

MINUTES - MORRO BAY CITY COUNCIL  
CLOSED SESSION – SEPTEMBER 13, 2011  
CITY HALL CONFERENCE ROOM - 4:00 P.M.

Mayor Yates called the meeting to order at 4:00 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

Mayor Yates adjourned the meeting to Closed Session and read the Closed Session Statement.

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 at 4:50 p.m.

This meeting adjourned to the Joint City Council/Planning Commission meeting beginning at 5:00 p.m. and located at the Veterans' Memorial Hall, 209 Surf Street, Morro Bay, California.

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REGULAR MEETING – SEPTEMBER 13, 2011  
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 Kessling	City Clerk
	Eric Endersby	Harbor Operations Manager
	Susan Lichtenbaum	Harbor Business Manager
	Tim Olivas	Police Chief
	Mike Pond	Fire Chief
	Susan Slayton	Administrative Services Director
	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; this item will be heard under Item B-1 of tonight's agenda.

PUBLIC COMMENT

Keith Taylor announced the groundbreaking ceremony for the Fire Station 53 Project will be held on February 14<sup>th</sup> at 12:30 p.m.; he gave thanks to those who voted for Measure Q in order to make this happen.

Gregg Cobarr, owner of Cal Coast Trade, stated his organization is made up of owners of businesses who trade their products and services, and through the internet, they are also able to place their trade funds into difference accounts. He said this organization is a part of a network of 50,000 businesses around the United States. Mr. Cobarr stated one of his goals is to bring awareness of what Morro Bay has to offer to these business owners and perhaps feature a function here in Morro Bay.

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Hank Roth stated September 18-24<sup>th</sup> is “Child Passenger Safety Week”. He said there will be a Child Safety Seat Belt Check on Saturday, September 24<sup>th</sup> at Target in San Luis Obispo.

Paula Hewlett, Pastor for Estero Bay United Methodist Church, announced there will be a Hunger Walk on Sunday, September 25<sup>th</sup> and all donations will go to the Food Bank Coalition.

Lexie Bell, Assistant Director of the National Estuary Program, stated they are updating the Estuary Management Plan, and will be holding a public meeting on September 29<sup>th</sup> at the Sea Pines Golf Resort to discuss and give an update on the Plan.

Hunter Fitzpatrick announced the Harbor Festival is three weeks away and reviewed the music headliners and scheduled events.

Craig Schmidt, Chamber of Commerce CEO, stated the first annual Chamber of Commerce tri-mixer is scheduled on Thursday, September 15<sup>th</sup> with Morro Bay, Cayucos and Los Osos Chambers meeting at the Boatyard in Morro Bay. He also announced the fifth annual Avocado/Margarita Festival will be held on Saturday, September 17<sup>th</sup>.

Linda Winters stated there is a new campaign to save the State Parks from closing in California. She requested people go onto the website ([Save-State-Park.org](http://Save-State-Park.org)) and sign the e-petition to save the State Parks, and also sign for passage of AB-42.

Taylor Newton, Member of the Tree Committee, announced fall is upon us and it is a good time to plant a tree. He also announced the “Adopt-a-Tree” campaign in Morro Bay, and citizens can sign up to adopt a tree in the City and be responsible for its maintenance.

Melissa Peters, County Tobacco Control Coalition, congratulated Morro Bay for its ban on smoking on public beaches and t-piers. She said the Tobacco Control Program thanks the City of Morro Bay for providing its citizens with a smoke-free community.

Katy Lot, County Tobacco Control Coalition, recognized the Duncan Group who has provided a healthier environment with smoke-free living properties.

Betty Winholtz addressed Item A-4 (Request to Approve a Response to the Grand Jury Regarding Rate-Setting as a Water Conservation Tool), and referred to Grand Jury Recommendation #6 “.... Morro Bay... Should consider revising sewer bills to show that water usage affects sewer charges”.

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Ms. Winholtz stated that changing the rates is a policy decision. She said this recommendation should be implemented now because the City's current policy is to increase the rates a certain percentage every year until the Wastewater Treatment Plant upgrade. Ms. Winholtz noted the Grand Jury states there is no reference to the rate in the sewer bills, which is not informative. She said conservation is the City's #1 method to water management. By not implementing a change in the bills now, the City is not fulfilling its own approved Water Management Plan. Ms. Winholtz encouraged the City Council to change the City's response to Grand Jury Recommendation #6 in order to implement this policy by the end of this year.

