

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – DECEMBER 8, 2015
VETERAN’S MEMORIAL HALL – 6:00 P.M.

PRESENT:	Jamie Irons	Mayor
	Noah Smukler	Councilmember
	John Headding	Councilmember
	Christine Johnson	Councilmember
	Matt Makowetski	Councilmember
STAFF:	Dave Buckingham	City Manager
	Joe Pannone	City Attorney
	Dana Swanson	City Clerk
	Sam Taylor	Deputy City Manager
	Susan Slayton	Administrative Services Director
	Rob Livick	Public Works Director
	Janeen Burlingame	Management Analyst
	Scot Graham	Community Development Manager
	Cindy Jacinth	Associate Planner
	Whitney McIlvaine	Contract 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 6:03 p.m.

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

Employee Recognition

<https://youtu.be/noe9qt3Pgcc?t=1m23s>

The City Council and staff congratulated Deputy City Manager Sam Taylor on the completion of his Master’s Degree in Public Administration at Kent State University.

CLOSED SESSION REPORT

Mayor Irons reported that with regard to the Closed Session Items, the Council did not take any reportable action pursuant to the Brown Act.

MAYOR AND COUNCILMEMBERS’ REPORTS, ANNOUNCEMENTS & PRESENTATIONS

<https://youtu.be/noe9qt3Pgcc?t=3m18s>

PUBLIC PRESENTATIONS - NONE

PUBLIC COMMENT

<https://youtu.be/noe9qt3Pgcc?t=19m13s>

Desiree Hatcher of Artisan Soapery located at 845 Embarcadero, Suite E, provided the business spot. They have a variety of unique products, including organic homemade skin care and custom scented products. They also carry items made by other local artists. For more information, please visit their website: www.artisansoapery.com

Walter Heath, Morro Bay resident and Chamber of Commerce Board President, invited the public to attend an open house and mixer, Thursday, December 10th from 5:30 to 7:30pm at the Visitor Center, 695 Harbor. He also congratulated Bonnie Johnson, Brandon Kato, the Bike Park Committee, and Central Coast Concerned Mountain Bikers for their hard work creating a fantastic facility at Main Street near Radcliffe.

Valerie Darnell, South Bay Community Center Manager, announced the Needs 'N Wishes Holiday Fundraiser to be held Saturday, December 12, 2015, at the South Bay Community Center from 10am to 7pm.

Richard Margetson, Needs 'n Wishes Co-Founder, shared the Holiday Fundraiser has raised over \$350k in a 10-year period, with no overhead costs. This year's event will include Operation Santa Claus, Toys for Tots, and various local musicians. All funds raised will benefit the Maxine Lewis Memorial Shelter, Transitional Food and Shelter, and SLO Noor Clinic.

Shawn Ison, Manager of the Prado Day Center and Maxine Lewis Memorial Shelter, commended the community for participating in the Needs 'N Wishes fundraiser, which is very important to the center. She also asked the Council consider designating CDBG funds for the Prado Day Center, noting any money provided goes directly to client services.

Bill Martony, Morro Bay, spoke regarding the WRF project and suggested the Council consider other properties that have come available, such as the Tri-W property or one of the Chevron parcels.

Betty Winholtz, Morro Bay, spoke regarding Item C-1 and requested the Council not contribute to substandard lots. Regarding Item D-1, she urged the Council to pursue Community Choice Aggregation as it will help individuals in the community with their personal finances.

Ken Vesterfelt, Morro Bay, shared a 4-page article in Car Craft Magazine on the Morro Bay Car Show.

Nancy Castle, Morro Bay, announced Thanksgiving Dinner was a success and thanked the many individuals, businesses, and organizations who helped with the event. Over 500 dinners were served. She also noted the numbers attending Monday night meals have doubled.

The public comment period was closed.

