

MINUTES - MORRO BAY CITY COUNCIL  
CLOSED SESSION – OCTOBER 12, 2009  
CITY HALL CONFERENCE ROOM - 5:00 P.M.

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

- |          |                |               |
|----------|----------------|---------------|
| PRESENT: | Janice Peters  | Mayor         |
|          | Carla Borchard | Councilmember |
|          | Noah Smukler   | Councilmember |
|          | Betty Winholtz | Councilmember |
| ABSENT:  | Rick Grantham  | Councilmember |
| STAFF:   | Andrea Lueker  | City Manager  |
|          | Robert Schultz | City Attorney |

CLOSED SESSION

MOTION: Mayor Peters moved the meeting be adjourned to Closed Session. The motion was seconded by Councilmember Borchard and unanimously carried. (4-0)

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.

Property: 781 Market Street and the Corner of Pacific Street and Market Street.  
Negotiating Parties: George Salwasser and the City of Morro Bay.

Negotiations: Purchase and Sale Conditions.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:54 p.m.

MOTION: Mayor Peters moved the meeting be adjourned. The motion was seconded by Councilmember Borchard and unanimously carried. (4-0)

The meeting adjourned at 5:54 p.m.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – OCTOBER 12, 2009  
VETERANS MEMORIAL HALL - 6:00 P.M.

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

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
ABSENT:	Rick Grantham	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
	Steve Knuckles	Fire Captain
	Susan Slayton	Administrative Services 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 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

Leslyn Keith, representing the Central Coast SurviveOars Team announced the Awakening of the Dragon ceremony, which is a Chinese tradition to make their boat strong and fierce. She invited the public to come celebrate the Dragon on Saturday, October 17<sup>th</sup> at Tidelands Park. Ms. Keith stated the Central Coast SurviveOars is a female cancer survivor paddling team who for two years has provided support, compassion and exercise to female cancer survivors.

Shawn Alice, representing the Morro Dragons stated he has been in this race six times and noted the community will benefit from those who participate in this event.

Jean Lomero stated it is important to the SurviveOars that the community supports this event.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – OCTOBER 12, 2009

Bonnie Blackledge addressed Item D-3 (Recommendation For Use Of Park In Lieu Funds To Contribute To The Completion Of An Aquatics Center Feasibility Study Sponsored By The Community Group, The Pool At Morro Bay) and requested the City Council approve the use of the park-in-lieu funds only if the scope of this study is expanded to include the recommendations as suggested by the Morro Bay Community Pool Foundation. She said the expanded scope as recommended would better serve the interest and needs of the citizens and would then become a feasibility study for a community aquatic center that would be located for public use and open year around.

Nancy Bast expressed concern that the City's library lease will expire next year and the City Council has not yet considered the County's proposal. She reviewed background information on the community history of the library. Ms. Bast stated this is the community's library and she would like to know why the lease has not been approved.

Peter Candela, Executive Director of the Chamber of Commerce, expressed thanks to those who volunteered at the Avocado Margarita Festival. He also extended an invitation to the Business Expo that would be held on Thursday, October 15<sup>th</sup> at the Community Center.

Nancy Johnson stated family and friends are soliciting funds for a memorial bench in honor of Chuck Meissner. She remembered all that Chuck had done for the community of Morro Bay.

Susan Brown, MV General Manager, shared Dial-a-Ride information including costs and hours of operation for public information.

The following people addressed Item D-1 (Report on Alcohol Beverage Control License Modification Request by the Owners of the Buoy Bar Located at 2940 Main Street), and expressed support by asking the City Council to file no written objections to the Buoy Bar's request for modifications to their Alcohol and Beverage Control license: Peter Candela, Nancy Nagano, Kelly Rain, George Caravana, Jane Heath, Lee Bragg, James Berry, Bill Martony, and James Hays.

Rick Gillian, Treasurer of the Morro Bay Community Pool Foundation, addressed Item D-3, and stated the Foundation is continuing to work hard towards the goal of a community aquatics center on the north coast. He said the City of Morro Bay would be providing a larger share of funds to conduct the feasibility study, and requested the Council require additional community-based questions to ensure a fair and balanced feasibility study.

Barbara Doerr addressed Item D-3 and said the City's park-in-lieu funds should be used for a feasibility study on an aquatic center that would be located within the City of Morro Bay and not outside the City limits.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – OCTOBER 12, 2009

Mayor Peters closed the hearing for public comment.

Mayor Peters called for a break at 7:14 p.m.; the meeting resumed at 7:24 p.m.