Mayor Yates closed the hearing for public comment.

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 THE MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF AUGUST 23, 2011; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 RESOLUTION AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO 2011/2012 ABANDONED WATERCRAFT ABATEMENT FUND CONTRACT WITH THE DEPARTMENT OF BOATING AND WATERWAYS; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 63-11.**

A-3 CONSIDERATION OF APPROVAL FOR A SUBLEASE ON A PORTION OF LEASE SITE 110-112/110W-112W AND 111.5W, LOCATED ADJACENT TO 1185 EMBARCADERO, BETWEEN GREAT AMERICAN FISH COMPANY, INC. AND VIRG'S LANDING, INC.; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 64-11.**

A-4 REQUEST TO APPROVE A RESPONSE TO THE GRAND JURY REGARDING RATE-SETTING AS A WATER CONSERVATION TOOL; (ADMINISTRATION)

**RECOMMENDATION: Direct staff to send a letter to the Presiding Judge of San Luis Obispo County Superior Court responding to the Grand Jury reports entitled "Rate-Setting as a Water Conservation Tool".**

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A-5 CONSIDERATION OF AN ADVISORY BOARD MIXER;  
(ADMINISTRATION)

**RECOMMENDATION: Direct staff to arrange an Advisory Board Mixer in late January/early February 2012.**

A-6 APPOINTMENT OF ALTERNATE MEMBER TO THE AIR POLLUTION  
CONTROL DISTRICT; (MAYOR)

**RECOMMENDATION: Appoint the Mayor as the alternate member to the Air Pollution Control District.**

Mayor Yates pulled Item A-3 from the Consent Calendar; Councilmember Smukler pulled Item A-4.

MOTION: Councilmember Johnson moved the City Council approve the Consent Calendar with the exception of Items A-3 and A-4. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

A-3 CONSIDERATION OF APPROVAL FOR A SUBLEASE ON A PORTION OF  
LEASE SITE 110-112/110W-112W AND 111.5W, LOCATED ADJACENT TO  
1185 EMBARCADERO, BETWEEN GREAT AMERICAN FISH COMPANY,  
INC. AND VIRG'S LANDING, INC.; (HARBOR)

Councilmember Leage stepped down from this item due to a conflict of interest.

MOTION: Councilmember Borchard moved the City Council approve Item A-3 of the Consent Calendar. The motion was seconded by Councilmember Smukler and carried unanimously. (4-0-1)

A-4 REQUEST TO APPROVE A RESPONSE TO THE GRAND JURY REGARDING  
RATE-SETTING AS A WATER CONSERVATION TOOL; (ADMINISTRATION)

Councilmember Smukler suggested implementing an amendment to Responses #3 and #6 to the Grand Jury request regarding rate-setting as a water conservation tool to enhance awareness that citizens are able to gather on their water bills. He referred to Response #3: ***“The City Council will consider this issue when water rates are revised.”*** Councilmember Smukler suggested the response state: ***“The City Council will implement this change.”***

City Manager Andrea Lueker stated this amendment could create a problem with the City’s billing software and how the bills are generated.

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Consensus of the majority of Council was to maintain Response #3 as written.

Councilmember Smukler referred to Response #6: *“The City Council will consider this issue when sewer rates are reviewed,”* and suggested amending this response as another form of conservation awareness. He suggested the Response be amended to read: *“The City Council will implement this issue as soon as feasible or when sewer rates are revised.”*

MOTION: Councilmember Smukler moved the City Council approve Item A-4 of the Consent Calendar with the amendment to Response #6. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

Mayor Yates called for a break at 6:45 p.m.; the meeting resumed at 7:00 p.m.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 RESOLUTION NO. 65-11 APPROVING THE ADOPTION OF THE TERMS AND CONDITIONS OF EMPLOYMENT FOR THE SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 620, AND THE CITY OF MORRO BAY; (ADMINISTRATION)

