

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – JANUARY 23, 2018  
VETERAN'S MEMORIAL HALL – 6:00 P.M.

AGENDA NO: A-3  
MEETING DATE: February 13, 2018

**PRESENT:**

Jamie Irons  
Robert Davis  
John Headding  
Matt Makowetski  
Marlys McPherson

Mayor  
Council Member  
Council Member  
Council Member  
Council Member

**STAFF:**

Scott Collins  
Joe Pannone  
Dana Swanson  
Jennifer Callaway  
Rob Livick  
Scot Graham  
Cindy Jacinth  
Greg Allen  
Matt Vierra  
Eric Endersby

City Manager  
City Attorney  
City Clerk  
Finance Director  
Public Works Director  
Community Development Director  
Senior Planner  
Police Chief  
Fire Marshal  
Harbor Director

**ESTABLISH QUORUM AND CALL TO ORDER**

<https://youtu.be/Lh437P9djNY?t=42s>

The meeting was called to order at 6:00 p.m., with all members present.

**MOMENT OF SILENCE**

**PLEDGE OF ALLEGIANCE**

**RECOGNITION - None**

**CLOSED SESSION REPORT – No closed session meeting was held.**

**MAYOR AND COUNCIL MEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS**

**CITY MANAGER REPORTS, ANNOUNCEMENTS & PRESENTATIONS**

**PRESENTATIONS - None**

**PUBLIC COMMENT**

<https://youtu.be/Lh437P9djNY?t=11m59s>

Cindy Williams from Rustic Diamond located at 1190 Main Street provided the business spot. Rustic Diamond features collections by a number of local vendors, including whimsical art, – unique lighting and lamps, mosaic stepping stones, clothing and jewelry. Winter hours are Thursday through Sunday, 10 a.m. – 5 p.m. Summer hours will be Monday through Sunday 10 a.m. – 5 p.m.

Ken Green, Morro Bay, spoke on behalf of Morro Bay Action Team and CAL, expressing concern about discrepancies between the water reclamation facility project being pursued and that discussed at the April 25, 2017 meeting. He asked the Council to vote on the location and nature of the project so that it was clear.

Ray McKelvey, Morro Bay, spoke representing the Lions Club regarding a car donation program made possible by coalition of private business, Community Resource Connections and the Morro

Bay Lions Club. Bill Todd from Todd's Garage started this program in 2014 to provide safe and reliable cars to individuals and families to help improve their lives.

Mandy Davis, Morro Bay, spoke regarding the Downtown Waterfront Strategic Plan, expressing concern a number of ESHA areas were eliminated on the map provided in the Waterfront portion of that plan.

Jeff Heller, Morro Bay, thanked the Council for effort to look for WRF Program Manager and suggested the City not issue an RFP until that person is on board.

Tina Metzger, Morro Bay, requested the Council consider policy change concerning when a vote is taken by the Council, the Clerk repeat the motion slowly back to be sure the Council knows it was taken down correctly and the citizens have an opportunity to hear the motion again. She also recommended pulling Item A-3.

Barbara Doerr, Morro Bay, expressed appreciation for the Morro Bay Fire and Police Departments for their response to a recent call for service, requested odor prevention be added as a requirement for the WRF, urged the Council to not reduce the number of advisory board members, and to protect eelgrass.

David Nelson, Morro Bay, asked whether the City was pursuing a water reclamation facility or a sewer and if South Bay had been chosen as the site. Regarding Item C-2, he felt it was unfair one of the bidders has been compensated for work on the project.

Betty Winholtz, Morro Bay, spoke in opposition to Item A-3, expressing concern a major land use change was being approved on Consent. She asked the Council to honor the zoning code and not allow R-1 in R-4 zoning.

The public comment period was closed.

The Council and staff responded to questions raised during public comment.

