

AGENDA NO: A-1

MEETING DATE: 08/14/2012

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – JULY 10, 2012
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
	Eric Endersby	Harbor Director

CLOSED SESSION

Mayor Yates adjourned the meeting to Closed Session.

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.

CS-2 GOVERNMENT CODE SECTION 54956.8; 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: Rose's Landing – Lease Site 82-85/82W-85W**
Negotiating Parties: Doug Redican and City of Morro Bay
Negotiations: Lease Terms and Conditions
- **Property: Sea One Solution LLC- Lease Site 124-128/124W-128W & 113W**
Negotiating Parties: Sea One Solutions, LLC and MMBS, LLC and City of Morro Bay
Negotiations: Lease Terms and Conditions

CS-3 CONFERENCE WITH LEGAL COUNSEL REGARDING ANTICIPATED LITIGATION - GOVERNMENT CODE SECTION 54956.9(c):

- Parties: Martony and City of Morro Bay

The meeting adjourned at 5:50pm.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – JULY 10, 2012
VETERAN’S MEMORIAL HALL – 6:00P.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	City Clerk
	Susan Slayton	Administrative Services Director
	Rob Livick	Public Services Director
	Mike Pond	Fire Chief
	Mike Lewis	Interim Police Chief
	Eric Endersby	Harbor Operations Manager
	Joe Woods	Recreation & Parks Director
	Kathleen Wold	Planning Manager

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 Shultz reported that City Council met in Closed Session and no reportable action under the Brown Act was taken.

PUBLIC COMMENT

Brian French, owner of Estero Bay Sustainable Solutions, presented the Morro Bay Business Report. This is a local solar energy installer to the Estero Bay communities – residential and businesses both. Their goal is to provide the best possible customer service possible. They are often at the Saturday Farmer’s Market, can be reached at (805) 235-5521 or at eb-ss.com .

Barry Brannon spoke on the WWTP Project hoping that given the fact that the June 12, 2012 JPA meeting was canceled, there will still be an opportunity to get an update on the progress of the project.

Trina Dougherty spoke on behalf of the 4th of July Committee thanking all who attended the celebration. She also thanked the sponsors and volunteers who really made the event work.

Nancy Barta presented an update on the Bus Stop remodel project.

Paul Carrol has been a Morro Bay visitor for the last 40 years. He spoke on behalf of Priscilla Cole, the new owner of the Morro Bay Sandpiper Hotel stating it is his favorite place to stay when he visits Morro Bay.

Nicole Dorfman felt compelled to speak in defense of Betty Winholtz in her role with the Save the Park organization. In her role as President of Save the Park, Betty represents people who believe the Cerrito Peak needs to be preserved and protected.

Cynthia Hawley, Attorney for Save the Park, responded to the previous week's comments by property owner, Dan Reddell. She stated that it wasn't their intent for the lawsuit to stop development in the City, just stop the violations.

David Nelson stated that Dynegy has terminated their permit as they can't conform to the new water standards. He also has concerns regarding the lease between Dynegy and the City regarding the 3 parking lots, specifically with regards to page 3, section 5 of the agreement with regards to possible hidden pollution. Finally, he stated that the outfall destroys our Estuary and he hopes the City will not renew the outfall lease.

John Barta spoke on the proposed Master Fee Schedule with regards to single family residential costs to build. He feels it would be really nice to know how much it really costs to build a home as the schedule doesn't seem clear.

Betty Winholtz spoke on the Master Fee Schedule stating that she feels the Impact Fees are very important as those fees pay for City services. She also spoke on the Paperless Agenda concept, she has concerns about training as well as use and possible abuse and hopes there will be a policy document on their use as a form of protection. She also questioned whether the City had an unmarked police car and if so, why.

Garry Johnson spoke on the years of business experience the current City Council has as well as their detailed their accomplishments over the last 2 years. He also hoped that if we decide to move the sewer, the Council will let the residents know what the true costs will be.

Priscilla Cole, new owner of the Sandpiper Inn, spoke endorsing her business.

Mayor Yates closed the public comment period.

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 CITY COUNCIL MINUTES FOR THE REGULAR MEETING OF JUNE 26, 2012; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 AUTHORIZATION TO FILL ONE RECREATION AND PARKS DEPARTMENT MAINTENANCE LEAD WORKER POSITION – BUILDINGS/INFRASTRUCTURE; (RECREATION & PARKS)

RECOMMENDATION: Authorize staff to hire a replacement for the upcoming vacancy of a Maintenance Lead Worker.