City Manager Andrea Lueker stated the contract with the SEIU employees expired on June 30, 2011. Contract negotiations began February 3, 2011, with the final of five meetings held on July 21, 2011. Unable to come to any mutual settlement, Impasse was declared by SEIU. Per the City’s Impasse Procedures, SEIU waived the initial meeting with the City Manager, and requested to move directly to a meeting with the State-appointed Mediator. On August 26<sup>th</sup>, the State Mediator met with the SEIU Local 620 Chief Negotiator, Mike Woods, SEIU Local 620 negotiation team, the City’s Chief Negotiator, Bill Avery, and Human Resources Analyst Jamie Boucher. No agreement was able to be reached, and as a result, staff is presenting to the City Council Resolution No. 65-11, requesting unilateral adoption of the compensation and working conditions for the SEIU, Local 620 employees for the period of September 13, 2011 to June 30, 2012, consistent with the direction provided by the City Council. Ms. Lueker recommended the City Council adopt Resolution No. 65-11, which establishes the compensation and working conditions for the SEIU, Local 620 employees of the City of Morro Bay for the term of September 13, 2011 through June 30, 2012.

Mike Woods, SEIU Local 620 representative, stated at the last negotiation meeting, the City representatives gave the SEIU their last best and final offer, which was interpreted that the City was unwilling to move from their original offer that was proposed at the beginning of negotiations. He said the City declared impasse procedures. During the mediation process, the State mediator and the union made an offer to continue the contract as status quo for one year. Mr. Woods stated the City declined this offer. He said the SEIU employees feel the original and last, best and final offer of the City is unfair.

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Mr. Woods stated the City feels the two-tier retirement system will save the City economically in the short-term; however, there will be no real savings until new employees are hired and they retire at least 10+ years from now. He reviewed salaries between management employees vs. SEIU employees. Mr. Woods stated a disadvantage of the two-tier retirement system and low wages is that the City will become a training place for employees who will look for employment elsewhere.

Mayor Yates opened the hearing for public comment.

Mike Mobley stated he has been at the bargaining table with the management team who is proposing to increase the cost of SEIU employees' PERS retirement along with cuts to their income and insurance rate increases. He said the SEIU employees are some of the lowest paid employees in the County and cannot afford cuts to their salaries. Mr. Mobley requested the City Council amend the management proposal and to bargain for a fair and equitable contract.

John Gunderlock stated he does not understand why the City paid for an outside negotiator when they did not negotiate past the original offer. He also does not understand why the City is balancing the budget on the backs of hardworking City employees who are already the lowest paid public employees in the State. Mr. Gunderlock stated they do not pay into social security and PERS retirement is all they have. He said the SEIU employees are the ones that produce safe drinking water, protect the health and safety of the environment, and maintenance of the City for the residents and tourists that visit.

Evan Buddenhagen stated to balance the budget on the lowest paid employees is counter-productive, and the two-tier retirement system will hurt the future of Morro Bay. He said the City Council has the duty to make-up a budget short-fall and exhaust all possibilities and enact the best interest of the community by not adopting the two-tiered retirement system. Mr. Buddenhagen stated there would be an immediate savings with cuts to the top management employee salaries and it would reduce the burden on the PERS retirement system.

Phillip Carey stated the residents should receive services from well-paid employees. He said cutting salaries from some of the most important employees that deal with water, wastewater and collections in the City are the people who protect the City from potential dangerous diseases. Mr. Carey asked how the City can cut salaries from the employees that keeps the City functioning.

Betty Winholtz stated the goal is to have a balanced budget. She said the City Council and management employees are some of the highest paid in the State, and they should look elsewhere to balance the budget. Ms. Winholtz requested the City Council reconsider the proposed contract offered to the SEIU employees.

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Polly Curtis stated the harbor patrol officers deserve a fair and current salary and retirement package. She requested the City Council continue their contract for one year.

Devon Francis stated if a 2% salary cut is going to affect the City's budget that much, and then the City has much larger issues to consider.

Roger Ewing stated this is all about fairness and everyone is connected to the global economy. He urged Council to be fair to the lowest paid employees who have the same living expenses as the highest paid employees.

Mayor Yates closed the hearing for public comment.

