

Agenda Correspondence

May 24, 2016 City Council Meeting
Special Meeting – Budget Study Session

5/24/16 Special Meeting
Budget Study Session

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City of Morro Bay

MAY 23 2016

Administration

Community Resource Connections Office

Revised

2016 / 2017 Budget

Director – Sharon O’Leary

COMMUNITY OUTREACH	Grocery Vouchers	\$300.00
	Gasoline Vouchers	\$300.00
	Waters and Nutrition Bars	\$100.00
OPERATING SUPPLIES	Office Supplies	\$200.0
	Storage	\$540.00
	TOTAL	\$1440.00

In-kind sponsorship by the City of Morro Bay includes: Office space, computer, and telephone services

Agenda Correspondence

May 24, 2016 City Council Meeting

Agenda Item A-2

5/24/16 Meeting
Agenda Item A-2

Dana Swanson

RECEIVED
City of Morro Bay

From: Lynda Merrill [REDACTED]
Sent: Tuesday, May 24, 2016 6:16 AM
To: Council
Subject: Please remove A-2 from Consent to Public Hearing

MAY 24 2016

Administration

Dear Mayor Irons and Councilmembers Johnson, Smuckler, Makowetski and Headding,

Please, remove the Fiber Optic proposal , Item A2, from the Consent Calendar. Citizens need to hear more about this proposal and have an opportunity to voice their opinions and concerns at a Public Hearing. I read the correspondence from Mr. Olsen and was grateful for his expertise in this field and his concerns seem valid. Also, our Attorney his voiced his concern about the risk associated with this contract. Please, listen to him.

I will telephone all of you today to make certain you have all heard our concerns,

Sincerely, Frank and Lynda Merrill

[REDACTED]

5/24/16 Meeting
Agenda Item A-2
RECEIVED
City of Morro Bay

Dana Swanson

From: Mark Olson [REDACTED]
Sent: Saturday, May 21, 2016 1:27 PM
To: Council; Dana Swanson
Cc: Mark Olson
Subject: Public Comment & Agenda Correspondence 5-24-2016 Item A-2
Attachments: 5-24-2016_DIGITAL WEST_MARKOLSON_PUBLIC COMMENT-AGENDA
CORRESPONDENCE.pdf

MAY 23 2016
Administration

Please find attached my Public Comment & Agenda Correspondence for City Council Item A-2, May 24, 2016, re: the Digital West Networks Fiber Optics project.
Mark Olson

[REDACTED]
Saturday April 21, 2016

PUBLIC COMMENT & AGENDA CORRESPONDENCE
FOR MAY 24, 2016 MORRO BAY CITY COUNCIL AGENDA ITEM A-2
RE: DIGITAL WEST NETWORKS, INC. FIBER OPTICS PROJECT
FROM: MARK D. OLSON, J.D., M.A., M.B.A.

Dear Honorable Mayor Irons and Honorable City Council members,

The building and deployment of advanced fiber optics capabilities in the City of Morro Bay is an area of interest to me. Done right, it could be a "good deal" for Morro Bay. Following here are some of my concerns over Item A-2 on the May 24, 2016 City Council Agenda regarding the building of a fiber optics network by Digital West Networks, Inc. as presently proposed.

First, I believe that it is unwise for the City Council to ignore the recommendations of the City Attorney regarding "risk assessment" under Section 12 of Exhibit B of the proposed Master Services Agreement. In the digital age where security and privacy of data communications are paramount, and for many businesses, a legal necessity, it should be unacceptable for Digital West Networks, Inc. ("Consultant"), as a Service Provider, to be able to disclaim legal liability for their errors and omissions, including acts that involve their gross negligence or willful misconduct. Neither should the City of Morro Bay be responsible for indemnifying Digital West for their gross negligence or willful misconduct. We should listen to the City Attorney with regard to the risk assessments contained in these proposed contract provisions. Digital West Networks should be required to operate responsibly, and such responsibility should include being legally accountable for their own errors, omissions, negligence and/or misconduct. Otherwise, there is no real incentive to operate conscientiously.

