

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 24, 2008
VETERANS MEMORIAL HALL - 6:00 P.M.

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

PRESENT:	Janice Peters	Mayor
	Melody DeMeritt	Councilmember
	Rick Grantham	Councilmember
	William Peirce	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	Interim City Manager
	Robert Schultz	City Attorney
	Bridgett Bauer	City Clerk
	Rick Algert	Harbor Director
	Bruce Ambo	Public Services Director
	Bill Boucher	Capital Projects Manager
	John DeRohan	Police Chief
	Mike Pond	Fire Chief
	Mike Prater	Planning Manager
	Susan Slayton	Finance Director
	Dylan Wade	Senior Civil Engineer
	Joe Woods	Acting Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR'S REPORTS & ANNOUNCEMENTS

CLOSED SESSION REPORT – There was no Closed Session to report.

PUBLIC COMMENT

Hank Roth announced the Neighborhood Watch informational meeting would be held on March 26th and the topic will be on the benefits of the Neighborhood Watch Program.

Spencer Sherman and Nicki Machada invited the public to the 2nd Annual Del Mar Art Auction on April 6th.

Richard Sadowski addressed the bioxide process that involves the application of a nitrate solution and is injected into wastewater. He said bioxide is primarily composed of calcium nitrate commonly used as a synthetic fertilizer, and if too much is used it will remain in the sewer lines.

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Marla Bruton continued the discussion on the sources possible in nitrate contamination in the City's groundwater.

Joey Racano addressed the City's damaged infrastructure on North Main Street, which is a chronic problem to the City's water quality.

Sandra Brazil expressed opposition to the proposed boat haul-out facility along Coleman Drive.

Garry Johnson stated the boardwalk is an investment to the City and its tourists.

Ray McKelligott announced a Candidates Forum sponsored by Advocates for a Better Community would be held on April 5th.

Susan Heinemann announced the 22nd Annual Spring Garden Tour on April 27th. She also invited the public to the Neighborhood Watch information table at the Cookie Crock Warehouse Grand Opening April 1st – 3rd.

Ken Vesterfelt encouraged the candidates for City Council to participate in a ride along with the Police Department. He announced the Cruisin' Car Show is approaching and requested sponsors to purchase gift certificates at local businesses that will be presented as awards.

Phil Kasperski expressed support for the Lynx request as a homeport in Morro Bay.

Nelson Sullivan addressed the City's water quality and the need to test for asbestos.

Mick Theis encouraged participation in the upcoming candidate forums in order to elect candidates that will best serve the City.

Claire Grantham stated the Annual Police Awards Dinner was a great event.

John Barta reviewed the State Water supply report noting the City would be receiving 100% of its water delivery.

Mayor Peters closed the hearing for public comment.

Mayor Peters called for a break at 7:10 p.m.; the meeting resumed at 7:15 p.m.

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DECLARATION OF FUTURE AGENDA ITEMS

Councilmember DeMeritt requested to agendize a discussion on placing Measure D on the November 2008 General Election Ballot; Council concurred.

Councilmember Grantham requested to agendize a discussion on the analysis on trace pharmaceuticals in drinking water; Council concurred.

Mayor Peters requested to agendize a discussion on water sewer rate contribution; Council concurred.

Councilmember Winholtz requested to agendize a discussion on the City's lease management policy; Council concurred.

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR THE MARCH 10, 2008 CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 RESOLUTION NO. 13-08 ADOPTING THE MID-YEAR BUDGET ADJUSTMENTS; (FINANCE)

RECOMMENDATION: Adopt Resolution No. 13-08.

A-3 RESOLUTION NO. 17-08 DETERMINING THE INDUSTRIAL DISABILITY OF LOCAL FIRE SAFETY MEMBER, PAUL DEIS; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution No. 17-08.

A-4 AUTHORIZATION TO FILL THE ADMINISTRATIVE UTILITIES TECHNICIAN POSITION; (PUBLIC SERVICES)

RECOMMENDATION: Authorize staff to fill the Administrative/Utilities Technician vacancy.

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A-5 UPDATE ON HARBORWALK EXTENSION PROJECT; (PUBLIC SERVICES)

RECOMMENDATION: Receive report for information.

A-6 PROCLAMATION DECLARING APRIL 2008 AS "FAIR HOUSING MONTH"; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

A-7 PROCLAMATION DECLARING THE 50TH ANNIVERSARY OF THE ESTERO BAY UNITED METHODIST CHURCH; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

Councilmember Winholtz pulled Items A-2 and A-5 of the Consent Calendar; Mayor Peters pulled Items A-4 and A-7.

