

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – September 8, 2015
VETERAN’S MEMORIAL HALL – 6:00 P.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
	Brooke Austin	Deputy City Clerk
	Rob Livick	Public Works Director
	Scot Graham	Community Development Manager
	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 6:10 p.m.

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

CLOSED SESSION REPORT – Mayor Irons announced there were no reportable actions from closed session.

MAYOR AND COUNCILMEMBERS’ REPORTS, ANNOUNCEMENTS & PRESENTATIONS

<https://youtu.be/fup5T5YIGRk?t=2m3s>

PUBLIC PRESENTATIONS

<https://youtu.be/fup5T5YIGRk?t=2m59s>

Community Choice Aggregation Presentation

Peter Rumble of California Clean Power presented information about Community Choice Aggregation.

PUBLIC COMMENT

<https://youtu.be/fup5T5YIGRk?t=32m5s>

Jaynae Franklin of the House of JuJu provided the business spot. House of JuJu is a family owned and operated business. The restaurant features six signature burgers and other menu options. The name is based on her mother’s name Julie; JuJu is what the grandkids call her. The family has a passion to serve and they appreciate the local community’s support.

Glenn Silloway, a member of the Board of the Historical Society Morro Bay, invited the public to join them at historicalmorrobay.org. He also mentioned it is Local History Month and there is a display available in the library. The coastal cleanup will take place on September 19th at Tideland Park beginning at 8:45 a.m. and they are looking for volunteers. Also, on November 8th from noon until 2:00 p.m., there will be a presentation on World War II and its impacts on the history of Morro Bay. He reminded everyone of the hidden history and walking tour projects.

Marvin Victor, Morro Bay, distributed pictures and would like potholes fixed at Orcas and Panorama Street. The berm is being wiped out, and he is worried his house will be flooded.

Sandra Sandini, Morro Bay, echoed Mr. Victor's concern regarding the potholes at Orcas and Panorama Street. She stated there is a problem with the asphalt being broken up and debris spread about. She mentioned there was a water main break in the 80's on Panorama Street knocking houses off their foundations and is concerned a strong storm could do something similar.

Robert Davis, Morro Bay, expressed his appreciation on behalf of the residents of Morro Bay to Dawn Beattie for taking on the project of getting the pathway panels at the Cloisters Development, which had faded and weathered over time, replaced.

Mike Dombrowski, Morro Bay, reported a missing no parking sign at the bike lane in front of 1163 Main Street. He also voiced concern about the lack of trash receptacles at seating areas on the pedestrian pathway, which leads to debris. He noted large amounts of debris that have been dumped in the parking area near Harbor Department Office. He also suggested length of vehicle restrictions from the Morro Dunes RV Park entrance going south, so that large vehicles are not trying to turn around in that area.

Jan Searby, speaking on behalf of the Morro Coast Audubon Society and herself as a resident, supports the ban on polystyrene

Karen Perry, Morro Bay, spoke in support of the ban on polystyrene.

Lynda Merrill, Morro Bay, spoke regarding Item D-2. She is in favor of regulating polystyrene. She mentioned a State Senate Bill on continued protection of endangered sea otters and asked Council to show support of it. She also commented on Consent Calendar Item A-6 requesting an update on the status of her previous request to establish a location where hard copies of information regarding the new Wastewater Treatment Plant could be available for public review.

The public comment period was closed.

Council and staff responded to issues raised during public comment.

A. CONSENT AGENDA
<https://youtu.be/fup5T5YIGRk?t=1h8m39s>

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 AUGUST 17, 2015; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE SPECIAL CLOSED SESSION CITY COUNCIL MEETING HELD ON AUGUST 24, 2015; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF MINUTES FOR THE CITY COUNCIL MEETING HELD ON AUGUST 25, 2015; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-4 PROCLAMATION DECLARING SEPTEMBER 2015 AS “CHILDHOOD CANCER AWARENESS MONTH”; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

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

RECOMMENDATION: Receive and file.