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 MEETING  
ON SEPTEMBER 14, 2009; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

**MOTION:** Councilmember Winholtz moved the City Council approve Item A-1 of the Consent Calendar. The motion was seconded by Councilmember Borchard and carried unanimously. (4-0)

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 PUBLIC HEARING PURSUANT TO RESOLUTION 51-09 REGARDING  
CITY'S INTENTION TO SELL THE CITY-OWNED PROPERTY AT THE  
NORTHEAST CORNER OF MARKET AVENUE AND PACIFIC STREET  
AND THE CITY-OWNED PROPERTY AT 781 MARKET STREET IN  
MORRO BAY, CALIFORNIA; (CITY ATTORNEY)

City Attorney Robert Schultz stated Government Code section 37421 allows for the sale of any City-owned building and/or property by adoption of a resolution of intention to sell City property. Pursuant to section 37421, the City Council, at its September 28, 2009 meeting, adopted Resolution 51-09 acknowledging its intention to sell the real property at the Northeast Corner of Market Avenue and Pacific Street and at 781 Market Avenue. The purpose of this public hearing is to allow for any person to protest the proposed sale. Mr. Schultz recommended the City Council open the public hearing, and authorizes staff to seek bids for the sale of real property located at the Northeast Corner of Market Avenue and Pacific Street and at 781 Market Street, Morro Bay, California.

Mayor Peters opened the hearing for public comment.

Barbara Doerr requested information on how the City would seek bids on the property.

Bill Martony requested information on how the properties would be sold and at what price.

Mayor Peters closed the public comment hearing.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – OCTOBER 12, 2009

Mr. Schultz answered the questions raised in public comment.

**MOTION:** Councilmember Winholtz moved the City Council authorize staff to seek bids to sell the real property located at the Northeast Corner of Market Avenue and Pacific Street and at 781 Market Street. The motion was seconded by Councilmember Borchard and carried unanimously. (4-0)

**B-2 RESOLUTION TO APPROVE A BUSINESS LICENSE APPLICATION FOR AN ARCADE IN CONFORMANCE WITH MORRO BAY MUNICIPAL CODE 5.04.330 AT 725 EMBARCADERO ROAD; (ADMINISTRATION)**

City Manager Andrea Lueker stated the City received a business license request to establish a “family fun zone” video arcade at 725 Embarcadero. Pursuant to the Municipal Code, approval of the business license application for this type of business is required by the City Council in a public hearing setting. Ms. Lueker recommended the City Council adopt Resolution No. 53-09 approving a business license application for an arcade located at 725 Embarcadero Road.

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

Councilmember Borchard expressed concern with another business in the visitor serving area that will not be providing sales tax.

Councilmember Winholtz stated she will vote in support of this application with the condition of reviewing it in one year.

Mayor Peters stated she is supportive because it will give kids something to do.

**MOTION:** Councilmember Smukler moved the City Council adopt Resolution No. 53-09 approving a business license application for an arcade located at 725 Embarcadero Road with conditions 1-5 as listed. The motion was seconded by Mayor Peters and carried unanimously. (4-0)

**C. UNFINISHED BUSINESS**

**C-1 CONTINUED CONSIDERATION OF THE CITY’S CO-SPONSORSHIP OF EVENTS; (RECREATION & PARKS)**

Mayor Peters stepped down due to a conflict of interest.

Recreation & Parks Director Joe Woods stated the City's co-sponsorship currently includes two special events: the Morro Bay Winter Bird Festival and the Teach Foundation Telethon Fundraiser. Both events were approved by the City Administrator

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – OCTOBER 12, 2009

and are well beyond 10 years in existence. The City Council has requested the Recreation and Parks Commission (RPC) review the current policy and recommend any improvements such as guidelines for qualifications, application review procedures, and event logistics. Through discussion, the RPC has agreed on the desire to continue with a co-sponsorship program, and the need to qualify requesting agencies based on various criteria. Information received from the requesting agency's application for co-sponsorship should be reviewed and approved by the RPC and Recreation and Parks Director. Staff feels that groups requesting co-sponsorship must meet the minimum of criteria consisting of the following: 1) event is off-season (November 1<sup>st</sup> through April 30<sup>th</sup>); 2) event is multi-day or one day with financial return to the City; and, 3) requesting party is a nonprofit organization. Furthermore, staff feels co-sponsored events should be reviewed on an annual basis along with their re-submittal of a Facility Use Application. Additionally, current co-sponsored events would need to reapply under any new policies or procedures which may be adopted. Mr. Woods recommended the City Council consider one of the three options: 1) continue with the existing co-sponsorship program without amendments; 2) approve the City's co-sponsorship of events with conditions; or 3) no longer support the City's co-sponsorship of events.

Councilmember Smukler stated he supports option 2 that would include a recycling plan on the questionnaire; Councilmember Borchard and Councilmember Winholtz agreed.

Staff clarified there is a policy that would allow events to apply for co-sponsorship on a regular basis with an evaluation each year.

Councilmember Winholtz requested the Recreation and Parks Commission define what the financial return to the City is from the various events.