A. CONSENT AGENDA
<https://youtu.be/noe9qt3Pgcc?t=40m50s>

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 OCTOBER 21, 2015; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE SPECIAL CLOSED SESSION CITY COUNCIL MEETING HELD ON OCTOBER 27, 2015; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF MINUTES FOR THE SPECIAL JOINT MEETING OF THE CITY COUNCIL AND TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID) ADVISORY BOARD HELD ON OCTOBER 27, 2015; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-4 APPROVAL OF MINUTES FOR THE CITY COUNCIL MEETING HELD ON OCTOBER 27, 2015; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-5 APPROVAL OF MINUTES FOR THE SPECIAL CLOSED SESSION CITY COUNCIL MEETING HELD ON NOVEMBER 10, 2015; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-6 APPROVAL OF MINUTES FOR THE CITY COUNCIL MEETING HELD ON NOVEMBER 10, 2015; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-7 STATUS REPORT OF A MAJOR MAINTENANCE AND REPAIR PLAN (MMRP) FOR THE EXISTING WASTEWATER TREATMENT PLANT; (PUBLIC WORKS)

RECOMMENDATION: Receive and file.

A-8 WATER RECLAMATION FACILITY PROJECT UPDATE; (PUBLIC WORKS)

RECOMMENDATION: Receive and file.

A-9 RESOLUTION NO. 71-15 ESTABLISHING AN ANNUAL DATE CERTAIN TO REVIEW ALL CITY RATES AND FEES; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Approve as submitted.

A-10 RESOLUTION NO. 72-15 ESTABLISHING THE STRATEGIC PLANNING FRAMEWORK POLICY; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-11 RESOLUTION NO. 73-15 ESTABLISHING AN ANNUAL CITY MANAGER EVALUATION POLICY; (CITY COUNCIL)

RECOMMENDATION: Approve as submitted.

A-12 RESOLUTION NO. 74-15 AMENDING THE COUNCIL POLICIES AND PROCEDURES REGARDING THE ORDER OF BUSINESS; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-13 AUTHORIZATION TO AMEND CONTRACT WITH RINCON CONSULTING INC. FOR PROJECT NO. MB-2013-S2: MORRO CREEK MULTI-USE TRAIL AND BRIDGE; (PUBLIC WORKS)

RECOMMENDATION: Approve as submitted.

A-14 ADOPTION OF RESOLUTION NO. 76-15 DECLARING THE EXISTENCE OF GULLS AT BAYSHORE VILLAGE EXEMPT FROM MORRO BAY MUNICIPAL CODE SECTION 7.16.025 AND AUTHORIZING THE HOMEOWNERS ASSOCIATION TO REMOVE GULL NESTS FROM THEIR PROPERTY; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Approve as submitted.

A-15 RECONSIDERATION OF APPROVAL OF TWO NEW LICENSE AGREEMENTS BETWEEN THE CITY OF MORRO BAY AND GAFCO, INC. (GEORGE LEAGE, GREAT AMERICAN FISH COMPANY) FOR LEASE SITE 110W-112W & 111.5W, AND THMT, INC. (TROY LEAGE, HARBOR HUT) FOR LEASE SITE 122-123/122W-123W FOR USE OF PUBLIC PROPERTY IN THE FRONT STREET PARKING LOT AREA FOR TRASH ENCLOSURES; (HARBOR DEPARTMENT)

RECOMMENDATION: Approve as submitted.

A-16 RESOLUTION NO. 78-15 AUTHORIZING THE CITY TO ENTER INTO A DEPOSIT AND ENDORSEMENT AUTHORIZATION WITH UNION BANK, N.A. FOR THE PROCESSING OF ADMINISTRATIVE AND PARKING CITATIONS; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Approve as submitted.

A-17 STATE REVOLVING FUND PLANNING LOAN FROM STATE WATER RESOURCES CONTROL BOARD; (PUBLIC WORKS)

RECOMMENDATION: Adopt Resolutions No. 80-15 and 81-15 related to State Revolving Fund Planning Loans from the State Water Resources Control Board.

A-18 ADOPTION OF THE 2016 CITY COUNCIL MEETING CALENDAR; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution No. 79-15 approving the 2016 meeting calendar.

A-19 APPROVAL OF RESOLUTION NO. 82-15 FOR THE ASSIGNMENT AND ASSUMPTION OF LEASE SITE 65-66/65W-66W (SALT BUILDING) LOCATED AT 571 EMBARCADERO FROM ABBA IMANI TO RICK AND TERI GAMBRIL; (HARBOR DEPARTMENT)

RECOMMENDATION: Approve as submitted.

The public comment period for the Consent Agenda was opened.

Rosalie Valvo, representing the Morro Coast Audubon Society regarding Item A-14, requested the homeowners' association conform not only to the letter of the law, but also the spirit of the Migratory Bird Act, by removing nests before eggs are laid and asked the Council to amend the contract to include this language.

