



CITY OF MORRO BAY PUBLIC WORKS ADVISORY BOARD MEETING AGENDA

The City of Morro Bay is dedicated to the preservation and enhancement of the quality of life. The City shall be committed to this purpose and will provide a level of municipal service and safety consistent with and responsive to the needs of the public.

**Wednesday, January 20, 2016
Veterans Memorial Building - 5:30 P.M.
209 Surf Street, Morro Bay, CA**

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| Steven Shively, Vice-Chair Janith Goldman | Marlys McPherson, Chair Christopher Parker David Sozinho | Deborah Owen Stewart Skiff |
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ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE
ANNOUNCEMENTS
PRESENTATIONS – None

PUBLIC COMMENT PERIOD

Members of the audience wishing to address the Board on City business matters other than scheduled items may do so at this time. To increase the effectiveness of the Public Comment Period, the following rules shall be followed:

- When recognized by the Chair, please come forward to the podium and state your name and address for the record. Board meetings are audio and video recorded and this information is voluntary and desired for the preparation of minutes.
- Comments are to be limited to three minutes.
- All remarks shall be addressed to the Board, as a whole, and not to any individual member thereof.
- The Board respectfully requests that you refrain from making slanderous, profane or personal remarks against any elected official, commission and/or staff.
- Please refrain from public displays or outbursts such as unsolicited applause, comments or cheering.
- Any disruptive activities that substantially interfere with the ability of the Board to carry out its meeting will not be permitted and offenders will be requested to leave the meeting.
- Your participation in Board meetings is welcome and your courtesy will be appreciated.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Public Works Department at (805) 772-6262. Notification 24 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

A. CONSENT CALENDAR

- A-1 Approval of Minutes of November 18, 2015 Meeting
Recommendation: Approve minutes.

B. BUSINESS ITEMS

- B-1 Directors Report – Informational summary of current Public Works Activities
Recommendation: Information item, no action needed.

- B-2 Discussion of Expanded Polystyrene Regulation – Continued from November 18, 2015 Meeting
Recommendation: Review staff report and recommend the City Council adopt the proposed ordinance in Attachment 1.

C. ADJOURNMENT

Adjourn to the Public Works Advisory Board meeting at the Veteran's Memorial Building, 209 Surf Street, on Wednesday, February 17, 2016 at 5:30 p.m.

This agenda is subject to amendment up to 72 hours prior to the date and time set for the meeting. Please refer to the agenda posted at the Public Works Department, 955 Shasta Avenue, for any revisions or call the department at 772-6262 for further information.

Materials related to an item on this Agenda are available for public inspection during normal business hours in the Public Works Department at 955 Shasta, City Hall at 595 Harbor, Mill's/ASAP at 495 Morro Bay Boulevard, or the Morro Bay Library at 695 Harbor, Morro Bay, CA 93442.

This agenda may be found on the Internet at: www.morrobayca.gov/pwab or you can subscribe to Notify Me for email notification when the Agenda is posted on the City's website. To subscribe, go to www.morrobayca.gov/notifyme and follow the instructions.

Materials related to an item on this agenda submitted to the Board after publication of the agenda packet are available for inspection at the Public Works Department during normal business hours or at the scheduled meeting.

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| AGENDA ITEM: <u>A-1</u> |
| DATE: <u>January 20, 2016</u> |
| ACTION: _____ |

MINUTES - PUBLIC WORKS ADVISORY BOARD (PWAB)
 REGULAR MEETING – NOVEMBER 18, 2015
 VETERAN’S MEMORIAL HALL – 5:30P.M.

| | | |
|----------|---|---|
| PRESENT: | Marlys McPherson Steve Shively Chris Parker David Sozinho Deborah Owen Janith Goldman Stu Skiff | Chair Vice-Chair Board Member Board Member Board Member Board Member Board Member |
| STAFF: | Rob Livick Janeen Burlingame Kay Merrill | Public Works Director Management Analyst Administrative Utilities Technician |

ESTABLISH QUORUM, CALL TO ORDER AND MOMENT OF SILENCE

The meeting was called to order at 5:32 p.m., a quorum was present and there was a moment of silence.

ANNOUNCEMENTS

<https://youtu.be/h565vrLHscA?t=1m52s>

Steve Shively announced Stu Skiff and himself were selected to be PWAB Board Members for an additional 4 years.

Rob Livick stated there will be a Sub-Regional Workshop for the Integrated Regional Management Program Group at the Vet’s Hall on November 19, 2015 from 10:00a.m. to 12:00p.m. Rob listed the various stakeholders who will be at the meeting and stated the discussion will be about the 2014 IWRM Plan. Discussion will include sub-region goals for water including water supply eco system, water shed, groundwater monitoring, flood management, water resources and communication.

PRESENTATIONS - None

PUBLIC COMMENT

<https://youtu.be/h565vrLHscA?t=4m42s>

The public comment period was opened.

Nancy Castle announced the Annual Thanksgiving Dinner will be held at the Morro Bay Community Center from 1:00 to 3:00p.m. and invited the public to come and enjoy a free meal.

The public comment period was closed.

A. CONSENT AGENDA

<https://youtu.be/h565vrLHscA?t=7m2s>

A-1 Approval of Minutes from the PWAB Meeting of October 21, 2015

MOTION:

Steve Shively moved to approve Item A-1. The motion was seconded by David Sozinho and carried unanimously, 7-0.

B. OLD BUSINESS

B-1 Directors Report – Informational summary of current Public Works Activities <https://youtu.be/h565vrLHscA?t=7m27s>

Rob Livick presented the Director's Report and announced there will be a City Council and Joint Water Reclamation Facility Citizen's Advisory Committee Workshop on December 1, 2015 at 4:00 p.m. The location will be available on the website.

