

MINUTES - MORRO BAY CITY COUNCIL  
CLOSED SESSION – JULY 14, 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	Interim City Manager
	Robert Schultz	City Attorney

CLOSED SESSION

MOTION: Councilmember Peirce 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 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; 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 one (1) parcel.

- Property: Nutmeg Water Tank Parcel, APN 73-084-013.  
Negotiating Parties: Clarice Righetti and City of Morro Bay.  
Negotiations: Voluntary Purchase and Sale or Lease.

**CS-3 GOVERNMENT CODE SECTION 54956.9(B); CONFERENCE WITH LEGAL COUNSEL DUE TO ANTICIPATED LITIGATION.** Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 as to one matter:

- Ann Travers and Barbara Nordin vs. CITY OF MORRO BAY

**CS-4 GOVERNMENT CODE SECTION 54957; PERSONNEL ISSUES.**

Discussions regarding Personnel Issues including one (1) public employee regarding appointment, specifically the 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 Grantham moved the meeting be adjourned. The motion was seconded by Councilmember DeMeritt and unanimously carried. (5-0)

The meeting adjourned at 5:55 p.m.

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VETERANS MEMORIAL HALL - 6:00 P.M.

Mayor Peters called the meeting to order at 6:12 p.m.

PRESENT:	Janice Peters	Mayor
	Melody DeMeritt	Councilmember
	Rick Grantham	Councilmember
	William Peirce	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	Interim City Manager
	Robert Schultz	City Attorney
	Bridgett Bauer	City Clerk
	Rick Algert	Harbor Director
	Bruce Ambo	Public Services Director
	John DeRohan	Police Chief
	Rob Livick	City Engineer
	Kimberly Peoples	Housing Programs Coordinator
	Mike Pond	Fire Chief
	Susan Slayton	Finance Director
	Dylan Wade	Senior Civil Engineer
	Joe Woods	Acting 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.

The City Council and public received a video presentation on homelessness in San Luis Obispo County.

PUBLIC COMMENT

Ani Lyn, Membership Director of the Chamber of Commerce, reviewed the monthly Visitor Center and website statistics for the month of June 2008.

Keith Taylor addressed the Cal Fire workshop that was held on Saturday, July 12<sup>th</sup> noting it was beneficial for the public, and encouraged those who could not attend to watch it on Channel 20.

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Cathy Novak addressed Item A-7 (Resolution No. 45-08 Approving Final Abandonment of an Undeveloped Portion of Palm Avenue Right-Of-Way) stating the proposed resolution does not address liability and safety issues. She noted at the last meeting Council expressed concern with safety issues in conjunction with the pedestrian path. Ms. Novak requested Council clarify this issue and add any necessary language to the resolution addressing these concerns.

Joan Solu stated the Morro Bay Community Pool Foundation is a grassroots organization interested in building a competition-sized and therapy pool at Morro Bay High School. She said an information meeting would be held on July 30<sup>th</sup> at 6:00 p.m. at the high school.

Lynda Merrill stated she is happy to have Andrea Lueker appointed as City Manager. She also thanked Bill Boucher for his years of service to the City. Ms. Merrill also remembered Margaret Mehring who was known for her civic service and who passed away on July 3, 2008.

Nancy Johnson addressed Dahlia Days that will be held on August 23, 2008 at St. Timothy's Church. She said there would be a contest between the Planning Commission and City Council on who can grow the best Dahlia.

Anita Ayoob commended the Police Department for catching those who egged her house.

Nancy Castle gave a Chess Live update stating there would be Chess Live on the second and fourth Sundays of the month.

John Barta addressed Council comments at their July 23, 2008 meeting regarding Measure "S". He shared the language put forward to the voters on Measure "S" at the November 2006 election.

Mayor Peters closed the hearing for public comment.

Mayor Peters called for a break at 7:00 p.m.; the meeting resumed at 7:08 p.m.

DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Grantham requested to agendize a discussion on placing monies obtained from the Dynegy lease agreement into the Reserve Fund next fiscal year; Councilmember Peirce and Mayor Peters concurred.

