXISTING MORRO BAY LANDING (VIRG’S) BUILDINGS AND EXISTING DOCKSIDE 3 RESTAURANT BUILDING WITH NEW CONSTRUCTION OF A 2-STORY COMMERCIAL VISITOR-SERVING BUILDING ALONG WITH OBSERVATION DECK, OUTDOOR SEATING AREA, PUBLIC ACCESS IMPROVEMENTS, AS WELL AS PARKING/ DRIVEWAY IMPROVEMENTS, AND 568SF POCKET PARK; (COMMUNITY DEVELOPMENT)**
<https://youtu.be/9e28p5-O5JM?t=1h8m51s>

Associate Planner Jacinth presented the staff report and, along with Community Development Manager Graham, responded to Council inquiries.

The public hearing was opened.

Bob Fowler, representing the applicant, MMBS, LLC, along with Gene Doughty of Land/Sea Interface presented the project.

Councilmember Johnson disclosed ex parte communications with Mr. Fowler at which time she walked the property. She also spoke with Mr. Tognazzini regarding his concerns about the project.

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

Shirley Fraser, Morro Bay, spoke in opposition to the project as it will wipe out the bay view in front of Morro Rock from her home, as well as those of her neighbors and other residents on Surf and Scott Streets. She suggested the loss of view corridor be mitigated by reducing the height of the single story portion of the building from 17’ to 14’. Alternatively, she asked that City trees be trimmed to restore views on the southeast and northeast sides of the building.

George Leage, Morro Bay resident and owner of GAFCO, expressed concern about the project, including the lack of commercial fishing, proposed dock configuration and likelihood the restaurant use will expand into the public viewing area.

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

Mayor Irons disclosed ex parte communications with Mr. Fowler, at which time they discussed the docks and lateral access. He also spoke with Mr. Tognazzini regarding his letter opposing the project, and acknowledged receipt of Ms. Fraser’s letter. He appreciated Mr. Doughty’s presentation and asked if the trash receptacles would need to be relocated to make room for

public restrooms. He also requested a covered trash receptacle to deter birds. He is supportive of the suggested modification to Planning condition 8, but would like further clarification. He was disappointed the configuration of the docks and lateral access in front of Harbor Hut had been changed, giving the appearance they are tucked in for private use rather than public use as Planning Commission approved in 2010. He noted there will be a gap in front of Harbor Hut when Phase 1A and 1B of the project is complete, as there is currently no requirement in the Harbor Hut lease to complete their portion of the docks. He recommended the item be continued so that MMBS, LLC and Harbor Hut can have further discussions regarding completing the project to ensure continued lateral access is achieved.

Councilmember Smukler understood lateral access would be achieved as part of the overall project, and was confused about the idea of continuing the item and asking Mr. Fowler to take responsibility of trying to make this connection as that seems to be the City's responsibility. He disclosed ex parte communications with Mr. Fowler to discuss the history of the project and the Planning Commission conditions. He also reviewed the record from Planning Commission and Coastal Commission meetings. He was cautious about postponing progress for one component of the project and hold that party responsible for another party.

City Attorney Pannone noted that when a land use entitlement is granted, it's granted in total; the applicant cannot make use of a portion, without completing the whole. One approach the City could take is to ask Mr. Fowler to do his best to convince his fellow lessee to do what he should be doing. City staff could also have that conversation with the lessee explaining he has been taking benefit from CUP, but not completing the obligation. If there was a refusal to do that, it may potentially invalidate the entire CUP, as it has not been properly followed.

Councilmember Heading noted he did not have discussions with the applicant nor any individuals involved; however, he reviewed the Planning Commission record and information provided in detail. This is an extremely complex issue and he wants to see the City move forward and benefit economically, yet maintain integrity of what was meant by design through Measure "D". The City should review the Harbor Hut lease and use whatever leverage we have to get the project completed. He appreciated public input and concerns regarding view shed, yet noted the project allows for more open public space. He is concerned about potential push-out by the restaurant into the public viewing area, and supportive of not holding up process any further but working to mitigate issues as much as we can.

Councilmember Johnson clarified with staff the building height was approved by Coastal Commission, is in line with the Waterfront Master Plan and the project was determined to provide increased public benefit. She also noted the project honors Measure D by supporting commercial fishing with a new commercial fish processing business, protecting eel grass and providing increased public access. She agrees the existing sign doesn't do the architecture of the new business justice and should be removed. She would like more clarity on the Planning condition #8 for tables on the deck and agrees with compromise that staff report presents. Regarding Planning conditions 6 & 7, she supported a global view of the project by ensuring access is available to the public on the floating dock.

