

MINUTES - MORRO BAY CITY COUNCIL  
CLOSED SESSION – DECEMBER 13, 2010  
CITY HALL CONFERENCE ROOM - 5:00 P.M.

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

PRESENT:	William Yates	Mayor
	Carla Borchard	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	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 Yates 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 two (2) parcels.

- Property: Vacant Lot/Corner of Coral/San Jacinto.  
Negotiating Parties: Potential Buyers and City of Morro Bay.  
Negotiations: Voluntary Purchase and Sale.
- Property: Surf Street Parking Lot  
Negotiating Parties: Maritime Museum and City of Morro Bay  
Negotiations: Terms and Conditions of Lease.

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 Smukler and unanimously carried. (5-0)

The meeting adjourned at 5:30 p.m.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – DECEMBER 13, 2010  
VETERANS MEMORIAL HALL - 6:00 P.M.

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

PRESENT:	William Yates	Mayor
	Carla Borchard	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Jamie Boucher	Deputy 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
	Susan Slayton	Administrative Services Director
	Kathleen Wold	Planning 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

Keith Taylor requested City Council support moving forward with Phase II of the Fire Department Renovation Project.

Wally McCray, Street Tree Committee, encouraged citizens to vote for their favorite “Morro Bay” City tree.

Taylor Newton, Street Tree Committee, stated citizens have until January 1<sup>st</sup> to vote for their favorite “Morro Bay” City tree; ballots are available at City Hall, Spencers Market and Farmers Market. He described the various trees available to vote on and noted the City Council will make it official after the first of the year.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – DECEMBER 13, 2010

Marshall Ochylski, President of the Los Osos Community Services District, stated Los Osos and Morro Bay are two developed communities that both serve on the National Estuary Program and the Water Resource Advisory Committee. He would like to see our mutual cooperation continue. He said since the County Planning Department is redoing their County area plans, it is important that Los Osos and Morro Bay work together since Morro Bay has no sphere of influence and the County prepares Los Osos' land use plans.

Garry Johnson expressed the importance of supporting the Business Community in Morro Bay.

John Barta addressed Item D-4 (Discussion Regarding Moving City Council Meeting Dates From the 2<sup>nd</sup> and 4<sup>th</sup> Monday of Each Month to the 2<sup>nd</sup> and 4<sup>th</sup> Wednesday of Each Month) stating moving the meetings off Monday is a good idea; however, he would suggest moving it to a Tuesday because there are many regional meetings held on Wednesdays. He also referred to the staircase at the end of Surf Street, which is City-owned property, and recommended Council consider reworking the hill and placing an ADA ramp at this prime property.

Craig Schmidt introduced himself as the new Chief Executive Officer of the Chamber of Commerce and he looks forward to working with the City.

Kevin Rice congratulated the City Council on their election process, and explained the current selection process in San Luis Obispo; he is running for its vacant seat.

Ken Vesterfelt requested everyone get involved in the Police Department K-9 Dog efforts in order to raise funds. He also wished all a Merry Christmas.

Mayor Yates closed the public comment hearing.

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 RESOLUTION AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO BOATING SAFETY AND ENFORCEMENT GRANT CONTRACT WITH THE DEPARTMENT OF BOATING AND WATERWAYS; (HARBOR)

A-2 STATUS REPORT ON WATER USAGE; (PUBLIC SERVICES)

MOTION: Councilmember Borchard moved the City Council approve the Consent Calendar.

MINUTES - MORRO BAY CITY COUNCIL

The motion was seconded by Councilmember Johnson and carried unanimously. (5-0)

**B. PUBLIC HEARINGS, REPORTS & APPEARANCES**

**B-1 REVIEW OF ANNUAL REPORT AND APPROVAL OF THE BUSINESS LICENSE RENEWAL FOR THE “FAMILY FUN ZONE” ARCADE LOCATED AT 725 EMBARCADERO SUITE 105; (POLICE)**

Police Chief Tim Olivas stated on October 6, 2010, the City Council adopted Resolution No. 53-09 in conformance with Morro Bay Municipal Code 5.04.330 approving a Business License for Rose’s Landing “Family Fun Zone” Arcade located at 725 Embarcadero, with conditions. Pursuant to Morro Bay Municipal Code Section 5.04.330, the application for the annual renewal of the business license shall be considered at a public hearing, with a report from the Chief of Police as to compliance with conditions of approval and any law enforcement problems experienced in the past year. A records check was conducted for Police Department “Calls for Service” related to the Arcade at 725 Embarcadero. No calls for service were recorded for incidents related to the Arcade’s operation. The Harbor Department and Public Services Department also reported they had no incidents that would give cause for the Arcade business license to be suspended or revoked. Chief Olivas recommended the City Council approve the renewal of the business license for the “Family Fun Zone” Arcade with the existing conditions listed in Resolution No. 53-09 and Minor Use Permit (UPO-286 & AD0-051).

