

MINUTES - MORRO BAY CITY COUNCIL  
CLOSED SESSION – OCTOBER 27, 2008  
CITY HALL CONFERENCE ROOM - 5:00 P.M.

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

|          |                 |               |
|----------|-----------------|---------------|
| PRESENT: | Janice Peters   | Mayor         |
|          | Melody DeMeritt | Councilmember |
|          | Rick Grantham   | Councilmember |
|          | William Peirce  | Councilmember |
|          | Betty Winholtz  | Councilmember |

|        |                |               |
|--------|----------------|---------------|
| STAFF: | Andrea Lueker  | City Manager  |
|        | Robert Schultz | City Attorney |

CLOSED SESSION

MOTION: Councilmember Winholtz moved the meeting be adjourned to Closed Session. The motion was seconded by Councilmember Grantham and unanimously carried. (5-0)

Mayor Peters read the Closed Session Statement.

**CS-1 GOVERNMENT CODE SECTION 54957.6; CONFERENCE WITH LABOR NEGOTIATOR.** Conference with the City's Designated Representative, for the purpose of reviewing the City's position regarding the terms and compensation paid to employees groups and giving instructions to the Designated Representative.

**CS-2 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 1 parcel.

Property: Morro Bay Power Plant Outfall.  
Negotiating Parties: Dynegy and City of Morro Bay.  
Negotiations: Lease Terms.

**CS-3 GOVERNMENT CODE SECTION 54957; PERSONNEL ISSUES.** Discussions regarding Personnel Issues including two (2) public employee regarding evaluation, specifically the City Attorney and Interim City Manager.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:55 p.m.

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

The meeting adjourned at 5:55 p.m.

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REGULAR MEETING – OCTOBER 27, 2008  
VETERANS MEMORIAL HALL - 6:00 P.M.

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

|          |                 |                                    |
|----------|-----------------|------------------------------------|
| PRESENT: | Janice Peters   | Mayor                              |
|          | Melody DeMeritt | Councilmember                      |
|          | Rick Grantham   | Councilmember                      |
|          | William Peirce  | Councilmember                      |
|          | Betty Winholtz  | Councilmember                      |
| STAFF:   | Andrea Lueker   | City Manager                       |
|          | Robert Schultz  | City Attorney                      |
|          | Jamie Boucher   | Deputy City Clerk                  |
|          | Rick Algert     | Harbor Director                    |
|          | Bruce Ambo      | Public Services Director           |
|          | John DeRohan    | Police Chief                       |
|          | Mike Pond       | Fire Chief                         |
|          | Susan Slayton   | Finance Director                   |
|          | Dylan Wade      | Utilities/Capital Projects Manager |
|          | Joe Woods       | Recreation & Parks Director        |

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR'S REPORTS & ANNOUNCEMENTS

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 announced an Open House for the Fire Station Apparatus Bay would be held on November 15, 2008 at 11:00 a.m. He also acknowledged Tom and Mary Hay of Hay Printing for what they do for the community.

Bill Black announced a Thanksgiving dinner would be held on Thanksgiving Day from 1:00 p.m. – 3:00 p.m. at the Community Center. He thanked those who helped sponsor this event.

Joyce Lundy reviewed the monthly statistics for the Morro Bay Chamber of Commerce. She also announced the replica ship Nina would be arriving in Morro Bay on November 4, 2008.

Joan Solu, Chair of the Recreation & Parks Commission, reviewed a letter submitted to the City Council from the Recreation & Parks Department regarding the Commission's unanimous support in working with the Community Pool Foundation on a community pool in Morro Bay.

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Bill Woodson stated he supports a community pool in Morro Bay. He also said there is an article on Morro Bay in the November issue of Sunset magazine. Mr. Woodson stated the Planning Commission would not be able to meet the City Council's deadline request on the ordinance relating to floor-to-area ratio due to lack of staffing in the Public Services Department. He addressed Item D-7 (Definition Of Landmark Trees) stating he does endorse this concept especially relating to public property. Mr. Woodson congratulated the City on the roundabout, which seems to be running smoothly.

Noah Smukler expressed support for Item D-7 and the consideration of an Adopt-a-Tree Program.