A-6 MONTHLY WATER RECLAMATION FACILITY (WRF) PROGRAM UPDATE; (PUBLIC WORKS)

RECOMMENDATION: Receive and file.

A-7 APPROVAL OF A LICENSE AGREEMENT WITH MMBS, LLC/BOB FOWLER FOR TEMPORARY USE OF A PORTION OF HARBOR DEPARTMENT STORAGE/WORK YARD SPACE FOR CONSTRUCTION OF DOCKS FOR LEASE SITE 113W IMPROVEMENTS: (HARBOR)

RECOMMENDATION: Approve the Temporary License Agreement for Use of Public Property with MMBS, LLC.

A-8 RESOLUTION NO. 61-15 AUTHORIZING STAFF TO APPLY FOR A RECYCLED WATER FEASIBILITY GRANT FROM STATE WATER RESOURCES CONTROL BOARD; (PUBLIC WORKS)

RECOMMENDATION: Adopt Resolution No. 61-15.

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

Councilmembers Headding and Smukler requested Item A-6 be pulled for separate consideration.

MOTION: Councilmember Johnson moved the Council approve Items A-1 through A-8, excluding A-6, of the Consent Agenda. The motion was seconded by Councilmember Headding and carried unanimously, 4-0.

A-6 MONTHLY WATER RECLAMATION FACILITY (WRF) PROGRAM UPDATE;
(PUBLIC WORKS)
<https://youtu.be/fup5T5YIGRk?t=1h9m25s>

Councilmember Headding requested clarification on certain expenditures and made several suggestions regarding the format of the new detailed report.

Councilmember Smukler asked Director Livick to review the Near-Term Schedule and to highlight some of the opportunities available for public outreach and engagement.

MOTION: Councilmember Headding moved the Council approve Item A-6 of the Consent Agenda. The motion was seconded by Councilmember Smukler and carried unanimously, 4-0.

A brief recess was called at 7:40 p.m. and the meeting reconvened at 7:49 p.m.

B. PUBLIC HEARINGS - NONE

C. UNFINISHED BUSINESS / SECOND READING AND ADOPTION OF ORDINANCES

C-1 ADOPTION 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/fup5T5YIGRk?t=1h30m15s>

Administrative Services Director Susan Slayton presented the staff report and responded to Council inquiries.

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

Robert Davis questioned how the exemption for nonprofits works.

Dawn Beattie mentioned there is a nonprofit application and wondered if the language on it had been clarified. She also wondered why the wording has been changed when it is still called a business license in other jurisdictions.

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

Director Slayton stated that Section 5.08.110 refers to a new nonprofit exemption for flea market vendors only. However, there is already an exemption for nonprofits and that will continue.

City Attorney Pannone stated that the change was made from business license to business tax because the City is not a licensing authority, they are a taxing authority.

MOTION: Mayor Irons moved the Council adopt Ordinance 595 by title only and waiving further reading. The motion was seconded by Councilmember Smukler and carried unanimously, 4-0.

C-2 ONE YEAR REVIEW OF PUBLIC OFF-THE-BOAT COMMERCIAL FISH SALES POLICY FOR PUBLIC DOCKS AND PIERS; (HARBOR)
<https://youtu.be/fup5T5YIGRk?t=1h42m20s>

Harbor Director Endersby presented the staff report and responded to Council inquiries. He stated there has been no problems with off-the boat commercial fish sales, so staff and the Harbor Advisory Board recommend an ongoing policy to allow it to continue on a permanent basis.

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

Councilmember Johnson wanted to point out this is one way government can implement a policy to help businesses and she feels the fishermen should market themselves with the means available. She likes the idea of a standard flag and an old-fashioned chalkboard as low-tech alternatives to Apps and social media. She also mentioned the Harbor Festival would be a good place for promotion

Mayor Irons suggested some of these marketing tools may need to be folded into the policy update.

MOTION: Councilmember Johnson moved the Council approve the permanent allowance of off-the-boat commercial fish sales on the City's public docks and piers. The motion was seconded by Councilmember Heading and carried unanimously, 4-0.

