

HARBOR ADVISORY BOARD MEETING

**September 3, 2009
7:00 PM
Morro Bay Veteran's Hall
209 Surf Street
Morro Bay CA 93442**

AGENDA



- I. ROLL CALL**
 - II. APPROVAL OF MINUTES**
 - III. ORAL COMMUNICATIONS**
Members of the audience wishing to address the Board on City business matters other than those on the agenda may do so now.
 - IV. PRESENTATIONS AND ACTION ITEMS**
 - IV-1. State Park Marina Maintenance Dredging**
 - V. INFORMATION ITEMS**
 - V-1. Harbor Department Status Report – Waterfront Development**
 - V-2. Harbor Department Status Report – Fall Newsletter**
 - VI. ADDITIONAL COMMENTS**
 - VII. FUTURE AGENDA ITEMS**
 - VIII. ADJOURNMENT**
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CITY OF MORRO BAY
HARBOR ADVISORY BOARD
SYNOPSIS MINUTES

The regular meeting of the City of Morro Bay Harbor Advisory Board was held Thursday, August 6, 2009 at 7:00 PM in the Veteran's Hall, 209 Surf ST, Morro Bay, California.

I. ROLL CALL

Present: Members: Gene Doughty
 Michele Leary
 Bill Luffee
 Lynn Meissen
 Jim Phillips
 Absent: Brett Cunningham
 Barbara Strassel
 Staff: Rick Algert, Harbor Director
 Polly Curtis, Office Assistant

II. MINUTES

Mr. Luffee moved the June 4, 2009 Joint Harbor Advisory Board – Recreation and Parks Commission minutes be approved as submitted. The motion was seconded by Ms. Meissen and carried unanimously. Mr. Doughty moved the June 4, 2009 Harbor Advisory Board minutes be approved as submitted. The motion was seconded by Ms. Meissen and carried unanimously.

III. ORAL COMMUNICATIONS

None.

IV. PRESENTATIONS AND ACTION ITEMS

IV-1. Presentation by Drew Jacobson, Eco Marine Solutions (Continued)

Ms. Denise Jacobson told the Board the presentation has changed focus due to a feeling of lack of support by the Harbor Office. She said Mr. Drew Jacobson will give a statement about their "current idea."

Mr. Jacobson recommended random inspections for all vessels in Morro Bay harbor, including non-liveaboard boats. He asked the Board to recommend to City Council that the Liveaboard Inspection Ordinance be expanded to include all recreational boats on the bay. He read a statement explaining his position, which has been included in the Board's packet.

Discussion ensued among the Board members and the Jacobsons. Ms. Meissen said the Harbor Department does inspect 100% of vessels that are legal, permitted liveaboards. She said she is a liveaboard on the bay, and believes the amount of sewage caused by liveaboards versus non-liveaboards is very different, and there have not been coli-form bacteria outbreaks in the bay in the last several years. Ms. Leary said she has had a lot of experience on many different recreational boats, and she knows that all of them can get boarded by the Coast Guard for random inspections.

Mr. Doughty complimented the Jacobsons for their tenacity and desire to live in a cleaner environment. He made several points in response to Mr. Jacobson's statements, including his

belief that there are far fewer derelict-type boats in the harbor than in the past, and maybe only a dozen or so remain. He said there are many federal rules and regulations already in place, which state it is a violation of the law for boats to discharge into the bay; so it is unnecessary to add more laws. He explained the safety issues he finds during his mooring inspections, including pennant lines, and how he always notifies the mooring owner that the lines need to be replaced. He pointed out that even good lines in a storm can wear through quickly, but the Harbor Patrol officers are always checking boat lines prior to storms. Mr. Doughty said he does not believe the level of inspection Mr. Jacobson is recommending should be required for all boats at this time. He said regarding the finances, the 25 liveaboards who pay for their permits are in effect paying for liveaboard inspections.

Chairman Phillips thanked the Jacobsons for their presentation. He said he does not object to the concept of clean water and clean sanitation systems. He explained his knowledge as a Yacht Club member that there are many recreational boats, or weekenders that do not even have marine sanitation devices so should not require inspections. He said there are an estimated 500 boats in the bay, and 50 are covered by the Liveaboard Ordinance, but there is not one specific agency that actually has a list of the other 450 owners of those boats, and it would be difficult to locate or contact them, especially if they are not documented vessels.

Mr. Luffee recommended that the Jacobsons present their statement to the City Council during the second hearing of the Liveaboard Ordinance. He said he would talk to Mr. Algert privately to find out what the Harbor Department has the authority to do in regards to boat inspections.

IV-2. Review of Rules & Regulations on Berthing of Boats and Harbor Policies

Mr. Algert reviewed the Item, reading the paragraphs from the background section:

Many larger/commercial vessels are federally documented (registered) and fall under federal maritime law when we are faced with a derelict or non-paying vessel. The documentation system in federal maritime law was designed to protect lien holders to facilitate commerce and financing in the maritime industry. Dealing with derelict or non-paying federally documented vessels requires filing an action in federal court to seize the vessels and clear liens, which is a very costly and time-consuming process. The best outcome is that after approximately 1 year the vessel is turned over to the agency and we can attempt to recover past due fees and costs through sale of the vessel or pursuing the owner if they have any resources and can be located.