Also, it should be noted that Section 12 of the Exhibit B Master Services Agreement is completely contradictory with certain terms and conditions contained in Section 8 of the "City of Morro Bay Agreement for Fiber Optic Network Services." Both sections deal with the legal issue of "indemnification." As these paragraphs are presented, in opposition to each other, ambiguity and confusion is created. Because of this, legal difficulties may arise at a later date as to the terms and conditions that actually govern the relationship between the parties. It also leaves unclear what the rights of End-User Subscribers are with regards to any Digital West Networks' gross negligence and/or willful misconduct, including but not limited to, invasions of privacy and the unlawful disclosure, conversion or use of End-User Subscriber proprietary data and confidential communications.

It appears that the Exhibit B Master Services Agreement will be the template for End-User Subscribers to receive fiber optic services in from Digital West in Morro Bay, if it becomes available at all. Unfortunately, this Agreement does not appear to offer the type of reseller, web server and co-location opportunities that would be expected to be available if Morro Bay truly wanted to attract Silicon Valley-type businesses that would provide head-of-household jobs in the digital age.

The Master Services Agreement is a one-sided agreement in favor of Digital West, and offers few opportunities to use 1-gigabyte speed to its full potential, as one would expect if a Silicon Valley-type business were considering locating in Morro Bay. Such businesses don't need 1-gigabyte just to check email and surf the internet, and other limited uses under the Master Services Agreement. I believe the lack of "reseller," web server and co-location opportunities with Digital West services, and the lack of other advanced communications capabilities for End-Use Subscribers, would be a major factor for many internet based businesses not to locate in Morro Bay. Therefore, it is doubtful that this fiber optic network service, and the way it is proscribed, will competitively attract internet based business investments and diverse job opportunities in Morro Bay.

I am concerned that the proposed “deal” with Digital West Networks in nothing more than a commitment by the City of Morro Bay to pay \$150,000 for a Phase 1 fiber optic network that serves a very limited geographical area. Phase 2 and Phase 3 build outs are completely optional on the part of Digital West, and Digital West has every right to use its “sole discretion” under the proposed agreement to demand more money from Morro Bay for Phase 2 and Phase 3 construction when and if the time comes. The contract also gives Digital West the right to completely abandon a future Phase 2 and 3, and it is not clear where this would leave the City, and what options could be pursued after that.

As the deal is structured, it does not provide any meaningful commitment to provide advanced fiber optic services to a majority of the businesses and residents of the City of Morro Bay. The City will be subject to the whims of Digital West’s “sole discretion” in deciding whether or not to build Phase 2 and 3, which may also inhibit the creation of a sufficient subscriber base necessary for the City of Morro Bay to achieve the projected cost savings and price reductions specified under the contract.

There is also a very good chance that ultimately the City will just end up with more “dark fiber” based upon the strict limitation of services being offered by Digital West Networks to potential Morro Bay End-User Subscribers under the terms of the highly restrictive Exhibit B Master Services Agreement.

As it is presently structured and proposed, I do not believe this is yet a “good deal” for the City of Morro Bay, and there should be further negotiations to correct these deficiencies. Otherwise, another provider should be selected for such an important project. The opportunities we have as a City that is so closely located to the terminus of critical Pacific undersea cables are too large to ignore, and not more fully exploit for the benefit of all Morro Bay residents and businesses.

Respectfully submitted,
Mark D. Olson, J.D., M.A., M.B.A.

Saturday May 21, 2016

Agenda Correspondence

May 24, 2016 City Council Meeting
Agenda Item C-3

5/24/16 Meeting
Agenda Item C-3

Dana Swanson

From: dorothycutter [REDACTED]
Sent: Tuesday, May 24, 2016 2:17 PM
To: Scot Graham; Council
Subject: vacation rentals

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City of Morro Bay

MAY 24 2016

Administration

Hi! Your hearing on vacation rentals is scheduled too late for me but I want to ask you to consider a regulation that limits the number of people that occupy a house at any one time. The complaints I hear most often is two and three families will descend on a vacation rental with multiple kids. Most people are just complaining to their neighbor and not calling in about it. There are many more complaints about this than you are hearing about.

Perhaps you can limit the number relative to the number of bedrooms. People are coming and putting their kids in sleeping bags in the living room and running around in the neighborhood. You have to deal with this.

