

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – AUGUST 23, 2010
CITY HALL CONFERENCE ROOM - 5:00 P.M.

Mayor Peters called the meeting to order at 5:00 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney

CLOSED SESSION

MOTION: Councilmember Grantham moved the meeting be adjourned to Closed Session. The motion was seconded by Councilmember Borchard and unanimously carried. (5-0)

Mayor Peters read the Closed Session Statement.

CS-1 GOVERNMENT CODE SECTION 54957.6; CONFERENCE WITH LABOR NEGOTIATOR. Conference with City Manager, the City's Designated Representative, for the purpose of reviewing the City's position regarding the terms and compensation paid to the City Employees and giving instructions to the Designated Representative.

CS-2 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY TRANSACTIONS. Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to 1 parcel.

- Property: 781 Market Street and the Corner of Pacific Street and Market Street.
Negotiating Parties: George Salwasser and the City of Morro Bay.
Negotiations: Purchase and Sale Conditions.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:25 p.m.

MOTION: Councilmember Winholtz moved the meeting be adjourned. The motion was seconded by Councilmember Grantham and unanimously carried. (5-0)

The meeting adjourned at 5:25 p.m.

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VETERANS MEMORIAL HALL - 6:00 P.M.

Mayor Peters called the meeting to order at 6:00 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Bridgett Kessler	City Clerk
	Eric Endersby	Harbor Operations Manager
	Susan Lichtenbaum	Harbor Business Manager
	Rob Livick	Public Services Director
	Tim Olivas	Police Chief
	Susan Slayton	Administrative Services Director
	Planning Manager	Kathleen Wold
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &
PRESENTATIONS

CLOSED SESSION REPORT - City Attorney Robert Schultz reported the City Council met in Closed Session, and no reportable action under the Brown Act was taken.

PUBLIC COMMENT

Todd Gailey, Morro Bay Engineer/Paramedic, announced Rescue Challenge 2010 Fitness Benefit between Morro Bay Fire Department and the U.S. Coast Guard will be held on September 18th at Coleman Park which will benefit the Morro Bay Community Foundation.

Keith Taylor congratulated the appointment of Bryan Millard as Commander of the Police Department.

D'Onna Kennedy thanked those who voted for her at the Primary Election in June and encouraged citizens to vote for her at the General Municipal Election in November. She also offered her phone number and assistance to Veterans regarding how to receive support and benefits.

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Pauline Stansbury, President of Morro Bay Seniors Center, stated she has received many complaints regarding the lack of transportation provided to seniors in the City, and invited those interested to attend the special transit meeting on September 15th at the Community Center.

Gay Skivalascaves, representative of San Luis Obispo Council of Governments (SLOCOG), expressed support for Item A-7 (Award of Contract to CalPortland Construction for the Construction of the ARRA-funded North Main Street Bike Lane and Street Improvement Project) and noted the deadline for funding of this project is September 30, 2010.

Ken Vesterfelt referred to Item D-2 (Discussion on Current Status of General Plan/Local Coastal Plan Update and Direction on Future Processing with the California Coastal Commission) stating this plan was worked on for many years by many people and their work should be considered.

Cathy Novak referred to Item D-1 (Status Report and Review of Permit Fee for Waterfront Projects) and most specifically Mr. Amani's project located at 571 Embarcadero. She reviewed the breakdown of hours provided by staff and an average cost for Mr. Amani's project noting her issue is with the Waterfront Master Plan fee of 200% times the base permit being added to these projects. Ms. Novak encouraged the Council to consider a tiered fee structure so that these small projects are not required to pay nearly 20% of the value of the project in permit fees. She said the City should encourage businesses to improve and renovate their lease sites by reducing the Waterfront Master Plan fee to a point that is more in line with what the fee should be.

Don Doubledee referred to Item D-2 stating as a past Planning Commissioner he remembers spending many hours on the General Plan/Local Coastal Plan Update. He said there was a lot of public input and much of this work reflected the needs and desires of the citizens and issues that need to be accomplished in order to make this a better City. Mr. Doubledee urged the Council not to throw this work out and recognize the merit of the previous work that was accomplished.

Lexi Brown, Assistant Director of the Morro Bay National Estuary Program (MBNEP), thanked Morro Bay for its continued support of the MBNEP. She noted the new director of the MBNEP will be Adrienne Harris coming from Washington, D.C.