- He met with the Citizen's Bike Committee and they discussed issues and possible improvements within the City.
- The City is preparing for the rainy season and pointed out steps the public can take to prepare for heavy rain.
- There is money for conservation rebates from the City and there are also State Rebate Programs.
- Rob Livick explained what type of software PROCORE is and what it does.
- The City was off state water from October 30, 2015 and is scheduled to be back on November 23, 2015.

C. NEW BUSINESS

C-1 Discussion of Expanded Polystyrene Regulation <https://youtu.be/h565vrLHscA?t=22m35s>

Janeen Burlingame presented the staff report.

The public comment period was opened.

Janine Rands stated she started the SLO Foam Free effort in San Luis Obispo County and would like to see the entire county free of polystyrene products. Regarding the cost to replace polystyrene products is minimal compared to the cost of expanding the current landfill. By 2020, 75% of landfill in California has to be recyclable or compostable.

The public comment period was closed.

MOTION:

Steve Shively moved to continue Item C-1. The motion was seconded by Chris Parker and carried unanimously, 7-0.

ADJOURNMENT

The meeting adjourned at 6:56 p.m.

Staff Report

TO: Public Works Advisory Board **DATE:** January 7, 2016
FROM: Rob Livick, PE/PLS – Public Works Director/City Engineer
SUBJECT: Director’s Report / Information Items

Please contact the individual staff members prior to the meeting, if possible, for more detailed information.

Notify Me: Sign up for Notify Me on the City’s Website www.morrobayca.gov/notifyme for notification of Council, Board’s and Commission’s agendas and minutes.

Service Requests: The City has a feature to the City’s website, Service Requests www.morrobayca.gov/905/Service-Requests, where citizens can report a concern to the City for predetermined issues without the need to phone the City during business hours (for example: reporting a pothole).

Staff can also add Service Requests for someone over the phone or in the office if they do not have access to a computer. Each category in Service Requests is assigned to the appropriate staff member to handle so citizens don't have to figure out what department to contact for an issue they need to report on.

COLLECTION SYSTEM CAPITAL PROJECTS – Collection System

Staff Contact: Bruce Keogh
Rick Sauerwein
Jarrod Whelan

- Renovation of Lift Station#1 (Near Cloisters Park) is scheduled to be complete by the end of the month.

CONSOLIDATED MAINTENANCE

Staff Contact: Mike Wilcox

Storm watch and the potential impact to City functionality and operations are at the forefront of all maintenance activities this winter. Staff was vigilant in their approach to storm drain clearing, berm repairs, and sand bag preparations and street tree hazard reduction this season. If at any point residence's feel that private or public property is in danger of, or has been the victim of storm damage, please call 911 immediately.

Cyclone like activity from our most recent large storm caused severe damage to over 2 dozen trees, resulting in the removal of 9 trees. Additional storm related damage included mud flows from private property above Juniper Street that extend into the City storm drain system and onto several streets between Elena and San Jacinto. Staff and Contractor's worked for the next 3 day cleaning up the majority of debris. Free firewood from the downed trees is available across the street from the City Corp. Yard at 170 Atascadero Rd.

Additional winter maintenance projects include the retro-fitting public urinals and toilets to ultra-low flow government standards, the installation of synthetic turf in key high water use, high maintenance locations, and the installation of a rain water harvesting system ant Centennial Parkway restrooms. All three projects are directed at water conservation, public education, and fiscal responsibility.

Street maintenance is not a big component of the winter schedule due to low temperatures and moisture. The City doesn't own a truck capable of keeping hot asphalt hot between the loading site and the City, and patch mix of any type doesn't stick to water. However, maintenance asks that the community continue to submit requests for pothole repairs and staff will continue with repairs when the weather cooperates.

Street & Sidewalk Maintenance, Fleet Maintenance, Street Tree, Street Lighting, Storm Drain and Creek, Facility Maintenance, and Park Maintenance are all part of the Public Works Department and no longer with the Recreation Department.

If you have maintenance requests please call 772-6261 or use the City's Service Requests online system on our website www.morrobayca.gov/905/Service-Requests. Upon receipt, the electronic requests will be reviewed and assigned to the appropriate staff for action. In the future, the City will be upgrading to a fully integrated maintenance work order system that will allow you to view the progress of your requests.

SIDEWALK INSTALLATION

Staff Contact: Rick Sauerwein

2016 CDBG ADA Accessibility project: The new 2016 grant application was submitted October 23. The City Council will review this item in December and the County Board of Supervisors after the first of the year. Funds are expected to be available by the end of Q2 2016 and expect approximately \$60K for installation of new sidewalk and curb ramps.

BIKE COMMITTEE

Staff Contact: Rob Livick

The Morro Bay Citizens Bike Committee met in December 2015 and they submitted Unmet Bicycle Needs to the San Luis Obispo Council of Governments for their Unmet Needs hearing on February 3, 2016. The submitted list of needs are attached.

STREET TREES – Urban Forest Management Plan

Staff Contact: Damaris Hanson

The water spout that hit Morro bay on January 6, 2016 caused damage to 18 trees and 9 trees required removal due to hazardous conditions.

Arbor Day was celebrated and 17 trees were planted on October 17, 2015.

Arbor First of Morro Bay was the successful low bidder at \$25,900 and completed trimming the 148 downtown trees.

STORM WATER – Storm Preparation

Staff Contact: Rick Sauerwein and Damaris Hanson

City maintenance staff has visited all priority City storm drains to clear and clean them in preparation of the upcoming months.

