

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – DECEMBER 10, 2019
VETERAN'S MEMORIAL HALL – 5:30 P.M.

AGENDA NO: A-2
MEETING DATE: January 28, 2020

PRESENT:	John Headding Dawn Addis Robert Davis Jeff Heller Marlys McPherson	Mayor Council Member Council Member Council Member Council Member
ABSENT:	None	
STAFF:	Scott Collins Chris Neumeyer Dana Swanson Jennifer Callaway Rob Livick Scot Graham Steve Knuckles Jody Cox Eric Endersby Jennifer Little	City Manager City Attorney City Clerk Finance Director Public Works Director Community Development Director Fire Chief Police Chief Harbor Director 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 on November 19, 2019, the City Council approved in closed session by a vote of 4-0-1 with Council Member McPherson absent, a Settlement Agreement with Mr. Todd Gailey and authorized the City Manager to execute same on behalf of the City. Mr. Gailey has executed the Settlement Agreement. The substance of the Settlement Agreement is Mr. Gailey withdraws his appeal of his December 4, 2018 involuntary separation from the City, resigns his employment effective December 4, 2018, provides the City with a general release of liability and waiver of rights, and receives a lump sum of Eighty Thousand Dollars (\$80,000), less all required deductions and taxes. A copy of the fully executed Settlement Agreement is available at the City Clerk's Office.

MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS

<https://youtu.be/fkoge7qpCIU?t=147>

CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS

<https://youtu.be/fkoge7qpCIU?t=600>

PRESENTATIONS

- City of Morro Bay Service Pin Presentation
<https://youtu.be/fkoge7qpCIU?t=762>
- Morro Bay Chamber of Commerce Quarterly Report
<https://youtu.be/fkoge7qpCIU?t=1230>

PUBLIC COMMENT

<https://youtu.be/fkoge7qpCIU?t=1842>

Doug Little, Junque Love located at 699 Embarcadero, provided the business spot.

Barry Branin, Morro Bay, urged the Council to consider less expensive alternatives to the proposed water reclamation facility project.

Linda Winters, Morro Bay, shared information regarding the recent Thanksgiving dinner at the Morro Bay Community Center and thanked the many volunteers and businesses who made it possible.

Mary Ciesinski, ECOSLO, spoke in support of Item A-9 and asked the Council to consider further restrictions on other cannabis single use items.

Dan Murphy requested the City submit a letter requesting a change in flight paths to avoid Morro Bay.

Mimi Goldberg, Morro Bay, spoke regarding volunteer opportunities and the need for a warming shelter.

Anne O'Brien, Morro Bay, spoke in opposition to Ordinance 627.

August Phillips urged the Council to not ban the sale of vaping materials.

Shawn Ayres urged the Council to not pass Ordinance No. 627.

Mayor Headding closed public comment.

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

A. CONSENT AGENDA
<https://youtu.be/fkoge7qpCIU?t=3599>

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 OCTOBER 8, 2019, CITY COUNCIL SPECIAL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE OCTOBER 8, 2019, CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF MINUTES FOR THE NOVEMBER 13, 2019, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-4 APPROVAL OF MINUTES FOR THE NOVEMBER 19, 2019, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-5 APPROVAL OF MINUTES FOR THE DECEMBER 4, 2019, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-6 REVIEW AND RECEIVE WATER RECLAMATION FACILITY (WRF) CAPITAL PROJECT MONTHLY UPDATE REPORT AND PROVIDE DIRECTION, IF ANY, DEEMED APPROPRIATE; (PUBLIC WORKS)

RECOMMENDATION: Council receive WRF Capital Project Monthly Update Report and provide direction, if any, deemed appropriate.

A-7 ADOPTION OF ORDINANCE NO. 626 TO INCLUDE VACATION RENTALS IN THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT BY AMENDING MORRO BAY MUNICIPAL CODE CHAPTER 3.60; (ADMINISTRATION)

RECOMMENDATION: Staff recommends Council adopt, by second reading by title only and with further reading waived, Ordinance No. 626, entitled "Ordinance of the City Council of the City of Morro Bay, California to include vacation rental businesses in annual Morro Bay Tourism Business Improvement District assessment by amending Chapter 3.60 (Tourism Business Improvement District Law) of Title 3 (Revenue and Finance) of the Morro Bay Municipal Code."

