

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – DECEMBER 8, 2008
VETERANS MEMORIAL HALL

Mayor Peters called the meeting to order at 7:00 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Bridgett Bauer	City Clerk
	Rick Algert	Harbor Director
	Bruce Ambo	Public Services Director
	Janeen Burlingame	Management Analyst
	John DeRohan	Police Chief
	Mike Pond	Fire Chief
	Dylan Wade	Utilities/Capital Projects Manager
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER
MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &
PRESENTATIONS
CLOSED SESSION REPORT – There was no Closed Session meeting.

PUBLIC COMMENT

Peter Candela reviewed the monthly statistics for the Visitors Center. He also announced the Chamber is sponsoring a New Years Eve Party filled with fun events.

Keith Taylor stated the Grand Opening of the Fire Station Apparatus Bay was a successful event.

John Barta welcomed the new Councilmembers and thanked Councilmember Peirce for his efforts.

George Leage congratulated the voters in Morro Bay who participated in the largest voter turnout in the County. He also thanked those who supported him during the campaign season. Mr. Leage stated the City Council should take a serious look at the economics of the City.

Erica Murphy invited the community to the Morro Heights 4th Annual Luminaries display on Saturday, December 13th.

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Claire Grantham thanked those who assisted with the Annual Thanksgiving Dinner. She also recognized Officer Richard Hannibal who delivered dinners to the homeless in Morro Bay.

Geri Walsh announced the 3rd Annual Needs and Wishes Holiday Fundraiser in support of the Maxine Lewis Memorial Shelter for the Homeless would be held on Saturday, December 13th.

Richard Morgeson reviewed the number of people who use the Prado Day Center and homeless shelters in the County. He encouraged participation in the Needs and Wishes Holiday Fundraiser.

Mayor Peters 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 AUTHORIZATION TO EXECUTE NEW LEASE AGREEMENT FOR LEASE SITE 67/67W LOCATED AT 575 EMBARCADERO - VIOLE FAMILY LLC; (HARBOR)

RECOMMENDATION: Adopt Resolution 80-08 authorizing the Mayor to execute a new lease agreement for Lease Site 67/67W.

A-2 AUTHORIZATION TO EXECUTE NEW LEASE AGREEMENT FOR LEASE SITE 68/68W LOCATED AT 591 EMBARCADERO – HELD FAMILY TRUST; (HARBOR)

RECOMMENDATION: Adopt Resolution 81-08 authorizing the Mayor to execute a new lease agreement for Lease Site 68/68W.

A-3 AUTHORIZATION TO FILL RECREATION & PARKS DEPARTMENT MAINTENANCE II POSITION; (RECREATION & PARKS)

RECOMMENDATION: Authorize staff to fill the Recreation & Parks Department Maintenance II vacancy.

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- A-4 AUTHORIZATION TO FILL RECREATION AND PARKS DEPARTMENT MAINTENANCE SUPERINTENDENT POSITION; (RECREATION & PARKS)

RECOMMENDATION: Authorize staff to fill the Recreation & Parks Department Maintenance Superintendent vacancy.

- A-5 APPROVAL OF LETTER TO SAN LUIS OBISPO COUNCIL OF GOVERNMENTS SUPPORTING CITY REQUEST TO AMEND RURAL TRANSIT FUND GRANT PROJECT FROM CAPITAL TO OPERATING ASSISTANCE FOR MORRO BAY DIAL-A-RIDE; (PUBLIC SERVICES)

RECOMMENDATION: Approve letter of support and direct Mayor to deliver the letter to the members of the SLOCOG Board at their December 17, 2008 meeting.

- A-6 CONTINUATION OF EMERGENCY PER PUBLIC CONTRACT CODE SECTION 22050 FOR THE INSTALLATION OF 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-7 PROCLAMATION DECLARING FRIDAY, DECEMBER 26, 2008 AS A CITY HOLIDAY; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

Councilmember Winholtz pulled Items A-1 and A-2 of the Consent Calendar.

MOTION: Councilmember Grantham moved the City Council approve the Consent Calendar with the exception of Items A-1 and A-2. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

- A-1 AUTHORIZATION TO EXECUTE NEW LEASE AGREEMENT FOR LEASE SITE 67/67W LOCATED AT 575 EMBARCADERO - VIOLE FAMILY LLC; (HARBOR)

- A-2 AUTHORIZATION TO EXECUTE NEW LEASE AGREEMENT FOR LEASE SITE 68/68W LOCATED AT 591 EMBARCADERO – HELD FAMILY TRUST; (HARBOR)

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Councilmember Winholtz stated she would like the rent to be reduced during construction and then readjust the base rate at the new Consumer Price Index.

