

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JANUARY 14, 2020
VETERAN'S MEMORIAL HALL – 5:30 P.M.

AGENDA NO: A-2
MEETING DATE: February 11, 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
Steve Knuckles Fire Chief
Jody Cox Police Chief
Eric Endersby Harbor Director
Janeen Burlingame Management Analyst
Eric Casares WRF Program Manager, Carollo Engineering
Anita Luck Special Counsel, Aleshire & Wynder, LLP

ESTABLISH QUORUM AND CALL TO ORDER

Mayor Headding called the meeting to order at 6:22 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/mCdlqJ-h1LU?t=116>

CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS

<https://youtu.be/mCdlqJ-h1LU?t=492>

PRESENTATIONS - None

PUBLIC COMMENT

<https://youtu.be/mCdlqJ-h1LU?t=576>

Chris Cameron invited the public to attend the 24th Annual Bird Festival to be held January 18 – 20. For more information, visit www.morrobaybirdfestival.org.

Robert Swain, Morro Bay, stated his support for Item C-1 and announced a Maritime Museum event to be held January 30th at 6:30 pm at the Inn at Morro Bay. For more information, visit www.morrobaymaritime.org.

Michael Wolff, Avocado Shack located at 2790 North Main street, provided the business spot. For more information, visit www.avocadoshack.net.

Mimi Goldberg, Morro Bay, spoke regarding homeless camping enforcement and the need for a warming shelter.

Betty Winholtz, Morro Bay, registered a complaint the Morro Bay Public Facilities Corporation Board of Directors meeting was held at the same time as the City Council meeting and hoped that would be avoided in the future. She also suggested the City fund improvements to bike paths on the west side of the highway.

Traci Theis, San Luis Obispo County Office of Education, spoke in favor of Item A-5 and suggested the Council consider a complete flavor ban in the future.

Barry Branin, Morro Bay, asked when will the City start repairing pipes outlined in OneWater Plan.

Cynthia Hawley raised questions regarding Water Reclamation Facility project design.

Melanie Williams Mahan, Morro Bay, expressed concern about issues between the beach and Cloisters walkway, including homeless encampment, fire potential, and the need to clear the drainage area to improve creek flow.

Mayor Headding closed public comment.

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

A. CONSENT AGENDA
<https://youtu.be/mCdlqJ-h1LU?t=2393>

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 22, 2019, CITY COUNCIL MEETING;
(ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE NOVEMBER 6, 2019, CITY COUNCIL SPECIAL
MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 ADOPTION OF RESOLUTION NO. 01-20 ESTABLISHING THE 2020 CITY COUNCIL
MEETING CALENDAR AND BUDGET DEVELOPMENT SCHEDULE;
(ADMINISTRATION)

RECOMMENDATION Staff recommends the City Council review the proposed Council meeting calendar and adopt Resolution No. 01-20 approving the 2020 City Council Meeting Calendar and Budget Development Schedule.

A-4 APPOINTMENT OF MAYOR PRO TEMPORE AND APPOINTMENT OF
REPRESENTATIVES ON DISCRETIONARY BOARDS, COUNCIL LIAISON
ASSIGNMENTS AND COUNCIL SUB-COMMITTEES; (MAYOR)

RECOMMENDATION: Appoint Council Member Dawn Addis as Mayor Pro Tempore as well as appoint representatives to serve on the various County

or Regional Discretionary Boards, Council Liaison Assignments and Sub-Committees for calendar year 2020 as shown on the attached appointment list.

- A-5 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-6 ADOPTION OF RESOLUTION NO. 02-20 AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO A 2019/2020 SURRENDERED AND ABANDONED VESSEL EXCHANGE GRANT CONTRACT WITH THE STATE OF CALIFORNIA DIVISION OF BOATING AND WATERWAYS IN THE AMOUNT OF \$20,000.00 FOR REMOVAL OF ABANDONED/SURRENDERED VESSELS AND HAZARDS TO NAVIGATION; (HARBOR)

RECOMMENDATION Staff recommends the City Council adopt Resolution No. 02-20, authorizing the Harbor Director to execute the attached 2019/2020 Surrendered and Abandoned Vessel Exchange (SAVE) Grant Contract Agreement #C19S0602 with the California Division of Boating and Waterways (DBW) for \$20,000.00 for the funding of removal of abandoned/surrendered vessels and hazards to navigation.