Councilmember Smukler stated he supports the two-tier retirement formula. He said it is important to stabilize and maintain an operational balanced budget. Councilmember Smukler stated this is a one year contract and the adjustments will help avoid lay-offs in the future. He said it is important to note that employees across the board have made the same sacrifices. Councilmember Smukler stated he supports moving forward with the proposed contract.

Councilmember Leage stated he appreciates the employees and this is a tough decision. He said it is important to avoid any future lay-offs.

Mayor Yates stated he will not support this contract as proposed. He said he supports the two-tier retirement proposal, but not the 2% reduction in pay.

Councilmember Johnson stated the two-tier retirement proposal is for future savings. She said it is important to know that there were no lay-offs proposed this year. Councilmember Johnson stated the 2% reduction in pay was implemented across the board. She said this contract is the best the City can offer.

Councilmember Borchard stated they have tried to make it even and fair across the board with the 2% reduction in pay. She said she supports this contract

**MOTION:** Councilmember Borchard moved the City Council adopt Resolution No. 65-11, which establishes the compensation and working conditions for the SEIU, Local 620 employees of the City of Morro Bay for the term of September 13, 2011 through June 30, 2012. The motion was seconded by Councilmember Smukler and carried with Councilmember Leage and Mayor Yates voting no. (3-2)

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B-2 ORDINANCE NO. 570 AMENDING THE CITY OF MORRO BAY MUNICIPAL CODE TITLE 13 PUBLIC UTILITIES, CHAPTER 13.04 WATER SERVICE AND RATES, SECTION 13.04.070 APPLICATION FOR REGULAR SERVICE - TO REQUIRE IDENTIFICATION – INTRODUCTION AND FIRST READING; (ADMINISTRATIVE SERVICES)

Administrative Services Director Susan Slayton stated Chapter 13.04 *Water Service and Rates*, Section 070 *Application for regular service* states “Each applicant for water service shall be required to sign an application form provided by the water department or make application letter showing the date of application, location of premises to be served, mailing address, date applicant desires service, and such other information as may be required.” The “other information” phrase has been called into question by applicants who wish to refrain from providing personal identification, such as a social security and/or driver’s license number. Not receiving this information is problematic, as it hinders our ability to properly identify the person signing up for service, as well as making it nearly impossible to collect on delinquent accounts. In June 2009 per the Federal Trade Commission’s requirement, Council adopted Resolution 27-09, implementing the City’s *Identity Theft Prevention Program*. This Program requires staff to visually inspect the photo id of utility customer applicants to verify the identity of the person transacting business with us. To more clearly define this requirement, staff is recommending an amendment to Section 13.04.070 to add “*A valid State-issued driver’s license, State-issued identification card, military identification card or passport must be presented by the applicant before service will be activated. If the applicant does not possess any of the above forms of identification, alternative valid photo identification (e.g., current school id) may be accepted.*” Additionally, staff would like to update this Section to update the comments about applications submitted by letter. The new language will state that applications submitted via methods other than personal appearance when applying for water utility service will be accepted, but must be accompanied by the applicant’s driver’s license/identification card or passport. The “*alternative valid photo identification*” statement above will also be included in this section. Finally, the last paragraph in this Section states “*An application fee shall accompany each application or letter of application.*” Current practice is to allow the application fee to be included in the first water utility bill. Staff would like to update this to state “*For first-time water utility customers, an application fee shall accompany each application, or the applicant may request that the application fee be included in the first water utility bill.*” Ms. Slayton recommended the City Council review Ordinance No. 570, accept public comment on this issue, and move for the first reading and introduction, by number and title only.

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

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MOTION: Councilmember Smukler moved the City Council approve Ordinance No. 570 for First Reading and Introduction Amending the City of Morro Bay Municipal Code Title 13 Public Utilities, Chapter 13.04 Water Service and Rates, Section 13.04.070 Application for Regular Service - to Require Identification. The motion was seconded by Councilmember Borchard and carried with Mayor Yates voting no. (4-1)

City Manager Andrea Lueker read Ordinance No. 570 by number and title only.