**MOTION:** Councilmember Borchard moved the City Council continue the co-sponsorship of events, with the following conditions: 1) event is off-season (November 1<sup>st</sup> through April 30<sup>th</sup>); 2) event is multi-day, or one day with financial return to the City; and, 3) requesting party is a nonprofit organization. The motion was seconded by Councilmember Smukler.

Councilmember Winholtz requested a friendly amendment to the motion to direct the Recreation & Parks Department to explore criteria further with more delineation.

Councilmember Borchard accepted the amendment to her motion; Councilmember Smukler accepted the amendment to his second.

**VOTE:** The motion carried with Mayor Peters abstaining. (3-0-1)

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – OCTOBER 12, 2009

C-2 MANDATORY WATER CONSERVATION MEASURES; (PUBLIC SERVICES)

Utilities/Capital Projects Manager Dylan Wade stated on September 28<sup>th</sup>, the City Council declared a water emergency on the effective date of October 19<sup>th</sup>, with the pending State Water Project shutdown (November 1 and potentially extending to November 21). Mandatory Water Conservation Requirements are codified in the municipal code, as well as the authority of the Public Services Director to enforce these requirements to best conserve water during this period. The Public Services Department – Utilities Division newsletter was sent to every postal address and location within the community with information on primarily the mandatory conservation program, and a separate community wide mailing will include the actual “Mandatory Water Conservation Measures”. Notices and handouts have been distributed for display at all City departments with public counters. All restaurants, hotels and businesses related to serving visitor’s water will be distributed half page flyers to hand out to patrons stating the City’s mandatory water conservation measures are in effect. The City’s website has a considerable amount of the information on water conservation and the mandatory measures, as well as public service announcements which are currently being run on local government television (Channel 20). Mr. Wade recommended the City Council receive this report for information and file.

MOTION: Councilmember Winholtz moved the City Council receive this report for information and file. The motion was seconded by Councilmember Smukler and carried unanimously. (4-0)

D. NEW BUSINESS

D-1 REPORT ON ALCOHOL BEVERAGE CONTROL LICENSE MODIFICATION REQUEST BY THE BUOY BAR LOCATED AT 2940 MAIN STREET; (POLICE)

Police Chief John DeRohan stated in August 2008, Brian and Nancy Rozario purchased the Buoy Bar from Neighborhood Bar Concept, Inc. Prior to the sale of this bar, the Police Department experienced a high volume of calls for service at the Buoy Bar as well as numerous complaints from the surrounding residents. The Alcohol and Beverage Control (ABC) Board suspended the ABC license of the bar in 2007 for 30 days due to numerous violations. During the purchase negotiations of the bar, Brian and Nancy Rozario had meetings with the Police Chief and agents from ABC. Due to the history of the bar and the previous problems, additional conditions to the ABC license were mutually agreed upon by the new owners in addition to the conditions already in existence. The new owners were informed by the ABC Board that they had the ability to petition for modification of these conditions after one year in existence or at the time they applied for a different ABC permit that included the serving of food. It has now been approximately one year since the new owners took control of the bar and they are exercising their right to request a modification of the ABC conditions. The ABC Board has notified the City of the request by the Rosarios and the City Council must respond

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – OCTOBER 12, 2009

back to the ABC Board by October 15, 2009 (30 days from the date of the ABC notice) if they choose to file a written objection or response to the modification/removal of the conditions. Depending on the motion made by Council, comments will be forwarded to the ABC Board for their consideration if so desired. Any modifications to the ABC license of the Buoy Bar rest solely with the ABC Board. Chief DeRohan recommended the City Council discuss the request by the owners of the Buoy Bar, the impacts on surrounding residences and make a recommendation to the ABC Board.

**MOTION:** Councilmember Winholtz moved the City Council file no written objection to the Buoy Bar's request for modifications to their ABC license that include: 1) modification of Current Condition #1 which would allow the sales, service and consumption of alcoholic beverages to be permitted between 6:00 a.m. and 2:00 a.m.; 2) modification of Current Condition #2 would allow permitting live entertainment, acoustic instruments only with minor amplification, no louder than the existing jukebox; and, 3) removal of Current Condition #5 which would no longer require at least one (1) uniformed security guard between the hours of 9:00 p.m. and the time the bar closes every day of the week the premises is open for business and that all security guards be licensed by the Department of Consumer Affairs. The motion was seconded by Councilmember Borchard and carried unanimously. (4-0)

Mayor Peters called for a break at 8:32 p.m.; the meeting resumed at 8:36 p.m.

