

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – OCTOBER 26, 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
	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 54957; PERSONNEL ISSUES.
Discussions regarding Personnel Issues including two (2) public employees regarding evaluation, specifically the City Attorney and City Manager.

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: Lease Site 87-88/87W-88W; 833 Embarcadero
Negotiating Parties: City and Caldwell and/or Leage
Negotiations: Lease terms

The meeting adjourned to Closed Session at 5:04 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 Smukler and unanimously carried. (5-0)

The meeting adjourned at 5:55 p.m.

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REGULAR MEETING – OCTOBER 26, 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
	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
	Tim Olivas	Police Commander
	Mike Pond	Fire Chief
	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 the City Council continued discussion on Item CS-1 until after adjournment of this regular session; and no reportable action under the Brown Act was taken on Item CS-2.

PUBLIC COMMENT

Jeff Eckles representing Morro Bay 4th Inc., who will be hosting the next 4th of July festivities in the City of Morro Bay, said this non-profit organization consists of business people and residents whose mission is to celebrate Independence Day with a family-friendly alcohol-free traditional 4th of July picnic, celebration and firework show for residents and visitors to enjoy. He said they are looking for volunteers and will be doing fundraising between now and the 4th of July, and he will bring updates on the progress as they move ahead.

Galen Ricard stated she is consulting with Cal Poly on a new event “Hands on Health” that will be held on October 30-31, 2009 at Cal Poly that will be a free event on healthy living.

Madelyn Dover shared the various activities that will be offered at the “Hands on Health” event at Cal Poly on October 30-31st.

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Susan Brown, General Manager for MV Transportation announced the Annual Unmet Transit Needs Public Hearing will be held on December 2nd at the County Board of Supervisors meeting at 8:30 a.m., and urged public support of local transportation.

Cathy Novak, Vice-Chair of the Central Coast Natural History Association announced the One-Eyed Skunk Golf Tournament will be held on Saturday, October 31st at the Morro Bay Golf Course to benefit the Natural History Museum.

Judy Mahan, owner of Sandprints, announced there will be a Halloween scarecrow contest in the downtown area; and there will be a Halloween photo shoot at Sandprints on Saturday, October 31st.

Phil Hill encouraged the City Council to remove the dock at the Cannery lease site, and lease it to new lessees.

James Nesbit expressed concern with the Police Department for towing his van which was parked in a disabled parking area.

Bill Martony updated the Council and public on the condition of the Cannery wharf and dock.

Jack McCurdy expressed appreciation for Item D-1 (Approval To Incorporate E-Mail Notification Module On City Website).

Bernadette Pekarek expressed disappointment regarding personal attacks made during public comment at the Council meeting.

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 THE REGULAR CITY COUNCIL MEETINGS OF SEPTEMBER 28, 2009 AND OCTOBER 12, 2009; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

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A-2 STATUS REPORT ON APPLICATIONS FOR ECONOMIC STIMULUS FUNDING; (ADMINISTRATION)

RECOMMENDATION: Receive report for information and file.

Councilmember Borchard pulled Item A-1 from the Consent Calendar; Councilmember Smukler pulled Item A-2.

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETINGS OF SEPTEMBER 28, 2009 AND OCTOBER 12, 2009; (ADMINISTRATION)

Councilmember Borchard referred to a typographical error on the first page of the October 12, 2009 City Council meeting, noting the vote was (4-0) due to Councilmember Grantham's absence.

Councilmember Smukler referred to page 6 of the October 12, 2009 City Council meeting, requesting more information on the proposed budget to be added to the minutes.

MOTION: Councilmember Grantham moved the City Council approve the minutes of the September 28, 2009 City Council meeting. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

A-2 STATUS REPORT ON APPLICATIONS FOR ECONOMIC STIMULUS FUNDING; (ADMINISTRATION)

Councilmember Smukler pulled Item A-2 requesting an update on the Boat Haul-Out Facility. Harbor Director Rick Algert reviewed the schedule for the Boat Haul-Out Facility.

