

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – SEPTEMBER 27, 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 Winholtz and unanimously carried. (5-0)

Mayor Peters read the Closed Session Statement.

CS-1 GOVERNMENT CODE SECTION 54956.9(a); CONFERENCE WITH LEGAL COUNSEL REGARDING PENDING LITIGATION. Status Report on All Pending Litigation. This is a report on status and no action may be taken on any matter not specifically listed. Council may request a specific matter be agendized in the future for action.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:50 p.m.

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

The meeting adjourned at 5:50 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 27, 2010
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 Kessling	City Clerk
	Eric Endersby	Harbor Operations Manager
	Susan Lichtenbaum	Harbor Business Manager
	Rob Livick	Public Services Director
	Tim Olivas	Police Chief
	Mike Pond	Fire Chief
	Dylan Wade	Utilities/Capital Projects Manager
	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

Garry Johnson stated Arcadia Publishing Company requested the publication of a new book on the history of Morro Bay which was written by Roger Castle and Gary Ream and some photographs taken by him. He said the books will be on sale this weekend at the Harbor Festival.

Jeremiah O'Brien expressed his support for Item A-4 (Authorization to Accept a Grant from the Nature Conservancy in Support of Fisheries Transition and Community Outreach) noting the importance to allow Rick Algert to work on this grant on a part-time contract basis due to his expertise on fisheries.

John Solu read a letter from Pradeep Patel, a Morro Bay hotel owner regarding the Chamber of Commerce CEO vacancy and the lack of representation from the hotel or tourism industry on the hiring committee. It was requested by Mr. Patel and Mr. Solu that

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 27, 2010

since the City holds a contract with the Chamber of Commerce, to intervene and request an hotelier be placed on the hiring committee who will be interviewing the prospective applicants for the CEO position.

Amy Perry read a letter for Jody Kennemer expressing concern with the removal of the shade trees that were cut down at the Community Center and library parking lots. She noted she tried to speak with someone at the Recreation & Parks and Planning Departments and the Library and received no information about the removal of the trees. Ms. Kennemer requested faster growing shady leafy trees be replaced instead of oak trees.

John Barta reviewed the history of the City-owned lot at the corner of San Jacinto and Highway One which is for sale. He said an offer was made in excess of \$2 million; however, the sale did not go through due to the objection of the removal of existing eucalyptus trees for a subdivision. Mr. Barta said a study was done which stated the trees cannot be saved because there is a line of eucalyptus that goes through the middle of the property which does not allow for a subdivision. He said the sales tax initiative was created instead of what was intended from the reserve from the sale of this property.

Linda Winters expressed support for Proposition 21 which would establish an \$18 annual vehicle license surcharge to help fund state parks and wildlife programs and will be on the November 2, 2010 General Election ballot.

Bill Yates thanked the SEIU employees for their endorsement of his candidacy for Mayor in the November election. He also said he and his wife were surprised by the removal of the trees at the Community Center and library parking lots. Mr. Yates encouraged the public to attend the Harbor Festival this weekend.

Mayor Peters closed the hearing for public comment.

Mayor Peters called for a break at 7:04 p.m.; the meeting resumed at 7:14 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 SEPTEMBER 13, 2010; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 27, 2010

A-2 ADOPTION OF ORDINANCE NO. 562 INCREASING THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT ASSESSMENT FROM 2% TO 3%; (CITY ATTORNEY)

RECOMMENDATION: Adopt Ordinance No. 562.

A-3 RESOLUTION 46-10 AMENDING COUNCIL POLICIES AND PROCEDURES MANUAL SECTIONS IN REGARD TO CALLING CLOSED SESSION MEETINGS; IN REGARD TO ALL REAL PROPERTY CONTRACTS GOING TO CLOSED SESSION PRIOR TO OPEN SESSION; IN REGARD TO COUNCIL LIAISONS TO ADVISORY BOARDS; AND, IN REGARD TO CITY COUNCIL INPUT ON HIRING AND EVALUATION OF DEPARTMENT HEADS; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution No. 46-10.

A-4 AUTHORIZATION TO ACCEPT A GRANT FROM THE NATURE CONSERVANCY IN SUPPORT OF FISHERIES TRANSITION AND COMMUNITY OUTREACH; (HARBOR)

RECOMMENDATION: Authorize acceptance of a grant of \$70,000 from The Nature Conservancy to provide staff support for commercial fishing transitioning strategies and outreach.

A-5 ACCEPTANCE OF RESIGNATION FROM COMMUNITY PROMOTIONS COMMITTEE MEMBER; (ADMINISTRATION)

RECOMMENDATION: Accept resignation.

