

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – AUGUST 24, 2009
CITY HALL CONFERENCE ROOM - 5:00 P.M.

Mayor Peters called the meeting to order at 5:08 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

CLOSED SESSION

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

Mayor Peters read the Closed Session Statement.

CS-1 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.

Negotiating Parties: City Tidelands Trust Leaseholders and the City of Morro Bay.
Negotiations: Lease Terms and Conditions.

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

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

The meeting adjourned at 6:00 p.m.

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VETERANS MEMORIAL HALL - 6:00 P.M.

Mayor Peters called the meeting to order at 6:13 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
	John DeRohan	Police Chief
	Mike Pond	Fire Chief
	Christine Rogers	Housing Programs Coordinator
	Susan Slayton	Administrative Services Director
	Joe Woods	Recreation & Parks Director

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

PUBLIC COMMENT

Robert Davis, representative of the San Luis Obispo Bike Club, announced the 38th Annual Lighthouse Bike Ride for Charities would be held on September 26th, which route is mostly on Highway One between Cuesta College and Piedras Blancas, and would raise money to fund high school and college programs.

Mike Schaffer, FunRide Car Sharing Service, stated car sharing is an alternative to the high cost of owning a vehicle. He said FunRide vehicles will also be available at the San Luis Obispo Airport, Amtrak and hotel clusters to provide low cost transportation for visitors to San Luis Obispo County. Mr. Schaffer stated he looks forward to bringing FunRide to Morro Bay.

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Mary Golden, Executive Director of the Central Coast Natural History Association, announced an event at Morro Rock on Saturday, August 28th called I “Heart” State Parks to sign green hearts in support of our local State Parks. She also announced a One-Eyed Skunk Golf Tournament would be held on October 31, 2009 at Morro Bay State Park Golf Course to support educational projects for State Parks and keeping the parks open.

John Barta remembered Chuck Meissner. He also stated the FunRide Car Sharing Service is a good idea.

Jack McCurdy addressed Item D-1 (Discussion on State Water Resources Control Board Once Through Cooling Statewide Policy) stating this might be the first time in 35 years that the Clean Water Act would be enforced as it was written. He said the regulations are deficient in once-through cooling systems.

David Nelson requested information on the Cypress tree that was cut down at the North Point subdivision. He said the existing power plant should be shut down when the permit expires in 2011; the City will be better off without it and it will benefit the estuary.

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 APPROVAL OF MINUTES FOR REGULAR CITY COUNCIL MEETINGS OF JULY 13, 2009 AND AUGUST 10, 2009; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 RESOLUTION NO. 46-09 ADOPTING AMENDMENTS TO THE 2009/10 MASTER FEE SCHEDULE; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 46-09.

A-3 CREATION OF THE WATER SYSTEM OPERATOR II AND WATER SYSTEM OPERATOR III POSITIONS AND AUTHORIZATION TO FILL THE WATER SYSTEM OPERATOR II POSITION; (ADMINISTRATIVE SERVICES)

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RECOMMENDATION: Authorize the creation of the Water System Operator II and Water System Operator III positions, authorize hiring to fill the Water System Operator II position, and authorize reclassifying existing employees into the new job descriptions as they meet the requirements subject to the meet and confer process.

A-4 AUTHORIZATION FOR THE CITY OF MORRO BAY TO ENTER INTO GRANT AGREEMENT #08-101-102 WITH THE DEPARTMENT OF BOATING AND WATERWAYS FOR STATE PARK MARINA DREDGING STUDIES, PERMITS AND MONITORING AND AUTHORIZATION FOR THE CITY OF MORRO BAY TO ENTER INTO A CONSULTING SERVICES AGREEMENT WITH ANCHOR ENVIRONMENTAL TO ACQUIRE STATE PARK MARINA DREDGING PERMITS; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 45-09.