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

**MOTION:** Councilmember Borchard moved the City Council approve the renewal of the business license for the “Family Fun Zone” Arcade with the existing conditions listed in Resolution No. 53-09 and Minor Use Permit (UPO-286 & AD0-051). The motion was seconded by Councilmember Smukler and carried unanimously. (5-0)

**B-2 AMENDMENT TO USE PERMIT AND COASTAL DEVELOPMENT PERMIT (UP0-042/CP0-064) FOR 555 MAIN STREET TO MODIFY THE PROJECT TO CHANGE THE COMMERCIAL COMPONENT OF THE PROJECT TO RESIDENTIAL AND REQUEST FOR AFFORDABLE HOUSING ASSISTANCE; (PUBLIC SERVICES)**

Planning Manager Kathleen Wold stated the applicant requests an amendment to the Use Permit and Coastal Development Permit to modify the project in order to eliminate the commercial component of the project, increase the number of residential units, convert the project to an all residential senior affordable housing project, and modify a portion of the units from one bedroom units to three bedroom units. The applicant also requests a residual receipts loan request of \$600,000. The applicant requests the monies to cover

MINUTES - MORRO BAY CITY COUNCIL

REGULAR MEETING – DECEMBER 13, 2010

entitlement, permitting and impact fees as well as to finance a portion of the development. Ms. Wold recommended Council authorize staff to begin negotiations with the applicant on the specific terms of a loan and return to Council with a more specific loan agreement. She noted the applicant is also requesting the City sponsor the project for an allocation of HOME Investment Partnership Program (HOME) funds from the State of California Department of Housing and Community Development (HCD) from monies made available by the U.S. Department of Housing and Urban Development. Ms. Wold recommended approving this request subject to the applicant being responsible for composing the application with the City's responsibility limited to review of the application and sponsorship.

Mayor Yates opened the hearing for public comment.

Marshall Ochylski, representing Coast National Bank (applicant), stated the applicant agrees with the City's revisions as mentioned in the staff report. He said this location is perfect for senior affordable housing. Mr. Ochylski noted the inclusion of a third bedroom was from a previous developer when this development was proposed as a family project; it was requested the third bedroom be removed from the plans once this project was made a senior affordable housing project (which would remove Condition of Approval #8.) He said energy-efficiency will be a priority when building this project.

Robert Lang, President of Pacific Southwest Community Development Corporation, introduced himself and reviewed the properties owned by Pacific Southwest Community Development Corporation for Council information.

Mayor Yates expressed his support for this project as a senior affordable housing project, and he is in favor of changing the commercial zoning in this area to residential.

Councilmember Borchard stated she is supportive of this project and welcomes low and very-low housing opportunities to assist the housing requirements that fit well into the community of seniors, and she also supports granting a relief in the zoning as it is a benefit to the City.

Councilmember Johnson stated she is also supportive of the revisions to the project and the elimination of the commercial uses, and also the time spent regarding transportation for seniors at this location.

Councilmember Leage stated he supports moving along with this project as proposed.

Councilmember Smukler stated he is supportive of the project and appreciative of the applicant's interest in resource efficiency and transportation. He said this will fill an important niche in our community since we are behind in fulfilling our Housing Element in our low and very low income bracket.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – DECEMBER 13, 2010

MOTION: Councilmember Smukler moved the City Council: 1) conditionally approve an amendment to Use Permit UP0-042 and Coastal Development Permit CP0-064 to allow the elimination of the commercial component of the project, increase residential units from 16 to 18 and with the changes made to Exhibit “B”, Item 7, as recommended by staff; and removal of Condition #8; 2) authorize staff to begin negotiations with the applicant regarding a residual receipts loan and return to City Council once specific terms have been determined; and 3) authorize City sponsorship of a request for HOME funds for the project subject to the City’s responsibilities being limited to review of the application and sponsorship. The motion was seconded by Councilmember Leage and carried unanimously. (5-0)

C. UNFINISHED BUSINESS – None.

D. NEW BUSINESS

D-1 PRESENTATION FROM SAN LUIS OBISPO COUNCIL OF GOVERNMENTS INCLUDING SB375 (SUSTAINABLE COMMUNITIES STRATEGY)

The City Council received a presentation from Steve DeVencenzi, Planning Director for the San Luis Obispo Council of Governments regarding Senate Bill 375, the 2010 Regional Transportation Plan and Preliminary Sustainable Communities Strategy, which is a comprehensive plan and transportation policy for the region and makes recommendations concerning improvements to the existing transportation network of highways, transit, air and water, rail and bicycling.