John Barta referred to Item D-2 stating many years ago, the Coastal Commission requested the City review its General Plan/Local Coastal Plan issuing the City a Coastal Conservancy Grant. The City had a consultant provide an initial draft which was reviewed by the Planning Commission, who with the consultant worked on the draft for several years along with holding dozens of public hearings. Mr. Barta said the document was sent to the

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Coastal Commission and they did nothing with it, and now they say the Plan is stale. He said the City did its job and two generations of Planning Commission put many hours into this document. Mr. Barta recommended the City Council not buy into their bluff and go through with the process.

Dorothy Cutter referred to Item D-2 stating after all the money the City spent on consultants and all the public comment received, there were a lot of unauthorized changes made by Planning Commission members and staff and sent to the Coastal Commission. She said Council should go back to the prior document before it was sent to the Coastal Commission and should receive current public comment so it would reflect what the community needs now. Ms. Cutter urged the Council to not accept the plan presented tonight.

Mayor Peters closed the hearing for public comment.

Mayor Peters called for a break at 7:27 p.m.; the meeting resumed at 7:34 p.m.

A. CONSENT CALENDAR

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 REGULAR CITY COUNCIL MEETING OF AUGUST 9, 2010; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL FOR THE MAYOR TO SIGN A LETTER IN SUPPORT OF SENATE BILL 3540 TO REAUTHORIZE THE NATIONAL ESTUARY PROGRAM; (HARBOR)

RECOMMENDATION: Authorize the Mayor to sign a letter in support of SB 3540 to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program.

A-3 ADOPTION OF ORDINANCE NO. 560 AMENDING TITLE 13 PUBLIC UTILITIES, CHAPTER 13.12 SEWERS TO ADD SECTION 13.12.215 COLLECTION OF PAST-DUE ACCOUNTS; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Ordinance No. 560.

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A-4 ADOPTION OF ORDINANCE NO. 561 AMENDING SECTION 2.12.090 OF THE MORRO BAY MUNICIPAL CODE REGARDING CITY MANAGER'S POWER OF APPOINTMENT OF CITY OFFICERS AND EMPLOYEES; (CITY ATTORNEY)

RECOMMENDATION: Adopt Ordinance No. 561.

A-5 STATUS REPORT ON WATER USAGE FOR JUNE AND JULY 2010; (PUBLIC SERVICES)

RECOMMENDATION: Review and file status report.

A-6 RESOLUTION ACCEPTING A CALIFORNIA DEPARTMENT OF PUBLIC HEALTH GRANT FOR MODIFICATIONS TO THE DESALINATION FACILITY; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 43-10 authorizing the Utilities/Capital Projects Manager to enter into a funding agreement with the California Department of Health for a Proposition 84 Grant for the Brackish Water Reverse-Osmosis upgrades to the Desalination Facility.

A-7 AWARD OF CONTRACT TO CALPORTLAND CONSTRUCTION FOR THE CONSTRUCTION OF THE ARRA-FUNDED NORTH MAIN STREET BIKE LANE AND STREET IMPROVEMENT PROJECT; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 44-10 awarding the project contract to CalPortland Construction in the amount of \$432,117.10 and authorizing a contingency fund of \$43,200.

A-8 AUTHORIZATION TO ADD AND HIRE A WASTEWATER COLLECTIONS SYSTEMS OPERATOR III; (PUBLIC SERVICES)

RECOMMENDATION: Authorize hiring a Wastewater Collections Systems Operator III for the Wastewater Collections Division.

A-9 PROCLAMATION DECLARING SEPTEMBER 26-OCTOBER 2, 2010 AS "SEA OTTER AWARENESS WEEK"; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

Councilmember Winholtz pulled Items A-1, A-4, A-6, A-7, A-8 from the Consent Calendar; and Mayor Peters pulled Item A-5.

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MOTION: Councilmember Borchard moved the City Council approve Items A-2, A-3 and A-9 of the Consent Calendar. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING
OF AUGUST 9, 2010; (ADMINISTRATION)

Councilmember Winholtz referred to page 10, 2nd paragraph, and requested the removal of the second sentence; Council concurred.

