

**MINUTES - MORRO BAY CITY COUNCIL  
SPECIAL MEETING – NOVEMBER 6, 2014  
MORRO BAY VETERAN’S HALL – 5:00 P.M.**

|                 |                   |                                  |
|-----------------|-------------------|----------------------------------|
| <b>PRESENT:</b> | Jamie Irons       | Mayor                            |
|                 | Christine Johnson | Councilmember                    |
|                 | George Leage      | Councilmember                    |
|                 | Noah Smukler      | Councilmember                    |
| <b>STAFF:</b>   | David Buckingham  | City Manager                     |
|                 | Joe Pannone       | City Attorney                    |
|                 | Jamie Boucher     | City Clerk                       |
|                 | Susan Slayton     | Administrative Services Director |

**ESTABLISH QUORUM AND CALL TO ORDER**

**PUBLIC COMMENT RE: ITEMS ON THE AGENDA**

City Attorney Joe Pannone spoke to the issue of the music industry/café musicians. In the Business and Professions Code 16000.5, Café musicians are defined as any person who provides musical entertainment somewhere where food is served for free or served for pay. The language of the section prohibits a city from charging a regulatory business fee. The difference between regulatory business licenses and revenue generating business licenses are significant. In our Municipal Code, our taxes are for revenue generating purposes.

City Manager Dave Buckingham said we may not regulate a café musician. We do have the authority to tax such businesses to generate revenue. That said, the City has no intention of using the business license to tax café musicians as separate businesses.

**SPECIAL MEETING AGENDA ITEM:**

**I. DISCUSSION OF AND DIRECTION FOR A REVIEW AND POSSIBLE AMENDMENTS OF THE MORRO BAY MUNICIPAL CODE RELATING TO BUSINESS LICENSES**

City Manager Dave Buckingham presented the staff report via power point. He hopes to receive Council direction to conduct a 6-7 month review of Morro Bay business license requirements with the hopes of completing the review so that any changes to policy or procedure are adopted by the end of the 2014-15 fiscal year. Consideration will be given to the municipal code, fee schedule, policy, procedure, customer service and public communication. It is staff’s hope to maintain revenue neutrality. Staff will lean toward the system that is easiest to manage for both businesses and the City. There will be the opportunity to modify the existing code, use a better code or write a brand new code. Staff will look for appropriate technology based solutions wherever appropriate. Included in the process will be stakeholders to include the Chamber, Merchant’s Association, residents, and professional advisors. Staff hopes to address low revenue businesses, independent contractors working at the same location as other business license

holders, businesses that sell on consignment, businesses that rent sales space in another licensed business, artists (hobbyists and vocational), itinerant (one time sales), café musicians, home-based vocational businesses, multiple licensing requirements for LLC's, and long term rentals. Staff will also determine whether or not an outside consultant service is necessary for this endeavor.

The public comment period for Item I was opened.

Billy Fapiano stated that we didn't mention cabaret mimes in our discussions, please take note of that. He hoped we would look at using a tiered way of working on a fee structure. He was also concerned about dance instructors, yoga instructors, musicians and the like. He also hoped we would look at placing a moratorium on the back fees as people seem more concerned about the retroactive fees.

Collette Came owns an alarm company in Morro Bay. She has to carry a license in every City with most being charged via a base fee. The bulk of her permits are in the \$30-60 range but Morro Bay's is \$244, why are we so high? She would like us to think about those businesses who have to carry licenses all over the place. She also wasn't impressed with MAS, they weren't friendly and it felt they were being punitive.

Debbie McNair stated that Morro Bay's greatest treasure is the people who live and work to put Morro Bay on the map. To impose exorbitant license fees makes it so that businesses have to take their talents elsewhere. She read the City's Mission statement out loud and asked the Council to take those words into consideration. When people are over assessed, it directly affects their quality of life. She believes the \$32 fee would be an appropriate solution. She also asked we consider an exemption for those over 60 years old and/or those with a disability.

Eddie Costco is a new Morro Bay resident and has been a hobby artist his whole life. He thanked everybody for revisiting the ordinance and asked that we think about exemptions for those not making money.

The public comment period for Item I was closed.

Councilmember Smukler did research and had a hard time finding exemption options in other cities. He did find one that seemed interesting and asked staff to take a look at San Jose who looks at the poverty level based on what the US Department of Health and Human Services establishes on an annual basis. He encouraged people to stay in tune with this issue throughout the year via organizations, the City's Facebook page and our website.

Mayor Irons wants to ensure the ordinance is equitable and works for our community. The City is currently taking a look at themselves in a variety of ways, not just through this audit. We are also doing a City assessment with Management Partners, a water rate study; all ways to look at ourselves and how we are doing business. If it's passed, he wants to ensure that agenda Item III is brought back as part of the long term review.

MOTION: Councilmember Christine Johnson moved approval of staff recommendation as presented; a complete a review of the existing business licensing

requirements, using a process that includes staff, stakeholders and experts and propose appropriate amendments or revisions to the Municipal Code and Tax Rate Schedule by the end of 2015. The motion was seconded by Mayor Irons and carried, 4-0-1.

Ayes: Irons, C. Johnson, Leage, Smukler

No's: None

Absent: N. Johnson

II. INTRODUCTION AND FIRST READING OF ORDINANCE NO. 589 OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, ADDING SECTION 5.04.275 TO THE MORRO BAY MUNICIPAL CODE RELATING TO THE TIME LIMITED SUSPENSION AND REFUND OF PENALTIES FOR CERTAIN BUSINESSES THAT PAY BUSINESS LICENSE TAXES DUE AND OWING

Mayor Irons recused himself from this item as he is currently in an open case with MAS.

