

AGENDA NO: A-1

MEETING DATE: 8/24/09

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JULY 13, 2009
VETERANS MEMORIAL HALL - 6:00 P.M.

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

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| PRESENT: | Janice Peters | Mayor |
| | Carla Borchard | Councilmember |
| | Rick Grantham | Councilmember |
| | Noah Smukler | Councilmember |
| | Betty Winholtz | Councilmember |
| STAFF: | Andrea Lueker | City Manager |
| | Bridgett Bauer | City Clerk |
| | Rick Algert | Harbor Director |
| | Bruce Ambo | Public Services Director |
| | John DeRohan | Police Chief |
| | Aileen Nygaard | Associate Planner |
| | Mike Pond | Fire Chief |
| | Christine Rogers | Housing Programs Coordinator |
| | Susan Slayton | Administrative Services Director |
| | Joe Woods | Recreation & Parks Director |

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &
PRESENTATIONS

CLOSED SESSION REPORT – there was no Closed Session Meeting.

PUBLIC COMMENT

Gary Hixson referred to an article in the *New Times* regarding proposed plans for the Dynegy Power Plant property. He also suggested holding next year's fireworks at El Chorro Regional Park. Mr. Hixson gave a pitch for Charter Cable Channel 2.

Avery Henderson referred to the laser light show and encouraged the return of a firework display in Morro Bay next year.

James Henry stated he was disappointed there were no fireworks this year in Morro Bay, and he and his guests went to Cayucos to enjoy their fireworks. He also shared negative comments made that he found on the Internet regarding the laser light show held on the 4th of July.

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Dorothy Cutter stated she was not able to see the laser light show from her usual spot where she is usually able to see the fireworks, and she hopes the fireworks are back next year. She referred to Item C-1 (Presentation on Implementation on Goals A & B from the Management Partners Goal Setting Workshop) and recommended the City Council look at the Harbor Department before considering long-range strategies.

Phil Hill discussed various issues with waterfront lease sites.

Bill Martony stated he had planned to maintain his lease site as a mariculture use, which is allowed in this zoned area.

Samantha Rocky stated she is from Fresno and her family spends most of the summer in Morro Bay. She said they found an increase in black flies on the beach this summer and the beach should be groomed. She also expressed concern that kites cannot be flown on the beach due to the snowy plovers.

John Barta remembered Charlie Palmer and the facts he brought to the City regarding water. He also suggested that fireworks are brought back next 4th of July.

Mayor Peters closed the hearing for public comment.

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 THE MINUTES OF THE SPECIAL CITY COUNCIL MEETING OF JULY 29, 2009; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 RESOLUTION NO. 40-09 AUTHORIZING THE ISSUANCE OF CREDIT CARDS THROUGH RABOBANK

RECOMMENDATION: Adopt Resolution No. 40-09.

A-3 RESOLUTION NO. 42-09 ESTABLISHING THE ANNUAL PROPOSITION 4 APPROPRIATIONS LIMIT FOR THE FISCAL YEAR 2009/10

RECOMMENDATION: Adopt Resolution No. 42-09.

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A-4 AUTHORIZATION TO ENTER INTO A FINANCIAL ASSISTANCE AGREEMENT WITH THE STATE WATER RESOURCES CONTROL BOARD FOR PHASE I CONSTRUCTION OF A LOW IMPACT DEVELOPMENT BOAT REPAIR YARD AND DESIGNATION OF A REPRESENTATIVE TO SIGN THE FINANCIAL ASSISTANCE AGREEMENT, AND ANY AMENDMENTS THERETO

RECOMMENDATION: Adopt Resolution No. 43-09.

A-5 ADOPTION OF RESOLUTION NO. 39-09 CONSENTING TO THE RESTRUCTURING OF CHARTER COMMUNICATIONS

RECOMMENDATION: Adopt Resolution No. 39-09.

A-6 REQUEST TO USE PARK IN-LIEU FUNDS FOR THE ENHANCEMENT OF MARINER PARK AND CENTENNIAL PARKWAY

RECOMMENDATION: Approve the use of up to \$50,000 of Park-in-lieu funds for the enhancement of Mariner Park and Centennial Parkway.

A-7 RESOLUTION NO. 41-09 AUTHORIZING THE CITY TO PARTICIPATE IN THE CALIFORNIA ENERGY COMMISSION'S ENERGY PARTNERSHIP PROGRAM

RECOMMENDATION: Adopt Resolution No. 41-09.