George Leage congratulated the candidates who participated in this election campaign. He encouraged all citizens to vote on November 4<sup>th</sup>.

Kathy Wells expressed concern with the Council's action in not renewing the lease for the Outrigger Restaurant.

Peter Risley stated the Morro Bay Fire Department is successful in providing for the needs of the citizens. He said contracting out City services would not lower the costs for the public but hides the responsibility of mismanaged funds.

Roger Ewing expressed support for Item D-7 on Landmark Trees and the consideration of an Adopt-a-Tree Program. He thanked his fellow candidates for a positive campaign season.

Lynda Merrill thanked the Council on their efforts for the City. She also thanked AGP Video for providing televised City meetings. Ms. Merrill expressed support for Item A-6 (Authorizing A New Lease Agreement With The Morro Bay Commercial Fisherman's Organization For The Fisherman's Gear Storage Area). She referred to Item D-1 (Presentation From Buxton Company On Retail Marketing Strategies For Morro Bay) noting she looked forward to hearing the presentation on bringing businesses into the community.

David Nelson referred to reopening negotiations on the Morro Bay Power Plant Outfall Lease Agreement and noted once-through cooling is damaging to the estuary and fishing industry. He said extending the lease until 2012 is criminal by taking away the right to protect the environment for monetary compensation.

John Barta shared an image of the proposed conference center and said this project is too large for the Embarcadero.

Anthony Santos referred to Item D-4 (Discussion On Requiring A Business License From Businesses That Make Deliveries Within The City Limits) and said delivery of auto parts is a free service, and should not be required to pay a business license fee to the City.

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Mayor Peters closed the hearing for public comment.

Mayor Peters called for a break at 7:04 p.m.; the meeting resumed at 7:12 p.m.

DECLARATION OF FUTURE AGENDA ITEMS

Councilmember DeMeritt requested to agendize a discussion on support for the Morro Bay Community Pool Foundation; Councilmember Winholtz and Mayor Peters concurred.

Mayor Peters requested to agendize the consideration of the Affordable Housing Assistance Application Fee.

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 SEPTEMBER 22, 2008 AND OCTOBER 13, 2008; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 RESOLUTION NO. 65-08 AUTHORIZING PARTICIPATION IN THE CALIFORNIA ASSET MANAGEMENT PROGRAM (CAMP) AND DESIGNATING TRANSACTION OFFICERS; (FINANCE)

**RECOMMENDATION: Adopt Resolution No. 65-08.**

A-3 APPROVAL OF RESOLUTION NO. 67-08 AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO ABANDONED WATERCRAFT ABATEMENT FUND CONTRACT #08-214-505 WITH THE DEPARTMENT OF BOATING AND WATERWAYS; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 67-08.**

A-4 APPROVAL OF RESOLUTION NO. 68-08 AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO THE SECOND AMENDMENT TO GRANT AGREEMENT #05-128-980 WITH THE DEPARTMENT OF BOATING AND WATERWAYS FOR STATE PARK MARINA REHABILITATION PROJECT PLANNING; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 68-08.**

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A-5 APPROVAL OF RESOLUTION NO. 69-08 AUTHORIZING A BERTHING LEASE AGREEMENT #HSCG89-09-L-6-63-002 WITH THE UNITED STATES COAST GUARD FOR BERTHING SPACE AND USE OF A PORTION OF THE NORTH T-PIER, AND FOR USE OF PARKING SPACES IN THE VICINITY OF THE NORTH T-PIER; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 69-08.**

A-6 APPROVAL OF RESOLUTION NO. 70-08 AUTHORIZING A NEW LEASE AGREEMENT WITH THE MORRO BAY COMMERCIAL FISHERMAN'S ORGANIZATION FOR THE FISHERMAN'S GEAR STORAGE AREA LOCATED AT 1622 EMBARCADERO; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 70-08.**

A-7 AUTHORIZATION TO FILL THE PLANNING MANAGER VACANCY AT THE SENIOR PLANNER LEVEL AND AMENDMENT TO THE SENIOR PLANNER JOB DESCRIPTION; (PUBLIC SERVICES)

**RECOMMENDATION: Authorize staff to fill the Planning Manager vacancy at the Senior Planner level and approve the updated job description for the Senior Planner.**