- A-7 AUTHORIZATION FOR ATTENDANCE AT THE C-MANC ANNUAL WASHINGTON, D.C., "WASHINGTON WEEK" MEETINGS; (HARBOR)

RECOMMENDATION: Staff recommends the City Council authorize a two-person delegation (the Mayor and Harbor Director) to attend the California Marine Affairs and Navigation Conference (C-MANC) 2020 "Washington Week" meetings in Washington, D.C. slated for March 2-4, 2020 and to represent the City's interests in the nation's capital.

Mayor Headding opened public comment for the Consent Agenda.

Benan Akkare spoke to Item A-5 and suggested the Council postpone adoption of ordinance to review newly adopted FDA regulations.

Inger Appanaitis, SLO County Health, spoke regarding Item A-5, provided an overview of policy changes that occurred in the past month at the federal level and noted the County recently banned sale of e-cigarettes in unincorporated areas.

Dr. Bob Campbell, member of SLO County Health Commission, spoke to Item A-5, urging the Council to reinstate language banning all flavored products.

Betty Winholtz, Morro Bay, addressed Item A-4, expressing concern stating Council assignments did not provide equitable representation for female council members. She also asked why SLO County Trust Fund and CMC do not have Council representation.

Melanie Williams Mahan, Morro Bay, spoke to Item A-5, expressing concern about impacts on business owners and that a ban on legal tobacco will result in the sale of bootleg products.

The public comment period was closed.

Council Member McPherson pulled Items A-4 and A-5.

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

A-4 APPOINTMENT OF MAYOR PRO TEMPORE AND APPOINTMENT OF REPRESENTATIVES ON DISCRETIONARY BOARDS, COUNCIL LIAISON ASSIGNMENTS AND COUNCIL SUB-COMMITTEES; (MAYOR)
<https://youtu.be/mCdlqJ-h1LU?t=3211>

Council Member McPherson noted she had been Homeless Services Oversight Committee (“HSOC”) representative for 3 years and requested the record be corrected to reflect she is the appointee and Council Member Davis is the alternate.

MOTION: Council Member McPherson moved for approval of Item A-4 with the change suggested for representative to HSOC. The motion was seconded by Council Member Davis.

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

A-5 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/mCdlqJ-h1LU?t=3569>

Council Member McPherson asked City Attorney Neumeyer to review the regulations as presented.

Council Member McPherson expressed concern the ordinance, as proposed, would be in conflict with regulations being considered at the State and Federal level and, while she supported a ban on flavored products that appeal to children, felt it was too soon to ban legal products sold to adults.

MOTION: Council Member McPherson moved to table this tonight and bring back on future when we’ve had more time to study and determine what we want to do with this ordinance. The motion was seconded by Council Member Davis and carried 3-2 by roll call vote with Council Member Addis and Mayor Heading opposed.

B. PUBLIC HEARINGS

- B-1 PUBLIC HEARING FOR AND CONSIDERATION OF MORRO BAY GARBAGE SERVICES BASE-YEAR RATE ADJUSTMENT APPLICATION AND ADOPTION OF RESOLUTION NO. 03-20; (PUBLIC WORKS)
<https://youtu.be/mCdlqJ-h1LU?t=4331>

Management Analyst Burlingame provided the report and responded to Council inquires.

Mayor Headding opened the Public Hearing.

Morro Bay Garbage Service representative, Peter Cron, made a brief presentation and, along with Controller, Dane Johnson, responded to Council inquires.

Mayor Headding opened Public Comment.

Betty Winholtz, Morro Bay, suggested using the San Luis Obispo rate setting process may not be in Morro Bay's best interest and questioned the proposed vehicle replacement schedule.

The public comment period was closed.

Staff and Morro Bay Garbage Service representatives responded to questions raised during public comment.

City Clerk Swanson stated 39 written protests, which had not been validated or verified, were received by the City Clerk's office, which did not constitute a majority of the customers/property owners.

The Public Hearing was closed.

MOTION: Mayor Headding moved the Council adopt Resolution No. 03-20 increasing solid waste rates as outlined in the Fiscal Impact section of the staff report because there is not a majority protest against such increase. The motion was seconded by Council Member McPherson.