A-8 PROCLAMATION DECLARING JULY AS "RECREATION & PARKS MONTH"

RECOMMENDATION: Adopt Proclamation.

A-9 PROCLAMATION DECLARING AUGUST 2009 AS "MONTH OF THE DAHLIA"

RECOMMENDATION: Adopt Proclamation.

Councilmember Winholtz pulled Items A-3 and A-4 from the Consent Calendar; Councilmember Smukler pulled Items A-6 and A-7.

MOTION: Councilmember Grantham moved the City Council approve Items A-1, A-2, A-5, A-8 and A-9 of the Consent Calendar. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

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A-3 RESOLUTION NO. 42-09 ESTABLISHING THE ANNUAL PROPOSITION 4
APPROPRIATIONS LIMIT FOR THE FISCAL YEAR 2009/10

Councilmember Winholtz stated she was going to be voting in opposition to this Resolution because we use the County's numbers instead of the City's numbers.

MOTION: Councilmember Grantham moved the City Council approve Item A-3 of the Consent Calendar. The motion was seconded by Mayor Peters and carried with Councilmember Winholtz voting no. (4-1)

A-4 AUTHORIZATION TO ENTER INTO A FINANCIAL ASSISTANCE
AGREEMENT WITH THE STATE WATER RESOURCES CONTROL
BOARD FOR PHASE I CONSTRUCTION OF A LOW IMPACT
DEVELOPMENT BOAT REPAIR YARD AND DESIGNATION OF A
REPRESENTATIVE TO SIGN THE FINANCIAL ASSISTANCE
AGREEMENT, AND ANY AMENDMENTS THERETO

Councilmember Winholtz requested staff clarification on where the City is in the process of this project. Harbor Director Rick Algert reviewed the process and future timeframe of the Low Impact Development Boat Repair Yard.

MOTION: Councilmember Winholtz 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-6 REQUEST TO USE PARK IN-LIEU FUNDS FOR THE ENHANCEMENT OF
MARINER PARK AND CENTENNIAL PARKWAY

Councilmember Smukler requested staff clarification on the \$5,000 expense to replace the site trash receptacle with a solar powered trash compactor. Recreation & Parks Director Joe Woods explained the solar powered trash compactor is a double unit that handles twice the amount of trash, will last twice as long, along with other beneficial amenities.

Councilmember Winholtz stated the gangways at Mariner Park should be paid out of Harbor fees instead of Recreation & Parks fees.

MOTION: Councilmember Winholtz moved the City Council approve Item A-6 of the Consent Calendar. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

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A-7 RESOLUTION NO. 41-09 AUTHORIZING THE CITY TO PARTICIPATE IN
THE CALIFORNIA ENERGY COMMISSION'S ENERGY PARTNERSHIP
PROGRAM

Councilmember Smukler requested the City inquire on the merging of AB 811 in with the Energy Commission's program.

Councilmember Winholtz recommended amending the Resolution as follows:

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the City of Morro Bay may seek funding, if necessary, to implement, **if feasible**,

BE IT FURTHER RESOLVED, that the ~~Mayor~~ **City Manager** of the City of Morro Bay, California ...

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

Mayor Peters called for a break at 6:50 p.m.; the meeting resumed at 7:00 p.m.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 APPEAL OF PLANNING COMMISSION APPROVAL OF CONDITIONAL
USE PERMIT FOR A SECOND STORY ADDITION TO A SINGLE FAMILY
RESIDENCE LOCATED AT 560 BERNARDO AVENUE TO TOTAL OVER
2,500 SQUARE FEET

Associate Planner Aileen Nygaard stated on May 4, 2009, the Planning Commission reviewed and approved a Conditional Use Permit for an addition to a single family residence that would allow a residential structure in excess of 2,500 square feet with a condition to redesign the north/south ridgeline to have a hip roof in order to improve the view corridor at the second story level. A parking exception to allow a tandem garage was also approved. The appellant proposes an appeal based upon the impact of the bulk of the structure on the neighborhood and the impact on neighbors' views due to its size. The applicant proposes an alternative proposal to reduce the size of the second story and overall house size to less than 2,500 square feet, and to reorient the roof ridgeline in order to create view corridors. Ms. Nygaard recommended the City Council consider the appeal for the Conditional Use Permit by adding conditions to address the appellants requests