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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 REGULAR CITY COUNCIL MEETING OF JUNE 23, 2008; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 RESOLUTION NO. 47-08 CALLING THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 4, 2008 AND REQUESTING CONSOLIDATION WITH THE COUNTY OF SAN LUIS OBISPO; (ADMINISTRATION)

**RECOMMENDATION: Adopt Resolution No. 47-08.**

A-3 RESOLUTION NO. 46-08 APPOINTING ANDREA LUEKER AS CITY MANAGER AND APPROVAL OF EMPLOYMENT AGREEMENT; (CITY ATTORNEY)

**RECOMMENDATION: Adopt Resolution No. 46-08.**

A-4 REVISIONS TO THE MASTER FEE SCHEDULE; (FINANCE)

**RECOMMENDATION: Approve the changes to the Master Fee Schedule.**

A-5 RESOLUTION NO. 43-08 DESIGNATING AND AUTHORIZING INVESTMENT TRANSACTION OFFICERS; (FINANCE)

**RECOMMENDATION: Adopt Resolution No. 43-08.**

A-6 RESOLUTION NO. 44-08 AUTHORIZING THE SUBMITTAL OF A HOME FUNDING APPLICATION; (PUBLIC SERVICES)

**RECOMMENDATION: Adopt Resolution No. 44-08.**

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A-7 RESOLUTION NO. 45-08 APPROVING FINAL ABANDONMENT OF AN UNDEVELOPED PORTION OF PALM AVENUE RIGHT-OF-WAY; (PUBLIC SERVICES)

**RECOMMENDATION: Adopt Resolution No. 45-08.**

A-8 AMENDMENT OF THE CAPITAL PROJECTS MANAGER JOB DESCRIPTION AND AUTHORIZATION TO FILL VACANCIES FOR THE CAPITAL PROJECTS MANAGER AND FILL THE SENIOR CIVIL ENGINEER VACANCY AT A LOWER LEVEL; (PUBLIC SERVICES)

**RECOMMENDATION: Approve the amended job description of the Capital Projects Manager and authorize staff to fill the Senior Civil Engineer vacancy at a lower level of an Engineering Technician or Assistant Civil Engineer position.**

Mayor Peters pulled Item A-1 of the Consent Calendar; Councilmember DeMeritt pulled Items A-3, A-4, A-7 and A-8.

MOTION: Councilmember Winholtz moved the City Council approve Items A-2, A-5 and A-6 of the Consent Calendar. The motion was seconded by Councilmember DeMeritt and carried unanimously. (5-0)

A-1 APPROVAL OF MINUTES FOR REGULAR CITY COUNCIL MEETING OF JUNE 23, 2008; (ADMINISTRATION)

Mayor Peters requested the following correction to her comments on page 17:

Mayor Peters stated the primary election process was confusing being that it was the first one, and it over-politicizes discussions and decisions. She said she did not like the extra cost to both the city and the candidates, and so many forums; however, those concerns could be addressed in the future. She stated that placing a repeal of this process on the ballot should come from the citizens, just as the initial measure did.

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

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A-3 RESOLUTION NO. 46-08 APPOINTING ANDREA LUEKER AS CITY  
MANAGER AND APPROVAL OF EMPLOYMENT AGREEMENT; (CITY  
ATTORNEY)

Councilmember DeMeritt requested the City Council continue the approval of the City Manager Employment Agreement to the August 11, 2008 City Council meeting because she would like more time to discuss some issues with the contract in Closed Session.

MOTION: Councilmember DeMeritt moved the City Council continue consideration of this item to the August 11, 2008 City Council meeting. The motion was seconded by Councilmember Winholtz and failed with Councilmember Grantham, Councilmember Peirce and Mayor Peters voting no. (2-3)

Councilmember Winholtz requested the following amendments to the City Manager Employment Agreement:

Section 3 (B) - Salary Increases as follows: “The City Council shall evaluate Manager performance semi-annually beginning November 2008 ...”; and

Exhibit-A (Benefits) 1. - Retirement: “MANAGER shall be covered by the State of California Public Employee Retirement System (PERS). The CITY shall add the applicable PERS 7% to MANAGER’s salary ...”.