A-3 AUTHORIZATION TO FILL THE RECENTLY VACATED ASSISTANT PLANNER POSITION; (PUBLIC SERVICES)

RECOMMENDATION: Authorize filling the recently vacated Assistant Planner position.

A-4 AWARD OF CONTRACT FOR MAINTENANCE OF THE CLOISTER ASSESSMENT DISTRICT; (RECREATION & PARKS)

RECOMMENDATION: Award the project contract to K.D. Janni Landscaping Inc. in the amount of \$80,928.00.

A-5 AUTHORIZATION TO FILE NOTICE OF COMPLETION FOR THE DEL MAR TENNIS COURTS; (RECREATION & PARKS)

RECOMMENDATION: Authorize staff to File Notice of Completion for the Del Mar Tennis Courts Project.

A-6 UPDATE ON CONTRACT FOR AUDITING 2009 – 2011 TRANSIENT OCCUPANCY TAX AND LEASE SITES REVENUES; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: No action is recommended as this is an informational item only.

A-7 RESOLUTION NO. 36-12 ESTABLISHING THE ANNUAL PROPOSITION 4 APPROPRIATIONS LIMIT FOR THE FISCAL YEAR 2012/13; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 36-12.

A-8 AWARD OF CONTRACT TO SPECIALTY CONSTRUCTION, INC. OF SAN LUIS OBISPO, CA FOR THE PROJECT NO. MB-2012-WC01: LIFT STATION 3 UPGRADE SANITARY SEWER FORCE MAIN; (PUBLIC SERVICES)

RECOMMENDATION: Award the project contract to Specialty Construction, Inc. in the amount of \$1,191,052.

A-9 NORTH T-PIER REPAIR PROJECT UPDATE; (HARBOR)

RECOMMENDATION: No action is recommended as this is an informational item only.

A-10 AUTHORIZATION TO FILE NOTICE OF COMPLETION FOR PROJECT NO. MB2011-WC01: SEWER SECTION 6 REHABILITATION; (PUBLIC SERVICES)

RECOMMENDATION: Authorization to file Notice of Completion for Sewer Section 6 Lining Rehabilitation Project.

A-11 APPROVAL OF LICENSE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND DYNEGY REGARDING THE USE OF THREE PARKING LOTS OWNED BY DYNEGY; (CITY ATTORNEY)

RECOMMENDATION: Approve the lease agreement with Dynegy for the use of three parking lots for public purposes.

A-12 REQUEST FOR APPROVAL OF ASSIGNMENT OF LEASE AGREEMENT FOR LEASE SITES 124-128/124W-128W & 113W FROM SEA ONE SOLUTIONS, LLC TO MMBS, LLC AND APPROVAL OF AMENDMENT #3 TO THE LEASE AGREEMENT FOR LEASE SITE 124-128/124W-128W & 113W (1215 EMBARCADERO); (RECREATION & PARKS)

RECOMMENDATION: Approve the Assignment of the Lease Agreement for Lease Sites 124-128/124W-128W & 113W from Sea One Solutions, LLC to MMBS, LLC and approve Amendment # 3 to the lease to allow for the phasing of water improvements.

Councilmember Johnson pulled Item A-3, Councilmember Borchard pulled Item A-9, Councilmember Smukler pulled Item A-11 and Mayor Yates pulled Item A-12 from the Consent Calendar.

MOTION: Councilmember Borchard moved the City Council approve Items A-1, A-2, A-4, A-5, A-6, A-7, A-8, A-10 of the Consent Calendar. The motion was seconded by Councilmember Johnson and carried unanimously 5-0.

A-3 AUTHORIZATION TO FILL THE RECENTLY VACATED ASSISTANT PLANNER POSITION; (PUBLIC SERVICES)

Councilmember Johnson pulled Item A-3 questioning what the difference in salary and qualifications would be between an Assistant Planner and an Associate Planner as she would like to see us hiring somebody with more experience.

MOTION: Councilmember Johnson moved to advertise at both the Assistant and Associate Planner levels and then hire the best applicant. The motion was seconded by Councilmember Borchard and carried unanimously 5-0.

A-9 NORTH T-PIER REPAIR PROJECT UPDATE; (HARBOR)

Councilmember Borchard pulled Item A-9 so that Harbor Director Eric Endersby could present the update on the North T-Pier repairs.