B-3 ORDINANCE NO. 571 AMENDING THE CITY OF MORRO BAY MUNICIPAL CODE TITLE 3 REVENUE AND FINANCE, CHAPTER 3.30 UNCLAIMED MONEY AND PROPERTY, SECTION 3.30.080 PROCEEDS TO BE DEPOSITED IN GENERAL FUND TO READ DISPOSITION OF PROCEEDS–INTRODUCTION AND FIRST READING; (ADMINISTRATIVE SERVICES)

Administrative Services Director Susan Slayton stated the Harbor Enterprise Fund frequently has abandoned/unclaimed vessels and/or property that it has to manage until such time has passed to enable them to place the vessel/property up for auction. Between the knowledge of abandonment and time of auction, Harbor staff invests a significant amount of time and funds in locating the owner, establishing the abandonment and storing the vessel/property, but the City of Morro Bay Municipal Code Chapter 3.30 *Unclaimed Money and Property*, Section 080 *Proceeds to be deposited in general fund* does not allow them to keep what little money they recover. Chapter 3.30 *Unclaimed Money and Property*, Section 080 *Proceeds to be deposited in General Fund* states “After such auction is completed, the proceeds of the auction shall be delivered to the director of finance for deposit in the General Fund.” This means that all auction money, including that generated by Enterprise Funds, is to be turned in and deposited in the General Fund. Staff feels that in the case of Enterprise Funds, the money should be returned to the Enterprise Fund, not the General Fund, to compensate for their efforts. Staff is suggesting an amendment to the title of Section 080 to read *Disposition of proceeds*, and state “*After such auction is completed, the proceeds of the auction shall be delivered to the Finance Department for deposit. All auction monies generated by Enterprise Fund activities shall remain with the applicable Enterprise Fund.*” Ms. Slayton recommended the City Council review Ordinance No. 571, accept public comment on this issue, and move for the first reading and introduction, by number and title only

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

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MOTION: Councilmember Borchard moved the City Council approve Ordinance No. 571 for First Reading and Introduction Amending the City of Morro Bay Municipal Code Title 3 Revenue and Finance, Chapter 3.30 Unclaimed Money and Property, Section 3.30.080 Proceeds to be deposited in General Fund to Read Disposition of Proceeds. The motion was seconded by Councilmember Smukler and carried with Mayor Yates voting no. (4-1)

City Manager Andrea Lueker read Ordinance No. 571 by number and title only.

B-4 ORDINANCE NO. 572 REPEALING CHAPTER 2.28 OF THE MORRO BAY MUNICIPAL CODE RELATED TO THE PLANNING COMMISSION AND IMPLEMENTING INSTEAD THE PLANNING COMMISSION BY-LAWS; FIRST READING AND INTRODUCTION; (CITY ATTORNEY)

City Attorney Robert Schultz stated on August 23, 2011, the City Council adopted Resolution 62-11 amending the Advisory Boards Handbook and By-Laws to more clearly define how each Advisory Board is currently working. In addition, the City Council added By-Laws for the Planning Commission that contains the establishment, duties and responsibilities of the Planning Commission. With the addition of Planning Commission By-Laws to the Advisory Board Handbook, Chapter 2.28 of the Morro Bay Municipal Code is unnecessary, superfluous, and redundant. Ordinance No. 572 will delete Morro Bay Municipal Code Chapter 2.28. All requirements for the establishment, duties and responsibilities for the Planning Commission are now contained in the Planning Commission By-Laws. Mr. Schultz recommended the City Council accept public comment and then move for introduction and first reading of Ordinance No.572, by number and title only, repealing and deleting Morro Bay Municipal Code Chapter 2.28.

Mayor Yates opened the hearing for public comment.

Betty Winholtz noted State Code 65100 states the Planning Commission belongs in the Municipal Code, and requested Council reconsider this item and maintain Chapter 2.28 in the City's Municipal Code.

Mayor Yates closed the hearing for public comment.

MOTION: Mayor Yates moved the City Council approve Ordinance No. 572 for First Reading and Introduction Repealing Chapter 2.28 of the Morro Bay Municipal Code Related to the Planning Commission and Implementing Instead the Planning Commission By-Laws. The motion was seconded by Councilmember Johnson and carried unanimously. (5-0)

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City Manager Andrea Lueker read Ordinance No. 572 by number and title only.

