

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING ó MAY 26, 2009
VETERANS MEMORIAL HALL - 6:00 P.M.

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

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Bridgett Bauer	City Clerk
	Rick Algert	Harbor Director
	Bruce Ambo	Public Services Director
	Dan Doris	Building Official
	Rob Livick	City Engineer
	Tim Olivas	Police Commander
	Mike Pond	Fire Chief
	Christine Rogers	Housing Programs Coordinator
	Susan Slayton	Administrative Services Director
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &
PRESENTATIONS

CLOSED SESSION REPORT - City Attorney Robert Schultz reported the City Council met in Closed Session, and no reportable action under the Brown Act was taken.

PUBLIC COMMENT

Keith Taylor thanked the City Council for authorizing the Fire Chief to hire an additional full time paramedic/firefighter.

Garry Johnson announced the first annual Morro Photo Expo would be held the weekend of October 23-25, 2009, noting George Lepp would be the keynote speaker and Cannon would be sponsoring this event. He said people could pre-register at www.morrobay.org.

Beth Fillerup, SLO Green Build, announced a Green Retrofit Sweepstake sponsored by PG&E where eight residents within the County can win money for approved energy-efficiency upgrades to an older home; the deadline to submit the application is June 15.

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Dan Glessman addressed the City's serious financial position. He said historically Morro Bay's economy has been fueled by the power plant, fishing and tourism, and presently Morro Bay is left with tourism. Mr. Glessman stated short-term, the only variable Council can control is expenditure. He requested the Council act now and get the structural deficit under control.

Michael Durick requested the City Council decline the approval of Item A-4 (Resolution No. 25-09 adopting Fiscal Year 2009/10 Operating Budget), stating approval of a deficit spending budget would be a violation of public trust. Mr. Durick said he went to the Visitor Center over the Memorial Day weekend to find it was closed; which he finds is not a good bargain for what the City pays for its services.

Lynda Merrill requested the City include the respect of the City's wildlife in its motto "Discover Your Better Nature". She referred to Item D-2 (Approval of Residential Listing Agreement with Morro Bay Realty for Exclusive Authorization and Right to Sell the City-Owned Property at the SEC of Coral and San Jacinto) and requested the funds of the sale of this property go towards the North Morro Bay Fire Department. Ms. Merrill also expressed support for Item A-2 (Resolution to Authorize a Six-Month License Agreement for Use of City Facilities with Big Rock Charters/Chablis) and Item A-3 (Adoption of Ordinance No. 548 Repealing, Amending, and Reenacting Title 10 Vehicles and Traffic of the Morro Bay Municipal Code).

Hank Roth announced there would be a Car Seat Check-Up at Spencer's Market on June 17th from 10 a.m. - 2:00 p.m.

Mayor Peters closed the hearing for public comment.

A. CONSENT CALENDAR

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion.

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF MAY 11, 2009; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 RESOLUTION TO AUTHORIZE A SIX-MONTH LICENSE AGREEMENT FOR USE OF CITY FACILITIES WITH BIG ROCK CHARTERS/CHABLIS; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 26-09.

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A-3 ADOPTION OF ORDINANCE NO. 548 REPEALING, AMENDING, AND REENACTING TITLE 10 VEHICLES AND TRAFFIC OF THE MORRO BAY MUNICIPAL CODE; (POLICE)

RECOMMENDATION: Adopt Ordinance No. 548.

A-4 RESOLUTION NO. 25-09 ADOPTING FISCAL YEAR 2009/10 OPERATING BUDGET; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 25-09.

A-5 STATUS REPORT ON APPLICATIONS FOR ECONOMIC STIMULUS FUNDING; (ADMINISTRATION)

RECOMMENDATION: Receive report for information.

Councilmember Winholtz pulled Items A-2 and A-4 from the Consent Calendar.