A-5 ADOPTION OF ORDINANCE NO. 551 TO AMEND THE MORRO BAY MUNICIPAL CODE CHAPTER 10.54 TO INCLUDE A NEW SECTION 10.54.065 REQUIRING ANY PERSON RIDING A PERMITTED COASTING DEVICE AT THE MORRO BAY SKATE PARK TO WEAR A HELMET, ELBOW PADS, AND KNEE PADS; (RECREATION & PARKS)

RECOMMENDATION: Adopt Ordinance No. 551.

Mayor Peters pulled Item A-1 from the Consent Calendar; Councilmember Winholtz pulled Items A-2, A-3 and A-4.

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

A-1 APPROVAL OF MINUTES FOR REGULAR CITY COUNCIL MEETINGS OF JULY 13, 2009 AND AUGUST 10, 2009; (ADMINISTRATION)

Mayor Peters requested the following amendment to page 5, 3rd paragraph, 1st sentence to the minutes of August 10, 2009: “Mayor Peters stated the Power Plant and fishing industry are not bringing in as much revenue as in the past, and tourism has dropped due to the economy.”

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Councilmember Winholtz requested the following amendment to page 4, last paragraph, 2nd sentence to the minutes of August 10, 2009: “She said if the City Council moves forward with the RDA, they ~~should~~ **would** commit to increasing assessed property values in the project areas.”

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

A-2 RESOLUTION NO. 46-09 ADOPTING AMENDMENTS TO THE 2009/10
MASTER FEE SCHEDULE; (ADMINISTRATIVE SERVICES)

Councilmember Winholtz recommended the biennial fee of \$170 be amended to \$172.

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

A-3 CREATION OF THE WATER SYSTEM OPERATOR II AND WATER
SYSTEM OPERATOR III POSITIONS AND AUTHORIZATION TO FILL THE
WATER SYSTEM OPERATOR II POSITION; (ADMINISTRATIVE
SERVICES)

Councilmember Winholtz stated she would like to vote on these issues separately.

MOTION: Councilmember Winholtz moved the City Council authorize the creation of the Water System Operator II and Water System Operator III positions, and authorize reclassifying existing employees into the new job descriptions as they meet the requirements subject to the meet and confer process. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

MOTION: Councilmember Grantham moved the City Council authorize hiring to fill the Water System Operator II position. The motion was seconded by Councilmember Borchard and carried with Councilmember Smukler and Councilmember Winholtz voting no. (3-2)

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A-4 AUTHORIZATION FOR THE CITY OF MORRO BAY TO ENTER INTO GRANT AGREEMENT #08-101-102 WITH THE DEPARTMENT OF BOATING AND WATERWAYS FOR STATE PARK MARINA DREDGING STUDIES, PERMITS AND MONITORING AND AUTHORIZATION FOR THE CITY OF MORRO BAY TO ENTER INTO A CONSULTING SERVICES AGREEMENT WITH ANCHOR ENVIRONMENTAL TO ACQUIRE STATE PARK MARINA DREDGING PERMITS; (HARBOR)

Councilmember Winholtz requested clarification from staff regarding the letter from Anchor Qea dated August 14, 2009. She also referred to the State's comment that it would not fulfill its payments if the State budget is not approved, and how would that affect the City. Harbor Director Rick Algert responded the City could terminate the contract at any time.

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

Mayor Peters called for a break at 7:08 p.m.; the meeting resumed at 7:16 p.m.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 PUBLIC HEARING ON CLOSE-OUT OF COMMUNITY DEVELOPMENT BLOCK GRANT PLANNING AND TECHNICAL ASSISTANCE ECONOMIC DEVELOPMENT GRANT 08-PTAE-5411; (PUBLIC SERVICES)

Housing Programs Coordinator Christine Rogers stated the City has completed work on the Planning and Technical Assistance Grant from the Community Development Block Grant (CDBG). Ms. Rogers recommended the City Council hold a public hearing to take input on the Redevelopment Feasibility Study prepared for the City of Morro Bay, which is the CDBG Planning and Technical Assistance Economic Development Grant (08-PTAE-5411) final product, and authorize staff to submit the study with a final closeout letter to CDBG to close out the grant.

