

MINUTES - MORRO BAY CITY COUNCIL  
CLOSED SESSION – OCTOBER 25, 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 Borchard moved the meeting be adjourned to Closed Session. The motion was seconded by Councilmember Smukler and unanimously carried. (5-0)

Mayor Peters read the Closed Session Statement.

**CS-1 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 five (5) parcels.

- Property: Market/Pacific  
Negotiating Parties: Salwasser and City of Morro Bay  
Negotiations: Voluntary Purchase and Sale.
- Property: Moorage for Two Vessels in Harbor  
Negotiating Parties: AIS Construction and City of Morro Bay  
Negotiations: Six-Month License Terms and Conditions.
- Property: Lease Sites 124-128/124W and 128W and 113W; (1215 Embarcadero)  
Negotiating Parties: Sea One Solutions (SOS) LLC and City of Morro Bay  
Negotiations: Lease Terms and Conditions.
- Property: Outrigger - Lease Site 87-88/87W-88W; (833 Embarcadero)  
Negotiating Parties: V. Leage and City of Morro Bay  
Negotiations: Lease Terms and Conditions.
- Property: Surf Street Parking Lot  
Negotiating Parties: Maritime Museum and City of Morro Bay  
Negotiations: Terms and Conditions of Lease.

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**CS-2 GOVERNMENT CODE SECTION 54957; PERSONNEL ISSUES.**

Discussions regarding Personnel Issues including two (2) public employees regarding evaluation, specifically the City Attorney and City Manager.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:30 p.m.

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

The meeting adjourned at 5:30 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
	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 discussed real property transactions. The City Council did take action on the Market/Pacific Street property, which is currently in escrow; the City Council amended the escrow instructions to allow for a nine month extension to install the public elevator and also to accept a deed of trust instead of a bond or line of credit to perform the elevator installation. Mr. Schultz listed the remaining property transactions discussed by Council; however, no reportable action under the Brown Act was taken. He also noted the Personnel issue was not discussed and will be continued to the next City Council meeting on November 8, 2010.

PUBLIC COMMENT

Carrie Burton thanked those who contributed to the Del Mar Elementary School Jog-a-Thon and making it a successful event to raise funds for the school's field trips, school supplies, text books and technology.

Haley Rivalry thanked everyone for their support towards Del Mar Elementary School.

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Madurai, Morro Bay High School City Council representative, gave an update on high school events.

Liz Bednorz, Beach House Bistro and Laura from Harbor Floral Studio announced a Halloween Open House will be held in North Morro Bay by the North Morro Bay Business Co-op.

Alex Eberline expressed concern with the local economy and lack of entertainment for young people and would like to promote a free local music festival. He suggested Del Mar Park as a location for this festival, and requested assistance in sponsorship for this event.

The following people expressed support for Item A-7 (Resolution in Support of Proposition 21 - The State Parks and Wildlife Conservation Trust Fund Act of 2010): Louise Abbott, Norma Whiteman, Linda Winters, Mary Golden and June Krystoff-Jones.

Joan Solu representing the Tourism Business Improvement District shared the new visitor guides, which have been received very well by tourists. She also reviewed the Savor the Central Coast event as well as the Travel Writer tours that brought writers to Morro Bay.

Nancy Castle requested Council support by approving Item D-2 (Review and Approval of the Video Production Services & Local Government Channel Insertion Point Management Agreement With AGP Video, Inc.). She also announced the Historical Society will be meeting on November 7<sup>th</sup> with Botso Korisheli being the guest speaker.

Keith Taylor thanked Mayor Peters, Councilmember Grantham and Councilmember Winholtz for their support in the building of the new fire station and their assistance with Measure Q.

John Barta addressed the Wastewater Treatment Plant upgrade and reviewed points of interest with the PERC Corporation proposal.

Nancy Johnson stated she was pleased to be part of the planting of the City trees last weekend which was a great event.

Robin Cole expressed concern with the removal of a Monterey Cypress tree adjacent to her house on Juniper Street which PG&E has posted a notice that they are going to destroy.

Bill Yates announced his candidacy for Mayor in the upcoming election, and asked everyone to vote on November 2<sup>nd</sup>.

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Dorothy Cutter expressed her support for Betty Winholtz who is running for Mayor in the upcoming election.

Anne Reeves expressed her displeasure with the “*Seagull Sentinel*” campaign literature that was mailed out to local residents.

