

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 8, 2017
VETERAN'S MEMORIAL HALL – 6:00 P.M.

AGENDA NO: A-1
MEETING DATE: September 12, 2017

PRESENT:	Jamie Irons	Mayor
	Robert Davis	Council Member
	John Headding	Council Member
	Matt Makowetski	Council Member
	Marlys McPherson	Council Member
STAFF:	Martin Lomeli	Interim City Manager
	Chris Neumeyer	Assistant City Attorney
	Dana Swanson	City Clerk
	Ikani Taumoepeau	Deputy City Manager
	Craig Schmollinger	Finance Director
	Rob Livick	Public Works Director
	Scot Graham	Community Development Director
	Greg Allen	Police Chief
	Steve Knuckles	Fire Chief
	Eric Endersby	Harbor Director

ESTABLISH QUORUM AND CALL TO ORDER

The meeting was called to order at 6:01 p.m., with all members present.

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

RECOGNITION

https://youtu.be/vu46mrJ_FuA?t=2m8s

- Introduction of new Fire Marshal, Matt Viera
- Officer Luke Riddering, Recipient of Mothers Against Drunk Driving (MADD) Award for DUI Enforcement

CLOSED SESSION REPORT – No Closed Session Meeting was held.

MAYOR AND COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS
CITY MANAGER REPORTS, ANNOUNCEMENTS & PRESENTATIONS

PRESENTATIONS

https://youtu.be/vu46mrJ_FuA?t=22m59s

- Monday Night Dinner Report (Linda Fidell)

There was Council consensus to hear Item C-3 before Items C-1 and C-2.

PUBLIC COMMENT

https://youtu.be/vu46mrJ_FuA?t=28m58s

Jeff Heller, Morro Bay, urged the Council to hire consultants rather than fill current engineering vacancies to reduce the cost of employee compensation and benefits. He also requested the WRF public outreach plan be provided at the next meeting.

Kerrigan Mahan, Morro Bay, expressed concern regarding city attorney expenses and consultant costs for Mike Nunley & Associates and the OneWater plan.

David Nelson, Morro Bay, suggested the City needs an innovative wastewater treatment plant with toilet to tap technology and to investigate EPA low interest loans.

Erica Crawford, Morro Bay Chamber of Commerce, announced upcoming events including employer roundtables with Cuesta College to discuss skills needed in the hospitality industry, a Chamber mixer on August 30 at Foster's Freeze and Jim's Automotive, and the AvoMarg Festival on Saturday, September 9.

Ken Vesterfelt, Morro Bay, expressed concern about the growing trash pile near the north Main Street offramp, and shared the story of a young woman who lost her wallet in north Morro Bay. The wallet was later turned in to the Harbor Department with the money intact.

The public comment period was closed.

The Council and staff responded to issues raised during the public comment period.

A. CONSENT AGENDA
https://youtu.be/vu46mrJ_FuA?t=42m53s

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 JUNE 13, 2017 CITY COUNCIL MEETING;
(ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE JUNE 27, 2017 CITY COUNCIL MEETING;
(ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF MINUTES FOR THE JULY 7, 2017 SPECIAL CLOSED SESSION CITY
COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-4 APPROVAL OF MINUTES FOR THE JULY 11, 2017 SPECIAL CITY COUNCIL
MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-5 APPROVAL OF MINUTES FOR THE JULY 11, 2017 CITY COUNCIL MEETING;
(ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-6 ADOPTION OF RESOLUTION NO. 43-17 APPROVING A REVISED AND RESTATED
AMENDMENT NO. 1 TO THE 2016-2017 MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF MORRO BAY AND THE MORRO BAY FIREFIGHTERS
ASSOCIATION, IAFF LOCAL 3725, INCORPORATING WORK SCHEDULE AND LEAVE
ACCUMULATIONS FOR THE FIRE MARSHAL POSITION; (ADMINISTRATION)

RECOMMENDATION: Council adopt Resolution No. 43-17 approving a Revised and Restated Amendment No. 1 to the 2016-2017 Memorandum of Understanding Between the City of Morro Bay and the Morro Bay Firefighters Association, IAFF Local 3725.

A-7 APPROVAL OF LEASE AGREEMENTS WITH ESTERO BAY COMMUNITY RADIO AND THE MORRO BAY HISTORICAL SOCIETY (695 HARBOR STREET); (DEPUTY CITY MANAGER)

RECOMMENDATION: Council approve lease agreements with the Estero Bay Community Radio and the Morro Bay Historical Society.