MOTION: Councilmember Winholtz moved the City Council approve Item A-1 as amended. The motion was seconded by Councilmember Smukler and carried unanimously. (5-0)

A-4 ADOPTION OF ORDINANCE NO. 561 AMENDING SECTION 2.12.090 OF
THE MORRO BAY MUNICIPAL CODE REGARDING CITY MANAGER'S
POWER OF APPOINTMENT OF CITY OFFICERS AND EMPLOYEES;
(CITY ATTORNEY)

Councilmember Winholtz stated she would like to revisit this section of the Municipal Code in order to discuss Council's participation in the hiring of department heads.

MOTION: Councilmember Winholtz moved the City Council approve Item A-4 of the Consent Calendar. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

A-5 STATUS REPORT ON WATER USAGE FOR JUNE AND JULY 2010;
(PUBLIC SERVICES)

Mayor Peters requested staff clarify for public information when to report old corroded pipes that leak brown water to the City; Public Services Director Rob Livick responded with the requested information.

MOTION: Mayor Peters moved the City Council approve Item A-5 of the Consent Calendar. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

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A-6 RESOLUTION ACCEPTING A CALIFORNIA DEPARTMENT OF PUBLIC HEALTH GRANT FOR MODIFICATIONS TO THE DESALINATION FACILITY; (PUBLIC SERVICES)

Councilmember Winholtz asked if the City's groundwater permits will meet the stream flows of above 1.4cfs; Public Services Director Rob Livick responded affirmative.

MOTION: Councilmember Winholtz moved the City Council approve Item A-6 of the Consent Calendar. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

A-7 AWARD OF CONTRACT TO CALPORTLAND CONSTRUCTION FOR THE CONSTRUCTION OF THE ARRA-FUNDED NORTH MAIN STREET BIKE LANE AND STREET IMPROVEMENT PROJECT; (PUBLIC SERVICES)

Councilmember Winholtz announced the award of the contract for the construction of the North Main Street Bike Lane and Street Improvement Project for public information.

Councilmember Grantham stated he would be voting in opposition to the award of this contract based on the poor economics of the country because it is irresponsible spending.

MOTION: Councilmember Winholtz moved the City Council approve Item A-7 of the Consent Calendar. The motion was seconded by Councilmember Smukler and carried with Councilmember Grantham voting no. (4-1)

A-8 AUTHORIZATION TO ADD AND HIRE A WASTEWATER COLLECTIONS SYSTEMS OPERATOR III; (PUBLIC SERVICES)

Councilmember Winholtz stated she will be voting in opposition to the hiring of this position based on the economy of the City.

Councilmember Borchard stated she also will be voting in opposition to the rehire of this position stating that the previous request for the hiring of another Wastewater Collections Systems Operator has not been filled yet.

MOTION: Councilmember Grantham moved the City Council approve Item A-8 of the Consent Calendar. The motion was seconded by Mayor Peters and the motion failed with Councilmember Borchard, Councilmember Smukler and Councilmember Winholtz voting no. (2-3)

B. PUBLIC HEARINGS, REPORTS & APPEARANCES – NONE.

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C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS

D-1 STATUS REPORT AND REVIEW OF PERMIT FEE FOR WATERFRONT PROJECTS; (PUBLIC SERVICES)

Public Services Director stated the waterfront fee is applied to all projects with a PD overlay within the Waterfront Master Plan Area. This fee is 200% of the standard fee for a Conditional Use Permit (CUP). The fee for a CUP for “new construction” is \$3,620, which means that waterfront fee portion would be \$7,240, for a total of \$10,860; this fee does not include any environmental documentation fees or variance fees, which may add to this cost. In January 2009, the City Council reviewed the waterfront permit fees, and directed staff to “track current and future project costs with an analysis of time spent and return to Council with an appropriate fee level.” Mr. Livick stated should the Council decide that reductions in the waterfront fees are to occur; staff recommends that the fee surcharge be set at 100% above the existing fee structure, which means the total fee amount would be \$7,240 versus \$10,860; or, Council could authorize staff to collect at each respective submittal the Use Permit fee for both the processing of the Concept Plan and the Precise Plan.

Councilmember Winholtz stated she prefers tracking by time and materials or approximated averaged rate per project collected at different times during the project, whichever the applicant is most comfortable with.

Councilmember Grantham stated the option of the surcharge being set at 100% above the existing fee schedule seems fair and a balanced way to go about it.