MOTION: Councilmember Borchard moved the City Council approve the Consent Calendar with the exception of Items A-2 and A-4. The motion was seconded by Councilmember Smukler and carried unanimously. (5-0)

A-2 RESOLUTION TO AUTHORIZE A SIX-MONTH LICENSE AGREEMENT FOR USE OF CITY FACILITIES WITH BIG ROCK CHARTERS/CHABLIS; (HARBOR)

Councilmember Winholtz referred to the Berthing óLicense Agreement, and requested to delete the last sentence of #2: "Any holdover of this license shall be on a month-to-month basis with prior written permission of the City and rent for any holdover period shall be as hereinafter set forth"; and, delete the last sentence in #4: "City does not desire to have any holdover of this agreement, but should licensee holdover; Rental for any holdover period shall be \$1500 per month. Rental payments for any period less than one complete month shall be made on a pro-rata basis." The City Attorney stated it would not be in the best interest of the City to remove these holdover clauses. Councilmember Winholtz withdrew her requested amendments, but stated she would want to charge \$500 per month for slip fees.

MOTION: Councilmember Grantham moved the City Council adopt Resolution No. 26-09 approving a six-month license agreement between the City of Morro Bay and Big Rock Charters. The motion was seconded by Councilmember Smukler and carried unanimously. (5-0)

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A-4 RESOLUTION NO. 25-09 ADOPTING FISCAL YEAR 2009/10 OPERATING BUDGET; (ADMINISTRATIVE SERVICES)

Councilmember Winholtz, Councilmember Borchard and Councilmember Smukler expressed opposition to the adoption of the Fiscal Year 2009/10 Operating Budget at this time.

MOTION: Councilmember Grantham moved the City Council adopt Resolution No. 25-09 adopting the Fiscal Year 2009/10 Operating Budget. The motion was seconded by Mayor Peters and failed with Councilmember Borchard, Councilmember Smukler and Councilmember Winholtz voting no. (2-3)

Mayor Peters recommended continuing discussion on Item A-4 until after the Public Hearing item; Council concurred.

Mayor Peters called for a break at 7:00 p.m.; the meeting resumed at 7:10 p.m.

The City Council further discussed the Fiscal Year 2009/10 Operating Budget.

MOTION: Councilmember Grantham moved the City Council adopt Resolution No. 25-09 adopting the Fiscal Year 2009/10 Operating Budget, and direct the City Manager to initiate conversations and/or negotiations with the non-union groups with the intention of cutting a minimum of \$300,000 in the budget. The motion was seconded by Mayor Peters and failed with Councilmember Borchard, Councilmember Smukler and Councilmember Winholtz voting no. (2-3)

MOTION: Councilmember Winholtz moved the City Council direct staff to schedule a special meeting to discuss the budget and present options to the City Council to locate \$388,000 within the non-union groups and any other available resources. The motion was seconded by Councilmember Smukler and carried with Councilmember Grantham and Mayor Peters voting no. (3-2)

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B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 DISCUSSION/INTERPRETATION OF GENERAL PLAN AND LOCAL COASTAL PLAN POLICIES RELATING TO THE LOCATION AND PLACEMENT OF COMMERCIAL AND RECREATIONAL FACILITIES IN THE BAY IN THE AREA OF THE CITY WEST OF MAIN STREET BETWEEN ACACIA AND BARLOW; (CITY ATTORNEY)

City Attorney Robert Schultz stated the City's General Plan and Local Coastal Plan policies relating to the location and placement of commercial uses, commercial fishing uses and recreational boating uses in the Bay in the area of the City west of Main Street between Acacia and Barlow has been the subject of controversy for a while. Many residents in this area have spoken at public comment that commercial uses are not allowed. This controversy has caused confusion and frustration for staff and applicants, particularly with regard to what are the allowable uses in the area of the City west of Main Street between Acacia and Barlow. In an effort to reduce this controversy and provide more certainty in the planning process, the Harbor Advisory Board and Planning Commission held public hearings and provided recommendations on the interpretation of the City's General Plan and Local Coastal Plan policies on these issues. In addition, staff has spent many hours researching files and minutes to determine the legislative history of the City's policies. Mr. Schultz recommended the City Council discuss and interpret the applicable City General Plan and Local Coastal Plan policies related to the location and placement of commercial and recreational facilities in the Bay, and provide input to staff. It is staff's interpretation that in the area of the City west of Main Street between Acacia and Barlow, commercial uses are allowed in the Bay/Tidelands area, subject to a project-by-project review and environmental analysis.