MOTION: Councilmember Grantham moved the City Council approve Item A-3 of the Consent Calendar as amended by Council. The motion was seconded by Councilmember Peirce.

Councilmember DeMeritt stated although she has great respect for Andrea Lueker, she would be voting in opposition to the motion.

Councilmember Winholtz stated she previously spoke with Ms. Lueker regarding her opposing vote to this motion.

Councilmember Grantham, Councilmember Peirce and Mayor Peters expressed their support in appointing Ms. Lueker as City Manager.

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

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A-4 REVISIONS TO THE MASTER FEE SCHEDULE; (FINANCE)

Councilmember DeMeritt stated she takes exception to the proposed utility deposit of \$150 per water meter. She said she would like to propose reducing this deposit; not have it be retroactive to current customers, and suggested it be applied to new customers applying for a new water hook-up.

Councilmember Peirce suggested it start with new hook-ups and when water is shut-off, the customer pays a turn-on fee and a deposit that may be paid within 30 days.

Councilmember Grantham stated a deposit should be applied to customers who do not pay their water bills.

Councilmember Winholtz stated she does not support a retroactive fee and suggested the deposit be lowered to \$90-\$100 for new water hook-ups.

**MOTION:** Councilmember Grantham moved the City Council approve the revisions to the Master Fee Schedule with an amendment that the utility deposit is charged as \$100, will not be retroactive, and will be refunded when a customer moves. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

A-7 RESOLUTION NO. 45-08 APPROVING FINAL ABANDONMENT OF AN UNDEVELOPED PORTION OF PALM AVENUE RIGHT-OF-WAY; (PUBLIC SERVICES)

Councilmember DeMeritt stated a resolution could be changed with future Council, and asked if there would be a deed guaranteeing the pedestrian walkway.

City Engineer Rob Livick responded this Resolution would run with the property and at another point in time someone could petition the City Council to change this Resolution.

The City Council discussed the liability of the abandoned property.

**MOTION:** Mayor Peters moved the City Council adopt Resolution No. 45-08 approving the final abandonment of an undeveloped portion of Palm Avenue right-of-way with a deed restricted easement that the property owners will construct and maintain the sidewalk on the easement portion of the property, and the City will maintain liability on the sidewalk. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

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A-8 AMENDMENT OF THE CAPITAL PROJECTS MANAGER JOB DESCRIPTION AND AUTHORIZATION TO FILL VACANCIES FOR THE CAPITAL PROJECTS MANAGER AND FILL THE SENIOR CIVIL ENGINEER VACANCY AT A LOWER LEVEL; (PUBLIC SERVICES)

Councilmember DeMeritt asked for clarification on the title.

Councilmember Winholtz requested this position be strictly a Utilities Manager which is funded through an Enterprise Fund, and capital projects be handled by each department which is funded through the General Fund.

MOTION: Councilmember DeMeritt moved the City Council approve Item A-8 of the Consent Calendar. The motion was seconded by Councilmember Grantham and carried with Councilmember Winholtz voting no. (4-1)

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 CONSIDERATION OF A CDBG PLANNING AND TECHNICAL ASSISTANCE (ECONOMIC DEVELOPMENT) GRANT APPLICATION FOR A REDEVELOPMENT FEASIBILITY STUDY AND ADOPTION OF A RESOLUTION APPROVING THE APPLICATION AND GRANT AGREEMENT; (PUBLIC SERVICES)

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

MOTION: Mayor Peters moved the City Council continue this Public Hearing to a Special Meeting on August 4, 2008. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

B-2 CONSIDERATION OF A CDBG PLANNING AND TECHNICAL ASSISTANCE (GENERAL ALLOCATION) GRANT APPLICATION FOR A REDEVELOPMENT FEASIBILITY STUDY AND ADOPTION OF A RESOLUTION APPROVING THE APPLICATION AND GRANT AGREEMENT; (PUBLIC SERVICES)

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

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MOTION: Mayor Peters moved the City Council continue this Public Hearing to a Special Meeting on August 4, 2008. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