The City does not own any creek property except for those areas that fall within City parks or in the public right of way such as bridges and roads that cross creeks. If a large tree or debris were to get

stuck at a bridge that we maintain then we would remove it, otherwise any other downed trees or vegetation is the responsibility of the property owner. The City does maintain the storm drain system i.e. curb inlets and outlets. As for the sections of the creeks that are on private property the City has performed "creek clearing" in the past, with property owner permission, waiver of liability and payment for the work performed. The City does not currently possess the necessary permits to perform such work. If a property owner wants to remove trees and debris from the portion of the creek that is on their property it is the property owners' responsibility to acquire the required permit from California Department of Fish and Wildlife and any other necessary agency.

Storm Preparedness Flier attached.

STORM WATER

Staff Contact: Damaris Hanson

Total Maximum Daily Load (TMDL) Waste Load Allocation Plan for Morro Bay Update is complete. Updated monitoring/sampling plan has been implemented.
Annual report submitted 10/15/15

TRANSIT – ANNUAL TRANSPORTATION DEVELOPMENT ACT AUDIT

Staff Contact: Janeen Burlingame

Staff has been working with The Pun Group on the annual financial audit for the Transit Fund.

TRANSIT – TRIENNIAL PERFORMANCE AUDIT

Staff Contact: Janeen Burlingame

Staff begin working with the San Luis Obispo Council of Governments and Michael Baker International on Transit's Triennial Performance Audit.

WATER – Chorro Stream Gauge

Staff Contact: Rick Sauerwein and Pamela Newman

Mitigated Negative Declaration has been completed and County Permitting is in progress.
Continue to work with the San Luis Coastal Resource Conservation District and The USDA for permission to install gage on RCD property within the NRCS easement.

WATER – Nutmeg Tank Replacement

Staff Contact: Rick Sauerwein
Jarrod Whelan

No change in status: Mitigated Negative Declaration has been revised and County Permitting is in progress.

WATER – Operations

Staff Contact: Rob Livick
Jamie James
Damaris Hanson

Staff has begun the process of selecting a Consultant to update our 2010 Urban Water Management Plan (UWMP). The UWMP is updated every 5 years and the 2015 plan is due in July 2016. The UWMP includes the following components:

- System Description
- System Water Use
- SBX7-7 Baselines and Targets – SB7 is the Senate Bill that established the State's Water

- Conservation Act of 2009
- System Supplies
- Water Supply Reliability Assessment
- Water Shortage Contingency Planning
- Demand Management Measures

The City’s five person field crew in water division performed 560 work items during the month of November, which included Customer Service Requests, USA marking, Resetting Meter Boxes, Re-reading water meters water sampling and water service replacement or installations.

WATER – Water Conservation

Staff Contact: Damaris Hanson

Water conservation rebates available; Cash for grass, rain barrel, irrigation retrofit, SMART irrigation controller, toilet retrofit and Energy star washing machine.

State rebates now available for removing grass (up to \$2 per sq ft) and replacing a toilet that flushed more than 1.6 gallons per flush (\$100). Go to www.saveourwaterrebates.com

The City has met the State mandated water conservation overall reduction of 12% for the 2015 calendar year.

| | Total Production (gal) | | |
|-----------------------------|------------------------|------------|-------------|
| | 2013 | 2015 | % reduction |
| January | 30,427,517 | 29,586,922 | 3% |
| February | 25,941,318 | 25,004,393 | 4% |
| March | 31,277,518 | 29,893,871 | 4% |
| April | 28,928,011 | 29,362,580 | -2% |
| May | 36,927,203 | 29,893,170 | 19% |
| June | 36,565,077 | 32,189,607 | 12% |
| July | 42,026,752 | 32,318,984 | 23% |
| August | 40,528,972 | 32,579,005 | 20% |
| September | 36,627,545 | 30,354,644 | 17% |
| October | 37,234,272 | 29,133,677 | 22% |
| November | 33,485,435 | 28,815,483 | 14% |
| December | 33,999,367 | 25,226,154 | 26% |
| overall average % reduction | | | 14% |

WASTEWATER – Collections

Staff Contact: Bruce Keogh, Dave Zevely & Jarrod Whelan

The City’s five person field crew in wastewater collections section performed 7,098 feet of sewer main cleaning, assisted at the Facilities crews with Rock Restrooms lateral cleaning and wastewater treatment plant with the vacor truck for after-hours chlorine contact tank cleaning and assisted Consolidated Maintenance in storm drain cleaning. Collections crews assisted with the Facilities crew for a cooking oil spill. One Sanitary Sewer overflow was reported in the City

main line and one at a private sewer lateral in the month of November. The Collections crew also completed a training class with the Fire Department for Joint Confined Space Rescue training.

WASTEWATER – Major Maintenance Repair Program (MMRP)

Staff Contact: Bruce Keogh, Rick Sauerwein & Jarrod Whelan

MMRP Projects Completed

Over the past three years, the MMRP budget has resulted in the successful completion of numerous major improvement projects at the plant. The biggest project has been the installation of the influent screens at the headworks that should provide longevity to the entire treatment process by increasing the efficiency of the downstream processes. This project provided protection for both downstream processes as well as the enhanced safety for the operators. Other major projects were the cleaning and coating of digesters #1 and #2. These projects should ensure that the solids stabilization treatment process will continue to work efficiently for the stated five year goal. Other major projects successfully completed include repairs to the chlorine contact tank and primary clarifiers. All of these projects should provide adequate useful life to these treatment processes to allow for reliable operation over the next five-year period.

