

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – FEBRUARY 8, 2010
CITY HALL CONFERENCE ROOM - 5:00 P.M.

AGENDA NO: A-1
MEETING DATE: 02/22/10

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 Winholtz moved the meeting be adjourned to Closed Session. The motion was seconded by Councilmember Borchard 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.

- Property: Lease Site 86/86W; 801 Embarcadero
Negotiating Parties: City and Caldwell
Negotiations: Lease Terms and Conditions
- Property Lease Site 71-77/71W-77W; 601 and 699 Embarcadero
Negotiating Parties: City and Trapp
Negotiations: Lease Terms and Conditions

The meeting adjourned to Closed Session at 5:10 p.m. and returned to regular session at 5:50 p.m.

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

The meeting adjourned at 5:50 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 Kessling	City Clerk
	Rick Algert	Harbor Director
	John DeRohan	Police Chief
	Steve Knuckles	Fire Captain
	Rob Livick	City Engineer
	Tim Olivas	Police Commander
	Susan Slayton	Administrative Services Director
	Mike Wilcox	Maintenance Superintendent
	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

The following people expressed support for the renewal of the lease with the County of San Luis Obispo for the County/City library; and, that negotiations include the consideration of expansion of the library into the Library Program Room: Ric Deschler, Jude Long, Mary Norby, Nancy Bast, Jack McCurdy, Dorothy Cutter, David Nelson, Joan Decker, Michael Durick and Gene Shelton.

Joyce Lundy reviewed the Measure Q Oversight Committee report.

David Weisman, Alliance for Nuclear Responsibility, addressed Item D-3 (Letter to the Nuclear Regulatory Commission Regarding the Re-Licensing of Diablo Nuclear Power Plant) and requested the City Council approve sending this letter.

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Jack McCurdy addressed the power plant that exploded in Middletown, CT that killed five workers and injured two dozen others, and bringing attention to the safety of the many old power plants in California including this one in Morro Bay. He urged the City to consider the safety of the Morro Bay Power Plant, particularly with the consideration of extending its life for two more years when the outfall lease expires next year.

John Barta announced the Primary Election is approaching and encouraged people to file for public office. He also thanked Mayor Peters for her service to the City as Mayor.

Mark Hanson stated he wanted to build a house in Morro Bay; however, the fees would be \$46,000 to build a house, which is too expensive for a middle class person.

David Nelson requested the City work with the Chorro Valley residents in order to provide them water. He also expressed support for sending a letter to the Nuclear Regulatory Commission regarding the re-licensing of Diablo Nuclear Power Plant.

Carrie Burton addressed the documents found regarding water rights in the Chorro Valley. She requested that one Councilmember be present at each meeting when negotiations are to be discussed.

Millie Benson reviewed the history of her family property in the Chorro Valley. She said the water runs under their properties and why would they not have access to the aquifers that have belonged to her family for generations.

Marla Jo Britton stated the City has pumped contaminated water from both Morro and Chorro Valley aquifers. She expressed concern of the contamination for generations to come.

Wanda Durick addressed the volunteer efforts of Morro Bay Beautiful and shared items that the organization has for purchase. She encouraged membership and noted the Annual Membership Breakfast would be held on February 17th at Dockside Too.

Michael Durick addressed Item D-2 and requested Council honor the recommendation of the Committee. He also expressed concern with the waste of water being drained from the King Avenue water tanks on Sunday, February 7th.

Gary Hixon reviewed his television shows on Channel 2. He also said the water situation in Azure Flats will cost a lot of money but asked the City to help the residents out there.

Mayor Peters closed the hearing for public comment.

Mayor Peters called for a break at 7:37 p.m.; the meeting resumed at 7:45 p.m.

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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 THE REGULAR CITY COUNCIL MEETING OF JANUARY 11, 2010; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 RESOLUTION NO. 06-10 CALLING A PRIMARY MUNICIPAL ELECTION TO BE HELD ON TUESDAY, JUNE 8, 2010 FOR THE PURPOSE OF ELECTING CERTAIN OFFICERS OF SAID CITY; AND REQUESTING THE BOARD OF SUPERVISORS OF SAN LUIS OBISPO COUNTY TO CONSOLIDATE SAID ELECTION WITH THE CONSOLIDATED DISTRICTS ELECTION TO BE HELD IN THE COUNTY ON TUESDAY, JUNE 8, 2010; AND OTHER ELECTION MATTERS AS REQUIRED BY LAW; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution No. 06-10.

A-3 RESOLUTION NO. 05-10 ADOPTING THE MID-YEAR BUDGET AMENDMENTS; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 05-10.

A-4 RESOLUTION NO. 07-10 AUTHORIZING STAFF TO USE ENERGY CONSERVATION ASSISTANCE ACCOUNT LOAN FUNDING FROM THE CALIFORNIA ENERGY COMMISSION TO SUPPLEMENT THE ENERGY EFFICIENCY COMMUNITY BLOCK GRANT FUNDS ALLOCATED FOR THE CITY OF MORRO BAY; (RECREATION & PARKS)

RECOMMENDATION: Adopt Resolution No. 07-10.

