

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – MAY 10, 2010  
VETERANS MEMORIAL HALL - 6:00 P.M.

AGENDA NO: A-1  
MEETING DATE: 5/24/10

Mayor Peters called the meeting to order at 6:10 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
	Jamie Boucher	Deputy City Clerk
	Rick Algert	Harbor Director
	Tim Olivas	Police Chief
	Mike Pond	Fire Chief
	Susan Slayton	Administrative Services Director
	Joe Woods	Recreation & Parks Director
	Janeen Burlingame	Management Analyst

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &  
PRESENTATIONS

CLOSED SESSION REPORT – There was no closed session.

PUBLIC COMMENT

Keith Taylor stated he worked on the Measure Q Committee, and they came up with four items that Measure Q funds were to address: 1) the Fire Department, 2) Police Department, 3) streets, and 4) storm water drains. He said Measure Q passed by 65%. Mr. Taylor stated both Council and the Measure Q Oversight Committee have done a good job by making sure these funds would be used for only these areas and Council direct the City Manager that Measure Q funds only be spent on these areas because that is what the people of Morro Bay have decided.

Ken Vesterfelt reported the Car Show was a huge success, and some of the businesses in town had record-breaking days. He thanked the Rotary Club, the Police Explorers Post 43, the Chamber of Commerce, and all those who helped make the Car Show a success. Mr. Vesterfelt stated some business is being lost through the hotels, stating some participants told him they stayed in Cayucos and San Luis Obispo because the price of the hotels in Morro Bay had increased; however, there were a couple of hotels that had special “Car Show” deals. He requested the promises for Measure Q funding be kept. Mr. Vesterfelt encouraged everyone in Morro Bay to vote in the upcoming election.

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Susan Heinemann announced there will be a BBQ fundraiser sponsored by the Morro Bay Community Garden on May 23<sup>rd</sup> from 1:00 p.m. to 4:00 p.m. at the Community Garden in order to raise money for a tool shed.

Barry Brannon stated he would hope the City Council would develop transparency as they go forward with the sewer project. He suggested the Council provide a report with a time line regarding the project. He feels transparency would take away fears and questions and would encourage more interest and participation by the citizens.

Bill Martony stated he and his wife toured the Perc Plant in Santa Paula with Councilmembers Grantham and Smukler, and Bob Staller. He said it was very impressive, and was half the footprint of what Morro Bay is proposing with zero odors; the water quality was very good and totally recyclable. Mr. Martony stated the Perc Plant is less expensive and they have state of the art equipment, using new technology. He said two former mayors and the present mayor from Santa Paula said they were two years and \$2 million into the old-style plant when they switched to this plan. He said the mayor pro tem of Fillmore said they went the route that Morro Bay is going and ended up paying millions more than originally expected. He said the entire Perc Plant is underground, and above ground can be used for other things. He encouraged the Council to explore it, and look thoroughly at both options.

Mandy Davis addressed Item A-7 and thanked the City for adopting the Resolution Supporting the Protection of Whales and opposing the resumption of commercial whaling and quotas on the gray whale. She reported there will be large rallies in all coastal counties in California to save the whales on May 23<sup>rd</sup>.

Virginia Hiramatsu reminded everyone about the Relay for Life event which will take place August 7-8. She encouraged anyone at all interested to attend meetings on May 11 and May 18 at the Flying Dutchman from 5:30 p.m. to 6:30 p.m. She encouraged anyone interested in participating at the event to sign up at [relayforlife.org/morrobayca](http://relayforlife.org/morrobayca).

Nancy Johnson announced she is a candidate for City Council. She said people have held informal meetings in their homes where small groups of people can learn more about her views; she encouraged those citizens interested in holding an informal meeting in their home in order for her to discuss her stand on various issues to contact her. Ms. Johnson stated she will be in front of Albertson's on Wednesday around noon and at Farmers Market on Thursday afternoon. She said absentee ballots were sent out today.

Bill Yates announced he is a candidate for mayor. His main focus is to make Morro Bay business friendly. He said the Music Festival on Saturday, June 5<sup>th</sup> will be an all-day event, and there will be four bands performing. Mr. Yates stated there will be a dollar donation or a canned food donation at the door, but no one will be turned away. He said the Music Festival is a fundraiser for the Harbor Festival.