A-8 ADOPTION OF ORDINANCE NO. 628 REPEALING ORDINANCE NO. 623 IN ITS ENTIRETY; (ADMINISTRATION)

RECOMMENDATION: Staff recommends Council adopt, by second reading by title only and with further reading waived, Ordinance No. 628, entitled "An Ordinance of the City Council of the City of Morro Bay, California, Repealing Ordinance No. 623 Establishing Pre-Zoning for the 27.6-acre portion of Parcel APN #073-101-017 (Case No. #MIN19-001)."

A-9 ADOPTION 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 ATTORNEY)

RECOMMENDATION: Staff recommends Council consider adopting, by second reading and by title only with further reading waived, Ordinance No. 627, entitled "An Ordinance of the City Council of the City of Morro Bay, California, Adding Chapter 5.54 (Tobacco, Electronic Cigarettes and Vaping) to Title 5 (Business Tax Certificates and Regulations), and amending Chapter 9.24 (Secondhand Smoking Regulations) of Title 9 (Public Peace, Morals and Welfare), of the Morro Bay Municipal Code, to regulate the sale of tobacco and vaping products and update and expand the City's Secondhand Smoking Regulations."

A-10 FISCAL YEAR 2019/20 FIRST QUARTER BUDGET PERFORMANCE AND STATUS REPORT FOR THE THREE-MONTH PERIOD ENDING SEPTEMBER 30, 2019
A. RECEIVE FY 2019/20 FIRST QUARTER BUDGET PERFORMANCE AND STATUS REPORT AND AUTHORIZE BUDGET ADJUSTMENTS AS RECOMMENDED IN THE ATTACHED FIRST QUARTER BUDGET PERFORMANCE REPORT; AND
B. ADOPT RESOLUTION NO. 98-19 AUTHORIZING STAFF TO PROCEED WITH THE FIRST-QUARTER BUDGET ADJUSTMENTS; (FINANCE)

RECOMMENDATION: Staff recommends that the City Council:

- 1. Receive the attached Fiscal Year 2019/20 First Quarter Budget Performance and Status Report for the three-month period ending September 30, 2019; and**
- 2. Adopt Resolution No. 98-19 authorizing staff to proceed with the first-quarter budget adjustments.**

- A-11 FIRST QUARTER INVESTMENT REPORT (PERIOD ENDING SEPTEMBER 30, 2019) FOR FISCAL YEAR 2019/20; (FINANCE)

RECOMMENDATION: Staff recommends the City Council receive the attached First Quarter Investment Report (period ending September 30, 2019) for Fiscal Year 2019/20.

- A-12 EXTENSION OF MENTAL MARKETING CONTRACT FOR TOURISM PROMOTION SERVICES BY ONE YEAR; (TOURISM/ADMINISTRATION)

RECOMMENDATION: The Tourism Business Improvement District (“TBID”) Advisory Board and City staff recommend the City Council direct staff to bring back to Council a contract amendment to extend the City’s contract with Mental Marketing for an additional year, so the extended term would end in June 2021 (rather than June 2020), and initiate a Request for Proposal (“RFP”) process in February 2021 (rather than February 2020).

- A-13 ADOPTION OF RESOLUTION NO. 99-19 APPROVING A 1-YEAR LEASE AGREEMENT WITH CIANO REAL ESTATE, INC. FOR PROPERTY LOCATED AT 781 MARKET STREET; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Staff recommends the Council adopt Resolution No. 99-19, approving a 1-year Lease Agreement for the City property located at 781 Market Street (APN: 066-321-027).

- A-14 ADOPTION OF RESOLUTION NO. 100-19 APPROVING AMENDMENT #1 TO THE COMMERCIAL BUILDING LEASE AGREEMENT WITH THREE STACKS AND A ROCK BREWING COMPANY AT LEASE SITE 69-70/69W-70W, LOCATED AT 595 EMBARCADERO ROAD; (HARBOR)

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 100-19 approving Amendment #1 to the Commercial Building Lease Agreement with Three Stacks and a Rock Brewing Company, LLC for portions of the building at Lease Site 69-70/69W-70W, to extend the tenant’s building remodel construction deadline.