MOTION: Councilmember Borchard moved approval of Item A-9 of the Consent Calendar. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

A-11 APPROVAL OF LICENSE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND DYNEGY REGARDING THE USE OF THREE PARKING LOTS OWNED BY DYNEGY; (CITY ATTORNEY)

Councilmember Smukler pulled Item A-11 to ask City Attorney Rob Schultz a question - with the agreement, can we utilize the properties as noted? And, when can we anticipate being able to use them?

MOTION: Councilmember Smukler moved for approval Item A-11 of the Consent Calendar. The motion was seconded by Councilmember Johnson and carried unanimously 5-0.

A-12 REQUEST FOR APPROVAL OF ASSIGNMENT OF LEASE AGREEMENT FOR LEASE SITES 124-128/124W-128W & 113W FROM SEA ONE SOLUTIONS, LLC TO MMBS, LLC AND APPROVAL OF AMENDMENT #3 TO THE LEASE AGREEMENT FOR LEASE SITE 124-128/124W-128W & 113W (1215 EMBARCADERO); (RECREATION & PARKS)

Mayor Yates pulled Item A-12 so that Councilmember Leage can step down from the dais as his business is located within 500 feet of the lease site in question.

MOTION: Councilmember Johnson moved for approval of Item A-12 of the Consent Calendar. The motion was seconded by Councilmember Borchard and carried 4-0-1 with Councilmember Leage abstaining.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 579 REPEALING, AMENDING AND REENACTING CHAPTER 14.72 OF THE CITY OF MORRO BAY MUNICIPAL CODE, ENTITLED FLOOD DAMAGE PREVENTION; (PUBLIC SERVICES)

Public Services Director Rob Livick presented his staff report stressing that this will allow current and new residents to participate in the National Flood Insurance Program.

Mayor Yates opened the hearing for public comment.

Betty Winholtz has questions on whether or not this would have any impact on the current Embarcadero lease sites; the affects it may have on the Wastewater Treatment Plant on its current site; whether this includes private people's property or just public projects; and how can people see a map of where the flood planes are if they are renters.

Mayor Yates closed the hearing for public comment.

MOTION: Councilmember Borchard moved the City Council accept the Introduction and First Reading of Ordinance No. 579 repealing, amending and reenacting Chapter 14.72 of the MBMC, entitled Flood Damage Prevention. The motion was seconded by Councilmember Smukler and carried unanimously 5-0.

B-2 APPEAL OF CONDITIONAL USE PERMIT #UP0-348 AND COASTAL DEVELOPMENT PERMIT #CP0-372 FOR NEW CONSTRUCTION OF A SINGLE FAMILY RESIDENCE AT 281 MAIN STREET; (PUBLIC SERVICES)

Planning Manager Kathleen Wold presented her staff report.

Appellant, Betty Winholtz presented her arguments in favor of upholding the appeal.

Cathy Novak, representing the applicant, presented her arguments in favor of denying the appeal.

Mayor Yates opened the hearing for public comment.

Dorothy Cutter has a problem with the fact that the developer/owner of the land also owns all the adjoining properties and feels he should have presented a total plan for the properties. Also, there is a proposed addition of a solid wall with a back to Main Street and the City has a precedent not allowing this. Finally, she also sees problems with the lighting plan as well as with the potential for archeologically significant artifacts.

Mayor Yates closed the hearing for public comment.

Councilmember Smukler had visual concerns as he isn't able to see what the project will look like in context to the surrounding area.

All other Councilmembers were comfortable with the project as submitted

MOTION: Mayor Yates moved the City Council deny the appeal of Conditional Use Permit #UPO-348 and Coastal Development Permit #CPO-372 for new construction of a single family residence at 281 Main Street. The motion was seconded by Councilmember Leage and carried 4-1 with Councilmember Smukler voting no.

C. UNFINISHED BUSINESS

C-1 RESOLUTION NO. 38-12 ADOPTING THE FISCAL YEAR 2012/13 OPERATING BUDGETS OF THE HARBOR DEPARTMENT; (ADMINISTRATIVE SERVICES)

City Manager Andrea Lueker presented the staff report.

Councilmember Borchard understood the need for a Business Coordinator was a more appropriate use than utilizing an employee working out of class but isn't in support of having a Harbor Business Coordinator in addition to both the full time and ¾ time Office Assistant IV. She would support this with the elimination of the ¾ time position.

Mayor Yates and Councilmembers Leage and Johnson agreed with Councilmember Borchard.