MOTION: Councilmember DeMeritt moved the City Council approve Items A-1, A-3 and A-6 (as amended) of the Consent Calendar. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

A-2 RESOLUTION NO. 13-08 ADOPTING THE MID-YEAR BUDGET ADJUSTMENTS; (FINANCE)

Councilmember Winholtz expressed opposition to the expense of a generator.

MOTION: Councilmember Winholtz moved the City Council approve Item A-2 with the exception of the \$95,000 expense for a generator. The motion was seconded by Councilmember DeMeritt and carried unanimously. (5-0)

MOTION: Councilmember Grantham moved the City Council approve the \$95,000 expense for a generator that would provide backup power to the Dial-A-Ride facility, City Hall and Public Services facility. The motion was seconded by Councilmember Peirce.

Councilmember Winholtz stated she approves obtaining a generator for the Dial-A-Ride facility, but not for City Hall and the Public Services facility.

Councilmember DeMeritt stated she objects to expending \$95,000 for an emergency generator without having information on what type of generator and the bids received for this generator.

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VOTE: The motion carried with Councilmember DeMeritt and Councilmember Winholtz voting no. (3-2)

A-4 AUTHORIZATION TO FILL THE ADMINISTRATIVE UTILITIES
TECHNICIAN POSITION; (PUBLIC SERVICES)

Mayor Peters suggested waiting for the results of the report from Management Partners before filling this vacancy.

Councilmember Peirce stated it could take several months to implement the report.

Councilmember Grantham stated he supports filling this position.

Councilmember DeMeritt stated she would like to implement the study as soon as possible.

Councilmember Winholtz requested staff clarification on providing a temporary person to assist with this position.

MOTION: Mayor Peters moved the City Council approve Item A-4 of the Consent Calendar. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

A-5 UPDATE ON HARBORWALK EXTENSION PROJECT; (PUBLIC
SERVICES)

Council postponed discussion on this item and combined it with Item B-3.

A-7 PROCLAMATION DECLARING THE 50TH ANNIVERSARY OF THE
ESTERO BAY UNITED METHODIST CHURCH; (ADMINISTRATION)

Mayor Peters pulled this item in order to make a presentation to representatives of the Estero Bay United Methodist Church.

MOTION: Councilmember Winholtz moved the City Council approve Item A-7 of the Consent Calendar. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

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B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 RESOLUTION NO. 16-08 APPROVING THE CDBG PROGRAM APPLICATION FOR 2008; (PUBLIC SERVICES)

Public Services Director Bruce Ambo presented the 2008-2009 Community Development Block Grant Program and General Allocation Application for \$500,000 for Affordable Housing Rehabilitation for Council review. He recommended the City Council adopt Resolution No. 16-08 approving an application for funding in the amount of \$500,000 and the execution of a grant agreement and any amendments thereto from the general allocation of the State Community Development Block Grant Program.

Mayor Peters opened the hearing for public comment.

John Barta asked how the reduction in granny units would affect the Community Development Block Grant Program.

Mayor Peters closed the public comment hearing.

MOTION: Councilmember Peirce moved the City Council adopt Resolution No. 16-08 approving an application for funding in the amount of \$500,000 and the execution of a grant agreement and any amendments thereto from the general allocation of the State Community Development Block Grant Program. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

B-2 APPEAL OF THE PLANNING COMMISSION APPROVAL FOR A CARETAKERS UNIT LOCATED AT 1140 FRONT STREET; (PUBLIC SERVICES)

Planning Manager Mike Prater stated on January 7, 2008, the Planning Commission approved the applicant's request to convert the interior space of the upper floor from two motel vacation rentals to a security unit and add a hot tub, storage shed, deck and fence behind the building; this approval was appealed on January 15, 2008. Mr. Prater recommended the City Council uphold the Planning Commission decision and deny the appeal.