- A-15 ADOPTION OF RESOLUTION NO. 101-19 APPROVING A NEW MASTER LEASE AGREEMENT WITH GLAD’S LANDING LLC (WILLIAM MARTONY) FOR LEASE SITE 34W, LOCATED AT 225 MAIN STREET; (HARBOR)

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 101-19 approving a 22.5-year Master Lease Agreement with Glad’s Landing LLC (William Martony) for the water-only Lease Site 34W, located at 225 Main Street.

- A-16 ADOPTION OF RESOLUTION NO. 102-19 APPROVING A NEW MASTER LEASE AGREEMENT WITH TODD BASTON AND TAMARA GRAY-BASTON FOR LEASE SITE 63-64/63W-64W, LOCATED AT 561 EMBARCADERO ROAD (GRAY’S INN AND GALLERY); (HARBOR)

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 102-19 approving a 25-year Master Lease Agreement with Todd Baston and Tamara Gray-Baston for Lease Site 63-64/63W-64W, the Gray's Inn and Gallery located at 561 Embarcadero Road.

A-17 PROCLAMATION RECOGNIZING THE 60TH ANNIVERSARY OF INCORPORATION OF THE CITY OF GROVER BEACH AND COMMEMORATING THE CITY'S ANNIVERSARY CELEBRATION; (ADMINISTRATION)

RECOMMENDATION: Approved as submitted.

Mayor Headding opened public comment for the Consent Agenda.

Erica Crawford spoke regarding A-9, expressing concern about the scope of the ban. She recommended the Council not adopt Ordinance 627 and reintroduce a modified version at a later date.

Jan Goldman, Morro Bay, expressed concern about the proposed ban on the sale of flavored vaping products.

Thomas Keylon, Morro Bay, opposed the adoption of Ordinance No. 627.

Samer Kridi, Morro Bay business owner, urged the Council to consider the impacts the proposed ban would have on local businesses.

Jorge Krede, Morro Bay business owner, expressed concern about business impacts of Ordinance 627.

Jessica Rivas asked the Council to consider financial impacts on existing and future businesses before adopting Ordinance 627.

Benan Akkare, Morro Bay business owner, urged the Council to wait to see what regulations are developed at the County and State levels.

Joel Anderson asked the Council to not ban the flavored tobacco products.

Mimi Goldberg, Morro Bay, was concerned about the potential loss of tax revenue and suggested establishing non-vaping areas.

An unknown individual expressed concern a person's choice to smoke or vape could result in higher health care costs for others.

Michelle Craig, Assistant Manager at Shell, stated a ban on cigars and menthol cigarettes would impact 35-40% of store sales and result in staffing reductions.

Jim Curnutt, Morro Bay, felt Ordinance 627 was inconsistent with regulations for cannabis dispensaries.

Kevin Hanson opposed Ordinance No. 627.

E. Akarri, Morro Bay business owner, was concerned about the financial impacts of Ordinance 627 on his business.

The public comment period was closed.

Mayor Headding pulled Item A-9. Council Member Heller pulled Item A-6.

MOTION: Council Member Davis moved approval of all items on Consent except Items A-6 and A-9. The motion was seconded by Council Member Addis and carried 5-0 by roll call vote.

A-6 REVIEW AND RECEIVE WATER RECLAMATION FACILITY (WRF) CAPITAL PROJECT MONTHLY UPDATE REPORT AND PROVIDE DIRECTION, IF ANY, DEEMED APPROPRIATE; (PUBLIC WORKS)
<https://youtu.be/fkoge7qpCIU?t=5583>

Staff responded to questions from the Council.

MOTION: Mayor Headding moved approval of Item A-6. The motion was seconded by Council Member McPherson and carried 5-0 by roll call vote.

A-9 ADOPTION 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 ATTORNEY)
<https://youtu.be/fkoge7qpCIU?t=6415>

MOTION: Mayor Headding moved to amend 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, to delete flavored menthol cigarettes, delete flavored non-smokable products, and extend the effective date from March 15 to May 15, 2020 to allow retailers to reduce their product. The motion was seconded by Council Member Addis for discussion.

City Attorney Neumeyer suggested deleting Section C on the top of page 74 of the agenda packet would remove the prohibition on flavored tobacco products.

