

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – MAY 10, 2011
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 Johnson moved the meeting be adjourned to Closed Session. The motion was seconded by Councilmember Borchard and unanimously carried. (5-0)

Mayor Yates 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.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:40 p.m.

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

The meeting adjourned at 5:40 p.m.

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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
	Bridgett Kessler	City Clerk
	Damaris Hanson	Engineering Technician III
	Susan Lichtenbaum	Harbor Business Manager
	Rob Livick	Public Services Director
	Tim Olivas	Police Chief
	Mike Pond	Fire Chief
	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

Bob Gayle, Met Life Bank, reviewed the reverse mortgage home loans that are offered by Met Life Bank.

Christine Johnson, President of Friends of the Library, announced an Open House at the Morro Bay Wine Cellar on May 13th which 20% of the proceeds for that evening go towards the library; and, a library book sale which will be held at the Community Center on May 14th.

John Solu demonstrated how different boards and organizations in Morro Bay tend to promote tourism in various ways and said it needs to be redirected. He also reviewed fees that are paid by the Morro Bay Tourism Business Improvement District.

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Gary Hixon announced his shows that air on a local television channel, and that he will be performing in some local plays.

Bill Martony referred to the Navy off-loading facility property on Zanzibar Street and noted the City did have correspondence on file with the U.S. Government regarding this property.

Barry Branin stated the JPA meeting agenda for Thursday, May 12th is on the website CWWMB.INFO “Citizens for a More Affordable Waste Water Treatment Plant in Morro Bay.” He said this website is a place where people can share ideas on this issue.

David Nelson referred to the initiative on the power plant as well as the 2010 initiative regarding the ban on medical marijuana dispensaries in Morro Bay. He said Council’s action at the April 26th meeting regarding medical marijuana dispensaries went against the majority vote of the citizens in Morro Bay and was an embarrassment of the democratic process.

John Weiss referred to Item D-1 (Draft Sign Ordinance) stating there may be some need for outreach, and he hopes Council will work with the businesses in the City regarding this issue.

Betty Winholtz asked when Council will be reviewing the fiscal year budget; she’s interested in the Harbor budget especially with the recent improvements on the Embarcadero. She addressed Item D-1 and expressed concern that there was a meeting held without public notice to discuss this issue. Ms. Winholtz referred to new generators being installed at the power plant, and asked if a permit from the City was issued and what impact will this have on the outfall lease.

John Barta addressed Item D-1 stating the Planning Commission spent several years reviewing the City’s Sign Ordinance in great detail prior to 2004. He requested Council acknowledge the different districts in the City which have various signage needs.

Liz Bednorz, Beach House Bistro, addressed Item D-1 and requested Council considers the different signage needs of the businesses in various parts of the City.

Andreas Model, Pedals and Paddles, announced he opened a new store in Morro Bay that carries bikes and kayaks.

Garry Johnson expressed concern over the negative publicity received by a Councilmember for not attending a recent JPA meeting but instead going to Washington DC and meeting with City representatives.

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Barbara Doerr addressed Item D-1 and stated although she does not like sandwich board signs, sometimes they are needed to promote business.

Susan Stewart gave an update on the Community Promotions Committee, including: the transition with the new advertising agency, review of the Community Promotions Committee By-Laws, consideration of working with a film commission, and streamlining the process with the Tourism Business Improvement District Advisory Board.

Mayor Yates closed the hearing for public comment.

Mayor Yates called for a break at 6:52 p.m.; the meeting resumed at 7:05 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 MEETINGS OF APRIL 12, 2011 AND APRIL 26, 2011; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 UPDATE ON CURRENT LEGISLATIVE BILLS PENDING IN SACRAMENTO AND REPORT ON CALIFORNIA LEGISLATIVE ACTION DAYS; (CITY ATTORNEY)

RECOMMENDATION: Review the report, and if there are any pending Legislative Bills that are of interest or concern, discuss them with the City Attorney.

A-3 ACCEPTANCE OF OFFERS OF DEDICATION FOR PROJECTS LOCATED AT 962 PINEY WAY (ST. TIMOTHY'S) AND 1478 QUINTANA ROAD (ROCK HARBOR CHRISTIAN FELLOWSHIP); (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 34-11 accepting the Offer of Dedication for public pedestrian easement purposes for 962 Piney Way; and, adopt Resolution No. 31-11 for Right of Way and Utility Easement purposes for 1478 Quintana Road.