A-8 CONTINUATION OF EMERGENCY PER PUBLIC CONTRACT CODE SECTION 22050 FOR THE INSTALLATION OF DESALINATION PLANT ENERGY RECOVERY EQUIPMENT; (PUBLIC SERVICES)

**RECOMMENDATION: Determine the necessity to continue the emergency per Public Contract Code 22050 for the installation of desalination plant energy recovery equipment.**

A-9 AUTHORIZATION TO FILL THE ASSOCIATE PLANNER VACANCY; (PUBLIC SERVICES)

**RECOMMENDATION: Authorize staff to fill the Associate Planner vacancy.**

Councilmember Winholtz pulled Item A-4 of the Consent Calendar; Councilmember DeMeritt pulled Items A-7, A-8 and A-9.

**MOTION:** Councilmember Peirce moved the City Council approve the Consent Calendar with the exception of Items A-4, A-7, A-8 and A-9. The motion was seconded by Councilmember DeMeritt and carried unanimously. (5-0)

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A-4 APPROVAL OF RESOLUTION NO. 68-08 AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO THE SECOND AMENDMENT TO GRANT AGREEMENT #05-128-980 WITH THE DEPARTMENT OF BOATING AND WATERWAYS FOR STATE PARK MARINA REHABILITATION PROJECT PLANNING; (HARBOR)

Councilmember Winholtz addressed this item for public information.

MOTION: Councilmember Winholtz moved the City Council approve Item A-4 of the Consent Calendar. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

A-7 AUTHORIZATION TO FILL THE PLANNING MANAGER VACANCY AT THE SENIOR PLANNER LEVEL AND AMENDMENT TO THE SENIOR PLANNER JOB DESCRIPTION; (PUBLIC SERVICES)

Councilmember DeMeritt requested to consider Items A-7 and A-9 together. She said instead of filling the Associate Planner position, she would like to hire an Economic Development Director in order to assist in bringing retail business to the City. She said she would like to contract out for the Senior Planner position for a period of time.

Councilmember Winholtz stated she would prefer to hire a Senior Planner and not the Associate Planner due to the present budget situation.

Public Services Director Bruce Ambo stated it would be in the City's best interest to hire a Senior Planner, which is a cost saving by not hiring a Planning Manager, and hire an Associate Planner as soon as possible.

MOTION: Councilmember DeMeritt moved the City Council approve hiring a Senior Planner at this time, and postpone the hiring of an Associate Planner until the mid-year budget review. The motion was seconded by Councilmember Winholtz and failed with Councilmember Grantham, Councilmember Peirce and Mayor Peters voting no. (2-3)

MOTION: Councilmember DeMeritt moved the City Council approve Item A-7 of the Consent Calendar. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

A-8 CONTINUATION OF EMERGENCY PER PUBLIC CONTRACT CODE SECTION 22050 FOR THE INSTALLATION OF DESALINATION PLANT ENERGY RECOVERY EQUIPMENT; (PUBLIC SERVICES)

Councilmember DeMeritt requested staff to address this item for public information. Utilities/Capital Projects Manager Dylan Wade reviewed information on the City's current water supply.

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MOTION: Councilmember DeMeritt moved the City Council approve Item A-8 of the Consent Calendar. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

A-9 AUTHORIZATION TO FILL THE ASSOCIATE PLANNER VACANCY;  
(PUBLIC SERVICES)

MOTION: Councilmember Peirce moved the City Council approve Item A-9 of the Consent Calendar. The motion was seconded by Councilmember Grantham and carried with Councilmember DeMeritt and Councilmember Winholtz voting no. (3-2)

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 APPROVAL OF RESOLUTION NO. 66-08 ACCEPTING \$100,000 GRANT FROM THE STATE OF CALIFORNIA CITIZENS OPTION FOR PUBLIC SAFETY (COPS) PROGRAM; (POLICE)

Police Chief John DeRohan stated since 1996, the Citizen's Option for Public Safety (COPS) established by AB 1913 and codified as Government Code Section 30061, has been distributing State grant funds to local law enforcement agencies to supplement front line law enforcement services. This year the Police Department is scheduled to receive a minimum of \$100,000 in COPS grant funds. These funds will be tracked separately by the Finance Department in a separate account with any interest earned credited to the account. Chief DeRohan recommended the City Council open the public hearing, and adopt Resolution No. 66-08 authorizing the proposed spending plan for the \$100,000 grant funds.