AMENDED MOTION: Mayor Headding amended the motion to remove Item C of the proposed ordinance on top of page 5 of 20 (page 74 of the agenda packet) and then change the effective date from March 15 to May 15 (an additional two months) for implementation. The amended motion was seconded by Council Member Addis for discussion.

Council Member Davis requested a friendly amendment to require 100% ID check from all customers. Mr. Neumeyer suggested that would require crafting new language, which could come back with retailer location restrictions.

Council Member Heller requested friendly amendment to extend the effective date to July.

Mayor Headding withdrew the motion and Council Member Addis withdrew the second.

MOTION: Mayor Headding moved for approval of the existing ordinance with the removal of Item C. Flavored Tobacco Products, on page 5, and extend the

effective date from March 15, to July 15, 2020. The motion was seconded by Council Member Addis.

Council Member McPherson was uncomfortable crafting revisions on the dais and preferred to reconsider what we're trying to accomplish. Council Member Davis agreed and questioned the ban on single cigars as they're as legal as flavored tobacco.

The motion carried 3-2 with Council Members Davis and McPherson opposed.

The Council took a brief recess at 7:39 p.m. The meeting reconvened at 7:49 p.m. with all members present.

B. PUBLIC HEARINGS

- B-1 ADOPTION OF RESOLUTION NO. 103-19, A RESOLUTION FOR THE ABANDONMENT (VACATION) OF PORTIONS OF UTILITY EASEMENT(S) ON 196 PANAY STREET (JAY FRIESEN, APPLICANT). PERMIT NO. ABN19-001; (PUBLIC WORKS)
<https://youtu.be/fkoge7qpCIU?t=7896>

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

Mayor Heading opened the Public Hearing.

Mayor Heading opened Public Comment.

Leah McGee, MBS Land Surveys, shared the property owners wish to build over easements and abandonment is the process they are required to follow.

The Public Hearing was closed.

MOTION: Council Member McPherson moved to adopt Resolution No. 103-19, a resolution abandoning, or vacating, portions of the existing utility easement(s) at 196 Panay Street. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

C. BUSINESS ITEMS

- C-1 DISCUSSION AND ADOPTION OF RESOLUTIONS APPROVING CITY COUNCIL POLICIES & PROCEDURES AND ADVISORY BODIES HANDBOOK AND BY-LAWS, CONSIDERATION OF VACATION RENTAL REPRESENTATION ON THE TOURISM BUSINESS IMPROVEMENT DISTRICT ("TBID") ADVISORY BOARD, AND DISCUSSION / DIRECTION REGARDING SPECIAL PURPOSE ADVISORY BODIES (CITY MANAGER/CITY CLERK)
<https://youtu.be/fkoge7qpCIU?t=8229>

City Clerk Swanson provided the report and responded to Council inquires.

Mayor Heading led the review on proposed edits to the Council Policies & Procedures.

There was Council support for the proposed changes, including edits to Section 6.6 for consistency with the Advisory Body Handbook.

Council Member McPherson led discussion of Advisory Body Handbook and By-Laws, including the following recommendations:

- Disbanding of (2) Special Purpose Advisory Bodies - the General Plan Advisory Committee (“GPAC”) and Water Reclamation Facility Citizens Advisory Committee (“WRFCAC”) and formally thanking them for their work. Technical review aspects of the WRF project would be transferred to the PWAB and existing WRFCAC members could submit applications to fill one of the existing vacancies on that Board.
- Revise TBID Advisory Board to include the temporary appointment of an 8th member representing a permitted vacation rental property until January 31, 2023, or when a community member-at-large seat becomes available, whichever occurs first.
- Advisory Body Meeting Frequency – suggested cutting back three regular meetings from each, except the Recreation & Parks Commission, which meets six times per year. The Planning Commission would continue to meet the first and third Tuesday of the month, with meetings canceled on an as needed basis.

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

MOTION: Council Member McPherson moved to adopt Resolution No. 104-19 approving the Council Policies & Procedures, including proposed amendments; and adopt Resolution No. 105-19 approving the Advisory Bodies Handbook and By-laws, including changes to qualifications for the TBID Advisory Board to include representation by owners/managers of permitted vacation rental properties. The motion was seconded by Council Member Addis.