Betty Winholtz, Morro Bay, regarding Item A-14, disagreed with Ms. Valvo's assessment of the depredation permit noting the permit does not allow killing of birds. She also challenged some of the statements made by the homeowners' association and asked for more documentation and evidence.

William Albrecht, Bayshore Bluffs resident, regarding Item A-14, noted that in accordance with the depredation permit, 49 eggs were removed from nests, put in oil then back into the nest, preventing the eggs from hatching. They do not hurt adult birds and no babies that he knows of were killed.

Janet Gould, Bayshore Bluffs resident, shared the team has worked hard to address the bird population in a humane way; they are not killing any birds, just preventing hatching of young birds. Records from the past five years are available and she urged the Council to continue to allow for protection of the health and safety of Bayshore Bluffs residents.

The public comment period for the Consent Agenda was closed.

Councilmember Johnson pulled Item A-11 to make a brief comment.

Mayor Irons pulled Item A-7 for a brief comment.

Mayor Irons acknowledged redline versions of Items A-9, A-17 and A-18 were provided by staff and available for public review.

MOTION: Councilmember Smukler moved the Council approve Items A-1 through A-6, A-8, A-10, A-12 through A-16, and A-19 of the Consent Agenda; and Items A-9, A-17 and A-18, as amended by staff. The motion was seconded by Councilmember Heading and carried unanimously, 5-0.

A-11 RESOLUTION NO. 73-15 ESTABLISHING AN ANNUAL CITY MANAGER EVALUATION POLICY; (CITY COUNCIL)

<https://youtu.be/noe9qt3Pgcc?t=52m42s>

Councilmember Johnson noted the City previously had no formal City Manager evaluation process in place. The Council met in Closed Session to review sample policies available through the League of California Cities and examples from other cities to write this policy. She commended her colleagues for their work.

A-7 STATUS REPORT OF A MAJOR MAINTENANCE AND REPAIR PLAN (MMRP) FOR THE EXISTING WASTEWATER TREATMENT PLANT; (PUBLIC WORKS)

<https://youtu.be/noe9qt3Pgcc?t=54m38s>

Regarding Item A-7, Mayor Irons requested the MMRP be revisited in January to see how it ties into the 5-year WRF timeline; Council concurred.

MOTION: Mayor Irons moved the Council approve Items A-7 and A-11 of the Consent Agenda. The motion was seconded by Councilmember Johnson and carried unanimously. 5-0.

A brief recess was taken at 6:58 p.m.; the meeting reconvened at 7:02 p.m.

B. PUBLIC HEARINGS

B-1 APPEALS OF THE PLANNING COMMISSION APPROVAL OF COASTAL DEVELOPMENT PERMIT #CP0-419 AND CONDITIONAL USE PERMIT #UP0-383 FOR CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE ON A VACANT COASTAL LOT AT 3420 TORO LANE (APPELLANTS: LINDA STEDJEE AND BARRY BRANIN) (APPLICANTS: JEANNE AND GREG FRYE); (COMMUNITY DEVELOPMENT)

<https://youtu.be/noe9qt3Pgcc?t=59m58s>

Contract Planner McIlvaine presented the staff report and responded to Council inquiries.

Mayor Irons opened the public hearing.

Linda Stedjee, appellant, stated this appeal is the result of a conflict between public and private property rights. The proposed siting of the house obliterates a current path that provides beach access for north Morro Bay residents and visitors. She requested the Council uphold the appeal and deny the permit at this time and ask applicants to investigate options, including improving the proposed alternative path option, and merging the original lots in the parcel so the house can be relocated away from the path. Ms. Stedjee responded to Council inquiries and noted she is willing to accept an alternative path if it provides equivalent access to the existing path.

Barry Branin, appellant, suggested that site poles be placed on the property to get a better understanding of the proposed project. He provided background information on issues that led to the 1972 ballot initiative, Proposition 22, which passed by over 55% of the votes to protect the natural and scenic resources and the Council has a responsibility to uphold the State Coastal Plan and Local Coastal Plan. The number of beach access points in Morro Bay has been counted, and each one is important and must be maintained. He requested the Council uphold the appeal or postpone a decision until measures discussed have been investigated.