A. CONSENT AGENDA

<https://youtu.be/Lh437P9djNY?t=51m36s>

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 JANUARY 9, 2018 CITY COUNCIL CLOSED SESSION MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 APPROVAL OF MINUTES FOR THE JANUARY 9, 2018 CITY COUNCIL SPECIAL MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-3 ADOPTION OF DOWNTOWN WATERFRONT STRATEGIC PLAN; (COMMUNITY DEVELOPMENT)

**RECOMMENDATION: Council adopt the Downtown portion of the Downtown Waterfront Strategic Plan (DWSP), completing the overall adoption process for the document.**

A-4 APPROVAL OF PROCLAMATION RECOGNIZING JANUARY 21-27, 2018 AS SCHOOL CHOICE WEEK; (CITY CLERK)

**RECOMMENDATION: Approve as submitted.**

A-5 RECEIVE AND FILE CITY RESPONSE TO MORRO BAY ACTION TEAM REGARDING ALLEGED BROWN ACT VIOLATION, AND PROVIDE COMMENT AS DEEMED APPROPRIATE; (CITY ATTORNEY)

**RECOMMENDATION: Receive and file.**

A-6 RECEIVE THE FIRST QUARTER INVESTMENT REPORT (JULY THROUGH SEPTEMBER 2017) FOR FISCAL YEAR 2017/18 AND APPROVE CHANGES TO THE INVESTMENT POLICY; (FINANCE)

**RECOMMENDATION: Council:**

- 1. Receive the attached First Quarter Investment Report (July through September 2017) for Fiscal Year 2017/18; and,**
- 2. Approve the recommended changes to the Investment Policy.**

A-7 ADOPTION OF RESOLUTION NO. 04-18 ESTABLISHING A CITY MANAGER EVALUATION PROCESS; (CITY MANAGER)

**RECOMMENDATION: City Manager Evaluation sub-committee recommends the City Council review and adopt Resolution No. 04-18, establishing a City Manager evaluation process and rescinding Resolution No. 73-15.**

Council Member McPherson pulled Items A-3, A-5 and A-6.

Mayor Irons announced the Council will discuss all except Item A-3. At that time, he and Council Member Headding will recuse themselves from Item A-3 due to the financial interest based on ownership of property in downtown.

**MOTION:** Council Member McPherson moved to approve all but Items A-3, A-5 and A-6. The motion was seconded by Council Member Headding and carried unanimously, 5-0.

A-5 RECEIVE AND FILE CITY RESPONSE TO MORRO BAY ACTION TEAM REGARDING ALLEGED BROWN ACT VIOLATION, AND PROVIDE COMMENT AS DEEMED APPROPRIATE; (CITY ATTORNEY)  
<https://youtu.be/Lh437P9djNY?t=53m26s>

At Council's request, City Attorney Pannone explained the City's response to the Morro Bay Action Team regarding the alleged Brown Act violation.

**MOTION:** Council Member Headding moved for approval of Item A-5. The motion was seconded by Council Member Makowetski and carried unanimously, 5-0.

Mayor Irons recognized the need to open public comment on this item.

**MOTION:** Council Member Headding moved to rescind approval of Item A-5. The motion to rescind was seconded by Council Member McPherson and carried unanimously, 5-0.

The public comment period for Item A-5 was opened.

Cynthia Hawley stated the City had misunderstood the issue and her continued concern the contract approved by the Council fit all elements of approval of the project. She suggested the City used the contract approval process to avoid the public hearing process and 10-day noticing requirement.

Barbara Doerr, Morro Bay, suggested there were procedural problems and there should be a motion to take agenda items out of order.

The public comment period for Item A-5 was closed.

Staff responded to questions raised during public comment, confirming the Council had approved a design engineering contract to allow the EIR to move forward for a project that will come back to Council for approval.

**MOTION:** Council Member Headding moved for approval of Item A-5. The motion was seconded by Council Member Makowetski and carried unanimously, 5-0.

**A-6 RECEIVE THE FIRST QUARTER INVESTMENT REPORT (JULY THROUGH SEPTEMBER 2017) FOR FISCAL YEAR 2017/18 AND APPROVE CHANGES TO THE INVESTMENT POLICY; (FINANCE)**  
<https://youtu.be/Lh437P9djNY?t=1h5m10s>

Mayor Irons requested staff bring a portfolio performance sheet during budget meetings for discussion.