D. NEW BUSINESS

D-1 APPROVAL OF ABSENCE OF COUNCIL MEMBER MATT MAKOWETSKI FROM ATTENDANCE AT COUNCIL MEETINGS FOR A 90-DAY PERIOD; (ADMINISTRATION)
<https://youtu.be/fup5T5YIGRk?t=1h54m5s>

Administrative Services Director Slayton presented the staff report and, along with City Attorney Pannone, responded to Council inquiries.

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

Mayor Irons reported he is in support of the leave of absence. He appreciated hearing from Mayor Higginbotham at the recent Mayor's Meeting who related a similar situation that was granted and had favorable results. He also is supportive of continuing compensation for Councilmember Makowetski as an elected official.

Councilmember Johnson stated Matt Makowetski was elected to a four-year term which just began and 90 days is a small time period compared to the full term, so she is supportive of granting the requested leave to allow him to fully recover. She also highlighted his letter stated that if he was unable to return, he would let Council know and she believes he will. She is also comfortable with continuing compensation, as she is sure he is keeping up with Council issues being discussed.

Councilmember Headding is in support of a 90-day leave of absence. He also believes Councilmember Makowetski is staying apprised of Council issues, so he is supportive of continuing compensation. He questioned the effective date for granting the leave. He suggested using the last date of the meeting actually attended or the date of the letter.

Councilmember Smukler stated existing policy creates determination on a case-by-case analysis. He feels Councilmember Makowetski has a serious and uncontrollable condition that definitely warrants the leave. In speaking with Councilmember Makowetski, he does not want to continue to receive compensation. However, he thinks it is impossible for councilmembers to separate themselves from their duties and Councilmember Makowetski is still participating as much as possible, so he is supportive of continued compensation. He is also concerned that Councilmember Makowetski be able to return to avoid creating a vacancy and the requirement for Council to make an appointment. Councilmember Smukler is filling in as the alternate on the Estuary Board. He suggested the alternates on other boards due the same. There is no alternate to the Harbor Advisory Board, so someone should be appointed to cover.

MOTION: Mayor Irons moved the Council approve Council Member Makowetski's request for a 90-day leave of absence beginning September 22, 2015. The motion was seconded by Councilmember Johnson.

There was additional discussion amongst councilmembers and the City Attorney regarding the date the leave of absence should begin. Mayor Irons withdrew his original motion with the agreement of Councilmember Johnson and restated it with the following motion.

MOTION: Mayor Irons moved the Council approve Council Member Makowetski's request for a 90-day leave of absence beginning September 9, 2015. The motion was seconded by Councilmember Johnson and carried unanimously, 4-0.

MOTION: Mayor Irons moved the Council direct the Administrative Services Director to continue to pay Council Member Makowetski's compensation during the approved leave of absence. The motion was seconded by Councilmember Heading and carried unanimously, 4-0.

Mayor Irons sought agreement by councilmembers to fill in as alternatives on other boards Councilmember Makowetski is assigned to. There is no alternate to the liaison on the Harbor Advisory Board, so Councilmember Heading volunteered to step in. City Attorney Pannone stated that an item to make that appointment would come back on the next Consent Agenda for approval since it was not on tonight's agenda.

D-2 CONSIDERATION OF AN ORDINANCE REGULATING EXPANDED POLYSTYRENE (EPS) FOOD CONTAINERS AND PRODUCTS; (PUBLIC WORKS)
<https://youtu.be/fup5T5YIGRk?t=2h30m50s>

Public Works Director Livick presented the staff report and responded to Council inquiries.

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

Robert Davis, Morro Bay resident, spoke in support of the ban. He would also like to find safe alternatives for raw meat and fish.

Rosalie Duvall spoke in support of the ban. She thinks businesses should form a consortium to buy environmentally safe products in bulk.

Ric Deschler spoke in support of the ban. He feels the undue economic hardship percentage should be higher and stated he avoids restaurants that use expanded polystyrene.