Rachel Kovesdi, Kovesdi Consulting, spoke on behalf of the applicants, who have modified the project based on input from City staff and Planning Commission, Coastal Commission staff, USFWS, CADFW, technical experts, and the public, and the project conforms to all applicable LCP policies and regulations. There are 20 points of public beach access within 1/3 mile of the property, six of those with similar topography within 500 ft. of the property. She asked the Council to deny appeals and affirm Planning Commission approval of the project.

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

Greg Frye, applicant, purchased lot three years ago and has submitted three different house plans in response to concerns from neighbors, City staff and Coastal Commission staff. The intent from the beginning was to align with Coastal Commission and City planners to develop a project that meets their guidelines; the project before you is end result of that work.

Danny Brebes, Morro Bay, stated the trail was used extensively and was a drivable road when he was young. Regarding maintenance, he noted the existing path has migrated and over time the proposed path will push into the spillway below.

Betty Winholtz, Morro Bay, asked if the utilities will be underground and if putting in curb, gutter and sidewalk will prevent public parking on Toro Lane. She feels the City has a responsibility to investigate prescriptive rights, and trail maintenance is a key issue.

Betty Frye, spoke in support of the project.

Marla Jo Bruton-Sadowski, Morro Bay, reiterated the importance of keeping Highway 1 a scenic corridor.

Laura Cogan, Morro Bay, encouraged the Council to approve the project.

Kristen Headland, Morro Bay, urged the Council to uphold appeal as the proposed trail is not comparable to the existing path. She urged the City to require a path wide enough for children, possibly with a guiderail.

Mike Frye, spoke in favor of project, noting the path being constructed is adequate to accommodate continued use. Landscape materials used will root in and grow to minimize soil erosion.

Sara Loven, a neighbor of the Fryes, is certain they will take wonderful care of the property.

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

Mayor Irons disclosed he had ex parte communications with Mr. Frye in August of this year, but not since Planning Commission approved the project. Councilmember Makowetski disclosed he had ex parte communications with and met with Mr. Frye at the property.

In response to questions raised during the public comment period, staff confirmed underground utilities are required and the driveway approach will eliminate approximately 16 ft. of parking. Staff also verify trail slope, which is steepest at the beginning of the trail, otherwise mostly level; overall, it is not steeper than portions of the existing trail.

The Council discussed prescriptive rights and maintenance concerns presented by the appellants, as well as the importance of coastal access signage. With regard to maintenance, it was noted the current trail is not being maintained. Mayor Irons presented photographs of various beach access areas near Morro Rock, Cloisters and North Point and noted many trails have been removed to protect sensitive habitat areas. He supported the project in the first iteration, restoring habitat and eliminating public access at this location.

The Council agreed equitable access is important and discussed trail design considerations that would ensure long-term public access at this location. Councilmembers Heading and Johnson noted there were other nearby trails that were more appropriate for those with mobility issues.

City Attorney Pannone advised the Council a prescriptive easement is a court determination and the City Council can direct staff to file a lawsuit to make that determination. The Attorney General or any private individual could also do so. As to maintenance and liability issues, the City is more protected by having a natural trail than having a maintained trail.

The Council asked the applicant to respond to signage, maintenance and trail design concerns. The Applicant was favorable to including beach access signage, and had a similar fear regarding increased liability if asked to maintain the trail. The Council suggested a wider trail to accommodate those with strollers or wagons; both staff and the applicant noted a 3' wide trail may erode much more than 2' or 18" wide trail.

MOTION: Councilmember Smukler moved the Council deny both appeals and uphold Planning Commission approval of CP0-419 and UP0-383, with language added in condition 21 requiring coastal access signage at both ends of the public access trail, and condition 15 be revised to ensure landscaping shall not obstruct access

to trail, and adopt Resolution No. 77-15 with stated modifications. The motion was seconded by Councilmember Heading and carried 4-1, with Mayor Irons voting no.

A brief recess was taken at 9:50 p.m. and the meeting reconvened at 10:00 p.m.

B-2 REVIEW AND ADOPT DRAFT FUNDING RECOMMENDATIONS FOR THE 2016 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM; (COMMUNITY DEVELOPMENT)
<https://youtu.be/HnDhXyXthKI?t=2s>

Associate Planner Jacinth presented the staff report and responded to Council inquiries.