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Marshall Ochylski, candidate for Supervisor of the Second District, stated the Car Show was awesome. He said it was a mistake to remove the sphere of influence from Morro Bay, and explained that the sphere of influence is the area that the City has semi-control of and how it develops. Mr. Ochylski stated LAFCO decided it was too big and decided to remove it entirely except for a very small portion by the dog beach. He said Morro Bay is the only City in the State of California, except for landlocked cities, that has no sphere of influence. Therefore, the City has no say on how development occurs adjacent to the city limits. Mr. Ochylski stated decisions regarding the perimeter of the City have been turned over from the Morro Bay City Council to the San Luis Obispo County Supervisors.

D’Onna Kennedy reminded everyone that the Business Forum is at 9:00 a.m. every Thursday at the Embarcadero Grill. She said there is a lot of information people can gain from these events.

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 OF THE APRIL 26, 2010 CITY COUNCIL MEETING; (ADMINISTRATION)

**RECOMMENDATION: Adopt minutes as submitted.**

A-2 APPROVAL OF JOINT CITY COUNCIL/PLANNING COMMISSION MINUTES FOR THE MARCH 15, 2010 MEETING; (PUBLIC SERVICES)

**RECOMMENDATION: Adopt minutes as submitted.**

A-3 PROCLAMATION OF THE CITY OF MORRO BAY DECLARING MAY 23 TO MAY 29, 2010 AS “2010 NATIONAL BEACH SAFETY WEEK”; (RECREATION & PARKS)

**RECOMMENDATION: Adopt Proclamation.**

A-4 SECOND READING AND ADOPTION OF ORDINANCE NO. 556 AMENDING MORRO BAY MUNICIPAL CODE ADDING CHAPTER 17.27 REGULATING ANTENNAS AND WIRELESS TELECOMMUNICATIONS FACILITIES; (PUBLIC SERVICES)

**RECOMMENDATION: Adopt Ordinance No. 556.**

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A-5 SECOND READING AND ADOPTION OF ORDINANCE NO. 557 AMENDING MORRO BAY MUNICIPAL CODE SECTION 2.16.080 PERTAINING TO THE DUTIES OF THE CITY ATTORNEY; (CITY ATTORNEY)

**RECOMMENDATION: Adopt Ordinance No. 557.**

A-6 APPROVE COMPENSATION RATES FOR A SIX MONTH CONTRACT EXTENSION WITH MV TRANSPORTATION; (PUBLIC SERVICES)

**RECOMMENDATION: Approve compensation rates outlined in the Fiscal Impact section of the staff report for the six month contract extension of the current Morro Bay Dial-a-Ride and Trolley Operations Management Agreement with MV Transportation.**

A-7 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY SUPPORTING THE PROTECTION OF WHALES AND OPPOSING THE RESUMPTION OF COMMERCIAL WHALING AND TEN-YEAR QUOTAS FOR GRAY WHALES AS PROPOSED BY THE INTERNATIONAL WHALING COMMISSION; (ADMINISTRATION)

**RECOMMENDATION: Adopt Resolution 24-10.**

Councilmember Smukler pulled Item A-1 from the Consent Calendar; Mayor Peters pulled Item A-3 and Councilmember Winholtz pulled Item A-6.

MOTION: Councilmember Winholtz moved the City Council approve Items A-2, A-4, A-5 and A-7 of the Consent Calendar. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

A-1 APPROVAL OF MINUTES OF THE APRIL 26, 2010 CITY COUNCIL MEETING; (ADMINISTRATION)

Councilmembers Winholtz and Smukler requested the following amendments to the minutes of April 26, 2010:

Page 5, Item A-3, second to last sentence of 1<sup>st</sup> paragraph – delete the word “meet” and replace with the word “receive”; next paragraph – delete the word “components” and replace with the phrase “shut down”.

MOTION: Councilmember Smukler 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)

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- A-3 PROCLAMATION OF THE CITY OF MORRO BAY DECLARING MAY 23 TO MAY 29, 2010 AS “2010 NATIONAL BEACH SAFETY WEEK”; (ADMINISTRATION)

Mayor Peters pulled this item in order to make a presentation.

MOTION: Councilmember Borchard moved the City Council approve Item A-3 of the Consent Calendar. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

- A-6 APPROVE COMPENSATION RATES FOR A SIX MONTH CONTRACT EXTENSION WITH MV TRANSPORTATION; (PUBLIC SERVICES)

Councilmember Winholtz requested clarification on the contract extension with MV Transportation. Management Analyst Janeen Burlingame reviewed the contract and answered Council questions.