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

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

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B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 DISCUSSION/INTERPRETATION OF GENERAL PLAN/LOCAL COASTAL PLAN POLICIES AND ZONING REGULATIONS RELATING TO THE LOCATION AND PLACEMENT OF COMMERCIAL AND RECREATIONAL FACILITIES/USES IN THE WATERFRONT AND BAY AREA OF THE CITY WEST OF MAIN STREET BETWEEN ACACIA AND BARLOW; (CITY ATTORNEY)

City Attorney Robert Schultz stated based upon previous discussions at City Council and Planning Commission meetings there has been confusion as to allowable uses in our Bay and Waterfront in the Mixed Use Area “B”. Mixed Use Area “B” is shown on the Map in the City’s Coastal Land Use Plan (LUP) as the area of the City west of Main Street between Acacia and Barlow. It is staff’s interpretation that the Local Coastal Plan (LCP) Policies and Zoning Ordinance clearly allow for commercial uses in the Waterfront area west of Main Street between Acacia and Barlow. The primary reason for this interpretation is that Planning Commission and City Council in 1984 specifically addressed this issue based upon citizen letters and decided only to restrict residential uses above the bluff and continued to allow commercial uses below the bluff in the Waterfront District. In regard to allowable uses in the Bay in the area west of Main Street between Acacia and Barlow, it gets a little bit more complicated. This area is located in Area 9 of the City’s Coastal LUP. The Bay area west of Main Street between Acacia and Barlow is part of the Harbor and Navigable Ways (H) District in the City’s Zoning Code. The above LCP Policies and Zoning Ordinance clearly allow for both Commercial and Recreational Fishing in the Bay area. However, LCP Policy 7.09 designates recreational boating and fishing uses as primary uses in this area west of Main Street and south of Acacia. Mr. Schultz recommended the City Council discuss and interpret the applicable City General Plan/Local Coastal Plan policies and Zoning regulations related to the location and placement of commercial and recreational facilities in the Waterfront and Bay area and provide direction to staff.

Mayor Peters opened the hearing for public comment.

Patrick Laurie expressed support for business development on and around the harbor.

Bill Martony stated it is obvious that the actual zoning south of Tidelands Park because of the residential neighborhood is for recreational boating. He said there is always a demand for boating in the bay. Mr. Martony stated he is proposing a mariculture operation for his lease site which is a source of income. He said the tug boats should be located at the working waterfront area around the Whales Tail lease site.

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Dorothy Cutter addressed the amount of space there is for boats in the bay. She said the residential neighborhoods should not have to put up with the noise, lights, diesel fumes and trucks. Ms. Cutter stated bringing large boats south of Tidelands Park is a serious threat to the estuary. She said the Coastal Commission has said the wharf has to be removed immediately because it is a hazard to the health and safety of the bay. Ms. Cutter stated the City's General Plan/Local Coastal Plan clearly states recreational boats shall go south of Tidelands Park and commercial boats go in the north part of the bay.

Bernadette Pekarek discussed the justification of commercial vs. recreational boating in the north part of the bay. She said the Embarcadero has plenty of space for a working waterfront. Ms. Pekarek stated the City needs to set policy and confirm that commercial boats are to be in the north part of the bay, and recreational boating only in the southern part of the bay.

Lynn Meissen stated the wharf has been a commercial wharf since it was constructed, and to destruct it would be a loss of a working waterfront which would be foolish. She said if it can be rebuilt, the City can save a lot of money and save a great resource in the City.

Jack McCurdy stated it is clear that commercial uses are not allowed west of Main Street between Acacia and Barlow. He said the staff proposal may have legitimate merit that would benefit the community, but the report fails to enable residents to understand and staff's recommendation should be rejected.

Kim Kolb stated with the exception of the one boatyard, the area from the boat launch ramp to the old gas dock is all residential homes. He said it is an environmentally sensitive area and should be protected from any future industrial development. Mr. Kolb stated there is room north of Tidelands Park for potential commercial industrial expansion, and the tug operation should remain with the other commercial boats.

Kathy Kellett stated she lives across the street from the Cannery property and said she is not sure of what is being proposed for this site but would like to maintain and enhance the natural beauty of the estuary.

Dana McClish stated commercial use is acceptable in this area, and a boatyard is needed here. He said the bay is the heart of this City and restrictions should not be considered.

James Nesbit discussed Brant hunting in the bay.

Mayor Peters closed the public comment hearing.