Janine Rands spoke in support of the ban. She is involved with the group SLO Foam Free. She stated she has been in discussions with the IWMA and once five cities in the County approve bans, the IWMA has agreed to take on the item for all of the unincorporated areas of the County.

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

Councilmember Johnson expressed her concern over a lack of leadership at the countywide level from IWMA and that Council hasn't heard from those opposed to the ban. She encouraged staff to participate in a business outreach effort. She suggested a campaign with the tagline "Foam-free MB" to market this. She encouraged staff to seek stakeholder input early and often and make that top priority. She is also interested in seeking more information about alternatives for raw meat and fish products. She would also encourage a "buy in bulk" program. The SLO Chamber of Commerce was able to celebrate the change as a customer demand.

Councilmember Heading is a chemist and highlighted the invention of polystyrene, its chemical composition, carcinogenic nature, ability to leach and lack of biodegradability. The only way to get rid of it is to incinerate it; however, that is very costly and also produces harmful chemicals. We are a marine environment, EPS floats and mammals and fish routinely mistake it as food and it cannot be digested. He is supportive of the policy and suggests getting the education started.

Councilmember Smukler agreed with the previous comments. He clarified his thought regarding the IWMA, he feels they should be leading the way on the ban. There was a lot of success with the ban on plastic bags and this is a similar issue. He would like communication to be sent to the IWMA because we are members and expect for them to facilitate this type of action. He also stated that EPS creates more volume in refuse. There are viable alternatives readily available and as a marine sanctuary and due to its public health effects, it is a no brainer. Perhaps Chamber can serve as agent for buy in bulk program.

Mayor Irons supports the ban as well with more discussion regarding specific items and the undue hardship exception. He suggested sending out notices along with business tax certificate renewals. He is also supportive of a letter to IWMA. If New York City could do it, we should be able to do it. The financial burden to maintain the product is greater than the cost of available alternatives. There are businesses already leading the way and not using EPS products.

Councilmember Headding suggested a letter of concern to IWMA based on the City's pursuit of an ordinance and seeking recommendations that are more uniform throughout the County.

Mayor Irons suggested Councilmember Headding draft the letter since he is the IWMA representative.

Council was in agreement to pursue passing an ordinance to ban EPS including food containers, the retail sale of other EPS products (such as coolers, pool toys, packing peanuts, etc.), an exception for undue hardship, an "in lieu of fine" program and seeking stakeholder input.

MOTION: Councilmember Headding moved to send a letter to the IWMA outlining Council's concern and approach in dealing with the issue of polystyrene and the adverse chemical effects on individuals and the ecosystem in general and ask for input on their global consideration of their plan for a countywide policy for both handling and dealing with this issue and authorize him to sign it. Seconded by Councilmember Smukler.

MOTION: Councilmember Smukler moved to pursue an ordinance regulating the use of EPS, direct staff to begin implementation of a public education campaign, communicate with the IWMA about the future of countywide regulations and return with a draft ordinance. The motion was seconded by Councilmember Johnson and carried unanimously, 4-0.

E. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

Mayor Irons, with the support of the other councilmembers, requested a future discussion based on tonight's presentation on Community Choice Aggregation with options to proceed and what other cities are doing. Councilmember Smukler would also like to see an updated proforma analysis to the feasibility report already submitted.

Councilmember Smukler requested waste management at the Rock and visitor servicing areas be an item of discussion at the Public Works Advisory Board. Mayor Irons requested an update on

the Big Belly waste containers as part of that discussion. Councilmember Johnson requested the staff analysis regarding trash previously provided to Council be included in the discussion. This should result in a recommendation back to Council.

ADJOURNMENT

The meeting adjourned at 10:06 p.m. to the next regular City Council meeting to be held on **Tuesday, September 22, 2015** at 6:00 p.m. at the Veteran's Memorial Hall, 209 Surf Street, Morro Bay, California.

Recorded by:

Brooke Austin
Deputy City Clerk