

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – NOVEMBER 12, 2019
VETERAN'S MEMORIAL HALL – 5:30 P.M.

AGENDA NO: A-1
MEETING DATE: January 28, 2020

PRESENT: John Headding Mayor
Dawn Addis Council Member
Robert Davis Council Member
Jeff Heller Council Member
Marlys McPherson Council Member

ABSENT: None

STAFF: Scott Collins City Manager
Chris Neumeyer City Attorney
Dana Swanson City Clerk
Jennifer Callaway Finance Director
Rob Livick Public Works Director
Scot Graham Community Development Director
Jody Cox Police Chief
Eric Endersby Harbor Director
Jennifer Little Tourism Manager

ESTABLISH QUORUM AND CALL TO ORDER

Mayor Headding called the meeting to order at 5:30 p.m., with all members present.

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

RECOGNITION – None

CLOSED SESSION REPORT – City Attorney Neumeyer stated no reportable action was taken by the City Council in accordance with the Brown Act.

MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS

<https://youtu.be/oXx0fRBTzAs?t=109>

CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS - None

PRESENTATIONS

- o National Hospice Month Proclamation presented to Victoria Schmidt.
<https://youtu.be/oXx0fRBTzAs?t=612>

PUBLIC COMMENT

<https://youtu.be/oXx0fRBTzAs?t=1045>

Nancy Herman and Tammy Klein, new owners of the Wine Cellar located at 601 Embarcadero, Suite 5, provided the business spot.

Rigmor, Morro Bay, spoke in favor of the Water Reclamation Facility project and opposed smoking regulations in private residences.

Dr. Bob Swain, Morro Bay, spoke in support of rescinding Ordinance No. 623.

Doug Rogers, Morro Bay, stated his support for the Water Reclamation Facility project and pursuit of low cost Federal funding.

Jeremiah O'Brien, Morro Bay resident and Vice President of Morro Bay Commercial Fisherman's Organization, spoke regarding proposed slip fee increases to be considered at a future meeting.

Shea O'Brien opposed regulations that would ban vaping.

Shana Paulson, CapSLO Childcare Resource & Referral Network, provided copies of a report recently published on non-traditional hour childcare, and noted Cuesta College childcare program has expanded evening hours.

Linda Winters, Morro Bay, spoke regarding the water utility rebate program and announced the Morro Bay Thanksgiving Dinner.

Nancy Ballinger, Morro Bay, spoke regarding National Children's Grief Awareness Month.

Mike Gerson, Boy Scout Pack 214, announced the troop was in attendance to learn about the importance of civic duty.

Glenn Silloway, Morro Bay, urged the Council to avoid delays to the WRF project.

Carole Truesdale, Morro Bay, concur with staff recommendation regarding agenda Items B-1 and C-3 and opposed staff recommendation regarding Item C-1.

Robyn Bowser, Morro Bay, opposed adding vacation rentals to the TBID Assessment District.

Terri Frank, Morro Bay, opposed the 3% increase in the TBID for vacation rentals.

Erica Crawford, Morro Bay Chamber of Commerce, announced upcoming events.

Mimi Goldberg, Morro Bay, spoke regarding the need for a warming shelter and trash cans at the Rock.

Chuck Stoll, Morro Bay, announced Morro Bay Community Thanksgiving Dinner on Thanksgiving Day from 1:00-3:00pm at the Morro Bay Community Center.

Meredith Bates, Morro Bay, spoke to Item C-3, expressing concern about potential loss of sales tax revenue and possibility of lawsuits.

Dan Sedley, Morro Bay, spoke in support of the proposed tobacco and vaping ban ordinance.

Mayor Headding closed public comment.

A. CONSENT AGENDA
<https://youtu.be/oXx0fRBTzAs?t=4238>

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion. The public will also be provided an opportunity to comment on consent agenda items.

