

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 22, 2020
TELECONFERENCE – 5:30 P.M.

AGENDA NO: A-1
MEETING DATE: November 10, 2020

City Council conducted this meeting in accordance with Section 3 of California Governor Newsom's Executive Order N-29-20 issued on March 17, 2020 in response to the present State of Emergency in existence due to the threat of COVID-19. This meeting was held via teleconference for all participants.

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/Acting Public Works Director
 Scot Graham Community Development Director
 Steve Knuckles Fire Chief
 Jody Cox Police Chief
 Eric Endersby Harbor Director
 Rob Livick City Engineer
 Eric Casares WRF Program Manager

ESTABLISH QUORUM AND CALL TO ORDER

Mayor Headding called the meeting to order at 5:30 p.m., with all but Council Member Addis present. Council Member Addis joined the meeting at 5:31 p.m.

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/-9FyvSbq7Kg?t=154>

CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS

<https://youtu.be/-9FyvSbq7Kg?t=786>

PRESENTATIONS - None

PUBLIC COMMENT

<https://youtu.be/-9FyvSbq7Kg?t=1171>

Carol Swain, Morro Bay, spoke regarding Item B-2, expressing appreciation for the efforts made to find balance and a common ground.

John Weiss, Morro Bay, commented on the passing of long-time Morro Bay resident and former Planning Commissioner, Bill Olson, and thanked the Police Department for its quick response to a recent call for service.

Carole Truesdale, Morro Bay resident and President of Neighborhood Watch, complimented the Police Department for launching the Neighborhood Cop program and asked what contingencies were in place to ensure adequate funding for the Police and Fire Departments should the sales tax measure fail.

Erica Crawford, Morro Bay Chamber of Commerce, announced upcoming candidate forums, and thanked the community for its vigilance to keep COVID-19 transmission rates low, adding meeting the State's reopening guidelines has been a costly endeavor for businesses.

Dan Sedley, Morro Bay, complimented the Police Department on its new computer program and thanked the Chamber of Commerce for sponsoring upcoming candidate forums.

Toni spoke regarding Item B-1, questioning the use of an urgency ordinance and requesting data to support the claim of a current and immediate threat to public health, safety, and welfare. She urged the Council to not extend the urgency ordinance but continue to work toward viable regulations with operational standards.

Betty Winholtz spoke as a Council candidate expressing concern campaign signs had been removed from private property.

Melanie Williams, Morro Bay, asked what was being done to address garbage left behind by visitors, questioned a fee being charged to attend a candidate forum, and commented on the Mayor's social media site.

Harry Wiese commented on the recent decrease in TOT and that reducing the number of vacation rentals would exacerbate the City's shortfall. Rather than limit the number of vacation rentals, he suggested increasing the transient occupancy tax rate, stronger enforcement of unlicensed rentals, and allowing the urgency ordinance to expire in 45 days.

Kristen Headland, Morro Bay, spoke regarding Item B-2, stating her preference would be to allow only hosted vacation rentals; alternatively, allow 175 in the R-1 zone with at least 250' circumference around each, with a shorter period of time to address non-compliant owners.

Bob Swain, Morro Bay, spoke in favor of hosted rentals vs. un-hosted rentals and expressed appreciation for the process used to come to a point where most are pleased.

Glenn Silloway, Morro Bay, appreciated the comments of support for the Morro Bay Police Department and urged residents to vote in support of Measure E-20.

Mayor Heading closed public comment.

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

A. CONSENT AGENDA
<https://youtu.be/-9FyvSbq7Kq?t=3232>

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 AUGUST 25, 2020, CITY COUNCIL MEETING;
(ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 PROCLAMATION RECOGNIZING PEOPLES' SELF-HELP HOUSING'S 50TH
ANNIVERSARY; (ADMINISTRATION)

RECOMMENDATION: Approved as submitted

A-3 ADOPTION OF RESOLUTION NO. 80-20 APPROVING AN INTERIM MASTER LEASE
AGREEMENT BETWEEN THE CITY OF MORRO BAY AND LIBERTINE BREWING
COMPANY FOR LEASE SITE 86/86W, LOCATED AT 801 EMBARCADERO, AND
COMMONLY KNOWN AS "THE LIBERTINE PUB"; (HARBOR DEPARTMENT)

RECOMMENDATION: Staff recommend the City Council adopt Resolution No. 80-20, approving an Interim Master Lease Agreement for Lease Site 86/86W, as proposed.