Dorothy Cutter
[REDACTED]

Morro Bay, Ca. 93442
[REDACTED]

MAY 23 2016

Dana Swanson

From: B. Doerr [REDACTED]
Sent: Monday, May 23, 2016 12:59 PM
To: Scot Graham; Dave Buckingham; Dana Swanson; Jamie Irons; Noah Smukler; Christine Johnson; John Heading; Matt Makowetski
Subject: 5-24-2016 Agenda # C3 -Vacation Rental Discussion & Next Steps

Administration

5/24/16 Meeting
Agenda Item C-3

The City's staff report presents two main questions: 1) adequately regulating vacation rentals, and 2) ensuring the City gets revenues from vacation rentals. From a residents point of view, this totally misses the point. Are vacation rentals an appropriate land use in our residential neighborhoods? Please further review the appropriateness of a commercial land use in our neighborhoods and refer this issue to the Planning Commission immediately. Please don't wait the years necessary to complete and approve a new General Plan. Study this land use issue thoroughly, now, before granting any more business licenses which are an implied promise that the community approves of the vacation rental use into the future.

According to the Courts, allowing vacations rentals in residential neighborhoods can: The Court recognized that residential character of a neighborhood is threatened when a significant number of residences are occupied not by permanent residents but by a stream of short term visitors. "Such rentals undoubtedly affect the essential character of a neighborhood and the stability of a community," because such visitors "have little interest in the public agencies or in the welfare of the citizenry."

Based on the above language, I am asking the following questions which I suggest be investigated before the City Council makes a decision regarding the continued approvals and regulations of Vacation Rentals through new business licenses in Morro Bay. The neighbors, potential workforce renters, as well as the property owners who choose to use their homes as income-generating vacation rentals are all entitled to a thorough investigation. This is a Land Use issue not just a Business License issue.

Vacation Rentals - Review/Research:

TOT – Transient Occupancy Tax

Current Annual revenues from TOT?

Projected annual TOT revenues when all know vacations rentals are paying TOT?

Is the City's goal more TOT revenues or protecting our residential neighborhoods from the affects of Vacation Rentals?

Affordable Housing stock -- What is the potential loss of affordable housing units: 1) loss of smaller homes which are potentially affordable to first-time home buyers, and 2) loss of rental housing units that are affordable housing?

- 1) Has the City investigated whether or not the "affordable rental housing" stock in Morro Bay has been reduced due to Vacation Rentals?
- 2) Has the City investigated whether or not the small, affordable housing opportunities in Morro Bay have been affected (lost) by the reduction of available houses due to vacation rentals?
- 3) Is the vacation rental use consistent with the Housing Element of the City's General Plan?
- 4) Has the GP/LCP Citizens Advisory Committee review the vacation rental issue? Should they?

Has the City considered the following?

- 1) Referring the vacation rental issue to the Planning Commission for review, public hearings, and recommendation to the City Council before our neighborhoods are changed forever?

- 2) Noticing property owners/renters on either side of the vacation rental property? These people can best testify as to the appropriateness of vacation rentals in their neighborhood.
- 3) Notifying all current business license holders?
- 4) Limiting the number of Vacations rentals Citywide?
- 5) Limiting the number of allowable vacation rental nights per month or year?
- 6) Limiting the number of Vacation rentals per block, distance between rentals, specific Land Use Districts restrictions, near schools, or in specific neighborhoods (i.e. Cloisters does not allow Secondary Housing Units)?
- 7) Determine suitability of house/residential unit for vacation rental use?
- 8) Different regulations for shared housing for vacation rentals (i.e. use of a space room where host is present) and the use of the whole house as a vacation rental when the host is not present? Should not the regulations effecting shared housing be less onerous for property owner who is present with guests?
- 9) Megan's law requirements?

These are only a few of the questions which I suggest be answered before licensing and legitimatizing more vacation rental houses/units in Morro Bay. We have not talked to one person who has lived near or next to a vacation rental who hasn't hated it, and they all said they complained to neighbors not police. In contrast, we have wonderful neighbors who are full-time renters. Some even volunteer for the City of Morro Bay. Some of us believe we live in residential areas not business/commercial districts and they should be protected. As a next step, please refer to Planning Commission for greater community input.

Thank you for considering our questions and comments.,
Barbara & Bob Doerr

Sent from [Mail](#) for Windows 10