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Gypsy Rose, appellant, stated she and Theda Hammond live directly behind the residence that is proposing a second story addition, and they would be one of those most adversely affected by the size of this project. Citing one of the principles of the City's Local Coastal Plan, she believes "large single-family dwellings could substantially reduce the overall amount of open space in the neighborhood and have a significant detrimental impact on adjacent neighbors' access to light, air, and privacy". Ms. Rose stated their grounds for the appeal are: 1) the proposed project exceeds the single-family dwelling size of 2,500 square feet. It dominates and towers over neighboring properties on that side of the block. It is not compatible with adjacent structures and it is out of scale with the community; and 2) the proposed roofline covers the width of the lot. The second story infringes on other residential views. The north-south orientation of the rear roofline substantially reduces aesthetically pleasing views. It obstructs view corridors and degrades scenic views of ocean and coastline and consequently impacts property values of neighboring homes. Ms. Rose stated their requested relief of action is: 1) redesign the proposed project to conform to single-family dwelling size of 2,500 square foot maximum by reducing the size and scale of the second story with setbacks or roofline reorientation; and 2) redesign the proposed rear roofline by reorientation or second story setbacks to preserve view corridors and reduce view obstruction of neighboring homes.

Steve Staley, applicant, stated property owners have the right to improve their property while following the guidelines and codes of the City. He outlined the Planning Commission's review and decision on approving the Conditional Use Permit for this second story addition. Mr. Staley stated he purchased this home eight years ago with the intention of adding a second story for retirement and becoming a full-time resident.

Mayor Peters opened the hearing for public comment.

Don Doubledee, architect for applicant, reviewed several issues within the staff report, and with the City process that he found to be incorrect. He said the proposed addition has been redesigned and will not greatly affect the appellants' view.

Dorothy Cutter stated the City Council adopted the 2,500 square foot floor-area-ratio (FAR) maximum building requirements two years ago. She said the City Council should direct the Planning Commission to come up with zoning regulations that include the far requirements.

Sandy Owen shared a PowerPoint presentation on information gathered on the proposed addition. She requested the City Council direct the architect to redesign the addition to meet the 2,500 square foot maximum standard and second-story setbacks, and design the roofline so it will articulate east and west.

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Tom Keland expressed opposition to the proposed project stating this second story addition would be larger than his house.

Joy Chambers stated she once considered adding a second story to a neighboring home on Bernardo Street, and decided to not block a neighboring view. She said view shed is not a property owner's right.

John Barta stated there are no private property view corridors; the only view corridors are at street ends.

Mayor Peters closed the public comment hearing.

Councilmember Grantham stated he is not a proponent of FAR because many of the lots in the City are too small, and property taxes stay stagnant, which is one of the large contributions to the City's General Fund. He said personal property rights are important to him, and people that play by the rules and work hard should be able to expand in order to make room for their family. Councilmember Grantham stated he supports approval of this project with conditions as stated in staff report.

Mayor Peters stated the purpose of FAR is for bulk, scale and neighborhood compatibility issues, which would improve property values. She said the City's amended zoning ordinance is still awaiting the approval of the Coastal Commission.

Councilmember Winholtz stated the protection of character and compatibility of neighborhoods are documented in the City's General Plan and Local Coastal Plan. She said the neighbors are not requesting to eliminate the second story, but are requesting a reduction in size, which are a compromise and a fair issue. Councilmember Winholtz stated she appreciates that the roofline has been adjusted; she would like the square footage to be reduced to 2,500 square feet; and, there may be an issue with the tandem parking.

Councilmember Smukler stated he supports maintaining the 2,500 square feet. He discussed the tandem parking space concept as being used as a workshop area and not being used as parking area.

Councilmember Borchard stated she agreed with Councilmember Grantham's comments regarding property rights. She said she appreciates the change in the roofline; however, she also supports the Planning Commission's approval of this project. Councilmember Borchard stated there are second-story additions all around this area.