A-4 AWARD OF MARKETING CONTRACT TO BARNETT COX;
(ADMINISTRATION)

RECOMMENDATION: This item has been pulled from the agenda.

A-5 PROCLAMATION DECLARING MAY 2011 AS "NATIONAL DROWNING
PREVENTION MONTH"; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

A-6 PROCLAMATION DECLARING THE WEEK OF MAY 15 – 21, 2011 AS
“POLICE WEEK”; (POLICE)

RECOMMENDATION: Adopt Proclamation.

Councilmember Borchard pulled Item A-1 from the Consent Calendar.

MOTION: Councilmember Borchard moved the City Council approve the Consent Calendar with the exception of Item A-1. The motion was seconded by Councilmember Johnson and carried unanimously. (5-0)

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETINGS
OF APRIL 12, 2011 AND APRIL 26, 2011; (ADMINISTRATION)

Councilmember Borchard requested a correction to the minutes of April 26, 2011, page 7 as follows:

MOTION: Councilmember Smukler moved the City Council direct staff to initiate an amendment to the zoning ordinance that will give a better management policy for location of the potential medicinal marijuana dispensaries. The motion was seconded by Councilmember **Borchard Johnson**.

Mayor Yates stated he will not support this motion.

VOTE: The motion failed with Councilmember **Borchard Johnson**, Councilmember Leage and Mayor Yates voting no. (2-3)

MOTION: Councilmember Borchard moved the City Council approve Item A-1 of the Consent Calendar as amended. The motion was seconded by Mayor Yates and carried unanimously. (5-0)

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B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 REQUEST FOR APPROVAL TO CONSTRUCT A 23-UNIT COMMUNITY HOUSING PROJECT WITH EXCEPTIONS AND ASSOCIATED ENVIRONMENTAL DOCUMENTS LOCATED AT 2400 MAIN STREET (UP0-086, CP0-130, SOO-048); (PUBLIC SERVICES)

Planning Manager Kathleen Wold stated the project consists of the construction of a 23-unit community housing project on individual lots clustered in seven groups and one lot for common access, landscaping and general common area. The proposed project seeks exceptions for the following: interior yard setbacks between units, lot coverage, lot size, reduced open space, reduced parking and the commercial requirement for mixed-use (commercial/residential) area "F". The proposal includes the provision of 2.3 units of affordable housing to meet the City's inclusionary requirements with two affordable units at the moderate rate and the .3 unit to be provided via the City's in-lieu fee program. As designed, the proposed residential development requires multiple exceptions to City standards including by not limited to elimination of commercial uses, reduced common open space, zero-setbacks between units, reduction of parking stalls below the minimum requirement. Ms. Wold recommended the City Council conditionally approve the Tentative Subdivision Map (S00-048), Use Permit (UP0-086) and Coastal Development Permit (CP0-130) subject to the Findings contained in the Exhibits and Conditions of Approval provided in the staff report.

Cathy Novak, representing the applicant, stated this project is zoned MCR/R-4 with the North Main Street Specific Plan Overlay; which means a project can be a mixed commercial residential or high density residential project. The project proposes a zero lot line concept, and the townhouse design will have a small air space between units and ownership of the ground below. The project as proposed has a total of 24 lots. There are 23 individual lots that vary in size from 925 sq. ft. to approximately 2,500 sq. ft. and the 24th lot is the access and common open area. The Compact In-Fill Development requires a minimum of 1,500 sq. ft. while the Community Housing does not specifically address this. The project design has the ability to eliminate the 24th lot and by doing so, each lot would then meet the standard (this would create the need for multiple easements for access and maintenance and would become very difficult for each of the owners.) The project has been designed with roofline variations and open space between the building clusters. There are no regulations that protect private views but, there are codes in place to protect public views in the scenic areas. The parking requirements for the Community Housing and the Compact In-Fill Development are different. Under the Community Housing standard the project as modified by the Planning Commission has 9 more spaces on-site than required. Under the Compact In-Fill Development standard, the project is 3 spaces short of the requirement. The applicant agrees with the Planning Commission and believes there is adequate parking on-site to accommodate the units. The code requires a 50% commercial component; there are regulations and policies that allow for an exception to this standard.