**MOTION:** Mayor Irons moved for approval of Item A-6. The motion was seconded by Council Member McPherson and carried unanimously, 5-0.

Mayor Irons turned the meeting over to Mayor Pro Tem McPherson and, along with Council Member Headding, left the dais at 7:05 p.m.

**A-3 ADOPTION OF DOWNTOWN WATERFRONT STRATEGIC PLAN; (COMMUNITY DEVELOPMENT)**  
<https://youtu.be/Lh437P9djNY?t=1h7m1s>

Community Development Director Graham provided the history of this project and responded to Council inquiries.

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

Kristen Headland, Morro Bay, expressed concern about the proposed change in building height.

Skip Sorich, Morro Bay, found the suggested height changes to be interesting and believes those in the affected area should have been noticed.

Norm Williams, Morro Bay, opposed the change in building height and was concerned it would obstruct public view corridors and be out of character for Morro Bay.

Erica Crawford, Morro Bay Chamber of Commerce, explained the Chamber's function and the purpose of the Downtown Waterfront Strategic Plan, noting the document had been developed over a period of a year with significant outreach. She urged the Council to keep momentum and move forward with the downtown portion of the Plan.

Nancy Bast, Morro Bay, suggested the item be tabled that height increase deserves no further consideration.

Tina Metzger, Morro Bay, expressed concern about height increase and impacts on viewshed to water and the rock.

Jeff O'Dell, Morro Bay, was concerned the City would be sued on every project brought forward if the zoning ordinance allowed 44'. He suggested tabling the item and identify locations where you'll allow that height.

Barbara Doerr, Morro Bay, asked the Council to not raise the height limit to 44' and instead include the Downtown Plan for consideration as part of the overall General Plan/LCP process.

Kacey Caldwell, Morro Bay, stated she is proponent of design guidelines but was concerned the small town feeling would be lost with increased building height. She recommended the item be tabled pending Planning Commission review.

Cynthia Hawley, on behalf of Morro Bay Action Team, stated the document is part of the General Plan by definition and must be approved at a noticed public hearing.

David Nelson, Morro Bay, expressed concern about 3-story buildings and suggested a workshop is needed to gather public input.

Jeff Heller, Morro Bay, suggested language regarding 37' height plus 7' be stricken from the document. He participated on the GPAC and recalled the idea of 3-story buildings was proposed by staff and consultants but not supported by the GPAC.

Walter Heath, Morro Bay, wanted to relay concerns that having this prospective document will cause a rush of businesses to come down town. With respect to process, he suggested people sign up to get agendas and be part of the process.

Debbie Highfill, Morro Bay, asked the Council not to vote tonight and consider Ms. Hawley's comments regarding general plan procedures.

Jennifer Hollaway, Morro Bay, the importance of watershed views cannot be understated. Once you put up 44' building, you can't take it down. Don't want to see mural of rock so we know what the rock looks like.

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

Staff responded to issues raised during public comment.

Council Member Davis asked what effect it would have if the sentence about height were stricken from the plan. Mr. Graham confirmed it would have no effect and would be addressed in the zoning process. There was Council consensus to strike the language and adopt the remainder of the plan.

**MOTION:** Council Member Davis moved for adoption of the Downtown portion of the DWSP and strike the sentence in Chapter 3, Section 3.2 II A.1.a., "Downtown: Up to 37 feet. Architectural projections such as towers and turrets may extend an additional 7 feet above maximum building height." The motion was seconded by Council Member Makowetski and carried 3-0-2 with Mayor Irons and Council Member Heading having recused themselves due to a conflict of interest.

Mayor Irons and Council Member Headding rejoined the meeting at 8:12 p.m.

The Council took a brief recess at 8:12 p.m. The meeting reconvened at 8:20 p.m. with all members present.