David Nelson expressed concern with the removal of the Monterey Cypress tree on Juniper Street that is going to be removed by PG&E. He referred to the Wastewater Treatment Plant noting it is old technology, and there are alternatives available that the City should be considering.

Garry Johnson stated there will be a book signing of the *Then and Now* book by authors Roger Castle and Gary Ream on November 7<sup>th</sup>. He said he was a leader for the Photo Expo and lead classes through the State Park which was beautiful and is why Proposition 21 is important to the Central Coast.

Natalia Merzoyan stated she would also like to save the Monterey Cypress tree on Juniper Street. She expressed her support for Betty Winholtz who is running for Mayor in the upcoming election, and her disappointment in the negative campaigning that has been going on during this election.

Nancy Bast expressed her displeasure with the “*Seagull Sentinel*” campaign literature that was mailed out to local residents.

Mayor Peters closed the hearing for public comment.

Mayor Peters called for a break at 7:30 p.m.; the meeting resumed at 7:40 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 OCTOBER 11, 2010; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

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A-2 APPROVAL OF A SIX-MONTH LICENSE AGREEMENT TO ALLOW MOORAGE FOR TWO VESSELS OWNED BY AIS CONSTRUCTION; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 54-10.**

A-3 RESOLUTION TO APPROVE AMENDMENT #5 TO THE LEASE AGREEMENT FOR LEASE SITE 87-88/87W-88W LOCATED AT 833 EMBARCADERO-OUTRIGGER RESTAURANT; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 55-10.**

A-4 APPROVAL OF A LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND SEA ONE SOLUTIONS (SOS) LLC, FOR LEASE SITES 124-128/124W AND 128W AND 113W LOCATED AT 1215 EMBARCADERO; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 56-10.**

A-5 APPROVAL OF RESOLUTION AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO VESSEL TURN-IN PROGRAM (VTIP) CONTRACT WITH THE DEPARTMENT OF BOATING AND WATERWAYS; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 57-10.**

A-6 STATUS REPORT ON WATER USAGE FOR SEPTEMBER 2010; (PUBLIC SERVICES)

**RECOMMENDATION: Receive report for information.**

A-7 RESOLUTION IN SUPPORT OF PROPOSITION 21 - THE STATE PARKS AND WILDLIFE CONSERVATION TRUST FUND ACT OF 2010; (CITY COUNCIL)

**RECOMMENDATION: Adopt Resolution No. 53-10.**

Councilmember Smukler pulled Item A-2 from the Consent Calendar; Councilmember Winholtz pulled Item A-6 and Mayor Peters pulled Item A-7.

**MOTION:** Councilmember Grantham moved the City Council approve the Consent Calendar with the exception of Items A-2, A-6 and A-7. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

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A-2 APPROVAL OF A SIX-MONTH LICENSE AGREEMENT TO ALLOW  
MOORAGE FOR TWO VESSELS OWNED BY AIS CONSTRUCTION;  
(HARBOR)

Councilmember Smukler verified that AIS Construction would be good neighbors to the existing boats and slips in the area where its boats are being moored, and the City would be the lead agency to receive concerns or complaints regarding their vessels during their stay in the harbor. He also responded to concerns regarding view shed noting their utility vessel will be housed closer to the Harbor Department office pier which is a more utilitarian use of the Embarcadero. Councilmember Smukler referred to the inspection of their seaworthiness stating they require a full inspection by their insurance company.

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

A-6 STATUS REPORT ON WATER USAGE FOR SEPTEMBER 2010; (PUBLIC  
SERVICES)

Councilmember Winholtz referred to Future Water Usage, and the appeal to the State for an exception to the City pumping in the Chorro Valley should the City need water during the month of November when the water system will not be able to rely on the State Water Project deliveries. She said to be consistent she would like to express her desire to talk to the California Men's Colony about receiving water from them instead.

Councilmember Smukler stated since the City is entering the State Water shutdown period, to encourage water savings during this period of time.

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

A-7 RESOLUTION IN SUPPORT OF PROPOSITION 21 - THE STATE PARKS AND  
WILDLIFE CONSERVATION TRUST FUND ACT OF 2010; (CITY COUNCIL)

Councilmember Smukler expressed support for Proposition 21 - The State Parks and Wildlife Conservation Trust Fund Act of 2010.