Cathy Novak, representing the appellant, stated this appeal raises a number of issues from general policies to zoning codes and previous project conditions that have gone unmet. She asked the Council to consider if a conversion from hotel units to a residential use is appropriate, and if the conversion is found acceptable, then there should be a decision on the square footage that Council considers fitting for the Embarcadero area. The topic of

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parking should also be considered. The project applicants are requesting that the previously paid parking in-lieu fees be used to offset the required two residential parking spaces. The City has collected in-lieu fees fairly routinely for commercial uses however; the Council has prohibited other projects in the past from paying parking in-lieu fees for residential uses. Other concerns are in regards to safety, specifically, the plans along the bluff, drainage, access path and noise. In a residential district, hot tubs are required to have a 15-foot setback but in this case, the applicants are using the commercial setbacks and placing the tub 5 feet from the property line. There is concern with the easement. A non-exclusive easement has been recorded on the Front Street property that allows for the construction of a garden wall 17 ½ feet from the rear property line at the southern point. The proposed plans indicate that the hot tub screening fence is located 16 feet from the rear property line. Since there is no indication on the plans that this easement exists, it appears that the fencing would encroach into the easement area and this should be resolved. Ms. Novak stated findings must be made that this project is consistent with LCP, Zoning Ordinance, Beach Street Specific and Waterfront Master Plan policies. The appellants object to the approval of this project because there is insufficient information provided to make a proper assessment, inadequate protections in the way of project conditions, failure to adhere to prior project conditions and violations of parking requirements, safety, visual and other general City polices.

Valerie Seymour, applicant, stated this appeal is based on the rear portion of this proposed project. She said the plans are consistent with the Local Coastal Plan and the City's Zoning Ordinance. Ms. Seymour stated approval of this proposed project is still required by the Coastal Commission. She said while constructing the commercial building, they restored the bluff face to a durable and stable shape. Ms. Seymour stated the site drainage is designed to direct larger than 10-year flood events down their steps down to Front Street. She said the caretakers' unit is 16% of the 7,600 square foot visitor serving commercial building. Ms. Seymour stated they received approval for a caretaker unit from the City and Coastal Commission in 2004 prior to a change in their plans. She requested Council uphold the approval of the Planning Commission and deny the appeal.

Mayor Peters opened the hearing for public comment.

Bruce Elster stated the Local Coastal Plan encourages and promotes the use of visitor serving commercial uses and residential uses are secondary. He said the applicant has 22 excess parking spaces for their commercial use; the drainage is adequate and is in perfect working order; and, the bluff is stable and will continue to be stable.

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Roger Ewing stated he supports the appeal because residential uses should not be allowed on the Embarcadero. He said a 1,200 square foot caretaker unit is setting precedence for allowing a permanent residence on the Embarcadero.

Mayor Peters closed the public comment hearing.

Councilmember Grantham stated there are conditions needed; such as, there would be no cutting into the bluff, there would be no commercial use of the proposed hot tub, and there would be no lighting going up to the neighborhood.

Councilmember DeMeritt stated she has concern with the proposed outer structures such as the tool shed and hot tub, and also with the proposed fire escape. She said the parking spaces were purchased for a commercial use and should not be considered for a residential use. Councilmember DeMeritt stated it is time to make decisions on what is desired for the waterfront.

Councilmember Peirce stated he prefers having someone on-site at the hotel, and is inclined to support the Planning Commission's approval with conditions.

Councilmember Winholtz stated she would support a smaller scale caretaker unit with parking from in-lieu fees. She said she does not support any structures in the back of the building since this is a commercial use. Councilmember Winholtz stated the commercial use should be strictly defined.

Mayor Peters stated she has concern with the size of the proposed caretaker unit. She said she is not concerned with parking or the placement of the portable hot tub.

MOTION: Councilmember Grantham moved the City Council deny the appeal of the Planning Commission approval for a caretakers unit located at 1140 Front Street with conditions that the Fire Chief will review fire exits of said caretakers unit; that there will be no cutting into the bluff for the hot tub or tool shed; the hot tub is for private use only; and, there will be no directional lighting into the residences above. The motion was seconded by Councilmember Peirce and carried with Councilmember DeMeritt and Mayor Peters voting no. (3-2)

Mayor Peters called for a break at 8:23 p.m.; the meeting resumed at 8:34 p.m.