**B. PUBLIC HEARINGS**

**B-1 ADOPTION OF RESOLUTION NO. 03-18 APPROVING CONDITIONAL USE PERMIT NO. UP0-448 FOR GRAYS INN, 561 EMBARCADERO. PROJECT INCLUDES PUBLIC HARBORWALK AND VERTICAL ACCESS IMPROVEMENTS, SIDEWALK, ADA, PARKING AND BUILDING FAÇADE IMPROVEMENTS; (COMMUNITY DEVELOPMENT)**  
[https://youtu.be/fsF\\_ErljuVA?t=15s](https://youtu.be/fsF_ErljuVA?t=15s)

Senior Planner Jacinth presented the staff report, pointing out the Recommendation statement both in the staff report and agenda include text regarding approval of parking exception, which is no longer part of the project. The rest of the staff report, as well as the resolution are correct. It was a carryover from the past staff report. Mayor Irons confirmed with City Attorney Pannone this did not present a legal issue.

Ms. Jacinth discussed a request by applicant to revise Condition 9 regarding Pre- and Post-construction surveys. Copies of the proposed revised language were provided to the Council and made available to the public.

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

Barry Branin, Morro Bay, expressed concern parking spaces used by Thai Bounty were going to be reserved for Gray's Inn during prime business hours. He suggested the Council consider designating parking on the west side of the Embarcadero or perhaps beginning at 5 p.m., instead of 3 p.m.

Cathy Novak spoke on behalf of the applicant. She described the project revisions and requested changes to Condition 9 (Pre- and Post-Construction Surveys), but focused her attention on parking, which was cause of some concern. If required to forfeit two spaces for one ADA space, they're left with two spaces for a 3-unit hotel. She asked the Council to consider allowing the three parking spaces to remain on-site and install an ADA space on the street in front of the hotel, to be reserved for use by their guests. A second option would be to provide parking at the end of Driftwood. Should the Council require off-site parking, since there is currently adequate on-site parking and no increase in rooms, she asked the Council to consider a reduced annual fee for \$1,705 per space.

Gene Doughty, architect, commented on some of the challenges working on the Embarcadero, including the additional cost to extend and cantilever the harborwalk into the neighboring lease site.

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

The Council appreciated the features that had been added to the project and supported off-site parking on the east side of the Embarcadero, located further back than the proposed location. There was consensus to use Pismo Beach parking rate of \$1,705 for a limited term of three years, until a comprehensive parking program was developed, then revisited and adjusted appropriately.

Ms. Jacinth read the proposed language for Condition #9 into the record.

Condition 9. Pre- and Post-construction surveys. Applicant shall be subject to the California Eelgrass Mitigation Policy (CEMP) which requires that a pre-construction survey shall be completed within 30-60 days prior to issuance of a building permit. Post-construction survey shall be completed within 30 days of construction completion or as otherwise determined by the National Marine Fisheries Service (NMFS) in order to determine amount of impact if any and CEMP-required annual reporting and mitigations. Translucent grating shall be used for the Harborwalk in the area that extends beyond the area covered by the rock rip rap and to the greatest extent feasible over the unvegetated 5 meter eelgrass buffer. Any change in eelgrass extent shall be documented and reported to the Community Development Director. If the report identifies a reduction in eelgrass coverage then a plan shall be prepared to identify the appropriate mitigations necessary and in line with the specifications for mitigation of eelgrass habitat as provided for in the California Eelgrass Mitigation Policy, dated October 2014.

The Council agreed to accept Condition 9 as presented by Cathy Novak Consulting correspondence dated 1/23/18 and read into the record by Ms. Jacinth, and to amend Condition 20 to reduce parking to \$1,705 for three years, subject to review for increase or decrease by the City Council at the end of the 3-year period.

Regarding the parking location, it was proposed Condition 20 be modified to replace, "as depicted and described" with, "as determined by staff at the end of the street end on Driftwood and Embarcadero ..." and with fees set as noted above.

**MOTION:** Council Member Heading moved to approve Resolution No. 03-18, a resolution of the City Council of the City of Morro Bay, California approving Conditional Use Permit UP0-448 as Concept/Precise Plan for construction of new harborwalk lateral access, installation/sleeving of piles, vertical access pathway, sidewalk and parking lot improvements and miscellaneous building façade improvements at Gray's Inn located at 561 Embarcadero Road, also known as City Lease Site 63-64 and 63W-64W, with amendments as stated to Conditions 9 and 20. The motion was seconded by Council Member McPherson for discussion.