D-2 REQUEST FOR REFUND OF CONDITIONAL USE PERMIT/COASTAL DEVELOPMENT PERMIT FEES FOR 160 ANCHOR ST. - KLEINHAMMER; (PUBLIC SERVICES)

Public Services Director Rob Livick stated the subject proposal was submitted on July 27, 2009 and various files were made associated with the applicant’s request for a tentative parcel map, abandonment of right-of-way, Conditional Use Permit, Coastal Development Permit and the Environmental Review. The project was not targeted for tracking therefore staff time was not tracked. The project submitted was substantially deficient and a letter was sent informing the applicant and their representative of the situation. There were various meetings concerning the project issues and eventually the applicant made the decision to remove their architect from the project. Staff had additional meetings with the applicant including one with a new agent to discuss options, requirements and various conditions that would be imposed on the project. The project stayed active within the Planning Division for one year. Eventually, the applicant submitted a letter to withdraw the project and requested a refund of fees. Staff reviewed

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – DECEMBER 13, 2010

the City's policies on refunds and issued a refund of \$3,808 dollars based on the refund policies in place within the Subdivision Ordinance. The applicants met once again with staff to request additional money be refunded and eventually submitted a request to the Mayor when staff was unable to accommodate them. Mr. Livick recommended the City Council grant a refund of \$1,625 and authorize staff to establish a refund policy within the Master Fee Schedule.

**MOTION:** Councilmember Borchard moved the City Council grant a refund of \$1,625, and authorizes staff to establish a refund policy within the Master Fee Schedule. The motion was seconded by Councilmember Johnson and carried unanimously. (5-0)

**D-3 DISCUSSION ON THE CREATION AND FUNDING OF A FACILITY REPAIR FUND FROM THE PROCEEDS OF CITY PROPERTY LOCATED AT 781 MARKET STREET; (RECREATION & PARKS)**

Recreation & Parks Director Joe Woods stated the City's management of real property assets has lacked the resources to adequately support a deferred maintenance account for all scheduled property. The volume of deferred maintenance has increased and potential property loss and/or significant devaluation are certainly possible should this practice continue. The establishment of a deferred maintenance account would give immediate relief to the General Fund and satisfy the required maintenance for the current City owned real property. The City is in need of a funding source to address the City's infrastructure, and the most ready source of funding at this time is the surplus revenue from the sale of 781 Market Street. A deferred maintenance account could be setup as a capital account allowing any balance to carry over to the following fiscal year if not used in its entirety. Access and use of the funds would be subject to City Council's approval. Mr. Woods recommended the City Council review and direct staff to return with a resolution to establish a deferred maintenance account for the maintenance and management of City owned real property.

**MOTION:** Councilmember Smukler moved the City Council direct staff to return with a resolution recommending the details and management plan of a deferred maintenance account, a recommended financial management plan for that account including repayment of parking in-lieu funds and suggested priorities for Exhibit "A". The motion was seconded by Councilmember Johnson.

Councilmember Smukler amended his motion to include the initial lump sum payment of approximately \$210,000; Councilmember Johnson accepted the amendment to her second.

**VOTE:** The motion carried unanimously. (5-0)

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – DECEMBER 13, 2010

D-4 DISCUSSION REGARDING MOVING CITY COUNCIL MEETING DATES FROM THE 2<sup>ND</sup> AND 4<sup>TH</sup> MONDAY OF EACH MONTH TO THE 2<sup>ND</sup> AND 4<sup>TH</sup> WEDNESDAY OF EACH MONTH; (COUNCIL)

City Manager Andrea Lueker stated in the past there has been informal discussion about changing the City Council meeting date from Monday to an alternative day. The benefits of a Tuesday/Wednesday meeting include the following:

- Monday conflicts with several holidays and as a result the meeting is occasionally set on another day.
- Currently the agenda packets are available by 5:00 p.m. on Wednesday, leaving Thursday, Friday and Monday for questions of staff. With staff scheduling Friday and Monday, often those days are difficult to arrange a meeting, leaving little time for the Mayor and Council to read and formulate questions on the agenda packet. Tuesday/Wednesday meetings would provide two extra days for staff availability.
- A Monday meeting following a weekend, may limit the amount of time the Mayor and City Council members have to review the packet prior to the meeting.

Should the City Council determine to move forward with changing the meeting day, staff will bring back an ordinance to amend the Morro Bay Municipal Code Section 2.08.010. As the City Council is aware an addition/amendment to the Municipal Code is not immediate and will not take effect until 30 days after the second reading. As a result, Ms. Lueker recommended the City Council take action tonight to reschedule the January 10, 24, February 14, 28 and the March 14 meeting dates if Council chooses to change these meeting dates.