Following discussion, the motion carried 5-0 by roll call vote.

C. BUSINESS ITEMS

- C-1 ADOPTION OF RESOLUTION 04-20 APPROVING FINANCING OF THE WATER RECLAMATION FACILITY PROJECT WITH PROCEEDS FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER THE WATER INFRASTRUCTURE FINANCE AND INNOVATION ACT (WIFIA) (PUBLIC WORKS/SPECIAL COUNSEL/FINANCE)
<https://youtu.be/mCdlqJ-h1LU?t=6362>

Water Reclamation Facility Program Manager Casares, Special Counsel Luck, Legal Counsel Neumeyer, and Finance Director Callaway provided the report and responded to Council inquires.

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

Betty Winholtz, Morro Bay, asked for clarification regarding dollar amounts in the Discussion section of staff report and what would happen if the City was not be able to do the recycling portion of the project.

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

Staff responded to questions raised during public comment.

The Mayor summarized comments made by the Board of Directors during the Morro Bay Public Facilities Corporation at its January 14, 2020 Special Meeting.

MOTION: Mayor Headding moved to adopt Resolution 04-20 approving proceedings to finance the new Water Reclamation Facility (WRF) Project from the proceeds of two installment sale agreements between the City and the Morro Bay Public Facilities Corporation, as each agreement is assigned to the United States Environmental Protection Agency (USEPA) and related documentation. Specifically, City Council approval of Resolution 04-20 authorizing three items:

1. Approves the Wastewater System Project Installment Sale Agreement, consents to Assignment to USEPA, and approves the Wastewater Pledged Collateral pursuant to Section 4.5(a) of the Wastewater Installment Sale Agreement.
2. Approves the Water System Project Installment Sale Agreement, consents to Assignment to USEPA, and approves the Water Pledged Collateral pursuant to Section 4.5(a) of the Water Installment Sale Agreement.
3. Approves of the WIFIA Credit Agreement for the Wastewater System Project and the WIFIA Credit Agreement Water System Project.

The motion was seconded by Council Member McPherson and carried 5-0 by roll call vote.

C-2 AUTHORIZATION FOR THE CITY MANAGER SIGN A NON-BINDING MEMORANDUM OF UNDERSTANDING (MOU), BETWEEN THE CAYUCOS SANITARY DISTRICT, TRUST FOR PUBLIC LANDS, CHEVRON AND THE CITY OF MORRO BAY, FOR CONSERVATION OF LOTS 6SW AND 6NW, MORE COMMONLY KNOWN AS “DOG BEACH”; (COMMUNITY DEVELOPMENT)
<https://youtu.be/mCdlqJ-h1LU?t=7516>

Community Development Director Graham provided the report and responded to Council inquires.

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

Betty Winholtz, Morro Bay, asked about lot size and why a vote of the people had been removed from item 9.

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

Staff responded to questions raised during public comment.

MOTION: Council Member Davis moved to authorize the City Manager to sign a non-binding MOU between the City of Morro Bay, Cayucos Sanitary District, Trust for Public Lands and Chevron for conservation and City ownership

of Lots 6SW and 6NW (Dog Beach), as shown on Attachment A of the MOU. The motion was seconded by Mayor Headding and carried 5-0 by roll call vote.

- C-3 2019 AND 2020 CITY GOALS AND ACTION ITEMS STATUS UPDATE; (CITY MANAGER)
<https://youtu.be/mCdlqJ-h1LU?t=8957>

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

The public comment period for Item C-3 was opened; seeing none, the public comment period was closed.

The Council did not take any formal action on this item.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

Council Member Davis suggested a future agenda item to examine vaping and tobacco use regulations as separate items for Council review to provide guidance to staff. Following discussion, there was Council support for an agenda item to review elements of the ordinance to finds points of concurrence prior to introduction of the new ordinance.

Council Member Heller noted the Council received a letter from Chairperson Reisner on behalf of the Harbor Advisory Board and suggested an agenda item to consider establishing a policy requiring the advisory boards to submit an annual report. There was no support for a future agenda item to consider revising the advisory body policies to require such a report.

E. ADJOURNMENT

The meeting adjourned at 9:20 p.m.

Recorded by:

Dana Swanson
City Clerk