Mayor Irons clarified the language for Condition 9 was as presented by applicant on January 22, 2018.

The proposed language for Condition 20 was read into the record:

Two parking spaces on Driftwood and Embarcadero as determined by staff shall be signed and dedicated for Gray's Inn guests from 3 p.m. to 11 a.m. daily. Applicant shall enter into a license agreement with the City for an amount equal to parking rates of \$1,705 annually for a three-year period subject to increase or decrease with Council approval. That parking license agreement shall be finalized prior to issuance of a building permit and shall be incorporated into the Applicant's Master Lease Agreement for the City lease site.

The motion carried unanimously, 5-0.

## **C. BUSINESS ITEMS**

- C-1 RECEIVE THE CITIZENS FINANCE ADVISORY COMMITTEE REPORT ON FY 2016/17 MEASURE Q TRANSACTIONS AND OTHER ACTIVITIES DURING THE YEAR;(FINANCE)**  
[https://youtu.be/fsF\\_ErljuVA?t=1h21m47s](https://youtu.be/fsF_ErljuVA?t=1h21m47s)

Finance Director Callaway provided an overview and introduced Barbara Spagnola, Citizens Finance Advisory Committee Chair, to present the Committee Report.

The public comment period for Item C-1 was opened; seeing none, the public comment period was closed.

The Council expressed its appreciation for the Committee's work and commitment. It was agreed the carry over funds will be discussed at mid-year.

**MOTION:** Council Member McPherson moved the Council accept the Citizens Finance Advisory Committee's recommendation to put remaining Measure Q funds from FY 2016/17 and have incorporated into the FY 2017/18 mid-year budget of \$72,553. The motion was seconded by Council Member Headding and carried unanimously, 5-0.

**MOTION:** Council Member Headding moved to accept the CFAC report and recommendations. The motion was seconded by Council Member McPherson and carried unanimously, 5-0.

**C-2 AUTHORIZE RELEASE OF A REQUEST FOR PROPOSAL (RFP) FOR DESIGN/BUILD OF THE CITY OF MORRO BAY WATER RECLAMATION FACILITY ONSITE IMPROVEMENTS TO THREE PRE-QUALIFIED DESIGN BUILD ENTITIES THAT SUBMITTED STATEMENTS OF QUALIFICATIONS (SOQ) IN ACCORDANCE WITH THE REQUEST FOR QUALIFICATIONS (RFQ) ISSUED ON OCTOBER 27, 2017; (PUBLIC WORKS)**

[https://youtu.be/fsF\\_ErljuVA?t=1h41m34s](https://youtu.be/fsF_ErljuVA?t=1h41m34s)

Public Works Director Livick presented the staff report and responded to Council inquiries.

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

Barry Branin, Morro Bay, expressed various concerns about the RFP and suggested the project manager should review before it is released.

Tom Rost, Morro Bay, suggested the item be tabled until a new program manager has an opportunity to review the document.

Kristen Headland, Morro Bay, expressed concern about Item 3 regarding a community member or group initiating communications with the Design-Build team regarding the project. She appreciates being able to ask people first hand what's going on.

Tina Metzger, Morro Bay, shared her concerns about Item 6, the conceptual layout, and asked for an explanation of Item 3, community member initiates communication with design build team during the proposal process.

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

Mayor Irons asked staff to clarify Item 3.

The Council discussed the program manager hiring process and timeline and determined it wasn't necessary to delay release of the RFP until that person was on board.

Mayor Irons suggested adding the following to Item 6, "with option of full landscape buffer around the entire facility."

There was some concern about the building size and floorplan. Mike Nunley referred to Appendix E, which will have just a list of operations without specific numbers and square footages. Staff

confirmed a comparison of using the existing building vs. expanding space to accommodate additional staff members will be brought to Council.