Vessels that are state registered (CF) fall under State Harbors and Navigations Code (HNC) when dealing with liens for non-payment or abandonment. This is a substantially quicker and less costly process. The City can adopt local ordinances in other areas where we are not preempted by state and federal law, and can establish our Harbor Department Rules and Regulations by Resolution through authority in Chapter 15 of the Municipal Code. For the most part this does not include pursuing past-due dockage fees or dealing with derelict/abandoned vessels as this is covered under state and federal law. So the City's areas of flexibility in policy and management of assigning berthing at any City facilities lies with our Harbor Department Rules and Regulations.

Mr. Algert told the Board he would answer any questions.

Mr. Luffee said he believed this item was agendaized due to the comments made by Mr. Ed Ewing at one of the past meetings that there is a lot of activity on the piers and not enough room, and that some of the boats should not be there. Mr. Luffee asked Mr. Algert is there is a real or a perceived problem.

Mr. Algert said crowding at the piers is now and always had been a problem. He said when the fishing season was good, there were boats tied up at the piers five-deep; so when the transient boats are also looking for space, it does become an issue. He said the fire at the South T-Pier was due to an electrical outlet used by a person living on his boat at the pier, but now there is a standard for electrical cord usage as well as no permanent liveboards at the piers. He said there is an ongoing effort to remove derelict vessels from the bay, but the piers need to be used for those vessels prior to arranging for demolition. Also, he wanted to reiterate that policy has always allowed transient vessels to dock at the T-Piers, not solely commercial fishing vessels.

Ms. Meissen said she has seen photos of vessels three and four deep at the fuel dock, and that it was a worse problem in the past. She pointed out that the Harbor Department actually has removed many derelict vessels already from the bay. She said if the Rules and Regulations allow transient vessels to dock at the T-Piers, not just commercial fishing vessels, then we would not be able to comply with Mr. Ewing's request.

Chairman Phillips asked Mr. Algert to review the process of demolishing a documented vessel. Mr. Algert described the process, and estimated the length of time to be a year. Chairman Phillips asked if there are any funds available to assist removal of documented vessels. Mr. Algert said there are funds of \$75,000 available as a one-time grant from the National Estuary Program, but each documented vessel could take a substantial chunk out of that money. Chairman Phillips agreed that the pier is crowded, and that the solution to moving the process along of demolishing derelict vessels would be to build a boat yard in Morro Bay.

IV-3. Discussion on Recommending a Public Input Process for Developing North Embarcadero Projects

Mr. Algert reviewed the item, and told the Board that the Recreation and Parks Commission appointed a sub-committee to review their department's Master Plan, which is currently being worked on. That sub-committee is to report back to the Commission every six months. Mr. Algert asked the Board for their ideas.

Mr. Luffee said he mainly intended to continue the process for the boat yard and haul out sooner rather than later. Mr. Doughty suggested regular updates from the Recreation and Parks director Joe Woods. Ms. Leary said the Recreation and Parks Commission sub-committee could involve the Harbor Advisory Board if the boat yard is the topic. Chairman Phillips agreed, saying periodic reports from the Commission on how their project is going would be sufficient.

Mr. Algert said he will let the Board know about meetings on the boat yard topic. He reviewed the current status of the boat yard project, saying the permitting process is very complicated, and February 2010 is the date required for start of construction.

V. INFORMATION ITEMS

V-1. Harbor Department Status Report

Mr. Algert reviewed the following topics for the Board:

- Three emergency responses in July
- Derelict Vessel Demolition and Lien Sale
- Liveaboard Ordinance Revision
- New Billing Program
- Marine Mammals
- Jesse King Memorial

VI. ADDITIONAL COMMENTS

Mr. Luffee asked Mr. Algert about the possible dredging in the back bay channel or the State Park Marina. Mr. Algert said the contract has not yet been awarded, but September 15, 2009 is the target date for dredging which will only extend to Fairbanks Point/The Inn at Morro Bay, not the back bay. He said the dredging may not happen until October as there are many variables and factors. He said the State Park Marina would have to be a separate project, and money would have to be found for that project, as it would be paid for separately from the Army Corps channel dredging.

Mr. Doughty asked Mr. Algert for an update on the Chablis. Mr. Algert said there is an agreement for the Chablis to stay in the current slip until October.

VII. FUTURE AGENDA ITEMS

September: Boat Yard Project Report

VIII. ADJOURNMENT

This meeting was adjourned at 8:15 PM

Submitted by,

Polly Curtis
Harbor Department

TO: HARBOR ADVISORY BOARD

DATE: 8/27/09

FROM: HARBOR DIRECTOR

SUBJECT: STATE PARK MARINA MAINTENANCE DREDGING

BACKGROUND AND DISCUSSION:

Please review the attached agenda item which was approved by the City Council at their meeting of August 24, 2009. To summarize, we have an opportunity to take an interim step and see if we can acquire maintenance dredging permits for the State Park Marina. The disposal site would be the near shore area. If the permits are obtained, the concept is to use a relatively small clamshell or bucket dredge, and the dredge materials will be loaded into scows that would be towed to the disposal site.