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Councilmember Smukler stated it is clear that our policy is to focus the heavier use in the north part of the bay and recreational use in the southern part of the bay. He said because of commercial opportunities that have ceased to exist in the south part of the bay the City is dealing with a situation that is fairly segregated. Councilmember Smukler stated Area B seems to be a residential and recreational use area that the City would be inviting major issues with the neighborhood if it considers commercial uses in this area. He said he would like to recognize the need throughout the estuary on both recreational and commercial uses.

Councilmember Grantham stated the need for waterfront-oriented commercial uses can adversely affect the economy which is a real concern. He said by not allowing commercial uses is not fostering the business environment, jobs, and quality of life. Councilmember Grantham stated he supports allowing commercial uses in order to encourage a better economic environment.

Councilmember Winholtz clarified that commercial fishing is not allowed in Area B. She said historically there have been multiple uses in this area, and throughout the years residential has become predominant and commercial uses have faded in this area. Councilmember Winholtz stated there may be commercial uses that could be compatible and that should be defined. She said there should be no industrial use on land or in the water allowed in this area.

Councilmember Borchard stated she supports commercial use of a working harbor and she is not interested in placing restrictions along the harbor. She said she agrees with Councilmember Grantham's statements.

Mayor Peters referred to the tug boats that need a dock and the repairs they are proposing on the wharf. She said the City needs to maintain the uses on the waterfront that is a benefit to the City. Mayor Peters stated if it meets the criteria of what has already been established then it should be allowed; and, should be reviewed on a case by case basis.

Councilmember Winholtz stated there would be consequences with mixed-uses that will impact other areas. She said the City will have a difficult time defending this before the Coastal Commission, because she feels this interpretation will be appealed to the Coastal Commission.

MOTION: Mayor Peters moved the City Council interpret the City's General Plan/Local Coastal Plan to allow for commercial uses in the Bay Tideland area of the City west of Main Street between Acacia and Barlow, subject to a project-by-project review and environmental analysis, and that does not include commercial fishing. The motion was seconded by Councilmember Borchard.

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Councilmember Winholtz suggested including the conditions on page 9 (Recreational Boating and Commercial Fishing, conditions a-d).

Mr. Schultz recommended conditions on page 6 (a-e), which states:

- a) That any proposed commercial use is generally serving a water-borne clientele or serving a water-oriented purpose.
- b) That the proposed commercial use, by its nature or design, will result in minimal noise, glare odor and traffic impacts on other nearby uses.
- c) That any new residential development shall be of a density and design which minimizes potential exposure to and would not unreasonably restrict water-oriented commercial activities.
- d) That any new use shall not generate significant traffic/circulation impacts and shall include adequate parking, loading and access (turning and driveway) facilities.
- e) That any new use shall not result in any harmful (eg: toxic waste) discharge into the bay.

Mayor Peters accepted including the conditions recommended by Mr. Schultz in her motion; Councilmember Borchard accepted the amendment to her second.

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

B-2 REVIEW AND APPROVE THE PUBLIC ART PROPOSAL FOR A PEACE POLE TO BE LOCATED AT THE MORRO BAY LIBRARY; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods stated pursuant to the current Public Art Policy, all requests for public art donations start at the City Manager's office. After review for completeness, the application for public art is forwarded to appropriate advisory boards for consideration and recommendations. Recommendations regarding the request to donate public art are then forwarded to City Council for final consideration. The Morro Bay Friends of the Library have submitted an application to donate a Peace Pole to the City of Morro Bay. This application has met the City Manager's criteria, and has been reviewed by the Recreation & Parks Commission. The Recreation & Parks Commission recommends staff pursue acceptance of the Peace Pole for the Library location. The Friends of the Library proposal, with the amendment increasing the size of the Peace Pole from 6' to 8' is included for your consideration and acceptance. The Recreation and Parks Commission, as well as staff recommend City Council review and approve the proposal from the Friends of the Library to purchase and install a Peace Pole as public art at the exterior of the Morro Bay Library located at 615 Harbor Street.

Mayor Peters opened the hearing for public comment.