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MOTION: Councilmember Winholtz moved the City Council request a reconsideration of the previous motion. The motion was seconded by Councilmember DeMeritt and carried with Councilmember Grantham and Councilmember Peirce voting no. (3-2)

MOTION: Councilmember Winholtz moved the City Council continue the consideration of the appeal of the Planning Commission approval for a caretakers unit located at 1140 Front Street to the April 28, 2008 City Council meeting. The motion was seconded by Councilmember DeMeritt and carried unanimously. (5-0)

B-3 CONCEPT PLAN APPROVAL OF GREAT AMERICAN FISH COMPANY/VIRG'S FISHING PROJECT LOCATED AT 1185-1215 EMBARCADERO; (PUBLIC SERVICES)

Planning Manager Mike Prater stated the project site is located in the Commercial Fishing/Harbor districts and is zoned with planned development overlay, which requires a Conditional Use Permit. For new development or new uses on public lands or lands greater than one acre, the applicants must submit a concept plan and a precise plan. The Planning Commission reviewed the proposed project at previous public hearings on November 5, 2007 and January 22, 2008; conditionally approving the project with substantial changes to the originally proposed project. Upon approval by the City Council, the applicants would seek Coastal Development Permit approval from the Coastal Commission before returning to the Planning Commission for precise plan approval. The applicants have requested the City Council consider revisions to the Planning Commission conditions of approval.

Cathy Novak, representing the applicants, stated this project proposal brings together 22 city leases to master plan a sizeable section of the City's northern waterfront area. Three long-term prominent businesses, Virg's, Harbor Hut and Great American Fish Company have joined together and created a vision that will promote the City's long term vision for melding water dependant uses, recreational uses and visitor serving needs, along with supporting our working waterfront, existing businesses and offer new public benefits. The ultimate goal will be to revitalize an under improved area, enhance commercial and recreational fisheries, and create new services for boaters. The proposal will transform what is now an empty space between the existing building and the south T-Pier into a unique combination of uses. The plan will add a fish market, sushi bar, and public outdoor seating. The second part of the GAFCO plan will be to construct a new floating dock for commercial boat tie-up. Virg's lease site is located between the GAFCO and Harbor Hut restaurants, has an approximate 196-foot long dock. Virg's proposes to replace the main dock, live bait receiver dock and gangway that will serve as tie-up facilities for Virg's boats. The Harbor Hut project will provide an essential link between

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Virg's dock on the south and Virg's Tackle Shop and docks on lease sites 124 – 127W on the north. Virg's will occupy the first floor for the tackle shop, charter boat business, storage, offices, freezer and crew room for the boat employees. The second floor will be designed for restaurant use. Above is the roof deck, which will provide protective railings but no other amenities. And lastly, an elevator will be installed on the northeast portion of the building for public access to the second story and roof top deck. Additionally a new single story building approximately 450 square feet will replace the old building at the southern edge of the lease site. The new building will incorporate the existing uses (rod rentals and reel repair), remodeled unisex restrooms, and one new section to provide coffee and pastry service. To the west of the new building will be a customer waiting area and a glass wind break for their protection from the elements. The third part of the proposal is to demolish the Thai Boat Restaurant building. With this lease site razed, Virg's proposes to install underground fuel tanks in preparation for opening a marine service station. Measure D says in part that the City shall not grant a permit, unless such development or use is primarily for the purposes of serving or facilitating licensed commercial fishing activities or noncommercial recreational fishing activities, or is clearly incidental thereto. It additionally goes on to say that there should be no new restaurants and existing ones are nonconforming and shall not be expanded. Staff has provided a brief discussion on the exchange of square footage from the existing site to a replacement site therefore it is consistent with Measure D. In summary, the applicants have spent considerable time and effort in developing their plans to meet the spirit of Measure D, support the working waterfront, provide significant public benefits and help with the City's general desire to revitalize this area.

Mayor Peters opened the hearing for public comment.

Ray McKelligott stated this Concept Plan is illegal due to Measure D passed by a majority vote in 1981.

Dorothy Cutter read a letter received by the City Council from Joe Giannini who was a proponent of Measure D. Ms. Cutter stated an initiative overriding Measure D should be placed on the ballot before any plan on the waterfront is considered.

Bonnie Tognazzini read Measure D for public information.

Mark Tognazzini stated the citizens voted for Measure D, and it should go before the citizens in order to change it.

George Leage stated the businesses involved in this Concept Plan were established prior to Measure D.

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Mayor Peters closed the public comment hearing.

The majority of the City Council agreed to approve the additional square footage of the Great American Fish Company.

Councilmember Winholtz stated she does not support this Concept Plan based on Measure D.

Cathy Novak noted the Concept Plan is proposed in two phases. Phase I includes the additional square footage of the Great American Fish Company Fish Market, the floating docks and the Harborwalk; Phase II includes the new Virg's building and Thai Boat restaurant and the underground fuel tanks.