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MOTION: Councilmember Winholtz moved the City Council uphold the appeal with the condition to remove 135 square feet from the second floor of the proposed addition to the single-family residence located at 560 Bernardo Avenue. The motion was seconded by Mayor Peters and carried with Councilmember Borchard and Councilmember Grantham voting no. (3-2)

B-2 ADOPTION OF ORDINANCE NO. 550 AMENDING TITLE 15 HARBOR AND OCEAN REGULATIONS, CHAPTER 15.40 REGARDING VESSEL HABITATION; INTRODUCTION AND FIRST READING

Harbor Director Rick Algert stated in 1993, the City Council adopted comprehensive regulations regarding vessel habitation in the harbor known as the Liveaboard Ordinance. In June 2008, the Harbor Advisory Board heard a status report on enforcement of the Ordinance and requested a more detailed review of the Ordinance. In October 2008, the Harbor Advisory Board formed a subcommittee to review the existing Liveaboard Ordinance who met and proposed a revised Ordinance to the Harbor Advisory Board at their April 2009 meeting. Mr. Algert stated the Harbor Advisory Board recommends the City Council approve the proposed revisions to Chapter 15.40 Vessel Habitation by approving the first reading and introduction of Ordinance No. 550.

Mayor Peters opened the hearing for public comment.

Bill Martony stated there have been past violations of pollution in the bay by some liveaboards. He said he supports this Ordinance, and recommended the Harbor Patrol monitor the water quality in the bay.

Mayor Peters closed the public comment hearing.

Councilmember Winholtz requested the following amendments to Ordinance No. 550: 1) page 1 (remove ad-hoc from paragraphs 3 and 4; and, 2) page 6 - Section 15.40.090 USE OF PUMPOUT FACILITIES: ~~Where permittees are required to have adequate vessel-sanitation facilities~~ permittees shall use pumpout facilities on a regular basis or otherwise discharge greywater, human waste and sewage in a legal manner.

MOTION: Councilmember Grantham moved the City Council approve as amended by the City Council, the first reading and introduction of Ordinance No. 550 - Title 15, Harbor and Ocean Regulations, Chapter 15.40 regarding Vessel Habitation. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

City Manager Andrea Lueker read Ordinance No. 550 by number and title only.

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Mayor Peters called for a break at 8:45 p.m.; the meeting resumed at 8:56 p.m.

B-3 CONSIDERATION OF ACTIVATING THE MORRO BAY
REDEVELOPMENT AGENCY AND INITIATION OF PLANS TO BEGIN
THE FORMAL REDEVELOPMENT PLAN ADOPTION PROCESS

Public Services Director Bruce Ambo stated at the June 22, 2009 City Council meeting, staff was directed to return to Council for further consideration of the operational expenses in forming and implementing the Redevelopment Agency, potential Redevelopment Plan components and Agency activities, opportunities for community involvement and potential project area boundaries. It is recommended the City Council activate the Morro Bay Redevelopment Agency, begin the Redevelopment Plan Adoption process, and allocate an estimated total of \$210,000 for the expenses in forming the Agency out of a combination of funding sources including the CDBG Loan Repayment Fund, Affordable Housing In-Lieu Fund, and an interest-bearing loan from the Risk Management Fund. In order to be successful, the City Council will need to focus on increasing the assessed property values in the project area and growing the tax increment for further redevelopment projects that stimulate investment within the community. The potential benefits to the community and Agency can be substantial, and equate to approximately \$45 million in general redevelopment activities, and an additional \$14 million in affordable housing projects and programs for the life of the Agency. Mr. Ambo recommended the City Council initiate plans to activate the City's Redevelopment Agency; begin the formal Redevelopment Plan adoption process; authorize the Public Services Director to execute a contract with Urban Futures, Inc. in the amount of \$160,000 to provide turn-key professional services in preparing the Redevelopment Agency formation materials; and allocate an additional \$50,000 Redevelopment Agency special counsel and incidental expenses.

Mayor Peters opened the hearing for public comment.

Jack McCurdy stated the City's planned action on the Redevelopment Feasibility Study is grossly ill advised based on the consistent record of failure to adequately inform residents about their opportunities to become aware of and understand at a minimal level the Redevelopment Plan, which affects every property owner in Morro Bay. He said the Study contains numerous inadequately substantiated statements, inconsistencies, omissions and misleading conclusions, which likely would have raised many questions among residents, had they been availed of opportunities to review the Study before this meeting and to engage in discussions about its contents and effects on individual properties. Mr. McCurdy reviewed the record of City actions to publicly notice workshops and public hearings on the Redevelopment Feasibility Study; he also reviewed

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the deficiencies in the Study. Mr. McCurdy stated given the failures of the process to inform residents about the matter, it seems clear that it would be a travesty and irresponsible for the Council to act on the Redevelopment Plan at this meeting. Instead, it should oversee the design of a credible and effective program to do its utmost to inform residents about redevelopment and engage them in a series of properly and widely noticed meetings.