A-1 APPROVAL OF MINUTES FOR THE SEPTEMBER 24, 2019, CITY COUNCIL MEETING;
(ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-2 APPROVAL OF MINUTES FOR THE OCTOBER 22, 2019, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)
- RECOMMENDATION: Approve as submitted.**
- A-3 PROCLAMATION DECLARING NOVEMBER 2019 AS NATIONAL HOSPICE MONTH; (ADMINISTRATION)
- RECOMMENDATION: Approved as submitted.**
- A-4 ADOPTION OF ORDINANCE NO. 625 REPEALING AND REENACTING MULTIPLE CHAPTERS OF TITLE 14 (BUILDINGS AND CONSTRUCTION) OF THE CITY OF MORRO BAY MUNICIPAL CODE, SO AS TO INCORPORATE THE 2019 CALIFORNIA BUILDING STANDARDS CODE, AS ADOPTED BY THE STATE OF CALIFORNIA, AND LOCAL MODIFICATIONS THERETO AS WELL AS AMENDMENT OF FRONTAGE IMPROVEMENTS.; (COMMUNITY DEVELOPMENT)
- RECOMMENDATION: Council adopt Ordinance No. 625, “An Ordinance of the City Council of the City of Morro Bay, California, repealing, amending and reenacting Chapters 14.01 – 14.12 and 14.44 of Title 14 (Buildings and Construction) of the Morro Bay Municipal Code, thereby adopting by reference and amending the 2019 California Building (Volumes 1 and 2), Residential, Electrical, Mechanical, Plumbing, Energy, Historical Building, Fire, Existing Building, Green Building, Administrative, and Reference Standards Codes, the 2018 International Property Maintenance Code, the 1997 Uniform Code for the Abatement of Dangerous Buildings, and amending regulation of Frontage Improvements.”**
- A-5 ACCEPT FISCAL YEAR (FY) 2018/19 STATUS REPORT ON RECEIPT AND USE OF DEVELOPMENT IMPACT FEES; (FINANCE/PUBLIC WORKS/COMMUNITY DEVELOPMENT)
- RECOMMENDATION: Staff recommends Council Accept Fiscal Year (FY) 2018/19 status report on receipt and use of Development Impact Fees.**
- A-6 ADOPTION OF RESOLUTION NO. 92-19 AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION FOR STATE OF CALIFORNIA DEPARTMENT OF PARKS AND RECREATION GENERAL PER CAPITA PROGRAM GRANT FUNDS; (RECREATION)
- RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 92-19 authorizing staff to submit application(s) for State of California Department of Parks and Recreation General Per Capita Program grant funds for City of Morro Bay park rehabilitation, creation and improvement with a minimum allocation amount of \$200,000.**
- A-7 ADOPTION OF RESOLUTION NO. 93-19 DECLARING THE CITY’S INTENTION TO CONSIDER THE ABANDONMENT (VACATION) OF PORTIONS OF UTILITY EASEMENT(S) ON 196 PANAY STREET USING THE AUTHORITY ESTABLISHED BY STREETS AND HIGHWAYS CODE SECTION 8333 AND PROCEDURES PROVIDED BY STREETS AND HIGHWAYS CODE, SECTIONS 8335 *ET SEQ.* (PUBLIC WORKS)
- RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 93-19 Declaring the City’s intention to abandon (vacate) portions of the existing utility easement(s) at 196 Panay Street, and set a public hearing for December 10, 2019.**

Mayor Headding opened public comment for the Consent Agenda.

Jordan Carbayo, 3C-REN Tri-County Regional Energy Network, commented on Item A-4.

Betty Winholtz, Morro Bay, requested answers to questions submitted as agenda correspondence regarding Items A-4, A-5, A-6 and A-7.

Jim Curnutt, Morro Bay, questioned the WRF project.

The public comment period was closed.

With the concurrence of Council, Mayor Headding asked Mr. Graham to respond to questions submitted as agenda correspondence regarding Items A-4, A-5 and A-6.

Council Member Heller pulled Item A-5.

MOTION: Council Member Davis moved approval of Items A-1, A-2 A-3, A-4, A-6 and A-7 on the Consent Agenda. The motion was seconded by Council Member McPherson and carried 5-0 by roll call vote.

A-5 ACCEPT FISCAL YEAR (FY) 2018/19 STATUS REPORT ON RECEIPT AND USE OF DEVELOPMENT IMPACT FEES; (FINANCE/PUBLIC WORKS/COMMUNITY DEVELOPMENT)

Staff responded to questions from the Council.

MOTION: Council Member Heller moved approval of Item A-5. The motion was seconded by Mayor Headding and carried 5-0 by roll call vote.

B. PUBLIC HEARINGS

B-1 ADOPTION OF RESOLUTION NO. 94-19 CONTINUING THE PROGRAM AND LEVYING THE ASSESSMENTS FOR THE 2019/20 FISCAL YEAR FOR THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT (MBTBID) AND INTRODUCE FOR FIRST READING ORDINANCE NO. 626 TO INCLUDE VACATION RENTALS IN THE MBTBID BY AMENDING MORRO BAY MUNICIPAL CODE CHAPTER 3.60; (CITY MANAGER)
<https://youtu.be/oXx0fRBTzAs?t=5463>

City Manager Collins provided the report and responded to Council inquires.

Mayor Headding opened the Public Hearing.