Mayor Peters opened the hearing for public comment.

Jim Phillips, Member of the Harbor Advisory Board, stated the City should consider the commercial nature of this portion of the waterfront in mind. He said the commercial and water-oriented activity on the waterfront has declined and has been replaced with non-commercial uses or residential, and the commercial space is lost forever. Mr. Phillips requested the Council interpret the use as a water-oriented commercial use and consider each permit on a project-by-project case based on environmental analysis.

Phil Hill, Member of the Liveboard Association, stated the only haul-out facility in Morro Bay is along this area, and it is a necessary part of this community. He said it is ill advised to not use the resources that the City has to offer.

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Ed Ewing stated there have always been commercial uses along this area of the Bay, and water-oriented commercial uses are always needed and should always be provided in the City.

Bill Newman stated there should be a revised policy written instead of a reinterpretation of the use in this area.

Jane Heath, Attorney representing Bill Martony and Bernadette Pekarek, stated there are missing definitions in the policy. She said there has been consistent concern over the impacts of commercial activity to the mixed-use residential in this area, and the City needs to define the land use and then consider how to clarify the policy.

Bernadette Pekarek stated there are no other zoning issues other than in front of her property. She said the Local Coastal Plan was clear on the uses of their property when they purchased their house. Ms. Pekarek stated their main intent for the lease sites was for mariculture, which is stated as the #1 use in the harbor zone. She said neighborhood compatibility is important to this area, and offshore energy supply operation is not allowed at this end of the Bay and not compatible with the surrounding neighborhood.

Bill Martony stated the issue has always been what type of waterfront uses has been appropriate for this lease site. He said policies state that land south of Tidelands Park for any new use is for priority recreational and fishing only; the fuel dock is legal non-conforming.

Allen Hockstettler stated his family owned a mooring launch service from the 1940s ó 1960s. He said there were no commercial boats permanently moored in this area during the 1960s-1980s. Mr. Hockstettler stated the mooring of the Chablis would be a good idea, but not for boarding purposes.

Bob Tefft stated the interpretation of the policy is recreational uses are allowed and commercial uses are not. He said the Land Use Plan states mixed harbor uses should be for recreational boating and fishing uses rather than for commercial fishing.

Jeremiah O'Brien, President of the Commercial Fishermen's Organization, spoke in support of the owner of the local tug service that has been referenced. He urged Council consider jobs that this boat owner offers during this economic period.

Kim Kolb stated this neighborhood has never meant to operate on a large scale, and requested Council protect the integrity and quality of life of this neighborhood.

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Michael Durick read a letter into the record from Dorothy Cutter who gave a complete history of the zoning of this area. Ms. Cutter's letter will be attached to the original staff report, which will be kept on file.

Mayor Peters closed the public comment hearing.

Councilmember Grantham stated he would like a more consistent recommendation from the City's Commission/Advisory Boards on the interpretation of the policy.

Councilmember Winholtz stated business does want to be encouraged; however, the location should be compatible, and she does not find that tugboats are compatible in this area. She said this has been an evolutionary process, and should be able to continue in its natural fashion.

Councilmember Smukler stated there has been some obvious historical commercial uses in this area. He said components of the recreational boating and fishing uses are appropriate for this neighborhood.

Councilmember Borchard stated she would like to find some place for tugboats in order to have future research of renewable offshore energy, and provide future jobs for this area.

Mayor Peters stated she supports the interpretation as it stands.

MOTION: Councilmember Smukler moved the City Council forward this item to the Planning Commission with a full historical review with the zoning issues for commercial uses in the Bay/Tidelands area of the City west of Main Street between Acacia and Barlow, and provide Council with further definition of appropriate commercial uses for that zone. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

Mayor Peters called for a break at 8:50 p.m.; the meeting resumed at 9:00 p.m.