MOTION: Councilmember Grantham moved the City Council put off the decision on the contract extension until the Budget Hearing on Wednesday, May 19, 2010. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

- B-1 RESOLUTION APPROVING THE ENGINEERS REPORT AND DECLARING THE INTENT TO LEVY THE ANNUAL ASSESSMENT FOR THE CLOISTERS LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT

Recreation & Parks Director Joe Woods stated on April 12, 2010, the City Council adopted Resolution No. 15-10, which initiated the proceedings to levy the annual assessment to fund the maintenance of the Cloisters Park and Open Space. Additionally, staff was directed to have an Engineer’s Report prepared, detailing the estimated annual assessment for the parcel owners for fiscal year 2010/11. Upon adoption of Resolution No. 22-10, the next and final step in the annual levy of assessment process is the protest hearing/public hearing after which the City Council actually orders the levy of assessment. Mr. Woods recommended the City Council adopt Resolution No. 22-10 declaring the intent to levy the annual assessment for the maintenance of the Cloisters Park and Open Space and approving the Engineers Report.

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

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Councilmember Winholtz requested that a recycle container be added to the park area. She said she would like recycle containers added to all parks.

**MOTION:** Councilmember Grantham moved the City Council approve the Engineering Report and Resolution No. 22-10, declaring intent to levy the annual assessment for the Cloisters Landscaping and Lighting Maintenance; and, to include the addition of the placement and use of a recycle container to the park area to Attachment “A”. The motion was seconded by Councilmember Smukler and carried unanimously. (5-0)

**B-2 RESOLUTION APPROVING THE ENGINEERS REPORT AND DECLARING THE INTENT TO LEVY THE ANNUAL ASSESSMENT FOR THE NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT**

Recreation & Parks Director Joe Woods stated on April 12, 2010, the City Council adopted Resolution No. 16-10, which initiated the proceedings to levy the annual assessment to fund the maintenance of the North Point Natural Area. Additionally, staff was directed to have an Engineer’s Report prepared, detailing the estimated annual assessment for the parcel owners for fiscal year 2010/11. Upon adoption of Resolution No. 23-10, the next and final step in the annual levy of assessment process is the protest hearing/public hearing after which the City Council actually orders the levy of assessment. Mr. Woods recommended the City Council adopt Resolution No. 23-10 declaring the intent to levy the annual assessment for the maintenance of the North Point Natural Area and approving the Engineers Report.

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

**MOTION:** Councilmember Winholtz moved the City Council approve the Engineering Report and Resolution No. 23-10, declaring intent to levy the annual assessment for the North Point Natural Area Landscaping and Lighting Maintenance; and, to include the addition of the placement and use of a recycle container to the natural area to Attachment “A”. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

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B-3 INTRODUCTION AND FIRST READING OF ORDINANCE NUMBER 558  
AMENDING MORRO BAY MUNICIPAL CODE CHAPTER 2.24  
REGARDING RECREATION AND PARKS DEPARTMENT

Recreation & Parks Director Joe Woods stated on April 12, 2010, the City Council directed staff to amend the Recreation and Parks Department section for grammatical errors as well as document reference numbers to Morro Bay Municipal Code Section 2.24. Mr. Woods recommended the City Council approve Ordinance No. 558 for introduction and first reading by number and title only, amending Morro Bay Municipal Code Section 2.24.

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

MOTION: Councilmember Grantham moved the City Council approve Ordinance No. 558 for introduction and first reading by number and title only. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

City Manager Andrea Lueker read Ordinance No. 558 by number and title only.

C. UNFINISHED BUSINESS - NONE

D. NEW BUSINESS

D-1 ALLOCATION OF FUNDS GENERATED FROM THE FUNDRAISER FOLLIES

Mayor Peters stated the Fundraiser Follies continues to raise more money each year, from \$2,720 in 2008 to \$3,278 in 2009 and \$5,238 this year. The various events that benefit from the fund are participating in the Follies in some way to “earn” their allocation. However, this year costs tripled (\$2,688) due to renting tables instead of moving them from the Market Street property, increased equipment rental fees and full facility and labor reimbursement to the City. Mayor Peters stated they are making the same distribution allocation amounts per event as were made last year, which will cover all event permit fees and some costs. She said this enables them to retain sufficient “seed money” to cover next year’s expenses, and should enable them to increase the allocations for the 2011-12 year. Now that the Follies have proven to be a popular and profitable event, it is something Mayor Peters said she would like to continue to produce when she is no longer on the City Council. Therefore, she is investigating non-profit sponsorship possibilities, and will report the results to the City Council later this year.