A-8 ADOPTION OF RESOLUTION NO. 44-17, APPROVING AMENDMENT #3 TO THE MASTER LEASE AT LEASE SITE 71-74/71W-74W, AND AMENDMENT #2 TO THE MASTER LEASE AT LEASE SITE 75-77/75W-77W (BOTH WITH MORRO BAY MARINA, INC., LOCATED AT 601 EMBARCADERO), REFORMATTING THE METHOD BY WHICH THE LEASE RENT CPI ADJUSTMENT IS CALCULATED, AND APPROVING LEASE OWNERSHIP CHANGE ON BOTH SITES FROM A GENERAL PARTNERSHIP TO A LIMITED LIABILITY COMPANY; (HARBOR)

RECOMMENDATION: Council adopt Resolution No. 44-17, directing the Mayor to sign amendments to both Morro Bay Marina leases to reformat the manner in which CPI rent adjustments are calculated, and approving the ownership of the two leases from General Partnerships to Limited Liability Companies.

A-9 AWARD OF CONTRACT TO D.O.D. CONSTRUCTION, LTD. OF BAKERSFIELD, CA, FOR PROJECT NO. MB2017-ST02: SIDEWALK GAP CLOSURES & PEDESTRIAN ACCESSIBILITY PROJECT; (PUBLIC WORKS)

RECOMMENDATION: City Council (1) allocate \$18,440 from Transportation Impact funds in addition to the \$299,437 received from Community Development Block Grant for a total of \$317,877 to compensate the bid amount of \$302,740, plus \$15,137, a 5% contingency, (2) award an Indefinite Delivery, Indefinite Quantity (IDIQ) contract with an initial two-year term and two additional option periods of up to two years each to D.O.D. Construction, LTD and (3) authorize the Public Works Director to execute the final contract for the Initial Period.

The public comment period for the Consent Agenda was opened; seeing none, the public comment period was closed.

Council Member McPherson requested a correction on Item A-5, Minutes for the July 11, 2017, City Council Meeting, noting the next scheduled meeting date should be August 8, 2017.

Council Member McPherson announced she would recuse herself on Item A-7, Approval of a Lease Agreement with the Morro Bay Historical Society, as the President of the Board is her significant other. While there is no direct conflict of interest since he is an unpaid volunteer, she wanted to avoid the appearance of a conflict.

MOTION: Council Member Heading moved the Council approve all Items on the Consent Agenda with the exception of Item A-7, including the correction on Item A-5. The motion was seconded by Council Member McPherson and carried unanimously, 5-0.

Council Member McPherson left the dais.

A-7 APPROVAL OF LEASE AGREEMENTS WITH ESTERO BAY COMMUNITY RADIO AND THE MORRO BAY HISTORICAL SOCIETY (695 HARBOR STREET); (DEPUTY CITY MANAGER)

MOTION: Council Member Makowetski moved the Council approve Item A-7. The motion was seconded by Council Member Headding and carried 4-0-1 with Council Member McPherson having recused herself to avoid a perceived conflict of interest.

Council Member McPherson rejoined the meeting.

B. PUBLIC HEARINGS - NONE

C. BUSINESS ITEMS

As previously discussed, there was Council consensus to hear Item C-3 next.

C-3 REVIEW OF MARIJUANA COUNCIL SUBCOMMITTEE RECOMMENDATIONS AND CONSIDERATION OF AND DIRECTION FOR FUTURE LOCAL MARIJUANA REGULATIONS; (ADMINISTRATION)
https://youtu.be/vu46mrJ_FuA?t=45m

Assistant City Attorney Neumeyer provided a summary of the presentation made during the 4:00 p.m. Special Meeting, and responded to Council inquiries. (The presentation can be found [here](#).)

The public comment period for Item C-3 was opened.

Adam Pinterits, Marina, CA resident and Director of Government and Community Relations for Ethnobotanica, urged the Council to consider the potential revenue increase if adult use dispensaries are allowed in the City.

Cynthia Gonzalez, Elite Care California, stated their goal is to provide safe access for their patients. She is confident the State regulatory agencies will ensure safe products and encouraged the Council to vote to help their contingency.

Tami Peluso, Elite Care California, suggested no more than two dispensaries are needed to start for a community of approximately 10,000, and urged the Council to not tie delivery to a storefront. She also suggested dispensaries not be restricted to an industrial zone.

David Nelson, Morro Bay, spoke in support of outdoor cultivation and urged the Council to avoid overregulating cannabis.

Tony Keith, CEO of Greenroad, suggested the Council consider cannabis industry from an economic development standpoint, noting every legal business will require licensed professionals, such as architects, carpenters and contractors; and will fill empty storefronts and industrial spaces.

Tabitha Ozaki, President of Hwy. 1 Organics Medical Delivery Service, shared the importance of delivery services to provide for those with chronic illness and unable to leave their home.