Mayor Headding opened Public Comment.

Dan Sedley, Morro Bay, expressed concern about insufficient monitoring of illegal vacation rentals but agreed with the proposed 3% assessment. Regarding use of funds, he suggested advertising may be saturated and monies should be used for physical improvements.

Terri Frank, Morro Bay, suggested vacation rentals be brought in at 1%, rather than the full 3% paid by hoteliers.

The Public Hearing was closed.

MOTION: Council Member McPherson moved to approve Resolution No. 94-19 continuing the program and levying the assessments for the remainder of 2019/20 Fiscal Year for the Morro Bay Tourism Business Improvement District and introduce for first reading by title only, and with further reading waived, Ordinance No. 626, to include vacation rentals into the MBTBID by amending Morro Bay Municipal Code Chapter 3.60. The motion was seconded by Council Member Davis for discussion.

City Attorney Neumeyer suggested the motion be amended to clarify protests were received from a total of 11 properties paying .64% of the annual assessment.

AMENDED MOTION: Council Member McPherson amended the motion to reflect the current count of protests submitted. The amended motion was seconded by Council Member Davis and carried 5-0 by roll call vote.

MOTION: Mayor Headding moved to direct staff to bring back information on how to incorporate the voice of vacation rental owners onto the TBID Board as an agenda item as soon as possible. The motion was seconded by Council Member Davis and carried 5-0 by roll call vote.

C. BUSINESS ITEMS

- C-1 PARTICIPATION IN THE DELTA CONVEYANCE PROJECT, AND NEGOTIATIONS WITH CALIFORNIA POLYTECHNIC STATE UNIVERSITY (CAL POLY) REGARDING ADDITIONAL WATER SUPPLY FOR THE UNIVERSITY; (PUBLIC WORKS)
<https://youtu.be/oXx0fRBTzAs?t=6632>

Public Works Director Livick provided the report and responded to Council inquires.

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

Barry Branin, Morro Bay, was supportive of the Delta Conveyance Project but opposed transferring a portion of the City's State Water allocation to Cal Poly.

Betty Winholtz, Morro Bay, urged the Council to not move forward with this item.

Dan Sedley, Morro Bay, spoke in support of State Water and urged caution with regard to negotiations with Cal Poly.

Linda Donnelly, Morro Bay, asked the Council to choose alternative option 2 and discontinue talks with Cal Poly.

Larry Truesdale, Morro Bay, was supportive of State Water and questioned WRF technology.

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

MOTION: Mayor Headding moved to authorize the Public Works Director, acting as the appointed representative to the State Water Subcontractors Advisory Committee to the San Luis Obispo County Flood Control and Water Conservation District, to vote in favor of recommending the District sign the Agreement in Principle (AIP) for the Delta Conveyance Project (DCP); and 2) authorize staff to continue discussions with Cal Poly for the potential transfer of a portion of the City's State Water Allocation to the University

with the caveat that the discussions not entertain any considerations that would jeopardize the City's own water supply, that discussions would not allow for supplying Cal Poly with water at less than cost plus a premium, and that no absolute commitment to deliver water be considered if the City has priority needs. The motion was seconded by Council Member McPherson for discussion.

Council Member Heller expressed concern negotiations were limited to Cal Poly and suggested a friendly amendment to consider expanding negotiation discussions with other agencies.

Following discussion, the motion carried 4-1 by roll call vote with Council Member Heller opposed.

The Council took a brief recess at 8:13 p.m. The meeting reconvened at 8:21 p.m. with all members present.

The Council agreed to hear Item C-3 next.

- C-3 INTRODUCTION OF ORDINANCE NO. 627 CONCERNING TOBACCO, VAPING AND SECONDHAND SMOKE, INCLUDING THROUGH A TOBACCO RETAILER LICENSING PROGRAM, A PROHIBITION ON THE SALE OF E-CIGARETTES (VAPING PRODUCTS), AND ENHANCING THE CITY'S CURRENT SECONDHAND SMOKING REGULATIONS BY A SMOKEFREE POLICY FOR MULTI-UNIT HOUSING; (CITY MANAGER/CITY ATTORNEY)
<https://youtu.be/oXx0fRBTzAs?t=9828>

City Attorney Neumeyer provided the report and responded to Council inquires.

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

Campbell Ellery, Morro Bay High School student, shared her observations and spoke in support of the proposed ordinance.

Lauren Nagle, Morro Bay High School student, expressed concern about short- and long-term effects of vaping and asked the Council to approve Ordinance No. 627.