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

Susan Graves, speaking on behalf of CASA San Luis Obispo County, asked the Council to reconsider their request for funding in the amount of \$8,000 and offered additional information to support their application.

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

There was Council consensus in support of staff recommendations, including the multi-year funding opportunity. They deferred discussion of funding for service organizations until the budget process.

MOTION: Mayor Irons moved the Council approve staff recommendations, including the pursuit of an advance of CDBG funds for the 2017-2019 programs, and adopt Resolution No. 75-15. The motion was seconded by Councilmember Heading and carried unanimously, 5-0.

C. UNFINISHED BUSINESS / SECOND READING AND ADOPTION OF ORDINANCES

C-1 DETERMINATION REGARDING THE SALE OF CITY PROPERTY ON MINDORO STREET (APN 065-113-066); (ADMINISTRATION)
<https://youtu.be/HnDhXyXthKI?t=24m23s>

Councilmember Johnson recused herself as the property is near her residence.

City Manager Buckingham presented the staff report and, along with Community Development Manager Graham, responded to Council inquiries.

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

Ted Schade, 182 Mindoro Street, submitted a letter to the City Council providing multiple reasons he believes this small lot is not appropriate for development. The Planning Commission concluded a small home was feasible, but no analysis of lot constraints.

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

The Council considered three of the four offers received (one offer did not meet the City's requirements) and supported staff recommendation.

MOTION: Councilmember Headding moved the Council approve the staff recommendation to accept bid #3 from Douglas and Lindsie Castro in the amount of \$170,000 with a 14-day escrow. The motion was seconded by Mayor Irons and carried 4-0-1 with Councilmember Johnson abstaining.

Mayor Irons requested Item D-2 be heard next; the Council concurred.

D. NEW BUSINESS

D-2 CONSIDERATION AND APPROVAL OF AGREEMENT WITH MORRO BAY SENIOR CITIZENS INC. FOR VOLUNTEER SENIOR VAN SERVICES; (PUBLIC WORKS)

<https://youtu.be/HnDhXyXthKI?t=39m29s>

Management Analyst Burlingame presented the staff report and responded to Council inquiries.

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

Chuck Stoll, President of Morro Bay Senior Citizens Inc. recognized James Costanzo and Eliane Wilson for their dedication to and assistance with the project. He feels it is a natural fit for Senior Citizens Inc. to provide this service and it will be a great success.

Eliane Wilson, shared they have interested drivers and will work to be sure they fit the profile. Staffing at the Senior Center, along with new volunteers, will receive training to communicate with the public. She reminded the public you do not have to be a senior citizen to volunteer; it's good to have a wide range of ages involved.

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

MOTION: Mayor Irons moved the meeting go past 11pm. The motion was seconded by Councilmember Smukler and carried unanimously, 5-0.

Councilmember Smukler noted the previous City Council committed seed funds necessary to establish this program which will provide funding for the first two years based on budget estimates. If you're interested in volunteering, please call 772-4421.

MOTION: Councilmember Smukler moved the Council approve the agreement with Morro Bay Senior Citizens Inc. for volunteer senior van services. The motion was seconded by Councilmember Johnson and carried unanimously, 5-0.

D-1 DISCUSSION AND DIRECTION ON COMMUNITY CHOICE AGGREGATION;
(PUBLIC WORKS)

<https://youtu.be/HnDhXyXthKI?t=1h2m32s>

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

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

The Council supported staff recommendation to consider prioritization of this item during 2016/17 goal setting process and requested staff contact the County to let them know Morro Bay is interested. Future discussions should include anticipated timing from other cities and counties in the area. A presentation to the Public Works Advisory Board, as time allows, was also discussed.

MOTION: Councilmember Smukler moved the Council support staff recommendation to consider and prioritize this item during the 2016/17 goal setting process, and reach out to San Luis Obispo County to let them know Morro Bay is interested. The motion was seconded by Councilmember Heading and carried unanimously, 5-0.

E. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

None

ADJOURNMENT

The meeting adjourned at 11:25 p.m. The Regular Meeting of December 22, 2015 was previously canceled. Consequently, the next Regular Meeting will be held on Tuesday, January 12, 2016 at 6:00 p.m. at the Veteran's Memorial Hall located at 209 Surf Street, Morro Bay, California.

Recorded by:

Dana Swanson
City Clerk