A-6 PROCLAMATION DECLARING OCTOBER 2010 AS "RIDESHARE MONTH"; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

Councilmember Winholtz pulled Items A-3 and A-4 from the Consent Calendar; Mayor Peters pulled Item A-6.

MOTION: Councilmember Borchard moved the City Council approve Items A-1, A-2 and A-5 of the Consent Calendar. The motion was seconded by Councilmember Smukler and carried unanimously. (5-0)

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 27, 2010

A-3 RESOLUTION 46-10 AMENDING COUNCIL POLICIES AND PROCEDURES MANUAL SECTIONS IN REGARD TO CALLING CLOSED SESSION MEETINGS; IN REGARD TO ALL REAL PROPERTY CONTRACTS GOING TO CLOSED SESSION PRIOR TO OPEN SESSION; IN REGARD TO COUNCIL LIAISONS TO ADVISORY BOARDS; AND, IN REGARD TO CITY COUNCIL INPUT ON HIRING AND EVALUATION OF DEPARTMENT HEADS; (CITY ATTORNEY)

Councilmember Winholtz referred to Section 6.2.1 (Council Liaison Assignments) and requested the word commission(s) be amended to read advisory body/bodies; Council concurred.

MOTION: Councilmember Winholtz moved the City Council approve Item A-3 of the Consent Calendar as amended. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

A-4 AUTHORIZATION TO ACCEPT A GRANT FROM THE NATURE CONSERVANCY IN SUPPORT OF FISHERIES TRANSITION AND COMMUNITY OUTREACH; (HARBOR)

Councilmember Winholtz stated the fishing liaison group or fishing association should provide staff support for this grant rather than the City, and provide them space in the Nature Conservancy office in Morro Bay.

City Manager Andrea Lueker responded the limited support would be coming from past Harbor Director Rick Algert using office space at the Public Services Department; there would be minimal fiscal impact involved.

Harbor Business Manager Sue Lichtenbaum stated this is a critical grant in the transitioning of these fishing rights and the associated permits that go with them, and Mr. Algert has been involved in this process since it started.

MOTION: Councilmember Grantham 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-6 PROCLAMATION DECLARING OCTOBER 2010 AS “RIDESHARE MONTH”; (ADMINISTRATION)

Mayor Peters pulled this item in order to make a presentation to a representative of RideShare.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 27, 2010

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

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 563
ADDING A LANDMARK TREE SECTION TO CHAPTER 12.08 OF THE
MORRO BAY MUNICIPAL CODE; (PUBLIC SERVICES)

Public Services Director Rob Livick stated the Morro Bay Citizens Tree Committee has reviewed the subject of landmark trees and has made recommendations for modifying the City's Municipal Code to recognize and protect these landmark trees. The tree committee has concluded that trees have an essential role supporting Morro Bay's economic and physical health and are key element in Morro Bay's famous scenic beauty and wildlife habitat. The proposal for the addition of a landmark tree section to the Morro Bay Municipal Code has been previously reviewed by the Public Works Advisory Board and the Planning Commission, and both bodies recommended approval of the addition to the municipal code. At their September 13, 2010 meeting, the Morro Bay City Council discussed the revisions to the Master Street Tree list, the draft revision to the Street Tree section of the Morro Bay Municipal Code (12.08) which would add the ability to declare landmark trees, and approved the Master Street Tree list revision. During the discussion regarding adding the landmark tree section to Chapter 12.08 of the Morro Bay Municipal, the definition of a *Specimen Tree* was added to the definitions section and requested the change come back for "first reading". Mr. Livick recommended the City Council receive public testimony, and approve Ordinance No. 563 for introduction and first reading by number and title only.

Mayor Peters opened the hearing for public comment.

John Barta stated the proposed ordinance is an attempt to regulate land use by treating groves of trees as individual landmark trees. He said if approved, this ordinance will create the City-owned lot at the corner of San Jacinto and Highway One, which is for sale to be unsellable, and would be writing off \$2 million of taxpayer's money. Mr. Barta requested the City Council remove the term "grove" out of the ordinance.

Chris Copack stated he has eucalyptus trees in his yard and requested clarification regarding some of the concerns he has with this ordinance.

Mayor Peters closed the public comment hearing.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 27, 2010

Councilmember Winholtz stated there is no landmark tree unless it is proposed and it goes through two public reviews before it is identified, first with the tree committee and then the City Council. She referred to the statement made on the San Jacinto property noting the sales tax measure was proposed for a variety of uses not only fire use, and the two are separate issues. Councilmember Winholtz stated this ordinance is not about private trees and is strictly about public trees.

Councilmember Smukler stated the value of a landmark tree is it creates a heightened review period and once identified it is considered a cherished tree within the community. He referred to the San Jacinto property noting there are some clear development conditions on this property, and it is doubtful that Council would make a choice of trees that would impact the development abilities of a property such as this.