A-5 PROCLAMATION DECLARING FEBRUARY 2010 AS “GRAND JURY AWARENESS MONTH”; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

Mayor Peters pulled Items A-1 and A-5 from the Consent Calendar; Councilmember Winholtz pulled Item A-3.

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MOTION: Mayor Peters moved the City Council approve Items A-2 and A-4 of the Consent Calendar. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF JANUARY 11, 2010; (ADMINISTRATION)

Mayor Peters referred to the minutes of January 11, 2010, and requested the following paragraph be added between paragraph 1 and 3 on page 12:

“Mayor Peters stated that her letter was reviewed by the City Attorney and City Manager before being sent and that she did not believe it violated Council policy. She stated that she had previously supported the idea that letters from Councilmembers indicate whether it is the individual or the Council being represented and would still support such an addition to Council policy.”

MOTION: Councilmember Winholtz moved the City Council approve Item A-1 of the Consent Calendar as written. The motion was seconded by Councilmember Borchard and carried with Councilmember Grantham and Mayor Peters voting no. (3-2)

A-3 RESOLUTION NO. 05-10 ADOPTING THE MID-YEAR BUDGET AMENDMENTS; (ADMINISTRATIVE SERVICES)

The City Council asked various questions relating to the mid-year budget amendments.

Councilmember Winholtz asked that the following amendments be made to the mid-year budget: 1) that no funds come out of the water capital improvement fund; and 2) not fund \$40,000 for the Harborwalk.

MOTION: Mayor Peters moved the City Council approve Item A-3 of the Consent Calendar as amended. The motion was seconded by Councilmember Grantham and carried with Councilmember Smukler and Councilmember Winholtz voting no. (3-2)

A-5 PROCLAMATION DECLARING FEBRUARY 2010 AS “GRAND JURY AWARENESS MONTH”; (ADMINISTRATION)

Mayor Peters pulled this Proclamation to make a presentation to representatives of the San Luis Obispo County Grand Jury.

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

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 CONSIDERATION OF AN AMENDMENT TO MORRO BAY MUNICIPAL CODE TITLE 5 ADDING CHAPTER 5.50 ESTABLISHING REGULATIONS AND PROCEDURES ENTITLED “MEDICAL MARIJUANA COLLECTIVES; (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. Several years later, 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 dispensaries are not expressly authorized under these laws, many individuals have used these laws as the legal backdrop to set up medical marijuana dispensaries where qualified patients and caregivers could purchase marijuana for medical use. Cities in California definitely find themselves at the center of the discussion regarding the compassionate use of marijuana. Staff has reviewed and analyzed several ordinances and reports and can attest to a strong public interest in its use to combat the symptoms of various debilitating illnesses. However, allowing a medical marijuana dispensary is not without concerns. The City Attorney’s Office has attempted to draft an ordinance which suits the scale of Morro Bay by providing the possibility of a single medical marijuana dispensary under specific circumstances. The use of the license process will allow greater control by the City should the dispensary be found to be a nuisance. Based upon the broad information gathered, the City Attorney’s Office has attempted to prepare a draft ordinance that blends many of the interests and options. The draft Ordinance contains many policy decisions that the City Council will want to consider. Mr. Schultz recommended the City Council review the report and draft Regulations and Procedures entitled “Medical Marijuana Collectives”, and direct staff to return with this item for introduction and first reading with any changes suggested by Council.

Mayor Peters opened the hearing for public comment.

The following people expressed support for establishing regulations and procedures to regulate Medical Marijuana Collectives in the City of Morro Bay: Warren Sarvos, Bonnie Reiner, Robert Davis, Austin Canela, Rick Holiday, Linda Dill, John Gay, Adam Vincent, David Nelson, Jerrod Squires, Gerald Wilson, Kent Canela, Brenny Cedar and Crystal Weber.

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Michael Durick expressed opposition to the establishment of a cooperative medical marijuana dispensary in Morro Bay. He said pharmacies have licensed pharmacists who fill prescriptions ordered by doctors. Mr. Durick reminded the City Council that they took an Oath of Office to support and defend the Constitution of the State of California and to support and defend the Constitution of the United States of America and until such time that they resolve their differences on this matter, he does not feel the Council can approve something that violates federal law.

Taylor Newton, plant consultant, stated there are delivery services in the County and the City should take time to look at all the options of a medical marijuana dispensary.

Mayor Peters closed the public comment hearing.

Councilmember Smukler stated it is important to consider how many trips are allowed per day to the dispensary; advertising/signage regulations; sourcing of the product by local farmers; and definition of zoning areas. He said it is important that edibles are clearly labeled.

Councilmember Borchard stated she supports Councilmember Smukler items for consideration. She said she would like to make the parameters further away from schools, daycare and residential areas.

Councilmember Grantham stated it is important that what is being sold at the dispensary is being regulated to be safe from pesticides, herbicides and any harmful element.

Councilmember Winholtz stated two or three dispensaries should be a maximum in the community since there is not a lot of space zoned in the City for this use. She requested Council make a minor be under the age of 18, and the co-op could change it to 21.

