

MINUTES – MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
OCTOBER 31, 2013
CITY HALL CONFERENCE ROOM – 10:00AM

PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Robert Schultz	City Attorney
	Susan Slayton	Administrative Services Director
	Steve Simas	Contract Attorney

ESTABLISH QUORUM AND CALL TO ORDER

Mayor Irons called the meeting to order at 10:00am.

MOTION: Mayor Irons moved to adjourn and continue this meeting to the Morro Bay Veteran’s Hall at 209 Surf Street. The motion was seconded by Councilmember Nancy Johnson and carried unanimously, 5-0.

The meeting adjourned at 10:01am.

The meeting reconvened at the Morro Bay Veteran’s Hall and was called to order at 10:18am with all councilmembers present.

Mayor Irons noted for the record that Ms. Lueker had previous commitments and Ms. Slayton is Acting City Manager.

SUMMARY OF CLOSED SESSION ITEMS - The Mayor read a summary of Closed Session items, noting the addition of Government Code Section 54956.9(g) and 54956.9(d)(2) encompass the notice of Item CS-1.

Councilmember Nancy Johnson addressed the chair and read a prepared statement including the Government Code Sections as stated on the Meeting Agenda, and the current definition for those Government Code Sections as amended January 1, 2013. She asked Mayor Irons if he had notified Mr. Schultz 24 hours before this Closed Session and the last Closed Session that the Council would be discussing “potential disciplinary action” against him as required under Government Code 54957(b)(2). She does not believe the Council can continue the meeting until it is properly noticed.

Mayor Irons asked outside counsel, Mr. Simas, for advice on this issue.

Mr. Simas states there are many subdivisions in this government code section, and that it is consistent with other previous noticing. The mayor noted the additional code sections and the description is the most important part. The personnel section has been properly noticed. The City Attorney’s contract and the Morro Bay Municipal Code do not require advance notice that other positions require. He believes the meeting has been properly noticed and the Council may discuss these items.

Councilmember Nancy Johnson states that based on advice from her attorney, she disagrees but will participate in order to move the item forward.

CLOSED SESSION PUBLIC COMMENTS - Mayor Irons opened the meeting for Public Comment

Nicole Dorfman thanked the Mayor and Council majority for moving forward on this important and painful task for the City.

Lynda Merrill spoke in support of the Council for what they must do. It is a difficult task and she believes it is important for the City.

The Public Comment period was closed.

The City Council moved to Closed Session and heard the following items:

CS-1 GOVERNMENT CODE SECTION 54956.9(b) – CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Exposure to litigation exists based upon existing facts and the advice of legal counsel as to one matter. Under Government Code Section 54956.9(c), the name of the possible litigation is withheld as disclosure of it would jeopardize the City's ability to conclude existing settlement negotiations to its advantage.

CS-2 GOVERNMENT CODE SECTION 54957(b) – PUBLIC EMPLOYEE DISCIPLINE/DIUSMISSAL/RELEASE/TERMINATION OF CONTRACT

Review of the contract terms of the City Attorney's Employment Agreement, Separation Agreement, employment, evaluation, performance as City Attorney, and potential disciplinary action.

CITY COUNCIL CONVENED TO OPEN SESSION – The City Council convened to open session; Mayor Irons reported the following actions were taken by Council.

Council has instructed Mr. Simas to continue negotiating a settlement agreement with Mr. Schultz by a vote of 5-0.

Council is placing Mr. Schultz on administrative leave beginning start of business day tomorrow, November 1, 2013, until further notice, with Mr. Simas communicating Council instructions to Mr. Schultz by a vote of 3-2.

ADJOURNMENT

The meeting adjourned at 2:23pm.

Recorded by:

Dana Swanson
Deputy City Clerk