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

MOTION: Councilmember Peirce moved the City Council adopt Resolution No. 66-08 accepting \$100,000 grant from the State of California Citizens Option for Public Safety Program. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

C. UNFINISHED BUSINESS – NONE.

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D. NEW BUSINESS

D-1 PRESENTATION FROM BUXTON COMPANY ON RETAIL MARKETING STRATEGIES FOR MORRO BAY; (PUBLIC SERVICES)

Public Services Director Bruce Ambo introduced Lisa Hill of the Buxton Company who presented a proposal on developing a Retail Development Strategy for Morro Bay.

MOTION: Councilmember Peirce moved the City Council direct staff to return to the November 10, 2008 City Council meeting with information on funding the development of a Retail Development Strategy for Morro Bay. The motion was seconded by Councilmember Grantham.

Councilmember Winholtz stated she could not support funding this proposal at this time.

Councilmember DeMeritt expressed concern that this proposal only addresses retail development and does not include light industrial business.

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

D-2 CONSIDERATION OF FINANCIAL ASSISTANCE FROM THE AFFORDABLE HOUSING IN-LIEU FUND FOR A 15-UNIT WORK FORCE HOUSING PROJECT AT THE SEA SHELL RETIREMENT HOME LOCATED AT 1405 TERESA DRIVE; (PUBLIC SERVICES)

Public Services Director Bruce Ambo stated the project associated with this request was approved by the Planning Commission on January 22, 2008 and subsequently approved by the City Council on May 12, 2008. The applicant is requesting a total of \$214,208 in financial assistance through a credit of Building and Plan Check Fees and the remaining balance in Affordable Housing In-Lieu Fees. The project includes three deed-restricted affordable units for a term of 30-years, and 12 work force housing units for a total of 15 studio units. Mr. Ambo recommended the City Council direct staff to credit \$43,660 in Building and Plan Check Fees, and release \$170,598 in Affordable Housing In-Lieu Fees upon issuance of a Certificate of Occupancy for this project.

Cathy Novak, representing the applicant, gave a presentation on this project and noted the applicant is requesting the City Council consider waiving the Building and Plan Check Fees at this time instead of obtaining a credit. Ms. Novak stated she was available to answer questions of the City Council.

Councilmember Winholtz stated she is supportive of low-income housing projects; however, she would like an exchange for the requested housing in-lieu funding for an additional affordable unit or change all three restricted units from moderate to low income.

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Councilmember Peirce stated he supports funding the \$43,660 from the housing in-lieu funding up front and releasing the \$170,598 upon issuance of a Certificate of Occupancy with the requirement that a bond is obtained for collateral.

Councilmember Grantham stated this is a good project and he supports the funding request with the requirement that a bond is obtained.

Councilmember DeMeritt stated she does support funding the \$139,500 in housing in-lieu funds for the construction of the project; she does not support giving away sewer impact or building permit fees.

Mayor Peters stated she supports funding this project from the in-lieu housing funds with the requirement that a bond is obtained.

**MOTION:** Councilmember Grantham moved the City Council approve funding of \$214,258 from the Affordable Housing In-Lieu Funds; direct the City Attorney to ensure the completion of the project; and approve the release of the remaining \$170,598 upon issuance of a Certificate of Occupancy. The motion was seconded by Councilmember Peirce and carried with Councilmember DeMeritt and Councilmember Winholtz voting no. (3-2)

**D-3 PRESENTATION FROM THE AMERICAN RED CROSS ON DISASTER PREPAREDNESS; (COUNCIL)**

This item was pulled from the agenda.

**D-4 DISCUSSION ON REQUIRING A BUSINESS LICENSE FROM BUSINESSES THAT MAKE DELIVERIES WITHIN THE CITY LIMITS; (FINANCE)**

Finance Director Susan Slayton stated the Municipal Code states that all businesses will be charged a business license fee. In order to equitably treat all persons conducting business within the Morro Bay City limits, vendors who make deliveries to Morro Bay should pay a business license fee. Staff sent out an inquiry to other California cities to find out how they manage delivery trucks. The majority of respondents charge a fee unless the interstate commerce law covers the delivery vehicle. Ms. Slayton recommended the City Council continue charging delivery vehicles a business license fee.