Future MMRP Strategy

City, District, and MKN staff continually review the MMRP projects accomplished to date and assess the plant's condition and structural and equipment requirements to identify future potential maintenance projects to provide an estimate of spending for the MMRP for the next five years. Based on this review, City and District staff recommend the MMRP be phased out in the next fiscal year and that any future projects identified be funded through the O&M budget. This recommendation is based on the successful completion of MMRP projects to date, condition assessments of the plant, and the current schedule for completion of new WRF(s). As noted, the O&M budget will be brought to the Council and District Board during budget deliberations for discussion and approval. This will ensure the recommended O&M funding needs are brought forward each year. Should the five-year schedule be delayed for whatever reason, City and District staff would reconsider any recommendations for O&M or MMRP projects during the annual budget approval process.

WASTEWATER – NEW WRF

Staff Contact: Rob Livick

Additional information on the WRF project is available on the City's website (www.morrobay.ca.us/newwrf).

Accomplishments and Milestones

The City's Program Management team performed the following tasks since the September Council update:

- Implemented software for the Program Management system.
- Completed preparation of the application for a Clean Water State Revolving Fund (SRF) Planning Loan and uploaded the application package to SWRCB through their FAAST system

- Participated in conference calls and meetings with the Facility Master Plan team and reviewed progress reports. Provided City comments to FMP team on internal draft evaluations of direct potable reuse and organic waste processing opportunities.
- Continued fatal flaw analysis and negotiation with owners of Morro Valley properties
- Reviewed preliminary findings from Morro Valley groundwater evaluation
- Received and reviewed preliminary salinity study findings from Larry Walker & Associates, Inc.
- Developed internal draft of WRF Program website
- Authorized contract for ESA to begin data review and preparation related to CEQA compliance

Findings for Preliminary Morro Valley Groundwater Recharge Evaluation

The Program Manager anticipates forwarding a draft report to the WRFCAC engineering subcommittee by January 12, 2016 for their review. The Program Management Team will then request comments from the sub-committee during the week of January 19, 2016. A full presentation of the report and recommendations for next steps will be included in the agenda of the February 2, 2016 WRFCAC meeting.

Budget and Expenses

The Program Management team is in the implementation process for the new Program Management software and will be transitioning to the software for program budget tracking over the next month. During this transition, the Program Management Team will request review of the proposed budget format by the finance subcommittee.

Near-Term Schedule

An updated schedule for upcoming meetings and workshops will be provided to the City Council, WRFCAC members, and the general public, prior to the February WRFCAC meeting. The critical path item for this phase of work, the Facility Master Plan, is on schedule for a draft March release.

Upcoming WRF Meetings

Next WRFCAC Meeting on February 2, 2016 at 3:00 p.m. in the in the Vets Hall
 City Council WRF Study Session February 9, 2016 at 4:00 pm in the Vets Hall

Attachments

1. Morro Bay Citizens Bike Committee Unmet Bicycle Needs List

Unmet Bicycle/Pedestrian Needs

Morro Bay's Citizens Bike Committee has compiled a list of Bicycle/Pedestrian Improvement Requests for 2016 for submittal to City Council.

I would like to rank them for inclusion in the next City budget, according to importance, expense and ease of accomplishment.

1. Address tree root encroachment underneath the Class I multi-use trail from Main Street to the Cloisters. Particular damage is occurring between the high school driveway and Coral Street. Existing pavement is buckling and cracking and will eventually become unsuitable for bicycle and skateboard travel. We are rapidly losing a major investment in an enormously popular walking and bicycling path that connects north and south Morro Bay.

Immediate Safety Project Critically important to preserve infrastructure

2. Provide a safe way for westbound bicyclists on San Jacinto to approach Main Street from Alder and to cross Highway 1 without riding illegally against traffic or on the sidewalk. The bike lane ends at Alder with no designated route for bicyclists to proceed farther.

Immediate Safety Project Mostly paint to designate green bike lanes

3. Place *Bike Friendly Community* Signs at City entrances. CBC recommends the following locations:

- a. Hwy 41 facing WB traffic, City limits approaching Main St
- b. Hwy 1 facing SB at Yerba Buena
- c. MB Blvd facing NB from Hwy 1 approaching roundabout
- d. South Bay facing NB approaching Twin Bridges
- e. State Park Road facing SB south of South Bay
- f. Quintana Road facing WB west of South Bay
- g. On the Harborwalk near the rest room east of the Rock
- h. At entrance to Class I from PG&E driveway west of Lemo's
- i. Sequoia facing EB approaching Del Mar School
- j. Atascadero Road facing WB between Hwy 1 and MBHS
- k. Visitor Center

Immediate Signs have been ordered

4. Place a Bike Route wayfinding sign that directs southbound cyclists on Hwy 1 onto the City bike route that begins on Yerba Buena and proceeds south on Beachcomber and Sandalwood.

Immediate and easy Install a Bike Route sign and arrow on existing post

5. Provide more bike parking facilities at popular destinations – all public buildings, commuter destinations, business clusters.

Immediate and never-ending – should be a recurring line-item as we fill in gaps

6. Provide traffic calming solutions on San Jacinto from Ironwood to Main Street to slow down motor vehicles. This is a main route to school for Del Mar students.
Short Term Safety Project Maybe combine with Number 2

7. Paint Class II bike lanes on Atascadero Road from Morro Creek to the high school to connect to existing Class II and Class I bikeways, paint sharrows and place signs.
Short Term Paint and signs

8. Re-engineer the intersection of Quintana with Main Street in Morro Bay to provide safe crossing for northbound cyclists from Main to the bike trail. Paint green the northbound bike lane on Main Street approaching Quintana where it begins the transition from the curb across the right turn motor vehicle lane.
Evaluate bicyclist habits crossing Main Street to access the Bike Park at Radcliffe.
Mid Term After the six-month evaluation of the Bike Park project, look at this entire section of Main Street from Surf to the Bike Park evaluating safe crossings for bicyclists, pedestrians and motor vehicle traffic entry from Radcliffe.