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Ms. Novak stated as an incentive to provide affordable housing, the Council may grant an exception to the standard. There are General Plan and Housing Element Policies that support a 100% residential project. She said the North Main Street Specific Plan states, more than once in the document, that “The MCR Zone allows retail and service commercial uses, mixed commercial and residential or exclusive residential use”. Ms. Novak noted the traffic; parking and visual impact on a project with 50% commercial would be more significant than 100% residential. She requested Council look at the overall objectives and intent of the General Plan, Housing Element and other City policies. Ms. Novak stated the community is benefiting from this project in many ways and therefore the exceptions the applicant is requesting are reasonable and should be supported as designed and reiterated it is impossible for a project such as this to meet the City codes without requesting any exceptions. She noted the applicant is supportive of the project conditions as recommended by the Planning Commission and requested the City Council’s support.

Mayor Yates opened the hearing for public comment.

Liz Bednorz expressed concern with this proposed housing project stating this part of town is getting overly congested with compact housing. She asked why approve to build more housing when there are already so many houses on the market for sale.

David Nelson stated this proposed project has many deficiencies in City policies. He said this is a commercially-zoned lot which a hotel could be built that would collect transient occupancy tax for the City. Mr. Nelson stated this proposed project is going to create a congested ugly neighborhood.

Conrad Michel stated he submitted a petition to the Planning Commission in opposition to this proposed project, which was also submitted to the City Council along with an addendum. He said a proposed project has to be compatible and blend in with the neighborhood which this project does not. Mr. Michel requested the City Council overturn this project.

Betty Winholtz requested clarification on the abandonment on a portion of Main Street. She asked if the 25-foot height limit was based on natural grade. Ms Winholtz asked what the purpose of the retaining wall was, and where and how high would the wall be. She said this project does not meet City General Plan and Local Coastal Plan codes. Ms. Winholtz stated in order to be business friendly this property should remain a commercially-zoned property.

Mayor Yates closed the hearing for public comment.

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Councilmember Smukler stated there are a lot of concessions being given to this applicant with not a lot of guarantees being returned. He said he does not like giving away the commercial usage of this lot which is located on a very scenic and visible area of Highway One and Main Street. He also expressed concern with the public transportation component. Councilmember Smukler stated in order to make this a viable project he would like to place conditions such as addressing resource efficiencies with water retrofitting the toilets and irrigation systems; and increase the number of affordable units.

Councilmember Leage stated there are projects needed in this part of North Morro Bay. He said he would like to see some changes made to this project, noting there are too many units being proposed. Councilmember Leage stated this property should either be all commercial or all residential use.

Mayor Yates stated he does not support mixed-use commercial/residential zoning in this location, and noted the residential use would be appropriate.

Councilmember Johnson stated she would like to see North Morro Bay become a walk-able community. She said the use of public transportation is important and there should be a bus stop with a covered bench and trash can near this location. Councilmember Johnson stated infill development is better than building up on the beautiful green hills within the City. She said the one-bedroom units should be built within one year, and those funds should go into the City's Affordable Housing In-Lieu Fund.

Councilmember Borchard stated commercial uses have struggled to stay viable in the recent economy. She said she would rather place the funds from the smaller units into the City's Affordable Housing In-Lieu Fund, which could assist with low-income housing in the future. Councilmember Borchard stated she would prefer the project offer 2.5 units in value of affordable housing to go into the fund. She said she would like pavers to be used in the common area. Councilmember Borchard stated she supports a residential project in this area.

Mayor Yates called for a break at 8:43 p.m.; the meeting resumed at 8:57 p.m.

Councilmember Leage stated he would like the proposed retaining wall on Bonita Street to be made more aesthetically pleasing, reduce the amount of units and add more parking.

Councilmember Smukler stated conditions need to be made on the density of this project by reducing the size of some of the units that will increase parking and open space of the project.

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Councilmember Johnson stated she would support a reduction in square footage of the larger units by a specific amount. She would also support giving the applicant the option of paying 2.5% towards affordable housing or deed restricting the two affordable housing units.

Mayor Yates stated the parking spaces should go with the property or it should be the equivalent of guest parking. He said he agrees the retaining wall on Bonita Street should be reconfigured to be more appealing to the neighborhood.

Councilmember Borchard stated by reducing the square footage of the four larger units would add three more parking spaces.