Mayor Peters stated she does not find a dispensary any more dangerous to the youth of our society than a liquor store, and she would like the same distance requirement as a liquor store (measurement from the storefront.) She said she would like to limit it to two dispensaries within the City. Mayor Peters stated she would like to add to Morro Bay Municipal Code Section 5.50.060 that the substance cannot be sold from homes. She said a security guard should be required for at least the first year. Mayor Peters stated suspension and revocation should be made by the City Council and not the Planning Commission. She said a minor should be under the age of 21.

The City Council requested a draft report return to the Council meeting on March 8, 2010; no further action was taken on this item.

Mayor Peters called for a break at 9:23 p.m.; the meeting resumed at 9:28 p.m.

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C. UNFINISHED BUSINESS

C-1 APPROVAL OF THE 2010/11 BUDGET CALENDAR; (ADMINISTRATIVE SERVICES)

City Manager Andrea Lueker recommended the City Council discuss and set a date for the Goals/Council Budget Workshop, and review the remaining schedule of events leading to adoption of the 2010/11 annual budget.

MOTION: Mayor Peters moved the City Council approve the budget calendar with budget workshops on March 16 & 17, 2010, and to go with Management Partners this year, and direct staff to place a bid for a local provider as facilitator next year. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

D. NEW BUSINESS

D-1 PRESENTATION FROM MICHAEL MANCHAK OF THE ECONOMIC VITALITY CORPORATION REGARDING THE SAN LUIS OBISPO REGIONAL AIRPORT

The City Council received a presentation from Michael Manchak of the San Luis Obispo County Economic Vitality Corporation regarding an update on the San Luis Obispo Regional Airport.

No action was taken on this item.

D-2 CONSIDERATION OF RECOMMENDATIONS FROM THE CITIZENS OVERSIGHT COMMITTEE; (ADMINISTRATIVE SERVICES)

Administrative Services Director Susan Slayton stated on December 9, 2009, the Measure Q Oversight Committee met with the Administrative Services Director and reviewed all of the transactions in and out of the fund. In the fiscal year ending June 30, 2009 the District Transaction Tax Fund (Q) received \$846,393 in revenue from taxes, interest and a gain on an investment; expenditures were \$453,777; the funds equity as of June 30, 2009 was \$820,774. Ms. Slayton reviewed the Committee's recommendations for Council information.

Councilmember Borchard stated she supports the Committee's recommendations with regard to the Stormwater Management Plan, but not the file cabinet.

Councilmember Smukler stated he supports the Measure Q Committee recommendations.

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Councilmember Grantham stated he supports funding both the Stormwater Management Plan and the file cabinet with Measure Q funds.

Councilmember Winholtz stated she supports the Measure Q Committee recommendations.

Mayor Peters stated she supports the Measure Q Committee recommendations.

MOTION: Mayor Peters moved the City Council support the recommendations of the Measure Q Committee and remove the Stormwater Management Plan and file cabinet from the Measure Q allocations. The motion was seconded by Councilmember Smukler and carried with Councilmember Grantham voting no. (4-1)

MOTION: Councilmember Winholtz moved the City Council approve to go beyond 11:00 p.m. The motion was seconded by Mayor Peters and carried unanimously. (5-0)

MOTION: Mayor Peters moved the City Council take the \$25,000 expenditure for the Stormwater Management Plan and \$2,533 for the file cabinet from the Measure Q Fund and transfer to the General Fund. The motion was seconded by Councilmember Smukler and carried with Councilmember Grantham voting no. (4-1)

D-3 LETTER TO THE NUCLEAR REGULATORY COMMISSION REGARDING
THE RE-LICENSING OF DIABLO NUCLEAR POWER PLANT; (COUNCIL)

Councilmember Winholtz reviewed the letter to the U.S. Nuclear Regulatory Commission regarding the re-licensing of Diablo Nuclear Power Plant.

John Shoals, PG&E representative, addressed the application of the re-licensing process for the Diablo Nuclear Power Plant.

Councilmember Winholtz stated the proposed letter does not contradict what Mr. Shoals has said except to expedite sending the letter.

Councilmember Smukler agreed with Councilmember Winholtz and noted he would like all Council Members to sign the letter.

Councilmember Borchard disagreed and said that she would rather PG&E move forward with the PUC filing.

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Councilmember Grantham agrees with Councilmember Borchard and supports Sam Blakeslee in his recommendation to obtain the studies as soon as possible.

Mayor Peters agrees with Councilmember Borchard and Councilmember Grantham and suggested Councilmember Smukler and Councilmember Winholtz send a letter expressing their opinions.

Councilmember Smukler stated he finds the proposed letter as requesting the Nuclear Regulatory Commission to obtain the information prior to expending taxpayer money.

No action was taken on this item.

E. DECLARATION OF FUTURE AGENDA ITEMS

Mayor Peters requested to agendize a discussion on the City's Risk Management Fund; Council concurred.

Councilmember Winholtz requested to agendize a discussion on amending the City's Municipal Code requiring the City Attorney to attend all appeals of the Planning Commission; Council concurred.

ADJOURNMENT

The meeting adjourned at 11:10 p.m.

Recorded by:

Bridgett Kessling
City Clerk