Marie Roth, President of SLO County Cannabis Business Association (SLOCCBA), suggested the City not delay discussion of taxes and fees, begin cultivating relationships with brick and mortar dispensaries, and continue to nurture mobile dispensaries who can operate independently

with a separate license type. She noted those new businesses will need CPAs, attorneys, bookkeepers and professional representatives.

The public comment period for Item C-3 was closed.

Council Members McPherson and Davis led discussion as subcommittee members.

PUBLIC USE / SMOKING REGULATIONS

There was Council consensus to clarify and strengthen the existing ordinance to include vaping and address potential health concerns related to secondhand smoke in public places that aren't currently covered by the ordinance. Staff suggested establishing a minimum distance in proximity to churches, schools, restaurants, etc., and will return with draft language for consideration.

PERSONAL CULTIVATION – OUTDOOR

There was Council consensus to allow a total of six plants at a personal residence, limiting the number of plants grown outdoors with the rest to be grown indoors. The ordinance should include appropriate screening from public view (consistent with State law), adequate security to prevent theft, growth in proximity to churches and schools, and require a permit.

PERSONAL CULTIVATION – INDOOR

The Council discussed establishing reasonable low-cost permit requirements that would potentially include the following criteria: non-transferable, no unnecessary inspections, odor control and security requirements, electricity use restrictions, property owner consent, restrictions for cultivation in accessory buildings and garages, and penalties for unpermitted use.

DISPENSARIES – MEDICAL

There was Council consensus to allow up to two medical dispensaries using a screening and selection process and seeking development agreements with those entities. While there were concerns about allowing edibles, it was agreed there wasn't a need to establish local regulations so long as packaging is consistent with State law. Regarding zoning, the Council wishes to restrict proximity to churches, schools, etc., and was open to discussing C-1, C-2 and industrial areas.

ADULT USE DISPENSARIES

The Council majority opposed adult use dispensaries at this time.

COMMERCIAL CULTIVATION

The Council opposed commercial cultivation due to space limitations and environmental concerns.

MANUFACTURING / TESTING

The Council requested draft language regulating testing and manufacturing, perhaps limiting manufacturing to those with non-volatile licenses.

DELIVERIES - MEDICAL

There was Council consensus to support the subcommittee recommendation to allow medical marijuana delivery services subject to a regulatory permit. The Council requested staff input regarding insurance requirements, background checks, and number of delivery services to be allowed.

DELIVERIES – ADULT USE

Following discussion, the Council majority supported allowing adult use delivery services.

General discussion included the importance of consistency with State law and neighboring cities / agencies, opportunities for taxation, and the need for public input on the draft ordinance. Council Member Headding suggested the Council receive information on the cannabinoid market and consider banning the sale of those agents.

MOTION: Council Member Headding moved to direct staff to take the inputs that were given tonight from Council and return with a proposed ordinance after meeting with the subcommittee and appropriate staff, no later than the first meeting in October of the City Council. The motion was seconded by Council Member McPherson and carried unanimously, 5-0.

The Council took a brief recess at 8:05 p.m. The meeting reconvened at 8:16 p.m.

C-1 RECEIVE THE WATER RECLAMATION FACILITY PROGRAM UPDATE AND PROVIDE COMMENTS AND DIRECTION DEEMED APPROPRIATE; (PUBLIC WORKS)
<https://youtu.be/tjMxie4M0Ng?t=10s>

Public Works Director Livick, Deputy Program Manager Rickenbach and Program Manager Nunley presented the staff report and responded to Council inquiries.

The public comment period for Item C-1 was opened.

Tom Rost, Morro Bay, expressed concern about the potential cost of the water reclamation facility and urged the Council to join with the Cayucos project.

Ken Green, Morro Bay, suggested the current approved rates be considered the upper limit for project costs and urged the Council to consider using residents with consulting experience.

Jeff Heller, Morro Bay, asked why the South Bay Blvd. site is still being considered after the peer review recommended building a plant at or near the existing site. He will submit a timeline for managing the project, including cost estimates, in early November.

Karen Beckman, Morro Bay, urged the Council to seek the most cost-effective solution and supports a design/build project west of Highway 1.

David Nelson, Morro Bay, was surprised the City would consider building a plant in the flood zone.

Tina Metzger, Morro Bay, urged the Council to remove Righetti from the list of viable sites.

Terry Simons, Morro Bay, suggested pursuing the site behind the current plant with facility costs added to the tax rolls so the burden is on the property owners, not users.

Alice Kolb, Morro Bay, requested the Council not consider Righetti as a possible site for the WRF as it would unfairly devalue neighboring properties.