9. Restripe North Main Street from Atascadero Road to Yerba Buena to provide either

- a. a wider bike lane for southbound bicyclists or
- b. a separated Class 4 bikeway that accommodates users in both directions on one side of the street.

Long Term Combine with future Main Street improvements as they occur

10. Raise the Class I multi-use trail beside PG&E property above the flood line.
Long Term While we wait, regularly schedule cleanup after rainstorms

11. Add sharrows to Embarcadero Road south of Beach Street.
Long Term – combine with reconfiguration of Embarcadero

12. Extend the Harborwalk south along the Embarcadero through Tidelands Park to Morro Bay State Park and through the park to South Bay Boulevard.

13. Extend the Harborwalk north from Morro Creek to the south end of the Morro Bay-Cayucos Connector.

Long Term Major projects requiring shared funding from others

14. Refresh bike lane painting as needed throughout the city.
Annual Recurring project every year as part of a larger contract

15. On State Park Road, Upper and Lower, place sharrows and signs stating that Bicyclists May Use Full Lane.
Work in progress as a partnership between City and State Parks

16. Continue city-wide bicycle safety education targeted to adults and children to reduce unsafe and illegal bicycling practices.

Work in progress by Citizens Bike Committee at public events. Funded by SLO Bike Club.

17. Widen Toro Creek Bridge across Highway 1 north of Morro Bay to add a bike lane on the northbound side.

Work to be done by others – Caltrans – scheduled for 2018

Staff Report

TO: Public Works Advisory Board **DATE:** January 12, 2016
FROM: Janeen Burlingame - Management Analyst
SUBJECT: Discussion of Expanded Polystyrene Regulation

RECOMMENDATION

Staff recommends the Public Works Advisory Board (PWAB) review the staff report and recommend the City Council adopt the proposed ordinance in Attachment 1.

ALTERNATIVES

The Public Works Advisory Board could recommend a different option for a hardship exemption, non-City sponsored special events and/or ordinance effective date.

FISCAL IMPACT

Other than staff time for public outreach and the subsequent deferral of work on other Public Works activities, there would be no fiscal impact to the general fund should the draft ordinance be adopted.

BACKGROUND

At the September 8, 2015 City Council meeting, the Council discussed an informational memo prepared by the City Attorney regarding a possible ban on the use of certain expanded polystyrene (EPS) products. The Council approved a motion to support pursuing adoption of an ordinance banning the use of EPS food containers and the retail sale of EPS products, such as foam coolers and packing “peanuts,” within Morro Bay, including reaching out to affected businesses. Staff was directed to return with a draft ordinance for consideration.

The PWAB discussed this item at its November 18, 2015 meeting and continued the discussion to the January 20, 2016 meeting to get additional information from businesses from the survey that had been distributed shortly before the PWAB meeting.

DISCUSSION

Over 80 cities and counties in California have enacted regulations focused on restricting the use of food and drink containers made from EPS (commonly referred to as Styrofoam™) and some of those agencies have also prohibited the retail sale of most EPS products within their respective jurisdictions. Main reasons cited by for banning EPS: environmental impacts, potential health effects and potential for recycling opportunities to divert trash from the landfill.

EPS contains the toxic substances Styrene and Benzene which are suspected carcinogens and neurotoxins that are hazardous to humans. EPS food containers leach the toxin Styrene when coming in contact with warm food or drink, alcohol, oils and acidic foods causing human contamination and posing a health risk to people.

EPS is harmful to the environment because it is a durable material that is not biodegradable, taking several decades to hundreds of years to deteriorate in the environment or landfill. Its foam structure allows it to break down easily into smaller pieces, making it more difficult and expensive to remove from the environment. Due to the lightweight nature, floatability and prevalence of the material to be blown around even when properly disposed of, it travels easily through gutters and storm drains, eventually reaching the ocean. The material absorbs pollutants like sponges, picking up and concentrating contaminants in the environment. As EPS litter moves through the environment, fish and wildlife mistake it as food and ingest the plastic. Several studies approximate that plastic products, including polystyrene, make up 80-90% of floating marine debris. During the beach cleanup at Morro Rock last year, 94 pounds of trash were collected with the most prevalent material collected being plastics and cigarette butts. Much of the plastic collected was polystyrene that is not recyclable.

What Other Cities Have Done

In July 2015, SLO City adopted an ordinance that included the following provisions:

- Prohibit use of EPS for prepared food; require food providers to use biodegradable, compostable, or recyclable food containers
- Prohibit vendors and event promoters from selling or otherwise providing EPS which is not wholly encased within a more durable material
- One-time one year exemption for “undue hardship” (more than 15% increase in product cost) and a process for the City Manager to go through in determining whether to grant such exemption - only 1 business applied for the hardship by the deadline
- For food provider violating the code, a violation that would result in administrative fines with having the option for their first violation to pay for equivalent amounts of allowable alternatives in lieu of paying the fine
- For event promoter violating the code, a violation that would result in a fine with varying rates depending on the size of the event
- Effective date 6 months after final ordinance adoption

Since the PWAB heard this item in November 2015, the City of Pismo Beach adopted an ordinance in mid-November 2015 (final adoption in mid-December 2015) that is virtually identical to the SLO City ordinance with two notable differences:

- Effective date 30 days after final ordinance adoption
- Hardship exemption included but for a one-time 6 month exemption and no criteria set for defining undue hardship

Staff from Pismo Beach noted that as most all of the affected businesses were no longer using EPS for prepared food containers, their Council did not feel the need to have a longer period of time between final adoption and the effective date. Additionally, they would be sending out notices to affected businesses before the effective date. Regarding the issue of using up existing stock, they indicated the business could apply for the hardship that would be specific to the time frame needed by the individual business and also have the option to purchase alternative products “in lieu” of a fine to address any issues of not being done using their stock of existing EPS products.