A-4 ADOPTION OF RESOLUTION NO. 81-20 APPROVING AMENDMENT #2 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 DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 81-20 approving Amendment #2 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-5 REVIEW AND RECEIVE WATER RECLAMATION FACILITY (WRF) CAPITAL PROJECT
MONTHLY UPDATE REPORT FOR JULY 2020 AND PROVIDE DIRECTION, IF ANY,
DEEMED APPROPRIATE; (PUBLIC WORKS DEPARTMENT)

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

A-6 ISSUANCE OF REPORT ON THE MEASURES TAKEN TO ALLEVIATE CONDITIONS
PREVIOUSLY IDENTIFIED AND LEADING TO THE ADOPTION OF URGENCY
ORDINANCE NO. 637 APPROVING A 45-DAY MORATORIUM ON THE ISSUANCE OF
SHORT-TERM VACATION RENTAL PERMITS; (COMMUNITY DEVELOPMENT
DEPARTMENT/CITY ATTORNEY)

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 82-20 issuing a Report of the City Council of the City of Morro Bay on measures taken to alleviate the conditions previously identified and leading to the adoption of a moratorium on the issuance of any new permit, license, approval, or entitlement for new short-term vacation rental (STR) operation within the City.

A-7 PROCLAMATION DECLARING "SEPTEMBER 20-26, 2020 AS THE 18TH ANNUAL SEA
OTTER AWARENESS WEEK"; (ADMINISTRATION)

RECOMMENDATION: Approved as submitted

A-8 PROCLAMATION DECLARING "OCTOBER 4-10, 2020 AS NATIONAL FIRE
PREVENTION WEEK"; (ADMINISTRATION)

RECOMMENDATION: Approved as submitted

Mayor Headding opened public comment for the Consent Agenda.

Betty Winholtz, Morro Bay, addressed Item A-5, requesting clarification on the performance measures shown on page 84 of the agenda packet.

John Weiss, Morro Bay, expressed concern Item A-5 was placed on the Consent Agenda.

Dan Sedley, Morro Bay, addressed Item A-5, stating his belief the report is normally a business item.

The public comment period was closed.

Mayor Headding responded to questions raised during Public Comment.

Mayor Headding pulled Item A-5 and asked for Council concurrence to hear Item A-5 after Public Hearing Items B-1 and B-2. There was concurrence to do so.

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

B. PUBLIC HEARINGS

B-1 ADOPTION OF INTERIM URGENCY ORDINANCE NO. 639 EXTENDING A MORATORIUM ON THE ISSUANCE OF SHORT-TERM VACATION RENTAL PERMITS WITHIN THE CITY OF MORRO BAY FOR TEN MONTHS AND FIFTEEN DAYS; (COMMUNITY DEVELOPMENT/CITY ATTORNEY)
<https://youtu.be/-9FyvSbq7Kg?t=3588>

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

Mayor Headding opened the Public Hearing.

Mayor Headding opened Public Comment.

Maggie Juren questioned the justification for an urgency ordinance based on a threat to public health and safety, stating there was no proven link between vacation rentals and COVID transmission.

Taylor Eisemann, Morro Bay, opposed the urgency ordinance stating the bigger issue of illegal vacation rentals had not been addressed.

Betty Winholtz, Morro Bay, spoke in support of the emergency ordinance to protect the health, safety, and welfare of the community.

Melissa agreed with Ms. Juren's comments, adding vacation rentals offer a safer alternative for families visiting Morro Bay.

Dan Sedley, Morro Bay, supported the moratorium, noting un-hosted vacation rentals negatively impact residents' welfare and wellbeing.

Rhoda Gonzalez expressed concern regarding the proposed moratorium and asked for data linking health and safety concerns to vacation rentals.