C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS

D-1 AUTHORIZATION TO FILE A NOTICE OF JOINER WITH THE CALIFORNIA PUBLIC UTILITIES COMMISSION PROTESTING THE APPLICATION FILED BY PACIFIC GAS AND ELECTRIC IN REGARD TO THE OPT-OUT PROGRAM FOR CUSTOMERS WHO OBJECT TO SMARTMETER INSTALLATION; (CITY ATTORNEY)

City Attorney Robert Schultz stated the California Public Utilities Commission (CPUC) is the agency charged with regulating utility companies in California including the activities of PG&E; local governments do not have any direct regulatory control over utility companies. Much interest has been expressed in recent months regarding an undertaking by PG&E to install “SmartMeters” at their residential customer’s homes. A number of residents have called the City Attorney’s office and spoke with the City Council regarding the installation of SmartMeters and how to decline or “Opt-Out” of the installation of the SmartMeter at their home. After thousands of complaints about SmartMeters from people who consider the radiation from cell phones, computers and other wireless devices to be a health threat, and approximately 30 other local governments (including Morro Bay) called for a moratorium on PG&E's SmartMeters, the CPUC ordered PG&E to propose a way for customers to “Opt Out” of receiving the SmartMeters. On March 24, 2011, PG&E submitted a proposal to the CPUC to give residential customers the option to have the radios in their SmartMeters turned off, with an associated one-time charge of \$135 to \$270, and an ongoing monthly fixed charge of \$14 to \$20. The CPUC is expected to rule on the PG&E plan within the next few months. Mr. Schultz recommended the City Council authorize the City Attorney to file a Notice of Joiner with the California Public Utilities Commission protesting the Application filed by Pacific Gas and Electric in regard to the “Opt-Out Program” for customers who object to SmartMeter installation.

Councilmember Smukler stated he supports joining this action, and residents have the right to have a no-fee Opt-Out Program in regard to the SmartMeter installation.

Councilmember Leage stated he does not support filing a Notice of Joiner with the CPUC.

Mayor Yates stated he does not support filing a Notice of Joiner with the CPUC. He said there is a delay list with PG&E at no charge in process.

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Councilmember Johnson stated she has received calls about health concerns and costs with the SmartMeter. She said the previous Resolution passed by Council was not respected by PG&E. Councilmember Johnson stated there needs to be a no-cost opt-out option included for those citizens who do not want the SmartMeter.

Councilmember Borchard stated she is not concerned with health issues; however, she respects those who have those concerns. She supports the opt-out at no cost option; however, she is not ready to join an action by a small community of people to file a Notice of Joiner with the CPUC until she knows what that action is.

**MOTION:** Councilmember Smukler moved the City Council file a Notice of Joiner with the CPUC protesting the application filed by PG&E in regard to the Opt-Out Program for customers who object to the SmartMeter installation with a focus primarily on the request for a no-cost Opt-Out Program. The motion was seconded by Councilmember Johnson.

Councilmember Borchard expressed concern with filing a Notice of Joiner with the CPUC at this time.

Councilmember Johnson stated she supports filing a Notice of Joiner with the CPUC.

Mayor Yates stated he does not support filing a Notice of Joiner with the CPUC.

Councilmember Leage he does not support filing a Notice of Joiner with the CPUC.

Councilmember Smukler stated by filing a Notice of Joiner with the CPUC would be the most opportune way to be heard and should be pursued.

Councilmember Borchard stated this should wait on the ruling of the State/Assembly.

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

**MOTION:** Councilmember Borchard moved the City Council direct staff to follow up in a similar manner as San Luis Obispo and Santa Barbara Counties by submitting a letter to the CPUC for a no cost opt-out provision. The motion was seconded by Councilmember Smukler.

Mayor Yates stated he does not support this motion because it does not fit with the title of this item.

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Councilmember Smukler suggested an amendment to submit the letter in time for the CPUC to be aware of Council's action by tomorrow.

VOTE: The motion carried with Mayor Yates voting no. (4-1)

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Johnson requested to agendize a public hearing to discuss a smoking ban within the City of Morro Bay; Councilmember Borchard and Councilmember Smukler supported this request.

ADJOURNMENT

The meeting adjourned at 8:20 p.m.

Recorded by:

Bridgett Kessler  
City Clerk