The existing docks and pilings would be left in place, perhaps moving approximately 20 boats at a time (along with floating docks temporarily if necessary) to access an area, and then move on. At this time the construction portion of the project is not funded. Our recommended course would be to pursue the permits, and if it looks likely that they can be obtained, we would present a couple of different strategies for financing the maintenance dredging.

We are not giving up on the long-term rehabilitation and slip expansion project at the State Park Marina. If this maintenance dredging could be done, it would be a great step along the way. Anchor Environmental will begin work once the grant agreement is approved by the State General Services Department; we project in a couple of weeks.

TO: HARBOR ADVISORY BOARD

DATE: 8/27/09

FROM: HARBOR DIRECTOR

SUBJECT: HARBOR DEPARTMENT STATUS REPORT – WATERFRONT DEVELOPMENT

The Harbor Advisory Board has expressed an interest in reviewing waterfront development applications that affect “use control, promotion and operation of vessels within the Harbor” as your bylaws state. We intend to periodically include an update of current waterfront development applications in the Status Report, and the Harbor Advisory Board then could indicate which if any you would like to put on your agenda for future review or potential comment or recommendation. Following is the first update on waterfront development projects.

City North Embarcadero Capital Improvement Plan: We are actively working on obtaining local use permits and CEQA on the plan. This item may have to be pulled from the September 8, 2009 Planning Commission agenda as more information is needed to process the local permit. We hope to be able to reagendize this soon. Our application to the State Water Resources Board (SWRB) for \$3.5 million to build the boat yard is still active as of today, but the SWRB wants to see completed permits no later than August 31, 2009; so we expect we may get notice that the project will not be considered for stimulus money. The dry boat storage project is not moving at this time. Our plan is to eventually apply for a DBW low interest loan to build the dry boat storage yard, but it is best to obtain at least the local concept level approval of the use permit first.

Virg’s, Harbor Hut and GAFCO - 1185 to 1215 Embarcadero: Proposed slip redevelopment and landside improvements. The Board heard a presentation from the applicant’s representative on this project when it was going through City concept level review, and they obtained their Coastal permit earlier this year. They are now in precise plan review with the City, and we will need to work on lease negotiations to facilitate their proposed investment in the improvements.

DeGarimore Fuel and Ice, Giovanni’s Fish Market - 1001 Front Street: A party has proposed to establish a “boatel and tour boat operation” on a floating dock to be rebuilt at this location. Currently under review.

Whale’s Tail Restaurant - 945 Embarcadero: The existing lease will terminate on March 2010 and the City requested proposals for redevelopment of the site this summer. We received three excellent proposals to redevelop the site, which a panel reviewed on August 20, 2009. Staff will recommend to the City Council on September 14, 2009 that the proposal from Stan Van Beurden to relocate the Hofbrau and build two slips be selected for further consideration. After the City Council authorizes the proposal they will then have up to one year to obtain concept level approval of the plans for redevelopment.

Conference Center Project - 833, 801 and 725 Embarcadero:

In 2008 the City requested proposals to redevelop Lease Site 87-88 (Outrigger Restaurant at 833 Embarcadero) and selected a proposal from Doug Redican and Burt Caldwell to build a conference center and mixed use development spanning Lease Sites 87-88/87W-88W and Lease Site 86/86W (Embarcadero Grill 801 Embarcadero) and the water areas in front of Rose's Landing. This project proposes a phased development of approximately 12 new slips in the water areas. In September 2008 the City approved concept plans, and the Coastal Commission is tentatively scheduled to hear the permit application in October 2009. The Harbor Department is currently working on new long term leases for lease sites 87-88/87W-88W and 86/86W.

Held/Violet Project - 591 and 575 Embarcadero: The project is demolition of two existing old houses, and building a new 8 unit hotel with retail and new slips. The new long term leases were approved by City Council, plans are in final stages of precise plan review and we expect demolition to begin this fall.

Salt Building Lease Site 65-66/65W-66W - 571 Embarcadero: The existing lease will terminate January 2011. The Tenant, Abba Imani, has applied for permits to reconstruct the deck area and establish the 8 foot lateral access to connect to the Held –Violet project lateral public access. Concept level review by Planning Commission expected this fall.

Lease Site 35W-36W – Adjacent to 225 Main St.: Frank Loving, Maritime Logistics, has submitted a proposal to rebuild the wooden dock for berthing of vessels. The Conditional Use Permit application that has been in process for three years is currently on hold while the Planning Commission and City Council determine if this use is allowed. Tentatively scheduled for City Council review on September 14, 2009.

Lease Site 30W-33W – Adjacent to 201 Main St.: Proposed lot line adjustment to adjacent property that abuts the leased area. Currently under review by the Planning Department.