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Karen Robert, President of the Friends of the Library, stated the Morro Bay Friends of the Library are requesting the City Council and its appropriate Boards and Commissions approve their request to donate a 8-foot tall Peace Pole to the City of Morro Bay, adjacent to the Morro Bay Library, in honor of a long-term steward and advocate of the City's Library and community, Jude Sanner Long. She said the Peace Pole would have 8 different languages, and the English version would say "May Peace Prevail on Earth." Ms. Robert stated donations for the Peace Pole can be made to the Friends of the Library.

Mayor Peters closed the public comment hearing.

MOTION: Councilmember Grantham moved the City Council approve the proposal from the Friends of the Library to purchase and install a Peace Pole as public art at the exterior of the Morro Bay Library located at 615 Harbor Street. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

C. UNFINISHED BUSINESS

C-1 UPDATE ON MANDATORY WATER CONSERVATION MEASURES;
(PUBLIC SERVICES)

Public Services Director Bruce Ambo stated the mandatory water conservation measures went into effect on October 19th. He noted several thousand brochures have been handed out to the visitor serving businesses in the community, and there have been a few calls to the office with questions on the conservation measures. Mr. Ambo stated there have been no apparent enforcement issues so far, and recommended the City Council accept this report for information and file.

The City Council received the report for information, and no action was taken on this item.

D. NEW BUSINESS

D-1 APPROVAL TO INCORPORATE E-MAIL NOTIFICATION MODULE ON
CITY WEBSITE; (ADMINISTRATION)

City Manager Andrea Lueker stated in an effort to provide additional opportunities for the public to receive information from the City in a timely and convenient manner, staff would like to install an E-Mail Notification module on the City website. What the module does is provide the ability for citizens to sign up to receive e-mail notification when certain information is posted to the website. Ms. Lueker recommended the City Council approve adding the E-Mail Notification module to the City website and authorize the expenditure for installation, training and maintenance from the Public, Education and Government (PEG) Access Fund.

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MOTION: Councilmember Grantham moved the City Council approve adding the E-Mail Notification module to the City website and authorize the expenditure for installation, training and maintenance from the Public, Education and Government Access (PEG) Fund. The motion was seconded by Councilmember Smukler and carried unanimously. (5-0)

D-2 APPLICATION FEE FOR AFFORDABLE HOUSING PROJECT FINANCING;
(PUBLIC SERVICES)

Public Services Director Bruce Ambo stated in evaluating requests for financial participation on affordable housing projects, it is necessary to ensure that the City is not making “a gift of the public funds.” Therefore, due diligence financial analysis is required of the project real estate pro forma. The amount of time and expense in conducting that analysis varies considerably depending upon the project scope, financial complexity, and developer expertise. The recommended base fee of \$500 would normally cover the initial analysis and the applicant would be charged the actual costs in completing the review. If the City Council determined that a prospective affordable housing project was worthy of financial assistance, the fee and expenses would either be reimbursed or credited with the approved funding. Mr. Ambo recommended that the City Council direct staff to amend the Master Fee Schedule to include a \$500 base fee deposit plus actual costs in performing financial real estate pro forma analysis for affordable housing project financing.

MOTION: Councilmember Winholtz moved the City Council direct staff to amend the Master Fee Schedule to include a \$500 base fee deposit plus actual costs in performing financial real estate pro forma analysis for affordable housing project financing. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

D-3 POTENTIAL TOPICS FOR THE JOINT PLANNING COMMISSION/CITY
COUNCIL MEETING; (PUBLIC SERVICES)

Public Services Director Bruce Ambo stated Section 2.28.120 of the Morro Bay Municipal Code provides for the Planning Commission and City Council to meet twice annually to discuss policies, programs, goals and objectives, budgeting, future planning, or any other planning matter requiring joint deliberation. The Planning Commission will also discuss potential topics at their meeting on November 2nd. Mr. Ambo recommended the City Council consider and discuss potential discussion topics for the joint Planning Commission/City Council meeting.

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The City Council requested the following discussion items for the joint Planning Commission/City Council meeting:

- CEQA Workshop
- Downtown Visioning Status Report

No further action was taken on this item.

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Winholtz requested the following items be scheduled for upcoming Council meetings:

- Report on Regional Transit Options
 - Report on Housing In-Lieu Funds
- (both items are currently on the agenda planning list.)

ADJOURNMENT

The meeting adjourned to Closed Session at 9:06 p.m.

Recorded by:

Bridgett Bauer
City Clerk