B-3 EXTENSION OF AN INTERIM URGENCY ORDINANCE ESTABLISHING A TEMPORARY MORATORIUM ON THE ACCEPTANCE, PROCESSING AND APPROVAL OF APPLICATIONS AND PERMITS TO CONSTRUCT, MODIFY OR PLACE WIRELESS COMMUNICATIONS FACILITIES PENDING COMPLETION OF STUDIES AND THE PREPARATION OF AN UPDATE TO THE CITY'S ZONING ORDINANCE CODE; (CITY ATTORNEY)

City Attorney Robert Schultz stated Government Code Section 65858 authorizes a city to adopt, as an urgency measure, an interim ordinance prohibiting a use that may be in conflict with a general plan, specific plan, or zoning proposal that a city is considering, without following the procedures otherwise required for the adoption of a zoning ordinance. The City Council initially granted an Interim Urgency Ordinance for 45 days and staff is now recommending the City Council hold a public hearing and extend the period in order for staff to develop regulations for Wireless Communications Facilities. Mr. Schultz recommended the City Council adopt Interim Urgency Ordinance No. 542, which would extend the previously enacted 45-day Ordinance establishing a temporary moratorium on Wireless Communications Facilities pending completion of studies and the preparation of an update to the City's Zoning Ordinance.

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

MOTION: Councilmember Grantham moved the City Council adopt Interim Urgency Ordinance No. 542, which would extend the previously enacted 45-day Ordinance establishing a temporary moratorium on Wireless Communications Facilities pending completion of studies and the preparation of an update to the City's Zoning Code. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

Interim City Manager Andrea Lueker read Ordinance No. 542 by number and title only.

C. UNFINISHED BUSINESS – NONE.

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D. NEW BUSINESS

D-1 DISCUSSION ON ZERO-BASED BUDGETS FOR THE 2009-2011 BIENNIAL BUDGET; (FINANCE)

Finance Director Susan Slayton stated the 2008 Management Partners' *Assessment of City Organization and Financial Options* study clearly points out that the City needs to take action in order to remain solvent, and zero-based budgeting is a step in that direction. While department directors justify certain line items when preparing their budgets, this is not done for every budgeted line and zero-based budgeting accomplishes this task. Zero-based budgeting for a department starts the process with all line items at zero. The preparer must gather actual salary and benefit information, contract amounts, historical costs of services and utilities, and anticipated supplies spending to come to an estimated need for the upcoming fiscal year; the change will be in justifying those amounts. Ms. Slayton recommended the City Council consider this form of budgeting and direct staff accordingly.

MOTION: Councilmember Peirce moved the City Council direct staff to move all City Departments to a zero-based budget for fiscal years 2009-2011 biennial budget. The motion was seconded by Councilmember DeMeritt and carried unanimously. (5-0)

D-2 DISCUSSION REGARDING THE RECURRING TRANSFER OF EXCESS CASH TO ACCUMULATION FUNDS AT FISCAL YEAR END; (FINANCE)

Finance Director Susan Slayton stated excess cash at the end of the fiscal year should be transferred to the accumulation funds so that it is readily identifiable as extra money. Currently, excess cash from the enterprise funds transfers to their respective accumulation funds. Ms. Slayton recommended the City Council direct staff to return with a resolution to adopt the practice of transferring excess cash to the accumulation funds at every fiscal year end.

MOTION: Councilmember Peirce moved the City Council direct staff to return with a resolution to adopt the practice of transferring excess cash to the Accumulation Funds from the General Fund and Enterprise Funds at every fiscal year end. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

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D-3 CONSIDERATION OF FUNDING FOR THE ECONOMIC VITALITY CORPORATION FOR A COUNTYWIDE TOURISM INDUSTRY STUDY AND A COMMUNITY SPECIFIC STUDY; (ADMINISTRATION)

Interim City Manager Andrea Lueker introduced Michael Manchak, President and CEO of the Economic Vitality Corporation who made a presentation regarding funding for a County-wide Study and Community Specific Study regarding tourism. The General Fund fiscal impact for the tourism studies is \$2,100 for the County-wide Study and \$12,000 for the Community Specific Study.