Ian Starkie opposed the vacation rental moratorium and stated the City had not put forward evidence linking vacation rentals to health and safety issues.

Melly spoke in support of the moratorium.

The Public Hearing was closed.

City Attorney Neumeyer responded to questions raised during public comment.

MOTION: Council Member Davis moved to adopt Interim Urgency Ordinance No. 639, extending a moratorium on the issuance of short-term vacation rental permits within the City of Morro Bay for ten months and fifteen days. The motion was seconded by Council Member McPherson and carried 5-0 by roll call vote.

B-2 INTRODUCTION AND FIRST READING OF ORDINANCE 640; AMENDMENTS TO MORRO BAY MUNICIPAL CODE, REPEALING CHAPTER 5.47 (SHORT-TERM VACATION RENTAL PERMIT) AND ADDING CHAPTER 17.41 (SHORT-TERM VACATION RENTALS) SO AS TO PROVIDE REGULATIONS TO PROTECT THE QUALITY AND CHARACTER OF OUR RESIDENTIAL NEIGHBORHOODS THROUGH APPLICATION OF DENSITY LIMITATIONS, EXPANDED PERMIT REQUIREMENTS AND OPERATIONAL REQUIREMENTS; (COMMUNITY DEVELOPMENT / CITY ATTORNEY)
<https://youtu.be/-9FyvSbg7Kq?t=5401>

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

Mayor Headding opened the Public Hearing.

Mayor Headding opened Public Comment.

John Weiss, Morro Bay, supported an unlimited number of hosted short-term rentals, steeper fines for non-compliance, and cease and desist of all unlicensed rentals.

Ian Starkie, Rock Star Properties, stated the proposed ordinance would reduce transient occupancy tax paid to the City and result in an increased number of illegal short-term rentals. He added the parking requirements would not be enforceable unless parking permits were issued to every property.

Wally Auerbach, short-term vacation rental owner, expressed concern his legally operated vacation rental would become non-conforming under the proposed ordinance and suggested the number of those renting properties illegally would increase.

Sean Green, Morro Bay resident and Ad Hoc Committee member, stated the committee worked hard to develop useful and enforceable restrictions that will improve the STR landscape, and shared his perspective as a resident who researched policies and purchased his home with the expectation it could be used as a vacation rental 1/3 of the year. He stated many have made significant financial decisions based on guidelines provided by the City and expressed concern about retroactive enforcement of a lottery system.

David Zepp, Morro Bay, commented on the value of vacation rentals as an alternative to hotel stays and the importance of differentiating home share from full-home rentals,

suggesting home shares be excluded from the cap. He also suggested increased fines to discourage bad actors, and to allow the number to be reduced by attrition.

Harry Wiese spoke regarding the economic implications of the proposed lottery system that would remove 24 vacation rentals from the Beach Tract and 70 citywide.

Penni Daugherty, Morro Bay, questioned the need for density limitations if everyone follows the rules.

Robert Elzer, URelax Vacation Rentals, opposed a lottery process to reduce the number of permitted vacation rentals; urged the Council to consider many vacation rental owners hope to retire in Morro Bay; and to keep in mind the maintenance workers, housekeepers, property managers and others who work in the vacation rental community.

Dr. Morro stated his concern regarding lack of enforcement and quality of life impacts for residents.

Melissa, Morro Bay, stated she lives next to a vacation rental and has observed more issues with nearby full-time rentals. She questioned reducing the cap to 175 and suggested increasing transient occupancy tax to help fund code enforcement to deal with problematic properties.

Dan Sedley, Morro Bay, supported vacation rentals in the commercial district and an unlimited number of hosted rentals; he opposed them in mixed districts with single family dwellings and residential neighborhoods. He also commented on the importance of enforcement and suggested fines be significantly increased.