No action was taken.

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D-2 CONSIDERATION OF CORRESPONDENCE SUPPORTING HR 4844 TO ENSURE 100% FEDERAL FUNDING OF HARBOR MAINTENANCE WITH THE HARBOR MAINTENANCE TRUST FUND

Harbor Director Rick Algert stated legislation has been introduced in the House and Senate to reaffirm Congress commitment to use harbor maintenance tax collections for the intended purpose of the tax. Mr. Algert recommended the City Council approve sending the proposed letter to Congresswoman Capps in support of HR 4844 to ensure full federal funding of harbor maintenance with the Harbor Maintenance Trust Fund.

MOTION: Mayor Peters moved the City Council approve sending the proposed letter to Congresswoman Lois Capps in support of HR 4844 to ensure full federal funding of harbor maintenance with the Harbor Maintenance Trust Fund. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

D-3 DISCUSSION OF A RESOLUTION TO ESTABLISH A PROCEDURE FOR REQUESTING MEASURE Q FUNDING DURING THE BUDGET PROCESS

City Manager Andrea Lueker stated during the last several budget processes, requests for Measure Q funding were generated and passed directly from department heads to the City Council as part of the preliminary budget document. The City Council then had to “pick and choose” from a list of requests. Those final decisions by Council were then included in the final budget document. Following that procedure, the Citizens Oversight Committee, during their semi-annual review of revenues and expenditures, has rejected a number of those requests. For the past three years, Council has been presented with a “laundry list” of requests for Measure Q funds. Those requests are consistent with the ballot language and with the numerous materials provided to educate the public on uses of Measure Q as well as the information included in the PowerPoint presentation given to a number of civic and local groups. This is the 4th largest general revenue source which the City has discretionary spending privileges. Ms. Lueker stated with this much money at stake it is recommended that Council adopt a resolution outlining the following procedure for staff to use in submitting Measure Q funding requests: 1) department heads must submit Measure Q funding requests to the City Manager/Administrative Services Director well in advance of the 1<sup>st</sup> budget hearing; 2) the City Manager and Administrative Services Director shall initially review and prioritize the requests to an “A” and a “B” list (if needed). The “A” list shall include prioritized projects and use the total anticipated funding available. The “B” list shall continue from the “A” list with the priority projects that fall outside the funding amounts; 3) the department head team shall meet, review and recommend the “A” and “B” lists to the City Council; and 4) the recommendation shall be included in the preliminary budget document.

Councilmember Grantham stated establishing a procedure is needed, it aids in the transparency of those particular funds, and it also helps identify budget needs.

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Councilmember Smukler stated he feels having a clear procedure will be valuable. He said there is sensitivity in the community as to how Measure Q funds are spent, and that is important when the City Council talks about allocations of the funds in order to maintain the trust of the citizens. Councilmember Smukler stated he would find it valuable to see the Measure Q Oversight Committee have more interaction with the spending of the funds.

Councilmember Borchard stated if the Measure Q Oversight Committee met twice a year, the City Council could adjust where the Committee makes recommendations rather than waiting until the end of the year. She feels the priorities have not shifted.

Councilmember Grantham stated that close to half of the Measure Q money is tied up right now in loans, with USDA loans for the fire station, the firefighter position, and a couple years left with the police vehicle repayment plan.

**MOTION:** Councilmember Grantham moved the City Council approve the procedures established for staff to follow in submitting Measure Q funding requests during the budget process; and, direct staff to return with a resolution adopting said procedures at the May 24, 2010 City Council meeting. The motion was seconded by Mayor Peters and carried unanimously. (5-0)