**MOTION:** Councilmember Grantham moved the City Council direct staff to return with an amendment to the Morro Bay Municipal Code to exempt those companies who make deliveries in the City from paying a Business License fee. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

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D-5 CONSIDERATION OF A TWO-YEAR BUSINESS LICENSE RENEWAL CYCLE; (FINANCE)

Finance Director Susan Slayton stated the Management Partners' report suggested the business license renewal cycle change from an annual to a biennial process in order to reduce the frequency of the renewal process. Ms. Slayton recommended the City Council approve maintaining the one-year Business License renewal cycle and change the renewal date to coincide with the business start date.

MOTION: Councilmember Winholtz moved the City Council approve maintaining the one-year Business License renewal cycle and change the renewal date to coincide with the business start date. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

D-6 DISCUSSION REGARDING AMENDING COUNCIL POLICIES & PROCEDURES RELATED TO THE APPOINTMENT OF VICE-MAYOR, THE APPOINTMENT OF COUNCIL MEMBERS TO DISCRETIONARY BOARDS, THE ORDER OF BUSINESS ON THE CITY COUNCIL AGENDA, AND THE USE OF CITY LETTERHEAD; (CITY ATTORNEY)

City Attorney Robert Schultz stated at various Council meetings this year, the City Council has requested staff bring back potential changes to the Policies and Procedures Manual regarding the appointment of Vice-Mayor, the appointment of Council Members to discretionary boards, the order of business on the City Council agenda, and the use of City letterhead. Mr. Schultz recommended the City Council review the proposed amendments to the City Council Policies and Procedures Manual and direct staff accordingly.

The City Council discussed the following amendments to the City Council Policies and Procedures:

- Maintain Moment of Silence;
- Remove "Thought of the Day";
- Add Department Head Reports;
- Add Mayor and Council Member Reports, Announcements and Presentations;
- Appointment of Vice-Mayor shall be rotated on an annual basis; when a new Council is seated, the Vice-Mayor seat will go to the Council Member with the most seniority that has not been Vice-Mayor within the last two years;
- County discretionary board appointments shall be appointed by majority vote of the Council.

MOTION: Mayor Peters moved the City Council direct staff to bring back changes to the City Council Policies and Procedures as discussed by the City Council. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

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D-7 DISCUSSION ON RESOLUTION NO. 11-07 AMENDING AND ESTABLISHING GUIDELINES FOR MAJOR VEGETATION REMOVAL, REPLACEMENT AND PROTECTION; AND MUNICIPAL CODE SECTION 12.08 (CITY TREE REGULATIONS) IN REFERENCE TO THE DEFINITION OF LANDMARK TREES; (COUNCIL)

Councilmember Winholtz stated the City has lost a number of trees due to storm, disease, and construction in the last decade and a half; and there are some significant, individual trees left. Street trees currently enjoy a level of protection with some discussion about whether City park trees are included in that umbrella; and private trees have no protection. With the upcoming Urban Forest Management Plan, it would be helpful to decide whether to include a place for heritage/specimen trees. Councilmember Winholtz recommended the following: 1) decide if the Council wants a heritage/specimen tree definition added to the Municipal Code for public and/or private trees; 2) if so, decide what criteria Council considers significant; 3) have PWAB craft an ordinance change in consultation with the City Attorney and City Engineer; and 4) make it part of their discussion of the City's Urban Forest Management Plan.

MOTION: Councilmember Winholtz moved the City Council request the Public Works Advisory Board to return to Council with a definition of heritage/specimen trees to be added to the Municipal Code for public trees and voluntarily-designated private trees, and make it part of their discussion of the City's Urban Forest Management Plan. The motion was seconded by Councilmember DeMeritt and carried unanimously. (5-0)

ADJOURNMENT

The meeting adjourned at 9:44 p.m.

Recorded by:

Jamie Boucher  
Deputy City Clerk