City Manager Dave Buckingham presented the staff report via power point. The problem seems to lie with the 100% penalty provision and the fact that is placing a significant burden on many businesses. The proposed Ordinance forgives all penalties for any business who makes all past due payments during the amnesty period, requires businesses to pay back taxes owed and to get a license, begins the grace period on July 8, 2014 ending March 13, 2015, requires that any penalties paid after July 8, 2014 and before March 14, 2015 be refunded by the City, requires penalties come back in force on March 14, 2015 when the amnesty period ends.

The public comment period for Item II was opened.

Bill Luffee argued the point that if a business is established but was unaware of the requirement, they shouldn't have to pay back taxes but should have to go in and get a current business license.

Bill Fapiano asked about itinerant folks. Mimes, teachers, instructors, those that aren't brick and mortar businesses, are they a special case?

The public comment period for Item II was closed.

MOTION: Councilmember Smukler moved for intro and first reading of Ordinance 589 by title and number only amending Morro Bay Municipal Code Title 5, adding Section 5.04.275 entitled *Amnesty Period* to provide a window of time, from July 8, 2014, through March 13, 2015, for businesses to comply with Section 5 without penalties and refund any penalties that have been paid. The motion was seconded by Councilmember Leage and carried, 3-0-2.

Ayes: C. Johnson, Leage, Smukler

No's: None

Recused: Irons

Absent: N. Johnson

Mayor Irons returned to the dais.

III. INTRODUCTION AND FIRST READING OF ORDINANCE NO. 590 OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, ADDING SECTION 5.08.220 TO THE MORRO BAY MUNICIPAL CODE RELATING TO REQUIREMENTS FOR LOW REVENUE BUSINESSES TO OBTAIN BUSINESS LICENSES

City Manager Dave Buckingham presented the staff report via power point. Staff conducted discussions with stakeholders to consider the type of threshold, the amount of the threshold and an appropriate amount of tax to charge. Staff strongly recommends a gross receipts threshold for this temporary low-revenue exemption. In the last meeting, staff alluded to a \$2500 annual gross receipts threshold for a flat \$10 tax. The minimum tax though should approximate the real cost of processing a business license, which is more than \$10. The current cost of an additional employee is \$32, very close to the actual cost of processing a business license. As such, staff is recommending tripling the proposed threshold limit to \$7500 and tripling the proposed tax to \$32. This ordinance establishes a lower revenue business gross receipts threshold of \$7500, it allows for businesses who demonstrate gross revenues under \$7500 to qualify for a reduced license fee, it requires businesses wanting to be exempt to provide proof of gross receipts, and it requires businesses to pay back processing fees in order to qualify for exemption for the business tax.

The public comment period for Item III was opened.

Bill Luffee stated that this ordinance doesn't address non-profits.

Cyndee Edwards, representing the MB Merchants Association, asked staff to focus on thresholds for booth renters at salons. Often times a newer employee, as of yet without an established clientele, would qualify under the low threshold limits.

Romey West spoke representing musicians. He asked what if somebody works in multiple bands and doesn't live in or operate a business in Morro Bay; will they be looked at as a group or as an individual?

Billy Fapiano asked if the \$7500 is a threshold for money made in Morro Bay only. He hopes so. Documents from the IRS may not reflect that difference.

Mary Van Zee, owner of Treasurers and Antique Mall, stated that in the past, there was never any code ordinances requiring these businesses, such as those in hers, to have a business license. Why would we require people to go back all these years and do this? She feels it's very unfair. She disagrees with the \$7500 threshold because it doesn't include costs incurred by those business people. She feels this will still hurt our businesses.

Gene Doughty, local businessman, has a concern for older and lower income people. He feels this is really bad, he thinks that there should be an exempt threshold for some that then wouldn't have to pay a thing.

Ron Reisner received a MAS letter and it included a line item for Home Occupation, what is the rationale for that?

Jamie Parker has a question regarding musicians who pass through and maybe play once a year or just once. Is there a way for her to business to pay for their license?

The public comment period for Item III was closed.

Mayor Irons feels there's an opportunity in the next 6 months to address senior and/or low income issues that we have.

Councilmember Leage stated that gross vs flat tax rates will create a lot of work both the City and the business.

Councilmember Christine Johnson stated we can't address the needs based on our current code which is why we are having these discussions. She supports a threshold but wondered if \$7500 is the right number.

Councilmember Smukler remembers us talking about an exemption point, not a low threshold. Other than San Jose, he hasn't found cities that utilize an exemption point. His thought is to bump up the \$7500 to \$10,000 and leave the \$32 fee with no initial processing fee. It's not perfect but it's making a strong improvement.

Councilmember Smukler then suggested that the poverty guideline level as defined by the Department of Health and Human Services is \$11,670 and so is looking at rounding that number up to \$12,000.

Councilmember Christine Johnson likes using a legitimate data point as opposed to "throwing a dart up there." We can then continue the review and come back in June.

Mayor Irons wondered if instead of saying "a number", we say it's the poverty health and services number and if it fluctuates, that sets the fee.

MOTION: Councilmember Leage moved for introduction and first reading of Ordinance No. 590 by number and title only, amending the Morro Bay Municipal Code Title 5, adding Section 5.08.220 entitled *Requirements for Low Revenue Businesses* to allow a reduced fee for businesses whose gross annual receipts are less than \$12,000. The motion was seconded by Councilmember Christine Johnson and carried, 4-0-1.

Ayes: Irons, C. Johnson, Leage, Smukler

No's: None

Absent: N. Johnson

#### ADJOURNMENT

The meeting adjourned at 6:44p.m.

Recorded by:

Jamie Boucher  
City Clerk