MOTION: Councilmember Borchard moved the City Council move its regularly scheduled meetings from the 2<sup>nd</sup> and 4<sup>th</sup> Monday of each month to the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of each month beginning in January 2011. The motion was seconded by Councilmember Johnson and carried unanimously. (5-0)

D-5 APPOINTMENT OF VICE-MAYOR AND APPOINTMENT OF REPRESENTATIVES ON DISCRETIONARY BOARDS, COUNCIL LIAISON ASSIGNMENTS AND COUNCIL SUB-COMMITTEES; (ADMINISTRATION)

Based on Council Policies and Procedures Section 3.2, Councilmember Smukler was appointed to serve as Vice-Mayor for a one-year term.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – DECEMBER 13, 2010

The following appointments were made on Discretionary Boards:

INTEGRATED WASTE MANAGEMENT AUTHORITY

Carla Borchard	Designee
Nancy Johnson	Alternate

COUNTY WATER RESOURCES ADVISORY COMMITTEE

Noah Smukler	Delegate
City Manager (or her designee)	Alternate

SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY (SLORTA) &  
SAN LUIS OBISPO AREA COORDINATING COUNCIL (SLOCOG)

Bill Yates	Delegate
Carla Borchard	Alternate

CMC CITIZENS' ADVISORY COMMITTEE (2-year term)

Carla Borchard	Member
----------------	--------

AIR POLLUTION CONTROL DISTRICT

Noah Smukler	Member
--------------	--------

COMMUNITY ACTION PARTNERSHIP OF SAN LUIS OBISPO COUNTY, INC.  
(formerly EOC) - (3-year term)

Carla Borchard	Member
----------------	--------

ECONOMIC VITALITY CORPORATION

George Leage	Member
Nancy Johnson	Alternate

NATIONAL ESTUARY PROGRAM

Noah Smukler	Member
Carla Borchard	Alternate

CITY SELECTION COMMITTEE (as needed)

Bill Yates	Member
Noah Smukler	Alternate

LEGISLATIVE DELEGATE (as needed)

Bill Yates	Member
Noah Smukler	Alternate

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – DECEMBER 13, 2010

The following City Council Liaison Assignments were made to City Committees and Boards:

HARBOR ADVISORY BOARD

Carla Borchard Liaison

RECREATION AND PARKS COMMISSION

Nancy Johnson Liaison

PUBLIC WORKS ADVISORY BOARD

Noah Smukler Liaison

COMMUNITY PROMOTIONS COMMITTEE

George Leage Liaison

MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT BOARD

Bill Yates Liaison

The following appointments were made on City Council Sub-Committees:

COUNCIL SUBCOMMITTEE ON EMPLOYEE GRIEVANCES

Nancy Johnson Member

Carla Borchard Member

JPA SUB-COMMITTEE

Bill Yates Member

George Leage Member

MEDICAL MARIJUANA DISPENSARY (MMD) SUB-COMMITTEE

Bill Yates Member

Noah Smukler Member

SAN LUIS OBISPO COUNTY HOUSING TRUST FUND

George Leage Member

GOVERNING BODY OF THE SAN LUIS OBISPO COUNTY 10-YEAR PLAN TO  
END HOMELESSNESS

Nancy Johnson Member

George Leage Alternate

MOTION: Councilmember Johnson moved the City Council approve the appointments made to the various County/Regional Discretionary Boards, Council Liaison Assignments and Sub-Committees. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – DECEMBER 13, 2010

D-6 SCHEDULE A DATE FOR INTERVIEWS OF COMMISSIONER/ADVISORY BOARD VACANCIES; (ADMINISTRATION)

The City Council scheduled interviews to fill vacancies on the above-stated Commissions and Advisory Boards for Monday, January 24, 2011 beginning at 5:00 p.m., to be held in the Veterans' Memorial Building.

E. DECLARATION OF FUTURE AGENDA ITEMS

Mayor Yates requested the following:

- 1) simplify the arcade licensing requirements by removing the condition requiring annual review and approval by the City Council;
- 2) simplify the taxi business requirements;
- 3) remove City Council and Planning Commission Policies and Procedures from the Municipal Code;
- 4) clarification on City Council Policies and Procedures 1.1.2 – Placing an Item on the Agenda;

(Mayor Yates received Council consensus on the above items)

- 5) place the Sign Ordinance on the top of the Planning Division's agenda;

(Mayor Yates will prepare a report on this item.)

Councilmember Borchard requested to bring back the Parking Ordinance for North Main Street for non-conforming or grandfathering parking requirements;

(Councilmember Borchard received Council consensus for this item.)

Councilmember Johnson requested a discussion on waiving fees for building impact fees for the next five years for commercial buildings in the downtown area, Morro Bay Boulevard from the roundabout to Market Street to Main Street north of the City limits and Quintana Road;

(Councilmember Johnson received Council consensus for this item.)

Councilmember Leage requested a discussion on a marketing position to market Morro Bay;

(Councilmember Leage received Council consensus for this item.)

ADJOURNMENT - The meeting adjourned at 8:35 p.m.

Recorded by:

Jamie Boucher  
Deputy City Clerk