Mayor Peters and Councilmember Borchard stated they will vote in favor; however, they both expressed it was unfair to impose this fee on voters due to the bad economic times.

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MOTION: Councilmember Smukler moved the City Council approve Item A-7 of the Consent Calendar. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 564: REPEALING, AMENDING, AND REENACTING TITLE 14 OF THE CITY OF MORRO BAY MUNICIPAL CODE - BUILDINGS AND CONSTRUCTION; (PUBLIC SERVICES)

Public Services Director Rob Livick stated in addition to adopting by reference the 2010 California Building Standards Code, this update reorganizes Title 14 and removes sections of the existing ordinance that are dated or otherwise superseded by other state laws or regulations. The local amendments of the existing ordinance are codified as modifications to the California Building Standards Code where required by state law. Division II of Chapter 1 of the California Building Code is adopted and amended as the administrative provisions of Title 14. The ordinance adopts the new state Residential and Green Building Codes. Mr. Livick recommended the City Council introduce for first reading and introduction by number and title only, Ordinance No. 564; repealing, amending, and reenacting Title 14 of the City of Morro Bay Municipal Code (Buildings and Construction) to incorporate the 2010 California Building Standards Code, as adopted by the State of California and the local modifications thereto.

Mayor Peters opened the hearing for public comment; there were no comments, and Mayor Peters closed the public comment hearing.

Councilmember Winholtz suggested an amendment to Section 113.4 (Board of Appeals-Appointment) noting she would like the selection of this Board to follow the same format as the other appointed City boards and committees.

Mr. Livick requested Council include the addition of words “combustible materials” to Section 3.08.1.1.1 in the amendment; Council concurred.

MOTION: Councilmember Winholtz moved the City Council approve Ordinance No. 564 for introduction and first reading, as amended by Council. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

City Manager Andrea Lueker read Ordinance No. 564 by number and title only.

C. UNFINISHED BUSINESS – NONE.

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D. NEW BUSINESS

D-1 RESOLUTION DETERMINING ISSUANCE OF AN ALCOHOLIC BEVERAGE CONTROL PERMIT FOR A WINE TASTING ROOM LOCATED AT 1099 EMBARCADERO; (CITY ATTORNEY)

City Attorney Robert Schultz stated Giovanni Michael DeGarimore applied for a permit from the Department of Alcoholic Beverage Control to operate a Wine Tasting Room at 1099 Embarcadero. The Department of Alcoholic Beverage Control (ABC) automatically denies permits to sell alcoholic beverages if there is an “undue concentration” of licenses in the census tract (Business and Professions Code Section 23958). In order for the ABC to issue the license, they require the local governing body to determine that the “public convenience and necessity” would be served by issuance of the license. The ABC requires the governing board/council to pass a resolution or a signed letter on official letterhead stating whether or not the issuance of the applied license would serve as a public convenience or necessity. The Police Department has reviewed this application and has no significant concerns at this time in regard to a wine tasting room at this location. Furthermore, the approval of Resolution 58-10 will support the City Council’s goals and priorities to develop ways to attract businesses to Morro Bay. Mr. Schultz recommended the City Council adopt Resolution 58-10 determining that issuance of an ABC permit for a wine tasting room located at 1099 Embarcadero would serve as a public convenience or necessity.

MOTION: Councilmember Borchard moved the City Council adopt Resolution 58-10 determining that issuance of an ABC permit for a wine tasting room located at 1099 Embarcadero would serve as a public convenience or necessity. The motion was seconded by Councilmember Smukler and carried unanimously. (5-0)

D-2 REVIEW AND APPROVAL OF THE VIDEO PRODUCTION SERVICES & LOCAL GOVERNMENT CHANNEL INSERTION POINT MANAGEMENT AGREEMENT WITH APG VIDEO, INC.; (ADMINISTRATION)

City Manager Andrea Lueker stated the Video Production Services and Local Government Channel Insertion Point Management Agreement have been on a month to month extension for some time. Staff and AGP Video have successfully completed negotiations and agreed upon an agreement which outlines services and funding. The 2010/11 Fiscal Year budget was adopted with the allocation of \$60,000 of funding for AGP Video, Inc. for the televising of City Brown Act meetings. Ms. Lueker recommended the City Council approve the Video Production Services & Local Government Channel Insertion Point Management Agreement with APG Video, Inc.