MOTION: Councilmember Winholtz moved the City Council continue discussion of Phase I of this Concept Plan to the April 14, 2008 City Council meeting. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

B-4 DISCUSSION ON THE MORRO VALLEY NITRATE ANALYSIS; (PUBLIC SERVICES)

Senior Civil Engineer Dylan Wade stated until the advent of State water in the 1990's, the City of Morro Bay relied exclusively on its well water from the Morro and Chorro Valleys for drinking water. During the late 1990's and early 2000's well production in the well field was reduced from its historic levels. More recently, during the November 2006 State Water shut down, nitrate levels spiked in the well field and led to a violation of the health standard. As a result of this crisis, the City hired the firm of Cleath & Associates to perform a geo-hydrological analysis of the Morro Valley. Over the course of summer and fall of 2007, the firm conducted water quality sampling of irrigation wells in the Morro Valley, performed detailed analysis of the molecular composition of the nitrate, found and incorporated the fertilization rates of past and current agricultural practices to determine that the nitrate found in the community's drinking water supply originated in the over-application of nitrogen-based fertilizers. Mr. Wade recommended the City Council adopt the 2007 Morro Basin Nitrate Study, and noted staff will pursue remediation of the groundwater basin and protection of the City's drinking water sources.

MOTION: Councilmember Winholtz moved the City Council go beyond 11:00 p.m. The motion was seconded by Councilmember DeMeritt and carried with Councilmember Peirce voting no. (4-1)

Mayor Peters opened the hearing for public comment.

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Bill Martony stated the farming community has been in the area since the early 1900's, and the Nagano family gave some of their wells to the City in exchange for development rights. He said the upper basin is clean water and fertilizers are added to include nitrates; perhaps some of the elevated nitrate water could be used for the avocado groves north of the City. Mr. Martony also suggested testing the water for nitrates at the tap instead of at the wells.

Joy Fitzhugh of the Farm Bureau stated the Bureau is willing to work with the agricultural and regional water boards by conducting workshops focusing on irrigation systems and fertilization policies.

Jill Wilson, Central Coast Regional Water Quality Control Board, noted the Board has an Irrigated Agriculture Program that regulates irrigated agriculture in the area.

Mayor Peters closed the public comment hearing.

MOTION: Councilmember Winholtz moved the City Council adopt the 2007 Morro Basin Nitrate Study and direct staff to engage the NRCS, the Central Coast Regional Water Quality Control Board, and the Farm Bureau in creating a dialogue for a subsequent plan. The motion was seconded by Councilmember DeMeritt and carried unanimously. (5-0)

C. UNFINISHED BUSINESS

C-1 REVIEW LETTER TO BOARD OF SUPERVISORS REGARDING A SKATE PARK AT THE CAYUCOS CEMETERY; (CITY COUNCIL)

MOTION: Mayor Peters moved the City Council continue this item to the April 14, 2008 City Council meeting. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

D. NEW BUSINESS

D-1 REQUEST TO PURCHASE A RESCUE VEHICLE WITH THE USE OF A PORTION OF MEASURE Q FUNDS; (FIRE)

Fire Chief Mike Pond stated the City has an opportunity to replace its 13-year old Rescue Squad 5351 utilizing a combination of public and private funds. The Friends of the Morro Bay Fire Department, a 501©3 non-profit organization are in contact with a private foundation interested in funding this vehicle. Council's approval will provide assurance to the granting foundation of the City's commitment to participate in this

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cooperative project. The Measure Q Oversight Committee reviewed this project and unanimously agreed that this project would be an appropriate use of Measure Q funds. Chief Pond recommended the City Council authorize the purchase of a rescue vehicle utilizing up to \$125,000 of Measure Q funds, with the condition that the Friends of the Morro Bay Fire Department contribute an additional \$125,000 toward the purchase.

MOTION: Councilmember Peirce moved the City Council authorize the purchase of a rescue vehicle utilizing up to \$125,000 of Measure Q funds, with the condition that the Friends of the Morro Bay Fire Department contribute an additional \$125,000 toward the purchase. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

**D-2 CONCEPT APPROVAL OF CENTRAL COAST WOMEN FOR FISHERIES
ENTRANCE STATUE; (RECREATION & PARKS)**

MOTION: Councilmember DeMeritt moved the City Council continue this item to the April 14, 2008 City Council meeting. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

ADJOURNMENT

The meeting adjourned at 11:17 p.m.

Recorded by:

Bridgett Bauer
City Clerk