**D-4 RESOLUTION ON GENERAL FUND ACCUMULATION FUND USE**

City Manager Andrea Lueker stated during the last few years of economic downturn, a number of cities across California, as well as across the nation, have used their reserve funds to balance their budget. The City of Morro Bay has used reserve funds on an irregular basis to pay for unexpected or unanticipated expenditures, following City Council direction. As indicated above, in 1995, the City Council made a policy statement on having a General Fund (Accumulation) Reserve of 27.5% of the General Fund operating budget. The City Council recently indicated, at their Goal Setting Workshop, the fiscal year budget must be balanced without the use of reserve funds. The Council also set a goal for a sustainable budget, defined as ongoing regular revenues meeting or exceeding ongoing regular expenditures. Also during that Goal Setting Workshop, the City Council supported staff in bringing back a Resolution on the use of the General Fund (Accumulation) Reserve, to further delineate its purpose. As an example on further delineation, the Council could determine that 20% of the reserve could be used in the case of a catastrophic event (earthquake, flood) and 7.5% could be used for a fiscal uncertainty. Ms. Lueker recommended the City Council review the possible options, and determines if they desire to delineate the use of the General Fund (Accumulation) Reserve any further, provide any further direction to staff, and direct staff to bring back a resolution at a future meeting for adoption confirming that direction.

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Councilmember Grantham stated he would like to see \$1 million put in a “don’t touch emergency only” fund, the remainder being a true accumulation fund. He would like to have a discussion regarding the \$25,000 limit on risk management and transferring the interest based on those balances to accumulation.

Councilmember Borchard stated she would like to have a dollar amount on the reserve account rather than a percentage. She said she feels there needs to be a higher amount in the Reserve Accumulation Account for a catastrophic emergency.

Councilmember Smukler stated he agrees very strongly with Councilmember Borchard because of the need to respond to the immediate emergency but also long term, to rebuild and revitalize the community after the emergency. He said the Reserve Accumulation Fund should be kept as high as possible and it should be focused on the emergency element.

Councilmember Winholtz stated she has always considered “reserve” to be for emergencies. She said unless there is a real need, that money should not be spent.

Mayor Peters stated she would like to see a little bit of a compromise. She would like to keep as much as possible in the Reserve Accumulation Fund. Mayor Peters stated there is also a fiscal emergency to be considered as well. She gave the example if more positions have to be eliminated again in the future because of the economy still going down, possibly \$200,000 could help in getting past that fiscal emergency. She said of course it would have to be a decision of the City Council at that time.

**MOTION:** Mayor Peters moved the City Council direct staff return with a resolution for General Fund Accumulation Fund use at the May 24, 2010 City Council meeting, stating that the Reserve Accumulation Fund shall be maintained at \$2.75 million dollars or 27.5%, whichever is higher. The motion was seconded by Councilmember Grantham and carried with Councilmember Winholtz voting no. (4-1)

**D-5 DISCUSSION REGARDING DEVELOPMENT OF CRITERIA AND MEASUREMENTS OF SUCCESS FOR THE WASTEWATER TREATMENT PLANT PROJECT**

Councilmember Smukler stated clearly defined and understood project criteria and measurements of success provide a valuable foundation for the decision-making process and will serve as a guide for the JPA Board, staff, consultants, project manager and community as various choices are encountered throughout the project. He said the Wastewater Treatment Plant upgrade project is the largest single public infrastructure investment in the history of both Cayucos and Morro Bay. Without agreed criteria of success, it is difficult to measure if we have achieved our goals and provided the highest value project to the community. Councilmember Smukler recommended the City

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Council discuss their interests for the Morro Bay/Cayucos Wastewater Treatment Plant Upgrade and clearly define the project criteria and measurements of success. It is recommended that the discussion topic and City Council's project criteria be introduced for discussion and adoption with the Cayucos CSD Board at the June 10<sup>th</sup> JPA meeting.

Councilmember Grantham stated the list is very good. He reminded everyone that this is a joint partnership with Cayucos, and he would like to see this at a JPA forum.

Mayor Peters agreed with Councilmember Smukler that this is a good outline and guideline for the new people who will be coming on the City Council and the Board.

Councilmember Borchard suggested the list have an accompanying compliance schedule, and make a package of it.

MOTION: Councilmember Smukler moved the City Council adopt this list of interests and values for the Wastewater Treatment Plant upgrade project to be compared with the compliance schedule to be available for future representatives, staff, consultants, and other decision makers, and forward to Cayucos for their review and discussion. The motion was seconded by Mayor Peters and carried unanimously. (5-0)

E. DECLARATION OF FUTURE AGENDA ITEMS – NONE.

ADJOURNMENT

The meeting adjourned at 9:35 p.m.

Recorded by:

Jamie Boucher  
Deputy City Clerk