MOTION: Councilmember Borchard moved the City Council approve the construction of a 23-unit community housing project with exceptions and associated environmental documents located at 2400 Main Street, Tentative Subdivision Map (SOO-048), Use Permit (UPO-086) and Coastal Development Permit (CPO-130), with the additional conditions: 1) type of landscape and façade articulation on the Bonita Street side of the project; 2) add an additional three (3) parking spaces of approximately 600 square feet and approximately 600 square feet of additional open space ; 3) the affordable housing units to be 2.5, either two (2) units on-site at moderate rate and half (.5) of a unit paid into the City's Affordable Housing In-Lieu Fund, or the option of the developer to pay the 2.5 into the Affordable Housing In-Lieu Fund; and, 4) the project would be built no later than one (1) year from the date of the first Certificate of Occupancy of the housing project. The motion was seconded by Councilmember Johnson.

Councilmember Smukler requested a condition be added addressing public transportation.

Councilmember Borchard amended her motion to include a larger bike rack on-site; Councilmember Johnson amended her seconded.

VOTE: The motion carried with Councilmember Leage and Councilmember Smukler voting no. (3-2)

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B-2 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 567
REPEALING, AMENDING AND REENACTING CHAPTER 14.48 OF THE
CITY OF MORRO BAY MUNICIPAL CODE, ENTITLED ILLICIT
DISCHARGE AND STORMWATER MANAGEMENT CONTROL; (PUBLIC
SERVICES)

Public Services Director Rob Livick stated the National Pollutant Discharge Elimination System (NPDES) permit for Stormwater discharges requires the City to adopt an ordinance prohibiting illicit discharges with enforcement provisions. The ordinance is required to include provisions for non-stormwater illicit discharges, animal wastes and stormwater management control. Since the City's adopted Stormwater Management Plan was adopted by the City Council and permitted by the Water Board on February 17, 2009, the City has been implementing the Stormwater Management Plan. One of the implementing measures required in the Stormwater Management Plan is the Illicit Discharge Ordinance. Mr. Livick recommended the City Council approve the introduction and first reading of Ordinance No. 567 entitled Illicit Discharge and Stormwater Management Control by number and title only.

Mayor Yates opened the hearing for public comment.

John Barta stated the City is required to pass an ordinance, but it is not required to pass this Ordinance. He reviewed regulations for different areas noting it is only necessary for Morro Bay to meet the minimum requirements. He said this Ordinance will create a problem for future development in the City.

Mayor Yates closed the hearing for public comment.

MOTION: Councilmember Johnson moved the City Council approve the introduction and first reading of Ordinance No. 567 entitled Illicit Discharge and Stormwater Management Control by number and title only. The motion was seconded by Councilmember Smukler.

Councilmember Borchard requested the motion include the amendment that the engineering standards meet the minimum rainfall requirements.

Councilmember Johnson accepted the amendment to her motion; Councilmember Smukler accepted the amendment to his second.

VOTE: The motion carried with Councilmember Leage and Mayor Yates voting no. (3-2)

City Manager Andrea Lueker read Ordinance No. 567 by number and title only.

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B-3 RESOLUTION NO. 25-11 DECLARING THE INTENTION TO CONTINUE THE PROGRAM AND ASSESSMENTS FOR THE 2011/12 FISCAL YEAR FOR THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT; (ADMINISTRATIVE SERVICES)

City Manager Andrea Lueker stated State law requires the City Council to annually renew business improvement districts and receive annual reports for each fiscal year; those reports were provided to Council at the April 12th Council meeting. Ms. Lueker recommended the City Council hold the public hearing to receive testimony for and/or against the renewal of the Morro Bay Tourism Business Improvement District, then adopt, reject or amend Resolution No. 25-11 as appropriate.

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

MOTION: Councilmember Borchard moved the City Council adopt Resolution No. 25-11 declaring the Intention to Continue the Program and Assessments for the 2011/12 Fiscal Year for the Morro Bay Tourism Business Improvement District. The motion was seconded by Councilmember Johnson and carried unanimously. (5-0)

B-4 RESOLUTION APPROVING THE ENGINEERS REPORT AND DECLARING THE INTENT TO LEVY THE ANNUAL ASSESSMENT FOR THE CLOISTERS LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods on April 12, 2011, the City Council adopted Resolution No. 28-11, which initiated the proceedings to levy the annual assessment to fund the maintenance of the Cloisters Park and Open Space. Additionally, staff was directed to have an Engineer's Report prepared, detailing the estimated annual assessment for the parcel owners for fiscal year 2011/12. Upon adoption of Resolution No. 32-11, the next and final step in the annual levy of assessment process is the protest hearing/public hearing after which the City Council actually orders the levy of assessment. Mr. Woods recommended the City Council adopt Resolution No. 32-11 declaring the intent to levy the annual assessment for the maintenance of the Cloisters Park and Open Space and approving the Engineers Report.