Outreach

Staff prepared an informational handout regarding Council’s direction to pursue an ordinance prohibiting the use and sale of EPS food containers and products in the City for mailing to affected businesses. In addition, a survey was created to get input from affected businesses on the draft ordinance, including feedback on what an acceptable percentage of total cost increase would be used to qualify for an “undue hardship” exception. Both the informational handout and survey were mailed out in early November to affected businesses and an online survey was also created to make it easier for businesses to provide feedback to staff.

Additionally, between November and January, PWAB Member Stu Skiff visited these businesses to talk about the proposed ordinance and identify if they currently use EPS containers that would be affected by the ordinance or other alternative products.

At the writing of this report, staff received 30 total survey responses (5 paper and 25 online). Of those responding to the question of what food containers the business currently use, 52% responded other alternatives were used and 48% responded using EPS products.

However, when Boardmember Skiff conducted his visits to the businesses, he identified 85% as already using alternative products for food and 35% for beverages with 15% using EPS products for food and 18% for beverages. When asked whether the business knew about the proposed ban on EPS products, only 6% stated they were unaware.

Boardmember Skiff also visited the grocery stores and mini marts, noting that many of the store managers wanted to keep EPS products and indicated they would stop selling items considered in the proposed ordinance when their competitor did.

Draft Ordinance

Staff feels using SLO City's ordinance as a template for a Morro Bay ordinance achieves what the City Council desired given the parameters of what they wanted to include in the development of an ordinance for Morro Bay. Attachment 1 is draft ordinance language for consideration to enact.

Hardship Exemption

Council indicated inclusion of an exemption whereby a business could apply for a one time exemption delaying the implementation of the ordinance requirement prohibiting the use of EPS food containers due to a financial hardship.

The SLO City ordinance included an affordability exclusion, using 15% as the threshold. It was unclear how this number was selected and SLO City staff noted several of the other cities and counties it researched used 15%. In the survey sent to affected Morro Bay businesses, staff asked what would be an acceptable percentage increase of operating costs to qualify for the exemption. Of those responding to the paper or online survey, 38% responded 10% or less, 23% responded 11-15%, 15% responded 16-20%, 8% responded 21-25%, 8% responded 26-30%, and 8% responded 41-50%.

The City of Pismo Beach, included the ability to apply for a hardship exemption, but did not tie it to affordability, and it would only be for a one-time 6 month exemption. There is no specific criteria set and staff from Pismo Beach indicated the business would have to make its case for hardship as there are different business types and one percentage may not be a hardship for one but would be for another. Pismo Beach staff also noted that most all of its businesses already use alternative food container products and those still using EPS should have no more than 1 or 2 months' supply to work through.

Options for hardship exemption:

1. SLO City Approach - include hardship exemption of a one-time 1 year exemption; 15% percentage increase in **product** cost to qualify for exemption
2. Pismo Beach Approach – include hardship exemption of a one-time 6 month exemption; no affordability criteria to qualify for exemption
3. Include hardship exemption of a one-time 1 year exemption; 10% percentage increase in **total operating (not product)** cost to qualify for exemption (percentage coming from City survey responses)
4. Include hardship exemption of a one-time 6 month exemption; 10% percentage increase in **total operating (not product)** cost to qualify for exemption (percentage coming from City survey responses)

- Staff recommendation: After reviewing information from SLO City, the City of Pismo Beach and the City's survey and business visits, staff recommends the Pismo Beach approach (this language is included in the proposed ordinance in Attachment 1). As a vast majority of the affected businesses already use alternative products, this approach would still provide for a hardship exemption in case there is a business of the few remaining who still use EPS products who has a hardship to be able to get relief for a period of time.

Effective Date

Generally, ordinances go into effect 30 days after final passage, but the Council can specify a different length of time. The cities of SLO and Pismo Beach differed on when each cities' ordinance would take effect. SLO City's ordinance went into effect 6 months after final adoption (January 1, 2016) and Pismo Beach's went into effect 30 days after final adoption (January 15, 2016).

Given Council's desire to make sure affected businesses would be aware of any ban on EPS products and wanting to work with businesses on obtaining compliance by its effective date, 30 days after final adoption for the effective date is not recommended.

During the Board's discussion of this item in November 2015, it was expressed to have the effective date be such that it did not occur during the summer when affected businesses are experiencing their busiest times and also to give enough time to work through existing stocks of product before transitioning to alternative products. Given the timeframe when Council is expected to hear this item at its January 26, 2016 meeting and its potential final adoption in February 2016, a 6 month effective date would be in the middle of August.

A third option would be to extend the effective date a few more weeks to get past the summer season and make the effective date be October 1, 2016.

- Staff recommendation: Make the effective date be October 1, 2016. This would allow time for notification to the affected businesses and provide enough time to work through existing EPS stock and make the transition to alternative products.

Non-City Sponsored Special Events

Council did not indicate at its September 8 meeting to include these events in the proposed ordinance; however, given the previous adoption of Resolution No. 10-08 to not use city funds by any department or agency of the City to purchase Styrofoam™ products and discourage the use of Styrofoam™ by private parties who use City facilities, and the Council's recent direction to pursue an ordinance prohibiting the use of EPS food containers and the retail sale of EPS products, inclusion of non-City sponsored special events prohibiting the use of EPS food containers seemed logical to include.