Councilmember Smukler stated tracking by time and materials would seem to address smaller project concerns.

Councilmember Borchard stated she supports tracking by time and materials with a deposit up front and tracking it for a year.

Mayor Peters stated she supports tracking by time and materials with a tiered deposit.

MOTION: Councilmember Smukler moved the City Council receive this report and make the adjustment to the Waterfront Master Plan fee schedule to time charged to time and materials with an upfront deposit that is tiered on the basis of the size of the project and includes an evaluation of the effectiveness of the program in one year. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

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D-2 DISCUSSION ON CURRENT STATUS OF GENERAL PLAN/LOCAL COASTAL PLAN UPDATE AND DIRECTION ON FUTURE PROCESSING WITH THE CALIFORNIA COASTAL COMMISSION; (CITY ATTORNEY)

City Attorney Robert Schultz stated in August 2004, the City Council approved an update to the General Plan/Local Coastal Plan (GP/LCP). The GP/LCP was then submitted to the California Coastal Commission (CCC) for certification. After the GP/LCP was submitted, a dispute arose between CCC staff and City staff on whether the GP/LCP application was complete. However, City staff was assured that CCC staff was working on their review of the City's GP/LCP update. On June 23, 2010, City Staff met with CCC Staff to discuss the status of their review of the City's GP/LCP update. CCC staff explained to City Staff that because the GP/LCP update had been sitting for over five years, it is now deemed stale and that the GP/LCP update would have to go through the public hearing process again. Because of this determination, the City Council has some options with the GP/LCP update which include: 1) continue with the use of our 1984 General Plan/Local Coastal Plan and do no further work on the update; 2) revert to the draft prepared by Crawford, Multari and Clark and begin the legal process and public review; once the review is completed, resubmit to the Coastal Commission; or 3) revert to the second draft (document that Coastal Commission currently has) and begin the legal process and public review; once completed, resubmit to the Coastal Commission. Mr. Schultz recommended the City Council provide direction to Staff on the process to follow with the City's General Plan/Local Coastal Plan update.

The City Council appointed Mayor Peters and Councilmember Winholtz to work with staff to compare the draft document prepared by Crawford, Multari and Clark and the document sent to the Coastal Commission along with receiving input from staff on what new items should be included.

No further action was taken on this item.

D-3 REQUEST TO APPROVE A RESPONSE TO GRAND JURY REGARDING USE OF CITY VEHICLES; (ADMINISTRATION)

City Manager Andrea Lueker stated the Grand Jury report focuses its attention on the number of City-owned vehicles in each jurisdiction and a review of the policies in place to guide the use of those vehicles. The City of Morro Bay does not currently have a policy that specifically addresses the issue of take home vehicles, but is in the process of preparing such a policy. In addition, the number of take home vehicles in the report is misleading as the two Public Services vehicles that are described as take-home vehicles are actually used as duty-trucks and taken home when that employee is on-call. Under Penal Code Section 933.05, the City is required to indicate one of the following responses to the findings: 1) the respondent agrees with the finding; or 2) the respondent disagrees partially or wholly with the findings and why. Furthermore, as to each Grand Jury

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recommendation, the responding party shall report one of the following actions: a) the recommendation has been implemented, with a summary regarding the implemented actions; b) the recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation; c) the recommendation requires further analysis; or d) the recommendation will not be implemented because it is not warranted or is not reasonable and an explanation why. Ms. Lueker recommended the City Council direct staff to send a letter to the Presiding Judge of San Luis Obispo County Superior Court responding to the Grand Jury reports entitled “Use of City Vehicles”.

Councilmember Winholtz suggested grammatical amendments to the letter; Council concurred.

MOTION: Councilmember Winholtz moved the City Council authorize the Mayor to send the amended letter to the Presiding Judge of the San Luis Obispo County Superior Court responding to the Grand Jury reports entitled “Use of City Vehicles”. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Smukler requested to agendize a discussion on the Cold Canyon Landfill EIR process; he will provide information.

Councilmember Winholtz requested to place a presentation on the agenda regarding Consumer Smart Meter.

Councilmember Winholtz requested to place the discussion on landmark trees and the revision to the master tree list on the September agenda.

ADJOURNMENT

The meeting adjourned at 9:00 p.m.

Recorded by:

Bridgett Kessling
City Clerk