Councilmember Winholtz stated she does not feel the City should invest in the \$12,000 Community Specific Study, and is willing to consider funding the \$2,100 Countywide Study.

Councilmember Grantham stated he supports funding the Countywide Study. He said he would like to take \$2,100 from the Visitors and Conference Bureau funding and pay it towards the Economic Vitality Corporation.

Councilmember Peirce stated he supports funding \$2,100 towards the Countywide Study.

Councilmember DeMeritt stated the City has the support of the Community Promotions Committee and the Visitors and Conference Bureau and does not support funding for either study.

Mayor Peters stated she supports the Community Promotions Committee's previously action in rejecting the funding for either of these studies.

MOTION: Councilmember Winholtz moved that Councilmember Grantham, Councilmember Peirce and herself donate \$350 each from their contingency funds and challenge the Community Promotions Committee and/or Chamber of Commerce to fund the remaining \$1,050 for the County-wide Study. The motion was seconded by Councilmember Grantham and carried with Councilmember DeMeritt and Mayor Peters voting no. (3-2)

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D-4 SPACE NEEDS STUDY ON THE CORPORATION YARD; (PUBLIC SERVICES)

Senior Civil Engineer Dylan Wade stated the City commissioned RRM Design Group to assess the space needs of the existing Corporation Yard users both now and into the future. This was the first planning effort for the Corporation Yard that the City has every undertaken. In preparing this document RRM has interviewed the majority of the users of the Corporation Yard and has determined what functions can share common facilities and what functions require separate spaces. This information was used to allocate square footage demands of the different operational responsibilities, which was then configured to determine what building footprints would be required. Once the size and number of buildings had been determined, RRM prepared four alternate configurations for the anticipated facilities in separate site plans. Mr. Wade recommended the City Council provide staff direction on which option, or combination of options to consider in future efforts; and, forward recommendations included in this study to the Joint Powers Authority for discussions regarding the location of the Oxidation ditches.

Councilmember Winholtz stated she does not want to lose any tax revenue by compromising the trailer park or cement company property. She said the City should negotiate with the Cayucos Sanitary District regarding the joint facilities. Councilmember Winholtz stated the proposed conference room and break room should be one room, and the restrooms could be reduced in size. She said Council should consider continuing discussion on this item at the August 13<sup>th</sup> Special Meeting.

Councilmember Peirce stated he could support Option 3 with a modification that the concrete plant could continue operating more efficiently, and the revenues from the trailer park are not affected.

Councilmember Grantham stated he supports Option 3.

Councilmember DeMeritt stated she supports Option 3 with further discussion with the concrete plant about their perception of the plan. She said there should be a consolidation of departmental equipment.

Mayor Peters stated she supports Option 3 and working with the concrete plant to make it work for all.

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MOTION: Councilmember Peirce moved the City Council direct staff to work with the owners of the concrete plant and create an option that maintains their business and preserves the current footprint of the recreational vehicle park. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

D-5 DISCUSSION ON HARBOR LEASE MANAGEMENT POLICY; (HARBOR)

Harbor Director Rick Algert stated the City Council last reviewed the Harbor Lease Management Policy on October 16, 2006 and made no amendments to the Policy at that time. He recommended the City Council review the Policy and direct staff accordingly.

Councilmember Winholtz recommended amendments to Page 2 (General Policy) adding language regarding the protection of the resource; and Page 4-B (Specific Policies for Contract Administration) regarding size of the lease site and the level of private investment. She also requested discussion on going from ground leases to building leases.

Councilmember Grantham recommended language for Page 4-B regarding public benefit.

Councilmember DeMeritt recommended language on Page 5 (Lease Renewal).

Consensus of the City Council was that this return as a Consent Calendar item with amendments made by Council.

No further action was taken on this item.

D-6 CONSIDERATION OF THE USE OF GLOBAL ELECTRIC MOTOR CARS;  
(CITY COUNCIL)

Councilmember DeMeritt reviewed a report written by students in November 2007 on how to save money by using electric trucks in the City, and requested Council comments.

Councilmember Grantham expressed concern with safety issues and reliability of the batteries used to power these vehicles; however, he said perhaps the City could purchase one and see how it works.