MOTION: Mayor Peters moved the City Council approve Items A-1 and A-2 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 CITY OF MORRO BAY WATER MANAGEMENT PLAN STATUS REPORT
2008; (PUBLIC SERVICES)

Utilities/Capital Projects Manager Dylan Wade stated the Water Management Plan is the policy document that guides the allocation of the City's water resources. The Water Management Plan was originally adopted by the City Council on February 28, 1994 by adoption of Resolution No. 07-94, and certified as an amendment to the City's Local Coastal Plan by the California Coastal Commission. Periodic review of this portion of the City's Local Coastal Plan is required, and Mr. Wade recommended the City Council review the Water Management Plan and adopts the 2008 Water Management Plan Status Report.

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

Councilmember Winholtz stated she would like the categories listed in the status report to be reordered, noting conservation should be a high priority. She said she would like to add the term "peaking" in Measures 7 and 9. Councilmember Winholtz stated it should be noted the City relies primarily on State Water, and conservation should be placed before reclamation.

Councilmember Grantham addressed the cost of reclamation and tertiary treatment stating it is important to utilize purple pipe in the future. He said he is encouraged that mitigation is going to be pursued with the City's groundwater source because the desalination plant is a high-energy process which should not be used unless necessary.

Noah Smukler expressed concern that the water portfolio is dependent on State Water. He said it is important to continue frequent reviews of the City's water supply portfolio and the Water Management Plan. Councilmember Smukler stated an update to the conservation element should include new water efficiency opportunities and low impact development techniques. He said the City should utilize its relationship with SLO Green Build and the National Estuary Program to enhance public education. Councilmember Smukler stated the groundwater supply should be a priority and the City should work

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aggressively to develop water reclamation element to the Wastewater Treatment Plant upgrade that includes a short-term access point for reclaimed water to load water delivery trucks. He said the City should also consider biological treatment and reuse of reclaimed water through a constructed wetland system.

Councilmember Borchard stated all of her questions have been answered.

MOTION: Councilmember Winholtz moved the City Council adopt the 2008 Water Management Plan Status Report with changes to the priorities listed as follows: 1) State Water; 2) conservation; 3) groundwater; 4) desalination; and 5) reclamation. The motion was seconded by Noah Smukler.

Noah Smukler stated he would rather place groundwater as a priority over State Water.

VOTE: The motion failed with Councilmember Borchard, Councilmember Grantham, Councilmember Smukler and Mayor Peters voting no. (1-4)

MOTION: Councilmember Grantham moved the City Council adopt the 2008 Water Management Plan Status Report. The motion was seconded by Mayor Peters and carried with Councilmember Smukler and Councilmember Winholtz voting no. (3-2)

C. UNFINISHED BUSINESS

C-1 BUDGET AMENDMENT TO APPROPRIATE HARBOR FUNDS FOR COMPLETION OF HARBOR DEPARTMENT MODULAR OFFICE PROJECT; (HARBOR)

This item was pulled from the agenda.

C-2 STATUS OF URGENCY INTERIM ORDINANCE PROHIBITING THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES; (CITY ATTORNEY)

City Attorney Robert Schultz stated in 1996 California voters enacted Proposition 215, the Compassionate Use Act, which protects qualified patients and their primary caregivers from prosecution under California laws for possession or cultivation of marijuana to treat serious illness pursuant to a doctor's recommendation. In 2003, the state legislature enacted implementing legislation to allow qualified patients and caregivers to obtain identification cards that insulate them from arrest for cultivation and/or use of marijuana for authorized medical purposes. Although not expressly

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authorized under these laws, some people used this legal backdrop to set up medical marijuana dispensaries where qualified patients and caregivers could purchase marijuana for medical use. Under federal law, marijuana has no currently accepted medical use and the cultivation, possession, or distribution of marijuana is prohibited. Congress has not changed this prohibition despite the passage of medical marijuana laws in a number of states. The ongoing conflict between federal and state law on this subject has created a dilemma for local governments and their law enforcement agencies, particularly with regard to medical marijuana dispensaries. The City's moratorium will expire January 1, 2009, and under state law, it may not be continued beyond that date. It is the recommendation of the City Attorney's office that the City Council ban medical marijuana dispensaries until such time as the tension between state and federal law is resolved.