AMENDED MOTION: Council Member McPherson amended her motion to include changes to meeting frequency for advisory bodies as proposed by staff and changes made by Ms. Spagnola. The motion was seconded by Council Member Addis and carried 4-1 by roll call vote with Council Member Heller opposed.

MOTION: Council Member McPherson moved to terminate the two special advisory bodies, the General Plan Advisory Committee and Water Reclamation Facility Citizens Advisory Committee, effective immediately. The motion was seconded by Council Member Addis carried 4-1 by roll call vote with Council Member Heller opposed.

Mayor Headding indicated on the advice of legal counsel, he would recuse himself for Item C-2 due to a conflict of interest as an owner of single-family residence rental properties. Mayor Headding turned the meeting over to Mayor Pro Tem Davis, and left the dais at 8:28 pm.

C-2 CONSIDERATION OF ADOPTION OF URGENCY ORDINANCE NO. 629 APPROVING JUST CAUSE EVICTION PROTECTIONS AND RENTAL INCREASE LIMITS; (CITY MANAGER)
<https://youtu.be/fkoge7qpCIU?t=10166>

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

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

John Headding, Morro Bay resident and rental property owner, encouraged the Council to consider implementing the ordinance to protect residents against potential evictions.

City Attorney Neumeyer clarified the Mayor recused himself from discussion and vote on this item; however, a recused member can appear as a member of the general public and provide public comment.

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

MOTION: Council Member Addis moved to adopt an Urgency Ordinance by number and title only with further reading waved, Urgency Ordinance No. 629, "An Urgency Ordinance of the City Council of the City of Morro Bay, California, Adopting Just Cause Eviction Protections and Rental Rate Limits Effective Immediately" to be in effect until January 1, 2020. The motion was seconded by Council Member McPherson and carried 4-0-1 with Mayor Heading having recused himself due to a conflict of interest.

Mayor Heading returned to the dais at 8:40 p.m.

C-3 REVIEW AND MODIFICATIONS TO THE CITY PARTNERSHIP POLICY AND CITY PARTNERSHIP POLICY GUIDANCE DOCUMENT; DISCUSSION OF CITY EVENT POLICIES; (CITY MANAGER)
<https://youtu.be/fkoge7qpCIU?t=10939>

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

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

Mimi Goldberg, Morro Bay, spoke regarding broad outreach for local events.

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

MOTION: Mayor Heading moved to rescind Resolution No. 36-16 and adopt Resolution No. 106-19, approving staff recommended changes to the Partnership Policy and Partnership Policy Guidelines document, staff bring back a mechanism to establish authority limits under which you can operate without Council approval, and establish routine reporting to Council on all projects either via consent of an action item, if needed. The motion was seconded by Council Member Davis and carried 5-0 by roll call vote.

MOTION: Mayor Heading moved staff be asked to bring back a discussion about events in the city with consideration of the City's level of involvement in the oversight of events and events policy, in general, and that it be brought back in the spring of 2020. The motion was seconded by Council Member Davis and carried 5-0 by roll call vote.

C-4 REVIEW AND APPROVE THE SECOND AMENDMENT TO EMPLOYMENT CONTRACT WITH SCOTT COLLINS, CITY MANAGER; (CITY ATTORNEY)
<https://youtu.be/fkoge7qpCIU?t=12899>

City Attorney Neumeyer provided the report and Mayor Heading read a summary of the proposed changes to the City Manager's employment contract into the record.

The public comment period for Item C-4 was opened; seeing none, public comment was closed.

MOTION: Council Member Davis moved to approve the Second Amendment to the employment contract with Scott Collins, City Manager, and authorizing the

Mayor to sign the contract on behalf of the City and adopt Resolution No. 107-19 approving the related budget adjustment. The motion was seconded by Council Member Addis and carried 5-0 by roll call vote.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS
<https://youtu.be/fkoge7qpCIU?t=13200>

Council Member Addis requested an update on timing of the previously requested report on what Council can do in terms of gun policies and requested it come back in late February.

E. ADJOURNMENT

The meeting adjourned at 9:19 p.m.

Recorded by:

Dana Swanson
City Clerk