- Staff recommendation: Include non-City sponsored special events in the ordinance (this language is included in the proposed ordinance in Attachment 1).

CONCLUSION

Staff recommends the PWAB review the staff report and recommend the City Council adopt the proposed ordinance in Attachment 1.

Attachments:

1. Draft ordinance regulating EPS food containers and products

ORDINANCE NO. 600

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
TO ADD CHAPTER 8.17 EXPANDED POLYSTYRENE REGULATING THE USE OF
EXPANDED POLYTYRENE PRODUCTS WITHIN THE CITY TO
THE MORRO BAY MUNICIPAL CODE**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, The City of Morro Bay ("City") has the police power to protect the health, safety and welfare of the community, including the ability to protect and enhance the natural environment; and

WHEREAS, according to the California Department of Transportation, expanded polystyrene comprises approximately 15% of storm drain litter and is the second most common form of beach debris in California, and plastic products, including expanded polystyrene, make up 80 -90% of floating marine debris; and

WHEREAS, the City is situated adjacent to the Pacific Ocean and during regular beach clean-ups, expanded polystyrene products are found and discarded; and

WHEREAS, items made from expanded polystyrene are not biodegradable, compostable, or recyclable locally and expanded polystyrene as litter is high durable; and

WHEREAS, expanded polystyrene breaks into small, lightweight pieces that may be picked up by the wind even when it has been disposed of property, and flow or be flown into creeks and the Pacific Ocean, contributing to water quality and habitat protection concerns; and

WHEREAS, marine animals and birds often confuse expanded polystyrene with pieces of food, and when ingested, it can impact their digestive tracts, often leading to death; and

WHEREAS, expanded polystyrene is manufactured from petroleum, a non – renewable resource; and

WHEREAS, expanded polystyrene is not recycled at the Cold Canyon Landfill and there are no current plans to recycle it, and regulating the use of expanded polystyrene products will therefore maximize the operating life of the landfills; and

WHEREAS, take-out food packaging that is biodegradable, compostable, and recyclable is the most responsible and sustainable choice for the City's tourist economy, its citizenry and its environment and when these products are recycled, natural resources are spared, less energy is used for the production of new products; and

WHEREAS, regulating the use of expanded polystyrene products within the City will help protect the City's natural environment from contamination and degradation; and

NOW, THEREFORE, the City Council of the City of Morro Bay does hereby ordain as follows:

SECTION 1: There is hereby added to the Morro Bay Municipal Code, a new Chapter 8.17 to Title 8 to read, in its entirety, as follows:

Chapter 8.17
EXPANDED POLYSTYRENE

8.17.010 Definitions.

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

A. "ASTM standard" means meeting the standards of the American Society for Testing and Materials (ASTM) international standard D6400 or D6868 for biodegradable and compostable plastics, as those standards may be amended.

B. "Biodegradable" means compostable (separately defined) or the ability of organic matter to break down from a complex to a more simple form through the action of bacteria or to undergo this process.

C. "City facility" means any building, structure or vehicle owned and operated by the city of Morro Bay, its agents, agencies, and departments.

D. "City contractor" means any person or entity that enters into an agreement with the city to furnish products or services to or for the city.

E. "Compostable" means all the materials in the product or package will break down, or otherwise become part of usable compost (e.g., soil-conditioning material, mulch). Compostable disposable food containers must meet ASTM standards for compostable materials.

F. "Disposable food container" is interchangeable with "to go" packaging and "food packaging material" and means all containers that are used to hold prepared food or drinks. Disposable food containers include clamshells, bowls, plates, trays, cartons, boxes, and cups that are intended for single use, including, without limitation, food containers for takeout foods and/or leftovers from partially consumed meals prepared by food providers. This does not include single-use disposable items such as straws, cup lids, or utensils, nor does it include single-use disposable packaging for unprepared foods.

G. "Events promoter" means an applicant for any event permit issued by the city or any city employee(s) responsible for any city-organized event.

H. "Expanded polystyrene" or EPS means blown expanded and extruded polystyrene or other plastic foams which are processed by any number of techniques including, but not limited to, fusion of monomer spheres (expanded bead plastic), injection molding, foam molding, and extrusion-blown molding (extruded foam plastic). Expanded polystyrene and other plastic foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, ice chests, shipping boxes and packing peanuts.

I. "Expanded polystyrene products" means any item such as coolers, ice chests, cups, bowls, plates, clamshell containers, shipping boxes, or any other merchandise made from expanded polystyrene that is not wholly encapsulated or encased by a more durable material.

J. "Food provider" means any establishment located within the city that is a retailer of prepared food or beverages for public consumption including, but not limited to, any store, supermarket, delicatessen, restaurant, shop, caterer or mobile food vendor.

K. "Person" means an individual, business, event promoter, trust, firm, joint stock company, corporation, nonprofit, including a government corporation, partnership, or association.

L. "Prepared food" means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared within the city. Prepared food does not include raw, butchered meats, fish and/or poultry sold from a butcher case or similar food establishment.

M. "Recyclable" means any material that is specified in the franchise agreement with the city's solid waste removal provider including, but not limited to, aluminum, tin and bi-metal cans, clear and colored glass containers, high density polyethylene (HDPE), polyethylene terephthalate (PET), clear or rigid polystyrene, corrugated cardboard and mixed paper.

N. "Vendor" means any retail store or business which sells or offers goods or merchandise, located or operating within the city of Morro Bay, including those referenced in the definition of "food provider."