Mayor Yates opened the hearing for public comment.

Robert Bacon showed pictures of landscaping in Cloisters Park and Open Space noting weeds shown in 2010 are still there in 2011.

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Dawn Beattie stated the homeowners would like to have a meeting with staff regarding the assessment prior to it being levied.

Mayor Yates closed the hearing for public comment.

Mayor Yates stated after receiving numerous complaints from residents and driving through the Cloisters to view the Park and Open Space, he is going to stop supporting this assessment. He noted this decision is made after many years of receiving the same complaints and he has lost patience with this assessment. Mayor Yates stated he is not in favor of this type of assessment in general because he does not pay an assessment for the use of parks throughout the City.

Councilmember Smukler stated the Recreation & Parks Department has had to make some changes due to depleted resources and an increase in costs. He said there are going to be higher costs due to the age of the landscape and to maintain the quality of the area.

MOTION: Councilmember Smukler moved the City Council adopt Resolution No. 32-11 declaring the intent to levy the annual assessment for the maintenance of the Cloisters Park and Open Space and approving the Engineers Report. The motion was seconded by Councilmember Borchard.

VOTE: The motion failed with Councilmember Johnson, Councilmember Leage and Mayor Yates voting no. (2-3)

Council discussed the ramification of the motion.

City Attorney Robert Schultz recommended the City Council approve Resolution No. 32-11; give staff 30 days to meet with homeowners of Cloisters to discuss the needs of the assessment district; and, consider giving staff six months with perhaps a six month extension before eliminating the assessment district.

Mayor Yates reiterated staff has 30 days before the final assessment comes before Council, and must show some evidence to gain his support.

MOTION: Mayor Yates moved the City Council reconsider the Resolution Approving the Engineers Report and Declaring the Intent to Levy the Annual Assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District. The motion was seconded by Councilmember Leage and carried unanimously. (5-0)

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MOTION: Councilmember Smukler moved the City Council adopt Resolution No. 32-11 declaring the intent to levy the annual assessment for the maintenance of the Cloisters Park and Open Space and approving the Engineers Report; and, direct staff to move forward with communications with the homeowners of Cloisters to develop priorities and plans for the maintenance of this assessment district. The motion was seconded by Councilmember Johnson and carried unanimously. (5-0)

B-5 RESOLUTION APPROVING THE ENGINEERS REPORT AND DECLARING THE INTENT TO LEVY THE ANNUAL ASSESSMENT FOR THE NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods stated on April 12, 2011, the City Council adopted Resolution No. 29-11, which initiated the proceedings to levy the annual assessment to fund the maintenance of the North Point Natural Area. Additionally, staff was directed to have an Engineer's Report prepared, detailing the estimated annual assessment for the parcel owners for fiscal year 2011/12. Upon adoption of Resolution No. 33-11, the next and final step in the annual levy of assessment process is the protest hearing/public hearing after which the City Council actually orders the levy of assessment. Mr. Woods recommended the City Council adopt Resolution No. 33-11 declaring the intent to levy the annual assessment for the maintenance of the North Point Natural Area and approving the Engineers Report.

Mayor Yates opened the hearing for public comment.

Taylor Newton stated as a landscaper there are inefficiencies in the landscape scheme at the North Point Natural Area.

Mayor Yates closed the hearing for public comment.

MOTION: Mayor Yates moved the City Council adopt Resolution No. 33-11 declaring the intent to levy the annual assessment for the maintenance of the North Point Natural Area and approving the Engineers Report. The motion was seconded by Councilmember Leage and carried unanimously. (5-0)

C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS

D-1 DRAFT SIGN ORDINANCE; (PUBLIC SERVICES)

This item was continued to the May 24, 2011 City Council meeting as a public hearing.

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E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Smukler requested to agendaize a discussion on the toilet retrofit program;
Council concurred.

ADJOURNMENT

The meeting adjourned at 10:28 p.m.

Recorded by:

Bridgett Kessling
City Clerk