MOTION: Mayor Peters moved the City Council instruct the City Attorney to prepare an ordinance that would eliminate the possibility of storefront medical marijuana sales in the City. The motion was seconded by Councilmember Grantham and carried with Councilmember Winholtz voting no. (4-1)

D. NEW BUSINESS

**D-1 APPOINTMENT OF VICE-MAYOR TO SERVE A ONE-YEAR TERM;
(ADMINISTRATION)**

MOTION: Mayor Peters moved the City Council appoint Councilmember Winholtz as Vice-Mayor to serve a one-year term. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

**D-2 APPROVAL OF THE CITY COUNCIL ANNUAL MEETING SCHEDULE -
2009; (ADMINISTRATION)**

City Manager Andrea Lueker suggested the following meeting schedule for 2009:

- 1) The regular meeting dates are the second and fourth Monday of each month with the exception of July 27th, November 23rd, and December 28th, which are traditionally cancelled.
- 2) In the event the 2nd and 4th Monday falls on a recognized City holiday (May 25th), the meeting will be held on the following Tuesday.
- 3) Approve March 30th and November 30th (fifth Mondays) as the dates for joint City Council/Planning Commission meetings. Due to the proximity of the November 30th date to Thanksgiving and the lack of other 5th Mondays, the Council may want to consider the 3rd Monday for this meeting.
- 4) Review potential dates for Joint Wastewater Treatment Plant meetings.

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Councilmember Winholtz suggested not canceling the July 27, 2009 City Council meeting. She also asked if the second joint meeting with the Planning Commission should be held in August instead of November 30th, which is close to Thanksgiving.

MOTION: Councilmember Grantham moved the City Council approve the meeting schedule for 2009 as proposed by the City Manager. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

**D-3 APPOINTMENT OF REPRESENTATIVES ON DISCRETIONARY BOARDS;
(ADMINISTRATION)**

Based on City Council Policies and Procedures, annually the Mayor shall make appointments to a variety of Council and/or regional committees and boards. One member of the council shall serve as a voting representative and one member shall serve as alternate. To the best of their ability, voting delegates shall reflect the majority view of the Council as a whole, rather than their own personal opinions. Mayor Peters suggested the following appointments:

COUNCIL SUBCOMMITTEE ON EMPLOYEE GRIEVANCES

Janice Peters	Member
Carla Borchard	Member

INTEGRATED WASTE MANAGEMENT AUTHORITY

Carla Borchard	Designee
Noah Smuckler	Alternate

COUNTY WATER RESOURCES ADVISORY COMMITTEE

Betty Winholtz	Delegate
City Manager (or her designee)	Alternate

**SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY &
SAN LUIS OBISPO AREA COORDINATING COUNCIL (SLOCOG)**

Janice Peters	Delegate
Betty Winholtz	Alternate

CMC CITIZENS' ADVISORY COMMITTEE (2-year term)

Rick Grantham	Member
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AIR POLLUTION CONTROL DISTRICT

Noah Smuckler	Member
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ECONOMIC OPPORTUNITY COMMISSION (3-year term)

Rick Grantham	Member
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ECONOMIC VITALITY CORPORATION

Carla Borchard	Member
Noah Smuckler	Alternate

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NATIONAL ESTUARY PROGRAM

Noah Smuckler	Member
Carla Borchard	Alternate

CITY SELECTION COMMITTEE

Janice Peters (Mayor)	Member
Betty Winholtz (Vice Mayor)	Alternate

LEGISLATIVE DELEGATE

Janice Peters (Mayor)	Member
Betty Winholtz (Vice-Mayor)	Alternate

SAN LUIS OBISPO COUNTY HOUSING TRUST FUND

Betty Winholtz	Member
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JPA SUB-COMMITTEE

Janice Peters	Member
Rick Grantham	Member

MOBILEHOME CONVERSION SUB-COMMITTEE

Betty Winholtz	Member
Rick Grantham	Member

No further action was taken on this item.

D-4 SET DATE FOR INTERVIEWS OF COMMISSIONER/ADVISORY BOARD VACANCIES AND DISCUSSION REGARDING FREQUENCY OF MEETINGS, NUMBER OF MEMBERS AND POTENTIAL NEW REPRESENTATION CATEGORIES; (ADMINISTRATION)

The City Council concurred that the number of members on the Advisory Boards should remain the same; Commission and Advisory Boards would review their by-laws as well as including youth representation; and interviews would be scheduled for January 21, 2009.

No further action was taken on this item.

DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Grantham requested to agendize a discussion on placing a public utility user tax, and other user tax fees on the next ballot; Mayor Peters and Noah Smukler concurred.

Noah Smukler requested to agendize an update on the Collection Systems Master Plan; Council concurred.

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ADJOURNMENT

The meeting adjourned at 9:24 p.m.

Recorded by:

Bridgett Bauer
City Clerk