Councilmember Smukler feels the need to make this shift but feels we may be setting ourselves up as we will need to cut back eventually. He could support the concept that Councilmember Borchard suggested.

MOTION: Councilmember Borchard moved for approval of Resolution 38-12, adopting the Fiscal Year 2012/13 Operating Budgets of the Harbor Department with the change to staffing to include funding the Harbor Business Coordinator and one full-time Office Assistant IV and eliminate the funding for the ¾ time Office Assistant IV. The motion was seconded by Councilmember Smukler and passed unanimously 5-0.

C-2 CONSIDERATION OF PURCHASING BIG BELLY SOLAR POWER TRASH COMPACTOR GARBAGE RECEPTACLES FOR THE ROCK PARKING LOT; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods presented his staff report recommending that the City purchase 4 Big Belly solar powered trash compactor garbage receptacles to replace all the garbage cans at the Rock parking lot.

Mayor Yates is very supportive of this concept; he proposes to borrow the funds from the reserves acknowledging that it will get paid back. He would like to look at purchasing all 7 Big Bellies as opposed to just purchasing 4.

Councilmember Smukler also would like to look into purchasing more than the 4 that were proposed.

Councilmember Leage also stated that 4 were not enough to cover the entire Rock parking lot needs during the busy times of the year. He too likes the idea of purchasing all 7.

Both Councilmember Johnson and Borchard thought that purchasing 4 to start out with is a good idea as they will be able to see if the monies are really able to be paid back. Councilmember Smukler noted that by the time we would be able to place the Big Bellies, the summer would already be over so possibly purchasing the 4 would give Council and staff the time to see what happens, see if the return on investment occurred and see if there would actually be a need for more than 4 at the parking lot.

MOTION: Councilmember Smukler moved the City purchase 5 Big Belly Solar Powered Trash Compactor Garbage Receptacles for the Rock parking lot to be funded through and returned to the General Reserve Fund and for a report to come back at the 1st meeting in March, 2013 to see if the purchase of additional cans is warranted. The motion was seconded by Councilmember Johnson and carried unanimously 5-0.

C-3 RECOMMENDATION ON THE PAPERLESS AGENDA CONCEPT; (ADMINISTRATION)

City Manager Andrea Lueker presented her staff report.

Councilmember Borchard stated that this seems to be the trend; she was curious if the bandwidth upgrade necessary at the Veteran's Hall could be paid out of the PEG Access Funds.

Councilmember Johnson has an iPad and finds it very easy to use; she sees it as the wave of the future.

Both Mayor Yates and Councilmember Leage can support the purchase.

Councilmember Smukler, while nervous and wants the ability to be able to measure the effectiveness, can also support the purchase.

MOTION: Councilmember Borchard moved the Council approve Item C-3, the purchase of iPads for Councilmembers as well as Department Heads. The motion was seconded by Councilmember Johnson and carried unanimously 5-0.

D. NEW BUSINESS

D-1 RESOLUTION NO. 37-12 ADOPTING 2012/13 REVISIONS TO THE MASTER FEE SCHEDULE; (ADMINISTRATIVE SERVICES)

Administrative Services Director Susan Slayton presented her staff report.

There was Council consensus from Mayor Yates and Councilmembers Borchard, Johnson and Leage not to charge the CPI on Planning Fees and Building Impact Fees.

Councilmember Smukler stated that it was only a 2% increase and by postponing the increase will only create a bigger hit down the road.

MOTION: Mayor Yates moved for adoption of the 2012/13 Revisions to the Master Fee Schedule with the exception of all Building Impact Fees and Planning Fees. The motion was seconded by Councilmember Johnson and carried 4-1 with Councilmember Smukler voting no.

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Borchard requested a report on the findings of the Building Study Group; there was Council consensus for this.

Mayor Yates requested a Resolution regarding Council direction on how Measure Q Funds are allocated and spent; Councilmember Johnson and Borchard concurred.

Councilmember Leage requested a report on parking options on the Embarcadero between Beach and Pacific; Mayor Yates and Councilmember Johnson concurred.

Councilmember Smukler requested a discussion of a possible Citizen's Oversight Committee option with the Police Department; Mayor Yates and Councilmember Leage concurred.

Councilmember Smukler requested a discussion on the processing and licensing of Temporary Use Permits and how it relates to new businesses; Mayor Yates and Councilmember Borchard concurred.

ADJOURNMENT

The meeting adjourned at 9:20 p.m.

Recorded by:

Jamie Boucher
City Clerk