Lena Karas and Ella Elkins, Morro Bay High School, shared their experiences and asked the Council to adopt Ordinance No. 627.

Samer Kridi, Los Osos resident and Morro Bay business owner, expressed concern about business impacts of the proposed ban.

Carole Truesdale, Morro Bay, spoke regarding health concerns and asked the Council to pass Ordinance No. 627.

Dan Sedley, Morro Bay, questioned whether the Police Department has devices to detect cannabis use.

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

Council Member McPherson was supportive of a ban on flavored products and tobacco licensing program but suggested more outreach be conducted before moving forward with prohibiting the sale of tobacco products.

MOTION: Mayor Headding moved to introduce for first reading, by title only with further reading waived, Ordinance No. 627 to both add Chapter 5.54 (Tobacco, Electronic Cigarettes and Vaping) to Title 5 of the Municipal Code as well as to amend Chapter 9.24 (Secondhand Smoking Regulations) of Title 9 of the Municipal Code. With regard to questions that have been asked, that the effective date of prohibition on sale of vaping products and certain cigars within the ordinance that's being proposed, be extended to allow for inventory reduction for those businesses that would be impacted to 90 days (rather than 30 days); include banning of menthol-flavored cigarettes; include language that prohibits sale of single cigars less than \$5; effective date of prohibition on smoking in multi-unit residences, as written, would go into effect March 2020; regarding sale of cannabis vaping products, propose the addition that no cannabis products containing Vitamin E acetate be sold in the City; support for tobacco retailer license program with an effective date of January 1, 2021; and annual compliance checks for tobacco retailers (four per year). The motion was seconded by Council Member Addis and carried 4-1 with Council Member McPherson opposed.

At the Mayor's request, staff responded to questions raised during public comment.

MOTION: Council Member Davis moved the Council staff come back to Council at a future date with information regarding retailer location restrictions within the city for tobacco retailers, to include a map of retailers and schools and parks. The motion was seconded by Mayor Headding and carried 4-1 with Council Member McPherson opposed.

MOTION: Council Member McPherson moved to go past 9:30 to time uncertain. The motion was seconded by Council Member Davis and carried 5-0 by roll call vote.

C-2 CERTIFY RESULTS OF REFERENDUM PETITION AGAINST THE ADOPTION OF ORDINANCE NO. 623 PRE-ZONING THE 27.6 ACRE PORTION OF THE WATER RECLAMATION FACILITY PARCEL APN 073-101-017 AS A PUBLIC FACILITY ZONE (CASE NO. MIN#19-009) AND EITHER: 1) REPEAL ORDINANCE NO. 623 IN ITS ENTIRETY; OR, 2) SUBMIT THE ORDINANCE TO THE QUALIFIED VOTERS OF THE CITY AS A PROPOSED MEASURE AT EITHER A SPECIAL OR REGULAR MUNICIPAL ELECTION; (CITY MANAGER/CITY CLERK)
<https://youtu.be/oXx0fRBTzAs?t=13195>

City Clerk Swanson provided the report and, along with Mr. Collins and Mr. Neumeyer, responded to Council inquires.

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

Dan Sedley, Morro Bay, spoke in support of an opportunity for residents to vote on the WRF project.

Jim Curnutt, Morro Bay, urged the Council to take this issue to the citizens for a vote.

Melanie Williams Mahan, Morro Bay, spoke in submitting the ordinance to the residents.

Linda Donnelly, Morro Bay, suggested the Council allow citizens to vote on the issue.

Bob Keller, Morro Bay, spoke in support of the Council's decision to repeal the ordinance.

Larry Truesdale, Morro Bay, urged the Council to allow residents to vote on the project.

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

MOTION: Mayor Headding moved to repeal Ordinance No. 623 in its entirety by introducing for first reading by title only, with further reading waived, Ordinance No. 628, An Ordinance of the City Council of the City of Morro Bay, California, Repealing Existing Ordinance No. 623 Establishing Pre-Zoning for the 27.6-acre Portion of Parcel APN #073-101-017 (Case No.#MIN19-001). The motion was seconded by Council Member Davis.

Following discussion, the motion carried 4-1 by roll call vote with Council Member Heller opposed.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

<https://youtu.be/oXx0fRBTzAs?t=15673>

Council Member Davis requested consideration of Jeremiah O'Brien's proposal presented during public comment. City Manager Collins noted it would be included with slip fee discussion at a future meeting.

Council Member Heller suggested scheduling a professional mediation on issues surrounding the WRF project. There was no Council support for the item.

E. ADJOURNMENT

The meeting adjourned at 10:02 p.m.

Recorded by:

Dana Swanson
City Clerk