Mayor Peters opened the hearing for public comment.

Steve Griffith showed a diagram referring to the blight area in the Redevelopment Feasibility Study prepared by Urban Futures, Inc. whom he said the City should not have paid.

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Mike Barrios stated a Redevelopment Agency (RDA) is the wrong way to make money in Morro Bay.

Nancy Bast stated the staff report does not give much information on block grant funding.

Jack McCurdy stated there would be a citizen-enacted analysis prepared on the RDA. He referenced a no bid or sole-source contract that the City signed with Urban Futures, Inc.

David Nelson stated an RDA would take money from our local school system. He said he did not believe Morro Bay needed an RDA, and it was another example of misuse of City funds.

Dorothy Cutter stated the RDA study was flawed and the City should not have paid for it. She said she found 25 cities that have RDA's that are in lawsuits mostly because of blight. Ms. Cutter turned in "List of Clients of Urban Futures Incorporated and Coalition for Redevelopment Reform" as part of the record.

Alise Griffith stated according to California Redevelopment Law, the Urban Futures' report is in violation of what the State defines as blight. She said had the City not voted to table this issue, the City could have lost its incorporation through a lawsuit.

Mayor Peters closed the public comment hearing.

MOTION: Councilmember Grantham moved the City Council authorize staff to submit the Redevelopment Feasibility Study with a final closeout letter to Community Development Block Grant to close out the grant. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

B-2 ORDINANCE NO. 552 REQUIRING THE FIRE CHIEF TO DESIGNATE VERY HIGH HAZARD SEVERITY ZONES AND THE BUILDING OFFICIAL TO ENFORCE THE REQUIREMENTS OF CHAPTER 7A AND CHAPTER 47, TITLE 24 CALIFORNIA CODE OF REGULATIONS; (FIRST READING/INTRODUCTION)

Fire Chief Mike Pond stated the California Department of Forestry and Fire Protection (CAL FIRE) Director is recommending the area designated as very high fire hazard severity zones in Morro Bay be reduced. The previous map produced in 1985, identified as Cerro Cabrillo, Black Hill, and residential and business districts bordering Black Hill as being Very High Fire Hazard Severity Zones. The new proposed map eliminates most of these zones from the City of Morro Bay. Only the portion of Cerro Cabrillo within the city limits, located on the southeast side of South Bay Boulevard in the State Park, is

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recommended as a Very High Fire Hazard Severity Zone. Acceptance of the new map and approval of the proposed ordinance allows the Fire Chief to designate other fire hazard properties with findings supported by substantial evidence and allow enforcement of wild land-urban interface codes found in Chapter 7A and Chapter 47 of Title 24, California Code of Regulations. Chief Pond recommended the City Council approve the first reading and introduction of Ordinance No. 552 requiring the Fire Chief to designate Very High Hazard Severity Zones and the Building Official to enforce the requirements of Chapter 7A and Chapter 47, Title 24 California Code of Regulations.

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

Councilmember Winholtz proposed the following amendment to Ordinance No. 552:

Section 14.65.050 – “Supported by substantial evidence in the record” shall require the City Council to hold a public hearing and make findings that there is competent substantial evidence in the record to support the Fire Chief’s designation as Fire Hazard Areas.

MOTION: Councilmember Grantham moved the City Council approve the first reading and introduction of Ordinance No. 552 requiring the Fire Chief to designate Very High Hazard Severity Zones and the Building Official to enforce the requirements of Chapter 7A and Chapter 47, Title 24 California Code of Regulations; and, added Section 14.65.050 approved by Council. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

City Manager Andrea Lueker read Ordinance No. 552 by number and title only.