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C. UNFINISHED BUSINESS

C-1 RESOLUTION NO. 24-09 APPROVING THE GREEN BUILDING INCENTIVES PROGRAM; (PUBLIC SERVICES)

Public Services Director Bruce Ambo stated the Green Building Incentive Program would reward project proponents committed to implementing either broad or focused sustainability measures. Fee rebates vary depending on the level of commitment and/or beneficial outcomes, and have been based upon regional norms. A review of the "Reduced Fee Incentive for Green Building and Low Impact Development" proposal was conducted by City Council on April 13, 2009 and was approved. Staff was directed to return with a resolution refining the program structure and process. Mr. Ambo recommended the City Council adopt Resolution No. 24-09 implementing the Green Building Incentive Program.

Councilmember Smukler would like to include grey water in the incentive program.

MOTION: Councilmember Smukler moved the City Council adopt Resolution No. 24-09 approving the Green Building Incentive Program with the inclusion of 20% e-rebate for grey water systems within the optional sustainability incentive program. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

D. NEW BUSINESS

D-1 PRESENTATION ON IMPLEMENTATION ON GOALS A & B FROM THE MANAGEMENT PARTNERS GOAL SETTING WORKSHOP; (ADMINISTRATION)

City Manager Andrea Lueker stated during the Goal Setting Workshop held in February 2009, the City Council indicated they were interested in exploring the "What Success Looks Like" section of the Goal Outcomes document. During the workshop, staff clearly indicated that any research done and/or information provided would not be completed or available prior to the 2009/10-budget adoption. The City Council requested staff come back with some time lines/schedule for completion of the tasks. The time lines were based on the parameters established by the City Council at the Goal Setting Workshop, divided into short-term (1-3 months), medium-term (3-9 months), long-term (9 months+) and on-going (started/continuing). In late April, staff provided to the City Council a document entitled Goal Setting Workshop outcomes for 2009 that outlined details to accomplish the "What Success Looks Like" section as well as proposed time lines for completion. Ms. Lueker submitted Goal A: Develop and Maintain a Structurally Sustainable Budget, and Goal B: Reduce Overall Administrative Costs for Council

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consideration. She recommended Council review Goals A and B as well as the "What Success Looks Like" and "Timeline" sections from the Goal Setting Workshop Outcomes for 2009 document, and provide further direction to staff.

Council consensus was to postpone this discussion until after the special meeting on the budget.

No action was taken on this item.

D-2 APPROVAL OF RESIDENTIAL LISTING AGREEMENT WITH MORRO BAY REALTY FOR EXCLUSIVE AUTHORIZATION AND RIGHT TO SELL THE CITY-OWNED PROPERTY AT THE SEC OF CORAL AND SAN JACINTO; (CITY ATTORNEY)

City Attorney Robert Schultz stated the City obtained ownership of the property at SEC Coral/San Jacinto Street in September 1996. At the time of the dedication, the property was a possible site for an additional fire station. In 2005, the City Council determined that alternative sites were better suited for a fire station. Therefore, pursuant to Resolution No. 30-05, the City Council authorized the sale of the City-owned property at SEC Coral/San Jacinto Street. The City received a few unacceptable bids for the property. In 2006, the City Council decided to subdivide the property to maximize its value. After the subdivision was completed in 2007, the City re-listed the property for \$2.4 million. To date, the City has received no offers for the property. Due to the lack of interest in the property, the City Council in 2008 directed staff to prepare and solicit a Request for Proposals for real estate contract services for the sale of City-owned property located at the SEC of Coral Avenue and San Jacinto Street. Mr. Schultz recommended the City Council direct the City Manager to execute a Residential Listing Agreement with Morro Bay Realty for exclusive authorization and right to sell the City-owned property at the SEC of Coral Avenue and San Jacinto Street.

MOTION: Councilmember Borchard moved the City Council authorize the City Manager to execute a Residential Listing Agreement with Morro Bay Realty to sell the property at the SEC of Coral Avenue and San Jacinto Street. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

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E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Winholtz requested to agendize a discussion on Mobilehome Vacancy Decontrol (AB 761); Council concurred.

Councilmember Grantham requested to agendize a discussion on the feasibility of providing Internet service through WiFi in Morro Bay; Council concurred.

ADJOURNMENT

The meeting adjourned at 9:37 p.m.

Recorded by:

Bridgett Bauer
City Clerk