Erica Crawford, Morro Bay Chamber of Commerce, following review of various drafts over the past year by 30 different Chamber members, offered the following position statement: decline to permit vacation rentals in multi-family units, small attached family units and ADU's as they constitute an important source of workforce housing; consider the concentration of vacation rentals in the Beach Tract separately; eliminate the proposed lottery system, instead allow normal turnover to remedy density issues; and create a fee structure to cover the cost of adequate and effective enforcement of permitted vacation rentals.

Patrick Vaughan, Morro Bay, suggested lowering the cap to 150, and using 175' radius buffer with no more than one vacation rental abutting next to, or behind, a property.

Rhoda Gonzales, vacation rental property owner, shared her perspective regarding responsible management of a vacation rental and support for workers who rely on visitors and vacation rental businesses for income.

The Public Hearing was closed.

The Mayor and Council provided individual comments and arrived at a consensus on the following clarifications and revisions:

- *Transferability* - prohibit transfer of short-term vacation rental ("STR") permit to a new owner.
- *ADU's/apartments* –
 - phase out permitted STR's in accessory dwelling units after three years, and
 - prohibit short-term rentals in apartments in residential zones, with existing permitted STR's phased out as recommended by the Planning Commission.

- *Density buffer* - establish density buffer at 175 linear feet or 3-lot separation, whichever is greater.
- *Cap* – reduce cap for full-home STR’s to 175 in residential neighborhoods, remove those not actively using their permit.
- *Use of Guesthouse for home-share* - home share rentals to be allowed and excluded from the cap and density requirements.
- *Non-conformance* - allow permitted non-conforming units to be grandfathered in and decrease by attrition.
- *Fines for Violations* -
 - Operating without a permit: cease and desist letter with penalties of \$1,000 each time thereafter found to be operating as an STR; removed from waiting list; and wait two years before reapplying.
 - Rule violation: warning for 1st violation, 2nd violation \$250 fine, 3rd violation \$750 fine, and 4th violation \$1,000 fine.
 - Staff may use discretion based on the seriousness of the offense to determine when a permit should be revoked.
- *Other areas of consensus and minor changes*
 - Accept Planning Commission proposed revision to the Whereas statement to add “quality”
 - WHEREAS, while the City Council recognizes that short-term vacation rentals can be conducted in harmony with surrounding uses, those activities must be regulated to ensure that these activities do not threaten the residential quality and character of the neighborhoods where they are operating, or otherwise harm the public health, safety, or general welfare.
 - Accept Planning Commission to revise Section 17.41.090(K) to include language that signs be clearly visible and legible from the street or right of way.
 - Establish maximum occupancy restriction at 10 people over age 3 in addition to current policy limit of two individuals per bedroom, plus two.
 - Require STR primary renter be 21 or older
 - Do not prohibit the use of outdoor fire pits as those rules should apply equally to STR’s and homeowners

MOTION: Council Member Addis moved the meeting go past 9:30 p.m. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote

MOTION: Council Member McPherson moved to continue the hearing to the next meeting on October 13, 2020 and bring back the ordinance with the changes that have achieved consensus, including recommendation by Council Member Davis with regard to grandfathering. The motion was seconded by Mayor Heading and carried 5-0 by roll call vote.

C. BUSINESS ITEMS - None

- A-5 REVIEW AND RECEIVE WATER RECLAMATION FACILITY (WRF) CAPITAL PROJECT MONTHLY UPDATE REPORT FOR JULY 2020 AND PROVIDE DIRECTION, IF ANY, DEEMED APPROPRIATE; (PUBLIC WORKS DEPARTMENT)
<https://youtu.be/-9fyvsbq7kg?t=15446>

WRF Program Manager Casares responded to questions raised during public comment and provided an update on the SRF loan process, which has been significantly impacted by the COVID-19 pandemic. He anticipated the City will have a signed loan agreement early 2021.

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

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

<https://youtu.be/-9FyvSbg7Kg?t=16627>

Council Member McPherson requested the Council consider creating a utility discount program for commercial businesses. Following brief comments, the Council supported discussion of a comprehensive grant program for Morro Bay businesses affected by the COVID-19 pandemic.

E. ADJOURNMENT

The meeting adjourned at 10:10 p.m.

Recorded by:

Dana Swanson
City Clerk