C. UNFINISHED BUSINESS

C-1 CONSIDERATION OF THE COUNCIL’S POSITION REGARDING THE TWO PROPOSED RESOLUTIONS SUBMITTED FOR CONSIDERATION AT THE LEAGUE OF CALIFORNIA CITIES’ ANNUAL CONFERENCE; (CITY ATTORNEY)

City Attorney Robert Schultz stated each League Member City has the right to cast its vote at the League of California Cities Annual Conference Business Meeting resolutions. There are two resolutions under consideration for adoption at this year’s Annual Business Meeting. The first resolution titled “Resolution Relating to Social Host Liability” is to consider the League’s support of a policy that holds social hosts responsible for underage

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drinking, and opposition to policies that make it easy for those who are underage to access alcohol through adults and on private property. The second resolution titled “Resolution Urging City Governments and others to Divest from Banks that Fail to Cooperate with Foreclosure Prevention Efforts” is to consider the League’s support of the City of Los Angeles and other member cities in exploring the potential divestiture of all deposits in banking and other financial institutions that fail to cooperate with foreclosure prevention efforts; the support of City retirement programs and other similar organizations which adopt a similar divestiture policy; and, the request to the National League of Cities to consider adoption of a similar resolution. Mr. Schultz recommended the City Council discuss and give direction to the voting delegates on Council’s position regarding the two proposed resolutions submitted for consideration at the League of California Cities Annual Conference Business Meeting.

Council decided to not attend the Annual Business Meeting to vote on the two resolutions noted above. The voting delegate or alternate would attend if a later item were placed on the agenda that would require the City’s vote.

No further action was taken on this item.

D. NEW BUSINESS

D-1 DISCUSSION ON STATE WATER RESOURCES CONTROL BOARD ONCE THROUGH COOLING STATEWIDE POLICY; (PUBLIC SERVICES)

City Attorney Robert Schultz stated the State Water Board has issued a notice of public hearing to receive comments on the proposed Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling. The hearing has been scheduled for September 16, 2009 in Sacramento. The proposed Policy establishes technology-based standards to implement the Federal Clean Water Act Section 316(b) and reduce the harmful effects associated with cooling water intake structures on marine and estuarine life. The proposed policy would apply to the 19 existing power plants (including Morro Bay) that currently have the ability to withdraw over 15 billion gallons per day from the State’s coastal and estuarine waters using a single-pass system, also known as once-through cooling. According to the State Water Board staff, the intent of the proposed Policy is to protect marine and estuarine life from the impacts of once-through cooling without disrupting the critical needs of the State’s electrical generation and transmission system. This latest Board draft continues to require the phase-out of once-through cooling systems in existing plants, despite a recent U.S. Supreme Court decision permitting regulators to compare the costs of replacing the systems against the environmental and other benefits resulting from such replacements. The new draft, however, does permit a

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very limited cost-benefit analysis for operators of nuclear plants and small fossil-fueled plants. Staff has also learned that there will be a special stakeholder meeting on September 8, 2009. The purpose of this meeting is to provide an informal question and answer session for interested parties in advance of the Board's planned public hearing on September 16, 2009. The September 8, 2009 meeting will be a Staff-level meeting, Board members will not be present, and comments made at this meeting will not be part of the administrative record for the Policy. Mr. Shultz stated he is looking for direction from Council on whether he should attend and participate in both the September 8th and 16th meetings in Sacramento, and if Council would want staff to bring back a draft written response to the September 28, 2009 City Council meeting.

MOTION: Mayor Peters moved the City Council direct the City Attorney to attend the September 8, 2009 Special Stakeholder meeting in Sacramento, and report back to Council at their September 14, 2009 regular meeting for direction regarding attendance at the September 16, 2009 public hearing. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

E. DECLARATION OF FUTURE AGENDA ITEMS - None.

ADJOURNMENT

The meeting adjourned at 8:21 p.m.

Recorded by:

Bridgett Bauer
City Clerk