**D-2 APPROVAL OF RESOLUTION 52-09 OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE PER CAPITA GRANT PROGRAM UNDER THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOODS, AND COASTAL PROTECTION ACT OF 2002 FOR IMPROVEMENTS TO LILA KEISER PARK; (RECREATION & PARKS)**

Recreation & Parks Director Joe Woods stated the Office of Grants and Local Services has contacted the City of Morro Bay regarding the remaining balance of our 2002 Bond Act Per Capita Block. The remaining balance of \$70,000 is unallocated, but still available. The allocation of these funds to a project must be requested through the submission of a project application, and staff has identified a project, which includes improvements to Lila Keiser Park. Staff has evaluated the current conditions at Lila Keiser Park, and has formulated a project which meets multiple City objectives. The objectives would be to provide a safe place for the community to recreate, as well as to attract and maintain positive revenue streams. The project would include the replacement of bleachers at both west and east fields, the replacement of the scoreboard on the east field, additional fencing at both fields, and possibly some parking lot improvements. Staff feels that the available funds would satisfy the financial demand brought about by the above project improvements. Staff recognizes the efforts previously demonstrated to

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – OCTOBER 12, 2009

capture the \$220,000 Block Grant, and feel it is in the best interest of the City to request the remaining unallocated balance for the use of the improvements to Lila Keiser Park. Mr. Woods recommended the City Council approve Resolution 52-09, approving the application for Grant funds for the Per Capita Grant Program under the California Clean Act, Clean and Air, Safe Neighborhoods, and Coastal Protection Act of 2002 for the improvements to Lila Keiser Park.

**MOTION:** Councilmember Smukler moved the City Council adopt Resolution No. 52-09 approving the application for Grant funds for the Per Capita Grant Program under the California Clean Act, Clean and Air, Safe Neighborhoods, and Coastal Protection Act of 2002 for the improvements to Lila Keiser Park, not to exceed the capacity of those grant funds. The motion was seconded by Councilmember Borchard and carried unanimously. (4-0)

**D-3 RECOMMENDATION FOR USE OF PARK IN LIEU FUNDS TO CONTRIBUTE TO THE COMPLETION OF AN AQUATICS CENTER FEASIBILITY STUDY SPONSORED BY THE COMMUNITY GROUP, THE POOL AT MORRO BAY; (RECREATION & PARKS)**

Recreation & Parks Director Joe Woods stated in the attempt to reestablish a community pool in Morro Bay, the San Luis Coastal Unified School District, City of Morro Bay, County of San Luis Obispo, and The Morro Bay Community Pool Foundation (a community based nonprofit organization) met to establish a strategic plan. It was agreed that the Morro Bay Community Pool Foundation would be responsible for funding and completing a feasibility study prior to any other action taking place. After this strategic planning meeting, a second community-based nonprofit organization, The Pool at Morro Bay, was established, and has taken the responsibility to complete the feasibility study. This group has sufficient funds to complete the first phase of the feasibility study and is requesting support from the City of Morro Bay to complete the second phase. The City Council reviewed a request from the Morro Bay Community Pool Foundation for partnership in the pursuit of an aquatics center. At the regular scheduled City Council meeting of November 10, 2008, the City Council unanimously agreed to adopt Resolution 77-08, which supports this community group in their goal of providing an aquatics center in conjunction with the County, School District, and the City of Morro Bay. The Memorandum of Understanding between San Luis Coastal Unified School District, City of Morro Bay, County of San Luis Obispo, and The Morro Bay Community Pool Foundation would identify each principles obligations and conditions of participation. A feasibility study would be outsourced and the Foundation agreed to raise the funds necessary to complete a feasibility study for the proposed community aquatics center. The completion of a feasibility study is an essential part of the initial effort to provide the Estero Bay community with an aquatics center. The allocation of park-in-lieu funds would contribute to the success of that endeavor. The Recreation and Parks

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – OCTOBER 12, 2009

Commission recommends the City Council allocate \$15,000 of park-in-lieu funds to support the second phase of the pool feasibility study. Mr. Woods recommended the City Council approve the use of \$15,000 of park-in-lieu funds for the completion of Phase 2 of the Aquatics Center Feasibility Study sponsored by the non-profit community group, “The Pool at Morro Bay”.

MOTION: Councilmember Borchard moved the City Council approve the use of \$15,000 of park-in-lieu funds for the completion of Phase 2 of the Aquatics Center Feasibility Study sponsored by the non-profit community group, “The Pool at Morro Bay”. The motion was seconded by Mayor Peters.

Councilmember Winholtz stated she is in favor and appreciates being educated on the need for the Phase I feasibility study for the phone survey; however, she is not comfortable allocating the \$15,000 until she knows the results of that survey.

VOTE: The motion carried with Councilmember Winholtz voting no. (3-1)

E. DECLARATION OF FUTURE AGENDA ITEMS – None.

ADJOURNMENT

The meeting adjourned at 9:22 p.m.

Recorded by:

Bridgett Bauer  
City Clerk