Dorothy Cutter stated she does not understand how the Redevelopment Agency works and is concerned with the amount of money that it would cost the City.

Rubin Barrios expressed concern with the concept of this proposal.

Peter Risley requested Council hold off on a Redevelopment Agency until all sectors in the City are allowed to educate and discuss fully, and until a full consensus arises from all the people. He said it is of his opinion that the majority of redevelopment schemes have been used by small elite groups to move out, exclude and profit from the illumination of any one the local elite decides that it is in their interest to remove. Mr. Risley requested no allocation is made until a full consensus is reached with all sectors of Morro Bay.

John Barta stated he is concerned that the City is moving too fast on this Study; however, if approved, the City should add the power plant to the Study.

Andy Hampp stated he is apprehensive with the Study, noting he is not sure if his property is in the project area. He said there have not been enough comparative case studies, and eminent domain is another important issue.

Mayor Peters closed the public comment hearing.

Mayor Peters stated she was on the City Council in 2005 when the Redevelopment Agency was first considered, and if it were established then, the City would be reaping the benefits now. She said there are 417 Community Redevelopment Agencies and 772 project areas in the State of California; 80% of all cities and 45% of all counties have Redevelopment Agencies; Redevelopment Agencies as a group are the largest provider of affordable housing for California's low to moderate income families next to the federal government. Mayor Peters stated the City is interested in developing its business corridor and the areas that are low income and blighted; they are not interested in using eminent domain in taking someone's home to make a profit.

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Councilmember Grantham agreed with Mayor Peters' statement, and noted the City will benefit from a Redevelopment Agency. He said he supports moving forward with the Redevelopment Plan Adoption process.

Councilmember Winholtz stated timing seems to be an issue, and she does not see the benefit of moving forward now; she would like to take the time to hold more community workshops. She said if the Redevelopment Agency were approved, she would want the power plant included. Councilmember Winholtz expressed concern with the housing issue wherein low-income housing is purchased and replaced with moderate housing. She said she is also concerned with staff workload.

Councilmember Borchard also expressed concern with staff workload. She said if the Redevelopment Agency were approved, she would want to include the power plant property. Councilmember Borchard stated most of the concerns she has received from the public are that this is happening too fast and they have not had enough time to feel comfortable with the process. She said she would like another community workshop.

Councilmember Smukler agreed that if approved, the power plant would need to be included. He said it is not a question of if, but when, the City adopts a Redevelopment Agency. Councilmember Smukler stated he would like to take more time to build the public trust and hold another community workshop with a PowerPoint presentation.

MOTION: Mayor Peters moved the City Council activate the Morro Bay Redevelopment Agency, begin the Redevelopment Plan Adoption process, and allocate a total of \$210,000 for the expenses in forming the Agency. The motion was seconded by Councilmember Grantham and failed with Councilmember Borchard, Councilmember Smukler and Councilmember Winholtz voting no. (2-3)

MOTION: Councilmember Smukler moved the City Council continue this public hearing to the August 10, 2009 City Council meeting from 5:00-6:00 p.m. with a call to vote on the establishment of a Redevelopment Agency as a part of that hearing. The motion was seconded by Councilmember Winholtz and carried with Councilmember Grantham voting no. (4-1)

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C. UNFINISHED BUSINESS

- C-1 PRESENTATION ON IMPLEMENTATION ON GOALS A & B FROM THE
MANAGEMENT PARTNERS GOAL SETTING WORKSHOP;
(ADMINISTRATION)

This item was continued to the August 10, 2009 City Council meeting.

D. NEW BUSINESS

- D-1 STATUS REPORT ON WATERFRONT DEVELOPMENT FEES; (PUBLIC
SERVICES)

MOTION: Councilmember Winholtz moved the City Council continue to track projects on the Embarcadero in order to have a legitimate basis for maintaining the Waterfront Development Fees. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

- E. DECLARATION OF FUTURE AGENDA ITEMS – None.

ADJOURNMENT

The meeting adjourned at 10:55 p.m.

Recorded by:

Bridgett Bauer
City Clerk