8.17.020 Expanded polystyrene disposable food containers prohibited.

A. Food providers within the city of Morro Bay may not provide prepared food in or provide separately any disposable food container made from expanded polystyrene, except as exempted in Section 8.17.050.

B. Disposable food containers made from expanded polystyrene are prohibited from use in all city facilities.

C. City contractors in the performance of city contracts and events promoters may not provide prepared food in disposable food containers made from expanded polystyrene.

8.17.030 Required biodegradable, compostable, or recyclable disposable food containers.

A. All food providers within the city utilizing disposable food containers shall use biodegradable, compostable or recyclable products.

B. All city facilities utilizing disposable food containers shall use biodegradable, compostable or recyclable products.

C. City contractors and events promoters utilizing disposable food containers shall use biodegradable, compostable, or recyclable products while performing under a city contract or permit.

8.17.040 Prohibited sales.

No vendor or events promoter in the city may sell or otherwise provide any expanded polystyrene product which is not wholly encapsulated or encased within a more durable material, except as exempted in Section 8.17.050. This specifically includes, but is not limited to, cups, plates, bowls, trays, clamshells and other products intended primarily for food service use, as well as coolers, containers, ice chests, shipping boxes, packing peanuts, or other packaging materials.

8.17.050 Exemptions.

A. The city manager or designee may exempt a food provider from the requirements set forth in Section 8.17.020(A) for a single, six-month period upon written application by the vendor or food provider showing that this chapter would create an undue hardship or practical difficulty. The city manager or designee's decision shall be in writing, and the decision shall be final and not subject to appeal. The city manager or designee may approve the exemption application in whole or in part, with or without conditions.

B. Exemptions to allow for the sale or provision of expanded polystyrene products may be granted by the city manager or designee, if the vendor can demonstrate in writing a public health and safety requirement or medical necessity to use the product. The city manager or designee shall put the decision to grant or deny the exemption in writing and the decision shall be final.

C. An exemption application shall include all information necessary for the city manager or designee to make a decision, including but not limited to documentation showing factual support for the claimed exemption. The city manager or designee may require the applicant to provide additional information.

D. Foods prepared or packaged outside the city and sold inside the city are exempt from the provisions of this chapter.

E. Raw meat, fish and other raw food trays are exempt from the provisions of this chapter.

F. Products made from expanded polystyrene which are wholly encapsulated or encased by a more durable material are exempt from the provisions of this chapter. Examples include surfboards, life preservers, and craft supplies which are wholly encapsulated or encased by a more durable material, and coolers encased in hard plastic.

G. Construction products made from expanded polystyrene are exempted from this chapter if the products are used in compliance with Title 14, Buildings and Construction, and used in a manner preventing the expanded polystyrene from being released into the environment.

H. In a situation deemed by the city manager to be an emergency for the immediate preservation of the public peace, health or safety, city facilities, food providers, city contractors and vendors doing business with the city shall be exempt from the provisions of this chapter.

I. Expanded polystyrene packaging products which have been received from sources outside the city may be reused to be kept out of the waste stream.

8.17.060 Violations.

A. Any violation of the provisions of this chapter by any person is subject to administrative fines as provided in Chapter 1.03, which may be appealed pursuant to the procedures in that chapter.

B. For the first violation, the city manager or designee may allow the violating food provider, in lieu of payment of the administrative fine, to submit receipts demonstrating the purchase after the citation date of biodegradable, compostable, or recyclable products in an amount equal to the amount of the citation.

C. Food providers or vendors who violate this chapter in connection with city permitted special events shall be assessed fines as follows:

1. A fine not to exceed two hundred dollars for an event of one to two hundred persons.
2. A fine not to exceed four hundred dollars for an event of two hundred one to four hundred persons.
3. A fine not to exceed six hundred dollars for an event of four hundred one to six hundred persons.
4. A fine not to exceed one thousand dollars for an event of six hundred or more persons.

B. In addition to other remedies provided by this chapter or by other law, any violation of this chapter may be remedied by a civil action brought by the city attorney, including but not limited to administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

SECTION 2. This ordinance is exempt from review under the California Environmental Quality Act (CEQA) (California Public Resources Code Section 2100 et seq.). Pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Further, the proposed Ordinance is exempt from CEQA on the separate and independent ground that it is an action of a regulatory agency (the City) for the protection of the environment because, among other things, it will regulate the use and sale of expanded polystyrene products and reduce the amount of expanded polystyrene products that enter local landfill and waterways. Thus, this Ordinance is categorically exempt from the requirements of CEQA under Section 15308 of Title 14 of the California Code of Regulations as an action by a regulatory agency for the protection of the environment.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Morro Bay hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 4. This Ordinance shall be in full force and effect on October 1, 2016 after its adoption following second reading.

SECTION 5: The City Clerk shall certify to the adoption of this Ordinance and cause it to be published, in accordance with Government Code, section 36933.

INTRODUCED at a regular meeting of the City Council of Morro Bay, held on the 26th day of January, 2016, by motion of Councilmember _____, seconded by Councilmember _____.

PASSED AND ADOPTED on the ____ day of January, 2016.

JAMIE L. IRONS, Mayor

Attest:

DANA SWANSON, City Clerk

APPROVED AS TO FORM:

Joseph W. Pannone, City Attorney

I, Dana Swanson, City Clerk for the City of Morro Bay, hereby certify that the foregoing ordinance was duly and regularly introduced at a meeting of the City Council of the 26th day of January, 2016, and hereafter the said ordinance was duly and regularly adopted at a meeting of the City Council on the _____ day of _____, 2016, by the following vote, to wit:

AYES:

NOES:

ABATAIN:

ABSENT:

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Morro Bay, California, this _____ day of _____, 2016.

City Clerk of the City of Morro Bay