Council Member McPherson suggested adding a paragraph to the project goals acknowledging, "we conducted (date) a peer review panel (composed of) and they identified approximately \$17M in cost savings from the facilities master plan."

Council Member McPherson asked staff to revisit evaluation criteria, add to management approach, including subcontractor and take points from other items.

**MOTION:** Mayor Irons moved the meeting go past 11:00 p.m. The motion was seconded by Council Member McPherson and carried 3-2 with Council Members Davis and Makowetski opposed.

**MOTION:** Council Member Headding moved the Council authorize release of the RFP for design/build of WRF onsite improvements to three pre-qualified design build entities that submitted statements of qualifications in accordance with the Request for Qualifications, and amend the RFP to include those amendments council stated previously. The motion was seconded by Council Member Davis and carried unanimously, 5-0.

**C-3 ACCEPT THE VOLUNTARY RESIGNATIONS OF WATER RECLAMATION FACILITY CITIZEN'S ADVISORY COMMITTEE (WRFCAC) MEMBERS, CONSIDER A REQUEST FOR LEAVE OF ABSENCE, AND PROVIDE DIRECTION REGARDING THE NUMBER OF COMMITTEE MEMBERS AND PURPOSE FOR THAT COMMITTEE; (CITY CLERK/PUBLIC WORKS)**

[https://youtu.be/fsF\\_ErljuVA?t=2h44m26s](https://youtu.be/fsF_ErljuVA?t=2h44m26s)

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

Tina Metzger, Morro Bay, supported keeping the citizens advisory committee and suggested Mr. Diodati should resign as his work for the County creates the appearance of a conflict of interest.

Barbara Spagnola, Morro Bay resident, Chair of Citizen's Finance Committee and Vice-Chair of WRFCAC, spoke as individual, not on behalf of those two committees, stated it may be difficult to fill 3 – 4 vacancies and suggested reducing the number of members to seven. She also asked the Council to consider at some point transferring the engineering portion to PWAB and financial aspect to CFAC. She believes the CFAC is now in a position to take on that workload.

Tom Rost, Morro Bay, urged the Council to keep the WRFCAC and suggested members from CAL would be qualified and able to formulate a plan B for when the 218 vote fails.

Paul Donnelly, a member of WRFCAC spoke as a resident, stated there are still issues to work on including environmental committee, pipeline routes, and inject for re-use. He read a portion of the Minutes from the first WRFCAC meeting, "the essential role is to be a bridge between the City Council and the general public." He believed the WRFCAC can continue to be that bridge.

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

There was Council consensus to reduce the number of committee members from nine to seven, including appointees by the Planning Commission and PWAB. The Council discussed Mr. Diodati's request for a 4-6 month leave of absence and, though his expertise was appreciated, the majority felt that length of time was excessive given the status of the project.

Council Member Davis read a proposed Mission Statement:

"To advise and make recommendations to Council on matters relating to development of a WRF as described in Resolution 34-14. Such advice is to be consistent with and intended to meet the community goals adopted by Council."

The Council discussed transferring financial responsibilities to the CFAC at the appropriate time.

**MOTION:** Council Member Headding moved the Council continue with the WRFCAC to include seven members, and accept the resignations from those who submitted full resignations and, unfortunately, deny the request by Mr. Diodati for a leave of absence and accept his resignation; with one member to be appointed by the Planning Commission and one by the PWAB and the remainder to be vetted by Council; and to accept the mission statement as eloquently stated by Council Member Davis. The motion was seconded by Council Member McPherson and carried unanimously, 5-0.

**D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS**

As the Council liaison to the APCD, Council Member Headding requested discussion of south county health issues and consideration of a letter outlining the City's concerns. He offered to write the report and bring that information forward. There was unanimous support for the item.

**E. ADJOURNMENT**

[https://youtu.be/fsF\\_ErljuVA?t=3h16m33s](https://youtu.be/fsF_ErljuVA?t=3h16m33s)

The meeting adjourned at 11:37 p.m. The next Regular Meeting will be held on Tuesday, February 13, 2018, 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