Councilmember Smukler supported the staff recommendation to remove the pole sign. He suggested adding a condition that does not allow table service outside of the restaurant area to

ensure the business doesn't sprawl into the public view area. As to lateral access, it's not appropriate and safe based on business activities to provide continuous water access on the south side and the proposed project with staff recommended changes meets the intent.

Mayor Irons confirmed the Council is in agreement on removal of the pole sign and amending Planning condition #8 to specify table service not be allowed outside of the restaurant area. He didn't want to hold the project hostage over conditions #6 and #7, but wanted to bring the history of the project to light. It's disappointing to discover we have a gap in lateral access that we may not have much leverage to resolve.

Mr. Fowler responded to the concerns raised by the Council, noting he has negotiated a license agreement with Dynegy that will provide public access off of the south T-Pier. He also noted it's not unusual for gaps in lateral access to be rectified as projects are approved. He met with the Harbor Hut leaseholder as part of his due diligence, and was not able to get his buy-in based on the original design, which led to the redesign so he had more control over the improvements. He offered to finance the construction of the docks or take over the neighboring water lease, but was unable to make any progress. He also noted the Harbor Hut lease may not have time constraints to complete the project, but he does and he is trying to meet them.

Mayor Irons stated it was helpful to understand Fowler has attempted to work with neighboring leaseholder and is willing to move ahead with conditions as discussed.

MOTION: Mayor Irons moved to adopt Resolution No. 57-15 making the necessary findings for approval of Conditional Use Permit (#UP0-058) for Phase 2 with revised Concept/Precise Plan approval with deletion of Planning condition 6 and 7, and modification of Planning condition 8 as presented by staff, with the added condition that no table service allowed in the public viewing area, cover trash receptacles. The motion was seconded by Councilmember Johnson and carried unanimously, 4-0.

C. UNFINISHED BUSINESS / SECOND READING AND ADOPTION OF ORDINANCES

C-1 ADOPTION OF ORDINANCE NO. 594 AMENDING VARIOUS SECTIONS OF CHAPTER 3.08 OF THE MORRO BAY MUNICIPAL CODE, RELATING TO CONTRACT AUTHORITY AND THE PURCHASING PROCESS: (ADMINISTRATIVE SERVICES)
<https://youtu.be/9e28p5-O5JM?t=34m54s>

Administrative Services Director Slayton presented the staff report.

The public comment period for Item C-1 was opened; seeing none, the public comment period was closed.

The Council thanked staff for reviewing and providing an updated, more relevant policy for Council review. These changes bring increased accountability and responsibility.

MOTION: Mayor Irons moved for adoption of Ordinance No. 594, by number and title only. The motion was seconded by Councilmember Johnson and carried unanimously, 4-0.

D. NEW BUSINESS

D-1 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 595 AMENDING VARIOUS PROVISIONS OF TITLE 5 OF THE MORRO BAY MUNICIPAL CODE RELATING TO BUSINESS TAXES; (ADMINISTRATIVE SERVICES)
<https://youtu.be/9e28p5-O5JM?t=42m19s>

Administrative Services Director Slayton presented the staff report, along with additional recommended changes to Page 3, subsection E; Page 7, subsection A; and Page 8, section 5.08.030 of the Ordinance as presented at the meeting, and responded to Council inquiries.

Councilmember Heading requested staff provide a list of the types of records a person might need to produce for verification should they be audited. Ms. Slayton agreed to provide that information in the tax collector letter.

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

Mr. Pannone noted a code reference error on page 12, section 40, subsection C. The code referenced should be 5.08.030, not 5.08.020. Staff will make the correction.

MOTION: Mayor Irons moved for introduction and first reading of Ordinance No. 595 by number and title only, to include corrections provided by staff. The motion was seconded by Councilmember Heading and carried unanimously, 4-0.

A brief recess was taken at 10:02 and the meeting reconvened at 10:07.

D-2 CONSIDERATION AND ADOPTION OF RESOLUTION NO. 58-15, UPDATING THE CITY COUNCIL POLICIES AND PROCEDURES MANUAL; (ADMINISTRATION)

City Attorney Pannone presented the staff report and responded to Council inquiries.

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

MOTION: Mayor Irons moved the Council adopt Resolution No. 58-15 updating the City Council Policies & Procedures Manual, including edits as discussed during deliberation, and the addition of Section 3.12 as presented at the meeting. The motion was seconded by Councilmember Heading and carried unanimously, 4-0.

E. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

Mayor Irons requested discussion of Councilmember Makowetski's request for leave of absence at the next regular City Council meeting. Council concurred.

ADJOURNMENT

The meeting adjourned at 10:39pm to the next regular City Council meeting to be held on **Tuesday, September 8, 2015** at 6:00pm at the Veteran's Memorial Hall, 209 Surf Street, Morro Bay, California.

Recorded by:

Dana Swanson
City Clerk