Councilmember Winholtz expressed support for purchasing two GEM trucks for the Parks and Recreation Department.

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Councilmember Peirce expressed concern with the speed of a GEM truck and the liability of dangerous intersections.

Mayor Peters stated it is a good idea and should be researched.

**MOTION:** Councilmember DeMeritt moved the City Council direct staff to contact Iversen Dodge regarding information on two GEM trucks for the Park & Recreation Department including information on safety issues and warranties, and return to Council prior to purchasing two gasoline trucks. The motion was seconded by Councilmember Winholtz.

Councilmember Peirce stated he would like information on the City's use of a GEM truck prior to purchasing one.

Councilmember DeMeritt amended her motion to direct staff to list possible uses and limits on the use of a GEM truck; Councilmember Winholtz accepted the amendment to her second.

**VOTE:** The motion carried unanimously. (5-0)

**D-7 DISCUSSION ON SETTING A DATE FOR A WORKSHOP ON THE MANAGEMENT PARTNERS REPORT ON ASSESSMENT OF CITY ORGANIZATION AND FINANCIAL OPTIONS; (ADMINISTRATION)**

**MOTION:** Mayor Peters moved the City Council schedule a workshop for August 13, 2008 to discuss the recommendations made in the Management Partners report. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

**D-8 RESCISSION OF COUNCIL ACTION OF JUNE 9, 2008 PERTAINING TO GRANTING ANY PERMIT OR ENTITLEMENT FOR THE CONSTRUCTION OF A WIRELESS TELECOMMUNICATIONS FACILITY AT 545 SHASTA AVENUE AND SCHEDULING A PUBLIC HEARING FOR THE RECONSIDERATION OF THE APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF A WIRELESS TELECOMMUNICATIONS FACILITY AT 545 SHASTA AVENUE; (CITY ATTORNEY)**

City Attorney Robert Schultz stated on July 8, 2008 the City received a letter from an attorney for Ann Travers and Barbara Nordin alleging that the City violated the Brown Act at the June 9, 2008 City Council meeting. The letter alleges the City failed to give proper notice for the approval of the construction of a wireless telecommunications facility at 545 Shasta Avenue. Although I disagree that any violation of the Brown Act

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has occurred, the Brown Act allows the City an opportunity to cure or correct a challenged action within 30 days. It appears that it is in the City's best interest to rescind its previous action and re-notice this item instead of fighting a costly legal battle. Mr. Schultz recommended the City Council rescind Council action of the June 9<sup>th</sup> action pertaining to granting any permit or entitlement for the construction of a wireless telecommunications facility at 545 Shasta Avenue, and schedule a public hearing for the reconsideration of the appeal of the Planning Commission's approval of a wireless telecommunications facility at 545 Shasta Avenue on a date prior to August 8, 2008.

**MOTION:** Councilmember Winholtz moved the City Council rescind Council action of June 9, 2008 pertaining to granting any permit or entitlement for the construction of a Wireless Telecommunications Facility at 545 Shasta Avenue and schedule a public hearing for the reconsideration of the appeal of the Planning Commission's approval of a Wireless Telecommunications Facility at 545 Shasta Avenue on August 4, 2008. The motion was seconded by Councilmember Peirce and carried unanimously. (5-0)

**D-9 AUTHORIZATION TO HIRE TWO PART-TIME POLICE OFFICER RECRUITS PENDING RESIGNATIONS OF TWO EXISTING POLICE OFFICERS; (ADMINISTRATION)**

Interim City Manager Andrea Lueker stated there is an impending loss of two existing police officers that are currently in the background phase of testing with other law enforcement agencies. Ms. Lueker recommended the City Council authorize the Police Chief to hire two police recruits on a part-time, non-benefited basis, who can start the local police academy on July 28, 2008 without the actual resignations from the two existing officers.

**MOTION:** Councilmember Peirce moved the City Council authorize the hiring of two part-time Police Officer Recruits pending resignations of two existing Police Officers. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

ADJOURNMENT - The meeting adjourned at 10:34 p.m.

Recorded by:

Bridgett Bauer  
City Clerk