Councilmember Borchard expressed concern with the grove of eucalyptus trees on the San Jacinto property if dedicated as landmark trees and causing a problem with the sale of this property. She said she also has concern with the potential cost to the City in maintaining groves of trees.

Councilmember Grantham clarified that this ordinance would not be a hindrance to the sale of the San Jacinto property.

Council made an amendment to Section 12.08.150 – Landmark Trees as follows:

Any Morro Bay resident may nominate a tree **within the right-of-way** to be considered for Landmark Tree designation.

Councilmember Winholtz stated she would prefer to open it up to anyone who would like to nominate a landmark tree.

MOTION: Councilmember Borchard moved the City Council approve as amended Ordinance No. 563 adding a Landmark Tree section to Chapter 12.08 of the Morro Bay Municipal Code for introduction and first reading by number and title only. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

City Manager Andrea Lueker read Ordinance No. 563 by number and title only.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 27, 2010

C. UNFINISHED BUSINESS

C-1 STATUS REPORT ON WATER USAGE FOR AUGUST 2010; (PUBLIC SERVICES)

Utilities/Capital Projects Manager Dylan Wade stated total August water production was 128 acre feet with 3.4 acre feet of water from the Morro groundwater basin receiving treatment through the BWRO process, 124.6 acre feet of State water delivered, and 0 acre feet of groundwater direct from the Morro and Chorro Basins. During the month of August, the City has used water from the Brackish Water Reverse Osmosis (BWRO) Treatment train to supplement water deliveries from the State Water Project by running the BWRO treatment process as necessary. State Water Project deliveries are sufficient to meet water demands for all periods except during the State Water shutdown without continuing mandatory water conservation measures. Therefore, staff is recommending cessation of mandatory water conservation at this time. Staff has been able to focus on the distribution system and is working on the replacement of service lines and old water meters. It is anticipated that in the month of October the water system will rely on the State Water Project deliveries and will decrease the use of the BWRO to augment those deliveries as our demands fall. Mr. Wade recommended the City Council review this status report, and direct staff on ending mandatory water conservation.

Councilmember Winholtz stated she supports waiting to change the mandatory water conservation measures from Level 3 and raising them to Level 4 when State Water is due to shut down within thirty days.

Councilmember Smukler agreed with Councilmember Winholtz as far as waiting to change the mandatory water conservation measures as well as with the heightened level of conservation when State Water shuts down.

Mayor Peters stated she supports removing the conservation notice at this time and reinstate it in November when State Water shuts down.

The City Council accepted the report; no further action was taken on this item.

D. NEW BUSINESS

D-1 REQUEST FOR FACILITY USE FEE WAIVER FOR A MAYORAL/CITY COUNCIL CANDIDATES FORUM SPONSORED BY THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN (AAUW) AND LEAGUE OF WOMEN VOTERS; (ADMINISTRATION)

Councilmember Winholtz stepped down due to a conflict of interest as she is a candidate in the upcoming election.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 27, 2010

City Manager Andrea Lueker stated the City received a request for a fee waiver for a Mayoral/City Council Candidates' Forum sponsored by the American Association of University Women (AAUW) and the League of Women Voters. The AAUW and League of Women Voters have sponsored candidate forums in the past which benefitted the citizens of Morro Bay. The financial impact to the City would be the loss of revenue from assessed fees for a non-profit organization to utilize the Veterans Memorial Building for 2 ½ hours, in the amount of \$147.50. Ms. Lueker recommended the City Council review and discuss the possibility of waiving rental fees for the AAUW and League of Women Voters' Candidates' Forum, and direct staff accordingly.

Councilmember Borchard stated she will not support this fee waiver. She noted when she campaigned two years ago the cost of the forum was \$25 per candidate for the use of the building. Councilmember Borchard stated this could set a precedent and the City is not in a financial position to waive fees and she believes the candidates should pay a fee to hold a forum.

MOTION: Councilmember Grantham moved the City Council deny the request for a fee waiver for a Mayoral/City Council Candidates Forum sponsored by the American Association Of University Women (AAUW) and League Of Women Voters. The motion was seconded by Councilmember Borchard and carried with Councilmember Smukler voting no. (3-1)

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Winholtz requested to agendaize a discussion on incorporating the Grey Water and Park Tree lists into the Major Vegetation Guidelines - take to Public Works Advisory Board and Recreation & Parks Commission with recommendations to Planning Commission and then to City Council; Council concurred.

ADJOURNMENT

The meeting adjourned at 8:18 p.m.

Recorded by:

Bridgett Kessling
City Clerk