Bob Church, Morro Bay, supported going out to bid for a basic plant that treats to a level it can be perked back into our aquifer.

Steve Stevens, Morro Bay, expressed frustration the agenda had been rearranged, supported comments made by Mr. Rost and Mr. Green, and suggested a public ombudsman would be helpful to point out if the budget were exceeded.

The public comment period for Item C-1 was closed.

Staff responded to issues raised during public comment and further questions from the Council.

The Council subcommittee shared staff will return in a month with cost estimates for site alternatives and the feasibility of each and will involve Coastal Commission in its review before bringing a site selection recommendation to the Council.

No formal action was taken by the City Council.

C-2 RECEIVE WATER RECLAMATION FACILITY FISCAL YEAR 2016-17 3RD QUARTER PROGRAM BUDGET UPDATE AND PROVIDE COMMENTS AND DIRECTION AS DEEMED APPROPRIATE; (PUBLIC WORKS)
<https://youtu.be/tjMxie4M0Ng?t=1h54m39s>

Finance Director Schmollinger presented the staff report and responded to Council inquiries.

The public comment period for Item C-2 was opened.

Carole Truesdale, Morro Bay, read a letter into the record expressing concern about information provided in the staff report regarding the 2015 rate increase and how those funds are being used.

David Nelson, Morro Bay, stated costs are out of control.

Terry Simons, Morro Bay, was concerned funds spent for the facilities master plan may not be of value if the plant site is moved closer to the existing plant. He suggested adding a staff person to ride herd on consultants.

The public comment period for Item C-2 was closed.

Staff responded to issues raised during the public comment period.

No formal action was taken by the City Council.

MOTION: Council Member McPherson moved the meeting go past 11:00 p.m. to at least hear just the Trident Wind item. The motion was seconded by Council Member Makowetski.

AMENDED MOTION: Council Member McPherson amended the motion to go until 11:15 p.m. The amended motion was seconded by Council Member Makowetski and passed 4-1 with Council Member Davis opposed.

C-4 APPROVAL OF A COMMUNITY BENEFIT AGREEMENT BETWEEN THE CITY OF MORRO BAY AND TRIDENT WINDS, LLC; (ADMINISTRATION)
<https://youtu.be/tjMxie4M0Ng?t=2h38m8s>

Mr. Schmollinger presented the staff report and introduced Alla Weinstein of Trident Winds, LLC, who provided a project update and responded to Council inquiries.

John Pierce, legal counsel for Trident Winds, LLC, responded to Council questions regarding the exclusivity language in the Community Benefit Agreement.

MOTION: Council Member Headding moved the meeting go to 11:25 p.m. The motion was seconded by Council Member McPherson.

AMENDED MOTION: Council Member Headding amended the motion to continue this on until completed. The motion was seconded by Council Member McPherson and carried 4-1 with Council Member Davis voting no.

The public comment period for Item C-4 was opened.

Terry Simons, Morro Bay, expressed concern the turbines would be visible from Hearst Castle and suggested the area near Diablo Canyon would be a better location.

David Pierce, representing Trident Winds, LLC, responded to Mr. Simons' comment stating the turbines would only be visible on a very clear night and that Morro Bay is the only viable location.

The public comment period for Item C-4 was closed.

The Council expressed concern about the proposed exclusivity language and had difficulty seeing the community benefit. Following discussion there was Council consensus to delay action until the commercial fishermen are back and have the opportunity to provide input.

MOTION: Council Member Headding moved the Council not approve the Community Benefit Agreement, as proposed, but continue with the existing Memorandum of Cooperation with Trident Wind, and at a further date after obtaining further information from our fishing community and other information, this be brought back for consideration in the future. The motion was seconded by Council Member McPherson and carried unanimously, 5-0.

C-5 ADOPTION OF RESOLUTION NO. 45-17 AMENDING THE COUNCIL POLICIES AND PROCEDURES TO ELIMINATE THE 7:00PM START TIME FOR PUBLIC HEARINGS, AND CONSIDERATION OF A COUNCIL SUBCOMMITTEE TO REVIEW THE COUNCIL POLICIES AND PROCEDURES AND ADVISORY BOARD BY-LAWS; (MAYOR/CITY CLERK)

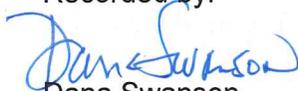
This item was continued to a future meeting.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS
None

E. ADJOURNMENT

The meeting adjourned at 11:42 p.m. The next Regular Meeting will be held on Tuesday, August 22, 2017 at 6:00 p.m. at the Veteran's Memorial Hall located at 209 Surf Street, Morro Bay, California.

Recorded by:


Dana Swanson
City Clerk