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MOTION: Mayor Peters moved the City Council approve the Video Production Services & Local Government Channel Insertion Point Management Agreement with APG Video, Inc. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

D-3 APPROVAL TO SEND LETTER TO THE SAN LUIS OBISPO COUNTY BOARD OF SUPERVISORS RECOMMENDING THE BOARD SELECT MARY ANN REISS AS THE CITY COUNCIL MEMBER NOMINEE FOR APPOINTMENT TO THE CALIFORNIA COASTAL COMMISSION; (CITY COUNCIL)

Mayor Peters stated Supervisor Katcho Achadjian has served as the Central Coast representative on the California Coastal Commission for several years, and Pismo Beach Mayor Mary Ann Reiss has been serving as his alternate. After the November election, Katcho will no longer be eligible to hold this position and Mayor Reiss is requesting support for appointment to succeed him. Mayor Reiss has participated in several CCC meetings as the alternate, and has often appeared before the CCC on behalf of Pismo Beach issues. Her long time experience in Pismo Beach city government and with coastal issues makes her an ideal candidate to represent the Central Coast. Mayor Peters requested the City Council approve sending a letter to the San Luis Obispo County Board of Supervisors recommending the Board Select Mary Ann Reiss as the City Council Member nominee for appointment to the California Coastal Commission.

The City Council requested one amendment to the first sentence of the letter stating – “The City of Morro Bay ~~has appreciated~~ acknowledges the service of Supervisor Katcho Achadjian...”

MOTION: Mayor Peters moved the City Council approve sending the letter as amended to the San Luis Obispo County Board of Supervisors recommending the Board Select Mary Ann Reiss as the City Council Member nominee for appointment to the California Coastal Commission. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

D-4 DISCUSSION OF WHETHER TO HOLD A JOINT PLANNING COMMISSION/CITY COUNCIL MEETING ON NOVEMBER 15, 2010 AND IF A MEETING IS TO BE HELD, TOPICS TO BE DISCUSSED; (PUBLIC SERVICES)

Public Services Director Rob Livick stated Morro Bay Municipal Code Section 2.28.120 states the Planning Commission will meet twice annually with the City Council to discuss proposed policies, programs, goals and objectives, budgeting, future planning, or any other planning matter requiring joint deliberation. The scheduled meeting date (November 15, 2010) for the joint meeting occurs after the City’s election of a new Mayor and City

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Councilpersons. This election will result in a change in the make-up of the City Council and the potential change to the Planning Commission. Mr. Livick recommended the City Council provide direction to staff on whether to hold the joint City Council/Planning Commission meeting on November 15, 2010. If the meeting is to be held, staff recommends the City Council consider and discuss potential discussion topics for the November 15, 2010 joint City Council/Planning Commission meeting; including a review of the Planning Commission's recommendations for meeting topics that were acted on at their October 18, 2010 meeting.

Mayor Peters stated she feels the Council should wait until after the election to hold this joint meeting so that the newly-elected City Council could meet with perhaps newly-appointed Planning Commissioners to discuss goal setting for the City.

Councilmember Winholtz stated she feels the Council should uphold the municipal code which states the City Council shall meet with the Planning Commission twice a year. She said it is a valuable meeting for the public and public officials, and another meeting will be held at the beginning of next year again as well.

Councilmember Grantham stated the joint meetings between the City Council and Planning Commission should be scheduled in January/February and August/September of each year.

Councilmember Smukler stated he would like to hold the joint meeting previously scheduled to discuss the important issues brought forward by the Planning Commission.

Councilmember Borchard stated she supports deferring the meeting due to the change in the City Council and perhaps the Planning Commission. She said she agrees that future joint meetings should be scheduled in January/February and August/September.

Councilmember Winholtz stated she will rebut in that the top body of the City is going to violate the code just for convenience when we expect other people and ourselves to abide by the municipal code in responding to all the laws that we have.

**MOTION:** Mayor Peters moved the City Council postpone the joint City Council/Planning Commission meeting scheduled on November 15, 2010, and defer the joint meeting to when the new officers are in place. The motion was seconded by Councilmember Grantham and carried with Councilmember Smukler and Councilmember Winholtz voting no. (3-2)

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E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Winholtz requested to agendaize a discussion on the role of the Tree Committee; there was no consensus of Council.

ADJOURNMENT

The meeting adjourned at 8:55 p.m.

Recorded by:

Bridgett Kessling  
City Clerk